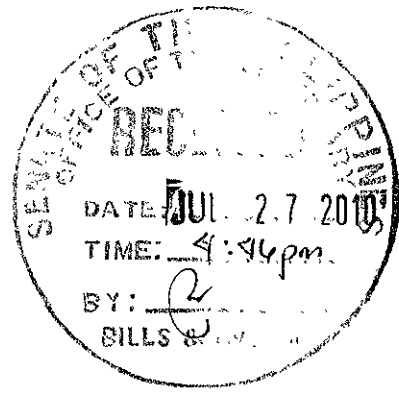


FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE

S. B. No. 2165

Introduced by Senator FRANCIS G. ESCUDERO

EXPLANATORY NOTE

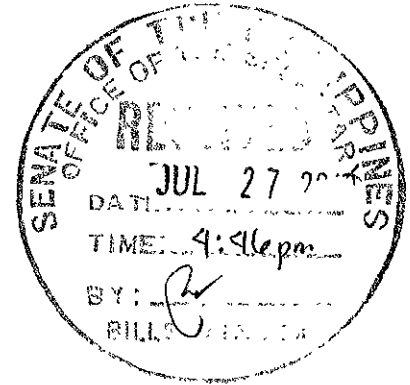
Section 24, Article XVIII of the 1987 Constitution provides that as a State Policy, "Private armies and other armed groups not recognized by duly constituted authority shall be dismantled. All paramilitary forces including Civilian Home Defense Forces not consistent with the citizen armed force established in this Constitution, shall be dissolved or, where appropriate, converted into the regular force."

It is the intent of this bill to address the oversight of government to implement the dismantling of private armed groups and armies - entities often involved in violations of laws, engage in acts of terrorism and other abuse. As evidenced in the recent Maguindanao Massacre, failure to keep private armies in check results in lawlessness and enables them to operate beyond the framework of the Constitution.

Hence, in the best interest of the Republic, the immediate approval of this bill is urgently sought.

FRANCIS G. ESCUDERO

FIFTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
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SENATE

S. B. No. 2165

Introduced by Senator FRANCIS G. ESCUDERO

AN ACT
IMPLEMENTING SECTION 24, ARTICLE XVIII OF THE CONSTITUTION
ON THE DISMANTLING OF PRIVATE ARMIES AND OTHER PRIVATE
ARMED GROUPS NOT RECOGNIZED BY DULY CONSTITUTED
AUTHORITY AND APPROPRIATING FUNDS THEREFOR

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

1 SECTION 1. *Title.* This act shall be known as "The Anti-Private Army
2 and Private Armed Groups Act of 2010."

3 SEC. 2. *Declaration of Policy; Prohibited Acts.* It is the policy of the State
4 pursuant to Section 24, Article XVIII of the Constitution that private armies and
5 other private armed groups not recognized by duly constituted authority shall be
6 dismantled.

7 Towards this end, the following acts are prohibited:

8 (a) leadership and membership in the organization, establishment,
9 maintenance and/or of private armies or other armed groups or refusal to
10 disband after notice from duly constituted authority;

11 (b) abuse of the utilization of military and police personnel as security
12 detail;

13 (c) abuse of various permits pertaining to firearms as well as the
14 unregistered importation thereof;

1 (d) utilization of paramilitary forces and/or private security agencies as
2 private armies or private armed groups; or

3 (e) protection, financing, supplying or otherwise giving aid and comfort
4 to private armies and other private armed groups.

5 SEC. 3. *Definition of Terms.*

6 a. *Dismantling* - refers to the disbandment, disarming, demobilization or
7 dissolution of private armies and other private armed groups, as well as the
8 arrest and prosecution of those involved, or their voluntary surrender of firearms
9 and abandonment of their organization and activities.

10 b. *Financial and Logistical Resources* - include all forms of
11 transportation, communication, safe houses, bank accounts, business, money-
12 producing activities, sources of weaponry, front organizations, etc. which private
13 armies and other armed groups use to support their existence or activities.

14 c. *Government Connection* - covers the areas pertaining to government
15 units, civil service, the PNP and the AFP where officials and any personnel
16 thereof are found to be leaders, members, protectors, financiers or suppliers of
17 private armies or other private armed groups, or are otherwise benefiting
18 economically or psychologically from the existence or activities thereof.

19 d. *Leadership* - pertains to natural or juridical persons who organized or
20 recruit members for a private army or private armed groups, maintain and/or
21 use private armies and other private armed groups, control the actions or
22 activities thereof, provide the direction or "brains" thereof, direct the commission
23 of activities prohibited by this Act, or otherwise derive political, economic or
24 psychological advantage out of the existence or activities thereof.

25 e. *Membership* - refers to those who directly participate in the activities
26 of private armies and other private armed groups without falling within the
27 definition of leadership, are accomplices or accessories as defined by the Revised

1 Penal Code to the criminal activities thereof, the commission of activities
2 prohibited by this Act, or otherwise give aid and comfort to the leaders and
3 members thereof.

4 f. *Private Armed Group* - is a group of at least three (3) but not more
5 than nine (9) individuals, with weaponry, not recognized by duly constituted
6 authority, or is utilized for the advancement, promotion and/or protection of
7 vested political and/or economic interest, of any individual, family, clan or
8 private group. The private armed group may be utilized, but not limited to, as
9 bodyguards, intimidation force, or mercenaries or for the commission of
10 activities prohibited by this Act.

11 g. *Private Army* - is a group of at least ten (10) individuals, with a
12 leadership structure and weaponry, which is utilized in the same way as a
13 private armed group.

14 This also refers to authorized government para-military forces which no
15 longer possess strategic or tactical value in the maintenance of peace and order.

16 The definition includes the so-called "lost commands", as well as
17 paramilitary forces and private security forces utilized for the advancement,
18 promotion and/or protection of vested political and/or economic interests.

19 This definition does not include rebel armies or units such as those of the
20 National Democratic Front (NDF), Moro National Liberation Front (MNLF), and
21 *Rebolusyunaryong Alyansang Makabansa* (RAM).

22 h. *Recognized by Duly Constituted Authority* - means authorized by
23 law, in accordance with law, or operating according to law. This term refers
24 mainly to citizen soldiers or reservists under RA 7077. This definition shall also
25 include duly-registered private security agencies and gun clubs, provided that
26 these are not utilized for the advancement, promotion and/or protection of

1 vested political and/or economic interests of any individual, family, clan or
2 private group.

3 i. *Security Detail* - is a schedule and duty detail of the Armed Forces of
4 the Philippines (AFP) or Philippine National Police (PNP) personnel assigned to
5 provide security to persons and/or property and includes a listing of the type of
6 firearms, with respective serial numbers, that the personnel are authorized to
7 carry in the performance of their mission or duty.

8 j. *Weaponry* - covers all types of weapons which include firearms,
9 explosives, ammunition and other deadly weapons used by private armies or
10 other private armed groups.

11 SEC. 4. *Penalties for Leaders and Members.* - The leaders and members
12 of a private army or private armed group who commit any of the prohibited acts
13 in Section 2, Subparagraphs (a), (d), and (e) of this Act shall suffer the penalty
14 imposed under this Section.

15 Any leader of a private army or a private armed group shall suffer the
16 penalty of imprisonment of not less that six (6) years and one (1) day but not
17 more than twelve (12) years, or a fine of not less that Two hundred thousand
18 pesos (200,000) but not more than One million pesos (P1,000,000); or both such
19 fine and imprisonment, at the discretion of the court: Provided, That if the leader
20 is a public officer, he shall, in addition to the penalty herein imposed, suffer
21 perpetual absolute disqualification from holding public office and be subject to
22 administrative sanctions.

23 If the leadership uses the veil of a juridical person, the responsible officers
24 thereof shall also be punished as leaders. In addition, the registration, license or
25 permit of the corporation, partnership, business enterprise, association, or
26 organization shall be cancelled or revoked.

27 If the leader is an alien, he shall, after serving his penalty, be deported.

1 Protector, financiers or suppliers shall be treated and punished as leaders.

2 Any member of a private army or a private armed group shall suffer the
3 penalty of imprisonment of not less than six (6) months and one (1) day but not
4 more than six (6) years, or a fine of not less than Five thousand pesos (P5,000) but
5 not more than Fifty thousand pesos (P50,000); or both such fine and
6 imprisonment, as the discretion of the court: *Provided*, That if the member is a
7 public officer or government employee, he shall, in addition to the penalty herein
8 imposed, suffer temporary absolute disqualification from holding public office
9 and be subject to administrative sanctions.

10 SEC.5. *Confiscation of Weaponry*. - All weaponry of private armies and
11 other private armed groups shall be confiscated, whether licensed or not, and
12 shall be disposed of under existing policies, particularly for firearms, explosive
13 and ammunition.

14 SEC. 6. *Submission of Security Detail*. - A Security Detail shall be
15 submitted to the Director General of the Philippine National Police (PNP) by all
16 civilians, heads of civilian offices, corporations, organizations, associations and
17 the like, as basis for the legal authority to detail security personnel. The Security
18 Detail shall be kept current and updated from time to time as the need arises.

19 SEC. 7. *Abuse of Security Detail*. - This prohibited act under Section 2,
20 Subparagraph (b) shall include but not be limited to the following:

21 a. excess number of military and/or police personnel as security
22 detail for Very Important Persons (VIP) under existing policies;

23 b. utilization of an allowable security detail for the advancement,
24 promotion and/or protection of vested political and/or economic interests,
25 including criminal or oppressive acts;

26 c. utilization of unauthorized personnel as security detail; or

27 d. formation of so-called civil security units.

1 Those responsible shall be punished with imprisonment of not less than
2 six (6) months and one (1) day nor more than six (6) years, or by a fine of not less
3 than Five thousand pesos (P5,000) nor more than Two hundred thousand pesos
4 (P200,000), or both such fine and imprisonment, at the discretion of the court:
5 *Provided*, That if the offender is a public officer, he shall, in addition to the
6 penalty herein imposed, be subject to the administrative sanctions.

7 **SEC. 8. *Abuse of Firearms Licenses or Permits.*** This prohibited act under
8 Section 2, Subparagraph (c) shall include but not be limited to the following:

- 9 a. violations of existing policies on the ban on the carrying of firearms
10 outside of the residence, issuance of Memorandum Receipts (MR), Mission
11 Orders (MO), duty detail orders, licenses to own and permits to carry firearms;
12 b. unauthorized issuance of MR or MO to carry firearms;
13 c. unauthorized acquisition of firearms by government units; or
14 d. unauthorized importation of firearms which are not registered in
15 accordance with law.

16 Those responsible shall be punished according to Section 4 hereof,
17 without prejudice to liability for illegal possession of firearms and violations of
18 other applicable laws.

19 **SEC. 9. *Paramilitary Forces As Private Armies or Private Armed Groups.***

20 - Paramilitary forces, such as the CAFGUs and CVOs, which are utilized as
21 private armies or private armed groups, or which no longer possess strategic or
22 tactical value in the maintenance and administration of peace and order, shall be
23 dismantled, demobilized or dissolved immediately. Erring personnel shall be
24 dismissed from the service immediately, without prejudice to prosecution for
25 criminal acts or commission of acts prohibited by this Act.

26 **SEC. 10. *Security Agencies as Private Armies.*** - Private security agencies
27 which are utilized as private armies or private armed groups shall be dismantled

1 and disarmed, and their registrations cancelled or revoked. Private security
2 forces shall be regulated against their utilization for the advancement, promotion
3 and/or protection of vested political and/or economic interest, beyond
4 legitimate security needs or the activities prohibited by this Act. No public
5 officials shall own or operate any private security agency. A violation of the
6 latter prohibition shall subject the public officer to administrative sanctions and
7 the security agency to cancellation of its registration.

8 SEC. 11. *Priorities in Dismantling of Private Armies.* - The Department
9 of the Interior and Local Government (DILG), Department of National Defense
10 (DND) and Department of Justice (DOJ) shall prioritize the following in the
11 dismantling of private armies:

- 12 a. large and long-existing private armies;
- 13 b. private armies with government connections;
- 14 c. paramilitary forces and private security forces which are utilized as
15 private armies;
- 16 d. private armies with formidable weaponry, financial and/or
17 logistical resources; and
- 18 e. leaders, protectors, financiers and suppliers of private armies.

19 SEC. 12. *Sanctions on Unit Commanders and Heads.* - Unit commanders
20 or heads of law enforcement units who are negligent in dismantling private
21 armies and other private armed groups in their respective areas of responsibility
22 shall be subject to administrative sanctions.

23 SEC. 13. *Incentives.* The full range of incentives shall be applied in the
24 dismantling of private armies and private armed groups, to include but not
25 limited to the following:

- 26 a. reward and incentives to government witnesses and informants;
- 27 b. immunity from criminal prosecution to government witnesses;

- 1 c. State Witness rule;
- 2 d. Witness Protection program;
- 3 e. non-prosecution for voluntary surrender of weaponry and
4 voluntary disbandment within a specified period;
- 5 f. incentives for the voluntary surrender of firearms as in the "*Balik-*
6 *baril*" program; or
- 7 g. promotions and incentives for meritorious action of law
8 enforcement units.

9 SEC. 14. *Monitoring System.* There shall be set into place a system to
10 monitor the following:

- 11 a. surrendered or confiscated weaponry, financial and/or logistical
12 resources;
- 13 b. deactivated or demobilized members of paramilitary forces;
- 14 c. security details for VIPs; and
- 15 d. licenses and permits pertaining to firearms and explosives
16 including the importation thereof.

17 SEC. 15. *Special Prosecutors.* - The Department of Justice (DOJ), in
18 coordination with the Offices of the State, Provincial and City Prosecutors, shall
19 designate at least two (2) prosecutors in each province and city to handle
20 prosecution of cases for violations of this Act.

21 SEC. 16. *Jurisdiction.* - The Regional Trial Courts shall have original and
22 exclusive jurisdiction over all cases involving offenses punishable under this Act.

23 SEC. 17. *Oversight Committee.* - Within thirty (30) days from the
24 approval of this Act, there shall be formed an Oversight Committee which shall
25 monitor the implementation of this Act. The Oversight Committee shall be
26 composed of the Secretary of the Interior and Local Government as Chairman
27 and the Secretary of the National Defense, the Secretary of Justice, the National

1 Security Adviser, the Director General of the Philippine National Police, the
2 Chief of Staff of the Armed Forces of the Philippine, two (2) members of the
3 Senate to be designated by the Senate President, and two (2) members of the
4 House of Representatives to be designated by the Speaker.

5 SEC. 18. *Implementing Rules and Regulations.* - Within thirty (30) days
6 from the effectivity of this Act, the Departments of the Interior and Local
7 Government, Justice and National Defense in coordination with other agencies of
8 government concerned shall promulgate and issue the necessary Rules and
9 Regulation for the effective implementation of this Act without prejudice,
10 however, to the immediate implementation of the provisions of this Act which
11 do not require any implementing rules and regulations.

12 SEC. 19. *Report to Congress.* - The Oversight Committee shall submit
13 quarterly reports to Congress on the status of the implementation of this Act.

14 SEC. 20. *Appropriations.* - The amount necessary for the dismantling of
15 private armies and other private armed groups shall be charged to the
16 appropriations of the Department of the Interior and Local Government under
17 the current General Appropriations Act. Thereafter, such amount as may be
18 necessary for the continued dismantling of private armies and other private
19 armed groups shall be included in the annual General Appropriations Act.

20 SEC. 21. *Separability Clause.* If for any reason, any section or provision
21 of this Act, or any portion thereof, or the application of such section, provision or
22 portion thereof to any person, group or circumstance is declared invalid or
23 unconstitutional, the remainder of this Act or the application of such provision to
24 other persons, groups or circumstances shall not be affected by such declaration.

25 SEC. 22. *Repealing Clause.* All laws, decrees, executive orders, issuances
26 and rules and regulations which are inconsistent with the provisions of this Act
27 are hereby considered repealed, amended or modified accordingly.

1 SEC. 23. *Effectivity.* This Act shall take effect thirty (30) days after its
2 publication in the *Official Gazette* or in at least two (2) national newspapers of
3 general circulation.

4 Approved,