

[REPUBLIC ACT NO. 10368, February 15, 2013]

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".

SEC. 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 vitiate 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.

SEC. 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. 10350 [1], 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".

SEC 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.

SEC. 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).

SEC. 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.

SEC. 7. *Source of Reparation.* — The amount of Ten billion pesos (P10,000,000,000.00) 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

SEC. 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.

SEC. 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.

SEC. 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.

SEC. 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*.

SEC. 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.

SEC. 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