

by

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On 28 January 2013 the Philippine Congress, wrapping up a thorough and inclusive legislative process, passed the landmark law on the reparation and recognition of victims of human rights violations during the Marcos regime. Philippine President Benigno S. Aquino III brought the “Compensation Act” into force by signing it on 25 February 2013.

The passage of the Act reflects the high importance the Philippine government is devoting to the promotion and protection of human rights. It helps ensure that gross human rights violations under a dictatorship will never happen again in the Philippines.

This widely supported legislation puts an end to the long quest for justice for many thousands of victims of the former Marcos regime. It is one of the first and most prominent cases where assets looted from the state have been returned to the rightful owner in a fair manner through the funds recovered from a corrupt dictator. It also sets new standards for the future restitution and use of illegally acquired funds. It is difficult to find a better example of retributive justice.

The peaceful People Power revolution of 1986 was a turning point in Philippine history. Filipinos were galvanized by Cory Aquino, the mother of the current Philippine president, and ousted the corrupt Marcos regime. The uprising returned democracy to the country after years of martial

law, political aberrations, economic mismanagement and egregious human rights abuses. Indeed, the severity of these human rights violations was only matched by the excessive greed of the dictator and his cronies. The “Compensation Act” finally recognizes the plight of the many thousands of victims of the Marcos regime and awards them long overdue financial compensation, legal recognition, their individual acknowledgement on a victims’ honor roll, and a moral tribute to their suffering.

The law also marks an important stage in a remarkable joint effort between two countries to right the wrongs committed by the Marcos regime. Only hours after the ousting of the dictator in February 1986, the Swiss government imposed an unprecedented governmental freezing order on all Marcos assets located in Switzerland. It did so after being informed by a Swiss bank that a representative of Ferdinand and Imelda Marcos had requested the transfer of assets out of Switzerland. Soon after the freeze, the Philippine government filed a request for mutual legal assistance with the Swiss authorities, thereby setting in motion the process to repatriate the assets stolen by Marcos. A number of legal hurdles had to be overcome in these novel proceedings before a total of US\$684 million could be transferred to the Philippines. In 1997, the Swiss Supreme Court issued its final ruling enabling the funds to be legally moved out of Switzerland. After being held in escrow, the money was finally released to the Philippine Treasury in 2003 following a Philippine Supreme Court decision ordering the forfeiture of the Marcos assets. This restitution marked one of the largest sums ever returned by any government to a country formerly ruled by a kleptocratic regime.

The successful process of returning the Marcos assets to the Philippines has been a formidable learning experience for both our countries as well as for the international community. Prior to the Marcos restitution, no other case involving similar amounts of money had been brought to a successful conclusion - and not many since. The close cooperation was clearly beneficial to the Philippines and Switzerland. First and foremost, the Filipino people regained hundreds of millions of dollars that had been stolen from them. Moreover, it contributed to bring closure to a difficult time in their history. Switzerland also profited from the experience. By freezing the Marcos assets, the Swiss government manifested its political will to prevent its financial center from being abused by dictators and autocratic regimes. The message proclaimed was clear: Switzerland is a high risk place for illegal funds.

Building on the Marcos experience, the same powers to freeze dictators’ funds have been reapplied by the Swiss authorities repeatedly, most notably in the wake of the Arab Spring of early 2011 when the assets of three former regimes were blocked. Since 1986, Switzerland has returned over US\$ 1.7 billion of assets stolen by politically exposed persons and their cronies to their countries of origin, more than any other financial center in the world has ever returned. Today, the Swiss expertise and commitment to asset recovery is recognized internationally.

The Philippine-Swiss cooperation made a significant contribution to the international debate on the handling and restitution of funds illegally funnelled abroad by politically exposed persons. Thus, the Marcos restitution has become a model for the recovery of stolen assets, an issue of increasing importance in the global fight against corruption. It also had a direct impact on the negotiations of the UN Convention Against Corruption (UNCAC), which devotes an entire chapter to asset recovery.

President Aquino's steadfast efforts to promote good governance, to curb corruption and to end impunity are bearing fruit. The recently signed Involuntary Disappearance Act and the passage of the Compensation Bill further advance this agenda. The Swiss government's determination to prevent illegal funds from ending up in its financial institutions by tightening anti-money laundering provisions and advancing the restitution of assets of corrupt officials resonates to the same tune. Indeed, our countries' joint efforts go beyond the specificities of the Marcos asset recovery. Cooperating in the struggle against corruption is as much a moral necessity as it is a legal obligation, explicitly stated in the UNCAC. Yet, in the end, success also depends on the ability and willingness of the involved states to work together in a spirit of cooperation and trust. The Philippine-Swiss experience clearly underscores this fact. If the cooperation between our two countries has contributed not only towards bringing closure to a painful chapter of Philippine history, but also helped to emphasize that progress in the fight against corruption necessitates determination and close cooperation of all parties involved, it will have served an important goal beyond the specific case or the testimony to the excellent bilateral relations between our two countries. END

