

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8545



Introduced by
KABATAAN PARTY-LIST Representative Sarah Jane I. Elago,
ACT TEACHERS PARTY-LIST Representative France L. Castro,
BAYAN MUNA PARTY-LIST Representatives Carlos Isagani T. Zarate,
Ferdinand R. Gaite and Eufemia C. Cullamat,
and GABRIELA WOMEN'S PARTY Representative Arlene D. Brosas

EXPLANATORY NOTE

The 1987 Philippine Constitution provides that academic freedom shall be enjoyed in all institutions of higher learning and jurisprudence provides that institutional academic freedom includes the right of the school or college to decide for itself, its aims and objectives, and how best to attain them free from outside coercion or interference. Academic freedom fosters truth-seeking and critical thinking, and is integral to democracy and national development.

It is with that that agreements have been entered into between higher educational institutions and the Philippine government via the Department of National Defense to regulate the presence of the police and military inside campuses and thereby uphold academic freedom - the freedom to think, speak, move, and even dissent critically.

Succeeding the 1981 Soto-Enrile Accord signed by then student leader Sonia Soto and then defense minister Juan Ponce Enrile to protect students from the police and military who intended to suppress dissent and protest actions, the 1989 University of the Philippines - Department of National Defense (UP-DND) Accord, signed on June 30, 1989, expressly bars members of the police and military to enter premises of any of the UP campuses except in cases of hot pursuit and similar occasions of emergency, upon the request of UP officials, or ordinary transit through UP premises. Also under the 1989 Accord, the DND agreed that the military and police "shall not interfere with peaceful protest actions by UP constituents within UP premises."

The 1989 UP-DND Accord was signed days following the arrest of Donato Contiente, a staffer of UP Diliman's official student publication Philippine Collegian, by the police and military at Vinzons Hall in UP Diliman, and the agreements were really in

response to widespread human rights violations during and after martial rule, and borne out of democratic rights movements.

These agreements, however, have been breached from time to time by the state forces especially in recent years. There are also several other reports through the years of unidentified plainclothes elements within the premises, during protest actions, fora, and similar activities apparently surveilling the peaceful protest actions and the participants thereof. These are only snippets of the current condition that the youth, students, and Filipino people face in this climate of red-tagging, fear mongering, intimidation, and other forms of harassment. Thus, the UP-DND Accord is far from being moot and academic, contrary to DND's claim in their letter addressed to UP President Danilo L. Concepcion unilaterally terminating the said agreement.

Until today, red-tagging, which is the practice of state actors of publicly and maliciously classifying individuals and organizations as communists and enemies of the state, has been prevalent amid the national government's intensified counter-insurgency program.

Most recently, the Duterte administration through the DND unilaterally abrogated the 1989 UP-DND Accord effective on January 15, 2021, on the premise of unfounded claims of clandestine communist recruitment in campuses and national security.

UP President Danilo Concepcion expressed his "grave concern over this abrogation, as it is totally unnecessary and unwarranted, and may result in worsening rather than improving relations between our institutions, and detract from our common desire for peace, justice, and freedom in our society." For him, DND's decision to unilaterally abrogate the agreement only sows "more confusion and mistrust, given that [the DND] have not specified what it is that [the DND] exactly aim[s] to do or put in place in lieu of the protections and courtesies afforded by the agreement."

The UP President also emphasized that the 1989 Accord was not sought and secured "to evade or weaken the law, but to protect the climate of academic freedom--guaranteed by the Constitution--that makes intellectual inquiry and human and social advancement possible." The accord is also a mutually binding agreement between two parties, UP and DND, and cannot be unilaterally abrogated by either party as provided by law;

One-sidedly and arbitrarily terminating the accord which is being enforced for more than 30 years already and which the parties have generally respected through the years is an affront to civilian institutions and alarming as it could lead again to extensive campus militarization and brazen attacks on human rights. The unilateral abrogation of the 1989 UP-DND Accord and the looming militarization of campuses nationwide undermine academic freedom, and threaten the right to life, liberty, and security and freedoms of speech, of expression, and of peaceful assembly.

Schools should be safe spaces that are free from police and military presence and intervention, harassment, and intimidation, thus, the need for the accord to be institutionalized in UP's Charter.

In view of the foregoing, the passage of this bill is earnestly sought.



Rep. SARAH JANE I. ELAGO
Kabataan Party-List



Rep. CARLOS ISAGANI T. ZARATE
Bayan Muna Party-List



Rep. FRANCE L. CASTRO
ACT Teachers Party-List



Rep. FERDINAND R. GAITE
Bayan Muna Party-List



Rep. ARLENE D. BROSAS
Gabriela Women's Party



Rep. EUFEMIA C. CULLAMAT
Bayan Muna Party-List

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**AN ACT AMENDING REPUBLIC ACT NO. 9500, OTHERWISE KNOWN AS THE
UNIVERSITY OF THE PHILIPPINES CHARTER OF 2008, AND FOR OTHER
PURPOSES**

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

SECTION 1. A new Section 11-A is hereby inserted as follows:

SEC. 11-A. Prior Notification on the Entry of Police and Military Units in all U.P. campuses. — Prior notification shall be given by the Philippine National Police (PNP), Armed Forces of the Philippines (AFP), or any other law enforcement agency intending to conduct any police, military, or law, enforcement operations in any U.P. campus nationwide to the U.P. President or the Chancellor of the constituent university or the Dean of the regional unit concerned, or respective officers-in-charge in the event of their absence, as the case may be, and to the student regent, university student council or government, faculty regent or representative, and staff regent or non-academic personnel representative, when the situation so warrants.

SECTION 2. A new Section 11-B is hereby inserted as follows:

SEC. 11-B. Prohibition on the Entry of PNP, AFP, and Other Law Enforcement Agency Personnel in all U.P. campuses. — Except in cases of hot pursuit and similar occasions of emergency, or in cases defined in the next succeeding paragraph, no member of the PNP, AFP, or other law enforcement agencies shall enter the premises of any of the U.P. campuses or regional units.

Whenever requested by law enforcers, the appropriate U.P. officials shall extend the necessary assistance in law enforcement within U.P. premises.

Whenever the U.P. President, or Chancellor of the constituent university, or Dean of the regional unit concerned, or their respective officers-in-charge in the event of their absence, is of the opinion that the assistance of the PNP, AFP, or other law enforcement agency is indispensable to the maintenance of peace, security, and order within U.P. premises, the said U.P. official shall so inform in writing the head of the AFP, PNP, or other law enforcement agency unit in the area, and the latter shall promptly dispatch such assistance as may be warranted by the circumstances.

In case the request for assistance is granted, only uniformed members of the PNP, AFP, and other law enforcement agencies in proper uniform and with proper identification shall be allowed entry into the campus or regional unit concerned, except where the assistance requested specifies otherwise.

SECTION 3. A new Section 11-C is hereby inserted as follows:

SEC. 11-C. Limitation on the Service of Search or Arrest Warrants. — The service of search or arrest warrants within the territorial jurisdiction of any U.P. campus or any U.P. student, faculty, employee, or invited participants in any activities in U.P., as far as practicable, be done after prior notification is given to the U.P. President, or Chancellor of the constituent university, or Dean of the regional unit concerned, or their respective officers-in-charge, and to the Office of the Student Regent and University or College Student Council of the unit concerned in the event of their absence. The same requirement of notification applies to any oral or written invitation for questioning or similar purposes.

In case of prior notification, the party serving the warrant shall coordinate closely with members of the U.P. police or security who shall accompany and assist them in the service of the warrants. Similarly, no warrant shall be served without the presence of at least two (2) U.P. faculty members designated by the appropriate U.P. official.

If the giving of prior notification by the party serving the warrant is not practicable, a report shall be submitted to the concerned U.P. official immediately, but not later than twenty-four (24) hours after the service of the warrant.

SECTION 4. A new Section 11-D is hereby insert as follows:

SEC. 11-D. Limitation on the Arrest, Custodial Investigation, and Detention of U.P. Students, Faculty, or Personnel. — The arrest or detention of any

U.P. student, faculty, or personnel anywhere in the Philippines shall be reported immediately by the responsible head of the PNP, AFP, or other law enforcement agency unit effecting the arrest or detention to the U.P. President, or Chancellor of the constituent university, or Dean of the regional unit concerned, or their respective officers-in-charge in the event of their absence, and to the Office of the Student Regent and University or College Student Council of the unit concerned who shall then take the necessary action.

No U.P. student, faculty, or employee shall be subjected to custodial investigation without, as far as practicable, prior notice to the U.P. President, or Chancellor of the constituent university, or Dean of the regional unit concerned, or their respective officers-in-charge in the event of their absence, and to the Office of the Student Regent and University or College Student Council of the unit concerned, and except in the presence of the counsel of choice of the student, faculty, or employee, or with the assistance of counsel appointed for them by the aforementioned U.P. officials.

SECTION 5. A new Section 11-E is hereby inserted as follows:

SEC. 11-E. *Prohibition on the PNP, AFP, and Other Law Enforcement Agencies to Interfere with Peaceful Protest Actions.* — Members of the PNP, AFP, or any other law enforcement agencies shall not interfere with peaceful protest actions by individuals or groups within U.P. premises. U.P. officials shall be deemed responsible for the behavior of their students, faculty, and employees in such activities.

SECTION 6. A new Section 11-F is hereby inserted as follows:

SEC. 11-F. *Strengthening of U.P.'s Security, Police, and Fire-fighting Capabilities.* — U.P. officials shall endeavor to strengthen U.P.'s own security, police, and fire-fighting capabilities to prevent its campuses from being exploited by malefactors or criminal elements.

SECTION 7. A new Section 11-G is hereby inserted as follows:

SEC. 11-G. *Establishment of a Joint Monitoring Group.* — The U.P. Faculty Regent, the U.P. Student Regent, the U.P. Vice President for Public Affairs or his/her representative, the U.P. Vice Chancellor for Student Affairs, the Undersecretary of National Defense for Civilian Relations, the PNP Assistance Chief of Staff for Operations, the PNP Director of the Civil Security Group, and the AFP Judge Advocate General or his/her representative shall meet at least twice a year to ensure and determine compliance with Sections 26-A to 26-F of this Act.

SECTION 8. A new Section 11-H is hereby inserted as follows:

SEC. 11-H. *Penalties.* — The penalties are hereby as follows:

- (a) Any public official or employee, regardless of whether or not he/she holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine equivalent to minimum of twenty-four (24) months' salary, suspension for a minimum of two (2) years, and/or imprisonment for five (5) years and one day to ten (10) years, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he/ she shall be prosecuted under the latter statute.
- (b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.
- (c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.
- (d) A prosecution under this Act shall be without prejudice to any liability for violation of any provision of the Civil Code, as amended, the Revised Penal Code, as amended, or special laws.

SECTION 9. *Separability Clause.* - If any part or provision of this Act is held unconstitutional or parts thereof, other provisions hereof which are not affected thereby shall continue to be in full force and effect.

SECTION 10. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or other issuances or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SECTION 11. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

Approved,