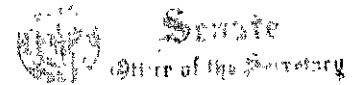


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



13 JUL -4 AB:16

SENATE

RECEIVED BY: *ju*

S. B. No. 440

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.

Such ineffectiveness of the Commission to address the protection of human rights is blamed on the CHR's failure to prosecute reported cases of human rights violations due to the fact that it is tied up by existing law that provides the CHR only investigative and advocacy powers. However, Sections 18 (11) and 19, Article XIII of the 1987 Constitution reserves to Congress the authority and the power to give CHR "such other duties and functions" to perform and to provide "other cases of violations of human rights that should fall within the authority of the Commission", respectively.

Hence, this bill basically seeks to strengthen the Commission by providing an effective and expanded structural and functional organization to meet the demands of human rights cases here and abroad. By providing the Commission with prosecutorial powers over delineated forms of human rights violations, it is hoped that the Commission will be able to meet the rising demands from victims of human rights violations and the general public for an effective and speedy resolution of all human rights cases filed with the CHR.

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.

The grant of quasi-judicial powers will unclog the court dockets 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 stylized, cursive 'F' followed by a horizontal line extending to the right.

FRANCIS G. ESCUDERO

13 JUL -4 18:16

SENATE

S. B. No. 440

BY: 

Introduced by Senator FRANCIS G. ESCUDERO

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
28 **Sec. 5. Fiscal Autonomy.** - The Commission shall always enjoy full fiscal autonomy
29 equivalent to that of the Constitutional Commissions under Art. IX of the 1987

1 Constitution. The approved annual appropriations of the Commission shall be
2 automatically and regularly released.
3

4 **B. The Chairperson and Commissioners**

5
6 **Sec. 6. The Commission, Composition and Qualifications.** - The Commission on
7 Human Rights, also referred to as the Commission in this Act, is a collegial body and shall
8 be composed of a Chairperson and four (4) Commissioners who shall possess the following
9 qualifications:
10

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

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

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

31
32 **Sec. 8. Prohibition and Disqualification.** - The Chairperson and Commissioners
33 of the Commission shall not, during their tenure, hold any other office or employment.
34 Neither shall they engage in the practice of any profession or in the active management or
35 control of any business which in any way may be affected by the functions of their office,
36 nor shall they be financially interested, directly or indirectly, in any contract with, or in any
37 franchise or privilege, granted by the Government and its subdivisions, agencies or
38 instrumentalities, including government-owned or controlled corporations or their
39 subsidiaries. They shall avoid conflict of interest in the conduct of their office. They shall
40 not be allowed to appear or practice before the Commission for two years following their
41 cessation from office.
42

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

49 **Sec. 9. Disclosure of Relationship.** - It shall be the duty of the Chairperson and
50 Commissioners to make under oath to the best of their knowledge and information a
51 written public disclosure of the identities of, and their relationship with the persons

1 referred to in the preceding section. The disclosure shall be filed with the Office of the
2 Ombudsman before the appointee assumes office and every annual anniversary of the date
3 of assumption of office thereafter. The disclosures made pursuant to this Section shall form
4 part of the public records and shall be made available and accessible to the public.
5

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

12
13 **Sec. 11. Removal from Office.** - The Chairperson and Commissioners of the
14 Commission may be removed from office on any of the following grounds:

- 15
16 (a) Disloyalty to the Republic of the Philippines;
17 (b) Culpable violation of the Constitution;
18 (c) Bribery and graft and corruption, [other high crimes, or betrayal of public trust];
19 (d) Dishonesty, misconduct in office, gross negligence, or dereliction of duty;
20 (e) Commission of any offense involving moral turpitude or an offense punishable by
21 *prision mayor*;
22 (f) Abuse of authority;
23 (g) Such other grounds as may be provided by law.
24

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

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

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

39 Any decision of removal from office shall be automatically stayed by the filing of a
40 petition for review on *certiorari* with the Supreme Court.
41

42 C. Nomination of Chairperson and Commissioners

43
44 **Sec. 12. Nominations Committee.** - The President shall choose and appoint the
45 Chairperson and Commissioners of the Commission from a list of three (3) nominees per
46 position selected by a Nominations Committee to be composed of the following members:
47

- 48 a) The Chairperson of the Commission on Human Rights or if vacant, any
49 Commissioner as designated by the Commission En Banc;
50
51 b) The Chairperson of the Senate Committee on Justice and Human Rights;

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

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

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

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

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

42 **II. POWERS AND FUNCTIONS**

43 **A. General Powers and Functions**

44
45
46 **Sec. 16. General Powers and Functions of the Commission.** - The Commission on
47 Human Rights shall have the following general powers and functions:
48

- 49 a) Investigate, on its own or on complaint by any party, all forms of human
50 rights violations;
51
52 b) Adopt its operational guidelines and rules of procedure and cite for direct
53 and indirect contempt for violations thereof or its lawful orders in

1 accordance with the Rules of Court;

- 2
- 3 c) Provide appropriate legal and preventive measures for the protection of
4 human rights of all persons within the Philippines, as well as Filipinos
5 residing abroad;
- 6
- 7 d) Provide legal aid services to the underprivileged whose human rights
8 have been determined by the Commission to have been violated or in of
9 need protection to prevent a violation thereof;
- 10
- 11 e) Exercise unhampered and unrestrained visitorial powers over jails,
12 prisons, camps, detention facilities, safe houses and similar premises,
13 provided prior coordination is had with the agencies of government
14 concerned;
- 15
- 16 f) Establish a continuing program of research, education and information
17 dissemination to promote respect for the primacy of human life and
18 dignity, and the protection of human rights;
- 19
- 20 g) Recommend to Congress effective measures to promote human rights and
21 to provide for compensation to victims of violations of human rights, or
22 their families;
- 23
- 24 h) Monitor the Philippine government's compliance with international treaty
25 obligations on human rights;
- 26
- 27 i) Grant immunity from prosecution to any person whose testimony or
28 possession of documents or other evidence is necessary to determine the
29 truth in any investigation or prosecution conducted by it or under its
30 authority;
- 31
- 32 j) Request the assistance of any department, bureau, office or agency in the
33 performance of its functions;
- 34
- 35 k) Deputize government prosecutors or private lawyers, who shall be under
36 the direct control and supervision of the Commission, for the prosecution
37 of human rights cases under Section 21 hereof;
- 38
- 39 l) Accredite national non-government and people's organizations involved in
40 human rights promotion, protection and advocacy, including those for
41 purposes of visiting persons arrested, detained or under custodial
42 investigation;
- 43
- 44 m) Ensure that the status, rights and interests of children and of the family
45 are upheld in accordance with the Constitution, laws and duly ratified
46 instruments on human rights;
- 47
- 48
- 49
- 50 n) Create, establish, organize, re-structure, compress, and otherwise manage
51 such offices and centers the Commission deems necessary and
52 appropriate for expeditious and effective fulfillment of its mandate,

1 including a central office, regional, sub-regional, and provincial offices for
2 specific thematic and functional matters;

- 3
4 o.) Appoint its officers and employees in accordance with law; and
5
6 p.) Perform such other duties and functions as may be provided
7 by law.
8

9 B. Investigation

10
11 **Sec. 17. Investigative Powers and Functions.** - The Commission shall exercise
12 primary and original jurisdiction to investigate, on complaint or *motu proprio*, cases of
13 human rights violations to include civil, political, economic, social and cultural rights. In
14 the exercise of its investigative function, the Commission shall have the following powers:
15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1
2
3 **C.) When Committed Against Vulnerable Persons** - in the investigation and
4 prosecution of the following offenses as penalized under the Revised Penal Code
5 and special laws when committed by any person against any member or group
6 of vulnerable persons, as defined herein:
7

- 8 a) Involuntary servitude constituting Crimes Against Personal Liberty and
9 Security under the Revised Penal Code;
10
11 b) Crimes penalized under Republic Act No. 7610, or the "Special Protection
12 of Children Against Abuse, Exploitation and Discrimination Act;"
13
14 c) Crimes penalized as Infanticide and Abortion under the Revised Penal
15 Code;
16
17 d) Crimes penalized under Republic Act No. 9262, or the "Anti-Violence
18 Against Women and Their Children Act of 2004;" and
19
20 e) Crimes penalized under Republic Act No. 8371 or the "Indigenous
21 Peoples Rights Act of 1997."
22
23

24 Vulnerable persons shall include children, the unborn, women, elderly, persons
25 with disabilities, migrant workers, indigenous peoples, and ethnic and religious
26 minorities.
27

28 **D. Monitoring**

29
30
31 **Sec. 27. Monitoring Powers and Functions.** - In the exercise of its mandate to
32 monitor the Government's compliance with its international human rights treaty
33 obligations, the Commission shall have the following powers and functions:
34

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

1 treaties or instruments for its signature, ratification or accession;

- 2
- 3 f) Make timely and regular submission of independent reports to international
4 human rights treaty bodies and other international human rights
5 mechanisms;
- 6
- 7 g) Advise and assist the government on clearly-identified gaps in human
8 rights treaty compliance;
- 9
- 10 h) Capacitate stakeholders to enable participation in monitoring human rights
11 treaty compliance by the government;
- 12
- 13 i) Delegate to its deputies, investigators or representatives, such authority or
14 duty which shall ensure the effective exercise or performance of its
15 monitoring functions; and
- 16
- 17 j) Recommend and institutionalize best practices and incentives for human
18 rights advocates and institutions.
- 19

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

24

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

29

- 30 a) Identification of systematic patterns of human rights violations using
31 documented cases;
- 32
- 33 b) Analysis of the factors which contribute to the commission of human
34 rights violations;
- 35
- 36 c) Assessment of the legal mechanisms of existing institutions in providing
37 adequate human rights protection;
- 38
- 39 d) Recommendations for legal, legislative, and institutional reforms for the
40 greater promotion and protection of human rights; and
- 41
- 42 e) Statistics and data indicating the nature of complaints received, the
43 investigations conducted and findings made, and the actions taken by the
44 government agencies concerned on the Commission's recommendations.
- 45

46 **E. Education and Advocacy**

47

48 **Sec. 30. Education and Advocacy in Government.** - The Commission shall
49 undertake a program of human rights promotion and advocacy through education and
50 training to promote and increase respect for the primacy and dignity of human life in all
51 its stages and the protection of human rights in coordination with the different agencies of
52 the government. It shall likewise administer a mandatory and continuing human rights

1 education program for the military, police and other law enforcement agencies, as well as
2 public school teachers, and shall, for this purpose, draw up the components of the
3 program, accredit course and training providers, and issue certificates of completion to
4 those who have successfully completed the program.
5

6 **Sec. 31. Education and Advocacy in Civil Society.** - The Commission shall also
7 undertake human rights education, advocacy, and information campaign programs
8 among sectors of civil society, particularly the vulnerable, marginalized and
9 underprivileged groups. In conducting this program, the Commission shall actively
10 cooperate and coordinate with human rights non-government organizations, lawyers'
11 groups, the academe and people's organizations of the concerned sectors of civil society.
12

13 **Sec. 32. Research.** - The Commission shall undertake a continuing research and
14 study on select human rights issues for purposes of recommending policy reforms, as well
15 as administrative and legislative measures that will also address economic, social and
16 cultural rights.
17

18 **Sec. 33. Coverage of Programs.** - The Commission shall prescribe the scope and
19 coverage of education, advocacy, information and training programs on human rights,
20 and which will be provided for in the implementing rules and regulations of this Act.
21

22 **F. Other Powers and Functions**

23
24
25 **Sec. 34. Witness Protection Program.** - The Commission shall strengthen its
26 witness protection program, including the provision of security, shelter, relocation and
27 livelihood assistance to witnesses and their families
28

29 **Sec. 35. Financial Assistance Program.** - The Commission shall enhance its
30 financial assistance program to victims of human rights violations and their families.
31

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

37 **Sec. 37. Protection of Filipinos Abroad.** - The Commission shall undertake
38 measures for the protection and promotion of human rights of Filipinos living abroad. It
39 shall coordinate with Philippine Embassy or Consulate officers as well as private
40 individuals of known probity and active involvement in human rights work, or foreign-
41 based human rights and migrant workers' non-government organizations in countries
42 where the incidence of human rights violations of Filipinos is widespread and
43 commonplace, including traditional host countries of Overseas Filipino Workers, for
44 purposes of monitoring the status of human rights of Filipinos living abroad, establishing
45 networks among Filipinos to promote protection of human rights, reporting cases of
46 violations thereof, facilitating the remedial measures of victims and coordinating with
47 respective agencies to provide counselling and financial aid.
48

49
50 **Sec. 38. Creation of *Ad Hoc* Truth Commissions.** - The Commission may
51 recommend the creation of an ad hoc Truth Commission on matters of transcendental
52 importance, such as widespread and systematic human rights violations occurring over
53 prolonged periods of time, or under extraordinarily-repressive conditions, or attended by

1 a culture of impunity that is instigated, inspired or orchestrated by public officials, in
2 conspiracy with government security forces or State-sponsored armed groups.

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

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

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

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

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

35 36 37 **TITLE III. ORGANIZATION AND STRUCTURE**

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

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

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

51
52 **Sec. 44. The Chairperson as Executive Officer; Powers and Duties.** The

1 Chairperson shall be the Chief Executive Officer of the Commission, and shall:

- 2
- 3 a) Execute and carry out the policies, decisions, orders and resolutions
- 4 approved by the Commission;
- 5 b) Direct and supervise the operations and internal administration of the
- 6 Commission;
- 7 c) Sign appointments of subordinate officials and employees made by the
- 8 Commission and enforce decisions on administrative discipline involving
- 9 them;
- 10 d) Make temporary assignments, rotate and transfer personnel in
- 11 accordance with the provisions of the Civil Service Law and the policies
- 12 involving them;
- 13 e) Submit an annual budget to the Commission for its approval and
- 14 submission to the Department of Budget and Management and to the
- 15 Congress of the Philippines;
- 16 f) Delegate his/her authority, in whole or in part, to other officials of the
- 17 Commission in accordance with Executive Order No. 292, otherwise
- 18 known as the Administrative Code of 1987, and rules and regulations of
- 19 the Commission; and
- 20 g) Perform such other functions as may be authorized by the Commission.
- 21
- 22

23 **Sec. 45. Structural Organization.** - The Commission shall have the following line

24 offices and operating units:

25

- 26 a) Office of the Chairperson;
- 27 b) Office of the Commissioners;
- 28 c) Office of the Executive Director;
- 29 d) Office of the Commission Secretary;
- 30 e) Legal Office;
- 31 f) Investigation Office;
- 32 g) Human Rights Instruments Compliance And Monitoring Office;
- 33 h) Education, Advocacy And Research Office;
- 34 i) Information System Management Office;
- 35 j) Assistance and Visitorial Office;
- 36 k) Forensic Office;
- 37 l) Planning And Management Office;
- 38 m) Financial Management Office;
- 39 n) General Administrative Office;
- 40 o) Sectoral Rights Offices;
- 41 p) Public Information Office; and
- 42 q) Regional Offices.
- 43

44 All the above offices will be headed by an officer with a rank, salary and privileges

45 equivalent to a Director IV, except for the Executive Director and who shall have the rank,

46 salary and privileges of an Assistant Secretary. All centers will be headed by a Director III.

47 Each office may have such divisions as are necessary to carry out their respective functions.

48 As an independent constitutional office, the Commission may effect changes in the

49 organization as the need arises.

50

51 All officers and employees of the Commission, unless otherwise provided herein,

52 shall receive emoluments and privileges that shall not be less than those given to

1 comparable positions in any office in the government.
2
3

4 **Sec. 46. The Executive Director.** - The Executive Director shall be responsible for
5 managing the day-to-day affairs, activities and operations of the Commission, in
6 accordance with its policies, standards, rules and regulations adopted and promulgated by
7 the Commission. In particular, the Executive Director shall:
8

- 9 a. Provide direct supervision, control, coordination and monitoring of all
10 activities, functions and operations of both the central and regional units
11 of the Commissioner;
12 b. Recommend and /or implement administrative and management policies,
13 rules and standard operating procedures to be established by the
14 Commission;
15 c. Recommend and initiate programs, projects and policies which promoted
16 productivity, efficiency and effectiveness in the Commission;
17 d. Coordinate with different CHR organization units in the information and
18 reporting requirement of the Commission;
19 e. Resolve operational issues in accordance with the levels of authority
20 prescribed by the Commission;
21 f. Undertake appraisal on issues/problems and policy recommendations
22 requiring decision/action by the Commission;
23 g. Conduct necessary representation with different branches and agencies of
24 the government on vital issues/concerns involving the organization,
25 operations and programs of the Commission and
26 h. Perform such other functions as may be assigned by the Commission *En*
27 *Banc*.
28

29 The Executive Director shall be appointed by the Commission and shall be a
30 member of the Philippine Bar with proven integrity and competence, and must have been
31 involved in human rights promotion and protection activities for seven (7) years. He/she
32 shall have the rank, salary and privileges of an Assistant Secretary.
33

34 **Sec. 47. The Commission Secretary.** - The Commission Secretary, who shall head
35 the Commission Secretariat, shall provide executive services to the Commission on its
36 regular, special and executive meetings, assistance on policy review and coordination,
37 review and appraisal of the programs and other project undertakings of the Commission,
38 including technical support on the formulation of guidelines, directives, mandates and
39 executive summaries and reports. In addition, the Commission Secretary shall:
40

- 41 a. Prepare the agenda of meetings of the Commission *En Banc* and ensure
42 complete recording of proceedings;
43 b. Develop, recommend to the Commission *En Banc*, and implement an
44 approved disclosure policy for the Commission on Human Rights of the
45 Philippines;
46 c. Formulate, propose and implement a central records management system
47 for the Commission *En Banc*, and act as the custodian of all records on
48 human rights cases filed with the Commission, including records on
49 resolutions, rules, policies, regulations and other decisions, proceedings of
50 its meetings, and other pertinent records;
51 d. Design, propose and implement a central records management system
52 and provide records management orientation and assistance to the

- 1 various offices of the Commission;
- 2 e. Prepare and issue directives to concerned offices, by authority of the
- 3 Commission *En Banc*;
- 4 f. Represent the Commission *En Banc* in different technical working
- 5 committees of the Commission, as may be directed by it;
- 6 g. Respond to queries from the different central and regional offices on
- 7 matters pertaining to policies, rules and decisions, as authorized by the
- 8 Commission *En Banc*; and
- 9 h. Perform such other related functions as may be assigned by the
- 10 Commission *En Banc*.

11

12 The Commission Secretary, who must be at least a degree holder of Bachelor of

13 Laws (L.L.B.) or Juris Doctor (JD), shall have the rank, salary and privileges of a Director IV.

14

15 **Sec. 48. Duties and Functions of the Offices of the Commission.** - The different

16 offices of the Commission provided in Section 47 of this Act shall operate in accordance

17 with their respective duties and functions assigned them by the Commission subject to

18 requirements of efficiency, economy and effectiveness, and pertinent budget and civil

19 service laws, rules and regulations.

20

21 **Sec. 49. Officers of the Commission.** - All officers appointed by the Commission

22 who possess the rank or position above Division Chief level and officially performs

23 managerial and executive functions, must be Career Executive Service (CES) eligible under

24 the Career Executive Service Board or has equivalent eligibility as the Commission may

25 establish.

26

27 The Commission may propose additional qualification standards to be submitted for

28 approval to the Department of Budget and Management and for information of the Civil

29 Service Commission.

30

31 **Sec 50. Central Offices** - The Commission shall establish Central Offices to

32 effect its functional mandates of investigation, legal advocacy, visitorial, education,

33 research and compliance monitoring, and such other functions necessary for the effective

34 and efficient performance of its duties.

35

36 **Sec. 51. Regional Offices.** - The Commission shall have seventeen (17) regional

37 offices, as may be further established by law, with two regional offices for Region IV,

38 including the National Capital Region (NCR), the Caraga Administrative Region

39 (CARAGA), Cordillera Administrative Region (CAR) and the Autonomous Region of

40 Muslim Mindanao (ARMM).

41

42 Each Regional Office shall be headed by a Regional Human Rights Director with a

43 rank and salary of Director IV, who must be a member of the Philippine Bar, assisted by an

44 Assistant Regional Human Rights Director, and such other subordinate officers or

45 employees as the Commission may appoint. The Assistant Regional Human Rights

46 Director shall carry the rank and receive the same salary and privileges of a Director III.

47

48 The Commission may delegate its powers and functions or order the

49 implementation or enforcement of its orders, rulings or decisions through the heads of its

50 regional offices in accordance with its rules and regulations to be promulgated by the

51 Commission.

52

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

7
8 **Sec. 53. Sectoral Rights Offices.** - The Commission shall establish offices and
9 centers to undertake promotion and protection of the rights of vulnerable sectors, to
10 include but not be limited to women and children, as the Commission may deem
11 appropriate.

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

21
22 The Joint Congressional Oversight Committee shall have the power to monitor and
23 evaluate the implementation of this Act.

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

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

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

49
50 **Sec. 58. Financial Report.** - The Commission shall make available to the public its
51 annual financial statements, including but not limited to, expenditures and sources of
52 funds.

1
2 **Sec. 59. Transitory Provision.** - Nothing in this Act shall prejudice the positions,
3 emoluments, security of tenure, qualifications, privileges and benefits of the incumbent
4 Chairperson and Commissioners, officers and employees of the Commission upon its
5 effectivity. However, officials and employees of the Commission, in aid of its
6 reorganization upon the effectivity of this Act, may avail of an early retirement program as
7 may be provided for by the Commission.

8
9 **Sec. 60. Separability Clause.** - If any provision of this Act shall be held
10 unconstitutional, other provisions not affected thereby shall remain valid and binding.

11
12 **Sec. 61. Repealing Clause.** - All laws, republic acts, presidential decrees, letters of
13 instructions, executive orders, rules and regulations insofar as they are inconsistent with
14 this Act are hereby repealed or amended, as the case may be.

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

18
19
20 *Approved,*