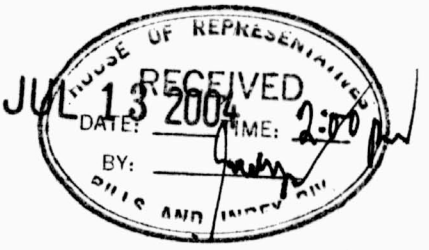
Republic of the Philippines
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



THIRTEENTH CONGRESS
First Regular Session

HB NO. 1364

Introduced by **Rep. Roseller L. Barinaga**

EXPLANATORY NOTE

In broad perspective, the 1987 Philippine Constitution mandates that the State values the dignity of every human person and guarantees full respect for human rights. Specific provision, however, stressed among others the significance of empowering the Filipino youth. The Charter seeks to promote and protect the rights and welfare of its youth to enable them to participate actively and effectively in the democratic processes of effecting progressive and development changes in society.

Sec. 13, Art. II declares that the State recognizes role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. It shall inculcate in the youth patriotism and nationalism, and encourage their involvement in public and civic affairs.

In context, the provision acknowledges the strong critical sense of youth which enabled them to perceive shortcomings in the order of society, and to come up with reasonable and better alternatives. The youth's inexhaustible ingenuity has molded a self-awareness that made them conscious of their roles in society. To add, their constant dynamism paved for the harmonization of their visions with the concerns and actions of other sectors of society. By allowing them to play more active and responsible roles as mandated in this bill, the Filipino youth would not just be continuing a long-standing tradition of leadership and nobility but would also be carrying out an important historical responsibility towards the nation and themselves. As our young heroes stimulated national consciousness in the past, this bill calls upon today's youth to revitalize responsible activism in line with the nation's renewed efforts in attaining total emancipation. With this attempt to effectuate change, the participation of the Filipino youth in the process of discussing and meeting the challenges of their time has become imperative.

It is, therefore, incumbent upon us— elected leaders during this turn of the millennium— to pass on the torch of leadership to the youth, "the beautiful hope of the Motherland". But in doing so, we have to win their trust and confidence before we can even think of shaping their thinking and personality. We must establish political stability and win over the youth who leaving our social mainstream. We can no longer continue blaming the past generations of leaders as the future generations will surely blame us too, if we do not confront our problems

head on and look into the root causes of the pervasive attitude of low regards to the potentials of our youth. We can, as a minimum goal, set in motion the reforms necessary for the future leaders to continue to build on until the entire process is brought to its logical conclusion.

This proposed Magna Carta for Youth fits into the package of specific legal provisions of Republic Act No. 7160 (Local Government Code of 1991). Specifically, this bill complements the rights of youth as stipulated in the Bill of Rights, under Article III of the 1987 Constitution. The concerns stipulated in this proposed Magna Carta for Youth transcend beyond the boundaries of the academe as espoused in the long-delayed proposed Magna Carta of Students for this crosses concerns of the Filipino youth in general.

Approval of this bill is urgent and necessary.

ROSELLER L. BARINAGA
Representative
2nd District, Zamboanga del Norte

Congress of the Philippines)
Thirteenth Congress)
First Regular Session)

HOUSE OF REPRESENTATIVES

HB NO. 1364

Introduced by **Rep. Roseller L. Barinaga**

AN ACT
RECOGNIZING THE POTENTIALS OF THE FILIPINO YOUTH TOWARD NATION-BUILDING, PRESCRIBING THE FREE EXERCISE OF CERTAIN RIGHTS AND FOR OTHER PURPOSES

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

SECTION 1. *Title*. This Act shall be cited as the "Magna Carta for the Youth."

ARTICLE I
Declaration of Principles

SEC. 2. *Declaration of Policy*. It is hereby declared the policy of the State to promote and protect the rights and welfare of the youth to enable them to actively and effectively participate in democratic processes of effecting progress and socio-political and moral transformation.

SEC. 3. *Guiding Principles*. The State shall recognize the vital role of the Filipino youth in nation-building, hence, the imperative of giving them their due share of moral duties and responsibilities toward themselves, the society and their country. Toward this end, the youth shall be encouraged to be actively involved in public and civic affairs, in the promotion and protection of their physical, moral, spiritual, intellectual, and social well-being and in the enhancement of an orderly, harmonious, sustainably progressive and politically-determined society. All efforts shall be exerted by the State to remove any form of prejudices against the youth. The State shall continue to extend full support for the youth's total well-being and for their consequent recognition as "the nation's only hope for the future". Government in all levels shall adopt policies ensuring their empowerment, emancipation, self-reliance and development through the enhancement of their skills and potentials that will enable them to compete favorably for available opportunities, become significant contributors to national progress and foster more meaningful, productive and satisfying life.

SEC. 4. *Definition of Terms*. For purposes of this Act, the following terms shall mean:

1) *Youth* refers to any individual belonging to the 15-24 age range. Youth may be classified according to the following sub-sectors:

a) *In-School Youth* refers to those who are either attending formal or non-formal educational programs.

b) *Out-of-School Youth* refers to those who are neither enrolled in any formal or vocational/technical school.

c) *Working Youth* refers to those who are either employed, whether self-employed or employed by a public or private institution.

d) *Special Youth* are marginalized youth who need special care, attention and protection as those who are incapacitated or disabled physically, mentally or psychologically, or those who are in the midst of armed conflict or victims of oppression and criminality.

ARTICLE II
Access to Labor and Employment

SEC. 5. *Youth Protection from Economic Exploitation*. The State shall recognize the right of the youth to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the youth's education, or to be harmful to the youth's health or physical, mental, spiritual, moral or social development. It shall take legislative, administrative, social and educational measures to ensure the implementation of this Act.

SEC. 6. *Equal Opportunity and Treatment.* The youth shall be free from any form of discrimination, with respect to recruitment and conditions of employment, such that they may enjoy equal opportunities for admission to employment, medical and social assistance, safety as well as other occupationally-related benefits, informed of their rights under existing labor legislation and of means available to them for redress, not subject to any coercive recruitment systems, included bonded labor and other forms of debt servitude; and equal treatment in labor and employment for the youth, including the protection from sexual harassment.

SEC. 6. *Prohibition Against Discrimination in Employment.* No qualified youth shall be discriminated against in regard to job application procedures, hiring, promotion, or discharge of employees, employee compensation, job training, and other terms, conditions, privileges, benefits, fringe benefits, incentives or allowances as a qualified able bodied person on account of his/her age, handicap, socio-economic status, sexual, religious and political orientation or membership in an organization, club, or grouping.

ARTICLE III
A. Access to Education

SEC. 7. *Access to Education.* (1) The State shall ensure that the youth are provided with adequate access to quality education and ample opportunities to develop their skills. It

shall take appropriate steps to provide the needs of the special youth with respect to the use of school facilities, class schedules, physical education requirements, and other pertinent consideration.

(2) Youth shall have the right to relevant and competent instruction vis-à-vis their personal and cultural development and that of the nation.

(a) No youth shall be denied admission to any school on account of his/her handicap, socio-economic status, sexual, political or religious orientation, or membership in any organization, nor shall pregnant students and certified reformed drug abusers be discriminated against.

(b) Youth shall have the right to freely choose their field of study and to continue such up to graduation except in case of academic deficiency or violation of disciplinary regulations which do not infringe upon the exercise of their rights.

(c) School administration shall provide the youth with adequate welfare services and academic facilities which include, but not limited to: free annual general physical check-up to students, adequate laboratory, library, research, recreation and physical education facilities, including the prompt notification of students concerned of letters and other communications it receives in behalf of students.

SEC. 8. *Scholarship Assistance*. Qualified and deserving student-youth shall have access to scholarship assistance through grants, student loan programs, subsidies, and other incentives in both public and private schools. The National Youth Commission in coordination with the Department of Education, Culture and Sports shall venture any undertaking to sort out funds for this purpose.

B. Academic Freedom

SEC. 9. *Academic Freedom*. Pursuant to the principles of this Act, the following rights are hereby granted to the youth, and the exercise of such rights are hereby mandated:

(1) freedom of inquiry within the campus, in curricular activities and in the extracurricular student affairs;

(2) access information on matters of public concern;

(3) hear any opinion on any subject of public or general concern, whether or not related to any subject they may be currently studying, which they believe worthy of consideration.

(4) invite outside speakers, and the school authorities may not veto their invitation solely on the basis of the credentials of the speaker;

(5) refuse any form of attempt to subject him/her to a process of indoctrination that will impose on him/her ideological homogeneity;

(6) free research in connection with academic work, and the publication, discussion and exchange of his findings and recommendations;

(7) question their curricula and if necessary, subject them to review and revision.

(8) information on matters directly or indirectly affecting their welfare including access to official records and other pertinent documents and papers pertaining to official acts, transactions or decisions;

(9) adequate welfare services and curricular activities; and

(10) publish regular independent and student-controlled publications and/or print, circulate and/or mount leaflets, newsletters, posters, wall news, petitions and such other materials.

SEC. 10. *Conditional Admission*. No school policy shall oblige, compel, or demand or cause demand or pressure to a youth to sign waiver documents in exchange for admission or enrollment or re-admittance to the school.

SEC. 11. *Prohibition Against Banning Youth To Assemble*. No youth shall be banned from taking part on an assembly nor shall they be arrested or detained for doing so. Student-youth shall not be required to ask prior permit for assemblies inside campuses.

SEC. 12. *Freedom From Unwarranted Interference*. To guarantee the freedom of student-youth from unwarranted interference while exercising their academic freedom granted herein this Act:

(1) Military detachments shall not be installed in campuses.

(2) Military elements and school security forces shall not interfere with student activities inside campuses, in particular student protest actions.

(3) No plainclothes policemen will be allowed entry into campuses, particularly during peaceful mass actions.

ARTICLE IV
Access To Health Care and Services

SEC. 13. *Access to Health Care and Services.* (1) The youth has the right to the highest standard of health and medical care attainable. The State shall place special emphasis on the provision of primary and preventive health care, public health education and the reduction of infant mortality. Toward this end, a comprehensive health consciousness program shall be undertaken to ensure the survival of the youth against dreaded infectious and communicable diseases.

(2) The State shall promote the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled youth, including dissemination of and access to information concerning methods of

rehabilitation, education and vocational services, with the aim of enabling the State to improve their capabilities and skills and to widen their experience in these areas.

SEC. 14. *Sexual Health Needs.* The right of the youth in meeting their special sexual health needs shall not be abridged. Free access to sex education, family planning, reproductive health services, and other forms of precautionary measures against unwanted pregnancies and the spread of sexually-transmitted diseases among them shall be promoted. Toward this end, the Commission on Population (PopCom) in consortium with the Department of Health (DOH) and all line-agencies of government concerned shall provide comprehensive family planning and STD services and educational and recreational activities alongside sexuality education specifically for the youth and as much as it is possible to make these programs highly accessible and acceptable to a broad spectrum of youth.

ARTICLE V
A. Free Expression and Information

SEC. 15. *Access to Information.* The State shall ensure the accessibility to youth of information and material from a diversity of sources, and it shall encourage the mass media to disseminate information which is of social and cultural benefit to the youth, and take steps to protect him or her from harmful materials.

SEC. 16. *Free and Responsible Expression.* (1) The right of the youth to freely and responsibly express their sentiments, views, aspiration and to gather, share, solicit ideas and publish information relevant to their interest and welfare shall not be abridged.

(2) Arresting or detaining a youth on the sole basis of disseminating or circulating leaflets, petitions, newsletters, posters, wall news and similar materials is prohibited. Banning a youth or youth organization from expressing his/her or its sentiments, stance or views through any medium of communication is likewise prohibited.

(3) The exercise of such rights may be subject to certain restrictions, but this shall only be such as are provided by law and are necessary:

(a) for respect of the rights or reputations of others; or

(b) for the protection of national security or public order, or of public health or morals.

SEC. 17. *Inviolability of Communication and Correspondence.* (1) The privacy of communication and correspondence among youth shall be inviolable.

(2) No youth shall be subjected to arbitrary interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honor and reputation. The youth has the right to the protection of the law against such interference or attacks.

SEC. 18. *Prohibition Against Any Form Of Meddling In Student Publication.* (1) Non-members of the student publication are prohibited from indulging any form of demand, pressure, force to cause influence and determine the content of the publication. The editor shall take full responsibility for consequences arising from the publication of articles. The

role of faculty advisers in high school and college student publications shall be limited only to technical guidance. Toward this end –

(a) No school administration shall serve as a sole authority in selecting the editor. The selection of the editor may be made by competitive examination supervised by a Board of Judges, which shall include students as members.

(b) Editors shall enjoy security of tenure, which shall not be terminated before the lapse of the prescribed term usually for the school year.

(c) Student publication shall have the right of access to institutional records.

B. Organization and Free Assembly

SEC. 19. *Right to Organize.* (1) The State shall recognize the rights of the youth to form and join association and the freedom to peaceably assemble. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals of the protection of the rights and freedoms of others.

(2) Subject to existing laws, the youth shall have the right to peaceably assemble and petition the government and/or any private institution for the redress of their grievances. Pursuant thereto, no regulation shall be imposed violating or abridging the youth's right to assembly. The right of the youth to join or not to join any particular organization shall be totally respected and no form of intimidation or harassment shall be tolerated. Toward this end --

(a) Involuntary efforts to make youth sign waiver documents denying membership of and promising not to join a specified organization as pre-requisite for enrollment or job acceptance is hereby prohibited.

(b) The existence of any youth organizations shall be subject only to regulations that do not unduly hamper their activities and that are formulated with genuine youth participation.

(c) Youth organizations shall be governed by minimum reasonable requirements, that is, the submission of the organization's constitution or by-laws, list of officers of the organization and a letter or notification by at least an adviser chosen by the organization.

SEC. 20. *Student Council/Government.* Schools, colleges and universities shall recognize and ensure the democratic and autonomous existence of student councils/governments.

SEC. 21. *Prohibition Against the Use of Force and Exaction of Excessive Fees.* (1) Imposing, demanding or any form of exacting excessive fees from a youth or youth organization other than fees which are provided by law is prohibited. Toward this end, the

youth shall not be caused, demanded or obliged to pay, donate, share, give, ask or solicit any mode of exacting payment, donation or contribution for any reason or cause.

(2) Giving out solicitation forms or distributing tickets or any form of exacting money or anything of monetary value from the student-youth or causing, demanding or obliging them to pay, donate or contribute money or anything of value are prohibited unless a written prior approval from the Local School Board is sought. The approval notice of the Local School Board should manifest the following: name of the sponsoring agency, title of the project, noble objectives of the project and the specific program and the duration of the activity to be undertaken. All sponsoring agencies who may indulge into similar project or any form of income-generating activity involving the student-youth shall be required to submit a written report of monetary income or otherwise generated from the project to the Local School Board.

C. Participation in Policy Formulation

SEC. 22. *Involvement In Policy Formulation.* The youth shall have the right to be involved in the formulation of policies that directly or indirectly affect them. They shall be represented in all policy making bodies of State and private-owned schools, colleges and universities.

SEC. 23. *School Fee Board.* Within thirty (30) days from the start of the school year the governing board of every school shall create an independent body to be known as the School Fee Board which shall study, conduct consultation and thereafter recommend on tuition and other school fee increases. This body shall be composed of an equal number of representatives from the administration, academic staff, parents, student-youth and alumni associations. These representatives shall choose a chairman from among themselves.

SEC. 24. *Participation In Screening Incoming Teachers.* The youth shall have the right to participate in the screening committee for incoming teachers and, to make a written performance evaluation of their teachers toward the end of the school term.

D. Freedom of Thought, Conscience and Religion

SEC. 25. *Freedom of Thought, Conscience and Religion.* The State shall respect the right of the youth to freedom of thought, conscience and religion. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health and morals , or the fundamental rights and freedoms of others.

ARTICLE VI
Political Repression

SEC. 26. *Freedom From Violence, Harassment and Discrimination.* (1) The State shall take all appropriate legislative, administrative, social and educational measures to protect the youth from all forms of physical and mental violence, injury or abuse, neglect or

negligent treatment, maltreatment or exploitation, including sexual harassment, while in the care of parents, legal guardians or any other persons who has the authority over the youth.

(2) Such protective measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the youth and for those who have the authority over the youth, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of youth maltreatment described heretofore, and, as appropriate, for judicial involvement.

SEC. 27. *Grants and Privileges.* Opposition to institutional policies inimical to youth's interest shall not be a ground for denying or withdrawing grants and privileges due to deserving youth.

SEC. 28. *Non-Validity of Blacklisting, Expulsion, Suspension and Other Disciplinary Sanctions.* The blacklisting, expulsion, suspension and other such disciplinary sanctions that may be taken against a youth shall not be valid unless the following rights have been observed and accorded the youth:

(1) presumption of innocence;

(2) remain silent, to the assistance of counsel, and to be informed of these rights;

(3) procedural fairness in disciplinary proceedings;

(4) be punished for acts that were not grounds for disciplinary action when they were committed;

(5) written notice of the charges and reasonable time to answer them and prepared for the hearing;

(6) a hearing before suspension or expulsion;

(7) be informed in writing of the nature and cause of the accusation against him/her;

(8) confront witnesses against him/her and to full access to the evidence in the case;

(9) defend himself/herself and to be defended by a representative or counsel of his/her choice, adequate time being given him/her for the preparation of his/her defense;

(10) a hearing before an impartial adjudicator;

(11) against self-incrimination;

(12) appeal adverse decisions; and

(13) the decision in any disciplinary proceeding must be rendered on the basis of relevant and substantial evidence presented at the hearing, or at least contained in the record and disclosed to the person affected.

SEC. 29. *Due Process.* No youth shall be held liable for any offense without due process. Arbitrary administrative measures and penalties for youth shall not be allowed. Pursuant to the provision of this Section, the youth shall be vested the following rights:

(1) to freedom from arbitrary arrest, from arbitrary searches and seizures, and the right to resort to the writ of *habeas corpus* and to speedy, impartial and public justice;

(2) to reasonable bail, and the right to freedom from double jeopardy, excessive fines and cruel or unusual punishment; and

(3) to defend himself/herself, to be heard and to present evidence on his/her behalf before an impartial body.

SEC. 30. *Unreasonable Searches and Seizures.* Every youth shall be free from any form of unreasonable search and seizure. Except for the following instances no search or seizure of a student shall be deemed valid:

(1) Searches made at the point of ingress and egress by designated authority;

(2) Searches and seizures of illegal article or articles falling in the plain view of duly designated authority;

(3) Searches and seizures of articles that are illegal, discovered inadvertly by duly designated authority;

(4) Searches made when the youth is about to commit, is committing or has just committed a crime or a serious infraction of the law; and

(5) Searches made with a valid search warrant.

Articles seized in violation of the herein above provided rights shall not be used as evidence against the youth in any disciplinary action that may be brought against him/her.

SEC. 31. *Access to Personal Records and Confidential Treatment.* Subject to the provision of the following section, every youth shall have access to his/her own personal records, the confidentiality of which institutions concerned shall maintain.

SEC. 32. *Torture and Deprivation of Liberty.* No youth shall be subjected to torture, cruel treatment or punishment, unlawful arrest or deprivation of liberty. Both capital punishment and life imprisonment without the possibility of release are prohibited for offenses committed by youths below 18 years.

ARTICLE VII
General Provisions

SEC. 33. *Recognition of Their Rights.* The State shall recognize that a mentally or physically disabled youth should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance, and facilitate the youth's active participation in the community.

SEC. 34. *Special Care*. The State recognizes the right of the disabled youth to special care and shall encourage and ensure the extension, subject to available resources, to the eligible youth and those responsible for his or her care, of assistance for which application is made and which is appropriate to the youth's condition and to the circumstances of the parents or others caring for the youth.

SEC. 35. *Special Needs*. Recognizing the special needs of a disabled youth, assistance extended in accordance with the preceding paragraph shall be provided free of charge, whenever possible, taking into account his or her family's financial resources, and shall be designed to ensure that the disabled youth has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the youth's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

SEC. 36. *Youth In Indigenous Cultural Communities*. (1) The State shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities of cultural and artistic, recreational and leisure activity.

(2) Youth in indigenous cultural communities have the right to enjoy their cultural and to practice their own religion and language.

SEC. 37. *Protection against Drug Abuse.* The State shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect the youth from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of youth in the illicit production and trafficking of such substances.

SEC. 38. *Protection Against Sexual Exploitation*. The State shall protect youth from any form of sexual exploitation and abuse, including prostitution and involvement in pornography or anything prejudicial to any aspects of the youth's welfare.

SEC. 39. *Armed Conflicts*. The State shall take all feasible measures to ensure that youth have no direct part in hostilities. No youth below 21 shall be recruited into the armed forces. The State shall likewise ensure the protection of youth who are affected by armed conflict. Toward this end, The State has an obligation to ensure that youth victims of armed conflicts, torture, neglect, maltreatment or exploitation receive appropriate treatment for their recovery and social integration.

SEC. 40. *Administration of Juvenile Justice*. A youth in conflict with the law has the right to treatment which promotes the youth's sense of dignity and worth, takes the youth's age into account and aims at his or her reintegration into society. The youth is entitled to basic guarantees as well as legal or other assistance for his or her defense. Whenever possible, judicial proceedings and institutional placements shall be avoided especially for offenders below 18 years old.

SEC. 41. *Firearms Ban*. Youth shall not be allowed to carry firearms at all time.

ARTICLE VIII
Final Provisions

SEC. 42. *Rules and Regulations.* Within ninety (90) days from the approval of this Act, the National Youth Commission (NYC) in collaboration with all existing agencies of the national government shall promulgate the necessary rules and regulations to implement the provisions of this Act.

SEC. 43. *Penal Provision.* Any person who shall willfully interfere with, restrain or coerce any youth in the exercise of his/her rights guaranteed by this Act, or who shall in any other manner commit any act to defeat any provision of this Act, shall, upon conviction, be punished by a fine of not less than Ten Thousand Pesos (P10,000) nor more than Fifty Thousand Pesos (P50,000) or by imprisonment for not less than one year nor more than five years, or both such fine and imprisonment at the discretion of the Court.

If the offender is an institution, or any juridical person, the penalty shall be imposed upon the President, Treasurer, Secretary or any person or officer responsible for the violation. If the offender is an alien, he/she shall, after service of sentence, be deported immediately without further proceeding in the Bureau of Immigration and Deportation (BID). If the offender is a public officer or employee, the Court shall, in addition to the penalties herein above provided, order his dismissal from the government service. In addition to the penalties herein provided, the license to operate of any institution involved may be suspended or canceled by concerned government agency.

SEC. 44. *Separability Clause.* If any provision of this Act is declared invalid, the remainder thereof not affected thereby shall continue to be in full force and effect.

SEC. 45. *Repealing Clause.* All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 46. *Effectivity Clause.* This Act shall take effect after fifteen (15) days following its publication in the Official Gazette or in two (2) newspapers of general circulation in the Philippines, whichever comes earlier.

Approved.