



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 19 OF THE CONVENTION**

**PHILIPPINES<sup>\* \*\*</sup>**

**[30 September 2007]**

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

\*\* The annexes to the present report may be consulted in the files of the Committee secretariat.

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## RECOMMENDATIONS OF THE COMMITTEE

The recommendations of the Committee against Torture, made in response to the initial report of the Philippines under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment upon its consideration of the report on 20 and 21 April 1989,<sup>1</sup> are addressed as follows:

### **Recommendation (a)**

The envisaged legal measures prohibiting torture would be implemented as rapidly as possible ..... paragraphs 4-7, and 12

### **Recommendation (b)**

The Government to place greater emphasis on training, education and information ..... paragraphs 49-53

### **Recommendation (c)**

The Government to place greater emphasis on the monitoring process ..... paragraphs 76-77

### **Recommendation (d)**

The existence of internal unrest could not justify the use of torture, even if opponents of the Government themselves committed human rights violations ..... paragraphs 15-17

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<sup>1</sup> See *Official records of the General Assembly, forty-fourth session, Supplement No. 46 (A/44/46)*, paras. 145-169.

## ABBREVIATIONS

AFP	Armed Forces of the Philippines
BJMP	Bureau of Jail management and Penology
CAT	Convention Against Torture
CHR	Commission on Human Rights
DFA	Department of Foreign Affairs
DILG	Department of the Interior and Local Government
DND	Department of National Defense
DOJ	Department of Justice
DSWD	Department of Social Welfare and Development
HRO	Human Rights Office
IAD	Internal Affairs Division
IAS	Internal Affairs Service
IHL	International Humanitarian Law
MOLEO	Military and Other Law Enforcement Offices
NBI	National Bureau of Investigation
NHRI	National Human Rights Institution
OPCAT	Optional Protocol to the Convention against Torture
PDEA	Philippine Drug Enforcement Agency
PHRC	Presidential Human Rights Committee
PNP	Philippine National Police
RA	Republic Act
UN	United Nations
WCD	Women and Children's Desk

## INTRODUCTION

1. The Philippine Government acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment on 18 June 1986. Pursuant to Article 19 paragraph 1 of the said Convention, the initial report was submitted on 25 June 1988, within a year after the treaty came into force (26 June 1987) in the country.
2. This is a consolidation of the 2<sup>nd</sup> to 5<sup>th</sup> Reports of the Philippines, due in 1992, 1996, 2000 and 2004, respectively, and covering the period from June 1989 to June 2007. The report includes information on new measures and developments in law and practice relevant to the Philippine government's obligations under the Convention.
3. As a State Party to the core human rights instruments, the Philippines has always been conscious of its obligation to respect, protect, promote and fulfill the rights of its citizens. This report will demonstrate that the Philippine government has not been remiss in its responsibility to prevent torture in all its forms. Although passage of a law on torture remains pending in Congress, there are enough legislative, judicial, and administrative measures that give effect to the provisions of the Convention.
4. As mentioned in the initial report, the Revised Penal Code guarantees that all acts of torture are classified as criminal offenses with corresponding penalties under Philippine laws. New laws have since been passed which have contributed to the prevention of acts which could be considered as torture, or cruel, inhuman and degrading treatment or punishment:
  - (a) Republic Act No. 8049, enacted on 7 June 1995, regulates hazing and certain forms of initiation rites.
  - (b) Republic Act No. 9344, enacted on 23 April 2006, penalizes certain kinds of treatment of children in conflict with the law.
  - (c) Republic Act No. 7877 of 1995 has imposed sanctions against sexual harassment.

5. The following laws were also passed that improved further the procedure in addressing complaints against public officials including those suspected of committing acts which may constitute torture or cruel, inhuman or degrading punishment.

(a) Republic Act No. 6770, enacted in 1989, established the Ombudsman as the main agency responsible for investigating offenses committed by public officials and employees. It provides for a Deputy Ombudsman specifically for military and other law enforcement offices (MOLEO).

(b) Republic Act No. 6975, enacted on 13 December 1990, created the Department of Interior and Local Government and established the Philippine National Police and the Bureau of Jail Management and Penology under this new Department.

(c) Republic Act No. 8551, enacted on 25 February 1998, established under the Philippine National Police an Internal Affairs Service which is responsible for investigating offenses committed by police personnel.

(d) Republic Act No. 7055, enacted on 20 June 1991, provides for the trial by civilian courts over military personnel on certain offenses.

(e) Republic Act No. 8493, Speedy Trial Act of 1998

(f) Republic Act No. 9372, Human Security Act of 2007

(g) Republic Act No. 9165, enacted on 4 July 2002, established an Internal Affairs Service in the Philippine Drug Enforcement Agency

(h) Supreme Court Administrative Memorandum No. 07-9-12SC, Rule on the Writ of Amparo, granting the right to families of victims of access to information pertaining to their cases.

6. The general administration of justice was further enhanced with three landmark laws:

(a) Republic Act No. 7438, enacted on 27 April 1992, strengthens the rights of persons arrested, detained or under custodial investigation.

(b) Republic Act No. 6981, enacted on 24 April 1991, provides for a Witness Protection, Security and Benefit Program.

(c) Republic Act No. 7309, enacted on 30 March 1992, provides for a Board of Claims for victims of unjust imprisonment or detention, and victims of violent crimes.

7. On 8 December 2006, the President issued Administrative Order No. 163, entitled “Strengthening and increasing the membership of the Presidential Human Rights Committee and expanding further the functions of the said Committee.” The Order specifically designates the Department of Interior and Local Government (DILG) which has jurisdiction over the Philippine National Police, the Bureau of Jail Management and Penology, and the local government units to lead an inter-agency working group and to coordinate for compliance with and implementation of the Convention against Torture.
  
8. This report was prepared by an inter-agency working group composed of representatives from the following government agencies: Department of Foreign Affairs, Department of Interior and Local Government, Department of Justice, Department of National Defense, Department of Social Welfare and Development, Department of Education, Commission on Higher Education, Bureau of Jail Management and Penology, Bureau of Corrections, National Bureau of Investigation, Bureau of Immigration, Philippine Drug Enforcement Agency, Philippine National Police, Armed Forces of the Philippines, Office of the Ombudsman and the Office of the Presidential Adviser on the Peace Process.
  
9. Inputs from non-governmental organizations were also considered in the preparation of this report. The Commission on Human Rights of the Philippines, which is the recognized National Human Rights Institution, provided valuable contributions and advice in the preparation of this report.
  
10. The report adheres to the General Guidelines for Periodic Reports adopted by the Committee against Torture in 1991, and revised in 1998 (CAT/C/14/Rev.1); and follows the format recommended by the Inter-Committee Technical Working Group (HRI/MC/2006/3, para. 19).

**I. LEGAL STATUS AND IMPLEMENTATION  
OF THE CONVENTION IN THE PHILIPPINES**

**ARTICLE 1 – DEFINITION OF TORTURE**

11. The penal laws of the Philippines do not yet contain a definition of torture reflecting the definition in the Convention.

12. In the House of Representatives (13<sup>th</sup> Congress), the Committee on Justice has adopted House Bill No. 5846 which is a consolidation of three bills on torture. In the Senate, two bills on torture have been filed and are pending consideration at the committee level.

13. The bills on torture pending at the Congress of the Philippines share a common view of torture, and approximates full conformity with the definition of the Convention, viz:

Torture, When Committed. “Torture” shall be deemed committed when 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 within the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from inherent or incidental to lawful sanctions.

For purposes of this Act, torture shall include but not be limited to the following:

1. Physical Torture, which shall be understood as referring to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:



- 1.1. systematic beatings, headbangings, punching, kicking, striking with truncheons, rifle butts, jumping on the stomach;
- 1.2. food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten;
- 1.3. electric shocks;
- 1.4. 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 wounds;
- 1.5. the submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;
- 1.6. being tied or forced to assume fixed and stressful bodily positions;
- 1.7. rape and sexual abuse, including the insertion of foreign bodies into the sex organs or rectum or electrical torture of the genitals;
- 1.8. other forms of sexual abuse;
- 1.9. mutilation, such as amputation of the essential parts of the body such as the genitalia, ears, tongue, etc.;
- 1.10. dental torture or the forced extraction of the teeth;
- 1.11. harmful exposure to the elements such as sunlight and extreme cold;
- 1.12. the use of plastic bags and other materials placed over the head to the point of asphyxiation; and
- 1.13. other forms of aggravated and deliberate cruel, inhuman or degrading physical treatment or punishment.

2. Mental/Psychological Torture, which shall be understood as referring to such cruel, inhuman or degrading treatment calculated to affect or confuse the mind and/or undermine a person's morale, such as:

- 2.1. blindfolding;

- 2.2. threatening a person or such persons related or known to him/her with bodily harm, execution or other wrongful acts;
- 2.3. confinement in solitary cells put up in public places;
- 2.4. confinement in solitary cells against their will or without prejudice to their security;
- 2.5. prolonged interrogation so as to deny normal length of sleep and/or rest;
- 2.6. preparing a prisoner for a “show trial”, public display or public humiliation considerably defeating the political effectiveness of the prisoner;
- 2.7. causing unscheduled transfer(s) of a person from one place to another creating the belief that he/she shall be summarily executed;
- 2.8. maltreating a member of the person or person/s’ family;
- 2.9. causing the torture sessions to be witnessed by the person/s’ family, relatives or any third party;
- 2.10. inculcating generalized fear among certain sections of the population;
- 2.11. denial of sleep/rest;
- 2.12. shame infliction such as stripping the person/s naked, parading them in public places, shaving their heads or putting marks on their bodies against their will; and
- 2.13. other forms of deliberated and aggravated cruel, inhuman or degrading mental treatment or punishment.

3. Pharmacological Torture, which shall be understood as referring to such cruel, inhuman or degrading treatment through the use of psychoactive drugs to change the perception, memory, alertness, or will of a person, such as:

- 3.1. administration of drugs to induce confession and/or reduce mental competency;
- 3.2. the use of drugs to induce extreme pain or certain symptoms of disease; and
- 3.3. other forms of deliberate and aggravated cruel, inhuman or degrading pharmacological treatment or punishment.

## ARTICLE 2 – PROHIBITION OF TORTURE

14. In keeping with the UN Universal Declaration that recognizes “each person’s right to life is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation;” and guided by the belief that death penalty is the ultimate form of cruel, inhuman or degrading treatment or punishment and its avowed policy of “Restorative Justice”, the Philippines has abolished the death penalty.

15. The Constitution of the Philippines prohibits the use of torture and cruel, inhuman or degrading punishment. The following Constitutional provisions, are hereby reiterated:

### Article III – Bill of Rights

#### Section 12

xxx

(2) No torture, force, violence, threat, intimidation, or any other means which shall be used against him [person under investigation for the commission of an offense]. Secret detention places, solitary, incommunicado or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or the preceding section shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to and rehabilitation of victims of torture or similar practices, and their families.

#### Section 19.

(1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. xxx

(2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.

16. There exists no law or regulation that allows the derogation of this prohibition during exceptional circumstances such as a state of war, threat of war, internal political instability or any other public emergency.
17. The Republic Act 9372 (Human Security Act of 2007), also known as the Ant-Terrorism Act does not derogate the right against torture of persons suspected of committing acts of terrorism. On Section 2, Declaration of Policy, it is stated:

“Nothing in this Act shall be interpreted as a curtailment, restriction or diminution of constitutionally recognized powers of the executive branch of the government. It is to be understood, however, that the exercise of the constitutionally recognized powers of the executive branch of government shall not prejudice respect for human rights which shall be absolute and protected at all times.”
18. There is also no law or regulation that allows a subordinate officer to invoke an order from a superior officer or a public authority as a justification of torture.
19. Several new laws have been passed which contribute to the prevention of acts of torture and other cruel, inhuman or degrading treatment or punishment, such as hazing, harsh treatment of children in conflict with the law and sexual harassment.
20. Government agencies responsible for the custody of persons have issued administrative regulations reiterating the prohibition against the use of torture.
21. The 2002 Operational Procedures of the Philippine National Police prohibits the use of torture, force, violence, threat, intimidation or any other means which violates the free will. It also prohibits secret detention places, solitary confinement (incommunicado) or other similar forms of detention (2002 Operational Procedures of the Philippine National Police, Rule 11 – Arrest, Section 8)
22. The 1996 Operations Manual of the Bureau of Jail Management and Penology (BJMP) prohibits the imposition of disciplinary penalties to detainees which are cruel, inhuman or

degrading. It also prohibits the employment of physical punishment as a correctional measure, and the use of corporal punishment, confinement in dark ill-ventilated cells and any form of cruel, unusual, inhuman or degrading punishment. (BJMP Operations Manual – 1996 Edition, Rule I, Section 3-j)

23. The 2000 Operating Manual of the Bureau of Correction provides for the protection of inmates against the following:

(a) the imposition of any cruel, unusual or degrading act as a form of disciplinary punishment;

(b) corporal punishment;

(c) the use of physical force by correctional officers, except in cases where the latter act in self-defense, to protect another person from imminent physical attack, or to prevent a riot or escape;

(d) deprivation of clothing, bed and bedding, light, ventilation, exercise, food or hygienic facilities; and

(e) forced labor.

(Bureau of Corrections Operating Manual - Part IV, Chapter 2, Section 3)

24. The 2005 Operational Guidelines for the Bureau of Immigration Detention Center provides for the following principles relating to acts constituting torture:

2.5 No Detention Center personnel shall use unnecessary force on detainees, except for legitimate self-defense or in cases of attempted active and/or passive physical resistance by them to a lawful order.

2.6 Penalties imposed upon any detainee for violation of rules/ regulations shall not be cruel, inhuman or degrading.

2.7 No physical punishment shall be employed as a corrective measure.”

(Bureau of Immigration Office Memorandum Order No. AFFJR-2005-002 dated 18 February 2005.)

25. The Philippine Drug Enforcement Agency, in its Memorandum Circular No. 2006-002 dated 13 November 2006, entitled “Guidelines on the Handling of Detainees and Supervision of Custodial Detention Facility”, reiterates the prohibition in item III.A.9, as follows:

No cruel, inhuman, degrading or physical punishment shall be imposed upon any detainee for violation of rules or regulations.

26. The Rule on Arrest of Rules of Court on Criminal Procedure, revised in 2000 by the Supreme Court, provides that

No violence or unnecessary force shall be used in making an arrest. The person arrested shall not be subject to a greater restraint than is necessary for his detention.

(Rules of Court, Rule 113, Section 2)

27. The Articles of War and the Manual for Courts-Martial of the Armed Forces of the Philippines provides for the prohibition of cruel and unusual punishments of every kind with respect to persons subject to military law. (AFP Manual for Courts-Martial- Executive Order No. 178, Section 102)

28. The Rules and Regulation on Children in Situations of Armed Conflict issued by the Department of Justice and the Department of Social Welfare and Development, pursuant to Republic Act No. 7610, provides the following:

Section 15. Rights of the Child under the Custody of Government Forces. A child who is taken into custody by government forces in an area of armed conflict shall be informed of his constitutional rights and treated humanely. He shall not be subjected to torture or to cruel, inhuman or degrading treatment, or used in a military operation in any capacity.

29. The Philippines is on the verge of ratifying the Optional Protocol to the Convention against Torture (OPCAT). The major line agencies and departments of the Executive Branch comprising the core members of the Presidential Human Rights Committee have all affixed their signatures to a Resolution: “Recommending the Accession and Concurrence to the Optional Protocol to the U.N. Convention Against Torture.”

30. It is well understood that the OPCAT places emphasis on preventing violations and establishing a system of monitoring compliance to the CAT by employing international and national mechanisms that will conduct regular and periodic visits to places of detention, as well as proposing recommendations and working constructively with State Parties for their implementation.

## **II. LEGALLY PUNISHABLE OFFENCES, EXPULSION, AND EXTRADITION**

### **ARTICLE 3 – PROHIBITION OF REFOULEMENT**

31. In 1998, the Secretary of Justice issued Department Order No. 94 which established a national procedure for determining refugee status, pursuant to the 1951 Convention relating to the Status of Refugees of which the Philippines is a State Party. In the Order, the following principle was reiterated:

#### Section 3 – Basic Principles

(a). An applicant, during the pendency of his application, or a refugee, shall not be expelled or returned to a country where there are valid reasons to believe that his life or freedom would be threatened on account of his race, religion, nationality, membership in a particularly social group or political opinion. xxx

(Department Order No. 94, Section 3.a, dated 4 March 1998)

32. Furthermore, the same Order provides that

Section 4. Eligible Applicant - Refugee status shall be granted to an applicant who, owing to well-founded fear of being persecuted for reasons of race, religion,

nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality, is unable or, owing to such fear, is unwilling to return to the country of his former habitual residence.

33. The same Department Order No. 94 provides for the procedure for appeals on decisions on refugee status. The Secretary of Justice decides on all applications for refugee status (Section 16). If the application is disapproved, the applicant may file a motion for reconsideration with the Secretary (Section 20). An applicant may also file a judicial appeal from the decision of the Secretary (Section 21).

34. There is no case on record of any foreigner who has objected to his deportation on the ground that he would be in danger of being subjected to torture.

#### **ARTICLE 4 – TORTURE AS A CRIMINAL OFFENSE**

35. The basic legal provision which penalizes acts constituting torture is contained in the Revised Penal Code of the Philippines (Art No. 3815). Article 235 of the said Code, which deals with the crime of Maltreatment of Prisoners, provides that:

The penalty of prision correccional in its medium period to prision mayor in its minimum period, in addition to his liability for the physical injuries or damage caused, shall be imposed upon any public officer or employee who shall overdo himself in the correction or handling of a prisoner or detention prisoner under his charge by the imposition of punishment not authorized by the regulations, or by inflicting such punishments in a cruel and humiliating manner.

If the purpose of the maltreatment is to extort a confession, or to obtain some information from the prisoner, the offender shall be punished by prision mayor in its minimum period,



temporary special disqualification, and a fine not exceeding six thousand (P6,000) pesos, in addition to his liability for the physical injuries or damaged caused.

36. It should be noted that the penalty for maltreatment of prisoners was increased in 1986 by Executive Order No. 62. It was mentioned in the preamble of the said law that the penalties in the old law “have not deterred the commission of the acts sought to be penalized, as evidenced by the widespread occurrence of torture and other cruel, humiliating and degrading treatment of prisoners during the past regime”, and that there is a need to increase the penalty to prevent the occurrence of such crimes.

37. Furthermore, the Revised Penal Code provides that following crimes, which constitute acts of torture, are aggravated if committed by a public officer: mutilation, serious physical injury, less serious physical injury, slight physical injury and maltreatment, administering injurious substances or beverages, grave threats, other light threats, grave coercion and light coercion.

38. The crime of maltreatment of prisoners and serious physical injuries prescribe in 15 years. Other crimes prescribe from one to ten years, depending on the penalties imposable.

#### **ARTICLE 5 - JURISDICTION**

39. The rules on jurisdiction, as reported in the Initial Report, remain the same, to wit:

“Penal laws and those of public security and safety shall be obligatory upon all who live or sojourn in Philippine territory, subject to the principles of public international law and to treaty stipulations”

(Civil Code, Article 14)

Except as provided in the treaties and laws of preferential application, the provisions of the (Revised Penal) Code shall be enforced not only within the Philippine

archipelago, including its atmosphere, its interior waters and maritime zone, but also outside its jurisdiction, against those who:

“1. Should commit an offense while on a Philippine ship or airship;

“2. While being public officers or employees, should commit an offense in the exercise of their function;”

(Revised Penal Code, Article 2)

#### **ARTICLE 6 – ARREST AND DETENTION**

40. The National Bureau of Investigation (NBI) also requires that the Embassy or Consulate concerned shall be informed of any arrest or detention of a foreign national. (NBI Memoranda dated 18 May 1992 and 22 March 1994)

41. The arrest and detention of foreigners are governed by the Vienna Convention on Consular Relations to which the Philippines is a state party. Paragraph (b) of Article 36 of that treaty states:

If he so requests, the competent authorities of the receiving State shall, without delay, inform the consular post of the sending State if, within its consular district, a national of that State is arrested or committed to prison or to custody pending trial or is detained in any other manner. Any communication addressed to the consular post by the person arrested, in prison, custody or detention shall be forwarded by the said authorities without delay. The said authorities shall inform the person concerned without delay of his rights under this subparagraph.

42. The Bureau of Jail Management and Penology (BJMP) reflected this rule in a 2006 Memorandum which states that:

“Whenever an alien or a citizen of a foreign state is committed in our jail, the Warden shall immediately inform in writing the BJMP National Head Quarters, the Bureau of Immigration and the embassy or consular office concerned of the fact of his detention. “  
(BJMP Memorandum, paragraph 5.D, dated 31 July 2006)

## **ARTICLE 7 – PROSECUTION AND EXTRADITION**

43. Persons suspected of committing acts of torture enjoy the same rights as other suspected criminal offenders. Republic Act No. 7438, mentioned earlier in this report, also covers the rights of persons subject to prosecution before the courts.

44. The Department of Justice, pursuant to Presidential Decree No. 169 and to existing bilateral extradition treaties, is responsible for the extradition of Filipino nationals or foreign residents to other countries.

## **ARTICLE 8 – TORTURE AS AN EXTRADITABLE OFFENSE**

45. Presidential Decree No. 169 is the general law governing the extradition of persons from the Philippines, subject to provisions of specific bilateral extradition treaties. It requires the existence of a bilateral treaty before any request for extradition by another state could be considered. The Convention against Torture has not yet been invoked as basis for to extradite a person with the Philippines either as the requesting state or the requested state.

46. As of this reporting date, the Philippines has extradition treaties with ten countries, as follows: Australia (1991), Canada (1997), China (2004), Hong Kong (1997), Indonesia (1976), Republic of Korea (1997), Micronesia (1994), Spain (2004), Switzerland (1997), Thailand (1984), and United States (1996). Extradition treaties have been signed with Spain and India in 2004 and are awaiting entry into force.

47. Torture is not specifically mentioned as a ground for extradition in any of the extradition treaties. Except for the treaties with Indonesia, Thailand and Hong Kong, the extradition treaties provide that any offense or crime, although not necessarily bearing the same nomenclature but are recognized in both jurisdiction, may be the subject of extradition. For the treaties with the three

aforementioned countries, certain offenses or crimes are mentioned which may constitute acts of torture, such as physical injuries.

### **ARTICLE 9 – MUTUAL LEGAL ASSISTANCE**

48. The Philippines has bilateral agreements with Australia, Hong Kong, India and the United States on mutual legal assistance in connection with the prevention, investigation and prosecution of criminal offenses recognized in both jurisdictions. Acts constituting torture have not yet been used as a ground for any request for legal assistance.

## **III. EDUCATION, TRAINING, OTHER PREVENTIVE MEASURES**

### **ARTICLE 10 – EDUCATION AND INFORMATION**

49. The Constitution mandates the Commission on Human Rights of the Philippines to Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights (section 18 (5), article XIII, Constitution).

50. On 7 February 1995, Memorandum Order No. 258 was issued by then President Fidel V. Ramos, requiring human rights education and training of law enforcement, police, military and prison personnel. With the close collaboration of the Commission on Human Rights of the Philippines, human rights components are included in the training programs for all military and law enforcement units of the government.

51. Pursuant to its mandate and in compliance with the Convention against Torture, the Commission on Human Rights of the Philippines conducted five Regional Workshops on the role of medical officers and jail personnel on the recognition, documentation and reporting cases of torture from November 2005 to March 2005.

52. In the Philippine National Police, the prohibition of torture is included in following subjects in its Revised Police Basic Recruit Course: “Foundations of Human Rights” under Module 2 – General Subjects; “Bill of Rights,” “Social Justice and Human Rights,” “Criminal Procedure,” and

“Rules of Evidence” under Module 4 – Law; and “Interview and Interrogation” under Module 5 – Police Operations.

53. The chief law enforcement and investigative bodies of government, namely, the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP), and the National Bureau of Investigation (NBI) have organized and activated their respective Human Rights Offices. The HROs offer avenues for receiving and litigating complaints of human rights violations against erring personnel, as well as for continuous education and information dissemination programs on human rights.

#### **ARTICLE 11 – INTERROGATION AND CUSTODY**

54. Republic Act No. 7438 was enacted to strengthen the following rights of persons arrested, detained or under custodial investigation. Section 2 of the said law states:

(a) Any person arrested, detained or under custodial investigation shall at all times be assisted by counsel.

(b) Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

(c) The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or thumbmarked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating

officer in the language or dialect known to such arrested or detained person, otherwise, such investigation report shall be null and void and of no effect whatsoever.

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

(e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.

(f) Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights or by any international non-governmental organization duly accredited by the Office of the President. The person's "immediate family" shall include his or her spouse, fiance or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

55. The same section further provided for the protection of the rights of persons "invited" by law enforcement officers, as follows:

As used this Act, "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.

56. Section 4 of the same law contains the following penalty clause:

(a) Any arresting public officer of employee, or any investigating officer, who fails to inform any person arrested, detained or under custodial investigation of his right to remain silent and to have competent and independent counsel preferably of his own choice, shall suffer a fine of Six thousand pesos (P6,000.00) or a penalty of imprisonment of not less than eight (8) years but not more than ten (10) years, or both. The penalty of perpetual absolute disqualification shall also be imposed upon the investigating officer who has been previously convicted of a similar offense.

The same penalties shall be imposed upon a officer or employee or anyone acting upon orders of such investigating officer or in his place, who fails to provide a competent and independent counsel to a person arrested, detained or under custodial investigation for the commission of an offense if the latter cannot afford the services of his own counsel.

(b) Any person who obstruct, persons or prohibits any lawyer, any member of the immediate family of a person arrested, detained or under custodial investigation, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, from visiting and conferring privately with him, of from examining and treating him, or from ministering to his spiritual needs, at any hour of the day or, in urgent cases, of the night shall suffer the penalty of imprisonment of not less than four (4) years nor more than six (6) years, and a fine of four thousand pesos (P4,000.00).

The provisions of the above Section notwithstanding, any security officer with custodial responsibility over any detainee or prisoner may undertake such reasonable measures as may be necessary to secure his safety and prevent his escape.

57. The Bureau of Jail Management and Penology (BJMP) Operations Manual states in Rule I, Section 3 Principles:

“No jail personnel shall use unnecessary force on inmates, except for legitimate self-defense or in cases of attempted active and passive physical resistance to a lawful order. Penalties to be imposed shall not be cruel, inhuman or degrading. No physical punishment shall be employed as a correctional measure.”

58. Furthermore, the BJMP Operations Manual in Rule IV, Section 3 imposes limitations for the Disciplinary Board, viz:

“Corporal punishment, confinement in dark ill-ventilated cells and any form of cruel, unusual, inhuman or degrading punishment are absolutely prohibited.”

59. Philippine Drug Enforcement Agency (PDEA) Memorandum Circular No. 2006-002 relate to guidelines on the handling of detainees and supervision of custodial detention facility. Notable provisions are:

Guideline No. 9- No cruel, inhuman, degrading or physical punishment shall be imposed upon any detainee for violation of rules or regulations.

Guideline No. 10 – The jail guards shall not use unnecessary force on detainees, except for legitimate self-defense or in cases of attempted active and/o resistance by them to a lawful order.

60. Moreover, PDEA guidelines on medical certificates state:

1. Medical certificate shall be required both from incoming and outgoing detainee to preempt possible filing of charge for maltreatment.

2. Any sign of physical abuse in the medical certificate must be properly reflected in the logbook.



#### **IV. THE RIGHT TO PROCEDURAL GUARANTEES**

##### **ARTICLE 12 – INVESTIGATION**

61. The Ombudsman, as provided in Section 15 (1) of Republic Act 6770 enacted on 17 November 1989, has the power to investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient.
62. Furthermore, the Ombudsman, as provided in Section 24 of the same law, has the power to preventively suspend any officer or employee under his authority pending an investigation.
63. As reported under Article 2, Section 39 of Republic Act No. 8551 provides that the Internal Affairs Service of the Philippine National Police shall conduct, *motu proprio*, automatic investigation of incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation, and incidents where a suspect in the custody of the police was seriously injured.
64. Section 55 of Republic Act No. 8551, which amends Section 47 of Republic Act No. 6975 (establishing the Philippine National Police), provides for the preventive suspension of a member of the Philippine National Police upon the filing of a complaint.
65. The Commission on Human Rights, pursuant to its constitutional mandate, also investigates, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights.
66. The President just recently issued Administrative Order No. 181 directing the cooperation and coordination between the national prosecution service and other concerned agencies of government for the successful investigation and prosecution of political and media killings. This

new issuance is certain to contribute likewise to the enhancement of the investigation and prosecution of torture cases.

### **ARTICLE 13 – COMPLAINTS**

67. Republic Act No. 6770, enacted in 1989, organizing the Office of the Ombudsman, provides that all complaints against any officer or employee of the government will be investigated by this Office. The law provides for an Office of the Deputy Ombudsman for the Armed Forces to specifically handle complaints against members of the military and other law-enforcement officials (MOLEO). The prosecution of these cases in court is also the responsibility Office of the Ombudsman.

68. A statistical presentation of action done on complaints related to acts of torture is hampered by the absence of a law specifically defining torture.

69. The procedural remedies for complaints against members of the Philippine National Police are provided for in Republic Acts No. 6975 and No. 8551. Republic Act No. 6975, enacted in 1990, established the Philippine National Police under the Department of Interior and Local Government. Sections 41 to 45 of the said Act provide for an Administrative Disciplinary Machinery which includes the procedure for consideration of complaints from citizens against members of the Police. Under this Machinery is a provision on the creation of a People's Law Enforcement Board in each city or municipality.

70. Republic Act No. 8551, enacted in 1998, created the Internal Affairs Service (IAS) in the Philippine National Police. Section 39 of the said law provides that the IAS shall conduct, *motu proprio*, automatic investigation of incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation, and incidents where a suspect in the custody of the police was seriously injured.

71. Republic Act No. 9165, enacted in 2002, established the Philippine Drug Enforcement Agency (PDEA) and specifically provided in Section 83 for an Internal Affairs Service (IAS). According to PDEA Memorandum Circular No. 2002-001 dated 5 August 2002, the IAS shall act on complaints, initiate investigation and assist in the prosecution of administrative and criminal cases filed against erring PDEA personnel.

72. The Commission on Human Rights, pursuant to its constitutional mandate, also receives and investigates complaints of all forms of human rights violations, including reports of torture.

73. Republic Act No. 6981, enacted in 1991, provides for the protection of witnesses in criminal cases. Under Section 8 of the said law, the protected witness shall have the following rights and benefits:

(a) To have a secure housing facility until he has testified or until the threat, intimidation or harassment disappears or is reduced to a manageable or tolerable level. When the circumstances warrant, the Witness shall be entitled to relocation and/or change of personal identity at the expense of the Program. This right may be extended to any member of the family of the Witness within the second civil degree of consanguinity or affinity.

(b) The Department shall, whenever practicable, assist the Witness in obtaining a means of livelihood. The Witness relocated pursuant to this Act shall be entitled to a financial assistance from the Program for his support and that of his family in such amount and for such duration as the Department shall determine.

(c) In no case shall the Witness be removed from or demoted in work because or on account of his absences due to his attendance before any judicial or quasi-judicial body or investigating authority, including legislative investigations in aid of legislation, in going thereto and in coming therefrom: Provided, That his employer is notified

through a certification issued by the Department, within a period of thirty (30) days from the date when the Witness last reported for work: Provided, further, That in the case of prolonged transfer or permanent relocation, the employer shall have the option to remove the Witness from employment after securing clearance from the Department upon the recommendation of the Department of Labor and Employment.

Any Witness who failed to report for work because of witness duty shall be paid his equivalent salaries or wages corresponding to the number of days of absence occasioned by the Program. For purposes of this Act, any fraction of a day shall constitute a full day salary or wage. This provision shall be applicable to both government and private employees.

(d) To be provided with reasonable traveling expenses and subsistence allowance by the Program in such amount as the Department may determine for his attendance in the court, body or authority where his testimony is required, as well as conferences and interviews with prosecutors or investigating officers.

(e) To be provided with free medical treatment, hospitalization and medicines for any injury or illness incurred or suffered by him because of witness duty in any private or public hospital, clinic, or at any such institution at the expense of the Program.

(f) If a Witness is killed, because of his participation in the Program, his heirs shall be entitled to a burial benefit of not less than Ten thousand pesos (P10,000.00) from the Program exclusive of any other similar benefits he may be entitled to under other existing laws.

(g) In case of death or permanent incapacity, his minor or dependent children shall be entitled to free education, from primary to college level in any state, or private school, college or university as may be determined by the Department, as long as they shall have qualified thereto.

74. Under the Bureau of Jail Management and Penology (BJMP) Administrative Disciplinary Machinery (2003), Rule IV Section 3 classifies “maltreatment and abuse of any prisoner under one’s custody” as Grave Misconduct which may warrant dismissal from the service.
75. Rule VII of the same Disciplinary Machinery may warrant the preventive suspension of a respondent/jailer if it is established that the respondent has exerted efforts to harass, intimidate, coerce, or unduly influence complainant or any of his vital witnesses into withdrawing his complaint or retracting his sworn statement.
76. The Human Rights Offices of the AFP and of the PNP, besides their pursuit of continuous education programs and planning for human rights are likewise tasked to:
- (a) Receive formal complaints on alleged violations of human rights and international humanitarian law, and cause appropriate investigation;
  - (b) Monitor/ assess incidents of alleged violations as reported in open sources and conduct immediate inquiries for further action;
  - (c) Monitor the litigation of cases against the AFP;
  - (d) Monitor violation of human rights. and international;
  - (e) humanitarian law by threat groups and cause the immediate filing of cases/ complaints as well as assist the victims/ families;
  - (f) Liaise with Commission on Human Rights (CHR), the Presidential;
  - (g) Human Rights Committee (PHRC) and other agencies, non-government organizations and peoples’ organizations for the protection of HR and adherence to IHL.
77. The human rights desk of the National Bureau of Investigation is tasked mainly to monitor cases of human rights violations, receive complaints of the violations, coordinate with the CHR Secretariat, and receive intelligence reports of human rights violations.

#### **ARTICLE 14 – COMPENSATION OF VICTIMS**

78. Republic Act No. 7309, enacted in 1992, provides for the granting by a Board of Claims of compensation to victims of violent crimes. Section 3 (d) of the said law states:

Violent crimes shall include rape and shall likewise refer to offenses committed with malice which resulted in death or serious physical and/or psychological injuries, permanent incapacity or disability, insanity, abortion, serious trauma, or committed with torture, cruelly or barbarity.

79. From 1992 to June 2006, a total of 22,469 applications for compensation due to violent crimes have been granted by the Board of Claims, pursuant to the said law. A total of Philippine Pesos 211,431,152.00 has been paid by the Board of Claims.

80. Non-governmental organizations, such as the Balay Rehabilitation Center, conduct rehabilitation programmes for victims of torture.

#### **ARTICLE 15 – COERCED STATEMENTS**

81. The doctrine that admission, confession or any testimony obtained through coercion or torture cannot be admissible as evidence is enshrined in the Constitution. Article III, Sec 2 of the Bill of Rights states:

No torture, force, violence, threat, intimidation, or any other means which shall be used against him [person under investigation for the commission of an offense]. Secret detention places, solitary, incommunicado or other similar forms of detention are prohibited.

Any confession or admission obtained in violation of this or the preceding section shall be inadmissible in evidence against him.

**ARTICLE 16 – OTHER CRUEL, INHUMAN, OR DEGRADING  
TREATMENT OR PUNISHMENT**

**Hazing**

82. Republic Act No. 8049, enacted in 1995, prohibits the use of violence in hazing and other forms of initiation rites. It also covers all state institutions such as the Armed Forces of the Philippines, Philippine National Police, Philippine Military Academy, and officers and cadet corps of the Citizen's Military Training and Citizen's Army Training. It provides for penalties on any person responsible for the violence during the initiation rites.

83. Hazing, as defined in the said law, is

An initiation rite or practice as a prerequisite for admission into membership in a fraternity, sorority or organization by placing the recruit, neophyte or applicant in some embarrassing or humiliating situations such as forcing him to do menial, silly, foolish and similar tasks or activities or otherwise subjecting him to physical or psychological suffering or injury.

84. The law further states:

The physical, mental and psychological testing and training procedure and practices to determine and enhance the physical, mental and psychological fitness of prospective regular members of the Armed Forces of the Philippines and the Philippine National Police as approved by the Secretary of National Defense and the National Police Commission duly recommended by the Chief of Staff, Armed Forces of the Philippines and the Director General of the Philippine National Police shall not be considered as hazing for the purposes of this Act.

**Acts against children in conflict with the law**

85. Section 61 of the Republic Act No. 9344 or the Juvenile Justice and Welfare Act of 2006 penalizes the following acts committed against a child in conflict with the law:

- (a) Employment of threats of whatever kind and nature;
- (b) Employment of abusive, coercive and punitive measures such as cursing, beating, stripping and solitary confinement;
- (c) Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/ her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity; and
- (d) Compelling the child to perform involuntary servitude in any and all forms under any and all instances.

86. Republic Act No. 9344 gives special protection to the rights of children in conflict with the law. Section 5 (a) of the said law states that every child in conflict with the law shall have the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

87. The President has recently signed Executive Order No. 633 providing for the immediate release of detained children in conflict with the law as declared under R.A. 9344, the “Juvenile Justice and Welfare Act of 2006”.

**Oppression**

88. Certain government agencies have also categorized certain conduct as liable to administrative sanctions.

89. The National Police Commission issued Memorandum Circular 93-024 which identifies “Oppression” as a grave administrative offense and defines it as:



An act of cruelty, severity, unlawful exaction, domination, or excessive use of authority and the exercise of the unlawful powers or other means, in depriving an individual of his liberty or property against his will.

90. The Bureau of Jail Management and Penology, in its Administrative Disciplinary Machinery, provides that Grave Misconduct is incurred by any member of the Jail Bureau who shall “maltreat or abuse any prisoner or detained person under his custody.”

91. The Revised Administrative Code of 1987 provides that one of the grounds for disciplinary action against an officer or employee of the Civil Service shall be “oppression.” The Civil Service Commission has defined, in several cases it has decided, oppression as an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.

### **Jail overcrowding**

92. In order to address the problem of overcrowding in jails, House Bill 3079 was filed in 2004 in Congress in order to establish an Integrated Jail Facility in Metropolitan Manila and other urbanized centers. The Department of the Interior and Local Government Secretary said in his determined lobbying that the proposed law is in accordance with the provisions of the Local Government Code (R.A. 7160) on devolving powers and functions to local government units.

93. The government, through the Budget and Management Secretary has vowed to pour more funds into the Bureau of Jail Management and Penology to ensure a more just and restorative prison system. Besides salary increases, the government will also provide more resources to BJMP-manned jails, including the procurement of equipment and hiring of additional jail guards.

94. BJMP Memorandum issued on 3 September 1997 laid down the policy guidelines on the accommodation of arrested persons in BJMP jails upon request of Philippine National Police personnel even without commitment orders to ease jail congestion at the police stations.

95. Philippine Drug Enforcement Agency (PDEA) Memorandum Circular No. 2006-002 Guideline No. 7 states: “Duty jail guards must visually check the condition of the detainees and report any sign of health and physical deterioration to the Chief, Custodial group.”

**Abuses against women and children**

96. Women and Children’s Desks (WCDs) began to be set up in all police stations since 1995 involved in the treatment of victims of violence and abuse. In 1997, Philippine National Police Memorandum circular No. 97-001 caused the activation of the Women and Children Concerns Division in charge of supervising the WCD’s.

97. Republic Act No. 7877 of 1995 has declared sexual harassment unlawful in the employment, education or training environment, and for other purposes. Work, education or training-related sexual harassment is committed by an employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the object of said Act.

**SAMPLE OF INVESTIGATIONS AND COMPLAINTS**

98. A case example refers to a complaint reported to the UN Special Rapporteur on Torture (E/CN.4/2004/56/Add.1 Par. 1317) lodged by alleged victim Robert Brodett of Urdaneta City, Pangasinan against agents of the National Bureau of Investigation.

99. Robert Brodett was then a subject in a murder case of his common-law wife, Dr. April Duque. Upon arrest, he was reportedly blindfolded, taken to several undisclosed locations, denied access to a lawyer, punched, kicked, slapped, and hit in the chest with the barrel of a rifle by several NBI officers who allegedly forced him to confess to killing his wife. Someone allegedly held a gun to his head and pulled the trigger. His request for medical attention for suspected broken ribs was allegedly refused.

100. The victim's (and the suspect's) four-year old son and the suspect's sister narrated in a sworn statement that they had witnessed the murder of Ms. Duque. Whereupon the case was filed against Robert Brodett and two other accomplices.

101. By virtue of a warrant issued on 17 February 2001, the suspects were arrested and turned over to the Bureau of Jail management and Penology on the same date. The case was successfully prosecuted leading to the suspects' conviction on 5 June 2002. The suspects were eventually transferred to the national penitentiary on 30 July 2002.

102. The complainant's allegation of torture is in contradiction to the certification issued by Police Superintendent Alfredo Soliba, Jr. the district jail warden of Urdaneta City, Pangasinan which confirmed and affirmed that the complainant was "neither hospitalized nor complained of any illness or pain when committed to jail from 17 February 2001 up until his transfer to the national penitentiary on 30 July 2002."

103. The suspect's allegation that the torture was inflicted to force his confession to the murder of his wife was not plausible since it had been the sworn statements and not his confession that were applied as evidence against him which led to his conviction.

104. It is noteworthy that the Internal Affairs Division of the NBI had conducted its own investigation on the complaint and interviewed the complainant to get his side, as well as apprised him of the legal requirements and process of filing an administrative case against the NBI agents that he had accused. However, up until this time, Mr. Brodett or any of his relatives have failed to file such formal complaint to the IAD-NBI.

105. Another case refers to complaint of the Commission on Human Rights in behalf of certain alleged torture victims, against members of the Philippine National Police, three lawyers, two prosecutors, a certain Dino, ten unidentified policemen, and Mr. Rolando Abadilla, Jr.; for violation

of Arts. 269, 125, 282, 286, 365, 171, and 172 of the Revised Penal Code; R.A. No. 7438, and R.A. No. 3019.

106. Records show that on June 19 and 20, 1996, the respondents arrested private complainants Joel de Jesus, Leonido Lumanog, Augusto Santos, Cesar Fortuna and Rameses de Jesus relative to the murder of then Col. Rolando Abadilla committed on June 13, 1996. On June 24, 1996 their spouses and families filed a complaint with the CHR claiming that said private complainants were subjected to abuse by the PNP. Forthwith, the CHR conducted a formal investigation on the matter.

107. In their affidavits, private complainants alleged that they were arrested, detained and tortured. During the custodial investigation, they were not assisted by counsel. Neither were their families allowed to visit them. They were only brought for inquest proceedings after a lapse of five (5) to six (6) days.

108. Per medical examination conducted by the Medico-Legal Office of the CHR on June 25, 1996, the complainants were found to be “under normal conditions, without subsequent complication and/or deeper involvement but not clinically apparent at the time of examination; the physical injuries will require medical attendance for a period of not less than one day but not more than nine days from the alleged date of infliction.”

109. After conducting its investigation, the CHR forwarded its Resolution finding *prima facie* evidence against the respondents who were members of the PNP for violation of RA 7438 to the Department of Justice for appropriate action.

110. During the preliminary investigation initially conducted by a State Prosecutor, private complainant De Jesus submitted an affidavit alleging that on June 19, 1996, the respondents members of the PNP arrested him without a warrant of arrest, subjected him to various forms of physical abuse and forced him to admit his involvement in the Abadilla murder.

111. Private complainant De Jesus accused respondent Abadilla, Jr. with having slapped, kicked and hit him. He accused lawyer Corpuz of having kicked and hit him. Other complainants have the same story to tell about alleged physical abuse inflicted on them in their affidavits.

112. De Jesus also accused lawyer Sansano of having connived with Prosecutors Lofranco and Soller of having him sign two other documents aside from a previously signed affidavit.

113. In their counter-affidavits, the respondents gave their respective alibis, namely: they were out of the country, absent during the interrogation, delegated interrogation to subordinates, or denied outright any participation in the alleged violations.

114. Respondent lawyers Sansano and Rous, being members of the Integrated Bar of the Philippines claimed that they only assisted complainant De Jesus during the custodial investigation, and that they had properly advised him of his constitutional rights.

115. Relative to the respondent prosecutors, records indicated that complainant De Jesus' supplemental affidavit was subscribed and sworn to before Prosecutor Lofranco, while it was Prosecutor Soller who conducted the inquest proceedings and prepared the corresponding information. Both respondents were not held liable for any acts complained of.

116. After having examined and evaluated the records and evidence, the DOJ found the same to be insufficient to indict the respondents Abadilla, Jr., the three lawyers, and the prosecutors who were implicated.

117. However, the DOJ found probable cause to charge certain respondent members of the PNP for violation of Section 2 paragraphs (a), (b), and (f) of Republic Act No. 7438 (Rights of Persons Arrested, Detained or Under Custodial Investigation; Duties of Public Officers); adverted to earlier in this Report under paragraph 54.

118. Likewise, the DOJ found probable cause against the same respondents for violation of Art. 125 of the Revised Penal Code which says that suspects must not be detained for more than thirty-six (36) hours prior to presentation before the office of the prosecutor for inquest.

119. With respect to charges of grave threats, arbitrary detention, illegal arrest, grave coercion, incriminatory machinations, falsification and violation of Republic Act No. 3019 against all the respondents; the same were dismissed for insufficiency of evidence.

## **V. CONCLUDING REMARKS**

120. The bills presently negotiating through the legislative mill in Congress are comprehensive enough in themselves to cover all acts which may constitute torture and other cruel, inhuman or degrading treatment or punishment. Yet until the law that should finally and categorically define torture is passed, the implementation of the Convention against Torture remains imperfect.

121. In the meantime that the independent-minded Congress fails to deliver that law, the Philippines as a State Party will have to continually and progressively work on building upon available legislative, administrative and judicial measures towards effective conformity with the CAT provisions.

122. It is hoped that the reconstitution and strengthening of the Presidential Human Rights Committee and the attendant designation of the Department of Interior and Local Government to lead the work group on the Convention against Torture, a much fuller compliance and implementation of the provisions will be realized.

123. In its determination to respect, promote, protect, and fulfill human rights, the Philippines shall continue to subscribe to their universality and primacy, and appreciate the interdependence, mutual reinforcement, and constructive dialogue which characterize the whole UN Human Rights Treaty System.

**Annex I**

**LAWS RELATED TO HUMAN RIGHTS**

<i>No.</i>	<i>Title</i>	<i>Date</i>
<b>Civil and political rights</b>		
RA 6981	Witness Protection, Security and Benefit Act	24-Apr-91
RA 7309	Creation of a Board of Claims under the Dept. of Justice for Victims of Violent Crimes and other purposes	30-Mar-92
RA 7438	An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as duties of the Arresting, Detaining, and Investigating Officers, providing Penalties of Violations thereof	27-Apr-92
RA 8493	Speedy Trial Act of 1998	12-Feb-98
RA 9346	An Act Prohibiting the Imposition of Death Penalty	24-Jun-06
RA 9372	Human Security Act of 2007	6-Mar-07
A.M. No. 07-9-12SC	The Rule on the Writ of Amparo	25-Sep-07
EO 546	Directing the PNP to undertake Active Support to the AFP in Internal Security Operations for the Suppression of Insurgency and other Serious Threats to National Security, Amending Certain Provisions of EO 110, series of 1999	14-Jul-06
AO 181	Directing the Cooperation and Coordination between the National Prosecution Service and other concerned Agencies of Government for the Successful Investigation and Prosecution of Political and Media Killings	3-Jul-07
AO 197	Directing the DND and the AFP to work Closely with PHRC on Killings and Disappearances for Speedy Action on Cases and Effective Reforms to Avoid Abuses	25-Sep-07

<i>No.</i>	<i>Title</i>	<i>Date</i>
<b>Women</b>		
RA 6955	Unlawful Practice of Mail Order Brides	13-Jun-90
RA 7877	Anti-Sexual Harassment Act of 1995	14-Feb-95
RA 8353	The Anti-Rape Law of 1997	30-Sep-97
RA 8505	Rape Victim Assistance and Protection Act of 1998	13-Feb-98
RA 8972	Solo Parents' Welfare Act of 2000	7-Nov-00
RA 9208	Anti-Trafficking in Persons Act of 2003	26-May-03
RA 9262	Anti-Violence Against Women and their Children Act of 2004	8-Mar-04
<b>Indigenous peoples</b>		
RA 7942	Philippine Mining Act of 1995	3-Mar-95
RA 8371	The Indigenous Peoples Right's Act of 1997	29-Oct-97
<b>Child</b>		
RA 6655	Free Public Secondary Act of 1988	26-May-88
RA 6728	Government Assistance to Students and Teachers in Private Education Act	25-Jul-89
RA 6809	Lowering the Age of Majority from Twenty-one (21) to Eighteen (18) Years Amending for the Purpose Executive Order No. 209, and for other purposes	13-Dec-89
RA 6972	Barangay Level Total Development and Protection of Children Act	23-Nov-90
RA 7323	Helping Poor but Deserving Students Pursue their Education by Encouraging their Employment during Summer and/or Christmas Vacations	30-Mar-92
RA 7600	Rooming-In and Breastfeeding Act of 1992	2-Jun-92
RA 7624	Integrating Drug Prevention and Control in the Intermediate Secondary Curricula as well as in the Non-Formal, Informal and Indigenous Learning Systems and for other purposes	11-Jul-92
RA 7658	Prohibiting the Employment of Children Below Fifteen (15) Years of Age in Public and Private Undertakings	9-Nov-93
RA 7797	Lengthening the School Calendar from Two Hundred (200) Days to Not More Than Two Hundred Twenty (220) Class Days	25-Aug-94



<i>No.</i>	<i>Title</i>	<i>Date</i>
RA 7846	Requiring Compulsory Immunization against Hepatitis-B for Infants and Children below Eight (8) years old	30-Nov-94
RA 8043	Inter-Country Adoption Act of 1995	7-Jun-95
RA 8044	Youth in Nation-Building Act	7-Jun-95
RA 8172	An Act for Salt Iodization Nationwide (ASIN)	29-Nov-95
RA 8296	Declaring Every Second Sunday of December as the National Children's Broadcasting Day	6-Jun-97
RA 8369	Family Courts Act of 1997	28-Oct-97
RA 8370	Children's Television Act of 1997	28-Oct-97
RA 8552	Domestic Adoption of 1998	25-Feb-98
RA 8972	Solo Parents' Welfare Act of 2000	7-Nov-00
RA 8976	Philippine Food Fortification Act of 2000	7-Nov-00
RA 8980	The Early Childhood Care and Development (ECCD) Act	5-Dec-00
RA 9231	Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act	19-Dec-03
RA 9288	Newborn Security Act of 2004	7-Apr-04
RA 9344	Juvenile Justice and Welfare Act of 2006	28-Apr-06
EO 51	National Code of Marketing of Breastmilk Substitutes, Breastmilk Supplement and other Related Products	20-Oct-86
EO 56	Authorizing the Ministry of Social Services and Development to Take Protective Custody of Child Prostitutes and Sexually Exploited Children	6-Nov-86
EO 275	Creating a Committee for the Special Protection of Children from All Forms of Neglect, Abuse, Cruelty, Exploitation, Discrimination and Other Conditions Prejudicial to their Development	14-Sep-95
EO 340	Directing National Government Agencies and Government Owned and Controlled Corporations to Provide Day Care Services for their Employees' Children under Five (5) year of age	5-Feb-97
EO 393	Establishing the Sajid Bulig Presidential Award for Heroism	22-Jan-97
EO 421	Further Amending EO 203 dated 27 September 1994, as Amended by EO 356, dated July 1996	20-Jun-97

<i>No.</i>	<i>Title</i>	<i>Date</i>
EO 633	Providing for the Immediate Release of Detained Children in Conflict with the Law (CICL) as Declared under R.A. 9344, Entitled "Juvenile Justice and Welfare Act of 2006"	16-Jul-07
EO 184	Establishing the Presidential Award for the Child Friendly Municipalities and Cities	13-Dec-99
EO 310	Authorizing the Adoption and Implementation fo the Philippine National Strategic Framework for Plan Development for Children, 2000-2025 or Child 21 and its Accompanying Medium Term Plan and Framework	3-Nov-00
EO 56	Adopting the Comprehensive Framework for Children in Armed Conflict and Directing National Government Agencies and Local Government Units to Implement the Same	26-Nov-01
Proc. No. 46	Reaffirming the Commitment to the Universal Child and Mother Immunization Goal by Launching the Polio Eradication Project	16-Sep-92
Proc. No. 60	Declaring the Last Week of September of Every Year as Family Week	28-Sep-92
Proc. No. 74	Declaring the 17th Day of October of Every Year as National Children's Day	16-Oct-92
Proc. No. 855	Proclaiming the Adoption of Implementation of the Philippine Plan of Action for Children in the 1990s	31-Jan-92
Proc. No. 267	Declaring the month of October of Every Year as National Children's Month	30-Sep-93
Proc. No. 731	Declaring the Second Week of February as "National Awareness Week for the Prevention of Child Sexual Abuse and Exploitation"	5-Feb-96
Proc. No. 759	Declaring the Fourth Week of March of Every Year as "Protection and Gender-Fair Treatment of the Girl Child Week"	6-Mar-96
Proc. No. 847	Declaring every Fourth Sunday of September as Family Thanksgiving Day	12-Aug-96
Proc. No. 72	Declaring the First Sunday of February of Every Year as Adoption Consciousness Day	3-Feb-99

<i>No.</i>	<i>Title</i>	<i>Date</i>
Pertinent Provisions of EO 209	The Family Code of the Philippines	
RA 7160	The Local Government Code of 1991	
RA 7727	Magna Carta for Disabled Persons	24-Mar-92
RA 7798	Amending Section 25 of BP 232, otherwise known as "the Education Act of 1982"	25-Aug-94
RA 7880	Fair and Equitable Access to Education Act	20-Feb-95
RA 8353	The Anti-Rape Law of 1997	30-Sep-97
RA 8371	The Indigenous People's Rights Act of 1997	29-Oct-97
RA 8425	Social Reform and Poverty Alleviation Act	
RA 8504	Philippine AIDS Prevention and Control Act of 1998	
RA 8505	Rape Victim Assistance and Protection Act of 1998	13-Feb-98
RA 8750	Seat Belts Use Act of 1999	
RA 9155	Governance of Basic Education Act of 2001	
RA 9164	Synchronized Barangay and Sangguniang Kabataan Elections	
<b>Migrant workers</b>		
RA 8042	Migrant Workers and Overseas Filipinos Act of 1995	7-Jun-95
RA 8282	Social Security Act of 1997	1-May-97
EO 446	Tasking the Sec. of Labor and Employment to Oversee and Coordinate the Implementation of Various Initiatives for OFW	12-Jul-05
<b>Economic and social rights</b>		
PD 442	Labor Code of the Philippines	1-May-74
PD 807	Civil Service Decree of the Philippines	6-Oct-75
RA 7742	Home Development Mutual Fund Law of 1980 (Pag-IBIG Law)	14-Dec-80
RA 6657	Comprehensive Agrarian Reform Law of 1988	10-Jun-88
RA 6715	An Act To Extend Protection To Labor, Strengthen The Constitutional Rights of Workers to Self-Organization, Collective Bargaining and Peaceful Concerted Activities, Foster Industrial Peace and Harmony, Promote the Preferential Use of voluntary modes of Settling Labor Disputes, and Reorganize the NLRC,.	21-Mar-89
RA 6727	Wage Rationalization Act	9-Jun-89

<i>No.</i>	<i>Title</i>	<i>Date</i>
RA 7305	The Magna Carta of Public Health Workers	26-Mar-92
RA 7394	Consumer Act of the Philippines	13-Apr-92
RA 7581	Price Act	27-May-92
RA 7641	Retirement Pay Law	9-Dec-92
RA 7699	An Act Instituting Limited Portability Scheme in the Social Security Systems by Totalizing the Workers' Creditable Services or Contributions in Each of the Systems	1-May-94
RA 7730	An Act Further Strengthening the Visitorial and Enforcement Powers of the Sec. of Labor and Employment.	2-Jun-94
RA 7875	National Health Insurance Act of 1995	14-Feb-95
RA 7883	Barangay Health Workers' Benefits and Incentives Act of 1995	20-Feb-95
RA 7916	The Special Economic Zone Act of 1995	21-Feb-95
RA 8187	Paternity Leave Act of 1996	11-Jun-96
RA 8188	Law Increasing Penalty for Violation of Wage Laws	11-Jun-96
RA 8282	Social Security Act of 1997	1-May-97
RA 8291	Government Service Insurance System Act of 1997	30-May-97
RA 8368	Anti-Squatting Law Repeal Act of 1997	27-Oct-97
RA 8558	Reducing the Retirement Age of Underground Mine Workers from 60 to 50	25-Feb-98
RA 8759	An Act Institutionalizing a National Facilitation Service Network through the Establishment of a Public Employment Service Office in Every Province, Key City and other Strategic Areas throughout the country.	14-Feb-00
RA 9241	An Act Amending RA 7875	10-Feb-04
Act No 4164	An Act to Prevent the Excessive Increase in the Price of Certain Prime Necessities of Life on the Occasion of a Public Calamity, Penalizing the Violation thereof, and for other purposes	
<b>Laws on arts and culture</b>		
Law on Arts and Culture	1987 Constitution of the Philippines - article XIV	
EO 23	Description and specifications of the Filipino flag	25-Mar-36

<i>No.</i>	<i>Title</i>	<i>Date</i>
CA. 382	An Act to adopt the original authentic form of the Philippine National Anthem and to appropriate funds	5-Sep-38
EO 166	Regulation governing the half-masting of flags on government buildings.	8-Oct-38
CA. 634	An Act to Penalize disrespect to the Philippine National Anthem, amending Commonwealth Act numbered 382, entitled "An Act to adopt the original authentic form of the Philippine National Anthem and to appropriate funds for its printing and free distribution"	10-Jun-41
PL. 829	(Joint Resolution in Flag Etiquette) To amend Public Law No. 623 approved June 22, 1942, entitled "Joint Resolution to codify and emphasize existing rules and customs pertaining to the display and use of the United States of America"	22-Dec-42
Proc.. 146	Declaring the twelfth day of June of each year as flag day	30-Sep-49
EO 321	Prescribing the Code of the National Flag and the National Anthem of the Republic of the Philippines	12-Jun-50
EO 25	Amending paragraph 3, Part II of the Executive Order No. 321, dated June 12, 1950, entitled "Prescribing the Code of the National Flag and the National Anthem of the Republic of the Philippines"	10-Apr-54
RA 1265	An Act making flag ceremony compulsory in all educational institutions	11-Jun-55
EO 56	Directing the hoisting of the National Flag at the Independence Flagpole at the <i>Luneta</i> twenty-four hours a day.	6-Nov-63
MC 60	Nagpapahayag na ang Pambansang Awitin ng Pilipinas ay dapat awitin lamang sa Pilipino (States that the Philippine National Anthem should be sung only in Pilipino)	19-Dec-63
Proc. 254	Declaring the period from June 6-12, 1964 as the Philippine Flag Week	3-Jun-64
EO. 87	Directing the hoisting of the National flag at the Legislative Building twenty-four hours a day.	12-Jun-64

<i>No.</i>	<i>Title</i>	<i>Date</i>
RA 3934	An Act requiring the Filipino veterans who died shall be buried with their caskets covered with the Filipino flag	18-Jun-64
Proc. 342	Declaring January 1-7, 1965 as Flag Week.	29-Dec-64
EO137	Revising Executive Order No. 321, dated June 12, 1950 entitled "Prescribing the code of the National Flag and National Anthem of the Republic of the Philippines"	7-Jan-65
Proc 374	Declaring May 28 of each year as Flag Day.	6-Mar-65
Proc 41	Declaring the period from June 12-19, 1966 as Flag Week.	7-Jun-66
RA 6085	An Act Amending Commonwealth Act NO. 142 Regulating the Use of Aliases	4-Aug-69
EO 194	Further amending Executive Order No. 321, dated June 12, 1950, as revised by Executive Order No. 137, dated January 7, 1965, prescribing the Code of the National Flag and the National Anthem of the Republic of the Philippines.	13-Oct-69
PD 49	Decree on the Protection of Intellectual Property	14-Nov-72
PD 442	Labor Code of the Philippines	1-May-74
EO 1010	Amending Executive Order No. 23, dated March 25, 1936 entitled "Description and Specifications of the Filipino flag"	25-Feb-85
PD 1988	Amending certain sections of Presidential Decree No. 49	5-Oct-85
PD 1986	Creation of the Movie and Television Review and Classification Board (MTRCB)	5-Oct-85
PD 1987	Creation of Videogram Regulatory Board	5-Oct-85
Proc 204	Declaring January 15, 1988 as Non-Working Special Day in the City of Cebu	15-Jan-88
Proc 206	Declaring February 1988 as the Buy Philippine Made Products Month	15-Jan-88

<i>No.</i>	<i>Title</i>	<i>Date</i>
AO 66	Creating the National Organizing Committee for the Appropriate Celebration of the United Nations World Decade for Cultural Development, 1988-1997; and the Holding of the First International Festival and Conference on Indigenous and Traditional Cultures in Manila on 20-25 October 1988	30-Mar-88
Proc 245	Declaring 1989 as the Philippine Fiesta Year	12-Apr-88
Proc 250	Declaring the period from July 3-9, 1988 and thereafter the Second Week of July of every year as "Cultural Communities Week"	20-Apr-88
Proc 269	Proclaiming the period from 1988 to 1998 as "The Decade of the Centennial of Filipino Nationalism, Nationhood and the Philippine Revolutionary Movement"	10-Jun-88
EO 335	Enjoining all departments / bureaus / offices / agencies / instrumentalities of the government to take such steps as are necessary for the purpose of using Filipino language in official transactions, communications and correspondence	25-Aug-88
Proc 329	Declaring the period 1998 as the Philippine Decade of Culture and Creating a Committee for its Appropriate Observance	22-Sep-88
AO 98	Amending A. O. 66 dated March 30, 1988, entitled "Creating the National Organizing Committee for the appropriate Celebration of the United Nations World Decade for Cultural Development, 1988-1997; and the Holding of the First International Festival and Conference on Indigenous and Traditional Cultures in Manila on 20-25 October 1988"	8-Nov-88
Proc 1173	Declaring the Period from November 26 to December 2 as National Music Week for Young Artists	10-Nov-88
Proc 356	Declaring the month of January of Every Year as "Ati-Atihan Month" in the Province of Aklan"	13-Jan-89
Proc 241	Declaring Every Third Week of September Every year as the "Linggo ng Kasuotang Filipino"	7-Dec-90

<i>No.</i>	<i>Title</i>	<i>Date</i>
Proc 673	Proclaiming December 14, 1990 as "National Communication Day"	7-Dec-90
Proc 683	Declaring the Month of January of Every Year as National Arts Month	28-Jan-91
Proc 730	Declaring the Period from June 6 to 12, 1991 as "Nationalism Week"	27-May-91
Proc 798	Declaring October as Museums and Galleries Month	12-Sep-91
Proc 837	Declaring the month of November as the Libraries and Information Services Month	19-Nov-91
Proc 902	Declaring Tuesday, July 7, 1992 as a special day throughout the Philippines	14-May-92
Proc 154	Declaring the Week of April as National Dance Week	19-Mar-93
AO 125	Creating a national committee to take charge of the celebration of Philippine Independence Day on June 12, 1994	21-Apr-94
EO 179	Prominent display of the National Flag in all buildings, establishments, and homes from 28 May 1994 to 12 June 1994 and every year thereafter, and for other purposes	24-May-94
AO 220	Creating a coordinating committee for the conduct of a Philippine Exposition in Printemps, France in 1996	3-Oct-95
AO 234	Reconstituting the membership of the Rizal Day National Committee in Connection with the Observance of the 99th Death Anniversary of Dr. Jose Rizal on 30 December 1995	21-Dec-95
RA 8491	An Act Prescribing the Code of the National Flag, Anthem, Motto, Coat-of-arms, and other Heraldic Items and Devices of the Philippines	12-Feb-98
PA 1696	An Act to prohibit the display of flags, banners, emblems, or devices used in the Philippine Islands for the purpose of rebellion or insurrection against the authority of the United States and the display of <i>Katipunan</i> flags, banners, emblems, or devices, and for other purposes	23-Aug-07
PA 2928	An Act to adopt an official flag for the Government of the Philippine islands, prescribe rules for its use, and provide penalties for the violation of said rules	26-Mar-20



<i>No.</i>	<i>Title</i>	<i>Date</i>
PA 3207	An Act granting aid or compensation in the sum of four thousand pesos to Julian Felipe, author of the "Philippine National Anthem"	4-Dec-24
<b>Others</b>		
RA 9201	National Human Rights Consciousness Week Act of 2002	1-Apr-03
AO 163	Strengthening and Increasing the Membership of the Presidential Human Rights Committee and Expanding Further the Functions of said Committee	8-Dec-06

Legend: RA-Republic Act, EO-Executive Order, AO-Administrative Order, AM-SC-Administrative Memorandum of the Supreme Court, PD- Presidential Decree, Proc.-Proclamation, PA- Proc. Act

**Annex II \***

**DOCUMENTS SUBMITTED BY THE GOVERNMENT OF THE PHILIPPINES**

1. The 1987 Constitution of the Philippines
2. Provisions of the Revised Penal Code : description of offenses and concomitant penalties
3. Republic Act No. 8049
4. Republic Act No. 9344
5. Republic Act No. 7877
6. Republic Act No. 6770
7. Republic Act No. 6975
8. Republic Act No. 8551
9. Republic Act No. 7055
10. Republic Act No. 9165
11. Republic Act No. 7438
12. Republic Act No. 6981
13. Republic Act No. 7309
14. Administrative Order No. 163

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\* These annexes may be consulted in the files of the Office of the United Nations High Commissioner for Human Rights. To facilitate matters for the OHCHR and the Committee, the Government has not attached all documents referred to in the report. Where appropriate, electronic copies or internet addresses are provided rather than hard copies.