

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SIXTEENTH CONGRESS
First Regular Session

House Bill No. **3016**



Introduced by HON. GUS S. TAMBUNTING

EXPLANATORY NOTE

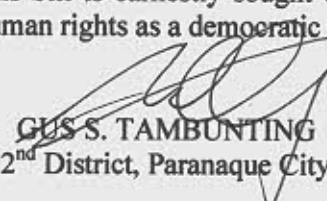
The protection of human rights is one of the obligations of our country to the citizens. In effect, it is an established policy of the State to value the dignity of human person and to guarantee the full respect of human rights. More importantly, as signatory to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights, it is incumbent upon our government to ensure the commitment of our nation in promoting the protection of human rights as well as in establishing mechanisms in guaranteeing the protection of these rights.

Thus, this bill is earnestly filed to strengthen the Commission of Human Rights and as an endeavor to prioritizing the protection and enhancement of the rights of all people to human dignity. The measure seeks to emphasize the independence of the Commission from all branches of the government and its fiscal autonomy by stating that it shall not be subject to any instructions or orders from the President, Congress or Judiciary. It also provides for the organization and structure of the Commission in furtherance of the spirit of the Constitution such that the manner of appointment and removal as well as the qualifications for the composition of the Commission are now well-defined.

More importantly, it defines the general powers and functions of the Commission and institutionalizes the Investigative Powers and Functions of the Commission, with full powers to act on a complaint or motu proprio in cases of human rights violations including civil, political, economic, social and cultural rights. In addition, it is vested in this measure the power of the Commission to issue injunctive reliefs and legal measures such as mandatory protection orders. Further, it categorically promulgates the imprescriptability of cases involving human rights.

It also empowers the Commission concurrent prosecutorial powers and functions to assure that cases involving violation of human rights shall be pursued notwithstanding the failure of the prosecution agency of the government to initiate a preliminary investigation.

Hence, the passage of this bill is earnestly sought concomitant to our dedication in guaranteeing the protection of human rights as a democratic nation.


GUS S. TAMBUNTING
2nd District, Paranaque City

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HOUSE OF REPRESENTATIVES
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House Bill No. **3016**

Introduced by HON. GUS S. TAMBUNTING

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 2012."

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. Nature of the Commission

SEC. 4. The Commission as an Independent Office. - The Commission on Human Rights, hereinafter referred to as the Commission, 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 Commissioners, legislation affecting the exercise of its powers and functions, and judicial review of the legality of its acts, orders, resolutions and decisions.

SEC. 5. 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 as may be consistent with the Constitution.

SEC. 6. 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. 7. 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 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 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 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 17 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. 8. 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 a 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 10 and 11, 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. 9. *Imprescriptibility of Human Rights Violations.* – The investigation of human rights violations shall not be subject to any statute of limitations or prescriptive period.

SEC. 10. *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 or torturing a detainee and to allow access to the detainee by the Commission, a counsel, a 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 the premises;
- c) Orders to transfer persons deprived of their liberty and in danger of reprisal due to the filing of a complaint in connection with the detention, in order to secure the safety of the person;
- d) Restraining orders restricting respondent, the unit or command from entering the immediate vicinity of the affected area or residence and from searching the victim or one's 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. 11. *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:

- 1 (a) Mandatory protection orders directing government security forces, other
2 appropriate government agencies or private institutions to provide specific
3 protection to victims of human rights violations;
4 (b) Orders deputizing government offices and private institutions for the purpose of
5 providing protection; and
6 (c) Orders deputizing government and private lawyers as counsels *de officio* to ensure
7 that the human rights of the victim are not further violated and;
8 (d) Any order the purpose of which is analogous to any of the foregoing.
9

10 **SEC. 12. Grant of Immunity.** - The Commission may grant immunity from
11 prosecution to any person whose possession and production of documents or other evidence
12 as may be necessary to determine the truth in any hearing, inquiry or proceeding under such
13 terms and conditions as it may determine, taking into account the pertinent provisions of the
14 Rules of Court and its own rules. The immunity granted shall be revoked on account of
15 evidence presented to be true but which is, in fact, false and spurious, and without which the
16 Commission would not have granted immunity.

17 **SEC. 13. Preventive Suspension** - With the exception of Members of Congress, those
18 of the Judiciary, and impeachable officials, the Commission may preventively suspend any
19 officer or employee, after summary hearing/s, pending an investigation, if in its judgment: (a)
20 the evidence of guilt is strong; (b) the charges would warrant removal from the service and
21 (c) the respondent's continued stay in office may prejudice the case filed against the
22 respondent.

23 In the case of suspended elective official/s, upon expiration of the preventive
24 suspension, the official shall be deemed reinstated in office without prejudice to the
25 continuation of the proceedings against the official which shall be terminated within one
26 hundred twenty (120) days from the time the official was formally notified of the case.

27 The preventive suspension shall immediately be executory, unless restrained by the
28 Court of Appeals or the Supreme Court and shall continue until the case is terminated by the
29 Commission: *Provided*, That said suspension shall not be more than three (3) months without
30 pay, except when the delay in the disposition of the case by the Commission is due to the
31 fault, negligence or petition of the respondent, in which case the period of such delay shall
32 not be counted in computing the period of suspension herein provided.

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

35 The respondent official preventively suspended from office shall receive no salary or
36 compensation during such suspension; but upon subsequent exoneration and reinstatement,
37 the respondent official shall be paid full salary or compensation including such emoluments
38 accruing during such suspension.

39 The respondent official shall be accorded full opportunity to appear and defend
40 oneself in person or by counsel, to confront and cross-examine the witnesses against the
41 respondent official and to require the attendance of witnesses and the production of the
42 documentary evidence in favor of the respondent official through the compulsory process of
43 *subpoena ad testificandum* or *subpoena duces tecum*.

44 **SEC. 14. Referral to Disciplining Authority.** - The Commission may direct the
45 disciplining authority to take appropriate action against a public officer or employee found
46 guilty of committing violations of human rights and recommend the removal, suspension,
47 demotion, censure, imposition of fine, or prosecution and to ensure compliance by requiring
48 the officer concerned to report on the action within thirty (30) days from receipt of the
49 recommendation of the Commission. The failure of the appropriate authority to act or

1 comply with said recommendation shall constitute a ground for application of the issuance of
2 a writ of mandamus by the Commission.

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

7 **SEC. 15. *Motu Proprio Dismissal.*** – The Commission may dismiss, *motu proprio*, a
8 complaint for the investigation of human rights violations on any of the following grounds:

- 9 a) The complaint pertains to a matter outside the jurisdiction of the Commission;
10 b) The complaint is trivial, frivolous, vexatious or made in bad faith; or
11 c) Other valid grounds as may be provided by the Commission.
12

13 **SEC. 16. *Investigation by Regional Offices.*** – The regional office shall investigate
14 complaints falling within its territorial jurisdiction unless the Commission *en banc*, in its
15 discretion, takes direct cognizance of the same. Upon recommendation of the regional office
16 in investigations pending before it, the Commission *en banc* may issue legal and preventive
17 measures and preventive suspension orders which are immediately executory. Within ten (10)
18 days after concluding the investigation, the regional office shall render the appropriate order,
19 directive or resolution subject to appeal to the Commission *en banc* pursuant to its rules.
20

21 **C. Prosecution**

22 **SEC. 17. *Concurrent Prosecutorial Powers and Functions.*** – The Commission shall
23 exercise concurrent prosecutorial powers and functions as herein provided.
24

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

30 In case of failure of the prosecution agency to file the information within thirty (30)
31 calendar days upon receipt of the resolution of the Commission finding probable cause, the
32 latter shall exercise concurrent prosecutorial powers by filing the information in court on its
33 own and prosecuting the case. For this purpose, the Commission shall have the power to
34 deputize government prosecutors or private lawyers who shall be under its direct control and
35 supervision.

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

- 41 (a) Use of physical, psychological and degrading punishment, torture, force, violence,
42 threats, and intimidation;
43 (b) Extra-judicial killings, summary executions, and “massacres” or mass killings;
44 (c) Violations of the right to be secure from unreasonable searches and seizures,
45 including involuntary or enforced disappearances;
46 (d) Violations of the rights of person arrested, detained, or under custodial
47 investigation, including deprivation of the rights of political detainees;
48 (e) Violations of the right to speedy, impartial and public trial or disposition of cases;

- 1 (f) Hamletting, forced evacuation or eviction, illegal demolition, development
2 aggression and other violations of the right to travel and to freely choose one's
3 abode and change the same;
4 (g) Violations of the right to peaceably assemble, free association, and to petition the
5 government for redress of grievances;
6 (h) Violations of the right to worship and the free exercise of a religion;
7 (i) Violations of the right to privacy;
8 (j) Violations of civil and political rights of persons suspected of, accused of, or
9 detained for the crime of terrorism or conspiracy to commit terrorism;
10 (k) Political, religious, racial, ethnic, social or sexual persecution, oppression or
11 harassment committed with acts constituting offenses punished under the Revised
12 Penal Code and special laws; and
13 (l) In general, any crime penalized under the Revised Penal Code or special laws
14 when committed within the context of or resulting to human rights violations.
15

16 **SEC. 18. *When Committed by Non-State Actors.*** - The preceding section shall also
17 apply when the violation is committed by non-state actors. Non-state actors are persons,
18 other than public officers, belonging to and acting on behalf or under the immediate control
19 of a juridical or non-juridical person, whether legitimate or illegitimate, including, but not
20 limited to the following:

- 21 (a) Armed groups, bandits, warlords and private armies;
22 (b) Criminal organizations and groups; and
23 (c) Multi-national, foreign and domestic corporations, and other business entities.
24

25 **SEC. 19. *When Committed Against Vulnerable Persons.*** - The concurrent
26 prosecutorial powers of the Commission shall likewise apply in the investigation and
27 prosecution of the following offenses as penalized under the Revised Penal Code and special
28 laws when committed by any person against any member or group of vulnerable persons, as
29 defined herein:

- 30 (a) Involuntary servitude constituting Crimes Against Personal Liberty and Security
31 under the Revised Penal Code;
32 (b) Crimes penalized under Republic Act No. 7610 or the "Special Protection of
33 Children Against Abuse, Exploitation and Discrimination Act";
34 (c) Crimes penalized under Republic Act No. 9262, or the "Anti-Violence Against
35 Women and Their Children Act of 2004"; and
36 (d) Crimes penalized under Republic Act No. 8371 or the "Indigenous Peoples Rights
37 Act of 1997".
38

39 Vulnerable persons shall include those identified as such in international human rights
40 treaties, specifically children, women, elderly, persons with disabilities, migrant workers,
41 indigenous peoples, ethnic and religious minorities.
42

43 **D. Monitoring**

44 **SEC. 20. *Monitoring Powers and Functions.*** - In the exercise of its mandate to
45 monitor the Government's compliance with its international human rights treaty obligations,
46 the Commission shall have the following powers and functions:

- 47 (a) Require any department, bureau or office, subdivision, agency or instrumentality
48 of the Government to submit timely international human rights treaty compliance
49 reports and to furnish the Commission copies thereof within thirty (30) days from
50 submission to the United Nations and other international bodies;

- 1 (b) Conduct inquiries on the manner of implementation by the Philippine Government
2 of specific human rights treaty obligations;
3 (c) Summon any public official to explain the measures undertaken by the agency in
4 order to comply with the State's international treaty obligations on human rights;
5 (d) Enter and inspect the premises of any government agency or office, specifically
6 police and military stations, installations, camps, bases, and training schools
7 without need of prior permission;
8 (e) Access any book, record, file, document or paper located in the offices and
9 facilities mentioned in paragraph (d) herein;
10 (f) Study and recommend to the government international human rights treaties or
11 instruments for its signature, ratification or accession;
12 (g) Submit regular, timely and independent reports to international human rights
13 treaty bodies and other international human rights mechanisms;
14 (h) Advise and assist the government regarding clearly-identified gaps in human
15 rights treaty compliance;
16 (i) Capacitate stakeholders to enable participation in the monitoring of human rights
17 treaty compliance by the government;
18 (j) Delegate to its deputies, investigators or representatives, such authority or duty
19 which shall ensure the effective exercise or performance of its monitoring
20 functions; and
21 (k) Recommend and institutionalize best practices and incentives for human rights
22 advocates and institutions.
23

24 **SEC. 21. Other Monitoring Functions.** - The Commission shall likewise monitor
25 observance by non-state actors of human rights obligations arising from agreements entered
26 into with the government, as well as unilateral declaration and similar undertakings.

27 **SEC. 22. Annual Report.** - The Commission shall prepare and make public an
28 annual report on the findings of its monitoring activities with regard to the state of the
29 Government's compliance with its international human rights treaty obligations. The report
30 shall include, but shall not be limited to the following:

- 31 (a) Identification of systematic patterns of human rights violations using documented
32 cases;
33 (b) Analysis of the factors which contribute to the commission of human rights
34 violations;
35 (c) Assessment of the legal mechanisms of existing institutions in providing adequate
36 human rights protection;
37 (d) Statistics and data indicating the nature of complaints received, the investigations
38 conducted and findings made, and the action taken by the government agencies
39 concerned on the Commission's recommendations; and
40 (e) Recommendations for legal, legislative and institutional reforms for the greater
41 promotion and protection of human rights.
42
43

44 **E. Education and Advocacy**

45
46 **SEC. 23. Education and Advocacy in Government.** - The Commission shall
47 undertake a program of human rights promotion and advocacy through education and training
48 to enhance respect for the primacy of human rights in coordination with the different agencies
49 of the government. It shall likewise administer a mandatory and continuing human rights
50 education program for the military, police and other law enforcement agencies, as well as

1 public school teachers, and shall, for this purpose, draw up the components of the program,
2 accredit course and training providers, and issue certificates of completion to those who have
3 successfully completed the program.

4 **SEC. 24. *Education and Advocacy in Civil Society.*** - The Commission shall also
5 undertake human rights education, advocacy and information campaign programs among
6 sectors of civil society, particularly the vulnerable, marginalized and underprivileged groups.
7 In conducting these programs, the Commission shall actively cooperate and coordinate with
8 non-government human rights organizations, lawyers' groups, the academe and people's
9 organizations of the concerned sectors of civil society.

10 **SEC. 25. *Research.*** - The Commission shall undertake a continuing research and
11 study on select human rights issues for purposes of recommending policy reforms, as well as
12 administrative and legislative measures that will also address economic, social and cultural
13 rights.

14 **SEC. 26. *Coverage of Programs.*** - The Commission shall prescribe the scope and
15 coverage of education, advocacy, information and training programs on human rights which
16 shall be in accordance with the implementing rules and regulations to be promulgated under
17 this Act.

18 **F. Other Powers and Functions**

19
20
21 **SEC. 27. *Witness Protection Program.*** - In the conduct of its investigations, the
22 Commission shall implement and manage a witness protection program, including the
23 provision of security, shelter, relocation and livelihood assistance to witnesses and their
24 families.

25 **SEC. 28. *Financial Assistance Program.*** - The Commission shall strengthen its
26 financial assistance program to victims of human rights violations and their families.

27 **SEC. 29. *Legal Assistance Program.*** - The Commission shall implement a legal
28 assistance program to benefit victims of human rights violations consisting of the provision
29 of legal services in coordination with human rights organizations and lawyers' groups, the
30 Integrated Bar of the Philippines and Philippine law schools with legal aid programs.

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

35 **SEC. 30. *Protection of Filipinos Abroad.*** - The Commission shall undertake
36 measures for the protection and promotion of human rights of Filipinos living abroad. It
37 may assign organic personnel to act as Human Rights Attaches in Philippine Embassies or
38 consulates or deputize Philippine Embassy or Consulate officers, resident private individuals
39 of known probity and active involvement in human rights work, or foreign-based human
40 rights and migrant workers' non-government organizations in countries where the incidence
41 of human rights violations of Filipinos is widespread and commonplace, including traditional
42 host countries of Overseas Filipino Workers.

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

49 **SEC. 31. *Creation of Ad Hoc Truth Commissions.*** - The Commission may
50 recommend the creation of an Ad Hoc Truth Commission on matters of transcendental

1 importance, such as widespread and systematic human rights violations occurring over
2 prolonged periods of time, or under extraordinarily-repressive conditions, or attended by a
3 culture of impunity that may be instigated, inspired or orchestrated by public officials, which
4 may be in conspiracy with government security forces or State-sponsored armed groups.

5 **SEC. 32. Issuance of Certifications.** - The Commission shall issue certifications to
6 members of the military, police and other law enforcement agencies prior to their promotion
7 or assumption to office. The Commission shall clearly indicate in its certification if the
8 applicant has a pending case with them and shall state the nature and status of the case/s filed.

9 The Commission shall also make its own recommendations to the Commission on
10 Appointments prior to the confirmation of other officials other than those mentioned in the
11 preceding paragraph, who are being considered for promotion or appointment.

12 This provision shall also apply to other government officers with salary grade twenty-
13 seven (27) or its equivalent and higher.

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

16 **SEC. 33. Appeals, Prohibition against Injunction.** - Orders, decisions, or findings
17 of the Commission, including determination of probable cause, shall be appealed to the Court
18 of Appeals on both questions of fact and law, or on certiorari to the Supreme Court on pure
19 questions of law. No writ of injunction against the Commission in the performance of its
20 functions shall be issued other than those emanating from the Court of Appeals or the
21 Supreme Court.

22 **SEC. 34. Protection from Harassment Suits; Dismissal.** - The Chairperson,
23 Commissioners, officers and employees of the Commission shall be free from any
24 administrative, civil or criminal liability in the regular performance of their functions. Any
25 legal action brought against them shall be dismissed where it appears that the same was filed
26 purposely to harass the respondent/s and not for the public officer's wrongful acts committed
27 in the performance of one's official duties.

28 29 **III. ORGANIZATION AND STRUCTURE**

30 **A. Appointment, Qualifications and Removal From Office**

31
32 **SEC. 35. The Commission, Composition and Qualifications.** - The Commission on
33 Human Rights is a collegial body and shall be composed of a Chairperson and four (4)
34 Members who shall possess the following qualifications:

- 35 (a) Must be natural-born citizens of the Philippines;
36 (b) Must be at least thirty-five (35) years of age at the time of their appointment, with
37 proven integrity and competence;
38 (c) Majority of the Members of the Commission must be members of the Philippine Bar
39 who have been engaged in the practice of law for at least five (5) years;
40 (d) Must have an understanding of human rights protection, promotion and advocacy;
41 (e) Must not have been candidates, including party list nominees, for any elective
42 position in any national or local elections, excluding barangay elections, immediately
43 preceding their appointment.

44
45 **SEC. 36. Commission as a Collegial Body.** - The Commission as a collegial body,
46 is responsible for the promulgation of policies, decisions, orders and resolutions necessary for
47 the efficient administration of the Commission and for proper execution of its constitutional
48 mandate.

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

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

7
8 **SEC. 37. Appointment and Term of Office.** - The Chairperson and Commissioners
9 shall be appointed by the President for a term of seven (7) years without reappointment. Of
10 those first appointed under this Act, the Chairperson shall hold office for seven (7) years,
11 two (2) Members for five (5) years, and the other two (2) Members for three (3) years, all
12 without reappointment. In no case shall any member be appointed, re-appointed or
13 designated in a temporary or acting capacity.

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

17 **SEC. 38. Prohibition and Disqualification.** - The Chairperson and Commissioners
18 shall not, during their tenure, hold any other office or employment. Neither shall they
19 engage in the practice of any profession or in the active management or control of any
20 business which in any way may be affected by the functions of their office, nor shall they be
21 financially interested, directly or indirectly, in any contract with, or in any franchise or
22 privilege, granted by the Government and its subdivisions, agencies or instrumentalities,
23 including government-owned or -controlled corporations or their subsidiaries. They shall
24 directly avoid conflict of interest in the conduct of their office. They shall not be allowed to
25 appear or practice before the Commission for one (1) year following their cessation from
26 office.

27 No spouse or relative by consanguinity or affinity within the fourth civil degree and
28 no law, business or professional partner or associate of the Chairperson or Commissioners
29 may appear as counsel or agent, appearing for or on behalf of the Chairperson or
30 Commissioners for pecuniary interest, on any matter pending before the Commission or
31 transact business directly or indirectly therewith.

32 The disqualification shall apply during the tenure of the official concerned one (1)
33 year thereafter.

34 **SEC. 39. Disclosure of Relationship.** - It shall be the duty of the Chairperson and
35 Commissioners to disclose under oath to the best of their knowledge the identities of, and
36 their relationship with the persons referred to in the preceding section. The disclosure,
37 which shall be in writing, shall be filed in the Office of the Ombudsman after the appointee
38 assumes office and every year thereafter. The disclosures made pursuant to this Section shall
39 form part of the public records and shall be made available and accessible to the public.

40 **SEC. 40. Salary, Retirement and Other Privileges of the Chairperson and**
41 **Commissioners** - The Chairperson and Commissioners shall receive the same salary,
42 privileges and retirement benefits as those received by the Chairperson and Commissioners,
43 respectively, of the Constitutional Commissions, and which shall not be decreased during
44 their term of office.

45 **SEC. 41. Removal from Office.** - The Chairperson and Commissioners may be
46 removed from office on any of the following grounds:

- 47 (a) Disloyalty to the Republic of the Philippines;
- 48 (b) Culpable violation of the Constitution;
- 49 (c) Bribery and graft and corruption, other high crimes, or betrayal of public trust;
- 50 (d) Dishonesty, misconduct in office, gross negligence, or dereliction of duty;

- 1 (e) Commission of any offense involving moral turpitude or an offense punishable by
2 *prision mayor*;
3 (f) Abuse of authority;
4 (g) Such other grounds as may be provided by law.
5

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

9 The Court of Appeals shall act on the complaint and conduct the necessary
10 investigation and hearing. Thereafter, the Court of Appeals shall dismiss the complaint or
11 declare the removal from office of the Chairperson or Commissioner of the Commission
12 within one hundred twenty (120) days from the date of filing of the complaint. Failure to
13 resolve the complaint within said period shall result in its automatic dismissal.

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

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

19 The proceedings in this case shall be distinct and separate from the criminal
20 proceedings that may arise and which may be filed in another forum.
21
22

23 **B. Nomination of Chairperson and Commissioners**

24
25 **SEC. 42. Nominations Committee.** - The President shall choose and appoint the
26 Chairperson and Commissioners from a list of three (3) nominees per position selected by a
27 Nominations Committee to be composed of the following members:

- 28 (a) The Chairperson of the Commission on Human Rights;
29 (b) The Chairperson of the Senate Committee on Justice and Human Rights;
30 (c) The Chairperson of the House of Representatives' Committee on Human Rights;
31 (d) Three (3) representatives from human rights non-government organizations
32 (NGOs) and lawyers' groups, the academe, indigenous peoples, and women's
33 groups involved in human rights work and advocacy, duly accredited by the
34 Commission.
35

36 **SEC. 43. Selection of Nominees.** - The members of Nominations Committee shall
37 have equal voting rights. They shall meet not later than three (3) months before the end of a
38 current term or within a week after the occurrence of a vacancy during the term. They shall
39 submit to the President their list of nominees one (1) month before the end of said term or
40 after a month after said vacancy. The President shall make the appointment within one (1)
41 month from the submission of the list of nominees by the Nominations Committee.

42 The Commission shall provide secretariat support to the Nominations Committee. It
43 shall make all proceedings of the Nominations Committee open and accessible to the public.
44 Vacancies as well as the list of nominees shall be published in a newspaper of general
45 circulation. The Nominations Committee shall adopt its own rules of procedure.

46 **SEC. 44. Pluralist Representation.** - In the selection of nominees for Chairperson and
47 Commissioners, the Nominations Committee shall take into consideration pluralist
48 representation of civil society involved in the promotion and protection of human rights.

49 **SEC. 45. Accredited Non-Government and People's Organizations Representatives**
50 **to the Nominations Committee.** - The duly accredited human rights non-government

1 organizations and people's organizations shall choose three (3) representatives to the
2 Nominations Committee from among themselves in a meeting attended by a representative of
3 the Commission. In the absence of a selection procedure agreed upon by said organizations,
4 the Commission shall promulgate rules of procedure on the selection of three (3)
5 representatives by the accredited organizations: *Provided*, That selection rules subsequently
6 agreed upon by the organizations among themselves shall supersede any rule promulgated by
7 the Commission.

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

12 C. Officers, Duties and Functions

13
14
15 **SEC. 46. Structural Organization.** - The Commission shall have the following line
16 offices and operating units:

- 17 (a) Office of the Chairperson;
- 18 (b) Office of the Commissioners;
- 19 (c) Office of the Assistant Commissioner for Internal Administration;
- 20 (d) Office of the Assistant Commissioner for Human Rights Protection;
- 21 (e) Office of the Assistant Commissioner for Human Rights Promotion & Advocacy;
- 22 (f) Office of the Assistant Commissioner for Regional Operations;
- 23 (g) Office of the Executive Director;
- 24 (h) Office of the Commission Secretary;
- 25 (i) Information System Management Office;
- 26 (j) Planning and Management Office;
- 27 (k) Financial Management Office;
- 28 (l) General Administrative Office;
- 29 (m) Legal Office;
- 30 (n) Investigation Office;
- 31 (o) Assistance and Visitorial Office;
- 32 (p) Forensic Office;
- 33 (q) Security and Protection Office;
- 34 (r) Human Rights Instruments Compliance and Monitoring Office;
- 35 (s) Education, Advocacy and Research Office;
- 36 (t) Public Information Office;
- 37 (u) Sectoral Rights Offices; and
- 38 (v) Regional Offices

39 All the above offices will be headed by an officer with rank, salary and privileges
40 equivalent to Director IV position, except for the Executive Director who shall have the rank,
41 salary and privileges of an Assistant Secretary. The Barangay Human Rights Action Center,
42 Human Rights Resource Center, Child Rights Center, Women's Human Rights Center and all
43 other Centers which may be created under this Act shall be headed by an officer with the
44 rank, salary and privileges equivalent to a Director III position.

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

48 The Public Information Office, which will be under the direct supervision of the
49 Chairperson of the Commission, shall assume the role of a media relations unit that will
50 disseminate all information to the general public including the issuances of the Commission,

1 enable public access to general information pertaining to the Commission, and encourage
2 active participation of all forms of media for the promotion of human rights.

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

6 **SEC. 47. *The Chairperson as Executive Officer; Powers and Duties.*** - The
7 Chairperson shall be the Chief Executive Officer of the Commission, and shall:

- 8 (a) Execute and carry out the policies, decisions, orders and resolutions approved by
9 the Commission;
- 10 (b) Direct and supervise the operations and internal administration of the
11 Commission;
- 12 (c) Sign appointments of subordinate officials and employees made by the
13 Commission and enforce decisions on administrative discipline involving them;
- 14 (d) Make temporary assignments, rotate and transfer personnel in accordance with the
15 provisions of the Civil Service Law and the policies involving them;
- 16 (e) Submit an annual budget to the Commission for its approval and submission to the
17 Department of Budget and Management and to the Congress of the Philippines;
- 18 (f) Delegate authority, in whole or in part, to other officials of the Commission, in
19 accordance with Executive Order No. 292, otherwise known as the Administrative
20 Code of 1987, and rules and regulations of the Commission; and
- 21 (g) Perform such other functions as may be authorized by the Commission.

22
23 **SEC. 48. *Assistant Commissioners.*** - There shall be four (4) Assistant
24 Commissioners as Head of the different clusters: (1) Assistant Commissioner for Internal
25 Administration, which shall be comprised of Planning and Management Office, Financial
26 Management Office, General Administration Office, and Information System Management
27 Office; (2) Assistant Commissioner for Human Rights Protection, which shall be comprised
28 of the Legal Office, Investigation Office, Forensic Office, Assistance and Visitorial Office,
29 and Security and Protection Office; (3) Assistant Commissioner for Human Rights
30 Promotion and Advocacy, which shall be comprised of Human Rights Instruments
31 Compliance and Monitoring Office, and the Education, Advocacy and Research Office; and
32 (4) Assistant Commissioner for Regional Operations, which shall be comprised of the
33 Regional Offices.

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

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

41 The Assistant Commissioners shall be appointed to the Commission, with preferential
42 status given to the officers and employees within the Commission who have been working
43 therein for at least seven (7) years prior to the time of their appointment.

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

1 **SEC. 49. The Executive Director.** - The Executive Director shall be responsible for
2 managing the day-to-day affairs, activities and operations of the Commission, in accordance
3 with the policies, standards, rules and regulations adopted and promulgated by the
4 Commission. In particular, The Executive Director shall:

- 5 (a) Provide direct supervision, control, coordination and monitoring of all activities,
6 functions and operations of the national and regional units of the Commission;
- 7 (b) Upon consultation with the Assistant Commissioner/s concerned, recommend and/
8 or implement administrative and management policies, rules and standard
9 operating procedures to be established by the Commission;
- 10 (c) Recommend and initiate programs, projects and policies which promote
11 productivity, efficiency and effectiveness in the Commission, with prior
12 consultation with the Commission and Assistant Commissioner/s concerned;
- 13 (d) Coordinate with the concerned Assistant Commissioner/s as well as the different
14 CHR organization units in the information and reporting requirement of the
15 Commission;
- 16 (e) Resolve conflicts arising from operations in the national and regional units of the
17 Commission in accordance with the levels of authority prescribed under this Act;
- 18 (f) Undertake appraisal on issues/problems and policy recommendations requiring
19 decision/action by the Commission;
- 20 (g) Represent the Commission in different branches and agencies of the government
21 on vital issues/concerns involving the organization, its programs and activities;
22 and
- 23 (h) Perform such other functions as may be assigned by the Commission *En Banc*.

24
25 The Executive Director shall be appointed by the Commission and shall be a member
26 of the Philippine Bar with proven integrity and competence, and must have been involved in
27 human rights promotion and protection activities for seven (7) years.

28 **SEC. 50. The Commission Secretary.** - The Commission Secretary, who shall head
29 the Commission Secretariat, shall provide executive services to the Commission on its
30 regular, special and executive meetings, assistance on policy review and coordination, review
31 and appraisal of the programs and other project undertakings of the Commission, including
32 technical support on the formulation of guidelines, directives, mandates and executive
33 summaries and reports. In addition, the Commission Secretary shall:

- 34 (a) Prepare the agenda of meetings of the Commission *en banc* and ensure the
35 complete and accurate documentation of proceedings;
- 36 (b) Develop and recommend to the Commission *en banc* an approved disclosure
37 policy for the Commission;
- 38 (c) Formulate, propose and implement a central records management system for the
39 Commission *en banc*, and act as the custodian of all records on human rights cases
40 filed with the Commission, including records on resolutions, rules, policies,
41 regulations and other decisions, proceedings of its meetings, and other pertinent
42 records;
- 43 (d) Design, propose and implement a central records management system and provide
44 records management orientation and assistance to the various offices of the
45 Commission;
- 46 (e) Prepare and issue directives to concerned offices, by authority of the Commission
47 *en banc*;
- 48 (f) Represent the Commission *en banc* in different technical working committees of
49 the Commission, as may be directed by it;

- 1 (g) Respond to queries from the different central and regional offices on matters
2 pertaining to policies, rules and decisions, as authorized by the Commission *en*
3 *banc*; and
4 (h) Perform such other related functions as may be assigned by the Commission *en*
5 *banc*.
6

7 The Commission Secretary, who must hold a Bachelor of Laws (Ll.B.) degree or Juris
8 Doctor (JD), shall have the rank, salary and privileges of a Director IV.

9 **SEC. 51. Duties and Functions of the Offices of the Commission.** - The different
10 offices of the Commission provided in Section 46 of this Act shall operate in accordance with
11 their respective duties and functions assigned them by the Commission subject to
12 requirements of efficiency, economy and effectiveness, and pertinent budget and civil service
13 laws, rules and regulations.

14 **SEC. 52. Officers of the Commission.** - All officers appointed by the Commission
15 who possess the rank or position of third level or those who are in the second level which
16 includes positions above Division Chief Level and who officially perform managerial and
17 executive functions, must necessarily conform to the minimum qualification standards set by
18 the Civil Service Commission and must meet the eligibility requirements of the Commission.
19 As such, the Commission is not precluded from prescribing additional qualification standards
20 for the positions that are created under this law, with the assistance of the Civil Service
21 Commission and the approval of the Department of Budget and Management.

22 **SEC. 53. Regional Offices.** - The Commission shall have seventeen (17) regional
23 offices, and as may be further established by law, with two (2) regional offices for Region IV,
24 including the National Capital Region (NCR), the Caraga Administrative Region
25 (CARAGA), Cordillera Administrative Region (CAR) and the Autonomous Region of
26 Muslim Mindanao (ARMM).

27 Each Regional Office shall be headed by a Regional Human Rights Director with a
28 rank and salary of Director IV, who must be a member of the Philippine Bar, assisted by an
29 Assistant Regional Human Rights Director, and such other subordinate officers or employees
30 as the Commission may appoint. The Assistant Regional Human Rights Director shall carry
31 the rank and receive the same salary and privileges of a Director III.

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

35 **SEC. 54. Sectoral Rights Offices.** - The Commission shall establish Offices and
36 Centers to undertake the promotion and protection of the rights of vulnerable sectors, to
37 include but not be limited to women and children, as the Commission may deem appropriate.

38 The Child Rights Center, Women's Human Rights Center, and other sectoral rights
39 offices, with the exception of the Barangay Human Rights Action Center and the Human
40 Rights Resource Centers, shall be under the direct supervision and control of the Commission
41 *en banc*.

42 **SEC. 55. Operational Guidelines.** - The Commission shall formulate its operational
43 guidelines which shall include, but not be limited to, the functions and duties of the Assistant
44 Commissioners, the Executive Director, the Commission Secretary and the heads of the line
45 offices, the implementation and management of its Witness Protection, Financial Assistance
46 and Legal Aid Programs, and such other matters as may be necessary for the implementation
47 of this Act.

48 **SEC. 56. Franking Privilege.** - All official mail matters and telegrams of the
49 Commission addressed for delivery within the Philippines shall be received, transmitted and
50 delivered free of charge: *Provided*, That such mail matters when addressed to private persons

1 or non-government offices shall not exceed One Hundred and Twenty (120) grams. All mail
2 matters and telegrams sent through government telegraph facilities containing complaints to
3 the Commission on Human Rights shall be transmitted free of charge: *Provided*, That the
4 telegram shall not contain more than One Hundred and Fifty (150) words.

5 **SEC. 57. Financial Report.** - The Commission shall make available to the public its
6 annual financial statements, including but not limited to, expenditures and sources of funds.

7 **SEC. 58. Appropriations.** - In addition to the regular appropriations of the
8 Commission, the sum of Three Hundred Million Pesos (P300, 000,000.00) for the initial
9 implementation of this Act shall be included in the annual General Appropriations Act in the
10 year following its enactment into law.

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

13 The funds necessary for the initial implementation of the Witness Protection, Legal
14 Assistance and Financial Assistance Programs shall be taken from the current year's
15 appropriations of the Commission. Thereafter, the funding requirement shall be included in
16 the annual General Appropriations Act, which shall be automatically and regularly released.

17 **SEC. 59. Transitory Provision.** - Nothing in this Act shall prejudice the positions,
18 emoluments, security of tenure and privileges of the incumbent Chairperson and
19 Commissioners, officers and employees of the Commission upon its effectivity. However,
20 officials and employees of the Commission may avail of an early retirement program as may
21 be provided for by the Commission upon the effectivity of this Act.

22 **SEC. 60. Implementing Rules and Regulations.** - The Commission shall, within
23 sixty (60) days from the approval of this Act, formulate the implementing rules and
24 regulations in the exercise of its general, investigative, prosecutorial, monitoring, education
25 and advocacy powers and functions in consultation with other concerned agencies of the
26 Government.

27 **SEC. 61. Separability Clause.** - If any provision of this Act shall be held
28 unconstitutional, other provisions not affected thereby shall remain valid and binding.

29 **SEC. 62. Repealing Clause.** - All laws, republic acts, presidential decrees, letters of
30 instructions, executive orders, rules and regulations insofar as they are inconsistent with this
31 Act are hereby repealed or amended, as the case may be.

32 **SEC. 63. Effectivity Clause.** - This Act shall take effect fifteen (15) days after its
33 publication in at least two (2) newspapers of general circulation.

Approved,