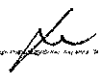


Republic of the Philippines }
FOURTEENTH CONGRESS }
First Regular Session }

7 115-6 P/11

SENATE

RECEIVED BY: 

Bill No. 1437

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

The case of *Cariño vs. Commission on Human Rights* (CHR) (GR No. 96681, 02 December 1991) categorizes the CHR as a toothless tiger. It is neither a judicial nor a quasi-judicial body. It can only extend preventive measures, such as initiating applications in court for judicial writs and orders, conduct investigation and receive evidence of violations of human rights, among others.

The above ruling is reiterated in the more recent case of *Simon, Jr., et. al. v. CHR, et. al.* (GR No. 100150, 05 January 1994) which revisited the powers and functions of the CHR vis-à-vis the implementation of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act (UDHA) of 1992. This case defined the parameters of the CHR's jurisdiction which is limited only to political and civil rights. It enumerated the cases over which the CHR can exercise jurisdiction without, however, regarding them as having preclusive effect but merely a matter of priority setting.

It is in this regard that this bill seeks to expand in clear terms the jurisdiction of the CHR and at the same time grant it prosecutorial powers.

To make categorical the state policy that the CHR can exercise jurisdiction over cultural, economic and social rights is very important. It is to afford in general the CHR the unequivocal authority to step into cases involving rights excluded from the definition and scope of political and civil rights. It is meant in particular to erase all doubts brought about by the issue of whether or not the CHR can take cognizance of cases of demolition and resettlement pursuant to the UDHA.

The prosecutorial power being sought to be granted is on the other hand meant to equip the CHR a significant power if only to realize its mandate under Article XIII of the Constitution. It is unacceptable to forever regard CHR as a toothless or paper tiger if it is a State policy to secure, protect and guarantee the dignity of its citizens and to ensure the fulfillment of such citizens' human rights.

Moreover, the grant of prosecutorial powers will decrease the burden of the National Prosecution Service (NPS) of the Department of Justice (DOJ) and further enhance specialization in the investigation and prosecution of human rights violation cases.

Hence, on the basis of the foregoing and by virtue of Section 18, par. (11), and Section 19, Article XIII of the Constitution, immediate passage of this proposed legislation is earnestly sought.

A handwritten signature in black ink, consisting of a horizontal line with a complex, looped flourish above it.

FRANCIS G. ESCUDERO

Republic of the Philippines }
FOURTEENTH CONGRESS }
First Regular Session }

7 AUG 16 1995

SENATE

RECEIVED BY



Bill No. 1437

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
EXPANDING THE JURISDICTION OF AND GRANTING
PROSECUTORIAL POWERS TO THE COMMISSION ON HUMAN RIGHTS
AND FOR OTHER PURPOSES

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

SECTION 1. *Declaration of State Policy.* - State policy mandates that the human dignity of every person and the full recognition, respect, protection and fulfillment of human rights as the means for ensuring the security of its people be valued and guaranteed. Hence, the State has to formulate and adopt new measures on human rights to further secure its people from pervasive threats meant to attack not only civil and political rights.

SEC. 2. *Definition of Human Rights.* - Human rights for purposes of this Act shall mean rights found in Article III of the Constitution and those duly affirmed and recognized by the Republic of the Philippines in the following legal instruments: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995); Convention on the Rights of the Child (1990); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); International Covenant on Civil and Political Rights (1986); Convention on the Elimination of All Forms of Discrimination against Women (1981); International Covenant on Economic, Social and Cultural Rights (1974); and International Convention on the Elimination of All Forms of Racial Discrimination (1967).

It shall also refer to the rights duly affirmed and recognized in the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL) and the rights recognized in the Universal Declaration of Human Rights (1948).

SEC. 3. *Scope of Human Rights Violations.* - Human rights violations shall mean and include civil, political economic, social and cultural rights as found and enunciated in the legal instruments and constitutional provisions enumerated in Section 2 of this Act and all such other similar instruments and laws.

SEC. 4. *Expanded Jurisdiction of the Commission on Human Right (CHR).* - The jurisdiction of the Commission on Human Rights (CHR) shall include civil, political, economic, social and cultural rights.

SEC. 5. *Prosecutorial Power of the CHR.* - In the exercise of its jurisdiction and in addition to its investigative powers, the CHR shall be given prosecutorial powers similar to that of the National Prosecution Service (NPS) of the Department of Justice (DOJ) over all cases involving human rights violation cases.

As such, all human rights violation cases shall now fall under the exclusive jurisdiction of the CHR.

SEC. 6. *Transitory Provision.* - All human rights violation cases currently pending in the DOJ shall be immediately transferred to the CHR except those cases which have already been filed in court.

SEC. 7. *Office of the Human Rights Prosecutor.* - There shall be an Office of the Human Rights Prosecutor which shall have the following powers and functions as the prosecuting arm of the CHR:

- 1) Conduct preliminary investigation of all human rights violation cases for the determination of the existence of probable cause;
- 2) Prosecute, once there is finding of probable cause, human rights violation cases in court;
- 3) Provide legal services to victims of human rights violations; and
- 4) Perform such other functions and duties as may be assigned to it by the CHR.

The Office of the Human Rights Prosecutor shall be headed by a Chief Human Rights Prosecutor with the rank and emoluments similar to that of the Chief State Prosecutor in the DOJ who shall be appointed by the President upon nomination by the majority of the Commissioners of the CHR, and a member of the Philippine Bar, and have been engaged in the practice of law for at least five (5) years at the time of his/her appointment.

SEC. 8. *Appropriations.* - The required appropriations for this Act shall be included in the General Appropriations Act for the year immediately succeeding the approval of this Act and every year thereafter.

SEC. 9. *Implementing Rules and Regulations.* - The CHR shall have the power to issue the necessary rules and regulations for the effective implementation of this Act as well as the creation of an organizational structure in the Office of the Human Rights Prosecutor.

The CHR pursuant to Sections 18 paragraph (2) of Article XIII of the Constitution shall likewise promulgate the operational guidelines and rules of procedure for the implementation of its expanded jurisdiction relating to economic, social and cultural rights and its prosecutorial powers to be patterned

after the NPS of the DOJ as provided for in this Act. The CHR shall coordinate with the DOJ in the matter of its prosecutorial powers.

SEC. 10. *Congressional Oversight.* - Congress shall create a special congressional oversight on human rights to ensure and oversee the implementation of this Act.

SEC. 11. *Repealing Clause.* - All other laws, decrees, executive orders, proclamations, and administrative regulations inconsistent with or contrary to the provisions of this Act are hereby amended, modified or repealed accordingly.

SEC. 12. *Separability Clause.* - In the event that any provision of this Act is declared void or unconstitutional such declaration shall not affect the validity of the unaffected provisions of this Act.

SEC. 13. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,