

SENATE BILL NO. 22

Introduced by Senator M. A. Madrigal

EXPLANATORY NOTE

Republic Act 9372, otherwise known as the “Human Security Act of 2007,” does not guarantee the defeat of terrorism or even its deterrence. It only contains sweeping and vague provisions that undermine among other things the right to life, the right to freedom of expression and association, the liberty of movement, the prohibition against arbitrary detention, and the right to the presumption of innocence and fair trial.

While we recognize the right and duty of the State to self-defense and to protect national security, we are also against the use of violence against civilians and non-combatants. Concomitant to national security interests is the protection of the security of persons under its jurisdiction and to take effective measures against acts of terrorism. But national security should not be used as an excuse to stifle the freedoms and the human rights guaranteed by the Constitution.

We agree with the position of Amnesty International that security and human rights are not alternatives; they go hand in hand. Respect for human rights is the route to security, not an obstacle to it. The route to security is through respect for human rights, not their violations. As former UN Secretary-General Kofi Annan has stressed: “While we certainly need vigilance to prevent acts of terrorism . . . it will be self-defeating if we sacrifice other key priorities – such as human rights – in the process.”

Worldwide, there is now growing clamor for either the repeal of or modification of existing terrorism laws. This is amplified by the fact that from 1996 until now, the United Nations has yet to offer a clear definition of terrorism.

In 2004, India, a country which has faced serious threats from terrorism and other forms of political violence, took a significant step forward for human rights by repealing its Prevention of Terrorism Act of 2002.

In a report on India’s Anti-Terrorism and Security Law, the Association of the Bar of the City of New York for the Committee on International Human Rights said thus: “Attentiveness to these human rights concern is not simply a moral and legal imperative, but also a crucial strategic imperative. As the Supreme Court of India has recognized, *“Terrorism often thrives where human rights are violated, and the lack of hope for justice provides breeding grounds for terrorism.”*

Current anti-terrorism legislations rely on the same institutions used in fighting other crimes – the police or military, the prosecution and the judiciary. More often than not, these same institutions have been tainted with corruption and doubt and their competency to protect human rights laws seriously undermined. If these same institutions are used to confront the so-called menace of terrorism, intense pressure will only subject them to commit further abuses.

To break this cycle of merely legislating offenses without addressing the root problem of why terrorism exists, it is necessary to protect human rights and adopt a paradigm shift on how we view issues on security. While the State combats national security threats and problems, it is also its primordial responsibility that it does not violate human rights and humanitarian law principles in the process.

This shift can be done by genuinely adopting the principles of Human Rights and Human Security.

The Philippines in the exercise of its right to self-defense in combating transnational crimes such as terrorism cannot and should not sacrifice human rights and human security. As reiterated by the UN Security Council, General Assembly and Commission on Human Rights (now the Human Rights Council), the legitimate fight against terrorist acts must be in full accordance with international law, in particular, human rights, humanitarian law and refugee law.¹

In the country's compliance with its treaty obligations under Terrorism and Human Rights conventions, it is mandatory that human rights are continually respected and protected. The Philippines ratified the following treaties on the suppression of terrorism: the International Convention Against the Taking of Hostages (1980); International Convention for the Suppression of Terrorist Bombing (2004); International Convention for the Suppression of the Financing of Terrorism (2004); International Convention for the Suppression of Unlawful Seizure of Aircraft (1973); and International Convention on the Prevention and Punishment of Crimes Against International Protected Persons (1976). We recognize our State obligation under these treaties in the same way we recognize our State obligations under the human rights treaties and instruments that we have also ratified. Thus, a balancing of security of concerns and human security issues should continually be sought.

On the one hand, human rights are universal, inherent, indivisible and inter-related. They are rights that what makes us human. They are rights that have to be upheld and respected both in times of peace and even in times of war.

The Philippines has ratified all the major human rights instruments, namely the International Covenant on Civil and Political Rights (1986);

¹ See UN Security Council resolution 1456 of 20 January 2003; UN General Assembly resolutions 57/219 of 18 December 2002, 58/187 of 22 December 2003 and 59/191 of 20 December 2004; and UN Commission on Human Rights 2003/68 of 25 April 2004, 2004/87 of 21 April 2004 and 2005/80 of 21 April 2005.

International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination against Women (1981); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).

Moreover, the Philippines is also a State Party to the four Geneva Conventions and its Protocol II as well as to the Refugee Convention and its Protocol.

On the other hand, human security refers to the security of individuals, as opposed to national security, which refers to the security of states. The concept grew out of a post-Cold War multi-disciplinary approach involving a number of research fields, including development studies, international relations, strategic studies and human rights. While traditionalists focus on the defense of the nation-state, the individual is the unit of analysis in the study of human security.

Human security is people-centered. Its focus shifts toward protecting individuals. The important dimensions are to entail the well-being of individuals and respond to ordinary people's needs in dealing with sources of threats. The means for traditional security is merely protection, but not empowerment. It relies on building up national power and military defense. The common forms it takes are armament races, alliances, strategic boundaries, etc. Human security is the opposite. It empowers people and societies as a means of security. People contribute by identifying and implementing solutions to insecurity.

Human security proponents assert that these traditional measures seem to exacerbate the problem over time and only beget further retaliation and retribution. They advocate that governments should instead focus on designing people-centered interventions to address enduring, underlying problems. Causal factors need to be delineated to determine inequalities and ascribe measures to achieve equal access to resources and sustainability for all peoples.

These interventions can take many forms. Human security further emphasizes that any intervention needs to address physical, psychological and political dimensions of security simultaneously. The psychological aspect to human security highlights the fact that too often the violence of a traditional military response simply begets further violence. "To use military means against an assortment of criminals and insurgents is simply to provoke and consolidate support for those groups." Instead, sustainable victory in such conflict situations means "to win a battle for the society, for its mindsets and psychologies, to address sources of grievance and anxiety, and to shore up institutions of governance."

This Bill proposes the strengthening of the human rights mechanism in the Philippines, the institutionalization of human security concepts as a principle for conflict and security management and the eventual balancing of national security

protection with human rights and human security concerns.

It is not envisioned that this Bill will be the panacea to prevent terrorism. The intention is to identify and implement the interventions to address its causes. The Bill seeks to strengthen the organization and expand the functions of the Commission on Human Rights and criminalize human rights and human security violations. The objective is straightforward: protect the human rights and human security of the Filipino people.

M. A. MADRIGAL

S. B. NO. 22

Introduced by Senator M. A. Madrigal

AN ACT
PROTECTING THE HUMAN RIGHTS AND HUMAN SECURITY OF THE
FILIPINO PEOPLE, STRENGTHENING THE ORGANIZATION AND
EXPANDING THE FUNCTIONS OF THE COMMISSION ON HUMAN
RIGHTS AND CRIMINALIZING HUMAN RIGHTS AND HUMAN
SECURITY VIOLATIONS

Chapter I
TITLE AND DECLARATION OF STATE POLICIES

Section 1. *Short Title.* – This Act shall be known as the “*Human Rights Act of 2007.*”

Section 2. *Declaration of State Policy.* – It is the policy of the State to value the dignity of every human person and guarantee full recognition, respect, protection and fulfillment of human rights as the means for ensuring the security of its people. Towards this end, the State shall adopt human rights and human security measures to protect the people from pervasive threats to their rights, safety and lives.

The State shall enact measures to ensure the effective enforcement of the State’s obligations under its treaty obligations in the following human rights treaties: International Covenant on Civil and Political Rights (1986); International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination against Women (1981); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).

Such measures shall include conflict management and post-conflict peace-building to addressing the roots of conflict by building state capacity and promoting equitable economic development. The State shall further advance the protection and promotion of human rights, the rule of law, the culture of peace and the peaceful resolution of conflicts by adopting interventions that are people-centered.

The State shall also continually recognize and honor existing agreements in the peace process particularly the Tripoli Agreement (1976), Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL, 1998) and other agreements that are the product of the peace talks with the Moro National Liberation Front (MNLF), Moro Islamic Liberation Front (MILF), Communist Party of the Philippines/New People's Army/National Democratic Front (CNN) and the Revolutionary Proletariat Army (RPA).

In conflict areas where there are no existing agreements in the conduct of hostilities, the State shall respect the applicability of the four Geneva Conventions and its Protocol II.

To ensure the respect, protection and promotion of human rights, the State shall strengthen the organization of the Commission on Human Rights by following the Paris Principles on National Human Rights Institutions.

Chapter II HUMAN RIGHTS

Section 3. *Human Rights, Defined.* – For purposes of this Act, human rights will be limited to the rights affirmed and recognized in the treaties that have been ratified by the Republic of the Philippines in the following instruments: International Covenant on Civil and Political Rights (1986); International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination against Women (1981); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).

The rights affirmed and recognized in the Comprehensive Agreement on the Respect for Human Rights and International Humanitarian Law (CARHRIHL) shall also be recognized in this Act.

It shall also include such rights recognized in the Universal Declaration of Human Rights (1948) and those found in Article III of the 1987 Constitution.

Section 4. *Human Rights Violation.* – For purposes of this Act, human rights violations will be limited to the violations of civil and political rights enunciated in the International Covenant on Civil and Political Rights (ICCPR) and other human treaties mentioned in Section 4 of this Act that are civil and political in nature and rights found in Article III of the 1987 Constitution.

CHAPTER III CIVIL AND POLITICAL RIGHTS

Section 5. *Recognition and equality before the law.* – Everyone is entitled to equal protection before the law without distinction of any kind, such as race, color, sex, gender, language, religion, political or opinion, national or social origin, property or other status.

Section 6. *Right to Life.* – Everyone has the inherent right to life. This right is protected by law. No one shall be arbitrarily deprived of his life.

Section 7. *Protection from torture, cruel, inhuman or degrading treatment.* – No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Section 8. *Protection of the Family and Children.* –

- A. The family is the natural and basic social institution.
- B. Every child shall have the right to be protected, without discrimination or distinction of any kind.

Section 9. *Privacy and Reputation.* – Everyone has the right not to have his privacy, family, home or correspondence interfered with unlawfully or arbitrarily; and not to have his reputation unlawfully attacked.

Section 10. *Freedom of Movement.* – Everyone shall have the right to move freely in the country and to leave it, and the freedom to choose his residence.

Section 11. *Freedom of thought, conscience, religion and belief.* –

- A. Everyone shall have the right to freedom of thought, conscience, and religion. This right includes:
 - 1. The freedom to have or adopt a religion or belief of his or her choice; and
 - 2. The freedom to demonstrate his or her religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private.
- B. No one shall be coerced in a way that would limit his freedom to have or adopt a religion or belief in worship, observance, practice or teaching.

Section 12. *Peaceful Assembly and Freedom of Association.* – Everyone shall have the right to peaceful assembly and freedom of association.

Section 13. *Freedom of Expression.* – Everyone has the right to freedom of

expression and to hold opinions without interference. This right includes the freedom to seek, receive and impart information and ideas of all kinds, regardless of borders, whether orally, in writing or in print, by way of art, or in another way chosen by him.

Section 14. *Taking part in public life.* – Everyone has the right and to have the opportunity, to:

- A. Take part in the conduct of public affairs, directly or through freely chosen representatives;
- B. Vote and be elected at periodic elections, provided under the constitution and other laws; and
- C. Have access on general terms of equality, for appointment to the public service and public office.

Section 15. *Right to liberty and security of person.* –

- A. Everyone has the right to liberty and security of person. No one shall be arbitrarily arrested or detained.
- B. No one may be deprived of liberty without due process of law.
- C. The rights of persons arrested, detained or under custodial investigation as provided for in Republic Act 7438 shall be respected at all times.
- D. Anyone who has been unlawfully arrested or detained shall have the right to compensation for the arrest or detention.
- E. No one shall be imprisoned only because of an outstanding debt.
- F. No one shall be labeled, arrested, detained, or imprisoned by reason of one's political or religious belief.

Section 16. *Humane Treatment when deprived of liberty.* –

- A. Anyone deprived of liberty must be treated humanely and with respect for the inherent dignity of the human person.
- B. An accused person must be segregated from convicted people.

Section 17. *Fair Trial.* – Everyone has the right that when faced with criminal charges, to have his rights and obligations recognized by law, and that such charges shall be decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The press and the public may be excluded from all or part of a trial –

- A. To protect morals or public order;

- B. If the interest of the private lives of the parties require the exclusion; or
- C. If, and to the extent that, exclusion is strictly necessary, in special circumstances of the case, because publicity would otherwise prejudice the interests of justice.

Section 18. *Compensation for wrongful conviction.* –

- A. This section applies if:
 - 1. Anyone is convicted by a final decision of a criminal offense;
 - 2. The person suffers punishment because of the conviction; and
 - 3. The conviction is reversed, or he or she is pardoned, on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice.
- B. If this section applies, the person wrongfully convicted shall be compensated according to law.

Section 19. *Right not to be tried or punished more than once.* – No one may be tried or punished for an offense for which he has already been finally convicted or acquitted in accordance with law.

Section 20. *Retrospective criminal laws.* – No one shall be held guilty of a criminal offense because of a conduct that was not criminal under existing laws when it was committed.

Section 21. *Freedom from forced work.* –

- A. No one shall be held in slavery or involuntary servitude; and
- B. No one shall be made to perform forced or compulsory labor.

Section 22. *Rights of Indigenous, Religious or Linguistic Groups.* – Any one who belongs to an indigenous, religious or linguistic group shall not be denied of his right to his culture, to declare and practice his religion and to use his own language.

**CHAPTER IV
STRENGTHENING THE ORGANIZATION AND EXPANDING THE
FUNCTIONS OF THE COMMISSION ON HUMAN RIGHTS**

Section 23. *Composition of the Commission on Human Rights.* – The strict application, enforcement and monitoring of the rights provided for in Chapter III of this Act shall be vested in the Commission on Human Rights.

- A. The Commission on Human Rights shall be composed of a Chairperson

and four Members who must be natural-born citizens of the Philippines, at least thirty years of age, holders of a college degree, of proven independence, integrity and competence, and have been consistently involved in human rights promotion and protection activities.

1. The Chairperson and two Members of the Commission shall be members of the Philippine Bar whose field of expertise and practice is human rights law.
 2. At least one member of the Commission shall come from a Non-Government Organization whose advocacy is in the field of human rights.
 3. No candidate in any election shall, within one year after such election, be appointed Chairperson or Member.
 4. In choosing the composition of the Commission, regional and cultural diversity as well as gender balance shall be taken into consideration. The choice of membership will give primordial consideration to independence and pluralism of the Commission's composition.
- B. The Chairperson and the Members shall be appointed by the President with the consent of the Commission on Appointments for a term of seven (7) years without reappointment. Appointment to any vacancy shall be only for the unexpired portion of the term of the predecessor. In no case shall any Member be appointed or designated in a temporary or acting capacity.
- C. The Chairperson and the Members shall not, during their tenure, hold any office or employment. Neither shall they engage in the practice of any profession or in the active management or control of any business which in any way may be affected by the functions of their office, nor shall they be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege granted by, the Government, any of its subdivisions, agencies, or instrumentalities, including government-owned or controlled corporations or their subsidiaries.

Section 24. Powers and Functions. – The Commission shall have the following powers and functions:

- A. Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- B. Upon finding of probable cause, prosecute human rights violations involving civil and political rights in the appropriate Regional Trial Court and, if needed, appeal decisions in the appropriate appellate court;
- C. To submit to the executive, the legislative department and any other

competent body, on advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the protection and promotion of human rights. The Commission shall publicize these. These opinions, recommendations, proposals and reports, as well as any prerogative of the Commission, shall relate to the following areas:

1. Any legislative or administrative provisions, as well as provision relating to judicial organization, intended to preserve and extend the protection of human rights. In that connection, the Commission shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights. It shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures;
 2. Any situation on human rights which it decides to take up;
 3. The preparation of reports on the national situation with regard to human rights in general, and on more specific matters;
 4. Drawing the attention to the government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the government.
- D. To promote and ensure the harmonization of national legislation, regulations and practices with the international rights instruments to which the State is a party, and their effective implementation;
- E. To contribute to the reports which States are required to submit to the United Nations treaty bodies and committees pursuant to the treaty obligations of the Philippines, where necessary, to express an opinion on the subject, with due respect for their independence;
- F. To encourage ratification or accession of human rights and humanitarian law instruments, and to ensure their implementation;
- G. To cooperate with the United Nations and any other agency in the United Nations system, the regional institutions of other countries which are competent in the areas of the protection and protection of human rights;
- H. Adopt its operations guidelines and rules of procedure, and cite for contempt violations thereof in accordance with the Rules of Court;

- I. 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;
- J. Exercise visitorial powers over jails, prisons or detention facilities;
- K. Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;
- L. Recommend to Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights or their families;
- M. 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;
- N. Request the assistance of any department, bureau, office or agency in the performance of its functions;
- O. Appoint its officers and employees in accordance with law;
- P. Act as the principal office that shall undertake and monitor the peace process with parties in conflict with the Government of the Republic and intervene in conflict areas by ensuring that both the government forces and the armed groups are strictly adhering to the Geneva Conventions and its applicable Protocols should there be no existing human rights and humanitarian law agreement between the warring parties; and
- Q. Perform such other duties and functions as may be provided by law.

Section 25. Structural Organization. – The Commission shall have the following line and staff offices:

- A. **Office of the Executive Director.** – This Office shall be responsible for managing the day-to-day affairs, activities and operation of the Commission, in accordance with its policies and instructions; it shall have general supervision over all line and staff offices, regional offices, and personnel; and it shall perform such other duties and functions as the Commission may assign to it.

It shall be headed by an Executive Director appointed by the President with the consent of the Commission on Appointments, who shall be a member of the Philippine Bar with proven integrity and competence and

has been in the actual practice of law for at least five (5) years prior to his appointment and has consistently been involved in human rights protection and promotion activities. He shall have the rank and salary of a department undersecretary.

- B. **Education, Training and Information Office.** – This Office shall implement the programs for research, education and information to enhance respect for human rights, particularly the education and training programs provided in Section 24 of this Act, and perform such other duties and functions as the Commission may assign to it.

It shall be headed by a Director appointed by the President with the consent of the Commission on Appointments, who shall be a holder of a college degree in education, mass communication, or in a related field, with proven integrity and competence and has been in the actual practice of his profession for at least five (5) years prior to his appointment or has held during such period any position in the government requiring the qualifications of his profession, and has consistently been involved in human rights promotion and protection activities. He shall have the rank and salary of an Assistant Secretary.

- C. **Legal Office.** – This Office shall investigate complaints of human rights violations; conduct preliminary investigation to determine the existence of a *prima facie* case for possible prosecution; provide other legal services to the Commission; provide legal aid services to victims of human rights violations; conduct periodic visits to the national penitentiary and penal colonies, detention facilities, and provincial, city or municipal jails; and perform such other duties and functions as the Commission may assign to it.

It shall be headed by a Director appointed by the President with the consent of the Commission on Appointments, who shall be a member of the Philippine Bar with proven integrity and competence and has been in the actual practice of law for at least five (5) years prior to his appointment and has been consistently involved in human rights protection and promotion activities. He shall have the rank and salary of an Assistant Secretary.

- D. **Prosecution Office.** – This Office shall serve as the prosecution arm of the Commission. It shall assist the Commission in the prosecution of violations of human rights, as provided in Section 24 of this Act, and perform such other duties and functions as the Commission may assign to it. It shall be composed of fifteen (15) Human Rights Prosecutors appointed by the President with the consent of the Commission on Appointments, who shall be members of the Philippine Bar with proven integrity and competence and have been in the actual practice of law for at least five (5) years prior to their appointment and have been consistently involved in the human rights protection and promotion activities. They

shall have the rank and salary of Senior State Prosecutors.

The Commission shall assign one Human Rights Prosecutor in each administrative region. This Office shall be headed by the Chief Human Rights Prosecutor appointed by the President with the consent of the Commission on Appointments, who shall have the qualifications, rank and salary of the Director of the Legal Office.

- E. **Regional Offices.** – The Commission shall establish and maintain a regional office in each of the administrative regions, which shall exercise the powers and perform the functions of the Commission in the provinces, cities and municipalities, and barangays in the region, and perform such other duties and functions as the Commission may assign to regional offices. It shall be headed by a Regional Director appointed by the President with the consent of the Commission on Appointments, who shall be a holder of a college degree with proven integrity and competence, and has consistently been involved in human rights protection and promotion activities.

He shall have the rank and salary of an Assistant Secretary.

Human rights promotion officers in all departments, bureau, offices, agencies, subdivisions and instrumentalities of the Government including government owned or controlled corporations, who shall be chosen on the basis of their education, training and experience, and attitude on human rights, upon the recommendations of their office heads. They shall coordinate the activities of human rights advocates; participate in human rights research, education and training, and information programs, projects and activities; protect and promote human rights and encourage respect for human dignity; monitor reports of human rights violations; and perform such other duties as the Commission or the Regional Director may assign to them from time to time. All human rights promotion officers shall undergo orientation and training on human rights before entering upon the performance of their duties.

F. **Education and Training Programs.** –

1. At every level of formal education, the Department of Education, in coordination with the Commission, shall require private and public schools, including State colleges and universities, to offer courses designed to inculcate in the minds and hearts of the youth the need to respect human dignity and to protect and promote human rights. Similar courses shall likewise be included in the non-formal education program.
2. The Civil Service Commission, the Civil Service Academy and the Development Academy of the Philippines, in coordination with the Commission, shall include a course design on human rights in their

training programs for civil service officers and employees and for Career Executive Officers.

3. The Department of National Defense, the Armed Forces of the Philippines, the National Defense College, and the Philippine Military Academy and other military training schools, in coordination with the Commission, shall include the study of human rights in their programs for the education and training of all military officers and enlisted men, in the reserve or active service, especially of arresting or investigating officers and agents, prison or jail guards, and other personnel assigned to the national penitentiary or penal colonies, detention facilities, and prisons or jails.
4. The Philippine National Police, the National Police Academy of the Philippines, the National Police Commission, and the provinces, cities, and municipalities, in coordination with the Commission, shall include the study of human rights in their programs for the education and training of police officers, policemen and firemen, jail or prison guards, and other personnel in charge of or assigned to the national penitentiary or penal colonies, detention facilities, and provincial, city or municipal jails, and private security guards (blue guards), as the case may be.
5. The Department of Justice particularly the National Prosecution Service, the National Bureau of Investigation, the Bureau of Prisons, the Bureau of Immigration and Deportation, the Public Attorney's Office, and the Office of the Ombudsman and the Office of the Special Prosecutor, in coordination with the Commission, shall include the study of human rights in their programs for the training and investigating or arresting officers or agents, jail or prison guards, and other personnel in charge of or assigned to the national penitentiary and penal colonies, detention facilities, and provincial, city or municipal jails.
6. The Department of Finance particularly the Bureau of Customs, the Bureau of Internal Revenue, and the Finance Intelligence and Investigation Bureau, and other agencies or offices whose agents are authorized to conduct investigations and make arrests, shall, in coordination with the Commission, include the study of human rights in their programs for the training of investigating or arresting officers and agents, and personnel in charge of detention facilities.
7. The Supreme Court, through its Philippine Judicial Academy (PHILJA) in coordination with the Commission shall include lectures on human rights in its career development program for judges and court personnel.
8. The Commission shall, in coordination with the commissions,

departments, bureaus, and local governments concerned, conduct seminars on human rights for detention and convicted prisoners and inmates of the national penitentiary and penal colonies, detention facilities, and provincial, city and municipal jails, at least once a year for each of those facilities.

9. The education and training programs herein prescribe, among others, the teaching or lectures on the following subjects:
 - a. Bill of Rights and other provisions of the Constitution on human rights;
 - b. Crimes against the fundamental laws of the State, offenses or irregularities of public officers, and crimes against personal liberty;
 - c. Offenses punished in special penal laws, including that committed by any public officer or employee or anyone acting under his orders or in his place, who shall obstruct, prohibit, or otherwise prevent an attorney entitled to practice in the courts of the Philippines from visiting and conferring privately with a person arrested (R.A. 857, as amended);
 - d. Provision of the Administrative Code directing the Bureau of Prisons to supply a national prisoner, upon his release, with transportation to his home including a gratuity to cover the probable cost of subsistence in route, and a set of clothes;
 - e. Human Relations provisions of the New Civil Code providing that any person suffering material or moral loss because a public servant or employee refuses or neglects, without just cause, to perform his official duty may file an action for damages and other relief against the latter, without prejudice to any disciplinary administrative action that may be taken (Article 27); or providing that any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the civil and political rights and liberties of another person shall be liable to the latter for damages (Article 32); or providing that when a member of a city or municipal police force refuses or fails to render aid or protection to any person in case of danger to life of property, such peace officer shall be primarily liable for damages, and the city or municipality shall be subsidiarily responsible therefore (Article 34);
 - f. Rules for the treatment of prisoners provided in the Department of Justice Manual on the general rules, policies and operating procedures adhered to in the prison service; and
 - g. The Universal Declaration of Human Rights and the other human

rights treaties and conventions that the Philippines has ratified but not limited to: International Covenant on Civil and Political Rights (1986); International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination against Women (1981); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).

The Commission shall avail of the facilities and services of the Philippine Information Agency (PIA), National Printing Office, and other government information agencies in the preparation, publication or reproduction of education and training materials, and in the dissemination of information on human rights.

The completion of the education or training program herein prescribed shall be considered by the appointing authority and the Civil Service Commission in the appointment or promotion of said officers, agents, jail or prison guards, and other personnel, or in their continuance in the service if they are temporary or casual employees.

Section 26. *Investigation and Prosecution of Human Rights Violations.* –

- A. The Commission shall investigate all violations of human rights, whether or not they constitute any crime or offense, including violations of human rights recognized in the Universal Declaration of Human Rights and the following human rights treaties: International Covenant on Civil and Political Rights (1986); International Covenant on Economic, Social and Cultural Rights (1974); International Convention on the Elimination of All Forms of Racial Discrimination (1967); Convention on the Elimination of All Forms of Discrimination against Women (1981); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987); Convention on the Rights of the Child (1990); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1995).
- B. Where a violation of human rights constitutes any of the crimes against the fundamental law of the State, or offenses or irregularities of public officers, or crimes against personal liberty, defined and punished in the Revised Penal Code, including but not limited to arbitrary detention (Art. 124), delay in the delivery of detained persons to the proper judicial authorities (Art. 125), delaying release (Art. 126), expulsion (Art. 127), violation of domicile (Art. 128), search warrants maliciously obtained and abuse in the service of those legally obtained (Art. 129), searching domicile without witnesses (Art. 130), prohibition, interruption and dissolution of peaceful

meetings (Art. 131 and BP 880), maltreatment of prisoners (Art. 235), abuses against chastity (Art. 245), kidnapping and serious illegal detention (Art. 267), slight illegal detention (Art. 268), and unlawful arrest (Art. 269), or where such violation constitutes any of the offenses punished by special laws, including Republic Act No. 857, as amended, punishing any public officer or employee or anyone acting under his orders or in his place, who shall obstruct, prohibit, or otherwise prevent a lawyer entitled to practice in the courts of the Philippines from visiting or conferring privately with a person arrested, and the complaint therefore is filed with the Commission or any of its duly authorized representative shall conduct a preliminary investigation thereof and, upon its finding of the existence of a *prima facie* case, the Commission shall direct its Prosecution Office to file the necessary information with the proper civil court, regardless of whether or not the accused is in the military or police service. The resolution of said representative dismissing the said complaint shall be appealable to the Commission within fifteen (15) days after receipt thereof by the Complainant. The Commission shall resolve such appeal within fifteen (15) days after receipt thereof.

1. Where a complaint for any violation of human rights, described in the next preceding paragraph, is first filed with the Commission or with any of its duly authorized representatives, the Commission shall have the sole authority to investigate and prosecute the same.
2. Where the Commission prosecutes any of the crimes and offenses specified in paragraph (2) hereof, it shall likewise have the authority to prosecute all other crimes and offenses committed in connection therewith or on the occasion thereof. The conduct of such prosecution shall be under the direction and control of the Commission.
3. Pertinent provisions of the Rules of Court particularly Rules 110, 111, and 112 shall govern the prosecution of offenses and civil action, and the preliminary investigation conducted by the Commission or its duly authorized representatives.

Section 27. *Human Rights Clearance.* – All public officers and their agents are not eligible for promotion and appointment unless they obtain a human rights clearance from the Commission.

No person who has been convicted of a human rights violation or who has a pending case before any Court constituting a human rights violation will be given a human rights clearance by the Commission.

Section 28. *Appropriations.* – The approved annual appropriations of the Commission shall be automatically and regularly released. In addition to the appropriations for the Commission in the current calendar year's General Appropriations Act, such sum as shall be necessary to implement the provisions of this Act shall be included in the General Appropriations Act for the ensuing

calendar year.

CHAPTER V GENERAL PROVISIONS

Section 29. *Implementing Rules and Regulations.* – The Commission shall have the power to issue rules and regulations to implement this Act.

Section 30. *Congressional Oversight.* – A special congressional oversight on human rights and human security shall be created by Congress to exercise oversight functions over the implementation of this Act.

Section 31. *Repealing Clause.* – All other laws, decrees, executive orders, proclamations, and administrative regulations inconsistent with the provisions of this Act are hereby amended, modified or repealed accordingly.

Section 32. *Separability Clause.* – In the event that any provision of this Act is declared unconstitutional, such declaration shall not affect the validity of the other provisions.

Section 33. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation.

Approved,