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:

"xx 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.

This is a refiled bill from last Congress and the support of the Members of Congress for the prompt passage of this measure is earnestly sought.

XAVIER JESUS D. ROMUALDO
Republic of the Philippines  
HOUSE OF REPRESENTATIVES  
Quezon City, Metro Manila  

EIGHTEENTH CONGRESS  
First Regular Session  

HOUSE BILL NO. 415  

Introduced by Representative Xavier Jesus D. Romualdo  

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  
to read, as follows:  

Section 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 an individual 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  
im intimidating or coercing him/her or a third person; or for  
y 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] ANY person [in authority or agent of a person in authority] against [a person] ANOTHER under his/her custody OR DETENTION, WHETHER SUCH DETENTION BE LAWFUL OR NOT, 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 a document 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.
Section 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] ANY person [in authority or agent of a person in authority] upon another in his/her custody OR DETENTION, WHETHER SUCH CUSTODY OR DETENTION IS LAWFUL OR NOT, 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;

(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 bodies 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] ANY 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 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] ANY person [in
authority or agent of a person in authority] against another person in
HIS/HER custody OR DETENTION, 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 6. Freedom from Torture [and Other Cruel, Inhuman and
Degrading Treatment or Punishment, An Absolute] AS A NON-
DEROGABLE Right. — Torture [and other cruel, inhuman and degrading
treatment or punishment as criminal acts shall apply to all circumstances]
IS A CRIMINAL ACT. NO EXCEPTIONAL CIRCUMSTANCES
WHATSOEVER, WHETHER [A] a state of war or a threat of war,
internal political instability, or any other public emergency, MAY BE
INVOKE TO JUSTIFY TORTURE. [or a document or any
determination comprising an] AN "order of battle" OR ANY OTHER
ORDER FROM A SUPERIOR OFFICER OR PUBLIC AUTHORITY
shall not and can never be invoked as a justification for THE
COMMISSION OF torture [and other cruel, inhuman and degrading
treatment or punishment].

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

Section 11. RIGHT TO PHYSICAL, MEDICAL, AND
PSYCHOLOGICAL EXAMINATION AND Assistance in Filing [a]
ComplaintS. – BEFORE AND AFTER INTERROGATION, EVERY
PERSON ARRESTED, DETAINED OR UNDER CUSTODIAL
INVESTIGATION SHALL HAVE THE RIGHT TO HE 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 HE
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 AVAL 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.

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 (BRRAC) nearest him/her as well as from human rights nongovernment organizations (NGOs).

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

[Section 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 he 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 he 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.]

SECTION 12. CRIMINAL LIABILITY. — ANY PERSON WHO ACTUALLY PARTICIPATED OR INDUCED, DIRECTED OR COMMANDED 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 BY PREVIOUS OR SIMULTANEOUS ACTS SHALL BE LIABLE AS A PRINCIPAL. ANY SUPERIOR MILITARY, POLICE, OR LAW ENFORCEMENT OFFICER OR SENIOR GOVERNMENT OFFICIAL WHO ISSUED AN ORDER TO A LOWER RANKING PERSONNEL TO SUBJECT A VICTIM TO TORTURE OR OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENT FOR WHATEVER PURPOSE SHALL BE HELD EQUALLY LIABLE AS A PRINCIPAL. ANY PERSON 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 HIMSELF/HERSELF 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.

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

[Section 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.

SECTION 13. LIABILITY OF COMMANDING OFFICER OR
SUPERIOR. – IF AN OFFENSE DEFINED IN SECTION 4 OR 5 OF
THIS ACT IS COMMITTED BY A MEMBER OF THE AFP, THE PNP,
OR OTHER LAW ENFORCEMENT AGENCY OF THE
GOVERNMENT IN THE PERFORMANCE OF HIS/HER OFFICIAL
FUNCTIONS OR DUTIES AND BY TAKING ADVANTAGE OF
HIS/HER OFFICIAL POSITION, THE OFFENDER’S IMMEDIATE
SUPERIOR IN THE UNIT OR OFFICE OF THE AFP, PNP, OR OTHER
LAW ENFORCEMENT AGENCY SHALL, WITHOUT PREJUDICE
TO ANY CRIMINAL LIABILITY, BE HELD ADMINISTRATIVELY
LIABLE FOR NEGLECT OF DUTY UNDER THE PRINCIPLE OF
COMMAND RESPONSIBILITY, 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.

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

Section 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;

PROVIDED THAT, IF THE OFFENDER IS A PUBLIC OFFICER WHO TOOK Advantage of his Position in the commission of the offense, the penalty herein prescribed shall be imposed in its maximum period.
[(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)] (C) 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; PROVIDED THAT, IF THE OFFENDER IS A PUBLIC OFFICER
WHO TOOK ADVANTAGE OF HIS POSITION IN THE
COMMISSION OF THE OFFENSE, THE PENALTY HEREIN
PREScribed SHALL BE IMPOSED IN ITS MAXIMUM PERIOD.

[(e)] (D) 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 mentioned, 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;
PROVIDED THAT, IF THE OFFENDER IS A PUBLIC OFFICER WHO
TOOK ADVANTAGE OF HIS POSITION IN THE COMMISSION OF
THE OFFENSE, THE PENALTY HEREIN PREScribed SHALL BE
IMPOSED IN ITS MAXIMUM PERIOD.

[(f)] (E) 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; PROVIDED
THAT, IF THE OFFENDER IS A PUBLIC OFFICER WHO TOOK
ADVANTAGE OF HIS POSITION IN THE COMMISSION OF THE
OFFENSE, THE PENALTY HEREIN PRESCRIBED SHALL BE
IMPOSED IN ITS MAXIMUM PERIOD.

[(g)] (F) 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] IN ITS
MAXIMUM PERIOD SHALL BE IMPOSED ON THE IMMEDIATE
SUPERIOR, AS PROVIDED IN SECTION 13 OF THIS ACT, WHO,
EITHER DELIBERATELY OR BY INEXCUSABLE NEGLIGENCE,
FAILED TO DO AN ACT EVEN IF HE/SHE HAS KNOWLEDGE OR,
OWING TO THE CIRCUMSTANCES AT THE TIME, SHOULD HAVE
KNOWN THAT ACTS OF TORTURE OR OTHER CRUEL,
INHUMAN, OR 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.

[(h)] (G) 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] *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; PROVIDED THAT, IF THE OFFENDER IS A PUBLIC
OFFICER WHO TOOK ADVANTAGE OF HIS POSITION IN THE
COMMISSION OF THE OFFENSE, THE PENALTY HEREIN
PRESCRIBED SHALL BE IMPOSED IN ITS MAXIMUM PERIOD.

[(i)](H) 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, incomunicado or other similar
forms of prohibited detention as provided in Section 7 of this Act where
torture may be carried out with impunity) ARRESTO MAYOR SHALL BE
IMPOSED FOR ACTS CONSTITUTING CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT; PROVIDED THAT,
IF THE OFFENDER IS A PUBLIC OFFICER WHO TOOK
ADVANTAGE OF HIS POSITION IN THE COMMISSION OF THE
OFFENSE, THE PENALTY HEREIN PRESCRIBED SHALL BE
IMPOSED IN ITS MAXIMUM PERIOD.

[(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 this Act.]

SEC. 6. 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. 7. 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. 8. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,