

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 0240



Introduced by
BAYAN MUNA Party-List Representatives CARLOS ISÁGANI T. ZARATE,
FERDINAND R. GAITE and EUFEMIA C. CULLAMAT,
ACT TEACHERS Party-List Representative FRANCE L. CASTRO,
GABRIELA Women's Party Representative ARLENE D. BROSAS.
and KABATAAN Party-List Representative SARAH JANE I. ELAGO

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

EXPLANATORY NOTE

The Philippine government was one of the 48 original signatories to the Universal Declaration of Human Rights in 1948. The government later signed and ratified the multilateral treaties on human rights namely The International Covenant on Civil and Political Rights and The International Covenant on Economic, Social and Cultural Rights. These official acts of the Republic of the Philippines is a commitment that the government shall not only respect human rights but must also protect and promote these rights.

However, despite these commitments human rights violations continue to plague the Philippines. The international community, including the United Nations have expressed serious concern over the systematic and continuing violations of human rights, including the phenomena of extra judicial killings and enforced disappearances. It is within this context that the need for and the importance of human rights defenders coming from human rights groups and advocates came to the fore.

In July 2012, United Nations Special Rapporteurs Margaret Sekaggya, on human rights defenders, and Christof Heyns, on extrajudicial killings, have sounded off their concern on the significant increase in the reports of killings and death threats against human rights defenders in the Philippines.

Sekaggya said “many of the cases involve individuals and organizations working to defend the right to a healthy environment...disputes over land rights and campaigns against mining and dam projects infringing on the rights of local communities tend to be sensitive, and those defending such rights are often met with violence.” Heyns commented that a number of the death threats and killings appear to be perpetrated by paramilitary groups and security forces both by the state and corporate actors. Both UN experts called on the Philippine government to take effective measures to protect the right to life and the rights enshrined in the International Covenant on Civil and Political Rights.

Three years later, on September 22, 2015, the United Nations Special Rapporteurs on the rights of indigenous peoples, Victoria Tauli-Corpuz, and on the situation of human rights defenders, Michel Forst, have likewise expressed serious concern about the increasingly pervasive insecurity and rising unlawful killings of human rights activists in the conflict-prone regions of the Philippines. The Special Rapporteurs said that military occupation of civilian institutions and killing of civilians, “are unacceptable, deplorable and contrary to international human rights and international humanitarian standards” as they urged the Philippine government to launch an independent investigation on the killings of three indigenous peoples’ rights defenders in Lianga, Surigao del Sur.¹

The courageous band of human rights workers and advocates, from various sectors including the farmers, religious, women, trade unions, indigenous peoples and many other groups concerned with human rights, managed to document human rights atrocities and persevere in working for the protection of human rights during the darkest periods of Philippine history when fundamental freedoms were trampled by the very government that committed to protect these rights.

These attacks on human rights defenders were by no means limited to the Philippines. Despite the international recognition of what is known today as the International Bill of Human Rights, many countries not only continue to violate the rights of their people, but also attack human rights workers and advocates who criticize governments for human rights abuses.

The international community, intending to protect an important cog in the mechanisms for the protection of human rights, agreed to respond these attacks and promulgated a resolution intended to emphasize the rights and importance of human rights defenders.

In recognition of the valuable roles of human rights monitors, documentarists, rapporteurs, and advocates, the United Nations General Assembly, in its 85th Plenary Meeting on December 9, 1998, through General Assembly *Resolution (A/RES/53/144)* the “*Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*” or what is known in the United Nations as the *Declaration on Human Rights Defenders*.

Most recently on December 17, 2015, the UN General Assembly in its Seventieth Session adopted the Resolution (A /Res/70/161) on “*Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to*

¹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16481>

Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms". The Resolution "*strongly condemns* the violence against and the targeting, criminalization, intimidation, torture, disappearance and killing of any individuals, including human rights defenders", "*condemns* all acts of intimidation and reprisal by State and non-State actors against individuals, groups and organs of society, including against human rights defenders and their legal representatives, associates and family members," and expresses grave concern "that national security and counter-terrorism legislation as well as measures in other areas, such as laws regulating civil society organizations, are in some instances misused to target human rights defenders or hinder their work, endangering their safety in a manner contrary to international law,"

The 2015 Resolution reaffirmed the primary responsibility of the States and their "obligation to protect all human rights and fundamental freedoms of all persons," as it "*calls upon* all States to take all measures necessary to ensure the rights and safety of human rights defenders who exercise the rights to freedom of opinion, expression, peaceful assembly and association, which are essential for the promotion and protection of human rights". Recognizing that "domestic law and administrative provisions and their application should not hinder, but enable the work of human rights defenders, including by avoiding any criminalization or stigmatization of the important activities and legitimate role of human rights defenders and the communities of which they are a part or on whose behalf they work," the Resolution further "*urges* States to acknowledge through public statements, policies or laws the important and legitimate role of individuals, groups and organs of society, including human rights defenders, in the promotion of human rights, democracy and the rule of law, as essential components of ensuring their recognition and protection, including by condemning publicly all cases of violence and discrimination against human rights defenders, including women human rights defenders, underlining that such practices can never be justified,"²

However, this international recognition of the importance of human rights defenders has grimly been negated by the continued killings, disappearances, tortures, vilifications, persecutions, harassments, and other abuses of human rights defenders.

The Philippines is the second highest in killings of human rights defenders worldwide, according to the 2015 report from Front Line Defenders, or the International Foundation for the Protection of Human Rights Defenders. The Philippines is second to Colombia and the highest outside the Americas. According to the report, the 31 killings of human rights defenders in the Philippines in 2015 make up almost 60% of the 52 reported in Asia and the Pacific.³

Human rights defenders in the Philippines face human rights violations themselves in the course of their work and these violations include killings, death threats, abductions and kidnappings, arbitrary arrest and detention, and other actions of harassment and intimidation, such as defamation campaigns and the filing of trumped up charges aimed at harassing human rights workers. All these violations also target the immediate family members of human rights defenders, (including their children), and their other relatives, to prevent them from continuing their activities. Human rights campaigns are affected in many

² http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/161

³ <http://www.rappler.com/move-ph/118249-philippines-second-highest-human-rights-defenders-killings-report>

regions in the country by restrictions on the activities and the persecution of human rights defenders leaving the people more vulnerable to human rights abuse.

Worse, human rights defenders in the country have been tagged as "*enemies of the state*" by government and harshly dealt with as such. Not a few of them like Eden Marcellana, Eddie Gumanoy, Leima Fortu, and Benjaline Hernandez were brutally slain. From the time former Pres. Gloria Arroyo became president up to the end of her term in June 2010, for example, there were a total of 1,206 victims of extrajudicial, summary or arbitrary execution (or EJKs) in the Philippines. Of the total number, 476 were human rights defenders (HRDs). Of the 206 victims of enforced or involuntary disappearance, 68 were human rights defenders. Scores from their ranks have been physically assaulted, tortured, treated inhumanely, cruelly and degradingly, and threatened, harassed, and intimidated. These violations are continuously being committed with impunity by government security forces. All these are committed in line with Arroyo's counter-insurgency program Oplan Bantay Laya, which obfuscated the delineation of the armed opposition being waged by the Communist Party of the Philippines and the legal and democratic people's organizations. Those who were tagged as "communists" or "terrorists" became targets of the counter-insurgency program. The pattern of killings continue in Oplan Kpayapaan and Oplan Kapanatagan of the Duterte administration.

On November 22, 2018 Executive Secretary Salvador Medialdea signed Memorandum Order (MO) Number 32, instructing the Armed Forces of the Philippines and the Philippine National Police to ostensibly end the "sporadic acts of violence" in the provinces of Negros Occidental, Negros Oriental, Samar island and the Bicol region.

The issuance of the memo in question comes after the killing of nine (9) sugarcane farmers in Sagay, Negros Occidental in October 20, 2018. The fatalities, who included four (4) women and two (2) minors, belonged to the National Federation of Sugar Workers (NFSW.) Human rights organization KARAPATAN-Negros Island allege that state agents are behind the massacre of farmers, in the fashion of human rights abuses committed against organized movements in the country.

However, the barbarous attack in Sagay was not suppressed by the deployment of state agents, as in the directive of MO 32. Contrarily, it was followed by a spate of killings and other human rights violations against personalities and members of the progressive movement in Negros. Fourteen (14) farmers were killed in one night, drug-war Tokhang-style, in the Canlaon City, Manjuyod and Sta. Catalina towns in Negros Occidental in what police operatives dubbed as Oplan Sauron. A fact-finding mission revealed that the victims were summarily executed. Twelve (12) more farmers were arrested the same night.

MO 32 trained its eye on Bicol region mid-2019 marked with the killing of two (2) human rights defenders on June 15, 2019 in Barangay Cabid-an, Sorsogon on June 15, 2019. Bicol is third on the list of MO 32's target spots. According to human rights group Karapatan, the slain workers were senior high school student Ryan Hubilla, 22, and Nelly Bagasala, 69, from their Sorsogon staff. Karapatan said the incident came after its workers experienced periodic surveillance supposedly carried out by the military and the police.

The cases of human rights abuses, particularly the killings of human rights workers and farmers in the target areas of MO 32, clearly show that the clear and present danger to the public does not come from non-state actors. In all regions and provinces included in the memo, state agents are blamed for the killings and human rights abuse

Women human rights defenders are particularly at risk, and other groups and categories of defenders who are particularly exposed to attacks and human rights violations as a result of the work they carry out include defenders working to promote civil and political rights- notably freedom of expression and freedom of thought, conscience and association- as well as economic, social and cultural rights, notably collective rights such as the right to food and access to natural resources, including trade-unionists, and also those working for minorities' and community rights, children's rights, indigenous people's rights, among others.

Considering the important role of human rights defenders in the protection of human rights in the country and the Philippine government's international commitment to promote, defend and protect human rights, and the continuing attack on the rights of the people and human rights defenders, it is imperative that the Congress should put into law that commitment as enshrined in the UN General Assembly Resolutions on the rights of human rights defenders. It is necessary that the relevant provisions of the International Declaration are translated into a binding commitment not only to protect human rights but also those that work for the protection of these rights so that they may be able to fulfill their important role in the promotion, protection and defense of human rights and fundamental freedoms.


In this light, a law protecting human rights defenders and penalizing any violations of their rights in the pursuance of their advocacy must be immediately enacted.

This bill is a refiled version of Bayan Muna's Human Rights Defenders' Protection Bill first filed in the House of Representatives by Rep. Satur Ocampo during the 14th Congress. The bill was also refiled in the 16th Congress as House Bill 1472 by Representatives Neri. J. Colmenares, Carlos Isagani T. Zarate, Luzviminda C. Ilagan, Emmi A. De Jesus, Antonio L. Tinio, Fernando Hicap and Terry Ridon. In the 17th Congress, Rep. Carlos Zarate, Rep. Antonio L. Tinio, Rep. Emmi De Jesus, Rep. France Castro, Rep. Arlene Brosas, and Rep. Sarah Elago refiled this bill as House Bill 1617.

For these reasons, the expeditious approval of this bill is earnestly urged.

Approved,

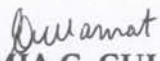
Approved,



REP. CARLOS ISAGANI T. ZARATE
BAYAN MUNA Partylist



REP. FERDINAND R. GAITE
BAYAN MUNA Partylist




REP. EUFEMIA C. CULLAMAT
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REP. FRANCE L. CASTRO
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REP. ARLENE D. BROSAS
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PROMOTION OF THESE RIGHTS AND FREEDOMS

SEC. 1. *Short Title.* - This Act shall be known as the Human Rights Defenders Protection Act of 2018.

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

- (1) 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;
- (2) 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;
- (3) To provide access to legal remedies and reparative measures including but not limited to monetary compensation and psychosocial accompaniment and rehabilitation to human rights violations victims;

- (4) To fully and strictly adhere to the principles and standards on human rights and fundamental freedoms set by the 1987 Philippine Constitution and international human rights instruments, jus cogens principles, including but not limited to the:
- a. Universal Declaration of Human Rights (UDHR);
 - b. 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);
 - c. International Covenant on Civil and Political Rights (ICCPR);
 - d. International Covenant on Economic, Social and Cultural Rights (ICESCR);
 - e. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
 - f. Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
 - g. Convention on the Rights of the Child;
 - h. International Labor Organization Declaration on Fundamental Principles and Rights at Work
 - i. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
 - j. International Convention for the Protection of All Persons from Enforced Disappearance;
 - k. UN Declaration on the Rights of Indigenous Peoples;
 - l. UN Declaration on the Rights of Peasants and Other People Working in Rural Areas; and
 - m. General Comments and Resolutions of the United Nations General Assembly and Human Rights Council to existing provisions of aforementioned international conventions.

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. For the purposes of this Act, the following terms shall mean:

1. ***Human Rights and Fundamental Freedoms.*** - refers 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;

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, at the local, national, regional, and international levels. Any bonafide member of a human rights organization shall be considered to be a human rights defender. Defenders can be of any gender, of varying ages, from all sorts of professional or other backgrounds. This includes defenders who work on women's rights or on gender issues, environmental and land rights defenders, trade unionists and labor organizers and youth human rights defenders. Human rights defenders are not only found within non-government organizations and intergovernmental organizations but might also, in some instances, be government officials, civil servants or members of the private sector;

2. ***Human Rights Organization*** refers to a group, organization or association in the local, national, regional or international level, whether formal or informal, that strive for the protection of human rights and fundamental freedoms;
3. ***Human rights violation*** is any act of commission or omission by State actors acting under the orders of and/or with acquiescence of State actors, in violation of any human rights of any individual, group or organization, registered or otherwise, from which injury and damage to any individual, mental or physical, or property or reputation or privacy of any individual or organization shall be occasioned;
4. ***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. This shall include the Armed Forces of the Philippines, Philippine National Police and their force multipliers acting under the direct control and supervision of the said uniformed personnel.
5. ***Superior Officer*** shall mean the next government official who has supervisory or control powers 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;

6. ***Intergovernmental Organization*** refers to an organization established through a treaty or other instruments and mechanisms in pursuit of common issues, concerns and interests;
7. ***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 delegated, contracted or procured by a governmental authority or agency;
8. ***Intimidation or Reprisal*** means 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 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 his or her affairs or to otherwise act on his or her behalf; (iv) a family member or relative of the human rights defender, including common-law spouses and relatives by virtue of said common-law relationship; (v) a group, association, organization, community or network, whether formal or informal, 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 (vi).

SEC. 5. Diligence Required. Any complaint or report of human rights violation shall be dealt with and acted upon with extraordinary diligence by concerned government personnel.

Failure to dispense with the diligence required, within three days from reporting any violation of this Act shall hold the government personnel criminally, civilly and administratively liable.

SEC. 6. 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. 7. *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. 8. *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), freezing, sequestration or seizure by any bank or financial institution of the fund solicited from and released by the source is hereby prohibited.

SEC. 9. *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. 10. *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. 11. *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. 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 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 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 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 e.g. Commission on Human Rights, the Ombudsman;
 - b. To offer and provide professionally qualified legal counsel or other relevant legal or paralegal 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 of the type referred to in Section 10.

SEC. 16. *Right to Freedom of Movement.*

(1) Everyone lawfully within the territory, or subject to the jurisdiction, including the power or effective control, 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 the right to carry out his or her human rights activities in the entire territory or place of jurisdiction.

(2) No one lawfully within the Philippine territory shall be expelled, by means of an individual or a collective measure, from its territory wholly or partially on account of his or her acts as a human rights defender.

(3) No one shall be deprived of the right to enter or leave the country on account of his or her 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 in subsection (1) includes the right of a human rights defender to protect his or her privacy, including through encryption, and be free from intrusion and interference that is arbitrary and unlawful in his or her family, home, places of work, possessions and correspondence, both online and offline.

(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.

Any reported act of surveillance against a human rights defender shall be dealt with and acted upon with extraordinary diligence by concerned government personnel. Failure to act with extraordinary diligence for the identification and/or designation, position or assignment, if applicable, of the individual who is doing the act of surveillance within three days from reporting thereof, shall make the concerned government personnel criminally, civilly and administratively liable.

SEC. 18. *Right to be Secure in Educational Institutions.*

(1) No member of the Philippine National Police (PNP), Armed Forces of the Philippines (AFP), or the Citizens' Armed Forces Geographical Units (CAFGU) shall enter the premises of and/or conduct police or military operations in any educational institution without prior notification to, and free and informed consent by the student council and school authorities.

(2) Detailed plan or design of proposed police or military operations shall be given by the PNP, AFP, or CAFGU to the student council and school authorities for review.

The student council and school authorities shall have the right to deny permit and to bar entry of members of the PNP, AFP, or CAFGU.

(3) No member of the PNP, AFP, or CAFGU shall interfere with peaceful protest actions by student human rights defenders within educational institutions.

(4) No human rights defender who is a student, faculty, staff, or employee of an educational institution shall be subjected to custodial investigation without prior notification to the concerned student council and school authorities of the educational institution.

(5) The service of search or arrest warrant on any human rights defender who is a student, faculty, staff, or employee of an educational institution shall be done after prior notification to the concerned student council and school authorities of the educational institution.

(6) The arrest or detention of any human rights defender who is a student, faculty, staff, or employee of an education institution shall, by the fastest means of communication, be reported immediately by the responsible head of the unit of the PNP, AFP, or CAFGU effecting the arrest or detention to the concerned student council and school authorities of the educational institution.

SEC. 19. *Right Against 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.

Any reported act of threat and intimidation against a human rights defender, including through mobile phone, land phone or the internet shall be dealt with and acted upon with extraordinary diligence by the concerned government personnel. Failure to act with extraordinary diligence for the identification and/or designation, position or assignment, if applicable, of the individual who is the author of the threats and acts of intimidation within three days from reporting thereof, shall make the concerned government personnel criminally, civilly and administratively liable.

SEC. 20. *Right Against Defamation, Stigmatization and Vilification.* 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 his or her status, activities or work as a human rights defender.

Any reported act of defamation, stigmatization, false labeling, name calling, false accusation of any offense, or any other kind of vilification of a human rights defender shall be dealt with and acted upon with extraordinary diligence by the concerned government personnel. Failure to act with extraordinary diligence for the identification and/or designation, position or assignment, if applicable, of the individual who is the author of the defamation, stigmatization and vilification within three days from reporting thereof, shall make the concerned government personnel criminally, civilly and administratively liable.

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 his or her cultural rights in his or her activities and work as a human rights defender and to the free and full development of his or her personality,

(2) The right 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 this Chapter II or a breach of obligations under Chapter III of this Act.

(2) Anyone 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) Any of the following may file a complaint with the competent court or tribunal relating to the violation of rights under a breach of obligations under Chapter III of this Act:

- 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; or
- f. Any person acting in the public interest and consistently in pursuit of the purposes of this Act.

SEC. 23. *Right to establish a sanctuary to human rights victims and/or their families.*

Everyone, individually and in association with others, has the right to establish sanctuaries for any human rights violation victim and/or their immediate families.

SEC. 24. *Limitation on the Rights of Human Rights Defenders.* – In exercising his or her 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, in accordance with international human rights obligations and standards, are reasonable, necessary and proportionate, and are solely for the purpose of securing due recognition of and respect for the human rights and fundamental freedoms of others and meeting the reasonable requirements of public order and general welfare in a democratic society.

SEC. 25. *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 undertake their activities and work in a safe and enabling environment free from restriction.

SEC. 26. *Obligation to Facilitate the Activities and Work of Human Rights Defenders.* – Public authorities shall take all necessary measures to facilitate and protect the exercise of the rights in Chapter II of this Act, which measures include the obligation to:

- (1) permit and facilitate access, in accordance with the law, to places where persons are deprived of liberty;
- (2) permit and facilitate access to places and to information required by human rights defenders to exercise their rights under Chapter II of this Act in accordance with the law;
- (3) provide information about violations of human rights or fundamental freedoms that may have been committed within the territory or subject to the jurisdiction, including the power or effective control of the State;

(4) develop and implement policies and measures to promote, support and enhance the capacity of human rights defenders to protect and promote human rights and fundamental freedoms; and

(5) publicly recognize the role, function, and activities and work of human rights defenders as legitimate and important.

SEC. 27. *Obligation to Provide Free Access to Materials Relating to Human Rights and Fundamental Freedoms.* – Public authorities shall make freely available and accessible both offline and online:

a. International human rights instruments;

b. The Constitution, national laws and regulations;

c. Research, studies, reports, data, archives 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;

g. Documents and information relevant to and/or related to the reported human rights violation. Failure to provide for the official copy the said documents and information or general denial of its existence shall amount to an admission of the existence and due execution thereof; and

h. 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. 28. *Obligation not to Disclose Confidential Sources.* – (1) Public authorities shall not disclose or require disclosure of the identity of sources used by human rights defenders.

(2) Notwithstanding Subsection (1), public authorities may disclose the identity of sources used by human rights defenders if 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. 29. *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 other public or private actor. These shall include, but not limited to, protection measures established under pertinent laws.

SEC. 30. *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 subject to penalties as herein provided, in addition to administrative and/or civil sanctions which take into account the gravity of the offense upon the discretion of the court or competent authority.

SEC. 31. *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 but not limited to identifying them as “red”, “communist”, “terrorist” 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 20 (2) of Chapter II and Section 32 of Chapter III of this Act.

SEC. 32. *Obligation to Ensure Protection from Arbitrary or Unlawful Intrusion and Interference.* –

(1) Public authorities shall take all necessary measures to ensure the protection of human rights defenders from arbitrary or unlawful intrusion and interference in his or her family, home, places of work, possessions and correspondence, both online and offline.

(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. 33. *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. 34. *Obligation to Conduct Investigation.* – Whenever there is reasonable ground to believe that a human rights defender has been killed, disappeared, 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 but not limited to 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. 35. *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. 36. *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. 37. *Obligation to Adopt Human Rights Based Governance.* — Public authorities shall adopt the human rights based approach to governance and development including in counter-insurgency and anti-terror programs and policies.

SEC. 38. *Obligation to Strengthen Witness Protection Program.* – The Commission on Human Rights shall strengthen its witness protection program and provide a safe place of refuge for high risk human rights defenders, more particularly those who have filed formal complaints against high ranking public authorities.

SEC. 39. *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. 40. *Obligation to Promote and Facilitate Human Rights Education.* – All government agencies shall promote, facilitate and adequately resource 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.

SEC. 41. *Penalties.*

a. For violation of Sections 6 to 22 of this Act. The penalty of *twelve (12) years and one (1) day to fifteen (15) years of imprisonment* and a fine of THREE HUNDRED THOUSAND PESOS (Php 300, 000.00) without privilege of parole shall be imposed upon any State actor who violates any of the rights of a human rights defender defined in Sections 5 to 16 of this Act. Non-State actor/s acting upon orders of and/or with acquiescence of State actors for the violation of any of the rights of a human rights defender defined under these sections shall be deemed in conspiracy with the said State actor/s.

b. *For destroying, altering, or falsifying records and document.* – The penalty of *ten (10) years and one (1) day to twelve years (12) of imprisonment* and a fine of ONE HUNDRED FIFTY THOUSAND PESOS (Php150,000.00) shall be imposed upon any State actor 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, defenders or organizations or activities. Non-State actor/s acting upon orders of and/or with acquiescence of State actors for the destruction, alteration or falsification of any record and document relevant to and/or related to any human rights violation shall be deemed in conspiracy with the said State actor/s.

c. *For any other violations of this Act.* – The penalty of *eight (8) years and one (1) day to ten (10) years of imprisonment and a fine of ONE HUNDRED THOUSAND PESOS (Php100,000.00)* or shall be imposed upon any individual who violates any other provisions of this Act.

SEC. 42. Violations of this Act as aggravating circumstances. – Any violations of any provisions of this Act committed on the occasion of a commission of a crime defined in any penal laws shall be considered an aggravating circumstance in the imposition of the penalty in said crime.

SEC. 43. 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 composed of one Chairperson and six Members, herein referred to as the Committee. The Chairperson shall be selected by the Commissioners of the Commission on Human Rights from among themselves in an *en banc* session. The six members shall be jointly nominated by two representatives each of Karapatan Alliance for the Advancement of People's Rights (Karapatan), the National Union of People's Lawyers (NUPL), the National Council of Churches of the Philippines, Philippine Alliance of Human Rights Advocates (PAHRA), Free Legal Assistance Group (FLAG), and the National Secretariat for Social Action, Justice and Peace of the Catholic Bishops Conference of the Philippines in a meeting called for this purpose.

(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 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. 44. *Qualifications of the Committee Members.* – The Members of the Committee shall possess the following qualifications:

(1) Of high moral character, recognized probity, competence, and integrity;

(2) Of 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) Must have 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. 45. *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 Members shall serve for five (5) years, two (2) Members for four (4) years, and the last two 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. 46. *Functions of the Committee.* – The Committee shall exercise the following functions:

1. Protect human rights defenders from intimidation and reprisals;

2. Ensure accountability for acts of intimidation and reprisal;

3. Facilitate and promote interagency and inter-department coordination to prevent, protect from, investigate, and ensure accountability for acts of intimidation or reprisal;

4. Investigate on its own or on complaint by any party all forms of violations of human rights and fundamental freedoms of human rights defenders;
5. Publicly acknowledge and promote the legitimate and important role, activities and work of human rights defenders;
6. Consult regularly and work closely with human rights defenders in the implementation of this Act;
7. 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;
8. Prepare and submit reports and communications on the situation of human rights defenders to relevant international and regional human rights bodies and mechanisms;
9. Monitor and carry out periodic reviews of the implementation of this Act, the first of which shall be conducted one year after its effectivity.
10. 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;
11. 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
12. Perform other relevant functions as may be necessary to attain the objectives of this Act.

SEC. 47. *Training and Vetting.* – All persons involved in the Committee, including security and law enforcement officials, shall be appropriately vetted and shall receive training on human rights and fundamental freedoms and the situation and protection needs of human rights defenders prior to the commencement of the involvement, together with continuing training designed to ensure full and effective implementation of the Act.

SEC. 48. *Implementing Rules and Regulations.* –

(1) Within sixty (60) days from the effectivity of this Act, the Committee, together with Karapatan, NUPL, NCCP, PAHRA, FLAG, and CBCP-NASSA in consultation with other human rights organizations and individual human rights defenders of known probity, shall

jointly 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 implementing this Act and in formulating the corresponding rules and regulations 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. 20 (3) 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 LGBT human rights defenders and those working on women's and LGBT rights and gender issues demand special attention.
- i. Risks and challenges faced by environmental and land rights defenders should be taken into consideration.
- j. 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.
- k. 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. 49. *Suppletory Applications.* – The applicable provisions of the Revised Penal Code shall have suppletory application insofar as they are consistent with the provisions of this Act.

SEC. 50. *Appropriations.* – The amount of Fifteen Million Pesos (P15,000,000.00) is hereby appropriated for the initial implementation of this Act. Subsequent funds necessary for the continuing implementation of this Act shall be provided for in the annual General Appropriations Act.

SEC. 51. *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. 52. *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. 53. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the Official Gazette, which shall not be later than seven (7) days after the approval thereof.