

### Violence as a means of control and domination in the Southern Philippines: how violence is used to consolidate power in the Southern Phillipines

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PRIF-Report No. 105

# **Violence as a Means of Control and Domination in the Southern Philippines**

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## Summary

This report deals with the problem of physical violence in the predominantly Muslim regions of the Southern Philippines: parts of Mindanao and the Sulu Archipelago. For the past four decades these regions were shaped by a seemingly never-ending armed quest for self-determination, which resulted in probably more than 100,000 civilian deaths and millions of people who were driven off their land not only once, but several times.

However, during the past few years and probably for most of the time except for a fairly short time span from the late 1960s to the late 1970s most violent deaths were not the result of inter-religious, Christian-Muslim or secessionist fighting, but occurred in the context of local practices of conflict management and settlement or dealing with norm or rule violations in the context of Islamic or traditional practices. In a nutshell, by and large, with the above mentioned exception warfare proved less deadly than everyday practices of domination and control. Nevertheless most studies stress the civil war and American or Philippine imperialism as crucial features that should be held responsible for the high levels of violence in everyday social practices.

By tracing violent practices back to former centuries, this PRIF-report anchors them differently. Whereas it cannot be denied that the secessionist violence and counterinsurgency warfare were severe aggravating factors, the roots of violent practices of control and domination are found in local history. While this has also been seen by a small number of studies that focus on the locally widespread practice of blood-feuding, a top-down practice of violent control and domination, which will be called status demonstration, has escaped scientific attention.

This report connects the present to the distant past of pre-Islamic social order and practices of control and domination and thereby traces the *longue durée* of current practices. The most problematic types of violence experienced in these regions all relate to efforts at control over either contending forces (horizontal control) or followers and would-be-followers (vertical control). As such violence refers to specific local norms, structuring social order and appropriate behavior, it should be seen as part of the overarching theme of social control and domination.

It will be shown that current patterns of control violence, while aggravated by the past decades of civil-war are not caused by it, but developed out of an ancient system of self-help. As this was status-based, it vested exclusive rights to employ such violent social control in the members of the elite status group, who effectively monopolized these types of culturally legitimate violence (force). This violence was one crucial but unacknowledged cornerstone of an order of "sanctified inequality" which invested one group (the *Datus*), legitimized by descent, with the exclusive right to rule. The report argues that despite fundamental changes of the political and economic frames brought about during the past centuries, the basic patterns of control survived up to the present.

After a general introduction, it first gives a succinct overview over the fundamentals of pre-Islamic social order, focusing then on mechanisms for dealing with deviance; i.e. violations of norms or cultural behavioral expectations. Three different arenas and practices

are differentiated: the dominant one focusing on mediation, blood-feuding and status-demonstration. Whereas the first one is largely violence-free, the other two are highly violent: blood-feuding and status demonstration, the first being a social practice between social equals belonging to the dominant status group, and the second being unilateral violence of the dominant against members of the lower status group. In both of these practices physical violence is barely limited. Whereas in the feud it can theoretically go on forever, the status demonstration can lead to the destruction of the deviant member of the lower status group and the enslavement of his relatives, with the decision on the limits of violence resting with the aggressor.

The following part shows how these patterns of control and domination survived Islamization which set in during the 15<sup>th</sup> century and provided new forms and sources of legitimacy for the dominant status groups. However, while the language of social control and domination changed to a certain extent, the underlying practices – the non violent mediation as well as the highly violent feuding and status demonstration – survived unscathed. Connecting social order to the Quran and the Prophet Mohammad even enabled the ruling elite to reframe it as sanctified inequality.

The most intensive analysis is given to the developments from the early 20<sup>th</sup> century to the present. While a comprehensive depiction of development processes is beyond the scope of this paper due to constrictions of space, the chapter tries to give enough details to illustrate the way in which the traditional elites adapted to the fundamental upheaval brought about by colonization through the Americans after 1898, inclusion into the Philippine Republic in 1946 and the extensive fighting that broke out in the late 1960s and led to open and yet unfinished warfare in 1972.

As in earlier centuries, major forms of violence utilized for purposes of control and domination – feuding and status demonstration – emanate from the dominant status group. Feuding regulated behavior and competition within the elite-group and by its exclusive character differentiated the elite from the rest of the people. As such it was at the same time “a privilege of social rank” and “an instrument of control” (Walter 1969: 12). The violent status demonstration effectively showed the ultimately despotic quality of domination, when it came to conflict between members of different status groups. It could be applied arbitrarily; only limited by considerations of prudence and signaled the de facto limitlessness of power and authority.

The American colonial power, in place since about 1900, let the Moro *Datus* themselves govern their communities to a large extent, only slowly bringing them into the orbit of the modern Philippine nation-state. At least since the 1930s this state was no longer an American, but a Filipino dominated polity, in which the American colonial power only figured as an “overseer”, leaving domestic politics de facto in Filipino hands.

This American style of state-making, focusing on democracy and the political system while neglecting institution building and administrative resilience enabled the local elites to capture the state and transform the administration into a tool for their own, uncontrolled domination. It is of no real importance whether these politicians are described as strongmen, bosses, or, on account of their familial bases, as members of political families

or dynasties. The patterns are neo-patrimonial, based on patron-client relations and rent-seeking, undergirded by the threat or actual use of physical violence. In many ways Filipino politicians were and still are quite similar to the Muslim *Datus* described in this report: both exercise “monopolistic personal control over coercive and economic resources in their territorial jurisdictions or bailiwicks” (Sidel 1999: 141).

Muslim elites, having to contend with these Filipino politicians, were able to capture a place for themselves in the national system of patronage, in effect dealing votes and loyalty against total freedom with respect to local governance and domination. The local style of domination suited the national politicians’ interests. It provided secure vote-banks. In exchange Filipino politicians never asked any questions, nor protested or took any action.

Eventually, since the 1950s local violence-based patterns of social control and domination slowly spilled out of control. The violence-free non-state mediatory systems, that are focused on the local elites weakened with the increasing transformation of traditional leaders into modern politicians and the spread of modern weaponry, exacerbating competition. Lines of conflict multiplied, and violence became an even more frequently used feature of conflict management.

The state did not counter this development, through which might became right, as national elites were not critical of local repression and violent rule as long as the votes were forthcoming. In addition, while some of the patterns and culturalist vindication of violence are different from other regions of the Philippines, both feuding and status-demonstration can be found in different guises in other regions, too. Here as there, they are indispensable foundations of local domination and control.

On the local level the old ideology of sanctified inequality proved very helpful, as it provided a culturalist cloak to patterns of domination and repression, a cloak that tabooed any contestation of the local rules of the game. As control-violence is at the same time part and parcel of local regimes of self-help, it enjoyed and still enjoys wide acceptance, even though the destructive consequences are regularly deplored.

The civil-war arena certainly had its share in aggravating the various pre-existent problems of violence. The national political system also provided a crucial backdrop for the continued employment of violent social control and domination with its vast options for local strongmen to trade loyalty to national politicians expressed in votes against weaponry, financial resources, a free hand in the private use of police and militias as “private armies”, and a general turning of a blind eye to all sorts of illegal practices,.

Nevertheless, given the vagaries of the peace process between the local guerilla, the Moro Islamic Liberation Front (MILF), and the Philippine state and the seemingly unreformability of Philippine politics, one crucial first step for tackling the problem of social control violence in the Muslim regions, would be to acknowledge its local history and analyze the cultural dynamics, that make it in principle still highly legitimate, despite many grievances. This could bring about a deconstruction, laying open the patterns of despotic or arbitrary domination. On this basis Moros could reformulate their own national history. Like any history invented and constructed to serve the needs of building a nation where there was none before, this history still portrays the own past in fairly glo-

rious term. It thereby stands in the way of a critical reevaluation that could provide a crucial first stepping stone for constructing a viable path towards reform.

While studies like the one done by Human Rights Watch in 2010, exposing the violent and despotic regime of the Ampatuan Clan are highly laudable, true change will only be possible, when such studies are done by locals, when Muslim researchers turn to their own society to expose its short-comings and defects and from there devise paths for a better future.

The report addresses issues pointed out by the Geneva and Oslo declarations on armed violence, which stress the people's right to security as well as the nexus between security and development. It especially stresses the right of the people to live free from fear, pointing to triggers of fear that do not lie in civil wars or simple crime, but in fairly well established practices of violent social control and domination emanating from the establishment. Whereas the two declarations are rather shy about naming either governments or established elites as perpetrators or instigators of violence, this report argues, that any strategy aiming at a peaceful society geared towards better chances for development has not only to take into account violence emanating from conflicts between governments and guerrilla movements or criminal gangs and syndicates, but also violence perpetrated by representatives of the establishment in order to safeguard continued control and domination.

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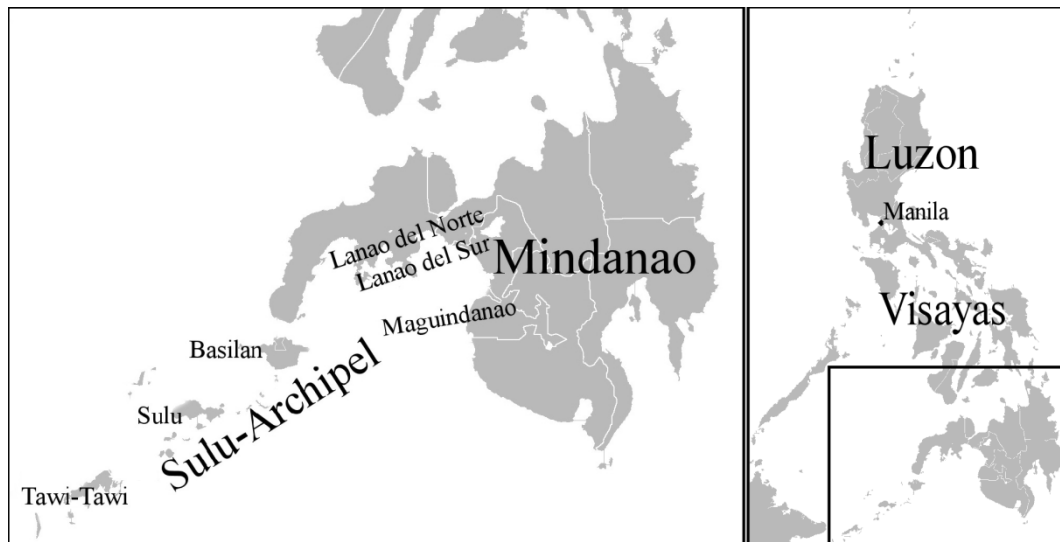


## 1. Introduction

Since the early 1970s the area of Muslim Mindanao, comprising some of the western parts of Mindanao and the islands of the Sulu Archipelago in the Southern Philippines, has been engulfed in continued military confrontation between local insurgent groups, first the Moro National Liberation Front (MNLF) and later the Moro Islamic Liberation Front (MILF) and the Philippine state. At issue is the right to self-determination, meaning independence or autonomy, when seen from the insurgent groups, or the sovereignty of the Philippines and the limits to self-governance when seen from the Philippine state. From an official Philippine point of view the Moros, a collective name invented by the Spanish colonial power for all Muslims in the Southern Philippines, are simply Filipinos adhering to the Muslim faith. Mohagher Iqbal, chief negotiator of the MILF, presents the mainstream Moro understanding of their history:

“Mindanao has always been in itself, a separate and independent entity from Luzon and the Visayas, even before the Spaniards came in 1521. Spain never really conquered the Moros for more than 300 years. When the Americans came in 1898, they did not only sign peace treaties with our forebears, but also created the Moro Province (Cotabato, Davao, Zamboanga, Lanao, and Sulu) in 1903 to administer the Moro affairs separately from Luzon and Visayas. [...] We opposed the inclusion of our homeland in the grant of independence in 1946, but the Americans did not listen to our pleadings. They saw the Philippines governed by Filipinos as serving their imperialist agenda. Under Filipino hegemony, Moro state of affairs continues to deteriorate. They continue to lose their lands; they lagged behind in almost all aspects of life. [...] But alas! Even with this little space remaining in their hands, the power of the status quo is too powerful in conceding this to us, so that we can chart the destiny of our people free from the dictates of the political class in Manila” (Iqbal 2011).

### Map of Muslim Mindanao in the Philippines



The dominance of the violent political contestation between two armed groups fighting for self-determination and the state since the early 1970s has led to a rather narrow focus of the literature on this region, most of it being on the history of the secessionist war.

Researchers tend to forget or overlook that violence in this region was not restricted to the civil-war arena alone, but pervaded everyday political and civil life as well. The past few years then brought a small second current of literature on the rather high levels of local violence, which have only a spurious connection to the macro-political conflict or are not connected to it at all (see e.g.: Kreuzer 2005; Torres 2007; Ugarte 2008; HRW 2010). Kreuzer (2005) focused on the relevance of microdynamics of violence for the explanation of the macrodynamics of the civil-war arena, the studies in the book edited by Torres (2007) analyzed in detail the current dynamics of blood-feuding, Ugarte (2008) discussed the interplay of politics and crime in the local kidnapping industry and the HRW report (2010) detailed the violent practices of one specific clan. These studies are united by a common observation: that there is a foundation to such violence, which is independent from the civil war and that this foundation can in a broad sense be deemed to be “traditional”: meaning that violence evolved out of and was based on various social practices, that can be traced historically and still carry a certain amount of traditional legitimacy amongst local populace and leaders alike. Other practices seem to have emerged out of the amalgamation of traditional practices, the modern state, and democratic governance giving rise to hybrid forms, which marginalize the violence-inhibiting aspects of both the traditional and the modern orders, while amplifying and de-limiting the violent aspects of both.

Despite these observations, the fundamental assumption, whereupon such violence should be understood in the context of a civil-war induced culture of violence, still predominates in discussions on the local level. Such a perspective directly connects the solution to local problems of violence to a successful peace agreement. If, however, the macro-level conflict between the secessionist groups and the state is only an aggravating, but no causal factor for the high levels of violence, that pervade local political competition and conflict resolution practices, then a peace agreement may have hardly any impact on the problem at all.

This report takes the above mentioned observation with respect to the traditional foundations of current violence serious and aims at tracing the historical paths, which led to the rather deplorable current situation.<sup>1</sup> It assumes that a significant amount of violence is perpetrated in order to safeguard or establish control over a locality and its population. It is generally perpetrated by establishment forces to determine and enforce an order most beneficial to themselves. As such, it can be likened to a coin with two sides: one side is the enforcement of a social order, the other the upholding of domination engrained in this social order. This does not mean that there is only one homogeneous establishment. Quite to the contrary; fractures within the establishment may lead to competing efforts to maintain or assert specific readings of the social order. This in turn takes place in the context of political competition. Counter-elites may also try to establish and enforce their preferred type of order which typically would mean a realignment of the

1 This PRIF-report is a partially restructured version of a German language HSKF-Report (Kreuzer 2011).

system of domination. Irrespective of actor, the violence employed in such a context can be categorized as social control violence.

Social control, put broadly, has been said to be about “the handling of right and wrong” (Black 1998: xxiii). More precisely, social control can be defined as:

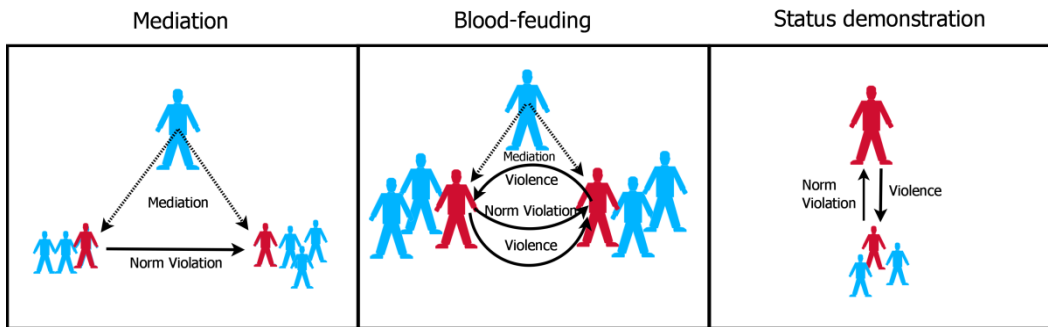
„all social (and technical) arrangements, mechanisms, norms, belief systems, positive and negative sanctions that either aim at and/or result in the prevention of undesired behavior or, if this has already occurred, respond to the undesired act in a way that tries to prevent its occurrence in the future“ (Scheerer/Hess 1997: 103f).

This definition makes clear, that social control normally forgoes physical violence. And while it is generally a prerogative of the status quo powers in a given society, it has to be emphasized that the status quo is always contested. Social control, in the words of Joel Migdal is “the currency for which social organizations compete” (Migdal 2001: 51). While fairly rare physical violence nevertheless is ultimately the iron fist in the velvet glove of the multitude of other mechanisms that aim at upholding a specific social order.

Whereas social control is a broad concept and hard to operationalize, violent social control is a much more curtailed one and will be the focus of this text, which largely focuses on social control violence in defense of the status quo. It is about establishment players, who apply violence in order to force opponents of a roughly equal standing or subordinates to obey some sets of rules on appropriate behavior and the order constituted by them.

In Muslim Mindanao critical violations of local norms and rules are mostly conceived of as conflicts between two or more parties and only seldom as breaches of a public order. Even theft, insult or murder are generally not so much understood as a violation of a public good/norm. Instead, they establish a conflict between private parties. Norm enforcement is dependent on the claim of the victim and it is accomplished in ways that strengthen exactly this understanding of a particularistic private good that does not so much relate to an abstract universal order, but to a specific dyadic relationship between victim and perpetrator. Consequently, the parties to the conflict generally are the masters of the proceedings. Their acceptance (or non-acceptance) is of supreme importance. Three forms of social control predominate: mediation, blood-feuding and status demonstration, the first being trilateral, the second bilateral and the third unilateral.

### Graphic representation of dominant forms of social control



Adjudication, with a judge imposing a judgment, is rare, mediation being the rule, a practice which in effect results in a violence-free resolution of all conflicts which are dealt with in this way. Mediation basically knows no penalization, but only fines that are intended to compensate the victim for its loss and rituals reestablishing community harmony.

However, there always existed the practice of blood-feuding, which in conflicts amongst members of higher status groups not seldom took and still takes precedence over mediation, and therefore can be characterized as a predominantly upper-class phenomenon of horizontal violence exerted amongst (near) equals. Theoretically blood-feuds can continue indefinitely. In practice, however, most are settled through mediatory processes after the mutual killing has gone its way.

Besides this, a second practice of violent social control, the status demonstration, is exerted top-down. It differs from the feud by its direction and the fact, that it is unilateral, i.e. there is no logic of revenge. Violence is unilaterally directed at members of lower status groups in order to symbolically underline the unconditional dominance of the elite. Therefore status demonstration qualifies as a form of violence that closely resembles terror, specifically state terror, even though, it is not perpetrated by the state, but by members of the elite class and their henchmen, who for the past century generally doubled as leaders of political or administrative state institutions on the local level. It may therefore be called establishment-terror(ism). These different forms of violence all share one aim, upholding social control and a hierarchical order by preventing or punishing norm/rule violations.

While this report focuses on the Moros this is not to delimit the problem of violent control to them in the context of the Philippines. Quite to the contrary; while a number of cultural patterns may be specific and different from those in other regions of the Philippines, the phenomena as such can be found elsewhere. Feuding violence in the form of the political feud pertains in many regions of the Philippines, leading to a large number of officeholders getting killed by hired gunmen. In addition there is a large number journalists, judges and prosecutors, not to mention the many dead political activists, who die through extra-legal executions, a form of “dispute resolution” that is likewise used to deal with criminals. Hardly any of such cases is ever solved and brought to court. However, it seems quite certain to assume that many of the perpetrators belong either to the armed forces, the police or are gunmen, hired by local politicians. Despite a number of similari-

ties, there are also significant differences between the logic and frequency of violent control between regions. Therefore it seems prudent to take an inductive “bottom-up” approach, as “a behavior identical with respect to its outward process and outcome can rest upon highly different constellations of motives, the most intelligible and evident of which need not have really been in play” (Weber 1988: 428; translation P.K.).

While violence employed by establishment forces may be a problem in many regions of the Philippines and probably the Philippine polity as such, the underlying logic perpetuating the practices emerges to a significant extent out of local traditions, beliefs, structures and established social practices. Insofar, this study may be read as a first opening of a field of research that aims at understanding and explaining the differences and commonalities of violent practices of social control in various regions of the Philippines.

On a general level this report argues that in the Muslim populated regions (as in many other regions of the Philippines) two prerequisites of a state-focused system of coercive social control are lacking: firstly on a factual level the state has no monopoly on the means of force (“legitimate violence”), and secondly on a normative level significant segments of local society reserve to themselves the right to employ physical violence in either preventing or penalizing behavior they deem to be deviant.

Most of the current violence in the Moro regions should not be understood as a spin-off of the four decades of civil war, even if the war certainly aggravated the practice. Current practices rather developed out of a) local traditional practices, which can be traced to the pre-Islamic past, partially reframed by several centuries of Islamic dogma and practice and b) the amalgamation of these practices and traditions with the new frame of the modern nation-state in its colonial as well as post-colonial guise.

This approach to framing much of the ongoing violence in Muslim Mindanao puts into doubt visions of a peaceful development for the region once the Moro-conflict is resolved. If the analysis holds, the much more probable future for Muslim Mindanao is that of a highly repressive clan-based order in which social control and political domination are routinely upheld (and challenged) by violent means.

Theoretically this report challenges the widely held assumption that violent acts generally are mere departures from peace-oriented cultural norms and everyday domination in stable systems, which is upheld by the consent of the ruled. Instead, it shows, that in the form of status-demonstration the local traditional system of domination included a practice that closely resembled state-terrorism, meaning a strategy by or a behavior of establishment forces that cow the population at large into submission by employing partly targeted and partly indiscriminate violence against some of its members thereby creating a culture of fear and a feeling of terror.

It will be shown that a part of the paternalistic self-image of the *Datu*-class as well as the corresponding description of a just order in which conflicts are settled amicably under the benevolent leadership of the *Datus* is a highly successful ideology that enables the ruling class to maximize their interests and profits at the cost of the ordinary people.

The analysis is differentiated into three broad sections, the first focusing on the major characteristics of pre-Islamic social order and the accompanying patterns of social control, the second on the changes brought about by Islamization up to the final years of self-determined development at the end of the 19th century while the third turns towards the developments in the wake of the integration of the Muslim societies into a modern state, with an emphasis on the last decades.

## 2. Pre-Islamic Social Order and Social Control

### 2.1 A regulated Anarchy of Barangays

There are no original sources on the pre-Islamic Philippines that allow us to reconstruct the actual practices by which social order was upheld. Likewise, there are hardly any sources on the Muslim regions during the first centuries after Islamisation, i.e. the 15<sup>th</sup> to the 18<sup>th</sup> century except for the genealogies (*tarsila*) of the ruling families, which, however, give no significant information on social order or community life. Whatever is known and presented in the short sketch below is culled from observations of early European visitors and Spanish friars, who settled on various islands of the Philippines during the first centuries of Spanish colonialism. Despite this sorry state of affairs a few general patterns can be discerned.

The basic and only enduring unit of political organization was the barangay (village, settlement). With a few exceptions there seems to have been no durable super- and subordination between barangays. The size of a Barangay normally did not exceed several hundred people.

Inter-Barangay relations seem to have been characterized by mistrust, hostility and raiding exhibitions (Phelan 1959: 16: 22). Pedro Chirino noted in 1604:

„[a]t no time did the Filipinos have any form of towns with civic order and political government, such that at least one island, or a number of villages, recognizing one person as their lord, might live under his protection and rule; but he who was most powerful conquered others, and ruled over them. As there was not only one such, but almost all the chiefs asserted their authority, and conquered and ruled, the general result was that each chief remained apart from the rest, having his own followers, and fortified himself, keeping up an attitude of defense. Consequently, they were usually at war with one another“ (Chirino 1604, in: Blair/Robertson 1903-1909, vol. 13: 25-26; see also Colin 1663, in: Blair/Robertson 1903-1909, vol. 40: 82-84).

Chiefly power was direct only on the level of the Barangay. Beyond that, we get, as Junker argues, “a strong impression of almost continually shifting power centers as alliance networks were realigned through various chiefly competitive strategies aimed at attracting and holding followers” (Junker 1999: 374). Philippine society therefore qualifies as segmentary, following a strong heterarchical principle of social organization, meaning a predominance of horizontal differentiation of like-structured units (White 1995; Sigrist 1979). With respect to social control a segmentary setting implies a multitude of similar

units, each of which claims the same status and the whole panoply of “rights”, amongst them the right to prevent or penalize deviance. In such settings political and social order are constructed from below, coalescing into a system, that may be characterized as “regulated anarchy” (Sigrist 1979).<sup>2</sup>

Despite a number of regional variations, local order seems to have been stratified into three broad groups, two of which may be further differentiated: 1) a ruling class legitimated genealogically, 2) a class of freemen, and 3) a class of dependents, whose status resembled in some respects slavery, hence the Spanish called them by this name. The ruling class can be divided into the *Datu* and the *maharlika*, the first denoting at the very same time the ruler himself and the social group out of which the rulers were chosen (Scott 1994: 128). The “slaves” at the bottom of social hierarchy were divided into two categories; whereas the first fairly closely resemble indentured servants and derive from the own local society, the second, which much more resemble the notions that go with slavery, were captured during raiding ventures.

As neither sexual relations nor marriage were completely restricted to partners within one’s own class, the three- or fivefold division of local society actually masks a complex mix characterized by hybridity. While theoretically membership of the dominant classes was by descent only, in social practice there seems to have been a significant amount of individual and inter-generational mobility (Aguilar 1998; Mintz, 2006; Junker 1999; Plascencia 1589, in: Blair/Robertson 1903-1909, vol. 16: 181-182). In addition, even though a *Datu’s* authority arose from lineage, there were nevertheless a number of options for enterprising contenders to secure top positions through displays of physical prowess (Scott 1994: 129). Francisco Colin in the 17th century provides a critical reading of contemporary practices of leadership succession:

“[...] by robbery and tyranny, which was the most usual method—in that way he gains authority and reputation, and increases it the more he practices tyranny and violence. With these beginnings, he takes the name of dato; and others, whether his relatives or not, come to him, and add credit and esteem to him, and make him a leader. Thus there is no superior who gives him authority or title, beyond his own efforts and power” (Colin 1663, in: Blair/Robertson 1903-1909, vol. 40: 86-87).

2 I prefer to avoid the concept of segmentary state, as it in my view overstretches the concept of the state, preferring instead to speak of a segmentary society and polity. The term of segmentary state, if used at all, ought to be reserved to the Muslim Regions after the introduction of the Sultanate, as the latter provided the first enduring superior set of political, social and religious order, that to a certain extent fits the model, according to which a segmentary state is “one in which there is a central kingship and many peripheral rulers. Political sovereignty is only exercised by the king within the central domain [...] and is also exercised autonomously by each peripheral ruler in his own domain. The sometimes minuscule kingships of the peripheral domains are replicas of the central kingship writ small” (Southall 1988: 64-65).



## 2.2 The Role of Physical Violence in Social Control

In pre-colonial Mindanao as in the rest of the Philippines there were three fairly independent mechanisms, which were available for resolving conflicts that resulted from rule violation. These were firstly mediation, arbitration and adjudication, secondly blood-feuding and thirdly unilateral status demonstration.

Most conflicts were settled in the context of the first system of conflict-resolution, and, even though a number of rule violations mandated some form of corporal punishments, these were regularly replaced by fines, so that it is no exaggeration to argue that monetary fines were the mainstay of social control (Scott 1984: 133).

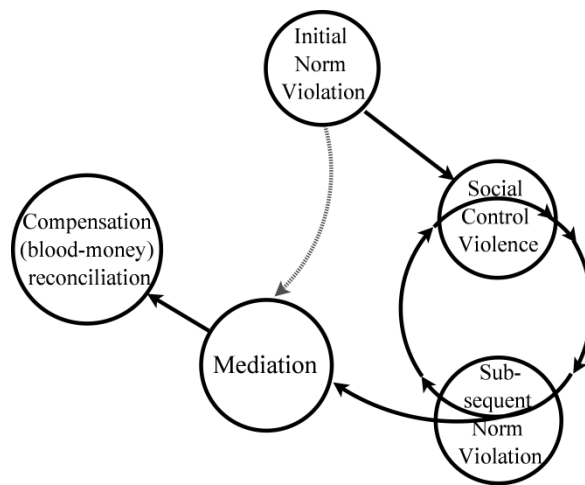
Fining actually worked as a mechanism that stabilized the dominance of the ruling strata as penalties against members of lower status groups were harsher than those against members of the elite.<sup>3</sup> Further, the position of judge or mediator was reserved to the ruling strata, who in this position shared in the fines. Finally those of higher status were in an advantageous position, as in many cases, the number of witnesses proved decisive, a practice that provided incentives for witnesses to take the stronger side. Taken together, the system of control through fining resulted in a perpetual reallocation of material wealth in favor of the dominant groups and produced an underclass of indentured servants, a status that was hereditary (Phelan 1959; Junker 1999; Mintz 2006; Plasencia 1589, in: Blair/Robertson 1903-1909, vol. 7+16; Scott 1994: 130). Corporal punishment seems to have been rare and largely directed against people of lower status, the most important form being flogging (Mintz 2006: 30-31; Scott 1994: 139). The only exceptions to this rule were witchcraft and sorcery which carried the death penalty (Scott 1994: 139). The fundamental principle within this system was not “to each the same” but “to each his own”, a principle that actively worked in the favor of those who were already of higher status.

However, the system did not apply to all kinds of rule violations or conflicts. It was used for conflicts amongst freemen, and between nobility/*Datus* and freemen, however, it was not applicable to conflicts between *Datus*. These had to be settled in the context of a blood-feud, which included mediation and probably also arbitration, where however, violence was given ample space as a means for reacting to a perceived rule violation, hence as a means for social control. Mediation after the initial norm violation clearly seems to have been the exception to the rule of violent self-defense. Normally, only after violence had had its way, could mediation set in. Insofar as intra-elite conflict was only secondarily managed within the fold of the regular mediatory-to-adjudicatory system, the elite was not only privileged within the law, but actually above the law administered and controlled by it. Social control within the ruling strata can by and large be equated with

3 The example of killing might illustrate this asymmetry. In the case of a freeman killing a *Datu* or a member of a *Datu*-family, most probably the freeman, his wife and children would be killed, his property seized. If, however, a freeman was killed by a member of the ruling status groups, the latter normally was fined only (Mintz 2006: 28-29).

blood-feuding, a practice which seems to have been confined to this class only. This makes blood-feuding a horizontal, exclusive type of violence amongst equals, through which the superior status group dissociated itself from the rest of society and exercised its prerogative of legitimate violence. The killing of a chief almost inevitably meant inter-village warfare. When some semblance of balance was reached (and only then) could the second stage of the feud set in: the mediation by chiefs of other neighboring barangays, who would collectively decide on the blood-money that would have to be paid.

### The dynamics of the Feud



An interesting aspect of the feuding system is that all violent actions, except for the initial norm violation are at the same time acts of social control, i.e. violent reactions to a norm violation and thereby expected and norm-adequate behavior. However, at the same time they are defined as norm violations that require a further act of (violent) social control. By definition then the feud is not able to settle a conflict except for the case when one party is exterminated by the other. In all other cases at one point in time this dimension of social control has to be surmounted and mediation obtains its place as the core means of conflict resolution, thereby finally balancing the negative compensation inherent in the feuding practice. Whereas mediation compensates a victim for a loss by providing an appropriate compensation (positive compensation), the feud tries to inflict a similar loss on the side of the perpetrator (negative compensation). It is important to understand, that neither is conceived of as punishment. Punishment is restricted to the rather small number of cases that are adjudicated and to the violent retributive practice of status demonstration described below.

Side by side with the blood feud there seems to have existed a traditional expression of vertical social control, whereby the powerful simply killed or enslaved those without power and status in retaliation against a severe act of deviance. Plasencia reports that in such cases (as the murder of a *Datu* or a member of his family by a freeman), we find unilateral and extraordinarily violent self-help by-passing the standard-mechanism of mediation: the perpetrator (and sometimes his immediate relatives) was simply killed, further family-

members were enslaved and their possessions seized (see also Scott 1994: 139). This type of social control violence neither depended on a foregoing judicial decision, nor resulted in a blood-feud. It seems to have functioned like an ultimate demonstration of status and power through which the core of the authority relationship and social order were symbolized in an act of physical destruction and can therefore probably best be characterized as a status-demonstration.

In certain respects, status demonstrations closely resemble modern practices of establishment violence (Rosenbaum/Sederberg 1974) or state(-sponsored) terror against civilians insofar as they try to assure norm abidance of a vast audience by intimidating it through selected acts of violence. It stands to reason that violence exerted in the form of a status demonstration sent a very strong signal to all other freemen to strictly comply with the rules established by the dominant elite. And it can be assumed that the audience certainly understood this message. This wider aspect of control need not have been intentional, the individual *Datu*, who killed a disobedient freeman and enslaved his family, need not have had the intention to send a signal to all other freemen, yet, it is hardly imaginable that the action did not have exactly this effect.

#### Mechanisms of social control in the pre-colonial and pre-Islamic Philippines

	Mediation/Arbitration/ Adjudication	Blood-Feud	Status demonstration
Parties involved	trilateral	bilateral	unilateral
Area of application	(mostly) control of deviant behavior of members of lower status group	serious conflicts between members of the dominant status groups	reaction to massive rule violation by members of lower status groups
Direction of control	vertical	horizontal	vertical
Agents of control	ruling status group	ruling status group	ruling status group
Intent of control	compensation and restoration of order	protection against loss of status	demonstration of status and power
Principle of justice	to each his own	to each the same	to each his own
Level of physical violence	low	extremely high	extremely high
Forms of violence	corporal punishment	killing	killing, enslavement

The above sketched status demonstration obviously is not state terror in the strict sense, as a state or something akin to a state was non-existent in pre-colonial Philippines. In our context, it was violence employed by the dominant status group, the establishment itself, in order to control the lower status groups. The context, akin to establishment violence and state-terror was one of “illegality” or legal ambiguity. Despite being an established social practice, there are no indications, that this type of violence was in one way or another derived from or sanctioned by customary law. The two probably coexisted side by side, meaning that the traditional systems of mediation and adjudication were abrogated

in certain instances. Whereas in the cases of the blood-feud this abrogation was regulated and eventually customary mediation mechanisms were brought back into operation, the abrogation was permanent in the case of the status demonstration. This violence can further be classified as terror, a categorization that refers primarily to the presumable effect of such acts on the relevant audience: the community members belonging to lower status groups at large. Thereby this type of violence satisfies the probably most crucial criterion of the term terror – that the violent activity conveys a message of threat and intimidation to a group of people much larger than the number of victims.<sup>4</sup>

### **3. Social Order and Social Control in Muslim-Mindanao up to the early 20<sup>th</sup> century**

#### **3.1 Anarchical competition within an order of sanctified inequality**

Islamization of the future Muslim regions on Mindanao and the Sulu-Archipelago began in the 15<sup>th</sup> century, commencing in the Sulu-Archipelago, mostly settled by the Tausug and the areas around the mouth of the Rio Grande de Mindanao, settled mostly by Maguindanao. Later Islamization progressed northward to the areas around the lake Lanao, settled by the Maranao. Whereas in the first two regions, the coming of Islam was coequal with the establishment of single Sultanates, the Maranao areas continued their traditional organization, various traditional leaders taking on the title of Sultan, to enhance and sanctify their dominant position. Despite the introduction of the Sultanates, political power and authority mostly stayed with the *Datus*. On a practical level, political organization hardly ever surpassed the level of the *inged*, or village. It is on this level that “political institutions, inheritable titles [...], the fixed association of particular lines of descent [...] and differentiation between the various ranks of descent lines are manifested” (Baradas 1973: 275).

Despite Islamization all three regions remained segmentary polities in that they “lacked a territorially fixed corporate group under the absolute tutelage of a political leader with true coercive power over his subjects” (Junker 1999: 68). Even in Sulu, the Sultan had no

“formal political authority which does not have its counterpart on the local level. [...] The sultan can be viewed as an extremely powerful headman, while the local headman might be viewed as a petty sultan in his own domain. The differences between them are not in types of authority available to them, but rather in the extent and range of that authority. In order to enforce decisions, the sultan has to depend on the extent and range of his alliance network. [...] raw power or

4 For definitions of terror and terrorism see for example Claridge 1996; Jackson 2008; Ruby 2002; Schmidt 2004; Schmidt 2011.

force (the capacity to use violence for legitimate ends) moves upward [...]. Central and peripheral authorities are mirror images of each other; both have the same rights and obligations vis-à-vis the political system” (Kiefer 1972: 109).

The low level of integration is possibly best illustrated by the Muslims’ resistance to Spanish rule, which despite the high level of formal integration via the Sultanates was at no point in time put up in a coordinated or joint manner (Federspiel 1998: 347). Whereas at times Sultans actually seemed to have had some degree of authority over the territories proclaimed to be under their rule, for most of the time, the Sultans should be seen as *Datus* amongst *Datus*, whose influence depended on their capacity in building alliances (Kiefer 1967: 24; Loyre 1991: 23).<sup>5</sup>

Four hundred years after Pedro Chirino’s characterization of the regulated anarchical practice of traditional Philippine inter-barangay relations cited above, an American observer on Moro governance, gave a strikingly similar account of contemporary conditions at the beginning of the 20<sup>th</sup> century:

„The Moros [...] have no general form of government, are broken up and divided into numberless tribes and clans, each ruled by a Sultan or Datto [sic]. These petty chiefs are practically independent of any superior control and are powerful in proportion to their following and their weapons of war. They make peace and alliances with each other; fall out and quarrel whenever any disagreement springs up; wage war on each other, and are generally in a state of perpetual fear and distrust of neighbors; [...] every Datto and Sultan is a law unto himself and has the power of life and death over his followers. No war lords are paramount” (Davis 1903, Appendix II: 28+36).

This semi-anarchical state of affairs should not be mistaken for a retraction of the hereditary claim to leadership. To the contrary, by claiming descent from Mohammad the traditional legitimation was even sanctified (McKenna 1998: 66). Consequently, genealogies (*tarsila*) became crucial means for upholding or acquiring the right to *datuship*. Through the *tarsilas* “proofs par excellence of legitimacy not only for a family or elite to rule a people but also for them to serve as religious leaders of the community” was ascertained (Majul 1973: 3). In addition, the *tarsilas* established the right of these leading families to territory. This was based on the fiction, that the first Muslim ruler married “a local girl, preferably a princess belonging to the older aristocracy” (Majul 1973: 5). Thereby traditional rights to rule and the new Islamic ones were merged into a hybrid order, which might likewise be characterized as an enculturated, localized Islamic order or an Islamized local culture. As descent was not only traced to some famous ancestors or legitimated through purportedly aristocratic bloodlines, but to the progenitor of the Sultanate and thereby to the Prophet itself, this order became sanctified and undisputable.

5 Captain Wilke, who visited Sulu in the 1840s, reported that “such is the absence of legal restraint, that all find it necessary to go abroad armed and accompanied by a trusty set of followers, who are also armed. [...] according to the Datu’s account, frequent affrays take place in the open streets, which not unfrequently end in bloodshed. Caution is never laid aside, the only law that exists being that of force [...]” (Wilke 1842, in: Blair/Robertson 1903-1909, vol. 43: 166).

This local ideology of sanctified inequality was presented to the new American administration by two powerful Tausug *Datus*, who argued in 1901 that “nobody should be allowed to interfere with the administration of the country who is not fit for it, not being a chief by heredity, as others than those do not know their own rascality” (*Datus Calbi and Joakanain 1901, in: MacArthur 1901, Appendix P: 42*).

However, in practice leadership positions were highly contested and genealogical legitimation could rather easily be construed in an order where a large array of persons could claim royal blood. So in effect, “the personal attributes of a datu, especially his ability to command fear and deference, remained a key factor to his political success” (McKenna 1998: 57).<sup>6</sup> Likewise the belief in the necessity of a genealogical legitimation of claims to dominance is still firmly anchored in the elite and the population alike. The endurance of both of these characteristics will be illustrated below.

### 3.2 Adat in an Islamic guise

Islamization had a significant impact on traditional practices of social control. However, as tradition and Islamic faith by and large harmonized quite well, these were in effect much more of a rhetorical quality, than any changes in substance. The limits of actual Islamization become obvious in the observations of contemporary observers. Commenting on Maguindanao before the rise of the numbers of *Hajjis*, a Christian priest commented, that “Islam, or more accurately its clergy [...] used to be pretty nearly extinct. Wherever they were [...] they were guided by ancient customs, and their number had greatly diminished” (Father March in Iletto 2007: 70). For the late 19<sup>th</sup> century Pablo Cavalleria reports of Basilan:

“They are not very observant in their ceremonies. They omit many of the rules of their false prophet Mahomet, add others which are not prescribed, and observe some, but in the time and manner that appears best to them. For example, they do not pray even at least once a day, almost never observe Friday, and it is never seen that any of them has gone to Meca [...]. On a certain occasion several chiefs and imams gathered together; and when speaking of Adam and Eve, they did not succeed in telling who were their parents, and they had recourse to the missionary in order that he might instruct them on that point. They do not know either, the day on which their Mahomet was born, or much less any of his history” (Cavalleria 1886, in: Blair/Robertson, vol. 43: 256f, 263).

The 15<sup>th</sup> to the late 19<sup>th</sup> century saw a hybridization of two different legal systems, Islamic law (*sara agama*) and traditional law (*sara adat*) as well as its partial codification (see Saleeby 1976). The fundamental principle of “each according to his own” was upheld, likewise the focus on minimizing corporal punishment in favor of fining did not change. In effect, it may be argued, that for all practical reasons, the pre-Islamic practices by and

6 For the role of these qualities in the late 20th centuries see: Salazar (1995: 56).

large stayed intact, as long as they could be defined as being in accordance with the basic precepts of Islam.

Saleeby, commenting on local practice, pointed out, that

“The Moros are not strict nor just in the execution of the law. The laws relating to murder, adultery, and inheritance are seldom strictly complied with. Indeed, the laws of inheritance as given in the Luwaran are generally disregarded and are seldom considered at all” (Saleeby 1976: 70).

In practice *sara agama*, while normatively superior, was less important than *sara adat* with respect to actual conflict resolution and social control. The Maranao for example exhibit two different strands of traditional authority: the *Agama*, based on the mosque, and the *totonganaya*, a kinship organization which has “an autonomous area of authority over its own members” (Sumaguina 1988: 24). This latter system and not the mosque-based *Agama* has “the most effective control, power and influence over the villagers and to which the villagers give strongest attachment, loyalty, obedience, and support (Sumaguina 1988: 37). Even though the *Agama* community is denoted by its Islamic markers, the order constituted by it rests on the “Maranao indigenous system of law, beliefs, and values, e.g. the *taritib*, *adat* law and *maratabat* (descent, customs and status; P.K.)” (Sumaguina 1988: 44). In both types of authority structure tradition clearly outweighs religion.

How far cultural adaptation could go can be illustrated by the example of incest, which was to be penalized by death. For the Tausug this meant that the culprits were put into a bamboo cage and drowned in the sea. In practice, however, only their clothings were drowned: “This allows their *dusa* (sin) to melt altogether in the ocean floor. To culminate the symbolic drowning, an animal sacrifice known as *pag-sugsug-tawbat* (ritual of repentance) is offered” (Jundam 2006: 34).<sup>7</sup> Flogging should be performed by a strong member of the group with all of his strength. Hadji Jundam reports that „In practice, however, the violators are flogged symbolically for 100 times with rattan in a secluded room. An aged Imam performs the flogging with the least strength he can“ (Jundam 2006: 46).

It is also important to note that such formal adjudication was the exception to the rule of mediation. Only a small number of delicts were understood as public delicts, offenses against god or the community, and as such dealt with by legal authority “and only in these cases is punishment applied impersonally, by persons other than the offended party or those acting on his behalf” (Kiefer 1967: 23). Most violations fall under a category somewhat akin to private law, where a resolution rested on the consent of the parties to the conflict. Even serious cases as murder, revenge and theft or robbery were normally resolved by mediation and not adjudicated.<sup>8</sup> Mediation did not aim at unearthing the truth, but at achieving an

7 However, a 17<sup>th</sup> century author gives a different account, noting that in cases of “the unnatural crime [most probably homosexuality; P.K.] [...] having caged the offenders, they throw them into the sea, and destroy their houses and fields, by such punishment to make demonstration of their abhorrence (Combés 1667, in: Blair/Robertson 1903-1909, vol. 40: 150), showing that respective penalties were under certain circumstances actually implemented.

8 On different types of conflict resolution see Jundam (2006) for the Tausug, see also Loyre (1991) for the Maguindanao. For the Maranao see Bentley (1983, 1984); Sumaguina (1988); Warriner (1975a, b).

optimal solution to the conflict to which both parties could consent (Jundam 2006: 33-36; Kiefer 1972: 10). As Kiefer reports for the Tausug of the late 1960s (!):

“All cases of murder and most cases of theft, offenses against honor, and some sexual offenses fall into this category. In practice the amount of centralization of leadership in a community will greatly affect whether the offense in any given case fall into the ‘public’ or ‘private’ sphere” (Kiefer 1967: 23).

### 3.3 Blood-feuding as a form of social control

Irrespective of ethnic group, with respect to a large number of deviant acts, blood feuding was deemed to be the ethically superior way of reaction, when compared to mediation or adjudication. Bentley points out, that „If a disputant is determined to fight to restore his maratabat [honor, status; P.K.], then trying to force a settlement would be immoral“ (Bentley 1983: 279; Bentley 1984). The disputants’ determination to wage a feud, however, seems to have been directly related to his social status, feuding being mostly a prerogative of the ruling status groups. Higher status groups can be said to have had more honor or status (*maratabat*) that had to be defended:

“Because of your maratabat, you have to prove to everyone in the community that you can exact vengeance and are capable of erasing the black mark on your forehead or your family’s. This maratabat triggers rido [blood-feud; P.K.] and complicates it“ (Interviewee, cited in: Bartolome 2004: 53).

Feuding had three core functions: it constituted the behavioral core of a perennial competition for status and power amongst the elite; it separated the elite from the lower classes, and it provided a mechanism of social control against norm violations within the ruling strata. This mechanism, however, could only prevent initial acts of violence, as it threatened any initial violator with massive retaliation. Whenever deterrence did not work, feuding violence normally had to take its course, as no side could back down too early without seriously damaging its maratabat. Feuding then provided part of the deterrence that was largely lacking in the system of mediation/arbitration, a deterrence against horizontal violence within the higher status groups.

### 3.4 Status demonstration as social control

Status demonstration had a similar deterrent effect threatening members of lower status groups with massive retaliation in case of misbehavior against members of the upper-classes. This practice of vertical social control also survived Islamization unscathed, exemplifying the rather high level of arbitrariness inherent in the overall system of political and social domination. The fundamental message conveyed by acts of status demonstration was, that nobody was allowed to challenge the *Datu*(-class). Information on such practices has to be culled from the descriptions of foreign travelers who for shorter or longer periods visited various Moro areas. Even though their prejudice must be taken into account, nevertheless the various accounts present a rather clear-cut picture. One of the earliest reports is presented by Francisco Combés in the 17<sup>th</sup> century. His description



gives an example of a would-be status demonstration that did not take place because of Spanish presence. Combés reports that in Iligan a local high ranking Muslim complained to him, that his wife had been insulted by a common woman, continuing: “Father, if the Spaniards were not here, and we could rule ourselves by our own laws, we would have made mincemeat [gigote] of that woman with a campilan [a single-edged sword; P.K.], and slaves of her brothers and sisters and relatives” (Combés 1667, in: Blair/Robertson 1903-1909, vol. 40: 149). Combés, as later observers, regularly commented on the arbitrary power wielded by the *Datu*-class, who “meddle wherever they wish, without other law than their power and will and their unbridled greed, and the one injured has no recourse” (Combés 1667, in: Blair/Robertson 1903-1909, vol. 40: 154). In the early nineteenth century Charles Wilke, an American captain reports, that on Sulu

“it being treason for any low-born freeman to injure or maltreat a datu, the latter, who are of a haughty, overbearing, and tyrannical disposition, seldom keep themselves within bounds in their treatment of their inferiors” (Wilke 1842, in: Blair/Robertson 1903-1909, vol.43: 166).

Half a century later Pio Pi, the Superior of the Jesuit Order in the Philippines, certainly a radical advocate of a harsh policy against the Moros, presented a manuscript to the new American colonial power, in which he described the Moros from a highly critical viewpoint. Despite the strong prejudices pervading the document, a number of details deserve closer attention, as they are supported by other reports of the time. Pi for example reported stories told to him about *Datu Uto*, the most powerful *Datu* of the upper valley in Maguindanao, in the late 19<sup>th</sup> century.<sup>9</sup> He reports that *Datu Uto* punished those

“who escaped from him [...] by cutting the tendons below the knees so that they would be unable to run and walk only with difficulty. Others he ordered to be bound in a place swarming with red ants which are very vicious [...]. Others he cause (sic) to be bound naked to the trunks of trees and exposed by the day to the burning rays of the sun and by night to the agonizing torments of the mosquitos [...]. It happened once that Uto put someone in stocks where he died slowly of hunger and misery” (Pi 1903, in: Davis 1903, Appendix V: 140).<sup>10</sup>

9 A contemporary observer, Pablo Pastels, gives, in a nutshell, the local ingredients of power and authority by characterizing *Datu Uto*: “his natural talent, his prestige, his riches, his supporters and above all his fiery despotism, had created around him a certain air of glory which made him like a feared idol” (Pastels cited in Ileto 2007: 57). It should be noted, that Utos personal bodyguard did not consist of locals, but of *banyaga* slaves, who were personally bound and loyal to him, one Spaniard calling them “paid assassins” (Ileto 2007: 60). Uto’s reign “was marked by instances of terrorism and assassination undertaken by his slave army against recalcitrant datos” (Ileto 2007: 63). The basis of power then as now is: “a sizable amount of wealth, a strong following and firearms” (Ileto 2007: 63).

10 This account is also mirrored in local official presentations of Moro governance. The hagiography of *Datu Piang*, who eventually toppled Uto, given in the 1952 Cotabato Guidebook, tries to legitimate his actions, by focusing on the defects of Uto, who as the Guidebook reports “was a very cruel ruler. The story of the acts he committed against his subjects are unprintable. One day the whole inhabitants of a barrio near Otto’s [Uto’s; P.K.] capital at Sapakan, emigrated [...] to escape from the cruelties of Datu Otto” (Millan 1952: 291). After Piang’s takeover, which came after a drawn-out battle, the former overlord is claimed to have handed the mantle of overlordship to the winner with the words: “you have demonstrated to all and sundry that you are a good worthy leader. I see in you the unity of our people. [...] Henceforth, you shall be the leader of the people” (Millan 1952: 292).

Broadening beyond the person of *Datu Uto*, Pi comments:

Another of the punishments meted out by the dattos, is that of throwing those they wish to chastise into the river with their bodies encumbered with an immense stone [...]. From the cruel *Datto Andung*, [...] there once escaped a slave [...]. *Andung* [...] put him to death with a kris [dagger; P.K.]” (Pi 1903, Davis 1903, Appendix V: 141).

In Jolo, Pi reports, there was a Moro, who had once disrespectfully spoken to a *Datu*. The latter ordered

“his mouth to be slit [...] transversely, deepening it up to the articulation of the jaw-bone [...]. The datto remained unmolested; according to his laws or customs he could do as he wished” (citations: Davis 1903, Appendix V: 142).

Pi’s remarks are mirrored by a description of olden times given by a local *Datu*:

“To express one’s opinion unasked on any question invites not only dire consequences but almost certain condemnation or even death. One who expresses his opinion, especially if in protest against any despotic act of the ruling tyrant usually brings death upon the hapless one and slavery to his family. In extreme cases the offending subject may be publicly executed to give an example to the whole people” (cited in McKenna 1998: 65).

The absoluteness of arbitrary rule is illustrated by a local, who revealed that a former *Datu* and his men sometimes raped “wives brought to the datu by their husbands for judgment”, others recalling stories “of *datus* raping young unmarried women accused of unlawful (usually premarital) sexual activity or elopement” (McKenna 1998: 63).

The first American commander on Jolo in 1901 reported to his Superior that “the condition under the treaty [...] gives them [the *Datus*; P.K.] supreme and arbitrary power from which there is no appeal and allows them to do what they like with the people” (Kobbe 1901 in: MacArthur 1901 Appendix P: 2), an evaluation that is given ample evidence in the attached report and exchange of letters between the local commanding officer, the Sultan and several *Datus* (for the text of the letters see: MacArthur 1901, appendix P: 30-49). The American officer for example reports the case of one *Datu*, who bought several oranges only to discover later, that another *Datu* got a few more oranges for the same price. He went to the seller and tried to kill him with several shots, however, only succeeded to wound him at his elbow (MacArthur 1901, Appendix P: 47).

All these examples illustrate that the terror-dimension probably has become much more prominent in status demonstrations. Whereas Placencia’s record still points to significant norm violations which trigger status demonstrations, the outline given above signals, that even small infractions could trigger a massive response and that such demonstrations in a number of cases were not preceded by norm violations at all. We now have a mix of discriminate and indiscriminate violence, a mix of “punishment” and pure terror. It certainly is no coincidence that the bodyguards of various *Datus* were not composed of members of the family or the community, but of slaves from other regions (*banyaga*) who had no other tie than to the *Datu* himself. If they served well, they could rise, if they provoked the ire of their master, they could be put at death at will (Warren 2007: 216-217; see also McKenna 1998: 65).

### 3.5 The interrelationship of different forms of physical violence

Violence had at all times an integral part in conflict resolution and social control. As Thomas Kiefer pointed out in his study on Violence and Law in Tausug society, physical violence is the appropriate reaction in a variety of situations. For the Tausug violence relates to being *maisug*, a term, which denotes

“a kind of esthetic ideal with reference to a personal life-style; while violence may be morally wrong to the Tausug, it is still necessary to sustain that life-style. [...] All violent acts hinge around the concept of *sipug*, or shame. The brave man must see that his shame is erased, not necessarily because it is morally good to do so, but because it is necessary to sustain his self-image as a brave man. [...] The purposes of violence determine its good or evil character, not the fact of violence as such” (Kiefer 1972: 53).

Violence therefore is no last resort for upholding order, but a consciously chosen strategy of maximizing domination. Kiefer commenting on the possible antinomy between justice and order, argues that if both cannot be upheld at the same time, the Tausug always opt for the former, and may be “willing to bring down the whole world in chaos in order to achieve it” (Kiefer 1967: 26). The present report doubts the centrality of justice as a motive for violence and instead points to the pursuit of power and status, which is best served in the context of an ideology that legitimizes the unconditional right of the dominant status groups to arbitrary forms of self-help. Violence exerted in the context of social control and domination was never encumbered by notions of legitimacy. As Jeremy Beckett, argues in a study on Maguindanao clans, “personal power could never be contained by notions of order or legitimacy; to a degree power became its own legitimacy. [...] finally, a datu was what a datu did” (Beckett 1982: 396). Loyre in her analysis of Maguindanao society comes to a similar conclusion: “The common people thus lived entirely at the mercy of their rulers. [...] He [the ruler; P.K.] could behave as he wanted without any fear of punishment whereas commoners would often pay with their lives for simple misbehavior” (Loyre 1991: 26).

The view on historical practices of social control and domination has shown that violence occupies a much more central role in upholding the traditional order, than becomes visible in analyses which focus on the ruling ideas proclaimed by the *Datus* and Sultans. The focus on violent social practices made visible a hidden transcript of domination, which to a significant extent relied on physical violence to enforce the dominant order. We encounter a social order, in which the powerful ensured social control not only by physical punishments sanctioned by customary law, but resorted to terroristic strategies of intimidation through indiscriminate violence. Whereas in other contexts resistance or rebellion would have been an option, this seems not to have been the case in Muslim Mindanao. Here the ideology of sanctified inequality with its core building block, the genealogical legitimation of leadership, provided for a hegemonial worldview that turned being ruled (*endatuan*) into the unalterable natural condition for the majority of the people.

At least in the late 19<sup>th</sup> century, it seems safe to conclude that various forms of social control violence actually lost their rationale, that would have limited them to the enforcement of rule-abidance. Feuding and status demonstration partly merged, losing their

distinctive traits. Both of them also became (or probably always had been) tightly connected to raiding violence, so that theft was countered not by the feuding logic of revenge in the form of killing, but by counter-theft. Data are obviously hard to come by, however, the accusations and counteraccusations made by two opposing camps of *Datus* in early 1901 give a snapshot of the actual violence patterns, as far as intergroup violence is concerned.

#### Losses of contending parties in one prominent “feuding” relationship on Jolo January-March 1901

	freemen killed	prisoners taken	slaves stolen	horses stolen	fire weapons stolen	buffalos stolen
Sultan/ <i>Datu</i> Indanan Camp	3	9	7	23	2	4
camp opposing Sultan/ <i>Datu</i> Indanan	5	>38 (6 sold as slaves)	2	33	—	7
total number	8	> 47	9	56	2	11

Culled from letters printed in: MacArthur 1901 Appendix P: p. 26-45

The total population of Jolo at that time stood at about 51,000 inhabitants (Census 1903: 14). The data presented only refer to the followers of a small number of (powerful) *Datus*, and a short time span of about 3 months. As there is no information about the percentage of followers of the involved parties compared to the overall population of the Jolo, we can only calculate on the overall number of 51,000. Projected on the whole year, this would mean 32 killings, or 64 killings per 100,000 inhabitants, which in all probability is a very conservative estimate as the contending parties did not comprise the whole population of the Island and the parties only reported those killings that in their view could be attributed to their opponents. So overall violence is supposed to have been much higher.

These data show that mutual raiding, killing and stealing was not deemed to be some sort of criminal or normatively untenable behavior. Quite to the contrary, all of these activities were part of an action-reaction chain, through which relative status and power were constantly challenged and rebalanced. This can indirectly be culled from an answer from one of the *Datus* to the American commander’s order to stop stealing. He begged “to inform my father [the American commander; P.K.] that from the time my father requested that all stealing should for the present be stopped, our men have stopped it” (letter of *Datu* Calbi in: MacArthur, Appendix P: 44).

## 4. Social order and social control after World War II

### 4.1 The Social Order: Continuity amidst Change

In the wake of the American acquisition of the Philippines from the Spanish in 1898, the Muslim regions, which hitherto had been self-governing units, were eventually integrated into the broader colonial political system. The Muslim elites had to contend with and adapt to the powerful new structures of the modern nation-state and democracy. At the same time, albeit with some delay, they were confronted with a rising tide of Christian settlers, who tried to make their luck in the sparsely populated regions of Muslim-Mindanao. Finally they had to contend with revolutionary Muslim forces, led by Moro counter-elites who threatened the traditional *Datus* grip on power.

Despite these profound changes the traditional elite of *Datus* survived as the locally dominant political actors, even though, a number of new names were added to the traditional roster, some old names dropped and the two liberation movements had to be accommodated in and outside of the new form of parliamentary mainstream politics. Both the principle of sanctified inequality and the fairly unlimited power of the ruling *Datus* survived all structural changes and are still in full force today. A large number of locals still clings to the notion of the *Datu* as a hereditarily legitimated leader, equating *Datuship* with “royal descent” from both paternal and maternal sides, leading the author of a survey on Maguindanaoan perceptions of leadership to conclude that leaders by and large

“must come from the noble families of Maguindanao. Thus traditional leaders acquire their positions through heredity. They have a stronghold on the people and even on the government system. This explains the continuing status of the *datus* as traditional and political leaders” (Salazar 1995: 46).

Conveniently forgotten is that those “nobles” of the late colonial and post-colonial era “generally had only tenuous ties to the high nobility of the Cotabato sultanates, and some had none at all. [...] the new *datus* created their own *martabat* [status position; P.K.]” by factual control undergirded by a strategy of strategic marriage with females of noble descent (McKenna 1998: 101). These efforts to establish themselves as traditional *Datus* aimed firstly at securing legitimacy in the eyes of the local populace and secondly at impressing “American colonial agents and Christian Filipino nationalists by confirming their preconceptions about the continued importance of a potent and exotic Muslim nobility” (McKenna 1998: 103).

Despite all the state- and democracy-building of the past century *Datu*-rule on the local level is still unencumbered of any serious limitations. As one of the author’s interview partners pointed out, leadership still rests on fear and respect: „you have to exact fear from your constituents. It gets you respect“ (Interview Cotabato 2004).

Becket in his report on the *Datus* of the 1950s to 1980s formulates in a similar way, that:

„By his power he [the modern *Datu*; P.K.] brings order into the world; by the same power he can destroy that order. [...] Implication in kidnappings, coups, fraud, venality, and murder do a [...] datu's reputation no harm, so long as he gets away with it“ (Bentley 1994: 277).

The crucial structural change for the *Datus* was twofold: firstly, from the early 20<sup>th</sup> century onward, they were part of a much larger and potentially powerful political structure – the state – in which they had to find their place; secondly, whereas traditional authority had fused political, social, economic and cultural leadership, modern society differentiated these roles and the *Datus* had to succeed in uniting these formally differentiated spheres into their hands, in order to survive as supreme class.

Survival in the state proved rather easy, as the new *Datu*-politicians successfully bartered votes and political loyalty for disengagement and disinterest of national politics with respect to their local dealings. By and large national level politicians were quite content with not meddling in local politics as long as the local leaders delivered votes for them. Thereby, the local *Datu*-politicians could muster the arsenal of state inducements and levers to further their local dominance, converting funds and budgetary allocations into private sources for patronage and utilizing the municipal police and the opportunity of establishing private armies for building up formidable instruments to assert their will. Inter-*Datu* competition continued in its modern guise of electoral politics, heavily underpinned by arbitrary use of physical violence.

The modern state offered them not only options to legalize their small private armies by converting them into local police forces or police-auxiliaries and thereby “socialize” at least part of the cost, but it further helped by providing most of the weaponry. Whereas private armed groups existed in most parts of the Philippines at least since the early 20<sup>th</sup> century, their numbers most of the time not exceeded a few dozen men, only some politicians commanded groups of more than 100 to a few hundred armed followers. Currently it is said, that in the province of Maguindanao there are 25 known private armies, 45 in the ARMM and 102 in the rest of Mindanao, the latter number underscoring, that the problem definitely is not exclusively a Muslim problem (Centre for Humanitarian Dialogue 2011: 24). The Moro regions do not differ in principle; however, they slowly came to differ in number. Not only did they harbor a vastly disproportional number of private armed groups, those groups in addition were significantly larger than the “normal” ones. In the early 1990s one earlier MNLF commander, Tupay Loong, then governor of Sulu, is said to have had more than 1,000 armed followers. The current office-holder Sakur Tan controls up to three thousand armed men. The dreaded Ampatuan clan who dominated Maguindanao politics from 2001 to 2008 established a private force estimated at 3,000 to 5,000 men. In all of these cases, the majority of armed men belonged to the police auxiliaries, meaning that they were paid out of state coffers. As the active involvement of high ranking police officers in a massacre committed by the Ampatuans in 2008 underlined, even the regular police was thoroughly privatized. Modernity brought another significant change that to a certain extent eroded the traditional mechanisms' capacity of conflict settlement: modern weaponry, with a vastly superior firepower. While in earlier times armed clashes resulted in a certain number of wounded, modern firearms made conflicts much more deadly. To a certain extent, these weapons also “democratized” local fighting, as they enabled the single assassin, to successfully attack his enemy, even though the latter

may be protected by bodyguards. Whereas a certain amount of modern weapons entered the region since the late 19<sup>th</sup> century, the biggest change came in the wake of World War II and later in the course of the secessionist war.

Despite the fact, that these two wars were important, insofar as weapons were widely spread, the argument that local violence exerted in the context of control and domination is the consequence of the massive influx of Christian settlers and four decades of civil war, cannot be upheld. The uses of violence in the course of local political competition and in social control of the general public, can be fairly well documented for the late Spanish time as well as the early American days, becoming prominent in the aftermath of the Second World War, which as mentioned above had brought a huge amount of weapons to the region.

Let us then turn to post-war Jolo and adjacent small islands, which did not experience any influx of new Christian settlers. In 1960 the intelligence Division of the Philippine Army gave a quantitative overview of the local violence situation. The analysts pointed out, that

“Sulu has the highest number of killings among all the provinces in the country with 179 registered murder cases and 62 homicides or a total of 241 in 1959, and a total of 243 registered crimes of which 47 are killing incidents from January to May 1960” (G2 Division Philippine Army 1960: 15, in: Department of Defense 1960).

On a per capita basis, this amounts to 100 killings per 100,000 inhabitants for the year of 1959 – practically all of these killings being amongst Muslims. Eight years earlier in 1952 a former governor of Sulu had already reported to the President about a “post-liberation resurgence of widespread and big-scale outlawry in Sulu” (Fernandez, Leon, Ex-Governor of Sulu, 1952, in: Department of Defense 1960, Annex D, Enclosure 1: 1).<sup>11</sup>

When asked for the fundamental reasons for the high levels of violence in the 1950s, most of the respondents (all local politicians, and other local leaders) pointed to political competition and family or clan feuds, with the Department of Defense officials summarizing the various voices:

“Customs and traditions still play a big role in the settling of disputes by force. The Muslims still take the law into their own hands in carrying out vengeance for the murder or death of their kins (sic) in the hands of another. [...] Strong political rivalries and religious strife which foment clashes among opposing parties and contribute to the chaos brought about by outlawry. [...] Land-grabbing caused by relocation of cadastral survey markers leading to family feuds and vendettas which exist up to now” (Department of Defense 1960: 3).

A few years later Kiefer reports a host of revenge killings amongst the Tausug on Jolo for the mid-1960s, with one municipality, Luuk, which at that time probably had no more than 35,000 inhabitants, having at least 125 killings in a two year timespan (1964-66)

11 In 1948 already then Sulu Congressman Sultan Ombra Amilbansa sought an amnesty for 15,000 Moro outlaws on Sulu. As the Mindanao Cross reported at the time, „there was no clear cut reason given why the Moros took up arms against the established authority of the province“ (Mindanao Cross 14 August 1948: 3).

(Kiefer 1967: 27). This would make for a homicide rate of nearly two hundred per 100,000 inhabitants and would mean one of the highest rates worldwide. All this violence happened on islands that were not to any significant degree influenced by transmigration, neither were there any visible precursors of counter-nationalistic violence.

At least during the 1950s Maguindanao, then dominated by the “team” of *Datu* Udtog Matalam and Congressman Salipada Pendatun seems to have enjoyed significantly lower levels of visible violence. However, there were reports on armed clashes between the scions of established political clans, as for example the Sinsuat and Mangelen in Cotabato,<sup>12</sup> which led the Philippine Constabulary to place “a twenty-four hours guard in town. Added to this patrolling are armored cars to prevent any possible showdown as both camps showed signs of hostility” (Mindanao Cross 23 June 1956: 10).<sup>13</sup> A few days later other young members of the Sinsuat family were reported to have shot at, but missed a local official (Mindanao Cross 14 July 1956: 1). The following years are replete with reports on various types of killings for which generally no motive could be established and which seemed to have gone unpunished (see reporting in Mindanao Cross).

The most crucial change with respect to political dominance in Muslim regions was the development of the insurrection forces of the MNLF in the late 1960s and later the MILF, both of which were led by Muslim counter-elites, who aimed not only at self-determination for the Moros, but also at social reform and a reframing of *Datu*-rule on the line of a more responsible and morally sound governance. However, the *Datu*-class fairly easily survived this threat to its predominance, by partly joining the movements and at the same time working on the side of the government, by co-opting strong movement leaders and letting them set up certain personal fiefdoms, by allowing movement cadres to take part in local and regional politics in order to drive them out of these positions after they had lost their military clout. One example of a co-opted leader would be Muslimin Sema, a core-leader of the MNLF and in the meantime one of the most powerful local politicians in Cotabato City, whose wife, who is related to both the Sinsuat and the Ampatuan Clans, managed to become congresswoman in the 2010 elections. During his first term as mayor of Cotabato City, Muslimin Sema expounded his understanding of leadership in the following way:

„We respect our father. Whatever our father says, it goes. And the Filipinos as a family, the father dictates the family. And the family is a small governance. [...] There must be some power

12 The Sinsuat Clan had dominated local politics until 1953, when one family member lost in the mayoral race for Cotabato City to *Datu* Luminog Mangelen, who could count on the help of provincial Governor Matalam and Congressman Pendatun.

13 Information on earlier feuding is rather sparse; however, the Mindanao Cross provides a lot of information on feuding in the 1950s, in which the Sinsuat Clan featured prominently. For a detailed account of one earlier feud between the Mastura and the Sinsuat clans in 1940 see Horn (1941: 166-168). For a later clash involving members of the Sinsuat clan and resulting in several deaths, see Mindanao Cross (3 May 1969: 1, 10).



imposed in the family. So that the children will not make foolishness. [...] So the government must have the authority to discipline the children“ (Interview Cotabato 2004).<sup>14</sup>

Finally, even the MILF leadership is still thinking in categories of the primacy of the *Datus* within a system of sanctified inequality, as for example its vice chairman for political affairs, Gazali Jafaar, who in an interview with the author in 2005 stated:

“Speaking of Datu, royal blood. It is not a problem for us. You know why? Many of our leaders belong to the royal blood. You know, one of our senior leaders here is also a Datu. He is our Vice-chairman in one of the provincial committees, Datu Tak [?]. There are leaders here from South Kutawato<sup>15</sup>, from Pulumuluk [?], who belong to the Datu. So we don’t see this a problem for us” (Gazali Jafaar Interview 27 November 2005).

Currently the *Datus* have to share power with the MILF and the various remnants of the MNLF, however, it stands to reason, that the *Datus* will not only survive a peace agreement, but after a short period become dominant in any future polity as well.<sup>16</sup> The MILF deals with them, as if the *Datus* were the heads of political fiefdoms. Jafaar for example pointed out that the MILF meets

“with the representatives of the Datus, right here, Dimapalan, the Ampatuans, the Candao, the Baraguir, the Mastura. We met here. The purpose is to rally the support of everybody for finding a just and lasting solution to the problem and the effective implementation of that solution. And they all agreed” (Gazali Jafaar Interview 27 Nov 2005).

This realism of the MILF-leader acknowledges the *Datus* and their Clans as the real rulers of the lands: The Masturas ruling in the former municipality of Nuling, the Sinsuats in Dinaig, the Matalams in Pagalungan, the Midtimbang in Talayan, the Paglas in *Datu* Paglas, the Ampatuan in *Datu* Piang, Maganoy and Ampatuan municipality, the Mangudadatu in Buluan. “Clan politics remains strong in the province. Within the small fiefdom, the clan determines the leadership. But in the province, leadership belongs to anyone who can establish the greater alliance among these small Lords” (Mercado 2010). In the elections of 2010 in Maguindanao this meant a confrontation between two teams

14 A more drastic version of this self-concept is given by Wahab Akbar, Governor of Basilan and Congressman, who was killed in a bombing in 2007. He stated that people probably do not understand him, but: „It would be better to kill 10 suspects than to let the criminals go and let everybody suffer [...]. I have to be tough. I have to be a dictator. I must not show pity. [...] I have no time to explain to them what I am doing. I have no time to play politics. I have a lot of work to do. [...] Nobody should question me. I am the governor. I will do what I believe is good for the people, whether they like it or not, whether they will love me for it or not. I don’t care“ (Akbar cited in GMA News 2007). While denying to having ordered killings, his remarks clearly illustrate the role of killing in competition and control: „I haven’t killed anybody. People look at me as if I am a killer, but nobody has been killed on my order. Many asked for my permission to kill, but I would always ask, is there really a need to kill?“ (Akbar cited in GMA News 2007).

15 The Maguindanaoan Kutawato stands for „stone fort“ and is another reading of Cotabato.

16 Symbolically the encompassing pre-eminence of the *Datu* becomes visible in the practice of naming new or renaming old municipalities with the names of prominent Moros of royal blood, as for example *Datu* Abdullah Sangki, *Datu* Anggal Midtimbang, *Datu* Hoffer Ampatuan, *Datu* Paglas, *Datu* Piang, *Datu* Salibo, *Datu* Saudi-Ampatuan, *Datu* Unsay, General Salipada Pendatun, Rajah Buayan, Mangudadatu, Shariff Aguak, Shariff Saydona Mustapha, and Sultan sa Barongis, Sultan Kudarat, Sultan Mastura.

claiming royal blood – the Ampatuan-Sinsuat against the Mangdudadatu-Mastura tandem.

The only institution that by and large was discarded without any problems during the last century was the Sultanate. Even though a number of self-proclaimed sultans still exist, their political influence is next to zero, and the title of Sultan does not add additional features to the picture of the *Datu*-politician. When for example the old *Datu* Sinsuat, who carried the title of Sultan died in 1928, the Sinsuats let more than 50 years pass by, until they installed a successor Blah Mama Sinsuat (Salazar 1995: 58).

#### **4.2 Social Control in the Muslim Regions**

During the last decade official data on violence are down significantly, local police claiming about 30 killings (murder + manslaughter) in Cotabato City and about 22 in neighboring Sultan Kudarat province per year in 2009 and 2010.<sup>17</sup> Sulu police reports astonishingly low numbers of between 2 and 5.5 killings per 100.000 for the years 2002 to 2006,<sup>18</sup> which, however, considering the reports on crime and violent feuding on the islands seem to be highly unrealistic.<sup>19</sup>

If this relative downturn compared to the above cited data on the 1950s and 1960s was taken at face value, this would firstly mean, that the pre-civil war era had been much more violent than the current time, once more supporting this report's argument, that the problems of violence do not result from the civil war, but precede him. While pre-war violence could to a certain extent be connected to a settler influx in Mindanao in the

17 Own calculation on basis of data provided by Cotabato City Police in December 2010. By international standards 22 or 30 killings per 100,000 inhabitants is still very high. Data on types of violence traditionally connected to state control are hard to come by, however, according to the counting of the Human Rights Commission Cotabato is one of the cities with the highest numbers of enforced disappearances during the decade from 2001-2010, with respect to summary killings the provinces of Maguindanao and Basilan likewise belong to the negative examples with 57 and 48 victims respectively (Rosales 2011). However, there exist worse cases in all of these categories in Christian regions, illustrating that the problem of violence detailed in this report is not exclusive to the Muslim regions, but spread all over the Philippines.

18 Own calculation on the basis of PNP data (Province of Sulu no year given, 64).

19 In addition it might be noted, that numbers tend to diminish, as they go up the bureaucratic ladder, as experienced by the author in the case of Negros Occidental. Here official data given to the author by the provincial PNP showed crime levels that were three times higher than the ones printed in the Provincial Outlook published by the Provincial Statistics Office purportedly on data provided by the provincial PNP. Likewise, data obtained directly from the PNP showed a much lower crime resolution rate, than the ones given in the provincial outlooks. See also the new UNODC report on homicide; according to this report the Muslim regions together with the National Capital region are those with the lowest number of homicides and the lowest number of crimes involving firearms (UNODC 2011: 47). These results are best explained by significant underreporting and probably reduction of numbers as data go upwards the bureaucratic ladder.

1950s and 1960s this is definitely not possible for violence on the Sulu Archipelago, which was and still is dominated by a Muslim population.

Secondly, while not being able to go into details, it is important to point out, that state institutions neither then nor now play any significant role in controlling or suppressing violence, hindering locals to utilize “their” various peaceful and violent mechanisms for dealing with norm violations or providing viable alternative ones.<sup>20</sup>

The state security institutions, most notably the police, generally were made subservient to the local political overlord.<sup>21</sup> There also was and still is a broad-based practice of non-cooperation with state institutions, rendering them helpless. Finally, the state security institutions were never able to deal with serious cases of deviance due to lack in manpower and equipment. Likewise the legal system has always and still is largely irrelevant for the resolution of conflict and the application of social control. Most cases were and still are docketed as soon as they arrive at the courts, one crucial reason being that

“after the filing of a criminal case in the court, the relatives of the disputants on both sides would stop them from going to the court for formal trial of their case. Instead, the relative would persuade them to submit their case for traditional amicable settlement” (Sumaguina 1988: 81).

Various types of state-sponsored institutions for conflict resolution and social control like the Shariah courts and the Barangay Justice System seem hardly to be functioning even within their rather narrow jurisdictions, so that during the last few years, there has been a tendency of civil society organizations to develop new semi-traditional institutions which were tasked with resolving a host of intra-community conflicts up to longstanding blood-feuds and seem to have met with some success in the meantime. The drawback of this strategy of outsourcing responsibility has been that the already very weak legitimacy of formal state actors – judiciary and police) – was further undermined. At the same time the legitimacy of the new agents was not institution- but person-based. No alternative institutional set-up for dealing with conflicts could be put into place. Then as now, social control is largely beyond the purview of the state.

20 Kiefer for example noted for the 1960s that “In some very large feuds involving hundreds of participants and many warrants of arrests, an informal agreement will often be worked out among the principals to the feud, political leaders, the municipal judges, prosecuting attorney, as well as the Constabulary, in which the feud will be settled by traditional means. Then all warrants of arrest will be dropped in return for the surrender of several firearms to the Constabulary” (Kiefer 1972: 139).

21 Hard data to prove this impression which is general local knowledge and put forward by all interview partners is not easy to come by. However, in 1969 already the Mindanao Cross reported that local policemen had informed them, “that the police department is politics-ridden and lacking in proper organization. [...] ‘We don’t choose our men. Politicians give them to us,’ this officer continued” Mindanao Cross 22 March 1969: 1)

### 4.3 Mediation and Adjudication beyond the State

By and large the most important institution of social control, tasked with mediating and adjudicating conflicts up to the present still is the local *Datu* and corresponding institutions/groups centering around him. However, the *Datu*'s role seems to have been changing over the decades.

A respondent, characterizing Maguindanao society in the 1960s confirmed the still unlimited authority of the *Datu*. According to her, herself a descendant of one of the most powerful *Datus* of the time: "In the 60s and the 70s whatever the *Datu* says, everybody listens, whatever the *Datu* says, everybody believes, and whatever he says, everybody follows" (Interview Cotabato 2010<sup>22</sup>). Even though formally against the law, the *Datu* effectively was master of life and death in the areas and for the population he controlled.<sup>23</sup> He at that time still imposed the death penalty, as an interview partner pointed out: „If my grandfather [a prominent *Datu*; P.K.] finds the accusation as right or true then something happens, like, you would just say: ‘you kill that guy, because he is not doing anything good in the community’“ (Interview Cotabato 2010).

Even though many *Datus* at that time had already remade themselves into politicians, thereby fusing the authority base of the traditional with the modern leader (Saber 1982), their legitimacy as mediators and adjudicators with a sanctified right to impose their order on any dissenter still rested on their traditional authority and it might be added on their local monopoly on the legitimate use of violence,<sup>24</sup> as another interview partner, imagining himself as a *Datu* pointed out:

„I am the *Datu*, [...]. I am not showing my fire power, but everybody knows that I have the power and the monopoly. [...] First, I, as the mediator would rely on the respect I enjoy from the community. But everybody knows there is also an un verbalized statement that I can impose justice. I can enforce“ (Interview Cotabato 2010).

Politization and integration into the modern state institutions in the long run actually diminished the capacity of the *Datus* to provide effective dispute resolution, as evidenced by a survey in Maranao areas in the late 1980s already. There was already a significant difference with respect to the people's satisfaction with the dispute resolutions as per-

22 This interview as well as the interviews cited below was taken in late 2010 in Cotabato City, Davao and Manila. They were anonymized in order to protect the identity of the interviewee.

23 Nevertheless *Datus* and other elite members had to compromise with reality at least since the late 1950s, when levels of violence in Maguindanao and Lanao began to rise, mostly in the guise of banditry. Ingenious ways for dealing with new challenges were already developed in the 1960s and 1970s, illustrating, that control on a factual level was circumscribed. The Mindanao Cross for example reports one new strategy against the rampant practice of cattle rustling, which initiated in 1970: a solemn pledge on the Quran by all Muslim barrio officials that they would help each other "in wiping out cattle rustling and other forms of crimes". The local *Datu* promised "to help any captured outlaw provided the outlaw or rustler would promise before the Koran to reform and return to normal life" (Mindanao Cross 16 May 1970: 2).

24 For this reason every local politician as well as many *Datus* without official position had their small private army, which officially often posed as municipal police.

formed by the traditional as against the modern (state-based) institutions. Whereas 77 percent of respondents were highly satisfied and the remaining 23 percent nearly satisfied with the settlements provided by the traditional totonganaya and agama structures, the corresponding numbers for the Barangay institutions are 36 percent and 57 percent respectively with 7 percent feeling little or not satisfied (Sumaguina 1988: 77). Participation of political leaders was accepted, as long as these were at the same time perceived to be legitimated as traditional leaders, resulting in a type of participation, in which

“local government authorities [...] participated in the amicable settlement of disputes by asserting both their political and traditional powers and influences, by collaborating with the traditional leaders, and by applying largely the [...] indigenous and Islamic laws rather than the government system of law or the newly formulated rules of Barangay justice for the amicable settlement of disputes” (Sumaguina 1988: 80).

The problem seems to lie in the falling apart of the *Datu* as the supreme respected traditional leader and the politician, who while carrying the *Datu*-title, is no longer respected in a traditional context. The enmeshment of *Datus* in politics remakes them into partisans, thereby damaging their image as a kind of neutral force. As at times *Datus* opposed politicians (controlling private goons and the local police), they no longer could easily enforce their rulings, therefore abstaining from mediating or adjudicating in order not to damage their reputation. There is further a growing suspicion “some kind of manipulations do sometimes occur in favor of the rich, powerful and relatives of the *datus* and political powerholders” (Sumaguina 1988: 84-85).

With the continued politization of the *Datus* clearly their traditional standing suffered as their actions became more visibly focused on political gain. Whereas

“this are still the same clans, but [...] the war [...] showed both to the elites as well as their constituencies that the elites can choose to ignore, the powerful can chose to ignore the powerless for the simple reason that they have the power“ (Interview Cotabato 2010).

Since the turn of the Millennium alternative fora for dispute resolution were created which tried to provide modified versions of the traditional practices. Whereas a number of such institutions were created by civil society actors, the most prominent of them is the Shariah Court system of the MILF, which according to the judgment of all interview partners enjoys a good reputation for swift and just proceedings and judgments. These new institutions tend to replace the traditional as well as the state based ones, as these are seen as no longer credible or are simply no longer existent:

„in the rural areas [...] the barangay justice does not work. The mayor is not seen, the barangay captain is not seen. So the pragmatic reason for going to the MILF is because of accessibility, [...] the one institution that is constantly present in their communities is the MILF. Why [...] approach the MILF? [...] One obviously, insofar as these communities are concerned, it has the credibility“ (Interview Cotabato 2010).

The underground MILF Shariah Court seems to be fairly widespread and seems even to be used sporadically in urban areas. The courts deal with the whole range of conflicts from small breaches of local customs and norms (dealt with in the arbitration councils) to grave cases like rape and murder, a number of interview partners emphasizing that grave cases can only be resolved by the MILF courts in rural areas. In past years there have been a number of much debated death penalties handed down by MILF courts.

In addition, there were efforts to codify Muslim personal law beyond the purview of the official Shariah Court system as for example the new Tausug Customary Law, which was codified by a Committee staffed by local religious, political and social leaders and passed into law in 2002. The problem with such efforts is that only a small number of offenses can be dealt with, as officially customary law can neither contravene Philippine law nor go beyond the boundaries of personal law. Even though criminal cases are still widely mediated or arbitrated in traditional fora, this cannot be done officially, as legally these fora neither have jurisdiction over these cases nor do the resolutions correspond to Philippine national law. The language employed in such efforts, however, shows that they actually relate to a much vaster range of offenses, that corresponding reactions to norm violations go way beyond the legally permissible, that violations of norms or laws are still predominantly understood as conflicts between two parties and not as breaches of and that the right of the aggrieved parties to resort to self-help is still accepted. If for example a man and a woman of legal age elope in order to marry, the man has to pay 2,000 Pesos to the woman's family "in consideration to buy peace"; afterwards negotiations for a dowry and a bridal gift (*ungsod, mahr*) have to commence, "the amount must not be less than twenty thousand [...] pesos" (Sanguniang Panlalawigan Sulu Province 2002: Article 1). Touching a woman "with lewd design ... against the latter's will" is, similar to the old Sulu code, prohibited and carries specified fines relating to the part of the body touched and the time of the day (Article 3). A case of forcible abduction is also included in the customary law code. Once more the man has to send a significant amount of money (25,000 pesos) to the woman's family in "consideration to buy peace while the negotiation is ongoing" (Sanguniang Panlalawigan Sulu Province 2002: Article 1). Even attempted rape is dealt with in the code, once more the initial step "to buy peace" is by paying a specified amount of money, that enables the commencements of negotiations between the man's and the woman's family (Article 4).

In all of these cases the Code is silent on the consequences of a failure in negotiation. Likewise there are no regulations in this Code dealing with more serious violations like rape, manslaughter or murder, even though the style of the formulations make it plausible to assume that they are also dealt with under an officially non-existent code, which is structured accordingly: forcing the payment of a certain amount of money as a kind of deposit, that enables negotiations between the parties and, if these are successful a fine dependent on the status of the perpetrator and victim.<sup>25</sup> It stands to reason that traditional

25 Then as now, most cases, not being understood as offenses against the community or the moral order, but as conflicts between contending parties that have to be settled, are dealt with through mediation, including murder, major theft and a number of conflicts "involving insults to honor" (Kiefer 1972: 101). The aim of mediation is not so much to establish the truth, actually, as Kiefer argues "the outstanding characteristic of legal procedure in mediation is the irrelevance of the facts of the case to the mediator; settlement does not involve 'looking for the truth' but rather 'looking for goodness'" (Kiefer 1972: 101), meaning a resolution to which both parties agree. Typical cases for judgment are sexual offenses, abduction of women and the killing of a close kinsman, as well as sins against Islamic religious norms. As Kiefer reports about a case of a woman who had sexual intercourse with the brother of her husband, the punish-

practices apply in all those cases, where either a successful resolution through negotiation cannot be concluded or where the violation or the sanction are beyond Philippine law or constitution. This for example was the case in the large numbers of rapes that occurred on Sulu in 2008 and 2009. The number of victims is unclear; numbers vary between 25 and more than 100. What is clear is that young members of dominant clans and their bodyguards were implicated. Officially these cases are still unresolved, the local chief of the police even arguing that „(m)ost of those complaints filed here had been withdrawn by the complainants, who later claimed that they agreed to have sex with their supposed attackers“ (Usman Pingay, PNP Provincial Director Jolo; cited in Inquirernet 30 Sept 2009). All of my interview partners argued that the issue had been resolved in the “traditional way”, or to cite one of them: “What happened in Sulu, [...] the victims and their families were dealt with [in] two ways: a combination of being paid off and threatened” (Interview Cotabato City 2010).

Tradition then is not simply another way of resolving conflict. When it comes to crimes committed by the powerful, it becomes visible, that the settlements directly reflect the power-asymmetries. Whereas in former times this might have been accepted as a natural state of affairs, this is no longer the case. The system’s legitimacy is dwindling, however, an alternative is lacking, as “the state” with its supposedly neutral institutions of police and system of justice is effectively in the hands of the local elite, who do not shy away of violently demonstrating the fundamental message that you never challenge the Lord. While the system of sanctified inequality is still respected, in the meantime it has to be undergirded by the vastly superior firepower of the elite, who has transformed the local state into a servant of their needs and interests.

Despite the weakening of traditional institutions, which also became part of a thoroughly politicized overall order, the local perception on social control which is mostly framed in terms of conflict between distinct parties still resembles former times. Mediation and amicable settlement being the only strategy perceived as viable on the local level. Even local members of various militias perceive themselves as active peacebuilders insofar as their stated aim was the facilitation of amicable settlement and that they were engaged in “helping in peace negotiations among armed conflicting individuals/groups as their most important role”. At the same time a large proportion of them answered, “that they do not have any idea of how conflict could be prevented” or “how to promote reconciliation because of the complexities of the situation” (Centre for Humanitarian Dialogue 2011: 42-43). Clearly the norm of mediation/arbitration prevails whereas the means to do so successfully dwindle as mediators proliferate while at the same time losing the undisputed acceptance by the parties to the conflicts.

ment is standardized (in this case a fine, a ritual whipping and a cleansing ritual), the aim of the judicial procedure being to determine the truth and mete out appropriate punishment as the deviant act is a danger to the whole community (Kiefer 1972: 98).

#### 4.4 Blood-feuding as a form of social control

Similar to former times, feuding is still mostly a mechanism of “horizontal control” targeting members of a similar status group, and it is also still morally superior to direct mediation in many cases, as reflected in the comment of an interview partner in 2010<sup>26</sup>: “To the Maguindanaos it’s the *Maratabat*. To the Tausug it’s the *Sipug*, the honor. They can fight for it, just to maintain the honor and prestige of a family. They can die for it” (Interview Cotabato 2010).

Ignoring the demands of the feud is hardly possible, as there is still a strong peer group pressure to fulfill the corresponding role expectations, for the individual there is only the “choice between complete ostracism, becoming a nobody, and taking the offender’s life and thus remain a ,somebody’, a respectable person and clan member” (Bartolome 2004: 63). In addition, as in former times, the typical perpetrator is better educated than the local average (Matuan 2007: 83-84), making blood feud still predominantly an upper-class phenomenon. Then as now, the decision to look for a mediator still rests wholly with the conflict parties themselves. As one local politician explains: “[...] the revenge killing starts until it reaches a saturation point [...]’. The social control is the violence of the Rido, the blood-feud” (Interview Manila 2010). However, “saturation” seems to be more and more difficult to reach, as firstly modern weaponry enhances the firepower of the contending parties, accepted mediators are not easily to be found, the mediators have partly lost their local monopoly of firepower and have to consider a number of political factors and finally feuding is instrumentalized for either defending or gaining status and political power against opponents, becoming enmeshed with the regular political competitions for the host of elective positions without which patronage cannot be dispensed in the absence of alternative sources of financial and other means.<sup>27</sup>

Blood-feuding is at least as prominent in the present as it was in the past. A number of studies suggest that blood-feuding actually increased both in number and in ferocity (Torres ed. 2007), to a certain extent losing its preventive function, while amplifying its destructive dimension. In 2010 for example there were at least 13 cases of large scale feud-

26 This appraisal is supported by survey data. More than 70% of the population of the ARMM believe that in cases of murder, rape or physical injury the aggrieved party should retaliate (SWS 2005; Mangahas 2009). Other studies show that the overwhelming majority of Maranao would not report a killing to the police, if this killing happened within the context of a feud. They prefer self-help strategies, not wanting to be seen as cowardly and believing that imprisonment is no adequate punishment (Matuan 2007: 81). Current patterns closely resemble earlier ones, surveyed in the late 1960s. Then Muslims on the one hand showed a significantly higher level of fear of being killed, while at the same time answering “more frequently that killing is permissible in retaliation for injury or insult to honor” than other Filipinos (Averch/Koehler/Denton 1971: 129).

27 While this politization is sometimes understood to be a rather new phenomenon, it must be pointed out, that feuding has always been enmeshed with politics and power. Reports of assassinated politicians can already be found in the 1950s and 1960s, even though the numbers probably were smaller. Then as now, in most cases the killers are not caught, however, there seldom seems to have been any doubt amongst the locals about the perpetrators and the reasons for the action.



ing in the province of Maguindanao and directly adjacent regions, which cost at least 18 lives and led to the temporary displacement of more than 7000 families and the burning of more than 200 houses. The number of 9 wounded most probably is due to severe underreporting. Only three of the feuds broke out twice in this year, however, in four cases, the armed clashes lasted for more than one and up to four days, illustrating that currently feuds not seldom resemble warfare or low-intensity conflict.<sup>28</sup> Large clans with modern heavy weapons “fight each other behind lines, standard trenches, and foxholes” (Durante et al. 2007: 98).<sup>29</sup>

A large number of *ridos* are left unsettled and can be dormant for years and even decades, without being forgotten. If and when *ridos* are dealt with, it is exclusively within the purview of the traditional conceptualization of mediation and amicable settlement.

“In mediation, the mediators do not only facilitate communication and negotiations, but also assume responsibility for raising the required blood money. These mediators may be relatives of the conflicting parties, the council of elders, the local chief executive, the military or women ‘influentials’. Amicable settlement which is a ‘win-win solution’ is invoked as mediators highlight the value of personal interrelatedness like being *magdanakan* (members of the same nuclear family), *da laha* (blood relatives), *da omboh* (descended from the same ancestor), *da leod* (members of the same clan), *da kaoman* (belonging to the same community), *da pehak* (members of the same ethnic group), or *magdanakan ma agama* (brothers in faith).

The resolution process entails the following steps: declaration of ceasefire, dialogue with both parties, agreement on settlement and finally a religious and/or community celebration or *Kanduli*. The settlement agreement may entail payment of blood money, signing of agreement and/or swearing on the Holy Qur’an” (Ateneo de Zamboanga University Research Center/Notre Dame University Research Center 2005: ii-iii)

#### 4.5 Status demonstration as social control

Arbitrary demonstrations of superior status, which carry the message that subordinates better never challenge the Lord, are still rampant. Most prominent (and best documented) are the actions of the overlords of Maguindanao during the last decade: the Ampatuan Clan under its patriarch *Datu* Andal Ampatuan. Reacting to the killing of one of

28 Based on local sources, not to be named.

29 Large scale fighting, however, has a long history. The year 1970 for example saw a shootout between two clans in the small town of Dinaig, leaving at least five dead and 10 injured (Mindanao Cross 28 February 1970: 1, 10). A few weeks earlier three people died and three were wounded in a drive-by shooting at a Barrio councilor’s house in another small town (Mindanao Cross 3 January 1970: 1), a pattern which became more prominent in later decades up to now. In December of the same year, the Mindanao Cross reported a “Datu Piang gunbattle” – an armed encounter between two *Datus* and their armed followers (amongst them policemen), that left six men dead and several wounded (Mindanao Cross 26 December 1970: 3). The same day saw the murder of a District Engineer, who was assassinated by several men “known to belong to political families” (page 12). All of this happened independently from the ongoing news of Christian Muslim, Muslim Lumad and Lumad Christian clashes and armed robberies, which heralded the civil war that was to begin a few months later.

their members, they are said to have killed more than 100 people, a number of these being dismembered alive with chainsaws, others hacked to death with machetes (Interviews Cotabato City 2004; HRW 2010: 37). The message was one of total power and authority.

This kind of violence is accompanied by sexual violence of unknown proportions. What is clear is that during the last decade members of powerful *Datu* families raped large numbers of women and girls, without ever being punished. Whereas in a “normal” case of rape, the victim’s family would have taken revenge, this was clearly impossible in such cases. Asked why the victims’ families did not resort to revenge (*pagbunu*), one interview partner, a Muslim human rights lawyer stated categorically: „No chance. They would be massacred“ (Interview Davao 2010). The state justice system provides no alternative as another local interview partner commenting on similar cases, argued that

„Now for the authorities, basically the problem is, majority of the perpetrators are rich. Sometimes they are the sons of politicians. So authorities here will find it hard. There was one case here in Cotabato City was gang rape. Now she went to the police and to a point that there was a lawyer from Manila who offered help. Now they were supposed to investigate on her case. The perpetrators were all sons related to big political families here in Cotabato City. The victim decided not to push through with the case because they were threatened. It’s not only the victim but the whole family and even the lawyer was threatened by the family. So, they ended up, you know, it went to nothing“ (Interview Cotabato City 2010).

All of these cases illustrate one common pattern: such violence is arbitrary, only depending on considerations of prudence, and it is applied by members of the most powerful *Datu* families against ordinary people. Whereas the rapes are certainly not intended as social control, they nevertheless function in that way, highlighting the fundamental asymmetry of power and forcing the people into total submission.

## 5. Conclusion: persistence and change of violent social control

The foregoing analysis can be condensed to the following main theses with respect to governance and social control in the Muslim regions of Mindanao and the Sulu archipelago:

Social order itself was and still is characterized by an all-encompassing stress on inherited status (sanctified inequality) paired with an ideology focusing on the perennial competition between members of the superior status group. While *Datus* to a certain extent could rely on their noble status for legitimacy, they had also perennially to prove their leadership qualities. A readiness to resort to violence seems to have been a crucial aspect in this respect at all times, as charisma was tightly connected to the leader as a superior warrior.

Social control was and still is accomplished through three mechanisms, none of which had a universal application: mediation/adjudication, feuding, and status demonstration. Actual arenas and patterns of social control differed according to status and relationship

between contending parties. Violence always had a crucial role in social control in the Muslim regions of the Philippines.

Mediation proved to be a mechanism mostly used in conflicts amongst members of subaltern groups. It is predominantly a mechanism for the resolution of conflict amongst equals through the more or less authoritative intervention of mediators/judges of higher social standing. When used in vertical conflicts, it favors the powerful party.

Feuding violence still works as a mechanism of mutual recognition amongst the members of a predominant status group and as a practice delimiting the superior from the inferior status groups. However, it seems to have diffused downward to a certain extent, nevertheless, it is still a practice for dealing with horizontal conflicts between parties of roughly equal social standing. Feuding is always bilateral violence, the initial norm violator, against whom the initial act of social control violence is directed, becoming the controlling agent himself. An act of social control thereby becomes an act of deviance in need of control. The feud includes violence-inhibiting or regulating factors as it rests on the mutually assured massive response of the opposing party, making norm violations potentially very costly.

Status demonstrations are crucial means for upholding the social order of sanctified inequality. They rest on the assumed asymmetry of the parties which precludes feuding. Actually the confirmation of the fundamental asymmetry is the major message of status demonstrations, some of which may be reactions to perceived deviant acts; others, however, seem to be primarily focused on the demonstration of the unlimited power of the ruling *Datu* (and his family) over the dependents and therefore needs no preceding norm violation at all. To a certain extent arbitrary power and control can only be demonstrated through acts of arbitrary violence that are only faintly (if at all) connected to deviant acts. These acts aim at underwriting the most fundamental norm of the system of domination, that the power of the *Datu* is in principle unlimited and unrestrained and that the *Datu* not only brings order into the world, but likewise can use his power to destroy that order.

While in everyday social control mediation and adjudication are most prominent, the iron fist of repressive and competitive violence has always been and still is of crucial importance for the continued reproduction of the social system itself. It is in violent practice that the claim to sanctified inequality is upheld by unilateral shows of force against inferiors and exclusive feuding practices amongst the higher status groups.

In actual practice, upholding norms and upholding power relationships was at all times enmeshed and much of physical violence results from efforts to uphold positions of power, even if framed in the language of norm violation and its control.

Norms on culturally appropriate behavior are shared by the public, are non-rival and non-excludable and insofar resemble public goods. However, their enforcement through sanctions generally depends exclusively on private initiative. All three building blocks of the system of social control – mediation, feud, status demonstration – rest either totally or to a large extent on a self-help conception of social control. Law in effect only comes in in a rather small number of violations, which are formally adjudicated and can carry heavy penalties (witchcraft, sorcery). In other cases of serious norm violation (rape, adultery,

incest) self-help or mediation, based on the consent of the contending parties is still prevalent. Social control is still partly organized along the lines of (violent) self-help. In many cases there is no third party involved in conflict regulation (feud, status demonstration). Even where it is involved, representing a certain amount of objectification of the normative order, this is not equivalent to the invention of an authoritative judicial decision, that can go against the will of one or both parties to the conflict. In many cases, the “verdict” is not more than a mediated compromise acceptable to the two parties, thereby underlining the autonomy of the parties to the conflict. When there is a decision by the council of elders or the *Datu*, which qualifies as arbitration or even adjudication, this is clearly the exemption to the rule, the employment of physical violence in reaction to norm-violations in most cases not originating from a formal verdict.

Local society in Muslim Mindanao at least since the establishment of the Sultanates can no longer be categorized as a non-state society. However, in crucial respects up to the present it does not fully qualify as a state-based society, insofar as much conflict resolution and (violent) social control are left to non-state societal actors (kinship groups), who either resolve the conflict within a feuding frame or themselves chose the mediator. As Trotha argues for non-law societies (*rechtsfreie Gesellschaften*): “advisors and mediators do not render judgements, as it is characteristic for all non-law societies, that no relevant decision-making power is transferred to institutions, which are situated beyond the basic social units, be it household, lineage or clan. Correspondingly the normative order stays subject to the monopoly of interpretation (*Definitionsmacht*) of the parties” (Hanser/Throtha 2002: 112; translation P.K.). This is reflected in the consistent categorization of practically all types of crimes and norm-transgressions as conflicts that have to be settled, instead of violations of a law, that has to be upheld and enforced in the course of a legal proceeding concluded by a judgement. Then as now, the prime rationale is that the participants agree that justice has been done.

This is not to say that everyday life was or is always marked by violence, nor to denigrate the efficacy of various mechanisms for mediation, through which the bulk of conflicts are resolved peacefully and most of the time with the consent of the contending parties. Whereas there is a danger, that in a study focusing on violence, its role or prevalence are exaggerated, such a study makes violent practices visible, that are normally hidden behind the regular practices of violence-free conflict resolution and a tendency in the literature to view social systems and social control from a “functionalist” perspective, emphasizing those structures, norms and practices that work together to enable the continued functioning of a stable and cohesive system. It is important to note that while the violence-free practice of mediation at all times seems to have predominated, it nevertheless has been complemented by a host of violent practices, which neither the introduction of the Sultanate nor the even more powerful conception and institutions of the modern nation-state were able to erase and bring under the control of some set of rules that would minimize its impact.

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