



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

22 JUL 14 AM 11:15

SENATE

RECEIVED BY:

S.B. No. 593

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.aljazeera.com/news/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,⁸ 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

⁷ Please see <http://hrlibrary.umn.edu/research/Philippines/RA%207309%20-%20%20Law%20Creating%20the%20Board%20Of%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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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

PRELIMINARY PROVISIONS

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

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

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

1 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
10 pain and suffering caused by violations of human rights, restore the wholeness of the
11 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.

14 Sec. 3. *Definition of Terms.* – For the purposes of this Act, the following shall
15 mean:

16 a. *Compensation* refers to a quantifiable monetary award for any damage suffered,
17 as appropriate and proportional to the gravity, scope and scale of the violation and
18 the circumstances of each case, resulting from gross violations of international
19 human rights law and serious violations of humanitarian law, such as, but not
20 limited to:

- 21 a) Physical or mental harm;
- 22 b) Lost opportunities, including employment, education and social benefits;
- 23 c) Material damages and loss of earnings, including loss of earning potential;
- 24 d) Moral damage;
- 25 e) Costs required for legal or expert assistance, medicine and medical
26 services, and psychological and social services.¹

27 b. *Human Rights Violations* occur when actions by state (or non-state) actors
28 abuse, ignore, or deny basic human rights (including civil, political, cultural,
29 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
31 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.

Sec. 5. *Powers and Function of the Compensation Board.* – The Compensation Board shall have the following powers and functions:

- (a) Receive all claims under this Act together with pertinent document to such claims;
- (b) Investigate, process, and determine the validity of all claims filed within thirty (30) days after submission thereof;
- (c) Conduct an independent administrative hearing, if necessary and resolve application for compensation or deny the same;
- (d) Disburse all compensation to qualified claimants at the earliest possible time;
- (e) Promulgate rules and regulations in order to carry out the objectives of this Act, subject to the approval of the Commission En Banc of the Commission on Human Rights; and
- (f) Perform such other functions as will be necessary for the implementation of this Act

Sec. 6. *Determination of Monetary Compensation.* – The determination of compensation for claims before the Compensation Board under the Commission on Human Rights shall be patterned after Republic Act No. 10368, the Human Rights Victims Reparation and Recognition Act of 2013.

The Commission on Human Rights En Banc shall be authorized to determine the point allocation to victims whose gravity, scope and scale of human rights violations vary 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 allocated for this Act is deemed insufficient.

Sec. 8. *Awarding of Monetary Compensation.* – Upon reflection in the General Appropriations Act, the award of monetary compensation shall take effect. The Commission on Human Rights shall develop a mechanism for the awarding of legitimate claims, subject to auditing rules and regulations.

1 Any member of the Compensation Board, public officer, employee of an agency or any
2 private individual mandated to implement this Act who may be found guilty of committing
3 any or all of the prohibited acts stated in the preceding paragraph, or those acts
4 punishable under the Revised Penal Code, shall be penalized under the pertinent
5 provisions in the Code and relevant special penal laws.

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7 **CHAPTER V**
8 **FINAL PROVISIONS**
9

10 *Sec. 19. Separability Clause.* – If, for any reason, any section or provision of this
11 Act is declared unconstitutional or invalid, such other sections or provisions not affected
12 thereby shall remain in full force and effect.

13 *Sec. 20. Suppletory Application of Laws.* – The provisions of R.A. 9745 or the Anti-
14 Torture Act of 2009 and R.A. 7309, in so far as they are consistent with the provisions of
15 this Act, shall be applied suppletorily.

16 *Sec. 21. Repealing Clause.* – All laws, decrees, executive orders, rules and
17 regulations or parts thereof inconsistent with any of the provisions of this Act, are hereby
18 repealed, amended or modified accordingly.

19 *Sec. 22. Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
20 complete publication in the *Official Gazette* or in at least two (2) national newspapers of
21 general circulation.

Approved,