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REPUBLIC OF THE PHILIPPINES }
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SENATE
S. No. 735

INTRODUCED BY HON. MANUEL B. VILLAR, JR.

EXPLANATORY NOTE

Terrorism knows no boundaries.

In recent years, the Philippines has faced terrorist attacks from two sources: Islamist separatists and communist rebels. The Philippine Army was pursuing the Abu Sayyaf Group, a radical Islamist organization known for its bandit-like tactics which include kidnapping and abduction of women, even before the infamous September 11 terror attacks. The U.S. government says the Abu Sayyaf has ties to the al-Qaeda terrorist network. The Philippine government had also been discussing economic development of Muslim areas to combat discontent. Philippine anti-terrorist efforts, however, have been undermined by weak and sometimes corrupt law enforcement.

The Anti-Terrorism bill adopts all adequate, efficient and effective counter measures to fight, suppress and penalize all acts of terrorism with due regard to and respect for the fundamental rights and freedoms of the people as guaranteed under the Constitution.

The measure also seeks to protect not only the lives and properties of Filipinos against all acts of terrorism, but also maintains mutual assistance and cooperation between the Philippines and other States and international organizations in the fight against terrorism.

To show that the Philippines remains committed to the global war on terror, the immediate passage of this bill is fervently called for.

MANUEL B. VILLAR, JR.
Senator



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AN ACT
TO DEFINE AND PENALIZE ACTS OF TERRORISM AND FOR OTHER PURPOSES

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

SECTION 1. *Short Title.* - This Act shall be known and cited as the "Anti-Terrorism Act of 2004."

SEC. 2. *Declaration of Policy.* - It is hereby declared the policy of the State to protect the lives and properties of the people against all acts of terrorism and to condemn terrorism as a crime against humanity. Towards this end, the State shall adopt all adequate, efficient and effective counter measures to fight, suppress and penalize all acts of terrorism with due regard to and respect for the fundamental rights and freedoms of the people guaranteed under the Constitution.

Further, the State recognizes the transnational nature of terrorism and shall maintain full cooperation with all nations in the fight against the same in accordance with due process, existing international, regional, multi-lateral and bi-lateral agreements or instruments, and United Nations resolutions.

SEC. 3. *Terrorism. - How Committed.* - Terrorism is committed by the premeditated use or threatened use of serious violence, force, or by any other means of destruction perpetrated against civilians or non-combatants, or against properties with the intention of instilling a state of common danger, panic or fear, or of coercing or intimidating the public or government.

Acts of terrorism may be committed through any of the following means:

(1) hijacking or threatening to hijack any kind of aircraft, ship, vessel, electric or railroad train, locomotive, passenger bus or other means of mass transportation, or public conveyance;

(2) taking or threatening to kidnap, or take hostage any person, in order to compel, coerce, or force another person, whether natural or juridical, including the government or any of its agencies or instrumentalities, to give something of value or a sum of money as ransom, or in order for that other person to do or abstain from doing any act or decision as a condition for the release or non-taking of the hostages;

(3) causing or threatening to cause death or serious bodily harm to a person or persons, or to cause a serious risk to the health or safety of the public or any segment thereof;

(4) killing of, or violent attack upon, an internationally protected person or upon the liberty of such person in violation of the Convention on the Protection and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, and other international agreements;

(5) causing serious interference with, or serious disruption of an essential service, vital facility, critical infrastructure, including the mass transmission of virus in the internet other than as a result of advocacy, grievance, protest, dissent, strike, or an armed conflict provided the same is in accordance with international humanitarian law;

(6) causing serious damage to property, the environment and the national patrimony;

(7) causing or threatening to cause mass destruction through the use of biological or chemical agents, noxious, poisonous or radioactive substances or materials, nuclear devices, explosives, firearms, or any other kind of lethal weapon, material, or substance, or resorting to arson;

Any person who commits any act of terrorism shall suffer the penalty of life imprisonment to death. If the penalty imposed is life imprisonment, a fine of ten million pesos (Php10,000,000.00) shall also be imposed.

Any person who manufactures, possesses, acquires, transports, diverts, supplies, uses or sells explosives, biological agent, chemical agent, nuclear weapon, materials or equipment and instruments in furtherance of terrorism shall suffer the penalty of life imprisonment and a fine of Ten million pesos (P10,000,000.00).

SEC. 4. *Conspiracy to Commit Acts of Terrorism.* - There is a conspiracy to commit terrorism when two (2) or more persons come to an agreement to commit any act of terrorism as defined in Section 3 of this Act and decide to commit it.

The conspiracy to commit any act of terrorism shall be punished by imprisonment from ten (10) years and one (1) day to fifteen (15) years with a fine of five million pesos (Php5,000,000.00).

SEC. 5. *Participation in any Act of Terrorism.* - Any person who, with the intent to facilitate any act of terrorism knowingly participates in any of the following activities:

(1) establishing or maintaining, or in serving as, contact or link with any person or persons that are known to have pursued or are pursuing terrorist activities;

(2) procuring weapons, bombs, explosives, devices, spare parts, and other accessories thereof;

(3) providing training to any person or persons to carry out terrorist activities;

or

(4) arranging or assisting in the conduct of a meeting of two (2) or more persons, knowing that the meeting is to support or further the terrorist activities; shall suffer the penalty of imprisonment from fifteen (15) years and one (1) day to twenty (20) years with a fine of eight million pesos (Php8,000,000.00).

SEC. 6. *Financing or Materially Supporting Any Act of Terrorism.* - (a) It shall be unlawful for any person, group, organization or entity to knowingly provide properties or finances, or possess them for the commission of terrorism as herein defined or facilitate in any way the provision or possession of such properties or finances, and it shall carry with it the penalty of life imprisonment and a fine of ten million pesos (Php10,000,000.00).

(b) It shall be unlawful for any person to knowingly solicit or invite financial contribution or other support for the commission of terrorism as defined herein and shall carry with it the penalty of imprisonment for ten (10) years and one (1) day to fifteen (15) years and a fine of five million pesos (Php5,000,000.00).

SEC. 7. *Harboring or Concealing.* - Any person who harbors or conceals any person whom he/she knows to be a person who has carried out or is about to carry out a terrorist activity shall suffer the penalty of imprisonment of ten (10) years and one (1) day to fifteen (15) years and a fine of five million pesos (Php5,000,000.00).

SEC. 8. *Penalty for Infidelity in the Custody of Prisoners Under this Act.* - Any public officer or private person who shall have custody of a prisoner under the provisions of this Act and who shall have caused the escape of such prisoner whether through the public officers or the private persons consent or negligence shall suffer the following penalties:

1) Imprisonment of ten (10) years and one (1) day to fifteen (15) years, if a fugitive shall have been sentenced by final judgment to any penalty;

2) Imprisonment of five (5) years and one (1) day to ten (10) years if the fugitive shall not have been finally convicted but only held as a detention prisoner.

SEC. 9. *Making False Threats of Acts of Terrorism.* - It shall be unlawful for any person to:

(1) communicate or make available by any means, any information which he/she knows or believes to be false to another person with the intention of inducing in him/her any other person a false belief that a terrorist act has been, is being or will be carried out; or

(2) place any article or substance in any place, or dispatch any article or substance by mail or by any other means of sending things from one place to another, with the intention of inducing in another person a false belief that -

(i) the article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or

(ii) the article contains or the substance consists of any dangerous, hazardous, radioactive or harmful substance; any toxic chemical; or any microbial or other biological agent, or toxin, that is likely to cause death, disease or personal injury or damage to property.

For the purposes of subsections (1) and (2), a reference to a person inducing in another person a false belief does not require the first-mentioned person to have any particular person in mind as the person in whom he/she intends to induce the false belief.

If the false threat did not result to death, disease, personal injury or damage to property, the penalty of imprisonment from six (6) months to one (1) year or a fine of Fifty thousand pesos (Php 50,000.00) shall be imposed.

If the false threat resulted to death, disease, personal injury or damage to property, the penalty of imprisonment from one (1) year and one (1) day to six (6) years and a fine of one hundred thousand pesos (Php 100,000.00) shall be imposed.

SEC. 10. *Arrest and Detention.* - Any person arrested for violation of this Act, pursuant to Rule 113, Section 5, paragraphs (a) and (b), of the Rules of Court, may be detained for an inquest period of not more than fifteen (15) days following his/her arrest.

The period of detention may be extended beyond fifteen (15) days if the person arrested without a warrant demands for a preliminary investigation and consents to it in writing and in the presence of his or her counsel. He/She shall be entitled to all the rights under the RA No. 7438, otherwise known as "An Act Defining Certain Rights of Persons Arrested, Detained, or Under Custodial Investigation."

SEC. 11. *Witness Protection.* - Any person who provides material information, whether testimonial or documentary, necessary for the investigation or prosecution of individuals suspected or accused of committing any of the offense under Sections 3, 4, 5, 6 and 7 herein shall be placed under the Witness Protection Program pursuant to Republic Act 6981.

SEC. 12. *Immunity from Prosecution.* - Any person who serves as a witness for the government or provides evidence in a criminal case involving any violation of this Act, or who voluntarily or by virtue of a *subpoena testificandum* or *duces tecum*, produces, identifies, or gives testimony on, but not limited to, books, papers, documents, tapes containing words, sounds, pictures or images, photos, maps,

diagrams, sketches, recordings, disc, or any other form of written, recorded, or real evidence, shall be immune from any criminal prosecution, subject to the compliance with the provisions of PD 1732, otherwise known as Decree Providing Immunity from Criminal Prosecution to Government Witnesses and the pertinent provisions of the Rules of Court.

SEC. 13. *Prosecution, Judgment and/or Conviction.* - Any person may be charged with or convicted of acts of terrorism without prejudice to the prosecution of any other act or acts penalized under the Revised Penal Code which are not absorbed in the offense of terrorism.

When there is a variance between the act of terrorism charged in the complaint or information, and that proved or established by the evidence, the accused shall be convicted of the offense proved included in the charge of terrorism if the intent to sow terror or intimidate or coerce the government or the public was not proven during the trial. No person, however, shall be twice put in jeopardy of punishment for the same offense.

SEC. 14. *Penalty for Juridical Person, Alien or Public Officer.* - If the offender is a corporation, association or partnership, the corresponding penalty provided in this Act shall be imposed upon its responsible officers, directors or trustees who knowingly participated in the commission of any violation of this Act or who knowingly permitted or failed to prevent its commission. If the offender is an alien, he or she shall, in addition to the penalties herein prescribed, be summarily deported after serving the sentence. If the offender is a public official or employee, he or she shall, in addition to the penalties prescribed herein, be barred from holding public office.

SEC. 15. *Applicability of Republic Act No. 9160, as Amended by Republic Act No. 9194.* - Terrorism as defined and punished under this Act shall be considered an unlawful activity under RA 9160, otherwise known as the Anti-Money Laundering Act of 2001, as amended by RA 9194. For this purpose, all matters involving monetary instruments or property used or intended to be used for terrorist activities shall be subject to provisions of Sections 10 and 11 thereof. *Provided,* that deposits or investments with any banking institution or non-bank financial institution may be inquired into or examined without prior court order pursuant to RA 9160, as amended.

SEC. 16. *Applicability of Republic Act No. 4200.* - The provisions of RA 4200, otherwise known as the Anti-Wire Tapping Act shall apply to include all offenses punishable under this Act.

SEC. 17. *Jurisdiction of Courts.* - The Regional Trial Courts shall have jurisdiction to try all cases for the prosecution of offenses punishable under this Act.

Those committed by public officers and private persons who act in conspiracy with such public officers shall be under the jurisdiction of the Sandiganbayan, subject to the provisions of Republic Act No. 7975 and Republic Act No. 8249.

SEC. 18. *Mutual Assistance and Cooperation between the Philippines and other States or International Organizations.* - When a foreign State or International Organization makes a request for assistance concerning any matter related to any act of terrorism, the Council as created under Section 22 of this Act shall take the appropriate action on the matter, provided that such request does not contravene the Constitution or any existing law. Any request of the Philippine government to a foreign State or International Organization shall be coursed through the Council.

SEC. 19. *Anti-Terrorism Council.* - There is hereby created an Anti-Terrorism Council, hereinafter referred to as the "Council," which shall be under the supervision and control of the President, who shall serve as its chairperson, with the Secretary of Justice and the Secretary of the Interior and Local Government as its vice-chairpersons, and with the following members: Secretary of National Defense; Secretary of Foreign Affairs; Secretary of Transportation and Communications; the National Security Advisor; and such other members that may be appointed by the President.

The Council shall serve as the central policy-making, supervising, coordinating and monitoring body of the government on all matters of domestic and international terrorism. The Council shall keep records of its proceedings and decisions, and such records shall be subject to such security classifications as the Council may, in its sound discretion, direct to safeguard the national interest.

The President may designate a primary agency which shall carry out and implement policies of the Council. The President shall likewise designate a secretariat for the Council from the existing government agencies involved on anti-terrorism efforts without any additional salary, compensation, allowance, or any other form of emoluments for such personnel to be assigned to the Council's secretariat.

In addition to their normal functions, the National Intelligence Coordinating Agency shall be the technical adviser to the Council and with the following support agencies to the Council: National Bureau of Investigation, Bureau of Immigration, Office of Civil Defense, Intelligence Service of the Armed Forces of the Philippines, Anti-Money Laundering Council, Philippine Center on Transnational Crime, and the intelligence and investigative elements of the Philippine National Police shall serve as support agencies for the Council.

The Council shall, not later than one hundred eighty (180) days after the effectivity of the Implementing Rules and Regulations, formulate and come up with a

comprehensive and effective anti-terrorism plan and program to deter and prevent acts of terrorism to include, among others, exhaustive preparations necessary for the government and the country to cope with all forms of terrorist attacks such as, but not limited to, the use of biological, chemical or nuclear weapons, or other weapons of mass destruction.

SEC. 20. *Functions of the Council.* - In pursuit of its mandate under Section 19, the Council shall have the following functions:

a. Formulate and conduct policy researches and studies in addressing terrorism;

b. Direct the conduct of anti-terrorism and counter-terrorism measures and post conflict actions to address the effects of terrorism;

c. Cause or direct the immediate investigation and speedy prosecution of cases involving acts of terrorism and monitor the progress of such cases;

d. Transfer the conduct of investigation of specific cases from one law enforcement agency to another;

e. Establish a comprehensive data-base systems on anti-terrorism and counter terrorism operations and post-conflict actions;

f. Grant monetary rewards and incentives to informants who are willing to give vital information to build up cases for the prosecution of those who committed acts of terrorism;

g. Recommend the inclusion of vital witnesses under the Witness Protection, Security and Benefits Program;

h. Call upon any department, bureau, office or other executive agency for assistance; and,

i. Exercise such other functions as may be assigned by the President.

SEC. 21. *Implementing Rules and Regulations.* - Within sixty (60) days from the effectivity of this Act, the Anti-Terrorism Council shall promulgate the Implementing Rules and Regulations as may be necessary to ensure the efficient and effective implementation of the provisions of this Act.

SEC. 22. *Appropriations.* - The amount of twenty five million pesos (Php25,000,000.00) is hereby authorized to be appropriated to the Council as initial funding chargeable against the contingent fund of the Office of the President.

Thereafter, the amount needed by the Council to effectively carry out the purpose of this Act shall be included in the annual General Appropriations Act.

SEC. 23. *Extra-Territorial Application of this Act.* - Except as provided in the treaties and laws of preferential application, the provisions of this Act shall be enforced not only within the Philippine archipelago, including its atmosphere, its

interior waters and maritime zone but also outside of its jurisdiction against those who should commit any offense covered by this Act while on a Philippine ship, airship, Philippine embassies and consulates, or other diplomatic premises.

SEC. 24. *Separability Clause.* - If any provision or portion of this Act or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, the other provisions or portions of this Act, and the application of such provision or section to other persons or circumstances, shall not be affected thereby.

SEC. 25. *Amendatory Clause.* - Republic Act No. 9160, as amended by Republic Act No. 9194 and Republic Act No. 4200 are hereby amended or modified accordingly.

SEC. 26. *Repealing Clause.* - All laws, decrees, executive orders, rules and regulations or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SEC. 27. *Suppletory Effect of the Revised Penal Code.* - The provisions of the Revised Penal Code shall have a suppletory effect to the provisions of this Act.

SEC. 28. *Effectivity.* - This Act shall take effect fifteen (15) days after its complete publication in the Official Gazette or in at least two (2) national newspapers of general circulation.

Approved,