

SEVENTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

HOUSE OF REPRESENTATIVES

H.B. No. 226

HOUSE OF REPRESENTATIVES
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REGISTRATION UNIT BILLS AND INDEX SERVICE

Introduced by Representative Herminio Harry L. Roque Jr.

AN ACT AMENDING REPUBLIC ACT NO. 10368, PROVIDING REPARATIONS FOR VICTIMS OF HUMAN RIGHTS VIOLATIONS, CREATING A PERMANENT HUMAN RIGHTS CLAIMS BOARD, AND FOR OTHER PURPOSES.

EXPLANATORY NOTE

Human rights violations should not be countenanced nor ignored by any society. The State is liable to pay reparations to victims of human rights violations committed by any of its agents as part of its legal and constitutional duty to provide an effective remedy to victims of such violations.

Indeed, the right to reparation is a well-established principle of international law: international human rights treaties provide for it; it is recognized by the jurisprudence of many international and domestic courts; the United Nations General Assembly itself, in 2005, adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law, thus contributing to the codification of norms relating to the right to reparation.

This Act highlights the obligations of the State to ensure that human rights are protected within its territory, as well as the reprehensible nature of such violations. The responsibility of the State to pay reparations is over and above the personal liability of the perpetrator of the human rights violations.

This proposed law is also being forwarded so that the State will also ensure that its agents, agencies or instrumentalities will be minded to refrain from abusing their authority by violating human rights.

A handwritten signature in black ink, appearing to read 'H. Roque Jr.', written in a cursive style.

HERMINIO HARRY L. ROQUE JR.

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OTHER PURPOSES**

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

1 SECTION 1. - Republic Act No. 10368 is hereby amended to read as follows:

2 "SECTION 1. *Short Title.* - RA 10368 shall henceforth be known as "AN AN ACT
3 PROVIDING FOR THE ESTABLISHMENT OF A PERMANENT HUMAN RIGHTS
4 CLAIMS BOARD TO HEAR AND AWARD CLAIMS FOR REPARATION AND
5 RECOGNITION OF VICTIMS OF HUMAN RIGHTS VIOLATIONS,
6 APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES."

7 "SECTION 2. *Declaration of Policy.* - Section 11 of Article II of the
8 1987 Constitution of the Republic of the Philippines declares that the State values the
9 dignity of every human, person and guarantees full respect for human rights. Under
10 Section 2, Article II of the Constitution adopting generally-accepted principles of
11 international law as part of the law of the land and as a state party to many human
12 rights treaties, the Philippines is constitutionally and legally bound to provide
13 reparations to victims of human rights violations as an essential element of the right

1 to effective remedy. Article 2 of the International Covenant on Civil and Political
2 Rights (“ICCPR”) recognizes a “right to an effective remedy.” Article 14 of the
3 Convention Against Torture (CAT) mandates a State Party to “ensure in its legal
4 system that the victim of an act of torture obtains redress and has an enforceable
5 right to fair and adequate compensation, including the means for as full
6 rehabilitation as possible.” Article 6 of the International Convention on the
7 Elimination of All Forms of Racial Discrimination (“ICERD”) makes it an obligation
8 of States Parties to assure “effective protection and remedies” and access to “just and
9 adequate reparation or satisfaction” for violations of the rights contained therein.

10 " SEC. 3. Definition of Terms. — The following terms as used in this Act shall
11 mean:

12 (a) Detention refers to the act of taking a person into custody against his will
13 by persons acting in an official capacity and/or agents of the State or by anyone
14 acting under the instructions, acquiescence or support of the State or any of its
15 agents, officials, instrumentalities and agencies.

16 (b) Human rights violation refers to any act or omission committed by
17 persons acting in an official capacity and/or agents of the State, or by anyone acting
18 under the instructions, acquiescence or support of the State or any of its agents,
19 officials, instrumentalities and agencies, but which acts shall not be limited to the
20 following:

21 (1) Any search, arrest and/or detention without a valid search warrant or
22 warrant of arrest issued by a civilian court of law, including any warrantless arrest
23 or detention;

1 (2) The infliction by a person acting in an official capacity and/or an agent of
2 the State of physical injury, torture, killing, or violation of other human rights, of any
3 person exercising civil or political rights, including but not limited to the freedom of
4 speech, assembly or organization; and/or the right to petition the government for
5 redress of grievances, even if such violation took place during or in the course of
6 what the authorities at the time deemed an illegal assembly or demonstration:

7 Provided, That torture in any form or under any circumstance shall be considered a
8 human rights violation;

9 (3) Any enforced or involuntary disappearance caused upon a person who
10 was arrested, detained or abducted against one's will or otherwise deprived of one's
11 liberty, as defined in Republic Act No. 10350 otherwise known as the "Anti-Enforced
12 or Involuntary Disappearance Act of 2012";

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

15 (5) Any act of force, intimidation or deceit causing unjust or illegal takeover of
16 a business, confiscation of property, detention of owner/s and or their families,
17 deprivation of livelihood of a person by agents of the State, or by anyone acting
18 under the instructions of agents of the State or of any instrumentality, agency or
19 official of the State

20 (5) Any act in violation of International Humanitarian Law, including those
21 penalized under Republic Act 9851, the International Humanitarian Law Act,
22 rovided the act is committed by an agent of the State,

1 (6) Any act or series of acts causing, committing and/or conducting the
2 following:

3 (i) Kidnapping or otherwise exploiting children of activists, political
4 dissidents, human rights workers or human rights defenders;

5 (ii) Committing sexual offenses against human rights victims who are
6 detained and/or in the course of conducting military and/or police operations; and

7 (iii) Other violations and/or abuses similar or analogous to the above,
8 including those recognized by international law.

9
10 (c) Human Rights Violations Victim (HRVV) refers to a person whose human
11 rights were violated by persons acting in an official capacity and/or agents of the
12 State as defined herein.

13 (d) Persons Acting in an Official Capacity and/or Agents of the State. – The
14 following persons shall be deemed persons acting in an official capacity and/or
15 agents of the State under this Act:

16
17 (1) Any member of the law enforcement agencies, including, but not limited
18 to the Philippine National Police (PNP), the Bureau of Jail Management and
19 Penology (BJMP), the Bureau of Fire Protection (BFP), the National Bureau of
20 Investigation (NBI), the Philippine Coastguard (PCG), the Armed Forces of the
21 Philippines (AFP), any civilian agent attached thereto; and any member of a
22 paramilitary group even if one is not organically part of the aforementioned agencies
23 so long as it is shown that the group was organized, funded, supplied with

1 equipment, facilities and/or resources, and/or indoctrinated, controlled and/or
2 supervised by any person acting in an official capacity and/or agent of the State as
3 herein defined;

4 (2) Any member of the civil service, including persons who held elective or
5 appointive public office;

6 (4) Any person or group/s of persons acting with the authorization, support
7 or acquiescence of the State;

8 (e) Torture refers to any act by which severe pain or suffering, whether
9 physical or mental, is intentionally inflicted on any person under the custody of
10 persons acting in an official capacity and/or agents of the State, as defined by law,
11 jurisprudence, international conventions and Republic Act No. 9745, otherwise
12 known as the "Anti-Torture Act of 2009".

13 "SEC. 7. *Source of Funds for Organization and Reparation.* – In addition to the amount
14 of Ten billion pesos (P10,000,000,000.00) plus accrued interest which form part of the
15 funds transferred to the government of the Republic of the Philippines by virtue of
16 the December 10, 1997 Order of the Swiss Federal Supreme Court, adjudged by the
17 Supreme Court of the Philippines as final and executory in Republic vs.
18 Sandiganbayan on July 15, 2003 (G.R. No. 152154) as Marcos ill-gotten wealth and
19 forfeited in favor of the Republic of the Philippines, which had been earlier
20 earmarked as the principal source funds for the implementation of this Act, an
21 additional amount of One Billion pesos (P 1,000,000,000.00) is hereby appropriated
22 for the establishment of a Permanent Human Rights Claims Board.

1 “SEC. 8. *Creation and Composition of the Human Rights Victims’ Claims Board.* – There
2 is hereby created an independent and quasi-judicial body to be known as the Human
3 Rights Victims’ Claims Board, hereinafter referred to as the Board. It shall be
4 composed of nine (9) members, who shall possess the following qualifications:

5 (a) Must be of known probity, competence and integrity;

6 (b) Must have a deep and thorough understanding and knowledge of human rights
7 humanitarian law;

8 (c) At least three (3) of them must be members of the Philippine Bar who have been
9 engaged in the practice of law for at least ten (10) years; and

10 (d) Must have a clear and adequate understanding and commitment to human rights
11 protection, promotion and advocacy.

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

14 The Board under this Act shall organize itself within thirty (30) days from the
15 completion of appointment of all nine (9) members and shall thereafter organize its
16 Secretariat, provided that the members of the old Board created to pay reparations
17 to the victims of the Marcos regime shall act in a holdover capacity until such time
18 that new members of the Board have been appointed under this Act.

19 “SEC. 9. *Appointment to the Board.* – The President shall appoint the
20 Chairperson and the other eight (8) members of the Board: *Provided,* That human
21 rights organizations and other interested parties or individuals may also submit
22 nominations to the President.

23 “SEC. 21. *Documentation of Human Rights Violations* – In the implementation
24 of this Act and without prejudice to any other documentary or other evidence that
25 may be required for the award of any reparation, any HRVV seeking reparation shall

1 execute a detailed sworn statement narrating the circumstances of the pertinent
2 human rights violation/s committed.

3 “SEC. 27. *Human, Rights Violations Victims’ Memorial Commission..* – There is
4 hereby created a Commission to be known as the Human Rights Violations Victims’
5 Memorial Commission, hereinafter referred to as the Commission, primarily for the
6 establishment, restoration, preservation and conservation of the
7 Memorial/Museum/Library/Compendium in honor of the HRVVs during the
8 Marcos regime, as well as of other HRVVs as may be appropriate.

9 “SEC. 29. *Work Period;* – The Human Rights Claims Board shall begin its
10 work within three months after the old Board created to implement the Act for the
11 compensation of the victims of the Marcos regime shall have completed its work.

12 “SEC. 30. *Separability Clause.* – If, for any reason, any section or provision of this
13 Act is declared unconstitutional or invalid, such other sections or provisions not
14 affected thereby shall remain in full force and effect.”

15 “ SEC. 32. *Effectivity Clause.* – This Act shall take effect immediately upon
16 publication in the *Official Gazette* or in at least two (2) national newspapers of general
17 circulation.