

# Torture and the Right to Rehabilitation in THE PHILIPPINES



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## **Photo Credits – Cover**

Philippine President Gloria Macapagal Arroyo Declares Martial Law.  
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# INTRODUCTION

Since the enactment of the Anti-Torture Act (Republic Act No. 9745) in 2009, the Philippine government has taken significant steps towards improving the legal structural framework for eradicating torture and supporting torture victims. This includes the elaboration of a rehabilitation programme for victims of torture and the establishment of a body to oversee the implementation of all aspects of the Anti-Torture Act. Regrettably, very few of these promises have become reality for rights holders on the ground.

The government security forces continue to obstruct identification of alleged perpetrators among its ranks. Warrants of arrest of ranking army officers and soldiers have not been served, which impedes the effective prosecution of torturers and the government has neglected to investigate and pursue command responsibility, which can be a strong tool against such obstruction. Despite the filing of many well-documented torture cases, it was only in April 2016 that the first perpetrator was convicted when police officer Jerick Dee Jimenez was sentenced to a maximum of two years and one month imprisonment by a court in Pampanga for the torture of Jerry Corra. The court demanded that the officer pay Jerry Corra damages amounting to 100,000 pesos (approximately USD \$2,173). Another police officer faces the same charges but remains at large.

There have been significant technical challenges in translating the law into reality at the local level. These partly relate to the devolved system of government in the Philippines but also reflect problems with the lack of clearly defined ownership of implementation of different aspects of the law and grossly insufficient budgetary provisions. As an example, the rehabilitation programme for victims, which is a model for global promising practice, has seen almost no actual implementation at the local level. Most initiatives to implement this and other aspects of the law are driven by NGOs and paid for by international donors.

For victims, pursuing justice is an uphill battle where lack of access to proper evidence collection and strict evidentiary requirements on the victims to prove what happened and who did it discourages their search for official recognition of the wrongs done to them.

All of these challenges are compounded by the lack of effective oversight and steering of the implementation of the law. The Oversight Committee headed by the Commission on Human Rights that is designated to do this is still to commence its function despite repeated calls from NGOs to get started.

During the past six years, the Philippines have enjoyed a political environment that was, at least in rhetoric, favourable to the protection of human rights. With the election of Rodrigo Duterte as the next President, the country is moving into very different territory and it will be crucial to ensure that the state institutions that are meant to guarantee the rights of individuals perform their function effectively.

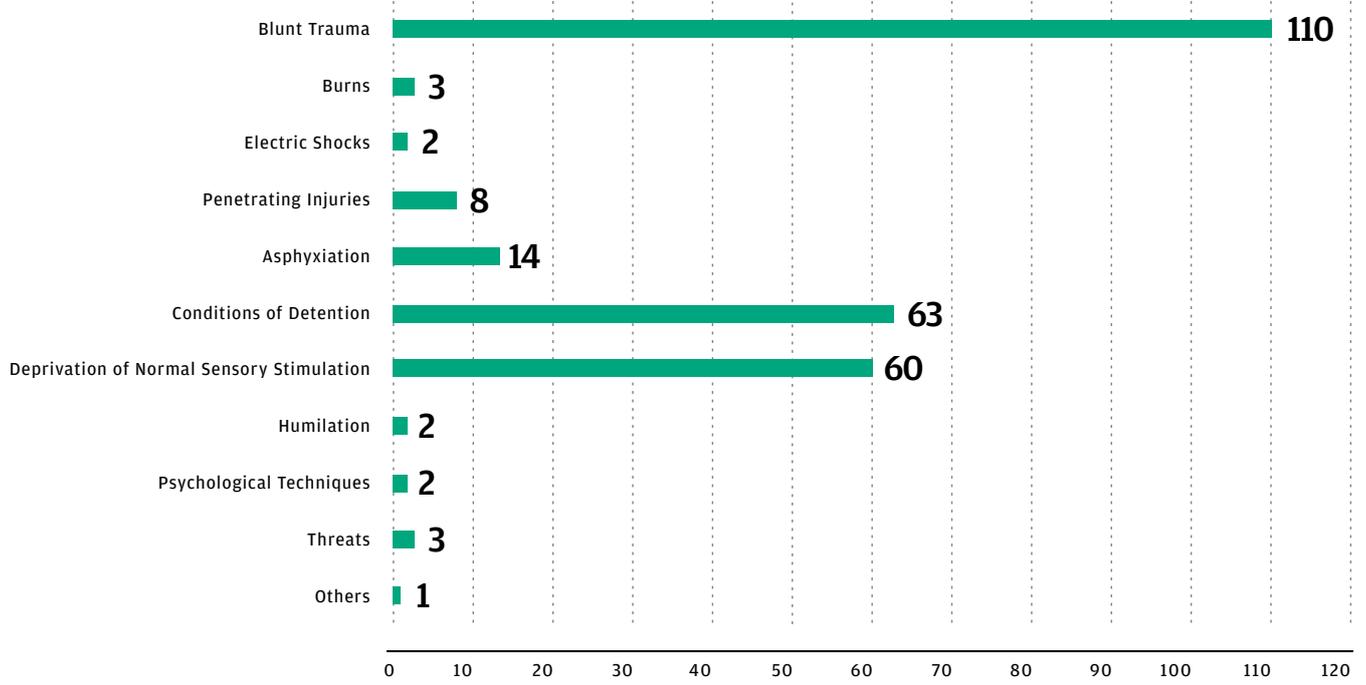
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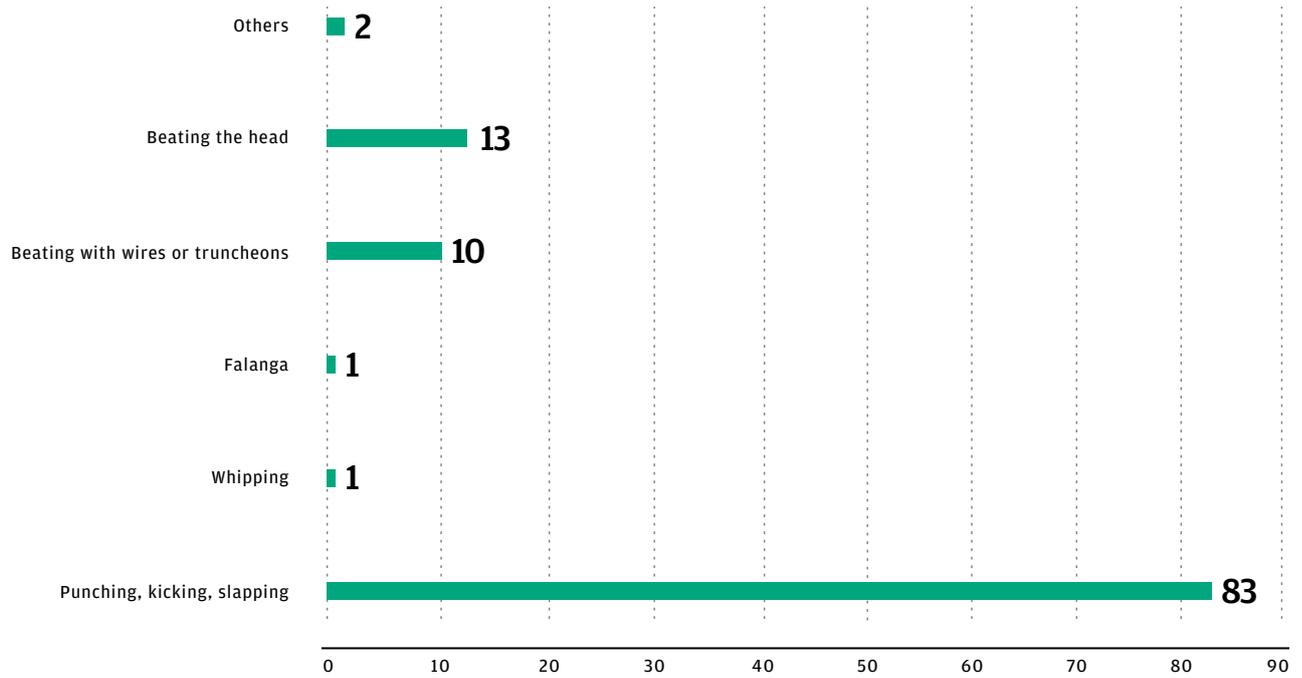
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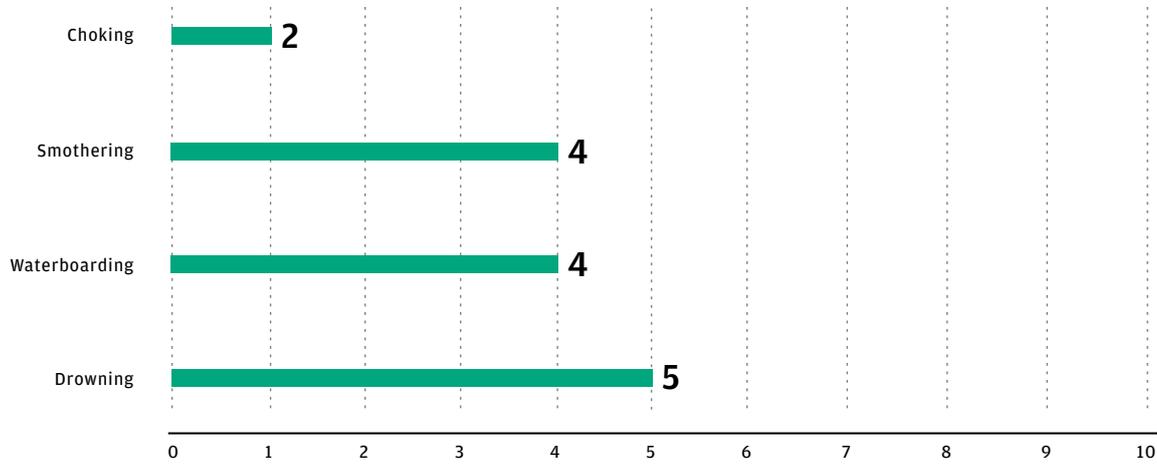
## Methods of Torture



## Blunt Trauma



## Asphyxiation



# THE SITUATION FOR VICTIMS OF TORTURE AND ILL-TREATMENT

**Those most at risk of torture are persons living in impoverished areas and in places where government, security and peace and order operations against armed insurgency and violent activities of non-state armed groups are palpable. Children in conflict with the law (child offenders) and suspected criminals, including those who may have been involved in shady deals with law enforcers, are also at risk but are rarely documented by those mandated to do so by the Anti-Torture Act.**

Among Balay’s clients more than 10 percent are minors. The situation for victims of torture and ill-treatment in the Philippines is often highly complicated. Due to the torture methods used, they often suffer from severe physical and psychological trauma. This includes open wounds, skin and muscle injuries and PTSD. At the same time, they will often

find themselves in very precarious circumstances after torture has taken place. Some are still in pre-trial detention and can stay there for years without having the case against them reviewed by a judge and those who are free often find themselves at continued risk of more torture or other reprisals from the same perpetrators. This may further compound their trauma and severely complicate rehabilitation efforts.

Of the 44 detainees found in the secret detention cell in the “wheel of torture” case in Biñan, Laguna in January 2014, only 25 filed complaints according to the Commission on Human Rights (CHR), that said some of the victims felt that they did not need to file a case since they only sustained minor injuries.

The Medical Action Group (MAG) conducted medical examination and psychological assessment of 27 victims of “wheel of torture”. Based on the documentation, common forms of torture used by police authorities involved in the “wheel of torture” included psychological torture, verbal abuse, threats to family, mock executions, positional torture such as 30-second bat or “paniki” (Filipino term for bat) and sensory deprivation.

# THE RIGHT TO REHABILITATION

**Under Section 19 of the Anti-Torture Act, an elaborate rehabilitation programme for torture victims has been developed through strong engagement from civil society including Balay and MAG. Implementing Rules and Regulations were issued by the President in 2010 and the Comprehensive Rehabilitation Program for Torture Victims (CRPTV) was approved for implementation by the Department of Social Welfare and Development (DSWD), the Department of Health (DoH), and the Department of Justice (DoJ) in 2014.**

While the legislation is in place, only a handful of victims and their family members have accessed rehabilitation service to date. Balay, for instance, was able to facilitate the free hospitalisation and medical treatment of four former detainees (one of whom underwent surgery for a head injury) in coordination with the health department and government hospitals. Fourteen other victims and their family members obtained financial assistance from the social welfare department in the last six months to alleviate their medical and subsistence needs. A survivors' association also obtained financial capital to sustain their livelihood project.

But for most torture victims, rehabilitation is not a lived reality in the Philippines. This is partially due to lack of political willingness to take responsibility for the programme and adequately fund it and partly due to technical complications in delivering healthcare and psycho-social services in rural areas in the Philippines.

The government is yet to designate a lead agency to implement the programme. Aside from the DSWD and the Bureau of Jail Management and Penology (BJMP), which have drafted their respective guidelines with some assistance from Balay, 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 may tempt government agencies, who have already demonstrated a lack of interest and ability in providing specialised rehabilitation services to torture survivors, to not diligently implement the programme.

Regional consultations facilitated by Balay with medical practitioners, social worker officers, and members of the human rights commission have affirmed the idea that there should be a focal agency to coordinate the referral and case management process between the national agencies mandated to implement the rehabilitation program and similar mechanisms to be established at the regional and local levels. At the same time, victims should be encouraged to organise associations to empower themselves to engage with government agencies accountable for fulfilling their right to rehabilitation.

As to funding, each mandated agency is expected to come up with their respective budget to implement their obligation under the law. This opens the door for government agencies to consider torture victims' rehabilitation as one of the many service components that they are already undertaking without establishing the necessary expertise and capacity of its human resources.

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**Dismantle the wheel of torture. Forum-Dialogue between civil society and the government to sign declaration to end torture in the Philippines. Signed on the occasion of the UN International Day in Support of Torture Victims, 26 June.**  
© courtesy of MAG

As to availability, the DoH has programs to decentralise health services but they are still mostly centered in urban areas. Torture victims who live in distant municipalities have to be accompanied by Balay or MAG to government hospitals in city centers as health facilities outside the urban areas have not yet been primed to provide rehabilitation services. Rural health units (RHUs) catering to those who live in remote areas are usually manned by volunteer health workers who are only able to give palliative management such as paracetamol. Lacking the diagnostic skills of a medical practitioner, they need to refer patients to larger centres. This may pose difficulties for victims in cases where a series of follow-ups are needed.

However, despite these difficulties in availing medical services, infrastructure or set-up for the delivery of medical services are better than the set-up for psychological services. Most of the psychiatrists or psychologists have their practices in highly urbanised areas, which makes it difficult to refer patients coming from rural areas. Unlike physicians, whose free services could be made available in government hospitals at municipal, provincial or regional levels, there is a lack of psychiatrists/psychologists/counsellors who could provide free assistance/help to patients. More so for patients, such as torture victims, who have been traumatised and need continuous support.

Even the DSWD, which has an existing crisis intervention programme, recognises the lack of trained psychosocial therapists and case managers for torture victims and has entertained cooperation with NGOs, such as Balay, in assisting them on this area of intervention. Rehabilitation programmes are practically non-existent in areas other than in major cities and municipalities of the country.

Environmental factors and lack of security or stability that impedes or prevents access will render available services inadequate. Many torture survivors do not feel safe and secure enough to approach and access rehabilitation services believing that the concerned government agencies will be biased against them. For example, in places where conflict or political instability is ongoing, torture survivors may run the risk of discrimination and further harassments from authorities. Independent service providers may also face some security risks. In these situations, the availability of rehabilitation service providers such as NGOs is compromised, as NGOs are bridging the gap by providing the majority of torture rehabilitation services. One important question that have to be take into consideration by the government is what changes are needed in the torture victim's environment to facilitate a full rehabilitation. In practice, the services will vary greatly in terms of the components, activities, availability of professionals and the

local needs in each context. There is no single intervention that is guaranteed to work for everyone in any given context.

Despite the risks involved, many victims in the Philippines do try to obtain recognition and accountability for torture because it is seen as an important part of their full rehabilitation. While the law contains progressive provisions on investigation, prosecution and victims support; victims and their relatives' lack adequate information regarding their rights under the law, and the options available to them to lodge a complaint and to access rehabilitation.

Furthermore, the process of investigating, prosecuting and granting redress to victims for torture and ill-treatment remains deeply flawed. Victims rarely have access to medical and psychological documentation of their trauma and once they do, the health professionals are often ill-trained or under pressure to produce pre-defined findings. Social workers, public defenders, and jail officers generally do not have the awareness nor the skills to screen persons-at-risk for signs that they have been subjected to torture or ill treatment.

In instances where a detainee or an arrested person is brought to a government hospital for a medical check-up, MAG have found that doctors often simply undertake a " cursory physical examination" without bothering to ask how an injury may have been sustained by the patient or they do not include in their report a finding that torture may have been committed against the patient or detainee. Medical certificates refer only to visible bruises or contusions with a formulaic assessment of how long the victim is likely to need medical treatment.

MAG particularly notes that some medical personnel experience pressure from authorities allegedly involved in torture cases. It cites incidents where victims are examined by doctors assigned to major Philippine National Police (PNP) or Armed Forces of the Philippines (AFP) health facilities. This means that police officials are present during physical and medical examinations and, in some cases, supervise the work of medical doctors themselves. MAG adds that there are no real 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. 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.

When investigations do produce good evidence, 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 case, this significantly complicates the identification of perpetrators and effectively encourages the use of blindfolding as a means of escaping justice. 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. These problems are aggravated by the lack of focus at the investigative and prosecution stages on pursuing command responsibility for which there is ample room in the Anti-Torture Act.



**A Balay employee (standing, right) supporting a victim of torture before going to surgery for a head injury.**  
© courtesy of Balay

# IMPLEMENTATION TARGETS

The Philippine government should take incremental steps towards the full implementation of a rehabilitation programme for all torture victims in the country. As a first step, the government should:

1. Move promptly to designate a lead agency for the implementation of the rehabilitation programme and to make clear and adequate budgetary provisions for the programme to function as a specialised service function in the public health system.
2. Ensure that the programme offers specialised rehabilitation services that are available, appropriate and promptly accessible in accordance with General Comment 3 and that access is not conditional on the filing of formal administrative or criminal complaints.
3. Ensure that victims can freely choose between services provided by the government and by non-government actors such as NGOs and setup a voucher system to compensate the non-government actors for their service provision.
4. Establish a programme of monitoring and evaluation of the impact of the rehabilitation programme including by starting a data collection programme to identify the number of victims and what their specific rehabilitation needs are.

In additions, the Philippine government should:

1. Immediately convene the oversight committee in charge of overseeing the Implementation of the Anti-Torture Law. The 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 programme 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). Furthermore, the Committee should regularly publish status update on cases under consideration and assessments of possible systemic errors identified in the implementation of the Anti-Torture Law.
2. Issue a public governmentment by the President or other high-ranking officials that torture will not be tolerated and that investigations and prosecutions against direct perpetrators and those with command responsibility will be pursued in every case.

3. Fully implement, with corresponding budget appropriations, the Department of Health (DOH) Administrative Order No. 2013-0008, Guidelines for the Implementation of Section 19 of the IRR of the Anti-Torture Act, 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 accordance with the Istanbul Protocol.

4. Ensure adequate protection of health professionals, social workers, and other service providers 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.

5. Ensure that all cases that merit prosecution are processed promptly and that all possible efforts are taken to identify and apprehend alleged perpetrators.

6. 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 utilising the full extent of Section 13 of the law when it comes to non-compliance by the relevant institutions with the investigation.

Photographs below show torture victims seeking treatment at a government hospital. They are supported by Balay staff in coordination with the Department of Health.  
© courtesy of Balay



# MEMBER INFORMATION

## **BALAY**

Rehabilitation Center is a non-governmental organization committed to human rights, peace building, and the protection of civilians affected by armed conflict and socio-natural disaster. It supports victims of torture and internal displacement in seeking redress, justice, and rehabilitation.

It gives particular attention to the strengthening of the protective factors, psychosocial resources, and capacities of the individuals, prisoners, other conflict-related detainee, and the young people in poor urban neighborhoods that it serves.

To attain its mission, Balay also engages with duty bearers in the establishment or strengthening of effective policies and programs to promote human rights and conflict transformation.

Balay has a program dedicated to promote its torture prevention and rehabilitation advocacies:

## **Medical Action Group organizational**

The Medical Action Group (MAG) was founded in 1982 as a non-stock, non-profit organization of physicians, nurses, dentists, psychologists, health students, and health workers. MAG promotes and defends the human rights of all peoples and since its inception, it has rendered total health services to victims of torture and ill-treatment, the urban poor, political prisoners, internally displaced peoples and workers. MAG envisions a society where all peoples enjoy the highest attainable standard of health, and to promote the right to health and human rights for all, in accordance with the Universal Declaration of Human Rights.

MAG implements its programs in relation to victims of torture and ill-treatment in three main areas: documentation and rehabilitation; advocacy and networking; and education and training. MAG's work is governed by its board and it executes its activities through its main office in Manila (8 staff) and regional presences (5 staff). It is financed by the European Commission, local Embassies and private foundations.

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