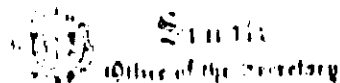


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)



15 DEC 10 P5:55

SENATE

S. B. No. 3032

RECEIVED BY: *J*

Introduced by Senator Aquilino "Koko" Pimentel III

AN ACT
ESTABLISHING THE NATIONAL PREVENTIVE MECHANISM
IN THE PHILIPPINES, AND APPROPRIATING FUNDS
THEREFOR

EXPLANATORY NOTE

United Nations treaty bodies, such as the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)¹, oblige each State to take operative and proactive measures to prevent torture and other cruel, inhuman, or degrading punishment or treatment of persons deprived of liberty.

The Optional Protocol to the UN Convention Against Torture (OPCAT)², introducing a system of regular visits to places of detention by international and domestic experts, was established as an additional preventive instrument to ensure that State actors adhere to their covenants under the UNCAT. The rationale for the addition of the OPCAT is based on the experience of many State parties that torture and ill-treatment of persons deprived of liberty often occur in isolated and secret places of detention, where those guilty of acts against human dignity feel assured that they are beyond the reach of monitoring and accountability by State authorities³.

¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by Resolution 39/46 of the UN General Assembly on December 10, 1984, entry into force June 26, 1987.

² Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the UN General Assembly on December 18, 2002, UN Doc. A/RES/57/199, entry into force June 22, 2006.

³ Report of the UN Special Rapporteur on Torture, UN Doc. A/61/259 (August 14, 2006).

On April 17, 2012, the Philippines acceded to the OPCAT. Local safeguards against the proliferation of torture and ill-treatment of persons deprived of liberty have also been set in place through the enactment of *Republic Act No. 7438* or "*An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation*" and *Republic Act No. 9745*, otherwise known as the "*Anti-Torture Act of 2009*".

As a State party to the UNCAT and the OPCAT, it is our obligation to establish and maintain at the domestic level a national preventive mechanism within one (1) year after our accession to the OPCAT, in order to prevent acts of torture and other cruel, inhuman, or degrading punishment or treatment⁴. It has been almost three (3) years since our accession to the OPCAT, and yet we have not established a national preventive mechanism, as we committed to do when we acceded to the OPCAT.

Thus, this bill seeks to establish an operational and effective national preventive mechanism through legislation, guided by the core principles of confidentiality, impartiality, non-selectivity, universality, and objectivity⁵, to fulfil our primary responsibility under the OPCAT to strengthen the protection of persons deprived of liberty against torture and ill-treatment through non-judicial means of prevention, based on regular visits to places of detention⁶.

The immediate passage of this bill is earnestly sought.


AQUILINO "KOKO" PIMENTEL III

⁴Article 3 in relation to Article 17 of the OPCAT.

⁵Article 2 (3), OPCAT.

⁶Preamble, OPCAT.

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

Office of the Secretary

15 DEC 10 P5:55

SENATE

RECEIVED BY: *J*

S. B. No. 3032

Introduced by Senator Aquilino "Koko" Pimentel III

1 AN ACT
2 ESTABLISHING THE NATIONAL PREVENTIVE MECHANISM
3 IN THE PHILIPPINES, AND APPROPRIATING FUNDS
4 THEREFOR

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

5 Section 1. *Short Title.* – This Act shall be known as the “*National*
6 *Preventive Mechanism Act of 2015*”.

7 Section 2. *Statement of Policy.* – It is hereby declared the policy of
8 the State to:

9 a. Recognize the inherent dignity of every human person;

10 b. Guarantee full respect for the fundamental human rights, giving
11 highest priority to the enactment of measures that protect and
12 fulfill the right to life, the right to liberty and security of all
13 persons, and the right to be free from torture and other cruel,
14 inhuman, or degrading treatment or punishment;

15 c. Adhere to the principles and standards on the protection and
16 promotion of human rights, especially of persons deprived of
17 liberty, under the 1987 Philippine Constitution, Republic Act
18 No. 7438 (*An Act Defining Certain Rights of Persons Detained,*
19 *Arrested or under Custodial Investigation*), Republic Act No.
20 9745 (*The Anti-Torture Act of 2009*) and other allied statutes;

1 d. Adopt the principles embodied under the United Nations
2 Convention Against Torture and Other Cruel, Inhuman, or
3 Degrading Treatment or Punishment (UNCAT) and implement
4 the obligations under the Optional Protocol to the Convention
5 Against Torture and Other Cruel, Inhuman, or Degrading
6 Treatment or Punishment (OPCAT), which obligate the
7 Philippine Government to:

8 1) Establish a system of regular, unannounced, and
9 unrestricted visits in the Philippines undertaken by an
10 independent national body of experts to all places where
11 persons are deprived of their liberty, in order to prevent
12 any and all incidents of torture and other cruel, inhuman,
13 or degrading treatment or punishment;

14 2) Recognize and promote the importance of preventive
15 visits as being different in purpose and methodology from
16 other types of visits to Places of deprivation of liberty;

17 3) Facilitate visits in accordance with the OPCAT, by the
18 Subcommittee on the Prevention of Torture and Other
19 Cruel, Inhuman, or Degrading Treatment or Punishment
20 (SPT) to any place under its jurisdiction and control where
21 persons are or may be deprived of their liberty, either by
22 virtue of an order given by a public authority or at its
23 instigation, or with the consent or acquiescence of
24 officials, with the view of strengthening the protection of
25 all persons against torture and other cruel, inhuman, or
26 degrading treatment or punishment;

27 4) Provide all relevant information that the SPT may request
28 to evaluate the needs and measures that should be adopted
29 in order to strengthen the protection of all persons
30 deprived of their liberty against torture, cruel, inhuman, or
31 degrading treatment or punishment;

1 5) Examine the recommendations of the SPT and enter into a
2 dialogue with it with a view to adopting implementation
3 measures;

4 6) Grant the SPT the following guarantees:

5 i) Unrestricted access to all information concerning the
6 number of persons deprived of their liberty as well as
7 the number of places and their location;

8 ii) Unrestricted access to all information referring to the
9 treatment of those persons as well as their conditions
10 of deprivation of liberty;

11 iii) Unrestricted access to all Places of deprivation of
12 liberty and their installations and facilities;

13 iv) The opportunity to have private interviews with
14 persons deprived of their liberty without witnesses,
15 either personally or with a translator if the SPT deems
16 it necessary, as well as with any other person who SPT
17 believes may supply relevant information; and

18 v) The liberty to choose the places it wants to visit and
19 the persons it wants to interview.

20 7) Establish the National Committee for the Prevention of
21 Torture (NCPT) mandated to prevent torture and ill-
22 treatment and reduce the risks that give rise to the practice
23 by conducting regular preventive monitoring visits to
24 Places of deprivation of liberty and examine the treatment
25 and conditions of persons deprived of their liberty
26 including policies, procedures, and practices of custodial
27 agencies as well as national laws that affect their well-
28 being and rights;

1 8) Recognize the NCPT's power and authority to make
2 recommendations to relevant authorities and monitor the
3 implementation of such recommendations with the aim of
4 preventing torture and other cruel, inhuman, or degrading
5 treatment or punishment, as well as improving the living
6 conditions of all persons deprived of liberty;

7 9) Examine the recommendations of the NCPT and enter into
8 a dialogue with it with a view to taking implementation
9 measures;

10 10) Encourage and facilitate contacts between the NCPT and
11 the SPT;

12 11) Take effective steps to implement measures based on the
13 observations and recommendations of the NCPT and SPT;

14 12) Recognize the importance of other visiting groups
15 regularly visiting Places of deprivation of liberty such as
16 local and international non-government organizations and
17 government mechanisms working for the well-being of
18 persons deprived of liberty; and

19 13) Ensure the functional independence of the NCPT, by
20 providing it with the necessary resources to carry out its
21 tasks sufficiently and efficiently.

22 e. Work with the NCPT and the SPT in the implementation of
23 measures based on the observations and recommendations of
24 the preventive monitoring expert bodies in order to reduce the
25 risks that give rise to torture and other cruel, inhuman, or
26 degrading treatment or punishment;

27 f. Recognize the value of and support the public information,
28 education, and communication work of the NCPT and SPT, and
29 support the publication and dissemination of the materials
30 produced by the preventive monitoring bodies;

1 g. Recognize the authority of the SPT to conduct intra-country
2 preventive monitoring visits and their observations and
3 recommendations with due consideration to the same powers
4 and functions it shares with the NCPT; and

5 h. Provide the necessary resources to ensure the functional
6 independence of the NCPT.

7 **Section 3. *Definition of Terms.* –**

8 a. *Deprivation of liberty* refers to any form of detention or
9 imprisonment or the placement of a person in a public or private
10 custodial setting where the person is not permitted to leave at
11 will by order of any judicial, administrative, or other authority;

12 b. *Other cruel, inhuman, or degrading treatment or punishment*
13 refers to

14 (i) the deliberate or aggravated treatment or punishment
15 inflicted by a person in authority or an agent of a person in
16 authority against a person under his/her custody, which attains a
17 level of severity causing suffering, gross humiliation, or
18 debasement to the latter; or

19 (ii) holding persons deprived of liberty, whether deliberately or
20 negligently, in conditions which are overcrowded, unhealthy,
21 humiliating, devoid of meaningful human contact, impeding his
22 or her prospects for personal advancement, or in any other way
23 violate his or her inherent dignity;

24 c. *Persons deprived of liberty* refers to any person placed in any
25 form of detention or imprisonment, or placed in a public or
26 private custodial setting where that person is not permitted to
27 leave at will by order of any judicial, administrative, or other
28 authority;

- 1 d. *Places of deprivation of liberty* refers to any place of detention,
2 confinement, imprisonment, commitment, or placement of a
3 person in a public or private custodial setting under the
4 Philippines's jurisdiction and control where persons are or may
5 be deprived of their liberty, either by virtue of an order given by
6 a public authority or at its instigation or with its consent or
7 acquiescence. Places of deprivation of liberty also include, but
8 shall not be limited to, those unofficial and secret places of
9 detention, or any place which the NCPT judiciously believes
10 that persons may be deprived of their liberty.
- 11 c. *Subcommittee on the Prevention of Torture (SPT)* refers to the
12 United Nations Subcommittee on the Prevention of Torture and
13 Other Cruel, Inhuman, or Degrading Treatment or Punishment
14 established under OPCAT;
- 15 f. *Torture* refers to an act by which severe pain or suffering,
16 whether physical or mental, is intentionally inflicted on a person
17 for such purposes as obtaining from him/her or a third person
18 information or confession, punishing him/her for an act he/she
19 or a third person has committed or is suspected of having
20 committed, or intimidating or coercing him/her or a third
21 person, or for any reason based on discrimination, intimidation
22 or coercion of any kind, when such pain or suffering is inflicted
23 by, or at the instigation of, or with the consent or acquiescence
24 of a person in authority or agent of a person in authority, as
25 defined by R.A. 9745. It does not include pain or suffering
26 arising only from, inherent in, or incidental to, lawful sanctions;
- 27 g. *Unannounced access* refers to access to all Places of deprivation
28 of liberty, at all times, without prior notice or authorization;
- 29 h. *Unrestricted access* refers to free access to Places of deprivation
30 of liberty without any restrictions of any kind imposed by
31 authorities, more specifically the following:

- 1) All persons deprived of 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 relevant to the treatment of prisoners deprived of their liberty;
- 3) Any other person whom the NCPT and the SPT believe may supply relevant information;
- 4) All information concerning the number of persons deprived of their liberty in Places of deprivation of liberty, as well as the number of places and their location;
- 5) All information referring to the treatment of those persons as well as their conditions of deprivation of liberty; and
- 6) All Places of deprivation of liberty and their installations and facilities.

Further, unrestricted access includes liberty to choose the places that the NCPT and SPT want to visit and the persons they want to interview.

Section 4. *Creation of the National Committee for the Prevention of Torture.*—There is hereby created an independent body to be known as the National Committee for the Prevention of Torture (NCPT or the “Committee”) for the purpose of preventing all incidents of torture and other cruel, inhuman, or degrading treatment or punishment. The NCPT shall be an office independent of government in accord with the UN Paris Principles Relating to the Status of National Human Rights Institutions. It shall be attached to the Commission on Human Rights (CHR) solely for budgetary purposes. It shall function separately from the CHR and discharge its mandate independent of government under this Act.

1 **Section 5. Powers of the NCPT.** – The NCPT shall have the
2 following powers:

- 3 a. Conduct regular and unannounced visits to Places of
4 deprivation of liberty to prevent torture and other cruel,
5 inhuman, or degrading treatment or punishment;
- 6 b. Examine and assess during preventive monitoring visits, the
7 custodial policies, procedures, and practices, and all other
8 aspects relevant to the treatment and material living conditions
9 of persons deprived of their liberty, in order to identify risks that
10 give rise to torture and other cruel, inhuman, or degrading
11 treatment, with the end goal of protecting the rights of persons
12 deprived of their liberty and finding practical ways to improve
13 their well-being;
- 14 c. Examine and review national laws, policies, and procedures that
15 relate to the treatment, well-being, and rights of persons
16 deprived of liberty, and propose the amendment, repeal, or
17 enactment of laws, rules and regulations with the view of
18 strengthening the protection of persons against torture and other
19 cruel, inhuman, or degrading treatment or punishment;
- 20 d. Submit to the CHR, House of Representatives, the Senate, and
21 the President its observations, recommendations, and proposals
22 relating to the rights and protection of Persons deprived of
23 their liberty, and provide relevant authorities with the same for
24 the latter to undertake the necessary implementation measures;
- 25 e. Refer for investigation to the CHR or other appropriate
26 investigative agencies of the government, with the consent of
27 the affected Person deprived of liberty, any factual incident of
28 torture, other ill-treatment, or other human rights violations or
29 abuse it may discover during its visits;
- 30 f. Work, where appropriate, in cooperation and consultation with
31 any person or body, whether public or private, in connection

1 with the discharge of any of its functions or powers under this
2 Act and the OPCAT;

3 g. Consider requests for visits based on reports by civil society
4 organizations or any other group or individual pointing to issues
5 which need addressing or recommending policy, procedural, or
6 practical reforms in a Place of deprivation of liberty;

7 h. Require relevant and competent authorities to examine its
8 recommendations, and enter into a dialogue with the NCPT to
9 discuss implementation measures and to fulfill agreed upon
10 actions toward reforms, and whenever necessary, providing
11 them the needed technical assistance;

12 i. Maintain direct, and if necessary, confidential contact with the
13 SPT to strengthen the NCPT's capacity and mandate for the
14 prevention of torture and other cruel, inhuman, or degrading
15 treatment or punishment and the protection of the rights of
16 Persons deprived of liberty;

17 j. Publish information and recommendations covered by its
18 visitation of matters mentioned in paragraphs (a), (b), (c), (d)
19 and (e) hereof, when circumstances so warrant, with due
20 prudence; *Provided*, That the NCPT, under its rules and
21 regulations and having high regard for confidentiality rules and
22 informed consent, may determine what information is
23 confidential and may not be made public; *Provided further*,
24 That any publicity issued by the NCPT shall be balanced, fair,
25 and true. However, the NCPT shall not publish or pass on
26 personal data relating to any person without the latter's express
27 consent; *Provided finally*, That this section shall be in
28 accordance with the existing laws on confidentiality;

29 k. Assist in the training of law enforcement personnel, civil or
30 military, medical personnel, public officials and other persons,
31 whether public or private, who are involved in the custody,
32 interrogation, or treatment of any individual subjected to

1 detention, arrest or imprisonment or any form of deprivation of
2 liberty;

3 l. Promote public awareness through publication and
4 dissemination of information and education materials on its
5 work as the NCPT, the right to be free from torture and other
6 cruel, inhuman, or degrading treatment or punishment, and the
7 rights of persons deprived of their liberty more generally; and

8 m. Submit an independent annual report to be received and
9 published and disseminated by government, which shall include
10 an annual budget and expenditures report.

11 **Section 6. *Guarantees of the NCPT.*** – The Executive, Legislative,
12 and Judicial branches of government shall guarantee the NCPT the
13 following:

14 a. Full and unrestricted access to all information concerning the
15 number of Persons deprived of their liberty in Places of
16 deprivation of liberty, as well as the number of places and their
17 location;

18 b. Full and unrestricted access to all information referring to the
19 treatment of those persons as well as their conditions of
20 deprivation of liberty;

21 c. Full and unrestricted access to all Places of deprivation of
22 liberty, and their installation and facilities;

23 d. The authority to conduct private interviews with Persons
24 deprived of liberty without the presence of witnesses, either
25 personally or with a translator, if the NCPT deems it necessary,
26 as well as with any other person who, in the discretion of the
27 NCPT, possesses relevant information;

28 e. Liberty to choose the places to visit and the persons to
29 interview, and when these should take place;

- 1 f. Freedom for its members to be accompanied, if needed, or when
2 necessary, by an expert with relevant expertise, experience, and
3 knowledge, as the Chairperson may determine, during visits to
4 Places of deprivation of liberty;
- 5 g. Freedom to determine its own rules and procedures, including
6 its programs of visits;
- 7 h. Liberty to require competent Philippine authorities concerned to
8 examine the recommendations of the NCPT and enter into a
9 dialogue with them with a view to adopt implementation
10 measures;
- 11 i. Liberty to require relevant government agencies to fulfill their
12 recommendations by implementing measures accordingly;
- 13 j. Freedom to promote public awareness on its work as an NPM
14 including the system of preventive monitoring visits, the right to
15 be free from torture and other cruel, inhuman, or degrading
16 treatment or punishment, and the rights of Persons deprived of
17 liberty more generally; and
- 18 k. Freedom to publish regular and annual reports as well as
19 information, education, and communication materials and have
20 these disseminated nationwide.

21 **Section 7. *Composition of the NCPT; Qualification of Members.*** –
22 The NCPT shall be an independent collegial body composed of a
23 Chairperson and eight (8) members. One (1) of the eight Committee
24 members shall be a Commissioner from the CHR who shall have voting
25 privileges as the other members of the Committee.

26 The NCPT Members shall possess the following qualifications:

- 27 a. Of high moral character, recognized probity, competence, and
28 integrity, and committed to the prevention of torture and other
29 cruel, inhuman, or degrading treatment or punishment;

1 b. To ensure a multi-disciplinary and pluralistic representation, the
2 composition of the Committee shall include members with
3 proven professional knowledge or experience in the field of
4 human rights, law, medicine, psychology, psychiatry, forensic
5 science, prison management, employment, industrial relations,
6 police administration, education, sociology or social work as
7 follows:

8 1) At least (2) members must be members of the Philippine
9 Bar who have been engaged in the practice of law for at
10 least seven (7) years;

11 2) At least one (1) member must be a doctor who has been
12 engaged in the practice of medicine in the fields of
13 psychiatry, forensics, or other related fields, for at least
14 seven (7) years;

15 3) One (1) member must have a doctorate degree in any of
16 the fields of psychology, anthropology, or other related
17 disciplines, and must have been engaged in the practice of
18 his/her profession for at least seven (7) years;

19 4) At least two (2) members must come from civil society
20 organizations engaged in advocacy work for the rights of
21 Persons deprived of liberty for at least seven (7) years; and

22 5) At least two (2) members must possess expertise in the
23 administration of justice, criminal law, or prison or police
24 administration;

25 The Chairperson and members of the NCPT shall not, during their
26 tenure, hold any other office or employment; nor engage in the practice
27 of any profession or in the active management or control of any business
28 which, in any way, may be affected by the functions of their office; nor
29 shall they be financially interested, directly or indirectly, in any contract
30 with, or in any franchise or privilege granted by the government or any

1 of its subdivisions or instrumentalities, including government-owned or
2 controlled corporations (GOCCs) or their subsidiaries.

3 Further, the composition of the Committee must observe a
4 balanced gender representation on the basis of principles of equality,
5 non-discrimination, and adequate representation of ethnic, cultural,
6 Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI), and
7 minority groups.

8 The President shall give highest priority to the endorsements and
9 recommended candidates of civil society organizations with long
10 standing backgrounds and practice in the advancement of the rights
11 and welfare of Persons deprived of their liberty and prevention of
12 torture and other cruel, inhuman, or degrading treatment or punishment.

13 **Section 8. *Terms of the Committee Members.***—The Chairperson
14 and Committee Members shall serve for a term of five (5) years. To
15 ensure that the NCPT is a continuing body, the first batch of
16 appointments shall be on a staggered basis. The Chairperson shall be
17 appointed for a term of five (5) years. The first two members to be
18 appointed shall hold office for five (5) years, the next three members
19 shall hold office for four (4) years and the last three (3) members shall
20 hold office for three (3) years. Succeeding appointees shall serve for five
21 (5) years without reappointment. In no case shall they be appointed,
22 reappointed, or designated in a temporary or acting capacity.
23 Appointment to any vacancy shall be only for the unexpired term of the
24 predecessor.

25 The Committee shall organize itself within sixty (60) days from the
26 completion of the appointment process of all the Committee members
27 and shall thereafter organize its Secretariat.

28 **Section 9. *Salaries, Emoluments, and Benefits.*** – The Chairperson
29 and the members of the Committee shall have the rank, salary,
30 emoluments, and allowances equivalent to the Associate Justice of the
31 Court of Appeals and the Judges of the Regional Trial Court,
32 respectively, which shall not be decreased during their term of office.

1 **Section 10. *Removal from Office.*** - The Chairperson and members
2 of the Committee may be removed from office on any of the following
3 grounds:

- 4 a) Disloyalty to the Republic of the Philippines;
- 5 b) Culpable violation of the Constitution;
- 6 c) Bribery and graft and corruption, other high crimes, or betrayal
7 of public trust;
- 8 d) Dishonesty, misconduct in office, gross negligence, or
9 dereliction of duty;
- 10 e) Commission of any offense involving moral turpitude or an
11 offense punishable by imprisonment of more than six (6) years;
12 or
- 13 f) Abuse of authority.

14 The proceedings for removal shall be initiated by filing a verified
15 complaint with the Office of the Ombudsman stating the grounds
16 therefor and alleging the ultimate facts upon which the complaint is
17 based.

18 The Office of the Ombudsman shall act on the complaint and
19 conduct the necessary investigation and hearing. Thereafter, the Office
20 of the Ombudsman shall dismiss the complaint or declare the
21 removal from office of the Chairperson or member of the
22 Committee within one hundred twenty (120) days from the date of filing
23 of the complaint.

24 In deciding upon a complaint for removal from office, the Office
25 of the Ombudsman shall not impose any lesser penalty or disciplinary
26 action other than removal from office.

27 **Section 11. *Organizational Structure of the NCPT.*** – The
28 organizational structure of the NCPT shall consist of the Committee and
29 its Secretariat.

1 The Committee shall be assisted by a Secretariat, which shall be
2 composed of an Executive Director and at least two (2) Deputy Directors
3 - one (1) for Operations and one (1) for Administrative and Finance
4 matters – together with their respective technical staff and field units that
5 shall be established to support and follow-up the regular visits
6 undertaken by the NCPT members.

7 The Executive Director and his Deputies shall have expertise in
8 human rights specializing in fields relevant to human rights protection
9 and/or the treatment of Persons deprived of liberty.

10 The Committee shall appoint the Executive Director and Deputy
11 Directors. The Chairperson shall appoint all other officers and staff of
12 the NCPT.

13 Whenever necessary, the Committee may hire additional
14 contractual employees or contract the services of an expert with the
15 relevant professional experience, expertise, and knowledge, to assist in
16 the discharge of its powers under Section 5 of this Act. *Provided*, That
17 the maximum contract amount per year shall not exceed more than
18 fifteen percent (15%) of the total annual operating budget of the
19 Committee.

20 **Section 12. Relationship and Cooperation with Civil Society**
21 *Organizations and Other Groups.* – The NCPT shall apply a human
22 rights based approach in the performance of its mandate and functions,
23 maintain direct regular contact with and encourage open dialogues with
24 the SPT, civil society organizations, media, and other regional, national,
25 and international human rights mechanisms, for the effective and full
26 implementation of this Act.

27 Government authorities and private organizations or entities
28 mandated to protect and promote the rights of Persons deprived of
29 liberty shall cooperate with and promptly respond to the
30 recommendations, proposals, and other requests of the NCPT in the
31 conduct of its mandate.

1 **Section 13. Confidentiality.** – Personal information collected by
2 the NCPT shall be confidential. No personal data shall be published
3 without the express written consent of the individual concerned. The
4 rules on confidentiality shall be in accordance with the existing laws
5 applicable herein.

6 **Section 14. Protection from Criminal Liability, Other Sanctions,**
7 *and Reprisals.* –

8 a. No authority or official shall order, apply, permit, or tolerate
9 any sanction against any person or organization for having
10 communicated to the NCPT and the SPT any information, and
11 no such person or organization shall be otherwise prejudiced in
12 any way.

13 b. Relevant authorities shall take effective steps to prevent and
14 promptly respond to any sanction or act of reprisal stemming
15 from communications to or cooperation by other persons or
16 organizations with the NCPT or SPT.

17 c. No criminal, administrative, or disciplinary sanction shall be
18 taken against any person or organization for having
19 communicated, in good faith, any information to the NCPT or
20 SPT;

21 d. Anything done, or purported to be done, in good faith, and
22 pursuant to the functions and powers conferred upon the NCPT
23 under this Act or in respect of any publication by or under the
24 authority of the NCPT of any report, proceedings, or any other
25 matter under this Act shall not be a ground for action, suit, or
26 other legal proceeding against the NCPT or a member or officer
27 thereof.

28 No protection from criminal liability, disciplinary, or
29 administrative sanction shall be given to any member or officer of the
30 Committee where they may be finally adjudged in any action or

1 proceeding to be liable for gross negligence or misconduct, grave abuse
2 of discretion, or abuse of authority.

3 **Section 15. *Private Legal Assistance.***—The Committee is
4 authorized to engage the services of private lawyers or extend counsel
5 immediately upon receipt of notice that an administrative, civil, or
6 criminal action, suit, or proceeding is filed against any Committee
7 member, or any officer and staff of the NCPT by reason of the
8 performance of their functions or duties. The lawyer's fees and other
9 costs of suit shall be part of the indemnification package for the NCPT
10 members, officers, and staff, subject to the provisions of Section 20
11 hereof.

12 **Section 16. *Indemnification of NCPT Members, Officers, and Staff.***
13 — There shall be an indemnification package for the Committee
14 members, officers, and staff, which may be in the form of free legal
15 assistance, liability insurance, and other forms of protection and/or
16 indemnification for all costs and expenses reasonably incurred by such
17 persons in connection with any administrative, civil, or criminal action,
18 suit, or proceeding to which they may be, or have been made a party by
19 reason of the performance of their functions or duties, unless they are
20 finally adjudged in said action or proceeding to be liable for gross
21 negligence, gross misconduct, grave abuse of discretion, or abuse of
22 authority.

23 **Section 17. *Information Sheet on Persons Deprived of their***
24 ***Liberty and Places of Deprivation of Liberty.*** — The Philippine National
25 Police (PNP), the Armed Forces of the Philippines, the Bureau of
26 Corrections, the Bureau of Jail Management and Penology, the
27 Department of Social Welfare and Development (DSWD),
28 provincial government units with control or supervision of jails,
29 and other government or private institutions with jurisdiction, control,
30 and/or oversight of Places of deprivation of liberty shall make an
31 updated information sheet of all deprivation of liberty facilities under
32 their respective jurisdiction with the corresponding data on the Persons
33 deprived of their liberty under their custody, such as, among others,

1 names, date of deprivation of liberty, exact reason for deprivation of
2 liberty, and the conditions in the Places of deprivation of liberty.

3 Such information sheet shall be periodically updated by the same
4 agency or institution concerned within the first five (5) days of every
5 month at the minimum. The format of the information sheet shall be
6 prescribed by the NCPT and transmitted to the agencies or institutions
7 concerned at the soonest possible time. The list prescribed by Section 7
8 of R.A. 9745 shall also be submitted to the NCPT within the first five
9 (5) days of the month at the minimum.

10 **Section 18. *Other Organizations Conducting Visits to Place of***
11 ***Deprivation of Liberty.*** - The provisions of this Act and the
12 establishment of the NCPT shall be without prejudice to the importance
13 of visits to Places of deprivation of liberty regularly undertaken by other
14 groups such as local and international non-government organizations,
15 lay persons, groups, faith-based organizations, or government
16 mechanisms working for the well-being and protection of Persons
17 deprived of their liberty.

18 **Section 19. *Public Education, Information, and Awareness***
19 ***Campaigns.*** - The NCPT, in cooperation and partnership with the
20 Philippine Information Agency, CHR, the Department of Interior and
21 Local Government (DILG), other government departments, agencies,
22 and local government units with jurisdiction, control, and/or oversight of
23 Places of deprivation of liberty, and such other concerned parties in both
24 the public and private sectors shall inform the public, persons in
25 authority, and agents of persons in authority of the existence of the
26 NCPT, the SPT, the OPCAT, the rights of Persons deprived of liberty,
27 the importance of preventive monitoring visits, the need to cooperate
28 with the said visiting bodies, and the importance of implementing
29 measures based the NCPT's recommendations. This shall be done
30 through a nationwide awareness-raising campaign, and in line with
31 Section 21 of R.A. 9745, shall be included in the training of law
32 enforcement personnel, civil or military, medical personnel, public
33 officials and other persons, whether public or private, who may be
34 involved in the custody, interrogation, or treatment of any individual

1 subjected to arrest, detention, imprisonment, or any form of
2 deprivation of liberty. Furthermore, authorities shall make use of
3 popular media such as government-owned TV and radio as well as
4 other such resources at its disposal in undertaking the public
5 information and education campaign. The Department of Education and
6 the Commission on Higher Education shall also include information on
7 the OPCAT, SPT, NCPT, and the preventive monitoring methodology in
8 the integration of human rights education courses in all primary,
9 secondary, and tertiary level academic institutions nationwide in line
10 with Section 21 of R.A. 9745.

11 **Section 20. Appropriations.**—The NCPT shall have an initial
12 budget of One Hundred Million Pesos (PhP100,000,000.00) for
13 maintenance and other operating expenses to be sourced from the
14 President's Contingency Fund under the Presidential Social Fund.
15 Subsequent funding requirements shall be included in the annual
16 General Appropriations Act.

17 The initial and yearly budget of the NCPT shall not be utilized for
18 any other purpose apart from NCPT work as determined by the
19 Committee, in accordance with law.

20 **Section 21. Implementing Rules and Regulations.** – The NCPT
21 shall formulate its implementing rules and regulations within ninety (90)
22 days from the time the Committee first convenes. The NCPT shall
23 coordinate with the CHR, DILG, Department of Health, DSWD,
24 Department of Justice, Department of National Defense, Philippine
25 National Police, and other relevant government agencies and civil
26 society organizations working in various fields relevant to the treatment
27 of Persons deprived of liberty.

28 The IRR shall be effective fifteen (15) days following its
29 publication in two (2) newspapers of general circulation.

30
31 **Section 22. Periodic Review.** - Within five (5) years after the
32 effectivity of this Act, and every five (5) years thereafter, or as the need
33 arises, the Congress of the Philippines shall conduct a comprehensive

1 review of its implementation, and a systematic evaluation of the
2 performance and functioning of the NCPT, in order to highlight its
3 accomplishments and impact on the protection of Persons deprived of
4 their liberty. To carry out these tasks, Congress shall ensure participative
5 and multi-sectoral dialogues with stakeholders which shall include civil
6 society organizations, survivors of torture and their families, and
7 relevant government authorities involved in the treatment of Persons
8 deprived of their liberty and the administration of Places of deprivation
9 of liberty.

10 **Section 23. *Separability Clause.*** – Should any provision of this
11 Act or part hereof be declared unconstitutional or invalid, other
12 provisions not affected thereby shall remain valid and effective.

13 **Section 24. *Repealing Clause.*** – All laws, decrees, executive
14 orders, rules and regulations, memorandum orders, memorandum
15 circulars, administrative orders, ordinances, or any part thereof, which
16 are inconsistent with the provisions of this Act, are hereby repealed,
17 amended, or modified accordingly.

18 **Section 25. *Effectivity.***—This Act shall take effect fifteen (15) days
19 after its publication in at least two (2) newspapers of general circulation.

Approved,