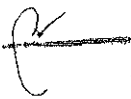


10 JUL 27 P5:10

SENATE  
S.B. NO. 2176

RECEIVED BY: 

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Introduced by Senator Francis N. Pangilinan

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### EXPLANATORY NOTE

Enforced or involuntary disappearance is committed when a person is arrested, detained or abducted against his/her will or is deprived of his/her liberty by officials or employees or any branch, subdivision, agency or instrumentality of Government, or by organized groups or private individuals acting on behalf of, or with the support of, or with direct or indirect, consents or acquiescence of the Government, and who subsequently disappeared or refuse to disclose his/her fate or acknowledge that he/she was detained, thus placing such person outside the protection of the laws.

At present, there are numerous test cases of involuntary disappearance pending before the court. However, since involuntary disappearance is not considered a crime under the Philippine law, the cases presently filed in court are lodged as kidnapping, murder or serious illegal detention, or a combination of the last two crimes. This bill is proposed to call the crime by its correct name.

It should be recognized that any act of enforced or involuntary disappearance constitutes a violation of the rights to liberty and security of a person, as well as the person's right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment. Hence, the phenomenon of enforced or involuntary disappearance must be finally addressed through adequate legislation directly penalizing its commission.

The bill also aims to defer, if not totally eradicate the commission of this heinous act by any officer or agent of the State to ensure that no person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied equal protection of the laws.

Hence, the passage of the bill is earnestly sought.


  
FRANCIS N. PANGILINAN

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

SENATE  
OFFICE OF THE SECRETARY

10 JUL 27 P5:40

SENATE  
SENATE BILL NO. 2176

RECEIVED BY: 

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Introduced by Senator FRANCIS N. PANGILINAN

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AN ACT  
PENALIZING ENFORCED OR INVOLUNTARY DISAPPEARANCE AND FOR OTHER  
PURPOSES

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

1 SECTION 1. *Title.* This Act shall be known as the "Anti-Enforced or Involuntary  
2 Disappearance Act of 2010".

3 SEC. 2. *Declaration of Policy.* It is hereby declared as the policy of the State to  
4 safeguard the life and liberty of the citizens.' Further, no person under investigation  
5 shall be subjected to torture, force, violence, threat or intimidation or any act which  
6 impairs his/her free will. Towards these *ends*, appropriate penalties shall be imposed  
7 on the government officials or agents of the State who cause the enforce or involuntary  
8 disappearance of persons, arrested, detained or abducted.

9 SEC. 3. *Involuntary Disappearance, When Committed.* For purposes of this  
10 Act, enforced or involuntary disappearance shall be deemed committed when the  
11 person is arrested, detained or abducted against his/her will or otherwise deprived of  
12 his/her liberty by officials or employees of any branch, subdivision, agency or  
13 instrumentality of government, or by organized groups or private individuals acting on  
14 behalf of, or with the support, direct or indirect, consent or acquiescence of the  
15 Government, and who subsequently disappeared for at least 48 hours. These forces  
16 then conceal the whereabouts of the disappeared or refuse to disclose his/her fate or to  
17 acknowledge that he/she was detained, thus placing such person outside the protection  
18 of the law.

1           SEC. 4. *Commanding Officer or Senior Official.* — The immediate Commanding  
2 Officer or equivalent Senior Official shall be held criminally liable for an enforced or  
3 involuntary disappearance. Any failure on his/her part, whether done with intent or  
4 negligence, to avert an act or enforced or involuntary disappearance shall be taken as  
5 evidence of conspiracy.

6           SEC. 5. *Penalty and Persons Liable.* The penalty of reclusion perpetua shall  
7 be imposed upon the following persons:

8           (1) Those who directly committed the act of enforced or involuntary  
9 disappearance;

10          (2) Those who directly forced, instigated, encouraged or induced others to  
11 commit the act of enforced or involuntary disappearance;

12          (3) Those who cooperated in the act of enforced or involuntary  
13 disappearance by another act without which the act of enforced or  
14 involuntary disappearance would not have been carried out;

15          (4) Those officials who allowed the act of enforced or involuntary  
16 disappearance when it is within power to stop the commission of such act;

17          The penalty of reclusion temporal shall be imposed upon those who attempt to  
18 commit the offense of enforced or involuntary disappearance.

19          The penalty of reclusion temporal shall be imposed upon the person who, having  
20 knowledge of the act enforced or involuntary disappearance, and without having  
21 participated therein, either as principals or accomplice, took part subsequent to its  
22 commission in any of the following manner:

23          (1) By profiting from or assisting the offender to profit from the effect of the  
24 act of enforced or involuntary disappearance;

25          (2) By concealing the act of enforced or involuntary disappearance, and/or  
26 destroying the effects of instruments thereof, in order to prevent its  
27 discovery;

1           (3)     By harboring, concealing, or assisting in the escape of the principal (s) in  
2                     the act of enforced or involuntary disappearance, providing the accessory  
3                     acts are done with the abuse of the official's public functions.

4           SEC. 6. *Suspension.* — The alleged perpetrators of and other participants in the  
5     commission of enforced or involuntary disappearance shall be suspended and  
6     prohibited from performing any official duties during the investigation and trial of the  
7     case.

8           SEC. 7. *Civil Liability.* — Enforced or involuntary disappearance shall render their  
9     perpetrators and the State authorities which organized, acquiesced in or tolerated such  
10    disappearances liable under civil law.

11          SEC. 8. *Order of Superior Officer or Public Authority.* - An order from a superior  
12    officer or a public authority cannot be invoked as justification for taking part in the  
13    commission of an enforced or involuntary disappearance.

14          SEC. 9. - *Continuing Offense.* — An act constituting enforced or involuntary  
15    disappearance shall be considered a continuing offense as long as the perpetrators  
16    continue to conceal the fate and the whereabouts of the persons who have disappeared  
17    and these facts remain unclarified.

18          SEC. 10. *Prescription.* — There shall be no time limit to the prosecution of a  
19    person responsible for the commission of enforced or involuntary disappearance.

20          SEC. 11. *Non-applicability of Amnesty* — Persons who have committed the act  
21    of enforced or involuntary disappearance shall not benefit from any special amnesty law  
22    or similar measures that will have the effect of exempting them from any criminal  
23    proceedings and sanctions.

24          SEC. 12. *Restitution.* - The *victims of* enforced or involuntary disappearance  
25    who surfaced alive shall be entitled to monetary compensation and restitution of honor  
26    and reputation. The nearest kin, as provided for in Article 887 of the Civil Code, of a  
27    victim of an enforced or involuntary disappearance may claim for compensation as

1 package of indemnification shall be without prejudice to other legal remedies that  
2 may be available to them.

3 SEC. 13. *Rehabilitation* - In order that the nearest of kin of victims of enforced  
4 or involuntary disappearance and the victims who surfaced alive may be effectively  
5 reintegrated into the mainstream of society and in the process of development, the  
6 State shag provide them with appropriate medical care and rehabilitation free of charge.

7 SEC. 14. *Protection of Persons Involved in Prosecution*. — The State through its  
8 appropriate agencies shall ensure the safety of all persons involved in the prosecution  
9 and investigation on enforced or involuntary disappearance cases such as the  
10 complainant, legal counsel, witnesses and relatives of the victims of involuntary  
11 disappearance. They shall likewise be protected from ill treatment and any acts of  
12 intimidation or reprisal as a result of the complaint or investigation. Anyone committing  
13 such acts shall be criminally liable.

14 SEC. 15. *Rules and Regulations*. — The Department of Justice, in collaboration  
15 with the concurrence of the Commission on Human Rights and the Families of Victims  
16 of Involuntary Disappearance (FIND) shall promulgate the rules and regulations for the  
17 effective implementation of this Act and shall ensure the full dissemination of the  
18 same to the public.

19 SEC. 16. *Monitoring Group*. —A monitoring group is hereby created to  
20 periodically monitor compliance with this Act. The group shall be headed by a  
21 Commissioner of the Commission on Human Rights and with the following as members:

- 22 (1) One Undersecretary of the Department of Justice;
- 23 (2) Chairperson of the Senate Committee on Justice and Human Rights;
- 24 (3) Chairperson of the House Committee on Political, Civil and Human  
25 Rights; and
- 26 (4) The Secretary-General of the Families of victims of Involuntary  
27 Disappearance (FIND).

1                   SEC. 17, Suppletory Application of the Revised Penal Code. — The provisions of  
2 the Revised Penal Code on punishable offenses shall be suppletory to this Act.

3                   SEC. 18. *Funds.* — The funds necessary for the effective implementation of this  
4 Act shall be included in the budget of the Commission on Human Rights and  
5 the

6 Department of Justice under the General Appropriations Act of the year following the  
7 enactment of this Act.

8                   SEC. 19. *Separability Clause.* — If any provision of this Act is declared invalid, the  
9 remainder thereof not affected thereby shall continue to be in full force and effect.

10                  SEC. 20. *Repealing Clause.* — All laws, decrees, executive orders, rules and  
11 regulations and other issuances or parts thereof inconsistent with the provisions of this  
12 Act are hereby repealed or modified accordingly.

13                  SEC. 21. *Effectivity Clause.* — This Act shall take effect fifteen (15) days upon its  
14 publication in at least two (2) national newspapers of general circulation.

Approved,