

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **449**



Introduced by
ACT TEACHERS Party-List Representative Antonio L. Tinio

EXPLANATORY NOTE

Under the Arroyo administration, the Armed Forces of the Philippines (AFP) gained international notoriety for its alleged involvement in a significant number of extrajudicial killings and involuntary disappearances of citizens, many of whom were activists opposed to the administration's policies and programs. Such gross violations drew the attention not only of human rights organizations such as Amnesty International (AI) and Human Rights Watch (HRW), but also the United Nations Special Rapporteur on Summary and Extrajudicial Killings, Philip Alston, and even the United States Senate Defense Committee led by Sen. Barbara Boxer. All acknowledged a link between human rights violations and the AFP's counterinsurgency program, then known as Oplan *Bantay Laya*. Many noted that the so-called "climate of impunity" enabled perpetrators to commit violations on such a scale.

Notwithstanding the Aquino administration's promises to address the deteriorating human rights situation in the country, the climate of impunity still reigns. Extrajudicial killings and other gross human rights violations involving state security forces continue to take place. According to the KARAPATAN and the End Impunity Alliance, there have been 137 victims of extrajudicial executions, 14 victims of enforced disappearances, 72 of torture, and 269 of illegal arrests since President Benigno Aquino III came to power in June 2010, with the rise of incidents of violations "emanat[ing] from the state policy to muzzle principled dissent and the exercise of our rights, as embodied in the operational plans of the government" (*Statement of the End Impunity Alliance*, 25 April 2013). Human Rights Watch has noted that "several key institutions, including law enforcement agencies and the justice system, remain weak and the military and police commit human rights violations with impunity" (*Human Rights Watch World Report 2011*). Meanwhile, only a few military personnel have been criminally charged for human rights violations, and not a single perpetrator has been convicted. "The Butcher," retired Army general Jovito Palparan, continues to remain at large years after kidnapping charges were filed against him in court.

Government should use every tool at its disposal to promote respect for human rights and end impunity, particularly within the ranks of the military. The national budget is one such

tool. Experience shows that the release or non-release of funds can be a powerful instrument for promoting reforms and modifying behavior in the ranks of government. This bill proposes the introduction of a “no impunity provision” in our laws, one that would link the release of operational funds of units of the AFP to their compliance with human rights standards.

This bill will encourage the AFP chain of command to ensure that their units uphold and respect human rights at all times in the discharge of their duties, especially during counterinsurgency operations. Furthermore, it will incentivize AFP commanders to promptly identify perpetrators and make sure that the proper charges are filed. It also underscores the responsibility of the Secretary of National Defense in ensuring that charges are filed against individual perpetrators. For its part, the Commission on Human Rights is given the role of vetting complaints and weeding out spurious allegations.



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AN ACT
WITHHOLDING OPERATIONAL FUNDS OF UNITS OF THE ARMED FORCES OF THE
PHILIPPINES IMPLICATED IN GROSS HUMAN RIGHTS VIOLATIONS

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

SECTION 1. *State Policies.* The State shall value the dignity of every human being and guarantee full respect for human rights. Civilian authority shall always be supreme over the military, and the Armed Forces of the Philippines shall stand as the protector of the people and the State. The State shall therefore take steps to ensure that mechanisms designed towards the genuine exercise of civilian supremacy and the full promotion, protection, and realization of human rights are in place.

SECTION 2. *Definition of Terms.* "Operational funds" shall include, among others, travelling and communication expenses, repair and maintenance, supplies and materials, extraordinary and miscellaneous expenses, confidential and intelligence expenses, and combat expenses.

"Combat expenses" shall refer to the amount given quarterly to each company or its equivalent in other services of the AFP, which may be utilized by the tactical units of the AFP for necessary and incidental expenses incurred during operational exigencies. Such amount, currently set at a maximum of One Hundred Thousand Pesos (P100,000) per quarter, is chargeable under the Maintenance and Other Operating Expenses of the Major Services of the AFP, as provided yearly in the General Appropriations Act.

SECTION 3. *No impunity provision.* Upon a determination by the Commission on Human Rights (CHR) of credible evidence that a unit of the AFP has committed a gross violation of human rights, the operational funds, including combat expenses, of the unit concerned shall be withheld until the CHR ascertains and reports to the President of the Philippines that the

Secretary of the Department of National Defense (DND) and law enforcement authorities have taken effective measures to identify the responsible member or members of the unit and filed the appropriate charges, if warranted.

The determination provided for in this Section may be initiated by a complaint filed with the CHR by aggrieved party or by any concerned citizen, organization, association, or institution or initiated *motu proprio* by the CHR. No form or fee shall be required in the filing of the complaint, after which, the CHR shall make the determination within ten (10) calendar days.

Section 4. *Implementing Rules and Regulations.* The CHR, DND, and the Department of Budget and Management, upon consultation with human rights organizations, shall promulgate, within fifteen (15) days from the effective date of this Act, the rules and regulations necessary for its implementation.

Section 5. *Repealing Clause.* All laws, decrees, resolutions, orders, or ordinances or parts thereof inconsistent with this Act are hereby repealed, amended, or modified accordingly.

Section 6. *Separability Clause.* If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

Section 7. *Effective Date.* This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in one newspaper of general circulation.

Approved,