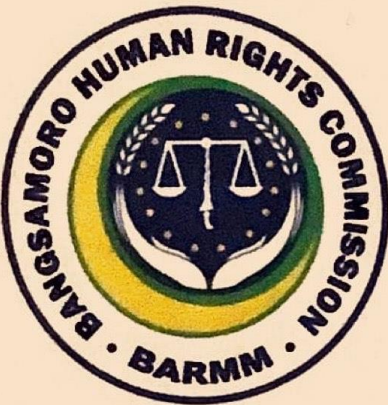




بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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BANGSAMORO HUMAN RIGHTS COMMISSION

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RESOLUTION NO. 002

Series of 2023

A RESOLUTION ADOPTING THE BANGSAMORO HUMAN RIGHTS COMMISSION'S RULES OF PROCEDURE IN THE INVESTIGATION OF HUMAN RIGHTS VIOLATIONS AND GUIDELINES IN THE CONDUCT OF HUMAN RIGHTS MONITORING

WHEREAS, under the Bangsamoro Autonomy Act No. 4, otherwise known as the "*Bangsamoro Human Rights Act of 2019*," the Commission shall promulgate a Rules of Procedure that will govern the conduct of its investigations. The Rules shall be consistent with international human rights standards, and shall provide for, among others:

- (a) Permitting the victim or any other individual, group, or people possessing personal knowledge of the facts surrounding the human rights violation or abuse, to file a complaint;
- (b) Permitting the filing of anonymous complaints;
- (c) Confidentiality of the identity of the victims, the witnesses, and their respective families, when there is danger or threat of harassment or reprisal, upon their persons and properties, in connection with the complaint;
- (d) Citing for contempt those who are found to have willfully obstructed the lawful exercise of the investigative powers and other lawful orders of the Commission; and
- (e) Keeping a Journal and Records of its proceedings with due regard to matters that require confidentiality (Section 35).

WHEREAS, under the same Act, the Commission shall undertake monitoring as part of human rights protection and shall conduct:

- (a) *Policy monitoring* or assessing, evaluating, and reviewing the government's compliance with human rights standards with regard to its legislation, regulations, rules, guidelines, actions, and practices;
- (b) *Thematic monitoring* of pervasive, rampant, and widespread human rights violations and abuses;
- (c) *Sectoral monitoring* on specific sectoral issues on human rights;



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- (d) *Incident monitoring* in the event of human rights violations or abuses in a particular location that requires urgent action;
- (e) *Progressive realization monitoring* of policies, activities, programs, and projects of the government in relation to the full realization of economic, social, and cultural rights to the maximum of their available resources;
- (f) *Facility monitoring*, without restriction, of the compliance with human rights standards of government facilities, such as:
- (1) Government offices;
 - (2) Police and military stations, installations, camps, and bases and their training schools; and
 - (3) Jails, prisons, detention facilities (including those inside military camps), police lock-up cells, youth homes, and any detention, rehabilitation, confinement, and other similar facilities.
- (g) Such other forms of monitoring as may be provided by the Rules of Procedure (Section 42).

WHEREAS, pursuant to the implementation of these provisions, the Bangsamoro Human Rights Commission shall adopt its Rules of Procedure in the investigation of human rights violations as well as its guidelines in the conduct of human rights monitoring;

NOW, THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to adopt the Bangsamoro Human Rights Commission's Rules of Procedure in the Investigation of Human Rights Violations and Guidelines in the Conduct of Human Rights Monitoring, to wit:

**TITLE I: RULES OF PROCEDURE OF THE BANGSAMORO
HUMAN RIGHTS COMMISSION IN THE INVESTIGATION
OF HUMAN RIGHTS VIOLATIONS**

Pursuant to the authority vested in the Bangsamoro Human Rights Commission under Article VI, Sections 35 – 44 of the Bangsamoro Autonomy Act No. 4, otherwise known as the "*Bangsamoro Human Rights Act of 2019*," the following Rules of Procedure of the Bangsamoro Human Rights Commission are hereby prescribed and promulgated:



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Rule 1. PRELIMINARY PROVISIONS

Section 1. TITLE

These Rules shall be known as the “*Rules of Procedure of the Bangsamoro Human Rights Commission (BHRC) in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)*.”

Section 2. APPLICABILITY

These Rules shall apply in the investigation and public inquiry complaints, proceedings, grievances, requests for assistance, and such other matters cognizable by the BHRC, its Regional Office, Provincial Offices, and other operating units, except as otherwise provided.

Section 3. COVERAGE

These Rules shall cover the investigation and inquiry of cases, upon complaint or motu proprio, of alleged or purported human rights violations and abuses committed within the Bangsamoro Autonomous Region as well as violations of international humanitarian law and its implementing statute, Republic Act No. 9851, otherwise known as the “*Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity*.”

Rules of Procedure applicable to joint investigations on human rights violations and abuses that occurred either outside the Bangsamoro Autonomous Region when the subject of the investigation involves the Bangsamoro¹ population, or within the Bangsamoro Autonomous Region when the subject of the investigation is of national complexion, shall be agreed upon by the Bangsamoro Human Rights Commission and the Commission on Human Rights.

Section 4. CONSTRUCTION

These Rules shall be liberally construed in favor of the full respect and protection of human rights.

Rule 2. ENTRY POINTS TO INVESTIGATION

Section 1. ENTRY POINTS TO INVESTIGATION

Investigations conducted by the BHRC, whether through its Provincial Offices or Regional Office, shall be upon complaint or motu proprio.

¹ RA 11054, Bangsamoro Organic Law, Article II, Section 1 (Definition of Bangsamoro People)



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 2. COMPLAINT, DEFINED

A complaint is a written allegation of acts committed that may constitute a violation or abuse of human rights or the rules of international humanitarian law.

Section 3. THE COMPLAINT, BY WHOM FILED

The following may file a complaint for human rights violation or abuse before the BHRC:

1. The victim or victims;² or
2. any concerned individual, or any group of persons having personal knowledge of the facts surrounding any human rights violation or abuse.

Section 4. FORMS AND CONTENTS

The Complaint shall not be required to be in any specific form. However, at the time of making the complaint, the complainant shall be required to accomplish a Case Intake Form and execute a sworn statement with the assistance of any duly authorized officer of BHRC.

At the minimum, the complaint shall state the acts constituting the alleged human rights violation or abuse, the place/s of commission as well as the possible date/s of commission of the alleged violation, to such extent possible.

Section 5. ANONYMOUS COMPLAINTS

Anonymous complaints sent through analog or electronic means (SMS, social media posts, direct messages, etc.), including “tips”, and other unverified information may be the subject of a motu proprio investigation by the Commission. Provided, however, that once the identity of the complainant is known, or a person has come forward to pursue a complaint on the human rights issue/s raised in the anonymous complaint or filed under a fictitious name, said person(s) shall be required to accomplish a Case

² See definition of victim under the Rules of Procedure and Evidence of the International Criminal Court, <https://www.icc-cpi.int/sites/default/files/Publications/Rules-of-Procedure-and-Evidence.pdf> Rule 85:

(a) “Victims” means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court; 33 Rules of Procedure and Evidence;

(b) Victims may include organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Intake Form as needed. Otherwise, a motu proprio affidavit shall be filed by the Special Investigator of the BHRC.

Section 6. MULTIPLE HUMAN RIGHTS VIOLATIONS ALLEGED IN ONE COMPLAINT

A single complaint may allege more than one human rights violation or abuse, as long as they occur or are committed in an unbroken chain of interrelated events.

Section 7. PLACE OF FILING A COMPLAINT

Complaints for human rights violations and abuses **shall** be filed with the BHRC through the Provincial Office having jurisdiction over the place where the violations or threats thereof have occurred or persists.

Complaints filed or sent to the Office of the Chairperson, Commissioners, or its Regional Office, shall be endorsed to the Provincial Offices for **initial evaluation**. This does not, however, preclude the Commission Proper from directly taking cognizance of the case in the following instances:

1. The human rights issues involved have national, regional, or international implications or are of transcendental importance;
2. The human rights issues involved are extraordinary because of the complexities of the issues and/or of the personalities involved; or
3. The attendant facts are of unusual or publicly sensational character;
4. The case poses security threats to the concerned Provincial Office; or
5. There exists a conflict of interest on the part of the Provincial Office concerned; or
6. Other similar or analogous circumstances.

Section 8. EXCEPTION TO THE RULE ON NON-FORUM SHOPPING

Investigations conducted by any other tribunal shall not be a bar to the performance of the Commission's investigative functions.³

Section 9. MOTU PROPRIO INVESTIGATION, WHEN UNDERTAKEN

When, in the opinion of the Commission or any of its investigating officers, a human rights violation or abuse has been committed within its jurisdiction, it shall initiate an investigation into such matter or event. The motu proprio investigation is deemed to have commenced upon the approval of the

³ BAA No. 4 Chapter VIII, Sec. 34



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Investigation Plan submitted by the proponent Investigating Officer. A docket number shall be assigned to the case, as provided in these Rules.

Rule 3. E-FILING, HOTLINE, AND QUICK RESPONSE TEAM

Section 1. QUICK RESPONSE TEAM (QRT)

The Commission shall establish a quick response action system at its Regional and Provincial Offices which shall be in active operation, particularly after the regular core working hours and during weekends 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 imminent danger.

Section 3. SCREENING OF COMPLAINTS, REPORTS, OR INFORMATION

All complaints, reports, or information pertaining to human rights situations mentioned in the preceding paragraph which are brought to the attention of BHRC by any person or group of persons, whether walk-in or phone-in, or text messages, or that monitored in the media (radio, television, social networks, 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 officer, there is a need to dispatch a QRT, the said duty officer in the Provincial Office shall immediately inform the Provincial Director. It shall be the responsibility of the Provincial Director to inform the Commission or any Member thereof of the immediate action taken.

Section 4. MISSION ORDER

All quick response operations shall be covered by a Mission Order in accordance with Rule 5, Section 8 of these Rules. A mission order may be issued to cover a single deployment period, even if it constitutes more than one (1) day. All officers and personnel deployed in the quick response operations shall wear the official identification cards issued by the BHRC and shall carry a copy of the Mission Order.

Section 5. COORDINATION WITH OTHER AGENCIES OR INVESTIGATIVE BODIES



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

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

Section 6. QRT REPORT

Within twenty-four (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 Provincial Director concerned, Protection Division, or Office of the Chairperson, as the case may be.

Section 7. MONTHLY REPORTS AND MONITORING

A monthly report on all quick response operations conducted shall be integrated into the Provincial Office's Monthly Regular Report.

The Protection Division shall regularly monitor the implementation of the Quick Response Operations in the provinces.

Section 8. JOINT QUICK RESPONSE OPERATIONS

The BHRC may participate and join in quick response operations initiated or conducted by other government investigating bodies, or non-government organizations, national or international, as an immediate strategy to address HRVs or threats thereof under urgent situations to ensure the immediate protection of the victims and their families.

Rule 4. INITIAL EVALUATION

Section 1. PURPOSE OF INITIAL EVALUATION

The Initial Evaluation shall be for the purpose of assessing whether the complaint should be investigated or referred. In either case, the case intake officer shall endeavor to identify other forms of assistance or services that the complainant/s may require.

Section 2. OFFICERS AUTHORIZED TO CONDUCT INITIAL EVALUATION

The officer who received the complaint/case intake form shall determine whether the case falls within the BHRC's powers to investigate.

Section 3. REFERRAL

If the case as set out in the complaint or report does not fall under those matters within the coverage of BHRC's investigative powers, the Officer,



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

with the approval of the Provincial Director, shall immediately refer or endorse the complaint or report to the government agency who has the competence to resolve the matter, with proper notice to the complainant and/or the aggrieved party. The Investigator concerned may also refer the case to government service providers for assistance.

The Officer shall then update the Case Intake Form to reflect the referral or assistance requested from other agencies. The progress and updates on referred cases shall be duly monitored.

Section 4. INITIAL EVALUATION REPORT, CONTENTS

Within twenty-four (24) hours from verification of the complaint or interview of the Complainant, the Officer conducting the initial evaluation shall prepare an Initial Evaluation Report, which shall contain the following:

1. The possible human rights violated or abused;
2. Recommendation to the Provincial Director on whether to proceed with the Investigation;
3. Provisional remedies and preventive measures that may be undertaken by the Commission, in urgent cases including the filing of Petition for Writ of Amparo, Habeas Data, Habeas Corpus, Mandamus as provided in these Rules;
4. Other assistance needed, such as financial assistance, legal assistance, enrollment to the Witness Protection Program, and other forms of assistance, in which case, the Protection Division shall take the necessary steps to process the assistance;
5. Referral to other BARMM agencies for urgent support (protective custody/shelter, emergency medical care, post-exposure prophylaxis (PEP), psychological first aid, etc.); and
6. Other matters the Officer may find relevant.

The Initial Evaluation Report shall be submitted to the Provincial Director for approval.

Section 5. URGENT CASES

In cases of enforced disappearances, extrajudicial killings, arbitrary detentions, or threats thereof, when time is of the essence, the report shall highlight the urgency and necessity for immediate action, including the issuance of a preventive or mandatory order or the filing of a Petition for a Writ of Amparo, Habeas Corpus, or Mandamus. In such instances, the



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Provincial Director shall immediately inform the Protection Division of such recommendation, forwarding to the latter a copy of the Initial Evaluation Report containing such recommendation. The Protection Division shall immediately inform the Chairperson of such urgency.

Section 6. MONITORING OF CASES REFERRED AT THE INITIAL EVALUATION LEVEL

The Investigating Officer who submitted the Initial Evaluation Report shall, on a regular basis, inquire with other agencies to which the case was referred, as to the services rendered to the complainant/victim and shall note this in the file.

Rule 5. INVESTIGATION PROPER

Section 1. ASSIGNMENT OF DOCKET NUMBER

When the Provincial Director approves the recommendation to proceed to Investigation, the Investigating Officer shall assign a Docket Number to the case.

Section 2. INVESTIGATION PLAN

An investigation plan shall be required for all cases proceeding to Investigation Proper.

Section 3. CONTENTS OF THE INVESTIGATION PLAN⁴

1. Docket number, caption/title, complainant, names, and address of respondent, if known;
2. Summary of allegations of human rights violations from the complaint;
3. Questions sought to be answered by the Investigation (*What, who, where, when, why, how?*);
4. Whether summons have been issued to the respondent for purposes of submitting an affidavit;
5. List of documents relevant to the investigation and their custodians;
6. Evidence available;
7. Whether a field mission is to be conducted;
8. List of locations to visit and possible witnesses;
9. List of agencies to be visited/officers to be interviewed;
10. Date/s of proposed field mission/s;
11. Templates, forms, materials, and equipment required;

⁴ http://chr.gov.ph/wp-content/uploads/2019/07/May_2018_Undertaking_effective_investigations_guide.pdf



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- 12.If an investigating team is to be constituted, members of the team and their respective tasks;
- 13.Whether to require a clarificatory conference (hearing);
- 14.List of entities to be coordinated with;
- 15.Timeline/Schedule; and
- 16.Other matters deemed relevant.

Section 4. APPROVAL OF INVESTIGATION PLAN

The Provincial Director shall approve the Investigation Plan and oversee its execution. In his/her absence, the Protection Division or the Office of the Chairperson shall assign an Investigating Officer to approve the Investigation Plan.

Section 5. ASSIGNMENT OF INVESTIGATING OFFICER

The Provincial Director shall assign an Investigating Officer for the case who shall be identified in the approved Investigation Plan. In case an investigating team is constituted, the Provincial Director shall identify the team leader.

Section 6. SERVICE OF SUMMONS TO RESPONDENT

Ten (10) days from the approval of the Investigation Plan, the Provincial Director shall cause the issuance of Summons to the Respondent, directing the latter to file with the Provincial Office his/her counter-affidavit within fifteen (15) days upon receipt of the summons. The Provincial Office, at its discretion, may use other terms such as "NOTICE TO EXPLAIN" as the heading of the issuance, provided, that the word summons shall appear enclosed in parenthesis underneath thereof, and the same shall bear the statement "Fail not under pain of contempt" or words of similar import. A copy of the complaint shall be attached to the summons.

Section 7. FACT-FINDING MISSION AND OTHER INFORMATION-GATHERING ACTIVITIES

The Investigating Officer assigned may recommend the conduct of a fact-finding mission and other information-gathering activities in the field. The Commission may likewise constitute a Special Fact-Finding Team for this purpose.

When a case for investigation originates from a QRT, information gathered during such quick response operations shall form part of the records of the case.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 8. MISSION ORDER

All field operations, such as field investigations, fact-finding missions, site inspections, and facility monitoring visits conducted by BHRC's lawyers, investigators, and officers, shall be covered by a Mission Order. The Mission Order for Provincial Investigators shall be issued by the Provincial Director within whose territorial jurisdiction the incident occurred or persists. In the absence of the Provincial Director, the Mission Order may be issued by the Head of the Protection Division and in his/her absence, any Commissioner, or the Chairperson. All Mission Orders shall bear the official or dry seal of BHRC and shall specify the period of effectivity.

Section 9. CLARIFICATORY CONFERENCE

The investigating officer may opt to conduct a clarificatory hearing regarding facts material to the case as appearing in the respective position papers, affidavits, and documents filed by the parties.

In the conduct of clarificatory hearings, the parties shall be afforded the opportunity to be present but without the right to examine or cross-examine the party/witness being questioned. The parties may be allowed to raise clarificatory questions and elicit answers from the opposing party/witness, which shall be coured through the Investigating Officer who shall determine whether or not the proposed questions are necessary and relevant. In such cases, the Investigating Officer shall ask the question in such manner and phrasing as he may deem appropriate.⁵

Section 10. NOTES OF THE CLARIFICATORY CONFERENCE

All proceedings before the investigating officer of the BHRC Provincial Office shall be documented, particularly Questions propounded by the Investigating Officer and the Answers thereto. The Notes from the Clarificatory Conference shall contain the date of the Conference, persons attending, major issues raised or resolved in the proceeding, any orders issued, and other matters relevant to the proceeding. It shall be signed by the Investigating Officer as well as the Complainant, Respondent, witnesses, or any other persons attending such conference. Any party to the case may request a copy of such Notes.

⁵ https://www.ombudsman.gov.ph/docs/adminorders/Administrative_Order_No_07.pdf



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 11. RIGHT TO DUE PROCESS OF PARTIES

Any person implicated in the complaint or report of human rights violations shall:

1. Be accorded due process;
2. Be given due notice of the processes in his/her case;
3. Be apprised of the investigative mandate of BHRC;
4. Be apprised of the nature and cause of the human rights complaint/report against him;
5. Be given a copy of said complaint or report or a summary thereof;
6. Be given the opportunity to be heard and defend himself/herself;
7. Be assisted by a competent counsel of his/her choice;
8. Be given the opportunity to present his/her own witnesses or have compulsory processes to produce reluctant witnesses to testify;
9. To present and submit evidence to support and defend his/her case, and/or have compulsory processes for the production of relevant documents; and
10. Be treated with respect and dignity in all phases of the investigative proceedings before BHRC.

Section 12. FINAL INVESTIGATION REPORT

Within ninety (90) days from the assignment of a Docket Number, the Investigating Officer shall submit a Final Investigation Report to the Provincial Director, containing the following:

1. Case title and docket number;
2. Statement of Facts on the alleged human rights violation;
3. Findings of human rights violations committed, if any;
4. Alleged perpetrators, if identified;
5. Evidence upon which the Findings are based;
6. A summary of the actions taken by the Investigating Officer (field missions, interviews, scheduled hearings, etc.);
7. Recommendations on whether or not the following actions should be taken:
 - a. Filing of the criminal or administrative case against the perpetrator, and the deputization of lawyers/provision of legal assistance;
 - b. Enrollment in the financial assistance program;



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- c. Enrollment in the witness protection program;
 - d. Provision of any other assistance available under existing BHRC programs; and/or
 - e. The issuance of provisional remedies / preventive measures; and
8. Any other matter that the Investigating Officer deems relevant to the case.

Section 13. APPROVAL OF THE PROVINCIAL DIRECTOR

The Provincial Director shall either approve the FIR or remand it to the Investigating Officer for further action. Once approved, the Provincial Office shall, within twenty-four (24) hours, send through electronic means a copy of the FIR to the Protection Division. The signed copies as well as the records of the case shall be transmitted to the Protection Division within seven (7) days from confirmation of receipt of the electronic copy.

Section 14. COUNTING OF REGLEMENTARY PERIOD, WHEN SUSPENDED

The counting of the period within which to complete the Investigation shall be stalled/suspended when the reason for the delay is not attributable to the Commission such as unavailability of witnesses, refusal of parties to cooperate and provide their statements, and the like.

Section 15. EFFECT OF MANIFESTATION BY COMPLAINANT TO WITHDRAW COMPLAINT OR BY WITNESS TO DESIST

When a complainant manifests his/her intention to withdraw the complaint, or when a witness refuses to cooperate, the Investigating Officer shall duly note this in the file, and recommend any of the following, subject to the approval of the Provincial Director:

1. Conduct further investigation through fact-finding missions, including requesting the assistance of law enforcement agencies such as NBI, SOCO, etc. in the forensic investigation, including cyber forensics;
2. Suspend the investigation of the case, and archive the case if the complainant's or witness' testimony is the sole evidence that may establish that a human rights violation has been committed and that there are no other means available to the Commission to obtain other evidence; and
3. If the case is suspected to be part of a more systemic trend of human rights violations, recommend the conduct of Public Inquiry to the Commission Proper.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Rule 6. REVIEW BY THE PROTECTION DIVISION

Section 1. ACTION BY THE PROTECTION DIVISION UPON RECEIPT OF THE FINAL INVESTIGATION REPORT

Immediately, from receipt of the signed Final Investigation Report from the Provincial Office, the Protection Division shall initiate a review of the FIR.

Section 2. CRITERIA FOR REVIEW

The review shall evaluate the findings of the investigation on the following criteria:

1. Whether the findings in the report constitute human rights violation;
2. Whether the evidence presented supports the findings of HRV;
3. Whether the documentary evidence attached to the report is complete and proper;
4. Whether the recommendations are sound given the findings; and
5. Any other factors that may bear on the soundness of the decision.

Section 3. CASE CONFERENCE

Within the period for review, the Protection Division may call for a case conference with the Provincial Office concerned to clarify some matters in the report.

Section 4. ADDITIONAL EVIDENCE

The Protection Division may require the Provincial Office to provide additional evidence in support of the latter's findings.

Section 5. RECOMMENDATION OF THE PROTECTION DIVISION TO THE COMMISSION PROPER

The Protection Division shall conclude its review of the FIR within thirty (30) days from the receipt of the FIR from the Provincial Office and shall submit its recommendation to the Commission Proper.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Rule 7. RESOLUTION BY THE COMMISSION

Section 1. RECEIPT THROUGH THE COMMISSION SECRETARIAT

Upon conclusion of its Review, the Protection Division shall endorse the case to the Commission Proper through the Commission Secretariat. It shall transmit the records of the case together with the endorsement.

The Commission Secretariat shall include the case in the agenda of the meeting by the Commission Proper, and ensure that the Commissioners and Chairperson be furnished copies of the recommendation, the FIR, and copies of the records of the case before the meeting.

Section 2. ROLE OF THE COMMISSION SECRETARIAT

The following shall be the responsibilities of the Commission Secretariat:

1. To receive the endorsements, transmittals, and other communications addressed to the Commission Proper;
2. To prepare the Commission Proper's calendar of hearings and notify resource persons of the scheduled inquiry or hearing accordingly;
3. Subject to the review of the Chairperson, identify the resource persons to provide testimonies during the proceedings, including the sequence of their appearance/testimonies;
4. As may be delegated by the Chairperson, to administer oaths in all matters related to the proceedings;
5. To keep such book or books as may be necessary for recording all the deliberations of the Commission;
6. To keep a complete record of all endorsements and cases including such findings, orders, and resolutions of the Panel issued in relation to the case subject of the deliberations;
7. To furnish, without undue delay, copies of orders, resolutions, and decisions of BHRC to parties as may be identified by the Commission; and
8. To cause the service of subpoenas, notices, and other processes upon the parties concerned without unnecessary delay.

Section 3. CASES FOR FURTHER INVESTIGATION

The Commission Proper, at its discretion, may suspend the proceedings on a particular investigation and remand the case to the Provincial Office when, in its opinion, there are findings in the Final Investigation Report which are



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

not supported by substantial evidence. It may also constitute a special committee to take over the investigation of the case.

Section 4. ISSUANCE OF SUMMONS, SUBPOENAS, AND OTHER ORDERS

As an alternative to remanding the case to the Provincial Office, the Commission Proper may issue summons, subpoenas, and other orders to the parties or witnesses to gather more evidence in relation to the investigation or protect the rights of parties and witnesses. The Commission Proper may likewise schedule the case for Clarificatory Conferences.

Section 5. JOURNAL AND RECORDS OF PROCEEDINGS BEFORE THE COMMISSION PROPER

The Commission Secretariat shall also serve as note-taker for all Commission Proper proceedings.

All proceedings before the Commission Proper shall be documented, and shall include testimonies of the complainant and the respondent, witnesses, the clarificatory questions propounded by the Panel and the answers thereto, and decisions taken by the Commission Proper. In case any unusual incident or event is happening in the course of the proceedings, especially those that may give rise to a citation for contempt, the Chairperson shall verbally note such event and make it of record.

The Journal may be taken in stenographic writing or tape-recorded. The stenographic reporter or documenter who shall take notes of, or document, the public inquiry proceedings, shall be responsible for the timely transcription of the stenographic notes or tape records of the proceedings. The original transcript of the notes shall form part of the original records of the case.

Section 6. DELIBERATION OF THE COMMISSION PROPER

The Commission Proper may, at any stage of the proceedings before it, terminate the proceeding and proceed to the deliberation of the case. Such deliberations may be held in executive sessions.

Section 7. VOTING

The concurrence of at least two (2) members of the Commission Proper shall be sufficient to pass and/or adopt a resolution on the case or to remand the case to the Provincial Office or for further investigation or assign a special committee to conduct the reinvestigation.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Any member who does not agree with the decision of the majority or any part of the ruling shall provide a separate or dissenting opinion.

Section 8. ABSTENTION OR INHIBITION BY A MEMBER OF THE COMMISSION

Any Commissioner may abstain, inhibit him/herself from the disposition of the case, stating the reasons for the same. In such cases, a unanimous decision of the two remaining voting members shall be required to adopt a resolution.

Section 9. RESOLUTION OF CASES

The Commission Proper shall, within thirty (30) days from receipt of the recommendation by the Protection Division, issue a Resolution disposing of the case. The counting of the period shall be stalled by remand to the Provincial Office or by the Creation of a Special Committee to investigate the case as provided under Section 6 hereof.

A ponente shall be assigned to draft the Resolution, reflecting the agreements during the deliberations of the Commission Proper. The ponente shall be among those who voted for the majority.

Section 10. CONTENTS OF THE RESOLUTION

The Resolution shall contain:

1. The facts of the case;
2. The evidence submitted by the parties and gathered by the investigator in the course of the investigation;
3. It shall categorically state the primary issues involved;
4. Whether there exists substantial evidence of human rights violation committed or the omissions which led to the violation or abuse of the human rights of a person, group, or community of persons, as well as violation of international humanitarian law;
5. The pertinent provisions of the international human rights law, international humanitarian law, as well as domestic legislation and jurisprudence applicable to the case;
6. The dispositive portion of the resolution shall also state the corresponding recommendations, be it:
 - a. An endorsement for the filing of appropriate criminal, administrative, or civil actions before the competent fora; or



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- b. Endorsement for appropriate legislative, judicial, administrative, and policy measures; or
 - c. For the grant of financial assistance, whenever applicable; or
 - d. Whether to make permanent such provisional measures issued during the investigation; and
7. Any other matter arising out of the case that the Commission Proper may deem relevant in the performance of its mandate.

Section 11. EFFECT OF FILING OF THE CASE IN OTHER FORA

If, however, the corresponding criminal and administrative charges have already been initiated and filed by the aggrieved party before the competent fora prior to BHRC's investigation and/or completion of such investigation, the Resolution shall indicate that the case before said fora be subject to regular monitoring by the Regional Office or Provincial Office.

However, the BHRC shall still opt to continue the investigation of cases already filed for purposes of ascertaining assistance that may be provided by the BHRC to the complainant. Further, the FIR/Resolution shall serve as the basis for the Commission for the non-issuance of a human rights clearance to the persons found to have perpetrated such acts/HRVs.

Further, a certified copy of the Resolution together with pertinent documents and evidence on hand shall be endorsed to the fora concerned.

Section 12. NOTICE OF RESOLUTION

The Commission Secretariat shall send the Notice of Resolution to the parties within seven (7) days from the decision of the Commission.

Service of notice shall be in accordance with Rule 9 of these Rules.

Section 13. MOTION FOR RECONSIDERATION

Within fifteen (15) days from receipt of the Notice of Resolution, the aggrieved party may file a Motion for Reconsideration, which shall be resolved by the Commission Proper within thirty (30) days from receipt thereof.

No second Motion for Reconsideration shall be recognized/entertained by the Commission.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 14. FINALITY OF RESOLUTION

The Resolution of the Commission Proper is deemed to have attained finality upon the lapse of the period for filing a Motion for Reconsideration (MR).

A copy of the Resolution to the MR shall be furnished to the office having disciplinary authority over the respondent (perpetrator).

Section 15. TRANSMITTAL OF RESOLUTION AND INVESTIGATION RECORDS TO THE PROPER FORA

With proper notice, the Commission shall furnish a copy of its Resolution to the proper agency for appropriate action (filing of an administrative or criminal case) within three (3) days from signing thereof.

Section 16. ASSISTANCE TO VICTIMS THROUGH THE PROSECUTION PROCESS

The BHRC in its resolution may extend assistance to the HR victims who will pursue prosecution of cases, even after the finality of the resolution, through any of the following: legal assistance which may include the deputization of a lawyer, drafting of petitions for writs and other forms of support during the pendency of the case, financial assistance, witness protection, and other forms of assistance authorized by the BAA No. 4. The BHRC shall issue the corresponding Guidelines for these purposes.

RULE 8. PUBLIC INQUIRIES

Section 1. NATURE OF PUBLIC INQUIRIES

Public Inquiries undertaken by the BHRC are the collection of evidence, analysis of documents, and the reception of testimonies in public on human rights violations of a systemic or general nature.

The proceedings of the Public Inquiry are fact-finding in nature and non-adversarial. It shall generally be open to the public, transparent, and allows for the participation of affected parties and sectors, referred to in this Rule as **resource persons**.

Section 2. AUTHORITY TO CONDUCT PUBLIC INQUIRY

In aid of its investigative and monitoring powers, the Commission Proper shall have the authority to determine whether a public inquiry on any human rights issues or violations shall be undertaken. It shall constitute an Inquiry Panel and issue a Resolution on the matter.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 3. COMPOSITION OF THE PANEL

The Inquiry Panel shall be composed of two (2) members and a Presiding Officer, who shall serve as the Chairperson of the Panel. At least one (1) Commissioner shall sit in any Inquiry Panel. At least one (1) member of the panel should be an officer of the Provincial Office where the Inquiry is held.

In the exigency of service and considering the geographical location of the Provincial Offices, the Commission Proper may delegate the conduct of public inquiry to the Provincial Offices with the Provincial Director or the OIC Provincial Director as Presiding Officer, provided that one member of the panel is a lawyer.

In exceptional cases involving regional or national complexion, the Commission Proper may constitute itself as an Inquiry Panel.

Section 4. SUBJECT OF PUBLIC INQUIRY

Human rights issues of a systemic or general nature involving civil and political, economic, social, and cultural rights,⁶ violations of international humanitarian law, or threats thereof as well as human rights issues faced by specific sectors may be the subject of a public inquiry.

Section 5. VENUE

Public inquiry proceedings shall be held at the Regional Office or the Provincial Office having jurisdiction over the matter. In exceptional situations and consideration of resource persons' security and convenience, the venue shall be in any place as may be determined by the Commission Proper.

Section 6. INQUIRY PROCEEDINGS OPEN TO THE PUBLIC

All public inquiries shall be open to the public. However, the Commission Proper or the Inquiry Panel may motu proprio exclude the public from attending the inquiry proceedings in the following instances:

- a. When the statements in an open session will put the life and security of a resource person or any member of his/her family in greater risk or danger;

⁶ Examples are extralegal or summary killings, enforced disappearances, massacres, violations against humanity, hamlettings, forced evictions or illegal demolitions, development aggression, displacements, food blockades, or violations involving civil, political, economic, social or cultural rights or threats thereof



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- b. When the statements 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 public morals or sensibilities;
- c. When the person providing a statement 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 party for justifiable reasons;
- e. With respect to persons who have yet to provide their statements, the Chairperson has the discretion whether to exclude them from the public inquiry session room while the statement of another resource person is being given.

Section 7. INVITATIONS TO RESOURCE PERSONS AND AGENCIES

The Commission shall inform the invited resource persons, if any, of the time, date, and place of the inquiry proceedings; 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 BHRC's investigating authorities may deem reasonable.

Section 8. SUSPENSION OF PUBLIC HEARING OR INQUIRY

The proceedings of any public inquiry may be suspended at any time as the Inquiry Panel may deem necessary, upon the recommendation of any of its members, when there is evident or imminent danger to the life and safety of resource persons or the members of the Panel.

The Panel may opt to conduct it in an executive session as the exigency of the situation dictates.

The Commission Proper, upon recommendation of the Panel, may also opt to transfer the venue of the proceedings to a safer place.

Section 9. STATEMENTS OF RESOURCE PERSONS

Generally, affidavits and sworn statements of resource persons, whether as claims-holders or duty-bearers or their supporters, shall serve as their respective direct testimony, subject to clarificatory questions to be proposed by the Inquiry Panel.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

For this purpose, interested parties may submit a written set of proposed clarificatory questions to the Panel, on or before the date and time of the scheduled public inquiry. The Chairperson of the Panel has the discretion on whether or not to adopt the proposed clarificatory questions.

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

Section 10. STATEMENTS FROM ORGANIZATIONS AND GOVERNMENT AGENCIES

In the area of economic, social, and cultural rights, the issues and/or problems that shall be identified by the 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 11. POWERS AND FUNCTIONS OF THE INQUIRY PANEL

The Panel, through the Chairperson, shall preside and have full control over the proceedings. It shall have the power to invite resource persons, administer oaths, receive statements, and propound clarificatory questions. The Panel has the discretion to exclude the public from the proceedings, under exceptional circumstances, to suspend and adjourn the hearings.

Section 12. CONTEMPT

As the circumstances warrant, any person who shall commit contemptuous act/s during the public inquiry proceedings shall be dealt with as provided under these Rules.

Section 13. DUE PROCESS IN PUBLIC INQUIRY

Parties summoned to a Public Inquiry proceeding shall be afforded due process.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Republic of the Philippines

Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

When a party has been alleged as a perpetrator in the course of the inquiry, such party shall be given the opportunity to be heard. The Panel shall immediately issue a notice to the concerned party to attend the inquiry proceedings and answer the allegation or to submit a position paper on the matter. The list of rights of respondents in an investigation case under Section 9, Rule 4 of these Rules shall apply, in so far as may be applicable in public inquiries.

Section 14. ORDER TO CONDUCT FURTHER INVESTIGATION

In case the termination of the public inquiry is due to any of the reasons cited in Section 19 (3) and (4), BHRC shall issue an order directing the Provincial Office to pursue a further investigation on the subject matter of the Public Inquiry. The Commission may also form a Task Force for this purpose.

Section 15. DOCUMENTATION OF THE PROCEEDINGS; TRANSCRIPTS

All public inquiry proceedings shall be documented, and shall include the oral testimonies of resource persons, the clarificatory questions propounded by the Panel, and the answers thereto. In case any unusual incidents are happening in the course of the proceedings, especially those that may give rise to a citation for contempt, the Chairperson shall verbally note such event and make it of record.

The notes may be taken in stenographic writing or tape-recorded. The stenographic reporter or documenter who shall take notes of, or document the public inquiry proceedings, shall be responsible for the timely transcription of the stenographic 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 Proper, through the Office of the Executive Director, and copy furnished to the Protection Division. Any interested party, upon official request, may secure a copy of the transcript thereof, limited to one copy per party. Electronic copies (PDF only) of such transcripts/documentation shall be free of charge.

Section 16. CLERK OF THE PANEL

In all public inquiries or hearings conducted, there shall be an officer who shall act as Clerk of the Panel. If the public inquiry is to be conducted by the Commission Proper, the Head of the Protection Division shall serve as the Clerk of the Panel. However, in his/her absence or as the Commission may



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

deem appropriate, any competent lawyer or investigator may be designated to sit as Clerk of the Panel for the purpose of documentation of the proceedings.

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

Section 17. RESPONSIBILITIES OF THE CLERK OF THE PANEL

The following shall be the responsibilities of the Clerk of the Panel:

1. To receive all complaints, pleadings or documents, and position papers authorized or required to be filed with the Panel in connection with the subject matter of the Public Inquiry;
2. To keep such book or books as may be necessary for recording all the proceedings of Public Inquiry and its orders and resolutions;
3. To keep a complete record of all the complaints or cases including such findings, orders, and resolutions of the Panel issued in relation to the subject matter of the Public Inquiry pending before it;
4. Subject to the review of the Panel Chairperson, identify the resource persons to provide testimonies during the proceedings, including the sequence of their appearance/testimonies;
5. As may be delegated by the Panel Chairperson, to administer oaths in all matters pending before Public Inquiry;
6. To prepare the Panel's calendar of hearings and notify resource persons of the scheduled inquiry or hearing accordingly;
7. To furnish, without undue delay, copies of orders, resolutions, and decisions of BHRC to parties as may be identified by the Panel; and
8. To cause the service of invitations, subpoenas, orders, notices, and other processes upon the parties concerned without unnecessary delay.

Section 18. ADJOURNMENTS; POSTPONEMENTS

The public inquiry proceedings may be adjourned or postponed from day to day as the expeditious inquiry may require. Provided, however, that an adjournment or postponement for a period longer than fifteen (15) days may be granted only upon the approval of the Commission Proper.

Section 19. SUBMISSION OF MEMORANDUM OR POSITION PAPER

Upon conclusion of the public inquiry proceedings, the Commission or the Inquiry Panel may require the resource persons to submit their position



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

paper or any other relevant documents within ten (10) days from receipt of the order from BHRC or the Inquiry Panel.

Section 20. TERMINATION OF THE PUBLIC INQUIRY PROCEEDINGS

The public inquiry proceedings may be terminated upon any of the following conditions:

1. Sufficient evidence and information have been gathered and exist to support a conclusion by the Inquiry Panel concerned; or
2. It is apparent that the evidence or information sought, which is necessary to draw a conclusion about the case or human rights situation, cannot be obtained through the public inquiry proceedings; or
3. There is no vital resource person who could substantiate or corroborate the allegation of human rights violation under inquiry; or
4. There is a need to conduct further field investigation, fact-finding, or forensic examination; or
5. There is a need to conduct further research or study on the issue; or
6. There is evidence showing that the Bangsamoro Government or other duty holders have already addressed the issues and are already faithfully complying with the relevant international human rights standards, norms, and principles.

In any case, the public inquiry shall be terminated within sixty (60) days from the date of issuance of the Resolution authorizing the conduct of a Public Inquiry and constituting the Inquiry Panel.

Section 21. REPORT ON THE PUBLIC INQUIRY CONDUCTED⁷

Within thirty (30) days from the termination of the Public Inquiry, the Inquiry Panel shall submit a report of the Public Inquiry to the Commission Proper.

The report shall contain, at the minimum:

1. An overview of the public inquiry, the methodology employed, and a summary of hearings conducted;

⁷ BAA No. 4, Sec 45 (b)



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

2. The human rights framework utilized for the specific subject matter of the inquiry;
3. Findings, including highlights of testimonies of resource persons showing the existence of a systemic or general trend of human rights violations; and
4. Recommendations

Section 22. ACTIONS ON THE FINDINGS OF THE PUBLIC INQUIRY

Upon termination of the Public Inquiry, the Commission shall deliberate and adopt the Findings of the Inquiry Panel and issue the corresponding resolution in accordance with Rule 7, Section 9 of these Rules.

In cases where the Inquiry Panel recommends the opening of an Investigation on specific human rights violations that surfaced in the Public Inquiry, the Commission shall direct the concerned Provincial Office to initiate such investigation *motu proprio*.

RULE 9. ISSUANCE OF PROCESSES

Section 1. PROCESSES

This Rule covers the issuance of a subpoena, summons, and lawful orders issued by the Commission to carry out its investigative power.

Section 2. WHO MAY ISSUE

The following officers of the BHRC are authorized to issue the above processes:

1. The Chairperson or any Commissioner when the subject of investigation is a case of national, regional, or international concern or importance, regardless of the situs of the violation, or threats thereof; or
2. The Head of the Provincial Office concerned for cases taken cognizance of or filed at the provincial level.

Section 3. CONTENTS COMMON TO ALL SUBPOENAS, SUMMONS, AND ORDERS

All issuances by the Commission shall contain the following:

1. Title of the case, if there is any;
2. Addressee/ Respondent of the case;
3. Legal basis of the power;



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

4. Grounds for the issuance of the order;
5. Facts and circumstances;
6. Acts to be performed by the addressee;
7. Period for compliance; and
8. Signature

Section 4. SUBPOENA

A subpoena is issued by the Commission to secure the attendance of witnesses and/or produce documentary or object evidence.

Section 5. SUBPOENA, TO WHOM ISSUED

Subpoenas shall be issued to:

1. Witnesses;
2. Resource persons/experts;
3. Head of the unit or office having custody of persons or documents; and
4. Any other person whose presence or testimony or cooperation is indispensable in the determination of the case.

Section 6. SUMMONS

Summons is an order for a party or parties to appear (respondent – alleged to have committed a human rights violation) before an authorized officer of the Commission or panel or the task team constituted by the Commission or to submit an answer or position paper in response to an allegation of a human rights violation or abuse.

The Commission, at its discretion, may allow the use of other terms such as “NOTICE TO EXPLAIN” as the heading of the issuance, with the word “Summons” in smaller text enclosed in parenthesis, provided that the summons shall bear the statement: “Fail not under pain of contempt.”

Section 7. CONTENT OF THE SUMMONS

Summons issued by the Commission shall:

1. Inform or notify the respondent/s, and other parties concerned of the date, time, and place of the scheduled conference or dialogue;
2. 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; and



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

3. Inform the respondent/s that in case of failure to attend or respond to the complaint, the Commission or any of its Provincial Offices or investigation committee concerned shall proceed with the investigation and base its findings on evidence and documents on record.

Section 8. LAWFUL ORDERS

Order is any issuance from the Commission or its authorized officer ordering the doing or restraining the commission of an act, in order to protect the rights of parties, witnesses, or any person whose human rights are violated/threatened to be violated; or to preserve the integrity of documents (see protective, mandatory, orders) relevant to the investigation.

Section 9. MODES OF SERVICE

The service of the subpoena, summons, and lawful orders in the course of an investigation shall be effected by personal service, courier, registered mail, or electronic means.

Section 10. PERSONAL SERVICE

Whenever practicable, the summons shall be served by handing a copy thereof to the respondent in person and informing the respondent that he or she is being served, or, if he or she refuses to receive and sign for it, by leaving the summons within the view and in the presence of the respondent.

Section 11. ALTERNATIVE MODES OF SERVICE

If for justifiable causes, the respondent cannot be served personally after at least two (2) attempts on two (2) different dates, service may be effected:

1. By leaving copies of the summons at the respondent's residence to a person at least eighteen (18) years of age and sufficient discretion residing therein;
2. By leaving copies of the summons at [the] respondent's office or regular place of business with some competent person in charge thereof. A competent person includes, but is not limited to, one who customarily receives correspondence for the respondent;
3. By leaving copies of the summons, if refused entry upon making his or her authority and purpose known, with any of the officers of the homeowners' association or condominium corporation, or its chief security officer in charge of the community or the building where the defendant may be found;



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

4. By registered mail;
5. By sending through Courier. In the absence of proof or receipt, service of the process shall be deemed effected upon the lapse of ten (10) days from the date of sending, if the recipient's address is within the same area of jurisdiction of the provincial office concerned, and twenty (20) days if outside such area; or
6. By sending an electronic mail to the respondent's electronic mail address, which shall be deemed effected upon the electronic transmittal of the message.

Rule 10. ADMINISTERING OATHS

Section 1. OFFICERS AUTHORIZED TO ADMINISTER OATHS.

The following officers of the BHRC have the authority to administer oaths: The Chairperson, Commissioners, Lawyers, and Special Investigators.

Section 2. COVERAGE

Officers of the BHRC authorized to administer oaths may only do so on matters of official business to the BHRC, such as affidavits and documents related to human rights investigation function, and any certifications made by the Commission.

Section 3. PERSONAL APPEARANCE

No oaths shall be administered by authorized BHRC officers without the personal appearance of the person making the oath.

Section 4. COPIES OF OATHS

The officer administering the oath shall sign the documents in four (4) copies, the distribution of which shall be as follows: Complainant, Respondent, Provincial Office, Protection Division. If there is more than one (1) Complainant or Respondent, each party shall receive a Certified True Copy of the document on which the oath was administered.

Section 5. REGISTRY OF ADMINISTERED OATHS.

Each Provincial Office shall keep an updated registry of documents containing oaths administered by its lawyer and special investigators. The Office of the Commission Secretariat shall likewise keep a separate registry for documents administered by the Chairperson and the Commissioners. The Protection Division shall keep a similar registry for those administered



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

by the authorized officers in the Regional Office and lawyers of the Regional Office.

The concerned office shall include in its monthly reports to the Commission, information on oaths administered by the office.

Rule 11. CONTEMPT

Section 1. WHAT CONSTITUTES CONTEMPT OF THE COMMISSION

The following shall be considered acts obstructing the lawful exercise of the investigative powers and other lawful orders of the Commission and shall be grounds for citation for contempt:

1. Failure without adequate cause to obey a subpoena served upon him/her;
2. Willful disregard of lawful orders, processes, notices, or invitations of the Commission related to an investigation or inquiry;
3. Disrespectful and improper conduct tending to directly or indirectly impede, obstruct, or degrade the conduct of an investigation or inquiry;
4. Any act which would delay, prevent, hinder and dissuade, discourage a witness or resource person from testifying or cooperating with the Commission; and
5. Other acts of refusal to cooperate in ongoing investigation processes or inquiry proceedings of the Commission.

Section 2. WHO CAN CITE CONTEMPT.

The Commission Proper shall have the authority to cite persons in contempt, through the petition of the investigating officers and office or inquiry panel concerned.

Section 3. CITATION FOR CONTEMPT, HOW MADE.

When the act constituting contempt is done during a hearing/clarificatory meeting and in the presence of the investigating officer of the Commission, such investigating officer shall verbally note the act being done by the person and inform the latter that it is among the grounds for contempt under its Rules of Procedure. The hearing officer shall inform the person that the former shall initiate a petition before the Commission Proper to declare such person in contempt and to determine the proper action of the same.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

A report of the incident shall be recorded in the minutes of the proceeding and shall form part of the records of the case.

In case of impossibility to proceed with the hearing of the case due to such contemptuous acts [except (a)], the hearing officer shall suspend the hearing and shall immediately file a petition with the Commission Proper to declare such person in contempt. In instances where the contemptuous acts constitute a crime, the hearing officer shall cause the filing of a criminal complaint against the person.

Section 4. CONSEQUENCES OF CONTEMPTUOUS ACTS.

Determination of penalties for contempt shall be in accordance with the Rules of Court.

The provisions on contempt of the Rules of Procedure of the Commission on Human Rights shall be applied suppletorily to similar situations under Section 1 of this Rule.

Any citation for contempt or a pending petition initiated for the same shall be indicated in the human certification issued by the Commission that may be requested by such person.

Rule 12. REQUIRING THE ASSISTANCE AND COOPERATION OF GOVERNMENT ENTITIES

Section 1. COVERAGE

LGUs within BARMM, GOCCs created by the Bangsamoro Parliament, Bangsamoro Government, governmental ministries, commissions, agencies, offices of BARMM, armed forces and law enforcement agencies within BARMM, private entities with franchise/business licenses given by Bangsamoro offices.

For offices outside BARMM, the request shall be coursed through the Commission on Human Rights, without prejudice to the internal rules of the concerned agencies

Section 2. FORM OF ASSISTANCE AND COOPERATION THAT MAY BE REQUIRED.

- Ensuring the attendance, compliance, and cooperation of officers or personnel that are subject to human rights queries or investigations;
- Security, advocacy, data, logistical support; and/or



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- Services in their mandate.

Other similar forms of support will aid the Commission's investigative powers provided it does not diminish the independence and reputation of the Commission.

Section 3. HOW TO REQUIRE AGENCIES.

The Commission, through its Chairperson, Commissioners, Heads of Offices, or Provincial Directors, shall make the necessary communication to the required agency.

Requests for assistance from private entities regarding investigation shall be done through a subpoena.

Rule 13. COMPULSORY MEASURES

Section 1. COMPULSORY MEASURES

The Commission may issue compulsory measures, incident to its investigation, through Preventive Orders and Mandatory Orders.

Section 2. PREVENTIVE ORDERS

Preventive Orders are taken to prevent a party from taking a certain action while an investigation or inquiry is ongoing, to prevent irreparable harm, and for the protection of persons whose human rights are being violated or at risk of violation thereof, in the form of the following:

1. Preventive Protection Order is a measure ordering the respondent to refrain from committing acts that would tend to cause irreparable harm to the victims or complainant, or have the effect of rendering the investigation of the Commission moot and academic;
2. Preventive Transfer Order is an order directing any member of the government or any person acting on its behalf, to immediately desist from hiding, transferring, torturing, or abusing victims of human rights violations or abuses; and
3. Preventive Desistance Order is an order prohibiting the respondent, any units, personnel, or persons under his/her immediate supervision from entering the vicinity, as may be determined in the order, of the affected area or residence of any person whose human rights are being violated or are in danger of violation, and from searching the victim or his/her belongings.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 3. MANDATORY ORDERS

The Commission may, upon request, or on its own, issue mandatory orders to undertake certain actions for the protection of persons whose human rights are being violated or at risk of violation thereof, in the form of the following:

1. Mandatory Protection Order is an order directing the government to provide specific protection to victims of and witnesses to human rights violations or abuses;
2. Mandatory Access Order is an order directing the government in control of any place of detention or confinement to allow access to persons deprived of liberty by his/her counsel, physician, psychologist, priest, pastor, rabbi, imam, or any spiritual adviser and his/her relatives; and
3. Mandatory Transfer Order is an order directing the government to transfer persons deprived of their liberty or in danger of reprisal or retaliation due to the filing of a complaint in connection with his/her detention, in order to secure the safety of his/her person.

Section 4. HOW ISSUED

Compulsory measures may be issued by the concerned Provincial Office, the Protection Division, the Chairperson, or the Commissioners motu proprio or at any time after a complaint is filed with the Commission through any of its offices, and before the termination of the investigation or public inquiry. The Attorney IV or the handling Special Investigator may issue the compulsory measures in the absence of the Head of the Protection Division or the Provincial Director.

For urgent cases, the Provincial Office in coordination with the Protection Division shall convene within forty-eight (48) hours from receipt of such request and release the order as soon as may be practicable under the circumstances.

Section 5. COPY TO THE LAW ENFORCEMENT AND OTHER RELEVANT AGENCIES

The Commission shall furnish a copy of the issued compulsory orders to law enforcement and other relevant agencies for their information and appropriate action.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Republic of the Philippines

Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 6. ENFORCEMENT

Compulsory Orders stated above are enforceable within the Bangsamoro territory. For this purpose, the Commission shall request the assistance of law enforcement personnel in the enforcement of these orders. In situations where persons have been transferred or are at risk of being transferred to detention centers, lock-up cells, or any other holding center outside of the Bangsamoro, the Commission shall seek the assistance of the Commission on Human Rights (CHR) in the enforcement of its orders.

Section 7. VALIDITY

The order shall be effective until it has been complied with or until the ground for the order ceased.

Section 8. REPORT OF COMPLIANCE.

The person against whom the order was issued shall make a report of compliance to the Commission within ten (10) days from receipt of the Order. The Commission shall monitor the submission of such a report.

Section 9. CONSEQUENCES FOR NON-COMPLIANCE

Any person violating any of the foregoing provisions shall be cited in contempt in accordance with these rules.

Rule 14. DEPUTIZATION OF LAWYERS, LEGAL AID GROUPS, OR MEDICAL ORGANIZATIONS

Section 1. LAWYERS OR LEGAL AID ORGANIZATIONS THAT MAY BE DEPUTIZED

The following entities may be deputized by the Commission in pursuance of its mandate to protect the human rights of persons in the Bangsamoro:

1. PAO lawyers;
2. Private lawyers;
3. *Shariah* counselors;
4. Integrated Bar of the Philippines;
5. School-based legal aid clinics;
6. Human rights organizations, in so far as their legal aid activities are concerned;
7. Civil society organizations with legal aid programmes; and
8. Lawyer's groups, *shari'ah* counselors' groups, and other legal aid groups.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 2. MINIMUM QUALIFICATIONS OF LAWYERS TO BE RETAINED OR DEPUTIZED

The lawyer to be engaged by the Commission as a deputy must possess the following minimum qualifications:

1. Member of the Integrated Bar of the Philippines (IBP) in good standing;
2. Must have no pending disbarment case before the IBP or the Supreme Court; and
3. Other qualifications as may be required by the Commission.

Section 3. LEGAL SERVICES THAT MAY BE THE SUBJECT MATTER OF DEPUTIZATION

The following are matters that may be the subject matter of deputization:

1. Legal Assistance to Victims and Witnesses in the course of Investigation; and
2. Representation in Courts/Quasi-Judicial Agencies including where Petitions for Writs of Amparo, Habeas Data, Habeas Corpus, or Mandamus are filed.

Section 4. AGREEMENT BETWEEN THE COMMISSION AND THE DEPUTIZED LAWYER

The engagement of deputized lawyers shall be embodied in an agreement between the deputized lawyer and the Commission, the form and contents of which shall be determined by the Commission through Guidelines it may issue therefor. The agreement shall stipulate the roles and responsibilities of the deputized lawyer or law firm or group; the attorney's fees to be paid by the Commission; the coordination mechanism of the Commission and the deputized lawyer or law firm or group; and other relevant stipulations.

Section 5. EXPENSES

Other incidental expenses related to the filing of cases or petitions in the appropriate fora, such as docket fees, photocopies, or mailing, shall be disbursed by the Commission as provided for under the *Guidelines on the Grant of Financial and Legal Assistance to Victims of Human Rights Violations and Abuses*.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 6. GUIDELINES

All matters related to deputization and the engagement of lawyers outside the BHRC that are not covered by these Rules shall be addressed by the *Guidelines on the Grant of Financial and Legal Assistance to Victims of Human Rights Violations and Abuses*.

Section 7. EXCEPTION TO GENERAL PRINCIPLE OF COORDINATION

The Commission is not under any obligation to coordinate or notify any instrumentality of the government on matters pertaining to legal assistance provided by deputized lawyers and organizations to indigent and detained victims of human rights violations and abuses.⁸

Section 8. CASE MONITORING

The movement of cases referred to deputized lawyers under this Rule shall be monitored by the Protection Division, which shall conduct regular case conferences with the deputized lawyers regularly to be updated on the status of cases.

The Commission, through the Protection Division or the Provincial Office concerned, may opt to sit as an observer in the proceedings before the court or quasi-judicial body where the case is pending.

Rule 15. PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO, HABEAS DATA, HABEAS CORPUS, OR MANDAMUS

Section 1. ASSISTANCE TO PETITIONERS

The Commission, upon the recommendation of the Provincial Office concerned or the Protection Division, may deputize lawyers to assist human rights victims or witnesses in the filing of Petitions for the Issuance of the Writ of Amparo⁹, Habeas Data¹⁰, Habeas Corpus¹¹ or Mandamus¹², as may be applicable. The relationship between the Commission and such lawyers shall be governed by the Rules on Deputization under these Rules.

Section 2. THE COMMISSION AS PETITIONER

The Commission may, through its Chairperson, file a Petition for the Issuance of the Writ of Amparo or Habeas Corpus, as may be applicable, in

⁸ BAA No. 4, Section 40, second paragraph

⁹ The Rule on the Writ of Amparo, A.M. No. 07-9-12-SC, September 25, 2007, Section 2

¹⁰ The Rule on the Writ of Habeas Data, A.M. No. 08-1-16-SC, January 22, 2008,

¹¹ Revised Rules of Court, as Amended, Rule 102

¹² Revised Rules of Court, as Amended, Rule 65, Sec. 3



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

order to protect the human rights of persons within its area or jurisdiction. Provided, that in the case of a Petition for a Writ of Amparo, no known family member can file on behalf of the aggrieved party. A Resolution shall be issued by the Commission Proper for this purpose.

Section 3. PETITION FOR THE ISSUANCE OF A WRIT OF AMPARO.

A petition for writ of amparo may be filed when, in the assessment of the Commission, a person's (whether a complainant or witness) life, liberty, or security is violated or threatened with violation by an unlawful act or omission of a public official or employee. This shall cover cases of extralegal killings, enforced disappearances, or threats thereof.

Section 4. PETITION FOR THE ISSUANCE OF A WRIT OF HABEAS CORPUS.

A Petition for a writ of habeas corpus may be filed, when in the assessment of the Commission, there is a case of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto.¹³

Section 5. PETITION FOR THE ISSUANCE OF A WRIT OF HABEAS DATA

The Commission through its deputized lawyers may assist in the filing of a Petition for a Writ of Habeas Data when, in its assessment, the complainant or witnesses' right to privacy in life, liberty, or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home, and correspondence of the aggrieved party.¹⁴

Section 6. PETITION FOR THE ISSUANCE OF A WRIT OF MANDAMUS

The Commission through its deputized lawyers may assist in the filing of a Petition for a Writ of Mandamus when, in its assessment, a tribunal, corporation, board, officer, or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment to be rendered commanding the respondent, immediately or at some other time to be

¹³ Revised Rules of Court, as Amended, Rule 102

¹⁴ The Rule on the Writ of Habeas Data, A. M. No. 08-1-16-SC, January 22, 2008



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.¹⁵

This remedy shall be utilized in connection with the Commission's power to issue Mandatory Orders under these Rules.

Section 7. RECOMMENDATION TO FILE

At the initial evaluation stage of the investigation, the Intake Officer shall already determine whether the circumstances surrounding the alleged human rights violations would necessitate the availing of the remedies mentioned in this Rule. The Initial Evaluation Report shall determine which remedy to avail, and the grounds therefor.

If the necessity of availing of the remedies herein is only determined during the course of the investigation, the same shall be included in the Final Investigation Report, stating the grounds therefor, the facts establishing it and the evidence supporting such facts.

Section 8. ENDORSEMENT OF THE PROTECTION DIVISION

The Protection Division shall, in urgent cases, immediately endorse the recommendation of the Provincial Office to the Chairperson for appropriate action.

Rule 16. GENERAL PROVISIONS

Section 1. SUBSTANTIAL EVIDENCE

The determination of human rights violations shall be based on substantial evidence. Substantial evidence is such an amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion.

Section 2. CONFIDENTIALITY

All records of cases under investigation shall remain confidential until the Resolution of such cases shall have become final. Information gathered in the course of the investigation shall be treated with utmost confidentiality at all times, unless the production of such information is ordered by the Commission Proper or by a Court of competent jurisdiction.

¹⁵ Section 3, Rule 65, Revised Rules of Court



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

In such instances, the BHRC shall take reasonable steps to notify all persons concerned and allow them to make representations concerning the matter, except when in the opinion of the Commission, the act of notifying such person will impede or prejudice the investigation.

Section 3. NO FEES TO BE COLLECTED

No fees in any amount shall be collected by any lawyer, investigator, or other officers of the BHRC in connection with any investigation, proceeding, administration or oath, urgent assistance (QRT), or any matter pending with the Commission.

Section 4. SUPPLETORY APPLICATION OF THE RULES OF COURT

In all matters not provided in these Rules, the Rules of Court and the Omnibus Rules of Procedure of the Commission on Human Rights of the Philippines (CHR) shall be applied in a suppletory character, or by analogy whenever practicable and convenient.

Section 5. SEPARABILITY CLAUSE

If any provision of these Rules is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

Section 6. REPEALING CLAUSE

These Rules together with their Annexes shall supersede the previous Rules of Procedure adopted by the Commission.

Section 7. AUTOMATIC REVIEW

These Rules shall be subject to automatic review three years from their date of effectivity. The Commission Proper shall constitute a Technical Working Group to lead the review process and provide recommendations for amendments if any.

In the interim, the Commission Proper may promulgate issuances to amend these Rules of Procedure. Such issuances shall be compiled and shall form the reference documents for the review referred to in the preceding paragraph.

Section 8. VERSIONS

Succeeding versions of these Rules shall bear the notation “as amended,” with the date of the effectivity of such amendment, in the title.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 9. EFFECTIVITY

These Rules shall take effect fifteen (15) days after the completion of publication as required by the Bangsamoro Administrative Code.

These Rules shall govern all cases brought after effectivity, and to further proceedings in pending cases, except to the extent that their application would adversely affect the right to due process of any party.

TITLE II. GUIDELINES IN THE CONDUCT OF HUMAN RIGHTS MONITORING IN THE BANGSAMORO

Chapter 1. CASE MONITORING

Section 1. CASE MONITORING

All cases referred to the appropriate judicial, quasi-judicial, administrative agencies, departments or bureaus, human rights institutions or organizations, and other duty-bearers shall be monitored by BHRC as to their response and actions taken.

Section 2. TYPES OF CASES MONITORED

Case monitoring shall be of two categories:

- A. Those complaints, requests, and other matters referred to other agencies for assistance, which are covered by Rule 4, Section 3 on Referral; and
- B. Those cases under Legal Assistance such as (a) cases covered by a Final Investigation Report or Resolution endorsing said case to the proper fora for appropriate action which may be the filing of a criminal or administrative case, under Rule 12, Section 11 of the BHRC Rules of Procedure or (b) petitions for the Issuance of Writs of Amparo, Habeas Data, Habeas Corpus or Mandamus, under Rule 15 of the Rules of Procedure.

Section 3. MONITORING OF CASES REFERRED TO OTHER AGENCIES FOR ASSISTANCE

The investigators of the Provincial Offices shall conduct regular inquiries and requests from the concerned agencies and institutions for updates on complaints, requests, or matters referred by the BHRC to such agencies under Section 3, Rule 4 of the BHRC Rules of Procedure ("Category A").



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 4. MONITORING OF CASES OR PETITIONS HANDLED BY DEPUTIZED LAWYERS

The Protection Division shall oversee the monitoring of Cases referred/endorsed to the proper fora as provided under Rule 7 Section 15, or filed through Deputized Lawyers under Rule 14 of the BHRC Rules of Procedure.

Chapter 2. FACILITY MONITORING

Section 1. COVERAGE

Facility monitoring shall be the assessment and continued monitoring, without restriction¹⁶, of the compliance with human rights standards of government facilities within the Bangsamoro Autonomous Region, such as:

1. government offices and government-managed civilian facilities such as hospitals, airports, and seaports;
2. police and military stations, installations, camps, and bases and their training schools; and
3. jails, prisons, detention facilities (including those inside military camps), police lock-up cells, youth homes, and any detention, rehabilitation, confinement, and other similar facilities.

Section 2. MONITORING OF OFFICES AND FACILITIES OF THE BANGSAMORO GOVERNMENT OR IN THE BANGSAMORO TERRITORY

In the conduct of monitoring of offices and facilities in the Bangsamoro Territory, whether military or civilian in character including public hospitals, airports, and seaports, the BHRC shall be guided by relevant laws and rules such as:

- A. Magna Carta for Disabled Persons¹⁷, on accessibility¹⁸ and reasonable accommodations for persons with disability.

For this purpose, reasonable accommodations can include: (1) improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and (2) modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices,

¹⁶ BAA No. 4, Sec 43 (f)

¹⁷ Republic Act No. 7277, <https://legacy.senate.gov.ph/lisdata/74466662!.pdf>

¹⁸ RA No. 7277, Section 25



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

appropriate adjustments or modifications of examinations, training materials or company policies, rules and regulations, the provisions of auxiliary aids and services, and other similar accommodations for disabled persons;¹⁹

B. Accessibility Law²⁰, on the installation and incorporation in buildings, establishments, institutions, or public utilities, such architectural facilities or structural features as shall reasonably enhance the mobility of disabled persons such as sidewalks, ramps, railings, and the like.²¹

C. Magna Carta of Women²²,

1. On ensuring the rights of women in the military, police, and similar to decent facilities and personal protective equipment through (a) providing decent billet facilities and quartering, separate from the men, in the military police and similar services, regardless of the location or type of assignment; establishing a child-care facility, child-minding room or breastfeeding room for women in the military, police, and similar services as well as for women civilian employees; and (c) provide women in the military, police, and similar services with well-fitting personal protective equipment and other operational equipment that shall ensure their safety while in the performance of their duties.²³

2. As operationalized through Gender and Development Programs, the establishment of breast-feeding areas and childcare facilities.

D. Any other legislation at the national and regional level related to the enhancement of the premises and processes of such government offices and facilities for the fulfillment of the human rights and sense of human dignity of persons in the Bangsamoro.

¹⁹ RA No. 7277, Section 4 (h)

²⁰ BP 344, <https://www.ncda.gov.ph/disability-laws/batas-pambansa/batas-pambansa-blg-344/>

²¹ BP 344, Section 1

²² RA 9710

²³ RA 9710, Section 18 (A.9.)



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 3. MONITORING OF JAILS, PRISONS, DETENTION FACILITIES, AND OTHER SIMILAR CONFINEMENT FACILITIES

In the monitoring of facilities categorized under Section 1 (c) of this Rule, the BHRC shall be guided by the Standard Minimum Rules for the Treatment of Prisoners (SMR)²⁴, International Standards Relating to Pre-trial Detention²⁵, and other documents of similar nature.

A. CONDITIONS TO EVALUATE

The monitoring officer shall assess the extent by which the following conditions in the facility are met, as well as the measures taken by the management/administration toward their fulfillment:

1. Fair and humane treatment of prisoners, their safety, and their protection from torture, other forms of ill-treatment, arbitrary or other abusive forms of punishment, and other abuses of power;
2. Humane and dignified conditions of detention, including accommodation, space, access to open air, water, food, hygiene, and other essentials in sufficient quantity and quality, as well as the possibility for prisoners to engage in various meaningful activities;
3. Adequate access to medical care and health services;
4. Measures taken to ensure that prisoners are able to remain in contact with the outside world, first and foremost with their families;
5. That prisoners are adequately informed of their rights, including access to legal aid and representation; and
6. That the special needs of vulnerable groups are taken into account.

The Monitoring Officer shall use a Jail Monitoring tool for this purpose.

B. PHASES OF JAIL/DETENTION CENTERS MONITORING

1. Briefing
2. Interview with the personnel
3. Inspection of logbooks
4. Ocular inspection of the facilities
5. Interviews with the inmates
6. Debriefing

²⁴ https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf

²⁵ <http://hrlibrary.umn.edu/Human%20Rights%20and%20Pre-trial%20Detention.pdf>, cited and linked in <http://hrlibrary.umn.edu/monitoring/chapter9.html#B>



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 4. OTHER FORMS OF ASSISTANCE DURING FACILITY MONITORING VISITS

As provided in Rule 12 of the Rules of Procedure, the Commission may request the cooperation and assistance of other government offices to provide assistance and other services to detainees or prisoners at the same time/occasion as the facility monitoring visit. Such services may include medical assistance, legal assistance/legal clinic, distribution of hygiene kits, psycho-social assistance, and the like.

Section 5. OFFICERS AUTHORIZED TO CONDUCT FACILITY MONITORING
BHRC Personnel at the Provincial Office shall have the primary authority to conduct facility monitoring in their respective areas of responsibility. Monitoring officers shall at all times carry BHRC identification cards and wear gear that will make them readily identifiable as staff of the Commission, such as vests, caps, jackets, and the like.

The Commission Proper or the Chairperson may authorize the formation of a composite team composed of personnel from the Regional Office and the Provincial Office to conduct facility monitoring.

Section 6. POST-MONITORING DEBRIEFING WITH THE HEAD OF FACILITY
Before returning to the duty station, the Monitoring team leader shall apprise the Head of the Facility or his authorized representative of the team's general observations and shall provide recommendations for the Head's immediate action.

Section 7. FACILITY MONITORING REPORT
Within five (5) days of return from the monitoring visit, the Provincial Director having supervision of the monitoring officer or team conducting the monitoring visit shall submit a Facility Monitoring Report to the Protection Division, which shall include the following:

- a) The office of the Facility subject of the Monitoring;
- b) Location and description of the facility, including its surrounding area;
- c) Category of the facility as defined under Section 1 of this Chapter;
- d) If the facility is among those listed in Section 1 (c), observations on the following:
 - i. Number of detainees/inmates, number of political prisoners, number of child detainees, women detainees, if any;



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

- ii. Reports and documents submitted by the Warden/Head of Facility to the BHRC/CHR in compliance with reportorial requirements under the Anti-Torture Law;²⁶
 - iii. Number of inmates vis-à-vis number of rooms or beds;
 - iv. Issues related to the conditions referred to under Section 3(A) of this Rule, and measures being undertaken by management to address such issues;
 - v. Any matter requiring urgent attention (medical care, etc.);
 - vi. Possible cases of human rights violations observed, and recommendation of action (e.g., motu proprio investigation), including observation on whether or not the monitoring team was prevented from having one-on-one interviews with inmates; and
- e) Recommendations to ensure compliance with human rights standards

The Head of the Facility or Office shall be furnished with a copy of the Monitoring Report.

Section 8. REFUSAL TO GRANT ACCESS TO FACILITY

When a Head of Facility or their subordinates acting on their instructions, refuse to grant access to facilities under this Rule, this shall be indicated in the Report of the Monitoring team leader assigned. Such refusal shall be indicated in any future certification/clearance that the Commission may issue upon the request of such officer.

Section 9. RETURN VISITS

The jail monitoring team shall regularly conduct monitoring visits to such facilities mentioned in Section 1. Monitoring visits to each identified facility shall be no longer than one (1) year apart.

Section 10. VISITORIAL POWER UNDER RELEVANT LAWS

In pursuit of its mandate under the Anti-Torture Law and the Anti-Enforced Disappearances Act, the BHRC through its investigating officers may conduct unannounced visits to detention facilities in the BARMM to verify reports or complaints pertaining to human rights incidents or issues, especially when there is reason to believe that a person suspected to be detained therein is in danger of being tortured or disappeared.

²⁶ <https://chr.gov.ph/wp-content/uploads/2021/07/Human-Rights-Advisory-Reportorial-Duties-of-Duty-Bearers-Under-the-Anti-Torture-Act-of-2009-Anti-Enforced-Or-Involuntary-Disappearance-Act-of-2012-and-Anti-Terrorism-Act-of-2020.pdf>



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

**Chapter 3. INTERNATIONAL HUMANITARIAN LAW (IHL)
MONITORING**

Please see the Guidelines on IHL Monitoring.

Chapter 4. INTERNAL DISPLACEMENT MONITORING

Section 1. PRELIMINARY CONSIDERATIONS

The Commission shall consider displacement incidents in the BARMM to be situations that shall merit human rights monitoring under Section 42 of the Bangsamoro Autonomy Act (BAA) No. 4.

IDP Monitoring shall be based on the rights guaranteed by relevant international human rights, humanitarian law instruments, and national legislation. IDP Monitoring shall at all times be independent and neutral, and conducted with respect to the do-not-harm principle.

Section 2. INTERNAL DISPLACEMENT MONITORING

Internal Displacement Monitoring is the systematic gathering and verification of data and information to document the human rights issues faced by internally displaced persons and other affected populations.

Depending on the cause, gravity, and extent of the displacement, and the potential loss of life and irreversible injury to persons and damage to property that may arise in connection to such displacement, the Regional Office or the Provincial Office may consider such instance of displacement as actionable by its Quick Response Teams (QRT), as provided for under Rule 4 of the BHRC Rules of Procedure.

Section 3. NEW INCIDENTS OF DISPLACEMENT

At the onset of displacement, the Regional Office or the Provincial Office having jurisdiction over the place of origin or place to where persons are displaced shall immediately establish communication channels with the local authorities and gather initial information on the following:

1. Cause of displacement (whether armed conflict, natural disaster, *rido*, development projects, land disputes (relocation), etc.);²⁷
2. Place of origin;

²⁷ Protecting Internally Displaced Persons: A Handbook for National Human Rights Institutions
https://reliefweb.int/sites/reliefweb.int/files/resources/61fd4a4a4_compressed.pdf p.10 // cf. footnote no. 5



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

3. Place of displacement;
4. Number of displaced persons (including information on how many males, females, children, elderly, pregnant, lactating women, PWDs, injured, how many are in evacuation centers, how many are home-based, etc.);
5. Human rights issues arising during the displacement;
6. Possible cases of individual human rights violations that may have been committed, if any; and
7. Any other information that will assist the Commission in ensuring the protection of human rights in that particular instance of displacement.

Section 4. INITIAL DISPLACEMENT REPORT

Within twenty-four (24) hours from receipt of such information, the handling Special Investigator (SI) on Duty shall prepare an Initial Displacement Report that shall outline the information enumerated above, with the recommendation on the next action to be taken (for remote monitoring, field verification, etc.) and the reasons for such.

Section 5. ACTION BY THE HEAD OF PROVINCIAL OFFICE

The Provincial Director shall review the initial Displacement Monitoring Report and shall take action on the recommendation by the SI within twenty-four (24) hours. In the absence of the Provincial Director, the Head of the Protection Division of BHRC at the Regional Office shall decide. In view of the distance of the Regional Office from the Provincial Offices, scanned signatures affixed on PDF copies shall suffice.

The following shall be considered in deciding whether to authorize displacement monitoring in the field:

1. Safety and security of the monitoring team;
2. Possibility that human rights violations may have happened;
3. Request by the government, the affected population, or the general public; and
4. Other similar considerations.

Section 6. REMOTE MONITORING

When, in the assessment of the Special Investigator, and approval of the Provincial Director, a displacement situation cannot be assessed in-field due to safety and security considerations, the Special investigator shall endeavor



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Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

to communicate with local authorities or grassroots human rights monitors in the area and draft the corresponding updates to the initial displacement report as provided in Section 3 of this Chapter.

Section 7. DISPLACEMENT MONITORING MISSION PLAN

When the next action to be taken is a displacement monitoring mission, the handling Special Investigator shall prepare a *Displacement Monitoring Mission Plan* containing the following:

- a. Date of the proposed mission;
- b. Location of the mission (indicate if multiple locations);
- c. Objectives;
- d. Vehicles to be used;
- e. Mission Participants (including the designated mission leader), contact details of drivers;
- f. Timeline / Itinerary;
- g. If the itinerary includes scheduled meetings, name/representation of other party;
- h. List of templates and forms to be used for the mission;
- i. Possible risks and how to mitigate them;
- j. Contingency plan based on the risks identified; and
- k. A section on comments/reminders by approving authority.

A Mission Planning Meeting may be called by the Head of the Provincial Office or the mission leader to ensure proper preparation (e.g., tasking among the mission team members). The Head of the Provincial Office shall review and approve the Mission Plan.

Section 8. MISSION ORDER

No Field Monitoring Mission shall commence without a *Mission Order* being issued by the head of the Provincial Office. The issuance of Mission Orders for Displacement Incident Monitoring shall be in accordance with Rule 5, Section 8 of the BHRC Rules of Procedure.

Section 9. IDP HUMAN RIGHTS MONITORING TOOL

Members of the IDP Monitoring Mission Team shall utilize the IDP Human Rights Monitoring Tool in the conduct of the mission. The tool shall be accessed through a digital platform (e.g., kobo), unless impossible to do so under the circumstances.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 10. POST-MONITORING DEBRIEFING

The field monitoring team may conduct a debriefing session shortly after the mission to summarize and validate key findings of the mission.

Section 11. THE INTERNAL DISPLACEMENT PROTECTION ASSESSMENT REPORT

Within forty-eight (48) hours from the return of the team from the field mission, the focal Special Investigator shall draft the Internal Displacement Protection Assessment Report (IDPAR) for review by the Head of the Provincial Office. The IDPAR shall contain the following:

- a. Background information on the cause of the displacement;
- b. Areas affected (sitio/barangay level);
- c. Number of displaced families/individuals per evacuation center or, if home-based, at the barangay;
- d. Existing issues that impact the enjoyment of their human rights as IDPs (right to safety and security, freedom of movement, food security, etc.);
- e. Responses made by duty-bearers in response to such issues/needs faced by IDPs, if any;
- f. Recommendations on how these issues could be resolved, including referral to other agencies or programmes within the BHRC;
- g. Photos of the displacement situation (taking care to obtain consent from persons to be photographed and to blur faces of minors and other vulnerable persons); and
- h. Whether or not a human rights investigation will be opened for specific cases that surfaced during the monitoring mission (see Section 15 of this Chapter).

Section 12. REFERRAL OF ISSUES TO AGENCIES WITH RELEVANT MANDATES

When there are matters needing urgent action by other government agencies the Provincial Office shall refer the same to the relevant agency. Referrals to the regional offices of BARMM agencies shall be coursed through the Regional Office Protection Unit.

Section 13. PUBLICATION OF THE INTERNAL DISPLACEMENT ASSESSMENT REPORT (IDPAR)

A public version of the IDPAR may be shared with other protection actors who may have resources to address issues raised by IDPs. Such publication shall be cleared by the Chairperson.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 14. INVESTIGATION OF HUMAN RIGHTS VIOLATIONS COMMITTED IN THE COURSE OF DISPLACEMENT

When there is a finding in the IDP monitoring that violations of human rights or international humanitarian law may have occurred, the SI leading the monitoring mission shall initiate an investigation motu proprio. Such investigation shall be in accordance with the applicable rules of the BHRC Rules of Procedure.

Corollary to the mandate of the BHRC to investigate violations of human rights and international humanitarian law, the following instances shall be considered arbitrary displacement -- human rights violation²⁸, and allegations of such from the displaced populations shall merit investigation by the BHRC:

1. When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious, or racial composition of the affected population;
2. In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
3. In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
4. In cases of disasters, unless the safety and health of those affected require their evacuation; and
5. When it is used as a collective punishment.

Section 15. MONITORING OF RETURN, LOCAL INTEGRATION, OR SETTLEMENT ELSEWHERE OF IDPs

When displaced populations have already returned to their habitual residences, have chosen to integrate into their displacement location, or have settled elsewhere, the BHRC shall tag the particular displacement incident accordingly. However, when these locations are within the BARMM, the BHRC shall continue to monitor the fulfillment of their economic, social, and cultural rights as part of its mandate on progressive realization monitoring.

Section 16. CONTINUED MONITORING OF DISPLACEMENTS OF A PROLONGED NATURE

Situations where displacement lasts longer than one (1) year shall be considered displacement of a prolonged nature. In such cases, the BHRC

²⁸ See Kalin, Walter. *Guiding Principles on Internal Displacement: Annotations*, p. 26-36. https://www.brookings.edu/wp-content/uploads/2016/06/spring_guiding_principles.pdf



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

shall continue to monitor the human rights of the displaced population every three (3) months. It shall continue to draw attention to specific human rights issues of the displaced populations through thematic bulletins, advisories, and the like.

Section 17. PUBLIC INQUIRY INTO SITUATIONS OF INTERNAL DISPLACEMENT

The Commission may, at its discretion, authorize the conduct of Public Inquiries into situations of internal displacement which shall be covered by Rule 8 of the BHRC Rules of Procedure.

Section 18. INCLUSION OF BARMM INTERNAL DISPLACEMENT SITUATION IN THE BHRC ANNUAL REPORT AND OTHER REPORTS

Situation of Internal Displacement in the BARMM shall form part of the BHRC Annual Report and other reports it is required to publish under Section 45 of BAA No. 4.

Chapter 5. MONITORING THE GENERAL HUMAN RIGHTS SITUATION IN THE BANGSAMORO

Section 1. MONITORING THE GENERAL HUMAN RIGHTS SITUATION

Pursuant to its mandate under Section 27 (c) to advise the government on the promotion and protection of human rights and international humanitarian law, the Commission shall undertake the following monitoring activities aiming to provide a general assessment of the human rights situation in the Bangsamoro:

1. Policy Monitoring
2. Thematic Monitoring
3. Sectoral Monitoring
4. Progressive realization Monitoring

Section 2. POLICY MONITORING

Policy monitoring is the assessment, evaluation, or review of the government's compliance with human rights standards with regard to its legislation, regulations, rules, guidelines, and practices.

Policy monitoring may take on the form of evaluation of parliamentary acts and resolutions, policy issuances by the executive including the Ministries, and ordinances by constituent units of the Bangsamoro Autonomous Regions, among others.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
Republic of the Philippines
Bangsamoro Autonomous Region in Muslim Mindanao
BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER

Section 3. PROGRESSIVE REALIZATION MONITORING

Progressive Realization monitoring is the assessment, evaluation, or review of policies, programs, and projects of the government in relation to the full realization of economic, social, and cultural rights to the maximum of their available resources.

Section 4. THEMATIC MONITORING

Thematic monitoring is the assessment, evaluation, or review of the human rights situation concerning a specific thematic area.

Section 5. SECTORAL MONITORING

Sectoral monitoring is the assessment, evaluation, or review of the human rights situation concerning a specific sector, such as women, persons with disabilities, indigenous peoples, and other sectors.

Section 6. STANDARDS IN MONITORING

In the pursuit of its monitoring mandate under this Chapter, the Commission shall be guided by the standards set forth in International Human Rights Instruments.²⁹

Section 7. METHODOLOGIES AND APPROACHES

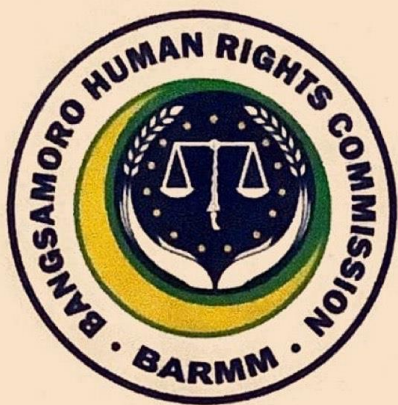
Monitoring under this Chapter may utilize various approaches such as public inquiries, public consultations, consultation meetings with CSOs, desk reviews of reports, publications, and the like.

The Commission may issue such directives to guide the relevant offices in the conduct of monitoring activities under this Chapter.

Section 8. PUBLICATION OF REPORTS

The Commission shall publish the findings of the monitoring activities conducted under this Chapter, in a Special Report, as mandated by Section 45 (d) of BAA No. 4. In addition to such findings, the Report shall contain recommendations on the manner of implementation and compliance with

²⁹ International Human Rights Instruments refers to the following: Universal Declaration of Human Rights (1948); International Covenant on Civil and Political Rights (1976); International Covenant on Economic, Social and Cultural Rights (1976); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984); Convention on the Elimination of Discrimination Against Women (1979); Convention on the Rights of the Child (1989); Convention on the Elimination of All Forms of Racial Discrimination (1965); Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and all other international instruments on human rights and their optional protocols to which the Philippines is a signatory.



بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

Republic of the Philippines

Bangsamoro Autonomous Region in Muslim Mindanao

**BANGSAMORO HUMAN RIGHTS COMMISSION
COMMISSION PROPER**

the human rights obligations of the Bangsamoro Government and the Philippine government in relation to the Bangsamoro.

The preparation of such reports shall be spearheaded by the Protection Division. Publication and dissemination shall be undertaken by the Promotion Division.

RESOLVED, FURTHER, that a copy of this Resolution shall be published in the Bangsamoro Gazette pursuant to the Bangsamoro Autonomy Act No. 13, otherwise known as the "*Bangsamoro Administrative Code*," and be furnished to the Provincial Offices and Divisions of this Commission, and other concerned agencies of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) for information and/or appropriate action.

Adopted this 8th Day of Rajab 1444 AH / 30th Day of January 2023 in Cotabato City, Bangsamoro Autonomous Region in Muslim Mindanao.

ATTY. ABDUL RASHID P. KALIM

Chairperson

ARCHIE U. BUAYA, MPA

Commissioner

ATTY. DAYANG-DAYANG

KHADIJA J. BAGUINDA-DAMBONG

Commissioner

Certified By:

ALLK. SATOL JR.

Secretariat of the Commission