

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

5 AUG 15 P3:31

SENATE
P. S. R. No. 307

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

RESOLUTION
DIRECTING THE SENATE COMMITTEE ON JUSTICE AND HUMAN RIGHTS TO
CONDUCT AN INQUIRY IN AID OF LEGISLATION ON THE ALLEGED USE OF
TORTURE METHODS BY THE PHILIPPINE POLICE AND THE MILITARY

WHEREAS, the Constitution, Article III, section 12, states 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, and 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, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 2, provides further that: "Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction;"

WHEREAS, the UN Convention Against Torture defines torture as "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 does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions;"

WHEREAS, according to a 2004 report by the Amnesty International, military and police forces in the Philippines allegedly use torture and ill-treatment to extract confessions or information from detainees;

WHEREAS, the report alleged that stakeholders who tried to bring cases of human rights abuses to the courts faced prolonged and frequently unfair trial proceedings, which they often abandoned in frustration,

WHEREAS, the Commission on Human Rights documented 1,495 human rights complaints for the year 2004; based on the Commission's records, the right to life has been the most violated, with 687 cases of killings, physical injuries, torture, ambush, and threat/harassment filed,

WHEREAS, according to the Commission's report, 33% of the perpetrators of the human rights violations were from the ranks of the police, 13% from the military, and 14% were local government officials;

WHEREAS, the People's Recovery, Empowerment, and Development Assistance Foundation, Inc., a non-government organization, identified the following common forms of torture: "ashtray," which involves burning the skin with lit cigarettes; pulling off fingernails, "pompyang," which means slapping both ears simultaneously with great force; "nawasa" or the water cure, in which the victim is held down while water is poured continuously into his or her mouth; "wet submarine," which involves submerging the victim's head in water or in a toilet bowl; and "dry submarine," in which the victim's head is covered with plastic to cause suffocation;

WHEREAS, despite an extensive array of procedural safeguards, suspected perpetrators of torture from the ranks of the military and the police are rarely brought to justice, thus fostering a climate of impunity that shields them from prosecution and conviction;

WHEREAS, the use of torture and ill-treatment by law enforcement officers is a serious crime in itself; it violates the constitutional rights of an accused, and taints the integrity of the justice system;

WHEREAS, law enforcement agencies have the duty to instigate prompt, thorough, and impartial investigations whenever there are reasonable grounds to believe an act of torture has taken place; the agencies must ensure that any individual who alleges that he or she was tortured by a law enforcer is given sufficient assistance in filing the appropriate complaint, and that the case is heard promptly and impartially

WHEREFORE, be it resolved, as it is hereby resolved by the Philippine Senate, to direct the Senate Committee on Justice and Human Rights to conduct an inquiry in aid of legislation on the alleged use of torture methods by the Philippine police and the military.

Adopted,


MIRIAM DEFENSOR SANTIAGO

/dpm