

FIFTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
First Regular Session

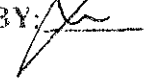
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Senate
Office of the Secretary

'11 MAY 11 P6:02

S E N A T E

RECEIVED BY: 

COMMITTEE REPORT NO. 37

Submitted jointly by the Committees on Justice and Human Rights; Civil Service and Government Reorganization *and* Finance on MAY 11 2011.

Re: Senate Bill No. 2818.

Recommending its approval in substitution of Senate Bill Nos. 106, 297 and 2617.

Sponsor: Senator Escudero

MR. PRESIDENT:

The Committees on Justice and Human Rights; Civil Service and Government Reorganization *and* Finance to which were referred Senate Bill No. 106, introduced by Senator Francis G. Escudero entitled:

**"AN ACT
STRENGTHENING THE FUNCTIONAL AND STRUCTURAL
ORGANIZATION OF THE COMMISSION ON HUMAN RIGHTS, AND FOR
OTHER PURPOSES"**

S.No. 297, introduced by Senator Antonio F. Trillanes, entitled:

**"AN ACT
STRENGTHENING THE INDEPENDENCE OF THE COMMISSION ON
HUMAN RIGHTS, AMENDING FOR THE PURPOSE, SECTIONS 1 AND 5 OF
EXECUTIVE ORDER NO. 163"**

And S.No. 2617, introduced by Senator Manny Villar, entitled:

**"AN ACT
STRENGTHENING THE POWERS AND FUNCTIONS OF THE COMMISSION ON
HUMAN RIGHTS AND CRIMINALIZING FOR THE PURPOSE
HUMAN RIGHTS VIOLATIONS."**

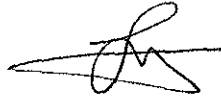
have considered the same and have the honor to report them back to the Senate with the recommendation that the attached Senate Bill No. 2818, prepared by the Committees, entitled:

**“AN ACT
STRENGTHENING THE FUNCTIONAL AND STRUCTURAL ORGANIZATION
OF THE COMMISSION ON HUMAN RIGHTS,
AND FOR OTHER PURPOSES”**

be approved in substitution of Senate Bill Nos. 106, 297 and 2617, with Senators Escudero, Trillanes, Villar and Drilon as authors thereof.

Respectfully Submitted:

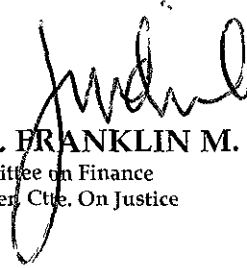
Chairmen:



SEN. FRANCIS G. ESCUDERO
Committee on Justice and Human Rights
Member, Ctte. On Finance

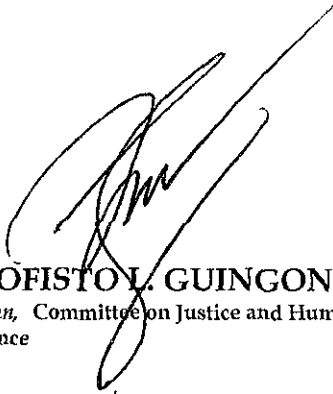


SEN. ANTONIO F. TRILLANES IV
Committee on Civil Service and Government Reorganization
Member, Ctte. On Justice

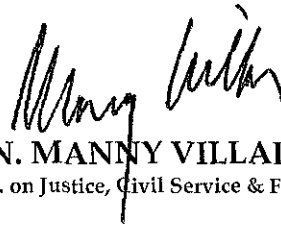


SEN. FRANKLIN M. DRILON
Committee on Finance
Member, Ctte. On Justice

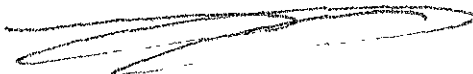
Members:



SEN. TEOFISTO L. GUINGONA III
Vice Chairman, Committee on Justice and Human Rights
Ctte. on Finance



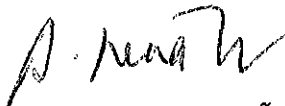
SEN. MANNY VILLAR
Cttes. on Justice, Civil Service & Finance



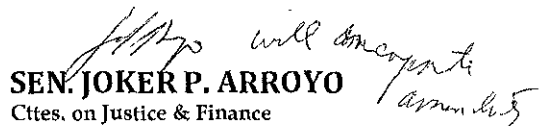
SEN. LOREN B. LEGARDA
Cttes. on Justice & Finance



SEN. RAMON "BONG" REVILLA, JR.
Cttes. on Justice & Finance

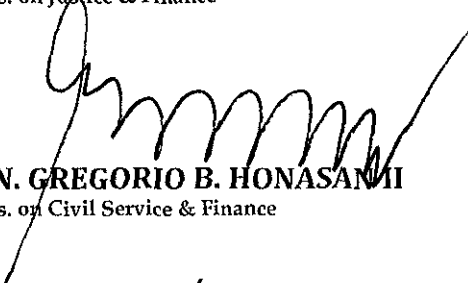


SEN. SERGIO R. OSMEÑA III
Cttes. on Justice & Finance



will accompany

SEN. JOKER P. ARROYO
Cttes. on Justice & Finance



SEN. GREGORIO B. HONASAN II
Cttes. on Civil Service & Finance



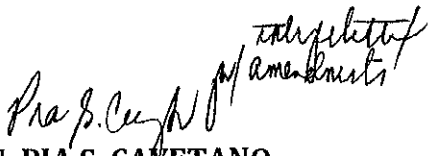
SEN. MANUEL "LITO" M. LAPID
Cttes. on Civil Service & Finance



SEN. FERDINAND R. MARCOS, JR.
Cttes. on Civil Service & Finance



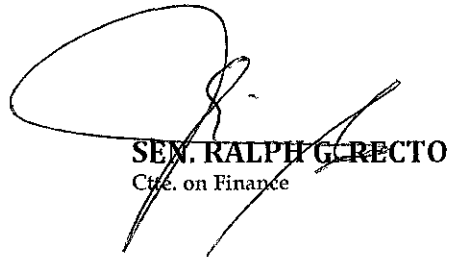
SEN. FRANCIS N. PANGILINAN
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for amendments

SEN. PIA S. CAYETANO
Ctte. on Civil Service & Finance


SEN. EDGARDO J. ANGARA
Ctte. on Finance

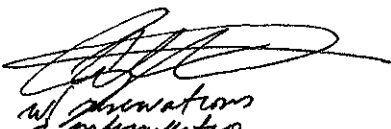
Miriam Defensor Santiago


SEN. MIRIAM DEFENSOR SANTIAGO
Ctte. on Finance



SEN. RALPH G. RECTO
Ctte. on Finance


SEN. JUAN MIGUEL F. ZUBIRI
Ctte. on Finance

Ex-Officio Members:

of preservation of independence

SEN. ALAN PETER S. CAYETANO
Senate Minority Floor Leader

of amendments!

SEN. VICENTE C. SOTTO III
Senate Majority Floor Leader


JINGGOY EJERCITO-ESTRADA
Senate President-Pro Tempore

HON. JUAN PONCE ENRILE
Senate President
Senate of the Philippines
Pasay City

'11 MAY 11 P 6:02

SENATE

RECEIVED BY: 

S. B. No. 2818

Prepared by the Committees on Justice and Human Rights; Civil Service and Government Reorganization and Finance with Senators Escudero, Trillanes, Villar and Drilon as authors thereof

AN ACT
STRENGTHENING THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF
THE COMMISSION ON HUMAN RIGHTS, AND FOR OTHER PURPOSES

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

1 **Section 1. Title.** - This Act shall be known as the "Commission on Human Rights
2 Charter".
3

4 **Sec. 2 State Policy on Human Rights.** - The State values the dignity of every
5 human person and guarantees full respect for human rights. It shall give highest priority to
6 the enactment of measures that protect and enhance the right of all the people to human
7 dignity at all stages of human life.
8

9 **Sec. 3. Definition of Terms.** - For purposes of this Act, human rights shall include
10 those rights found in Article III of the Constitution and those affirmed and recognized by
11 the State in the following international covenants: the Universal Declaration of Human
12 Rights (1948); the International Covenant on Civil and Political Rights (1976); and the
13 International Covenant on Economic, Social and Cultural Rights (1976), and any other
14 international treaties on human rights to which the Philippines is a signatory.
15

16 **I. THE COMMISSION ON HUMAN RIGHTS**

17
18 **A. Nature of the Commission**
19

20 **Sec. 4. The Commission as an Independent Office and as the National Human**
21 **Rights Institution of the Philippines.** - The Commission on Human Rights is an
22 independent constitutional office and is the national human rights institution of the
23 Philippines in accordance with the Principles Relating to the Status of National Institutions
24 ("The Paris Principles") and other United Nations' Resolutions and Instruments pertaining
25 to the effective functioning of national human rights institutions.
26
27

1 **Sec. 5. Fiscal Autonomy.** - The Commission shall always enjoy full fiscal autonomy
2 equivalent to that of the Constitutional Commissions under Art. IX of the 1987
3 Constitution. The approved annual appropriations of the Commission shall be
4 automatically and regularly released.
5

6 **B. The Chairperson and Commissioners**

7
8 **Sec. 6. The Commission, Composition and Qualifications.** - The Commission on
9 Human Rights, also referred to as the Commission in this Act, is a collegial body and shall
10 be composed of a Chairperson and four (4) Commissioners who shall possess the following
11 qualifications:
12

- 13 a) Must be natural-born citizens of the Philippines;
- 14 b) Must be at least thirty five (35) years of age at the time of their appointment, who are
15 human rights advocates of known probity, competence and integrity;
- 16 c) Majority of whom, including the Chairperson, must be members of the Philippine Bar
17 who have been engaged in the practice of law for at least five (5) years;
- 18 d) Must have an understanding of human rights protection, promotion and advocacy;
- 19 e) Must not have been candidates, including party-list nominees, for any elective position
20 in any national or local elections, immediately preceding their appointment.
21

22 **Sec. 7. Appointment and Term of Office.** - The Chairperson and Commissioners
23 shall be appointed by the President for a term of seven (7) years without re-appointment.
24 Of those first appointed under this Act, the Chairperson shall hold office for seven (7)
25 years, two (2) Commissioners for five (5) years and the other two (2) Commissioners for
26 three (3) years, all without reappointment. In no case shall any commissioner be appointed,
27 re-appointed or designated in a temporary or acting capacity.
28

29 The term of the Chairperson and Commissioners of the Commission shall start on
30 the day immediately after the end of the previous term, regardless of the date of
31 appointment. Appointment to any vacancy occurring during the term shall be only for the
32 remaining portion of said term.
33

34 **Sec. 8. Prohibition and Disqualification.** - The Chairperson and Commissioners
35 of the Commission shall not, during their tenure, hold any other office or employment.
36 Neither shall they engage in the practice of any profession or in the active management or
37 control of any business which in any way may be affected by the functions of their office,
38 nor shall they be financially interested, directly or indirectly, in any contract with, or in any
39 franchise or privilege, granted by the Government and its subdivisions, agencies or
40 instrumentalities, including government-owned or controlled corporations or their
41 subsidiaries. They shall avoid conflict of interest in the conduct of their office. They shall
42 not be allowed to appear or practice before the Commission for two years following their
43 cessation from office.
44

45 No spouse or relative by consanguinity or affinity within the fourth civil degree and
46 no law, business or professional partner or associate of the Chairperson or Commissioners
47 may appear as counsel or agent on any matter pending before the Commission or transact
48 business directly or indirectly therewith. This disqualification shall apply during the tenure
49 of the official concerned and one year thereafter.
50

1 **Sec. 9. Disclosure of Relationship.** - It shall be the duty of the Chairperson and
2 Commissioners to make under oath to the best of their knowledge and information a
3 written public disclosure of the identities of, and their relationship with the persons
4 referred to in the preceding section. The disclosure shall be filed with the Office of the
5 Ombudsman before the appointee assumes office and every annual anniversary of the date
6 of assumption of office thereafter. The disclosures made pursuant to this Section shall form
7 part of the public records and shall be made available and accessible to the public.
8

9 **Sec. 10. Salary, Retirement, Benefits and Other Privileges of the Chairperson and**
10 **Commissioners.** - The Chairperson and Commissioners of the Commission shall receive
11 the same salary, privileges and benefits as the Chairperson and Members of the
12 Constitutional Commissions which shall not be decreased during their term of office.
13 Likewise, they shall receive the same retirement benefits to those of the Constitutional
14 Commissions as provided by law.
15

16 **Sec. 11. Removal from Office.** - The Chairperson and Commissioners of the
17 Commission may be removed from office on any of the following grounds:
18

- 19 (a) Disloyalty to the Republic of the Philippines;
20 (b) Culpable violation of the Constitution;
21 (c) Bribery and graft and corruption, [other high crimes, or betrayal of public trust];
22 (d) Dishonesty, misconduct in office, gross negligence, or dereliction of duty;
23 (e) Commission of any offense involving moral turpitude or an offense punishable by
24 *prision mayor*;
25 (f) Abuse of authority;
26 (g) Such other grounds as may be provided by law.
27

28 The proceedings for removal shall be initiated by filing a verified complaint with the
29 Court of Appeals stating the grounds therefor and alleging the ultimate facts upon which
30 the complaint is based.
31

32 The Court of Appeals shall act on the complaint and conduct the necessary
33 investigation and hearing. Thereafter, the Court of Appeals shall dismiss the complaint or
34 declare the removal from office of the Chairperson or Commissioner of the Commission
35 within ninety (90) days from the date of filing of the complaint. Failure to resolve the
36 complaint within said period shall result in its automatic dismissal.
37

38 In deciding upon a complaint for removal from office, the Court of Appeals shall not
39 impose any lesser penalty or disciplinary action such as suspension, censure, or reprimand
40 other than removal from office.
41

42 Any decision of removal from office shall be automatically stayed by the filing of a
43 petition for review on *certiorari* with the Supreme Court.
44

45 **C. Nomination of Chairperson and Commissioners** 46

47 **Sec. 12. Nominations Committee.** - The President shall choose and appoint the
48 Chairperson and Commissioners of the Commission from a list of three (3) nominees per
49 position selected by a Nominations Committee to be composed of the following members:
50

- 1 a) The Chairperson of the Commission on Human Rights or if vacant, any
2 Commissioner as designated by the Commission En Banc;
3
4 b) The Chairperson of the Senate Committee on Justice and Human Rights;
5
6 c) The Chairperson of the House of Representatives' Committee on Human
7 Rights;
8
9 d) Four (4) members selected by the Commission from any of the following duly
10 accredited entities, sectors or groups : human rights non-government
11 organizations (NGOs), people's organizations, lawyers' and/or paralegal
12 groups, indigenous peoples, the academe; woman, child and family rights
13 groups.
14

15 **Sec. 13. Selection of Nominees.** - The members of the Nominations Committee
16 shall each have one vote. They shall meet not later than thirty (30) days before the end of a
17 current term or within seven (7) days after the occurrence of a vacancy during a term. They
18 shall submit to the President their list of nominees thirty (30) days before the end of said
19 term or thirty (30) days after said vacancy. The President shall make the appointment
20 within thirty (30) days after the submission of the list of nominees by the Nominations
21 Committee.
22

23 The Commission shall provide secretariat support to the Nominations
24 Committee. It shall make all proceedings of the Nominations Committee open and
25 accessible to the public. Vacancies as well as the list of nominees shall be published in a
26 newspaper of general circulation. The Nominations Committee shall adopt its own rules of
27 procedure.
28

29
30 **Sec. 14. Pluralist Representation.** - In the selection of nominees for Chairperson and
31 Commissioners of the Commission, the Nominations Committee shall take into
32 consideration pluralist representation of Philippine society in the promotion and protection
33 of human rights.
34

35 **Sec. 15. Non-Government and People's Organization Representatives to the**
36 **Nominations Committee.** - The duly accredited human rights non-government
37 organizations (NGOs), people's organizations (PO's), lawyers' and/or paralegal groups,
38 representatives from indigenous peoples, representatives from the academe, as well as
39 woman, child and family rights groups shall from among themselves choose the four (4)
40 representatives to the Nominations Committee in a meeting attended by an authorized
41 representative of the Commission. In the absence of a selection procedure agreed upon by
42 said organizations, the Commission shall promulgate the rules of procedure to govern the
43 selection of the four (4) representatives by the accredited organizations.
44

45 **II. POWERS AND FUNCTIONS**

46 **A. General Powers and Functions**

47
48
49
50 **Sec. 16. General Powers and Functions of the Commission.** - The Commission on
51 Human Rights shall have the following general powers and functions:
52

- 53 a) Investigate, on its own or on complaint by any party, all forms of human

1 rights violations;
2

- 3 b) Adopt its operational guidelines and rules of procedure and cite for direct
4 and indirect contempt for violations thereof or its lawful orders in
5 accordance with the Rules of Court;
6
- 7 c) Provide appropriate legal and preventive measures for the protection of
8 human rights of all persons within the Philippines, as well as Filipinos
9 residing abroad;
10
- 11 d) Provide legal aid services to the underprivileged whose human rights
12 have been determined by the Commission to have been violated or in of
13 need protection to prevent a violation thereof;
14
- 15 e) Exercise unhampered and unrestrained visitorial powers over jails,
16 prisons, camps, detention facilities, safe houses and similar premises,
17 provided prior coordination is had with the agencies of government
18 concerned;
19
- 20 f) Establish a continuing program of research, education and information
21 dissemination to promote respect for the primacy of human life and
22 dignity, and the protection of human rights;
23
- 24 g) Recommend to Congress effective measures to promote human rights and
25 to provide for compensation to victims of violations of human rights, or
26 their families;
27
- 28 h) Monitor the Philippine government's compliance with international treaty
29 obligations on human rights;
30
- 31 i) Grant immunity from prosecution to any person whose testimony or
32 possession of documents or other evidence is necessary to determine the
33 truth in any investigation or prosecution conducted by it or under its
34 authority;
35
- 36 j) Request the assistance of any department, bureau, office or agency in the
37 performance of its functions;
38
- 39 k) Deputize government prosecutors or private lawyers, who shall be under
40 the direct control and supervision of the Commission, for the prosecution
41 of human rights cases under Section 21 hereof;
42
- 43 l) Accredite national non-government and people's organizations involved in
44 human rights promotion, protection and advocacy, including those for
45 purposes of visiting persons arrested, detained or under custodial
46 investigation;
47
- 48 m) Ensure that the status, rights and interests of children and of the family
49 are upheld in accordance with the Constitution, laws and duly ratified
50 instruments on human rights;
51
52
53

- 1 n) Create, establish, organize, re-structure, compress, and otherwise manage
2 such offices and centers the Commission deems necessary and
3 appropriate for expeditious and effective fulfillment of its mandate,
4 including a central office, regional, sub-regional, and provincial offices for
5 specific thematic and functional matters;
6
7 o.) Appoint its officers and employees in accordance with law; and
8
9 p.) Perform such other duties and functions as may be provided
10 by law.

11 B. Investigation

12 **Sec. 17. Investigative Powers and Functions.** – The Commission shall exercise
13 primary and original jurisdiction to investigate, on complaint or *motu proprio*, cases of
14 human rights violations to include civil, political, economic, social and cultural rights. In
15 the exercise of its investigative function, the Commission shall have the following powers:
16
17

- 18
19 a) Act promptly on complaints filed in any form or manner by any person;
20 and upon finding of human rights violation, recommend the filing of
21 appropriate administrative, civil and/or criminal action(s). Any
22 investigation being conducted by any other body shall not be a bar to the
23 investigation of the Commission;
24
25 b) Compel the attendance of witnesses and the production of evidence,
26 administer oaths, issue *subpoenas* and take testimony in any investigation
27 or inquiry;
28
29 c) Issue orders and directives constituting preventive and legal measures,
30 provided for under Sections 20 and 21 of this Act, respectively;
31
32 d) Provide protection and extend financial assistance to witnesses to ensure
33 their attendance in investigations and production of evidence;
34
35 e) Delegate to its deputies, investigators or representatives, such authority or
36 duty to ensure the effective exercise or performance of its investigative
37 functions;
38
39 f) Request and require the assistance and cooperation of any officer or
40 employee of any department, bureau or office, subdivision, agency or
41 instrumentality of the Government, including government-owned or
42 controlled corporations and local governments;
43
44 g) Deputize lawyers or legal aid groups, medical organizations, as well as
45 government agencies and offices, to provide assistance in the exercise of
46 its investigative functions;
47
48 h) Make the results and findings of its investigations available and accessible
49 to the public; and
50
51 i) Cite in contempt any person for failure to comply with a lawful order of
52 the Commission issued in the exercise of its investigative and
53 prosecutorial functions. In this regard, the 1997 Revised Rules of

1 Procedure shall apply suppletorily.
2

3 **Sec. 18 . Imprescriptibility of Human Rights Violations.** - The investigation of
4 human rights violations shall not be subject to any statute of limitations or prescriptive
5 period.
6

7 **Sec. 19. Scope of Preventive Measures.** - The preventive measures under Article
8 XIII, Sec. 18 (3) of the Constitution that may be issued by the Commission in the
9 investigation of cases involving all forms of human rights violations shall include the
10 following:
11

- 12 a) Issuance of injunctive relief directing any member of the government's
13 military or police forces, as well as public officials or employees, or any
14 person acting under their control and supervision, to immediately desist
15 from hiding, transferring, torturing or abusing a detainee and to allow
16 access to said detainee by the Commission, his/her counsel, physician,
17 psychologist, priest, pastor, rabbi, imam or any spiritual adviser and
18 relatives;
19
- 20 b) Order compelling the government official or employee, or any person in
21 control of the premises of any government agency or office, specifically
22 police and military detention facilities, secret detention places, stations,
23 installations, camps, bases, and training schools, as well as private land
24 and property, to permit the inspection of said premises;
25
- 26 c) Order to transfer persons deprived of their liberty and in danger of
27 reprisal or retaliation due to the filing of a complaint in connection with
28 his/her detention, in order to secure safety of his/her person;
29
- 30 d) Restraining order prohibiting respondent, any unit(s), personnel or
31 persons under his/her immediate supervision from entering the
32 immediate vicinity of the affected area or residence of any person who's
33 human rights are being violated or are in danger of violation and from
34 searching the victim or his belongings;
35
- 36 e) Injunction ordering respondent to refrain from committing any and all
37 acts that would tend to cause irreparable harm and have the immediate
38 effect of rendering the investigation of the Commission moot and
39 academic.
40

41 **Sec. 20. Scope of Legal Measures.** - The legal measures under Article XIII, Sec. 18
42 (3) of the Constitution that may be provided by the Commission shall include the
43 following:
44

- 45 a) Mandatory protection orders (MPO's) directing government security
46 forces, other government agencies, or private institutions to provide
47 specific protection to victims of human rights violations;
48
- 49 b) Orders deputizing government offices and private institutions and
50 organizations for the purpose of providing protection; and
51
- 52 c) Orders deputizing government and private lawyers as counsels *de officio*
53 to ensure that the human rights of the victim are not further violated; and

1
2 d) Any order the purpose of which is analogous to any of the
3 foregoing.
4
5

6 **Sec. 21. Grant of Immunity.** - The Commission may grant immunity from
7 prosecution to any person whose possession and production of documents or other
8 evidence may be necessary to determine the truth in any hearing, inquiry or proceeding
9 under such terms and conditions as it may determine taking into account the pertinent
10 provisions of the Rules of Court and its own rules. The immunity shall only be granted
11 after a determination of the relevance, veracity and authenticity of the evidence sought to
12 be presented by the Commission. The immunity granted shall be revoked on account of
13 evidence presented to be true but which is, in fact, false and spurious and without which
14 the Commission would not have granted immunity.
15

16 **Sec. 22. Preventive Suspension.** - With the exception of Members of Congress, the
17 Judiciary, and impeachable officials, the Commission may preventively suspend any
18 officer or employee including but not limited to elective or appointive public officers or
19 employees, including Members of the Cabinet, local government, government-owned-or-
20 controlled corporations and their subsidiaries, pending an investigation, provided it
21 determines that (a) the evidence of guilt is strong; (b) the charges would warrant removal
22 from the service; and (c) the respondent's continued stay in office may prejudice the case
23 filed against him/her.
24

25 The preventive suspension shall be immediately executory, unless restrained by
26 the Court of Appeals or the Supreme Court and shall continue until the case is terminated
27 by the Commission; *Provided*, that said suspension shall not be more than sixty (60) days
28 without pay, except when the delay in the disposition of the case by the Commission is
29 due to the fault, negligence or petition of the respondent, in which case the period of such
30 delay shall not be counted in computing the period of suspension herein provided.
31

32 The respondent official or employee preventively suspended from office shall
33 receive no salary or compensation during such suspension. However, upon subsequent
34 exoneration and reinstatement, he shall be paid full salary or compensation including
35 such emoluments, benefits and privileges accruing during such suspension.
36

37 In the case of a suspended elective official, upon expiration of the period of
38 preventive suspension, he shall be deemed reinstated in office without prejudice to the
39 continuation of the proceedings against him which shall be terminated within one
40 hundred twenty (120) days from the date the official was formally notified of the case.
41

42 The respondent officer or employee shall be accorded full opportunity to appear
43 and defend himself in person or by counsel, to confront and cross-examine the witnesses
44 against him, and to require the attendance of witnesses and the production of
45 documentary evidence in his favour through the compulsory process of *subpoena* or
46 *subpoena duces tecum*.
47

48 **Sec. 23. Referral to Disciplining Authority.** - The Commission may endorse
49 and/or recommend to the proper authorities the filing of the appropriate sanction or
50 disciplinary action against a public officer or employee found guilty of committing
51 violations of human rights and recommend his removal, suspension, demotion, censure,
52 imposition of fine, or prosecution and to ensure compliance by requiring the officer
53 concerned to report on his action within thirty (30) days from receipt of the

1 recommendation and/or endorsement of the Commission. The failure of the appropriate
2 authority to act or comply with said recommendation or endorsement shall constitute a
3 ground for an application of the issuance of a writ of mandamus by the Commission.
4

5 For this purpose, every case on which the Commission has rendered a resolution or
6 recommendation adverse to a public official shall be transmitted to the head of the
7 department, agency or instrumentality, or of the province, city or municipality concerned
8 for immediate action, as may be necessary.
9

10 **Sec. 24. Motu Proprio Dismissal.** - The Commission may dismiss, *motu proprio*, a
11 complaint for the investigation of human rights violations on any of the following
12 grounds:
13

- 14 a) The complaint pertains to a matter outside of the jurisdiction of the
15 Commission;
16
17 b) The complaint is trivial, frivolous, vexatious or made in bad faith; or
18
19 c) Other valid grounds as may be determined by the Commission.
20

21 **Sec. 25. Investigation by Regional Offices.** - The proper regional office of the
22 Commission shall investigate complaints falling within its territorial jurisdiction unless the
23 Commission *en banc*, in its discretion, takes direct cognizance of the same. Upon
24 recommendation of the regional office in investigations pending before it, the Commission
25 *en banc* may issue legal and preventive measures and preventive suspension orders which
26 are immediately executory. Within ten (10) days after concluding the investigation, the
27 regional office shall render the appropriate order, directive or resolution subject to appeal
28 to the Commission *en banc* pursuant to its rules.
29

30 C. Prosecution 31

32 **Sec. 26. Concurrent Limited Prosecutorial Powers and Functions.** - The
33 Commission shall exercise concurrent prosecutorial powers and functions as herein
34 provided.
35

36 In the event of the failure of the Department of Justice or Office of the Ombudsman
37 to initiate a preliminary investigation within twenty (20) days from its receipt of the case
38 recommended for prosecution by the Commission, the inaction shall be considered as an
39 automatic endorsement of the matter to the Commission without any further act or notice
40 by the Department of Justice or Office of the Ombudsman for purposes of preliminary
41 investigation. Thereafter, the Commission shall conduct the preliminary investigation and
42 upon a finding of probable cause, issue a resolution for the filing of the appropriate
43 information and prosecution of the offense/s found to exist.
44

45 For this purpose, the Commission shall have the power to deputize government
46 prosecutors or private lawyers to prosecute the criminal offence/s that have been the
47 subject of its preliminary investigation. The prosecution shall remain under the
48 Commission's direct control and supervision.
49

50 This section shall apply only to the following cases:
51

- 52 **A.) When committed by State Actors** - in cases where the offender is a public
53 officer as defined under Article 203 of Republic Act No. 3815, otherwise known

1 as the Revised Penal Code as amended, and acting in his capacity as such, or
2 any person acting on behalf or under the immediate control of the State and its
3 agents, and where the human rights violation constitutes a criminal offense
4 under the Revised Penal Code and special laws, as follows:
5

- 6 a) Use of physical, psychological and degrading punishment, torture, force,
7 violence, threats, and intimidation;
8
- 9 b) Extra-judicial killings, summary executions, and "massacres" or mass
10 killings;
11
- 12 c) Violations of the right to be secure from unreasonable searches and
13 seizures, including involuntary or enforced disappearances;
14
- 15 d) Violations of the rights of persons arrested, detained, or under custodial
16 investigation, including deprivation of the rights of political detainees;
17
- 18 e) Violations of the right to a speedy, impartial and public trial or disposition
19 of cases;
20
- 21 f) Hamletting, forced evacuation or eviction, illegal demolition,
22 development aggression and other violations of the right to travel and to
23 freely choose one's abode and change the same;
24
- 25 g) Violations of the right to peaceably assemble, free association, and to
26 petition the government for redress of grievances;
27
- 28 h) Violations of the right to worship and the free exercise of a religion;
29
- 30 i) Violations of the right to privacy;
31
- 32 j) Violations of civil and political rights of persons suspected, detained for,
33 and/or accused of the crime of terrorism or conspiracy to commit
34 terrorism; and
35
- 36 k) Political, religious, racial, ethnic, social or sexual persecution, oppression,
37 or harassment committed with acts constituting offenses punished under
38 the Revised Penal Code and special laws.
39

40
41 **B.) When Committed by Non-State Actors** – Non-state actors are persons, other
42 than public officers, belonging to and acting on behalf or under the immediate
43 control of a juridical or non-juridical person, whether legitimate or illegitimate,
44 including but not limited to the following:
45

- 46 a) Armed groups, bandits, warlords and private armies;
47
- 48 b) Criminal organizations and groups; and
49
- 50 c) Multi-national, foreign and domestic corporations, and other business
51 entities.
52
53

1
2 **C.) When Committed Against Vulnerable Persons** - in the investigation and
3 prosecution of the following offenses as penalized under the Revised Penal Code
4 and special laws when committed by any person against any member or group
5 of vulnerable persons, as defined herein:
6

- 7 a) Involuntary servitude constituting Crimes Against Personal Liberty and
8 Security under the Revised Penal Code;
9
10 b) Crimes penalized under Republic Act No. 7610, or the "Special Protection
11 of Children Against Abuse, Exploitation and Discrimination Act;"
12
13 c) Crimes penalized as Infanticide and Abortion under the Revised Penal
14 Code;
15
16 d) Crimes penalized under Republic Act No. 9262, or the "Anti-Violence
17 Against Women and Their Children Act of 2004;" and
18
19 e) Crimes penalized under Republic Act No. 8371 or the "Indigenous
20 Peoples Rights Act of 1997."
21
22

23 Vulnerable persons shall include children, the unborn, women, elderly, persons
24 with disabilities, migrant workers, indigenous peoples, and ethnic and religious
25 minorities.
26

27 **D. Monitoring**

28
29
30 **Sec. 27. Monitoring Powers and Functions.** - In the exercise of its mandate to
31 monitor the Government's compliance with its international human rights treaty
32 obligations, the Commission shall have the following powers and functions:
33

- 34 a) Require any department, bureau or office, subdivision, agency or
35 instrumentality of the Government to submit compliance reports on
36 international human rights treaty and to furnish the Commission copies
37 thereof within thirty (30) days from submission to the United Nations and
38 other international bodies;
39
40 b) Conduct inquiries on the manner of implementation by the Philippine
41 Government of specific human rights treaty obligations;
42
43 c) Summon any public official to explain on the measures undertaken by his
44 or her agency in order to comply with the State's international treaty
45 obligations on human rights;
46
47 d) Enter and inspect the premises of any government agency or office,
48 specifically police and military stations, installations, camps, bases, and
49 training schools and access books, records, files, documents or papers
50 located in the above-mentioned office and facilities;
51
52 e) Study and recommend to the government international human rights
53 treaties or instruments for its signature, ratification or accession;

- 1
2 f) Make timely and regular submission of independent reports to international
3 human rights treaty bodies and other international human rights
4 mechanisms;
5
6 g) Advise and assist the government on clearly-identified gaps in human
7 rights treaty compliance;
8
9 h) Capacitate stakeholders to enable participation in monitoring human rights
10 treaty compliance by the government;
11
12 i) Delegate to its deputies, investigators or representatives, such authority or
13 duty which shall ensure the effective exercise or performance of its
14 monitoring functions; and
15
16 j) Recommend and institutionalize best practices and incentives for human
17 rights advocates and institutions.
18

19 **Sec. 28. Other Monitoring Functions.** - The Commission shall likewise monitor
20 observance by non-state actors of human rights obligations arising from agreements
21 entered into with the government, as well as unilateral declarations and similar
22 undertakings.
23

24 **Sec. 29. Annual Report.** - The Commission shall prepare and make public an annual
25 report on the findings of its monitoring activities with regard to the state of the
26 Government's compliance with its international human rights treaty obligations. The
27 report shall include, but not be limited, to the following:
28

- 29 a) Identification of systematic patterns of human rights violations using
30 documented cases;
31
32 b) Analysis of the factors which contribute to the commission of human
33 rights violations;
34
35 c) Assessment of the legal mechanisms of existing institutions in providing
36 adequate human rights protection;
37
38 d) Recommendations for legal, legislative, and institutional reforms for the
39 greater promotion and protection of human rights; and
40
41 e) Statistics and data indicating the nature of complaints received, the
42 investigations conducted and findings made, and the actions taken by the
43 government agencies concerned on the Commission's recommendations.
44

45 **E. Education and Advocacy**

46

47 **Sec. 30. Education and Advocacy in Government.** - The Commission shall
48 undertake a program of human rights promotion and advocacy through education and
49 training to promote and increase respect for the primacy and dignity of human life in all
50 its stages and the protection of human rights in coordination with the different agencies of
51 the government. It shall likewise administer a mandatory and continuing human rights
52 education program for the military, police and other law enforcement agencies, as well as
53 public school teachers, and shall, for this purpose, draw up the components of the

1 program, accredit course and training providers, and issue certificates of completion to
2 those who have successfully completed the program.

3
4 **Sec. 31. Education and Advocacy in Civil Society.** - The Commission shall also
5 undertake human rights education, advocacy, and information campaign programs
6 among sectors of civil society, particularly the vulnerable, marginalized and
7 underprivileged groups. In conducting this program, the Commission shall actively
8 cooperate and coordinate with human rights non-government organizations, lawyers'
9 groups, the academe and people's organizations of the concerned sectors of civil society.

10
11 **Sec. 32. Research.** - The Commission shall undertake a continuing research and
12 study on select human rights issues for purposes of recommending policy reforms, as well
13 as administrative and legislative measures that will also address economic, social and
14 cultural rights.

15
16 **Sec. 33. Coverage of Programs.** - The Commission shall prescribe the scope and
17 coverage of education, advocacy, information and training programs on human rights,
18 and which will be provided for in the implementing rules and regulations of this Act.

19
20
21 **F. Other Powers and Functions**

22
23 **Sec. 34. Witness Protection Program.** - The Commission shall strengthen its
24 witness protection program, including the provision of security, shelter, relocation and
25 livelihood assistance to witnesses and their families

26
27 **Sec. 35. Financial Assistance Program.** - The Commission shall enhance its
28 financial assistance program to victims of human rights violations and their families.

29
30 **Sec. 36. Legal Assistance Program.** - The Commission shall implement a legal
31 assistance program to benefit victims of human rights violations in coordination with
32 human rights organizations and lawyers' groups, the Integrated Bar of the Philippines and
33 Philippine law schools.

34
35 **Sec. 37. Protection of Filipinos Abroad.** - The Commission shall undertake
36 measures for the protection and promotion of human rights of Filipinos living abroad. It
37 shall coordinate with Philippine Embassy or Consulate officers as well as private
38 individuals of known probity and active involvement in human rights work, or foreign-
39 based human rights and migrant workers' non-government organizations in countries
40 where the incidence of human rights violations of Filipinos is widespread and
41 commonplace, including traditional host countries of Overseas Filipino Workers, for
42 purposes of monitoring the status of human rights of Filipinos living abroad, establishing
43 networks among Filipinos to promote protection of human rights, reporting cases of
44 violations thereof, facilitating the remedial measures of victims and coordinating with
45 respective agencies to provide counselling and financial aid.

46
47
48 **Sec. 38. Creation of *Ad Hoc* Truth Commissions.** - The Commission may
49 recommend the creation of an ad hoc Truth Commission on matters of transcendental
50 importance, such as widespread and systematic human rights violations occurring over
51 prolonged periods of time, or under extraordinarily-repressive conditions, or attended by
52 a culture of impunity that is instigated, inspired or orchestrated by public officials, in
53 conspiracy with government security forces or State-sponsored armed groups.

1
2 **Sec. 39. Issuance of clearances.** - The Commission shall issue clearances to
3 members of the military, police and other law enforcement agencies prior to, and as
4 requirement for, their promotion or assumption of office. The Commission may also issue
5 clearances for other purposes such as training, education or study grants abroad upon
6 proper request of the applicant.
7

8 The Commission shall make its own recommendations to the Commission on
9 Appointments prior to the confirmation of other officials other than those mentioned in
10 the preceding paragraph, who are being considered for promotion or appointment. This
11 provision shall also apply to other government officers with salary grade 27 or its
12 equivalent and higher.
13

14 **Sec. 40. Appeals; Prohibition against Injunction.** - Orders, decisions or findings of
15 the Commission, including determination of probable cause, shall be appealed to the Court
16 of Appeals on both questions of fact and law, or on certiorari to the Supreme Court on pure
17 questions of law. No restraining order or writ of injunction shall be issued against the
18 Commission in the performance of its powers and functions other than those issued by the
19 Court of Appeals or the Supreme Court.
20

21 **Sec. 41. Protection from Harassment Suits; Dismissal.** - The Chairperson,
22 Commissioners, officers and employees of the Commission shall be immune from civil or
23 criminal prosecution for acts performed in pursuance of their official functions for the
24 duration of their tenure.
25

26 **Sec. 42. Obstruction.** - Any person who, after due hearing, is found to have
27 wilfully obstructed or hindered the proper exercise of the powers and functions of the
28 Commission, or who wilfully misleads or attempts to mislead the Chairperson,
29 Commissioners and the duly designated Commission officials and representatives shall
30 be punished for obstruction of justice by the Commission. In addition, he/she shall be
31 penalized by a fine not exceeding Twenty Five Thousand Pesos (P25,000.00), at the
32 discretion of the Commission.
33

34 35 **TITLE III. ORGANIZATION AND STRUCTURE**

36
37 **Sec. 43. Commission as a Collegial Body.** - The Commission composed of the
38 Chairperson and four (4) Commissioners, as a collegial body, is responsible for the
39 promulgation of policies, decisions, orders and resolutions necessary for the efficient
40 administration of the Commission and for proper execution of its constitutional mandate.
41

42 In the exercise of its powers and functions, the Commission shall sit and render its
43 decision *en banc*. Every such decision, order or resolution of the Commission must bear the
44 concurrence and signature of at least three (3) Members thereof.
45

46 The Commission shall meet regularly once a week, or as the Commission may
47 direct, or upon call by the Chairperson. A majority of the members, at least three (3),
48 constitutes a quorum needed in any *en banc* meeting of the Commission.
49

50 **Sec. 44. The Chairperson as Executive Officer; Powers and Duties.** The
51 Chairperson shall be the Chief Executive Officer of the Commission, and shall:
52

- 53 a) Execute and carry out the policies, decisions, orders and resolutions

- 1 approved by the Commission;
- 2 b) Direct and supervise the operations and internal administration of the
- 3 Commission;
- 4 c) Sign appointments of subordinate officials and employees made by the
- 5 Commission and enforce decisions on administrative discipline involving
- 6 them;
- 7 d) Make temporary assignments, rotate and transfer personnel in
- 8 accordance with the provisions of the Civil Service Law and the policies
- 9 involving them;
- 10 e) Submit an annual budget to the Commission for its approval and
- 11 submission to the Department of Budget and Management and to the
- 12 Congress of the Philippines;
- 13 f) Delegate his/her authority, in whole or in part, to other officials of the
- 14 Commission in accordance with Executive Order No. 292, otherwise
- 15 known as the Administrative Code of 1987, and rules and regulations of
- 16 the Commission; and
- 17 g) Perform such other functions as may be authorized by the Commission.
- 18
- 19

20 **Sec. 45. Structural Organization.** - The Commission shall have the following line
 21 offices and operating units:

- 22
- 23 a) Office of the Chairperson;
- 24 b) Office of the Commissioners;
- 25 c) Office of the Executive Director;
- 26 d) Office of the Commission Secretary;
- 27 e) Legal Office;
- 28 f) Investigation Office;
- 29 g) Human Rights Instruments Compliance And Monitoring Office;
- 30 h) Education, Advocacy And Research Office;
- 31 i) Information System Management Office;
- 32 j) Assistance and Visitorial Office;
- 33 k) Forensic Office;
- 34 l) Planning And Management Office;
- 35 m) Financial Management Office;
- 36 n) General Administrative Office;
- 37 o) Sectoral Rights Offices;
- 38 p) Public Information Office; and
- 39 q) Regional Offices.
- 40

41 All the above offices will be headed by an officer with a rank, salary and privileges
 42 equivalent to a Director IV, except for the Executive Director and who shall have the rank,
 43 salary and privileges of an Assistant Secretary. All centers will be headed by a Director III.
 44 Each office may have such divisions as are necessary to carry out their respective functions.
 45 As an independent constitutional office, the Commission may effect changes in the
 46 organization as the need arises.

47

48 All officers and employees of the Commission, unless otherwise provided herein,
 49 shall receive emoluments and privileges that shall not be less than those given to
 50 comparable positions in any office in the government.

51

52

53 **Sec. 46. The Executive Director.** - The Executive Director shall be responsible for

1 managing the day-to-day affairs, activities and operations of the Commission, in
2 accordance with its policies, standards, rules and regulations adopted and promulgated by
3 the Commission. In particular, the Executive Director shall:

- 4
- 5 a. Provide direct supervision, control, coordination and monitoring of all
- 6 activities, functions and operations of both the central and regional units
- 7 of the Commissioner;
- 8 b. Recommend and /or implement administrative and management policies,
- 9 rules and standard operating procedures to be established by the
- 10 Commission;
- 11 c. Recommend and initiate programs, projects and policies which promoted
- 12 productivity, efficiency and effectiveness in the Commission;
- 13 d. Coordinate with different CHR organization units in the information and
- 14 reporting requirement of the Commission;
- 15 e. Resolve operational issues in accordance with the levels of authority
- 16 prescribed by the Commission;
- 17 f. Undertake appraisal on issues/problems and policy recommendations
- 18 requiring decision/action by the Commission;
- 19 g. Conduct necessary representation with different branches and agencies of
- 20 the government on vital issues/concerns involving the organization,
- 21 operations and programs of the Commission and
- 22 h. Perform such other functions as may be assigned by the Commission *En*
- 23 *Banc*.
- 24

25 The Executive Director shall be appointed by the Commission and shall be a
26 member of the Philippine Bar with proven integrity and competence, and must have been
27 involved in human rights promotion and protection activities for seven (7) years. He/she
28 shall have the rank, salary and privileges of an Assistant Secretary.

29

30 **Sec. 47. The Commission Secretary.** - The Commission Secretary, who shall head
31 the Commission Secretariat, shall provide executive services to the Commission on its
32 regular, special and executive meetings, assistance on policy review and coordination,
33 review and appraisal of the programs and other project undertakings of the Commission,
34 including technical support on the formulation of guidelines, directives, mandates and
35 executive summaries and reports. In addition, the Commission Secretary shall:

- 36
- 37 a. Prepare the agenda of meetings of the Commission *En Banc* and ensure
- 38 complete recording of proceedings;
- 39 b. Develop, recommend to the Commission *En Banc*, and implement an
- 40 approved disclosure policy for the Commission on Human Rights of the
- 41 Philippines;
- 42 c. Formulate, propose and implement a central records management system
- 43 for the Commission *En Banc*, and act as the custodian of all records on
- 44 human rights cases filed with the Commission, including records on
- 45 resolutions, rules, policies, regulations and other decisions, proceedings of
- 46 its meetings, and other pertinent records;
- 47 d. Design, propose and implement a central records management system
- 48 and provide records management orientation and assistance to the
- 49 various offices of the Commission;
- 50 e. Prepare and issue directives to concerned offices, by authority of the
- 51 Commission *En Banc*;
- 52 f. Represent the Commission *En Banc* in different technical working
- 53 committees of the Commission, as may be directed by it;

- 1 g. Respond to queries from the different central and regional offices on
2 matters pertaining to policies, rules and decisions, as authorized by the
3 Commission *En Banc*; and
4 h. Perform such other related functions as may be assigned by the
5 Commission *En Banc*.
6

7 The Commission Secretary, who must be at least a degree holder of Bachelor of
8 Laws (LL.B.) or Juris Doctor (JD), shall have the rank, salary and privileges of a Director IV.
9

10 **Sec. 48. Duties and Functions of the Offices of the Commission.** - The different
11 offices of the Commission provided in Section 47 of this Act shall operate in accordance
12 with their respective duties and functions assigned them by the Commission subject to
13 requirements of efficiency, economy and effectiveness, and pertinent budget and civil
14 service laws, rules and regulations.
15

16 **Sec. 49. Officers of the Commission.** - All officers appointed by the Commission
17 who possess the rank or position above Division Chief level and officially performs
18 managerial and executive functions, must be Career Executive Service (CES) eligible under
19 the Career Executive Service Board or has equivalent eligibility as the Commission may
20 establish.
21

22 The Commission may propose additional qualification standards to be submitted for
23 approval to the Department of Budget and Management and for information of the Civil
24 Service Commission.
25

26 **Sec 50. Central Offices** - The Commission shall establish Central Offices to
27 effect its functional mandates of investigation, legal advocacy, visitorial, education,
28 research and compliance monitoring, and such other functions necessary for the effective
29 and efficient performance of its duties.
30

31 **Sec. 51. Regional Offices.** - The Commission shall have seventeen (17) regional
32 offices, as may be further established by law, with two regional offices for Region IV,
33 including the National Capital Region (NCR), the Caraga Administrative Region
34 (CARAGA), Cordillera Administrative Region (CAR) and the Autonomous Region of
35 Muslim Mindanao (ARMM).
36

37 Each Regional Office shall be headed by a Regional Human Rights Director with a
38 rank and salary of Director IV, who must be a member of the Philippine Bar, assisted by an
39 Assistant Regional Human Rights Director, and such other subordinate officers or
40 employees as the Commission may appoint. The Assistant Regional Human Rights
41 Director shall carry the rank and receive the same salary and privileges of a Director III.
42

43 The Commission may delegate its powers and functions or order the
44 implementation or enforcement of its orders, rulings or decisions through the heads of its
45 regional offices in accordance with its rules and regulations to be promulgated by the
46 Commission.
47

48 **Sec 52. Provincial Offices.** - The Commission may establish such Provincial Offices
49 as may be necessary in the provinces falling under the administrative jurisdiction of the
50 Regional Office. The Provincial Office shall be headed by a Provincial Human Rights
51 Officer and staffed by such other officers or employees as the Commission may appoint.
52 The Provincial Human Rights Officer shall carry the rank and receive the same salary and
53 privileges of a Division Chief.

1
2 **Sec. 53. Sectoral Rights Offices.** - The Commission shall establish offices and
3 centers to undertake promotion and protection of the rights of vulnerable sectors, to
4 include but not be limited to women and children, as the Commission may deem
5 appropriate.
6

7 **Sec. 54. Joint Congressional Oversight Committee.** - A Joint Congressional
8 Oversight Committee is hereby created, composed of the Chairman of the Senate
9 Committee on Justice and Human Rights and three (3) other Senators designated by the
10 Senate President, and the Chairman of the House Committee on Human Rights, and three
11 (3) other Members of the House of Representatives designated by the Speaker of the House
12 of Representatives: Provided, That, of the three (3) members to be designated by each
13 House of Congress, two (2) should come from the majority and the remaining Member
14 from the minority.
15

16 The Joint Congressional Oversight Committee shall have the power to monitor and
17 evaluate the implementation of this Act.
18

19 **Sec. 55. Implementing Rules and Regulations.** - The Commission shall, within
20 sixty (60) days from the approval of this Act, formulate the implementing rules and
21 regulations in the exercise of its general, investigative, prosecutorial, monitoring, education
22 and advocacy powers and functions together with the Department of Justice (DOJ),
23 Department of National Defense (DND), Department of Interior and Local Government
24 (DILG), Department of Social Welfare and Development (DSWD), Armed Forces of the
25 Philippine (AFP), Philippine National Police (PNP) and other concerned agencies of the
26 Government.
27

28 **Sec. 56. Operational Guidelines.** - The Commission shall also formulate its
29 operational guidelines which shall include, but not be limited to, the functions and duties
30 of the Executive Director, the Commission Secretary and the heads of the line offices, the
31 implementation and management of its Witness Protection, Financial Assistance and Legal
32 Aid Programs, and such other matters as may be necessary for the implementation of this
33 Act.
34

35 **Sec. 57. Franking Privilege.** - All official mail matters and telegrams of the
36 Commission addressed for delivery within the Philippines shall be received, transmitted
37 and delivered free of charge; *Provided*, That such mail matters when addressed to private
38 persons or non-government offices shall not exceed One Thousand and Twenty (1,020)
39 grams. All mail matters and telegrams sent through government telegraph facilities
40 containing complaints to the Commission on Human Rights shall be transmitted free of
41 charge; *Provided*, That the telegram shall contain not more than One Hundred and Fifty
42 (150) words.
43

44 **Sec. 58. Financial Report.** - The Commission shall make available to the public its
45 annual financial statements, including but not limited to, expenditures and sources of
46 funds.
47

48 **Sec. 59. Transitory Provision.** - Nothing in this Act shall prejudice the positions,
49 emoluments, security of tenure, qualifications, privileges and benefits of the incumbent
50 Chairperson and Commissioners, officers and employees of the Commission upon its
51 effectivity. However, officials and employees of the Commission, in aid of its
52 reorganization upon the effectivity of this Act, may avail of an early retirement program as
53 may be provided for by the Commission.

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Sec. 60. Separability Clause. - If any provision of this Act shall be held unconstitutional, other provisions not affected thereby shall remain valid and binding.

Sec. 61. Repealing Clause. - All laws, republic acts, presidential decrees, letters of instructions, executive orders, rules and regulations insofar as they are inconsistent with this Act are hereby repealed or amended, as the case may be.

Sec. 62. Effectivity Clause. - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of general circulation.

Approved,