

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
Second Regular Session

House Bill No. **5442**



Introduced by Representatives Sitti Djalila A. Turabin-Hataman, Leni Gerona-Robredo, Kaka J. Bag-ao, Jorge "Bolet" B. Banal, Marcelino "Marcy" R. Teodoro, Teddy Brawner Baguilat, Jr., Sherwin N. Tugna, Ibarra M. Gutierrez III, Walden F. Bello

EXPLANATORY NOTE

Last 25 January 2015, three platoons of the elite Philippine National Police - Special Action Force (PNP-SAF) ventured into Mamasapano, Maguindanao with the mission to serve arrest warrants to two suspected terrorists - Malaysian Jemaah Islamiyah leader Zulkifli bin Hir also known as Marwan and Filipino bomb-maker Abdulbasit Usman. Tragically, the PNP-SAF troops encountered members of the Bangsamoro Islamic Freedom Fighters (BIFF) and the Moro Islamic Liberation Front (MILF), which resulted in the death of several individuals from the said troops, along with civilians within the vicinity of the clash.

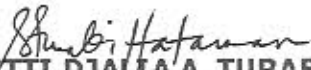
The facts and circumstances surrounding the incident remain unclear and insufficient. Under these circumstances, the creation of an impartial Commission is necessary in order to determine the complete set of facts on this incident to ensure that truth shall give way to justice.

This bill seeks to form the Citizens' Commission for Justice in Mamasapano, an independent body with a multi-sectoral membership, which will have plenary powers to investigate and report upon the tragedy. It will be tasked to come out with a report detailing the events that transpired, recommendations to prevent similar incidents, and possible charges against people involved. This measure also incorporates transparency mechanisms that will ensure that the processes and findings of the Citizens' Commission will truly be accessible to the public.

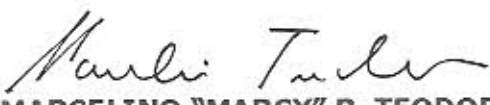
This undertaking is the realization of the resolve of the House of Representatives to make concrete contributions to the attainment of justice for the casualties of the Mamasapano incident by means of deliberate and thorough investigations to be conducted by a body composed of citizens of unimpeachable integrity and credibility.

Indeed, the unfortunate event has sweeping effects and repercussions which may possibly impede the ongoing peace process between the National Government and the MILF. More importantly, we need to honor the sacrifices of our fallen heroes and appease the grief of the victims' families by giving them the truth and justice they deserve.

In view of the foregoing, the immediate passage of this bill is urgently sought.


SITTI DJALIA A. TURABIN-HATAMAN
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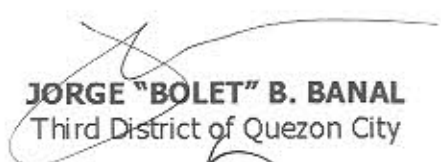

KAKA J. BAG-AO
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AN ACT
CREATING THE CITIZENS' COMMISSION FOR JUSTICE IN MAMASAPANO, WITH
PLENARY POWERS TO INVESTIGATE AND REPORT ON THE 25 JANUARY 2015
POLICE OPERATION AND ITS AFTERMATH IN MAMASAPANO, MAGUINDANAO

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

SECTION 1. *Creation of the Citizens' Commission for Justice in Mamasapano.* — An investigative body to be known as the Citizens' Commission for Justice in Mamasapano, herein after referred to as Citizens' Commission, is hereby created to determine all the facts and circumstances in the police operation that was carried out on 25 January 2015 in Mamasapano, Maguindanao and its aftermath, which resulted in the death and injury of Philippine National Police - Special Action Force (PNP-SAF) personnel, Moro Islamic Liberation Front (MILF) members, Bangsamoro Islamic Freedom Fighters (BIFF) members, and, allegedly, civilians residing in the area.

SEC. 2. *Objective of the Citizens' Commission.* — The Citizens' Commission shall:

- a. Gather the facts and put together the events that transpired on 25 January 2015 in Mamasapano, Maguindanao, through an impartial and independent fact-finding investigation led by appointed civilians with unimpeachable credibility, integrity, and probity;
- b. Craft recommendations to various government agencies in order to prevent a similar event from transpiring in the future;
- c. Investigate those responsible for the incident and bring justice to those affected by the event; and
- d. Recommend steps or measures to ensure the continuity of the on-going peace process and prevent all-out war in Mindanao.

SEC. 3. Composition. — The Citizens' Commission shall be composed of one (1) Chairperson and four (4) members to be appointed by the President of the Philippines fifteen (15) days after the effectivity of this Act.

The four (4) members to be appointed shall be:

1. A member of the Moro community;
2. A worker in a non-government or civil society organization that advocates peace;
3. A civilian academic whose expertise is in the field of national defense; and
4. A civilian academic whose expertise is in the field of Moro / Mindanao studies.

At least one out of the five members must be a woman to ensure gender balance.

SEC. 4. Qualifications of the Chairperson. — The Chairperson of the Citizens' Commission must be:

- a. A natural-born Filipino citizen;
- b. Of good moral character and unquestionable integrity;
- c. Of proven competence in his or her field;
- d. A member of the Philippine Bar; and
- e. With at least ten (10) years of experience in the practice of law.

SEC. 5. Qualifications of the Members. — The members of the Citizens' Commission must be:

- a. Natural-born Filipino citizens;
- b. Of good moral character and unquestionable integrity; and
- c. Of proven competence in their respective fields.

SEC. 6. Disqualification. — The following persons shall be disqualified from becoming the Chairperson or a member of the Citizens' Commission:

- a. A relative of any person in elective public office within the second degree of consanguinity or affinity;
- b. A person who has held or continues to hold any elective position in government;
- c. A member of any political party or party-list group recognized by the Commission on Elections; and
- d. A person who is financially interested, directly or indirectly, in any transaction or contract with the National Government and its subdivisions, instrumentalities, and agencies, including government-owned or controlled corporations.

SEC. 7. Powers and Functions. — The Citizens' Commission is primarily tasked to conduct a thorough investigation of the facts and circumstances surrounding the 25 January 2015 police operation and its aftermath in Mamasapano, Maguindanao. In particular, it shall:

- a. Form a secretariat which will assist in the exercise of the mandate of the Citizens' Commission;
- b. Collect, receive, review, and evaluate evidence related to the incident;

- c. Issue *subpoena ad testificandum* and *subpoena duces tecum*, and other compulsory processes requiring the attendance and testimony of witnesses and the production of any evidence relative to any matter under investigation by the Citizens' Commission;
- d. Administer oaths and affirmations and examine witnesses;
- e. Cite in contempt, and impose appropriate penalties as a result thereof, any person who refuses, without lawful excuse, to obey a subpoena, take an oath, or give testimony or produce documents for inspection as required by the Citizens' Commission;
- f. Write a report, with its findings, conclusions, and recommendations, based on its independent investigation;
- g. Recommend, in cases where there is a need to utilize any person as a state witness to ensure that the ends of justice be fully served, that such person, who qualifies as a state witness, under the Revised Rules of Court of the Philippines, be admitted for that purpose;
- h. Call upon the departments, bureaus, offices, agencies, or instrumentalities of the Government, including government-owned and controlled corporations, to extend such assistance and cooperation as the Citizens' Commission may need in the exercise of its powers, execution of its functions, and discharge of its duties and responsibilities, with the end in view of accomplishing its mandate;
- i. Engage or contract the services of resource persons, consultants, professionals, and other persons determined by it to be necessary in carrying out its mandate;
- j. Exhaust all means available to gather, collect, and receive testimonies, oral narrations, and other such information from the communities affected; and
- k. Exercise such other acts incidental to or appropriate and necessary in meeting the objectives and purposes of the Commission.

SEC. 8. Rules of Proceedings. — The Citizens' Commission shall draft, adopt, and promulgate rules that will govern the orderly, effective, efficient, and transparent conduct of its investigations, proceedings, hearings, and other initiatives, such as the presentation of evidence, within fifteen (15) days upon the appointment of its Chairperson and members. The rules of evidence under the Revised Rules of Court shall have suppletory application.

SEC. 9. Conduct of Proceedings. — The proceedings shall be in accordance with the rules promulgated by the Citizens' Commission. Hearings or proceedings of the Citizens' Commission shall be open to the public, pursuant to Section 13 of the Act. However, the Citizens' Commission, *motu proprio*, or upon the request of the person testifying, may hold an executive or closed-door hearing where matters of national security or public safety are involved, or when the personal safety of the witness warrants the holding of such executive or closed-door hearing; *Provided*, that the decision to hold executive or closed-door sessions is made in accordance with the rules promulgated by the Citizens' Commission.

SEC. 10. Bar against the Issuance of Restraining Orders or Preliminary Injunctions from Courts, with the Exception of the Supreme Court. — No court, except the Supreme Court, shall issue any restraining order or preliminary injunction on any matter involving the official acts of the Commission pursuant to this Act.

SEC. 11. Right to Counsel. — Any person called to testify before the Citizens' Commission shall have the right to counsel at any stage of the proceedings.

SEC. 12. Publication of Proceedings. — The Citizens' Commission shall create a website wherein all journals of the proceedings shall be published. The Citizens' Commission shall regularly update the website and upload the journal of its proceedings, not later than 3 days after the date thereof.

Furthermore, the Citizens' Commission shall upload its full report on its website upon submission to the Office of the President, both Houses of Congress, and other government agencies and parties concerned.

SEC. 13. Public Access to Proceedings. — All proceedings shall be made open to the public and to the members of the media. However, the Citizens' Commission may call for executive or closed-door sessions when matters of national security or public safety will be discussed and when the personal safety and security of the witness or resource person must be guaranteed pursuant to Section 9 of this Act; *Provided*, that the decision to hold executive or closed-door sessions is made in accordance to the rules promulgated by the Citizens' Commission.

The use of equipment for live broadcasts or recordings shall be allowed; *Provided*, that the presence and use of such equipment must not obstruct or hinder the orderly conduct of proceedings of the Citizens' Commission.

The use of devices for reporting via new media or social media shall also be allowed; *Provided*, that the presence and use of such devices must not obstruct or hinder the proceedings of the Citizens' Commission.

Other regulations concerning decorum of all present and the use of equipment/devices shall further be detailed in the rules to be promulgated by the Citizens' Commission; *Provided*, that such regulations shall not impede the access of the public to the proceedings and shall be made in the spirit of transparency and accountability on the part of the Citizens' Commission.

SEC. 14. Report of the Citizens' Commission. — Within a reasonable time, not later than six (6) months after the promulgation of its rules, the Citizens' Commission shall render a comprehensive final report with its findings, conclusions, and recommendations, to the Office of the President, with copies furnished to both houses of Congress and government agencies concerned.

All of the Citizens' Commission's reports shall be made public.

Once the Citizens' Commission has completed and published its report, the Citizens' Commission shall become *functus officio*, and all its assets and properties shall revert to the National Treasury.

SEC. 15. Tenure. — The Citizens' Commission is given six (6) months, after the promulgation of its rules mandated by Section 8 of this act, to fulfill the objectives set forth herein.

SEC. 16. Appropriations. — The sum of Twenty Million Pesos (P20,000,000.00) is hereby appropriated out of the available funds of in the National Treasury for the operational expenses of the Citizens' Commission.

SEC. 17. *Separability Clause.* — If for any reason, any section or provision of this Act is declared to be unconstitutional or invalid, the other sections or provisions hereof which are not affected thereby shall continue to be in full force and effect.

SEC. 18. *Repealing Clause.* — All laws, decrees, orders or rules and regulations, and other issuances which are inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 19. *Effectivity.* — This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved,