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A BILL FOR AN ACT TO PENALIZE THE COMMISSION OF ACTS OF TORTURE AND OTHER CRUEL, INHUMAN AND DEGRADING TREATMENT OR PUNISHMENTS, PRESCRIBING PENALTIES THEREOF AND OTHER PURPOSES, 2015 HB. 120

PROVISIONS OF THE BILL	COMMITTEE OF THE WHOLE RECOMMENDATIONS
Policy 1. It is hereby declared the policy of the State shall be (a) to 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) to fully adhere to the principles and standards on the absolute condemnation and prohibition of torture set by the 1999 Constitution of the Federal Republic of Nigeria and various international instruments to which Nigeria is a State party.	Retained
Torture when committed 2. -(1) Torture shall be deemed committed when an act by which Sever pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession; punishing him for an act he or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or any 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 within 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 arising only from inherent or incidental to lawful sanctions. (2) For the purposes of this Bill , torture shall include, but not limited to, the following: (a) physical torture, which shall be understood as referring to such cruel, inhuman or degrading treatment which causes pain, exhaustion, disability or dysfunction or one or more parts of the body, such as:	Retained

(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) electricity 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 and/ or blood until the brink of suffocation; (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, tongue, etc.; (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: (i) 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 disease; or (xiv) other forms of aggravated and deliberate cruel, inhuman or degrading physical and/or pharmacological treatment or punishment; and (b) mental/psychological torture, which shall be understood as referring to such cruel, inhuman or degrading treatment calculated to affect or confuse the mind and/ or undermine a person's dignity and morale, such as: (i) blindfolding; (ii) threatening a person or such persons related or known to him/ her 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;	
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(v) prolonged interrogation so as to deny normal length of sleep and / or rest; (vi) causing unscheduled transfer(s) 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) including generalized fear among certain sections of the population; (x) denial of sleep /rest; (xi) shame infliction such as stripping the person /snaked, parading them in public places, shaving their heads or putting marks on their bodies against their will; (xii) confinement in jails and prisons under intolerable subhuman conditions; or degrading mental treatment or punishment.	
No justification 3.-(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. (2) Secret detention places, solitary, incommunicado or other similar forms of detention, where torture may be carried on with impunity, are hereby prohibited. (3) Any confession, admission or statement obtained as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that said confession, admission or statement was made.	Retained
Right of complain 4.-(1) Any individual who 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 any competent authorities. (2) Steps shall be taken to ensure that the complainant is protected against all ill treatment or intimidation as a consequence of his complaint or any given evidence.	Retained
Assistance in filing complain 5. A party who suffered torture and other cruel, inhuman and degrading treatment or punishment, or any interested party on their behalf, may seek legal assistance in the proper handling and filing of the complaint from the Human Rights Commission, as well as from non-governmental organizations.	Retained

Right to Examination 6.-(1) Every 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. (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 shall be deemed null and void and of no effect whatsoever. (3) The medical reports shall, among others, include the following: (a) the name, age and address of the patient; (b) the name address of the next of kin of the patient; (c) the name and address of the person who brought the patient for Physical and psychological examination; (d) the nature and probable cause of the patient's injuries and trauma; (e) the approximate time and date when the injury and/or trauma was sustained; (f) the place where the injury and / or trauma was sustained; (g) the time, date and nature of treatment necessary; and (h) the diagnosis , the prognosis and /or disposition of the patient. (i) Any person who does not wish to avail of the rights under this provision may knowingly and voluntarily waive such rights in writing	
Liability 7.-(1) Any person who actually participated in the infliction of torture or who is present during the commission of the said act shall be liable as principal. (2) Any superior military, police or law enforcement officer or Senior government official who issued an order to lower ranking personnel to torture a victim for whatever purpose shall be held equally liable as Principals. (3) An order from a superior officer or from a superior in the office or public authority shall not be invoked as a justification of torture. (4) The immediate commanding officer of the unit concerned of the security or law enforcement agencies shall be held liable as 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/her subordinates.	Retained

Penalties 8.-(1) Any person who commits the offence of torture as defined in Section 4 of Bill is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding Twenty Five (25) years. (2) Torture resulting in the loss of life of any person shall be considered as murder and shall be triable and punishable under the relevant laws. (3) The above penalties shall be without prejudice to the prosecution of other crimes and other legal remedies available to the victim under other existing law(s) including the right to claim for compensation.	
Designation of organizational responsibility The Attorney General and Minister of Justice and other law enforcement and investigative agencies shall ensure that the function of overseeing the implementation of this Bill shall be specifically assigned to a particular office or unit of the agency concerned.	Retained
10. The Attorney General and Minister of Justice and such other concerned parties shall ensure that education and information regarding the prohibition against torture 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	Retained
Regulations 11. The Attorney General and Minister of Justice shall with the approval of the President make rules and regulations for the effective implementation of this Bill.	Retained
Repealing clause 12. All laws, or rules and regulations contrary to or inconsistent with the provisions of this Bill are hereby repealed or modified accordingly.	Retained
Citation This Bill may be cited as Anti- Torture Bill, 2016	Retained

