

Torture impunity

**An analysis of the implementation
of the Anti-Torture Law
in the Philippines**



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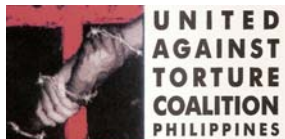
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“Basta Run Against Torture! (BRAT VIII)” is in commemoration of the International Day in Support of Victims of Torture.

Amnesty International-Philippines, Balay Rehabilitation Center, Medical Action Group (MAG), Task Force Detainees of the Philippines (TFDP), and the University of the Philippines Institute of Human Rights (UP-IHR), in cooperation with the Philippine Alliance of Human Rights Advocates (PAHRA)

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Table of contents

Foreword 4

Executive Summary 5

Introduction 9

I. Legal framework of the prohibition of torture and ill treatment 11

II. Obstacles to a full implementation of the Anti-Torture Law and the Convention against Torture 14

a. De facto and lengthy pre-trial detention 14

b. Confessions extracted under torture 15

c. No prompt medical examination 16

d. Presumption of regularity 18

e. Identification and location of perpetrators 19

f. Reprisals and intimidation of complainants, torture survivors and their families 21

III. Impunity and lack of redress 23

a. Recent documented torture cases 23-26

b. Lack of rehabilitation program 28

IV. Conclusions and recommendations 29

APPENDIX

Republic Act No. 9745 otherwise known as the Anti-Torture Act of 2009

Republic Act No. 9745 Implementing Rules and Regulations (IRR)

Department of Health Administrative Order 2013-0008 on the implementation of certain provisions of RA 9745

Department of Justice Administrative Order No. 35, creating the Inter-Agency Committee on Extra-Legal Killings, Enforced Disappearance, Torture and other Grave Violations of the Right to Life, Liberty and Security of Persons

Foreword

We are delighted to submit to the members of the Oversight Committee of the Anti-Torture Law, this report, “Torture impunity, An analysis of the implementation of the Anti-Torture Law in the Philippines” prepared by the members of the United Against Torture Coalition (UATC)- Philippines and Philippine Alliance of Human Rights Advocates (PAHRA).

The report gives an overview of the challenges faced by human rights organizations and survivors of torture and their relatives, in seeking redress for acts of torture and ill treatment in the Philippines since the enactment of the Republic Act (RA) No. 9745 otherwise known as the Anti-Torture Act in November 2009.

This report draws together the key results that came out of the series of workshops and a follow-up mission organized by its authors in June and July 2013 to assess the implementation of the Anti-Torture Law.

In particular, last section of the report, outlines the next steps that the UATC- Philippines and PAHRA will be working on in relation to this key area of work, and the key recommendations to the Oversight Committee of the Anti-Torture Law.

We look forward to furthering this important work in the promotion of the right to freedom from torture and to ensuring effective implementation of the Anti-Torture Law.

Thank you.

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Executive summary

This report presents an overview of the challenges faced by human rights organizations and survivors of torture and their relatives, in seeking redress for acts of torture and ill treatment in the Philippines since the enactment of the Republic Act (RA) No. 9745 otherwise known as the Anti-Torture Act or Anti-Torture Law in November 2009. It follows a series of workshops and a follow-up mission organized by its authors in June and July 2013 to assess the implementation of the Anti-Torture Law.¹

Many legal, political and security-related impediments are cited here to raise the challenge to the government and the Commission on Human Rights of the Philippines to undertake steps to fight culture of impunity in the country by making the Anti-Torture Law an effective remedy to prevent torture and other cruel, inhuman or degrading treatment or punishment (referred hereafter to as “CIDT”) and for the victims to obtain redress. This report draws lessons and recommendations from the insights and learning generated by members of the United Against Torture Coalition (UATC)-Philippines and human rights organizations in the course of their participation in the workshops. In addition to workshops, a legal consultation with Prof. Ricardo A. Sunga III, Law Reform Specialist of the University of the Philippines Institute of Human Rights (UP IHR) was undertaken where appropriate.

In the following pages of this report human rights defenders and legal experts from human rights organizations, anti-torture support groups, rehabilitation centers and academe share their knowledge and experiences on documenting and reporting alleged cases of torture. The workshops have been able to generate reflections on experiences by members of the UATC- Philippines and human rights organizations who are working directly with the torture survivors and their families arising from interventions in the field in terms of providing support to them. This report has been prepared as a way to share the perspectives and insights of members of the UATC- Philippines with a wider audience. Though their perspectives varied but their message is clear: torture survivors must obtain redress “including the means for as full rehabilitation as possible” and torture perpetrators must be held accountable.

This report is primarily intended for the members of the Oversight Committee (as mandated

¹ The writing of this publication was in collaboration with Amnesty International Philippines, Balay Rehabilitation Center, Medical Action Group (MAG), Task Force Detainees of the Philippines (TFDP) and the University of the Philippines Institute of Human Rights (UP IHR) in cooperation with the Philippine Alliance of Human Rights Advocates (PAHRA) and the Organisation Mondiale Contre la Torture (OMCT) or World Organisation Against Torture.

by the Anti-Torture Law, Sec. 20²) which has the mandate to monitor and oversee the implementation of the Anti-Torture Law.

Four years after the adoption of the Anti-Torture Act, the Oversight Committee, which should monitor and oversee the implementation of the law as stated in Section 20 of the Act³ has still not been convened and the situation remain in most cases the same than before the adoption of the law.

By tracking the events that follow arrest of an individual this report will describe the circumstances that both enable and facilitate the use of torture. The report will discuss the obstacle in obtaining evidentiary requirements that put tremendous pressure on victims of torture when they submit themselves to any judicial proceedings or when they come to a prosecutor, for example, the victims allege about the torture they have suffered, the burden of proof shifts to them.

This report is divided into three main sections. The first section of the report outlines the legal framework in relation to the absolute prohibition of torture and ill treatment. The second part highlights certain obstacles to the full implementation of the Anti-Torture Law in the Philippines including the challenges to an effective investigation and prosecution of cases of torture and ill-treatment. It is based on the experience from members of the UATC-Philippines and its partner's human rights organizations.

Four years after the adoption of the Anti-Torture Act, the Oversight Committee, which should monitor and oversee the implementation of the law as stated in Section 20 of the Act has still not been convened and the situation remain in most cases the same than before the adoption of the law.

Torture impunity is a multi-faceted problem and finds its root causes among others in a diverse set of institutional deficiencies that can be traced to ineffective redress mechanisms at all levels within the executive, legislative and judicial. The fact that there have been

- 2 The Committee is composed of Commission on Human Rights (CHR) Commissioner as chair, with the following members: Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives Committees on Justice and Human Rights, and the Minority Leaders of the Senate and House of Representatives or their respective representatives in the minority.
- 3 Section 20 of the Republic Act No. 9745: "An Oversight Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by a Commissioner of the CHR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and the Minority Leaders of both Houses of Congress or their respective representatives in the minority."

institutional responses both at the national and international⁴ levels in torture prevention is encouraging. This in turn has been mirrored by deep concerns expressed by members of the UATC- Philippines and human rights organizations. Taken together, these responses attest to the gravity of the situation and the urgent need to undertake key policy reforms which might contribute in the fight against torture impunity. The third section of this report is devoted to that challenges and recommendations to the Oversight Committee and the government. Some of the principal subjects of concerns and recommendations are listed below.

The third section of this report presents four recent documented cases of torture illustrating the flagrant impunity that impedes the right of victims to redress.

In the last part of the report, it is devoted to challenges and recommendations to the Oversight Committee and urging the authorities to:

- Immediately request the Chairperson of the Commission on Human Rights of the Philippines (CHRP) to convene the Oversight Committee in charge of overseeing the implementation of the Anti-Torture Law. Such Committee should establish a database to systematically collect information on the implementation of the Anti-Torture Law including on investigations, prosecutions, access to medical evaluations, acts of reprisals, implementation of the rehabilitation program and the submission of inventory of all detention centres and facilities under the jurisdiction of the Philippine National Police (PNP) and the Armed Forces of the Philippines (AFP).
- Take measures to promote compliance with the Anti-Torture Law through education of all government agencies and, military and law enforcement units on the law and torture prevention measures.
- Ensure that all investigations and prosecutions of allegations of torture adequately cover the possibilities for pursuing command responsibility including by obtaining all relevant records of all officials on duty particularly those holding senior positions that are alleged to have planned, commanded or perpetrated acts of torture and by utilizing the full extent of Section 13 of the law when it comes to non-compliance by the relevant institutions

Torture impunity is a multi-faceted problem and finds its root causes among others in a diverse set of institutional deficiencies that can be traced to ineffective redress mechanisms at all levels within the executive, legislative and judicial.

⁴ The Philippines has ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) on April 17, 2012.

with the investigation.

- Increase awareness among the security forces about the prohibition of blindfolding enshrined in Section 4(b) (1), of the Anti-Torture Act and sanction all incidents of blindfolding regardless of whether it is done in connection with other forms of torture or not. Further, consider how rules of evidence evaluation may be amended to increase the possibility of identifying perpetrators through other means than visual verification. Likewise, make it mandatory for prosecutors to carry out a full investigation of possible command responsibility where identification of the primary perpetrator is impaired by the use of blindfolds.
- Provide specific training to all municipal/city health doctors and public prosecutors in coordination with medical and legal professionals associations and individual experts on how to identify signs of torture and ill treatment, to document alleged torture cases and how to establish evidence that can be used in legal or administrative proceedings against those responsible for torture through the use of the Istanbul Protocol and other relevant international human rights standards.
- Adopt necessary measures to ensure that all persons who allege or otherwise show indications of having been tortured or ill-treated are offered a prompt, thorough, impartial and independent medical examination. These include but are not limited to: ensuring adequate protection of health professionals documenting torture and ill treatment from intimidation and other forms of reprisals; and ensuring that health professionals are able to examine victims independently and to maintain the confidentiality of medical records.
- Strengthen the Witness Protection Program (WPP) through amendments of the Witness Protection, Security and Benefit Act (RA No. 6981) by giving high priority to the funding of the program and providing expanded rights and benefits to prospective witnesses to help the authorities prosecute torture cases and to ensure that it affords effective protection against reprisals and other harassment to all witnesses to torture acts and other cases of human rights violations.

INTRODUCTION

In November 2009, RA No. 9745 otherwise known as the Anti-Torture Act was enacted into law. The law criminalizes torture and covers various issues relevant to ensuring accountability of perpetrators and redress for torture survivors including provisions of medical examination, legal assistance, and rehabilitation for torture victims and their families. The Implementing Rules and Regulations (IRR) of the law were issued on December 2010.

Four years later the Anti-Torture Act has yet to be fully implemented, many torture allegations have not been effectively investigated and torture survivors and their families have not received any redress. The complaints in relation to the implementation of the law have revealed various deficiencies from documentation, investigation to prosecution of torture cases.

In this regard, the Medical Action Group (MAG), Task Force Detainees of the Philippines (TFDP), Balay Rehabilitation Center, Amnesty International-Philippines and the University of the Philippines Institute of Human Rights (UP-IHR), in cooperation with the United Against Torture Coalition (UATC)-Philippines and Philippine Alliance of Human Rights Advocates (PAHRA), conducted series of workshops on June 19, 2013 at UP Institute of Human Rights, entitled: Civil Society Organizations' Learnings on the and Recommendations for Effective Implementation of the Anti-Torture Law, on July 15 and July 19, 2013. Legal experts, representatives of torture survivors' support groups and key persons of human rights NGOs and CSOs attended these workshops. The general objective was to exchange information on some of the torture cases and obstacles in implementing the Anti-Torture Act, to discuss challenges and ways by which these can be overcome and to formulate recommendations to the authorities so that they improve their institutional capacity in addressing the inherent difficulties in the implementation of the law.

This report summarizes the main challenges remaining to fully implement the Anti-Torture Law as identified by UATC-Philippines and its partners including Organisation Mondiale Contre la Torture (OMCT)⁵ or World Organisation Against Torture. It thus assesses the

5 Following the review of the fourth periodic report of the Philippines by the Human Rights Committee in 2012, the World Organisation Against Torture (OMCT) conducted a follow up mission in the Philippines in July 2013 to assess the implementation of the recommendations adopted by the Committee in November 2012.

implementation of recommendations adopted by the Human Rights Committee in relation to the conduct of investigation on allegations of torture and ill treatment⁶.

The report also replies to certain concerns expressed by the United Nations Committee Against Torture during its review of the periodic report of the Philippines in 2009⁷ and to the list of issues adopted by the said Committee in July 2012⁸ in particular in relation to the implementation of Articles 1, 14 and 15 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment⁹ (Hereinafter referred to as the Convention Against torture).

6 See CCPR/C/PHL/CO/4, para 17 where the Human Rights Committee invites the Philippines to “take appropriate measures to improve the conduct of investigations of alleged torture and ill-treatment by law enforcement personnel. The State party should ensure that allegations of torture and ill-treatment are effectively investigated in accordance with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution 55/89); and that alleged perpetrators are prosecuted and, if convicted, punished with appropriate sanctions; and that the victims are adequately compensated. The State party should establish a system to collect data on the number of investigations, prosecutions, convictions, sanctions and compensation granted to victims of torture or members of their families, and report comprehensively about these figures in its next report. The 3rd periodic report of the Philippines to the Committee Against Torture was due on May 15, 2013.

7 See Concluding observations of the Committee against Torture, CAT/C/PHL/CO/2, 29 May 2009

8 See List of issues prepared by the Committee prior to the submission of the 3rd periodic report of the Philippines (CAT/C/PHL/Q/3), adopted by the Committee at its forty- eighth session, 7 May–1 June 2012.

9 Ibidem paragraphs 2, 29 and 30.

I. Legal framework of the prohibition of torture and ill treatment

The Philippines have ratified major international human rights instruments that prohibit the use of torture and ill treatment including the Convention against Torture and its Optional Protocol as well as the International Covenant on Civil and Political Rights (ICCPR).

As a State Party to the Convention against Torture¹⁰ since 1986, the Philippines commit itself to ensure that under its criminal law all acts of torture, at any stage of commission, are offense punishable by appropriate law. The Convention against Torture establishes a regime of absolute prohibition on torture under any circumstances. Prohibition of torture is absolute and non-derogable and no exceptional circumstances whatsoever may be invoked by a State to justify acts of torture as stated by the Convention against Torture.

Article III (Bill of Rights), Section 12 of the 1987 Philippine Constitution stipulates that “2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him (any person, note from the author). Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited”; and “(3) any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him (any person, note from the author).”

The Convention against Torture “imposes obligations on States parties and not on individuals. States bear international responsibility for the acts and omissions of their officials and others, including agents, private contractors, and others acting in official capacity or acting on behalf of the State, in conjunction with the State, under its direction or control, or otherwise under colour of law.”¹¹

Article III (Bill of Rights), Section 12 of the 1987 Philippine Constitution stipulates that “2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him (any person, note from the author). Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited”; and “(3) any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him (any person, note from the author).”

In November 2009, the Philippines’ Republic Act (RA) No. 9745 otherwise known as the

10 The Philippines acceded to the Convention against Torture on June 18, 1986.

11 Committee Against Torture (CAT), General Comment No. 2: Implementation of article 2 by States parties, CAT/C/GC/2, 24 January 2008, paragraph 15.

Anti-Torture Act or Anti-Torture Law was enacted into law. The law criminalizes torture and include various procedural safeguards for those deprived of their liberty, such as notification of detention to a relative, an independent medical examination and prompt access to a lawyer. There should be no secret, unofficial or incommunicado detention, with detainees

entitled to visits from relatives and medical professionals, as well as the right to consult a lawyer throughout the investigation, pre-trial detention and trial. These measures are premised among others on the assumption that torture and ill treatment are most likely to take place while a person is excluded from any contact with the outside world.

Among the main features of the Anti-Torture Law are:

- Section 9, which provides the right of victims to a prompt and impartial investigation by the CHRP and relevant government agencies within 60 days of the complaint and the right of all persons involved in a torture case to protection from harassment and other forms of reprisals;
- Section 12, which provides the right to a physical, medical and psychological examination by an independent and competent doctor of one's own choice or a competent and independent doctor to conduct physical examination provided by the State if the person cannot afford the services of his/her own doctor;
- Section 13, which explains the different types

of criminal responsibility. This provision extends command responsibility to cases where immediate superiors fail to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment.

The Sections 37-40 of the Implementing Rules and Regulations (IRR)¹² further elaborate the agencies that must participate in the formulation and funding of the rehabilitation program and that non-governmental organizations and torture survivor's representatives must be involved in its formulation. Inspired by the framework of restorative justice, the Anti-

12 The Anti-Torture Law Implementing Rules and Regulations (IRR) were issued on December 10, 2010.

Torture Law seeks to establish a comprehensive rehabilitation program for torture victims and their families, and a parallel rehabilitation program for perpetrators as well.

The Anti-Torture Law is viewed as a good practice example for domestic anti-torture law since the Philippines is the first country in Southeast Asia to enact a law criminalizing torture.¹³

It is worth to note that aside from the Anti-Torture Law, there are several pertinent laws in the Philippines that offer a wide range of preventive measures regarded as being either legal requirements or potentially effective steps that can be taken to prevent torture. These are the “Rights of Persons Arrested, Detained or under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officer (RA No. 7438), the “Speedy Trial Act” (RA No. 8493), the “Juvenile Justice Welfare Act” (RA No. 9344) and the “Philippine Act on Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity” (RA No. 9851) among others.

As already pointed out, the criminalization of torture, including the exercise of jurisdiction over alleged torturers, is part of the set of obligations required under the Convention against Torture and mandated by the Anti-Torture Law.

Institutional protection of torture victims, which is included in Section 15 of the Anti-Torture Law IRR, and the right to challenge the lawfulness of detention are important guarantees for persons deprived of their liberty. Comprehensive written record keeping is a means of increasing accountability, while the non-admissibility of evidence acquired through torture should apply in all proceedings.

As already pointed out, the criminalization of torture, including the exercise of jurisdiction over alleged torturers, is part of the set of obligations required under the Convention against Torture and mandated by the Anti-Torture Law. Ending torture impunity is seen as crucial, along with the opportunity for redress to torture survivors and their families. Ensuring effective access to justice for torture survivors in the country will be a work in progress. The legislative framework in the country in torture prevention is largely in place but there are many problems with several aspects of its implementation.

¹³ Scaling up the torture prevention in the Philippines is the ratification of the Optional Protocol to the Convention against Torture (OPCAT) by the Philippines, becoming the 64th State Party to the OPCAT, joining the Maldives, New Zealand and Cambodia as the fourth State to ratify in the Asia Pacific region.

II. Obstacles to a full implementation of the Anti-Torture Law and the Convention against Torture

a. De facto and lengthy pre-trial detention

Article 125 of Revised Penal Code (RPC) provides that a suspected person can only be legally detained by the investigating officer for the allowable period called “12-18-36 hours.”¹⁴ A person subject of an arrest without a warrant must be delivered to the proper judicial authorities within 12-36 hours depending on the gravity of the alleged offense.

Although there are legal safeguards for detained persons as stipulated in Republic Act No. 7438 on “Rights of Persons Arrested, Detained or under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officer” and the Anti-Torture Law, in practice most torture victims are those under custodial investigation of the police and military in detention centres and military camps. Arresting officers often do not have proper identification or the required warrant of arrest. The use of arrests without warrant is reportedly extensive and the authorities merely “invite” the victim for questioning.

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In connection with the cases outlined in this report, a number of causes for delays have emerged. First, there is a lack of awareness and training in the Anti-Torture Law among prosecutors and lawyers of the Public Attorney’s Office (PAO) which means that the 60-day deadline stipulated by the law is not applied by the prosecutors nor argued by the PAO lawyers. Second, there is a lack of commitment in the government to ensure

effective investigations by allocating the necessary financial and human resources to the various components of the torture investigations. In addition, overburdened PAO lawyers limit their attention to criminal accusations against their clients and show a limited interest in prioritising the torture allegations brought forward by their clients.

Despite a significant amount of staff in the CHR, investigations by the CHR appear to be delayed and lack of quality at least partly by lack of trained staff. Third, victims, witnesses and persons participating in the investigation of torture allegations are routinely subjected to threats or direct reprisals to compel them to withdraw their complaint. This causes delays in the initial reporting of torture and ill-treatment, delays in the location and evidence taking

14 As per amendment under Executive Order (EO) No. 272 dated 25 July 1987.

from witnesses and it negatively affects the independence of investigators from both the legal and health professions resulting in inadequate or directly false forensic examinations of the victims and a general lack of diligence in the work of prosecutors. Police officials are often present during physical and medical examinations, and in some cases supervise the work of medical doctor. Pressure upon medical doctors includes threats, intimidation or filing of false criminal charges against them and subtler risks of professional/career consequences.

b. Confessions extracted under torture

Section 8 of the Anti-Torture Law sets out the general prohibition of the admissibility of evidence obtained through torture but there are reports and credible allegations that such prohibition is not respected in all circumstances and that the immediate use of violent force appears to be applied systematically to obtain information from suspects.

During interrogation, reportedly, victims are being subjected to threats including the use of moderate physical pressure and forced into signing sheets of paper without properly explaining to them either its content or purpose of its use. Later victims come to know that the document they forcibly signed was used as a ‘waiver’ to legitimize testimonies they made under duress. In practice, once this waiver document

is submitted in court as evidence or proof of a confession, the burden of proof as to whether the statement has been made as a result of torture rests with the suspect, not the prosecution. In that regard, the Supreme Court ruled in 2004 that “the confessant bears the burden of proof that his confession is tainted with duress, compulsion or coercion by substantiating his claim with independent evidence other than his own self-serving claims that the admissions in his affidavits are untrue and unwillingly executed. Bare assertions will certainly not suffice to overturn the presumption.”¹⁵ It is yet often difficult for the victims to prove the use of torture when physical signs are no longer conspicuously visible thus impeding the right to an effective remedy for victims.

During interrogation, reportedly, victims are being subjected to threats including the use of moderate physical pressure and forced into signing sheets of paper without properly explaining to them either its content or purpose of its use.

15 SC, G.R. No. 145566, People of the Philippines vs. Dindo “Bebot” Mojillo, March 9, 2004.

c. No prompt medical examination

Medical documentation is one of the most crucial steps in reporting cases of torture. Systematic and quality medical documentation is strong evidence that could either support or negate allegations of torture or witnesses' testimony. Indeed medical doctors are often among the first persons to come into contact with a person following his/her arrest or detention. It is therefore critical that documentation of allegations of torture by medical doctors is complete and done with diligence to provide appropriate treatment on the victim.

Indeed medical doctors are often among the first persons to come into contact with a person following his/her arrest or detention. It is therefore critical that documentation of allegations of torture by medical doctors is complete and done with diligence to provide appropriate treatment on the victim.

In practice, a common feature of torture cases outlined in the next section of this report is the absence of prompt and immediate access for the victims to a prompt, thorough, impartial and independent physical and medical examination contrary to Section 12 of the Anti-Torture Law which provides that “(b)efore and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor to conduct physical examination. The State shall endeavour to provide the victim with psychological evaluation if avail-

able under the circumstances. If the person arrested is a female, she shall be attended to preferably by a female doctor. Furthermore, any person arrested, detained or under custodial investigation, including his/her immediate family, shall have the right to immediate access to proper and adequate medical treatment.”

A number of causes of delay have emerged such, as victims have no immediate access to a doctor immediately after arrest and during all stages of detention. First, detainees from the very outset of their detention rarely assert their right to access the services of a doctor because they are not aware of their rights. More often the authorities are reluctant to bring victims of torture and ill-treatment to a medical doctor for medical treatment and examination. This particularly is the situation for those who are poor. In many cases they are unable to gain access to a doctor until days or even weeks after their alleged torture and this has a very negative impact on the quality of the investigations since evidences at the crime scene fades and eventually disappears. And by that time the perpetrators are afforded to cover up their crime.

Secondly, while medical examination costs should be provided for free when the arrested individual cannot afford to pay, in many cases he/she is still required to cover the costs. Because of this, many have waived their right to be examined. In that respect, the Guidelines for the Implementation of Section 19 of the IRR of the Anti-Torture Act adopted by the Department of Health (DOH)¹⁶ should be fully implemented to ensure that all persons who allege or otherwise show indications of having been tortured or ill-treated are offered a prompt, thorough, impartial and independent medical examination.

In addition, according to documentation gathered by MAG and other human rights organizations, when medical examination is provided by the authorities, there are reports that victims are often examined by doctors assigned to major PNP or AFP health facilities or to government hospitals that gave them cursory “check-list” physical examination with no questions about how torture marks may have been inflicted. Medical certificates are frequently summary in nature, referring only to visible bruises or contusions with a formulaic assessment of how long the victim is likely to need medical treatment. Moreover there are very few health professional in the Philippines who have the necessary skills to thoroughly document torture and ill-treatment and health professionals often avoid even attempting to document torture due to fear of reprisals.

Indeed doctors have often experienced pressure from authorities allegedly involved in torture cases. Police officials are often present during physical and medical examinations, and in some cases supervise the work of medical doctors. There are no safeguards in place to ensure that health personnel are not subjected to police intimidation, are able to examine victims independently of the police and able to maintain the confidentiality of medical reports.

When proper medical evaluations are carried out, it is usually done by health professionals affiliated with NGOs and for this reason often with significant delays. It is for instance a common practice that human rights NGOs are given the run-around and barred from jails and detention centres by law enforcement agencies. In case they are allowed to see and examine the victim or survivor, medical and documentation equipment are prohibited to bring inside the detention centres. The result of this is a delay of initiation of investigative steps.

These delays are especially problematic in relation to physical forensic examinations of the victim, where much of the evidence quickly disappears as the trauma heals. When health

16 DOH Administrative Order 2013-0008 on the implementation of certain provisions of RA 9745.

professionals are denied access or denied the right to bring in their examination equipment, it significantly reduces the quality of their examination.

Under RA No. 7438 or “An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation”, provides that any person arrested or detained or under custodial investigation has the right to inform his/her relatives to about the fact of his/her detention and his/her location. It is doubtful, however, if this law is an effective protective measure against torture and ill treatment during the period of apprehension and the formal registration of police at the police station.

First, the law does not require the police officer that apprehends the suspect to grant the access to the phone immediately after the suspect is apprehended. Second, it is not explicitly stated in the law the procedures how the alleged suspect can inform his/her relatives about the location of his/her detention. This means that the person apprehended by the police or military will not be able to inform his/her relatives before he/she is brought to the police station or detention centre and booked. Third, it seems that provision regarding the right of the suspect to inform his/her relatives immediately is in conflict with the provisions of Article 125 of Revised Penal Code (RPC) which provides that no custodial investigation shall be conducted and the suspected person can only be legally detained by the investigating officer for the allowable period called “12-18-36 hours.”

d. “Presumption of regularity”

This “presumption of regularity” is often used to justify torture and provide impunity to members of security forces accused of torture and/or arbitrary detention of torture victims.

The prosecution routinely overlooks abuse by the police and military on the “presumption of regularity”—when the acts are committed in performance of their duties—or “justifiable degree of force”—police are allowed to use force against the person during arrest and in custody.

This “presumption of regularity” is often used to justify torture and provide impunity to members of security forces accused of torture and/or arbitrary detention of torture victims. Such perpetrators are protected from prosecution even before allegations

against them can be investigated, because accountability mechanisms which are invoked as check on human rights violations have been rendered ineffectual in dealing with such issues since they are able to invoke the ‘presumption of regularity’ to exonerate such persons before investigations are conducted and concluded. This presumption is meant to apply

only when the performance of the officers' duties has been regular, but members of the security forces are misusing it to unjustifiably cover all acts. Even in cases in which serious allegations have been made concerning irregularities in the performance of duties of authorities, authorities have still invoked the "presumption of regularity".

Even worse, the burden of proving torture allegation rests heavily on the victim and investigations into allegations of torture against the security forces are not taken seriously. Delays in the investigation and in the filing of charges in court are another obstacle victims of torture must face. For these reasons, there have been very few torture cases filed in courts. Complaints of torture are recorded widely by human rights organizations, while torture in police custody is commonly reported on televisions and in newspaper tabloids; none of these cases however, have found their way to the courts for prosecution.

This is the situation that "exceptional circumstances" are invoked by the government in dealing with terrorist threats to the country's national security, where it has become "widespread" practice by authorities to arrest innocent civilians even without a lawful court order using justifications such as "hot pursuit operation", due to mistaken identity and based on Muslim sounding names. The promise of promotion and in some cases "reward system" encourages commission of torture and other forms of human rights violations by authorities.

These problems are highlighted when one looks at the practical situation on the grounds for example in the Autonomous Region in Muslim Mindanao (ARMM) provinces where there is lack of effective monitoring and reporting of cases of torture cases for broader purpose of torture prevention, and the lack of competence of authorities to effectively investigate and prosecute these cases.

e. Identification and location of perpetrators

Many torture allegations have not been effectively investigated by the authorities and torture survivors and their families do not receive the institutional support they are entitled to. The complaints brought under the implementation of the Anti-Torture Law have revealed various deficiencies in relation to investigations and the way prosecutions are handled by authorities. Furthermore, the lack of effective and appropriate measures to investigate cases of torture allegedly committed by security forces and law enforcement personnel contributes in the climate of impunity, since the perpetrators are either rarely investigated or prosecuted.

The government has undertaken institutional reforms to investigate complaints of torture allegedly committed by security forces and law enforcement agents, e.g. the Office of the Ombudsman for the Military and Other Law Enforcement Offices (MOLEO), the Philippine National Police (PNP)-Internal Affairs Services (IAS), the People’s Law Enforcement Board (PLEB), the National Police Commission (NAPOLCOM), and the Human Rights Affairs Offices of the PNP and the Armed Forces of the Philippines (AFP), both created in 2006.

Inability and unwillingness to identify and locate alleged perpetrators is a significant impediment to ensuring justice for torture victims. The common use of blindfolding, in itself constituting torture under the Anti-Torture Act, effectively prevents victims from visually

identifying their perpetrators. Combined with the restrictive approach to voice identification taken by the prosecutor in the Lenin Salas et al case (refer to page 25 of this report), this significantly complicates the identification of perpetrators and effectively encourages the use of blindfolding as a means of evading investigation and prosecution. A related problem is the military’s reluctance to cooperate with the prosecutor’s office in producing alleged perpetrators within their ranks who have been identified by name and association. This was clearly illustrated in the Ronel Cabais case (refer to page 24 of this report). These problems are aggravated by the lack of focus at the investigative and prosecution stages on ensuring command responsibility for which there is ample room in the Anti-Torture Act. The Ajid case (refer to page 26 of this report) illustrates that this problem is also present in the investigations of the

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CHR. Based on the resolution of the CHR, two senior officers, Col. Alexander Macario and Capt. Arvin Llenaresas were excluded from the charges under the principle of command responsibility as the resolution (CHR Region IX Resolution dated April 18, 2012) stated that “they (the Respondent Senior Officers of the military) were able to substantially explain their non-participation in the acts complained of and they neither consented nor had the knowledge of the alleged acts.”

Subsequently, during a case conference focusing on the Ajid case, respected lawyers from the University of the Philippines College of Law found this part of the resolution to have

significant flaws in relation to the section on command responsibility. If command responsibility was effectively pursued in all cases, it is likely that military commanders would be more likely to facilitate the identification and location of alleged perpetrators thereby increasing the possibilities for ending impunity. Further, it could have a significant preventive effect on the general occurrence of torture in the country.

f. Reprisals and intimidation of complainants, torture survivors and their families

Several national human rights organisations have pointed out various reasons on the prevalence of impunity and notably that the legislative framework has some deficiencies both on the substantive and procedural levels, particularly concerning the protection of complainants and witnesses.

The torture survivors and their families, and support groups including doctors and lawyers point to fear of reprisals and threats of retaliation from relatives, friends and colleagues of the alleged perpetrator as a major cause of reluctance of witnesses and torture survivors to cooperate and pursue investigation and prosecution of torture cases. The failure to investigate torture cases due to unwillingness of witnesses to testify for fear of their lives and security is systemic in nature.

While various factors contribute to the government's poor record in investigating and prosecuting torture cases, none is more important than obstruction of justice by the police and military involved. While authorities can block investigations of alleged torture cases by slow investigation or inaction, obstruction of justice has often assumed a more active and dangerous dimension. At every stage of the legal process, complainants and witnesses are exposed to various forms of intimidation including harassment and assassination. Police and military personnel accused of torture cases are rarely investigated or suspended pending investigation, leaving them free to intimidate complainants and witnesses including their relatives. Police and officers charged with investigating alleged violations have sometimes themselves sought to intimidate complainants and witnesses, often charging them

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with insurgency-related activities and trumped up charges.

Though the Department of Justice National Bureau of Investigation (NBI) and the CHR have their respective witness protection program, these programs have had been rarely and ineffectively used for various reasons such as inadequate funding and lack of support staff. Indeed how could witnesses be encouraged to come forward to avail of the witness protection program, if they feel threatened by the fact that the ones who are responsible for their security are linked or closely associated to the people they are accusing?

The protection of torture victims only starts upon filing a complaint. Witnesses have complained that protection is guaranteed only during and not after trial, leaving them open to retribution by the accused or from friends of the accused.

This situation reinforces the need for a more systematic and diligent implementation of the Anti-Torture Law. These actions are essential if we are to prevent torture and ill treatment cases, to ensure perpetrators are brought to justice, that torture survivors receive reparation i.e. compensation, rehabilitation and other forms of redress to which they are entitled to, and that the authorities and the public are made aware of such practices in order to ensure zero-

tolerance of torture.

III. Impunity and lack of redress

a. Recent documented torture cases

Torture and ill treatment may take place in virtually any location but usually occurs during the initial phase of arrest and detention. People are particularly at risk when they are deprived of their liberty, held in pre-trial detention or subject to interrogation by authorities at police stations and military camps. The greatest risk is in the first phase of arrest and detention, before the person has access to a lawyer or brought to court. People being held in incommunicado detention – without access to anyone in the outside world– in all circumstances are particularly vulnerable from torture and may itself violate Section 7 of the Anti-Torture Law.

Darius Evangelista

On March 5, 2010, Darius Evangelista, was arrested by the police in Manila on suspicion of theft. According to the Commission on Human Rights of the Philippines, which investigated the case, three fellow detainees saw him being brought into a police station in Tondo, Manila and detained there. They said that he was taken to the office of the police chief in that police station and then brought back to their cell badly injured, with his face looking like it suffered from blunt trauma and with his eyes swollen and covered with tape. After that, he was taken out of the police station. The former detainees said that they heard one of the police officers say to his subordinates, “Get rid of him.” They never saw Darius again.

On August 17, 2010, a video of a naked man, writing on the floor and crying out in pain while a police officer beat him and repeatedly yanked a string tied to his genitals while uniformed policemen watched, was broadcast on television. On August 19, 2010, Catalan came out in the media claiming to be the wife of the tortured victim, who has been missing since March 5, 2010.

Snapshots of cases

Through the DOJ resolution dated August 22, 2011, the Evangelista family filed a criminal complaint for torture against the nine policemen who participated in or were complicit to the torture before the Manila Regional Trial Court (RTC).

The PNP dismissed Senior Inspector Joselito Binayug from the service on January 14, 2011 after “Task Force Asuncion,” which was formed to investigate allegations of torture at the Asuncion police station, confirmed that he was the police officer in the video. It was reported in June 2011 that dismissed Police Inspector Binayug was a part-time instructor at privately run Philippine College of Criminology-Manila Law College (PCCR-MLC), where he taught Crime Detection Investigation.

Manila RTC Branch 1 Judge Tita Bughao Alisuag issued a warrant for the arrest of seven police officers including a superintendent dated November 3, 2011, for allegedly torturing to death Darius Evangelista, after finding probable cause for violating the Anti-Torture Act of 2009. They are Senior Inspector Joselito Binayug, SPO3 Joaquin de Guzman, SPO1 Rodolfo Ong Jr., SPO1 Dante Bautista, PO1 Nonito Binayug, PO1 Rex Binayug and Supt. Rogelio Rosales Jr., because of “command responsibility” since he was the chief of the Police Station 11 in Binondo, Manila, at the time of the alleged torture. Nonito is Binayug’s younger brother while Rex is a relative. SPO1 Rodolfo Ong and PO1 Rex Binayug were placed under arrest after they surrendered in April 2012. The suspect Joselito Binayug was already dismissed from the PNP. On April 15, 2013, he was arrested in Manila by virtue of a warrant of arrest issued by Judge Alisuag.

On September 11, 2012, the Court of Appeals (CA) has turned down a petition filed by one of the accused policeman to nullify the criminal charges against them for violation of the

Ronel Victor R. Cabais

According to Ronel Cabais, he was attending the funeral of his grandmother when soldiers took him in April 2010. They accused him of being a member of the New People’s Army. Many civilians saw the soldiers beat him up. The military brought him to their detachment. During interrogation, they beat him up again, electrocuted him, and covered his head with plastic. They later turned him over to the police. He was not advised to immediately seek medical attention, nor was he informed of his

Anti-Torture Law. Joselito Binayug, PO3 Rodolfo Onga and PO1 Nonito Binayug are detained in Manila City Jail since April 18, 2013.

In August 2010, the International Rehabilitation Council for Torture Victims (IRCT) sent a team composed of a forensic doctor and psychologist, who are both experts in documenting torture in the Philippines, to document the case. They produced a Medico-Legal report concluding that the victim's story was highly consistent with him having been tortured. This along with a Medico-Legal report produced by a local expert was submitted to the prosecution.

On December 13, 2010, the CHR regional office in Bicol filed, on his behalf, a case of torture against the soldiers involved and in January 2011, the Municipal Circuit Trial Court of Polangui-Libon-Oas issued a warrant of arrest for several members of the 2nd Infantry Battalion (IB) of the Army's 9th Infantry Division (ID). In March 2011, due to fears of reprisals, Balay, MAG and IRCT ensured Mr. Cabais' release on bail after which he entered an NGO-run victim and witness protection program.

Since July 20, 2012, the accused soldiers have still not been located by the military authorities that deny knowing those named in the arrest order despite official records indicating their names, rank, position, and unit. On August 13, 2013, Lt. Gen. Noel A. Coballes, commanding general of the Philippine Army wrote the CHRP Chairperson Loretta P. Rosales

Lenin Salas, Jose L. Gomez, Jerry Simbulan, Rodwin M. Tala and Daniel Navarro

The Commission on Human Rights regional office filed the case in Pampanga shortly after the Anti-Torture Act took effect in 2009. It is among the first case of torture that reached the prosecutor's office. The complainants are five political detainees who claim that they have been badly beaten and threatened with death by their police captors whose names appeared on official records. The alleged torture and ill-treatment was documented by forensic experts and the visual marks were captured by a TV crew from Al Jazeera television visiting their detention facility. The complaint was filed on September 21, 2010 at the Office of the City Prosecutor of the City of San Fernando, Pampanga. The Office of City Prosecutor of the City of San Fernando, Pampanga issued resolutions dated July 21, 2011 and November 21, 2011 dismissing the complaint against respondents.

stating that all the accused in the torture case filed by Cabais do not belong in the roster of the Army's 9th ID or the entire Philippine Army.

The prosecutor's office found it probably that torture had taken place based on the forensic medical reports but at the same time rejected the victims' voice based identification of the perpetrators. Since the victims were blindfolded from the time of arrest and during the alleged torture. This decision has now been appealed through petition for review filed at the DOJ but as of 20 July 2012, no decision has been issued. The alleged victims are still detained on criminal charges and their relatives have complained about harassment from unidentified men, whom they believe to be members of security forces.

Abdul-Khan Balinting Ajid

According to Abdul-Khan Ajid, on July 23 2011 at around 3 o'clock in the morning, soldiers took him away from his house. The military accused him of being a member of the Abu Sayyaf Group (ASG) that was responsible for a string of atrocities and kidnappings of civilians. His captors tied his hands with a rope, threatened to kill him and ruined the family bakery from which he gets his income. He was blindfolded as he was taken to several locations. He was not given food, he was beaten in different parts of his body, his head was covered by plastic, and he was submerged in water several times, his foot burned with cigarette butts. Later on, his captors poured gasoline on his body and on his face and set him on fire. During this treatment, he was forced to admit that he is a member of the ASG.

His relatives were able to see him only after they filed a writ of habeas corpus. They brought him to the Basilan Community Hospital, but he was later transferred to the Zamboanga City Medical Center for treatment of his third degree burns. The doctors who examined him were at first reluctant to issue their findings related to torture. They apparently fear the reprisal of authorities that may be implicated in the incident. Subsequently NGO doctors made a thorough examination of the victim in line with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (also known as the Istanbul Protocol) and concluded that the victim had suffered grave physical and mental injuries, which were consistent with the allegations of torture.

When NGOs brought the matter to the Human Rights Office of the AFP, an immediate investigation was carried out resulting in the dismissal from military service of two soldiers. An Army Captain is still facing military proceedings to determine if he is still fit to remain in service. Meanwhile, the counsel of the victim has filed a complaint of torture before the military Ombudsman in February 2012. The perpetrators are likely to be facing a criminal case and stand trial in civilian court if the Ombudsman issues a favourable finding to the complaint. The relatives of the torture victim have been reportedly threatened to be harmed and had allegedly been offered money by an officer implicated in the case to withdraw the complaint.

Based on the CHR Region IX Resolution dated April 18, 2012, however, the two senior officers, Col. Alexander Macario and Capt. Arvin Llenaresas were excluded from the charges under the principle of command responsibility as the resolution stated that “they (the Respondent Senior Officers of the military) were able to substantially explain their non-participation in the acts complained of and they neither consented nor had the knowledge of the

alleged acts.”

b. Lack of rehabilitation program

Section 19 of the Anti-Torture Law mandates the formulation of a rehabilitation program within one year of the law taking effect. The Technical Working Group, which is developing the Rehabilitation Program for Torture Survivors, is composed of representatives¹⁷ from the Department of Social Work and Development (DSWD), DOH, DOJ and other concerned government agencies. As for now, the Technical Working Group has formulated a rehabilitation program with terms of reference of government agencies involved, but there is no update and development on its status.

In addition to the significant delay in its elaboration, there are a number of other concerns with regard to the design of the programme. A governmental lead agency is yet to be designated to implement it. In addition there is no detailed step-by-step plan and concrete commitments from the relevant government agencies on how it will be put to effect. The absence of a coordinating agency creates a risk that rehabilitation services will become compartmentalised within the different responsible agencies and thus not fulfil the objective of taking a holistic approach to the victim’s needs. This lack of specificity creates a risk that government agencies that have already demonstrated a lack of interest and ability in providing specialised rehabilitation

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services to torture survivors will not diligently implement the programme.

In addition, there are no provisions in the Anti-Torture Law in relation to a separate allocation of funding for the rehabilitation program of each government agency mandated by the law to ensure and implement such rehabilitation program. This open the door for government agencies to consider torture victim’s rehabilitation as one of the many service compo-

¹⁷ Section 38, Responsible agencies, IRR of the Anti-Torture Law.

nents that they are already undertaking without establishing the necessary expertise and capacity of its human resources.

IV. Conclusions and recommendations

The adoption of the Anti-Torture Law was a significant improvement to the legal environment in torture prevention in the Philippines. However, four years since the law took effect the number of cases brought to court against perpetrators remains a drop in the bucket. This is perceived as due to the weak public knowledge of the law and underpinning of torture incidents, the harassment and intimidation of torture survivors and their relatives, the lack of rigor in investigation of torture reports, the lacklustre attention given by prosecutors on torture cases, and the non-cooperation of the security forces.

It is hoped by the contributors of this report will contribute in the enhancement of the capacity of relevant stakeholders and deepen the understanding the processes and procedures in prosecuting cases. As noted in this report the government should set clear reference in terms of the legal process in prosecuting cases especially when related to torture and ill treatment. While there are no easy solutions, this kind of undertaking is a clear illustration of the untiring and ceaseless effort to overcome what may often seem to be insurmountable challenges to fight torture impunity.

The investigation of torture cases encounters many problems: contaminated or tainted evidence, lack of cooperation of complainants or witnesses, recantation of statements by witnesses among others. These are compounded by lack of training in investigation, lack of facilities and equipment, and the perennial lack of investigators, where there is only one investigator able to respond to extra-legal killings or enforced disappearances incidents in many provinces. Successful prosecution of cases is primarily based on quantum of evidence submitted in court to prove beyond reasonable doubt. In many cases, the prosecution failed to successfully prosecute these cases because investigators relied “heavily or predominantly” on witness reports or testimonial evidence”. It is high time to elevate the country’s standards in investigation through the use of forensic science.

The lack of quality documentary and testimonial evidence offer a good excuse to close or dismiss most investigations at the preliminary investigation stage by the prosecutors. This situation emphasizes the role that medical documentation and proper legal processes play in the investigation and prosecution of cases of torture and other human rights violations. The medical documentation and medico-legal reports (MLR) are important facts that can be

used as pieces of evidence in legal or administrative proceeding for prosecuting torture cases and facilitating redress and reparation for survivors.

All these attests to the need to bring evidences of torture cases forward to court in accordance with international standards and the need for a continuous training program of all stakeholders in documentation which are essential to achieve synergy among stakeholders and effective results in the fight against impunity.

All these attests to the need to bring evidences of torture cases forward to court in accordance with international standards and the need for a continuous training program of all stakeholders in documentation which are essential to achieve synergy among stakeholders and effective results in the fight against impunity. It is extremely important for the discourse to occur with the broadest possible participation of all stakeholders. The strong partnership between and among the CSOs, DOJ and DOH including the CHR is a key element in engendering this approach and in providing leadership to address the highly challenging task of promoting effective investigation and prosecution of all alleged torture cases.

As contained in this report, a multifaceted institutional response is thus urgent. To this effect we consider the following to be necessary and urge the authorities to:

- Immediately request the CHRP Chairperson to convene the Oversight Committee in charge of overseeing the Implementation of the Anti-Torture Law. Such Committee should establish a database to systematically collect information on the implementation of the Anti-Torture Law including on investigations, prosecutions, access to medical evaluations, acts of reprisals, implementation of the rehabilitation program and the submission of inventory of all detention centres and facilities under the jurisdiction of the PNP and the AFP.
- Take measures to promote compliance with the Anti-Torture Law through education of all government agencies and, military and law enforcement units on the law and torture prevention measures.
- Ensure that all investigations and prosecutions of allegations of torture adequately cover the possibilities for pursuing command responsibility including by obtaining all relevant records of all officials on duty particularly those holding senior positions that are alleged to have planned, commanded or perpetrated acts of torture and by utilizing the full extent of Section 13 of the law when it comes to non-compliance by the relevant institutions with the investigation.

- Increase awareness among the security forces about the prohibition of blindfolding enshrined in Section 4(b) (1), of the Anti-Torture Act and sanction all incidents of blindfolding regardless of whether it is done in connection with other forms of torture or not. Further, consider how rules of evidence evaluation may be amended to increase the possibility of identifying perpetrators through other means than visual verification. Likewise, make it mandatory for prosecutors to carry out a full investigation of possible command responsibility where identification of the primary perpetrator is impaired by the use of blindfolds.
- Provide specific training to all municipal/city health doctors and public prosecutors in coordination with medical and legal professionals associations and individual experts on how to identify signs of torture and ill-treatment, to document alleged torture cases and how to establish evidence that can be used in legal or administrative proceedings against those responsible for torture through the use of the Istanbul Protocol and other relevant international human rights standards.
- Adopt necessary measures to ensure that all persons who allege or otherwise show indications of having been tortured or ill-treated are offered a prompt, thorough, impartial and independent medical examination. These include but are not limited to: ensuring adequate protection of health professionals documenting torture and ill treatment from intimidation and other forms of reprisals; and ensuring that health professionals are able to examine victims independently and to maintain the confidentiality of medical records.
- Strengthen the Witness Protection Program (WPP) through amendments of the Witness Protection, Security and Benefit Act (Republic Act No. 6981) by giving high priority to the funding of the program and providing expanded rights and benefits to prospective witnesses to help the authorities prosecute torture cases and to ensure that it affords effective protection against reprisals and other harassment to all witnesses to torture acts and other cases of human rights violations.

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fourteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand nine.

[REPUBLIC ACT NO. 9745]

AN ACT PENALIZING TORTURE AND OTHER CRUEL,
INHUMAN AND DEGRADING TREATMENT OR
PUNISHMENT AND PRESCRIBING PENALTIES
THEREFOR

*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 "Anti-Torture Act of 2009".

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

(a) To value the dignity of every human person and
guarantee full respect for human rights;

(b) To ensure that the human rights of all persons,
including suspects, detainees and prisoners are respected at all

times; and that no person placed under investigation or held in custody of any person in authority or, agent of a person in authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or any act that impairs his/her free will or in any manner demeans or degrades human dignity;

(c) To ensure that secret detention places, solitary, *incommunicado* or other similar forms of detention, where torture may be carried out with impunity, are prohibited; and

(d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution; various international instruments to which the Philippines is a State party such as, but not limited to, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and all other relevant international human rights instruments to which the Philippines is a signatory.

SEC. 3. *Definitions.* - For purposes of this Act, the following terms shall mean:

(a) "Torture" refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her 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 person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

(b) "Other cruel, inhuman and degrading treatment or punishment" refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against

a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.

(c) "Victim" refers to the person subjected to torture or other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment.

(d) "Order of Battle" refers to any document or determination made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

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

(a) Physical torture is a form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:

(1) Systematic beating, headbanging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the stomach;

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

(3) Electric shock;

(4) Cigarette burning; burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wound(s);

(5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;

(6) Being tied or forced to assume fixed and stressful bodily position;

(7) Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum, or electrical torture of the genitals;

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

(9) Dental torture or the forced extraction of the teeth;

(10) Pulling out of fingernails;

(11) Harmful exposure to the elements such as sunlight and extreme cold;

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

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

(i) The administration of drugs to induce confession and/or reduce mental competency; or

(ii) The use of drugs to induce extreme pain or certain symptoms of a disease; and

(14) Other analogous acts of physical torture; and

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

- (1) Blindfolding;
- (2) Threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts;
- (3) Confinement in solitary cells or secret detention places;
- (4) Prolonged interrogation;
- (5) Preparing a prisoner for a "show trial", public display or public humiliation of a detainee or prisoner;
- (6) Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;
- (7) Maltreating a member/s of a person's family;
- (8) Causing the torture sessions to be witnessed by the person's family, relatives or any third party;
- (9) Denial of sleep/rest;
- (10) Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;
- (11) Deliberately prohibiting the victim to communicate with any member of his/her family; and
- (12) Other analogous acts of mental/psychological torture.

SEC. 5. Other Cruel, Inhuman and Degrading Treatment or Punishment. – Other cruel, inhuman or degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to

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SEC. 8. *Applicability of the Exclusionary Rule; Exception.* – Any confession, admission or statement obtained as a result of torture shall be inadmissible in evidence in any proceedings, except if the same is used as evidence against a person or persons accused of committing torture.

SEC. 9. *Institutional Protection of Torture Victims and Other Persons Involved.* – A victim of torture shall have the following rights in the institution of a criminal complaint for torture:

(a) To have a prompt and an impartial investigation by the CHR and by agencies of government concerned such as the Department of Justice (DOJ), the Public Attorney's Office (PAO), the PNP, the National Bureau of Investigation (NBI) and the AFP. A prompt investigation shall mean a maximum period of sixty (60) working days from the time a complaint for torture is filed within which an investigation report and/or resolution shall be completed and made available. An appeal whenever available shall be resolved within the same period prescribed herein,

(b) To have sufficient government protection against all forms of harassment, threat and/or intimidation as a consequence of the filing of said complaint or the presentation of evidence therefor. In which case, the State through its appropriate agencies shall afford security in order to ensure his/her safety and all other persons involved in the investigation and prosecution such as, but not limited to, his/her lawyer, witnesses and relatives; and

(c) To be accorded sufficient protection in the manner by which he/she testifies and presents evidence in any *fora* in order to avoid further trauma.

SEC. 10. *Disposition of Writs of Habeas Corpus, Amparo and Habeas Data Proceedings and Compliance with a Judicial Order.* – A writ of habeas corpus or writ of amparo or writ of habeas data proceeding, if any, filed on behalf of the victim of torture or other cruel, degrading and inhuman treatment or punishment shall be disposed of expeditiously and any order of release by virtue thereof, or other appropriate order of a court relative thereto, shall be executed or complied with immediately.

SEC. 11. *Assistance in Filing a Complaint.* – The CHR and the PAO shall render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party thereto.

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

SEC. 12. *Right to Physical, Medical and Psychological Examination.* – Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor to conduct physical examination. The State shall endeavor to provide the victim with psychological evaluation if available under the circumstances. If the person arrested is a female, she shall be attended to preferably by a female doctor. Furthermore, any person arrested, detained or under custodial investigation, including his/her immediate family, shall have the right to immediate access to proper and adequate medical treatment.

The physical examination and/or psychological evaluation of the victim shall be contained in a medical report, duly signed by the attending physician, which shall include in detail his/her medical history and findings, and which shall be attached to the custodial investigation report. Such report shall be considered a public document.

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

- (a) The name, age and address of the patient or victim;
- (b) The name and address of the nearest kin of the patient or victim;

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

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

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

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

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

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

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

SEC. 13. *Who are Criminally Liable.* – Any person who actually participated or induced another in the commission of torture or other cruel, inhuman and degrading treatment or punishment or who cooperated in the execution of the act of torture or other cruel, inhuman and degrading treatment or punishment by previous or simultaneous acts shall be liable as principal.

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

The immediate commanding officer of the unit concerned of the AFP or the immediate senior public official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of torture or other cruel or inhuman and degrading treatment or punishment for any act or omission, or negligence

committed by him/her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his/her subordinates. If he/she has knowledge of or, owing to the circumstances at the time, should have known that acts of torture or other cruel, inhuman and degrading treatment or punishment shall be committed, is being committed, or has been committed by his/her subordinates or by others within his/her area of responsibility and, despite such knowledge, did not take preventive or corrective action either before, during or immediately after its commission, when he/she has the authority to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment but failed to prevent or investigate allegations of such act, whether deliberately or due to negligence shall also be liable as principals.

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

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

(b) By concealing the act of torture or other cruel, inhuman and degrading treatment or punishment and/or destroying the effects or instruments thereof in order to prevent its discovery; or

(c) By harboring, concealing or assisting in the escape of the principal/s in the act of torture or other cruel, inhuman and degrading treatment or punishment: *Provided*, That the accessory acts are done with the abuse of the official's public functions.

SEC. 14. *Penalties.* - (a) The penalty of *reclusion perpetua* shall be imposed upon the perpetrators of the following acts:

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

(2) Torture resulting in mutilation;

(3) Torture with rape;

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

(5) Torture committed against children.

(b) The penalty of *reclusion temporal* shall be imposed on those who commit any act of mental/psychological torture resulting in insanity, complete or partial amnesia, fear of becoming insane or suicidal tendencies of the victim due to guilt, worthlessness or shame.

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

(d) The penalty of *prision mayor* in its medium and maximum periods shall be imposed if, in consequence of torture, the victim shall have lost the power of speech or the power to hear or to smell; or shall have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use of any such member; or shall have become permanently incapacitated for labor.

(e) The penalty of *prision mayor* in its minimum and medium periods shall be imposed if, in consequence of torture, the victim shall have become deformed or shall have lost any part of his/her body other than those aforesaid, or shall have lost the use thereof, or shall have been ill or incapacitated for labor for a period of more than ninety (90) days.

(f) The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for more than thirty (30) days but not more than ninety (90) days.

(g) The penalty of *prision correccional* in its minimum and medium period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for thirty (30) days or less.

(h) The penalty of *arresto mayor* shall be imposed for acts constituting cruel, inhuman or degrading treatment or punishment as defined in Section 5 of this Act.

(i) The penalty of *prision correccional* shall be imposed upon those who establish, operate and maintain secret detention places and/or effect or cause to effect solitary confinement, *incommunicado* or other similar forms of prohibited detention as provided in Section 7 of this Act where torture may be carried out with impunity.

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

SEC. 15. *Torture as a Separate and Independent Crime.* – Torture as a crime shall not absorb or shall not be absorbed by any other crime or felony committed as a consequence, or as a means in the conduct or commission thereof. In which case, torture shall be treated as a separate and independent criminal act whose penalties shall be imposable without prejudice to any other criminal liability provided for by domestic and international laws.

SEC. 16. *Exclusion from the Coverage of Special Amnesty Law.* – In order not to depreciate the crime of torture, persons who have committed any act of torture shall not benefit from any special amnesty law or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.

SEC. 17. *Applicability of Refauler.* – No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger

of being subjected to torture. For the purposes of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the DOJ, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

SEC. 18. Compensation to Victims of Torture. – Any person who has suffered torture shall have the right to claim for compensation as provided for under Republic Act No. 7309: *Provided, That* in no case shall compensation be any lower than Ten thousand pesos (P10,000.00). Victims of torture shall also have the right to claim for compensation from such other financial relief programs that may be made available to him/her under existing law and rules and regulations.

SEC. 19. Formulation of a Rehabilitation Program. – Within one (1) year from the effectivity of this Act, the Department of Social Welfare and Development (DSWD), the DOJ and the Department of Health (DOH) and such other concerned government agencies, and human rights organizations shall formulate a comprehensive rehabilitation program for victims of torture and their families. The DSWD, the DOJ and the DOH shall also call on human rights nongovernment organizations duly recognized by the government to actively participate in the formulation of such program that shall provide for the physical, mental, social, psychological healing and development of victims of torture and their families. Toward the attainment of restorative justice, a parallel rehabilitation program for persons who have committed torture and other cruel, inhuman and degrading punishment shall likewise be formulated by the same agencies.

SEC. 20. Monitoring of Compliance with this Act. – An Oversight Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by a Commissioner of the CHR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and

the Minority Leaders of both houses or their respective representatives in the minority.

SEC. 21. *Education and Information Campaign.* – The CHR, the DOJ, the Department of National Defense (DND), the Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. The Department of Education (DepED) and the Commission on Higher Education (CHED) shall also ensure the integration of human rights education courses in all primary, secondary and tertiary level academic institutions nationwide.

SEC. 22. *Applicability of the Revised Penal Code.* – The provisions of the Revised Penal Code insofar as they are applicable shall be supplementary to this Act. Moreover, if the commission of any crime punishable under Title Eight (Crimes Against Persons) and Title Nine (Crimes Against Personal Liberty and Security) of the Revised Penal Code is attended by any of the acts constituting torture and other cruel, inhuman and degrading treatment or punishment as defined herein, the penalty to be imposed shall be in its maximum period.

SEC. 23. *Appropriations.* – The amount of Five million pesos (Php5,000,000.00) is hereby appropriated to the CHR for the initial implementation of this Act. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

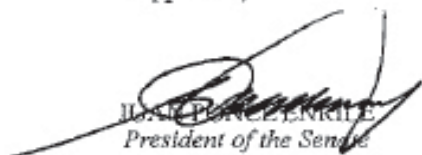
SEC. 24. *Implementing Rules and Regulations.* – The DOJ and the CHR, with the active participation of human rights nongovernmental organizations, shall promulgate the rules and regulations for the effective implementation of this Act. They shall also ensure the full dissemination of such rules and regulations to all officers and members of various law enforcement agencies.

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


SEC. 26. *Repealing Clause.* – All laws, decrees, executive orders or rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 27. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Approved,



JUAN PONCE ENRILE
President of the Senate



PROSPERO C. NOGRALES
*Speaker of the House
of Representatives*

This Act which is a consolidation of House Bill No. 5709 and Senate Bill No. 1978 was finally passed by the House of Representatives and the Senate on September 2, 2009.



EMMA LIRIO REYES
Secretary of the Senate



MARILYN B. BARUA-YAP
*Secretary General
House of Representatives*

Approved: NOV 10 2009



GLORIA MACAPAGAL-ARROYO
President of the Philippines



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Implementing Rules and Regulations of the Anti-Torture Act of 2009

Section 1. Title – This shall be known as the implementing rules and regulations of Republic Act 9745, otherwise known as the “Anti-Torture Act of 2009”.

Section 2. Purpose – These rules and regulations are hereby promulgated to promote policies, establish the institutional mechanism, prescribe the procedures and guidelines to prevent all forms of torture and other cruel, inhuman and degrading treatment or punishment and to ensure the implementation of RA 9745.

Section 3. Declaration of Policy – It is hereby declared the policy of the State:

- (a) To value the dignity of every human person and guarantee full respect for human rights;
- (b) To ensure that the human rights of all persons including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody by any person in authority or, agent of a person in authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or any act that impairs his/her free will or in any manner demeans or degrades human dignity;
- (c) To ensure that secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity, are prohibited;
- (d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution;
- (e) To uphold at all times the inherent rights and dignity of all persons as enshrined and guaranteed in the following international instruments:
 - (i) International Covenant on Civil and Political Rights (ICCPR);
 - (ii) Convention on the Rights of the Child (CRC);
 - (iii) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
 - (iv) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
 - (v) Universal Declaration on Human Rights, and
 - (vi) all other relevant international human rights instruments to which the Philippines is a signatory.

Section 4. Construction – These implementing rules and regulations shall be construed to achieve the objectives of the Act.

Section 5. Definition of Terms – The following shall be defined as:

Torture – refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her 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 person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Other cruel, inhuman and degrading treatment or punishment - refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.

Victim – refers to the person subjected to torture or other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment.

Order of Battle – refers to any document or determination made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

Act – refers to Republic Act 9745 or the Anti-Torture Act of 2009.

Person in authority – refers to any person directly vested with jurisdiction, whether as an individual or as a member of some court or government corporation, board, or commission, shall be deemed a person in authority.

Agent of a person in authority – refers to any person who, by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, and any person who comes to the aid of persons in authority, shall be deemed an agent of a person in authority.

Custodial investigation – shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed, without prejudice to the liability of the "inviting" officer for any violation of law, as defined in RA 7438 or "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, Custodial Investigation".

Interrogation – refers to the process of questioning an arrested or detained person in relation to any violation of law.

Solitary confinement – is a form of imprisonment in which a prisoner(s) or detainee(s) is denied contact with any other persons, except members of prison or detention staff. Solitary confinement also exists when occasional access to the prisoner(s) or detainee(s) is subjected to the discretion of the jailer or prison or detention authority.

Incommunicado – deliberately prohibiting without valid reason a person under investigation or detention from communicating in any manner with any person other than the persons holding him/her under custody.

Prohibited custody – Captivity or deprivation of liberty of an individual, whether static or mobile, without just cause.

Prohibited Detention. - Secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity are hereby prohibited.

Right to own choice – refers to the right of all persons in custody to be informed in oral or written form, in a language or dialect understood by the alleged torture victim or the person concerned, of their right to demand a physical examination by a physician of his/her own choice.

Independent and competent doctor – refers to any physician freely chosen by the victim or his /her duly authorized representative/s to conduct physical examination and treatment of tortured victims. Physicians who belong to agencies that are involved in the arrest and detention of the victim shall not be included, unless the victim specifically allowed such examination and when circumstances require.

Right to Physical Examination – refers to the right of every person arrested, detained or under custodial investigation or to prompt and thorough examination for the purpose of determining whether or not torture has been inflicted. This also refers to access without any delay to such an examination which should be made before and after any acts of interrogation and immediately before and after any transfer of the person between detention institutions.

BHRAC (Barangay Human Rights Action Center) – a barangay institutional mechanism which receives and refers complaints of human rights violations, including torture.

Section 6. Acts of Torture. – For purposes of these rules and regulations, torture shall include, but not be limited to the following:

- (a) Physical torture is a form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:
 - (1) Systematic beating, head banging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the stomach. For purposes of these rules, stomach shall mean abdomen.
 - (2) Food deprivation or forcible feeding with spoiled food, animal or human excreta and other stuff or substances not normally eaten;
 - (3) Electric shock;

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- (4) Cigarette burning; burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wound(s);
 - (5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;
 - (6) Being tied or forced to assume fixed and stressful bodily position;
 - (7) Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum, or electrical torture of the genitals;
 - (8) Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;
 - (9) Dental torture or the forced extraction of the teeth;
 - (10) Pulling out of fingernails;
 - (11) Harmful exposure to the elements such as sunlight and extreme cold;
 - (12) The use of plastic bag and other materials placed over the head to the point of asphyxiation;
 - (13) The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:
 - (i) The administration or drugs to induce confession and/or reduce mental competency; or
 - (ii) The use of drugs to induce extreme pain or certain symptoms of a disease; and
 - (14) Other analogous acts of physical torture; and
- (b) "Mental/Psychological Torture" refers to acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person's dignity and morale, such as:
- (1) Blindfolding;
 - (2) Threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts;
 - (3) Confinement in solitary cells or secret detention places;
 - (4) Prolonged interrogation;
 - (5) Preparing a prisoner for a "show trial", public display or public humiliation of a detainee or prisoner;
 - (6) Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;
 - (7) Maltreating a member/s of a person's family;
 - (8) Causing the torture sessions to be witnessed by the person's family, relatives or any third party;
 - (9) Denial of sleep/rest;
 - (10) Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;
 - (11) Deliberately prohibiting the victim to communicate with any member of his/her family; and
 - (12) Other analogous acts of mental/psychological torture.

Section 7. Other Cruel, Inhuman and Degrading Treatment or Punishment. - Other cruel, inhuman or degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of the Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter. The assessment of the level of severity shall depend on all the circumstances of the case, including the duration of the treatment or punishment, its physical and mental effects and, in some cases, the sex, religion, age and state of health of the victim.

Section 8. Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, An Absolute Right. - Torture and other cruel, inhuman and degrading treatment or punishment as criminal acts shall apply to all circumstances. A state of war or a threat of war, internal political instability, or any other public emergency, or a document or any determination comprising an "order of battle" shall not and can never be invoked as a justification for torture and other cruel, inhuman and degrading treatment or punishment.

Section 9. Nature of the offense. Any person having personal knowledge of the circumstances involving the commission of the crime may file a complaint under acts punishable by Sections 6 and 7 hereof.

Section 10. Secret detention places, solitary confinement, incommunicado or other similar forms of detention - No individual, whether arrested, detained or under custodial investigation or restricted/deprived of liberty for any reason, shall be kept in secret detention, solitary confinement, held incommunicado, prohibited custody or other similar forms of detentions.

Under no circumstances shall such detention centers be allowed and, if found, its use as a secret detention center shall be discontinued immediately.

Section 11. Inspection by the CHR of detention, rehabilitation, confinement and other similar facility- The CHR shall exercise its visitorial powers at any time over jails, prisons and detention facilities, have unrestricted access to any detention facilities inside military camps, police lock-up cells, jails, prisons, youth homes, or any detention, rehabilitation, confinement and other similar facility.

The custodial authorities shall validate or verify the identity and authority of the CHR visitation team without delay.

Section 12. List of detention centers, facilities and register of detainees and/or prisoners - The Philippine National Police (PNP), Armed Forces of the Philippines (AFP), National Bureau of Investigation (NBI), Bureau of Jail Management and Penology (BJMP), Bureau of Corrections (BuCor), Philippine Drug Enforcement Agency (PDEA) and all other law enforcement agencies, local chief executives having jurisdiction over provincial jails shall make an updated list of all detention centers and facilities under their respective jurisdictions with the corresponding data on the prisoners or detainees incarcerated or detained therein such as, among

others, names, date of arrest and incarceration. Such list shall be periodically updated by the same agencies within the first five (5) days of every month at the minimum.

Within sixty (60) days from the adoption of the IRR, the CHR shall prescribe a standard format and guidelines for reporting the list of detention centers and facilities at the national and regional and local levels. It shall also prescribe the contents of register of detention centers and facilities.

The updated list shall be made available to the public at all times, with copies available at the respective national headquarters or offices as above-mentioned. Provided, that the register of youth homes, records of children and persons involved in sexual violence cases and shall not be accessible to the public pursuant to RA 7610, 8353, 9344 and other related laws.

Section 13. Compliance of the regional offices – All regional or similar offices of the agencies referred to in the preceding section shall also maintain a similar list of all detention facilities within their respective jurisdictions together with the up-to-date register of detainees and/or prisoners and shall make the same available to the public at all times at their respective regional headquarters, and submit a copy, updated in the same manner provided above, to the respective regional offices of the CHR.

Section 14. Applicability of the Exclusionary Rule; Exception. - Any confession, admission or statement obtained as a result of torture shall be inadmissible in evidence in any proceedings, except if the same is used as evidence against a person or persons accused of committing torture.

Section 15. Institutional Protection of Torture Victims and Other Persons Involved – A victim of torture shall have the following rights in the institution of a criminal complaint for torture:

(a) A victim of torture shall have the right to a prompt and impartial fact-finding investigation within the period of sixty (60) days by the CHR, PNP, DOJ/NBI, AFP and other concerned government agencies where the complaint is lodged.

The PAO shall assist the victim/s in the preparation of affidavits and other legal documents.

When the case is referred to the DOJ or the Ombudsman for preliminary investigation, the 60-day period shall be reckoned from the filing of the complaint before said agencies.

(b) A child shall always be accompanied by a social worker from the Local Social Welfare Development Office (LSWDO). It shall ensure that medical examination is conducted, preferably with the presence of the parent or legal guardian. It shall likewise ensure the filing of a complaint to the appropriate agencies.

Section 16. Sufficient government protection against all forms of harassments, threat and/or intimidation as a consequence of the filing of said complaint or the presentation of evidence thereof. – Upon filing of the complaint, during trial and until the case reaches final disposition, the victim, as well as other persons involved in the investigation and prosecution of the case, shall be ensured sufficient government protection, such as placing the persons being investigated under preventive suspension during the period of administrative investigation, filing a motion in court to transfer the detainee to a safe place and other remedies as may be provided for by law.

The factors to be considered in granting protection may include:

- (1) Power and position of the perpetrators;
- (2) Capacity and access to resources of the accused;
- (3) History of retaliatory action of the accused;
- (4) Economic, social status, and gender of the victim and other involved persons;
- (5) Degree of severity of the act complained of;
- (6) Geographical distance between the victim/other involved persons and the accused.

The victim of torture and witnesses to torture may avail of the benefits under Republic Act 7981 otherwise known as the “Witness Protection, Security and Benefit Act” and other applicable laws.

Section 17. Manner of Testifying and Presentation of Evidence – Torture victims and witnesses to torture are to be accorded sufficient protection in the manner by which he/she testifies and presents evidence in any fora in order to avoid further trauma. Appropriate government agencies may coordinate with concerned civil society organizations in providing such protection.

Whenever necessary, closed circuit television testimony and one-way mirrors are among the devices that can be utilized to prevent direct interaction between the victims and accused.

Child psychologists, psychiatrists or Court Appointed Special Advocate/Guardian Ad Litem (CASA/GAL) shall be on hand if the victim is a child or is suffering from mental or psychological trauma.

Section 18. Assistance in Filing a Complaint – The CHR and the PAO shall render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party thereto, regardless of whether the complainant is indigent or not.

The victim or interested party may also seek legal assistance from the Integrated Bar of the Philippines (IBP) and human rights non-government organizations (NGOs), among others.

A BHRAC, through the Barangay Human Rights Action Officers (BHRAOs), shall render assistance in the following manner:

- (1) Conduct information education campaign on this law;
- (2) Refer victims of torture to the CHR or other appropriate agency for the conduct of investigation or for legal assistance.

The Department of Interior and Local Government (DILG) and CHR shall conduct information dissemination at the grassroots level to ensure that the citizenry will utilize the BHRAC in filing complaints.

Section 19. Nature of right. – Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. The implementation of this right shall likewise ensure that the person has access to a medical examination to document possible allegations of torture or other ill-treatment.

If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor to conduct physical examination. The State shall likewise provide the victim with psychological evaluation if available under the circumstances. The medical examination shall be done at no cost to the victim, and under no circumstances will he/she be required to pay for laboratory fees, testing fees, x-rays, or any and all other expenses. Failure to prove incapacity to afford shall not be a ground to deny physical examination. If further consultations are necessary, the funds for this may likewise be provided by other agencies that provide financial assistance, such as the Philippine Charity Sweepstakes Office (PCSO) and Philippine Amusement and Gaming Corporation (PAGCOR).

In case of the Department of Health, each Center for Health Development (CHD) shall ensure that victims are referred to appropriate health facilities in their jurisdiction. In case of the local government units, the local health units may also provide assistance. The social worker conducting intake interview may recommend to the LGUs the grant of financial /medical assistance.

Section 20. Right to medical treatment for the victim and his/her immediate family– The right to immediate access to proper and adequate physical, medical and psychological examination for treatment of any person arrested, detained or under custodial investigation, and his/her immediate family member, such as the parents, brothers and sisters, spouse and children. This is an inherent right that is immediately executory upon demand of the victim without need of any court order or any legal process.

Section 21. Female victims/detainees – If the person arrested and/or detained is female, she shall be attended to by a female doctor. In cases where female doctors are unavailable, male doctors will be allowed provided that: there is a written or oral consent from the person arrested, and the examination is done in the presence of a family member, preferably female, of sufficient age and discretion, or any organization authorized by the victim.

Facilities for female victims/detainees should be exclusive to them and separate from the facilities for male victims/ detainees.

In case of victims of sexual torture, utmost care and sensitivity shall be observed in the medical examination of the victim. Further, if specialized care is necessary, the victim shall be referred to the appropriate specialists.

Section 22. Obligation of the Medical Examiners – All medical examiners conducting the examinations described in these rules are under a legal and ethical obligation to conduct a diligent and complete medical examination. Any violation of this obligation by conduct or omission shall be referred to the relevant authorities and medical associations for further investigation. All medical reports must be duly signed by the examining physician.

Section 23. Result of Medical Report – The medical report with respect to a medical examination conducted on the torture victim shall be considered a public document. Provided, that any person who seeks to avail of the medical report has legal interest on the same. Provided further, that medical reports involving children and victims of sexual violence shall be kept confidential consistent with existing laws.

Section 24. Contents of the Report – The physician who conducted the medical examination and the psychological evaluation shall prepare and sign the report which shall contain the following information:

(I) Case information

- (1) Date and time of examination
- (2) Place of examination
- (3) Address of referring agency/ person
- (4) Address of immediate relative or contact person
- (5) Name/position of person requesting the examination
- (6) Case number
- (7) Duration of evaluation in hours and minutes
- (8) Subject's full name (given name, middle name and surname)
- (9) Subject's birth date
- (10) Subject's birth place
- (11) Subject's gender
- (12) Reason for examination
- (13) Subject's ID Number
- (14) Clinician's name
- (15) When present, interpreter's name
- (16) Whether or not informed consent was given by the subject. If no informed consent, reason why
- (17) Name and position of person accompanying the subject
- (18) Name and position of persons present during examination
- (19) Whether or not subject is restrained during examination: If "yes", how/why?
- (20) name/position where the medical report is transferred to
- (21) Transfer date

- (22) Transfer time
- (23) For subjects in custody, whether or not medical evaluation/investigation conducted without restriction
- (24) Provide details of any restriction

(II) Background information

- (1) General information (age, occupation, education, family composition, etc.)
- (2) Past medical history
- (3) Review of prior medical evaluations of torture and ill-treatment
- (4) Psychosocial history pre-arrest

(III) Victim's allegations of torture and ill-treatment

- (1) Summary of detention and abuse
- (2) Circumstances of arrest and detention
- (3) Initial and subsequent places of detention (chronology, transportation and detention conditions)
- (4) Narrative account of ill-treatment or torture (in each place of detention)
- (5) Review of torture methods.

(IV) Physical symptoms and disabilities

Describe the development of acute and chronic symptoms and disabilities and the subsequent healing processes.

- (1) Acute symptoms and disabilities
- (2) Chronic symptoms and disabilities.

(V) Physical examination

- (1) General appearance
- (2) Skin
- (3) Face and head
- (4) Eyes, ears, nose and throat
- (5) Oral cavity and teeth
- (6) Chest and abdomen (including vital signs)
- (7) Genito-urinary system
- (8) Musculoskeletal system
- (9) Central and peripheral nervous system
- (10) Anogenital examination

(VI) Photographs

(VII) Diagnostic test results

(VIII) Interpretation of findings

Physical evidence

- (A) Correlate the degree of consistency between the history of acute and chronic physical symptoms and disabilities with allegations of abuse.
- (B) Correlate the degree of consistency between physical examination findings and allegations of abuse.
The absence of physical findings does not exclude the possibility that torture or ill-treatment was inflicted.
- (C) Correlate the degree of consistency between examination findings of the individual with knowledge of torture methods and their common after-effects used in a particular region.

(IX) Conclusions and recommendations

Physical

- (1) Statement of opinion on the consistency between all sources of evidence cited above (physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc.) and allegations of torture and ill-treatment.
- (2) Reiterate the symptoms and disabilities from which the individual continues to suffer as a result of the alleged abuse.
- (3) Provide any recommendations for further evaluation and care for the individual.
- (4) If necessary, provide recommendation for rehabilitation program

(X) Consultations

(XI) Physician's Certification on the conduct of physical examination:

The undersigned physician(s) shall certify that he/she was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities".

In case restrictions were imposed, the certification shall include the said restrictions. the physician(s) shall certify that he/she had to carry out the evaluation with restrictions and shall state the same.

" I hereby certify that I was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities".

" I hereby certify that I was allowed to examine (the subject) with restrictions". (state the restrictions)

(XIII) Clinician's signature, date, place

(XIV) Relevant annexes

A copy of the clinician's curriculum vitae, anatomical drawings for identification of torture and ill-treatment, photographs, consultations and diagnostic test results, among others.

(XV) Psychological history/examination

- (1) Methods of assessment
- (2) Current psychological complaints
- (3) Post-torture history
- (4) Pre-torture history
- (5) Past psychological/psychiatric history
- (6) Substance use and abuse history
- (7) Mental status examination
- (8) Assessment of social functioning
- (9) Psychological testing
- (10) Neuropsychological testing

(XVI) Interpretation of findings

Psychological evidence

- (A) Correlate the degree of consistency between the psychological findings and the report of alleged torture.
- (B) Provide an assessment of whether the psychological findings are expected or typical reactions to extreme stress within the cultural and social context of the individual.
- (C) Indicate the status of the individual in the fluctuating course of trauma-related mental disorders over time, i.e. what is the time frame in relation to the torture events and where in the course of recovery is the individual?
- (D) Identify any coexisting stressors impinging on the individual (e.g. ongoing persecution, forced migration, exile, loss of family and social role, etc.) and the impact these may have on the individual.

(E) Mention physical conditions that may contribute to the clinical picture, especially with regard to possible evidence of head injury sustained during torture or detention.

(XVII) Conclusions and recommendations

Psychological

- (1) Statement of opinion on the consistency between all sources of evidence cited above (physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc.) and allegations of torture and ill-treatment.
- (2) Reiterate the symptoms and disabilities from which the individual continues to suffer as a result of the alleged abuse.
- (3) Provide any recommendations for further evaluation and care for the individual.
- (4) If necessary, provide recommendation for rehabilitation program

(XVIII) Consultations

(XIX) Physician's Certification on the conduct of psychological examination:

The undersigned physician(s) shall certify that he/she was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities.

In case restrictions were imposed, the certification shall include the said restrictions.

“ I hereby certify that I was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities”.

“ I hereby certify that I was allowed to examine (the subject) with restrictions”. (state the restrictions)

(XIII) Clinician's signature, date, place

(XIV) Relevant annexes

A copy of the clinician's curriculum vitae, anatomical drawings for identification of torture and ill-treatment, photographs, consultations and diagnostic test results, among others.

Section 25. Waiver of the Right to Medical Examination/Psychological Evaluation– Any person who does not wish to avail of the rights under this provision may knowingly and voluntarily waive such rights in writing, executed in the presence and assistance of a counsel of his/her own choice and in a language he/she understands.

Section 26. Principal – (a) Any person who directly participated, forced or induced another in the commission of torture or other cruel, inhuman and degrading treatment or punishment or who cooperated in the execution of the offense by another act without which it would not have been accomplished or who cooperated in the execution of the offense by previous or simultaneous acts shall be liable as a principal.

- (b) Any superior military, police or law enforcement officer or senior government official who issued an order to any lower ranking personnel to commit torture for whatever purpose shall be held equally liable as principals.
- (c) The immediate commanding officer of the unit concerned of the AFP or the immediate senior public official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of torture or other cruel or inhuman and degrading treatment or punishment for any act or omission, or negligence committed by him/her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his/her subordinates. If he/she has knowledge of or, owing to the circumstances at the time, should have known that the act of torture or other cruel, inhuman and degrading treatment or punishment shall be committed, is being committed, or has been committed by his/her subordinates or by others within his/her area of responsibility and, despite such knowledge, did not take preventive or corrective action either before, during or immediately after its commission, when he/she has the authority to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment but failed to prevent or investigate allegations of such act, whether deliberately or due to negligence shall also be liable as a principal.

Section 27. Accomplice – Any person who, not being included in Section 26 hereof, cooperate in the execution of torture or other cruel, inhuman and degrading treatment or punishment by previous or simultaneous acts is an accomplice.

Section 28. Accessories – Any public officer or employee shall be liable as an accessory if he/she has knowledge that torture or other cruel, inhuman and degrading treatment or punishment is being committed and without having participated therein, either as principal or accomplice, takes part subsequent to its commission in or punishment is being committed and without having participated therein, either as principal or accomplice, takes part subsequent to its commission in any of the following manner:

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

- (b) By concealing the act of torture or other cruel, inhuman and degrading treatment or punishment and/or destroying the effects or instruments thereof in order to prevent its discovery; or,
- (c) By harboring, concealing or assisting in the escape of the principal/s in the act of torture or other cruel, inhuman and degrading treatment or punishment.

If in the event a child is involved in the act of inflicting torture, the handling and treatment of said child shall be in accordance with RA 7619, RA 9344 (Juvenile Justice Welfare Act) and other related laws. In case of doubt, the interpretation of any of the provisions of the rules shall be construed liberally in favor of the child involved in torture acts, i.e., consistent with the best interest of the child, the declared state policy, the rights of the child and principle of restorative justice.

Section 29. Penalties – (a) The penalty of *reclusion perpetua* shall be imposed upon the perpetrators of the following acts:

- (1) Torture resulting in the death of any person;
 - (2) Torture resulting in mutilation;
 - (3) Torture with rape;
 - (4) Torture with other forms of sexual abuse and, in consequence of torture, the victim shall have become insane, imbecile, impotent, blind or maimed for life; and
 - (5) Torture committed against children.
- (b) The penalty of *reclusion temporal* shall be imposed on those who commit any act of mental/psychological torture resulting in insanity, complete or partial amnesia, fear of becoming insane or suicidal tendencies of the victim due to guilt, worthlessness or shame.
 - (c) The penalty of *prision correccional* shall be imposed on those who commit any act of torture resulting in psychological, mental and emotional harm other than those described in paragraph (b) of this section. '
 - (d) The penalty of *prision mayor* in its medium and maximum periods shall be imposed if, in consequence of torture, the victim shall have lost the power of speech or the power to hear or to smell; or shall have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use of any such member; Or shall have become permanently incapacitated for labor.
 - (e) The penalty of *prision mayor* in its minimum and medium periods shall be imposed if, in consequence of torture, the victim shall have become deformed or shall have lost any part of his/her body other than those aforesaid, or shall have lost the use thereof, or shall have been ill or incapacitated for labor for a period of more than ninety (90) days.
 - (f) The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for more than thirty (30) days but not more than ninety (90) days.

- (g) The penalty of *prision correccional* in its minimum and medium period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for thirty (30) days or less.
- (h) The penalty of *arresto mayor* shall be imposed for acts constituting cruel, inhuman or degrading treatment or punishment as defined in Section 5 of the Act.
- (i) The penalty of *prision correccional* shall be imposed upon those who establish, operate and maintain secret detention places and/or effect or cause to effect solitary confinement, incommunicado or other similar forms of prohibited detention as provided in Section 7 of the Act where torture may be carried out with impunity.
- (j) The penalty of *arresto mayor* shall be imposed upon the responsible officers or personnel of the AFP, the PNP and other law enforcement agencies for failure to perform his/her duty to maintain, submit or make available to the public an updated list of detention centers and facilities with the corresponding data on the prisoners or detainees incarcerated or detained therein, pursuant to Section 7 of the Act.

This is without prejudice to the provisions of RA 7438 or "An Act Defining Certain Rights Of Person Arrested, Detained Or Under Custodial Investigation As Well As The Duties Of The Arresting, Detaining And Investigating Officers."

Section 30. Torture as a Separate and Independent Crime. – Torture as a crime shall not absorb or shall not be absorbed by any other crime or felony committed as a consequence, or as a means in the conduct or commission thereof. In which case, torture shall be treated as a separate and independent criminal act whose penalties shall be imposable without prejudice to any other criminal liability provided for by domestic and international laws.

Section 31. Amnesty, when denied – In order not to depreciate the crime of torture, persons who have committed any act of torture shall not benefit from any special amnesty law or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.

Section 32. Applicability of Refouler. – No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to torture. For the purposes of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the DOJ, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 33. Who may avail of compensation – Any person who has suffered torture as defined in the Act, or in the victim(s) absence or incapacity, his/her immediate family, shall have the right to claim for compensation provided for under existing laws, rules and regulations.

In case of death of the tortured victim, the compensation accruing to the tortured victim shall form part of his/her estate.

Section 34. Application for claims, where filed – The application for claims shall be filed with the Board of Claims under the DOJ as provided for in RA. 7309. Request for financial assistance may also be filed with the CHR.

Section 35. Who may file – The victim, a relative of the victim within the fourth degree of consanguinity, or an authorized human rights NGO may assist the victims in filing a claim.

Section 36. Amount of compensation – Where there is a finding that torture had been committed, the amount of compensation shall not be less than PhP10, 000.00.

Victims of torture shall also have the right to claim for compensation from such other financial relief programs that may be made available to him/her under existing laws, including the right to apply for the grant of financial assistance from the CHR.

Section 37. Rehabilitation Program – Toward the attainment of restorative justice, rehabilitation programs shall be provided for the physical, psychological and social healing and development of victims of torture and their families.

The victims of torture and their families shall be entitled to avail of the rehabilitation program based on the recommendation of the examining physician in the Medical and Psychological Report.

A parallel rehabilitation program shall also be provided for persons who have been convicted by final judgment of torture and other cruel, inhuman and degrading punishment.

Section 38. Responsible agencies – Within one (1) year from the effectivity of the Act, the rehabilitation program shall be formulated by the following agencies:

- Department of Social Welfare and Development (DSWD)
- Department of Health (DOH)
- Department of Justice (DOJ)
- Department of Interior and Local Government (DILG)
- Commission on Human Rights (CHR)
- Council for the Welfare of Children (CWC)
- Armed Forces of the Philippines (AFP)
- Bureau of Corrections
- Bureau of Jail Management and Penology (BJMP)
- Philippine National Police
- National Bureau of Investigation
- Philippine Drug Enforcement Agency

Human rights nongovernment organizations duly recognized by the government shall also be called to actively participate in the formulation of such program.

The role and participation of survivors of torture shall be given due consideration by inviting female and male survivors who will be able to represent their collective feelings and opinions on the formulation of a rehabilitation program.

Section 39. Components of the rehabilitation program – The comprehensive rehabilitation program to be developed by the aforementioned agencies shall provide for the physical, mental, social, psychological healing and development of victims of torture and their families.

The parallel rehabilitation program for persons who have committed torture and other cruel, inhuman and degrading punishment shall be developed for their mental, social, psychological healing and re-integration.

Section 40. Funding for the rehabilitation program– The agencies mandated to provide services for the rehabilitation of the victims/perpetrators of torture shall provide the necessary budget for the implementation of the rehabilitation program.

Section 41. Monitoring of Compliance with the Act – An Oversight Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by a Commissioner of the CHR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and the Minority Leaders of both houses or their respective representatives in the minority.

The OC shall regularly conduct meetings and submit an annual report to the President on the implementation of the Act. The annual report, which shall be made publicly available, shall include, among others:

- (a) Identification of the strengths and weaknesses in the implementation of the Act;
- (b) Appraisal of the performance of the government agencies in relation to their duties and responsibilities under the Act; and
- (c) Recommendations on how to improve the implementation of the Act

The OC shall call the attention of the departments and agencies concerned to perform their respective duties and responsibilities under the Act and these Rules, and assist them if necessary to ensure the effective implementation of the Act.

Section 42. Active participation of the NGOs – The OC recognizes the active participation of concerned NGOs in exercising its oversight functions. NGOs may request the Committee to conduct inquiries, consultations, and/or ocular inspections regarding documented violations of the Act.

Section 43. Mandatory Education and Training on Prohibition Against Torture-

The CHR, the DOJ, the Department of National Defense (DND), the Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment.

- (a) Government personnel and officials: A continuing education on human rights, prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be provided to prosecutors, investigators, personnel and officials with custodial and correctional functions and other government personnel and officials who may be involved in the implementation of programs under the Act.
- (b) Law enforcement and security personnel and officials: The education and training shall be integrated in basic curricula in the military and police academies. Continuing education shall likewise be provided for law enforcement and security personnel.
- (c) Medical Personnel- The DOH shall provide adequate formal training for physicians in government health institutions and agencies that provide medical and forensic services to victims of all types of violence, especially cases of torture.

It shall endeavor to provide the same training to private medical practitioners in coordination with the Philippine Medical Association and other medical societies or colleges.

- (d) Inclusion in formal education curricula:

The Department of Education (DEPED) and the Commission on Higher Education (CHED), in consultation with the CHR, shall ensure the integration of human rights, anti-torture and other related laws in all primary, secondary and tertiary level academic institutions nationwide.

Section 44. Information dissemination – The concerned agencies shall ensure that the information disseminated is comprehensive, clear and in a manner easy to understand. Efforts must be undertaken to inform the public on the definition of torture, what their rights and duties are in relation to it, and how they can be part of sustainable solutions to eradicate the culture of torture. The tri-media should be employed so that the information reaches the widest audience possible

Section 45. Torture as a Non- Prescriptible Offense- The statute of limitation or prescription period shall not apply to torture cases.

Section 46. Applicability of the Revised Penal Code. - The provisions of the Revised Penal Code insofar as they are applicable shall be supplementary to the Act. Moreover, if the commission of any crime punishable under Title Eight (Crimes Against Persons) and Title Nine (Crimes Against Personal Liberty and Security) of the Revised Penal Code is attended by any of the acts constituting torture and other cruel, inhuman and degrading treatment or punishment as defined herein, the penalty to be imposed shall be in its maximum period.

Section 47. Appropriations. - The amount of Five million pesos (Php5,000,000.00) is hereby appropriated to the CHR for the initial implementation of the Act. Thereafter, such sums as may be necessary for the continued implementation of the Act shall be included in the annual General Appropriations Act.

Section 48. Separability Clause. - If any provision of these IRR is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

Section 49. Effectivity. - These IRR shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Done in the City of Manila, this 10th day of December 2010.


LEILA M. DE LIMA
Secretary of Justice


LORETTA ANN P. ROSALES
Chair, Commission on Human Rights



Republic of the Philippines
Department of Health
OFFICE OF THE SECRETARY

FEB 28 2013

Administrative Order
No. 2013 - 0008

Subject: Guidelines for the Implementation of Section 19 of the Implementing Rules and Regulations of Republic Act No. 9745, Otherwise Known as the Anti-Torture Act of 2009

I. Background:

On November 10, 2009, Republic Act 9745, "An Act Penalizing Torture and Other Inhuman and Degrading Treatment or Punishment and Prescribing Penalties Therefor," otherwise known as the **Anti-Torture Act of 2009**, was passed into law. The Act reaffirms a provision in the 1987 Philippine Constitution on the absolute condemnation and prohibition of torture. The Act reiterates the value conferred by the State on the dignity of every human person and guarantees full respect for human rights, specifically the rights of suspects, detainees and prisoners.

Certain provisions of the Anti-Torture Act of 2009 are related to the mandates of the Department of Health (DOH) and other major stakeholders in healthcare:

1. **Philippine Constitution, 1987**—"The State shall protect and promote the right to health...adapt an integrated and comprehensive approach to health development... There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women and children."
2. **Local Government Code of 1991**—The DOH shares responsibility with local government units for the health care provision of the Filipino people.
3. **Magna Carta for Public Health Workers 1992**—The duties and obligations of the public health workers are: "(a) discharge his/her duty humanely with conscience and dignity; and, (b) perform his/her duty with utmost respect for life; and regardless of race, gender, religion, nationality, party politics, social standing or capacity to pay." Through this law, the public health workers are also protected from interference and coercion in the discharge of their functions, like when acts of undue influence are calculated to intimidate or to prevent the performance of their duties and responsibilities (Section 32).
4. **Magna Carta for Women 2009**—"Right to comprehensive health services ...the Magna Carta of Women also guarantees the civil, political and economic rights of women in the marginalized sectors (small farmers and rural workers, fisherfolk, urban poor, workers in the informal economy, migrant workers, indigenous peoples, Moro, children, senior citizens, PWD and solo parents)".
5. **Republic Act No. 7610** of 1992 which provides for "Stronger Deterrence and Special protection Against Child Abuse, Exploitation and Discrimination."

6. **RA No. 7438** of 1992 which "Defines the Rights of Persons Arrested, Detained or Under the Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigation Officers."
7. **RA No. 9344** of 2006 which established the "Comprehensive Juvenile Justice and Welfare System."

II. Scope of Application

This Administrative Order shall be applicable to all government and private health institutions, health facilities and health practitioners.

III. Statement of Policies

1. Every human being is to be treated with dignity and respect.
2. Every human being has the right to health, including suspects, detainees and prisoners.
3. The DOH upholds the principles provided for in the 1987 Constitution on the absolute condemnation and prohibition of torture, which are reiterated by the Republic of Philippines' commitments to the International Covenant on Civil and Political Rights, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
4. The DOH, together with the Philippine Medical Association, supports the Declaration of Tokyo of 1975 for the 29th World Medical Assembly which issued the Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment. The Tokyo Declaration of 1975 consists of the following:
 - a. "The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedure is suspected, accused or guilty, and whatever the victim's belief or motives, and in all situations, including armed conflict and civil strife.
 - b. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.
 - c. The doctor shall not be present during any procedure during which torture or other forms of cruel, inhuman or degrading treatment are used or threatened.
 - d. A doctor must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The doctor's fundamental role is to alleviate the distress of his or her fellow men, and no motive whether personal, collective or political shall prevail against this higher purpose.

- e. Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgment concerning the consequences of such voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent doctor. The consequences of the refusal of nourishment shall be explained by the doctor to the prisoner.”
5. The DOH likewise upholds The Istanbul Protocol and similar international and national covenants that are applicable to the practice of medical and other allied health professions.
6. All healthcare professionals and practitioners together with partner agencies and organizations are jointly responsible for the dissemination and implementation of the provisions of the Anti-Torture Act of 2009.

IV. Objectives

The objectives of this Administrative Order to implement Section 19 of the Implementing Rules and Regulations of the Anti-Torture Act of 2009 in the Health Sector are to:

1. Establish the participation of healthcare workers in the implementation of the Anti-Torture Act of 2009;
2. Provide the mechanisms by which healthcare workers, especially the responding medical doctor, can protect the right of torture victims or potential torture victims to demand a medical examination by a physician of their own choice; and,
3. Provide directives to ensure capability building toward the competent implementation of the Anti-Torture Act of 2009 in terms of assessment, diagnosis, and treatment of torture victims, their families and perpetrators of torture, and in terms of documenting and reporting probable incidences of torture.

V. Definition of Terms

1. **Torture**—RA 9745 defines torture as “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/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising from, inherent in or incidental to lawful sanctions.”
2. **“Act,”** for the purposes of this administrative order, shall mean Republic Act No. 9745 or the Anti-Torture Act of 2009

3. **"Person in authority"** refers to any person directly vested with jurisdiction, whether as an individual or as a member of a court or government corporation, board or commission.
4. **"Agent of a person in authority"** refers to any person who, by direct provision of law or by election or by appointment of a competent authority, is charged with the maintenance of public order and the protection and security of life and property including any person who comes to the aid of persons in authority.
5. **"Custodial investigation"** includes the practice of issuing an invitation to a person who is investigated in connection with an offense he/she is suspected to have committed, without prejudice to the liability of the inviting office for any violation of law, as defined in RA No. 7438 or "An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof."
6. **"Independent and competent doctor"** is defined by the Department of Justice (DOJ) and Commission on Human Rights (CHR) Implementing Rules and Regulations of RA 9745 as "any physician freely chosen by the victim or his/her authorized representative to conduct physical examination and treatment of tortured victims. Physicians who belong to agencies that are involved in the arrest and detention of the victim are not included, unless the victim specifically allowed such examination and when circumstances so require." For the purposes of the Anti-Torture Act of 2009, a physician who is licensed as a medical doctor by the Professional Regulatory Commission is considered a competent doctor.
7. **"Healthcare worker"** is a person directly providing any form of legitimate health services or someone who works in a healthcare institution or healthcare facility.
8. **"Medical Examiner"** is a physician who shall conduct the physical and/or psychological examination of the alleged victim and shall evidence such examination with a medical report signed by him/her.
9. **"Healthcare or health facility"** is a building or edifice that is used for the provision of healthcare services and includes all types of hospitals, outpatient clinics such as rural health units, health centers, health offices, *barangay* health stations, birthing facility, newborn screening centers, dental clinics and laboratories, drug testing laboratories, drug abuse treatment facilities, blood service facilities and other facilities for specialized health services
10. **"Medical examination"** for the purpose of this document, shall mean physical examination and other adjunct methods of assessment applied by a medical examiner in order to determine the presence of injuries and illness in a person.
11. **"Forensic medicine"** is the science that deals with the application of medical knowledge to legal questions.

VI. General Guidelines

1. **Acts Constituting Torture**—Healthcare workers, especially those mandated to directly attend to victims or probable victims of torture, shall raise their awareness or level of suspicion to be able to identify torture victims adequately. RA 9745 describes acts constituting torture and classifies them into 2 groups: physical torture and mental/psychological torture, as follows:
 - a. **Physical Torture**—Forms of treatment or punishment inflicted by a person in authority or his/her agent that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:
 - i. “Systematic beating, head banging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the abdomen;
 - ii. Food deprivation or forcible feeding with spoiled food, animal or human excreta and other stuff or substances not normally eaten;
 - iii. Electric shock;
 - iv. Cigarette burning, burning by electrically heated rods, hot oil, by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on wounds;
 - v. Submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;
 - vi. Being tied or forced to assume fixed and stressful bodily position;
 - vii. Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum (or anus), or electrical torture of the genitals;
 - viii. Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;
 - ix. Dental torture or forced extraction of the teeth;
 - x. Pulling out of fingernails;
 - xi. Harmful exposure to the elements such as sunlight and extreme cold;
 - xii. The use plastic bag and other materials placed over the head to the point of asphyxiation;
 - xiii. The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:
 - a) The administration of drugs to induce confession and/or reduce mental competency; or
 - b) The use of drugs to induce extreme pain or certain symptoms of a disease; and
 - xiv. Other analogous acts of physical torture.
 - b. **Mental/Psychological Torture**—Acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person’s dignity and morale, such as:
 - i. Blindfolding;
 - ii. Threatening a person or his/her relatives with bodily harm, execution or other wrongful acts;

- iii. Confinement in solitary cells or secret detention places;
- iv. Prolonged interrogation;
- v. Preparing a prisoner for a show trial, public display or public humiliation of a detainee or prisoner;
- vi. Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;
- vii. Maltreating a member/s of a person's family;
- viii. Causing the torture sessions to be witnessed by the person's family, relatives or any third party;
- ix. Denial of sleep/rest;
- x. Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;
- xi. Deliberately prohibiting the victim to communicate with any member of his/her family; and
- xii. Other analogous acts of mental/psychological torture.

c. **Other Cruel, Inhuman and Degrading Treatment or Punishment**—Refers to deliberate and aggravated treatment or punishment not enumerated as physical or mental/psychological torture inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter.

2. **Rights Protected by the Anti-Torture Act**—The following rights should be respected by health workers and professionals involved in responding to persons under custody:

- a. **The Absolute Right to Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment** which applies to all circumstances.
- b. **Right to Own Choice** which refers to the right of all persons in custody to be informed in oral or written form, in a language or dialect understood by the alleged torture victim or the person concerned, of his/her right to demand a physical examination by a physician of his/her own choice.
- c. **Right to Physical Examination** refers to the right of every person arrested, detained or under custodial investigation to prompt and thorough medical examination for the purpose of determining whether or not torture has been inflicted. This right shall be availed of before and after interrogation and immediately before and after any transfer of the person to places of detention.

Access to Physical, Medical and Psychological Examination for Treatment is immediately executory right upon the demand of the victim without need of any court order or legal process. The right is also provided to members of the victim's immediate family.

- d. For the **Institutional Protection of Torture Victims and Other Persons Involved**, torture victims shall have the right to prompt and impartial fact-finding investigation within a period of sixty (60) days by the CHR, Philippine National Police (PNP), DOJ and other concerned government agencies where the complaint is lodged. In the case of a child, the child shall always be accompanied by a social worker from the local Social Welfare and Development Office.
- e. The victims of torture and witnesses to torture have the right to avail of the benefits of RA No. 6981, otherwise known as the "**Witness Protection, Security and Benefit Act**" and other applicable laws.

3. Obligations of the Medical Examiner:

1. To never in any way, directly or indirectly, participate in acts constituting torture, cruel, inhuman and degrading behavior;
2. To conduct diligently and completely the necessary medical examinations on victims or probable victims of torture;
3. To prepare a comprehensive medical report within the prescribed period and according to the standard DOH-recommended reporting form;
4. To institute immediate treatment and necessary referral so as to mitigate the physical, health and psychological effects of torture;
5. Make referrals for appropriate laboratory and ancillary procedures when necessary;
6. Make referrals to appropriate health facilities and experts for the treatment and rehabilitation of victims of torture;
7. Make recommendations on the psychological management or rehabilitation of members of the family or eyewitnesses to torture; and
8. Assist the government in the administration of justice (Code of Ethics of the Medical Profession) in relation to the Act.

Any violation of these obligations by conduct or omission shall be referred to relevant authorities and medical associations for further investigation.

4. Organizational Support to the Medical Examiner—The organization or health facility that employs the medico-legal officers (health officers of local government units, medical officers of disinterested law enforcement agencies and physicians of all licensed health facilities), medical examiners and other responders to the torture victim shall ensure the provision of physical and administrative environment that will enable these officers to perform their duties adequately in relation to the Act. This will include, but not be limited to, the provision of:

- a. room or secured area for history taking and physical examination that are with audio and visual privacy;
- b. medical supplies, documentation and video equipment, facilities and report forms for diagnosis, treatment and referral or rehabilitation;
- c. transportation and other allowable incidental expenses;

- d. coordination with appropriate agencies for the safety and protection of the medical examiner and of records and reports pertaining to torture victims;
- e. policy on work schedules to ensure that the time spent to implement the Act is official business;
- f. mechanisms to identify and network with alternative team/s of physicians (example, PMA and NGOs) to support the task of medical examination; and,
- g. access to information and training related to the improvement of knowledge, skills and attitude to implement the Act.

VII. Specific Guidelines

1. Roles of the Department of Health

National Center for Health Facilities Development (NCHFD)

- a. Establish referral diagnostic facilities for forensic medicine within DOH health facilities with combined capabilities for, but not limited to the following: DNA tests, radiology services and chemical, toxicologic and serologic tests.

Information Management Service (IMS)

- a. Establish continuous databases on injuries, partner agencies, health human resources and other resources that are vital for the implementation of the Act.
- b. Incorporate in the administrative order on the "National Implementation of the Unified Registry System of Chronic Non-Communicable Disease, Injury-Related Cases, Persons with Disabilities, and Violence Against Women and Children" the indicators and other information required by the above named information system to include the data and information needs to implement the Act.

National Epidemiology Center (NEC)

- a. Establish continuous databases on injuries, partner agencies, health human resources and other resources that are vital for the implementation of the Act.

Health Human Resource and Development Bureau (HHRDB)

- b. Identify technical resources and experts in forensic medicine, medical jurisprudence and other related disciplines in order to provide opportunities for adequate formal training for physicians in government health service.
- c. Provide opportunities for the orientation of healthcare workers on provisions of the Act related to health services.
- d. Prescribe standards in the provision of health services related to the Anti-Torture Act, to be incorporated into medical and paramedical educational and training programs.

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Centers for Health Development (CHDs)

- a. Each Center for Health Development shall ensure that victims are referred to the appropriate health facilities in their jurisdiction per Section 19 of the Implementing Rules and Regulations of the Anti-torture Act of 2009.

Others

- a. Use its regulatory functions as far as practicable to strengthen the implementation of the Act and similar laws.
 - b. In coordination with the Department of Social Welfare and Development (DSWD) and other agencies of government, formulate a rehabilitation program for the victims of torture, their families and a parallel rehabilitation program for the persons who have committed torture and other related acts, per Section 37 of the Implementing Rules and Regulations of the Anti-Torture Act of 2009.
 - c. Institute actions to address complaints from medical examiners/doctors and other health workers assisting torture victims or their families.
2. The contents of the Medical and Psychological Report shall comply with Section 24 of the Implementing Rules and Regulations of the Act. The Guidelines for Medical Evaluation of Torture and Ill-Treatment (Istanbul Protocol) is basis for the Medical Report Form for Probable Victims of Torture in Annex A.
 3. Reporting Process—In principle and, as stated in the Section 23 of the IRR, "the medical report on a torture victim shall be treated as a public document, provided that any person who seeks to avail of the medical report has legal interest on the same; provided further that medical reports involving children and victims of sexual violence shall be kept confidential in conformity with existing laws."
 - a. **The Medical Report Form for Probable Victims of Torture** can be released by the medical examiner or the medical records custodian of the health facility where the medical examiner is employed only to persons with legal interest, namely:
 - i. Victim – unconditional release
 - ii. Next of kin – adequately validated as next of kin of victims
 - iii. Lawyer/s of the victims – authorized in writing by the victim
 - iv. Perpetrators and representative of suspected perpetrator of torture, after presentation of a court order
 - v. Others authorized in writing by the victim
 - vi. Others authorized by a court of law
 - b. All accomplished Medical Report Forms shall be assigned a permanent report number. The safekeeping of Reports within a health facility shall be the responsibility of the designated Records Custodian.

- c. **Timing of Completion of Report**—Completeness and quality of report is more important than providing any report in haste to a requesting party.
 - i. The Medical Report Form for Probable Victims of Torture is recommended to be completed as early as possible, for the purpose of inquest proceedings.
 - ii. Supplementary reports like results of diagnostic procedures, psychiatric evaluation, photographs and other documents should be prepared as soon as possible and submitted to the appropriate authorities, as necessary.

VIII. Funding

The Department of Health through its Bureaus, Offices, Services, hospitals and field units shall set aside budget to implement the provisions of this issuance.

IX. Effectivity

This Administrative Order shall take effect 15 (fifteen) days after publication in two newspapers of general circulation.


ENRIQUE T. ONA, MD
Secretary of Health

MEDICAL REPORT FORM FOR PROBABLE VICTIMS OF TORTURE AND ILL-TREATMENT

This Medical Report Form for Probable Victims of Torture and Ill-Treatment is a modified version of the form recommended by the Department of Health-Philippines, labeled as "Guidelines for Medical Evaluation of Torture & Ill-treatment," which is presented in its Manual of Standards and Guidelines on the Management of the Hospital Emergency Department. The former version is a modification of the guidelines set forth in the Istanbul Protocol-Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 2004. This new August 2012 version incorporates the reporting requirements of Republic Act No. 9745, or the Anti-Torture Act of 2009, and is characterized by the detailing of certain sections of the Istanbul Protocol in order to make the Form more user-friendly.

I. CASE INFORMATION

Date of exam: _____ Place of Exam: _____

Referring or requesting person-name, position-agency and contact no. _____

Case or Report No. _____ Duration of the Evaluation: _____ hours and _____ minutes

Subject's given name: _____ Subject's family/middle name: _____

Birth Date: _____ Birthplace: _____ Gender: male/female _____

Reason for exam: _____ Subject's ID/no. _____

Medical Examiner-name, position, agency: _____

Informant/interpreter, if any-name, relation to subject, contact no. _____

Companion of Subject-name, position, agency: _____

Nearest live next-of-kin-name, relation and contact number: _____

Other persons present during exam-name, position, agency: _____

Subject restrained during exam, yes/no; if yes, how and why? _____

Medical report to be transferred/submitted to-name, position, ID: _____

Transfer date: _____ Transfer time: _____

Medical evaluation / investigation conducted without restriction (for subjects in custody): yes/no _____

Provide details of restriction/s, if any: _____

II. BACKGROUND INFORMATION

General information on the Subject:

Age: _____ Occupation: _____ Civil Status: _____ Highest Education: _____

Past medical history: (allergies, current medications, past surgeries, OB history, alcohol/tobacco habits, common diseases in the family, etc.) _____

Past medical evaluations of torture and ill-treatment: (according to patient/record) _____

Psychosocial history, pre-arrest or pre-torture: (current symptoms, personal history of psychological disorder, family history of psychological disorder) _____

Date of Examination/Evaluation: _____ Name of Medical Examiner: _____

III. ALLEGATIONS OF TORTURE, PHYSICAL INJURY & ILL-TREATMENT

1. Summary of Detention and Abuse

a. Circumstances of arrest and detention

- i. Date, time and place of first arrest _____
- ii. Alleged reason for warrant of arrest or detention _____
- iii. Activities of subject prior and during the arrest _____
- iv. Names, aliases, positions and description of perpetrator of torture or ill-treatment _____

b. Initial and subsequent places of detention chronology, transportation and detention conditions:

Date/Time	Transportation	Detention Conditions
_____	_____	_____
_____	_____	_____

c. Narrative account of ill-treatment or torture (in each place) : _____

2. Review of torture methods: _____

IV. PHYSICAL SYMPTOMS AND DISABILITIES

- 1. General appearance: _____
- 2. Skin: _____
- 3. Face and head: _____
- 4. Eyes, ears, nose and throat: _____
- 5. Oral cavity and teeth: _____
- 6. Chest and abdomen, including vital signs: _____
- 7. Genito-urinary system: _____
- 8. Anal region: _____
- 9. Musculoskeletal system: _____
- 10. Central and peripheral nervous system: _____

(See attached drawings.)

V. PSYCHOLOGICAL HISTORY / EXAMINATION

1. Methods of Assessment

- a. Current psychological complaints: _____
- b. History of present psychological illness: _____
- c. Past psychological/psychiatric history: _____
- d. Social case history (anamnesis)
 - i. Prenatal: _____
 - ii. Childhood: _____

Date of Examination/Evaluation: _____ Name of Medical Examiner: _____

- iii. Puberty/adolescence: _____
- iv. Adulthood: _____
- v. Drug, alcohol & other substances: _____
- vi. Occupational: _____
- vii. Legal: _____
- viii. Current living conditions _____

2. Mental Status Examination

- a. General appearance: _____
- b. Attitude: _____
- c. Behavior: _____
- d. Mood and Affect: _____
- e. Speech: _____
- f. Perceptual/conceptual disturbance (hallucination/delusion): _____
- g. Thought content (flight of ideas, looseness of association, perseveration, etc.): _____

- h. Sensorium and cognition (as to time, place, person and memory): _____

- i. Judgment and insight (Ask to interpret meaning of proverbs like, "Aanhin pa ang damo kung patay na kabuyo?" or other common sayings.): _____

3. Neuropsychological Testing (recommend need or not for further neuropsychological testing):

Yes _____ No _____

- VI. **PHOTOGRAPHS** (Indicate if there are and how many printed photographs are ready to be attached.)
- VII. **DIAGNOSTIC TEST RESULTS** (Enumerate/list diagnostic test results that are attached to the report, if any.)
- VIII. **CONSULTATIONS** (Describe type/s and frequency of medical consultations the client has been referred to and undergone at the time of the report.)
- IX. **INTERPRETATION OF FINDINGS** (Correlate psychological findings with the report of alleged torture and reactions to stress with the cultural and social context. Estimate what stage of psychological distress the client is experiencing. Identify co-existing stressors. Mention physical conditions that may contribute to the psychological symptoms, e.g. head trauma.)
- X. **CONCLUSIONS AND RECOMMENDATIONS** (State opinion on consistency between findings and allegations of torture and/or ill-treatment.)
- XI. **STATEMENT OF RESTRICTIONS ON THE MEDICAL EVALUATION / INVESTIGATION** (Describe, if any.)

Date of Examination/Evaluation: _____ Name of Medical Examiner: _____

Administrative Order No. 35, s. 2012

**MALACAÑAN PALACE
MANILA**

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 35

CREATING THE INTER-AGENCY COMMITTEE ON EXTRA-LEGAL KILLINGS, ENFORCED DISAPPEARANCES, TORTURE AND OTHER GRAVE VIOLATIONS OF THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSONS

WHEREAS, Art. II, Section 11 of the 1987 Constitution declares that the State values the dignity of every human person and guarantees full respect for human rights;

WHEREAS, Art. III, Section 1 of the 1987 Constitution provides that no person shall be deprived of life, liberty or property without due process of law;

WHEREAS, Art. III, Section 2 of the 1987 Constitution provides that the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable;

WHEREAS, Art. III, Section 12 (1) of the 1987 Constitution provides that any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice;

WHEREAS, Art. III, Section 12 (2) of the 1987 Constitution provides that no torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him, and that secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited;

WHEREAS, Art. III, Section 14 (1) of the 1987 Constitution provides that no person shall be held to answer for a criminal offense without due process of law;

WHEREAS, Art. III, Section Sec. 18 (1) of the 1987 Constitution provides that no person shall be detained solely by reason of his political beliefs and aspirations;

WHEREAS, there have been reported and validated violations of the above-declared rights of the individual throughout the years, which have served to create an impression of a culture of impunity, wherein security establishments of the State and non-state forces have been accused

of silencing, through violence and intimidation, legitimate dissent and opposition raised by members of the civil society, cause-oriented groups, political movements, people's and non-government organizations, and by ordinary citizens;

WHEREAS, most of these violations remain uninvestigated and unsolved, with the perpetrators unidentified or unprosecuted, giving rise to more impunity;

WHEREAS, there is a need to revisit these unsolved cases of grave violations of the right to life, liberty, and security of persons, whether committed as part of an apparent government policy in the past or as recurring cases of unsanctioned individual abuse of power and authority by State and non-state forces under the present; and

WHEREAS, the present Administration declares as a matter of paramount policy that there is no room for all these forms of political violence and abuses of power by agents or elements of the State or non-state forces, and towards this end commits to establish an institutional legacy of an efficient, coherent, and comprehensive government machinery dedicated to the resolution of unsolved cases of political violence in the form of extra-legal killings, enforced disappearances, torture, and other grave violations of the right to life, liberty, and security of persons;

NOW, THEREFORE, I, BENIGNO S. AQUINO III, President of the Philippines, by virtue of the powers vested in me by the Constitution and by law do hereby order:

SECTION 1. Creation of the Inter-Agency Committee. There is hereby created an Inter-Agency Committee on Extra Legal Killings, Enforced Disappearances, Torture, and Other Grave Violations of the Right to Life, Liberty, and Security of Persons, to be composed of the following:

Chairperson:	Secretary, Department of Justice (DOJ)
Members:	Chairperson, Presidential Human Rights Committee (PHRC)
	Secretary, Department of the Interior and Local Government (DILG)
	Secretary, Department of National Defense (DND)
	Presidential Adviser on the Peace Process (PAPP)
	Presidential Adviser for Political Affairs (PAPA)
	Chief of Staff, Armed Forces of the Philippines (AFP)

	Director General, Philippine National Police (PNP)
	Director, National Bureau of investigation (NBI)

The Committee shall invite the Chairperson of the Commission of Human Rights (CHR) and the Ombudsman as observers and resource persons of the Committee.

The above officials may designate their representatives to the Committee, who shall have a rank not lower than Assistant Secretary, or General and Chief Superintendent in the case of the AFP and the PNP.

The Committee shall organize a technical working group coming from the offices of the various members and a secretariat that may be designated by the Chairperson.

SECTION 2. Functions. The Committee shall undertake the following:

a) Inventory of cases. For the first 30 days, the Committee shall conduct an inventory of all cases of extra-legal killings, enforced disappearances, torture, and other grave violations of the right to life, liberty, and security of persons, perpetrated by State and non-state forces alike, from all government sources, i.e. the investigative and prosecutorial government offices, including the National Prosecution Service (NPS), the Ombudsman, CHR, PNP, NBI, AFP Inspector General, People's Law Enforcement Board (PLEB), National Police Commission (NAPOLCOM), PNP Internal Affairs Service, the Judiciary and all others, for purposes of categorizing said cases, as follows:

- i. Unsolved Cases;
- ii. Cases under investigation;
- iii. Cases under preliminary investigation; and
- iv. Cases under trial.

Simultaneously, the Committee shall also source data of cases from non-government sources, specifically independent and non-partisan international and national human rights organizations and groups.

In determining which cases are to be included in the inventory, the Committee shall draw up guidelines for the consideration of doubtful cases with primacy given to the political complexion of the offense committed, and the participation of State or non-state forces in the commission of the human rights violation.

b) Investigation of unsolved cases. After conducting the inventory, the Committee shall prioritize the unsolved cases for action, and assign special investigation teams to conduct further investigation on these cases for the possible identification of the perpetrators. Greater priority

shall be given to high profile cases perpetrated during the past administration.

c) Monitoring and reporting to the Committee of cases under investigation, preliminary investigation, and trial. For cases under investigation, preliminary investigation, and trial, the Committee shall designate a special oversight team composed of investigators and prosecutors who shall actively monitor developments on these cases and regularly report and submit recommendations to the Committee.

d) Investigation and prosecution of new cases. The Committee shall also designate a special team of investigators and prosecutors exclusively for new cases, for immediate investigation and prosecution of the perpetrators. Cases referred to or filed with the CHR or the Ombudsman shall be monitored by this special team for action on CHR and Ombudsman resolutions on said cases, if applicable, unless the investigation has already been started beforehand by, or complaints have already been filed with, the agencies under the Committee's jurisdiction, in which case the special team shall oversee, supervise and monitor the investigation or preliminary investigation conducted by the Committee's agencies, notwithstanding the conduct of an on-going investigation by the CHR or the Ombudsman. However, the special team shall actively coordinate with the CHR and the Ombudsman in the conduct of these concurrent investigations.

In the case of torture, the special team shall ensure that Section 9 (a) of RA No. 9745 or the Anti-Torture Act of 2009 on the 60-day period for an investigation of a complaint for torture is followed by the DOJ, Public Attorney's Office (PAO), PNP, NBI, and the AFP.

e) Action upon the cases. After the report of every team, which shall be made as regularly and as expeditiously as possible, whether in the form of short memoranda, email, notes, field spot reports, sms messages, and the like, the Chair shall take immediate action if such is within the jurisdiction of the agencies of the Department of Justice, without need of consultation or agreement of the other members, or in consensus with the concerned member of the Committee. In any case, the Chair shall have the discretion to table any matter for discussion and decision of the Committee, especially in the instance of high-profile or problematic cases.

f) Submission of report to the President. After the first six months from its creation, and every six months thereafter, the Committee shall submit a report to the President, detailing the inventory of cases according to category, and describing the accomplishments and progress made for each case, or the problems and obstacles encountered, highlighting problematic high profile cases from the past administration as well as violations committed during the present administration, with further recommendations for any additional action that may be taken by the President requiring coordination on a common course of action with the CHR, the Ombudsman, Congress, and the Judiciary.

SECTION 3. Coordination and autonomy of members. Nothing in this Administrative Order shall be interpreted to add to bureaucratic processes or regulations in order to achieve the mandate of

the Committee or hamper the regular and ordinary course of functions of the agencies under the jurisdiction of the Committee members. The individual agencies shall not be prevented from accomplishing what otherwise is ordinarily accomplished in the regular conduct of their operations and functions, unless otherwise specifically agreed upon by the Committee for purposes of coordinating and implementing concerted action for the achievement of the Committee's mandates.

SECTION 4. Support and cooperation from other government agencies. The various departments, bureaus, offices, agencies, and local government units are hereby enjoined to give full support, assistance and cooperation to the Committee in carrying out its mandate and functions.

SECTION 5. Funding. The initial funding requirements for the Inter-Agency Committee shall be charged against the current appropriations of the agencies composing the Committee. Thereafter, funding for the succeeding years shall be incorporated in their respective regular appropriations.

SECTION 6. Repealing Clause. This Administrative Order supersedes and repeats Administrative Order No. 211 (s.2007) on the creation of the Task Force Against Political Violence. The Task Force is hereby directed to submit and turnover all its documents, data, reports, supplies, resources, and remaining budget to the Committee, subject to regular procedures.

SECTION 7. Effectivity. This Administrative Order shall take effect immediately.

DONE, in the City of Manila, this 22nd day of November, in the year of our Lord, Two Thousand and Twelve.

(Sgd.) **BENIGNO S. AQUINO III**

By the President:
(Sgd.) **PAQUITO N. OCHOA, JR.**
Executive Secretary

FIND INFORMATION AND RESOURCES ABOUT CAMPAIGN AGAINST TORTURE

Commission on Human Rights of the Philippines (CHRP)

SAAC Building, Commonwealth Avenue
UP Complex, Diliman, Quezon City 1101
Telephone nos. (+632)928-5655, 926-6188

Telefax no. (+632) 929-0102

E-mail address: chair.rosales.chr@gmail.com

Website: www.chr.gov.ph

Amnesty International-Philippines (AIP)

18 A Marunong Street, Brgy. Central, Quezon City 1100

Telephone no. (+632) 376-43-42

Fax no. (+632) 433-81-00

E-mail address: section@amnesty.org.ph

Website: www.amnesty.org.ph

Balay Rehabilitation Center Inc. (BALAY)

25 Maalindog Street, UP Village, Diliman, Quezon City 1011

Telephone: (+632) 426-38-25/ 929-80-54

Fax: (+632) 921-63-01

E-mail address: balayrehabilitationcenterinc@gmail.com

Website: www.balayph.net

Children's Legal Rights and Development Center Inc. (CLRD)

4th floor, CRM Building III, 106 Kamias Road, Quezon City 1101

Telephone no. (+632) 433-31-99

E-mail address: rowenavlegaspi@yahoo.com

Website: <http://clrdc.wordpress.com/>

Families of Victims of Involuntary Disappearance (FIND)

4-D Maningning Street cor. Maamo St. Sikatuna Village, Quezon City 1101

Telefax no. (+632) 921-00-69

E-mail address: find@find.org.ph

Website: www.find.org.ph

Medical Action Group (MAG)

129-D Matatag Street, Brgy. Central, 1100 Quezon City

Telefax no: (+632) 433-15-94

Telephone no. (+632) 441-10-74

E-mail address: mag.1982@magph.org

Website: www.magph.org

Philippine Alliance of Human Rights Advocates (PAHRA)

53-B Maliksi Street, Brgy. Pinyahan, Quezon City 1100

Telephone no. (+632) 436-26-33

Fax no. (+632) 433-17-14

E-mail address: pahra@philippinehumanrights.org

Website: www.philippinehumanrights.org

Task Force Detainees of the Philippines (TFDP)

45 St. Mary Street, Cubao, 1109 Quezon City

Telephone no. (+632) 437-80-54

Fax no. (+632) 995-02-46

E-mail address: tfdp.1974@yahoo.com

Website: www.tfdp.net

Websites

National

Amnesty International-Philippines	www.amnesty.org.ph
Balay Rehabilitation Center	www.balayph.net
Commission on Human Rights	www.chr.gov.ph
Human Rights Online Philippines	www.hronlineph.com
Medical Action Group	www.magph.org
Task Force Detainees of the Philippines	www.tfdp.net
Philippine Alliance of Human Rights Advocates	www.philippinehumanrights.org
Philippine Human Rights Information Center	www.philrights.org

Regional

Asian Human Rights Commission (AHRC)	www.humanrights.asia
Asian Forum for Human Rights and Development (FORUM-ASIA)	www.forum-asia.org

International

Amnesty International	www.amnesty.org
Association for the Prevention of Torture (APT)	www.apr.ch
Centre for Civil and Political Rights (CCPR Centre)	www.ccprcentre.org
Danish Institute Against Torture (DIGNITY)	www.dignityinstitute.org
International Federation of Action by Christians for the Abolition of Torture (FIACAT)	www.fiacat.org
Human Dignity	www.hdignity.org/index.php/en
International Federation for Human Rights (FIDH)	www.fidh.org
International Rehabilitation Council for Torture Victims	www.irct.org
Organisation Mondiale Contre la Torture (OMCT) or World Organisation Against Torture	www.omct.org

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Committee Against Torture (CAT)

www.ohchr.org/english/bodies/cat

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx

Subcommittee on Prevention of Torture

www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIndex.aspx

United Nations Voluntary Fund for Victims of Torture (UNVFVT)

www.ohchr.org/EN/Issues/Torture/UNVFVT/Pages/WhattheFundis.aspx

UATC STATEMENT

February 2, 2014

“Wheel of torture” symbolizes culture of torture impunity in the Philippines

The existence of “wheel of torture” game at a Philippine National Police (PNP) detention facility in Biñan, Laguna where detainees are reportedly tortured by authorities and its discovery by the Commission on Human Rights of the Philippines (CHRP) last week only shows of what it seems everywhere before you is a sight of impunity.

The United Against Torture Coalition (UATC)-Philippines, while noting the action by the CHRP in its inspection of the PNP lock-up cell in Laguna, is deeply concerned on the existence of such detention facility which only confirms the consistent and on-going allegations of routine and widespread use of torture and ill-treatment of suspects in police custody.

In light of this situation, the government and even the CHRP seemed to have overlooked one thing: zero-tolerance of torture and full implementation of the Anti-Torture Law. More importantly, the discovery of the secret detention facility has further set the stage of existing culture of torture impunity in the Philippines.

The Medical Action Group (MAG) stressed that this lamentable situation reinforces the need for a more systematic and diligent implementation of the Anti-Torture Law to ensure perpetrators are brought to justice, that torture survivors receive medical and legal services and other forms of redress, and that the authorities and the public are made aware of such practices in order to ensure zero-tolerance of torture.

When all we have to go by to measure the effects of authorities’ periodic boasting of “zero-tolerance” of torture and other forms of human rights violations, one must be doubtful about this message when one considers the existence of “wheel of torture” and secret detention facility. Likewise, one wonders in light of this if the policy of “zero tolerance” is just all for show to draw away the attention of the public and international community of the government’s failure to eliminate torture in the country.

The existence of secret detention facility indicates the government’s reluctance to ensure full implementation of the Anti-Torture Law. In this case, the CHRP should carry out random inspection of police station lock-up cells and conduct unannounced inspection of all detention facilities as mandated by law and ensure implementation of the PNP Memorandum-Directive of 4 November 2008 concerning inspection of lock-cells.

The Task Force Detainees of the Philippines (TFDP) emphasized that “suspension and dismissal of from service of the 10 suspected torturers are not enough. Cases should be filed against the alleged perpetrators under the Anti-Torture Law and prosecute perpetrators.”

The adoption of the Anti-Torture Law in 2009 is a significant improvement to the legal environment in torture prevention in the Philippines. However, four years since the law took effect the number of cases brought to court against perpetrators remains a drop in the bucket.

The experiences of members of the UATC-Philippines and other human rights groups from documented torture cases e.g. Lenin Salas et al., Ronnel Victor R. Cabais and Abdul-Khan Ajid, provides valuable information on some of the obstacles faced by the authorities in implementing the Anti-Torture Law. While some of the problems appear to be systemic others differ from case to case. The main obstacles identified by the UATC-Philippines are: delayed and ineffective investigations; problems in identifying and locating perpetrators; access to prompt, thorough, impartial and independent medical evaluation; and the risk of reprisals against victims, witnesses and investigators.

These problems are highlighted when one looks at the practical situation on the grounds where there is lack of effective monitoring and reporting of cases of torture cases and the lack of competence of authorities to effectively investigate and prosecute these cases.

While the UATC-Philippines recognizes the number of policy actions which the government had undertaken such as the enactment of the Anti-Torture Law and the ratification of the Optional Protocol to the Convention against Torture (OPCAT), but none of these measures stands alone which requires changes need to be made both at the legal and political levels in order for the proper mechanism to be in place to prevent torture and for survivors to even begin their pursuit of justice.

The UATC-Philippines urges the CHRP to immediately convene the Oversight Committee (as mandated by the Anti-Torture Law, Sec.20) in order to initiate reform in ensuring effective implementation of the Anti-Torture Law, and to take all necessary measures to implement its visitation mandate which include unhampered and unrestrained access to all detention facilities, including those under the jurisdiction of the military.

UATC Statement

Global Campaign Against Torture

May 13, 2014

Empowering the Torture Victims is a key in Fighting Impunity

Torture is an affront to human life and dignity that cannot be justified under any circumstances in any parts of the world.

The United Against Torture Coalition – Philippines (UATC) restates its commitments to fight against torture and end impunity by upholding the basic human rights and dignity of every individual as it joins the Amnesty International in the launching of the Global Campaign Against Torture.

The global campaign, which will be carried out through holding of series of public events, is aimed to remind all States including the Philippine government of their obligations to respect and guarantee the right of every person to be free from torture and ill-treatment, to effectively bring those responsible to justice, and to guarantee reparative measures to victims and their families.

The UATC- Philippines laments that the practice of torture continue to occur in a widespread and systematic manner everywhere in the world. The Philippines is no exemption. Despite the enactment a domestic law criminalizing torture in 2009 which is purportedly aimed at ending impunity and giving meaning to the Convention Against Torture to which the Philippines is state party since June 1986, torture is continuously being committed by government authorities or agents of the state particularly the state security forces usually to punish, to obtain information or a confession, to take revenge on a person or persons, and to sow terror and fear not only to victims but also to their families and larger society.

The clear rift between policies and practices of torture in the Philippines is once again conspicuously displayed in the recent news about existence of the “wheel of torture” at the Philippine National Police (PNP) satellite detention facility in Biñan, Laguna.

It reveals not only that torture is still prevalent, but it is being committed with total impunity. The Philippine Justice system seems to be unmoved by these legal and institutional reforms as no perpetrators until now are held to account.

Take for example the documented torture cases of Lenin Salas, Ronnel Victor R. Cabais and Abdul-Khan Ajid which are faced with a number of legal impediments such as the slow and ineffective police investigations, difficulty in positively identifying the perpetrators, inaccessibility of prompt, thorough, impartial and independent medical care and evaluation and the risk of reprisals against victims and witnesses.

While it is imperative for the Philippine government to address the existing legal gaps and limitations in the implementation of the law in order to ensure accountability, it also needs to focus its attentions and efforts on the prevention of torture and the rehabilitation of torture victims.

One way to ensure its prevention is to guarantee and strictly observed the rights of any person under arrest or placed under custody particularly the right to medical examination within 48 hours and in every level of the chain of custody.

Torture victims should also be accorded with immediate medical and psychological care through high quality, accessible and appropriate rehabilitation services regardless of the prosecution and conviction of the torture cases. Though, the Philippine government has just approved a Comprehensive Rehabilitation Programs for Torture Victims which was crafted by inter-agencies headed by the Commission of Human Rights (CHR), it is still very unclear how torture victims can access the available government services and if it has the necessary budget lines to ensure the provisions of rehabilitation services to torture victims. The Philippine government must therefore look at rehabilitation as the means to empower the torture victims in order for them to resume a full life as possible and to restore their situation in all likelihood that it would have existed if torture had not been committed.

The UATC – Philippines believes that empowering torture victims is a key not only for rebuilding their lives but also for continuing their quest for justice. However, this can only be made possible if the Philippine government and all states can guarantee the freedom of every person from torture and other forms of violence. Disappearance (FIND), Medical Action Group (MAG), and Task Force Detainees of the Philippines (TFDP).
