

COMMISSION ON HUMAN RIGHTS  
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## POSITION PAPER ON THE COMFORT WOMEN COMPENSATION AND BENEFIT ACT (HOUSE BILL NO. 1182)

In December 1941, Japanese military forces landed on the island of Luzon in the Philippines, a US territory. Manila quickly surrendered, and a military government was installed on 3 January 1942.<sup>1</sup> During World War II, the Japanese military developed and carried out a systematic process of sexual slavery. This practice of Japanese troops is now known by many to have victimized hundreds of thousands of women across Asia who have since been called comfort women. Essentially, the system involved the coercing of local women to sexually service whole battalions of Japanese soldiers.<sup>2</sup>

More than 70 years after the end of World War II, our comfort women are still waiting for their long overdue recognition and reparations. It is therefore high time that a bill that seeks to recognize the fate of our comfort women and alleviate their suffering through reparations from the Government be passed into a law. The Commission on Human Rights (hereinafter “the Commission”) strongly supports legislative proposals that ensure the protection, promotion, and fulfillment of all human rights.

In response to the request of the 17<sup>th</sup> Congress of the House of Representatives’ Committee on Women and Gender Equality (hereinafter “the Committee”) and exercising its constitutional mandate to recommend to Congress effective measures to promote human rights,<sup>3</sup> the Commission respectfully submits its position paper on House Bill No. 1182, entitled “**AN ACT PROVIDING FOR PENSION AND HEALTH BENEFITS TO COMFORT WOMEN, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES**”.

The 1987 Philippine Constitution guarantees the primacy of human rights. It is a declared policy of the State to value the dignity of every human person and to guarantee full respect for human rights.<sup>4</sup> Pursuant to this declared policy, Section 12 of Article III of the Constitution prohibits the use of torture, force, violence, threat, intimidation, or any other means which vitiate the free will and mandates the compensation and rehabilitation of victims of torture or similar practices and their families.

The legal basis for a right to remedy and reparation became firmly enshrined in the elaborate corpus of international human rights instruments, now widely accepted by the States.<sup>5</sup> Article 2, par (3)(a) of the International Covenant on Civil and Political Rights (ICCPR) states that, “Each State Party to the present Covenant undertakes: To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”

<sup>1</sup> Women made to be Comfort Women – Philippines, available at <http://www.awf.or.jp/e1/philippine-00.html>, (last accessed on 30 October 2018).

<sup>2</sup> No comfort for the ‘comfort women’, available at <http://www.theguardian.com/1112/main/2017/08/no-comfort-comfort-women/>, (last accessed on 30 October 2018).

<sup>3</sup> PHIL. CONST. art. XIII, § 18 (6).

<sup>4</sup> PHIL. CONST. art. II, § 11.

<sup>5</sup> Rule of Law Tools for Post-Conflict States Reparations programmes, available at <https://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf>, (last accessed on 31 October 2018).

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Providing reparation is one of the approaches of Transitional Justice. Transitional Justice refers to the ways countries emerging from periods of conflict and repression address large-scale or systematic human rights violations so numerous and so serious that the normal justice system will not be able to provide an adequate response. The aims of transitional justice are: the recognition of the dignity of individuals, the redress and acknowledgment of violations, and the aim to prevent them from happening again.<sup>6</sup> Transitional justice is a way to address past human rights violations so that nations and their people can move forward towards peace and reconciliation.


The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law that was adopted and proclaimed on 16 December 2005 enumerates the victims' right to remedies, one of which is "access to relevant information concerning violations and reparation mechanisms."<sup>7</sup> Article IX, paragraph 15 of the same Principles and Guidelines states that,

*"Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim."*

One example where the State provided reparation and recognition to victims of gross human right violations is the creation of the Human Rights Victims' Claims Board. Under Republic Act No. 10368, the State acknowledges its moral and legal obligation to recognize and/or provide reparation to the victims and/or their families for the deaths, injuries, sufferings, deprivations and damages they suffered during the martial law regime.

Bearing in mind the objective of House Bill No. 1182, the Commission respectfully provides the Committee on Women and Gender Equality, its recommendations for the Committee's consideration:

1. The Commission understands that the reparation being provided by the bill is through monetary reparation. However, the Commission recommends that to give full recognition of the dignity of our comfort women, we must include seeking out formal apology from the Japanese government and putting back the comfort women statue after it has been removed in 2018 or placing it where people will see it more to remind society of what happened to our comfort women as a form of non-monetary reparation. Thus:



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<sup>6</sup> What is Transitional Justice?, available at <https://www.ictj.org/about/transitional-justice>, (last accessed on 13 November 2018).

<sup>7</sup> Article VII. Victims' right to remedies, par. 11 (c)



**Sec. xxx Non-monetary reparation** – To give full recognition of the dignity of our comfort women, Japanese government must issue a formal apology to our comfort women. Likewise, the comfort women statue must be erected again in honor of our comfort women.

2. Section 2 on Definition of Terms, the National Commission on the Role of Filipino Women (NCRFW) must be replaced by Philippine Commission on Women (PCW) since NCRFW was renamed as PCW. Therefore, all NCRFW must be replaced to PCW.
3. Section 3 in determining Comfort Women and who may file claims, we recommend that in addition to the identified comfort women, their heirs or assigns should be able to apply for reparation, in their behalf. In addition, the filing of the application should not be limited by a two-year period but should be done during the lifetime of the subject comfort woman. Should she die during the pendency of the application, the processing of the same should continue.

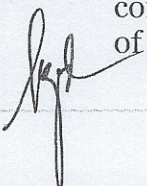
Therefore, it is respectfully recommended that the following be included under Section 3 of the bill:

**Sec. 3. Determination of Comfort Women.** – The PCW is hereby tasked to determine the authenticity of the claims and identities of Comfort Women with the assistance of the various accredited cause-oriented women's groups.

*Applications for the compensation and benefits herein provided for shall be done during the lifetime of the subject comfort woman. The pension extended to her should continue upon her death, with her surviving spouse or in his absence, their heirs, replacing her as the beneficiary or beneficiaries as the case may be, within a certain period determined by the measure.*

*Should the comfort woman die during the pendency of the application, the processing of the same should continue. In the event that the subject applicant has already died during the effectivity of the measure, her surviving spouse or in his absence her heirs could file the application within a period of two years.*

4. In order to protect the government, in case of fraudulent claims, the application should be disapproved. If the same has already been approved, such approval and the award of the benefit should be voided from the time of filing.
5. To properly execute the process in claiming for compensation and benefits, we recommend the creation of a separate body, through a law, to process the application of claimants similar to the Human Rights Victims' Claims Board.
6. More than monetary compensation, a memorial for the sufferings of our comfort women be set-up to remind the public of the abhorrence to violence of war, just like rape.





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In sum, the Commission reiterates its support for the passage of the said House Bill No. 1182 so that our Comfort Women will finally claim and receive the justice they had been fighting for all these years, especially now that they are in the twilight of their lives. The Commission highlights the urgency of passing this Bill as most of the beneficiaries are in their old age, and are in need of financial assistance. And it may have been too late to provide counseling and guidance.

**ISSUED** this 1<sup>st</sup> day of April 2019, Quezon City, Philippines.

*(On Official Travel)*

**JOSE LUIS MARTIN C. GASCON**

Chairperson

  
**KAREN S. GOMEZ-DUMAIT**

Commissioner

  
**GWENDOLYN L.L. PIMENTEL-GANA**

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**LEAH C. TANODRA-ARMAMENTO**

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