



Supreme Court of the Philippines

Philippine Trial Judges League, Inc.

Manila



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01 April 2024

HON. LORETO B. ACHARON

Representative
Lone District of General Santos
House of Representatives

Dear Hon. Acharon:

Tidings of peace!

On behalf of the Philippine Trial Judges League, Inc., I am submitting herewith the Position Paper regarding the grant of hazard pay to trial court judges during their incumbency, for the review and consideration of your good office.

The Position Paper discusses the occupational risks inherent in the judicial role and relates the actual experiences of trial court judges in the exercise of their profession. It also expounds on the legal bases for the grant of hazard pay/compensation, and offers a few recommendations aimed at aligning the measure with the parameters of its operational context.

We hope that the Position Paper proves useful in the understanding of, and in the deliberations around, this pressing matter. Should your good office require clarifications, the League would be happy to supply the necessary information.

Thank you very much for championing this cause, and may God continue to bless you!

Respectfully,

JUDGE ANA LESA SARSOZA-RADAZA
President



Supreme Court of the Philippines

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POSITION PAPER

Re the Grant of Hazard Pay and Hazard Compensation to Trial Court Judges during their Incumbency

Introduction

Last 12 December 2023, a suspected arson fire razed the Municipal Trial Court of Minglanilla, Cebu, and left Presiding Judge Wilson Ibones needing multiple surgeries for the burns he sustained, and long and costly treatment for his rehabilitation. According to one account of the incident, Judge Ibones defended against the perpetrator, allowing the court personnel to attempt escape and call for help. His heroic act in the line of duty prevented fifteen (15) court staff from suffering fatal injuries, while he himself fought to stay alive, and as of writing, remains hospitalized.

The Minglanilla Fire is but one of many instances where a trial court judge faced the hazards brought about by the functions of their office, and regrettably, one where they almost paid for their commitment to public service with their life. As front liners, judges arguably have the highest risk exposure among the members of the Bench. In fact, between 1999 and 2021 alone, thirty-six (36) judges have been killed, and of these murders, at least thirty-three (33) remain unsolved as of 2022.¹

In addition to the occupational hazard of violent retaliations, the magnitude of the risk taken on, and the proactivity of the response by judges is further highlighted in the recent COVID pandemic. Despite news of colleagues' demise, illness and hardship in recovery, judges continued to be at the forefront, adopting measures for the physical safety of their courts, and often using their personal funds for the installation of acrylic barriers, procurement of air purifiers, and updating of technological resources. While commendable, it is also palpable that such actions placed judges at considerable financial risk, keeping in mind the grave uncertainty surrounding the world economy at the time. Such risk permeated the daily conduct of court affairs even before the onset of the pandemic, as judges willingly and above the call of duty, supplemented court operations through the procurement of supplies and equipment, and the necessary renovation of the workplace and its facilities for the health and safety of court staff and users.

In this Position Paper, the League aims to identify the occupational hazards to which judges are exposed, to lay down the bases for the grant of hazard pay, and to make recommendations for its implementation.

¹ Tetch Torres-Tupas, *Judiciary marshals to look into unsolved killings of judges*, THE PHILIPPINE DAILY INQUIRER, 26 October 2022, <https://newsinfo.inquirer.net/1685321/judiciary-marshals-to-look-into-unsolved-killings-of-judges>.



Discussion

Occupational Hazards in Trial Courts

As presented in the Introduction, judges (and by extension, their family members) inevitably face hazards brought about by the nature of their profession. These hazards are categorized as follows:

- Retaliation hazard;
- Workplace environment hazard;
- Workplace access hazard;
- Physical and psychological hazards; and
- Economic hazard.

Retaliation Hazard

Judges face retaliation risks for their internal and external actions done in the performance of their mandate as members of the Bench. It is not uncommon for judges to face threats from discontented litigants, or even from other employees or staff members who may begrudge the strict adherence to the rules, difference in management styles or disciplinary action.

Workplace Environment and Workplace Access Hazards

Trial courts operate in Halls of Justice, which are government-owned, or in leased spaces that are privately owned. Some of these offices do not conform with the layout and facilities of Supreme Court-approved building such as courts situated in malls, half-condemned buildings, buildings with only one ingress and egress points, buildings without sufficient lighting, ventilation and toilet facilities, etc. These work environments necessarily expose judges to safety hazards in terms of fire, earthquakes and other disasters, sudden work or non-work-related violent attacks, communicable diseases, and environmentally triggered conditions (e.g., asthma, heat stroke, etc.). In some courts, judges are “sitting ducks,” because the courts do not have fire exits, installed metal detectors, assigned bailiffs and other reasonable security resources and measures.

In addition to workplace environment hazards, some judges also confront workplace access hazards. In far-flung areas, some judges have to make perilous journeys to reach their designated courts. For instance, in one locality in Northern Philippines, the judge had to ride lightweight Cessna planes to be able to manage the cases and conduct hearings in the isolated location of the Hall of Justice. The judge took this risk, and continued in the dispensation of their duties, despite reports of



four (4) Cessna plane crashes in 2023 alone, three (3) of which had no known survivors.

Physical and Psychological Hazards

It is widely acknowledged that the role of the judge, which encompasses administrative and judicial functions, requires long hours of sedentary physical work. Because of this, it has been observed that over their careers, judges develop work-related illnesses like carpal tunnel syndrome, heart ailments, diabetes, dyslipidemia, hypertension, etc.

In addition, judges also anecdotally report suffering from the effects of long-term stress and vicarious trauma. Because of the nature and the amount of their workload, trial court magistrates are continually exposed to triggering situations, often, with no formal avenues to debrief or process the experiences, or opportunity to seek professional intervention.

Economic Hazard

As operations and human resource managers, judges take on related expenses to ensure that courts remain functional even in the face of challenges. These economic exposures exist particularly when judges, as they often do, fulfill the role expectations above and beyond what is required by the civil service, and become vulnerable to financial shortages themselves.

As earlier mentioned in the Introduction, during the pandemic alone, trial court judges have initiated and completed the procurement of equipment and safety installations to avoid the buildup of cases due to work stoppage. Judges, as the first line managers and supervisors of judicial staff, have also taken on the immediate extension of financial assistance to personnel encountering emergencies.

In the same vein, as an inevitable consequence of the realization of the previously identified hazards, judges likewise struggle with the financial plummet that follows. Such negative financial impact can be debilitating, not only for the judge, but their family as well. This is unfortunately the additional burden being suffered currently by Judge Ibones and their family, who, as of writing and per the most recent reports to the League, have incurred medical bills exceeding Six Million Pesos (P6,000,000.00) in the wake of the Minglanilla Fire.



Legal Bases for Hazard Pay for Judges

It is the position of the League that the mere existence of the identified hazards justifies the subject allowance. The enactment of this law in response to these hazards and as a way to mitigate their effects finds legal support on two grounds: labor rights, and the constitutional mandate to maintain the independence of the Judiciary.

Hazard Pay as a Labor Right

The concept of hazard pay or allowance for jobs that entail a considerable amount of risk is not a new concept. This has found basis in the recognition of real, present and imminent risks that workers voluntarily take on in the exigency of the service. When one's life and limb may be lost in the course of accomplishing daily work, hazard pay is given to encourage individuals to join or remain in service, despite known occupational perils.

Philippine law has recognized occupational risks in the civil service setting, and has granted hazard pay to employees who are exposed to these risks. To cite a few examples: under Republic Act No. 7305, otherwise known as the "Magna Carta of Public Health," public health workers who are exposed to "great danger, contagion, radiation, volcanic activity/eruption, or occupational risks or perils to life" are entitled to hazard pay; under Republic Act No. 8439 or the "Magna Carta for Scientists, Engineers, Researchers and Other S & T Personnel in the Government," government employees in the science and technology fields, who are in hazardous workplaces or have frequent interaction with other employees in highly hazardous areas, are entitled to hazard pay; and under Republic Act No. 9433 or the "Magna Carta for Public Social Workers," registered social workers, and social welfare and development workers who are deployed in hazardous locations and exposed to occupational risks are entitled to hazard pay.

Similar to foregoing public servants, the position of a trial court judge is one definitively imbued with the character of civil service, but is, at its core, also a matter of employment for the individual judge. The employer-employee relationship between the Government and the individual judge thus calls into relevance the right-duty correlative between these parties. On the one hand, the individual judge as an employee, has the duty to ethically complete their responsibilities in accordance with constitutional, judicial and civil service standards. On the other hand, the Government as an employer, has the duty of providing compensation commensurate to judicial tasks and the risks inherent in their performance, and of ensuring the safety of the individual judge.



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As was previously discussed, retaliation, workplace environment and access, physical and psychological, and economic hazards are intrinsic to a judge's functions. Hence, judges, as employees who face these hazards in the daily conduct of their official affairs, have the labor right to hazard pay.

Hazard Pay for Judicial Independence

The independence of the Judiciary is one of the pillars of a sound democracy. It is one of the major features of our form of government that allows the State to manage its affairs within constitutional bounds. Hence, it is vital to the effective functioning of government, and must be promoted and protected. To promote and protect judicial independence, mitigating measures against the external exertion of influence must be introduced, among them, hazard pay or allowance.

In various studies, it has been proposed that sufficiency of pay is correlated to increased judicial independence. In a course on Crime Prevention & Criminal Justice, the United Nations Office on Drugs and Crime, citing the European Charter on the Statute for Judges. Principle 6.1, emphasized the importance of remuneration, and the availability of financial resources for maintaining judicial independence, hence:

Salaries and pensions of judges are important elements to be considered for the protection of judicial independence. It is generally accepted that salaries and pensions must be established by law, and be adequate and commensurate with the *status*, dignity and responsibilities of judicial office. Adequate remuneration, in fact, contributes to prevent judges from seeking extra profits or favours and better shield them from potential corruptive practices and pressures aimed at influencing their decisions or behavior.

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The funding of courts is closely linked to the issue of judicial independence, in that it determines the conditions in which courts perform their functions. Sufficient resources are essential to ensuring judicial independence from State institutions and private parties, so that the judiciary can perform its duties with independence, integrity and efficiency.²

² United Nations Office on Drugs and Crime, *Crime Prevention and Criminal Justice, Module 14: Independence of the Judiciary and the Role of Prosecutors*, UNODC.ORG, February 2020, <https://www.unodc.org/e4j/zh/crime-prevention-criminal-justice/module-14/key-issues/1--the-main-factors-aimed-at-securing-judicial-independence.html>.



Verily, with compensation at a level where judges are adequately insulated from inherent hazards, court systems, and ultimately civilized societies, benefit from the service of ethical judges who are able to disregard, if not combat, potential interference to the autonomy of their official actions.

Recommendation

In September 2023, Associate Justice Ma. Filomena Singh addressed First Level Court Judges, and affirmed their contribution to the administration of justice amid the pandemic, thus:

"I always say this and I will continue to say it, our judges are the real heroes of the Judiciary. I know how much you all sacrifice for the sake of our courts. The life of a trial court judge is not easy, you risk not only your life and limb, but those of your family and loved ones, just to fulfill your mandate. You all serve beyond the call of duty."³

With the recognition from the Supreme Court of the risks faced by trial court judges, and the critical considerations of upholding labor rights and judicial independence, the League expresses its strong recommendation for the enactment of a bill granting hazard pay to trial court judges during their incumbency and appropriating funds therefor. The League hopes that such bill finds legislative support, so much so that it is accorded the urgency that it deserves.

Particularly as to the operationalization of the grant of hazard pay, the League recommends the following:

- (1) Provision of a non-taxable monthly hazard pay equivalent to 25% of the monthly basic pay - Taking into account the various occupational vulnerabilities of trial court judges, and the current contexts within which they perform their official functions, the League supports the grant of hazard pay amounting to at least 25% of the monthly basic pay of Second Level (i.e., Salary Grade 29) and First Level (i.e., Salary Grade 28) judges, to be released on a monthly basis as part of their benefits and emoluments;
- (2) Provision for a lumpsum hazard compensation equivalent to actual expenses or six (6) months' basic salary, whichever is lower - For judges who are suffering the resulting financial burdens of the realization of an occupational hazard, the

³ Supreme Court, SC: *Judges Are Judiciary's Frontline Soldiers, Real Heroes*, SC.JUDICIARY.GOV.PH, 15 September 2023, <https://sc.judiciary.gov.ph/sc-judges-are-judiciaries-frontline-soldiers-real-heroes>.



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League supports the grant of a one-time lumpsum hazard compensation in the actual amount of expenses incurred, or the equivalent of six (6) months' gross basic salary, whichever is lower;

- (3) *Inclusion of Judges-at-Large in the grant of monthly hazard pay, and lumpsum hazard compensation, if warranted, regardless of designation* – To balance the statutory aim of ensuring flexibility in the movement of Judges-at-Large as required by public service, with their entitlement to compensation and benefits under Republic Act No. 11459, the League supports their inclusion in the grant of monthly hazard pay and lumpsum hazard compensation, irrespective of the status (i.e., designated or pending designation) or the character (i.e., acting presiding, or assisting) of their designation; and
- (4) *Eligibility for hazard pay and hazard compensation from appointment to severance from service* – Considering that trial court judges assume the identified occupational hazards during their incumbency, and oftentimes, beyond their severance from service, the League supports the entitlement of judges to hazard pay, as well as hazard compensation (if warranted), from the commencement of their service on the date of their appointment, to the date of their separation, unless otherwise disqualified by law.

With the enactment of the hazard pay and hazard compensation law for trial court judges, the State not only acknowledges and compensates members of the Bench for their faithful service despite occupational risks. More importantly, the State leads by example in safeguarding the rights of government employees, and in building capacities to maintain and promote the independence and integrity of the Judiciary.

Noted by:


HON. ANA LESA SARSOZA-RADAZA
President

Prepared by:


HON. LADY IVY VANTASY D. VELASCO
Asst. Secretary-General