

# THE SEARCH

The Official Publication of the Families of Victims of Involuntary Disappearance (FIND)

Dear Secretary De Lima:  
I wish to express our gratitude for your accepting our invitation to deliver the Keynote Address of our joint activity on the International Week of the Families of Victims of Involuntary Disappearance on the 31<sup>st</sup> of this month.

Ragatvaran ng Ugnaping Panlabas  
OFFICE OF UNITED NATIONS  
AND OTHER INTERNATIONAL ORGANIZATIONS  
21459  
14 April 2011

Mesdames,  
On behalf of the Secretary of Foreign Affairs, I express appreciation for your letter of 4 April 2011 and for your organizations' support to victims of involuntary disappearances.

THE SECRETARY OF FOREIGN AFFAIRS  
REPUBLIC OF THE PHILIPPINES

Dear Congressman Lagman,  
Before all else, let me reiterate our appreciation for the full and active support of the Department during your tenure.

Families of Victims of Involuntary Disappearance  
4-D Marunong St., Marunong Village  
Quezon City 1101 Philippines  
Telephone: 02-422-4202  
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Asian Federation Against Involuntary Disappearances  
P.O. Box 210-211 Philippine Social Science Center Building  
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HER EXCELLENCY  
PRESIDENT GLORIA MACAPAGAL-ARROYO  
Malacanang, Manila

Dear President Arroyo:  
Warm greetings from FIND and AFAD.  
We wish to thank Her Excellency for accommodating our request for a presidential certificate of appreciation for the Philippines' signing of the International Convention on the Protection of All Persons from Enforced Disappearance on 4 May 2002.

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8 September 2010

HIS EXCELLENCY  
PRESIDENT BENIGNO SIMEON C. AQUINO III  
Malacañang, Manila

Dear President Aquino:  
Warm greetings from the Families of Victims of Involuntary Disappearance (FIND) and the Asian Federation Against Involuntary Disappearances (AFAD).  
May we respectfully reiterate our request for a presidential certificate of appreciation for the Philippines' signing of the International Convention on the Protection of All Persons from Enforced Disappearance on 4 May 2002.

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9 August 2010  
HIS EXCELLENCY  
PRESIDENT BENIGNO SIMEON C. AQUINO III  
Malacañang, Manila

Dear President Aquino:  
Warm greetings from the Families of Victims of Involuntary Disappearance (FIND) and the Asian Federation Against Involuntary Disappearances (AFAD).  
May we respectfully reiterate our request for a presidential certificate of appreciation for the Philippines' signing of the International Convention on the Protection of All Persons from Enforced Disappearance on 4 May 2002.

Republic of the Philippines  
House of Representatives  
Quezon City, Metro Manila

6 November 1996

Ms. DAISY VALERIO  
Secretary General  
Families of Victims of Involuntary Disappearance (FIND)  
218 Marunong Street,  
Central District  
Diliman, Quezon City

Dear Ms. Valerio:  
The Committee on Civil, Political and Human Rights will hold a public hearing on House Bill No. 6253, entitled "AN ACT CREATING A CRIMINAL CASE ON ENFORCED OR INVOLUNTARY DISAPPEARANCE AND FOR OTHER PURPOSES" by Honorable Congressman H. Gillego, Edgar R. Lopez, and Honorable Congressman H. Gillego, Edgar R. Lopez, on November 12, 1996 (Tuesday) at 10:00 AM at the VIP Section, House of Representatives, Quezon City.  
May we further request for your position paper as well as a copy of the bill to be submitted to the Committee on Civil, Political and Human Rights for its deliberation and recommendation.

Thank you and our warm regards.  
Very truly yours,  
BENIGNO S. AQUINO III  
Chairman  
Committee on Civil, Political and Human Rights

Republic of the Philippines  
House of Representatives  
Quezon City, Metro Manila

RESOLUTION NO. 13-2011  
Honorable Secretary of Foreign Affairs  
Gloria Macapagal-Arroyo  
Malacañang, Manila

Very truly yours,  
ALBERTO G. ROMULO

Office of the President  
of the Philippines  
Malacañang  
OFFICE OF THE DEPUTY EXECUTIVE SECRETARY  
FOR LEGAL AFFAIRS (ODESLA)

1<sup>st</sup> Indorsement  
Manila, SEP 21 2010

FIND  
Families of Victims of Involuntary Disappearance  
NGO in Special Consultative Status with the Economic and Social Council

# The Long Journey TO R.A. No. 10353

THE HONORABLE ASSISTANT SECRETARY RONALD M. JOVES  
Office of the President of the Philippines  
Malacañang, Manila

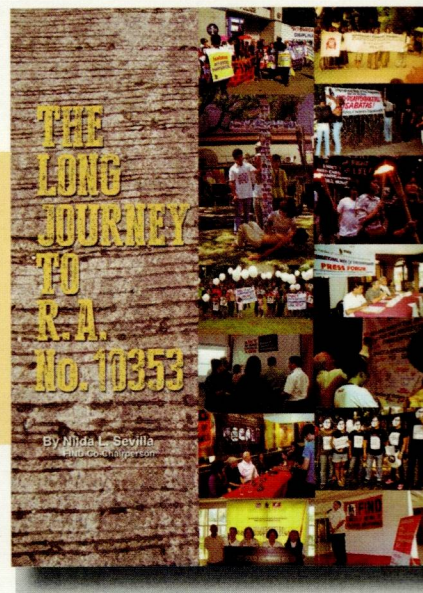
Dear Assistant Secretary Joves:  
As requested by Your Honor's secretary, I am writing to inform you that the International Week of the Families of Victims of Involuntary Disappearance will be held on 30 May 2012 at the Intercontinental Hotel, Manila. The program will include a meeting with the Chairpersons and Vice-Chairpersons of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPED) and a press conference. We would like to request for your assistance in organizing a forum for the ICPEP on 4 May 2012 at the Intercontinental Hotel, Manila. We are also grateful for her past support in the passage of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPED) and for her past support in the passage of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPED).  
Very truly yours,  
Nilda L. Sevilla  
NILDA L. SEVILLA

Thank you.  
Very truly yours,  
Nilda L. Sevilla  
NILDA L. SEVILLA

Dear President Arroyo:  
Warm greetings from FIND and AFAD.  
We wish to thank Her Excellency for accommodating our request for a meeting in Manila on 4 May 2012 at the Intercontinental Hotel for the signing of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPED) and for her past support in the passage of the International Convention on the Protection of All Persons from Enforced Disappearance (ICPED).  
Very truly yours,  
ALBERTO G. ROMULO

## COVER STORY

After sixteen years of being filed and refilled in six Congresses, the Anti-Enforced or Involuntary Disappearance Law was finally enacted. FIND Co-chairperson, Nilda L. Sevilla, chronicles the uphill battle FIND resolutely fought as it lobbied both the legislative and executive branches of government even as she identifies the attendant pull and push factors within and without the organization.



## EDITORIAL

### **The Strength not the Weakness**

*RA No. 10353 is not a perfect law but its merits far outweigh its imperfections.*

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### **Republic Act No. 10353, the “Anti-Enforced or Involuntary Disappearance Act of 2012”: An Overview**

**By Rep. Edcel C. Lagman**

*The law intends to “...holistically address the human suffering caused by the offense, the criminal liability of individual perpetrators, and the State’s responsibility to break impunity and uphold the rule of law.”*

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### **The Long Journey to RA No. 10353**

**By Nilda L. Sevilla**

*RA No. 10353 had legislative champions who strategized to ensure its approval and advocates who steadfastly conducted public information campaigns and lobbied both the legislature and the executive.*

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### **Print Forum on the “Anti-Enforced or Involuntary Disappearance Act of 2012”**

*Eight human rights advocates, academics, writers and artists dissect RA No. 10353 and identify its strongest anti-enforced disappearance provisions.*

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## PROGRAM UPDATES

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**By Caroline Y. Sevilla, RN**

*In dealing with surfaced victims of enforced disappearance and the families of the disappeared, FIND workers need to hone their skills in basic counseling and case management.*

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### **Missing Persons Database Capacity Building Project**

**By Camilo B. Manio**

*FIND and TAF partner in establishing a universal database for victims of enforced disappearance in the Philippines.*

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### **Hand in Hand with Local Officials**

**By Grace Viray-Topacio**

*FIND networks with local government officials as it reaches out to the families of the disappeared in far flung areas.*

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### **Hope Rising**

**By Armando L. Paragat, RSW**

*FIND celebrated its 27th founding anniversary and marked the 64th Anniversary of the UDHR pushing for the signing of the anti-enforced disappearance bill into law.*

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## The Strength not the Weakness

**N**otwithstanding its being a consolidation of several bills repeatedly filed in six Congresses and principally authored by seasoned legislators in both the Senate and the House of Representatives, R.A. No. 10353, the "Anti-Enforced or Involuntary Disappearance Act of 2012", cannot be claimed to be a perfect law. Its merits, however, far outweigh whatever imperfections it may be alleged to have.

The law, which basically echoes the International Convention for the Protection of All Persons from Enforced Disappearance, embodies strong provisions made stronger by the Implementing Rules and Regulations (IRR). Foremost among these is the declaration of non-derogability of the right not to be subjected to enforced disappearance. As an absolute right, safeguards against its violation shall be enforced at all times even during periods of political instability, threat or actual state of war or any public emergency.

In the event the right is transgressed, the law, which is the first of its kind in the whole of Asia, penalizes enforced disappearance as a separate crime with distinct inculpatory elements. The graded criminal sanctions range from *arresto mayor* to *reclusion perpetua*. The severest penalty shall also be imposed on commanding officers or superiors who are liable as principal for the enforced disappearance committed by their subordinates. The perpetrators shall also be held civilly liable even as they may still be indicted under allied laws, i.e., R.A. No. 7438 on the rights of persons arrested, detained or under custodial investigation, R.A. No. 9745 on torture, and the applicable provisions of the Revised Penal Code.

Prosecution of enforced disappearance takes into consideration the continuing character of the offense and such process shall not prescribe unless the victim surfaces alive; in which case, prescription starts to run from the date of reappearance up to 25 years.

Although R.A. No. 10353 is a special penal law, restorative justice underlies the criminal sanctions as the law provides for rehabilitation not only of the surfaced victims and the families of the disappeared but also of offenders. The comprehensive rehabilitation plan that shall be pilot-tested for a year shall include measures for restitution of honor and reputation and monetary compensation.

Equally important are the law's preventive mechanisms that include, among others: the maintenance of up-to-date register of all persons detained or confined, and the mandatory submission to the Commission on Human Rights (CHR) of the list of detainees or persons deprived of liberty as well as the list of all officially recognized and controlled detention or confinement facilities; the conduct by the CHR of regular, independent, unan-


nounced and unrestricted visits to or inspection of all places of detention and confinement; prohibition of any order from a superior officer or public authority causing the commission of enforced disappearance; and declaring an order of battle unlawful as a justifying circumstance to commit enforced disappearance.

To guarantee the right to truth of both the direct victim and his/her family, the law declares it the absolute right of any person deprived of liberty to have immediate access to any form or means of effective communication available to allow him/her to inform his/her family, relative, friend, lawyer, the CHR, or any human rights organization on his/her whereabouts and conditions. And the IRR clarifies that "in instances of warrantless arrest, the right of access to communication will immediately attach upon actual deprivation of liberty, from the taking, in transit and detention."

The law also requires any person who has information on any incident or case of enforced disappearance to immediately report in writing the circumstances and whereabouts of the victim, if known, to his/her family, relative or lawyer, any human rights organization, the CHR, the Department of Justice (DOJ), the National Bureau of Investigation (NBI) and other concerned government agencies. Similar reporting is also required of any inquest or investigating prosecutor, official or employee who learns that the subject of inquest or investigation is a victim of enforced disappearance.

In the event persons with legitimate interest inquire with the authorities of detention facilities, the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) or the NBI as well as any hospital or morgue on the presence or whereabouts of a person reported to have been forcibly disappeared, such authorities shall immediately issue a written certification stating, among others, the date and time of inquiry and details of and response to the inquiry. The IRR details the items/data of the inquiry and the schedules within which the government agencies/units or private entities inquired from shall issue the certification.

These and more are the safeguards against and remedies for enforced disappearance that R.A. No. 10353 provides.

It is indeed lamentable that some quarters have hastily zeroed in on their perceived weaknesses of the law rather than on its real strengths. That they have called for amendments to the law even prior to the promulgation of its IRR is grossly unfair. Their myopia is definitely not an excuse for them to mistake the trees for the forest or worse to burn the barn to kill the mice. 

*Finally, after sixteen long years that spanned six Congresses, Republic Act No. 10353 or the “Anti-Enforced or Involuntary Disappearance Act of 2012” saw the light of day, surviving last-minute attempts to derail its being signed into law.*



Rep. Edcel C. Lagman gives an overview on RA No. 10353 at the UP Asian Center

# REPUBLIC ACT NO. 10353, THE “ANTI-ENFORCED OR INVOLUNTARY DISAPPEARANCE ACT OF 2012”: AN OVERVIEW

Speech delivered by Rep. Edcel C. Lagman at the UP Asian Center  
6 March 2013

**E**xactly six years ago today, the anti-terror bill became Republic Act No. 9372 or the “Human Security Act of 2007”. This law was vigorously protested by human rights advocates who feared that its implementation would open the floodgates to unrestrained human rights violations.

Kindred spirits in Congress tried their best to balance the simultaneous protection of national security and of human rights. Consequently, I moved that the anti-enforced or involuntary disappearance bill be made a companion measure of the anti-terror bill to buttress the safeguards against the feared human rights violations.

My motion was approved such that the anti-terror and the anti-disappearance bills were successively approved on second and third readings. But while the House succeeded in passing the *desaparecido* bill on third reading in both the 13th and 14th Congresses, the Senate failed to do the same. Hence, the companion measure became a victim of the structural weakness of a bicameral congress.

Finally, after sixteen long years that spanned six Congresses, Republic Act No. 10353 or the “Anti-Enforced or Involuntary Disappearance Act of 2012” saw the light of day, surviving last-minute attempts to derail its being signed into law.

For the families of the disappeared who steadfastly lobbied for the enactment of the law, their patience and perseverance paid off. And in record time, the Act’s Implementing Rules and Regulations (IRR) had been jointly promulgated by the Department of Justice (DOJ), Department of Social Welfare and Development (DSWD), the Commission on Human Rights (CHR), the Families of Victims of Involuntary Disappearance (FIND), and the Families of Desaparecidos for Justice (Desaparecidos) as mandated by the law.

Congratulations and thanks to the drafters and to Justice Secretary Leila de Lima for promptly convening the IRR



Representatives from the diplomatic community supportive of human rights were present during the March 6, 2013 forum

Committee and to Undersecretary Leah Armamento for having steered and continuing to steer the Committee smoothly.

I am happy to hear that the Committee is determined to effectively discharge its second mandate under the law, which is to ensure the dissemination of the Act and its IRR to the public. Toward this end, I am informed that the Committee is now busy preparing for a national summit on enforced disappearance and a series of training sessions on the law and its IRR among various stakeholders and implementers. Again, to the Committee, kudos and more power. And, certainly, I commend AFAD and FIND for today’s very first forum on the law and its IRR.

It is said that, “A journey of a thousand miles begins with a single step”. We have already made not one but two strides toward the law’s effective implementation. Indeed, it has been a long journey – sometimes happy, sometimes sad – since the conception of the initiative which is now R.A. No.

# Being a most cruel, multiple and continuing violation of human rights that traumatizes both the disappeared and his or her family, and if massively and systematically committed, causes the whole community to cower in fear, this heinous crime against humanity must end.

10353.

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Victims and families of the disappeared in a workshop on the effective implementation of RA 10353 at the UP Asian Center.

crime against humanity must end. This of course, is easier aspired for than realized. The families, together with the authors of R.A. 10353, and other human rights advocates were conscious of the roadblocks along the way but they summoned their collective strength to hurdle them.

## Objectives of R.A. 10353

We were determined to have a separate special law that encompasses all the essential elements of enforced disappearance as the families of desaparecidos were filing common cases of kidnapping and serious illegal detention and/or murder against those who forcibly disappeared their loved ones. We wanted to call a spade, a spade – that enforced disappearance be known by its appropriate name: enforced disappearance, not kidnapping or serious illegal detention.

While both enforced disappearance and kidnapping are forms of deprivation of liberty, the Revised Penal Code denominates kidnapping as a crime committed by a “private

individual”. Enforced disappearance, on the other hand, is perpetrated by the State or its agents or by persons or groups of persons acting with the authorization, support, or acquiescence of the State. Moreover, the deprivation of liberty in enforced disappearance is followed by the refusal to acknowledge such deprivation or to disclose information on the fate and whereabouts of the victim. On the contrary, kidnappers, especially if the crime is committed to exact ransom, own up to the crime and even provide the family of the victim a detailed account of his or her condition, whereabouts, and possible tragic fate.

Having a penal law that clearly defines the crime and delineates its constitutive elements would facilitate the filing of appropriate charges and the prosecution of the offense. It is important for the prosecution of enforced disappearance cases that the circumstance of concealing the body, fate and whereabouts of the victim is recognized as an inculpatory element. This erases the doubt that no crime can be proved in the absence of the body of the victim.

The authors of the law introduced the measure not only to penalize enforced disappearance and impose criminal, civil and administrative sanctions, but more importantly to prevent its commission and set in place mechanisms to strengthen the right to information on the whereabouts and condition of persons deprived of liberty. After all, crime prevention is better than crime punishment.

In the event that, despite the stringent preventive measures and Generals Tutaan’s and Fajura’s crusade against human rights violations, some men in uniform still abduct and forcibly disappear those they conveniently label as “enemies of the State”, then these scalawags must face the full force of the law.

In recognition of the continuing psychological harm, and in most cases economic dislocation, suffered by the victims who surfaced alive and by the families especially of those who remain missing or were found dead, the authors of R.A. 10353, who are also authors of R.A. 10368, the “Human Rights Victims Reparation and Recognition Act of 2013”, deemed it important that R.A. 10353 should provide for reparations. These include restitution of honor and dignity, psychosocial rehabilitation, and monetary compensation aside from other reliefs or assistance that government provides.

We really wanted an anti-disappearance law that would holistically address the human suffering caused by the offense, the criminal liability of individual perpetrators, and the State's responsibility to break impunity and uphold the rule of law.

The State's responsibility should begin with a strong public declaration against enforced disappearance and all forms of human rights violations. Conducting investigations motu proprio, that is, not waiting for a formal complaint to be filed, into reported incidents of enforced disappearance will reinforce command responsibility and public accountability.

It is well to remember that we, men and women in government, have a sworn duty to serve the people and abide by the Constitution and other laws of the land; that our position in government is a public trust; that if we cannot faithfully discharge our duties and functions, we have no right to stay in office; that if we allow the wanton violation of the constitutionally guaranteed rights, more particularly to life, liberty, and security of person, by our subordinates, we can be held equally liable.

### Guiding Principles of R.A. 10353

If only governmental policy actions with respect to human rights render fealty to the Constitution's Bill of Rights and to international human rights instruments, government will never go wrong. Expectedly, the underlying principles of R.A. 10353 are those generally enshrined in the 1987 Philippine Constitution and the International Convention for the Protection of All Persons from Enforced Disappearance.

Most of you know these by heart, but it won't do us harm if we occasionally recite or read them. These guiding principles are:

- The State values the dignity of every human person and guarantees full respect for human rights. (Section 11, Article II, 1987 Philippine Constitution)



Guests and participants in the March 6, 2013 "A Forum-Workshop on the Effective Implementation of Republic Act No. 10353: A Collective Endeavour at the GT Toyota Auditorium, Asian Center, University of the Philippines Diliman

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- No one shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the law. (Section 1, Article III, 1987 Philippine Constitution)
- The right of the people to be secure in their person, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable... (Section 2, Article III, 1987 Philippine Constitution)
- No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against any person under investigation for the commission of an

# **We really wanted an anti-disappearance law that would holistically address the human suffering caused by the offense, the criminal liability of individual perpetrators, and the State's responsibility to break impunity and uphold the rule of law.**

offense. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited. {Section 12 (2), Article III, 1987 Philippine Constitution}

- The law shall provide for penal and civil sanctions for violations of the rights of persons under custodial investigation as well as compensation to and rehabilitation of victims of torture or similar practices, and their families. {Section 12 (4), Article III, 1987 Philippine Constitution}
- No person shall be detained solely by reason of his political beliefs and aspirations. {Section 18 (1), Article III, 1987 Philippine Constitution}
- Excessive fines shall not be imposed nor cruel, degrading or inhuman punishment inflicted. {Section 19 (1), Article III, 1987 Philippine Constitution}

The foregoing principles are found in the Constitution. The following principles are enunciated in the International Convention for the Protection of All Persons from Enforced Disappearance:

- No person shall be subjected to enforced disappearance. (Article 1, ICPAPED)
- No exceptional circumstances whatsoever whether a state of war or threat of war, internal political instability or any other public emergency may be invoked as a justification for enforced disappearance. {Article 1 (2), ICPAPED}
- Enforced disappearance is a unique and consolidated act and is considered a continuing offense that begins at the

time of the abduction and extends for the whole period of time...until the State acknowledges the detention or releases information pertaining to the fate or whereabouts of the individual. (United Nations Working Group on Enforced or Involuntary Disappearances' General Comment on Enforced Disappearance as a Continuing Crime)

- There is the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person. {Article 24 (2), ICPAPED}

In case of doubt in the interpretation of any provision of the Anti-Enforced or Involuntary Disappearance Act and its Implementing Rules and Regulations, it shall be resolved in favor of the victims of enforced or involuntary disappearance.

## **Salient Features of R.A. 10353**

In past forums on enforced disappearance, I was always assigned to talk on the salient provisions of the then House Bill No. 98. This morning I choose not to go into the specifics of these provisions so as not to preempt the presentation of our distinguished speakers from the Act's principal implementing agencies. In general, salient features of House Bill 98 remain in R.A. 10353:

- Criminalization of enforced disappearance as a separate crime
- Adopting the definition of enforced disappearance under the International Convention for the Protection of All Persons from Enforced Disappearance

- Declaring the right against enforced disappearance as non-derogable
- Providing mechanisms to protect, promote and fulfill the right to truth
- Inapplicability of the Statute of Limitations to continuing enforced disappearance or whose victims' fate and whereabouts remain uncertain
- Maintenance of up-to-date registers of persons deprived of liberty
- Expeditious disposition and enforcement of court orders and rulings
- Penal sanctions ranging from *arresto mayor* to *reclusion perpetua*
- Preventive suspension or summary dismissal, if warranted, of perpetrators
- Liability of offenders under other domestic criminal laws
- Investigation and/or prosecution in appropriate international court or agency
- Criminal liability of commanding officers or superiors
- Right of a subordinate not to follow an illegal order of a superior officer
- Declaring an order of battle causing enforced disappearance unlawful
- Exclusion of offenders from amnesty and similar measures
- Restitution and compensation to victims and next-of-kin
- Psychosocial rehabilitation of both victims and offenders

perpetrator.

Any violation of R.A. 10353, like any infraction of the law, breaks human relationships and tears the moral fabric of society.

Let us uphold human dignity and the rule of law. And keep our nation whole and one, including in the implementation of laws. As our forum's theme aptly puts it, the effective implementation of R.A. 10353 is a collective endeavor.

With the elections forthcoming, it is opportune to challenge the candidates to commit themselves to a common human rights agenda – a human rights-based approach to governance toward not just seasonal economic prosperity but sustainable development with dignity.

*Walang imposible kung tayo ay nagkakaisa at nagpupursige. Ayon nga sa kanta ni Gary Granada, "lilipad ang saranggola sa ulan".*

*Isang maaraw at maningning na umaga sa inyong labat at maraming salamat.*



A pause to pose - (left-right) Ms. Aileen Bacalso, AFAD Secretary General, Dr. Carolyn Sobritchea, Dean, UP Asian Center, Justice Secretary Leila de Lima, Rep. Edcel Lagman, FIND Honorary Chairperson and principal author of RA 10353 and CHR Commissioner Cecilia Rachele Quisumbing at the March 6, 2013 forum-workshop.

In the spirit of restorative justice, R.A. 10353 provides for a parallel rehabilitation for offenders not only to bring them back to the fold of the law but for them to regain their dignity not only as protectors of the people but more importantly as human beings.

Enforced disappearance, like any form of human right violation, is an affront to the dignity of both the victim and the

# THE LONG JOURNEY TO R.A. No. 10353

By Nilda L. Sevilla  
FIND Co-Chairperson



**T**he making of R.A. 10353, the “Anti-Enforced or Involuntary Disappearance Act of 2012”, was not a mere how-a-bill-becomes-a-law process. Neither was it an organizational saga where FIND members became superheroes who had to battle and defeat adversarial protagonists. It was not destined to pass. But it did have legislative champions who strategized to seal its passage, and advocates who steadfastly conducted public information campaigns supportive of the bill’s enactment into law.

There were certainly individuals who were not only informed of the global scourge of enforced disappearance but also aimed to put an end to impunity of perpetrators. In fact, as early as September 4, 1990, two years before the adoption of the United Nations Declaration on the Protection of All Persons from Enforced or Involuntary Disappearance, then Nueva Ecija Representative Eduardo Nona to Joson introduced House Bill No. 32208 entitled “An Act Amending Article 235 of the Revised Penal Code so as to Include Other Custodial Crimes such as Salvaging or Summary Execution, Unexplained Disappearances of Prisoners under Investigation or Custody of Public Officers as Heinous Crimes Providing Penalty Therefor, and for Other Purposes”. The bill obviously antedated the 1992 U.N. Declaration mandating States to criminalize enforced disappearance in their domestic laws.

The Joson bill underscored the urgency of penalizing “unexplained disappearances” which he considered a heinous offense that warranted the death penalty. Despite the undeniable atrocity of forcibly disappearing persons, human rights advocates, who condemn killings, distanced themselves from the proposed law. Joson’s sojourn in the 8th Congress ended leaving Article 235 of the Revised Penal Code unamended. The Joson proposal was reintroduced by Rep. Daisy A. Fuentes under H.B. 5002 on November 20, 1992. It was able to reach the period of interpellation but remained an unfinished business until the 9th Congress held its last session.

### Securing Public Support

**T**he global campaign against enforced disappearance that intensified following the adoption of the Declaration encouraged FIND to urge government to support and implement the standards and best practices set by the Declaration, more particularly the enactment of an anti-enforced disappearance domestic law. For the families of victims, the campaign was integral to their struggle for justice and to their crusade to put an end to the odious deprivation of liberty that generally preys on political activists and dissenters including their loved ones.

The organization conveniently used its traditionally commemorated events specially the International Day of the Disappeared, International Week of the Disappeared, International Human Rights Day, Kalbaryo ng Kawalan ng Kata-

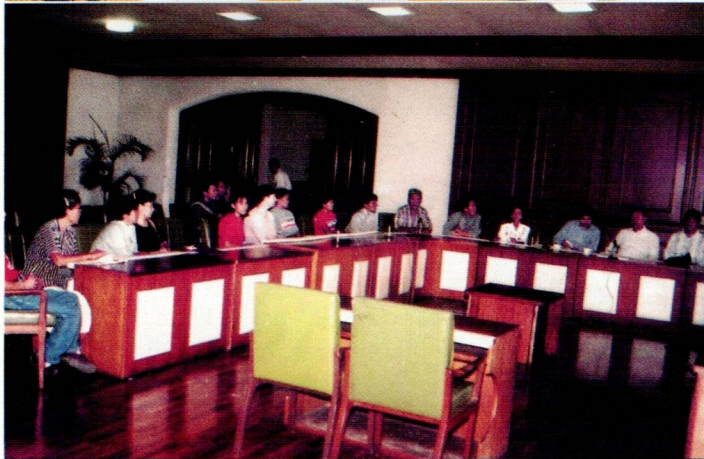
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The global campaign against enforced disappearance that intensified following the adoption of the Declaration encouraged FIND to urge government to support and implement the standards and best practices set by the Declaration, more particularly the enactment of an anti-enforced disappearance domestic law. For the families of victims, the campaign was integral to their struggle for justice and to put an end to the odious deprivation of liberty that generally preys on political activists and dissenters including their loved ones.

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rungan (Calvary of Searching for Justice, every Holy Wednesday) and the anniversaries of FIND, of the Flame of Courage Monument, and of the disappearance of Fr. Rudy Romano to ventilate its call on government and to disseminate information on enforced disappearances. These campaign activities took various forms which include: fora, focus group and round-table discussions, nationwide radio and television guestings, press conferences and briefings, press releases and statements, social media projection through FIND’s website and facebook, and twitter accounts of both the organization and individual members; torch parades; and flying kites that bore the organization’s calls for the enactment of an anti-enforced disappearance law at the Riverbanks Plaza in Marikina City and the University of the Philippines Diliman Sunk-en Garden in Quezon City.

To capacitate FIND’s secretariat, chapter officers and selected members for these activities, advocacy trainings were conducted. And to make its allies and support groups more actively involved in the campaign and lobby activities,



FIND convened in 2003 the local Coalition Against Involuntary Disappearance (CAID). The coalition was initially composed of 13 human rights and sectoral organizations and three legislative offices of the House of Representatives. To broaden FIND's support circle in rendering assistance to families who take legal actions and in intensifying its advocacy work, a National Lawyers' Conference with then Supreme Court Chief Justice Reynato Puno as Keynote Speaker was held in 2011.

### Beyond Campaigns

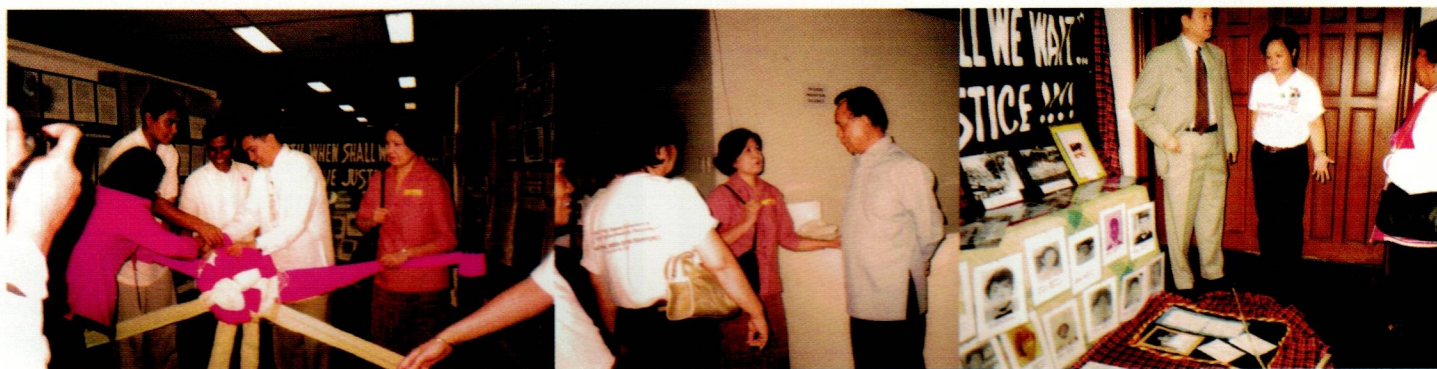
**F**IND did not only focus on educating the public to gain its support for the Declaration and the proposed anti-enforced disappearance law, it also exerted efforts to directly influence policymakers.

Advocating and campaigning do not necessarily make a lobbyist. With this truism in mind, FIND leaders targeted key decision makers in each of the post-Marcos administrations, purposely to push them to decide to make enforced disappearance a separate crime in the country. However, when they met with President Corazon Aquino early in her term (1987-1992) the enactment of an anti-enforced or involuntary disappearance law was absent from their agenda. Their primary demand then was for the deposed president's successor, who was catapulted to Malacanang by the people power uprising, to help them locate the disappeared and find justice for them and their families. While the lady president and other concerned ranking officials of government listened with apparent sympathy, the families soon realized that all they got were promises – unkept. And worse, when the peace talks with the CPP-NPA bogged down, and Aquino declared total war on the insurgents, the military that she inherited from the Marcos dictatorial regime unleashed its fury against targeted “enemies of the State”. Massacres, extrajudicial killings, acts of torture and enforced disappearances were the condemnable aftermath.

### 10th Congress (1995 – 1998)

**F**IND's disenchantment with the Corazon Aquino human rights record, more particularly, the persistence of enforced disappearance was a wakeup call for the organization to spearhead the local campaign for the passage of a law criminalizing enforced disappearance. It wasted no time in finding a champion in the person of no less than then Sorogon Representative Bonifacio Gillego, the Chairperson of the House of Representatives' Committee on Civil, Political and Human Rights.

Rep. Gillego promptly introduced House Resolution Nos. 405 and 406, respectively urging the Philippine government to adopt the Amnesty International's 14-Point Program for the Prevention of Disappearances and the United Nations Declaration for the Protection of All Persons from Enforced



International Week of the Disappeared (IWD) - 2003 Photo Exhibit at the Senate, GSIS Building

or Involuntary Disappearance. FIND assisted and coordinated with the office of the principal author in the drafting of these two legislative proposals. Some FIND members witnessed the adoption of these resolutions by the House of Representatives on February 13, 1997.

Even prior to the House adoption of HRs Nos. 405 and 406, Rep. Gillego along with Reps. Edgar Lara and Gregorio Andolana had already introduced H.B. 8253 on October 17, 1996. In the same month, representatives of FIND, FLAG and PAHRA attended the initial public hearing on H.B. 8253 to support the measure. The respective representatives of the Department of Justice (DOJ) and the Armed Forces of the Philippines (AFP) were in favor of the bill while those of the Philippine National Police (PNP) and the National Bureau of Investigation (NBI) were opposed.

A year later on October 1, 1997, the Senate conducted its first public hearing on S.B. 1888 authored by then Senator Ernesto Maceda. FIND submitted its position paper to the Senate Committee on Constitutional Amendments and Revision of Codes and Laws even as it proposed amendments to the bill during the said hearing. Some members of FIND who attended the hearing were, however, dismayed by the statement of the NBI representative who said that their agency had not received any report of an incidence of involuntary disappearance. They believed that that was a brazen lie as the families of victims are wont to seek assistance from the NBI by requesting prompt investigation into the forcible disappearance of their loved ones.

H.B. 8253 and S.B. 1888 both sought to penalize enforced disappearance with *priccion mayor* to *reclusion perpetua* depending on the gravity of involvement in the commission of the crime. Unlike the Joson amendatory bill, H.B. 8253 was a draft special law. It provided, among others, for: the liability of the immediate commanding officer or equivalent senior official as a co-conspirator in an enforced or involuntary disappearance; compensation to the victim's next-of-kin; and medical care and rehabilitation for surfaced victims and their families and of those who were found dead.

HB 8253 was reported out under Committee Report No. 01483 on February 6, 1998 by the Committee on Civil, Political and Human Rights but the House failed to pass it.

Senate Bill No. 1888 suffered the same fate.

### 11th Congress (1998 – 2001)

The failure of the 10th Congress to enact an anti-enforced disappearance law did not dampen the fighting spirit of FIND. On the contrary, FIND became more determined to push Congress to enact the law. In fact, even before the 11th Congress convened in July 1998, FIND had already fine-tuned the previous Congress' bill. The improved bill was introduced under House Bill No. 2282 by Rep. Dante Liban, a FIND member. Representatives Edgar Lara, Roan Libarios, Krisel Lagman-Luistro and Loretta Ann Rosales filed their own version under House Bill No. 3223. In the Senate, Senator Ramon Magsaysay, Jr. principally authored Senate Bill No. 1233 which was essentially the same as House Bill No. 3223. Just like the preceding Congress, the 11th Congress also failed to pass the anti-enforced disappearance bill.

### 12th Congress (2001 – 2004)

In the following 12th Congress, four bills that sought to criminalize enforced disappearance were filed in the House of Representatives: H.B. 1913 (Lagman-Luistro), H.B. 2426 (Taganas-Layus), H.B. 2856 (Rosales), and H.B. 5727 (Ocampo). Of the four proposed laws, FIND endorsed H.B. 1913 as it drew heavily from the draft International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED), the Declaration, and the United Nations Fact Sheet No. 6 on Human Rights. These three documents, FIND pointed out in its position paper, are vital in the resolution of past cases of involuntary disappearance and the prevention of new ones as they mandate governments to devise mechanisms and laws that address enforced disappearance. In urging the House to immediately consolidate the bills so as to expedite the enactment of the law, the paper further posited that:

“Having a law that penalizes the act of involuntary disappearance will bring the campaign for justice for the victims and their families to a higher level. This will address

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**On December 4, 2001, during the International Human Rights Week, FIND requested Rep. Lagman-Luistro to deliver a privilege speech to call on government to promptly and effectively address the problem of unresolved enforced disappearances in the country. FIND members attended the session not only to listen to the privilege speech but also to invite legislators to join the ceremonial signing of the bill's replica in the main lobby of the session hall.**

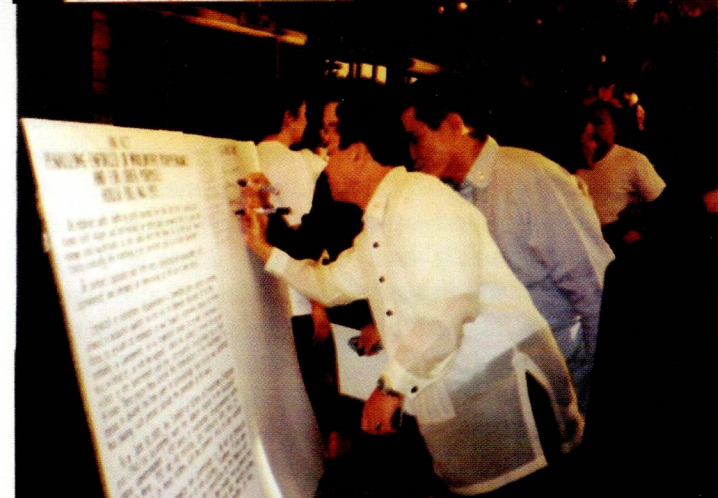
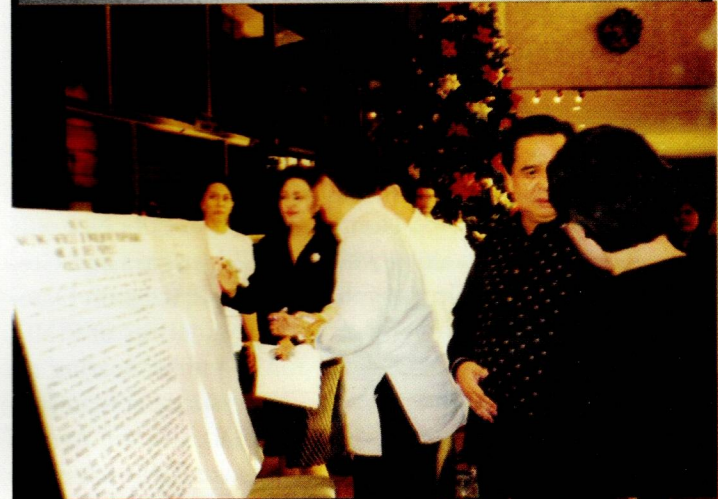
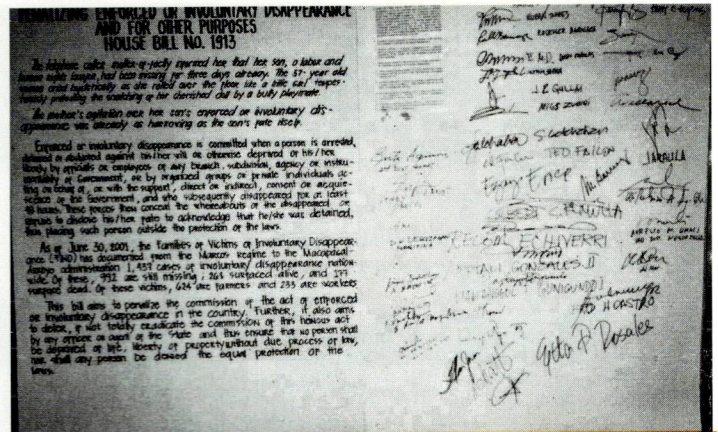
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the phenomenon in a more comprehensive manner. It will call the crime by its correct name and will hopefully lessen the difficulties encountered by the families in filing cases in courts and it will hasten their victory in the battle within the halls of justice. In turn, this would encourage other families to pursue the cases of their missing loved ones and...to put an end to this heinous crime against humanity.

Worth noting were the 134 co-authorships of H.B. 5727 that its authors led by Rep. Satur Ocampo were able to solicit from their colleagues who crossed party lines.

With the filing of H.B. 8253, FIND launched its petition signing campaign urging the enactment of an anti-enforced or involuntary disappearance law. Signatures were gathered during fora and other mass activities it held on its own or jointly with other civil society organizations. Lamentably, with no impressive number of signatories, the petitions were not transmitted to concerned government institutions and agencies.

On August 29, 2001, eve of the International Day of the Disappeared (IDD). FIND leaders accompanied by then Albay Representative Krisel Lagman-Luistro and her father Edcel C. Lagman, Honorary Chairperson of FIND and whom she succeeded as Representative of the First District of Albay, had an audience with the President in Malacanang. They surmised that the second lady President, Gloria Macapagal-Arroyo (GMA), who like the first was installed in Malacanang by a people power uprising against a perceived corrupt and irresponsible predecessor, would be more decisive in addressing impunity. Hence, they requested her to certify H.B. 1913, the anti-enforced disappearance bill principally authored by Rep. Lagman-Luistro, as a priority administration measure. GMA boldly told them to their face that there would be no enforced disappearance under her administration. Either she told a blatant lie or she later hon-



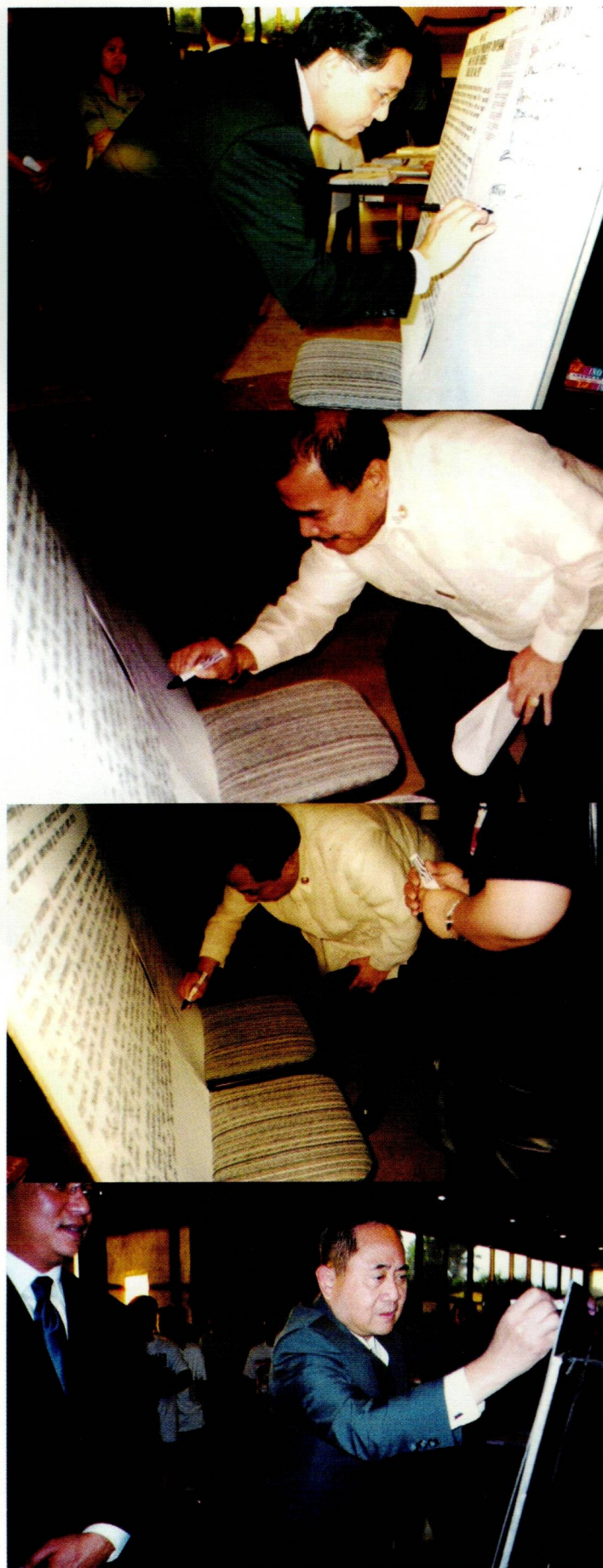
estly changed her mind. The truth she could not deny: 339 reported victims from the first month of her presidency to the end of her term in June 2010.

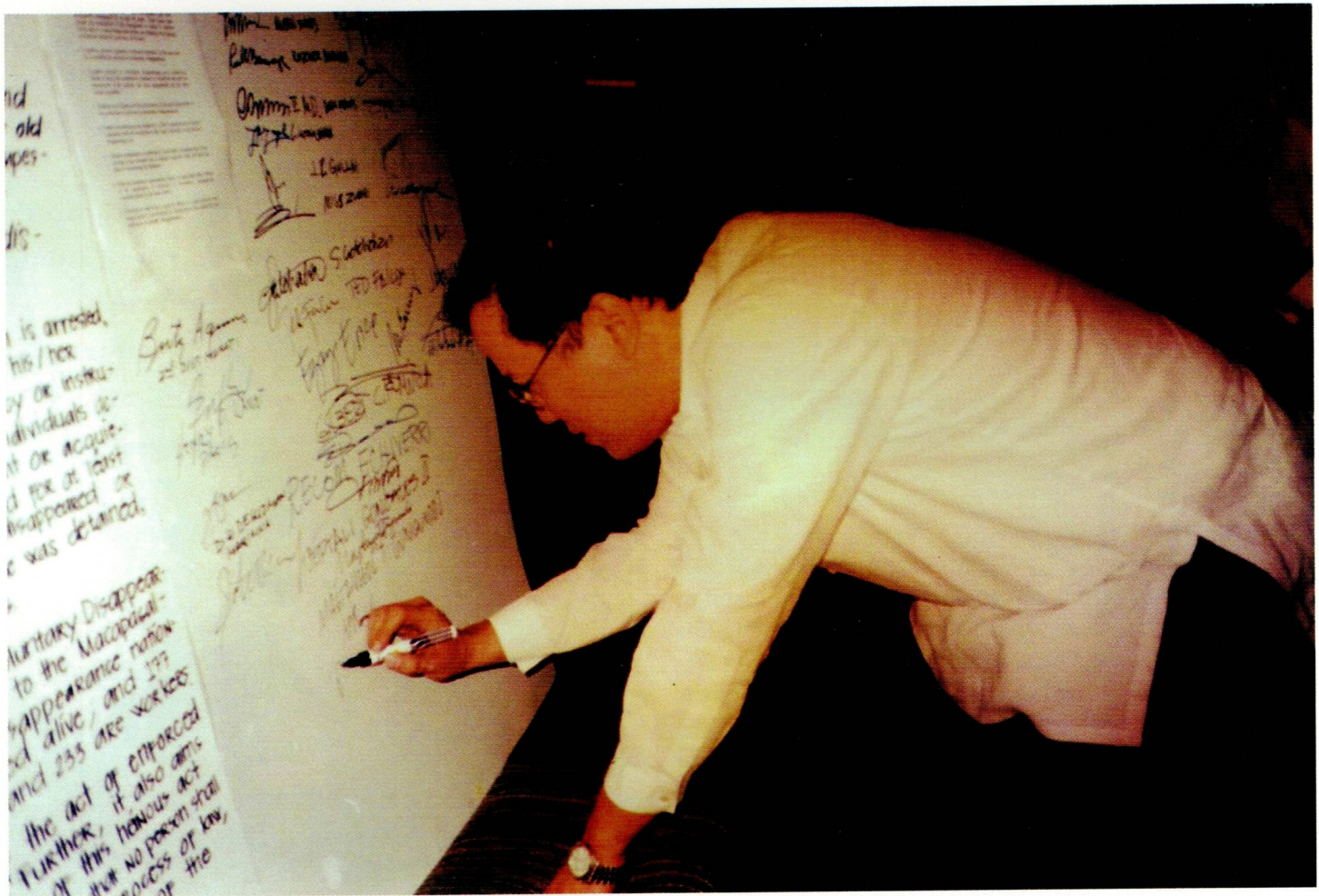
From the President, who is believed to be the chief policymaker, despite the legislature's being theoretically the highest policymaking body in a presidential system, FIND went to the House of Representatives to urge its Members to pass the anti-enforced disappearance bill. On December 4, 2001, during the International Human Rights Week, FIND requested Rep. Lagman-Luistro to deliver a privilege speech to call on government to promptly and effectively address the problem of unresolved enforced disappearances in the country. FIND members attended the session not only to listen to the privilege speech but also to invite legislators to join the ceremonial signing of the bill's replica in the main lobby of the session hall. Rep. Lagman-Luistro went to the extent of one-by-one escorting her colleagues to the session hall lobby. FIND's and Rep. Luistro's joint efforts paid off as several Congresspersons signed the bill's replica to manifest their support for the measure. It should be noted that in this particular lobby activity the Samahan ng mga Anak ng Desaparecidos (SAD) sang FIND's hymn, which speaks of the inhumanity and violence of enforced disappearance, in the gallery of the session hall. This swayed more legislators to support the passage of the bill.

With only 17 months left for the 12th Congress to wrap up its legislative agenda, FIND's Lobby Committee composed of the National Executive Council, National and International Advocacy Committee, and representatives from FIND's National Capital Region (NCR) Chapter devised the organization's Tactical Lobby, Information, Education and Communication (IEC) Campaign Plan for the Anti-Involuntary Disappearance Bill. The Plan aimed for the enactment of the law before the end of the 12th Congress in June 2004. Specifically it was also designed to galvanize efforts toward:

- Developing public opinion on the issues of justice and impunity in relation to the imperative of enacting a law penalizing enforced disappearance;
- Heightening pressure on Congress by waging a vigorous information dissemination and community awareness building campaign;
- Broadening popular support for the bill at home by building a constituency and/or forming a tactical lobby coalition;
- Mobilizing the support of the international community in its advocacy and lobby efforts.

The Plan's target audience included legislators, concerned executive officials, media, religious leaders, academe, legal practitioners, the business and diplomatic communities, and celebrities or high-profile personalities involved in advocacy work. Also targeted as part of the secondary audience were the international human rights NGOs and government organizations and institutions, and the general public.





Then Rep. Benigno Simeon Aquino III signed the replica of the Anti-Enforced Disappearance Bill in 2001

Among the activities planned to be undertaken were: production/printing and distribution of briefing papers, press releases and statements, newsletters, fact sheets, leaflets, postcards, stickers, video and audio tapes, posters, placards; public/mass demonstrations, alternative summits/dialogues; photo exhibits; speaking tours; embassy visits; signature drives/petition signing; and diplomatic and press briefings.

Except for the convening on September 16, 2003 of the FIND-led coalition/lobby campaign partnership that would carry out a complementary plan for the approval of the bill, these activities were intended to form part of the regular and traditionally conducted activities, more particularly as designed by the advocacy committee and other line committees for 2003. The Plan also stressed the importance of gathering accurate and updated data to support all phases of the IEC and lobby process. Also highlighted were the regular meetings of the lobby committee to monitor and assess the implementation of the IEC and lobby plan.

In February 2003, the substitute bill consolidating House Bill Nos. 1913, 2426, 2856, and 5727 was approved by the joint Committees on Justice and Civil, Political and Human Rights. FIND, in its position paper strongly endorsing the substitute bill, stressed that: "Putting an end to impuni-

ty may not bring back the desaparecidos to life and to the fold of their families and communities. However, it would definitely help prevent other men, women and youth from involuntarily disappearing, sparing their families the agony of waiting and searching, and permitting their communities to make full use of their contribution to sustainable development."

Knowing how difficult it was to secure appointments with the Senators in their respective legislative offices, FIND's National Executive Council members decided to have a brief talk with them individually in the session hall in August 2003 to request them to support the Senate's anti-enforced disappearance bill. While they were in the plenary hall's gallery, FIND Co-chairperson sent short notes to each of the Senators through the plenary pages. Each note curtly requested if they could talk with the addressees. A number of them approached the council members and committed to support the bill. But the 12th Congress adjourned without the bill being reported out for plenary consideration.

### 13th Congress (2004 – 2007)

In the following 13th Congress, one of the first bills filed on July 1, 2004 by Representative Edcel C. Lagman was House Bill No. 11, the proposed “Anti-Enforced or Involuntary Disappearance Act of 2004.” It was the first time for Rep. Lagman to author the bill which by that time had been repeatedly filed in four Congresses spanning eight years already. Rep. Lagman decided to backstop FIND’s lobby efforts by writing the presiding officers of the local legislative councils to solicit their support for the immediate passage of the proposed anti-enforced disappearance law. Some of the councils responded by adopting resolutions supporting the approval of the bill and furnishing the office of Rep. Lagman with a copy of the adopted resolutions.

Aside from those who authored, co-authored and openly supported the bill, FIND could only guess if the other Members of the House of Representatives and the Senate would vote in favor of the bill on second reading. Hence their decision to conduct a political mapping (PolMap) of the Members of Congress. The PolMap aimed to determine the individual legislators’ stances on the bill and how those who favored it could help in its approval, along with their past and present positions on other human rights bills, issues and concerns. Unfortunately, only one Senator and one legislative staff chief of a Senator were interviewed. Difficulty in arranging the individual interviews and lack of funds for even token honoraria for the interviewers aborted the PolMap.

Rep. Lagman believed it was then about time to devise a more effective tactic to ensure the approval of the bill at least by the House of Representatives. He saw the opportunity to fast-track the passage of H.B. 11 when the House Committee on Justice of which he was then Vice Chairman was deliberating on the anti-terror bill. He moved that H.B. 11 be a companion measure of the proposed Human Security Law as a comprehensive safeguard against the latter. His motion was approved by the Committee.

It should be recalled that human rights advocates in both the House of Representatives and the Senate did their best in proposing human rights-oriented amendments to the anti-terror bill that would guard against human rights violations. Before the House of Representatives called the anti-terror bill for second reading, Rep. Lagman manifested that the sponsoring Committee on Justice had already approved his motion to make the anti-enforced disappearance bill a companion measure to the anti-terror bill, and that he was reiterating the same pro-human rights motion. Thus, consistent with the approval of Rep. Lagman’s motion, the anti-terror and the anti-enforced disappearance bills were successively approved in both the Second and Third Readings in the House of Representatives. The House anti-enforced disappearance bill was transmitted to and received by the Senate on May 31, 2006. The Senate, however, failed to approve its counterpart measure.

## The PolMap aimed to determine the individual legislators’ stances on the bill and how those who favored it could help in its approval

Persistent and resolute, Rep. Lagman again filed his anti-enforced disappearance bill in the 14th Congress, this time denominated as House Bill No. 326. Reps. Satur Ocampo, Teddy Casino and Neri Colminares (Bayan Muna), Rafael Mariano (Anak Pawis), Luz Ilagan and Emmy de Jesus (Gabriela), and Raymond Palatino (Kabataan) also filed their HB 2263, and Reps. Riza Hontiveros and Walden Bello (Akabayon) authored H.B. 4142. Reps. Arthur Defensor and Salvador Escudero III filed H.B. 1745 and H.B. 2933 respectively, that also sought to penalize enforced disappearance.

Since the consolidated anti-enforced disappearance bill was already passed on Third Reading by the House in the previous Congress, as a matter of legislative policy, it was considered a priority measure in the 14th Congress whose approval on third reading was almost assured.



FIND workers witnessed the Third and Final Reading of House Bill No. 98 on March 12, 2012.

## Rep. Lagman believed it was about time to devise a more effective tactic to ensure the approval of the bill...

Subsequently, the joint Committees on Justice and Human Rights consolidated the various anti-disappearance bills and reported out a Substitute Bill (House Bill No. 5886 or the proposed “Anti-Enforced or Involuntary Disappearance Act of 2009”) that was passed on Third Reading on March 5, 2009 with FIND exerting minimal lobby efforts in the House of Representatives.

In the Senate, FIND concentrated its lobby on the committee level mainly through the Committee Secretary of the Justice and Human Rights Committee to seek her help in getting the Senate anti-disappearance bill reported out for second reading. FIND’s Co-Chairperson discussed and explained the common salient features of S.B. 3367 and H.B. 5886 to the Committee Secretary even as she furnished her with relevant reading materials on the bills and on enforced disappearances in the Philippines. She also repeatedly called the office of Senator Francis Escudero who chaired the Justice and Human Rights Committee to inquire when the bill would be sponsored on the floor as the House counterpart bill had already been transmitted to the Senate.

To pressure the Senate to immediately consider the bill on Second Reading, representatives of FIND and AFAD together with Jose and Cleofas Sanchez, parents of disappeared Nicholas met with then President Arroyo in Malacanang to request her to endorse the enactment of the anti-enforced disappearance bill soonest. The President right there and then instructed Executive Secretary Ermita to consult the matter with concerned officials of the government.

The Senate, however, could not be pushed to begin plenary consideration of the bill, which was in fact already business for the day, as they could not muster a quorum owing to the non-attendance of session of Senator Villar (then a Presidential aspirant) and his allies. The 14th Congress adjourned amidst the heat of the then upcoming national and presidential elections with the anti-enforced disappearance bill again bypassed by the Senate. This was a classic case of electoral partisan politics unwittingly derailing legislative action on a vital measure of national significance.

### 15th Congress (2010 – 2013)

The election of Benigno Simeon Aquino III, whose father Ninoy was a human rights violation victim of the repressive Marcos dictatorship, renewed expectations of a better human rights situation in the country. Despite his failure to present a definitive human rights agenda, FIND, the Asian Federation Against Involuntary Disappearances



President Benigno Simeon Aquino III with the relatives of the disappeared and representatives from FIND, AFAD and PAHRA in Malacanang - October 6, 2010

(AFAD) and the Philippine Alliance of Human Rights Advocates (PAHRA) together with the relatives of disappeared Daryl Fortuna and Fr. Conrado dela Cruz, who disappeared in Guatemala, decided to meet with him on October 6, 2010 before his first 100 days in office elapsed. They wanted him to endorse the immediate enactment of an anti-enforced or involuntary disappearance law and the Philippines’ signing and ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (IC-PAPED).

After a one-hour dialogue, the President’s sole commitment was to study the matter. FIND and AFAD with some international human rights advocates tried to meet with the President again in July 2011, but only his Assistant Secretary sat down with them. Assistant Secretary Ronaldo A. Geron assured them of his personal support but not of the President’s as the Chief Executive according to him had reservations on the exclusion of non-state actors as perpetrators of enforced disappearance under the proposed anti-enforced disappearance law. He further said that the President could be inclined to support the contrary position of Akbayan partylist on the issue, it being a political ally of the President’s Liberal Party. Akbayan’s H.B. 2926 adopts the definition of enforced disappearance under the Rome Statute for the International Criminal Court that includes as perpetrator a political organization which may be a non-state actor.

From Malacanang, FIND again shifted its lobby to the halls of Congress where it held dialogues with legislators,

truth telling conferences, round table discussions, photo exhibits and screening of video documentaries and films on enforced disappearance, the last activity in partnership with AFAD. The Members of Congress and their staff including the Secretariat of the House Committees on Justice and Human Rights were invited to all these activities.

In the 15th Congress, five closely similar anti-enforced disappearance bills were filed in the House of Representatives: H.B. 98 (Lagman and Tanada), H.B. 223 (Tanada), H.B. 2926 (Bello, Bag-ao), H.B. 2966 (Escudero III), and H.B. 3046 (Colmenares, Casino, Ilagan, De Jesus, Mariano, Palatino, and Tinio). House Bill Nos. 223, 2926, 2966 and 3046 were eventually consolidated with H.B. 98. The Committees on Justice, Human Rights, and Appropriations recommended H.B. 98 under Committee Report 1764 for approval on 07 February 2012.

In observance of the International Week of the Disappeared (IWD), AFAD and FIND for the third time again sought a meeting with the President in May 2012 with Mr. Jeremy Sarkin, former Chairperson of the U.N. Working Group on Enforced or Involuntary Disappearance, joining them. Mr. Sarkin was their guest speaker in a joint forum and panelist in a dialogue with principal authors of the anti-disappearance bills in the House of Representatives. The meeting in Malacanang did not push through.

The Senate, which did not pass its anti-enforced disappearance bill in the 13th and 14th Congresses when the House of Representatives successively approved its counterpart, made up for its failure in the past two Congresses by passing S.B. 2817 in the 15th Congress much ahead of the House that was then preoccupied with the impeachment of then Supreme Court Chief Justice Renato Corona.

It should be recalled that when S.B. 2817 was on Second Reading and was business for the day for several session days without being tackled, FIND and AFAD representatives were consistently present in the session hall. FIND's Co-Chairperson, who was always invited by the Justice and Human Rights Committee Secretary to be present during the plenary consideration of the bill, assured the Committee Secretary that she was prepared and willing to backstop with the Committee Secretariat during the interpellation period.

However, there was virtually no interpellation, although Senators Joker Arroyo and Miriam Defensor-Santiago, principal author of S.B. 1455, one of the anti-enforced disappearance bills consolidated in and substituted by S.B. 2817, registered to interpellate. FIND Co-Chairperson requested Senator Arroyo to forego his interpellation to expedite the approval of the measure. As for Senator Santiago, she only proposed that the bill's penal provisions be amended by including accessory penalties. FIND welcomed Senator Santiago's amendments.

FIND members were also present in the plenary hall gallery when House Bill 98, the substitute anti-enforced disappearance bill, principally authored by their Honorary

Republic Act No. 10353, otherwise known as the "Anti-Enforced or Involuntary Disappearance Act of 2012" was hailed by the families of desaparecidos for the law does not only clearly define and penalize enforced disappearance, but also sets in place preventive measures and reparative remedies such as restitution, psychosocial rehabilitation and monetary compensation for direct victims and their families.



## **FIND and CAID persisted in their public information campaigns and earnest lobby efforts. The families remained patient and unwavering in their support despite the slow-grinding legislative process and lack of official endorsement of the bill by the incumbent Presidents.**

Chairperson and Albay Representative Edcel C. Lagman, was unanimously approved on Third Reading. Before FIND knew it, the very few disagreeing provisions of S.B. 2817 and H.B. 98 were harmonized in a bicameral conference committee report that was easily ratified by both the Senate and the House of Representatives on October 16, 2012. The enrolled bill was subsequently transmitted to Malacanang, but the President signed it into law only on December 21, 2012.

Republic Act No. 10353, otherwise known as the "Anti-Enforced or Involuntary Disappearance Act of 2012" was hailed by the families of desaparecidos for the law does not only clearly define and penalize enforced disappearance, but also sets in place preventive measures and reparative remedies such as restitution, psychosocial rehabilitation and monetary compensation for direct victims and their families.

The Implementing Rules and Regulations (IRR) of R.A. 10353 was expeditiously drafted within 30 days and eventually jointly promulgated on 12 February 2013 by the Department of Justice (DOJ), Department of Social Welfare and Development (DSWD), the Commission on Human Rights (CHR), FIND and Desaparecidos as mandated by Section 28 of the law.

### **Pull/retardatory factors**

**T**he long journey to R.A. 10353 could have been abbreviated were it not for some pull factors, to wit:

- Human rights legislation were and are still not the priority of both Congress and Malacanang.
- The Technical Lobby, Information, Education and Communication (IEC) Campaign Plan for the Anti-Involuntary Disappearance Bill that was partially implemented from February 2003 to June 2004 was neither revised nor extended

to enable FIND to carry on a comprehensive and sustained lobby until the bill's enactment into law in December 2012.

- Meetings with lawmakers and key persons of their respective staffs were few and far between.
- The families of the disappeared were not fully mobilized to actively participate in the lobby activities. The planned face-to-face solicitation of co-authorship by the wives, parents and children of the disappeared was not carried out.
- Limited position papers on the imperative of the law's enactment were distributed/sent to individual legislators, more particularly to members of the Committees to which the bills were referred in both chambers.
- The political mapping was hobbled and eventually aborted by inadequate operational funds.
- The signed petitions urging government to enact an anti-enforced disappearance law were not transmitted to the concerned institutions and agencies owing to the failure to gather an impressive number of signatories.
- In the 15th Congress, the Committee on Justice of the House of Representatives to which the bill was referred had to suspend deliberation on the bill and other measures pending before it as the Committee prepared for and subsequently became actively involved in the impeachment of the Chief Justice of the Supreme Court.

### **Push/contributory factors**

**D**espite the inordinate delay in the enactment of the law, the retardatory factors were nonetheless overcome because:

- FIND and CAID persisted in their public information campaigns and earnest lobby efforts. The families remained patient and unwavering in their support despite the slow-grinding legislative process and lack of official endorsement of the bill by the incumbent Presidents.
- The joint FIND and AFAD campaign and lobby ac-



CAID convenors' meeting, September 16, 2003 - Speaker's Conference Room, House of Representatives.

**In July 2007 the Philippine Supreme Court spearheaded the National Consultative Summit on Extrajudicial Killing and Enforced Disappearance that resulted among others in highlighting the importance of command responsibility in the prosecution of extrajudicial killing and enforced disappearance cases; the promulgation of the rules on the writs of amparo and habeas data; and favorable decisions on enforced disappearance cases specially on various petitions for the writ of amparo and concomitant remedies.**

tivities generated strong support from various stakeholders and publics notably the academe and the diplomatic community.

- The much-publicized visit to the Philippines in February 2007 by Philip Alston, the United Nations Special Rapporteur on Extrajudicial Killings, and the comprehensive report he subsequently submitted to the United Nations revealed and disseminated invaluable information on the causes and effects of the commission in the country not only of extrajudicial killings but of enforced disappearances as well.

- There were timely judicial initiatives and interventions. In July 2007 the Philippine Supreme Court spearheaded the National Consultative Summit on Extrajudicial Killing and Enforced Disappearance that resulted among others in highlighting the importance of command responsibility in the prosecution of extrajudicial killing and enforced disappearance cases; the promulgation of the rules on the writs of amparo and habeas data; and favorable decisions on enforced disappearance cases specially on various petitions for the writ of amparo and concomitant remedies.

- Karapatan, a nationwide human rights non-government organization, conducted high profile campaigns on the Burgos, Cadapan, Empeno, Manalo, and Balao enforced disappearances even as it took legal actions that had wide multimedia coverage.


- Rep. Edcel C. Lagman effectively tacticized and ably steered the enactment of the bill into law even as his legislative staff chief and FIND Co-Chairperson tirelessly drafted and re-drafted and caused the prompt filing and re-filing of the enforced disappearance bills from the 12th to the 15th Congresses. She also consistently attended and represented FIND in several public hearings and actively participated in the technical working groups in both the House and the Senate; invited media attention to the bill by writing press statements, giving interviews and guesting on radio and television to articulate FIND's call on government to enact an anti-enforced disappearance law; and followed up the transmittal of the enrolled bill to the Office of the President.

- Authors of H.B. 5727 led by Bayan Muna Representative Satur Ocampo succeeded in getting over 100 co-authorships of their anti-enforced disappearance bill in the

12th Congress.

- The sudden rise in the incidence of enforced disappearance under the Arroyo administration and its persistence under the present Aquino dispensation dramatized the urgency of combating impunity through the immediate enactment of an anti-enforced disappearance law.

- The Aquino government recognized the high political value of enacting the first anti-enforced disappearance law in Asia.

The long journey to R.A. 10353 has not really ended in the promulgation of its IRR for the law is only as good as its implementation. The campaign for the law's full implementation has just begun. Lest the euphoria over the birth of R.A. 10353 obliterate other relevant vital concerns, anti-enforced disappearance advocates need to sustain their campaign and lobby for the law's full implementation and the Philippines' signing and accession to the ICPAPED. The domestic law cannot be a substitute for the Convention as the Convention cannot stand for the domestic law. Their being complementary and mutually reinforcing, however, is reason enough for their simultaneous implementation even as this will accord the people stronger human rights protection and best practices against enforced disappearance. 

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**The domestic law cannot be a substitute for the Convention as the Convention cannot stand for the domestic law. Their being complementary and mutually reinforcing, however, is reason enough for their simultaneous implementation even as this will accord the people stronger human rights protection and best practices against enforced disappearance.**

.....

# Which do you consider as the strongest anti-enforced disappearance provision of RA 10353, and why?



**MAX M. DE MESA**  
Chairperson  
Philippine Alliance of Human Rights Advocates

**C**an the character of a continuing offense in Sec. 21 be deduced from the non-derogability in Sec. 4 on the Right Against Enforced or Involuntary Disappearance or vice-versa? Many other human rights are non-derogable, like torture, but none has the added character of being a continuing offense if not resolved.

Sec. 21 on Continuing Offense cannot stand alone by itself without the nature of non-derogability. It means that without it, enforced disappearance can only be a crime with specific requirements while at other times, it is not, such as times of war or during conduct of counter-terrorism or of counter-insurgency operations.

The stronger of the two provisions is really the strongest of provisions but not without the other: the continuing offense against a non-derogable right makes the law distinctive, safeguards every person at all times and gives victims and their families hope to obtain justice.



**PAUL Taneo**  
Freelance Writer/Editor

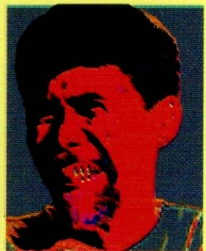
**S**ection 4 or the “Non-derogability of the Right Against Enforced or Involuntary Disappearance” which states that “the right against enforced or involuntary disappearance and the fundamental safeguards for its prevention shall not be suspended under any circumstance including political instability, threat of war, state of war or other public emergencies,” is probably the strongest provision of Republic Act No. 10353.

This is the most potent provision because it clearly emphasizes the value of RA 10353 deeming it permanent, incapable of suspension even under the direst of circumstances. It thus declares this Republic Act of such great importance and stability that violations would certainly be prosecuted when circumstances allow after “political instability, threat of war, state of war or other public emergencies” are over.



**GABRIELA CITRONI**  
International Human Rights Law Expert  
Professor of International Human Rights Law, University of Milano-Bicocca, Milano, Italy

**I**t is almost impossible to choose only one provision of RA 10353 as the strongest in terms of prevention and suppression of enforced disappearance. Overall, RA 10353 is one of the most complete and articulated pieces of domestic legislation on the matter and is in accordance with the highest international human rights law standards and, in particular, with the International Convention for the Protection of All Persons from Enforced Disappearance. Moreover, RA 10353 goes even further than international treaties on the matter, containing a number of provisions that are more conducive to the protection of all persons from enforced disappearance. In this sense, Sections 22 and 23 respectively establishing the exemption from statutes of limitations of enforced disappearances and the non-applicability of special amnesty laws to persons accused of enforced disappearance, deserve a special mention. Both provisions represent a sound bulwark against impunity and can be quoted as good practices at the domestic and the international levels.



**EMMANUEL V. Dumlao**  
Creative Writing and Literature Professor,  
University of the Philippines - Los Banos

**S**ection 2 is the strongest. By considering “enforced disappearance” as a fundamental human rights issue, the provision lays down the principles on which the Act is based and to which the Philippine State must adhere.



**JOY KAREN VILLAREAL**  
Artist from Leyte

**S**EC. 23. Special Amnesty Law Exclusion. – Persons who are charged with and/or guilty of the act of enforced or involuntary disappearance shall not benefit from any special amnesty law or other similar executive measures that shall exempt them from any penal proceedings or sanctions.

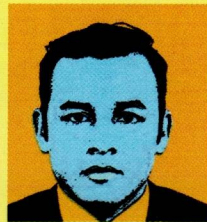
Confronted with all the cases we have on forced disappearances, where evidence directly points to the State as perpetrator, this provision will help address impunity of persons responsible for the offense. There should be no special measures or dealings that will prevent them, notwithstanding their position in the government, from being prosecuted given that they have committed a politically motivated crime.



**REY PAOLO J. SANTIAGO**  
Human Rights Lawyer  
Executive Director, Ateneo Human Rights Center

**F**or me, Section 4 of Republic Act No.10353 or the Anti-Enforced Disappearance Law of 2012 which states that "[t]he right against enforced or involuntary disappearance and the fundamental safeguards for its prevention shall not be suspended under any circumstance including political instability, threat of war, state of war or other public emergencies" is the most important provision. This means that we have accepted in our jurisdiction that there can be no excuse or justification whatsoever to commit enforced or involuntary disappearance.

The Philippines is a state party to the International Covenant on Civil and Political Rights (ICCPR) but not even a signatory yet to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPAPED). Enforced or involuntary disappearance is not one of the non-derogable rights listed under the ICCPR but is made a non-derogable right under the ICPAPED. Considering the right against enforced or involuntary disappearance as non-derogable in RA 10353 is a step forward in our commitment to promote and protect human rights.



**AMBAR B. RAUT**  
Advocate, Supreme Court of Nepal

**H**ere is my comment in respect of the strongest provision of the Philippines Anti Disappearance Act.

1. The definition of "enforced disappearance" in the Act is identical with the UN International Convention for the Protection of All Persons from Enforced Disappearance. This is significant as the Philippines is neither a signatory nor a State Party to the Convention.
2. The Act spells out clearly that the auxiliary officers or subordinates have the right to disobey the order by his commanding officer.
3. The Act expressly prohibits "order of battle" which enlists the targeted enemies of the state. This will help establish the disappearances of civilians.
4. The Act disqualifies perpetrators of "enforced disappearance" from amnesty and has comprehensively outlined the punitive sanctions for those directly or indirectly involved in the offence. This clearly abides by the intent of the Disappearance Convention to bring offenders to justice.
5. Provision relating to summary dismissal of perpetrator is another strong provision in the Act that shows the Philippines is indeed serious regarding the issue of enforced disappearance.
6. The Act explicitly incorporates the principle of non-refoulement .

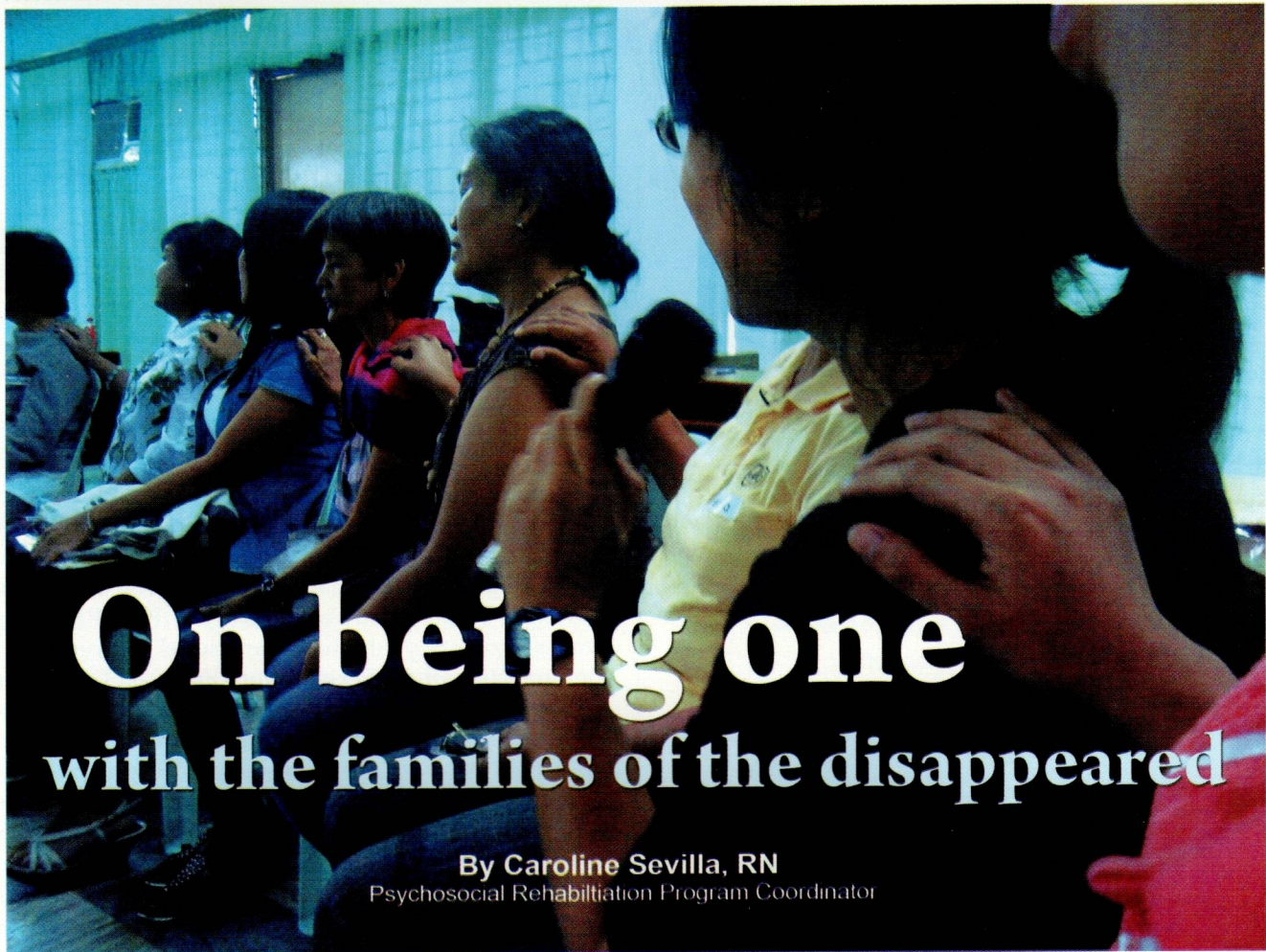


**LAWRENCE C. BARTOLO**  
Lawyer

**I**n my opinion, the strongest deterring provision of Republic Act No. 10353, AN ACT DEFINING AND PENALIZING ENFORCED OR INVOLUNTARY DISAPPEARANCE is found under Section 22 which states that:

**SEC. 22. Statute of Limitations Exemption. –** The prosecution of persons responsible for enforced or involuntary disappearance shall not prescribe unless the victim surfaces alive. In which case, the prescriptive period shall be twenty-five (25) years from the date of such reappearance.

Section 22 is unique in our penal statutes considering that basically, all other crimes and/or offenses provided in our penal laws have statutes of limitations. Section 22 makes such clear exception. As long as the victim does not surface, the possibility and threat of prosecuting the persons responsible for the disappearance is ever present. This salient provision makes it the strongest deterring provision of RA 10353. In fact, violations of RA 10353 are in the same category as violations of international law - genocide, crimes against humanity and war crimes- all are not subject to statutes of limitations or prescription.



# On being one with the families of the disappeared

By Caroline Sevilla, RN  
Psychosocial Rehabilitation Program Coordinator

“To be a counselor or a psychosocial first aider, one need not be a psychologist, psychiatrist, medical professional or health worker. Having a college degree is not a requirement. As long as he or she has the innate talent or is willing to learn and hone the skill.”

**B**asic counseling and case management are essential processes that FIND workers need to handle in dealing with victims of enforced disappearances. The national staff and local coordinators of FIND underwent training on the two areas of interest last March 12-14, 2012 at the La Consolacion Convent in San Juan City.

This writer as the Psychosocial Rehabilitation Program Coordinator emphasized the importance of acquiring basic skills in counseling and case management. Both are considered crucial factors in effectively providing psychosocial services to the families of victims of enforced disappearance.

Ms. Lyra Verzosa, a psychosocial consultant and the overall facilitator of the training-workshop discussed the qualities that counselors or psychosocial first aiders should have in dealing with the surfaced victims and their families.

She said, “To be a counselor or a psychosocial first aider, one need not be a psychologist, psychiatrist, medical professional or health worker. Having a college degree is not a requirement. As long as he or she has the innate talent or is willing to learn and hone the skill.”

The four-day training in its entirety was mostly interactive. The participants shared individual problems, how they were able to cope and plot their future plans using the “Pagdadala” (carrying/

lugging) model of Dr. Edwin Decenteo, a psychologist and professor at the University of the Philippines. The activity explored self-management and processing of the person’s “*bitbit*” (baggage) in life. Ms. Verzosa emphasized the importance of processing one’s own problems first before opening oneself to others.

Ms. Verzosa also added that “It is also important for us to learn that as counselor we don’t always offer advice. Sometimes, people only need someone to talk to and share their problems with.” Listening is one vital skill a counselor should practice.

In between the discussions, Ms. Verzosa, shared some therapeutic practices

*“It is also important for us to learn that as counselor we don’t always offer advice. Sometimes, people only need someone to talk to and share their problems with.”*

such as Chinese holistic health exercises, stress management, acupressure and Tai Chi exercises which can be used by the psychosocial first aider to de-stress oneself and/or his/her client.

On the second day, a guessing game was introduced as take-off learning activity in discussing different non-verbal expressions of persons. Wrapping up the observations presented, Ms. Verzosa told the group, “We should be sensitive to persons’ non-verbal actions. There are things that people are not articulating but instead are communicating by way of facial and body expressions. And those are crucial.”

During the discussion on therapeutic communication Ms. Verzosa explained the proper ways to approach and communicate with the surfaced victim and their relatives.

The Case Management Process was another topic of the training. It was discussed by Ms. Doan Foronda, Youth Welfare Specialist of the Department of Social Welfare and Development of the National Capital Region (DSWD-NCR). She explained the step-by-step process in handling case management in the community. Ms. Foronda pointed out the importance of the Intake and Assessment to Termination/Discharge phase.

“In case management, it is imperative to thoroughly record details regarding the client’s history since it would serve as basis of the worker’s intervention. It is as well necessary to interview the family and neighbors to validate the information gathered,” Ms. Foronda explained. Trust and rapport are essential to be able to have a good working relationship with the client during the intervention.

At the last part of the training the participants were divided into three groups. The groups representing Luzon, Visayas and Mindanao worked together and outlined their psychosocial rehabilitation plan for their assigned chapter areas.



Ms. Lyra Verzosa, a psychologist and psychosocial consultant, explaining to the participants the Pagdadala Model of Dr. Edwin Decenteceo, a UP psychology professor.



Ms. Doan Foronda, a youth welfare specialist of DSWD-NCR, discussing the Process of Case Management



2012 Basic Counseling & Case Management Training graduates

## “In Loving Memory”

**O**n October 17, 2012, Ms. Freya Villacarlos, a representative of Magnificat Ventures Corporation, facilitated an art therapy session with the surfaced victims and families of the disappeared at the FIND office in Quezon City.

The purpose of the activity was to promote acceptance, healing and renewal of the participants and also to commemorate the lives of the disappeared.

About 15 participants composed of surfaced victims, wives and children of the disappeared attended the activity. Each one was given empty Sola bottles and art materials to use for the therapy session. The facilitator instructed the participants to decorate the bottle in a way that represents their present view about their missing loved ones. After which the participants shared with the group their description of their art work in bottles.

The designed bottles became part of the “In Loving Memory” – an art exhibit mounted at the St. Therese Columbarium in Pasay City from 20 October 2012 to 30 November 2012.



Ms. Freya Villacarlos (standing) of Magnificat Ventures Corporation with the participants during the art therapy session



Mr. Alberto de los Reyes, son of a victim, designing bottles with his children



Joel Castillo, a surfaced victim, and his wife Fe Castillo together with their daughter, Lorena Lenin Castillo



Ms. Grace Topacio and Ms. Erlinda Malicdem, both wives of enforced disappearance victims

.....  
The purpose of the activity was to promote acceptance, healing and renewal of the participants and also to commemorate the lives of the disappeared.  
.....

*"Pasko para sa mga Nakatatandang Kaanak  
ng mga Desaparecidos"*

Christmas for the Elderly Relatives of the Disappeared

Since most of the victims of enforced disappearance are the families' breadwinners, the mothers or wives who are left behind have to work harder in order to sustain the needs of the family in different aspects of life - socio-economic, physical and emotional - and at the same time look for the disappeared kin. Their untiring efforts to seek justice and courageous actions to advocate prevention of enforced disappearance are immeasurable.

Hence, on 18 December 2012 the Asian Federation Against Involuntary Disappearances (AFAD) and FIND held a Christmas party for the elderly relatives of the disappeared at the Titus Brandsma Center, New Manila, Quezon City. The main objective of the activity was to give recognition to the elderly relatives of enforced disappearance victims and to give tribute through posthumous awards to those who already passed away. In addition, the activity also served as venue for healing and encouragement for the families and even to fellow advocates and friends present in the activity.

After the food sharing and video showing, Ms. Wilma Q. Tizon, the Deputy Secretary General of FIND and Ms. Aileen D. Bacalso, the Secretary General of AFAD presented the plaques of recognition to the awardees who expressed their gratitude to both organizations and also shared their experiences in their search for their missing loved ones.

A significant part of the event was the passing of the torch by Ms. Estrelita del Rosario, a sister of the first documented Filipino *desaparecido*, Charlie del Rosario, to the group of children and grandchildren of the disappeared. The ceremony symbolizes continuity of work for the new generation to attain justice and peace for the victims of enforced disappearance.

The gathering ended with fun games, giving of gift packs and picture taking.

Since most of the victims of enforced disappearance are the families' breadwinners, the mothers or wives who are left behind have to work harder in order to sustain the needs of the family in different aspects of life - socio-economic, physical and emotional - and at the same time look for the disappeared kin.



Ms. Aileen Bacalso, AFAD Secretary General and Ms. Wilma Tizon, FIND Deputy Secretary General, together with Mrs. Perina Fajardo, mother of enforced disappearance victim, during the giving of plaque of recognition



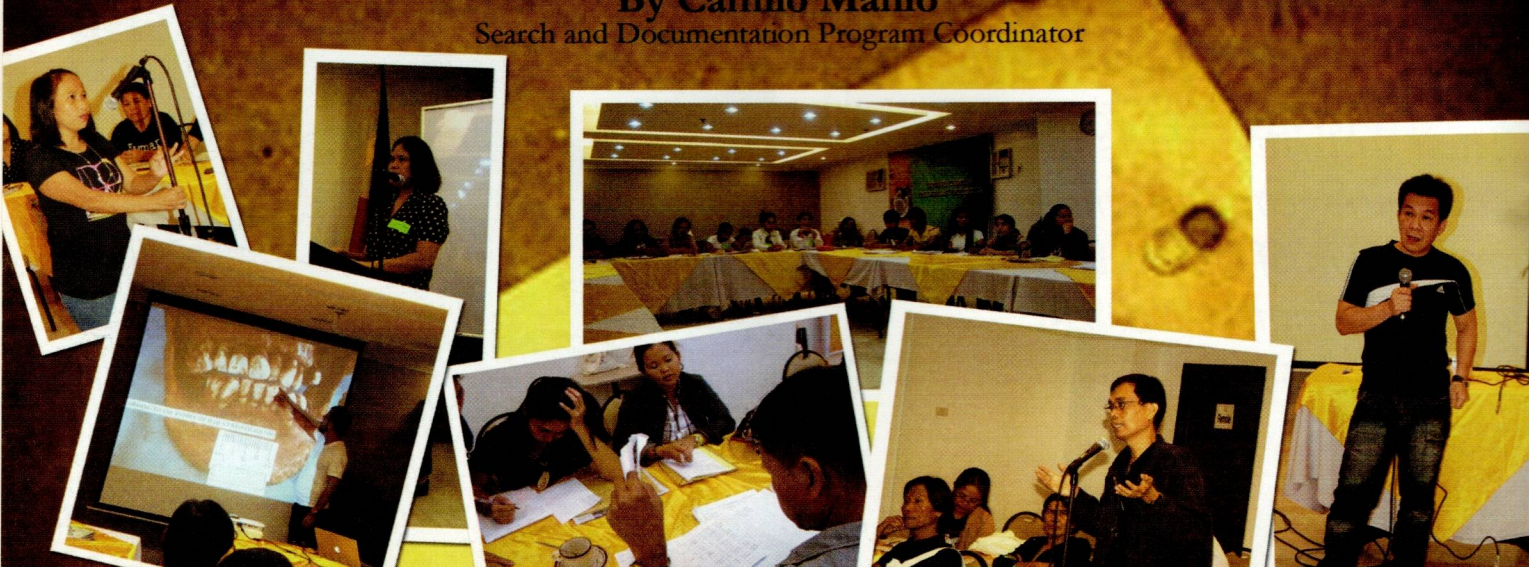
FIND and AFAD prepared some fun games and gift packs for the elderly relatives of the victims of enforced disappearance.

*Their untiring efforts to seek justice and courageous actions to advocate prevention of enforced disappearance are immeasurable.*



# Missing Persons **Database** capacity building PROJECT

By Camilo Manio  
Search and Documentation Program Coordinator



## Continuously upholding human rights and battling against impunity, FIND and TAF are committed to the strategic and safe investigation of cases concerning *desaparecidos*.

**T**he Families of Victims of Involuntary Disappearance (FIND), together with The Asia Foundation (TAF), held its National Chapter Field Workers Orientation on the Missing Persons Database Capacity Building Project.

Held at the Opal room of the Richville Hotel at the EDSA Crossing, Mandaluyong City, from September 17 to 18 2012, thirty-two participants composed of FIND and TAF's volunteers and staff joined the workshop.

The Peruvian Forensic Anthropology Team (EPAF)'s Project Director, Dr. Juan Pablo Baraybar, led the activity as the main resource person.

Continuously upholding human rights and battling against impunity, FIND and TAF are committed to the strategic and safe investigation of cases concerning *desaparecidos*. The two organizations work together to pursue the search for justice with its first step being the creation of a universal database for victims of enforced disappearances in the Philippines. The National Chapter Fieldworkers Orientation is in line with the said goal and the following objectives:

1. To formulate a standard common format or 'Victims Identification Information Sheet on the Missing (VIISM)';
2. To create an effective 'Search Strategy' using the said database;
3. To secure the information. (Identifying who can use or has access to the database and securing the interviewee, informants, families of the victims and witnesses.)



Dr. Juan Pablo Baraybar  
Project Director, Peruvian Forensic Anthropology Team (EPAF)

Following two round table discussions held in 2012 focused on the revisions necessary to come up with the database's main tool which is the form VII or the Victim's Identification Information Form, field investigators were oriented on the proper use of the form so that documented information may readily be available for quicker and further investigation.

Dr. Baraybar, who actively participated in the development of form VII, stressed that for security purposes, some information on the database will be made public while those that are sensitive will only be available to those directly involved in investigations.

He also facilitated different exercises

to emphasize the value of careful observation and documentation of a missing person's distinct qualities. Dr. Baraybar encouraged field workers to use the language of their interviewees so that they may communicate the details regarding victims in the clearest possible way they could.

This writer as coordinator of FIND's Search and Documentation Program discussed how the form VII is similar to other FIND forms, particularly forms C-1, C-2, C-3 and C-4 which the participants had used before. He also presented FIND NCR Local Coordinator Ms. Erlinda Malicdem's findings in a pre-test.

To address concerns regarding technical language, FIND Resident Nurse and Coordinator of its Psychosocial Rehabilitation Program, Ms. Caroline Sevilla, discussed medical and dental terms found in the form or that may come up in the interviews to help participants familiarize themselves with the jargon.

To ensure the success of upcoming activities in line with the Missing Persons Database Capacity Building Project, FIND held an in-depth assessment activity at the Grotto Vista Resort, San Jose Bulacan, from April 18 to 19 2013. Participants addressed issues and concerns that came up during the orientation including portions that were helpful as well as those that could be done better.

# hand in hand

## with local officials

**By Grace Viray-Topacio**

Organizing, Education and Development  
Program Coordinator

**A**t present, FIND has 1,145 individual members representing the direct victims; those who surfaced alive; and the families considered as indirect victims under RA 10353) whose disappeared loved ones were either found dead or still missing. Of this number, 738 (64%) are women and 408 (36%) are men. Most of the members or 699 (61%) are middle aged, 380 are senior citizens, and 67 (6%) come from the youth sector.

While consolidating its current rank and file, FIND continues to expand its membership by reaching out to the families of victims throughout the country as well as the network of supporters of the organization.

The Organizing, Education and Development Program (OEDP) leads in coordinating with the local officials in the regions where there are FIND members in relation to the dissemination of RA 10353, the "Anti-Enforced or involuntary Disappearance Act of 2012".

In Labo, Camarines Norte, FIND-Bicol held a forum in coordination with Mayor Dindo Pardo on the salient provisions of the anti-enforced disappearance law with Ms. Nilda Lagman-Sevilla, FIND Co-chairperson, as speaker.



Meeting with Maramag Mayor Alicia Paulican-Resus



Engr. Emmanuel Resus, Mayor Alicia Paulican-Resus, Corazon Estojero & Grace Topacio


## Organizing and expansion entail reaching out to the families of the disappeared in the far flung areas. This is accompanied by linking and networking with the municipal leaders to inform them that the phenomenon of enforced or involuntary disappearance is committed in their localities.

OEDP also spearheaded the discussion on the law against enforced disappearance in Central Luzon, National Capital Region, and Southern Mindanao Region participated in by local legislators and the barangay chairpersons. Mr. Joey T. Faustino, FIND's Secretary General, was the resource person.

In Molave, Zamboanga del Sur, Vice-Mayor Flavio Saniel Jr. supported the families of victims from FIND Western Mindanao Region chapter. Similarly, San Agustin, Surigao del Sur, Vice-Mayor Roberto Plaza also expressed solidarity with the FIND-Northern Mindanao Region chapter.

The FIND-Leyte, FIND-Cebu, FIND-Panay and FIND-Negros chapters also actively engaged and dialogued with the municipal administrators and personnel from the Commission on Human Rights in their respective regions.

Organizing and expansion entail reaching out to the families of the disappeared in the far flung areas. This is accompanied by linking and networking with the municipal leaders to inform them that the phenomenon of enforced or involuntary disappearance is committed in their localities. In fact, some of the relatives or families of victims of enforced disappearance live in their municipalities. Hence, OEDP implementers met with Maramag, Bukidnon Mayor Alicia Paulican-Resus. FIND's data as of April 2013 show that Mindanao has the highest number of enforced disappearance victims at 701. This is followed by Luzon, with 607 and the Visayas with 530 victims.

OEDP implementers will continue to organize the surfaced victims and/or the families of the disappeared in the communities in Southern Tagalog, North Cotabato and Negros Oriental. It has already started disseminating information and imparting knowledge on Republic Act No. 10353, the 'Anti-Enforced Disappearance Law of 2012', in the different areas of Luzon, Visayas and Mindanao. They will sustain such effort by working with surfaced victims, families of the disappeared and the local government officials towards a peaceful and human rights responsive communities. 



FIND-Leyte Members



Radio interview during the 'National Day of Prayer for the Disappeared', Dec. 4, 2012, Davao City



FIND-Cebu members in a meeting with LGU officials

# HOPE RISING

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Then on December 21, 2012, without fanfare, President Aquino signed into law the bill that languished in Congress for 16 years.

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By Armando L. Paragat, RSW  
National and International Advocacy Program Coordinator

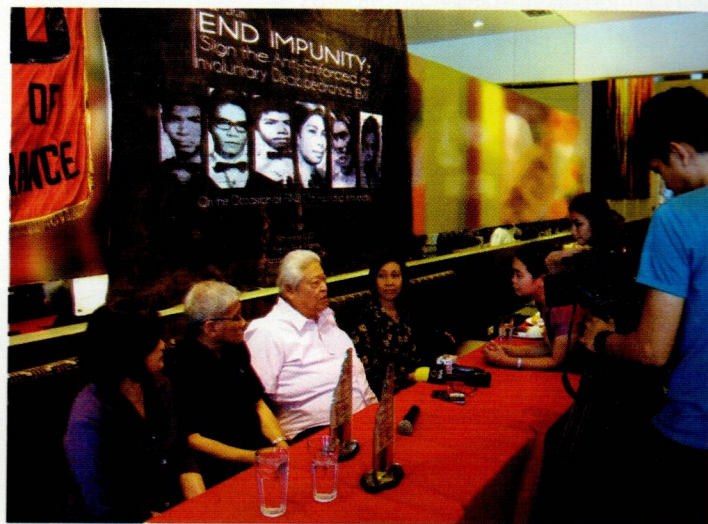
**I**t could have been more meaningful for FIND had President Simeon Benigno Aquino III signed the bill against enforced disappearance on the organization's 27th founding anniversary on November 23, 2012. But he didn't

Thus, the warm gathering at Kenny Roger's Roasters, in Matalino Street, Quezon City, of families of the disappeared, friends, human rights advocates and legislators that championed the criminalization of enforced disappearance had to drum up calls urging the President to immediately sign the bill.

Rep. Edcel C. Lagman, FIND's honorary chairperson and principal author of the bill, led the clamor underscoring its urgency. He and another principal sponsor, Rep. Walden Bello, were awarded with plaques in recognition of their invaluable contribution to the passage of the bill.

It could have been a joyous moment had the President signed the bill into law on December 10, 2012, as the world commemorated International Human Rights Day. But again he didn't.

All the families of victims, human rights community leaders and advocates who joined the press forum at Café Roces near Malacañan palace on the same day were hoping. Butch Fortuna emotionally recounted how he lost his son Daryl, a Polytechnic University of the Philippines (PUP) student who has been missing since March 9, 2010. The gathering strongly



November 23, 2012 Press Forum (seated from left) - FIND Co-chairperson Nilda Sevilla, Rep. Walden Bello, FIND Honorary Chairperson, Rep. Edcel Lagman and FIND Treasurer Phebe Crismo.

urged the President not to temporize in signing the enrolled bill into law.

The plight of the Fortuna family and all the lives that have been shattered by enforced disappearances touched journalist Ellen Tordesillas who covered the press forum. She later posted a commentary on The Inbox, a Yahoo news blog

“Malacañang’s enumeration of its human rights initiatives last Monday, International Human Rights Day, would have been more meaningful had President Aquino signed the proposed “Anti-Enforced or Involuntary Disappearance Act of 2012” which had been on his table for almost three weeks.”

Then on December 21, 2012, without fanfare, President Aquino signed into law the bill that languished in Congress for 16 years.

“Just before nightfall Friday, President Benigno Aquino signed Republic Act No. 10353, otherwise known as the Anti-Enforced Disappearance Act, which criminalizes abduction by the state or by its agents,” the Philippine Daily Inquirer reported quoting presidential spokesperson Edwin Lacierda.

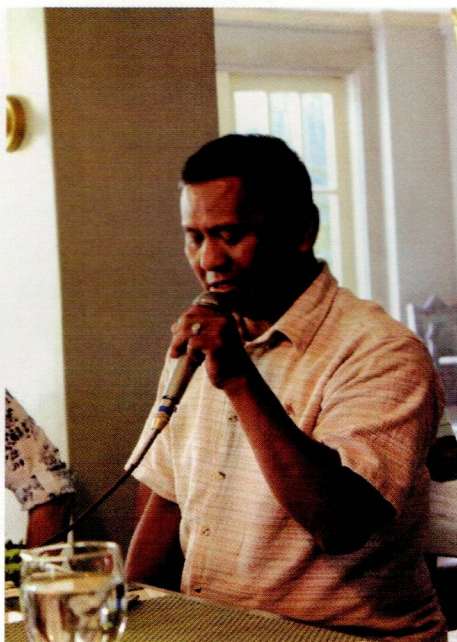
### Formulating the IRR

Crafting RA 10353’s Implementing Rules and Regulations (IRR) was FIND’s next engagement.

Section 28 of the law provides that “Within thirty (30) days from the effectivity of this Act, the DOJ, the DSWD, the CHR, the Families of Victims of Involuntary Disappearance (FIND) and the Families of Desaparecidos for Justice (Desaparecidos), in consultation with other 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.”

On January 16, 2013, exactly 19 working days after it had been signed, the Department of Justice (DOJ) called for a meeting of the concerned parties to commence the drafting of the IRR. At the helm of the IRR Committee was DOJ Undersecretary Lea C. Tanodra-Armamento. The Committee agreed to conduct small group meetings, to include consultations with network and partner organizations, plenary meetings and a writeshop.

FIND Co-chairperson, Nilda L. Sevilla, assisted by three members of the organization’s Secretariat, represented FIND and was actively involved in the proceedings. The time table for the



Butch Fortuna narrating the disappearance of his son Daryl. (Photo courtesy of AFAD)

small group meetings along with the consultations to stakeholders was set from January 21 to 25, 2013 while the plenary discussions were scheduled on January 28, February 8 and 11.

### Consultation with FIND members and partners

On January 30, 2013, FIND invited families of the disappeared, surfaced victims, human rights groups and partner organizations for a consultation workshop on the IRR held at Fersal Ho-


tel, Malakas Street in Quezon City.

Forty individuals engaged in meaningful and vibrant exchange of ideas. Questions were noted on certain provisions as FIND Co-chairperson Nilda L. Sevilla led the discussion while elucidating every provision of the law.

The activity succeeded in soliciting feedbacks that FIND brought to the table as it took part in the IRR Committee plenary deliberations.

The drafting of the IRR was not without instances of impassioned discourses on certain contentious issues. These notwithstanding, the entire process was a healthy exchange of views combined with the sincerity of the stakeholders to curb if not put an end to enforced disappearance and strengthen adherence to human rights.

The IRR was officially promulgated on February 12, 2013 with the representatives of the DOJ, DSWD, CHR, FIND and Desaparecidos signing the document.

After the signing Justice Secretary Leila de Lima said, “the task of the Committee does not end with the completion of the rules. The next wave of engagement by this Committee should focus on the full and complete dissemination of the law and its IRR.” 



Members of the IRR Committee with resource persons

# Guide Questions on R.A. No. 10353 and its IRR



KNOW  
ENFORCED  
DISAPPEARANCE  
[www.fmd.org.ph](http://www.fmd.org.ph)

**1** As a State policy, what do RA 10353 and its IRR seek to achieve?

(Sec. 2, RA 10353; Sec. 2, IRR)

**2** Aside from the 1987 Philippine Constitution, what specific international human rights instruments serve as standards for the implementation of RA 10353 as a human rights legislation?

[Sec. 2 (2); RA; Sec. 2 (f), IRR]

**3** In case of doubt in the interpretation of the IRR, how shall it be resolved?

(Sec. 3, IRR)

**4** What are the essential elements of enforced or involuntary disappearance?

[Sec. 3 (b), RA; Sec. 4 (b), IRR]

**5** Who are considered “victims” and “agents of the State”?

[Sec. 3 (a,d), RA; Sec. 4 (a, d), IRR]

**6** To what does the law refer by “officially recognized and controlled places of detention or confinement” as distinguished from “places of detention and confinement”?

[Sec. 4 (e), IRR; Sec. 12 (2), IRR]

**7** How does the law guarantee the non-derogability of the right against enforced disappearance?

(Sec. 4, 5, RA; Sec. 5, 6, IRR)

**8** To whom does a person who has personal knowledge about the circumstances of a victim of enforced disappearance report in writing?

(Sec. 7, RA; Sec. 8, IRR)

**9** In what form should the written report on a case or incident of enforced disappearance be?

(Sec. 8, IRR)

**10** What should inquest/investigating public prosecutors and judicial or quasi-judicial officials or employees do should they learn that the person brought before them is a victim of enforced disappearance?

(Sec. 9, RA; Sec. 10, IRR)

**11** What should the written certification that concerned government agencies or private entities/institutions shall issue to a person or entity inquiring about a disappeared person state?

(Sec. 8, RA; Sec. 9, IRR)

**12** What are the specific time frames within which to issue the above mentioned certification?

(Sec. 9, IRR)

**13** What data or information shall the register of all persons detained or confined contain?

(Sec. 10, RA; Sec. 11, IRR)

**14** Who may access the information in the register?

[Sec.10 (1), RA; Sec. 11 (1), IRR]

**15** When should concerned government agencies submit the list of government detention facilities and detainees/prisoners to the CHR?

[Sec. 11, RA; Sec. (12), IRR]

**16** When is a commanding officer or superior liable for the crime of enforced disappearance committed by his subordinates?

(Sec. 14, RA; Sec. 15, IRR)

**17** What penalties does RA 10353 impose?  
(Sec. 15, RA; Sec. 16, IRR)

**18** When may suspected perpetrators of enforced disappearance be preventively suspended or summarily dismissed?

(Sec. 16, RA; Sec. 17, IRR)

**19** What does independent liability of enforced disappearance perpetrators mean?

(Sec. 18, RA; Sec. 19, IRR)

**20** Can victims of enforced disappearance seek remedy/redress from an international court or agency?

(Sec. 19, RA; Sec. 20, IRR)

**21** When is enforced disappearance considered a continuing offense?

(Sec. 21, RA; Sec. 22, IRR)

**22** How does the statute of limitations apply to the prosecution of enforced disappearance cases?

(Sec. 21, 22, RA; Sec. 22, 23, IRR)

**23** Shall persons charged with or found guilty of enforced disappearance qualify for amnesty?

(Sec. 23, RA; Sec. 24, IRR)

**24** Under what conditions shall a person not be expelled, returned or extradited to another State?

(Sec. 25, RA; Sec. 26, IRR)

**25** What forms of reparation are the victims of enforced disappearance and/or their families entitled to?

(Sec. 26, 27, RA; Sec. 27, 28, IRR)

**26** Why should perpetrators of enforced disappearance be also entitled to free psychosocial rehabilitation?

[Sec. 27 (2), RA Sec. 28 (5), IRR]

**27** Under what circumstances is a victim of enforced disappearance considered to have surfaced alive or reappeared?

(Sec. 23, IRR)

**28** For purposes of claiming compensation under RA 7309, what records shall be considered proof of enforced disappearance?

[Sec. 27 (8), IRR]

**29** When should a claim under RA 7309 be filed?

[Sec. 27 (9), IRR]

**30** What factors should be considered in granting State protection to all persons involved in the search, investigation and prosecution of enforced disappearance?

[Sec. 25 (5), IRR]

**31** For purposes of providing State protection to persons involved in the investigation into an enforced disappearance case, what shall "investigation" include?

[Sec. 25 (3), IRR]

**32** Whom does the law mandate to ensure the full dissemination of the law and its IRR?

[Sec. 28, RA; Sec. 29, IRR]

# P-Noy signs anti-enforced disappearance bill into law

By Leila B. Salaverria

threat of emergency

Right

The

he sa

province, on June 26, 2006, and agriculturist Jonas Joseph Burgos, seized by gunmen also believed to be soldiers from a restaurant inside a shopping mall in Quezon City on April 28, 2007.

All three were involved with Alyansa ng Magbubukid ng Bulacan (Alliance of Bulacan Farmers), a local chapter of the militant Kilusang Magbubukid ng Pilipinas (Farmers Movement of the Philippines).

Their parents have brought criminal charges against retired Maj. Gen. Jo Palparan, former commander of the Infantry Division based in Nueva Ecija. Palparan went into hiding after

PRESIDENT Aquino yesterday signed a law that makes abduction by the state or by its agents a crime, making the Philippines the first country in Asia to define enforced disappearance as a separate criminal offense.

Mr. Aquino signed Republic Act No. 10350, or the Anti-Enforced Disappearance Act, in Malacañang, the author of the law, Albay Rep. Edcel Lagman, said in a statement.

The families of "desaparecidos"—people seized by the state and never seen again—hailed the new law "timely and meaningful Christmas

## Law bans hit list of gov't enemies

Rights groups urge swift enforcement

grave threats and coercion

### End to impunity

Lagman said that under the law, enforced disappearance would be a crime separate from kidnapping, legal detention, murder, or any other crime.

The law says that enforced disappearance is committed when a citizen is deprived of liberty by the state or agents of the state, and when information on the whereabouts of the missing is concealed or denied.

It would also goad security officers into being better public servants who respect human rights, according to Lagman.

"The law [would] end impunity of offenders," Lagman said. "[I]t envisions a new breed of military, police and intelligence and employees who respect rights and civil

best known among the disappeared are University of the Philippines students Karen Empeño and Sherlyn Cadapan, who were seized by gunmen believed to be military agents from a house in Hagonoy town, Bulacan.

### Monitoring

But the group said it would monitor the enforcement of the new law.

The group said greater compliance was expected, but it would monitor the implementation of the new law.

FIND said it hoped the new law would not go the way of previous laws, which it described as "breach."

S. No. 2817  
H. No. 98

Republic of the Philippines  
Congress of the Philippines

Metro Manila

Fifteenth Congress

Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

[ REPUBLIC ACT NO. 10353 ]

**AN ACT DEFINING AND PENALIZING ENFORCED OR INVOLUNTARY DISAPPEARANCE**

*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-Enforced or Involuntary Disappearance Act of 2012".

**SEC. 2. Declaration of Policy.** -The State values the dignity of every human person and guarantees full respect for human rights for which highest priority shall be given to the enactment of measures for the enhancement of the right of all people to human dignity, the prohibition against secret detention places, solitary confinement, *incommunicado*, or other similar forms of detention, the provision for penal and civil sanctions for such violations, and compensation and rehabilitation for the victims and their families, particularly with respect to the use of torture, force, violence, threat, intimidation or any other means which vitiate the free will of persons abducted, arrested, detained, disappeared or otherwise removed from the effective protection of the law.

Furthermore, the State adheres to the principles and standards on the absolute condemnation of human rights violations set by the 1987 Philippine Constitution and various international instruments such as, but not limited to, the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture and Other Cruel,

Inhuman or Degrading Treatment or Punishment (CAT), to which the Philippines is a State party.

**SEC. 3. Definitions.** – For purposes of this Act, the following terms shall be defined as follows:

(a) *Agents of the State* refer to persons who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the government, or shall perform in the government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class.

(b) *Enforced or involuntary disappearance* refers to the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.

(c) *Order of Battle* refers to a document made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and which it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

(d) *Victim* refers to the disappeared person and any individual who has suffered harm as a direct result of an enforced or involuntary disappearance as defined in letter (b) of this Section.

**SEC. 4. Nonderogability of the Right Against Enforced or Involuntary Disappearance.** – The right against enforced or involuntary disappearance and the fundamental safeguards for its prevention shall not be suspended under any circumstance including political instability, threat of war, state of war or other public emergencies.

**SEC. 5. “Order of Battle” or Any Order of Similar Nature, Not Legal Ground, for Enforced or Involuntary Disappearance.** – An “Order of Battle” or any order of similar nature, official or otherwise, from a superior officer or a public authority causing the commission of enforced or involuntary disappearance is unlawful and cannot be invoked as a justifying or exempting circumstance. Any person receiving such an order shall have the right to disobey it.

**SEC. 6. Right of Access to Communication.** – It shall be the absolute right of any person deprived of liberty to have immediate access to any form of communication available in order for him or her to inform his or her family, relative, friend, lawyer or any human rights organization on his or her whereabouts and condition.

**SEC. 7. Duty to Report Victims of Enforced or Involuntary Disappearance.** – Any person, not being a principal, accomplice or accessory, who has an information of a case of enforced or involuntary disappearance or who shall learn of such information or that a person is a victim of enforced or involuntary disappearance, shall immediately report in writing the circumstances and whereabouts of the victim to any office, detachment or division of the Department of the Interior and Local Government (DILG), the Department of National Defense (DND), the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP), the National Bureau of Investigation (NBI), the City or Provincial Prosecutor, the Commission on Human Rights (CHR) or any human rights organization and, if known, the victim's family, relative, or lawyer.

**SEC. 8. Duty to Certify in Writing on the Results of Inquiry into a Reported Disappeared Person's Whereabouts.** –In case a family member, relative, lawyer, representative of a human rights organization or a member of the media inquires with a member or official of any police or military detention center, the PNP or any of its agencies, the AFP or any of its agencies, the NBI or any other agency or instrumentality of the government, as well as any hospital or morgue, public or private, on the presence or whereabouts of a reported victim of enforced or involuntary disappearance, such member or official shall immediately issue a certification in writing to the inquiring person or entity on the presence or absence and/or information on the whereabouts of such disappeared person, stating, among others, in clear and unequivocal manner the date and time of inquiry, details of the inquiry and the response to the inquiry.

**SEC. 9. Duty of Inquest/Investigating Public Prosecutor or any Judicial or Quasi-Judicial Official or Employee.** –Any inquest or investigating public prosecutor, or any judicial or quasi-judicial official or employee who learns that the person delivered for inquest or preliminary investigation or for any other judicial process is a victim of enforced or involuntary disappearance shall have the duty to immediately disclose the victim's whereabouts to his or her immediate family, relatives, lawyer/s or to a human rights organization by the most expedient means.

**SEC. 10. Official Up-to-Date Register of All Persons Detained or Confined.** - All persons detained or confined shall be placed solely in officially recognized and controlled places of detention or confinement where an official up-to-date register of such persons shall be maintained. Relatives, lawyers, judges, official bodies and all persons who have legitimate interest in the whereabouts and condition of the persons deprived of liberty shall have free access to the register.

The following details, among others, shall be recorded, in the register:

- (a) The identity or name, description and address of the person deprived of liberty;
- (b) The date, time and location where the person was deprived of liberty and the identity of the person who made such deprivation of liberty;

(c) The authority who decided the deprivation of liberty and the reasons for the deprivation of liberty or the crime or offense committed;

(d) The authority controlling the deprivation of liberty;

(e) The place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty;

(f) Records of physical, mental and psychological condition of the detained or confined person before and after the deprivation of liberty and the name and address of the physician who examined him or her physically, mentally and medically;

(g) The date and time of release or transfer of the detained or confined person to another place of detention, the destination and the authority responsible for the transfer;

(h) The date and time of each removal of the detained or confined person from his or her cell, the reason or purpose for such removal and the date and time of his or her return to his or her cell;

(i) A summary of the physical, mental and medical findings of the detained or confined person after each interrogation;

(j) The names and addresses of the persons who visit the detained or confined person and the date and time of such visits and the date and time of each departure;

(k) In the event of death during the deprivation of liberty, the identity, the circumstances and cause of death of the victim as well as the destination of the human remains; and

(1) All other important events bearing on and all relevant details regarding the treatment of the detained or confined person.

*Provided, That the details required under letters (a) to (f) shall be entered immediately in the register upon arrest and/or detention.*

All information contained in the register shall be regularly or upon request reported to the CHR or any other agency of government tasked to monitor and protect human rights and shall be made available to the public.

**SEC. 11. Submission of List of Government Detention Facilities.** –Within six (6) months from the effectivity of this Act and as may be requested by the CHR thereafter, all government agencies concerned shall submit an updated inventory or list of all officially

recognized and controlled detention or confinement facilities, and the list of detainees or persons deprived of liberty under their respective jurisdictions to the CHR.

**SEC. 12. Immediate Issuance and Compliance of the Writs of Habeas Corpus, Amparo and Habeas Data.** - All proceedings pertaining to the issuance of the writs of *habeas corpus*, *amparo* and *habeas data* shall be dispensed with expeditiously. As such, all courts and other concerned agencies of government shall give priority to such proceedings.

Moreover, any order issued or promulgated pursuant to such writs or their respective proceedings shall be executed and complied with immediately.

**SEC. 13. Visitation /Inspection of Places of Detention and, Confinement.** -The CHR or its duly authorized representatives are hereby mandated and authorized to conduct regular, independent, unannounced and unrestricted visits to or inspection of all places of detention and confinement.

**SEC. 14. Liability of Commanding Officer or Superior.** - The immediate commanding officer of the unit concerned of the AFP or the immediate senior official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of enforced or involuntary disappearance for acts committed by him or her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his or her subordinates. If such commanding officer has knowledge of or, owing to the circumstances at the time, should have known that an enforced or involuntary disappearance is being committed, or has been committed by subordinates or by others within the officer's area of responsibility and, despite such knowledge, did not take preventive or coercive action either before, during or immediately after its commission, when he or she has the authority to prevent or investigate allegations of enforced or involuntary disappearance but failed to prevent or investigate such allegations, whether deliberately or due to negligence, shall also be held liable as principal.

**SEC. 15. Penal Provisions.** - (a) The penalty of *reclusion perpetua* and its accessory penalties shall be imposed upon the following persons:

- (1) Those who directly committed the act of enforced or involuntary disappearance;
- (2) Those who directly forced, instigated, encouraged or induced others to commit the act of enforced or involuntary disappearance;
- (3) Those who cooperated in the act of enforced or involuntary disappearance by committing another act without which the act of enforced or involuntary disappearance would not have been consummated;
- (4) Those officials who allowed the act or abetted in the consummation of enforced or involuntary disappearance when it is within their power to stop or uncover the commission thereof; and

(5) Those who cooperated in the execution of the act of enforced or involuntary disappearance by previous or simultaneous acts.

(b) The penalty of *reclusion temporal* and its accessory penalties shall be imposed upon those who shall commit the act of enforced or involuntary disappearance in the attempted stage as provided for and defined under Article 6 of the Revised Penal Code.

(c) The penalty of *reclusion temporal* and its accessory penalties shall also be imposed upon persons who, having knowledge of the act of enforced or involuntary disappearance 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 effects of the act of enforced or involuntary disappearance;

(2) By concealing the act of enforced or involuntary disappearance and/or destroying the effects or instruments thereof in order to prevent its discovery; or

(3) By harboring, concealing or assisting in the escape of the principal/s in the act of enforced or involuntary disappearance, provided such accessory acts are done with the abuse of official functions.

(d) The penalty of *prision correctional* and its accessory penalties shall be imposed against persons who defy, ignore or unduly delay compliance with any order duly issued or promulgated pursuant to the writs of *habeas corpus*, *amparo* and *habeas data* or their respective proceedings.

(e) The penalty of *arresto mayor* and its accessory penalties shall be imposed against any person who shall violate the provisions of Sections 6, 7, 8, 9 and 10 of this Act.

**SEC. 16. Preventive Suspension/Summary Dismissal.** –Government officials and personnel who are found to be perpetrators of or participants in any manner in the commission of enforced or involuntary disappearance as a result of a preliminary investigation conducted for that purpose shall be preventively suspended or summarily dismissed from the service, depending on the strength of the evidence so presented and gathered in the said preliminary investigation or as may be recommended by the investigating authority.

**SEC. 17. Civil Liability.** –The act of enforced or involuntary disappearance shall render its perpetrators and the State agencies which organized, acquiesced in or tolerated such disappearance liable under civil law.

**SEC. 18. Independent Liability.** –The criminal liability of the offender under this Act shall be independent of or without prejudice to the prosecution and conviction of the said offender for any violation of Republic Act No. 7438, otherwise known as “An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the

Duties of the Arresting, Detaining, and Investigating Officers, and Providing Penalties for Violations Thereof; Republic Act No. 9745, otherwise known as "An Act Penalizing Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, and Prescribing Penalties Therefor"; and applicable provisions of the Revised Penal Code.

**SEC. 19. *Nonexclusivity or Double Jeopardy Under International Law.*** - Any investigation, trial and decision in any Philippines court, or body for any violation of this Act shall be without prejudice to any investigation, trial, decision or any other legal or administrative process before any appropriate international court or agency under applicable international human rights and humanitarian law.

**SEC. 20. *Exemption from Prosecution.*** - Any offender who volunteers information that leads to the discovery of the victim of enforced or involuntary disappearance or the prosecution of the offenders without the victim being found shall be exempt from any criminal and/or civil liability under this Act: *Provided*, That said offender does not appear to be the most guilty.

**SEC. 21. *Continuing Offense.*** - An act constituting enforced or involuntary disappearance shall be considered a continuing offense as long as the perpetrators continue to conceal the fate and whereabouts of the disappeared person and such circumstances have not been determined with certainty.

**SEC. 22. *Statute of Limitations Exemption.*** - The prosecution of persons responsible for enforced or involuntary disappearance shall not prescribe unless the victim surfaces alive. In which case, the prescriptive period shall be twenty-five (25) years from the date of such reappearance.

**SEC. 23. *Special Amnesty Law Exclusion.*** - Persons who are charged with and/or guilty of the act of enforced or involuntary disappearance shall not benefit from any special amnesty law or other similar executive measures that shall exempt them from any penal proceedings or sanctions.

**SEC. 24. *State Protection*** - The State, through its appropriate agencies, shall ensure the safety of all persons involved in the search, investigation and prosecution of enforced or involuntary disappearance including, but not limited to, the victims, their families, complainants, witnesses, legal counsel and representatives of human rights organizations and media. They shall likewise be protected from any intimidation or reprisal.

**SEC. 25. *Applicability of Refouler.*** - No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to enforced or involuntary disappearance. For purposes of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the Department of Justice (DOJ) in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

**SEC. 26. Restitution and Compensation to Victims of Enforced or Involuntary Disappearance and/or Their Immediate Relatives.** –The victims of enforced or involuntary disappearance who surface alive shall be entitled to monetary compensation, rehabilitation and restitution of honor and reputation. Such restitution of honor and reputation shall include immediate expunging or rectification of any derogatory record, information or public declaration/statement on his or her person, personal circumstances, status, and/or organizational affiliation by the appropriate government or private agency or agencies concerned.

The immediate relatives of a victim of enforced or involuntary disappearance, within the fourth civil degree of consanguinity or affinity, may also claim for compensation as provided for under Republic Act No. 7309, entitled “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.

The package of indemnification for both the victims and the immediate relatives within the fourth civil degree of consanguinity or affinity shall be without prejudice to other legal remedies that may be available to them.

**SEC. 27. Rehabilitation of Victims and/or Their Immediate Relatives, and Offenders.** –

In order that the victims of enforced or involuntary disappearance who surfaced alive and/or their immediate relatives within the fourth civil degree of consanguinity or affinity, may be effectively reintegrated into the mainstream of society and in the process of development, the State, through the CHR, in coordination with the Department of Health, the Department of Social Welfare and Development (DSWD) and the concerned nongovernment organization/s, shall provide them with appropriate medical care and rehabilitation free of charge.

Toward the attainment of restorative justice, a parallel rehabilitation program for persons who have committed enforced or involuntary disappearance shall likewise be implemented without cost to such offenders.

**SEC. 28. Implementing Rules and Regulations.** – Within thirty (30) days from the effectivity of this Act, the DOJ, the DSWD, the CHR, the Families of Victims of Involuntary Disappearance (FIND) and the Families of *Desaparecidos* for Justice (*Desaparecidos*), in consultation with other 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. 29. Suppletory Applications.** – The applicable provisions of the Revised Penal Code shall have suppletory application insofar as they are consistent with the provisions of this Act.

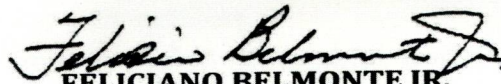
**SEC. 30. Appropriations.** -The amount of Ten million pesos (P10,000,000.00) is hereby appropriated for the initial implementation of this Act by the CHR. Subsequent funds for the continuing implementation of this Act shall be included in the respective budgets of the CHR and the DOJ in the annual General Appropriations Act.

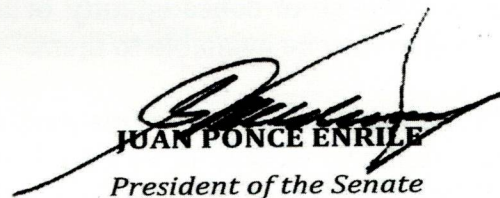
**SEC. 31. Separability Clause.** -If for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

**SEC. 32. 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.

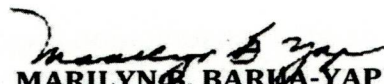
**SEC. 33. Effectivity Clause.** - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the *Official Gazette*, which shall not be later than seven (7) days after the approval thereof.

Approved,

  
**FELICIANO BELMONTE JR.**  
*Speaker of the House  
of Representatives*

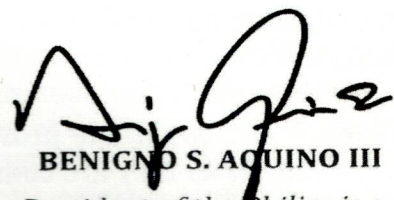
  
**JUAN PONCE ENRILE**  
*President of the Senate*

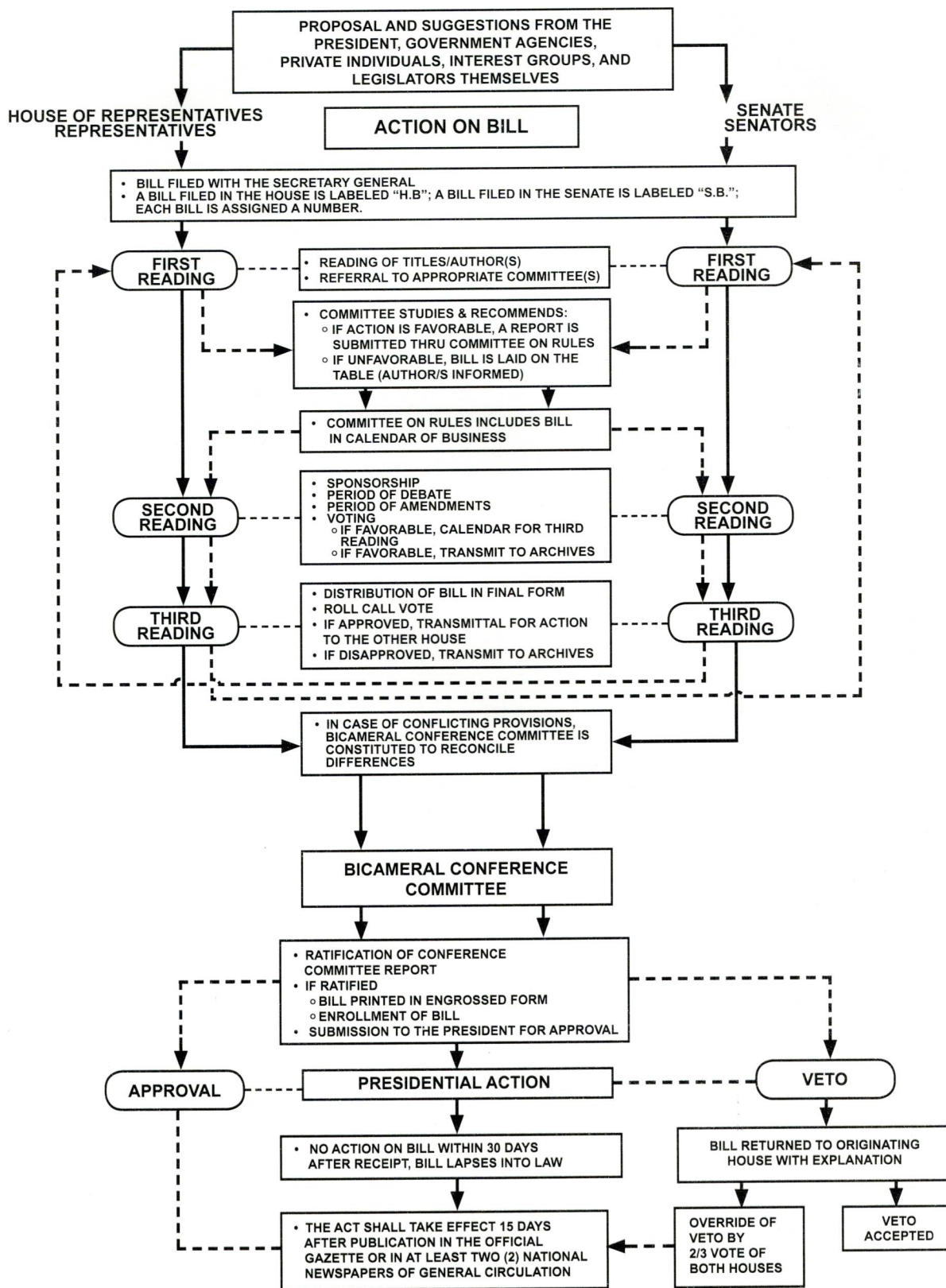
This Act which is a consolidation of Senate Bill No. 2817 and House Bill No. 98 was finally passed by the Senate and the House of Representatives on October 16, 2012.

  
**MARILYN S. BARUA-YAP**  
*Secretary General  
House of Representatives*

  
**EMMALIRIO REYES**  
*Secretary of the Senate*

Approved: DEC 21 2012

  
**BENIGNO S. AQUINO III**  
*President of the Philippines*



# THE LEGISLATIVE PROCESS

# Fully Implement RA No. 10353

The Anti-Enforced Disappearance Act of 2012

## Sign & Accede to the Convention

The International Convention for the Protection  
of All Persons from Enforced Disappearance



