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**Anti-Terrorism Bills:  
Silencing Community Voices**

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All publications of LRC-KsK are dedicated to the countless committed individuals and communities who struggle everyday for a more dignified existence. They are the primary source of our insights and inspiration.

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## **Anti-Terrorism Bills: Silencing Community Voices (Comments on the Anti-Terrorism Bills)**

by

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## INTRODUCTION

Recent events- the September 11 attack, the LRT and the Davao airport bombings, characterized as terrorist attacks have understandably caused fear in our society. To address the dangers of terrorism, several anti-terrorism bills have been filed in both the Senate and House of Representatives.

The most pervasive problem which can be seen from such efforts is the shared framework that curtailment of constitutionally protected rights is inevitable in the pursuit of security measures. This situation is made dangerous by the Anti-Terrorism stance of the government. With this stance of the government, it is not farfetched that any person, whether engaged in a lawful activity or not may be labeled as a terrorist and punished as such under the filed Anti-terrorism bills.

This critique takes into consideration SB 2540 submitted jointly by the Committee on Public Order and Illegal Drugs; Justice and Human Rights; and Finance sponsored by Senators Barbers, Pangilinan, Villar Jr., Lacson, Magsaysay, Jr., Osmeña III and De Castro, and HB 5923 submitted by the Committee on Justice sponsored by Representatives Libanan, Marcos, Durano, Syjuco, Barbers and Biazon.

## COMMENTS

First, the two bills are vague in their definitions of crucial terms such as "terrorism," and "act/s of terrorism" to wit:

SB 2540

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 of 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 of a sum of money as ransom, or in order for than 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, 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 (Php 10,000,000.00) shall be imposed.

HB 5923

Sec. 3. Terrorism, How committed. - Terrorism is committed when any person or group of persons uses, or threatens to use violence principally directed against civilians or non-combatant persons, or causes damage or destruction against properties with the intent or creating a common danger, terror, panic or chaos to the public of a segment thereof.

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

1) Threatening or causing death or serious bodily harm to a person or persons, or deprivation of liberty, or to cause a serious risk to the health or safety or the public or any segment thereof;

2) Threatening to cause substantial damage or actually causing damage to infrastructure or property, public or private;

3) Threatening to cause serious interference with, or actually causing disruption or a public transport or utility or an essential service facility or system, whether public or private, except in the furtherance of a legitimate protest, grievance or advocacy;

4) Manufacture, possession, acquisition, transport, supply, use or sale of explosives, biological agent, chemical agent, nuclear weapon, materials, or equipment and instruments;

5) Attacking or threatening to attack, or committing any other unlawful acts against networks, servers, computers and other information and communication systems;

6) Willful destruction of natural resources, such as forest and marine resources, oil spillage, and other similar acts of destruction of the environment that threatens ecological security;

7) Killing of, or violent attack upon an internationally protected person or upon the liberty of such person in violation of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on February, 1974 and other international agreements.

In the first place, although Congress does have the power to define and punish crimes,<sup>3</sup> there are limitations on such power. The Bill of Rights imposes the following limitations, among others:

<sup>3</sup> People vs. Santiago, 43 Phil. 120, 124 (1922)

*Article III, Section 1.* No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

*Article III, Section 14.* (1) No person shall be held to answer for a criminal offense without due process of law.

*Article III, Section 22.* No ex post facto law or bill of attainder shall be enacted.

The due process clause guarantees against the State's exercise of arbitrary power. To justify the state in interposing its authority in behalf of the public, it must appear, first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and, second, that the *means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon the individuals.*<sup>4</sup>

The second article guarantees that the accused in a criminal charge be *informed as to why he is proceeded against and what charge he has to meet*, with his conviction being made to rest on evidence that is not tainted with falsity after full opportunity for him to rebut it and the sentence being imposed in accordance with a valid law.<sup>5</sup>

<sup>4</sup> U.S. vs. Toribio, 15 Phil 85 (1905)

<sup>5</sup> Nuñez vs. Sandiganbayan, 111 SCRA 433, 452 (1982)

The third article prohibits the passage of retroactive laws prejudicial to the accused and those which would inflict punishment without judicial trial.

Even an initial reading of the subject bills would yield the conclusion that these limitations have been ignored. It is clear that the bills violate the due process clause. Indeed, due process requires that a criminal law must not be so vague and uncertain that "men of common intelligence must necessarily guess at its meaning and differ as to its application."<sup>6</sup> This is known as the *void-for-vagueness doctrine*. To avoid being unduly vague and therefore unconstitutional, a statute must be definite, certain, and give fair warning regarding (1) the class of persons who fall within its scope, (2) the conduct that is forbidden, and (3) the authorized punishment.

The aforequoted provisions fail to meet these standards. They do not effectively distinguish/delineate between acts they aim to characterize as "acts of terrorism" and other acts already characterized otherwise. For example, rebellion could be indistinguishable from the acts described in these bills and yet there exists a distinction between rebellion and terrorism. Indeed, how one is to distinguish between rebellion in pursuit of a firmly held political belief and terrorism is

<sup>6</sup> Connolly v. General Construction Co., 269 U.S. 385, 391 (1926)

problematic. This distinction is important since the penalties for terrorism is graver than rebellion. Terrorism is punished with life imprisonment to death whereas rebellion is punished with reclusion perpetua. Other politically motivated crimes such as coup d'etat and sedition have different penalties as well, reclusion perpetua and prison mayor, respectively. Another example is a situation where a demonstrator, in the heat of the moment, starts using a steel pipe to break car windows. Although this is not to be condoned, it undoubtedly cannot be characterized as terrorism. The serious violence and destruction which would characterize terrorism is undeniably absent.

The acts of terrorism enumerated already fall in the Revised Penal Code and other special laws.

CRIME	SB 2540	HB 5923
Acts Inimical to Civil Aviation (RA 6235); Special Cases of Malicious Mischief, Art. 328 (RPC)	Sec. 3 (1)	Sec. 3 (3)
Art. 286 Grave Coercions (RPC), Art. 267 Kidnapping	Sec. 3 (2)	
Arts. 263-266 Physical Injuries, Art. 248 Murder, Art. 249 Homicide (RPC)	Sec. 3 (3)	Sec. 3 (1)
Special Cases of Malicious Mischief, Art. 328 (RPC)	Sec. 3 (5)	Sec. 3 (3)
Malicious Mischief, Art. 327(RPC); Forestry Code (PD 705); Illegal Fishing Act (RA 8550)	Sec. 3 (6)	Sec. 3 (2 & 6)
Illegal Manufacture of Firearm (PD 1866); Arson, Art. 320 (RPC) & PD 1613	Sec. 3 (7 & 8)	Sec. 3 (4)
Damage and Obstruction to means of communication, Art. 330 (RPC)		Sec. 3 (5)



The distinguishing element from other crimes in both bills is the intention of creating a common danger, terror, panic or chaos to the public of a segment thereof.<sup>7</sup> The Senate version added the intention of coercing or intimidating the public or government.<sup>8</sup> Such an all encompassing definition would lead to a chilling effect over the legitimate exercise of one's right. A legitimate strike or expression of dissent with the government could be construed as coercing or intimidating the government.

Going back to the previous example where a demonstrator starts breaking a car window, he or she could be held liable for terrorism under Sec 3(6) of SB 2540 "causing serious damage to property" when coupled with the so called intent to create terror or panic to the public. It should be noted however, that the act of breaking the car is one of violence which is punishable under our existing laws. Intent is difficult to prove and once an act causes actual panic and chaos to the public, it could be easily inferred. In the demonstrator's situation, he could then be punished for committing an act of terrorism thereby punishing him with an afflictive penalty.

One wonders then, will all acts of violence such as physical injuries or damage to property during a strike which would undoubtedly cause panic when

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<sup>7</sup> Sec. 3, HB 5923

<sup>8</sup> Sec. 3, SB 2540

committed in public be punished as terrorism? How about a peaceful assembly, this right granted by no less than the Constitution, which would suddenly get out of control and cause pandemonium? Or an expression of dissent with the government embodied in a newspaper article? The list goes on and on.

Also important to note is the fact that the crime as defined covers not just the actual act but the threat to act as well. Coupled with the "intent" to create panic to the public or to coerce the government, this could provide room for abuse and the prosecution of an otherwise legal act such as strongly criticizing government officials because one disagrees with their policies.

Internationally, there is a difficulty in arriving at a consensus as to the definition of acts which could be classified as terrorism. In fact, the UN has yet to come up with a convention which would deal specifically with this crime. At present, there are 12 major multilateral conventions and protocols related to states' responsibilities for combating terrorism.<sup>9</sup>

These are the Convention on Offences and Certain Other Acts Committed On Board Aircraft, Convention for the Suppression of Unlawful Seizure of Aircraft, Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Convention on the Prevention and Punishment of Crimes Against Internationally

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<sup>9</sup> [http://www.unodc.org/unodc/en/terrorism\\_conventions.html](http://www.unodc.org/unodc/en/terrorism_conventions.html)

Protected Persons, International Convention Against the Taking of Hostages, Convention on the Physical Protection of Nuclear Material, Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, Convention on the Marking of Plastic Explosives for the Purpose of Detection, International Convention for the Suppression of Terrorist Bombing, International Convention for the Suppression of the Financing of Terrorism.

In addition to these treaties, other instruments may be relevant to particular circumstances, such as bilateral extradition treaties, the 1961 Vienna Convention on Diplomatic Relations, and the 1963 Vienna Convention on Consular Relations. Moreover, there are now a number of important UN Security Council and General Assembly Resolutions on international terrorism such as Resolution 1373 adopted by the Security Council in 2001 which calls for suppressing financing of terrorism and improving international cooperation.

The Convention for the Suppression of the Financing of Terrorism likewise states that terrorism includes "an act intended to cause death or bodily

injury to a civilian, or to any person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature and context, is to intimidate a population or to compel a government or an international organization to do or to abstain from doing any act."

It is important to note however that the UN has declared that the human rights embodied in various international instruments should limit the efforts to combat terrorism and such rights should not be violated. The Philippines has not adopted the conventions and protocols relating to terrorism. This notwithstanding, the Philippines still has to recognize the human rights of its citizens. By virtue of Art. II, Sec. 2 (incorporation clause) and Art. VII, Sec. 21 (the treaty clause) of the 1987 Constitution, the Philippines has adopted the international instruments on human rights, namely the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights as part of the law of the land. These instruments together with the Bill of Rights circumscribe whatever efforts the government would pursue to combat terrorism. It is clear however that the bills in question violate the rights recognized in these instruments such as the right to freedom of thought, conscience and religion, the right to be recognized everywhere as a person, the right to be free from torture and from cruel, degrading and inhuman treatment, the right not to be deprived of life arbitrarily, and the right to freedom of expression,



freedom of assembly and freedom of association,<sup>10</sup> to name a few.

The overbroad and vague definitions would lead to a chilling effect over otherwise protected acts of the people. The fear of being punished or even labeled as a terrorist under the said bills would effectively silence the people in expressing their opposition to the policies or acts of the government. The freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances will be abridged. Protesters and advocate groups would perpetually be in danger. Communities opposing projects of the government will be deprived of their right to confrontation. Scholars, professors and students alike would be unable to engage in academic discourses. The media would be divested of their freedom to criticize acts of the state. All of these because of the possibility of arrest and detention for creating fear, chaos or intimidating the government.

More importantly, even acts which are not geared towards opposing the government could be misconstrued as terrorism. The breaking of one's front door which would create fear in the minds of the public is a terrorist act. Accidentally setting on fire one's house, naturally causing chaos in the public, is a terrorist act.

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<sup>10</sup> J.M. I. Diokno, *Human Rights Law and Terrorism*

It is important likewise to read these provisions in the context of the penalties imposed by the bills. Considering that they impose afflictive penalties and stiff fines, it is all the more necessary to be circumspect in defining the acts that constitute the crime.

Moreover, almost all the other provisions in the bills are dependent on these definitions. Hence, the vagueness or ambiguity of key provisions and concepts certainly has serious implications. For example, the bills provide for the crimes of "conspiracy or proposal to commit terrorism" and "financing of terrorist activities."

#### SB 2540

Sec. 4. Conspiracy to Commit Acts of Terrorism. - There is a conspiracy to commit terrorism when two or more persons come to an agreement to commit any act of terrorism as defined in Section 3 of this act.

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 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;

**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 or ten million pesos (Php 10,000,000.00).

(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 (Php 5,000,000.00).

**Sec. 7. Harboring or Concealing.** - Any person who harbors or conceals any person whom he/she know, 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 (Php 5,000,000.00).

**Sec. 4. Conspiracy or Proposal to Commit Terrorism.** - There is a conspiracy to commit terrorism when two or more persons come to an agreement to commit any act of terrorism as defined herein and decide to commit it.

There is a proposal to commit terrorism when a person who has decided to commit any act of terrorism as defined herein, proposes its execution to some other person or persons.

**Sec. 5. Materially Supporting or Financing of Terrorism.**

a) It shall be unlawful for any person, group, organization or entity to freely and knowingly provide properties or finances, or possess them for the commission of terrorism as herein defined or facilitates in any way the provision or possession of such properties or finances.

b) It shall be unlawful for any person to freely and knowingly solicit or invite financial contribution or other support for the commission of terrorism as defined herein.

Take Sec. 5 of SB 2540 for example. It punishes any person who establishes or maintains or serves as a contact or link with any person or persons that are "known to have pursued or are pursuing terrorist activities". Does it refer to persons found guilty of terrorism or merely those suspected of the crime? Who or what agency will determine who these people will be? If as mentioned, the

act of a demonstrator breaking a car window can be considered an act of terrorism, it follows then that all persons participating in the strike are guilty of terrorism as well. How about the organizations that have assisted in arranging the strike? Having indirectly participated in the strike, they are hence guilty as well.

Sec. 7 of SB 2540 punishes a person who harbors a person whom he or she knows or *has probable cause to believe* to be a person who has carried out or *is likely to carry out* terrorist activity. It allows a person to be penalized by mere association with a suspected terrorist. This provision is absurd in that it literally requires everyone to be able to read another person's thought. How would one believe with probable cause that a person is likely to carry out a terrorist activity?

In sum, the key provisions which define the acts and omissions to be punished are vague and ambiguous that the people as well as the government authorities who would execute these provisions would have to guess its meaning and decide on their own what acts are punishable.

"When I see it, I'll know it!" What a frightening phrase especially when uttered by the police or military. Who is to forget the practices of the military when the Anti-Subversion Law was still good law? Even innocent people suspected of subversion or of being a member of the Communist

Party of the Philippines have been harassed and violated. Numerous people have been invited for questioning or arrested because of the government's haste in labeling them as communists. This law has already been repealed. Now here comes the anti-terrorism law.

After the September 11 attack and the US campaign against terrorism, the government has been just as hasty in labeling some legitimate forums of dissent as terrorists. Even at this time when there is no law defining terrorism, the government has waged war against the "terrorists" in Mindanao and in the process inadvertently hurting and displacing the communities therein. There have been reports of Muslims being invited for questioning in the middle of the night after several bombing incidents in the country. With this paranoid standpoint of the government, the passage of a law which includes legitimate acts under the definition of terrorism will all the more result in an increase in random arrests, hasty labeling and wiretappings.

How can one be so sure that in adding the new crime of terrorism, the State can likewise deter the perpetration of such crime? Maybe it would just be another opportunity for abuse of power and violation of human rights but with no effective curtailment of the act sought to be prevented.

Second, it unduly expands the powers of peace officers under the Anti-Wire Tapping Law. Both bills have provided that the acts of terrorism shall be likewise included under the provisions of RA 4200 (Anti-Wire

Tapping Law). This law allows any peace officer to tap any wire or cable and record private communications when authorized by a written order of the Court in certain crimes after there has been a finding that there are reasonable grounds to believe that any of the crimes enumerated has been committed or is being committed or is about to be committed.<sup>11</sup> However, in cases involving rebellion, conspiracy and proposal to commit rebellion, inciting to rebellion, sedition, conspiracy to commit sedition, and inciting to sedition, such authority shall be granted only upon prior proof that a rebellion or acts of sedition have actually been or are being committed.

Will the crime of terrorism then fall in the first group or in the second group of crimes? The bills do not provide the answer. If it falls under the first group, any invasion of one's privacy can be easily justified under the Anti-Wire Tapping Law. Even if terrorism does fall under the exception that an act has actually been committed or are being committed, an authorization from the court can be easily obtained since a mere threat to act is already a consummated act of terrorism.

Third, the applicability of the Anti-Money Laundering Act will give rise to potential abuses.

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<sup>11</sup> Section 3, RA 4200 (1965)

Sec. 14 of SB 2540 and Sec. 6 of HB 5923 provide that deposits or investments with any banking institution or non-bank institution may be inquired into or examined without prior court order pursuant to RA 9160, as amended by RA 9194, the Anti-Money Laundering Act. The overly broad definitions of terrorism and acts of terrorism taken with the provisions which criminalize participation, materially supporting or financing said acts, almost all deposits and investments may be examined without prior court order which would be an undue expansion of the authority of government.

Sec 5 of SB 2540 punishes any person who, directly or indirectly participates in any activity intended to facilitate or carry out acts of terrorism thru establishing or serving as contact or link with any person or persons that are "known to have pursued or are pursuing terrorist activities". Will the deposits of all persons and organizations then dealing with such a "suspected" terrorist be subject to examination without prior court order? Moreover, once mistakenly labeled as a terrorist, a person's savings account will be continuously subject to scrutiny. Probable cause then can be easily established and it would be easy for the authorities to apply for a freeze order.

Fourth, the provisions on the rule making authority of the Anti-Terrorism Council may constitute an undue delegation of powers considering that there appear to be no standards to guide the Council. The statute making the delegation must be (a) complete in itself - it must set forth therein the policy to be carried out or implemented

" by the delegate and (b) fix a standard - the limits of which are sufficiently determinate or determinable - to which the delegate must conform.<sup>12</sup>

To be valid, the delegation itself must be circumscribed by legislative restrictions, not a "roving commission" that will give the delegate unlimited legislative authority. It must not be a delegation "running riot" and "not canalized within banks that keep it from overflowing." Otherwise, the delegation is in legal effect an abdication of legislative authority, a total surrender by the legislature of its prerogatives in favor of the delegate.<sup>13</sup>

SB 2540 and HB 5923 grant to the Council the power to promulgate Rules and Regulations for the implementation of the Act. In addition, SB 2540 grants the power to formulate and come up with a comprehensive and effective anti-terrorism plan and program to deter and prevent acts of terrorism.<sup>14</sup> The same bill authorizes the Council to direct the conduct of anti-terrorism and counter-terrorism measures and post-conflict actions to address the effects of terrorism.

Aside from the declared policy of the State to protect the lives of the people from any type of

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<sup>12</sup> Pelaez vs. Auditor General, 15 SCRA 569, 576 (1965)

<sup>13</sup> PAL vs. Civil Aeronautics Board, 270 SCRA 538, 553 (1997) citing Cruz, Philippine Political Law, 1996, p. 97

<sup>14</sup> Sec. 19, SB 2540

terrorism,<sup>15</sup> unfortunately, the two bills lack the standards necessary to circumscribe the delegated power of legislation. The Senate version of the bill provides that the countermeasures shall be adopted with due regard to and respect for the rights and freedoms of the people guaranteed under the Constitution. Although this provision is to be commended, the standards as a whole are still insufficient considering that the key provisions and framework, the Act sought to be implemented is problematic in itself.

After the passage of the anti-terrorism law in the United States, the USA PATRIOT Act, numerous objections have arisen from the citizens therein. One of the greatest objections is its undermining the protection of their Bill of Rights and that almost all people are suspect of the crime of terrorism and can be subjected to surveillance at any time.

The specific objections therein include the overly broad crime of domestic terrorism which literally makes all citizens a suspect of terrorism. The Act likewise increases the surveillance, search and arrest powers of the law enforcement officers even without judicial determination of probable cause. Even student records can be accessed without the individual knowing that he or she is a suspected terrorist. Non-citizens are in danger of being deported at any time by merely associating with a suspected organization. There have been numerous instances when aliens have been arrested, questioned

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<sup>15</sup> Sec. 2, SB 2540 and Sec.2, HB 5923

without counsel and detained for an indefinite period. Also, citizens will be deported or stripped of their citizenship if found guilty under the Act. A mere expression of dissent can be considered an act of terrorism.<sup>16</sup>

The Anti-Terrorism Council, without the necessary standards to limit its exercise of power, can very well include in its rules and regulations greater powers with the justification that it is necessary to implement the law. Will the Philippine police soon have the power to conduct secret searches and arrests and detention without judicial determination of guilt? Will they be able to listen and record private conversations? Will all pertinent records now be subject to inspection without the suspect ever knowing he or she was under surveillance? Will citizens found guilty be likewise stripped of their Filipino citizenship and deported?

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<sup>16</sup> B. Anderson and W. Rossiter, *Backward March! The USA Patriot Act and the Bill Of Rights*, <http://www.aclumontana.org>; *How the USA-Patriot Act Allows for Detention and Deportation of People Engaging in Innocent Associational Activity*, <http://archive.aclu.org>, L.R. Katz, *Anti-Terrorism Laws: Too Much of a Good Thing*, <http://jurist.law.pitt.edu/forum/forumnew39>

Fifth, the provision on warrantless arrests in SB 2540 needs to be highlighted.

Sec. 9 of SB 2540 provides that in cases of warrantless arrests, the person arrested may be detained for an inquest period of not more than 15 working days following his/her arrest. This provision in effect, extends the maximum number of hours a suspect can be held without a warrant and without a case being filed against him. Art. 215 of the Revised Penal Code already provides that the maximum period for crimes with afflictive penalties is 36 hours.

Rule 113 Sec. 7 further provides that in cases when the accused is lawfully arrested without a warrant, the information or complaint may be filed without a preliminary investigation provided an inquest has been conducted informally and summarily.<sup>17</sup> The information or complaint must still be filed within the period specified in Art. 125 of the Revised Penal Code. Before filing of the information, the accused may ask for a preliminary investigation by *signing a waiver of the provisions of said Art 125 in the presence of counsel*. This is the only situation allowed by law wherein the maximum number of hours can be extended. The Rules of Court mandates that a signed waiver in the presence of the counsel of the accused is necessary before the accused may be held beyond the maximum period required by the Revised Penal Code. This requires that the waiver must be made

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<sup>17</sup> DOJ Circular No. 5 - 1989, Prescribing a Uniform Procedure for the Disposition of Inquest Cases



freely, knowingly and voluntarily by the accused. By allowing the extension of said period to 15 days without the consent of the accused amounts to a clear derogation of the rights of an accused to due process and speedy trial.

This situation is made worse because the period of detention may be extended beyond 15 days under Section 9 of SB 2540 if the person arrested without a warrant demands for a preliminary investigation. This then doubles the maximum period for detention of a person lawfully arrested without a warrant which is allowed under the present Rules of Court.

There is absolutely no reason for extending the number of hours of detention in such cases just because the person under custody is suspected of terrorism. Indeed, there should be no cause for worry in building a case considering the situations where warrantless arrests are allowed. This provision definitely could be subject to abuse and unduly expands an exception to the rule when such exceptions should be strictly construed and are in fact subject to scrutiny.

Sixth, Sec. 12 of SB 2540 would be prejudicial to the person accused of terrorism.

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. xxx xxx xxx

If enacted, the crime of terrorism would be defined and penalized under a special law. Prosecution under this would not bar a prosecution of any act penalized under the Revised Penal Code which is not included in the crime of terrorism. Multiple cases could be filed at the same time just to pester the accused. Considering that even an innocent act can be considered an act of terrorism, the above-quoted provision would provide an opportunity for abuse. Public officials and private individuals alike could use this provision to harass a "suspected" terrorist.

## CONCLUSION

As is usually the case, government has adopted a problematic framework in its approach to the perceived crisis. The bills share the framework that in cases which involve issues of security, civil liberties have to be sacrificed. Public officials frequently curtail civil liberties without ever actually analyzing whether such liberties in fact pose an impediment to security. Hence, the efforts in these bills to secure additional powers to the detriment of constitutionally protected rights.

Would the current bills really be able to effectively contribute to the efforts to address terrorism? Do they grant powers which ensure greater safety from terrorism? Are we willing to provide even more opportunities for abuse and the infringement of rights considering the reality of law enforcement in our country? Is a separate law for terrorism necessary considering the fact that a crucial aspect, the definition of the crime itself, is a problematic matter? Indeed, it appears Government may be asking the wrong questions.

Sacrificing civil liberties in the name of real or perceived developments in national security should not be the proposed solution when there are several options available to improve security and which do not infringe on constitutionally protected rights.

Perhaps then it is not a question of additional powers but the more efficient and effective use of existing powers and procedures. Yet these bills, notwithstanding statements to the contrary, do not appear to seek to address with a great deal of particularity specific gaps in our existing criminal laws and procedures but rather have a tendency to sweep more broadly.

While we recognize the need to address the problem of terrorism actively, we believe that this can be effectively done within the framework of respect for human rights.

No less than the UN has highlighted that States, in combating terrorism, must be aware of the responsibilities placed upon them by the instruments on human rights and not derogate from their provisions.

Quoting the UN Secretary General: "While we certainly need vigilance to prevent acts of terrorism, and firmness in condemning and punishing them, it will be self-defeating if we sacrifice other key priorities — such as human rights — in the process."

Considering the foregoing, dealing with terrorism is not a matter of simply reviewing these bills and perhaps amending certain provisions to address concerns brought out but rather a review of the very approach to the problem and a definition of what the problem actually is and where the problem really lies.

Introduced by Hon. Marcos, Libanan, Monfort, Biazon, Durano, Umali Jr., Uy (R.), Syjuco, Barbers, Calaly, Echiverri, Nograles, Antonino-Custodio, Chipeco, Chatto, Banaag, Espino, Ylagan, del Mar, Soon-Ruiz and Puentevella

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**AN ACT DEFINING TERRORISM, PROVIDING PENALTIES THEREFOR,  
AND FOR OTHER PURPOSES**

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

**SECTION 1. *Short Title.*** - This Act shall be known as the "Anti-Terrorism Act of 2003."

**SEC.2. *Declaration of Policy.***- It is hereby declared the policy of the State to safeguard and protect lives and properties against all forms of terrorist activities and to strongly condemn terrorism as a crime against the law of nations and humanity. While continuing to respect and promote the values, rights and freedoms enshrined in the Philippine Constitution, the State shall take all the necessary measures to prevent, fight and penalize terrorism in all its guises, both locally and internationally. Consistent with its foreign policy, the State shall extend cooperation and undertake mutual assistance with other States and international organizations in the investigation and prosecution of persons involved in terrorist activities.

**SEC. 3. *Terrorism, How Committed.*** - Terrorism is committed when any person or group of persons uses, or threatens to use violence principally directed against civilians or non-combatant persons, or

causes damage or destructions against properties with the intent of creating a common danger, terror, panic, or chaos to the public or a segment thereof.

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

- 1) Threatening or causing death or serious bodily harm to a person or persons, or deprivation of liberty, or to cause a serious risk to the health or safety of the public or any segment thereof;
- 2) Threatening to cause substantial damage or actually causing damage to infrastructure or property, public or private;
- 3) Threatening to cause serious interference with, or actually causing disruption of a public transport or utility or an essential service, facility or system, whether public or private, except in the furtherance of a legitimate protest, grievance or advocacy;
- 4) Manufacture, possession, acquisition, transport, supply, use or sale of explosives, biological agent, chemical agent, nuclear weapon, materials, or equipment and instruments;
- 5) Attacking or threatening to attack, or committing any other unlawful acts against networks, servers, computers, and other information and communications systems;
- 6) Willful destruction of natural resources, such as forest and marine resources, oil spillage, and other similar acts of destruction of the environment that threatens ecological security;
- 7) Killing of, or violent attack upon, an internationally protected person or upon the liberty of such person in violation of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected persons, including Diplomatic Agents,

adopted by the general Assembly of the United Nations on February, 1974 and other international agreements;

**SEC. 4. *Conspiracy or Proposal to Commit Terrorism.*** - There is a conspiracy to commit terrorism when two or more persons come to an agreement to commit any act of terrorism as defined herein and decide to commit it.

There is proposal to commit terrorism when a person, who has decided to commit any act of terrorism as defined herein, proposes its execution to some other person or persons.

**SEC. 5. *Materially Supporting or Financing of Terrorism.*** -

- a) It shall be unlawful for any person, group, organization or entity to freely and knowingly provide properties or finances, or possess them for the commission of terrorism as herein defined or facilitates in any way the provision or possession of such properties or finances.
- b) It shall be unlawful for any person to freely and knowingly solicit or invite financial contribution or other support for the commission of terrorism as defined herein.

**SEC. 6. *Applicability of Republic Act (R.A.) No. 9160, as amended.*** -

Terrorism as defined and punished under this Act shall be considered an unlawful activity under R.A. No. 9160, otherwise known as the Anti-Money Laundering Act, as amended by R.A. No. 9194. For this purpose, all matters involving monetary instruments or property used or intended to be used for terrorist activities shall be subject to the 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 for violation of Sections 3, 4 and 5 of this Act, pursuant to RA 9160, as amended.

**SEC. 7. *Applicability of Republic Act (R.A.) No. 4200 to offenses punishable under this Act.*** - The provisions of R.A. 4200 otherwise known as the Anti-Wire Tapping Act shall be expanded to include all offenses punishable under this Act.

**SEC. 8. *Jurisdiction over Cases Involving Terrorism and Terrorist Activities.*** - The Regional Trial Court or the Sandiganbayan as the case may be shall have jurisdiction to try all cases involving terrorism or terrorist activity.

No court shall issue a temporary restraining order or writ of injunction against any order issued pursuant to this Act except the Court of Appeals or the Supreme Court.

Any person may be charged with or convicted of acts of terrorism without prejudice to the prosecution of any act or acts penalized under the Revised Penal Code or other existing laws.

**SEC. 9. *Bail.*** - For offenses covered by this Act, all applications for bail shall be subject to the provisions of the Rules of Court: *Provided*, That when a person, who is in custody and not yet charged, applies for bail, the arresting officer or prosecutor before whom a complaint for terrorism is filed shall give notice of the application and the opportunity to be heard before any order denying or granting the same is issued by a court.

**SEC. 10. *Provisional Remedies.*** - Upon the filing of the information for the crime of terrorism, a regional trial court may, upon verified motion of any appropriate agency, issue temporary restraining orders, writs of injunction, writs 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, alleged to be utilized in terrorist activity to prevent the same from being removed, concealed, dissipated, destroyed, disseminated, activated, transferred, assigned, or otherwise disposed of during the pendency of the criminal proceedings.

**SEC. 11. *Local and International Sharing of Information.* - Any investigative**

or law enforcement officer or prosecutor who has obtained knowledge or information of a terrorist activity shall disclose or share such information with any other investigative, law enforcement, intelligence, finance, immigration, national defense, or national security official to the extent that such information will assist the recipient in the performance of his official duties.

Failure to share such information without justifiable reasons shall subject the officer or prosecutor concerned to the penalty prescribed in Section 16 (e) of this Act.

The head of an investigative, law enforcement, intelligence, finance, immigration, national defense, or national security agency may further share any knowledge or information regarding a terrorist activity with his foreign counterpart only to the extent that such information includes foreign intelligence or information whenever such sharing will assist the recipient in the performance of his official duties.

**SEC. 12. *Multilateral Assistance with Foreign States.* -**

**a) Request for Assistance from Foreign State. - Where any foreign State**

makes a request for assistance concerning terrorism as herein defined or the financing of terrorism and terrorist activities, the appropriate government agencies may execute the request: *Provided*, That the execution of the request does not contravene the Constitution or is unlikely to prejudice the national interest of the Philippines.

In case the Philippines refuses or delays the execution of the request for assistance, it must inform the foreign State of any valid reason for such refusal or delay.

**b) Obtaining Assistance from Foreign States. - The appropriate government**

agency may make a request to any foreign State for a assistance: *Provided*, That the documents accompanying the request in support of the application have been authenticated in accordance with the applicable law of a foreign State.

**SEC. 13. *Witness Protection; Reporting Leading to Arrest and Conviction of Terrorists.* - Any person who provides material information, whether testimonial or documentary, necessary for the investigation or prosecution of individual or group or organization of individuals accused of committing any of the offenses under this Act shall be entitled to the protection and subject to the obligation imposed under the Witness protection Program pursuant to Republic Act No. 6981.**

**SEC. 14. *Malicious Reporting and Harassment.* - Any person who, with malice, or in bad faith, reports or files a completely unwarranted o false information relative to this Act, or with the intention to harass any person shall suffer the penalty imposed in Section 16 (d) of this Act.**

**SEC. 15. *Creation of Anti-Terrorism Council.* - An Anti-Terrorism Council, hereinafter referred to as the "Council", is hereby created, composed of the Secretary of the Justice, as Chairman, and the Secretary of National Defense, the Secretary of the Interior and Local Government, the Secretary of Foreign Affairs and the Director General of**

the National Security Council, as members, to coordinate, supervise, and monitor the effort of the entire government against domestic and international terrorism. The Council shall be under the direct supervision and control of the President of the Philippines.

The Department of Justice shall provide the support staff and secretariat of the Council. Any additional personnel needed by the Council in performing its tasks shall be drawn from the Department of Foreign Affairs, Department of National Defense, and Department of the Interior and Local Government and Department of the Interior Government and shall be temporarily assigned to the Council without any additional compensation, allowance or any other form of emoluments.

#### **SEC. 16. Penal Provisions. -**

a) **Penalties for Acts of Terrorism. -** The penalty of life imprisonment and a fine of Ten Million Pesos (Php10,000,000.00) shall be imposed upon any person or group of persons convicted under Section 3 of this Act.

b) **Penalty for Conspiracy or Proposal to Commit Terrorism. -** The penalty of imprisonment of not less than six (6) years but not more than twelve (12) years shall be imposed upon any person or group of persons convicted under Section 4 of this Act.

c) **Penalties for Materially Supporting or Financing of Terrorism. -** The penalty of life imprisonment shall be imposed upon any person convicted under Section 5 (a) of this Act.

The penalty of imprisonment of not less than eight (8) years but not more fourteen (14) years shall be imposed upon any person convicted under Section 5 (b) of this Act.

d) **Penalties for Malicious Reporting and Harassment .**

- The penalty of two (2) years imprisonment and a fine of not less than Two hundred thousand pesos (Php 500,000.00) shall be imposed upon any person convicted under Section 14 of this Act.

e) **Penalties for Violations of other Provisions of this Act. -** The penalty of not

less than six (6) months but not more than one (1) year and a fine of not less than Twenty Five Thousand Pesos (Php 25,000.00) but not more than Fifty Thousand Pesos (Php 50,000.00) shall be imposed upon any person convicted of the offense involving violation of any other provisions of this Act.

#### **SEC. 19. Suppletory Effect of the Revised Penal Code.**

- The Revised Penal Code shall have a suppletory effect to the provisions of this Act.

#### **SEC. 20. Implementing Rules. -** The Anti-Terrorism Council shall promulgate

within sixty (60) working days from the effectivity of this Act, Rules and Regulations as may be necessary to ensure the efficient and the effective implementation of the provisions of this Act.

**SEC. 21. Separability Clause. -** If any or provision of this Act is declared unconstitutional or invalid, the other portions or provisions hereof, which are not affected thereby, shall continue in full force or effect.



**SEC. 22. *Repealing Clauses.*** - Republic Act. No. 9160 as amended by Republic Act No. 9194 and Republic Act No. 4200 are hereby amended or modified accordingly.

All other laws, decrees, executive order, or rules and regulations inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

**SEC. 23. *Effectivity Clause.*** - This Act shall take effect fifteen (15) days after its publication in two newspapers of general circulation.

Approved,

S. No. 2540

(In substitution of S. Nos. 1458, 1980, 2263 and 2296)

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Prepared jointly by the Committees on Public Order and Illegal Drugs; Justice and Human Rights; and Finance with Senators Lacson, Barbers, Magsaysay Jr., Osmeña III, De Castro, Pangilinan, and Villar Jr. as authors  
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**AN ACT**

**TO DEFINE AND PENALIZE ACTS OF TERRORISM AND FOR  
OTHER PURPOSES**

Be it enacted by the Senate and the 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 2003"

**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 Nations 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 to 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 servicing 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, 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 of sending things from one place to another, with the intention of inducing in another person a false belief that -
  - a) The article or substance is likely to explode or ignite and thereby cause personal injury or damage to property; or
  - b) 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, personae; 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. 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 of 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 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. 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 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. 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 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 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 of 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 of 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 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 (Php 25,000,000.00) 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.

Approved,

**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 water and maritime zone but also outside of its jurisdiction against those who should commit an 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.