

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH (17th) CONGRESS
First Regular Session

HOUSE BILL NO. 153

HOUSE OF REPRESENTATIVES

RECEIVED

DATE: 30 JUN 2016

TIME: 1:00 PM

BY: [Signature]

REGISTRATION UNIT
BILLS AND INDEX SERVICE

Introduced by Representative Jose Christopher Y. Belmonte

EXPLANATORY NOTE

Approved by the Committee on Human Rights during the 16th Congress, this bill is a consolidation of several measures of the same nature, including HB 5193 by former Akbayan Rep. Ibarra "Barry" Gutierrez, Walden Bello and this representation and HB 2401 by Former 2nd District – Cagayan de Oro Rep. Rufus B. Rodriguez, Rep. Maximo B. Rodriguez. This measure aims for the localization of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), through the establishment of the National Committee for the Prevention of Torture (NCPT).

On 10 November 2009, Republic Act No. 9745, or "An Act Penalizing Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and Prescribing Penalties Therefor," was signed into law. This "Anti-Torture Act of 2009" ensures that "the human rights of all persons, including suspects, detainees and prisoners are respected at all times." It defines all acts of torture and other cruel, inhuman and degrading treatment or punishment, and penalizes those who engage in such acts.

However, many describe the enactment and implementation of RA 9745 as the reactive, confrontational and litigation-driven side of addressing torture. There is another method that many see as the more effective and forward looking way since it addresses violations before they occur. This method is preventive monitoring. It works through the establishment of a system of regular visits undertaken by independent experts in fields relevant to the treatment of persons deprived of their liberty to places of detention in order to identify policy, procedural, and practice risks that give rise to torture and ill-treatment. Preventive monitoring visits will be more effective if lodged on the principles of mutual trust building, confidentiality, collaboration and dialogue between detention authorities, persons deprived of their liberty, the expert visiting body and other relevant authorities.

Preventive monitoring visit is a non-adversarial approach which effectively opens up to public scrutiny by independent experts the otherwise obscure places of deprivation of liberty, where persons' well-being depend solely on their jailers. The regular unannounced visit, by itself, establishes a preventive effect, conditioning custodial authorities to work within the bounds of legal procedures. Moreover, the torture risk identification visits and subsequent observations and recommendations of the expert visiting body will result in implementation measures that bring about policy, procedural and practice reforms in the

treatment of persons deprived of their liberty, institutionalizing safeguards for their humane treatment. Detention monitoring work will not only benefit persons deprived of their liberty, but also improve the working environment, conditions and other benefits for custodial authorities. The realization of better and humane places of deprivation of liberty will also benefit social order and government spending in general.

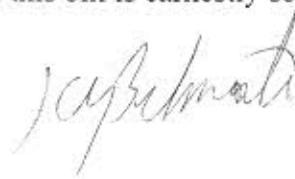
In December 2002, the UN General Assembly approved the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). The OPCAT sets up the global preventive system by establishing the sub-committee on prevention at the international level and National Preventive Mechanisms (NPMs) at the domestic level. NPMs are considered to be the main engines of this system, being the bodies tasked to do most of the visits.

The OPCAT is the first international human rights treaty that focuses on operations rather than review of state obligations, as in the case with other treaty bodies. While other treaties set standards and obligations for states parties, the OPCAT does not prescribe them but operationalizes paths towards their fulfillment through the system of visits, dialogues and prescription of implementation measures toward policy, procedural and practice reform. The OPCAT went into force on 22 June 2006 with 20 states having had adhered to the treaty.

On 17 April 2012, the Philippines ratified the OPCAT, becoming the 63rd State Party to the instrument. Under Article 17 of the treaty, the Philippines was required to establish, designate or maintain an existing institution as its NPM within a year and a month upon ratification – meaning the country should have established its NPM by 17 May 2013. This obligation is long overdue.

This House Bill aims to fulfill this obligation by establishing the National Committee for the Prevention of Torture (NCPT) – the country's NPM against torture and other cruel, inhuman and degrading treatment or punishment.

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

A handwritten signature in dark ink, appearing to read 'J. Belmonte', is written over the text 'In view of the foregoing, the swift passage of this bill is earnestly sought.'



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Introduced by Representative Jose Christopher Y. Belmonte

AN ACT

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

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

SECTION 1. Short Title.—This Act shall be known as the “*National Committee for Prevention of Torture (NCPT) and OPCAT Implementation Act.*”

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

- a. Recognize the inherent dignity of every human person;
- b. Guarantee full respect for fundamental human rights giving highest priority to the enactment of measures that protect and fulfill the right to life, the right to liberty and security of all persons, and the right to be free from torture and other cruel, inhuman and degrading treatment or punishment;
- c. Adhere to the principles and standards on the protection and promotion of human rights, especially of persons deprived of liberty under the 1987 Philippine Constitution, Republic Act No. 7438 (R.A. 7438 or the Code of Custodial Investigation), Republic Act No. 9745 (R.A. 9745 or the Anti-Torture Law), and other related laws;
- d. Adopt the principles under the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) and implement the obligations under the Optional Protocol to the Convention Against

1 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
2 (OPCAT), which commit the Philippine Government to:
3

- 4 1) Establish a system of regular, unannounced, and unrestricted visits in the
5 Philippines undertaken by an independent national body of experts to
6 places where persons are deprived of their liberty, in order to prevent
7 torture and other cruel, inhuman or degrading treatment or punishment;
8
- 9 2) Recognize and promote the importance of preventive visits and being
10 different in purpose and methodology from other types of visits to places
11 of deprivation of liberty;
12
- 13 3) Allow visits, in accordance with the OPCAT, by the Subcommittee on
14 Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment
15 or Punishment (SPT) to any place under its jurisdiction and control where
16 persons are or may be deprived of their liberty, either by virtue of an order
17 given by a public authority or at its instigation or with consent or
18 acquiescence, with the view of strengthening the protection of persons
19 against torture and other cruel, inhuman or degrading treatment or
20 punishment;
21
- 22 4) Provide all relevant information that the SPT may request to evaluate the
23 needs and measures that should be adopted in order to strengthen the
24 protection of persons deprived of their liberty against torture and other
25 cruel, inhuman or degrading treatment or punishment;
26
- 27 5) Examine the recommendations of the SPT and enter into dialogue with it
28 on possible implementation measures;
29
- 30 6) Grant the SPT the following guarantees:
31
 - 32 i) Unrestricted access to all information concerning the number of
33 persons deprived of their liberty in places of deprivation of liberty as
34 well as the number of places and their location;
35
 - 36 ii) Unrestricted access to all information referring to the treatment of
37 those persons as well as their conditions of deprivation of liberty;
38
 - 39 iii) Unrestricted access to all places of deprivation of liberty and their
40 installation and facilities;
41
 - 42 iv) The opportunity to have private interviews with the persons deprived
43 of their liberty without witnesses, either personally or with a translator
44 if deemed necessary, as well as with any other person who the
45 Subcommittee on Prevention believes may supply relevant
46 information;
47
 - 48 v) The liberty to choose the places it wants to visit and the persons it
49 wants to interview;
50

- 7) Establish the National Committee for the Prevention of Torture (NCPT) mandated to prevent torture and ill-treatment and reduce the risks that give rise to the practice by conducting regular preventive monitoring visits to places of deprivation of liberty and examine the treatment and conditions of persons deprived of their liberty including policies, procedures and practices of custodial agencies as well as national laws that affect their well-being and rights;
 - 8) Recognize NCPT's power and authority to make recommendations to relevant authorities and monitor the implementation of such recommendations with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment and improving the treatment and conditions of persons deprived of their liberty;
 - 9) Examine the recommendations of the NCPT and enter into a dialogue with it on possible implementation measures;
 - 10) Encourage and facilitate contacts between the SPT and the NCPT;
 - 11) Take effective steps to implement measures based on the observations and recommendations of the NCPT and the SPT;
 - 12) Recognize the importance of other visiting groups regularly visiting places of deprivation of liberty such as local and international non-government organizations and government mechanisms working for the well-being of persons deprived of their liberty.
- e. Work with the NCPT and the SPT in the implementation of measures based on the observations and recommendations of the preventive monitoring expert bodies in order to reduce the risks that give rise to torture and ill-treatment;
 - f. Recognize the value of and support the public information, education and communication work of the NCPT and the SPT, and support the publication and dissemination of the materials produced by the preventive monitoring bodies;
 - g. Recognize the authority of the SPT to conduct in-country preventive monitoring visits and their observations and recommendations with due consideration to the same powers and functions it shares with the NCPT; and
 - h. Provide the necessary resources to ensure the functional independence of the NCPT.

SEC. 3. *Definition of Terms.* –

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

- 1 b. *Other cruel, inhuman or degrading treatment or punishment* refers to the
2 deliberate or aggravated treatment or punishment inflicted by a person in
3 authority or agent of a person in authority against a person under his/her custody,
4 which attains a level of severity causing suffering, gross humiliation or
5 debasement to the latter;
6
7 c. *Persons deprived of liberty* refers to any person placed in any form of detention or
8 imprisonment, or placed in a public or private custodial setting which that person
9 is not permitted to leave at will by order of any judicial, administrative or other
10 authority;
11
12 d. *Places of deprivation of liberty* refers to any place of detention, confinement,
13 imprisonment, commitment, or placement of person in a public or private
14 custodial setting under the Philippine's jurisdiction and control where persons are
15 or may be deprived of their liberty, either by virtue of an order given by a public
16 authority or at its instigation or with its consent or acquiescence. Places of
17 deprivation of liberty also include but shall not be limited to those unofficial
18 places of detention where persons are suspected of being illegally detained or not
19 permitted to leave the place at will by order of any judicial, administrative or
20 other authority and any place which the NCPT judiciously believes that persons
21 may be deprived of their liberty;
22

23 Places of deprivation of liberty encompasses traditional and non-traditional places
24 of detention, whether temporary or permanent, formally or informally used as a
25 detention facility maintained and/or managed by public or private authorities
26 and/or under regulation by government. Places of detention or confinement shall
27 refer to any physical space, area, or structure whether moving or stationary,
28 permanent or temporary, where deprivation of liberty is carried out or which
29 establishment, operation, and maintenance of the same is punishable under
30 Section 14 (i) of R.A. 9745.
31

32 Places of deprivation of liberty shall include but shall not be limited to the
33 following examples: police stations, barangay holding centers, pre-trial centers /
34 remand prisons, prisons for sentenced persons, juvenile detention centers, border
35 police facilities and transit zones at land crossings, international ports and
36 airports, immigrant and asylum-seeker detention centers, psychiatric institutions,
37 care homes for older people, security or intelligence services facilities, military
38 forts and camps, and other facilities under military jurisdiction, places of
39 administrative detention, means of transport for the transfer of prisoners (e.g.,
40 police vans), hospitals, home-based or medical/health-related detention facilities,
41 drug rehabilitation centers and other similar and/or makeshift places of
42 confinement where persons are not permitted to leave at will;
43

- 44 e. *Sub-Committee on the Prevention of Torture (SPT)* refers to the Sub-committee
45 on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or
46 Punishment of the Committee against Torture, established under the Optional
47 Protocol to the UN Convention Against Torture and other Cruel, Inhuman or
48 Degrading Treatment or Punishment (OPCAT);
49

- 1 f. *Torture* refers to an act by which severe pain or suffering, whether physical or
2 mental is intentionally inflicted on a person for such purposes as obtaining from
3 him/her or a third person information or a confession, punishing him/her for an
4 act he/she or a third person has committed or is suspected of having committed, or
5 intimidating or coercing him/her or a third person, or for any reason based on
6 discrimination of any kind, when such pain or suffering is inflicted by or at the
7 instigation of or with the consent or acquiescence of a person in authority or agent
8 of a person in authority, as defined by Republic Act No. 9745 (RA 9745),
9 otherwise known as the "Anti-Torture Act of 2009." It does not include pain or
10 suffering arising only from, inherent in or incidental to lawful sanctions;
11
12 g. *Unannounced access* refers to access to all places of deprivation of liberty, at all
13 times, without prior notice or authorization;
14
15 h. *Unrestricted access* refers to free access to places of deprivation of liberty without
16 any restrictions of any kind imposed by authorities, more specifically the
17 following:
18
19 (1) All persons deprived of liberty with the opportunity to have private
20 interviews with them without witnesses, either personally or with
21 translator if deemed necessary;
22
23 (2) All custodial personnel relevant to the treatment of persons deprived of
24 their liberty;
25
26 (3) Any other person whom the NCPT and the SPT believe may supply
27 relevant information;
28
29 (4) All information concerning the number of persons deprived of their liberty
30 in places of deprivation of liberty, as well as the number of places and
31 their location;
32
33 (5) All information referring to the treatment of those persons as well as their
34 conditions of deprivation of liberty; and,
35
36 (6) All places of deprivation of liberty and their installations and facilities.

37
38 Further, unrestricted access includes liberty to choose the places that the NCPT
39 and SPT want to visit and the persons they want to interview.
40

41 **SEC. 4. Creation.**—There is hereby created an independent body to be known as the
42 National Committee for Prevention of Torture (NCPT) for the purpose of preventing torture
43 and other cruel, inhuman or degrading treatment or punishment. The NCPT shall be an
44 office independent of government in accordance with the UN Paris Principles Relating to the
45 Status of National Human Rights Institutions. It shall be attached to the Commission on
46 Human Rights (CHR) solely for budgetary purposes. It shall function separately from the
47 CHR and discharge its mandate independent of government under this Act.
48

49 **SEC. 5. Objectives.**—The National Committee for Prevention of Torture shall have
50 the following objectives:

- a. Carry out regular, unannounced visits to places of deprivation of liberty and open up otherwise obscure places to independent public scrutiny to condition custodial authorities to consistently perform their duties within the bounds of official and legal procedures and standards so that torture and ill-treatment can be prevented;
- b. Undertake preventive monitoring visits to examine and assess policies, procedures and practices in places of deprivation of liberty and identify the risks that give rise to torture and ill-treatment with a view of strengthening the protection of persons deprived of their liberty and improving their material living conditions in accordance with the UN Standard Minimum Rules on the Treatment of Prisoners (SMRTP) and existing obligations and standards set by the UNCAT;
- c. Review national laws, policies and procedures that relate to the treatment, well-being and rights of persons deprived of their liberty and recommend for their repeal or amendment or the enactment of laws with the view of strengthening the protection against torture and cruel, inhuman or degrading treatment or punishment;
- d. Submit observations and recommendations in relation to the visit conducted and review undertaken under subsections (b) and (c), respectively of this Section, to relevant authorities so that these may be rendered into concrete implementation measures;
- e. Require relevant and competent authorities to examine its recommendations, and enter into a dialogue with the NCPT to discuss implementation measures and to fulfill agreed upon positive actions toward reforms, and whenever necessary, providing them the needed technical assistance;
- f. Consider requests for visits based on reports by civil society or any other group or individual recommending policy, procedural or practice reforms in a place of deprivation of liberty;
- g. Promote public awareness on its work as an NPM and the system of preventive monitoring visits, the right to be free from torture and cruel, inhuman or degrading treatment or punishment and the rights of persons deprived of their liberty;
- h. Train and capacitate relevant authorities charged with the treatment of persons deprived of their liberty;
- i. Carry out its work within the framework of the United Nations' Charter and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty, and shall be equally guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity; and
- j. Take effective practical steps and measures to comply with existing obligations and standards set forth by the UNCAT, SMRTP, and the OPCAT, the NCPT

1 being an operations instrument more than one that prescribes new obligations and
2 standards.

3
4 **SEC. 6. *Guarantees of the NCPT.***—The Executive, Legislative and Judicial branches
5 of government shall guarantee the NCPT the following:

- 6
7 a. Full and unrestricted access to all information concerning the number of persons
8 deprived of their liberty in places of deprivation of liberty, as well as the number
9 of places and location;
10
11 b. Full and unrestricted access to all information referring to the treatment of those
12 persons as well as their conditions of detention;
13
14 c. Full and unrestricted access to all places of deprivation of liberty and their
15 installation and facilities;
16
17 d. Liberty to conduct private interviews with persons deprived of liberty without
18 witnesses, either personally or with a translator if deemed necessary, as well as
19 with any other person who in the discretion of the Committee possesses relevant
20 information;
21
22 e. Liberty to choose the places to visit and persons to interview, and when these
23 should take place;
24
25 f. Freedom for its members to be accompanied, if needed, by an expert with relevant
26 expertise, experience and knowledge as the Chairperson may determine, on visits
27 to places of detention;
28
29 g. Freedom to determine its own rules and procedures, including its programs of
30 visits;
31
32 h. Liberty to require competent Philippine authorities concerned to examine the
33 recommendations of the NCPT and enter into a dialogue with it on possible
34 implementaion measures;
35
36 i. Liberty to require relevant government agencies to fulfill their recommendations
37 by implementing measures accordingly;
38
39 j. Freedom to promote public awareness on its work as an NPM and the system of
40 preventive monitoring visits, the right to be free from torture and cruel, inhuman
41 or degrading treatment or punishment and the rights of persons deprived of their
42 liberty; and,
43
44 k. Freedom to publish regular and annual reports and information, education and
45 communication materials and have these disseminated nationwide.

46
47 **SEC. 7. *Powers of the NCPT.***—The NCPT shall have the following powers:

- 48
49 a. Conduct regular, unannounced visits to places of deprivation of liberty to prevent
50 torture and other, cruel inhuman or degrading treatment or punishment;

- b. Examine and assess during visits the custodial policies, procedures and practices and all other aspects relevant to the treatment and material living conditions of persons deprived of their liberty, in order to identify risks that give rise to torture and cruel, inhuman or degrading treatment, and find practical ways to improve their well-being and protect their rights;
- c. Examine and review national laws, policies and procedures that relate to the treatment, well-being and rights of persons deprived of their liberty and propose the amendment, repeal or enactment of laws with the view of strengthening the protection against torture and cruel, inhuman or degrading treatment or punishment;
- d. Submit to the CHR, House of Representatives, the Senate, and the President its observations, recommendations and proposals relating to the rights and protection of persons deprived of their liberty, and provide relevant authorities with the same for the latter to undertake the necessary implementation measures;
- e. Refer for investigation to the CHR or the appropriate investigative agency of government, any complaint made by a person deprived of liberty with his/her consent or any factual incident of torture, ill-treatment or other human rights violation or abuse it discovers during its visits;
- f. Work, where appropriate, in cooperation or consultation with any person or body, whether public or private, in connection with the discharge of any of its functions under this Act and the OPCAT;
- g. Maintain direct, and if necessary, confidential contact with the SPT to strengthen the NCPT's capacity and mandate for the prevention of torture and other cruel, inhuman or degrading treatment or punishment and the protection of persons deprived of liberty;
- h. Publish information covered by its visitation of the matters mentioned in paragraphs (a), (b), (c), (d), and (e) hereof, when circumstances so warrant, and with due prudence: *Provided*, That the NCPT under its rules and regulations and having high regard for confidentiality rules and informed consent, may determine what information is confidential and may not be made public: *Provided further*, That any publicity issued by the said Board shall be balanced, fair and true. However, the NCPT shall not publish or pass on personal data relating to any person without the latter's express consent; *Provided finally*, That this section shall be in accordance with the existing laws on confidentiality;
- i. Promote public awareness through publication and dissemination of information and education materials on its work as the NCPT, the right to be free from torture and cruel, inhuman or degrading treatment or punishment, and the rights of persons deprived of their liberty; and,
- j. Submit an independent annual report to be received, published and disseminated by government, which shall include an annual budget and expenditures report.

1 **SEC. 8. Composition.**—The NCPT shall be a collegial body composed of one (1)
2 Chairperson and eight (8) board members. The Chairperson and seven (7) members of the
3 board shall be appointed by the President. One (1) of the eight (8) board members shall be a
4 Commissioner from the CHR who shall have voting privileges as the other members of the
5 board.

6
7 The Members of the Committee shall act and be guided by the principles of
8 confidentiality, impartiality, non-selectivity, universality and objectivity.

9
10 The Committee Members shall possess the following qualifications:

- 11
12 a. Shall be independent from all branches of government;
13
14 b. Shall be of high moral character, recognized probity, competence, and integrity;
15
16 c. To ensure multi-disciplinary and pluralistic representation, the composition of the
17 Board shall include members with proven professional knowledge and experience
18 in the field of human rights, law, medicine, psychology, psychiatry, forensic
19 science, prison management, employment, industrial relations, police
20 administration, education, sociology, or social work:
21
22 1) At least two (2) members must be members of the Philippine bar who have
23 been engaged in the practice of law for at least seven (7) years;
24
25 2) One (1) member must be a doctor who has engaged in the practice of
26 medicine in the fields of psychiatry, forensics or other related fields, for at
27 least seven (7) years;
28
29 3) One (1) member must have a doctorate degree in any of the fields of
30 psychology, anthropology or other related disciplines, and must have engaged
31 in the practice of her profession for at least seven (7) years;
32
33 4) At least two (2) members must come from civil society organizations engaged
34 in advocacy work for at least seven (7) years for the rights of persons deprived
35 of liberty; and,
36
37 5) At least two (2) members must possess expertise in the administration of
38 justice, criminal law, prison or police administration;
39
40 d. Must have a clear, broad, and deep understanding and commitment to human
41 rights protection, promotion, and advocacy.

42
43 Further, the composition of the Committee must observe a balanced gender
44 representation on the basis of the principles of equality and non-discrimination and adequate
45 representation of ethnic and minority groups.

46
47 The President shall give highest priority to the endorsements and recommended
48 candidates of civil society groups with long standing backgrounds and practice in the
49 advancement of the rights of and welfare of persons deprived of their liberty and prevention
50 of torture and ill-treatment.

1
2 **SEC. 9. *Term of the Committee Members.***—The Committee members shall serve for
3 a term of five (5) years. To ensure that the NCPT is a continuing body, the first batch of
4 appointments shall be on a staggered basis. The Chairperson shall be appointed for a term of
5 five (5) years. The first two (2) members to be appointed shall hold office for five (5) years,
6 the next three (3) members shall hold office for four (4) years and the last three (3) members
7 shall hold office for three (3) years. Succeeding appointments shall serve for five (5) years
8 without reappointment. In no case shall they be appointed, reappointed or designated in a
9 temporary or acting capacity.

10
11 The Committee shall organize itself within sixty (60) days from the completion of
12 the appointment process of all committee members and shall thereafter organize its
13 Secretariat.

14
15 **SEC. 10. *Salaries, Emoluments and Benefits.*** — The Chairperson and members of
16 the board shall have the rank, salary, emoluments and allowances equivalent to the
17 Associate Justice of the Court of Appeals and Judges of the Regional Trial Court,
18 respectively.

19
20 **SEC. 11. *Removal from Office.*** —The Chairperson and members of the Committee
21 may be removed from office on any of the following grounds:

- 22
23 a) Disloyalty to the Republic of the Philippines;
24 b) Culpable violation of the Constitution;
25 c) Bribery and graft and corruption, other high crimes, or betrayal of public trust;
26 d) Dishonesty, misconduct in office, gross negligence, or dereliction of duty;
27 e) Commission of any offense involving moral turpitude or an offense punishable by
28 imprisonment of more than six (6) years; and
29 f) Abuse of authority.

30
31 The proceedings for removal shall be initiated by filing a verified complaint with the
32 Office of the Ombudsman stating the grounds therefor and alleging the ultimate facts upon
33 which the complaint is based.

34
35 The Office of the Ombudsman shall act on the complaint and conduct the necessary
36 investigation and hearing. Thereafter, the Office of the Ombudsman shall dismiss the
37 complaint or declare the removal from office of the Chairperson or member of the
38 Committee within one hundred twenty (120) days from the date of filing of the complaint.

39
40 In deciding upon a complaint for removal from office, the Office of the Ombudsman
41 shall not impose any lesser penalty or disciplinary action such as suspension, censure, or
42 reprimand other than removal from office.

43
44 **SEC. 12. *Organizational Structure of the NCPT.***—The organizational structure of the
45 NCPT shall consist of the Committee and its Secretariat.

46
47 The Committee shall be assisted by a Secretariat, which shall be composed of an
48 Executive Director and at least two (2) Deputy Directors— one (1) for Operations and one (1)
49 for Administrative and Finance matters – together with their respective technical staff and

1 field units that shall be established to support and follow-up the regular visits undertaken by
2 the NCPT Members.

3
4 The Executive Director and his Deputies shall have expertise in human rights
5 specializing in fields relevant to the treatment of persons deprived of liberty.

6
7 The Committee shall appoint the Executive Director and Deputy Directors. The
8 Chairperson shall appoint all other officers and staff of the NCPT.

9
10 Whenever necessary, the Committee may hire additional contractual employees or
11 contract the services of an expert with the relevant professional experience, expertise, and
12 knowledge, to assist in the discharge of its functions under this Act. *Provided*, That the
13 maximum contract amount per year shall not exceed more than fifteen percent (15%) of the
14 total annual operating budget of the Committee.

15
16 **SEC. 13. Relationship and Cooperation with Government and Civil Society**
17 *Organizations.*—The NCPT shall apply a human-rights based approach in the performance
18 of its mandate and functions, maintain direct regular contact with and encourage open and
19 constructive dialogue with the SPT, civil society organizations, media and other national,
20 regional and international human rights mechanisms, for the effective and full
21 implementation of this Act.

22
23 Government authorities and private organizations or entities mandated to protect and
24 promote the rights of persons deprived of liberty shall cooperate with and promptly respond
25 to the recommendations, proposals, and other requests of the NCPT in the conduct of their
26 mandate.

27
28 **SEC. 14. Confidentiality.**—Personal information collected by the NCPT shall be
29 confidential. No personal data shall be published without the express consent of the
30 individual concerned. The rules on confidentiality shall be in accordance with the existing
31 laws applicable herein.

32
33 **SEC. 15. Protection from Criminal Liability, Other Sanctions and Reprisals.—**

- 34
35 a) No authority or official shall order, apply, permit or tolerate any sanction against
36 any person or organization for having communicated to the NCPT and the SPT
37 any information, and no such person or organization shall be otherwise prejudiced
38 in any way.
- 39
40 b) Relevant authorities shall take effective steps to prevent and promptly respond to
41 any sanctions or acts of reprisals stemming from communications to or
42 cooperation with the NCPT and the SPT.
- 43
44 c) No criminal, disciplinary or administrative sanction shall be taken against any
45 person for having communicated, in good faith, any information to the NCPT or
46 the SPT.
- 47
48 d) Anything done, or purported to be done, in good faith, and pursuant to the
49 functions and powers conferred under this Act or in respect of any publication by

1 or under the authority of the Committee of any report, proceedings or any other
2 matter under this Act shall not be a ground for action, suit or other legal
3 proceedings against the Committee or a member or officer of the Committee.
4

5 No protection from criminal liability, disciplinary or administrative sanction shall be
6 given to any Member or officer of the Committee where they may be finally adjudged in
7 any action or proceeding to be liable for gross negligence or misconduct, grave abuse of
8 discretion or abuse of authority.
9

10 **SEC. 16. *Private Legal Assistance.*** —The Committee Members, Officers and Staff of
11 the NCPT are hereby authorized to engage the services of private lawyers or extend counsel
12 immediately upon receipt of notice that an administrative, civil, criminal action, suit or
13 proceeding is filed against them. The lawyer's fee shall be part of the indemnification
14 package for the NCPT Members, Officers and Staff, subject to the provisions of Section 17
15 hereof.
16

17 **SEC. 17. *Indemnification of NCPT Committee Members, Officers, and Staff.***—There
18 shall be an indemnification package for the Committee Members, Officers, and Staff, which
19 may be in the form of free legal assistance, liability insurance, and other forms of protection
20 and indemnification for all costs and expenses reasonably incurred by such persons in
21 connection with any administrative, civil or criminal action, suit or proceeding to which they
22 may be, or have been made a party by reason of the performance of their functions or duties,
23 unless they are finally adjudged in such action or proceeding to be liable for gross negligence
24 or misconduct, grave abuse of discretion or abuse of authority.
25

26 **SEC. 18. *Information Sheet on Persons Deprived of their Liberty and Places of***
27 ***Deprivation of Liberty.***—The Philippine National Police (PNP), the Bureau of Corrections
28 (BuCor), the Bureau of Jail Management and Penology (BJMP), the Department of Social
29 Welfare and Development (DSWD), provincial government units with control or supervision
30 of jails and other government or private institutions with with jurisdiction, control and/or
31 oversight of places of deprivation of liberty shall make an updated information sheet of all
32 deprivation of liberty facilities under their respective jurisdiction with the corresponding data
33 on the persons deprived of their liberty under their custody, such as, among others, names,
34 date of deprivation of liberty, exact reason for deprivation of liberty and the conditions in the
35 places of deprivation of liberty. Such information sheet shall be periodically updated by the
36 same agencies and institutions within the first five (5) days of every month at the minimum.
37 The format of the information sheet shall be prescribed by the NCPT and transmitted to the
38 agencies and institutions at the soonest possible time. The list prescribed by Section 7 of RA
39 9745 shall also be submitted to the NCPT within the first five (5) days of every month at the
40 minimum.
41

42 **SEC. 19. *Other Organizations Conducting Visits to Places of Deprivation of***
43 ***Liberty.***—The provisions of this Act and the establishment of the NCPT shall be without
44 prejudice to the importance of visits to places of deprivation of liberty regularly undertaken
45 by other groups such as local and international non-government organizations, lay persons
46 groups, faith-based organizations and government mechanisms working for the well-being
47 and protection of persons deprived of their liberty.
48

49 **SEC. 20. *Public Education, Information and Awareness Campaign.***—The NCPT, in
50 partnership with the Philippine Information Agency (PIA), the CHR, the Department of

1 Interior and Local Government (DILG), other government departments and local government
2 units and agencies with jurisdiction, control and/or oversight of places of deprivation of
3 liberty, and such other concerned parties in both the public and private sectors shall inform
4 the public, persons in authority and agents of persons in authority on the existence of the
5 NCPT, the SPT, the OPCAT, the rights of persons deprived of their liberty, the importance of
6 preventive visits, the need to cooperate with the said visiting bodies and implement measures
7 based on their recommendations. This shall be done through a programmatic nationwide
8 awareness-raising campaign, and in line with Section 21 of RA 9745, shall be included in the
9 training of law enforcement personnel, civil or military, medical personnel, public officials
10 and other persons, whether public or private, who may be involved in the custody,
11 interrogation or treatment of any individual subjected to arrest, detention, imprisonment or
12 any form of deprivation of liberty. Furthermore, authorities shall make use of popular media
13 such as government-owned TV and radio as well as other such resources at its disposal in
14 undertaking the public information and education campaign. The Department of Education
15 (DepEd) and the Commission on Higher Education (CHED) shall also include information
16 on the OPCAT, SPT, NCPT and the preventive monitoring methodology in the integration of
17 human rights education courses in all primary and tertiary level academic institutions
18 nationwide in line with Section 21 of RA 9745.

19
20 **SEC. 21. Appropriations.**—The Committee shall have an initial budget of One
21 Hundred Million Pesos (PHP100,000,000.00) for maintenance and other operating expenses
22 to be sourced from the President's Contingency Fund under the Presidential Social Fund.
23 Subsequent funding requirements shall be included in the annual General Appropriations
24 Act.

25
26 This budget shall not be utilized for any other purpose apart from NCPT work as
27 determined by the NCPT Committee, in accordance with law.

28
29 **SEC. 22. Implementing Rules and Regulations.**—The Committee shall formulate the
30 Implementing Rules and Regulations (IRR) within ninety (90) days from the time the
31 Committee first convened. The Committee shall coordinate with the CHR, DILG,
32 Department of Health (DOH), Department of Social Welfare and Development (DSWD),
33 Department of Justice (DOJ), Department of National Defense (DND), Philippine National
34 Police (PNP), and other relevant government agencies and civil society organizations (CSOs)
35 working in the various fields relevant to the treatment of persons deprived of their liberty.

36
37 The IRR shall be effective after fifteen (15) days following its publication in the
38 Official Gazette or in two (2) newspapers of general circulation.

39
40 **SEC. 23. Periodic Review.** – Within five (5) years after the effectivity of this Act,
41 and every five (5) years thereafter, or as the need arises, the Congress of the Philippines shall
42 conduct a comprehensive review of its implementation, and a systematic evaluation of the
43 performance and functioning of the NCPT, in order to highlight its accomplishments and
44 impact on the protection of persons deprived of their liberty. To carry out these tasks,
45 Congress shall ensure participative and multi-sectoral dialogues with stakeholders which
46 shall include civil society organizations, survivors of torture and their families, relevant
47 government authorities involved in the treatment of persons deprived of their liberty and the
48 administration of places of deprivation of liberty.

1 **SEC. 24. *Separability Clause.***—If any provision of this Act is held unconstitutional,
2 other provisions not affected thereby shall remain valid and binding.

3
4 **SEC. 25. *Repealing Clause.***—All laws, presidential decrees, letters of instructions,
5 executive orders, rules and regulations insofar as they are inconsistent with this Act, are
6 hereby deemed repealed or modified accordingly.

7
8 **SEC. 26. *Effectivity.***—This Act shall take effect after (15) days following its
9 publication in the Official Gazette or in two (2) newspapers of general circulation.

10
11 *Adopted.*
12
13