

Republic of the Philippines
REPUBLIC OF THE PHILIPPINES
Quezon City, Metro Manila

SIXTEENTH CONGRESS
First Regular Session

HOUSE BIL No. 238



Introduced by **HON. RENE L. RELAMPAGOS**

EXPLANATORY NOTE

The Commission on Human Rights is an independent office created under Art. XIII of the 1987 Constitution and it has been operationalized by Executive Order No. 163 dated 05 May 1987 and signed by President Corazon Aquino.

CHR has been envisioned by the 1986 Constitutional Commission (ConCom) as a quasi-judicial body with investigative and monitoring powers on all forms of human rights violations involving civil and political rights of Filipinos residing here and abroad. It is also empowered to provide appropriate legal measures for the protection of human rights of all, exercise visitorial powers over jails, prisons and detention facilities and establish a continuing program of research and education to enhance respect for human rights. It may recommend to Congress effective measures for human rights promotion, as well as provide compensation for human rights violations' victims, or their families. It shall monitor compliance of the government with international treaty obligations, grant immunity from prosecution for its witnesses and perform such other functions as may be provided by law. (Section 18, Art. XIII of the Constitution)

On the other hand, Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations. (Sec. 19, Art. XIII of the Constitution)

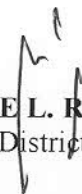
However, the CHR has been dubbed as the "toothless tiger" in view of the lack of prosecutorial powers of the Commission, and its powers are clipped to being merely recommendatory in nature. Thus, findings of criminal, civil or administrative culpability of those accused in cases lodged in the Commission are not acted upon, but are merely recommended to the courts or judicial bodies for appropriate legal action.

The public perception in the domestic level that has been generated by this unfortunate situation of the CHR has caused an eroding confidence in the capability of the

Commission to effectively discharge its mandate. As of 2012, the CHR has a backlog of around 12,000 cases that have not been properly disposed, which may be attributed to a lot of factors, such as its amorphous organizational structure, limited fiscal autonomy and limited powers under the law.

The bill proposes to strengthen the Commission with the express grant of residual prosecutorial powers, which finds its basis in the 1986 ConCom deliberations. A streamlined bureaucratic structure, functional fiscal autonomy, and a more comprehensive rights-based approach to human rights that will now include social, economic and political rights of individuals are thereby proposed in this bill. Cognizant of the Paris Principles governing National Human Rights Institutions (NHRI), international human rights treaties and conventions to which the Philippines is a State Party, the bill ensures that the CHR is fully compliant of these obligations as a NHRI.

Wherefore it is highly urged that this bill be immediately passed into law.


RENE L. RELAMPAGOS
First District, Bohol

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Introduced by HON. RENE L. RELAMPAGOS

AN ACT
STRENGTHENING 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 of 2013."

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.

SEC. 3. Definition of Terms. - For purposes of this Act, human rights shall include those 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 all other international instruments on human rights to which the Philippines is a signatory.

I. THE COMMISSION ON HUMAN RIGHTS

A. The Chairperson and Members

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 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 partylist nominees, for any elective position in any national or local elections, 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 reappointment. 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 directly avoid conflict of interest in the conduct of their office. They shall not be allowed to appear or practice before the Commission for one (1) year 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, appearing for or on behalf of the Chairperson or Members for pecuniary interest, on any matter pending before the Commission or transact business directly or indirectly therewith.

The disqualification shall apply during the tenure of the official concerned one (1) years 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 a public disclosure of the identities of, and their relationship with the persons referred to in the preceding section. The disclosure, which shall be in writing, shall be filed in the Office of the Ombudsman after the appointee assumes office and every year 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 those of the Constitutional Commissions as provided by law.

B. Nomination of Chairperson and Members

SEC. 9. *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 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) representatives from human rights non-government organizations (NGOs) and lawyers' groups, the academe, indigenous peoples, and women's groups involved in human rights work and advocacy, duly accredited by the Commission.

SEC. 10. *Selection of nominees.* - The members of Nominations Committee shall have equal voting rights. They shall meet not later than three (3) months before the end of a current term or within a week after the occurrence of a vacancy during the term. They shall submit to the President their list of nominees one (1) month before the end of said term or after a month after said vacancy. The President shall make the appointment within one (1) month from the submission of the list of nominees by the Nominations Committee. The Nominations Committee shall adopt its own rules of procedure.

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.

SEC. 11. *Pluralist Representation.* - In the selection of nominees for Chairperson and Members of the Commission, the Nominations Committee shall take into consideration pluralist representation of civil society involved in the promotion and protection of human rights.

SEC. 12. *Non-Government and People's Organizations.* - The accredited human rights non-government and people's organization shall choose their three (3) representatives to the Nominations Committee from among themselves in a meeting attended by a representative of the Commission. In the absence of a selection procedure agreed upon by said organizations, the Commission shall promulgate rules of procedure on the selection of the three (3) representatives by the accredited organizations: *Provided*, That selection rules agreed upon by the organizations among themselves shall supersede any rule promulgated by the Commission.

Accreditation by the Commission shall be based on guidelines to be prescribed in its implementing rules and regulations.

C .Nature of the Commission

SEC. 13. *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 and decisions.

SEC. 14. *The Commission as the National Human Rights Institution of the Philippines.* – The Commission is 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.

SEC. 15. *Fiscal Autonomy.* – The Commission shall 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. 16. *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 those in violation thereof or of its lawful orders in accordance in 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 violated or need protection;
- e) Exercise unhampered and unrestrained visitorial powers over jails, prisons, or detention facilities;
- f) Establish a continuing program of research, education and information to enhance respect for the primacy 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 or convenient to determine the truth in any investigation conducted by it or under its authority;
- j) Request the assistance of an 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 26 hereof;
- l) Accredite national non-government and peoples' organizations involved in human rights promotion, protection and advocacy, including for purposes of visiting persons arrested, detained or under custodial investigation
- m) Ensure that the status, rights and interests of children are upheld in accordance with the Constitution, laws and international instruments on human rights;
- n) Appoint its officers and employees in accordance with law; and
- o) Perform such other duties and functions as may be provided by law.

B. Investigation

SEC. 17. Investigative Powers and Functions. – The Commission shall exercise primary and original jurisdiction to investigate, on complaint or *motu proprio*, cases of human rights violation 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, whether directly affected or not, and on finding of human rights violation, recommend the filing of appropriate administrative, civil and/or criminal action. 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 production of evidence, to place the witness under oath of affirmation, issue *subpoenas* and take testimony in any investigation or inquiry;
- c) Issue orders and directives constituting preventive and legal measures, provided for under sections 19 and 20, respectively;
- d) Provide protection and 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 as shall ensure the effective exercise or performance of its investigative function;
- 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 and punish for direct or indirect contempt any person for violations of the Commission's lawful orders. The Rules of Court shall apply suppletorily to the Rules of the Commission.

SEC. 18. *Imprescriptibility of Human Rights Violations.* – The investigation of human rights violations shall not be subject to any statute of limitations or prescriptive period.

SEC.19. *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) Injunction orders 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 desist from hiding, transferring or torturing a detainee and to allow access to said detainee by the Commission, his/her counsel, physician, and relatives;
- b) Orders directing 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 lands and property, to permit the inspection of said premises;
- c) Orders to transfer persons deprived to their liberty and in danger of reprisal due to the filing of a complaint in connection with his/her detention, in order to secure safety of his/her person;
- d) Restraining orders restricting respondent, his/her unit or command from entering the immediate vicinity of the affected area or residence and from searching the victim or his belongings;
- e) General writs of injunction ordering the respondent to refrain from committing any and all acts that would tend to cause irreparable harm and have the immediate effect to rendering the investigation of the Commission moot and academic.

SEC. 20. *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) Mandatory protection orders directing government security forces, other appropriate government agencies or private institutions to provide specific protection to victims of human rights violations;
- (b) Orders to deputize government offices and private institutions for the purpose of providing protection; and
- (c) Orders to deputize government and private lawyers as counsels *de officio* to ensure that the human rights of the victim are not further violated.

SEC. 21. *Grant of Immunity.* - The Commission may grant immunity for prosecution to any person whose possession and production of documents or other evidence as 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 granted shall be revoked on account of evidence presented to be true but which is, in fact, false and spurious, and without which the Commission would not have granted immunity.

SEC. 22. Preventive Suspension – With the exception of Members of the Congress, those of the judiciary, and impeachable officials, the Commission may preventively suspend any officer or employee, after summary hearing/s, pending an investigation, if in its judgment: (a) the evidence of guilt is strong; (b) the charges would warrant removal from the services; and (c) the respondent's continued stay in office may prejudice the case filed against him/her.

In the case of suspended elective official/s, upon expiration of his 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 time he was formally notified of the case against him.

The preventive suspension shall 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 three (3) months 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.

Any abuse of the exercise of the power of preventive suspension shall be penalized as abuse of authority.

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

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

SEC. 23. Referral to Disciplining Authority. – The Commission may direct the disciplining authority to take appropriate action against a public officer or employee found guilty of committing violations of human rights and recommend his/her 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 of the Commission. Failure to act or comply with said recommendation shall be actionable by *mandamus*.

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. 24. *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 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 provided by the Commission.

SEC. 25. *Investigation by Regional Offices.* – The regional office 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. 26. *Concurrent Prosecutorial Powers and Functions.* – The Commission all exercise concurrent prosecutorial powers and functions as herein provided.

In the event of the failure of the prosecution agency of the government to initiate a preliminary investigation within ninety (90) working days from its receipt of the case recommended for prosecution by the Commission, the latter shall conduct the preliminary investigation and upon a finding of probable cause, refer the same to the appropriate prosecution agency for the filing of the information and prosecution of the case.

In case of failure of the prosecution agency to file the information within thirty (30) calendar days upon receipt of the resolution of the Commission finding probable cause, the latter shall exercise concurrent prosecutorial powers by filing the information in court on its own and prosecuting the case. For this purpose, the Commission shall have the power to deputize government prosecutors or private lawyers who shall be under its 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 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 person arrested, detained, or under custodial investigation, including deprivation of the rights of political detainees;
- (e) Violations of the right to speedy, impartial and public trial indisposition 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 of, accused of, or detained for the crime of terrorism or conspiracy to commit terrorism;
- (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; and
- (l) In general, any crime penalized under the Revised Penal Code or special laws when committed within the context of or resulting to human rights violations.

SEC. 27. *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, warlords and private armies;
- (b) Criminal organizations and groups; and
- (c) Multi-national, foreign and domestic corporations, and other business entities.

SEC. 28. *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;
- (b) Crimes penalized under Republic Act No. 7610 or the "Special Protection of Children Against Abuse, Exploitation and Discrimination Act";
- (c) Crimes penalized under Republic Act No. 9262, or the "Anti-Violence Against Women and Their Children Act of 2004"; and
- (d) Crimes penalized under Republic Act No. 8371 or the "Indigenous Peoples Rights Act of 1997".

Vulnerable persons shall include those identified as such in international human rights treaties, which include but shall not be limited to children, women, elderly, persons with disabilities, migrant workers, indigenous peoples, and ethnic and religious minorities.

D. Monitoring

SEC. 29. *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) Request any department, bureau or office, subdivision, agency or instrumentality of the Government to submit timely international human rights treaty compliance reports 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/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 without need of prior permission;
- (e) Access any book, record, file, document or paper located in the above-mentioned offices and facilities;
- (f) Study and recommend to the government international human rights treaties or instruments for its signature, ratification or accession;
- (g) Make timely and regular submission of independent reports to international human rights treaty bodies and other international human rights mechanisms;
- (h) Advise and assist the government on clearly identified gaps in human rights treaty compliance;
- (i) Capacitate stakeholders to enable participation to monitoring human rights treaty compliance by the government;
- (j) Delegate to its deputies, investigators or representatives, such authority or duty which shall ensure the effective exercise or performance of its monitoring functions; and
- (k) Recommend and institutionalize best practices and incentives for human rights advocates and institutions.

SEC. 30. *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 declaration and similar undertakings.

SEC. 31. *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 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 action taken by the government agencies concerned on the Commission's recommendations.

E. Education and Advocacy

SEC. 32. *Education and Advocacy in Government.* - The Commission shall undertake a program of human rights promotion and advocacy through education and training to enhance respect for the primacy 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 certificate of completion to those who have successfully completed the program.

SEC. 33. *Education and Advocacy in Civil Society.* - The Commission shall also undertake a 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. 34. *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. 35. *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. 36. *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. 37. *Financial Assistance Program.* - The Commission shall strengthen its financial assistance program to victims of human rights violations and their families.

The initial funding for the Witness Protection and 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 funds necessary for the initial implementation of the Witness Protection and Financial Assistance Program shall be taken from the current year's appropriation of the Commission. Thereafter, the funding requirement shall be included in the annual General Appropriations Act.

SEC. 38. *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.

Upon its discretion, the Commission may also provide allowances and incentives to private lawyers or lawyers' groups who would render their professional services on behalf of the Commission in any court proceeding involving the litigation of human rights cases, subject to auditing rules and regulations.

SEC. 39. *Protection of Filipinos Abroad.* - The Commission shall undertake measures for the protection and promotion of human rights of Filipinos living abroad. It may assign organic personnel to act as Human Rights *Attaches* in Philippine Embassies or consulates or deputize Philippine Embassy or Consulate officers, resident 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.

The assigned personnel acting as Human Rights *Attaches* or deputized individuals of the Commission shall monitor the status of human rights of Filipinos living abroad and establish networks among Filipinos for purposes of monitoring and reporting cases of human rights violations, as well as for providing counseling and financial assistance to victims. They shall immediately notify the concerned Embassy officials, of incidents of human rights violations of Filipinos and provide immediate assistance to victims.

SEC. 40. *Creation of Ad Hoc Truth Commissions.* - The Commission may recommend the creation of an *ad hoc* Truth Commission 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. 41. *Issuance of Certifications.* - The Commission shall issue certifications to members of the military, police and other law enforcement agencies prior to their promotion

or assumption to office. The Commission shall clearly indicate in its certification if the applicant has a pending case with them and shall state the nature and status of the case/s filed.

The Commission shall also 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 twenty-seven (27) or its equivalent and higher.

It may also issue certifications for purposes of trainings, local or foreign study grants and education purposes, upon proper request made by the applicant.

SEC. 42. 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 writ of injunction against the Commission in the performance of its functions shall be issued other than those emanating from the Court of Appeals or the Supreme Court.

SEC. 43. Protection from Harassment Suits; Dismissal. - The Chairperson, Members, officers and employees of the Commission shall be free from any administrative, civil or criminal liability in the regular performance of their functions. Personal legal actions brought against them shall be dismissed where it appears that the same was filed for acts committed in the regular performance of said functions.

TITLE III. ORGANIZATION AND STRUCTURE

SEC. 44. 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 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. 45. 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. 46. 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 Commissioner for Internal Administration;
- (d) Office of the Assistant Commissioner for Human Rights Protection;
- (e) Office of the Assistant Commissioner for Human Rights Promotion & Advocacy;
- (f) Office of the Assistant Commissioner for Regional Operations;
- (g) Office of the Executive Director;
- (h) Office of the Commission Secretary;
- (i) Information System Management Office;
- (j) Planning and Management Office;
- (k) Financial Management Office;
- (l) General Administrative Office;
- (m) Legal Office;
- (n) Investigation Office;
- (o) Assistance and Visitorial Office;
- (p) Forensic Office;
- (q) Security and Protection;
- (r) Human Rights Instruments Compliance and Monitoring Office;
- (s) Education, Advocacy and Research Office;
- (t) Public Information Office;
- (u) Sectoral Rights Offices; and
- (v) Regional Offices

With the exceptions of the Chairperson, Commissioners, Assistant Commissioners and Executive Directors, all the above-mentioned offices shall be headed by an official with a rank, salary and privileges equivalent to a Director IV. The Sectoral Rights Offices shall be headed by officials with the rank of Director III.

As an independent constitutional office, the Commission may effect changes in the organization as the need arises: *Provided*, That said reorganization shall be funded within the personal services appropriation of the Commission.

The Public Information Office, which will be under the direct supervision of the Chairperson of the Commission, shall assume the role of a media relations unit that will disseminate all information to the general public including the issuances of the Commission, enable public access to general information pertaining to the Commission, and encourage active participation of all forms of media, for the promotion of human rights.

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. 47. *Assistant Commissioners.* - There shall be four (4) Assistant Commissioners as Head of the different clusters: (1) 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; (2) Assistant Commissioner for Human Rights Protection, which shall be comprised of the Legal Office, Investigation Office, Forensic Office, Assistance and Visitorial Office, and Security and Protection Office; (3) Assistant 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; and (4) Assistant Commissioner for Regional Operations, which shall be comprised of the Regional Offices.

The Assistant Commissioners shall act as facilitators in conveying the directive 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 seven (7) years prior to the time of their appointment.

The Assistant Commissioners must be proven integrity and competence and must have been involved in human rights promotion and protection activities for at least seven (7) years. In addition, the Assistant Commissioner for Human Rights Protection, must be a member of the Philippine Bar, and the Assistant Commissioner for Internal Administration must be a Certified Public Accountant. All of the Assistant Commissioners shall have the rank, emoluments and benefits of an Assistant Secretary.

SEC. 48. *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 the 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 the national and regional units of the Commission;
- (b) Upon consultation with the Assistant Commissioner/s concerned, 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 promote productivity, efficiency and effectiveness in the Commission, with prior consultation with the Commission and Assistant Commissioner/s concerned;
- (d) Coordinate with the Assistant Commissioner/s concerned as well as the 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. 49. *The Commission Secretary.* - The Commission Secretary, who shall head the Commission Secretariat, shall provide executive services to the Commission on its regular, special 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 Commission 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 (Ll.B.) or Juris Doctor (JD), shall have the rank, salary and privileges of a Director IV.

SEC. 50. *Duties and Functions of the Offices of the Commission.* - The different offices of the Commission provided in Section 46 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. 51. *Officers of the Commission.* - All officers appointed by the Commission who possess the rank or position that is 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. 52. *Regional Offices.* - The Commission shall have seventeen (17) regional offices, and 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. 53. *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.

With the exception of the Barangay Human Rights Action Center and the Human Rights Resource Centers, the Child Rights Center, Women's Human Rights Center, and other sectoral rights offices shall be under the direct supervision and control of the Commission en banc.

SEC. 54. *Operational Guidelines.* - The Commission shall 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. 55. *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 Hundred and Twenty (120) 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 not contain more than One Hundred and Fifty (150) words.

SEC. 56. *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. 57. *Appropriations.* - In addition to the regular appropriations of the Commission, the sum of Three Hundred Million Pesos (P300,000,000.00) for the initial implementation of this Act shall be included in the annual General Appropriations Act in the year following its enactment into law.

Thereafter, such sums as may be necessary for the full implementation of this Act shall be included in the annual General Appropriations Act.

SEC. 58. *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, may avail of an early retirement program as may be provided for by the Commission upon the effectivity 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. *Separability Clause.* - If any provision of this Act shall be held unconstitutional, other provisions not affected thereby shall remain valid and binding.

SEC. 61. *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. 62. *Effectivity Clause.* - This Act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of general circulation.

Approved,