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SENATE

S. No. 179

RECEIVED BY:



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 Philippines is a State Party to eight (8) human rights treaties of the United Nations, and has accepted two (2) individual complaints procedure, and two (2) inquiry mechanisms. We also have 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”.

We have the Commission on Human Rights (CHR), the national human rights institution of the Philippines, created under the 1987 Constitution. It is the agent which 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, which 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 (HRDs) 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 Philippines' UPR Submission, eleven (11) recommendations referred to the situation of human rights defenders.¹ 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.²

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.³ What is even disturbing is that President Rodrigo Duterte himself publicly declared that he will order the shooting of human rights workers.⁴ This pronouncement from no less than the Chief Executive clearly places human rights defenders under serious threat and encourages culture of impunity. Congressman Edcel Lagman of the House of Representatives revealed that 134 human rights defenders has been killed since President Duterte assumed office⁵.

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.⁶ Among those killed were the spouses Ramon Dagaas Pesadilla and his wife Leonila Tapdasan Pesadilla, both members of the Compostela Farmers' Association, who opposed mining projects in that area.⁷

In the November 2017 report of human rights organization Karapatan, it was reported that there were already 17 women HRDs who were killed under the Duterte administration. Enforced disappearance, death, harassment, suppression of

1 United Nations Human Rights Council (8 May 2017) "*Universal Periodic Review - Philippines*". Retrieved from: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/PHindex.aspx>

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.

4 Ranada, P. (16 August 2017) "Duterte warns he'll order shooting of human rights advocates". Retrieved from: <https://www.rappler.com/nation/178968-duterte-probe-shoot-human-rights-advocates>

5 Gonzales, C. (5 June 2019) "134 human rights defenders killed since Duterte assumed office —Lagman" Retrieved from: https://newsinfo.inquirer.net/1127091/134-human-rights-defenders-killed-since-duterte-assumed-office-lagman?utm_medium=Social&utm_source=Facebook#Echobox=1559720799

6 Frontline Defenders (10 March 2017) Philippines: Spate of killings of human rights defenders. Retrieved from: <https://www.frontlinedefenders.org/en/statement-report/philippines-spate-killings-human-rights-defenders>

7 United Nations Human Rights Council (31 July 2017) "*Philippines needs urgent action to reverse spiralling rights violations, UN experts say*". Retrieved from: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21926&LangID=E>.

fundamental human rights and freedoms are continuing challenges to individuals and the organizations carrying out human right advocacies.

This has not escaped notice from the international community. On July 2017, three (3) Special Rapporteurs asked the Philippine government to prevent incitement to violence, and investigate extrajudicial killings of human rights defenders.⁸

The sorry state of human rights advocacy in the Philippines is made worse by the actuations of the national leadership in their public efforts to diminish the role and influence of the CHR in national conversations on key policies.

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. 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,"⁹ and the *Model National Law on the Recognition and Protection of Human Rights Defenders*,¹⁰ this version seeks to ascertain that the dynamic community of human rights workers in the Philippines remains free and protected and that the government policies will both support their work and ensure accountability for violations of their rights and freedoms.

With House Bill No. 9199 that was successfully passed and approved on third and final reading as the counterpart version of our bill in the House of Representatives during the 17th Congress, I am hopeful that the Senate will give equal attention and importance to consider and pass this measure during this 18th Congress.


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⁸ United Nations Human Rights Council (31 July 2017) "*Philippines needs urgent action to reverse spiralling rights violations, UN experts say*". Retrieved from: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21926&LangID=E>.


⁹ Adopted as Resolution No. 53/144 by the UN General Assembly on 9 December 1998.

¹⁰ International Service for Human Rights (15 June 2016) "Model Law for the Recognition and Protection of Human Rights Defenders". Retrieved from: https://www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf

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**AN ACT
TO PROMOTE AND PROTECT
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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled.

CHAPTER I

PRELIMINARY PROVISIONS

1 Section 1. *Short Title.* – This Act shall be known as the “*Human Rights*
2 *Defenders Protection Act.*”

3 *Sec. 2. Declaration of Policy.* – It is hereby declared the policy of the State:

- 4 a. To value the dignity of every human person and to recognize, respect,
5 protect, promote and fulfill the rights and fundamental freedoms of persons,
6 individually or in association with others, regardless of race, ethnicity, color,
7 sexual orientation and gender identity, language, religion, political or other
8 opinion, national or social origin, property, birth or other status;
- 9 b. To give highest priority to the implementation of legislative enactments,
10 executive issuances and judicial decisions that guarantee respect,
11 protection, promotion and fulfillment of human rights and fundamental
12 freedoms;

- 1 c. To provide access to legal remedies and reparative measures including
2 monetary compensation and psychosocial accompaniment and
3 rehabilitation to human rights violations victims;
- 4 d. To fully and strictly adhere to the principles and standards on human rights
5 and fundamental freedoms set by the Constitution and international human
6 rights instruments including the:
- 7 1. Universal Declaration of Human Rights (UDHR);
 - 8 2. Declaration on the Right and Responsibility of Individuals,
9 Groups and Organs of Society to Promote and Protect
10 Universally Recognized Human Rights and Fundamental
11 Freedoms (Declaration on Human Rights Defenders);
 - 12 3. International Covenant on Civil and Political Rights (ICCPR);;
 - 13 4. International Covenant on Economic, Social and Cultural
14 Rights (ICESCR);
 - 15 5. Convention against Torture and other Cruel, Inhuman or
16 Degrading Treatment or Punishment (CAT);
 - 17 6. Convention on the Elimination of all Forms of Discrimination
18 against Women (CEDAW);
 - 19 7. Convention on the Rights of the Child (CRC);
 - 20 8. International Convention on the Protection of the Rights of All
21 Migrant Workers and Members of Their Families (CMW);
 - 22 9. Convention on the Rights of Persons With Disabilities
23 (CRPD);
 - 24 10. International Convention for the Protection of All Persons
25 from Enforced Disappearance (CPED);
 - 26 11. Declaration on the Rights of Indigenous Peoples; and
 - 27 12. Other universal treaties, comments and resolutions.

28 *Sec. 3. Construction in Favor of Human Rights Defenders.* - All provisions of
29 this Act shall be construed to achieve its objectives. All doubts in the implementation
30 and interpretation of these provisions shall be resolved in favor of the human rights
31 defender.

32 *Sec. 4. Definition of Terms.* - The following terms are hereby defined as follows:

- 1 a) *Human Rights and Fundamental Freedoms*- refer to rights or entitlements
2 inherent in all human persons and freedoms recognized in or declared by
3 international and regional human rights instruments and customary
4 international law and by national laws that are consistent with the said
5 instruments and law;
- 6 b. *Human Rights Defender*- refers to any person who, individually or in
7 association with others, acts or seeks to act to protect, promote or strive for
8 the protection and realization of human rights and fundamental freedoms
9 and welfare of the people, at the local, national, regional, and international
10 levels;
- 11 c. *Human Rights Organization*- refers to a group, organization or association
12 in the local, national, regional or international level, whether formal or
13 informal, that strive for the protection of human rights and fundamental
14 freedoms and welfare of the people;
- 15 d. *Government Agency*- refers to any department, bureau, office or unit of the
16 National Government, or any of its branches and instrumentalities, or any
17 political subdivision, as well as any government-owned or controlled
18 corporation, including its subsidiaries, or other self-governing branch,
19 commission or council of the Government, to include but not limited to any
20 grouping of the Armed Forces of the Philippines, Philippine National Police
21 or other state security forces, including military or police force multipliers;
- 22 e. *Superior Officer*- refers to the next government official who has supervisory
23 powers or control over the head of the government agency to whom the
24 subject head reports and shall include but not limited to the President,
25 Department Secretaries, Chief of Staff of the Armed Forces of the
26 Philippines, the Commanding General or Rear Admirals of any service in the
27 Armed Forces of the Philippines or the Director General of the Philippine
28 National Police;
- 29 f. *Intergovernmental Organization*- refers to an organization established
30 through a treaty or other treaties and mechanisms in pursuit of common
31 issues, concerns and interests;

- 1 g. *Public Authority*- refers to any person or body performing a function of a
2 public nature that is conferred or imposed by or pursuant to law, by popular
3 election or appointment or delegated, contracted by a governmental
4 authority or agency;
- 5 h. *Intimidation or Reprisal* - refers to any form of violence, threat, retaliation,
6 *de facto* or *de jure* adverse discrimination, pressure, judicial harassment, or
7 any other arbitrary or abusive action or threat related to a person's status,
8 work or activity as a human rights defender, including proposed, attempted,
9 or imputed work or activity directed at the: (i) human rights defender; (ii)
10 the human rights defender's associate(s); (iii) a legal or other representative
11 of the human rights defender appointed to conduct his or her affairs or to
12 otherwise act on his or her behalf; (iv) a family member or relative of the
13 human rights defender up to fourth degree of consanguinity or affinity, and
14 includes common law relations; (v) a group, association, organization,
15 community or network, whether formal or informal, with which the human
16 rights defender is associated; (vi) or the home, property or possessions of
17 the human rights defender or any of the other persons or entities in items
18 (ii) to (vi).

20 CHAPTER II

21 RIGHTS AND FREEDOMS OF HUMAN RIGHTS DEFENDERS

22 Sec. 5. *Right to promote and protect human rights and fundamental freedoms.*

23 – Everyone has the right, individually and in association with others, to promote and
24 to strive for the protection and realization of human rights and fundamental freedoms
25 at the local, national, regional and international levels.

26 Sec. 6. *Right to form groups, associations and organizations.* – Everyone,
27 individually or in association with others, has the right to form, join, or associate with
28 and participate in local, national, regional, or international organizations, whether
29 formal or informal and whether registered or unregistered, for the purpose of
30 promoting and striving for the protection and realization of human rights and
31 fundamental freedoms.

1 Sec. 7. *Right to solicit, receive and utilize resources.* – (1) Everyone,
2 individually or in association with others, has the right to solicit, receive and utilize
3 resources, from domestic and international organizations, including governmental,
4 intergovernmental, philanthropic and private sources, for the express purpose of
5 promoting and striving for the protection and realization of human rights and
6 fundamental freedoms.

7 (2) In pursuance of the right in subsection (1), subject to the provisions of
8 existing laws and consistent with the provisions of this Act, freezing, sequestration or
9 seizure by any bank or financial institution of the fund solicited and released by the
10 source is hereby prohibited.

11 Sec. 8. *Right to seek, receive and disseminate information.* – (1) Everyone,
12 individually or in association with others, has the right:

13 (a) to know, seek, access, obtain, receive and hold information about all
14 human rights and fundamental freedoms, including information
15 regarding how those rights and freedoms are given effect in our
16 legislative, judicial and administrative systems;

17 (b) to know, seek, access, obtain, receive and hold such information from
18 business enterprises and other private actors as may be necessary for
19 exercising or protecting, or assisting to exercise or protect human rights
20 or fundamental freedoms;

21 (c) to freely publish, impart or disseminate to others views, information
22 and knowledge on all human rights and fundamental freedoms; and

23 (d) to study, discuss, form and hold opinions on the observance, both in
24 law and in practice, of all human rights and fundamental freedoms and,
25 through these and other means, to draw public attention to those
26 matters.

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

29 Sec. 9. *Right to develop and advocate for human rights ideas.* – Everyone,
30 individually or in association with others, has the right to develop and discuss new

1 ideas and principles which relate to human rights and fundamental freedoms, and to
2 advocate for their acceptance.

3 Sec. 10. *Right to communicate with non-governmental, governmental and*
4 *intergovernmental organizations.* – Everyone, individually or in association with
5 others, has the right to freely communicate with non-governmental, governmental and
6 intergovernmental organizations, including subsidiary bodies, mechanisms or experts
7 with a mandate relevant to human rights and fundamental freedoms, as well as with
8 diplomatic representations.

9 Sec. 11. *Right against vilification.* – A person, individually and in association
10 with others, has the right against any act of false labelling or name calling, or of
11 malicious and fabricated accusations against him or her of any offense, or from any
12 other kind of vilification.

13 Sec. 12. *Right to access, communicate with and cooperate with international*
14 *and regional human rights bodies and mechanisms.* – In accordance with applicable
15 international instruments and procedures, everyone, individually or in association
16 with others, has the right to unhindered access and to communicate and cooperate
17 with international and regional human rights bodies and mechanisms, including
18 treaty bodies and special procedures or special rapporteurs.

19 Sec. 13. *Right to participate in public affairs.* – (1) Everyone, individually or in
20 association with others, has the right to participate effectively in the conduct of public
21 affairs, including participation on a non-discriminatory basis in the government
22 regarding human rights and fundamental freedoms. (2) The right referred to in
23 subsection (1) includes the right:

- 24 a. To submit to any public authority, or agency or organization
25 concerned with public affairs, criticism on or proposals for
26 improving its functioning with respect to human rights and
27 fundamental freedoms;
- 28 b. To make recommendations to any public authority regarding
29 legislative or regulatory changes relating to human rights and
30 fundamental freedoms;

- 1 c. To draw to the attention of any public authority any aspect of its
2 work that may hinder or impede the promotion, protection and
3 realization of human rights and fundamental freedoms;
4 d. To call the attention of any public authority to any action or
5 omission by any actor, private or public, that may involve or
6 contribute to a violation of human rights or fundamental
7 freedoms; and
8 e. To freely publish, impart or disseminate to others any
9 information submitted to any public authority in the exercise of
10 the rights set out in this Chapter.

11 Sec. 14. *Right to peaceful assembly.* – (1) Everyone, individually or in
12 association with others, has the right to meet or assemble peacefully as well as to
13 participate in peaceful activities concerning human rights and fundamental freedoms,
14 free from interference that is arbitrary or unlawful by public authorities and private
15 actors, at the local, national, regional or international level.

16 (2) The right referred to in subsection (1) includes the right to plan, organize,
17 participate in and disseminate information regarding peaceful activities concerning
18 human rights and fundamental freedoms, including demonstrations, protests,
19 seminars and meetings, whether conducted in a public or private place.

20 Sec. 15. *Right to represent and advocate.* – (1) Everyone, individually and in
21 association with others, has the right to assist, represent or act on behalf of another
22 person, group, association, organization or institution in relation to the promotion,
23 protection and exercise of fundamental rights and freedoms, including at the local,
24 national, regional and international levels.

25 (2) The right referred to in subsection (1) includes the right:

- 26 a. To complain about the policies and actions of public authorities with
27 regard to violations of human rights and fundamental freedoms, by
28 petition or other appropriate means, to domestic judicial, administrative
29 or legislative authorities or any other competent authority, e.g.
30 Commission on Human Rights (CHR), the Ombudsman;

- 1 b. To offer and provide professionally qualified legal counsel, paralegal, or
2 other relevant advice and assistance in defending human rights and
3 fundamental freedoms;
4 c. To attend public hearings, proceedings and trials so as to form an
5 opinion on their compliance with national law and human rights and
6 fundamental freedoms; and
7 d. To submit communications and information of the type referred to in
8 Section 10.

9 *Sec. 16. Right to freedom of movement.* – (1) A person who is lawfully within
10 the territory, or subject to the jurisdiction of the Philippines shall, within its territory
11 or place of jurisdiction, have the right to liberty of movement and freedom to choose
12 his or her residence and shall have the right to carry out lawful activities in the entire
13 territory or place of jurisdiction.

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

17 (3) No one shall be deprived of the right to enter or leave the country on account
18 of one's status, activities or work as a human rights defender.

19 *Sec. 17. Right to privacy.* –(1) Everyone, individually or in association with
20 others, has the right to privacy.

21 (2) The right referred to in subsection (1) includes the right of a human rights
22 defender to protect one's privacy through lawful means, including encryption of
23 personal data, and be free from arbitrary and unlawful intrusion and interference into
24 one's personal activities including those concerning one's family, livelihood and place
25 of work, one's correspondences and possessions, including all digital data pertaining
26 thereto.

27 (3) "Intrusion and interference" under subsection (2) includes any form of
28 surveillance, recording, within the purview of Republic Act No. 4200, otherwise
29 known as "An Act to Prohibit and Penalize Wire Tapping and Other Related Violations
30 of the Privacy of Communication, and for Other Purposes," and other related

1 legislation, search and seizure in relation to the legitimate activity or work as a human
2 rights defender.

3 (4) The right to privacy extends to groups, organizations or associations.

4 Sec. 18. *Freedom from intimidation or reprisal.* – No person shall be subjected,
5 individually or in association with others, to any form of intimidation or reprisal on
6 the grounds of or in relation to one’s status, activities or work as a human rights
7 defender.

8 Sec. 19. *Right to establish a sanctuary for human rights victims and/or their*
9 *families.* – Any person, individually or in association with others, who has been
10 subjected to any form of intimidation or reprisal, has the right to establish sanctuaries
11 for any human rights violation victim and/or their immediate families. Said sanctuary
12 shall be considered established if that person gives confidential notice to the Human
13 Rights Defenders Protection Committee created under this Act indicating that said
14 place, building or area has been constituted as a sanctuary.

15 Sec. 20. *Freedom from defamation and stigmatization.* – No person shall be
16 subject to any form of defamation, stigmatization, or other harassment, whether
17 offline or online, and whether by public authorities or private actors, in connection
18 with one’s status, activities or work as a human rights defender.

19 Sec. 21. *Right to exercise cultural rights and to the development of personality.*
20 – (1) Consistent with Article 18 (1) of the United Nations Declaration on Human Rights
21 Defenders, everyone, individually or in association with others, has the right to the
22 unhindered exercise of the cultural rights in one’s activities and work as a human
23 rights defender and to the free and full development of one’s personality.

24 (2) The right referred to in Subsection (1) includes the right to challenge and
25 change traditional customs and practices that violate human rights and fundamental
26 freedoms.

27 Sec. 22. *Right to effective remedy and full reparation.* – (1) Everyone,
28 individually or in association with others, has the right to an effective remedy and full
29 reparation, both monetary and non-monetary, in the event of a violation of the rights
30 in this Chapter II or a breach of obligations under Chapter I of this Act.

1 (2) A person whose rights have been violated or who has been adversely affected
2 by a breach of obligations has the right to obtain such effective remedy and full
3 reparation from the appropriate government agency or court of competent
4 jurisdiction.

5 (3) A complaint with the competent court or tribunal relating to the violation of
6 rights under a breach of obligations under Chapter III of this Act may be filed by the
7 following:

- 8 a. a human rights defender;
- 9 b. an association of the human rights defender;
- 10 c. a legal or other representative of the human rights defender appointed
11 to conduct the affairs of or to otherwise act on behalf of the human rights
12 defender;
- 13 d. a family member of the human rights defender, within the fourth degree
14 of consanguinity or affinity;
- 15 e. a group, association or organization with which the human rights
16 defender is associated;
- 17 f. any person acting in the public interest and consistently in pursuit of the
18 purposes of this Act; or
- 19 g. the Human Rights Defenders' Protection Committee.

20 However, the consent of the victim must first be obtained as much as possible.
21 In the absence of such consent, the human rights organization or association may
22 proceed with filing the complaint or petition unless the lack or absence of consent is
23 based on the threat to the life, liberty or security of the victim or his or her family.

24 *Sec. 23. Limitations on the rights of human rights defenders.* – In exercising
25 the rights under this Chapter, a human rights defender, individually or in association
26 with others, shall be subject only to limitations that are prescribed by law, in
27 accordance with international human rights obligations and standards, are
28 reasonable, necessary and proportionate, and are solely for the purpose of securing
29 due recognition of and respect for the human rights and fundamental freedoms of
30 others and meeting the reasonable requirements of public order and general welfare
31 in a democratic society.

1 **CHAPTER III**

2 **OBLIGATIONS OF THE STATE AND PUBLIC AUTHORITIES**

3 Sec. 24. *Obligation to respect, promote, protect and fulfill the rights of human*
4 *rights defenders.* – Public authorities shall take all necessary measures to ensure: (1)
5 that the human rights and fundamental freedoms in Chapter II of this Act are
6 effectively guaranteed and protected; (2) that all laws, policies and programs of
7 government are consistent with the rights in Chapter II of this Act, and (3) that human
8 rights defenders are able to undertake their activities and work in a safe and enabling
9 environment free from restriction.

10 Sec. 25. *Obligation to facilitate the activities and work of human rights*
11 *defenders.* – Public authorities shall take all necessary measures in accordance with
12 law to facilitate and protect the exercise of the rights in Chapter II of this Act, which
13 measures include the obligation to:

- 14 a. permit and facilitate access to places where persons are deprived of
15 liberty;
- 16 b. permit and facilitate access to places and to information required by
17 human rights defenders to exercise their rights under Chapter I of this
18 Act;
- 19 c. provide information about violations of human rights or fundamental
20 freedoms that may have been committed within the territory or subject
21 to the jurisdiction, including the power or effective control of the State;
- 22 d. develop and implement policies and measures to promote, support and
23 enhance the capacity of human rights defenders to protect and promote
24 human rights and fundamental freedoms; and
- 25 e. publicly recognize the role, function, and activities and work of human
26 rights defenders as legitimate and important.

27 Sec. 26. *Obligation to provide free access to materials relating to human rights*
28 *and fundamental freedoms.* – Public authorities shall make freely available and
29 accessible both offline and online:

- 30 a. The Constitution, national laws and regulations;

- 1 b. International human rights instruments;
- 2 c. Research, studies, reports, data, archives and other information and
- 3 materials within the possession of public authorities that relate to
- 4 human rights and fundamental freedoms;
- 5 d. Government reports and information submitted to international
- 6 human rights bodies and mechanisms;
- 7 e. Reports and communications of international human rights bodies and
- 8 mechanisms involving the country's compliance with international
- 9 treaty obligations;
- 10 f. Documents and information related to the decisions or activities of the
- 11 CHR and other national authorities with competence in the field of
- 12 human rights and fundamental freedoms; and
- 13 g. All such other information as may be necessary to secure or enable the
- 14 exercise of any human right or fundamental freedom under Chapter II
- 15 or access to remedy for violation of any such right.

16 *Sec. 27. Obligation not to disclose confidential sources.* – (1) Public authorities
17 shall not disclose or require disclosure of the identity of sources used by human rights
18 defenders.

19 (2) Notwithstanding Subsection (1), public authorities may disclose the identity
20 of sources used by human rights defenders if both the relevant source and the
21 concerned human rights defender give informed consent in writing to such disclosure
22 or if so required by an independent and impartial tribunal in accordance with
23 international standards.

24 *Sec. 28. Obligation to prevent and to ensure protection against intimidation*
25 *or reprisal.* – Public authorities shall take all necessary measures to ensure the
26 prevention of, and protection from any intimidation or reprisal by any other public or
27 private actor. These shall include protection measures established under pertinent
28 laws.

29 *Sec. 29. Obligation to penalize intimidation or reprisal.* – Any public authority
30 or private actor who is found guilty of committing intimidation or reprisal against a
31 person on the grounds of or in connection with his or her status, work, activities as a

1 human rights defender, shall be subject to penalties as provided for the appropriate
2 crime or crimes punishable under the Revised Penal Code, in addition to
3 administrative and/or civil sanctions which take into account the gravity of the offense
4 upon the discretion of the court or competent authority.

5 *Sec. 30. Obligation to refrain from derogatory and unfounded labelling.* – (1)
6 Under no circumstance shall public authorities engage in false, unfounded and
7 derogatory labeling of human rights defenders, which shall include but not be limited
8 to, identifying them as “red,” “communist,” “terrorist” or “enemies of the state,”
9 subject to laws governing proscription.

10 (2) Public authorities shall immediately expunge or rectify such labeling as part
11 of the non-monetary reparation to victims referred to in Section 22 (2) of Chapter I
12 and Section 34 of Chapter II of this Act.

13 *Sec. 31. Obligation to ensure protection against arbitrary or unlawful*
14 *intrusion and interference.* – (1) Public authorities shall take extraordinary diligence
15 to ensure the protection of human rights defenders from arbitrary or unlawful
16 intrusion and interference into one’s personal activities including those concerning
17 one’s family, livelihood and place of work, one’s correspondences and possessions,
18 including all digital data pertaining thereto.

19 (2) Intrusion and interference in subsection (1) include any form of
20 surveillance, recording, search and seizure in relation to any person’s legitimate
21 activity or work as a human rights defender without his or her consent.

22 *Sec. 32. Obligation not to participate in violating human rights and*
23 *fundamental freedoms.* – All public authorities are mandated not to participate, by
24 acts of commission or omission, in violating human rights and fundamental freedoms.
25 Subordinate employees have the right and duty to refuse any order from their
26 superiors to participate in acts that contravene their duty to protect, uphold and
27 promote human rights and fundamental freedoms, and shall not be subject to any
28 administrative sanction as a consequence of such refusal.

29 *Sec. 33. Obligation to conduct investigation.* – Whenever there is reasonable
30 ground to believe that a human rights defender has disappeared, been killed, tortured,

1 ill-treated, arbitrarily detained, threatened or subject to a violation of any of the rights
2 in Chapter II of this Act, whether by a public authority or private actor, the State must
3 ensure that a prompt, thorough, effective, independent and impartial investigation is
4 conducted with extraordinary diligence and is prosecuted under existing applicable
5 laws, including Republic Act No. 9745, “the Anti-Torture Act”; Republic Act No.
6 10353, the “Anti-Enforced or Involuntary Disappearance Act”; and Republic Act No.
7 7438, “An Act Defining Certain Rights of Person Arrested, Detained or Under
8 Custodial Investigation as well as the Duties of the Arresting, Detaining and
9 Investigating Officers, and Providing Penalties for Violations Thereof”. Presumption
10 of regularity in the performance of duty by the offending public authority shall not be
11 invoked.

12 *Sec. 34. Obligation to ensure effective remedy and full reparation.* – Public
13 authorities shall take all necessary measures to ensure that an effective remedy and
14 full reparation are available and provided for violations of the rights in Chapter II and
15 for breach of the obligations in Chapter III of this Act.

16 *Sec. 35. Obligation to enforce and institutionalize command responsibility.* –
17 Government agencies shall enforce and institutionalize command responsibility and
18 impose sanctions against errant superior in both military and civilian agencies as
19 provided under existing laws and executive issuances.

20 *Sec. 36. Obligation to adopt human rights-based governance.* – Public
21 authorities shall adopt the human rights-based approach to governance and
22 development, including counter-insurgency and anti-terrorism programs and policies.

23 *Sec. 37. Obligation to strengthen protection program.* – The CHR shall
24 strengthen its protection program and provide a safe place of refuge or sanctuary for
25 high risk human rights defenders and or their immediate families, more particularly
26 those who have filed formal complaints against high-ranking public authorities.

27 *Sec. 38. Obligation to respect the Principle of Non-refoulement.* – No person
28 shall be forcibly returned, expelled or extradited to another State where there are
29 substantial grounds to believe that the human rights and fundamental freedoms of the
30 person are in danger of being violated.

1 Sec. 39. *Obligation to promote and facilitate human rights education.* – All
2 government agencies shall promote, facilitate and adequately provide resources on
3 teaching, training and education about human rights and fundamental freedoms to all
4 persons within the country’s jurisdiction. Teaching, training and education programs
5 shall include information about this Act and the important and legitimate work of
6 human rights defenders.

7 The Department of Education (DepEd) and the Commission on Higher
8 Education (CHED) shall require human rights education as an obligatory curriculum
9 in all academic institutions, colleges and universities, public or private.

10 Sec. 40. *Diligence Required.* – Any complaint or report for violation of human
11 rights and fundamental freedoms shall be dealt with and acted upon with
12 extraordinary diligence by concerned government personnel. Failure to act within
13 three (3) days from reporting any violation of this Act shall hold the government
14 personnel criminally, civilly and administratively liable.

15 **CHAPTER IV**

16 **THE HUMAN RIGHTS DEFENDERS PROTECTION COMMITTEE**

17 Sec. 41. *Creation and Composition of the Human Rights Defenders Protection*
18 *Committee.* – (1) There shall be an independent collegial body to be known as the
19 Human Rights Defenders Protection Committee, herein referred to as the Committee,
20 shall be composed of one (1) Chairperson and six (6) Members. The Chairperson shall
21 be selected by the Commissioners of the Commission on Human Rights from among
22 themselves in an *en banc* session. The six (6) members shall be jointly nominated by
23 two (2) representatives each of the Philippine Alliance of Human Rights Advocates
24 (PAHRA), Karapatan Alliance for the Advancement of People’s Rights (Karapatan),
25 Free Legal Assistance Group (FLAG), and the National Union of People’s Lawyers
26 (NUPL), as well as other similar groups advocating for protection of human rights,
27 who may later be accredited by the CHR, in a meeting called for this purpose, without
28 prejudice to the nominations of other human rights organizations who have proven
29 track records of probity and independence.

1 (2) The aforementioned nominees shall be appointed by the CHR in an *en banc*
2 session.

3 (3) The composition of the Committee shall have a balanced gender
4 representation on the basis of the principles of equality and non-discrimination and
5 adequate representation of ethnic, cultural and minority groups.

6 (4) The Committee shall be attached to the CHR for administrative and
7 budgetary purposes only.

8 (5) The Committee shall organize itself within thirty (30) days from the
9 completion of the selection process of the Chairperson and Members of the Committee
10 as herein provided in Subsection (1), and shall thereafter organize its Secretariat.

11 Sec. 42. *Qualifications of the Committee Members.* – The Members of the
12 Committee shall possess the following qualifications:

- 13 1. High moral character, recognized probity, competence, and integrity;
- 14 2. Known independence in making decisions and taking stances on issues
15 and concerns pertaining to the protection and promotion of human
16 rights and fundamental freedoms;
- 17 3. Must have a deep, thorough and enlightened knowledge and
18 understanding of human rights and fundamental freedoms and the role,
19 work, and protection needs of human rights defenders; and
- 20 4. At least two (2) members, including the Chairperson must be members
21 of the Philippine Bar, who have been engaged in the practice of law for
22 at least seven (7) years.

23 Sec. 43. *Term of Office.* – The Chairperson and Members of the Committee shall
24 be designated once for a term of five (5) years only. Of those first designated, three (3)
25 Members shall serve for five (5) years, two (2) Members for four (4) years, and the last
26 two (2) Members shall hold office for three (3) years. Succeeding Chairpersons and
27 Members shall be designated for a term of not more than five (5) years. Designation to
28 any vacancy shall be only for the unexpired portion of the term of the predecessor.

29 Sec. 44. *Functions of the Committee.* – The Committee shall exercise the
30 following functions:

- 1 a. Protect human rights defenders from intimidation and reprisals;
- 2 b. Ensure accountability for acts of intimidation and reprisal;
- 3 c. Facilitate and promote inter-agency and inter-department coordination
- 4 to prevent, protect from, investigate, and ensure accountability for acts
- 5 of intimidation or reprisal;
- 6 d. Investigate on its own or on complaint by any party all forms of
- 7 violations of human rights and fundamental freedoms of human rights
- 8 defenders;
- 9 e. Publicly acknowledge and promote the legitimate and important role,
- 10 activities and work of human rights defenders;
- 11 f. Consult regularly and work closely with human rights defenders in the
- 12 implementation of this Act;
- 13 g. Monitor existing and proposed legislation, assess their impact or
- 14 potential impact on the status, activities and work of human rights
- 15 defenders, and propose amendments and/or remedial measures or block
- 16 their passage if the measures shall to a large extent adversely affect the
- 17 human rights defenders and their work and activities;
- 18 h. Prepare and submit reports and communications on the situation of
- 19 human rights defenders to relevant international and regional human
- 20 rights bodies and mechanisms;
- 21 i. Monitor and carry out periodic reviews of the implementation of this Act,
- 22 the first of which shall be conducted one (1) year after its effectivity.
- 23 j. Submit annual reports on the situation of human rights defenders and
- 24 the status of implementation of this Act to the Office of the President of
- 25 the Senate and the Office of the Speaker of the House of Representatives;
- 26 k. Make recommendations to relevant authorities on the appropriate
- 27 measures to be taken to promote a safe and enabling environment for
- 28 human rights defenders, mitigate and prevent the risks they face, and
- 29 address the root causes of violations against human rights defenders;
- 30 and
- 31 l. Perform other relevant functions as may be necessary to attain the
- 32 objectives of this Act.

1 Sec. 45. *Training and Vetting*. – All persons involved in the work and activities
2 of the Committee, including security and law enforcement officials, shall be
3 appropriately vetted and shall receive training on human rights and fundamental
4 freedoms, the situation and protection needs of human rights defenders prior to the
5 commencement of the involvement, and continuing training designed to ensure full
6 and effective implementation of this Act.

7

8

CHAPTER V

9

PENALTIES

10 Sec. 46. *Penalty for Violations of Sections 5 to 23 of this Act*. – The penalty of
11 *prision mayor* in its maximum period to *reclusion temporal* in its medium period
12 without privilege of parole shall be imposed upon any government personnel or the
13 whole complement of a government unit, the paramilitary personnel or the whole
14 complement of the paramilitary unit, the government asset (and/or the military
15 affiliate) who violates any of the rights of a human rights defender defined in sections
16 5 to 23 of this Act.

17 Sec. 47. *Penalty for Destroying, Altering, or Falsifying Records and*
18 *Documents*. – The penalty of *prision mayor* in its minimum to its medium period or
19 a fine of One hundred thousand pesos (Php100,000.00) or both, at the discretion of
20 the court, shall be imposed upon any government personnel or the whole complement
21 of a government unit, the paramilitary personnel or the whole complement of the
22 paramilitary unit, the government asset (and/or the military affiliate) who impede,
23 obstruct, or influence any preliminary investigation, administrative investigation
24 and/or petition by altering, destroying, mutilating, concealing, covering up, falsifying,
25 or making any false entries in any record, document, or specimen whereof, relative to
26 any matter involving any human rights defenders, defenders or organizations or
27 activities.

28 Sec. 48. *Penalty for any other Violations of this Act*. – The penalty of *prision*
29 *mayor* in its minimum period or a fine of One Hundred Thousand Pesos (Php
30 100,000.00) or both, at the discretion of the court, shall be imposed upon any
31 individual who violates any other provisions of this Act.

1 *Sec. 49. Violations of this Act as aggravating circumstances.* – Any violation
2 of any provision of this Act committed during the commission of a crime defined in
3 any penal laws shall be considered as an aggravating circumstance in the imposition
4 of the penalty in said crime.

5 *Sec. 50. Non-applicability of the Probation Law.* – Any violation of this Act
6 which shall constitute the main crime or as an aggravating circumstance shall not
7 entitle the offender or the accused to the privileges of probation under the Probation
8 Law.

9 **CHAPTER VI**

10 **FINAL PROVISIONS**

11 *Sec. 51. Implementing Rules and Regulations.* – (1) Within sixty (60) days from
12 the effectivity of this Act, the CHR, Member of the House Committee on Human
13 Rights, Member of the Senate Committee on Justice and Human Rights, in
14 consultation with PAHRA, Karapatan, FLAG, and NUPL, and other human rights
15 organizations and individual human rights defenders of known probity, shall jointly
16 promulgate the Implementing Rules and Regulations (IRR) for the effective
17 implementation of this Act and shall ensure the full dissemination of the Act and the
18 IRR to the public.

19 (2) In formulating the corresponding rules and regulations and in
20 implementing this Act, the following guiding principles shall be strictly adhered to:

- 21 a. Adherence to the rule of law is the ultimate safeguard against violations
22 of human rights and fundamental freedoms.
- 23 b. Empowerment of human rights defenders is enhanced by their active
24 participation in formulating, implementing, and evaluating protection
25 programs for human rights defenders.
- 26 c. Periodic assessments of risks, vulnerability or conflict help identify
27 protection needs of human rights defenders giving particular attention
28 to those of women and others' who are at increased risks.

- 1 d. Keeping and maintaining confidentiality of the personal data collected
2 on human rights defenders and those referred to in Sec. 22 (3) herein
3 upholds their right to privacy and security of person.
- 4 e. Continuous training of the members of the Committee Secretariat on
5 human rights and fundamental freedoms, the root causes of their
6 violations, and the work and protection needs of human rights defenders
7 help sustain their commitment to the objectives of the Act.
- 8 f. Independent and effective operation of the Committee and its
9 Secretariat requires sustained adequate resources.
- 10 g. Transparent, aboveboard, and equitable resource allocation and
11 disbursement help ensure maximum protection to human rights
12 defenders and their constituencies particularly those of higher risks and
13 vulnerabilities.
- 14 h. Risks and challenges faced by women and lesbians, gays, bisexuals and
15 transgenders (LGBT) human rights defenders and those working on
16 women's and LGBT rights and gender issues demand special attention.
- 17 i. Generating support from a strong, independent, and effective national
18 human rights institution and from the general public enhances and
19 contributes to the effective work of human rights defenders.
- 20 j. Open access to the United Nations and international human rights
21 bodies contributes to a safe and enabling environment for human rights
22 defenders to work in.

23 *Sec. 52. Suppletory Application.* – The applicable provisions of the Revised
24 Penal Code shall have suppletory application insofar as they are consistent with the
25 provisions of this Act.

26 *Sec. 53. Appropriations.* – The amounts necessary for the implementation of
27 this Act shall be included in the annual General Appropriations Act.

28 *Sec. 54. Separability Cause.* – If for any reason any part or provision of this Act
29 is declared unconstitutional or invalid, the other parts or provisions hereof which are
30 not affected thereby shall remain and continue to be in full force and effect.

1 Sec. 55. *Repealing Clause.* – All laws, decrees, executive orders, rules and
2 regulations and other issuances or parts thereof inconsistent with the provisions of
3 this Act are hereby repealed, amended or modified accordingly.

4 Sec. 56. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its
5 publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved.