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Monterey, California. Naval Postgraduate School

https://hdl.handle.net/10945/4573

NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

THESIS

SOUTHERN PHILIPPINES AND THE POLICY OF THE SECOND FRONT IN THE GLOBAL WAR ON TERRORISM

by

Jihoon P. Choi

September 2009

Thesis Co-Advisors: Sophal Ear
Michael S. Malley

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REPORT DOCUMENTATION PAGE		*Form Approved OMB No. 0704-0188*
Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, and to the Office of Management and Budget, Paperwork Reduction Project (0704-0188) Washington DC 20503.		
1. AGENCY USE ONLY *(Leave blank)*	**2. REPORT DATE** September 2009	**3. REPORT TYPE AND DATES COVERED** Master's Thesis
4. TITLE AND SUBTITLE Southern Philippines and the Policy of the Second Front in the Global War on Terrorism		**5. FUNDING NUMBERS**
6. AUTHOR(S) Jihoon P. Choi		
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Naval Postgraduate School Monterey, CA 93943-5000		**8. PERFORMING ORGANIZATION REPORT NUMBER**
9. SPONSORING /MONITORING AGENCY NAME(S) AND ADDRESS(ES) N/A		**10. SPONSORING/MONITORING AGENCY REPORT NUMBER**
11. SUPPLEMENTARY NOTES The views expressed in this thesis are those of the author and do not reflect the official policy or position of the Department of Defense or the U.S. Government.		
12a. DISTRIBUTION / AVAILABILITY STATEMENT Approved for public release; distribution is unlimited		**12b. DISTRIBUTION CODE**

13. ABSTRACT (maximum 200 words)

This thesis analyzes the effects of the United States' policy of the second front in the global war on terrorism (GWOT) on the conflict in the southern Philippines. The policy's reliance on intervention measures that are both "preemptive" and "direct" by military means echoes Mearsheimer's argument that "simply put, great powers are primed for offense." The question may be asked: how effective is the second front policy in terms of resolving the conflict?

The ongoing violence in the southern Philippines, since the policy's inception in early 2002, suggests its ineffectiveness in addressing the root causes of the conflict. This thesis investigates the history of the Moro and the Mindanao conflict to determine the root causes of the conflicts. On the foundation of the existing theory of conflict resolution, the thesis then performs an analysis of the past peace processes. Following the analysis are the recommendations for future policy and peace negotiations: A comprehensive peace policy that clearly distinguishes armed terrorists from Islamic separatists with legitimate political grievances and applies direct and indirect approaches accordingly. For future peace negotiations, the thesis recommends that both the GRP and the MILF to concentrate their efforts on building trust and consensus at all levels of society. The thesis concludes with recommendations on future studies.

14. SUBJECT TERMS Philippines, Mindanao, Moro, MNLF, MILF, ASG, Terrorism, Muslim Separatism, Conflict Resolution			**15. NUMBER OF PAGES** 111
			16. PRICE CODE
17. SECURITY CLASSIFICATION OF REPORT Unclassified	**18. SECURITY CLASSIFICATION OF THIS PAGE** Unclassified	**19. SECURITY CLASSIFICATION OF ABSTRACT** Unclassified	**20. LIMITATION OF ABSTRACT** UU

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SOUTHERN PHILIPPINES AND THE POLICY OF THE SECOND FRONT IN THE GLOBAL WAR ON TERRORISM

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**MASTER OF ARTS IN SECURITY STUDIES
(STABILIZATION AND RECONSTRUCTION)**

from the

**NAVAL POSTGRADUATE SCHOOL
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LIST OF ACRONYMS AND ABBREVIATONS

AFP   Armed Forces of the Philippines

ARMM   Autonomous Region in Muslim Mindanao

ASEAN   Association of Southeast Asian Nations

ASG   Abu Sayyaf Group

BJE   Bangsamoro Juridical Entry

DDR   Disarmament, Demobilization and Reintegration

GRP   Government of the Philippines

GWOT   global war on terrorism

HDI   Human Development Index

ICJ   International Court of Justice

ICRC   International Committee of the Red Cross

JI   Jemaah Islamiyah

MILF   Moro Islamic Liberation Front

MNLF   Moro National Liberation Front

NATO   North Atlantic Treaty Organization

NGO   Non-Governmental Organization

NSDD   National Security Decision Directive

NSS   National Security Strategy

MOA-AD   Memorandum of Agreement on Ancestral Domain

OIC	Organization of the Islamic Conference of Foreign Ministers
PCIJ	Permanent Court of International Justice
SPCPD	Southern Philippine Council for Peace and Development
UN	United Nations
USAID	United States Agency for International Development
UNSCR	United Nations Security Council Resolution
VFA	Visiting Forces Agreement
WMD	Weapons of Mass Destruction

ACKNOWLEDGMENTS

I would like to express my deepest gratitude to my thesis co-advisors, Professor Sophal Ear and Professor Michael S. Malley, whose endless supply of patience and encouragement made this thesis possible. Without their superior academic competence, this thesis might not have achieved its mastery of the subject.

Most of all, my wife, Jae-Hyon, deserves my heartfelt appreciation as she stood by my side and supported me through graduate school, as she has done ever so faithfully throughout my military career.

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I.   INTRODUCTION

A.   RESEARCH QUESTION

This thesis analyzes the effects of the United States' policy of the second front in the global war on terrorism (GWOT) on the conflict in the southern Philippines. The policy's reliance on intervention measures that are both "preemptive" and "direct" by military means echoes Mearsheimer's argument that "simply put, great powers are primed for offense." The question may be asked: how effective is the second front policy in terms of resolving the conflict?

The ongoing violence in the southern Philippines since the policy's inception in early 2002 suggests its ineffectiveness in addressing the root causes of the conflict. This thesis conducts an investigation to identify the root causes of the conflict followed by a policy analysis to assess the policy's effectiveness in addressing them. Recommendations for policy adjustments and further studies follow the analysis.

B.   IMPORTANCE

As one of the poorest and most isolated regions in the world, the southern Philippines possess all of the prerequisites that transnational terrorist organizations desire to gain a strong foothold. Transnational terrorist organizations, such as Al-Qaeda and Jemaah Islamiyah (JI), have known ties to Islamic insurgencies in the Philippines.[1] In fact, such groups have been using remote parts of the southern Philippines as bases to conduct training and operations. Past attempts by the Government of the Philippines (GRP) to improve security have been mired in the ongoing violence of the Islamic insurgencies.

As a major non-NATO U.S. ally in Southeast Asia, it is extremely important for the Philippines to resolve all domestic security issues that contribute to the instability of the country. The resolution of domestic issues through peaceful means that satisfy all actors, will strengthen the legitimacy of the GRP and contribute to a lasting peace.

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[1] JI is known to have financial and operational ties to regional and transnational terrorist organizations such as the Abu Sayyaf Group (ASG), the Moro Islamic Liberation Front (MILF), and Al-Qaeda.

Approaches other than kinetic ones may be far more effective in dealing with the root of a conflict than the kinetic approach alone. Therefore, creating an overarching conflict resolution policy that addresses the root causes, within the context of the local sociopolitical system, will increase the chances of resolving a conflict in a manner that satisfies all involved actors. To date, no studies examine how U.S. foreign policy can deal with transnational terrorist threats in the Philippines by promoting an overarching conflict resolution that addresses the root of the conflict. This thesis intends to fill this gap in the existing literature.

C.   PROBLEMS AND HYPOTHESES

The importance of identifying the root causes of a conflict is essential in assessing the situation and in formulating an effective policy. The popular view of the Islamic insurgency in the southern Philippines is that it is either ethnically or religiously charged. By focusing on the ongoing violence, the underlying causes of the conflict can simply be overlooked. This myopic view might prevent an understanding of the source of the region's tension.[2] As the second-oldest conflict in human history, historical grievances are well hidden by the participating actors behind constantly evolving agendas.[3] Therefore, in order to successfully locate and isolate the root causes of a conflict in the southern Philippines, the history of the Moro, the Muslim Filipinos, must be carefully examined.

Hypothesis 1: Ethnic or religious grievances are less likely to be the root causes of the conflict than is commonly believed.

A brief survey of the literature reveals that the Moros view the source of the conflict as their political marginalization by the Christian majority Filipino regime, as well as disputes over their ancestral lands.

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[2] Jeffrey Ayala Milligan, "Teaching between the Cross and the Crescent Moon: Islamic Identity, Postcoloniality, and Public Education in the Southern Philippines," *Comparative Education Review* 47, no. 4 (2003): 468.

[3] Salvatore Schiavo-Campo, Mary P. Judd, World Bank Conflict Prevention and Reconstruction Unit, *The Mindanao Conflict in the Philippines: Roots, Costs, and Potential Peace Dividend* (Washington, D.C: Conflict Prevention & Reconstruction, Environmentally and Socially Sustainable Development Network, World Bank, 2005), 1.

Hypothesis 2: Grievances over land loss and political marginalization are likely to be the root causes of the conflict.

The Philippine government is characterized by a weak central administration, which means that the directives issued might not be implemented as intended. The fact that the Philippines is a former U.S. colony further complicates domestic issues. Any intervention by the United States, or by any other country for that matter, might signal a weak legitimacy of the GRP. This perception can be used by insurgents to further weaken the legitimacy of the government and to strengthen their own positions.[4]

Hypothesis 3: Direct intervention is not likely to produce a successful resolution to the insurgency because it does not address the root causes of the conflict.

An indirect intervention, with the GRP in charge and the United States as a cooperating partner, might help to elevate the legitimacy of the GRP and further strengthen its position in the conflict. A policy that effectively addresses the underlying causes will not only bring the conflict to an end but will also serve to minimize the risk of a renewed conflict in the near future.[5]

Hypothesis 4: Indirect intervention that effectively addresses the root causes with regard to the Philippines' domestic sociopolitical climate is most likely to produce a resolution that satisfies all actors.

D.   METHODS AND SOURCES

This thesis will employ a case-study method of the Muslim insurgency in the southern Philippines, with a qualitative analysis that assesses the effectiveness of the second front policy. The thesis will rely on secondary sources, which consist of books and reviewed scholarly journal articles, and may be supplemented by interviews of subject experts, both inside and outside the Naval Postgraduate School.

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[4] Barry Desker and Kumar Ramakrishna, "Forging an Indirect Strategy in Southeast Asia," *The Washington Quarterly* 25, no. 2 (Spring, 2002): 165-166.

[5] Paul Collier, Anke Hoeffler, and Måns Söderbom, "Post-Conflict Risks," *Journal of Peace Research* 45, no. 4 (July 1, 2008): 461.

E.   ORGANIZATION OF THESIS

There are four chapters in this thesis. Chapter I consists of a discussion of the background, the research question, the significance of the problem, the research methods, and the existing literature. Chapters II is a narrative history of the Moro people, a discussion of other actors that are involved, and a description of attempted peace negotiations aimed at ending the Mindanao Conflict.

Chapter III analyzes the U.S. policy of the second front in the GWOT for its effectiveness in terms of direct and pre-emptive military strategy. The possible implications of the policy's success or failure for the Philippines is also discussed. Chapter IV discusses possible ways that the Mindanao conflict can be resolved peacefully. The final chapter consists of recommendations on future policy and peace negotiations and further studies.

II.   THE MINDANAO CONFLICT AND PEACE PROCESSES

A.   HISTORY AND BACKGROUND

The Republic of the Philippines has been shaped by two different colonial experiences, first by the Spanish and later by the Americans. Prior to the arrival of Americans at the end of the 1890s, the Spanish had colonized and influenced the Philippines for over three centuries. Spanish efforts to Christianize the Filipinos had resulted in the Philippines as the only country in all of Southeast Asia with a Christian majority population. However, the people who lived in the southern parts of the Philippines, had stubbornly resisted the Spanish efforts to Christianize them.

The origin of the name "Moro" can be traced back to the Spanish term "Moor," which was applied to their Muslim enemy. Due to the diversity of the indigenous people in the southern Philippines, the Spanish Jesuits in the nineteenth century found it easier to group them collectively by the one thing they all had in common: the religion of Islam.[6] The Western idea of equating Christianity with civilization had a profound impact on the Moros being marginalized socially, politically, and economically.[7] The marginalization of the Moro continues today and is a major source of mistrust and grievances.

1.   Emergence of Moro Community

According to Yegar, Muslim traders began setting up permanent settlements in the coastal area in the vicinity of the city of Jolo, where trade routes between Southeast Asian countries crossed. The earliest of these settlements can be traced back to the end of the thirteenth century. By the beginning of the fifteenth century, Islam was well established in the Sulu Archipelago. Gaining momentum from the missionaries from

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[6] Wayne W. Thompson, "Governors of the Moro Province: Wood, Bliss, and Pershing in the Southern Philippines, 1903-1913" (Ph.D. diss., University of California, San Diego, 1975), 29.

[7] Julian Go and Anne L. Foster, *The American Colonial State in the Philippines: Global Perspectives* (Durham: Duke University Press, 2003), 122.

India and southern China, Islam spread throughout the Malay Archipelago along the trade routes. This process continued inland until most of the inhabitants throughout the archipelago were converted to Islam.[8]

Figure 1.   Southeast Asia.[9]

The Islamization of Lanao and Cotabato began when Muslim traders and missionaries reached southern Mindanao towards the end of the fifteenth century. Not all Islamization processes took place peacefully. The expansion of Islam to northern islands, in particular, was met with Spanish resistance in the sixteenth century.[10] By the time the Spaniards arrived in the northern islands in 1565, Islamization was well underway in

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[8] Moshe Yegar, *Between Integration and Secession: The Muslim Communities of the Southern Philippines, Southern Thailand, and Western Burma* (Lanham, MD: Lexington Books, 2002), 185.

[9] From Central Intelligence Agency, "The World Factbook;" https://www.cia.gov/library/publications/the-world-factbook/docs/refmaps.html.

[10] Yegar, 186.

6

Luzon. However, shortly after their arrival, the Spaniards forcibly removed the Muslim sultan, Raja Suleiman, from the region of Manila, effectively ending the expansion of Islam further north.[11]

Figure 2.   Islands of the Republic of the Philippines.[12]

The largest concentration of the Muslim population in the southern Philippines can be found on the islands of Sulu and Mindanao, among the districts of Lanao, Cotabato, Davao, Basilan, and Balabac. In contrast to the ethnically homogeneous Muslim populations of Thailand and Burma, the Muslims of the southern Philippines are heterogeneous. Depending on the estimates, the number of ethnic-language groups within the Muslim population varies anywhere from six to thirteen. These groups do not share a

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[11] Cesar Adib Majul, *Muslims in the Philippines* (Quezon City: Philippines Press, 1973); Ibid., *The Muslims in the Philippines: An Historical Perspective* in Peter G. Gowing and Robert D. McAmis, eds., *The Muslim Filipinos* (Manila: Solidaridad Publishing House, 1974), 2–5; Yegar, 186.

[12] From CIA World Factbook.

common language and may not be geographically concentrated into a particular location. There are regions where two or more groups are co-located and interact socially and economically.[13]

Differences can be seen in their interpretation of religion as well. Groups vary in terms of Islamic orthodoxy in their adherence to religious customs and practices.[14] Once the veil of Islam is lifted, the difference between the groups in terms of their adherence to traditional cultures and ways of life becomes apparent. In this respect, Islam can be considered the one factor uniting the different communities in the southern Philippines.

2.   The Moros as Part of the Global Islamic Community

The diversity among the Muslim communities in the southern Philippines can be misleading. At a glance, the communities seem to have little in common. However, there is a definite commonality among them. It is Islam as a religion as well as a way of life. What began several centuries ago as Islamization by Muslim traders and missionaries had become the major force behind dramatic transformations in the Moros' way of life. However, not all previously held beliefs disappeared altogether. Some had found a way to become an integral part of the Moro's interpretation of Islam.[15]

As part of the Islamization process, the Muslim traders and missionaries brought with them a new culture, language, moral and ethical standards, and laws. The Arabic alphabet was adopted for writing. The Islamic calendar was introduced. The spoken Arabic language was also adopted for religious and theological purposes. The Moros began learning the Arabic language in order to study the Koran and participate in religious rituals and ceremonies. Arabic literature was also introduced and Arab words found their place among the Moro language. At the same time, the Malay language became the standard for commercially related matters.[16]

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[13] Yegar, 186.

[14] Ibid., 186–187.

[15] Najeeb M. Saleeby, *Studies in Moro History, Law, and Religion* (Manila: Filipiniana Book Guild, 1976), 67; Gowing, *Muslim Filipinos*, 4, 10, 15-16; Majul, *The Muslims in the Philippines: An Historical Perspective* in *The Muslim Filipinos*, 1–12.

[16] Saleeby, *Studies in Moro History, Law, and Religion*, 67; Majul, *Muslim Filipinos*, 4, 10, 15–16;

With the advent of Islam and culture, the Moros became conscious of their presence as part of a much larger community, first with the Malay world then with the entire Muslim community. This development was significant in the history of the Moro. These groups of Moros with diverse backgrounds began identifying themselves as Muslims and with Muslims from other parts of the world. The Moros then developed a sense of belonging to a much wider Islamic community, also known as Dar al-Islam. Islam's long and glorious history soon became a source of pride for the Moros. More importantly, the Moros developed their own sense of history and identified themselves as people of history.[17]

3.   Origin of Hostilities

The Moros' development of a sense of community with the rest of the Islamic world was significant, both in the history of the Moro and in their struggles. Majul describes the strong Muslim sense of community as follows:

> First of all, Muslims have a high sense of community….The overriding conviction in Islam is that all Muslims are brothers. It is this sense of Islamic community that upsets a Muslim Filipino when he hears about earthquakes in Morocco, Turkey, and Iran, or floods in East Pakistan. It is this sentiment that profoundly depresses him when he is informed that Muslims are persecuted in some countries. This very sense of community, too, makes his heart swell with pride when a fellow Muslim becomes, let us say, a member of the International Court of Justice at the Hague or a great boxer. It is this community feeling that leads Yugoslavian or Tunisian Muslims to crowd around a visiting Muslim Filipino to shower him with detailed and even intimate questions. Since this is the case, it would be folly to underestimate the community feeling or sense of Islamic solidarity that a Maranao in the Philippines has towards a Filipino Samal or Yakan.[18]

Although it may not make much sense in terms of chronology, the Moros believe that Islam was brought to them by seven Arab brothers, the first of the Muslim sultans in their islands. This myth points out the fact that the Moros place significance on the Islamization that has been taking place and have elevated it to a mythological level. What

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[17] Majul, 1–12.

[18] Ibid.

are equally significant were the ruling political elites drawing their legitimacy from the much wider Islamic community to which the Moros feel intimately connected to.[19]

However, there was a problem with this point of view. The Spanish Jesuits believed that Christianity signified not only their religion, but also civilization. In the Jesuits' view, therefore, the Moros were not among the civilized and lived in darkness. According to Reverend Pi, Superior of the Jesuit Order, the Moros had been hindrances to the colonization of the southern Philippines for over three hundred years due to their perceived superiority over other Filipinos and their religious fanaticism. Americans would later inherit the Philippines as a colony along with the Spanish view of the Moro. The Americans went one step further, however, and saw the Philippines as a nation yet to be integrated. In order to establish the Philippines as a unified nation, therefore, the non-Christian minorities, or the Moros, had to be integrated into the Christian majority.[20]

The Moros, as they had done with the Spanish, fiercely refused to be subdued and converted. When the Americans received support from the Christianized Filipinos to subdue the resistance, the Moros elevated the hostilities even more fiercely than before. This was due to their strong belief that their struggle was to protect Muslim sovereignty from the Christians.[21] The Moros viewed the Christianized Filipinos as the ones that gave up the resistance and became collaborators to the oppressors. This hostility still exists today, and the Moros continue to see themselves as an independent people. Therefore, they still do not recognize the GRP as their sovereign.[22]

4.   Modern Philippines

According to Paul Hutchcroft, Americans can be credited for providing the foundation of the modern Philippine state.[23] At the beginning of its colonial

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[19] Majul, 1–12.

[20] Go and Foster, 121–122.

[21] Richard V. Weekes, *Muslim Peoples: A World Ethnographic Survey* (CT: Greenwood Press, 1984), 462-466; Saleeby, 184–193.

[22] Saleeby, *Studies in Moro History, Law, and Religion*, 67; Majul, *Muslim Filipinos*, 4, 10, 15–16.

[23] Paul D. Hutchcroft, "Colonial Masters, National Politicos, and Provincial Lords: Central Authority and Local Autonomy in the American Philippines, 1900-1913," *Journal of Asian Studies* 59, no. 2 (May 2000): 278.

administration, Americans conducted an investigation looking into the current state of the Philippine polity. The investigation was known as the Schurman Commission of 1899. The commission determined that the Spanish had set up a central government that intervened quite liberally in local governments' affairs. In actuality, however, the Spanish colonial government had extremely limited resources to manage the colonial state's affairs. Therefore, they had to resort to empowering local friars and provincial governors.[24]

The quest for the Americans to resolve the ongoing armed struggle for independence by Filipino guerrillas resulted in making deals and empowering the provincial elites. The Americans, however, unwittingly guided the structure and system of the modern Philippine government into a weak central authority and strong local autonomy. They did so by favoring the provincial elites and making compromises which in turn empowered them, both politically and economically.[25] The then-American colonial policy dictated promoting and maintaining a close association with provincial Filipino elites. This close association effectively prevented the Philippine central government from establishing and maintaining a strong central authority over provincial elites in terms of administrative supervision. Hutchcroft further argued that "both administrative and political structures were in most important respects very decentralized, and provincial power-holders came to enjoy a great deal of influence over all levels of governance—from local bodies up to the executive agencies in Manila. The through penetration of the bureaucracy by extensive systems of patronage, moreover, further promoted local autonomy at the expense of central authority."[26]

Therefore, American involvement, especially by the first civil governor, William Howard Taft, in the formation of the Philippine state and by favoring the provincial elites over the central authority can also be credited with the creation of the weak central authority.[27]

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[24] Hutchcroft, 283.

[25] Ibid.

[26] Ibid., 278.

[27] Ibid., 277, 279, 282–283.

B.   CONFLICT IN MINDANAO

The origin of the Mindanao conflict can be traced back to the Spanish colonial era, during which the Moro were treated unfairly and deprived of ownership of their ancestral lands. Following the Spanish-American War, during which the Philippines became a U.S. possession, Americans inherited the Spanish "framework of knowledge" and continued this bitter legacy with no major improvements in the treatment of the Moro.[28]

Colonialism, however, was not limited to great powers such as Spain and the United States. While it is true that Muslims did form the majority in the southern Philippines at the time of the Philippines' independence in 1946, the GRP began implementing a program that actively supported the large-scale migration of farmers from the northern islands to the southern islands. The majority of these farmers were Christians. Although the size of the Muslim population had grown, the exploding number of Christian migrants overshadowed the Muslim population. The Muslims quickly found themselves becoming a minority in their homeland.[29]

Just as the Americans did, the Christian Filipino majority inherited the Spanish "framework of knowledge" and treatment of the Moro. There were severe disparities between government services available and opportunities provided to the Christian Filipinos and to the Muslims. In some cases, the GRP provided fewer services to the Moros than either the Spanish or the American colonial governments. Slowly but surely, the Moros were marginalized and isolated from the rest of the Philippines.[30]

Scholars have linked this sort of marginalization to specific types of outcomes, especially the emergence of a strong ethnic solidarity among the marginalized group, as well as a resistance by that group to national governments dominated by the majority ethnic group. For instance, according to Hechter, such phenomena may be explained by

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[28] Go and Foster, 121.

[29] Syed Serajul Islam, "The Islamic Independence Movements in Patani of Thailand and Mindanao of the Philippines," *Asian Survey* 38, no. 5 (May, 1998): 448.

[30] Thomas McKenna, interview by Nermeen Shaikh, August 18, 2000, Asia Society, Policy and Politics, http://www.asiasource.org/news/special_reports/philippine.cfm.

the theory of "internal colonialism." Internal colonialism may develop within colonies when an ethnic majority becomes a primary decision-making body, dictating the shape and direction of the relationship with other ethnic minorities. Such relationships often take the form of exploitation of minorities by the majority. As a result of this exploitation, minorities tend to form a close network in what is known as "ethnic solidarity" or "ethnic mobilization."[31]

Brown argues that "it was the mono-ethnic character of the state which caused state penetration to take on an assimilationist form… [which led to] minority consciousness and…ethnic nationalism."[32] According to McKenna, "the Muslim nationalist movement [in the southern Philippines] is anti-colonial in the same sense as any other nationalist movement in Southeast Asia." He further argues that "[t]he difference is that Muslim separatists see Spanish and American colonialism in the Muslim Philippines as having been supplanted by colonial rule from Manila under the Philippine republic."[33]

The GRP-sponsored "internal colonial" settlement of the Christian Filipinos in the southern Philippines caused the marginalization of the Moros and led them to become a minority in their own land. The marginalization in their own land might in turn have led to the creation of the Moro separatist movements.

C.   ACTORS

The belligerent parties involved in the conflict have been constantly changing over the history of the conflict: colonial Spaniards, Americans, Christianized Filipinos and the Muslim Filipinos. Currently, the conflict is being waged between the GRP and the Moros.

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[31] Michael Hechter, *Internal Colonialism* (London: Routledge & Kegan Paul, 1975).

[32] David Brown, "From Peripheral Communities to Ethnic Nations: Separatism in Southeast Asia," *Pacific Affairs* 61, no. 1 (Spring, 1988): 51–77.

[33] AsiaSource.

1.   The Islamic Insurgency

Although the armed struggle in the southern Philippines is commonly referred to as an Islamic insurgency, the religion of Islam does not appear to be a main motivator. On the other hand, insurgent groups such as the Moro National Liberation Front (MNLF) and the Moro Islamic Liberation Front (MILF) have been able to rally support by appealing to the Islamic cause, which presents a stronger case than does the Moro identity by itself.[34] There are three major Islamic insurgency groups that are seeking either to create an independent Islamic state or to establish autonomy in the southern Philippines. They are MNLF, MILF, and the Abu Sayyaf Group (ASG).

Their struggles are strictly intrastate in character.[35] According to the report entitled *Terrorism in Southeast Asia*, scholars argue that "[s]tructured and unstructured factions of the JI are also working with the MILF and the ASG in the Philippines. This relationship is largely tactical rather than long-term and ideological."[36] It further argues that:

> The insurgency in the Philippines is a domestic phenomenon with deep historical roots and an unsuccessful integration of the Muslim population into the Christian-dominated state. The conflict in Mindanao is largely due to the imposition of the mainstream culture/religion on the minorities and due to uneven government policies. There is also a sense of perceived repression from the Central Government. The Bangsamoros feel that their rights as a minority in the country are not fully recognized and they have been deprived from political participation and economic advancement.[37]

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[34] Jacques Bertrand, "Peace and Conflict in the Southern Philippines: Why the 1996 Peace Agreement is Fragile," *Pacific Affairs* 73, no. 1 (April 1, 2000): 51.

[35] David Martin Jones, Michael L R Smith, and Mark Weeding. "Looking for the Pattern: Al Qaeda in Southeast Asia-The Genealogy of a Terror Network," *Studies in Conflict and Terrorism* 26, no. 6 (November 2003): 443–457.

[36] Nanyang Technological University and Institute of Defence and Strategic Studies, *Terrorism in Southeast Asia: The Threat and Response,* (Singapore: Institute of Defence and Strategic Studies, Nanyang Technological University, 2006), 7.

[37] Ibid., 6.

a.   The Moro National Liberation Front

The MNLF was established in 1969 in response to the Marcos administration's tough stance against the Muslims. Founded by activists Abul Khayr Alonto and Jallaludin Santos and chaired by Nur Misuari, then-professor at the University of Philippines, the MNLF represented a vibrant and modern movement in separatism in the southern Philippines at the time. Although it appealed strongly to the Muslims in the southern Philippines and their cause for ethnic nationalism by referring to themselves as the Bangsamoro, or the Moro Nation, the MNLF was distinctively a secular and political movement.[38] According to Wolters, the purpose of the MNLF was to "participate in the elections and with the ultimate aim of creating a federal state in which the Muslims would have the opportunity to create their own institutions."[39]

Figure 3.   Nur Misuari, Rezlan Jenle, and Nabil Tan.[40]

The Bangsa Moro Army, the military wing of the MNLF, received both financial and military support from Libya and Malaysia. At its peak in the early 1970s,

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[38] Federation of American Scientists, "Moro National Liberation Front (MNLF)," FAS, http://fas.org/irp/world/para/mnlf.htm.

[39] Willem Wolters, "Muslim Rebel Movements in the Southern Philippines: Recruitment Area for Al-Qaeda Terrorists?" *European Journal of Anthropology,* no. 40 (2002): 149–162.

[40] From Reuters Pictures, "Nur Misuari (R), leader of the Moro National Liberation Front (MNLF), holds hands with Rezlan Jenle (C), director general for multilateral affairs, Department of Foreign Affairs of the Republic of Indonesia and Nabil Tan, Philippines government deputy peace adviser after a meeting in Manila March 13, 2009," Reuters Pictures, http://www.daylife.com/photo/0dIN4Ki56H9O1 ?q=Nur+Misuari.

the MNLF fielded up to 30,000 fighters. Alarmed by the surge in the MNLF's strength, the Armed Forces of the Philippines (AFP) committed up to 80 percent of its total combat forces to counter the threat. By 1983, however, the strength of the MNLF declined to about 50 percent of its peak strength due to GRP's amnesty program for former combatants, the Moro population's weariness of protracted war, and a factional split in the Moro separatist movement.[41]

Wolters argues that the factional split of the MNLF in the late 1970s can be attributed to built-in structural flaws or contradictions between diverse groups within the MNLF. The historical, cultural, and language differences between the Tausug and the Maguindanao members were simply too deep to make the relationship last. Further weakening the MNLF organization was the uncomfortable alliance between the conservative and traditional Muslim leaders and the group of young, university-educated radicals.[42] According to McKenna, the notion of unification under the banner of Bangsamoro had little or no meaning to the members of the MNLF who would rather identify themselves with the ethno-linguistic groups such as the Tausug and the Maguindanao.[43] Furthermore, George argues that the religion of Islam was not a strong motivator for keeping the various factions within the MNLF united as it was a secular movement and not a religious one.[44]

The fragile union of different factions was tested in 1980 when tens of thousands of MNLF fighters accepted the GRP's offer of amnesty, and several thousand of them were integrated into the AFP in 1981.[45] Since then, the MNLF has been steadily making the transition from an armed resistance to a much more distinctive political organization, achieving a peace settlement with the GRP in 1996.

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[41] Federation of American Scientists.

[42] Wolters. 156–157.

[43] Thomas M. McKenna, *Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines* (Pasig City, Manila: Anvil Publishing, 1998), 4.

[44] T. J. S. George, *Revolt in Mindanao* (New York: Oxford University Press, 1980).

[45] Wolters, 157.

In the midst of allegations of corruption in 2001, Nur Misuari lost the election for the governor of the Autonomous Region in Muslim Mindanao (ARMM), thus losing his position as the incumbent. Furthermore, the GRP accused him of having masterminded the attacks on government offices in Jolo, causing numerous casualties. Fearing capture by the AFP, he fled to Malaysia. However, the local authorities arrested and extradited him to the Philippines where he was put in jail.[46]

The future is rather uncertain for the members of the MNLF as they struggle with a sense of betrayal by both the MNLF leadership and the GRP.

b.   *The Moro Islamic Liberation Front*

The Moro Islamic Liberation Front was established in 1984 by a faction that had broken away from the MNLF. The leader of the faction was Salamat Hashim who received radical Islamic teachings and military training in various places such as Egypt and Libya. There were several reasons why the faction decided to leave the ranks of the MNLF. An internal fault line along the use of funds and ethnic differences contributed to the split. However, the primary reason for the division was the disagreement over the peace negotiations with the GRP. While the group led by Nur Misuari wanted to engage in a peace process, Salamat Hashim and his faction wanted to continue with the armed struggle.[47]

The ultimate goal of the MILF is for the Moros to gain an independence from the Philippines and to establish an Islamic state governed by Shariah law.[48] Predominantly made of Magindanao members, the MILF created several camps throughout the province of Magindanao, with the main base located in Camp Abubakar As-Siddique.

According to Tiglao, the MILF had proven itself a formidable opponent of the AFP with the number of armed fighters reaching an estimated 15,000 by the end of the 1990s. It had also actively engaged in training its personnel and even sent fighters to

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[46] Wolters, 157.

[47] Ibid., 158.

[48] Ibid., 159.

Afghanistan in the 80s to gain experience in combat.[49] Their continued armed struggle, however, had claimed a high price, causing heavy damages to the local infrastructure and economy.[50]

The extended military campaign has led both the MILF and the GRP to spend a great deal of resources they can seldom afford. Since the early 2000s, both sides have been in a stalemate with no significant episodes of violence. The stalemate, however, may be coming to an end as the peace negotiations dissolved in 2008 without an agreement. There are signs that the military campaign is intensifying. The fight continues away from the battlefields as well. In response to the AFP's intensifying military campaign, the MILF has stepped up a media campaign against the AFP. According to the MILF secretariat, the AFP has been conducting indiscriminate attacks on civilians in an effort to root out the suspected MILF sympathizers. The number of internally displaced persons (IDPs) has reached an estimated 600,000 in Mindanao.[51]

Figure 4.   Murad Ebrahim inspecting MILF troops.[52]

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[49] R. Tiglao, "Hidden Strength: Muslim Insurgents Shun Publicity and Grow in Power," *Far Eastern Economic Review* 158, no. 8 (1995): 22–28.

[50] Fermin D. Adriano, "The Making of the Crisis," in *Between Fires: Fifteen Perspectives on the Estrada Crisis*, ed. Amando Doronilla (Pasig City: Anvil Publishing, Inc., 2001), 200–211.

[51] Luwaran, "MILF: AFP is embarking on war of attrition versus Moros," *Luwaran*, May 14, 2009, http://www.luwaran.com/index.php?option=com_content&view=article&id=734:milf-afp-is-embarking-on-war-of-attrition-vs-moros&catid=81:moro-news&Itemid=372.

[52] From Getty Images, "Murad Ebrahim," Romeo Gacad, AFP, http://www.gettyimages.com/detail/51474234/AFP.

Several factions within the MILF appear to have been severing ties with the organization lately. There are some who argue that "[e]ven with factionalism within the group, the MILF leadership remains strong and in control…gradual decline of resources and war fatigue…peace would appear to be more attractive for the group and its supporters."[53] On the other hand, each group with its own commanders and agendas may present more difficult challenges for the prospect of peace.[54]

c.   The Abu Sayyaf Group

Founded by Abubakar Janjalani in 1991, the ASG[55] is the smallest and the most radical of the three Islamic separatist organizations in the southern Philippines. Based in the Basilan Islands, they enjoy local popular support in their struggle against the better equipped and trained AFP. Janjalani was an Islamic scholar who wanted to create an Islamic state ruled by Shariah law.[56]

The ASG has a known association with Al-Qaeda and JI, and has been officially designated a foreign terrorist organization by the U.S. State Department.[57] Some scholars believe that the association is more than casual. In fact, they argue that there is an established relationship between the ASG, Al-Qaeda, and JI and that it is deepening.[58] Although the attacks may not be directed against Christians in particular, they do appear to be so since the majority of the main target, the Filipinos, are in fact Christians.[59]

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[53] Nanyang Technological University and Institute of Defence and Strategic Studies, 6.

[54] Wolters, 159.

[55] Abu Sayyaf means bearer of the sword.

[56] Wolters, 159. Also, Thomas McKenna interview by Nermeen Shaikh.

[57] Andrew Feickert, "U.S. Military Operations in the Global War on Terrorism: Afghanistan, Africa, the Philippines, and Colombia," Congressional Research Service Report RL 32758, February 4, 2005, 9.

[58] David Martin Jones, Michael L R Smith, and Mark Weeding. "Looking for the Pattern: Al Qaeda in Southeast Asia-The Genealogy of a Terror Network," *Studies in Conflict and Terrorism* 26, no. 6 (November 2003): 443–457.

[59] Nanyang Technological University and Institute of Defence and Strategic Studies, 6.

Upon Abubakar Janjalani's death in 1998, Khaddafi Janjalani took over the leadership of the ASG. Unlike his elder brother Abubakar, Khaddafi was not an Islamic scholar. The change in the group's direction became evident in 2000 when the ASG began shifting its activities to banditry and kidnapping for ransom. The ASG committed several kidnappings of western tourists, including Americans. In each instance a large sum of money was demanded in exchange for the hostages' safe return. Indeed, according to the MILF Chairman Murad Ebrahim, "[t]he original Abu Sayyaf group, under the older brother Abdurajak, had a political objective…As far as the personality of the younger brother Khadafi is concerned, he's not an ideological leader and I don't know how much control he has with the organization."[60]

Figure 5.   Released Hostage Mary Jean Lacaba.[61]

The latest kidnapping took place early in 2009 when workers for the International Committee of the Red Cross (ICRC) were taken hostage. A Filipina hostage named Mary Jean Lacaba was released in April. However, the fate of the remaining

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[60] Simon Elegant and Nelly Sindayen, "Mindanao's Biggest Boss," *Time South Pacific (Australia/New Zealand edition)* (August 30, 2004): 36–37.

[61] From Getty Images, "Mary Jean Lacaba," Terence Koh, AFP, http://www.gettyimages.com/detail/85785546/AFP.

hostages; Eugenio Vagni and Andreas Notter, Italian and Swiss respectively, is uncertain at this time. The AFP temporarily suspended military operations against ASG in response to the hostage's release.[62]

In response to the ASG's changing demands for negotiation, however, the Sulu governor, Abdusakur Tan, urged the ASG to "get their acts together" before attempting to negotiate with the GRP, indicating that the ASG may no longer be operating under a coherent leadership.[63]

D.   PEACE PROCESSES

The ongoing violence has deprived the local residents of peace and stability. The Philippine government, rebel groups, and various international mediators attempted to bring peace to the southern Philippine region in 1976, 1996 and 2008. However, none of these efforts ever achieved more than a partial success..

During President Ferdinand Marcos' regime, the MNLF reached its height in terms of armed resistance with an estimated 30,000 fighters.[64] At the peak of the hostilities during the period from 1972 to 1976, the AFP had to commit up to 80 percent of its total resources just to keep the conflict at a manageable level.[65]

The 1976 peace agreement, also known as the Tripoli Agreement, was unique because the MNLF as Islamic separatists had received a wide range of support from other Islamic nations such as Pakistan, Saudi Arabia, Libya, and the Organization of the Islamic Conference of Foreign Ministers (OIC), a body of foreign ministers from the influential Muslim states. The OIC, in particular, put pressure on the GRP to negotiate with the MNLF by threatening to cut oil supplies.[66]

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[62] Manila Standard Today, "Military Suspends Abu Sayyaf Operations," *Manila Standard Today*, April 05, 2009, http://www.manilastandardtoday.com/?page=news2_april4_2009.

[63] Raymond Africa, "Gov to Abu: What do you really want?" *Malaya News*, April 07, 2009, http://www.malaya.com.ph/apr07/news1.htm.

[64] W. K. Che Man, *Muslim Separatism: the Moros of Southern Philippines and the Malays of Southern Thailand,* (Manila: Ateneo de Manila University Press, 1990), 82.

[65] David Jenkins, "Insurgency, Not External Threat, Is the Worry," *Far Eastern Economic Review,* (March, 1983): 17–18.

[66] Thomas McKenna interview by Nermeen Shaikh.

The immediate goal of the 1976 peace agreement was to end all hostilities right away. More importantly, it provided the framework for the Moros to create an autonomous region among the thirteen provinces in Mindanao. The peace agreement did in fact effectively end the hostilities. However, the Marcos regime failed to implement the autonomous region. In 1986, President Corazon Aquino added a condition to the agreement that the thirteen provinces be given choices to determine for themselves on whether to join the autonomous region or to maintain their status quo by popular vote. Only the four provinces with a Muslim majority voted for the autonomous region. The MNLF fighters became furious at the GRP's blatant violation of the peace agreement. The hostilities would resume in less than a year.[67]

The next peace agreement took place in 1996 between President Fidel Ramos' administration and the MNLF. The agreement called for the establishment of the Southern Philippine Council for Peace and Development (SPCPD) to oversee development projects in all thirteen provinces in Mindanao. It also called for a popular vote in three years for the provinces to determine for themselves whether to become part of the Regional Autonomous Government. After three years, only one more province would decide to join the autonomous region due to the SPCPD's poor performance administering the development.[68] Thomas McKenna argues that the poor performance was caused by opposition legislators who introduced various measures to deprive the funding that was crucial for implementing the peace agreement. He further argues that the GRP should have included other key stakeholders such as the MILF in the peace negotiations.[69]

In April 2000, President Joseph Estrada decided to declare a policy of "all-out war" on the MILF. Although the policy was successful militarily in capturing MILF

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[67] Joseph Chinyong Liow, *Muslim Resistance in Southern Thailand and Southern Philippines: Religion, Ideology, and Politics,* Policy Studies (Washington: East-West Center, 2006), 11. Also see, Salvatore, Judd, and World Bank Conflict Prevention and Reconstruction Unit, 2–3.

[68] Salvatore, Judd, and World Bank Conflict Prevention and Reconstruction Unit, 2–3.

[69] Thomas McKenna interview by Nermeen Shaikh.

strongholds, it ultimately failed to subdue the MILF rebels. As a result of relying heavily on a direct military campaign, it became even more difficult to confront the rebels that now are dispersed throughout the most remote areas of Mindanao.[70]

In 2003, President Gloria Macapagal-Arroyo declared a policy of "all-out peace" and began holding peace talks with the new MILF Chairman Murad Ebrahim. The most recent hope for a peaceful resolution to the conflict between the MILF and the GRP was shattered on October 14, 2008, when the Supreme Court of the Philippines declared that the draft peace agreement was unconstitutional.[71] The latest peace talks, which had been ongoing for eleven years, since 1997, had produced a draft agreement known as the Memorandum of Agreement on Ancestral Domain (MOA-AD) that includes specific provisions for defining the relationship between the Bangsamoro Juridical Entry (BJE) and the GRP, and the fate of the disputed ancestral land.[72] In what can only be described as anticlimactic, the final version of the MOA-AD was about to be signed by both the GRP and the MILF representatives in August 2008 when it was interrupted by court injunction issued by the Philippine Supreme Court. The Supreme Court declared it unconstitutional in the following October.[73]

On the surface, it may appear as though both parties were very close in agreeing on the MOA-AD. Therefore, once the peace talks resume, negotiations may start at the point where they left off. In reality, it may now be more difficult than ever for all parties to agree on the MOA-AD. This is because there are deep disagreements over core issues: The oppositions argue that the proposed establishment of BJE appears to be a move toward independence from the sovereign nation of the Philippines. They also argue that not all key stakeholders were consulted prior to the attempted signing of the document.[74]

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[70] Salvatore, Judd, World Bank Conflict Prevention and Reconstruction Unit, 3.

[71] International Crisis Group Report, "The Philippines: The Collapse of Peace in Mindanao," Crisis Group Asia Briefing N°83, 23 October 2008, http://www.crisisgroup.org/home/index.cfm?id=5740.

[72] MOA-AD defines Moro as "those who are natives or original inhabitants of Mindanao and its adjacent islands including Palawan and the Sulu archipelago at the time of conquest or colonization and their descendants whether mixed or of full native blood."

[73] International Crisis Group Report, 1–3.

[74] Ibid.

The prospect for future peace in the Philippines has become rather uncertain with the collapse of the peace talks. While both sides claim that they are ready to resume the peace talks, it is unlikely that this will happen in the near future due to the following impasse: The GRP now argues that the MILF has to undergo a disarmament, demobilization and reintegration (DDR) process prior to the talks. The MILF mistrusts the GRP because they have seen the GRP fail to deliver what they had promised time and time again.[75] The impasse may not be resolved until the current president Arroyo steps down in 2010. Even then, the renewed talks would most likely require an international third-party to facilitate the broad spectrum of the current impasse, the local and national politics, military, and historical marginalization of the Moros, and to monitor the actual implementation of the terms.

Splintering of the MILF will make it even more difficult for the GRP to conduct peace negotiations. The central leadership of the MILF will exert less control over the splintered factions who have agendas of their own that may be different from the overall goal of the MILF.[76] Nevertheless, the MILF spokesperson asserts that they are willing to engage in further talks because they believe the negotiation will help their struggles. The negotiators for the GRP are also interested in resuming "negotiations to resolve once and for all the long-running insurgency conflict in the South."[77]

E. SUMMARY

There are other obstacles to peace in the southern Philippines. The GRP is characterized as a weak central government whose legitimacy is questioned by the Islamic separatists and even, at times, by its own military. Political instability resulting from President Arroyo's limited influence in military affairs makes it difficult to attain the full cooperation of the military when dealing with the insurgency.[78] The three

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[75]International Crisis Group Report, 14-15. Also see International Centre for Political Violence and Terrorism Research, "Monthly Country Report, Philippines," March 2009, http://www.pvtr.org/pdf/Monthly%20Reports/Philippines-March09.pdf.

[76] Wolters, 159.

[77] Darwin T. Wee, "Moro rebels Shunning Armed approach in Resolving Conflict," *Business World,* April 15, 2009, http://www.bworldonline.com/BW041509/content.php?id=071.

[78] International Crisis Group Report, 13.

branches of the GRP lack consensus, which means that the peace agreement that the executive branch worked so hard to develop might be declared unconstitutional by the judicial branch. Changes in the GRP administration and each branch's respective position on the agreement present major challenges to reaching a peace settlement. On the other side of the conflict, rivalries and disputes between the insurgency groups, including the MNLF, the MILF, the Datus, and the Moros contribute to the difficulties.[79]

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[79] Martin, Tuminez, and USIP, 12–13; A Dato or Datu is the leader, or chief, of a Moro tribe.

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III. THE SECOND FRONT

A. BACKGROUND

After the closure of the U.S. military bases in the Philippines in 1992, U.S. relations with the Philippines had been in a state of neglect, but the situation began to improve in January 2002. The Philippines began receiving about $100 million per year in security and economic aid packages on the condition that the GRP increase its counter-terrorism efforts.[80] U.S. troops were deployed to Western Mindanao to participate in a training exercise called Balikatan.[81] The deployment included several hundred U.S. Special Forces who would be acting in an advisory capacity with the right to return fire in self-defense. However, the exercise reportedly evolved into a series of combat operations designed to cripple the ASG's ability to conduct armed attacks.[82]

The opening of the so-called "second front" in the GWOT resulted in the Bush and Arroyo administrations drawing heavy criticism from opponents of the GRP.[83] Many considered the presence of the U.S. troops a clear violation of the Philippines' 1987 Constitution, which does not allow foreign troops to operate within its territory except under the terms of a treaty. The two existing treaties with the United States are clear in allowing foreign troops only in defense against an external, not an internal, threat.[84]

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[80] Daljit Singh, "The United States and Southeast Asia," *Regional Outlook: Southeast Asia 2007-2008,* (2007): 7–9,146.

[81] Global Security, "Operation Enduring Freedom - Philippines Balikatan 2002-1," *Global Secuirty,* March 16, 2004, http://www.globalsecurity.org/military/ops/balikatan_02-1.htm.

[82] Robert Nolan, "Terror in the Philippines," *Foreign Policy Association Newsletter*, March 6, 2003; C.H. Briscoe, "Reflections and Observations on ARSOF Operations during Balikatan 2001," *Special Warfare, The Professional Bulletin of the John F. Kennedy Special Warfare Center and Schoo* 17, no. 1 (September, 2004): 55–57.

[83] Eric Schmitt, "U.S. combat force of 1,700 is headed to the Philippines," *New York Times*, February 22, 2003; "U.S. troops aid riles Philippines," *CBSNEWS.com*, February 21, 2003. Also see Andrew T. H. Tan, "Terrorism, Insurgency and Religious Fundamentalism in Southeast Asia," *Defense Studies* 8, no. 3 (September, 2008): 331–325.

[84] US-Philippine Mutual Defense Treaty of 1951; Visiting Forces Agreement of 1998.

Critics point to the second front policy as one of the contributing factors to the United States' gradual loss of influence in Southeast Asia, citing its rather narrow focus on combating terrorism and disregard for the importance of multilateral relationships as points of contention.[85] Critics were also concerned that the second front policy might alienate and motivate the Islamic insurgency groups, raise anti-American sentiment, and culminate in the rise of a pan-Islamic alliance that did not yet exist.[86] Richard Betts warns that "U.S. leaders can say that they are not waging a war against Islam until they are blue in the face, but this will not convince Muslims who already distrust the United States."[87] Also, the possibility that non-democratic forms of government without a popular base will gain a foothold in the region could not be completely ruled out as the United States supports regional governments with military and financial aid, which may in turn be used to increase a regional government's legitimacy and power.[88]

The remainder of this chapter examines the implications of the second front policy from four different angles: military, political, diplomatic, and legal.

B.   MILITARY PERSPECTIVE

The second front policy is a highly militaristic approach to resolving the Islamic terrorist activities in the southern Philippines that have been identified as having the potential to support anti-American transnational terrorist organizations. This policy has been successful in reducing the terrorist activities considerably. However, despite implementing the policy for over seven years, terrorist activities continue.

Immediately after the September 11, 2001 attacks, President Macapagal-Arroyo allowed the United States military to gain access to AFP bases. The move enabled the U.S. military to establish a presence and to assist the AFP in their efforts to counter

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[85] Tim Shorrock, "Politics: U.S. Losing Clout in Southeast Asia to China," *Global Information Network* (December 9, 2005): 1.

[86] Nolan, "Terror in the Philippines."

[87] Richard K. Betts, "The Soft Underbelly of American Primacy: Tactical Advantages of Terror," *Political Science Quarterly* 117, no. 1 (Spring, 2002): 26.

[88] Joakim Ojendal, "Back to the Future? Regionalism in South-East Asia Under Unilateral Pressure," *International Affairs* 80, no. 3 (May, 2004): 532.

terrorism in the southern Philippines. In 2006, the joint efforts culminated in thirty-seven exercises, including Balikatan, involving 6,000 U.S. military personnel.[89] According to the U.S. Department of State, the exercises "contribute directly to the Philippine armed forces' efforts to root out Abu Sayyaf. …"[90]

Military assistance and arms sales by the United States to the Republic of the Philippines have also increased dramatically since 2001. When comparing the U.S. assistance and arms sales between years 1997 to 2001 and 2002 to 2006, the latter period saw more than a 60 percent increase.[91]

U.S. Military Assistance and Sales to Philippines, Pre-Sept. 11 vs. Post-Sept. 11
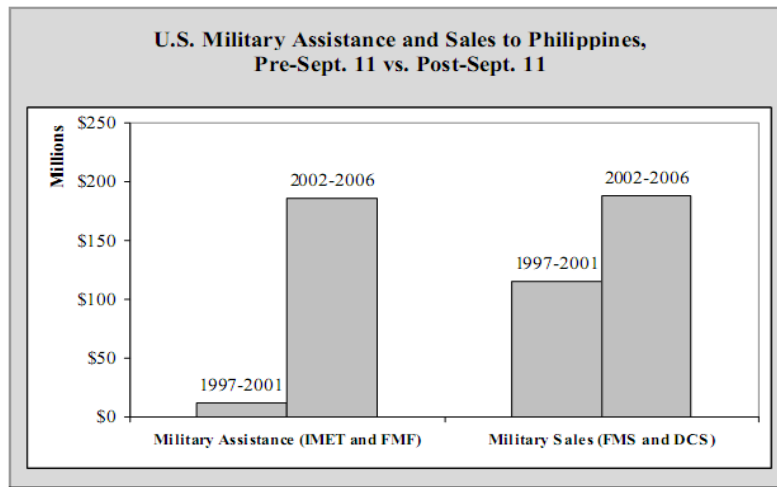
Figure 6.   U.S. Military Assistance and Sales to Philippines.[92]

The United States also offers monetary rewards to those who provide actionable intelligence leading directly to the killing or capture of perpetrators alleged to have committed terrorist activities. The payoff was upwards of $10 million in the year 2007 alone. U.S. law enforcement and intelligence personnel also provide counterterrorism training to the Filipino counterparts.[93]

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[89] Herbert Docena, "US Prowls for China in the Philippines," *Asia Times Online*, February 28, 2008, http://www.atimes.com/atimes/Southeast_Asia/JB28Ae01.html.

[90] Preeti Bhattacharji, "Terrorism Havens: Philippines," Council on Foreign Relations, *Backgrounder*, (June 1, 2009), http://www.cfr.org/publication/9365/.

[91] Ibid.

[92] From Center for Defense Information, Philippines, http://www.cdi.org/pdfs/philippines.pdf.

[93] Bhattacharji.

On the other hand, critics of the direct military approach such as See Seng Tan and Kumar Ramakrishna argue that: "Southeast Asia's current problems are unlikely to be resolved by a counterterrorism strategy that emphasizes military solutions."[94] According to General Juancho Sabban who led the Task Force Comet, the elite counterterrorist unit in Sulu, there is a limit to the direct military approach in combating terrorism.

> [U]using a strategy of force.…turned out to be a vicious cycle.…the more we destroyed, the more the number of the enemy increased.…people resent the military.…I have told my commanders that all military operations should be intelligence-driven and surgical. How do we do this? Through intelligence enhanced by civil-military operations. We do civil-military operations to get people onto our side. More people on your side will produce more and better intelligence, and if you have better intelligence you'll have more successful operations that are precise and surgical and that don't hurt innocent civilians. Thus we will get more support from the people and you will be denying the enemy resources and space to operate. People will drive them from their own areas. So now their space is getting smaller and smaller, until we can pinpoint them with information coming from the people themselves.[95]

There have been efforts to shift the strategy from the direct to the indirect approach. Civil affairs units have been actively conducting operations to keep the insurgents from gaining a safe haven among the populace. The U.S. Agency for International Development (USAID) is equally active by completing several key projects such as retraining facilities for former MNLF fighters and planning for future projects that are valued at over $130 million.[96]

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[94] See Seng Tan and Kumar Ramakrishna. "Interstate and Intrastate Dynamics in Southeast Asia's War on Terror." *SAIS Review* 24, no. 1 (Winter, 2004): 101. Also see John Gershman, "Is Southeast Asia the Second Front?" *Foreign Affairs* 81, no. 4 (July 1, 2002): 60, http://www.proquest.com.libproxy .nps.edu/ (accessed July 28, 2009).

[95] Major General Juancho Sabban quoted in Max Boot, Jeane J. Kirkpatrick, Richard Bennet, "Treading Softly in the Philippines," Council on Foreign Relations, *Op-Ed*, 14, issue 16, http://www.cfr.org/publication/18079/treading_softly_in_the_philippines.html?breadcrumb=%2Fregion%2 F290%2Fsoutheast_asia. Major General Juancho Sabban was recently appointed as the new AFP Marines commandant by President Arroyo.

[96] Ibid.

In terms of combating terrorism, the second front policy has achieved success in reducing the ASG's terrorist activities. The greatest indicator of success for the military approach may be that the ASG has not launched a major terrorist attack since 2005. Furthermore, their practice of exchanging hostages for ransom signifies the financial difficulties they currently face.

C.   POLITICAL PERSPECTIVE

Immediately following the September 11 attacks, President Arroyo pledged to President Bush to provide "help in whatever way" possible to combat terrorism. Since then, the two countries have been actively cooperating in terms of sharing intelligence and investigating suspected terrorists.[97] While the security cooperation, with respect to the second front policy is being conducted at the state level, its successful implementation is heavily dependent upon cooperation among the local actors. This fact becomes even more apparent in states with weak central government such as the Philippines. The complex relationship between local and national civilian and military leaderships may well decide the fate of the state level policy. It is, therefore, necessary to understand the relationship so that a more "nuanced approach" can be taken to increase the chance for a successful implementation of the policy.[98] This section analyzes the politics surrounding the second front from the perspectives of the United States and the GRP, as well as the local Filipinos and the Moros.

The end of the Cold War signaled a greatly increased demand for the military, rather than a decrease. The increase came with a caviat: the military is to engage the transnational threats in a non-traditional warfare. According to Derek Reveron, "[w]hile Geroge W. Bush abhorred this "misuse" of the military in the 2000 presidential election, as president he did not alter course. In fact, use of the military in "nontraditional" ways actually escalated at the same time traditional uses of the military occurred in Iraq and Afghanistan."[99] He further argued that the Bush administration actually increased the use

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[97] Bhattacharji.

[98] Patricio Abinales, 14.

[99] George W. Bush, "Excerpt of Presidential Debate October 12, 2000," at http//www.pbs.org/ newshour/bb/politics/july-dec00/for-policy_12–12.html.

of the military to build foreign militaries around the world as part of the GWOT. The AFP became one of the first beneficiaries of one of these Bush administration programs.[100]

The 9/11 attacks heightened the sense of American interdependence with other states around the world. American leaders began to see the weak states as potential threats to their national security, making changes along the way from realist perspectives to more idealistic neoconservative perspectives.[101] According to Condoleezza Rice, "in a world as increasingly interconnected as ours, the international state system is only as strong as its weakest links. We cannot afford another situation like the one that emerged in 2001 in Afghanistan."[102]

While it is unclear which direction the policy is heading now under the current U.S. administration, President Arroyo's immediate and willing support for the second front seemed to have played a key role in "galvaniz[ing] resentment from nationalist parties, which suspected a return of U.S. colonialism in the Philippines."[103] Philippine Senator Miriam Santiago has referred to the Obama administration's preference of the term "Overseas Contingency Operations" over the "Global War on Terror" as a clear indication that the purpose of the Phlippine-U.S. Visiting Forces agreement (VFA) has been met, therefore no longer needed. Without the VFA that was enacted during President Estrada's administration, the presence of U.S. troops in the Philippines may not be justified, as the Philippine Constitution specifically prohibits foreign military forces

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[100] Derek Reveron, "Military Engagement, Strategy, and Policy," *Orbis* 53, no. 3 (July 1, 2009): 489-490. The Obama administration, has already reversed some of the decisions made during the Bush administration, such as enemy combatants being held at Guantanamo Bay. One of them is the decision is to use the term "Overseas Contingency Operation" in place of "Global War on Terror." While no one is clear as to who initiated the change or why John A. Nagl argues that the term "war" actually helped various insurgent groups to set aside their differences and to unite against the United States. For additional information see: Scott Wilson and Al Kamen, "Global War on Terror is Given New Name," *The Washington Post,* March 25, 2009, http://www.washingtonpost.com/wp-dyn/content/article/2009/03/24/AR2009032402818.html.

[101] Colin Dueck, "Hegemony on the Cheap Liberal Internationalism from Wilson to Bush," *World Policy Journal* 20, no. 4 (January 1, 2004): 1–11.

[102] Condoleezza Rice, "Remarks at the Civilian Response Corps Rollout," U.S. Department of State, July 16, 2008.

[103] Andrew Chau, "Security Community and Southeast Asia: Australia, the U.S. and ASEAN's Counter-Terror Strategy," *Asian Survey* 48, no. 4 (July/August, 2008): 640.

from conducting operations within its territory. This may be a calculated move to undermine and isolate President Arroyo from her one source of power, which has been the strong military and financial backing from the United States.[104]

Senator Aquilino Pimentel's proposal advocating the VFA, on the other hand, represents the opposing spectrum of Filipino politics that welcome the American presence. He argues that without U.S. military and financial support which the current VFA affords, it will be extremely difficult for the AFP to successfully combat terrorism alone. Naturally, President Arroyo and the Philippine Palace agree and support Senator Pimentel's proposal.[105] According to Zachary Abuza, it is President Arroyo's wish to restore the security alliance the Philippines once enjoyed with the United States, that ended with the American base closures. The restoration of the security alliance will serve to strengthen the AFP in combating the insurgents in the southern Philippines. Furthermore, the Arroyo administration may be attempting to forge a close tie with the AFP by advocating U.S. military aid. Although Arroyo may consider impeachment attempts a thing of the past, with her coalition winning the majority seats in the Lower House in the latest election, other means of removing her from power are still present. Considering the historical role the coups d'état has played in Filipino politics, the latest uncovered plot to coup, and the lowest approval rate of any president since 1986, she has every reason to enlist the military to maximize her political survival.[106]

Local politics in the southern Philippines are driven by suspicion and distrust between the Filipinos and the Moros. The media fuels this distrust by portraying the Moros as "Muslim criminals" and blaming the "Islamic terrorists" for the ongoing violence; it rarely criticizes the actions of the GRP or the AFP. In addition, it rarely reports the historical causes of the conflict or the perspectives of the Moros.[107] The latest

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[104] Hannah L. Torregoza, "Senate Schedules Hearing on VFA," *Manila Bulletin*, April 13, 2009, http://mb.com.ph/articles/202299/senate-schedules-hearing-vfa .

[105] "Palace is Keen on Proposal to Use VFA to Resolve Hostage Crisis" *Philippines News Agency*, April 13, 2009, http://www.pna.gov.ph/index.php?idn=1&sid=&nid=1&rid=198168.

[106] Zachary Abuza, *Militant Islam in Southeast Asia: Crucible of Terror,* (Boulder: Lynne Rienner Publishers, 2003), 203-211; Allen Hicken, "The Philippines in 2008: Peace-building, War-fighting, and Crisis Management," *Asian Survey* 49, no. 1 (January/February 2009): 195-196.

[107] Martin et al., 8–9.

peace negotiations have failed as the presidential representative to the peace process proceeded to finalize the MOU-AD without consulting all potentially affected parties. The governor of North Cotabato, one of such parties who became suspicious of the central government's secretive peace process, filed a petition to delay the peace process, which ultimately led to the demise of the MOU-AD.[108]

Willem Wolters argues that the cessation of armed clashes following the previous peace settlements between the separatists and the GRP did not translate into economic growth in Mindanao. On the contrary, the opposite was true with many of the Mindanao provinces joining the ranks of the poorest regions in the Philippines.[109]

Province	2000		1997		1994		Percent Change	
	HDI	Rank	HDI	Rank	HDI	Rank	2000-1997	1997-1994
Sulu	0.351	77	0.336	77	0.357	76	4.3	(5.9)
Tawi-Tawi	0.390	76	0.430	74	0.387	75	(9.3)	11.1
Basilan	0.425	75	0.439	73	0.423	73	(3.3)	3.8
Ifugao	0.461	74	0.452	72	0.406	74	1.9	11.3
Maguindanao	0.461	73	0.416	75	0.449	71	10.8	(7.3)
Lanao del Sur	0.464	72	0.415	76	0.442	72	11.8	(6.1)
Agusan del Sur	0.482	71	0.482	70	0.459	70	-	5.0
Samar	0.511	70	0.493	67	0.462	67	3.6	6.7
Lanao del Norte	0.512	69	0.470	71	0.473	65	8.8	(0.6)
Sarangani	0.516	68	0.494	66	0.529	46	4.5	(6.6)

Table 1.   The Bottom Ten Provinces in HDI, 2000.[110]

The 2000 Philippine Human Development Index (HDI) indicated that the bottom ten provinces were from the southern Philippines with eight of them located in Mindanao (Table 1). Unfortunately, being ranked at the bottom also means that these provinces lack even the most basic of all facilities such as the schools, health clinics, water, and

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[108] Allen Hicken, "The Philippines in 2008: Peace-building, War-fighting, and Crisis Management," *Asian Survey* 49, no. 1 (January/February 2009): 194–195.

[109] Wolters: 157.

[110] From National Statistical Coordination Board. "2000 Philippine Human Development Index," January 21, 2003. http://www.nscb.gov.ph/hdi/hdi2000.asp.

electricity that are required for growth.[111] While the country's overall HDI showed improvement in 2000 when compared to 1994, the bottom ten provinces' HDI showed little or no improvements. The significantly disparate economic and living conditions with no improvement in sight may negate any impact made by the U.S. or the Philippine military and may help reinforce and fuel the Moros' resentment towards the Manila based regime.[112]

Contrary to the Moros' popular perception, the Filipinos may not be the only party responsible for their economic dismay following the peace negotiations. Apparently, the GRP had allocated about $600 million to be used to improve the living standards in these bottom provinces. However, Misuari, as the first governor of the ARMM, took control of the funds and invested instead in large projects that had little to no impact on improving the actual quality of life in the region. In addition, he was accused of using public money to fund extravagant lifestyle.[113] When his attempts at remaining in the governor's seat failed, and reaching the end of his term, he staged an attack against the AFP in hopes of gaining support and resurrecting the armed rebellion. When the attempts failed, he fled to Malaysia where he was arrested by the authorities and deported to the Philippines.

It is interesting to note that the Moros also welcomed the American presence in the southern Philippines, albeit for different reasons. The local Muslims approved and supported the Balikatan exercises designed to root out the ASG that had strayed away from the true Islam based on tolerance and compassion. Terrorist activities committed by extremists in the name of Islam had become a real concern for the moderates.[114]

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[111] Eric U. Guiterrez and Borras, Saturnino M. *The Moro Conflict Landlessness and Misdirected State Policies.* Policy Studies (Washington: East-West Center, 2004).

[112] Bong Garcia, "RP, U.S. Troops Build $30,000 Water System in Patikul, Sulu," *Sun Star Zamboanga*, May 15, 2009, http://www.sunstar.com.ph/zamboanga/rp-us-troops-build-worth-30t-water-system.

[113] John Gee, "Islam and the Middle East in the Far East: Is Misuari Finished? Former Rebel, Mindanao Governor Fails to Extend His Reign," *The Washington Report on Middle East Affairs* 21, no. 1 (January 1, 2002): 34.

[114] Ibid.

The Muslim's ever-present distrust of the Filipinos played a part here as well. They were suspicious of the Filipinos' intentions. Some even argued that the Filipinos would use the Balikatan as a platform to launch an even stronger military action against the Moros. In that respect, the Americans were seen as the limiting agent of the AFP's overt reliance on military intervention. Consequently, support was strictly reserved for American military personnel only.[115]

D.   REGIONAL DIPLOMACY PERSPECTIVE

The Southeast Asia region has the world's largest Muslim population. Any counter-terrorism policy introduced by the United States may potentially be seen by the world as measures taken against Muslims. As such, it is extremely important for the United States to be aware of and maintain a high-level of sensitivity on how the Southeast Asian countries respond to the U.S. counter-terrorism policy in order to gain an upper hand in the GWOT.[116]

Preceding the second front policy were a series of events that caused U.S. security experts to raise an alarm: the demise of the Suharto regime and the increasing role of Islam in the politics in Indonesia. While some may argue its level of democracy, the Suharto regime had been maintaining a relatively stable governance over the largest Muslim population in the world. With the stable overwatch gone, the door seemed open for terrorists who seek refuge from U.S. persecution in Afghanistan.[117]

Shortly after the 9/11 attacks in 2001, President Bush announced to nations throughout the world that they now have "a decision to make: either you are with us or you are with the terrorists."[118] In the following year, Secretary of State Colin Powell

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[115] Patricio N. Abinales, *American Military Presence in the Southern Philippines: A Comparative Historical Overview,* East-West Center Working Papers, (Washington: East-West Center, 2004), 2.

[116] Paul J Smith, "Climate Change, Weak States and the "War on Terrorism" in South and Southeast Asia." *Contemporary Southeast Asia* 29, no. 2 (August, 2007): 264–285.

[117] Andrew T. H. Tan, "Terrorism, Insurgency and Religious Fundamentalism in Southeast Asia," *Defense Studies* 8, no. 3 (September, 2008): 311.

[118] George W. Bush, "Address to a Joint Session of Congress," September 20, 2001, www.whitehouse .gov/news/releases/2001/09/20010920-8.html. President Bush in 2005 still maintained his view that the "global war on terror" was the "decisive ideological struggle" in our lifetime.

toured the Association of Southeast Asian Nations (ASEAN) that had been designated as the "second front" in the "global war on terror" to ensure their full cooperation.[119] In August 2002, this effort eventually led to the U.S.-ASEAN Joint Declaration for Cooperation to Combat International Terrorism in which the signatories promised to enhance the process of intelligence-sharing and the freezing of suspected terrorists' assets.[120]

Figure 7.   Gloria Arroyo meets with Colin Powell in 2002.[121]

S. Jayakumar, the then-Minister for Foreign Affairs of Singapore, argued that in order to maintain a good relations with the United States, Southeast Asian countries had no choice but to "cooperate in the anti-terrorism campaign."[122] On the surface, the perception and behavior of Southeast Asian countries appears to have been shaped by the U.S. counter-terrorism policy. While it is true that the policy helps these countries sharpen their focus on long-term security, pre-existing domestic concerns such as

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[119] Kumar Ramakrishna and See Seng Tan, eds., *After Bail: the Threat of Terrorism in Southeast Asia.* (Singapore: World Scientific Publishing, 2003), 14.

[120] Rosemary Foot, *Framing Security Agenda: U.S. Counterterrorist Policies and Southeast Asian Responses* (Washington: East-West Center, 2008), 10.

[121] From Getty Images, "Arroyo and Colin Powell," Gabriel Mistral/Getty Images, http://www.pbs.org/ frontlineworld/stories/philippines/tl04.html.

[122] S. Jayakumar, "Remarks on the Strategic Situation in the Region by Minister for Foreign Affairs," Singapore Government Press Release, May 16, 2002, quoted in Foot, 8.

"divergent interests, sensitivities, and fears about adverse domestic reactions"[123] interact with security matters in far more intricate ways than the U.S. administrations tend to understand. This affects how countries choose their methods of dealing with terrorist threats within their sovereign boundaries.[124]

Andrew Chau argues that in order to gain meaningful security cooperation with ASEAN countries, they must be approached through "diplomatic processes." This is in line with the "ASEAN norms of respect for state sovereignty and non-interference in the domestic affairs of neighboring states." In his research conducted in 2008, he investigated the level of cooperation among ASEAN countries facing significant terrorism threats. The research revealed that despite the fact that some of the threats have successfully materialized, the countries managed to reach bilateral cooperation but fell short of the multilateral cooperation as they originally hoped to achieve. Chau attributes this disappointing fact to the unique ASEAN diplomatic characteristic of non-interference with another state sovereignty.[125]

By contrast, the second front policy was founded on strong pro-war rhetoric that was codified in the 2002 National Security Strategy (NSS), which states "We choose to deal with challenges now rather than leaving them for future generations. We fight our enemies abroad instead of waiting for them to arrive in our country. We seek to shape the world, not merely be shaped by it; to influence events for the better instead of being at their mercy."[126] Together with the Bush administration's doctrine of preemption and the U.S. military's entrenchment in the southern Philippines, the unilateralist approach of the second front is in direct confrontation with ASEAN norms.[127]

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[123] Amitav Acharya and Arabinda Acharya, "The Myth of the Second Front: Localizing the 'War on Terror' in Southeast Asia," *The Washington Quarterly* 30, no. 4 (Autumn, 2007): 76.

[124] Foot, 49.

[125] Chau, 626-627.

[126] National Security Strategy of the United States of America, September 2002, 29.

[127] Foot, 47. For legal argument on "preemption," see preceding section on "Legal Perspective."

In such a setting, how can the United States obtain meaningful security cooperation from the ASEAN to combat terrorism in Southeast Asia? Amitav Acharya argues that the ASEAN traditionally settles disputes by reaching consensus while respecting state sovereignty.[128] The United States must find a way to assert itself while respecting the way of the ASEAN and turn the current practice of security cooperation on an ad hoc basis into a permanent multilateral practice and shy away from the "opportunity to refashion the world."[129]

E.   LEGAL PERSPECTIVE

The concept of preemptively employing force in self-defense, or simply preemption, is not new as evidenced throughout history. States have acted in self-defense to immediate threats not yet fully materialized. In the United States, the Bush administration's second front policy is an example of such a preemptive use of force in self-defense. The concept of preemption is ingrained into the administration's policies and directives. The legality of preemption, however, has been a highly debated subject among scholars who study law. This section examines the second front policy in the southern Philippines in the context of international law. It is extremely important for the United States, as a nation ruled by law, to have its policies supported by strong legal arguments, which in turn will provide a legitimate basis for its actions against terrorism in Southeast Asia, where non-inteference and respect for sovereignty are highly regarded commodities.

1.   The Bush Doctrine of Preemption

In September 2002, the Bush administration issued the National Security Strategy of the United States of America, which states that the United States faces unique challenges to its national security.[130] Updated in March 2006, the NSS further states the American resolve in tackling security challenges: "Our strong preference and common

[128] Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (London: Routledge, 2001).

[129] "Secretary Rumsfeld Interview with the New York Times," *New York Times*, October 12, 2001.

[130] J. Bryan Hehir, "The New National Security Strategy," *America* 188, no. 12 (April 7, 2003): 8-9.

practice is to address proliferation concerns through international diplomacy, in concert with key allies and regional partners. If necessary, however, under long-standing principles of self defense, we do not rule out the use of force before attacks occur, even if uncertainty remains as to the time and place of the enemy's attacks."[131] The United States' claim to the right to self-defense, even preemptively when the threat is not perceived as acute or imminent, is known as the Bush Doctrine.[132]

The Bush Doctrine is not the first attempt to incorporate the concept into an official policy of a state. Indeed, the right to use force preemptively originated with the Reagan administration.[133] National Security Decision Directive (NSDD) 138, issued in April 1984, states that "[w]henever we have evidence that a state is mounting or intends to conduct an act of terrorism against us, we have a responsibility to take measure [*sic*] to protect our citizens, property, and interests."[134] Furthermore, NSDD 207 issued in January 1986 states that the United States may pursue the option of using force "unilaterally when necessary to prevent or respond to terrorist acts."[135]

In January 1986, then-Secretary of State, George Shultz, in response to critics who questioned the legality of preempting terrorism by the use of force, argued that a nation under attack is "permitted to use force to preempt future attacks, to seize terrorists…this nation has consistently affirmed that right of states to use force in…individual or collective self-defense."[136] He foresaw the controversies that such action may bring, even among traditional friends and allies of the United States.

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[131] The National Security Strategy of the United States of America, March 23, 2006, http://www. whitehouse.gov/nsc/nss/2006/nss2006.pdf.

[132] Frederic L. Kirgis, "Pre-Emptive Action to Forestall Terrorism," ASIL Insights, http://www.asil.org/insigh88.cfm.

[133] National Security Decision Directive 138, http://www.fas.org/irp/offdocs/nsdd/nsdd-138.htm.

[134] Ibid.

[135] National Security Decision Directive 207, available at http://www.fas.org/irp/offdocs/nsdd/nsdd-207.htm.

[136] George P. Shultz, "Low-Intensity Warfare: The Challenge of Ambiguity," Address at National Defense University (January 15, 1986), U.S. Department of State, Current Policy No. 783, quoted in W. Michael Reisman and Andrea Armstrong, "The Past and Future of the Claim to Preemptive Self-Defense," *American Journal of International Law* 100, no. 3 (July 2006): 528.

However, he further argued that doing nothing in response would only mean victory for the enemies as the United States might appear to be "impotent."[137]

2. Principles of Self-defense and International Law

Chapter I, article 2(4) of the United Nations (UN) Charter is considered to be Jus Cogens, or a peremptory norm, with regard to the use of force.[138] It states that "[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."[139]

	Traditional Self-Defense	Anticipatory Self-Defense	Preemptive Self-Defense
Threat	Actual	Imminent	Highly likely
Time	Past / present	At any moment	At some future
Evidence	Actual aggression	Palpable	Extrapolative / speculative
Principle	S.S. *Lotus*	S.S. *Caroline*	Sofaer's elements

Table 2.   Classification of Self-defense.[140]

Self-defense, in response to armed aggression is perfectly legal according to Chapter VII, article 51 of the UN Charter, which states that "[n]othing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed

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[137] Reisman and Andrea Armstrong: 528.

[138] Mary E. O'Connell, "The Myth of Preemptive Self-Defense," *The American Society of International Law,* August 13, 2002, http://www.asil.org/taskforce/oconnell.pdf; Also see Article 53 of Vienna Convention on the Law of Treaties (1969). Done at Vienna on May 23, 1969, Entered into force on January 27, 1980, http://untreaty.un.org/ ilc/texts/instruments/english/conventions/1_1_1969.pdf.

[139] Charter of the United Nations (1945), http://www.un.org/aboutun/charter/.

[140] From Reisman and Armstrong: 526.

attack occurs against a Member of the United Nations."[141] UNSC resolution (SCR) 1368 also recognizes states' "inherent right of individual or collective self-defence in accordance with the Charter."[142]

According to factors such as the nature of threats, timelines, and supporting evidence available, self-defense may be categorized by three types: traditional, anticipatory, and preemptive.[143] Table 2 provides a quick side-by-side comparison of the different kinds of self-defense discussed.

a. *Traditional Self-defense*

In the Case of the *S. S. "Lotus"* (1927), the Permanent Court of International Justice (PCIJ) asserted that the use of force may be legal only under certain conditions. The set conditions were that the use of force must be absolutely necessary in self-defense in response to an "actual" aggression and any armed response must be proportional to the aggression.[144]

b. *Anticipatory Self-defense*

The principle of anticipatory self-defense was established as a result of what is known as the *Caroline Affair.* In December 1837, Canadian loyalist and British forces captured and burned the S.S. *Caroline,* which was moored in American territorial waters. The ship was known to have carried supplies for the Canadian rebels in the past.[145] In his letter to Lord Ashburton, who was the British Special Minister at the time, then-Secretary of State Daniel Webster complained that British troops violated the

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[141] UN Charter.

[142] UN Security Council Resolution 1368 (2001), http://www.state.gov/p/io/rls/othr/2001/4899.htm.

[143] Reisman and Armstrong: 526.

[144] The Case of the S. S. "Lotus" (France v. Turkey), Permanent Court of International Justice, ser. A, no. 10, 1927, available at http://www.worldcourts.com/pcij/eng/decisions/1927.09.07_lotus/.

[145] John Yoo, "International Law and the War in Iraq," *American Journal of International Law* 97, no. 3 (July, 2003): 572.

sovereign territory of the United States.[146] He argued for strict conditions validating an anticipatory self-defense as "instant, overwhelming, leaving no choice of means, and no moment for deliberation"[147] The conditions are known as the *Caroline* test, which is used as a guideline for determining the legality of anticipatory self-defense.

c. *Preemptive Self-defense*

The preemptive form of self-defense is distinguished from other forms of self-defense by the fact that threats may be neither actual nor imminent. According to Richard Betts, the preemptive form of self-defense is also distinguishable from the preventive form: "Preemptive war is more legitimate than preventive war not because of a moral difference between the two in principle, but because of a practical difference in the weight of evidence that the adversary is bound to attack at some point."[148] The aforementioned Bush Doctrine is an example of preemptive self-defense incorporated into an official state policy.

Preemptive self-defense, in principle, would not pass the *Caroline* test because the latter requires the threat to be imminent. Nevertheless, there have been attempts to justify the principle of preemption. Abraham Sofaer argues that preemption "requires a more nuanced evaluation than that implied by Webster's pronouncement in *The Caroline* case. Properly applied, pre-emption is an aspect of a state's legitimate self-defence [*sic*] authority."[149] According to Sofaer, there are "standards" that must be met to justify preemptive self-defense: "the nature and magnitude of the threat…the likelihood that the threat will be realized…the availability and exhaustion of alternatives…whether using pre-emptive force is consistent with…the UN Charter."[150]

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[146] *The Caroline Case* (1841), 29 BFSP 1137-8; (1842) BFSP 195-6 cited in Geoffrey Robertson, *Crimes against Humanity, the Struggle for Global Justice* (New York: The New Press, 1999), 485; The Caroline, 2 J. Moore, Digest of International Law 409, 412 (1906); Richard N. Gardner, "Neither Bush nor the Jurisprudes," *American Journal of International Law* 97, no. 3 (July, 2003): 587.

[147] Kirgis, "Pre-Emptive Action to Forestall Terrorism."

[148] Richard K. Betts, "Striking First: A History of Thankfully Lost Opportunities," *Ethics and International Affairs* 17, no. 1 (Spring, 2003): 19.

[149] Abraham D. Sofaer, "On the Necessity of Pre-emption: [1]," *European Journal of International Law* 14, no. 2 (April 1, 2003): 225.

[150] Ibid., 220.

Michael Reisman and Andrea Armstrong argue that the UN Charter only authorizes the use of force in self-defense in response to an armed attack that has already occurred.[151] Preemptive self-defense, therefore, tends to be unilateral and without prior UN authorization.[152] This may be due in part to the shifting nature of threats from conventional to WMD, each becoming more deadly than the previous iteration, and often giving less warning than before.[153]

Have there been any previous attempts by states to exercise preemptive self-defense? According to Dan Reiter, a close examination of history reveals that preemptive wars rarely occur: "Russo-German interactions in July 1914 [during WWI], the Chinese intervention in the Korean War in 1950, and the Israeli attack on Egypt in 1967, which began the Six Day War."[154]

3.   Arguments for Preemption

Relations with other countries that were traditional allies were put to test when the United States began building the case against Iraq. France, Germany, and Russia all opposed the proposed armed aggression against Iraq. Nevertheless, the United States went ahead with the invasion, suggesting perhaps that the complex interdependence theory's claim on limiting the use of force had become irrelevant.[155] Apparently for the United States, maintaining peace and stability in national security ranked higher among its priorities than maintaining norms in economic, social, and political partnership with them.[156] The Bush administration, instead of arguing the case for war as a "just" preemptive war, which resembles preventive war too closely and which is prohibited by

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[151] R. Y. Jennings, *The Caroline and McLeod Cases,* 32 *American Journal of International Law* 82 (1938): 82-99, cited in Reisman and Armstrong: 525.

[152] NSDD 207.

[153] Jennings in Reisman and Andrea Armstrong: 526.

[154] Dan Reiter, "Exploding the Powder Keg Myth: Preemptive Wars Almost Never Happen," *International Security* 20 (Fall 1995): 13–14.

[155] Kenneth N Waltz, "Globalization and governance," *PS, Political Science & Politics* (December 1, 1999): 694; On complex interdependence theory, see Robert Keohane and Joseph Nye, "Complex Interdependence," in *International Politics: Enduring Concepts and Contemporary Issues*, eds. Robert C. Art and Robert Jervis (New York: Addison Wesley Longman, 2000), 229–243.

[156] Ibid.

international law, instead made an argument based on previous resolutions that were still active in the absence of new resolutions reversing them.[157]

In arguing the case for preemptive self-defense, John Yoo, then-Deputy Assistant to the Attorney General, quoted article 51 of the UN Charter, which states "[n]othing in the present Charter shall impair the inherent right of individual or collective self-defense."[158]

What sets the current circumstances apart from the previous ones is the presence of WMD and non-state actors such as transnational terrorists? Historian John Lewis Gaddis argues that the current policies of "deterrence and containment are no longer relevant" in meeting the threats from non-state terrorists.[159] In January 1998, the Project for the New American Century, a think tank known to be neo-conservative, asserted in a letter to President Clinton that the United States' foreign policy of containment of Iraq was not achieving its intended goals. Therefore, the letter argued that Saddam Hussein must be removed from power and doing so would be in the interest of the security of the United States and its allies.[160]

Arthur Lehman Goodhart, a prominent Oxford scholar and practitioner in law, argues that the United Nations has not been successful in preventing armed aggressions throughout the world as it was originally designed to do.[161] Furthermore, he argues that the UN Charter is impractical in meeting today's security challenges.[162] Edward Luck, the director of the Center on International Organization, agreed when he said that "[t]he United Nations, sadly, has drifted far from its founding vision. Its Charter neither calls

[157] Frederic L. Kirgis, "The Legal Background on the use of Force to Induce Iraq to Comply with Security Council Resolutions," ASIL Insights, http://www.asil.org/insigh12.cfm.

[158] Yoo, 571; Charter of the United Nations (1945), Article 51.

[159] John Lewis Gaddis cited in Hehir: 11.

[160] Project for the New American Century, "Letter to President Clinton," http://www.newamericancentury.org/iraqclintonletter.htm.

[161] Gardner: 589.

[162] Ibid.

for a democratic council nor relegates the collective use of force to a last resort. It was a wartime document of a military alliance, not a universal peace platform."[163]

The UN Charter when interpreted as a treaty, can be suspended by members of the treaty when the circumstances in which the members went into a treaty undergo fundamental change.[164] WMD were not present at the time of the adoption of the UN Charter. However, the nature of WMD may mean a preemptive strike is the only viable option for defense. John Murphy, therefore, believes that the UN Charter has become irrelevant.[165] Professor Frederic Kirgis agreed when he said "threat of large-scale terrorism with weapons of mass destruction was not foreseen when the Charter was drawn up, and one could argue that the other conditions of the Vienna Convention allowing suspension of a treaty obligation under changed circumstances have been met as well."[166]

Richard Gardner, a law professor and former U.S. Ambassador to Spain and Italy, argues that the norms of international law do not adequately address the new security challenges presented by transnational terrorists in possession of WMD. Therefore, he argued that the UN Charter should undergo a "reinterpretation" to allow the use of force, without UNSC approval, to combat transnational terrorists and those states that aid them.[167] After all, Joshua Muravchik, a renowned legal scholar, argues that "[the United States has been] a better agent of U.N. goals than the organization itself."[168]

Prior to committing its forces to war, the Bush administration argued the case for a preemptive strike against Iraq and attempted to obtain the Security Council's authorization. The Security Council neither supported nor condemned the U.S. invasion

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[163] Edward C. Luck, "Making the World Safe for Hypocrisy," *New York Times*, March 22, 2003, A11, col.1, http://www.nytimes.com/2003/03/22/opinion/making-the-world-safe-for-hypocrisy.html?sec=&spon=&pagewanted=all.

[164] Kirgis, "Pre-Emptive Action to Forestall Terrorism."; Vienna Convention on the Law of Treaties (23 May 1969), entered into force on 27 January 1980, United Nations, Treaty Series, vol. 1155, 331.

[165] John F. Murphy, *The United States and the Rule of Law in International Affairs* (Cambridge, U.K.: Cambridge University Press), 177–181.

[166] Kirgis, "Pre-emptive Action to Forestall Terrorism"; Also see Vienna Convention on the Law of Treaties.

[167] Gardner: 590.

[168] Joshua Muravchik cited in Hehir: 10.

of Iraq at the time. However, the reinterpretation argument was strengthened by the questionable endorsement of the Security Council when it approved SCR 1511, authorizing the United States and its allies to occupy Iraq for the purpose of providing security and reconstruction.[169]

Jacques deLisle, a Senior Fellow for the Foreign Policy Research Institute, argued that "unlawfulness is not the same thing as lawlessness… rejecting prescribed legal processes is not the same thing as rejecting all legal principle."[170] He further argues that "[w]here some legal rules are breached, principles can still guide and constrain, justify and condemn. Many of those principles are legal or closely entangled with law. To think otherwise is to hold a naive and crude notion of law (particularly international law)."[171]

International law is known to change as customary practices evolve over time. There are several ways that this may become a reality: strong states asserting foreign policy on weaker states, weaker states' reactions, and the relevance of precedents to current circumstances.[172] With respect to the latter, it can be argued that the present circumstances are very different from the past circumstances in which the Caroline test was formulated. Considering that circumstances have changed dramatically since then, it can further be argued that the Caroline test, either partially or in its entirety, may be irrelevant today.[173]

In the case of the *Democratic Republic of Congo v. Uganda*, judges of the International Court of Justice (ICJ) expressed the legal opinion that indeed states maintain the right to self-defense even when non-state actors such as terrorists are the perpetrators of armed aggression. Due to the highly unconventional way that

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[169] Reisman and Armstrong, footnote 56: 537; United Nations Security Council Resolutions 1483 and 1511 were approved on May 22, 2003 and October 16, 2003 respectively.

[170] Jacques deLisle, *Illegal? Yes. Lawless? Not so Fast: The United States, International Law, and the War in Iraq,* March 28, 2003, Foreign Policy Research Institute, http://www.fpri.org/enotes/20030328 .delisle.intllawwariraq. html.

[171] Ibid.

[172] Kirgis, "Pre-Emptive Action to Forestall Terrorism."

[173] Ibid.

transnational terrorist organizations operate, this opinion may suggest that the ICJ acknowledges that self-defense may be employed preemptively and be legal at the same time.[174]

4.   Arguments against Preemption

Critics of preemptive self-defense argue that it may not satisfy the Caroline test when a WMD threat is neither acute nor imminent as was the case in Iraq. According to Barry R. Schneider, the director of the USAF Counterproliferation Center, "ill-considered preemptive strikes could backfire catastrophically."[175] He argues that Iraq does not meet several of the guidelines necessary for the United States to take preemption as the only option. First, there were no clear indications as to the immediacy of the WMD threat. Second, a "kill-or-be-killed" situation warranting self-defense could not be clearly established.[176]

The United States and the United Kingdom might have pursued further UN resolutions because they felt that their justification for war was not strong enough. Although the Bush administration claimed that there were no specific timelines given for invading Iraq, it appears that this was the intent of the administration all along. The fact that the Bush administration had as much time as it did in building up the case against Iraq itself does not justify the imminent aspect of the threat.

Article 51 of the UN Charter explicitly requires the occurrence of an "armed attack" in order to justify use of force in self-defense.[177] In that case, the Bush Doctrine may prove to be extremely problematic to international peace because it does not require any actual armed aggression. It becomes even more problematic when used in

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[174] Reisman and Armstrong: 538.

[175] Charles Knight, "First Strike Guidelines: The Case of Iraq," Project on Defense Alternatives *Briefing Memo* #25, September 16, 2002 (revised and updated March 10, 2003) (ca. 16 pp.), http://www .comw.org/pda/0209schneider. html.

[176] Knight.

[177] Murphy, 176.

conjunction with the One Percent Doctrine devised by then-Vice President Cheney, which foregoes thorough analyses and hard evidence.[178]

Critics also argue that the war against Iraq was more about establishing a regime that is pro-democracy in the Middle East than about self-defense. Mary O'Connell argues that SCR 678 did not authorize the use of force to change Saddam's regime specifically.[179] According to Stanley Hoffman, the Bush Doctrine is "breathtakingly unrealistic" because it "proclaims the emancipation of a colossus from international constraints…In context it amounts to a doctrine of global domination."[180] John Ikenberry claims that the NSS is a manifestation of "neoimperial vision in which the United States arrogates to itself the global role of setting standards, determining threats, using force and meting out justice."[181]

It is also highly probable that there may be side effects originating from preemptive self-defense. According to Richard Gardner, the Bush Doctrine is unacceptable because it may "legitimize preemptive attacks by Arab countries against Israel, by China against Taiwan, by India against Pakistan, and by North Korea against South Korea…would even serve to legitimize ex post facto Japan's attack on Pearl Harbor."[182] Potential adversaries may in turn intensify their efforts in developing and transferring WMD to transnational terrorists for the purpose of self-defense against our preemptive self-defense. Such occurrences would result in a "downward spiral" in which preemptive self-defense begets preemptive self-defense.[183]

Realists would also argue that strong states do what they must in order to ensure national security and that it did not matter much to the United States that the war against

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[178] Michael W. Doyle, *Striking First: Preemption and Prevention in International Conflict* (New Jersey: Princeton University Press, 2008), xiv; For One Percent Doctrine, see Ron Suskind, *The One Percent Doctrine: Deep Inside America's Pursuit of its Enemies since 9/11* (New York: Simon & Schuster, 2006), 26.

[179] O'Connell, "Addendum to Armed Forces in Iraq."

[180] Stanley Hoffman quoted in Hehir: 10.

[181] John Ikenberry quoted in Hehir: 10.

[182] Gardner: 588.

[183] Reisman and Armstrong: 549.

Iraq lacked strong legal justifications. The fact that the war was prosecuted, despite heavy opposition by traditional allies and several members of the Security Council, suggests that legal justifications were sacrificed in the name of national security.

Is the concept of preemptive self-defense still illegal after all arguments were weighed? Under current international law, preemptive self-defense may not satisfy legality in terms of the Caroline test. However, the world is constantly evolving. When the Caroline test was devised, no states had to face threats from WMD and transnational terrorists.[184] WMD and transnational terrorists have changed the global security stage. International law now seems antiquated and impractical in contrast. International law, too, must evolve in order to reflect the current state of the world. In fact, international law is known to change as customary practices evolve over time.[185] The ICJ and the UNSC need to employ a liberal interpretation of the use of force in order to remain relevant in the struggle by states against transnational terrorists.

What is the right course of action for the United States then? The answer lies within what seems to be a paradoxical statement: A hegemonic state is only so in the presence of non-hegemons. In order for the United States to maintain and enjoy its hegemonic status, it needs the rest of the world. Therefore, the United States must become an integral part of the world. What would it mean to be a part of the world to the United States? When a state agrees to be a part of the world, it would also mean that it agrees to be subjected to the very law that governs the rest of the world. In practical terms, the United States must strive to do a better job of building cases for and prosecuting wars. When invoking "preemption" it must also be ready to be held accountable for accurate intelligence analyses that clearly established an "acute" or "imminent" threat.

F.   SUMMARY

The Arroyo administration's active support for the second front has played a key role in restoring the once neglected U.S.-Philippines security cooperation. It is yet to be

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[184] Kirgis, "Pre-Emptive Action to Forestall Terrorism."

[185] O'Connell, "Addendum to Armed Forces in Iraq."

seen whether the second front has had any impact on strengthening, or weakening, the democratic institution of the Philippines. On the other hand, it is clear that the efforts so far have not led the Philippines to strengthening security ties with other Southeast Asian countries. Furthermore, the GRP's second front advocacy has had a negligible impact on effectively addressing the grievances and socio-politico-economic marginalization of the Moro population.

According to Joseph Biden, "[t]he events of September 11 made it clear that our armed forces could not focus solely on traditional challenges-threats from traditional states with traditional military capabilities. This new world we have found ourselves in has compelled us to think in a very different way."[186] Reveron further argues that "[d]uring the Bush years, all engagement was justified on the basis of preventing terrorism by getting at root causes. However, as the loaded "global war on terrorism" language fades from the policy lexicon, activities will be centered on improving social conditions and sovereignty."[187]

In terms of combating terrorism more effectively, the United States must acknowledge that its allies, with respect to their regions, "are better positioned to handle a given problem because they understand the local geography, social structures, and culture better than we [the United States military] do or ever could."[188] Also, the United States must find a way to practice prevention by way of comprehensive diplomatic strategy, and stop relying on preemption through military strategy.

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[186] Joseph Biden, "Military's Expanding Role in U.S. Foreign Policy," Committee on Foreign Relations hearing, July 31, 2008.

[187] Reveron, "Military Engagement," 499.

[188] National Defense Strategy, 2008, 8.

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IV. CONFLICT RESOLUTION

A. BACKGROUND

Although identified as a critical spot in the global war on terrorism, the southern Philippines has not become a safe haven for transnational terrorist organizations as once feared. To date, the series of joint military operations by the United States and the AFP have targeted Islamic separatist organizations. However, the Islamic separatists' goal of establishing political and territorial autonomy makes the ongoing military operations a way of treating the symptoms and not the causes.[189]

Several attempts at peace negotiations have all but succeeded. The latest negotiations, which the belligerent parties agreed to settle, were struck down by the Philippine Supreme Court during its final hours prior to the signing. The two belligerent parties, that deadlocked in a zero-sum conflict highlight the need for an alternative way to settle their differences.

This chapter investigates the possibility of reaching a satisfactory resolution of the conflict in the southern Philippines by way of third-party mediation involving a credible mediator, a common end state, and a fair process that both the Moros and Filipinos can agree upon. This chapter adopts the definition of conflict resolution by Oliver Ramsbotham et al for analyzing the Mindanao Conflict:

> Conflict resolution is a…comprehensive term which implies that the deep-rooted sources of conflict are addressed and transformed. This implies that behavior is no longer violent, attitudes are no longer hostile, and the structure of the conflict has been changed…the term is used to refer both to the process (or the intention) to bring about these changes, and to the completion of the process.[190]

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[189] Amitav Acharya and Arabinda Acharya, "The Myth of the Second Front: Localizing the 'War on Terror' in Southeast Asia," *The Washington Quarterly* 30, no. 4 (Autumn, 2007): 88–89.

190 Oliver Ramsbotham, Tom Woodhouse, and Hugh Miall, *Contemporary Conflict Resolution: The Prevention, Management and Transformation of Deadly Conflicts*, 2nd ed. (Cambridge, UK; Malden, MA: Polity, 2005), 29.

B.   RESOLVING CONFLICT

In order to formulate and prescribe a solution to a problem, the problem must be identified first. This ensures the solution's applicability and effectiveness in solving the problem. Therefore, this chapter begins by identifying the characteristics of the Mindanao Conflict.

The Philippine society, in which the Mindanao Conflict and its actors dwell, exhibits all of the characteristics of a deeply divided society as described by John Paul Lederach. There are four distinctive "interactive factors" present in societies that are deeply divided: formation of security groups that are smaller than national citizenship, armed struggle between the groups for power, deep-rooted or "intractable" grievances, and limited "governmental mechanisms" to effectively deal with the conflict.[191] In addition, the Mindanao Conflict fits the definition of civil war by Michael Doyle and Nicholas Sambanis:

> Civil war is an armed conflict that pits the government and national army of an internationally recognized state against one or more armed opposition groups able to mount effective resistance against the state; the violence must be significant, causing more than a thousand deaths in relatively continual fighting that takes place within the country's boundaries; and the rebels must recruit mostly locally, controlling some part of the country's territory.[192]

Furthermore, the Mindanao Conflict can be categorized as an ethnopolitical conflict, "in which groups that define themselves using ethnic criteria make claims on behalf of their collective interests against the state, or against other political actors."[193] Therefore, for the purpose of the analysis, this thesis regards the Mindanao Conflict as an ethnopolitical civil war taking place within a deeply divided society.

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[191] John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington DC: USIP Press, 1997), 12–17.

[192] Michael Doyle and Nicholas Sambanis, *Making War and Building Peace* (Princeton: Princeton University Press, 2006), 31.

[193] Ted Robert Gurr, "Peoples Against States: Ethnopolitical Conflict and the Changing World System: 1994 Presidential Address," *International Studies Quarterly* 38, no. 3 (September, 1994): 348.

The following sections of this chapter analyze the possibility of reaching a satisfactory resolution of the conflict through a common and realistic end state, mediated by a credible third-party mediator, and a fair process that all involved parties can agree upon. A satisfactory resolution agreed on by all will not only ensure success in achieving a short-term peace, but also contribute immensely to a long-term sustainable peace and stability.

1.   End State

The characteristics of a deeply divided society pose enormous challenges to peace. When combined with "intractable" issues typically associated with an ethnopolitical conflict, the prospect for peace suddenly becomes remote even when all available resources have been committed. Indeed, historical data does indicate the tendency for ethnopolitical conflict to resist settlement more than any other type of war.[194]

It is possible for the belligerent parties to commit considerable time and resources in a peace negotiation only to find out that each had envisioned a different scenario in a post-conflict environment. The Mindanao Conflict is deeply rooted in intractable issues such as ancestral domain, liberal democratic vs. Islamic political systems, and a national government that is unable to provide the development necessary to achieve the citizens' desired quality of life.[195] In order for the negotiated settlement to gain traction and ultimately succeed in the southern Philippines, the parties must be willing to accommodate each other's different views and not blur the focus of a common end state at the end of a war, which this thesis defines as long-term sustainable peace and stability in the southern Philippines. Focusing all available resources and political—rather than military—efforts on the common end state will also maximize the chances of achieving peace.

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[194] Gurr, 364.

[195] Miriam S. Coronel-Ferrer, "The Communist Insurgency and the Peace Process," in *Waging Peace in the Philippines: Looking Back, Moving Forward,* ed. Ed Garcia, Ed Legaspi, and Karen Tanada (Quezon City: Gaston Z. Ortigas Peace Institute, 2003).

2.   Why Third-party Mediation?

Over the course of the Mindanao Conflict, governments and political organizations have offered their services to mediate the peace process. Their efforts brought a varying degree of success in achieving peace. This section's analysis relies on existing theories of mediation to determine the applicability and viability of third-party mediation in future peace negotiations.

What appears to be common terminology such as "conflict" or "mediation" takes on a wide range of meanings when used in different settings. In order to alleviate the ensuing confusion, Ramsbotham defines mediation, for the purpose of conflict resolution, as a process that "involves the intervention of a third party; it is a voluntary process in which the parties retain control over the outcome (pure mediation), although it is sometimes combined with positive and negative inducements (mediation with muscle)."[196] Others define mediation as "efforts by third parties to prevent the eruption or escalation of destructive conflict behavior and to facilitate a settlement that makes renewed destructive behavior and to facilitate a settlement that makes renewed destructive behavior unlikely."[197] Christopher Mitchell makes further argument that mediation is aligned closely with "peacemaking" and not "peace enforcement."[198] A mediation process is likely to be used to manage a prolonged conflict when peace negotiations have reached an impasse, there is an exhaustion of will and resources on both sides to continue hostilities, and the belligerent parties expressly welcome a form of mediation in order to overcome the impasse.[199]

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[196] Ramsbotham, 29–20.

[197] Jacob Bercovitch, ed., *Resolving International Conflicts, the Theory and Practice of Mediation* (Boulder, CO: Lynne Rienner Publishers, 1996), 76.

[198] C.R. Mitchell, *Peacemaking and the Consultants' Role* (Westmead, U.K: Gower, 1981), 280.

[199] Jacob Bercovitch, *Social Conflicts and Third Parties: Strategies of Conflict Resolution* (Boulder, CO: Westview, 1984).

According to Thania Paffenholz, mediation has a long history as an "instrument of peaceful conflict resolution."[200] Figure 8 shows the evolution of the way mediation is viewed and the level that it is handled. The state level (Track 1), the civil-society level (Track 2), and the complementary approaches all focus on eliminating the hostilities altogether. With the latest approach, which is known as the transformation approach, the focus has been shifted from eliminating the hostilities entirely to merely transforming them into a relatively low-level violence, thereby achieving a more manageable conflict.[201]
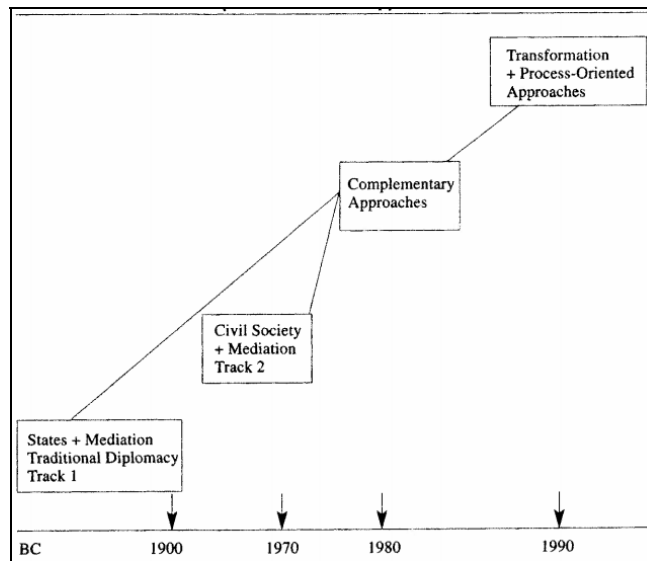
Figure 8.   Development of Approaches to Mediation.[202]

Recognizing the different phases of a conflict in the conflict cycle (Table 3) is extremely important in conflict resolution. This is because as the level of violence rises, the more powerful the mediator should be in order to bring credibility to carrying on with either military or financial threats in case of non-compliance by belligerent parties.[203] In

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[200] Thania Paffenholz, "Western Approaches to Negotiation and Mediation: An Overview," in *Peacebuilding: A Field Guide*, ed. Luc Reychler and Thania Paffenholz (Boulder: Lynne Rienner Publishers, 2001), 75.

[201] Kumar Rupesignhe, *Conflict Transformation* (New York: St. Martin's, 1995).

[202] From Paffenholz, 76.

[203] Jacob Bercovitch and Jeffrey Rubin, *Mediation in International Relations: Multiple Approaches to Conflict Management* (Bassingstoke, UK: MacMillan, 1992), 64–96.

addition, viewing the conflict through the conflict cycle offers "a wider range of possibilities for mediated interventions by a more inclusive set of actors and institutions."[204] The conflict cycle divides the life of a conflict into several different phases in terms of level of violence: low, rising, high, and declining. As the level of violence rises and a conflict reaches the "hurting stalemate,"[205] so does the opportunity for the mediators to succeed. When taking into consideration the high level of violence in the southern Philippines, according to the conflict cycle table, the recommended type of third-party mediation is Track 1 diplomacy, which may be complemented by a limited application of Track 2. The recommended mediator should be of either international or regional organizations that have considerable power over the subject warring parties. The conflict cycle also does not rule out the possibility of employing eminent persons.

Level of Violence	Type of Third-Party Assistance	Mediators	Multiparty Initiative
Low	Track-two diplomacy is coupled with track-one diplomacy.	Eminent private persons, scholar-practitioners, NGOs, international and regional organizations.	Simultaneous
Rising	Track-two diplomacy gains entry and assists with prenegotiation-negotiation followed by track-one "mediation with muscle."	Scholar-practitioner, NGOs for pre- and postnegotiation; great powers or coalitions for formal negotiation.	Sequenced
High	Track-one diplomacy, and much more rarely track-two organizations, gain entry and conduct mediation.	Great powers, international and regional organizations for formal negotiation; occasionally, eminent private persons, scholar-practitioners, and NGOs.	Sequenced
Declining	Track-two diplomacy, especially at civil society level, is coupled with continuing need for track-one diplomacy.	NGOs, international and regional organizations, and/or other mediators involved in earlier peace process.	Simultaneous

Table 3.   Type of Third-Party Assistance and the Conflict Cycle.[206]

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[204] Chester A. Crocker, Fen Osler Hampson, and Pamela R. Aall. *Leashing the Dogs of War: Conflict Management in a Divided World*. (Washington, D.C: United States Institute of Peace Press, 2007), 20.

[205] I. William Zartman, *Ripe for Resolution: Conflict and Intervention in Africa* (New York: Oxford University Press, 1985), 266-73, cited in Crocker et al., 21.

[206] From Crocker et al., 33.

When selecting mediators for future peace processes, it is important to remember that the neutrality and impartiality of the mediators, as perceived by the belligerent parties, are crucial in a successful mediation.[207] This is because neutrality and impartiality bring credibility to the mediators. As a result, mediators can more readily engage the parties and bring them to the negotiating table.

There were times when the MILF trusted and reached out to the United States to play the mediator's role in ending the hostilities in the southern Philippines. An example of such trust is MILF Chairman Salamat Hashim's letter to President George W. Bush. In response to the letter, the United States asked the MILF to sever all ties to known terrorist organizations. When the MILF expressed its compliance[208], the United States instead displayed a lack of confidence by communicating with them only through the United States Institute of Peace (USIP), a non-governmental third-party. It is true that from 2003 to 2007, the USIP worked closely with the MILF and built up trust, to a certain degree, through successful initiatives such as the Philippine Facilitation Project.[209] Since then, however, the United States has involved itself deeply in actively supporting the GRP in both military and financial aspects, in addition to committing U.S. military personnel to AFP's operations targeting the insurgency, which eliminates its opportunity to become a neutral and impartial mediator. From the policy perspective, it also makes sense for the United States to distance itself as the second front policy has, arguably, been interfering with the peace process.

According to the International Centre for Political Violence and Terrorism Research, the GRP favors Malaysia as the mediator but may look to others for additional support. Their eminent persons list includes internationally recognized names such as

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[207] Oran R. Young, *The Intermediaties: Third Parties in International Crisis* (Princeton, NJ: Princeton University Press, 1967), 81; Paul Wehr and John Paul Lederach, "Mediating Conflict in Central America," *Journal of Peace Research* 28, no. 1 (1991): 85–98.

[208] Despite of the MILF's expressed denial, there are evidences indicating otherwise. For example, Andrew T. H. Tan in "Terrorism, Insurgency and Religious Fundamentalism in Southeast Asia" argues that some MILF commanders with radical ideology have been harboring JI terrorists.

[209] Martin et al., 4.

Tony Blair and Kofi Annan.[210] Bercovitch argues that the position of the United Nations Secretary-General carries the potential to be an effective mediator. In addition, his role as a mediator has a legal basis in the Charter of the United Nations.[211] The impartiality of the Secretary-General has been codified in Article 100 of the U.N. Charter: "…shall not seek or receive instructions from any government or from any authority external to the organization."[212] However, while the position of the U.N. Secretary-General carries the potential to be an effective mediator, it, too, has its limitations. Due to the questionable record of peacekeeping and peace enforcement, the credibility of the UN to carry out the "stick" portion of the carrot and stick diplomacy may have been negatively impacted, thereby reducing its effectiveness as a mediator.

As an eminent member of the Organization of the Islamic Conference (OIC), Turkey occupies a unique position and may be another viable candidate. The OIC has expressed its commitment in the resolution of the Mindanao Conflict. Turkey's interest in this peace talk seems to lie along the advancement of the interests of the fellow Muslims, or autonomy.[213] The European Union has also shown an interest in becoming a mediator in order to get the peace negotiations moving again. The European Parliament even passed a resolution expressing its support for the GRP in the interest of moving the peace process along in the southern Philippines.[214]

Once the appropriate third-party mediators have been identified, does it matter when the mediation process begins? Ronald Fisher and Loraleigh Keashly argue that the key to a successful mediation is "to intervene with the appropriate third party method at

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[210] International Centre for Political Violence and Terrorism Research (ICPVTR), "Monthly Country Report, Philippines," March, 2009, http://www.pvtr.org/pdf/Monthly%20Reports/Philippines-March09.pdf.

[211] Bercovitch, ed., 76–78.

[212] Charter of the United Nations (1945), http://www.un.org/aboutun/charter/.

[213] ICPVTR.

[214] Ibid.

the appropriate time."[215] Crocker et al further make the argument that depending on the situation, recognizing the right time to intervene is perhaps far more important than the selection of mediators itself.[216]

The Mindanao Conflict is currently at a "high" level of violence with the conflict reaching a "hurting stalemate." According to the Entry Points in the Conflict Cycle (Table 4), this signifies that the conflict has only a few numbers of potential entry points, relatively high barriers to entry, and a moderate to high opportunity to exercise procedural control. It also indicates that the mediators have limited room to maneuver in dealing with the belligerent parties that are less than willing to cooperate.

Level of Violence	Number of Potential Entry Points	Barriers to Entry	Opportunity to Exercise Procedural Control
Low	Many (Perceptions and attitudes have not hardened.)	Low–Medium (Parties are open to consultation with many different third parties; may avoid high-level mediators.)	Low (Parties are not yet prepared to eschew violence if demands cannot be met through negotiation.)
Rising	Declining (Perceptions and attitudes are hardening.)	Medium–High (Parties perceive increasing risks of negotiation, coupled with status and legitimacy concerns.)	Low (Parties still believe that they have the option of escalating conflict and/or accepting resulting costs/losses.)
High	Few ("We-they" images of the enemy have hardened.)	High (Parties are locked into a continuing struggle.)	Moderate–High (Alternatives to mediation have worsened as conflict reaches a plateau or "hurting stalemate.")
Declining in the aftermath of a peace settlement	Rising (Perceptions and attitudes may be softening.)	Low–Medium (The settlement provides openings for a variety of third-party mediators.)	Moderate–High (Parties may be more willing to sustain the negotiation process at different levels, but danger of spoilers persists.)

Table 4.   Entry Points in the Conflict Cycle.[217]

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[215] Ronald Fisher and Loraleigh Keashly, "The Potential Complementary of Mediation and Consultation with a Contingency Model of Third-Party Intervention," *Journal of Peace Research* 28, no. 1 (1991): 29–42.

[216] Crocker et al., 21.

[217] From Crocker et al., 18.

Taking into consideration the current state of the Mindanao Conflict, the analysis points to the conclusion that third-party mediation is still a viable choice to intervene peacefully. The future mediators, however, must be keenly aware of the limitations imposed upon their procedural control, by the current state of the conflict, in order to maximize the success of intervention.

3. Designing a Fair Process

Ron Kraybill argues that "[p]eople and organizations are usually more sensitive about *how* a decision is reached than *what* the decision itself is."[218] The sensitivity manifests itself in the acceptance of an outcome if people perceive the process to be fair. On the other hand, if the process is perceived to be unfair, they will reject the outcome, no matter how good it may be. This theory becomes important in a mediation process where the acceptance of the outcome of a negotiation by all parties involved generally leads them to a resolution of hostilities.

In the case of the Philippines, the GRP's secretive process of drafting the MOA-AD manifested into a sense of unfairness in the minds of the potentially affected Filipino population. Frustrated by the lack of available information about the draft MOA-AD, and more particularly how it may affect their interests in land ownership, North Cotabato Governor, Emmanuel Piñol, and Zamboanga City Mayor, Celso Lobregat, filed a petition asking the Supreme Court to force the GRP to disclose information. Mayor Lobregat argued that the GRP failed to disclose the details of the proposed MOA-AD to his city residents, denying them a fair opportunity to review and present their arguments to the draft. According to Iligan City officials, they were taken aback by "the lack of transparency in the negotiation process from which we, the local officials, and the residents of the city felt excluded and betrayed."[219]

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[218] Ron Kraybill, "Principle of Good Process Design," in *Ending Civil Wars: The Implementation of Peace Agreements,* ed. Stephen John Stedman, Donald S. Rothchild, and Elizabeth M. Cousens (Boulder, CO: Lynne Rienner, 2002), 173. (173–183)

[219] International Crisis Group Report, "The Philippines: The Collapse of Peace in Mindanao," Crisis Group Asia Briefing No 83, 23 October 2008, 6–7.

In order to help prevent such occurrences in the future, the process designers must undergo a careful planning involving all those who may potentially be affected by the outcome of the process, and distribute and educate the available information among them. More importantly, however, a "[g]ood process [must involve] key parties (or their representatives) not only in the process of negotiation and decisionmaking but in the design of the process itself."[220]

Another point that the designers of the mediation process must keep in mind is that the way the peace negotiation is designed now may have far-reaching consequences in terms of post-conflict security-building. Donald Rothchild argues that:

> In the context of a weak state environment at the time the peace negotiations take place as well as during the implementation process, the choice of grand design influences and reflects the balance of group power. The structuring of relations that occurs may involve a direct process of centrally imposed order or an indirect process of accommodating to the reality of decentralized power among autonomous actors, with different effects on the ruling coalition's ability to craft its desired policy objectives.[221]

There are two design approaches to security-building systems: individual and group-based. Each approach has its own unique set of challenges. Individual-based security-building systems are based on a majority rule through elections. Philip Roeder argues that "the most successful containment of ethnic conflict below the level of ethnoconstitutional crises has come from unitary states with extensive and inclusive civil liberties for individuals." Founding elections, for example, are often used as a vehicle for building post-conflict institutions in unitary states. In the case of Mozambique, Afonso Dhlakama, the leader of the opposition guerilla called Renamo, readily accepted his

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[220] Kraybill, 174–180.

[221] Donald Rothchild, "Settlement Terms and Postagreement Stability," in *Ending Civil Wars: The Implementation of Peace Agreements,* ed. Stephen John Stedman, Donald S. Rothchild, and Elizabeth M. Cousens (Boulder, CO: Lynne Rienner, 2002), 120.

electoral defeat and settled for a new role as a political opposition leader. However, fear of an uncertain future and distrust may drive minority leaders to look elsewhere for security.[222]

Group-based security-building systems are initiated by the citizens' "collective" insecurity and fear of the state's inability to "protect and to provide for their well-being, [thereby enhancing] the importance of the identity group…" In such settings, ethnicity and religion play a relatively minor part, if any, in creating and exacerbating tensions. While effective in providing security to the minority or weaker groups, the group-based security-system may become a hindrance to the post-conflict government. The group members' loyalty may split between the group and the new government. In situations where one must choose between the two, the choice may well be the group that the member shares more in common with than the government.[223]

Regional autonomy is a type of the group-based security-building system in which "territorial autonomy" is used to protect minority interests in "political, social, and cultural functions at the regional level and thereby to allay their fears of majority domination and exploitation."[224] In the case of the Philippines, Rothchild further argues that the group-based system is actually becoming a hindrance to the peace process:

> In the short term at least, territorial decentralization can help to overcome group insecurity about the future by sending reassuring signals to minority interests about their autonomous powers for dealing with certain local matters. Because territorial decentralization can be formulated to accommodate well-entrenched and spatially separated identity groups, many people involved in crafting postsettlement designs viewed it as a useful institution-building mechanism. For example, political autonomy was the guiding principle underlying the 1996 agreement between the government of the Philippines and the Muslim secessionist Moro National Liberation Front; even so, the autonomy arrangement set up under this agreement is still not acceptable.[225]

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[222] Philip G. Roeder, "Peoples and States After 1989: The Political Costs of Incomplete National Revolutions," *Slavic Review* 58, no. 4 (Winter, 1999): 854–882.

[223] Rothchild, 120–122.

[224] Ibid., 125.

[225] Ibid., 126.

Under such conditions, two possibilities emerge. The first is a political centralization in which power is consolidated to the central government. The other is a political decentralization where power is further diffused to the point of breaking up the state.[226] By understanding the effects and consequences of both approaches, process designers can carefully balance the two and craft a mediation process that contributes to a longer-lasting peace and stability.

The Philippines, as a unitary state, is not willing to concede the Moro's complete independence as a separate people and nation. Regional autonomy, as a group-based system, appears to be the next logical step in the settlement process. The pre-designed peace process, based on the group-based system, may expedite the process of reaching a settlement. On the other hand, it will present serious challenges to sustaining peace in the long-term. Lack of transparency in the peace process and concern about uncertain security in a post-conflict environment will force the affected individuals to rely on group-based system in order to secure their future. The optimum solution in such a setting is to devise a transparent peace process that promotes individual participation and ensures maximum security, while accommodating their interests by way of individual— rather than group—participation beginning with providing inputs to designing the peace process.

C.   ANALYSIS OF PAST MEDIATION EFFORTS

The peace process between the GRP and the Islamic insurgency in the southern Philippines is largely made up of two distinctive negotiations: GRP-MNLF and GRP-MILF. Each negotiation took place over a different period, independent from one another, and with different mediators. The results, however, were similar: protracted negotiation occasionally interrupted by armed hostilities, ineffective implementation of settlement terms, and unsustainable peace.

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[226] Rothchild, 127.

1.   GRP-MNLF: OIC (1975–1996)

Beginning in January 1975 and ending in September 1996, Soliman M. Santos, Jr. argues that the GRP-MNLF negotiation underwent three distinct phases, each under a different Filipino regime; Marcos, Aquino, and Ramos.[227] The negotiation held under the Marcos regime resulted in the Tripoli Agreement on December 23, 1976. This became a turning point for the Moros as they changed their position from a complete separation and independence to Muslim autonomy as an integral part of the Philippines. The Moros' autonomy, however, was short lived. The impatient GRP unilaterally established autonomous governments in Central and Western Mindanao before the Moros could implement their own. Naturally, the MNLF strongly denied the legitimacy of the autonomous governments established by the GRP.

The MNLF focused on mitigating the unusually strong unilateral tendency of the GRP during the next phase of the negotiation. The resulting Jeddah Accord on January 3, 1987 enabled the creation of the ARMM, led and operated by the Moros.[228] The last phase resulted in the Jakarta Accord on September 2, 1996, which contained a phased implementation plan for the Muslim autonomy.

Throughout all three phases of the GRP-MNLF negotiation, the OIC served as the mediator. In preparation for embarking on the mediator's journey, the OIC made clear its position with regard to the peace negotiation that the GRP must "find a political and peaceful solution through negotiation with Muslim leaders, particularly with the representatives of the MNLF…within the framework of the national sovereignty and territorial integrity of the Philippines."[229] The OIC also recognized the MNLF as the only "legitimate" entity to represent the Moros. The preeminence and international recognition

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[227] Soliman M. Santos, Jr., *Delays in the Peace Negotiations between the Philippine Government and the Moro Islamic Liberation Front: Causes and Prescriptions,* East-West Center Working Papers, Washington: East-West Center, 2005, 3.

[228] Republic Act No. 6734, the Organic Act for the Autonomous Region in Muslim Mindanao, 1989. ARMM was established in 1990.

[229] OIC, 5th Islamic Conference of Foreign Ministers, Kuala Lumpur, Malaysia, June 21-25, 1974, Resolution No. 18, "Resolution on the Plight of the Filipino Muslims."

of the OIC had contributed significantly to the resulting peace agreement within the prescribed framework: Moro autonomy while respecting the sovereignty and preserving the territorial integrity of the Philippines.

Despite a successful negotiation and agreement, implementation became problematic. The MNLF became weary of the GRP's unilaterally dictating the rushed pace of the phased implementation. The much-awaited economic and social improvements did not occur. Others stakeholders such as local Christians, Lumads, and even the Moros not represented by the MNLF, who felt marginalized by the peace negotiation between the government and the Moro representatives, did little to participate in the implementation.[230] To make matters even worse, the Muslims and the GRP had lost confidence in Misuari's leadership as the first governor of the ARMM. The Moros were drowning in despair caused by the continued marginalization, made worse by the sense of betrayal by one of their own.

The involvement of the OIC continued during the implementation stage. The Quadripartite Ministerial Committee made up of Saudi Arabia, Libya, Senegal, and Somalia dispatched peace observers to monitor the effective implementation of the settlement terms. Indonesia, as a prominent OIC member and a fellow ASEAN country, also sent peace observers. Despite the efforts made by the OIC members, however, unarmed peace observers in small numbers could do little to nothing to prevent the recurrence of armed clashes between the GRP and the MNLF fighters. According to the OIC Secretary General, Ekmeleddin Ihsanoglu, "[the GRP-MNLF] peace process did not bring real peace. Disagreement on the interpretation of some provisions of the agreement led to the resumption of hostilities."[231]

The GRP-MNLF peace negotiation highlighted the fact that a successful settlement with all parties reaching a consensus does not conclude a peace process. The implementation of settlement terms is just as important as reaching a settlement in paving the way to a sustainable peace.

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[230] Santos, 12–13.

[231] Abhoud Syed M. Lingga, *Role of Third Parties in Mindanao Peace Process*, Occasional Paper No. 2006-01, Cotabato City, Philippines: Institute of Bangsamoro Studies, 2006, 10–12.

2. GRP- MILF: Malaysia (1996–2008)

The GRP-MILF negotiation can be broken down further into two phases: domestic and diplomatic. The first phase began with a series of exploratory meetings as soon as the GRP-MNLF negotiation ended in 1996. The meetings progressed into low-level preparatory negotiations, then to formal peace negotiations in 1999. After a brief suspension from 2000 to 2001 due to the GRP's "all-out war" policy, the talks resumed with Malaysia at the helm as the official third-party facilitator.[232]

Malaysia began its involvement strictly as a facilitator. Over the course of the peace negotiations, its involvement increased dramatically to the point of becoming a mediator. The main difference between the two positions was that the former took on a role much like a referee, while the latter a coach advising the participants when the negotiation process became stagnant. Indeed, Malaysia had not been shy about emphasizing its philosophy on the importance of economic development above other development possibilities.[233]

Both the GRP and the MILF negotiators approved Malaysia's effective role of then-facilitator/now-mediator. When the GRP and the MILF reached an impasse, and armed hostilities broke off in 2001, it resulted in several of the MILF camps being captured by the AFP, shuttling diplomacy of Malaysia played a key role in bringing them back to the negotiation table. In 2003, hostilities broke off again. This time, Malaysia engaged in exploratory talks with each of them and successfully brought them back to peace negotiations. The fact that they were able to reach a settlement, despite persistent armed hostilities and frequent suspensions leading to the protracted peace process, is a testament to Malaysia's effectiveness as a facilitator and the International Monitoring Team's commitment to monitoring and reducing hostilities during the peace process.[234]

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[232] Interview with the MILF negotiators Datu Michael O. Mastura and attorney Musib M. Buat on May 18, 2002, Manila, cited in Santos, Jr. 6.

[233] Santos, 24.

[234] Lingga, 13.

Unfortunately, as with the previous negotiations, a successful conclusion is not a sure formula that yields a lasting peace. Lack of consultation and exclusion in the peace process caused both the Moro and non-Moro parties, other than MILF, to boycott the peace settlement. The peace process halted right before the GRP and the MILF negotiators signed the settlement.

3.   Extreme Protraction, Incoherent Peace Policy and the GWOT

What is unique about the Philippines case is the "extreme protraction of the peace process."[235] The GRP-MNLF process took twenty-one years and the GRP-MILF twelve years to conclude. Miriam Coronel Ferrer points to the "incoherent [GRP] peace policy and absence of peace-building leadership" from both GRP and MILF/MNLF contributed to the protraction.[236]

While working on identifying the MILF camps during the ceasefire, in order to delineate the organization's sphere of influence, the GRP discovered far more camps than it originally anticipated. Alarmed by the significant MILF presence, the Estrada regime completely reversed its policy of peace to "all-out war" on the MILF. The then-National Security Adviser Alexander Aguirre justified the change in policy: "Any responsible and self-respecting government would not allow rebels to…overpower duly-elected local civilian governments….We cannot close our eyes to the armed challenges of the rebels to the Constitutional order, or let the rebels continue victimizing our people through terrorism and other illegal acts."[237] In response to the AFP's attacks on its camps, including Camp Abubakar, the MILF's epicenter of political, military, and religious activities, the MILF declared jihad. The "all-out war" policy resulted in the AFP capturing the majority of the MILF camps as well as a suspension of the peace process.[238]

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[235] Paul Oquist, "Mindanao and Beyond: Competing Policies, Protracted Peace Process and Human Security," UNDP Manila, Philippines, Pctober 23, 2002.

[236] Coronel-Ferrer, 71.

[237] Santos, 40.

[238] Ibid., 9.

The Arroyo administration that replaced Estrada took a different approach to the peace process. Constantly battling fraud accusations and coup attempts, the administration was also engaged in the peace process with its "all-out peace" policy. While admirable in spirit, the GRP's own internal dynamics made the policy's implementation difficult. The GRP engaged in peace talks with the MILF through the official panel. At the same time, it engaged in a back-channel negotiation with the MILF. The apparent lack of coordination between the two resulted in two completely different proposals: the official panel favored an elaborate developmental model while the back-channel favored an NGO-led and operated development. When each began negotiating with the MILF on its own terms, frustrated President Arroyo had no choice but to relieve the official peace panel.[239]

The critics of Arroyo's peace policy argue that its lack of coherence disrupts the peace process: while advocating an "institutional peace-building" approach, the actual peace policy has been leaning towards "pacification" and "military victory." In 2003, the AFP conducted a military offensive on the Buliok Complex, causing a suspension of the talks. One of the objectives was to capture MILF Chairman Hashim. The offensive resulted in hundreds dead, thousands wounded, and hundreds of thousands of IDPs, and it suspended the peace negotiations once again.[240] The argument goes even further by saying that the peace policy is fueled by the U.S. policy of the second front in the GWOT, when in actuality, its implementation was strictly intended for the ASG.[241] This militarist mentality originated from the profound influence the AFP has had with the GRP at the policy level throughout modern Philippine history. Even before Arroyo came into power, and the second front policy came into play, the GRP and the AFP had already exhibited a tendency to rely heavily on its military strength to subdue the "rebels" in the battlefields in order to gain a favorable position at the negotiation table.

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[239] Santos, 9–11.

[240] James Konstantin Galves, "Magdalos to Expose Buliok Offensive," *The Manila Times,* February 19, 2008, http://www.manilatimes.net/national/2008/feb/19/yehey/top_stories/20080219top6.html.

[241] Santos, 11–12.

On the surface, the highly militarized second front policy stands in the way to peace. Or is that really the case? The International Crisis Group argues quite the reverse is true that the peace process is getting in the way of achieving peace through a military victory: "the southern Philippines peace process…presents the main short-term obstacle to rooting out the terrorist network, and an indispensable element in any long-term remedy…[g]enuine and fully implemented autonomy for Philippine Muslim is a *sine qua non* for winning the long-term war on terror in Mindanao."[242] The considerable success the militaristic approach has brought in reducing the ASG terrorist threats and capturing the MILF camps further strengthen the argument.

The problem with this approach is that it becomes much easier to lose focus on the root causes for the conflict, which is the real key to solving the insurgency and achieving sustainable peace. Kinetic operations produce relatively quick results in tangible numbers, which in turn enable policy-makers to successfully argue for increased support for the military approach. In the long-term, however, such moves can not only suspend the peace process but also actually reverse what little gain has been achieved.

The extreme protraction of the peace process in the southern Philippines has not contributed positively to achieving a sustainable peace, prompting a need for an alternate approach. An approach leaning towards peaceful measures, supplemented by military measures to deal with the extreme hardliners, is a viable option to a lasting peace.

D.   SUMMARY

As a major non-NATO ally to the United States, peace and stability in the Philippines is of utmost importance to U.S. security interests in Southeast Asia. Without a lasting peace in the southern Philippines, the GRP will find itself in a perpetual loop of armed hostilities for an indefinite period. The Mindanao Conflict has drained the GRP's limited resources, which could otherwise be redirected elsewhere for public welfare and development.

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[242] International Crisis Group, "Southern Philippines Backgrounder: Terrorism and the Peace Process," International Crisis Group Asia Briefing No. 80. July 13, 2004, 5, 26.

In terms of mediation, the United States must exercise extreme caution and maintain a low-key posture since it has indirectly become a party to the conflict by providing both military and financial aid to the GRP. By advocating a peaceful resolution of the conflict instead of a militaristic approach and counter-terrorism rhetoric, the United States will not only demonstrate to the Southeast Asians its good will, but also the fact that Americans are firmly committed to a lasting peace and stability in the Philippines and throughout the region.

Recognizing the right timing to intervene in the conflict cycle enables process designers to choose the right mix of the types of approaches and third-party mediators that will contribute positively towards maximizing the chance of resolving the conflict. Third-party monitoring of the ceasefire agreement and following through with the peace implementation during the post-negotiation phase, is just as important in the effort to increase the chances for lasting peace and stability. Analysis of the past third-party mediations revealed that in the southern Philippines, effective oversight and monitoring during the implementation phase is the missing link that can extrapolate a sustaining peace from the peace settlement process. Also left desired is the inclusion of parties other than the GRP and the MILF. There are others, both Moros and non-Moros that are not part of the MILF organization, whose lives will be equally impacted by the peace process. They must have the buy-in in the peace process and settlement terms in order to successfully implement them and achieve a lasting peace.

V. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

The analysis in the preceding chapters of this thesis allows us to draw the following conclusions. First, the Mindanao Conflict might have originated from either ethnic or religious grievances, but over the course of its life, the conflict has evolved into a distinctively ethnopolitical civil war. The current politics of Islamic insurgents originate from "a profound sense of humiliation and subordination at the hands of the western colonial powers, combined with a rejection of secular western commercial culture, which is seen to threaten Islamic values."[243] Therefore, the Islamic separatists' goal is to establish an independent state, which is deeply rooted in Islamic principles. In such a climate, the kinetic approach in dealing with terrorism results in a visible short-term gain for a specific and isolated instance. However, the long-term results will be counter-productive.

Second, the latest breakdown of the peace negotiations between the GRP and the MILF points more specifically to the grievances over the Moros' loss of ancestral land and political marginalization as the root causes of the current conflict. The lack of trust between the GRP and the MILF causes a protracted peace process with little to no progress on the real issues that are the keys to lasting peace. The mistrust mainly stems from the GRP's constantly shifting policies and its inability to abide by the agreed settlement terms. The MILF also plays a part by fostering a climate of mistrust. The lack of a strong leadership allows small factions within the MILF organization to engage in activities that are not sanctioned by the organization's leadership, such as supporting transnational terrorists and engaging in armed hostilities with the AFP. Both organizations must work hard to regain trust in order for the peace talks to produce any meaningful results. At the same time, the GRP and the MILF must strive to build a national consensus on the urgent need for lasting peace. The consensus must come from across the nation at all levels.

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[243] Fred Halliday, *Two Hours that Shook the World: September 11, 2001: Causes and Consequences.* (London: Sage Books, 2002) cited in Ramsbotham, 255.

Third, since its inception in 2002, the second front policy with an emphasis on the direct approach has been producing tangible results in terms of military metrics. However, the resilience of the insurgency indicates the ineffectiveness of the second front policy in addressing the root problems of the conflict. The second front policy, as it stands, is merely a measure of peacekeeping as "containment" of terrorist threats in the southern Philippines. Its current gravitation towards the direct approach to the problem will not result in a solution to the differential treatment and living conditions of the Moro people. At the same time, it may even risk furthering their grievances. In terms of the peace negotiation between the GRP and the MILF, the second front as a counter-terrorism policy is overshadowing and dictating the direction of the GRP's approach. While pro-peacebuilding in appearance, the GRP has allowed the counter-terrorism policy, which relies heavily on a military victory to dictate its peace policy.

Fourth, in order to achieve its ultimate goal of eliminating a possible terrorist haven in the southern Philippines, the second front policy must gravitate towards the indirect approach. Intervention, in the form of an indirect approach, has been producing favorable results by addressing the root causes of the current conflict. The GRP and the United States need to exploit it to their advantage. In addition to stepping up the current indirect efforts, enlisting a third-party intervention will multiply the peace efforts and speed up the negotiations leading to a sustainable peace. Terrorism in the southern Philippines predates transnational terrorist threats and has no indication of turning into one. It is a political problem with a domestic agenda, which requires a political solution. Therefore, the involved parties must strive to find a political solution to resolve the ongoing conflict. The goal is not to eliminate all terrorists who commit acts of terrorism. The parties must instead shift their focus to eliminating the cause of terrorism. This will allow each side of the conflict to open up a dialogue instead of demonizing each other. Certain political accommodations previously thought impossible will now need to be made in order to achieve the common goal of sustainable peace.

B.   RECOMMENDATIONS

1.   Policy

A comprehensive conflict resolution policy, which includes provisions for all levels of the society from the local level up, in addition to the current kinetic approach, is an attractive alternative to the current second front policy, which relies heavily on the kinetic approach. Such a policy will synchronize all the peace efforts with respect to foreign military and economic aid, as well as local and national politics.

In terms of combating terrorists such as the ASG, the AFP must take the lead role. A direct approach may be effective in curtailing violent uprising and a rise in terrorist activities. However, it has a tendency to increase grievances. The public will not distinguish the presence of a military "observer" from a military "operator" in tactical situations. Therefore, U.S. military personnel must refrain from presenting an aggressive posture in both public appearances and in military operations, thereby decreasing the likelihood of elevating the grievances of the cause of transnational terrorists.

The GRP must establish and abide by a coherent peace policy that is independent of the counter-terrorism policy. A coherent peace policy will bring credibility to the GRP during peace negotiations. The peace policy must have a buy-in from local and national as well as regional level actors such as the ASEAN. The buy-in at all levels will minimize the presence of spoilers and ensure the policy's support and successful implementation at the local level.

2.   Peace Negotiation

The United States should consider taking a more active role in the peace process at the same time it should strive to reduce its footprints in tactical military operations. It must find a way to leverage its hegemonic power and influence to build confidence and/or coerce the GRP and the MILF to help expedite the peace agreement and ensure prompt and strict adherence to the implementation of peace settlement terms.

The GRP must re-engage in peace negotiations immediately and actively pursue a third-party mediator recognized and accepted by all in order to demonstrate a firm commitment to resolving the issue politically. Third party negotiations will bring an increased legitimacy and cooperation to the peace process. In addition, the GRP must be proactive in building a consensus and demonstrate its commitment to peace at all levels of the society. It will contribute to energized dynamics and attitudes in the approach to the negotiation table by all parties involved.

3.   Future Studies

While recognizing the importance of the role that economic assistance plays in building peace, this thesis focused on the military, political, diplomatic, and legal perspectives. Therefore, the author recommends a study in assessing and formulating economic assistance via the Conflict Analysis Framework (CAF).[244]

There have been several peace initiatives by civil society organizations in the southern Philippines. The author also recommends a study of multitrack efforts that include the NGO/donor communities in peace-building efforts. These efforts will complement the current Track 1 and Track 2 efforts. The result will contribute to developing and fine-tuning the peace-building approach that will contribute to a sustaining peace.

The United States has been actively involved in the conflict and committed to resolving the conflict. Its commitment is equally matched by the member states of the OIC and the ASEAN. However, this thesis has not ruled out the possibility of the United Nations peace operation, thus remaining a viable option for achieving and sustaining peace. Therefore, the author recommends a study investigating the feasibility of the United Nations involvement.

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[244] Conflict Prevention and Reconstruction Unit, Social Development Department, "The Conflict Analysis Framework (CAF): Identifying Conflict-related Obstacles to Development," Social Development Department Dissemination Notes, no. 5, October 2002: 1–4.

This thesis attempted to analyze the second front policy from the international law perspective. The second front policy, which in essence, is an application of hegemonic power to enforce the will of one nation on another nation within the international system. The attempt, however, remains meager at best. The United States, as we all know, is a nation ruled by law. One of the sources for its legitimacy is its consistency in abiding by law. Therefore, given the importance of the subject, the author recommends further study to determine the legality of such an application of power within the framework of the international legal system.

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