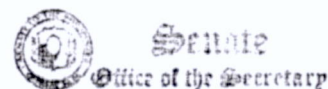


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



'18 FEB 21 A8 52

SENATE
SENATE BILL NO. 1699

RECEIVED BY: _____

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
TO PROMOTE AND PROTECT
THE RIGHTS OF HUMAN RIGHTS DEFENDERS**

Explanatory Note

The 1987 Constitution in Article II, Section 11 provides that, “[t]he State values the dignity of every human person and guarantees full respect for human rights.” The Constitution in Article II, Section 14 also provides that, “[t]he State recognizes the role of women in nation building, and shall ensure the fundamental equality before the law of women and men.”

The Philippines is a State Party to eight (8) human rights treaties of the United Nations, and it has accepted two (2) individual complaints procedure, and two (2) inquiry mechanisms. It also has various laws on human rights, which include *inter alia*, Republic Act No. 9745 or the “Anti-Torture Act of 2009”, Republic Act No. 9710 or the “Magna Carta of Women Act of 2009”, and Republic Act No. 10353 or the “Anti-Enforced Disappearance Act of 2012”.

There is the Commission on Human Rights (CHR), the national human rights institution of the Philippines, created under the 1987 Constitution and is a mechanism that helps the State bring to the level of domestic implementation, human rights promotion and protection found in treaties to which it is a State Party. Besides the CHR, there are also offices established in the Executive Department that advocate for human rights or advise the government on the same, and these include the Presidential Human Rights Committee, the Human Rights Office of the Armed Forces of the Philippines, and the Philippine National Police Human Rights Affairs Office.

However, it is alarming that despite legal standards and mechanisms in place, the issue of human rights defenders being under threat was repeatedly raised in the third cycle of the Universal Periodic Review (UPR) reporting of the Philippine government before the UN Human Rights Council. In the Report of the Working Group on the Philippine’s UPR Submission, eleven (11) recommendations referred to

the situation of human rights defenders.¹ In these recommendations, the areas of common concern include a protection system for the HRDs, an enabling environment to carry out their work, and the adoption of a national law for the promotion of the rights of the HRDs.²

Regrettably, the Philippine government merely *noted* but did not commit to support the recommendations in the said Report in the UPR concerning human rights defenders.³

What is even disturbing is that President Rodrigo Duterte himself publicly declared that he will order the shooting of human rights workers.⁴ This pronouncement from no less than the Chief Executive clearly places human rights defenders under threat and encourages culture of impunity.

In its March 2017 report, human rights group Frontline Defenders claimed that 15 HRDs working on various issues have been killed in a span of just three (3) months. Among those killed were the couple Ramon Dagaas Pesadilla and his wife Leonila Tapdasan Pesadilla. The spouses were members of the Compostela Farmers' Association, who opposed mining projects in that area.⁵

In my proposed Senate Resolution No. 153 , which I filed in December 2017, I cited the November 2017 report of human rights organization Karapatan stating that there were already 17 women HRDs who were killed under the Duterte administration.

Enforced disappearance, death, harassment, suppression of fundamental human rights and freedoms are continuing challenges of individuals and the organizations to which they belong. This does not escape notice from outside the Philippines. On July 2017, three (3) Special Rapporteurs asked the Philippine government to prevent incitement to violence, and investigate extrajudicial killings of human rights defenders.⁶ These are compounded by actions of state agents that weaken democratic institutions like the CHR, including its leadership.

This proposed legislation, which underwent a process of consultation with stakeholders and human rights defenders who are themselves experts on the subject matter, aims to institutionalize and enforce state obligations to provide protection to HRDs, and to establish effective legal remedies for violations of the rights of HRDs.

1 See See, Report of the Working Group on the Universal Periodic Review (Philippines), available at <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/194/21/PDF/G1719421.pdf?OpenElement>>, accessed on 17 February 2018.

2 Ibid, 20 para. 133.176.

3 See Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (Philippines), A/HRC/36/12/Add.1.

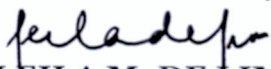
4 See Rappler, "Duterte warns he'll order shooting of human rights advocates", available at <<https://www.rappler.com/nation/178968-duterte-probe-shoot-human-rights-advocates>>, accessed on 17 February 2018.

5 See Frontline Defenders, Philippines: Spate of Killings of human rights defenders, available at <<https://www.frontlinedefenders.org/en/statement-its-report/philippines-spate-killings-human-rights-defenders>>, accessed on 17 February 2018.

6 See OHCHR "Philippines needs urgent action to reverse spiralling rights violations, UN experts say", available at <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?LangID=E&NewsID=21926>>, accessed on 18 February 2018.

Guided as well by 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*, otherwise known as the “Declaration for Human Rights Defenders,”⁷ and the *Model National Law on the Recognition and Protection of Human Rights Defenders*,⁸ this version seeks to ascertain that the dynamic community of human rights workers in the Philippines remains free and government policies will both support their work and ensure accountability for violations of their rights and freedoms.

For these reasons and aspirations, the passage of this bill is earnestly sought.


LEILA M. DE LIMA

⁷ Adopted as Resolution No. 53/144 by the UN General Assembly on 9 December 1998.

⁸ The Model Law can be accessed at:

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



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SENATE BILL NO. 1699

Introduced by **SENATOR LEILA M. DE LIMA**

**AN ACT
TO PROMOTE AND PROTECT
THE RIGHTS OF HUMAN RIGHTS DEFENDERS**

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

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

3 **SEC. 2. Declaration of Policy.** – It is the policy of the State to value the dignity of
4 every human person and guarantee full respect for human rights. Pursuant to this
5 policy, the State shall uphold the primacy of human rights for all regardless of
6 ethnicity, sexual orientation, gender identity and expression, language, religion,
7 political or other opinion, national or social origin, property, birth or other statuses,
8 and create effective mechanisms to ensure that these rights and fundamental freedoms
9 are respected, promoted, protected and fulfilled.

10 Women human rights defenders, and individuals with diverse sexual orientation and
11 gender identity, are especially vulnerable to misogynistic attacks and sexual violence.
12 Through this law, the State shall create enabling environment to encourage women

1 and individuals with diverse sexual orientation to pursue work on human rights, and
2 promote liberal principles of gender equality and bodily autonomy.

3 **SEC. 3. *Definition of Terms.*** –

- 4 a. Human Rights – refers to rights inherent to all human beings, regardless of
5 nationality, place of residence, sexual orientation, gender identity and
6 expression, ethnic origin, religion, language, or any other statuses. This body of
7 rights include those provided in the Universal Declaration of Human Rights,
8 United Nations treaties ratified by the Philippines, and national laws that
9 implement these commitments.
- 10 b. Human Rights Defender – refers to any person who, individually or in
11 association with others, acts or seeks to act to promote, protect or strive for the
12 protection and realization of human rights and fundamental freedoms, at the
13 local, national, regional and international levels.
- 14 c. Human Rights Work – refers to practice of profession, activities, engagement,
15 that advance human rights found in United Nations Human Rights treaties
16 ratified by the Philippines, regional treaties on human rights where they exist,
17 and those found in the Constitution as well as other national laws. It includes
18 but is not limited to education, fact finding, humanitarian assistance in conflict
19 and emergency situation, and consultative dialogues.
- 20 d. Human Rights Organizations – refers to groups, organizations and associations
21 in the country and in other countries at the regional or international levels,
22 whether formal or informal, that strive for the protection of human rights and
23 fundamental freedoms.

1 e. Intergovernmental Organization – refers to organizations established through
2 treaties among states in pursuit of common issues and interests.

3 f. Governmental Agency – refers to any department, bureau or office of the
4 National Government, or any of its branches and instrumentalists, or any
5 political subdivision, as well as any government-owned or controlled
6 corporation, including its subsidiaries, or other self-governing board or
7 commission of the Government.

8 TITLE II

9 Rights and Freedoms of Human Rights Defenders

10 **SEC. 4.** *Right to promote and protect human rights and fundamental freedoms.* –

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

14 **SEC. 5.** *Right to form groups, associations and organizations.* – Everyone,
15 individually or in association with others, has the right to form, join and participate in
16 groups, associations and non-governmental organizations, for the purpose of
17 promoting and striving for the protection and realization of human rights and
18 fundamental freedoms.

19 **SEC. 6.** *Right to solicit, receive and utilize resources.* – Everyone, individually or in
20 association with others, has the right to solicit, receive and utilize resources, including
21 from domestic and international organizations, including governmental,
22 intergovernmental, philanthropic and private sources, for the express purpose of

1 promoting and striving for the protection and realization of human rights and
2 fundamental freedoms.

3 **SEC. 7.** *Right to seek, receive and disseminate information.* –

4 (1) Everyone, individually or in association with others, has the right:

5 (a) to know, seek, access, obtain, receive and hold information about all
6 human rights and fundamental freedoms, including information
7 regarding how those rights and freedoms are given effect in the our
8 legislative, judicial and administrative systems;

9 (b) to freely publish, impart or disseminate to others' views, information
10 and knowledge on all human rights and fundamental freedoms; and

11 (c) to study, discuss, form and hold opinions on the observance, both in
12 law and in practice, of all human rights and fundamental freedoms and,
13 through these and other means, to draw public attention to those
14 matters.

15 (2) The right in subsection (1) may be exercised orally, in writing, in print, in
16 the form of art or through all forms of communication and media.

17 **SEC. 8.** *Right to develop and advocate for human rights ideas.* – Everyone,
18 individually or in association with others, has the right to develop and discuss new
19 ideas and principles which relate to human rights and fundamental freedoms, and to
20 advocate for their acceptance.

21 **SEC. 9.** *Right to communicate with non-governmental, governmental and*
22 *intergovernmental organizations.* – Everyone, individually or in association with
23 others, has the right to freely communicate with non-governmental, governmental and

1 intergovernmental organizations, including subsidiary bodies, mechanisms or experts
2 with a mandate relevant to human rights and fundamental freedoms, as well as with
3 diplomatic representations.

4 **SEC. 10.** *Right to access, communicate with and cooperate with international and*
5 *regional human rights bodies and mechanisms.* – In accordance with applicable
6 international instruments and procedures, everyone, individually or in association
7 with others, has the right to unhindered access to, and to communicate and cooperate
8 with, international and regional human rights bodies and mechanisms, including
9 treaty bodies and special procedures or special rapporteurs.

10 **SEC. 11.** *Right to participate in public affairs.* –

11 (1) Everyone, individually or in association with others, has the right to
12 participate effectively in the conduct of public affairs, including participation
13 on a nondiscriminatory basis in the government of his or her country, regarding
14 human rights and fundamental freedoms.

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

16 (a) to submit to any public authority, or agency or organization
17 concerned with public affairs, proposals for improving its functioning
18 with respect to human rights and fundamental freedoms;

19 (b) to recommend to any public authority regarding legislative or
20 regulatory changes relating to human rights and fundamental freedoms;

21 (c) to draw to the attention of any public authority any aspect of its work
22 that may hinder or impede the promotion, protection and realization of
23 human rights and fundamental freedoms;

1 (d) to draw to the attention of any public authority any action or
2 omission by any actor, private or public, that may involve or contribute
3 to a violation of human rights or fundamental freedoms; and

4 (e) to freely publish, impart or disseminate to others any information
5 submitted to any public authority in the exercise of these rights.

6 **SEC. 12.** *Right to peaceful assembly.* –

7 (1) Everyone, individually or in association with others, has the right to meet or
8 assemble peacefully as well as to participate in peaceful activities concerning
9 human rights and fundamental freedoms, free from interference that is
10 arbitrary or unlawful by public authorities and private individuals, at the local,
11 national, regional or international level.

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

16 **SEC. 13.** *Right to represent and advocate.* –

17 (1) Everyone, individually and in association with others, has the right to assist,
18 represent or act on behalf of another person, group, association, organization
19 or institution in relation to the promotion, protection and exercise of
20 fundamental rights and freedoms, including at the local, national, regional and
21 international levels.

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

1 (a) to complain about the policies and actions of public authorities with
2 regard to violations of human rights and fundamental freedoms, by
3 petition or other appropriate means, to judicial, administrative or
4 legislative authorities or any other competent authority, e.g.
5 Commission on Human Rights, the Ombudsman;

6 (b) to offer and provide professionally qualified legal assistance or other
7 relevant advice and assistance in defending human rights and
8 fundamental freedoms; and

9 (c) to submit communications and information of the type referred to in
10 Section 10.

11 **SEC. 14.** *Right to freedom of movement.* –

12 (1) Everyone lawfully within the territory, or subject to the jurisdiction,
13 including the power or effective control, of the Philippines shall, within that
14 territory or place of jurisdiction, have the right to liberty of movement and
15 freedom to choose his or her residence and the right to carry out his or her
16 human rights activities in the entire territory or place of jurisdiction.

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

20 (3) No one shall be deprived of the right to enter or leave the country on the
21 grounds of or in association with his or her status, activities or work as a human
22 rights defender.

23 **SEC. 15.** *Right to privacy.* –