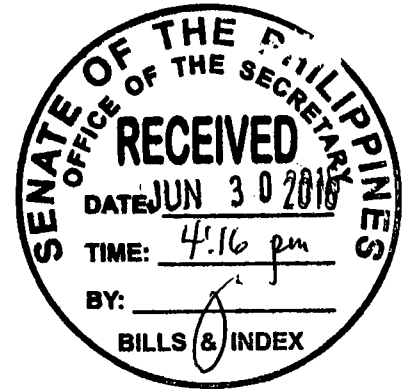


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

SENATE

S. B. No. 113



Introduced by Senator Aquilino "Koko" Pimentel III

AN ACT
ESTABLISHING THE NATIONAL COMMITTEE FOR THE
PREVENTION OF TORTURE (NCPT), THE NATIONAL
PREVENTIVE MECHANISM AGAINST TORTURE AND
OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT
OR PUNISHMENT IN THE PHILIPPINES, PROVIDING A
FRAMEWORK FOR IMPLEMENTING OBLIGATIONS UNDER
THE OPTIONAL PROTOCOL TO THE UNITED NATIONS
CONVENTION AGAINST TORTURE AND OTHER CRUEL,
INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT
(OPCAT), 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

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.

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.

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

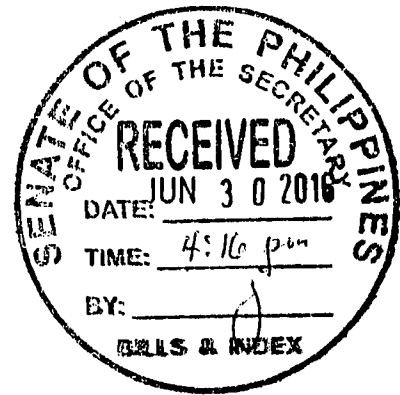
³Report of the UN Special Rapporteur on Torture, UN Doc. A/61/259 (August 14, 2006).

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

⁵Article 2 (3), OPCAT.

⁶Preamble, OPCAT.

SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

S. B. No. 113

Introduced by Senator Aquilino “Koko” Pimentel III

AN ACT

1 ESTABLISHING THE NATIONAL COMMITTEE FOR THE
2 PREVENTION OF TORTURE (NCPT), THE NATIONAL
3 PREVENTIVE MECHANISM AGAINST TORTURE AND
4 OTHER CRUEL, INHUMAN, OR DEGRADING TREATMENT
5 OR PUNISHMENT IN THE PHILIPPINES, PROVIDING A
6 FRAMEWORK FOR IMPLEMENTING OBLIGATIONS UNDER
7 THE OPTIONAL PROTOCOL TO THE UNITED NATIONS
8 CONVENTION AGAINST TORTURE AND OTHER CRUEL,
9 INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT
10 (OPCAT), AND APPROPRIATING FUNDS THEREFOR
11

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

12 **Section 1. Short Title.** – This Act shall be known as the “*National*
13 *Committee for Prevention of Torture (NCPT) and OPCAT Implementation*
14 *Act of 2016*”.

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

- 17 a. Recognize the inherent dignity of every human person;
- 18 b. Guarantee full respect for the fundamental human rights, giving
19 highest priority to the enactment of measures that protect and
20 fulfil the right to life, the right to liberty and security of all
21 persons, and the right to be free from torture, cruel, inhuman, or
22 degrading treatment or punishment;

1 c. Adhere to the principles and standards on the protection and
2 promotion of human rights, especially of persons deprived of
3 liberty under the 1987 Philippine Constitution, Republic Act No.
4 7438 (*An Act Defining Certain Rights of Persons Detained,*
5 *Arrested or under Custodial Investigation*), Republic Act No.
6 (R.A.) 9745 (*The Anti-Torture Act of 2009*) and other allied
7 statutes;

8 d. Adopt the principles embodied under the United Nations
9 Convention Against Torture and Other Cruel, Inhuman, or
10 Degrading Treatment or Punishment (UNCAT) and implement the
11 obligations under the Optional Protocol to the Convention Against
12 Torture and Other Cruel, Inhuman, or Degrading Treatment or
13 Punishment (OPCAT), which obligate the Philippine Government
14 to:

15 1) Establish a system of regular, unannounced, and
16 unrestricted visits in the Philippines undertaken by an
17 independent national body of experts to places where
18 persons are deprived of their liberty, in order to preclude any
19 and all incidents of torture and other cruel, inhuman, or
20 degrading treatment or punishment;

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

24 3) Allow visits in accordance with the OPCAT, by the
25 Subcommittee on the Prevention of Torture and Other Cruel,
26 Inhuman, or Degrading Treatment or Punishment (SPT) to
27 any place under its jurisdiction and control where persons
28 are or may be deprived of their liberty, either by virtue of an
29 order given by a public authority or at its instigation, or with
30 the consent or acquiescence of the person, with the view of
31 strengthening the protection of persons against torture and
32 other cruel, inhuman or degrading treatment or punishment;

- 1 4) Provide all relevant information that the SPT may request to
2 evaluate the needs and measures that should be adopted in
3 order to strengthen the protection of persons deprived of
4 their liberty against torture, cruel, inhuman, or degrading
5 treatment or punishment;
- 6 5) Examine the recommendations of the SPT and enter into
7 dialogue with it on possible implementation measures;
- 8 6) Grant the SPT the following guarantees:
- 9 i) Unrestricted access to all information concerning the
10 number of persons deprived of their liberty as well as the
11 number of places and their location;
- 12 ii) Unrestricted access to all information referring to the
13 treatment of those persons as well as their conditions of
14 deprivation of liberty;
- 15 iii) Unrestricted access to all Places of deprivation of liberty
16 and their installations and facilities;
- 17 iv) The opportunity to have private interviews with persons
18 deprived of their liberty without witnesses, either
19 personally or with a translator if deemed necessary, as
20 well as with any other person who SPT believes may
21 supply relevant information;
- 22 v) The liberty to choose the places it wants to visit and the
23 persons it wants to interview;
- 24 7) Establish the National Committee for the Prevention of
25 Torture (NCPT) mandated to prevent torture and ill-
26 treatment and reduce the risks that give rise to the practice
27 by conducting regular preventive monitoring visits to Places
28 of deprivation of liberty and examine the treatment and
29 conditions of persons deprived of their liberty including
30 policies, procedures, and practices of custodial agencies as
31 well as national laws that affect their well-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 a
8 dialogue with it on possible implementation measures;

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

11
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 regularly
15 visiting Places of deprivation of liberty such as local and
16 international non-government organizations and government
17 mechanisms working for the well-being of persons deprived
18 of liberty; and

19 13) Provide the necessary resources to ensure the functional
20 independence of the NCPT.

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

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

30 g. Recognize the authority of the SPT to conduct in-country
31 preventive monitoring visits and their observations and

1 recommendations with due consideration to the same powers and
2 functions it shares with the NCPT; and

3 h. Provide the necessary resources to ensure the functional
4 independence of the NCPT.

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

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

10 b. *Other cruel, inhuman, or degrading treatment or punishment*
11 refers to the deliberate or aggravated treatment or punishment
12 inflicted by a person in authority or an agent of a person in
13 authority against a person under his/her custody, which attains a
14 level of severity causing suffering, gross humiliation, or
15 debasement to the latter;

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

20 d. *Places of deprivation of liberty* refers to any place of detention,
21 confinement, imprisonment, commitment, or placement of a
22 person in a public or private custodial setting under the
23 Philippines' jurisdiction and control where persons are or may be
24 deprived of their liberty, either by virtue of an order given by a
25 public authority or at its instigation or with its consent or
26 acquiescence. Places of deprivation of liberty also include, but
27 shall not be limited to those unofficial and secret places of
28 detention, where persons are suspected of being illegally detained
29 or not permitted to leave the place at will by order of any judicial,
30 administrative, or other authority, and any place which the NCPT
31 judiciously believes that persons may be deprived of their liberty.

1 Places of deprivation of liberty encompass traditional and non-
2 traditional places of detention, whether temporary or permanent,
3 formally or informally used as a detention facility maintained
4 and/or managed by public or private authorities and/or under
5 regulation by the government. Places of detention or confinement
6 shall refer to any physical space, area, or structure whether
7 moving or stationary, permanent or temporary, where deprivation
8 of liberty is carried out, or which establishment, operation, and
9 maintenance of the same is punishable under Section 14 (i) of
10 R.A. 9745.

11 Places of deprivation of liberty shall include, but not be limited to
12 the following examples: police stations, barangay holding centers,
13 pre-trial centers / remand prisons, prisons for sentenced persons,
14 juvenile detention facilities, border police facilities and transit
15 zones at land crossings, international ports and airports, immigrant
16 and asylum-seeker detention centers, psychiatric institutions, care
17 homes for the elderly, security or intelligence service facilities,
18 military forts and camps, and other facilities under military
19 jurisdiction, places of administrative detention, means of transport
20 for the transfer of prisoners (e.g. police vans), hospitals or home-
21 based or medical/health-related detention facilities, drug
22 rehabilitation centers, and other similar and/or makeshift places of
23 confinement where persons are not permitted to leave at will;

24 e. *Subcommittee on the prevention of torture (SPT)* refers to the
25 United Nations Subcommittee on the Prevention of Torture and
26 Other Cruel, Inhuman, or Degrading Treatment or Punishment
27 established under OPCAT;

28 f. *Torture* refers to an act by which severe pain or suffering, whether
29 physical or mental, is intentionally inflicted on a person for such
30 purposes as obtaining from him/her or a third person information
31 or confession, punishing him/her for an act he/she or a third
32 person has committed or is suspected of having committed, or
33 intimidating or coercing him/her or a third person, or for any
34 reason based on discrimination, intimidation or coercion of any
35 kind, when such pain or suffering is inflicted by or at the
36 instigation of or with the consent or acquiescence of a person in

1 authority or agent of a person in authority, as defined by R.A.
2 9745, otherwise known as the “*Anti-Torture Act of 2009*”. It does
3 not include pain or suffering arising only from, inherent in, or
4 incidental to lawful sanctions;

5 g. *Unannounced access* refers to access to all Places of deprivation
6 of liberty, at all times, without prior notice or authorization;

7 h. *Unrestricted access* refers to free access to Places of deprivation
8 of liberty without any restrictions of any kind imposed by
9 authorities, more specifically the following:

10 1) All persons deprived of liberty with the opportunity to have
11 private interviews with them without witnesses, either
12 personally or with a translator if deemed necessary;

13 2) All custodial personnel relevant to the treatment of
14 prisoners deprived of their liberty;

15 3) Any other person whom the NCPT and the SPT
16 believe may supply relevant information;

17 4) All information concerning the number of persons
18 deprived of their liberty in Places of deprivation of liberty,
19 as well as the number of places and their location;

20 5) All information referring to the treatment of those persons
21 as well as their conditions of deprivation of liberty; and
22

23 6) All Places of deprivation of liberty and their installations
24 and facilities.
25

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

1 **Section 4. *Creation.***—There is hereby created an independent body to
2 be known as the National Committee for Prevention of Torture (NCPT)¹
3 for the purpose of preventing all incidents of torture and other cruel,
4 inhuman, or degrading treatment or punishment. The NCPT shall be an
5 office independent of government in accord with the UN Paris Principles
6 Relating to the Status of National Human Rights Institutions. It shall be
7 attached to the Commission on Human Rights (CHR) solely for budgetary
8 purposes. It shall function separately from the CHR and discharge its
9 mandate independent of government under this Act.

10 **Section 5. *Powers of the NCPT.*** – The NCPT shall have the
11 following powers:

- 12 a. Conduct regular and unannounced visits to Places of deprivation
13 of liberty to prevent torture and other cruel, inhuman, or
14 degrading treatment or punishment;
- 15 b. Examine and assess during preventive monitoring visits the
16 custodial policies, procedures, and practices, and all other aspects
17 relevant to the treatment and material living conditions of persons
18 deprived of their liberty, in order to identify risks that give rise to
19 torture and other cruel, inhuman, or degrading treatment, with the
20 end goal of protecting the rights of persons deprived of their
21 liberty and finding practical ways to improve their well-being;
- 22 c. Examine and review national laws, policies, and procedures that
23 relate to the treatment, well-being, and rights of persons deprived
24 of liberty, and propose the amendment, repeal, or enactment of
25 laws with the view of strengthening the protection of persons
26 against torture and other cruel, inhuman, or degrading treatment or
27 punishment;
- 28 d. Submit to the CHR, House of Representatives, the Senate, and the
29 President its observations, recommendations, and proposals
30 relating to the rights and protection of persons deprived of their
31 liberty, and provide relevant authorities with the same for the
32 latter to undertake the necessary implementation measures;

¹ Hereinafter referred to alternatively as “The Committee” or “NCPT”.

- 1 e. Refer for investigation to the CHR or other appropriate
2 investigative agencies of the government, with the consent of a
3 complaining person deprived of liberty, any factual incident of
4 torture, ill-treatment, or other human rights violations or abuse it
5 may discover during its visits;
- 6 f. Work, where appropriate, in cooperation and consultation with
7 any person or body, whether public or private, in connection with
8 the discharge of any of its functions or powers under this Act and
9 the OPCAT;
- 10 g. Consider requests for visits based on reports by civil society
11 organizations or any other group or individual recommending
12 policy, procedural, or practice reforms in a place of deprivation of
13 liberty;
- 14 h. Require relevant and competent authorities to examine its
15 recommendations, and enter into a dialogue with the NCPT to
16 discuss implementation measures and to fulfill agreed upon
17 positive actions toward reforms, and whenever necessary,
18 providing them the needed technical assistance;
- 19 i. Maintain direct, and if necessary, confidential contact with the
20 SPT to strengthen the NCPT's capacity and mandate for the
21 prevention of torture and other cruel, inhuman, or degrading
22 treatment or punishment and the protection of the rights of
23 persons deprived of liberty;
- 24 j. Publish information and recommendations covered by its
25 visitation of matters mentioned in paragraphs (a), (b), (c), (d) and
26 (e) hereof, when circumstances so warrant, with due prudence;
27 *Provided*, That the NCPT, under its rules and regulations and
28 having high regard for confidentiality rules and informed consent,
29 may determine what information is confidential and may not be
30 made public; *Provided further*, That any publicity issued by the
31 NCPT shall be balanced, fair, and true. However, the NCPT shall
32 not publish or pass on personal data relating to any person without

1 the latter's express consent, *Provided finally*, That this section
2 shall be in accordance with the existing laws on confidentiality;

3 k. Assist in the training of law enforcement personnel, civil or
4 military, medical personnel, public officials and other persons,
5 whether public or private, who are involved in the custody,
6 interrogation, or treatment of any individual subjected to
7 detention, arrest or imprisonment or any form of deprivation of
8 liberty;

9 l. Promote public awareness through publication and dissemination
10 of information and education materials on its work as the NCPT,
11 the right to be free from torture and other cruel, inhuman, or
12 degrading treatment or punishment, and the rights of persons
13 deprived of their liberty; and

14 m. Submit an independent annual report to be received and published
15 and disseminated by government, which shall include an annual
16 budget and expenditures report.

17 **Section 6. Guarantees of the NCPT.** – The Executive, Legislative,
18 and Judicial branches of government shall guarantee the NCPT the
19 following:

20 a. Full and unrestricted access to all information concerning the
21 number of persons deprived of their liberty in Places of
22 deprivation of liberty, as well as the number of places and their
23 location;

24 b. Full and unrestricted access to all information referring to the
25 treatment of those persons as well as their conditions of
26 deprivation of liberty;

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

29 d. Liberty to conduct private interviews with persons deprived of
30 liberty without the presence of witnesses, either personally or with
31 a translator, if deemed necessary, as well as with any other person

1 who, in the discretion of the NCPT, possesses relevant
2 information;

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

5 f. Freedom for its members to be accompanied, if needed or when
6 necessary, by an expert with relevant expertise, experience, and
7 knowledge, as the Chairperson may determine, during visits to
8 Places of deprivation of liberty;

9
10 g. Freedom to determine its own rules and procedures, including its
11 programs of visits;

12 h. Liberty to require competent Philippine authorities concerned to
13 examine the recommendations of the NCPT and enter into a
14 dialogue with it on possible implementation measures;

15 i. Liberty to require relevant government agencies to fulfil their
16 recommendations by implementing measures accordingly;

17
18 j. Freedom to promote public awareness on its work as an NPM
19 including the system of preventive monitoring visits, the right to
20 be free from torture and other cruel, inhuman, or degrading
21 treatment or punishment, and the rights of persons deprived of
22 liberty; and

23 k. Freedom to publish regular and annual reports as well as
24 information, education, and communication materials and have
25 these disseminated nationwide.

26 **Section 7. *Composition of the NCPT; Qualification of Members.*** –

27 The NCPT shall be an independent collegial body composed of one (1)
28 Chairperson and eight (8) members. The Chairperson and seven (7)
29 members shall be appointed by the President. One (1) of the eight
30 Committee members shall be a Commissioner from the CHR who shall
31 have voting privileges as the other members of the Committee.

1 The Chairperson and members of the NCPT shall not, during their
2 tenure, hold any other office or employment. Neither shall they engage in
3 the practice of any profession or in the active management or control of
4 any business which, in any way, may be affected by the functions of their
5 office, nor shall they be financially interested, directly or indirectly, in any
6 contract with, or in any franchise or privilege granted by the government or
7 any of its subdivisions or instrumentalities, including government-owned
8 or controlled corporations (GOCCs) or their subsidiaries.

9 The Committee Members shall possess the following qualifications:

10 a. Independent from all branches of government;

11 b. Of high moral character, recognized probity, competence, and
12 integrity;

13
14 c. To ensure a multi-disciplinary and pluralistic representation, the
15 composition of the Committee shall include members with proven
16 professional knowledge or experience in the field of human rights,
17 law, medicine, psychology, psychiatry, forensic science, prison
18 management, employment, industrial relations, police
19 administration, education, sociology or social work as follows:

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

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

27
28 3) One (1) members must have a doctorate degree in any of the
29 fields of psychology, anthropology, or other related
30 disciplines, and must have been engaged in the practice of
31 his/her profession for at least seven (7) years;

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

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

7 Further, the composition of the Committee must observe a
8 balanced gender representation on the basis of principles of equality
9 and non-discrimination and adequate representation of ethnic,
10 cultural and minority groups.

11 The President shall give highest priority to the endorsements
12 and recommended candidates of civil society groups with long
13 standing backgrounds and practice in the advancement of the
14 rights and welfare of persons deprived of their liberty and
15 prevention of torture and other cruel, inhuman, or degrading
16 treatment or punishment.

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

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

31 **Section 9. *Salaries, Emoluments, and Benefits.*** – The Chairperson
32 and the members of the Committee shall have the rank, salary,
33 emoluments, and allowances equivalent to the Associate Justice of the

1 Court of Appeals and the Judges of the Regional Trial Court, respectively,
2 which shall not be increased during their term of office.

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

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

15 The proceedings for removal shall be initiated by filing a verified
16 complaint with the Office of the Ombudsman stating the grounds therefor
17 and alleging the ultimate facts upon which the complaint is 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 Committee
22 within one hundred twenty (120) days from the date of filing of the
23 complaint.

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

30 The Committee shall be assisted by a Secretariat, which shall be
31 composed of an Executive Director and at least two (2) Deputy Directors -
32 one (1) for Operations and one (1) for Administrative and Finance matters

1 – together with their respective technical staff and field units that shall be
2 established to support and follow-up the regular visits undertaken by the
3 NCPT members.

4 The Executive Director and his Deputies shall have expertise in
5 human rights specializing in fields relevant to human rights protection
6 and/or the treatment of persons deprived of liberty.

7 The Committee shall appoint the Executive Director and Deputy
8 Directors. The Chairperson shall appoint all other officers and staff of the
9 NCPT.

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

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

23 Government authorities and private organizations or entities
24 mandated to protect and promote the rights of persons deprived of liberty
25 shall cooperate with and promptly respond to the recommendations,
26 proposals and other requests of the NCPT in the conduct of mandate.

27 **Section 13. *Confidentiality*** .– Personal information collected by the
28 NCPT shall be confidential. No personal data shall be published without
29 the express written consent of the individual concerned. The rules on
30 confidentiality shall be in accordance with the existing laws applicable
31 herein.

1 **Section 14. *Protection from Criminal Liability, Other Sanctions, and***
2 *Reprisals.* –

- 3 a. No authority or official shall order, apply, permit, or tolerate any
4 sanction against any person or organization for having
5 communicated to the NCPT and the SPT any information, and no
6 such person or organization shall be otherwise prejudiced in any
7 way.
- 8 b. Relevant authorities shall take effective steps to prevent and
9 promptly respond to any sanction or act of reprisal stemming from
10 communications to or cooperation by other persons or
11 organizations with the NCPT or SPT.
- 12 c. No criminal, administrative, or disciplinary sanction shall be taken
13 against any person or organization for having communicated, in
14 good faith, any information to the NCPT or SPT;
- 15 d. Anything done, or purported to be done, in good faith, and
16 pursuant to the functions and powers conferred upon the NCPT
17 under this Act or in respect of any publication by or under the
18 authority of the NCPT of any report, proceedings, or any other
19 matter under this Act shall not be a ground for action, suit, or
20 other legal proceeding against the NCPT or a member or officer
21 thereof.

22 No protection from criminal liability, disciplinary, or administrative
23 sanction shall be given to any member or officer of the Committee where
24 they may be finally adjudged in any action or proceeding to be liable for
25 gross negligence or misconduct, grave abuse of discretion, or abuse of
26 authority.

27 **Section 15. *Private Legal Assistance.***—The Committee is authorized
28 to engage the services of private lawyers or extend counsel immediately
29 upon receipt of notice that an administrative, civil, or criminal action, suit,
30 or proceeding is filed against any Committee member, or any officer and
31 staff of the NCPT. The lawyer's fees and other costs of suit shall be part of

1 the indemnification package for the NCPT members, officers, and staff,
2 subject to the provisions of Section 20 hereof.

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

13 **Section 17. *Information Sheet on Persons Deprived of their Liberty***
14 ***and Places of Deprivation of Liberty.*** – The Philippine National Police
15 (PNP), the Bureau of Corrections (BuCor), the Bureau of Jail Management
16 and Penology (BJMP), the Department of Social Welfare and
17 Development (DSWD), provincial government units with control or
18 supervision of jails, and other government or private institutions with
19 jurisdiction, control, and/or oversight of places of deprivation of
20 liberty shall make an updated information sheet of all deprivation of
21 liberty facilities under their respective jurisdiction with the corresponding
22 data on the persons deprived of their liberty under their custody, such as,
23 among others, names, date of deprivation of liberty, exact reason for
24 deprivation of liberty and the conditions in the Places of deprivation of
25 liberty.

26 Such information sheet shall be periodically updated by the same
27 agencies or institutions concerned within the first five (5) days of every
28 month at the minimum. The format of the information sheet shall be
29 prescribed by the NCPT and transmitted to the agencies or institutions
30 concerned at the soonest possible time. The list prescribed by Section 7 of
31 R.A. 9745 shall also be submitted to the NCPT within the first five (5)
32 days of the month at the minimum.

33 **Section 18. *Other Organizations Conducting Visits to Place of***
34 ***Deprivation of Liberty.*** - The provisions of this Act and the establishment
35 of the NCPT shall be without prejudice to the importance of visits to

1 Places of deprivation of liberty regularly undertaken by other groups such
2 as local and international non-government organizations, lay persons,
3 groups, faith-based organizations, or government mechanisms working for
4 the well-being and protection of persons deprived of their liberty.

5 **Section 19. *Public Education, Information, and Awareness***
6 *Campaigns.* –The NCPT, in cooperation and partnership with the
7 Philippine Information Agency (PIA), CHR, the Department of Interior
8 and Local Government (DILG), other government departments, agencies,
9 and local government units with jurisdiction, control, and/or oversight of
10 Places of deprivation of liberty, and such other concerned parties in both
11 the public and private sectors shall inform the public, persons in authority,
12 and agents of persons in authority of the existence of the NCPT, the SPT,
13 the OPCAT, the rights of persons deprived of liberty, the importance of
14 preventive monitoring visits, the need to cooperate with the said visiting
15 bodies, and the importance of implementing measures based the NCPT’s
16 recommendations. This shall be done through a programmatic nationwide
17 awareness-raising campaign, and in line with Section 21 of R.A. 9745,
18 shall be included in the training of law enforcement personnel, civil or
19 military, medical personnel, public officials and other persons, whether
20 public or private, who may be involved in the custody, interrogation, or
21 treatment of any individual subjected to arrest, detention, imprisonment,
22 or any form of deprivation of liberty. Furthermore, authorities shall make
23 use of popular media such as government-owned TV and radio as well as
24 other such resources at its disposal in undertaking the public
25 information and education campaign. The Department of Education
26 (DepEd) and the Commission on Higher Education (CHED) shall also
27 include information on the OPCAT, SPT, NCPT, and the preventive
28 monitoring methodology in the integration of human rights education
29 courses in all primary and tertiary level academic institutions nationwide in
30 line with Section 21 of R.A. 9745.

31 **Section 20. *Appropriations.***–The NCPT shall have an initial budget
32 of One Hundred Million Pesos (PhP100,000,000.00) for maintenance and
33 other operating expenses to be sourced from the President’s Contingency
34 Fund under the Presidential Social Fund. Subsequent funding requirements
35 shall be included in the annual General Appropriations Act.

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

4 **Section 21. *Implementing Rules and Regulations.*** – The NCPT shall
5 formulate its implementing rules and regulations (IRR) within ninety (90)
6 days from the time the Committee first convened. The NCPT shall
7 coordinate with the CHR, DILG, Department of Health (DOH),
8 Department of Social Welfare and Development (DSWD), Department of
9 Justice (DOJ), Department of National Defense (DND), Philippine
10 National Police (PNP), and other relevant government agencies and civil
11 society organizations working in various fields relevant to the treatment of
12 persons deprived of liberty.

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

15
16 **Section 22. *Periodic Review.*** - Within five (5) years after the
17 effectivity of this Act, and every five (5) years thereafter, or as the need
18 arises, the Congress of the Philippines shall conduct a comprehensive
19 review of its implementation, and a systematic evaluation of the
20 performance and functioning of the NCPT, in order to highlight its
21 accomplishments and impact on the protection of persons deprived of their
22 liberty. To carry out these tasks, Congress shall ensure participative and
23 multi-sectoral dialogues with stakeholders which shall include civil society
24 organizations, survivors of torture and their families, and relevant
25 government authorities involved in the treatment of persons deprived of
26 their liberty and the administration of Places of deprivation of liberty.

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

30 **Section 24. *Repealing Clause.*** – All laws, decrees, executive orders,
31 rules and regulations, memorandum orders, memorandum circulars,
32 administrative orders, ordinances, or any part thereof, which are
33 inconsistent with the provisions of this Act, are hereby repealed, amended,
34 or modified accordingly.

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

Approved,