

In the Name of God, the Beneficent, the Merciful

ANNEX ON POWER SHARING

This Annex on Power Sharing forms part of the Framework Agreement on the Bangsamoro between the Government of the Republic of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF). It contains details about the particular competencies and authorities of the Central Government and the Bangsamoro Government which shall serve as guide in the drafting of the Basic Law pursuant to the Framework Agreement on the Bangsamoro.

The Framework Agreement delineates powers at different levels. The Central Government will have its reserved powers, the Bangsamoro Government will have its exclusive powers within its territorial jurisdiction, and there will be concurrent powers shared by the Central Government and the Bangsamoro Government. The delineation of reserved, concurrent, and *exclusive powers* is provided in Part Three of this Annex, and is guided by the processes established under the Framework Agreement.

"Reserved powers" are powers or matters over which authority and jurisdiction are retained by the Central Government.

"Concurrent powers" shall refer to the shared powers between the Central Government and the Bangsamoro Government, as contained in this Annex and as shall be further provided in the Bangsamoro Basic Law.

"Exclusive powers" shall refer to powers or matters over which authority and jurisdiction pertain to the Bangsamoro Government.

PART ONE INTERGOVERNMENTAL RELATIONS

The following points on intergovernmental relations, among others, will govern the relationship between the Central Government and the Bangsamoro Government and its constituent units. Issues arising from the exercise of powers shall be resolved through the mechanism of intergovernmental relations below:

1. The relationship between the Central Government and the Bangsamoro Government is asymmetric. This relation is reflective of the recognition of the Bangsamoro identity and their aspiration for self-governance. This makes it distinct from the regions and other local governments.
2. The Central Government and the Bangsamoro Government shall be guided by the principle of parity of esteem and accepted norms of good governance. The Central Government shall respect the exercise of the competencies or exclusive powers of the Bangsamoro Government. The Bangsamoro Government shall respect the exercise of the competencies and reserved powers of the Central Government in the Bangsamoro.
3. The Central Government and the Bangsamoro Government shall establish a mechanism at the highest levels that will coordinate and harmonize their relationships. For this purpose, a primary mechanism shall be a Central Government – Bangsamoro Government Intergovernmental Relations body to resolve issues on intergovernmental relations. Disputes relating to these intergovernmental relations shall be resolved through regular consultations and continuing negotiations in a non-adversarial manner.
4. The Parties accept the concept of devolution as inspired by the principle of subsidiarity. Decisions are to be made at the appropriate level to ensure public accountability and transparency, and in consideration of good governance and the general welfare.
5. Devolution will involve a process of empowerment, mobilization, capacity building and financing that can be strengthened by strong cooperation and partnership between the Central Government and the Bangsamoro Government.
6. The authority to regulate on its own responsibility the affairs of the local government units (LGUs) is guaranteed within the limit of the Bangsamoro Basic Law. The privileges already enjoyed by the LGUs under existing laws shall not be diminished unless otherwise altered, modified or reformed for good governance pursuant to the provisions of the Bangsamoro local government code.
7. As a matter of policy, the Central Government shall ensure the participation and representation of the Bangsamoro in national agencies and other Central Government instrumentalities through the intergovernmental relations mechanism. The Bangsamoro Basic Law shall provide for the appointment of Bangsamoros to positions provided under Republic Act No. 9054 (R.A. No. 9054).

The Bangsamoro Transition Commission may also propose other modalities for Bangsamoro representation as part of its set of recommendations for constitutional amendments.

PART TWO GOVERNANCE STRUCTURE

Bangsamoro Ministerial Government

1. The Bangsamoro shall have a democratically-elected assembly consistent with the principles of a ministerial form of government. The Bangsamoro Transition Commission may provide for the name of the assembly in the Bangsamoro Basic Law;
2. The Bangsamoro assembly shall be representative of the Bangsamoro's constituent political units, as well as non-Moro indigenous communities, women, settler communities, and other sectors. The Bangsamoro Basic Law shall ensure that representation in the assembly reflects the diversity of the Bangsamoro;
3. The Bangsamoro assembly will be composed of at least 50 members whose district, party-list, reserved seats, and sectoral constituencies shall be provided in the Bangsamoro Basic Law. The Bangsamoro Basic Law shall provide for the term of office and the manner of selection of sectoral representatives, party-list, and reserved seats. The Bangsamoro Basic Law shall provide the parameters for the assembly to reconstitute its districts;
4. The Parties agree to entrench an electoral system suitable to a ministerial form of government. The electoral system shall allow democratic participation, ensure accountability of public officers primarily to their constituents and encourage formation of genuinely principled political parties. The electoral system shall be contained in the Bangsamoro Basic Law to be implemented through legislation enacted by the Bangsamoro Government and correlated with national laws;
5. The Bangsamoro cabinet shall be composed of the Chief Minister, a Deputy Chief Minister, and such other ministers necessary to perform the functions of government. The Chief Minister shall be elected by majority votes from among the members of the assembly and shall exercise executive authority on its behalf. The Chief Minister shall appoint the Deputy Chief Minister from among the elected members of the assembly and the rest of ministers, majority of whom shall also come from among the members of the assembly;

6. The Bangsamoro assembly may remove the government of the day by a vote of no confidence of at least two-thirds of the assembly, in which case the government shall be reconstituted in accordance with the principles of a ministerial form of government. The Bangsamoro Basic Law shall provide for the manner of reconstitution;
7. There shall be a Bangsamoro council of leaders composed of the Chief Minister, provincial governors, mayors of chartered cities, and a representative each of the non-Moro indigenous communities, women, settler communities, and other sectors. The Bangsamoro council of leaders shall be chaired by the Chief Minister;
8. The ministers shall constitute the cabinet, which will be convened and presided over by the Chief Minister, or in his or her absence and with his or her consent, the Deputy Chief Minister;
9. There shall be a Philippine Congress – Bangsamoro assembly forum for purposes of cooperation and coordination of legislative initiatives.

PART THREE DELINEATION OF POWERS

The Framework Agreement delineates powers at different levels as follows:

I. The Central Government shall retain the following reserved powers:

1. Defense and external security;
2. Foreign policy;
3. Coinage and monetary policy;
4. Postal service;
5. Citizenship and naturalization;
6. Immigration;
7. Customs and tariff, as qualified by no. 10 in concurrent;
8. Common market and global trade, provided however that the power to enter into economic agreements already allowed under R.A. No. 9054 shall be transferred to the Bangsamoro Government; and
9. Intellectual property rights.

II. The Central Government and the Bangsamoro Government shall exercise concurrent powers within the Bangsamoro on the following matters:

1. Social security and pensions - The Bangsamoro Government may organize its own social security and pension systems alongside the existing Central Government social security and pensions systems.

The Bangsamoro Government and the Central Government, through the intergovernmental relations mechanism, and other consultative processes shall, among others, ensure that the investment of the contributions from the members from the Bangsamoro in the Central Government social security and pensions is responsive to their cultural and religious sensitivities.

The future relationship of the Central Government system and the Bangsamoro Government system with respect to new government employees and other qualified individuals in the Bangsamoro may be further provided for in the Bangsamoro Basic Law or in a law duly enacted for the purpose;

2. Quarantine – There shall be cooperation and coordination among the relevant Central Government and Bangsamoro Government agencies on quarantine,
3. Land registration - The Bangsamoro Government, in accordance with the land registration system of the Central Government, shall administer land registration in the Bangsamoro territory through an office it shall create for the purpose. The Bangsamoro Government shall furnish copies of the titles, deeds and other instruments to the relevant Central Government agencies. The Bangsamoro Government can act on *consultas*.

The Bangsamoro Government may institute processes to promote more efficient registration of lands in the Bangsamoro;

4. Pollution control – There shall be cooperation and coordination among the relevant Central Government and Bangsamoro Government agencies on pollution control;
5. Human rights and humanitarian protection and promotion – The Bangsamoro Government may organize its own bodies for human rights and humanitarian protection and promotion that will work cooperatively with relevant national institutions;
6. Penology and penitentiary – There shall be cooperation and coordination between the Central Government and the Bangsamoro Government

institutions through the intergovernmental relations mechanism including on the matter of recommending parole and pardons. Applications for pardons and parole shall be processed by an appropriate mechanism created by the Bangsamoro Government, which shall submit its recommendations to the Office of the President.

The Bangsamoro Government may create and manage jails, penal colonies and other facilities. It shall ensure the compatibility of these facilities with the national jail management and penitentiary system through the intergovernmental relations mechanism. These facilities are understood to be part of the country's administration of justice;

7. Auditing, as set forth in the Framework Agreement on the Bangsamoro and the Annex on Revenue Generation and Wealth Sharing;
8. Civil Service – The Bangsamoro Government shall develop and administer a professional civil service corps, to include the powers and privileges on civil service matters provided in R.A. No. 9054, and without prejudice to the power, authority, and duty of the national Civil Service Commission;
9. Coastguard – The Central Government shall have primary responsibility over coastguard matters. There shall be cooperation and coordination over coastguard matters between the Central Government and the Bangsamoro Government through the intergovernmental relations mechanism;
10. There shall be a mechanism for cooperation and coordination between the Central Government and the Bangsamoro Government with regard to the enforcement of customs and tariff laws and regulations to ensure the effective exercise of its powers on barter trade and countertrade with ASEAN countries as well as the regulation of the entry of *haram* goods in the Bangsamoro territorial jurisdiction;
11. Administration of Justice – Administration of justice, in connection with the relevant provisions of the Framework Agreement on the Bangsamoro, and with due regard to the powers of the Supreme Court and the competence of the Bangsamoro Government over Shari'ah courts and the Shari'ah justice system in the Bangsamoro;
12. Funding for the maintenance of national roads, bridges, and irrigation systems – There shall be coordination through the intergovernmental relations mechanism between the relevant Central Government and Bangsamoro Government agencies on the Central Government funding for the maintenance of national roads, bridges, and irrigation systems within the Bangsamoro;

13. Disaster risk reduction and management – The Bangsamoro Government shall have primary responsibility over disaster risk reduction and management within the Bangsamoro. There shall be cooperation and coordination among relevant Central Government and Bangsamoro Government agencies on disaster risk reduction and management;
14. Public order and safety – The Bangsamoro Government shall have primary responsibility over public order and safety within the Bangsamoro. There shall be cooperation and coordination between the Central Government and the Bangsamoro Government through the intergovernmental relations mechanism.

III. The Bangsamoro Government shall have exclusive powers that it exercises within its territorial jurisdiction, over the following matters:

1. Agriculture, livestock and food security;
2. Economic and cultural exchange;
3. Contract loans, credits, and other forms of indebtedness with any government or private bank and other lending institutions, except those requiring sovereign guaranty, which require Central Government approval;
4. Trade, industry, investment, enterprises and regulation of businesses taking into consideration the relevant laws;
5. Labor, employment and occupation;
6. Registration of business names, with the Bangsamoro Government listing these in the Philippine Business Registry for business names;
7. Barter trade and countertrade with ASEAN countries;
8. Economic zones and industrial centers;
9. Free ports – The Bangsamoro Government may establish free ports in the Bangsamoro. The Bangsamoro Government shall cooperate with the Central Government through the intergovernmental relations mechanism on customs, immigration, quarantine service, and international commitments. Business and other enterprises operating within the Bangsamoro free ports shall be entitled to the fiscal incentives and other benefits provided by the Central Government to special economic zones. Bangsamoro free ports shall be contiguous/adjacent to seaport or airport and shall have a coverage area not exceeding limits provided in the Bangsamoro Basic Law;
10. Tourism;
11. Creation of sources of revenue;
12. Budgeting;
13. Financial and banking systems – This is without prejudice to the power of supervision of the Bangko Sentral ng Pilipinas (BSP) and provided that the Bangsamoro Government, the BSP, the Department of Finance

(DOF), and the National Commission on Muslim Filipinos (NCMF) shall jointly promote the development of the Islamic banking system, to include among others the establishment of a Shari'ah supervisory board;

14. Establishment of government-owned and controlled corporations (GOCCs) and financial institutions – The Bangsamoro Government may legislate and implement the creation of its own GOCCs in the pursuit of the common good and subject to economic viability. The GOCCs shall be duly registered with the Securities and Exchange Commission or established under legislative charter by the Bangsamoro Government;
15. The Bangsamoro Government shall have authority to regulate power generation, transmission, and distribution operating exclusively in the Bangsamoro. It shall promote investments, domestic and international, in the power sector industry in the Bangsamoro. Power plants and distribution networks in the Bangsamoro shall be able to interconnect and sell power over the national transmission grid to electric consumers. The Bangsamoro Government may assist electric cooperatives in accessing funds and technology, to ensure their financial and operational viability. When power generation, transmission, and distribution facilities are connected to the national transmission grid, the Central Government and the Bangsamoro Government shall cooperate and coordinate through the intergovernmental relations mechanism;
16. Public utilities operations in the Bangsamoro – In case of inter-regional utilities, there shall be cooperation and coordination among the relevant government agencies;
17. Receive grants and donations;
18. Education and skills training;
19. Science and technology;
20. Research councils and scholarships;
21. Culture and language;
22. Sports and recreation;
23. Regulation of games and amusement operations within the Bangsamoro;
24. Libraries, museums, historical, cultural and archaeological sites – The Bangsamoro Government shall have the power to establish its own libraries and museums, and declare historical and cultural sites. The Central Government shall transfer the management of such sites currently under the jurisdiction of the National Museum, National Historical Commission, or other national agencies, to the Bangsamoro Government or local governments therein following certain processes through the intergovernmental relations mechanism. With regards to archaeological sites, the Bangsamoro Government shall coordinate with the relevant national agencies on the regulation, excavation, preservation, and exportation of cultural properties, as well as on the recovery of lost historical and cultural artifacts;
25. Regulations on manufacture and distribution of foods, drinks, drugs and tobacco for the welfare of the Bangsamoro;

26. *Hajj and Umrah* – The Bangsamoro Government shall have primary jurisdiction over *Hajj* and *Umrah* matters affecting pilgrims from within the Bangsamoro. The Central Government shall have competence over *Hajj* and *Umrah* matters affecting pilgrims coming from outside the Bangsamoro. The Bangsamoro pilgrimage authority shall act in close coordination with the Central Government on *Hajj* and *Umrah* matters involving offices and agencies outside of the Bangsamoro;
27. Customary laws;
28. Declaration of Bangsamoro holidays;
29. Ancestral domain and natural resources;
30. Protection of the rights of the indigenous peoples in the Bangsamoro in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and taking into account, in addition to economic and geographical criteria, their individual and communal property rights, cultural integrity, customary beliefs, historical and community traditions;
31. Land management, land distribution, and agricultural land use reclassification – The classification of public lands into alienable and disposable lands shall be initiated and recommended by the Bangsamoro Government to the President for the timely implementation of Bangsamoro development plans and targets;
32. Cadastral land survey – The Bangsamoro Government shall have the authority to conduct cadastral surveys, lot surveys, and isolated and special surveys in the Bangsamoro. The Bangsamoro Government shall furnish the results of these surveys to, and coordinate with, relevant Central Government agencies to effect inclusion into the national cadastral survey;
33. Expropriation and eminent domain;
34. Environment, parks, forest management, wildlife, nature reserves and conservation – The Bangsamoro Government shall have the authority to protect and manage the environment. It shall have the power to declare nature reserves and aquatic parks, forests, and watershed reservations, and other protected areas in the Bangsamoro. The Bangsamoro Basic Law will provide for the process that will transfer the management of national reserves and aquatic parks, forests and watershed reservations, and other protected areas already defined by and under the authority of the Central Government;
35. Inland waterways for navigation;
36. Inland waters;
37. Management, regulation and conservation of all fishery, marine and aquatic resources within the Bangsamoro territorial jurisdiction;
38. Bangsamoro settlements;
39. Customary justice – The customary rights and traditions of indigenous peoples shall be taken into consideration in the formation of the Bangsamoro's justice system. This may include the recognition of indigenous processes as alternative modes of dispute resolution;

40. Shari'ah courts and Shari'ah justice system, as set forth in relevant provisions of the Framework Agreement;
41. Public administration and bureaucracy for the Bangsamoro;
42. Health – The Central Government and the Bangsamoro Government shall cooperate with and assist each other in the prevention and control of epidemic and other communicable diseases;
43. Social services, social welfare and charities;
44. Waste management;
45. Establishment and supervision of humanitarian services and institutions;
46. Identification, generation and mobilization of international human resources for capacity building and other activities involving the same within the Bangsamoro – The Central Government shall cooperate with and assist the Bangsamoro Government towards ensuring access to such relevant human resources through the intergovernmental relations mechanism;
47. *Awqaf* and charitable trusts;
48. *Hisbah* office for accountability as part of the Shari'ah justice system;
49. Registration of births, marriages, and deaths, copies of which shall be forwarded to the National Statistics Office;
50. Housing and human settlements;
51. Development planning;
52. Urban and rural development;
53. Water supplies and services, flood control and irrigation systems in the Bangsamoro – With regard to water supplies and services, flood control and irrigation systems that connect to or from facilities outside the Bangsamoro, there shall be cooperation and coordination between the Bangsamoro Government and the appropriate Central or local government bodies;
54. Public works and highways within the Bangsamoro;
55. Establishment of appropriate mechanisms for consultations for women and marginalized sectors;
56. Special development programs and laws for women, the youth, the elderly, labor, the differently-abled, and indigenous cultural communities;
57. Local administration, municipal corporations and other local authorities including the creation of local government units – The Bangsamoro Government shall manage and build its own bureaucracy and administrative organization, in accordance with the ministerial form of government envisioned by the Framework Agreement on the Bangsamoro, and as shall be provided by the Bangsamoro Basic Law creating the Bangsamoro, and subsequent laws to be passed by its assembly. However, when such acts require the creation of a congressional district, the Philippine Congress and the Bangsamoro assembly shall work together in order to facilitate the creation of the same, through the appropriate intergovernmental relations mechanism;
58. Establishment or creation of other institutions, policies and laws for the general welfare of the people in the Bangsamoro.

PART FOUR OTHER MATTERS PERTAINING TO POWER SHARING

1. Transportation and Communications

On transportation and communications, the Central Government and the Bangsamoro Government shall have reserved, concurrent, and exclusive powers, based on the following principles:

- Subsidiarity
- Technical and financial viability
- Harmonization: uniform system concept
- Compliance with international standards, treaties and conventions
- Mutual respect and recognition
- Recognition of the aspiration of the Bangsamoro to assume further powers as may be practically operational as its capacity develops.

The Bangsamoro Basic Law shall delineate the appropriate powers that the Central Government and the Bangsamoro Government shall exercise on transportation and communications. All revenues derived by the Bangsamoro Government from the exercise of its exclusive and concurrent powers, taking into account any administrative costs to the Central Government agencies, shall pertain to the Bangsamoro Government.

The Bangsamoro Basic Law shall provide for an intergovernmental body to harmonize policies, programs, regulations and standards, and to resolve problems of implementation between the Central Government and the Bangsamoro Government.

2. Mineral and Energy Resources

The Bangsamoro Government shall have authority and jurisdiction over the exploration, development, and utilization of mines and minerals in its territory. The applications for financial and technical assistance agreements (FTAAs) shall be commenced at and recommended by the Bangsamoro Government to the President. The Bangsamoro Government and the Central Government shall jointly exercise the power to grant rights, privileges and concessions over the exploration, development and utilization of fossil fuels (petroleum, natural gas, and coal) and uranium in the Bangsamoro, giving preferential rights to qualified citizens who are *bona fide* inhabitants of the Bangsamoro. The modalities for the exercise of this power shall be provided in the Bangsamoro Basic Law. Implementing rules and regulations for the

exercise of this power, including safeguards against potential unfair business practices, shall be jointly drawn up.

3. Taxation

The Central Government shall continue to levy national taxes in the Bangsamoro. The Bangsamoro Government shall also have the power to levy taxes, as provided in the Annex on Revenue Generation and Wealth Sharing.

4. Powers Already Devolved

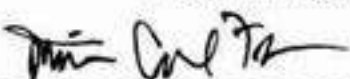
All other powers granted to the Autonomous Region in Muslim Mindanao (ARMM) which are relevant to the Framework Agreement on the Bangsamoro shall be transferred to the Bangsamoro Government.

As part of the Philippine Government commitment in other peace agreements involving the Bangsamoro, the Bangsamoro Basic Law may adopt specific powers contained in these agreements and in the ARMM Organic Law, as amended.

The Bangsamoro Transition Commission shall undertake an inventory of the powers and consider the proposed recommendations from the review process of the 1996 Final Peace Agreement between the Government and the Moro National Liberation Front for possible incorporation into the Bangsamoro Basic Law. It shall also take into account the proposed amendments of the ARMM Regional Legislative Assembly to R.A. No. 9054.

Done this 8th day of December 2013 in Kuala Lumpur, Malaysia.


FOR THE GPH:


PROF. MIRIAM CORONEL-FERRER
GPH Panel Chair

FOR THE MILF:


MOHAGHER IQBAL
MILF Panel Chair

SIGNED IN THE PRESENCE OF:


TENGKU DATO' AB GHAFAR TENGKU MOHAMED
Malaysian Facilitator