Commission on Human Rights

GUIDELINES AND PROCEDURES IN THE INVESTIGATION AND MONITORING OF HUMAN RIGHTS VIOLATIONS AND ABUSES, AND THE PROVISION OF CHR ASSISTANCE

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THE COMMISSION ON HUMAN RIGHTS

GUIDELINES AND PROCEDURES IN THE INVESTIGATION AND MONITORING OF HUMAN RIGHTS VIOLATIONS AND ABUSES, AND THE PROVISION OF CHR ASSISTANCE
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**Annex “A”** Memorandum of Agreement between the Commission on Human Rights and the Department of Justice, dated 16 April 2012
Pursuant to Section 18(2), Article XIII of the 1987 Constitution of the Philippines, in relation to Section 3(2) of Executive Order No.163, s. 1987, the Commission on Human Rights is vested with authority “to adopt its operational guidelines and rules of procedure, and cite for contempt for violation thereof in accordance with the Rules of Court.”

BOOK 1

Rule 1
GENERAL PROVISION

Section 1. Title.-- These Rules shall be known as The Omnibus Rules of Procedure of the Commission on Human Rights.

Rule 2
SCOPE OF CHR JURISDICTION

Section 1. Pursuant to Sections 17 to 19, Article XIII of the 1987 Philippine Constitution, in relation to Executive Order No. 163, dated 5 May 1987, and relevant international human rights instruments, the Commission on Human Rights shall take cognizance of and investigate, on its own or on complaint by any party, all forms of human rights violations and abuses involving civil and political rights, to include but not limited to the following:

a) right to life;
b) right to liberty;
c) right to security;
d) right to respect for one’s dignity;
e) freedom from slavery and involuntary servitude;
f) freedom from torture, cruel, inhuman or degrading treatment and punishment;
g) right to protection from enforced disappearance;
h) freedom from arbitrary interference with one’s privacy, family, home, or correspondence;
i) freedom from arbitrary arrest, detention or exile;
j) freedom of movement and residence;
k) freedom of thought, conscience and religion;
l) freedom of the press, speech, opinion and expression;
m) freedom from discrimination;
n) right to marry and to found a family; and
o) right to own property.

Section 2. The Commission on Human Rights shall monitor the Philippine Government’s compliance with international human rights treaties and instruments to which the Philippines is a State party. This includes, but is not limited to, the actions taken by the Government, the manner and/or means of implementation or application of the human rights related laws, principles, norms and standards, in relation to the State obligations to respect, protect and fulfill the human rights of all persons within the Philippines, as well as Filipinos residing abroad.

Corollary thereto, the Commission on Human Rights, in line with its role as a national human rights institution, shall also investigate and monitor all economic, social and cultural rights violations and abuses, as well as threats of violations thereof, especially with respect to the conditions of those who are marginalized, disadvantaged, and vulnerable.

Rule 3
INVESTIGATION AND MONITORING POWERS AND FUNCTIONS

Section 1. Powers and Functions.— The Commission on Human Rights shall have the following powers and functions:

a) To investigate all forms of human rights violations and abuses involving civil and political rights, as well as investigate and monitor economic, social and cultural rights violations, particularly those who are marginalized, disadvantaged and vulnerable;

b) To conduct fact-finding missions, visits and/or inspections of the site where the incidents of human rights violations occurred or continue to be violated or threatened;

c) To undertake quick response operations;

d) To monitor the situation of prisoners and detainees, as well as the conditions of prison / correctional / rehabilitation and detention facilities, to include holding areas or locked-up cells administered and/or operated by civilian or military authorities;

e) To monitor the training conducted for military and law enforcement agents from the national to the local level, including those conducted by private security agencies;

f) To conduct preliminary conferences, dialogues, public inquiries, forums, hearings on cases or incidents involving human rights violations, or human rights issues which are of national, regional and/or international importance;
g) To issue invitations, subpoenas, orders, or other processes requesting or directing any person to appear, attend and testify at the meeting, forum, conference, dialogue, public inquiry, or hearing conducted by the Commission, any of its Regional Offices, sub-offices or designated CHR officers or committees; and for such person/s to produce and submit records, documents, books or other things under his/her/their possession, control or supervision, and which are relevant to the case/s being investigated by the Commission;

h) To grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by the Commission or under its authority;

i) To cite any person for contempt for violation of these guidelines and procedures, in accordance with the Rules of Court;

j) To provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad;

k) To provide preventive measures and free legal aid services to persons whose human rights have been violated and/or threatened with violations, particularly those who are marginalized, disadvantaged and vulnerable;

l) To provide witness protection and other assistance to victims of human rights violations and their families;

m) To issue such orders as may be proper and necessary at any stage of the investigation or inquiry proceedings;

n) To administer oaths or affirmations, through any of its members or duly authorized officers, and to take such testimony as it may deem relevant to any investigation conducted by it or under its authority.

Authorized officers shall include:

n.1. Regional Directors, head or in-charge of sub-offices or Desk Offices;

n.2. CHR lawyers involved in the delivery of appropriate legal measures, as well as those involved in the investigation and monitoring of cases;

n.3. Investigators handling investigation of particular human rights cases.

1 The authority of the officers to administer oaths shall apply only to CHR matters.
a) To monitor Government actions in relation to the compliance of State obligations and in relation to promotion and protection of human rights;

p) Endorse its findings and recommendations to competent and relevant Government agencies or bodies and other stakeholders, for appropriate and prompt actions;

q) Request the assistance of any department, bureau, office or agency of the Government for assistance and/or appropriate action;

r) To issue human rights advisories, primarily addressed to the Philippine Government in relation to the State obligations under international human rights treaties to which the Philippines is a State party;

s) Deputize and/or accredit lawyers, legal aid groups, medical organizations, as well as government agencies and non-government organizations, consistent with existing laws;

t) To consider conciliation and mediation mechanism as a course of action in the addressing certain human rights cases and/or incidents involving economic, social and cultural rights violations; and

u) To perform any and all such other powers and functions as are inherent in a national human rights institution and/or investigative body.

**Section 2. Objectives of CHR Investigation and Monitoring of Civil and Political Rights:**

a) To determine whether civil and political rights have been violated, are being violated, or are threatened to be violated by State authorities or agents of persons in authority; members of the private or civilian sector acting upon instruction of or with the acquiescence of government or State authorities; by armed groups or members thereof, private person or entity;

b) To identify gaps and to map out trends with a view to advise government on necessary reforms to improve compliance with State obligations on human rights;

c) To document the civil and political rights situation of all sectors in the country, particularly those who are marginalized, disadvantaged and vulnerable, and to recommend appropriate courses of action and/or policy measures to legislative, administrative, judicial bodies or other relevant State authorities.

**Section 3. Objectives of Investigation and Monitoring of**
Economic, Social and Cultural Rights.— The objectives of investigation and monitoring of economic, social and cultural rights violations or situations are: to determine the rights violated by State or non-state actors, including private entities and individuals; to assess the economic, social and cultural rights situation of a particular group or community of persons or sector of society; to determine the basic obligations of the government on the matter; to determine the level of government's compliance with international human rights standards; and to recommend and advice government of the appropriate legislative, administrative, judicial, policy and program measures necessary to fully address the economic, social and cultural rights of the people in the country or any part thereof.

Section 4. Mission Order.— All field investigations, such as fact-finding missions, site inspections, and visitations of jails, prison or detention facilities, military and police camps and premises, conducted by CHR officers and investigators shall be covered by a Mission Order. The Mission Order shall be issued by the Chairperson, any Member of the Commission, the Regional Director of the CHR Regional Office concerned, or in his/her absence, the head of the legal office; the head or officer-in-charge of the Sub-Office, within whose territorial jurisdiction the incident occurred or continues to exist. The Mission Order may also be issued by any other CHR official as may be authorized or designated by the Commission en banc or the Chairperson.

All Mission Orders shall bear the official or dry seal of the Commission, and shall specify the period of effectivity.

Section 5. Non-Applicability of the Rule on Forum-Shopping.— The rule on forum shopping does not apply in CHR investigations. The CHR has the authority to investigate human rights violations and abuses notwithstanding cases filed/pending in court involving the same subject matter/issues between the same parties, as the Commission's investigation is concerned with the human rights dimension of the case.

Rule 4
INVESTIGATION AND MONITORING OF HUMAN RIGHTS VIOLATIONS INVOLVING CIVIL AND POLITICAL RIGHTS

Section 1. Motu proprio investigations or upon complaint.— Investigations of the Commission or any of its Regional Offices, Sub-Offices or Desk Offices shall either be upon complaint or motu proprio (on its own initiative). The motu proprio investigation shall be on the basis of reports or information gathered from any source.

Section 2. Who may file complaint.— Any concerned individual or group may file a complaint for human rights violations before the Commission, particularly the victim, his/her relatives, non-government
organizations, or any government or private entity.

**Section 3. Requirements in the filing of complaint.**—The complaint shall be in writing and may be in the form of a letter, affidavit, question and answer statement, pleading, or similar form.

Upon the filing of a written complaint, the complainant shall be required to accomplish CHR Form 9 (Complaint Sheet) and execute a sworn statement, with the assistance of a duty investigator or legal officer. In cases involving investigation of violations and abuses of the rights of children as provided for under Rule 9 hereof, the survivor child-victim or the complainant representing the child-victim, shall also accomplish pertinent sections of CHR Form 10 (Complaint Form for Child Rights Violations). Where a single incident has at least an adult victim and a child-victim, the CHR investigating officer is required to have the clients accomplish and sign separately Form 9 and Form 10.

**Section 4. Anonymous complaint.**—Anonymous complaint or one under a fictitious name shall not be disregarded outright. The same shall be subject to an initial evaluation and verification. If upon such initial evaluation or verification or on the basis of the information or details provided in the anonymous complaint, it appears to be meritorious or has some factual basis, the CHR shall proceed to investigate the matter and consider the same as a *motu proprio* investigation. The anonymous complaint shall be properly docketed.

Once the identity of the complainant is known or a person has come forward to pursue a complaint on the human rights issue or issues raised in the anonymous complaint or under a fictitious name, said person shall be required to accomplish CHR Form 9, as provided for in Section 3 of this Rule.

**Section 5. Where to file complaints.**—Complaints for human rights violations may be filed directly with the Commission, through the Office of the Chairperson or Commissioner, or with any of the CHR Regional Offices or Sub-Offices nearest the place where the violation/s or threats thereof occurred or continue to exist; or before the Barangay Human Rights Action Center (BHRAC) in the Barangay or place where such violation/s occurred or continue to exist. Complaints filed or sent to the Office of the Chairperson/Commissioners shall be transmitted to the appropriate regional office for docketing. This does not preclude the Commission *en banc* from taking cognizance of the case.

Complaints filed with the BHRAC shall be immediately referred and transmitted to the CHR Regional Office or Regional Sub-Office concerned nearest the place of incident, or where the victim/complainant resides.

All human rights cases, whether acted upon *motu proprio* or on complaint, shall be docketed or recorded in the CHR Docket upon receipt of the complaint or report, in accordance with Rule 6 hereof.

**Section 6. Preliminary evaluation or initial investigation.**—On the basis of the allegations in the complaint filed and documents
submitted, or reports by media or other sources, the Commission’s Legal Officer or Investigator, in the absence thereof, the Regional Director, shall immediately take appropriate action thereon, such as preliminary evaluation of the report or complaint to determine whether the matter falls within the CHR mandate.

Should the circumstances require an initial field investigation or fact-finding mission in order to have an accurate initial validation of the report or complaint, the CHR officer concerned shall immediately deploy an investigator, lawyer or a composite team for the purpose.

The recommendation as to the proper course of action to be taken by the CHR shall be submitted to the Office of the Regional Director concerned or to the Commission within two (2) days from the conclusion of the preliminary evaluation or initial investigation; and in urgent cases, not later than twenty-four (24) hours.

If upon preliminary evaluation it is apparent that the matter does not involve human rights violations or issues, the CHR Regional Director, or in the absence thereof, the authorized CHR Officer concerned shall immediately refer or endorse it to the government agency or other concerned entity having primary jurisdiction or responsibility over the matter for appropriate action, with proper notice to the complainant or aggrieved party.

Section 7. Primary Responsibility of CHR Regional Offices to investigate.— The CHR Regional Offices or Sub-Offices shall have the primary duty to investigate all forms of human rights violations or threats thereof committed or being committed within their respective territorial areas of responsibility, regardless of the personalities implicated or involved therein. The said regional offices and sub-offices shall also monitor the human rights situations of all sectors of society, particularly those who are marginalized, disadvantaged or vulnerable. Geographical accessibility shall be the guiding principle for the determination of territorial areas of responsibility in investigations of human rights issues. The investigating Regional Office shall then duly inform the appropriate Regional Office of its investigation of the human rights matter.

Section 8. Authority of the Commission en banc to take over the investigation of the human rights issues or cases.— The Commission en banc, on its own or upon recommendation of the CHR Regional Office or Sub-Office, shall directly assume or take over the investigation of human rights cases or incidents and create a special composite investigation team to pursue investigation thereof, whenever it may deem necessary or as the circumstances require. This may be done upon receipt of the complaint or report, or at any stage of the investigation being conducted by the CHR Regional Office.

This authority of the Commission en banc applies particularly where the human rights issues involved are of national, regional or international implication, or extraordinary on account of the complexities of the issues or of the personalities involved, or the unusual or sensational character of the
facts, or which seriously affect those who are marginalized, disadvantaged and vulnerable.

**Section 9. Dialogue or conference; notice.**— On the basis of the preliminary evaluation or initial investigation findings, the Commission, CHR Regional Director or Head of the Sub-Office may opt to call the parties, to include duty-holders concerned, for a dialogue or preliminary conference to discuss, among others, immediate courses of action and protection remedies, and/or possible submission of the matter to an alternative dispute resolution whenever applicable. The invitation or notice shall be given at least three (3) days before the scheduled date of the dialogue or preliminary conference.

**Section 10. Investigation proper.**— The investigator of the CHR Regional Office or Sub-Office shall conduct the investigation of the human rights issues of the case. The investigation proper shall commence immediately after the preliminary evaluation of the report or complaint or after the initial investigation findings which call for a full blown investigation of the human rights incident or issues, which in no case shall be later than fifteen (15) days from receipt of the complaint or report.

**Section 11. Processes issued to parties in investigation proper.**— The processes issued by the CHR in aid of its investigation shall be by way of notice, letter-invitation, order, or subpoena. The processes shall be issued by any of the following CHR officials:

a) The Chairperson or any Commissioner in cases of national, regional or international concern or importance, regardless of the *situs* of the violation or threats thereof; or

b) The Regional Director, or in his absence, Chief Investigator of the CHR Regional Office or Sub-Office concerned, for cases taken cognizance of or filed with the CHR Regional Office or Sub-Office concerned.

The processes shall:

a) Inform the respondent/s, and other parties concerned of the date, time and place of the scheduled conference or dialogue;

b) Require the respondent/s to respond to the complaint by way of an answer, counter-affidavit or comment within the period prescribed in this Rule;

c) Inform the respondent/s that in case of failure to attend or respond to the complaint, the Commission or any of its Regional Offices or investigation committee concerned shall proceed with the investigation and decide on the case on the basis of the evidence and documents on record;

d) Inform the invited resource persons, if any, of the time, date and place of the conference or dialogue; and for said resource persons
to submit their comment, opinion or position on the issue on or before the scheduled date of the preliminary conference or dialogue or inquiry within ten (10) days from receipt of such invitation or within such period as the CHR investigating authorities may deem reasonable.

Section 12. Service of processes to parties, resource persons.--
The service of invitations, orders, subpoena, or summons to the parties, shall be done by personal service or by registered mail.

The party shall be identified as a respondent when the person is named/identified as such in the complaint or in the course of investigation. Resource persons shall also be summoned to the investigation, to shed light on the facts surrounding the investigation.

Section 13. Period within which to answer.-- Within ten (10) days from receipt of notice, letter-invitation, order or subpoena, the respondent shall submit his/her answer, counter-affidavit or comment, including relevant documents and other evidence in support of his/her position. The 10-day period as herein provided is non-extendible except for justifiable reasons in the discretion of the Commission, Regional Director, Sub-Office, or Head of Composite Team or investigating officer concerned.

However, in human rights cases or issues which are of immediate and/or national, regional or international concerns, the parties and other concerned individuals shall be given at least (3) three days to appear and/or submit their answer or counter-affidavit and other relevant documents.

Section 14. Answer under oath.-- The respondents, as well as the witnesses they may produce, shall file with the Commission en banc, Regional Office or Sub-Office, as the case may be, three (3) legible copies of their answer, counter-affidavit or comment, all of which shall be subscribed and sworn to before any government official authorized to administer oaths, copy furnished the complainant by personal service or registered mail.

Section 15. Investigation Reports.-- All investigations shall be covered by an Investigation Report which shall be dated and signed by the members of the investigating team, which may or may not be headed by a lawyer.

These reports shall consist of an investigation plan, which shall cover a proposed strategy in the conduct of the investigation; an initial report, which shall report preliminary facts gathered during the initial investigation; progress reports, which shall include facts gathered throughout the course of the investigation; and the final investigation report which shall collate all facts gathered throughout the investigation and shall be the primary basis of the resolution.

The final investigation report shall contain the following:

a) The authority or legal basis of the CHR to conduct the investigation;
b) The profile of the victim, which shall include his/her full name, sex, gender, age, status, address, affiliation, work or profession, religion, nationality, tribe or ethnic origin, educational background;

c) The profile of the respondents which shall include his/her full name, sex, gender, age, status, nationality, work or profession, religion, branch of service in government, and/or the organization or group or affiliation;

d) The material allegations in the complaint, answer, comment, and in the counter-affidavits, as the case may be;

e) The names and other personal circumstances of the witnesses;

f) Summary of the evidence submitted by the complainant, respondents and those gathered by the investigators;

g) All other relevant data or information gathered;

h) The particular provisions of international human rights instruments violated or applicable to the case, as well as the pertinent domestic laws;

i) Investigation and observations;

j) Recommendations; and

k) All other relevant information as may be necessary.

Section 16. Confidentiality of Records.— All records of cases shall remain confidential until the resolution of the case shall have become final.

However, upon proper request, access thereto may allowed by the Commission or the Regional Director concerned, provided it shall not prejudice the on-going investigation or put to immediate risk or endanger the life and security of the complainant, surviving victim, the victim’s family or witness/es.

Section 17. Disposition of complaints or human rights cases.— The final investigation report shall be completed within ten (10) days from termination of the investigation proper. The final evaluation of the case and preparation of the resolution shall be made within fifteen (15) days from the submission of the final investigation report, together with all the evidence gathered in the course of the investigation and/or conference or dialogue. These shall be referred to the appropriate legal officer, thru the Regional Director. The legal officer shall then evaluate and draft the resolution for the case subject to the review and approval of the Regional Director, who shall release the same within five (5) working days from final evaluation of the case.
The resolution shall contain the facts of the case, the evidence submitted by the parties and/or gathered by the CHR in the course of the investigation process. It shall categorically state the primary issue or issues involved, whether or not there exist(s) substantial evidence of human rights violation committed or the omission(s) which led to the violation of the human rights of a person or group or community of persons, and the pertinent provisions of the international human rights law, as well as domestic legislation and jurisprudence applicable to the case.

The dispositive portion of the resolution shall also state the corresponding recommendations, be it an endorsement for the filing of appropriate criminal, administrative or civil actions before the competent fora; or endorsement for appropriate legislative, judicial, administrative and policy measures; or for the grant of financial assistance, whenever applicable.

If, however, the corresponding criminal and administrative charges have already been initiated and filed by the aggrieved party before the competent fora prior to the CHR investigation and/or completion of such investigation, the resolution shall indicate that the case(s) before said fora be subject to regular monitoring by the CHR Regional Office or Sub-Office concerned. Further, a certified copy of the resolution together with pertinent documents and evidence on hand shall be endorsed to the forum/fora concerned.

The determination of human rights violation shall be based on substantial evidence. In case there is no finding of human rights violation, it shall state that the case is “dismissed” citing the particular ground or basis for the dismissal.

**Section 18. Archiving and dismissal of cases where investigation cannot be completed within one (1) one year.**—Where the investigation of cases cannot be completed within a period of one (1) year from the time it was docketed due to unavailability of witness and other hindering factors which are beyond the control of the investigating officers and/or the complainant, the case shall be archived, without prejudice to re-opening and re-investigation at any time as the evidence or circumstance may warrant, at the instance of the Commission or the Regional Office concerned. This notwithstanding, the Regional Office shall revisit the case every six (6) months from the time it was archived; or within six (6) to ten (10) months, if the human rights violations occurred in an island within the region which is not accessible by regular land transportation. Provided, however, that after the lapse of three (3) years, the Commission or the Regional Office concerned may opt to provisionally dismiss the case. Provided further, that cases involving the serious forms of human rights violations, to include but not limited to genocide, crimes against humanity, or torture which resulted in death or maiming of the essential organs of the victim or permanent disability of the victim; enforced disappearance where the victim resurfaces, dead or alive, or massacre of people, shall be kept on active file and shall be investigated even beyond the 3-year period until such cases are finally resolved.
Section 19. Notice of CHR Regional Office Resolution on the disposition of cases.— Notice of the resolution shall be sent by the Regional Director together with the certified copy of the case resolution, to the parties and their counsel and other persons/entity concerned within two (2) days from signing thereof. The notice shall also indicate the period within which to file the motion for reconsideration with the regional office.

Section 20. Motion for reconsideration on the CHR Regional Office Resolution.— Any of the parties to the case may file a motion for reconsideration with the same office concerned within fifteen (15) days from receipt of notice of the CHR Resolution on the disposition of cases.

Section 21. When and where to appeal the resolution of the CHR Regional Office.— Any party to a human rights case or concerned citizen or organization representing said party, who feels aggrieved by the resolution issued by the CHR Regional Office denying its motion for reconsideration, can directly appeal the assailed resolution to the Commission en banc within fifteen (15) days from receipt of said resolution.

Where the case was resolved by the Regional Office, the appeal shall be filed in the Regional Office concerned or directly with the Commission en banc, through the Commission Secretary. If filed with the Regional Office concerned, the latter shall elevate the same, together with the records of the case to the Commission en banc, through the Commission Secretary, within five (5) days from receipt of the appeal. The appeal may be in the form of a letter or pleading in six (6) legible copies.

Section 22. Finality of CHR Regional Office Resolution.—The resolution issued by the CHR Regional Office shall become final after the lapse of fifteen (15) days from receipt of the parties of the copy of the resolution, unless a motion for reconsideration has been filed, or the Commission en banc resolves to review the case motu proprio.

Section 23. Endorsement of Case to Appropriate Agencies.— The resolution with findings of human rights violations, together with certified copies of the entire case records shall be immediately endorsed to the competent agencies or bodies for appropriate administrative and/or criminal investigation against respondents therein. It shall also be endorsed to duty-holders concerned for appropriate legislative/administrative programs and policy measures as the case may be, in accordance with Section 31 of this Rule.

Section 24. Motu proprio en banc review of cases resolved by the Regional Offices.— The absence of an appeal shall not preclude the Commission en banc to motu proprio review cases resolved by the Regional Offices, particularly, those which are of national, regional or international importance/implication, or involve heinous forms of human rights violations, including child rights cases. In such cases, the Commission en banc shall give due notice to the parties and the Regional Office concerned.

If an appeal is taken by the parties, then such appeal shall be
incorporated with the *motu proprio* review.

**Section 25. Period within which to resolve cases on appeal or under motu proprio review by the Commission.**-- The Commission shall resolve the case on appeal or under *motu proprio* review within sixty (60) days from the receipt of the records of the case subject of appeal/review.

The resolution or decision shall clearly state the basis for the affirmation, modification, amendment, or reversal of the resolution of the CHR Regional Office; or the reason for its decision to remand the case to the Regional Office for further investigation, if such be the case.

**Section 26. Quorum; separate or dissenting opinion.**— The concurrence of at least three (3) members of the Commission shall be sufficient to pass and/or adopt an *en banc* resolution affirming, modifying, amending, or reversing the resolution of the CHR Regional Office, to remand the case to the Regional Office concerned for further investigation or assign a special committee to conduct the investigation. Any member who does not agree with the decision of the majority or any part of the ruling of the majority, shall come up with a separate or dissenting opinion. Any commissioner may abstain, inhibit him/herself from the disposition of the case, stating the reason/s for the same.

**Section 27. Notice of the Commission en banc Resolution or Decision in appealed/reviewed cases.**— The Commission Secretary shall cause the release of the service of notice, together with a copy of the Commission *en banc* Resolution, to all the parties in the case, as well as to the CHR Regional Office concerned, within fifteen (15) days from the date of approval thereof by the Commission *en banc*. The service of notice shall be by personal service through the CHR Process Server or designated officer, or by registered mail.

**Section 28. Period to file motion for reconsideration.**— The aggrieved party shall have fifteen (15) days, from receipt of the Notice and copy of the Commission *en banc* Resolution or Decision, within which to file a motion for reconsideration before the Commission *en banc*, stating the grounds therefor. Only one (1) motion for reconsideration for the aggrieved party on the Commission *en banc* resolution or decision shall be allowed.

**Section 29. Finality of CHR En Banc Resolution.**— If no appeal or motion for reconsideration has been filed within the period provided in these Rules, the Resolution of the Commission en Banc shall become final.

**Section 30. Ruling on the motion for reconsideration of the Commission en banc resolution.**— The Commission *en banc* shall act on the motion for reconsideration of its resolution or decision within fifteen (15) days from receipt thereof. It shall make a ruling thereon and issue the corresponding Resolution within fifteen (15) days from the conclusion of its deliberation on the motion for reconsideration. The parties shall be notified
accordingly in accordance with the provision of this Rule on Notice of Commission en banc resolution to the parties.

**Section 31. Endorsement/Transmittal of certified copies of the complete records of the case and physical evidence.**—

a) At the CHR Regional level, in cases where there is a finding of human rights violations and where corresponding criminal and administrative charges, or civil action for damages have been recommended, a certified copy of the resolution, together with the complete records of the case and the physical evidence obtained during the investigation, shall be endorsed and transmitted to the competent fora within ten days after the CHR Resolution shall have become final. The endorsement shall be accompanied with a list of the documents, exhibits and/or annexes, and physical evidence.

b) At the Commission en banc level, the Commission Secretary shall cause the transmittal and/or endorsement of the case records together with all the evidence, to the appropriate fora after the Resolution shall have become final. If the original records of the case are with the CHR Regional Office, the CHR Regional Office concerned shall be directed to cause the transmittal of certified copies of such records to the CHR Central Office unless otherwise directed by the Commission. A copy of the corresponding certified Commission en banc resolution thereon shall be furnished to the CHR Regional Office. It shall also be endorsed to duty holders concerned for appropriate legislative, administrative and program and policy measures as the case may be.

**Section 32. Direct Filing of cases about to prescribe** -- In cases pending investigation before the CHR where the criminal and/or administrative action is about to prescribe, the CHR shall advise and assist the complainant or the survivor-victim to proceed with the direct filing of the corresponding complaint before the Office of the Prosecutor, the Ombudsman, and/or the appropriate administrative body, as the case may be.

Notwithstanding the direct filing of a criminal or administrative case, the investigation of the CHR shall continue until its completion and final disposition.

**Section 33. Reinvestigation of cases.**—If upon review of the CHR Regional Office Resolution, the Commission en banc finds that there is a need to conduct further investigation or to reinvestigate the case, it shall issue the corresponding directive to the Regional Office concerned or to a special composite investigating team. The reinvestigation of a case shall be covered by the same deadlines/period as that of an original investigation.

**Section 34. Monitoring of the status of cases.**-- All resolved or referred, cases shall be monitored by the legal division of the regional office concerned. Cases endorsed before national office/s may be monitored by the
CHR Central Office through the Legal and Investigation Office.

Rule 5

INVESTIGATION AND MONITORING OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS SITUATION

Section 1. Investigation and monitoring of economic, social and cultural rights situations.—The CHR shall, on its own or on complaint or report by any person or community of persons, pursue the investigation and monitoring of economic, social and cultural rights situations of the people, particularly those affecting the marginalized, disadvantaged and vulnerable sectors of society.

Section 2. Institutional Actions.—In the course of its investigation and monitoring, CHR officers shall, among others:

a) Identify the factors that contributed to the violations thereof;
b) Look into the institutions and processes through which the State seeks to realize economic, social and cultural rights;
c) Conduct a comprehensive review of domestic laws, policies, rules and regulations, administrative issuances and procedures, and current practices, to determine whether these are consistent with the Philippines’ obligations under the International Covenant on Economic, Social and Cultural Rights and other pertinent international human rights instruments;
d) Consolidate and analyze all investigation reports on incidents of economic, social and cultural rights violations and issues;
e) Assess the level of enjoyment of economic, social and cultural rights by the people;
f) Apply human rights standards so as to determine what particular treaty obligation has been violated and where this violation occurred;
g) Intervene and/or coordinate with relevant authorities in decision-making and adjudication of issues/cases involving economic, social and cultural rights.

Section 3. Investigation and Monitoring reports.—The Regional Office pursuing the investigation and monitoring of economic social and cultural rights shall submit a report to the Commission which shall include recommendations as to the remedy that should be immediately undertaken to put a stop to the violations and prevent similar violations in the future.

Continuous monitoring shall be undertaken in accordance with human rights laws, treaties and obligations.

Whenever pertinent, the procedure and periods provided for in Rule 4 shall also apply.

Section 4. Applicability of the rules on investigation,
conduct of public inquiry on violations of civil and political rights.—Whenever applicable, Rule 4 on the Investigation and Monitoring of Human Rights Violations Involving Civil and Political Rights and Rule 7 on Procedures In the Conduct of Public Inquiry shall apply in the investigation and monitoring of economic, social and cultural rights violations and/or situation of the underprivileged and other vulnerable or marginalized sectors of society. Provided, however, that all stakeholders and civil society groups concerned shall be given the opportunity to engage in the process.

Section 5. Docketing of complaints and reports on economic, social and cultural rights violations.— All complaints and reports received by the CHR shall be docketed in accordance with Rule 6 hereof.

Rule 6
DOCKETING OF CASES
AND REQUEST FOR ASSISTANCE

Section 1. Docketing of Human Rights Cases and Assistance.— All cases involving human rights violations taken cognizance of by the CHR and all requests for assistance shall be entered in the CHR Docket and assigned the corresponding number in accordance with this Rule.

Section 2. Where to docket cases/requests.— The docketing in the CHR records and assignment of case numbers shall be done as follows:

a) At the Regional Office -- The docketing of case/request shall be made by the Regional Office concerned immediately upon receipt of complaint/request.

Where the case/request is directly filed with or referred to the CHR Sub-Office or Desk Office, the Officer-in-Charge shall immediately communicate with the Regional Office concerned for the docketing of the same.

Where the case/ request is filed with the Barangay Human Rights Action Center, the same shall be docketed by the CHR Regional Office concerned.

b) At the Central Office -- Where the case/request is directly filed with or referred to the Central Office, such as the Office of the Chairperson and/or the Commissioners or through any line office at the CHR Central Office, or if the reported human rights incident is motu proprio taken cognizance of by the Commission, the Field Operations Office and/or the Legal and Investigation Office shall coordinate with the Regional Office concerned for the docketing of such case. This is regardless of whether the Commission en banc will opt to proceed with the investigation of such human rights issues through a special composite investigation or fact-finding team from the Central Office or
combined special composite team from the Central Office and the Regional Office/s concerned.

Section 3. CHR Case and Assistance Docket Book.— All CHR Regional Offices shall maintain their respective Case and Assistance Docket Book.

The CHR line offices (Legal and Investigation Office, Assistance and Visitorial Office, Child Rights Center, and the Women Human Rights Center) shall keep separate record books of all cases/requests referred to the regional offices for docketing.

Section 4. Assignment of Docket Numbers— All cases/requests filed or referred to the Commission shall be docketed in the CHR Case and Assistance Docket Book and assigned the corresponding case number immediately upon receipt thereof or upon initial *motu proprio* action thereon by the CHR Office concerned. The assignment of case number shall be in the following order:

a) Agency’s Acronym (CHR), followed by the Regional Office Number or acronym; the year filed with or received or *motu proprio* taken cognizance by the CHR; and the assigned number which shall be in chronological order, starting with four (4) digits, that is, from 0001, every beginning of a calendar year. The agency’s acronym and regional office number or acronym shall be in capital letters.

b) The assigned Case Number shall also be stamped on the first page or front page of the first document received by or submitted to the CHR, i.e., letter-complaint or Affidavit-Complaint, as well as on the complainant’s or survivor-victim’s receiving copy.

Section 5. Other entries in the CHR Case and Other Assistance Docket Book.— The entry in the CHR Case and Other Assistance Docket Book shall also indicate the following data:

a) The names of the complainant/s, the victim/s and alleged suspect/s or respondent/s; or the name of the person requesting for assistance; and if it is a *motu proprio* assistance. In case the complainant or party requesting for other assistance is an organization or association or entity, the name of the representative and address of such organization or association or entity.

b) The nature or category of the human rights violation, or the nature or type of other assistance requested or extended.
RULE 7
PROCEDURES IN THE CONDUCT
OF PUBLIC INQUIRY

Section 1. Authority to conduct public inquiry.— In aid of its investigative and monitoring powers, the Commission en banc, has the authority to determine whether or not to conduct a public inquiry on any human rights issues or violations mentioned in Section 3 of this Rule.

The Commission en banc shall have the discretion to determine whether the public inquiry shall be conducted by the Commission as a collegial body, or to delegate it to any of its members who shall be assisted by CHR legal officers and support staff, or to the CHR Regional Office concerned or to a special committee.

The public inquiry to be conducted by the Regional Office or by a special committee shall be presided by a member of the Commission. However, in the exigency of the service and as may be authorized by the Commission en banc, the public inquiry to be conducted by the Regional Office may be presided by the Regional Director or, in his/her absence, by any lawyer of the CHR Regional Office concerned. If the public inquiry is to be conducted by a special committee, it may be presided by any senior lawyer who has been designated therefor.

Section 2. Nature of Inquiry Proceedings.— The investigative and inquiry proceedings of the CHR is fact-finding in nature, and non-adversarial.

Public inquiry shall generally be open to the public, transparent and allows for the participation of affected parties and sectors.

Section 3. Subject of the Public Inquiry.— Human rights cases and/or issues involving civil and political, or economic, social and cultural rights which are of domestic and/or international implication/importance such as extralegal or summary killings, enforced disappearances, massacres, violations against humanity, hamlettings, forced evictions and/or illegal demolitions, development aggression, displacements, food blockades, or violations involving civil, political, economic, social or cultural rights and/or threats thereof that affect the underprivileged and/or other vulnerable or marginalized sectors, or community of persons, regardless of the situs of the violation and/or the personalities involved or implicated in the human rights case or issues, may be the subject of a public inquiry.

Section 4. Venue.— As a rule, the public inquiry proceedings shall be held at the CHR Central Office or at the Regional Office or any practicable and safe place within the particular region where the human rights violations occurred or continue to be violated or threatened.

Section 5. Inquiry proceedings open to the public; exception.— All public inquiries shall be open to the public. However, the
Commission *en banc* or the Regional Office or Committee concerned may *motu proprio* exclude the public from attending the inquiry proceedings in the following instances:

a) When the testimony in open session will put the life and security of the victim, witness, or any member of his/her family in greater risk or danger;

b) When the testimony or re-enactment of a particular scene of the violation or the evidence to be presented is highly sensitive or offensive to human dignity, or to public morals or health;

c) When the person testifying is a child who is a victim of abuse or an eyewitness to a case of child abuse or human rights violation committed against any member of his/her family or any person;

d) Upon motion of any of the parties for justifiable reasons.

With respect to witnesses who have yet to testify, the Commission *en banc* or the Chairperson or Presiding Commissioner or Presiding CHR Official, as the case may be, has the discretion whether to exclude them from the public inquiry session room while the testimony of another witness is being given.

**Section 6. When public hearing or inquiry may be suspended; change of venue.**—The proceedings of any public inquiry conducted by the Regional Office or by a special committee may be suspended at any time as the Commission *en banc* may deem necessary, upon the recommendation of any of its members, or the Regional Director, or the special committee, when there is evident or imminent danger to the life and safety of the survivor-victims, members of their family, and/or the witnesses. The Commission may also opt to transfer the venue of the proceedings to a safer place, or to conduct it in an executive session as the exigency or urgency of the situation dictates.

**Section 7. Sworn written statement of the victim/complainant, respondents, and their witnesses; oral testimony.**—Generally, in cases or issues involving civil and political rights, the affidavits/sworn statements of the victim or complainant and his/her witnesses, as well as those of the respondent and his/her witnesses shall serve as their respective direct testimony, subject to clarificatory questions by the Commission or hearing officer.

For this purpose, the parties, by themselves or through their respective counsel, may submit to the Commission or any of its investigating authority conducting the public inquiry, a written set of proposed clarificatory questions, on or before the date and time of the scheduled public inquiry. The Commission or the presiding officer has the discretion on whether or not to adopt the proposed clarificatory questions, or to allow the parties concerned or their counsel to ask clarificatory questions.

The oral testimony of any person given during a public inquiry, to
include that in an executive session, shall be under oath. He/she may also be required to affirm under oath any document or statement he/she has submitted or which was gathered by the CHR in the course of the investigation or fact-finding.

In the area of economic, social and cultural rights, the issues and/or problems that shall be identified by Commission shall require the written and oral submissions of the sector or group or community of persons affected, as well as of non-government and peoples organizations, and the particular government institutions having primary responsibility to provide and fulfill the economic, social and cultural rights of the people and, thus, immediately respond to the issues or problems subject of the inquiry. The said written or oral submissions may be done through their duly authorized representatives.

Section 8. Grant of Immunity.— A person implicated in a human rights violation, and whose testimony is indispensable and vital to the resolution of the case may be dropped as party respondent and granted immunity by the Commission, in accordance with the Rule 18 on Immunity of Witness.

Section 9. Contempt.— As the circumstances warrant, Rule 15 on Contempt shall apply to any person who shall commit contumacious act/s during the investigation or public inquiry proceedings conducted by the Commission or any authorized CHR officers.

Section 10. Due Process in Public Inquiry - Any person implicated in the complaint for or report of human rights violations shall:

a) be accorded due process;

b) be given due notice of the CHR processes in his/her case;

c) be apprised of the investigative mandate of the CHR;

d) be apprised of the nature and cause of the human rights complaint / report against him;

e) be given copy of said complaint or report; or summary thereof, subject to the provision of Rule 4, Section 15, letter (d);

f) be given the opportunity to be heard and defend himself/herself;

g) be assisted by a competent counsel of his/her choice;

h) be given opportunity to present his/her own witnesses or have compulsory processes to produce reluctant witnesses to testify;

i) to present and submit evidence to support and defend his/her case, and/or have compulsory processes for the production of relevant documents;
j) be treated with respect and dignity in all phases of the investigative proceedings before the CHR.

Section 11. Adjournments; postponements.--The public inquiry proceedings may be adjourned or postponed from day to day as the expeditious inquiry of the case may require. Provided, however, that an adjournment or postponement for a period longer than fifteen (15) days from its adjournment may be granted only upon the approval of the Commission or the presiding Commissioner.

Section 12. Termination of the Public Inquiry Proceedings.--
The public inquiry proceedings may be terminated upon any of the following conditions:

a. Sufficient evidence and information have been gathered and existing to support a final conclusion by the Commission or the Regional Office or the Special Committee; or

b. It is apparent that the evidence or information sought, which are necessary to draw a final conclusion of the case or human rights situation issue/s, cannot be obtained from the alleged human rights violator/s or from the resource persons through the public inquiry proceedings; or

c. There is no vital witness/es who could substantiate or corroborate the allegation of human rights violation under inquiry; or

d. There is a need to conduct further field investigation, or fact-finding, or forensic examination; or

e. There is need to conduct further research / study on the issue; or

f. The State or respective duty holders have already addressed the issue/s and are already faithfully complying with the relevant international human rights standards, norms and principles.

Section 13. Submission of memorandum or position paper.--
Upon conclusion of the public inquiry proceedings, the Commission or the Regional Office or Committee may require the respondents to submit their memoranda or position paper in support of their stand on the human rights case or issues, within ten (10) days from receipt of the order from the Commission or the Regional Office. The Commission may also require resource persons to submit their pertinent reports or position paper within the same period.

Section 14. Order to conduct further investigation.-- In case the termination of the public inquiry/hearing is due to any of the reasons cited in Section 12 (c) and (d), the Commission shall issue an order directing the Regional Office or Investigating Team or Officers to pursue further investigation of the case.
Section 15. **Disposition of the cases subject of public inquiry presided by the Commission en banc.**— If the termination of the public inquiry is due to the reasons stated in Section 12(a) or upon completion of the further investigation, the Commission shall resolve the case and issue the corresponding resolution in accordance with Rule 4.

Section 16. **Disposition of human rights cases/issues subject of the public inquiry presided by any Member of the Commission with the assistance of designated CHR officers; or by the Regional Office, or special committee.**— At the conclusion of the public inquiry conducted by any member of the Commission, or by the Regional Office, or by the special committee, the corresponding findings and recommendations shall be submitted/endorsed to the Commission en banc for final deliberations and approval.

The final disposition of the said case or cases by the Commission en banc shall be in accordance with the provision of Rule 4.

Section 17. **Documentation or notes of the proceedings; transcripts.**— All public inquiry proceedings shall be documented, particularly, the oral testimonies of the parties and their witnesses, as well as that of the resource persons. The notes may be taken in stenographic writing or jetwriting, or tape recorded.

The stenographic reporter or documentor who shall take notes of, or document the public inquiry proceedings, shall be responsible in the timely transcription of the stenographic or jetwriting notes or tape-records of the proceedings. The original transcript of the notes shall form part of the original records of the case. Certified copies thereof shall be submitted to the Commission, through the Office of the Director, Legal and Investigation Office, or through the Clerk or Deputy Clerk of the Commission. Any interested party, upon official request, may secure a copy of the transcript thereof.

The CHR Stenographic Reporter or staff who documented the proceedings shall be entitled to charge a minimal amount per typewritten page of the transcript as may be allowed by the Chairperson, or the Commission, provided that no such fee shall be collected from indigents or low-income litigants or surviving-victims / complainants.

Section 18. **Public access to records.**— Case records and relevant data shall be available to the public for information, inspection, photocopying or machine copying, or reproduction during regular office hours. The Commission, however, shall have the power to exclude particular records or case data from the public which, in its discretion or pursuant to existing policies or laws, should be kept confidential, or when the release of such document or information may prejudice the completion of the investigation or endanger the safety and security of the surviving victims, members of their family, or that of the witnesses in the case.

Section 19. **Clerk of the Commission.**— In all public inquiries or
hearings conducted, there shall be an officer who shall act as Clerk of the Commission.

If the public inquiry is to be conducted by the Commission *en banc* at the national level, the Chief of the Legal Division, Legal and Investigation Office, at the CHR main office shall sit as the Clerk of the Commission. However, in his / her absence or as the Commission may deem appropriate, any competent lawyer may be designated to sit as Clerk of the Commission in the Commission *en banc* proceedings. In case the public inquiry or hearing is to be conducted at the regional level or by authorized officers regardless of venue, any lawyer may be designated to sit as such.

On the basis of the complexity of the human rights issues subject of the public inquiry, the Commission or the Chairperson may designate one or two Deputy Clerks of the Commission.

**Section 20. Responsibilities of the Clerk of the Commission.**—
The following shall be the responsibilities of the Clerk of the Commission:

a) To receive all complaints, pleadings or documents authorized or required to be filed with the Commission in connection with any matter pending before it and to stamp the date and hour of the filing therefore;

b) To keep such book or books as may be necessary for recording all the proceedings of the Commission and its orders and resolutions;

c) To keep a complete record of all the complaints/cases including such findings, orders and resolutions of the Commission issued in cases pending before it;

d) To administer oaths in all matters pending before the Commission;

e) To prepare the Commission’s calendar of cases and to notify the parties, and witnesses and counsel of the scheduled inquiry or hearing accordingly;

f) To furnish, without necessary delay, to the parties or agencies concerned, copies of orders, resolutions and decisions of the Commission; and

g) To cause the service of subpoenas and other process of the Commission upon the parties concerned without unnecessary delay.

**Section 21. Responsibilities of the Deputy Clerk.**—The Deputy Clerks of the Commission shall discharge such duties as may be assigned to them by the Commission or any Member thereof.

**Section 22. Applicability of the Rules of Court.**—In all matters of procedure not covered by the foregoing rules, the provisions of the
Revised Rules of Court shall apply in a suppletory character.

Rule 8
INVESTIGATION AND MONITORING OF HUMAN RIGHTS VIOLATIONS COMMITTED AGAINST WOMEN

Section 1. Investigative and other assistance to women victims of human rights violations or abuses.—The Commission on Human Rights, as gender ombud, shall have authority to investigate and provide other assistance to women who are victims of human rights violations and other abuses committed against them by State agents and/or by private persons or groups. Such authority shall include monitoring the human rights condition of the women in the country and Filipino women abroad.

Section 2. Handling of the investigation and interview of women victims of human rights violations and other forms of abuses.—Generally, the following guidelines shall be observed in the handling of investigation of cases involving women and in the interview of women who are victims of human rights violations or other forms of abuse:

a) Only CHR lawyers, investigators and other officers and personnel who have appropriate training on women’s rights and in the handling of investigation of cases involving women shall be assigned to undertake the investigation of cases involving human rights violations and abuses against women;

b) CHR officers involved in the investigation and delivery of protection services shall, at all times, be sensitive to the needs, plight, and status of said victims;

c) The CHR officers and personnel concerned shall ensure that the investigation and interview process shall not in any way expose the woman-victim to further trauma, humiliation and suffering.

Section 3. Applicability of the Rule on Witness Protection.—Rule 19 hereof pertaining to the CHR Witness Protection shall apply to women-victims and/or women-witnesses in cases involving human rights violations and abuses.

Section 4. Investigation and interview of women who are respondents/suspects in cases involving violations of human rights.—When conducting investigation and interview of female persons implicated in a case for violation of human rights or abuses against women, the CHR officers and personnel involved in the investigation of such case and interview of women-respondents/suspects shall be gender-sensitive; ensure respect for the dignity and right to due process of said women-respondents/suspects; and refrain from using abusive language and from exhibiting hostile attitude towards said women.
Section 5. Privacy and confidentiality.— Information gathered shall be treated with utmost confidentiality at all times, unless the production of such information is ordered by the Commission en banc or by a court of competent jurisdiction.

Rule 9
INVESTIGATION AND MONITORING OF HUMAN RIGHTS VIOLATIONS AND ABUSES AGAINST CHILDREN

Section 1. Authority to investigate and monitor violations and abuses of the rights of children.— The Commission on Human Rights shall take cognizance of, investigate and monitor all forms of violations and abuses against children, as well as the human rights situation of children in the country and of Filipino children abroad; and ensure that the status, rights and interests of children are upheld at all times.

This authority shall include appropriate legal measures, including free legal services and other assistance to children.

Section 2. Definition of “Children”.— “Children” refer to persons below eighteen (18) years of age or over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.2

Section 3. Guiding Principles in the Handling and Treatment of Children.— In handling and treating children, the CHR officials and personnel shall be guided by the four major principles of the United Nations Convention on the Rights of Children, namely: the best interest of the child; non-discrimination; the right to life and development; and the right of the child to be heard and to participate.

Section 4. Who may file complaints for violations of human rights and abuses against children.— Complaints of violations of the rights of or abuses against children may be filed by any of the following:

a) The survivor child-victim;

b) The father or mother, or guardian of the child-victim;

c) Any ascendant or collateral relative of the child-victim within the fourth civil degree of consanguinity or affinity;

d) Officer, social worker, or representative of a licensed child-caring institution;

e) Officer, social worker, or representative of the Department of Social Welfare and Development (DSWD) or social workers of

2RA 7610, Section 3(a).
local government units;

f) The Barangay Chairman of the place where the violation or abuse against the child-victim happened;

g) A concerned citizen who has personal knowledge of the violation or abuse committed;

h) Any non-government organization, or association or entity working for the cause of human rights.

Even in the absence of a complaint, incidents involving violations of the rights of or abuses against children may be motu proprio taken cognizance and investigated by the CHR.

Section 5. Where to file complaints for violations of human rights of or abuses against children.—In addition to the enumeration under Section 5 of Rule 4, complaints may also be filed before the Child Rights Center, the Legal and Investigation Office, or the Assistance and Visitorial Office located at the CHR Central Office.

Section 6. Handling of the investigation and interview of children victims of human rights violations and other forms of abuses.—Generally, the following guidelines shall be observed in the investigation and interview of children-victims of human rights violations and other forms of abuse:

a. Only CHR lawyers, investigators and other officers and personnel who have appropriate training on children’s rights and in the handling of investigation of cases involving children shall be assigned to undertake the investigation of cases involving human rights violations and abuses against children;

b. CHR officers involved in the investigation and delivery of protection services shall, at all times, be sensitive to the needs, plight, and status of said victims;

c. The CHR officers and personnel concerned shall ensure that the investigation and interview process shall not in any way expose child-victims to further distress, trauma, psychological or emotional torture, humiliation and suffering;

d. In all such cases, the CHR investigating officer shall conduct an interview or take the statement of any child in the presence of his/her father or mother, or guardian, or social worker and/or support person. The CHR investigating officer should be mindful of the dangers of multiple victimization if the child is compelled to tell and re-tell his or her side of the story and must apply the standard of best interests of the child in all investigative and monitoring processes to be undertaken;

e. In the CHR response continuum for the child-victim, any time
during the evaluation, investigation, resolution and monitoring stage, the CHR officer concerned handling the case may refer the child to a specialized agency, institution or organization for a specific and immediate intervention or service that the CHR cannot provide and if such referral be for the best interest of the child.

These guidelines shall likewise be observed in the interview of children in conflict with the law whenever applicable and in the best interest of the child.

Section 7. Rescue of children. -- Where the custody of a child-victim of human rights violation or abuse or exploitation is with the respondent/perpetrator, and the safety and security of the child is at risk, in danger, or threatened with further violation, the CHR shall immediately coordinate with the local social welfare and development officer, the Philippine National Police, and barangay officials for the conduct of rescue operation of the said child.

The rescued child/children shall forthwith be turned over to the parent/s, or known relatives, or to the local social worker, or the Department of Social Welfare and Development, with CHR to discern the recommendation of custody applying the best interest of the child.

Section 8. Desistance and compromise. -- The execution of an affidavit of desistance by the child-victim and/or the child’s parents or guardian or officer concerned of an institution having the care and custody of the child-victim shall not constitute as a basis for the dismissal of the case under investigation by the CHR. The investigation shall proceed regardless of the affidavit of desistance in order to determine whether or not violation of the rights of the child was indeed committed or not and the appropriate resolution be issued.

Cases involving human rights violations or abuses against children shall not be subject to compromise or amicable settlement. Any compromise agreement or amicable settlement therefor shall not be a ground for the closure or termination of the case against the alleged violator or respondent.

Section 9. Assistance of other agencies. -- The CHR may seek the assistance of government agencies concerned and/or non-government organizations or entities involved in children’s cause, whenever necessary, to ensure the safety and protection of the child, including the provision of temporary shelter and the necessary social services to the child-victim and/or witnesses.

Section 10. Privacy and confidentiality. — Information gathered shall be treated with utmost confidentiality at all times, unless the production of such information is ordered by the Commission en banc or by a court of competent jurisdiction.
Rule 10
INVESTIGATION AND MONITORING OF CASES INVOLVING DEMOLITION AND EVICTION

Section 1. Investigation and monitoring of demolition and eviction cases.— The CHR shall, motu proprio or upon complaint filed by any person, take cognizance of and, if necessary, investigate and monitor all forms of human rights violations arising from the demolition of dwellings or structures and eviction of marginalized, disadvantaged and vulnerable sectors in the country.

Section 2. Investigation and regular monitoring.— The Regional Offices shall conduct investigation and regular monitoring of the human rights situation specifically involving the marginalized, disadvantaged and vulnerable sectors of society.

However, the Commission may create a special composite team for this purpose.

Section 3. Monitoring of demolition and eviction cases before competent bodies.— Notwithstanding the pendency of a case involving the same subject matter or issues in court or other competent body, the CHR shall monitor the situation of the marginalized, disadvantaged and vulnerable sectors, as well as the progress of said case.

Section 4. Assistance of other government instrumentalities.— Pursuant to its constitutional mandate, the CHR may request any department, bureau, office, or agency to provide necessary assistance in demolition and eviction cases.

Section 5. Applicability of the rules on investigation, conduct of public inquiry on violations of civil and political rights.— Whenever applicable, Rule 4 and Rule 5 shall apply in the investigation and monitoring of cases involving demolition and eviction.

Section 6. Docketing of Cases Involving Demolition and Eviction.— All cases involving demolition and eviction shall be docketed in accordance with Rule 6 hereof.

3 Const., Art. XIII, Sec. 18(9).
4 See Rule 5, Sec. 4.
Rule 11
INVESTIGATION AND MONITORING OF CIVIL AND POLITICAL RIGHTS VIOLATIONS COMMITTED AGAINST FILIPINOS RESIDING ABROAD; AND MONITORING THEIR ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONDITIONS

Section 1. Investigation of human rights violations against Filipinos residing abroad.— The CHR shall investigate human rights violations against Filipinos abroad through diplomatic channels and its counterpart national human rights institutions, as well as international non-government organizations.

Section 2. Assistance and Intervention.— The CHR shall coordinate with national and international agencies and/or State officials concerned in providing the necessary assistance to Filipinos abroad. Such intervention and assistance shall include assisting the victims and/or their families in seeking redress for the violations before international human rights bodies and/or tribunals.

Section 3. CHR Overseas Mission.— The CHR may send a team to foreign countries whenever necessary to investigate and document the situation of Filipinos whose human rights have been violated or continue to be violated or threatened.

Section 4. Advisory.—On the basis of reports received and/or findings on the human rights violations against Filipinos or their human rights conditions in foreign shores, the CHR shall issue the necessary advisory to the Philippine Government and/or call for a dialogue or hold a forum regarding its findings.

Section 5. Coordination and linkages with human rights institutions and organizations abroad.— The CHR shall coordinate and establish linkages with international human rights institutions and organizations in other countries and tap their assistance in the investigation and monitoring of human rights violations committed against Filipinos residing abroad; and to document the human rights situation of Filipinos thereat.

Section 6. Protocols; Coordination with the Department of Foreign Affairs and Other Government Agencies concerned; the Philippine Embassy abroad; and Foreign Embassies in the country.— The CHR shall observe protocols in addressing the human rights situation of Filipinos residing abroad and shall coordinate with the Department of Foreign Affairs, the Philippine Embassy and Consular officials concerned. Coordination shall likewise be made with the Philippine Overseas Employment Agency (POEA) and the Overseas Workers Welfare Administration (OWWA) in human rights cases or issues affecting Overseas Filipino Workers (OFW).
Whenever necessary, the CHR shall also directly coordinate with the particular foreign Embassy in the country, and seek its assistance and intervention for the issuance of the necessary and appropriate advisory to its Government to immediately address the human rights violations committed against Filipino nationals in their country, or the human rights situation of Filipinos thereat.

**Rule 12**

**CONCILIATION AND MEDIATION**

**Section 1. Conciliation and Mediation mechanism.**—The CHR may consider the conciliation and mediation mechanism as a first course of action and alternative means in handling cases involving civil, political, economic, social and cultural rights, except in human rights cases mentioned in Section 4 of this Rule.

**Section 2. Conciliation; Mediation defined.**—Conciliation is a mode of settlement whereby the Commission or its representative, who shall be a neutral party, encourages and/or facilitates the parties in dispute to discuss their differences and assist them in making their own solution and/or reaching a mutual agreement or consensus. On the other hand, mediation is a more active mode where the Commission or its representative, although on a neutral side, submits proposals or recommendations for the possible settlement of disputes or human rights issues brought before it. Such proposal or recommendation by the Commission or its representative is done when the parties in dispute cannot, on their own, reach a solution or mutual agreement on the issue or issues in question.

**Section 3. When may conciliation or mediation be applied.**—Before the initial investigation or at any stage of the investigation proceedings on a particular issue involving civil, political, economic, social or cultural rights, the CHR lawyer or investigating officer shall determine whether the issue at hand can be considered for conciliation or mediation proceedings.

If it appears that the matter can be settled under a non-adversarial approach, the CHR officer concerned shall inform the parties of the option to avail of conciliation or mediation process. Only when the parties so agree can the process proceed.

**Section 4. When conciliation or mediation shall not apply.**—Conciliation or mediation cannot be resorted to in cases which involve serious or most serious human rights violations, to include but not limited to genocide, crimes against humanity, massacre, extralegal killings, enforced disappearances, torture, child abuse, and domestic violence; or when the parties cannot agree to submit their case in a conciliation or mediation proceedings.
Section 5. Parties involved in conciliation or mediation.--
The participation in the conciliation or mediation process before the CHR shall be limited to the following parties and CHR officers:

a) Complainant or aggrieved party;

b) Respondent or alleged perpetrator; and

c) The Regional Director, or a lawyer, or an investigator of the Regional Office where the dispute is pending; or the Director of the Field Operations Office or the Director or lawyers of the Legal and Investigation Office if the dispute is brought to or referred to any of said offices or Divisions in the Central Office by the Commission or any Member thereof.

Where there are complex human rights issues involved and/or there are numerous complainants and/or respondents, at least two (2) CHR conciliators or mediators shall handle the conciliation or mediation process.

Section 6. Duties of the conciliator or mediator.--The CHR conciliator or mediator shall:

a) Observe impartiality throughout the proceedings;

b) Arrange meetings/conferences between the complainant or aggrieved party and the respondent;

c) Ensure that the parties are accorded equal and fair opportunity to be heard and/or to present and explain their respective positions on the matter at issue;

d) Ensure that the settlement of the issues or mutual agreement, to include the matter of compensation or award as a result of such settlement, has been reached jointly through the free and voluntary decision of all the parties, and that the same is not contrary to law, public order or policy.

Section 7. Non-appearance of private lawyers.-- No private lawyer shall appear and represent any party in any conciliation or mediation proceedings pursuant to this Rule, except when the lawyer himself/herself is a party. However, a party is not precluded from consulting or seeking a lawyer's advice in the process.

Section 8. Amicable agreement not a bar to legal remedies.-- Notwithstanding any amicable settlement reached by the parties during the conciliation or mediation proceedings, the same shall not preclude either party from seeking other legal remedies before the competent court if the terms of the agreement was not complied with by any of the parties or a condition therein did not materialize.
Section 9. Confidentiality.—Matters discussed during the conciliation or mediation proceedings shall be treated in confidentiality by the parties.

Section 10. Form of settlement agreement.—The settlement or compromise agreement shall be reduced in writing in a language spoken and clearly understood by the parties, duly signed by them, with the assistance of and attested to by the CHR conciliator or mediator. If any of the parties do not know how to read and/or write, the agreement shall be read and explained to the parties by the conciliator or mediator before the parties affix their thumb marks thereon.

Section 11. Disqualification of CHR conciliator or mediator to pursue investigation proper of human rights issue/case he/she handled at the conciliation or mediation state.—The CHR conciliator or mediator who handled the conciliation or mediation proceedings of any human rights issues or cases referred to him/her, wherein no settlement or compromise agreement has been reached by the parties, shall be disqualified to participate in any manner in the investigation proper of said issues or cases.

Section 12. Reports on cases disposed through conciliation or mediation.—All conciliation or mediation processes facilitated shall be reported to the Commission by the respective offices or officers authorized to conduct such proceedings. In view of the policy of confidentiality such reports shall be submitted on a monthly basis, which shall be separated from other regular reports.

Section 13. Training on conciliation and mediation—CHR officers involved in the mediation and conciliation process shall be required to undergo at least twenty-four (24) hours of orientation, seminar or training on conciliation and mediation. They shall be required to attend further seminars, trainings or orientations on conciliation and mediation at least once every two years.

Rule 13
QUICK RESPONSE OPERATION

Section 1. Quick Response Team.—The CHR shall establish a quick response action system at its national and regional offices, which shall be in active operation particularly after the regular core working hours and during week-ends and holidays.

Section 2. Primary responsibility of the QRT.—The primary responsibility of the Quick Response Team shall be to immediately provide the necessary assistance to any person or group/community of persons whose rights have just been violated, or whose lives, liberty or property are in grave threat, or in imminent danger.
Section 3. Screening of telephone or cellphone calls, text messages, reports, or walk-in complainants or informants.— All complaints, reports or information pertaining to human rights situation mentioned in the preceding paragraph which are brought to the attention of the Commission and/or to any CHR Regional Offices by any person or group of persons, whether walk-in or phone-in, or text messages, or that monitored in the media [radio, television and the press], or e-mails, shall immediately be screened or evaluated by the Investigator or Lawyer on duty. If in the assessment of the duty officer there is a need to dispatch a QRT, the said duty officer in the Regional Office shall immediately inform the Regional Director. At the national level, it shall be the responsibility of any lawyer or officer who received such urgent information to inform the Commission or any Member thereof so that immediate action can be taken.

Section 4. Mission Order.— All quick response operations shall be covered by a Mission Order in accordance with Rule 3, Section 4. In case none of the authorized officers are available to issue such written order and the urgency of the situation calls for immediate response by the CHR-QRT, the instruction or directive for a field mission can be made by phone or SMS. All officers and personnel deployed in the quick response operations shall wear their CHR identification cards.

Section 5. Coordination with other agencies or investigative bodies. -- Whenever necessary, the Team shall coordinate with other duty-holders, non-government organizations, civil society groups and government organizations concerned, giving primary consideration to the immediate safety and protection of the client or victim or community of persons.

Section 6. Initial report.— Within 24 hours from the QRT Mission, the Team shall submit a written report of its initial findings and observations, as well as its recommendations to the Regional Director concerned or to the Commission en banc or any member thereof, as the case may be.

Section 7. Monthly report.— All Regional Offices shall prepare and submit to the Commission, copy furnished the Director of the legal office, a separate monthly report on all quick response operations conducted.

Section 8. QRT logbook. -- The Regional Office shall keep a separate logbook on cases responded under the QRT operations. For ready reference, the entry in the logbook shall contain specific data, to include the names of the members of the CHR Quick Response Team, brief notes on the action taken and the updates on the action taken after the mission, including the CHR office or officer/s to which the case/s have been endorsed/referred to for investigation or other appropriate action thereafter.

Section 9. Monitoring of QRT Operation. -- The legal office shall regularly monitor the implementation of the Quick Response Operations in the regions.

Section 10. Joint Quick Response Operations.— The CHR may
participate and join in quick response operations initiated or conducted by other government investigating body, or non-government organizations, national or international, as an immediate strategy to address human rights violations or threats thereof under urgent situations to ensure the immediate protection of the victims and their families.

Section 11. **Independence of the CHR.**— The CHR Quick Response Team shall, at all times, respect, maintain and uphold the independence of the Commission as a national human rights institution. As such, the CHR-QRT shall verify and make an assessment of the reported human rights violations or threats thereof; draw its observation of the situation at the scene of the incident and come up with its own analysis and findings which shall be independent from that of the other participating groups. The CHR-QRT members shall not take part or sign in whatever reports or documents that shall be prepared or issued by members of the other group/s who participated in the joint QRT.

### Rule 14

**FACT FINDING MISSIONS**

Section 1. **Fact-Finding.**— Fact finding is a mode of verifying reports or complaints pertaining to human rights incidents or issues in aid of the CHR investigative powers and assistance measures. It includes, among others, the conduct of field investigations and forensic missions; visitations of jail, rehabilitation and detention facilities; and monitoring of preliminary investigations and court proceedings.

Section 2. **CHR Regional Offices' area of responsibility.**— The CHR Regional Offices shall have the primary responsibility to conduct fact-finding within their respective area of responsibility. This notwithstanding, the Commission *en banc*, at its discretion and/or upon recommendation of the Regional Office concerned, may spearhead the conduct of fact-finding missions.

Section 3. **Mission Order.**— All fact finding missions shall be covered by a Mission Order duly issued by any authorized CHR official, in accordance with Rule 3, Section 4 hereof.

Section 4. **Confidentiality.**— Confidentiality in the proceedings shall be observed by fact-finding team whenever necessary or indispensable to protect the lives and security of the persons involved in the case, including their own.

Section 5. **Fact-Finding Reports.**— The CHR fact-finding team shall, upon return to work station, make a report on their initial findings to the Regional Director or the Commission, as the case may be, for immediate consideration.

In case of fact-finding proper, the fact finding team shall submit a final report within five (5) working days from the conclusion of its mission,
setting forth therein the facts of the case, the information and evidence gathered and their observations and recommendations.

Section 6. Fact-Finding reports as basis for conduct of public inquiry or dialogue.-- On the basis of the reports mentioned in the preceding section, the Commission en banc may opt to conduct a public inquiry or hearing, or a dialogue and involve therein all parties in interest, stakeholders, civil society, and media, whenever deemed necessary.

Section 7. CHR Participation in Fact-Findings Initiated by Other Government Agency, Investigative Body or Committee and/or Non-Government Organization.— The Commission and/or a duly created special task force, and/or any of its regional offices within whose area of responsibility the alleged human rights violations took place and/or impending threats to human rights exist, may participate actively or as an observer in fact-finding missions initiated and/or conducted by other concerned government agency/committee/body, and/or non-government organization/group if so requested/invited.

Section 8. Independent Findings.— In all fact-finding missions, whether conducted at the initiative of the CHR, and/or that initiated by other concerned government agency, investigative committee or body, and/or non-government organization/group wherein the CHR has been invited to participate, the CHR fact-finding team shall draw up an independent analysis and conclusion, and make the corresponding recommendations to the Regional Director and/or the Commission.

Rule 15
CONTEMPT

Section 1. Direct Contempt Punished Summarily.— A person guilty of misbehavior in the presence of the Commission or any of its members as to obstruct or interrupt the proceedings before it or them, including disrespect toward the Commission or its members, refusal to be sworn as a witness may be summarily adjudged in contempt by the Commission or any of its members and shall be punished in accordance with the penalties prescribed in the Rules of Court.

Section 2. Indirect Contempt.— After a show cause order charge in writing has been filed by the Commission or its members, as the case may be, and an opportunity given to the respondent to be heard by himself/herself or counsel, a person guilty of the following acts may be punished for contempt:

a) Disobedience of or resistance to a lawful writ, process, order, judgment or command of the Commission or any of its members;

b) Any abuse of or any unlawful interference with the process or proceedings of the Commission or any of its members not constituting direct contempt under Section 1 of this Rule;
c) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice by the Commission or any of its members;

d) Failure to obey a subpoena duly served.

**Section 3. Penalty for Indirect Contempt.**—If adjudged guilty, the respondent may be punished in accordance with the penalties prescribed in the Rules of Court.

**Section 4. Petition for Contempt by the Regional Directors.**—In cases of contempt committed by any person/s against any CHR Regional Director or deputized Hearing Officer/s, the Regional Director concerned, shall petition before the Commission *en banc* to declare such person in indirect contempt for any of the acts or omissions set forth in these Rules.

**Section 5. Arrest and detention for contumacious acts.**—The Commission may call on the appropriate law enforcement agencies to effect the arrest and detention of a person adjudged guilty of direct or indirect contempt, where imprisonment is the penalty meted out.

**Rule 16**

**APPLICATION OF FORENSIC SCIENCE**

**IN AID OF INVESTIGATION OF HUMAN RIGHTS VIOLATIONS**

**Section 1. Duty of CHR officer.**—If upon initial evaluation of the case by the investigator or lawyer on duty, there is a need to avail of forensic and medico-legal services, he/she shall coordinate with the CHR Forensic Center.

**Section 2. Communication and case brief.**—Upon receipt of the referral or request, the Chief of the CHR Forensic Center or any Medico-Legal Officer designated shall promptly provide the forensic and medico-legal services needed. If the nature of the case requires the advice and services of forensic experts outside the CHR, the corresponding communication and preparation of the case brief shall be submitted to the Commission *en banc* for its consideration.

At the regional level, the Regional Director or the investigator and/or lawyer handling the investigation of the case may, in the urgency of the situation and when no CHR Medico-Legal Officer is immediately available, consult and coordinate with and enlist the assistance of the local Municipal, City, or Provincial Health Officer, or the local and national investigative and law enforcement agencies, to conduct the necessary forensic and/or medico-legal examination. Provided, that the appropriate communication and case brief shall be submitted to the Commission through the CHR Forensic Center for information and records purposes or for further evaluation/consideration. Should there be no immediate urgency, the request shall be coursed through and acted upon by the CHR Forensic Center. In such case, the CHR Forensic
Center shall prepare the communication and case brief which shall be submitted for the consideration of the Commission en banc.

**Section 3. Contents of case brief.**—The Case Brief shall contain an up-to-date summary of facts, the forensic services required, expertise needed, relevant agencies to be involved, and proposed mission agenda and plan.

**Section 4. Forensic Mission Order.**—All Forensic and/or Medico-Legal Missions to be conducted by the CHR shall be covered by a Mission Order duly issued by authorized CHR officials in compliance with the requirements set forth in Rule 3, Section 4.

**Section 5. CHR Form on forensic requirement.**—The Medico-Legal Officer or the Investigation Officer concerned shall be required to accomplish the corresponding official CHR Form which shall contain a checklist of the forensic requirements.

**Section 6. Official report testimony of the Medico-Legal Officer of the CHR and/or that of other government entities.**—The Medico-Legal Officer, whether from the CHR Forensic Center or from other government office/entity shall submit to the Commission en banc a copy of their official report which shall contain the comprehensive results of the examinations conducted, their analysis, observations and recommendations.

**Section 7. Assistance of Outside Forensic Expert.**—Should the case subject of a forensic and medico-legal investigation require the services of an outside expert in a specific or special forensic field, the CHR Forensic Center shall immediately make the necessary recommendation to the Commission en banc. The Commission en banc, in the exigency of the situation, may contract and retain the services of such expert.

The contracted expert shall likewise submit a written report as that required under the preceding section. In addition, the expert shall also be required, whenever necessary, to appear and testify before any proceedings conducted by the Commission, any other investigative body, or judicial authority, in relation to the human rights case for which his/her services were retained.

**Section 8. Integration of forensic findings in investigation.**—The results of all forensic and/or medico-legal examinations conducted by or on behalf of the CHR shall be integrated in and shall form part of the comprehensive investigation report, and shall be considered in the case analysis and resolution.

**Rule 17**

**VISITORIAL POWER**

**Section 1. CHR Visitorial Power and Related Programs and Services.**—The Commission shall exercise visitorial power over jails, prisons,
detention and rehabilitation centers and similar facilities and structures and render related services in accordance with its mandate under the 1987 Constitution and existing laws.

**Section 2. Scope of Visitorial Power.**—The CHR visitorial power shall extend to all facilities mentioned in the immediately preceding section, which are operated and maintained by civilian and/or military authorities, including but not limited to:

a) Municipal, city, and district jails supervised and managed by the Bureau of Jail Management and Penology (BJMP);

b) Provincial, District, and Municipal jails;

c) “Lock-up” or detention centers;

d) National penitentiaries or correctional institutions;

e) Military detention facilities;

f) Juvenile and/or youth centers supervised and managed by the Department of Social Welfare and Development or other institutions and non-government or private groups;

g) Social care institutions, such as psychiatric hospitals managed by the Department of Health;

h) Other facilities not mentioned above, or places or areas where any form of deprivation of liberty or high-risk areas of torture or inhuman, degrading treatment.

**Section 3. CHR Authorized Officers and Personnel.**—The CHR Regional Offices shall exercise visitorial powers in their respective areas of responsibilities.

The Commission en banc, the Chairperson, or any Member of the Commission may, as the circumstances require, designate and authorize a composite team from its Central Office or other Regional Offices to conduct such visitations.

**Section 4. Mission Order.**—All visits conducted by the Commission through its authorized officers and personnel shall be covered by a Mission Order as required in Rule 3, Section 4 hereof.

**Section 5. After-Mission Report.**—Within five (5) days after the mission is completed, the officer or composite team who conducted the visitation shall submit a comprehensive after mission report to the official who issued the Mission Order. A copy of the report shall be furnished to the Commission Assistance and Visitorial Office.

**Section 6. Reportorial requirements.**—The Assistance and Visitorial Office shall submit to the Commission regular monthly reports on
all activities conducted in relation to the CHR visitorial power, and special reports as may be required. The Assistance and Visitorial Office shall submit consolidated annual reports on all services extended, as well as related programs and projects.

Section 7. Refusal by other agencies, state authorities to recognize the CHR visitorial power.— State authorities, their agents, or any person acting in their stead or by acquiescence who shall deliberately or without just cause disregard and/or refuse to obey the authority of the CHR to enforce its visitorial power shall be liable for contempt pursuant to Rule 15 hereof, in accordance with the Rules of Court.

Rule 18
IMMUNITY OF WITNESS

Section 1. Witness Immunity from Suit.-- The Commission may grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority involving civil, political, economic, social or cultural rights. This immunity shall include the corresponding criminal and administrative prosecution resulting from such, provided:

a) There is absolute necessity for the testimony of the witness;

b) There is no other direct evidence available to establish the involvement of the principal and other offenders in the human rights violation case subject of the investigation by the CHR, or under preliminary investigation by the Department of Justice-Prosecutorial Service or by the Office of the Ombudsman, or under trial before competent fora, except the testimony of said witness;

c) The testimony of the witness can be substantially corroborated on its material points;

d) The witness, if named as a respondent in a human rights investigation or as respondent in the corresponding administrative or civil case, or as an accused in a criminal proceeding, does not appear to be the most culpable.

Section 2. How immunity may be availed of.-- Witness immunity may be granted motu proprio by the Commission or upon application of the concerned party. Provided, however, that in all cases, the concerned party shall execute an affidavit reciting the substance of his/her proposed testimony and/or the nature of the evidence in his/her possession, attaching thereto a written endorsement of the Regional Director or Investigator or Lawyer handling the case.

Section 3. Extent of immunity from suit.-- The immunity
granted shall extend to any statement or testimony that may be made by the witness for the purpose of giving evidence. The statement or testimony may be made in and out of court proceedings, in oral or written form, or on affidavit/s given by the witness.

Such immunity from suit may be enjoyed even in cases where the information and testimony are given against a person who is not the principal, but merely an accomplice or accessory in the commission of the human rights violations complained of.

The participation and cooperation of said witness shall last until the case shall have been finally adjudicated by the Commission and competent fora, to ensure that human rights protection remedies and the ends of justice are served.

Section 4. Effects of immunity from suit.--The immunity granted to the witness shall amount to his/her absolution as respondent in the human rights investigation conducted by the CHR, or his/her non-inclusion or dismissal as a respondent in the corresponding administrative or civil suit, or as an accused in the criminal case resulting from the human rights violation where he/she was initially implicated.

The immunity granted shall also be a bar to future prosecution for the same offense, or any similar offense or elements of such offense arising from the act or omission constituting the human rights violation wherein he/she has been discharged as CHR or State witness.

Section 5. Limitations of immunity from suit.-- The immunity shall not attach in the following cases:

a) The witness fails or refuses to testify in the proceedings conducted by the Commission;

b) The information and/or testimony is false or malicious;

c) The information and/or testimony was made only for the purpose of harassing, molesting, or in any way prejudicing the alleged perpetrator/s of human rights violation/s.

Section 6. Effects of perjury or false testimony.-- In the event that the information given under oath by the witness granted immunity was later on found to be false, fabricated, or designed to harass and falsely accuse the respondents in the human rights case in consequent criminal and administrative cases, he/she shall be immediately stripped of such immunity and the corresponding action for perjury shall be taken against such witness, and the investigation of the human rights case against him/her shall proceed. Further, if such witness has been admitted under the CHR Witness Protection Program, he/she shall be stripped of such benefits and released from the CHR Witness Protection Program.

Section 7. Admission to the CHR Witness Protection Program.-- Once a witness has been granted immunity, he may be
admitted to the CHR Witness Protection Program in accordance with Rule 19.

Section 8. Applicability of the Rules of Court.-- In all matters not provided in these rules, the Rules of Court shall apply in a suppletory character, or by analogy whenever practicable and convenient.

BOOK II

RULE 19
WITNESS PROTECTION PROGRAM

Section 1. The CHR Witness Protection Program.-- The CHR shall maintain and strengthen a Witness Protection Program that is separate from the current program of the government.

Section 2. Scope of application of the CHR Witness Protection Program.-- The CHR Witness Protection Program shall apply to cases involving human rights violations under investigation wherein the life and security of a vital witness is in actual, imminent or apparent danger or threat.

The protection services and benefits under the program may be extended to the witness’ family, guardian or ward, provided it is established that they are likewise under danger and/or threat.

Section 3. Authority to make final decision on admission.-- The Commission en banc shall have the authority to decide on the admission of a witness to the CHR Witness Protection Program.

A provisional admission of persons into the Program may initially be done by the CHR Regional Office. Within forty-eight (48) hours from admission of the witness, the CHR Regional Office shall submit a report to the Commission en banc for assessment and approval.

In case the request or application or endorsement for admission to the Program is denied, the Commission shall notify, in writing, the requesting party / applicant. The latter shall have ten (10) days from receipt of notice of such resolution to move for reconsideration of the said Order.

Section 4. Administration of the CHR Witness Protection Program.-- The CHR-Assistance and Visitorial Office shall be responsible in the general administration and supervision of the CHR Witness Protection Program, to include the exercise of oversight and monitoring of the implementation of the program by the CHR Regional Offices.

The implementation of the Witness Protection Program at the regional level shall be under the immediate supervision of the CHR Regional Director, or in his absence, the Officer-in-Charge of the CHR Regional Office,
in close coordination and consultation with the Commission en banc and the Assistance and Visitorial Office.

**Section 5. Trained officers to handle witness protection services.**—All officers and personnel who will be involved in the CHR Witness Protection Program must be gender-sensitive; shall be required to undergo continuing capacity-building trainings on investigation, handling and treatment of witnesses, security operations and intelligence processes, and special courses on human rights; and physical and psychological fitness programs.

**Section 6. Who may be admitted to the CHR Witness Protection Program.**—Any of the following persons may be admitted into the CHR Witness Protection Program:

a) A survivor of a human rights violation whose life is in actual or imminent danger or under serious threat;

b) Any member of the family or guardian of the victim of human rights violation whose life is in actual or imminent danger or under serious threat due to their relation to the victim and/or vital information, knowledge or evidence they know of or may have in possession in relation to the human rights violation committed against the victim;

c) Any person who witnessed the human rights against the victim/s who is willing to provide and make available such information;

d) A person who has been granted immunity by the Commission pursuant to Rule 18 hereof, and whose life and security has been placed in actual or imminent danger due to his or her testimony or evidence given before the Commission.

**Section 7. How to avail of the CHR Witness Protection Program.**—Any person mentioned in Section 6 of this Rule may be admitted to the CHR Witness Protection Program:

a) Motu proprio by the Commission en banc or upon recommendation by the Regional Office handling the case, with the express consent of the witness; or

b) Upon application for admission to the program by the surviving victim or witness; or

c) Upon endorsement to the Commission by any government agency or investigating body or committee or non-government organization or private person assisting and providing temporary shelter and protection to the victim or witness to admit said victim/s or witness/es to the CHR Witness Protection Program.

**Section 8. Request or Application Form.**—No prescribed form
shall be required pertaining to the request for admission to the CHR Witness Protection Program. The witness or applicant shall, however, be later required to fill up or accomplish the CHR application form which shall be subscribed and sworn to before any CHR officer authorized to administer oath.

All requests or applications for admission to the CHR Witness Protection Program filed with the CHR Regional Office shall be transmitted to the Commission within five (5) days from receipt.

Section 9. Assessment of the Witness’ qualification into the Program.--The Investigator and/or Lawyer handling the investigation of a human rights case shall assess the eligibility of the witness into the program, taking into account the following:

a) The severity of the human rights violation, such as but not limited to human rights cases involving extralegal killing, enforced disappearance, torture, and internal displacement, and where his/her testimony will be used, is a grave felony as defined under the Revised Penal Code or its equivalent under special laws;

b) The relevance and materiality of the testimony and/or evidence that the witness will give in the human rights case under investigation by the CHR;

c) The testimony of the witness can be substantially corroborated in its material points;

d) The qualifications of the witness set forth under Section 6 of this Rule.

If upon such assessment, the Investigator and/or Lawyer on case deems that the witness is qualified, the corresponding recommendation for admission of the witness to the program shall be made and endorsed to the Commission en banc by the Regional Director or, in his/her absence, by the Officer-in-Charge, through the Assistance and Visitorial Office.

Section 10. Misrepresentation or false information by witness.-- Any misrepresentation or deliberate false information made by the surviving victim or witness or the requesting party which misled the Commission into accepting such witness into the CHR Witness Protection Program, shall be ground for the Commission en banc to:

a) Unilaterally cancel outright the Memorandum of Undertaking entered into with said witness, with due notice thereof to said witness;

b) Deny outright any recommendation, endorsement, or request or application for admission to the Program;

c) Cite for contempt such witness and the person or group of persons responsible for endorsing said witness for admission to the CHR
Witness Protection Program, in accordance with the Rule on Contempt hereof, and/or file the appropriate criminal and/or administrative charges.

Section 11. Memorandum of Undertaking.—A Memorandum of Undertaking (MOU) shall be entered into by and between the CHR and the witness or person to be protected, setting forth therein the terms and conditions of the parties, to wit:

Obligations of the CHR:

a) The CHR shall ensure the protection, safety and security of the witness in accordance with this Rule;

b) The CHR shall provide the witness the necessary assistance which, as the circumstances so require, shall include food, clothing, and shelter in a safehouse, as well as security escorts and/or security personnel.

Obligations of the witness or the person to be protected:

The witness or person to be protected shall comply in good faith with the terms and conditions of the undertaking, to include:

a) He/she shall freely testify and provide information and submit evidence before competent authorities concerning all appropriate proceedings in connection with or arising from the acts of human rights violation wherein he/she was involved, or which he/she has witnessed;

b) He/she shall respect and comply with the request and orders of the Commission en banc or the Chairperson; or with the orders and processes of competent courts or authorities, in relation to the case for which he/she has been admitted into the CHR Witness Protection Program;

c) He/she shall not involve himself/herself in illegal, criminal and immoral acts, or in any act that will violate the human rights of others;

d) He/she shall take all necessary precautions to avoid detection by others of the facts concerning the protection provided him/her under CHR Witness Protection Program;

e) He/she shall not leave the safehouse premises and/or go home or to any other place, without the knowledge and permission of Commission and/or his/her handlers;

f) He/she shall not perform acts or engage in activities that will compromise the integrity of the CHR;

g) He/she shall refrain from activities that will compromise his/her
security and safety, or that of another witness who is or was under
the CHR Witness Protection Program;

h) He/she shall be accountable for all personal expenses incurred not
covered under the terms of his/her Undertaking with the CHR.

Section 12. Perpetuation of testimony.—Any person who shall
be admitted into the CHR Witness Protection Program shall, in addition to
the Memorandum of Undertaking, execute a sworn affidavit detailing
his/her knowledge or information of the human rights violation committed
and/or his participation therein, or what he/she has actually witnessed.

If necessary, the perpetuation of the testimony of the witness or
person to be protected under Rule 134 of the Revised Rules of Court may be
availed of.

Section 13. Special protection to women and children.—
Female witnesses shall be subject to special protection as may be required
by the circumstances. They shall be placed in a safehouse or shelter separate
from that of male witness/es, except when she is placed thereat together
with her husband or partner who is also a witness in the same or another
human rights case. Pregnant women, nursing or lactating mothers or other
mothers shall be afforded special consideration by reason of their biological
needs and gender.

Child witnesses shall be subject to special protection as may be
required by their age and circumstance. Any qualified child witness shall
immediately be referred to the Department of Social Welfare and
Development or other child-caring agency with which the Commission has
an existing Memorandum of Agreement or arrangements. Under
exceptional circumstances and in the best interest of the child, as it may
deam necessary, the CHR shall place the child under its direct custody, care
and protection.

Section 14. Protection of the identity of the witness;
disclosures prohibited.— No person shall knowingly disclose, directly or
indirectly, information about the location or change of identity of a witness
under protection or formerly given protection under the CHR Witness
Protection Program, except where disclosure is essential to the following:

a) The prevention of the commission of a serious offense;
b) An investigation of a serious offense where the witness can provide
material information or evidence;
c) A criminal or administrative proceeding where the disclosure is
essential to establish the innocence of a person;
d) National security or national defense.

Section 15. Maintenance and operation of safehouses or
shelters.— To ensure the safety and security of the witnesses admitted into
the CHR Witness Protection Program, the CHR shall maintain and operate
safehouses or shelters in any part of the country.
For this purpose, it shall acquire or lease the necessary facilities and equipment, and obtain, as well as provide the necessary resources to ensure a sustainable and effective security and protection services, as well as the maintenance and support of all witnesses admitted to the CHR Witness Protection Program.

Section 16. Rule on Confidentiality.-- All proceedings involving request or application or motu proprio action for admission to the Program and the action/s taken thereon shall be confidential in nature, except upon written order of the Commission en banc or by a competent court.

The location of the CHR safehouses and whereabouts of witnesses shall be kept strictly confidential. For this purpose, access to the witness shall be limited to the Commission en banc the Lawyers and or Investigators handling the case of the witness; the Director of the Assistance and Visitorial Office; or the CHR Regional Director concerned or any official or personnel as may be assigned by the Commission.

Section 17. Violation of Confidentiality.— Any person who shall violate the preceding section shall be cited in contempt by the Commission, without prejudice to the filing of the corresponding criminal and administrative charges against such officers or personnel as provided for under the law and/or Civil Service Rules and Regulations.

Section 18. Notice of proposed disclosure.— In instances where disclosure is allowed under this rule, the Commission shall take reasonable steps to notify the witness and allow him/her to make representations concerning the matter; except if, in the opinion of the Commission, notifying said person will impede or prejudice the investigation of the human rights violation/s.

Section 19. Harassment of witness contempt.— Any person who harasses a witness admitted under the CHR Witness Protection Program, and thereby hinders, delays, prevents or dissuades said witness from attending or testifying before the Commission or its investigating officers, or before any judicial or quasi-judicial body or investigating authority, or from performing his/her obligations and/or enjoying the entitlements under the CHR Witness Protection Program, shall be held in contempt by the Commission, without prejudice to other legal sanctions as may be applicable under the law.

Section 20. Effects of Violation of the terms and conditions of the Memorandum of Undertaking.— Breach of any of the provisions set forth in the Memorandum of Undertaking by the witness admitted under the CHR Witness Protection Program shall be a ground for the release of said witness from the Program or termination of the Memorandum of Undertaking. Provided, however, that due notice and opportunity shall be given to the witness to explain before the Commission why he or she should not be dropped from the CHR Witness Protection Program. If the Commission is satisfied with the explanation, the witness shall continue to
enjoy the protection services of the Commission.

Any respondent-turned-witness who was granted immunity and accepted into the Program, who was released and/or dropped from the Program for violation of the Undertaking, shall also be stripped of the immunity granted by the Commission. As such, he/she shall be reinstated as party respondent in the case where he/she was earlier granted immunity and/or admitted as witness under the CHR Witness Protection Program.

Section 21. Termination of the MOU.-- The Memorandum of Undertaking between the Commission and the person admitted under the CHR Witness Protection Program may be terminated on any of the following grounds:

a) When the Commission and/or the witness have established that the ground for the continued protection to the witness has already ceased or has been reduced to a manageable or tolerable level;

b) There is substantial breach by the witness of the terms and conditions of the Undertaking;

c) When the witness unilaterally and voluntarily decides to withdraw from the CHR Witness Protection Program, and informs the Commission accordingly;

d) When the Commission has later established that the witness has made material misrepresentations or failed to disclose or concealed vital information relevant to his/her admission under the CHR Witness Protection Program;

e) When the witness deliberately contravenes the orders of the Commission, or the court, or quasi-judicial body trying the human rights violation case;

f) When the witness is convicted by a competent court for perjury or other criminal offense requiring service of the penalty of imprisonment;

g) Such other grounds as may be agreed upon by the parties in the Undertaking.

Section 22. Effect of Termination of the MOU and Release of witness from the Program.-- Termination of the MOU shall extinguish all the protection services and benefits provided by the CHR pursuant to the MOU, and shall free it from any obligation and responsibility towards the witness. It shall release the person from the Witness Protection Program.

Any person so released shall be turned over to his/her lawyer, or parents, or grandparents, or guardian, or spouse, or brother, or in the absence of any such persons, to any officer of the non-government organization assisting the said witness; or in the absence of all such persons, in
the presence of a Barangay official or responsible member of the community where the release is made.

The Commission shall issue the corresponding Resolution therefor; and shall explain to the witness, in the presence of any of the persons mentioned in the immediately preceding paragraph, the consequences of his/her release or withdrawal from the CHR Witness Protection Program.

Section 23. Assistance under the Government Witness Protection and Security Program or under a protective shelter program of Non-Government Organization.— The Commission may endorse/recommend the admission of the witness into the Witness Protection and Security Program of the Government, or into a protective shelter program operated by accredited non-government organization. Provided, however, that there is free and express consent of the witness; and, provided further that, the Commission shall have access to the witness whenever required by circumstances. With respect to referral of witnesses to the Department of Justice, the same shall be guided by the provisions of the existing Memorandum of Agreement between the CHR and the DOJ.5

Section 24. Memorandum of Agreement between the CHR and the Government Agency or Non-Government Organization for Witness Protection.— In all cases where the recommendation or request of the CHR for admission of a witness to the Witness Protection and Security Program of the government or in the protective shelter program of a non-government organization has been accepted and approved by said government agency or non-government organization, the corresponding Memorandum of Agreement shall be entered into by the CHR and the said government agency, or between the CHR and the non-government organization concerned. The Memorandum of Agreement shall set forth the terms of reference of the parties in relation to the witness to be protected. Provided, however, that the Memorandum of Agreement with the government agency concerned shall conform with the Witness Protection and Security Program under the auspices of the Department of Justice as provided for in Republic Act No. 6981, and pertinent rules and regulations governing witness protection and security or protective shelter under the auspices of a government institution, bureau or office.

Section 25. Release or disqualification of CHR Witness from the Government’s Witness Protection and Security Program or from a Non-Government Organization’s Protective Shelter Program.— Should a witness in a human rights case be admitted to the Witness Protection Program of the Government (GO) or that under the auspices of a Non-Government Organization (NGO), but later on released from such GO or NGO’s protection and security program, the Commission shall re-assess the qualifications of the witness and determine whether to admit/re-admit the witness to the CHR Witness Protection Program.

Section 26. Insurance and special benefits for witness’

5 Attached as Annex “A”
The Commission shall develop an insurance and special benefits system for all officers and personnel involved in handling the security and protection of witnesses under the CHR Witness Protection Program, to include special allowance; hazard pay; night shift differential; emergency allowance; medical and hospital benefits in case of injury, accident, or sickness incurred in connection with the performance of duty in the protection and security services to the CHR witness or witnesses; and insurance and mutual fund.

Section 27. Responsibility of the CHR Assistance and Visitorial Office; CHR Regional Offices.—In relation to Section 4 of this Rule, the following are the responsibilities of the Assistance and Visitorial Office with respect to witness protection:

a) Supervise the operation of the CHR Witness Protection Program;

b) Ensure the effective implementation of this Rule taking into consideration the confidentiality and security of information, documents, evidence, safe-houses, and location and identity of witnesses;

c) Prepare the budgetary requirements on witness protection, administer the disbursement of funds therefore and ensure the prompt and accurate liquidation of such funds;

d) Submit regular Financial Reports to the Commission on the expenditures pertaining to the Witness Protection Program;

e) Submit monthly reports or special reports to the Commission on the implementation and operation of the Witness Protection Program;

f) Develop and implement a continuing capability-building program for CHR officers and personnel involved in the Witness Protection Program;

g) Develop an insurance and special benefits system as provided for under Section 26 of this Rule;

h) Link and coordination with other institutions, domestic or international, for technical support program for CHR officers and personnel involved in the protection, security and handling of witness;

i) Linkage and coordinate with government agencies and non-government organizations for possible assistance to the CHR in the provision of protection and security services to CHR witnesses;

j) Coordinate with the witness’ handlers (Security Officers, Investigators and Lawyers) as to the deportment of and compliance by the witness of the terms and conditions pursuant to the Undertaking he/she entered into with the Commission;
k) Make regular assessment of the Program, and recommend, in coordination with the Regional Offices and the Legal and Investigation Office, appropriate measures that will enhance the competence, effectiveness, sustainability of the CHR Witness Protection Program.

Rule 20
LEGAL ASSISTANCE AND COUNSELING

Section 1. Legal Assistance Services.— The CHR shall extend free legal assistance and counseling services to persons whose human rights were violated or threatened with violations or need protection, pursuant to Sec. 18 of Article XIII of the Constitution.

Section 2. Factors to consider in the grant of free legal assistance.— The following shall be considered in the grant of CHR free legal assistance service:

a) The subject matter is within the CHR jurisdiction;
b) The economic status and sector of the client;
c) The nature and gravity of the human rights case;
d) The availability of CHR lawyers;
e) No private lawyer or association of lawyers would like to accept the case for justifiable reasons.

Section 3. Scope of legal assistance.— Free Legal assistance services shall cover cases involving civil, political, economic, social and cultural rights.

Section 4. Who will provide the legal aid services.—The following will provide legal assistance services;

a) At the Regional Office, the legal division shall be responsible for providing legal services within their areas of responsibility. However, the Chairperson or any Member of the Commission may, if he/she deems it necessary, designate a lawyer from the CHR Central Office.

b) At the Central Office, the Legal and Investigation Office, the Child Rights Center, the Women's Human Rights Center, and the Assistance and Visitorial Office may opt to provide legal services within their respective areas of expertise. Otherwise, they shall refer the case to the concerned Regional Office.

Section 5. Legal Counseling Services.— Free Legal counseling services shall be extended by any CHR lawyer to any person in need of legal advice, taking into account the urgency of such legal advice, regardless of the status of such client and nature of the legal advice sought. However, priority shall be given to persons who belong to the underprivileged and
other vulnerable or marginalized sector of society.

After initial evaluation of the subject matter and, whenever appropriate, the necessary endorsement or referral shall be made to the competent government agency or free legal aid group.

**Section 6. Reports on free legal aid and counseling services.**—The CHR Regional Offices, the Legal and Investigation Office, the Child Rights Center, the Women’s Human Rights Center, and the Assistance and Visitorial Office in the CHR Central Office which extended free legal assistance and/or counseling to clients shall submit a regular report thereon to the Commission. The said report shall form part of the regular monthly report of the respective offices.

**Section 7. Prohibition on collection of fees for legal aid and counseling services.**—No fees shall be collected in any amount by any CHR lawyer for such legal aid and counseling services rendered to CHR clients.

**Section 8. Observance of lawyers’ oath and code of ethics.**—All CHR lawyers involved in the CHR free legal aid and counseling program shall, at all times, uphold the lawyer’s oath and ethical standards, as well as pertinent Civil Service rules and CHR office policies.

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**Rule 21**

**FINANCIAL ASSISTANCE AND REHABILITATION SERVICES**

**Section 1. Financial Assistance Program.**—The CHR financial assistance program shall be administered and supervised by the Assistance and Visitorial Office (AVO).

**Section 2. Nature of Financial Assistance.**—Financial assistance is an ancillary measure to a case for human rights violation, with the objective of giving assistance to the victims or their families and to cushion the economic impact on the survivors or their families due to the human rights violation inflicted upon them.

**Section 3. Who are qualified for financial assistance.**—The following persons shall be qualified for financial assistance as provided under this Rule:

a) The survivor-victim/s of human rights violation/s;

b) In case of the death, mental incapacity or enforced disappearance of the victim, his/her surviving spouse, his/her children, legitimate or illegitimate; or in the absence of the above heirs, the grandchildren or parents or grandparents, brothers and/or sisters, in that order.
Section 4. Application of Civil Code provisions on legal succession.-- The Civil Code provisions on legal succession shall apply in suppletory character or by analogy.

Section 5. Basis for granting Financial Assistance.-- The basis for granting financial assistance shall be the following:

a) The act complained of or motu proprio investigated by the CHR constitutes a human rights violation, in accordance with Sec. 8 of this Rule; and

b) When the evidence engenders a well-founded belief that a human rights violation was committed.

If the act complained of as constituting a human rights violation is the subject matter of a judicial or quasi-judicial proceeding, the claimant, survivor, or the family of the victim/s shall not be precluded from applying for financial assistance with the Commission.

Section 6. Socio-Economic Factors to consider in the grant of financial assistance.-- In the evaluation of the claim for financial assistance, the claimant’s or survivor’s economic status, the expenses incurred as a result of the human rights violation/s committed and the social history of the victim and his/her family shall be taken into consideration.

Section 7. Documentary requirements to substantiate claims for financial assistance.-- In addition to the basis for the grant of financial assistance as provided for in Section 5 of this Rule, the claimant shall be required to submit the original or certified true copy of the following:

a) Valid IDs such as voter’s ID, driver’s license, postal ID, other government-issued IDs, if the victim is the claimant himself/herself;

b) Death certificate of the victim;

c) Autopsy report, if a skeletal analysis of the remains of the victim was conducted;

d) Medical certificate, if the victim is a survivor of human rights violation, to show the extent of injury inflicted upon the victim;

e) Marriage contract, if the claimant is the spouse;

f) Birth certificate of the claimant, if the claimant/s is/are the children or legal heirs of the victim;

g) Investigation report of law enforcement agencies or government security forces, if any, as the case may be;

h) Photographs, if any;

i) Judgment of acquittal by a court, in case of unjust imprisonment;

j) Certificate of Detention, in case of unjust imprisonment;

k) Other supporting documents.

If claimant has no birth certificate due to non-registration of his/her birth, secondary evidence shall be submitted instead, i.e., baptismal
certificate, voter's affidavit, or other public document attesting to the identity and relationship of the claimant to the victim, which shall be accompanied by a sworn statement of at least two (2) disinterested persons.

If there is discrepancy in the name of the victim/claimant as appearing in the documents submitted, the victim/claimant should likewise submit an affidavit of two disinterested persons, stating that the victim/claimant refers to one and the same person.

The CHR investigating officers shall assist the victim/claimant in securing the above-mentioned requirements. The AVO shall then evaluate and assess the documents submitted.

Section 8. Coverage of the Grant of Financial Assistance.-- It is imperative for the Regional Offices to look into the complaints or incidents-violations and to establish that they bear any of the following qualifying standards:

a) In human rights cases involving the deprivation of life of a person or infliction of injuries upon him/her;

b) The act was committed by person/s in authority or their agents in abuse of such authority, or any other person/s under their employ or order, or by person with the duty to administer and enforce laws or their agents;

c) The victim was deprived of his/her life, injured or maimed because of ideological or non-partisan political or religious beliefs or because of cultural or ethnic causes, regardless of who committed the act;

d) Torture and other cruel, inhuman or degrading treatment or punishment (violation of R.A. 9745);

e) The circumstances surrounding the occurrence of the act were of such nature as to arouse public outcry and condemnation;

f) The victim, who is a civilian, died or sustained injuries in the course of a military and/or police operation;

g) Violation of the rights of the child;

h) Women and children who are victims of trafficking and/or forced into white slavery or involuntary servitude;

i) Violation of R.A. 9262, otherwise known as the Anti-Violence Against Women and their Children Act;

j) Unjust imprisonment and deprivation of liberty;

k) Other gross violation of human rights.
Section 9. Authority to determine and review grant of financial assistance.-- The CHR Regional Office shall, on the basis of the initial or final investigation reports and other evidence gathered, have the authority to determine the existence of human rights violations for the purpose of recommending the grant of financial assistance to the victim or claimant. However, the Commission, through an en banc resolution may reverse, modify, or set aside the Regional Office resolution upon motu proprio review or upon motion for reconsideration or appeal by the claimant.

Section 10. Express declaration of entitlement to financial assistance.— The CHR Regional Office which conducted the investigation of the complaint shall issue a Resolution expressly stating whether the victim or his/her heir is entitled to financial assistance, and shall specify the following:

a) the basis for the grant as specified in Sec. 5 of this Rule;
b) the name of the claimant; and
c) the amount to be granted.

Section 11. Exception to the rule on legal heirs of the victim.—In the absence of legitimate heirs, as specified in Section 3 of this Rule, the common-law spouse of the deceased victim may be entitled to claim financial assistance. The common-law spouse, in addition to the documents mentioned in Section 7 of this Rule, shall likewise submit a National Statistics Office (NSO) Certification of Non-Marriage of the deceased victim, and an affidavit of two disinterested persons attesting to the fact that victim and the claimant lived together as husband and wife.

Section 12. Power of the Commission to Review Denial of Claims for Financial Assistance.— Upon the filing of appeal by the claimants, the Commission en banc shall review the resolutions of Regional Offices denying the claim for financial assistance. The Commission En Banc, upon recommendation of the AVO, may reverse the appealed resolution. The Commission en Banc shall then issue a Resolution granting the request for financial assistance, specifying therein the name of the claimant and the amount of financial assistance to be granted.

Section 13. Cases involving the rights of the child.— In cases involving violations of the rights of the child, where the offender is one of the parents and the other parent refuses to cooperate in order for the child to obtain justice, or acts in a manner tending to cover-up the misdeed or to protect the offending parent, thereby causing the child to be placed under the custody of the Department of Social Welfare and Development (DSWD) or by a non-governmental organization (NGO), the financial assistance shall be released to the authorized personnel of the DSWD or the NGO which shall hold it in trust for the benefit of the child.

Should the occasion arise that the money should be spent to answer for the child's basic needs, the person so authorized must inform the Commission.
Section 14. Applicability of the financial assistance program to members of military, police and paramilitary sectors who are victims of human rights violations.-- The grant of financial assistance under the CHR financial assistance program shall, on a case-to-case basis, apply to members of the military and police force.

Members of the police, military and paramilitary groups who are recognized or who, under the circumstances, should be recognized to be hors de combat as defined under International Humanitarian Law, but were nevertheless killed/injured/maimed by the adverse party, shall be entitled to financial assistance in accordance with this Rule.

A person is considered hors de combat if he/she is in the power of the adverse party; he clearly expresses an intention to surrender; he has been rendered unconscious or is otherwise incapacitated by reason of wounds or sickness and, therefore, is incapable of defending himself/herself. Provided, that in any of these cases, the victim shall have abstained from any hostile act.

Provided further, that officers and members of the security forces and law enforcement agencies of the State, such as police, military, paramilitary personnel who are injured or maimed or killed during an ambush while on “non-combatant” status, or forcibly abducted or held hostage while off duty, shall also be entitled to financial assistance.

Section 15. Financial Assistance Package.—The Financial Assistance Package shall conform to the requirements set forth under this Rule, which shall be in the form of any of the following:

a) Survivor's benefit. - Victims who died as a result of the human rights violations shall entitle the victim's heir, in the order provided in Sec. 3 of this Rule, to survivor's benefit. The latter shall also be granted to the family of victims of enforced on involuntary disappearance.

b) Medical Assistance. - Medical assistance shall be extended to those seriously wounded or injured as a result of the human rights violation committed against the victim/s. This grant aims to help defray the cost of medical treatment and/or hospitalization expenses incurred by the survivor-victim.

c) Children and Women. - Child victims of summary execution, torture, or other forms of violations of the rights of the child, such as sexual abuse (rape or acts of lasciviousness as defined and penalized under the Revised Penal Code and R.A. 7610), shall likewise be granted financial assistance.

Financial Assistance shall also be granted in all other cases where the child-victim suffered maltreatment or physical or psychological injuries.
Women and children who are victims of trafficking or violation of R.A. 9262 shall also be entitled financial assistance.

d) Community Assistance. - In cases involving violations of economic, social and cultural rights of the people and/or indigenous communities, victims who are uprooted or displaced from their abode, place of education, livelihood or employment as a result of, but not limited to, development aggression, armed conflict, man-made calamities shall be entitled to community assistance in the form of dislocation allowance.

Assistance for livelihood projects, as the Commission deems appropriate and necessary, shall be granted to these displaced families, in coordination with government and other stakeholders concerned.

e) Rehabilitation Assistance. - For victims of unjust imprisonment or deprivation of liberty, financial assistance shall be based on the number of months of imprisonment or deprivation of liberty, and every fraction thereof shall be considered one month.

Section 16. Period within which to file claims for rehabilitation assistance. — Any person entitled to rehabilitation assistance must file his/her claim with any Regional Office or the Assistance and Visitorial Office of the Commission on Human Rights within one (1) year after regaining his/her liberty, otherwise he/she is deemed to have waived the same.

However, despite regaining liberty by escaping from confinement or release by his/her captors, such person is still under duress or threat of further violations of his/her life and/or liberty, the one-year period shall commence to run from the time such duress or threats shall have ceased.

Section 17. Other Forms of Rehabilitation Assistance. — Any person under custodial investigation or detention who was subjected to torture or cruel, inhuman or degrading treatment and punishment by the prison authorities shall also be entitled to rehabilitation assistance.
b) To facilitate a more efficient, speedy and timely process in the issuance of the CHR Clearance of Certification;

c) To ensure efficient database of CHR Clearances and Certifications issued, including effective case data retrieval for purposes of updating CHR Clearance records; and

d) To ensure accountability and good practices by identifying the responsible CHR officers and/or personnel in the processing of CHR clearances and/or certifications.

Section 2. When CHR Clearance may be issued.— A Clearance can be issued to upon application therefor only if the applicant has no case for human rights violations pending investigation by the CHR; or if the investigation has been completed and the case against him/her was finally dismissed by the CHR Regional Office concerned or by the Commission en banc, as the case may be.

Section 3. When CHR Clearance may not be issued; certification.— No CHR clearance for purposes of appointment in the public service or for promotion or confirmation of appointment shall be issued to the applicant who has a human rights case or cases pending investigation by the CHR; or when the applicant has been found by the CHR to have committed acts or omission constituting human rights violations of a person or group or community of persons, notwithstanding his/her acquittal from the corresponding criminal case or the dismissal of the criminal and/or administrative charges against him/her by competent court or quasi-judicial or administrative bodies. Likewise, no CHR Clearance shall be issued to any private person as a requirement for employment in any private entity in the country or abroad if he/she has pending case/complaint for human rights violations before the CHR or has been found by the CHR to have committed human rights violations, notwithstanding his/her acquittal in or dismissal of the corresponding criminal and/or administrative case/s. All applicants falling under this section shall, in lieu of the CHR Clearance, be issued a CHR Certification, which shall attest only as to the applicant’s standing in the Commission.

Section 4. Exceptional situation.— Notwithstanding the pendency of a human rights case or cases before the CHR, the Commission, as it may deem just and proper, and consistent with the rule on presumption of innocence, may interpose no objection for the applicant to undergo training or schooling in training or educational institution in the country, or to travel abroad for such purpose or to take part in Philippine Mission/U.N. Mission. Provided, however, that the period of such training, schooling or mission shall not exceed ten (10) months; the applicant has already completed his/her testimony and has submitted to the processes of the CHR; there is no basis or risk that the applicant will evade further investigative processes of the CHR which will require again his/her personal presence and/or submissions; that the applicant shall execute an undertaking, under oath, that he/she shall faithfully abide by the CHR processes until the final disposition of the case before it; and that should he/she be subsequently indicted, criminally or administratively, as a consequence of the human
rights violations, he/she shall submit himself/herself to the judicial and/or administrative processes against him/her.

The Commission will communicate its non-objection to the nominating agency or official and to the head of the concerned training or education institution in the country, or to the Foreign Embassy of the country to where the applicant intends to travel for any of the purposes herein mentioned.

In cases where an applicant was found by the CHR to have committed human rights violations, but who was subsequently acquitted in the corresponding criminal case or said criminal case and/or administrative case, which stemmed from the human rights case, has been dismissed by court or quasi-judicial or administrative bodies, the said applicant may file a Petition for Review with the Commission for purposes of reconsideration of the Commission's or the CHR Regional Office's finding/resolution for HRV as against said applicant. If the Commission finds the said petition meritorious, it shall resolve to reconsider and/or set aside its resolution for human rights violation.

Section 5. Where to file Application for CHR Clearance.— Application for CHR Clearance may be filed with the following CHR offices:

a) CHR Regional Office concerned which has territorial responsibility over the area or place where the applicant is officially stationed or is on official assignment; or

b) General Records and Archives Division, Office of the Commission Secretary, CHR Central Office, regardless of the place of official station or assignment of the applicant.

Section 6. Requirements for the Issuance of CHR Clearance or Certification.— The following requirements in the issuance of CHR Clearance or Certification shall be observed:

a) CHR Official Application Form.—The Applicant for CHR Clearance shall personally accomplish the CHR Application Form and shall fully answer or supply all data or information required, and indicating therein, among others, his/her full official name (surname, given/first name, middle name). In the case of a female applicant, she shall also indicate her maiden middle name and surname. The applicant shall state his/her residential and office or business address; and the purpose of his application for a CHR clearance or certification. If the applicant is from the military sector or police sector, he/she shall also indicate his/her AFP Serial Number or PNP Badge Number as the case may be; his/her present rank or position and branch of service; current work assignment and station; previous posts held and place/s of assignments.

In case the applicant is a member of other law enforcement agencies, i.e., the Philippine Coast Guard, the National Bureau of Investigation, the Philippine Center for Transnational Crimes, Bureau of Corrections/Correctional Institutes, Bureau of Jail Management and Penology; or is an
officer or employee of other government agency, local or national, he/she shall also indicate his/her Office Identification Number and/or Plantilla Position Item Number.

If the applicant is a private citizen or professional from the private sector, he/she shall also indicate in the application form his/her professional license or social security identification number or company identification card or Barangay identification card number.

All applicants for CHR Clearance shall indicate in his application information as to the human rights training course, seminar and orientation he/she has attended or completed, to include the date or year attended, whether the same was conducted or under the sponsorship of the Commission on Human Rights and/or other institution or non-government organizations, local or international. Completion of the appropriate human rights education and training courses shall be required for recruitment, promotion and transfer/reassignment of personnel in these departments, with priority given to personnel directly involved in arresting investigating and detaining functions.

b) Two (2) Passport-size I.D. pictures.—The applicant shall submit to the CHR Records Officer concerned two (2) passport-size pictures taken within six (6) months immediately preceding the date of filing of his/her application, one picture to be attached to the CHR Clearance records and the other to be attached in the Clearance or Certification to be issued to him/her by the Commission. Military and law enforcement officers and personnel should be in their proper uniform; while other applicants from other government officers or employees, other professionals or private citizens shall be in proper attire. No computer-scanned or xerox copy of applicant's picture shall be accepted.

c) Signature and Thumbmark of Applicants.—The Application for CHR Clearance or Certification shall be signed and thumbmarked by the Applicant on the space provided for.

d) Jurat.— All Application for CHR Clearance / Certification shall be under oath. The applicant may comply with the jurat requirement before any CHR Officer authorized to administer oath under the law. Any applicant who cannot personally come to the Commission to file his/her application may opt to comply with the jurat requirement before any other officer authorized to administer oath or before a Notary Public.

The Applicant shall exhibit before the administering officer or Notary Public his/her Identification Card, or Professional License, or Driver's License, or Barangay Certification as to his identity and residence, the number, date of issuance and expiration of which shall be indicated below his/her signature or thumbmark in the Application.

Section 7. Additional Requirements.— In addition to the requirements set forth in Section 6 of this Rule, the following shall be submitted by the applicants at the time of the filing of the application for CHR Clearance:
a) Personal Data Sheet, per latest prescribed official form, in case the applicant is a member of the Philippine National Police;

b) Summary of Information (SOI), in case the applicant is a member of the Armed Forces of the Philippines:

b.1) Service Records, for both members of the PNP and AFP.

b.2) Service Records, for other officers and personnel of other agencies of the government;

b.3) Personal Data Sheet, in case of private persons and other professionals not connected with any government office / agency;

b.4) Copy of Certificates of Completion, Participation, or Attendance regarding Training, Seminar, Orientation, or Forum on Human Rights and Humanitarian Law.

Section 8. No charges for CHR Clearance.—The issuance of a CHR Clearance or Certification shall be free of charge.

Section 9. CHR official dry seal.—No CHR clearance or certification issued pursuant to this Rule shall be valid without the CHR official dry seal embossed on the left-bottom portion of the said document.

Section 10. Requirements before releasing approved CHR Clearance or Certification.— The Chief or designated Chief of the General Records and Archives Division, Office of the Commission Secretary, shall see to it that:

a) Clearance and Certification shall have a control number.—All CHR Clearances and Certifications issued by the Commission shall have a control number. The numbering shall be done chronologically.

b) Entry in the Clearance Docket.— All approved CHR Clearances and Certifications issued by the Commission shall be entered or recorded in the General Clearance Docket Book under the custody of the General Records and Archives Division. There shall be a separate docket book for approved CHR clearance, and another for certifications issued.

c) Approved CHR Clearance or Certification issued by the Commission shall be released directly to the applicant-client concerned.

d) In case the Applicant cannot personally claim and receive his/her Clearance or Certification issued to him/her by the Commission, he/she may authorize any person to receive the same in his/her behalf. Provided, however, that said representative has the necessary written authorization of the Applicant.

Section 11. Responsible Offices / Officers in the Processing of
CHR Clearance and/or Certification.— The following shall be the duties and responsibilities of concerned offices, officers and personnel hereunder:

a) CHR Regional Office.— Upon filing of the application for clearance/certification with the Regional Office concerned, the Records Officer, Records Section, shall be responsible in the processing thereof at the regional level, particularly to:

i. Verify the completeness of the requirements attached to the Application, to include compliance with the jurat;

ii. Verify from the Case Records Docket and Case Databank of the Regional Office whether or not the applicant has pending human rights violation case/s with said office; and/or records endorsing/recommending to agencies concerned the administrative investigation and/or criminal prosecution of applicant in relation to the CHR findings of human rights violations against said applicant;

iii. Prepare the corresponding certification on case data verification at the regional level, and affix his/her signature on the verification portion thereof and, thereafter, transmit the same, together with the application and required documents, for signature of and endorsement by the Regional Director to the Legal Division, Legal and Investigation Office, CHR Central Office;

iv. Officially transmit the said Applications, together with the attached requirements, to the Legal Division, Legal and Investigation Office, CHR Central Office;

v. Maintain a methodical CHR Clearance filing system at the Regional level, to include Clearance Records and/or Log Book wherein all applications and other attendant official acts are recorded.

b) General Records and Archives Division, Office of the Commission Secretary, CHR Central Office.— In the Central Office, it shall be the responsibility of the duly appointed or designated Records Officer, General Records and Archives Division, Office of the Commission Secretary to:

i. Receive all Applications for CHR Clearance filed directly with the CHR Central Office;

ii. Check and verify whether the requirements attached in the Application are complete, to include compliance with the jurat;

iii. Transmit the Applications for Clearance and the pertinent documents to the Legal Division, Legal and Investigation Office for processing and counter records check and
verification, and preparation of the corresponding clearance or certification;

iv. Thereafter, transmit the same for the recommendation and signature of the Director, Legal and Investigation Office or, in her/his absence, to the designated Officer-in-Charge of said Office or to the Commission Secretary; and then to the Chairperson or the Commissioner for final approval;

v. Enter the control number of the Clearance and Certification;

vi. Affix the official dry seal of the Commission on Human Rights in the Clearance and Certification after the same has been finally approved by the CHR Chairperson or the Commissioner;

vii. Cause the official release of CHR Clearances and Certifications to concerned clients and/or their duly authorized representative;

viii. Keep and maintain a methodical filing system of all records pertaining CHR Clearance / Certifications issued to CHR clients, to include a CHR Clearance Docket Book and Certification Docket Book.

c) Records Section, Legal Division, Legal and Investigation Office.-- It shall be the responsibility of the Records Officer of the Records Section, or in his/her absence and, in the exigency of the service, by any designated staff, of the Legal Division, Legal and Investigation Office to:

i. Verify and countercheck as to the completeness of the requirements for the issuance of CHR Clearance / Certification;

ii. Verify from the Central Case Records Docket whether Applicant has any pending case for human rights violations and/or records endorsing/recommending to other agencies concerned the administrative investigation and/or criminal prosecution of applicant in relation to the CHR findings of human rights violations against said applicant;

iii. To directly verify and/or retrieve case data / information from the CHR computerized databank records, if the on-line service or Local Area Network (LAN) connection provided the Legal and Investigation Office is already established and functioning;

iv. Coordinate with the Regional Offices regarding human rights case records at the regional level pertaining to the applicant;
v. Prepare the corresponding Clearance or Certification documents;

vi. Affix his/her Initial on the verification portion of all Clearances and Certifications to be issued, before transmitting the same for signature of the Chief of the Legal Division, LIO. In the absence of the Chief of the Legal Division, by Officer-in-Charge or the next in rank Attorney of said Division;

vii. Transmit the Clearances and Certifications to the General Records and Archives Division, Office of the Commission Secretary, for the counter-check/verification and initials of the GRAD Chief;

viii. Maintain a methodical filing system of all applications for CHR clearance and certification processed by the Legal Division, to include a Logbook and index;

ix. Closely coordinate with the Chief Records Officer, General Records and Archives Division on matters pertaining CHR Clearance and Certification.

d) The Chief of Legal Division, Legal and Investigation Office.—The Chief of the Legal Division, Legal and Investigation Office, or, in his/her absence, the designated Officer-in-Charge or next-in-rank Attorney of the Division shall sign on the verification portion of the Clearance or Certification to be issued. The Chief of the Legal Division shall exercise direct supervision over the personnel of the Division in charge in the processing of all applications for CHR Clearance and Certification, to include monitoring the maintenance of and entry of data in the Clearance Logbook of the Legal Division and ensuring the accuracy of case data retrieval.

e) The Director of Legal and Investigation Office; Commission Secretary.—The Director of the Legal and Investigation Office, or in his/her absence, the designated Officer-in-Charge of the Legal and Investigation Office or the Commission Secretary, shall recommend to the Chairperson or to the Commissioner, as the case may be, the final approval of the Clearance or Certification. For the purpose he/she shall affix his/her signature on the space provided for in the Clearance or Certification, only after the Chief of the Legal Division or responsible officer of said Division and the Chief or designated officer of the General Records and Archives Division shall have affixed therein their signatures and initials, respectively.

f) The Chairperson or Commissioner.—The CHR Chairperson or, in her/his absence, any Commissioner, shall have the final approval of all CHR Clearances or Certifications issued in connection with this Rule. For this purpose, she/he will only approve and affix her/his signature thereon only after the same shall have already
been signed and initialed by the preliminary signatories mentioned in letters (b), (c), (d) and (e) of this Section.

Section 13. Period for Processing of Clearance.-- All applications for CHR Clearance or Certification shall be processed by the offices concerned within the period provided hereunder:

a) The Records Officer of CHR Regional Office shall facilitate the initial processing of the applications at the regional level, to include verification from the Regional Case Records Docket of the Regional Office concerned, within eight (8) workings hours from the date/time the applications were received by said office. Thereafter, thru the Regional Director concerned, he/she shall transmit the applications and all pertinent documents to the Legal Division, Legal and Investigation Office, CHR Central Office, for final case records check/verification and processing of the corresponding clearance or certification.

b) The Records Officer or, in his/her absence and in the exigency of the service, the designated staff, of the Legal Division, Legal and Investigation Office, CHR Central Office, shall facilitate the records check/verification from the Case Records Docket, Records Section, Legal Division, LIO, and/or the computerized case databank records administered by the Information Systems Management Office (ISMO), within twelve (12) hours from the day the Division received the Application, with complete requirements. In case the on-line service and or Local Area Network (LAN) connection is not in service or is experiencing some technical problem, request for data verification and/or retrieval from the CHR Databank, Information Systems Management Office (ISMO) shall be made. ISMO shall process the request within four to eight hours from receipt of such request. Should there be a need for clarification or updated data from the Regional Offices, the request should be done and faxed or transmitted by the fastest means of communication to the Regional Office concerned as soon as possible. The Regional Office concerned thru the Records Officer shall act immediately on such request.

c) All applications for CHR Clearance and Certification shall be expedited within five (5) working days from date of filing, provided, however, that the Applicant has complied with all the requirements as of the time of filing of his/her application and that he/she has no derogatory records before the Commission. In case the application is filed thru the Regional Office, the same shall be expedited within seven (7) days from receipt thereof.

Section 14. Validity of CHR Clearance.-- The CHR Clearance shall be valid for six (6) months from issuance and solely for the purpose indicated therein.

Section 15. Prohibitions.-- The following shall be considered
prohibited acts and shall be subject to sanctions by the Commission pursuant to pertinent laws, Office and Civil Service Rules and Regulations:

a) Personal follow-ups and/or lobby by CHR officials or employees.— No CHR official or employee shall make personal follow-ups and/or lobby in behalf of the applicants for the issuance of CHR Clearance or Certification;

b) Acceptance of token.— No CHR officer or personnel shall ask/request/demand and/or receive/accept any token, whether in cash or in kind, from the applicant in connection with the latter’s application for clearance/certification;

c) Administration of oath without personal appearance of applicant.— No CHR Officer authorized to administer oath shall affix his/her signature in the Application for CHR Clearance / Certification without the applicant having appeared before him/her for the purpose. Neither shall he/she collect any amount of fee in connection with the administration of oath to the applicant;

d) Delegation of functions of the Records Officer.— The processing of CHR Clearance/Certification is the primary function of the Records Officers concerned. Such responsibility cannot be delegated to other CHR officer/personnel except when so designated and in the exigency of the service or when the Records Officer concerned is on leave or on official business outside his/her workstation;

e) Other acts prejudicial to the service.— Such other acts committed by any CHR officer or personnel in connection with this Rule, which are prejudicial to the interest of the Commission or to public service.
Rule 23
FINAL PROVISION

Section 1. These Omnibus Rules of Procedures of the Commission on Human Rights shall supersede any other previous similar rules and procedures adopted by the First, Second and Third Commission.

Section 2. Any provision hereof which shall be declared by competent court as unconstitutional shall not affect or render nugatory the other provisions not affected by the court decision.

Section 3. These Rules shall take effect fifteen (15) days after completion of its publication as required by law.

APPROVED by the Commission en banc on this 19th day of April 2012, at Quezon City, Philippines.

LORETTA ANN P. ROSALES
Chairperson

(On Leave)
CECILIA RACHEL V. QUISUBING
Commissioner

MA. VICTORIA V. CARDONA
Commissioner

NORBERTO DELA CRUZ
Commissioner

JOSE MANUEL S. MAMAUAG
Commissioner
MEMORANDUM OF AGREEMENT
BETWEEN THE COMMISSION ON HUMAN RIGHTS
AND THE DEPARTMENT OF JUSTICE
MEMORANDUM OF AGREEMENT
BETWEEN THE COMMISSION ON HUMAN RIGHTS
AND THE DEPARTMENT OF JUSTICE

BACKGROUND

The Philippines is a “democratic and republican state”\(^1\) committed to a “full respect for human rights”\(^2\) and the maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare\(^3\). The Constitution as well as specific laws such as the Anti-Torture Law, the Anti-Violence against Women and Children Act, the Magna Carta of Women, inter alia aim to protect human rights and punish violations of such. In addition, the Revised Penal Code and laws that regulate the treatment of persons in detention and others, while not specifically mentioning human rights protection as an objective or a principle, serve as a legal framework in which the government and non-state actors are required to respect human rights and are supposed to be brought to justice if violations are committed.

Despite this, the Commission on Human Rights receives hundreds of complaints of various human rights violations every year and others are reported in the press. It has been noted by domestic human rights actors and by international human rights experts that the rate of convictions to bring perpetrators to justice is not enough to prevent a culture of impunity. Prof. Philip Alston, UN Special Rapporteur on Extrajudicial Killings, after his 2007 visit to the Philippines noted “the criminal justice system’s failure to obtain convictions and deter future killings.”

Both the Commission on Human Rights and the Department of Justice are committed to further strengthening methods and capacities to address human rights violations through the criminal justice system and under the rule of law.

THE PURPOSE OF THE MEMORANDUM

1. The purpose of this Memorandum of Agreement is to clarify the ways in which the Commission on Human Rights and the Department of Justice are to work in order to achieve a high level of operational capacity in regard to investigating and prosecuting human rights cases. As state agencies, both institutions are guided by the state policy stated in Article II, Sec. 11 of the 1987 Constitution for the

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1. 1987 CONST., Art. 11, Sec. 1
2. Id., Sec. 11
3. Id., Sec. 5
dignity of every human person to be valued, and for full respect for human rights to be guaranteed. Both bodies recognize that each institution is fully committed to performing its constitutional and statutory functions independently of any outside interference. Without prejudice to this principle of independence, this Memorandum has been prepared with a view to enhancing the effectiveness of the two institutions and maintaining public confidence in them.

2. In particular reference to Section 18, par. 3, Article XIII of the Constitution, it is the intention of the two institutions to consider this Memorandum of Agreement as a means of providing “appropriate legal measures for the protection of human rights of all persons within the Philippines” as well as “preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection.”

THE MANDATES OF THE INSTITUTIONS

2. The overarching mandate of the Commission on Human Rights is to promote and protect human rights in the Philippines including, among others, investigations on its own or on complaint by any party, of all forms of human rights violations, monitoring the Philippine Government’s compliance with international treaty obligations and requesting the assistance of any office, agency, or bureau in the exercise of its functions. Executive Order No. 163 is the implementing law for the establishment of the CHR per Article XIII, Section 17 of the 1987 Constitution. The Commission also has the power to request the assistance of any department, bureau, office, or agency in the performance of its functions; require the assistance of any agency of government.

3. The Department of Justice is the principal law agency of the government; serves as both its legal counsel and prosecution arm; administers the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders and administration of the correctional system; implements the laws on the admission and stay of aliens, citizenship, land titling system, and settlement of land problems involving small landowners and members of indigenous cultural minorities; and provides free legal services to indigent members of the society.

WORKING RELATIONSHIPS

4. The Commission on Human Rights and the Department of Justice are each committed to the development of a positive and constructive working relationship between the two institutions. They consider that
an efficient and effective prosecution service and the protection of human rights are inextricably linked, evincing a firm commitment by the state to ensure accountability in the face of human rights violations.

5. Pursuant to paragraph number 11 below, representatives of the two institutions shall meet on a quarterly basis to discuss issues of mutual concern. An agreed Minutes will be maintained of each such meeting. At these meetings the operation of this Memorandum of Agreement will be kept under review. An agenda for each meeting will be agreed between the parties and finalized one week prior to the date of the meeting, with any urgent matters to be added by agreement thereafter.

FORMS OF COOPERATION

6. The two institutions shall work jointly and actively in developing a Prosecutor’s Manual on Human Rights as part of a comprehensive and continuing program for enhancing the capacity of the Department of Justice to investigate and prosecute human rights cases, and implement this with the support of the U.P. Law Center Institute of the Administration of Justice in accordance with the Concept Note annexed to this Memorandum.

7. Each institution is committed to supporting the work of the other in respect of investigating and prosecuting cases of human rights violations to ensure:
   a) an end to the climate of impunity by progressively increasing the conviction efficiency rate for human rights cases, particularly extrajudicial killings, enforced disappearance and torture;
   b) elimination of undue delays in the disposition of human rights cases;
   c) close cooperation between investigating prosecutors and their CHR counterparts in terms of case build-up and evidence-gathering.

8. To realize the objectives set forth in the immediately preceding paragraphs, the Department of Justice, in coordination and consultation with the Commission on Human Rights, shall ensure that prosecutors at every operational level of the National Prosecution Service are adequately trained and sufficiently capacitated to investigate and prosecute human rights violation cases, including those referred to it by the Commission on Human Rights, and that the Prosecutor’s Manual on Human Rights, to be developed pursuant to Paragraph Number 6 of this Memorandum of Agreement, is consistently applied and followed in the handling of such cases.
9. The Department of Justice shall ensure expedited processing of requests from the Commission on Human Rights for official documents, information and other forms of assistance lodged with any of the constituent offices and attached agencies of the Department of Justice in relation to investigative, assistance and visitorial activities of the Commission on Human Rights, and for this purpose shall issue the corresponding guidelines;

10. To aid the investigative activities of the Commission on Human Rights and towards the gathering of testimonial evidence for effective human rights investigation and prosecution, the Department of Justice agrees to establish within its Witness Protection Program (WPP) a mechanism for expedited admission, resource prioritization and continuing stay for victims, survivors and other persons referred to it by the Commission on Human Rights and, according to an agreed criteria which includes:

   a) **Criteria on witnesses in human rights cases.** The Department of Justice and the Commission on Human Rights shall jointly develop criteria which, when present, would trigger and justify the prioritization of the WPP resources and the expedition of the acceptance process by identifying which persons are particularly necessary and vital to the investigation and prosecution of human rights cases;

   b) **Endorsing authority, acceptance and review.** The Chairperson of the Commission on Human Rights, upon the favorable recommendation of the Director of the Legal and Investigation Office, shall endorse qualified witness/es and family to the Secretary of Justice who in turn shall ensure expedited acceptance of the endorsee/s to the WPP on the basis of the Commission on Human Rights's endorsement and subject to review within thirty (30) days from acceptance and every month thereafter until discharge from the program.

   c) **Maintenance in the program.** The Department of Justice shall engage in prior consultations with the Commission on Human Rights on questions that affect the continuation of the witness/es and family in the program, such as on compliance with the terms and conditions of protection of the WPP, in order to guarantee the integrity and safety of the witness/es and family regardless of the decision of the Department of Justice regarding maintenance in the program.

11. To ensure regular information-sharing and monitoring of human rights cases, the two institutions agree to immediately set up a joint monitoring mechanism composed of the following:
   a) The Secretary of Justice, or in her absence, a duly designated Undersecretary;
a duly designated Senior Deputy State Prosecutor, as his alternate;
d) The Director of the CHR Legal and Investigation Office.

12. The joint monitoring mechanism shall be assisted by a Secretariat designated by the two institutions. In addition, the two institutions shall set-up internal monitoring mechanisms to be directly supervised by the members of the joint monitoring mechanism.

13. This Memorandum is intended to be a formal expression of the agreement between the parties who in turn commit to adhere to it in letter and spirit.

Signed this 16th day of April 2012 in Manila, Philippines.

FOR THE
COMMISSION ON HUMAN RIGHTS:

LORETTA ANN P. ROSALES
Chairperson

FOR THE
DEPARTMENT OF JUSTICE:

LEILA M. DE LIMA
Secretary

Witnessed by:

MA. VICTORIA V. CARDONA
Commissioner

FRANCISCO F. BARAAN III
Undersecretary

NORBERTO DELA CRUZ
Commissioner

CLARO A. ARELLANO
Prosecutor General

JACQUELINE VELORIA-MEJIA
Executive Director

FLORA ATILANO
Director IV
ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES
CITY OF MANILA

BEFORE ME, a Notary Public, this APR 2, 2012, day of _____________. 2012 personally came and appeared the following:

LORETTA ANN P. ROSALES
Chairperson, CHR
Passport No. DE 000 6339
Issued at ________________
Issued on ________________

LEILA M. DE LIMA
Secretary, DOJ
CTC No. Passport No. DE 0000007
Issued at ________________
Issued on ________________

All known to me to be the same persons who executed the foregoing instrument and acknowledged to me that the same are their free and voluntary act as well as their voluntary act and deed of the entities they represent in this instance.

WITNESS MY HAND AND SEAL this APR 2, 2012, day of _____________. 2012 at the City of MANILA, Philippines.

[Signature]

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Page No.: 73;
Book No.: 74;
Series of 2012
ANNEX TO THE MEMORANDUM OF AGREEMENT

CONCEPT NOTE
Prosecutor’s Practice Manual on Human Rights

Project Title: Development of a Human Rights Manual of Practice for Prosecutors
Proponent: Commission on Human Rights
Institutional Partner: Department of Justice-National Prosecution Service (DOJ-NPS)
Cooperating Institution: UP Institute for the Administration of Justice, UP Law Center

Introduction/Rationale

Public prosecutors bear a responsibility no different from the duty of every justice sector actor to advance the human rights and fundamental freedoms of every person. For a long time however, the National Prosecution Service, the prosecution arm of the Department of Justice, has been criticized for a perceived ineffectual response to the spate of extrajudicial killings, enforced disappearance and torture, thereby contributing to a climate of impunity. This has led to proposals, embodied in several bills in Congress, to vest prosecutorial authority in regard to human rights violations upon the Commission on Human Rights (CHR) – a function that body has been hesitant to accept in light of its independent monitoring role under the Constitution.

Without necessarily rejecting the idea of exercising prosecutorial powers, CHR under the leadership of Chairperson Loretta Ann P. Rosales is keen on working with the UP Institute for the Administration of Justice (UP IAJ) of the UP Law Center on a project to help the Department of Justice improve the quality and efficiency of human rights prosecutions as a fundamental solution to the problem of impunity.

Given the disparity between human rights as norms and human rights in court and in the field, the development of a uniform practice manual on human rights for the use of the NPS falls within the core competencies of UP IAJ as the premiere institutional provider of research and training programs for justice system stakeholders. Such a manual would not only enhance the technical aspect of prosecutorial work but will also pave the way for greater prosecutorial sensitivity to the plight of vulnerable individuals and sectors who are at the core of human rights litigation.

Working together and with the cooperation of the Department of Justice-National Prosecution Service, UP IAJ and CHR shall develop such a manual in conformity with the following development approach –

- the manual must be developed using an action research methodology in close cooperation with concerned institutions;
- that the content must reflect the socio-political situation of the country in question, and that it must be anchored in national legislation;
- highly participatory and based on institutional commitment;
- that the manual can be implemented in either the existing or a new tailor made education or training structure;
The Commission and UP-IAJ shall serve act jointly as facilitators, coaches and catalysts during the process, whereas the actual implementation is the responsibility of DOJ-NPS. This ensures a high degree of sustainability, considerable strengthening of local capacity as well as tailor made solutions.

A Working Group shall be established with relevant experts on prosecuting human rights cases from state, academic institutions and civil society. The manual is developed through a cycle of seminars from drafting to implementation, concluded by an effect evaluation of the training. The manual shall be written in English and contain ample discussion of national and international human rights issues specifically relevant to the prosecution service in its given context.

It is important that in terms of expertise, both legal and meta-legal modalities are explored together, and that the legal expertise is balanced with a strong educational aspect. Special emphasis is placed on the merger of theory, practice and context. To ensure sustainability even after the conclusion of the project, special focus must be devoted on the simultaneous development of a community of practice on mainstreaming human rights in the work of public prosecutors.

**Expected Output**

Human Rights Manual of Practice for Prosecutors with annexes (training/learning guides, annotations, excerpts of reference materials etc.)

**Component Activities**

1. *Setting up a Working Group composed of representatives from UP IAJ, CHR and DOJ-NPS, and additional resource persons from academe, judiciary, bar and civil society.*
   The Working Group will work to (a) define the scope of the work; (b) identify and implement appropriate action research methodologies; and (c) regularly assess the overall progress of the work.

2. *Conducting a series of Focus Group Discussions and Key Informant Interviews to collect data, validate key findings and process feedback.*

