



## HOUSE OF REPRESENTATIVES

H. No. 3315

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BY REPRESENTATIVES ROSALES, AGUJA, OCAMPO, CASIÑO, ABANTE, HONTIVEROS-BARAQUEL, VIRADOR, MARIANO, BELTRAN, BARINAGA, ZAMORA (M.), CLARETE, UY (R.), FIGUEROA, MARTINEZ, MITRA, MAZA, BANAAG, GUNGONA, NANTES, AMIN, MAGSAYSAY (E.), DE GUZMAN, ZIALCITA, MAGTUBO, LAGMAN, JAWORSKI, TAÑADA, BONDOC, BATERINA, DUMARPA, DY (C.), ABAYON AND DEL MAR, PER COMMITTEE REPORT NO. 117

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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:*

1           SECTION 1. *Short Title.* – This Act shall be known as the “Human  
2 Rights Compensation Act of 2006”.

3           SEC. 2. *Declaration of Policy.* – Article II, Section 11 of the  
4 Constitution of the Republic of the Philippines declares that the State values  
5 the dignity of every human person and guarantees full respect for human rights.  
6 Pursuant to that declared policy, Article III, Section 12 of the Constitution

1 prohibits the use of torture, force, violence, threat, intimidation, or any other  
2 means which vitiate the free will. Further, the Constitution mandates the  
3 compensation and rehabilitation of victims of torture or similar practices and  
4 their families. Article XIII, Section 18(6) of the Constitution also directs the  
5 Commission on Human Rights (CHR) to recommend to Congress effective  
6 measures to promote human rights and to provide for compensation to victims  
7 of human rights violations or their families.

8 Consistent with the foregoing, it is hereby declared the policy of the  
9 State to restore the dignity and honor of victims of summary execution, torture,  
10 involuntary disappearance and other human rights violations committed by  
11 agents of the State during the struggle against the regime of former President  
12 Ferdinand Marcos, including the victims of the Muslim insurrection, in the  
13 period from September 21, 1972 to February 25, 1986.

14 The State hereby acknowledges its moral and legal obligation to  
15 compensate said victims and/or their families for their inestimable suffering  
16 and loss. In declaring this policy, the State takes into account the adherence of  
17 the Republic of the Philippines to the Universal Declaration of Human Rights,  
18 the International Covenant on Civil and Political Rights, and the United  
19 Nations' Convention Against Torture and Other Cruel, Inhuman or Degrading  
20 Treatment or Punishment.

1           SEC. 3. *Definitions.* – The following terms shall be understood as  
2 follows:

3           (a) “Compensable Human Rights Violation (CHRV)” refers to any of  
4 the following acts or omissions of agents of the State and/or persons acting in  
5 an official capacity against those who were suspected of or were merely  
6 dissenting against the regime of President Ferdinand Marcos in the exercise of  
7 their civil and political rights made during the period from September 21, 1972  
8 to February 25, 1986:

9           (1) Any search, arrest and/or detention without a valid search warrant  
10 or warrant of arrest issued by a civilian court of law, including any warrantless  
11 arrest or detention not covered under Section 5, Rule 113 of the Revised Rules  
12 of Court and existing jurisprudence on warrantless search carried out pursuant  
13 to the declaration of Martial Law by former President Ferdinand Marcos, as  
14 well as any arrest or detention or deprivation of liberty carried out on or before  
15 February 25, 1986 on the basis of an “Arrest, Search and Seizure Order  
16 (ASSO)”, a “Presidential Commitment Order (PCO)” or a “Preventive  
17 Detention Action (PDA)” as they were defined by decrees of former President  
18 Ferdinand Marcos or in any manner that the arrest, detention or deprivation of  
19 liberty was effected;

20           (2) The infliction of serious physical injury upon, or torture or killing  
21 of a person exercising civil or political rights, including the freedom of speech,

1 assembly or organization, even if such exercise was alleged to constitute or  
2 form part of rebellion, sedition or "subversion" as then defined by law:  
3 *Provided*, That torture in any form or under any circumstances shall be  
4 considered a human rights violation; and

5 (3) Any involuntary or enforced disappearance caused upon a person  
6 who was arrested, detained or abducted against his/her will or otherwise  
7 deprived of his/her liberty.

8 (b) "Human Rights Violation Victims (HRVV)" refers to a person who  
9 is a victim of human rights violations specified in this Act by agents of the  
10 State and/or persons acting in an official capacity as these terms are defined  
11 herein.

12 (c) "Compensable Human Rights Violation Victims" refers to a human  
13 rights violation victim who is qualified for compensation under this Act. In  
14 order to qualify for compensation under this Act, the human rights violation  
15 must have occurred during the period from September 21, 1972 to February  
16 25, 1986.

17 (d) "Agents of the State/Persons Acting in an Official Capacity" refers  
18 to the following persons:

19 (1) Any member of the former Philippine Constabulary (PC), the  
20 former Integrated National Police (INP), the Armed Forces of the Philippines  
21 (AFP) and the Civilian Home Defense Force (CHDF) from September 21,

1 1972 to February 25, 1986, as well as any civilian agent/s attached thereto; and  
2 any member of a paramilitary group even if he is not organically part of the  
3 PC, INP, AFP or CHDF but under the operational control or supervision of  
4 any other agent of the State or had received or processed any money,  
5 equipment or other property of, or from, the State;

6 (2) Any member of the civil service, including citizens who held  
7 elective or appointive public office at any time from September 21, 1972 to  
8 February 25, 1986; and

9 (3) Those persons referred to in Executive Order Nos. 1, 2 and 14,  
10 series of 1986, including former President Ferdinand Marcos, his spouse  
11 Imelda Marcos, their immediate relatives by consanguinity or affinity, as well  
12 as those persons, relatives, associates and subordinates pursuant to said law,  
13 shall be deemed agents of the State and/or persons acting in an official capacity  
14 under this Act.

15 (e) "Compensation" refers to monetary and non-monetary  
16 compensation. Monetary compensation refers to any economically assessable  
17 damage resulting from the violation of the victim's human rights and  
18 humanitarian laws. Non-monetary compensation shall also include, without  
19 being limited to, other forms such as restitution, rehabilitation, public apology  
20 and satisfaction and guarantees of non-repetition. The awarding of  
21 compensation shall be guided by the principles of restorative justice.

1 (f) "Torture" refers to any act by which severe pain or suffering,  
2 whether physical or mental, is intentionally inflicted on a person under the  
3 custody of agents of the State, for such purposes as obtaining from him/her or a  
4 third person information or a confession, punishing him/her for an act he/she or  
5 a third person has committed or is suspected of having committed, or  
6 intimidating or coercing him/her or a third person, or for any reason, when  
7 such pain or suffering is inflicted by or at the instigation of or with the consent  
8 or acquiescence of an agent of the State.

9 SEC. 4. *Compensation.* – Any HRV victim qualified under this Act  
10 shall receive compensation from the State, free of tax, as hereinafter  
11 prescribed: *Provided,* That for HRV victims who are deceased, the HRV  
12 victim's spouse, direct descendants and ascendants, in that order, shall be  
13 entitled to receive such compensation: *Provided, further,* That any  
14 compensation received under this Act shall be without prejudice to the receipt  
15 of any other sum by the HRV victim from the estate of Ferdinand Marcos or  
16 any person, other than the Republic, in any case involving any human rights  
17 violation as defined in this Act: *Provided, finally,* That all priority shall be  
18 given the human rights violation victims who won a class suit in the Hawaii  
19 District Court in 1995.

1           SEC. 5. *Amount of Compensation.* – The amount of compensation  
2           under this Act shall be in proportion to the gravity of the human rights  
3           violation inflicted on the HRV victim in accordance with Section 10 hereof.

4           SEC. 6. *Source of Compensation.* – The funds transferred through the  
5           December 10, 1997 Order of the Swiss Federal Supreme Court, which the  
6           Supreme Court of the Philippines has adjudged as *ill-gotten wealth*, shall  
7           become the principal source of funds for the compensation of human rights  
8           violation victims as herein defined, including the class suit plaintiffs in the  
9           human rights litigation against the estate of former President Ferdinand Marcos  
10          whose claims have been validated by the Board of Compensation created under  
11          this Act.

12          SEC. 7. *Transfer of Funds.* – From the aforesaid judgment described in  
13          the preceding paragraph amounting to Thirty-five billion pesos  
14          (P35,000,000,000.00), the amount of Eight billion pesos (P8,000,000,000.00)  
15          is hereby set aside and appropriate solely to fund the purpose of this Act.

16          SEC. 8. *Board of Compensation for Victims of Human Rights*  
17          *Violations.* – There is hereby created an independent Board of Compensation  
18          for Victims of Human Rights Violations under the Marcos Regime, hereinafter  
19          referred to as the Board.

20          A. *Composition.* – The Board shall be composed of a chairperson and  
21          four members. The chairperson, who shall be a retired justice of the Supreme

1 Court and of known probity and integrity, as well as the two members, each  
2 representing a human rights nongovernmental organization (NGO) of national  
3 membership, shall be appointed by the President. The two other members  
4 shall be *the chairperson of the CHR and the Secretary of the Department of*  
5 *Justice.* The term of office of the members of the Board shall automatically  
6 end upon the completion of its work pursuant to Section 16 hereof: *Provided,*  
7 That no person who is a claimant or a member of any organization claiming  
8 compensation under this Act shall be appointed or become a member of the  
9 Board.

10 B. Powers and Functions. – The Board shall have the following  
11 powers and functions:

12 (1) To receive all applications for compensation under this Act and all  
13 pertinent supporting documents;

14 (2) To evaluate, process and investigate said applications;

15 (3) To administer oath, issue *subpoena duces tecum* and *subpoena ad*  
16 *testificandum*, receive testimony and conduct independent summary hearings  
17 and resolve with finality all applications for compensation, granting or denying  
18 the same;

19 (4) To ensure that the truth behind all human rights violations are  
20 thoroughly documented;



1           (5) To deputize appropriate government agencies and/or NGOs to  
2 perform functions or tasks subsidiary to, but necessary for, the effective  
3 discharge of its primary functions;

4           (6) To promulgate the Implementing Rules and Regulations (IRR) of  
5 this Act within sixty (60) days from the date of its organization, in consultation  
6 with *nongovernmental human rights organizations*, including organizations of  
7 victims of human rights violations: *Provided*, That in the formulation of the  
8 IRR, the Board shall strictly adhere to the human rights policies enunciated in  
9 the Philippine Constitution and in this Act, the international human rights  
10 instruments, such as the Universal Declaration of Human Rights, the  
11 International Covenant on Civil and Political Rights, the United Nations  
12 Convention Against Torture and Cruel, Inhuman or Degrading Treatment or  
13 Punishment, as well as relevant official reports or documents issued pursuant  
14 to and under the authority of the United Nations High Commissioner on  
15 Human Rights; and

16           (7) To determine both the classification of compensable claims under  
17 this Act and the forms of amounts of monetary or non-monetary compensation  
18 or award appropriate or commensurate to each classification of compensable  
19 claim, in accordance with the enumeration and definitions of human rights  
20 violations provided for in Section 3 hereof, each subclassification therein being  
21 considered as one compensable class, all claims under that class being entitled

1 to a minimum fixed and uniform amount of award, regardless of the  
2 circumstances particular to each claim within that class.

3 C. Operational Budget. – The amount of Twenty million pesos  
4 (P20,000,000.00) necessary to fund the initial operations of the Board shall be  
5 sourced from the President's social fund. This budget shall be entirely  
6 separate and distinct from whatever fund is identified or established for the  
7 purpose of providing compensation to the qualified HRVVs. Thereafter, the  
8 amount necessary for the effective operation of the Board shall be included in  
9 the budget of the CHR in the General Appropriations Act of the year following  
10 the effectivity of this Act and every year thereafter.

11 SEC. 9. *Period for Filing of Claims.* – Any HRVV shall file an  
12 application for compensation within one year from the date of publication of  
13 the IRR of this Act: *Provided,* That for HRVVs who are deceased or  
14 incapacitated, their spouse, direct descendants or ascendants shall be entitled to  
15 file an application for compensation on behalf of the deceased or incapacitated  
16 HRVV: *Provided, further,* That the Board shall utilize all avenues to  
17 disseminate the widest information about the period for filing of claims.

18 SEC. 10. *Determination of Award.* – The Board shall follow the point  
19 system in the determination of the award. The range shall be one to ten points,  
20 as follows:

1           (a) *Victims who died as a result of torture, serious physical injury or*  
2 *summary execution and involuntary disappearance shall be given nine to ten*  
3 *points;*

4           (b) *Victims who were tortured shall be given four to nine points; and*

5           (c) *Victims who were harassed and detained shall be given one to four*  
6 *points.*

7           In each category, victims who had suffered more would receive more  
8 *points. In instances where a victim had suffered in more than one category, the*  
9 *victims shall be awarded only the points in the higher category.*

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

14          Each claimant would then be awarded with the number of points he was  
15 *awarded multiplied by the value of one point.*

16          The Board shall make an objective criteria in the awarding of points  
17 taking into consideration the generally accepted principles contained in  
18 International Human Rights Instruments and experiences in other countries.

19          SEC. 11. *Proper Disposition of Funds.* – The Board shall ensure that  
20 the funds appropriated or which may become available as compensation for

1 human rights violation victims are properly disbursed in accordance with the  
2 policy stated by Congress.

3       SEC. 12. *Documentation of Human Rights Violations.* -- As part of the  
4 implementation of this Act and without prejudice to any other documentary or  
5 other evidence that may be required for the award of any compensation, any  
6 HRV victim or their heirs seeking compensation under this Act shall execute a  
7 detailed sworn statement accompanied by relevant photographs, letters, birth,  
8 medical and/or death certificates, pleadings and other judicial or quasi-judicial  
9 documents, newspaper or videotaped accounts, or materials including  
10 corroborative statements or testimonies of witnesses narrating the  
11 circumstances of the human rights violation committed against him. Such  
12 materials, along with any other relevant documents shall be compiled by the  
13 Board mandated to implement this Act, with assistance from the National  
14 Historical Institute (NHI), the University of the Philippines (UP) Department  
15 of History and such human rights NGOs for purposes of establishing an  
16 archive of HRVs, as well as the submission of an annual report to the  
17 President, Congress, Supreme Court and the United Nations High  
18 Commissioner on Human Rights.

19       SEC. 13. *Roll of Victims.* -- Persons who are found to be human rights  
20 victims, including those who opt not to collect compensation, shall be given  
21 recognition by enshrining their names in a Roll of Human Rights Violation

1 Victims to be prepared by the Board. The Roll shall be filed with the National  
2 Library and in such offices or agencies, national and international, which are  
3 dedicated to the prevention of human rights abuses. The HRVVs shall  
4 likewise receive an official apology from the State, through the Board of  
5 Compensation.

6 SEC. 14. *Monitoring Committee.* – A monitoring committee is hereby  
7 created for the proper and effective implementation of this Act including its  
8 rules and regulations. The committee shall be comprised of three  
9 representatives from the Senate, three from the House of Representatives and  
10 three from the organizations of HRVVs. The chairpersons of the Senate  
11 Committee on Justice and Human Rights and the House Committee on Human  
12 Rights shall serve as co-chairpersons of the committee.

13 SEC. 15. *Penalties.* – Any claimant who is found by the Board, after  
14 summary hearing, to have filed a fraudulent and malicious claim, shall be  
15 referred to the appropriate office for prosecution. If convicted, he shall suffer  
16 imprisonment of eight to ten years and pay a fine of not less than One hundred  
17 thousand pesos (P100,000.00) but not more than Five hundred thousand pesos  
18 (P500,000.00).

19 SEC. 16. *Period.* – The Board shall complete their work within two  
20 years from the approval of the IRR unless the same is extended by an act of  
21 Congress.

1           SEC. 17. *Review of Criminal Cases Against HRV Victims.* – The  
2 Department of Justice shall conduct a review of criminal cases that may be  
3 pending or have been decided against persons whom the Board has determined  
4 as victims of human rights violations as provided for in this Act for the purpose  
5 of seeking the reopening and/or dismissal of politically motivated cases.

6           SEC. 18. *Repealing Clause.* – Section 63(b) of Republic Act No. 6657,  
7 as amended, otherwise known as the Comprehensive Agrarian Reform Law of  
8 1988, is hereby amended. All laws, decrees, executive orders, rules and  
9 regulations or parts thereof inconsistent with any of the provisions of this Act  
10 are hereby repealed, amended or modified accordingly.

11           SEC. 19. *Separability Clause.* – If, for any reason, any section or  
12 provision of this Act is declared unconstitutional or invalid, such other sections  
13 or provisions not otherwise affected thereby shall remain in full force and  
14 effect.

15           SEC. 20. *Effectivity.* – This Act shall take effect fifteen (15) days after  
16 its complete publication in the *Official Gazette* or in at least two national  
17 newspapers of general circulation.

Approved,