



Intergovernmental Relations Bodies and the Bangsamoro Autonomous Region in Muslim Mindanao

POLICY BRIEF


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1. INTRODUCTION

Autonomy can be a useful tool to resolve conflict between different groups within a country. As a mechanism to accommodate demands for self-governance it can help maintain peace. Yet granting formal autonomy is only the first step. Filling autonomy with life is the second necessary step. But achieving genuine self-governance is also a major challenge. Making autonomy work requires regional capacity and appropriate financial resources. Moreover, autonomy is contingent on a sound relationship between national and regional authorities.

However carefully designed the autonomous status of a region is, there will necessarily be jurisdictional overlaps. A range of matters may fall within the concern or responsibility of both the autonomous region and the national government, requiring their coordination. This is the case when the autonomous region administers national law, the national government and the region exercise concurrent powers, or when issues cut across jurisdictions. The scope and design of autonomy is often an ongoing process and may need to be revisited regularly. Therefore, intergovernmental relations (IGR) are an important aspect of how autonomy operates in practice.

The main challenge is to ensure that the national government respects regional autonomy. It must not impose rules and regulations on matters of regional jurisdiction, nor must it change policymaking powers and financial endowments unilaterally. Therefore, national authorities and regional authorities should work together as partners—which requires strong and effective intergovernmental bodies.

The Bangsamoro Administrative Code stipulates that IGR will be based on mutual respect, the recognition of (regional and national) authority, and the acceptance of interdependence. Whether these principles will be adhered to depends on how intergovernmental structures operate.

Carefully designed intergovernmental structures provide a framework in which national and regional authorities can collaborate as partners in respect of their autonomy. A setting in which the national government can dictate how regional affairs are conducted, treating regional authorities as its agents, must be avoided. Formal structures of IGR are most successful if supported by informal relations, both at the political and administrative level. Parliamentary scrutiny is another contributor to success since it fosters transparency and accountability.

This policy brief reviews the newly created intergovernmental structures and examines their potential to achieve genuine self-governance in the Bangsamoro Autonomous Region.

2. INTERGOVERNMENTAL STRUCTURES INVOLVING THE BANGSAMORO AUTONOMOUS REGION

The *Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao* (BOL) provides for the creation of three types of IGR bodies.

Most of these bodies are national–regional forums. Among these, the National Government–Bangsamoro Government Intergovernmental Relations Body (“**Intergovernmental Relations Body**”, IGRB) is the peak forum created for general coordination and resolution of intergovernmental disputes. To coordinate fiscal policy, including endowments of the Block Grant and borrowing, the Intergovernmental Fiscal Policy Board (IFBP) was created. The IFBP may also recommend to the national government to grant additional fiscal powers to BARMM. A Joint Body for the Zones of Joint Cooperation (JBZJC) was established for the identification of zones of cooperation and joint management of resources in the Sulu Sea and Moro Gulf areas. To coordinate national and regional infrastructure development plans, the **Intergovernmental Infrastructure Development Board** (IIDB) was set up. The **Intergovernmental Energy Board** discusses issues relating to the power sector industry and other matters concerning energy supply. The main focus of the **Bangsamoro Sustainable Development Board** (BDSB) seems to be on the coherence of sustainable development policy within the region. It includes national government representatives, though, to ensure consistency of regional policy with national policy. So far, BDSB has not been formally established, but the Bangsamoro Transition Authority recently presented a bill for its creation.

All those are bodies of the executive branch. The second type of IGR bodies facilitates relations between national and regional parliaments. The **Philippines Congress–Bangsamoro Parliament Forum** (PCBPF) has not yet been convened, but preparations are underway. If established, it would be a useful addition to executive relations that tend to occur behind closed doors and often evade parliamentary scrutiny.

A third type of IGR bodies concerns coordination with local governments. Because local governments deliver many public services, such coordination is also important to make regional autonomy work. BOL accounts for this by mandating a **Council of Leaders**, which includes the Chief Minister, BARMM’s members of Congress, provincial governors and mayors, and representatives of traditional leaders and other sectors. The Council of Leaders is an advisory body to the Chief Minister. It is unclear whether this will lead to genuine coordination between regional and local authorities. JBZJC also includes representatives of local government.

As an additional mechanism, BOL stipulates that the BARMM government be represented in national government bodies that implement and enforce national policy in BARMM.

This mechanism and the creation of the bodies listed above suggests that national authorities are committed to a real partnership. Public statements by representatives of the national government point into a similar direction. The IGR bodies and mechanisms reflect the region's special status within the country and have the potential to ensure that BARMM's interests, preferences, and needs are considered in national policymaking and that policy is coordinated when matters concern both national and regional jurisdiction. Yet, BARMM had to actively push for the creation of some of the forums. This may be a sign of a lack of commitment at the national level to follow through.

3. ASSESSMENT OF INTERGOVERNMENTAL STRUCTURES

3.1. Level of institutionalization

Interactions in IGR bodies must be ongoing and reliable. Coordination has to be a continuing process so that preferences can be articulated, proposals drafted, and agreement reached after careful consideration and revision.

Formal status

IGR bodies are listed in BOL and included in the Bangsamoro Administrative Code. Some of them are created under regional legislation. This gives them a formal status, which is, in principle, a good sign for reliability—though how these legal texts are interpreted and respected will also matter. To foster reliability, each body should adopt rules of procedure to formalize its mode of operation, particularly with regard to such important matters as whether it takes decisions by majority rule, consensus or requires unanimity. Eventually, success will also depend on whether these rules are followed. However, there can be a trade-off between formalization and informal interactions and sometimes more informal interactions may be more effective.

Regularity of meetings

Terms of reference should stipulate the frequency of meetings of each IGR body. Maintaining regular meetings is crucial for the success of IGR. IGRB is supposed to meet four times a year, which is reasonable. Since its establishment in 2019, IGRB has met several times. IFPB is expected to meet less frequently, twice a year. Since its creation in 2019, it seems to have met only once a year, however. It will be crucial for the effective operation of IGR bodies that meetings are held more frequently and on a regular basis.

Secretariat and committees

That several bodies are supported by a permanent secretariat can be seen as a good sign since the secretariat ensures that coordination is ongoing in-between meetings. Committees can prepare meetings by gathering information, consulting experts, and drafting proposals. In addition to a secretariat, IGR bodies should therefore be supported by, ideally, several committees.

3.2. Role of the national government

A major issue in existing IGR bodies in other countries (e.g., Australia, Canada, Spain) is that the rules of operation of those bodies allow the central government to impose policy instead of engaging in genuine coordination with its regional counterparts.

3.2.1. Chairing arrangements

All IGR bodies created in support of BARMM's autonomy seem to be co-chaired by national and regional representatives, which is a promising sign in this regard. Co-chairing arrangements give both the national government and the region the possibility to arrange meetings and to determine the agenda—provided the two chairs work together. Under no circumstances should a body be chaired permanently by the national government on its own. Experience from Australia and Canada shows that such arrangements allow national authorities to call meetings, or refuse to call meetings, as they see fit and to impose the agenda on their regional counterparts, which disrespects regional autonomy. Co-chairing arrangements or a rotating chair are thus preferable.

3.2.2. Independence of the secretariat

The secretariat of IGR bodies should be independent. The IGRB secretariat is staffed with national and regional representatives but is located at a national government agency. Whether IGRB becomes an arena of genuine coordination and cooperation will thus also depend on the extent to which the secretariat will be, and will be seen as being, independent.

3.2.3. The importance of fiscal autonomy

A true spirit of cooperation free from national government dominance is particularly important in fiscal matters. Experience in other countries shows that the fiscal superiority of the national government often undermines regional autonomy, especially if grants are earmarked. IGR can only be successful if BARMM receives sufficient funding through the Block Grant, so that it does not need to request additional funds on a case-by-case basis. Particular attention should be paid to the operation of IFPB. Whether autonomy will work depends to some degree on IFPB becoming the body where decisions regarding the Block Grant and other national government grants are made collaboratively.

According to Article VI Section 1 of BOL, the President can suspend the BARMM Chief Minister for up to six months “for willful violation of the Constitution, national laws, or this Organic Law”. While chairing arrangements may not, this provision could be used as a threat to coerce agreement within IGR bodies, and potentially undermine the development of a true spirit of cooperation.

3.3. Capacity to process contentious policy matters

Many of the issues IGR bodies face will be contentious, especially if they concern the cultural, linguistic, and religious distinctiveness of the BARMM. Fiscal matters are likely to be highly politicized. Experience from IGR in other countries suggests that IGR bodies may fail to deal with those issues. Matters on which agreement is difficult to establish may lead to outcomes that reflect the lowest common denominator and are satisfactory to none of the parties involved. As long as issues can be dealt with individually, this may not be a problem. But if coordination is needed because they concern the national government and the BARMM government (e.g., the Block Grant) IGR bodies must be able to process such matters.

3.3.1. Decisions at the political level

Whether IGR bodies are able to reach agreement on contentious issues depends to some extent on interactions being steady and ongoing. It also depends on their membership. Highly contentious matters require resolution at the highest level, hence by politicians. IGR bodies consisting of bureaucrats, who cannot make authoritative decisions, are unlikely to be able to resolve disputes concerning, for instance, the Block Grant. Most of the national government–Bangsamoro IGR bodies, including the IFPB, involve politicians, so that they should be able to address contentious issues, provided the political will is there.

Ultimately, who attends the meetings will be the crucial question. If politicians send bureaucrats in their stead, IGR bodies are unlikely to process contentious matters. Consequently, it is important to make sure that at least one minister from each side—if not the President or Chief Minister—is present. Informal contacts between politicians or bureaucrats prior to meetings can help building agreement, however. The importance of the preparatory work by bureaucrats should not be underestimated.

IGRB can forward energy-related political matters to the Intergovernmental Energy Board, which includes administrators and regulators. It should be understood that the ultimate resolution of such matters needs to be the responsibility of IGRB.

There are two ways to ensure that contentious issues are resolved. The operation of IGR bodies may be structured in such a way that politicians make strategic decisions and bureaucrats prepare and implement them. Alternatively, IGRB could become the peak council where agreement on highly political matters is reached, including those that other bodies are unable to process.

3.4. Meeting outcomes

Effective IGR bodies are more than venues to exchange information—though information exchange is an important IGR mechanism. Coordination means that governments jointly decide on policy, funding arrangements, or changes to the autonomy status itself. Consequently, IGR between the national government and BARMM must generate actual outcomes. Outcomes of intergovernmental meetings tend not to have legal force

(though in some countries certain types of formal agreements can be enforced by a court), meaning that regional and national authorities will need to pass legislation, adopt executive orders, or amend their budgets in line with meeting outcomes. There is evidence that IGRB resolved several issues raised by the BARMM government. It is important that such outcomes be documented. This may even take the shape of a formal agreement signed by both national and regional representatives. Without a written record of meeting outcomes, the BARMM government lacks proof that the national government actually agreed to a solution at a meeting.

3.4.1. Publication of meeting outcomes

Meeting outcomes should also be published and forwarded to relevant departments and agencies. Rules on the legal status of formal agreements can foster compliance, especially if they stipulate enforcement by the courts. Publication increases transparency and, by implication, the incentives for the national authorities and the regional authorities to follow through on their decisions. Therefore, the progress reports submitted to the President by IGRB should be made publicly available.

The publication of press releases after IGRB meetings by the national government is a step in the right direction. It is important to ensure that the publication of press releases continues in the future and that press releases are issued after meetings of all IGR bodies. To show that it is a partner and not an agent of the national government, the BARMM government should issue its own press releases after meetings.

4. FINAL REMARKS

Whether IGR bodies are effective mechanisms to make regional autonomy work is contingent on the national government's commitment to Bangsamoro's autonomy in the first place, and support of decentralization among the country's political elites.

Whether a true spirit of cooperation evolves in IGR depends significantly on the political will of the representatives of the national and regional governments to use IGR bodies and work together. For IGR to work the national government must show that it respects BARMM's autonomy by treating its representatives as partners. By being assertive, the BARMM government can request to be seen as a strong and reliable partner. Regional assertiveness requires building up capacity (in terms of staff, knowledge, and funding) to engage in IGR.

It is also up to the BARMM government to insist on the use of IGR mechanisms. To make regional autonomy work, it is important that IGR bodies do not just exist on paper but are filled with life so that national and regional authorities effectively coordinate policy and resolve disputes.

In most of the IGR bodies created under BOL, membership includes representatives of different departments and agencies of the BARMM—sometimes even different branches

of government—and often politicians as well as bureaucrats. IIGB, for instance, includes regional ministers from eight different departments with such diverse portfolios as education, health, and fisheries. The success of IGR will also depend on the extent to which there is coordination among the different departments and roles in government in the region prior to meetings with representatives of the national government. By speaking with a single voice and by defending a clear position, the BARMM can be assertive and can use IGR bodies to make its autonomy work. The extent to which processes are streamlined within the national government will be another crucial factor.

The success of IGR will also depend on the extent to which IGR bodies are complementary, that is on the extent to which they interact, and on whether IIGB takes over a role as the leading forum. The IGR bodies created under BOL cover the most important and probably most contentious policy areas where coordination is needed, especially fiscal policy. Over time, there may be a need to create further bodies. It is important to ensure that new bodies have the same legal footing than the existing ones and learn from their experience. Care should be taken not to turn IGR into an overly burdensome exercise by creating complex and overlapping structures.

Most IGR bodies are coordination mechanisms between members of the executive branch of government and tend to be meetings behind closed doors. Parliamentary scrutiny is likely to be limited. However, it does not have to be. Parliamentary scrutiny is possible and would further strengthen the role IGR can play in making regional autonomy work.

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