



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

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 683




Introduced by **DIWA Party-list Representative Hon. Michael Edgar Y. Aglipay**

EXPLANATORY NOTE

Torture is one of the world's great evils. This should be incontrovertible fact, and yet there remain those who seek to find excuses, technicalities, and justifications to rationalize its existence, even in the face of objective studies that show that show torture is a wildly ineffective means of extracting accurate information.

But even if that were not the case, torture by the forces of the government, by those who are meant to safeguard human life and dignity, is abhorrent. The State has yet to recover from the damage done to its relationship with the people in the wake of Martial Law, and as such the State must be exceedingly vigilant against even the mere possibility of torture undertaken by its agents.

Out of compliance with our obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and out of acknowledgment of our own troubled history, and consistent with our commitment to justice and morality, this bill, a re-filing of House Bill 750 of DIWA Party-list filed during the 17th Congress, seeks to establish a government body with the mandate and power to police and eradicate such a gross betrayal of public trust.


MICHAEL EDGAR Y. AGLIPAY
Representative, **DIWA** Party-list



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AN ACT
ESTABLISHING A NATIONAL PREVENTIVE MECHANISM AGAINST
TORTURE IN THE PHILIPPINES

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

SECTION 1. Short Title. - This Act shall be known as the "Torture Prevention Act".

SECTION 2. Declaration of Policy. - The State is fully committed to the prevention of torture, and the establishment of an independent national preventive mechanism, in compliance with its obligations under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This mechanism is a visiting body set-up for the prevention of torture and other cruel, inhuman or degrading treatment or punishment. The State will provide the necessary resources to ensure the functional independence of this mechanism.

SECTION 3. Philippine Torture Prevention Commission. - The Philippine Torture Prevention Commission is hereby established as the national preventive mechanism of the Philippines. It shall be composed of a Chairperson and four Members who must be chosen in an open, transparent and inclusive process. Only individuals with proven track records in the promotion of human rights shall form part of the Commission. Among the Chairperson and Members there must be gender balance, adequate representation of ethnic and minority groups in the country, and diversity of expertise, including the relevant legal and health-care expertise.

The Chairperson and the Members of the Commission shall not, during their tenure, hold any other office or employment. Neither shall they engage in the practice of any profession or in the active management or control of any business which, in any way, may be affected by the functions of their office, nor shall they be financially interested, directly or indirectly, in any contract with, or in any franchise or privilege granted by the government, any of its sub-divisions, agencies, or instrumentalities, including government-owned or

controlled corporations or their subsidiaries.

The Chairperson and the Members of the Commission shall be appointed by the President for a term of seven years without reappointment. Appointment to any vacancy shall be only for the unexpired term of the predecessor. The President shall give due consideration to nominations by civil society organizations engaged in the promotion of the right not to be subjected to torture and other cruel, inhuman or degrading treatment or punishment.

The Chairperson and the Members of the Commission shall receive the same salary as the Chairperson and the Members, respectively, of the Constitutional Commissions, which shall not be decreased during their term of office.

SECTION 4. Powers. - The powers of the Commission include the power: (a) to examine regularly the treatment of the persons deprived of their liberty in places of detention, with a view to strengthening, their protection against torture and other cruel, inhuman or degrading treatments or punishments; (b) to make recommendations to the relevant authorities, with the aim of improving the treatment and the conditions of the persons deprived of their liberty, and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations; (c) to submit proposals and observations concerning existing or draft legislation; (d) to allow persons deprived of liberty access to the media or official channels in order to publicize allegations of torture and other cruel, inhuman or degrading treatments or punishments; (e) to secure medical attention for persons who may be the victims of torture and other cruel, inhuman or degrading treatments or punishments; (f) to allow persons to communicate with their families or legal counsel and to facilitate such communications; (g) to investigate systems and procedures which could make persons vulnerable to and other cruel, inhuman or degrading treatments or punishments; (h) to secure protection from the proper authorities for persons who claim to have been victims of torture and other cruel, inhuman or degrading treatments or punishments; and (i) to publicize their findings and/or reports, subject to privileged and confidential information as defined below.

The visiting mandate of the Commission shall extend to all places of deprivation of liberty. Deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority. These detention places include all, and any suspected, places of deprivation of liberty, which are within Philippine jurisdiction, over which Philippine authorities exercise effective control.

The Commission or its duly authorized representatives shall carry out unannounced visits to all, and any suspected, places of deprivation of liberty, in a manner, and with sufficient frequency, to make an effective contribution to the prevention torture and other cruel, inhuman or degrading treatment or punishment

SECTION 5. Access. - The Commission shall have (a) access to all information concerning the number of persons deprived of their liberty in places of detention, as well as the number of places, and their location; (b) access to all information referring to the treatment of those persons, as well as their conditions of detention; (c) access to all places of detention and their installations and facilities; (d) opportunity to have private interviews with the persons deprived of their liberty, without witnesses, either personally or with a translator, if deemed necessary, as well as with any other person, who the Commission believes may

supply relevant information; (e) liberty to choose the places they want to visit, and the persons they want to interview; and (f) right to have contacts with the Subcommittee on the Prevention of Torture, to send it information, and to meet with it.

SECTION 6. Privilege. - No authority or official may order, apply, permit or tolerate, directly or indirectly, any sanction against any person or organization, for having communicated to the Commission any information, whether true or false, and no such person or organization may be otherwise prejudiced in any way. Confidential information collected by the Commission shall be considered privileged. No personal data may be published without the express consent of the person concerned. The Commission shall ensure that any confidential information acquired in the course of its work is fully protected.

SECTION 7. Dialogue. - The competent authorities shall examine the recommendations of the Commission and enter into a dialogue with it, on possible implementation measures. These authorities shall enter into a follow-up process with the Commission, with a view to the implementation of any recommendations, which the Commission may make. These authorities shall also publish and widely disseminate the annual reports of the Commission.

SECTION 8. Penalties. -

a. The following acts, when committed by a public official, shall be subject to the penalty of imprisonment of not less than six (6) months but not more than one (1) year, with the accessory penalty of dismissal from service, without prejudice to other criminal and civil liabilities:

- 1) Knowingly impeding or obstructing the Commission, or any of its Members or duly authorized representatives, in the performance of their duties under this Act, and
- 2) Threatening or physically restraining the Members of the Commission, or duly authorized representatives, in the performance of their duties under this Act.

b. Any private individual who knowingly induces or causes the commission of the foregoing acts shall be liable as principal by inducement in the prosecution of public officials of employees under this section.

c. The acts under paragraph (a) of this Section, if proven in an administrative proceeding shall be subject to the penalty of dismissal, even if no criminal prosecution is instituted against the person found liable.

SECTION 9. Implementing Rules and Regulations. - The CHR shall issue the necessary rules and regulations to implement the provisions of this Act within sixty (60) days from its effectivity.

In the formulation of the rules and regulations, the Commission shall coordinate with the DSWD, the ONO, the DILG, the DENR, the DOH and shall likewise consult with the LGUs and human rights non-governmental organizations and people's organizations.

SECTION 10. Repealing Clause. - All laws, decrees, executive orders, memorandum orders, memorandum circulars, administrative orders, ordinances or any part thereof, inconsistent with the provisions of this Act are hereby deemed repealed or modified accordingly.

SECTION 11. Separability Clause. - If any part or provision of this Act shall be declared unconstitutional or invalid, the other portions hereof which are not affected thereby shall remain full force and effect.

SECTION 12. Effectivity. - This act shall take effect fifteen (15) days upon its publication in at least two (2) newspapers of national circulation.

Approved,