



HOUSE OF REPRESENTATIVES

H. No. 5990

BY REPRESENTATIVES TAÑADA, LAGMAN, RELAMPAGOS, BELLO, BAG-AO,
CASIÑO, COLMENARES, MARIANO, ILAGAN, TINIO, DE JESUS AND
PALATINO, PER COMMITTEE REPORT NO. 2001

AN ACT PROVIDING COMPENSATION TO 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
“Compensation Act to Victims of Human Rights Violations”.

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.
Likewise, Section 18(6) of Article XIII of the 1987 Constitution directs the

Commission on Human Rights (CHR) to recommend to Congress effective measures to promote human rights and to provide for compensation to victims of human rights violations, or 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 must also adhere to international human rights laws and conventions, 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. In particular, the ICCPR imposes on each State party the obligation to take the necessary steps to adopt such laws or other measures 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, notwithstanding that the violation has been committed by persons acting in an official capacity. Moreover, the CAT declares that each State party shall take effective measures to prevent acts of torture or other cruel, inhuman or degrading treatment or punishment in any territory under its jurisdiction, and ensure that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.

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 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 compensate said victims and/or their families for the deaths, injuries, sufferings, deprivations and damages they suffered under the Marcos regime.

SEC. 3. *Definition of Terms.* – The following terms as used in this Act shall mean:

(a) *Compensable 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)” 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) Any commission by a person acting in an official capacity and/or an agent of the State of physical injury, torture, killing, harassment, deprivation of liberty or other similar acts on any person, including violations against the freedom of speech, assembly or organization; and/or the right to petition the government for redress of grievances even if such exercise was alleged to constitute or form part of rebellion, sedition or subversion as then defined by law; and 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 circumstances 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;

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

(5) 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.

(b) *Human Rights Violation 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 compensation 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 after February 25, 1986 shall be entitled to compensation 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 loyal to the Marcos regime;

(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.

(c) *Persons Acting in an Official Capacity and/or Agents of the State* refer to persons acting in an official capacity and/or agents of the State:

(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 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.

(d) *Monetary Compensation* refers to any financial consideration equivalent to an economically assessable damage under this Act resulting from violation of the victim's human rights.

(e) *Nonmonetary Compensation* refers to a non-pecuniary compensation given to a victim of a human rights violation or members of the family to restore the family's honor and dignity and shall include, but not be limited to, psychotherapy, counseling, medical care, social amelioration and honorific recognition.

(f) *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 and international conventions.

SEC. 4. *Entitlement to Monetary Compensation.* – Any HRVV qualified under this Act shall receive compensation from the State, free of tax, as herein prescribed: *Provided*, That for a deceased 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 HRVV's estate in that order, shall be entitled to receive such compensation: *Provided, further*, That no special power of attorney shall be recognized in the actual disbursement of the award, and only the victim or the aforesated successor(s)-in-interest shall be entitled to personally receive said compensation from the Board, unless the victim involved is shown to be incapacitated to the satisfaction of the Board: *Provided, furthermore*, That the compensation 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 Compensation.* – 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 compensation 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.

Eligible claimants may immediately avail of nonmonetary compensation upon final approval of the Board of their application for claims.

The Commission on Human Rights (CHR) shall monitor and facilitate the proper implementation of this provision beyond the completion of the work of the Board as prescribed in Section 31 herein.

SEC. 6. *Amount of Compensation.* – The amount of compensation under this Act shall be in accordance with the number of points assigned to the individual under Sections 20 and 22 herein.

SEC. 7. *Source of Compensation.* – 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 of funds for the implementation of this Act.

CHAPTER II

THE HUMAN RIGHTS VICTIMS' COMPENSATION BOARD

SEC. 8. *Creation and Composition of Human Rights Victims' Compensation Board.* – An independent Human Rights Victims' Compensation Board, hereinafter referred to as the Board, is hereby created. It shall be composed of seven (7) members, who shall possess the following qualifications:

- (a) Must be of known probity, competence and integrity;
- (b) Must have deep understanding of the human rights violations committed during the rule of former President Ferdinand E. Marcos;
- (c) At least one (1) of them must be a member of the Philippine Bar who has been engaged in the practice of law for at least five (5) years; and

(d) Must have an understanding of human rights protection, promotion and advocacy.

SEC. 9. *Appointment to the Board.* – The President of the Philippines shall appoint the members of the Board from among a list of fifteen (15) nominees to be submitted by a Nominations Committee.

The first nominee appointed by the President or the appointee whose name appears first in the list of appointees shall be the Chairperson of the Board.

The incumbent Chairperson of the CHR, or any person duly authorized by the CHR *en banc*, shall be the *ex officio* Co-Chairperson of the Board, and shall assume the duties and responsibilities jointly with the other Chairperson appointed by the President.

The Board shall organize itself within thirty (30) days from the appointment of all seven (7) members and shall thereafter organize its Secretariat.

SEC. 10. *Nominations Committee.* – A Nominations Committee is hereby created which shall be chaired by the Executive Secretary with members representing the following:

- (a) Commission on Human Rights (CHR);
- (b) Task Force Detainees of the Philippines (TFDP);
- (c) Families of Victims of Involuntary Disappearance (FIND); and
- (d) Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto (SELDA).

No human rights violation victim who is entitled to compensation as defined under this Act shall be nominated to become a member of the Board.

SEC. 11. *Consultative Body.* – There shall also be created a consultative body which shall work in close coordination with the Board and shall perform the primary function of identifying and monitoring the legitimate victims who may be eligible for under this Act, and such other functions as may be defined by the Board.

The consultative body shall be composed of five (5) members, one (1) representative of whom will come from each of the following human rights organizations:

- (a) Families of Victims of Involuntary Disappearance (FIND);
- (b) Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto (SELDA);
- (c) Task Force Detainees of the Philippines (TFDP);
- (d) Claimants 1081; and
- (e) KARAPATAN.

SEC. 12. *Powers and Functions of the Board.* – The Board shall have the following powers and functions:

- (a) Evaluate and approve with finality all eligible claims under this Act;
- (b) Conduct independent administrative proceedings and resolve disputes over claims;
- (c) Deputize appropriate government agencies to assist it in order to effectively perform its functions;
- (d) 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;
- (e) Issue subpoena/s *ad testificandum* and subpoena/s *duces tecum*;
- (f) Exercise administrative control and supervision over its Secretariat; and
- (g) Perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of this Act.

SEC. 13. *Meetings of the Board.* – The Board shall meet once a week but not to exceed eight (8) times in a month. The actual attendance of four (4) Members shall constitute a quorum for purposes of convening the Board: *Provided*, That a majority of votes from all the Members of the Board shall be

required for the final approval of applications for claims and all other resolutions which need the approval of the Board *en banc*.

SEC. 14. *Resolution of Claims*. – The Board shall be composed of two (2) Divisions which shall function simultaneously and independently of each other in the resolution of conflicting claims for compensation. Each Division shall be composed of one (1) Chairperson and two (2) Members to be appointed by the Chairperson of the Board.

SEC. 15. *Emoluments*. – The Chair and Members of the Board shall receive *per diems* for every meeting actually attended at rates to be approved by the Department of Budget and Management (DBM).

SEC. 16. *Secretariat of the Board*. – The Board shall be assisted by a Secretariat which shall come from the existing personnel of the CHR. 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.

SEC.17. *Operating Budget of the Board.* – The amount of not more than Fifty million pesos (P50,000,000.00) per year necessary for the operating expenses of the Board shall be sourced from 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 and referred to in Section 7 hereof.

SEC. 18. *Proper Disposition of Funds.* – The Board shall ensure that funds appropriated or those which may become available as compensation for HRVVs are properly disbursed in accordance with the policies stated by Congress and relevant government accounting procedures.

CHAPTER III

CLASS SUIT AND DIRECT ACTION PLAINTIFFS IN MDL No. 840, CA No. 86-0390

SEC. 19. *Conclusive Presumption that a Person is a Human Rights Violation Victim.* – The claimants in the class suit and the direct action plaintiffs in the Marcos human rights litigation (MDL No. 840, CA No. 86-0390) in the United States (US) Federal District Court of Honolulu in Hawaii, whereby a favorable judgment has been rendered, are hereby declared HRVVs as defined in this Act.

Pursuant to the foregoing, the CHR shall secure the list of the victims from the aforesaid Court within sixty (60) days from the effectivity of this Act: *Provided*, That any member in the list whose name was deleted therein for

failure to reply to the communications issued by the District Court shall benefit from this provision on the condition that the member whose name was deleted shall be identified as a violation by sufficient proof.

Any person who has secured or can secure in one's favor a judgment or award of damages from any court of the Philippines arising from a human rights violation as defined in Section 3 of this Act, even if the said judgment has not yet become final and executory, shall be considered conclusively as a HRVV without need of further proof.

SEC. 20. *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 shall be given four (4) to nine (9) points;

(3) Victims who were detained shall be given two (2) to four (4) points; and

(4) Victims who were forcibly exiled from the Philippines, kidnapped or otherwise exploited, sexually offended but not raped in the course of the conduct of military and/or police operations, or those whose rights were violated under Section 3, paragraph (a)(5)(iii) of this Act shall be given one (1) to four (4) points.

The Board shall exercise its powers with due discretion, the determination of points for each victim, which shall be based on the type of violation committed against the HRVV, frequency and duration of the violation. In instances where a victim is classified in more than one category, one shall be awarded the points in the higher category.

(b) The Board shall set aside eighty percent (80%) of the total compensation fund appropriated under this Act and utilize such amount for the compensation of eligible HRVVs in the class suit, including the direct action plaintiffs in the Marcos human rights litigation (MDL No. 840, CA No. 86-0390) in the US Federal District Court of Honolulu, Hawaii.

(c) The Board shall proceed to determine the award for each claimant classified as Hawaii plaintiffs, under paragraph (b) of this section.

(d) The Board shall then compute the numerical value of one point by adding the total number of points assigned to all the claimants classified under the category set forth under paragraph (a) of this section, divided by the sum of money corresponding to eighty percent (80%) of the total compensation fund.

(e) Within fifteen (15) days after the lapse of the period of six (6) months for the filing of applications under this Act, each qualified claimant shall then receive from the Board the final monetary value of one's award that is equivalent to the numerical value of one point multiplied by the number of points one is entitled to, as previously determined by the Board.

CHAPTER IV

OTHER CLAIMANTS

SEC. 21. *Other Claimants.* – Any person who does not fall under the preceding Section 20 but was an HRVV can file a claim with the Human Rights Victims' Compensation Board for compensation and/or recognition.

SEC. 22. *Determination of Award for Other Claimants.* – (a) The Board shall apply the point system as applied to Hawaii plaintiffs under Section 20 of this Act.

(b) The Board shall utilize twenty percent (20%) of the total compensation fund appropriated under this Act to compensate the other claimants who were not direct and class suit plaintiffs in the Marcos human rights litigation (MDL No. 840, CA No. 86-0390) in the US Federal District Court of Honolulu, Hawaii.

(c) The Board shall then determine the total number of points identified for all the eligible claimants. It shall likewise determine the numerical value of one point by adding the total number of points assigned to all the claimants classified under this category divided by the sum of money corresponding to twenty percent (20%) of the total compensation fund.

(d) Within fifteen (15) days after the lapse of the period of six (6) months for the filing of applications under this Act, each qualified claimant shall receive from the Board the final monetary value of the award that is equivalent to the numerical value of one point multiplied by the number of points each claimant is entitled to, as determined by the Board.

CHAPTER V

GENERAL PROVISIONS

SEC. 23. *Transfer of Funds.* – Pursuant to the judgment mentioned in Section 7 hereof, the amount of Ten billion five hundred million pesos (Php10,500,000,000.00) is hereby set aside and appropriated to fund the purposes of this Act: *Provided*, That the said amount shall be deposited as a special account in the General Fund in trust for the HRVVs which shall be disbursed or withdrawn subject to the approval of the Human Rights Victims' Compensation Board created herein, in accordance with existing accounting and auditing rules and regulations: *Provided, further*, That the fund shall not be withdrawn or disbursed by the National Government for any other purpose: *Provided, furthermore*, That all interest earned shall accrue to the General Fund: *Provided, finally*, That after the completion of the mandate under this Act, any balance of the special account for the compensation of HRVVs shall revert to the General Fund.

SEC. 24. *Documentation of Human Rights Violations During the Marcos Regime.* – Without prejudice to other submissions which may be required by the Board in the implementation of this Act, any HRVV or the legal heir/s or representatives thereof seeking compensation shall execute a detailed sworn statement, accompanied by photographs, letters, death certificates, pleadings and other judicial or quasi-judicial documents, newspaper or videotaped accounts, and/or materials or testimonials of witnesses corroborating and narrating the circumstances of the human rights violations committed against the said HRVV. Such evidentiary proofs shall be compiled by the Board and the CHR, with the assistance of the National Historical Commission of the Philippines (NHCP), the University of the Philippines (UP) and nongovernmental organizations (NGOs) whose assistance may be engaged, for the purposes of documenting and establishing an archive of human rights violations during the Marcos regime. The compilation shall be submitted to the President, the Congress of the Philippines and the Supreme Court within two (2) years from the effectivity of this Act.

SEC. 25. *Publication.* – 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.

SEC. 26. *Period for Filing of Claims; Waiver.* – An HRVV shall file an application for compensation 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 or incapacitated, their legal heir/s or representatives, shall be entitled to file an application for compensation on their behalf.

Any opposition to the new application/s pursuant to Section 21 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.

SEC. 27. *Appeal.* – Any aggrieved claimant may file an appeal within fifteen (15) days from the receipt of the Resolution of the Division, to the Board *en banc*, whose decision shall then become final and executory.

SEC. 28. *Penalties; Applicability of the Revised Penal Code.* – Any claimant who is found by the Board, after due hearing, to have falsified one's application for compensation or have filed a fraudulent claim, shall be referred to the appropriate office for prosecution.

Any member of the Board and its Secretariat, public officer, employee of an agency mandated to implement this Act, or any private individual who shall misuse, embezzle or misappropriate the funds for the compensation 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 person, who may have been found guilty of committing any or all of the prohibited acts herein, or committing any offense punishable under the Revised Penal Code, shall be penalized under the pertinent provisions in the Code and relevant special penal laws.

SEC. 29. *Roll of Victims.* – Persons who are established to be HRVVs shall be given recognition by the enshrinement of their names in a Roll of Victims of Human Rights Violations to be prepared by the Board. The Roll shall be filed with the National Library and in such offices or agencies, both

national and international, which are dedicated to the prevention of human rights abuses. The NHCP shall erect in a conspicuous location in the National Capital Region an appropriate memorial, shrine or monument honoring these HRVVs.

CHAPTER VI

FINAL PROVISIONS

SEC. 30. *Implementing Rules and Regulations.* – Within thirty (30) 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.

SEC. 31. *Work Period; Sunset Clause.* – The Board shall complete its work within two (2) years from the effectivity of the IRR promulgated by it and may only be extended for a period not to exceed one (1) year by virtue of an executive order to be issued by the President. After such period, it shall cease *functus officio*.

SEC. 32. *Separability Clause.* – If 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.

SEC. 33. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 34. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,

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