

ANTI-TORTURE ACT, 2017

EXPLANATORY MEMORANDUM

This Act makes comprehensive provisions for penalising the acts of torture and other cruel, human and degrading treatment or punishment, and prescribes penalties for the commission of such acts.

ANTI-TORTURE ACT, 2015

ARRANGEMENT OF SECTIONS

Section:

1. Duty of Government.
2. Acts of torture.
3. No justification for torture.
4. Right to complain.
5. Assistance in filing complaint.
6. Right to examination.
7. Liability.
8. Penalties.
9. Regulatory Agency.
10. Education campaign.
11. Rules and regulations.
12. Repeal.
13. Citation.

ANTI-TORTURE ACT, 2017

A Bill

For

An Act to penalise the acts of torture and other cruel, inhuman and degrading treatment and prescribe penalties for such acts; and for related matters

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Commencement

ACTED by the National Assembly of the Federal Republic of Nigeria—

The Government shall -

Duty of Government.

(a) ensure that the 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 shall be subjected to physical harm, force, violence, threat or intimidation or any act that impairs his free will; and

(b) fully adhere to the principles and standards on the absolute condemnation and prohibition of torture set by the Constitution of the Federal Republic of Nigeria and various international instruments to which Nigeria is a State party.

Act No. 23, 1999.

1) Torture is deemed committed when an act by which pain or suffering, whether physical or mental, is intentionally inflicted on a person to - Acts of torture.

(a) obtain information or a confession from him or a third person;

(b) punish him for an act he or a third person has committed or is suspected of having committed; or

(c) intimidate or coerce him or a third person 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 provided that it does not include pain or suffering in compliance with lawful sanctions.

(2) For the purpose of this Act, torture includes -

(a) physical torture, which refers to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction of one or more parts of the body, such as -

(i) systematic beatings, head-bangings, punching, kicking, striking

with rifle butts and jumping on the stomach,

(ii) food deprivation or forcible feeding with spoiled food, animal or human excreta or other food not normally eaten,

(iii) electric shocks,

(iv) cigarette burning, burning by electrically heated rods, hot oil, acid, by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wounds,

(v) the submersion of the head in water or water polluted with excrement, urine, vomit or blood,

(vi) being tied or forced to assume fixed and stressful bodily positions,

(vii) rape and sexual abuse, including the insertion of foreign bodies into the sex organs or rectum or electrical torture of the genitals,

(viii) other forms of sexual abuse,

(ix) mutilation, such as amputation of the essential parts of the body such as the genitalia, ears or tongue and any other part of the body,

(x) dental torture or the forced extraction of the teeth,

(xi) harmful exposure to the elements such as sunlight and extreme cold,

(xii) the use of plastic bags and other materials placed over the head to the point of asphyxiation,

(xiii) the use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as administration of drugs to induce confession or reduce mental competency, or the use of drugs to induce pain or certain symptoms of disease, or

(xiv) other forms of aggravated and deliberate cruel, inhuman or degrading physical or pharmacological treatment or punishment; and

(b) mental or psychological torture, which is understood as referring to such cruel, inhuman or degrading treatment calculated to affect or confuse the mind or undermine a person's dignity and morale, such as -

(i) blindfolding,

- (ii) threatening a person or such persons related or known to him with bodily harm, execution or other wrongful acts,
- (iii) confinement in solitary cells put up in public places,
- (iv) confinement in solitary cells against their will or without prejudice to their security,
- (v) prolonged interrogation to deny normal length of sleep or rest,
- (vi) causing unscheduled transfer of a person from one place to another, creating the belief that he shall be summarily executed,
- (vii) maltreating a member of the person's family,
- (viii) causing the torture sessions to be witnessed by the person's family, relatives or any third party,
- (ix) inducing generalised fear among certain sections of the population,
- (x) denial of sleep or rest,
- (xi) inflicting shame by stripping a person naked, parading him in a public place, shaving his head or putting marks on his body against his will, or
- (xii) confinement in jails and prisons under intolerable and inhuman conditions or degrading mental treatment or punishment.

(1) No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture.

No justification for torture.

(2) Secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried on are prohibited.

Any confession, admission or statement obtained as a result of torture shall not be invoked as evidence in a proceeding, except against a person accused of torture as evidence that the confession, admission or statement was made.

Non-admissibility of evidence obtained as a result of torture.

(1) A person who has suffered or alleges that he has been subjected to torture shall have the right to complain to and to have his case promptly and impartially examined by a competent authority.

Right to complain.

(2) The competent authority under subsection (1) shall take steps to ensure that the complainant is protected against all ill-treatment or intimidation as a consequence of his complaint or any given evidence.

A person who has suffered torture and other cruel, inhuman and degrading treatment or punishment, or any interested party on his behalf, may seek legal assistance in the proper handling and filing of the complaint from the Human Rights Commission, and non-governmental organisations and private persons.

Assistance in filing complaint.

1) A person arrested, detained or under custodial investigation shall have the right to be informed of his right to demand a physical and psychological examination by an independent and competent doctor of his own choice after interrogation, which shall be conducted outside the influence of the police or security forces.

Right to examination.

2) The medical report shall include in detail the history and the findings of the physical and psychological examination and shall be attached to the custodial investigation report; otherwise, such investigation report is deemed void.

3) The medical reports shall, among others, include the -

(a) name, age and address of the patient;

(b) name and address of the next of kin of the patient;

(c) name and address of the person who brought the patient for physical and psychological examination;

(d) nature and probable cause of the patient's injuries and trauma;

(e) approximate time and date when the injury or trauma was sustained;

(f) place where the injury or trauma was sustained;

(g) time, date and nature of treatment necessary; and

(h) diagnosis, the prognosis or disposition of the patient.

4) A person who does not wish to exercise the rights under this section may knowingly and voluntarily waive such rights in writing.

1) A person who actually participates in the infliction of torture or who is present during the commission of the act is liable as the principal.

Liability.

2) A superior military, police or law enforcement officer or senior government official who issues an order to a lower ranking personnel to torture a victim for whatever purpose is equally liable as the principal.

3) An order from a superior officer or from a superior in the office or public authority shall not be invoked as a justification for torture.

4) The immediate commanding officer of the unit concerned of the security or law enforcement agencies is held liable as an accessory to the crime for any act or omission or negligence on his part that may have led to the commission of torture by his subordinates.

(1) A person who contravenes section 2 of this Act commits an offence and is liable on conviction to imprisonment for a term not exceeding 25 years. Penalties.

(2) Torture resulting in the loss of life of a person is considered as murder and shall be tried and punished under the relevant laws.

(3) The penalties specified under this section shall be without prejudice to the prosecution of other crimes and other legal remedies available to the victim under other existing laws, including the right to claim for compensation.

The Attorney-General of the Federation and other law enforcement and investigative agencies shall ensure that the function of overseeing the implementation of this Act shall be specifically assigned to a particular office or unit of the agency concerned. Regulatory agency.

The Attorney-General of the Federation and other concerned parties shall ensure that education and information regarding the prohibition against torture is 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. Education campaign.

The Attorney-General of the Federation shall, with the approval of the President, make rules and regulations for the effective implementation of this Act. Rules and regulations.

All laws, rules and regulations that are contrary to, or inconsistent with the provisions of this Act are repealed or modified accordingly. Repeal.

This Act may be cited as the Anti-Torture Act, 2017. Citation.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



MOHAMMED ATABA SANI-OMOLORI
CLERK TO THE NATIONAL ASSEMBLY

th
16 DAY OF NOVEMBER, 2017

Schedule to the Anti-Torture Bill, 2017

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Anti-Torture Bill, 2017	An Act to penalise the acts of torture and other cruel, inhuman and degrading treatment and prescribe penalties for such acts; and for related matters.	This Bill makes comprehensive provisions for penalising the acts of torture and other cruel, inhuman and degrading treatment or punishment, and prescribes penalties for the commission of such acts.	13 th July, 2017	1 st June, 2016

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

Richard
MOHAMMED ATABA SANI-OMOLORI
 Clerk to the National Assembly
 14th Day of November, 2017

Muhamadu Buhari
MUHAMMADU BUHARI, GCFR
 President of the Federal Republic of Nigeria
 20 Day of November, 2017
December

I ASSENT