



ISSUE FOCUS: ENHANCING LEGAL TOOLS TO PROTECT PEOPLE'S RIGHTS

KEY FEATURES OF THE WRIT OF AMPARO

- Empowers courts to issue reliefs to safeguard life and liberty
- Hold public officials accountable to a high level of conduct
- Writ may be filed in courts nationwide, anytime and any day where acts or threats were committed
- Filing of the Writ is free of charge
- Besides the aggrieved party, family members, relatives, concerned citizens or organizations may also file for a Writ
- A clerk of court who refuses to serve the Writ will be punished with contempt
- A general denial from the respondent is not allowed
- The court or judge may grant the following forms of relief prior to final judgment:
  - ◆ Temporary Protection Order (TPO)
  - ◆ Inspection Order (IO)
  - ◆ Witness Protection Order (WPO)

SUPREME COURT APPROVES RULE ON THE WRIT OF AMPARO

In a regular En Banc session on 25 September 2007, the Philippine Supreme Court approved the draft Rule on the Writ of Amparo, which is a remedy available to any person whose right to life, liberty, and security has been violated or is threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity. The Rule was drafted by the Committee on the Revision of the Rules of Court pursuant to the Court's constitutional power to promulgate Rules for the protection and enforcement of constitutional rights.

Chief Justice Reynato S. Puno, Chair of the Committee on the Revision of the Rules of Court, expressed satisfaction over the promulgation of the said Rule, noting that the Committee had submitted for consideration of the Court En Banc the draft rule that shall govern the remedy of the Writ of Amparo in just two months after the holding of the National Consultative Summit on Extrajudicial Killings and Enforced Disappearances. (For key features of the Writ of Amparo, see sidebar)

The Writ of Amparo imposes a higher standard of diligence (extraordinary diligence) on public offi-



Justices of the Philippine Supreme Court hearing oral arguments at the Session Hall of the Supreme Court Building, Manila, Philippines.

cers or employees than on private individuals or entities (ordinary diligence). There shall be no presumption of regularity on the part of the public official or employee.

The Rule will take effect on October 24, following its due publication and in time for the 62nd anniversary celebration of the United Nations. The Summit, among others, has resolved for the High

WRIT OF AMPARO, BEST LEGAL WEAPON IN PROTECTING PEOPLE'S CONSTITUTIONAL RIGHTS

In a lecture forum on the Rule on the Writ of Amparo for Philippine Regional Trial Court Judges on 16 October 2007, Chief Justice Reynato Puno described the Writ of Amparo as the Judiciary's humble offering to the altar of human rights in the Philippines. "This is our offering, all of us who are part of today's Philippine Judiciary. They can criticize the Judiciary with real and imagined complaints, but they cannot charge it with inertness, with paralysis and with amnesia in protecting the constitutional rights of our people," said Chief Justice Puno in his opening remarks.

"The Writ of Amparo is the greatest legal weapon to protect the constitutional rights of our people. The protection of our people depends on how well you will wield this weapon," Chief Justice Puno declared to the judges in attendance at the lecture forum.

The lecture forum was part of the Supreme Court's efforts in educating the public about the Writ of Amparo in the wake of encouraging feedback from various sectors, including both local and foreign media.

Earlier on October 4, Justice Azcuna discussed efforts of the Supreme Court to protect human

rights at a forum on the "Expanded Role of the Supreme Court on Human Rights Protection" at the Law Center of the University of the Philippines.

On October 11, Justice Antonio Eduardo B. Nachura gave a lecture on the Rule on the Writ of Amparo to the officers and personnel of the Department of National Defense (DND) and the Armed Forces of the Philippines (AFP) at the AFP's General Headquarters.

The Amparo lecture at the DND-AFP was being held upon the request of Defense Secretary Gilberto C. Teodoro, Jr. who said that "an enlightened DND and AFP will be in a better position to help the justice system in providing an expeditious resolution of the potential controversies raised before it under the Rule."

The Writ of Amparo, Chief Justice Puno earlier said, will provide the victims of extralegal killings and enforced disappearances the protection they need and the promise of vindication for their rights. It will also empower the courts to issue reliefs that may be granted through judicial orders of protection, production, inspection, and other reliefs to safeguard one's life and liberty.

**SUPREME COURT APPROVES . . . (FROM P.1)**

Court to review its existing Rules and promulgate new ones to address the issues of extrajudicial killings and forced abductions. From the Summit, there was a unanimous request for the promulgation of the Writ of Amparo to address violations of the right to life, liberty, and security guaranteed by the Universal Declaration of Human Rights and the Constitution.

The writ is broader than its counterparts in other countries because it protects not only

against actual violations but also against threats of violation of rights, as well as covers not only unlawful acts or omissions of public officials or employees, but also that of private individuals or entities.

Aside from the Writ of Amparo, Chief Justice Puno has said that the High Court will also promulgate the Rules to govern the issuance of the Writ of Habeas Data. The Writ of Habeas Data will compel government and military officials to allow families

of victims of enforced disappearances access to official documents by invoking "the right of truth." The said writ has been used in solving the problem of extralegal killings and enforced disappearances in Latin American countries under military dictatorships.

Likewise, the High Court is reviewing the implementing guidelines of the Writ of Habeas Corpus.

**SUPREME COURT HOLDS CONSULTATIVE MEETINGS ON THE WRIT OF AMPARO**

In anticipation of the implementation of the Rule on the Writ of Amparo on October 24 2007, the Supreme Court has held a series of consultative meetings with various sectors on how the families of the victims of extralegal killings and enforced disappearances can best maximize the protection program under the Writ of Amparo during the middle of the month of October.

The consultative meetings are being held in particular to elaborate on Section 14 (d) of the

Rule on the Writ of Amparo, regarding the accreditation of persons or private institutions capable of providing protection to any person whose right to life, liberty and security is violated or threatened with violation, as well as any member of his immediate family, or any witness covered under the said Rule.

Court Administrator Christopher O. Lock, Assistant Court Administrator Nimfa C. Vilches, and Chief of the Staff of the Office of the Chief Justice Assistant Court

Administrator Jose Midas P. Marquez met with various groups, including human rights, religious, non-governmental organizations (NGOs), and representatives from the media.

Consultative meetings were also conducted with officials and representatives of the Philippine National Police, the Department of Defense, and the Armed Forces of the Philippines.



FROM THE CORNER OF MASSACHUSETTS AND BATAAN

with the issue of extra-judicial killings stresses the need for ensuring that the legal mechanisms and institutions of the State are fully optimized and responsive in dealing with present challenges.

This is one factor why the Executive Branch of the Philippine Government has acted swiftly in adopting measures in response to findings of the Melo Commission, the UN Special Rapporteur and the EU's Needs assessment Mission.

The Philippine Judiciary is not far behind in this regard. Following through on the multi-sectoral summit it hosted to find ways in which to address the problem of extra-judicial killings and enforced disappearances, the Philippine Supreme Court is set to implement the Writ of Amparo on October 24.

This development further strengthens institutional capabilities, particularly in the Philippine judiciary, by providing the courts and judges with a potent means of protecting people's rights and civil liberties.

The Writ of Amparo will essentially raise the standards by which government officials and personnel must conduct themselves in dealing with issues concerning human rights or face legal consequences if they fail to do so.

The positive reaction from various sectors of Philippine society to the implementation of this Writ is a promising development for our collective efforts to end the problem of extra-judicial killings and enforced disappearances. It indicates greater public confidence in our judicial institutions and on the judicial process.

This is significant, because public confidence in the ability of government institutions to protect people's rights and render impartial justice is paramount to the long term resolution of the problem of extra-judicial killings and politically-motivated violence.

The protection of people's constitutional rights is a prime responsibility of any democratic government. The Philippines has various legal and institutional mechanisms in which the State promotes and protects people's constitutional rights and civil liberties.

Nonetheless, the Philippine Government continues to actively pursue efforts at further strengthening these institutions and mechanisms.

Concerns raised in connection

**KEY FEATURES...**

- Under TPO and WPO, persons may be referred to government or private institutions for protection
- Respondent may be cited for contempt for refusal to make a return or for false returns
- Judgment on a petition must be rendered within 10 days of submission for decision
- Any party may appeal within 5 days from final judgment
- The filing of the Writ is not exclusive of the filing of other forms of relief such as habeas corpus, civil, criminal, administrative actions
- Aside from actual violations, the Writ also protects against threats of violations of rights
- Aside from public officials, the Writ also covers unlawful acts or omissions of private individuals and entities

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