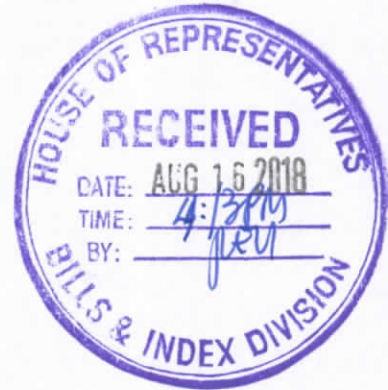




Congress of the Philippines
House of Representatives
Republic of the Philippines

SEVENTEENTH CONGRESS
Third Regular Session

House Bill No. 8128



Introduced by Representative EDCCEL C. LAGMAN

EXPLANATORY NOTE

Enshrined in the 1987 Philippine Constitution are basic human rights and fundamental freedoms that the State is mandated to respect, protect, and fulfill. Article III, the Bill of Rights, seeks to protect these rights and freedoms from abuses and violations by the State even as Article II, Section 11 unequivocally declares that "the State values the dignity of every human person and guarantees full respect for human rights." An independent Human Rights Commission is created under Section 17, Article XIII and is mandated to: (1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights; (2) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection and (3) Monitor the Philippine Government's compliance with international treaty obligations on human rights, among other powers and functions.

That the Philippines is a signatory and/or a State party to nine out of ten core international human rights instruments affirms its commitment to human rights.

The Philippines also takes pride in having enacted landmark human rights legislation such as Republic Act 9346 prohibiting the death penalty, Republic Acts 9745 and 10353 penalizing torture and enforced disappearance respectively, and Republic Act 10368 granting recognition and reparation to martial law human rights violations victims.

Despite the international commitments and legal mechanisms at the domestic

level, human rights and fundamental freedoms and those who work to protect them, the Human Rights Defenders (HRDs), remain under attack. From September 2013 to September 2016, the Medical Action Group (MAG) and Task Force Detainees of the Philippines (TFDP) documented a total of seventy-six (76) cases of human rights violations/abuses affecting 330 HRDs including the prominent cases of extrajudicial killing of Elisa Tulid, Sixto Bagasala, Jr., Menelao Barcia, Gloria Capitan¹, frustrated killing of Nestorio Ampudi², and the arrest and detention of Antonio Tolentino or "Apung Tony"³. In a more recent documentation initiative, the TFDP recorded twenty-six (26) cases from January to June 2018 alone. These include the killing of Datu Victor Danyan, chair of Tboli-Manobo S'daf Claimants Organization (TAMASCO) in Lake Sebu, South Cotabato and continuing harassment of TAMASCO members⁴ and the harassment and vilification in Moises Padilla of Bernardino "Toto" Patigas, former Secretary-General of the Northern Negros Alliance of Human Rights Advocates (NAHRA).⁵

Previous cases of human rights violations perpetrated against HRDs were reflected in the 2017 annual report of Frontline Defenders, the International Foundation for the Protection of Human Rights Defenders which tagged the Philippines as one of the four most dangerous countries for HRDs. With Colombia, Mexico, and Brazil in the list, the Philippines surfaced as the only Asian country in the top four. The report also cited the killing of Lumad indigenous leader Renato Anglao who was shot twice in the head as he travelled by motorcycle with his wife and daughter in Quezon, Bukidnon province, Northern Mindanao.⁶ The local police alleged that Anglao was on the "list of the identified illegal drug personalities in the area". The killings of some HRDs in the country are usually executed as part of government's anti-drug or counter-insurgency operation that often result in the filing of "trumped-up" charges.

In May 2018, UN Assistant Secretary General for Human Rights, Mr. Andrew Gilmour, raised concern with the increasing threats and attacks against human rights defenders, specifically citing the inclusion of HRDs and activists in the government's terrorist proscription list. Prior to this, the Department of Justice filed a petition before the court asking to tag more than 600 individuals as "terrorists". The list included about 46 human rights defenders.⁷

¹ <https://www.frontlinedefenders.org/en/case/case-history-gloria-capitan>

² <http://www.tfdp.net/campaigns/general-campaigns/513-urgent-appeal-frustrated-murder-of-human-rights-defender>

³ <https://hronlineph.com/2016/06/01/statement-free-all-political-prisoners-and-detainees-regardless-of-political-affiliations-tfdp/>

⁴ <http://www.mindanews.com/top-stories/2018/01/forensics-expert-kin-of-8-lumads-killed-in-south-cot-refute-militarys-encounter-claim/>

⁵ <http://bulatlat.com/main/2018/04/16/city-councilor-lawyer-activists-included-negros-town-polices-poster-reds/>

⁶ <http://my.sunstar.com.ph/cagayan-de-oro/local-news/2017/02/14/land-conflict-eyed-possible-reason-lumad-leaders-death-525674>

⁷ <https://www.philstar.com/headlines/2018/05/17/1816092/un-exec-human-rights-defenders-philippines-under-threat>

Human rights organizations also face the emerging regional threat of government restriction on foreign funds for civil society. The practice aims to block, restrict, and prevent human rights organizations from using these funds for their work. The scheme not only incapacitates the HRDs, it also puts them in a more vulnerable position as with reduced funds, adequate security measures cannot be put in place.

In light of the continuing intimidation, reprisal, harassment, and vilification of HRDs, and the growing culture of impunity, it is imperative for the Philippine Government to enact a law guaranteeing the protection of rights and fundamental freedoms of HRDs. The law must also clearly specify the obligations of public authorities to ensure the enjoyment of these rights and freedoms, and impose appropriate sanctions to counter impunity.

The proposed legislation is based on the *United Nations Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*⁸ which was adopted by the UN General Assembly in 1998 and the *Model National Law on the Recognition and Protection of Human Rights Defenders*⁹ crafted by the International Service for Human Rights. Similar measures were earlier filed in the House of Representatives and the Senate. *House Bill No. 1617, An Act Defining Certain Rights of Human Rights Defenders and Providing Penalties for Violations Thereof in Implementation of the 1998 U.N. Declaration on the Rights and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally-Recognized Human Rights or otherwise known as the UN Declaration on Human Rights Defenders*¹⁰, principally authored by Representatives Carlos Isagani T. Zarate, Antonio L. Tinio, Emmi A. De Jesus, France L. Castro, Arlene D. Brosas, Ariel B. Casilao, and Sarah Jane I. Elago, was filed in July 2016 and *Senate Bill No. 1699, An Act to Promote and Protect the Rights of Human Rights Defenders*,¹¹ introduced by Senator Leila De Lima was filed in February 2018.

The approval of this bill that complements H.B. 1617 and S.B. 1699 is earnestly sought.



EDCEL C. LAGMAN

⁸ <https://daccess-ods.un.org/TMP/9923012.85266876.html>

⁹ https://www.ishr.ch/sites/default/files/documents/model_law_full_digital_updated_15june2016.pdf

¹⁰ http://www.congress.gov.ph/legisdocs/basic_17/HB01617.pdf

¹¹ <https://www.senate.gov.ph/lisdata/2737823612!.pdf>



Congress of the Philippines
House of Representatives
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SEVENTEENTH CONGRESS
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House Bill No. 8128

Introduced by Representative EDCEL C. LAGMAN

AN ACT DEFINING THE RIGHTS AND FUNDAMENTAL FREEDOMS OF HUMAN RIGHTS DEFENDERS, DECLARING STATE RESPONSIBILITIES AND INSTITUTING EFFECTIVE MECHANISMS FOR THE PROTECTION AND PROMOTION OF THESE RIGHTS AND FREEDOMS

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

CHAPTER I

PRELIMINARY PROVISIONS

SECTION 1. *Short Title.* – This Act shall be known as the “Human Rights Defenders Protection Act of 2018.”

SEC. 2. *Declaration of Policy.* – It is hereby declared the policy of the State:

(1) To value the dignity of every human person and to recognize, respect, protect, promote and fulfill the rights and fundamental freedoms of persons, individually or in association with others, regardless of race, ethnicity, color, sexual orientation and gender identity, language, religion, political or other opinion, national or social origin, property, birth or other status;

(2) To give highest priority to the implementation of legislative enactments, executive issuances and judicial decisions that guarantee respect, protection, promotion and fulfillment of human rights and fundamental freedoms;

(3) To provide access to legal remedies and reparative measures including but not limited to monetary compensation and psychosocial accompaniment and rehabilitation to human rights violations victims;

(4) To fully and strictly adhere to the principles and standards on human rights and fundamental freedoms set by the 1987 Philippine Constitution and international human rights instruments including but not limited to the:

- a. Universal Declaration of Human Rights (UDHR);
- b. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders);
- c. International Covenant on Civil and Political Rights (ICCPR);
- d. International Covenant on Economic, Social and Cultural Rights (ICESCR);
- e. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- f. Convention on the Elimination of all Forms of Discrimination against Women (CEDAW); and the
- g. International Convention for the Protection of All Persons from Enforced Disappearance.

SEC. 3. *Construction in Favor of Human Rights Defenders.* – All provisions of this Act shall be construed to achieve its objectives. All doubts in the implementation and interpretation of these provisions shall be resolved in favor of the human rights defender.

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

a. *Human Rights and Fundamental Freedoms.* – refers to rights or entitlements inherent in all human persons and freedoms recognized in or declared by international and regional human rights instruments and customary international law and by national laws that are consistent with the said instruments and law;

b. *Human Rights Defender* refers to any person who, individually or in association with others, acts or seeks to act to protect, promote or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional, and international levels;



c. *Human Rights Organization* refers to a group, organization or association in the local, national, regional or international level, whether formal or informal, that strive for the protection of human rights and fundamental freedoms;

d. *Government Agency* refers to any department, bureau, office or unit of the National Government, or any of its branches and instrumentalities, or any political subdivision, as well as any government-owned or controlled corporation, including its subsidiaries, or other self-governing branch, commission or council of the Government;

e. *Superior Officer* shall mean the next government official who has supervisory or control powers over the head of the government agency to whom the subject head reports and shall include but not limited to the: President, Department Secretaries, Chief of Staff of the Armed Forces of the Philippines, the Commanding General or Rear Admirals of any service in the Armed Forces of the Philippines or the Director General of the Philippine National Police;

f. *Intergovernmental Organization* refers to an organization established through a treaty in pursuit of common issues, concerns and interests;

g. *Public Authority* refers to any person or body performing a function of a public nature that is conferred or imposed by or pursuant to law, by popular election or appointment or delegated, contracted or procured by a governmental authority or agency;

h. *Intimidation or Reprisal* means any form of violence, threat, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary or abusive action or threat related to a person's status, work or activity as a human rights defender, including proposed, attempted, or imputed work or activity directed at the: (i) human rights defender; (ii) the human rights defender's associate (s); (iii) a legal or other representative of the human rights defender appointed to conduct his or her affairs or to otherwise act on his or her behalf; (iv) a family member or relative of the human rights defender; (v) a group, association, organization, community or network, whether formal or informal, with which the human rights defender is associated; (vi) or the home, property or possessions of the human rights defender or any of the other persons or entities in items (ii) to (vi);

CHAPTER II

RIGHTS AND FREEDOMS OF HUMAN RIGHTS DEFENDERS



SEC. 5. Right to Promote and Protect Human Rights and Fundamental Freedoms.

– Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the local, national, regional and international levels.

SEC. 6. Right to Form Groups, Associations and Organizations. – Everyone, individually or in association with others, has the right to form, join, or associate with and participate in local, national, regional, or international organizations, whether formal or informal and whether registered or unregistered, for the purpose of promoting and striving for the protection and realization of human rights and fundamental freedoms.

SEC. 7. Right to Solicit, Receive and Utilize Resources – (1) Everyone, individually or in association with others, has the right to solicit, receive and utilize resources, from domestic and international organizations, including governmental, intergovernmental, philanthropic and private sources, for the express purpose of promoting and striving for the protection and realization of human rights and fundamental freedoms.

(2) In pursuance of the right in subsection (1), freezing, sequestration or seizure by any bank or financial institution of the fund solicited from and released by the source is hereby prohibited.

SEC. 8. Right to Seek, Receive and Disseminate Information. – (1) Everyone, individually or in association with others, has the right:

a. To know, seek, access, obtain, receive and hold information about all human rights and fundamental freedoms, including information regarding how these rights and freedoms are given effect in the legislative, judicial and administrative systems;

b. To know, seek access, obtain, receive and hold such information from business enterprises and other private actors as may be necessary for exercising or protecting, or assisting to exercise or protect, human rights or fundamental freedoms;

c. To freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

d. To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other means, to draw public attention to these matters.

(2) The right in subsection (1) may be exercised orally, in writing, in print, in the

form of art or through any other media, whether online or offline.

SEC. 9. *Right to Develop and Advocate for Human Rights Ideas.* – Everyone, individually or in association with others, has the right to develop and discuss new ideas and principles which relate to human rights and fundamental freedoms, and to advocate their acceptance.

SEC. 10. *Right to Communicate with Non-governmental, Governmental and Intergovernmental Organizations.* – Everyone, individually and in association with others, has the right to freely communicate with non-governmental, governmental and intergovernmental organizations, including subsidiary bodies, mechanisms or experts with a mandate relevant to human rights and fundamental freedoms, as well as with diplomatic representations.

SEC. 11. *Right to Access, Communicate and Cooperate with International and Regional Human Rights Bodies and Mechanisms.* – In accordance with applicable international instruments and procedures, everyone, individually or in association with others, has the right to unhindered access to and to communicate and cooperate with international and regional human rights bodies and mechanisms, including treaty bodies and special procedures or special rapporteurs.

SEC. 12. *Right to Participate in Public Affairs.* – (1) Everyone, individually or in association with others, has the right to participate effectively in the conduct of public affairs, including participation on a non-discriminatory basis in the government regarding human rights and fundamental freedoms.

(2) The right in subsection (1) includes the right:

a. To submit to any public authority, or agency or organization concerned with public affairs, criticism on or proposals for improving its functioning with respect to human rights and fundamental freedoms;

b. To make recommendations to any public authority regarding legislative or regulatory changes relating to human rights and fundamental freedoms;

c. To draw to the attention of any public authority any aspect of its work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms;

d. To call the attention of any public authority to any action or omission by any

actor, private or public, that may involve or contribute to a violation of human rights or fundamental freedoms; and

e. To freely publish, impart or disseminate to others any information submitted to any public authority in the exercise of the rights set out in this Chapter.

SEC. 13. *Right to Peaceful Assembly.* – (1) Everyone, individually or in association with others, has the right to meet or assemble peacefully as well as to participate in peaceful activities concerning human rights and fundamental freedoms, free from interference that is arbitrary or unlawful by public authorities and private actors, at the local, national, regional or international level.

(2) The right in subsection (1) includes the right to plan, organize, participate in and disseminate information regarding peaceful activities concerning human rights and fundamental freedoms, including demonstrations, protests, seminars and meetings, whether conducted in a public or private place.

SEC. 14. *Right to Represent and Advocate.* – (1) Everyone, individually and in association with others, has the right to assist, represent or act on behalf of another person, group, association, organization or institution in relation to the promotion, protection and exercise of fundamental rights and freedoms, including at the local, national, regional and international levels.

(2) The right in subsection (1) includes the right:

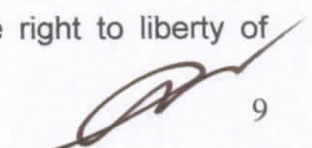
a. To complain about the policies and actions of public authorities with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to domestic judicial, administrative or legislative authorities or any other competent authority e.g. Commission on Human Rights, the Ombudsman

b. To offer and provide professionally qualified legal counsel or other relevant advice and assistance in defending human rights and fundamental freedoms;

c. To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and human rights and fundamental freedoms; and

d. To submit communications and information of the type referred to in Section 10.

SEC. 15. *Right to Freedom of Movement.* – (1) Everyone lawfully within the territory, or subject to the jurisdiction, including the power or effective control, of the Philippines shall, within its territory or place of jurisdiction, have the right to liberty of



movement and freedom to choose his or her residence and the right to carry out his or her human rights activities in the entire territory or place of jurisdiction.

(2) No one lawfully within the Philippine territory shall be expelled, by means of an individual or a collective measure, from its territory wholly or partially on account of his or her acts as a human rights defender.

(3) No one shall be deprived of the right to enter or leave the country on account of his or her status, activities or work as a human rights defender.

SEC. 16. *Right to Privacy.* – (1) Everyone, individually or in association with others, has the right to privacy.

(2) The right in subsection (1) includes the right of a human rights defender to protect his or her privacy, including through encryption, and be free from intrusion and interference that is arbitrary and unlawful in his or her family, home, places of work, possessions and correspondence, both online and offline.

(3) “Intrusion and interference” under subsection (2) includes any form of surveillance, recording, within the purview of Republic Act No. 4200, otherwise known as “An Act to Prohibit and Penalize Wire Tapping and Other Related Violations of the Privacy of Communication, and for Other Purposes”, search and seizure in relation to his or her legitimate activity or work as a human rights defender.

(4) The right to privacy extends to groups, organizations or associations.

SEC. 17. *Freedom from Intimidation or Reprisal.* – No person shall be subjected, individually or in association with others, to any form of intimidation or reprisal on the grounds of or in relation to his or her status, activities or work as a human rights defender.

SEC. 18. *Freedom from Defamation and Stigmatization.* – No person shall be subject to any form of defamation, stigmatization, or other harassment, whether offline or online, and whether by public authorities or private actors, in connection with his or her status, activities or work as a human rights defender.

SEC. 19. *Right to Exercise Cultural Rights and to Development of Personality.* –

(1) Consistent with Article 18 (1) of the UN Declaration on Human Rights Defenders, everyone, individually or in association with others, has the right to the unhindered exercise of his or her cultural rights in his or her activities and work as a human rights defender and to the free and full development of his or her personality,

(2) The right in Subsection (1) includes the right to challenge and change traditional customs and practices that violate human rights and fundamental freedoms.

SEC. 20. *Right to Effective Remedy and Full Reparation.* – (1) Everyone, individually or in association with others, has the right to an effective remedy and full reparation, both monetary and nonmonetary, in the event of a violation of the rights in this Chapter II or a breach of obligations under Chapter III of this Act.

(2) Anyone whose rights have been violated or who has been adversely affected by a breach of obligations has the right to obtain such effective remedy and full reparation from the appropriate government agency or court of competent jurisdiction.

(3) Any of the following may file a complaint with the competent court or tribunal relating to the violation of rights under a breach of obligations under Chapter III of this Act:

- a. A human rights defender;
- b. An association of the human rights defender;
- c. A legal or other representative of the human rights defender appointed to conduct the affairs of or to otherwise act on behalf of the human rights defender;
- d. A family member of the human rights defender;
- e. A group, association or organization with which the human rights defender is associated; or
- f. Any person acting in the public interest and consistently in pursuit of the purposes of this Act.

SEC. 21. *Limitation on the Rights of Human Rights Defenders.* – In exercising his or her rights in Chapter II of this Act, a human rights defender, individually or in association with others, shall be subject only to limitations that are prescribed by law, in accordance with international human rights obligations and standards, are reasonable, necessary and proportionate, and are solely for the purpose of securing due recognition of and respect for the human rights and fundamental freedoms of others and meeting the reasonable requirements of public order and general welfare in a democratic society.

CHAPTER III

OBLIGATIONS OF THE STATE AND PUBLIC AUTHORITIES

SEC. 22. *Obligation to Respect, Promote, Protect, and Fulfill the Rights of Human*

Rights Defenders. – Public authorities shall take all necessary measures to ensure: (1) that the human rights and fundamental freedoms in Chapter II of this Act are effectively guaranteed and protected; (2) that all laws, policies and programs of government are consistent with the rights in Chapter II of this Act; and (3) that human rights defenders are able to undertake their activities and work in a safe and enabling environment free from restriction.

SEC. 23. *Obligation to Facilitate the Activities and Work of Human Rights Defenders.* – Public authorities shall take all necessary measures to facilitate and protect the exercise of the rights in Chapter II of this Act, which measures include the obligation to:

(1) permit and facilitate access, in accordance with the law, to places where persons are deprived of liberty;

(2) permit and facilitate access to places and to information required by human rights defenders to exercise their rights under Chapter II of this Act in accordance with the law;

(3) provide information about violations of human rights or fundamental freedoms that may have been committed within the territory or subject to the jurisdiction, including the power or effective control of the State;

(4) develop and implement policies and measures to promote, support and enhance the capacity of human rights defenders to protect and promote human rights and fundamental freedoms; and

(5) publicly recognize the role, function, and activities and work of human rights defenders as legitimate and important.

SEC. 24. *Obligation to Provide Free Access to Materials Relating to Human Rights and Fundamental Freedoms.* – Public authorities shall make freely available and accessible both offline and online:

- a. International human rights instruments;
- b. The Constitution, national laws and regulations;
- c. Research, studies, reports, data, archives and other information and materials within the possession of public authorities that relate to human rights and fundamental freedoms;

d. Government reports and information submitted to international human rights bodies and mechanisms;

e. Reports and communications of international human rights bodies and mechanisms involving the country's compliance with international treaty obligations;

f. Documents and information related to the decisions or activities of the Commission on Human Rights and other national authorities with competence in the field of human rights and fundamental freedoms; and

g. All such other information as may be necessary to secure or enable the exercise of any human right or fundamental freedom under Chapter II or access to remedy for violation of any such right.

SEC. 25. Obligation not to Disclose Confidential Sources. – (1) Public authorities shall not disclose or require disclosure of the identity of sources used by human rights defenders.

(2) Notwithstanding Subsection (1), public authorities may disclose the identity of sources used by human rights defenders if both the relevant source and the concerned human rights defender give informed consent in writing to such disclosure or if so required by an independent and impartial tribunal in accordance with international standards.

SEC. 26. Obligation to Prevent and to Ensure Protection from Intimidation or Reprisal. – Public authorities shall take all necessary measures to ensure the prevention of, and protection from any intimidation or reprisal by any other public or private actor. These shall include, but not limited to, protection measures established under pertinent laws.

SEC. 27. Obligation to Penalize Intimidation or Reprisal. – Any public authority or private actor who is found guilty of committing intimidation or reprisal against a person on the grounds of or in connection with his or her status, work, activities as a human rights defender, shall be subject to penalties as provided for the appropriate crime or crimes punishable under the Revised Penal Code, in addition to administrative and/or civil sanctions which take into account the gravity of the offense upon the discretion of the court or competent authority.

SEC. 28. Obligation to Refrain from Derogatory and Unfounded Labeling. – (1)

Under no circumstance shall public authorities engage in false, unfounded and derogatory labeling of human rights defenders including but not limited to identifying them as "red", "communist", "terrorist" or "enemies of the State".

(2) Public authorities shall immediately expunge or rectify such labeling as part of the non-monetary reparation to victims referred to in Section 20 (2) of Chapter II and Section 32 of Chapter III of this Act.

SEC. 29. Obligation to Ensure Protection from Arbitrary or Unlawful Intrusion and Interference. – (1) Public authorities shall take all necessary measures to ensure the protection of human rights defenders from arbitrary or unlawful intrusion and interference in his or her family, home, places of work, possessions and correspondence, both online and offline.

(2) *Intrusion and interference* in subsection (1) includes any form of surveillance, recording, search and seizure in relation to any person's legitimate activity or work as a human rights defender without his or her consent.

SEC. 30. Obligation not to Participate in Violating Human Rights and Fundamental Freedoms. – All public authorities are mandated not to participate, by acts of commission or omission, in violating human rights and fundamental freedoms. Subordinate employees have the right and duty to refuse any order from their superiors to participate in acts that contravene their duty to protect, uphold and promote human rights and fundamental freedoms, and shall not be subject to any administrative sanctions as a consequence of such refusal.

SEC. 31. Obligation to Conduct Investigation. - Whenever there is reasonable ground to believe that a human rights defender has been killed, disappeared, tortured, ill-treated, arbitrarily detained, threatened or subject to a violation of any of the rights in Chapter II of this Act, whether by a public authority or private actor, the State must ensure that a prompt, thorough, effective, independent and impartial investigation is conducted with extraordinary diligence and is prosecuted under existing applicable laws, including but not limited to RA 9745, the Anti-Torture Act, RA 10353, the Anti-Enforced or Involuntary Disappearance Act, and RA 7438, An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof

Presumption of regularity in the performance of duty by the offending public authority shall not be invoked.

SEC. 32. *Obligation to Ensure Effective Remedy and Full Reparation.* – Public authorities shall take all necessary measures to ensure that an effective remedy and full reparation are available and provided for violations of the rights in Chapter II and for breach of the obligations in Chapter III of this Act.

SEC. 33. *Obligation to Enforce and Institutionalize Command Responsibility.* – Government agencies shall enforce and institutionalize command responsibility and impose sanctions against errant superior in both military and civilian agencies as provided under existing laws and executive issuances.

SEC. 34. *Obligation to Adopt Human Rights Based Governance.* – Public authorities shall adopt the human rights based approach to governance and development including in counter-insurgency and anti-terror programs and policies.

SEC. 35. *Obligation to Strengthen Witness Protection Program.* – The Commission on Human Rights shall strengthen its witness protection program and provide a safe place of refuge for high risk human rights defenders, more particularly those who have filed formal complaints against high ranking public authorities.

SEC. 36. *Obligation to Respect the Principle of Non-refoulement.* – No person shall be forcibly returned, expelled or extradited to another State where there are substantial grounds to believe that the human rights and fundamental freedoms of the person are in danger of being violated.

SEC. 37. *Obligation to Promote and Facilitate Human Rights Education.* – All government agencies shall promote, facilitate and adequately resource teaching, training and education about human rights and fundamental freedoms to all persons within the country's jurisdiction. Teaching, training and education programs shall include information about this Act and the important and legitimate work of human rights defenders.

CHAPTER IV

THE HUMAN RIGHTS DEFENDERS PROTECTION COMMITTEE

SEC. 38. *Creation and Composition of the Human Rights Defenders Protection Committee.* – (1) There shall be an independent collegial body to be known as the

Human Rights Defenders Protection Committee composed of one Chairperson and six Members, herein referred to as the Committee. The Chairperson shall be selected by the Commissioners of the Commission on Human Rights from among themselves in an *en banc* session. The six members shall be jointly nominated by two representatives each of the Philippine Alliance of Human Rights Advocates (PAHRA), Karapatan Alliance for the Advancement of People's Rights (Karapatan), Free Legal Assistance Group (FLAG), and the National Union of People's Lawyers (NUPL) in a meeting called for this purpose.

(2) The aforementioned nominees shall be appointed by the Commission on Human Rights in an *en banc* session.

(3) The composition of the Committee shall have a balanced gender representation on the basis of the principles of equality and non-discrimination and adequate representation of ethnic, cultural and minority groups.

(4) The Committee shall be attached to the Commission on Human Rights for administrative and budgetary purposes only.

(5) The Committee shall organize itself within thirty (30) days from the completion of the selection process of the Chairperson and Members of the Committee as herein provided in Subsection (1), and shall thereafter organize its Secretariat.

SEC. 39. *Qualifications of the Committee Members.* – The Members of the Committee shall possess the following qualifications:

(1) Of high moral character, recognized probity, competence, and integrity;

(2) Of known independence in making decisions and taking stances on issues and concerns pertaining to the protection and promotion of human rights and fundamental freedoms;

(3) Must have a deep, thorough and enlightened knowledge and understanding of human rights and fundamental freedoms and the role, work, and protection needs of human rights defenders;

(4) At least two (2) members including the Chairperson must be members of the Philippine Bar who have been engaged in the practice of law for at least seven (7) years;

SEC. 40. *Term of Office.* – The Chairperson and Members of the Committee shall be designated once for a term five (5) years only. Of those first designated, three Members shall serve for five (5) years, two (2) Members for four (4) years, and the last

two Members shall hold office for three (3) years. Succeeding Chairpersons and Members shall be designated for a term of not more than five (5) years. Designation to any vacancy shall be only for the unexpired portion of the term of the predecessor.

SEC. 41. *Functions of the Committee.* – The Committee shall exercise the following functions:

- a. Protect human rights defenders from intimidation and reprisals;
- b. Ensure accountability for acts of intimidation and reprisal;
- c. Facilitate and promote interagency and interdepartment coordination to prevent, protect from, investigate, and ensure accountability for acts of intimidation or reprisal;
- d. Investigate on its own or on complaint by any party all forms of violations of human rights and fundamental freedoms of human rights defenders;
- e. Publicly acknowledge and promote the legitimate and important role, activities and work of human rights defenders;
- f. Consult regularly and work closely with human rights defenders in the implementation of this Act;
- g. Monitor existing and proposed legislation, assess their impact or potential impact on the status, activities and work of human rights defenders, and propose amendments and/or remedial measures or block their passage if the measures shall to a large extent adversely affect the human rights defenders and their work and activities;
- h. Prepare and submit reports and communications on the situation of human rights defenders to relevant international and regional human rights bodies and mechanisms;
- i. Monitor and carry out periodic reviews of the implementation of this Act, the first of which shall be conducted one year after its effectivity.
- j. Submit annual reports on the situation of human rights defenders and the status of implementation of this Act to the Office of the President of the Senate and the Office of the Speaker of the House of Representatives;
- k. Make recommendations to relevant authorities on the appropriate measures to be taken to promote a safe and enabling environment for human rights defenders, mitigate and prevent the risks they face, and address the root causes of violations against human defenders; and



I. Perform other relevant functions as may be necessary to attain the objectives of this Act.

SEC. 42. *Training and Vetting.* – All persons involved in the Committee, including security and law enforcement officials, shall be appropriately vetted and shall receive training on human rights and fundamental freedoms and the situation and protection needs of human rights defenders prior to the commencement of the involvement, together with continuing training designed to ensure full and effective implementation of the Act.

CHAPTER V FINAL PROVISIONS

SEC. 43. *Implementing Rules and Regulations.* – (1) Within sixty (60) days from the effectivity of this Act, the Committee, together with PAHRA, Karapatan, FLAG, and NUPL in consultation with other human rights organizations and individual human rights defenders of known probity, shall jointly promulgate the Implementing Rules and Regulations (IRR) for the effective implementation of this Act and shall ensure the full dissemination of the Act and the IRR to the public.

(2) In implementing this Act and in formulating the corresponding rules and regulations the following guiding principles shall be strictly adhered to:

- a. Adherence to the rule of law is the ultimate safeguard against violations of human rights and fundamental freedoms.
- b. Empowerment of human rights defenders is enhanced by their active participation in formulating, implementing, and evaluating protection programs for human rights defenders.
- c. Periodic assessments of risks, vulnerability or conflict help identify protection needs of human rights defenders giving particular attention to those of women and others' who are at increased risks.
- d. Keeping and maintaining confidentiality of the personal data collected on human rights defenders and those referred to in Sec. 20 (3) upholds their right to privacy and security of person.
- e. Continuous training of the members of the Committee Secretariat on human rights and fundamental freedoms, the root causes of their violations, and the work and protection needs of human rights defenders help sustain their commitment to the

objectives of the Act.

f. Independent and effective operation of the Committee and its Secretariat requires sustained adequate resources.

g. Transparent, aboveboard, and equitable resource allocation and disbursement help ensure maximum protection to human rights defenders and their constituencies particularly those of higher risks and vulnerabilities.

h. Risks and challenges faced by women and LGBT human rights defenders and those working on women's and LGBT rights and gender issues demand special attention.

i. Generating support from a strong, independent, and effective national human rights institution and from the general public enhances and contributes to the effective work of human rights defenders.

j. Open access to the United Nations and international human rights bodies contributes to a safe and enabling environment for human rights defenders to work in.

SEC. 44. *Suppletory Applications.* – The applicable provisions of the Revised Penal Code shall have suppletory application insofar as they are consistent with the provisions of this Act.

SEC. 45. *Appropriations.* – The amount of Fifteen Million Pesos (P15,000,000.00) is hereby appropriated for the initial implementation of this Act. Subsequent funds necessary for the continuing implementation of this Act shall be provided for in the annual General Appropriations Act.

SEC. 46. *Separability Clause.* – If for any reason any part or provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall remain and continue to be in full force and effect.

SEC. 47. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations and other issuances or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 48. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation or the Official Gazette, which shall not be later than seven (7) days after the approval thereof.

Approved,