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# Transitional Justice in the Bangsamoro: What's Next?



## *Transitional Justice in the Bangsamoro: What's Next?*

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## MOHAGHER M. IQBAL

Chair, Peace Implementing Panel – Moro Islamic Liberation Front  
Minister, Ministry of Basic, Higher and Technical Education

As the Chair of the Moro Islamic Liberation Front (MILF) Peace Implementing Panel, I admire any dedicated work in the field of transitional justice, especially as highlighted in forumZFD's publication on this critical area. This work is commendable and essential to our ongoing journey toward lasting peace and stability in the Bangsamoro region.

Transitional justice stands as one of the pillars of the Normalization process. It provides a framework for understanding and addressing the historical injustices and pains endured by our people. This publication sheds much-needed light on these complex issues, offering insights and guidance for our path forward.

We cannot overstate the relevance of transitional justice in peacebuilding. It fosters an environment where reconciliation can flourish, the voices of those affected by conflict are heard and acknowledged, and a collective vision of a harmonious future can be nurtured. Your work contributes to our efforts in ensuring that the process of healing and reconciliation is inclusive, empathetic, and just.

I appreciate forumZFD's decision to engage with various civil society organizations (CSO) and nongovernment organizations (NGO). NGOs and CSOs often bring specialized knowledge and experience in dealing with transitional justice and reconciliation issues. Moreover, these local organizations often represent or work closely with various segments of society, including marginalized and vulnerable groups. Hence, a collaborative approach enriches the dialogue around transitional justice, bringing diverse perspectives and experiences into the conversation. Such inclusivity is vital for the success of our peacebuilding efforts.

As we continue to work towards a peaceful, just, and prosperous Bangsamoro, your contributions through this publication and your broader work in peacebuilding are invaluable. On behalf of the MILF Peace Panel and the Bangsamoro people, I extend our deepest gratitude to forumZFD for your unwavering support and commitment to peace, justice, and conflict transformation.

Thank you for being integral to our journey toward a brighter future for the Bangsamoro.

## CARLITO G. GALVEZ JR.

Secretary, Office of the Presidential Adviser on Peace, Reconciliation and Unity

It is said that Transitional Justice and Reconciliation (TJR) is the heart and soul of the Bangsamoro peace process. This is the reason why the Office of the Presidential Adviser on Peace, Reconciliation, and Unity (OPAPRU), has taken steps to advocate for TJR within the national government, through the GPH-MILF peace mechanisms, and with the Bangsamoro Autonomous Region in Muslim Mindanao, which aims to address legitimate grievances of the Bangsamoro people, correct historical injustices, and address human rights violations and marginalization through land dispossession.

To have a greater impact, TJR interventions to be implemented in the Bangsamoro, as well as those that are now being carried out, must seek to address social inequalities, promote good governance, and strengthen the rule of law in the region. By bolstering state institutions and bureaucratic systems, these measures can help prevent the recurrence of past injustices and promote inclusive and participatory governance.

More importantly, fostering healing and reconciliation efforts must be at the core of these TJR initiatives. They must foster dialogue, mutual understanding, and forgiveness among former adversaries and affected communities. Such interventions must include community dialogue, cultural exchanges, and educational programs that promote empathy, trust, and social cohesion.

We, therefore, thank and commend the Forum Civil Peace Service (forumZFD) Philippines for putting together and publishing a resource material on TJR that we believe will be most helpful to our fellow peacebuilders and peace advocates, and duty bearers. This resource material presents wide-ranging principles, narratives, and experiences of TJR experts that can serve as an invaluable guide to all peace stakeholders.

Rest assured that the OPAPRU stands beside the Bangsamoro people in their journey toward genuine peace, healing, and reconciliation. May our collective efforts serve as a beacon of hope for all of us. By addressing historical injustices, promoting accountability, and fostering solidarity, all of our efforts will help lay the groundwork for a society where justice, dignity, and human rights are upheld for all as we build a "Bagong Pilipinas."



## ALEXANDER SCHMIDT

(Former) First Secretary for Political Affairs – Embassy of Germany

We welcomed the opportunity to participate in the conference on “Transitional Justice in the Bangsamoro: What’s Next?” and would like to commend forumZFD and GIZ CPS for their meaningful work on peace and conflict transformation in Mindanao. Transitional Justice is a key issue in BARMM. The Comprehensive Agreement on the Bangsamoro is not the only document signed with a view to ending violent military conflict. Both parties, the National Government and the MILF, also signed the Annex on Normalization, which includes components such as the demobilization of combatants, camp transformation, transitional security measures, transitional justice and reconciliation, and confidence-building initiatives.

The disparity among the population and unequal distribution of power, access to natural resources, and land are some of the main sources of conflict in Mindanao. This in turn hampers the prospects for sustainable development and economic growth, which has the potential to further destabilize the region.

Germany remains committed to supporting an inclusive peace process in the Bangsamoro, based on the principles of human rights, democracy, and the rule of law. In our engagement, we are guided by the Indo-Pacific guidelines of the German government that specifically mention Germany’s commitment to the peace process in Mindanao. Moreover, we are guided by our Feminist Foreign Policy that asks to mainstream gender aspects and by the Women, Peace, and Security Agenda, to ensure the inclusion of marginalized groups.

We welcome this publication by forumZFD as a timely reminder of the great need for an inclusive transitional justice process for the BARMM and as a valuable tool for all of those promoting this important step towards sustainable peace.

## KAREN HELEN WATERMANN

Coordinator, GIZ-Civil Peace Service Philippines

While working in Mindanao since 2007 to support the peace process, the GIZ-CPS Philippines Team time and again was able to listen to the grievances of the people. Unimaginable cruelty and injustices happened during massacres and armed confrontations experienced by various communities with which we were working. Many of them are traumatized and scarred for life due to the loss of loved ones and worldly goods and unforgettable experiences of violence. When we realized that, we gathered funds brought forward from reduced project activities due to COVID-19 and other matters. We decided to dedicate this financial resource to look closer into this issue. We wanted to provide a platform for stakeholders, politicians, activists, and people from the communities—for people from the micro, meso, and macro levels—to come together and exchange their expertise, experiences, and efforts to strive for transitional justice. We wanted to know if the communities are ready to struggle for justice since we are convinced that this is the major precondition to enter this subject.

The initiative—the want and will—must come from the bottom, the communities. The question regarding how the political will has developed to investigate this important precondition for justice and peace in the region was a guiding topic. We hope our conference was able to trigger action and allowed taking stock of where we stand regarding the possibilities and needs to strive for transitional justice in the region since dealing with the past is a must for a peaceful future in the Bangsamoro region.

I would like to thank all the people who made this important conference possible, especially our cooperation partner forumZFD. We would also like to express our gratitude to all the helping hands and minds, the many spokespersons who came from near and far, who exchanged their knowledge and opinions with us, for their contributions to making this conference a success.

This publication by forumZFD represents the next step in the wake of the conference’s success, it continues to pose the question “What next?” and proposes some potential answers to move the process forward. We wish it and those who make use of it every good wish in reaching these goals.

“As long as we see small lights, we continue to hope.”

*Ammier M. Dodo, Head of the MILF Technical Working Group on Transitional Justice during the Transitional Justice in the Bangsamoro: What's Next conference, February 2023*

Transitional justice and reconciliation is an important element in the overall peace process and the transition from violent conflict to lasting and just peace in the Bangsamoro Autonomous Region of Muslim Mindanao. Addressing historical injustices and grievances means tackling the root causes of the Bangsamoro conflict and contributing to its sustainable transformation. The importance of transitional justice has been recognized in the formal peace negotiations and the broader peace process. Provisions on transitional justice have been included in the Normalization Annex to the Framework Agreement on the Bangsamoro and the Bangsamoro Organic Law. Advancing transitional justice gained traction when the Transitional Justice and Reconciliation Commission was established in 2014, tasked with undertaking a study and making recommendations on how to address legitimate grievances, historical injustices, and human rights violations. The Commission presented its findings in 2016, including more than 90 recommendations. Despite this comprehensive basis for implementing transitional justice measures and transitional justice being one of the four components of the Normalization Annex, actual implementation of the recommendations has been slow. The Bangsamoro Human Rights Commission, which has been tasked with an interim mandate to implement transitional justice in the Bangsamoro, has been challenged by its limited jurisdiction and insufficient resources and capacity to manage the enormous task at hand.

In light of this mismatch between the importance of transitional justice for the overall peace process and the slow progress of its implementation, forumZFD and GIZ-CPS co-organized an international conference on 7-9 February 2023 titled “Transitional Justice in the Bangsamoro: What's Next?” The

conference brought together approximately 200 representatives of local and international organizations, key actors from government agencies, community leaders, and members of the international community and aimed to facilitate a discussion on existing transitional justice and reconciliation initiatives, the remaining gaps, and the needs of the affected communities. It highlighted the potential effects if historical injustices and the violence committed throughout the conflict remain unaddressed. This includes the potential for a resurgence of violence and the perpetuation of structural violence, such as the continued marginalization of minority communities. In addition to the initiatives taken by Bangsamoro and the broader Philippine civil society, the conference showcased advances in transitional justice made in other contexts, such as Cambodia, Nepal, and the Western Balkans. The conference received positive feedback from participants, particularly for creating a space for the diverse actors involved in transitional justice initiatives to come together and exchange and gave new impetus to transitional justice efforts of local and international civil society organizations, including forumZFD.

This publication aims to maintain the momentum of the conference by making the results accessible to transitional justice practitioners and advocates in the region and carrying the deliberations of the conference forward. Continuing what has been started during the three-day conference, it invites transitional justice experts and practitioners to share their reflections on what has been achieved in terms of transitional justice and reconciliation and what is still needed. This publication can thus serve as a baseline for civil society actors' ongoing engagements and as a reference document

for developing new initiatives. Recognizing the frequent exclusion of marginalized voices, it hopes to provide a greater spotlight for their needs and aspirations and to showcase the diversity of stakeholders involved in transitional justice. By sharing results and reflections widely, we hope to continue encouraging existing and planned work on transitional justice and reconciliation in BARMM and to advance the field as a whole.

This publication further builds on forumZFD's 2014 report on transitional justice in the Bangsamoro titled “Moving Beyond: Towards Transitional Justice in the Bangsamoro Peace Process.” Similar to this publication, the report brought together the voices of several experts in the field to reflect the debates on transitional justice at the time and map out particular opportunities, concerns, and entry points for transitional justice in the Bangsamoro. Despite a decade having passed since the publication of the report, many of the identified themes remain relevant today—further indicating how slow the progress of transitional justice in the Bangsamoro has been. Specifically, the report pointed to the need to further define the scope of transitional justice in the Bangsamoro, to develop participatory methods, and to localize transitional justice concepts and approaches to and in the Bangsamoro. These themes are picked up again in this report and developed further. They remain as important challenges for those responsible for the implementation of transitional justice measures so that the peace process leads to a just and lasting peace in the Bangsamoro.

The following articles look at different aspects of transitional justice and reconciliation. First, Karlos Manlupig's article on the Manili massacre highlights the urgency of transitional justice by showcasing the lasting effects of unaddressed historical injustices and the importance of giving space for the voices of those affected by mass violence. The article serves as a reminder of the suffering experienced by the survivors and sets the scene for the discussions on different aspects of transitional

justice that follow. Yasmira Moner then reflects on the recommendations of the Transitional Justice and Reconciliation Commission, the status of their implementation, and the processes taken since the presentation of the Commission's report. Focusing her analysis on the conflict-affected communities, she highlights the need for gender-sensitive, inclusive transitional justice processes that involve affected communities as co-creators of these processes. Similarly, the article of Bai Shaima Baraguir and Rosa Castillo discusses the idea of contextualization of transitional justice processes, not only to the Bangsamoro but rather in the Bangsamoro. Going beyond the inclusion of conflict-affected communities, the article advances the need to decolonize memory work and develop bottom-up transitional justice processes. Taken together, these two articles elaborate on how transitional justice can be conceptualized in the Bangsamoro beyond what has been established by the existing laws and the TJRC report. Atty. Cecilia Jimenez-Damary and Kriselle Aquino follow with an in-depth analysis of two concrete aspects of transitional justice work that, despite being clearly established in international and domestic frameworks, continue to be contested in the context of the Bangsamoro: the right to reparations and the requirement of establishing accountability. While Jimenez-Damary compares existing efforts at providing reparations to victims of human rights violations, both dedicated specifically to the Bangsamoro and those with a broader mandate, Aquino takes stock of the Bangsamoro Human Rights Commission's mandate of working towards accountability for human rights violations. Both come back to the need to involve communities and define justice, particularly transitional justice, from the bottom up. The report closes with a case study of community-based and civil society-led transitional justice and reconciliation efforts as advanced by the NGO Pakigdait, Inc. By giving concrete examples of work done in Lanao del Sur, the article showcases what is possible in terms of transitional justice despite the absence of a government-led, national transitional justice and reconciliation process.



## In the Grass We Hide

Karlos Manlupig

*Trigger Warning: The article contains graphic details that can be disturbing. It has been revised multiple times to make it suitable for public consumption, but it was done with the mindful effort of not sanitizing the narratives. forumZFD and I have approached the production of the story with sensitivity, especially to the feelings of the survivors and their families. We are aware of the pain felt by the sources by just recalling their experiences. I am sorry for asking them to be in that situation. Let us honor the people of Manili by remembering and sharing their stories.*

Carmen, Philippines – It’s the first month of 2024, and the sun just appeared over the mountains at the eastern border of North Cotabato. The roads in Carmen town are alive with activity, mostly farmers going to their fields.

Carmen is an agricultural town and is home to about 80,000 people from diverse cultural groups and religions. It was originally the ancestral lands of the Manobo-Aromanon and Maguindanaon people but is now considered home by generations of descendants of settlers from the Visayas and Luzon.

Traversing through Carmen’s main highway, there are reminders of its violent past. A few residential compounds have portions of their walls reinforced by sand-filled rubber tires. While the area still has the potential to be a powder keg for war, the sand-filled rubber tires have been converted into massive planter boxes blooming with purple bougainvilleas—hopefully, a sign of better days ahead.

Fifty-two years ago, things were significantly different. There was an unexplainable negative energy in the air that sent chills down one’s spine. There had been an escalation of mistrust, disinformation, and physical attacks.

On June 19, 1971, the residents of Barangay Manili, on the eastern border of the municipality of Carmen, gathered inside their mosque because there was a supposed invitation for a meeting to mediate the worsening escalation. Instead, what followed was a barrage of gunfire coming from outside the mosque.

Gunmen stood at the external side of the wall, and from their waist-level line of fire, they discharged countless bullets at anyone whom they saw moving. The bullets from automatic gunfire were followed by a succession of explosions after grenades were lobbed inside the mosque. The exact number of grenades used is still unknown.

It was evident that the intention was to exterminate those in the mosque as the armed men proceeded to execute those whom they saw were still alive after the blasts. Some were executed by gun; others were killed using bladed weapons. The survivors said that there was a pool of blood inside the mosque. The same pool of blood saved some of them because they were partially submerged in it and appeared to be dead. Many of the survivors were crouching close to the wall and were covered by dead bodies, which is why they were not fatally wounded.

By the end of the massacre, more than 70 residents had been killed inside the mosque. Much has been written, but so few remember the Manili Massacre—one of the many ironies in this country.

The common narrative from the survivors was that the massacre did not happen spontaneously. The perpetrators were allegedly members of the paramilitary group Ilaga (Cebuano for rat), but survivors said the Philippine Constabulary directly backed them and had the blessing of the government led by the late dictator Ferdinand Marcos Sr. It was one of the major tragedies that led to the rapid escalation of the Bangsamoro struggle.



Photo: Karlos Manlupig

Survivors of the Manili Massacre in Barangay Manili, Carmen, North Cotabato who were interviewed by the author.

Fifty-four-year-old Mambai Sapalon was just a baby when it happened. Her father was a former barangay captain of Manili and was among those who tried to negotiate a peaceful settlement in their area. “Honestly, I have no recollection of what happened because I was still one year old. But I carry a collection of memories from my parents and relatives who told me their stories,” she said. Her parents and family had fond and proud memories of building the farming village of Manili as a productive community. “I could say that our family had a good life. We had properties and farm animals. The best part was we had a very loving family,” Sapalon said.

The community was so warm and compassionate that they willingly extended support to settlers coming from Luzon and the Visayas who arrived in their town. The survivors used the term *inampon* or “adopted” when they referred to their act of helping settler families habituate in Mindanao. Even Sapalon’s family adopted a young boy who grew up with them and is still part of their family today.

The mosque was proof of Manili’s community spirit. Hadji Yusof Nagli donated the wood and materials used for the construction. The villagers helped in the construction. It was their symbol of faith, unity, and hope.

To understand the level of brutality of the massacre, it is essential to understand the physical layout of the mosque. The mosque had an open-air design made of mixed concrete and wood materials. The roof was creatively layered, with the minaret standing proud

above it. As an open-air structure, the mosque’s wall had a height of about seven concrete blocks, which is about the waist level of an average Filipino adult. The concrete blocks were followed by massive open windows that stretched to the ceiling and wrapped around the structure. It was a sacred space. It was, however, desecrated when people were herded, restrained, and killed inside the mosque.

The personal memory of the events was more detailed for Kadhira Nagli, who was 13 years old on that very dark day. Nagli narrated that the mosque was cramped because of the number of people inside and that he felt more comfortable sitting on his uncle’s lap. He could not see what was going on outside the mosque, but he heard the heated conversation between community leaders and the armed men. “After the first volley of gunfire, I looked up to my uncle for reassurance, but his face suddenly burst open. I saw a splatter of blood on the ceiling. I then felt something warm flowing over my face,” Nagli said.

It is a normal human reflex to close our eyes when faced with a life-threatening situation, but what we cannot block is our sense of hearing. The survivors have recollections—mostly nightmares—of the chaotic mix of auditory memories, such as the barking orders from the perpetrators, the begging from their leaders, the gunfire, the bullet casings hitting the ground, the grenades landing on concrete, the blasts, the desperate cries of women and children, the screaming caused by pain, and the complete silence of the dead.



The terror did not end with the gunfire and grenade blasts. After the armed men left, the survivors had to quickly address the urgent concerns of getting first aid and how to evacuate the wounded to a proper health worker or medical facility. Leaving Manili was almost impossible because of checkpoints manned by the perpetrators and government airplanes and helicopters scouring the area during the daytime. The most practical option was to use the cloak of darkness to slip through the armed checkpoints.

Nagli said that when he regained consciousness, he saw that he had a gunshot wound in his right inner thigh. “When I had the chance, I mustered all my remaining strength and bolted towards a grass field. I ran and ran until I collapsed from exhaustion. When I woke up, I was really weak. I do not know how and why, but I took my hands and wiped the blood, flesh, and skull fragments on my head, and I put it inside my mouth and swallowed it. It was my uncle’s. It was not right. But that gave me the energy to continue my journey to safety.”

Nagli was eventually reunited with his other relatives, who provided him with medical care, food, and shelter.

Sapalon survived because her mother shielded her using her body. Sapalon had been hit such that the right toes of this one-year-old child were almost shattered. This is the reason why she was given the nickname “the baby survivor.” Her mother also survived, but her back was torn open by either a bullet or an explosion. Along with her father and other siblings, Sapalon escaped using the tall grass and sugarcane fields as cover. Four of Sapalon’s older sisters were not as lucky. They died instantly inside the mosque. Those who perished were immediately buried the next day, many of them within the grounds of the Manili mosque.

This massacre that happened in a brief moment and was directed by just a few people in power changed the lives of the many survivors and their descendants forever. Each survivor had their own unique coping mechanisms. Sapalon’s father, a village leader during the incident, never returned to Manili until he died in 1987. Her mother had difficulty dealing

with her trauma and physical pain for a long time. “Both my parents lost their minds. Our relative who offered us their home helped in raising me. Things slightly improved when my mom got pregnant. The responsibility of having a new child gave her energy,” Sapalon said.

Sapalon knew she was at a disadvantage in terms of opportunities. Her family lost their properties and source of living. The entire community was hurting from the economic, physical, and mental impacts of the massacre. So she decided to take her fate into her own hands. Sapalon made conscious efforts to finish high school and worked as a hospital staff member. It was the same hospital that gave her a chance for a scholarship to be a nursing aide. Her hard work and determination opened chances for her, including employment outside the country. She now owns a growing business where her food products can be seen in the stalls of grocery stores and commercial establishments in the area. She is also an active civil society leader in the Bangsamoro.

Some of the survivors and their descendants decided to return to their community. Twenty-six-year-old Abdul Monaim Nagli looks intently at a section of a concrete wall of what is left of the mosque. Abdul looks shy, but he is friendly and expressive. His demeanor changed when he started sharing his perspectives about his family’s ordeal. His father, Ting Nagli, is one of the remaining survivors of the massacre. “I started learning about the massacre when I was 8 years old after I heard my father being interviewed about it. After that, he started slowly opening up and sharing his experiences with me. It was difficult for me to process the truth and my feelings,” Abdul said.

He added that his generation of youth in the community knows about their families’ stories and carries the burden in their hearts. “It is painful for us, especially when we see our parents desperately waiting for justice. Despite the pain, we are confident that the day will come when Allah will bring justice to our hearts.”

The Bangsamoro Peace Processes, with both the Moro National Liberation Front and the Moro

Islamic Liberation Front, sought to address the roots of the conflict, including the historical injustices faced by the Moro people. Significant developments have resulted from the signing of the Comprehensive Agreement on the Bangsamoro and the creation of the Bangsamoro Autonomous Region in Muslim Mindanao. However, Bangsamoro communities and civil society organizations lament the need to actualize transitional justice and reconciliation commitments. A new shrine and madrasah now stand on the Manili Massacre site, but more needs to be done.

As a mother, Sapalon is cautious about talking to her only son about her experiences because she cannot control his reaction. She is worried that anger might take over his heart. This is the same concern many parents carry in the Bangsamoro, especially in the context in which the current peace is still so fragile.

Nagli, on the other hand, wants “medicines” to heal the pain that he has been carrying in his heart for decades. The medicine, he said, is justice, which can start through financial compensation. They were not able to avail of reparations through the

Martial Law Compensation mechanism because the massacre happened a year before Martial Law was declared by Marcos Sr. He contemplates the possibility of a public apology from the perpetrators who are still alive or their descendants. Still, he said, it’s a long shot. Asked if they are willing to advocate for a public apology or to demand compensation, Nagli responded that it is risky because it might be misunderstood. The demand for justice, he explained, can be interpreted as a political attack against the perpetrators who now have economic and political powers. This is one of the webs of irony where the people of Manili are currently caught.

Meanwhile, Abdul dreams that these injustices will never happen again in the Bangsamoro. He has a specific idea on how to do this: intergenerational and intercultural dialogues. “Many youth, regardless of whether Moro, IP, or settler, are uninformed of what happened in the past. There is a chance that the descendants of the perpetrators are not even aware of what their parents or grandparents did. But our generation is open to conversations. Maybe it is something we can work on.”



Photo: Karlos Manlapig

Father and son, Ting and Abdul Nagli at the massacre memorial marker



# Transitional Justice From Below: Reflections on the Implementation of the TJRC Report in the Bangsamoro

Yasmira P. Moner

*“Peace without justice and healing is not sustainable.”* The Transitional Justice and Reconciliation (TJR) component in the decade-old Comprehensive Agreement on the Bangsamoro<sup>1</sup> (CAB) is crucial in institutionalizing democratic governance in the Bangsamoro through a peaceful and deliberative manner and working towards national healing and reconciliation. In doing so, it is important to ask, what kind of transitional justice do the communities in the Bangsamoro and the country as a whole envision? Who is championing this cause? What are the enabling conditions and prospects towards this end?

This essay answers this question in four sections: The first section provides a general overview of the Transitional Justice and Reconciliation Commission (TJRC) Report eight years after its publication. This is followed by an overview of the challenges in its implementation. The third section delves into inclusive community-oriented TJR initiatives in the context of the report. The fourth and concluding section tackles the prospects and ways forward, including entry points for action to sustain the gains of the peace process from a TJR lens.

## Overview of the TJRC Report

Dubbed the “Bangsamoro Opportunity,” the TJRC Report, herein referred to as “The Report,”<sup>2</sup> was launched on March 15 and 16, 2016, in Manila and Cotabato, respectively witnessed by various stakeholders from the civil society, business community, the security sector, Indigenous

Peoples, and development partners who have underscored the importance of “dealing with the past” to ensure a peaceful future. As in the past, the Bangsamoro people are still dealing with historical injustices, including marginalization caused by land dispossession, internal displacement, human rights violations,<sup>3</sup> gender-based violence, and the persistent threat of violent extremism and terrorism in the Bangsamoro and the larger Philippine society. Yet, the TJR is still very much part of the Bangsamoro discourse.

The Normalization Annex of the CAB signed on January 25, 2014, provided for the creation of the TJRC to protect and enhance the rights of the Bangsamoro people and other communities in the Bangsamoro to live in dignity and peace. The TJRC is mandated by the Government of the Philippines and the Moro Islamic Liberation Front (MILF) peace panel to “undertake a study and recommend to the panels the appropriate mechanisms in addressing the legitimate grievances of the Bangsamoro people, human rights violations and correct historical injustices” (CAB, 2014 p. 8). However, eight years after the launching of the report, the creation of the national mechanism to institutionalize truth-seeking (Right to truth), accountability and rule of law (Right to justice), Right to reparations, and guarantees of non-recurrence is yet to see the light of day. Why is this so?

During the field interviews the author conducted for an Independent Study on the “Assessment of the Implementation of the TJRC Report” commissioned



Photo: Jamilah P. Moner

The author (right) during her interview with Commander MP Abdullah “Bravo” Macapaar of the BTA-BARMM and head of the MILF-BIAF Northwestern Command in Camp Bilal Headquarters in Munai, Lanao del Norte.

by the Swiss Embassy<sup>4</sup> in Manila, it was revealed that public education regarding the 2-volume TJRC report<sup>5</sup> has not been carried out as recommended in the report, hence, information needs remain wanting. More specifically, the painful reality is that communities who have been asked to share their narratives and have re-opened their wounds from the past have not received remedies that could have healed their wounds. One community participant poignantly shared her dismay in claiming:

*“TJ is not felt. Not on a community level, not for women. [The] governmental approach is viewed as technical, working in silos. There is no reference to it [TJ], there is no language for it.”*

The recommendations of the TJRC have not cascaded down to local level actors, including local government units and grassroots communities. While there have been TJR initiatives at the regional level, arguably there is no cohesive strategy around reconciliation or unification. The challenges in the institutionalization of the recommendation in the report are multidimensional, including structural challenges and lack of political agency to act on them. Some of these factors are discussed in the section below.

## Challenges in the TJRC Report Implementation

*There is no genuine healing and peace when accountability is relegated in favor of political gain.* While there have been enabling mechanisms, such as the passage of the Bangsamoro Organic Law (BOL) establishing the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), and the passage of the controversial RA 11696 or the Marawi Siege Victims Compensation Act of 2022,<sup>6</sup> these are limited in their application as far as the geographical scope is concerned. The TJR envisioned in the report is of national application, a set of both judicial and non-judicial processes and mechanisms that are not only defined by the GPH-MILF “Bangsamoro” peace process but by the Philippine society. It aimed for TJR where justice is approached based on mutual recognition of historical biases and prejudices and the need for accountability, primacy of human rights, and rule of law.

From the perspective of the BARMM, the national Philippine government holds primary responsibility in dealing with the past since they need to take responsibility for the human rights violations that occurred<sup>7</sup> (“Why should we solve a problem that we did not create?”<sup>8</sup>). A common observation from government actors, CSOs, academe and development institutions are that a National Commission is necessary to advance TJR in a meaningful way, bringing the multiple stakeholders, including the

1 Comprehensive Agreement on the Bangsamoro, [https://peacemaker.un.org/sites/peacemaker.un.org/files/PH\\_140327\\_ComprehensiveAgreementBangsamoro.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/PH_140327_ComprehensiveAgreementBangsamoro.pdf)

2 The TJRC recommended to create the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB) with 4 Sub-Commissions dealing with: (1) Historical Memory, (2) Impunity, Accountability, and Rule of Law, (3) Land dispossession and; (4) Healing and Reconciliation.

3 Maria Carmen Fernandez, Land rights, displacement, and transitional justice in the Bangsamoro: Insights from household-level mapping in Marawi City and Maguindanao. (Davao City: Initiatives for International Dialogue, 2023). <https://iidnet.org/wp-content/uploads/2023/03/IID-Land-Research-updated.pdf>

4 The author did a month-long data gathering (inclusive of interviews) in Metro Manila and Cotabato City with two other TJR experts.

5 The TJRC Listening Process Report and the TJRC Land Report.

6 Rufa Cagoco-Guaim, “Bakwit Forever?” (November 2022), Philippine Daily Inquirer. <https://opinion.inquirer.net/158522/bakwit-forever-2>

7 Raisha Jesmin, “The Age of Disinformation: How Online media propelled the son of a former dictator to power in the Philippines what does it mean for Democracy,” Human Rights Pulse, May 27, 2022, <https://www.humanrightspulse.com/mastercontentblog/the-age-of-disinformation-how-online-media-propelled-the-son-of-a-former-dictator-to-power-in-the-philippines-and-what-it-means-for-democracy>

8 Excerpt from an interview with BTA-BARMM Official, 21 January 2024, Cotabato City.

national, regional, and local governance actors to work together in institutionalizing transitional justice towards national healing and reconciliation.

Things however are easier said than done given the current political climate in the country. With the landslide victory of Ferdinand “BongBong” Marcos Jr., there is general sense of skepticism, particularly on coming to terms with the past, which involves human rights violations committed under Ferdinand Marcos Sr.’s dictatorship, the late father of the current President. This fear is aggravated by the proliferation of disinformation and historical distortion in online media platforms.<sup>9</sup>

This is what makes the “duty of remembering” historic injustices a highly sensitive topic that is missing in the national political discourse of the nation, especially in the transitional governance phase of the Bangsamoro region. Moving on does not necessarily translate to moving forward if there is a refusal to deal with the past that still has lingering impacts on the collective psyche of many Filipinos. For instance, unresolved trauma experienced by women and men in Moro, Non-Moro IP, and Christian settler communities in the Bangsamoro may contribute further to the ongoing cycle of violence in the Southern Philippines<sup>10</sup> Be that as it may, there are significant steps that have been taken in keeping the spirit of the TJR alive amidst these challenges. Notably, these were made with communities of both women and men and multiple stakeholders who aspire towards a just and lasting peace not only for themselves but more so for the future generation.

### Building on Inclusive Community-Oriented TJR Initiatives

As commonly observed, efforts at advancing TJR are spearheaded by civil society organizations with the support of the academe, international NGOs, and development partners.<sup>11</sup> The academe, for example, complements government-initiated TJR components by continuing documentation processes and writing Bangsamoro herstory and histories as forms of memorialization under the pillar of the *Right to Know*. Moreover, the community-centric TJR modules developed by the Initiatives for International Dialogue are localized resources that can provide context-specific and culturally appropriate initiatives in partnership with academic institutions in basic and higher education institutions.<sup>12</sup> The documentation of these community initiatives must continue in a way that is mindful of its gender dimensions, as stipulated in the TJRC Report.

In the peace process as well as in the political transition, women have played an active if not equal role: they make up a fifth of the Bangsamoro interim parliament and occupy key administrative positions, including attorney general, a deputy parliament speaker, and heads of the interior and local government and social services and development ministries. Nevertheless, women still suffer high levels of violence for example those in central Mindanao<sup>13</sup>. Women are direct targets of state forces or clan feuds primarily due to gender-related issues such as rape or elopement. In the BARMM town of South Upi, where conflicts are exacerbated by gender-based violence, is also one of the highest rates of recorded gender-based violence including domestic abuse<sup>14</sup>.

<sup>11</sup> On February 7-9, 2023, forumZFD and GIZ-CPS, jointly organized the 3-day conference titled, “Transitional Justice: What’s next for the Bangsamoro?” with more or less 200 participants coming from various fields, backgrounds, and sectors, including peace activists, TJ experts, and national and international key actors.

<sup>12</sup> Initiatives for International Dialogue, “Transitional Justice and Reconciliation: In and Beyond the Bangsamoro” (research study on community Narratives of resilience & truth-telling), December 6, 2022 <https://iidnet.org/transitional-justice-and-reconciliation-in-and-beyond-the-bangsamoro/>

<sup>13</sup> International Crisis Group, The Philippines: Keeping the Bangsamoro Peace Process on Track, January 30, 2024. <https://www.crisisgroup.org/asia/south-east-asia/philippines/philippines-keeping-the-bangsamoro-peace-process-on-track>

<sup>14</sup> Ibid.

On a policy level, TJR has found an explicit reference in the Philippines National Action Plan on Women, Peace, and Security (NAP-WPS) 2023-2033.<sup>15</sup> The NAP-WPS asks in Action Point 7 for the institutionalization of gender-transformative transitional justice and access to justice programs through documentation of crimes, tribunals, institutionalization of symbolic commemoration, and awareness-raising of communities. Further, it calls for the enactment of gender-sensitive transitional justice policies at the national and local levels. Transitional justice and social healing initiatives shall be attentive to the unique issues of women and men, in all their diverse and intersecting identities, who are survivors of atrocities and human rights violations. Specifically, regarding the process of truth-telling and memorialization, women shall be empowered. Action point 12 deals with legal remedies, including transitional and restorative justice for women in all their diverse and intersecting identities, and refers to initiatives related to protection, psychosocial support, healing programs, and access to justice for children. Action Point 4 states that gender inequality shall be addressed in land and property rights.<sup>16</sup>

At the regional level, the Bangsamoro Regional Action Plan on Women, Peace and Security (RAP-WPS) stipulates in action point 8:

... address gender-specific issues in Transitional Justice, provide community-based healing and reconciliation interventions to MNLF and MILF women, ensure that transitional justice and reconciliation programs and initiatives are attentive to unique issues of women survivors of atrocities and human rights violations (RAP-WPS 2023-2028).<sup>17</sup>

<sup>15</sup> Philippine National Action Plan on Women, Peace and Security 2023-2033. [https://wps.asean.org/wp-content/uploads/2023/12/Philippines\\_NAPWPS-2023-2033.pdf](https://wps.asean.org/wp-content/uploads/2023/12/Philippines_NAPWPS-2023-2033.pdf)

<sup>16</sup> Ibid.

<sup>17</sup> Bangsamoro Regional Action Plan on Women, Peace and Security 2020-2022 <https://bwc.bangsamoro.gov.ph/wp-content/uploads/2024/02/RAPWPS.pdf>

At this juncture, it is important to highlight that a gender-sensitive and socially inclusive TJR approach ought to reflect the plurality of narratives in the Bangsamoro, including the lived realities of vulnerable non-Moro IPs, settler communities, and Bangsamoro communities outside BARMM. The inclusion of the “Fundamentals of Peace Education” in the general education courses of the Mindanao State University System is quite instructive.<sup>18</sup> After all, educating for peace is about transforming relationships through cultivating the core values of justice, human rights, peace, and environmental stewardship.

Building on the “TJR mindset” at the community level, storytelling is a powerful tool to popularize TJR narratives with the grassroots, including youth, women, and other members of vulnerable sectors. In Munai, Lanao del Norte, where Camp Bilal (one of the major MILF camps) is located, Community-Based Tourism (CBT) with a TJR lens is a creative approach where decommissioned combatants, both men and women, are trained in conflict-sensitivity and where peace-promoting storytelling may be adopted. Through CBT, community participation is strengthened in preserving their culture, propelling economic growth, and diversifying local economies while stressing comprehensive planning and sustainable practices for inclusive and equitable tourism development.<sup>19</sup> In doing so, former combatants become active agents of transformative social change, rather than mere beneficiaries of development.

### Towards Healing and Reconciliation: Concluding Notes and Reflections

*Healing takes time. Reconciliation is a complex process.* With all that’s been said and done, the road to making TJR a reality is being built, albeit slowly. The “Bangsamoro Opportunity” to

<sup>18</sup> Mindanao State University is offering a 3-unit course on Peace education among all students of its 11 campuses across Mindanao with the end goal of nurturing the “culture of peace” in theory and practice. To become a “peacebuilder” is one of the core values enshrined in the University’s vision.

<sup>19</sup> Interview with MSU IIT Institute for Peace and Development Director, Dr. Mark Anthony Torres, 08 January 2024, MSU IIT, Tibanga, Iligan City.





Photo: Sahara Kamaong Ali

Visit at the Manili memorial site during the author's immersive course on Women, Peace and Security and Transitional Justice organized by UN Women, Bangsamoro Peace Institute and Ministry of Public Order and Safety (MPOS)-BARMM.

continue the conversation on TJR in advocating for genuinely inclusive, participatory, transparent, and accountable governance in the BARMM is imperative. As posited in the earlier part of this article, the TJR in Bangsamoro is a vehicle that can bring closure to the historical injustices committed, not just against the Bangsamoro, but the Filipino people in general.

*The institutionalization of TJR is both a personal and collective responsibility* in the context of the Bangsamoro post-conflict peacebuilding. As conveyed by multiple stakeholders such as CSOs from Moro, Christian settlers and IP communities and international partners of the Bangsamoro peace process, sustaining the gains of the peace process requires a holistic approach to implementing the provisions of the CAB, which includes transitional justice and reconciliation as a process and outcome in the continuing quest for sustainable peace and development in the region. By and large, the political track of granting more political and fiscal autonomy to the BARMM must be coupled with the civic engagement of all stakeholders, government actors, civil society, the private sector, and every individual from the multi-ethnic and

multi-faith communities in the Bangsamoro. Like peacebuilding, TJR is also about building trust and relationships. The 2025 parliamentary elections will be a litmus test for not just the MILF-led BTA BARMM, but all other emerging political parties, social groups, and interests whose platforms can include the institutionalization of TJR at the local and regional level, subsequently championing it at the national level beyond the post-BTA BARMM. This is the shared jihad (struggle) that we ought to wage collectively as a nation.

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# Transitional Justice in the Bangsamoro: What's Next?

7-9 FEBRUARY 2023 • DAVAO CITY

**PROFILE OF THE PARTICIPANTS**

| MALE | FEMALE | NON BINARY | TRANSGENDER WOMAN | PREFER NOT TO SAY |
|------|--------|------------|-------------------|-------------------|
| 98   | 80     | 2          | 1                 | 1                 |

**182**  
TOTAL

**Civil Society**  
International NGOs 8  
Philippine CSOs 20  
Communities 2

**Other Key Actors**  
MILF Peace Implementing Panel  
Office of Senator Risa Hontiveros  
Diplomatic Offices  
Embassy of Germany  
Embassy of Switzerland  
Embassy of Ireland  
The Royal Norwegian Embassy  
UNDP  
UN Women  
UNHCR

**BARMM Agencies**  
Bangsamoro Transition Authority  
Bangsamoro Human Rights Commission  
Bangsamoro Planning and Development Agency  
Bangsamoro Youth Commission  
Ministry of Public Order and Safety

**Sectors Represented**  
Women  
Youth  
IP  
Traditional Leaders  
Academe  
Security Sector



# TIMELINE OF THE TJRC PROCESS IN THE BANGSAMORO



## 2014

Signing of the Normalization Annex of the CAB.  
Creation of the TJRC

## 2016

Launch of the TJRC report with 90+ recommendations.

## 2017

Launch of TJRC supplementary reports.  
House Bill 5669, calling for the creation of a National TJRC for the Bangsamoro

## 2019

E.O. 79, creating the Inter-Cabinet Cluster Mechanisms on Normalization with mandate of implementation TJR  
Establishment of MILF Technical Working Group on TJR.

## 2020

BARMM Resolutions No. 62 & 63, requiring ministries and offices to develop TJ-related policies and programs  
First TJR TWG meeting between GPH-MILF peace panels.  
Senate Bill 1913 calling for the establishment of a National TJRC for the Bangsamoro

## 2022-2023

BARMM Private Bill 25, calling for the creation of a Regional TJRC for the Bangsamoro  
House Bill 2975 & Senate Bills 2043 & 2392, calling for the creation a NTJRC for the Bangsamoro

## PANEL DISCUSSIONS

### International Perspectives on Transitional Justice

The commonality in the diverse transitional justice processes around the world is a determination to meet the challenge of dealing with the legacy of the past and to deliver some kind of justice for those who were victims of a conflict.

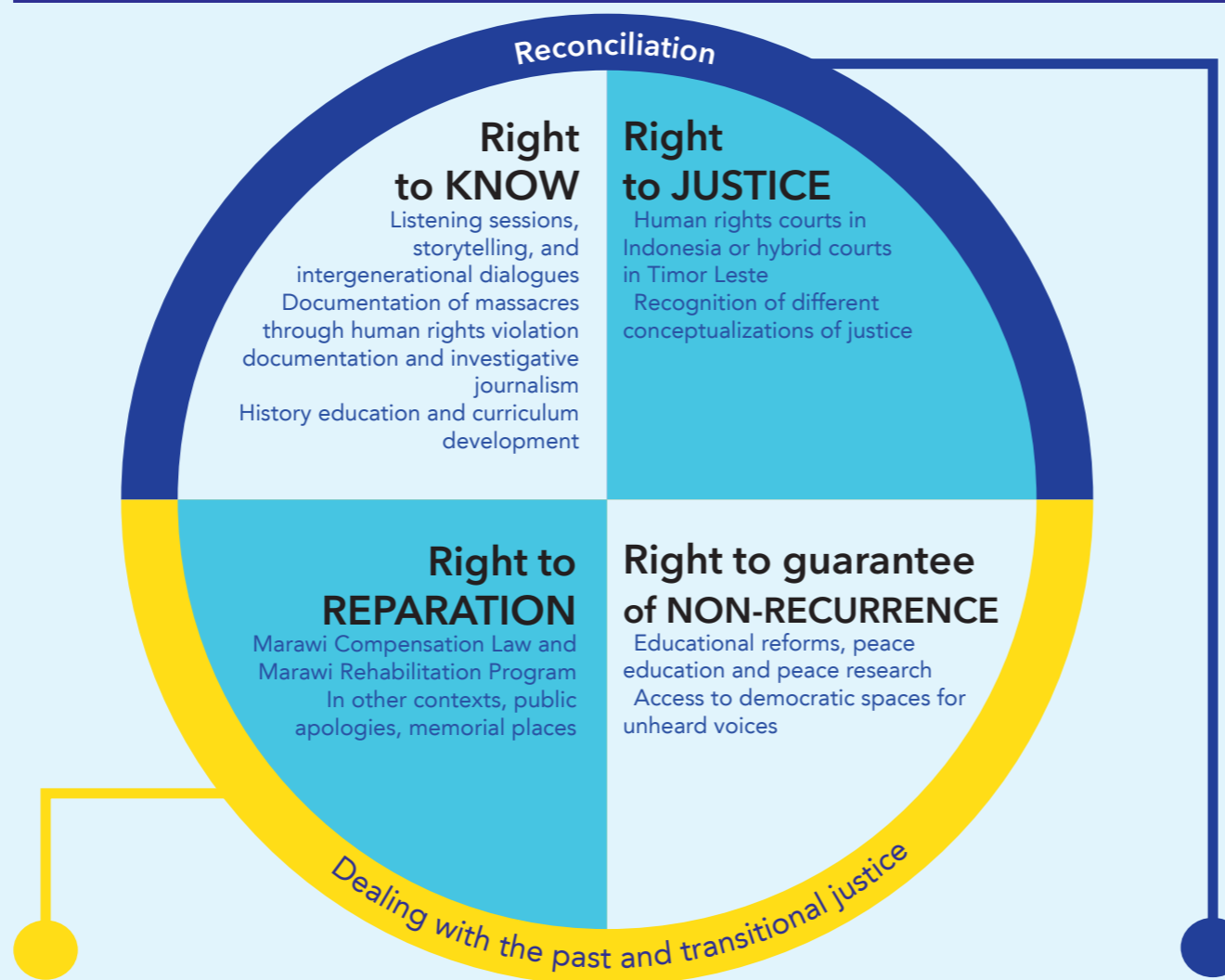
### Media and Transitional Justice

Testimonies – whether in mainstream media, film or in intergenerational stories told within families – create a time and space to remember, mourn, forgive, heal and glimpse a new future.

### Translating Laws into Practice

We need to learn from the shortcomings of past initiatives and create a national transitional justice process that is tailored to context realities. A national process is needed to address all atrocities, including those that happened outside the BARMM territory, and to signal acknowledgement of past injustices.

## EXISTING INITIATIVES ON TRANSITIONAL JUSTICE



- Culturally-sensitive conflict mediation & community dialogues with conflict-affected communities
- Intergenerational conversation platforms for youth to understand the narratives of elders

- Using customary ways of healing the Philippine social fabric e.g. Pamaras
- Stories of conflict are documented through impartial research and history writing
- Full implementation of the Indigenous Peoples Rights Act as a form of dealing with the past

## CHALLENGES & RECOMMENDATIONS

Many TJRC recommendations, such as the creation of a NTJRC, are not moving forward highlighting the importance of collective efforts of CSOs and other stakeholders to advocate for TJR in the Bangsamoro.



## CRITICAL COMMENTS



**Timuay Leticio "Cio" Datuwata**

Indigenous peoples' leader of the Teduray Lambangian

Even though indigenous peoples were displaced by war, they feel abandoned during this transition period. Concerns raised during the listening process such as the encroachment in their ancestral domain have not been resolved. This relates specifically to assertions that Camp Badr and Camp Omar are within Teduray ancestral land and should thus not be included in the camp transformation process.



## SECTOR-SPECIFIC BREAKOUT GROUPS

### Overcoming Silos in Transitional Justice Work: International and National CSOs

A mapping of organizations working on TJR, along with the varying approaches used, must be done so that existing interventions will be known and finding synergies among organizations will be easier.

### Transitional Justice Concepts for State Actors

Participating state actors felt the need to have clear mechanisms for how they can contribute to TJ work. TJ must be appreciated as an overarching lens and framework in the work of relevant state actors.

### Transitional Justice Processes at the Local and Horizontal Level

There is a need to refocus on communities' strengths in conducting dialogues at the local level and to build cooperation platforms.

## THEMATIC BREAKOUT GROUPS



### Gender and Transitional Justice

In using the gender lens in transitional justice processes, a gender audit and baseline mapping are called for to come up with a comprehensive gender analysis and provide more platforms for women to take part in transitional justice processes.

### Non-Moro Indigenous Peoples in the Transitional Justice Process

The need for inclusivity of NMIP voices and experiences in decision-making processes in the Bangsamoro is key to ensuring transitional justice is reflective of all those affected by the conflict.

### Memorialization

Communities should be part of the process of conceptualizing and developing memorials in order to avoid for memorialization to be politicized and to ensure that memorials serve to strengthen and unite them.

### Rule of Law

Transitional justice is a form of justice in itself, where communities and societies try to come to terms with abuses that have been made in the past. To achieve accountability and reconciliation there is a need to serve justice.

## COMMITMENTS FROM THE PARTICIPANTS

**Consortium of the Bangsamoro Civil Society**  
Facilitate TJ conversation and capacity development trainings for local CSOs and state actors (local and regional)

**GIZ - Civil Peace Service - Southeast Asian University Partnership for Peacebuilding and Conflict Transformation (SAUP)**  
We commit to providing opportunities for exchange with TJ institutions in Cambodia and Timor Leste on lessons learned and best practices

**Initiatives for International Dialogue**  
We commit to continue accompanying the TJ process and providing space for regional knowledge exchange and network building for key actors of TJ in the Bangsamoro.

**Qamar Guiani, AFADMin Inc.**  
We commit by creating a platform for TJ through Bitiala Conversations, and develop tools to be used for data driven TJ in the Bangsamoro

**Melina Nathan, Peace and Development Advisor, UN**  
I commit to proposing that the conference results on TJ & ways forward are reflected in a UN agency statement of support for TJ, to incorporate TJ, durable solutions for IPs & IDPs in the UN Cooperative Framework Agreement and focus on them in UN Joint Programs

**Embassy of Ireland**  
We commit to being an advocate for TJ across the political spectrum in the Philippines

**GZO Peace Institute and WEACT1325**  
Archive on women TJ narratives, documentation for references and other materials  
Women's platform for TJ: coming together of women survivors, TJ advocates WHRDs, IPs, LGBTQI+, PWD, etc.

**Mindanao Histories and Studies-Advocacy Group**  
We commit to continue dedicating our time and effort for the implementation of RA10908 and DepEd Order 62, S. of 2011, thru our sustained engagement with CHED and DepEd.

**Bantay Basilan, Inc.**  
We commit to continue advocacy on TJRC through radio programs in Basilan province.

**Asia Justice and Rights Transitional Justice Asia Network**  
We commit to provide a space for exchanges and learnings to advocate the initiatives of TJ process in Asia, including Bangsamoro experiences

**Representative of MP Froilyn Mendoza**  
Implement plans and programs with TJ  
Support legislation related to TJ  
Raise awareness on TJ among NMIP communities  
Research and collaboration on NMIP

**Representative from 10th Infantry Division, Philippine Army**  
I commit to subject our office programs to the TJ lens especially in their implementation

**Representative from Bangsamoro Women Commission**  
Inputs in this conference will be utilized in the BWC's drafting of the next cycle of the RAP-WPS (particularly the section on TJ) which is being supported by UN Women

**MSU-ITT IPDM**  
Conduct workshops on TJ to youth organizations. Inclusion of TJ concepts, issues and concerns in the Bangsamoro in the curriculum on peace education

**Al Qalam Institute-Ateneo de Davao University**  
We commit to incorporating TJ in developing the training design of the Keep Peace project activities, such as Peace Education Conference and Peace Research Summit

**Paul, Notre Dame University**  
I commit myself to continue doing IP research in the purview of TJ with the hope of getting the voice of the cultural communities across the globe

**Abdulbasit "Bobby" Benito, Bangsamoro Center for Just Peace in the Philippines**  
I commit to incorporating TJ in our training design for Bangsamoro communities

**Academe**  
Adopt the integration of TJ in our subjects  
Create a space to discuss TJ with our colleagues and students  
Actively participate in TJ initiatives in and out of BARMM  
Dedicate our peace works to the Bangsamoro

Engage ourselves in instruction, research, and extension related to TJ  
Monitor and correct misinformation shared to students  
Extend our expertise to the Bangsamoro

**Jean Claire, Dy, Stories Beyond**  
I commit to incorporate TJ in the films/stories I make about the Bangsamoro and other IPs

**Atty. Cecilia Jimenez-Damary**  
Enhance TJ element in the IDP DS work coming out from this conference  
Incorporate the perspectives generated by this conference in the TJ courses I will teach





**Amb. Christian Halaas Lyster**

Norwegian Ambassador to the Philippines

“Supporting peace is the cornerstone of Norway’s foreign policy. The insights on peacebuilding from those at the conference are valuable not just for Mindanao – but in the field of conflict transformation as a whole.”



**Engr. Mohajirin Ali**

Director General, Bangsamoro Planning and Development Authority (BPDA), BARMM

“Pursuing the implementation of the TJRC recommendations is important to maintain popular commitment to the Bangsamoro peace process.”



**Guiamel Alim**

Chairperson, Consortium of the Bangsamoro Civil Society (CBCS) and former coordinator of TJRC listening process

“As we rebuild physical and economic ruins, there must also be healing of social relationships. The primary objective of the transitional justice policy is to end the culture of impunity and establish the rule of law.”



**Prof. Rufa Cagoco-Guiam**

Former Lead Coordinator, TJRC Listening Process

“Transitional justice ... should be viewed as a bridge that will allow us to cross from a violent past to a brighter future”.

## Contextualizing by Whom and for Whom? Reflections on the Challenges of Contextualizing Transitional Justice

Bai Shaima Baraguir and Rosa Cordillera A. Castillo

The term of the Bangsamoro Transition Authority (BTA), the interim regional government of the Bangsamoro Autonomous Region of Muslim Mindanao (BARMM), is coming to an end by June 30, 2025 or until the election of their successors. Alongside this shift, uncertainties arise not just in the composition of the upcoming elected Parliament, but also in how the next government will position itself in relation to issues concerning the peace process and its related instruments such as transitional justice. A key matter here is the necessity of contextualizing the transitional justice process -- its conceptualization, implementation, and evaluation -- according to the historical, cultural, social, economic, and political conditions of the place and communities involved. Transitional justice, which we understand at a basic level as essentially “dealing with historical injustices to create a just present and future,”<sup>1</sup> also involves accounting for the diverse understandings of the past and how these shape the present understandings of truth, justice, reparation, and reconciliation. It requires recognizing the variously positioned actors and communities’ desires for the future and the complexities of truth-telling processes. This process of contextualization is important in helping ensure that justice, reparation, and reconciliation are achieved without reproducing or creating inequalities.<sup>2</sup>

<sup>1</sup> Rosa C. Castillo, “Perspectives on truth, justice, reparation, and reconciliation in Central Mindanao,” in *Dealing with the Past in Mindanao: Perspectives and Entry Points for Transitional Justice*, ed. Manuel Domes and Daniel Jaeger (Davao City: forumZFD, 2014), 29-40.

<sup>2</sup> Ibid.

*But who gets to contextualize transitional justice and who is the contextualization for? How many layers of contextualization should there be and how is this contextualization manifested?* In this reflection, we seek to center BARMM’s agency in the transitional justice process, by reframing BARMM as an active agent instead of a passive receiver. We also direct our inquiry to the multiple layers of and issues with contextualization, from the concept of transitional justice to its technical discussions and policy directions and from the actors involved in decision-making to the stakeholders to which it is supposed to respond.

We see some of these issues arise with the Transitional Justice and Reconciliation Commission (TJRC), who embarked on a major effort to research and contextualize transitional justice in the BARMM. Leading toward the publishing of their report in 2016, the Commission “developed a consultation process that combined a broad-based exercise of listening at the community level with an expert review of existing relevant academic literature and field studies.”<sup>3</sup> The listening sessions were conducted to guide the contextualization of transitional justice and provide suggestions befitting the context. While the listening sessions that guided the outline and provided the substance for the report were pursued with utmost care and sensitivity, the succeeding developments in the discourse revolved around policies formulated from a top-down approach. Narratives on transitional justice traverse both vertical and horizontal channels. Technical discussions and policy

<sup>3</sup> TJRC, *Report of the Transitional Justice and Reconciliation Commission*, (Makati: Transitional Justice and Reconciliation Commission, 2016).

recommendations constitute the former, while conversations with the ‘people’—the primary stakeholders—make up the latter. In this kind of setup, where policies provide guidance and set the structure in the broader functioning of society, what are the opportunities for the people who do not speak on that level or with the language involved in such discussions?

### BARMM the ‘Government’ and BARMM the ‘Governed’

To parse these realities, actors and stakeholders working on transitional justice must challenge themselves to not view BARMM as a target (“contextualization to”) but rather exert more effort in viewing BARMM as a partaker (contextualization in and by BARMM). This entails characterizing what constitutes BARMM. We propose reflecting on the challenges of contextualization on two levels: BARMM the ‘government,’ which is the BTA at the moment, and BARMM the ‘governed’ or the people in its diversity.

Of the many challenges that the BARMM government is facing concerning transitional justice, perhaps the most pressing is the operationalization of the concept of transitional justice in line with the government’s programs

and activities. Bureaucrats struggle to integrate the concept and its commitments into their work despite it being a part of Interim Chief Minister Ahod Ebrahim’s 12-point priority agenda. The greater bulk of transitional justice work is granted to only one government agency, the Bangsamoro Human Rights Commission (BHRC), which is mandated by law to perform the human rights component until the transitional justice mechanism in BARMM is enacted. Despite this, capacity development support to BHRC in documenting transitional justice cases remains limited. Additionally, there is the question of capturing transitional justice without deviating from the regular justice concerns of BARMM, as there are mechanisms that address certain themes relating to transitional justice, such as on land disputes, but not transitional justice as a whole.

There is also a need to resolve the disconnect between the transitional justice concept and policy. The transitional justice discourse is mostly housed within the realm of policymaking. Those who are not part of the policymaking process are not adequately informed, thus people are not aware of progress relating to transitional justice or its elements. Equally regrettable is the fact that besides the peace panels, those who are knowledgeable and involved in the details of transitional justice are non-Bangsamoro or people



Photo: Zineb Naini

The Office of the Chief Minister building within the BARMM government compound in Cotabato City



not from the BARMM region. Such situations contribute to the lack of clamor, at best, and apathy, at worst, from the grassroots in terms of the implementation of the agreements. Furthermore, some of the major recommendations in the TJR report rely on the establishment of institutions that will push forward transitional justice mechanisms. To wait on this is a major challenge given the tight timeframe of the transition and the fact that these require decisions coming from the national government.

For BARMM the 'government,' contextualizing transitional justice is thus to embody it in policy directions that are feasible in the immediate term and within the timeframe of the transition. This requires a conscious attempt to ensure that efforts are viable and inclusive, if not all-encompassing. An inclusive approach ensures that all voices, especially marginalized ones, are heard. An all-encompassing approach goes further by integrating these voices into the very fabric of transitional justice mechanisms, ensuring comprehensive and holistic justice processes. Above all, these initiatives must be understandable and tangible to the public.

Contextualization of transitional justice as a concept also crucially hinges on whether the people—the 'governed'—understand it. Or better yet, to begin from and draw on local concepts and understandings of truth, justice, reparation, and reconciliation.<sup>4</sup> Not only is it necessary not to impose foreign concepts on local transitional justice processes. It is also important for the medium of communication that encapsulates the policies surrounding the transitional justice process be in a language spoken and understood by the people. Otherwise, challenges arise in the process of decoding transitional justice for the understanding of the Bangsamoro public

as there is no direct translation of transitional justice in the local languages and most people cannot articulate the concept in the context of their individual lives. It is in this manner that the aspects of transitional justice that have vernacular counterparts come into play, such as the *gacaca* in the Rwandan context, which are indigenous justice mechanisms.

In all of these, extra effort is needed to ensure processes that are inclusive, participatory, transparent, and trustworthy<sup>5</sup>, particularly as the diverse communities that make up the Bangsamoro are the main movers of the movement and the direct stakeholders of policies concerning transitional justice. These are integral to a decolonial approach to memory and hence to transitional justice, that we propose as a way forward.

### Decolonial Memory-Work

"Decolonial memory-work"<sup>6</sup> is one way through which contextualization of transitional justice can be framed. Decolonial memory-work directs our attention to how the unevenness of remembering and its entanglement with power hierarchies, colonial legacies, and personal circumstances shape people's varying meaning-making of the past and of dealing with memories of atrocities.<sup>7</sup> While the rhetoric of transitional justice in BARMM calls for redressing grievances, it is important to remember that the BARMM region does not share a monolithic memory of the past. The difficulty in unifying a collective memory emanates from the varied experiences of different communities. Certain parts of the region have histories of profound violent conflict while others had a relatively calmer past. There are dominant narratives and histories, usually influenced by power dynamics, in the process of collective



Photo: Karlos Manlapig

*A survivor of the Manili massacre sharing the story about the hole in his thigh.*

remembering that marginalize the experiences and memories of oppressed groups. Hence, there is a need for decolonial memory-work to challenge and reclaim these memories, honor the histories of silenced communities, and recognize the humanity of everyone.

Decolonial memory-work involves a critical engagement with the past, present, and future, and recognizing the interconnectedness of these temporal dimensions to come up with a holistic approach to transitional justice. Post-colonial societies retain colonial structures through persisting legacies of systemic violence, discrimination, and exploitation. These legacies manifest through economic disparities, political marginalization, and social exclusion. Addressing these injustices calls for a recentering of the focus on past wrongs to present-day realities and acknowledging that rectifying historical wrongs requires efforts in shaping a sustainable and just future. In other words, decolonial memory-work calls for a process that includes both conscious efforts in responding to post-conflict grievances and a reflexive approach in transforming

enduring colonial structures. It addresses and redresses exclusions and inequalities, ensuring that the transitional justice process does not reproduce nor create new forms of hierarchies or boundaries between people. It is also decolonial if the stories and experiences of the past and visions for the present and future of variously positioned individuals and communities are given equal value and recognition.<sup>8</sup>

Where traditional transitional justice mechanisms highlight legalistic and formal processes such as reparations and truth commissions, it is necessary to integrate decolonial memory-work to address deep-seated structural and historical injustices that may have been overlooked by formal mechanisms. For example, traditional truth commissions engage in gathering testimonies from survivors within a legal framework. However, they may not fully capture the nuances and lived experiences of marginalized groups. Therefore, we encourage the use of diverse forms of storytelling and testimonies to provide a richer, more substantive narrative that empowers people, especially those who are often marginalized, to express themselves.

<sup>4</sup> Rosa C. Castillo, "Perspectives on truth, justice, reparation, and reconciliation in Central Mindanao," in *Dealing with the Past in Mindanao: Perspectives and Entry Points for Transitional Justice*, ed. Manuel Domes and Daniel Jaeger (Davao City: forumZFD, 2014), 29-40.

<sup>5</sup> Ibid.

<sup>6</sup> Rosa C. Castillo, "The Past, Present, and Future Entangled: Memory-Work as Decolonial Praxis," in *Decolonial Enactments in Community Psychology*, ed. S. Kessi, S. Suffla, & M. Seedat (Springer Nature Switzerland AG, 2022), 253-271.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

Utilizing these diverse forms also reflects the multifaceted nature of oppression, resistance, and truth-telling. For example, conveying experiences can be done through art, oral history, and other forms of creative expression. Not only do such methods provide powerful and accessible means of engaging with the past; but they also encourage Bangsamoro people to utilize their agency in redefining terms as to what fits their context the most.

In closing, the question we must reflect on is the extent of how BARMM is involved in contextualization—from a conceptual level to policymaking and implementation. On the level of BARMM the ‘government’, the contextualization must be accompanied by policy directions that are understandable and tangible to the public, all the while maintaining a delicate balance as representatives of the people without imposing themselves as sole arbiters on defining transitional justice. On the level of BARMM as ‘the governed’, engaging the people must be accompanied by a critical reflection on the existing structures that shape memory and historical and contemporary forms of inequalities and injustices. To do so, communities and concerned actors are encouraged to explore diverse participatory methods in the process of remembering and narrating their histories, as well as in understanding their conceptualization of transitional justice. At the end of the day, those who work on transitional justice must be mindful not to take away the agency from the very people it deems to serve and to redress existing inequalities and historical injustices.

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## Wherewithal Reparations for the Bangsamoro? Reflections on the Bangsamoro Experience so far on Reparations

Atty. Cecilia Jimenez-Damary

### An Introduction to the “Bangsamoro”

The adage “if there is a harm, it must be repaired” applies to many situations—and nowhere in Mindanao does this apply more than to the Bangsamoro. For generations, the Bangsamoro struggled, suffered from irreparable harms, and even took up arms, for their right to self-determination, a right recognized by the international community of nations and enshrined in the United Nations (UN) Charter<sup>1</sup> and other international treaties, notably the International Covenant on Civil and Political Rights.<sup>2</sup>

### Reparations as a Transitional Justice Pillar

Understanding and implementing transitional justice necessitates the dynamic application of the so-called pillars of transitional justice. Codified in the “UN Principles to Combat Impunity,”<sup>3</sup> the four classic pillars of right to truth, right to reparations, right to justice, and guarantees of non-recurrence, with the recent addition of a “fifth” pillar of memorialization,<sup>4</sup> have come to be accepted as approaches or systems to achieve justice for past human rights violations, offenses, and atrocities.

Among these different pillars, the right to reparations benefitted from a most extensive foundation of international human rights norms, embedded as it is as a “right to an effective

remedy” recognized in international human rights treaties<sup>5</sup> and soft law principles.<sup>6</sup> These normative sources reiterate that comprehensive reparative concepts consist of restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition as measures to provide redress to the violations and atrocities.<sup>7</sup> Building on the development of these normative obligations, the right to reparations has attracted attention as evidenced by other reports and analyses intended to provide guidance to States and practitioners on the implementation of the right to reparations as a transitional justice measure.<sup>8</sup> Moreover, these normative standards set forth the reparative concepts as State obligations within the general rubric of respecting, ensuring respect, and implementing international human rights law and international humanitarian law for individuals and groups within the State’s legislative and enforcement jurisdiction.

### Reparations for the Bangsamoro: A Brief Survey

In recent decades, three emerging tracks on implementing the right to reparations in the Bangsamoro have emerged: the recommendations

1 UN Charter, Article 1(2).

2 ICCPR, Article 1.1.

3 Updated Set of principles for the protection and promotion of human rights through action to combat impunity (2005) E/CN.4/2005/102/Add.1

4 Fabian Salvioli, “Memorialisation Process in the context of serious violations of human rights and international humanitarian law: the fifth pillar of transitional justice” A/HRC/45/45

5 See the right to remedy under the UN Covenant on Civil and Political Rights (Article 2), and the Convention against Torture (Article 14) and the corresponding Treaty Body commentaries by the Human Rights Committee and the Committee against Torture, respectively.

6 Basic Principles and Guidelines on the Right to Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (December 2005) <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>

7 Ibid, section 9.

8 See the reports of the UN Special Rapporteurs on the right to truth, justice, reparations, and guarantees of non-recurrence in 2014, and 2019, as well as policy and methodological publications e.g., Handbook on the Pinheiro Principles, and the Rule of Law tool for post-conflict States on the setting up of reparations programmes.



of the Transitional Justice and Reconciliation Commission (TJRC) for the Bangsamoro, the application of the Human Rights Violations Victims Reparation Board, and the Marawi Compensation Board. The following reflections tackle them separately.

#### *Transitional Justice and Reconciliation Commission for the Bangsamoro*

The TJRC was a creation of the peace negotiations process between the Republic of the Philippines (RP) and the Moro Islamic Liberation Front (MILF), iterated in the Annex on Normalization signed by the two parties to the conflict.<sup>9</sup> The Normalization Annex encapsulates the intention of the two parties to the conflict to achieve human security in the Bangsamoro, which “helps build a society that is committed to basic human rights where individuals are free from fear of violence or crime and where long-held traditions and values continue to be honored.”<sup>10</sup>

The Normalization Annex therefore provided several different components, including policing, decommissioning, socio-economic programs, disbandment of private armies, and addressing unexploded ordinances, such as landmines. Towards the last of the listing, the TJRC was deemed established with the specific task of “undertaking a study and recommending to the Panels appropriate mechanisms.”<sup>11</sup> Towards this end, the TJRC’s scope consisted of four issues: address the grievances of the Bangsamoro people, correct historical injustices, address human rights violations, and address marginalization through land dispossession “towards healing and reconciliation.”<sup>12</sup> These four issues were the

result of the negotiations of the two parties to the conflict and constituted the substantive mandate of the TJRC.

After an extensive “listening process”<sup>13</sup> that covered specific Bangsamoro territories and consisted of consultations with Muslim Moros, Indigenous Peoples, and Christian settlers, the TJRC released their main output—The Report of the Transitional Justice and Reconciliation Commission<sup>14</sup>—which provided an analysis of the four issues it was mandated to study, followed by specific recommendations, categorized by the four TJ pillars. These specific recommendations were parallel to the major institutional recommendation of setting up a national entity called the National Transitional Justice and Reconciliation Commission on the Bangsamoro (NTJRCB).<sup>15</sup>

Concerning reparations, the TJRC issued the following recommendations:

1. Address issues related to land dispossession, use, and tenure in the conflict-affected areas in Mindanao by developing and/or implementing a dispute-resolution mechanism for land conflicts, including indigenous peoples’ claims on ancestral domains.
2. Implement various measures of satisfaction, particularly through archives, education, and memorialization, as well as guarantees of non-recurrence.<sup>16</sup>

Moreover, many of the specific measures recommended were reliant on the creation of the NTJRCB, which at this time, has not yet been

set up. Despite many attempts in the national legislature, the bills proposing the NTJRCB have languished.

On the other hand, despite the existence of a roadmap drafted by the Office of the Presidential Adviser for Peace and Reconciliation (OPAPRU), the specific TJRC recommendations that may be termed low-hanging fruits, under the pillars on truth, reparations, justice, and guarantees of recurrence, have mainly attracted ad-hoc, half-hearted application by various national governmental agencies. Without a national strategic approach, the TJRC recommendations, including those on reparations, will merely be given lip service.

#### *The Human Rights Victims Claims Board*

The Human Rights Victims Claims Board (HRVCB), established in 2013,<sup>17</sup> had already been in operation during the establishment of the TJRC. The Board was tasked with processing reparations for victims of human rights violations that occurred between 1972 and 1986, the period of martial law under the former dictator, Ferdinand Marcos. The law identified it as nationwide in scope and focused on three types of reparations:

1. Compensation for the victims which was eventually documented and recognized by the Board and took the form of monetary compensation<sup>18</sup> sourced from the Philippine deposits of funds from the stolen wealth of the Marcos family;<sup>19</sup>
2. Rehabilitation in the form of services to be given to those victims recognized by the Board, dispensed by the regular government agencies;<sup>20</sup>
3. Memorialization of those recognized victims, through the setting up of the Human Rights

Violations Victims’ Memorial Commission (HRVVMC)<sup>21</sup>

The two institutions established under the law had differing but inter-connected mandates. The HRVCB accepted, adjudicated, and awarded claims for compensatory reparations and granted recognition to the victims. Out of 75,749 filed claims, only 11,103 were recognized and granted compensation.<sup>22</sup> The HRVCB ceased its operations in 2018.

The Memorial Commission maintains the Roll of Victims (recognized by the HRVCB) and their archives. It shall set up a Museum to memorialize and raise awareness of what happened during martial law, the root causes, and why they should not happen again.<sup>23</sup>

The overwhelming number of claims, much more than anticipated, as well as the scope of the work of the Board that covered the entire country—with many of the violations having occurred in the provinces—became operational challenges to the Board and its Secretariat. The number and the gravity of violations and atrocities in Mindanao, including those that occurred in what is now the Bangsamoro autonomous territory, incurred particular challenges that resulted in a smaller proportion of claims filed from Mindanao compared to the rest of the country and much fewer claims recognized by the Board. This situation has drawn much criticism of the operations of the Board and a more thorough study of this matter is needed. In addition to the logistical difficulties of communications (including the incompetence of the Philippine postal service), territorial access, and the variety of languages, the situation was compounded by the unfortunate proliferation of fraudsters who took advantage of victimhood and illiteracy in many parts of the country, including in the hinterlands of Mindanao where many military operations took place.<sup>24</sup>

9 Annex on Normalization, Official Gazette of the Republic of the Philippines (January 25, 2014) <https://www.officialgazette.gov.ph/downloads/2014/01jan/20140125-Annex-on-Normalization.pdf>

10 Ibid, last Paragraph, Prefatory Statement.

11 Ibid, chapter H, paras. 1 and 2.

12 The first three were specified in the Annex on Normalization and the last was specified in the Terms of Reference for the TJRC, Chapter II, para. 1 (2014); Official Gazette of the Republic of the Philippines <https://www.peaceagreements.org/viewmasterdocument/1347>

13 The TJRC launched a “listening process” which is loosely referred to as a broadly-based process of listening to the perspectives and narratives of conflict-affected communities. A supplementary TJRC report entitled “TJRC Listening Process” can be found here: <https://cdn.viiworksdemo.com/pdf/bjov-TJRC%20Listening%20Process%20Report.pdf>

14 The Report of the Transitional Justice and Reconciliation Commission (2016) <https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAsia/Docs/Publications/2016/10/TJRC%20Report.pdf>

15 Ibid, pp. 74 to 79.

16 Ibid, pp. 84 to 87.

17 R.A. 10368 or the Human Rights Victims Reparations and Recognition Act of 2013, (February 25, 2013) Official Gazette of the Republic of the Philippines <https://www.officialgazette.gov.ph/2013/02/25/republic-act-no-10368/>

18 Ibid, Chapter 1, Section 4 and Chapter III.

19 Ibid, Chapter I Section 7.

20 Ibid, Chapter I, Section 5.

21 Ibid, Sections 26 and 27.

22 Interviews with Atty. Byron Bocar and Atty. Jacqueline Veloria-Mejia, former members of the HRVCB. (February 2024)

23 See also: <https://hrvmmemcom.gov.ph/>

24 Ibid Interview with Bocar, as above.





Photo: Sophia Paguital

*A glimpse of the ground zero after the siege, Marawi City.*

Despite limited recognition of and the accompanying reparations given to those victims of human rights violations from the Bangsamoro, continuing efforts are being undertaken, particularly by the Memorial Commission to ensure the inclusion of human rights violations and the victims in their work on memorialization. Proposals for a separate reparations board for Mindanao for human rights violations suffered by victims and survivors during Martial Law to enable a wider, more inclusive reparations program for victims of human rights violations in Bangsamoro and based on the experience of the HRVCB may require further study to counter claims on the legal finality of the Board rejecting of claims that had been filed from Mindanao.

#### *The Marawi Compensation Board*

The Marawi Compensation Board (MCB) was established in 2022<sup>25</sup> and is the latest undertaking of the Philippines to provide reparations to

victims of human rights violations and atrocities. The law seeks to provide monetary compensation for damaged property to those from Marawi and surroundings displaced by the Marawi siege and to support rebuilding in the areas bombarded during the siege.<sup>26</sup> The law also compensates for the documented loss of lives directly resulting from the siege and military operations. The Bangsamoro Government and the national government are both mandated to ensure the protection of the victims of the siege and to set up programs for their rehabilitation.<sup>27</sup>

The Marawi Compensation Board Act therefore provides for two types of reparations:

1. monetary compensation based on claims of loss of property and lives, backed up with the appropriate documentary evidence; and
2. rehabilitation of victims of the siege through governmental services to be developed at both national and regional levels.

The MCB started its operations in 2023 and has only recently started its adjudication functions. In 2024, the Board released several decisions and dispensed monetary compensation for a portion of the current claims.<sup>28</sup>

All the above transitional justice entities were set up for specific purposes and with limited timelines. While they are all similar to each other in terms of providing some form of justice to the victims and survivors of human rights violations

and the scourge of war in the Bangsamoro, they are legally separate. There is likewise an overlap of the victims identified in the TJRC report and the HRCVB, particularly during the period of Martial Law. The MCB, on the other hand, stands on its own as it is limited to a specific event (the Marawi Siege) and a specific area. At the very least, lessons from the HRVCB were taken into consideration in the drafting of the law and contributed to the improvement of the operations of the MCB.

#### **Some Concluding Reflections**

The three direct experiences of reparations as a transitional justice measure for past violations of human rights and other atrocities as a consequence of armed conflict in Mindanao in the Bangsamoro area and of the Bangsamoro people have tended to be in the form of actual, though limited, provision of monetary compensation for human rights violations and property destruction. These limitations, so far, are imposed by the following:

1. The difficulty of establishing institutions to provide appropriate reparations requires political will.

For example, the establishment of the NTJRCB, as recommended by the Transitional Justice and Reconciliation Commission under the ongoing peace process, has yet to be implemented by the government. This is similar to the establishment of the MCB, which took five years before a law was approved to do so.

2. The reluctance to apply a clear human rights framework beyond victimhood impedes the application of the concepts of entitlement and accountability and misses out on a holistic application of reparation for healing and reconciliation.

The concept of reparations is meant to clearly “repair the harm” to the victim of violations and other consequences of past

suffering, including those related to armed conflict. Victimhood from the past refers to both the individuals and the community and society. In the case of the MCB, the monetary reparations can be seen to be an important component for rebuilding but not for healing and reconciliation at the community level and do little to contribute to the resolution of the roots of the Marawi Siege. By concentrating on technical measurements of damages to be the basis of reparations, though important, the dynamic connections of the pillar of reparations to other pillars of the right to justice and, most especially, the guarantees of non-recurrence, are sorely lacking. On the other hand, the monetary compensation provided by the HRVCB can be seen to contribute to individual healing. There is a clear link of the reparations dispensed by the HRVCB to the Memorial Commission through the “Roll of Victims” based on those claims recognized by the Board. It is hoped, moreover, that the Memorial Commission can finally step up its efforts in the setting up of the Martial Law Museum, the idea of which has been languishing for many years, despite the presence of an allocated budget.

3. Lastly, reparations should be seen as part of the overall right to remedy, as provided by international law and the 1987 Philippine Constitution.<sup>46</sup>

The conceptualization of reparations for past violations, atrocities, abuses, and consequences of armed conflicts demands an inclusive and participatory approach. The three experiences of reparations in the Bangsamoro have elements of this approach but are ad-hoc and unsystematic. Future endeavors should ensure that local perspectives are brought into consideration in the design of the concept and programming of future reparations measures.<sup>29</sup>

25 R.A. 116961 or An Act Providing Compensation for the Loss or Destruction of Properties and Loss of Lives as a Result of the 2017 Marawi Siege, and Appropriating Funds Therefor, Official Gazette of the Republic of the Philippines (April 13, 2022) <https://www.officialgazette.gov.ph/downloads/2022/04apr/20220413-RA-11696-RRD.pdf>

26 As of 2023, an estimated 80,000 internally displaced persons from the 2017 Marawi siege have yet to be able to rebuild their lives. See: <https://newsinfo.inquirer.net/1790731/safe-and-dignified-return-of-over-80000-idps-in-marawi-sought>

27 Ibid Section 5 (b) third paragraph.

28 See <https://mcb.gov.ph/>

29 Quirine Eijkman, “Recognising the Local Perspective: Transitional Justice and Post Conflict Reparations,” *Global Jurist*, 10, No.3 (Topics), Article 6 (2010).



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## Prospects for Moving Forward the TJR Mandate of the Bangsamoro Human Rights Commission

Kriselle Marie Aquino

As a product of the Bangsamoro peace agreement, the creation of the Bangsamoro Human Rights Commission (BHRC) is unique compared to other human rights institutions. Its establishment emerged from a transitional justice context—it is itself a part of the Bangsamoro’s assertion of their right to self-determination. Its special mandate on Transitional Justice and Reconciliation (TJR) is more than a legal mandate but honors those who sacrificed their lives in the armed struggle. It is derived from the Bangsamoro people’s collective right to self-determination and to leading a dignified life, overcoming previous deprivations of once being treated as minorities. Its establishment is a transitional justice measure in itself guaranteeing non-repetition of past atrocities while reinforcing respect for human rights and dignity.

Specifically, the BHRC draws its TJR mandate from the Bangsamoro Autonomous Act No. 4 or the Bangsamoro Human Rights Act of 2019, and contributes to the fulfillment of the TJR provisions (Article IX) of the Bangsamoro Organic Law (BOL). It is empowered to act as an interim transitional justice mechanism pending the enactment of a TJR body or entity that is broader and holistic in scope. Specifically, it is tasked with implementing the human rights component of the mechanism through: (a) documentation and investigation of past human rights violations; (b) collection of testimonies, objects, or documentary evidence; (c) provision of related information, data, and documents; (d) provision of research and technical support; (e) promotion of the TJR

mechanism; and (f) conduct of TJ public inquiries, at its discretion. All products resulting from these functions are to be transferred and transitioned to the TJR mechanism once established.<sup>1</sup>

The process of how the BHRC performs these functions and the concrete results it will generate are crucial, for it sets precedence and can influence future and larger efforts on truth-seeking, justice, reparations, and guarantees of non-recurrence. It will either rebuild the trust and confidence of victims and their communities in the State or create dissatisfaction and result in them losing confidence and refusing to participate in future transitional justice efforts.

### Operationalizing its TJR Mandate

Although not operating as a truth commission nor a prosecutorial body, the BHRC is strategically positioned to contribute to TJR given its power to investigate, hold public inquiries, and its advisory role to the Bangsamoro government concerning human rights. While it currently performs investigations of present human rights violations, its mandate on TJR gives it authority to “deal with the past.” This necessitates having a clear framework for documenting and investigating past human rights violations and how its findings may be used to facilitate reconciliation and public awareness. It has a crucial function of not only documenting past atrocities but also contributing to assigning individual accountability to perpetrators in pursuit of future justice efforts.

<sup>1</sup> Bangsamoro Parliament, “Bangsamoro Autonomous Act No. 4,” Art. IX, Sec. 51 (2020), <https://officialgazette.bangsamoro.gov.ph/2022/02/23/ba-act-no-4/>.

Its temporal and limited scope—as an interim TJR mechanism at the regional level—demands prioritization of past human rights violations to be documented and investigated. However, a careful determination of the parameters will be needed as it may exclude other victim-survivors in the process. This prioritization will need a sound, fair, and transparent decision as to how far it can “look back,” whether based on a certain period or based on specific issues such as ethnic cleansing, land dispossession, and sexual violence. While determining who is a victim is based on obvious individual rights violations (e.g., torture, rape, arbitrary arrests, etc.), violations in the form of grievances such as collective marginalization, discrimination, and forced displacement need paramount attention. This means that documentation and investigation should give a balanced focus not only on civil and political rights violations but also on violations of economic, social, and cultural nature.

Although its main jurisdiction is the BARMM, there are also significant violations committed in the past that are beyond the core territory. While the BHRC could prioritize cases within the BARMM, it should not limit itself from covering violations that are beyond its territorial

jurisdiction. If the mandate is understood to be based on a victim-survivor’s identity as Bangsamoro people and the Bangsamoro people’s shared historical experience of gross violations and legitimate grievances, victims-survivors beyond BARMM, including diaspora and displaced communities, also fall within the BHRC’s mandate. In short, while the Commission needs to set priorities, the documentation process or any other TJR action should not create a notion of hierarchy among victim-survivors. Its extended human rights effort for Bangsamoro communities in Palawan is already an existing good practice that could be readily applied in the Commission’s TJR work.

There are also multiple pathways to documentation that are not limited to fact-finding or establishing forensic evidence but could similarly reveal the nature and impact of the violations and could contribute to healing and reconciliation. This includes non-traditional approaches such as memory-based storytelling, studying lived experiences, and community-led mapping of land dispossession and forced displacement. To cover the diversity and complexity of experiences of injustice, TJR work, including that of the BHRC, cannot be limited to one approach only but needs to go beyond the legal field.

The readiness, participation of, and access to victims-survivors, as well as to alleged and named perpetrators, will also have a direct impact on BHRC’s documentation and investigation work. The BHRC has to carefully deal with some victims-survivors who have developed dialogue fatigue and are uncomfortable if not distrustful of the government due to the repetitive telling of their painful past, while concrete actions to address these remain lacking or are limited to memorialization. The ongoing development of the operational guidelines on the TJR mandate of the BHRC is envisioned to guide its work and address these sensitivities.

While the BHRC is expected to activate its TJR mandate, it needs to strengthen first its technical capacity on TJR and be provided with adequate financial resources for it to effectively perform its functions. The BHRC must develop not only its capacity to document, but also the archiving of TJR cases, which requires additional sensitivity and handling that is distinct from that of recent human rights violation cases. It would need a dedicated physical infrastructure to house all its obtained testimonies, documents, and evidence not just to ensure integrity and confidentiality but to preserve and protect these as part of the historical truth and memory of the Bangsamoro.

### **BARMM “Sectoral Accountability” on TJR and Human Rights**

Consistent with Bangsamoro Autonomous Act (BAA) No. 4, the BARMM Administrative Code of 2020 reinforces the BHRC’s role as the interim transitional justice mechanism. While it is empowered to act as the interim mechanism, other BARMM Ministries/Offices/Agencies (BMOAs) also have complementary roles to play on TJR as a whole. This inter-BMOA relationship is framed as “sectoral accountability” in the second Bangsamoro Development Plan (BDP) 2023-2028. It states that overall program management is the responsibility and “accountability of the entire

sector, and not just the implementing offices.” It specifically identifies the need to “strengthen the protection of human rights and transitional justice through the continuous documentation, investigation, and monitoring of past and present cases of human rights violations and abuses.”<sup>2</sup> The TJR as a mandated function of the BHRC is its institutional accountability but also a responsibility of other BMOAs whose policies and programs, directly and indirectly, contribute to the realization of TJR.<sup>3</sup>

As per the Bangsamoro government’s development roadmap up to 2025, the operationalization of the BHRC’s TJR functions aligns and contributes to implementing the TJR and human rights components of the BDP. The question, however, is the level of institutional awareness of each BMOA on this shared accountability and in practicing effective collaboration for TJR. While there are many engagements with victims-survivors at the community level, the current absence of a platform for dialogue and collaboration on TJR among BMOAs limits the synergism of efforts.

The BHRC will have a crucial role in steering and guiding BMOAs on TJR, as is also part of its advisory power on human rights. Following the principle of “sectoral accountability,” relevant BMOAs could be influenced to integrate TJ-responsive programming based on their respective mandates and also set up a regional convergence platform to avoid overlapping efforts, facilitate data and resource sharing, and build a community of practice for transitional justice.



Photo: BHRC

*BHRC Commissioner Archie Buaya interviews a Person Deprived of Liberty in one of the jail facilities in BARMM.*

<sup>2</sup> Bangsamoro Planning and Development Authority, “2nd Bangsamoro Development Plan 2023-2028,” pp. 273, 366-367, accessed April 14, 2024, <https://drive.google.com/file/d/1dvy9rwCbDN06LKIR5wC58y6QcwZYBhag/view>.  
<sup>3</sup> Direct interventions refer to those that fulfill or respond to any of the five pillars of transitional justice. However, there are also indirect efforts of BMOAs that are facilitative in nature or not explicitly tagged as TJ efforts by the BARMM government. This includes the Non-Moro Indigenous People code as an enabling policy towards addressing (recurring) land issues or moral governance as a form of guarantee of non-recurrence.



The national government also has a crucial role in responding to TJR issues that are beyond the Bangsamoro government to resolve. This includes expectations for reparations, prosecution, inclusive national history and memory education, and TJR-related policies needing national-level legislation or amendment. TJR work thus needs both horizontal (BARMM) and vertical (national government) cooperation to ensure it is comprehensive, holistic, and contributes to a primary national accountability mechanism.

### Beyond a Bureaucratic Practice

Although the BHRC generates its authority from Bangsamoro Autonomous Act (BAA) No. 4, it operates in the context of the Bangsamoro peace agreement. Therefore, the BHRC needs to regularly engage with those Bangsamoro peace mechanisms that have a related mandate on TJR or healing and reconciliation. On the other hand, these mechanisms need to be in dialogue with the BHRC and provide advice to aid in operationalizing BHRC's TJR mandate. A lack of coordinative relationship blinds each other in effectively implementing TJR, including synchronizing initiatives and managing expectations at the community level.

The TJR agenda set at the national level and by relevant Bangsamoro peace mechanisms will directly influence implementation at the local level. However, local implementers should also be able to influence the TJR discussion based on their experiences as frontliners. Decentralizing the discussion on TJR from the national and political level to relevant implementing institutions, particularly BMOAs, prevents discordant and fragmented initiatives on TJR. Otherwise, these institutions will remain tip-toeing in the absence of a unified direction or, worse, compete with each other when engaging victims and their communities.

While the documentation and investigation function of the BHRC has a reparative effect on victims-survivors to varying degrees, broader and parallel interventions on justice, reparations, and guarantees of non-recurrence of violations will be needed to fully remedy and protect victims. The results of and lessons from the BHRC's TJR implementation can be readily utilized in advocating for large-scale TJR interventions. Otherwise, it will remain a truth-telling exercise lacking concrete action, further dissatisfying victims, with some expressing the need for reparations not only through symbolic forms but also through monetary compensation and rehabilitation.

TJR mainstreaming in the government should not be seen as merely a bureaucratic exercise, but rather as a democratic functioning. It supports democratization by strengthening the accountability of government institutions, enabling and improving access of victims to remedies, and encouraging public support to uphold respect for rights. However, it would need more than an accounting of what each institution (national and regional level) can commit to TJR. Rather, each institutional character would need to be examined first, specifically on its adherence to rights and its level of competence in remedying victims. To what extent, as an institution, is it ready to confront and address difficult questions—holding perpetrators to account, addressing competing land and property claims, or shaping an inclusive national historical memory? These institutions, comprised of individuals coming from diverse backgrounds and cultures, influence how TJR is interpreted, internalized, and acted upon.

### Victim Participation and Access

Although the BHRC has an express mandate on TJR, its operationalization will also be dependent on the accessibility and consent of



Photo: BHRC

BHRC staff conducting jail facility monitoring and legal aid to Bangsamoro Persons Deprived of Liberty.

victims-survivors to participate in the process. Participation needs to be meaningful, non-hierarchical and transformative. This means not only providing spaces for them to be heard and know their rights but also for them to be empowered to claim these. This may be in the form of building their confidence to organize victim-led or victim-focused associations, exercise co-partnership with implementers, co-determine TJR solutions, and serve as advocates for TJR. Otherwise, any form of participation will remain performative and these same spaces can become another site of exclusion and re-victimization. Both the process and the result of their participation should be equally dignifying and empowering to victims-survivors.

In accounting TJR efforts, there must be conscious attention to disaggregating interventions between victims and duty-bearers. This should produce distinct evidence between 1) the Bangsamoro people's strengthened assertion of their rights as victims; and 2) duty bearers with improved capacities to facilitate and/or provide remedy to victims. The level of awareness on TJR, especially of local chief executives in BARMM and adjacent areas, will play a crucial role in the BHRC's access and quality of engagement with victim communities.

### Sensitizing Transitional Justice to the "Periphery"

Most of the global and local studies on transitional justice are concentrated on intersecting gender-related violations with transitional justice, yet perspectives on indigeneity and ethnicity are underdeveloped. Sensitizing transitional justice means equalizing access to transitional justice interventions, especially for indigenous groups. The invisible hierarchy of ethnic identities within the Bangsamoro society creates a power imbalance, especially for those historically marginalized groups poorly positioned to assert their rights, either as collective or individual victims.

The Sama Dilaut, for example, as a minority within a minority, have unique experiences of land (and maritime) dispossession, ethnic subordination, and socio-political exclusion as historically displaced and marginalized. Attention must be given to minorities in any TJR process as their marginalization may result in possible sidelining of their claims—dilution of their narrative within the broader Bangsamoro narrative of injustices and limitations from claiming future reparations with some still not legally documented. Transitional justice has to go beyond addressing individual rights violations, but it should also serve as a tool for marginalized

and minority groups to exert greater control over their political, economic, and socio-cultural life. It should cover violations that are both horizontal and vertical in nature, sensitive not only to gender issues but also to indigeneity-based violations. Duty-bearers should co-reflect TJR with historically marginalized groups and encounter their viewpoints of what characterizes injustice for them and how to right these. Among other added values, this ensures that reconciliation in transitional justice is not only about national-level reconciliation but also about reconciliation at the community level.

### Moving Forward: TJR and the Larger Democratic Culture

The quality and scale of actions for transitional justice for the Bangsamoro will reflect the Philippines' overall democratic culture, regard for human rights, and accountability for past atrocities. A strong political will is needed not only to pursue TJR, but also to deal with severely polarized communities and those reluctant to "deal with the past," seeing it as not necessary to moving forward. The focus of TJR efforts should therefore not only be on the victims by responding to past human rights violations and on the State by demanding accountability, but also on the level of the broader society by ensuring there is a sensibility to human rights and democratic values among the Bangsamoro and the general public. Otherwise, it will facilitate a climate of impunity, restricted space to advocate for TJR, and downplaying of international human rights obligations. TJR as a topic may cause discomfort as it forces individuals and communities to recount wounds of the past, but this same discomfort is also capitalized on by perpetrators to undermine, if not escape, accountability. It is not just the BHRC that is confronted with this reality but any other institution working on and advocating for transitional justice and human rights.

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## Building Bridges Over Broken Ground: Pakigdait's Community-Driven Path to Reconciliation

Abelardo "Abel" A. Moya and Elnathan Brant L. Ermac

### Introduction

The year is 2000 in Kauswagan—a coastal community in Lanao del Norte originally inhabited by Meranaws but now dominated by Christian settlers. A normal day in March quickly turned violent as firefights broke out between the Moro Islamic Liberation Front (MILF) and the Philippine armed forces. The violent encounter followed then President Joseph Estrada's declaration of an "All Out War" against the so-called "enemies of the state," referring to the Muslim secessionist movement that was formed in Mindanao in the 1970s. As a result of the policy, countless individuals were displaced, and others were maimed or killed.

Out of these experiences of violence and in a desire to promote reconciliation and justice, six inter-religious leaders representing Islam, the Roman Catholic church, the Seventh-day Adventist, the Assembly of God, the Philippine Independent Church, and the United Church of Christ in the Philippines, came together in 2000, which led to the formation of Pakigdait, Inc., one year later. The organization aims to promote reconciliation, justice, and social cohesion in the aftermath of violence and strives to end the armed conflict in Mindanao.

Pakigdait's birth in the formation center of the Saint Vincent Ferrer Church in Kauswagan, Lanao del Norte, was a response to the turbulent history of the region. The armed conflict surrounding the Bangsamoro struggle also shaped Pakigdait's role in the community. The suffering and conflicts experienced by those affected have widened the divide between the people of different faiths in Lanao del Norte and continue to perpetuate

animosity. This cycle of violence has created deep-rooted prejudices and tensions between Muslim and Christian residents of Northern Mindanao that can easily be seen in their everyday interactions. Community members share stories of Muslims being refused from renting living spaces in some areas or the perpetuation of hate speech against religious and ethnic groups rooted in fear and prejudice against the other.

Pakigdait, Inc. recognizes the need to break this cycle of violence and latent conflict among the diverse cultures in Northern Mindanao. By addressing the deep-seated animosities and working towards healing and unity, Pakigdait strives to create a more harmonious and inclusive society in Lanao del Norte.

### Historical Violence in Barangay Tacub: An Example of the Complexity in the Bangsamoro TJR process

Over the decades of the Bangsamoro conflict, Barangay Tacub in Kauswagan has repeatedly been the scene of indiscriminate acts of violence. Even though it is located outside of the Bangsamoro Autonomous Region in Muslim Mindanao, it still saw unspeakable acts of violence, the effects of which can be felt until today.

On November 22, 1971, a group of Meranaws<sup>1</sup> was returning from Magsaysay, Lanao del Norte where they had tried to participate in a special election. They had been turned away by members of the Ilaga, a paramilitary group of Christian settlers formed out of fear of the Muslim independence movement. Tensions had already been building

<sup>1</sup> A Muslim ethnic group in the Mindanao, Philippines whose name is derived from their homeland, Lake Lanao.





Photo: Pakigdait, Inc.

Christian religious leaders hand over a basket of fruits to an Imam inside the Grand Mosque of Marawi City

up, and there had been sporadic violent encounters between soldiers and paramilitary groups in the area, but none turned out as violent as what happened that day. Traveling in a convoy of four vehicles, the group was stopped at a checkpoint in Tacub, a barangay in Kauswagan, Lanao del Norte, and was indiscriminately fired upon by armed men. The incident claimed the lives of between 40 and 66 Meranaws and has become known as the Tacub massacre.

Like many other historical events, the Tacub Massacre remains etched in the hearts and minds of the Bangsamoro people. As with other massacres, the tensions and conflicts in Tacub extend beyond the conflict between the government armed forces and the Bangsamoro struggle. The perpetrators included not only the military but also residents who are paramilitary and Ilaga fighters.

Tragically, the cycle of violence in Kauswagan continued in 2008 when frustrations with the declaration of the Memorandum of Agreement on Ancestral Domain (MOA-AD)<sup>2</sup> as unconstitutional erupted into violence. To express their disappointment over the setback in the peace process, some MILF combatants staged simultaneous attacks in Kauswagan and Kolambugan of Lanao del Norte leaving a trail of burnt houses and civilian casualties.

This incident underscores the village's role as a symbol of historical grievances related to injustices committed against both Meranaws and Christian settlers and the need for sensitive, slow-paced transitional justice and reconciliation (TJR) processes that prioritize community healing and understanding. By recognizing the multi-faceted nature of the conflict and considering the perspectives and experiences of all parties involved, efforts towards reconciliation can be more comprehensive

and effective. Hastening the processes, on the other hand, could result in the reopening of wounds, risking yet another eruption of conflict.

The Tacub Massacre serves not only as a reminder of unhealed wounds but also as an opportunity to embrace nuance and complexity in pursuing TJR efforts, paving the way for a future where all communities in Mindanao can heal and coexist peacefully. To achieve reconciliation, it is important to acknowledge the suffering of both the Meranaws who were affected by the Tacub Massacre, as well as the Christian settlers of Tacub who were impacted by the 2008 attack by MILF combatants. To take a comprehensive approach to history, it is necessary to consider all aspects of the conflict.

While Meranaws have previously almost always avoided passing through Barangay Tacub, recent years have seen Muslims returning to Tacub and living again in the mixed community. New generations of individuals seem to be oblivious to the incident in November 1971. Though considered a positive development by some, it raises a few red flags in the TJR process for the people in the community. One of the residents of Tacub mentioned in an interview that despite its diversity, discussing the massacre is considered a taboo for most of the residents. There is fear that talking about the massacre would reopen wounds within the community, despite the fact that most, if not all, of the first-hand witnesses and those who were involved have long since passed and only their children have remained. This situation is yet another conflict looming on the horizon. The time to respond has never been more urgent.

The geographic location of Tacub outside of the BARMM constitutes an additional challenge as the transitional justice mandate of the Bangsamoro government is limited to their areas of responsibility. There is consequently a particular need for grassroots communities to be engaged in order to set the stage for the TJR process.

### Reconciliation at the Grassroots: Pakigdait's Engagement in Kauswagan

As time continues to go by without any reconciliation process in Tacub, the risk of another conflict breaking out increases. The need to respond to this latent conflict was of the utmost urgency and prompted Pakigdait to start its Transitional Justice and Reconciliation initiative<sup>3</sup> in 2021. Rooted in the organization's belief in the power of conversation and establishing relationships, the initiative aims to facilitate healing, restorative justice processes, and the rebuilding of trust among different communities that have been affected by various forms of conflict.

Often, harmful prejudices towards members of other faiths, ethnic groups, and identities are passed down from one generation to another, creating a cycle of discrimination and trauma. These biases are rooted in historical injustices, which led to misunderstandings within communities, and disagreements among families or clans. Stories of violence committed by the Ilaga or *Tadtad*, another paramilitary group, against Muslim Meranaws and Barracudas<sup>4</sup> against Christian settlers are often shared by community members and passed on to the next generation, thereby perpetuating fear and discrimination.

Pakigdait's efforts to end the cycle of intergenerational trauma, biases, and prejudices were thus aimed at those who are the most important actors in shaping the youth: the religious leaders, parents, and teachers.

### Working with Religious Leaders

As the conflicts that emerge in this part of Mindanao are often expressed in terms of religious and ethnic differences, the role of religious leaders in the reconciliation and healing of the victims cannot be overstated. Faith leaders can facilitate listening sessions within their respective communities, creating safe spaces to acknowledge the pain and initiate the principle of TJR at the grassroots level. Thus, in March 2020, Pakigdait organized the Interfaith Solidarity Conference Addressing Harmful Convictions and Intergenerational Trauma to engage different faith leaders from Northern Mindanao in a constructive dialogue that focused on their respective roles in bringing an end to the cycle of intergenerational trauma. As a result, the Interfaith Solidarity Network was formed and works to address misconceptions and prejudices among the differing religions inside their masjids, churches, or chapels.

<sup>2</sup> Agreement by the Parties on the Ancestral Domain aspect, providing for the establishment of the Bangsamoro Juridical Entity to govern the Bangsamoro homeland in an associative relationship with the Central Government.

<sup>3</sup> Due to unfamiliarity of the term, Pakigdait employed alternative expressions such as "interfaith grassroots peacebuilding" or "addressing harmful convictions."

<sup>4</sup> Together with the Blackshirts, the Barracudas was a paramilitary organization that was created in response to the Ilaga.



### Engaging Parents

On February 9, 2022, as part of the larger initiative that is focused on healing past trauma, Pakigdait gathered parents and their children in an activity where they engaged in meaningful dialogue on trauma and how it is being passed and received. During the conversation, the process of ending the cycle of intergenerational trauma was compared to that of stopping a wound from bleeding because only then can the healing begin. Participants recognized that past trauma will never be truly healed if it is passed on to those who have the potential to reestablish the relationship between the conflicting parties; not forgetting to mention how reliving trauma is very taxing to the mind and to the heart.

One of the young Muslim participants, Nozair Manalao, whose parents were directly affected by the conflicts following the declaration of Martial Law in Kauswagan in the 1970s, made a statement that offers hope for the process. He said, *“We understand the pain and suffering our parents went through in their past experiences. As their children, we felt their pain. However, this does not mean that we should carry that burden throughout our lives. We also do not want this pain to be passed on to our future children.”*

### Engaging Teachers

As teachers play a significant role in the formative years of children, educators were also one of the main targets of Pakigdait activities. Educators who were previously identified during the parent-child conversation were encouraged to take a serene approach when supporting and handling children who have experienced trauma or have absorbed the trauma of their parents. The approach aims to genuinely foster a generation that is healed and ready to move forward toward sustainable peace.

### Bridging the Gaps Between State, Non-State Actors, and Young Leaders

Apart from inter-faith and inter-generational conversations, Pakigdait also recognizes the need to address long-lasting psychological effects of the violence experienced in Kauswagan such as post-traumatic stress disorder. Addressing these gaps requires concerted efforts to provide support for the mental health and well-being of individuals affected by war and conflict. To break the cycle of violence, it is crucial to facilitate the conversations between conflicting parties and their victims, fostering understanding and reconciliation.

Pakigdait, Inc., has cultivated trust through 23 years of dedicated work on the ground. Its journey alongside the community has been a harmonious blend of formal and informal interactions, as well as personal and professional relationships. Like many organizations, it refrains from making promises to community leaders that cannot be fulfilled. Instead, there is a recognition of its limitations, which also allows to embrace failure with humility. These moments of vulnerability made the organization more relatable and deeply connected to the people it works with.

Pakigdait’s “Peer Session and Storytelling Session for Youth Leaders” was a nonconventional workshop that aimed to provide a safe platform for young individuals who have been affected by conflict to share their experiences. Based on a deep trust in Pakigdait as an organization and facilitator of such processes—a trust that was built through transparent and humble interactions with the community—participants were able to speak about their fears and concerns that have developed due to the ongoing conflict in the region and had the opportunity to learn from one another’s perspectives.



Photo: Pakigdait, Inc.

*Johnrey Abarquez embracing Hanif Salindawan, the MILF representative in the Peer Session and Storytelling Session for Youth Leaders.*

During the conversation, participants were initially divided into groups based on their faith and ethnicity, with some members of the military and the MILF present as well. Among the Muslim participants, there was a young-looking member of the Armed Forces of the Philippines who listened to their fears and concerns regarding the military. Eventually, it was revealed to them that one of the participants was a member of the military and was asked to wear their uniform. This was a calculated slow session on “facing the fear” handled by a seasoned trauma and mental health professional and enabled by the trust and deep connection created by Pakigdait over years of building personal and professional relationships in the community. The revelation of the participant being a soldier led to a moment of embrace and reconciliation as the participants realized that the military member was also human, just like them.

The process helped the participants reflect on their feelings of mistrust and fear against each other.

The story of JR Abarquez similarly highlights the effectiveness of such conversations. After witnessing his uncle’s tragic death at the hands of suspected MILF members, JR initially harbored anger and hostility toward the group. When it was revealed that one of the participants in the reconciliation process was a member of the MILF, JR’s reaction shifted. With the support and intervention of the staff members facilitating the process, JR and the MILF member embraced, symbolizing a significant moment of forgiveness and healing. This encounter led JR to release his anger and extend forgiveness to the individual involved.

Establishing and recognizing each other’s humanity in this way is an important step

in healing and reconciliation, and Pakigdait conceptualized this activity exactly for that purpose. The narratives of participants who detailed their coming to terms with those whom they had developed fear of are already a significant step in establishing reconciliation between affected communities.

By fostering understanding and empathy through dialogue, individuals like JR exemplify how healing and positive change can occur even amid deep-rooted conflicts. It is important to recognize that these personal narratives contribute to the larger goal of peacebuilding and social cohesion in Lanao del Norte. By sharing stories, we acknowledge the significance of dialogue and forgiveness as catalysts for positive change. This creates the potential to break the cycle of violence and move forward on the path of transitional justice.

### The Heart Remembers What Even History Forgets

Pakigdait, Inc. has continued to grow and evolve despite the ongoing wars and conflicts in the region. It serves as a local bridge-building platform, bringing together people from different faiths and backgrounds. By harnessing the very faiths that were once sources of mistrust and conflict, Pakigdait has transformed them into a unifying force.

After promoting reconciliation on the community level this way, the process of restoration should begin. To do that, Pakigdait recognized the importance of creating memorials, sharing stories, and engaging in cultural activities. This not only honors the victims and keeps their memories alive; it will also help in the restoration of each individual. Furthermore, being free to talk about past trauma is one of the greatest signs of healing and recovery. Remembering to talk about the events and the victims is not just merely honoring individuals, but also

ensuring healing at the community level. The people of Kauswagan have started doing this by remembering the violence committed in the past.

Pakigdait Inc. continues its commitment to building peace at the grassroots level by following the four paths toward reconciliation: Truth, Justice, Compassion, and Peace. With the positive experiences made in Kauswagan, the organization believes that a new generation of individuals is emerging who exemplify compassion, forgiveness, and openness and who are living proof that there is no other way to peace except for peace itself.

“ *For transitional justice to progress in the Bangsamoro and to be designed in a comprehensive, inclusive, and participatory way, a consolidation of efforts is needed.* ”

Building a lasting and just peace in the Bangsamoro does not only require an end to hostilities and the establishment of an autonomous region in the Bangsamoro. It requires the genuine and sustainable transformation of direct, structural, and cultural violence that has been inflicted and continues to be inflicted upon the various identity groups present in the region. Transitional justice and genuinely dealing with past atrocities are therefore essential to achieving a just and lasting peace in the Bangsamoro. When done right, transitional justice enables healing and reconciliation while also addressing historical grievances and other underlying root causes of conflict.

Karlos Manlupig’s and Abelardo Moya and Elnathan Ermac’s compellingly recounting of the cases of Barangay Manili, Carmen, and Barangay Tacub, Kauswagan, serve as powerful reminders of the risks of leaving instances of mass violence unaddressed. Even decades after the atrocities were committed, the effects continue to be felt. This includes generational trauma and divides in the community due to mistrust and prejudices. Memories of violence persist in disrupting the community’s ability to thrive. In the absence of comprehensive transitional justice measures, victims and their descendants continue to strive for justice, in whatever form, and are forced to find their own coping mechanisms.

The stories also highlight the respective communities’ capacities of working towards

healing. Despite the pain inflicted, inspiring community members and leaders continue to be open to engaging in dialogue and participating in transitional justice-related measures, often sharing the stories of their suffering over and over without guarantees that this translates into any concrete remedy. While such efforts at healing and reconciliation should be lauded, the continued lack of comprehensively addressing these grievances, including the lack of information on any progress made in the formal transitional justice processes, adds to feelings of alienation and re-victimization. Transitional justice therefore is imperative to prevent unresolved trauma, unfulfilled needs of victims, and unaddressed historical grievances from becoming yet another root cause of violent conflict in the Bangsamoro.

### Progress in Transitional Justice Efforts

On paper, the necessity and significance of transitional justice have gained broad recognition as reflected in its formal integration into the peace process and common reference to it by government actors and civil society alike. In the ten years since forumZFD’s publication “Moving Beyond: Towards Transitional Justice in the Bangsamoro Peace Process,” some progress has been made in the advancement of transitional justice processes in the region and beyond.

Further elaboration of the scope of transitional justice—a need identified in the 2014 publication—has been achieved through the



inclusion of transitional justice sections in the Bangsamoro Organic Law, the Transitional Justice and Reconciliation roadmap as approved by the conflict parties in 2021 and currently being revised, and the integration of transitional justice in regional policies, such as the Bangsamoro Development Plan for 2023-2028 and the Bangsamoro Regional Action Plan on Women, Peace, and Security for 2023-2028. In addition, some progress has been made in the fields of accountability and reparations as described in Kriselle Aquino's and Atty. Cecilia Jimenez-Damary's contributions. The Bangsamoro Human Rights Commission—whose formation itself is considered a measure to guarantee non-recurrence and ensure respect for human rights—has been tasked with implementing the human rights component of the transitional justice component and has started formulating its mandate. The actualization of this mandate will set the precedent for accountability efforts in the context of Bangsamoro transitional justice and reconciliation. In terms of reparations, the Human Rights Victims Claims Board and Marawi Compensation Act provided mechanisms to access financial reparations for victims of violence, albeit limited to the specific jurisdictions for the Martial Law period and the Marawi siege respectively. A comprehensive reparations scheme for the Bangsamoro conflict as a whole remains wanting.

Despite the progress made, transitional justice components remain contentious. The main institutional recommendation of the Transitional Justice and Reconciliation Commission, the creation of a National Transitional Justice and Reconciliation Commission on the Bangsamoro, has yet to be implemented. As pointed out by several of the authors, the implementation of many of the recommendations of the Commission depends on the establishment of this national-level body. Its creation, however, is contingent on the political will of national government actors, a factor highlighted by several authors in light of the current national political climate. As laid

out by Yasmira Moner, the landslide victory of Ferdinand “Bongbong” Marcos as well as the proliferation of disinformation and distortion of historical accounts, particularly of the human rights violations committed during the time of Ferdinand Marcos Sr., has raised skepticism with regard to the feasibility of memorializing and remedying such instances of violence. As explained by Aquino, additional contentious aspects of transitional justice become visible in the Bangsamoro Human Rights Commission's prioritization of violations to which they must respond. The Commission as well as other implementers of transitional justice measures will be challenged to clarify the geographical and temporal scope of the transitional justice process, coverage of collective grievances such as marginalization and discrimination in addition to instances of physical violence, and who qualifies as victims.

### **The Need for a Comprehensive, Inclusive, and Participatory Approach to Transitional Justice**

A comprehensive approach is needed for transitional justice efforts to contribute to the sustainable transformation of the root causes of conflict. This not only refers to establishing a national strategic approach to transitional justice as envisioned in the National Transitional Justice and Reconciliation Commission on the Bangsamoro. It also requires going beyond the limitations inherent in some of the formal mechanisms usually subsumed under transitional justice efforts as explained by several of the contributing authors. Atty. Cecilia Jimenez-Damary identifies the need to go beyond technical conceptualizations of victimhood and measurements of damage that have been applied so far in the reparations bodies and adopt a more holistic approach to reparations that connects reparation as a form of healing and reconciliation more closely to the rights to justice and guarantees of non-recurrence. Aquino as well as Bai Shaima Baraguir and Rosa Castillo argue

for the application of more diverse, community-led forms of truth-telling and documentation that are better suited to capture the complex, multi-faceted experiences of violence, including structural and collective forms of violence. An integration of such comprehensive approaches to transitional justice, even in the usually technical components of accountability and reparation, avoids the exclusion of specific forms of violence from the coverage of these mechanisms and thus enables more complete healing and reconciliation on the community level.

A specific element of such a comprehensive approach is the adoption of inclusive approaches to transitional justice, especially under the pillar of truth-telling and memorialization. As elaborated by Baraguir and Castillo, the diversity of the Bangsamoro population and their experiences throughout the conflict not only translates into different understandings of the past, but also diverse conceptualizations of truth, justice, reparations, and reconciliation. Power imbalances between different ethnic groups mean that some of these conceptualizations are silenced in the transitional justice discourses and that these groups are comparatively in a worse position to assert their rights. To avoid further sidelining of the experiences of violence of these groups and prevent the reproduction of exclusion and marginalization through the transitional justice process, an inclusive approach is needed. Moner defines socially inclusive transitional justice and reconciliation as a process that reflects the lived realities of diverse communities, such as non-Moro Indigenous Peoples, settler communities, and Bangsamoro communities outside of the BARMM territory. Baraguir and Castillo offer the framework of decolonial memory-work that gives equal value and recognition to diverse perspectives as an approach to ensuring the inclusion of diverse perspectives, including those commonly silenced in the context of the Bangsamoro.

In a similar vein, transitional justice interventions need to be designed in a way that treats those involved as agents, rather than beneficiaries, of transitional justice. While Baraguir and Castillo point to this need on the level of the Bangsamoro government, it is particularly important at the level of conflict-affected communities and victim-survivors. This means that discussions on transitional justice should not remain within the traditional policy-making realm but be held in spaces and languages accessible to grassroots communities. By ensuring that affected communities can access discursive and decision-making spaces and are directly included in the design of transitional justice mechanisms affecting them, the transitional justice process will not only be more responsive to the experiences and needs of grassroots communities, but it can also counteract some of the dialogue fatigue and apathy as a consequence of the current lack of transparency and tangible impact of transitional justice measures. To not only be consulted but to have the ability to co-determine solutions is essential in this regard to prevent re-victimization and ensure that participatory processes are transformative and empowering communities throughout the process.

### **Consolidated Efforts Moving Transitional Justice Forward**

For transitional justice to progress in the Bangsamoro and to be designed in a comprehensive, inclusive, and participatory way, a consolidation of efforts is needed. While the formal integration of transitional justice components in the peace agreement and subsequent legislation entails the responsibility of government agencies to implement this component in their role as duty-bearers, non-government entities also have a role to play. The case study of Pakigdait's transitional justice and reconciliation projects shows what civil society can achieve even in the

absence of a comprehensive, government-led transitional justice process. Being deeply rooted in the community, having gained the trust of community members through years of eye-level experience, and in recognition of the need for healing in a municipality not covered by BARMM's transitional justice mandate, Pakigdait was able to facilitate reconciliation and healing in a deeply divided community. The example also highlights the diversity of actors that can impact transitional justice processes, such as faith leaders, parents, or teachers. Their work on the community level provides important evidence of how community relationships can be restored and social cohesion improved.

Moving forward, civil society organizations should build on such positive examples, work to overcome the silos they usually operate in, and consolidate their efforts in not only continuing to advocate for the implementation of the recommendations of the Transitional Justice and Reconciliation Commission but also in advancing healing and reconciliation in more immediate ways. Working closely with grassroots communities and accompanying them in conceptualizing their needs and asserting their rights regarding transitional justice is one way of ensuring that those most seriously affected by conflict and violence can reassert their dignity as agents of transitional justice.



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**Rosa Cordillera A. Castillo** (University of Bremen) is a socio-cultural and public anthropologist and curator working on social justice issues and critical areas of memory, imagination, media and politics, political emotions, solidarity, ethics, and decoloniality. Dr. Castillo has taught at Humboldt-Universität zu Berlin's Institute of Asian and African Studies, Freie Universität Berlin's Institute of Social and Cultural Anthropology, Berlin Graduate School Muslim Cultures and Societies, and the University of the Philippines' Department of Anthropology and Department of Behavioral Sciences. She is currently finishing her book, the ethnography *Being and Becoming: Imagination, Memory, and Violence in Muslim Mindanao* where she explores the productive force of imagination, entwined with memory, emotions, and temporality in individual and collective becoming amidst a backdrop of coloniality, Islamophobia, political turmoil, and the Bangsamoro struggle for the right to self-determination.





**Bai Shaima 'Bam' Baraguir** is an independent scholar and peace practitioner working along the intersections of anthropology, conflict, and development. She has over fifteen years of research, strategic planning, and project management experience working on conflict in Southeast Asia. Ms. Baraguir has handled different portfolios in Myanmar, Deep South Thailand, and, more extensively, the Bangsamoro Region in the Philippines. She acquired her bachelor's degree in International Studies from Ateneo de Davao University and MA degree in Conflict Resolution from the University of Bradford.



**Atty. Cecilia Jimenez-Damary** is a human rights and international humanitarian law lawyer, specializing in the prevention of torture, transitional justice as well as migration, among others. In 2013, Atty. Jimenez-Damary was appointed as the National Director of the Commission on Human Rights of the Philippines IDP Project; and later as the government representative to the Transitional Justice and Reconciliation Commission for the Bangsamoro. In 2016, she was appointed by the UN Human Rights Council as the UN Special Rapporteur on the human rights of internally displaced persons, where she served until 2022. Currently, Atty. Jimenez-Damary works as a Senior Professional Lecturer in De La Salle University in the Philippines, pioneering the first regular undergraduate transitional justice subject under Political Science in the Philippine academe. In addition to undertaking other consultancies, she is also a Board Member of several NGOs reflecting her expertise: Task Force Detainees of the Philippines; Association for the Prevention of Torture; and the Jesuit Refugee Service.



**Kriselle Marie Aquino** has nearly a decade of experience in the Philippine peace process, specifically in the fields of transitional justice, peacebuilding, and conflict transformation. Her research-cum-advocacy works focus mainly on human rights from the "periphery," particularly minoritized ethnic groups and vulnerable sectors in post-conflict contexts, and is shaped further by her sub-regional exposure to peace and human rights issues in Southeast Asia and South Asia. She is currently pursuing Master of Arts in Human Rights and Democratization at the Global Campus of Human Rights, with a concentration on the Asia-Pacific region.



**Abelardo "Abel" A. Moya's** journey transcends from a political activist, detainee, and revolutionary to a dedicated peacebuilder. He is committed to interfaith peacebuilding, advocates active nonviolence, and values unity in diversity. With over 30 years of experience, Mr. Moya focuses on conflict transformation in war-torn villages in Mindanao, working with non-state actors such as the MNLF and MILF, indigenous peoples, women, and youth. For more than two decades, he has served as Director of Pakigdait, Inc. As chairperson of the Iligan City People's Council, he represents close to a hundred civil society organizations and actively contributes to peacebuilding efforts locally and globally as he is also a trustee of the United Religions Initiative Global Council representing the SEAPac Region.



**Elnathan Brant Ermac** has been dedicated to facilitating peace and development initiatives since 2016. His journey in peacebuilding took a significant step forward in 2020 when he joined Pakigdait Inc and serving the organization in different capacities: writer, research assistant, social media personnel, youth coordinator, and monitoring, evaluation, accountability, and learning officer. These roles have enabled him to contribute to various aspects of the organization's mission, from conducting in-depth research and crafting compelling narratives to engaging youth and ensuring effective program evaluation and accountability.

## Abbreviations

|                 |  |
|-----------------|--|
| <b>BAA</b>      | Bangsamoro Autonomous Act  |
| <b>BARMM</b>    | Bangsamoro Autonomous Region in Muslim Mindanao                                |
| <b>BDP</b>      | Bangsamoro Development Plan  |
| <b>BHRC</b>     | Bangsamoro Human Rights Commission   |
| <b>BMOA</b>     | BARMM Ministries, Offices, Agencies  |
| <b>BOL</b>      | Bangsamoro Organic Law   |
| <b>BTA</b>      | Bangsamoro Transition Authority  |
| <b>CAB</b>      | Comprehensive Agreement on the Bangsamoro                                      |
| <b>CBT</b>      | Community Based Tourism  |
| <b>CSO</b>      | Civil Society Organization   |
| <b>forumZFD</b> | Forum Ziviler Friedensdienst   |
| <b>GPH</b>      | Government of the Philippines  |
| <b>HRVCB</b>    | Human Rights Victims' Claims Board   |
| <b>HRVVMC</b>   | Human Rights Violations Victims' Memorial Commission                           |
| <b>INGO</b>     | International Non-Governmental Organization                                    |
| <b>IP</b>       | Indigenous Peoples   |
| <b>MCB</b>      | Marawi Compensation Board  |
| <b>MILF</b>     | Moro Islamic Liberation Front  |
| <b>MNLF</b>     | Moro National Liberation Front   |
| <b>NMIP</b>     | Non-Moro Indigenous Peoples  |
| <b>NAP</b>      | National Action Plan   |
| <b>NTJRCB</b>   | National Transitional Justice and Reconciliation Commission for the Bangsamoro |
| <b>OPAPRU</b>   | Office of the Presidential Adviser on Peace, Reconciliation and Unity          |
| <b>PDL</b>      | Persons Deprived of Liberty  |
| <b>UN</b>       | United Nations   |
| <b>RAP</b>      | Regional Action Plan   |
| <b>RP</b>       | Republic of the Philippines  |
| <b>TJR</b>      | Transitional Justice and Reconciliation  |
| <b>TJRC</b>     | Transitional Justice and Reconciliation Commission                             |
| <b>WPS</b>      | Women, Peace and Security  |

### About forumZFD Philippines

forumZFD (Forum Ziviler Friedensdienst/ Forum Civil Peace Service) is a German non-governmental organization that supports people involved in violent conflicts on the path to peace. The organization was established in 1996 by peace and human rights groups – in reaction to the Balkan crisis – and has, since then, striven to help overcome war and violence.

forumZFD is implementing conflict transformation work in Germany as well as in twelve other countries in Europe, the Middle East and South East Asia. Its Academy for Conflict Transformation offers specialized trainings for professional, international peace work. Through campaigns, lobby work and public relations, forumZFD actively advocates civil peace policy.

forumZFD started working in the Philippines in 2008, with the goal of promoting nonviolent approaches of dealing with conflict. forumZFD Philippines holds its program office in Davao and has three project offices in Davao, Butuan, and Cotabato, and engages actors dedicated to peace and nonviolent conflict transformation from different spheres of society including local civil society, indigenous peoples, media educators and practitioners, academic institutions, and selected government institutions.



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