

Third-Party Monitoring Team First public report, July 2013 to January 2014

1) Background

The independent Third-Party Monitoring Team (TPMT) was set up by the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) to monitor the implementation of the GPH-MILF peace agreement, as provided for in the Framework Agreement on the Bangsamoro (FAB) signed on 15 October 2012. The Terms of Reference (ToR) of the TPMT were agreed between the Parties on 25 January 2013, its members were appointed during the following months, and it had its inaugural meeting in Kuala Lumpur from 08 to 11 July 2013, alongside the 38th Exploratory Talks between the Parties.

The TPMT has five members – two representatives from Philippine NGOs and two representatives from international NGOs (one of each being nominated by each Party, all being agreed by both Parties), and one “eminent international person” (jointly nominated by the two Parties) to act as Chair, convenor and spokesperson of the TPMT. The local members are Karen Tañada (Gaston Z Ortigas Peace Institute) and Zainudin Malang (Mindanao Human Rights Action Centre), the international members are Huseyin Oruç (IHH) and Steven Rood (The Asia Foundation), and the Chair is Alistair MacDonald (former EU Ambassador to the Philippines, now retired). Brief CVs of the TPMT members are given in Annex I.

As set out in its ToR (attached as Annex II), the TPMT is tasked with monitoring, reviewing and assessing the implementation of all signed agreements between the Parties, primarily the FAB and its Annexes. In particular, its basic functions are to :

- monitor and evaluate the implementation of all agreements;
- review and assess the progress of the implementation of commitments by both Parties under the Agreements (submitting comprehensive periodic reports and updates to both Parties for their appropriate action);
- and to communicate to the public the progress and developments in the implementation of the Agreements of the Parties.

It should be noted however that the TPMT is not the only monitoring body associated with the peace process. The International Monitoring Team (IMT) has since 2004 been charged with monitoring the implementation of the 1997 ceasefire, while certain other bodies are being set up for specific monitoring tasks.¹

The ToR require that the TPMT shall work on the basis of consensus and in a spirit of cooperation, confidence-building and trust. The TPMT shall have access to all reports and activities connected to the implementation of the agreements, and shall be allowed to observe the meetings of the Transition Commission and other bodies concerned with the implementation of the Agreements.

¹ For example, the Annex on Transitional Modalities foresees the establishment of a robust international-domestic monitoring body, accredited by COMELEC, to monitor the administration of the plebiscite, while the Annex on Normalisation foresees the establishment of an Independent Decommissioning Body to oversee the process of decommissioning of MILF forces and weapons.

The TPMT shall convene every two months and as they deem necessary, through until the regular operation of the Bangsamoro Government from the second semester of 2016.² At that point, the GPH and MILF Panels, together with the Malaysian Facilitator and the TPMT, shall meet to review the implementation of all agreements and the progress of the transition. An “Exit Document” officially terminating the peace negotiations may be crafted and signed by both Parties if and only when all agreements have been fully implemented.

In addition to providing confidential written reports to the Panel chairs and the Malaysian facilitator, quarterly and as necessary, the TPMT is obliged to produce a public written report yearly or as it deems necessary, providing an overall assessment of developments in the implementation of the Agreements.³ The present report is the first such public report produced by the TPMT, covering the period from its inception in July through to January 2014.

2) TPMT activities July 2013 - January 2014

After its launch meeting in Kuala Lumpur in July 2013, the TPMT convened twice in the Philippines, from 23-28 September and 03 to 07 December. These meetings allowed TPMT members to begin consultations with a large number of stakeholders in the peace process.

During the September meeting (coming shortly after the 40th Exploratory Talks in Kuala Lumpur) the TPMT met with Secretary Deles in Manila and Chairman Murad in Camp Darapanan, with the GPH and MILF Panel Chairs, with members of the Transition Commission, with civil society in Manila and Cotabato City, with Archbishop (now Cardinal) Quevedo of the Diocese of Cotabato, with the International Monitoring Team and with International Contact Group members. A short press release was issued at the close of this visit.

The December meeting coincided with the 42nd Exploratory Talks in Kuala Lumpur, but it was nevertheless possible for the TPMT to carry out consultations both in Manila (notably with members of the Independent Commission on Policing and with several Members of Congress interested in the peace process), as well as meeting with Secretary Deles, and in Zamboanga (notably with members from senior leadership positions in the MNLF, with Muslim religious leaders and with civil society). TPMT members were also able to meet with the GPH and MILF Panel Chairs before or after the 42nd Exploratory Talks.

The TPMT has also been able to make progress in establishing its internal rules and regulations. The TPMT Code of Conduct was submitted for the agreement of the Panels on 11 December 2013, together with the TPMT’s draft Workplan for 2014. The TPMT’s first confidential report was presented to the Panels on 27 December, covering the entire period from July to December 2013, and including a number of observations and recommendations. The present report, the TPMT’s first Public Report, was finalised during January 2014.

² The FAB provides for the appointment of the Bangsamoro Government by the Bangsamoro Assembly to be elected in May 2016. Once the Basic Law has been ratified (and until the entry into office of the Bangsamoro Government), the executive body of the Bangsamoro shall be a Bangsamoro Transition Authority, appointed by the President.

³ While a draft of the public report is presented to the GPH and MILF Panels for comment, the TPMT has the final say on the content of the report as published.

Financial support for TPMT activities during 2013 was provided by the Governments of Norway and the United Kingdom, as well as by the non-governmental organisations involved. During December 2013, the European Union committed funds to cover the operational costs of the TPMT (via a contract with UNDP) for an initial period from January 2014 to June 2015. It may be noted that all TPMT members are providing their services free of charge, with external finance covering covering only travel, accommodation, per diem and other operational costs (including modest institutional support to the home organisations of the two local members of the TPMT).

3) Key developments in the implementation of Agreements

At the time of the TPMT's inaugural meeting in July of 2013, only one of the four Annexes to the FAB had so far been signed – the Annex on Transitional Arrangements and Modalities, signed on 27 February 2013.

Since then, several key steps have been taken towards completing the comprehensive peace agreement :

- the Annex on Revenue Generation and Wealth Sharing was signed on 13 July 2013, at the close of the 38th Exploratory Talks;
- the Annex on Power Sharing was signed on 08 December 2013, at the close of the 42nd Exploratory Talks;
- and the Annex on Normalisation (together with the addendum on Bangsamoro Waters), was signed on 25 January 2014, at the close of the 43rd Exploratory Talks.

Meanwhile, important steps have been taken in implementing agreements already signed :

- following its launch in April of 2013, the Transition Commission (TC) has met on a number of occasions to pursue its basic mandate of drafting the Basic Law, has set up a number of technical committees,⁴ carried out a number of public consultations, and entered into MoAs with a number of local and international NGOs to assist it in these tasks;
- the Independent Commission on Policing (ICP) was launched in September 2013, on the margins of the 40th Exploratory Talks, and commenced its work in the Philippines on 14 October.

In addition, preliminary steps have been taken by GPH in relation to the development aspects of the FAB, with the establishment in February 2013 of a Task Force on Bangsamoro Development, and the launching that same month of the “Sajahatra Bangsamoro” program, providing in coordination with the Transition Commission the government's initial support for identified MILF combatants, families and other affected persons and communities. As of December 2013 this programme had already undertaken a number of actions in the fields of health, education and livelihood in 10 municipalities, while community-based assessment and planning activities are underway.

⁴ Seven technical committees have been foreseen at this point, covering fiscal autonomy, justice and security, political autonomy, basic rights, transitory provisions, and constitutional amendments, together with a coordinating committee.

4) Other observations

With the last of the four annexes to the FAB completed only in late January 2014, there is not a great deal that can be said at this stage about the implementation of the agreements. Nevertheless, there were several key observations which the TPMT was able to draw from the consultations which it undertook during September and December.

Notwithstanding the delay in completing the comprehensive peace agreement (originally foreseen to be completed by end-2012), it was evident that both Parties continued throughout to share the strongest **commitment to peace**, and are absolutely determined to bring the process to a successful conclusion. The successful completion of the four Annexes to the FAB confirms this, and the stage is now set for full implementation of the signed agreements and for an intensification in the momentum of the process.

That said, there was a strong recognition among all to whom the TPMT spoke of the “**need for speed**”, and for the drafting of the Basic Law to be completed as soon as possible. This point was underlined in particular by the Members of the House of Representatives whom we met, who were concerned to commence consideration of the Basic Law at the earliest opportunity. But the same point was made by all those we met in Manila, Cotabato and Zamboanga, many of whom had emphasised the importance for public opinion and awareness of being able to see the comprehensive agreement in its entirety. The signature in January of the Annex on Normalisation (and of the addendum on Bangsamoro Waters) was thus of crucial importance.

Many stakeholders underlined the need for **deeper public information** about the FAB and its implications. This desire was evident in Manila and in Cotabato, but was even stronger in Zamboanga and among stakeholders from Basilan, Sulu and Tawi-Tawi. It was encouraging that both civil society and religious leaders (whether Christian or Muslim) were keen to help support information efforts, but they recognised themselves that they needed to have a better understanding of what the implementation of the agreement will mean for the Bangsamoro as a whole. It was also suggested that it would be important for the Parties to strengthen their outreach and public messaging to a wider audience, including for example local government units, the ulama and the Catholic Bishops’ Conference of the Philippines, civil society more generally, and the private sector and chambers of commerce.

Perhaps linked to this expressed need for greater information, it was evident that some interlocutors were concerned about the **inclusiveness of the process**. Indeed, it seemed that there may be a significant scope for misunderstanding about the implications of the FAB, its relationship with the 1996 Final Peace Agreement with the MNLF, and the likely tenor of the future Bangsamoro assembly and government. There was also a clear desire among many of our interlocutors to see the FAB as something which would be beneficial for all Bangsamoro, and not only for one or other Bangsamoro group. It will be important therefore for both Parties to do more to underline the inclusiveness of the process, no less for Western Mindanao than for Central Mindanao

5) Concluding remarks

The TPMT's consultations in September and December with stakeholders in Cotabato City, in Zamboanga and in Manila confirmed the tremendous importance which all attached to achieving a comprehensive, inclusive and sustainable peace in Mindanao, a peace which would bring an end to cycles of violence and displacement, and which would allow the tremendous economic, social and cultural potential of Mindanao to come to the fore. The tragic events of September 2013 in Zamboanga only underscored the importance of achieving this.

The two Panels are to be congratulated on completing all four Annexes to the FAB. Looking forward – to the signature of the comprehensive peace agreement, the drafting and adoption of the Basic Law, and the full implementation of the agreements reached – one can clearly see the construction of a lasting peace.

The members of the TPMT are honoured to have been given the opportunity to play a small part in contributing to this process.

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(Mindanao Human Rights Action Centre)

Zainudin (“Zen”) Malang is the founding Executive Director of the Mindanao Human Rights Action Center (MinHRAC), an umbrella organisation of 18 Mindanao-based NGOS focused on empowering local communities on human rights and humanitarian protection issues. With law degrees from Manila, Kyushu and Madrid, he has also worked in the private sector, as a UN Volunteer in Aceh, and as a consultant with OPAPP, DTI and with aid organisations such as MSF and CIDA.

Huseyin Oruç

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(IHH)

Huseyin Oruç was born in Malatya, Turkey. He gained diplomas in Tourism Management and Public Management. He is one of the founders of The Foundation for Human Rights and Freedoms and Humanitarian Relief (IHH), a Turkish NGO based in Istanbul, and has managed various international projects of IHH. He is a founding Trustee of The Humanitarian Forum (UK), and founding member of UNIW (the Union of NGOs of the Islamic World) on behalf of IHH. He was head of the Preparation Committee of Code of Conduct for Islamic NGOs for OIC, and is a delegate of IHH for UN and OIC.

Steven Rood

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(The Asia Foundation)

Steven Rood has been in the Philippines since 1981, after having received his Ph.D. in Political Science from Boston University. From 1981 to 1999 he was Professor of Political Science at UP Baguio and Research Director of the Cordillera Studies Center. He has been Philippine Country Representative of The Asia Foundation since 1999, and from 2009 until the inception of the TPMT in July 2013 he served as the Foundation’s representative to the International Contact Group for negotiations between the GPH and the MILF.

Karen Tañada

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(Gaston Z Ortigas Peace Institute)

Rebecca “Karen” N. Tanada has been active in Philippine social movements since the 1970’s and was one of the founding convenors of the Coalition for Peace in 1987. She also coordinated a women and development network from 1991 to 2001. She is currently among the convenors of major peace networks such as the Mindanao Peaceweavers, Waging Peace Philippines, Sulong CARHRIHL and the Women Engaged in Action on 1325.

Alistair MacDonald

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(Chair)

Born in Glasgow, Scotland, Alistair MacDonald is an economist and economic historian by training. He recently retired from the external service of the European Union, after a diplomatic career spanning 35 years, and including two postings in the Philippines (most recently as EU Ambassador, from November 2006 to January 2011), as well as postings in Myanmar, Fiji, Libya and Thailand, and headquarters assignments in Brussels covering SE Asia or Eastern Europe.

THE THIRD PARTY MONITORING TEAM (TPMT) AND ITS TERMS OF REFERENCE

1. MANDATE

The mandate of the Third Party Monitoring Team (TPMT) is to monitor, review and assess the implementation of all signed agreements, primarily the Framework Agreement on the Bangsamoro and its Annexes.

2. COMPOSITION

The TPMT is an independent body composed of the following :

- A chair, who shall be an eminent international person and shall act as convenor and spokesperson for the TPMT;
- A representative from a local non-government organization registered with the Securities and Exchange Commission, to be nominated by the GPH;
- A representative from a local non-government organization registered with the Securities and Exchange Commission, to be nominated by the MILF;
- a representative from an international non-government organization to be nominated by the GPH;
- a representative from an international non-government organization to be nominated by the MILF.

One or two eminent international persons may be added to the membership of the TPMT as mutually agreed by the Parties. All members shall be mutually acceptable to and agreed upon by the Parties.

Unethical behaviour may be a ground for removal from the TPMT of an individual member upon the recommendation of the body through the Chair and/or the Panels by mutual agreement., In any case, the final decision rests upon the Panels.

3. FUNCTIONS

3.1 The basic functions of the TPMT are to :

- a. Monitor and evaluate the implementation of all Agreements.
- b. Review and assess the progress of the implementation of commitments by both Parties under the Agreements. Towards this end, it shall submit comprehensive periodic reports and updates to both Parties for their appropriate action.
- c. Communicate to the public the progress and developments in the implementation of the Agreements of the Parties.

3.2 At the end of the transition period, upon the regular operation of the Bangsamoro Government, the GPH and MILF Peace Panels, together with the Malaysian Facilitator and the TPMT, shall convene a meeting to review, assess or evaluate the implementation of all agreements and the progress of the transition. An 'Exit Document' officially terminating the peace negotiations may be crafted and signed by both Parties if and only when all agreements have been fully implemented.

3.3 The TPMT shall have the power to organize its work in the manner it deems most appropriate. It shall, under the direction of the Chair, devise its own tasking, work plans, security and confidentiality protocols, and financial systems in order to comply with

requirements imposed by funding sources. It shall also define a code of conduct particularly with respect to the relationship between its members and their organizational affiliations. These shall be contained in the TPMT's Internal Rules and Regulations which shall be submitted to the Panels for their approval.

3.4 The TPMT shall work on the basis of consensus. In reporting, any disagreements must be noted. The TPMT shall commit to work in the spirit of cooperation, confidence-building and trust among themselves and with their external relations.

3.5 Access to meetings, activities, informants, documents and data

The members of the TPMT shall have access to all reports and activities connected to the implementation of the Agreements. It shall directly coordinate with the concerned bodies and individuals in order to accomplish its functions and achieve its objectives.

The TPMT shall be allowed to observe the meetings of the Transition Commission and other bodies concerned with the implementation of the Agreements, subject to guidelines that the respective bodies may set.

4. REGULAR MEETINGS

The TPMT shall convene every two months and as they deem necessary.

5. REPORTING

The TPMT shall submit confidential written reports to the chairpersons of the two Peace Panels and to the facilitator, quarterly and as deemed necessary. The reports shall contain the TPMT's observations and recommendations. The Parties are not bound by the recommendations but shall submit written responses to the TPMT, furnishing a copy to the facilitator, within one month from receipt.

The TPMT shall produce a public written report yearly or as it deems necessary, providing an overall assessment of developments in the implementation of the Agreements. Before issuing a public report, the TPMT shall submit it to the Parties and to the Facilitator for comment and consultation. The TPMT may consider the comments of the Parties but without prejudice to its independent discretion on what to publish.

6. CONFIDENTIALITY

All information, data or opinions gathered, generated or exchanged in connection with the work of the TPMT shall be treated with utmost consideration for the safety and security of the source and the integrity of the peace process. Critical and/or confidential information as defined by the TPMT may not be divulged to their respective organizations and other entities.

7. ADMINISTRATIVE AND SUPPORT ARRANGEMENTS

The TPMT shall have an office and support staff / secretariat commensurate to its technical, operational and administrative requirements. It may engage the assistance of experts in the exercise of its monitoring and assessment functions.

8. FUNDING

Funding for the operations of the TPMT shall be independently sourced as jointly decided by the Parties in coordination with the TPMT. This may take the form of several funding streams or one funding source.

To address the problem of a possible gap between the formal establishment of the TPMT and its longer-term funding support, the Parties undertake to find modalities for short-term bridge funding for the initial activities of the TPMT. Potential organizational members of the TPMT may indicate how they would cover any “bridge” period.

9. DURATION

The TPMT shall be formed by the Parties not later than one month after the signing of these Terms of Reference. It shall continue to exist until an Exit Agreement is reached.

Done this 25th day of January 2013 in Kuala Lumpur, Malaysia.

FOR THE GPH:

MIRIAM CORONEL-FERRER
GPH Panel Chair

FOR THE MILF:

MOHAGHER IQBAL
MILF Panel Chair

SIGNED IN THE PRESENCE OF:

TENGGU DATO' AB GHAFAR TENGGU MOHAMED
Malaysian Facilitator