



HOUSE OF REPRESENTATIVES

H. No. 5846

BY REPRESENTATIVES OCAMPO, CASIÑO, MAGTUBO, TULAGAN, ROSALES,
AGUJA, VIRADOR, BELTRAN, TAÑADA, MAZA, MARIANO, AMIN, HIZON,
LAGMAN, MARCOLETA, HONTIVEROS-BARAQUEL AND DATUMANONG,
PER COMMITTEE REPORT NO. 1998

AN ACT PENALIZING THE COMMISSION OF ACTS OF TORTURE
AND OTHER CRUEL, INHUMAN AND DEGRADING
TREATMENT OR PUNISHMENTS, PRESCRIBING PENALTIES
THEREFOR AND FOR OTHER PURPOSES

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

1 SECTION 1. *Short Title.* – This Act shall be known as the “Anti-Torture
2 Act of 2006”.

3 SEC. 2. *Statement of Policy.* – It is hereby declared the policy of the
4 State:

5 (a) To ensure that the rights of all persons, including suspects,
6 detainees and prisoners are respected at all times; and that no person placed
7 under investigation or held in custody of any person in authority shall be
8 subjected to physical harm, force, violence, threat or intimidation or any act
9 that impairs his/her free will; and

1 (b) To fully adhere to the principles and standards on the absolute
2 condemnation and prohibition of torture set by the 1987 Philippine
3 Constitution and various international instruments, such as the International
4 Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights
5 of the Child (CRC), the Convention on the Elimination of All Forms of
6 Discrimination Against Women (CEDAW) and the Convention Against
7 Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
8 (CAT), to which the Philippines is a State party.

9 SEC. 3. *Torture, When Committed.* – “Torture” shall be deemed
10 committed when an act by which severe pain or suffering, whether physical or
11 mental, is intentionally inflicted on a person for such purposes as obtaining
12 from him/her or a third person information or a confession; punishing him/her
13 for an act he/she or a third person has committed or is suspected of having
14 committed; or intimidating or coercing him/her or a third person; or for any
15 reason based on discrimination of any kind, when such pain or suffering is
16 inflicted by or at the instigation of or within the consent or acquiescence of a
17 public official or other person acting in an official capacity. It does not include
18 pain or suffering arising only from inherent or incidental to lawful sanctions.

19 For purposes of this Act, torture shall include, but not be limited to, the
20 following:

21 (a) Physical torture, which shall be understood as referring to such
22 cruel, inhuman or degrading treatment which causes pain, exhaustion,
23 disability or dysfunction of one or more parts of the body, such as:

24 (1) Systematic beatings, headbangings, punching, kicking, striking with
25 truncheons, rifle butts and jumping on the stomach;

26 (2) Food deprivation or forcible feeding with spoiled food, animal or
27 human excreta or other food not normally eaten;

28 (3) Electric shocks;

- 1 (4) Cigarette burning, burning by electrically heated rods, hot oil, acid;
2 by the rubbing of pepper or other chemical substances on mucous membranes,
3 or acids or spices directly on the wounds;
- 4 (5) The submersion of the head in water or water polluted with
5 excrement, urine, vomit and/or blood until the brink of suffocation;
- 6 (6) Being tied or forced to assume fixed and stressful bodily positions;
- 7 (7) Rape and sexual abuse, including the insertion of foreign bodies
8 into the sex organs or rectum or electrical torture of the genitals;
- 9 (8) Other forms of sexual abuse;
- 10 (9) Mutilation, such as amputation of the essential parts of the body
11 such as the genitalia, ears, tongue, etc.;
- 12 (10) Dental torture or the forced extraction of the teeth;
- 13 (11) Harmful exposure to the elements such as sunlight and extreme
14 cold;
- 15 (12) The use of plastic bags and other materials placed over the head to
16 the point of asphyxiation;
- 17 (13) The use of psychoactive drugs to change the perception, memory,
18 alertness or will of a person, such as:
- 19 (i) Administration of drugs to induce confession and/or reduce mental
20 competency; or
- 21 (ii) The use of drugs to induce extreme pain or certain symptoms of
22 disease; or
- 23 (14) Other forms of aggravated and deliberate cruel, inhuman or
24 degrading physical and/or pharmacological treatment or punishment; and
- 25 (b) Mental/psychological torture, which shall be understood as
26 referring to such cruel, inhuman or degrading treatment calculated to affect or
27 confuse the mind and/or undermine a person's dignity and morale, such as:
- 28 (1) Blindfolding;

1 (2) Threatening a person or such persons related or known to him/her
2 with bodily harm, execution or other wrongful acts;

3 (3) Confinement in solitary cells put up in public places;

4 (4) Confinement in solitary cells against their will or without prejudice
5 to their security;

6 (5) Prolonged interrogation so as to deny normal length of sleep and/or
7 rest;

8 (6) Preparing a prisoner for a “show trial”, public display or public
9 humiliation, considerably defeating the political effectiveness of the prisoner;

10 (7) Causing unscheduled transfer/s of a person from one place to
11 another, creating the belief that he/she shall be summarily executed;

12 (8) Maltreating a member of the person or person/s’ family;

13 (9) Causing the torture sessions to be witnessed by the person/s’ family,
14 relatives or any third party;

15 (10) Inculcating generalized fear among certain sections of the
16 population;

17 (11) Denial of sleep/rest;

18 (12) Shame infliction such as stripping the person/s naked, parading
19 them in public places, shaving their heads or putting marks on their bodies
20 against their will;

21 (13) Confinement in jails and prisons under intolerable subhuman
22 conditions; or

23 (14) Other forms of deliberate and aggravated cruel, inhuman or
24 degrading mental treatment or punishment.

25 SEC. 4. *Freedom from Torture as a Non-Derogable Right.* – Torture is
26 hereby declared a criminal act. No exceptional circumstances whatsoever,
27 whether a state of war or a threat of war, internal political instability, or any
28 other public emergency, may be invoked as a justification for torture.

1 Secret detention places, solitary, incommunicado or other similar forms
2 of detention, where torture may be carried on with impunity, are hereby
3 prohibited. Any confession, admission or statement obtained as a result of
4 torture shall not be invoked as evidence in any proceedings, except against a
5 person accused of torture as evidence that said confession, admission or
6 statement was made.

7 *SEC. 5. Protection of Persons Involved in Prosecution.* – Any
8 individual who alleges he/she has been subjected to torture shall have the right
9 to complain to and to have his/her case promptly and impartially examined by
10 any competent authorities. Steps shall be taken to ensure that the complainant
11 is protected against all ill treatment or intimidation as a consequence of his/her
12 complaint or any given evidence.

13 Likewise, the State through its appropriate agencies shall ensure the
14 safety of all other persons involved in the prosecution and investigation on
15 cases of torture such as the legal counsel, witnesses and relatives of the victims
16 of torture. They shall be protected from ill treatment and any act of
17 intimidation or reprisal as a result of the complaint or investigation. Any
18 person committing such acts shall be criminally liable.

19 *SEC. 6. Assistance in Filing a Complaint.* – A party who suffered
20 torture and other cruel, inhuman and degrading treatment or punishment, or
21 any interested party on their behalf, may seek legal assistance in the proper
22 handling and filing of the complaint from the regional offices of the
23 Commission on Human Rights (CHR), the Barangay Human Rights Action
24 Center nearest them, as well as from human rights nongovernment
25 organizations duly recognized by the government.

26 *SEC. 7. Right to Physical and Psychological Examination.* – Every
27 person arrested, detained or under custodial investigation shall have the right to
28 be informed of his/her right to demand a physical and psychological

1 examination by an independent and competent doctor of his/her own choice
2 before and after interrogation, which shall be conducted *outside the influence*
3 of the police or security forces. If such person cannot afford the services of
4 his/her own doctor, he/she shall be provided by the State with a competent and
5 independent doctor. If the person arrested is a female, she shall be provided
6 with a female doctor. Furthermore, every person arrested, detained or under
7 custodial investigation shall have the right to immediate access to quality
8 medical treatment.

9 The *medical report* shall include in detail the history and the findings of
10 the physical and psychological examination and shall be attached to the
11 custodial investigation report; otherwise, such investigation report shall be
12 deemed null and void and of no effect whatsoever. Following applicable
13 protocol agreed upon by agencies, medical reports shall, among others, include
14 the following:

- 15 (1) The name, age and address of the patient;
- 16 (2) The name and address of the nearest kin of the patient;
- 17 (3) The name and address of the person who brought the patient for
18 physical and psychological examination;
- 19 (4) The *nature* and probable cause of the patient's injuries and trauma;
- 20 (5) The approximate time and date when the injury and/or trauma was
21 sustained;
- 22 (6) The place where the injury and/or trauma was sustained;
- 23 (7) The time, date and nature of treatment necessary; and
- 24 (8) The diagnosis, the prognosis and/or disposition of the patient.

25 Any person who does not wish to avail of the rights under this provision
26 may knowingly and voluntarily waive such rights in writing.

27 SEC. 8. *Criminal Liability.* – Torture as defined in Section 3 of this Act
28 is hereby declared as a criminal act. Any person who actually participated in

1 the infliction of torture or who is present during the commission of said act
2 shall be liable as principal. Any superior military, police or law enforcement
3 officer or senior government official who issued an order to a lower ranking
4 personnel to torture a victim for whatever purpose shall be held equally liable
5 as principals. An order from a superior officer or from a superior in the office
6 or public authority shall not be invoked as a justification of torture.

7 SEC. 9. *Liability.* – The immediate commanding officer of the unit
8 concerned of the Armed Forces of the Philippines (AFP) or the immediate
9 senior public official of the Philippine National Police (PNP) and other law
10 enforcement agencies shall be held liable as accessory to the crime for any act
11 or omission or negligence on his part that may have led to the commission of
12 torture by his/her subordinates.

13 SEC. 10. *Penalties.* – (a) Torture resulting in the loss of life of any
14 person shall be considered as murder and shall be punishable by *reclusion*
15 *perpetua*.

16 (b) Torture with rape shall be punishable by *reclusion perpetua*.

17 (c) Torture resulting in mutilation shall be punishable by *reclusion*
18 *perpetua*.

19 (d) Any person found guilty of any other form of torture shall suffer:

20 (1) The penalty of *reclusion perpetua*, if other forms of sexual abuse
21 have also been committed and/or in consequence of torture, the victim shall
22 become insane, imbecile, impotent, blind or maimed for life;

23 (2) The penalty of *reclusion perpetua*, if committed against children;

24 (3) The penalty of *prision mayor* in its medium and maximum periods,
25 if in consequence of torture, the victim shall have lost the use of speech or the
26 power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm or a
27 leg or shall have lost the use of any such member, or shall have become

1 permanently incapacitated for the work in which he/she was theretofore
2 habitually engaged;

3 (4) The penalty of *prision mayor* in its minimum and medium periods,
4 if in consequence of torture, the victim shall have become deformed or shall
5 have lost any other part of his/her body, or shall have lost the use thereof, or
6 shall have been ill or incapacitated for the performance of the work in which
7 he/she was habitually engaged for a period of more than ninety (90) days;

8 (5) The penalty of *prision correccional* in its maximum period to
9 *prision mayor* in its minimum period, if the consequence of torture shall have
10 caused the illness or incapacity for labor of the victim for more than thirty (30)
11 days; and

12 (6) The penalty of *prision correccional* in its minimum period to
13 *prision correccional* in its medium period, if the consequence of torture shall
14 have caused the illness or incapacity for labor of the victim for thirty (30) days
15 or less.

16 (e) Mental/psychological torture resulting in death, complete or partial
17 amnesia, fear of going crazy, insanity or suicidal tendencies of the victim due
18 to guilt, worthlessness or shame shall be punishable with *reclusion temporal* or
19 a fine of not less than Fifty thousand pesos (P50,000.00), or both, at the
20 discretion of the court.

21 The above penalties shall be without prejudice to the prosecution of
22 other crimes and other legal remedies available to the victim under other
23 existing law/s.

24 SEC. 11. *On Refouler.* – No person shall be expelled, returned or
25 extradited to another State where there are substantial grounds for believing
26 that such person would be in danger of being subjected to torture.

27 For the purpose of determining whether there are such grounds, the
28 Secretary of Foreign Affairs and the Secretary of Justice, in coordination with

1 the Chairperson of the CHR, shall take into account all relevant considerations
2 including, where applicable, the existence in the requesting State of a
3 consistent pattern of gross, flagrant or mass violations of human rights.

4 SEC. 12. *Compensation to Victims of Torture.* – Any person who has
5 suffered torture shall have the right to claim for compensation as provided for
6 under Republic Act No. 7309: *Provided, That* in no case shall compensation be
7 any lower than Ten thousand pesos (P 10,000.00). Victims of torture shall also
8 have the right to claim for compensation from such other financial relief
9 programs that may be available to him/her.

10 SEC. 13. *Formulation of a Rehabilitation Program.* – Within one year
11 from the effectivity of this Act, the Department of Social Welfare and
12 Development (DSWD), together with the Department of Justice (DOJ) and the
13 Department of Health (DOH) and such other concerned government agencies,
14 shall formulate a comprehensive rehabilitation program for victims of torture
15 and their families. The DSWD, the DOJ and the DOH shall also call on human
16 rights nongovernment organizations duly recognized by the government to
17 actively participate in the formulation of a rehabilitation program that shall
18 provide for the physical, mental, social, psychological and spiritual healing and
19 development of victims of torture and their families.

20 SEC. 14. *Designation of Organizational Responsibility.* – The AFP,
21 the PNP and other law enforcement and investigative agencies shall ensure
22 that the function of overseeing the implementation of this Act shall be
23 specifically assigned to a particular office or unit of the agency concerned.

24 SEC. 15. *Education and Information Campaign.* – The CHR, the DOJ,
25 the Department of National Defense and such other concerned parties in both
26 the public and private sectors shall ensure that education and information
27 regarding the prohibition against torture shall be fully included in the training
28 of law enforcement personnel, civil or military, medical personnel, public

1 officials and other persons who may be involved in the custody, interrogation
2 or treatment of any individual subjected to any form of arrest, detention or
3 imprisonment. The Department of Education and the Commission on Higher
4 Education shall also ensure the integration of human rights education in the
5 formal curricula of all primary, secondary and tertiary level academic
6 institutions nationwide.

7 SEC. 16. *Suppletory Applications.* – The provisions of the Revised
8 Penal Code shall be suppletory to this Act.

9 SEC. 17. *Implementing Rules and Regulations.* – The DOJ and the
10 CHR, with the active participation of human rights nongovernmental
11 organizations, shall promulgate the rules and regulations for the effective
12 implementation of this Act. They shall also ensure the full dissemination of
13 such rules and regulations to all officers and members of various law
14 enforcement agencies.

15 SEC. 18. *Separability Clause.* – If any provision of this Act is declared
16 invalid or unconstitutional, the other provisions not affected thereby shall
17 continue to be in full force and effect.

18 SEC. 19. *Repealing Clause.* – All laws, decrees, executive orders or
19 rules and regulations contrary to or inconsistent with the provisions of this Act
20 are hereby repealed or modified accordingly.

21 SEC. 20. *Effectivity.* – This Act shall take effect fifteen (15) days after
22 its publication in at least two newspapers of general circulation.

Approved,