

Country File
PHILIPPINES



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Region	Asia-Pacific
Legal system	Civil Law / Common Law
UNCAT Ratification/ Accession (a)/ Succession (d)	18 June 1986 (a)
Relevant Laws	<ul style="list-style-type: none"> • Constitution of 1987 • Anti-Torture Act of 2009 (Republic Act No. 9745, 10 November 2009) • Human Security Act of 2007 (Republic Act No. 9372, 6 March 2007) • Juvenile Justice and Welfare Act of 2006 (Republic Act No. 9344, 28 April 2006) • Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity of 2009 (Republic Act No. 9851, 11 December 2009) • Revised Penal Code of 1930 (Republic Act No. 3815, 8 December 1930) • An Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes (Republic Act No. 7309, 30 March 1992)
Relevant Articles	<ul style="list-style-type: none"> • Prohibition of torture: <ul style="list-style-type: none"> ▪ Article III, Section 12 of the Constitution ▪ Sections 2 and 6 of the Anti-Torture Act ▪ Section 24 of the Human Security Act ▪ Section 5 of the Juvenile Justice and Welfare Act

	<ul style="list-style-type: none"> • Definition of torture: <ul style="list-style-type: none"> ▪ Sections 3 and 4 of the Anti-Torture Act ▪ Section 3 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity • Penalties: <ul style="list-style-type: none"> ▪ Article 235 of the Revised Penal Code ▪ Sections 14, 15 and 22 of the Anti-Torture Act ▪ Section 25 of the Human Security Act ▪ Section 62 of the Juvenile Justice and Welfare Act ▪ Sections 4, 5, 6, 7 and 16 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity • Others: <ul style="list-style-type: none"> ▪ Compensation and reparation: <ul style="list-style-type: none"> ▪ Sections 18 and 19 of the Anti-Torture Act ▪ Section 14 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity ▪ Section 3 of the Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes ▪ Defences: <ul style="list-style-type: none"> ▪ Section 16 of the Anti-Torture Act ▪ Sections 9, 11 and 12 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity ▪ Exclusion of evidence: <ul style="list-style-type: none"> ▪ Section 12 of the Constitution ▪ Section 8 of the Anti-Torture Act ▪ Section 24 of the Human Security Act ▪ Extradition: <ul style="list-style-type: none"> ▪ Section 17 of the Anti-Torture Act ▪ Section 17 of the Philippine Act on Crimes Against International
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	<p>Humanitarian Law, Genocide, and Other Crimes Against Humanity</p> <ul style="list-style-type: none"> ▪ International law status: <ul style="list-style-type: none"> ▪ Section 15 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity ▪ Jurisdiction: <ul style="list-style-type: none"> ▪ Sections 2, 17 and 18 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity ▪ Lawful sanction: <ul style="list-style-type: none"> ▪ Section 3 of the Anti-Torture Act ▪ Participation in torture: <ul style="list-style-type: none"> ▪ Section 13 of the Anti-Torture Act ▪ Sections 8 and 10 of the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity
Languages Available	English (official language)
Other Relevant Information	<ul style="list-style-type: none"> • Legislative sources <ul style="list-style-type: none"> ▪ Official texts of laws are available at <ul style="list-style-type: none"> ▪ http://www.congress.gov.ph ▪ http://www.senate.gov.ph/ ▪ http://www.op.gov.ph/ ▪ Laws and jurisprudence can also be found at http://www.lawphil.net/index.html • UN Committee against Torture For comments and recommendations on the legislation of the Philippines by the UN Committee against Torture, see http://www2.ohchr.org/english/bodies/cat/sessions.htm <p><i>Please note that these comments may have been rendered obsolete by more recent changes to the State party's law and/or practice. APT strongly recommends verification with official sources.</i></p>

Relevant Articles – PHILIPPINES

ENGLISH

The Constitution of 1987

Article III – Bill of Rights

Section 12

- (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 violate 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.

Section 17

No person shall be compelled to be a witness against himself.

Anti-Torture Act of 2009 (Republic Act No.9745, 10 November 2009)

Section 1 Short Title

This Act shall be known as the "Anti-Torture Act of 2009".

Section 2 Statement of Policy

It is hereby declared the policy of the State:

- (a) To value the dignity of every human person and guarantee full respect for human rights;
- (b) To ensure that the human rights of all persons, including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody of any person in authority or, agent of a person in authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or

- any act that impairs his/her free will or in any manner demeans or degrades human dignity;
- (c) To ensure that secret detention places, solitary, *incommunicado* or other similar forms of detention, where torture may be carried out with impunity, are prohibited; and
 - (d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution; various international instruments to which the Philippines is a State party such as, but not limited to, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and all other relevant international human rights instruments to which the Philippines is a signatory.

Section 3 Definitions

For purposes of this Act, the following terms shall mean:

- (a) "Torture" refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on 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 with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
- (b) "Other cruel, inhuman and degrading treatment or punishment" refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.
- (c) "Victim" refers to the person subjected to torture or other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment.
- (d) "Order of Battle" refers to any document or determination made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

Section 4 Acts of Torture

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

- (a) Physical torture is a form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:
 - (1) Systematic beating, headbanging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the stomach;
 - (2) Food deprivation or forcible feeding with spoiled food, animal or human excreta and other stuff or substances not normally eaten;
 - (3) Electric shock;
 - (4) Cigarette burning; burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wound(s);
 - (5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;
 - (6) Being tied or forced to assume fixed and stressful bodily position;
 - (7) Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum, or electrical torture of the genitals;
 - (8) Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;
 - (9) Dental torture or the forced extraction of the teeth;
 - (10) Pulling out of fingernails;
 - (11) Harmful exposure to the elements such as sunlight and extreme cold;
 - (12) The use of plastic bag and other materials placed over the head to the point of asphyxiation;
 - (13) The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:
 - (i) The administration of drugs to induce confession and/or reduce mental competency; or
 - (ii) The use of drugs to induce extreme pain or certain symptoms of a disease; and
 - (14) Other analogous acts of physical torture; and
- (b) "Mental/Psychological Torture" refers to acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person's dignity and morale, such as:
 - (1) Blindfolding;
 - (2) Threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts;
 - (3) Confinement in solitary cells or secret detention places;
 - (4) Prolonged interrogation;

- (5) Preparing a prisoner for a "show trial", public display or public humiliation of a detainee or prisoner;
- (6) Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;
- (7) Maltreating a member/s of a person's family;
- (8) Causing the torture sessions to be witnessed by the person's family, relatives or any third party;
- (9) Denial of sleep/rest;
- (10) Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;
- (11) Deliberately prohibiting the victim to communicate with any member of his/her family; and
- (12) Other analogous acts of mental/psychological torture.

Section 5 Other Cruel, Inhuman and Degrading Treatment or Punishment

Other cruel, inhuman or degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter. The assessment of the level of severity shall depend on all the circumstances of the case, including the duration of the treatment or punishment, its physical and mental effects and, in some cases, the sex, religion, age and state of health of the victim.

Section 6 Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, An Absolute Right

Torture and other cruel, inhuman and degrading treatment or punishment as criminal acts shall apply to all circumstances. A state of war or a threat of war, internal political instability, or any other public emergency, or a document or any determination comprising an "order of battle" shall not and can never be invoked as a justification for torture and other cruel, inhuman and degrading treatment or punishment.

Section 7 Prohibited Detention

Secret detention places, solitary confinement, *incommunicado* or other similar forms of detention, where torture may be carried out with impunity, are hereby prohibited.

In which case, the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) and other law enforcement agencies concerned shall make an updated list of all detention centers and facilities under their respective jurisdictions with the corresponding data on the prisoners or detainees incarcerated or detained therein such as, among others, names, date of arrest and incarceration, and the crime or offense committed. This list shall be made available to the public at all times, with a copy of the complete list available at

the respective national headquarters of the PNP and AFP. A copy of the complete list shall likewise be submitted by the PNP, AFP and all other law enforcement agencies to the Commission on Human Rights (CHR), such list to be periodically updated, by the same agencies, within the first five (5) days of every month at the minimum. Every regional office of the PNP, AFP and other law enforcement agencies shall also maintain a similar list for all detainees and detention facilities within their respective areas, and shall make the same available to the public at all times at their respective regional headquarters, and submit a copy, updated in the same manner provided above, to the respective regional offices of the CHR.

Section 8 Applicability of the Exclusionary Rule; Exception

Any confession, admission or statement obtained as a result of torture shall be inadmissible in evidence in any proceedings, except if the same is used as evidence against a person or persons accused of committing torture.

Section 9 Institutional Protection of Torture Victims and Other Persons Involved

A victim of torture shall have the following rights in the institution of a criminal complaint for torture:

- (a) To have a prompt and an impartial investigation by the CHR and by agencies of government concerned such as the Department of Justice (DOJ), the Public Attorney's Office (PAO), the PNP, the National Bureau of Investigation (NBI) and the AFP. A prompt investigation shall mean a maximum period of sixty (60) working days from the time a complaint for torture is filed within which an investigation report and/or resolution shall be completed and made available. An appeal whenever available shall be resolved within the same period prescribed herein,
- (b) To have sufficient government protection against all forms of harassment, threat and/or intimidation as a consequence of the filing of said complaint or the presentation of evidence therefor. In which case, the State through its appropriate agencies shall afford security in order to ensure his/her safety and all other persons involved in the investigation and prosecution such as, but not limited to, his/her lawyer, witnesses and relatives; and
- (c) To be accorded sufficient protection in the manner by which he/she testifies and presents evidence in any *fora* in order to avoid further trauma.

Section 10 Disposition of Writs of Habeas Corpus, Amparo and Habeas Data Proceedings and Compliance with a Judicial Order

A writ of habeas corpus or writ of amparo or writ of habeas data proceeding, if any, filed on behalf of the victim of torture or other cruel, degrading and inhuman treatment or punishment shall be disposed of expeditiously and any order of release by virtue thereof, or other appropriate order of a court relative thereto, shall be executed or complied with immediately.

Section 11 Assistance in Filing a Complaint

The CHR and the PAO shall render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party thereto.

The victim or interested party may also seek legal assistance from the Barangay Human Rights Action Center (BRRAC) nearest him/her as well as from human rights nongovernment organizations (NGOs).

Section 12 Right to Physical, Medical and Psychological Examination

Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor to conduct physical examination. The State shall endeavor to provide the victim with psychological evaluation if available under the circumstances. If the person arrested is a female, she shall be attended to preferably by a female doctor. Furthermore, any person arrested, detained or under custodial investigation, including his/her immediate family, shall have the right to immediate access to proper and adequate medical treatment.

The physical examination and/or psychological evaluation of the victim shall be contained in a medical report, duly signed by the attending physician, which shall include in detail his/her medical history and findings, and which shall be attached to the custodial investigation report. Such report shall be considered a public document.

Following applicable protocol agreed upon by agencies tasked to conduct physical, psychological and mental examinations, the medical reports shall, among others, include:

- (a) The name, age and address of the patient or victim;
- (b) The name and address of the nearest kin of the patient or victim;
- (c) The name and address of the person who brought the patient or victim for physical, psychological and mental examination, and/or medical treatment;
- (d) The nature and probable cause of the patient or victim's injury, pain and disease and/or trauma;
- (e) The approximate time and date when the injury, pain, disease and/or trauma was/were sustained;
- (f) The place where the injury, pain, disease and/or trauma was/were sustained;
- (g) The time, date and nature of treatment necessary; and
- (h) The diagnosis, the prognosis and/or disposition of the patient.

Any person who does not wish to avail of the rights under this provision may knowingly and voluntarily waive such rights in writing, executed in the presence and assistance of his/her counsel.

Section 13 Who are Criminally Liable

Any person who actually participated or induced another in the commission of torture or other cruel, inhuman and degrading treatment or punishment or who cooperated in the execution of the act of torture or other cruel, inhuman and degrading treatment or punishment by previous or simultaneous acts shall be liable as principal.

Any superior military, police or law enforcement officer or senior government official who issued an order to any lower ranking personnel to commit torture for whatever purpose shall be held equally liable as principals.

The immediate commanding officer of the unit concerned of the AFP or the immediate senior public official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of torture or other cruel or inhuman and degrading treatment or punishment for any act or omission, or negligence committed by him/her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his/her subordinates. If he/she has knowledge of or, owing to the circumstances at the time, should have known that acts of torture or other cruel, inhuman and degrading treatment or punishment shall be committed, is being committed, or has been committed by his/her subordinates or by others within his/her area of responsibility and, despite such knowledge, did not take preventive or corrective action either before, during or immediately after its commission, when he/she has the authority to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment but failed to prevent or investigate allegations of such act, whether deliberately or due to negligence shall also be liable as principals.

Any public officer or employee shall be liable as an accessory if he/she has knowledge that torture or other cruel, inhuman and degrading treatment or punishment is being committed and without having participated therein, either as principal or accomplice, takes part subsequent to its commission in any of the following manner:

- (a) By themselves profiting from or assisting the offender to profit from the effects of the act of torture or other cruel, inhuman and degrading treatment or punishment;
- (b) By concealing the act of torture or other cruel, inhuman and degrading treatment or punishment and/or destroying the effects or instruments thereof in order to prevent its discovery; or
- (c) By harboring, concealing or assisting in the escape of the principal/s in the act of torture or other cruel, inhuman and degrading treatment or punishment: *Provided*, That the accessory acts are done with the abuse of the official's public functions.

Section 14 Penalties

- (a) *The penalty of reclusion perpetua* shall be imposed upon the perpetrators of the following acts:
 - (1) Torture resulting in the death of any person;
 - (2) Torture resulting in mutilation;
 - (3) Torture with rape;

- (4) Torture with other forms of sexual abuse and, in consequence of torture, the victim shall have become insane, imbecile, impotent, blind or maimed for life; and
- (5) Torture committed against children.
- (b) The penalty of *reclusion temporal* shall be imposed on those who commit any act of mental/psychological torture resulting in insanity, complete or partial amnesia, fear of becoming insane or suicidal tendencies of the victim due to guilt, worthlessness or shame.
- (c) The penalty of *prision correccional* shall be imposed on those who commit any act of torture resulting in psychological, mental and emotional harm other than those described in paragraph (b) of this section.
- (d) The penalty of *prision mayor* in its medium and maximum periods shall be imposed if, in consequence of torture, the victim shall have lost the power of speech or the power to hear or to smell; or shall have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use of any such member; or shall have become permanently incapacitated for labor.
- (e) The penalty of *prision mayor* in its minimum and medium periods shall be imposed if, in consequence of torture, the victim shall have become deformed or shall have lost any part of his/her body other than those aforesaid, or shall have lost the use thereof, or shall have been ill or incapacitated for labor for a period of more than ninety (90) days.
- (f) The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for more than thirty (30) days but not more than ninety (90) days.
- (g) The penalty of *prision correccional* in its minimum and medium period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for thirty (30) days or less.
- (h) The penalty of *arresto mayor* shall be imposed for acts constituting cruel, inhuman or degrading treatment or punishment as defined in Section 5 of this Act.
- (i) The penalty of *prision correccional* shall be imposed upon those who establish, operate and maintain secret detention places and/or effect or cause to effect solitary confinement, *incommunicado* or other similar forms of prohibited detention as provided in Section 7 of this Act where torture may be carried out with impunity.
- (j) The penalty of *arresto mayor* shall be imposed upon the responsible officer/s or personnel of the AFP, the PNP and other law enforcement agencies for failure to perform his/her duty to maintain, submit or make available to the public an updated list of detention centers and facilities with the corresponding data on the prisoners or detainees incarcerated or detained therein, pursuant to Section 7 of this Act.

Section 15 Torture as a Separate and Independent Crime

Torture as a crime shall not absorb or shall not be absorbed by any other crime or felony committed as a consequence, or as a means in the conduct or commission thereof. In which case, torture shall be treated as a separate and independent criminal act whose penalties shall be imposable without prejudice to any other criminal liability provided for by domestic and international laws.

Section 16 Exclusion from the Coverage of Special Amnesty Law

In order not to depreciate the crime of torture, persons who have committed any act of torture shall not benefit from any special amnesty law or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.

Section 17 Applicability of Refouler

No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to torture. For the purposes of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the DOJ, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 18 Compensation to Victims of Torture

Any person who has suffered torture shall have the right to claim for compensation as provided for under Republic Act No. 7309: *Provided*, That in no case shall compensation be any lower than Ten thousand pesos (P10,000.00). Victims of torture shall also have the right to claim for compensation from such other financial relief programs that may be made available to him/her under existing law and rules and regulations.

Section 19 Formulation of a Rehabilitation Program

Within one (1) year from the effectivity of this Act, the Department of Social Welfare and Development (DSWD), the DOJ and the Department of Health (DOH) and such other concerned government agencies, and human rights organizations shall formulate a comprehensive rehabilitation program for victims of torture and their families. The DSWD, the DOJ and the DOH shall also call on human rights nongovernment organizations duly recognized by the government to actively participate in the formulation of such program that shall provide for the physical, mental, social, psychological healing and development of victims of torture and their families. Toward the attainment of restorative justice, a parallel rehabilitation program for persons who have committed torture and other cruel, inhuman and degrading punishment shall likewise be formulated by the same agencies.

Section 20 Monitoring of Compliance with this Act

An Oversight Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by a Commissioner of the CHR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and the Minority Leaders of both houses or their respective representatives in the minority.

Section 21 Education and Information Campaign

The CHR, the DOJ, the Department of National Defense (DND), the Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. The Department of Education (DepED) and the Commission on Higher Education (CHED) shall also ensure the integration of human rights education courses in all primary, secondary and tertiary level academic institutions nationwide.

Section 22 Applicability of the Revised Penal Code

The provisions of the Revised Penal Code insofar as they are applicable shall be supplementary to this Act. Moreover, if the commission of any crime punishable under Title Eight (Crimes Against Persons) and Title Nine (Crimes Against Personal Liberty and Security) of the Revised Penal Code is attended by any of the acts constituting torture and other cruel, inhuman and degrading treatment or punishment as defined herein, the penalty to be imposed shall be in its maximum period.

Section 23 Appropriations

The amount of Five million pesos (Php5,000,000.00) is hereby appropriated to the CHR for the initial implementation of this Act. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Section 24 Implementing Rules and Regulations

The DOJ and the CHR, with the active participation of human rights nongovernmental organizations, shall promulgate the rules and regulations for the effective implementation of this Act. They shall also ensure the full dissemination of such rules and regulations to all officers and members of various law enforcement agencies.

Section 25 Separability Clause

If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

Section 26 Repealing Clause

All laws, decrees, executive orders or rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 27 Effectivity

This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

Human Security Act of 2007 (Republic Act No. 9372, 6 March 2007)

Section 24 No Torture or Coercion in Investigation and Interrogation

No threat, intimidation, or coercion, and no act which will inflict any form of physical pain or torment, or mental, moral, or psychological pressure, on the detained person, which shall vitiate his free-will, shall be employed in his investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism; otherwise, the evidence obtained from said detained person resulting from such threat, intimidation, or coercion, or from such inflicted physical pain or torment, or mental, moral, or psychological pressure, shall be, in its entirety, absolutely not admissible and usable as evidence in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

Section 25 Penalty for Threat, Intimidation, Coercion, or Torture in the Investigation and Interrogation of a Detained Person

Any person or persons who use threat, intimidation, or coercion, or who inflict physical pain or torment, or mental, moral, or psychological pressure, which shall vitiate the freewill of a charged or suspected person under investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of twelve (12) years arid one day to twenty (20) years of imprisonment.

When death or serious permanent disability of said detained person occurs as a consequence of the use of such threat, intimidation, or coercion, or as a consequence of the infliction on him of such physical pain or torment, or as a consequence of the infliction on him of such mental, moral, or psychological pressure, the penalty shall be twelve (12) years and one day to twenty (20) years of imprisonment.

Juvenile Justice and Welfare Act of 2006 (Republic Act No. 9344,
28 April 2006)

Title One

Governing Principles

Chapter Two

Principles in the Administration of Juvenile Justice and Welfare

Section 5 Rights of the Child in Conflict with the Law

Every child in conflict with the law shall have the following rights, including but not limited to:

- (a) the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment;
- (b) the right not to be imposed a sentence of capital punishment or life imprisonment, without the possibility of release;
- (c) the right not to be deprived, unlawfully or arbitrarily, of his/her liberty; detention or imprisonment being a disposition of last resort, and which shall be for the shortest appropriate period of time;
- (d) the right to be treated with humanity and respect, for the inherent dignity of the person, and in a manner which takes into account the needs of a person of his/her age. In particular, a child deprived of liberty shall be separated from adult offenders at all times. No child shall be detained together with adult offenders. He/She shall be conveyed separately to or from court. He/She shall await hearing of his/her own case in a separate holding area. A child in conflict with the law shall have the right to maintain contact with his/her family through correspondence and visits, save in exceptional circumstances;
- (e) the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his/her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on such action;
- (f) the right to bail and recognizance, in appropriate cases;
- (g) the right to testify as a witness in his/her own behalf under the rule on examination of a child witness;
- (h) the right to have his/her privacy respected fully at all stages of the proceedings;
- (i) the right to diversion if he/she is qualified and voluntarily avails of the same;
- (j) the right to be imposed a judgment in proportion to the gravity of the offense where his/her best interest, the rights of the victim and the needs of society are all taken into consideration by the court, under the principle of restorative justice;
- (k) the right to have restrictions on his/her personal liberty limited to the minimum, and where discretion is given by law to the judge to determine whether to impose fine or imprisonment, the imposition of fine being preferred as the more appropriate penalty;
- (l) in general, the right to automatic suspension of sentence;

- (m) the right to probation as an alternative to imprisonment, if qualified under the Probation Law;
- (n) the right to be free from liability for perjury, concealment or misrepresentation; and
- (o) other rights as provided for under existing laws, rules and regulations.

The State further adopts the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice or "Beijing Rules", United Nations Guidelines for the Prevention of Juvenile Delinquency or the "Riyadh Guidelines", and the United Nations Rules for the Protection of Juveniles Deprived of Liberty.

Title Seven

General Provisions

Chapter Three

Penal Provision

Section 62 Violation of the Provisions of this Act or Rules or Regulations in General

Any person who violates any provision of this Act or any rule or regulation promulgated in accordance thereof shall, upon conviction for each act or omission, be punished by a fine of not less than Twenty thousand pesos (P20,000.00) but not more than Fifty thousand pesos (P50,000.00) or suffer imprisonment of not less than eight (8) years but not more than ten (10) years, or both such fine and imprisonment at the discretion of the court, unless a higher penalty is provided for in the Revised Penal Code or special laws. If the offender is a public officer or employee, he/she shall, in addition to such fine and/or imprisonment, be held administratively liable and shall suffer the penalty of perpetual absolute disqualification.

Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity (Republic Act No. 9851, 11 December 2009)

Chapter I

Introductory Provisions

Section 1 Short Title

This Act shall be known as the "*Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity*".

Section 2 Declaration of Principles and State Policies

- (a) The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to a policy of peace, equality, justice, freedom, cooperation and amity with all nations.
- (b) The state values the dignity of every human person and guarantees full respect for human rights, including the rights of indigenous cultural

- communities and other vulnerable groups, such as women and children;
- (c) It shall be the responsibility of the State and all other sectors concerned to resolved armed conflict in order to promote the goal of "Children as Zones of Peace";
 - (d) The state adopts the generally accepted principles of international law, including the Hague Conventions of 1907, the Geneva Conventions on the protection of victims of war and international humanitarian law, as part of the law our nation;
 - (e) The most serious crimes of concern to the international community as a whole must not go unpunished and their effective prosecution must be ensured by taking measures at the national level, in order to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, it being the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes;
 - (f) The State shall guarantee persons suspected or accused of having committed grave crimes under international law all rights necessary to ensure that their trial will be fair and prompt in strict accordance with national and international law and standards for fair trial. It shall also protect victims, witnesses and their families, and provide appropriate redress to victims and their families. It shall ensure that the legal systems in place provide accessible and gender-sensitive avenues of redress for victims of armed conflict, and
 - (g) The State recognizes that the application of the provisions of this Act shall not affect the legal status of the parties to a conflict, nor give an implied recognition of the status of belligerency.

Chapter II

Definitions of Terms

Section 3

For purposes of this Act, the term:

- (a) "Apartheid" means inhumane acts committed in the context of an institutionalized regime of systematic oppression and domination by one racial group or groups and committed with the intention of maintaining that regime
- (b) "Arbitrary deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under domestic or international law.
- (c) "Armed conflict" means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed groups or between such groups within that State: *Provided*, That such force or armed violence gives rise, or may give rise, to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including

belligerent occupation; or non-international, that is, between governmental authorities and organized armed groups or between such groups within a state. It does not cover internal disturbances or tensions such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

- (d) "Armed forces" means all organized armed forces, groups and units that belong to a party to an armed conflict which are under a command responsible to that party for the conduct of its subordinates. Such armed forces shall be subject to an internal disciplinary system which enforces compliance with International Humanitarian Law.
- (e) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in Section 6 of this Act against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.
- (f) "Effective command and control" or "effective authority and control" means having the material ability to prevent and punish the commission of offenses by subordinates.
- (g) "Enforced or involuntary disappearance of persons" means the arrest, detention, or abduction of persons by, or with the authorization support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.
- (h) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.
- (i) "Extermination" means the international infliction of conditions of life, *inter alia*, the deprivation of access to food and medicine, calculated to bring about the destruction of a part of a population.
- (j) "Forced pregnancy" means the unlawful confinement of a woman to be forcibly made pregnant, with the intent of affecting the ethnic composition of any population carrying out other grave violations of international law.
- (k) "*Hors de Combat*" means a person who:
 - (1) is in the power of an adverse party;
 - (2) has clearly expressed an intention to surrender; or
 - (3) has been rendered unconscious or otherwise incapacitated by wounds or sickness and therefore is incapable of defending himself: Provided, that in any of these cases, the person form any hostile act and does not attempt to escape.
- (l) "Military necessity" means the necessity of employing measures which are indispensable to achieve a legitimate aim of the conflict and are not otherwise prohibited by International Humanitarian Law.
- (m) "Non-defended locality" means a locality that fulfills the following conditions:

- (1) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;
 - (2) no hostile use of fixed military installations or establishments must have been made;
 - (3) no acts of hostility must have been committed by the authorities or by the population; and
 - (4) no activities in support of military operations, must have been undertaken.
- (n) "No quarter will be given" means refusing to spare the life of anybody, even of persons manifestly unable to defend themselves or who clearly express their intention to surrender.
- (o) "Perfidy" means acts which invite the confidence of an adversary to lead him/her to believe he/she is entitled to, or is obliged to accord, protection under the rules of International Humanitarian Law, with the intent to betray that confidence, including but not limited to:
- (1) feigning an intent to negotiate under a flag of truce;
 - (2) feigning surrender;
 - (3) feigning incapacitation by wounds or sickness;
 - (4) feigning civilian or noncombatant status; and
 - (5) feigning protective status by use of signs, emblems or uniforms of the United Nations or of a neutral or other State not party to the conflict.
- (p) "Persecution" means the international and severe deprivation of fundamental rights contrary to international law by reason of identity of the group or collectivity.
- (q) "Protected person" in an armed conflict means:
- (1) a person wounded, sick or shipwrecked, whether civilian or military;
 - (2) a prisoner of war or any person deprived of liberty for reasons related to an armed conflict;
 - (3) a civilian or any person not taking a direct part or having ceased to take part in the hostilities in the power of the adverse party;
 - (4) a person who, before the beginning of hostilities, was considered a stateless person or refugee under the relevant international instruments accepted by the parties to the conflict concerned or under the national legislation of the state of refuge or state of residence;
 - (5) a member of the medical personnel assigned exclusively to medical purposes or to the administration of medical units or to the operation of or administration of medical transports; or
 - (6) a member of the religious personnel who is exclusively engaged in the work of their ministry and attached to the armed forces of a party to the conflict, its medical units or medical transports, or non-denominational, noncombatant military personnel carrying out functions similar to religious personnel.
- (r) " Superior" means:

- (1) a military commander or a person effectively acting as a military commander; or
- (2) any other superior, in as much as the crimes arose from activities within the effective authority and control of that superior.
- (s) "Torture" means the intentional infliction of severe pain or suffering, whether physical, mental, or psychological, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions.
- (t) "Works and installations containing dangerous forces" means works and installations the attack of which may cause the release of dangerous forces and consequent severe losses among the civilian population, namely: dams, dikes, and nuclear, electrical generation stations.

Chapter III

Crimes Against International Humanitarian Law, Genocide and Other Crimes Against Humanity

Section 4 War Crimes

For the purpose of this Act, "war crimes" or "crimes against International Humanitarian Law" means:

- (a) In case of an international armed conflict, grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under provisions of the relevant Geneva Convention:
 - (1) Willful killing;
 - (2) Torture or inhuman treatment, including biological experiments;
 - (3) Willfully causing great suffering, or serious injury to body or health;
 - (4) Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly;
 - (5) Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - (6) Arbitrary deportation or forcible transfer of population or unlawful confinement;
 - (7) Taking of hostages;
 - (8) Compelling a prisoner of war or other protected person to serve in the forces of a hostile power; and
 - (9) Unjustifiable delay in the repatriation of prisoners of war or other protected persons.
- (b) In case of a non-international armed conflict, serious violations of common Article 3 to the four (4) Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause:

- (1) Violence to life and person, in particular, willful killings, mutilation, cruel treatment and torture;
 - (2) Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;
 - (3) Taking of hostages; and
 - (4) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
- (c) Other serious violations of the laws and customs applicable in armed conflict, within the established framework of international law, namely:
- (1) Internationally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - (2) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - (3) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions or Additional Protocol III in conformity with international law;
 - (4) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - (5) Launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be excessive in relation to the concrete and direct military advantage anticipated;
 - (6) Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, and causing death or serious injury to body or health.
 - (7) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives, or making non-defended localities or demilitarized zones the object of attack;
 - (8) Killing or wounding a person in the knowledge that he/she is *hors de combat*, including a combatant who, having laid down his/her arms or no longer having means of defense, has surrendered at discretion;
 - (9) Making improper use of a flag of truce, of the flag or the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions or

- other protective signs under International Humanitarian Law, resulting in death, serious personal injury or capture;
- (10) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives. In case of doubt whether such building or place has been used to make an effective contribution to military action, it shall be presumed not to be so used;
 - (11) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind, or to removal of tissue or organs for transplantation, which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his/her interest, and which cause death to or seriously endanger the health of such person or persons;
 - (12) Killing, wounding or capturing an adversary by resort to perfidy;
 - (13) Declaring that no quarter will be given;
 - (14) Destroying or seizing the enemy's property unless such destruction or seizure is imperatively demanded by the necessities of war;
 - (15) Pillaging a town or place, even when taken by assault;
 - (16) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (17) Transferring, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
 - (18) Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;
 - (19) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions or a serious violation of common Article 3 to the Geneva Conventions;
 - (20) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
 - (21) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions and their Additional Protocols;
 - (22) In an international armed conflict, compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;

- (23) In an international armed conflict, declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- (24) Committing any of the following acts:
 - (i) Conscripting, enlisting or recruiting children under the age of fifteen (15) years into the national armed forces;
 - (ii) Conscripting, enlisting or recruiting children under the age of eighteen (18) years into an armed force or group other than the national armed forces; and
 - (iii) Using children under the age of eighteen (18) years to participate actively in hostilities; and
- (25) Employing means of warfare which are prohibited under international law, such as:
 - (i) Poison or poisoned weapons;
 - (ii) Asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
 - (iii) Bullets which expand or flatten easily in the human body, such as bullets with hard envelopes which do not entirely cover the core or are pierced with incisions; and
 - (iv) Weapons, projectiles and material and methods of warfare which are of the nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict.

Any person found guilty of committing any of the acts specified herein shall suffer the penalty provided under Section 7 of this Act.

Section 5 Genocide

- (a) For the purpose of this Act, "genocide" means any of the following acts with intent to destroy, in whole or in part, a national, ethnic, racial, religious, social or any other similar stable and permanent group as such:
 - (1) Killing members of the group;
 - (2) Causing serious bodily or mental harm to members of the group;
 - (3) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
 - (4) Imposing measures intended to prevent births within the group; and
 - (5) Forcibly transferring children of the group to another group.
- (b) It shall be unlawful for any person to directly and publicly incite others to commit genocide.

Any person found guilty of committing any of the acts specified in paragraphs (a) and (b) of this section shall suffer the penalty provided under Section 7 of this Act.

Section 6 Other Crimes Against Humanity

For the purpose of this act, "other crimes against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Willful killing;
- (b) Extermination;
- (c) Enslavement;
- (d) Arbitrary deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime defined in this Act;
- (i) Enforced or involuntary disappearance of persons;
- (j) Apartheid; and
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Any person found guilty of committing any of the acts specified herein shall suffer the penalty provided under Section 7 of this Act.

Chapter IV

Penal Provisions

Section 7 Penalties

Any person found guilty of committing any of the acts provided under Sections 4, 5 and 6 of this Act shall suffer the penalty of *reclusion temporal* in its medium to maximum period and a fine ranging from One hundred thousand pesos (Php 100,000.00) to Five hundred thousand pesos (Php 500,000.00).

When justified by the extreme gravity of the crime, especially where the commission of any of the crimes specified herein results in death or serious physical injury, or constitutes rape, and considering the individual circumstances of the accused, the penalty of *reclusion perpetua* and a fine ranging from Five hundred thousand pesos (Php 500,000.00) to One million pesos (Php 1,000,000.00) shall be imposed.

Any person found guilty of inciting others to commit genocide referred to in Section 5(b) of this Act shall suffer the penalty of *prision mayor* in its minimum period and a fine ranging from Ten thousand pesos (Php 10,000.00) to Twenty thousand pesos (Php 20,000.00).

In addition, the court shall order the forfeiture of proceeds, property and assets derived, directly or indirectly, from that crime, without prejudice to the rights of bona fide third (3rd) parties. The court shall also impose the corresponding accessory penalties under the Revised Penal Code, especially where the offender is a public officer.

Chapter V

Some Principles of Criminal Liability

Section 8 Individual Criminal Responsibilities

- (a) In addition to existing provisions in Philippine law on principles of criminal responsibility, a person shall be criminally liable as principal for a crime defined and penalized in this Act if he/she:
- (1) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;
 - (2) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;
 - (3) In any other way contributes to the commission or attempted commission of such a crime by a group of person acting with a common purpose. Such contribution shall be intentional and shall either:
 - (i) be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime defined in this Act; or
 - (ii) be made in the knowledge of the intention of the group to commit the crime.
- (b) A person shall be criminally liable as accomplice for facilitating the commission of a crime defined and penalized in this Act if he/she aids, abets or otherwise assists in its commission or attempted commission, including providing the means for its commission.
- (c) A person shall be criminally liable for a crime defined and penalized in this Act if he/she attempts to commit such a crime by taking action that commences its execution by means of a substantial step, but the crime does not occur because of circumstances independent of the person's intention. However, a person who abandons the effort to commit the crime or otherwise prevents the completion of the crime shall not be liable for punishment under this Act for the attempt to commit the same if he/she completely and voluntarily gave up the criminal purpose.

Section 9 Irrelevance of Official Capacity

This Act shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a head of state or government, a member of a government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Act, nor shall it, in and of itself, constitute a ground for reduction of sentence. However:

- (a) Immunities or special procedural rules that may be attached to the official capacity of a person under Philippine law other than the established constitutional immunity from suit of the Philippine President during his/her tenure, shall not bar the court from exercising jurisdiction over such a person; and

- (b) Immunities that may be attached to the official capacity of a person under international law may limit the application of this Act, but only within the bounds established under international law.

Section 10 Responsibility of Superiors

In addition to other grounds of criminal responsibility for crimes defined and penalized under this Act, a superior shall be criminally responsible as a principal for such crimes committed by subordinates under his/her effective command and control, or effective authority and control as the case may be, as a result of his/her failure to properly exercise control over such subordinates, where:

- (a) That superior either knew or, owing to the circumstances at the time, should have known that the subordinates were committing or about to commit such crimes;
- (b) That superior failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.

Section 11 Non-prescription

The crimes defined and penalized under this Act, their prosecution, and the execution of sentences imposed on their account, shall not be subject to any prescription.

Section 12 Orders from a Superior

The fact that a crime defined and penalized under this Act has been committed by a person pursuant to an order of a government or a superior, whether military or civilian, shall not relieve that person of criminal responsibility unless all of the following elements occur:

- (a) The person was under a legal obligation to obey orders of the government or the superior in question;
- (b) The person did not know that the order was unlawful; and
- (c) The order was not manifestly unlawful.

For the purposes of this section, orders to commit genocide or other crimes against humanity are manifestly unlawful.

Chapter VI

Protection of Victims and Witnesses

Section 13 Protection of Victims and Witnesses

In addition to existing provisions in Philippine law for the protection of victims and witnesses, the following measures shall be undertaken:

- (a) The Philippine court shall take appropriate measures to protect the safety, physical and physiological well-being, dignity and privacy of victims and witnesses. In so doing, the court shall have regard of all relevant factors, including age, gender and health, and the nature of the crime, in particular, but not limited to, where the crime involves sexual or gender violence or violence against children. The prosecutor

shall take such measures particularly during the investigation and prosecution of such crimes. These measures shall not be prejudicial to or inconsistent with the rights of the accused and to a fair and impartial trial;

- (b) As an exception to the general principle of public hearings, the court may, to protect the victims and witnesses or an accused, conduct any part of the proceedings in camera or allow the presentation of evidence by electronic or other special means. In particular, such measures shall be implemented in the case of the victim of sexual violence or a child who is a victim or is a witness, unless otherwise ordered by the court, having regard to all the circumstances, particularly the views of the victim or witness;
- (c) Where the personal interests of the victims are affected, the court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate by the court in manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the court considers it appropriate in accordance with the established rules of procedure and evidence; and
- (d) Where the disclosure of evidence or information pursuant to this Act may lead to the grave endangerment of the security of a witness for his/her family, the prosecution may, for the purposes of any proceedings conducted prior to the commencement of the trial, withhold such evidence or information and instead submit a summary thereof. Such measures shall be exercised in a manner which is not prejudicial to or inconsistent with the rights of the accused and to a fair and impartial trial.

Section 14 Reparations to Victims

In addition to existing provisions in Philippine law and procedural rules for reparations to victims, the following measures shall be undertaken:

- (a) The court shall follow the principles relating to the reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision, the court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss and injury to, or in respect of, victims and state the principles on which it is acting;
- (b) The court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation; and
- (c) Before making an order under this section, the court may invite and shall take account of representations from or on behalf of the convicted person, victims or other interested persons.

Nothing in this section shall be interpreted as prejudicing the rights of victims under national or international law.

Chapter VII

Applicability of International Law and Other Laws

Section 15 Applicability of International Law

In the application and interpretation of this Act, Philippine courts shall be guided by the following sources:

- (a) The 1948 Genocide Convention;
- (b) The 1949 Geneva Conventions I-IV, their 1977 Additional Protocols I and II and their 2005 Additional Protocol III;
- (c) The 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, its First Protocol and its 1999 Second Protocol;
- (d) The 1989 Convention on the Rights of the Child and its 2000 Optional Protocol on the Involvement of Children in Armed Conflict;
- (e) The rules and principles of customary international law;
- (f) The judicial decisions of international courts and tribunals;
- (g) Relevant and applicable international human rights instruments;
- (h) Other relevant international treaties and conventions ratified or acceded to by the Republic of the Philippines; and
- (i) Teachings of the most highly qualified publicists and authoritative commentaries on the foregoing sources as subsidiary means for the determination of rules of international law.

Section 16 Suppletory Application of the Revised Penal Code and Other General or Special Laws

The provisions of the Revised Penal Code and other general or special laws shall have a suppletory application to the provisions of this Act.

Chapter VIII

Jurisdiction

Section 17 Jurisdiction

The State shall exercise jurisdiction over persons, whether military or civilian, suspected or accused of a crime defined and penalized in this Act, regardless of where the crime is committed, provided, any one of the following conditions is met:

- (a) The accused is a Filipino citizen;
- (b) The accused, regardless of citizenship or residence, is present in the Philippines; or
- (c) The accused has committed the said crime against a Filipino citizen.

In the interest of justice, the relevant Philippine authorities may dispense with the investigation or prosecution of a crime punishable under this Act if another court or international tribunal is already conducting the investigation or undertaking the prosecution of such crime. Instead, the authorities may surrender or extradite suspected or accused persons in the Philippines to the appropriate international court, if any, or to another State pursuant to the applicable extradition laws and treaties.

No criminal proceedings shall be initiated against foreign nationals suspected or accused of having committed the crimes defined and penalized in this Act if

they have been tried by a competent court outside the Philippines in respect of the same offense and acquitted, or having been convicted, already served their sentence.

Section 18 Philippine Court, Prosecutors and Investigators

The Regional Trial Court of the Philippines shall have original and exclusive jurisdiction over the crimes punishable under this Act. Their judgments may be appealed or elevated to the Court of Appeals and to the Supreme Court as provided by law.

The Supreme Court shall designate special courts to try cases involving crimes punishable under this Act. For these cases, the Commission on Human Rights, the Department of Justice, the Philippine National Police or other concerned law enforcement agencies shall designate prosecutors or investigators as the case may be.

The State shall ensure that judges, prosecutors and investigators, especially those designated for purposes of this Act, receive effective training in human rights, International Humanitarian Law and International Criminal Law.

Chapter IX

Final Provisions

Section 19 Separability Clause

If, for any reason or reasons, any part or provision of this Statute shall be held to be unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect.

Section 20 Repealing Clause

All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Statute are hereby repealed or modified accordingly.

Section 21 Effectivity

This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Revised Penal Code of 1930 (Republic Act No. 3815, 8 December 1930)

Book Two

Crimes and Penalties

Title Seven

Crimes Committed by Public Officers

Chapter Six

Other Offenses or Irregularities by Public Officers

Article 235 Maltreatment of prisoners

The penalty of arresto mayor in its medium period to prision correccional 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 punishment 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 prison correccional in its minimum period, temporary special disqualification and a fine not exceeding 6000 pesos¹, in addition to his liability for the physical injuries or damage caused.

An Act Creating a Board of Claims under the Department of Justice for Victims of Unjust Imprisonment or Detention and Victims of Violent Crimes and for Other Purposes (Republic Act No. 7309, 30 March 1992)

Section 1 Creation and Composition of the Board

There is hereby created a Board of Claims under the Department of Justice, hereinafter referred to as the Board, to be composed of one (1) chairman and two (2) members to be appointed by the Secretary of the said department.

Section 2 Powers and Functions of the Board

The Board shall have the following powers and functions:

- (a) to receive, evaluate, process and investigate application for claims under this Act;
- (b) to conduct an independent administrative hearing and resolve application for claims, grant or deny the same;
- (c) to deputize appropriate government agencies in order to effectively implement its functions; and
- (d) to promulgate rules and regulations in order to carry out the objectives of this Act.

Section 3 Who may File Claims

The following may file claims for compensation before the Board:

- (a) any person who was unjustly accused, convicted and imprisoned but subsequently released by virtue of a judgment of acquittal;
- (b) any person who was unjustly detained and released without being charged;
- (c) any victim of arbitrary or illegal detention by the authorities as defined in the Revised Penal Code under a final judgment of the court; and
- (d) any person who is a victim of violent crimes. For purposes of this Act, 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,

¹ The penalty of maltreatment was increased from 500 pesos to 6000 pesos by Executive Order No. 62 in 1986.

insanity, abortion, serious trauma, or committed with torture, cruelly or barbarity.

Section 4 Award Ceiling

For victims of unjust imprisonment or detention, the compensation shall be based on the number of months of imprisonment or detention and every fraction thereof shall be considered one month; Provided, however, That in no case shall such compensation exceed One Thousand pesos (P1,000.00) per month.

In all other cases, the maximum amount for which the Board may approve a claim shall not exceed Ten thousand pesos (P10,000.00) or the amount necessary to reimburse the claimant the expenses incurred for hospitalization, medical treatment, loss of wage, loss of support or other expenses directly related to injury, whichever is lower. This is without prejudice to the right of the claimant to seek other remedies under existing laws.

Section 5 When to File Claims

Any person entitled to compensation under this Act must, within six (6) months after being released from imprisonment or detention, or from the date the victim suffered damage or injury, file his claim with the Department, otherwise, he is deemed to have waived the same. Except as provided for in this Act, no waiver of claim whatsoever is valid.

Section 6 Filing of Claims by Heirs

In case of death or incapacity of any person entitled to any award under this Act, the claim may be filed by his heirs, in the following order: by his surviving spouse, children, natural parents, brother and/or sister.

Section 7 Resolution of Claims

The Board shall resolve the claim within thirty (30) working days after filing of the application.

The Board shall adopt an expeditious and inexpensive procedure for the claimants to follow in order to secure their claims under this Act.

Section 8 Appeal

Any aggrieved claimant may appeal, within fifteen (15) days from receipt of the resolution of the Board, to the Secretary of Justice whose decision shall be final and executory.

Section 9 Funding

For purposes of this Act, the initial amount of Ten million pesos (P10,000,000.00) is hereby authorized to be appropriated from the funds of the National Treasury not otherwise appropriated.

The subsequent annual funding shall also partly come from one percent (1%) of the net income of the Philippine Amusement and Gaming Corporation and one percent (1%) of the proceeds and sales and other disposition and military camps in Metro Manila by the Base Conversion and Development Authority.

The proceeds from any contract relating to the depiction of a crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment, of any kind, or in any other form of commercial exploitation of any convict's story, recollection, opinion and emotions with regard to the offense committed shall not be released to a convict in a criminal case or his heirs, agents, assignees or successors in interest until full compensation for damages suffered by or awarded to, the victim, his heirs or successors in interest is paid or arranged for, and the state is able to collect/assess fines and costs and any other amounts due it in case of a conviction by final judgment. Such damages shall include, but shall not be limited to, judicial awards, funeral expenses, medical expenses, lost earning and the like. To ensure the continuity of the funding requirements under this Act, the amount of Five pesos (P5.00) shall be set aside from each filing fee in every civil case filed with the court, the total proceeds of which shall constitute the Victim Compensation Fund to be administered by the Department of Justice.

Section 10 Repealing Clause

All Laws, executive orders and executive issuances inconsistent with this Act are hereby deemed repealed or modified accordingly.

Section 11 Separability Clause

If for any reason any section or provision of this Act shall be declared unconstitutional or invalid, no other section or provision shall be affected thereby.

Section 12 Effectivity Clause

This Act shall take effect after its publication in two (2) newspapers of general circulation.