

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17th) CONGRESS
First Regular Session

HOUSE BILL NO. 5669



Introduced by Representative Jose Christopher Y. Belmonte

EXPLANATORY NOTE

This bill seeks to establish a Transitional Justice and Reconciliation Program aimed at addressing the legitimate grievances of the Bangsamoro people, correcting historical injustices, and addressing human rights violations and marginalization through land dispossession. This program necessarily includes the promotion of the concept of transitional justice in Philippine society at large, with the end in view of addressing biases and prejudices and developing mutual understanding among the Filipinos. This bill also proposes the creation of National Transitional Justice and Reconciliation Commission for the Bangsamoro (NTJRCB), which shall implement and supervise the proposed program.

The decades-long armed conflict in Mindanao is rooted in the legacy of historic injustice suffered by the Bangsamoro people. Oppressive national integration policies, as well as the economic exploitation of Mindanao by external actors through the use of colonial-era land laws that enabled the dispossession of many original possessors of their land, among others, impelled the Moro National Liberation Front (MNLF) to engage in a protracted war with the Philippine government that began in the early 1970s and lasted for close to 3 decades. The Moro Islamic Liberation Front (MILF), which broke-away from the MNLF in the late 1970s, likewise engaged in armed revolt until the late 1990s to the early 2000s.

The Philippine government, pursuing a non-violent means towards resolving the conflict, initiated peace negotiations with both the MNLF and the MILF. The Bangsamoro peace process aims to find a workable answer to the "Bangsamoro question." How could we effectively address the systemic marginalization that the Bangsamoro people have suffered under colonial and post-colonial government? Both the MNLF and the MILF have proposed that only the meaningful exercise by the Bangsamoro people of their right to self-determination would ultimately resolve the "Bangsamoro question." While both the MNLF and the MILF initially called for an independent Bangsamoro state, a

direct result of the peace process with both groups is their agreement that the creation of a region with meaningful political and economic autonomy, within the context of Philippine sovereignty and territorial integrity, is a viable way for the Bangsamoro to exercise self-government or self-determination.

Thus, after 17 years of peace negotiations, the MILF finally signed the Comprehensive Agreement on the Bangsamoro (CAB) with the Philippine government on March 27, 2014. The CAB is notable not only because it contains a blueprint for the meaningful exercise of Bangsamoro self-determination through the creation of a Bangsamoro region with powers that will allow its people to, among others, honor and promote their historic and cultural legacy, but also because it has specific arrangements for a process of normalization. Normalization aims to ensure human security in the areas affected by conflict. It is a process through which people in the conflict-affected areas can transition to a normal and peaceful life, which includes the ability to pursue sustainable livelihood and the freedom to participate politically within a peaceful deliberative society. The normalization process includes many mechanisms, including the decommissioning of MILF combatants and the pursuit of transitional justice and reconciliation.

Transitional justice is defined by the United Nations as “the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation.” States engage in transitional justice processes to “achieve justice, peace, a democratic society, and established rule of law.” Transitional justice is crucial for the success of the Bangsamoro peace process because the political processes related to the exercise of self-determination, which include legislating the creation of a Bangsamoro autonomous region, are not enough to win the peace. There is a need to deal with the devastating cost of the armed conflict in the lives of civilians caught in the cross-fire. A failure to do this would fuel even more conflict on the ground. In order to achieve a just, lasting, and durable peace, therefore, both the root cause of armed conflict (political and economic marginalization) and its consequences – a legacy of violence and disrupted lives – must be addressed. Through transitional justice mechanisms, conflict-affected communities can explore means of healing the wounds of conflict and move towards reconciliation.

Through the CAB, the Philippine government and the MILF 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 mandated the creation of an independent “Transitional Justice and Reconciliation Commission (TJRC) to undertake a study and recommend to the Panels the appropriate mechanisms for transitional justice and reconciliation.”

The TJRC was officially convened on September 27, 2014. After more than a year of a consultation process that involved community-based “listening process” sessions, study group reviews of existing research, and policy interviews with more than 210 Moro, indigenous, and settler communities in the Mindanao and Sulu archipelago, involving some 3,000 participants, 40% of which are women, as well as independent research on specific areas of relevance in the Bangsamoro context, the TJRC launched its *Report* in March 2016.

In its *Report*, the TJRC proposes the use of a framework emphasizing the rights of victims of conflict to truth, justice, and reparations, as well as guarantees of non-recurrence, with the end in view of dealing with the past with a forward-looking perspective. The TJRC proposed a list of recommendations, which it deems are crucial if we are to finally bring a halt to armed conflict and create conditions under which a just, lasting, and durable peace can thrive. Foremost among its recommendations is the creation of a NTJRCB. The NTJRCB is tasked with the implementation of the “dealing with the past” framework and to promote healing and reconciliation.

Notably, TJRC *Report* emphasizes that transitional justice ought to be a national project – one that deals with the legitimate grievances of the Bangsamoro, while at the same time promoting healing and reconciliation between the Bangsamoro and the rest of the Filipino people. The TJRC found that the protracted armed conflict has wedged a deep division between the Bangsamoro people and Filipinos who do not understand, much less accept, the legitimacy of the Bangsamoro cause.

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

A handwritten signature in dark ink, appearing to read "J. Belmonte", is positioned to the right of the concluding sentence. The signature is fluid and cursive, with a long horizontal stroke extending to the right.



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1 **AN ACT**
2 **ESTABLISHING A TRANSITIONAL JUSTICE AND**
3 **RECONCILIATION PROGRAM FOR THE BANGSAMORO,**
4 **CREATING FOR THE PURPOSE THE NATIONAL TRANSITIONAL**
5 **JUSTICE AND RECONCILIATION COMMISSION FOR THE**
6 **BANGSAMORO, AND APPROPRIATING FUNDS THEREFOR**

7
8
9 *Be it enacted by the Senate and House of Representatives of the Philippines in*
10 *Congress assembled:*

11
12 **SECTION 1. *Short Title.*** – This Act shall be known as the
13 *“Transitional Justice and Reconciliation for the Bangsamoro Act.”*
14

15 **SEC. 2. *Declaration of Policy.*** – It is hereby declared the policy of
16 the State to pursue peace and development throughout the country and to
17 particularly end the conflict in Mindanao through peaceful means. Towards this
18 end, the State shall formulate and implement plans and programs, as part of the
19 peace process, which will address legitimate grievances of the Bangsamoro
20 people, historical injustices, human rights violations and marginalization
21 through land dispossession. The State shall further guarantee non-recurrence of
22 such injustices and violations.
23

24 **SEC. 3. *Definition of Terms.*** –As used in this Act:
25

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

6
7 (b) *Land dispossession* includes dispossession by ostensibly lawful
8 means, such as public land laws but may have been attended by force, duress,
9 intimidation, stealth, and deception;

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

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

22
23 **SEC. 4. *Transitional Justice and Reconciliation Program for the***
24 ***Bangsamoro.*** – There is hereby established a Transitional Justice and
25 Reconciliation Program for the Bangsamoro, hereinafter referred to as the
26 “Program,” which shall address legitimate grievances of the Bangsamoro
27 people, historical injustices and human rights violation, including
28 marginalization through land dispossession, with the following aims:

29
30 a. Provide venues for the victims of conflict to be heard and
31 mechanisms for the investigation of serious violations of international human
32 rights law and international humanitarian law, and enable inquiries into specific
33 events of the armed conflict;

34 b. Contribute to the resolution of outstanding land disputes in
35 conflict-affected areas in the Bangsamoro and address the legacy of land
36 dispossession with concrete measures to provide redress;

1 c. Provide effective counteractions to impunity, by promoting
2 accountability and strengthening the rule of law in relation to past and present
3 wrongdoings, including crimes identified under international conventions to
4 which the Philippines is a signatory; and

5 d. Promote healing and reconciliation among the different
6 communities affected by the conflict.

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

17
18 **SEC. 6. Composition.** – The Commission shall be composed of a
19 Chairperson and four (4) regular Commissioners to be appointed by the
20 President. The Chairperson shall be responsible for the overall supervision of
21 the Commission and each of the four (4) Commissioners shall be responsible for
22 the four (4) sub-commissions under Section 8 of this Act.

23
24 The Executive Director of the Commission and two (2) representatives
25 from civil society who are likewise appointed by the President shall sit as non-
26 voting members of the Commission. The Chairperson, Commissioners and the
27 non-voting members must be citizen of the Philippines and of proven
28 competence, integrity, probity and independence.

29
30 **SEC. 7. Powers and Functions.** – The Commission shall have the
31 following powers and functions:

32
33 a. Conduct a nationwide information, education, and dissemination
34 program for the popularization of the rationale and principles of transitional
35 justice and reconciliation, as well as its implementing mechanisms;
36

1 b. Investigate, study, and recommend measures for the resolution of
2 cases of individuals and communities adversely affected by armed conflict,
3 serious violations of human rights and international humanitarian law, and
4 outstanding land disputes in the conflict-affected areas, generally and as
5 provided in the mandates of the sub-commissions. Pursuant to this, the
6 Commission and its sub-commissions may take testimony or receive evidence,
7 administer oaths, summon witnesses, and require the production of documents
8 by *subpoena duces tecum*;

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

13
14 d. Coordinate with the public and private sectors in the formulation of
15 short, medium, and long-term programs under a comprehensive approach to
16 transitional justice and reconciliation;

17
18 e. Call upon other government agencies, including government-
19 owned and -controlled corporations and government financial institutions, for
20 any support it needs to carry out its mandate;

21
22 f. Submit to the President recommendations for further action,
23 including proposed bills on matters requiring legislative action, when necessary,
24 to fully implement its proposals and programs; and

25
26 g. Perform such other functions as may be necessary for the effective
27 discharge of its mandate.

28
29 **SEC. 8. *Organizational Structure and Staffing Pattern.*** – Within
30 three (3) months from the convening of the Commission, the organizational
31 structure and staffing pattern shall be formulated and finalized in coordination
32 with the Department of Budget and Management. To assist the Commission in
33 the performance of its duties, four (4) sub-commissions are hereby created,
34 which shall deal with specific aspects of transitional justice for the Bangsamoro:

35
36 a. **Sub-Commission on Bangsamoro Historical Memory**, which
37 shall have the following specific functions:

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

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

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

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

23 b. **Sub-Commission against Impunity and on the Promotion of**
24 **Accountability and Rule of Law in the Bangsamoro**, which shall be
25 responsible for the following:

26 i. To identify, investigate, and recommend policies, operational
27 means, and concrete measures to address and overcome practices of
28 impunity at all levels, whether of a technical, political, or financial nature
29 and whether related to past or present wrongdoings; and

30 ii. To request disciplinary procedures against public officials who
31 fail to cooperate or who obstruct justice and the rule of law.

32 c. **Sub-Commission on Land Dispossession in the Bangsamoro**,
33 which is authorized:

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

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

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

14 d. **Sub-Commission on Bangsamoro Healing and Reconciliation,**
15 which is empowered:

16 i. To identify and support traditional practices of reconciliation at
17 the community level;

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

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

24 Each sub-commission shall cooperate with relevant national, regional,
25 and local institutions, both governmental and nongovernmental, in the exercise
26 of its mandate. Moreover, each sub-commission shall ensure the meaningful
27 participation of women in the processes that will be undertaken, taking into
28 consideration their experiences relevant to the objectives of transitional justice.
29

30 **SEC. 9. National Consultation Process.** – The appointment of
31 members of the Commission shall be made through national public
32 consultations.
33

34 For this purpose, the Office of the Presidential Adviser on the Peace

1 Process shall propose to the President a selection and appointment process for
2 the members of the Commission. This selection and appointment process shall
3 include the appointment of a selection committee composed of representatives
4 of national, regional, and local sectoral stakeholders. The selection committee,
5 after its convention, shall select, from the pool of nominees, the persons who
6 shall be included in the short lists of nominees from which the President shall
7 appoint the members of the Commission. The selection committee and the
8 Commission shall ensure the inclusion of women in its membership,
9 corresponding to representatives of national, regional and local sectoral
10 stakeholders.

11
12 The Commission, whenever it deems appropriate, shall likewise conduct
13 national public consultations in formulation of the implementing mechanisms of
14 the Program.

15
16 **SEC. 10. *Advisory Board.*** – There is hereby created an Advisory
17 Board composed of qualified individuals, including women, with proven
18 expertise in the fields of transitional justice and reconciliation, to be appointed
19 by the President.

20
21 The Commission may likewise engage or contract the services of
22 resource persons, professionals and other personnel determined by it as
23 necessary to carry out its mandate.

24
25 **SEC. 11. *Secretariat.*** – The Commission shall organize its Secretariat,
26 headed by an Executive Director, which shall provide administrative and
27 technical support.

28
29 **SEC. 12. *Duration.*** – The Commission shall operate for a period of six
30 (6) years from the effectivity of this Act or upon completion of the purposes for
31 which it was created, whichever comes first. However, it may continue to
32 operate for additional three (3) years upon the approval of the President.

33
34 **SEC. 13. *Appropriation.*** – For the initial operating expenses of the
35 Commission to carry out the mandate of this Act, the amount of One hundred
36 million Pesos (P100,000,000.00) is hereby appropriated from the Contingent
37 Fund of the Office of the President on the year this Act is approved. Thereafter,

1 it shall submit to the Department of Budget and Management its proposed
2 budget for the inclusion in the General Appropriations Act.

3
4 The Commission is likewise authorized to accept donations,
5 contributions, grants, bequests or gifts from domestic or foreign sources, for
6 purposes relevant to its mandate and functions, in accordance with applicable
7 laws and rules and regulations subject to government accounting and auditing
8 rules and regulations.

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

14 **SEC. 15. *Repealing Clause.*** – All laws, orders, issuances, rules and
15 regulations inconsistent herewith are repealed or modified accordingly.

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

19 **SEC. 17. *Effectivity.*** – This Act shall take effect fifteen (15) days after
20 its publication in a newspaper of general circulation or *Official Gazette*.

21 Approved,

22