

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

SEVENTEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 688



Introduced by Representative Xavier Jesus D. Romualdo

EXPLANATORY NOTE

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

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

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

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

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

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

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

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

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

It also provides that:

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

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

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

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

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

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



XAVIER JESUS D. ROMUALDO

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

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

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

3

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

6

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

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

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

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

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

29

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

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

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

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

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

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

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

30

- 1 **(6) being tied or forced to assume fixed and stressful bodily**
2 **position;**
- 3
- 4 **(7) rape and sexual abuse, including the insertion of foreign**
5 **bodies into the sex organ or rectum, or electrical torture of**
6 **the genitals;**
- 7
- 8 **(8) mutilation or amputation of the essential parts of the**
9 **body, such as the genitalia, ear, tongue, etc.;**
- 10
- 11 **(9) dental torture or the forced extraction of the teeth;**
- 12
- 13 **(10) pulling out of fingernails;**
- 14
- 15 **(11) harmful exposure to the elements, such as sunlight and**
16 **extreme cold;**
- 17
- 18 **(12) the use of plastic bag and other materials placed over**
19 **the head to the point of asphyxiation;**
- 20
- 21 **(13) the use of psychoactive drugs to change the**
22 **perception, memory, alertness or will of a person, such as:**
- 23
- 24 **(i) the administration of drugs to induce confession and/or**
25 **reduce mental competency; or**
- 26
- 27 **(ii) the use of drugs to induce extreme pain or certain**
28 **symptoms of a disease; and**
- 29
- 30 **(14) other analogous acts of physical torture; and**

