

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session
House Bill No. 5079



Introduced by: Congressman BIENVENIDO M. ABANTE, JR.

**AN ACT
STRENGTHENING AND EXPANDING THE POWERS OF THE
COMMISSION ON HUMAN RIGHTS, AMENDING EXECUTIVE ORDER
NO. 163 SERIES OF 1987 AND FOR OTHER PURPOSES**

EXPLANATORY NOTE

“And God said, Let us make man in our image, after our likeness: and let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth” (*Genesis 1:26KJV*). “So God created man in his own image, in the image of God created he him: male and female created he them” (*Genesis 1:27KJV*), “And the Lord God formed man of the dust of the ground, and breathed into his nostrils the breath of life; and man became a living soul” (*Genesis 2:7,KJV*). It is thus submitted that there is no other right more precious than the **human right to life**, as God Himself formed man and breathed into his nostrils the **breath of life**.

The 1987 Constitution established the Commission on Human Rights (CHR) with a **vision** for a just and humane Philippine society of persons equal in opportunity, living a life of dignity, and forever vigilant against abuses and oppression, and a **mission** to seek the truth in human rights issues and prevent incidence of human rights violations, making the Filipinos aware of their rights, and guide government and society towards actions that respect such rights, particularly those who cannot defend themselves, like the less privileged

While the Constitution defines the powers of the CHR, national experience has shown that needed just and appropriate actions to attain its vision and fully fulfill such mission cannot be put in place with dispatch due to its limited powers, delaying the administration and delivery of, if not depriving, justice to whom it is due. As the legal maxim says: "justice delayed is justice denied". With its investigative power, the CHR can gather facts and first hand material, relevant and admissible evidence necessary to prosecute human rights violators and give justice to the victims. But without the power to file the appropriate case, such evidence will just be in the files gathering cabinet as the poor victim's body return to dust, especially in the light of social, political and procedural ramifications and hindrances besetting the filing of cases by victims and the responsible agencies of the government.

To empower the CHR to file charges as may be warranted by evidence gathered in its investigation in addition to its recommendatory and investigative mandate as provided in the Constitution will, therefore, not only enhance its contribution in safeguarding fundamental rights and freedoms but will give full meaning to the purpose of its creation.

Extending the investigative power of the CHR and giving it the power to file cases, criminal and/or administrative, before the Prosecutor's Office or the Office of the Ombudsman, finds relevance in the declarations in the Constitution that: the State values the dignity of every human person and guarantees full respect for human rights. (*Sec. 11, Art. II*); Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequalities by equitably diffusing wealth and political power for the common good (*Sec. 1, Art. XIII*); the CHR shall have the power to investigate, on its own or complaint by any party, all forms of human rights violations involving civil and political rights (*Sec. 18[1], Art. XIII*); and that the CHR shall perform such other duties and functions as may be provided by law (*Sec. 18[11], Art. XIII*).

In the light of the foregoing, the immediate passage of this Bill is earnestly requested.



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

SECTION 1. Title. - This Act shall be known as the Commission on Human Rights Act of 2022.

SEC. 2. Statement of Policy. - It is hereby declared the policy of the State:

- (a) To value the dignity of every human person and guarantee full respect for human rights;
- (b) To ensure that the human rights of all persons, including suspects, persons under investigation for the commission of a crime, and persons deprived of liberty are respected at all times, and that no person placed under investigation or held in custody by any person in authority or agent of a person authority shall be subjected to torture or any physical, psychological or mental harm, force, other forms of violence, threat or intimidation or any act that impairs his/her free will or in any manner demeans or degrades human dignity;

- (c) To adhere to the Bill of Rights that no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws; and
- (d) To guarantee that the right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable.

Towards this end, Congress 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.* - The following terms as used in this Act shall mean:

- (a) *Commission* as used in this Act shall refer to the Commission on Human Rights created under the 1987 Constitution of the Philippines.
- (b) *Human rights* are the supreme, inherent, and inalienable rights to life, dignity, and self- development. It is the essence of these rights that makes a person human. These rights include those guaranteed by the Constitution, other domestic laws and international human rights instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.
- (c) *Human rights violation* refers to any act or omission committed by any law enforcer, including members of the Armed forces of the Philippines, other persons in authority, agents of a person in authority, or any other public official, whether elected or appointed, such as but not be limited to the following:
 - (1) Acts of torture as defined in R.A. No. 9745, otherwise known as the Anti-Torture Act of 2009;
 - (2) Any search, arrest and/or detention without a valid search warrant or warrant of arrest issued by a civilian court of law, except valid warrantless arrest and seizure;

- (3) The infliction of physical injury or killing except where the infliction of such physical injury or killing is justified under existing laws, torture in any form or under any circumstance, or violation of other human rights, including but not limited to the freedom of speech, assembly or organization;
- (4) Any enforced or involuntary disappearance caused upon a person who was arrested, detained or abducted against his consent or otherwise deprived of his liberty as defined under existing laws;
- (5) Any force or intimidation causing the involuntary exile of a person from the Philippines;
- (6) Any act of force, intimidation or deceit causing unjust or illegal takeover of a business or confiscation of property;
- (7) Committing any sexual offense against a person under investigation for the commission of a crime or against a person deprived of liberty; and
- (8) Other cruel, inhuman and degrading treatment or punishment, or other violations and/or abuses similar or analogous to the above, including those recognized by international law.

SEC. 4. *The CHR as an Independent Office.* - The independence of the CHR shall always be respected as a constitutional office.

SEC. 5. *Fiscal Autonomy.* - The CHR as a Constitutional creation shall enjoy full fiscal autonomy.

SEC. 6. *General Powers and Functions of the Commission.* - The Commission 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 involving civil, political, **as well as economic, social, and cultural** rights;

(E.O. 163 – *Investigate on its own or on complaint by any party, all forms of human rights violations involving **civil and political** rights*).

Economic, social and cultural rights are included because these can also be the subject of abuse in furtherance of the abuse of civil and political rights, and **to prevent legal issues** as to whether or not these rights are embraced in '**civil**' rights.

- (b) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;

(E.O. 163 – Same).

- (c) 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;

(E.O. 163 – Same).

- (d) Exercise visitorial powers over jails, prisons, or **other** detention facilities;

*(E.O. 163 – Same, except the word '**other**' is added because jails and prisons are also detention facilities).*

- (e) Establish a continuing program of research, education, and information to enhance respect of human rights;

*(E.O. 163 – Establish a continuing program of research, education, and information to enhance respect **for the primacy** of human rights).*

The words '**for the primacy**' are not present in the proposed Bill because the **sole object** of the Bill is respect and protection of human rights.

- (f) Recommend to Congress effective measures for the promotion and protection of human rights;

(E.O. 163 – Recommend to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families).

The clause "and to provide for **compensation** to victims of violations of human rights, or their families" is not present in the

proposed Bill because providing for compensation may amount to an 'appropriation' which is the sole power of the HOR.

- (g) Monitor the Philippine Government's compliance with international treaty obligations on human rights;

(E.O. 163 – Same).

- (h) Grant immunity from prosecution to any person **who gives to the Commission testimony, documents or other relevant and material evidence** necessary or convenient in determining the truth in such investigation conducted by it, or under its authority, **under this Act**;

(E-O. 163 - Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority).

The proposed Bill is so worded in order to make it clear that to be entitled to immunity, the person must **actually give** his/her testimony, evidence or other documents and that such evidence **must be material and relevant** to the subject of the investigation being conducted under the Act.

- (i) Request the assistance of any office or agency in the government or in the private sector in the performance of its functions;

(E.O. 163 – Request the assistance of any department, bureau, office or agency in the performance of its functions).

'department' and 'bureau' are not present in the Proposed Bill because these are 'limited' terms and/or are already embraced in the words 'office' or 'agency'. The private **sector** is included to better serve the purpose of the investigation.

- (j) Appoint needed officers and employees in accordance with law for the full and effective implementation of this Act;

(E.O. 163 – Appoint its officers and employees in accordance with law)

The words 'needed' and the clause "for the for the full and effective implementation of this Act" are added as a safeguard to

the number and qualifications of officers and employees that may be appointed.

- (k) File cases with the Prosecutor's Office or the Office of the Ombudsman when warranted by the evidence gathered in such investigations conducted; and

(This is an NEW provision together with SECS. 7, 8, 9, 10 and 11).

- (l) Perform such other duties and functions as may be provided by law.

(E.O. 163 -Same).

SEC. 7. Scope of Investigative Powers and Functions of the Commission. - The Commission shall investigate, upon complaint by any party or on its own, cases of human rights violations involving civil, political, economic, social, or cultural rights. In the exercise of its investigative function, the Commission shall have the power to:

- (a) Compel the attendance of witnesses and the production of evidence, take their testimony under oath or affirmation, and issue subpoenas duces tecum and/or ad testificandum;
- (b) Exhume and/or conduct autopsy on dead victims, and employ forensic science and forensic experts in making findings of human rights violations, in assessing the physical and mental conditions of living victims, and in the exhumation and/or conduct of autopsy on dead victims.
- (c) Require the assistance of any officer or employee of any office or instrumentality of the national or local government, government-owned or controlled corporations, and those in the private sector;
- (d) Engage the services of lawyers or legal aid groups, medical organizations, as well as government agencies in the exercise and in the pursuit of its investigative functions;
- (e) Cite and punish for contempt any person for disobedience to the Commission's lawful order, directive or processes; and

- (f) Perform such other powers as may be necessary or incidental for the effective exercise or conduct of its powers and functions. No restraining order or writ of injunction may be issued against the Commission in the exercise of its powers and functions, except by the Court of Appeals or the Supreme Court.

SEC. 8. *Power to Dismiss Complaint.* - The Commission may dismiss *motu proprio* a complaint filed before it for investigation without prejudice to the filing thereof by the complainant before the Prosecutor's Office or the Office of the Ombudsman, on any of the following grounds:

- (a) The complaint is outside of its jurisdiction;
- (b) The complaint is patently baseless, a mere harassment, reprisal or retaliation, or made in bad faith; or
- (c) Other lawful grounds as may be determined by the Commission.

SEC. 9. *Procedure.* - In furtherance of its powers to investigate and to file cases of human rights violations involving civil, political, economic, social, and cultural rights under Sections 3(c) and 6(a) of this Act, the Commission shall observe the following procedure:

- (a) On investigations conducted *motu proprio*, the Commission:
 - (i) Shall enter in its Docket the matter to be investigated giving it a Case Number;
 - (ii) Shall gather evidence on the subject of investigation;
 - (iii) May take the testimonies of witnesses under oath;
 - (iv) May issue subpoena duces tecum and/or ad testificandum to any person, natural or juridical who may have information or evidence material and relevant to the subject of the investigation;
 - (v) After completing its investigation, shall issue a resolution on the subject of the investigation which shall contain its recommendation and the

appropriate action that it intends to undertake as may be warranted;

- (vi) Shall, if the evidence gathered warrants, file the appropriate case(s) before the Prosecutor's Office having territorial jurisdiction over the subject matter of the investigation or before the Office of the Ombudsman, as the case may be. Otherwise, the subject matter of the investigation shall be considered closed; and
- (vii) Shall keep and preserve in a secured place all evidence gathered in the course of the investigation.

(b) On investigations conducted upon the Complaint of any person, the Commission:

- (i) Upon receipt of the Complaint shall mark the same as an Undocketed case;
- (ii) Shall evaluate the Complaint together with any evidence or document submitted therewith. If upon evaluation any of the grounds enumerated in Section 8 of this Act exists, the Complaint shall be dismissed and the complainant shall be notified in writing of such dismissal stating with clarity the reason thereof;
- (iii) If the Complaint is not dismissed under Section 8 of this Act, shall proceed with the investigation following the procedure under Section 9 (a); and
- (iv) Shall furnish the complainant copy of the Resolution rendered.

SEC. 10. *Franking Privilege.* - All official mail matters of the Commission for delivery within the Philippines shall be received, transmitted and delivered free of charge.

SEC. 11. *Appropriations.* - In addition to the regular appropriations of the Commission, the sum of Two Hundred Million Pesos (P200,000,000.00) for the initial implementation of this Act shall be included in the Annual General Appropriations Act for the year following its enactment into law. Thereafter,

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

SEC. 12. *Separability Clause.* - Should any provision of this Act or part hereof be declared unconstitutional, the other provisions or parts not affected thereby shall remain valid and effective.

SEC. 13. *Repealing Clause.* - All laws, decrees, orders, rules and regulations and other issuances, or portions thereof, which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified accordingly.

SEC. 14. *Effectivity Clause.* - This Act shall take effect after fifteen (15) days from its complete publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,