

THE PROPOSED CIVIL SERVICE OFFICE UNDER THE BANGSAMORO BASIC LAW

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ABSTRACT

Since the time immemorial the struggle of our Muslim brothers in the south seems unending from the Hispanic, American, Japanese colonization and even when the Philippines gained its independence. This rocky road that leads to the deaths of hundreds of Filipinos seem it will never stop in spite of the move of the government to reconcile with the Muslim leaders to put an end with all the hostilities and bring progress to the people of the south. The government acknowledges this problem by creating the Autonomous Regions in Muslim Mindanao to give the Muslim leaders a chance to lead their followers in order to attain peace and prosperity. After its years of implementation it seems that the ARMM did not succeed and deliver the results of what it intends to be. The government in order to again readdress the issue they propose the creation of the Bangsamoro Basic law. One of the powers under the BBL is to create a Civil Service Office. Case study is appropriate for this study because researchers have used the case study research method for many years across a variety of disciplines. Future legal conflicts may arise if the government will fail to address the issues about the (National) Civil Service Commission and the Proposed Bangsamoro Basic Law Civil Service Office. This study focuses on the relationship of the Proposed BBL Civil Service Office and the national Civil Service Commission if there will be conflicts and confusions and the status of the Proposed BBL Civil Service Office with the national Civil Service Commission.

Keywords: National Civil Service Office, proposed BBL Civil Service Office, ARMM, decentralization, autonomy.

Introduction

Historical:

The clamor for self-government by the Muslim Filipinos in the south can be traced back during the colonial reign of Spain, United States of America and for a short period of time

of Japan. Admittedly the records would show that Spain, US and Japan failed to subjugate the Filipino-Muslims of the south for more or less than 400 years. According to Agoncillo, 1990, one wonders why the Muslim brother has not been integrated into the Philippine body politic. There are obvious reasons. One is that as a non-Christian who has for centuries struggled for his individual identity he has come to suspect his Christian brother of betrayal, for the latter was used by the conquerors in their attempts to obliterate Muslim culture and religion.

Philippine Independence.

Creation of the Autonomous Region in Muslim Mindanao

After the Philippine gained independence from Spain, US and Japan one of the priorities of the government is to advance the peace in Mindanao. Although initialed in a 1976 ceasefire, come 1987 as a fall out of the EDSA revolution, peace talks with the MNLF picked up pace with the intention of establishing an autonomous region for Muslims in Mindanao. On August 1, 1989, through Republic Act No. 6734, known as the Organic Act, a 1989 plebiscite was held in 18 provinces in Mindanao, the Sulu Archipelago and Palawan without considering the effects of continuous migration by settlers from Luzón and the Visayas. This was said to determine if the residents would still want to be part of an Autonomous Region. Out of all the Provinces and cities participating in the plebiscite, only four provinces opted to join, namely: Maguindanao, Lanao del Sur, Sulu and Tawi-Tawi. Even its regional capital, Cotabato City, rejected joining the autonomous region as the settlers has now greatly outnumbered the indigenous Moro and Lumad. When before they are a majority, they have now become a minority.

This still led to the creation of the Autonomous Region in Muslim Mindanao, however. A second plebiscite, held a year more in 2001, managed to included Basilan (except its capital, Isabela City) and Marawi City in the autonomous region. Of the original 13 provinces agreed on the FPA with the Moro National Liberation Front, only 5 has now been included in the present day ARMM due to the continuous settler program of the Republic of the Philippines that started in the earnest of 1901.

Moro Islamic Liberation Front boycotted the original referendum formed by the Organic Act referendum and continued the armed struggle through the 20th and into the 21st centuries. However, it remains a partner to the peace process in the southern islands, with the Philippines unwilling to brand MILF a "terrorist" group lest the separatists be driven away from the negotiating table. As an effort to reconcile with this group and with the hope of put

an end to so called Muslim struggle the government together with the Moro Islamic Liberation Front forged an agreement called the Bangsamoro Basic Law or the BBL for short.

METHOD

The aim of this study is to look into the proposed BBL Civil Service Commission whether and how it will conform to the fundamental law of the land with regard to the central personnel agency of the government. The objectives of this study are as follows:

1. What is the relationship of the Proposed BBL Civil Service Office and the national Civil Service Commission if there will be conflicts and confusions?
2. How is the status of the Proposed BBL Civil Service Office with the national Civil Service Commission?

The study will present the proposed BBL Civil Service Office and the National Civil Service Commission (present CSC) the above objectives through the available data primarily government documents. The scope of the research concentrates to the proposed BBL Civil Service Office and the national Civil Service Commission and to compare and analyze through the records, media interviews and jurisprudence.

Case study is appropriate for this study because researchers have used the case study research method for many years across a variety of disciplines. Social scientists, in particular, have made wide use of this qualitative research method to examine contemporary real-life situations and provide the basis for the application of ideas and extension of methods. Researcher Robert K. Yin defines the case study research method as an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not clearly evident; and in which multiple sources of evidence are used (Yin, 1984, p. 23).

The advantages of the case study method are its applicability to real-life, contemporary, human situations and its public accessibility through written reports. Case study results relate directly to the common readers everyday experience and facilitate an understanding of complex real-life situations

RESULTS

The Proposed Bangsamoro Basic Law

Civil Service Office

The Government peace panel presented to Congress the working paper and marked it as House bill number: 4949 which states:

An act providing for the basic law for the bangsa moro and abolishing the autonomous region of muslim Mindanao and repealing for the purpose Republic Act 9054 and Republic Act 673

Section 2. Concurrent Powers. - Concurrent powers shall refer to the powers shared between the Central Government and the Bangsamoro Government within the Bangsamoro, as provided in this Basic Law.

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.

There is hereby created a Bangsamoro Civil Service office that shall develop and administer a professional civil service corps, without prejudice to the power, authority and duty of the national Civil Service Commission. The Bangsamoro Government shall enact a civil service law for this purpose. This law shall govern the conduct of civil servants, the qualification for non-elective positions, adopt the merit and fitness system, and protect civil service eligibles in various government positions, including government-owned and/or controlled corporations with original charters, in the Bangsamoro. The Bangsamoro Government shall have primary disciplinary authority over its own officials and employees.

The (National) Civil Service Commission.

The BBL named the Civil Service Commission into National Civil Service Commission (HB 4949, sec. 8) to make a distinction when the people referred to any of them. But The Civil Service Commission under the constitution speaks only of one commission to wit:

The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate human all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and Congress an annual report on its

personnel programs (Art. IXB, sec. 3, 1987 Phl. Constitution).

Scope of the Civil Service Commission.

- (1) The Civil Service Commission embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.***
- (2) Appointments in the civil service shall be made only according to merit and fitness to be determined, as far as practicable, and except as to positions which are policy-determining, primarily confidential or highly technical, by competitive examination.***
- (3) No officer or employee of the civil service shall be removed or suspended except for a cause provided by law.***
- (4) No officer or employee in the civil service shall engage, directly or indirectly, in any electioneering or partisan political campaign.***
- (5) The right to self-organization shall not be denied to government employees.***
- (6) Temporary employees of the Government shall be given such protection as may be provided by law. (Art. IXB sec. 2).***

The Relationship of the Civil Service Commission and The Proposed Bangsamoro Civil Service Office.

As what the constitution bolstered under Article IXB sec. 3, to wit: *The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate human all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and Congress an annual report on its personnel programs.* There is a central personnel agency of the government which is the Civil Service Commission who is in charge of the promotion and coordination of the welfare of all government workers answerable to the CSC are the different personnel departments of every government agency who coordinates the plans and programs of their agencies. CSC is required by law to report to the President and Congress only about the status of the personnel programs. The Proposed BBL Civil Service under HB 4949 sec. 8 to wit: *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.

There is hereby created a Bangsamoro Civil Service office that shall develop and administer a professional civil service corps, without prejudice to the power, authority and duty of the national Civil Service Commission. The Bangsamoro Government shall enact a civil service law for this purpose. This law shall govern the conduct of civil servants, the qualification for non-elective positions, adopt the merit and fitness system, and protect civil service eligibles in various government positions, including government-owned and/or controlled corporations with original charters, in the Bangsamoro. The Bangsamoro Government shall have primary disciplinary authority over its own officials and employees.

Under the proposed set-up the relationship would be the National Civil Service on the top who coordinates, promotes the welfare of all government workers and we have the BBL Civil Service Office who coordinate with the NCSC on matters of plans and programs of employees in the Bangsamoro government. It is confusing and to my mind it is only an ordinary personnel or human resource department of one government agency working for the Bangsamoro government as can be gleaned from the law that “without prejudice to the power and authority of the national civil service commission” (HB4949 sec. 8).

What is exactly unique and might be one of the future legal actions is the power of the BBL government to enact a law that will empower BBL civil service office, that to my mind overstep into the powers and prerogatives of the legislature. The playing field between them is equal as the Bangsamoro CSO can administer its own civil service that will govern the qualifications and disqualifications of Bangsamoro government employees (HB 4949 sec. 8).

Conflicts and Confusions among the people.

Conflicts may arise in the exercise of powers of these two agencies one is created by the constitution to be the central personnel agency of the government submitting reports only to the President and Congress (Art. IXB sec. 3) and the Bangsamoro Civil Service Office created by HB4949. Conflicts in the manner of appointments in the government will be the main problem because of the present set-up of the NCSC that protects government workers of all kinds. Below are the possible conflicts and confusions:

- (1) Appointment in the civil service (national) may either be permanent or temporary.
- (2) Positions in the civil service are classified into career and non-career.
- (3) Civil service examinations
- (4) Suspension and Removal of public officers and employees

(5) Appeal of the decisions in case of administrative cases

Status of the Proposed Bangsamoro Civil Service Office with the (National) Civil Service.

The status of the relationship is purely coordination between the two agencies. The (national) Civil service is the one charge of all plans and programs of all government workers and submit reports to the President and the Congress about its personnel programs (Art. IX sec. 3, 1987 Phil. Constitution) and the The Bangsamoro Government shall enact a civil service law for this purpose. This law shall govern the conduct of civil servants, the qualification for non-elective positions, adopt the merit and fitness system, and protect civil service eligibles in various government positions, including government-owned and/or controlled corporations with original charters, in the Bangsamoro. The Bangsamoro Government shall have primary disciplinary authority over its own officials and employees (Sec. 8 HB 4949). No provision in the HB 4949 that declares it shall submit its programs to the (national) Civil Service or the annual report on its personnel programs or even to the President or Congress of the Philippines. Clearly even it is stated that the NCSC without prejudice to the power, authority and duty of the national Civil Service Commission, the BCSO elevated to the level equal to the NCSC. From the proposed law itself there is no proviso that it will report its activities to whom?, perhaps by implication this BBL CSO is answerable only to the Bangsamoro legislative body and to the head of its government.

Conclusion.

We are all aspires for a free and prosperous country. If the self-governance would ultimately make the people of the south cooperative and may bring lasting peace in the region then the government should pass the law. In making the law, congress must make sure that we are not compromising the integrity and sovereignty of our country. Ensure that our country will remain intact and united. From the above study, I do not see any remedies in particular if the decision of the BCSO would be appealable to the NCSC or even to the president. Congress must make measures that the offices in the national government reigns supreme over the local government even though there is the decentralization policy in the law. If congress will fail to delineate the boundaries of the two agencies future legal problems may arise.

Recommendation.

The congress must again review the BBL in order that it may align to the mandate of the constitution on the following significant areas:

1. Powers of the BCSO
2. Decisions of the BCSO
3. Accountability of the BCSO
4. Composition and Qualifications of BCSO
5. Authority of the BCSO to government owned and or controlled corporations in the Bangsamoro areas.

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