



NUCLEAR ENERGY SERIES

Nuclear Damage Liability in Philippines is Capped at Mere US\$5 Million

Country Needs a New Nuclear Civil Liability Regime

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SONA 2026 ON NUCLEAR ENERGY POLICY

In his fifth State of the Nation Address, President Marcos told Congress that “it is time for us to revisit nuclear energy production,” citing energy security and the cost of electricity (SONA, 27 July 2026). The Department of Energy’s nuclear roadmap targets at least 1,200 megawatts of commercially operational capacity by 2032, rising to 4,800 megawatts by 2050 (DOE, Philippine Energy Plan 2023–2050).

THE US\$5 MILLION CAP

Under the law in force today, if a nuclear reactor on Philippine soil fails, the operator's civil liability is capped at US\$5 million for the incident (R.A. No. 5207 [1968], sec. 42), roughly equivalent to ₱300 million. Fukushima displaced about 160,000 residents. A displacement of that scale in the Philippines would entitle each evacuee, before counting death, injury, lost land, or lost livelihood, to less than ₱2,000.

THE SCALE OF NUCLEAR LOSS

Consider the actual scale of nuclear disasters. For Chernobyl, Belarus has estimated its thirty-year losses at US\$235 billion (Chernobyl Forum, *Chernobyl's Legacy*, 2005). Japan's official estimate of the cost of the Fukushima Daiichi disaster is ¥21.5 trillion, about US\$188 billion, of which compensation to victims was projected at ¥7.9 trillion (METI estimate, December 2016, as reported in *Bloomberg*, 9 December 2016), and an independent estimate places the full figure at ¥50 to ¥70 trillion (Japan Center for Economic Research, as reported in *The Japan Times*, 1 April 2017).

EXCLUSIVE AND RATIONED

The liability is also exclusive. Except as otherwise provided in Part VII of this Act, no person other than the installation operator shall be liable for nuclear damage (R.A. No. 5207, sec. 38[c]). The victims cannot sue the reactor's vendors, the engineering contractor, the fuel supplier, or anyone else in the supply chain. When claims exceed the limit, the court is to order "the equitable distribution of compensation, including orders apportioning payments to claimants" (sec. 53[a]), that is, *pro rata* rationing.

SEVERELY OUTDATED LIABILITY CAP

Republic Act No. 5207 implemented the 1963 Vienna Convention on Civil Liability for Nuclear Damage, which the Philippines ratified in 1965. Liability was made absolute and channelled to the operator, so victims need not prove fault, and in exchange it was limited in amount, so operators could be insured and suppliers would participate in the industry. US\$5 million was the Convention's floor (1963 Vienna Convention, art. V[1]). However, the international standard has since been updated. The 1997 Protocol to Amend the Vienna Convention raised the operator's minimum liability to 300 million Special Drawing Rights, roughly US\$400 million (1997 Protocol, art. 7). The original floor has also been eroded in real terms. The Convention defined its dollars by the gold value of the United States dollar on 29 April 1963, at US\$35 per troy ounce (art. V[3]), so the floor as defined would today be worth several hundred million dollars, but R.A. No. 5207 froze the nominal figure in currency.

UNCHANGED IN 2025

Congress did not correct this in 2025. Republic Act No. 12305 passed a nuclear regulatory regime and created PhilATOM, but provided that the civil liability regime of the 1968 law “shall continue to apply” (R.A. No. 12305 [2025], sec. 50).

The compensable damages are confined to loss of life, personal injury, and property damage (R.A. No. 5207, sec. 3[f]), and exclude costs of environmental reinstatement, preventive measures, and loss of income derived from the environment, which the 1997 Protocol recognizes as compensable (1997 Protocol, art. 2). Claims prescribe ten years from the incident (R.A. No. 5207, sec. 62), even though many radiogenic illnesses surface later, and the Protocol extends the period to thirty years for death and personal injury. The Government’s undertaking to cover claims where insurance falls short (sec. 52) names no fund source and carries no appropriation.

THE REFORM AGENDA

What is needed to update the country's nuclear civil liability regime?

First, raise the operator's liability to not less than 300 million SDRs and index it, with lower tiers only for low-risk installations such as research reactors.

Second, broaden the definition of nuclear damage to the 1997 Protocol and extend prescription to thirty years for death and personal injury.

Third, because even 300 million SDRs is a fraction of a Fukushima-scale loss, compensation must be supported by three other sources:

- (a) the operator's insurance, through a national nuclear insurance pool;
- (b) the National Government, under an express sovereign guarantee; and,
- (c) once both are exhausted, the common fund contributed by member states of the 1997 Protocol and the Convention on Supplementary Compensation, which the Philippines must ratify.

(The insurance pool and the sovereign guarantee will be discussed in separate articles.)

THE BOTTOM LINE

The Philippines must legislate the proper nuclear civil liability regime before the first operator license is awarded. The country must also ratify the 1997 Protocol to Amend the Vienna Convention on Civil Liability for Nuclear Damage.

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