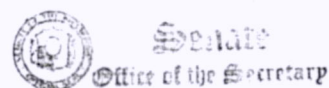


SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
Second Regular Session )



'18 MAR -1 AIO :26

SENATE

SENATE BILL No. 1721

RECEIVED BY

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Introduced by **SENATOR LEILA M. DE LIMA**

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**AN ACT**  
**AMENDING ARTICLE 14 OF THE REVISED PENAL CODE TO ADD, AS**  
**AN AGGRAVATING CIRCUMSTANCE, THE CRIME HAVING BEEN**  
**COMMITTED AGAINST LAWYERS AND JUSTICE SECTOR OFFICIALS**

**EXPLANATORY NOTE**

The Constitution, Article II, Section 5 provides:

**Section 5.** The maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

We are a nation governed by the rule of law. This principle is based on our values which state that power is not lodged on any individual ruler but on the people and on the law. As such, the effective and efficient management of justice is paramount to our way of life.

The courts and the lawyers are the ones tasked to ensure that justice is done. In the process, they place themselves in harm's way against people who means to subvert justice.

The Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, provides:

**Guarantees for the functioning of lawyers**

16. Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken

in accordance with recognized professional duties, standards and ethics.

17. Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities.

In recent years, there has been a spate of killings against members of the legal profession which should call our government to action to send a clear message against offenders who specifically target lawyers and court officials.

Alternative Law Journal reported 114 legal professionals were killed between 01 January 1999 and October 2014 – four were Judges, eight were Prosecutors and the rest were lawyers.<sup>1</sup>

More recent cases involving the killing of lawyers are as follows:

1. On August 2016, Atty. Rogelio Bato, lawyer of Mayor Rolando Espinosa and suspected drug lord Kerwin Espinosa Jr., was killed in an ambush in Albura, Leyte. The ambush happened weeks after ₱1.9 million worth of shabu was discovered in a tennis court near the Espinosa residence<sup>2</sup>;
2. In the same month, Atty. Hermie Aban, the handling lawyer for the case of detained former Governor Joel Reyes, was shot by a gunman aboard a motorcycle in Palawan. Gov. Reyes was facing murder charges for the killing of radio broadcaster Dr. Gerry Ortega<sup>3</sup>;
3. On September 2016, Atty. Melder Tolentino, lawyer of a person currently involved in a drug case, was shot several times by two (2) men while he was refuelling at a gasoline station in Ilocos Sur<sup>4</sup>;
4. On February 2017, Atty. Mia Manuelita Mascarinas-Green, known environmental lawyer who handled property disputes and criminal cases, was ambushed by four (4) motorcycle-riding gunmen near her home in Bohol<sup>5</sup>;

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<sup>1</sup> Alternative Law Journal. Retrieved from <http://www.altj.org/news-and-views/the-last-word/833-attacks-on-lawyers-a-threat-to-democracy>. Accessed 22 February 2018.

<sup>2</sup> Rappler.com (24 August 2016). Eastern Visayas lawyers condemn killing of Rogelio Bato Jr. Retrieved from <https://www.rappler.com/nation/144008-eastern-visayas-condemn-lawyer-bato-killing>. Accessed 22 February 2018.

<sup>3</sup> Inquirer. Net. (16 August 2017). Lawyer handling drug cases shot dead in Palawan. Retrieved from <http://newsinfo.inquirer.net/923006/lawyer-handling-drug-cases-shot-dead-in-palawan>. Accessed 22 February 2018.

<sup>4</sup> ABSCBN News. (16 September 2016). Lawyer shot dead in Ilocos Sur. Retrieved from <http://news.abs-cbn.com/news/09/16/16/lawyer-shot-dead-in-ilocos-sur>. Accessed 22 February 2018.

<sup>5</sup> ABSCBN News. (16 February 2017). Lawyer killed in Bohol shooting incident. Retrieved from <http://news.abs-cbn.com/news/02/15/17/lawyer-killed-in-bohol-shooting-incident>. Accessed 22 February 2018.

5. On 19 February 2018, Atty. Jonah John Ungab was shot by a lone gunman riding a getaway motorcycle after attending hearings at the Cebu City Hall of Justice, including the case of his client, Kerwin Espinosa Jr.<sup>6</sup>; and
6. On 16 February 2018, Atty. Argel Cabatbat and his companions survived an ambush by men on motorcycles while aboard a car at the corner of EDSA and East Avenue. Two of three suspects were already identified as dismissed Police Officer<sup>1</sup> Mark Ayeras and John Paul Napoles<sup>7</sup>.

Attacks against legal professionals, as in human rights defenders, journalists and activists, continue to be common practice because suspects “are rarely caught.”<sup>8</sup>

Various human rights groups and lawyer organizations have expressed alarm over the recent incidents saying that these attacks are attacks against the legal profession and the judicial system. There is a clear need to amend existing law to establish a clear government policy to protect our justice system and the persons tasked to administer justice.

This bill aims to protect the members of the legal profession and the justice sector officials by increasing penalty against crimes committed against them.

  
LEILA M. DE LIMA

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<sup>6</sup>SunStar Cebu. (20 February 2018). Motive: 3 angles eyed in attack on Ungab. Retrieved from <http://www.sunstar.com.ph/cebu/local-news/2018/02/20/motive-3-angles-eyed-attack-ungab-589835>. Accessed 22 February 2018.

<sup>7</sup>GMA News Online (17 February 2018). Lawyer, companions who survived QC ambush may face criminal raps —police. Retrieved from <http://www.gmanetwork.com/news/news/metro/643742/lawyer-companions-who-survived-qc-ambush-may-face-criminal-raps-police/story/>. Accessed 22 February 2018.

<sup>8</sup>Philippine Star Editorial (21 February 2018). Killing the Defense. Retrieved from <http://old.philstar.com/opinion/2018/02/21/1789779/editorial-killing-defense> Accessed 22 February 2018.

SEVENTEENTH CONGRESS OF THE )  
REPUBLIC OF THE PHILIPPINES )  
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SENATE

SENATE BILL NO. 1721

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Introduced by **SENATOR LEILA M. DE LIMA**

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**AN ACT**  
**AMENDING ARTICLE 14 OF THE REVISED PENAL CODE TO ADD, AS**  
**AN AGGRAVATING CIRCUMSTANCE, THE CRIME HAVING BEEN**  
**COMMITTED AGAINST LAWYERS AND JUSTICE SECTOR OFFICIALS**

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

1 **SECTION 1.** The Revised Penal Code, Art. 14 on Aggravating Circumstances shall be  
2 amended adding a new subparagraph after subparagraph 21, as follows:

3 Art. 14. Aggravating circumstances. — The following are  
4 aggravating circumstances:

5 x x x

6 21. That the wrong done in the commission of the  
7 crime be deliberately augmented by causing other  
8 wrong not necessary for its commissions.

9 22. THAT THE CRIME BE COMMITTED  
10 AGAINST THE PERSON OR PROPERTY OF  
11 LAWYERS AND JUSTICE SECTOR OFFICIALS,  
12 IN FULFILLMENT OF THEIR DUTY OR IN

1                                    THEIR LAWFUL EXERCISE OF A RIGHT OR  
2                                    OFFICE.

3    **Sec. 2.** *Repealing Clause.* - All laws, executive orders, presidential decrees,  
4    presidential proclamations, letters of instruction, rules and regulations or parts  
5    thereof inconsistent with the provisions of this Act are hereby repealed or modified  
6    accordingly.

7    **Sec. 3.** *Effectivity.* - This Act shall take effect fifteen (15) days following its publication  
8    in the Official Gazette or in two (2) newspapers of general circulation in the  
9    Philippines.

*Approved,*