EIGHTEENTH CONGRESS  
REPUBLIC OF THE PHILIPPINES  
First Regular Session  

HOUSE OF REPRESENTATIVES  

Introduced by Representative Rufus B. Rodriguez  

House Bill No: 6978  

EXPLANATORY NOTE  

Article II. Section 11 of the 1987 Constitution declares it a State policy of the Republic of the Philippines to value the dignity of every human person and to guarantee full respect for human rights. In line with this policy, the Republic of the Philippines either is a State Party to or, in the case of the Universal Declaration of Human Rights (UDHR), voted in favor of, various international human rights instruments and conventions that prohibit the use of torture and other cruel, inhuman, or degrading treatment or punishment, such as the aforementioned UDHR, the International Convention on Civil and Political Rights (ICCPR), and the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).  

Furthermore, the Republic of the Philippines acceded to the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on April 17, 2012, which requires under Part I, Article 3 thereof that each State Party thereto “shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.” More specifically, Part IV, Article 17 stated that “[e]ach State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.” This mechanism is referred to as a National Preventive Mechanism (NPM).  

It has been more than 7 years since the Philippines acceded to the OPCAT, but the Philippines still does not have a NPM. Consequently, the Philippines is on the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the United Nations Committee against Torture’s list of States whose compliance with Part IV, Article 17 of the OPCAT is substantially overdue.\(^1\)  

Thus, this bill seeks to comply with the aforementioned obligation of the Philippines. This bill seeks to designate the CHR as the NPM of the Philippines since the CHR, as the National Human Rights Institution (NHRI) of the Philippines in accordance with the 1993 Paris Principles, and as befitting its visitorial mandate under the 1987 Constitution, Executive Order No. 163, s. 1987, and other related laws, is the independent body best suited to perform the functions of the NPM of the Philippines vis-à-vis the OPCAT.  

The CHR has been conducting unannounced and unrestricted visits to places of deprivation of liberty pursuant to its visitorial mandate under Article XIII, Section 18 (4) of the 1987 Constitution; Section 3 (4) of Executive Order No. 163, s. 1987; Section 11 of the Implementing Rules and Regulations of Republic Act No. 9745, otherwise known as the Anti-  

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Torture Act of 2009, and Section 13 of Republic Act No. 10353, otherwise known as the Anti-Enforced or Involuntary Disappearance Act of 2012. However, such visits are mainly investigative or monitoring in nature, not preventive as is required of an NPM.

Designating the CHR as the NPM will enhance its visitorial powers as it will now look into the preventive aspect against torture and other cruel, inhuman, or degrading treatment or punishment in places of deprivation of liberty to help develop policies and support the improvement of places of deprivation of liberty that respect the basic human rights of persons deprived of liberty. This is because while the CHR initially focused only on monitoring visits to places of deprivation of liberty, it has come to realize that torture prevention needs a different and more holistic approach. Torture prevention entails understanding the various causes of torture, whether institutional, normative, political, cultural, or socio-economical, and, correspondingly, addressing such causes through a wide range of actions, such as legal reform, ensuring criminal responsibility and safeguards in detention, fighting against impunity, and ensuring remedies and reparations.

Furthermore, by establishing the NPM as a separate division within the CHR with its own budget and personnel, this bill would also help delineate between the investigative and preventive aspects of visits to places of deprivation of liberty by the CHR. However, it should be noted that this delineation and the designation of the CHR as the NPM aims to complement, not replace, the CHR's current visitorial mandate by extending its visitorial powers to places of deprivation of liberty outside of its current jurisdiction, such hospitals and psychiatric institutions.

As of now, the CHR is developing a possible template of the NPM with the CHR as the lead with representatives from experts and civil society organizations (CSOs) as members. This initiative aims to create a model and a Manual of Operations on how an NPM should be structured and operationalized. Such a structure and operations are embodied in this proposed bill.

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

RUFUS B. RODRIGUEZ
EIGHTEENTH CONGRESS
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HOUSE OF REPRESENTATIVES

Introduced by Representative Rufus B. Rodriguez

AN ACT
DESIGNATING THE COMMISSION ON HUMAN RIGHTS (CHR) AS THE NATIONAL PREVENTIVE MECHANISM (NPM) IN COMPLIANCE WITH THE OPTIONAL PROTOCOL TO THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (OPCAT) AND FOR OTHER PURPOSES

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

Section 1. Short Title. — This Act shall be known as the “National Preventive Mechanism (NPM) Act.”

Section 2. Statement of Policy. — It is hereby declared the policy of the State to:

a. Adopt the generally accepted principles of international law, which include the prohibition of torture, as part of the law of the land;

b. Value the dignity of every human person and guarantee full respect for human rights;

c. Ensure that the human rights of all persons, especially 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 his/her agent shall be subjected to physical, psychological, or mental harm, force, violence, threat, intimidation, or any act that impairs his/her free will or in any manner demeans or degrades human dignity;

d. Adopt a human rights-based approach in the prevention of torture;

e. Ensure that secret detention places, solitary, incommunicado, or other similar forms of detention where torture may be carried out with impunity, are prohibited, and

f. Fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Constitution, Republic Act (RA) No. 9745 (the Anti-Torture Act of 2009), and the various international human rights instruments and conventions to which the Philippines either is a State Party to or voted in favor of, such as, but not limited to, the Universal Declaration on Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Rights of Persons with Disabilities (CRPD), the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT), and the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

2 The CRPD is included as Section 31 (b) of Republic Act No. 11036, otherwise known as the Mental Health Act, provides that one of the CHR’s duties and responsibilities is to “[i]inspect mental health facilities to ensure that service users therein are not being subjected to cruel, inhumane, or degrading conditions or treatment.”
Section 3. Definition of Terms. – For the purposes of this Act, the following terms shall mean:

a. Agent of a person in authority refers to any person who, by direct provision of law, election, or by appointment or employment by a competent authority, whether public or private, is charged with the maintenance of public order and the protection and security of life and property, including any person who acts for or on behalf of, assists, represents, or comes to the aid of persons in authority;^3

b. Deprivation of liberty refers to any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative, or other authority;^4

c. Other cruel, inhuman, or degrading treatment or punishment refers to a deliberate or aggravated treatment or punishment inflicted by a person in authority or agent of a person in authority against a person under his/her custody which attains a level of severity causing suffering, gross humiliation or debasement to the latter;^5

d. Person deprived of liberty refers to any person placed in any form of detention or imprisonment or in a public or private custodial setting where the said person is not permitted to leave at will by order of any judicial, administrative, or other authority;^6

e. Person in authority refers to any person directly vested with jurisdiction, whether as an individual or as a member of a court or government corporation, board, or commission, or any person in charge of, managing, or with administrative supervision and/or control over a place of deprivation of liberty;

f. Place of deprivation of liberty refers to any place of detention, imprisonment, or the placement of a person in a public or private custodial setting under or within the jurisdiction and control of the Philippines where persons are or may be deprived of their liberty by virtue of an order given by a public authority, at his/her instigation, or with his/her consent or acquiescence.

Places of deprivation of liberty shall also include, but shall not be limited to, unofficial places of detention where persons are suspected of being illegally detained or not permitted to leave the same at will by order of any judicial, administrative, or other authority and any other place in which the NPM believes that there may be persons deprived of their liberty.

The term shall also encompass traditional and non-traditional physical spaces of detention, whether moving or stationary, temporary or permanent, formally or informally used as detention facilities, or maintained or managed by public or private authorities under regulation by the Government. The term shall include, but shall not be limited to, the following examples:

1) Municipal jails;
2) City jails;
3) District jails;
4) Sub-provincial jails;
5) Provincial jails;
6) Police custodial centers;
7) Detention facilities;

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^3 This is a modified version of the same term as defined in Section 5 of the Implementing Rules and Regulations of the Anti-Torture Act of 2009.

^4 The source of the definition of this term is Part I, Article 4 (2) of the OPCAT.

^5 The source of the definition of this term is Section 3 (b) of the Anti-Torture Act of 2009.

^6 This is a modified version of the same term as defined in Section 3 (c) of both Senate Bill No. 113 and House Bill No. 158, both from the 17th Congress.

^7 The source of the definition of this term is Section 5 of the Implementing Rules and Regulations of the Anti-Torture Act of 2009.
8) Correctional facilities;
9) Barangay holding centers;
10) National penitentiaries;
11) Penal colonies;
12) Youth homes;
13) Rehabilitation centers for the youth or Bahay Pag-asa;
14) Bahay Silangan;
15) International ports and airports;
16) Immigration detention centers;
17) Educational institutions;
18) Care homes for older persons;
19) Security or intelligence service facilities;
20) Military forts and camps;
21) Other facilities under military jurisdiction;
22) Places of administrative detention;
23) Means of transport for the transfer of prisoners;
24) Hospitals;
25) Home-based or medical/health-related detention facilities;
26) Drug rehabilitation centers; and
27) Other similar or makeshift places of confinement where persons confined thereto are not permitted to leave at will.\(^9\)

g. **Reprisal** refers to an act or omission attributable to authorities or officials of a State who order, carry out, permit or tolerate any sanction against any person or organization for having communicated with the NPM or for having provided the NPM with any information, irrespective of its accuracy.\(^9\)

h. **Subcommittee on the Prevention of Torture (SPT)** refers to the United Nations Subcommittee on the Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment established under the OPCAT;

i. **Torture** refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession, punishing him/her for an act he/she or a third person has committed or is suspected of having committed, or intimidating or coercing him/her or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.\(^10\)

j. **Unannounced visits** refers to visits that may be conducted at any time and without prior notice or authorization, unless specifically prohibited by a court;\(^11\) and

k. **Unrestricted access** refers to free access to the following, unless specifically prohibited by a court:\(^12\)

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\(^9\) This is a modified version of the same term as defined in Section 3 (d) of both Senate Bill No. 113 and House Bill No. 158, both from the 17th Congress.

\(^9\) The sources of the definition of this term are Part III, Article 15 of the OPCAT and Paragraph 1 of the Policy of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on reprisals in relation to its visiting mandate (CAT/P/6/Add.12).

\(^10\) The source of the definition of this term is Section 3 (a) of the Anti-Torture Act of 2009.

\(^11\) See Section 3 (g) of both Senate Bill No. 113 and House Bill No. 158, both from the 17th Congress.

\(^12\) This is a modified version of the same term as defined in Section 3 (h) of both Senate Bill No. 113 and House Bill No. 158, both from the 17th Congress.
1) All persons deprived of their liberty, with the opportunity to have private interviews with them without witnesses, either personally or with a translator, if deemed necessary;
2) All custodial personnel involved in or relevant to the treatment of persons deprived of their liberty;
3) Any other person involved in or relevant to the treatment of persons deprived of their liberty;
4) Any other person or source which the NPM believes to have relevant information;
5) All information concerning the number of persons deprived of their liberty in places of deprivation of liberty, as well as the number of such places and their locations;
6) All information referring to the treatment and conditions of persons deprived of their liberty; and
7) All places of deprivation of liberty and their installations and facilities.

Unrestricted access includes the liberty on the part of the NPM to choose the places that it may want to visit and the persons that it may wish to interview.

Section 4. Designation – The CHR is hereby designated as the NPM of the Philippines vis-á-vis the OPCAT. The NPM shall be made up of 11 members, which shall include the 4 Commissioners and the Chairperson of the CHR, as mentioned in Section 7 (a) of this Act.

Section 5. Powers and Functions of the CHR as the NPM. – The NPM shall have the following powers and functions:

a. To conduct regular and unannounced visits to places of deprivation of liberty in order to prevent torture and other cruel, inhuman, or degrading treatment or punishment.\textsuperscript{13}

In conducting such visits, the NPM shall consider requests for visits by civil society groups or any other entities or individuals recommending policy, procedural, or practical reforms in places of deprivation of liberty;

b. To examine and assess during visits the custodial policies, procedures, practices, and all other aspects relevant to the treatment and living conditions of persons deprived of liberty in order to identify the risks that give rise to torture and other cruel, inhuman, or degrading treatment or punishment and to find ways to improve such persons' well-being and protect their rights;\textsuperscript{14}

c. To examine and review national laws, policies, and procedures that relate to the treatment, well-being, and rights of persons deprived of liberty and to propose their amendment or repeal or the enactment of new laws with the view of strengthening the protection against torture and other cruel, inhuman, or degrading treatment or punishment;\textsuperscript{15}

d. To submit to Congress and to the President its observations, recommendations, and proposals relating to the rights and protection of persons deprived of their liberty and provide other relevant authorities with the same for the latter to undertake the necessary implementation measures;\textsuperscript{16}

e. To refer for investigation to the investigative arm of the CHR or other appropriate investigative agencies of the Government, with the consent of the complaining person deprived of liberty, or anyone on his/her behalf, if the complaint is not

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\textsuperscript{13} This is an already existing power of the CHR under Article XIII, Section 18 (3) \& (4) of the 1987 Constitution.

\textsuperscript{14} This is an already existing power of the CHR under Article XIII, Section 18 (4) of the 1987 Constitution.

\textsuperscript{15} This is an already existing power of the CHR under Article XIII, Section 18 (6) of the 1987 Constitution.

\textsuperscript{16} This is both an already existing power of the CHR under Article XIII, Section 18 (6) of the 1987 Constitution in regard to Congress and a new power provided to the CHR under this Act in regard to the President.
made anonymously, any factual incident of torture and other cruel, inhuman, or degrading treatment or punishment or other human rights violations or abuses it may discover during its visits.\textsuperscript{17}

f. To refer to the witness protection program of the CHR: (1) any complaining person deprived of liberty whose complaint concerns any factual incident of torture and other cruel, inhuman, or degrading treatment or punishment or other human rights violations or abuses the NPM may discover during its visits; (2) whistleblowers or other witnesses regarding the same; and (3) the immediate family thereof if the safety of the said people cannot be ensured in any other way.\textsuperscript{16}

g. To work, where appropriate, in cooperation or consultation with any person or entity, whether public or private, in connection with the discharge of any of its functions under this Act and the OPCAT.\textsuperscript{19}

h. To publish information relative to its preventive monitoring functions, specifically on matters mentioned in Paragraphs (a), (b), (c), (d), and (e) of this Section, when circumstances so warrant and with due prudence: Provided, That the NPM, having high regard for its rules and regulations relative to confidentiality and informed consent, may determine what information shall be considered confidential and not to be made public: Provided further, That any public statement or publication issued shall be balanced, fair, and true: Provided further, That the NPM shall not publish or make known any sensitive personal data relating to any person without that person’s express consent: Provided finally, That this provision shall be in accordance with Section 16 of this Act and all existing and future laws on confidentiality and security of sensitive personal information and data, such as but not limited to, RA No. 10173, otherwise known as the Data Privacy Act of 2012.\textsuperscript{20}

i. To submit independent reports to the United Nations (UN) Committee Against Torture and/or the SPT regarding the implementation of the Republic of the Philippines’ obligations under the UNCAT and the OPCAT.\textsuperscript{21}

j. To promote public awareness through the publication and dissemination of information and education materials on its work as the NPM, the right to be free from torture and other cruel, inhuman, or degrading treatment or punishment, and the rights of persons deprived of liberty.\textsuperscript{22}

k. To train and capacitate the relevant authorities charged with the treatment of persons deprived of liberty and management of places of deprivation of liberty;\textsuperscript{23} and

l. To submit to Congress and to the President an independent annual report to be received, published, and disseminated by the Government, which shall include a report to Congress on annual budget and expenditures.\textsuperscript{24}

Section 6. Guarantees to the CHR as the NPM. – All branches, subdivisions, departments, and agencies or instrumentalities of the Government and relevant private institutions shall guarantee the NPM the following:

\textsuperscript{17} This is an already existing power of the CHR under Article XIII, Section 18 (1) of the 1987 Constitution.

\textsuperscript{18} This is a new power provided to the CHR under this Act.

\textsuperscript{19} This is both an already existing power of the CHR under Article XIII, Section 18 (9) of the 1987 Constitution in regard to public persons or entities and a new power provided to the CHR under this Act in regard to the private persons or entities.

\textsuperscript{20} This is an already existing power of the CHR under Article XIII, Section 18 (5) of the 1987 Constitution.

\textsuperscript{21} This is an already existing power of the CHR under Article XIII, Section 18 (7) of the 1987 Constitution.

\textsuperscript{22} This is an already existing power of the CHR under Article XIII, Section 18 (5) of the 1987 Constitution.

\textsuperscript{23} This is an already existing power of the CHR under Article XIII, Section 18 (5) & 9 of the 1987 Constitution.

\textsuperscript{24} This is a new power provided to the CHR under this Act.
a. Full and unrestricted access to all information concerning the number of persons deprived of liberty in places of deprivation of liberty, as well as the number of such places and their locations: Provided, That this provision shall be in accordance with Section 16 of this Act;
b. Full and unrestricted access to all information referring to the treatment and conditions of persons deprived of liberty: Provided, That this provision shall be in accordance with Section 16 of this Act;
c. Full and unrestricted access to all places of deprivation of liberty and their installations and facilities: Provided, That this provision shall be in accordance with Section 16 of this Act;
d. Liberty to conduct private interviews with persons deprived of liberty without recording or monitoring by the persons in authority, or agents thereof, who are in charge of places of deprivation of liberty, either personally or with a translator, if deemed necessary, as well as with any other person who, in the view of the NPM, possesses relevant information;
e. Liberty to choose the places to visit and persons to interview and when these should take place;
f. That its officers and personnel may be accompanied by experts designated by the NPM on visits to places of deprivation of liberty;
g. Freedom to determine its own relevant rules and procedures, including its program of visits;
h. That the relevant authorities shall be required to examine its recommendations as the NPM and to enter into dialogues with the same to discuss and agree on possible implementation and the corresponding reporting measures;
i. That the relevant authorities shall be required to fulfill recommendations of the NPM by implementing the agreed upon measures accordingly;
j. That the relevant authorities shall immediately file and pursue the appropriate administrative, civil, and/or criminal cases against individuals and/or authorities who refuse to cooperate with the NPM as it undertakes its mandate under both this Act and the OPCAT;
k. That the NPM shall enjoy complete financial and operational autonomy and independence when carrying out its functions under both this Act and the OPCAT; and
l. It will be mandatory for Congress to provide adequate resources to the NPM in order to permit its effective operation in accordance with the requirements of the OPCAT.

Section 7. Composition of the NPM and Qualifications of the Members Thereof. – 
a. The NPM, which shall be an independent and collegial body, shall be composed of the following:
1) The 4 Commissioners and the Chairperson of the CHR, with the Chairperson of the CHR sitting as the Presiding Officer of the NPM;
2) Four (4) experts representing any four (4) of the following professions or other related fields:
   a) Criminal Law;
   b) Medicine;
   c) Psychiatry;
   d) Psychology;
   e) Social Work;
   f) Architecture; and
   g) Engineering;
3) One (1) representative from a non-governmental organization (NGO) operating in the Philippines for at least five (5) years and advocating for
The NPM shall strive to have at least one (1) member each come from Luzon, Visayas, and Mindanao.

The NPM shall strive to have balanced gender representation and have adequate representation of ethnic and minority groups in its membership on the basis of the principles of equality and non-discrimination.

The qualifications of the members of the NPM shall be the following:

1) The four (4) experts as mentioned in Paragraph (a) (2) of this Section shall:
   a) Be Filipino citizens;
   b) Have been practicing their respective professions for at least seven (7) years;
   c) Be recognized and respected members of their respective professional organizations;
   d) Possess high moral character, recognized probity, competence, and integrity;
   e) Be defenders and promoters of human rights in both their professional and personal capacities; and
   f) Have no record of any human rights violation(s).

Preference will be given to members of the aforementioned professions who are knowledgeable about matters related to detention and the administration of justice.

Special consideration will also be given to members of the aforementioned professions who have an understanding of the penal situation in the Philippines, particularly penal structural conditions, organizational processes, culture, and the effects of imprisonment.

2) The representative from the NGO must be a Filipino citizen; a recognized human rights defender nominated by an NGO operating in the Philippines for at least five (5) years and advocating for human rights, preferably focusing on anti-torture work and/or upholding the rights of persons deprived of liberty; and a human rights expert with experience working on both the issues of torture and the rights of persons deprived of liberty and visiting places of deprivation of liberty.

3) The member with prior professional experience regarding administration of places of deprivation of liberty must be a Filipino citizen, a Bachelor's Degree holder who has experience as a detention authority, and have a good track record in administration of places of deprivation of liberty and no record of human rights violation(s), both in his/her professional and personal capacity. He/She should have an understanding of the penal situation in the Philippines, particularly penal structural conditions, organizational processes, culture, and the effects of imprisonment.

The members of the NPM shall not, during their tenure, hold any other office or employment in the Government or any subdivision, agency, or instrumentality thereof, including government-owned and/or controlled corporations (GOCCs) or their subsidiaries. Neither shall they engage in the practice of any profession or the active management or control of any business which, in any way, may be affected by the functions of their office.

Section 8. Nomination, Selection, and Appointment of the Members of the NPM. – The members of the NPM shall be appointed by the 4 Commissioners and the Chairperson of the CHR through the following processes:
a. The 4 Commissioners and the Chairperson of the CHR shall sit as *ex officio* members of the NPM;
b. The four (4) experts mentioned in Section 7 (a) (2) of this Act shall be appointed, preferably from the list of nominees provided by their respective professional organizations through their own internal nomination processes;
c. The representative from an NGO shall be appointed, preferably from a list of nominees provided by NGOs operating in the Philippines for at least five (5) years and advocating for human rights, preferably focusing on anti-torture work and/or upholding the rights of persons deprived of liberty. The said NGOs shall prepare the aforementioned lists through their own internal nomination processes;
d. The member with prior professional experience regarding administration of places of deprivation of liberty shall be appointed, preferably from the list of nominees provided by the Bureau of Jail Management and Penology (BJMP) or the Bureau of Corrections (BUCOR);
e. The nomination and selection process shall commence after the preparation of the guidelines therefor and the dissemination of these guidelines to the appropriate and relevant professional and cause-oriented organizations; and
f. The 4 Commissioners and the Chairperson of the CHR shall convene to deliberate on the nominations submitted by these organizations and shall issue the necessary appointments to the qualified individuals in an oath-taking ceremony before the 4 Commissioners and the Chairperson of the CHR.

Section 9. Composition of the Technical Working Group (TWG) and Qualifications of the Members Thereof.

a. The composition of the TWG will parallel that of the NPM. As such, the TWG shall be composed of the following:
   1) The five (5) representatives of the 4 Commissioners and the Chairperson of the CHR, with the TWG representative of the Chairperson of the CHR sitting as the Presiding Officer of the TWG;
   2) Four (4) experts representing any four (4) of the following professions or other related fields:
      a) Criminal Law;
      b) Medicine;
      c) Psychiatry;
      d) Psychology;
      e) Social Work;
      f) Architecture; and
      g) Engineering;
   3) One (1) representative from an NGO operating in the Philippines and advocating for human rights, preferably focusing on anti-torture work and/or upholding the rights of persons deprived of liberty; and
   4) One (1) person with prior professional experience regarding administration of places of deprivation of liberty.

b. The TWG shall strive to have at least one (1) member each come from Luzon, Visayas, and Mindanao.
c. The TWG shall strive to have balanced gender representation and have adequate representation of ethnic and minority groups in its membership on the basis of the principles of equality and non-discrimination.
d. The qualifications of the members of the TWG shall be the following:
   1) The four (4) experts as mentioned in Paragraph (a) (2) of this Section shall:
      a) Be Filipino citizens;
      b) Have been practicing their respective professions for at least seven (7) years;
c) Be recognized and respected members of their respective professional organizations;
d) Possess high moral character, recognized probity, competence, and integrity;
e) Be defenders and promoters of human rights in both their professional and personal capacities; and
f) Have no record of any human rights violation(s).

Preference shall be given to members of the aforementioned professions who are knowledgeable about matters related to detention and the administration of justice.

Special consideration will also be given to members of the aforementioned professions who have an understanding of the penal situation in the Philippines, particularly penal structural conditions, organizational processes, culture, and the effects of imprisonment.

2) The representative from the NGO must be a Filipino citizen: a recognized human rights defender nominated by an NGO operating in the Philippines for at least five (5) years and advocating for human rights, preferably focusing on anti-torture work and/or upholding the rights of persons deprived of liberty, and a human rights expert with experience working on both the issues of torture and the rights of persons deprived of liberty and visiting places of deprivation of liberty.

3) The member with prior professional experience regarding administration of places of deprivation of liberty must be a Filipino citizen and have a Bachelor's Degree holder who has experience as a detention authority, a good track record in administration of places of deprivation of liberty, and no record of human rights violation(s), both in his/her professional and personal capacity. He/She should have an understanding of the penal situation in the Philippines, particularly penal structural conditions, organizational processes, culture, and the effects of imprisonment.

e. The members of the TWG shall not, during their tenure, hold any other office or employment in the Government or any subdivision, agency, or instrumentality thereof, including GOCCs or their subsidiaries. Neither shall they engage in the practice of any profession or the active management or control of any business which, in any way, may be affected by the functions of their office.

Section 10. Nomination, Selection, and Appointment of the Members of the TWG. – The members of the TWG shall either be appointed or their designations confirmed by the 4 Commissioners and the Chairperson of the CHR through the following processes:

a. The five (5) representatives of the 4 Commissioners and the Chairperson of the CHR shall be appointed by their respective principals from the 4 Commissioners and the Chairperson of the CHR;

b. The four (4) TWG experts mentioned in Section 9 (a) (2) of this Act shall be designated by the four (4) NPM experts mentioned in Section 7 (a) (2) of this Act. Each NPM expert will designate his/her counterpart in the TWG, with the said TWG counterpart coming from the same profession as the NPM expert. Furthermore, in making the designation, each NPM expert shall take into consideration the nominees provided by their respective professional organizations through their own internal nomination processes. The said designations will then be forwarded to the 4 Commissioners and the Chairperson of the CHR for confirmation;

c. The TWG representative from an NGO shall be designated by the NPM representative mentioned in Section 7 (a) (3) of this Act. In making the designation, the NPM representative shall take into consideration the nominees provided by NGOs operating in the Philippines for at least five (5) years and advocating for human rights, preferably focusing on anti-torture work and/or
upholding the rights of persons deprived of liberty, through their own internal nomination processes. The said designation will then be forwarded to the 4 Commissioners and the Chairperson of the CHR for confirmation;

d. The TWG member with prior professional experience regarding administration of places of deprivation of liberty shall be designated by the NPM member mentioned in Section 7 (a) (4) of this Act. In making the designation, the NPM member shall take into consideration the nominees provided by the BJMP or the BUCOR. The said designation will then be forwarded to the 4 Commissioners and the Chairperson of the CHR for confirmation;

e. The appointment and/or designation process shall commence after the NPM is constituted and the preparation of the guidelines therefor; and

f. The 4 Commissioners and the Chairperson of the CHR shall convene to deliberate on both the appointments of their respective representatives in the TWG and the confirmation of the designations of the other NPM members' respective TWG representatives and shall issue the necessary appointments to the qualified individuals in an oath-taking ceremony before the 4 Commissioners and the Chairperson of the CHR.

Section 11. Term of Office – The 4 Commissioners and the Chairperson of the CHR, who shall sit as ex officio members of the NPM, shall serve as members of the NPM for the entirety of their respective tenures as the 4 Commissioners and the Chairperson of the CHR.

The members of the NPM specified in Section 7 (a) (2) – (4) of this Act shall serve for a term of three (3) years with the possibility of only one (1) reappointment. To ensure that the NPM is a continuing body, the first batch of appointments shall be on a staggered basis. The first two (2) members to be appointed shall hold office for three (3) years, the next two (2) members to be appointed shall hold office for two (2) years, and the last two (2) members to be appointed shall hold office for one (1) year. Succeeding appointments shall serve for three (3) years with the possibility of only one (1) reappointment.

The tenure of the members of the TWG shall be coterminous with that of their respective appointing or designating principals in the NPM.

In no case shall the members of the NPM or the TWG be appointed, reappointed, or designated in a temporary or acting capacity. Appointment or designation to any vacancy shall be only for the unexpired term of the appointee's predecessor.

Section 12. Salaries, Emoluments, and Benefits. – The members of the NPM shall have the rank, salary, emoluments, and allowances equivalent to that of government officials with a salary grade of 26, which may not be increased or decreased during their term of office. The 4 Commissioners and the Chairperson of the CHR who shall sit as members of the NPM shall not receive any additional salary due to their occupying the latter positions ex officio.

The members of the TWG shall have the rank, salary, emoluments, and allowances equivalent to that of government officials with a salary grade of 23, which may not be increased or decreased during their term of office.

Section 13. Removal from Office. – The members of the NPM, excluding the 4 Commissioners and the Chairperson of the CHR who shall sit as ex officio members of the NPM, may be removed from office on any of the following grounds exclusively:

a. Disloyalty to the Republic of the Philippines;

b. Culpable violation of the Constitution;

c. Violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act;

d. Other high crimes or betrayal of the public trust;

e. Dishonesty, misconduct in office, gross negligence, or dereliction of duty;

f. Commission of any offense involving moral turpitude or an offense punishable by imprisonment of more than six (6) years;

g. Abuse of authority, or
h. Violation, non-performance, or ineffectiveness in the performance of their functions as members of the NPM.

In addition to the aforementioned grounds, the members of the TWG may be removed from office on the ground of loss of trust and confidence in them by their respective appointing or designating principals in the NPM.

Section 14. Independence of Members. –

a. The members of the NPM and the TWG shall serve in their personal capacity and shall not only act independently and impartially, but also transparently, so as to be seen to be so by a reasonable observer. To that end, the members of the NPM and the TWG shall conduct themselves in accordance with the following guidelines:

1) No member of the NPM or the TWG shall participate in activities which may imply, or may be seen to imply, a conflict of interest with his/her capacity as an independent and impartial member of the NPM or the TWG; and

2) Members of the NPM and the TWG shall avoid any action which might give the impression that any given agency or facility is receiving more or less favorable treatment than that accorded to others; and

b. If for any reason a member of the NPM or the TWG considers that he/she is in a situation involving a potential conflict of interest, he/she shall promptly inform the Presiding Officer of the NPM or the TWG, respectively, who shall then advise the rest of the members on the potential conflict of interest. Ultimately, the NPM and the TWG as a whole shall take all measures necessary to safeguard the requirements of independence and impartiality of its respective members.

Section 15. Organizational Structure of the NPM. – The NPM shall be set up as a separate division within the CHR with its own budget and personnel. The organizational structure of the NPM shall consist of the NPM itself (the members thereof), the TWG, and the NPM Secretariat.

Whenever necessary, the NPM may hire additional contractual employees or contract the services of experts and/or consultants with the relevant professional experience, expertise, and knowledge, to assist in the discharge of its powers and functions under Section 5 of this Act on an invitational basis.

Section 16. Confidentiality. – All documentation and information collected by the NPM shall be kept strictly confidential, unless the NPM decides otherwise in relation to a particular document. Provided, That no sensitive information, whether personal or otherwise, shall be published without the express consent of the individual or authority concerned: Provided further, That this provision shall be in accordance with all existing and future laws on confidentiality and security of sensitive personal information and data, such as but not limited to the Data Privacy Act of 2012.

The rules of confidentiality shall be in accordance with all applicable existing and future laws, particularly, but not limited to, the Data Privacy Act of 2012. Particularly, publication of sensitive information without the express consent of the individual or authority concerned will be dealt with accordingly, which may include, but will not be limited to, being penalized under the Data Privacy Act of 2012.

Section 17. Relationship and Cooperation with Civil Society Organizations (CSOs) and Other Groups. – The NPM shall apply a human rights-based approach in the performance of its mandate, maintain direct regular contact with and encourage open dialogues with the relevant UN agencies working against torture, including the Committee Against Torture, SPT, and the Office of the High Commissioner for Human Rights (OHCHR), CSOs, media
organizations, and other regional, national, and international human rights mechanisms for
the effective and full implementation of this Act.

Government authorities and private organizations or entities mandated to protect and
promote the rights of persons deprived of liberty shall cooperate with and promptly respond
to the recommendations, proposals, and other requests of the NPM in the performance of its
mandate.

Section 18. Protection from Criminal Liability, Other Sanctions, and Reprisals. –

a. No authority or official shall order, apply, permit, or tolerate any sanction against
any person or organization for having communicated to the NPM any information
and no such person or organization shall be otherwise prejudiced in any way;

b. The relevant authorities shall take effective steps to prevent and promptly
respond to any sanction or act of reprisal stemming from communications to or
cooperation by other persons or organizations with the NPM;

c. No criminal, administrative, or disciplinary sanction shall be taken against any
person or organization for having communicated in good faith any information to
the NPM;

d. Anything done in good faith and pursuant to the functions and powers conferred
upon the NPM under this Act or in respect of any publication by, or under the
authority of, the NPM of any report, proceeding, or any other matter under this
Act shall not be a ground for action, suit, or other legal proceeding against any
member of the NPM, TWG, or the NPM Secretariat or any other person who
assisted the NPM, TWG, or the NPM Secretariat in the performance of the NPM's
mandate; and

e. Any legal action filed to harass, vex, exert undue pressure, or stifle any legal
recourse that any member of the NPM, TWG, or the NPM Secretariat has taken
or may take in the performance their functions under this Act and/or the OPCAT
shall, if proven in court to have been filed for any of the aforementioned
purposes, be immediately dismissed with prejudice and the court may award
damages, attorney's fees, and costs of suit under a counterclaim if such has
been filed.

No protection from criminal liability or disciplinary or administrative sanction shall be
given to any member of the NPM, TWG, or the NPM Secretariat where he/she is finally
adjudged in any action or proceeding to be liable for gross negligence or misconduct, grave
abuse of discretion, or abuse of authority.

Section 19. Information Sheets on Persons Deprived of Liberty and Places of Deprivation of
Liberty. – The Department of Justice (DOJ), BUCOR, National Bureau of Investigation (NBI),
Bureau of Immigration (BI), Department of the Interior and Local Government (DILG), BJMP,
all local government units (LGUs), whether at the provincial, city, or municipal level, with
control or supervision of jails, Philippine National Police (PNP), Department of National
Defense (DND), Armed Forces of the Philippines (AFP), Department of Social Welfare and
Development (DSWD), Department of Health (DOH), and other government or private
institutions with jurisdiction, control, and/or oversight of places of deprivation of liberty shall
make an updated information sheet covering all places of deprivation of liberty and their
installations and facilities under their respective jurisdictions with the corresponding data on
the persons deprived of liberty under their custody, such as, among others, their names, the
date when their deprivation of liberty began, the exact reasons for the same, and the
conditions of where they are exactly held. Such information sheet shall be periodically
updated by the same agencies and institutions within the first five (5) days of every month at
the minimum. The format of the information sheet shall be prescribed by the NPM and
transmitted to the said agencies and institutions at the soonest possible time. The list
prescribed by Section 7 of the Anti-Torture Act of 2009 shall also be submitted to the CHR
within the first five (5) days of every month at the minimum.
Section 20. Other Entities Conducting Visits to Places of Deprivation of Liberty. – The designation of the CHR as the NPM shall not, in any way, diminish the importance of visits to places of deprivation of liberty regularly undertaken by other groups, such as local and international non-governmental organizations, faith-based and/or lay organizations, and other government mechanisms working for the well-being and protection of persons deprived of liberty.

Section 21. Public Education, Information, and Awareness Campaign. – The NPM, in partnership with the Philippine Information Agency (PIA), DOJ, BUCOR, NBI, BI, DILG, BJMP, PNP, DND, AFP, DSWD, DOH, and other agencies with jurisdiction, control and/or oversight of places of deprivation of liberty, CSOs, and such other concerned parties and entities in both the public and private sectors, shall inform the public, as well as persons in authority and their agents, of the existence and designation of the CHR as the NPM, the rights of persons deprived of liberty, the importance of preventive visits, the need for cooperation during such visits, and for implementing measures based on the CHR’s recommendations as the NPM.

This shall be done through a programmatic nationwide awareness-raising campaign, and, in line with Section 21 of the Anti-Torture Law of 2009, the said campaign shall be included in the training of law enforcement personnel, whether civilian or military, members of the medical profession and allied medical professions, public officials and other persons, whether belonging to the public or private sector, who may be involved in the custody, interrogation, or treatment of any individual subjected to arrest, detention, imprisonment, or any form of deprivation of liberty.

Further, authorities shall make use of popular media, such as, but not limited to, government-owned television and radio stations, and other resources at their disposal in undertaking the public education, information, and awareness campaign. The Department of Education (DepEd), Commission on Higher Education (CHED), and other regulatory agencies on education shall also include information on the UNCAT, OPCAT, the SPT, the NPM, and the preventive monitoring methodology in the integration of human rights education courses in all primary, secondary, and tertiary education institutions nationwide in line with Section 21 of the Anti-Torture Act of 2009.

Section 22. Periodic Review. – Within five (5) years after the effectivity of this Act, and every five (5) years thereafter or as the need arises, the Oversight Committee created pursuant to Section 20 of the Anti-Torture Act of 2009 shall conduct a comprehensive review of its implementation and a systematic evaluation of the performance and functioning of the NPM in order to highlight its accomplishments and impact on the protection of the rights of persons deprived of their liberty. To carry out these tasks, the aforementioned Oversight Committee shall ensure participative and multi-sectoral dialogues with stakeholders, which shall include CSOs, survivors of torture and their families, and the relevant government authorities involved in the treatment of persons deprived of their liberty and the administration of places of deprivation of liberty.

Section 23. Appropriations. – The NPM shall have an initial budget of One Hundred Million Pesos (P100,000,000.00) for maintenance and other operating expenses (MOOE), personnel service (PS), and capital outlay, which will be sourced from the President’s Contingency Fund under the Presidential Social Fund, subject to existing budgetary laws and requirements. Subsequent funding requirements shall be included in the budget of the CHR under the annual General Appropriations Act (GAA).

Section 24. Implementing Rules and Regulations (IRR). – The CHR shall formulate the IRR of this Act within ninety (90) days from its effectivity. The CHR shall consult with the DOJ, BUCOR, NBI, BI, DILG, BJMP, PNP, DND, AFP, DSWD, DOH, and other relevant government agencies and CSOs working in various fields relevant to the treatment of persons deprived of liberty.
The IRR of this Act shall be effective within fifteen (15) days following its publication in two (2) newspapers of general circulation.

Section 25. Separability Clause. – If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 26. Repealing Clause. – All laws, decrees, executive orders, rules and regulations, memorandum orders, memorandum circulars, administrative orders, ordinances, and other issuances, or any part thereof, which are inconsistent with this Act, are hereby revoked, amended, or modified accordingly.

Section 27. Effectivity. – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.