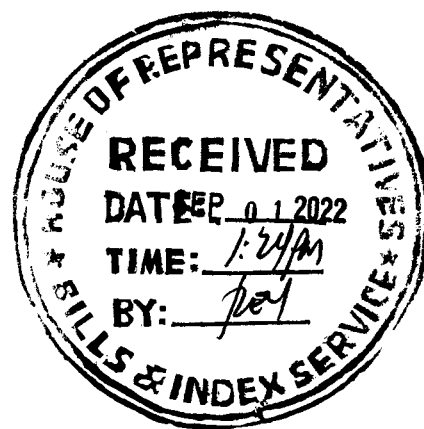




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

Nineteenth Congress
First Regular Session

HOUSE BILL NO. 4330



Introduced by Hon. MUJIV S. HATAMAN of the Lone District of Basilan

EXPLANATORY NOTE

This measure aims to establish a Transitional Justice and Reconciliation Program (TJRP) that will address the legitimate grievances of the Bangsamoro and the marginalization through land dispossession.

The measure was first filed during the 17th Congress and approved by the Special Committee on Peace, Reconciliation and Unity, but failed to hurdle plenary approval. It was re-filed during the 18th Congress but failed to get past the committee level.

This bill is mandated by the Comprehensive Agreement on the Bangsamoro (CAB) made between the Philippine Government and the Moro Islamic Liberation Front (MILF). The CAB states that the two parties must “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. This happened after more than a year of consultations that involved community-based “listening process” sessions. It also involved 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

whom are women, as well as independent research on specific areas of relevance in the Bangsamoro context. After these, 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 forward-looking perspective.

The TJRC proposed a list of recommendations, which it deems are crucial 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 the National Transitional Justice and Reconciliation Commission for the Bangsamoro (NTJRCB).

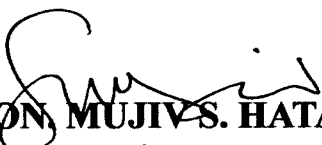
The NTJRCB is tasked with the implementation and supervision of the TJRP using the “dealing with the past” framework and promote healing and reconciliation.

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.

The Transitional Justice and Reconciliation Program necessarily includes the promotion of the concept of transitional justice in Philippine society at large, with the view of addressing biases and prejudices and developing mutual understanding among the Filipinos.

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


HON. MUJIV S. HATAMAN
Representative
Lone District of Basilan



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HOUSE BILL NO. 4330

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

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

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

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

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

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

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

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

(d) *Transitional justice* means 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 which include criminal prosecutions, truth telling, reparations programs and institutional reform.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

witness statements and evidence related to specific violent events, with sensitivity to accounts of women who have been victims of gender-based and sexual violence;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 13. *Appropriation.* – For the initial operating expenses of the Commission to carry out the mandate of this Act, the amount of One hundred million Pesos (P100,000,000.00) is hereby appropriated from the Contingent Fund of the Office of the President on the year this Act is approved. Thereafter, it shall submit to the Department of Budget and Management its proposed budget for the inclusion in the General Appropriations Act.

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

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

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

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

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

Approved,