

THIRTEENTH CONGRESS OF THE REPUBLIC  
OF THE PHILIPPINES  
FIRST REGULAR SESSION

'04 AUG 17 P4:14

SENATE  
S.B. No. 1736

RECEIVED BY: \_\_\_\_\_

INTRODUCED BY SENATOR MAGSAYSAY, JR.

**EXPLANATORY NOTE**

With the events that took place in the United States on September 11, 2001 the world was awakened to the stark reality that no country is safe from terrorist attack. Even the most powerful nation in the planet could not prevent the destruction of one of its most famous landmarks, nor the loss of a staggering number of human lives. As a result, countries worldwide have taken a closer look at the phenomenon of terrorism and at how they can protect their land and citizens against acts of terrorism.

Soon after the tragedy in the United States, the Financial Action Task Force (FATF), an inter-governmental body formed by the Group of Seven, commenced an exercise to determine whether both member and non-member countries have the legislative and executive infrastructure to counter terrorist activity within their respective jurisdiction. The purpose was not merely to ensure that each country would be able to protect its own borders against terrorists, but that it would likewise be able to prevent cross-border terrorist activity that could threaten other countries. This was on the finding that the planning of terrorist activity and the performance of act preparatory to terrorist activity could take place in countries other than that in which they are to be carried out. Most significant among these preparatory acts are those acts relating to the financing of terrorism, i.e., the raising of funds to finance terrorist acts and/or to support the terrorist organizations carry them out.

As part of this exercise, the FATF formulated its Eight Recommendations, which constitute the basic framework for an anti-terrorism campaign that should be instituted within each country. At the top of these recommendations is the enactment of legislation criminalizing terrorism and instituting measures to detect and curtail the financing of terrorism.

At present, the Philippines does not have legislation criminalizing terrorism *per se* or the financing of terrorist acts. The concept of terrorism, although certainly pervasive in recent events that have taken place in the country, is alien to its penal laws: while injury to persons and property are punishable as ordinary crimes under our legal system, there is no separate punishment for the commission or threat to commit such acts when the same are merely incidental to the true objectives of their perpetrators. Such punishment is indeed necessary. Terrorism must be punished, not merely because it constitutes an assault against property and lives, but because it constitutes an assault upon the very authority of the State. Terrorists do not merely seek to kill or maim and

destroy; they seek to do so for the purpose of intimidating or coercing a State and its citizens to follow a policy or course of action to suit their own beliefs. For this, they should be punished.

The present bill seeks to institute such punishment. It criminalizes terrorism, the financing of terrorism, membership in a terrorist organization, and other related acts. It creates a system for detecting and investigating acts preparatory to terrorist activities. It provides law enforcement officials with the tools to prevent terrorists from obtaining access to their property and funds by granting the authority to freeze accounts suspected of housing funds constituting such terrorist property. Moreover, it allows government to use wire-tapping and similar means of surveillance and information gathering in order to identify and capture suspected terrorists. In accordance with the Eight Recommendations, it provides for the more stringent regulation and monitoring of entities that can be used and abused by terrorists to serve as fronts for their organizations, as well as of organizations that can be used informal networks for the transmission of terrorist funds without detection. Finally, it provides for a system that will support mutual legal assistance between the Philippine government and other States in efforts to investigate, track, capture and convict terrorists.

With such a law in place, the Philippines will be able to take its first step towards protecting itself against terrorism, and at the same time help the rest of the world rid itself of this serious threat.

The Philippine Government, in its continuing campaign against graft and corruption, illegal gambling, smuggling, kidnapping, drug trafficking, illicit traffic of women and children, counterfeiting and other forms of criminality, must hit corrupt government officials, criminals and organized crime groups where they hurt most – their money. Corrupt government officials have been able to systematically divert public assets to their personal use, and criminals and organized crime groups have been able to convert their criminal profits into seemingly licit assets, by introducing them into the legitimate financial system through which they are processed to suggest a legal source and kept under the control of their true owners for financing their other criminal activities or for their own personal aggrandizement. This is the process of money laundering.

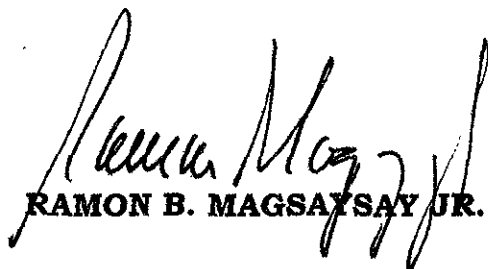
Corrupt public officials, criminals and organized crime groups have taken advantage of the rapid developments, in financial, information and communications technology which allow proceeds of their crimes to be moved anywhere in the world with speed and ease by transferring illegal funds quickly across international borders and preventing law enforcement officials from tracking them down. As such, money laundering undermines the integrity of the international financial system of which our institutions are an integral part, exposes nations to the corrupting influence of ill-gotten gains, and undermines the growth of democratic political institutions and the development of stable and vibrant economies worldwide.

To effectively combat money laundering, nations of the world including the Philippines, as signatories to the 1988 Vienna Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the 1998 United Nations Political Declaration and Action Plan Against Money Laundering, should all endeavor to punish money laundering as a

crime; otherwise, tightening the laws in one jurisdiction will only result in the transfer of money laundering activities to other jurisdiction with less stringent laws.

The Financial Action Task Force (FATF), an inter-governmental body formed by the Group of Seven, the leading industrial countries in the world, at the Paris G7 Summit of 1989, has emphasized in its so-called Forty (40) Recommendations setting out the basic universal framework for anti-money laundering efforts, that all nations should criminalize money laundering itself and provide for sufficiently serious penalties; adopt measures enabling their competent authorities to identify, trace, freeze, seize and confiscate criminally derived proceeds or property of corresponding value; establish proper customer identification requirements, including a suspicious transaction reporting regime, eliminate excessive bank secrecy; and institutionalize strong multilateral cooperation and mutual legal assistance in cross-border money laundering investigations and prosecutions, as well as extradition of money launderers.

An anti-money laundering legislation that meets internationally accepted standards such as those embodied in the Forty Recommendations of the FATF and is best practice compliant has, thus, now become imperative.



**RAMON B. MAGSAYSAY JR.**

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**AN ACT**  
**DEFINING THE CRIME OF TERRORISM, AND THE FINANCING,**  
**PREPARATION AND FACILITATION OF ACTS OF TERRORISM,**  
**PROVIDING PENALTIES THEREFOR 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 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 forms of terrorism with due regard to and respect for the 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 Nation resolutions.

**SEC. 3. Terrorism - How Committed** - Terrorism is committed by the use or threatened use of serious violence, force, or 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, 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;
8. Manufacture, possession, acquisition, transport, diversion, supply, use or sale of explosives, biological agent, chemical agent, nuclear weapon, materials or equipment and instruments in furtherance of terrorism.

Any person who, directly or indirectly, 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.

**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, directly or indirectly, participates in any activity intended to facilitate or carry out acts of terrorism thru any of the following:

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 reason 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, or has probable cause to believe, to be a person who has carried out or is likely 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. 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 for 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 purpose 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 (Php50,000.00) shall be imposed.

**SEC. 9. Arrest and Detention** - Any person arrested for violation of this Act, pursuant to Section 5, paragraphs (a) and (b), Rule 113 of the Rules of Court, may be detained for an inquest period of not more than fifteen (15) working 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 waives his or her right under the provisions of Article 125 of the Revised Penal Code, as amended, in writing and in the presence of his or her counsel and shall be entitled to all the rights under the RA No. 7438, otherwise known as "An Act Defining Certain Rights or Persons Arrested, Detained, or Under Custodial Investigation".

**SEC. 10. 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. 11. Immunity from Prosecution** - Any person who serves as a witness 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*, procedures, identifies, or gives testimony on, but not limited to, books, papers, documents, tapes containing words, sounds, pictures or images, photos, maps, diagrams, sketches, recordings, discs, 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. 12. 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 of the public was not proven during the trial. No person, however, shall be twice put in jeopardy of punishment for the same offense.

**SEC. 13. Penalty for Juridical Person, Alien or Public Officer** - If the offender is a corporation, association or partnership, the corresponding penalty provided in 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, suffer perpetual or temporary absolute disqualification from office, as the case may be.

**SEC. 14. 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. 15. 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. 16. 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. 17. Provisional Remedies** - Upon the filing of the information for any violation of this Act, the Regional Trial Court may, upon verified motion of any appropriate government agency, issue temporary restraining order, writ of injunction, writ of attachment or garnishment or other equitable provisional relief, or take other appropriate action, for the tracking, seizure, preservation, disabling, disposal, disarmament or destruction of the property, found to be utilized in terrorist activity to prevent the same from being removed, concealed, dissipated, destroyed, disseminated, activated, transferred, assigned, otherwise disposed or during the pendency of the criminal proceedings.

**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; the Chairperson of the Commission on Human Rights; 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 shall 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. The President may likewise designate a primary agency which shall carry out and implement policies of the Council.

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 investigate 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 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 and 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,