

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



23 AUG -7 P4 :10

**SENATE  
S. No. 2392**

RECEIVED BY:

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**Introduced by SENATOR FRANCIS "TOL" N. TOLENTINO**

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**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**

The peace negotiation between the Government of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) began in January 1997. It led to the signing of the Framework Agreement on the Bangsamoro (FAB) in October 2012 and the Comprehensive Agreement on the Bangsamoro (CAB) in March 2014.


As part of their agreement, both parties committed 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. To facilitate the process, the Annex on Normalization provided for the formation of an independent body known as the Transitional Justice and Reconciliation Commission (TJRC) to conduct a comprehensive study and propose appropriate mechanisms for transitional justice and reconciliation.

Thereafter, on 27 September 2014, the TJRC was established and convened. Unfortunately, to date, a Transitional Justice and Reconciliation Program for the Bangsamoro has yet to be created.

The establishment of a Transitional Justice and Reconciliation Program for the Bangsamoro is crucial for the Philippine State to acknowledge the legitimate grievances of the Bangsamoro, address the root causes of the conflict, and prevent its recurrence by setting up institutional mechanisms for transitional and reconciliation. The successful implementation of this program would contribute to peace and harmony in Mindanao, aligning with the national aspiration for unity and progress.

This bill aims to institutionalize a Transitional Justice and Reconciliation Program (TJRP) for the Bangsamoro and create the National Transitional Justice and Reconciliation Commission for the Bangsamoro. The creation of the program would address the problems through a Filipino Bangsamoro context.

In view of the foregoing, the enactment of this bill is earnestly sought as it reflects the collective commitment of the State to sustaining the achievements of peace, unity, and development in the Bangsamoro region.



**FRANCIS "TOL" N. TOLENTINO**

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

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

3           **Sec. 2.** Declaration of Policy. - It is hereby a declared policy of the State to actively  
4           seek and promote a long-lasting sustainable peace, reconciliation, and development in  
5           the Bangsamoro region. In view thereof, the State shall create and implement a  
6           comprehensive program that aims to address the rightful grievances of the Bangsamoro  
7           people, correct historical injustices, and redress human rights violations and  
8           marginalization related to land dispossession. The State shall likewise ensure the non-  
9           recurrence of such injustices and violations.

1           **Sec. 3. Definition of Terms. - As used in this Act:**

2           (a)    Historical Injustices - include acts committed and transactions entered into  
3           by state and non-state actors with the Bangsamoro and other inhabitants of the  
4           Mindanao and Sulu archipelago that have placed the Bangsamoro people at a  
5           political and economic disadvantage and, while having occurred in the distant past,  
6           continue to impact their lives today.

7           (b)    Land Dispossession - includes dispossession by ostensibly lawful means,  
8           such as public land laws but may have been attended by force, duress,  
9           intimidation, stealth, and deception.

10          (c)    Marginalization - refers to the political and economic disenfranchisement  
11          that the Bangsamoro people and other inhabitants of the Mindanao and Sulu  
12          archipelagos have suffered due to unjust national laws, programs, policies, as well  
13          as government neglect and failure to address destructive and exploitative actions  
14          of non-state actors.

15          (d)    Transitional Justice - means the full range of process and mechanisms  
16          associated with a society's attempts to come to terms with a legacy of past abuses,  
17          in order to ensure accountability, serve justice and achieve reconciliation which  
18          include criminal prosecution, truth telling, reparations programs and institutional  
19          reform.

20          (e)    Legitimate Grievances - refer to grievances that are rooted or grounded on  
21          objective conditions and circumstances like landlessness, poverty, unemployment,  
22          widespread discrimination and abuses, ethnic dominance, inter-group hatred,  
23          political/economic exclusion, gender violence or injustice.



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

7           (a) Provide venues for the victims of conflict to be heard and mechanisms for  
8 the investigation of serious violations of international human rights law and  
9 international humanitarian law, and enable inquiries into specific events of the  
10 armed conflict;

11           (b) Contribute to the resolution of outstanding land disputes in conflict-affected  
12 areas in the Bangsamoro and address the legacy of land dispossession with  
13 concrete measures to provide redress;

14           (c) Provide effective counteractions to impunity, by promoting accountability  
15 and strengthening the rule of law in relation to past and present wrongdoings,  
16 including crimes identified under international conventions to which the Philippines  
17 is a signatory; and

18           (d) Promote healing and reconciliation among the different communities  
19 affected by the conflict.

20           **Sec. 5.** National Transitional Justice and Reconciliation Commission on the  
21 Bangsamoro. — There is hereby created a National Transitional Justice and Reconciliation  
22 Commission on the Bangsamoro, hereinafter referred to as the "Commission" under the  
23 Office of the President. The Commission shall design and formulate mechanisms to  
24 implement the Program and supervise such implementation. In formulating the  
25 mechanisms, the Commission shall be guided by a framework of dealing with the past

1 that respects, protects, and fulfills the right to truth, right to justice and right to reparation  
2 of the victims and ensure non-recurrence of any violation. For this purpose, the  
3 Commission shall adopt its own operational guidelines and rules of procedure.

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

10 **Sec. 7.** Qualifications of the Regular Members of the Commission. - No person  
11 shall be appointed as Member of the Commission unless he/she possess the minimum  
12 qualifications:

- 13 (a) A natural-born citizen of the Republic of the Philippines;
- 14 (b) Of proven competence, integrity, probity and independence; and
- 15 (c) Has distinguished himself/herself in the field of conflict resolution,  
16 peacebuilding, human rights, and other related heads of expertise.

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

- 19 (a) Conduct a nationwide information, education, and dissemination program  
20 for the popularization of the rationale and principles of transitional justice and  
21 reconciliation, as well as its implementing mechanisms;
- 22 (b) Investigate, study, and recommend measures for the resolution of cases of  
23 individuals and communities adversely affected by armed conflict, serious  
24 violations of human rights and international humanitarian law, and outstanding

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

5 (c) Determine the factors that contribute to impunity in relation to past and  
6 present wrongdoings, and recommend appropriate actions to dismantle impunity,  
7 promote accountability, and strengthen the rule of law;

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

11 (e) Call upon other government agencies, including government-owned and  
12 controlled corporations and government financial institutions, for any support it  
13 needs to carry out its mandate;

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

17 (g) Perform such other functions as may be necessary for the effective  
18 discharge of its mandate.

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

1 (a) Sub-Commission on Bangsamoro Historical Memory, which shall have the  
2 following specific functions:

3 (i) To contribute to confidence building in communities affected by the  
4 conflict through fact finding and truth seeking, while ensuring their  
5 protection, safety and dignity. In particular, the sub-commission shall  
6 listen to the testimony of victims in closed or public hearings, in order  
7 to collect witness statements and evidence related to specific violent  
8 events, with sensitivity to accounts of women who have been victims of  
9 gender-based and sexual violence;

10 (ii) To investigate serious violations of international human rights and  
11 international humanitarian law, focusing, among other, on specific  
12 emblematic cases of mass atrocity crimes, of land dispossession, and of  
13 conflict-related sexual and gender-based violence to determine whether  
14 such forms of violence were practiced as a deliberate strategy of war in  
15 the Bangsamoro conflict;

16 (iii) To publish series of reports on the results of its investigation and cases  
17 of international human right violations, which include an analysis of the  
18 findings and recommendations related to individual, collective, and  
19 symbolic forms of reparations, accountability for crimes committed,  
20 institutional reforms, and reconciliation; and

21 (iv) To establish databases on violations of international human rights and  
22 international humanitarian law in the Bangsamoro from 1948 until the  
23 present, particularly a database on conflict-related human casualties.  
24



1 (b) Sub-Commission against Impunity and on the Promotion of Accountability  
2 and Rule of law in the Bangsamoro, which shall be responsible for the following:

3 (i) To identify, investigate, and recommend policies, operational means,  
4 and concrete measures to address and overcome practices of impunity  
5 at all levels, whether of a technical, political, or financial nature and  
6 whether related to past or present wrongdoings; and

7 (ii) To request disciplinary procedures against public officials who fail to  
8 cooperate or who obstruct justice and the rule of law.

9 (c) Sub-Commission on Land Dispossession in the Bangsamoro, which is  
10 authorized:

11 (i) To address issues related to land dispossession, use, and tenure in the  
12 conflict- affected areas in the Bangsamoro by developing or  
13 implementing a dispute resolution mechanism for land conflicts,  
14 including indigenous peoples' (IPs) claims on ancestral domains, and for  
15 identifying lands where there are competing claimants;

16 (ii) To create a database on actual land ownership in the Bangsamoro and  
17 on land dispossession that may be used to support legal proceedings  
18 and restitution or reparation programs, including cadastral, geo-tagged,  
19 and community-based participatory mapping sets;

20 (iii) To support the overall redesign of land services in the Bangsamoro by  
21 recommending changes in the legal framework and all procedures  
22 related to land titling, registration, taxation, and management, including  
23 claims of IPs on ancestral domains, for legislation.  
24

1 (d) Sub-Commission on Bangsamoro Healing and Reconciliation, which is  
2 empowered:

3 (i) To identify and support traditional practices of reconciliation at the  
4 community level;

5 (ii) To develop and promote a meaningful process for national reconciliation  
6 with a view to encouraging cultural and attitudinal change;

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

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

15 **Sec. 10.** National Consultation Process. - The appointment of members of the  
16 Commission shall be made through national public consultations.

17 For this purpose, the Office of the Presidential Adviser on the Peace, Reconciliation  
18 and Unity shall propose to the President a selection and appointment process for the  
19 members of the Commission. This selection and appointment process shall include the  
20 appointment of a selection committee composed representatives of national, regional,  
21 and local sectoral stakeholders. The selection committee, after its convention, shall select,  
22 from the pool of nominees, the persons who shall be included in the short lists of  
23 nominees from which the President shall appoint the members of the Commission. The  
24 selection committee and the Commission shall ensure the inclusion of women in its

1 membership, corresponding to representatives of national, regional and local  
2 stakeholders.

3 The Commission, whether it deems appropriate, shall likewise conduct national  
4 public consultations in the formulation of the implementing mechanisms of the Program.

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

11 The Executive Director shall recommend to the Chairperson, for the approval of  
12 the Commission, the budget of the Secretariat, its staffing pattern, position classification  
13 and compensation scheme, and the appointment of its personnel subject to existing laws,  
14 rules, and regulations.

15 The Executive Director shall be appointed by the President.

16 **Sec. 12.** Transitional Justice and Reconciliation Forum. - The Commission shall  
17 actively engage with stakeholders in the formulation and implementation of its projects  
18 and programs. For this purpose, it shall convene a Transitional Justice and Reconciliation  
19 Forum which shall serve as the platform for stakeholders to monitor and support the  
20 Transitional Justice and Reconciliation Program for the Bangsamoro.

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

1           **Sec. 14.** Appropriation. — For the initial operating expenses of the Commission to  
2 carry out the mandate of this Act, the amount of One Hundred Million Pesos  
3 (P100,000,000.00) is hereby appropriated to be charged against the unexpended  
4 contingency funds of the Office of the President. Thereafter, the amount needed for the  
5 operation and maintenance of the Commission shall be included in the annual General  
6 Appropriations Act.

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

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

16           **Sec. 16.** Repealing Clause. - All laws, orders, issuances, rules and regulations  
17 inconsistent herewith are repealed or modified accordingly.

18           **Sec. 17.** Separability Clause. - If any of this Act is declared unconstitutional, \ the  
19 remainder of this Act or any provision not affected thereby shall remain in full force and  
20 effect.

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

Approved,