

**ANTI-TORTURE BILL, 2015  
ARRANGEMENT OF CLAUSES**

*Clause:*

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# A BILL

## FOR

AN ACT PENALIZING THE COMMISSION OF ACTS OF TORTURE AND OTHER  
CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENTS,  
PRESCRIBING PENALTIES THEREOF AND FOR OTHER PURPOSES, 2015

*Sponsored by Hon. Nkeiruka Onyejeocha*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of  
Nigeria -

1            1. It is hereby declared the policy of the State: Policy

2            (a) to ensure that the rights of all persons, including suspects,  
3 detainees and prisoners are respected at all times; and that no person placed  
4 under investigation or held in custody of any person in authority shall be  
5 subjected to physical harm, force, violence, threat or intimidation or any act  
6 that impairs his free will; and

7            (b) to fully adhere to the principles and standards on the absolute  
8 condemnation and prohibition of torture set by the 1999 Constitution of the  
9 Federal Republic of Nigeria and various international instruments to which  
10 Nigeria is a State party.

11           2. -(1) Torture shall be deemed committed when an act by which Torture when  
12 severe pain or suffering, whether physical or mental, is intentionally committed  
13 inflicted on a person for such purposes as obtaining from him or a third  
14 person information or a confession; punishing him for an act he or a third  
15 person has committed or is suspected of having committed; or intimidating  
16 or coercing him/her or a third person; or for any reason based on  
17 discrimination of any kind, when such pain or suffering is inflicted by or at  
18 the instigation of or within the consent or acquiescence of a public official or  
19 other person acting in an official capacity provided that it does not include  
20 pain or suffering arising only from inherent or incidental to lawful sanctions.

1 (2) For the purposes of this Bill, torture shall include, but not limited  
2 to, the following:

3 (a) physical torture, which shall be understood as referring to such  
4 cruel, inhuman or degrading treatment which causes pain, exhaustion,  
5 disability or dysfunction of one or more parts of the body, such as:

6 (i) systematic beatings, head-bangings, punching, kicking, striking  
7 with rifle butts and jumping on the stomach;

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

10 (iii) electric shocks;

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

14 (v) the submersion of the head in water or water polluted with  
15 excrement, urine, vomit and/or blood until the brink of suffocation;

16 (vi) being tied or forced to assume fixed and stressful bodily  
17 positions;

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

20 (viii) other forms of sexual abuse;

21 (ix) mutilation, such as amputation of the essential parts of the body  
22 such as the genitalia, ears, tongue, etc.;

23 (x) dental torture or the forced extraction of the teeth;

24 (xi) harmful exposure to the elements such as sunlight and extreme  
25 cold;

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

28 (xiii) the use of psychoactive drugs to change the perception,  
29 memory, alertness or will of a person, such as:

30 (i) administration of drugs to induce confession and/or reduce mental

- 1 competency; or
- 2 (ii) the use of drugs to induce extreme pain or certain symptoms of
- 3 disease; or
- 4 (xiv) other forms of aggravated and deliberate cruel, inhuman or
- 5 degrading physical and/or pharmacological treatment or punishment; and
- 6 (b) mental/psychological torture, which shall be understood as
- 7 referring to such cruel, inhuman or degrading treatment calculated to affect
- 8 or confuse the mind and/or undermine a person's dignity and morale, such
- 9 as:
- 10 (i) blindfolding;
- 11 (ii) threatening a person or such persons related or known to
- 12 him/her with bodily harm, execution or other wrongful acts;
- 13 (iii) confinement in solitary cells put up in public places;
- 14 (iv) confinement in solitary cells against their will or without
- 15 prejudice to their security;
- 16 (v) prolonged interrogation so as to deny normal length of sleep
- 17 and/or rest;
- 18 (vi) causing unscheduled transfer(s) of a person from one place to
- 19 another, creating the belief that he shall be summarily executed;
- 20 (vii) maltreating a member of the person or person(s) family;
- 21 (viii) causing the torture sessions to be witnessed by the person/s'
- 22 family, relatives or any third party;
- 23 (ix) inculcating generalized fear among certain sections of the
- 24 population;
- 25 (x) denial of sleep/rest;
- 26 (xi) shame infliction such as stripping the person/s naked, parading
- 27 them in public places, shaving their heads or putting marks on their bodies
- 28 against their will;
- 29 (xii) confinement in jails and prisons under intolerable subhuman
- 30 conditions; or

1 (xiii) other forms of deliberate and aggravated cruel, inhuman or  
2 degrading mental treatment or punishment.

No justification

3 3.-(1) No exceptional circumstances whatsoever, whether a state of  
4 war or a threat of war, internal political instability, or any other public  
5 emergency, may be invoked as a justification for torture.

6 (2) Secret detention places, solitary, incommunicado or other similar  
7 forms of detention, where torture may be carried on with impunity, are hereby  
8 prohibited.

9 (3) Any confession, admission or statement obtained as a result of  
10 torture shall not be invoked as evidence in any proceedings, except against a  
11 person accused of torture as evidence that said confession, admission or  
12 statement was made.

Right of complain

13 4.-(1) Any individual who alleges that he has been subjected to torture  
14 shall have the right to complain to and to have his case promptly and  
15 impartially examined by any competent authorities.

16 (2) Steps shall be taken to ensure that the complainant is protected  
17 against all ill treatment or intimidation as a consequence of his complaint or  
18 any given evidence.

Assistance in  
filing complaint

19 5. A party who suffered torture and other cruel, inhuman and  
20 degrading treatment or punishment, or any interested party on their behalf, may  
21 seek legal assistance in the proper handling and filing of the complaint from the  
22 Human Rights Commission, as well as from non-governmental organizations.

Right to  
examination

23 6.-(1) Every person arrested, detained or under custodial  
24 investigation shall have the right to be informed of his right to demand a  
25 physical and psychological examination by an independent and competent  
26 doctor of his own choice after interrogation, which shall be conducted outside  
27 the influence of the police or security forces.

28 (2) The medical report shall include in detail the history and the  
29 findings of the physical and psychological examination and shall be attached to  
30 the custodial investigation report; otherwise, such investigation report shall be

1 deemed null and void and of no effect whatsoever.

2 (3) The medical reports shall, among others, include the following:

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

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

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

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

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

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

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

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

14 (4) Any person who does not wish to avail of the rights under this  
15 provision may knowingly and voluntarily waive such rights in writing.

16 7.-(1) Any person who actually participated in the infliction of Liability  
17 torture or who is present during the commission of the said act shall be liable  
18 as principal.

19 (2) Any superior military, police or law enforcement officer or  
20 senior government official who issued an order to lower ranking personnel  
21 to torture a victim for whatever purpose shall be held equally liable as  
22 principals.

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

25 (4) The immediate commanding officer of the unit concerned of  
26 the security or law enforcement agencies shall be held liable as accessory to  
27 the crime for any act or omission or negligence on his part that may have led  
28 to the commission of torture by his/her subordinates.

29 8.-(1) Any person who commits the offence of torture as defined in Penalties  
30 section 4 of this Bill is guilty of an offence and is liable on conviction to

1 imprisonment for a term not exceeding Twenty Five (25) years.

2 (2) Torture resulting in the loss of life of any person shall be  
3 considered as murder and shall be triable and punishable under the relevant  
4 laws.

5 (3) The above penalties shall be without prejudice to the prosecution  
6 of other crimes and other legal remedies available to the victim under other  
7 existing law(s) including the right to claim for compensation.

Designation of  
organizational  
responsibility.

8 9. The Attorney General and Minister of Justice, and other law  
9 enforcement and investigative agencies shall ensure that the function of  
10 overseeing the implementation of this Bill shall be specifically assigned to a  
11 particular office or unit of the agency concerned.

Education  
Campaign

12 10. The Attorney General and Minister of Justice and such other  
13 concerned parties shall ensure that education and information regarding the  
14 prohibition against torture shall be fully included in the training of law  
15 enforcement personnel, civil or military, medical personnel, public officials  
16 and other persons who may be involved in the custody, interrogation or  
17 treatment of any individual subjected to any form of arrest, detention or  
18 imprisonment.

Regulations

19 11. The Attorney General and Minister of Justice shall with the  
20 approval of the President make rules and regulations for the effective  
21 implementation of this Bill.

Repealing clause

22 12. All laws, or rules and regulations contrary to or inconsistent with  
23 the provisions of this Bill are hereby repealed or modified accordingly.

Citation

24 13. This Bill may be cited as the Anti-Torture Bill, 2015.

#### EXPLANATORY MEMORANDUM

The Bill seeks to make comprehensive provisions for penalizing the commission of acts of torture and other cruel, inhuman and degrading treatment or punishments, and also prescribes penalties for the commission of such acts.