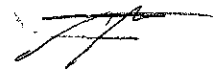


SENATE
Senate Bill No. 3334



Prepared by the Committees on Justice and Human Rights *and* Finance, with
Senators Osmeña, Guingona, Escudero and Drilon as authors thereof

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

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

1 **SECTION 1.** *Short Title.* This Act shall be known as the "Human Rights Victims
2 Reparation and Recognition Act of 2012".

3 **SEC. 2.** *Declaration of Policy.* - Article II, Section 11 of the Constitution of the
4 Republic of the Philippines declares that the State values the dignity of every human
5 person and guarantees full respect for human rights. Pursuant to the declared policy,
6 Article III, Section 12 of the Constitution prohibits the use of torture, force, violence,
7 threat, intimidation, or any other means which vitiate the free will even as the Constitution
8 mandates the compensation and rehabilitation of victims of torture or similar practices,
9 and their families. By virtue of Article II, Section 2 of the Constitution adopting generally
10 accepted principles of international law as part of the law of the land, the Philippines
11 adheres to international human rights laws and documents, the Universal Declaration of
12 Human Rights, including the International Covenant on Civil and Political Rights (ICCPR)
13 which imposes on each State party the obligation to enact domestic legislation to take
14 effect to the rights recognized therein and to ensure that any person whose rights or
15 freedoms have been violated shall have an effective remedy even if the violation is
16 committed by persons acting in an official capacity. In fact, the right to a remedy is itself

1 guaranteed under present-day human rights treaties and/or customary international law,
2 being peremptory in character (*jus cogens*) and as such has been recognized as non-
3 derogable.

4 Consistent with the foregoing, it is hereby declared the policy of the State to
5 recognize the heroism and sacrifices of all Filipinos who were victims of summary
6 execution, torture, involuntary disappearance and other gross human rights violations
7 committed during the Martial Law regime dictatorial of former President Ferdinand
8 Marcos covering the period from September 21, 1972 to February 25, 1986. The State
9 hereby acknowledges its moral and legal obligation to recognize and/or compensate said
10 victims and/or their families for the deaths, injuries, sufferings, deprivations, and damages
11 they suffered under the Marcos regime.

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

17 **SEC. 3. Definition of terms.** — In this Act, the following terms shall be understood
18 as follows:

19 a. "Human Rights Violation" - A human rights violation, under this Act shall
20 include, but not be limited to, any of the following acts or omissions committed during the
21 period from September 21, 1972 to February 25, 1986 by persons acting in an official
22 capacity and/or agents of the State:

23 1. Any search, arrest and/or detention without a valid search warrant or
24 warrant of arrest issued by a civilian court of law, including any
25 warrantless arrest or detention carried out pursuant to the declaration of
26 Martial Law by Ferdinand Marcos as well as any arrest or detention or
27 deprivation of liberty carried out on or before February 25, 1986 on the
28 basis of an "Arrest Search and Seizure Order (ASSO)", a "Presidential

1 Commitment Order (PCO)" or a "Preventive Detention Action (PDA)"
2 and such other similar executive issuances as they were defined by
3 decrees and directives of Ferdinand Marcos or in any manner that the
4 arrest, detention, or deprivation of liberty was effected.

- 5 2. The infliction by a person in government and/or an agent of the State of
6 physical injury upon, or torture or killing or violation of other human
7 rights, of any person peacefully exercising civil or political rights,
8 including but not limited to the freedom of speech, assembly or
9 organization; and/or the right to petition the government for redress of
10 grievances even if such exercise was alleged to constitute or form part
11 of rebellion, sedition or "subversion" as then defined by law; and even if
12 such violation took place during or in the course of what the authorities
13 at the time deemed an illegal assembly or demonstration: *Provided,*
14 That torture in any form or under any circumstance shall be considered
15 a human rights violation;
- 16 3. Causing, through force or intimidation, the involuntary exile of a person
17 from the Philippines;
- 18 4. Causing through force, intimidation or deceit the unjust or illegal
19 takeover of a business, the confiscation of property, the detention of
20 owners and/or families, or the deprivation of livelihood of a person by
21 agents of the State, including those caused by Ferdinand Marcos, his
22 spouse Imelda Marcos, their immediate relatives by consanguinity or
23 affinity, as well as those persons considered as among their close
24 relatives, associates and subordinates under Executive Order No. 1,
25 issued on February 26, 1986 by President Corazon Aquino in the
26 exercise of her legislative powers under the Freedom Constitution;
- 27 5. Causing, committing and/or conducting any of the following acts or
28 series of acts:

- 1 (a) involuntary disappearances;
- 2 (b) saturation drives and/or "zona"s;
- 3 (c) "hamletting" and/or food blockades;
- 4 (d) kidnapping, abduction or otherwise exploiting children of
- 5 persons they suspected to be engaged in acts against the
- 6 Marcos regime;
- 7 (e) committing sexual offenses against detainees and/or in the
- 8 course of conducting military and/or police operations; and
- 9 (f) violation of the rights of freedom of the press by imposition of
- 10 censorship or prior restraint, by closure or sequestration of
- 11 media facilities, detention of its owners, editors, writers and
- 12 media practitioners;
- 13 (g) violation of the rights of freedom of speech and assembly, by
- 14 preventing peaceful assemblies and demonstrations, shooting
- 15 at or dispersing them with tear gas or water cannons and hitting
- 16 participants with truncheons and the like and inflicting injury;
- 17 (h) violation of the rights of labor by preventing and dispersing
- 18 peaceable strikes and other concerted activities; and
- 19 (i) other violations and/or abuses similar or analogous to the above
- 20 including those recognized by international law.

21 b. "Human Rights Violation Victim" (HRVV) — For the purpose of this Act, a

22 victim of a human rights violation is one whose human rights were violated by persons

23 acting in an official capacity and/or agents of the State as these terms are defined herein.

24 In order to qualify for compensation under this Act, the human rights violation must have

25 occurred during the period from September 21, 1972 to February 25, 1986: *Provided,*

26 *however,* That victims of human rights violations that occurred within one month after

27 February 25, 1986 shall be entitled to compensation under this Act if they can establish

28 that:

1 (i) the violation was committed by agents of the State/persons acting in an
2 official capacity loyal to the Marcos regime and acting further to his
3 instructions; and

4 (ii) the violation was committed for the purpose of restoring, preserving,
5 maintaining, supporting or promoting the said regime.

6 c. "Persons Acting in an Official Capacity/Agents of the State" - The following
7 persons shall be deemed persons acting in an official capacity and/or agents of the State
8 under this Act:

9 1. Any member of the former Philippine Constabulary (PC), the former
10 integrated National Police (INP), the Armed Forces of the Philippines
11 (AFP) and the Civilian Home Defense Force (CHDF) from September
12 21, 1972 to February 26, 1986 as well as any civilian agent/s attached
13 thereto; and any member of a paramilitary group even if he is not
14 organically part of the PC, INP, AFP or CHDF so long as it is shown
15 that the group was organized, funded, supplied with equipment,
16 facilities and/or resources, and/or indoctrinated, controlled/or
17 supervised by any person in government/agent of the state as herein
18 defined;

19 2. Any member of the civil service, including citizens who held elective or
20 appointive public office at anytime from September 21, 1972 to
21 February 26, 1986;

22 3. Those persons referred to in Executive Order No. 1, including
23 Ferdinand Marcos, his spouse Imelda Marcos, their immediate
24 relatives by consanguinity or affinity, as well as those persons,
25 relatives, associates, and subordinates pursuant to said law, shall be
26 deemed agents of the State under this Act.

27 **SEC. 4. *Prima Facie Finding that One is a Human Rights Victim Under This Act.***

1 - The persons named as class suit plaintiffs in the Human Rights Litigation Against the
2 Estate of Ferdinand E. Marcos and in whose favor a final and executory judgment has
3 been rendered by the United States District Court in the State of Hawaii shall be extended
4 the disputable presumption that they are human rights violation victims (HRV) as defined
5 in this Act. Such disputable presumption is subject to validation and may be contradicted
6 or rebutted by competent evidence.

7 The same presumption and verification shall be extended to the persons enshrined
8 in NCOs such as the Bantayog ng Mga Bayani who were HRV during the period under
9 this Act.

10 **SEC. 5. Conclusive finding that one is a Human Rights Victim.** - Any person/s who
11 have secured or can secure in their favor a judgment or award of damages from any
12 court of the Philippines arising from a human rights violation as defined in Section 3 of
13 this Act, even if the said judgment has not yet become final and executory, shall be
14 considered conclusively as a human rights victim without need of further proof.

15 **SEC. 6. Other Claimants.** - Any person who does not fall under the preceding
16 sections 4 or 5 but was a human rights victim can file a claim with the human rights
17 claims board for compensation and/or recognition.

18 A claimant under section 4 whose claim has been disallowed by the aforesaid
19 board cannot file a claim under this section.

20 **SEC. 7. Compensation.** - Any HRV qualified under this Act shall receive
21 compensation from the State, free of tax, as hereinafter prescribed: *Provided*, That for
22 HRV's who are deceased, his legal heirs as provided for in the Civil Code of the
23 Philippines, or such other person named by the executor or administrator of the deceased
24 HRV's estate in that order, shall be entitled to receive such compensation: *Provided*,
25 *further*, That any compensation received under this Act shall be without prejudice to the
26 receipt of any other sum by the HRV from any person or entity other than the Republic
27 in any case involving any human rights violation as defined by this Act.

1 **SEC. 8. *Amount of Compensation.*** - The amount of compensation under this Act
2 shall be in proportion to the gravity of the human rights violation committed on the HRVV.

3 **SEC. 9. *Source of Compensation.*** - The funds transferred through the December
4 10, 1997 Order of the Swiss Federal Supreme Court and presently held in escrow in
5 connection with Civil Case No. 141 where the Supreme Court rendered judgment in favor
6 of the Republic of the Philippines shall become the source of funds for The
7 implementation of this Act. The said judgment has become final and executor and the
8 funds thereof are now in the National Treasury.

9 **SEC. 10. *Transfer of Funds.*** - From the aforesaid judgment described in the
10 preceding paragraph, the amount of Ten Billion Pesos (P10,000,000,000.00) plus the
11 accrued interest thereon is hereby set aside and appropriated to fund the purposes of this
12 Act.

13 **SEC. 11. *Documentation of Human Rights Violations by the Marcos Regime.***
14 - In the implementation of this Act and without prejudice to any other documentary or
15 other evidence that may be required for the award of any compensation, any HRVV
16 seeking compensation shall execute a detailed sworn statement, accompanied by
17 photographs, letters, death certificates, pleadings and other judicial or quasi-judicial
18 documents, newspaper or videotaped accounts, or materials including corroborative
19 testimonials of witnesses, narrating the circumstances of the human rights violation
20 committed against him. Such materials along with any other relevant documents shall be
21 submitted to the Human Rights Claims Board for processing and approval pursuant to the
22 provisions of this Act and its Implementing Rules and Regulations (IRR).

23 **SEC. 12. *Human Rights. Claims Board; Creation; Composition; Secretariat.*** -

24 (a) There is hereby created an independent and quasi-judicial body to be known as
25 the Human Rights Claims Board ("The Board") to be composed of one (1) Chairperson
26 and four (4) members of known probity and with a deep understanding, knowledge or
27 involvement in the human rights violations committed during the autocratic rule of
28 President Marcos to be appointed by the President, as follows:

1 a. Two (2) representatives to be nominated, one from each House of
2 Congress chosen by a majority of all the members of each House.

3 b. Three (3) representatives of the following non-governmental organizations
4 (NGOs) who were active in attending to the needs of human rights victims
5 during the period covered, to be nominated collectively by said NGOs as
6 members: *Provided*, That each of the NGO's mentioned below may not
7 have more than one nominee on the Board at any given time:

8 1. Task Force Detainees of the Philippines (TFDP);

9 2. Free Legal Assistance Group (FLAG);

10 3. Movement of Attorneys for Brotherhood, Integrity and Nationalism
11 (MABINI);

12 c. The President shall appoint the Chairman from among the five members.

13 (b) The Human Rights Board shall be attached to but shall not be under the
14 Commission on Human Rights.

15 (c) The Board shall organize itself within thirty (30) days from completion of the
16 appointment of all five (5) members thereof and; shall thereafter organize its secretariat.

17 **SEC. 13.** *Proper Disposition of funds.* - The Board shall ensure that the funds
18 appropriated as compensation for human rights victims are properly disbursed in
19 accordance with the policy stated in this act .

20 **SEC. 14.** *Guidelines for the Implementing Rules.* - In implementing this Act and
21 in formulating the corresponding rules and regulations, and to ensure that all applications
22 are properly screened for fraudulent claims, the Board must provide for:

23 a. Transparency in the processing of the claims;

24 b. A procedure that allows any concerned party to oppose an application or
25 claim on the ground that it is fraudulent, fictitious, or spurious, and gives
26 that party the opportunity to question the same and to present evidence in
27 support thereof; and

1 c. A procedure that is speedy and expeditious without sacrificing any of the
2 parties' fundamental rights.

3 The IRR shall be submitted for approval by an *Ad Hoc* Joint Oversight
4 Congressional Committee composed of three (3) members from each House of
5 Congress with thirty (30) days from the organization of the Secretariat to ensure
6 that it is consistent with the provisions of this Act.

7 **SEC. 15.** *Powers and Functions of the Board.* - The Board shall have quasi-
8 judicial powers and functions, as follows:

- 9 a.) To issue, serve and enforce subpoena *ad testificandum* and subpoena *duces*
10 *tecum*;
- 11 b.) to receive, evaluate, process and investigate applications for claims under this
12 Act;
- 13 c.) to conduct independent hearings and resolve applications for claims, grant or
14 deny the same;
- 15 d.) to deputize appropriate government agencies in order to effectively implement its
16 functions;
- 17 e.) to promulgate rules and regulations in order to carry out the objectives of this Act;
18 and
- 19 f.) to perform such other powers consistent with the purposes of this act.

20 **SEC. 16.** *Determination of Award.* - The Board shall follow the point system in the
21 determination of any award. The range shall be 1 to 10 points, as follows:

- 22 a) victims who died shall be given 9 to 10 points
- 23 b) victims who were tortured shall be given 4 to 9 points
- 24 c) victims who were detained shall be given 2 to 4 points
- 25 d) victims who were harassed and economically oppressed or disadvantaged
26 or otherwise violated but not belonging to the above-listed enumeration
27 shall be given 1 to 2 points.

1 In each category, victims who had suffered more would receive more points. In
2 instances where a victim had suffered in more than one category, the victims shall be
3 awarded only the points in the higher category.

4 The Board shall collate and add-up all the points awarded to all the claimants and
5 divide the total amount to be awarded under this Act with the total number of points
6 collated to determine how much each point would be entitled.

7 Each claimant would then be awarded with the number of points he garnered
8 multiplied by the value of one point.

9 Award to awardees who opt not to claim their compensation shall be added to the
10 total amount to be given as compensation.

11 **SEC. 17. Penalties.** - Any claimant who is found by the Board, after due hearing,
12 to have filed a false claim, shall be referred to the appropriate office for prosecution. If
13 convicted, he shall suffer imprisonment of eight to ten years and shall be deprived of the
14 right to vote in any election for any popular elective office or to be elected to such office;
15 he shall also be deprived of the public offices and employments which he may have held;
16 and shall be disqualified for any public office or employment.

17 **SEC. 18. Roll of Victims.** - Persons who are found to be human rights victims,
18 regardless of whether they opt to collect compensation or not, shall be given recognition
19 by enshrining their names in a Roll of Human Rights Victims to be prepared by the Board.

20 A Memorial/Museum/Library shall be erected in honor and in memory of the
21 human rights victims where their names shall be enshrined. The
22 Memorial/Museum/Library shall be funded from the accrued interest earned from the
23 P10,000,000,000.00 fund. A compendium of the sacrifices of each awardee shall be
24 prepared.

25 The Department of Education (DepEd.) and the Commission on Higher Education
26 (CHED) shall include the teaching of this Chapter in our country's history in the school's
27 curriculum.

1 The Roll shall also be filed with the National Library and in such offices or
2 agencies, national and international, which are dedicated to the prevention of human
3 rights abuses.

4 **SEC. 19. *Period.*** - The Board shall complete their work within three years from the
5 approval of the Implementing Rules and Regulations unless the same is extended by an
6 Act of Congress.

7 **SEC. 20. *Appropriations.*** - The initial amount of ten million pesos (P
8 10,000,000.00) from the P10,000,000,000.00 paid shall be used for the organization and
9 operation of human rights claims board.

10 **SEC. 21. *Repealing Clause.*** - All laws, decrees, executive orders, rules and
11 regulations, or parts thereof inconsistent with any of the provisions of this Act including
12 Section 63(b) of Republic Act No. 6657, as amended, otherwise known as the
13 Comprehensive Agrarian Reform Law of 1998, are hereby repealed or modified
14 accordingly.

15 **SEC. 22. *Separability Clause.*** — If, for any reason, any section or provision of
16 this Act is declared unconstitutional or invalid, such other sections or provisions not
17 affected thereby shall remain in full force and effect.

18 **SEC. 23. *Effectivity Clause.*** — This Act shall take effect fifteen (15) days after
19 its complete publication in the Official Gazette or in at least two (2) national newspapers
20 of general circulation.

21 Approved,