Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 638

Introduced by **Rep. Loretta Ann P. Rosales**

EXPLANATORY NOTE

The Filipinos are among the world's foremost heroes and advocates of freedom. To demonstrate and exemplify that avid regard and concern for human rights, the 1987 Constitution in Paragraph 4, Section 12, Article III, mandates that:

> "The law shall provide for penal and civil sanctions for violations of prohibition against torture, force, violence, threat, intimidation or any other means which vitiate the free will."

The Eighth Congress, in landmark legislation, authorized the granting of compensation to persons who are unjustly imprisoned or detained, or victimized by violent crimes. Republic Act Number 7309 awards a One Thousand Peso (P1,000.00)-indemnification for every month a qualified claimant had been incarcerated. A reimbursement for hospitalization, loss of wage and support shall also be awarded to those whose horrifying experience left them physically injured, psychologically scarred or permanently incapacitated.

But in all aforecited cases, the maximum allowable amount of indemnification is P10,000.00 This amount is not enough and barely restitutes the lightest of indignities suffered even by the yardstick of tokenism.

To make the gesture as equally substantial as it is symbolic, it is proposed that the rates and ceiling of compensation be increased. Admittedly, even this amount is far from the ideal resources one must have to undergo rehabilitation successfully.

Critics may argue that indemnification of this kind should only be practiced by rich countries and not by cash-strapped Third World ones such as the Philippines. This assumption is wrong. As justice is universal, rectifying injustices must be universal too, exempting no one - not even on account of poverty. This would be in poor taste if invoked as a way of escaping the duty to indemnify.

Further, in the deliberations of the 1986 Constitutional Commission, it was discussed that compensation to victims of human rights violations should be entrusted to the Commission on Human Rights in line with its proposed mandate. Hence, this bill proposes that the Board of Claims be transferred from the Department of Justice to the Commission on Human Rights where the Constitutional Commissioners intended to place it.

The early passage of this bill is earnestly sought.

REP. LORETTA ANN P. ROSALES
Akbayan! Party List Representative

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AN ACT
AMENDING REPUBLIC ACT NUMBERED 7309 ENTITLED "AN ACT CREATING A BOARD OF CLAIMS UNDER THE DEPARTMENT OF JUSTICE FOR VICTIMS OF UNJUST IMPRISONMENT OR DETENTION AND VICTIMS OF VIOLENT CRIMES AND FOR OTHER PURPOSES"

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

SECTION 1. Section 1 of Republic Act No. 7309 is hereby amended to read as follows:

"SECTION 1. *Creation and Composition of the Board.* - There is hereby created a Board of Claims under the [Department of Justice] COMMISSION ON HUMAN RIGHTS, hereinafter referred to as Board, to be composed of one (1) chairman and two (2) members to be appointed by the [Secretary] CHAIRMAN of the said [Department] COMMISSION.

ALL REFERENCES IN R.A. 7309 TO THE DEPARTMENT OF JUSTICE AND THE SECRETARY SHALL BE CHANGED TO COMMISSION ON HUMAN RIGHTS AND CHAIRMAN, RESPECTIVELY."

SEC. 2. SECTION 3 of Republic Act No. 7309 is hereby amended by adding subparagraphs "e" and "f" therein to read as follows:

"SEC. 3. *Who May File Claims.* - The following may file claims for compensation before the Board:

xxx xxx xxx

E) ANY PERSON WHO HAD BEEN APPREHENDED AND ARRESTED BY VIRTUE OF A WARRANT OF ARREST ISSUED BY A JUDGE, OR WITHOUT A WARRANT WHILE UNDERGOING INVESTIGATION, AND/OR WHO, WHILE UNDER DETENTION, WAS SUBJECTED TO BRUTALITIES AND TORTURE COMMITTED BY POLICE, MILITARY AND OTHER LAW ENFORCEMENT AGENCIES AND THEREBY SUFFERED INJURIES AS CERTIFIED BY A LICENSED

DOCTOR OR HOSPITAL, OR AS TESTIFIED TO IN A SWORN STATEMENT BY HIS/HER COUNSEL, RELATIVE, NBI INVESTIGATOR, OR ANY OFFICIAL, OR SUPPORTED BY PHOTOGRAPHS, VIDEOS, AND OTHER DOCUMENTARY OR PHYSICAL EVIDENCE;

F) ANY PERSON UNJUSTLY IMPRISONED ON ONE CHARGE EVEN IF HE/SHE HAS OTHER CASES PENDING AGAINST HIM/HER OR FOR WHICH HE/SHE IS CONVICTED; AND,

G) ANY PERSON WHO HAD BEEN ARRESTED AND DETAINED FOR AT LEAST FIVE (5) YEARS AND WAS SUBSEQUENTLY ACQUITTED OF THE CHARGE AGAINST HIM/HER BY ANY COURT OF COMPETENT JURISDICTION."

SEC. 3. SECTION 4 of Republic Act No. 7309 is hereby amended to read as follows:

"SEC. 4. *Award Ceiling.* - For victims of unjust imprisonment or detention, the compensation shall be based on the number of months of imprisonment or detention and every fraction thereof shall be considered one month: *Provided, however*, That in no case shall such compensation exceed [One Thousand Pesos (P1,000.00)] SEVEN THOUSAND AND FIVE HUNDRED PESOS (P7,500.00) per month.

(b) In all other cases, the maximum amount for which the Board may approve a claim shall not exceed [Ten Thousand Pesos (P10,000.00)] SEVENTY-FIVE THOUSAND PESOS (P75,000.OO) or the amount necessary to reimburse the claimant the expenses incurred for hospitalization, medical treatment, loss of wage, loss of support or other expenses directly related to the injury, or whichever is lower. This is without prejudice to the right of the claimant to seek other remedies under existing laws."

SEC. 4. SECTION 5 of Republic Act No. 7309 is hereby amended to read as follows:

"SEC. 5. *When to File Claims.* - Any person entitled to compensation under this Act shall, within six (6) months after being released from imprisonment or detention, [or from the date the victim suffered damage or injury] OR AFTER BEING ACQUITTED OF THE CHARGES AGAINST HIM/HER, file [his]HIS/HER claim with the [Department] COMMISSION, otherwise, [he] HE/SHE shall be deemed to have waived the same. Except as provided for in this Act, no waiver of claim whatsoever shall be valid."

SEC. 5. A new section shall be added before Section 10 of Republic Act No. 7309, to read as follows:

"SEC 10. *SAFEGUARDS AGAINST FALSE CLAIMANTS.* - THE FOLLOWING SHALL SERVE AS SAFEGUARDS AGAINST FALSE CLAIMANTS:

A) THE APPLICATION FOR COMPENSATION SHALL BE SWORN TO;
B) A SUMMARY HEARING SHALL BE CONDUCTED WHEREIN THE APPLICANT AND HIS/HER WITNESSES ARE SUMMONED BEFORE THE ADMINISTERING BODY AND QUESTIONED ABOUT THE APPLICATION;
C) PERSONS FOUND GUILTY OF PERJURY SHALL BE PUNISHED IN ACCORDANCE WITH LAW."

SEC. 6. Section 9 of Republic Act No. 7309 is hereby amended to read as follows:

"[Sec. 9. *Funding.* For purposes of this Act, the amount of ten million pesos (P10,000,000.00) is hereby authorized to be appropriated from the funds of the National Treasury not otherwise appropriated.]

SEC. 9. *APPROPRIATIONS.* - FOR PURPOSES OF CARRYIING OUT THE PROVISIONS OF THIS ACT, ALL UNEXPENDED FUNDS OF THE BOARD OF CLAIMS UNDER THE DEPARTMENT OF JUSTICE SHALL BE TRANSFERRED TO THE COMMISSION ON HUMAN RIGHTS. THEREAFTER, SUCH SUMS AS MAY BE NEEDED FOR THE PAYMENT OF COMPENSATION TO VICTIMS SHALL BE INCLUDED IN THE ANNUAL GENERAL APPROPRIATIONS ACT."

SEC. 7. *Effectivity Clause.* - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of general circulation.

Approved,