

**FORUM-WORKSHOP ON
“EFFECTIVE IMPLEMENTATION OF REPUBLIC ACT NO. 10353: A COLLECTIVE ENDEAVOR”**

PROCEEDINGS

Some 176 representatives from government and non-government sectors gathered for the **Forum-Workshop on “Effective Implementation of Republic Act No. 10353: A Collective Endeavor”** on March 6, 2013 at the GT Toyota Auditorium of the University of the Philippines Asian Center (UP-AC) in Diliman, Quezon City. Jointly organized by the Asian Federation Against Involuntary Disappearances (AFAD), Families of Victims of Involuntary Disappearance (FIND), and the International Coalition Against Enforced Disappearances (ICAED), the forum-workshop was supported by the Embassy of Canada in the Philippines, and co-hosted by the UP Asian Center.

As aptly reflected in the forum theme, the prospects of Republic Act (R.A.) 10353 otherwise known as “An Act Defining and Penalizing Enforced or Involuntary Disappearance” in combating impunity will be significantly realized through a strong political will and the concerted efforts of relevant stakeholders.

Of the 176 participants: 47 were family members and relatives of the disappeared; 12 were from embassies and diplomatic community; 39 from relevant government offices from the executive, legislative and judicial branches; 18 from the academe; 7 representatives from media organizations; and, 53 were individual advocates, and members of sectoral, professional and civil society organizations (CSOs), particularly the members of the local Coalition Against Enforced Disappearances (CAED) and the Philippine Alliance of Human Rights Advocates (PAHRA) working on human rights and related issues.

The Anti-Enforced Disappearance Act of 2012, in itself a major leap in human rights legislation, is hoped to facilitate the Philippines' signing and accession to the International Convention for the Protection of All Persons from Enforced Disappearance (Convention) to complement and reinforce the domestic protection mechanisms.

R.A. 10353 is a product of 16 long years of a hard-fought struggle of human rights advocates and families of the disappeared. The first of its kind in Asia, the Philippine domestic law was signed on December 21, 2012; while its Implementing Rules and Regulations (IRR) were promulgated on February 12, 2013.

The activity formed part of the efforts to disseminate to various stakeholders and to the general public the issue of enforced disappearance and the value of the special penal law to address it.

In particular, the forum-workshop aimed to: serve as a venue for public discourse on the provisions and prospects of RA 10353; educate the various sectors especially the government, security forces, civil society organizations on the opportunities and remedies provided by the law; gain strong political support from various sectors for the dissemination and implementation of bill and eventual prevention of the crime of enforced disappearance; and, underscore the complementary significance of both the domestic law and the Convention in fighting impunity.

PRELIMINARIES

During the registration, speakers, participants and guests were provided with various information materials including a Primer on the Convention, published by AFAD and a Primer on the Law, published by FIND. Some audio-visual materials, such as the documentary film on the PICOP 6 case entitled “Unsilenced” and AFAD’s MTV entitled “Desaparecidos”, were shown. The program commenced with an invocation and singing of the Philippine National Anthem. For the invocation, Mr. Armando Paragat read the Prayer for *Desaparecidos* written by Mrs. Cecilia Castellar Lagman, a mother of a disappeared and a founding member of the FIND.

WELCOME MESSAGES

HIS EXCELLENCY CHRISTOPHER THORNLEY Ambassador of Canada to the Philippines

In his welcome remarks, Ambassador Thornley shared that a previous partnership between the Embassy of Canada and the AFAD, in 2009, involved a forum on what was then the bill penalizing the crime of enforced or involuntary disappearances in the Philippines. He commended the tireless work by Filipino civil society in seeing through the passage of the anti-enforced disappearance law, which is now the focus of today’s forum.

According to Ambassador Thornley, the enactment of RA 10353 is a step in the right direction but there is still much to be done. He pointed out that despite the efforts by government and civil society, enforced disappearance continues to violate a range of rights, including the right to security and the right to a fair trial throughout the world. He stressed that the phenomenon of disappearance is not only a question of human rights, but of the rule of law as well. He cited the critical elements of combating impunity and guaranteeing the rights of victims and their families.

He mentioned that Canada was pleased to see the establishment of the government inter-agency committee on extra-judicial killings and other human rights abuses by President Aquino. He, therefore, assured that Canada will follow with great interest the upcoming steps, including the work of the inter-agency in addressing this troubling reality. He reiterated that the Government of Canada is supportive to any and all efforts in this regard.

While saying that the Canadian Embassy is honored to support the forum, he likewise thanked the organizers and hosts and commended the work of those who fight for justice and defend human rights. He further hoped that the forum will be a valuable tool in raising broader awareness on enforced disappeared and allied issues as the Philippines continues its efforts to advance the rule of law, governance and transparency.

DR. CAROLYN I. SOBRITCHEA
Dean, University of the Philippines Asian Center

Dean Sobritchea welcomed the guests and participants to the grounds of the University of the Philippines, many of whose constituencies have been hapless victims and survivors of state misuse, and abuse of civil liberties and human rights. She congratulated the organizers for the long years of struggle and effort of documenting cases of forced disappearances and the expressions of impunity and of relentless advocacy work to have a law passed that penalizes enforced disappearance.

She personally shared the joy in finally getting a law passed, similar to the recently enacted Reproductive Health Law. She reiterated her gratitude to Rep. Edcel C. Lagman and all the lawmakers who bravely and brilliantly parried the many moves to railroad the passage of the anti-disappearance law. She however cited that the passage is only the beginning of the work and that the greater challenge is to put flesh and blood, to operationalize, and to implement with due diligence, the provisions of the law.

According to Dean Sobritchea, for this law to have its most positive impact on our people, especially those who are most at risk and vulnerable to the misuse of state power, it is important to now look into all the programs and services of various implementing agencies, whose representatives will be speaking on how to move the law forward. She particularly noted that UP students, who are nurtured by the University to become critical thinkers are some of those who are at risk to the misuse or abuse of the state.

Dean Sobritchea likewise called on her colleagues in academe and civil society organizations for continued vigilance in monitoring the implementation of the law and in ensuring that state obligations to respect, protect and promote the rights of all persons—male and female, young and old, rich and poor—are fulfilled, even as they also have to ensure their critical engagement with all stakeholders in the most ethical, respectful and responsible manner.

KEYNOTE SPEECH
Hon. Edcel C. Lagman

Rep. Lagman gave a brief historical background of the RA 10353. He highlighted that the passage of Republic Act No. 9372 or the “Human Security Act of 2007” was vigorously protested by human rights advocates who feared that its implementation would open the floodgates to unrestrained human rights violations. In this regard, efforts to balance the simultaneous protection of national security and of human rights were carried out. Part of this was his motion to make the enforced or

involuntary disappearance bill a companion measure of the anti-terror bill to buttress the safeguards against the feared human rights violations.

His 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.

He shared that after sixteen long years that spanned six Congresses, the domestic law survived 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 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. He considered these as two important strides toward the law's effective implementation.

Rep. Lagman thanked the IRR drafters as well as Justice Secretary Leila de Lima for promptly convening the IRR Committee and Undersecretary Leah Armamento for having steered and continuing to steer the Committee smoothly. He was pleased 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. According to Rep. Lagman he was 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. He also commended AFAD and FIND for organizing the very first forum on the law and its IRR.

Rep. Lagman noted that 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. 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.

In discussing the objectives of R.A. 10353, Rep. Lagman said the following:

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 persons, by our subordinates, we can be held equally liable.

Rep. Lagman's speech also touched on the guiding principles of the Anti-Enforced Disappearance Law from relevant sections of Articles 2 and 3- Bill of Rights of the Philippine Constitution, and Articles 1, 1(2) and 24 (2) of the International Convention.

Moreover, he cited the following item from the United Nations Working Group on Enforced or Involuntary Disappearances' General Comment on Enforced Disappearance as a Continuing Crime as another guiding principle: "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."

Equally important, he enumerated the following salient provisions of the law:

- 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

He further stated the following:

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

Rep. Lagman called on everyone to uphold human dignity and the rule of law; and keep our nation whole and one, including in the implementation of laws. He reiterated the forum’s fitting theme that the effective implementation of R.A. 10353 is a collective endeavor.

Finally, he held that forthcoming election is an opportune time 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”.

HON. LEILA DE LIMA
Secretary, Department of Justice (DOJ)

In her presentation Sec. De Lima dwelled on the **Prosecution of the Crime of Enforced Disappearance**, which, she noted would be guided by the law which understands disappearance as a continuing crime. Sec. De Lima welcomed the domestic legal framework as a defining moment for families of the disappeared and their support system in their search for truth and justice although the reparations of a legal framework are still not commensurate to the loss and pain. She commended the unwavering dedication and passion of advocates like Rep. Edcel Lagman, for various milestones in human rights legislation. She added that the sacrifices of thousands of families and victims, with their courage, inspire us.

The Justice Secretary said the role of the DOJ, particularly the National Prosecution Service, is exhausted in the law and its IRR. It also provides for additional duties for our prosecutors. She cited significant innovations of the law and the IRR. In particular, Sec. 9 of the law and Sec.10 of the IRR provides for the duty of prosecutors to disclose the probable whereabouts of victims of enforced disappearance to his relatives, CHR, relatives’ organizations, particularly FIND and DESAPARECIDOS. She added that failure to do the same has its corresponding sanctions such as preventive suspension.

Secretary De Lima said that it is now easier for her agency to prosecute offenders with the presence of a legal framework which labels the offense as a continuing crime. She further noted that the DOJ is compiling a list of victims and identifying old cases that can be pursued.

She requested the leaders of the CHR, FIND and DESAPARECIDOS to develop a mechanism to facilitate the dissemination of list of victims to give prosecutors and judicial and quasi-judicial ample information for the prosecution.

She added that the penalties for violating the provisions of the law were intended to be harsh to effectively deter the occurrence of enforced disappearances. The law provides a punishment of *reclusion perpetua* for accused persons alleged to be the principal offenders, which includes those who have profited from the enforced disappearance. The penalties defined in the law makes it deterrent to counter the evils of impunity. On the other hand, the law also provides that both the victim and his or her family may file a claim for compensation.

Sec. De Lima further mentioned that the law allows a development in the manner in which DOJ is pursuing its functions. She said the Administrative Order (AO) No. 35, which was signed in November 2012, created an inter-agency committee on extra-legal killings, enforced disappearance and other grave human rights abuses.

She also noted that the DOJ hopes to identify priority cases which can be opened and cases under preliminary investigation and trial with strong prospects for successful prosecution. Under the mechanisms, an investigative environment will benefit the leadership of prosecutor sector to ensure successful and airtight success rates in the prosecution. She introduced a paradigm shift to transcend beyond the traditional role to conduct preliminary investigation.

In closing, Sec. De Lima called on everyone to be instruments of peace and justice.

**HON. CECILIA R.V. QUISUMBING,
Commissioner, Commission on Human Rights (CHR)**

Commissioner Quisumbing discussed on the **Role of the Commission on Human Rights Role of the Commission in the Implementation of R.A. 10353**. She cited that a human rights based-approach to justice focuses not only on identifying and punishing/disciplining the perpetrator but also on helping victims and their families receive assistance, compensation, rehabilitation and reparation.

She stated that R.A. 10353 develops the role and authority of the CHR with respect to enforced disappearance but does not replace nor limit the Constitutional mandate and powers of the CHR. Under this act, the CHR has a role in the following areas: monitoring of detention center (Sec.11); visitation /inspection of places of

detention/confinement (Sec.13); issuance of Writs of *Habeas Corpus*, *Amparo* and *Habeas Data* (Sec.12); criminal justice process; provide evidence and advice state protection (Sec.24); lead in the development of rehabilitation and medical program, in coordination with DOH, DSWD, and NGOs (Sec. 27); work with the DSWD and DOH in the provision of appropriate medical care and rehabilitation to victims and families and restorative justice to offenders; and, IRR (Sec.28). She informed the body that law provides an initial appropriation of PhP10M for the CHR, while subsequent budget for the law's implementation will be covered in the General Appropriations Act (GAA).

She cited the need for CHR to safeguard gender responsiveness and give attention to vulnerable and marginalized sectors, including indigenous peoples, in the implementation of the anti-disappearance law. She, however, pointed out the following weaknesses in the law and the IRR. One, it does not recognize that sometimes the perpetrators are non-state actors, including security forces of private companies. Two, it needs to have requirement of reporting and right of communication every time the disappeared is moved with corresponding criminal liability for violations. Three, it does not mandate legal obligation for the Budget Department and Congress to ensure sustained funds for the CHR to fulfill its heavy role in the implementation of the law.

Comm. Quisumbing also drew attention to relevant provisions of the *Human Rights Victims' Reparations and Recognition Act* as it defines enforced disappearance. She mentioned the CHR's role in the implementation of this law as the *Human Rights Victims Claims Board* will be attached to the CHR while the *Human, Rights Violations Victims' Memorial Commission* will be concurrently chaired by the CHR Chairperson and attached to the CHR for budgetary and administrative purposes.

According to Comm. Quisumbing, the passage of these two laws demonstrates the key role of lawmakers in human rights promotion and protection. As such, she reminded the need to responsibly use our voting rights to choose the congressmen, senators, local officials who will be in power to either protect or abuse our rights.

Finally, Comm. Quisumbing reiterated that with the enactment of the domestic law, the Philippines has made a legal history in the region that calls for the further development of international mechanisms. Toward this end, she called for continued advocacy for the President and the Senate to sign and ratify the International Convention, along with the efforts to train and educate people and agencies on these new laws. She emphasized that having a domestic law should not be an excuse to not ratify the treaty; but these mechanisms should be treated in complementary with each.

ATTY. DULFIE TOBIAS SHALIM
Director, Protective Services Bureau, DSWD

In discussing the **Reparative Remedies and State Protection for the Victims of Enforced Disappearance**, Dir. Shalim briefly presented the Programs and Services done in partnership with FIND which are covered under a Memorandum of Agreement (MOA) entered into by DSWD and FIND on December 22, 2012 for the implementation of comprehensive programs and services to the victims of enforced /involuntary disappearance covering regions III, V, VI, VII, VIII, IX, X, CARAGA and NCR. These comprehensive programs and services include: 1) Psycho-social rehabilitation Program, i.e. skills development training, art therapy, livelihood project, stress reduction workshops, welfare assistance; 2) Search Documentation and Exhumation; 3) Advocacy Training and Prevention; and, 4) Organizing and Education Program.

Too, Dir. Shalim enumerated DSWD's existing programs and services which can apply to victims of enforced disappearance.

The Community-based Programs and Services include preventive, rehabilitative, developmental programs and initiatives that mobilize/utilize the family and community to respond to specialized issues and concerns of those who are in need or at risk. Under this category, are (1) Preventive Programs which *promote protective and* developmental services; (2) Treatment and Recovery Programs which provide diagnostic evaluation and planning services including mental health, rehabilitation facilities for the emotionally disturbed or abused clients; and, (3) After Care program. In particular, the department maintains a Quick Response Team (QRT) through the Crisis Intervention Unit. This is composed of multidisciplinary team that provides 24-hour emergency services to victims such as: temporary shelter, counseling, psychotherapy for those severely traumatized, protective custody, immediate medical assistance, legal assistance and other support services.

There are also Center-based Programs and Services that provide alternative forms of family care, e.g. 24-hour residential care facilities on a temporary basis for individuals whose needs cannot be met by their families and relatives for a specified period of time. A treatment and rehabilitation program facilitates restoration, healing and recovery of the women and children from the trauma of neglect and other forms of abuse and exploitation through the provision of emergency shelter and basic needs, psychosocial counseling and other protective services.

She added that with the passage of R.A. 10353, the DSWD is mandated to develop a comprehensive rehabilitation program for the families, in close coordination with the CHR. Also, the DSWD is tasked to come up with projects and services appropriate for the needs of the victims.

Dir. Shalim shared that, so far, efforts of the Department are focused more on the involvement in the crafting of the recently signed IRR, and on developing program solely for the victims of enforced disappearance and which can be forwarded to the Department of Budget and Management (DBM) for funding. She further cited that consultations will be conducted for the stakeholders to collectively design responsive programs and interventions for the victims and their families.

REACTIONS

ATTY. RICARDO A. SUNGA III

Law Reform Specialist, UP Institute of Human Rights/ Law Center

As a background, Atty. Sunga cited the tireless efforts and significant participation of families' organization in the passage of the law and in the adoption of Convention. For this he congratulated the human rights community in the Philippines for the passage of the law and its IRR. He recalled that when he was doing his research on the Convention, he was proud to see the name of the Families of Victims of Involuntary Disappearance (FIND) in an official UN document on the adoption of the Convention. He recounted that the fact that organizations such as the FIND going all the way to another continent to lobby the adoption of a treaty that defines enforced disappearance and provides measures for protection against it is a testament to their commitment to end enforced disappearance. He emphasized that the Convention was thus a product not just of the legal minds of members of the United Nations but also a result of participation of victims and their families. In the same vein, human rights advocates and families' association work with human rights champions in the legislative chamber for the passage of the domestic law.

He proceeded to elaborate on relevant provisions of the law and on its IRR. He stated that an important clarification done by the IRR is to thresh out the definition of "victims". He held that while the anti-disappearance law limits the definition to the actual or direct victim of enforced disappearance, the law's IRR recognizes the second level of victims or the relatives of the disappeared within the 4th level of consanguinity and affinity. This is significant as it recognizes the community of harms that enforced disappearance causes and the losses suffered not just by the disappeared but by the family members.

Atty. Sunga noted another qualification made in the IRR, in that officially recognized detention centers or places of confinement refer to facilities created by law or by any court orders, administrative issuances or judicial orders. He explained that this definition is significant given the assumption that persons can only be detained in these officially recognized detention places and that detention in some other places is a violation of law.

On another note, Att. Sunga cited the IRR provision on non-exclusivity or double jeopardy. He qualified this by citing that investigations in any court for any violation of the law will not prejudice other processes before any international court or agency. The item on statute of limitations recognizes the serious nature of enforced disappearance.

MR. LOUIE G. CRISMO

Brother of Desaparecido – Romeo G. Crismo

A representative of relatives of *desaparecidos*, Mr. Crismo narrated the years of struggle of the families against disappearances and for the passage of a national legislation that will criminalize enforced or involuntary disappearance. He recounted the number of Congresses that worked on the bill as well as the various reconstitutions of FIND leadership all through those more than 16 years of struggle. He emphasized the preventive value of the law.

He noted that the Anti-Enforced or Involuntary Disappearance Act of 2012, aside from being the first law of its kind in Asia, is also a national legislation enacted by the Philippines before it ratified an International Convention. This, he associated, to have been accomplished through the persistent efforts in the human rights movement, especially the families of the disappeared, ably represented in Congress by the Honorable Congressman Edcel C. Lagman, and assisted by his Chief of Staff, Ms. Nilda Lagman Sevilla, Honorary Chairperson and Co-Chairperson, respectively, of the FIND.

He recalled that at least four persons close to him disappeared during the period 1980-2001. His brother and three close friends were among the more than 1,200 who were made to disappear from the Martial Law period. He however said he knows more victims of disappearance: mothers including his own, fathers, spouses, brothers, sisters, and other relatives, some of whom are in the audience.

He sometimes asks himself that had there been a law against disappearance, maybe these persons are still with their loved ones. On the other hand, he cited that there would not be a need for this law if there are no incidents of disappearances. He added that had there been a more conscious of the state and its agents to respect human rights, then there will be no cases of disappearance.

He reiterated relevant provisions of the law. He added that one of the most important rights provided for in the Convention is the right to know the truth which in turn is guaranteed in a number of provisions of the law. In particular, Sec. 6 provides that "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." Another provision, Sec. 9 states: "In case a family member, relative, lawyer, representative of a human rights organization or a member of the media inquiries 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."

He likewise pointed out the significance of Sections 7, 9 and 10 as these present opportunities to confirm or deny detention, and assert responsibility to respond to inquiries.

He also reiterated procedural safeguards guaranteed by the law. He cited such provision: "people deprived of liberty have to be kept in an official place, to be registered, to have all their movements registered. Most importantly everyone deprived of liberty must be allowed to contact with the outside world, especially to communicate with their family and counsel, and the family and counsel have a right to information on the detention and whereabouts of the person."

On penalties, he referred to what Sec. De Lima mentioned on the penalties for state perpetrators. He shared his reflection if he and his mother are still interested in convicting/providing sanction to the perpetrators involved in the disappearance of his brother, Romeo. For this case, he viewed that the preventive provisions are more valuable than the penalties for the crime of enforced or involuntary disappearance. He said that no amount of penalty or conviction can correspond to the value of life. He, however, claimed that he is not sure if these are the same sentiments of other families, hence he said he earlier he is not sure if he can represent the voice of other families.

He shared a college article of one of his children: "... I remember my uncle, whom I have never seen. He was abducted by armed men in the military during the Martial Law. Though I have never seen him and I never knew him, I feel the need to see him, and know him. Not knowing him or what was he like was a sad thing for me, and not finding him caused greater pain to my father and his other siblings who grew up with him, much more to my grandparents, who had raised and loved him much."

Mr. Crismo recognized that the penalties presented in the law serve as deterrent in the commission of enforced disappearance, but stressed that the most important impact of the law is that no other case of people subjected to enforced disappearance be added to the current list of victims. Finally, he stated that the challenge therefore is the effective implementation of the preventive provisions of the law. He also expressed the fervent hope that the state, and its agents, value the dignity of every human person and guarantee full respect of human rights as

provided for in the Declaration of Policy of this law. By that, no one will commit violation and no will be persecuted.

P/SUPT. HENRY Q. LIBAY

Task Force Usig, Philippine National Police (PNP)

P/Supt. Libay presented on the investigative role of the Philippine National Police (PNP) as an important requirement for prosecution. He commented that the passage of RA 10353 is a major breakthrough in the Philippine government's fight against enforced disappearance and that the PNP is optimistic that the fight against this crime and its violators shall be strengthened. At first glance, he said, it appears that the law is solely for the benefit of the public, especially the victims and their families. On the other hand, the law will address previous difficulty of categorizing enforced disappearance cases under serious illegal detention, kidnapping or other crimes.

He briefly ran down on definition of terms as prescribed by the law on ED, agents of the state, victim of enforced disappearance. He stressed on the provision 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.

He noted the following duties of the PNP in relation to other agencies as mandated by the law: to allow a person deprived of liberty to have access to any form of communication available; to certify in writing on the results of inquiry as to the whereabouts of the reported victim of ED; to detain or confine an arrested person solely in officially recognized and controlled places of detention or confinement; to maintain an official up-to-date register of all persons detained or confined; to give priority to all proceedings pertaining to the issuance of the Writs of *Habeas Corpus*, *Amparo* and *Habeas Data*; to allow and assist the CHR or its duly authorized representatives to conduct visits or inspection to all of PNP's places of detention and confinement; and, to take preventive or coercive action to prevent or investigate allegations of enforced disappearance.

He also drew attention to the heavy sanction of the law against the PNP. For instance, Sec. 16 warrants that police personnel may already be preventively suspended or summarily dismissed from the service even at the preliminary investigation stage. He, however, assured that the PNP shall faithfully enforce and abide by the provisions of RA 10353. He cited too that the PNP shall double its effort to prevent and investigate incidents of enforced disappearance in order to give justice to its victims and relatives and to put behind bars the people who perpetrated said ED.

P/Supt. Libay further conveyed the PNP's request for the assistance and support of the community in its efforts to prevent and investigate cases of enforced disappearance. This may be done through reporting to the PNP and providing all pertinent and vital information relative to the incident for appropriate action. He concluded that if the PNP and the community will actively and closely work together, justice will be given to the victims of enforced disappearance and their family.

OPEN FORUM

On the period of time for cases to be decided upon

Mr. Oscar Empeno, father of disappeared student activist Karen Empeno, asked if the law and IRR are retroactive and how long will the process take before a decision on a case can be reached. Rep. Lagman reiterated that the law treats the crime as continuing until the whereabouts of the disappeared have disclosed or established, hence, the crime does not have a prescription period. On the second point, Rep. Lagman said it is now up to the prosecutors but he hoped that the presence of the law and the vigilance of various stakeholders will contribute in ensuring swift and impartial decision of cases.

On prospect of a preventive law for attaining justice and closure for victims and families

Atty. Jaime Arroyo from the Government of the Philippines-Monitoring Committee (GPH-MC) commented that the law is largely preventive rather than remedial. He raised the question on how the law will help families of the disappeared in attaining justice and closure. Mr. Crismo stated that for someone who has lost his brother in 1985, the yet prospect of succeeding on the case is not really certain but what is certain is the prospect of opening the case and providing evidence. Mr. Joey Faustino, of FIND, added that having more witnesses and evidences will be crucial so that perpetrators can still be tried.

On the prospect of convictions

A representative from the European Union's EPJUST Project pointed to the experience of the Anti-Torture Act of 2009, in which not one case has yet been prosecuted. Comm. Quisumbing agreed that, since the enactment of the anti-torture law, there were no convictions yet. She however hoped that more judges will undertake applications of the anti-disappearance law as its provisions are easy to comprehend. She added that it will also depend on the clamor of stakeholders for the roles of the Department of Justice and the judiciary to be effectively carried out.

WORKSHOP SESSIONS

The participants, in two workshop groups, discussed three main topics in relation to the implementation of the law. One group discussed about INVESTIGATION and the other discussed about PROSECUTION and REHABILITATION. Both workshop groups were composed of various stakeholders, e.g. representatives of government agencies, civil society organizations and different sectoral organizations. Based on their respective mandates, representatives from various government agencies reiterated the roles of their agencies/units in the implementation of the law. Workshop participants also discussed possible difficulties and challenges in carrying out the provisions of the law. Finally, the groups laid out concrete and doable actions that respective offices or organizations can offer to facilitate the implementation of the new law. Results of the workshop discussions were presented in the plenary by a rapporteur from each group and are summarized in **Annex 5**.

SYNTHESIS AND CLOSING REMARKS

Mary Aileen D. Bacalso

Secretary General, AFAD and Focal Person, ICAED

Ms. Bacalso stated that the organizers, FIND, AFAD and ICAED were fortunate to have the support of the Embassy of Canada and the UP Asian Center in their common vision of attaining a Philippines without *desaparecidos* and a world without *desaparecidos*. Moreover, she said, it was fortunate that speakers, most of whom are champions for the cause of the disappeared, graced the event.

She summed up the substance of presentations into the following:

- The phenomenon of enforced disappearance in our country is real and is still happening. The multiple violations of human rights committed in an enforced disappearance case and the consequent pain to the disappeared and their families necessitate a distinct law penalizing enforced disappearances, which is now for implementation.
- The R.A. 10503 or Anti-Enforced Disappearance Act of 2012 was enacted as a product of the painstaking efforts of families and civil society organizations and of course, the indefatigable effort of the authors and supporters in the government.
- This is a separate law that encompasses all elements of enforced disappearances as mandated by the Convention, e.g. deprivation of liberty; state perpetrated; refusal to acknowledge deprivation of liberty or to disclose the fate and whereabouts of the victims.
- The law was enacted for the purpose of imposition of sanctions and also for prevention, restitution of honor; rehabilitation; and compensation and other relief assistance.

- The law is comprehensive in the sense that it addresses the sufferings of the victims; the criminality of perpetrators; State's responsibility to break the rule of law.
- The law's IRR, which was signed on February 12, 2013, used as bases the principles enshrined in the Philippine Constitution, the Convention, other relevant international instruments, and true-to-life experiences of the families of the disappeared.

According to Ms. Bacalso, after the 16-year struggle and the conduct of this first forum, many steps remain to be hurdled to ensure full implementation of the law. One huge step is for the Philippines to once and for all, sign and ratify the Convention and to recognize the competence of the United Nations Committee on Enforced Disappearance (UN CED). In so doing, she said, not only shall we realize the vision of a Philippines without *desparecidos*, but also the dream of a world without *desaparecidos*.

Finally, she thanked all the sponsors, speakers and participants of this forum for contributing to the success of the event.

FORUM-WORKSHOP ON
“EFFECTIVE IMPLEMENTATION OF REPUBLIC ACT NO. 10353: A COLLECTIVE ENDEAVOR”

ANNEXURES

Annex 1 – Program

Annex 2 – List of Participating Organizations

Annex 3 – Short Profile of Speakers

Annex 4 – Workshop Results

Annex 5 – Joint Statement

Annex 6 – Media Outputs

Annex 7 – Activity Photos

ANNEX 1.

**FORUM-WORKSHOP ON
EFFECTIVE IMPLEMENTATION OF RA 10353: A COLLECTIVE ENDEAVOR
GT Toyota Auditorium, Asian Center, University of the Philippines, Diliman, Quezon City
6 March 2013 – 9:00 am-4:00 pm**

PROGRAM

REGISTRATION/ VIDEO SHOWING

PRELIMINARIES

- Invocation
- Philippine National Anthem

WELCOME REMARKS

His Excellency Christopher E. Thornley
Ambassador of Canada to the Philippines

Dr. Carolyn I. Sobritchea
Dean, UP Asian Center

KEYNOTE SPEECH

R.A. 10353, The Anti-Enforced Disappearance Law of 2012

Hon. Representative Edcel C. Lagman
Principal Author, R.A. 10353

Prosecution of the Crime of Enforced Disappearance

Hon. Secretary Leila M. de Lima
Department of Justice

CULTURAL PRESENTATION: Ms. Bayang Barrios and Ms. Cooky Chua

**The Role of National Human Rights Institution in the
Implementation of R.A. 10353**

Hon. Commissioner Cecilia Rachel V. Quisumbing
Commission on Human Rights

**Reparative Remedies and State Protection for the Victims of
Enforced Disappearance**

Atty. Dulfie Tobias Shalim
*Protective Services Bureau, Department of Social
Welfare and Development (DSWD)*

REACTIONS

Atty. Ricardo A. Sunga III
*Law Reform Specialist, UP Institute of Human
Rights (UP-IHR)*

P/Supt. Henry Q. Libay
Task Force Usig, PNP

Mr. Louie G. Crismo
Brother of Desaparecido, Romeo G. Crismo

OPEN FORUM

WORKSHOP SESSION

Cultural Presentation: *Samahan ng mga Anak ng Desaparecidos (SAD)*

PLENARY SESSION

SYNTHESIS AND CLOSING REMARKS

Ms. Mary Aileen D. Bacalso
Secretary General, AFAD and Focal Person, ICAED

EMCEES

Mr. Jose Mari Faustino, *FIND* and Ms. Candy Diez, *AFAD*

ANNEX 2.

**FORUM-WORKSHOP ON
EFFECTIVE IMPLEMENTATION OF RA 10353: A COLLECTIVE ENDEAVOR**

LIST OF PARTICIPATING ORGANIZATIONS

Academe	CSO/NGO
Arellano University Pasig De La Salle University Political Science Department Geneva Academy Miriam College Women and Gender Institute (WAGI) Polytechnic University of the Philippines University of the Philippines Natural Sciences Research Institute (UP NSRI) – DNA Laboratory University of the Philippines Law Center Institute for the Administration of Justice University of the Philippines Asian Center	Asian Federation Against Involuntary Disappearances (AFAD) Families of Victims of Involuntary Disappearance (FIND) International Coalition Against Enforced Disappearances (ICAED) DESAPARECIDOS <i>Samahan ng mga Anak ng Desaparecidos</i> (SAD) Active Citizens’ Foundation (ACF) BALAY Rehabilitation Center Buklurang ng Manggagawang Pilipino (BMP) Claimants 1081 Coalition for the International Criminal Court –Asia Pacific Coalition of Services for the Elderly (COSE) Coconut Industry Reform Movement (COIR) Diocese of Novaliches HRD-P KAKAMMPI LENTE Medical Action Group (MAG) MSC Sisters Philippine Alliance of Human Rights Advocates (PAHRA) Philippine Coalition for the International Criminal Court Philippine Human Rights Information Center (PhilRIGHTS) Project Development Institute (PDI) SDK Foundation Task Force Detainees of the Philippines (TFDP)
Media	
ABS-CBN 2 JIJ PRESS MANILA TIMES PHILIPPINE DAILY INQUIRER UNTV VERA FILES	
Embassies/Diplomatic Offices	Government Offices
Embassy of Bangladesh Embassy of Canada Embassy of Japan Embassy of Spain Embassy of Switzerland Embassy of East Timor Embassy of United States of America European Union European Union-Philippines Justice Support Programmes (EP-JUST II)	Armed Forces of the Philippines Human Rights Office Commission on Human Rights (CHR) Department of Foreign Affairs (DFA) Department of Justice (DOJ) Department of Social Welfare and Development (DSWD) Government of the Philippines-Monitoring Committee (GPH-MC) House of Representatives (HOR) National Prosecution Service (NPS) Office of Political Affairs (OPA) Office of the Presidential Adviser on the Peace Process (OPAPP) Office of the President Presidential Human Rights Committee (PHRC) Philippine National Police (PNP) Regional Legislative Assembly- Autonomous Region of Muslim Mindanao (RLA-ARMM)

ANNEX 3.

FORUM-WORKSHOP ON EFFECTIVE IMPLEMENTATION OF RA 10353: A COLLECTIVE ENDEAVOR

SHORT PROFILE OF SPEAKERS

1. H.E. Christopher Thornley - *Ambassador of Canada to the Philippines*

Ambassador Christopher Thornley was appointed Ambassador of Canada to the Republic of the Philippines in August 2010. When he joined the Canadian Foreign Service, his first posting was to Stockholm and then as head of the Consulate of Canada in Dubai, United Arab Emirates. He has also served in numerous assignments, including as Deputy Director responsible for bilateral relations with India and as Director of the Southeast Asia and Pacific Division.

Prior to his current assignment, he was Director of Foreign Service Assignments in the Department of Foreign Affairs and International Trade. He has also served as a Director and Acting Director General in the Markets and Industry Services Branch of the Canadian Department of Agriculture.

2. Dr. Carolyn I. Sobritchea - *Dean, UP Asian Center*

Dean Carol Sobritchea is an internationally-recognized expert on gender issues in the Philippines. She is a professor of Philippine Studies and the current Dean of the UP Asian Center. She served as director of the Center for Women's Studies of the University of the Philippines (UP) System from 2000-2007 and has written and lectured extensively on reproductive health and development, migration and HIV/AIDS, women's human rights and gender and microfinance. She has also been invited as resource person in several United Nations committee meetings on women.

3. Hon. Edcel C. Lagman - *Representative, First District of Albay / Principal Author of RA 10353*

Human rights promotion and criminalizing enforced or involuntary disappearance are key advocacies of **Representative Edcel Lagman**, himself a brother of a *desaparecido*. Rep. Lagman, the principal author of the Anti-Disappearance Law of 2012, led the 16-year struggle of advocates and families of the disappeared to penalize this offense. This law together with the Anti-Torture Act of 2009 and the most recently passed Human Rights Victims Reparation and Recognition Act of 2013 comprise the trilogy of legislative human rights measures principally authored by Rep. Lagman. Another landmark law authored by Rep. Lagman is the abolition of the death penalty which took effect in 2006. Among his other principal advocacies are also in the realm of promotion and protection of peoples' rights particularly on rights of local and overseas workers, teachers, personnel, and students, consumers, as well as right to quality education, reproductive health.

He has received numerous awards for public service. As a member of the House of Representatives, he was consistently chosen Outstanding Congressman every year from 1987 to 1998 and 2004 to 2008.

4. Secretary Leila De Lima - Department of Justice (DOJ)

Sec. Leila De Lima took over the helm of the Department of Justice on July 2, 2010. Between 2008 and this current appointment, she was the Chairperson of the Commission on Human Rights. During her time as head of the CHR, she garnered numerous awards for her work. Among these is the 2010 Metrobank Foundation Professorial Chair for Public Service and Governance, which chose her “for her untarnished record as a renowned election lawyer and Chairperson of the Commission on Human Rights, and her dedication and commitment to public service and ethical leadership.” In her leadership of the Justice Department, she continues to earnestly advocate on behalf of human rights, even as she works unstintingly to end the prevailing culture of impunity, strengthen the rule of law, and bring true accountability to the country and to the people.

5. Commissioner Cecilia Rachel “Coco” V. Quisumbing - Commission on Human Rights (CHR)

Over the past two decades, **Commissioner Quisumbing** has leveraged her backgrounds in law, international affairs and journalism into a wide array of work, with an emphasis on social and development issues, human rights, and human security. Immediately prior to being appointed as Commissioner of the Commission on Human Rights of the Philippines, she was Executive Director of the Presidential Human Rights Committee, with a rank of Undersecretary. Though best-known as an anchor-person for CNBC-Asia, she has also worked as an advocate and project manager for organizations such as the World Health Organization, UNHCR, and Asian Development Bank.

6. Atty. Dulfie Tobias Shalim - Bureau Director, Protective Services Bureau Department of Social Welfare and Development (DSWD)

Director Shalim is a lawyer and a social worker who has been with the Department for the past 30 years. She is in charge of monitoring the nationwide implementation of all protection programs and services of the department.

7. Atty. Ricardo A. Sunga III, is a law reform specialist at the University of the Philippines Law Center. He is currently a Board Member and Regional Coordinator for the National Capital Region of the Free Legal Assistance Group (FLAG), an organization of human rights lawyers.

8. P/Supt. Henry Q. Libay is from the Task Force Usig of the Philippine National Police (PNP).

9. Mr. Louie G. Crismo, a brother of *desaparecido* Romeo G. Crismo, was the former Secretary General of FIND from 2001-2005. He now sits as a member of the FIND National Council. He works with the BALAY Rehabilitation Center as Program Officer for the Program for Survivors of Torture and Organized Violence in Open Community.

10. Ms. Mary Aileen D. Bacalso is the Secretary General of AFAD and sits concurrently as the Focal Person of the International Coalition Against Enforced Disappearances (ICAED).

ANNEX 4.

**FORUM-WORKSHOP ON EFFECTIVE IMPLEMENTATION OF RA 10353: A COLLECTIVE ENDEAVOR
WORKSHOP REPORTS**

WORKSHOP GROUP: INVESTIGATION/PROSECUTION

List of agencies/institutions/organizations represented: GPH-MC, PHRC, AFP, CHR

QUESTION 1: Based on your agency/institution/organization’s mandate, what do you think are your roles in the implementation of the Anti-Enforced Disappearance Law?

QUESTION 2: What do you see are possible difficulties and challenges in the implementation of the law?

QUESTION 3: What are possible doable plans that your cluster/agency/office can do particularly on the dissemination of the law as stipulated in Sec. 29 of the law?

AGENCY	ROLES/TASKS/FUNCTIONS based on mandate	Difficulties and Challenges	Common doable plans	Agency-level doable plans
GPHMC	GPHMC monitor HR violations as they occur in areas with armed conflict. But since there are cases that did not pass through CHR, DOJ or other institutions, maybe we can provide support mechanism in monitoring cases of enforced disappearance under the context of the implementation of the law. Proposed an information databank where information gathered by the organizations can be shared and cases can be validated.	Delay of information, response time	AO 35	Partnership with LGUs (trainors’ training) on the information dissemination on the grounds.
PHRC	Cross-validation of ED cases with CHR, FIND and Task Force USIG. Consolidation of cases and come up	The need for the cooperation with CSO.		Regular meetings, Case management or case build up conference.

AGENCY	ROLES/TASKS/FUNCTIONS based on mandate	Difficulties and Challenges	Common doable plans	Agency-level doable plans
	with a unified list of all victims. Databank of cases of ED. Continue working with CSO and other agencies involved in the implementation of the AEDL.			
AFP	Monitor and coordinate cases of ED in other agencies. Inquiries with other investigation units. Dissemination of the law. Inform their ranks on the salient provisions of the law. Conduct trainings on HR and ED within the ranks of the security sectors. Add the law in the existing law in the modules of the AFP.	Information Dissemination CSO/CHR partnership	AO 35	More dialogue session with different stakeholders. Trainings on the ranks of security sector.
CHR	Conduct regular dialogues for sharing of information and the cross validation the cases. 1. Investigation (with or w/o complaint) 2. WPP 3. Other assistance to the victims (e.g. legal services, financial assistance) 4. CHR will be the lead convenor of the rehabilitation of the victims of ED and their families. 5. Information dissemination, trainings. (*training modules in consultation with different stakeholders) 6. Visitation	Resources and continued commitment from the CSO and other gov't agencies implementing the AEDL	NMM, National Monitoring Mechanism	Development of training modules and conduct a nationwide trainings Preparation for the ED Summit.

NAME OF WORKSHOP GROUP: PROSECUTION AND REHABILITATION

List of agencies/institutions/organizations represented: DOJ, CHR, DSWD, / FIND, TFDP, BALAY, MAG, PCICC, CLAIMANTS 1081, COSE, AFAD

QUESTION 1: Based on your agency/institution/organization’s mandate, what do you think are your roles in the implementation of the Anti-Enforced Disappearance Law?

QUESTION 2: What do you see are possible difficulties and challenges in the implementation of the law?

QUESTION 3: What are possible doable plans that your cluster/agency/office can do particularly on the dissemination of the law as stipulated in Sec. 29 of the law?

AGENCY	ROLES/TASKS/FUNCTIONS based on mandate	Difficulties and Challenges	Common doable plans/ Recommendations	Agency-level doable plans
PROSECUTION				
CHR	Investigation of cases when filed with the agency/ <i>motu proprio</i> IRR Referral of cases to DSWD for rehabilitation Jail/detention visitations	Access of victims to quick response/	Tapping of CHR Offices in regions to assist families of victims Support for the CHR charter including WPP, jail visitation, appropriations National Monitoring Mechanism	Availability of 24-7 capacity to respond to search/jail visits, provided mission order is available
DOJ	Sec 9: prosecutors are duty bound to ask on circumstances of arrest Penalty for the prosecutor	Handling cases, classified as common crime Availability of resources to undertake re-documentation and to file cases Access to information Restitution is added work for the Board of Claims	Role of families, e.g. FIND and regional chapters in the re-documentation and gathering of evidence Partnership with families/ CSOs in the information dissemination to its membership and other government and non-government stakeholders Come up with a comprehensive plan/process to look for all disappeared	Development of Training Modules Roll-out of training of prosecutors to change mindset and develop proactive prosecutors AO # 35

AGENCY	ROLES/TASKS/FUNCTIONS based on mandate	Difficulties and Challenges	Common doable plans/ Recommendations	Agency-level doable plans
				<p>Inventory of cases and classification into “cold”, current, new (after the creation of AO) cases</p> <p>Directive on the prioritization of “cold” or on-archive cases</p>
		<p>Harassment of victims’ families and witnesses</p>	<p>Strengthening of justice system / witness protection</p> <p>Advocate for an independent body to investigate/try cases</p>	<p>Look into possible creation of special courts to try ED cases</p>
		<p>PNPs task to look/establish whereabouts of victims</p> <p>State-perpetrated nature of the crime</p> <p>Sanction to officers, flight risk</p> <p>Victims or families are left to pursue cases</p>	<p>Evidence presented in the court is SOP</p> <p>Consider victims’ request for transfer from secret detention jail</p> <p>Venue for victims to air their side without the presence of arresting officer, for prosecutor to determine circumstances</p>	<p>If there is a probable case of ED, include in the standard op procedures</p> <p>National Prosecution Service to have a standard question on circumstances of arrest to establish cases of enforced disappearance</p>

AGENCY	ROLES/TASKS/FUNCTIONS based on mandate	Difficulties and Challenges	Common doable plans/ Recommendations	Agency-level doable plans
REHABILITATION				
DSWD	<ul style="list-style-type: none"> -Victims of ED, with referral from CHR, or walk-in assistance available -Basic social services -Augmentation support -IRR -Rehab program and facility 	Resources and facilities for sanctuary	<p>Find a way to fit in the programs and facilities of the government, or the possibility to integrate programs and services for other victims of HR violations (e.g. torture) into a comprehensive rehab program</p> <p>Partnerships for trainings for specialized rehabilitation needs for victims and families of victims</p> <p>Comprehensive rehab program to take into consideration economic/ livelihood support to victims/families, and corresponding appropriations</p>	Start the process of Comprehensive Rehabilitation Plan, with corresponding budget and in consultation with other related agencies (e.g. DOH, etc.) and CSOs
CHR	Referral for rehabilitation	<p>Availability of Sanctuary facility outside the WPP</p> <p>no separate budget for facilities</p>	Support for the CHR charter including WPP, jail visitation, and corresponding appropriations	<p>Resources and facilities of CHR as part of legal assistance,</p> <p>CHR charter</p>

ANNEX 5.



AFAD



FIND



ICAED

JOINT STATEMENT

March 6, 2013

Anti-Enforced Disappearance Law: More than a Glimmer of Hope

Enforced disappearance is a continuing menace to human rights and civil liberties. The victims are not only denied due process of law but are also forced to endure unimaginable indignities.

Commission of enforced disappearance, by its clandestine nature, makes it extremely difficult to prove, even as investigators most often end up facing a blank wall. The direct or indirect involvement of security and law enforcement authorities make efforts to prevent this abominable offense, and to prosecute and put behind bars its perpetrators even more arduous. The deliberate scheme to conceal the fate and whereabouts of the disappeared renders the families' search efforts often futile.

But with the enactment of Republic Act No. 10353 or the "**Anti-Enforced or Involuntary Disappearance Act of 2012**" on 21 December and the promulgation of the law's **Implementing Rules and Regulations (IRR)** on 12 February, there is now more than a glimmer of hope for the victims and their families not only to finally achieve justice but also to be assured that enforced disappearance will not happen again. The law guarantees numerous rights that include: the right of a person deprived of liberty to immediate access to effective communication; the right to restitution of honor and reputation of a victim of enforced disappearance; the right of the victims including their families to seek and be awarded compensation, and the right to access appropriate medical care and rehabilitation. But a law is only as good as its implementation.

It therefore requires strong political will on the part of government to ensure the law's full implementation. This can only be achieved if collective action is generated in order to make the law an effective tool for accountability and combating impunity.

The new law is neither an end-in-itself nor is it a one-size-fits-all solution. To complete the protection mechanisms from enforced disappearance, the Philippines must also abide by international human rights standards by immediately signing and acceding to the **International Convention for the Protection of All Persons from Enforced Disappearance**.

While it is the State that has the principal duty to recognize and protect the rights of the victims and their families to know the truth and bring perpetrators to justice, all stakeholders should work together to build a society free from enforced disappearance.

It is for this reason that we are holding today a forum-workshop on the "**Effective Implementation of Republic Act No. 10353**" with the support of the Embassy of Canada and the UP Asian Center at the GT Toyota UP Asian Center Auditorium. The forum is expected to conclude with doable plans on the information dissemination of the law and its IRR that can enjoin broader public support to monitor the law's implementation.



AFAD



FIND



ICAED

JOINT STATEMENT

March 8, 2013

Protecting Women from Enforced Disappearance

Women everywhere are deeply affected by the global scourge of enforced disappearance. They are the wives, mothers, grandmothers, sisters, and daughters who are in the abysmal state of uncertainty and in perpetual search for their disappeared loved ones. They are often left behind to bear the socio-economic and psycho-emotional brunt of enforced disappearance. In cases when women are made to disappear, they are particularly at great risk of sexual and other forms of violence.

Many of them have been able to transform their personal anguish and sufferings into courage and determination to sustain the arduous struggle for justice. For a long time, the Philippines lacked the specific mechanisms that protect individuals including women and children from enforced disappearance. But the 16 years of uphill battle of victims' families and human rights advocates to have enforced disappearance criminalized has finally borne fruit in the recent passage of **Republic Act No. 10353 or the Anti-Enforced Disappearance Act of 2012**. This special penal law officially recognizes not only the gravity of the offense but also the distinct sufferings endured by the victims and their families, especially by women and children.

The Anti-Enforced Disappearance Act of 2012 is without doubt, a major advancement in human rights legislation. Nevertheless, *the law is only as good as its implementation*. While the speedy crafting and joint promulgation of the Implementing Rules and Regulations (IRR) by appropriate government agencies and organizations of families sought to expedite the Act's implementation, a strong political will is required to ensure the full realization of the law's objectives.

While a law defines mandates, translating them into concrete actions lies in the collective will of all stakeholders. It is for this reason that we organized a forum-workshop on the "**Effective Implementation of Republic Act No. 10353**" with the support of the Embassy of Canada and the UP Asian Center on 6 March, 2013 at the GT Toyota UP Asian Center Auditorium. The forum brought together various stakeholders not only to instill the letter and spirit of the law in their hearts and minds, but most importantly to generate collective action that will ensure the effectiveness of the law, more particularly in strengthening accountability and combating impunity.

We also hope that the new law will facilitate the Philippines' signing and accession to the **International Convention for the Protection of All Persons from Enforced Disappearance** to complement and reinforce the domestic protection mechanisms.

As we commemorate the International Women's Day today, we pay tribute to all women who have indefatigably struggled and risked their lives to make our world free from enforced disappearance and other forms of violence. Ending this odious offense will greatly contribute to the liberation of all women in the world from discrimination and violence.

ANNEX 6.

MEDIA OUTPUTS

Online Media Hits:

6 March 2013 – Manila Times: [Groups tackle prospects for law on enforced disappearances](#)

6 March 2013 – AFAD: [Joint Statement Anti-Enforced Disappearance Law: More than a Glimmer of Hope](#)

6 March 2013 – PCIJ: [Joint Statement Anti-Enforced Disappearance Law: More than a Glimmer of Hope](#)

24 February 2013 – Human Rights Online: [A Forum on “Effective Implementation of Republic Act No. 10353: A Collective Endeavor”](#)

21 February 2013 – Philippine Star: [Combating involuntary disappearance](#)

Print Media:

Manila Times

Groups tackle prospects for law on enforced disappearances

By Frank Lloyd Tiongson

06 March 2013

Members of nongovernment organizations, representatives of government agencies, academics, as well as members of state security forces threshed out the prospects for the Anti-Enforced or Involuntary Disappearance Act of 2012 in a forum held at the University of the Philippines Diliman on Tuesday.

Held in the wake of the promulgation of the implementing rules of Republic Act (RA) 10353, the forum hoped to disseminate information about the new law and bring together various stakeholders for the effective implementation of the statute.

RA 10353 was signed into law on December 21, 2012 while its implementing rules were promulgated on February 12 this year.

Justice Secretary Leila de Lima, one of the speakers in the forum, said that successful prosecution is the only way to end the culture of impunity behind enforced disappearances, which she deemed as “the worst form of human rights violation” because of its toll not only on the victim, but also on the victim’s family.

Rep. Edcel Lagman of Albay, another speaker in the forum and principal author of RA 10353, said that the law aims to “holistically address the human suffering brought about by enforced

disappearance.”

One of the ways by which such objective is to be achieved is a provision providing counseling for the victim, the victim’s family, as well as the offender.

De Lima noted that it is now easier for her agency to prosecute offenders with the presence of a legal framework.

After the forum, she told reporters that families of victims may prosecute offenders under the new law because the offense is a continuing crime.

De Lima noted that the Department of Justice is compiling a list of victims and identifying old cases that can be pursued.

She added that the penalties for violating the provisions of the law were intended to be harsh to effectively deter the occurrence of enforced disappearances. The law provides a punishment of reclusion perpetua for accused persons alleged to be the principal offenders, which includes those who have profited from the enforced disappearance.

Meanwhile, the Asian Federation Against Involuntary Disappearances, Families of Victims of Involuntary Disappearance, and the International Coalition Against Enforced Disappearances said the new law provides “more than a glimmer of hope for the victims and their families not only to finally achieve justice but also to be assured that enforced disappearance will not happen again.”

“It therefore requires strong political will on the part of government to ensure the law’s full implementation. This can only be achieved if collective action is generated in order to make the law an effective tool for accountability and combating impunity,” they said in a statement.

The said organizations also called on the government to immediately sign and accede to the International Convention for the Protection of All Persons from Enforced Disappearance.

* * *

FROM THE STANDS By Domini M. Torrevillas (The Philippine Star)

Combating involuntary disappearance

Published on Philippine Star, February 21, 2013. pp. 17.

After 16 long years of concerned citizens' hard-fought struggle to criminalize enforced disappearance in the country, there is now a law against Enforced Disappearance in the Asian region with the passage of RA No. 10353, otherwise known as the "Anti-Enforced or Involuntary Disappearance Act of 2012." What's more, its Implementing Rules and Regulations (IRR) have been recently crafted and signed.

To make this special penal law an effective tool to combat impunity, the Asian Federation Against Involuntary Disappearances (AFAD), the International Coalition Against Enforced Disappearances (ICAED) and the Families of Victims of Involuntary Disappearance (FIND) in partnership with the Embassy of Canada and the UP Asian Center, are organizing a forum on "Effective Implementation of RA No. 10353: A Collective Endeavor" on March 6, from 9 a.m. to 4 p.m. at the GT Toyota UP Asian Center Auditorium at UP Diliman. This is part of continuing efforts to disseminate to various stakeholders and to the general public the issue of enforced disappearance and the value of this new law to address it.

One of my favorite legislators, Rep. Edcel Lagman of Albay, is the principal author of the law. He will speak on the objectives, the underlying principle and the salient provisions of the law. Justice Secretary Leila De Lima and Human Rights Commissioner Loretta Ann Rosales will share their respective institutional roles and responsibilities in the effective implementation of the law.

Ambassador Christopher Thornley of Canada will give the welcome remarks, and Dr. Carol Sobritchea, Dean of the UP Asian Center, will speak on the gender perspective of the human rights issue.

* * *

ANNEX 7.

FORUM-WORKSHOP ON EFFECTIVE IMPLEMENTATION OF RA 10353: A COLLECTIVE ENDEAVOR

ACTIVITY PHOTOS



PAVING THE WAY: RA 10353 is the first domestic anti-disappearance law in Asia...



...and the forum is the first venue for disseminating information on the new law.

COLLECTIVE ENDEAVOR: Key representatives from the government, civil society and the academe address relevant issues in the implementation of the anti-disappearance law.



L-R: Ms. Mary Aileen D. Bacalso, AFAD Secretary General; Dean Carolyn I. Sobritchea (UP Asian Center); Sec. Leila De Lima (DOJ); Rep. Edcel C. Lagman (HOR); Comm. Cecilia Rachel V. Quisumbing (CHR).



GARNERING SUPPORT AND COMMITMENT: Stakeholders come together to support information dissemination on the local protection mechanism against enforced disappearance.





EFFECTING FULL IMPLEMENTATION: Workshop groups discuss doable actions in ensuring the dissemination and implementation of RA 10353.





HARINAWA: Ms. Cooky Chua and Bayang Barrios (above) and the *Samahan ng mga Anak ng Desaparecidos* (SAD) (below) present inspirational and solidarity performances for the *desaparecidos*.

