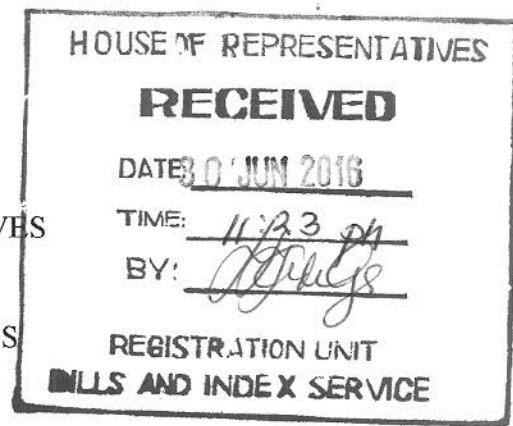


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 688



Introduced by Representative Xavier Jesus D. Romualdo

EXPLANATORY NOTE

Section 11, Article II of the *Constitution* provides that,

"Sec. 11. The State values the dignity of every human person and guarantees full respect for human rights."

Article 5 of the *Universal Declaration on Human Rights* states that,

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Moreover, Article 7 of the *International Covenant on Civil and Political Rights* declares that,

"No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation."

Acts of torture are, by themselves, deplorable and reprehensible, and may be committed by anyone. Anti-torture legislation must, therefore, cover all acts of torture and other forms of cruel, inhuman or degrading treatment, regardless of the status, station, or personality of the perpetrator.

While Article 1 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* defines torture as:

"x x x any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity"

It also provides that:

"This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application."

Thus, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* to which the Philippines is a signatory allows, if not encourages, "national legislation which does or may contain provisions of wider application."

On November 10, 2009, the President signed into law Republic Act (RA) No. 9745 entitled, *An Act Penalizing the Commission of Acts of Torture and other Cruel, Inhuman and Degrading Treatment or Punishment, Prescribing Penalties Therefor and for other Purposes*. However, RA No. 9745 limits its coverage to acts of torture committed by and other cruel, inhuman or degrading treatment or punishment inflicted by "a person in authority or an agent of a person in authority." Thus, acts of torture committed by members of insurgent groups, terrorist organizations, criminal syndicates, and other private persons are not within the purview of, and are not punished by, RA No. 9745.

It is incumbent upon Congress to pass legislation that punishes all acts of torture and other forms cruel, inhuman or degrading treatment. It is our duty to enact legislation that will protect each individual against these acts and to prevent their occurrence. This measure seeks to improve Republic Act No. 9745 by punishing all acts of torture and other forms of cruel, inhuman or degrading treatment, whether the same be committed by public officials or their agents or by private individuals.

It should also be recognized, however, that public officers are subject to a higher standard of responsibility. Hence, this proposed measure provides that where the offense is committed by a public officer who takes advantage of his public position in the commission of the offense, the penalty to be imposed shall be in its maximum period.

In view of the foregoing, the support of the Members of Congress for prompt passage of this measure is earnestly sought.



XAVIER JESUS D. ROMUALDO

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AN ACT
PENALIZING ALL ACTS OF TORTURE AND OTHER FORMS OF CRUEL,
INHUMAN, OR DEGRADING TREATMENT, WHETHER COMMITTED BY
PUBLIC OFFICIALS OR THEIR AGENTS OR BY PRIVATE INDIVIDUALS
AND UPDATING THE PENALTIES THEREFOR, AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 9745, ENTITLED "AN ACT PENALIZING THE
COMMISSION OF ACTS OF TORTURE AND OTHER CRUEL, INHUMAN
AND DEGRADING TREATMENT OR PUNISHMENT, PRESCRIBING
PENALTIES THEREFOR AND FOR OTHER PURPOSES."

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

1 SECTION 1. Sections 3, 4, 5, and 6 of Republic Act (RA) No. 9745 are hereby amended
2 to read, as follows:

3
4 Section 3. *Definitions.* – For purposes of this Act, the following terms
5 shall mean:

6
7 (a) *"Torture"* refers to an act by which severe pain or
8 suffering, whether physical or mental, is intentionally
9 inflicted on an individual for such purposes as obtaining
10 from him/her or a third person information or a confession;
11 punishing him/her for an act he/she or a third person has
12 committed or is suspected of having committed; or
13 intimidating or coercing him/her or a third person; or for
14 any reason based on discrimination of any kind [when such
15 pain or suffering is inflicted by or at the instigation of or

1 with the consent or acquiescence of a person in authority or
2 agent of a person in authority]. It does not include pain or
3 suffering arising only from, inherent in or incidental to
4 lawful sanctions.

5
6 (b) *“Other cruel, inhuman, and degrading treatment or*
7 *punishment”* refers to a deliberate and aggravated treatment
8 or punishment not enumerated under Section 4 of this Act,
9 inflicted by [a] ANY person [in authority or agent of a
10 person in authority] against [a person] ANOTHER under
11 his/her custody OR DETENTION, WHETHER SUCH
12 DETENTION BE LAWFUL OR NOT, which attains a
13 level of severity causing suffering, gross humiliation, or
14 debasement to the latter.

15
16 (c) *“Victim”* refers to the person subjected to torture or
17 other cruel, inhuman and degrading treatment or
18 punishment as defined above and any individual who has
19 suffered harm as a result of any act(s) of torture, or other
20 cruel, inhuman and degrading treatment or punishment.

21
22 (d) *“Order of Battle”* refers to a document made by the
23 military, police or any law enforcement agency of the
24 government, listing the names of persons and organizations
25 that it perceives to be enemies of the State and that it
26 considers as legitimate targets as combatants that it could
27 deal with, through the use of means allowed by domestic
28 and international law.

29

1 **Section 4. *Acts of Torture.*** – For purposes of this Act, torture shall include,
2 but not be limited to, the following:

3
4 **(a) Physical torture is a form of treatment or punishment**
5 **inflicted by [a] ANY person [in authority or agent of a**
6 **person in authority] upon another in his/her custody OR**
7 **DETENTION, WHETHER SUCH CUSTODY OR**
8 **DETENTION IS LAWFUL OR NOT, that causes severe**
9 **pain, exhaustion, disability or dysfunction of one or more**
10 **parts of the body, such as:**

11
12 **(1) systematic beating, head banging, punching,**
13 **kicking, striking with truncheon or rifle butt or other**
14 **similar objects, and jumping on the stomach;**

15
16 **(2) food deprivation or forcible feeding with spoiled**
17 **food, animal or human excreta and other stuff or substances**
18 **not normally eaten;**

19
20 **(3) electric shock;**

21
22 **(4) cigarette burning; burning by electrically heated rods,**
23 **hot oil, acid; by the rubbing of pepper or other chemical**
24 **substances on mucous membranes, or acids or spices**
25 **directly on the wound(s);**

26
27 **(5) the submersion of the head in water or water polluted**
28 **with excrement, urine, vomit and/or blood until the brink of**
29 **suffocation;**

30

1 (6) being tied or forced to assume fixed and stressful bodily
2 position;

3
4 (7) rape and sexual abuse, including the insertion of foreign
5 bodies into the sex organ or rectum, or electrical torture of
6 the genitals;

7
8 (8) mutilation or amputation of the essential parts of the
9 body, such as the genitalia, ear, tongue, etc.;

10
11 (9) dental torture or the forced extraction of the teeth;

12
13 (10) pulling out of fingernails;

14
15 (11) harmful exposure to the elements, such as sunlight and
16 extreme cold;

17
18 (12) the use of plastic bag and other materials placed over
19 the head to the point of asphyxiation;

20
21 (13) the use of psychoactive drugs to change the
22 perception, memory, alertness or will of a person, such as:

23
24 (i) the administration of drugs to induce confession and/or
25 reduce mental competency; or

26
27 (ii) the use of drugs to induce extreme pain or certain
28 symptoms of a disease; and

29
30 (14) other analogous acts of physical torture; and

1 (b) Mental/Psychological Torture refers to acts committed
2 by [a] ANY person [in authority or agent of a person in
3 authority] which are calculated to affect or confuse the
4 mind and/or undermine a person's dignity and morale, such
5 as:

6
7 (1) blindfolding;

8
9 (2) threatening a person(s) or his/her relative(s) with
10 bodily harm, execution or other wrongful acts;

11
12 (3) confinement in solitary cells or secret detention
13 places;

14 (4) prolonged interrogation;

15
16 (5) preparing a prisoner for a "show trial," public
17 display or public humiliation of a detainee or prisoner;

18
19 (6) causing unscheduled transfer of a person deprived of
20 liberty from one place to another, creating the belief that
21 he/she shall be summarily executed;

22
23 (7) maltreating a member/s of a person's family;

24
25 (8) causing the torture sessions to be witnessed by the
26 person's family, relatives or any third party;

27
28 (9) denial of sleep/rest;

29

1 (10) shame infliction such as stripping the person naked,
2 parading him/her in public places, shaving the victim's
3 head or putting marks on his/her body against his/her
4 will;

5
6 (11) deliberately prohibiting the victim to communicate
7 with any member of his/her family; and

8
9 (12) other analogous acts of mental/psychological
10 torture.

11
12 *Section 5. Other Cruel, Inhuman, and Degrading Treatment or*
13 *Punishment.* – Other cruel, inhuman or degrading treatment or punishment
14 refers to a deliberate and aggravated treatment or punishment not
15 enumerated under Section 4 of this Act, inflicted by [a] ANY person [in
16 authority or agent of a person in authority] against another person in
17 HIS/HER custody OR DETENTION, which attains a level of severity
18 sufficient to cause suffering, gross humiliation or debasement to the latter.
19 The assessment of the level of severity shall depend on all the
20 circumstances of the case, including the duration of the treatment or
21 punishment, its physical and mental effects and, in some cases, the sex,
22 religion, age and state of health of the victim.

23
24 *Section 6. Freedom from Torture [and Other Cruel, Inhuman and*
25 *Degrading Treatment or Punishment, An Absolute] AS A NON-*
26 *DEROGABLE Right.* – Torture [and other cruel, inhuman and degrading
27 treatment or punishment as criminal acts shall apply to all circumstances]
28 IS A CRIMINAL ACT. NO EXCEPTIONAL CIRCUMSTANCES
29 WHATSOEVER, WHETHER [A] a state of war or a threat of war,
30 internal political instability, or any other public emergency, MAY BE

1 INVOKED TO JUSTIFY TORTURE. [or a document or any
2 determination comprising an] AN "order of battle" OR ANY OTHER
3 ORDER FROM A SUPERIOR OFFICER OR PUBLIC AUTHORITY
4 shall not and can never be invoked as a justification for THE
5 COMMISSION OF torture [and other cruel, inhuman and degrading
6 treatment or punishment].
7

8 SEC. 2. Section 11 of RA No. 9745 is hereby amended to read, as follows:
9

10 Section 11. RIGHT TO PHYSICAL, MEDICAL, AND
11 PSYCHOLOGICAL EXAMINATION AND Assistance in Filing [a]
12 ComplaintS. – BEFORE AND AFTER INTERROGATION, EVERY
13 PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL
14 INVESTIGATION SHALL HAVE THE RIGHT TO HE INFORMED OF
15 HIS/HER RIGHT TO DEMAND PHYSICAL EXAMINATION BY AN
16 INDEPENDENT AND COMPETENT DOCTOR OF HIS/HER OWN
17 CHOICE. IF SUCH PERSON CANNOT AFFORD THE SERVICES OF
18 HIS/HER OWN DOCTOR, HE/SHE SHALL HE PROVIDED BY THE
19 STATE WITH A COMPETENT AND INDEPENDENT DOCTOR TO
20 CONDUCT PHYSICAL EXAMINATION. THE STATE SHALL
21 ENDEAVOR TO PROVIDE THE VICTIM WITH PSYCHOLOGICAL
22 EVALUATION IF AVAILABLE UNDER THE CIRCUMSTANCES. IF
23 THE PERSON ARRESTED IS A FEMALE, SHE SHALL BE
24 ATTENDED TO PREFERABLY BY A FEMALE DOCTOR.
25 FURTHERMORE, ANY PERSON ARRESTED, DETAINED OR
26 UNDER CUSTODIAL INVESTIGATION, INCLUDING HIS/HER
27 IMMEDIATE FAMILY, SHALL HAVE THE RIGHT TO IMMEDIATE
28 ACCESS TO PROPER AND ADEQUATE MEDICAL TREATMENT.
29 THE PHYSICAL EXAMINATION AND/OR PSYCHOLOGICAL
30 EVALUATION OF THE VICTIM SHALL BE CONTAINED IN A

1 MEDICAL REPORT, DULY SIGNED BY THE ATTENDING
2 PHYSICIAN, WHICH SHALL INCLUDE IN DETAIL HIS/HER
3 MEDICAL HISTORY AND FINDINGS, AND WHICH SHALL BE
4 ATTACHED TO THE CUSTODIAL INVESTIGATION REPORT.
5 SUCH REPORT SHALL BE CONSIDERED A PUBLIC DOCUMENT.
6

7 FOLLOWING APPLICABLE PROTOCOL AGREED UPON BY
8 AGENCIES TASKED TO CONDUCT PHYSICAL, PSYCHOLOGICAL
9 AND MENTAL EXAMINATIONS, THE MEDICAL REPORTS
10 SHALL, AMONG OTHERS, INCLUDE:
11

12 (A) THE NAME, AGE AND ADDRESS OF THE PATIENT OR
13 VICTIM;
14

15 (B) THE NAME AND ADDRESS OF THE NEAREST KIN OF THE
16 PATIENT OR VICTIM;
17

18 (C) THE NAME AND ADDRESS OF THE PERSON WHO BROUGHT
19 THE PATIENT OR VICTIM FOR PHYSICAL, PSYCHOLOGICAL
20 AND MENTAL EXAMINATION, AND/OR MEDICAL TREATMENT;
21

22 (D) THE NATURE AND PROBABLE CAUSE OF THE PATIENT OR
23 VICTIM'S INJURY, PAIN AND DISEASE AND/OR TRAUMA;
24

25 (E) THE APPROXIMATE TIME AND DATE WHEN THE INJURY,
26 PAIN, DISEASE AND/OR TRAUMA WAS/WERE SUSTAINED;
27

28 (F) THE PLACE WHERE THE INJURY, PAIN, DISEASE AND/OR
29 TRAUMA WAS/WERE SUSTAINED;
30

1 (G) THE TIME, DATE AND NATURE OF TREATMENT
2 NECESSARY; AND

3
4 (H) THE DIAGNOSIS, THE PROGNOSIS AND/OR DISPOSITION OF
5 THE PATIENT.

6
7 ANY PERSON WHO DOES NOT WISH TO AVAIL OF THE RIGHTS
8 UNDER THIS PROVISION MAY KNOWINGLY AND
9 VOLUNTARILY WAIVE SUCH RIGHTS IN WRITING, EXECUTED
10 IN THE PRESENCE AND ASSISTANCE OF HIS/HER COUNSEL.

11
12 The CHR and the PAO shall render legal assistance in the investigation
13 and monitoring and/or filing of the complaint for a person who suffers
14 torture and other cruel, inhuman and degrading treatment or punishment,
15 or for any interested party thereto.

16
17 The victim or interested party may also seek legal assistance from the
18 Barangay Human Rights Action Center (BRRAC) nearest him/her as well
19 as from human rights nongovernment organizations (NGOs).

20
21 SEC. 3. Section 12 of RA No. 9745 is hereby amended to read, as follows:

22
23 **[Section 12. Right to Physical, Medical and Psychological Examination. –**
24 **Before and after interrogation, every person arrested, detained or under**
25 **custodial investigation shall have the right to be informed of his/her right**
26 **to demand physical examination by an independent and competent doctor**
27 **of his/her own choice. If such person cannot afford the services of his/her**
28 **own doctor, he/she shall be provided by the State with a competent and**
29 **independent doctor to conduct physical examination. The State shall**
30 **endeavor to provide the victim with psychological evaluation if available**

1 under the circumstances. If the person arrested is a female, she shall be
2 attended to preferably by a female doctor. Furthermore, any person
3 arrested, detained or under custodial investigation, including his/her
4 immediate family, shall have the right to immediate access to proper and
5 adequate medical treatment. The physical examination and/or
6 psychological evaluation of the victim shall be contained in a medical
7 report, duly signed by the attending physician, which shall include in
8 detail his/her medical history and findings, and which shall be attached to
9 the custodial investigation report. Such report shall be considered a public
10 document.

11
12 Following applicable protocol agreed upon by agencies tasked to conduct
13 physical, psychological and mental examinations, the medical reports
14 shall, among others, include:

15
16 (a) The name, age and address of the patient or victim;

17
18 (b) The name and address of the nearest kin of the patient or victim;

19
20 (c) The name and address of the person who brought the patient or victim
21 for physical, psychological and mental examination, and/or medical
22 treatment;

23
24 (d) The nature and probable cause of the patient or victim's injury, pain
25 and disease and/or trauma;

26
27 (e) The approximate time and date when the injury, pain, disease and/or
28 trauma was/were sustained;

29

1 (f) The place where the injury, pain, disease and/or trauma was/were
2 sustained;

3
4 (g) The time, date and nature of treatment necessary; and

5
6 (h) The diagnosis, the prognosis and/or disposition of the patient.
7

8 Any person who does not wish to avail of the rights under this provision
9 may knowingly and voluntarily waive such rights in writing, executed in
10 the presence and assistance of his/her counsel.]
11

12 SECTION 12. *CRIMINAL LIABILITY.* – ANY PERSON WHO
13 ACTUALLY PARTICIPATED OR INDUCED, DIRECTED OR
14 COMMANDED ANOTHER IN THE COMMISSION OF TORTURE OR
15 OTHER CRUEL, INHUMAN, AND DEGRADING TREATMENT OR
16 PUNISHMENT OR WHO COOPERATED IN THE EXECUTION OF
17 THE ACT OF TORTURE BY PREVIOUS OR SIMULTANEOUS ACTS
18 SHALL BE LIABLE AS A PRINCIPAL. ANY SUPERIOR MILITARY,
19 POLICE, OR LAW ENFORCEMENT OFFICER OR SENIOR
20 GOVERNMENT OFFICIAL WHO ISSUED AN ORDER TO A LOWER
21 RANKING PERSONNEL TO SUBJECT A VICTIM TO TORTURE OR
22 OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR
23 PUNISHMENT FOR WHATEVER PURPOSE SHALL BE HELD
24 EQUALLY LIABLE AS A PRINCIPAL. ANY PERSON SHALL BE
25 LIABLE AS AN ACCESSORY IF HE/SHE HAS KNOWLEDGE THAT
26 TORTURE OR OTHER CRUEL, INHUMAN AND DEGRADING
27 TREATMENT OR PUNISHMENT IS BEING COMMITTED AND
28 WITHOUT HAVING PARTICIPATED THEREIN, EITHER AS
29 PRINCIPAL OR ACCOMPLICE, TAKES PART SUBSEQUENT TO
30 ITS COMMISSION IN ANY OF THE FOLLOWING MANNER:

1
2 (A) BY HIMSELF/HERSELF PROFITING FROM OR ASSISTING THE
3 OFFENDER TO PROFIT FROM THE EFFECTS OF THE ACT OF
4 TORTURE OR OTHER CRUEL, INHUMAN, AND DEGRADING
5 TREATMENT OR PUNISHMENT;

6
7 (B) BY CONCEALING THE ACT OF TORTURE OR OTHER CRUEL,
8 INHUMAN, AND DEGRADING TREATMENT OR PUNISHMENT
9 AND/OR DESTROYING THE EFFECTS OR INSTRUMENTS
10 THEREOF IN ORDER TO PREVENT ITS DISCOVERY; OR

11
12 (C) BY HARBORING, CONCEALING OR ASSISTING IN THE
13 ESCAPE OF THE PRINCIPAL/S IN THE ACT OF TORTURE OR
14 OTHER CRUEL, INHUMAN, AND DEGRADING TREATMENT OR
15 PUNISHMENT.

16
17 SEC. 4. Section 13 of RA No. 9745 is hereby amended to read, as follows:

18
19 [Section 13. Who are Criminally Liable. - Any person who actually
20 participated Or induced another in the commission of torture or other
21 cruel, inhuman and degrading treatment or punishment or who cooperated
22 in the execution of the act of torture or other cruel, inhuman and degrading
23 treatment or punishment by previous or simultaneous acts shall be liable
24 as principal

25
26 Any superior military, police or law enforcement officer or senior
27 government official who issued an order to any lower ranking personnel to
28 commit torture for whatever purpose shall be held equally liable as
29 principals.

30

1 The immediate commanding officer of the unit concerned of the AFP or
2 the immediate senior public official of the PNP and other law enforcement
3 agencies shall be held liable as a principal to the crime of torture or other
4 cruel or inhuman and degrading treatment or punishment for any act or
5 omission, or negligence committed by him/her that shall have led,
6 assisted, abetted or allowed, whether directly or indirectly, the commission
7 thereof by his/her subordinates. If he/she has knowledge of or, owing to
8 the circumstances at the time, should have known that acts of torture or
9 other cruel, inhuman and degrading treatment or punishment shall be
10 committed, is being committed, or has been committed by his/her
11 subordinates or by others within his/her area of responsibility and, despite
12 such knowledge, did not take preventive or corrective action either before,
13 during or immediately after its commission, when he/she has the authority
14 to prevent or investigate allegations of torture or other cruel, inhuman and
15 degrading treatment or punishment but failed to prevent or investigate
16 allegations of such act, whether deliberately or due to negligence shall also
17 be liable as principals.

18
19 Any public officer or employee shall be liable as an accessory if he/she
20 has knowledge that torture or other cruel, inhuman and degrading
21 treatment or punishment is being committed and without having
22 participated therein, either as principal or accomplice, takes part
23 subsequent to its commission in any of the following manner:

24
25 (a) By themselves profiting from or assisting the offender to profit from
26 the effects of the act of torture or other cruel, inhuman and degrading
27 treatment or punishment;

28
29 (b) By concealing the act of torture or other cruel, inhuman and degrading
30 treatment or punishment and/or destroying the effects or instruments

1 thereof in order to prevent its discovery, or(c) By harboring, concealing or
2 assisting in the escape of the principal/s in the act of torture or other cruel,
3 inhuman and degrading treatment or punishment: Provided, That the
4 accessory acts are done with the abuse of the official's public functions.]
5

6 SECTION 13. *LIABILITY OF COMMANDING OFFICER OR*
7 *SUPERIOR* – IF AN OFFENSE DEFINED IN SECTION 4 OR 5 OF
8 THIS ACT IS COMMITTED BY A MEMBER OF THE AFP, THE PNP,
9 OR OTHER LAW ENFORCEMENT AGENCY OF THE
10 GOVERNMENT IN THE PERFORMANCE OF HIS/HER OFFICIAL
11 FUNCTIONS OR DUTIES AND BY TAKING ADVANTAGE OF
12 HIS/HER OFFICIAL POSITION, THE OFFENDER'S IMMEDIATE
13 SUPERIOR IN THE UNIT OR OFFICE OF THE AFP, PNP, OR OTHER
14 LAW ENFORCEMENT AGENCY SHALL, WITHOUT PREJUDICE
15 TO ANY CRIMINAL LIABILITY, BE HELD ADMINISTRATIVELY
16 LIABLE FOR NEGLECT OF DUTY UNDER THE PRINCIPLE OF
17 COMMAND RESPONSIBILITY, IF HE/SHE HAS KNOWLEDGE OF
18 OR, OWING TO THE CIRCUMSTANCES AT THE TIME, SHOULD
19 HAVE KNOWN THAT ACTS OF TORTURE OR OTHER CRUEL,
20 INHUMAN, AND DEGRADING TREATMENT OR PUNISHMENT
21 SHALL BE COMMITTED, IS BEING COMMITTED, OR HAS BEEN
22 COMMITTED BY HIS/HER SUBORDINATES OR BY OTHERS
23 WITHIN HIS/HER AREA OF RESPONSIBILITY AND, DESPITE
24 SUCH KNOWLEDGE, DID NOT TAKE PREVENTIVE OR
25 CORRECTIVE ACTION EITHER BEFORE, DURING, OR
26 IMMEDIATELY AFTER ITS COMMISSION, WHEN HE/SHE HAS
27 THE AUTHORITY TO PREVENT OR INVESTIGATE ALLEGATIONS
28 OF TORTURE OR OTHER CRUEL, INHUMAN, AND DEGRADING
29 TREATMENT OR PUNISHMENT BUT FAILED TO PREVENT OR

1 INVESTIGATE ALLEGATIONS OF SUCH ACT, WHETHER
2 DELIBERATELY OR DUE TO NEGLIGENCE.

3
4 SEC. 5. Section 14 of Republic Act No. 9745 is hereby amended to read, as follows:

5
6 Section 14. *Penalties.* – (a) The penalty of *reclusion perpetua* shall be
7 imposed upon the perpetrators of the following acts:

8
9 (1) Torture resulting in the death of any person;

10
11 (2) Torture resulting in mutilation;

12
13 (3) Torture with rape;

14
15 (4) Torture with other forms of sexual abuse and, in consequence of
16 torture, the victim shall have become insane, imbecile, impotent, blind or
17 maimed for life; and

18
19 (5) Torture committed against children.

20
21 (b) The penalty of *reclusion temporal* shall be imposed on those who
22 commit any act of mental/psychological torture resulting in insanity,
23 complete or partial amnesia, fear of becoming insane or suicidal
24 tendencies of the victim due to guilt, worthlessness, or shame;
25 *PROVIDED THAT, IF THE OFFENDER IS A PUBLIC OFFICER WHO*
26 *TOOK ADVANTAGE OF HIS POSITION IN THE COMMISSION OF*
27 *THE OFFENSE, THE PENALTY HEREIN PRESCRIBED SHALL BE*
28 *IMPOSED IN ITS MAXIMUM PERIOD.*
29

1 [(c) The penalty of *prision correccional* shall be imposed on those who
2 commit any act of torture resulting in psychological, mental and emotional
3 harm other than those described in paragraph (b) of this section.]
4

5 [(d)] (C) The penalty of *prision mayor* in its medium and maximum
6 periods shall be imposed if, in consequence of torture, the victim shall
7 have lost the power of speech or the power to hear or to smell; or shall
8 have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use
9 of any such member; or shall have become permanently incapacitated for
10 labor, *PROVIDED THAT, IF THE OFFENDER IS A PUBLIC OFFICER*
11 *WHO TOOK ADVANTAGE OF HIS POSITION IN THE*
12 *COMMISSION OF THE OFFENSE, THE PENALTY HEREIN*
13 *PRESCRIBED SHALL BE IMPOSED IN ITS MAXIMUM PERIOD.*
14

15 [(e)] (D) The penalty of *prision mayor* in its minimum and medium
16 periods shall be imposed if, in consequence of torture, the victim shall
17 have become deformed or shall have lost any part of his/her body other
18 than those aforecited, or shall have lost the use thereof, or shall have been
19 ill or incapacitated for labor for a period of more than ninety (90) days;
20 *PROVIDED THAT, IF THE OFFENDER IS A PUBLIC OFFICER WHO*
21 *TOOK ADVANTAGE OF HIS POSITION IN THE COMMISSION OF*
22 *THE OFFENSE, THE PENALTY HEREIN PRESCRIBED SHALL BE*
23 *IMPOSED IN ITS MAXIMUM PERIOD.*
24

25 [(f)] (E) The penalty of *prision correccional* in its maximum period to
26 *prision mayor* in its minimum period shall be imposed if, in consequence
27 of torture, the victim shall have been ill or incapacitated for labor for more
28 than thirty (30) days but not more than ninety (90) days; *PROVIDED*
29 *THAT, IF THE OFFENDER IS A PUBLIC OFFICER WHO TOOK*
30 *ADVANTAGE OF HIS POSITION IN THE COMMISSION OF THE*

1 OFFENSE, THE PENALTY HEREIN PRESCRIBED SHALL BE
2 IMPOSED IN ITS MAXIMUM PERIOD.

3
4 [(g)] (F) The penalty of *prision correccional* [in its minimum and medium
5 period shall be imposed if, in consequence of torture, the victim shall have
6 been ill or incapacitated for labor for thirty (30) days or less] IN ITS
7 MAXIMUM PERIOD SHALL BE IMPOSED ON THE IMMEDIATE
8 SUPERIOR, AS PROVIDED IN SECTION 13 OF THIS ACT, WHO,
9 EITHER DELIBERATELY OR BY INEXCUSABLE NEGLIGENCE,
10 FAILED TO DO AN ACT EVEN IF HE/SHE HAS KNOWLEDGE OR,
11 OWING TO THE CIRCUMSTANCES AT THE TIME, SHOULD HAVE
12 KNOWN THAT ACTS OF TORTURE OR OTHER CRUEL,
13 INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT
14 SHALL BE COMMITTED, IS BEING COMMITTED OR HAS BEEN
15 COMMITTED BY HIS/HER SUBORDINATES OR BY OTHERS
16 WITHIN HIS/HER AREA OF RESPONSIBILITY AND, DESPITE
17 SUCH KNOWLEDGE, DID NOT TAKE PREVENTIVE OR
18 CORRECTIVE ACTION EITHER BEFORE, DURING OR
19 IMMEDIATELY AFTER ITS COMMISSION, WHEN HE/SHE HAS
20 THE AUTHORITY TO PREVENT OR INVESTIGATE ALLEGATIONS
21 OF TORTURE OR OTHER CRUEL, INHUMAN, AND DEGRADING
22 TREATMENT OR PUNISHMENT.

23
24 [(h)] (G) The penalty of [arresto mayor shall be imposed for acts
25 constituting cruel, inhuman or degrading treatment or punishment as
26 defined in Section 5 of this Act] *PRISION CORRECCIONAL* IN ITS
27 MINIMUM AND MEDIUM PERIOD SHALL BE IMPOSED IF, IN
28 CONSEQUENCE OF TORTURE, THE VICTIM SHALL HAVE BEEN
29 ILL OR INCAPACITATED FOR LABOR FOR THIRTY (30) DAYS OR
30 LESS; *PROVIDED* THAT, IF THE OFFENDER IS A PUBLIC

1 OFFICER WHO TOOK ADVANTAGE OF HIS POSITION IN THE
2 COMMISSION OF THE OFFENSE, THE PENALTY HEREIN
3 PRESCRIBED SHALL BE IMPOSED IN ITS MAXIMUM PERIOD.
4

5 [(i)](H) The penalty of (prision correccional shall be imposed upon those
6 who establish, operate and maintain secret detention places and/or effect
7 or cause to effect solitary confinement, incommunicado or other similar
8 forms of prohibited detention as provided in Section 7 of this Act where
9 torture may be carried out with impunity) *ARRESTO MAYOR* SHALL BE
10 IMPOSED FOR ACTS CONSTITUTING CRUEL, INHUMAN OR
11 DEGRADING TREATMENT OR PUNISHMENT; *PROVIDED THAT,*
12 IF THE OFFENDER IS A PUBLIC OFFICER WHO TOOK
13 ADVANTAGE OF HIS POSITION IN THE COMMISSION OF THE
14 OFFENSE, THE PENALTY HEREIN PRESCRIBED SHALL BE
15 IMPOSED IN ITS MAXIMUM PERIOD.
16

17 [(j) The penalty of arresto mayor shall be imposed upon the responsible
18 officers or personnel of the AFP, the PNP and other law enforcement
19 agencies for failure to perform his/her duty to maintain, submit or make
20 available to the public an updated list of detention centers and facilities
21 with the corresponding data on the prisoners or detainees incarcerated or
22 detained therein, pursuant to Section 7 of this Act.]
23

24 SEC. 6. If any provision of this Act is declared invalid or unconstitutional, the other
25 provisions not affected thereby shall continue to be in full force and effect.
26

27 SEC. 7. All laws, decrees, executive orders or rules and regulations contrary to or
28 inconsistent with the provisions of this Act are hereby repealed or modified accordingly.
29

1 **SEC. 8. This Act shall take effect fifteen (15) days after its publication in the Official**
2 **Gazette or in a newspaper of general circulation.**

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4 Approved,

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