

Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City

SEVENTEENTH CONGRESS  
First Regular Session

House Bill No. **1334**

HOUSE OF REPRESENTATIVES

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**Introduced by HONORABLE SCOTT DAVIES S. LANETE, M.D.**

#### **EXPLANATORY NOTE**

Sarah Panunggulon, eight (8) years old; Barudin Langalan, twenty-two (22) years old; Muhammad Amblang, thirty (30) years old and two (2) other unnamed civilians were killed in the exchange of fire between the SAF and the rebels earlier this year in Mamasapano. Aside from them, an undertermined number of non-combatants were wounded and displaced as a result of the Mamasapano incident.

These civilians and non-combatants have not been given the same media attention but they too have suffered damages as a result of the armed conflict the country has been agonizing from for years. These five (5) individuals are among the thousands of Filipinos who are adversely affected by the grotesque consequences of armed conflict. More often than not, they are left without any immediate remedy. Most are led to flee their homes and rely on themselves despite the atrocities that are happening around them. Reliance cannot be made upon non-governmental humanitarian organizations as these can only offer minimum aid and cannot fully restore the victim to one's status before such violations have occurred.

To date, victims of ordinary crimes such as theft, deceit, or physical injuries can obtain reprieve through regular domestic channels. None other than the 1987 Constitution affords each and every person the freedom of access to the courts in order to air grievances and seek redress from the same. Whereas those who fall victim to domestic crimes are afforded this comfort, the same cannot be said for victims of war crimes or crimes against humanity who have been left mostly uncompensated.

The Right to Reparation is one enshrined in customary international law. It traces its roots from the various decisions of international tribunals as well as international human rights and humanitarian law documents, upholding the doctrine that whenever there is a breach of an international obligation, reparation must follow.

Whereas the Philippines already has a law on reparations, such law focuses on the fact of reparations after an offender has been apprehended and found guilty. Due to the impunity that naturally follows crimes committed during armed conflicts, the duty to

apprehend, much more so prosecute an offender has become extremely difficult, leaving the concept of reparative justice illusory.

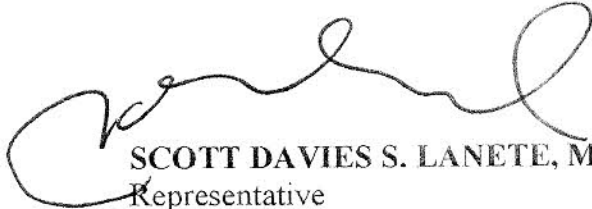
An effective reparations law must concern itself with prompt reparation while an offender has yet to be apprehended. Such kind of reparation concerns itself with the granting of immediate relief to those who are adversely affected by an armed conflict.

This doctrine is concretely seen in United Nations General Assembly Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. Here, States are mandated to create a system of reparations which specifically addresses the immediate needs of those who are affected by armed conflict.

However, despite being a member of the United Nations, the Philippines has yet to create such a system. Because of its failure of its duty to protect the citizenry by effectively preventing the commission of these crimes, many victims are left without any remedy.

Based on the foregoing, this Bill seeks to create a law advancing the Right to Reparation by establishing a Reparations Program which will grant immediate reparation to civilians and non-combatants killed or injured during armed conflicts.

In consideration of all the foregoing, the immediate passage of this Bill is earnestly sought.



**SCOTT DAVIES S. LANETE, M.D.**

Representative

Third District, Province of Masbate

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HOUSE OF REPRESENTATIVES  
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**AN ACT MANDATING THE REPARATIONS FOR VICTIMS OF ARMED  
CONFLICT, CREATION OF A REPARATION PROGRAM, APPROPRIATING  
FUNDS THEREFOR, AND FOR OTHER PURPOSES**

**SECTION 1. *Short Title.*** – This act shall be known as the “Reparations for Victims of Armed Conflict Act of 2016”.

**SEC. 2. *Declaration of Principles and State Policy.***

- a. Article II, Section 11 of the Constitution of the Republic of the Philippines declares that the State values the dignity of every person and guarantees full respect for human rights. Pursuant to this declared policy, Section 12 of Article III of the Constitution prohibits the use of torture, force, violence, threat, intimidation, or any other mean which vitiate the free will and mandates the compensation and rehabilitation of victims of torture or similar practices, and their families;
- b. Section 18(6) of Article XIII of the Constitution also directs the Commission on Human Rights (CHR) to recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of human rights violations, or their families;
- c. By virtue of Section 2 of Article II of the Constitution adopting generally accepted principles of international law as part of the law of the land, the Philippines must also adhere to international human rights laws and conventions, including the International Covenant on Civil and Political Rights (ICCPR) which imposes on each State Party the obligation to take the necessary steps to adopt such laws to give effect to the rights recognized therein and to ensure that any person whose rights or freedoms have been violated shall have an effective remedy even if the violation is committed by persons acting in an official capacity;
- d. Moreover, in light of the United Nations Commission resolution adopting the Basic Principles and Guidelines on the Right to a Remedy and Reparation and the same body’s resolution adopting the Updated Principles for the Protection and Promotion of Human Rights through Action to Combat Impunity, the plights of victims of gross violations of human rights and humanitarian law must be given due attention through adequate, effective and prompt reparation;

d. The most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by taking measures at the national level, in order to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, it being the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes;

e. The State shall guarantee persons suspected or accused of having committed grave crimes under international law all rights necessary to ensure that their trial will be fair and prompt in strict accordance with national and international law and standards for fair trial. It shall also protect victims, witnesses and their families, and provide appropriate redress to victims and their families. It shall ensure that the legal systems in place provide accessible and gender-sensitive avenues of redress for victims of armed conflict;

f. The State recognizes that the application of the provisions of this Act shall not affect the legal status of the parties to a conflict, nor give an implied recognition of the status of belligerency;

g. Consistent with the foregoing, it is hereby the declared policy of the State to recognize the inestimable suffering and loss of all those who are victims of armed conflict, gross human rights and humanitarian law violations. The State hereby acknowledges its moral and legal obligation under customary international law to recognize and/or compensate said victims and/or their families for these violations.

**SEC. 3. Definition of Terms.** – The Following terms shall be understood under this Act as follows:

a. **“Victim of the Armed Conflict”** – for the purposes of this Act, a victim of the armed conflict is one who, after positive determination of the Commission, is a victim of any of the acts punished embodied in and within the context of this act, or one whose human rights as embodied in the International Covenant of Civil and Political Rights and its additional Protocols have been violated within the context and in furtherance of an armed conflict by persons acting in an official capacity as agents of the State or by insurgent groups, or such other persons whose tolerance, inaction, or indispensable cooperation allowed, enabled, or facilitated the commission of said acts. *Provided*, that the violations contemplated are within the purview of this Act.

b. **“Armed Conflict”** – any resort to armed force between States or protracted armed violence between authorities and organized armed groups, or between such groups within a State

c. **“Persons Acting in an Official Capacity/Agents of the State”** – the following shall be deemed persons acting in an official capacity and/or agents of the State:

a. Any member of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP) as well as any civilian agent/s attached thereto; and any member of a paramilitary group even if he is not organically part of the PNP or AFP so long as it is shown that the group was organized, funded, supplied with equipment, facilities, and/or resources, and/or indoctrinated, controlled and/or supervised by any person acting in an official capacity/agent of the State as herein defined;

b. Any member of the civil service, including persons who hold elective or appointive public offices

d. **"Organized Armed Group/Insurgent Group"** – the following shall be deemed persons who are members of an organized armed group or insurgent group

d.1. Any member of a terrorist or outfitted organization that constitutes a non-State party to the conflict consisting of individuals whose continuous function is to take a direct part in hostilities for whatever religious or political purposes;

d.2. Any individual or group of individuals organized, funded, supplied with equipment, facilities, and/or resources, and/or indoctrinated, controlled and/or supervised by any terrorist or outfitted organization

e. **"Civilian Property"** - anything which is not a military objective, i.e. which by its nature, location, purpose or use does not effectively contribute to military action and whose total or partial destruction, capture or neutralization would not offer a definite military advantage in the circumstances ruling at the time.

f. **"Reparation"** - the obligation to grant relief for any breach of an engagement. The aim of reparation is to eliminate, as far as possible, the consequences of the illegal act and to restore the situation that would have existed if the act had not been committed. Reparations may be made through any or a combination of the following modes:

i. **"Restitution"** - a mode of reparation which refers to measures which "restore the victim to the original situation before the gross violations of international human rights law and serious violations of international humanitarian law occurred

ii. **"Satisfaction"** - a mode of reparation that includes a broad range of measures, from those aiming at cessation of violations to truth seeking, the search for the disappeared, the recovery and the reburial of remains, public apologies, judicial and administrative sanctions, commemoration, human rights training

iii. **"Compensation"** - refers to any monetary or financial consideration equivalent to an economically assessable damage under this Act resulting from the violation of the victims human rights or damage inflicted within the context of an armed conflict.

iv. **"Guarantees of Non-repetition"** - a mode of reparation which comprise broad structural measures of a policy nature such as institutional reforms aiming at civilian control over military and security forces, strengthening judicial independence, the protection of human rights defenders, the promotion of human rights standards in public service, law enforcement, the media, industry, and psychological and social services.

v. **"Rehabilitation"** - a mode of reparation which includes medical and psychological care as well as legal and social services.

g. **"Protected Persons"** - refer to civilians and other persons not taking part in the hostilities



and as such, attacks or threats of violence against them or their property are prohibited under international humanitarian law.

h. **"The Commission"** refers to the Commission for the Reparation of Armed Conflict and Human Rights Victims.

**SEC. 4. Reparations.** – Any victim of the armed conflict shall receive reparations from the State, free of tax, as herein prescribed: *Provided*, that for victims who are deceased, or when the violation is premised on forced disappearance or the claim is made on behalf of such disappeared person, his legal heirs as provided for in the Civil Code of the Philippines or such other person named by the executor or administrator of the deceased victim's estate, in that order, shall be entitled to receive such reparations: *Provided further*, That no special power of attorney shall be recognized in the actual disbursement of the award, and only the victim or the aforementioned successor(s)-in-interest shall be entitled to personally receive said reparations from the Commission, unless the victim involved is shown to be incapacitated to the satisfaction of the Commission: *Provided furthermore*, that any reparation received under this Act shall be without prejudice to the receipt of any other sum by the victim from any person or entity, other than the Republic, in any situation involving any human rights violation under this Act.

**SEC. 5. Reparations Amount.** – Should the Commission elect compensation, such shall be in proportion to the loss or damage sustained, excluding all other fees. *Provided* that the fair market value at the time of such loss or damage will determine the amount of compensation in the case of real property. Should the Commission elect any other form of reparation, or any combination thereof, such determination shall be left to the sound discretion of the Commission, taking into consideration the damage sustained, the circumstances surrounding such violation(s), and the amount needed to restore the victim to his situation before such violation occurred. Such amount shall initially be deductible from the Reparations Trust Fund as created under this Act while an offender is still at large and until a valid judgment is obtained from the person truly responsible for the violations. *Provided* That in the case an offender has already been adjudged guilty of the crimes charged, the latter will reimburse the State for any amount given to the Victim. *Provided further* That if the amount adjudged by the Court be in excess of the amount provisionally given by the State to the victim, any and/or all of such excess shall be given to the victim. *Provided further* That if an offender lacks sufficient funds or means by which to grant reparation, such amount will be deducted from the Trust Fund. All manner of human rights violations receives the full condemnation of the State, regardless of the amount or degree of loss, damage, or suffering that such acts cause or result in. *Provided finally* That if an accused be later on acquitted of the charges against him/her because he/she did not perform the act committed, the provisional reparations given to the victim shall not be reacquired by the State.

**SEC. 6. Commission for the Reparation of Armed Conflict Victims, Its Creation and Composition and Secretariat.** A Commission for the Reparation of Armed Conflict and Human Rights Victims, hereinafter referred to as the Commission, is hereby established. It shall be composed of eight (8) members. The Chairman of the Commission on Human Rights shall be the *ex-officio* Chairman of the Commission. The other seven (7) members shall be from different administrative agencies and non-governmental organizations and must have a deep understanding of human rights promotion and protection. The composition of such members shall be as follows:

1. Chairperson of the Philippine Red Cross (PRC)

2. Undersecretary of the Department of Justice (DOJ)
3. Undersecretary of the Department of Health (DOH)
4. Undersecretary of the Department of Education (DepEd)
5. Undersecretary of the Presidential Human Rights Committee (PHRC)
6. Undersecretary of the Office of the Presidential Advisor on the Peace Process (OPAPP)
7. A member of the Philippine Bar who is of known probity, competence, and integrity.

Such Commission will be under the direct control and supervision of the Commission on Human Rights. *Provided* that no person shall be a member of the Commission if he/or she is a victim entitled to compensation as defined under this act.

There shall also be created a Secretariat, whose task is to perform the primary function of identifying and monitoring the legitimate victims who shall be eligible for reparations under this Act, and such other functions as may be defined by the Commission.

**SEC. 7. Proper Disposition of Funds.** The Commission shall ensure that the funds appropriated or which may become available for reparations are properly disbursed in accordance with the policies stated by Congress and relevant government accounting mechanisms. *Provided* that the Department of Health, Department of Social Welfare and Development, Department of Education, the Commission on Higher Education, Technical Education and Skills Development Authority, and such other allied government agencies shall coordinate their efforts to provide for reparations other than compensation as may be determined by the Commission pursuant to the provisions of this Act. The Commission shall also ensure the timely, accurate, and full reporting to the Commission on Audit of the availability, utilization, and other transactions concerning the funds at its disposal, custody, or care. The Commission shall, likewise, see to it that such reports, including, but not limited to, any and all claims made before it, whether pending, settled, or unsettled, are made public in its official website.

**SEC. 8. Powers and Functions.** – The Commission shall have the following powers and functions:

- a. Receive all claims under this act together with the pertinent documents to such claims;
- b. Investigate, process, and determine the validity of all claims filed within thirty days after submission thereof;
- c. Deputize appropriate government agencies to assist it in order to effectively perform its functions and responsibilities;
- d. Promulgate implementing rules and procedures in the conduct of its proceedings, having suppletory application of the Revised Rules of Court of the Philippines;
- e. Exercise administrative control and supervision of the Secretariat through an Executive Director;
- f. Disburse any and all reparations to victims at the earliest possible time from the Reparations Trust Fund, *Provided* that in all cases, such disbursement must be made within thirty (30) days after the Commission has rendered its decision.

**SEC. 9. *Roll of Victims.*** – All valid claimants will be registered in the Philippine Roll of Victims. Such roll shall be closely monitored and updated religiously by the Commission. Said roll will also be submitted to the United Nations Human Rights Committee for appropriate registration and reporting.

**SEC. 10. *Operational Budget.*** – The operational budget of Five Million Pesos (PHP5,000,000) necessary for the initial operations of the Commission shall be taken from the President's Social Fund, and shall be separate and distinct from whatever fund is established for the purpose of providing reparations to the qualified victims under this Act.

**SEC. 11. *Source of Reparations. Creation of the Reparations Trust Fund*** – An amount of no less than One Hundred Million Pesos (PHP 100,000,000) shall be allocated under this act which shall be known as the Reparations Trust Fund. Such fund will be under the custody of the Commission and shall form part of the General Appropriations Act of every year. This fund shall be primarily used to grant reparations to qualified victims while an offender is at large and until the final disposition of a reparations claims case. *Provided* that when an accused is found guilty under judicial mechanisms, he shall reimburse the State for the amount given to the victim.

**SEC. 12. *Interpretation and Construction.*** – A lower standard of evidence shall be required in order to prove reparations claims. Any doubt in the resolution, settlement, or award of claims made under this Act shall be resolved in favor of recognizing and acknowledging violations and to the benefit of such claimant. The Commission shall expeditiously facilitate the claims and awards made based on this Act, without regard to technical rules of procedure and evidence.

**SEC. 13. *Implementing Rules and Regulations.*** – Within thirty (30) days from the date of its organization, the Commission shall promulgate the necessary Implementing Rules and Regulations (IRR) and procedure for the effective implementation of this Act. The IRR shall be effective fifteen (15) days after its publication in two (2) newspapers of general circulation.

**SEC. 14. *Salaries.*** – The Chair and Members of the Commission shall receive salaries and allowances equivalent to those of the Presiding Justices and Associate Justices of the Court of Appeals, respectively.

**SEC. 15. *Publication.*** – The Commission, after having been duly convened, shall set the period for the commencement of the applications by victims and cause the publication of the same; *Provided*, That such period shall only become operative fifteen (15) days after its last publication, which shall be once a week for three (3) consecutive weeks in at least two (2) national newspapers of general circulation.

**SEC. 16. *Resolution of Claims.*** – The Commission shall be composed of two (2) Divisions, which shall function simultaneously and independently of each other in the resolution of claims for reparations. Each Division shall be composed of one (1) Chairman and three (3) Members to be appointed by the Chairman of the Commission. A positive majority vote of all the members of a Division is required to grant reparations to a Human Rights Violations Victim or a Victim of the Armed Conflict. *Provided* that in the event of a tie, the decision shall be in favor of reparation.

**SEC. 17. *Appeal.*** – Any aggrieved claimant may file an appeal within fifteen (15) days from



the receipt of the Resolution of the Division, to the Commission *en banc*, whose decision shall then become final and executory. Such decision shall not prejudice any subsequent claim under judicial measures.

**SEC. 18. Penalties.** – Any claimant who is found by the Commission, after due hearing, to have filed a false claim, shall be referred to the appropriate office for prosecution. If convicted, he shall suffer imprisonment of eight (8) to ten (10) years, be deprived of the right to vote and to be elected to any public office and in applicable cases, be dismissed from government service and perpetually disqualified from appointment to a public office.

Any member of the Commission and its secretariat, public officer or employees of an agency mandated to implement this Act, or any private individual who shall misuse, embezzle or misappropriate the funds for the reparations of victims under this Act, or who shall commit fraud in the processing of documents and claims of victims, or shall conspire with any individual to commit the same, shall suffer imprisonment of ten (10) to fifteen (15) years in addition to the other penalties provided for in the Revised Penal Code and relevant special penal laws.

**SEC. 19. Joint Congressional Oversight Committee.** – An Oversight Committee is hereby created composed of three (3) members each from the Senate and the House of Representatives to monitor and evaluate the implementation of this Act.

**SEC. 20. Non-impoundment Clause.** – The reparations and the amount herein referred to in this Act shall not be subject to impoundment.

**SEC. 21. Separability Clause.** – If any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

**SEC. 22. Effectivity Clause.** – This act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

*Approved,*