



**GOP – United Nations  
Multi-Donor Programme Phase 3**



**Komisyon ng Karapatang Pantao  
(Commission on Human Rights)**

# **Strengthening the Capacities of the CHRP for the Promotion and Protection of Human Rights In Mindanao**

## **Mission - Critical Systems Reengineering and Installation**

# **INVESTIGATION SYSTEM**

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# 1

## GENERAL INTRODUCTION

### 1 BACKGROUND

- 1.1.1 An Institutional Review on the CHRP was conducted in 2002, which provided a different dimension on the organization and operations of the Commission. One dimension is the framework under which the Commission should perform its investigation function. As adopted by the Commission *en banc*, the investigation function of the CHRP should involve both transactional and consequential levels of operations.
- 1.1.2 At the transactional level, the CHRP will be viewed as an implementing mechanism for the protection of human rights providing direct investigation service to human rights victims.
- 1.1.3 At the consequential level, the CHRP will be focusing on investigation initiatives for the protection of human rights involving oversight functions of policy formulation, monitoring, evaluation, and development of measures and mechanisms to address human rights violations to its roots based on violation patterns and trends.
- 1.1.4 On the overall, the CHRP has adopted an organizational structure that provides for the performance of oversight functions in relation to other government agents and civil society organizations performing human rights protection service.
- 1.1.5 As an overriding concern for the reorientation and streamlining of the investigation function, the CHRP recognizes the need for personnel competency upgrading in order to respond to this new demand.

### 2 RATIONALE

- 2.1.1 This design report on investigation system is imperative in light of the implementation of the Philippine Government's commitment under the International Treaty Obligations on the protection and promotion of human rights, which should be observed by agents of government. The CHRP assumes the responsibility for monitoring compliance by duty holders.
- 2.1.2 The system will mainstream the application of international human rights standards in the conduct of CHRP investigation activities and in the process of engaging both government, private sectors and civil society organizations in the protection of human rights.

- 2.1.3 The reformed investigation system of the CHRP will employ the Rights-Based Approach in the internal methods of its operations both at the national and regional levels.

### **3 SCOPE**

- 3.1.1 This design report provides enhanced design of the operating systems and procedures for the investigation functions of the CHRP in the context of its new organization structure and internal functional configuration.
- 3.1.2 Such investigation functions involve both investigative monitoring of civil and political, as well as economic, social and cultural rights, and the transactional operations of investigation of individual human rights cases either filed in the commission or conducted *moto proprio* by the Commission.
- 3.1.2 In particular, the proposed system addresses the need for the strengthening and upgrading of the complaints processing mechanisms of the CHRP, and the enhancement of CHRP's institutional capacity and credibility to respond to human rights violations and concerns at the national level, benefiting the poor, the disadvantaged and marginalized sectors of society.
- 3.1.3 Further, the proposed improved system defines areas of cooperation with all other agents of government, as well as private sector and civil society in general through a system of networking that will not only enhance implementation of human rights standards but also seek to strengthen complementation of resources and facilities, whenever required.
- 3.1.4 Finally, to be defined in the system, is the application of the Rights-Based Approach and tools in various investigation steps and remedies, both proactive and reactive and also, transactional and consequential

### **4 ORGANIZATION OF THE REPORT**

- 4.1.1 This final report on the CHRP investigation system also serves as a User's Guide. It is intended to provide an easy to use instrument in understanding and operating the CHRP's investigation systems. It guides the CHRP staff through all aspects of the Commission's operations on investigation of human rights violations by providing general information and documenting the core processes of the systems.

4.1.2 The document is organized into the following sections:

- 1** GENERAL INTRODUCTION
- 2** DEFINITION OF TERMS
- 3** INSTITUTIONAL FRAMEWORK
- 4** ORGANIZATIONAL ARRANGEMENTS
- 5** POLICY GUIDELINES
- 6** SYSTEM COMPONENTS

**6.a OPTION 1** reconfigures the decentralization of investigation by returning to the Commission the power and authority to investigate, while delegating the field data and evidence gathering and initial case analysis functions to the regional offices and returning the power to hear and decide to the Commission.

**6.b OPTION 2** retains the existing arrangement where regional offices conduct investigation and decide on cases. An appeal system to the Commission on the decision of the regional directors can be installed. The system components designed under this option are the following:

- *Determining And Conducting Appropriate Human Rights Investigative Interventions*
- *Providing Forensic And Medico-Legal Services*
- *Conducting Alternative Dispute Management*
- *Quick Reaction/Action Team*
- *Special Fact Finding Mission*
- *Situation Tracking*
- *Investigative Monitoring*

4.1.3 Each system component contained in the various sections of the report has discussions on the following subject matters:

**A** SYSTEM DESCRIPTION

- *Contains the objectives, components, uses and users of the system*

**B** OPERATING POLICIES

- *Defines the key policies and guiding principles that will guide the users in the formulation, implementation and continuing updating of the detailed rules, standards and procedures that will implement the system*

**C** PROCESSES

- *Describes the inputs, procedures (steps that will process inputs into outputs) and outputs of the system*

# 2

## DEFINITION OF TERMS

As a guide to users of the report, the following human rights terms are defined in support of the prescribed policies and procedures:

- a) **Human Rights** – the supreme, inherent and inalienable rights to life, to dignity and to self-development. It is the essence of these rights that makes man human.<sup>1</sup> The United Nations define human rights as those rights, which are inherent in our nature and without which no person can live as human being. It is said, “Human rights and fundamental freedoms allow individuals to develop and use human qualities, intelligence, talents and conscience to satisfy spiritual and other needs, and are based on mankind’s increasing demand for a life in which the inherent dignity and worth of each human being receive respect and protection.” (CHRP 2001).

All human rights derive from the dignity and worth inherent in the human person, and the human person is the central subject of human rights and fundamental freedoms, and consequently should be the principal beneficiary and should participate actively in the realization of these rights and freedoms (Vienna Declaration and Program of Action, 1993). Human rights are classified into: civil, economic, political, cultural and social rights.

- b) **Human Development** – the expanding choices for all people in the society, wherein men and women, particularly the poor and the vulnerable, are at the center of the development process. It also means the protection of the life opportunities for future generations... and ... the natural systems on which all life depends, thus creating an enabling environment in which all can enjoy long, healthy and creative lives.<sup>2</sup>
- c) **Development** – a comprehensive economic, social, cultural and political process aimed at the constant improvement of the self-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of the resulting benefits.<sup>3</sup>
- d) **Human Rights Principles** – essential conditions to facilitate the definite enjoyment of rights and these principles originated from human rights norms. These human rights principles are universality, non-discrimination and equality, attention to vulnerable groups, equity, indivisibility, interdependence and interrelatedness, accountability, people’s participation, empowerment, good governance, independence of the Judiciary, legislative capacity and transparency.<sup>4</sup>

<sup>1</sup> Human Development Report, UNDP, 1996

<sup>2</sup> UNDP, 2001

<sup>3</sup> Art. 1, Declaration on the Right to Development

<sup>4</sup> A Training Manual on Rights-Based Approach: Module II, Section 1, 2002

- e) **National and International Framework** – Human rights are standards of human dignity rooted in every culture, religion and tradition throughout the world. Their inclusion in the UN Charter means human rights are no longer exclusively within the domestic jurisdiction of states but they are legitimate concerns of the international community.<sup>5</sup>
- f) **Human Rights Instruments** – refer to two types: Human Rights Treaties also known as conventions or covenants; and UN Standards also known as UN Principles, Rules and Declarations.<sup>6</sup>
- g) **Human Rights Treaties** - also known as conventions or covenant are formal legal texts to which states become parties and which create binding legal obligations. The following are seven fundamental human rights treaties ratified by the Philippines: International Convention on the Elimination of All Forms of Racial Discrimination (CERD); International Covenant on Civil, Political Rights (ICCPR); International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment for Punishment (CAT); Convention on the Rights of the Child; and Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC).<sup>7</sup>
- h) **UN Standards** – also known as UN Principles, Rules or Declarations that are passed by resolutions of a UN body, which is usually the General Assembly. Examples of UN Standards are the Universal Declaration on Human Rights and UN Declaration on the Right to Development.<sup>8</sup>
- i) **Normative Content of Human Rights** – the specific standards protected by such right or its actual meaning that can be used as objective standards of human dignity in the development process. These standards become important guides to be used in the dynamic process such as development because the normative content of human rights includes guidance for immediate and progressive realization. These human rights and their normative bases are also presented in this design report.<sup>9</sup>
- j) **State Obligations** – originated from the national and international human rights framework that requires a particular conduct now (immediately) and also the attainment of certain results over time (progressively). Emphasis is given to the fact that human rights always imply human duties and responsibilities and most of these duties or obligations lay on the state because the State's political, economic and military power over its citizen is both the major threat to human rights and also its major guarantee and protection. State obligations are classified into two: Obligations of conduct and result and obligation to respect protect and fulfill.<sup>10</sup>

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<sup>5</sup> Ibid

<sup>6</sup> Ibid

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> A Training Manual on Rights-Based Approach, National Human Rights institution at Work, Manual of Readings, Working with the Concept of State Obligations in Relation to ESCR, Regional Workshop on Economic, Social and Cultural Rights, Manila, Philippines, November 5-10, 2000

- k) **Rights-Based Approach** – a conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protection human rights applying the integration of the norms, standards and principles of the international human rights system into the plans, policies and processes of development.<sup>11</sup>
- l) **Right to Development** – an alienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.<sup>12</sup>
- m) **Investigation *per se***. This refers to the determination of facts and circumstances surrounding the commission of a crime/offense and the identification of the perpetrators thereof.
- n) **Regular CHR Investigation**. As provided in the constitution, the purpose of the regular CHR investigation is to determine the facts and circumstances surrounding all forms of human rights violation of civil and political rights defined under Resolution CHR No. A96-005 and the identification of the perpetrators.
- o) **Investigative monitoring**. The process of probing into incidents and/or conditions obtaining in the country which are violative of concerns in both areas of civil and political rights and economic, social and cultural rights. This will involve the processes of:
- p) **Situation tracking** of the human rights condition in a certain community by reason of incidents of violations of human rights, where the facts, evidence and documents to be obtained should show the inadequacy in the application of human rights standards.
- q) **Situation assessment** is an important aspect in investigative monitoring and situation tracking as this is the basis for establishing findings of violations of human rights. To undertake this assessment, public inquiry is a crucial intervention. It involves data gathering under an established procedure to ascertain the truth about an incident and condition leading to the identification of recommendations and measures.
- r) **Consolidation of findings and recommendations** may be pursued depending on whether it is issue based, sector based, standards breached, and/or commonality of acts constituting the violation.
- s) **Referral to relevant authorities** is either the initial or terminal process to find viable process, ultimately to make violations justiciable.
- t) **Oversight Monitoring of Investigation of Government Agents**. This involves strengthening the power of the CHRP to investigate by way of safeguarding the investigation process of other government agents and in order to enhance this authority to conform to international standards and norms but giving due regard to human rights principles.

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<sup>11</sup> Human Rights in Development

<sup>12</sup> Declaration on the Right to Development, UN

- u) **Collateral Investigation.** This is undertaken, upon request of the NGO's and/or other government agencies, to validate that certain acts/processes/ measures are infringement of international standards for the full enjoyment of human rights.
- v) **Alternative Dispute Resolution.** The CHRP will take into consideration the principles of equitable, justiciable and progressive steps to alternative dispute resolution in engaging the parties, especially the government as duty holders to include non-state actors within its power to control and regulate and those belonging to the disadvantaged, poor, marginal and vulnerable groups, in order to abbreviate human rights violations and to create an environment and culture of respect, duties and responsibilities towards the enhancement of human rights.
- w) **Quick Reaction Team.** The CHRP will assess situations/conditions requiring quick reaction assistance and investigative intervention to victims of human rights violations that pose threats to life, liberty or security and/or to avert probable incidents or further violations of human rights.

# 3

## INSTITUTIONAL FRAMEWORK

### 1 INTRODUCTION

- 1.1.1 The CHRP undertakes both direct and oversight mechanisms in performing its investigative interventions. As a national human rights institution, the CHRP deals with investigating and examining human development conditions that have multifarious human rights implications.
- 1.1.2 The investigative analysis of conditions under both mechanisms considers the indivisibility, inter-relatedness and interdependence of both sets of rights: civil and political and economic, social and cultural rights.
- 1.1.3 The CHRP's focus on investigating human development conditions and their human rights implications is based on the perspective of every person's right to development that would entail removing all possible obstacles to his constant self-improvement and development, which could be in terms of existence of violative conditions or level of deprivation over basic services and productive resources that inhibit individuals, communities and sectors from participating and contributing to the development process.
- 1.1.4 The conduct of investigation of the CHRP has for its basis certain human rights standards as described in this section.

### 2 APPLICATION OF HUMAN RIGHTS CRITERIA AND STANDARDS

- 2.1.1 The CHRP emphasizes in its investigation work the role of the agents of government and the members of media and civil society in ensuring the functionality of the mechanisms. As depicted, the agents of government act on the compliance with the state obligation to respect protect and fulfill human rights through the application of international human rights criteria and standards found in the international human rights instruments.
- 2.1.2 The CHRP performs a very critical oversight role in seeing to it that government is properly advised and assisted in the observance of human rights standards. The Commission also seeks all possible opportunities for achieving cooperation in the proper observance of human rights in improving the human rights conditions of the poor, the disadvantaged and marginalized by undertaking both pro-active and reactive approaches to investigation of incidents and conditions that affect enjoyment of rights of the people.

- 2.1.3 The remedies available under the investigation mechanism of the CHRP are multi-faceted in terms of their appropriateness and responsiveness to human rights incidents and conditions. Immediate and long-term remedies could be generated from both the direct and oversight functions of the CHRP's investigative mechanisms.
- 2.1.4 Human rights investigations and analysis of findings must be thoroughly undertaken in order to bring out all possible remedies that may be accessed from all relevant government actors to include all possible developmental and remedial assistance from all other sectors of society.

## **2.2 HUMAN RIGHTS STANDARDS**

- 2.2.1 Human rights standards are proclaimed in the Universal Declaration of Human Rights, a document adopted on 10 December 1948. These international human rights standards are based on the premise that "all human beings are born free and equal in dignity and rights" (Article 1), and are to be adopted by all member-states and everyone shall be entitled to all the rights stipulated under the Declaration "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (Article 2).
- 2.2.2 Article 29 of the Declaration provides the limitations in the exercise of the above-stated rights by stating that in the exercise of one's freedoms and rights, one is subject only to the limitations provided by law enacted for the purpose of securing due recognition of the corresponding rights and freedoms of others and of meeting the "just requirements of morality, public order and the general welfare of a democratic society."
- 2.2.3 It is the responsibility of the states to develop and encourage respect for human rights and fundamental freedoms for all, without distinction to race, sex, language or religion. The states shall be responsible for establishing the conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom. (Vienna Declaration and Program of Action, 1993).

## **2.3 INTERNATIONAL HUMAN RIGHTS SYSTEM**

- 2.3.1 The core of the international human rights system is the United Nations and its charter which was signed on 26 June 1945. The charter provides provisions that set the foundation for the international human rights system. In particular, under Article 55 of the charter member-nations commit to promote "universal respect for and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion." Article 56 of the charter provides that all members commit to take joint and separate actions in cooperation with the UN to ensure the achievement of the provisions of Article 55.
- 2.3.2 The Philippines is signatory to twenty-three (23) human rights treaties and protocols. Thus, the government is bound to comply with and ensure the implementation or observance of the provisions of these treaties and protocols.

## 2.4 PHILIPPINE HUMAN RIGHTS SYSTEM

- 2.4.1 The Philippines Human Rights System is founded on international standards and principles of human rights as provided for in the UN Charter, the Universal Declaration of Human Rights, the Paris Principles and the various international treaties and instruments to which the Philippines is signatory, as ratified by Congress or acceded to by the government.
- 2.4.2 The national system has for its legal basis the Philippine Constitution of 1987 which contains several human rights provisions, in jurisprudence, in laws creating institutions with rights related mandates and functions, in executive orders, and in rules and regulations governing the protection and specific human promotion of human rights.

## 2.5 INDEPENDENCE AND AUTONOMY

- 2.5.1 For purposes of this study, independence means freedom from pressure and inappropriate influence in the decision making of the Commission and its personnel. Following the conditions set forth under the Paris Principles to achieve such independence, the Commission must be autonomous of the government. Independence is considered in this study to be at individual and institutional levels.
- 2.5.2 Individual independence means that CHRP commissioners and human rights officers are not influenced, because of threat, harassment, political pressure, blackmail or bribery, in taking actions that promote and protect human rights where such actions will jeopardize the interest of the victims.
- 2.5.3 The capacity of CHRP commissioners and human rights officers to be effectively independent in their decisions and actions is a result of convergence of several factors. These factors include the following:
- **Prejudice.** Lack of bias or prejudice and a personal sense of and commitment to independence.
  - **Level of competence.** A competent officer is more likely to be intellectually independent than one who does not possess the basic knowledge and the required tools to make appropriate judgment/appropriate decision.
  - **Personal security and security of family and loved ones.** A person who feels secure would be likely less afraid to make bold decisions than one who is not.
  - **Personal values.** In the end, the ultimate determinant of action or non-action by an officer, or of ethical behavior will be his personal values of right and wrong.
- 2.5.4 Institutional independence, on the other hand, means the ability of the Commission to freely make collective decisions and positions on human rights cases and issues without fear of backlash from the perpetrators, and to decide on financial and administrative matters without requiring approval, or without being subject to veto, by a higher authority.

## **2.6 PLURALISM**

2.6.1 Pluralism, as defined under the Paris Principles, means the representation in the Commission of the social forces that are involved in the promotion and protection of human rights. The Principles provides further that where government is involved it will be in an advisory capacity.

## **2.7 BROADNESS OF MANDATE AND ADEQUACY OF POWERS OF INVESTIGATION**

2.7.1 The 1987 Constitution provides for a broad mandate for the CHR consistent with the requirements of the Paris Principles. In particular, the CHR's mandates cover the following areas:

- Investigation of human rights cases and provision of legal services, information and referrals
- Functions to recommend legislation or modifications thereof and to provide preventive measures for human rights protection
- Functions for continuing program of research, education and information
- Monitoring of Philippine Government's compliance with international treaty obligations on human rights

2.7.2 The CHRP is accorded by the Constitution investigative powers on human rights violations involving civil and political rights. It is also empowered to grant immunity from prosecution to persons whose testimony or whose possession of evidence is necessary in determining the truth in investigations conducted under its authority.

2.7.3 Its general concerns on human rights are founded in other constitutional mandates such providing appropriate remedies for the protection and promotion of human rights and monitoring compliance of government with international treaty obligations on human rights which cover both sets of rights: civil and political rights and economic, social and cultural rights.

2.7.4 The Constitution specifically provides that the investigative powers of the CHRP are limited to cases involving civil and political rights. It speaks on human rights in general with respect to its other functions of protection and promotion. This therefore allows the Commission to be pro-active with respect to public information, training and advocacy, investigative monitoring and other forms of interventions in the areas of economic, social and cultural rights.

# 4

## ORGANIZATIONAL ARRANGEMENTS

### 1 INTRODUCTION

- 1.1.1 The Commission considers any question falling within its competence. It hears any person and obtains any information and document for assessing situations within its competence and directly addresses public opinion and publicizes its opinions and recommendations.
- 1.1.2 The Commission likewise sets up local or regional mechanisms to assist in discharging its duties, maintains consultation with other bodies responsible for promoting and protecting human rights, and develops relations with NGOs devoted to promoting and protecting human rights.
- 1.1.3 These essentially constitute CHRP's primary tasks in operating its key mandate on investigation.

### 2 POWERS AND FUNCTIONS RELATED TO INVESTIGATION

- 2.1.1 The functions of the Commission on investigation, as stipulated in the Constitution and reiterated in EO 163, are the following:
- Investigate human rights violations involving civil and political rights;
  - Adopt its guidelines and rules of procedure and cite for contempt for violations thereof in accordance with the Rules of Court; and
  - Monitor government compliance with international treaty obligations on human rights.
- 2.1.2 The Legal and Investigation Office (LIO) is the CHRP unit which is primarily responsible for setting up and overseeing the implementation of a credible and rights based investigatory mechanism characterized by adequate capacities for gathering, verification, preservation and use of facts and evidence, forensic services, legal and alternative dispute resolution, acting on and resolving complaints received from individuals and groups relating to both civil and political rights and economic, social and cultural rights.

### 3 ORGANIZATIONAL SET-UP OF LIO

3.1.1 LIO consists of the Office of the Director and two divisions, The functions of the divisions and units of the LIO are as follows:

#### **Office of the Director (OED – LIO)**

Advise and assist the Commission En Banc, the Chairperson and the CIC on matters pertaining to the Office's assigned functions;

- Exercise technical and administrative supervision and control of and provide direction to the conduct of functions, programs, projects and activities of the Office
- Be responsible for the management of the implementation of policies, orders, rules and regulations promulgated and adopted by the Commission En Banc, as well as the instructions and decisions of the Chairperson or the Commissioner-in-Charge (CIC)
- Provide consultative and advisory services to the Regional Offices on matters pertaining to the functions of the Office
- Prepare and submit to the Chairperson, through the CIC and the Executive Director, periodic reports on the operations of the Office

#### **Investigation Division (ID)**

Under the direction and supervision of the Director:

- Conduct studies and design policies and procedures on the determination of the appropriate intervention of the CHRP in human rights violation cases and human rights conditions at community, local, national and international levels
- Develop rights based standards, guidelines and procedures for the a) conduct of independent or collaborative fact-finding and investigation, or review of the conduct of fact-finding missions and investigation of cases involving violations of civil and political rights both by CHRP, law enforcement agencies and specialized agents; b) conduct of fact-finding missions, investigative monitoring, review of investigation/investigative monitoring by government agencies and specialized entities, and CHRP investigation of economic, social and cultural rights violations, incidents, and situations; and c) tracking of human rights conditions of specific geographical areas and population groups
- Conduct independent or collaborative investigation, or review of the investigation by law enforcement agencies or specialized agents of cases of human rights violations which have national or international significance and implications, as may be determined by the Commission En Banc

- Develop procedures and implement capacity building assistance to the CHRP Regional Offices, law enforcement agencies and specialized agents, government entities and other duty holders on rights based fact-finding, investigative monitoring, situation tracking and investigation of human rights violations
- Monitor, assess and prepare monthly, annual or multi-year reports on the implementation by the government, specialized agents, non-government organizations and CHRP Regional Offices of rights based standards, guidelines and procedures prescribed by the Commission En Banc

### **Legal Division (LD)**

Under the direction and supervision of the Director:

- Conduct studies and design policies, standards, guidelines and procedures on the selection and application of the appropriate mode of resolution for human rights violation cases filed with the CHRP, including but not limited to the conduct of investigation, provision of legal assistance and counseling, and application of alternative dispute resolution management
- Develop policies and procedures for the conduct of public inquiries involving cases filed with the CHRP, grant of immunity and provision of witness protection assistance, and design as well as implement partnerships and other collaborative mechanisms for the support of other agents of government and specialized agencies in the provision of witness protection services to human rights victims and/or their families
- Undertake studies and formulate mechanisms for collaboration with government and non-government organizations and private organizations of lawyers for the provision of legal services to the underprivileged victims of human rights violations
- Develop, implement, monitor and evaluate capacity building programs for the application of the Rights-Based Approach (RBA) in mobilization of external resources for legal services, witness protection and other assistance, and in the provision of these services by government and non-government institutions as well as by CHRP
- Develop and implement rights-based programs to enhance the legal and para-legal capacity of the CHRP and participating government and non-government institutions in alternative dispute resolution management of human rights issues and concerns particularly of the vulnerable, disadvantaged and marginalized sectors
- Provide direct legal assistance to victims of human rights violations which have national or international significance and implications as maybe determined by the Commission En Banc, to include those cases where the CHRP is a party
- Coordinate, monitor and evaluate as well as regularly report on the performance of the regional offices in particular and the CHRP in general in the area of providing legal services

# 5

## POLICY GUIDELINES

### 1 INTRODUCTION

1.1.1 The CHRP, as the national human rights institution authorized to hear and consider cases and petitions concerning individual situations, seeks to achieve the following objectives in the conduct of investigation:

- To seek an amicable settlement through conciliation
- To inform the party who filed complaints of his rights and the remedies available to him and promote his access
- To hear any complaints or petitions or transmit them to other competent authorities
- Make recommendations to the competent authorities including proposing reforms in legislation, regulation or administrative procedures if they have created difficulties for persons in asserting their rights

1.1.2 The Commission is further being guided by specific policy considerations as presented in this section.

### 2 POLICIES AND DIRECTIONS

#### **Conduct of Investigation Both at Transactional and Consequential Levels**

2.1.1 The CHRP shall install a general system on investigation, both at the transaction and consequential levels, that will guide the regional and central offices in the conduct of different modalities of investigative interventions suited to the various situations and conditions that are violative of human rights of the poor, vulnerable and disadvantaged sectors of society and to effect changes in the modes of investigative operations of the Commission incorporating the use of the rights-based applications and tools at different stages of investigation work.

#### **Strengthening the Investigation Function**

2.1.2 The CHRP shall reinforce the power of the CHRP in the investigation of all forms of human rights violations, clearly delineating the processes of ensuring the successful prosecution of criminal, civil and administrative complaints by reason thereof, while, at the same time, providing the perspective for the assessment of situations/conditions on account of the violations.

### **Enhancing Capacity for Investigation**

- 2.1.3 The CHRP shall focus on the enhancement of the capacity of the CHRP in the documentation of violations of human rights, in obtaining evidence relevant to a particular case, in the determination of the extent of the violations, in identifying the perpetrators and in providing advice for the proper remedies available in accordance with international norms and standards for the protection and promotion of human rights.

### **Adoption of Critical Features of a National Human Rights Institution**

- 2.1.4 The CHRP shall introduce the important features of a working national human rights institution (NHRI) under the Paris Principles, as the basic foundation of its investigation system, to wit:
- Independence and autonomy of the CHRP consists of its powers to investigate without any intrusion. Agencies of governments are expected to cooperate with the CHRP in the investigation of cases/complaints/incidents involving violations of human rights, whether civil and political and economic, social and cultural rights.
  - Defined jurisdiction and adequate powers should be identified by specifically setting out the rights to be protected or the international instruments containing protected rights.
  - Accessibility of the CHRP in the conduct of its investigation functions by establishing a proper communication with sectors and to be in the field always or to be in touch regularly with the sectors mostly prone to violation of human rights.
  - Cooperation is implemented to ensure that CHRP investigators can expect and will promote/enjoin the full cooperation of agencies of governments to assist in obtaining evidence and provide the network of exchanging information.
  - Accountability is to be able to provide updated information on cases and incidents to parties of the case and to be able to provide a credible documentation of cases and incidents.

## **3 OPTIONS FOR INVESTIGATION**

- 3.1.1 Under the Constitution, the Commission refers to the collegial body composed of the Chairman and four Members. The same Commission has the authority to investigate. The Constitution does not speak of the authority of regional offices having that power to investigate and make findings of human rights violations.
- 3.1.2 The power to investigate is vested in the Commission En Banc. As such, it has the overall accountability to perform its constitutionally mandated investigative function. Thus, the Commission will adopt its own set of rules and procedures that is accessible and operationally efficient.

- 3.1.3 While under the present system of the CHRP this authority was delegated to the regional offices, this must still be reviewed and a more legally sound policy must be adopted to ensure that the CHRP will be prepared to face the matter in all forums once the matter is put in issue.
- 3.1.4 Hence under such investigative power of the Commission, two options are recommended for the vertical compartmentalization of functions in investigation of human rights violation cases.
- **OPTION 1** reconfigures this decentralization process by returning to the Commission the power and authority to investigate, while delegating the field data and evidence gathering and initial case analysis functions to the regional offices and returning the power to hear and decide to the Commission.
  - **OPTION 2** retains the existing arrangement where regional offices conduct investigation and decide on cases. An appeal system to the Commission on the decision of the regional directors can be installed.

# 5-A

## SYSTEM COMPONENTS

### OPTION 1: RETURNING THE INVESTIGATIVE POWER AND DECISION MAKING TO THE COMMISSION EN BANC

#### 1 SYSTEM DEFINITION

The system reconfigures the decentralization process of investigation by returning to the Commission the power and authority to investigate, while delegating the field data and evidence gathering and initial case analysis functions to the regional offices and returning the power to hear and decide to the Commission En Banc.

##### 1.1 Operating Guidelines

- 1.1.1 The CHRP shall install an efficient communication system between the Commission and the regional offices. Cases will be profiled and reported immediately within four hours of filing or moto proprio investigation.
- 1.1.2 An electronic case folder will be forwarded together with initial findings and analysis to the Commission within 12 hours. The submission of the case for Commission hearing and decision will be in accordance with the requirements of the Commission as stipulated in the rules of investigation.
- 1.1.3 A fast-track case monitoring system within the Office of the Chairperson will be established to monitor regional electronic communications on emerging cases or filed cases.

##### 1.2 Processes

###### Regional Offices

- 1.2.1 The regional offices will be given authority to investigate and resolve cases within their respective geographical jurisdiction which can be resolved through ADR.

- 1.2.2 The regional offices will undertake fact finding and evidence gathering for all human rights violation cases within their respective geographical jurisdiction. They will develop a case file folder on each case filed therein. Where the case is not covered under ADR the case together with the file folder will be submitted to the Commission En Banc together with the findings, analysis and recommendations of the investigating officer and the regional director.
- 1.2.3 The regional directors may act as spokesperson for the Commission. Such responsibility is limited to communicating or disseminating the official and written stand, decision or resolution of the Commission En Banc on the case, or the initial findings of the Commission thereon, subject to the CHRP disclosure policy on human rights cases filed in the Commission. The regional directors must speak on behalf of the Commission En Banc.

### **Commission en Banc**

- 1.2.4 The Commission will directly decide on cases which cannot be subject to ADR. It may decide to directly get involved in the investigation or delegate such responsibility to the regional offices, or acquire the services of experts in the field as may be necessary.
- 1.2.5 The Commission En Banc may divide itself into divisions and may decide which cases can be decided upon at the division level and which can be decided upon at the En Banc level.
- 1.2.6 The Commission may conduct hearings in the geographical location of the case.
- 1.2.7 For these purposes the Commission shall design a case management system that is based on the rules of investigation which it will formulate. Such case management system will include a case prioritization, case calendaring, and case tracking components that will support the Commission in the expeditious disposition of cases filed therein.
- 1.2.8 The position of the Commission on a case shall be formally prepared in the form of a resolution. Commissioners may act as CHRP representatives to explain the Commission En Banc's decision or opinion on a human rights case or issue.
- 1.2.9 The Commission shall formulate and adopt a case classification system, which will support the rules of investigation. The case classification system, which may classify the case according to the nature of the violation, penalty involved or its local, national or international significance will guide the procedures of investigation and the vertical compartmentalization of responsibilities.
- 1.2.10 For example, cases, which are considered, of national or international significance or magnitude should be assigned to the Legal and Investigation Office, while cases with local significance or magnitude will be assigned to the regional offices concerned.

**Legal and Investigation Office**

- 1.2.11 The Legal and Investigation Office will provide technical support to the Commission En Banc in the formulation of policies, rules and procedures for case investigation.
- 1.2.12 The LIO will provide will be responsible for the conduct of field investigation, gathering of facts and evidence and formulation of case file folder for cases that are considered to be of national or international significance as may be declared as such by the Commission.
- 1.2.13 The LIO will be responsible for the maintenance of a national data bank and information system on human rights cases and the conduct of investigative monitoring thereon.

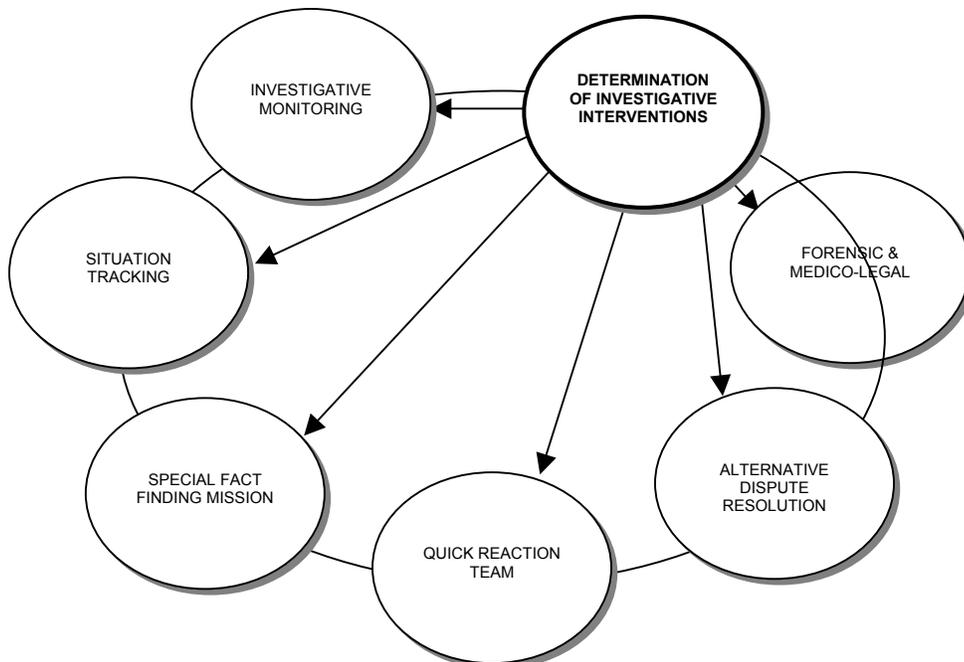
# 5-B

## SYSTEM COMPONENTS

### OPTION 2: STRENGTHENING OF THE DELEGATED INVESTIGATIVE POWERS TO THE REGIONS

#### 1 INTRODUCTION

- 1.1.1 This option retains the existing arrangement where regional offices conduct investigation and decide on cases. An appeal system to the Commission on the decision of the regional directors can be strengthened.
- 1.1.2 The CHRP is primarily involved in the investigation, on its own or on complaint by any party, of all forms of human rights violations involving civil and political rights. It will also be engaged in a system that would clearly show the flow of activities to provide a clear picture of the human rights situation/condition of the country.
- 1.1.3 The proposed reforms in the investigation system will constitute inter-related processes that examine and explores all dimensions of human rights issues and concerns on individual, group, sectoral or community cases.
- 1.1.4 The component processes of the investigation system are shown in the figure below:



## **2 DETERMINING AND CONDUCTING APPROPRIATE HUMAN RIGHTS INVESTIGATIVE INTERVENTIONS**

### **2.1 System Definition**

- 2.1.1 The system component identifies and defines the admissibility of complaints under the various investigative interventions of the CHRP based on the type of action, the rights to be protected or the international human rights instruments under which such rights are protected.
- 2.1.2 The component covers the processes involved in the conduct of regular independent and rights-based investigation with application of forensic science, rights-based oversight evaluation and appraisal of investigation work conducted by CHRP and other agents of government and coordinative investigation involving non-government organizations and law enforcement agencies.
- 2.1.3 It capacitates the CHRP to identify appropriate intervention mechanism in cases being investigated so that proper remedial measures will be undertaken, to include ascertaining the existence of human rights violations and to recommend measures for the full protection, promotion and fulfillment of human rights and the determination of international standards violated.
- 2.1.4 The system seeks to enforce the application of human rights principles, concepts, criteria and standards in handling, examining, evaluating and deciding on complaints and incidents of human rights violations reported to the CHR or taken cognizance by the Commission from various sources.
- 2.1.5 It seeks to ensure operational application of the human rights normative content prescribed in the international instruments in determining the presence or absence of human rights violations in complaints brought before the CHRP and in establishing the obligations of government agencies and instrumentalities as duty bearer of rights and the corresponding entitlements of claimholders of rights representing mostly the poor, marginalized and disadvantaged; and
- 2.1.6 The system introduces the elements of the Rights-Based Approach (RBA) in the formulation of policies, rules and procedures on the various investigative interventions and measures for human rights protection.

### **2.2 Operating Policies**

- 2.2.1 As a national human rights institution, the CHRP will pursue its investigation work guided by its commitment of protecting and promoting enhanced respect for the universality, indivisibility and interdependence of both civil and political rights and economic, social and cultural rights, particularly in enforcing remedies and measures to ensure the enjoyment of rights in non-discriminatory basis.

- 2.2.2 The CHRP will vigorously assert for its independence in the conduct of its investigation work both at the national and regional levels without interference or obstruction from any branch of government or any public or private entity having due regard to all possible forms of cooperation necessary to facilitate performance of its investigative work.
- 2.2.3 In compliance with the Paris Principles on accountability and operational efficiency for an effectively functioning national human rights institution, the CHR will continue to extend its complaints processing mechanism to the regional level through its established Regional Offices for the purpose of ensuring accessibility of its investigation services to the grassroots.
- 2.2.4 The CHR will enforce the use of the RBA in the entire investigation system and its components to ascertain the application of normative content in the determination, evaluation and disposition of human rights complaints.
- 2.2.5 The CHR will further rationalize the application of forensic science in its diverse human rights investigative interventions.
- 2.2.6 The system will be guided by the following specific policies:

#### **CHR Jurisdiction**

- 2.2.7 The power of the CHRP to investigate, on its own or on complaint by any party, covers all forms of human rights violations involving civil and political rights. Human rights violations per se are those enumerated under Resolution CHR No. A96-005 or are, by their very nature, easily and readily discernible as palpable transgressions of any of the basic rights of a human being as defined in the Universal Declaration of Human Rights and international covenants and treaties on human rights to which the Philippines is a signatory and should, therefore, be investigated or given due course by the Commission without unnecessary delay.

#### **RBA in Investigation**

- 2.2.8 Considering that the CHRP has adopted the RBA to investigative intervention in ensuring legality and fairness in public administration, admissibility of complaints for human rights violations shall cover the determination at the outset of both the object and the subject matter, especially if it concerns performance of state obligations over specific entitlements of individuals/ sector/groups under the international human rights instruments.

#### **Operational Priorities**

- 2.2.9 Following the universality, indivisibility, interdependence and interrelatedness of civil and political and economic, social and cultural rights requiring the international community to treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis, the CHRP will adopt operational priorities in the investigative monitoring of incidents and/or conditions obtaining in the country which are violative of concerns in both areas of civil and political rights and economic, social and cultural rights.

2.2.10 The CHRP criteria for admissibility of complaints will examine the extent related structures, systems and policies violate the full enjoyment of these rights by government as duty holders to include non-state actors within its power of control and regulation.

### **Complaints within the Country and Abroad**

2.2.11 The CHRP, in the determination of probable human rights complaint, will take cognizance of violations of civil and political rights of persons within the Philippines as well as Filipinos residing abroad, such as but not limited to: (Copy Resolution CHR No. A96-005 Nos. 1 – 10)

### **Investigative Hearing**

2.2.12 The CHRP will conduct investigative hearing of established cases of human rights violations, as an indispensable process in the light of the following considerations:

- The importance of the issue/s pointing to failure of government to perform its obligations to respect, protect and fulfill;
- To secure investigation procedure for specific legal protection from retaliation or reprisal for individuals who have filed a complaint or participated in the investigation of the complaint;
- To establish investigative procedures to encourage cooperation in securing vital evidence and to prevent any or all forms of obstruction thereof;
- To institute engagement of experts' assistance in the performance of the investigation function and in application of the experts' testimonies;
- To ascertain investigation process to enhance public confidence in the CHRP as a competent body for receiving and acting on allegations of human rights violations; and
- To prescribe a referral mechanism integral to the investigation process that will systematically engage other branches of government particularly the relevant departments, government agency or tribunal, legislature, judicial or prosecuting authorities in taking up actions and remedies to respect, protect and fulfill human rights based on the specific recommendations of the CHRP.

### **Appeal of Cases**

2.2.13 The CHRP will adopt the process of appeal to ascertain the substantive interpretation of the human rights criteria and standards under international instruments as applied thereto. Such appeal can be filed only once and the Commission's resolution on the appeal shall be considered final.

## 2.3 Processes

- 2.3.1 Complaints may come from different sources such as walk-in complainants, government organizations, non-government organizations, international organizations and the media. The recommended processes are applied in the instance a complaint is taken cognizance irrespective of its source to include those received from walk-in complainant, referred by government agencies, non-government organizations and international organizations and those incidents monitored through the media.
- 2.3.2 They are also to be applied in undertaking oversight monitoring and evaluation of investigation work being done by other agents of government.
- 2.3.3 This system component consists of a three-phase process: (a) Establishment of a Probable Human Rights Complaint; (b) Conduct of Investigative Intervention; and (c) Adoption of a Human Rights Resolution.
- 2.3.4 A sub-system under this component is the docketing system that prescribes procedures for recording complaints coming from different sources.

### **Phase 1: Determination of Probable HR Complaint**

- 2.3.5 Processing of complaint under this phase involves three levels. Each level requires different sets of actions that allow speedy action on any complaint.
- 2.3.6 First test is whether or not the complaint is within CHRP jurisdiction. If not, corresponding action is taken through a methodical referral to relevant agencies with the related obligation and mandate.
- 2.3.7 Second test is If Quick Reaction Team is required, which is a test to determine if the situation and parties involved need immediate relief or there is a need to prevent a probable violation of human rights. Like in level 1, a separate system will respond to seeing to it that immediate actions are taken in most pressing and critical situations requiring immediate intervention.
- 2.3.8 Third test is the determination of probable HR complaint, which will involve pursuit of thorough investigation using the RBA as a framework and a tool for strengthening investigation work.
- 2.3.9 Under these three levels, proper documentation of complaints is required using different system tools as defined below.

### **Phase 2: Determination of Investigative Intervention**

- 2.3.10 Under this phase, a process of preparing HR charge order will be applied, a test for the use of ADR, and the methodical investigation required after a full blown human rights investigation is finally determined to be necessary.
- 2.3.11 In the investigation work, RBA framework and relevant tools may be used to strengthen CHRP's position on the complaint.

2.3.12 The various instruments to be used in the conduct of the system include:

- **Enhanced Complaints Form No. 9** consisting of human development profiles of the complainant and respondents, nature of the complaint, summary of facts and information about the complaint
- **Appraisal Form on CHR Jurisdiction** providing guidelines in determining and evaluating human rights implications, identification of relevant agencies as duty holder and the state obligation it is performing, definition of rights entitlements of the complainant
- **Sworn Statement** containing statements of complainant in question and answer form (Q & A)
- **Referral Letter with Action Slip** prescribing contents as to the nature of complaint and action required, rights entitlement of the complainant and state obligation under particular domestic and international law
- **Evidence Gathering Guidelines** enumerating lacking evidence, information on rights entitlement of the complainant, state obligation under specific domestic and international law, planned evidence gathering techniques and work time lines
- **Writ of Engagement** defining the corresponding state obligations of relevant or concerned government agency/instrumentality to be complied and the periods within which such engagement must be completed

### **Phase 3: Adoption of Human Rights Resolution**

2.3.13 This third phase concerns the approval by the Commission en Banc of the adoption of the system component under its different phases and the actual execution of activities involved.

#### **At the Regional Offices**

2.3.14 The Regional Offices of the Commission will principally be responsible for making the investigation system work in regard to the determination of appropriate investigative interventions. In the Regional Office, the designation of investigation team for every human rights complaint is most crucial particularly in the gathering of evidence that will support and strengthen the establishment of a probable human rights complaint.

2.3.15 The Division Chief for Investigation of the Regional Office serves as the key legal officer that supervises the investigation team in the performance of human rights investigation. This Division Chief is the strategist to guide the work of the designated investigation team handling a complaint. He/she is expected to be in constant consultation with the investigation team during the evidence-gathering phase of a complaint until they are able to establish a probable human rights case.

- 2.3.16 Also, the Division Chief performs both as the hearing officer of human rights complaint when a probable human rights complaint is established and the referral officer for complaints found to be within the administrative or program jurisdiction of certain government or non-government organizations.
- 2.3.17 The Regional Director is the deciding officer upon completion of the human rights investigative hearing by the Division Chief. He/she performs a thorough review and formulation of a resolution on a human rights complaint.
- 2.3.18 Appeals are filed before the Regional Office and thereafter forwarded for review by the Commission *en banc*.

<p><b>SYSTEM COMPONENT</b></p> <p>Determining and Conducting Appropriate Human Rights Investigative Interventions</p>	<p><b>IMPLEMENTING OFFICE</b></p> <p>Investigation Division</p>
<p><b>MAJOR PROCESS</b></p> <p>Conduct of a rights-based investigation from different sources such as walk-in complainants, government organizations, non-government organizations, international organizations and media</p>	
<p><b>DESCRIPTION</b></p> <p><b>Purpose</b> To capacitate the CHRP to identify appropriate intervention mechanism in cases being investigated so that proper remedial measures will be undertaken, to include ascertaining the existence of human rights violations and to recommend measures for the full protection, promotion and fulfillment of human rights and the determination of international standards violated</p> <p><b>Inputs</b></p> <ul style="list-style-type: none"> <li>• Policy guidelines on investigation</li> <li>• International human rights instruments</li> <li>• Rights-based agency mapping matrix</li> <li>• Complaints forms</li> </ul> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• Complaints/cases resolved under regular CHR investigation</li> <li>• Complaints/cases resolved under ADR</li> <li>• Complaints/cases handled under quick reaction intervention</li> <li>• Complaints/cases resolved through investigative monitoring</li> <li>• Writ of Engagement (LIO-PI Form No. 1)</li> <li>• Press release/advisory</li> </ul>	
<p><b>WORK INVOLVED</b></p> <p>Phase 1 Determination of Probable Human Rights Complaint</p> <p>Reviews documents on complaints, ascertains allegations, evaluates documents &amp; allegations, assists complainants in accomplishing complaints form 9, following docketing system, determines whether within CHR jurisdiction or not, questions HR implications, identifies concerned agency as duty holder and obligation to respect/protect/fulfill, defines entitlement of complainant, prepares sworn statement of complainant (Q &amp; A form) if within CHR jurisdiction or determines or evaluates strength of the evidence gathered to establish probable human rights complaint, determines appropriate assistance if not within CHR investigative jurisdiction such as legal aid and counseling, and prepares referral letter with action slip as to type of required assistance/entitlement/duty of the concerned agency under international instrument/If within programs/services of GOs/NGOs.</p> <p>Phase 2 Conduct of Investigative Intervention</p> <p>Accomplishes HR Charge Order, determines eligibility of complaint for ADR subject to CHR policy conducts hearings till completion, consolidates findings, and makes recommendations guided by human rights principles, concepts of duty holder and claim holder, state obligations, rights entitlements and HR norms and standards.</p> <p>Phase 3 Adoption of a Human Rights Resolution.</p> <p>Establishes existence or absence of HR violation based on domestic law and international human rights criteria/norms/standards, and issues writ of engagement defining the corresponding state obligation to be complied and the period within which such engagement must be completed.</p>	

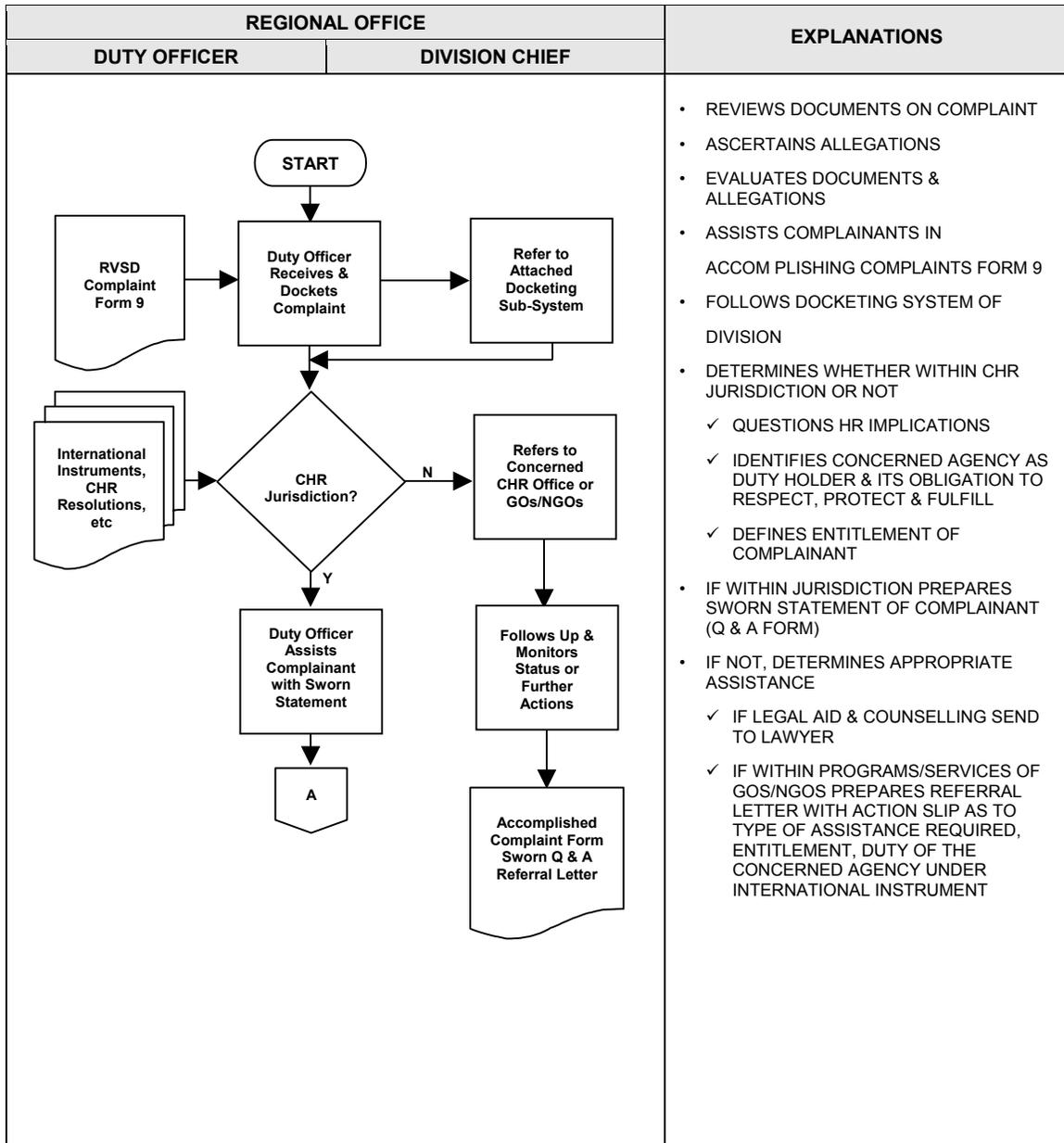
**Form and Instruments**

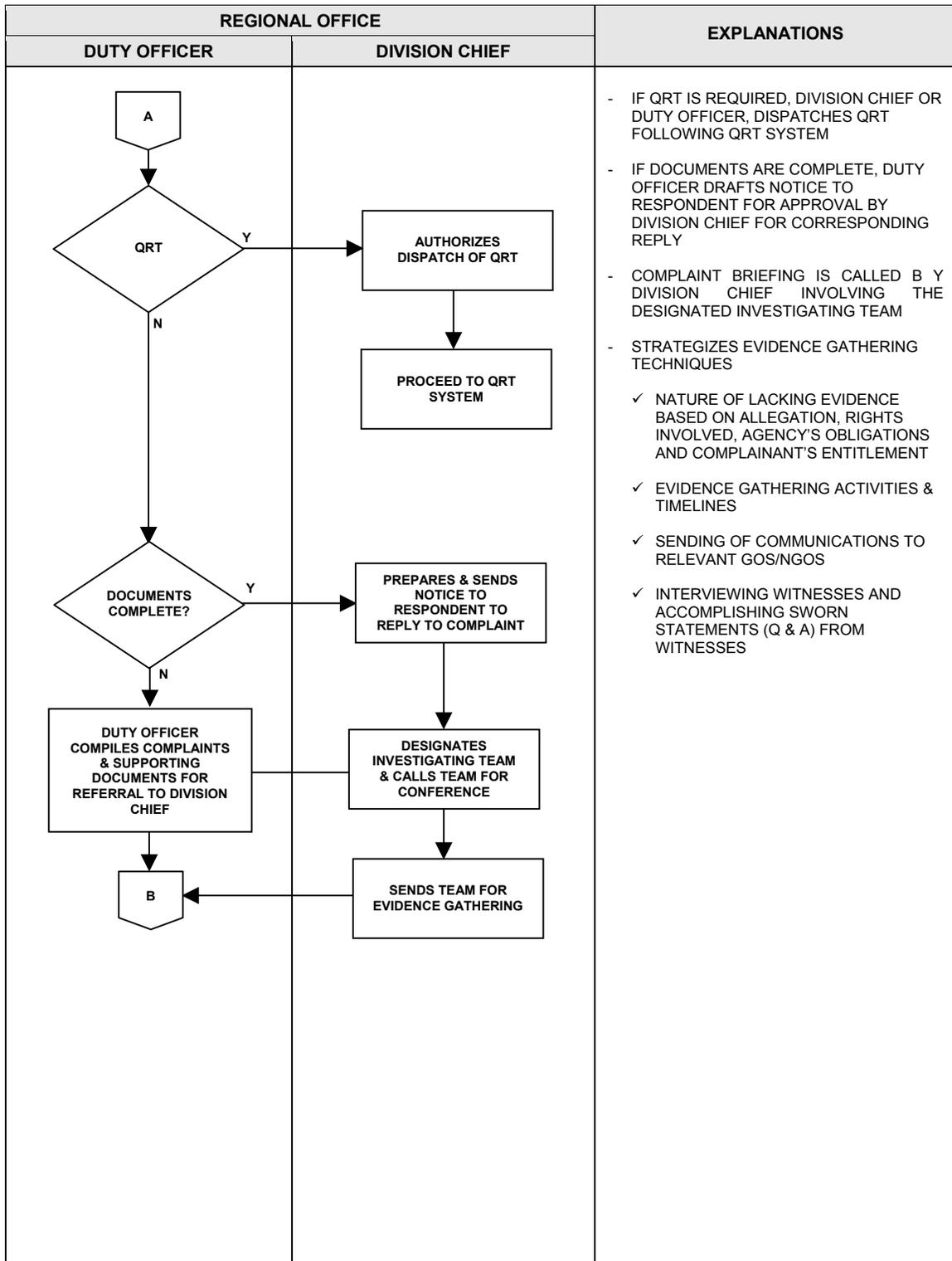
- Revised Complaints (Form No. 9)
- Appraisal Form on CHR Jurisdiction
- Sworn Statement (Affidavit)
- Referral Letter with Action Slip (CRC Referral Form)
- Writ of Engagement (LIO-PI Form No. 2)

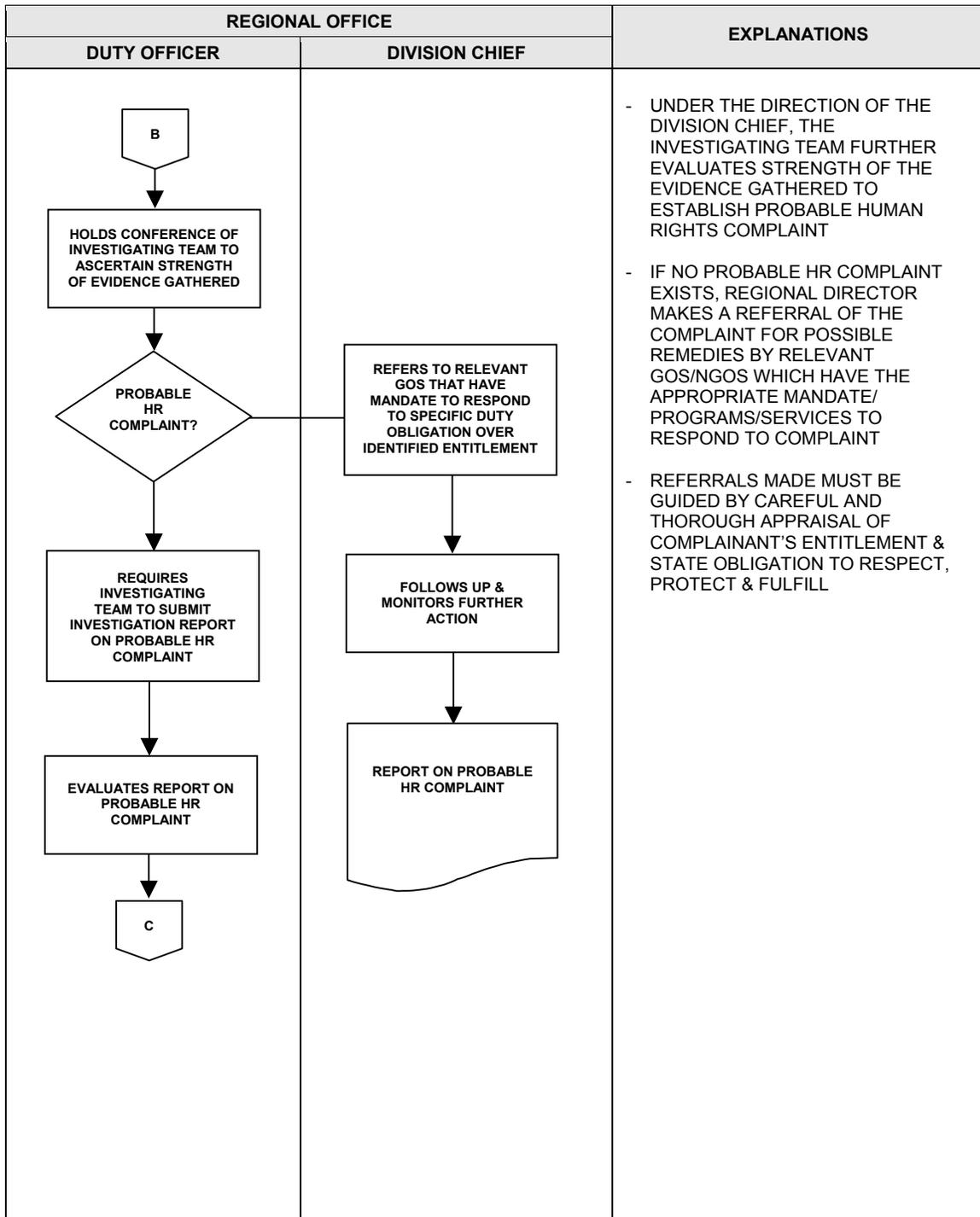
**TIMING/DURATION**

- To start upon receipt of complaint or cognizance of issue/complaint
- To be undertaken from 30 to 90 days

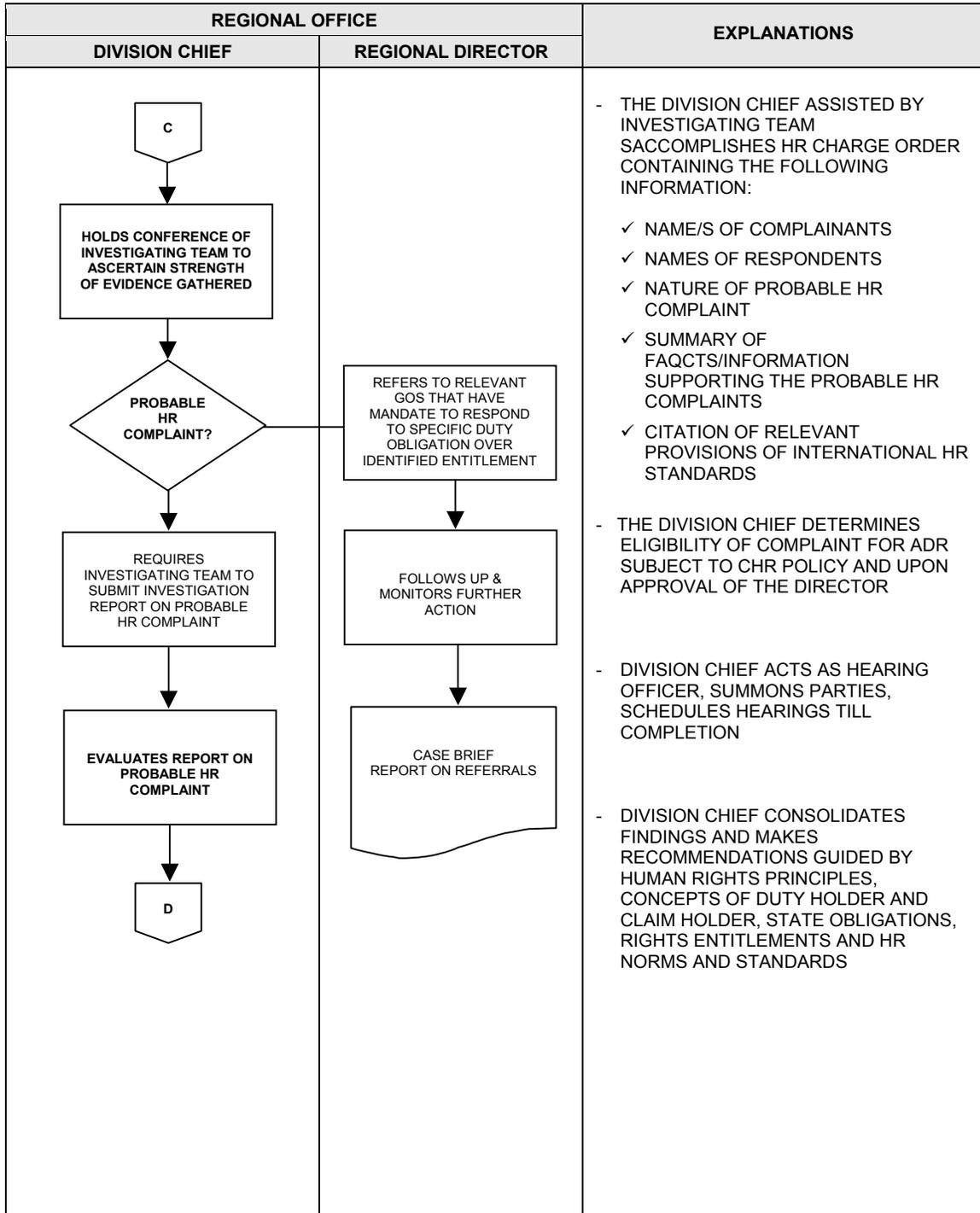
**Phase 1 – ESTABLISHMENT OF A PROBABLE HUMAN RIGHTS COMPLAINT**



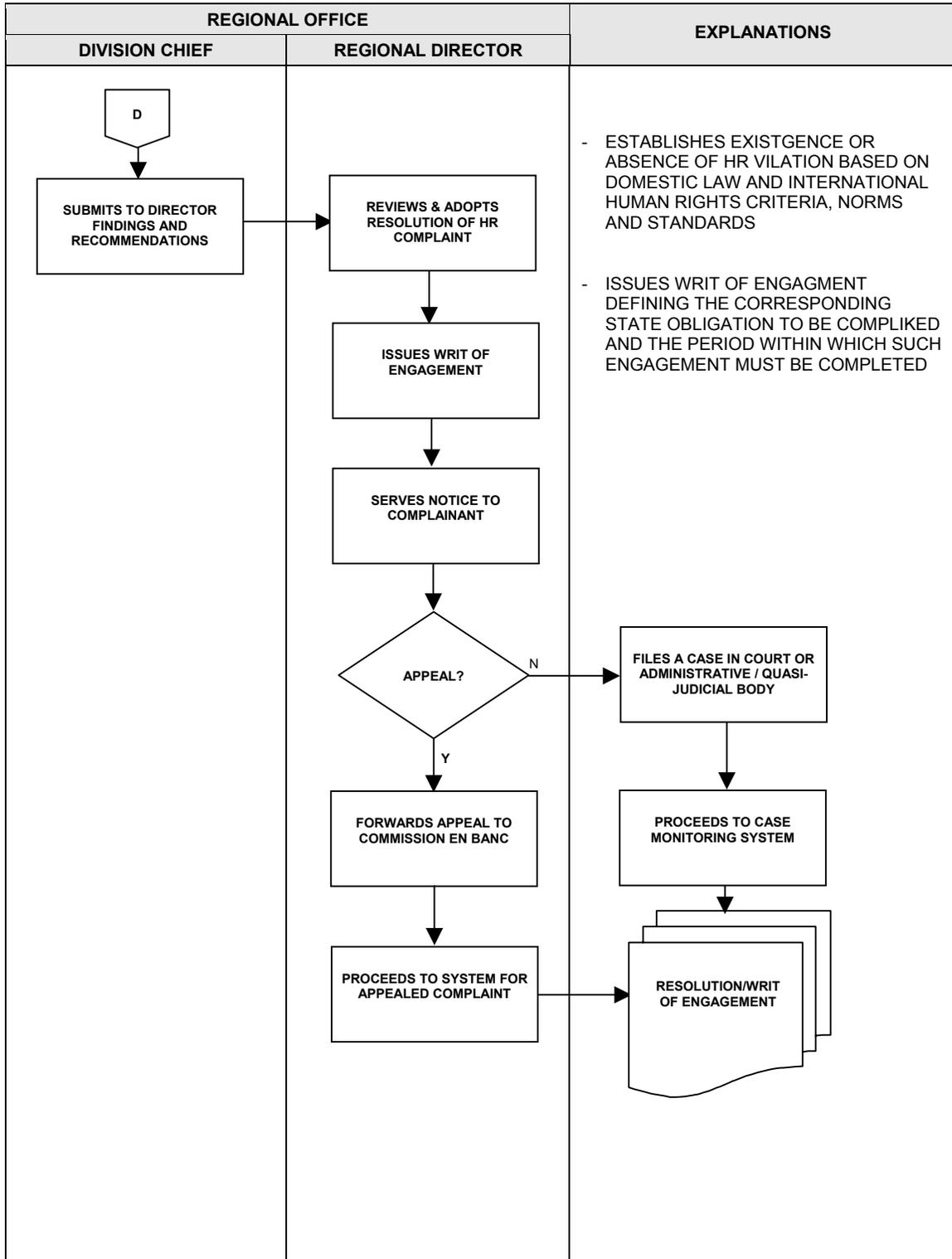




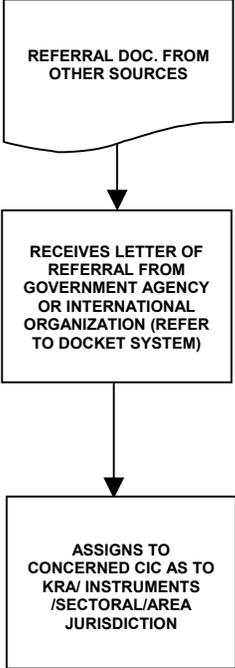
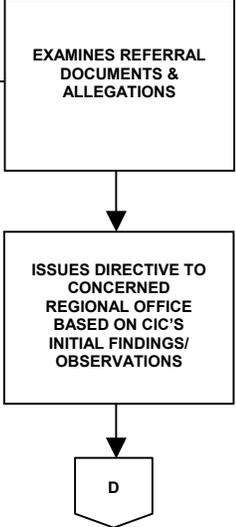
Phase 2 - CONDUCT OF APPROPRIATE INVESTIGATIVE INTERVENTION

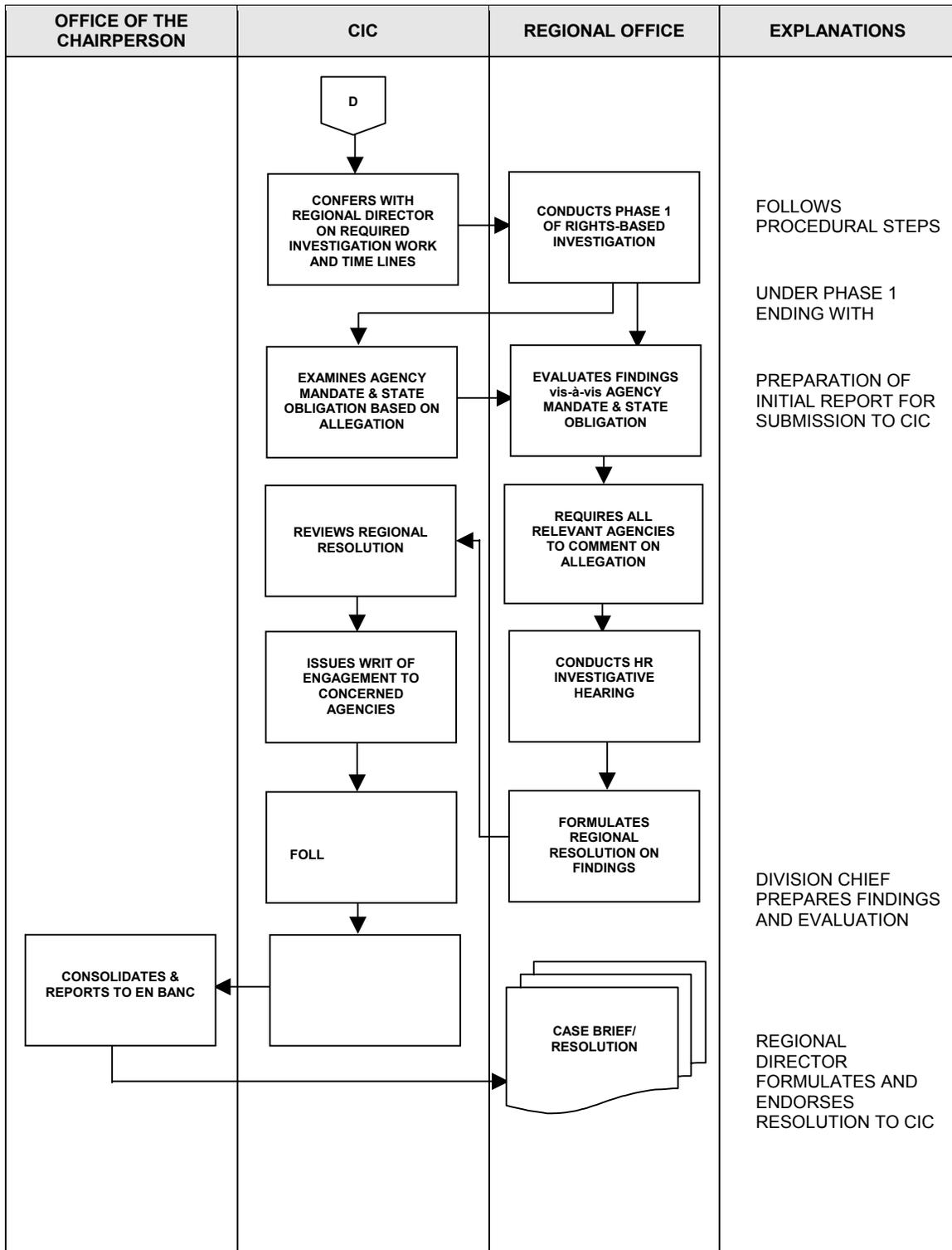


PHASE 3 - FORMULATION & ADOPTION OF RESOLUTION

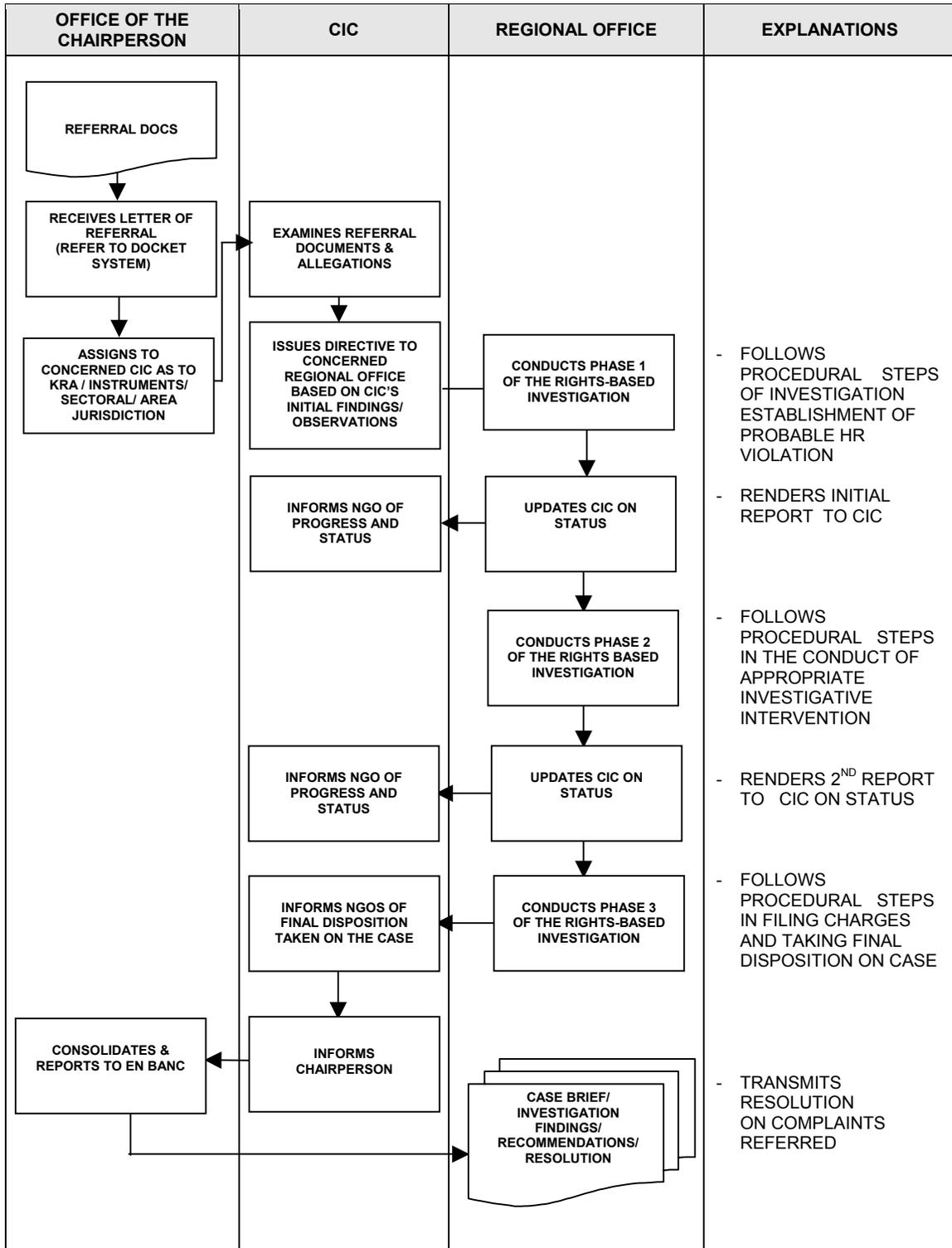


a) Source of Complaint: Government Organization/International Organization

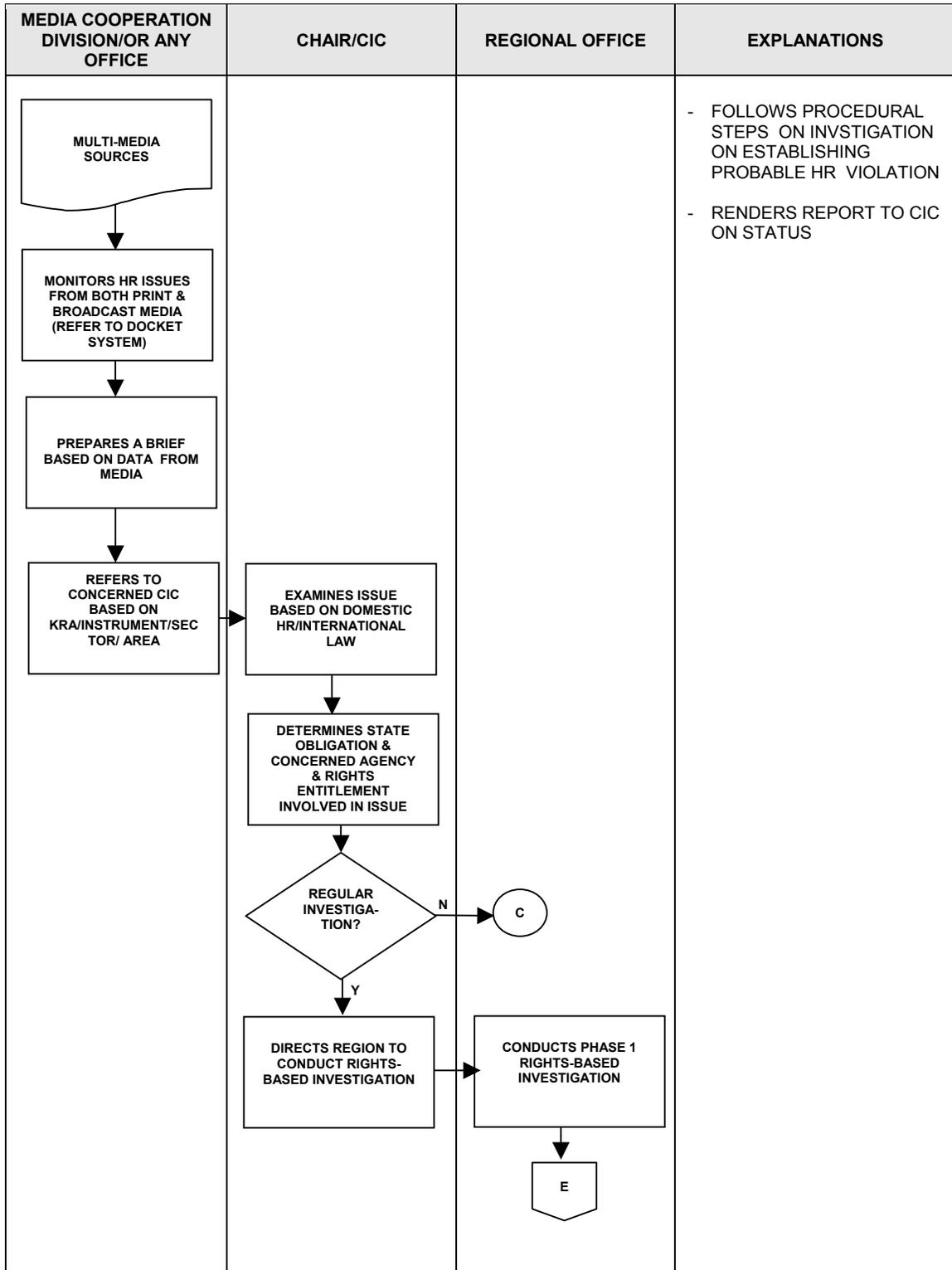
OFFICE OF THE CHAIRPERSON	CIC	REGIONAL OFFICE	EXPLANATIONS
 <pre> graph TD     A[REFERRAL DOC. FROM OTHER SOURCES] --&gt; B[RECEIVES LETTER OF REFERRAL FROM GOVERNMENT AGENCY OR INTERNATIONAL ORGANIZATION (REFER TO DOCKET SYSTEM)]     B --&gt; C[ASSIGNS TO CONCERNED CIC AS TO KRA/ INSTRUMENTS /SECTORAL/AREA JURISDICTION]             </pre>	 <pre> graph TD     D1[EXAMINES REFERRAL DOCUMENTS &amp; ALLEGATIONS] --&gt; D2[ISSUES DIRECTIVE TO CONCERNED REGIONAL OFFICE BASED ON CIC'S INITIAL FINDINGS/OBSERVATIONS]     D2 --&gt; D3{D}             </pre>		<ul style="list-style-type: none"> <li>- VALUATES REFERRALS ON THE BASIS OF HUMAN RIGHTS FRAMEWORK, CONCEPTS, PRINCIPLES, CRITERIA, NORMS, STANDARDS INCLUSIVE OF STATE OBLIGATIONS, RIGHTS ENTITLEMENTS, AND THE LIKE</li> </ul>

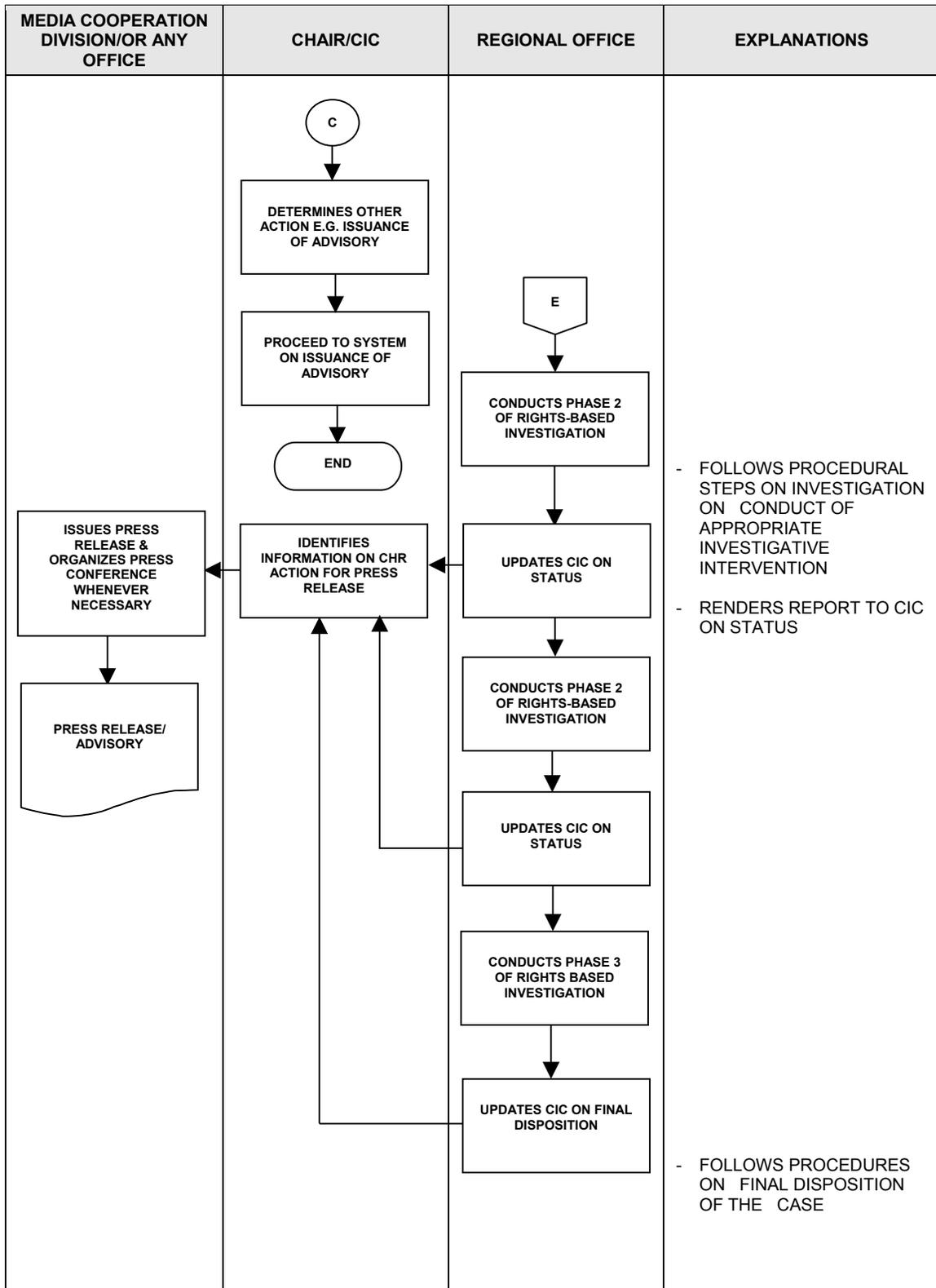


b) Source of Complaint – Non-Government Organizations



c) Source of Complaint: Media both Print and Broadcast





LIO-INV. FORM NO. 1

I. Brief Statement of Incidents

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II. Evidence Submitted

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III. HR Implications

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IV. Relevant Domestic/International Laws

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V. Duty Bearer and Obligations

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VI. Claim holders' Entitlement

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VII. Recommendation Action/s:

- Regular CHR Inv.     Investigative Monitoring
- A D R                 HR Situation Tracking
- Q R T                 FML Service

### **3 PROVIDING FORENSIC AND MEDICO-LEGAL SERVICES**

#### **3.1 System Description**

- 3.1.1 The system identifies and defines the impartial and effective investigation of complaints, wherein the conduct of rights-based forensic and medico-legal services are required, under the various investigative interventions of the CHR based on the type of action, the rights to be protected and/or the international human rights instruments under which such rights are protected.
- 3.1.2 The CHRP's coordinative investigation with the use of the forensic and medico-legal services system covers the processes involved in the conduct of regular independent and rights-based investigation, rights-based oversight evaluation and appraisal of investigation work conducted by the CHRP and other agents of government and coordinative investigation involving non-government organizations and law enforcement agencies.
- 3.1.3 The forensic and medico-legal services under this system caps certain gaps requiring CHR intervention in inquiries about adopted policies and measures violating/curtailing the enjoyment of human rights or the entitlement thereof.

#### **3.2 Operating Guidelines**

- 3.2.1 As a national human rights institution, the CHRP will pursue its investigation work through rights-based forensic and medico-legal services in consideration of its commitment of protecting and promoting enhanced respect for the universality, indivisibility and interdependence of both civil and political rights and economic, social and cultural rights.
- 3.2.2 The CHRP will vigorously assert for its independence in the conduct of its investigation work both at the national and regional levels without interference or obstruction from any branch of government or any public or private entity having due regard to all possible forms of cooperation necessary to facilitate performance of its investigative work.

##### **Accountability and Operational Efficiency**

- 3.2.3 The CHRP will continue, in compliance with the Paris Principles on accountability and operational efficiency for an effectively functioning national human rights institution, to ensure a thorough investigation of complaints/cases/incidents of reported violations through forensic and medico-legal service in accordance with international standards as to determine human rights violations.

##### **Application of Rights-Based Approach**

- 3.2.4 The CHRP will enforce the use of the Rights-Based Approach in the system for providing forensic and medico-legal services to complaints requiring exhumation, autopsy, psychological and medical examination, crime scene investigation, chemical/substance examination, laboratory (bullets, powder, shells, hair, projectiles,

- etc.) and dental records examination with the application of normative content in the determination, evaluation and disposition of human rights complaints.
- 3.2.5 The system component will be applied to complaints/cases/incidents of alleged human rights violations wherein it appears international treaty obligations have been breached and the use of forensic medico legal services forms part of the process in data and evidence gathering to establish violations of human rights. At the same time, the system will find its relevant use in pursuing the criminal/civil/administrative aspect of the complaints/cases/incidents of human rights violations.
- 3.2.6 By examining international norms and standards, the CHRP will be able to educate government and its instrumentalities as duty bearers using the RBA and tap their respective expertise in undertaking investigation with the use of medico-legal science in obtaining evidence.

#### **Conduct of Collaborative Efforts**

- 3.2.7 The system, will explore collaborative efforts in establishing violations of human rights, through appropriate medico-legal services, thereby identifying the roles of duty bearers and stakeholders in looking into the systemic violations employed, so that appropriate measures may be adopted to curtail further violations.

#### **Adoption of Forensic Science**

- 3.2.8 The CHRP will further rationalize the application of forensic science in its diverse human rights investigative interventions.

### **3.3 Processes**

- 3.3.1 The CHRP, through its Legal and Investigation and the Regional Offices, needs to take an active role in investigating violations of human rights through employment of the medico-legal science, so as to establish international norms and standards in appreciating forensic and medical evidence for the protection and promotion of human rights.

#### **Oversight Operations**

- 3.3.2 The Forensic and Medical Division shall perform oversight function in standard setting and capability building for the purpose of instituting collaborative effort and generating support from concerned sectors the expertise in gathering and evaluating relevant evidence in the field of medical and forensic science.
- 3.3.3 With the supervisory and oversight authority of the Commissioner-In-Charge, the Legal and Investigation Office, the Forensic and Medical Division and the concerned Regional Office ensure that a data gathering or evidence obtaining mission is undertaken pursuant to a well-developed case brief in cooperation with concerned agencies of government, experts and the non-government organizations.

**Determination of International Standards that Must be Complied with**

- 3.3.4 Following a successfully implemented mission and based on evaluation of the activities undertaken, the inter-agency body, with the CHRP providing the forum through the Legal and Investigation Office or the Regional Office under the oversight authority of the Commissioner-In-Charge, will take into consideration the possible measures to be adopted or recommended to improve human condition in the light of findings from the medico-legal exercise.
- 3.3.5 Determination at the earliest instance of international standards and norms that need to be complied with, to include the identification of international treaty obligations relevant to the issues/concerns brought before the attention of the Commission.

**Case Brief Development**

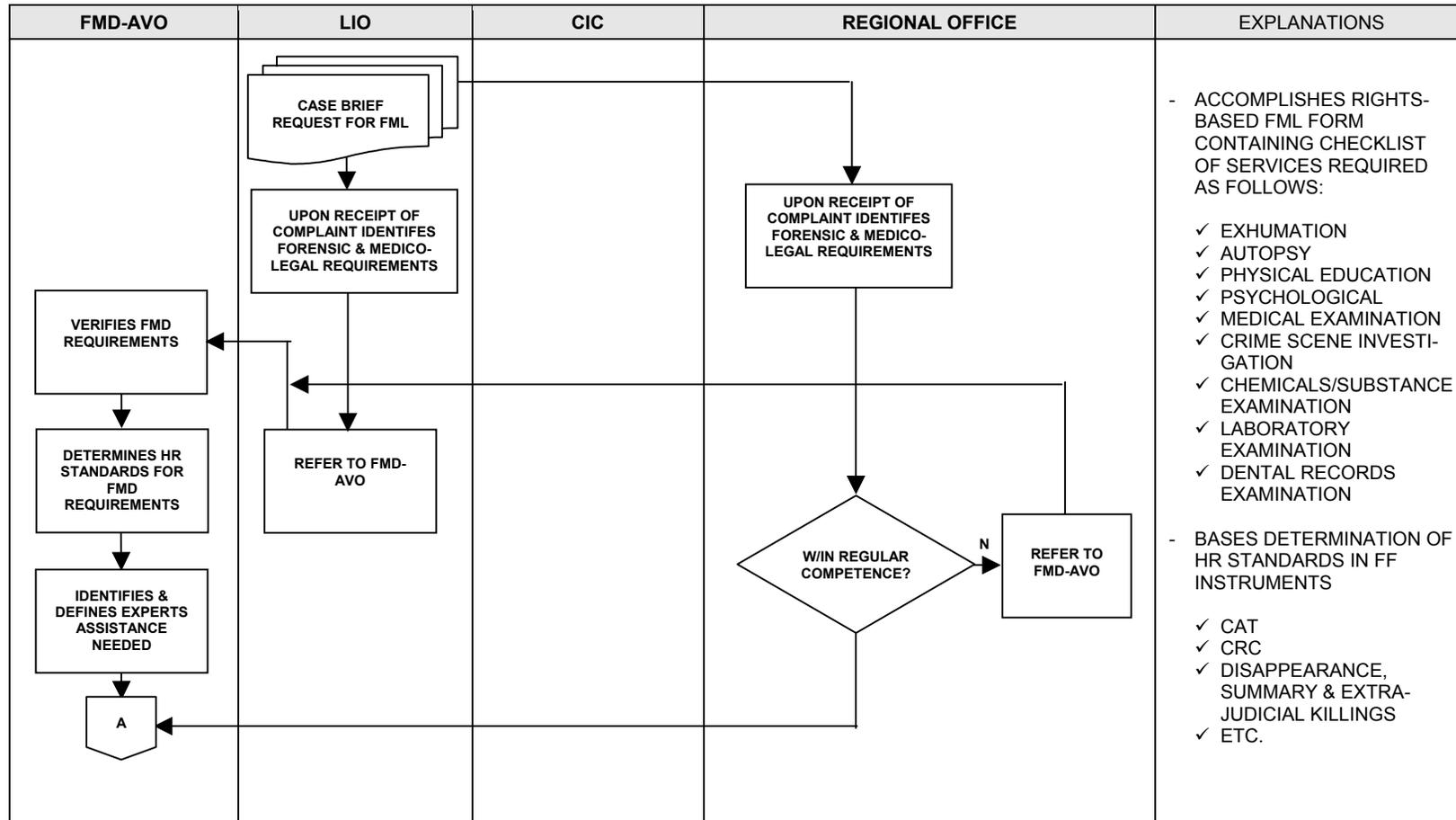
- 3.3.6 A case brief will be prepared which incorporates relevant data and process for the purpose of undertaking a mission for medico-legal services.

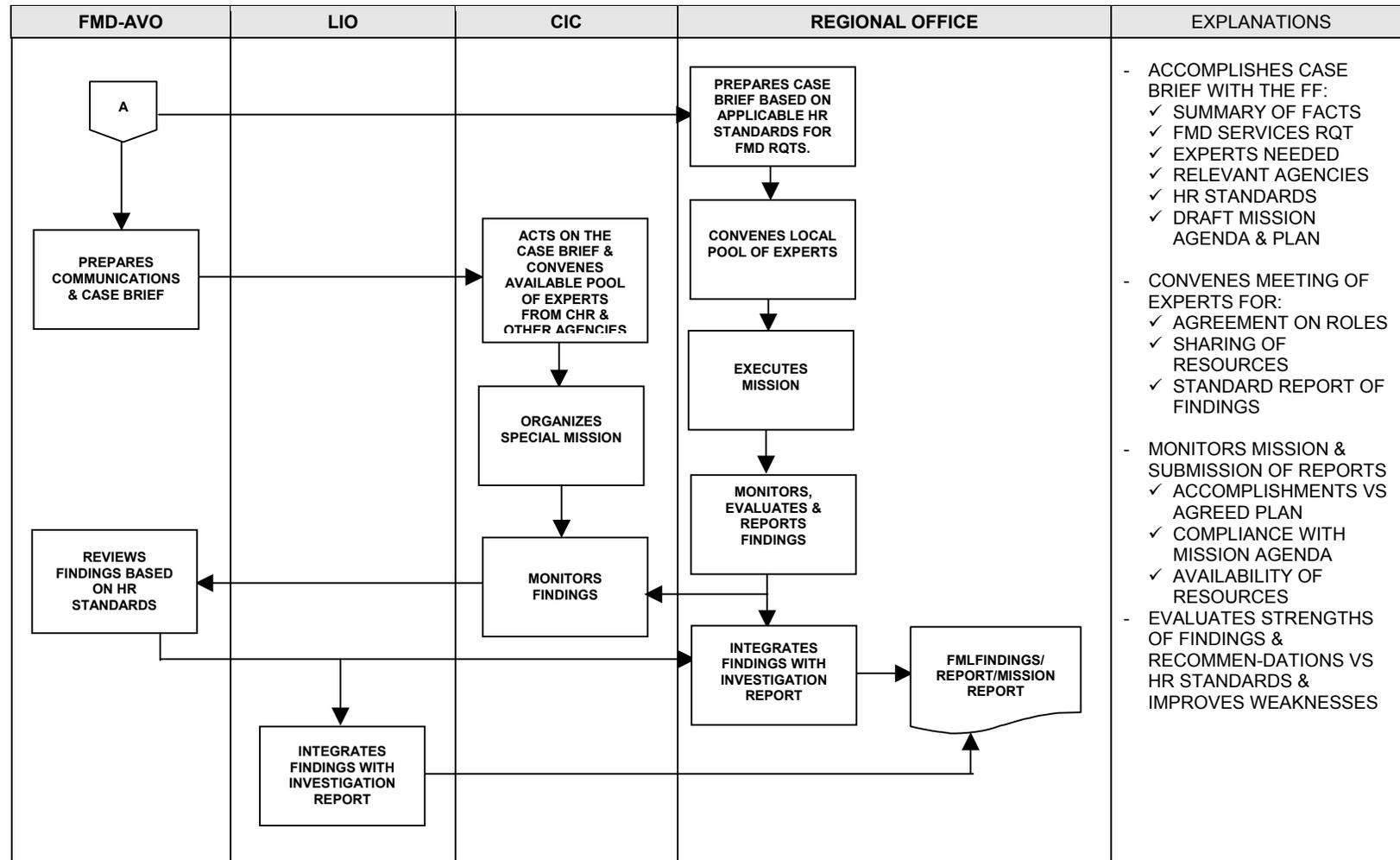
**Mission on Medico-Legal Services**

- 3.3.7 Collaborative and coordinative activities involving duty bearers and stakeholders, to include the participation of experts, not only in undertaking the mission for medico-legal services but to pave the way for the recommendation and/or adoption of measures, programs and services.
- 3.3.8 Application of the RBA in the conduct of forensic and medico-legal services to ensure the progressive realization of human rights not only by the victims of their heirs, but by all persons who may have been affected by the violation of human rights.

<p><b>SYSTEM COMPONENT</b></p> <p>Providing Forensic and Medico-Legal Services</p>	<p><b>IMPLEMENTING OFFICE</b></p> <p>Investigation Division, LIO</p>
<p><b>MAJOR PROCESS</b></p> <p>The systems involves a complete process of determining rights-based FMD services covering the following: exhumation, autopsy, physical examination, psychological, medical examination, crime scene investigation, chemicals/substance examination, laboratory examination, dental records examination</p>	
<p><b>DESCRIPTION</b></p> <p><b>Purpose</b> To effectively apply forensic services in human rights cases to include those rendered by CHR and other public and private experts and to establish the use of human rights standards in the conduct of such services in specific cases or mission taken cognizance by the CHR</p> <p><b>Inputs</b></p> <ul style="list-style-type: none"> <li>• Network of forensic and medico legal (FML) experts</li> <li>• Laboratory agents</li> </ul> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• Complaints/cases covered by FML services</li> <li>• FML mission findings/recommendations</li> <li>• Experts' testimonies</li> </ul>	
<p><b>WORK INVOLVED</b></p> <ul style="list-style-type: none"> <li>▪ Analysis of cases for FML identifying applicable HR standards as contained in the following instruments: CAT, CRC, Disappearance, Summary &amp; Extra-Judicial Killings, etc.</li> <li>▪ Preparing/accomplishing case briefs with summary of facts, FML services required, experts needed, relevant agencies, HR standards applied, draft mission agenda and plan</li> <li>▪ Convening meeting of experts for: agreement on roles, sharing of resources, standard report of findings</li> <li>▪ Monitoring mission and submission of reports indicating accomplishments vis-a-vis agreed plan, compliance with mission agenda, availability of resources</li> <li>▪ Evaluation of strengths of findings and recommendations vis-à-vis hr standards and improving weaknesses</li> </ul>	
<p><b>TIMING/DURATION</b></p> <ul style="list-style-type: none"> <li>▪ To start upon determination of forensic requirements in a complaint/case</li> <li>▪ To be completed within three (3) to seven (7) days</li> </ul>	

SYSTEM : CONDUCT OF RIGHTS-BASED FORENSIC AND MEDICAL SERVICES







LIO-INV. FORM NO. 2

FORENSIC AND MEDICO LEGAL SERVICE

FML SERVICES	EXPERTS	ASSISTANCE
<ul style="list-style-type: none"> <li><input type="checkbox"/> exhumation</li> <li><input type="checkbox"/> autopsy</li> <li><input type="checkbox"/> physical examination</li> <li><input type="checkbox"/> psychological</li> <li><input type="checkbox"/> medical services</li> <li><input type="checkbox"/> crime scene investigation</li> <li><input type="checkbox"/> chemical/substance</li> <li><input type="checkbox"/> investigation</li> <li><input type="checkbox"/> laboratory examination</li> <li><input type="checkbox"/> dental records examination</li> </ul>		
<p><b>FINDINGS/RECOMMENDATIONS</b> (summary of full medico-legal report which is attached)</p>		

## **4 CONDUCTING ALTERNATIVE DISPUTE MANAGEMENT**

### **4.1 System Definition**

- 4.1.1 The system component institutionalizes ADR to assist government in identifying priority measures for the protection and promotion of human rights in accordance with international norms and standards.
- 4.1.2 It numerates the various processes essential to a rights based approach alternative dispute resolution to identify equitable solutions in cases and to reconcile remedies/measures available to the parties to a case or related cases by way of engaging duty holders to provide improved human conditions and rights entitlement for the progressive realization of human rights.
- 4.1.3 It enlists participation of government or its agents, through rights-based alternative dispute resolution taking into consideration human development situation and concern of the victims, in discovering criteria to evolve programs and services and their priorities in governance, with the CHRP as the primary forum, thus invigorating the effectiveness of duty holders in meeting the challenges on account of international norms and standards to respect, protect and fulfill human rights.
- 4.1.4 Given the lukewarm reception on the ESC rights being justiciable, the system explores possibilities of establishing procedure to strengthen complaints for violations of economic, social and cultural rights, with network advocacy support, for the successful prosecution of cases before the courts.

### **4.2 Policy Guidelines**

- 4.2.1 The CHRP will pursue its investigation work utilizing rights-based alternative dispute management guided by its commitment of protecting and promoting respect for the universality, indivisibility, interrelatedness and interdependence of both civil and political rights and economic, social and cultural rights, particularly in enhanced provision of remedies and measures to ensure the equitable enjoyment of rights.

#### **Application of RBA and Government Core Values and Thrusts**

- 4.2.2 In application of the rights-based alternative dispute management, the CHRP will observe the improvement of human condition and rights entitlement of parties and the progressive realization of human rights through appropriate measures initiated by duty holders.
- 4.2.3 The CHRP will take steps in reengineering the core values and thrusts of government and its agents as a means of improving rights based alternative dispute resolution in order to integrate in their programs and services human development agenda in accordance with human rights normative content established in international instruments.

### **Use of Alternative Dispute Resolution**

- 4.2.4 The CHR will incorporate in the rights-based alternative dispute resolution governance process of settlement so as to forestall future or possible violations of human rights.
- 4.2.5 The CHRP, in the process of alternative dispute resolution, will liberally construe evidence in order to assess the national/ regional/ sectoral human rights situation/condition. Enhanced remedies and measures for the equitable enjoyment of rights through alternative dispute resolution are identified and implemented, in coordination with duty holders and by engaging government or its agents to consolidate human rights components in programs, projects and activities in compliance with international treaties and conventions.

### **4.3 Processes**

- 4.3.1 The system consists of processes such as accomplishment of case brief, conduct of Pre-ADR Conference, ADR Proper, assessment, Issuance of Resolution and Terms of Reference for Parties, oversight documentation, monitoring and adoption of measures.

#### **Pre-conference Process for ADR**

- 4.3.2 The system will adopt a pre-conference process in the alternative dispute resolution to give due course to stipulation of facts and marking of evidence bespeaking of full documentation process of cases/incidents/complaints of human rights violations.
- 4.3.3 This is also intended to explore the prejudicial effect of the alternative dispute resolution to the case subject thereof or to related cases, wherein the application of the rights based approach will be impaired

#### **Documentation of Human Rights Violations**

- 4.3.4 The system will effect a process of documentation of human rights violations incidents to assess human rights conditions and situations applying the normative content and concept of state obligations and rights entitlement as basis for recommendation of measures to be adopted and in ensuring in cases the appropriate relief and proper course of action to pursue the matter, specifically the justiciability of the economic, social and cultural rights.

#### **ADR Operations**

- 4.3.5 The Regional Office will perform the Alternative Dispute Resolution Management functions of the CHRP. These functions include the implementation of the direct intervention to the parties involved, the actual ADR process to include management and documentation and monitoring.

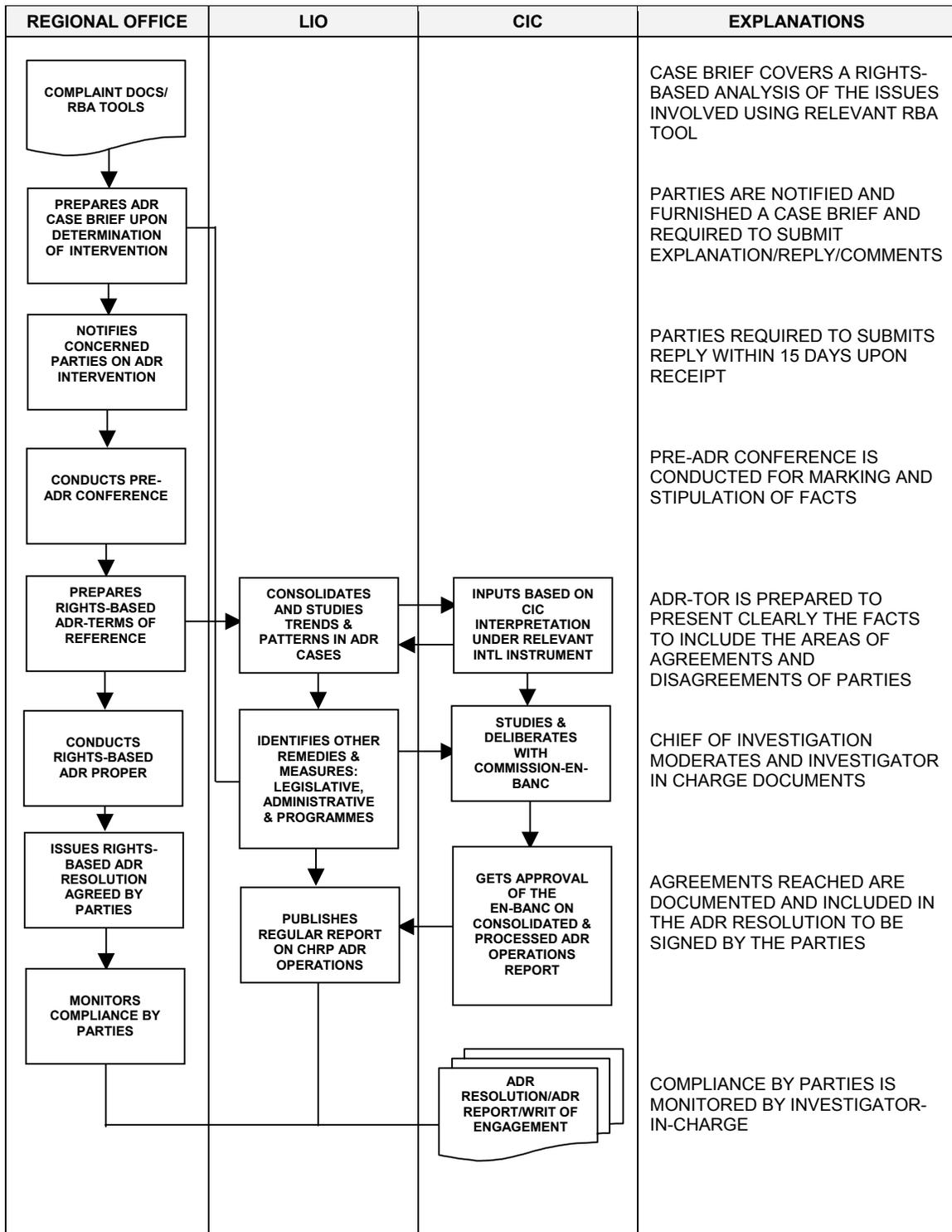
- 4.3.6 At the immediate oversight level, the LIO will provide tightening of the direction of the ADR operations by way of studying patterns and trends of ADR cases for discovery of other remedies and measures.
- 4.3.7 At the policy oversight level, the CIC will contribute to the improvement of ADR operations by undertaking studies at his level using the international instruments as basis and perspective for interpreting ADR complaints and cases.
- 4.3.8 The Commission-En-Banc will be consulted by the CIC for long term remedies and measures that will require issuance of Commission Advisories involving recommendation on changes or adjustments in policies, structures and processes of governance and development that fall within the purview of state obligations.

SYSTEM COMPONENT	IMPLEMENTING OFFICES
System for Conducting Alternative Dispute Management	Regional Office/Legal and Investigation Office
<p><b>PROCESSES</b></p> <ul style="list-style-type: none"> <li>▪ Accomplishment of case briefs</li> <li>▪ Conduct of Pre-ADR conference</li> <li>▪ Conduct of ADR proper</li> <li>▪ Assessment</li> <li>▪ Issuance of resolution and terms of reference for parties</li> <li>▪ Oversight documentation, monitoring</li> <li>▪ Adoption of measures</li> </ul>	
<p><b>DESCRIPTION</b></p> <p><b>Purposes</b></p> <ul style="list-style-type: none"> <li>• To institutionalize in the CHRP an appropriate progressive intervention mechanism in alternative dispute resolution to assist government in identifying priority measures for the protection and promotion of human rights in accordance with international norms and standards</li> <li>• To introduce the much needed reforms in governance through rights-based alternative dispute resolution, encouraging the government or its agents by way of strengthening its political will to initiate program measures to improved the quality of enjoyment of the basic rights</li> </ul> <p><b>Inputs</b></p> <ul style="list-style-type: none"> <li>• Accomplished complaints form</li> <li>• Rights-based agency mapping matrix</li> <li>• International instruments</li> </ul> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• ADR resolutions (LIO-PI Form No. 2)</li> <li>• Report on ADR cases (LIO-INV-ADR Form No. 2)</li> <li>• Oversight reports and recommended measures (LIO-LSS Form Nos. 1-6)</li> <li>• Writ of engagement</li> </ul>	
<p><b>WORK INVOLVED</b></p> <ul style="list-style-type: none"> <li>▪ The system starts at the Regional Office with the preparation of a case brief upon determination of the appropriateness of the ADR intervention. The case brief includes the facts of the case, its human rights implications, the parties involved, a quick appraisal using human rights criteria and standards and reason for classifying it under ADR intervention.</li> <li>▪ The Regional Office notifies all the parties involved, furnishes them with copies of the ADR Case Brief and requests them to submit a written reply, comment or explanation for further elaboration and enlightenment of the parties involved, to be submitted within 15 days upon receipt of notice.</li> <li>▪ A Pre-ADR conference is called by the Regional Office, which will entail presence of the parties for the marking and stipulation of facts.</li> <li>▪ ADR Proper is called upon issuance of the Regional Office a Terms of Reference that will guide parties on all facts and information for ADR intervention to include all areas of agreement and disagreement.</li> <li>▪ Upon completion of the ADR intervention, which is properly documented by the Regional Office, an ADR Resolution agreed upon by the parties involved is issued.</li> <li>▪ The Case brief, the Pre-ADR Conference, ADR Proper and the issuance of a resolution are all founded on RBA and will thus be documented and analyzed using RBA Tools.</li> </ul>	

- At the oversight level, the LIO conducts constant documentation, consolidation and study of the ADR operations nationwide for the purpose of integrating findings and assessment of ADR operations nationwide. RBA tools are recommended for use by the LIO in the conduct of its studies and standard setting responsibilities over the ADR operations.
- As a policy support, the CIC reviews and inputs into the formulation and development of other remedies and measures by subjecting ADR reports into a sensitivity analysis vis-à-vis the human rights criteria and standards found under the international instruments.
- CIC in consultation with the Commission- En—Banc deliberates on long term measures involving legislative, judicial, administrative and program measures, where there are changes/ adjustments necessary in governance and development policies, structures and processes that are impacting on certain trends and patterns of ADR cases.

**TIMING/DURATION**

- To start upon determination of ADR intervention
- ADR Resolution – one (1) month
- Preparation of oversight report – monthly



LIO-INV-ADR FORM NO. 2

ALTERNATIVE DISPUTE RESOLUTION REPORT

<b>ADR INTERVENTIONS</b>		
<input type="checkbox"/> Mediation	<input type="checkbox"/> Arbitration	<input type="checkbox"/> Conciliation
<b>FINDINGS</b>		<b>AGREEMENTS</b>
<b>SIGNED</b>		<b>NOTED:</b>
PARTY INVOLVED	PARTY INVOLVED	CHR DIRECTOR

## **5 QUICK REACTION/ACTION TEAM**

### **5.1 System Definition**

- 5.1.1 The system component envisions the CHRP taking an active role as monitor, facilitator, adviser, capacity builder and network builder, thereby making quick reaction activities more in keeping with the RBA to human development.
- 5.1.2 The system enables the Central and Regional Offices of the Commission to adopt to urgent and critical conditions on account of rampant or serious violations of human rights, especially where it is apparent that norms and standards have not been met and the government seriously failed to its international treaty obligations either to individuals or to a specified community.
- 5.1.3 The system further taps existing mechanisms and structure in governance to ensure that urgent and critical conditions will be responded to, with the central and regional offices coordinating activities by way of engaging agencies in their salient duty to protect, promote and fulfill human rights.

### **5.2 Operating Policies**

#### **CHRP's Commitments in Protecting and Promoting Human Rights**

- 5.2.1 As a national human rights institution, the CHRP will pursue its investigation work guided by its commitment of protecting and promoting enhanced respect for the universality, indivisibility, interrelatedness and interdependence of both civil and political rights and economic, social and cultural rights, particularly in enforcing remedies and measures to ensure the enjoyment of rights in non-discriminatory basis.

#### **Independence of CHRP in Investigation**

- 5.2.2 The CHR will vigorously assert for its independence in the conduct of its investigation work both at the national and regional levels without interference or obstruction from any branch of government or any public or private entity having due regard to all possible forms of cooperation necessary to facilitate performance of its investigative work.

#### **Enhancing Accessibility of Investigation Services**

- 5.2.3 In compliance with the Paris principle on accountability and operational efficiency for an effectively functioning national human rights institution, the CHR will continue to extend its complaints processing mechanism to the regional level through its established Regional Offices for the purpose of ensuring accessibility of its investigation services to the grassroots.

### **RBA in Investigation**

- 5.2.4 The CHR will enforce the use of the RBA in the entire investigation system and its components to ascertain the application of normative content in the determination, evaluation and disposition of human rights complaints.
- 5.2.5 The CHRP will further rationalize the application of forensic science in its diverse human rights investigative interventions.

## **5.3 Processes**

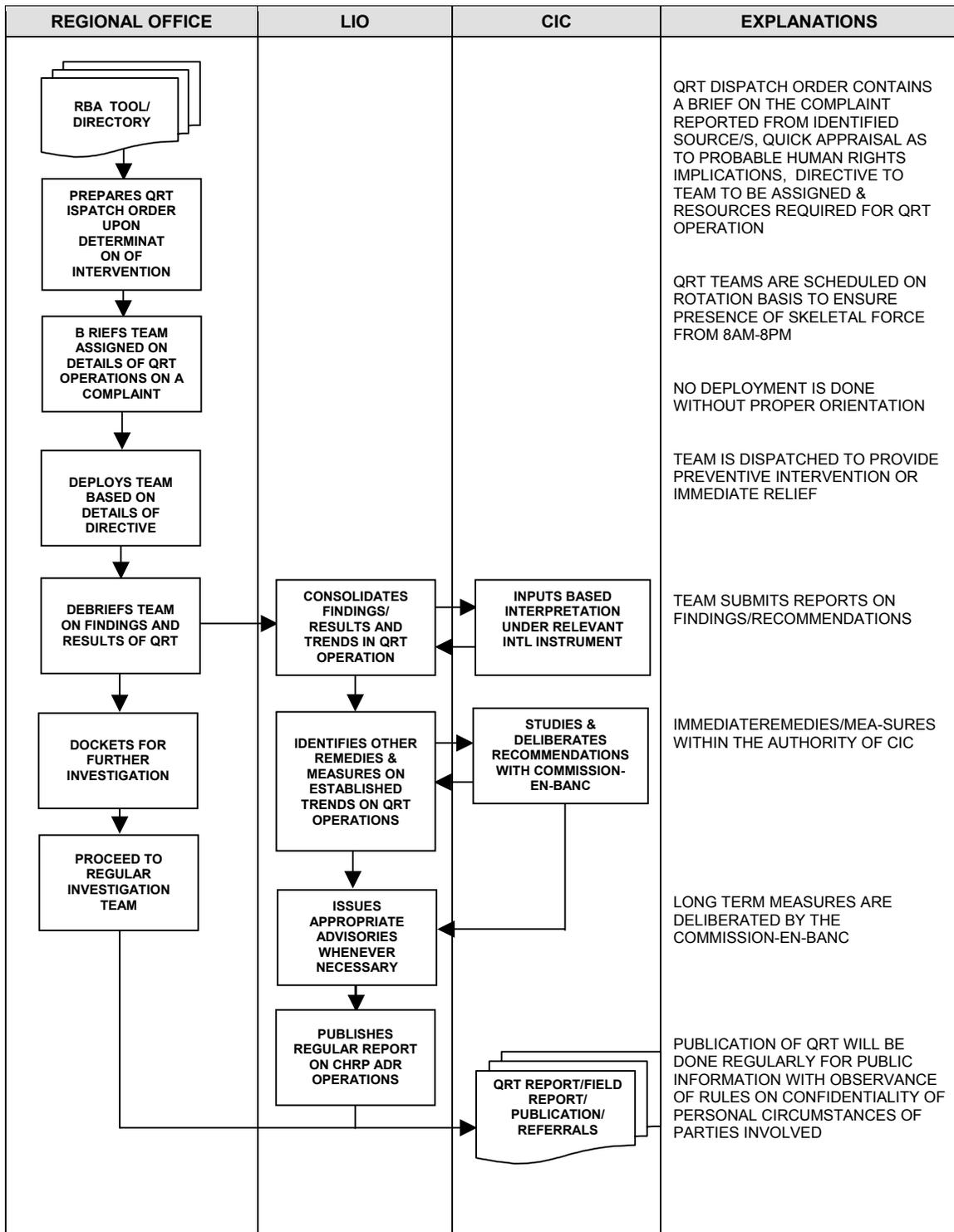
### **At Execution Level**

- 5.3.1 The Regional Office implements the QRT Operations as a front line service of the CHRP for the purpose of providing immediate relief or preventive intervention on any incident or condition that is reported to its attention or which, it has taken cognizance from media reports.
- 5.3.2 The LIO maintains records of findings and interventions rendered under QRT operations for the purpose of performing oversight and standards setting functions over the Regional Offices.

### **At Policy Level**

- 5.3.3 At the policy level, the CIC undertakes oversight intervention by way of reviewing and inputting into the QRT findings and recommendations using as perspective a more sensitive interpretation of the relevant international instruments.
- 5.3.4 The Commission-En-Banc undertakes formulation of long term measures and remedies for identified issues and concerns that have wider implications on governance and development and inter-play of various stakeholders.

SYSTEM COMPONENT	IMPLEMENTING OFFICE
Rights-Based Quick Reaction/Action team	Regional Office
<p><b>PROCESSES</b></p> <ul style="list-style-type: none"> <li>▪ Accomplishment of QRT dispatch order</li> <li>▪ Deployment</li> <li>▪ Documentation of findings and recommendation</li> <li>▪ Rendering of direct service or referral</li> <li>▪ Further assessment of findings/recommendations for appropriate oversight measures</li> </ul>	
<p><b>DESCRIPTION</b></p> <p><b>Purpose</b> To provide mechanism that will readily respond to incidents of human rights violation of emergency nature or preventive measure</p> <p><b>Inputs</b> Rights-based agency mapping matrix</p> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• QRT field report</li> <li>• Report on QRT cases</li> <li>• Published QRT operations and recommendations</li> </ul>	
<p><b>WORK INVOLVED</b></p> <ul style="list-style-type: none"> <li>▪ The System commences with the preparation of a QRT Dispatch Order, upon determination of the appropriateness of the intervention. Sources of reports could be from walk-in complainant, phone-in complaint, or reports of violative incidents in the media.</li> <li>▪ The officer in Charge of the QRT issues QRT Dispatch Order that indicates a brief description of the incident or complaint and the probable human rights implications, initial identification of the parties involved to include the victims and alleged perpetrators, as well as, the physical resources needed to include vehicle to run the QRT.</li> <li>▪ The deployment of QRT Team is designed to be sustainable. On rotation basis, Regional Staff are organized into teams to man the QRT. Always, it is the responsibility of the head of the team to provide its members the appropriate briefing prior to deployment. Once deployed, communication with the Regional Office must be maintained for continuous update. Upon completion of the deployment mission, the team comes back for debriefing. The debriefing should allow discussions of findings, initial appraisal and probable actions or recommendations.</li> <li>▪ Thereafter, members of the team write a full report on its findings and recommendations based on the presentation of facts and information gathered.</li> <li>▪ The report of the QRT serves as basis for docketing of the complaint or incident, which will be made to undergo the same process of investigation.</li> <li>▪ QRT reports, findings and recommendations are consolidated and studied by the LIO in order to explore other remedies and measures both in the short term and long term. Where an advisory is required to be issued for recurring of similar incidents showing patterns and trends, the LIO initiates formulation and submits the same for approval by the CIC.</li> <li>▪ Further, at the oversight level, QRT reports showing patterns and trends in violations and incidents are further studied by the CIC and interpreted using the human rights criteria and standards enunciated under the international instruments.</li> <li>▪ QRT operations are documented by the Regional Office, consolidated, processed and published by the CHRP through the staff support of the LIO and guidance of the CIC.</li> </ul>	
<p><b>TIMING/DURATION</b></p> <ul style="list-style-type: none"> <li>▪ To start upon receipt of notification/call on emergency condition</li> <li>▪ Activity to be undertaken within 24 hours</li> </ul>	



LIO-INV-QRT FORM NO. 3

QRT INTERVENTIONS	
<input type="checkbox"/> <b>FIELD MISSION</b>	
<b>FINDINGS</b>	<b>RECOMMENDATIONS:</b>
<input type="checkbox"/> <b>REFERRAL</b>	
<b>ISSUES REFERRED</b>	<b>REFERRED BY</b>
<b>ACTION TAKEN</b>	<b>RESULT</b>

## **6 SPECIAL FACT- FINDING MISSION**

### **6.1 System Definition**

- 6.1.1 The fact-finding mission system works within the CHRP as inter-office undertaking guided by terms of reference to empower its officials and employees to deal, not only with the issues and international norms and standards, but more importantly in engaging duty bearers, stakeholders and claimholders about RBA in governance for the progressive realization of human rights.
- 6.1.2 The fact-finding system represents certain aspects of investigation wherein one of the end-results is to make the mission the evidence itself for the purpose of prosecuting the criminal/civil/administrative case of the human rights violation.
- 6.1.3 The system facilitates missions in remote areas for the purpose of obtaining data to assess human rights situation/condition, especially so that with the participation of government agents or instrumentalities they will be exposed to looking into the condition of victims/sectors from the rights-based angle.
- 6.1.4 This system on fact-finding mission is applied to respond to the investigation and inquiry of violative incidents, circumstances and deprivations of the poor, vulnerable and disadvantaged groups, on a massive scale showing patterns and trends that will need concerted action from government and other relevant institutions.
- 6.1.5 The system is also applied to expedite actions on human rights issues and concerns of general interest to the public, which will require high level of transparency and responsibility in the pursuit of appropriate remedies.

### **6.2 Operating Policies**

#### **Enhancing Peoples' Awareness**

- 6.2.1 The CHRP will undertake systematic fact finding mission that will facilitate rising of people's awareness on pervading issues and concerns on conditions of the poor, vulnerable and disadvantaged groups specially in poverty stricken areas, insurgency areas and areas where people are in difficult circumstances.

#### **Capacity Building Measure**

- 6.2.2 The CHRP will build constituency in the conduct of fact finding mission as a capacity building opportunity for different governance and development stakeholders to include government institutions, private sector and civil society groups to be conscientious of their duties and responsibilities over societal issues that are violative of human rights criteria and standards.

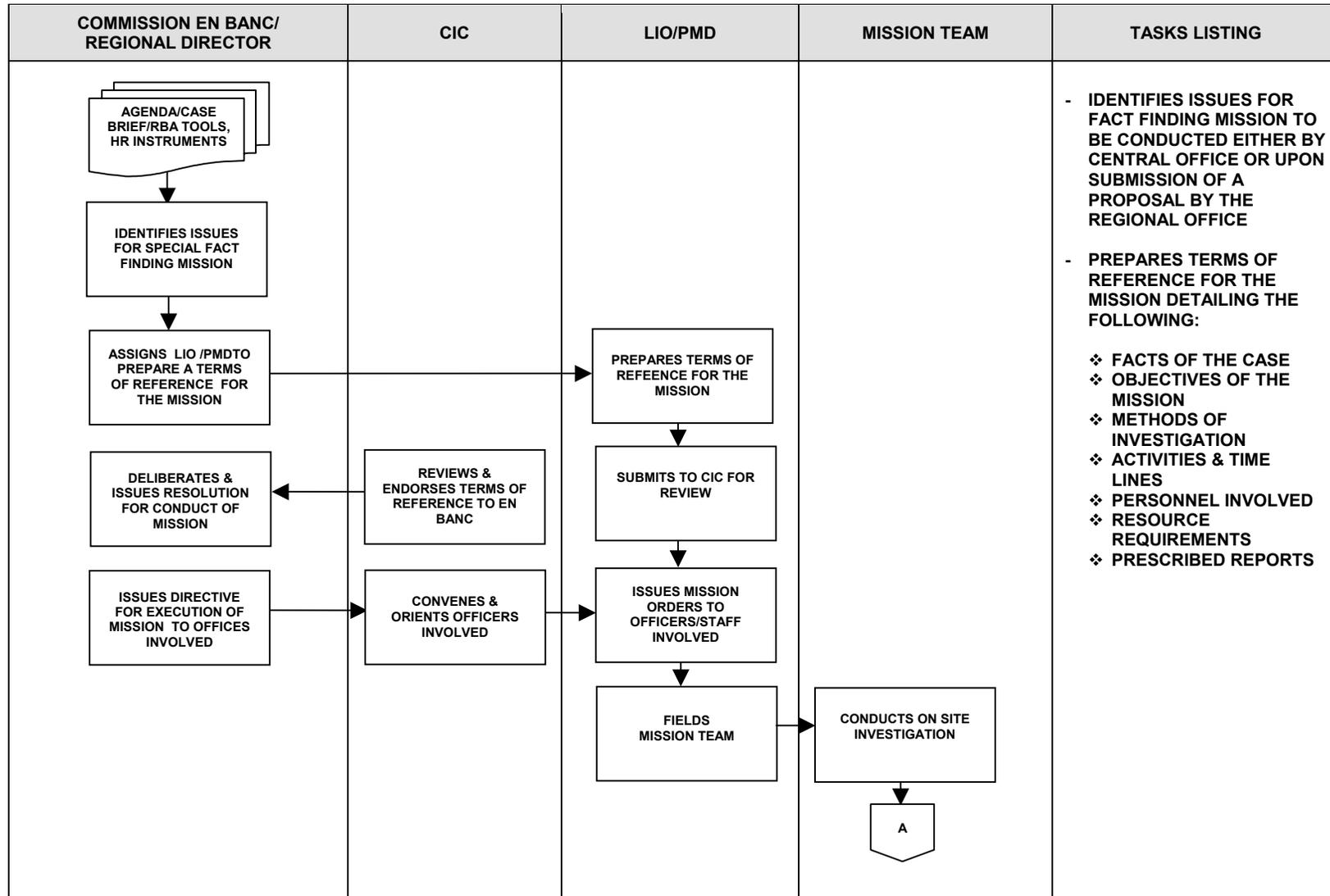
### **Investigation of Violative Incidents and Determination of Appropriate Actions**

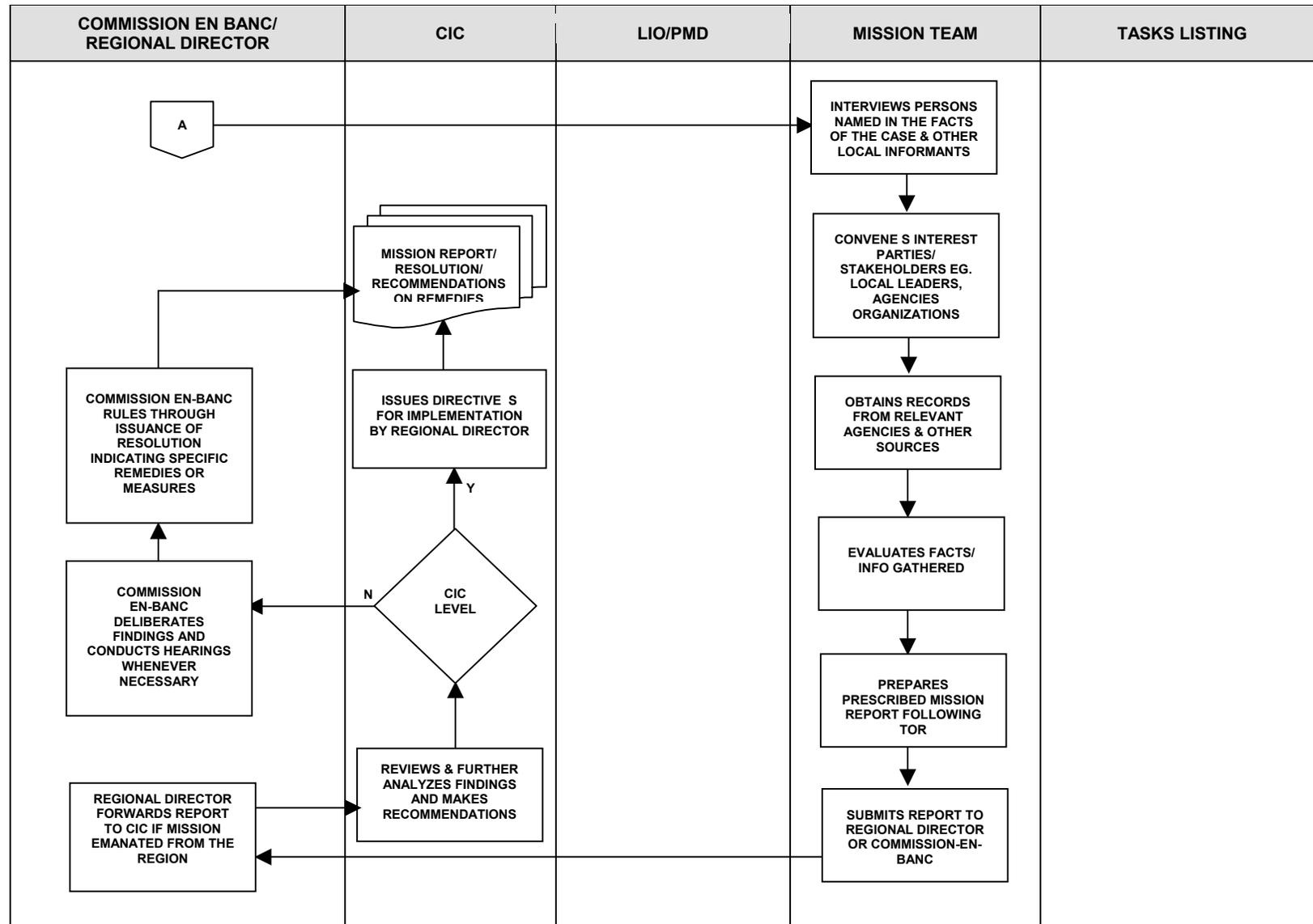
- 6.2.3 The CHRP will expand opportunities for resolving human rights issues and problems via fact-finding missions that would yield to substantial recommendations to government for systematic adjustments in policy, structures and processes, thereby providing enabling environment for people to participate, contribute and benefit from governance and development.
- 6.2.4 This system on fact-finding mission will be applied to respond to the investigation and inquiry of violative incidents, circumstances and deprivations of the poor, vulnerable and disadvantaged groups, on a massive scale showing patterns and trends that will need concerted action from government and other relevant institutions.
- 6.2.5 The system will be applied also to expedite actions on human rights issues and concerns of general interest to the public, which will require high level of transparency and responsibility in the pursuit of appropriate remedies.

### **6.3 Processes**

- 6.3.1 The processes involved in this system component are: Determination of issues, complaints or agenda for conduct of special fact-finding mission, formulation of terms of reference, organization of multi-disciplinary team, data gathering and investigative research, consolidation of findings, formulation of recommendations, coordination and referral and formulation of resolution.

<p><b>SYSTEM COMPONENT</b></p> <p>Special Fact Finding Mission</p>	<p><b>IMPLEMENTING OFFICES</b></p> <p>LIO/Investigation Division/Regional Office</p>
<p><b>PROCESSES</b></p> <ul style="list-style-type: none"> <li>▪ Determination of issues, complaints or agenda for conduct of special fact-finding mission</li> <li>▪ Formulation of terms of reference</li> <li>▪ Organization of multi-disciplinary team</li> <li>▪ Data gathering and investigative research</li> <li>▪ Consolidation of findings</li> <li>▪ Formulation of recommendations</li> <li>▪ Coordination and referral and or resolution, whenever is necessary</li> </ul>	
<p><b>DESCRIPTION</b></p> <p><b>Purpose</b> To obtain evidence and gather data in identified areas of occurrence of violations of human rights and incidents</p> <p>To provide mechanism whereby claimholders and their witnesses will speak out and advocate their cause during the fact-finding mission for the purpose of establishing probable cause of the violations committed and the criminal/civil/administrative breach</p> <p><b>Inputs</b></p> <ul style="list-style-type: none"> <li>• Rights-based agency mapping</li> <li>• Agenda/case for fact-finding</li> <li>• Case brief</li> <li>• International HR instruments</li> </ul> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• Fact finding report</li> <li>• Resolution on findings</li> <li>• Recommendations to concerned authorities</li> </ul>	
<p><b>WORK INVOLVED</b></p> <ul style="list-style-type: none"> <li>▪ This system starts with the identification of agenda for public inquiry, which can be source out from media reports, complaints by any party that are of general interest to the public.</li> <li>▪ The Regional Office or the LIO draws up the Terms of Reference for the conduct of fact-finding mission using the RBA as the framework and tool.</li> <li>▪ A multi-disciplinary team composed of CHRP personnel and other possible external parties, is constituted to provide all the technical and substantive requirements of the complaints or incidents for the purpose of generating the legal, sociological, political, psychological and cultural dimensions of the complaint or case involved. Relevant agencies in charge of delivering services to particular individuals, groups and communities may also be engaged to be part of the team to ascertain the presence of the institutions that have the mandate to perform specific state obligations for the protection, promotion and fulfillment of human rights.</li> <li>▪ Deployment of mission team with prior orientation and briefing on its Terms of Reference and work plan for certain time duration. During deployment, the team engages in different data gathering techniques preferably using RBA tools.</li> <li>▪ Consolidation of findings and reports on findings and recommendations for endorsement to the CIC and Commission-En-Banc for deliberation and resolution, as well as execution of proper remedies and referrals to relevant authorities.</li> </ul>	
<p><b>TIMING/DURATION</b></p> <ul style="list-style-type: none"> <li>▪ To start once the Commission issue a directive</li> <li>▪ Activity to be undertaken within one (1) week</li> </ul>	







## **7 SITUATION TRACKING**

### **7.1 System Definition**

- 7.1.1 The rights based situation tracking system is a representation of the activities of the CHRP in looking into human conditions affected by violations of human rights and the causes thereof, especially where the sectors are not aware that the government is bound to comply with international standards and norms for the protection and promotion of human rights.
- 7.1.2 The system provides a holistic view of the people's sufferance because of the violations and encouraging advocacy within the community/sector in order to identify the roles of the duty holders, stakeholders and claimholders for a coordinative effort in the full realization of human rights.
- 7.1.3 The system is a rights-based assessment of areas where there are prevalent and systemic violations of human rights of the poor, vulnerable and disadvantaged sectors specially in the remotest parts of the country that are poverty stricken, insurgency infested and deteriorating development and governance conditions.

### **7.2 Application of the System**

- 7.2.1 The system will be applied by concerned regional office upon taking cognizance of area-specific concerns for rising systemic trends and patterns of human rights violations on the basis of present and past records of the CHRP.
- 7.2.2 The same will be applied upon prioritization of selected areas based on the strategic and substantive physical relationship to poverty, peace and order problem, insurgency and other alarming development and governance issues.

### **7.3 Operating Policies**

- 7.3.1 It is the policy of the CHRP to address human rights violations to their roots. Where such violations reveal some patterns and trends, the Commission through its regional offices in different parts of the country will undertake various forms of activities to keep track of situations that give rise to increasing level of incidence of human rights violations. These situations may be poverty related, peace and order problem connected, insurgency oriented or founded in prevalent development or governance issues both area specific and national scale.
- 7.3.2 Also, it is the policy of the Commission to institute a rights-based situation mapping of areas where there are rising incidents of human rights violations as a key methodology for engaging localities in understanding human rights conditions that relate to interactions of various stakeholders of governance such as government, private sector and civil society as duty holders of rights and claimholders of rights.

- 7.3.3 Further, it is the policy of the Commission, to give special attention to the poor, vulnerable and disadvantaged sectors in different localities and make its services accessible for those living in remote areas through its decentralized structures in the regions as consultation points of local constituencies on matters pertaining to human rights protection and promotion.

## **7.4 Processes**

- 7.4.1 The processes involve in situation tracking are: Selection of Areas, Situation Mapping, identification of Contact Points, Analysis and Issuance of local or national advisories, assessment and publication. Along these processes are various procedural steps to be undertaken by concerned regional and central offices.

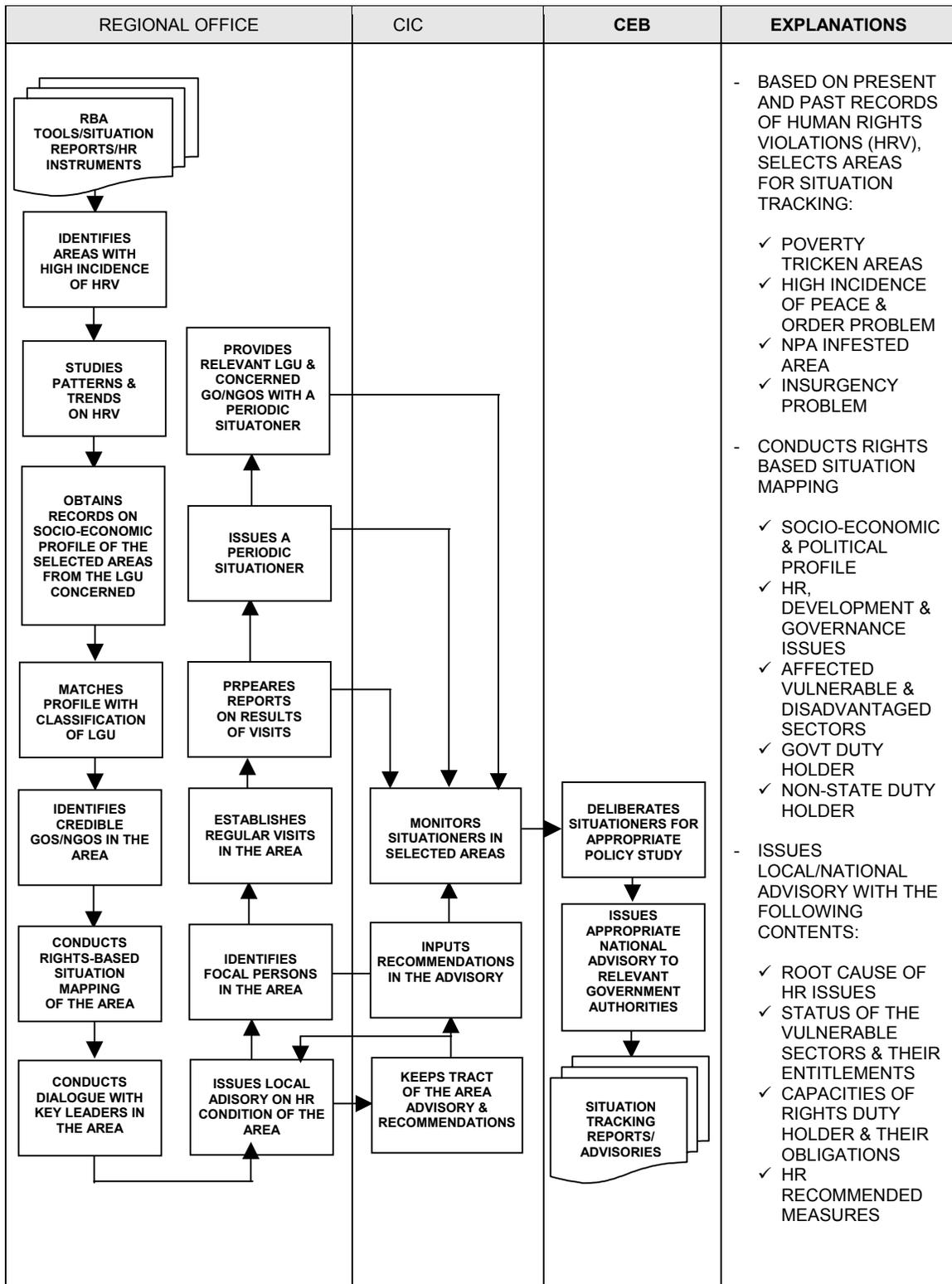
### **At Operating Level**

- 7.4.2 The system will be applied by concerned regional office upon taking cognizance of area-specific concerns for rising systemic trends and patterns of human rights violations on the basis of present and past records of the CHRP.
- 7.4.3 The same will be applied upon prioritization of selected areas based on the strategic and substantive physical relationship to poverty, peace and order problem, insurgency and other alarming development and governance issues.
- 7.4.4 Both the central and regional offices will perform critical contributions to make the system work. The central office will provide the instruments and oversight monitoring guidelines on the implementation of the system while the regional offices will be the direct implementers of the system in selected areas.
- 7.4.5 The Regional Office will perform all the groundwork to include the identification of selected areas, visiting of the areas, the conduct of situation tracking activities and techniques, the analysis and reporting and issuance of appropriate local advisories based on the rights-based approach of scanning and assessment of the situation and condition in the selected areas.

### **At Oversight Level**

- 7.4.6 The Commissioner-In-Charge will perform oversight monitoring of the regional system for area-specific human rights situation tracking system for the purpose of establishing the appropriate measures and recommendations that will help regional offices with their local advisories and more importantly, in the issuance of national advisories that have national relevance and application to established commonalities of situation and condition in selected areas.
- 7.4.7 The Commission En Banc shall be responsible for the formulation and issuance of national advisories to relevant authorities in relation to improving human rights conditions in poverty stricken areas, peace and order problem areas, insurgency infested areas and other areas with special development and governance problems.

<p><b>SYSTEM COMPONENT</b></p> <p>HR Situation Tracking</p>	<p><b>IMPLEMENTING OFFICES</b></p> <p>Regional Office / Legal and Investigation office</p>
<p><b>PROCESSES</b></p> <ul style="list-style-type: none"> <li>▪ Selection of areas</li> <li>▪ Situation mapping</li> <li>▪ Identification of contact points</li> <li>▪ Analysis and Issuance of local or national advisories</li> <li>▪ Assessment and publication</li> </ul>	
<p><b>DESCRIPTION</b></p> <p><b>Purpose</b></p> <ul style="list-style-type: none"> <li>• To Prescribe the objectives, coverage, processes and procedures for the conduct of regular situation tracking of areas established to have rising pattern and trends of human rights violations</li> <li>• To establish accountability and responsibility at the national and regional levels related to the conduct of situation tracking of areas with high incidence of human rights violations</li> </ul> <p><b>Inputs</b></p> <ul style="list-style-type: none"> <li>• International instruments</li> <li>• RBA tools</li> <li>• Rights-based agency mapping matrix</li> </ul> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• HR tracking reports in selected areas (LIO-LSS Form No. 1)</li> <li>• Advisories, recommendations and measures (LIO-LSS Form No. 6)</li> </ul>	
<p><b>WORK INVOLVED</b></p> <p>The Human Rights Tracking System consists of the following:</p> <ul style="list-style-type: none"> <li>▪ <b>Selection of Areas.</b> This entails a process of digging into the past records of both the regional and national office for the past five to ten years in order to establish some patterns and trends in human rights violations in areas reported to have systemic violations.</li> <li>▪ <b>Situation Mapping of Areas.</b> This involves the use of the rights-based approach and tools to establish the various human rights problems in the area, the relevant duty holders, the claimholders including their corresponding obligations and entitlements and their capacities to remedy the situation in the area.</li> <li>▪ <b>Establishment of Contact Points.</b> This comprises activities and techniques in convening different local groups both government and non-government to include local organization in situation analysis, providing strategic information and regular update on the situation obtaining in the areas.</li> <li>▪ <b>Assessment and Issuance of Local Advisories.</b> The use of the human rights framework particularly normative content of human rights status in the area will be critical in the issuance of the advisory. Such advisory will contain discussions on the root cause of human rights issues, status of the vulnerable sectors &amp; their entitlements, capacities of rights duty holder &amp; their obligations and the recommended measures for local authorities.</li> <li>▪ <b>Oversight Monitoring.</b> This intervention of the Commissioner –In-Charge will provide comprehensiveness of the assessment and recommendations using the perspective of the CIC in applying the norms and standards on human rights under the international instruments and their functional areas of specialization relative to human rights protection and promotion.</li> <li>▪ <b>Policy Coordination.</b> This function will tighten the whole system of human rights situation tracking with the more equipped intervention of the Commission En Banc through its overall review and assessment of conditions that give rise to systemic violations in selected areas and also, through their issuance of appropriate national advisory that will alert national authorities on their obligations and the general public in terms of the human rights conditions prevailing in different parts of the country.</li> </ul>	
<p><b>TIMING/DURATION</b></p> <ul style="list-style-type: none"> <li>▪ To start upon issuance of Commission Directive</li> <li>▪ Activity to be undertaken three (3) to five (5) days every month</li> </ul>	



## 8 INVESTIGATIVE MONITORING

### 8.1 System Definition

8.1.1 Considering local and global developments affecting human rights situation and condition and cognizant of the fact that protection and promotion of the economic, social and cultural rights are the least of the priorities of the government, the CHRP resolved to adopt operational priority in investigative monitoring of incidents and/or conditions obtaining the country which are violative of concerns in both areas of civil and political rights and economic, social and cultural rights. Precisely, the system has been designed establish a proactive stance in developing advocacy for the justiceability of economic, social and cultural rights.

#### **Assessment of Government's Performance Vis-a-Vis International Standards**

8.1.2 The system is a simple model of government mechanism collaborating to assess human condition and development by way of determining causes of and reasons for failure of government to comply with international treaties obligations that would result to positive measures for the full enjoyment of human rights.

8.1.3 The system establish a mechanism through which victims of situations and conditions that are violative of human rights wherever they occur will be given an opportunity to raise their problems as a matter of general knowledge and concern that could effectively be linked with the corresponding obligations of relevant government authorities and private entities.

#### **Monitoring of Economic, Social and Cultural Rights Violations**

8.1.4 The system involves a process for investigative monitoring of economic, social and cultural rights violations arising from situations and conditions resulting to systemic forms of human rights violations.

8.1.5 The system prescribes a methodical set of procedures for investigative monitoring that the regional offices will be able to use in undertaking a proactive approach to responding to violations of economic, social and cultural rights.

#### **Engagement of Experts**

8.1.6 The system engages experts' assistance in the investigative monitoring and assessment of selected issues and problems with real and potential human rights implications as a means to address systemic violations by other appropriate remedies.

## 8.2 Operating Policies

### Human Rights Situations Identification and Analysis

- 8.2.1 It is the policy of the CHRP to examine situations and conditions that deter or obstruct the realization of the right to development of individuals and communities particularly that of the poor, vulnerable and disadvantaged. Specifically, the Commission is committed to pursue identification of human rights situations and conditions and their remedies to ensure realization of enjoyment of economic, social and political rights of individuals and communities for their constant improvement and development.

### Elimination of Massive Deprivation of Rights

- 8.2.2 In consonance with this policy, the Commission is committed to take resolute steps to eliminate massive deprivation and flagrant violations of the human rights of individuals and communities by way of investigative monitoring of situations and conditions that give rise to poor human development conditions such as poverty, hunger/food insufficiency, homelessness/substandard living, massive unemployment & underemployment, poor health/poor access to health facilities, inadequate education, poor access to services and economic opportunities, lack of social security and poor access to productive assets.

### Determination of Implications of Human Rights Situations

- 8.2.3 The Commission adopts as a policy the conduct of investigative monitoring of the various human development situations and problems on the basis of their implications to human rights and in order that appropriate developmental and progressive remedies may be undertaken by identified duty holders from among government and private entities and necessary participation and cooperation among CSOs may be generated.

### Advocacy Efforts

- 8.2.4 In the conduct of this investigative monitoring function, the Commission assumes advocacy position to help government remove all obstacles to development that are violative of internationally guaranteed human rights norms and standards, to the extent of engaging government to undertake progressive alternatives to remedy the situations and whenever necessary, to pursue justiceability of human rights conditions and situations whenever the government continues to abrogate its obligations to respect, protect and fulfill its obligations related to violative human rights situations and conditions.

## 8.3 Processes

- 8.3.1 The system involves a process of selection of HR Issues, preparation of Case Brief, Structured Gathering of Facts, Analysis and oversight Monitoring with the participation of the various regional and central offices

**At Operating Level**

- 8.3.2 The system commences upon initiation of the regional offices to do investigative monitoring of selected situations or conditions affecting the poor, vulnerable and disadvantaged sectors.
- 8.3.3 The Regional Office operates the system on investigative monitoring from the selection of human rights issues to the identification of appropriate remedies for their solution.

**At Oversight Level**

- 8.3.4 The Legal and Investigation Office will perform oversight technical assistance to regional offices in terms of developing standards and guidelines on the conduct of investigative monitoring and further assessment of the outcomes of the investigative monitoring activities of the regional offices.
- 8.3.5 The Commissioner-In-Charge will provide oversight assistance to the Regional Offices in the areas of reviewing and further analyzing the deeper and wider human rights implications of issues and problems in relation to national and international criteria and standards and in identifying strategic approaches to engage relevant government authorities and private sector in complying and fulfilling certain obligations that will provide available remedies to selected issues and problems.

SYSTEM COMPONENT	IMPLEMENTING OFFICES
Investigative Monitoring System	Regional Office/LIO
<p><b>PROCESSES</b></p> <ul style="list-style-type: none"> <li>▪ Selection of HR Issues</li> <li>▪ Preparation of a case brief</li> <li>▪ Structured gathering of facts</li> <li>▪ Analysis and oversight monitoring</li> </ul>	
<p><b>DESCRIPTION</b></p> <p><b>Purpose</b></p> <ul style="list-style-type: none"> <li>• To establish a mechanism through which victims of situations and conditions that are violative of human rights wherever they occur will be given an opportunity to raise their problems as a matter of general knowledge and concern that could effectively be linked with the corresponding obligations of relevant government authorities and private entities</li> <li>• To engage experts assistance in the investigative monitoring and assessment of selected issues and problems with real and potential human rights implications as a means to address systemic violations by other appropriate remedies</li> </ul> <p><b>Inputs</b></p> <ul style="list-style-type: none"> <li>• National/Regional HR situationer</li> <li>• Rights-based agency mapping matrix</li> <li>• National/local laws and ordinances</li> <li>• International HR instruments</li> </ul> <p><b>Outputs</b></p> <ul style="list-style-type: none"> <li>• Writ of Engagement/Resolution (LIO-PI Form Nos. 1 and 2)</li> <li>• Documentation and publication of reports</li> </ul>	
<p><b>WORK INVOLVED</b></p> <ol style="list-style-type: none"> <li>1. <b>Selection of Human Rights Issues.</b> This entails critical analysis of past and present records of situations and conditions affecting the poor, vulnerable and disadvantaged sectors on a wider scale and showing negative patterns and trends. The issues will focus on human development issues and how the different government authorities respond to these issues over a specified period of time.</li> <li>2. <b>Preparation of Case Brief.</b> The brief will use a rights oriented discussion of the facts of the issues, the various stakeholders concerned classified into the duty holder and rights holder, past efforts done by relevant authorities and other concerned organizations, presence of human rights guarantees to include existing operative mechanism to improve situation and conditions, the capacities of relevant authorities to respond to issues and problems and the manner or mechanisms through which the vulnerable sectors could participate.</li> <li>3. <b>Structured Gathering of Facts.</b> This will be done through a carefully crafted Question and Answer Instrument the contents of which will vary from case to case on hand. The Q &amp; A will be based on human rights principles, concepts of duty holder and state obligation, concept of rights holder and entitlements, the normative content of the rights involved based on international instruments and the like.</li> <li>4. <b>Analysis and Assessment of Human Rights Issues.</b> On the basis of the information/data gathered, engagement of expert's assistance will be sought to provide the substantive appraisal of the issues and problems that would require multi-disciplinary approach.</li> <li>5. <b>Oversight Monitoring.</b> This will be undertaken by closely interpreting the issues and situations on the basis of the information gathered and in relation to the interpretation on the use of international criteria and standards. This concerns also the monitoring of the execution of the writ of engagement, the conduct of further investigation for seeking justiciability of the case and the appropriate assessment, consolidation and publication of the findings and remedies identified to respond to the selected human rights issue or problem at the national level by the LIO.</li> </ol>	
<p><b>TIMING/DURATION</b></p> <ul style="list-style-type: none"> <li>▪ To start upon cognizance of issue for investigative monitoring</li> <li>▪ Activities to be completed in thirty (30) days</li> </ul>	

