

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 302

Introduced by AKBAYAN Party-List Representatives Walden J. Bello
and Arlene J. Bag-ao

EXPLANATORY NOTE

The Philippine Constitution is clear in its promotion and protection of human rights including providing for compensation to victims of violations of human rights or their families. Accordingly, Section 11 of Article II declares, as a statement of general policy, that "the State values the dignity of every human person and guarantees full respect for human rights." More specifically, Section 12 of Article III prohibits the use of "torture, force, violence, threat, intimidation, or any other means which vitiate the free will" of any person under custodial investigation even as it supports, under the same section, "compensation to and rehabilitation of victims of torture or similar practices and their families." Section 18 (6) of Article III also mandates the Commission on Human Rights to "recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights or their families."

This is consistent with the Philippines' commitments to international human rights conventions and instruments to which it is a party. Specifically, the Philippines assumed the obligation, under the International Covenant on Civil and Political Rights, to respect the rights guaranteed therein and concomitantly to redress acts or omissions of its agents violative of the same.

It is in clear recognition of these obligations and commitments, as well as the State's responsibility to the victims of human rights violations, including, especially, those who were unjustly detained, tortured, summarily executed or disappeared immediately before and during the period of martial law in the Philippines, that this bill is being re-filed. It is based on the draft submitted by the Bicameral Conference Committee tasked to consolidate Senate Bill No. 1745 and House Bill No. 3315 which was submitted to both Houses for ratification during the wee hours of the Thirteenth Congress.

In the main, this bill provides for compensation from the State to human rights violations victims as defined herein. The funds transferred during the 10 December 1997 Order of the Swiss Federal Supreme Court which the Supreme Court of the Philippines has adjudged as ill-gotten wealth shall become the principal source of funds for the compensation of human rights violations victims, including the class suit plaintiffs in the human rights litigation against the estate of Former President Ferdinand

Marcos whose claims have been validated by the Board of Compensation created under this proposed Act.

A handwritten signature in black ink, appearing to read 'W. Bello', written in a cursive style.

WALDEN F. BELLO

A handwritten signature in black ink, appearing to read 'A. Bag-Ao', written in a cursive style.

ARLENE J. BAG-AO

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

FOURTEENTH CONGRESS
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House Bill No. _____

Introduced by **AKBAYAN Party-List Representatives Walden F. Bello**
and **Arlene J. Bag-ao**

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 the House of Representatives of the Philippines in Congress assembled:

SECTION 1. Short Title. - This Act shall also be known as the "Compensation Act to Victims of Human Rights Violations".

SECTION 2. Declaration of Policy. - Section 11 of Article II of the 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. Section 18(6) of Article XIII of the Constitution also directs the Commission on Human Rights (CHR) to recommend to the 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) which imposes on each State party the obligation to take the necessary steps to adopt such laws 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.

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, involuntary disappearance and other gross human rights violations committed during the dictatorial regime of former President Ferdinand Marcos covering the period from September 21, 1972 to February 25, 1986 and restore the victim's 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.

SECTION 3. Definition of Terms. - The following terms as used in this Act shall mean:

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

- (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 Marcos as well as any arrest or detention or deprivation of liberty carried out during the aforementioned covered period on the basis of an "Arrest Seize and Seizure Order (ASSO)", a "Presidential Commitment Order (PCO)" or a "Preventive Detention Action (PDA)" as they were defined by decrees of Former President Ferdinand 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 exercising civil or political rights, including 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 involuntary or enforced disappearance caused upon a person who was arrested, detained or abducted against his/her will or otherwise deprived of his/her liberty;
- (4) Any force or intimidation causing the involuntarily exile of a person from the Philippines;
- (5) Any unjust or illegal takeover of a business or the confiscation of the property of a person, including those caused by Former President Ferdinand Marcos, his spouse Imelda 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 26, 1986 by President Corazon Aquino in the exercise of her legislative powers under the Freedom Constitution;
- (6) Any acts constituting the following:
 - (i) saturation drives and/or "zona"s;
 - (ii) "hamletting" and/or food blockades;
 - (iii) kidnapping or otherwise exploiting children of persons suspected of committing acts against the Marcos regime;
 - (iv) committing sexual offenses against detainees and/or in the course of conducting military and/or police operations;
 - (v) violation of the freedom of the press by the imposition of censorship, closure of media facilities, and/or detention of editors and media practitioners;
 - (vi) violation of the freedom of speech and assembly by preventing assemblies and demonstrations and/or violently dispersing them;
 - (vii) violation of the rights of labor by preventing and dispersing strikes and other concerted activities; and
 - (viii) other violations and/or abuses similar or analogous to the above, including those recognized by international law.

(b) **"Human Rights Violation Victim" (HRVV).** - For purposes of this Act, a victim of a human rights violation is one whose human rights were violated by persons acting in an official capacity and/or agents of the State as these terms are defined herein. In order to qualify for compensation under this Act, the human rights violation must have occurred during the period from September 21, 1972 to February 25, 1986: *Provided, however*, That

victims of human rights violations that occurred within one month after February 25, 1986 shall be entitled to compensation under this Act if they can establish that:

- (1) the violation was committed by agents of the State and/or persons acting in an official capacity loyal to the Marcos regime;
- (2) the violation was committed for the purpose of preserving, maintaining, supporting or promoting the said regime; or
- (3) the violation was committed to conceal abuses during the Marcos regime and/or the effects of martial law.

(c) **"Persons Acting in an Official Capacity/Agents of the State".** - The following shall be deemed 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/s attached thereto; and any member of a paramilitary group even if he is not organically part of the PC, INP, AFP or 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/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; and
- (3) Persons referred to in Executive Order No. 1, including Former President Ferdinand Marcos, his spouse Imelda Marcos, their immediate relatives by consanguinity or affinity, as well as their close relatives, associates, cronies and subordinates.

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

(e) **"Non-Monetary Compensation".** - refers to a non-pecuniary compensation to a victim of a human rights violation or members of his family to restore his or his 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 psychological, is intentionally inflicted on a person under the custody of agents of the State, as defined by law, jurisprudence and international conventions.

SECTION 4. *Prima Facie Presumption that a person is a victim of a Human Rights Violation.* - The persons named as class suit plaintiffs in the Human Rights Litigation Against the Estate of Ferdinand E. Marcos and in whose favor a final and executory judgment has been rendered by the United States District Court in the State of Hawaii shall be entitled to this disputable presumption that they are human rights violation victims (HRVV) as defined in this Act. This disputable presumption is subject to validation and may be contradicted or rebutted by competent evidence.

SECTION 5. *Conclusive Presumption that a Person is a Human Rights Violation Victim.* - Any person/s who have secured or can secure in their 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 human rights victim without need of further proof: *Provided, That the amount of the award shall be determined by the Board.*

SECTION 6. *Other Claimants.* - Any person who does not fall under the preceding Sections 4 or 5 but was an HRVV can file a claim with the Human Rights Victims Compensation Board for compensation and/or recognition.

A claimant under Section 4 whose claim has been disallowed by the aforesaid Board cannot file a claim under this section.

SECTION 7. *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, his 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 his aforesaid 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.

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

SECTION 9. *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, which funds have been adjudged by the Supreme Court of the Philippines in G.R. no. 152154 (Republic vs. Sandiganbayan) as ill-gotten Marcos wealth and forfeited in favor of the Republic of the Philippines, shall be the principal source of funds for the implementation of this Act. The aforesaid judgment which was promulgated on July 15, 2003 has become final and executory.

SECTION 10. *Transfer of Funds.* - Pursuant to the judgment mentioned in the preceding paragraph, the amount of Ten billion pesos (₱10,000,000,000.00) is hereby set aside and appropriated to fund the purposes of this Act: *Provided*, that the said amount of Ten billion pesos (₱10,000,000,000.00) shall be constituted as a separate account in the Bureau of the Treasury in trust for the HRVVs: *Provided, further*, That no amount from said account shall be disbursed, withdrawn or invested without the prior approval of the Human Rights Victims Compensation Board created herein: *Provided, furthermore*, That transfer of funds to the bank account of the Board shall be effected automatically upon submission to the Bureau of the Treasury by the Board of a duly approved Resolution on the utilization of the funds requested for release; and *Provided, finally*, That no transfer or release of funds of more than fifty million pesos (₱50,000,000.00) shall be effected in a single request for transfer or release of funds.

SECTION 11. *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 his legal heirs or representative seeking compensation shall execute a detailed sworn statement, accompanied by photographs, letters, death certificate, 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 right violation committed against the said HRVV. Such evidentiary proofs shall be compiled by the agencies mandated to implement this Act, with the assistance of the National Historical Institute (NHI), the University of the Philippines (UP) and nongovernmental organizations (NGO) whose assistance may be engaged. 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.

SECTION 12. *Human Rights Victims Compensation Board, Its Creation, Composition and Secretariat.* – An independent Human Rights Victims Compensation Board, hereinafter referred to as the Board, is hereby created. It shall be composed of five (5) members of known probity, ability and integrity, each one with deep understanding of the human rights violations committed during the rule of Former President Ferdinand Marcos: *Provided, That one (1) member shall come from the Government.*

The President of the Philippines shall choose and appoint the members of the Board from among a list of seven (7) nominees to be submitted by the following non-governmental organizations, which shall meet within fifteen (15) days from the effectivity of this Act:

- (a) Task Force Detainees of the Philippines (TFDP);
- (b) Free Legal Assistance Group (FLAG) and the Movement of Attorneys for Brotherhood, Integrity, and Nationalism, Inc. (MABINI);
- (c) National Council of Churches in the Philippines (NCCP); and
- (d) Medical Action Group (MAG).

Upon their appointment by the President, the Board shall elect their Chairperson.

The Board shall be attached to, but not under the control or supervision of the Commission on Human Rights (CHR).

The Board shall organize itself within thirty (30) days from the appointment of all five (5) members. Within thirty (30) days thereafter, it shall organize its secretariat that shall be exempted from Republic Act No. 6758, otherwise known as the Salary Standardization Law.

SECTION 13. *Operating Budget of the Board.* - The initial amount of Ten million pesos (₱10,000,000.00) for the operation of the Board shall be sourced from the Ten billion pesos (₱10,000,000,000.00) stated in Section 10. The subsequent amounts necessary for the operating budget of the board shall likewise be sourced from the same funds.

SECTION 14. *Proper Disposition of Funds.* - The Board shall ensure that the funds appropriated or which may become available as compensation for HRVVs are properly disbursed in accordance with the policy stated by Congress and relevant government accounting procedures.

SECTION 15. *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) conduct independent proceedings and resolve applications for claims by either granting or denying the same;
- (c) deputize appropriate government agencies to assist it in order to effectively perform its functions;
- (d) promulgate rules of procedure in the conduct of its proceedings with the revised rules of court of the Philippines having supplementary application;
- (e) issue, serve and enforce *subpoenas ad testificandum* and *subpoenas duces tecum*; and
- (f) exercise administrative control and supervision over its secretariat through the executive director.

SECTION 16. *Implementing Rules and Regulations.* - Within thirty (30) days from the date of its organization, the Board shall promulgate the necessary Implementing Rules and Regulations (IRR) 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.

SECTION 17. *Salaries.* - The Chair and members of the Board shall receive salaries and allowances equivalent to those of the Presiding Justice and Associate Justices of the Court of Appeals, respectively.

SECTION 18. *Determination of Award.* - The Board shall follow the point system in the determination of the award. The range shall be 1 to 10 points, as follows:

- (a) victims who died shall be given 9 to 10 points;
- (b) victims who were tortured shall be given 5 to 9 points;
- (c) victims who were detained shall be given 2 to 4 points; and
- (d) victims who were harassed and economically disadvantaged shall be given 1 point.

In each category, victims who had suffered more would receive more points. In instances where a victim falls under more than one category, he shall be awarded the points in the higher category.

The Board shall divide the total amount available to be awarded under this act by the sum total of the points awarded to eligible claimants to determine the monetary value of each point.

In order to determine the amount of compensation to be awarded to each eligible claimant, the total number of points he has received shall be multiplied by the monetary value of one point.

The Board shall prioritize the payment of compensation to HRVVS or their legal heirs or representatives whose deaths, enforced disappearance, torture and/or prolonged detention have been well-publicized, of general public knowledge and/or indubitably established.

SECTION 19. *Non-Monetary Compensation.* - The Department of Health, Department of Social Welfare and Development, Department of Education, the Commission on Higher Education, Technical Education and Skills Development Authority, and such other allied government agencies shall render the necessary services as non-monetary compensation for HRVVs, 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.

The Commission on Human Rights shall monitor and facilitate the proper implementation of this provision beyond the completion of the work of the Board as prescribed in Section 23 herein.

SECTION 20. *Period for Filing of Claims.* - An HRVV shall file an application for compensation with the Board within three (3) months from the effectivity of the IRR of this Act: *Provided, That* for HRVVs who are deceased or incapacitated, their legal heirs or representatives, shall be entitled to file an application for compensation on their behalf.

SECTION 21. *Penalties.* - Any claimant who is found by the Board, after due hearing, to have filed a false claim, shall be referred to the appropriate office for prosecution. If convicted, he shall suffer imprisonment of eight (8) to ten (10) years, be deprived of the right to vote and to be elected to any public office and in applicable cases, be dismissed from government service and perpetually disqualified from appointment to a public office.

Any member of the Board and its secretariat, public officer or 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 suffer imprisonment of ten (10) to fifteen (15) years in addition to the other penalties provided for in the Revised Penal Code and relevant special penal laws.

SECTION 22. *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 National Historical Institute shall erect in a conspicuous location in the national capital region an appropriate memorial, shrine or monument honoring these HRVVs.

SECTION 23. *Joint Congressional Oversight Committee.* - An Oversight Committee is hereby created composed of three (3) members each from the Senate and the House of Representatives to monitor and evaluate the implementation of this Act.

SECTION 24. *Period.* - The Board shall complete its work within two (2) years from the effectivity of the IRR promulgated by the Board.

SECTION 25. *Repealing Clause.* - Section 63(b) of Republic Act No. 6657, as amended, otherwise known as the Comprehensive Agrarian Reform Law of 1988, is hereby amended to the extent that it will conform with this Act. 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.

SECTION 26. *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.

SECTION 27. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,