

Republic of the Philippines
CONGRESS OF THE PHILIPPINES
Metro Manila

Fifteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-third day of July, two thousand twelve.

REPUBLIC ACT NO. 10368

AN ACT PROVIDING FOR REPARATION AND RECOGNITION OF VICTIMS OF HUMAN RIGHTS VIOLATIONS DURING THE MARCOS REGIME, DOCUMENTATION OF SAID VIOLATIONS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

CHAPTER I

PRELIMINARY PROVISIONS

Section 1. Short Title. — This Act shall be known as the "Human Rights Victims Reparation and Recognition Act of 2013".

Section 2. Declaration of Policy. — Section 11 of Article II of the 1987 Constitution of the Republic of the Philippines declares that the State values the dignity of every human, person and guarantees full respect for human rights. 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 vitiates the free will and mandates the compensation and rehabilitation of victims of torture or similar practices and their families.

By virtue of Section 2 of Article II of the Constitution adopting generally accepted principles of international law as part of the law of the land, the Philippines adheres to international human rights laws and conventions, the Universal Declaration of Human Rights, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture (CAT) and Other Cruel, Inhuman or Degrading Treatment or Punishment which imposes on each State party the obligation to enact domestic legislation to give effect to the rights recognized therein and to ensure that any person whose rights or freedoms have been violated shall have an effective remedy, even if the violation is committed by persons acting in an official capacity. In fact, the right to a remedy is itself guaranteed under existing human rights treaties and/or customary international law, being peremptory in character (*jus cogens*) and as such has been recognized as non-derogable.

Consistent with the foregoing, it is hereby declared the policy of the State to recognize the heroism and sacrifices of all Filipinos who were victims of summary execution, torture, enforced or involuntary disappearance and other gross human rights violations committed during the regime of former President Ferdinand E. Marcos covering the period from September 21, 1972 to February 25, 1986 and restore the victims' honor and dignity. The State hereby acknowledges its moral and legal obligation to recognize and/or provide reparation to said victims and/or their families for the deaths, injuries, sufferings, deprivations and damages they suffered under the Marcos regime.

Similarly, it is the obligation of the State to acknowledge the sufferings and damages inflicted upon persons whose properties or businesses were forcibly taken over, sequestered or used, or those whose professions were damaged and/or impaired, or those whose freedom of movement was restricted, and/or such other victims of the violations of the Bill of Rights.

Section 3. Definition of Terms. — The following terms as used in this Act shall mean:

(a) *Detention* refers to the act of taking a person into custody against his will by persons acting in an official capacity and/or agents of the State.

(b) *Human rights violation* refers to any act or omission committed during the period from September 21, 1972 to February 25, 1986 by persons acting in an official capacity and/or agents of the State, but shall not be limited to the following:

(1) Any search, arrest and/or detention without a valid search warrant or warrant of arrest issued by a civilian court of law, including any warrantless arrest or detention carried out pursuant to the declaration of Martial Law by former President Ferdinand E. Marcos as well as any arrest, detention or deprivation of liberty carried out during the covered period on the basis of an "Arrest, Search and Seizure Order (ASSO)", a "Presidential Commitment Order {PCO}" or a "Preventive Detention Action (PDA)" and such other similar executive issuances as defined by decrees of former President Ferdinand E. Marcos, or in any manner that the arrest, detention or deprivation, of liberty was effected;

(2) The infliction by a person acting in an official capacity and/or an agent of the State of physical injury, torture, killing, or violation of other human rights, of any person exercising civil or political rights, including but not limited to the freedom of speech, assembly or organization; and/or the right to petition the government for redress of grievances, even if such violation took place during or in the course of what the authorities at the time deemed an illegal assembly or demonstration: *Provided*, That torture in any form or under any circumstance shall be considered a human rights violation;

(3) Any enforced or involuntary disappearance caused upon a person who was arrested, detained or abducted against one's will or otherwise deprived of one's liberty, as defined in [Republic Act No. 10350¹](#), otherwise known as the "Anti-Enforced or Involuntary Disappearance Act of 2012";

(4) Any force or intimidation causing the involuntary exile of a person from the Philippines;

(5) Any act of force, intimidation or deceit causing unjust or illegal takeover of a business, confiscation of property, detention of owner/s and or their families, deprivation of livelihood of a person by agents of the State, including those caused by Ferdinand E. Marcos, his spouse Imelda R. Marcos, their immediate relatives by consanguinity or affinity, as well as those persons considered as among their close relatives, associates, cronies and subordinates under Executive Order No. 1, issued on February 28, 1986 by then President Corazon C. Aquino in the exercise of her legislative powers under the Freedom Constitution;

(6) Any act or series of acts causing, committing and/or conducting the following:

- (i) Kidnapping or otherwise exploiting children of persons suspected of committing acts against the Marcos regime;
- (ii) Committing sexual offenses against human rights victims who are detained and/or in the course of conducting military and/or police operations; and
- (iii) Other violations and/or abuses similar or analogous to the above, including those recognized by international law.

(c) *Human Rights Violations Victim (HRVV)* refers to a person whose human rights were violated by persons acting in an official capacity and/or agents of the State as defined herein. In order to qualify for reparation under this Act, the human rights violation must have been committed during the period from September 21, 1972 to February 25, 1986: *Provided, however,* That victims of human rights violations that were committed one (1) month before September 21, 1972 and one (1) month after February 25, 1986 shall be entitled to reparation, under this Act if they can establish that the violation was committed:

- (1) By agents of the State and/or persons acting in an official capacity as defined hereunder;
- (2) For the purpose of preserving, maintaining, supporting or promoting the said regime; or
- (3) To conceal abuses during the Marcos regime and/or the effects of Martial Law.

(d) *Persons Acting in an Official Capacity and/or Agents of the State.*—The following persons shall be deemed persons acting in an official capacity and/or agents of the State under this Act:

- (1) Any member of the former Philippine Constabulary (PC), the former Integrated National Police (INP), the Armed Forces of the Philippines (AFP) and the Civilian Home Defense Force (CHDF) from September 21, 1972 to February 25, 1986 as well as any civilian agent attached thereto; and any member of a paramilitary group even if one is not organically part of the PC, the INP, the AFP or the CHDF so long as it is shown that the group was organized, funded, supplied with equipment, facilities and/or resources, and/or indoctrinated, controlled and/or supervised by any person acting in an official capacity and/or agent of the State as herein defined;
- (2) Any member of the civil service, including persons who held elective or appointive public office at any time from September 21, 1972 to February 25, 1986;
- (3) Persons referred to in Section 2(a) of Executive Order No. 1, creating the Presidential Commission on Good Government (PCGG), issued on February 28, 1986 and related laws by then President Corazon C. Aquino in the exercise of her legislative powers under the Freedom Constitution, including former President Ferdinand E. Marcos, spouse Imelda R.

Marcos, their immediate relatives by consanguinity or affinity, as well as their close relatives, associates, cronies and subordinates; and

(4) Any person or group/s of persons acting with the authorization, support or acquiescence of the State during the Marcos regime.

(e) *Torture* refers to any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on any person under the custody of persons acting in an official capacity and/or agents of the State, as defined by law, jurisprudence, international conventions and Republic Act No. 9745, otherwise known as the "Anti-Torture Act of 2009".

Section 4. Entitlement to Monetary Reparation. — Any HRVV qualified under this Act shall receive reparation from the State, free of tax, as herein prescribed: *Provided*, That for a deceased or involuntary disappeared HRVV, the legal heirs as provided for in the Civil Code of the Philippines, or such other person named by the executor or administrator of the deceased or involuntary disappeared HRVV's estate in that order, shall be entitled to receive such reparation: *Provided, further*, That no special power of attorney shall be recognized in the actual disbursement of the award, and only the victim or the aforesaid successor(s)-in-interest shall be entitled to personally receive said reparation from the Board, unless the victim involved is shown to be incapacitated to the satisfaction of the Board: *Provided, furthermore*, That the reparation received under this Act shall be without prejudice to the receipt of any other sum by the HRVV from any other person or entity in any case involving violations of human rights as defined in this Act.

Section 5. Nonmonetary Reparation. — The Department of Health (DOH), the Department of Social Welfare and Development (DSWD), the Department of Education (DepED), the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), and such other government agencies shall render the necessary services as nonmonetary reparation for HRVVs and/or their families, as may be determined by the Board pursuant to the provisions of this Act. The amount necessary for this purpose shall be sourced from the budget of the agency concerned in the annual General Appropriations Act (GAA).

Section 6. Amount of Reparation. — The amount of reparation under this Act shall be in proportion to the gravity of the human rights violation committed on the HRVV and in accordance with the number of points assigned to the individual under Section 19 hereof.

Section 7. Source of Reparation. — The amount of Ten billion pesos (₱10,000,000,000.00) plus accrued interest which form part of the funds transferred to the government of the Republic of the Philippines by virtue of the December 10, 1997 Order of the Swiss Federal Supreme Court, adjudged by the Supreme Court of the Philippines as final and executory in Republic vs. Sandiganbayan on July 15, 2003 (G.R. No. 152154) as Marcos ill-gotten wealth and forfeited in favor of the Republic of the Philippines, shall be the principal source funds for the implementation of this Act.

CHAPTER II

THE HUMAN RIGHTS VICTIMS' CLAIMS BOARD

Section 8. Creation and Composition of the Human Rights Victims' Claims Board. — There is hereby created an independent and quasi-judicial body to be known as the Human Rights Victims' Claims Board, hereinafter referred to as the Board. It shall be composed of nine (9) members, who shall possess the following qualifications:

(a) Must be of known probity, competence and integrity;

(b) Must have a deep and thorough understanding and knowledge of human rights and involvement in efforts against human rights violations committed during the regime of former President Ferdinand E. Marcos;

(c) At least three (3) of them must be members of the Philippine Bar who have been engaged in the practice of law for at least ten (10) years; and

(d) Must have a clear and adequate understanding and commitment to human rights protection, promotion and advocacy.

The Human Rights Victims' Claims Board shall be attached to but shall not be under the Commission on Human Rights (CHR).

The Board shall organize itself within thirty (30) days from the completion of appointment of all nine (9) members and shall thereafter organize its Secretariat.

Section 9. *Appointment to the Board.* — The President shall appoint the Chairperson and the other eight (8) members of the Board: *Provided*, That human rights organizations such as, but not limited to, the Task Force Detainees of the Philippines (TFDP), the Free Legal Assistance Group (FLAG), the Movement of Attorneys for Brotherhood, Integrity and Nationalism (MABINI), the Families of Victims of Involuntary Disappearance (FIND) and the Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto (SELDA) may submit nominations to the President.

Section 10. *Powers and Functions of the Board.* — The Board shall have the following powers and functions:

(a) Receive, evaluate, process and investigate applications for claims under this Act;

(b) Issue subpoena/s *ad testificandum* and subpoena/s *duces tecum*;

(c) Conduct independent administrative proceedings and resolve disputes over claims;

(d) Approve with finality all eligible claims under this Act;

(e) Deputize appropriate government agencies to assist it in order to effectively perform its functions;

(f) Promulgate such rules as may be necessary to carry out the purposes of this Act, including rules of procedure in the conduct of its proceedings, with the Revised Rules of Court of the Philippines having suppletory application;

(g) Exercise administrative control and supervision over its Secretariat;

(h) The Board, at its discretion, may consult the human rights organizations mentioned in Section 9 herein; and

(i) Perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of this Act.

Section 11. *Resolution, of Claims.* — The Board shall be composed of three (3) divisions which shall function simultaneously and independently of each other in the resolution of claims for reparation. Each division shall be composed of one (1) Chairperson, who shall

be a member of the Philippine Bar and two (2) members to be appointed by the Board *en banc*.

Section 12. *Emoluments.* — The Chairperson and members of the Board shall have the rank, salary, emoluments and allowances equivalent to s Presiding Justice and Associate Justice of the Court of Appeals, respectively.

Section 13. *Secretariat of the Board.* — The Board shall be assisted by a Secretariat which may come from the existing personnel of the CHR, without prejudice to the hiring of additional personnel as determined by the Board to accommodate the volume of required work. The following shall be the functions of the Secretariat:

- (a) Receive, evaluate, process and investigate applications for claims under this Act;
- (b) Recommend to the Board the approval of applications for claims;
- (c) Assist the Board in technical functions; and
- (d) Perform other duties that may be assigned by the Board.

The Chairperson of the Board shall appoint a Board Secretary who shall head the Secretariat for the duration of the existence of the Board. There shall be a Technical Staff Head assisted by five (5) Legal Officers and three (3) Paralegal Officers; and an Administrative Staff Head assisted by three (3) Administrative Support Staff.

When necessary, the Board may hire additional contractual employees or contract a service provider to provide services of counselors, psychologists, social workers and public education specialists, among others, to augment the services of the Secretariat: *Provided*, That the maximum contract amount per year shall not exceed more than fifteen percent (15%) of the total annual operating budget of the Board.

Section 14. *Operating Budget of the Board.*— The operating budget of the Board shall be funded from the Ten billion peso {P10,000,000,000.00) fund, with Ten million pesos (P10,000,000.00) as its initial operating budget: *Provided*, That it shall not exceed Fifty million pesos (P50,000,000.00) a year

Section 15. *Proper Disposition of Funds.* — The Board shall ensure that funds appropriated or those which may become available as reparation for HRVVs are properly disbursed in accordance with the policies stated by Congress and relevant government rules, regulations and accounting procedures.

CHAPTER III

CLAIMANTS, REPARATION AND RECOGNITION

Section 16. *Claimants.* — Any person who is an HRVV may file a claim with the Board for reparation and/or recognition in accordance with the provisions of this Act.

Section 17. *Conclusive Presumption That One is an HRVV Under This Act.* — The claimants in the class suit and direct action plaintiffs in the Human Rights Litigation Against the Estate of Ferdinand E. Marcos (MDL No. 840, CA No. 88-0390) in the US Federal District Court of Honolulu, Hawaii wherein a favorable judgment has been rendered, shall be extended the conclusive presumption that they are HRVVs: *Provided*, That the HRVVs recognized by the Bantayog Ng Mga Bayani

Foundation shall also be accorded the same conclusive presumption: *Provided, further,* That nothing herein shall be construed to deprive the Board of its original jurisdiction and its inherent power to determine the extent of the human rights violations and the corresponding reparation and/or recognition that may be granted.

Section 18. *Motu Proprio Recognition.* — The Board may take judicial notice *motu proprio* of individual persons who suffered human rights violations as defined herein and grant such persons recognition as HRVVs and included in the Roll of Victims as provided for in Section 26 hereof.

Section 19. *Determination of Award.* — (a) The Board shall follow the point system in the determination of the award. The range shall be one (1) to ten (10) points, as follows:

(1) Victims who died or who disappeared and are still missing shall be given ten (10) points;

(2) Victims who were tortured and/or raped or sexually abused shall be given six (6) to nine (9) points:

(3) Victims who were detained shall be given three (3) to five (5) points; and

(4) Victims whose rights were violated under Section 3, paragraph (b), nos. (4), (5) and (6) under this Act shall be given one (1) to two (2) points.

The Board shall exercise its powers with due discretion in the determination of points for each victim, which shall be based on the type of violation committed against the HRVV, frequently and duration of the violation. In each category, HRVVs who had suffered more would receive more points. In instances where a victim is classified in more than one category, one shall be awarded the points in the higher category: *Provided,* That in cases where there are several eligible claims filed for reparation by or on behalf of a particular HRVV, the Board shall award only one (1) valid claim which corresponds to the category obtaining the highest number of points for each eligible claimant.

(b) The Board shall proceed to determine the award for each claimant classified under Sections 16, 17 and 18 of this Act.

(c) The Board shall then compute the final monetary value of one's award that is equivalent to the numerical value of one point multiplied by the number of points that a claimant is entitled to, as previously determined by the Board.

(d) Within thirty (30) days after the Board has approved with finality each eligible claim pending before it and after due publication of such legitimate claim, the award of monetary compensation shall take effect: *Provided.,* That any pending appeal filed by an aggrieved claimant or opposite before the Board *en banc* must be resolved by it sixty (60) days before the Board becomes *functus officio*.

CHAPTER IV

GENERAL- PROVISIONS

Section 20. *Transfer of Funds.* — Pursuant to the judgment mentioned in Section 7 hereof, the amount of Ten billion pesos (P10,000,000,000.00) plus the accrued interest are hereby set aside and appropriated to fund the purposes of this Act.

Section 21. Documentation of Human — Rights Violations Committed by the Marcos Regime. — In the implementation of this Act and without prejudice to any other documentary or other evidence that may be required for the award of any reparation, any HRVV seeking reparation shall execute a detailed sworn statement narrating the circumstances of the pertinent human rights violation/s committed.

Section 22. Publication. — Consistent with Section 23 herein, the Board, after having been duly convened, shall set the period for the commencement and termination of applications by HRVVs and cause the publication of the same: *Provided*, That such period shall only become operative fifteen (15) days after its last publication, which shall be once a week for three (3) consecutive weeks in at least two (2) national newspapers of general circulation.

Section 23. Period for Filing of Claims; Waiver. — An HRVV shall file an application for reparation with the Board within six (6) months from the effectivity of the implementing rules and regulations (IRR) of this Act: *Provided*, That failure to file an application within said period is deemed a waiver of the right to file the same: *Provided, further*, That for HRVVs who are deceased, incapacitated, or missing due to enforced disappearance, their legal heir/s or representatives, shall be entitled to file an application for reparation on their behalf.

Any opposition to the new application/s pursuant to Section 16 hereof shall only be entertained if such is filed within fifteen (15) days from the date of the last publication of the official list of eligible claimants as may be determined by the Board. The Board shall cause the publication of the official list of eligible claimants once a week for three (3) consecutive weeks in at least two (2) national newspapers of general circulation.

Section 24 Appeal. — Any aggrieved claimant or oppositor may file an appeal within ten (10) calendar days from the receipt of the Resolution of the Division, to the Board *en banc*, whose decision shall then become final and executory.

Section 25. Penalties; Applicability of the Revised Penal Code. — Any claimant who is found by the Board, after due hearing, to have filed a fraudulent claim, shall be referred to the appropriate office for prosecution. If convicted, he shall suffer the imprisonment of eight (8) to ten (10) years, shall be disqualified from public office and employment and shall be deprived of the right to vote and be voted for in any national or local election, even after the service of sentence unless granted absolute pardon.

Any member of the Board and its Secretariat, public officer, employee of an agency or any private individual mandated to implement this Act, who shall misuse, embezzle or misappropriate the funds for the reparation of HRVVs or who shall commit fraud in the processing of documents and claims of HRVVs, or shall conspire with any individual to commit the same, shall also be prosecuted,

Any member of the Board and its Secretariat, public officer, employee of an agency or any private individual mandated to implement this Act, who may have been found guilty of committing any or all of the prohibited acts stated in the preceding paragraph, or those acts punishable under the Revised Penal Code, shall be penalized under the pertinent provisions in the Code and relevant special penal laws.

Section 26. Roll of Victims. — Persons who are HRVVs, regardless of whether they opt to seek reparation or not, shall be given recognition by enshrining their names in a Roll of Human Rights Victims to be prepared by the Board.

A Memorial/Museum/Library shall be established in honor and in memory of the victims of human rights violations whose names shall be inscribed in the Roll. A compendium of

their sacrifices shall be prepared and may be readily viewed and accessed in the internet. The Memorial/Museum/Library/Compendium shall have an appropriation of at least Five hundred million pesos (₱500,000,000.00) from the accrued interest of the Ten billion peso (₱10,000,000,000.00) fund.

The Roll may also be displayed in government agencies as maybe designated by the HRVV Memorial Commission as created hereunder.

Section 27. *Human, Rights Violations Victims' Memorial Commission.* — There is hereby created a Commission to be known as the Human Rights Violations Victims' Memorial Commission, hereinafter referred to as the Commission, primarily for the establishment, restoration, preservation and conservation of the Memorial/Museum/Library/Compendium in honor of the HRVVs during the Marcos regime.

The powers and functions of the Commission shall be assumed by the Board of Trustees which shall be composed of the following; Chairperson of the CHR as Chairperson; Chairperson of the National Historical Commission as Co-Chairperson; and Chairpersons of the CHED, the National Commission on Culture and the Arts (NCCA), the Secretary of the Department of Education and the Head of the University of the Philippines Diliman Main Library, as members.

The Board of Trustees shall have the authority to hire and appoint its officials and employees, receive donations and grants for and on its behalf, and generate revenues for the benefit of the Commission.

The Commission shall be attached to the CHR solely for budgetary and administrative purposes. The operating budget of the Commission shall be appropriated from the General Appropriations Act.

The Commission shall also coordinate and collaborate with the DepED and the CHED to ensure that the teaching of Martial Law atrocities, the lives and sacrifices of HRVVs in our history are included in the basic, secondary and tertiary education curricula.

CHAPTER V

FINAL PROVISIONS

Section 28. *Guidelines for the Implementing Rules and Regulations (IRR).* — In implementing this Act and in formulating the corresponding rules and regulations, and to ensure that all applications are properly screened for fraudulent claims, the Board must provide for:

- (a) Transparency in the processing of the claims;
- (b) A procedure that allows any concerned party to oppose an application or claim on the ground that it is fraudulent, fictitious or spurious and gives that party the opportunity to question the same and to present evidence in support thereof; and
- (c) A procedure that is speedy and expeditious without sacrificing any of the parties' fundamental rights.

Within fifteen (15) days from the date of its organization, the Board shall promulgate the necessary IRR and procedures for the effective implementation of this Act. The IRR shall

be effective fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Section 29. Work Period; Sunset Clause. — The Board shall complete its work within two (2) years from the effectivity of the IRR promulgated by it. After such period, it shall become *functus officio*.

Section 30. Separability Clause. — If, for any reason, any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

Section 31. Repealing Clause. — All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with any of the provisions of this Act, including Section 63(b) of [Republic Act No. 6657](#), as amended, otherwise known as the Comprehensive Agrarian Reform Law of 1988 and Section 40(a) of [Republic Act No. 7160](#), otherwise known as the Local Government Code of 1991, are hereby repealed, amended or modified accordingly.

Section 32. Effectivity Clause. — This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,

(Sgd.) **JUAN PONCE ENRILE**
President of the Senate

(Sgd.) **FELICIANO BELMONTE JR.**
Speaker of the House of
Representatives

This Act which is a consolidation of House Bill No. 5990 and Senate Bill No. 3334 was finally passed by the House of Representatives and the Senate on January 28, 2013.

(Sgd.) **EMMA LIRIO-REYES**
Secretary of Senate

(Sgd.) **MARILYN B. BARUA-YAP**
Secretary General
House of Representatives

Approved: FEB 25 2013

(Sgd.) **BENIGNO S. AQUINO III**
President of the Philippines

Footnotes

¹ This refers to Republic Act No. 10353 or "An Act defining and penalizing enforced or involuntary disappearance"