

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3594

Introduced by Honorable Jerry P. Treñas

EXPLANATORY NOTE

On 25 September 2007, the Supreme Court approved the **Rule on the Writ of Amparo**¹, which is a remedy available to any person whose right to life, liberty, and security has been violated or is threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. It covers both existing extralegal killings and enforced disappearances or threats thereof.

However, the Supreme Court noted that there has yet to be a law passed defining extralegal killings and enforced disappearances, to wit:

“As the law now stands, extra-judicial killings and enforced disappearances in this jurisdiction are not crimes penalized separately from the component criminal acts undertaken to carry out these killings and enforced disappearances and are now penalized under the Revised Penal Code and special laws. The simple reason is that the Legislature has not spoken on the matter; the determination of what acts are criminal and what the corresponding penalty these criminal acts should carry are matters of substantive law that only the Legislature has the power to enact under the country’s constitutional scheme and power structure.”² (Emphasis supplied)

¹ A.M. No. 07-9-12-SC

² *Razon, et al. Vs Tagitis*, G.R. No. 182498 (2009)

There is no law that provides for a different set of penalties for extralegal killings and enforced disappearances, as the culprits accused of these crimes are merely charged with Revised Penal Code (RPC) felonies (i.e. Murder, Kidnapping, etc.) There is therefore a need for a specific law that defines these crimes and provides for stiffer corresponding penalties considering the context and motive of the commission of these crimes, and the unchecked increase of extralegal killings and enforced disappearances.

Moreover, there is a need to clearly define what qualifies an act to be considered as a crime of extralegal killing or enforced disappearance in order to categorize it beyond the ambit of the RPC penalties. Based on the spate of extralegal killings and enforced disappearances in the country, it is obvious that these crimes were committed as a result of political violence. Hence, a political motive should be the gauge that would determine whether the act committed is beyond the regular felonies contained in the RPC.

In addition, this bill seeks to deter the execution and abduction of media-men. The Philippines already has a humiliating reputation of being one of the most dangerous countries for journalists. This bill shall create a legal presumption that the execution or abduction of a member of the media was committed with a political motive. Thus, unless proven otherwise, the abduction or execution of a journalist shall be considered as a crime of extralegal killing or enforced disappearance.

The Writ of Amparo alone cannot abate these heinous crimes. It must be noted that the Supreme Court crafted rule is merely a remedial measure. A substantive law is necessary in order to prosecute these crimes.

In view of the foregoing, the approval of this bill is highly and earnestly recommended.



JERRY P. TREÑAS

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 3594

Introduced by Honorable Jerry P. Treñas

AN ACT
DEFINING THE CRIME OF EXTRALEGAL KILLING AND ENFORCED
DISAPPEARANCE AND IMPOSING THE MAXIMUM PENALTY
THEREFOR AND FOR OTHER PURPOSES

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

Section 1. **Short Title.** – This Act shall be known as the “Anti-Extralegal Killing and Enforced Disappearance Law.”

Section 2. **Declaration of Policy.** – It is the policy of the State that it is the prime duty of the government to serve and protect its people; and that the maintenance of peace and order as well as the protection of life and liberty are essential for the enjoyment by all the people of the blessings of democracy.

Section 3. **Objectives.** – This Act endeavors to define the crimes of extralegal killing and enforced disappearance as unique offenses from the felonies

contained in the Revised Penal Code. Moreover, this act shall impose more stringent penalties for those found guilty of the crimes defined hereof.

Section 4. Definition of Terms. –

- a.) Extralegal Killing – A politically-motivated execution of a person done without any legal justification or authority.
- b.) Enforced Disappearance – A politically-motivated abduction of a person done without any legal justification or authority.
- c.) Political Motivation – The compelling factor that qualifies a crime to that of either Extralegal Killing or Enforced Disappearance. It is the compelling force that beckons the commission of an act in order to pursue a desired political goal.

Section 5. Presumption of Political Motive. – Any form of execution or abduction committed against the following shall be presumed to have been committed with a political motive:

- a.) A person who is a member of the media;
- b.) Any person actively participating, connected to, or affiliated with either local or national elections;
- c.) Any person who is an incumbent elected or appointed official;
- d.) Any person related by affinity or consanguinity to any incumbent elected or appointed official;

e.) Any person related by affinity or consanguinity to any person who is a candidate for any elective position;

f.) Any person actively advocating a particular political stance.

Section 6. Persons Punishable. – The provisions of this law shall apply to both state and non-state actors. Government officials who are public officers, persons in authority or agents of a person in authority who acted as principals, principals by inducement, or in conspiracy with any of the principals are to be punished with the same penalty. Likewise, officers and members of social organizations, belligerent groups, and private corporations who acted as principals, principals by inducement, or in conspiracy with any of the principals shall be punished with the same penalty.

Section 7. Penalty. – The penalty of life imprisonment shall be imposed upon any person found guilty of the crime of Extralegal Killing or Enforced Disappearance. In addition, any public officer found guilty of either Extralegal Killing or Enforced Disappearance shall be perpetually barred from both elective and appointive office.

Section 8. Revised Penal Code to Apply Suppletorily. – The provisions of the Revised Penal Code shall apply suppletorily to this Act.

Section 9. **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.

Section 10. **Repealing Clause.** – All laws, decrees, orders, rules and regulations or other issuances inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Section 11. **Effectivity.** – This Act shall take effect fifteen (15) days after publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved,