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(In Substitution of Senate Bill Nos. 2043 and 2392.)

Prepared by the Committees on Local Government; National Defense and Security,
Peace, Unification and Reconciliation; and Finance with Senators Hontiveros,
Tolentino, and Ejercito as authors thereof.

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**

*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*
2 *and Reconciliation Act for the Bangsamoro.*"

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

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

(a) Historical Injustices shall refer to acts committed, and transactions entered into by state and non-state actors with, and against the Bangsamoro and other inhabitants of the Mindanao and Sulu archipelago that have placed the 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 shall include the dispossession by ostensibly lawful means, such as the implementation of public land laws, but may have been attended by force, duress, intimidation, stealth, and deception.

(c) Marginalization shall refer 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, policies, as well as government neglect, and failure to address destructive and exploitative actions of non-state actors.

(d) Transitional Justice shall refer to the full range of process and mechanisms associated with a society's attempts to come to terms with a legacy of past abuses, through the promotion of truth, justice, reparation, and the guarantee of non-recurrence in order to ensure accountability, serve justice and achieve reconciliation which include criminal prosecution, truth telling, reparation programs and institutional reform.

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

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 and Indigenous peoples, historical injustices and human rights violation, including gender-based violence, and marginalization through land dispossession. The Program aims to:

(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" under the Office of the President. The Commission shall design its strategy, program, and mechanisms, and lead the implementation thereof. The Commission shall adopt its own operational guidelines, internal organizations, and rules of procedure. In formulating its strategy, the program, and its 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 five (5) regular members headed by a Chairperson, at least two (2) of whom shall be women, and two (2) ex-officio representatives from civil society organizations, of whom one (1) shall be a woman, who shall sit as non-voting members of the Commission. The President shall appoint all members of the Commission; Provided, That the two (2) ex-officio representatives shall be appointed upon the recommendation of the civil society organizations.

1 **Sec. 7. *Qualifications of the Regular Members of the Commission.*** - The
2 members of the Commission shall possess professional and ethical competence, and
3 shall have the following qualifications:

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

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

- 10 (a) Conduct a nationwide information, education, and dissemination
11 program for the popularization of the rationale and principles of transitional
12 justice and reconciliation, as well as its implementing mechanisms;
- 13 (b) Investigate, study, and recommend measures for the resolution of cases
14 of individuals and communities adversely affected by armed conflict, serious
15 violations of human rights and international humanitarian law, including
16 gender-based violence and outstanding land disputes in the conflict-affected
17 areas, generally and as provided in the mandates of the sub-commission.
18 Pursuant to this, the Commission and its sub-commission may take the
19 testimony or receive evidence, administer oath, summon witnesses, and require
20 the production of documents by subpoena duces tecum;
- 21 (c) Determine the factors that contribute to impunity in relation to past and
22 present wrongdoings, including their differential effects on men and women;
23 and recommend appropriate actions to dismantle impunity, promote
24 accountability, and strengthen the rule of law;
- 25 (d) Coordinate with the public and private sectors in the formulation of
26 short, medium, and long-term programs under a comprehensive approach to
27 transitional justice and reconciliation;
- 28 (e) Call upon civil society and other citizens' organizations for their
29 assistance in promoting awareness of transitional justice and reconciliation, in
30 reporting cases of violations and injustice, in contributing to an agenda towards
31 peacebuilding and normalization, and in developing a robust monitoring and
32 feedback mechanism for transitional justice and reconciliation programs;

1 (f) Call upon other government agencies, including government-owned and
2 controlled corporations and government financial institutions, for any support
3 it needs to carry out its mandate;

4 (g) Submit to the President recommendations for further action, including
5 proposed bills on matters requiring legislative actions, when necessary, to fully
6 implement its proposals and programs; and

7 (h) Perform such other functions as may be necessary for the effective
8 discharge of its mandate.

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

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

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

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

30 (iii) To publish series of reports on the results of its investigation and
31 cases of international human right violations, which include an
32 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 archives and 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 initiate and coordinate with relevant government agencies on 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 tasked:
- (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 public land application geospatial information database, 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 claims of IPs on ancestral domains, for legislation.

(d) Sub-Commission on Bangsamoro Healing and Reconciliation, which is responsible:

(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;

(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.

The sub-commissions shall ensure the involvement and participation of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) offices in its initiatives for transitional justice.

Sec. 10. *National Consultation Process.* - The Office of the Presidential Adviser on the Peace, Reconciliation and Unity 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 from the Bangsamoro Government, and the 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 and people of Bangsamoro origin, including indigenous peoples in its membership, corresponding to representatives of national, regional and local stakeholders.

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

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

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

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

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

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

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

1 **Sec. 15. *Implementing Rules and Regulations.*** – Within ninety (90) days from
2 the effectivity of this Act, the Commission shall promulgate the necessary
3 implementing rules and regulations for the implementation of this Act.

4 **Sec. 16. *Separability Clause.*** - If any provision of this Act is declared
5 unconstitutional or invalid, other parts or provisions hereof not affected thereby shall
6 remain in full force and effect.

7 **Sec. 17. *Repealing Clause.*** - All laws, presidential decrees, executive orders,
8 letter of instruction, proclamations or administrative regulations that are inconsistent
9 with the provisions of this Act are hereby repealed, amended, or modified accordingly.

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

12 Approved,