


**FOURTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session**

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) 8 APR 15 11:00
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**SENATE
S. No. 2159**

RECEIVED BY: 

Introduced by Senator Benigno S. Aquino III


EXPLANATORY NOTE

There are quarters in our political system that succumb to the temptation of using their power and in the process undermine the system of justice and accountability just to remain in power and position. It has also been observed lately that many killings and disappearances of human rights activists and members of the media are still unsolved up to this time and allegations of military and police involvement in the crimes are being pointed out by many victims and witnesses. The continuing persistent deviation by any subordinate of a state agent cannot continue without the approval and acquiescence of his or her superior and this we cannot allow to continue. State agents like the members of the military, the police and other allied government security services should always adhere to our laws and when they commit a malfeasance, misfeasance and non-feasance and in the result violate the rights of the people. For this we should not allow impunity and it is imperative that we punish the most responsible for the crime or violation to prevent any possibility of a state turning against its own citizens by abusing its power using violence, intimidation and impunity.

The entrenchment of the doctrine of superior responsibility in our laws is part of the administration of justice particularly on crimes and cases of human rights violation. This doctrine is in consonance with the constitutional mandate that in a republican system of government, public officers are vested with power to uphold the rule of law. In cases of breach by their subordinates, they would also be held accountable for their acts and answerable to the people for such breach of mandate and responsibility to clearly draw the lines of accountability and responsibility.

In connection with the above mentioned principle, this bill seeks to strengthen the application of the doctrine of command responsibility in our criminal laws and punish those who are most responsible for gross human rights violation and avoid "blank wall" conclusions in investigations of the same, thereby ending impunity in such cases.

For the foregoing, the passage of this bill is earnestly sought.


BENIGNO S. AQUINO III
Senator

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AN ACT
ADOPTING THE DOCTRINE OF "SUPERIOR RESPONSIBILITY"
TO ALL ACTIONS INVOLVING MILITARY PERSONNEL, MEMBERS OF
THE PHILIPPINE NATIONAL POLICE AND OTHER CIVILIANS
INVOLVED IN LAW ENFORCEMENT

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

SECTION 1. This Act shall be known as the "*Superior Responsibility Act of 2008*."

SEC. 2. **Declaration of Policy** – It is a declared policy of the State that a public office is a public trust and that public officers and employees must at all times be accountable to the people and serve them with utmost responsibility. It is also declared as a policy that accountability is a key component in good governance and is a cornerstone of any democratic society. To this end, public officials and employees should be held liable for abuse of power when they arrogate authority unto themselves. It is also declared that state instruments should not be used to violate the rights of the people, since the government exists for their betterment and protection. Towards this end, a high degree of professionalism, responsibility and accountability must be imposed on superiors and senior officers of government who has control and supervision over the military, the police and their allied services, and hold such superior and senior officers, who by their consent, toleration or negligence in the control and supervision of their subordinates, the citizens whom they vowed to protect, become their victims.

SEC. 3. Definition of Terms

- a. **Superior responsibility** is defined as the responsibility and accountability of a public officer who has administrative and operational control over the security and police forces including other allied government security services who have direct or effective control over the acts of his or her subordinates if such senior or superior officer has knowledge that a crime or offense punishable under the Revised Penal Code and other special penal laws or any human rights violation, has been committed, is being

committed, or shall be committed by his or her subordinates, or by others and despite such knowledge, such senior or superior officer did not take corrective action either before, during or immediately after its commission and failed to prevent any feasible measure within his powers to prevent the breach

- b. **Superior** is a person exercising effective control over his/her subordinates.
- c. **Effective control** means the material ability of a superior to control the actions of his/her subordinates in preventing and/or or punishing a criminal conduct.
- d. **Knowledge** in this context is defined as the awareness that the relevant crimes or violation were committed or are about to be committed. It could take in the following forms:
 - i. Actual knowledge
 - ii. *Serious personal dereliction* on the part of the superior as to constitute willful and wanton disregard of the possible consequences.
 - iii. An imputation of constructive knowledge, that is, despite pleas to the contrary, the superior, under the facts and circumstances of the particular case, must have known of the crimes committed and charged and acquiesced therein.

SEC. 4. **Persons Covered** – This Act shall cover the following:

- (a) Superior civilians who has administrative and operational control of the following government offices:
 - 1. AFP and its component units including the CAFGUs.
 - 2. Department of National Defense
 - 3. *National Security Council*
 - 4. Philippine National Police
 - 5. Bureau of Jail Management
 - 6. Bureau of Corrections
 - 7. Bureau of Fire Protection
 - 8. Philippine Coastguard
 - 9. National Bureau of Investigation
 - 10. Other government offices involved in law enforcement which may be created by law

Provided that they have direct knowledge of any crime and human rights violation by reason of his or her office, which consciously disregarded information on such violation by their subordinates.

- (b) All officers and their subordinates in active service of the Armed Forces of the Philippines.
- (c) All officers and subordinates of the Philippine National Police.

SEC. 5. **Acts covered** - Any act or crime punishable under the Revised Penal Code (Act 3815) other special penal laws, as well as the Articles of War (Commonwealth Act 408) are hereby covered.

SEC. 6. **Elements of Command Responsibility.** The following elements must be proven in order for a superior to incur responsibility under this Act:

1. The existence of a relationship of superiority and subordination between the superior and the perpetrator of the underlying crime or violation.
2. An effective control on the part of the superior within his jurisdiction and he or she exercised feasible measures in all circumstances and are within his or her power.
3. The knowledge of the superior that his or her subordinate had committed or about to commit the crime
4. The superior failed to prevent the commission of the crime, the investigation thereof or to punish the perpetrator

SEC. 7. **Presumption of Knowledge** – Senior or Superior Officer/s are presumed to have knowledge of the commission of irregularities or crimes committed by his or her subordinates herein provided in any of the following circumstances:

- a) When the acts or crimes are committed in a widespread manner within his or her area of jurisdiction;
- b) When the said acts or crime have been repeatedly or regularly committed within his or her area of responsibility;
or
- c) When members of his immediate staff, office personnel or command are involved or implicated.

SEC.8. **Liability** – Senior or superior officer/s found to be accountable under the doctrine of superior responsibility under this Act shall be administratively, civilly and criminally liable as a principal as defined in Art. 17 of Act 3815 (Revised Penal Code) and shall suffer the penalty provided for the crimes committed by his or her subordinates, as provided by the Revised Penal Code and other special penal laws.

SEC.9. **Implementing Rules and Regulations** – The Department of National Defense (DND), in coordination with the Department of Justice (DOJ), the Department of Interior and Local Government, the Commission on Human Rights and the President of the Integrated Bar of the Philippines (IBP), and the UP Law Center shall promulgate the necessary implementing rules and regulations of this act within thirty (30) days after the passage of this act.

SEC.10. **Separability Clause.** – If any provision of this Act shall be declared unconstitutional, any other provision not affected thereby shall remain in full force and effect.

SEC.11. **Repealing Clause.** – All laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

SEC.12. **Effectivity.** – This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved,