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SENATE

P.S. Res. No. 1032

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

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**RESOLUTION**  
**DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT**  
**AN INQUIRY, IN AID OF LEGISLATION, ON THE MOVE OF THE**  
**PHILIPPINE GOVERNMENT TO DELIST CERTAIN CASES OF**  
**ENFORCED DISAPPEARANCES FROM THE OFFICIAL RECORDS OF**  
**THE UNITED NATIONS WORKING GROUP ON ENFORCED OR**  
**INVOLUNTARY DISAPPEARANCES (WGEID)**

1 WHEREAS, Section 2 of Article II of the 1987 Constitution states, in part, that  
2 the Philippines “adopts the generally accepted principles of international law as part  
3 of the law of the land and adheres to the policy of peace, equality, justice, freedom,  
4 cooperation, and amity with all nations”;

5 WHEREAS, Section 5 of Article II of the same states that “[t]he maintenance  
6 of peace and order, the protection of life, liberty and property, and the promotion of  
7 the general welfare are essential for the enjoyment by all the people of the blessings  
8 of democracy”;

9 WHEREAS, Section 11 of Article II of the same avers that “[t]he State values  
10 the dignity of every human person and guarantees full respect for human rights”;

11 WHEREAS, Section 1 of Article III of the same states that “[n]o person shall  
12 be deprived of life, liberty, or property without due process of law, nor shall any  
13 person be denied the equal protection of the laws”;

14 WHEREAS, on 18 December 1992, the United Nations General Assembly, by  
15 virtue of resolution 47/133, released the Declaration on the Protection of All Persons  
16 from Enforced Disappearance as a body of principles to be observed for all States;

1           WHEREAS, the Philippines, as a member and party to the United Nations and  
2 the Human Rights Council, is duty-bound to observe all international agreements  
3 and optional protocols for the promotion and protection of human rights. Despite the  
4 government's avowed declaration for human rights, we have yet to see the end to  
5 systematic killings, abductions and enforced disappearances, mostly of activists<sup>1</sup>;

6           WHEREAS, enforced disappearance, as defined by the UN, "is the arrest,  
7 detention, abduction or any other form of deprivation of liberty by agents of the State  
8 or by persons or groups of persons acting with the authorization, support or  
9 acquiescence of the State, followed by a refusal to acknowledge the deprivation of  
10 liberty or by concealment of the fate or whereabouts of the disappeared person,  
11 which place such a person outside the protection of the law"<sup>2</sup>;

12           WHEREAS, among the Public Procedures of the United Nations Commission  
13 on Human Rights, thematic mechanisms are established which comprise of Special  
14 Rapporteurs and Working Groups which deal with specific cases of Human Rights  
15 Violations. This includes the Working Group on Enforced or Involuntary  
16 Disappearances<sup>3</sup>;

17           WHEREAS, during her presidential campaign, Corazon Aquino had called for  
18 human rights, which had been grossly violated during the Marcos era, to be upheld.  
19 After winning the presidency in 1986, her administration issued Executive Order No.  
20 8 creating the Presidential Committee on Human Rights which was mandated to  
21 investigate complaints and reports of human rights violations, including cases of  
22 Enforced or Involuntary Disappearances;

23           WHEREAS, from August 27 to September 7, 1990, two members of the  
24 Working Group on Enforced or Involuntary Disappearances visited our country at  
25 the invitation of the Government of the Philippines under then President Corazon  
26 Aquino;

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<sup>1</sup> Gavilan, J (28 August 2018) *What you need to know about enforced disappearances in the Philippines*. Retrieved from: <https://www.rappler.com/newsbreak/iq/210595-things-to-know-enforced-disappearances-philippines>.

<sup>2</sup> Article II, International Convention for the Protection of All Persons from Enforced Disappearance

<sup>3</sup> Rudolf, B (2000) *The Thematic Rapporteurs and Working Groups of the UN Commission on Human Rights*. Retrieved from: [http://www.mpil.de/files/pdf2/mpunyb\\_rudolf\\_4.pdf](http://www.mpil.de/files/pdf2/mpunyb_rudolf_4.pdf)

1           WHEREAS, in January 10, 1991, the Working Group on Enforced or  
2 Involuntary Disappearances released the report of their visit to the Philippines  
3 noting the phenomenon of disappearances in the Philippines which surged during  
4 the Martial Law era;

5           WHEREAS, the aforementioned report revealed that Two Hundred and Thirty  
6 One (231) cases of disappearance allegedly occurred during the period 1975 to 1980.  
7 The *desaparecidos* were reported to be farmers, students, lawyers, journalists and  
8 economists, among others<sup>4</sup>;

9           WHEREAS, as a matter of accomplishment, during their visit to the  
10 Philippines, the members of the Working Group received information from relatives,  
11 organizations of relatives of missing persons, human rights organizations and  
12 lawyers. Written testimony and reports on cases transmitted for the first time to the  
13 Group and further details on cases submitted in the past were provided. The total  
14 number of outstanding cases transmitted by the Group to the Government of the  
15 Philippines at the time of completion of this report was 497 out of a total of 595  
16 cases;<sup>5</sup>

17           WHEREAS, on December 20, 2006, the United Nations (UN) General  
18 Assembly during its 61st session adopted the International Convention for the  
19 Protection of all Persons from Enforced Disappearances. The said Convention is a  
20 monumental development in recognizing enforced disappearance as an offense  
21 which in certain circumstances constitutes the violation of human rights and  
22 regarded as a crime against humanity and is therefore subject to international  
23 criminal prosecution;<sup>6</sup>

24           WHEREAS, the Convention, in Article 1, section 2, explicitly prohibits  
25 subjecting any person to enforced disappearance and decisively rejects any

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<sup>4</sup> UN Working Group on Enforced or Involuntary Disappearances visit to the Philippines (10 January 1991) *Part III, item no. 115 of the 10 January 1991 Report of the Working Group on Enforced or Involuntary Disappearances visit to the Philippines* pg. 22

<sup>5</sup> UN Working Group on Enforced or Involuntary Disappearances visit to the Philippines (10 January 1991) *Part III, item no. 120 of the 10 January 1991 Report of the Working Group on Enforced or Involuntary Disappearances visit to the Philippines* pg. 23

<sup>6</sup> Office of the United Nations High Commissioner for Human Rights (5 November 2010) *30th Anniversary of the WGEID*. Retrieved from:  
<https://www.ohchr.org/EN/Issues/Disappearances/Pages/30thAnniversaryWGEID.aspx>

1 justification for its commission, whether in a threat or state of war, internal political  
2 instability or any other public emergency. Article 6 thereof, provides for the criminal  
3 liability of state agents and persons acting on behalf of the state who are involved in  
4 enforced disappearances, as well as the right to truth and material and moral  
5 damages for the victims and their families;

6 WHEREAS, acknowledging the necessity and obligation of the state to  
7 investigate and solve the persisting reports and validated violations of the  
8 unidentified and unprosecuted perpetrators which wrongly fosters the actions  
9 related to enforced and involuntary disappearances, then President Benigno S.  
10 Aquino III signed Administrative Order 35 which created a high-level Inter-Agency  
11 Committee dedicated to the resolution of unsolved cases of political violence in the  
12 form of extra-legal killings, enforced disappearances, torture, and other grave  
13 violations of the right to life, liberty, and security of persons;

14 WHEREAS, although the Philippines has not yet ratified the Convention, the  
15 country passed Republic Act 10353 or the Anti-Enforced or Involuntary  
16 Disappearance Act in December 2012. This landmark legislation made us the first  
17 country in Asia to enact a law that criminalizes the practice of enforced and  
18 involuntary disappearances;<sup>7</sup>

19 WHEREAS, Section 2 of RA No. 10353 states in part that, “the State adheres  
20 to the principles and standards on the absolute condemnation of human rights  
21 violations set by the 1987 Philippine Constitution and various international  
22 instruments such as, but not limited to, the International Covenant on Civil and  
23 Political Rights (ICCPR), and the Convention Against Torture and Other Cruel,  
24 Inhuman or Degrading Treatment or Punishment (CAT), to which the Philippines is  
25 a State party”;

26 WHEREAS, Section 19 of the aforesaid law states that, “[a]ny investigation,  
27 trial and decision in any Philippine court, or body for any violation of this Act shall  
28 be without prejudice to any investigation, trial, decision or any other legal or

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<sup>7</sup> Office of the United Nations High Commissioner for Human Rights (24 January 2013) *Philippines passes landmark law criminalizing enforced disappearance*. Retrieved from:  
<https://www.ohchr.org/en/newsevents/pages/philippinespassescriminalizingenforceddisappearances.asp>

1 administrative process before any appropriate international court or agency under  
2 applicable international human rights and humanitarian law”;

3 WHEREAS, Nilda Sevilla, co-chairperson of Families of Victims of  
4 Involuntary Disappearance (FIND), points out that the law sees enforced  
5 disappearance “as a special or separate offense from kidnapping, serious illegal  
6 detention, and/or murder. ““It’s not only an ordinary crime but also a human rights  
7 violation”, she adds;<sup>8</sup>

8 WHEREAS, Commission on Human Rights Chairperson Jose Luis Martin  
9 Gascon said that, “the Philippines, as well as many other countries in Asia and the  
10 world, has yet not been able to end this troubling phenomenon of the forcible  
11 removal of people - many perceived to be enemies of the state, and the constant  
12 denial that they are held captive by state authorities”;<sup>9</sup>

13 WHEREAS, in February 14, 2019, the Philippine Mission led by  
14 Undersecretary Severo Catura of the Presidential Human Rights Committee,  
15 formally moved for the delisting of 625 cases during a meeting with the UN Working  
16 Group on Enforced and Involuntary Disappearances in Sarajevo, Bosnia, Duhaim<sup>10</sup>;

17 WHEREAS, the aforementioned 625 cases of enforced and involuntary  
18 disappearances mostly attributed to government forces between the period 1975 and  
19 2012, were recently requested to be clarified and delisted by state representatives of  
20 the Philippine Government, with the reason being that the Philippines has already  
21 put in place a strong legal framework and institutional mechanisms to address this  
22 issue. The government also emphasized before the Working Group that these  
23 domestic mechanisms involved close cooperation between the government, and the  
24 victims and their families, non-government organizations (NGOs) and civil society  
25 organizations<sup>11</sup>;

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<sup>8</sup> Rappler (28 August 2018) *What you need to know about enforced disappearances in the Philippines*. Retrieved from: <https://www.rappler.com/newsbreak/iq/210595-things-to-know-enforced-disappearances-philippines>

<sup>9</sup> PhilStar Global (15 June 2018) *Desaparecido cases rise with Duterte’s war on drugs*. Retrieved from: <https://www.philstar.com/headlines/2018/06/15/1824895/desaparecido-cases-rise-dutertes-war-drugs>

<sup>10</sup> Arcilla, G (16 February 2019) *WGEID exec lauds PH for clarifying 625 “desaparecidos” cases*. Retrived from: <http://www.pna.gov.ph/articles/1062093>

<sup>11</sup> Ibid

1           WHEREAS, Albay Representative Edcel Lagman strongly condemned this  
2 move and action to have the official records of enforced disappearances deleted from  
3 the United Nations, and decried the government's failure to officially inform and  
4 consult the Commission on Human Rights, concerned human rights groups, and the  
5 relatives of the victims of such move. He claims that it will conceal the truth about  
6 the fate of victims and ensure the impunity of their violators<sup>12</sup>;

7           WHEREAS, the length of the disappearance, which is a cited ground for the  
8 delisting by the Philippine Government, is unacceptable because the act constituting  
9 enforced disappearance is a continuing offense and does not prescribe pursuant to  
10 R.A. No. 10353<sup>13</sup>;

11           WHEREAS, despite the passage of the Anti-Enforced Disappearance Law, not  
12 a single state agent has been convicted and punished for carrying out enforced  
13 disappearances<sup>14</sup> which may seriously challenge the main cause and grounds cited in  
14 the Philippine government's move to delist certain cases of enforced disappearances  
15 from the official records of the United Nations Working Group on Enforced or  
16 Involuntary Disappearances<sup>15</sup>;

17           WHEREAS, there is a need to strongly reconsider this motion by the  
18 government as this is a grave injustice not only for the victims of enforced  
19 disappearances themselves, but also for their families and loved ones who have  
20 longed for the proper closure to these pending cases for the longest time;

21           NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED to  
22 direct the appropriate Senate Committee to conduct an inquiry, in aid of legislation,  
23 on the move of the Philippine government to delist certain cases of enforced  
24 disappearances from the official records of the United Nations Working Group on  
25 Enforced or Involuntary Disappearances (WGEID).

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<sup>12</sup> GMA News (16 February 2019) *Solon slams gov't move to drop 625 disappearance cases from UN records*. Retrieved from: <https://www.gmanetwork.com/news/news/nation/685152/solon-slams-gov-t-move-to-drop-625-disappearance-cases-from-un-records/story/>

<sup>13</sup> *Ibid*

<sup>14</sup> Rappler (30 August 2018) *Poor law implementation denies desaparecidos justice*. Retrieved from: <https://www.rappler.com/newsbreak/in-depth/210681-poor-implementation-law-denies-justice-victims-enforced-disappearances-philippines>

<sup>15</sup> Wakefield, F. (19 February 2019) *AFP justifies delisting 625 cases of disappearances; families appeal against move*. Retrieved from: <https://news.mb.com.ph/2019/02/19/afp-justifies-delisting-625-cases-of-disappearances-families-appeal-against-move/>

*Adopted,*

*Leila de Lima*  
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