

Republic of the Philippines
House of Representatives
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. 77

Introduced by Representative EDCCEL C. LAGMAN

EXPLANATORY NOTE

The emergence of human rights defenders (HRDs) is both an indictment and a symptom of the failure and neglect of the government to fully protect, promote, and fulfill human rights. HRDs are surrogate defenders due to government's default in its primary obligation as the official protector of human rights.

The tragic plight of Filipino HRDs as a result of the relentless persecution against them by the government shamefully aggravates the State's culpable non-compliance with the constitutional mandate that the "State values the dignity of every human person and guarantees full respect for human rights."

The global concern for human rights intensified after World War II to foreclose repetition of the war's brutalities and atrocities. Consequently, on 10 December 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR). Despite such momentous declaration, the UDHR lacked binding force. Thus, to give it enforceability and elaborate on its provisions, a succession of instruments ensued creating legally binding obligations on State Parties.

There are nine core international human rights instruments: Elimination of All Forms of Racial Discrimination; International Covenant on Civil and Political Rights; Covenant on Economic, Social and Cultural Rights; Convention on the Elimination of All Forms of Discrimination Against Women; Convention Against Torture; Rights of the Child; Protection of the Rights of All Migrant Workers; Rights of Persons with Disabilities; and the Convention for the Protection of All Persons from Enforced Disappearance.

The only one the Philippines has yet to sign is the Convention on Enforced Disappearance because the Philippines' accession has been marooned in the Office of the President for over a decade now. Ironically, we already have a domestic law complementing this Convention – the Anti-Enforced or Involuntary Disappearance Act of 2012, the only one in Asia.

The Philippines also takes pride in having enacted landmark human rights legislation such as Republic Act 9346 prohibiting the death penalty, RA 9745 or the Anti-Torture Act, the aforementioned RA 10353 penalizing

enforced disappearance, and RA 10368 granting recognition and reparation to martial law human rights violations victims.

Despite the international commitments and legal mechanisms at the domestic level, violations of human rights and fundamental freedoms persist. The common violations of the rights of human rights defenders (HRDs) include: summary execution, torture, enforced disappearance; arbitrary arrest and detention; death threats; vilification, intimidation and reprisal; false-labeling and red-tagging; restrictions on freedoms of movement, speech, association and assembly; malicious prosecution; and unjust conviction.

The role and protection of HRDs have become crucial to the promotion and fulfillment of human rights. Accordingly, on 09 December 1998, the UN General Assembly adopted the "Declaration on Human Rights Defenders". Subsequently, the appointment of UN special rapporteurs on the situation of HRDs has been institutionalized, and a UN model national law on HRDs' protection crafted.

This bill defines an HRD as a person "who individually or in association with others, acts or seeks to act to protect, promote or strive for the protection and realization of human rights and fundamental freedoms and welfare of the people at the local, national, regional and international levels."

Among the HRD rights and freedoms this bill seeks to respect, protect and promote are the:

- Right to promote and protect human rights and fundamental freedoms;
- Right to form groups, associations and organizations;
- Right to peaceful assembly;
- Right to seek, receive and disseminate information;
- Right to privacy;
- Right to develop and advocate human rights ideas;
- Right to solicit, receive and utilize resources;
- Right to access, communicate and cooperate with international and regional human rights bodies and mechanisms;
- Right to effective remedy and full reparation;
- Freedom from intimidation and reprisal; and
- Freedom of movement.

The corresponding duties and obligations of the State and public authorities to protect HRDs include the:

- Obligation to respect, promote, protect and fulfill the rights of HRDs;
- Obligation not to participate in violating human rights and fundamental freedoms;
- Obligation to facilitate the activities and work of HRDs;
- Obligation to prevent and to ensure protection from intimidation or reprisal;
- Obligation to penalize intimidation or reprisal;
- Obligation to refrain from derogatory and unfounded labeling;
- Obligation to ensure protection from arbitrary or unlawful intrusion or interference;
- Obligation to conduct investigation, and to ensure effective remedy and full reparation;

- Obligation to promote and facilitate human rights education; and
- Obligation to adopt a human rights-based governance.

HRDs' work embraces the gamut of human rights advocacy: articulation of human rights from civil liberties to health, economic, and cultural rights; training and education; formation of associations; peaceable assembly; monitoring of violations; demands for investigation and accountability; ending impunity; counseling and lawyering; lobbying for protective legislation; coordinating with kindred domestic and international groups; and supporting human rights-based governance and policy.

Since they are highly effective, they have been the targets and victims of harassment, persecution, and even liquidation by government security forces and non-state actors collaborating with state agents. The common violations of HRDs' human rights include summary executions; torture; enforced disappearance; arbitrary arrest and detention; death threats; harassment and defamation; reprisals; false labeling; restrictions on freedoms of movement, expression, association and assembly; malicious prosecution; and unjust conviction. All of these occur in the Philippines, including repressive legislation, red-tagging of cause-oriented critics, and profiling of lawyers of alleged "communist-terrorist" clients, all of which could have fatal consequences.

In the Philippines, among the recent HRD victims of human rights violations are:

- Peasant leader Randall Echanis who was summarily killed on 10 August 2020 in his Quezon City home.
- Social activist and educator Zara Alvarez who was assassinated on 17 August 2020 in Bacolod City.
- Detained youth leader Reina Mae Nasino, her lawyers, and family who were harassed by police elements before and during the burial of Nasino's child on 16 October 2020.
- Nine Panay Tumandok tribal leaders who were slain in police and military operations on 30 December 2020 due to their suspected communist links.
- Dozens of *lumad* children, teachers, and tribal leaders who were rounded up on 15 February 2021 in a police raid on an evacuee school at the University of San Carlos for being alleged communist recruits. Chad Booc, one of those arrested, is a petitioner against the Anti-Terrorism Act (ATA).
- Village chief Julie Catamin, a key witness in the Tumandok slayings, who was killed on 02 March 2021.
- Lawyer Angelo Karlo Guillen, *pro bono* lawyer of the Tumandoks, and counsel against the ATA, who was repeatedly stabbed with a screwdriver by unknown assailants in Iloilo City on 03 March 2021.

- Nine non-combatant activists who were slain almost simultaneously by police operatives on March 7, 2021 in Calabarzon, two days after President Rodrigo Duterte ordered state forces to disregard human rights and kill communist rebels.

In view of the unabated assault on HRDs aggravated by the growing culture of impunity, it is imperative for the Philippine Government to enact a law guaranteeing the protection of HRD rights and fundamental freedoms. The law must also clearly specify the aforementioned obligations of the State and public authorities to ensure the enjoyment of these rights and freedoms, and impose appropriate sanctions to counter impunity.

This bill had been approved on third and final reading in both the 17th and 18th Congresses and endorsed by Members of the European Parliament, the ISHR, and the United Nations Special Rapporteur on the protection of human rights defenders, among others. Its expeditious approval by the House of Representatives early in the 19th Congress could hasten consideration and passage of its counterpart in the Senate, and subsequently the long-awaited enactment of the Human Rights Defenders Protection Law. The enactment and full implementation of this law would create an enabling environment wherein HRDs and public authorities could work together with mutual respect, trust and support in upholding human rights and the rule of law.

The noble, courageous, and vigilant crusade of HRDs deserve the full recognition and genuine respect from the government. Their rights must be enshrined in law and the obligations of the State institutionalized by legislation. The "*Human Rights Defenders Protection Act*" must be enacted forthwith to protect the protectors.

EDCEL C. LAGMAN

Republic of the Philippines
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House Bill No. 77

Introduced by **Representative EDCEL C. LAGMAN**

AN ACT
DEFINING THE RIGHTS AND FUNDAMENTAL FREEDOMS OF HUMAN RIGHTS DEFENDERS, DECLARING STATE RESPONSIBILITIES, AND INSTITUTING EFFECTIVE MECHANISMS FOR THE PROTECTION AND PROMOTION OF THESE RIGHTS AND FREEDOMS

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

CHAPTER I
PRELIMINARY PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Human Rights Defenders Protection Act.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State:

a. To value the dignity of every human person and to recognize, respect, protect, promote and fulfill the rights and fundamental freedoms of persons, individually or in association with others, regardless of race, ethnicity, color, sexual orientation and gender identity, language, religion, political or other opinion, national or social origin, property, birth or other status;

b. To give highest priority to the implementation of legislative enactments, executive issuances and judicial decisions that guarantee respect, protection, promotion and fulfillment of human rights and fundamental freedoms;

c. To provide access to legal remedies and reparative measures including monetary compensation and psychosocial complement and rehabilitation to human rights violations victims;

d. To fully and strictly adhere to the principles and standards on human rights and fundamental freedoms set by the Constitution and international human rights instruments including the:

1. Universal Declaration of Human Rights (UDHR);
2. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally

- Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders);
3. International Covenant on Civil and Political Rights (ICCPR);
 4. International Covenant on Economic, Social and Cultural Rights (ICESCR);
 5. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
 6. Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
 7. Convention on the Rights of the Child (CRC);
 8. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW);
 9. Convention on the Rights of Persons with Disabilities (CRPD);
 10. International Convention for the Protection of All Persons from Enforced Disappearance (CPED);
 11. Declaration on the Rights of Indigenous Peoples; and
 12. Other universal treaties, comments and resolutions.

SEC. 3. Construction in Favor of Human Rights Defenders. – All provisions of this Act shall be construed to achieve its objectives. All doubts in the implementation and interpretation of these provisions shall be resolved in favor of the human rights defender.

SEC. 4. Definition of Terms. – As used in this Act:

a. *Human Rights and Fundamental Freedoms* refer to rights or entitlements inherent in all human persons and freedoms recognized in or declared by international and regional human rights instruments and customary international law and by national laws that are consistent with the said instruments and law;

b. *Human Rights Defender* refers to any person who, individually or in association with others, acts or seeks to act to protect, promote or strive for the protection and realization of human rights and fundamental freedoms and welfare of the people at the local, national, regional, and international levels;

c. *Human Rights Organization* refers to a group, organization or association in the local, national, regional or international level, whether formal or informal, registered or unregistered, that strive for the protection of human rights and fundamental freedoms and welfare of the people;

d. *Government Agency* refers to any department, bureau, office or unit of the National Government, or any of its branches and instrumentalities, or any political subdivision, as well as any government-owned or -controlled corporation, including its subsidiaries, or other self-governing branch, commission or council of the Government, to include but not be limited to any grouping of the Armed Forces of the Philippines, Philippine National Police or other State security forces, including military or police force multipliers.

e. *Superior Officer* refers to the government official who has direct supervisory powers or control over the head of the government agency to whom the subject head reports and shall include but not limited to the President, Department Secretaries, Chief of Staff of the Armed Forces of the Philippines, the Commanding General or Rear Admirals of any service in the

Armed Forces of the Philippines, or the Director General of the Philippine National Police;

f. *Intergovernmental Organization* refers to an organization established through a treaty or other agreements and mechanisms in pursuit of common issues, concerns and interests;

g. *Public Authority* refers to any person or body performing a function of a public nature that is conferred or imposed by or pursuant to law, by popular election or appointment or delegation or contracted by a governmental authority or agency;

h. *Intimidation or Reprisal* refers to any form of violence, threat, retaliation, *de facto* or *de jure* adverse discrimination, pressure, judicial harassment, or any other arbitrary or abusive action or threat, including cyber-attacks, hacking, defacement of websites, distributed denial-of-service attacks and similar acts related to a person's status, work or activity as a human rights defender, including proposed, attempted, or imputed work or activity directed at the: (i) human rights defender; (ii) the human rights defender's associate/s; (iii) a legal or other representative of the human rights defender appointed to conduct the latter's affairs or to otherwise act on his or her behalf; (iv) a family member or relative of the human rights defender up to the fourth degree of consanguinity or affinity, and includes common law relations; (v) a group, association, organization, community or network, whether formal or informal, registered or unregistered with which the human rights defender is associated; (vi) or the home, property or possessions of the human rights defender or any of the other persons or entities in items (ii) to (v).

CHAPTER II RIGHTS AND FREEDOMS OF HUMAN RIGHTS DEFENDERS

SEC. 5. *Right to Promote and Protect Human Rights and Fundamental Freedoms.* – Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the local, national, regional and international levels.

SEC. 6. *Right to Form Groups, Associations and Organizations.* – Everyone, individually or in association with others, has the right to form, join, or associate with and participate in local, national, regional, or international organizations, whether formal or informal and whether registered or unregistered, for the purpose of promoting and striving for the protection and realization of human rights and fundamental freedoms.

SEC. 7. *Right to Solicit, Receive and Utilize Resources* – (1) Everyone, individually or in association with others, has the right to solicit, receive and utilize resources, from domestic and international organizations, including governmental, intergovernmental, philanthropic and private sources, for the express purpose of promoting and striving for the protection and realization of human rights and fundamental freedoms.

(2) In pursuance of the right in subsection (1), subject to the provisions

of existing laws and consistent with provisions of this Act, freezing, sequestration or seizure by any bank or financial institution of the fund solicited from and released by the source is hereby prohibited.

SEC. 8. *Right to Seek, Receive and Disseminate Information.* –

(1) Everyone, individually or in association with others, has the right:

a. To know, seek, access, obtain, receive and hold information about all human rights and fundamental freedoms, including information regarding how these rights and freedoms are given effect in the legislative, judicial and administrative systems;

b. To know, seek access, obtain, receive and hold such information from business enterprises and other private actors as may be necessary for exercising or protecting, or assisting to exercise or protect human rights or fundamental freedoms;

c. To freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

d. To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other means, to draw public attention to these matters.

(2) The right in subsection (1) may be exercised orally, in writing, in print, in the form of art or through any other media, whether online or offline.

SEC. 9. *Right to Develop and Advocate for Human Rights Ideas.* –

Everyone, individually or in association with others, has the right to develop and discuss new ideas and principles which relate to human rights and fundamental freedoms, and to advocate their acceptance.

SEC. 10. *Right to Communicate with Non-governmental, Governmental and Intergovernmental Organizations.* – Everyone, individually and in association with others, has the right to freely communicate with non-governmental, governmental and intergovernmental organizations, including subsidiary bodies, mechanisms or experts with a mandate relevant to human rights and fundamental freedoms, as well as with diplomatic representations.

SEC. 11. *Rights Against Vilification.* – A person, individually and in association with others, has the right against any act of false labeling, red-tagging, name-calling, or malicious and fabricated accusations against him or her of any offense, or from any other kind of vilification.

SEC. 12. *Right to Access, Communicate and Cooperate with International and Regional Human Rights Bodies and Mechanisms.* – In accordance with applicable international instruments and procedures, everyone, individually or in association with others, has the right to unhindered access to and to communicate and cooperate with international and regional human rights bodies and mechanisms, including treaty bodies and special procedures or special rapporteurs.

SEC. 13. *Right to Participate in Public Affairs.* – (1) Everyone, individually or in association with others, has the right to participate effectively in the conduct of public affairs, including participation on a non-discriminatory basis in the government regarding human rights and fundamental freedoms.

(2) The right referred to in subsection (1) includes the right:

- a. To submit to any public authority, or agency or organization concerned with public affairs, criticism on or proposals for improving its functioning with respect to human rights and fundamental freedoms;
- b. To make recommendations to any public authority regarding legislative or regulatory changes relating to human rights and fundamental freedoms;
- c. To draw to the attention of any public authority any aspect of its work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms;
- d. To call the attention of any public authority to any action or omission by any actor, private or public, that may involve or contribute to a violation of human rights or fundamental freedoms; and
- e. To freely publish, impart or disseminate to others any information submitted to any public authority in the exercise of the rights set out in this Chapter.

SEC. 14. *Right to Peaceful Assembly.* – (1) Everyone, individually or in association with others, has the right to meet or assemble peacefully as well as to participate in peaceful activities concerning human rights and fundamental freedoms, free from interference that is arbitrary or unlawful by public authorities and private actors, at the local, national, regional or international level.

(2) The right referred to in subsection (1) includes the right to plan, organize, participate in and disseminate information regarding peaceful activities concerning human rights and fundamental freedoms, including demonstrations, protests, seminars and meetings, whether conducted in a public or private place.

SEC. 15. *Right to Represent and Advocate.* – 1) Everyone, individually and in association with others, has the right to assist, represent or act on behalf of another person, group, association, organization or institution in relation to the promotion, protection and exercise of fundamental rights and freedoms, including at the local, national, regional and international levels.

2) The right referred to in subsection (1) includes the right:

- a. To complain about the policies and actions of public authorities with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to domestic judicial, administrative or legislative authorities or any other competent

authority such as the Commission on Human Rights and the Ombudsman;

- b. To offer and provide professionally qualified legal counsel, paralegal, or other relevant advice and assistance in defending human rights and fundamental freedoms;
- c. To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and human rights and fundamental freedoms; and
- d. To submit communications and information to authorities and bodies referred to in Section 10.

SEC. 16. Right to Freedom of Movement. – (1) A person who is lawfully within the territory, or subject to the jurisdiction of the Philippines shall, within its territory or place of jurisdiction, have the right to liberty of movement and freedom to choose his or her residence and shall have the right to carry out lawful activities in the entire territory or place of jurisdiction.

(2) No one lawfully within the Philippine territory shall be expelled therefrom, as an individual or as part of a group, wholly or partially, on account of acts as a human rights defender.

(3) No one shall be deprived of the right to enter or leave the country on account of one's status, activities or work as a human rights defender.

SEC. 17. Right to Privacy. – (1) Everyone, individually or in association with others, has the right to privacy.

(2) The right referred to in subsection (1) includes the right of a human rights defender to protect one's privacy through lawful means, including encryption of personal data, and be free from arbitrary and unlawful intrusion and interference into one's personal activities including those concerning one's family, livelihood and place of work, one's correspondences and possessions, including all digital data pertaining thereto.

(3) "Intrusion and interference" under subsection (2) includes any form of surveillance, recording, within the purview of Republic Act No. 4200, otherwise known as "An Act to Prohibit and Penalize Wire Tapping and Other Related Violations of the Privacy of Communication, and for Other Purposes," search and seizure in relation to his or her legitimate activity or work as a human rights defender.

(4) The right to privacy extends to groups, organizations or associations.

SEC. 18. Freedom from Intimidation or Reprisal. – No person shall be subjected, individually or in association with others, to any form of intimidation or reprisal on the grounds of or in relation to his or her status, activities or work as a human rights defender.

SEC. 19. Right to a Sanctuary. – Any person, individually or in association with others, who has been subjected to any form of intimidation or reprisal, has the right to a safe refuge or sanctuary.

Said sanctuary shall be considered established if that person gives confidential notice to the Human Rights Defenders Protection Committee created under this Act indicating that said place, building or area has been constituted as a sanctuary.

SEC. 20. *Freedom from Defamation and Stigmatization.* – No person shall be subject to any form of defamation, stigmatization, or other harassment, whether offline or online, and whether by public authorities or private actors, in connection with one’s status, activities or work as a human rights defender.

SEC. 21. *Right to Exercise Cultural Rights and to Development of Personality.* –

(1) Consistent with Article 18 (1) of the UN Declaration on Human Rights Defenders, everyone, individually or in association with others, has the right to the unhindered exercise of cultural rights in one’s activities and work as a human rights defender and to the free and full development of one’s personality.

(2) The right referred to in Subsection (1) includes the right to challenge and change traditional customs and practices that violate human rights and fundamental freedoms.

SEC. 22. *Right to Effective Remedy and Full Reparation.* – (1) Everyone, individually or in association with others, has the right to an effective remedy and full reparation, both monetary and nonmonetary, in the event of a violation of the rights in Chapter II or a breach of obligations in Chapter III of this Act.

(2) A person whose rights have been violated or who has been adversely affected by a breach of obligations has the right to obtain such effective remedy and full reparation from the appropriate government agency or court of competent jurisdiction.

(3) A complaint with the competent court or tribunal relating to the violation of rights under a breach of obligation under Chapter III of this Act may be filed by the following:

- a. a human rights defender;
- b. an association of the human rights defender;
- c. a legal or other representative of the human rights defender appointed to conduct the affairs of or to otherwise act on behalf of the human rights defender;
- d. a family member of the human rights defender;
- e. a group, association or organization with which the human rights defender is associated;
- f. any person acting in the public interest and consistently in pursuit of the purposes of this Act; and
- g. the Human Rights Defenders’ Protection Committee.

However, as much as possible, the consent of the victim must first be obtained before a complaint is filed. In the absence of such consent, the

human rights organization or association may proceed with filing the complaint or petition unless the lack or absence of consent is based on the threat to the life, liberty or security of the victim or his or her family.

SEC. 23. *Limitation on the Rights of Human Rights Defenders.* – In exercising the rights in Chapter II of this Act, a human rights defender, individually or in association with others, shall be subject only to limitations that are prescribed by law, and are reasonable, necessary and proportionate in accordance with international human rights obligations and standards. Such rights shall be exercised solely for the purpose of securing due recognition of and respect for the human rights and fundamental freedoms of others and should meet the reasonable requirements of public order and general welfare in a democratic society.

CHAPTER III OBLIGATIONS OF THE STATE AND PUBLIC AUTHORITIES

SEC. 24. *Obligation to Respect, Promote, Protect, and Fulfill the Rights of Human Rights Defenders.* – Public authorities shall take all necessary measures to ensure: (1) that the human rights and fundamental freedoms in Chapter II of this Act are effectively guaranteed and protected; (2) that all laws, policies and programs of government are consistent with the rights in Chapter II of this Act; and (3) that human rights defenders are able to freely undertake their activities and work in a safe and enabling environment without restrictions.

SEC. 25. *Obligation to Facilitate the Activities and Work of Human Rights Defenders.* – Public authorities shall take all necessary measures in accordance with law to facilitate and protect the exercise of the rights vested on human rights defenders under Chapter II of this Act, which measures shall include the obligations to:

- a. permit and facilitate access to places where persons are deprived of liberty;
- b. permit and facilitate access to places and to information required by human rights defenders to exercise their rights;
- c. provide information about violations of human rights or fundamental freedoms that may have been committed within Philippine territory or jurisdiction, including those committed by agents of the State in the line of duty;
- d. develop and enhance the capacity of human rights defenders to defend and promote human rights and fundamental freedoms; and
- e. publicly recognize the role, functions and activities of human rights defenders.

SEC.26. *Obligation to Provide Free Access to Materials Relating to Human Rights and Fundamental Freedoms.* – Public authorities shall make freely available and accessible to the public the following materials online and through other modes and platforms of information dissemination:

- a. The Constitution, national laws and regulations;
- b. International human rights instruments;

- c. Research, studies, reports, data, archived and other information and materials within the possession of public authorities that relate to human rights and fundamental freedoms;
- d. Government reports and information submitted to international human rights bodies and mechanisms;
- e. Reports and communications of international human rights bodies and mechanisms involving the country's compliance with international treaty obligations;
- f. Documents and information related to the decisions or activities of the Commission on Human Rights and other national authorities with competence in the field of human rights and fundamental freedoms; and
- g. All such other information as may be necessary to secure or enable the exercise of any human right or fundamental freedom under Chapter II or access to remedy for violation of any such right.

SEC. 27. *Obligation not to Disclose Confidential Sources.* – Public authorities shall not disclose or require disclosure of the identity of sources used by human rights defenders unless both the relevant source and the concerned human rights defender give informed consent in writing to such disclosure or if so required by an independent and impartial tribunal in accordance with international standards.

SEC. 28. *Obligation to Prevent and to Ensure Protection from Intimidation or Reprisal.* – Public authorities shall take all necessary measures to ensure the prevention of and protection from any intimidation or reprisal by any public or private actor against human rights defenders. These shall include protection measures established under pertinent laws.

SEC. 29. *Obligation to Penalize Intimidation or Reprisal.* – Any public authority or private actor who is found guilty of committing intimidation or reprisal against a person on the grounds of or in connection with his or her status, work, activities as a human rights defender, shall be penalized under the appropriate provision/s of the Revised Penal Code, in addition to administrative and/or civil sanctions that may be imposed considering the gravity of the offense, upon the discretion of the court or competent authority.

SEC. 30. *Obligation to Refrain from Derogatory and Unfounded Labeling.* – (1) Under no circumstance shall public authorities engage in false, unfounded and derogatory labeling of human rights defenders including identifying or tagging them as “reds”, “communists”, “terrorists”, or “enemies of the State”.

(2) Public authorities shall immediately expunge or rectify such labeling as part of the non-monetary reparation to victims referred to in Section 22 (2) of Chapter II and Section 34 of Chapter III of this Act.

SEC. 31. *Obligation to Ensure Protection from Arbitrary or Unlawful Intrusion and Interference.* – (1) Public authorities shall take extraordinary diligence to ensure the protection of human rights defenders from arbitrary or unlawful intrusion and interference into one's personal activities including those concerning one's family, livelihood and place of work,

one's correspondences and possessions, including all digital data pertaining thereto.

(2) *Intrusion and interference* in subsection (1) includes any form of surveillance, recording, search and seizure in relation to any person's legitimate activity or work as a human rights defender without his or her consent.

SEC. 32. *Obligation not to Participate in Violating Human Rights and Fundamental Freedoms.* – All public authorities are mandated not to participate, by acts of commission or omission, in violating human rights and fundamental freedoms. Subordinate employees have the right and duty to refuse any order from their superiors to participate in acts that contravene their duty to protect, uphold and promote human rights and fundamental freedoms, and shall not be subject to any administrative sanctions as a consequence of such refusal.

SEC. 33. *Obligation to Conduct Investigation.* - Whenever there is reasonable ground to believe that a human rights defender has disappeared, been killed, tortured, ill-treated, arbitrarily detained, threatened or subject to a violation of any of the rights in Chapter II of this Act, whether by a public authority or private actor, the State must ensure that a prompt, thorough, effective, independent and impartial investigation is conducted with extraordinary diligence and is prosecuted under existing applicable laws, including RA 9745, "the Anti-Torture Act"; RA 10353, the "Anti-Enforced or Involuntary Disappearance Act"; and RA 7438, "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof". Presumption of regularity in the performance of duty by the offending public authority shall not be invoked.

SEC.34. *Obligation to Ensure Effective Remedy and Full Reparation.* – Public authorities shall take all necessary measures to ensure that an effective remedy and full reparation are available and provided for violations of the rights in Chapter II and for breach of the obligations in Chapter III of this Act.

SEC. 35. *Obligation to Enforce and Institutionalize Command Responsibility.* – Government agencies shall enforce and institutionalize command responsibility and impose sanctions against errant superior in both military and civilian agencies as provided under existing laws and executive issuances.

SEC. 36. *Obligation to Adopt Human Rights-Based Governance.* – Public authorities shall adopt the human rights-based approach to governance and development, including counter-insurgency and anti-terror programs and policies.

SEC. 37. *Obligation to Strengthen Protection Program.* – The Commission on Human Rights shall strengthen its protection program and provide a safe place of refuge or sanctuary for high risk human rights defenders and or their immediate families, more particularly those who have filed formal complaints against high ranking public authorities.

SEC. 38. *Obligation to Respect the Principle of Non-refoulement.*

– No person shall be forcibly returned, expelled or extradited to another State where there are substantial grounds to believe that the human rights and fundamental freedoms of the person are in danger of being violated.

SEC. 39. *Obligation to Promote and Facilitate Human Rights Education.* – All government agencies shall promote, facilitate and adequately provide resources on teaching, training and education about human rights and fundamental freedoms to all persons within the country’s jurisdiction. Teaching, training and education programs shall include information about this Act and the important and legitimate work of human rights defenders.

The Department of Education (DepEd) and the Commission on Higher Education (CHED) shall require human rights education as an obligatory curriculum in all academic institutions, colleges and universities, public or private.

SEC. 40. *Diligence Required.* – Any complaint or report for violation of human rights and fundamental freedoms shall be dealt with and acted upon with extraordinary diligence by concerned government personnel. Failure to act within three (3) days from reporting any violation of this Act shall hold the government personnel criminally, civilly and administratively liable.

**CHAPTER IV
THE HUMAN RIGHTS DEFENDERS PROTECTION COMMITTEE**

SEC. 41. *Creation and Composition of the Human Rights Defenders Protection Committee.* – (1) There shall be an independent collegial body to be known as the Human Rights Defenders Protection Committee, herein referred to as the Committee, that shall be composed of one (1) Chairperson and six (6) Members. The Chairperson shall be selected by the Commissioners of the Commission on Human Rights from among themselves in an *en banc* session. The six (6) members shall be jointly nominated by two (2) representatives each of the Philippine Alliance of Human Rights Advocates (PAHRA), Karapatan Alliance for the Advancement of People’s Rights (Karapatan), Free Legal Assistance Group (FLAG), and the National Union of People’s Lawyers (NUPL) in a meeting called for this purpose, without prejudice to the nominations of other human rights organizations who have proven track records of probity and independence.

(2) The aforementioned nominees shall be appointed by the Commission on Human Rights in an *en banc* session.

(3) The composition of the Committee shall have a balanced gender representation on the basis of the principles of equality and non-discrimination and adequate representation of ethnic, cultural and minority groups.

(4) The Committee shall be attached to the Commission on Human Rights (CHR) for administrative and budgetary purposes only.

(5) The Committee shall organize itself within thirty (30) days from the completion of the selection process of the Chairperson and Members of the Committee as herein provided in Subsection (1), and shall thereafter organize its Secretariat.

SEC. 42. Qualifications of the Committee Members. – The Members of the Committee shall possess the following qualifications:

1. High moral character, recognized probity, competence, and integrity;
2. Known independence in making decisions and taking stances on issues and concerns pertaining to the protection and promotion of human rights and fundamental freedoms;
3. A deep, thorough and enlightened knowledge and understanding of human rights and fundamental freedoms and the role, work, and protection needs of human rights defenders; and
4. At least two (2) members, including the Chairperson must be members of the Philippine Bar who have been engaged in the practice of law for at least seven (7) years.

SEC. 43. Term of Office. – The Chairperson and Members of the Committee shall be designated once for a term five (5) years only. Of those first designated, three (3) Members shall serve for five (5) years, two (2) Members for four (4) years, and the last two (2) Members shall hold office for three (3) years. Succeeding Chairpersons and Members shall be designated for a term of not more than five (5) years. Designation to any vacancy shall be only for the unexpired portion of the term of the predecessor.

SEC. 44. Functions of the Committee. – The Committee shall exercise the following functions:

- a. Protect human rights defenders from intimidation and reprisals;
- b. Ensure accountability for acts of intimidation and reprisal;
- c. Facilitate and promote inter-agency and inter-department coordination to prevent, protect from, investigate, and ensure accountability for acts of intimidation or reprisal;
- d. Investigate on its own or on complaint by any party all forms of violations of human rights and fundamental freedoms of human rights defenders;
- e. Publicly acknowledge and promote the legitimate and important role, activities and work of human rights defenders;
- f. Consult regularly and work closely with human rights defenders in the implementation of this Act;
- g. Monitor existing and proposed legislation, assess their impact or potential impact on the status, activities and work of human rights defenders, and propose amendments and/or remedial measures or block their passage if the measures shall to a large extent adversely affect the human rights defenders and their work and activities;
- h. Prepare and submit reports and communications on the situation of human rights defenders to relevant international and regional human rights bodies and mechanisms;
- i. Monitor and carry out periodic reviews of the implementation of this Act, the first of which shall be conducted one (1) year after its effectivity.
- j. Submit annual reports on the situation of human rights defenders and the status of implementation of this Act to the Office of the President of the Senate and the Office of the Speaker of the House of Representatives;

- k. Make recommendations to relevant authorities on the appropriate measures to be taken to promote a safe and enabling environment for human rights defenders, mitigate and prevent the risks they face, and address the root causes of violations against human defenders; and
- l. Perform other relevant functions as may be necessary to attain the objectives of this Act.

SEC. 45. *Training and Vetting.* – All persons involved in the work and activities of the Committee, including security and law enforcement officials, shall be appropriately vetted and shall receive training on human rights and fundamental freedoms, the situation and protection needs of human rights defenders prior to the commencement of the involvement, and continuing training designed to ensure full and effective implementation of the Act.

CHAPTER V PENALTIES

SEC. 46. *Penalty for Violations of Sections 5 To 16 of this Act.* - The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its medium period without privilege of parole shall be imposed upon any government personnel or the whole complement of a government unit, the paramilitary personnel or the whole complement of the paramilitary unit, the government asset (and/or the military affiliate) who violates any of the rights of a human rights defender defined in sections 5 to 16 of this Act.

SEC. 47. *Penalty for Destroying, Altering, or Falsifying Records and Documents.* – The penalty of *prision mayor* in its minimum to its medium period or a fine of One hundred thousand pesos (Php100,000.00) or both, at the discretion of the court, shall be imposed upon any government personnel or the whole complement of a government unit, the paramilitary personnel or the whole complement of the paramilitary unit, the government asset (and/or the military affiliate) who impede, obstruct, or influence any preliminary investigation, administrative investigation and/or petition by altering, destroying, mutilating, concealing, covering up, falsifying, or making any false entries in any record, document, or specimen whereof, relative to any matter involving any human rights defenders, or the activities of the defenders' organizations.

SEC. 48. *Penalty for Any Other Violations of this Act.* – The penalty of *prision mayor* in its minimum period or a fine of One hundred thousand pesos (Php 100, 000.00) or both, at the discretion of the court, shall be imposed upon any individual who violates any other provisions of this Act.

SEC. 49. *Violations of this Act as Aggravating Circumstances.*
- A violation of any provision of this Act committed during the commission of a crime defined in any penal law shall be considered an aggravating circumstance in the imposition of the penalty on said crime.

SEC. 50. *Non-Applicability of the Probation Law.* – A violation of any provision of this Act which shall constitute the main crime or as an aggravating circumstance shall not entitle the offender or the accused to the privileges of probation under the Probation Law.

CHAPTER VI FINAL PROVISIONS

SEC. 51. *Implementing Rules and Regulations.* – (1) Within sixty (60) days from the effectivity of this Act, the Commission on Human Rights in consultation with PAHRA, Karapatan, FLAG, and NUPL, and other human rights organizations and individual human rights defenders of known probity, shall promulgate the Implementing Rules and Regulations (IRR) for the effective implementation of this Act and shall ensure the full dissemination of the Act and the IRR to the public.

(2) In formulating the corresponding rules and regulations and in implementing this Act, the following guiding principles shall be strictly adhered to:

- a. Adherence to the rule of law is the ultimate safeguard against violations of human rights and fundamental freedoms.
- b. Empowerment of human rights defenders is enhanced by their active participation in formulating, implementing, and evaluating protection programs for human rights defenders.
- c. Periodic assessments of risks, vulnerability or conflict help identify protection needs of human rights defenders giving particular attention to those of women and others' who are at increased risks.
- d. Keeping and maintaining confidentiality of the personal data collected on human rights defenders and those referred to in Sec. 22 (3) herein upholds their right to privacy and security of person.
- e. Continuous training of the members of the Committee Secretariat on human rights and fundamental freedoms, the root causes of their violations, and the work and protection needs of human rights defenders help sustain their commitment to the objectives of the Act.
- f. Independent and effective operation of the Committee and its Secretariat requires sustained adequate resources.
- g. Transparent, aboveboard, and equitable resource allocation and disbursement help ensure maximum protection to human rights defenders and their constituencies particularly those of higher risks and vulnerabilities.
- h. Risks and challenges faced by women and lesbians, gays, bisexuals and transgenders (LGBT) human rights defenders and those working on women's and LGBT rights and gender issues demand special attention.
- i. Generating support from a strong, independent, and effective national human rights institution and from the general public enhances and contributes to the effective work of human rights defenders.
- j. Open access to the United Nations and international human rights bodies contributes to a safe and enabling environment for human rights defenders to work in.

SEC. 52. *Supplementary Applications.* – The applicable provisions of the Revised Penal Code shall have supplementary application insofar as they are consistent with the provisions of this Act.

SEC. 53. Separability Clause. – If for any reason any part or provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall remain and continue to be in full force and effect.

SEC. 54. Repealing Clause. – All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 55. Effectivity Clause. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette, or in a newspaper of general circulation.

Approved,