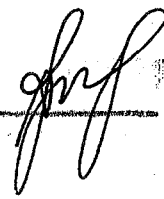


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUN 30 P12:29

RECEIVED BY: 

SENATE

S. B. NO. 64

Introduced by SENATOR LUISA "LOP" P. EJERCITO ESTRADA

EXPLANATORY NOTE

The Filipinos are among the world's foremost heroes and advocates of freedom. To demonstrate and exemplify that avid regard and concern for human rights, the 1987 Constitution under Section 11 of Article 11 declares "The State values the dignity of every human person and guarantees full respect for human rights." Consistent with this declared policy, it supports under Section 12 of Article III the "Compensation to and rehabilitation of victims of torture or similar practices, and their families."

A military, police and/or other law enforcement agencies' operation to suppress rebellion or to pursue and/or apprehend criminal elements, no matter how cautiously conducted, invariably causes damages upon innocent civilians and non-combatants. Unfortunately, there is no existing government mechanism that compensate for these damages that come in the form of physical and/or psychological injuries, death and/or destruction of properties. Hence, the proposed measure seeks to fill in this void in order to prove to the citizenry that the government means no harm to them and that such damages are inevitable consequences of the government's duty to defend itself and protect its people.

Critics may argue that indemnification of this kind should only be practiced by rich countries and not by cash-strapped Third World countries such as the Philippines. This assumption is wrong. As justice is universal, rectifying injustices must be universal too, exempting no one – not even on account of poverty that is in poor taste if invoked as a way of escaping the duty to indemnify.

The early passage of this bill is earnestly sought.


LUISA "LOP" P. EJERCITO ESTRADA
Senator

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
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SENATE

S. B. NO. 64

Introduced by **SENATOR LUISA "LOI" P. EJERCITO ESTRADA**

AN ACT
PROVIDING FOR REASONABLE COMPENSATION AND BENEFITS FOR
THE LOSS OF LIVES, INJURIES AND DAMAGES TO PROPERTY SUFFERED
BY NON-COMBATANT INDIVIDUALS IN THE COURSE OF OPERATIONS
BY THE MILITARY, POLICE AND/OR OTHER LAW ENFORCEMENT
AGENCIES AND FOR OTHER PURPOSES

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

SECTION 1. Declaration of Policy. – It shall be the policy of the State to provide compensation to and rehabilitation of non-combatant individuals and their families caught in the crossfire of operations by the military, police and/or other law enforcement agencies.

SECTION 2. Definition of Terms. – The following terms, as defined accordingly, shall be used in this Act:

- a) *Non-Combatant victims* shall be those individuals who have not directly or actually participated in an armed confrontation or those persons who have not directly or indirectly caused the encounter involving the military, police, and/or other law enforcement agencies. Civilian officials and personnel of the government of the Philippines who have not directly or actually participated in the aforementioned armed confrontation shall be deemed included in the term non-combatant individuals.

SECTION 3. The Board of Compensation and Rehabilitation:

Compositions, Powers and Functions. - There is hereby created a Board of Compensation and Rehabilitation under the Commission on Human Rights, herein referred to as the Board, to be composed of one (1) chairman to be appointed by the Chair of the Commission and four (4) members representing the Department of Social Welfare and Development, the Department of National Defense, the Department of Interior and Local Government and the human rights non-governmental organizations and people's organizations.

The Board shall have the following powers and functions:

- a) To receive, evaluate, process and investigate applications for claims under this Act;
- b) To conduct an independent administrative hearing and resolve applications for claims, grant or deny the same; and
- c) To deputize appropriate government agencies in order to effectively implement its functions.

SECTION 4. Compensation and Rehabilitation of Non-Combatant Victims.

- The law enforcement agencies conducting the operation, the Department of Social Welfare and Development, the Department of Health, the corresponding government hospitals and the local government unit concerned shall provide immediate relief to non-combatant individuals who are victims of operations of the military, police and/or other law enforcement agencies. However, whatever amount a particular local government unit might shell out to fulfill the intent of this Act shall be reimbursed by the Board.

The Board, upon favorable resolution of the claims, shall award the following:

- a) Where death of a non-combatant individual occurs in the course of an operation conducted by the military, police and/or other law enforcement agencies, the amount of Fifty Thousand Pesos (P50,000.00) shall be granted to the legal heirs of the victim by way of a death benefit;
- b) Where physical, emotional and/or psychological injury is caused to a non-combatant individual in the course of an operation conducted by the military, police and /or other law enforcement agencies, the Board shall pay the victim the cost of hospitalization and other related and consequential damages resulting from such injury; and
- c) Where loss of or damage to property of a non-combatant individual is caused in the course of an operation conducted by the military, police and/or other law enforcement agencies, the Board shall pay the amount corresponding to the assessed value of the property lost or destroyed or the amount mutually agreed upon by the parties.

SECTION 5. Unlawful Operations. - An *Operation* by the military, police and/or other law enforcement agencies shall be deemed *unlawful* when it is conducted in such a way that there is absolutely no justification for its undertaking or it is a clear violation of the constitution, existing laws and basic human rights of the people in the community. Simulated encounter by the military, police and/or other law enforcement agencies shall also be considered unlawful under this Act.

SECTION 6. Liability of Concerned Law Enforcement Agency. - Where the operation conducted by the military, police and/or other law enforcement agencies falls under Section 5 of this Act, the concerned military, police and/or other law enforcement agency shall pay jointly and severally the compensation awarded by the Board.

The commanding officers, as well as all elements of the military, police and/or other law enforcement agencies who actually and directly participated in an unlawful operation shall be criminally prosecuted and charged with before a competent court, and shall be punished with imprisonment of six (6) years to twelve (12) years.

SECTION 7. Appropriation. - Such amount as may be necessary for the implementation of this Act shall be included in the budgets of the Commission on Human Rights, the Department of Social Welfare and Development, the Department of National Defense, the Department of Interior and Local Government, the Department of Health, and other concerned government agencies in the General Appropriations Act of the year following its enactment into law and every year thereafter.

SECTION 8. Implementing Rules and Regulations. - The Commission on Human Rights, in consultation, coordination and collaboration with the Department of Social Welfare and Development, the Department of National Defense, the Department of Interior and Local Government, and human rights non-governmental organizations and people's organizations, shall prepare the implementing rules and regulations necessary to carry out the provisions of this Act.

SECTION 9. Separability Clause. - All laws, presidential decrees, executive orders, rules and regulations or any part thereof, which are inconsistent herewith are deemed repealed or modified accordingly.

SECTION 10. Effectivity Clause. - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Approved,