SEVENTEENTH CONGRESS OF THE
REPUBLIC OF THE PHILIPPINES
Second Regular Session

SENATE
SENATE BILL NO. 1699

Introduced by SENATOR LEILA M. DE LIMA

AN ACT
TO PROMOTE AND PROTECT
THE RIGHTS OF HUMAN RIGHTS DEFENDERS

Explanatory Note

The 1987 Constitution in Article II, Section 11 provides that, “[t]he State values the dignity of every human person and guarantees full respect for human rights.” The Constitution in Article II, Section 14 also provides that, “[t]he State recognizes the role of women in nation building, and shall ensure the fundamental equality before the law of women and men.”

The Philippines is a State Party to eight (8) human rights treaties of the United Nations, and it has accepted two (2) individual complaints procedure, and two (2) inquiry mechanisms. It also has various laws on human rights, which include inter alia, Republic Act No. 9745 or the “Anti-Torture Act of 2009”, Republic Act No. 9710 or the “Magna Carta of Women Act of 2009”, and Republic Act No. 10353 or the “Anti-Enforced Disappearance Act of 2012”.

There is the Commission on Human Rights (CHR), the national human rights institution of the Philippines, created under the 1987 Constitution and is a mechanism that helps the State bring to the level of domestic implementation, human rights promotion and protection found in treaties to which it is a State Party. Besides the CHR, there are also offices established in the Executive Department that advocate for human rights or advise the government on the same, and these include the Presidential Human Rights Committee, the Human Rights Office of the Armed Forces of the Philippines, and the Philippine National Police Human Rights Affairs Office.

However, it is alarming that despite legal standards and mechanisms in place, the issue of human rights defenders being under threat was repeatedly raised in the third cycle of the Universal Periodic Review (UPR) reporting of the Philippine government before the UN Human Rights Council. In the Report of the Working Group on the Philippine’s UPR Submission, eleven (11) recommendations referred to
the situation of human rights defenders. In these recommendations, the areas of common concern include a protection system for the HRDs, an enabling environment to carry out their work, and the adoption of a national law for the promotion of the rights of the HRDs.

Regrettably, the Philippine government merely noted but did not commit to support the recommendations in the said Report in the UPR concerning human rights defenders.

What is even disturbing is that President Rodrigo Duterte himself publicly declared that he will order the shooting of human rights workers. This pronouncement from no less than the Chief Executive clearly places human rights defenders under threat and encourages culture of impunity.

In its March 2017 report, human rights group Frontline Defenders claimed that 15 HRDs working on various issues have been killed in a span of just three (3) months. Among those killed were the couple Ramon Dagaas Pesadilla and his wife Leonila Tapdasan Pesadilla. The spouses were members of the Compostela Farmers' Association, who opposed mining projects in that area.

In my proposed Senate Resolution No. 153, which I filed in December 2017, I cited the November 2017 report of human rights organization Karapatan stating that there were already 17 women HRDs who were killed under the Duterte administration.

Enforced disappearance, death, harassment, suppression of fundamental human rights and freedoms are continuing challenges of individuals and the organizations to which they belong. This does not escape notice from outside the Philippines. On July 2017, three (3) Special Rapporteurs asked the Philippine government to prevent incitement to violence, and investigate extrajudicial killings of human rights defenders. These are compounded by actions of state agents that weaken democratic institutions like the CHR, including its leadership.

This proposed legislation, which underwent a process of consultation with stakeholders and human rights defenders who are themselves experts on the subject matter, aims to institutionalize and enforce state obligations to provide protection to HRDs, and to establish effective legal remedies for violations of the rights of HRDs.

2 Ibid, 20 para. 133.176.
3 See Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (Philippines), A/HRC/36/12/Add.1.
Guided as well by the *United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, otherwise known as the "Declaration for Human Rights Defenders,"⁷ and the *Model National Law on the Recognition and Protection of Human Rights Defenders*,⁸ this version seeks to ascertain that the dynamic community of human rights workers in the Philippines remains free and government policies will both support their work and ensure accountability for violations of their rights and freedoms.

For these reasons and aspirations, the passage of this bill is earnestly sought.

[Signature]
LEILA M. DE LIMA

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⁷ Adopted as Resolution No. 53/144 by the UN General Assembly on 9 December 1998.
AN ACT
TO PROMOTE AND PROTECT
THE RIGHTS OF HUMAN RIGHTS DEFENDERS

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

SECTION 1. Short Title. – This Act shall be known as the “Human Rights Defenders Act of 2018”.

SEC. 2. Declaration of Policy. – It is the policy of the State to value the dignity of every human person and guarantee full respect for human rights. Pursuant to this policy, the State shall uphold the primacy of human rights for all regardless of ethnicity, sexual orientation, gender identity and expression, language, religion, political or other opinion, national or social origin, property, birth or other statuses, and create effective mechanisms to ensure that these rights and fundamental freedoms are respected, promoted, protected and fulfilled.

Women human rights defenders, and individuals with diverse sexual orientation and gender identity, are especially vulnerable to misogynistic attacks and sexual violence. Through this law, the State shall create enabling environment to encourage women
1 and individuals with diverse sexual orientation to pursue work on human rights, and
2 promote liberal principles of gender equality and bodily autonomy.

3 **SEC. 3. Definition of Terms.** –

4 a. Human Rights – refers to rights inherent to all human beings, regardless of
5 nationality, place of residence, sexual orientation, gender identity and
6 expression, ethnic origin, religion, language, or any other statuses. This body of
7 rights include those provided in the Universal Declaration of Human Rights,
8 United Nations treaties ratified by the Philippines, and national laws that
9 implement these commitments.

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

14 c. Human Rights Work – refers to practice of profession, activities, engagement,
15 that advance human rights found in United Nations Human Rights treaties
16 ratified by the Philippines, regional treaties on human rights where they exist,
17 and those found in the Constitution as well as other national laws. It includes
18 but is not limited to education, fact finding, humanitarian assistance in conflict
19 and emergency situation, and consultative dialogues.

20 d. Human Rights Organizations – refers to groups, organizations and associations
21 in the country and in other countries at the regional or international levels,
22 whether formal or informal, that strive for the protection of human rights and
23 fundamental freedoms.
e. Intergovernmental Organization – refers to organizations established through
treaties among states in pursuit of common issues and interests.

f. Governmental Agency – refers to any department, bureau or office of the
National Government, or any of its branches and instrumentalists, or any
political subdivision, as well as any government-owned or controlled
corporation, including its subsidiaries, or other self-governing board or
commission of the Government.

TITLE II

Rights and Freedoms of Human Rights Defenders

SEC. 4. Right to promote and protect human rights and fundamental freedoms. –
Everyone has the right, individually or 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. 5. Right to form groups, associations and organizations. – Everyone,
individually or in association with others, has the right to form, join and participate in
groups, associations and non-governmental organizations, for the purpose of
promoting and striving for the protection and realization of human rights and
fundamental freedoms.

SEC. 6. Right to solicit, receive and utilize resources. – Everyone, individually or in
association with others, has the right to solicit, receive and utilize resources, including
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.

SEC. 7. 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 those rights and freedoms are given effect in the our
legislative, judicial and administrative systems;

(b) to freely publish, impart or disseminate to others' views, information
and knowledge on all human rights and fundamental freedoms; and
(c) 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 those
matters.

(2) The right in subsection (1) may be exercised orally, in writing, in print, in
the form of art or through all forms of communication and media.

SEC. 8. 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 for their acceptance.

SEC. 9. Right to communicate with non-governmental, governmental and
intergovernmental organizations. – Everyone, individually or 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. 10.** Right to access, communicate with 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. 11.** 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 nondiscriminatory basis in the government of his or her country, 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, proposals for improving its functioning
with respect to human rights and fundamental freedoms;

(b) to recommend 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 draw to the attention of any public authority 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 these rights.

SEC. 12. 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 individuals, 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. 13. 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 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 assistance or other
relevant advice and assistance in defending human rights and
fundamental freedoms; and
(c) to submit communications and information of the type referred to in
Section 10.

SEC. 14. 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 that
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 our territory shall be expelled, by means of an
individual measure or a collective measure, from our 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 the
grounds of or in association with his or her status, activities or work as a human
rights defender.

SEC. 15. Right to privacy. –
(1) Everyone, individually or in association with others, has the right to privacy.

(2) This right 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" within 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 association with his or her legitimate activity or work as a human rights defender.

SEC. 16. 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 in the event of a violation of the rights in this Title II or a breach of obligations under Title III of this Law.

(2) Anyone whose rights have been violated or who has been adversely affected by a breach of obligations has the right to apply to a court or tribunal of competent jurisdiction to obtain such effective remedy and full reparation.

(3) Any of the following may file a complaint before human rights courts relating to the violation of rights under Title II of this Law or a breach of obligations under Title III of this Law:

(a) a human rights defender;

(b) an associate 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 with the purposes of this Law.

Legal Assistance shall be provided by the Commission on Human Rights in accordance with its mandate. CHR may enter into cooperation agreement with the Integrated Bar of the Philippines and non-governmental organizations providing legal services pro bono.

SEC. 17. Freedom from intimidation or reprisal. – No person shall be subjected, individually or in association with others, to any form of intimidation or reprisal on the grounds of or in association with his or her status, activities or work as a human rights defender.

SEC. 18. Freedom from defamation and stigmatization. – No person shall be subject to any form of defamation, stigmatization, or other harassment, in all forms of media and communication, and whether by public authorities or private actors, in association with his or her status, activities or work as a human rights defender.

SEC. 19. Limitations on the rights of human rights defenders. – In exercising his or her rights in Title II of this Law, 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 and respect of the human rights and fundamental freedoms of others and meeting the requirements of public order and general welfare in a democratic society.

**Title III**

**State Obligations**

**SEC. 20. 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 Title II of this Law are effectively guaranteed and ensured;

(2) that all laws, policies and programs are consistent with the rights in Title II of this Law; and

(3) that human rights defenders are able to undertake their activities and work in a safe and enabling environment free from restriction.

**SEC. 21. Obligation to facilitate the activities and work of human rights defenders.** –

(1) Public authorities shall take all necessary measures to facilitate and protect the exercise of the rights in Title II of this Law.

(2) The obligation in subsection (1) includes the obligation:

(a) to permit and facilitate access, in accordance with the law, to places where a person is deprived of liberty;
(b) to permit and facilitate access to places and to information required
by human rights defenders to exercise their rights under Title II in
accordance with the law;
(c) to provide information about violations of human rights or
fundamental freedoms that may have occurred within the territory or
subject to the jurisdiction, including the power or effective control, of the
State;
(d) to develop and implement policies and measures to promote, support
and enhance the capacity of human rights defenders to promote and
protect human rights and fundamental freedoms; and
(e) to promote and publicly acknowledge the role, function, activities and
work of human rights defenders as legitimate and important.

SEC. 22. Obligation to provide free access to materials relating to human rights and
fundamental freedoms. – Public authorities shall make freely available and accessible
all forms of media:

(1) international human rights instruments;
(2) the Constitution, national laws and regulations;
(3) research, studies, reports, data, archives and other information and
materials within the possession of public authorities that relate to human rights
and fundamental freedoms;
(4) reports and information submitted to international human rights bodies
and mechanisms;
(5) reports and communications of international human rights bodies and
mechanisms involving the country’s compliance with international treaty
obligations; and

(6) all such other information as may be necessary to secure or enable the
exercise of any human rights or fundamental freedoms under Title II or access
to remedy for a violation of any such right.

SEC. 23. 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
relevant human rights defender give informed consent in writing to such
disclosure or if so required by any court of competent jurisdiction.

SEC. 24. Obligation to prevent and to ensure protection against intimidation or
reprisal. –

(1) Public authorities shall take all necessary measures to ensure the prevention
of, and protection against, any intimidation or reprisal by any other public or
private individual.

(2) The reference to “measures” in subsection (1) shall include, but not limited
to, protection measures established under pertinent laws, and in the
development of these measures, public authorities shall consult with the
Commission on Human Rights.
SEC. 25. *Obligation to ensure protection against arbitrary or unlawful intrusion and interference.* –

(1) Public authorities shall take all necessary measures to ensure the protection of human rights defenders against arbitrary or unlawful intrusion and interference in his or her family, home, places of work, and places of sanctuary established by them for human rights violation victims and/or their families, possessions and correspondence, both offline and online.

(2) “intrusion and interference” in subsection (1) includes any form of surveillance, recording, search and seizure in association with any person’s legitimate activity or work as a human rights defender without his or her consent.

SEC. 26. *Obligation to conduct investigation.* –

(1) 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 Title II of this Law, whether by a public authority or private individual, the State must ensure that a prompt, thorough, effective, independent and impartial investigation is conducted with due diligence and is prosecuted as appropriate.

SEC. 27. *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 Title II of this Law and for breach of the obligations in Title III of this Law.
SEC. 28. Obligation to promote and facilitate human rights education. – All government agencies and their subsidiaries shall promote, facilitate and adequately resource teaching, training and education about human rights and fundamental freedoms. Teaching, training and education programs shall include information about this Law and the important and legitimate work of human rights defenders.

SEC. 29. Responsibility to defend human rights and fundamental freedoms. –

(1) Everyone has an important role to play and a responsibility to promote and to strive for the protection and realization of human rights and fundamental freedoms.

(2) No one shall participate, by act or omission, in a violation of human rights and fundamental freedoms or in undermining democratic societies, institutions and processes.

SEC. 30. Establishment of Mechanism for the Protection of Human Rights Defenders. – The Commission on Human Rights of the Philippines (CHR), as the national human rights institution, shall exercise the functions of a protection mechanism for all human rights defenders in accordance with its constitutional mandate, pertinent laws and guidelines, as well as standards governing the functions and responsibilities of a national human rights institution. CHR shall create in all its regional offices, a composite team of lawyers, investigators, medical professionals if necessary, to handle human rights defenders' cases.

SEC. 31. CHR Witness Protection Program. – The existing witness protection program of CHR shall be strengthened to include temporary shelters extended to families of human rights defenders and to those who are witnesses to violations that
are committed or may have been committed against them, subject to rules and regulations of this program.

SEC. 32. Women Human Rights Defenders Protection Program in the Commission on Human Rights. – The Women’s Human Rights Center (WHRC) of CHR, created under Republic Act No. 9710 or the Magna Carta of Women Act of 2009 shall ensure that all programs and services of CHR for WHRDs are gender sensitive, and empowering of women.

SEC. 33. Human Rights Court. – The Supreme Court shall designate certain branches of Regional Trial Courts as human rights courts in every city and province. In the case where the city is the capital of the province, the human rights court shall be established in the municipality which has the highest incidence of human rights violation.

SEC. 34. Gender and Development Programs. – The Gender and Development Budget shall be funding sources for programs and services for women human rights defenders as well as HRDs with diverse sexual orientation and identity.

SEC. 35. General Presumption. – In the event that death, sexual violence, or serious physical injury as defined in the Revised Penal Code, results from violations of the Rights and Freedoms of human rights defenders, the presumption of regularity in the performance of duty shall not apply.

SEC. 36. Penalty for violations of Section 4 to Section 19. – The penalty of Prision Mayor in its maximum period to Reclusion Temporal in its medium period and a fine of not less than One Hundred Thousand Pesos (P100,000.00), shall be imposed by government agency personnel, or private actors acting with acquiescence or with authority of government personnel.
SEC. 37. Penalty for any other violations of this Act. – Applicable administrative and criminal sanctions found in existing laws shall be imposed upon public officials, officers and staff of government agencies found in violation of Title III on State Obligations.

SEC. 38. Appropriations. – The amount of Five Million Pesos (Php5,000,000.00) is hereby appropriated to the CHR for the initial implementation of this Act. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

SEC. 39. Implementing Rules and Regulations. – The CHR shall convene and lead the drafting committee for the preparation of the Implementing Rules and Regulations of this Act within one hundred twenty days from the effectivity of this Act. It shall also ensure the full dissemination of such rules and regulations to all officers and members of various law enforcement agencies.

The CHR shall be the lead agency of the drafting committee with the following member agencies:

1. Department of Justice
2. Presidential Human Rights Committee;
3. Philippine Commission on Women;
5. PNP HRAO;
6. AFP Human Rights Affairs Office;
7. National Commission for Muslim Filipinos;

8. National Commission on Indigenous Peoples; and


10. Representatives from five (5) non-governmental organizations to be identified by the above government agencies from their initial planning. Provided that the NGOs forming part of the drafting committee shall represent sectors from women including but not limited to those working on reproductive health, children, indigenous peoples, and extractive industries.

SEC. 40. Separability Clause. – Should any provision of this Act be declared invalid, the remaining provisions shall continue to be valid and subsisting.

SEC. 41. Repealing Clause. – Nothing in this law shall affect any provisions which are more conducive to the recognition and protection of human rights defenders and which may be contained in domestic or international law or instruments.

SEC. 42. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,