



FORUM 2

Rapporteur's Report

Just before the forty-first anniversary of former president Ferdinand Marcos's historical declaration of martial law in the Philippines, the University of the Philippines (UP) Third World Studies Center (TWSC), held its second forum entitled "*Pangako Sa'yo: Kompensasyon para sa mga Biktima ng Batas Militar (My Promise to You: Compensation for the Martial Law Victims)*." The forum was held on 20 September 2013 at the Pulungang Claro M. Recto, Bulwagang Rizal, College of Arts and Letters, UP Diliman. Speakers from the government, the academe, and civil society were invited to share their experiences and perspectives on the compensation of human rights victims during martial law.

In his opening remarks, Ricardo T. Jose, director of the TWSC and professor at the Department of History, College of Social Sciences and Philosophy, UP Diliman, shared how the TWSC came up with this year's forum series, "*Marcos Pa Rin! Ang mga Pamana at Sumpa ng Rehimeng Marcos (Marcos Still! The Legacy and Curse of the Marcos Regime)*." Proceeding from the forum in June 2013, which focused on the renaming of the UP College of Business Administration to the Cesar E.A. Virata School of Business, the center decided to have this year's forum series tackle the memories of the Marcos regime and its hitherto current implications. Perlita Frago, deputy director of the TWSC and assistant professor at the Department of Political Science, College of Social Sciences and Philosophy, UP Diliman, introduced the speakers. In the forum, the following narratives were shared: from the success and setbacks of the class action lawsuit against the estate of the late Ferdinand Marcos, the distrust and disillusionment among human rights organizations of Marcos human rights victims, the historian's dilemma on the lack of a shared history of martial law, the challenges of mobilizing support from within the legislature, the travails of the

Commission on Human Rights (CHR), to the continuing marginalization of the human rights victims themselves. The forum ended with calls not only for the recognition and compensation of human rights victims but ultimately for the creation of a shared history against the creeping historical revisionism in the country.

THE ISSUE: REVISITING HUMAN RIGHTS VICTIMS' COMPENSATION

Rodrigo C. Domingo Jr., one of the legal counsels on the class suit (also known as MDL 840) filed against the Marcos estate at the Hawaii district court twenty-seven years ago, gave a brief background on the class suit, i.e., that it was a landmark case in history as the first tort case against a head of state. According to Domingo, this case was considered a success, with the 1995 decision awarding the Philippines USD 2 billion. Led by Robert Swift, the case started with a complaint filed by the Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto (SELDA, Organization of Political Prisoners and Former Political Detainees) against Marcos and general Fabian Ver. According to Domingo, later on, other human rights groups such as Claimants 1081 joined the Samahan ng mga Ex-Detainees Laban sa Detensyon at Aresto in strengthening the case. Domingo gave updates on the recovery of the Marcos assets to compensate the human rights violations victims. The first development after the landmark decision came from Marcos's sequestered Mercedes Benz in Hawaii, which was a birthday gift from his wife, Imelda. They were also able to sell in an auction Marcos's house in Hawaii for USD 1 million. In 2011, they were able to further augment the compensation funds through the recovery of USD 10 million from the Marcoses. There are also other pending cases overseas. Domingo acknowledged the other members of their legal counsel team, some of which have also been strong advocates of human rights and concerns of former political detainees—Robert Swift, Jose Mari Velez, Rene Saguisag, and Ruben Fruto. He added that besides making a strong case for the recovery of the Marcos ill-gotten wealth for the victims's compensation, they were also able to coordinate with various human rights groups and the CHR to help them distribute the awards. He concluded his presentation by providing the most recent update in the form of Republic Act (RA) 10368, "An Act Providing for Reparation and Recognition of Victims of Human Rights Violations During the Marcos Regime, Documentation of Said Violations,

Appropriating Funds therefore and for Other Purposes,” which was signed by then president Benigno Simeon Aquino III in February 2013. While acknowledging that this was indeed an important development to further the cause of compensating the human rights victims, Domingo nevertheless expressed his concern on the failure of the Aquino administration to immediately constitute the human rights violations victims claims board, which is tasked to create the implementing rules and regulations. While Domingo acted as the harbinger of good news with the historical success of MDL 840, he shared his wariness on Republic Act 10638 on its way to becoming a “dead law.”

Fe Buenaventura-Mangahas, a former political detainee and Claimants 1081 member, stated that the human rights victims filed their claims not because of monetary compensation but as a call to never forget our dark past. Mangahas aimed to fill in the gaps in the success narrative of MDL 840 to show that the recovery efforts for the compensation of human rights victims is yet to be considered a success from the point of view of human rights groups. She said that whatever compensation the human rights victims have received is actually just a droplet in the pool of Marcos's ill-gotten wealth and that many of the human rights victims are already of old age, disease-stricken, and without the resources necessary to file charges, or worse, already dead. She described what was supposed to be a promising development in the compensation of human rights victims that turned into a farce: when the Swiss Bank relinquished more than USD 300 million of Marcos's wealth for human rights violations victims compensation, the funds, after a long debate, were eventually transferred to the National Treasury, where they became subject to the political whims of whoever occupied Malacañang. The Presidential Commission on Good Government, a commission organized by former president Corazon Aquino that was tasked to handle the Marcoses's ill-gotten wealth, opposed the decision stating that all assets obtained from the Marcoses are solely for land reform purposes, as stipulated in the 1987 constitution. Mangahas then outlined the course of action taken by Claimants 1081 given the bleak conditions: a) they filed a case in the Makati Regional Trial Court to apply the Hawaii District Court decision in the country; and b) they helped propose the compensation bill for the human rights victims. Despite the lack of clarity in the Makati Regional Trial Court case, Mangahas deemed the compensation bill now turned into law a success—that with the enactment of the law,

it can now be put on record that there were human rights victims during martial law in the Philippines and Ferdinand “Bongbong” Marcos Jr. can no longer deny them of their truth. Mangahas, however, lamented the delays in the law’s implementation and claimed that human rights organizations share in the responsibility for the inaction on the side of civil society groups. She ended by saying that if only the younger generation were to find out about the human rights victims’ struggle in attaining justice in the country, then they too may take to the streets.

DUE RECOGNITION: REPARATIONS BEYOND MONETARY COMPENSATIONS

Rita Melecio, deputy executive director of the Task Force Detainees of the Philippines, highlighted other considerations beyond the monetary compensation of the victims of martial law. Their organization was able to put up their Museum of Courage and Resistance in honor of the struggles and heroism of the human rights victims. Filled with paintings, artworks, literary pieces, pictures, and documented files during martial law, the museum memorializes the horrors of the authoritarian regime and the courage of those who faced it. She said that the Task Force Detainees of the Philippines had documented 11,000 victims of various human rights violations from 1972 to February 1986. And she said that these recorded cases most probably do not constitute all violations committed during martial law. Melecio also acknowledged the importance of having the victims receive their respective compensations, for this is indeed an important part of the healing process for the trauma they have experienced. But she added that justice for these victims does not only mean compensation. She called for bringing to justice the perpetrators and those responsible for the atrocities of martial rule. In the Task Force Detainees of the Philippines’s assessment of the current situation of human rights in the Philippines, it seems like we are still living under martial rule.

Meynardo Mendoza, a historian who wrote his dissertation on the compensation of human rights victims, presented the big picture on the issue of compensation. He said the issue of compensation was part of a bigger phenomenon of repairing historical injustices or reparations. He traced the transformation of reparations previously awarded solely to the state towards the individual, with landmark cases such as the Holocaust that recognized not only the Jews, but also homosexuals

and the handicapped as victims of the Nazi regime. Also part of the historical development of reparations was the emergence of “collective remorse” among developed countries and their colonization of ethnic minorities, as in the case of Australia and its aborigines; and the atrocities of World War II in Asia, as in the case of comfort women. Moreover, he pointed out that the collapse of authoritarian regimes and transitions to democratic rule in many regions of the world engendered new ways of coming to terms with a difficult past: a) trial or prosecution; b) truth-telling; c) apology; d) restitution; e) compensation; f) lustration; and g) moral reparations, which include commemorations, memorialization, and history writing. After giving the context of reparations, Mendoza, who also studied the history of MDL 840, argued that despite its many firsts, MDL 840 has been reduced into a settlement. He reiterated Mangahas’s statement that filing claims was never about the money but about making people remember what martial law was about and preventing it from happening again. Mendoza ended by highlighting the major accomplishment of the law: the state acknowledged the human rights victims and that in itself is crucial to reparations. He also called to task his fellow historians to take part in reparations toward a shared history of martial law in the country.

TROUBLESHOOTING: UPDATES AND NEW SOLUTIONS

On the legislative side of the issue, Roberto Diciembre, legislative and communications officer of the office of representative Jose Kristopher “Kit” Belmonte gave the audience updates on the progress of constituting the human rights violations claims board as stipulated in RA 10368. The House of Representatives has already done its job in helping the human rights victims within its mandate of making the necessary legislation, but six months has passed and the president has not yet constituted the claims board. With this delay, Belmonte filed House Resolution No. 25426, “A Resolution Expressing the Sense of the House of Representatives on the Urgency to Jumpstart the Full Implementation of RA 10368.” Diciembre shared the poor support the resolution garnered from members of the Congress, where only four attended their session—this number already included the chair of the committee—to push for the resolution’s adoption. It was the numbers game in action. He ended by saying the ball is already in Malacañang’s court for the law to be finally implemented and all they

could do in Congress was to file for another house resolution to compel Malacañang to deliver its promise.

Standing for the CHR was Karen Gomez-Dumpit, the director of its Government Linkages Office. She began by stating that the 1987 constitution is “an ideal constitution,” with established safeguards for human rights. Given the dark context in which it emerged, the constitution’s underlying message is “never again” to martial law, citing the creation of an independent CHR as evidence. She cited the sad fact about MDL 840 and how due to its nature as a private claim, those who were not aware about it were inevitably excluded, especially the ordinary human rights victims. However, in keeping with the constitution’s promise of “never again,” she said the CHR made sure that the legal counsel, which included Domingo, and the eligible members of the class suit were able to meet in order for the former to award the latter their rightful claims. She also shared how, despite the success of the MDL 840 in Hawaii, the Philippine courts were uncooperative in enforcing the legal judgement. She said it took the United Nations to say that said actions by the Philippine courts were discriminatory, that is, in asking them to pay exorbitant court fees, the courts were doubly victimizing them. She lamented that the case, previously mentioned by Mangahas has languished in the Makati Regional Trial Court. In the CHR’s search for human rights victims across the country, she narrated that the effects of martial law are still very much evident to this day. A generation has passed and its effects have now trickled down to the sons and daughters of the human rights victims. She ended by citing the CHR’s relentless efforts to call the president to constitute the claims boards and of the former’s plans to—once constituted—help the latter with the seemingly insurmountable task of compensating human rights victims within such a short span of time allotted by the law.

OPEN FORUM

The open forum that followed the presentations focused mainly on the following themes: the implications of past court decisions, RA 10368, and the importance of remembering what really happened during martial law. Roger Mangahas, also a former political detainee, started the discussion by giving an important reminder to the students that it is indeed important to study and know the history amidst strong campaigns promoting historical revisionism. Political science student

Nathan Candelaria asked the panelists how to confront these historical revisionisms posted on social media and how social media can help in advancing the cause of giving reparations to the victims. Mendoza reiterated the need for a shared-history writing that should be done as soon as possible. He also added that their history classes way back in their elementary and secondary years are also partly to blame. They have strongly demonized the image of the former dictator instead of giving due emphasis to martial law itself—and that this antagonistic approach greatly contributed to seeking alternative perspectives that can justify an authoritarian regime.

George Fabros, alumnus and UP Diliman faculty member, asked for an elaboration on the compensation rules stipulated in the past court decisions and those found in RA 10368. While the decision in Hawaii provided for an across-the-board compensation to the victims, RA 10368 requires compliance to a scoring mechanism that will determine one's entitlement to compensation. When asked why such detail is required by law in renarrating the sufferings by the victims, Gomez-Dumpit said that the scoring mechanism is a way to ascertain the degree of violation suffered by the victim and to be compensated based on the extent of suffering, but that the human rights violations claims board will be the one to process them. She added that those whose names also appear in the Bantayog ng mga Bayani (Monument of Heroes) list of human rights victims are to be given "conclusive presumption" in their inclusion in the claimants list.

A former activist in UP Diliman during martial law built on these important questions to ask about the process of listing down the names of the human rights victims. Her boyfriend, also a former activist in UP Diliman, was just recently included in the list of Bantayog ng mga Bayani and she said his family has no clue on how to make a claim for compensation. To this day, his body remains to be found. She also raised the challenges of human rights victims who used aliases during martial law to which Gomez-Dumpit replied with corroborating evidence such as testimonies and additional documents.

A member of the audience who did not identify himself, shared his experience in working in the Presidential Commission on Good Government. He said getting a law through Congress meant making compromises and the "two schools of thought" that clashed then were those who were the hardliners or who said that only those who were human rights victims during martial law should be compensated and then the group—which he identified as Marcos allies—who wanted to

compensate human rights victims in other administrations to deflect attention away from the Marcoses. Compromises were made in order to get the law to take off and in its own small way give recognition and compensation to the human rights victims of martial law.

The forum reminded us that the previous cases filed to seek reparations were never solely for monetary compensation. More importantly, the cases were meant to also seek recognition of the abuses and the human rights violations during martial law. Despite all of these, there are still numerous cases of human rights violations, as attested to by Melecio. History will repeat itself without due and proper recognition of the human rights victims of martial law. Truth, justice, and compensation are ways to effect closure for the victims. But as Mendoza said, full satisfaction cannot be attained—it is a personal choice. The moderator concluded that “the aggressors will always want to forget while the victims will always want to remember.” This is a call for all of us to take time to know our history and to reflect on the lessons of the martial law years. ❀—**ENRICO V. GLORIA AND ELINOR MAY K. CRUZ**

PERLITA FRAGO, deputy director of the TWSC and assistant professor at the Department of Political Science, College of Social Sciences and Philosophy, UP Diliman served as the forum’s moderator.