

Republic of the Philippines
CONGRESS OF THE PHILIPPINES
Quezon City

15th CONGRESS
First Regular Session

HOUSE BILL NO. 54

Introduced by **REP. LORENZO R. TAÑADA III**

EXPLANATORY NOTE

The democracy that we are enjoying now did not come on a silver platter. It came with the sacrifice of thousands of activists and freedom-loving Filipinos who risked everything they have and spent the most productive years of their life fighting an oppressive regime.

This bill which has been languishing in the legislative mill for almost 25 years, recognizes their very heroism and sacrifices. These heroes were victims of summary execution, torture, involuntary disappearance and other gross human rights violations committed during the dictatorial regime of former President Ferdinand Marcos covering the period from September 21, 1972 to February 25, 1986. It restores the victim's honor and dignity by showing that the State acknowledges its moral and legal obligation to recognize and compensate said victims and their families for the deaths, injuries, sufferings, deprivations, and damages they suffered.

A product of tedious deliberations and debates among legislators and various groups representing claimants, it is an honor to file this bill, this time with greater confidence that it will be passed with dispatch considering the stumbling blocks that the bill encountered in the past - from the real opposition of the Marcoses to the lack of genuine resolve by the Arroyo administration to enact this into law.

Among the important features of this bill are:

One, Congress' recognition that those who have filed a case against the Marcoses before the US Federal District Court in Hawaii and are given favorable judgment are considered human rights violations victim. This is called *legislative cognizance*;

Two, any person who has secured or can secure a favorable judgment from any court in the country arising from a human rights violation is given a so-called *conclusive presumption* that he or she is a human rights violation victim;

Three, some ten billion pesos (P10,000,000,000.00) of funds seized from bank accounts and discovered investments of the Marcos family shall be used to compensate the victims; and

Four, an independent Human Rights Victims Compensation Board is created attached to, but not necessarily under the direct supervision of the Commission on Human Rights to ensure the proper disposition of the funds guided by this Act.

No amount of money can really be enough to compensate our living heroes and those survived by their kins for the democracy that our people are now enjoying. The least we can do though is pass this bill to honor, in our small way, the sacrifices that they have made for our country.

As such, expeditious passage of this bill is earnestly requested.


LORENZO R. TAÑADA III
Representative
4th District, Quezon

Republic of the Philippines
CONGRESS OF THE PHILIPPINES
Quezon City

15th CONGRESS
First Regular Session

HOUSE BILL NO. 54

Introduced by **REP. LORENZO R. TAÑADA III**

AN ACT
PROVIDING COMPENSATION TO VICTIMS OF HUMAN RIGHTS VIOLATIONS DURING THE
MARCOS REGIME, DOCUMENTATION OF SAID VIOLATIONS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. Short Title. - This Act shall also be known as the "Compensation Act to Victims of Human Rights Violations".

SEC. 2. Declaration of Policy. - Section 11 of Article II of the Constitution of the Republic of the Philippines declares that the State values the dignity of every human person and guarantees full respect for human rights. Pursuant to this declared policy, Section 12 of Article III of the Constitution prohibits the use of torture, force, violence, threat, intimidation, or any other means which vitiate the free will and mandates the compensation and rehabilitation of victims of torture or similar practices, and their families. Section 18(6) of Article XIII of the Constitution also directs the Commission on Human Rights (CHR) to recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of human rights violations, or their families. By virtue of Section 2 of Article II of the Constitution adopting generally accepted principles of international law as part of the law of the land, the Philippines must also adhere to international human rights laws and conventions, including the International Covenant on Civil and Political Rights (ICCPR) which imposes on each State party the obligation to take the necessary steps to adopt such laws to give effect to the rights recognized therein and to ensure that any person whose rights or freedoms have been violated shall have an effective remedy even if the violation is committed by persons acting in an official capacity.

Consistent with the foregoing, it is hereby declared the policy of the State to recognize the heroism and sacrifices of all Filipinos who were victims of summary execution, torture, involuntary disappearance and other gross human rights violations committed during the dictatorial regime of former President Ferdinand Marcos covering the period from September 21, 1972 to February 25, 1986 and restore the

victim's honor and dignity. The State hereby acknowledges its moral and legal obligation to recognize and/or compensate said victims and/or their families for the deaths, injuries, sufferings, deprivations, and damages they suffered under the Marcos regime.

SEC. 3. *Definition of Terms.* - The following terms as used in this Act shall mean:

a. "Human Rights Violation". - A human rights violation shall include, but not be limited to, any of the following acts or omissions during the period from September 21, 1972 to February 25, 1986 committed by persons acting in an official capacity and/or agents of the State:

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 Marcos as well as any arrest or detention or deprivation of liberty carried out during the aforementioned covered period on the basis of an "Arrest Seize and Seizure Order (ASSO)", a "Presidential Commitment Order (PCO)" or a "Preventive Detention Action (PDA)" as they were defined by decrees of Former President Ferdinand Marcos or in any manner that the arrest, detention or deprivation of liberty was effected;
2. Any commission by a person acting in an official capacity and/or an agent of the State of physical injury, torture, killing, harassment, deprivation of liberty or other similar acts on any person peacefully exercising civil or political rights, including the freedom of speech, assembly or organization; and/or the right to petition the government for redress of grievances even if such exercise was alleged to constitute or form part of rebellion, sedition or subversion as then defined by law; and 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 circumstances shall be considered a human rights violation;
3. Any involuntary or enforced disappearance caused upon a person who was arrested, detained or abducted against his/her will or otherwise deprived of his/her liberty;
4. Any force or intimidation causing the involuntarily exile of a person from the Philippines;
5. Any unjust or illegal takeover of a business or the confiscation of the property of a person, including those caused by Former President Ferdinand Marcos, his spouse Imelda 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 26, 1986 by President Corazon Aquino in the exercise of her legislative powers under the Freedom Constitution;
6. Any acts constituting the following:
 - (a) saturation drives and/or "zona"s;
 - (b) "hamletting" and/or food blockades;
 - (c) kidnapping or otherwise exploiting children of persons suspected of committing acts against the Marcos regime;

- (d) committing sexual offenses against detainees and/or in the course of conducting military and/or police operations;
- (e) violation of the freedom of the press by the imposition of censorship, closure of media facilities, and/or detention of editors and media practitioners;
- (f) violation of the freedom of speech and assembly by preventing assemblies and demonstrations and/or violently dispersing them;
- (g) violation of the rights of labor by preventing and dispersing strikes and other concerted activities; and
- (h) other violations and/or abuses similar or analogous to the above, including those recognized by international law.

b. "Human Rights Violation Victim" (HRVV). - For purposes of this Act, a victim of a human rights violation is one whose human rights were violated by persons acting in an official capacity and/or agents of the State as these terms are defined herein. In order to qualify for compensation under this Act, the human rights violation must have occurred during the period from September 21, 1972 to February 25, 1986: *Provided, however,* That victims of human rights violations that occurred within one month after February 25, 1986 shall be entitled to compensation under this Act if they can establish that:

- (i) the violation was committed by agents of the State and/or persons acting in an official capacity loyal to the Marcos regime;
- (ii) the violation was committed for the purpose of preserving, maintaining, supporting or promoting the said regime; or
- (iii) the violation was committed to conceal abuses during the Marcos regime and/or the effects of martial law.

c. "Persons Acting in an Official Capacity/Agents of the State". - The following shall be deemed persons acting in an official capacity and/or agents of the State:

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/s attached thereto; and any member of a paramilitary group even if he is not organically part of the PC, INP, AFP or 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/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; and
3. Persons referred to in Executive Order No. 1, including Former President Ferdinand Marcos, his spouse Imelda Marcos, their immediate relatives by consanguinity or affinity, as well as their close relatives, associates, cronies and subordinates.

(d) "Monetary Compensation". - refers to any financial consideration equivalent to an economically assessable damage under this Act resulting from the violation of the victim's human rights.

(e) "Non-Monetary Compensation". – refers to a non-pecuniary compensation to a victim of a human rights violation or members of his family to restore his or his family's honor and dignity and shall include, but not be limited to, psychotherapy, counseling, medical care, social amelioration and honorific recognition.

(f) "Torture" refers to any act by which severe pain or suffering, whether physical or psychological, is intentionally inflicted on a person under the custody of agents of the State, as defined by law, jurisprudence and international conventions.

SEC. 4. *Legislative Cognizance that a person is a victim of a Human Rights Violation.* - Those in the list of class suit and direct action plaintiffs in the Marcos human rights litigation (MDL no. 840, CA no. 86-0390) in the US Federal District Court of Honolulu in Hawaii, whereby a favorable judgement has been rendered, are hereby declared human rights violation victims as defined in this act.

Pursuant to the foregoing, the commission on human rights shall secure the list of said victims from the aforesaid court within sixty (60) days from the effectivity of this act.

SEC. 5. *Conclusive Presumption that a Person is a Human Rights Violation Victim.* - Any person who has secured or can secure in his favor a judgment or award of damages from any Court of the Philippines arising from a human rights violation as defined in Section 3 of this Act, even if the said judgment has not yet become final and executory, shall be considered conclusively as a human rights victim without need of further proof.

SEC. 6. *Other Claimants.* - Any person who does not fall under the preceding Sections 4 or 5 but was an HRVV can file a claim with the Human Rights Victims Compensation Board for compensation and/or recognition.

SEC. 7. *Compensation.* - Any HRVV qualified under this Act shall receive compensation from the State, free of tax, as herein prescribed: *Provided*, That for a deceased HRVV, his legal heirs as provided for in the Civil Code of the Philippines, or such other person named by the executor or administrator of the deceased HRVV's estate in that order, shall be entitled to receive such compensation: *Provided Further*, That no special power of attorney shall be recognized in the actual disbursement of the award, and only the victim or his aforestated successor(s)-in-interest shall be entitled to personally receive said compensation from the Board, unless the victim involved is shown to be incapacitated to the satisfaction of the Board: *Provided Furthermore*, That the compensation received under this Act shall be without prejudice to the receipt of any other sum by the HRVV from any other person or entity in any case involving violations of human rights as defined in this Act.

SEC. 8. *Amount of Compensation.* - The amount of compensation under this Act shall be in

accordance with the number of points assigned to the individual under section 18 herein.

SEC. 9. *Source of Compensation.* - The funds transferred to the Government of the Republic of the Philippines by virtue of the December 10, 1997 Order of the Swiss Federal Supreme Court, which funds have been adjudged by the Supreme Court of the Philippines as final and executory on July 15, 2003 in G.R. No. 152154 (Republic vs. Sandiganbayan) as ill-gotten Marcos wealth and forfeited in favor of the Republic of the Philippines, shall be the principal source of funds for the implementation of this Act.

SEC. 10. *Transfer of Funds.* - Pursuant to the judgment mentioned in the preceding paragraph, the amount of Ten Billion Pesos (P10,000,000,000.00) is hereby set aside and appropriated to fund the purposes of this Act: *Provided*, That the said amount of Ten Billion Pesos (P10,000,000,000.00,) shall be constituted as a separate account in the Bureau of the Treasury in trust for the HRVVs: *Provided Further*, that no amount from said account shall be disbursed, withdrawn or invested without the prior approval of the Human Rights Victims Compensation Board created herein: *Provided Further*, That should any amount be disbursed or withdrawn out of the appropriated funds for compensation under this act, either by the state or any of its branches, agencies or instrumentalities thereof, the same shall be automatically replenished through a special appropriation fully guaranteed by the Government of the Republic of the Philippines and without prejudice to any legal action which the Board shall initiate in case of an unauthorized disbursement, withdrawal or investment; *Provided, Further*, That transfer of funds to the bank account of the Board shall be effected automatically upon submission to the Bureau of the Treasury by the Board of a duly approved Resolution on the utilization of the funds requested for release; and *Provided, Furthermore*, That no transfer or release of funds of more than Fifty million pesos (P50,000,000.00) shall be effected in a single request for transfer or release of funds; *Provided, Finally*, that any interest and accruals from the Ten Billion Pesos (P10,000,000,000.00) thereof shall be incorporated with the compensation fund.

SEC. 11. *Documentation of Human Rights Violations During the Marcos Regime.* - Without prejudice to other submissions which may be required by the Board, in the implementation of this Act, any HRVV or his legal heirs or representative seeking compensation shall execute a detailed sworn statement, accompanied by photographs, letters, death certificate, pleadings and other judicial or quasi-judicial documents, newspaper or videotaped accounts, and/or materials or testimonials of witnesses corroborating and narrating the circumstances of the human right violation committed against the said HRVV. Such evidentiary proofs shall be compiled by the agencies mandated to implement this Act, with the assistance of the National Historical Institute (NHI), the University of the Philippines (UP) and nongovernmental organizations (NGOs) whose assistance may be engaged. The compilation shall be submitted to the President, the Congress of the Philippines and the Supreme Court within two (2) years from the effectivity of this Act.

SEC. 12. *Human Rights Victims Compensation Board, Its Creation, Composition and Secretariat.* –

An independent Human Rights Victims Compensation Board, hereinafter referred to as the Board, is hereby created. It shall be composed of seven (7) members of known probity, competence and integrity, each one with deep understanding of the human rights violations committed during the rule of former President Ferdinand Marcos.

The President of the Philippines shall appoint the members of the Board from among a list of fifteen (15) nominees to be submitted by a Nominations Committee to be chaired by the Executive Secretary with members representing the following:

- (1) Commission on Human Rights (CHR);
- (2) Presidential Human Rights Committee (PHRC);
- (3) Task Force Detainees of the Philippines (TFDP);
- (4) Free Legal Assistance Group (FLAG);
- (5) National Council of Churches in the Philippines (NCCP);
- (6) Medical Action Group (MAG);
- (7) Families of Victims of Involuntary Disappearance (FIND); and
- (8) Samahan ng mga Ex-Detainees Laban sa Detensyon at para sa Amnestiya (SELDA).

No person shall be nominated to become a member of the board if he/she were a human rights violation victim and is entitled to compensation as defined under this act.

The first nominee appointed by the President or the appointee whose name appears first in the list of appointees shall be the Chairman of the Board. The Board shall be attached to, but not under the control or supervision of the Commission on Human Rights (CHR).

The Board shall organize itself within thirty (30) days from the appointment of all seven (7) members and shall thereafter organize its Secretariat.

There shall also be created a consultative body, which shall work in close coordination with the Board of Compensation, and shall perform the primary function of identifying and monitoring the legitimate victims who may be eligible for compensation under this Act, and such other functions as may be defined by the Board.

The consultative body shall be composed of five (5) members, one (1) representative of whom will come from each of the following human rights organizations:

- (1) Families of Victims of Involuntary Disappearances (FIND);
- (2) Samahan ng mga Ex-detainees Laban sa Detensyon at para sa Amnestiya (SELDA);
- (3) Task Force Detainees of the Philippines (TFDP);
- (4) Claimants 1081; and
- (5) KARAPATAN.

SEC. 13. *Operating Budget of the Board.* - The operational budget of Ten Million Pesos (P10,000,000.00) necessary to fund the initial operations of the independent board created under this Act shall be sourced from the President's Social Fund. This budget shall be entirely separate and distinct from whatever fund is identified or established for the purpose of providing compensation to the qualified HRVVs under this Act. Thereafter, such funds as may be necessary for the continued implementation of this Act shall be included as a separate item under the annual General Appropriations Act.

SEC. 14. *Proper Disposition of Funds.* - The Board shall ensure that the funds appropriated or which may become available as compensation for HRVVs are properly disbursed in accordance with the policies stated by Congress and relevant government accounting procedures.

SEC. 15. *Powers and Functions of the Board.* - The Board shall have the following powers and functions:

- a) receive, evaluate, process and investigate applications for claims under this Act;
- b) conduct independent administrative proceedings and resolve applications for claims by either granting or denying the same;
- c) deputize appropriate government agencies to assist it in order to effectively perform its functions;
- d) promulgate rules of procedure in the conduct of its proceedings with the Revised Rules of Court of the Philippines having suppletory application;
- e) issue, serve and enforce *subpoenas ad testificandum* and *subpoenas duces tecum*; and
- f) exercise administrative control and supervision over its secretariat through an Executive Director.

SEC. 16. *Implementing Rules and Regulations.* - Within thirty (30) days from the date of its organization, the Board shall promulgate the necessary Implementing Rules and Regulations (IRR) and procedure for the effective implementation of this Act. The IRR shall be effective fifteen (15) days after its publication in two (2) national newspapers of general circulation.

SEC. 17. *Salaries.* - The Chair and members of the Board shall receive salaries and allowances equivalent to those of the Presiding Justice and Associate Justices of the Court of Appeals, respectively.

SEC. 18. *Determination of Award.* - A. The Board shall follow the point system in the determination of the award. The range shall be 1 to 10 points, as follows:

- a) victims who died or who disappeared and are still missing shall be given ten (10) points;
- b) victims who were tortured shall be given nine (9) points;
- c) victims who were detained shall be given four (4) points; and
- d) victims who were harassed and economically disadvantaged shall be given one (1) point.

In instances where a victim is classified in more than one category, he/she shall be awarded the points in the higher category.

- B. Upon its constitution and the start of its operation and functioning, the Board shall award the number of points for each of the class suit plaintiffs and the direct action plaintiffs in the marcos human rights litigation (mdl no. 840, ca no. 86-0390) in the U.S. District Court of Hawaii, and add the total number of points.
- C. Within fifteen (15) days after the lapse of the period of three (3) months for the filing of applications for compensation under this act, the board shall provisionally award the initial points under paragraph a of section 18 for each of the new applicants referred to in section 21 and add the total number of points to the total number of points awarded to the Hawaii plaintiffs mentioned in letter b) above.
- D. The Board shall then divide the amount allotted for compensation under section 10 of this act by the sum total of the points awarded to both Hawaii plaintiffs and new applicants to determine the initial monetary value of one point.
- E. Each claimant who belongs to the Hawaii case (MDL no. 840, CA no. 86-0390) shall be immediately awarded initial compensation equivalent to the amount obtained by multiplying the initial monetary value of one point with the number of points awarded to him/her.
- F. The Board shall proceed to determine and adjudge who among the new applicants referred to in Section 21 are eligible for compensation, and after awarding them their corresponding points, the Board shall compute the total number of points awarded to the new applicants and add the same to the total number of points awarded to the Hawaii plaintiffs.
- G. The Board shall then determine the final monetary value of one point by dividing the total amount of the compensation under section 10 of this act by the sum total of the final points

awarded to both the Hawaii plaintiffs and new applicants.

- H. Each eligible claimant belonging to the new applicants shall be awarded such amount of compensation equivalent to the amount obtained by multiplying the final monetary value of one point with the number of points finally awarded to him/her by the board.
- I. Each eligible claimant belonging to the Hawaii plaintiffs shall be paid such additional amount representing the difference between the final monetary value and the initial monetary value multiplied by the number of points assigned to him/her by the Board.

SEC. 19. *Non-Monetary Compensation.* – The Department of Health, Department of Social Welfare and Development, Department of Education, the Commission on Higher Education, Technical Education and Skills Development Authority, and such other allied government agencies shall render the necessary services as non-monetary compensation for HRVVs, as may be determined by the Board pursuant to the provisions of this Act. The amount necessary for this purpose shall be sourced from the budget of the agency concerned in the annual General Appropriations Act.

The Commission on Human Rights shall monitor and facilitate the proper implementation of this provision beyond the completion of the work of the Board as prescribed in Section 23 herein.

SEC. 20. *Publication.* - The Board, after having been duly convened, shall set the period for the commencement and termination of the applications by HRVVs and cause the publication of the same; *Provided*, That such period shall only become operative fifteen (15) days after its last publication, which shall be once a week for three (3) consecutive weeks in at least two (2) national newspapers of general circulation.

SEC.21. *Period for Filing of Claims; Waiver.* – An HRVV shall file an application for compensation with the Board, within three (3) months from the effectivity of the IRR of this Act: *Provided*, That failure to file an application within said period is deemed a waiver of his right to file the same; *Provided Further*, That for HRVVs who are deceased or incapacitated, their legal heirs or representatives, shall be entitled to file an application for compensation on their behalf.

Any opposition to the new application/s pursuant to Section 6 hereof shall only be entertained if such is filed within fifteen (15) days from the date of the last publication of the official list of eligible claimants as may be determined by the Board.

SEC.22. *Resolution of Claims.* – The Board shall be composed of two (2) Divisions, which shall function simultaneously and independently of each other in the resolution of claims for compensation. Each

Division shall be composed of one (1) Chairman and two (2) Members to be appointed by the Chairman of the Board of Compensation.

SEC.23. Appeal. – Any aggrieved claimant may file an appeal within fifteen (15) days from the receipt of the Resolution of the Division, to the Board *en banc*, whose decision shall then become final and executory.

SEC. 24. Penalties. - Any claimant who is found by the Board, after due hearing, to have filed a false claim, shall be referred to the appropriate office for prosecution. If convicted, he shall suffer imprisonment of eight (8) to ten (10) years, be deprived of the right to vote and to be elected to any public office and in applicable cases, be dismissed from government service and perpetually disqualified from appointment to a public office.

Any member of the Board and its secretariat, public officer or employee of an agency mandated to implement this Act, or any private individual who shall misuse, embezzle or misappropriate the funds for the compensation of HRVVs or who shall commit fraud in the processing of documents and claims of HRVVs, or shall conspire with any individual to commit the same, shall suffer imprisonment of ten (10) to fifteen (15) years in addition to the other penalties provided for in the Revised Penal Code and relevant special penal laws.

SEC. 25. Roll of Victims. - Persons who are established to be HRVVs shall be given recognition by the enshrinement of their names in a Roll of victims of Human Rights violations to be prepared by the Board. The Roll shall be filed with the National Library and in such offices or agencies, both national and international, which are dedicated to the prevention of human rights abuses. The National Historical Institute shall erect in a conspicuous location in the National Capital Region an appropriate memorial, shrine or monument honoring these HRVVs.

SEC. 26. Joint Congressional Oversight Committee. - An Oversight Committee is hereby created composed of three (3) members each from the Senate and the House of Representatives to monitor and evaluate the implementation of this Act.

The existence of the Oversight Committee shall be co-terminus with that of the Board, and thereafter, its oversight functions shall be exercised by the proper Committees of the Senate and the House of Representatives.

SEC. 27. Period. - The Board shall complete its work within two (2) years from the effectivity of the IRR promulgated by the Board.

SEC. 28. *Repealing Clause.* - Section 63(b) of Republic Act No. 6657, as amended, otherwise known as the Comprehensive Agrarian Reform Law of 1988, is hereby amended to the extent that it will conform with this Act. All laws, decrees, executive orders, rules and regulations or parts thereof inconsistent with any of the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 29. *Separability Clause.* - If any section or provision of this Act is declared unconstitutional or invalid, such other sections or provisions not affected thereby shall remain in full force and effect.

SEC. 30. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) national newspapers of general circulation.

Approved,