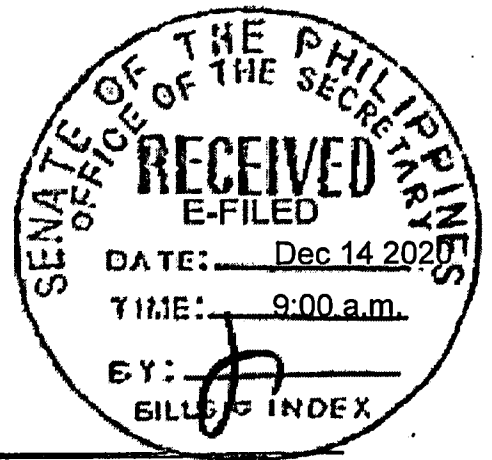


**EIGHTEENTH CONGRESS OF THE  
REPUBLIC OF THE PHILIPPINES**  
*Second Regular Session*

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**SENATE**

**S.B. No. 1948**



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**INTRODUCED BY SENATOR RISA HONTIVEROS**

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**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**

**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<sup>1</sup>.

Thus, this bill seeks to comply with the aforementioned obligation of the

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<sup>1</sup>"Article 17." United Nations Human Rights: Office of the High Commissioner, <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/Article17.aspx>.

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-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 merely aims to complement, not replace, the CHR's current visitorial mandate.

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.

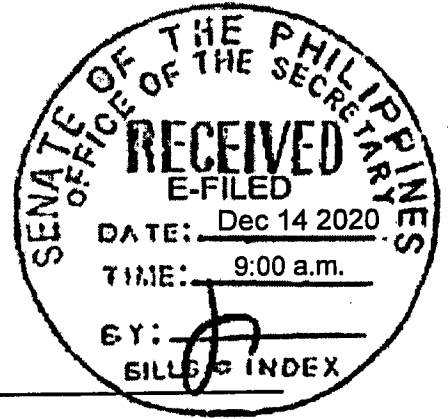
In view of the foregoing, the immediate passage of this bill is earnestly sought.

  
**RISA HONTIVEROS**  
*Senator*

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

SENATE

S.B. No. 1948



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INTRODUCED BY SENATOR RISA HONTIVEROS

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**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 House of Representatives of the Philippines in Congress assembled:*

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

3 Sec. 2. *Statement of Policy.* – It is hereby declared the policy of the State to:

- 4 a. Adopt the generally accepted principles of international law, which include  
5 the prohibition of torture, as part of the law of the land;
- 6 b. Value the dignity of every human person and guarantee full respect for  
7 human rights;
- 8 c. Ensure that the human rights of all persons, especially persons deprived of  
9 liberty, are respected at all times and that no person placed under  
10 investigation or held in custody by any person in authority or his/her agent  
11 shall be subjected to physical, psychological, or mental harm, force,  
12 violence, threat, intimidation, or any act that impairs his/her free will or in  
13 any manner demeans or degrades human dignity;
- 14 d. Adopt a human rights-based approach in the prevention of torture;
- 15 e. Ensure that secret detention places, solitary, *incommunicado*, or other  
16 similar forms of detention where torture may be carried out with impunity  
17 are prohibited; and
- 18 f. Fully adhere to the principles and standards on the absolute condemnation  
19 and prohibition of torture as provided for in the 1987 Constitution, Republic  
20 Act (RA) No. 9745 (the Anti-Torture Act of 2009), and the various  
21 international human rights instruments and conventions to which the

1 Philippines either is a State Party to or voted in favor of, such as, but not  
2 limited to, the Universal Declaration on Human Rights (UDHR), the  
3 International Covenant on Civil and Political Rights (ICCPR), the  
4 Convention on the Rights of the Child (CRC), the Convention on the Rights  
5 of Persons with Disabilities (CRPD), the United Nations Convention Against  
6 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
7 (UNCAT), and the Optional Protocol to the Convention Against Torture and  
8 Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

9 Sec. 3. *Definition of Terms.* – For the purposes of this Act, the following terms  
10 shall mean:

- 11 a. *Agent of a person in authority* refers to any person who, by direct provision  
12 of law, election, or by appointment or employment by a competent  
13 authority, whether public or private, is charged with the maintenance of  
14 public order and the protection and security of life and property, including  
15 any person who acts for or on behalf of, assists, represents, or comes to  
16 the aid of persons in authority;
- 17 b. *Deprivation of liberty* refers to any form of detention or imprisonment or  
18 the placement of a person in a public or private custodial setting which that  
19 person is not permitted to leave at will by order of any judicial,  
20 administrative, or other authority;
- 21 c. *Other cruel, inhuman, or degrading treatment or punishment* refers to a  
22 deliberate or aggravated treatment or punishment inflicted by a person in  
23 authority or agent of a person in authority against a person under his/her  
24 custody which attains a level of severity causing suffering, gross humiliation  
25 or debasement to the latter;
- 26 d. *Person deprived of liberty* refers to any person placed in any form of  
27 detention or imprisonment or in a public or private custodial setting where  
28 the said person is not permitted to leave at will by order of any judicial,  
29 administrative, or other authority;
- 30 e. *Person in authority* refers to any person directly vested with jurisdiction,  
31 whether as an individual or as a member of a court or government  
32 corporation, board, or commission or any person in charge of, managing,  
33 or with administrative supervision and/or control over a place of deprivation  
34 of liberty;
- 35 f. *Place of deprivation of liberty* refers to any place of detention,  
36 imprisonment, or the placement of a person in a public or private custodial

1 setting under or within the jurisdiction and control of the Philippines where  
2 persons are or may be deprived of their liberty by virtue of an order given  
3 by a public authority, at his/her instigation, or with his/her consent or  
4 acquiescence.

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

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

- 16 1) Municipal jails;
- 17 2) City jails;
- 18 3) District jails;
- 19 4) Sub-provincial jails;
- 20 5) Provincial jails;
- 21 6) Police custodial centers;
- 22 7) Detention facilities;
- 23 8) Correctional facilities;
- 24 9) *Barangay* holding centers;
- 25 10) National penitentiaries;
- 26 11) Penal colonies;
- 27 12) Youth homes;
- 28 13) Rehabilitation centers for the youth or *Bahay Pag-Asa*;
- 29 14) *Bahay Silangan*;
- 30 15) International ports and airports;
- 31 16) Immigration detention centers;
- 32 17) Psychiatric institutions;
- 33 18) Care homes for older persons;
- 34 19) Security or intelligence service facilities;
- 35 20) Military forts and camps;
- 36 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 thereat are not permitted to leave at will;

- 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;
- 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;
- 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; and
- k. *Unrestricted access* refers to free access to the following, unless specifically prohibited by a court:
  - 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;

- 1 3) Any other person involved in or relevant to the treatment of persons  
2 deprived of their liberty;
- 3 4) Any other person or source which the NPM believes to have relevant  
4 information;
- 5 5) All information concerning the number of persons deprived of their  
6 liberty in places of deprivation of liberty, as well as the number of such  
7 places and their locations;
- 8 6) All information referring to the treatment and conditions of persons  
9 deprived of their liberty; and
- 10 7) All places of deprivation of liberty and their installations and facilities.

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

13 *Sec. 4. Designation.* – The CHR is hereby designated as the NPM of the Philippines  
14 *vis-à-vis* the OPCAT. The NPM shall be made up of 11 members, which shall include the  
15 4 Commissioners and the Chairperson of the CHR, as mentioned in Section 7 (a) of this  
16 Act.

17 *Sec. 5. Powers and Functions of the CHR as the NPM.* – The NPM shall have the  
18 following powers and functions:

- 19 a. To conduct regular and unannounced visits to places of deprivation of  
20 liberty in order to prevent torture and other cruel, inhuman, or degrading  
21 treatment or punishment.  
22 In conducting such visits, the NPM shall consider requests for visits by civil  
23 society groups or any other entities or individuals recommending policy,  
24 procedural, or practical reforms in places of deprivation of liberty;
- 25 b. To examine and assess during visits the custodial policies, procedures,  
26 practices, and all other aspects relevant to the treatment and living  
27 conditions of persons deprived of liberty in order to identify the risks that  
28 give rise to torture and other cruel, inhuman, or degrading treatment or  
29 punishment and to find ways to improve such persons' well-being and  
30 protect their rights;
- 31 c. To examine and review national laws, policies, and procedures that relate  
32 to the treatment, well-being, and rights of persons deprived of liberty and  
33 to propose their amendment or repeal or the enactment of new laws with  
34 the view of strengthening the protection against torture and other cruel,  
35 inhuman, or degrading treatment or punishment;

- 1 d. To submit to Congress and to the President its observations,  
2 recommendations, and proposals relating to the rights and protection of  
3 persons deprived of their liberty and provide other relevant authorities with  
4 the same for the latter to undertake the necessary implementation  
5 measures;
- 6 e. To refer for investigation to the investigative arm of the CHR or other  
7 appropriate investigative agencies of the Government, with the consent of  
8 the complaining person deprived of liberty, or anyone on his/her behalf, if  
9 the complaint is not made anonymously, any factual incident of torture and  
10 other cruel, inhuman, or degrading treatment or punishment or other  
11 human rights violations or abuses it may discover during its visits;
- 12 f. To refer to the witness protection program of the CHR: (1) any complaining  
13 person deprived of liberty whose complaint concerns any factual incident  
14 of torture and other cruel, inhuman, or degrading treatment or punishment  
15 or other human rights violations or abuses the NPM may discover during  
16 its visits; (2) whistleblowers or other witnesses regarding the same; and  
17 (3) the immediate family thereof if the safety of the said people cannot be  
18 ensured in any other way;
- 19 g. To work, where appropriate, in cooperation or consultation with any person  
20 or entity, whether public or private, in connection with the discharge of  
21 any of its functions under this Act and the OPCAT;
- 22 h. To publish information relative to its preventive monitoring functions,  
23 specifically on matters mentioned in Paragraphs (a), (b), (c), (d), and (e)  
24 of this Section, when circumstances so warrant and with due prudence:  
25 *Provided*, That the NPM, having high regard for its rules and regulations  
26 relative to confidentiality and informed consent, may determine what  
27 information shall be considered confidential and not to be made public:  
28 *Provided further*, That any public statement or publication issued shall be  
29 balanced, fair, and true: *Provided further*, That the NPM shall not publish  
30 or make known any sensitive personal data relating to any person without  
31 that person's express consent: *Provided finally*, That this provision shall be  
32 in accordance with Section 16 of this Act and all existing and future laws  
33 on confidentiality and security of sensitive personal information and data,  
34 such as but not limited to, RA No. 10173, otherwise known as the Data  
35 Privacy Act of 2012;



- 1 i. To submit independent reports to the United Nations (UN) Committee  
2 Against Torture and/or the SPT regarding the implementation of the  
3 Republic of the Philippines' obligations under the UNCAT and the OPCAT;  
4 j. To promote public awareness through the publication and dissemination  
5 of information and education materials on its work as the NPM, the right  
6 to be free from torture and other cruel, inhuman, or degrading treatment  
7 or punishment, and the rights of persons deprived of liberty;  
8 k. To train and capacitate the relevant authorities charged with the treatment  
9 of persons deprived of liberty and management of places of deprivation of  
10 liberty; and  
11 l. To submit to Congress and to the President an independent annual report  
12 to be received, published, and disseminated by the Government, which  
13 shall include a report to Congress on annual budget and expenditures.

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

- 17 a. Full and unrestricted access to all information concerning the number of  
18 persons deprived of liberty in places of deprivation of liberty, as well as the  
19 number of such places and their locations: *Provided*, That this provision  
20 shall be in accordance with Section 16 of this Act;  
21 b. Full and unrestricted access to all information referring to the treatment and  
22 conditions of persons deprived of liberty: *Provided*, That this provision shall  
23 be in accordance with Section 16 of this Act;  
24 c. Full and unrestricted access to all places of deprivation of liberty and their  
25 installations and facilities: *Provided*, That this provision shall be in  
26 accordance with Section 16 of this Act;  
27 d. Liberty to conduct private interviews with persons deprived of liberty  
28 without recording or monitoring by the persons in authority, or agents  
29 thereof, who are in charge of places of deprivation of liberty, either  
30 personally or with a translator, if deemed necessary, as well as with any  
31 other person who, in the view of the NPM, possesses relevant information;  
32 e. Liberty to choose the places to visit and persons to interview and when  
33 these should take place;  
34 f. That its officers and personnel may be accompanied by experts designated  
35 by the NPM on visits to places of deprivation of liberty;

- 1 g. Freedom to determine its own relevant rules and procedures, including its  
2 program of visits;
- 3 h. That the relevant authorities shall be required to examine its  
4 recommendations as the NPM and to enter into dialogues with the same to  
5 discuss and agree on possible implementation and the corresponding  
6 reporting measures;
- 7 i. That the relevant authorities shall be required to fulfill recommendations of  
8 the NPM by implementing the agreed upon measures accordingly;
- 9 j. That the relevant authorities shall immediately file and pursue the  
10 appropriate administrative, civil, and/or criminal cases against individuals  
11 and/or authorities who refuse to cooperate with the NPM as it undertakes  
12 its mandate under both this Act and the OPCAT;
- 13 k. That the NPM shall enjoy complete financial and operational autonomy and  
14 independence when carrying out its functions under both this Act and the  
15 OPCAT; and
- 16 l. It will be mandatory for Congress to provide adequate resources to the NPM  
17 in order to permit its effective operation in accordance with the  
18 requirements of the OPCAT.

19 *Section 7. Composition of the NPM and Qualifications of the Members Thereof. –*

- 20 a. The NPM, which shall be an independent and collegial body, shall be  
21 composed of the following:
- 22 1) The 4 Commissioners and the Chairperson of the CHR, with the  
23 Chairperson of the CHR sitting as the Presiding Officer of the NPM;
- 24 2) Four (4) experts representing any four (4) of the following  
25 professions or other related fields:
- 26 a) Criminal Law;
- 27 b) Medicine;
- 28 c) Psychiatry;
- 29 d) Psychology;
- 30 e) Social Work;
- 31 f) Architecture; and
- 32 g) Engineering;
- 33 3) One (1) representative from a non-governmental organization  
34 (NGO) operating in the Philippines for at least five (5) years and  
35 advocating for human rights, preferably focusing on anti-torture  
36 work and/or upholding the rights of persons deprived of liberty; and

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- 4) One (1) person with prior professional experience regarding administration of places of deprivation of liberty.
- b. The NPM shall strive to have at least one (1) member each come from Luzon, Visayas, and Mindanao.
- c. 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.
- d. 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

1 and the rights of persons deprived of liberty and visiting places of  
2 deprivation of liberty.

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

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

18 *Sec. 8. Nomination, Selection, and Appointment of the Members of the NPM. –*

19 The members of the NPM shall be appointed by the 4 Commissioners and the Chairperson  
20 of the CHR through the following processes:

- 21 a. The 4 Commissioners and the Chairperson of the CHR shall sit as *ex officio*  
22 members of the NPM;
- 23 b. The four (4) experts mentioned in Section 7 (a) (2) of this Act shall be  
24 appointed, preferably from the list of nominees provided by their respective  
25 professional organizations through their own internal nomination processes;
- 26 c. The representative from an NGO shall be appointed, preferably from a list  
27 of nominees provided by NGOs operating in the Philippines for at least five  
28 (5) years and advocating for human rights, preferably focusing on anti-  
29 torture work and/or upholding the rights of persons deprived of liberty. The  
30 said NGOs shall prepare the aforementioned lists through their own internal  
31 nomination processes;
- 32 d. The member with prior professional experience regarding administration of  
33 places of deprivation of liberty shall be appointed, preferably from the list  
34 of nominees provided by the Bureau of Jail Management and Penology  
35 (BJMP) or the Bureau of Corrections (BUCOR);

- 1 e. The nomination and selection process shall commence after the preparation  
2 of the guidelines therefor and the dissemination of these guidelines to the  
3 appropriate and relevant professional and cause-oriented organizations;  
4 and  
5 f. The 4 Commissioners and the Chairperson of the CHR shall convene to  
6 deliberate on the nominations submitted by these organizations and shall  
7 issue the necessary appointments to the qualified individuals in an oath-  
8 taking ceremony before the 4 Commissioners and the Chairperson of the  
9 CHR.

10 *Sec. 9. Composition of the Technical Working Group (TWG) and Qualifications of*  
11 *the Members Thereof. –*

- 12 a. The composition of the TWG will parallel that of the NPM. As such, the  
13 TWG shall be composed of the following:
- 14 1) The five (5) representatives of the 4 Commissioners and the  
15 Chairperson of the CHR, with the TWG representative of the  
16 Chairperson of the CHR sitting as the Presiding Officer of the TWG;
  - 17 2) Four (4) experts representing any four (4) of the following  
18 professions or other related fields:
    - 19 a) Criminal Law;
    - 20 b) Medicine;
    - 21 c) Psychiatry;
    - 22 d) Psychology;
    - 23 e) Social Work;
    - 24 f) Architecture; and
    - 25 g) Engineering;
  - 26 3) One (1) representative from an NGO operating in the Philippines and  
27 advocating for human rights, preferably focusing on anti-torture  
28 work and/or upholding the rights of persons deprived of liberty; and
  - 29 4) One (1) person with prior professional experience regarding  
30 administration of places of deprivation of liberty.
- 31 b. The TWG shall strive to have at least one (1) member each come from  
32 Luzon, Visayas, and Mindanao.
- 33 c. The TWG shall strive to have balanced gender representation and have  
34 adequate representation of ethnic and minority groups in its membership  
35 on the basis of the principles of equality and non-discrimination.
- 36 d. The qualifications of the members of the TWG shall be the following:

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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,

1 particularly penal structural conditions, organizational processes,  
2 culture, and the effects of imprisonment.

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

9 *Sec. 10. Nomination, Selection, and Appointment of the Members of the TWG. –*

10 The members of the TWG shall either be appointed, or their designations confirmed by  
11 the 4 Commissioners and the Chairperson of the CHR through the following processes:

- 12 a. The five (5) representatives of the 4 Commissioners and the Chairperson  
13 of the CHR shall be appointed by their respective principals from the 4  
14 Commissioners and the Chairperson of the CHR;
- 15 b. The four (4) TWG experts mentioned in Section 9 (a) (2) of this Act shall  
16 be designated by the four (4) NPM experts mentioned in Section 7 (a) (2)  
17 of this Act. Each NPM expert will designate his/her counterpart in the TWG,  
18 with the said TWG counterpart coming from the same profession as the  
19 NPM expert. Furthermore, in making the designation, each NPM expert  
20 shall take into consideration the nominees provided by their respective  
21 professional organizations through their own internal nomination  
22 processes. The said designations will then be forwarded to the 4  
23 Commissioners and the Chairperson of the CHR for confirmation;
- 24 c. The TWG representative from an NGO shall be designated by the NPM  
25 representative mentioned in Section 7 (a) (3) of this Act. In making the  
26 designation, the NPM representative shall take into consideration the  
27 nominees provided by NGOs operating in the Philippines for at least five  
28 (5) years and advocating for human rights, preferably focusing on anti-  
29 torture work and/or upholding the rights of persons deprived of liberty,  
30 through their own internal nomination processes. The said designation will  
31 then be forwarded to the 4 Commissioners and the Chairperson of the CHR  
32 for confirmation;
- 33 d. The TWG member with prior professional experience regarding  
34 administration of places of deprivation of liberty shall be designated by the  
35 NPM member mentioned in Section 7 (a) (4) of this Act. In making the  
36 designation, the NPM member shall take into consideration the nominees

1 provided by the BJMP or the BUCOR. The said designation will then be  
2 forwarded to the 4 Commissioners and the Chairperson of the CHR for  
3 confirmation;

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

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

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

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

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

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

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



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

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

- 7 a. Disloyalty to the Republic of the Philippines;
- 8 b. Culpable violation of the Constitution;
- 9 c. Violation of Republic Act No. 3019, otherwise known as the Anti-Graft  
10 and Corrupt Practices Act;
- 11 d. Other high crimes or betrayal of the public trust;
- 12 e. Dishonesty, misconduct in office, gross negligence, or dereliction of duty;
- 13 f. Commission of any offense involving moral turpitude or an offense  
14 punishable by imprisonment of more than six (6) years;
- 15 g. Abuse of authority; or
- 16 h. Violation, non-performance, or ineffectiveness in the performance of  
17 their functions as members of the NPM.

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

21 Sec. 14. *Independence of Members.* –

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

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

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

35 b. If for any reason a member of the NPM or the TWG considers that he/she  
36 is in a situation involving a potential conflict of interest, he/she shall

1 promptly inform the Presiding Officer of the NPM or the TWG, respectively,  
2 who shall then advise the rest of the members on the potential conflict of  
3 interest. Ultimately, the NPM and the TWG as a whole shall take all  
4 measures necessary to safeguard the requirements of independence and  
5 impartiality of its respective members.

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

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

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

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

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

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

1           Sec. 18. *Protection from Criminal Liability, Other Sanctions, and Reprisals.* –

- 2           a. No authority or official shall order, apply, permit, or tolerate any sanction  
3           against any person or organization for having communicated to the NPM  
4           any information and no such person or organization shall be otherwise  
5           prejudiced in any way;
- 6           b. The relevant authorities shall take effective steps to prevent and  
7           promptly respond to any sanction or act of reprisal stemming from  
8           communications to or cooperation by other persons or organizations with  
9           the NPM;
- 10          c. No criminal, administrative, or disciplinary sanction shall be taken against  
11          any person or organization for having communicated in good faith any  
12          information to the NPM;
- 13          d. Anything done in good faith and pursuant to the functions and powers  
14          conferred upon the NPM under this Act or in respect of any publication  
15          by, or under the authority of, the NPM of any report, proceeding, or any  
16          other matter under this Act shall not be a ground for action, suit, or other  
17          legal proceeding against any member of the NPM, TWG, or the NPM  
18          Secretariat or any other person who assisted the NPM, TWG, or the NPM  
19          Secretariat in the performance of the NPM's mandate; and
- 20          e. Any legal action filed to harass, vex, exert undue pressure, or stifle any  
21          legal recourse that any member of the NPM, TWG, or the NPM Secretariat  
22          has taken or may take in the performance their functions under this Act  
23          and/or the OPCAT shall, if proven in court to have been filed for any of  
24          the aforementioned purposes, be immediately dismissed with prejudice  
25          and the court may award damages, attorney's fees, and costs of suit  
26          under a counterclaim if such has been filed.

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

31           Sec. 19. *Information Sheets on Persons Deprived of Liberty and Places of*  
32          *Deprivation of Liberty.* – The Department of Justice (DOJ), BUCOR, National Bureau of  
33          Investigation (NBI), Bureau of Immigration (BI), Department of the Interior and Local  
34          Government (DILG), BJMP, all local government units (LGUs), whether at the provincial,  
35          city, or municipal level, with control or supervision of jails, Philippine National Police  
36          (PNP), Department of National Defense (DND), Armed Forces of the Philippines (AFP),

1 Department of Social Welfare and Development (DSWD), Department of Health (DOH),  
2 and other government or private institutions with jurisdiction, control, and/or oversight  
3 of places of deprivation of liberty shall make an updated information sheet covering all  
4 places of deprivation of liberty and their installations and facilities under their respective  
5 jurisdictions with the corresponding data on the persons deprived of liberty under their  
6 custody, such as, among others, their names, the date when their deprivation of liberty  
7 began, the exact reasons for the same, and the conditions of where they are exactly held.  
8 Such information sheet shall be periodically updated by the same agencies and  
9 institutions within the first five (5) days of every month at the minimum. The format of  
10 the information sheet shall be prescribed by the NPM and transmitted to the said agencies  
11 and institutions at the soonest possible time. The list prescribed by Section 7 of the Anti-  
12 Torture Act of 2009 shall also be submitted to the CHR within the first five (5) days of  
13 every month at the minimum.

14 *Sec. 20. Other Entities Conducting Visits to Places of Deprivation of Liberty.* – The  
15 designation of the CHR as the NPM shall not, in any way, diminish the importance of visits  
16 to places of deprivation of liberty regularly undertaken by other groups, such as local and  
17 international non-governmental organizations, faith-based and/or lay organizations, and  
18 other government mechanisms working for the well-being and protection of persons  
19 deprived of liberty.

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

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

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

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

19 *Sec. 23. Appropriations.* – The NPM shall have an initial budget of One Hundred  
20 Million Pesos (PhP100,000,000.00) for maintenance and other operating expenses  
21 (MOOE), personnel service (PS), and capital outlay, which will be sourced from the  
22 President's Contingency Fund under the Presidential Social Fund, subject to existing  
23 budgetary laws and requirements. Subsequent funding requirements shall be included in  
24 the budget of the CHR under the annual General Appropriations Act (GAA).

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

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

34 *Sec. 26. Repealing Clause.* – All laws, decrees, executive orders, rules and  
35 regulations, memorandum orders, memorandum circulars, administrative orders,

1 ordinances, and other issuances, or any part thereof, which are inconsistent with this Act,  
2 are hereby revoked, amended, or modified accordingly.

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

*Approved,*