

**NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)**

23 MAR 22 P 6 :05

SENATE

S.B. No. 2043

RECEIVED BY: 

INTRODUCED BY SENATOR RISA HONTIVEROS

**AN ACT
CREATING THE NATIONAL TRANSITIONAL JUSTICE RECONCILIATION AND
COMMISSION FOR THE BANGSAMORO, ESTABLISHING A TRANSITIONAL
JUSTICE AND RECONCILIATION PROGRAM FOR THE BANGSAMORO, AND
APPROPRIATING FUNDS THEREFOR**

EXPLANATORY NOTE

On March 27, 2014, the Government of the Republic of the Philippines (GRP) and the Moro Islamic Liberation Front (MILF) signed the Comprehensive Agreement on the Bangsamoro (CAB), outlining the institutional mechanisms and modalities necessary to end the sovereignty-based conflict in Mindanao that has plagued the region for several decades.

Under the CAB, both parties agreed to "work out a program for transitional justice to address the legitimate grievances of the Bangsamoro people, correct historical injustices, and address human rights violations and marginalization through land dispossession." For this purpose, the Annex on Normalization provided for the creation of an independent "Transitional Justice and Reconciliation Commission (TJRC) to undertake a study and recommend to the Panels the appropriate mechanism for transitional justice and reconciliation."

Thereafter, on September 2y, 2014, the TJRC was established and convened. Utilizing the dealing with the past' framework, they went through an elaborate Consultation Process that involved community-based "listening process" sessions, study group reviews of existing research, as well as key policy interviews. Additional

independent research projects were also implemented relative to the mandate of the TJRC.

In total, the TJRC conducted a "listening process" in more than 210 Moro indigenous, and settler communities in Mindanao and the Sulu archipelago, involving some 3,000 community members and local officials. The TJRC also engaged with a wide range of experts from the Bangsamoro Region and at the national level, including peace-building and human rights practitioners, community and religious leaders, academics and scholars of Bangsamoro history and culture, public servants, and representatives of the security and private sectors.

The TJRC turned over its report to the peace negotiating panels of the GRP and MILF in December 2015 and subsequently released its report to the public on March 15, 2016. In said report, TJRC recommended for the creation of a National Transitional Justice and Reconciliation Commission for the Bangsamoro (NTRJCB).

On April 24, 2019, the Office of the President issued Executive Order No. 79 entitled, "Implementing the Annex on Normalization under the Comprehensive Agreement on the Bangsamoro", created the Inter-Cabinet Cluster Mechanism on Normalization (ICCMN) to guarantee the implementation of the recommendations provided in the report of the TJRC towards the adoption and implementation of the Transitional Justice and Reconciliation Program for the Bangsamoro. On March 30, 2021, ICCMN approved the proposed Transitional Justice and Reconciliation roadmap.

Unfortunately, a Transitional Justice and Reconciliation Program for the Bangsamoro has yet to be created.

Transitional justice is an evolving practice in conflict resolution that covers the full range of processes and mechanisms associated with society's attempt to come to

terms with the legacy of large-scale conflict, repression, violations, and abuses, in order to ensure accountability, serve justice, and achieve reconciliation¹.

A Transitional Justice and Reconciliation Program for the Bangsamoro will essentially be the attempt of the Philippine State to recognize the legitimate grievances of the Bangsamoro, rectify these injustices by addressing the root causes of the conflict, and ensure its non-recurrence through the establishment of institutional mechanisms for transitional justice and reconciliation. The full realization of this program shall serve as vehicle for peace and harmony in the Mindanao, in consonance with the national clamor for unity and progress.

In view of the foregoing, this bill seeks to institutionalize a Transitional Justice and Reconciliation Program (TJ RP) for the Bangsamoro, and thereby creating the **NATIONAL TRANSITIONAL JUSTICE AND RECONCILIATION COMMISSION FOR THE BANGSAMORO**.

Consistent with our collective desire to sustain the gains of peace, unity and development in the Bangsamoro, the passage of this bill into law is earnestly sought.


RISA HONTIVEROS

¹ OHCHR Transitional Justice and Human Rights," OHCHH, November 12, 2021.

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Be It enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

1 SECTION 1. *Short Title.* – This Act shall be known as the "*Transitional Justice*
2 *and Reconciliation Act for the Bangsamoro.*"

3 Sec. 2. *Declaration of Policy.* — It is hereby a declared policy of the State to
4 ensure pursue a lasting and enduring peace, reconciliation and development in the
5 Bangsamoro region. The State shall create a program that shall address the legitimate
6 grievances of the Bangsamoro people, rectify historical injustices, address human
7 rights violations, and marginalization through land dispossession. The State shall
8 likewise ensure the non-recurrence of such injustices and violations.

9 Sec. 3. *Definition of Terms* — As used in this Act:

10 a. Historical Injustices - include acts committed and transactions entered into
11 by state and non-state actors with the Bangsamoro and other inhabitants
12 of the Mindanao and Sulu archipelago that have placed the Bangsamoro
13 people at a political and economic disadvantage and, while hating occurred
14 in the distant past, continue to impact their lives today.

15 b. Land Dispossession - includes dispossession by ostensibly lawful means,
16 such as public land laws but may have been attended by force, duress,
17 intimidation, stealth, and deception.

- 1 c. Marginalization - refers to the political and economic disenfranchisement
2 that the Bangsamoro people and other inhabitants of the Mindanao and
3 Sulu archipelagos have suffered due to unjust national laws, programs,
4 policies, as well as government neglect and failure to address destructive
5 and exploitative actions of non-state actors.
- 6 d. Transitional Justice -means the full range of process and mechanisms
7 associated with a society's attempts to come to terms with a legacy of past
8 abuses, in order to ensure accountability, serve justice and achieve
9 reconciliation which include criminal prosecution, truth telling, reparations
10 programs and institutional reform.
- 11 e. Legitimate Grievances - refer to grievances that are rooted or grounded on
12 objective conditions and circumstances like landlessness, poverty,
13 unemployment widespread discrimination and abuses, ethnic dominance,
14 inter-group hatred, political/economic exclusion, gender violence or
15 injustice.

16 *Sec. 4. Transitional Justice and Reconciliation Program for the*
17 *Bangsamoro.* — There is hereby established a Transitional Justice and Reconciliation
18 Program for the Bangsamoro, hereinafter referred to as the "Program," which shall
19 address legitimate grievances of the Bangsamoro and Indigenous peoples, historical
20 injustices and human rights violation, including marginalization through land
21 dispossession, with the following aims:

- 22 a. Provide venues for the victims of conflict to be heard and mechanisms for
23 the investigation of serious violations of international human rights law and
24 international humanitarian law, and enable inquiries into specific events of
25 the armed conflict;
- 26 b. Contribute to the resolution of outstanding land disputes in conflict-affected
27 areas in the Bangsamoro and address the legacy of land dispossession with
28 concrete measures to provide redress;
- 29 c. Provide effective counteractions to impunity, by promoting accountability
30 and strengthening the rule of law in relation to past and present
31 wrongdoings, including crimes identified under international conventions to
32 which the Philippines is a signatory; and

1 d. Promote healing and reconciliation among the different communities
2 affected by the conflict.

3 *Sec. 5. National Transitional Justice and Reconciliation Commission on the*
4 *Bangsamoro.* — There is hereby created a National Transitional Justice and
5 Reconciliation Commission on the Bangsamoro, hereinafter referred to as the
6 “Commission”, under the Office of the President. The Commission shall design and
7 formulate mechanisms to implement the Program and supervise such implementation.
8 In formulating the mechanisms, the Commission shall be guided by a framework of
9 dealing with the past that respects, protects, and fulfills the right to truth, right to
10 justice and right to reparation of the victims and ensure non-recurrence of any
11 violation. For this purpose, the Commission shall adopt its own operational guidelines
12 and rules of procedure.

13 *Sec. 6. Composition.* — The Commission shall be composed of five (5) regular
14 members headed by a Chairperson and two (2) ex-officio representatives from the
15 civ51 society organizations who shall sit as non-voting members of the Commission.
16 The President shall appoint all members of the Commission; Provided, That the two
17 (2) ex-officio representatives shall be appointed upon the recommendation of the civil
18 society organizations.

19 *Sec. 7. Qualifications of the Regular Members of the Commission.* – No person
20 shall be appointed as Member of the Commission unless he/she possess the minimum
21 qualifications:

- 22 a. A natural-born citizen of the Republic of the Philippines;
- 23 b. Of proven competence, integrity, probity and independence; and
- 24 c. Has distinguished himself/herself in the field of conflict resolution,
25 peacebuilding, human rights, and other related heads of expertise.

26 *Sec. 8. Powers and Functions.* — The Commission shall have the following
27 powers and functions.

- 28 a. Conduct a nationwide information, education, and dissemination program
29 for the popularization of the rationale and principles of transitional justice
30 and reconciliation, as well as its implementing mechanisms;
- 31 b. Investigate, study, and recommend measures for the resolution of cases of
32 individuals and communities adversely affected by armed conflict, serious

1 violations of human rights and international humanitarian law, and
2 outstanding land disputes in the conflict-affected areas, generally and as
3 provided in the mandates of the sub- commission. Pursuant to this, the
4 Commission and its sub-commission may take the testimony or receive
5 evidence, administer oath, summon witnesses, and require the production
6 of documents by subpoena duces tecum;

7 c. Determine the factors that contribute to impunity in relation to past and
8 present wrongdoings, and recommend appropriate actions to dismantle
9 impunity, promote accountability, and strengthen the rule of law;

10 d. Coordinate with the public and private sectors in the formulation of short,
11 medium, and long-term programs under a comprehensive approach to
12 transitional justice and reconciliation;

13 e. Call upon other government agencies, including government-owned and -
14 controlled corporations and government financial institutions, for any
15 support it needs to carry out its mandate;

16 f. Submit to the President recommendations for further action, including
17 proposed bills on matters requiring legislative actions, when necessary, to
18 fully implement its proposals and programs; and

19 g. Perform such other functions as may be necessary for the effective
20 discharge of its mandate.

21 *Sec. 9. Organizational Structure and Staffing Pattern.* — Within three (3)
22 months from the creation of the Commission, the organizational structure and staffing
23 pattern shall be formulated and finalized in coordination with the Department of
24 Budget and Management. TO assist the Commission in the performance of its duties,
25 four (4) sub-commissions are hereby created, which shall deal with specific aspects of
26 transitional justice for the Bangsamoro:

27 a. Sub-Commission on Bangsamoro Historical Memory, which shall have the
28 following specific functions:

29 i. To contribute to confidence building in communities affected by the
30 conflict through fact finding and truth seeking, while ensuring their
31 protection, safety and dignity. In particular, the sub-commission shall
32 listen to the testimony of victims in closed or public hearings, in order

- 1 to collect witness statements and evidence related to specific violent
2 events, with sensitivity to accounts of women who have been victims
3 of gender-based and sexual violence;
- 4 ii. To investigate serious violations of international human rights and
5 international humanitarian law, focusing, among other, on specific
6 emblematic cases of mass atrocity crimes, of land dispossession, and
7 of conflict-related sexual and gender-based violence to determine
8 whether such forms of violence were practiced as a deliberate
9 strategy of war in the Bangsamoro conflict;
- 10 iii. To publish series of reports on the results of its investigation and
11 cases of international human right violations, which include an
12 analysis of the findings and recommendations related to individual,
13 collective, and symbolic forms of reparations, accountability for
14 crimes committed, institutional reforms, and reconciliation; and
- 15 iv. To establish databases on violations of international human rights
16 and international humanitarian law in the Bangsamoro from 1948
17 until the present, particularly a database on conflict-related human
18 casualties.
- 19 b. Sub-Commission against Impunity and on the Promotion of Accountability
20 and Rule of law in the Bangsamoro, which shall be responsible for the
21 following:
- 22 i. To identify, investigate, and recommend policies, operational means,
23 and concrete measures to address and overcome practices of
24 impunity at all levels, whether of a technical, political, or financial
25 nature and whether related to past or present wrongdoings; and
- 26 ii. To request disciplinary procedures against public officials who fail to
27 cooperate or who obstruct justice and the rule of law.
- 28 c. Sub-Commission on Land Dispossession in the Bangsamoro, which is
29 authorized:
- 30 i. To address issues related to land dispossession, use, and tenure in
31 the conflict- affected areas in the Bangsamoro by developing or
32 implementing a dispute resolution mechanism for land conflicts,

1 including indigenous peoples' (IPs) claims on ancestral domains, and
2 for identifying lands where there are competing claimants;

3 ii. To create a database on actual land ownership in the Bangsamoro
4 and on land dispossession that may be used to support legal
5 proceedings and restitution or reparation programs, including
6 cadastral, geo-tagged, and community-based participatory mapping
7 sets;

8 iii. To support the overall redesign of land services in the Bangsamoro
9 by recommending changes in the legal framework and all procedures
10 related to land titling, registration, taxation, and management,
11 including claims of IPs on ancestral domains, for legislation.

12 d. Sub-Commission on Bangsamoro Healing and Reconciliation, which is
13 empowered:

14 i. To identify and support traditional practices of reconciliation at the
15 community level;

16 ii. To develop and promote a meaningful process for national
17 reconciliation with a view to encouraging cultural and attitudinal
18 change; and

19 iii. To support the other three (3) sub-commissions in the
20 implementation of their mandate by shaping and promoting a
21 reconciliatory vision for each of them.

22 Each sub-commission shall cooperate with relevant national, regional, and local
23 institutions, both governmental and nongovernmental, in the exercise of its mandate.
24 Moreover, each sub-commission shall ensure the meaningful participation of women
25 in the processes that will be undertaken, taking into consideration their experiences
26 relevant to the objectives of transitional justice.

27 *Sec. 10. National Consultation Process.* — The appointment of members of the
28 Commission shall be made through national public consultations.

29 For this purpose, the Office of the Presidential Adviser on the Peace,
30 Reconciliation and Unity shall propose to the President a selection and appointment
31 process for the members of the Commission. This selection and appointment process
32 shall include the appointment of a selection committee composed representatives of

1 national, regional, and local sectoral stakeholders. The selection committee, after its
2 convention, shall select, from the pool of nominees, the persons who shall be included
3 in the short lists of nominees from which the President shall appoint the members of
4 the Commission. The selection committee and the Commission shall ensure the
5 inclusion of women in its membership, corresponding to representatives of national,
6 regional and local stakeholders.

7 The Commission, whenever it deems appropriate, shall likewise conduct
8 national public consultations in the formulation of the implementing mechanisms of
9 the Program.

10 Sec. 11. *Secretariat.* — The Commission shall organize its Secretariat that shall
11 assist the performance of its functions and shall provide administrative and technical
12 support. It shall be headed by an Executive Director who shall be appointed by the
13 President. The Executive Director shall execute the policies and programs of the
14 Commission and shall be responsible for the efficient, and effective day-to-day
15 management of the operations of the Commission.

16 The Executive Director shall recommend to the Chairperson, for the approval
17 of the Commission, the budget of the Secretariat, its staffing pattern, position
18 classification and compensation scheme, and the appointment of its personnel subject
19 to existing laws, rules and regulations.

20 The Executive Director shall be appointed by the President.

21 Sec. 12. *Transitional Justice and Reconciliation Forum.* — The Commission shall
22 actively engage with stakeholders in the formulation and implementation of its projects
23 and programs. For this purpose, it shall convene a Transitional Justice and
24 Reconciliation Forum which shall serve as the platform for stakeholders to monitor and
25 support the Transitional Justice and Reconciliation Program for the Bangsamoro.

26 Sec. 13. *Duration.* — The Commission shall operate for a period of six (6) years
27 from the effectivity of this Act or upon completion of the purpose for which it was
28 created, whichever comes first. However, it may continue to operate for additional
29 three (3) years upon the approval of the President.

30 Sec. 14. *Appropriation.* — For the initial operating expenses of the Commission
31 to carry out the mandate of this Act, the amount of One Hundred Million Pesos
32 (P100,000,000.00) is hereby appropriated to be charged against the unexpended

1 contingency funds of the Office of the President. Thereafter, the amount needed for
2 the operation and maintenance of the Commission shall be included in the annual
3 General Appropriations Act.

4 The Commission is likewise authorized to accept donations, contributions,
5 grants, bequests or gifts from domestic or foreign sources, for purposes relevant to
6 its mandate and functions, in accordance with applicable laws and rules and
7 regulations subject to government accounting and auditing rules and regulations.

8 *Sec. 15. Implementing Rules and Regulations.* – Within ninety (90) days from
9 the approval of this Act, the Commission shall promulgate rules and regulations
10 implementing the provisions of this Act. The implementing rules and regulations issued
11 pursuant to this Section shall take effect thirty (30) days after its publication in two
12 (2) newspapers of general circulation.

13 *Sec. 16. Repealing blouse.* — All laws, orders, issuances, rules and regulations
14 inconsistent herewith are repealed or modified accordingly.

15 *Sec. 17. Separability Clause.* — If any of this Act is declared unconstitutional,
16 the remainder of this Act or any provision not affected thereby shall remain in full
17 force and effect.

18 *Sec. 18. Effectivity.* – This Act shall take effect fifteen (15) days after its
19 publication in a newspaper of general circulation or in the Official Gazette.

Approved,