

"public official" means a person whether a public officer or not, employed by the Government, local government authority or public enterprise and paid out of public funds;

"spouse" means a husband or wife by a lawful marriage;

"superior officer" means a person in a higher position of authority than the officer alleged to have committed torture; and

"victim" means a person who suffers an act of torture.

PART II - PROHIBITION AND CRIMINALISATION OF TORTURE

3. Definition of torture

(1) In this Act, torture means any act or omission, by which severe pain or suffering whether physical or mental, is intentionally inflicted on a person by or at the instigation of or with the consent or acquiescence of any person, whether acting in an official or private capacity, for such purposes as-

- (a) obtaining information or a confession from the person or any other person;
- (b) punishing that person for an act he or she or any other person has committed, or is suspected of having committed or of planning to commit; or
- (c) intimidating or coercing the person or any other person to do, or to refrain from doing, any act.

(2) For purposes of this Act, "severe pain or suffering" means prolonged harm caused by or resulting from the -

- (a) intentional infliction or threatened infliction of physical pain or suffering;
- (b) administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or the personality;
- (c) threat of imminent death; or

- (d) threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality.

(3) Without limiting the effect of sub-section (1), the acts constituting torture shall include the acts set out in the Schedule.

(4) The definition of torture set out in sub-section (1) does not include pain or suffering arising from, inherent in or incidental to a lawful sanction.

4. Prohibition of torture

(1) Notwithstanding anything contained in any other law, there shall be no derogation from the enjoyment of the right to freedom from torture.

(2) The following shall not be a defence to a charge of torture -

- (a) a state of war or a threat of war;
- (b) internal political instability;
- (c) public emergency; or
- (d) an order from a superior officer or a public authority.

5. Criminalisation of torture

(1) A person who does any act of torture as defined in section 3 commits an offence and is liable on conviction to a fine of one million dalasis or imprisonment for fifteen years or to both.

(2) A person shall not be punished for disobeying an order to undertake actions amounting to torture, cruel or inhuman treatment

6. Circumstances aggravating torture

Notwithstanding section 5, where it is proved that at the time of, or immediately before or after the commission of torture, the -

- (a) offender uses or threatens to use or used a deadly weapon;
- (b) offender uses or used sex as a means of torture;
- (c) victim was a person with a disability;
- (d) victim was pregnant or becomes pregnant;