

THE CONTACT BETWEEN THE TRADITIONAL AND THE LEGAL AUTHORITY SYSTEMS IN A MUSLIM SETTING

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From his ordinary observation, a layman can see other human beings acting and interacting. Often he stops just there, on the surface of what he sees, and proceeds to make an interpretation of what he has witnessed. In contrast, a trained observer in social and behavioral studies also observes the same human group interacting. But beyond what he sees on the surface, he has the curiosity to question why people act as they do, or why they behave differently.

In order to understand the behavioral patterns of any human group, the trained observer studies how institutions influence people's feelings, thoughts, and actions. For instance, the same observer wanting to investigate the social-psychological patterns of Muslim Filipinos will first try to gather empirical observations about their institutions — society, culture, and religion — and interpret these in terms of their influences on the behavior and action of the Muslims.

The term "institution," however, is a broad concept that applies to a variety of situations. For instance, politics and government, education and school, religion, communism, democracy, the army, etc., are also called institutions, because within them are regular social and behavioral patterns or recurrent events.

For the present occasion, I wish to discuss an aspect of authority, an institution of social control within any organization, and in particular in relation with Muslim affairs in the Philippines. I believe this topic is relevant to two current problems: first, the relationship between the Muslims and the government, and also between the Muslims and other Filipino citizens; second, the present task of studying and codifying Muslim laws, customs and traditions, in line with the government plan to accommodate them in the enrichment and enforcement of the general laws of the country.

Max Weber, the German political scientist, economist, and sociologist, classified authority into three types, namely, the *traditional*, the *legal*,¹ and the *charismatic* authorities — each deriving leadership power and influence from the type of political order that governs a certain community of people. For brevity and convenience, we shall not quote the classic definitions by Max Weber, except in a footnote, but rather present concrete local examples of each type. Examples of *traditional* authority are those exercised by the political organization and leaders of the sultanates or datuships of Sulu, Cotabato, and Lanao, and the “tribal” communities of non-Christian and non-Muslim groups. Examples of the *legal* type are those of the governing power and leaders of public and private bureaucracies within the modern Philippine Republic. The *charismatic* type is assumed by any great man, holding or not holding an office or title, but is an accepted leader of a certain organized or unorganized group of people. Prophet Mohammed, Dr. Jose Rizal and the late President Ramon Magsaysay are said to have had charismatic authorities and leadership based on strong faith in their persons.

Again, in strict relevance to the discussion we shall limit this paper to the problem of the *traditional* and the *legal* authority systems as they meet in historical and contemporary contacts in a Muslim cultural setting, particularly among the Maranao who, like any other people exposed to conflicting orders, are in a state of confusion. The primary socio-political order to which the Maranao have been, and still are, exposed is the traditional order and its type of inherent authority. In common parlance, and due to lack of a uniform concept, we variably call this order and authority as that of the sultanate, datuship or *agama* system. As a form of social control, the traditional authority is indigenous to the Maranao way of life from pre-Islamic down to Islamic times in the Philippines.

On the other hand, the foreign type of order and authority to which the same people are exposed is the *legal* or *constitutional* type which we commonly call the “government.” This authority was external to this people’s way of life, coming through military and civil conquests, education and acculturation, and other identifiable social processes. During the last seven decades of continuing western influence in the Philippines, the legal system has been gaining increasing power or impact upon Muslim affairs, thereby weakening gradually the position of the traditional system.

As a result of the institutional contact between the two systems,

the Maranao and their territorial home are actually under dual control, whereby the two orders are separate and ignorant of each other's power structure over the same community of people who call for service from both traditional and constitutional governments. The two authority systems are in rivalry and conflict, although there are some areas of accommodation and cooperation in the course of general contact. The areas of overlapping jurisdictions between the two can be observed and understood in terms of the elements of community organization described for each system as follows:

For the Traditional Authority

1. *Source of authority.* The traditional authority derives its legitimate power and influence from the community organization of the sultanate or datuship and the indigenous law and order which govern them.

2. *Territorial Jurisdiction.* The traditional authority is the "supreme power" over the *pangampong*, the largest "national" Maranao community. This community is composed of four confederated or allied principalities (states) called Bayabao, Masiu, Onayan, and Baloi. (The confederation can be still identified on modern maps of Lanao del Sur, Lanao del Norte, Marawi and Iligan cities, and Misamis Oriental as far as Tagoloan).

Each *pangampong* (principality or state) is divided into *suko* (district or region), *inged* (township), and *agama* (village community). Ideally, the land and social structure of the *pangampong* constitutes a "closed society," as opposed to "open society" which allows residential admission of new settlers.

3. *People or Citizens.* The traditional authority claims jurisdiction over all natural-born Maranao and their affinal kin groups who join them in marital alliances. They are organized into community groups in the *pangampong*, *suko*, *inged*, and *agama*. Community membership (corresponding to citizenship) is ascribed to or acquired through intermarriages between new settlers and born natives in a given community. Sometimes membership and office leaderships are conferred or acquired through merit by a new settler from another community.

4. *Leaders or Powerholders.* As a whole, authority is exercised

by a group of leaders collectively called the "council of elders" (*Pulok-loksen*), bearing a hierarchy of civil and religious titles such as *sultan*, *radiamoda*, *kabogatan*, *kali*, *imam*, etc. Ascension to office position is generally made through ascription or inheritance from a founding ancestor or parent.

5. *Law and Order*. Enforcement of law and order is the "weapon" of authority for the control of relationship among individuals and groups within the community. Two sets of laws are in operation over Maranao traditional affairs. One is the customary *adat* law (*kokoman*), composed of the *taritib* and *igma*. The other is the Islamic law of Sharia based on Quranic teachings. At times, the two sets of laws are also in conflict.

6. *Religion*. Traditionally and customarily, Maranao society and culture tend to prescribe Islam as a "State religion" although the Quran says, "There is no compulsion in religion."

For the Legal Authority

1. *Source of Authority*. The legal authority derives its legitimacy from the nation-state, the Philippine Republic and its Constitution which governs all people and institutions within its jurisdiction.

2. *Territorial Jurisdiction*. The legal authority is the sovereign power over the national, provincial, city, municipal, and barrio territories within the Republic. Its right over land, water and air possessions are superimposed over those of the traditional principalities, districts, townships and villages (*pangampong*, *suko*, *inged*, and *agama*), in the two modern Lanao provinces, in Marawi and Iligan cities, and partly in Misamis Oriental, where the total Maranao community was once widespread. The territories of the legal authority are open to settlement by new residing individuals and groups, regardless of ethnic background.

3. *People or Citizens*. The legal authority holds the allegiance not only of the homogenous ethnic Maranao group, but all other inhabitants of the aforementioned provinces, cities, municipalities, and barrios of mixed ethnic population, who all have equal rights of domain and citizenships under state law.

4. *Leaders or Powerholders*. The leaders in the legal authority system, called government agents-officers, get their positions through

appointment or election, unlike the hereditary rule of ascending to office in the traditional community. Agents have hierarchy of positions such as governor, vice-governor, clerk, etc., in civil offices; and general, colonel, sergeant, etc., in the military service.

5. *Law and Order.* The basis of legitimacy of the legal authority are the laws of contract, of which the Constitution is the principal document. Unlike traditional customs which are committed to memory by tribal elders, the formal laws of contract are written or codified. They are enforced by those who exercise authority.

6. *Religion.* The legal authority does not favor or antagonize any religious faith under the constitutional mandate of freedom of religion and the separation between the state and religion.

Through comparison and contrast, investigators of institutional conflicts can clearly see the overlapping interests, social structures, and values between the traditional and legal authority systems as they are in contact, particularly in the socio-cultural-political setting of the Muslim Maranao and, in a wider sense, in Muslim Philippines. A summary of the contact situation is charted in the following graph:

Comparative-Contrastive Features of the Traditional and the Legal Authority Systems

Features	Traditional Authority	Legal Authority
1. Source or location of authority	Sultanate or datuship	Government of the Philippine Republic
2. Territorial Jurisdiction	Territory of the Four Principalities of the <i>Pangamong</i> Confederation or Alliance	All national, provincial, City, municipal, and barrio territories of the Republic
3. Local or Regional territorial units	Bayabao, Masiu, Onayan and Baloi	Two Lanaos, Marawi Iligan Cities and

	(extending to Misamis Oriental)	Misamis Oriental
4. People or Citizens	Indigenous Maranao inhabitants, a homogeneous ethnic population	All inhabitants in the two Lanaos, Marawi and Iligan Cities and Misamis Oriental, a mixed population
5. Leaders or Power-holders	Council of Elders (<i>Pulokloksen</i>) e.g., <i>sultan, datu, imam</i> , etc.	Government agents (officials & employees) e.g., governor, mayor, policeman, etc.
6. Ascension or Recruitment for Office	By ascription or inheritance	By achievement, appointment or election
7. Instrument of Social Control	<i>Adat</i> and Islamic Laws (customary and religious laws)	Constitutional Law (formal contractual laws)
8. Religion	Islam (Theocratic)	No state religion (non-sectarian)

Aside from the foregoing contrasting structures and values, there are other elements of the two interacting authority systems which, when brought to light, can be used as a basis of understanding the situation of contact between the respective social, cultural, political, and economic institutions which each of the two systems represents.

Contact in War and Peace

Historically, the personnel from the two authority systems, both leaders and followers, had first met in violent contact. The event is told in the concrete situations of Muslims resisting the American Forces who invaded the whole Muslim land to replace the old political

order and the native authority with a new one bearing the label of modern "democracy," as if the indigenous community was not already enjoying any semblance of a free society.

On one side of the conflict, the Muslims fought to preserve the independence of their land and their institutions including their authority systems to which they owed long-established loyalty or allegiance. On the other side, the American Forces, as agents of change, were bringing new and foreign institutions which had yet to be taught and accepted.

An example of the concrete situation was the avowed plan of General Leonard Wood who declared that he would not recognize the authorities of sultans and datus when he would become Military Governor of the defunct Moro Province in 1903. Such view was opposed to the scholarly recommendation of Dr. Najeeb Saleeby who saw the possibility of extending government authority over the Muslims through their leaders, the sultans and datus. Such mild recommendation became the basis of the so-called "policy of attraction" of the early American Administration in Mindanao and Sulu.

Nevertheless, in the course of contact between peoples of different backgrounds some changes occurred in themselves and their institutions. Again, in the concrete case of the Lanao government authority, a legacy of the present Republic from the past American Administration, there was no complete disenfranchisement of the rival sultanate authority system. In whatever degree of compliance each system elicited from the same people, both exercised dual influence as they do today.

In landholding, native claimants hold rights over their property from either the traditional or the legal authority, or from both. Often, however, there arises a conflict between traditional and legal ownerships, due to lack of communication and formal agreement between the two types of government. Because of the legal right to acquire title over a piece of public land, the traditional territory of the Maranao, including the forest areas, is no longer completely closed to non-Maranao settlers who have acquired legal titles from the government.

In the area of leadership there is often conflict and accommodation between the two systems. A member, for instance, of the Council of Elders may at the same time be a government agent. By traditional ascription or inheritance, the same person who carries the

title of the sultan, datu, etc., might at the same time be appointed or elected to state office as a governor, mayor, army officer, or a simple clerk. Such a leader holding a dual role or role-conflict bridges the relationship between the traditional community and the modern government, although such dual leadership is undocumented, that is, not formally recognized by the two different authorities.

In this situation of cultura-contact whereby a person assumes dual leadership between two separate societies and cultures, his role might be conceptualized as that of a "marginal leader"³ or double-agent of the two kinds of authority system. Concrete examples of "marginal leaders" are those persons in Maranao society who carry the hyphenated titles of "sultan-mayor," "sultan-colonel," "sultan-clerk," "sangkopan-policeman," etc. Again, these hyphenated titles are undocumented; nevertheless, the people recognize the authority of persons enacting dual leaderships.

As in other communities of Muslim Philippines, there is, among the Maranao, conflict and confusion in the operations of the three sets of law — the *adat* (customary), the *Islamic* (religious), and the *constitutional* (state) laws. But in a variety of situations, each type of law provides the social control in the general affairs of society. When conflict arises in the operations of these different laws, enforcing officers, in both traditional and the legal authorities, resort to *bitiara* (in the Maranao sense), or *extra-legal* settlement (in the government sense). Both are amicable procedures of arbitration and good offices in order to maintain peace and order.

In pre-Islamic times, communities in Mindanao and Sulu combined their civil affairs with animistic rituals. In the Islamic period they tend to mix together temporal and religious affairs. But it was Ibn Khaldun, the Muslim classical philosopher of history, who warned against putting no demarcation line between Islamic religious affairs and temporal matters. Ibn Khaldun was followed by European social thinkers who moved for the separation of state and religion, which today is the pattern of secular and democratic states.

Conclusion

The contact situation just described points to the reality that the *traditional* and the *legal* orders and authorities exercise dual power and influence over the general affairs of the Muslim community in the Philippines, of which the case of the Maranao is an

example. The ideal models of the two systems are no longer what they were structurally. Each or both tend to mix in the process of a bastardizing contact, leading to a confusion, but that is the natural social process. More studies on the subject could be undertaken in order to resolved some of the existing problems in Philippine social relations.

NOTES:

1. Weber defines **traditional authority** as one "resting on an established belief in the sanctity of immemorial traditions, and the legitimacy of the status of those exercising authority under them"; and **legal authority** as one "resting on the beliefs in 'legality' of patterns of normative rules and the right of those elevated to authority under such rules to issues commands." Max Weber, **The Theory of Social and Economic Organization**, translated by A. M. Henderson and T. Parsons (New York: Oxford University Press, 1947), p. 328.

2. Each of these is a principality or sultanate (state), with territory and people, subdivided into districts (**suko**), townships (**inged**), and villages (**agama**). The Four Pangampong (principalities) are allied or confederated under an ancient order (**taritib**) handed down by founding ancestors.

3. Another subject of investigation by this speaker in his M.A. thesis entitled **Marginal Leadership in a Cultural-Contact Situation**, University of Kansas, 1957.