

REPUBLIC OF THE PHILIPPINES }
CONGRESS OF THE PHILIPPINES }
 Second Regular Session

S. No. 891
H. No. 62

REPUBLIC ACT NO. 7659

AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN
HEINOUS CRIMES, AMENDING FOR THAT PURPOSE
THE REVISED PENAL CODE, AS AMENDED, OTHER
SPECIAL PENAL LAWS, AND FOR OTHER PURPOSES

WHEREAS, the Constitution, specifically Article III, Section 19, paragraph (1) thereof, states "Excessive fines shall not be imposed nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it.....";

WHEREAS, the crimes punishable by death under this Act are heinous for being grievous, odious and hateful offenses and which, by reason of their inherent or manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society;

WHEREAS, due to the alarming upsurge of such crimes which has resulted not only in the loss of human lives and wanton destruction of property but has also affected the nation's efforts towards sustainable economic development and prosperity while at the same time has undermined the people's faith in the Government and the latter's ability to maintain peace and order in the country;

WHEREAS, the Congress, in the interest of justice, public order and the rule of law, and the need to rationalize and harmonize the penal sanctions for heinous crimes, finds compelling reasons to impose the death penalty for said crimes:

Now, therefore,

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Declaration of Policy.* – It is hereby declared the policy of the State to foster and ensure not only obedience to its authority but also to adopt such measures as would effectively promote the maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare which are essential for the enjoyment by all the people of the blessings of democracy in a just and humane society.

SEC. 2. Article 114 of the Revised Penal Code, as amended, is hereby amended to read as follows:

"Art. 114. *Treason.* – Any Filipino citizen who levies war against the Philippines or adheres to her enemies, giving them aid or comfort within the Philippines or elsewhere, shall be punished by *reclusion perpetua* to death and shall pay a fine not to exceed 100,000 pesos.

No person shall be convicted of treason unless on the testimony of two witnesses at least to the same overt act or on confession of the accused in open court.

Likewise, an alien, residing in the Philippines, who commits acts of treason as defined in paragraph 1 of this Article shall be punished by *reclusion temporal* to death and shall pay a fine not to exceed 100,000 pesos."

SEC. 3. Section Three, Chapter One, Title One of Book Two of the same Code is hereby amended to read as follows:

"Section Three. – Piracy and mutiny on the high seas or in Philippine waters

Art. 122. *Piracy in general and mutiny on the high seas or in Philippine waters.* – The penalty of *reclusion perpetua* shall be inflicted upon any person who, on the high seas, or in Philippine waters, shall attack or seize a vessel or, not being a member of its complement nor a passenger, shall seize the whole or part of

the cargo of said vessel, its equipment, or personal belongings of its complement or passengers.

The same penalty shall be inflicted in case of mutiny on the high seas or in Philippine waters."

Art. 123. *Qualified piracy.* – The penalty of *reclusion perpetua* to death shall be imposed upon those who commit any of the crimes referred to in the preceding article, under any of the following circumstances:

1. Whenever they have seized a vessel by boarding or firing upon the same;
2. Whenever the pirates have abandoned their victims without means of saving themselves; or
3. Whenever the crime is accompanied by murder, homicide, physical injuries or rape."

SEC. 4. There shall be incorporated after Article 211 of the same Code a new article to read as follows:

"Art. 211-A. *Qualified Bribery.* – If any public officer is entrusted with law enforcement and he refrains from arresting or prosecuting an offender who has committed a crime punishable by *reclusion perpetua* and/or death in consideration of any offer, promise, gift or present, he shall suffer the penalty for the offense which was not prosecuted.

If it is the public officer who asks or demands such gift or present, he shall suffer the penalty of death."

SEC. 5. The penalty of death for parricide under Article 246 of the same Code is hereby restored, so that it shall read as follows:

"Art. 246. *Parricide.* – Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or

any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of *reclusion perpetua* to death."

SEC. 6. Article 248 of the same Code is hereby amended to read as follows:

"Art. 248. *Murder.* – Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua*, to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity.

2. In consideration of a price, reward or promise.

3. By means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, derailment or assault upon a railroad, fall of an airship, or by means of motor vehicles, or with the use of any other means involving great waste and ruin.

4. On occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity.

5. With evident premeditation.

6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse."

SEC. 7. Article 255 of the same Code is hereby amended to read as follows:

"Art. 255. *Infanticide.* – The penalty provided for parricide in Article 246 and for murder in Article 248 shall be imposed upon any person who shall kill any child less than three days of age.

If any crime penalized in this Article be committed by the mother of the child for the purpose of concealing her dishonor, she shall suffer the penalty of *prision mayor* in its medium and maximum periods, and if said crime be committed for the same purpose by the maternal grandparents or either of them, the penalty shall be *reclusion temporal*."

SEC. 8. Article 267 of the same Code is hereby amended to read as follows:

"Art. 267. *Kidnapping and serious illegal detention*. – Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of *reclusion perpetua* to death:

1. If the kidnapping or detention shall have lasted more than three days.
2. If it shall have been committed simulating public authority.
3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made.
4. If the person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.

The penalty shall be death where the kidnapping or detention was committed for the purpose of extorting ransom from the victim or any other person, even if none of the circumstances above-mentioned were present in the commission of the offense.

When the victim is killed or dies as a consequence of the detention or is raped, or is subject to torture or dehumanizing acts, the maximum penalty shall be imposed."

SEC. 9. Article 294 of the same Code is hereby amended to read as follows:

"Art. 294. *Robbery with violence against or intimidation of persons – Penalties.* – Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

1. The penalty of *reclusion perpetua* to death, when by reason or on occasion of the robbery, the crime of homicide shall have been committed, or when the robbery shall have been accompanied by rape or intentional mutilation or arson.

2. The penalty of *reclusion temporal* in its medium period to *reclusion perpetua*, when or if by reason or on occasion of such robbery, any of the physical injuries penalized in subdivision 1 of Article 263 shall have been inflicted.

3. The penalty of *reclusion temporal*, when by reason or on occasion of the robbery, any of the physical injuries penalized in subdivision 2 of the article mentioned in the next preceding paragraph, shall have been inflicted.

4. The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when in the course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries covered by subdivisions 3 and 4 of said Article 263.

5. The penalty of *prision correccional* in its maximum period to *prision mayor* in its medium period in other cases."

SEC. 10. Article 320 of the same Code is hereby amended to read as follows:

"Art. 320. *Destructive Arson.* – The penalty of *reclusion perpetua* to death shall be imposed upon any person who shall burn:

1. One (1) or more buildings or edifices, consequent to one single act of burning, or as a result of simultaneous burnings, or committed on several or different occasions.

2. Any building of public or private ownership, devoted to the public in general or where people usually gather or congregate for a definite purpose such as, but not limited to official governmental function or business, private transaction, commerce, trade workshop, meetings and conferences, or merely incidental to a definite purpose such as but not limited to hotels, motels, transient dwellings, public conveyance or stops or terminals, regardless of whether the offender had knowledge that there are persons in said building or edifice at the time it is set on fire and regardless also of whether the building is actually inhabited or not.

3. Any train or locomotive, ship or vessel, airship or airplane, devoted to transportation or conveyance, or for public use, entertainment or leisure.

4. Any building, factory, warehouse installation and any appurtenances thereto, which are devoted to the service of public utilities.

5. Any building the burning of which is for the purpose of concealing or destroying evidence of another violation of law, or for the purpose of concealing bankruptcy or defrauding creditors or to collect from insurance.

Irrespective of the application of the above enumerated qualifying circumstances, the penalty of *reclusion perpetua* to death shall likewise be imposed when the arson is perpetrated or committed by two (2) or more persons or by a group of persons, regardless of whether their purpose is merely to burn or destroy the building or the burning merely constitutes an overt act in the commission or another violation of law.

The penalty of *reclusion perpetua* to death shall also be imposed upon any person who shall burn:

1. Any arsenal, shipyard, storehouse or military powder or fireworks factory, ordnance, storehouse, archives or general museum of the Government.

2. In an inhabited place, any storehouse or factory of inflammable or explosive materials.

If as a consequence of the commission of any of the acts penalized under this Article, death results, the mandatory penalty of death shall be imposed."

SEC. 11. Article 335 of the same Code is hereby amended to read as follows:

"Art. 335. *When and how rape is committed.* – Rape is committed by having carnal knowledge of a woman under any of the following circumstances:

1. By using force or intimidation;
2. When the woman is deprived of reason or otherwise unconscious; and
3. When the woman is under twelve years of age or is demented.

The crime of rape shall be punished by *reclusion perpetua*.

Whenever the crime of rape is committed with the use of a deadly weapon or by two or more persons, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, the victim has become insane, the penalty shall be death.

When the rape is attempted or frustrated and a homicide is committed by reason or on the occasion thereof, the penalty shall be *reclusion perpetua* to death.

When by reason or on the occasion of the rape, a homicide is committed, the penalty shall be death.

The death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances:

1. when the victims is under eighteen (18) years of age and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common-law spouse of the parent of the victim.

2. when the victim is under the custody of the police or military authorities.

3. when the rape is committed in full view of the husband, parent, any of the children or other relatives within the third degree of consanguinity.

4. when the victim is a religious or a child below seven (7) years old.

5. when the offender knows that he is afflicted with Acquired Immune Deficiency Syndrome (AIDS) disease.

6. when committed by any member of the Armed Forces of the Philippines or the Philippine National Police or any law enforcement agency.

7. when by reason or on the occasion of the rape, the victim has suffered permanent physical mutilation."

SEC. 12. Section 2 of Republic Act No. 7080 (An Act Defining and Penalizing the Crime of Plunder) is hereby amended to read as follows:

"SEC. 2. *Definition of the Crime of Plunder; Penalties.* – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof in the aggregate amount or total value of at least Fifty million pesos (P50,000,000) shall be guilty of the crime of plunder and shall be

punished by *reclusion perpetua* to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State."

SEC. 13. Sections 3, 4, 5, 7, 8 and 9, of Article II of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, are hereby amended to read as follows:

"SEC. 3. *Importation of Prohibited Drugs.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who unless authorized by law, shall import or bring into the Philippines any prohibited drug.

SEC. 4. *Sale, Administration, Delivery, Distribution and Transportation of Prohibited Drugs.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, administer, deliver, give away to another, distribute, dispatch in transit or transport any prohibited drug, or shall act as a broker in any of such transactions.

Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a prohibited drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed.

SEC. 5. *Maintenance of a Den, Dive or Resort for Prohibited Drug Users.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person or group of

persons who shall maintain a den, dive or resort where any prohibited drug is used in any form or where such prohibited drugs in quantities specified in Section 20, Paragraph 1 of this Act are found.

Notwithstanding the provisions of Section 20 of this Act to the contrary, the maximum of the penalty shall be imposed in every case where a prohibited drug is administered, delivered or sold to a minor who is allowed to use the same in such place.

Should a prohibited drug be the proximate cause of the death of a person using the same in such den, dive or resort, the maximum penalty herein provided shall be imposed on the maintainer notwithstanding the provisions of Section 20 of this Act to the contrary.

SEC. 7. Manufacture of Prohibited Drug. – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who, unless authorized by law, shall engage in the manufacture of any prohibited drug.

SEC. 8. Possession or Use of Prohibited Drugs. – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who, unless authorized by law, shall possess or use any prohibited drug subject to the provisions of Section 20 hereof.

SEC. 9. Cultivation of Plants which are Sources of Prohibited Drugs. – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who shall plant, cultivate or culture on any medium Indian hemp, opium poppy (*papaver somniferum*) or any other plant which is or may hereafter be classified as dangerous drug or from which any dangerous drug may be manufactured or derived.

The land or portions thereof, and/or greenhouses on which any of said plants is cultivated or cultured shall be confiscated and escheated to the State, unless the owner thereof can prove that he did not know of such cultivation or culture despite the exercise of due diligence on his part.

If the land involved is part of the public domain, the maximum of the penalties herein provided shall be imposed upon the offender."

SEC. 14. Sections 14, 14-A, and 15 of Article III of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act. of 1972, are hereby amended to read as follows:

"SEC. 14. *Importation of Regulated Drugs.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who, unless authorized by law, shall import or bring any regulated drug in the Philippines.

SEC. 14-A. *Manufacture of Regulated Drugs.* – The penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos shall be imposed upon any person who, unless authorized by law, shall engage in the manufacture of any regulated drug.

SEC. 15. *Sale, Administration, Dispensation, Delivery, Transportation and Distribution of Regulated Drugs.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who, unless authorized by law, shall sell, dispense, deliver, transport or distribute any regulated drug.

Notwithstanding the provisions of Section 20 of this Act to the contrary, if the victim of the offense is a minor, or should a regulated drug involved in any offense under this Section be the proximate cause of the death of a victim thereof, the maximum penalty herein provided shall be imposed."

SEC. 15. There shall be incorporated after Section 15 of Article III of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, a new section to read as follows:

"SEC. 15-a. *Maintenance of a den, dive or resort for regulated drug users.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person or group of persons who shall maintain a den, dive or resort where any regulated drug is used in any form, or where such regulated drugs in quantities specified in Section 20, paragraph 1 of this Act are found.

Notwithstanding the provisions of Section 20 of this Act to the contrary, the maximum penalty herein provided shall be imposed in every case where a regulated drug is administered, delivered or sold to a minor who is allowed to use the same in such place.

Should a regulated drug be the proximate cause of the death of a person using the same in such den, dive or resort, the maximum penalty herein provided shall be imposed on the maintainer notwithstanding the provisions of Section 20 of this Act to the contrary."

SEC. 16. Section 16 of Article III of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, is hereby amended to read as follows:

"SEC. 16. *Possession or Use of Regulated Drugs.* – The penalty of *reclusion perpetua* to death and a fine ranging from Five hundred thousand pesos to Ten million pesos shall be imposed upon any person who shall possess or use any regulated drug without the corresponding license or prescription, subject to the provisions of Section 20 hereof."

SEC. 17. Section 20, Article IV of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, is hereby amended to read as follows:

"SEC. 20. *Application of Penalties, Confiscation and Forfeiture of the Proceeds or Instruments of the Crime.* – The penalties for offenses under Sections 3, 4, 7, 8 and 9 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act shall be applied if the dangerous drugs involved is in any of the following quantities:

1. 40 grams or more of opium;
2. 40 grams or more of morphine;
3. 200 grams or more of shabu or methylamphetamine hydrochloride;
4. 40 grams or more of heroin;
5. 750 grams or more of indian hemp or marijuana;
6. 50 grams or more of marijuana resin or marijuana resin oil;
7. 40 grams or more of cocaine or cocaine hydrochloride;
or
8. In the case of other dangerous drugs, the quantity of which is far beyond therapeutic requirements, as determined and promulgated by the Dangerous Drugs Board, after public consultations/hearings conducted for the purpose.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalty shall range from *prision correccional* to *reclusion perpetua* depending upon the quantity.

Every penalty imposed for the unlawful importation, sale, administration, delivery, transportation or manufacture of dangerous drugs, the cultivation of plants which are sources of dangerous drugs and the possession of any opium pipe and other paraphernalia for dangerous drugs shall carry with it the confiscation and forfeiture, in favor of the Government, of all the proceeds of the crime including but not limited to money and

other assets obtained thereby and the instruments or tools with which it was committed, unless they are property of a third person not liable for the offense, but those which are not of lawful commerce shall be ordered destroyed without delay. Dangerous drugs and plant sources of such drugs as well as the proceeds or instruments of the crime so confiscated and forfeited in favor of the Government shall be turned over to the Board for proper disposal without delay.

Any apprehending or arresting officer who misappropriates or misapplies or fails to account for seized or confiscated dangerous drugs or plant-sources of dangerous drugs or proceeds or instruments of the crime as herein defined shall after conviction be punished by the penalty of *reclusion perpetua* to death and a fine ranging from five hundred thousand pesos to ten million pesos."

SEC. 18. There shall be incorporated after Section 20 of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, a new section to read as follows:

"SEC. 20-A. *Plea-bargaining Provision.* – Any person charged under any provision of this Act where the impossible penalty is *reclusion perpetua* to death shall not be allowed to avail of the provision on plea-bargaining."

SEC. 19. Section 24 of Republic Act No. 6425, as amended, known as the Dangerous Drugs Act of 1972, is hereby amended to read as follows:

"SEC. 24. *Penalties for Government Officials and Employees and Officers and Members of Police Agencies and the Armed Forces; 'Planting' of Evidence.* – The maximum penalties provided for in Sections 3, 4(1), 5(1), 6, 7, 8, 9, 11, 12 and 13 of Article II and Sections 14, 14-A, 15(1), 15-A(1), 16, and 19 of Article III shall be imposed, if those found guilty of any of the said offenses are government officials, employees or officers including members of police agencies and the armed forces.

Any such above government official, employee or officer who is found guilty of "planting" any dangerous drugs punished in Sections 3, 4, 7, 8, 9 and 13 of Article II and Sections 14, 14-A, 15 and 16 of Article III of this Act in the person or in the immediate vicinity of another as evidence to implicate the latter, shall suffer the same penalty as therein provided."

SEC. 20. Sec. 14 of Republic Act No. 6539, as amended, known as the Anti-Carnapping Act of 1972, is hereby amended to read as follows:

"SEC. 14. *Penalty for Carnapping.* - Any person who is found guilty of carnapping, as this term is defined in Section Two of this Act, shall, irrespective of the value of motor vehicle taken, be punished by imprisonment for not less than fourteen years and eight months and not more than seventeen years and four months, when the carnapping is committed without violence or intimidation of persons, or force upon things; and by imprisonment for not less than seventeen years and four months and not more than thirty years, when the carnapping is committed by means of violence against or intimidation of any person, or force upon things; and the penalty of *reclusion perpetua* to death shall be imposed when the owner, driver or occupant of the carnapped motor vehicle is killed or raped in the course of the commission of the carnapping or on the occasion thereof."

SEC. 21. Article 27 of the Revised Penal Code, as amended, is hereby amended to read as follows:

"Art. 27. *Reclusion perpetua.* - The penalty of *reclusion perpetua* shall be from twenty years and one day to forty years.

Reclusion temporal. - The penalty of *reclusion temporal* shall be from twelve years and one day to twenty years.

Prision mayor and temporary disqualification. - The duration of the penalties of *prision mayor* and temporary disqualification shall be from six years and one day to twelve years, except when the penalty of disqualification is imposed as an accessory penalty, in which case, its duration shall be that of the principal penalty.

Prision correccional, suspension, and *destierro*. - The duration of the penalties of *prision correccional*, suspension, and *destierro* shall be from six months and one day to six years, except when suspension is imposed as an accessory penalty, in which case, its duration shall be that of the principal penalty.

Arresto mayor. - The duration of the penalty of *arresto mayor* shall be from one month and one day to six months.

Arresto menor. - The duration of the penalty of *arresto menor* shall be from one day to thirty days.

Bond to keep the peace. - The bond to keep the peace shall be required to cover such period of time as the court may determine."

SEC. 22. Article 47 of the same Code is hereby amended to read as follows:

"Art. 47. *In what cases the death penalty shall not be imposed; Automatic Review of Death Penalty Cases.* - The death penalty shall be imposed in all cases in which it must be imposed under existing laws, except when the guilty person is below eighteen (18) years of age at the time of the commission of the crime or is more than seventy years of age or when upon appeal or automatic review of the case by the Supreme Court, the required majority vote is not obtained for the imposition of the death penalty, in which cases the penalty shall be *reclusion perpetua*.

In all cases where the death penalty is imposed by the trial court, the records shall be forwarded to the Supreme Court for automatic review and judgment by the Court *en banc*, within twenty (20) days but not earlier than fifteen (15) days after promulgation of the judgment or notice of denial of any motion for new trial or reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter."

SEC. 23. Article 62 of the same Code, as amended, is hereby amended to read as follows:

"Art. 62. *Effects of the attendance of mitigating or aggravating circumstances and of habitual delinquency.* – Mitigating or aggravating circumstances and habitual delinquency shall be taken into account for the purpose of diminishing or increasing the penalty in conformity with the following rules:

1. Aggravating circumstances which in themselves constitute a crime specially punishable by law or which are included by the law in defining a crime and prescribing the penalty therefor shall not be taken into account for the purpose of increasing the penalty.

1(a). When in the commission of the crime, advantage was taken by the offender of his public position, the penalty to be imposed shall be in its maximum regardless of mitigating circumstances.

The maximum penalty shall be imposed if the offense was committed by any person who belongs to an organized/syndicated crime group.

An organized/syndicated crime group means a group of two or more persons collaborating, confederating or mutually helping one another for purposes of gain in the commission of any crime.

2. The same rule shall apply with respect to any aggravating circumstances inherent in the crime to such a degree that it must of necessity accompany the commission thereof.

3. Aggravating or mitigating circumstances which arise from the moral attributes of the offender, or from his private relations with the offended party, or from any other personal cause, shall only serve to aggravate or mitigate the liability of the principals, accomplices and accessories as to whom such circumstances are attendant.

4. The circumstances which consist in the material execution of the act, or in the means employed to accomplish it, shall serve to aggravate or mitigate the liability of those persons only who had knowledge of them at the time of the execution of the act or their cooperation therein.

5. Habitual delinquency shall have the following effects:

(a) Upon a third conviction the culprit shall be sentenced to the penalty provided by law for the last crime of which he be found guilty and to the additional penalty of *prision correccional* in its medium and maximum periods;

(b) Upon a fourth conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of *prision mayor* in its minimum and medium periods; and

(c) Upon a fifth or additional conviction, the culprit shall be sentenced to the penalty provided for the last crime of which he be found guilty and to the additional penalty of *prision mayor* in its maximum period to *reclusion temporal* in its minimum period.

Notwithstanding the provisions of this article, the total of the two penalties to be imposed upon the offender, in conformity herewith, shall in no case exceed 30 years.

For the purpose of this article, a person shall be deemed to be habitual delinquent, if within a period of ten years from the date of his release or last conviction of the crimes of serious or less serious physical injuries, *robo*, *hurto*, *estafa* or *falsificacion*, he is found guilty of any of said crimes a third time or oftener."

SEC. 24. Article 81 of the same Code, as amended, is hereby amended to read as follows:

"Art. 81. *When and how the death penalty is to be executed.* – The death sentence shall be executed with preference to any other and shall consist in putting the person under sentence to death by electrocution. The death sentence shall be executed under the authority of the Director of Prisons, endeavoring so far as possible to mitigate the sufferings of the person under sentence during electrocution as well as during the proceedings prior to the execution.

If the person under sentence so desires, he shall be anaesthetized at the moment of the execution.

As soon as facilities are provided by the Bureau of Prisons, the method of carrying out the sentence shall be changed to gas poisoning.

The death sentence shall be carried out not later than one (1) year after the judgment has become final."

SEC. 25. Article 83 of the same Code is hereby amended to read as follows:

"Art. 83. *Suspension of the execution of the death sentence.* – The death sentence shall not be inflicted upon a woman while she is pregnant or within one (1) year after delivery, nor upon any person over seventy years of age. In this last case, the death sentence shall be commuted to the penalty of *reclusion perpetua* with the accessory penalties provided in Article 40.

In all cases where the death sentence has become final, the records of the case shall be forwarded immediately by the Supreme Court to the Office of the President for possible exercise of the pardoning power."

SEC. 26. All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 27. If, for any reason or reasons, any part of the provision of this Act 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.

SEC. 28. This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation. The publication shall not be later than seven (7) days after the approval hereof.

Approved, December 13, 1993.