

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
Third Regular Session

HOUSE BILL No. 9034



**Introduced by Reps. CARLOS ISAGANI T. ZARATE, ANTONIO L. TINIO,
EMMI A. DE JESUS, FRANCE L. CASTRO, ARLENE D. BROSAS,
ARIEL B. CASILAO, and SARAH JANE I. ELAGO**

AN ACT
PROVIDING FOR THE CONTINUATION OF REPARATION AND RECOGNITION
OF VICTIMS OF HUMAN RIGHTS VIOLATIONS DURING THE MARCOS
REGIME, CREATING THE HUMAN RIGHTS VIOLATIONS VICTIMS'
RECOGNITION AND REAPARATION BOARD, AMENDING FOR THE PURPOSE
REPUBLIC ACT NO. 10368, OTHERWISE KNOWN AS THE HUMAN RIGHTS
VICTIMS REPARATION AND RECOGNITION ACT OF 2013, AS AMENDED BY
REPUBLIC ACT NO. 10766, AND FOR OTHER PURPOSES

EXPLANATORY NOTE

Section 11 of Article II of the 1987 Constitution declares that the State values the dignity of every human, person and guarantees full respect for human rights. 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.

The State recognizes and adopts generally accepted principles of international law as part of the law of the land through Section 2 of Article II of the Constitution. These includes Universal Declaration of Human Rights, 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.

Republic Act No. 10368 entitled "An Act Providing for Reparation and Recognition of Victims of Human Rights Violations During the Marcos Regime, Documentation of Said Violations, Appropriating Funds Therefor and for Other Purposes", passed in 2013, provides for the State recognition of 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 Marcos covering the period from September 21, 1972 to February 25, 1986 and restore the victims' honor and dignity.

Through the law, the State acknowledges its moral and legal obligation to recognize and/or provide reparation to the 9,539 class suit plaintiffs and the 24 direct action plaintiffs who were adjudged as such victims by the US Federal Court System in Honolulu, Hawaii in 1992. Section 17 provides for conclusive presumption for the claimants in the class suit and direct action plaintiffs while not depriving the Board of "its original jurisdiction and its inherent power to determine the extent of the human rights violations and the corresponding reparation and/or recognition that may be granted".

Under RA 10368, more than 75,000 applicants filed their claims, but only 11,103 was approved and duly recognized by the Human Rights Victims Claims Board (HRVCB) until the board became *functus officio* by May 12, 2018. The HRVCB was able to completely resolve the 6,737 appeals as of May 6, 2018.

Six years after RA 10368 was passed, and 27 years after the landmark decision in Hawaii, relatives and friends of the human rights violations are still crying out for justice.

With the HRVCB officially *functus officio*, there is a growing clamor among many martial law human rights violations victims and relatives and human rights groups for a new law that will continue the recognition and reparation as mandated by RA 10368.

More and more relatives of Martial Law human rights violations victims have brought up their case on what they call as "unjust" denial of their claims for reparation. Included among the claims denied by HRVCB were those from Hawaii class suit plaintiffs. Based on the reports of human rights organization Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto (SELDA), the claims for Hawaii case plaintiffs Maurico Anugot, Cesaria Anugot, Marilyn Anugot, Eufecio Anugot, Welito Anugot, Teofilo Anugot of Balamban Massacre, Raul Deri of Sorsogon, and Reynaldo Garcia of Manila were denied despite the law's provision on conclusive presumption. Also included among those denied was delisted Hawaii claimant Petra Venus Villegas of Quezon.

Adding further insult to injury, there are increasing signs that the Marcoses are slowly being absolved of their crimes against the people -- from Ferdinand Marcos' burial in Libingan ng mga Bayani, non-arrest of Imelda Marcos despite the Court's guilty verdict, to the Marcoses' continuing power and dominance and their continuing lies, deception and attempt to revise history. With these, it seemed, justice have and will remain elusive for the tens of thousands of Martial Law human rights violations victims.

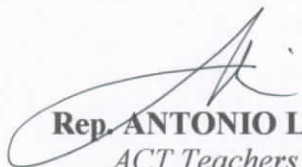
While no amount of monetary reparation will restore lost lives, properties, broken relations and dreams of the human rights violations victims and their families, the reparation is important for them, as it forms part of the overall recognition of the reality of human rights violations and their immeasurable suffering of the people under the Marcos regime.

It is thus a matter of justice that the recognition and reparation for martial law human rights violations victims and their families continue despite the sunset provision for the HRVCB under RA 10368.

Passage of this Bill, thus, is earnestly sought.

Approved,

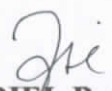

Rep. CARLOS ISAGANI F. ZARATE
Bayan Muna Partylist


Rep. ANTONIO L. TINIO
ACT Teachers Partylist

Rep. EMMI A. DE JESUS
Gabriela Women's Party

Rep. FRANCE L. CASTRO
ACT Teachers Partylist


Rep. ARLENE D. BROSAS
Gabriela Women's Party


Rep. ARIEL B. CASILAO
Anakpawis Partylist


Rep. SARAH JANE I. ELAGO
Kabataan Partylist

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REPUBLIC ACT NO. 10766, AND FOR OTHER PURPOSES

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

SECTION 1. Title. –This Act shall be known as the "New Human Rights Victims Reparation and Recognition Act of 2019"

SECTION 2. Entitlement to Monetary Reparation.

Section 4 of RA 10368 is hereby amended to read as follows:

“Section 4. Entitlement to Monetary Reparation. — Any HRVV qualified under this Act shall receive reparation from the State, free of tax, as herein prescribed: *Provided*, That for a deceased or involuntary disappeared 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 or involuntary disappeared HRVV’s estate in that order, shall be entitled to receive such reparation: *Provided, further*, That no special power of attorney shall be recognized in the actual disbursement of the award, and only the victim or the aforestated successor(s)-in-interest shall be entitled to personally receive said reparation from the Board, unless the victim involved is shown to be incapacitated to the satisfaction of the Board **OR COULD NOT PERSONALLY DO SO FOR REASONS OF SEVERE ILLNESS, THREAT TO LIFE OR SECURITY**: *Provided, furthermore*, That the reparation 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 3. Source of Reparation.

“Section 7. Source of Reparation. — The amount of Ten billion pesos (P10,000,000,000.00) [plus accrued interest which form part of 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,] **FOR THE REPARATION OF THE HRVV UNDER THIS ACT SHALL BE SOURCED FROM THE RECOVERED ILL-GOTTEN WEALTH REMITTED BY THE PRESIDENTIAL COMMISSION ON GOOD GOVERNMENT TO THE BUREAU OF TREASURY.** [shall be the principal source funds for the implementation of this Act.]

Section 4. *Creation of the Human Rights Violation Victims’ Recognition & Reparation Board (HHRVRRB).*

Section 8, Chapter II of RA 10368 shall be amended to read as follows:

“CHAPTER II

THE HUMAN RIGHTS **VIOLATION VICTIMS’ [CLAIMS] RECOGNITION AND REPARATION BOARD**

Section 8. *Creation and Composition of the Human Rights VIOLATION Victims’ [Claims] RECOGNITION AND REPARATION Board.* — There is hereby created an independent and quasi-judicial body to be known as the Human Rights **VIOLATION Victims’ [Claims] RECOGNITION AND REPARATION Board**, hereinafter referred to as the Board. It shall be composed of nine (9) members, who shall possess the following qualifications:

- (a) Must be of known probity, competence and integrity;
- (b) Must have a deep and thorough understanding and knowledge of human rights and involvement in efforts against human rights violations committed during the regime of former President Ferdinand E. Marcos;
- (c) At least three (3) of them must be members of the Philippine Bar who have been engaged in the practice of law for at least ten (10) years; [and]
- (d) Must have a clear and adequate understanding and commitment to human rights protection, promotion and advocacy[.];

(E) MUST NOT BE INCLUDED AMONG THE PERSONS ACTING IN AN OFFICIAL CAPACITY AND/OR AGENTS OF THE STATE AS ENUMERATED IN SECTION 3 (D); AND

(F) MUST NOT BE A MEMBER OR FORMER MEMBER OF THE GOVERNMENT’S UNIFORMED AND MILITARY PERSONNEL,

INCLUDING THE PHILIPPINE NATIONAL POLICE AND ARMED FORCES OF THE PHILIPPINES.

The Human Rights Victims' Claims Board shall be attached to but shall not be under the Commission on Human Rights (CHR).

The Board shall organize itself within thirty (30) days from the completion of appointment of all nine (9) members and shall thereafter organize its Secretariat."

Section 5. *Appointment to the Board.*

Section 9 of RA 10368 is hereby amended as follows:

"Section 9. *Appointment to the Board.* — The President shall appoint the Chairperson and the other eight (8) members of the Board **FROM AMONG THE LIST OF NOMINEES PROVIDED BY THE COMMISSION ON HUMAN RIGHTS AND HUMAN RIGHTS ORGANIZATIONS:** *Provided,* That human rights organizations such as, but not limited to, the Task Force Detainees of the Philippines (TFDP), the Free Legal Assistance Group (FLAG), the Movement of Attorneys for Brotherhood, Integrity and Nationalism (MABINI), the Families of Victims of Involuntary Disappearance (FIND) and the Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto (SELDA) [may] **SHALL** submit nominations to the President.

Section 6. *Powers and Functions of the Board.*

Section 10 of RA 10368 is hereby amended to read as follows:

Section 10. *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) Issue subpoena/s *ad testificandum* and subpoena/s *duces tecum*;
- (c) Conduct independent administrative proceedings and resolve disputes over claims;
- (d) Approve with finality all eligible claims under this Act;
- (e) Deputize appropriate government agencies to assist it in order to effectively perform its functions;
- (f) 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;
- (g) Exercise administrative control and supervision over its Secretariat;
- (h) The Board, [at its discretion,] may consult the human rights organizations mentioned in Section 9 herein **TO VOUCH OR SUPPORT A CLAIM;** and

(i) Perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of this Act.

PROVIDED THAT, THE BOARD SHALL EXERCISE LIBERALITY AND UTMOST CONSIDERATION IN EVALUATION AND APPROVAL OF CLAIMS IN FAVOR OF THE HUMAN RIGHTS VIOLATIONS VICTIMS, WITHOUT PREJUDICE TO ITS POWER AND JURISDICTION TO FULLY EVALUATE AND DENY FALSE CLAIMS.”

Section 7. Operating Budget of the Board.

Section 14 of RA 10368 is hereby amended to read as follows:

Section 14. Operating Budget of the Board.— The operating budget of the Board shall be [funded from the Ten billion peso {P10,000,000,000.00} fund, with Ten million pesos (P10,000,000.00) as its initial operating budget:] **INCLUDED IN THE BUDGET OF THE COMMISSION ON HUMAN RIGHTS IN THE ANNUAL GENERAL APPROPRIATIONS ACT.** *Provided,* That it shall not exceed [Fifty] **SEVENTY** million pesos [(P50,000,000.00)] (P70,000,000) a year

Section 8. Conclusive Presumption for Hawaii Plaintiffs and Bantayog ng mga Bayani HRVV.

Section 17 of RA 10368 is hereby amended to read as follows:

“Section 17. Conclusive Presumption [That One is an HRVV Under This Act.] FOR HAWAII PLAINTIFFS AND BANTAYOG NG MGA BAYANI HRVV— The claimants in the class suit and direct action plaintiffs in the Human Rights Litigation Against the Estate of Ferdinand E. Marcos (MDL No. 840, CA No. 88-0390) in the US Federal District Court of Honolulu, Hawaii wherein a favorable judgment has been rendered, shall be extended the conclusive presumption that they are HRVVs: *Provided,* That the HRVVs recognized by the Bantayog Ng Mga Bayani Foundation shall also be accorded the same conclusive presumption: **PROVIDED FURTHER, THAT SUCH CONCLUSIVE PRESUMPTION SHALL MEAN THAT THE CLAIMS OF SUCH HRVVS SHALL NOT BE DENIED:** *Provided, further,* That nothing herein shall be construed to deprive the Board of its original jurisdiction and its inherent power to determine the extent of the human rights violations and the corresponding reparation and/or recognition that may be granted.”

Section 9. Resolution of Appeals.

Section 19 (d) of RA 10368 shall be amended to read as follows:

“(d) Within thirty (30) days after the Board has approved with finality each eligible claim pending before it and after due publication of such legitimate claim, the award of monetary compensation shall take effect: *Provided,* That any pending appeal filed by an aggrieved claimant or opposite before the Board *en banc* must resolved by it [sixty (60) days before the Board becomes *functus officio*] **WITHIN ONE HUNDRED TWENTY (120) DAYS FROM THE FILING OF APPEAL.”**

Section 10. General Provisions.

The following sections of the General Provisions under RA 10368 shall be amended to read as follows:

“Section 20. *Transfer of Funds.* — Pursuant to the judgment mentioned in Section 7 hereof, the amount of Ten billion pesos (P10,000,000,000.00) plus the accrued interest are hereby set aside and appropriated to fund the [purposes of] **REPARATION UNDER** this Act.”

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“Section 23. *Period for Filing of Claims; Waiver.* — An HRVV shall file an application for reparation 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, incapacitated, or missing due to enforced disappearance, their legal heir/s or representatives, shall be entitled to file an application for reparation on their behalf[.]: **PROVIDED, FURTHER, THAT PREVIOUS CLAIMANTS WHOSE APPLICATIONS HAVE BEEN DENIED SHALL BE ALLOWED TO REFILE CLAIMS WITH THE BOARD WITHIN THE AFOREMENTIONED SIX-MONTH PERIOD.**

PROVIDED, FURTHER, THAT CLAIMS WHICH HAVE BEEN GRANTED AND FULFILLED, AND THOSE FOUND TO BE FRAUDULENT, ARE NOT QUALIFIED FOR REFILING WITH THE BOARD.

Any opposition to the new **AND REFILED** application/s pursuant to Section 16 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.

Section 24 *Appeal.* — Any aggrieved claimant or oppositor may file an appeal within ten (10) calendar days from the receipt of the Resolution of the Division, to the Board *en banc*, whose decision shall then become final and executory.

Section 25. *Penalties; Applicability of the Revised Penal Code.* — Any claimant who is found by the Board, after due hearing, to have filed a fraudulent claim, shall be referred to the appropriate office for prosecution. If convicted, he shall suffer the imprisonment of eight (8) to ten (10) years, shall be disqualified from public office and employment and shall be deprived of the right to vote and be voted for in any national or local election, even after the service of sentence unless granted absolute pardon. **SUCH CLAIMANT SHALL NOT BE**

**ELIGIBLE TO REFILE A CLAIM FOR REPARATION AS
PRESCRIBED IN SECTION 23 OF THIS ACT.**

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

Section 11. *Work Period, Sunset Clause.*

Section 29 of RA 10368, as amended, shall read as follows:

Section 29. Work Period; Sunset Clause. — The Board shall complete its work within four (4) years [from May 12, 2014.] **FROM THE EFFECTIVITY OF THE IRR PROMULGATED BY IT.** After such period, it shall become functus officio.

PROVIDED THAT, ALL DOCUMENTS COLLECTED BY THE BOARD SHALL BE TURNED OVER TO THE HUMAN RIGHTS VIOLATIONS VICTIMS’ MEMORIAL COMMISSION CREATED UNDER SECTION 27.

PROVIDED FURTHER, THAT THE COMMISSION ON HUMAN RIGHTS SHALL TAKE OVER ALL THE REMAINING FUNCTIONS OF THE BOARD UNTIL SUCH TIME THAT ALL QUALIFIED CLAIMS FOR REPARATION HAS BEEN FULLY SATISFIED,

SECTION 12. *Repealing Clause.* – All laws inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 13. *Separability Clause.* – If any of the sections or provisions of this Act is held invalid, all the other provisions not affected thereby shall remain valid and subsisting.

SECTION 14. *Effectivity Clause.* – This Act shall take effect fifteen (15) days from the date of its publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,