

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila



THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL No. 3176

Introduced by **Akbayan! Party List Representatives LORETTA ANN P. ROSALES, MARIO "MAYONG" JOYO AGUJA and ANA THERESIA HONTIVEROS-BARAQUEL**

EXPLANATORY NOTE

Time and again, human rights advocates and legal practitioners have craved for more and effective powers for the Commission on Human Rights (CHR) to enable it to carry out its constitutional mandate of addressing the human rights concerns of the country. As Justice Teodoro Padilla tersely observed in *Brigido Simon, Jr. v. CHR* [GR No. 100150, 05 January 1994], the CHR is a "tiger without dentures but with maimed legs to boot".

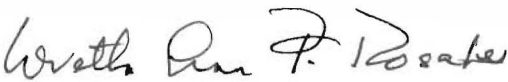
Records show that before the close of the 21st century, CHR was only able to have 646 investigated and filed cases of human rights violations decided by the courts of which 84 or 13% resulted in conviction, 66 or 10.2 resulted in acquittal and 22 or 3.4% resulted in conviction of one or two perpetrators. The rest, 474 or 73.7%, of the cases were properly prepared for trial but complainant and/or witnesses, by reason of long delay, disappeared or simply lost interest or transferred residence to other places or provinces for fear for their lives and/or safety. Factor in the fact that our courts and prosecution offices are heavily clogged with cases and the professional jealousy attendant between prosecutors and CHR lawyers.

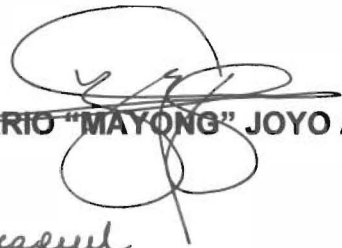
Such ineffectiveness of the Commission to address the protection of human rights is blamed on the CHR's failure to prosecute reported cases of human rights violations due to the fact that it is tied up by existing law that provides the CHR only investigative and advocacy powers. However, Sections 18 (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.

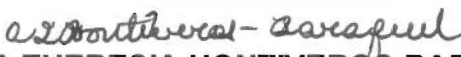
Hence, this bill basically seeks to strengthen the Commission by providing an effective and expanded structural and functional organization to meet the demands of human rights cases here and abroad. By providing the Commission

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.

The early passage of this bill is, therefore earnestly sought.


Rep. LORETTA ANN P. ROSALES


Rep. MARIO "MAYONG" JOYO AGUJA


Rep. ANA THERESIA HONTIVEROS-BARAQUEL

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Introduced by **Akbayan! Party List Representatives LORETTA ANN P. ROSALES, MARIO "MAYONG" JOYO AGUJA and ANA THERESIA HONTIVEROS-BARAQUEL**

AN ACT
STRENGTHENING THE FUNCTIONAL AND STRUCTURAL ORGANIZATION
OF THE COMMISSION ON HUMAN RIGHTS, APPROPRIATING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

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

SECTION 1. Title. - This Act shall be known as the "Commission on Human Rights Act of 2004".

SEC. 2. State Policy on Human Rights. - The State values the dignity of every human person and guarantees full respect for human rights.

SEC. 3. Definition of Terms. - For purposes of this Act, unless the context indicates otherwise, the following terms shall mean as hereby defined:

Human Rights refers the supreme, inherent, and inalienable right to life, dignity, and to self development. It is concerned with issues in both areas of civil and political rights and economic, social and cultural rights, embodied in conventions to which the Philippine Government is a state party.

Political Rights are those rights that enable the people to participate in running the affairs of the government either directly or indirectly.

Civil Rights are those rights that the law enforces at the instance of private individuals for the purpose of securing to them the enjoyment of their means of happiness.

Economic and Social Rights are those rights that enable the people to achieve social and economic development, thereby ensuring them their well-being, happiness and financial security.

Cultural Rights are those rights that ensure the well-being of the individual and foster the preservation, enrichment, and dynamic evolution of national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.

SEC. 4. *The Commission, composition and qualifications.* - The Commission on Human Rights, also known as the Commission from hereon, is a collegial body and shall be composed of a Chairman and four (4) Members who shall possess the following qualifications:

- a) Must be natural-born citizens of the Philippines;
- b) Must be holders of a college degree;
- c) Must be at least thirty five (35) years of age at the time of their appointment, with proven integrity and competence;
- d) Majority of whom, including the Chairman, must be members of the Philippine Bar who have been engaged in the practice of law for at least ten (10) years;
- e) Must have been involved in human rights protection and promotion activities;
- f) Must not have been candidates for any elective position in the immediately preceding elections; and
- g) Must not be a holder of or a retiree of any appointive position in the government.

SEC. 5. *Appointment and Term of Office.* - The Chairman and Commissioners shall be appointed by the president for a term of seven (7) years starting from the date of their appointment, without reappointment, from a pool of recommendees submitted by the Integrated Bar of the Philippines and human rights non-government organizations. Of those first appointed, the Chairman shall hold office for seven (7) years, two Members for five (5) years and the other two (2) Members for three (3) years without reappointment. In no case shall any Member be appointed or designated in a temporary or acting capacity.

SEC. 6. *Prohibition and Disqualification.* - The Chairman and the Commissioners shall not, during their tenure, hold any other office or employment. Neither shall they engage in the practice of any profession or in the active management or control of any business which in any way may be affected by the functions of their office, nor shall they be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege, granted by the Government and its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations or their subsidiaries.

SEC. 7. *Salary, Retirement and Other Privileges of the Chairman and Commissioners.* - The Chairman and Members of the Commission on Human Rights shall receive the same salary and privileges as the Chairman and Members, respectively, of the Constitutional Commissions, which shall not be decreased during their term of office. Likewise, they shall receive the same

retirement benefits as that of the Constitutional Commissions as provided by law existing at the time of expiration of their term of office.

SEC. 8. Powers and Functions of the Commission. - The Commission on Human Rights shall have the following powers and functions:

- a) Investigate, on its own or on complaint by any party, all forms of human rights violations;
- b) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal services to the underprivileged whose human rights have been violated or need protection;
- c) Request the assistance of any department, bureau, office or agency in the performance of its duty;
- d) Grant immunity from prosecution to any person whose testimony or possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- e) Exercise visitorial powers over jails, prisons, or detention facilities;
- f) Monitor the Philippine government's compliance with international obligations on human rights;
- g) Establish a continuing program of research, education and information to enhance respect for the primacy of human rights;
- h) Issue clearances to members of the military, police and other law enforcement agencies for purposes of promotion and/or appointment; and for such issuances, collect fees therefore, subject to government accounting and auditing rules and regulations;
- i) Recommend to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;
- j) Adopt its operational guidelines and rules of procedures and cite for contempt for violations thereof in accordance with Rules of Contempt;
- k) Appoint its officers and employees in accordance with law; and
- l) Perform such other duties and functions as may be provided by law.

SEC. 9. Prosecutorial Powers of the Commission. - In addition to the powers and functions conferred upon the Commission by the Constitution and pursuant to Section 18 (11) and Section 19 of Article XIII thereof, the Commission is hereby vested with primary original and exclusive jurisdiction to determine, investigate and prosecute human rights cases *per se*, except cases falling under the exclusive jurisdiction of the Department of Justice and the Ombudsman.

Specifically, such jurisdiction shall extend over, but not be limited to, human rights cases where the violation of law or acts complained of is:

- a) Tantamount to summary and/or extrajudicial execution (salvaging), or cases of disappearances;
- b) A deprivation of a person's right to a fair and public trial;
- c) A willful disregard of the rights of a person under custodial investigation;

- d) A deprivation of the rights of political detainees;
- e) An illegal demolition, arbitrary eviction or disposition of residential houses or units;
- f) A violation of international conventions and international instruments ratified by the Philippine government;
- g) Committed by any person or group of persons in the name of or for the advancement of the cause of an organization for political purposes, for religious beliefs or because of cultural ethnic causes whereby a person or group of persons are duly injured or killed or deprived of liberty, property, and the free exercise of their civil and political rights. The offender shall also be liable for the injury and death caused by his/her or their acts as fined and punished under existing laws;
- h) Tantamount to a denial of the rights to seek and enjoy asylum from persecution pursuant to Article 14 of the Universal Declaration of Human Rights;
- i) Tantamount to a denial of the rights to return to one's country of origin; and,
- j) Tantamount to unlawful discrimination which shall cover, but not be limited to, cases where the violation of law or acts complained of is related:
 - i. age, sex or disability;
 - ii. access by the public to places, vehicles and facilities; and,
 - iii. right to housing, land and other accommodation.

SEC. 10. Referral of Criminal, Civil and/or Administrative Case. - Should the Commission find that the violation of human rights is a criminal offense under the Revised Penal Code or any special statute, the case shall be referred to the Department of Justice for prosecution. If the violation is not criminal in nature, it shall recommend the filing of the appropriate civil or administrative case. The complainant shall be advised to hire his/her counsel and, if he/she cannot afford the services of a counsel, the Commission shall request any of the non-government bar associations that have volunteered to render legal assistance to the human rights victim. The case may also be referred to the Public Attorneys' Office for appropriate action.

SEC. 11. Monitoring Function. - The Commission, under its monitoring function, shall investigate *motu proprio*, the Philippine government's non-compliance with international treaty obligations on human rights. The Commission shall then remind the heads of departments, agencies or offices of said treaty obligations.

SEC. 12. The Chairman as Executive Officer - Powers and Duties. The Chairman shall be the Chief Executive Officer of the Commission, and shall:

- a) Execute and carry out the policies, decisions, orders and resolutions approved by the Commission;
- b) Direct and supervise the operations and internal administration of the Commission;
- c) Sign appointments of subordinate officials and employees made by the Commission and enforce decisions on administrative discipline involving them;

- d) Make temporary assignments, rotate and transfer personnel in accordance with the provisions of the Civil Service Law and the policies involving them;
- e) Submit an annual budget to the Commission for its approval and submission to the Department of Budget and Management and to the Congress of the Philippines;
- f) Delegate his/her authority, in whole or in part, to other officials of the Commission in accordance with Executive Order No. 292, otherwise known as the Administrative Code of 1987, and rules and regulations of the Commission; and
- g) Perform such other functions as may be authorized by the Commission.

SEC. 13. *The Executive Director - Powers and Functions.* The Executive Director of the Commission shall have the following powers and duties:

- a) Advise and assist the Chairman in the formulation and implementation of the objectives, policies, plans and programs of the Commission;
- b) Serve as the principal assistant of the Chairman in the overall supervision of the administrative business of the Commission;
- c) Oversee all the operational activities of the Commission;
- d) Coordinate the programs and projects of the Commission and be responsible for its economical, efficient and effective administration;
- e) Serve as the deputy to the Chairman in all matters relating to the operational activities of the Commission;
- f) Administer oaths in connection with all matters relating to the business of the Commission; and
- g) Perform such other functions as may be authorized by the Commission.

The Executive Director shall be appointed by the Commission and shall be a member of the Philippine bar with proven integrity and competence, has been in the actual practice of law for five (5) years and/or has held any position in the government requiring the qualifications of a lawyer prior to his/her appointment, and has been involved in human rights promotion and protection activities. He/She shall have the rank and salary and privileges of a Director V.

SEC. 14. *The Commission Secretary.* - The Commission Secretary shall take charge of the case docket of the Commission as a prosecutorial body and shall supervise the administration of records of cases related to human rights violations. He/She shall have the rank and salary and privileges of a Director V.

SEC. 15. *Structural Organization.* - The Commission shall have the following line offices and operating units:

- a) Office of the Chairman and Commissioners;
- b) Office of the Executive Director;
- c) Legal Office;
- d) Field Operations and Investigation Development Office;
- e) Public Information office;
- f) Education and Training Office;
- g) Assistance and Visitorial Office;

- h) Planning and Management Office;
- i) Financial Management Office;
- j) Forensic Office;
- k) Office of the Commission Secretary;
- l) Sectoral Rights Office;
- m) General Administrative Service Office; and
- n) Regional Offices.

Each of the above line offices and operating units, except for the Offices of the Executive Director and Commission Secretary, shall be headed by an officer with an equivalent rank and salary and privileges of a Director IV. Each office may have such divisions as are necessary to carry out their respective functions. As an independent constitutional office, the Commission may effect changes in the organization as the need arises.

All officers and employees of the Commission, unless otherwise provided herein, shall receive salaries and privileges that shall not be less than those given to comparable positions in any office in the government.

SEC. 16. *Duties and Functions of the Offices of the Commission.* - The different offices of the Commission provided in Section 15 of this Act shall operate in accordance with their respective duties and functions assigned them by the Commission subject to requirements of efficiency, economy and effectiveness, and pertinent budget and civil service laws, rules and regulations.

SEC. 17. *Regional Offices.* - The Commission shall have twelve (12) regional offices established by law, including the National Capital Region (NCR), the Caraga Administrative Region and Cordillera Administrative Region (CAR), and such provincial and municipal offices as may be established, and shall be headed by the following:

- a) The Regional Human Rights Office shall be headed by a Regional Human Rights Director and assisted by an Assistant Regional Human Rights Director, and such other subordinate officers or employees as the Commission may appoint. The Assistant Regional Human Rights Director shall carry the rank and receive the same salary and privileges of Director III;
- b) The Provincial Human Rights Office shall be headed by the Provincial Human Rights Supervisor and shall be assisted by such subordinate officers and employees as the Commission may appoint; and
- c) The City/Municipal Human Rights Office shall be headed by the City/Municipal Human Rights Supervisor and shall be assisted by such subordinate officers and employees as the Commission may appoint.

The Commission may delegate its powers and functions or order the implementation or enforcement of its orders, rulings or decisions through the heads of its regional offices in accordance with rules and regulations to be promulgated by the Commission.

SEC. 18. **Qualifications of Heads of Regional Offices.** - Only members of the Philippine Bar shall be eligible for appointment to the position of Regional Human Rights Director, Assistant Regional Human Rights Director, Provincial Human Rights Supervisor, and City/Municipal Human Rights Supervisor. However, if there are no members of the Philippine Bar available for appointment as Municipal Human Rights Supervisor, except in capital towns, graduates of duly recognized schools of law, liberal arts, education or business administration who possess the appropriate civil service eligibility may be appointed to said positions.

SEC. 19. **Franking Privilege.** - All official mail matters and telegrams of the Commission addressed for delivery within the Philippines shall be received, transmitted and delivered free of charge, **Provided**, that such mail matters when addressed to private persons or non-government offices shall not exceed one thousand and twenty (1,020) grams. All mail matters and telegrams sent through government telegraph facilities containing complaints to the Commission on Human Rights shall be transmitted free of charge, **Provided**, that the telegram shall contain not more than one hundred and fifty (150) words.

SEC. 20. **Appropriations.** - Such sums as may be necessary for the effective implementation of this Act shall be included in the Annual General Appropriations Act for the year following the enactment of this Act.

SEC. 21. **Fiscal Autonomy.** - The Commission on Human Rights shall enjoy fiscal autonomy in the same manner as the Supreme Court and/or other constitutional bodies. Appropriations for the Commission may not be reduced below the amount appropriated for the previous years and approval shall be automatically and regularly released.

SEC. 22. **Transitory Provision.** - Nothing in this Act shall prejudice the positions, emoluments, security of tenure and other privileges enjoyed by the incumbent officers and employees of the Commission before the implementation of this Act.

SEC. 23. **Separability Clause.** - If any provision of this Act shall be held unconstitutional, other provisions not affected thereby shall remain valid and binding.

SEC. 24. **Repealing Clause.** - All laws, presidential decrees, letters of instructions, executive orders, rules and regulations insofar as they are inconsistent with this Act are hereby repealed or amended, as the case may be.

SEC. 25. **Effectivity Clause.** - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of general circulation.

Approved,