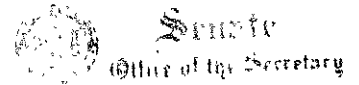


SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



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SENATE
P.S.R. No. 1049

RECEIVED BY: *lv*

Introduced by Senator Aquilino "Koko" Pimentel III

A RESOLUTION

DIRECTING THE SENATE COMMITTEE ON JUSTICE AND HUMAN RIGHTS AND OTHER APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE RECENT AMNESTY INTERNATIONAL REPORT ON THE INCREASING NUMBER OF CASES OF TORTURE AND ILL-TREATMENT IN THE PHILIPPINES, PARTICULARLY DURING POLICE INVESTIGATIONS, WITH THE END IN VIEW OF ENACTING LAWS WHICH WOULD FURTHER PREVENT TORTUROUS ACTIVITIES, PROVIDE MECHANISMS FOR THE EFFECTIVE INVESTIGATION AND RESTITUTION OF LEGITIMATE CLAIMS OF TORTURE, AND END IMPUNITY IN SUCH INSTANCES

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

WHEREAS, *Article III, Section 12* of the 1987 Philippine Constitution provides that: (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel; (2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited; (3) Any confession or admission obtained in violation of this or Section 17 hereof 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 the rehabilitation of victims of torture or similar practices, and their families;

WHEREAS, *Article III, Section 19* of the 1987 Philippine Constitution provides that excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. 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;

WHEREAS, in 2009, the Philippines enacted *Republic Act No. 9745*, otherwise known as the “*Anti-Torture Act of 2009*” (“ATA”);

WHEREAS, while torture is now penalized as a crime under the ATA, the reality is that torture and ill-treatment remain common in many police stations in the country. As stated in a recent report¹ by *Amnesty International* (“AI Report”), detainees on police custody have been subjected to a variety of methods of torture including electric shocks; systematic beatings, punching and kicking; striking with wooden batons or metal bars; burning with cigarettes; waterboarding²; near-asphyxiation with plastic bags; forcing detainees to assume stressful bodily positions; being stripped naked and their genitalia tied to a string which was pulled by police officers; and threatening with death if they refuse to cooperate;

WHEREAS, after five (5) years from the enactment of the ATA, no one has been convicted of torture in a Philippine court as its perpetrators continue to act with impunity;

WHEREAS, according to the same AI Report, most victims of torture are from disadvantaged and marginalized backgrounds and that those most at risk of being tortured or ill-treated after arrest include women, children (suspected juvenile offenders³), repeat offenders and criminal suspects whose alleged crimes have personally affected police officers. Also at risk are informal police auxiliaries (so-called police “assets”) who have fallen out of favour with local police officers. The risk of torture and other ill-treatment is similarly high for arrested political activists and suspected members or sympathizers of armed groups;

WHEREAS, it must be noted that our country is a state party to various international agreements on the protection of a detainee’s rights, such as the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT);

WHEREAS, obligations under the ICCPR and UNCAT include taking a wide range of measures relevant to the prohibition of torture and other ill-treatment. The UNCAT specifically obliges state parties to prevent other acts of cruel, inhuman, or degrading treatment or punishment while the ICCPR requires state parties to treat all persons deprived of their liberty with humanity and respect for the inherent dignity of the human person. Further, state parties to the UNCAT are required to undertake systematic reviews of their interrogation rules, instructions, methods and practices, and arrangements for the custody and treatment of persons subjected to arrest, detention or imprisonment⁴;

¹ “*Above the Law – Police Torture in the Philippines*” by Amnesty International December 2014 35/007/2014

² An interrogation technique in which water is forced into a detainee’s mouth and nose so as to induce the sensation of drowning.

³ Under the Juvenile Justice and Welfare Act of 2006 (R.A. No. 9344)

⁴ “*Above the Law – Police Torture in the Philippines*” by Amnesty International December 2014 35/007/2014

WHEREAS, according to the AI Report, for the year 2013 alone, the Commission on Human Rights (CHR) recorded 75 cases of alleged torture, the highest number of incidents reported in any year thus far. In 60 of these cases, police officers were implicated as the perpetrators. In 2014, of the 28 cases recorded from January to July, 22 involved police officers;

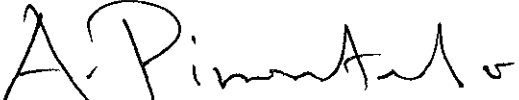
WHEREAS, sadly, we are faced with a situation where those who are primarily entrusted to enforce the law, serve the people, and protect their welfare may have been the ones who may have violated the laws that they are bound to execute;

WHEREAS, it is more saddening to note that the present number of victims of torture and ill-treatment may still increase if victims were educated of their rights. The fear of reprisal and lack of confidence in our justice system may have likewise contributed to the underreporting of legitimate claims of torture and ill-treatment;

WHEREAS, the few victims who do manage to initiate proceedings against their torturers find themselves confronted with a dauntingly complex criminal and administrative complaints system. Various government agencies are, under the ATA, mandated to receive and investigate torture complaints, including the CHR, the Department of Justice and the Philippine National Police (PNP). Further, administrative and disciplinary processes under the PNP Command, the PNP Internal Affairs Service, the National Police Commission, the People's Law Enforcement Board, the Office of the Ombudsman, and the Civil Service Commission, are complex, confusing, and reflect overlapping mandates⁵;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED THAT THE SENATE COMMITTEE ON JUSTICE AND HUMAN RIGHTS AND OTHER APPROPRIATE SENATE COMMITTEES BE DIRECTED TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE AMNESTY INTERNATIONAL REPORT ON THE INCREASING NUMBER OF CASES OF TORTURE AND ILL-TREATMENT IN THE PHILIPPINES, PARTICULARLY DURING POLICE INVESTIGATIONS, WITH THE END IN VIEW OF ENACTING LAWS WHICH WOULD FURTHER PREVENT TORTUROUS ACTIVITIES, PROVIDE MECHANISMS FOR THE EFFECTIVE INVESTIGATION AND RESTITUTION OF LEGITIMATE CLAIMS OF TORTURE, AND END IMPUNITY IN SUCH INSTANCES.

Adopted,


AQUILINO "KOKO" PIMENTEL III

⁵ "Above the Law – Police Torture in the Philippines" Executive Summary by Amnesty International December 2014 35/007/2014