

[REPUBLIC ACT NO. 10368, April 24, 2014]

IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10368 "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"

**RULE I
Preliminary Provisions**

Section 1. Title. These Rules and Regulations shall be known and cited as **"The Rules and Regulations Implementing the Human Rights Victims Reparation and Recognition Act of 2013."**(1)

Section 2. Purpose. These Rules and Regulations are hereby promulgated to ensure:

- a) transparency in the processing of the claims;
- b) a procedure that allows any concerned party to oppose an application or claim on the ground that it is fraudulent, fictitious or spurious and gives that party the opportunity to question the same and to present evidence in support thereof; and,
- c) a speedy and expeditious procedure respecting the parties' fundamental rights.(28)

Section 3. Declaration of Policy. Consistent with Sections 2 and 11 of Article II, and Section 12 of Article III of the 1987 Constitution of the Republic of the Philippines, and adhering to international human rights law and conventions, it is the declared policy of the State to:

- a) Recognize 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 E. Marcos covering the period from September 21, 1972 to February 25, 1986 and restore the victims' honor and dignity;
- b) Acknowledge its moral and legal obligation to recognize and/or provide reparation to the said victims and/or their families for the deaths, injuries, sufferings, deprivations and damages they suffered under the Marcos regime;
- c) Acknowledge the sufferings and damages inflicted upon persons whose properties or businesses were forcibly taken over, sequestered or used, or those whose professions were damaged and/or impaired, or those whose freedom of movement was restricted, and/or such other victims of the violations of the Bill of Rights. (2)

Section 4. Construction. These Rules and Regulations shall be liberally construed to promote the intent, purposes and objectives of the Human Rights Victims Reparation and Recognition Act of 2013 as expressed in the preceding section. Any doubt in the implementation and interpretation hereof shall be resolved in favor of facilitating the reparation and recognition of bona fide human rights violations victims or their legal heirs. (n)

RULE II

Definition of Terms

Section 1. Definition of Terms. The following terms as used in these Rules and Regulations shall mean:

- a) "*Act*" refers to Republic Act No. 10368, otherwise known as "Human Rights Victims Reparation and Recognition Act of 2013."
- b) "*IRR*" refers to this Implementing Rules and Regulations.
- c) "*Board*", when used in this IRR, refers to the Human Rights Victims' Claims Board or the Human Rights Violations Victims' Claims Board.
- d) "*Human rights violation*" (HRV) refers to any act or omission committed during the period from September 21, 1972 to February 25, 1986 by persons acting in an official capacity and/or agents of the State, but shall not be limited to the following:
 - (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 E. Marcos as well as any arrest, detention or deprivation of liberty carried out during the covered period on the basis of an "Arrest, Search and Seizure Order (ASSO)", a "Presidential Commitment Order (PCO)" or a "Preventive Detention Action (PDA)" and such other similar executive issuances as defined by decrees of former President Ferdinand E. Marcos, or in any manner that the arrest, detention or deprivation of liberty was effected;
 - (1.1) "*Detention*" refers to the act of taking a person into custody against his will by persons acting in an official capacity and/or agents of the State, as is commonly understood under pertinent penal laws;
 - (2) The infliction by a person acting in an official capacity and/or an agent of the State of physical injury, torture, killing, or violation of other human rights, of any person exercising civil or political rights, including but not limited to the freedom of speech, assembly or organization; and/or the right to petition the government for redress of grievances, 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 circumstance shall be considered a human rights violation;

(2.1) "*Torture*", as defined by Republic Act No. 9745, otherwise known as the "Anti-Torture Act of 2009", refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority;

(3) Any enforced or involuntary disappearance, as defined in Republic Act No. 10353, otherwise known as the "Anti-Enforced or Involuntary Disappearance Act of 2012" refers to the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law;

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

(5) Any act of force, intimidation or deceit causing unjust or illegal takeover of a business, confiscation of property, detention of owner/s and or their families, deprivation of livelihood of a person by agents of the State, including those caused by Ferdinand E. Marcos, his spouse Imelda R. 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 28, 1986 by then President Corazon C. Aquino in the exercise of her legislative powers under the Freedom Constitution;

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

(6.1) Kidnapping or otherwise exploiting children of persons suspected of committing acts against the Marcos regime;

(6.2) Committing sexual offenses against human rights violations victims who are detained and/or in the course of conducting military and/or police operations. Sexual offenses shall refer to unlawful acts constituting either sexual harassment or sexual offenses not amounting to torture; and, (n)

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

e) "Human Rights Violations Victim (HRVV)" refers to a person whose human rights were violated by persons acting in an official capacity and/or agents of the State as defined herein. In order to qualify for reparation under this Act, the human rights violation must have been committed during the period from September 21, 1972 to February 25, 1986: Provided, however, That victims of human rights

violations, which were committed one (1) month before September 21, 1972 and one (1) month after February 25, 1986, shall be entitled to reparation under the Act if they can establish that the violation was committed:

- (1) By agents of the State and/or persons acting in an official capacity as defined hereunder;
- (2) For the purpose of preserving, maintaining, supporting or promoting the said regime; or
- (3) To conceal abuses during the Marcos regime and/or the effects of Martial Law.

f) "Persons Acting in an Official Capacity and/or Agents of the State" refer to:

- (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 attached thereto; and any member of a paramilitary group even if one is not organically part of the PC, the INP, the AFP or the 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 and/or 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;
 - (3) Persons referred to in Section 2(a) of Executive Order No. 1, creating the Presidential Commission on Good Government (PCGG), issued on February 28, 1986 and related laws by then President Corazon C. Aquino in the exercise of her legislative powers under the Freedom Constitution, including former President Ferdinand E. Marcos, spouse Imelda R. Marcos, their immediate relatives by consanguinity or affinity, as well as their close relatives, associates, cronies and subordinates; and,
 - (4) Any person or group/s of persons acting with the authorization, support or acquiescence of the State during the Marcos regime.
- (3)

g) "*Reparation*", under the Act, refers to the obligation of the State to restore the rights and uphold the dignity of the victims, which is part of the right to an effective remedy. Reparation shall be both monetary and non-monetary. (n)

h) "*Recognition*" refers to the acknowledgment by the State of the violations committed against persons who are victims of human rights violations as described herein. This recognition shall be manifested by enshrining the name of the said HRVV in the Roll of Human Rights Violations Victims prepared by the Board pursuant to its mandated powers and functions. (n, 26)

i) "*Motu Proprio Recognition*" refers to the action of the Board in taking judicial notice or cognizance of the legitimacy of individual claims of HRVV as defined herein and granting such persons

recognition as such and enshrined in the Roll of Human Rights Violations Victims as provided hereafter.(18, 26)

- j) "*Memorialization*" refers to the preservation of the memory of the human rights violations victims, objects, events and lessons learned during the Marcos regime. This is part of the inherent obligation of the State to acknowledge the wrongs committed in the past, to recognize the heroism and sacrifices of all Filipinos who were victims of gross human rights violations during Martial Law, and to prevent the recurrence of similar abuses.
- k) "*Memorial Commission*" refers to the Human Rights Violations Victims' Memorial Commission established under the Act.

RULE III

Human Rights Victims' Claims Board

Section 1. Powers and Functions of the Board. The Board as an independent and quasi-judicial body shall have sole and original jurisdiction to determine the eligibility of claims, extent of human rights violations and award of reparations. It shall have the following powers and functions:

- a) Receive, evaluate, process, and investigate applications for claims;
- b) Issue subpoenae ad testificandum and duces tecum;
- c) Conduct independent administrative proceedings and resolve disputes over claims;
- d) Approve with finality and on appeal all eligible claims;
- e) Prepare the Roll of Human Rights Violations Victims;
- f) Deputize appropriate government agencies to assist it in order to effectively perform its functions;
- g) Promulgate such rules as may be necessary to carry out the purposes of the Act including rules of procedure in the conduct of its proceedings, with the Revised Rules of Court of the Philippines having supplementary application;
- h) Exercise administrative control and supervision over its Secretariat and Division Secretariats, including appointment, hiring and dismissal of its regular personnel;
- i) At its discretion, consult the human rights organizations mentioned in Section 9 of the Act;
- j) Hire additional personnel or enter into contracts for provision of services of counselors, psychologists, social workers and public education specialists, among others, and additional legal or paralegal services to augment the services of the Board and the Secretariat; and,
- k) Perform such other duties, functions and responsibilities as may be necessary to effectively attain the objectives of the Act. (10, 13)

Section 2. Motu Proprio Recognition. The Board may take judicial notice motu proprio of individual persons who suffered human rights violations as defined herein and grant such persons recognition as HRVVs and enshrined in the Roll of Human Rights Violations Victims. (18)