

NINETEENTH CONGRESS OF THE				
REPUBLIC OF THE PHILIPPINES				
First Regular Session				

22 JUL 14 A11:15

SENATE

S.B. No. <u>593</u>

RECEIVED BY:

INTRODUCED BY SENATOR RISA HONTIVEROS

AN ACT PROVIDING COMPENSATION FOR VICTIMS OF HUMAN RIGHTS VIOLATIONS AND APPROPRIATING FUNDS THEREFOR AND OTHER PURPOSES

EXPLANATORY NOTE

It is a policy in the 1987 Constitution that the State values the dignity of every human person and guarantees full respect for human rights.¹

The Philippines also holds the worst record worldwide in single-day murder of media workers, killing 39 journalists, 59 others, including women and children, that covered a local election in Maguindanao province in the island of Mindanao, Philippines. Since the attack, at least 3 witnesses have been killed, while 80 of the suspects, including police officers and soldiers remain at large.

For year 2020 alone, at least three (3) journalists were confirmed murdered, in retaliation for their work, in effect placing the Philippines third in the list of deadliest countries.² This affects not only the right to life of the victims but the right of their families to, among others, enjoy a standard of living, should the victims have been alive. Not to mention, the collective right to information and to a free press and of expression get a chilling effect.

Victims' families, media groups covering the case and lawyers representing the victims have also reported threats and harassment.³ To this day, ten long years after the

¹ Sec. 11 Art. II of the 1987 Constitution

² https://www.asianjournal.com/philippines/across-the-islands/ph-ranks-third-with-most-journalists-killed-in-2020-new-report-finds/ last accessed Dec. 29, 2020

³ https://www.aljazcera.com/ncws/2019/12/19/timeline-the-maguindanao-killings-and-the-struggle-for-justice last accessed Dec. 29, 2020

incident, they have yet to receive finality of conviction rendered by a Quezon City Court in December of 2019.

Just like the victims of this terrible incident, victims of human rights violations all over the country, their spouses, sons and/or daughters, relatives and loved ones left behind have, in most cases, experienced long term pain and suffering, aggravated by the extremely long and winding process of their quest for justice.

The indelible anguish and sufferings are brushed aside, even ignored, despite a clear mandate upon the State to provide restitution, compensation and rehabilitation of the victims and their families. The Constitution no less recognizes the right of victims of torture or similar practices, and their families to compensation.⁴ The Anti-Torture Law provides compensation for torture victims.⁵ The same to be filed before the Claims Board under the Department of Justice as provided in R.A. 7309, but the amount thereof should be not be less than 10,000.00.⁶ The latter law also provides a mechanism for compensation, for victims of unjust imprisonment or detention and victims of violent crimes, but a ceiling is set for the compensation at P10,000.00.⁷

Clearly, victims of other grave violations of human rights and international humanitarian law have no equitable, satisfactory mechanism in receiving appropriate compensation. The Constitution gave the Commission on Human Rights of the Philippines the power and function to recommend to Congress effective measures to provide for compensation to victims of violations of human rights, or their families. However, there is yet no comprehensive law providing for compensation, neither resources or manpower to ensure appropriate grant of compensation to all victims.

Further, the Philippines, as a State Party to the International Convention on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention Against Torture (CAT) and Other Cruel, Inhuman or Degrading Treatment or Punishment, has a duty to, among others, provide reparation to victims.⁹ It has a duty to acknowledge its moral and legal obligation to recognize the

⁴ Sec. 12(par.4) Art. III of the Bill of Rights of the 1987 Constitution

⁵ Sec. 18 of R.A. 9745, The Anti-Torture Act of the Philippines

⁶ Sec. 36 of the IRR of R.A. 9745, The Anti-Torture Act of the Philippines

 $[\]frac{^{7}\text{ Please see} \underline{\text{http://hrlibrary.umn.edu/research/Philippines/RA}?207309\%20-}{\%20\%20Law\%20Creating\%20the\%20Board\%20Ot%20Claims.pdf}, Section 4 of R.A. 7309, last accessed Jan. 10, 2021$

⁸ Sec. 18(par.6) of Art. XIII of the 1987 Constitution

⁹ UN Basic Principles on Reparation, Principle 3

wrong done to its citizens, and provide reparation, through compensation of victims and/or their families for the deaths, injuries, sufferings, deprivations and damages.

It is thus imperative that the State enact a legislation to ensure the victims and families of victims left behind have access to appropriate compensation, regardless of the status of the cases filed in courts or other tribunals.

For the above reasons, the prompt approval of this measure is earnestly sought and recommended.

RISA HONTIVEROS

Senator



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AN ACT

PROVIDING COMPENSATION FOR VICTIMS OF HUMAN RIGHTS VIOLATIONS AND APPROPRIATING FUNDS THEREFOR AND OTHER PURPOSES

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

CHAPTER I
PRELIMINARY PROVISIONS

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SECTION 1. Short title. – This Act shall be known as "Human Rights Violations Victims Compensation Act of 2021."

Sec. 2. *Declaration of Policy.* – Section 11 of Article II of the 1987 Constitution of the Republic of the Philippines declares that the State values the dignity of every human, person and guarantees full respect for human rights. Pursuant to this declared policy, Section 12 of Article III of the Constitution prohibits the use of torture, force, violence, threat, intimidation, or any other means which vitiate the free will and mandates the compensation and rehabilitation of victims of torture or similar practices and their families.

12 By virtue of Section 2 of Article II of the Constitution adopting generally accepted 13 principles of international law as part of the law of the land, the Philippines adheres to 14 international human rights laws and conventions, the Universal Declaration of Human 15 Rights, including the International Covenant on Civil and Political Rights (ICCPR), 16 International Covenant on Economic, Social and Cultural Rights (ICESCR), and the 17 Convention Against Torture (CAT) and Other Cruel, Inhuman or Degrading Treatment 18 or Punishment which imposes on each State party the obligation to enact domestic 19 legislation to give effect to the rights recognized therein and to ensure that any person 20 whose rights or freedoms have been violated shall have an effective remedy, even if the 21 violation is committed by persons acting in an official capacity. In fact, the right to 22 remedy and reparation, which includes the right to compensation are, in itself 23

- guaranteed under existing human rights treaties and/or customary international law
- 2 including the Basic Principles and Guidelines on the Right to a Remedy and Reparation
- 3 for Victims of Gross Violations of International Human Rights Law and Serious Violations
- 4 of International Humanitarian Law, being peremptory in character (jus cogens) and as
- 5 such has been recognized as non-derogable.
- 6 Consistent with the foregoing, the State hereby acknowledges its moral and legal
- 7 obligation to recognize and/or provide reparation through compensation of victims
- 8 and/or their families for the deaths, injuries, sufferings, deprivations and damages. It is
- 9 hereby declared the policy of the State to recognize the wrong done and alleviate the
- pain and suffering caused by violations of human rights, restore the wholeness of the
- victim and victim's family to the fullest extent possible prior to the violation, remedy the
- 12 effects of the human rights violation and ensure the victims and victims' families the
- 13 right to appropriate compensation.
 - Sec. 3. Definition of Terms. For the purposes of this Act, the following shall
- 15 mean:

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- a. Compensation refers to a quantifiable monetary award for any damage suffered,
- as appropriate and proportional to the gravity, scope and scale of the violation and
- the circumstances of each case, resulting from gross violations of international
- human rights law and serious violations of humanitarian law, such as, but not
- 20 limited to:
 - a) Physical or mental harm;
 - b) Lost opportunities, including employment, education and social benefits;
 - c) Material damages and loss of earnings, including loss of earning potential;
 - d) Moral damage;
 - e) Costs required for legal or expert assistance, medicine and medical
 - services, and psychological and social services.¹
- b. Human Rights Violations occur when actions by state (or non-state) actors
- abuse, ignore, or deny basic human rights (including civil, political, cultural,
- social, and economic rights in line with human rights and humanitarian law).
- 30 Violations can either be direct (intentionally performed) or indirect or when the
- State failed to protect victims from violations of human rights or is complicit in
- 32 the commission of human rights violations.
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- Sec. 4. Creation of a Compensation Board under the Commission on Human Rights. The Commission on Human Rights (CHR) shall have the power to provide compensation to victims of violations of human rights, or their families. Pursuant, thereto, the latter shall establish a human rights violations Compensation Board which shall adopt an expeditious and inexpensive procedure for the claimants to follow in order to secure their claims under this Act.
- 9 Sec. 5. *Powers and Function of the Compensation Board*. The Compensation Board shall have the following powers and functions:
- 11 (a) Receive all claims under this Act together with pertinent document to such claims;
- 12 (b) Investigate, process, and determine the validity of all claims filed within thirty (30)
- 13 days after submission thereof;
- 14 (c) Conduct an independent administrative hearing, if necessary and resolve application
- 15 for compensation or deny the same;
- 16 (d) Disburse all compensation to qualified claimants at the earliest possible time;
- 17 (e) Promulgate rules and regulations in order to carry out the objectives of this Act,
- 18 subject to the approval of the Commission En Banc of the Commission on Human
- 19 Rights; and
- 20 (f) Perform such other functions as will be necessary for the implementation of this Act
- Sec. 6. Determination of Monetary Compensation. The determination of
- 22 compensation for claims before the Compensation Board under the Commission on
- 23 Human Rights shall be patterned after Republic Act No. 10368, the Human Rights
- 24 Victims Reparation and Recognition Act of 2013.
- 25 The Commission on Human Rights En Banc shall be authorized to determine the point
- 26 allocation to victims whose gravity, scope and scale of human rights violations vary
- 27 depending on existing and verifiable circumstances, Provided, that the monetary
- amount shall not exceed those that civil courts would have granted as damages.
- Sec. 7. *Consolidation of Claims*. After all claims and appeals thereof have been resolved, the Compensation Board shall compute the final budgetary requirement to award all claims granted. It will be submitted for appropriation should the initial funds
- 32 allocated for this Act is deemed insufficient.
- Sec. 8. Awarding of Monetary Compensation. Upon reflection in the General
- 34 Appropriations Act, the award of monetary compensation shall take effect. The
- 35 Commission on Human Rights shall develop a mechanism for the awarding of legitimate
- 36 claims, subject to auditing rules and regulations.

Commission on Human Rights shall develop a mechanism for the awarding of legitimate claims, subject to auditing rules and regulations.

Sec. 9. Source of Compensation. – The amount of One Hundred Million Pesos (P100,000,000.00) shall be appropriated to the Commission on Human Rights for the creation of the Compensation Board, its operationalization and as an initial source of compensation to victims of human rights violations. The Commission shall thereafter submit budgetary request, after consolidating all legitimate claims for compensation.

CHAPTER III

CLAIMANTS, COMPENSATION AND RECOGNITION

accordance with Section 6 hereof.

Sec. 10. Who are Entitled to Compensation. – Victims of human rights violations shall receive monetary compensation from the State, free of tax. Provided, That for a deceased or involuntary disappeared HRVV, the family members up to the 4th degree of affinity or consanguinity as provided for in the Civil Code of the Philippines, or such other person named by the executor or administrator of the deceased or involuntary disappeared HRVV's estate in that order, shall be entitled to receive such compensation. Provided further, That the compensation received under this Act shall be without prejudice to the receipt of any other sum as compensation or other entitlements under the law or other damages of whatever nature and kind by reason of the same human rights violations, from any other person or entity, courts, or tribunals.

Sec. 11. Claimants, Period for filing claims. – The victims and / or their families, upon finding by Commission on Human Rights, through its Central and Regional Offices of the existence of human rights violations, shall be eligible to file claims before the Compensation Board, within fifteen (15) days from receipt of Resolution.

Provided, That for the deceased victims, the family members up to the fourth civil degree of consanguinity or affinity as provided for in the Civil Code of the Philippines, or Code of

Muslim Personal Laws of the Philippines, whichever is applicable, or such other person named by the executor or administrator of the deceased victims' estate, in that order, shall be entitled to receive such compensation.

Sec. 12. Amount of compensation. – The amount of reparation under this Act shall be in proportion to the gravity, scope and scale of the human rights violation committed against the victim and in accordance with the number of points assigned to the individual case or incident of human rights violation as determined by the Claims Board in

Sec. 13. *Opposition, Grounds.* – Any person may oppose a claim for compensation, if he or she believes that the claimants are not entitled under the law. –

Sec. 14. *Motu Proprio Recognition.* – The Commission En Banc may take judicial notice, *motu proprio* of individual persons who suffered human rights violations as defined herein and grant such persons compensation pursuant to the rules in determining the monetary compensation.

Sec. 15. *Personal Receipt of Compensation.* – No special power of attorney shall be recognized in the actual disbursement of the award, and only the victim or the aforestated successor(s)-in-interest shall be entitled to personally receive said compensation, unless the victim involved is shown to be incapacitated.

Sec. 16. *Prospective Application, Exceptions.* – This law shall be applied prospectively, except for continuing offenses such as enforced disappearances. The families of victims whose whereabouts are still unknown, may file a claim for compensation.

Sec. 17. *Appeals.* – Any aggrieved claimant or oppositor may appeal within ten (10) days from notice of decision granting or denying the claim. The Commission *En Banc* of the Commission on Human Rights shall decide such appeals and its decision is considered final. Any pending appeal filed by an aggrieved claimant must be resolved within sixty (60) days after its filing.

21 CHAPTER IV
22 PENALTIES

Sec. 18. Penalties; Applicability of the Revised Penal Code. – Any claimant who is found by the Board, after due hearing, to have filed a fraudulent claim, shall be referred to the Department of Justice for prosecution. If convicted, he shall suffer the imprisonment of eight (8) to ten (10) years, shall be disqualified from holding any public office and employment and shall not be eligible to vote and be voted upon for in any national or local election, even after the service of sentence unless granted absolute pardon.

Any member of the Compensation Board, public officer, employee of an agency or any private individual mandated to implement this Act, who shall misuse, embezzle, or misappropriate the funds for compensation of HRVVs or who shall commit fraud in the processing of documents and claims of HRVVs, or shall conspire with any individual to commit the same, shall also be prosecuted.

Any member of the Compensation Board, public officer, employee of an agency or any 1 private individual mandated to implement this Act who may be found guilty of committing 2 any or all of the prohibited acts stated in the preceding paragraph, or those acts 3 punishable under the Revised Penal Code, shall be penalized under the pertinent 4 provisions in the Code and relevant special penal laws. 5 6 **CHAPTER V** 7 FINAL PROVISIONS 8 9 Sec. 19. Separability Clause. - If, for any reason, any section or provision of this 10 Act is declared unconstitutional or invalid, such other sections or provisions not affected 11 thereby shall remain in full force and effect. 12 Sec. 20. Suppletory Application of Laws. - The provisions of R.A. 9745 or the Anti-13 Torture Act of 2009 and R.A. 7309, in so far as they are consistent with the provisions of 14 this Act, shall be applied suppletorily. 15 Sec. 21. Repealing Clause. - All laws, decrees, executive orders, rules and 16 regulations or parts thereof inconsistent with any of the provisions of this Act, are hereby 17 repealed, amended or modified accordingly. 18 Sec. 22. Effectivity Clause. - This Act shall take effect fifteen (15) days after its 19 complete publication in the Official Gazette or in at least two (2) national newspapers of 20 general circulation. 21

Approved,