

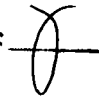
SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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SENATE

S. B. No. 793

RECEIVED BY: 

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**

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.

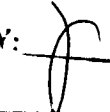


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Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

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

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 other
5 private armed groups not recognized by duly constituted authority shall be dismantled.

6 Towards this end, the following acts are prohibited:

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

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

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

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

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

17 SEC. 3. *Definition of Terms.*

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

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

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

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

16 e. *Membership* - refers to those who directly participate in the activities of
17 private armies and other private armed groups without falling within the definition of
18 leadership, are accomplices or accessories as defined by the Revised Penal Code to the
19 criminal activities thereof, the commission of activities prohibited by this Act, or
20 otherwise give aid and comfort to the leaders and members thereof.

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

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

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

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

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

37 h. *Recognized by Duly Constituted Authority* - means authorized by law, in
38 accordance with law, or operating according to law. This term refers mainly to citizen
39 soldiers or reservists under RA 7077. This definition shall also include duly-registered
40 private security agencies and gun clubs, provided that these are not utilized for the
41 advancement, promotion and/or protection of vested political and/or economic
42 interests of any individual, family, clan or private group.

43 i. *Security Detail* - is a schedule and duty detail of the Armed Forces of the
44 Philippines (AFP) or Philippine National Police (PNP) personnel assigned to provide
45 security to persons and/or property and includes a listing of the type of firearms, with

1 respective serial numbers, that the personnel are authorized to carry in the performance
2 of their mission or duty.

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

6 SEC. 4. *Penalties for Leaders and Members.* - The leaders and members of a
7 private army or private armed group who commit any of the prohibited acts in Section
8 2, Subparagraphs (a), (d), and (e) of this Act shall suffer the penalty imposed under this
9 Section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 a. violations of existing policies on the ban on the carrying of firearms
15 outside of the residence, issuance of Memorandum Receipts (MR), Mission Orders
16 (MO), duty detail orders, licenses to own and permits to carry firearms;

17 b. unauthorized issuance of MR or MO to carry firearms;

18 c. unauthorized acquisition of firearms by government units; or

19 d. unauthorized importation of firearms which are not registered in
20 accordance with law.

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

24 **SEC. 9. *Paramilitary Forces As Private Armies or Private Armed Groups.*** -
25 Paramilitary forces, such as the CAFGUs and CVOs, which are utilized as private
26 armies or private armed groups, or which no longer possess strategic or tactical value in
27 the maintenance and administration of peace and order, shall be dismantled,
28 demobilized or dissolved immediately. Erring personnel shall be dismissed from the
29 service immediately, without prejudice to prosecution for criminal acts or commission
30 of acts prohibited by this Act.

31 **SEC. 10. *Security Agencies as Private Armies.*** - Private security agencies which
32 are utilized as private armies or private armed groups shall be dismantled and
33 disarmed, and their registrations cancelled or revoked. Private security forces shall be
34 regulated against their utilization for the advancement, promotion and/or protection of
35 vested political and/or economic interest, beyond legitimate security needs or the
36 activities prohibited by this Act. No public officials shall own or operate any private
37 security agency. A violation of the latter prohibition shall subject the public officer to
38 administrative sanctions and the security agency to cancellation of its registration.

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

43 a. large and long-existing private armies;

- 1 b. private armies with government connections;
- 2 c. paramilitary forces and private security forces which are utilized as
3 private armies;
- 4 d. private armies with formidable weaponry, financial and/or logistical
5 resources; and
- 6 e. leaders, protectors, financiers and suppliers of private armies.

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

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

- 14 a. reward and incentives to government witnesses and informants;
- 15 b. immunity from criminal prosecution to government witnesses;
- 16 c. State Witness rule;
- 17 d. Witness Protection program;
- 18 e. non-prosecution for voluntary surrender of weaponry and voluntary
19 disbandment within a specified period;
- 20 f. incentives for the voluntary surrender of firearms as in the "*Balik-baril*"
21 program; or
- 22 g. promotions and incentives for meritorious action of law enforcement
23 units.

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

- 26 a. surrendered or confiscated weaponry, financial and/or logistical
27 resources;
- 28 b. deactivated or demobilized members of paramilitary forces;
- 29 c. security details for VIPs; and
- 30 d. licenses and permits pertaining to firearms and explosives including the
31 importation thereof.

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

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

1 SEC. 17. *Oversight Committee.* - Within thirty (30) days from the approval of
2 this Act, there shall be formed an Oversight Committee which shall monitor the
3 implementation of this Act. The Oversight Committee shall be composed of the
4 Secretary of the Interior and Local Government as Chairman and the Secretary of the
5 National Defense, the Secretary of Justice, the National Security Adviser, the Director
6 General of the Philippine National Police, the Chief of Staff of the Armed Forces of the
7 Philippine, two (2) members of the Senate to be designated by the Senate President, and
8 two (2) members of the House of Representatives to be designated by the Speaker.

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

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

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

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

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

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

35 *Approved,*