

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 3079

Introduced by Hon. Karlo A. B. Nograles

EXPLANATORY NOTE

“No one shall be arbitrarily deprived of his life”.... (*Article 6 – International Covenant on Civil and Political Rights*) The universal Declaration of Human Rights similarly, recognizes the inherent right of every person to life, which right “shall be protected by law.”

Under the 1987 Constitution, it is a primary responsibility of the government to serve and protect its people. This encompasses not only protection to life but also liberty and property, regardless of gender, creed or religion.

Summary executions in the Philippines have become a serious concern in both the local and international communities. It is alarming that even as evidence mounts on hundreds of cases of summary executions, there has not been a single conviction. The number of reported assaults on leftist activists and progressive or militant community workers escalated these the past years. Unidentified assailants on motorcycles wearing face masks, death squads and “vigilantes” or hired killers are just a few of reported perpetrators. In some cases, those attacked are reportedly under surveillance by people linked to the security forces or had received death threats from the same.

Thus, international organizations have expressed concern that members of the police and military forces may have been directly involved in killings, or else have tolerated, acquiesced to, or been complicit in their commission.

In other instances, summary executions have reportedly been committed by 'death squads' or organized killing teams or by trained killers to eliminate without benefit of any judicial order, persons who are suspected of committing crimes or who are considered as enemies of persons in authority.

There is a need for a law that will deter and penalize all forms of killings, ensure that each case of summary killing is thoroughly investigated, bring suspected perpetrators to justice and ensure reparations or compensation to victims and their families.

This proposed measure defines the crime of summary execution and provides for stiffer penalties in addition to administrative and other accessory penalties. The proposal likewise gives compensation, protection and rehabilitation not only to the witnesses of summary execution but also to the immediate families of victims of summary executions.

In view of the foregoing, the passage of this bill is earnestly recommended.

A handwritten signature in black ink, consisting of a series of connected, wavy, vertical strokes, resembling a stylized 'N' or a series of 'M's.

HON. KARLO A. B. NOGRALES

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AN ACT
DEFINING THE CRIME OF SUMMARY EXECUTION, PRESCRIBING STIFFER
PENALTIES THEREFOR, PROVIDING COMPENSATION AND PROTECTION
TO THE VICTIMS' FAMILIES AND WITNESSES, APPROPRIATING FUNDS
THEREFOR AND FOR OTHER PURPOSES

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

SECTION 1. *Title.* – This Act shall be known as “The Anti-Summary Execution Act of 2009.”

SEC. 2. *Declaration of Policy.* – It is hereby the policy of the State:

(a) to value the dignity of every human person and to guarantee full respect for human rights, to which ends, highest priority shall be given to the enactment of measures that enhance the right of citizens to human dignity, prohibit summary executions, provide stiffer penalties and civil sanctions for violations of human rights, and guarantee compensation, rehabilitation and protection for victims and their families; and

(b) to ensure the safety and protection of all persons involved in the investigation and prosecution of summary executions including the victims and their families, complainants, witnesses, legal counsels and representatives of human rights organizations and media.

SEC. 3. *Definition of terms.* – For purposes of this Act, the term:

- (1) "Person in authority" refers to any person directly vested with jurisdiction recognized in law and clothed with authority in law, whether as an individual or as a member of some court or governmental corporation, board or commission.
- (2) "Agent of a person in authority" refers to any person who comes to the aid of any person in authority.
- (3) "Public officer" refers to any person holding any public office in the government of the Republic of the Philippines by virtue of an appointment or election.
- (4) "Summary execution" refers to the killing committed by a person in furtherance of his/her political or ideological belief under circumstances where the victim could not protect or defend himself such as when he/she was abducted or placed outside the protection of the law or while he/she was in custody, or confined in secret detention places, in solitary confinement incommunicado or other similar forms of detention or any killing committed outside the judicial or legal process, or is illegal under relevant national and international laws.
- (5) "Victim" refers to the person summarily killed.

SEC. 4. *Summary execution, how committed.* – The crime of summary execution is committed by any person who shall kill another in furtherance of his/her political or ideological belief and under circumstances where the victim could not protect or defend himself/herself such as when the victim was abducted or placed outside the protection of the law or while the victim was in custody, or detained in secret detention places, in solitary incommunicado or other similar forms of detention or when the killing is committed outside the judicial or legal process, or in violation of relevant national and international laws.

SEC. 5. *Penalties.* – (a) The penalty of *reclusion perpetua* shall be imposed upon the following persons:

- (1) Those who directly commit the act of summary execution;
- (2) Those who directly order, force, instigate, encourage or induce others to commit the act of summary execution;
- (3) Those who cooperate in the act of summary execution by committing any other act without which the summary execution would not have been carried out;
- (4) Those public officers who allow the act of summary execution when it is within their power to stop the commission of such act, and
- (5) Those who cooperate in the execution of the act of summary execution by prior or simultaneous acts.

(b) The penalty of *reclusion temporal* shall be imposed upon those who attempt to commit the act of summary execution.

(c) The penalty of *reclusion temporal* shall be imposed upon those who, having knowledge of the act of summary execution and without having participated therein, either as principals or accomplices, took part subsequent to its commission in any of the following manner:

- (1) By themselves profiting from or assisting the offender to profit from the act of summary execution;
- (2) By concealing the act of summary execution and/or destroying the effects or instruments thereof in order to prevent its discovery; or
- (3) By harboring, concealing or assisting the escape of the principal/s in the act of summary execution;

(d) The penalty of *prison mayor* shall be imposed on the immediate officer of a public employee or functionary who, by inexcusable negligence, failed to act to prevent or avert the commission of the crime of summary execution.

If the offender is an officer or person in authority or agent of a person in authority, the penalties provided herein shall be imposed in its maximum period. In addition, he/she shall suffer the accessory penalty of perpetual absolute disqualification to hold public office.

If the offender is a foreigner, he/she shall be summarily deported after service of sentence.

SEC. 6 *Investigation of cases involving summary execution.* – The Commission on Human Rights (CHR) shall have primary and original jurisdiction to investigate, on complaint or *motu proprio*, cases of summary execution, and in the exercise of such investigation function, shall:

(a) Act promptly on complaints filed in any form or manner by any person, whether directly affected or not, and upon a finding of any violation of this Act, recommend the filing of appropriate administrative, civil and/or criminal action/s. Any investigation conducted by any other body shall not be a bar to the investigation of the same case of summary execution by the Commission;

(b) Compel the attendance of witnesses and the production of evidence, place witnesses under oath or affirmation, issue *subpoenas* and take testimony;

(c) Provide protection and financial assistance to witnesses to ensure their attendance in investigations and sufficient funding support for the gathering and production of evidence;

(d) Issue mandatory protection orders directing government security forces, other appropriate government agencies or private institutions to provide protection to the victim's family and witnesses;

(e) Cite and punish for direct or indirect contempt any person for violations of the Commission's lawful orders.

The investigation of summary execution shall not be subject to any statute of limitations or prescriptive period.

SEC. 7. *Preventive Suspension and/or Other Administrative Remedies.* - Public officials and employees who are accused of being perpetrators and/or participants in the commission of summary execution shall be preventively suspended or prohibited from performing any official duties *pendente lite* or for the duration of the litigation of the case, and when convicted, shall be summarily dismissed pursuant to applicable laws, rules and regulations.

SEC. 8. *Liability Under Other National Criminal Laws.* - The liability of an offender under this Act shall be independent of, in addition to, or without prejudice to prosecution and conviction for violation of other applicable laws including Republic Act No. 7438, otherwise known as "An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof", as well as the Revised Penal Code, including arbitrary detention, delay in the delivery of detained prisoners, delaying the release of detained persons, maltreatment of prisoners, unlawful arrest, incriminating innocent person, physical injuries, murder and other appropriate criminal offense/s in special laws.

SEC. 9. *Unlawful Order.* - Any order of a public officer or a person in authority to commit summary execution is unlawful and cannot be invoked as a justifying or exculpatory circumstance by any person who receives such order and commits the act of summary execution.

SEC. 10. *Exemption from Criminal Prosecution.* - Any person receiving an order to commit summary execution who volunteers information that leads to the discovery of the

victim of summary execution shall be immune from criminal prosecution: *Provided*, That said offender appears not to be the most guilty of the crime.

SEC. 11. *Disposition of Writs of Habeas Corpus, Amparo and Habeas Data Proceedings and Compliance with Judicial Order.* - A writ of habeas corpus or writ of amparo or writ of habeas data proceeding, if any, filed on behalf of the victim of summary execution shall be acted upon and disposed of expeditiously and any order of a court relative thereto, shall be executed and complied with immediately.

SEC. 12. *Witness Protection and Financial Assistance Programs.* - The Commission on Human Rights shall formulate, implement and administer a witness protection program, including the provision of security, shelter, relocation and livelihood assistance to the families of the victims, the witnesses and the latter's families. It shall likewise strengthen its existing financial assistance program to victims of human rights violations and their families so as to accommodate the families of the victims of summary execution, the witnesses thereto and their families pursuant to this Act.

The funding for the Witness Protection and Financial Assistance Programs shall be included thereafter in the annual regular appropriations for the Commission on Human Rights, and the same shall be automatically and regularly released.

SEC. 13. *Legal Assistance Program.* - The Commission on Human Rights shall formulate and implement a legal assistance program for the benefit of the families of the victims, the witnesses and their families. The program shall include the provision of legal services in coordination with human rights organizations and lawyer's groups, the Integrated Bar of the Philippines And Philippine law schools with legal aid programs.

The Commission may also provide allowances and incentives to private lawyers or lawyers' groups who render professional services on behalf of the Commission in any court

proceeding involving the litigation of cases of summary execution.

SEC. 14. *Compensation for the Immediate Family of a Victim of Summary Execution.* - The immediate family of a victim of summary execution shall be entitled to monetary compensation as provided for under Republic Act No. 7309, otherwise known as "An Act Creating a Board of Claims Under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes", and other relief programs of the government.

SEC. 15. *Implementing Rules and Regulations.* - Within Thirty (30) days from the effectivity of this Act, the Commission on Human Rights and the Department of Justice, in consultation with human rights organizations, shall jointly promulgate the rules and regulations for the effective implementation of this Act and shall ensure the full dissemination of the same to the public.

SEC. 16. *Supplementary Applications.* - The provisions of the Revised Penal Code shall be supplementary to this Act.

SEC. 17. *Appropriations.* - The funds necessary for the implementation of this Act shall be included in the budget of the Commission on Human Rights and the Department of Justice under the General Appropriations Act of the year following the enactment of this Act.

SEC. 18. *Separability Clause.* - If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

SEC. 19 *Repealing Clause.* - All laws, decrees executive orders, rules and regulations and other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 20. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,