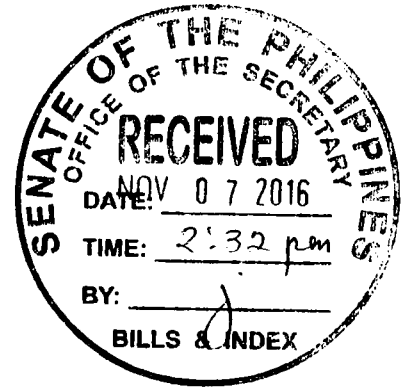


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

Senate Bill No. 1230

Introduced by **SENATOR LEILA M. DE LIMA**

AN ACT
STRENGTHENING THE COMMISSION ON HUMAN RIGHTS OF THE
PHILIPPINES AS THE NATIONAL HUMAN RIGHTS INSTITUTION,
AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The 1987 Constitution established the Commission on Human Rights (CHR) with the mandate to promote and protect human rights of all Filipinos including those overseas. Specific powers and functions of CHR are set forth in Article XVIII on Social Justice and Human Rights. These include the core functions of investigation, monitoring, and education.

As a constitutional creation, CHR is the national human rights institution (NHRI) of the Philippines. As such, it performs the important role of linking human rights norms international in character to the level of domestic implementation. Through its advisory function as NHRI, as outlined in the *United Nations Principles on the Status of National Human Rights Institution*, it can issue recommendations and guidelines on the implementation of commitments of the Philippines in treaties it has ratified including their Optional Protocols. For example, the Philippines is State Party to the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW). This treaty provides for the application of all human rights equally to women and identifies the measures by which it shall be complied with. CHR has developed Advisories on various issues and thematic concerns covered by the CEDAW, and these include the passage of then Reproductive Health Bill, including the wearing of

*Hijab*¹ which was lauded by both the Philippine Commission on Women² and the Department of Foreign Affairs for addressing deeply entrenched religious prejudices in society.

CHR has also consistently worked towards the better understanding of UN Special Procedures and the importance of Optional Protocols. In 2012, CHR has participated in the Country Inquiry of the *Committee on the Elimination of Discrimination Against Women on Manila's EO No. 003*. It has also engaged with the Special Rapporteur on Trafficking Against Persons, presenting its work with the *Southeast Asia NHRI Forum*.

Over the years, CHR has proven its exemplary work as cornerstone of human rights in the country. This has been affirmed by the Supreme Court itself in *Edita T. Burgos v. Gen. Hemogenes Esperon et.al.*, whereby the Court expressly commended the efforts of CHR in the investigation of the disappearance of Jonas Joseph Burgos. The ruling provides, “[i]n the present case, while Jonas remains missing, the series of calculated directives issued by the Court outlined above and the extraordinary diligence the CHR demonstrated in its investigations resulted in the criminal prosecution of Lt. Baliaga. x x x”³ CHR has also made submissions in cases pertaining to discrimination of sectoral minorities as for example, individuals with diverse sexual orientation and gender identity. Recently, it has also made submissions on the issue of citizenship of foundlings, underscoring the *best interest of the child principle* of the UN Convention on the Rights of the Child.

In addition to the Constitution, various laws grant special mandates to CHR. Currently, there are eight (8) laws⁴ which grant specific powers to CHR. Foremost of these laws are Republic Act No. 9710 or the *Magna Carta of Women Act of 2009* which delegates to CHR the powers of *Gender Ombud*, and Republic Act No. 9344 or the *Juvenile Justice and Welfare Act of 2006* which names CHR as *Child Ombudsman*.

1 See CHR Advisory number 2013-002 issued on August 8, 2013.

2 See <<http://pcw.gov.ph/article/muslim-women-are-now-free-wear-%E2%80%98hijabs%E2%80%99-schools-gov%E2%80%99t-institutions-chr>>, 17 October 2016.

3 See <http://www.lawphil.net/judjuris/juri2014/feb2014/gr_178497_2014.html>, 17 October 2016.

4 Republic Act No. 9710, Magna Carta of Women; Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006; Republic Act No. 9262 or the Anti-Violence Against Women and their Children Act of 2004; Republic Act No. 9208 or the Anti-trafficking in Persons Act of 2003; Republic Act No. 9745 or the Anti-torture Act of 2009; Republic Act No. 9372 or the Human Security Act of 2007; Republic Act No. 9851 or the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity; Republic Act No. 10368, or the Human Rights Victims Reparation and Recognition Act of 2013.

The work and accomplishments of CHR can only be discussed in broad strokes as outlined above. With almost thirty (30) years in existence, it has served countless Filipinos through its programs and services. Notwithstanding these accomplishments, CHR also has to occasionally address institutional challenges in terms of resources and extent of its mandate.

It is worth noting that the need to strengthen CHR is often raised in important forums, domestic and overseas. In this year's consideration by the United Nations (UN) Committee on Economic, Social and Cultural Rights of the Philippine State Report, the Committee made the following recommendation for CHR, viz.: "*[t]he Committee urges the State party to expedite the discussion and adoption of the Commission on Human Rights Charter (Senate Bill No. 2818 for an Act Strengthening the Functional and Structural Organization of the Commission on Human Rights and for Other Purposes) to ensure full compliance with the Paris Principles on national institutions for the promotion and protection of human rights.*"⁵

In recent proceedings, other UN bodies have also spoken on the need to strengthen CHR as an organization. In its 2014 Report on 2012 country Inquiry of the Philippines regarding Executive Order No. 003 on Family Planning by then Manila City Mayor Lito Atienza, the Committee on Elimination of All Forms of Discrimination Against Women, made the recommendation for CHR, viz.: "*...provide the Commission with adequate financial, human and technical resources to ensure that it can effectively discharge its current and additional functions; and take all necessary measures to ensure its full financial autonomy.*"⁶ Likewise, the UN Committee on the Rights of the Child in its review of the Philippines' 3rd and 4th combined reports, included the following recommendation in its Concluding Observations, viz.: "The Committee also recommends that the State party support the prompt passing of the CHRP Charter that is awaiting approval by Congress to strengthen the protection and promotion of children's rights."⁷ Finally, in the last Universal Periodic Review of the UN Human Rights Council for the 2nd cycle reporting of the Philippines, the following recommendations were made by foreign governments viz.: "Further consolidate its national human rights infrastructure, including support to the Commission on Human Rights (Egypt); Continue to improve its capacity to uphold human rights,

5 See E/C.12/PHL/CO/5-6 (07 October 2016), available at <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2FC.12%2fPHL%2fCO%2f5-6&Lang=en>, 19 October 2016.

6 See CEDAW/C/OP.8/PHL/1, available at <http://www.ohchr.org/Documents/Issues/Women/WRGS/Philippines_inquiry.pdf>, 19 October 2016.

7 See CRC/C/PHL/CO3-4 (22 October 2009), available at <http://www.bayefsky.com//pdf/philippines_t4_crc_52.pdf>, 19 October 2016.

including by increasing the Commission on Human Rights' (CHR) fiscal autonomy and organizational capacity, as well as further efforts to prevent human rights violations by Armed Forces of the Philippines and Philippines National Police personnel (Australia); Continue the work to build-up the capacity in the area of human rights protection, including through strengthening the national human rights institution (Russian Federation); Intensify the efforts and measures to consolidate the state of law and its national mechanisms on human rights (Viet Nam)".⁸

Interestingly, while not identifying CHR, President Rodrigo Duterte himself, in his first State of the Nation Address, mentioned "human rights" five times, even emphasizing that "... *my administration shall be sensitive to the State's obligations to promote, and protect, fulfill the rights of our citizens...*"⁹ This Presidential declaration can serve as policy guideline for the entire government machinery in providing support to the principal body constitutionally created to promote and protect human rights.

To empower the CHR as an institution through a Charter will therefore not only reinforce the recommendations and recognition of its contribution to safeguard fundamental rights and freedoms, but will serve the higher purpose of institutionalization of treaty commitments by the Philippine government.

It is not uncommon that popular opinion may not fully appreciate the status of CHR as the highest government machinery in the protection of human rights. CHR is a partner of security forces in human rights education, the legislative department in rights-based approach to law-making, the judiciary in evolving breaches of human security through enforced disappearance, and intermediary between government and civil society.

The Charter will help bridge this disconnect, for which reason the passage of this bill is earnestly sought.


LEILA M. DE LIMA

⁸ See A/HRC/21/12.

⁹ See <<http://www.rappler.com/nation/140860-rodrigo-duterte-speech-sona-2016-philippines-full-text>>, 19 October 2016.


SEVENTEENTH CONGRESS OF THE)
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Senate
Office of the Secretary

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SENATE

S. B. No. 1230

RECEIVED BY: 

Introduced by SENATOR LEILA M. DE LIMA

AN ACT
STRENGTHENING THE COMMISSION ON HUMAN RIGHTS OF THE
PHILIPPINES AS THE NATIONAL HUMAN RIGHTS INSTITUTION, AND
FOR OTHER PURPOSES

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

1 **SECTION 1. *Short Title.*** - This Act shall be known as the "*Commission on*
2 *Human Rights Act of 2016*".

3 **SEC. 2. *State Policy on Human Rights.*** - The State values the dignity of every
4 human person and guarantees full respect for human rights. It shall give highest priority
5 to the enactment of measures that protect and enhance the right of all people to human
6 dignity at all stages of human life.

7 **SEC. 3. *Definition of Human Rights.*** - Human rights are the supreme,
8 inherent, and inalienable rights to life, dignity, and self- development. It is the essence of
9 these rights that makes a person human. These rights include those guaranteed by the
10 Philippine Constitution, other domestic laws and international human rights instruments
11 such as the *Universal Declaration of Human Rights*, the *International Covenant on Civil*
12 *and Political Rights*, and the *International Covenant on Economic, Social, and Cultural*
13 *Rights*.

1 e. For non-lawyers, must have at least ten (10) years of professional experience in
2 human rights; and

3 f. Composition must observe equal gender balance and sectoral representation.

4 **SEC. 8. *Appointment and Term of Office.*** - The Chairperson and

5 Commissioners shall be appointed by the President for a term of seven (7) years without

6 re-appointment. Of those first appointed under this Act, the Chairperson shall hold office

7 for seven (7) years, two (2) Commissioners for five (5) years and the other two (2)

8 Commissioners for three (3) years. The term of the Chairperson and Commissioners of

9 the Commission shall start on the day immediately after the end of the previous term,

10 regardless of the date of appointment. In no case shall any Commissioner or Chairperson

11 be appointed, re-appointed, or designated in a temporary or acting capacity. Appointment

12 to any vacancy occurring during the term shall be only for the remaining portion of said

13 term.

14 **SEC. 9. *Removal From Office.*** – The Chairperson and Members of the

15 Commission may be removed from office on any of the following grounds:

16 a. Disloyalty to the Republic of the Philippines;

17 b. Culpable violation of the Constitution;

18 c. Bribery or graft and corruption, other high crimes, or betrayal of public trust;

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

20 e. Commission of any offense involving moral turpitude or an offense punishable by

21 imprisonment of more than 6 years;

22 f. Abuse of governmental authority; and

1 g. Acts that constitute gender based discrimination, violence against women,
2 including sexual harassment irrespective of sexual orientation and gender identity
3 of the CHR official or that of his or her victim.

4 The proceedings for removal shall be initiated by filing a verified complaint with
5 the Office of the Ombudsman stating the grounds therefor and alleging the ultimate facts
6 upon which the complaint is based. No proceedings shall be initiated against the
7 Chairperson or the same member of the Commission within a period of one (1) year from
8 assumption of office.

9 **SEC. 10. Prohibition and Disqualification.** - The Chairperson and
10 Commissioners of the Commission shall not, during their tenure, hold any other office or
11 employment.

12 Neither shall they engage in the practice of any profession or in the active
13 management or control of any business, which in any way may be affected by the functions
14 of their office, nor shall they be financially interested, directly or indirectly, in any contract
15 with, or in any franchise or privilege, granted by the Government and its subdivisions,
16 agencies, or instrumentalities, including government-owned or controlled corporations
17 or their subsidiaries. They shall directly avoid conflict of interest in the conduct of their
18 office. They shall not be allowed to appear or practice before the Commission for one (1)
19 year following their cessation from office.

20 No spouse, common-law partner, or relative by consanguinity or affinity within the
21 fourth civil degree, and no business or professional partner of the Chairperson or
22 Commissioners, may appear as counsel or agent, on any matter pending before the
23 Commission or to transact business directly or indirectly therewith.

- 1 a. Investigate, on its own or on complaint by any party, all forms of human rights
2 violations;
- 3 b. Adopt its operational guidelines and rules of procedure and cite for contempt for
4 violations thereof or its lawful orders in accordance with the Rules of Court;
- 5 c. Provide appropriate legal and preventive measures for the protection of human
6 rights of all persons within the Philippines, especially the under-privileged, as well
7 as Filipinos residing abroad;
- 8 d. Exercise visitorial powers over jails, prisons, camps, detention facilities, safe
9 houses, and similar premises;
- 10 e. Establish a continuing program of research, education, and information to
11 enhance respect for the primacy of human rights;
- 12 f. Recommend to Congress effective measures to promote and protect human rights
13 and to provide for remedies to victims of violations of human rights or their
14 families;
- 15 g. Monitor the Philippine government's compliance with international treaty
16 obligations on human rights;
- 17 h. Grant immunity from prosecution to any person whose testimony or possession of
18 documents or other evidence is necessary or convenient to determine the truth in
19 any investigation conducted by it or under its authority;
- 20 i. Require the assistance of any department, bureau, office, or agency in the
21 performance of its functions;
- 22 j. Establish working relationships with civil society organizations, non-government
23 organizations, and people's organizations involved in human rights promotion,
24 protection, and advocacy;

- 1 k. Perform its Gender and Child Ombud roles as well as to ensure that the status,
2 rights, and interests of the marginalized and vulnerable sectors, are upheld in
3 accordance with the Constitution, laws, and international instruments on human
4 rights;
- 5 l. Issue human rights directives, observations, and advisories directed to all
6 concerned agencies of government for their implementation;
- 7 m. Appoint its officers and employees in accordance with law; and
- 8 n. Perform such other duties and functions as may be provided by law.

9 **B. CHR PROTECTION FUNCTIONS**

10 **SEC. 13. *Scope of CHR Protection Functions.*** - The CHR Protection
11 Functions shall consist of the following:

- 12 a. Investigation of Human Rights Violations;
- 13 b. Legal and Preventive Measures;
- 14 c. Visitation Function;
- 15 d. National Preventive Mechanism; and
- 16 e. Witness Protection.

17 **SEC. 14. *Investigative Powers and Functions.*** -The Commission shall
18 exercise primary and original jurisdiction to investigate, on complaint or on its own, cases
19 of human rights violations involving civil, political, economic, social, and cultural rights.

20 In the exercise of its investigative function, the Commission shall have the following
21 powers:

- 22 a. Act promptly on reports or complaints, filed in any form, by any
23 person/organization. Findings of human rights violations shall include
24 recommendations for appropriate remedies, and referral to proper government

1 agencies for the filing of administrative, criminal, or civil actions. The
2 recommendations may include proposals for legislative, administrative, and
3 judicial reforms.

4 The investigation and other proceedings conducted by any administrative,
5 judicial, or quasi-judicial bodies shall not bar the investigation by the
6 Commission of allegations of human rights violations.

7 Final orders, decisions, or resolutions of the Commission, in the exercise of its
8 investigative functions, shall be appealed to the Court of Appeals on both
9 questions of fact and law, or on *certiorari* to the Supreme Court on questions of
10 law.

11 b. In addition to its power to investigate all violations of human rights as defined
12 in Section 3 of this Act, the Commission shall have the power to investigate
13 human rights and international humanitarian law violations, as provided in
14 pertinent laws, including but not limited to the provisions of the following:

- 15 1. Custodial Rights of the Accused (*Republic Act No. 7438*);
- 16 2. Special Protection of Children Against Abuse, Exploitation, and
17 Discrimination Act (*Republic Act No. 7610*);
- 18 3. Anti-Violence Against Women and Their Children Act of 2004 (*Republic*
19 *Act No. 9262*);
- 20 4. Juvenile Justice and Welfare Act of 2006 (*Republic Act No. 9344*);
- 21 5. The Magna Carta of Women (*Republic Act No. 9710*);
- 22 6. Anti-Torture Act of 2009 (*Republic Act No. 9745*);
- 23 7. Anti-Child Pornography Act of 2009 (*Republic Act No. 9775*);

1 8. Philippine Act on Crimes Against International Humanitarian Law,

2 Genocide, and Other Crimes Against Humanity (*Republic Act No. 9851*);

3 9. Anti-Enforced or Involuntary Disappearance Act of 2012 (*Republic Act No.*

4 *10353*);

5 10. Human Rights Victims Reparation and Recognition Act of 2013 (*Republic*

6 *Act No. 10368*);

7 11. Human Security Act of 2007 (*Republic Act No. 9372*); and

8 Such other related laws as may hereafter be enacted.

9 c. Compel the attendance of witnesses and the production of evidence, to place the
10 witness under oath or affirmation, issue *subpoenas*, and take testimony in any
11 investigation or inquiry;

12 d. Employ forensic sciences in making findings of human rights violations and to
13 assess the physical and mental well-being of living victims as well as to exhume
14 and/or autopsy dead victims.

15 e. Issue invitations, subpoenas, orders, or other processes requesting or directing
16 any person to appear, attend and testify at the meeting, forum, conference,
17 dialogue, public inquiry, or hearing conducted by the Commission, any of its
18 Regional Offices, sub-offices or designated CHR officers or committees; and for
19 such person to produce and submit records, documents, books, or other things
20 under his/her/their possession, control or supervision, and which are relevant
21 to the case/s being investigated by the Commission.

22 f. Issue orders and directives constituting legal and preventive measures, provided
23 for under Sections 14 and 15 of this Act, respectively;

- 1 g. Institutionalize a witness protection program to provide safety to witnesses as
2 well as human rights defenders under threat and safeguard the integrity of
3 evidence;
- 4 h. Monitor status of implementation/action taken on recommended remedies for
5 human rights violations as referred and/or filed with appropriate agencies,
6 courts, or any other body;
- 7 i. Require the assistance of any officer or employee of any department, bureau,
8 office, instrumentality, or government-owned or controlled corporations or
9 local government or a district unit therein;
- 10 j. Engage the assistance of lawyers or legal aid groups, medical organizations, as
11 well as government agencies, in the exercise of its investigative functions;
- 12 k. Cite and punish for contempt any person for violations of the Commission's
13 Rules of Procedures and lawful orders. The Rules of Court shall apply
14 suppletorily to the Rules of the Commission; and
- 15 l. Perform such other powers as may be necessary or incidental for the effective
16 exercise or conduct of its investigative powers.

17 No restraining order or writ of injunction shall be issued against the Commission in
18 the performance of its powers and functions, except those issued by the Court of
19 Appeals or the Supreme Court.

20 **SEC. 15. *Scope of Legal and Preventive Measures.*** - In all cases under
21 investigation, the Commission may issue all legal measures as well as provisional
22 remedies, which shall include, but are not limited to the following:

- 1 a. Mandatory Protection Orders (MPOs) directing government security forces and
2 other government agencies or private institutions to provide specific protection to
3 victims of and witnesses to human rights violations;
- 4 b. Orders directed to government officers and private institutions and organizations
5 for the purpose of providing protection such as but not limited to temporary shelter,
6 and security arrangements.
- 7 c. Orders directed to government and private lawyers as counsels *de officio* to ensure
8 that the human rights of the victim are not further violated in processes in which
9 they shall participate; and
- 10 d. Mediation between parties on issues that can be subject to settlement.

11 In investigation cases, the Commission may issue preventive measures, which shall
12 include, but are not limited to the following:

- 13 a. Injunctive orders to prevent any member of the government's military or police
14 forces, as well as public officials or employees, or any person acting under their
15 control and supervision, from concealing, transferring, torturing, or inflicting
16 injury or abusing a person deprived of liberty.
- 17 b. Orders directing the government official or employee, or any person in control of
18 any places of detention or confinement officials to allow access to persons deprived
19 of liberty by his/her counsel, physician, psychologist, priest, pastor, rabbi, imam,
20 or any spiritual adviser and relatives. Places of detention and confinement shall
21 refer to any physical space, area or structure, whether moving or stationary,
22 permanent or temporary, where deprivation of liberty is carried out, and which
23 establishment, operation, and maintenance of the same is punishable under
24 *Section 14(i) of Republic Act No.9745 (Anti Torture Act of 2009)*;

- 1 c. Orders directing the government official or employee, or any person in control of
2 any places of detention or confinement to permit the inspection of said premises;
- 3 d. Order the custodian of persons deprived of their liberty to be transferred and in
4 danger of reprisal or retaliation of the latter's transfer due to the filing of a
5 complaint in connection with his/her detention of the alleged victim and to take
6 immediate measures to secure the safety of said person;
- 7 e. Orders restraining/prohibiting the respondent, his unit or command from
8 entering the immediate vicinity of the affected area or residence and from
9 searching the victim or his belongings unless in the exercise of a valid search; and
- 10 f. General writs of injunction ordering respondent to refrain from committing any
11 and all acts that would tend to cause irreparable harm or have the immediate effect
12 of rendering the investigation of the Commission moot and academic.

13 **SEC. 17. Referral to Disciplining Authority.** - The Commission shall direct
14 the disciplining authority to take appropriate action against a public officer or employee
15 found guilty of committing violations of human rights and recommend his removal,
16 suspension, demotion, censure, imposition of fine, or prosecution.

17 In cases where the Commission's recommendations are not adopted by the
18 disciplining authority, a written information stating the reasons therefor must be
19 submitted to the Commission. The failure to report will warrant administrative charges
20 under Civil Service rules.

21 **SEC. 18. National Preventive Mechanism (NPM).** - In line with its
22 Constitutional mandate to exercise visitorial powers over jails, prisons, or detention
23 facilities and to monitor the Government's compliance with international treaty

1 obligations on human rights, the Commission shall perform the duties of the National
2 Preventive Mechanism for the Prevention of Torture.

3 The Commission shall create a National Preventive Committee to fully implement its
4 functions as NPM. The members of this Committee shall have a term of two (2) years and
5 shall perform functions as maybe defined by the Commission.

6 **SEC. 19. Powers of the National Preventive Mechanism.** - The National
7 Preventive Mechanism (“NPM”) shall have the following powers:

- 8 a. Full access to all information concerning the number of persons deprived of their
9 liberty in places of detention, as well as the number of places and location;
- 10 b. Full access to all information referring to the treatment of those persons as well as
11 their conditions of detention;
- 12 c. Full access to all places of detention and their installation and facilities;
- 13 d. Conduct private interviews with persons deprived of liberty without witnesses,
14 either personally or with a translator if deemed necessary, as well as with any other
15 person who in the discretion of the Board possesses relevant information;
- 16 e. Liberty to choose the places to visit and persons to interview; and when these
17 should take place;
- 18 f. Freedom for its members to be accompanied, if needed, by an expert with relevant
19 expertise, experience, and knowledge as the Chairperson may determine, on visits
20 to places of detention; and
- 21 g. Determine its own rules and procedures, including its programs of visits.

22 **SEC. 20. Functions of the National Preventive Mechanism.** - The
23 National Preventive Mechanism (“NPM”) shall have the following functions:

- 1 a. Visit places of detention on a regular basis to examine treatment of persons
2 deprived of liberty with a view to ensuring their protection against torture and
3 inhuman or degrading treatment of punishment;
- 4 b. To refer for investigation any complaint made by a detainee with his/her consent
5 to the Commission on Human Rights proper or the appropriate investigative
6 agency of government;
- 7 c. Make recommendations to the President regarding the improvement of the
8 treatment and conditions of persons deprived of their liberty in places of detention;
- 9 d. Submit to the President and other relevant authorities proposals and observations
10 concerning legislation relating to places of detention and the treatment of persons
11 deprived of their liberty;
- 12 e. Work, where appropriate, in cooperation or consultation with any person or body,
13 whether public or private, in connection with the discharge of any of its functions
14 under this Act and the Optional Protocol;
- 15 f. Maintain direct contact with the Sub Committee on Prevention to strengthen the
16 capacity and mandate of the National Preventive Mechanism for the prevention of
17 torture and other cruel, inhuman, or degrading treatment or punishment and the
18 protection of persons deprived of liberty;
- 19 g. Coordinate and strengthen cooperation with concerned government authorities on
20 their roles and commitment for the effective and full implementation of the NPM
21 through constructive dialogues and meaningful interaction with relevant
22 stakeholders;
- 23 h. Publicize information covered by its visitation of the matters mentioned in
24 paragraphs (a), (b), (c) and (d) hereof, when circumstances so warrant, and with

1 due prudence: provided, that the NPM under its rules and regulations may
2 determine what information is confidential and may not be made public: *Provided,*
3 *further,* that any publicity issued by the said Board shall be balanced, fair, and true.

4 However, the NPM shall not publish personal data relating to any person without
5 the latter's express consent; and

- 6 i. Publish and disseminate an independent annual report including an annual budget
7 and expenditures report.

8 **SEC. 21. Confidentiality.** - Information collected by the National Preventive
9 Mechanism shall be confidential. No personal data shall be published without the express
10 consent of the individual concerned.

11 **SEC. 22. Immunity.** - No authority or official shall order, apply, permit, or
12 tolerate any sanction against any person or organization for having communicated to the
13 National Preventive Mechanism any information, and no such person or organization
14 shall be otherwise prejudiced in any way.

15 **SEC. 23. Protection from Criminal Liability.-**

16 a. No criminal, disciplinary, or administrative sanction shall be taken against any
17 person for having communicated, in good faith, any information to the NPM or
18 the Subcommittee.

19 b. Anything done, or purported to be done, in good faith, and in pursuance of the
20 functions and powers conferred under this Act or in respect of any publication
21 by or under the authority of the Board of any report, proceedings or any other
22 matter under this Act shall not be a ground for action, suit or other legal
23 proceedings against the Board or a member or officer of the Board

1 c. Private Legal Assistance. – The Board Members, Officers and Staff of the NPM
2 are hereby authorized to engage the service of private lawyers or extend counsel
3 immediately upon receipt of court notice that a civil or criminal action, suit or
4 proceeding is filed against them. The lawyer's fee shall be part of the
5 indemnification package for the NPM Board Members, Officers and Staff,
6 subject to the provisions of Section 38 hereof.

7 **SEC. 24. Indemnification of NPM Board Members, Officer, and Staff.**

8 – There shall be an indemnification package for the Board Members, Officers, and Staff,
9 which may be in the form of free legal assistance, liability insurance, and other forms of
10 protection and indemnification for all cost and expenses reasonably incurred by such
11 persons in connection with any civil or criminal action, suit, or proceeding to which they
12 may be, or have been made a party by reason of the performance of their functions or
13 duties, unless they are finally adjudged in such action or proceeding to be liable for gross
14 negligence or misconduct of grave abuse of discretion.

15 **SEC. 25. Imprescriptibility of Human Rights Violations** - The
16 investigation of human rights violations shall not be subject to any statute of limitations
17 or prescriptive period.

18 **SEC. 26. Motu Proprio Dismissal.** - The Commission may dismiss, *motu*
19 *proprio*, a complaint for the investigation of human rights violations on any of the
20 following grounds:

- 21 a. The complaint is outside of the jurisdiction of the Commission;
22 b. The complaint is trivial, frivolous, vexatious or made in bad faith; or
23 c. Other lawful grounds as may be determined by the Commission.

24 The dismissal of complaint is appealable to the Court of Appeals.

1 The Commission shall also undertake a Human Rights Education, Advocacy, and
2 Information Campaign Programs among sectors of civil society, particularly the
3 vulnerable, marginalized, and underprivileged groups. In conducting this Program, the
4 Commission shall actively cooperate and coordinate with human rights non-government
5 organizations, lawyers' groups, the academe, and people's organizations of the
6 concerned sectors of civil society.

7 It shall also undertake Human Rights Education, Advocacy, and Information
8 Campaign Programs among sectors of civil society, particularly the vulnerable,
9 marginalized and underprivileged groups. In conducting this Program, the Commission
10 shall actively cooperate and coordinate with human rights non-government organizations,
11 lawyers' groups, the academe and people's organizations of the concerned sectors of civil
12 society.

13 The Commission shall establish a Human Rights Institute as its research and
14 training arm for human rights education.

15 **SEC. 30. Coverage of Program.** - The Commission shall prescribe the scope
16 and coverage of education, advocacy, information, and training programs on human
17 rights.

18 **SEC. 31. Research.** - The Commission shall undertake a continuing research and
19 study on various human rights issues for purposes of education, recommending policy
20 reforms, as well as administrative and legislative measures of government.

21 **SEC. 32. Human Rights Information and Communication.** - The
22 Commission shall develop its information and communication program for the effective
23 dissemination and advocacy of human rights and international humanitarian law, as well
24 as other related human rights laws.

1 **D. MONITORING AND POLICY DEVELOPMENT**

2 **SEC. 33. *Monitoring Functions.*** - In the exercise of its mandate to monitor
3 the Government's compliance with its international human rights obligations, the
4 Commission shall:

- 5 a. Monitor and advice government on its responsibilities and obligations under
6 international human rights treaties to which the Philippines is a signatory;
- 7 b. Recommend ratification of, or accession to, international human rights
8 instruments, and to ensure their implementation;
- 9 c. Conduct inquiries on the manner of implementation by the Government of specific
10 human rights obligations;
- 11 d. Request the full cooperation of any public official on the measures undertaken by
12 his or her agency to comply with the State's international human rights obligations;
13 and
- 14 e. Enable stakeholders to participate in monitoring human rights treaty compliance
15 by the Government through consultative processes and similar forums.

16 **SEC. 34. *Monitoring for Legislative and Policy Development.*** - The
17 Commission shall recommend to Congress effective measures to promote human rights.
18 It shall advise the concerned executive, legislative, and judicial agencies to ensure
19 conformity of national legislation, policy issuances, and local ordinances with
20 international human rights instruments.

21 **SEC. 35. *Compliance Reports to United Nations Treaty Monitoring***
22 ***Bodies and Special Procedures.*** - In the exercise of its human rights treaty
23 monitoring function, the Commission shall conduct the following functions, to wit:

- 1 a. Advise Government to submit State Reports in compliance with the reportorial
2 obligations under international human rights treaties and to furnish the
3 Commission copies thereof upon submission to the United Nations and other
4 international bodies;
- 5 b. Provide, where necessary, to the reports which states are required to submit to
6 United Nations bodies and committees, and to regional institutions, pursuant to
7 treaty obligations;
- 8 c. As a national human rights institution , the Commission shall have the power to
9 prepare its own independent reports to the United Nations, or other treaty bodies
10 and special procedures mechanisms in relation to its monitoring of government's
11 compliance with its international human rights obligations;
- 12 d. Monitor and follow-up compliance of the recommendations made by the United
13 Nations' treaty monitoring bodies and other special procedures mechanisms;
- 14 e. Make the appropriate recommendations to the concerned executive agency with
15 regard to requests for official visits of United Nations Special Rapporteurs and
16 other treaty and charter based mechanisms; and
- 17 f. Such other activities as may be necessary in the conduct of its monitoring and
18 reporting function as a National Human Rights Institution.

19 **SEC. 36. Cooperation with the United Nations and other Human Rights**

20 **System.** – To strengthen the power of the Commission in the promotion and protection
21 of human rights, it shall cooperate with the United Nations and any other organization in
22 the United Nations System including special procedures and charter based mechanism
23 on matters pertaining to monitoring compliance on international treaties on human
24 rights.

1 The Commission shall likewise undertake collaborative efforts with international
2 and regional human rights networks and national human rights institutions of other
3 countries in relation to promotion and protection of human rights.

4 **Section 37. *Other Monitoring Functions.*** - The Commission shall monitor
5 observance by non-state actors of human rights obligations arising from international and
6 domestic laws or agreements entered into with the government, as well as unilateral
7 declarations and similar undertakings.

8 **Section 38. *Annual Report.*** - The Commission shall prepare and make public
9 an annual report on the findings of its monitoring activities with regard to the state of the
10 Government's compliance with its international human rights treaty obligations. The
11 report shall include, but not limited, to the following:

- 12 a. Identification of systematic patterns of human rights violations using documented
13 cases, statistics and data indicating the nature of complaints received, the
14 investigations conducted and findings made;
- 15 b. Analysis of the factors which contribute to the commission of human rights
16 violations;
- 17 c. Assessment of the legal mechanisms of existing institutions in providing adequate
18 human rights protection;
- 19 d. Recommendations for legal, legislative, and institutional reforms for the greater
20 promotion and protection of human rights; and
- 21 e. Adoption and implementation by the concerned government agency of the
22 recommendations on the protection and promotion of human rights contained in
23 the Commission's policy issuances.

1 **E. OTHER POWERS AND FUNCTIONS**

2 **SEC. 39. *Financial Assistance Program.*** - The Commission shall strengthen
3 its financial assistance program to victims of human rights violations and their families.

4 The initial funding for the Financial Assistance Program shall be allocated for such
5 purposes and shall be included thereafter in the annual regular appropriations for the
6 Commission, and the same shall be automatically and regularly released.

7 The funds necessary for the initial implementation of the Financial Assistance
8 Program shall be taken from the current year's appropriation of the Commission.
9 Thereafter, the funding requirement shall be included in the annual General
10 Appropriations Act.

11 **SEC. 40. *Legal Assistance Program.*** - The Commission shall promote a legal
12 assistance program to benefit victims of human rights violations in coordination with
13 human rights organizations and lawyers' groups, the Integrated Bar of the Philippines,
14 and Philippine law schools.

15 Upon its discretion, the Commission may also provide allowances and incentives
16 to private lawyers or lawyers' groups who would render their professional services on
17 behalf of the Commission in any court proceeding involving the litigation of human rights
18 cases, subject to auditing rules and regulations.

19 **SEC. 41. *Protection of Filipinos Abroad.*** - The Commission shall undertake
20 measures for the protection and promotion of human rights of Filipinos living abroad. It
21 may assign organic personnel as Human Rights Attachés in Philippine Embassy or
22 Consulates, or deputize Philippine Embassy or Consulate officers, resident private
23 individuals of known probity and active involvement in human rights, or foreign- based
24 human rights and migrant workers' non-government organizations in countries where

1 the incidence of human rights violations of Filipinos is widespread and commonplace,
2 including traditional host countries of Overseas Filipino Workers.

3 The assigned personnel acting as Human Rights Attache or deputized individuals
4 of the Commission shall monitor the status of human rights of Filipinos living abroad and
5 establish networks among Filipinos for purposes of monitoring and reporting cases of
6 human rights violations, as well as for providing counseling and financial assistance to
7 victims. They shall immediately notify the concerned Embassy officials of incidents of
8 human rights violations of Filipinos and provide immediate assistance to victims.

9 The Commission may establish bilateral relationship with other national human
10 rights institutions for the protection of human rights of Filipinos.

11 **SEC. 42. Issuance of Certifications.** - The Commission shall issue
12 certifications to members of the military, police, and other law enforcement agencies
13 prior to, and as requirement for their promotion or assumption of office.

14 The Commission shall make its own recommendations to the Commission on
15 Appointments prior to the confirmation of other officials other than those mentioned in
16 the preceding paragraph, who are being considered for promotion or appointment. This
17 provision shall also apply to other government officers with salary grade 27 or its
18 equivalent and higher.

19 It shall also issue certifications for purposes of training, local or foreign study
20 grants and education, or for other purposes as may be determined by the Commission,
21 upon proper request made by the applicant.

22 **SEC. 43. Children Ombud.** - The Commission shall act as Children Ombud to
23 promote and safeguard the rights and welfare of children and young people up to eighteen

1 (18) years of age and to investigate complaints made by children and young people or by
2 adults, on their behalf.

3 **SEC. 44. Gender and Development Ombud.** - The Commission shall act
4 as the Gender and Development Ombud to ensure the promotion and protection of
5 women's human rights and exercise its powers and functions under the *Magna Carta of*
6 *Women Act of 2009.*

7 **TITLE III. ORGANIZATIONAL STRUCTURE**

8 **SEC. 45. The Commission as a Collegial Body.** - The Commission,
9 composed of the Chairperson and four (4) Members, as a collegial body, is responsible for
10 the promulgation of policies, decisions, orders, and resolutions necessary for the efficient
11 administration of the Commission and for proper execution of its constitutional mandate.

12 In the exercise of its powers and functions, the Commission shall sit and render its
13 decision *en banc*. Every such decision, order, or resolution of the Commission must bear
14 the concurrence and signature of at least three (3) Members thereof.

15 The Commission shall meet regularly. A majority of the members, at least three (3)
16 constitutes a quorum needed in any *en banc* meeting of the Commission.

17 **SEC. 46. The Chairperson as Executive Officer; Powers and Duties.** -

18 The Chairperson shall be the Chief Executive Officer of the Commission, and shall:

- 19 a. Execute and carry out the policies, decisions, orders, and resolutions approved
20 by the Commission;
- 21 b. Direct and supervise the operations and internal administration of the
22 Commission;
- 23 c. Sign appointments of subordinate officials and employees made by the
24 Commission and enforce decisions on administrative discipline involving them;

- 1 **d.** Make temporary assignments, rotate, and transfer personnel in accordance
2 with the provisions of the Civil Service Law and the policies involving them;
- 3 **e.** Submit an annual budget to the Commission for its approval and submission
4 to the Department of Budget and Management and to the Congress of the
5 Philippines;
- 6 **f.** Delegate his/her authority, in whole or in part, to other officials of the
7 Commission in accordance with *Executive Order No. 292*, otherwise known as
8 the *Administrative Code of 1987*, and the rules and regulations of the
9 Commission; and
- 10 **g.** Perform such other functions as may be authorized by the Commission.

11 **SEC. 47. Structural Organization.** – The Commission shall have the
12 following offices and operating units:

- 13 a. Office of the Chairperson;
- 14 b. Office of the Commissioners;
- 15 c. Office of the Executive Director, Finance Administration and Management
- 16 d. Office of the Commission Secretary;
- 17 e. Office for Planning and Development, Special Projects, and Audit
- 18 f. Human Rights Protection Office;
- 19 g. Human Rights Education, Research, Training and Promotion Office;
- 20 h. Office of the Director for Regional Operations, Thematic and Sectoral Concerns

21 As an independent constitutional office, the Commission may effect changes in the
22 organization as the need arises, provided that such reorganization shall be funded within
23 the personal services appropriation of the Commission.

1 All officers and employees of the Commission, unless otherwise provided herein,
2 shall receive emoluments and privileges, which shall not be less than those given to
3 comparable positions in any office in the government.

4 **SEC. 48. Office of the Executive Director, Finance Administration and**
5 **Management.** – The Executive Director whose term of office shall henceforth be similar
6 to the Chairperson and Commissioners, shall also be the Director for Finance
7 Administration and Management. He or she shall oversee the day-to-day activities of
8 offices handling administrative, finance, and support to operations in keeping with the
9 directions of the Commission.

10 Whenever the Commission members are unavailable, the Executive Director shall
11 be the official spokesperson of CHR, representative in signing of cooperation agreements,
12 projects, and presenter in both national, international forums.

13 **SEC. 49. Office of the Commission Secretary.** – The Director shall also head
14 the Commission Secretariat to provide executive services to the Commission on its regular,
15 special and executive meetings, assist on policy review and coordination, undertake
16 review and appraisal of the programs and other project undertakings of the Commission,
17 including technical support on the formulation of guidelines, directives, mandates and
18 executive summaries and reports. He/she shall review processes and systems as they
19 affect the efficient operations of the Commission and submits to the *en banc* proposals to
20 improve processes, systems, and operations.

21 **SEC. 51. Office for Planning and Development, Special Projects,**
22 **Audit**– The Planning, Development, Special Project and Audit shall be under the direct
23 supervision of the Chairperson, and shall coordinate with offices and specialized centers
24 in developing programs, strategic plans to detailed proposals for submission to partner

1 organizations; ensures compliance of agency to donor requirements and other
2 documentation; maintain linkages with international donors for foreign assisted
3 programs and projects. It shall also coordinate with offices to identify baseline standards,
4 performance indicators, and targets to achieve the organizational goal of the CHR.

5 Audit shall include the process of determining cost effectiveness, value for money,
6 and benefits of major investments and expenditures of the Commission and enhance
7 individual and unit accountabilities of established systems and procedures. It shall
8 evaluate the efficiency of operations and determine whether policies are being followed
9 consistently in all offices of the Commission and correct deficiencies in established
10 internal control systems and procedures.

11 **SEC. 53. Duties and Functions of the Offices of the Commission.** - The
12 different offices of the Commission provided in Section 47 of this Act shall operate in
13 accordance with their respective duties and functions assigned them by the Commission
14 subject to requirements of efficiency, economy, and effectiveness, and pertinent budget
15 and civil service laws, rules and regulations.

16 **SEC. 54. Office of the Director for Regional Operations, Thematic and**
17 **Sectoral Concerns** - The Director for Regional Operations shall be responsible for
18 managing the day-to-day affairs, activities and operations of the Commission in Regional
19 and Provincial Offices, in accordance with its policies, standards, rules and regulations
20 adopted and promulgated by the Commission. It shall also manage the operations of
21 existing specialized centers of CHR with legal mandate which includes the Women's
22 Human Rights Center under the *Magna Carta of Women Act of 2009*, and Child Rights
23 Center under the *Juvenile Justice and Welfare Act of 2006*.

24 The Commission shall have the following field offices.

1 (a) Regional Offices:

2 The Commission shall have eighteen (18) Regional Human Rights Offices. These
3 will include the twelve (12) geographically grouped regional offices; the four (4)
4 special administrative regions created by law, namely, the National Capital Region
5 (NCR), the Cordillera Administrative Region (CAR), the Caraga Administrative
6 Region (CARAGA), and the Autonomous Region for Muslim Mindanao (ARMM).
7 For purposes of an efficient and effective administration and operation, Region IV
8 shall be divided into Region IV-A and Region IV-B. The former shall cover the
9 provinces of Cavite, Laguna, Batangas, Rizal, and Quezon, while the latter shall
10 cover the provinces of Oriental Mindoro, Occidental Mindoro, Marinduque,
11 Romblon, and Palawan.

12 Each Regional Office shall be headed by a Regional Human Rights Director IV,
13 who must be a member of the Philippine Bar, assisted by an Assistant Regional
14 Human Rights Director, and such other subordinate officers or employees as the
15 Commission may appoint. They should be persons having general understanding
16 of the human rights situation over the locality and are of known probity and
17 independence.

18 (b) Provincial Offices:

19 Each Provincial/District Human Rights Office shall be headed by a
20 Provincial/District Human Rights Officer, and such other subordinate officers or
21 employees as the Commission may appoint. The Provincial/District Human Rights
22 Officers shall carry the rank and receive salaries or benefits equivalent to a Director
23 III. They should be persons having general understanding of the human rights
24 situation over the locality and are of known probity and independence.

1 The Commission shall have an office in every province corresponding to each
2 Regional Office, except the National Capital Region. The latter shall instead be
3 subdivided into four (4) separate districts; the Northern District, Eastern District,
4 Western District, and the Southern District, and each shall be considered a
5 separate District Human Rights Office.

6 These Provincial/District Human Rights Offices shall provide identified services
7 for the protection and promotion of human rights within their specific areas of
8 jurisdiction. They shall be under the direct supervision of the Regional Human
9 Rights Office having territorial jurisdiction over them.

10 **SEC. 56. Human Rights Protection Office.** – The Human Rights Protection
11 Office shall provide legal, investigation, visitorial, and victims support services.

12 **SEC. 57. Human Rights Education, Research, Training and Promotion**
13 **Office.** – The Human Rights Education Office shall provide education, training, advocacy,
14 and campaign services. It shall also conduct research on human rights situations and
15 provide research and documentation including management of library and publications.
16 Within three years from the entry into force of this law, it shall assist the Commission in
17 establishing the Institute of Human Rights which shall be the principal training unit of
18 CHR.

19 **SEC. 59. Operational Guidelines.** - The Commission shall also formulate its
20 operational guidelines which shall include, but not be limited to, the functions and duties
21 of the Director for Finance Administration and Management, the Director for Operations
22 and Commission Secretary, Director for Regional Operations, and the heads of the line
23 offices, the implementation and management of its Temporary Witness Protection

1 Service, Financial Assistance and Legal Aid Programs, and such other matters as may be
2 necessary for the implementation of this Act

3 **SEC. 60. *Franking Privilege.*** - All official mail matters and telegrams of the
4 Commission addressed for delivery within the Philippines shall be received, transmitted
5 and delivered free of charge; *Provided*, That such mail matters when addressed to private
6 persons or non-government offices shall not exceed One Thousand and Twenty (1,020)
7 grams. All mail matters and telegrams sent through government telegraph facilities
8 containing complaints to the Commission shall be transmitted free of charge; *Provided*,
9 That the telegram shall contain not more than One Hundred and Fifty (150) words.

10 **SEC. 61. *Financial Report.*** - The Commission shall make available to the
11 public its annual financial statements, including but not limited to, expenditures and
12 sources of funds.

13 **SEC. 62. *Appropriations.*** - In addition to the regular appropriations of the
14 Commission, the sum of Five Hundred Million Pesos (P500,000,000.00) for the initial
15 implementation of this Act shall be included in the Annual General Appropriations Act,
16 in the year following its enactment into law. Thereafter, such sums, as maybe necessary
17 for the full implementation of this Act, shall be included in the annual General
18 Appropriations Act.

19 **SEC. 63. *NPM Appropriations.*** - The NPM shall have an initial operating
20 budget of Ten Million Pesos (Php 10,000,000.00) from the General Appropriations Act.
21 This budget shall not be utilized for any other purpose apart from NPM work as
22 determined by the NPM Board.

1 The amount of Ten Million Pesos (Php 10,000,000.00) for the initial operation of
2 the NPM shall be sourced from the Contingent Fund of the Office of the President.
3 Subsequent funding requirements shall be included in the annual GAA.

4 **SEC. 64. *Transitory Provisions.*** - Nothing in this Act shall prejudice the
5 positions, emoluments, security of tenure, qualifications, privileges, and benefits of the
6 incumbent Chairperson and Commissioners, officers and employees of the Commission
7 upon its effectivity. However, officials and employees of the Commission, in aid of its
8 reorganization upon the effectivity of this Act, may avail of an early retirement program
9 as may be provided for by the Commission.

10 To prevent interruption or disruption in the operations of the Commission, the
11 Chairperson and members of the Commission shall continue in office in a hold-over
12 capacity unless their successors shall have been duly appointed, provided that, while
13 acting in a hold-over capacity, they shall not make appointments, including promotions,
14 transfers and/or assignments of personnel.

15 **SEC. 65. *Implementing Rules and Regulation.*** - The Commission shall,
16 within sixty (60) days from the approval of this Act, formulate the implementing rules
17 and regulations in the exercise of its general, investigative, monitoring, education, and
18 advocacy powers and functions in consultation with other concerned agencies of
19 government.

20 **SEC. 66. *Separability Clause.*** - Should any provision of this Act or part hereof
21 be declared unconstitutional, the other provisions or parts not affected thereby shall
22 remain valid and effective.

1 **SEC. 67. *Repealing Clause.*** - All laws, decrees, orders, and issuances, or
2 portions thereof, which are inconsistent with the provisions of this Act, are hereby
3 repealed, amended or modified accordingly.

4 **SEC. 68. *Effectivity Clause.*** - This Act shall take effect after fifteen (15) days
5 from its complete publication in two (2) newspapers of general circulation.

Approved,