



REPUBLIC OF THE PHILIPPINES  
COMMISSION ON HUMAN RIGHTS

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**POSITION PAPER ON THE DENIAL OF THE REQUEST FOR  
RELEASE OF FUND ALLOCATED BY R.A. NO. 10368 FOR THE  
ESTABLISHMENT OF A MEMORIAL/MUSEUM/ LIBRARY IN  
HONOR OF THE VICTIMS OF HUMAN RIGHTS VIOLATIONS**

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The Commission on Human Rights of the Philippines (Commission, for brevity) issues this Position Paper in support of the Human Rights Violations Victims' Memorial Commission (HRVVMC) request for the Department of Budget and Management (DBM) to release the funds allocated by RA 10368,<sup>1</sup> otherwise known as the Human Rights Victims Reparation and Recognition Act, purposely for the establishment of the Memorial/Museum/Library/Compendium.<sup>2</sup>

In the 20 July 2020 letter<sup>3</sup> of Secretary Wendel E. Avisado of the Department of Budget and Management (DBM), he informed Mr. Carmelo Victor A. Crisanto, Executive Director of HRVVMC that, pursuant to Joint Resolution No. 4, s. 2019 (JR4-2019), the reparation fund intended for the victims of human rights violations and its accrued interest for the period of 27 March 2014 to 31 March 2019, has already expired on 31 December 2019. The relevant portion of the letter states:

As provided under Special Provision (SP) No.1 of the annual Agency Budget of the agency, the above mandated functions shall be funded from the accrued interest for the period March 27, 2014 to March 31, 2019 of the P10 billion reparation fund intended for the victims of human rights violations, deposited with the Bureau of Treasury and recorded as Trust Receipts in accordance with Executive Order No 338, s. 1996.

However, pursuant to Joint Resolution No. 4, s. 2019, **said reparation fund already expired as of December 31, 2019. Accordingly, its accrued interest being referred to under the aforementioned SP, which share the**

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<sup>1</sup> "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" signed into law on February 25, 2013.

<sup>2</sup> Sec. 26, in relation to Sec. 20 of R.A.10368

<sup>3</sup> The Chairperson of the CHR was furnished a copy and was received on August 24, 2020.

**nature of principal, likewise expired as of said date.**  
(Boldfacing, supplied.)

This being the case, Secretary Avisado informed Executive Director Crisanto that the DBM is constrained to propose budgetary allocation for HRVVMC for FY 2021. In the same line, he recommended that the “restoration of the memorial compendium in honor of the human rights violations victims be undertaken until December 31, 2020 as well as the settlement of all its unpaid claims to date.”

***Clear Intent of Republic Act No. 10368 to Give Reparation to the Human Rights Violations Victims and Establish a Memorial/Museum/Library***

At the outset, it must be emphasized that the clear intent of R.A. 10368 is to give reparation for the victims of human rights violations from September 21, 1972 to September 25, 1986. The reparation must be both monetary and non-monetary. Explicitly, RA 10368 states that any human rights violations’ victims (HRVVs) qualified under the law, shall receive monetary reparation from the State.<sup>4</sup> On top of the monetary reparation, necessary services (nonmonetary reparation) shall be given by the Department of Health, Department of Social Welfare and Development (DSWD), Department of Education (DepEd) , Commission on Higher Education (CHED), Technical Education and Skills Development Authority and other government agencies to the HRVVs and/or their families.<sup>5</sup>

But more than the monetary and non-monetary reparation, R.A. No. 10368 also intended to memorialize the said victims of human rights violations, through the establishment of a Memorial/Museum/Library and for the preparation of a compendium of their sacrifices that may readily be viewed and accessed through the internet.<sup>6</sup>

Indubitably, the establishment of a Memorial/Museum/Library would require funds, sourced differently from that intended for monetary reparations. The funds reserved for the establishment of Memorial/Museum/Library has been explicitly identified by R.A. 10368. This is the Five hundred million pesos (P500,000,000.00) accrued interest, of the Ten billion peso (P10,000,000,000.00) fund for monetary reparation.<sup>7</sup>

***Separate Fund Allocations for Reparation and for the Establishment of a Memorial/Museum/Library***

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<sup>4</sup> Section 4, RA No. 10364.

<sup>5</sup> Section 5, *Ibid.*

<sup>6</sup> Section 26, *Ibid.*

<sup>7</sup> Sec. 26(par. 2) of R.A. 10368

R.A. No. 10368 identified the ten billion pesos (10,000,000.00), that was transferred by the Swiss Government to the Philippine government upon the order of the Swiss Federal Supreme Court, as the “principal source funds” for the implementation of the law, specifically as payment for monetary reparation for the victims of human rights violations during martial law. The amount was declared as ill-gotten wealth of the Marcos regime by the Philippine Supreme Court and is forfeited in favor of the Republic of the Philippines.<sup>8</sup>

Section 26 of the same law also explicitly provided that the establishment of the Memorial/Museum/Library/Compendium shall be funded by the interests earned by the 10 billion pesos, which must not be lower than 500 million pesos (Php 500,000,000.00). In categorical terms, it states:

SEC. 26. *Roll of Victims.* — xxx xxx xxx

A Memorial/Museum/Library shall be established in honor and in memory of the victims of human rights violations whose names shall be inscribed in the Roll. A compendium of their sacrifices shall be prepared and may be readily viewed and accessed in the internet. The Memorial/Museum/Library/Compendium shall have **an appropriation of at least Five hundred million pesos (P500,000,000.00) from the accrued interest** of the Ten billion peso (P10,000,000,000.00) fund. xxx xxx xxx. (Boldfacing, supplied.)

Verily, there are two separate and distinct appropriations mentioned by RA 10368. **First**, the ten billion pesos, earmarked for the general implementation of the law; and the **second**, at least 500 million from the accrued interest of the ten billion pesos, set aside for the establishment of the memorial/museum/library.

The accumulated interest of at least 500 Million Pesos, allocated for the Memorial/Museum/Library **DOES NOT** form part of the “Capital” of 10 Billion Pesos set aside as monetary reparation for the victims of human rights violations during Martial Law.

With all due respect, the application of the civil law principle that, “the interest follows the principal,” referred to by Sec. Avisado, is mistaken and without legal basis. Under the law, the accumulated interest, which must be at least 500 million pesos is a totally different fund from the 10 billion peso allocated as reparation fund. The interest of at least 500 million pesos, under this context, does not form part of the capital.

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<sup>8</sup> Section 7, RA 10368.

Under the General Appropriations Act of 2020 (GAA 2020), the appropriations for the Human Rights Violations Victims Memorial Commissions carries with it a Special Provision that states:

Trust Receipts for the Human Rights Violations Victims' Memorial Commission. The amount of Six Hundred Thirty Nine Million Five Hundred Fifty Three Thousand Four Hundred Forty Nine Pesos and Seventy Eight Centavos (P639,553,449.78) as certified by the BTr on March 31, 2019 representing accrued interest on the Ten Billion Pesos (P10,000,000,000) fund of the HRVCB for the period 27 March 2014 to 31 March 2019, shall be used for the establishment, restoration, preservation and conservation of the memorial, museum, library and compendium in honor of the human rights violations victims during the Marcos regime in accordance with Section 27 of R.A. No. 10368. Said amount shall be deposited with the National Treasury and recorded as trust receipts in accordance with E.O. No. 338, s. 1996.

This special provision is clear proof that the GAA recognizes, officially, the true character of the allocated accrued interest that is totally distinct from the ten-billion-peso reparation fund. The amount, now increased to **P660,120,580.28** (as certified by the Bureau of Treasury),<sup>9</sup> intended by RA 10368 to finance the establishment of a memorial/museum/library for HRVVs remains intact.

***JR4-2019 Pertains ONLY to the Remaining Reparation Fund and Does Not Include Accrued Interest for the Establishment of Memorial/ Museum/ Library***

Six days before the deadline for the completion of its work or on May 6, 2018, the Human Rights Violations Victims' Claims Board (HRVVCB) completely resolved 6,737 appeals. However, the checks issued by the Claims Board as monetary reparation were valid only up to three months from issuance.<sup>10</sup>

This is according to the Land Bank of the Philippines, who reported that the HRVVCB account had a remaining balance of **P792,628,000.00** and the bank can only maintain it until August 11, 2018. The remaining amount will have to be reverted to the Bureau of Treasury after said date. At that time, there were concerns raised by relatives of qualified claimants that they were unable to encash their checks even with the issuance of Special Power of Attorney. Some

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<sup>9</sup> Please see Certification by the Accounting Service of the Bureau of Treasury, dated 27 August 2020

<sup>10</sup> Joint Resolution No. 4.

qualified claimants also expressed fears that they will not be able to completely process their claims before the August 11, 2018 deadline.<sup>11</sup>

Responding to these concerns, the Senate and the House of Representatives ensured that the funds “be effectively distributed especially to the approved and qualified claimants, as duly processed and determined by the HRVCB.”<sup>12</sup> Hence, the execution and passage of a Joint Resolution No. 4, s. 2019 (JR4-2019) in December 2018. On February 19, 2019, President Rodrigo Duterte signed the said Joint Resolution<sup>13</sup> which effectively extended the maintenance, availability, and release of the funds until December 31, 2019.

It must be emphasized that the funds being referred to by the JR4-2019 were those from the HRVVCB Land Bank account that were reverted to the Bureau of Treasury in the amount of P792,628,000.00, earmarked for the monetary reparation to HRVVs. Nothing in the JR4-2019 made any reference to the “accrued interest” allocated for the memorial/museum/library.

Cognizant of the *functus officio* character of the HRVVCB, JR4-2019 designated the Commission to manage the completion of the distribution of funds as payment to remaining HRVVs. Pursuant to this authority, the Commission received the exact amount of P792,628,000.00 representing the bank balance under the Land Bank account of the HRVVCB and the Php12,663,079.33 operating funds for administrative and logistical support that were reverted to the Bureau of Treasury. Apart from these, the Commission has neither requested nor received any other funds. Certainly, it has not received any amount pertaining to the establishment of the memorial/museum/library.

Necessarily, none of the amount expired as alleged by Sec. Avisado because R.A. 10368 specifically refers to the fund sourced from the ill-gotten wealth turned over by the Swiss bank/ government to be spent for a specific purpose, that is for the benefit of the victims of human rights violations during the Marcos regime.

The accrued interest of P660,120,580.28, which is a completely distinct and separate allocation from the original PHP10,000,000,000.00 principal, is therefore necessarily excluded from the amount of P792,628,000.00 which is deemed to have expired under JR4-2019.

What may have expired is the disbursement of the funds to the victims, but it does not mean that it can be spent for purposes other than that specified in the

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<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> “Joint Resolution Extending the Maintenance, Availability, and Release of the Funds Intended for the Victims of Human Rights Violation Until December 31, 2019, Authorizing the Bureau of Treasury and the Land Bank of the Philippines to Release the Funds and Ensure the Payment of Claims, and the Commission on Human Rights to Administer the Effective Distribution of the Funds to Qualified Victims or their Heirs or Representatives as Provided under Republic Act No 10368, Otherwise known as the “Human Rights Victims Reparation and Recognition Act of 2013”, as Amended by Republic Act No. 10766”

law. The amount specifically allocated by law cannot be used for other purposes as it may result to technical malversation under the Revised Penal Code.<sup>14</sup>

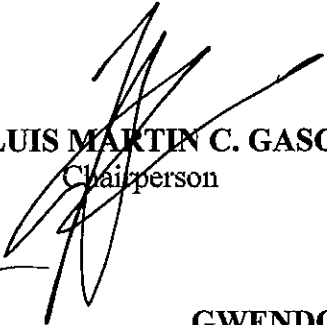

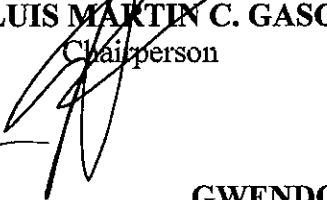
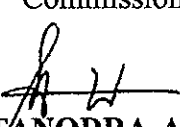
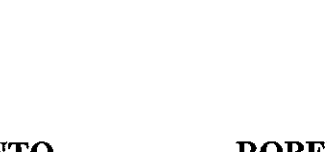
**Conclusion**

The Commission is seriously concerned about the refusal of the DBM to release the accrued interest, (which is now, **P660,120,580.28**) that remains with the Bureau of Treasury. This action of the DBM blatantly goes against the very intent of RA 10368 to allocate said amount for the establishment, restoration, preservation and conservation of the memorial, museum, library and compendium in honor of the human rights violations’ victims during the Marcos regime and oblivious of the context under which JR4-2019 was issued.

Consequently, the HRVVMC, which has finished the process of developing and approving the architectural design and building plan, will not be able to move forward and undertake the bidding for the construction of the memorial/museum/library.

Accordingly, the Commission urges the DBM to reconsider its position. The Special Provision for the HRVVMC, under the GAA of 2020, cited above is clear and demandable. Hence, the DBM should immediately release, without further delay, the fund for the establishment of the memorial/museum/library in honor of the HRVVs.

**ISSUED** this 5<sup>th</sup> day of November 2020, Quezon City, Philippines.

	
<b>JOSE LUIS MARTIN C. GASCON</b> Chairperson	
	
<b>KAREN S. GOMEZ DUMPIT</b> Commissioner	<b>GWENDOLYN LL. PIMENTEL-GANA</b> Commissioner
	
<b>LEAH C. TANODRA-ARMAMENTO</b> Commissioner	<b>ROBERTO EUGENIO T. CADIZ</b> Commissioner

<sup>14</sup> Article 220 of the Revised Penal Code provides that for **technical malversation** to exist it is necessary that public funds or properties had been diverted to any public use other than that provided by law or ordinance.