

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15TH CONGRESS
First Regular Session

HOUSE BILL NO. 2974

Introduced by **REP. SALVADOR H. ESCUDERO III**

EXPLANATORY NOTE

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

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

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

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

To make categorical the state policy that the CHR can exercise jurisdiction over cultural, economic and social rights is very important. It is to afford in general the CHR the unequivocal authority to step into cases involving rights excluded from the definition and scope of political and civil rights. It is meant in particular to erase all doubts brought about by

the issue of whether or not the CHR can take cognizance of cases of demolition and resettlement pursuant to the UDHA.

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

The grant of quasi-judicial powers will unclog the court dockets and further enhance specialization in the investigation and prosecution of human rights violation cases.

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


SALVADOR H. ESCUDERO III
Representative
1st District, Sorsogon

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HOUSE BILL NO. 2974

Introduced by **REP. SALVADOR H. ESCUDERO III**

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

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

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

Sec. 2. State Policy on Human Rights. - The State values the dignity of every human person and guarantees full respect for human rights. It shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity at all stages of human life.

Sec. 3. Definition of Terms. - For purposes of this Act, human rights shall include those rights found in Article III of the Constitution and those affirmed and recognized by the State in the following international covenants: the Universal Declaration of Human Rights (1948); the International Covenant on Civil and Political Rights (1976); and the International Covenant on Economic, Social and Cultural Rights (1976), and any other international treaties on human rights which the Philippines has signed and ratified.

I. THE COMMISSION ON HUMAN RIGHTS

A. The Chairperson and Members

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

- a) Must be natural-born citizens of the Philippines;
- b) Must be at least thirty five (35) years of age at the time of their appointment, with proven integrity and competence;
- c) Majority of whom, including the Chairperson, must be members of the Philippine Bar who have been engaged in the practice of law for at least five (5) years;
- d) Must have an understanding of human rights protection, promotion and advocacy;
- e) Must not have been candidates, including party-list nominees, for any elective position in

any national or local, but excluding barangay, elections, immediately preceding their appointment.

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

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

Sec. 6. Prohibition and Disqualification. - The Chairperson and Members of the Commission 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. They shall avoid conflict of interest in the conduct of their office. They shall not be allowed to appear or practice before the Commission for two years following their cessation from office.

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

Sec. 7. Disclosure of Relationship. – It shall be the duty of the Chairperson and Members to make under oath to the best of their knowledge and information a written public disclosure of the identities of, and their relationship with the persons referred to in the preceding section. The disclosure shall be filed with the Office of the Ombudsman before the appointee assumes office and every annual anniversary of the date of assumption of office thereafter. The disclosures made pursuant to this Section shall form part of the public records and shall be made available and accessible to the public.

Sec. 8. Salary, Retirement and Other Privileges of the Chairperson and Members. - The Chairperson and Members of the Commission shall receive the same salary and privileges as the Chairperson and Members of the Constitutional Commissions, and 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.

Sec. 9. Removal from Office. – The Chairperson and Members of the Commission may be removed from office on any of the following grounds:

- (a) Disloyalty to the Republic of the Philippines;
- (b) Culpable violation of the Constitution;

- (c) Bribery and graft and corruption, [other high crimes, or betrayal of public trust];
- (d) Dishonesty, misconduct in office, gross negligence, or dereliction of duty;
- (e) Commission of any offense involving moral turpitude or an offense punishable by *prison mayor*;
- (f) Abuse of authority;
- (g) Such other grounds as may be provided by law.

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

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

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

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

B. Nomination of Chairperson and Members

Sec. 10. Nominations Committee. - The President shall choose and appoint the Chairperson and Members of the Commission from a list of three (3) nominees per position selected by a Nominations Committee to be composed of the following members:

- a) The incumbent chairperson of the Commission on Human Rights;
- b) The Chairperson of the Senate Committee on Justice and Human Rights;
- c) The Chairperson of the House of Representatives' Committee on Human Rights;
- d) Three (3) members, selected by the Commission from any of the following duly accredited entities, sectors or groups : human rights non-government organizations (NGOs), lawyers' and/or para-legal groups, indigenous peoples, the academe; woman, child and family rights groups.

Sec. 11. Selection of Nominees. - The members of Nominations Committee shall have equal voting rights. They shall meet not later than thirty (30) days before the end of a current term or within seven (7) days after the occurrence of a vacancy during a term. They shall submit to the President their list of nominees thirty (30) days before the end of said term or thirty (30) days after said vacancy. The President shall make the appointment within thirty (30) days after the submission of the list of nominees by the Nominations Committee.

The Commission shall provide secretariat support to the Nominations Committee. It shall make all proceedings of the Nominations Committee open and accessible to the

public. Vacancies as well as the list of nominees shall be published in a newspaper of general circulation. The Nominations Committee shall adopt its own rules of procedure.

Sec. 12. Representation. - In the selection of nominees for Chairperson and Members of the Commission, the Nominations Committee shall take into consideration representation from various sectors of civil society involved in the promotion and protection of human rights and human life and dignity.

Sec.13. Accredited Non-Government Representatives to the Nominations Committee. - The duly accredited human rights non-government organizations (NGOs), lawyers' and/or para-legal groups, representatives from indigenous peoples, representatives from the academe, as well as woman, child and family rights groups shall from among themselves choose the three (3) representatives to the Nominations Committee in a meeting attended by an authorized representative of the Commission. In the absence of a selection procedure agreed upon by said organizations, the Commission shall promulgate the rules of procedure to govern the selection of the three (3) representatives by the accredited organizations.

C. Nature of the Commission

Sec. 14. The Commission as an Independent Office. - The Commission on Human Rights is an independent constitutional office. It shall not be subject to instructions or orders from the President, Congress or the Judiciary, except in cases provided in the Constitution with regard to the appointment of its Chairperson and Members, legislation affecting the exercise of its powers and functions, and judicial review of the legality of its acts, orders, resolutions or decisions.

Sec. 15. The Commission as the National Human Rights Institution of the Philippines. - The Commission shall be the national human rights institution of the Philippines in accordance with the Principles Relating to the Status of National Institutions ("The Paris Principles") and other United Nations' Resolutions pertaining to the effective functioning of national human rights institutions, as may be consistent with the Constitution.

Sec. 16. Fiscal Autonomy. - The Commission shall always enjoy full fiscal autonomy. The approved annual appropriations of the Commission shall be automatically and regularly released.

II. POWERS AND FUNCTIONS

A. General Powers and Functions

Sec. 17. General Powers and Functions of the Commission. - The Commission on Human Rights shall have the following general powers and functions:

- a) Investigate, on its own or on complaint by any party, all forms of human rights violations;
- b) Adopt its operational guidelines and rules of procedure and cite for direct, and indirect contempt for violations thereof or its lawful orders in accordance with the Rules of Court;
- c) Provide appropriate legal and preventive measures for the protection of

human rights of all persons within the Philippines, as well as Filipinos residing abroad;

- d) Provide legal aid services to the underprivileged whose human rights have been determined by the Commission to have been violated or in of need protection to prevent a violation thereof;
- e) Exercise unhampered and unrestrained visitorial powers over jails, prisons, camps, detention facilities, safe houses and similar premises;
- f) Establish a continuing program of research, education and information dissemination to promote respect for the primacy of human life and dignity, and the protection of human rights;
- g) Recommend to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;
- h) Monitor the Philippine government's compliance with international treaty obligations on human rights;
- i) Grant immunity from prosecution to any person whose testimony or possession of documents or other evidence is necessary to determine the truth in any investigation or prosecution conducted by it or under its authority;
- j) Request the assistance of any department, bureau, office or agency in the performance of its functions;
- k) Deputize government prosecutors or private lawyers, who shall be under the direct control and supervision of the Commission; for the prosecution of human rights cases under Section 21 hereof;
- l) Accredite national non-government and people's organizations involved in human rights promotion, protection and advocacy, including those for purposes of visiting persons arrested, detained or under custodial investigation;
- m) Ensure that the status, rights and interests of children and of the family are upheld in accordance with the Constitution, laws and duly ratified instruments on human rights;
- n) Create, establish, organize, re-structure, compress, and otherwise manage such offices and centers the Commission deems necessary and appropriate for expeditious and effective fulfillment of its mandate, including a central office, regional, sub-regional, and provincial offices for specific thematic and functional matters; and
- o) Perform such other duties and functions as may be provided by the law.

B. Investigation

Sec. 18. Investigative Powers and Functions. – The Commission shall exercise primary and original jurisdiction to investigate, on complaint or *motu proprio*, cases of human rights violations to include civil, political, economic, social and cultural rights. In the exercise of its investigative function, the Commission shall have the following powers:

- a) Act promptly on complaints filed in any form or manner by any person; and upon finding of human rights violation, recommend the filing of appropriate administrative, civil and/or criminal action(s). Any investigation being conducted by any other body shall not be a bar to the investigation of the Commission;
- b) Compel the attendance of witnesses and the production of evidence, administer oaths, issue *subpoenas* and take testimony in any investigation or inquiry;
- c) Issue orders and directives constituting preventive and legal measures, provided for under Sections 20 and 21 of this Act, respectively;
- d) Provide protection and extend financial assistance to witnesses to ensure their attendance in investigations and production of evidence;
- e) Delegate to its deputies, investigators or representatives, such authority or duty to ensure the effective exercise or performance of its investigative functions;
- f) Require the assistance of any officer or employee of any department, bureau or office, subdivision, agency or instrumentality of the Government, including government-owned or controlled corporations and local governments;
- g) Deputize lawyers or legal aid groups, medical organizations, as well as government agencies and offices, to provide assistance in the exercise of its investigative functions;
- h) Make the results and findings of its investigations available and accessible to the public; and
- i) Cite in contempt any person for failure to comply with a lawful order of the Commission issued in the exercise of its investigative and/or prosecutorial functions. In this regard, the 1997 Revised Rules of Procedure shall apply suppletorily.

Sec. 19. Imprescriptibility of the Investigation of Human Rights Violations. - The investigation of human rights violations shall not be subject to any statute of limitations or prescriptive period.

Sec. 20. Scope of Preventive Measures. – The preventive measures under Article XIII, Sec. 18 (3) of the Constitution that may be issued by the Commission in the investigation of cases involving all forms of human rights violations shall include the following:

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

Sec. 21. **Scope of Legal Measures.** – The legal measures under Article XIII, Sec. 18 (3) of the Constitution that may be provided by the Commission shall include the following:

- a) The issuance of mandatory protection orders (MPO's) directing government security forces, other appropriate government agencies, or private institutions to provide specific protection to victims of human rights violations;
- b) The issuance of orders deputizing government offices and private institutions for the purpose of providing protection; and
- c) The issuance of orders deputizing government and private lawyers as counsels *de officio* to ensure that the human rights of the victim are not further violated; and
- d) Any order the purpose of which is analogous to any of the foregoing.

Sec. 22. **Grant of Immunity.** – The Commission may grant immunity from prosecution to any person whose possession and production of documents or other evidence may be necessary to determine the truth in any hearing, inquiry or proceeding under such terms and conditions as it may determine taking into account the pertinent provisions of the Rules of Court and its own rules. The immunity shall only be granted after a determination

of the relevance, veracity and authenticity of the evidence sought to be presented by the Commission. The grant of immunity shall be revoked should the evidence warranted as true by person or persons granted such turns out to be false or fabricated.

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

The preventive suspension shall be immediately executory, unless restrained by the Court of Appeals or the Supreme Court and shall continue until the case is terminated by the Commission; *Provided*, that said suspension shall not be more than ninety (90) days without pay, except when the delay in the disposition of the case by the Commission is due to the fault, negligence or petition of the respondent, in which case the period of such delay shall not be counted in computing the period of suspension herein provided.

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

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

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

Sec. 24. Referral to Disciplining Authority. – The Commission may endorse and/or recommend to the proper authorities the filing of the appropriate sanction or disciplinary action against a public officer or employee found guilty of committing violations of human rights and recommend his removal, suspension, demotion, censure, imposition of fine, or prosecution and to ensure compliance by requiring the officer concerned to report on his action within thirty (30) days from receipt of the recommendation and/or endorsement of the Commission. The failure of the appropriate authority to act or comply with said recommendation or endorsement shall constitute a ground for an application of the issuance of a writ of mandamus by the Commission.

For this purpose, every case on which the Commission has rendered a resolution or recommendation adverse to a public official shall be transmitted to the head of the department, agency or instrumentality, or of the province, city or municipality concerned for immediate action, as may be necessary.

Sec. 25. Motu Proprio Dismissal. – The Commission may dismiss, *motu proprio*, a complaint for the investigation of human rights violations on any of the following grounds:

- a) The complaint pertains to a matter outside of the jurisdiction of the Commission;
- b) The complaint is trivial, frivolous, vexatious or made in bad faith; or
- c) Other valid grounds as may be determined by the Commission.

Sec. 26. Investigation by Regional Offices. – The proper regional office of the Commission shall investigate complaints falling within its territorial jurisdiction unless the Commission *en banc*, in its discretion, takes direct cognizance of the same. Upon recommendation of the regional office in investigations pending before it, the Commission *en banc* may issue legal and preventive measures and preventive suspension orders which are immediately executory. Within ten (10) days after concluding the investigation, the regional office shall render the appropriate order, directive or resolution subject to appeal to the Commission *en banc* pursuant to its rules.

C. Prosecution

Sec. 27. Concurrent Prosecutorial Powers and Functions. – The Commission shall exercise concurrent prosecutorial powers and functions as herein provided.

In the event of the failure of the Department of Justice or Office of the Ombudsman to initiate a preliminary investigation within twenty (20) days from its receipt of the case recommended for prosecution by the Commission, the inaction shall be considered as an automatic endorsement of the matter to the Commission without any further act or notice by the Department of Justice or Office of the Ombudsman for purposes of preliminary investigation. Thereafter, the Commission shall conduct the preliminary investigation and upon a finding of probable cause, issue a resolution recommending the filing of the appropriate information and prosecution of the offence/s found to exist.

For this purpose, the Commission shall have the power to deputize government prosecutors or private lawyers to prosecute the criminal offence/s that have been the subject of its preliminary investigation. The prosecution shall remain under the Commission's direct control and supervision.

This section shall apply in cases where the offender is a public officer as defined under Article 203 of Republic Act No. 3815, otherwise known as the Revised Penal Code as amended, and acting in his capacity as such, or any person acting on behalf or under the immediate control of the State and its agents, and where the human rights violation constitutes a criminal offense under the Revised Penal Code and special laws, as follows:

- a) Use of physical, psychological and degrading punishment, torture, force, violence, threats, and intimidation;
- b) Extra-judicial killings, summary executions, and "massacres" or mass killings;
- c) Violations of the right to be secure from unreasonable searches and seizures, including involuntary or enforced disappearances;
- d) Violations of the rights of persons arrested, detained, or under custodial investigation, including deprivation of the rights of political detainees;

- e) Violations of the right to a speedy, impartial and public trial or disposition of cases;
- f) Hamletting, forced evacuation or eviction, illegal demolition, development aggression and other violations of the right to travel and to freely choose one's abode and change the same;
- g) Violations of the right to peaceably assemble, free association, and to petition the government for redress of grievances;
- h) Violations of the right to worship and the free exercise of a religion;
- i) Violations of the right to privacy;
- j) Violations of civil and political rights of persons suspected, detained for, and/or accused of the crime of terrorism or conspiracy to commit terrorism; and
- k) Political, religious, racial, ethnic, social or sexual persecution, oppression, or harassment committed with acts constituting offenses punished under the Revised Penal Code and special laws;

Sec. 28. When Committed by Non-State Actors. - The preceding section shall also apply when the violation is committed by non-state actors. Non-state actors are persons, other than public officers, belonging to and acting on behalf or under the immediate control of a juridical or non-juridical person, whether legitimate or illegitimate, including but not limited to the following:

- a) Armed groups, bandits, warlords and private armies;
- b) Criminal organizations and groups; and
- c) Multi-national, foreign and domestic corporations, and other business entities.

Sec. 29. When Committed Against Vulnerable Persons. - The concurrent prosecutorial powers of the Commission shall likewise apply in the investigation and prosecution of the following offenses as penalized under the Revised Penal Code and special laws when committed by any person against any member or group of vulnerable persons, as defined herein:

- a) Involuntary servitude constituting Crimes Against Personal Liberty and Security under the Revised Penal Code;
- b) Crimes penalized under Republic Act No. 7610, or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act;"
- c) Crimes penalized as Infanticide and Abortion under the Revised Penal Code;

- d) Crimes penalized under Republic Act No. 9262, or the "Anti-Violence Against Women and Their Children Act of 2004;" and
- e) Crimes penalized under Republic Act No. 8371 or the "Indigenous Peoples Rights Act of 1997."

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

D. Monitoring

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

- a) Require any department, bureau or office, subdivision, agency or instrumentality of the Government to submit compliance reports on international human rights treaty and to furnish the Commission copies thereof within thirty (30) days from submission to the United Nations and other international bodies;
- b) Conduct inquiries on the manner of implementation by the Philippine Government of specific human rights treaty obligations;
- c) Summon any public official to explain on the measures undertaken by his or her agency in order to comply with the State's international treaty obligations on human rights;
- d) Enter and inspect the premises of any government agency or office, specifically police and military stations, installations, camps, bases, and training schools and access books, records, files, documents or papers located in the above-mentioned office and facilities;
- e) Study and recommend to the government international human rights treaties or instruments for its signature, ratification or accession;
- f) Make timely and regular submission of independent reports to international human rights treaty bodies and other international human rights mechanisms;
- g) Advise and assist the government on clearly-identified gaps in human rights treaty compliance;
- h) Capacitate stakeholders to enable participation in monitoring human rights treaty compliance by the government;
- i) Delegate to its deputies, investigators or representatives, such authority or duty which shall ensure the effective exercise or performance of its monitoring functions; and
- j) Recommend and institutionalize best practices and incentives for human

rights advocates and institutions.

Sec. 31. Other Monitoring Functions. – The Commission shall likewise monitor observance by non-state actors of human rights obligations arising from agreements entered into with the government, as well as unilateral declarations and similar undertakings.

Sec. 32. Annual Report. – The Commission shall prepare and make public an annual report on the findings of its monitoring activities with regard to the state of the Government's compliance with its international human rights treaty obligations. The report shall include, but not be limited, to the following:

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

E. Education and Advocacy

Sec. 33. Education and Advocacy in Government. – The Commission shall undertake a program of human rights promotion and advocacy through education and training to promote and increase respect for the primacy and dignity of human life in all its stages and the protection of human rights in coordination with the different agencies of the government. It shall likewise administer a mandatory and continuing human rights education program for the military, police and other law enforcement agencies, as well as public school teachers, and shall, for this purpose, draw up the components of the program, accredit course and training providers, and issue certificates of completion to those who have successfully completed the program.

Sec. 34. Education and Advocacy in Civil Society. – The Commission shall also undertake human rights education, advocacy, and information campaign programs among sectors of civil society, particularly the vulnerable, marginalized and underprivileged groups. In conducting this program, the Commission shall actively cooperate and coordinate with human rights non-government organizations, lawyers' groups, the academe and people's organizations of the concerned sectors of civil society.

Sec. 35. Research. – The Commission shall undertake a continuing research and study on select human rights issues for purposes of recommending policy reforms, as well as administrative and legislative measures that will also address economic, social and cultural rights.

Sec. 36. **Coverage of Programs.** – The Commission shall prescribe the scope and coverage of education, advocacy, information and training programs on human rights, and which will be provided for in the implementing rules and regulations of this Act.

F. Other Powers and Functions

Sec. 37. **Witness Protection Program.** – In the conduct of its investigations, the Commission shall implement and manage a witness protection program, including the provision of security, shelter, relocation and livelihood assistance to witnesses and their families

Sec. 38. **Financial Assistance Program.** – The Commission shall strengthen its financial assistance program to victims of human rights violations and their families.

The guidelines for the proper implementation of this program shall be included in the implementing rules and regulations of the Commission.

The initial funding for the Witness Protection and the Financial Assistance Programs shall be allocated for such purposes and shall be included thereafter in the annual regular appropriations for the Commission, and the same shall be automatically and regularly released.

The Commission shall adopt operational guidelines in the implementation and management of these programs.

Sec. 39. **Legal Assistance Program.** – The Commission shall implement a legal assistance program to benefit victims of human rights violations consisting of the provision of legal services in coordination with human rights organizations and lawyers' groups, the Integrated Bar of the Philippines and Philippine law schools with legal aid programs.

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

Sec. 41. **Creation of Ad Hoc Truth Commissions.** – The Commission may recommend the creation of an ad hoc Truth Commissions on matters of transcendental importance, such as widespread and systematic human rights violations occurring over prolonged periods of time, or under extraordinarily-repressive conditions, or attended by a culture of impunity that is instigated, inspired or orchestrated by public officials, in conspiracy with government security forces or State-sponsored armed groups.

Sec. 42. **Issuance of clearances.** – The Commission shall issue clearances to members of the military, police and other law enforcement agencies prior to, and as

requirement for, their promotion or assumption of office. The Commission may also issue clearances for other purposes such as training, education or study grants abroad upon proper request of the applicant.

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

Sec. 43. Appeals; Prohibition against Injunction. - Orders, decisions or findings of the Commission, including determination of probable cause, shall be appealed to the Court of Appeals on both questions of fact and law, or on certiorari to the Supreme Court on pure questions of law. No restraining order or writ of injunction shall be issued against the Commission in the performance of its powers and functions other than those issued by the Court of Appeals or the Supreme Court.

Sec. 44. Protection from Harassment Suits; Dismissal - The Chairperson, Members, officers and employees of the Commission shall be immune from civil or criminal prosecution for acts performed in pursuance of their official functions for the duration of their tenure.

Sec. 45. Obstruction. - Any person who, after due hearing, is found to have wilfully obstructed or hindered the proper exercise of the powers and functions of the Commission, or who wilfully misleads or attempts to mislead the Chairperson, Members and the duly designated Commission officials and representatives shall be punished for obstruction of justice by the Commission. In addition, he/she shall be penalized by a fine not exceeding Twenty Five Thousand Pesos (P25,000.00), at the discretion of the Commission.

TITLE III. ORGANIZATION AND STRUCTURE

Sec. 46. Commission as a Collegial Body. - The Commission composed of the Chairperson and four (4) Members, as a collegial body, is responsible for the promulgation of policies, decisions, orders and resolutions necessary for the efficient administration of the Commission and for proper execution of its constitutional mandate.

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

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

Sec. 47. The Chairperson as Executive Officer; Powers and Duties. The Chairperson 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. 48. Structural Organization. - The Commission shall have the following line offices and operating units:

- a) Office of the Chairperson;
- b) Office of the Commissioners;
- c) Office of the Assistant Commissioners;
- d) Office of the Executive Director;
- e) Office of the Commission Secretary;
- f) Legal Office;
- g) Investigation Office;
- h) Human Rights Instruments Compliance And Monitoring Office;
- i) Education, Advocacy And Research Office;
- j) Information System Management Office;
- k) Assistance and Visitorial Office;
- l) Forensic Office;
- m) Planning And Management Office;
- n) Financial Management Office;
- o) General Administrative Office;
- p) Sectoral Rights Offices;
- q) Public Information Office; and
- r) Regional Offices.

All the above offices will be headed by an officer with a rank, salary and privileges equivalent to a Director IV, except for the Executive Director and who shall have the rank, salary and privileges of an Assistant Secretary. All centers will be headed by a Director III. 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 emoluments and privileges that shall not be less than those given to comparable positions in any office in the government.

Sec.49. Assistant Commissioners. - There shall be four (4) Assistant Commissioners as Head of the different clusters: Assistant Commissioner for Internal Administration, which shall be comprised of Planning and Management Office, Financial Management Office, General Administration Office, and Information System Management Office; Assistant

Comment [EV1]: We have been informed by the CHR chair that the members of the Commission prefer not to have any deputy commissioners. They believe that this will only bloat the bureaucracy. However, the HR chair from the House is asking that the final bill include positions that will optimize career advancement for those in the bureaucracy.

Commissioner for Human Rights Protection, which shall be composed of the Legal Office, Investigation Office, Forensic Office, and Assistance and Visitorial Office; Deputy Commissioner for Human Rights Promotion and Advocacy, which shall be comprised of Human Rights Instruments Compliance and Monitoring Office, and the Education, Advocacy and Research Office; Deputy Commissioner for Regional Operations, which shall be comprised of the Regional and Provincial Offices.

The Assistant Commissioners shall act as facilitators in conveying the directives and policies of the Commission to their respective cluster offices, as monitors of their respective cluster offices' actions as well as their implementation and as advocates for their cluster offices who will identify, raise and settle issues or concerns which require appropriate action.

The Assistant Commissioners shall identify, analyze and evaluate approaches, strengths and weaknesses of programs' reports and performance evaluations and in the case of regional operations, the implementation and pursuit of mandates nationwide.

The Assistant Commissioners shall be appointed to the Commission, with preferential status given to the officers and employees within the Commission who have been working therein for at least 7 years prior to the time of their appointment. They must have been involved in human rights promotion and protection activities during that time period. In addition, the Assistant Commissioner for Human Rights Protection, must also be a member of the Philippine Bar, and the Assistant Commissioner for Internal Administration must be a Certified Public Accountant.

Sec. 50. The Executive Director. - The Executive Director shall be responsible for managing the day-to-day affairs, activities and operations of the Commission, in accordance with its policies, standards, rules and regulations adopted and promulgated by the Commission. In particular, the Executive Director shall:

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

The Executive Director shall be appointed by the Commission and shall be a member of the Philippine Bar with proven integrity and competence, and must have been involved in

human rights promotion and protection activities for seven (7) years. He/she shall have the rank, salary and privileges of an Assistant Secretary.

Sec. 51. The Commission Secretary. - The Commission Secretary, who shall head the Commission Secretariat, shall provide executive services to the Commission on its regular, special and executive meetings, assistance on policy review and coordination, review and appraisal of the programs and other project undertakings of the Commission, including technical support on the formulation of guidelines, directives, mandates and executive summaries and reports. In addition, the Committee Secretary shall:

- a. Prepare the agenda of meetings of the Commission *En Banc* and ensure complete recording of proceedings;
- b. Develop, recommend to the Commission *En Banc*, and implement an approved disclosure policy for the Commission on Human Rights of the Philippines;
- c. Formulate, propose and implement a central records management system for the Commission *En Banc*, and act as the custodian of all records on human rights cases filed with the Commission, including records on resolutions, rules, policies, regulations and other decisions, proceedings of its meetings, and other pertinent records;
- d. Design, propose and implement a central records management system and provide records management orientation and assistance to the various offices of the Commission;
- e. Prepare and issue directives to concerned offices, by authority of the Commission *En Banc*;
- f. Represent the Commission *En Banc* in different technical working committees of the Commission, as may be directed by it;
- g. Respond to queries from the different central and regional offices on matters pertaining to policies, rules and decisions, as authorized by the Commission *En Banc*; and
- h. Perform such other related functions as may be assigned by the Commission *En Banc*.

The Commission Secretary, who must be at least a degree holder of Bachelor of Laws (L.B.) or Juris Doctor (JD), shall have the rank, salary and privileges of a Director IV.

Sec. 52. Duties and Functions of the Offices of the Commission. - The different offices of the Commission provided in Section 48 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. 53. Officers of the Commission. - All officers appointed by the Commission who possess the rank or position above Division Chief level and officially performs managerial and executive functions, must be Career Executive Service (CES) eligible under the Career Executive Service Board or has equivalent eligibility as the Commission may establish.

The Commission may propose additional qualification standards to be submitted for approval to the Department of Budget and Management and for information of the Civil Service Commission.

Sec 54. Central Offices – The Commission shall establish Central Offices to effect its functional mandates of investigation, legal advocacy, visitorial, education, research and compliance monitoring, and such other functions necessary for the effective and efficient performance of its duties.

Sec. 55. Regional Offices. - The Commission shall have seventeen (17) regional offices, as may be further established by law, with two regional offices for Region IV, including the National Capital Region (NCR), the Caraga Administrative Region (CARAGA), Cordillera Administrative Region (CAR) and the Autonomous Region of Muslim Mindanao (ARMM).

Each Regional Office shall be headed by a Regional Human Rights Director with a rank and salary of Director IV, who must be a member of the Philippine Bar, 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 a Director III.

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 its rules and regulations to be promulgated by the Commission.

Sec 56. Provincial Offices. – The Commission may establish such Provincial Offices as may be necessary in the provinces falling under the administrative jurisdiction of the Regional Office. The Provincial Office shall be headed by a Provincial Human Rights Officer and staffed by such other officers or employees as the Commission may appoint. The Provincial Human Rights Officer shall carry the rank and receive the same salary and privileges of a Division Chief.

Sec. 57. Sectoral Rights Offices. - The Commission shall establish offices and centers to undertake promotion and protection of the rights of vulnerable sectors, to include but not be limited to women and children, as the Commission may deem appropriate.

Sec. 58. Joint Congressional Oversight Committee. - A Joint Congressional Oversight Committee is hereby created, composed of the Chairman of the Senate Committee on Justice and Human Rights and three (3) other Senators designated by the Senate President, and the Chairman of the House Committee on Human Rights, and three (3) other Members of the House of Representatives designated by the Speaker of the House of Representatives: Provided, That, of the three (3) members to be designated by each House of Congress, two (2) should come from the majority and the remaining Member from the minority.

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

Sec. 59. Implementing Rules and Regulations. – The Commission shall, within sixty (60) days from the approval of this Act, formulate the implementing rules and regulations in the exercise of its general, investigative, prosecutorial, monitoring, education and advocacy powers and functions in consultation with other concerned agencies of the Government.

Sec. 60. Operational Guidelines. - The Commission shall also formulate its operational guidelines which shall include, but not be limited to, the functions and duties of the Assistant Commissioners, the Executive Director, the Commission Secretary and the

heads of the line offices, the implementation and management of its Witness Protection, Financial Assistance and Legal Aid Programs, and such other matters as may be necessary for the implementation of this Act.

Sec. 61. 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. 62. Financial Report. - The Commission shall make available to the public its annual financial statements, including but not limited to, expenditures and sources of funds.

Sec. 63. Transitory Provision. - Nothing in this Act shall prejudice the positions, emoluments, security of tenure, and privileges of the incumbent Chairperson and Commissioners, officers and employees of the Commission upon its effectivity. However, officials and employees of the Commission, in aid of its reorganization upon the effectivity of this Act, may avail of an early retirement program as may be provided for by the Commission.

Sec. 64. Separability Clause. - If any provision of this Act shall be held unconstitutional, other provisions not affected thereby shall remain valid and binding.

Sec. 65. Repealing Clause. - All laws, republic acts, 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. 66. Effectivity Clause. - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of general circulation.

Approved,