

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
First Regular Session

House Bill No. 4124



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

The 1987 Constitution guarantees our basic human rights and fundamental freedoms which the State is mandated to uphold and protect. Article III on the Bill of Rights seeks to protect these rights and freedoms from abuses and violations by the State, while Article II, Section 11, unequivocally declares that "the State values the dignity of every human person and guarantees full respect for human rights."

That the Philippines is a State party to eight of the nine core international human rights instruments affirms this noble commitment. These instruments are the *International Convention on the Elimination of All Forms of Racial Discrimination*; *International Covenant on Civil and Political Rights*; *International Covenant on Economic, Social and Cultural Rights*; *Convention on the Elimination of All Forms of Discrimination Against Women*; *Convention Against Torture, Inhumane and Degrading Treatment*; *Convention on the Rights of the Child*; *Convention on the Protection of the Rights of All Migrant Workers and their Families*; and the *Convention on the Rights of Persons with Disabilities*.

The Philippines also takes pride in having enacted landmark human rights legislation such as R.A. No. 9346 prohibiting death penalty, R.A. No. 9745 or the Anti-Torture Act, R.A. No. 10353 or the Anti-Enforced or Involuntary Disappearance Act, and R.A. No. 10368 or the Human Rights Victims Reparation and Recognition Act.

Despite the international commitments and legal mechanisms at the domestic level, there are allegations that human rights and fundamental freedoms, as well as those who work to protect them – the Human Rights Defenders (HRD) – remain under attack. Allegedly, common violations against the rights of HRDs include summary execution, torture, enforced disappearance; arbitrary arrest and detention; death threats; vilification, intimidation and reprisal; false-labeling; restrictions on freedoms of movement, speech, association and assembly; malicious prosecution; and unjust conviction.

In light of continuing claims of intimidation, reprisal, harassment, and vilification of HRDs, and the growing culture of impunity, it is imperative for the Philippine Government to enact a law for the protection of rights and fundamental freedoms of HRDs and their welfare. 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 enjoyment of these rights and freedoms inform the civic space in which the same are exercised with inclusivity and transparency.

The role and protection of HRDs have become crucial to the promotion and fulfillment of human rights all around the world. Accordingly, on 09 December 1998, the UN General Assembly adopted the *Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, otherwise known as the "Declaration on Human Rights Defenders". Subsequently, the appointment of UN Special Rapporteur on the human rights of HRDs has been institutionalized, and a UN model national law on HRD protection has also been crafted. Thus, the proposed legislation is based on the 1998 *Declaration on Human Rights Defenders* and the *Model National Law on the Recognition and Protection of Human Rights Defenders* crafted by the International Service for Human Rights.

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



RON P. SALO
KABAYAN Party List

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AN ACT
RECOGNIZING INDIVIDUALS, GROUPS AND ORGANS OF SOCIETY THAT
PROMOTE AND PROTECT HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS,
PROVIDING PROTECTION, SECURITY, BENEFITS AND WELFARE,
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

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

CHAPTER I
PRELIMINARY PROVISIONS

SECTION 1. Short Title. – This Act shall be known as the “Human Rights Defenders Recognition Act”.

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

- (a) To further promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- (b) To acknowledge the important role and the valuable work of individuals, groups and associations in contributing to the promotion and protection of human rights and fundamental freedoms of peoples and individuals, including, in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources;
- (c) To recognize the vibrant and enabling civic space in the Philippines composed of 101,000 registered non-profit organizations of which around 60,000 are non-government organizations engaged in advocacy work such as human rights, together with 2,276 private media outlets broken down as

364 AM stations, 951 FM stations, 561 TV stations, and around 400 newspaper titles;

- (d) To protect the enabling and vibrant democratic civic space of the Philippines against all forms of threats including, but not restricted to, violent extremism, intimidation, and reprisals;
- (e) To reaffirm the particular importance of achieving sectoral cooperation, whole of state and/or whole-of-society approach to fulfill human rights obligations of the State set by the Constitution and all eight (8) core human rights treaties to which the Philippines is a State party to, namely:
 - (i) International Covenant on Civil and Political Rights (ICCPR);
 - (ii) International Covenant on Economic, Social and Cultural Rights (ICESCR);
 - (iii) Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
 - (iv) Convention on the Elimination of all Forms of Discrimination against Women (CEDAW);
 - (v) Convention on the Rights of the Child (CRC);
 - (vi) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW);
 - (vii) Convention on the Rights of Persons with Disabilities (CRPD); and,
 - (viii) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- (f) To fully and strictly adhere to the principles and standards on human rights and fundamental freedoms set by:
 - (i) 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); and,
 - (ii) UN Fact Sheet No. 29 on Human Rights Defenders published by the Office of the High Commissioner on Human Rights.

SEC. 3. Construction in Case of Disputes. – Implementation and interpretation of the provisions of this Act in case of disputes between and among individuals, groups or organizations, including its implementing rules and regulations, shall be resolved in accordance with the spirit and intent of the 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); and the UN Fact Sheet No. 29 on Human Rights Defenders published by the Office of the High Commissioner on Human Rights.

SEC. 4. Definition of Terms. – As used in this Act:

- (a) *Human Rights Duty-Bearer* refers to government agencies and instrumentalities including but not restricted to its department, bureau, office or unit of the National Government, or any of its branches and instrumentalities, or any political subdivision, its legislature and judiciary;
- (b) *Human Rights Defender* is an inclusive term that refers to any person (State or non-State Actor) who accepts the universality of human rights as defined in the Universal Declaration of Human Rights, promotes and protects human rights, including but not restricted to the elimination of apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources through peaceful means unless provided for by law.

It shall be the policy to define Human Rights Defender to be as inclusive and participative to all sectors of society in accordance with the 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); and the UN Fact Sheet No. 29 on Human Rights Defenders published by the Office of the High Commissioner on Human Rights;

- (c) *Human Rights and Fundamental Freedoms* refer to rights or entitlements provided for by the 1987 Constitution of the Philippines, specifically its Bill of Rights;
- (d) *Human Rights Organization* is an inclusive term that refers to any of the existing 101,000 registered non-profit organizations of which around 60,000 are non-government organizations, as well as to other non-profit organizations that may be registered after the enactment of this law, that are engaged in advocacy work such as human rights, civil society organization/non-government organization (CSO/NGO), civic organization, group, or association that promotes and protects human rights, fundamental freedoms, and welfare of the people;
- (e) *Intergovernmental Organization* refers to an organization established through a treaty or other treaties and mechanisms in pursuit of common issues, concerns and interests;
- (f) *Intimidation or reprisal* refers to any form of violence, threat, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary or abusive action or threat, including cyberattacks, hacking, defacement of websites, dedicated denial of service attacks, and similar acts, related to a

person's status, committed by violent extremists, criminal syndicates, State or non-State actors, directed at the:

- (i) human rights defender and/or associate(s);
 - (ii) a legal or other representative of the human rights defender appointed to conduct the latter's affairs or to act on the human rights defender's behalf;
 - (iii) a family member or relative of the human rights defender up to fourth degree of consanguinity or affinity, and includes common law relations;
 - (iv) a group, association, organization, community or network, whether formal or informal, registered or unregistered, with which the human rights defender is associated;
 - (v) indigenous peoples whose cultural communities are threatened by violent extremists and/or violent armed groups
- (g) *Violent Extremist* refers to any individual, group or organization who, through non-peaceful means and/or through violent methods, disables civic space and environmental conditions that allows the promotion and protection of human rights which shall include, but not restricted to, groups listed by the UN Secretary General as gravely violating the rights of children, terror designations of inter-governmental organizations such as the European Union (EU) or any other analogous organization, or any other UN-member State;
- (h) *Extremist Front Organization*, refers to any group or organization, promoting and advocating hate, extremism and violence, disables civic space and environmental conditions that allows the promotion and protection of human rights.

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:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups; or
- (c) To communicate with non-governmental or intergovernmental organizations locally or abroad.

SEC. 6. Right to Knowledge Sharing and Awareness. – Everyone has the right, individually and in association with others:

- (a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information provided for by law as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- (b) As provided for by law, to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- (c) To study, discuss, dialogue and commemorate and observe, both in law and in practice, all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

SEC. 7. Right to Develop Human Rights Principles. – Everyone has the right, individually and in association with others, State or non-State, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

SEC. 8. Right to Submit Human Rights Proposals to Governmental Bodies. – Everyone has the right, individually and in association with others, State and non-State, to submit to governmental bodies and agencies and organizations concerned with public affairs proposals for improving their functioning to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

SEC. 9. Right to Solicit, Receive and Utilize Resources. – Everyone has the right, individually and in association with others, State or non-State, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with law and regulations of the State.

SEC. 10. Limitation on the Rights of Human Rights Defenders. – In exercising the rights vested upon a human rights defender, whether as an individual or in association with others, it shall be subject only to limitations that are prescribed by the Constitution and relevant laws, and the following:

- (a) 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);
- (b) UN Fact Sheet No. 29 on Human Rights Defenders published by the Office of the High Commissioner on Human Rights, in particular the requirement that human rights defenders actions be only through peaceful means; and
- (c) The International Covenant on Civil and Political Rights:
 - (i) The human right to right to freedom of expression which may be limited for the respect of the rights or reputations of others;

- (ii) The human right to peaceful assembly which may be limited for the protection of the rights and freedoms of others; and
- (iii) The human right to freedom of association which may be limited for the protection of the rights and freedoms of others.

CHAPTER III

OBLIGATIONS OF THE STATE AND PUBLIC AUTHORITIES

SEC. 11. State, Primary Human Rights Defender. – The State, as the prime human rights duty-bearer primarily responsible for defending, protecting, promoting and implementing all human rights and fundamental freedoms, inter alia, through steps necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

SEC. 12. State, Protector of Human Rights. – The State, as the duty-bearer of human rights, shall take measures to protect everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her peaceful exercise of the rights referred to in the present Declaration.

The State, shall protect by law everyone, from activities and acts, including those by omission, that result in violations and abuses of human rights and fundamental freedoms, as well as acts of extremist violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

SEC. 13. Primary Advocate of Human Rights. – The State, as the duty-bearer of human rights, shall take legislative, judicial, administrative and other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

SEC. 14. Sanctioned Trainings - The State, as the human rights duty bearer, shall promote and facilitate the teaching and training of human rights and fundamental freedoms for law enforcement officers, personnel of the armed forces and public officials.

1. Such measures shall include, inter alia:

- (a) The publication and access to national laws and regulations and of applicable basic international human rights instruments; and,
- (b) Access to international documents in the field of human rights, including international human rights treaties to which it is a party.

2. The State shall support, where appropriate, the development of the Commission on Human Rights as its independent national institutions for the promotion and protection of human rights and fundamental freedoms.

CHAPTER IV

THIRD PARTIES IN RELATION TO HUMAN RIGHTS DEFENDERS

SEC. 15. *Involuntary Participation to Violation and/or Abuse.* – No one shall participate, by act or by failure to act where required, in violating or abusing human rights and fundamental freedoms and no one shall be subjected to punishment, adverse action or extremist violence of any kind for refusing to do so.

SEC. 16. *Exercise of Profession and/ or Occupation.* – Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her exercise of profession, affects the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant laws, regulations and relevant standards of occupational and professional conduct or ethics.

SEC. 17. *Public Awareness.* – Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to public awareness relating to human rights and fundamental freedoms through activities such as education, training, and research in areas to further strengthen, inter alia, understanding, tolerance, peace and friendly relations among nations, State and non-State actors and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

SEC. 18. *Safeguarding Democracy and Fundamental Freedoms Provided by the State.* –

- (a) Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
- (b) Individuals, groups, institutions, and non-governmental organizations have a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
- (c) Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and the eight (8) core human rights treaties to which the Philippines is a State party can be fully realized.

CHAPTER V

THE HUMAN RIGHTS DEFENDERS BENEFITS AND WELFARE COMMITTEE

SEC. 19. *Creation and Composition of the Human Rights Defenders Protection Committee.* –

- (a) There shall be an independent collegial body to be known as the Human Rights Defenders Protection Committee, herein referred to as the

Committee, that shall be composed of a Chairperson and six (6) Members. The Chairperson and the six (6) members shall be appointed by the President of the Philippines from a shortlist submitted by two (2) representatives each nominated by the Commission on Human Rights, the Senate and the House of Representatives from the existing 101,000 registered non-profit organizations of which around 60,000 are non-government organizations, or other organizations registered after the enactment of this law, that are engaged in advocacy work in the Philippines;

- (b) The aforementioned nominees shall be appointed by the President of the Philippines;
- (c) There shall be a balanced gender representation in the composition of the Committee pursuant to the principles of equality and non-discrimination, and adequate representation of ethnic, indigenous cultural communities, and indigenous peoples' groups;
- (d) The Committee shall be attached to the Commission on Human Rights (CHR) for administrative and budgetary purposes only; and
- (e) 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 and shall thereafter organize its Secretariat.

SEC. 20. Term and Benefits. – The members of the Committee shall have a term of six (6) years, and shall be entitled to salaries and benefits equivalent to a Director IV position.

SEC. 21. Qualifications of the Committee Members. – The Members of the Committee shall possess the following qualifications:

- (a) Of high moral character, recognized probity, competence, and integrity;
- (b) 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;
- (c) Must accept the universality of human rights as defined in the Universal Declaration of Human Rights, promotes and protects human rights; and
- (d) Must comply with the requirements of UN Fact Sheet No. 29 on Human Rights Defenders published by the Office of the High Commissioner on Human Rights, specifically on peaceful human rights advocacy.

SEC. 22. Functions of the Committee. – The Committee shall exercise the following functions:

- (a) Ensure the implementation of this Act;

- (b) Ensure compliance with the 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) and its corresponding UN Fact Sheet No. 29 on Human Rights Defenders published by The Office of the High Commissioner for Human Rights (OHCHR);
- (c) Formulate a plan to promote inter-agency and inter-department coordination to promote and protect human rights;
- (d) Refer cases to the Commission on Human Rights to investigate human rights violations;
- (e) Conduct information, education and communication (IEC) campaigns for on human rights advocacy;
- (f) Conduct periodic inclusive consultations with stakeholders in the implementation of this Act;
- (g) Monitor the current situation or trends and identify disputes between and among human rights defenders on emerging issues on human rights;
- (h) Monitor and carry out periodic reviews of the implementation of this Act, in accordance with its implementing rules and regulations;
- (i) Submit periodic reports on the status of implementation of this Act to the Office of the President, Office of the President of the Senate and the Office of the Speaker of the House of Representatives;
- (j) Make recommendations to relevant authorities on measures to promote a safe and enabling environment for human rights defenders free from extremist violence and other threats to the human rights to life, liberty, security of persons, and property; and
- (k) Perform other relevant functions as may be necessary to attain the objectives of this Act.

SEC. 23. Secretariat. – The Committee shall have a Secretariat whose head shall have salaries and benefits equivalent to a Director II position. The officials and employees of the Secretariat shall be appointed by the Committee.

SEC. 24. Training and Vetting. – All persons involved in the work and activities of the Committee shall appropriately receive continuing training on human rights and fundamental freedoms on the protection needs of human rights defenders to ensure full and effective implementation of this Act.

CHAPTER VI FINAL PROVISIONS

SEC. 25. Appropriations. – The initial budget of the Committee shall come from the appropriations of the CHR. Thereafter, Congress shall appropriate its budgetary requirements.

SEC. 26. Implementing Rules and Regulations. – Within ninety (90) working days from the effectivity of this Act, the Human Rights Defenders Benefits and Welfare Committee shall facilitate an inclusive consultation with human rights organizations and individual human rights defenders of known probity, promulgate the rules and regulations for the effective implementation of this Act, and shall ensure its dissemination to the public.

SEC. 27. Separability Clause. – If any part or provision of this Act is declared unconstitutional or invalid, the remainder of this Act or other provisions not affected thereby shall remain in full force and effect.

SEC. 28. Repealing Clause. – All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances, rules and regulations and other issuances or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 29. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved.