

RED CARD

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BASIC RIGHTS: AN INTRODUCTION TO HUMAN RIGHTS PRINCIPLES

RED CARD is an initiative of
the Rainbow Rights Project (R-Rights), Inc.

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Rainbow Rights Project (R-Rights), Inc. is a unique alternative lawyering non-governmental organization (NGO) catering to the marginalized sector of Sexual Minorities or lesbians, gays, bisexuals, and transgenders (LGBTs). Since its establishment in 2005, it has been conducting innovative Gender Sensitivity and Human Rights Trainings focused on LGBT issues and concerns.

WHAT ARE HUMAN RIGHTS?

Human Rights are the minimum civil, political, economic, social, and cultural entitlements that every human being should be able to claim and enjoy because they are human.

Human rights are a moral recognition of the dignity and equality of all human beings.

Human rights are a legal guarantee – States (and increasingly Non-State actors, i.e. private business) are accountable for not protecting people from abuse; Everyone should be able to claim a remedy for abuse

WHAT ARE THE BASIC PRINCIPLES OF HUMAN RIGHTS?

- Accountability
- Attention to Vulnerable groups
- Empowerment
- Equality
- Good Governance
- Independence of the Judiciary
- Indivisibility
- Interdependence and inter-relatedness

- Legislative capacity
- Indivisibility
- Interdependence and Inter-relatedness
- Legislative capacity
- Non-Discrimination
- People's Participation
- Transparency
- Universality
- Human Dignity

WHAT ARE THE UNDERLYING PRINCIPLES OF HUMAN RIGHTS?

• **Inalienability** – The inherent rights that individuals have cannot be taken away, surrendered or transferred.

• **Universality** – Certain moral and ethical values are shared in all regions of the world and governments and communities should recognize and uphold them. Universality doesn't mean that rights cannot change or that they are experienced the same way by all people. Human rights belongs to everyone, everywhere.

• **Human Dignity** – The principles of human rights are founded on the notion that each individual regardless of age, culture, faith, ethnicity, race, gender, sexual orientation, language, disability or social class, deserves to be honored and esteemed.

• **Equality** – This concept expresses the notion of respect for the inherent dignity of all human beings. Equality doesn't mean identical treatment in every instance. Sometimes affirmative action is required to diminish/eliminate conditions that cause or help perpetuate discrimination. It may involve preferential treatment for a time to a part of the population.

• **Non-discrimination** – This is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on some external factors. Reference to some factors that contribute to discrimination contained in international human rights treaties include race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or

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POLITICAL PARTICIPATION OF LGBTs AND THE PARTYLIST SYSTEM

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SECTORAL ORGANIZATIONS' POLITICAL PARTICIPATION

Article II, Section 23 of the 1987 Constitution mandates that "The State shall encourage non-governmental, community-based, or sectoral organizations that promote the welfare of the nation."

As a state policy, this recognized the principle of voluntarism and ensured a broad categorization of organizations encompassing human rights and promoting human development and participation.

SOCIAL JUSTICE AND HUMAN RIGHTS

Bearing on the principles of social justice and human rights, this concept not only applied to economic, but political justice as well. Reiterating provisions under the Bill of Rights on the right to association and to form unions, as an enabling mechanism to make social justice real, encouragement is given to people that they organize themselves, that they protect their legitimate interests peacefully, through their collective efforts.

THE CONSTITUTION AND THE PARTY LIST SYSTEM

The 1987 Constitution mandated the establishment of a system whereby the electorate can vote for partylist organizations to give voice to significant minorities of society who would otherwise not be adequately represented through geographical district. Thus, the Partylist System was envisioned to be a mechanism of proportional representation in the election of representatives to the Lower House of Congress, and with an aim of increasing representation of broader interests, particularly of "marginalized and under-represented sectors".

PHILIPPINE SUPREME COURT'S 2001 DECISION

The Partylist System is a social justice tool designed not only to give more law to the great masses of our people who have less in life, but also to enable them to become veritable law-makers themselves, empowered to participate directly in the enactment of laws designed to benefit them. It intends to make the marginalized and the under-represented not merely passive recipients of the State's benevolence, but active participants in the mainstream of representative democracy."

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- Indivisibility - Human Rights should be addressed as an indivisible body, including civil, political, social, economic, cultural and collective rights. Human rights are so inextricably intertwined that the absence of one negates the other.

- Interdependency - Human rights concerns appear in all spheres of life - home, school, workplace, courts, markets - everywhere. Human rights violations are interconnected; loss of one right detracts from the others. In the same way, promotion of human rights in one area supports other human rights.

WHAT IS DISCRIMINATION?

Any **distinction, exclusion, or restriction** which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by any person of human rights and fundamental freedoms in the political, economic, social, cultural, or civil or any other field.

Results to barrier in opportunities, entitlements, and enjoyment of the fruits of development

May be direct or indirect, intended or unintended, written or unwritten/culturally ingrained, result from commission or omission

WHAT ARE THE CORE INTERNATIONAL HUMAN RIGHTS INSTRUMENTS?

1. Universal Declaration of Human Rights (UDHR)
2. International Covenant on Civil and Political Rights (ICCPR)
3. International Covenant on Economic, Social and Cultural Rights (ICESCR)
4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
5. Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)
6. Convention on the Rights of the Child (CRC)
7. International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW)
8. International Convention on the Rights of Persons with Disabilities (ICRPD)

WHAT ARE THE STATES' OR GOVERNMENTS' RESPONSIBILITIES UNDER THESE INSTRUMENTS?

RESPECT - requires the State and all its agents to refrain/abstain from doing anything that violates the individual's integrity or infringes on his/her freedom

PROTECT - requires from the State and its agents the measures necessary to prevent aggressive/assertive groups from violating the integrity, freedom of action, or other rights of individuals

FULFILL - requires the State to take the measures necessary to ensure for each person within its jurisdiction opportunities to obtain satisfaction of those needs which cannot be secured by personal efforts. The State is the provider.

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REPUBLIC ACT (RA) NO. 7941 OR THE PARTY-LIST SYSTEM ACT

The party-list system is a mechanism of proportional representation in the election of representatives to the House of Representatives (HOR) from national, regional and sectoral parties or organizations or coalitions thereof registered with the Commission on Elections (COMELEC). Component parties or organizations of a coalition may participate independently provided the coalition of which they form part does not participate in the party-list system.

DEFINITIONS AND TERMINOLOGY (SECTION 3, RA 7941)

A **party** means either a political party or a sectoral party or a coalition of parties.

A **sectoral party** refers to an organized group of citizens belonging to any of the sectors enumerated in Section 5 hereof whose principal advocacy pertains to the special interests and concerns of their sector.

A **sectoral organization** refers to a group of citizens or a coalition of groups of citizens who share similar physical attributes or characteristics, employment, interest or concerns.

A **coalition** refers to an aggrupation of duly registered national, regional, sectoral parties or organizations for political and/or election purposes.

MANIFESTATION TO PARTICIPATE IN THE PARTY-LIST SYSTEM (SECTION 4, RA 7941)

Any party, organization, or coalition already registered with the Commission need not register anew. However, such party, organization or coalition shall file with the Commission, not later than ninety (90) days before the election, a manifestation of its desire to participate in the party-list system.

COMELEC RULES ON REGISTRATION (SECTION 5, RA 7941)

Any organized group of persons may register as a party, organization or coalition for purposes of the party-list system by filing with the COMELEC not later than ninety (90) days before the election a petition verified by its president or secretary stating its desire to participate in the party-list system as a national, regional or sectoral party or organization or a coalition of such parties or organizations, attaching thereto its constitution, by-laws, platform or program of government, list of officers, coalition agreement and other relevant information as the COMELEC may require: provided, that the sectors shall include labor, peasant, fisherfolk, urban poor, indigenous cultural communities, elderly, handicapped, women, youth, veterans, overseas workers, and professionals.

YOGYAKARTA PRINCIPLE NO. 25

Yogyakarta Principle 25 recognizes the Right to Participate in Public Life. To wit: "Every citizen has the right to take part in the conduct of public affairs, including the right to stand for elected office, to participate in the formulation of policies affecting their welfare, and to have equal access to all levels of public service and employment in public functions, including serving in the police and military, without discrimination on the basis sexual orientation or gender identity."

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