

Republic of the Philippines
Supreme Court
Manila

EN BANC

**ATTY. HOWARD M. CALLEJA,
ATTY. JOSEPH PETER J.
CALLEJA, ATTY.
CHRISTOPHER JOHN P. LAO,
DE LA SALLE BROTHERS, INC.,
as represented by Br. Armin
A. Luistro, FSC, DR.
REYNALDO J. ECHAVEZ,
NAPOLEON L. SIONGCO, and
RAEYAN M. REPOSAR,**

Petitioners,

- versus -

**EXECUTIVE SECRETARY,
NATIONAL SECURITY
ADVISER, SECRETARY OF
FOREIGN AFFAIRS,
SECRETARY OF NATIONAL
DEFENSE, SECRETARY OF
INTERIOR AND LOCAL
GOVERNMENT, SECRETARY
OF FINANCE, SECRETARY OF
JUSTICE, SECRETARY OF
INFORMATION AND
COMMUNICATIONS
TECHNOLOGY, and
EXECUTIVE DIRECTOR OF THE
ANTI-MONEY LAUNDERING
COUNCIL (AMLC),**

Respondents.

X- - - - -X

REP. EDCEL C. LAGMAN

Petitioner,

- versus -

G.R. No. 252578

*Petition for Certiorari
and Prohibition with
prayer for TRO*

G.R. No. 252579

*Petition for Certiorari
and Prohibition with
prayer for TRO*

**EXECUTIVE SECRETARY
SALVADOR C. MEDIALDEA,
ANTI-TERRORISM COUNCIL
(ATC), ANTI-MONEY
LAUNDERING COUNCIL
(AMLC), SENATE OF THE
REPUBLIC OF THE
PHILIPPINES, represented by
SENATE PRESIDENT VICENTE
C. SOTTO III, and THE HOUSE
OF REPRESENTATIVES,
represented by SPEAKER
ALAN PETER S. CAYETANO,
*Respondents.***

X- - - - - X

**MELENCIO S. STA. MARIA,
EIRENE JHONE E. AGUILA,
GIDEON V. PEÑA, MICHAEL T.
TIU, JR., FRANCIS EUSTON R.
ACERO, PAUL CORNELIUS T.
CASTILLO, and EUGENE T.
KAW,
*Petitioners,***

- versus -

**EXECUTIVE SECRETARY
SALVADOR C. MEDIALDEA,
SECRETARY OF JUSTICE
MENARDO I. GUEVARRA, THE
ANTI-TERRORISM COUNCIL,
ARMED FORCES OF THE
PHILIPPINES CHIEF OF STAFF
FILEMON SANTOS, JR.,
PHILIPPINE NATIONAL
POLICE CHIEF ARCHIE
FRANCISCO F. GAMBOA,
NATIONAL SECURITY
ADVISER HERMOGENES C.
ESPERON, JR., SECRETARY OF
FOREIGN AFFAIRS TEODORO**

G.R. No. 252580
*Petition for Certiorari
and Prohibition with
prayer for TRO*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

**L. LOCSIN, JR., SECRETARY OF
THE INTERIOR AND LOCAL
GOVERNMENT EDUARDO M.
AÑO, SECRETARY OF DEFENSE
DELFIN N. LORENZANA,
SECRETARY OF FINANCE
CARLOS G. DOMINGUEZ III,
SECRETARY OF INFORMATION
AND COMMUNICATIONS
TECHNOLOGY GREGORIO
HONASAN II, and ANTI-
MONEY LAUNDERING
COUNCIL EXECUTIVE
DIRECTOR MEL GEORGIE B.
RACELA,**

Respondents.

X - - - - - X

**BAYAN MUNA PARTY-LIST
REPRESENTATIVES CARLO
ISAGANI T. ZARATE,
FERDINAND GAITE AND
EUFEMIA CULLAMAT;
GABRIELA WOMEN'S PARTY
REPRESENTATIVE ARLENE D.
BROSAS; ACT-TEACHERS
PARTY-LIST
REPRESENTATIVE FRANCE L.
CASTRO; KABATAAN
PARTYLIST REPRESENTATIVE
SARAH JANE I. ELAGO;
BAYAN MUNA PARTY-LIST
PRESIDENT, SATURNINO
OCAMPO; MAKABAYAN CO-
CHAIRPERSON LIZA
LARGOZA MAZA; BAYAN
MUNA PARTY-LIST
CHAIRPERSON NERI J.
COLMENARES; ACT-
TEACHERS PARTY-LIST
PRESIDENT ANTONIO TINIO,
AND ANAKPAWIS PARTY-
LIST VICE-PRESIDENT ARIEL**

**CASILAO, and MAKABAYAN
SECRETARY GENERAL,
NATHANAEL SANTIAGO,**
Petitioners,

- versus -

**PRESIDENT RODRIGO
DUTERTE, EXECUTIVE
SECRETARY SALVADOR
MEDIALDEA, AND THE ANTI-
TERRORISM COUNCIL,
REPRESENTED BY ITS
CHAIRMAN SALVADOR
MEDIALDEA,**
Respondents.

X - - - - -X

RUDOLF PHILIP B. JURADO,
Petitioner,

- versus -

**THE ANTI-TERRORISM
COUNCIL, THE EXECUTIVE
SECRETARY, SECRETARY OF
JUSTICE, SECRETARY OF
FOREIGN AFFAIRS,
SECRETARY OF NATIONAL
DEFENSE, THE SECRETARY OF
THE INTERIOR AND LOCAL
GOVERNMENT, SECRETARY
OF FINANCE, THE NATIONAL
SECURITY ADVISER, CHIEF
OF STAFF OF THE ARMED
FORCES OF THE
PHILIPPINES, DIRECTOR
GENERAL OF THE PHILIPPINE
NATIONAL POLICE, THE
SENATE OF THE
PHILIPPINES, AND THE
HOUSE OF REPRESENTATIVES
OF THE PHILIPPINES,**

G.R. No. 252585

*Petition for Certiorari
and Prohibition with
prayer for TRO*

G.R. No. 252613

*Petition for Certiorari
and Prohibition with
prayer for TRO*

Respondents.

X - - - - -X

**CENTER FOR TRADE UNION
AND HUMAN RIGHTS
(CTUHR), REPRESENTED BY
DAISY ARAGO, PRO-LABOR
LEGAL ASSISTANCE CENTER
(PLACE), REPRESENTED BY
ATTY. NOEL V. NERI,
ARMANDO TEODORO, JR.,
VIOLETA ESPIRITU, and
VIRGINIA FLORES,**

Petitioners,

- versus -

**HON. RODRIGO R. DUTERTE,
IN HIS CAPACITY AS
PRESIDENT AND
COMMANDER-IN-CHIEF OF
THE REPUBLIC OF THE
PHILIPPINES, HON.
SALVADOR MEDIALDEA, AS
EXECUTIVE SECRETARY,
ANTI-TERRORISM COUNCIL
(ATC), ARMED FORCES OF
THE PHILIPPINE (AFP),
REPRESENTED BY LT. GEN.
FELIMON SANTOS JR. and the
PHILIPPINE NATIONAL
POLICE (PNP), REPRESENTED
BY LT. GEN. ARCHIE GAMBOA,**

Respondents.

X - - - - -X

**CHRISTIAN S. MONSOD,
FELICITAS A. ARROYO, RAY
PAOLO J. SANTIAGO,
AMPARITA STA. MARIA,
MARIA ILSEA W. SALVADOR,
MARIANNE CARMEL B.
AGUNOY, XAMANTHA XOFIA**

G.R. No. 252623

*Petition for Certiorari
and Prohibition with
prayer for TRO*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

**A. SANTOS, MARIA PAULA S.
VILLARIN, PAULA SOPHIA
ESTRELLA, IGNATIUS
MICHAEL D. INGLES,
ERNESTO B. NERI, FR.
ALBERT E. ALEJO, S.J., PAULA
ZAYCO ABERASTURI,
WYANET AISHA ELIORA M.
ALCIBAR, SENTRONG MGA
NAGKAKAISA AT
PROGRESIBONG
MANGGAGAWA (SENTRO),
represented by its Secretary-
General JOSUA T. MATA,
*Petitioners,***

- versus -

**EXECUTIVE SECRETARY
SALVADOR C. MEDIALDEA,
NATIONAL SECURITY
ADVISER HERMOGENES C.
ESPERON, JR., DEPARTMENT
OF FOREIGN AFFAIRS
SECRETARY TEODORO L.
LOCSIN, JR., DEPARTMENT OF
NATIONAL DEFENSE
SECRETARY DELFIN N.
LORENZANA, DEPARTMENT
OF INTERIOR AND LOCAL
GOVERNMENT SECRETARY
EDUARDO M. AÑO,
DEPARTMENT OF FINANCE
SECRETARY CARLOS G.
DOMINGUEZ III,
DEPARTMENT OF JUSTICE
SECRETARY MENARDO I.
GUEVARRA, DEPARTMENT OF
INFORMATION AND
COMMUNICATIONS
TECHNOLOGY GREGORIO B.
HONASAN II, ANTI-MONEY-
LAUNDERING COUNCIL**

G.R. No. 252624

*Petition for Certiorari
and Prohibition with
prayer for TRO*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

**EXECUTIVE DIRECTOR MEL
GEORGIE B. RACELA, ALL
MEMBERS OF THE ANTI-
TERRORISM COUNCIL,
ARMED FORCES OF THE
PHILIPPINES CHIEF OF
STAFF GENERAL FILEMON
SANTOS, JR., PHILIPPINE
NATIONAL POLICE CHIEF
GENERAL ARCHIE FRANCISCO
F. GAMBOA,**

Respondents.

X - - - - -X

**SANLAKAS, represented by
Marie Marguerite M. Lopez,**
Petitioner,

- versus -

**RODRIGO R. DUTERTE, as
President and Commander-
in-Chief of All the Armed
Forces, SENATE, and HOUSE
OF REPRESENTATIVES,**

Respondents.

X - - - - -X

G.R. No. 252646

*Petition for Certiorari
and Prohibition with
prayer for TRO*

CONSOLIDATED COMMENT

Respondents President Rodrigo Roa Duterte, Executive Secretary Salvador C. Medialdea, National Security Adviser Hermogenes C. Esperon, Secretary of Foreign Affairs Teodoro L. Locsin, Jr., Secretary of National Defense Delfin N. Lorenzana, Secretary of the Interior and Local Government Eduardo M. Año, Secretary of Finance Carlos G. Dominguez III, Secretary of Justice Menardo I. Guevarra, Secretary of Information and Communications Technology Gregorio Honasan II, Anti-Money Laundering Council Executive Director Mel Georgie B. Racela, Senate of the Philippines,

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

represented by Senate President Vicente C. Sotto III, House of Representatives, represented by Speaker Alan Peter Cayetano, The Anti-Terrorism Council, Armed Forces of the Philippines Chief of Staff Filemon Santos, Jr., and Philippine National Police Chief Archie Francisco F. Gamboa, through the **OFFICE OF THE SOLICITOR GENERAL (OSG)**, respectfully submit this Consolidated Comment.

PREFATORY STATEMENT

The sovereign Filipino people ordained and promulgated the 1987 Philippine Constitution not only to build a just and humane society but to establish, as well, a Government that shall secure for all and posterity the “blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace.”¹

In fulfilling its duty to preserve peace and national security, the Government has been balancing upon its broad shoulders the yoke of private interests and individual rights vis-à-vis public interests and the common good. To this end, the Government has done its part to enlist patriotic men and women in the frontlines against international and domestic security challenges.

These security challenges, however, have never been daunting and difficult as they are now. Due to advances in technology, unscrupulous individuals who have nothing but hatred in their hearts, and blood in their hands have extended their doctrinal reach and influence, and the dark days of terrorism have dawned.

As aptly put by the National Security Council:

The terrorist threat posed by local communist terrorist groups continue to threaten the lives, properties, and freedoms of the Filipino people. They hamper the country's potential economic gains and progress.

¹ Preamble of the 1987 Philippine Constitution

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

The threat from ISIS-affiliated groups remains despite their resounding defeat in Marawi, which is now undergoing reconstruction and rehabilitation.

Elsewhere, in areas where there are local terrorist groups such as the Abu Sayyaf, Maute and the BIFF, the operations will be relentless. More security forces will be deployed, as necessary.

In addition, the country also faces continuous and aggressive security threats from the New People's Army (NPA) of the Communist Party of the Philippines, National Democratic Front (CPP-NDF), which is listed as a terrorist organization by the United States of America (USA), the European Union (EU), the United Kingdom (UK), Australia, Canada, and New Zealand. Also, foreign security threats posed by extremist networks like the Islamic State in Iraq and Syria (ISIS) and the Jemaah Islamiyah cannot be discounted.²

Now, more than ever, the response of the Government against terrorism is critical. And respond, it did.

On July 3, 2020, President Rodrigo Roa Duterte signed into law Republic Act No. 11479, otherwise known as the Anti-Terrorism Act of 2020 ("Anti-Terrorism Act" for brevity).

The Anti-Terrorism Act is the embodiment of the State's policy "to protect life, liberty, and property from terrorism, to condemn terrorism as inimical and dangerous to national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the Law of Nations."³

But like any other law that has implications on individual rights, the Anti-Terrorism Act has been unfairly stigmatized as a mere legal ruse to quell oppositions against the current administration. Moreover, it has also been claimed that the

² <https://theaseanpost.com/article/why-philippines-needs-anti-terror-bill>, last accessed on July 14, 2020.

³ Section 2, Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

law is susceptible to governmental abuse by the military and law enforcement agencies.

It is in the foregoing context that the respondents view this Consolidated Comment as an opportunity to allay the fears of the Filipino nation and to remind it that the Government should not be perceived as the enemy. As ordained in the Constitution, the Government remains dedicated to its avowed duty to maintain a regime of truth, justice, freedom, love, equality, and peace for this generation and for the generations to come.

THE SUBSTANTIVE AND PROCEDURAL FACTS

1. On March 6, 2007, Republic Act (R.A.) No. 9372 or the Human Security Act of 2007 (“Human Security Act” for short) was signed into law. Said Act defined the crime of terrorism.⁴ In the same year, various groups challenged its constitutionality before this Honorable Court. On October 5, 2010, this Honorable Court, in *Southern Hemisphere Engagement Network, Inc., et al. v. Anti-Terrorism Council, et al.*,⁵ dismissed the petitions on procedural grounds.

2. Years after the implementation of the Human Security Act, terrorism in the country had become more

⁴ SEC. 3. *Terrorism.* — Any person who commits an act punishable under any of the following provisions of the Revised Penal Code:

- a. Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters);
- b. Article 134 (Rebellion or Insurrection);
- c. Article 134-a (Coup d’Etat), including acts committed by private persons;
- d. Article 248 (Murder);
- e. Article 267 (Kidnapping and Serious Illegal Detention);
- f. Article 324 (Crimes Involving Destruction), or under
 - (1) Presidential Decree No. 1613 (The Law on Arson);
 - (2) Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990);
 - (3) Republic Act No. 5207, (Atomic Energy Regulatory and Liability Act of 1968);
 - (4) Republic Act No. 6235 (Anti-Hijacking Law);
 - (5) Presidential Decree No. 532 (Anti-Piracy and Anti-Highway Robbery Law of 1974); and,
 - (6) Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives)

thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of the crime of terrorism and shall suffer the penalty of forty (40) years of imprisonment, without the benefit of parole as provided for under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

⁵ G.R. Nos. 178552, 178554, 178581, 178890, 179157, and 179461, October 5, 2010.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

complex and malevolent. For instance, when the ISIS terror group continued to lose ground in Iraq and Syria, its members and sympathizers brought the fight here in Southeast Asia. Eventually, the notoriety of the ISIS in the Middle East attracted the attention of extremist groups in the Philippines. Based on the 2018 Global Terrorism Index released by the Institute for Economics and Peace (IEP), the Philippines ranked tenth worldwide, making it worse affected by terrorism than South Sudan, Democratic Republic of Congo and Libya.⁶ In fact, the Armed Forces of the Philippines (AFP) has obtained an ISIS' propaganda material, *Dabiq*, which reports that as early as November 2014, a number of groups in the Philippines had already pledged their allegiance to the caliphate.⁷

3. Recently, local terrorist groups perpetrated bombing attacks which resulted in a number of casualties, such as: the January 27, 2019 Jolo Cathedral suicide bombing,⁸ the April 3, 2019⁹ and September 7, 2019¹⁰ Isulan bombings, and the June 28, 2019¹¹ Indanan suicide bombing perpetrated by the first known Filipino suicide bomber, and the September 8, 2019¹² bombing also in Indanan, Sulu. All these incidents proved that the Human Security Act has failed in terms of its efficacy as a counter-terrorism measure, despite the real and present threats presented by terrorists.¹³

4. To eliminate this evident difficulty in curbing terrorism and to strengthen the law enforcement aspect of the counter-terrorism measures, the members of the Senate and the House of Representatives filed several bills, *viz.*:

⁶ Explanatory Note of Senate Bill No.6 authored by Senator Vicente Sotto III; citations omitted.

⁷ *Dabiq: Remaining and Expanding* (Muharram 1436 or November 2014) ; **Annex "1**

⁸ 20 Dead After Bombing of Cathedral in Southern Philippines, <https://thediplomat.com/2019/01/20-dead-after-bombing-of-cathedral-in-southern-philippines/>, last accessed on July 11, 2020.

⁹ At least 18 injured in Sultan Kudarat explosion, <https://www.rappler.com/nation/227333-isulan-sultan-kudarat-explosion-april-2019>, last accessed on July 11, 2020.

¹⁰ At least 7 hurt in Isulan IED explosion, <https://newsinfo.inquirer.net/1161960/at-least-7-hurt-in-isulan-ied-explosion>, last accessed on July 11, 2020.

¹¹ Philippines: 1st known Filipino suicide attacker identified, <https://abcnews.go.com/International/wireStory/philippines-1st-filipino-suicide-attacker-identified-64078506>, last accessed on July 11, 2020.

¹² Indanan, Sulu suicide bomber a Female: PNP, <https://www.pna.gov.ph/articles/1080653>, last accessed on July 11, 2020.

¹³ Panfilo M. Lacson, Sponsorship Speech for the Anti-Terrorism Act of 2019 (18th Congress), <https://pinglacson.net/2019/10/02/sponsorship-speech-for-the-anti-terrorism-act-of-2019-18th-congress/>, last accessed on July 16, 2020.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Bills filed in the Senate

- a. Senate Bill No. 6, introduced by Senator Vicente Sotto III, entitled "An Act Amending R.A. 9372, otherwise known as The Act to Secure the State and Protect our People from Terrorism or The Human Security Act (HSA) of 2007, Appropriating Funds therefor and for Other Purposes";
- b. Senate Bill No. 21, introduced by Senator Panfilo Lacson, entitled "An Act Amending Certain Provisions of Republic Act No. 9372, otherwise known as 'An Act to Secure the State and Protect Our People from Terrorism'"; and
- c. Senate Bill No. 630, introduced by Senator Imee Marcos, entitled "An Act to Combat Terrorism and Secure the Nation, Amending for this Purpose Certain Provisions of Republic Act No. 9372, Otherwise known as 'Human Security Act of 2007' and Other Laws".

Bills filed in the House of Representatives:

- a. House Bill No. 551 authored by Rep. Rozzano Rufino Biazon, entitled "An Act Amending Certain Provisions of Republic Act No. 9372 entitled: An Act to Secure the State and Protect our People from Terrorism, Otherwise known as "The Human Security Act of 2007";
- b. House Bill No. 2082 authored by Rep. Jericho Jonas Nograles, entitled "An Act Amending certain provisions of Republic Act No. 9372, Otherwise known as "An Act to Secure the State and Protect our People from Terrorism"

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- c. House Bill No. 2847 authored by Rep. Luis Raymund "LRay" Villafuerte, entitled "An Act Amending Certain Provisions of Republic Act No. 9372, Otherwise Known as "An Act to Secure and Protect our People from Terrorism";
- d. House Bill No. 3103 authored by Rep. Michael Odylon Romero, entitled "An Act Amending Republic Act No. 9372, Providing for Stiffer Penalties and Sanctions, and for Other Purposes";
- e. House Bill No. 3413 authored by Reps. Jocelyn Tulfo, Eric Yap and Rowena Niña Taduran, entitled "An Act Amending Certain Provisions of Republic Act No. 9372 otherwise known as an Act to Secure the State and Our People from Terrorism"; and
- f. House Bill No. 5710 authored by Rep. Lianda Bolilia, entitled "An Amending Republic Act No. 9372 Othwise Known as Act to Secure the State and Our People from Terrorism or the Human Security Act of 2007, Appropriating Funds therefor and for Other Purposes."

5. These bills recognized the pressing need to amend the Human Security Act, as the circumstances under which said law was enacted had significantly altered. Terrorist acts, or the threat of such acts, have become more serious, violent and are being undertaken in a more complicated and systematic manner.¹⁴

6. The decision point for the Philippine Congress appeared to be the Marawi siege in 2017, as it took five long months for the government to terminate all combat operations in Marawi. The armed confrontation between the government and the pro-ISIS militants in Marawi caused the massive deaths of civilians and military alike, the devastation of the groundwork and the displacement of the people and

¹⁴ Explanatory Note of House Bill No. 551, authored by Rep. Rozanno Biazon.

their livelihood.¹⁵ This siege of Marawi City uncovered the gaps in the Human Security Act.¹⁶

7. Moreover, a stronger anti-terrorism law is also necessary for the Philippines to comply with its international obligations, particularly those under United Nations Security Council Resolution (UNSC) Resolution No. 1373,¹⁷ and those under UNSC Resolutions Nos. 1456,¹⁸ 1566,¹⁹ and 1624.²⁰ In particular, UNSC Resolution No. 1373 directs member States, such as the Philippines, to prohibit their nationals from making funds, financial services, or economic resources available to those who commit terrorist acts, among others.

8. In addition, the enactment of the Anti-Terrorism Act is absolutely necessary to avoid the risk of having the Philippines included in the Financial Action Task Force's (FATF's) grey list of countries (and territories) with strategic deficiencies in its anti-money laundering/counter-terrorism financing (AML/CTF) framework. Grey-listing will have a negative impact on the reputation of the economy, and on the cost of doing business by our Filipino citizens abroad, both as an individual and a juridical entity.²¹

9. On August 13, 2019, the Senate Committees on National Defense and Security, Peace, Unification and Reconciliation and Finance jointly conducted a hearing on SB Nos. 6, 21 and 630. Thereafter, on September 30, 2019, the said Senate Committees submitted Committee Report No. 9 which recommended that Senate Bill (SB) No. 1083 entitled "An Act to Prevent, Prohibit and Penalize Terrorism, thereby Repealing Republic Act No. 9372, otherwise known as the 'Human Security Act of 2007'" or "The Anti-Terrorism Act of 2020", substitute SB Nos. 6, 21, and 630.

¹⁵ Explanatory Note of Senate Bill No. 6 authored by Senator Vicente Sotto III.

¹⁶ Explanatory Note of Senate Bill No. 21 authored by Senator Panfilo Lacson.

¹⁷ Threats to International Peace and Security Caused by Terrorist Acts, **Annex "11"**.

¹⁸ High-level Meeting of the Security Council: Combating Terrorism, **Annex "12"**.

¹⁹ Threats to International Peace and Security Caused by Terrorist Acts, **Annex "13"**.

²⁰ Threats to International Peace and Security (Security Council Summit 2005), **Annex "14"**.

²¹ Asia/Pacific Group on Money Laundering (APG), Anti-money laundering and counter-terrorist financing measures in the Philippines, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-Mutual-Evaluation-Report-Philippines.pdf>, last accessed on July 16, 2020.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

10. On October 2, 2019 and November 5, 2019, SB No. 1083 was sponsored in the plenary. On December 17, 2019, January 21 and 27, 2020, the Senate extensively discussed and deliberated upon said bill on the floor. During the deliberations on February 12, 18 and 19, 2020, the bill underwent several amendments. On February 26, 2020, the Senate approved it on third and final reading.

11. On May 30, 2020, the House of Representatives Joint Committees, particularly House Committees on Public Order and Safety, and on National Defense and Security, submitted Committee Report No. 340 which reported House Bill (HB) No. 6875 entitled "An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372 Otherwise Known as the 'Human Security Act of 2007'" in substitution of the previous HB Nos. 551, 2082, 2847, 3103, 3413, and 5710.

12. On June 1, 2020, President Rodrigo Roa Duterte certified HB No. 6875 as urgent.

13. On June 2, 2020, House Committee on Public Order and Safety Chair Narciso Bravo, Jr., Committee on National Defense and Security Chair Raul Tupas, Representatives Biazon and Nograles (J), sponsored HB No. 6875 at the plenary. HB No. 6875 was thereafter approved on second reading on even date.

14. On June 3, 2020, the House of Representatives approved HB No. 6875 on third and final reading.

15. On June 5, 2020, before its adjournment *sine die*, the House of Representatives adopted SB No. 1032 as an amendment to HB No. 6875.

16. Accordingly, on June 9, 2020, the Senate and the House of Representatives transmitted the enrolled Anti-Terrorism Bill to the Office of the President.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

17. On July 3, 2020, the President signed the enrolled bill into law *i.e.* Republic Act No. 11479 or the Anti-Terrorism Act.

18. On the same day, July 3, 2020, the first two Petitions for certiorari and prohibition under Rule 65 of the Revised Rules of Court to assail the Anti-Terrorism Act were filed. Petitioners Atty. Howard Calleja, et al. filed the first petition as concerned citizens and members of the Philippine Bar, while petitioner Edcel C. Lagman filed the second petition as a Filipino citizen and Representative of the First District of Albay.

19. On July 5, 2020, petitioners Bayan Muna Party List Representative Carlos Isagani T. Zarate, et al. filed the third petition as legislators and concerned Filipino citizens.

20. On the following day, July 6, 2020, petitioners Atty. Melencio Sta. Maria, et al. filed the fourth petition as taxpayers and members of the Philippine Bar.

21. Acting on these petitions, this Honorable Court sitting *En Banc* issued a Resolution consolidating the four Petitions and directing the respondents to file their respective comments.

22. Later, four more Petitions were filed before this Honorable Court, namely: (a) The Center for Trade Union and Human Rights (CTUHR) Petition filed on July 8, 2020; (b) the Jurado Petition filed on July 8 2020; (c) the Constitution Framers and Ateneo Lawyers Petition filed on July 8, 2020; and (d) the partylist Sanlakas petition filed on July 13, 2020.

23. On July 14, 2020, this Honorable Court issued another Resolution directing the consolidation of the four additional Petitions with that of the earlier four Petitions.

24. Hence, this Consolidated Comment.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

ATTACHED DOCUMENTS

25. The documents relied upon in support of and attached to this Consolidated Comment are the following:

| Annex | Description |
|-------|---|
| 1 | Dabiq: Remaining and Expanding (Muharram 1436 or November 2014) |
| | Senate Deliberations |
| 2 | TSN dated December 17, 2019 |
| 3 | TSN dated January 21, 2020 |
| 4 | TSN dated January 22, 2020 |
| 5 | TSN dated January 27, 2020 |
| 6 | TSN dated January 28, 2020 |
| 7 | TSN dated February 3, 2020 |
| 8 | TSN dated February 19, 2020 |
| | House Deliberations |
| 9 | TSN dated June 2, 2020, 6:35 p.m. |
| 10 | TSN dated June 2, 2020, 8:10 p.m. |
| | United Nations Security Council Resolutions |
| 11 | UNSC 1373, Threats to International Peace and Security Caused by Terrorist Acts |
| 12 | UNSC 1456, High-level Meeting of the Security Council: Combating Terrorism |
| 13 | UNSC 1566, Threats to International Peace and Security Caused by Terrorist Acts |
| 14 | UNSC 1624, Threats to International Peace and Security (Security Council Summit 2005) |

ARGUMENTS

Procedural Arguments

- I. Petitioners have no *locus standi* to file the subject Petitions.
 - i. Cases involving the constitutionality of a penal legislation necessitate a closer judicial scrutiny of the rule on *locus standi*.
- II. The doctrine of transcendental importance is not a magic wand that can be waved effortlessly to ward off the duty of petitioners to establish a justiciable case that merits the time and attention of this Honorable Court.
- III. There exists no actual justiciable controversy in this case. Thus, the Petitions failed to meet the requirements of judicial review.
- IV. A penal statute is not susceptible to a facial challenge.
- V. Certiorari and prohibition will not lie against respondents.
 - i. Petitioners could not successfully invoke this Honorable Court's expanded certiorari jurisdiction absent any allegation of grave abuse of discretion on the part of respondent members of the Anti-Terrorism Council.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- ii. Respondent members of the legislature committed no grave abuse of discretion in enacting the Anti-Terrorism Act.

VI. The House of Representatives complied with the mandatory requirements set by the Constitution in enacting the Anti-Terrorism Act.

- i. Section 29 of the Anti-Terrorism Act is not a rider.
- ii. The House of Representatives did not violate Section 26(2), Article VI of the Constitution.

VII. The wisdom and necessity behind the enactment of the Anti-Terrorism Act are political questions which, pursuant to the doctrine of separation of powers, are beyond the ambit of judicial scrutiny.

- i. The issuance of the President's Certification of House Bill No. 6875 as urgent is a political question as it involves the President's authority and discretion.

VIII. The President is immune from suit.

IX. The Sta. Maria, Lagman Zarate, Jurado, CTUHR, Monsod and Sanlakas Petitions suffer from formal defects and procedural infirmities which merit their outright dismissal by this Honorable Court.

Substantive Arguments

- X. The enactment of Anti-Terrorism Act is a legitimate exercise of the police power by the State which has general welfare as its object.
 - i. The State has a compelling interest in the protection of its citizens from terrorism.
 - ii. The Anti-Terrorism Act adopts the least restrictive means in its implementation.
 - iii. The Anti-Terrorism Act cannot be nullified based on conjectural or anticipatory fear that it will be abused by the law enforcement agents of the State.

- XI. The Anti-Terrorism Act does not violate the due process clause of the Constitution.
 - i. Section 4 of the Anti-Terrorism Act is neither intrinsically vague nor impermissibly overbroad.

- XII. The Anti-Terrorism Act does not violate the constitutional right against unreasonable searches and seizure.
 - i. Section 17 of the Anti-Terrorism Act does not violate the requirement that a search warrant shall only issue upon a

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

finding of probable cause determined personally by a judge.

- ii. Section 17 of the Anti-Terrorism Act does not prohibit the quashal of a warrant issued under the same Section.

XIII. The Anti-Terrorism Act does not violate the constitutional right to privacy.

- i. A secret tap of communications under Section 16 can only be done after a determination of probable cause by the Court of Appeals and therefore does not violate the right to privacy.
- ii. The production of customer information and records under Section 16 does not intrude upon the private sphere of an individual.
- iii. A surveillance order issued by the Court of Appeals under Section 16 does not vest upon the Executive a perpetual authority to probe into a person or organization's communications.
- iv. The Anti-Terrorism Act does not prohibit making surveillance data available to the aggrieved party should he or she be absolved of suspicion.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

XIV. The Anti-Terrorism Act does not violate the constitutional freedoms of speech, and expression, of the press, and of association, as well as the rights to peaceably assemble and petition the government for redress of grievances.

- i. Section 4 regulates conduct and not speech.
- ii. Sections 5, 9, 10, 25 and 26 of the Anti-Terrorism Act pass the clear and present danger test.

XV. The Anti-Terrorism Act does not violate the freedom of religion and belief.

XVI. The Anti-Terrorism Act does not violate the constitutional right to association.

XVII. Under the Anti-Terrorism Act, the ATC's powers, duties and responsibilities are purely executive in nature. Hence, it does not violate the separation of powers.

- i. The determination of probable cause in designation is consistent with international practice and is grounded on legal standards.
- ii. There are three kinds of designation under Section 25.
- iii. Designation is an executive function.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- iv. Designation, being an administrative process under the Anti-Terrorism Council, is distinct from proscription, which is a judicial function of the Court of Appeals.
- v. Proscription is a judicial process.

XVIII. The Anti-Terrorism Act provides for measures against persons validly arrested. It is also not a license to arrest any person based on mere suspicion.

- i. The fourteen-day detention period under Section 29 of the Anti-Terrorism Act is neither arbitrary nor unjustified.
- ii. Section 29 of the Anti-Terrorism Act does not authorize the ATC to issue warrants of arrest.

XIX. The Anti-Terrorism Act recognizes the constitutional right to bail and does not alter any rules on the grant thereof.

XX. The Anti-Terrorism Act imposes a valid restriction on the right to travel of an accused.

XXI. The Anti-Terrorism Act does not infringe the academic freedom of institutions of higher learning, teachers and students.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- i. There is nothing in the law which prohibits the free exercise of academic freedom.

XXII. Petitioners are not entitled to a temporary restraining order (TRO), writ of preliminary injunction and/or other injunctive remedies.

- i. Petitioners do not possess a clear and unmistakable right which will be violated by the passage of the Anti-Terrorism Act.
- ii. Petitioner also failed to prove that they will sustain grave and irreparable injury resulting from the implementation of the Anti-Terrorism Act.
- iii. The issuance of a TRO or a writ of preliminary injunction would operate as a prejudgment of the case.

DISCUSSION

Petitioners have no locus standi to file the subject Petitions.

26. Any party may only come to court if he or she has legal standing. Legal standing or *locus standi* refers to a party's personal and substantial interest in a case, arising from the direct injury he or she has sustained or will sustain as a result of the challenged governmental action.²²

²² Chamber of Real Estate and Builder's Associations Inc. (CREBA) v. Energy Regulatory Commission (ERC), et al., G.R. No. 174697, July 8, 2010.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

27. For cases assailing the constitutionality of a statute, the rule on *locus standi* requires that a party must have a direct and personal interest. Petitioners must demonstrate that they have been, or are about to be, denied some right or privilege to which they are lawfully entitled, or that they are about to be subjected to some burdens or penalties by reason of the statute or act complained of.²³

28. Admittedly, this Honorable Court has allowed non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been directly injured by the operation of a law or any other government act.²⁴

29. However, in the present case, petitioners erroneously claim that as concerned citizens, taxpayers, members of the Philippine Bar, legislators, and human rights advocates they possess the required standing to file the instant Petitions.

30. Petitioners failed to specifically allege the injury they have sustained or will sustain by the enactment and enforcement of the Anti-Terrorism Act.

31. *Locus standi* calls for more than just a generalized grievance. The term "interest" means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. There must be a present substantial interest and not a mere expectancy or a future, contingent, subordinate, or consequential interest.²⁵ As held in *Galicto v. H.E. President Aquino III*:²⁶

It has been held that as to the element of injury, such aspect is not something that just anybody with some grievance or pain may assert. It has to be direct and substantial to

²³ Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, et al., *supra*.

²⁴ Spouses Imbong et al. v. Ochoa, Jr., G.R. No. 204819, April 8, 2014.

²⁵ Zabal, et al. v. Duterte, et. al. G.R. No. 238467, February 12, 2019.

²⁶ G.R. No. 193978, February 28, 2012.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

make it worth the court's time, as well as the effort of inquiry into the constitutionality of the acts of another department of government. If the asserted injury is more imagined than real, or is merely superficial and insubstantial, then the courts may end up being importuned to decide a matter that does not really justify such an excursion into constitutional adjudication.²⁷

32. A party will be allowed to litigate only when he or she can demonstrate that (a) he or she has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government; (b) the injury is fairly traceable to the challenged action; and (c) the injury is likely to be redressed by the remedy being sought.²⁸

33. Petitioners Calleja, et al., Lagman, Sta. Maria, et al., CTUHR, et al., Monsod, et al., and Jurado are suing as concerned citizens and taxpayers. When suing as a citizen, the interest of the petitioner assailing the constitutionality of a statute must be direct and personal.²⁹ He or she must be able to show, not only that the law or any government act is invalid, but also that he sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he or she suffers thereby in some indefinite way.³⁰

34. Petitioners Calleja, et al., Lagman, and Sta. Maria, et al. only made general statements on their alleged standing—that they are in imminent danger of sustaining direct injury once the law is enforced. Since the Petitions merely raise hypothetical scenarios of the possible abuses to be committed by the implementors of the law, and it is clear that petitioners' slights are merely imagined. Evidently, petitioners have not alleged any injury sustained but merely speculate on a possibility that they would be prosecuted as perpetrators or purveyors of terrorist acts or ideas.

²⁷ Emphasis supplied.

²⁸ Lozano v. Nograles, G.R. Nos. 187883 and 187910, June 16, 2009.

²⁹ Francisco v. House of Representatives, et al., G.R. No. 160261, November 10, 2003.

³⁰ *Ibid.*

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

35. On the other hand, petitioners Zarate, et al. allege that, as victims of "terrorist-tagging" by the government forces, they are in real and immediate danger of sustaining injury as a result of the implementation of the law.³¹ However, they failed to substantiate their claim of "terrorist-tagging" through any government-issued official document or judicial order.

36. Petitioners also claim legal standing on the basis of their being taxpayers. A taxpayer suit, however, is proper only when there is an exercise of the spending or taxing power of Congress. The Anti-Terrorism Act is a penal statute and does not provide for any appropriation from Congress for its implementation.³²

37. Petitioners Calleja, et al. and Sta. Maria, et al., who also come to this Honorable Court as members of the Philippine Bar and supposedly have an interest in ensuring that laws and orders of the Philippine government are legally and validly issued. However, they cannot not also successfully claim legal standing. This supposed interest has been branded by this Honorable Court in *Integrated Bar of the Philippines v. Hon. Zamora*,³³ "as too general an interest which is shared by other groups and by the whole citizenry."

38. Petitioners Lagman and Zarate, et al. seek refuge on the fact that they are legislators and former lawmakers. However, they failed to pinpoint any concrete injury suffered or to be suffered from the passage or enforcement of the Anti-Terrorism Act. They also failed to establish that its passage would affect their official functions and prerogatives as legislators.³⁴

39. Petitioners Monsod, et al. and members of petitioner Sanlakas also assert their being staunch advocates of human rights who resort to mass actions and protests in

³¹ Makabayan Petition, pp. 4-6, 8-11.

³² Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, et al., *supra*.

³³ G.R. No. 141284, August 15, 2000.

³⁴ Biraogo v. The Philippine Truth Commission, G.R. No. 192935, December 7, 2010.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

the exercise of their rights to express and peaceably assemble. However, mere invocation of human rights advocacy has nowhere been held sufficient to clothe litigants with *locus standi*. Petitioners must show an actual, or immediate danger of sustaining, direct injury as a result of the law's enforcement.³⁵

Cases involving the constitutionality of penal legislation necessitate a closer judicial scrutiny of the rule on locus standi.

40. The Anti-Terrorism Act is a penal statute. Cases involving the constitutionality of penal legislation belong to an altogether different genus of constitutional litigation. Compelling State and societal interests in the proscription of harmful conduct necessitate a closer judicial scrutiny of the rule on *locus standi*.³⁶

41. In *Republic v. Roque*,³⁷ this Honorable Court made the following pronouncement:

It is well to note that private respondents also lack the required locus standi to mount their constitutional challenge against the implementation of the above-stated provisions of RA 9372 since they have not shown any direct and personal interest in the case. While it has been previously held that transcendental public importance dispenses with the requirement that the petitioner has experienced or is in actual danger of suffering direct and personal injury, it must be stressed that cases involving the constitutionality of penal legislation belong to an altogether different genus of constitutional litigation. Towards this end, compelling State and societal interests in the proscription of harmful conduct necessitate a closer judicial scrutiny of locus standi, as in this case. To rule otherwise, would be to corrupt the settled

³⁵ Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, et al., *supra*.

³⁶ Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, et al., *supra*.

³⁷ G.R. No. 204603, September 24, 2013.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

doctrine of locus standi, as every worthy cause is an interest shared by the general public.

42. Here, petitioners' mere invocation of imminent danger or serious threat of violation of constitutionally guaranteed rights without evidence of direct injury and personal stake is not sufficient to clothe them with *locus standi*. The invocation of constitutional rights that may be violated, without evidence of being actually charged or imminence of being charged, is not enough. Again, they must show an actual or immediate danger of sustaining direct injury as a result of the enforcement of the law. To rule otherwise would be to corrupt the settled doctrine of *locus standi*, as every worthy cause is an interest shared by the general public.

43. The rule on *locus standi* is not a plain procedural rule but a constitutional requirement derived from Section 1, Article VIII of the Constitution, which mandates courts of justice to settle only "actual controversies involving rights which are legally demandable and enforceable."³⁸ As aptly ruled in *Kilosbayan, Inc. v. Teofisto Guingona, Jr.*,³⁹ viz.:

Courts are neither free to decide all kinds of cases dumped into their laps nor are they free to open their doors to all parties or entities claiming a grievance. The rationale for this constitutional requirement of locus standi is by no means trifle. It is intended "to assure a vigorous adversary presentation of the case, and, perhaps more importantly to warrant the judiciary's overruling the determination of a coordinate, democratically elected organ of government." It thus goes to the very essence of representative democracies.

44. To broadly allow petitioners who lack the legal standing to pursue the instant proceedings would run counter to the constitutional mandate that this Honorable Court can settle only actual cases or controversies.

³⁸ *Biraogo v. Nograles, supra.*

³⁹ G.R. No. 113375, May 5, 1994.

45. While this Honorable Court has taken an increasingly liberal approach to the rule of *locus standi*, evolving from the stringent requirements of “personal injury” to the broader “transcendental importance” doctrine, such liberality is not to be abused. It is not an open invitation for the ignorant and the ignoble to file petitions that prove nothing but their cerebral deficit.⁴⁰

The doctrine of transcendental importance is not a magic wand that can be waved effortlessly to ward off the duty of petitioners to establish a justiciable case that merits the time and attention of this Honorable Court.

46. As held in a number of cases of the same class, there being no doctrinal definition of transcendental importance, the following instructive determinants formulated by former Supreme Court Justice Florentino P. Feliciano are instructive: (a) the character of the funds or other assets involved in the case; (b) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (c) the lack of any other party with a more direct and specific interest in raising the questions being raised.⁴¹

47. In *Anak Mindanao Party-List Group v. The Executive Secretary*,⁴² this Honorable Court is explicit in its pronouncement that the rule on standing will not be waived where these determinants are not established. A mere invocation of transcendental importance in the pleading is not

⁴⁰ Biraogo v. Nograles, *supra*; *citing* Kilosbayan, Inc. v. Guingona, Jr, *supra*; Francisco v. House of Representatives, G.R. No. 160261, November 10, 2003; Senate v. Ermita, G.R. No. 169777, April 20, 2006; CREBA v. ERC and Meralco, G.R. No. G.R. No. 174697, July 8, 2010.

⁴¹ Francisco v. House of Representatives, G.R. No. 160261, November 10, 2003.

⁴² G.R. No. 166052, August 29, 2007.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

enough for this Honorable Court to set aside procedural rules.⁴³ This ruling highlights the nature of the doctrine of transcendental importance as more of an exception rather than the general rule. In fact, it was originally used to relax the rules on *locus standi* or legal standing.⁴⁴ Hence, this doctrine must be strictly construed against petitioners, who must establish the occurrence of all the above-stated determinants with certitude.

48. In this case, a cursory reading of the Petitions would show the lack of requirements for the waiver of procedural rules via the transcendental importance doctrine.

49. Petitioners claim that the Anti-Terrorism Act allegedly violated some provisions of the Constitution but did not care to elaborate, much less establish, all the required determinants. As far as petitioners are concerned, the application of the liberality of transcendental importance hinges on what they believe as sufficient discussion on the constitutional or national issues presented, which however fall short of a clear showing of the presence of the determinants as required in *Anak Mindanao Party-List Group*.⁴⁵ Notably, it is quite apparent from all the petitions that petitioners put forth so much effort in portraying a grim picture of the Anti-Terrorism Act, but they took lightly their duty to establish the presence of the required determinants of the transcendental importance doctrine.

50. Petitioner Jurado attempts to demonstrate that his petition merits the application of the transcendental importance doctrine. However, a punctilious scrutiny of his Petition reveals that they are mere general averments that could best qualify as motherhood statements anchored on assumed common interests of the public, unsubstantiated allegations of deprivation of constitutional rights, and sweeping conclusions about the overhauling effect of the Anti-

⁴³ In The Matter Of: Save The Supreme Court Judicial Independence And Fiscal Autonomy Movement Vs. Abolition Of Judiciary Development Fund (Jdf) And Reduction Of Fiscal Autonomy, UDK-15143, January 21, 2015.

⁴⁴ Gios Samar, Inc. v. Department of Transportation and Communications and Civil Aviation Authority of the Philippines, G.R. No. 217158, March 12, 2019.

⁴⁵ *Supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Terrorism Act on the basic principles of criminal law.⁴⁶ On this score, the judicious observation of former Supreme Court Justice Florentino P. Feliciano, the formulator of the above-mentioned determinants, in his concurring opinion in *Kilosbayan v. Guingona*,⁴⁷ is instructive:

I submit, with respect, **that it is not enough for the Court simply to invoke "public interest" or even "paramount considerations of national interest,"** and to say that the specific requirements of such public interest can only be ascertained on a "case to case" basis. For one thing, such an approach is not intellectually satisfying. For another, such an answer appears to come too close to saying that locus standi exists whenever at least a majority of the Members of this Honorable Court participating in a case feel that an appropriate case for judicial intervention has arisen.⁴⁸

51. From the foregoing, it is clear that a strict stance should be adopted in evaluating the appropriateness of the transcendental importance doctrine. Laid back attempts to justify the application of this doctrine, as petitioners clearly demonstrated in these petitions, must not be countenanced. This doctrine must be insulated from unwarranted expectations of petitioners that this Honorable Court would accept it hook, line and sinker, by expediently harping hackneyed phrases such as "paramount importance," "overarching significance," "national interest," and the like. Already settled is the rule that a cursory incantation of the transcendental importance doctrine will not automatically justify the brushing aside of the strict observance of the requisites for this Honorable Court's power of judicial review. Verily, an indiscriminate disregard of the requisites every time this doctrine is invoked would result in an unacceptable corruption of the settled doctrine of *locus standi*, as every worthy cause is an interest shared by the general public.⁴⁹

⁴⁶ Jurado Petition, pars. 103, 110, 118, and 121, pp. 25-28.

⁴⁷ *Supra*.

⁴⁸ Emphasis supplied.

⁴⁹ Roy v. Herbosa, G.R. No. 207246, 22 November 2016.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

52. Viewed against the above discussion, the Petitions clearly fail the test in qualifying for the liberal application of procedural rules based on the transcendental importance doctrine. Therefore, these actions must be dismissed on the ground of petitioners' lack of legal standing.

There exists no actual justiciable controversy in this case. Thus, the Petitions failed to meet the requirements of judicial review.

53. The power of the courts is derived from the Constitution. Section 1, Article VIII defines and delineates judicial power, thus:

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

54. Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.⁵⁰

55. The power of judicial review is the power of the courts to test the validity of executive and legislative acts for their conformity with the Constitution. Through such power, the judiciary enforces and upholds the supremacy of the Constitution.⁵¹

56. Like almost all powers conferred by the Constitution, the power of judicial review is subject to limitations, to wit: (a) there must be an actual case or

⁵⁰ Art. VIII, Sec. 1, 2nd par. of the Constitution.

⁵¹ Garcia vs. The Executive Secretary, et al., G.R. No. 157584, April 2, 2009.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

controversy calling for the exercise of judicial power; (b) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he or she must have a personal and substantial interest in the case such that he or she has sustained, or will sustain, direct injury as a result of its enforcement; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the very *lis mota* of the case.

57. The first element of actual case or controversy is well established. As early as *Angara v. Electoral Commission*,⁵² this Honorable Court has held:

[T]his power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the governments.

58. The rule is that “the constitutionality of a statute will be passed on only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned.”⁵³ Stated simply—the exercise of judicial power requires an actual case or controversy.

⁵² G.R. No. L-45081, July 15, 1936.

⁵³ *The Provincial Bus Operators Association of the Philippines v. DOLE*, G.R. No. 202275, July 17, 2018; citing *Philippine Association of Colleges and Universities v. Secretary of Education*, G.R. No. L-5279, October 31, 1955.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

59. The meaning of “an actual case or controversy” is also widely known:

An actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute since the courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions. Related to the requirement of an actual case or controversy is the requirement of “ripeness,” and a question is ripe when the act being challenged has a direct effect on the individual challenging it. For a case to be considered ripe for adjudication, it is a prerequisite that an act had been accomplished or performed by either branch of government before a court may interfere, and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action.⁵⁴

60. In *Spouses Imbong v. Ochoa, Jr.*,⁵⁵ this Honorable Court held that an actual case or controversy existed in the challenge against the Reproductive Health Law.⁵⁶ The challenge was considered ripe for adjudication because “its implementing rules have already taken effect and that budgetary measures to carry out the law have already been passed.”

61. In contrast to *Spouses Imbong v. Ochoa, Jr.*,⁵⁷ the implementing rules of the Anti-Terrorism Act have not yet been drafted. Moreover, the Act is not yet in force as the fifteen-day period from its first publication on July 3, 2020 has not lapsed. It is, therefore, clear that any challenge to the Anti-Terrorism Act is not yet ripe for adjudication.

⁵⁴ Council of Teachers v. Secretary of Education, G.R. Nos. 216930, 217451, 217752, 218045, 218098, 218123, and 218465, October 9, 2018.

⁵⁵ *Supra.*

⁵⁶ Council of Teachers v. Secretary of Education, *supra.*

⁵⁷ *Supra.*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

62. In *Southern Hemisphere*, this Honorable Court declared the challenge against the Human Security Act as without any justiciable controversy. In arriving at this conclusion, this Honorable Court noted that “(t)he possibility of abuse in the implementation of Republic Act No.9372 does not avail to take the present petitions out of the realm of the surreal and merely imagined.”⁵⁸

63. Similarly, petitioners’ obscure allegations of future and contingent surveillance, future and contingent detention and red tagging,⁵⁹ among others, are not credible threats of prosecution that would make their Petitions as actual justiciable cases or controversies. In *Southern Hemisphere*⁶⁰ this Honorable Court ruled:

Unlike the plaintiffs in *Holder*, however, herein petitioners have failed to show that the challenged provisions of RA 9372 forbid **constitutionally protected** *conduct or activity* that they seek to do. No demonstrable threat has been established, much less a real and existing one.

Petitioners’ obscure allegations of sporadic “surveillance” and supposedly being tagged as “communist fronts” in no way approximate *a credible threat of prosecution*. From these allegations, the Court is being lured to render an advisory opinion, which is not its function.

Without any justiciable controversy, the petitions have become pleas for declaratory relief, over which the Court has no original jurisdiction. Then again, declaratory actions characterized by “double contingency,” where both the activity the petitioners intend to undertake and the anticipated reaction to it of a public official are **merely theorized**, lie beyond judicial review for lack of ripeness.

⁵⁸ *Supra*.

⁵⁹ Zarate Petition, par. 79, p. 28.

⁶⁰ *Supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

The possibility of abuse in the implementation of RA 9372 does not avail to take the present petitions out of the realm of the surreal and merely imagined. Such possibility is not peculiar to RA 9372 since the exercise of any power granted by law may be abused. Allegations of abuse must be anchored on real events before courts may step in to settle **actual controversies involving rights which are legally demandable and enforceable.**⁶¹

64. Petitioners' theoretical and contingent worst case scenarios occurring upon the future implementation of the Anti-Terrorism Act necessarily take them out of the realm of justiciability and the requirement of actual case and controversy.

65. The Petitions are, therefore, more in the nature of a declaratory relief which is the proper mode to bring a question of construction or validity arising from a statute. However, even for this remedy, the requirement of an actual case or controversy remains. In *Social Justice Society v. Lina*,⁶² this Honorable Court reminded the Bench and the Bar that an action for declaratory relief also requires a justiciable controversy, thus:

Indeed, an action for declaratory relief should be filed by a person interested under a deed, a will, a contract or other written instrument, and whose rights are affected by a statute, an executive order, a regulation or an ordinance. The purpose of the remedy is to interpret or to determine the validity of the written instrument and to seek a judicial declaration of the parties' rights or duties thereunder. For the action to prosper, it must be shown that (1) there is a justiciable controversy; (2) the controversy is between persons whose interests are adverse; (3) the party seeking the relief has a legal interest in

⁶¹ Emphasis in the original; citations omitted.

⁶² G.R. No. 160031, December 18, 2008.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

the controversy; and (4) the issue is ripe for judicial determination.⁶³

66. At any rate, under Section 1, Rule 63 of the Revised Rules of Court⁶⁴ and as declared in *Southern Hemisphere*,⁶⁵ this Honorable Court has no original jurisdiction over petitions for declaratory relief.

67. Furthermore, the requirement of the existence of an actual controversy is not discarded when this Honorable Court exercises its power of judicial review to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. As Justice Marvic M.V.F. Leonen discussed in his Dissenting Opinion in *Disini v. Executive Secretary*:⁶⁶

Judicial review — the power to declare a law, ordinance, or treaty as unconstitutional or invalid—is inherent in judicial power. It includes the power to “settle actual controversies involving rights which are legally demandable” and “to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on any part of any branch or instrumentality of Government.” **The second aspect of judicial review articulated in the 1987 Constitution nuances the political question doctrine. It is not licensed to do away with the requirements of justiciability.**⁶⁷

68. Clearly, the herein Petitions grossly failed to show the existence of an actual case or controversy over which this Honorable Court may exercise its judicial power.

⁶³ Social Justice Society v. Lina, *supra*; citing *Bayan Telecommunication, Inc. v. Republic*, G.R. No. 161140, January 31, 2007; citations omitted.

⁶⁴ SECTION 1. Who may file petition. — Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof, bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

...
⁶⁵ *Supra*.

⁶⁶ *Disini v. Executive Secretary*, G.R. No. 203335, February 18, 2014.

⁶⁷ Emphasis supplied; citations omitted.

A penal statute is not susceptible to a facial challenge.

69. A facial challenge is not allowed against penal statutes like the Anti-Terrorism Act.

70. This Honorable Court explained in *Estrada v. Sandiganbayan*⁶⁸ that penal statutes have general *in terrorem* effect resulting from its very existence. And if a facial challenge is allowed for this reason alone, the State may well be prevented from enacting laws to deter socially harmful conduct. In *Sps. Romualdez v. COMELEC*,⁶⁹ this Honorable Court again emphasized that “on-its-face” invalidation of penal statutes is not allowed in this jurisdiction.

71. In *Southern Hemisphere*,⁷⁰ this Honorable Court reiterated that a facial challenge against a criminal statute on either vagueness or overbreadth grounds is impermissible.

72. In 2014, this Honorable Court carved out a narrow exception to the above rule in *Disini v. Executive Secretary*:⁷¹

When a penal statute encroaches upon the freedom of speech, a facial challenge grounded on the void-for-vagueness doctrine is acceptable. The inapplicability of the doctrine must be carefully delineated. As Justice Antonio T. Carpio explained in his dissent in *Romualdez v. Commission on Elections*, “we must view these statements of the Court on the inapplicability of the overbreadth and vagueness doctrines to penal statutes as appropriate only insofar as these doctrines are used to mount ‘facial’ challenges to penal statutes not involving free speech.”

In an “as applied” challenge, the petitioner who claims a violation of his constitutional right can raise any constitutional

⁶⁸ *Estrada v. Sandiganbayan*, G.R. No. 148560, November 19, 2001.

⁶⁹ G.R. No. 167011, April 30, 2008.

⁷⁰ *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, *supra*.

⁷¹ *Disini v. Executive Secretary*, *supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

ground – absence of due process, lack of fair notice, lack of ascertainable standards, overbreadth, or vagueness. Here, one can challenge the constitutionality of a statute only if he asserts a violation of his own rights. It prohibits one from assailing the constitutionality of the statute based solely on the violation of the rights of third persons not before the court. This rule is also known as the prohibition against third-party standing.

But this rule admits of exceptions. A petitioner may for instance mount a “facial” challenge to the constitutionality of a statute even if he claims no violation of his own rights under the assailed statute where it involves free speech on grounds of overbreadth or vagueness of the statute. The rationale for this exception is to counter the “chilling effect” on protected speech that comes from statutes violating free speech. A person who does not know whether his speech constitutes a crime under an overbroad or vague law may simply restrain himself from speaking in order to avoid being charged of a crime. The overbroad or vague law thus chills him into silence.

73. To be clear, *Disini*⁷² is an exception to the rule. Petitioners’ invocation that the law would create a “chilling effect” is insufficient to bring their claims under this narrow exception. In *Disini*,⁷³ this Honorable Court provided an exception because the Cybercrime Prevention Act⁷⁴ seeks to regulate the novel and incomparable medium of cyberspace. The present Petitions have not made a case that the Anti-Terrorism Act is similar to the Cybercrime Prevention Act. Thus, scrutinized under the high standard in *Disini*, the Anti-Terrorism Act cannot be the subject of a facial challenge.

74. Thus, the facial challenge against Anti-Terrorism Act, a penal statute, should fail.

⁷² *Disini v. Executive Secretary, supra.*

⁷³ *Ibid.*

⁷⁴ Republic Act No. 10175.

Certiorari and prohibition will not lie against respondents.

75. Petitioners resorted to the remedies of certiorari and prohibition under Sections 1⁷⁵ and 2⁷⁶ of Rule 65 of the Revised Rules of Court in connection with this Honorable Court's expanded power of judicial review under the aforecited Section 1 of Article VIII of the Constitution.

Petitioners could not successfully invoke this Honorable Court's expanded certiorari jurisdiction absent any allegation of grave abuse of discretion on the part of the respondents.

76. Certiorari and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.⁷⁷ This is pursuant to this Honorable Court's "expanded certiorari jurisdiction" provided in the Constitution.⁷⁸

77. However, an indispensable key in unlocking this Honorable Court's expanded power of judicial review is the allegation of "grave abuse of discretion". After all, under the

⁷⁵ Section 1. Petition for certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or **with grave abuse of discretion amounting to lack or excess of jurisdiction**, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. ... (Emphasis supplied.)

⁷⁶ Section 2. Petition for prohibition. — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, **are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction**, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require. ... (Emphasis supplied.)

⁷⁷ *Ermita v. Aldecoa-Delorino et al.*, G.R. No. 177130, June 7, 2011.

⁷⁸ See *Francisco v. House of Representatives et al.*, *supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Constitution, such power is specifically designed “to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.”

78. A thorough reading of the Calleja, Sta. Maria, and Monsod, Petitions reveals that the allegations of grave abuse of discretion pertain, directly or indirectly, only to respondent Anti-Terrorism Council (ATC). On the other hand, the Zarate and CTUHR Petitions contain neither direct nor indirect allegation of grave abuse of discretion either on the part of respondent members of Congress or to respondent members of the ATC.

79. Petitioners Calleja, et al. directed the blame to the respondent lawmakers. They argue that the assailed provisions must be invalidated because the legislature committed grave abuse of discretion by passing a law that is repugnant to the Constitution.⁷⁹ On the other hand, petitioners Sta. Maria, et al., insist that the grave abuse of discretion was committed at the time of enactment of the subject law.⁸⁰

80. Petitioners Monsod, et al., simply stated that a “breach of due process of law, the rights against searches and seizures without a judicial warrant, and the fundamental right of expression is a grave abuse of discretion.”⁸¹

81. For their part, petitioners Zarate, et al. merely mentioned the words grave abuse of discretion in the quoted decision which supposedly discussed the propriety of their availment of the remedy of certiorari.⁸² On the other hand, petitioners CTUHR, et al. merely cited Section 1, Article VII of the Constitution.⁸³

⁷⁹ Calleja Petition, page 7.

⁸⁰ Sta. Maria Petition, page 9; Emphasis supplied.

⁸¹ Monsod Petition, p. 4.

⁸² Zarate Petition, p. 7.

⁸³ CTUHR Petition, p. 3.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

82. It is worthy to note that only petitioners Lagman, Jurado, and Sanlakas impleaded the Senate and the House of Representatives as respondents in this case.

83. Hence, petitioners Calleja, et. al, Sta.Maria, et.al and Zarate, et al.'s reliance on *Araullo v. Aquino*,⁸⁴ *Rappler vs. Bautista*,⁸⁵ *SPARK v. Quezon City*,⁸⁶ *Ifurung v. Office of the Ombudsman*,⁸⁷ *Kilusang Mayo Uno v. Aquino*,⁸⁸ *Demetria v. Alba*,⁸⁹ and *Lazatin v. Kapunan*⁹⁰ are misplaced. These rulings could not justify these petitioners' invocation of this Honorable Court's expanded power of judicial review absent any assertion that respondent members of the ATC whom they impleaded, gravely abused their discretion in the discharge of their functions under the Anti-Terrorism Act.

84. More importantly, respondent members of the ATC could not have gravely abused their discretion as the assailed law is not yet in effect. Consequently, as of this time, the respondent members of the ATC have yet to act in accordance with their mandates under said law.

85. To repeat, in certiorari proceedings under Rule 65 of the Revised Rules of Court, the Court's inquiry is limited to determining whether or not the public officer acted without or in excess of his or her jurisdiction, or with grave abuse of discretion.⁹¹ Thus, without any specific allegation as to how the respondent members of the ATC committed acts that are contrary to law, the Constitution or jurisprudence, or how they executed their duties in a whimsical or despotic manner, this Honorable Court's expanded certiorari jurisdiction could not be successfully invoked.

⁸⁴ G.R. No. 209287, July 1, 2014.

⁸⁵ G.R. No. 222702, April 5, 2016.

⁸⁶ G.R. No. 225442, August 8, 2017.

⁸⁷ G.R. No. 232131, April 24, 2018.

⁸⁸ G.R. No. 210500, April 22, 2019.

⁸⁹ G.R. No. 71977, February 27, 1987.

⁹⁰ G.R. No. L-29894, March 28, 1969.

⁹¹ *Morales, Jr. v. Ombudsman*, G.R. No. 208086, July 27, 2016.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Respondent members of the legislature committed no grave abuse of discretion in enacting the Anti-Terrorism Act.

86. There is grave abuse of discretion when an act is (a) done contrary to the Constitution, the law or jurisprudence or (b) executed whimsically, capriciously or arbitrarily, out of malice, ill will or personal bias.⁹²

87. The abuse of discretion to be qualified as “grave” must be so patent or gross as to constitute an evasion of a positive duty or a virtual refusal to perform the duty or to act at all in contemplation of law.⁹³ In addition, it is “grave” when it is a capricious or whimsical exercise of judgment that is so patent and gross as to amount to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.⁹⁴

88. Mere allegation or invocation that constitutionally protected rights will be violated by the Anti-Terrorism Act will not automatically result to a finding of grave abuse of discretion. Contrary to petitioners Lagman and Jurado’s assertion, there is no such thing as a patently unconstitutional law. In *Aquino v. COMELEC*,⁹⁵ this Honorable Court ruled in no uncertain terms that laws are presumed to be Constitutional, *viz.:*

Any law duly enacted by Congress carries with it the presumption of constitutionality. Before a law may be declared unconstitutional by this Court, there must be a clear showing that a specific provision of the fundamental law has been violated or transgressed. When there is neither a violation of a specific provision of the Constitution nor any proof showing that there is such a violation, the presumption of

⁹² SPARK v. Quezon City, *supra*.

⁹³ Republic v. Roque, *supra*.

⁹⁴ Garcia v. Executive Secretary, et al., *supra*.

⁹⁵ G.R. No. 189793, April 7, 2010.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

constitutionality will prevail and the law must be upheld. To doubt is to sustain.

89. Indeed, every statute is presumed valid.⁹⁶ On the party challenging its validity weighs heavily the onerous task of rebutting this presumption.⁹⁷ Any reasonable doubt about the validity of the law should be resolved in favor of its constitutionality.⁹⁸ To justify the nullification of a law, there must be a clear and unequivocal breach of the Constitution, and not one that is doubtful, speculative, or argumentative.⁹⁹

90. Petitioner Lagman's insistence that the grave abuse of discretion is so obvious that it is *res ipsa loquitur* will not excuse him from presenting proofs to substantiate his allegations. On him lies the burden of demonstrating, plainly and distinctly, all facts essential to establish his right to a writ of certiorari. The burden of proof to show grave abuse of discretion is on petitioner Lagman. As the one asking for the issuance of writ of certiorari, he must discharge the burden of proving grave abuse of discretion on the part of the respondent members of Congress, in accordance with the definition and standards set by law and jurisprudence.¹⁰⁰

91. Also, it must be stressed that in *Southern Hemisphere*,¹⁰¹ this Honorable Court dismissed the petition assailing the constitutionality of the Human Security Act because the petitioners therein did not even allege with any modicum of particularity how respondents acted without or in excess of their respective jurisdictions, or with grave abuse of discretion amounting to lack or excess of jurisdiction.

92. Anent petitioner Jurado's allegations, there is no truth that the respondent members of Congress transgressed the requirements of the Constitution in the passage of the law. As will be elaborated in the succeeding paragraphs.

⁹⁶ Heirs of Ardon v. Reyes, G.R. Nos. L-60549, 60553 to 60555, October 26, 1983.

⁹⁷ Estrada v. Sandiganbayan, *supra*.

⁹⁸ Peralta v. Commission on Elections, G.R. No. L-47771, March 11, 1978.

⁹⁹ Betoy v. Board of Directors, G.R. Nos. 156556-57, October 4, 2011.

¹⁰⁰ See Morales, Jr. v Ombudsman, et al., *supra*.

¹⁰¹ *Supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

93. Also, contrary to petitioner Sanlakas' claim, the Anti-Terrorism Act is a penal statute that needs no appropriation as above stated.

94. Moreover, as will be further discussed hereunder, there was no hint of whimsicality, nor of gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law on the part of respondent members of Congress in passing this important piece of legislation. They are clothed with the authority to enact a law that responds to the pressing need of our country for a stricter law to address terrorism and for a law that is consistent with our international obligations.

95. It is important to note that respondent lawmakers saw the urgent necessity to fill the gaps of Human Security Act and to make it more in keeping with the requirements of UNSC Resolution No. 1373 adopted on September 28, 2001, to wit:

1. Decides that all States shall:

(a) Prevent and suppress the financing of terrorist acts;

(b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;

(c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

directly or indirectly by such persons and associated persons and entities;

(d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. Decides also that all States shall:

(a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, **including by suppressing recruitment of members of terrorist groups** and eliminating the supply of weapons to terrorists;

(b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;

(c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;

(d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;

(e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

(f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;

(g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;¹⁰²

96. Additionally, the Anti-Terrorism Act is consistent with UNSC Resolution No. 1624 which was adopted on September 14, 2005. Such Resolution provides, among others:

...

Reaffirming also **the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations**, and also stressing that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights law, refugee law, and humanitarian law,

Condemning in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security, and reaffirming the primary responsibility of the Security Council for the maintenance of international peace and security under the Charter of the United Nations,

Condemning also in the strongest terms the incitement of terrorist acts **and repudiating attempts at the justification or**

¹⁰² Emphasis supplied.

**glorification (apologie) of terrorist acts
that may incite further terrorist acts,**

...

Recalling that all States must cooperate fully in the fight against terrorism, **in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice**, on the basis of the principle of extradite or prosecute, **any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens,**

1. Calls upon all States to adopt such measures as may be necessary and appropriate and in accordance with their obligations under international law to:

(a) **Prohibit by law incitement to commit a terrorist act or acts;**

(b) **Prevent such conduct;**

(c) **Deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct.**¹⁰³

97. Furthermore, the Anti-Terrorism Act complies with UNSC Resolution Nos. 1456 and 1566. UNSC Resolution No. 1456 adopted on January 20, 2003 enjoins member States to "bring to justice those who finance, plan, support or commit terrorist acts or provide safe havens." On the other hand, UNSC Resolution No. 1566 adopted on October 8, 2004 calls upon member States "to cooperate fully in the fight against terrorism and to deny safe haven and bring to justice, on the basis of the principle to extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens."

¹⁰³ Emphasis supplied.

98. Therefore, respondent lawmakers could not have committed a grave abuse of discretion that would justify the issuance of writs of certiorari and prohibition. They were motivated by neither passion nor hostility in making sure that our anti-terrorism law is responsive to the call of the UNSC. They did not also exercise their legislative authority in a whimsical, capricious or despotic manner when they envisioned and crafted an anti-terrorism law that could effectively combat terrorism at its inception.

99. Considering the foregoing, there is no doubt that the remedies of certiorari and prohibition will not lie against herein respondents.

The House of Representatives complied with the mandatory requirements set by the Constitution in enacting the Anti-Terrorism Act.

100. Petitioner Jurado attacks the constitutionality of the Anti-Terrorism Act on the ground, among others, that Section 29 thereof violates the "one-bill-one-subject" rule under Section 26 (1), Article VI of the Constitution, and that the House of Representatives transgressed the requirements set by Section 26 (2), Article VI of the Constitution when it enacted the assailed law. These contentions deserve scant consideration.

Section 29 of the Anti-Terrorism Act is not a rider.

101. In an attempt to challenge the constitutionality of the Anti-Terrorism Act, petitioner Jurado assails Section 29 of said law. He imputes grave abuse of discretion amounting to lack or excess of its jurisdiction on the part of Congress for including Section 29 in the enactment of the Anti-Terrorism Act. According to him, Section 29 is not germane to the subject matter of the Anti-Terrorism Act. Hence, it is a rider.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Furthermore, petitioner Jurado further contends that Section 29 repeals or overhauls Article 125 of the Revised Penal Code and Section 7, Rule 112 of the Revised Rules of Court relative to the extended period of detention of a person lawfully arrested without a judicial warrant. Therefore, he claims that Section 29 is violative of the constitutional provision requiring that a bill, which may be enacted into law, cannot embrace more than one subject, which shall be expressed in its title.¹⁰⁴

102. These arguments sink the ship of credence and merit.

103. Truth be told, Section 26 (1), Article VI of the Constitution requires that "(e)very bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof." This proscription is aimed against the evils of the so-called omnibus bills and log-rolling legislation as well as surreptitious and/or unconsidered encroaches. The provision merely calls for all parts of an act relating to its subject finding expression in its title.¹⁰⁵

104. Effectively, this requirement is mandatory and not directory. Its compliance is essential to the validity of legislation.¹⁰⁶

105. Although the requirement is mandatory, it should not be so construed as to cripple or impede proper legislation. As this Honorable Court said in *Sumulong v. Commission on Elections*,¹⁰⁷ the requirement "should be given a practical rather than a technical construction. It should be sufficient compliance with such requirement if the title expresses the general subject and all the provisions of the statute are germane to that general subject."

106. The Constitution does not require Congress to employ in the title of an enactment a language of such precision as to mirror, fully index or catalogue all the contents

¹⁰⁴ Jurado Petition, pp. 17-19, 49-50.

¹⁰⁵ Farinas, et al., v. Executive Secretary, G.R. No. 147387, December 10, 2003.

¹⁰⁶ *Central Capiz v. Ramirez*, 40 Phil. 883 (1920).

¹⁰⁷ 73 Phil. 288 (1941).

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

and the minute details therein.¹⁰⁸ It suffices if the title should serve the purpose of the constitutional demand that it informs the legislators, the persons interested in the subject of the bill and the public, of the nature, scope and consequences of the proposed law and its operation.¹⁰⁹

107. Petitioner Jurado correctly stated that a rider is a provision that is not germane to the subject matter of the bill.¹¹⁰ But he is purely mistaken in saying that Section 29 is a rider.

108. On the contrary, Section 29 is ultimately germane to the purpose of the Anti-Terrorism Act. Hence, it is not a rider.

109. Section 29 is precisely placed in the Anti-Terrorism Act to address the possible imputation of a crime to law enforcement agents in their pursuit against terrorism, which is the very purpose of the law. In fact, Section 29 is one of the primary facets of the Anti-Terrorism Act in the implementation of a much-needed stronger legal tool in preventing terrorism and prosecuting those who are involved in acts of terrorism.

110. It is essential to address the necessity to gather intelligence and evidence against terrorists. Through Section 29, law enforcement agents may not only obviate potential retaliation but also prevent other members of terrorist groups from evading arrest or prosecution. Relatedly, a review of Section 2, *i.e. Declaration of Policy*, of the Anti-Terrorism Act reveals that the fight against terrorism requires a comprehensive approach, which undeniably covers the ambit of Section 29.

111. Likewise, it must be noted that Section 29 is not a totally new provision. It is lifted from the Human Security Act,

¹⁰⁸ *Lidasan v. Commission on Elections*, L028089 (1967); *Insular Lumber v. CTA*, 104 SCRA 710 (1981).

¹⁰⁹ *Ibid.*

¹¹⁰ Jurado petition, p. 18.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

specifically Section 18¹¹¹ thereof, which also provides for a period of detention without judicial warrant of arrest. Their primary variation only pertains to the period of detention. Importantly, this provision in the Human Security Act was not declared unconstitutional.

112. Regarding petitioner Jurado's allegation that Section 29 repeals or overhauls Article 125 of the Revised Penal Code and Section 7, Rule 112 of the Revised Rules of Court, it is more imagined than real.

113. Quite the opposite, Section 29 is well-within the sphere of the subject matter of the Anti-Terrorism Act. Hence, it need not be contained in a separate legislation.

114. Article 125 of the Revised Penal Code criminalizes the delay in the delivery of detained persons to the proper judicial authorities, viz:

Article 125. Delay in the delivery of
detained persons to the proper judicial
authorities. — The penalties provided in the

¹¹¹ SEC. 18. Period of Detention Without Judicial Warrant of Arrest. — The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any police or law enforcement personnel, who, having been duly authorized in writing by the Anti-Terrorism Council has taken custody of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said charged or suspected person to the proper judicial authority within a period of three days counted from the moment the said charged or suspected person has been apprehended or arrested, detained, and taken into custody by the said police, or law enforcement personnel: Provided, That the arrest of those suspected of the crime of terrorism or conspiracy to commit terrorism must result from the surveillance under Section 7 and examination of bank deposits under Section 27 of this Act. The police or law enforcement personnel concerned shall, before detaining the person suspected of the crime of terrorism, present him or her before any judge at the latter's residence or office nearest the place where the arrest took place at any time of the day or night. It shall be the duty of the judge, among other things, to ascertain the identity of the police or law enforcement personnel and the person or persons they have arrested and presented before him or her, to inquire of them the reasons why they have arrested the person and determine by questioning and personal observation whether or not the suspect has been subjected to any physical, moral or psychological torture by whom and why. The judge shall then submit a written report of what he/she had observed when the subject was brought before him to the proper court that has jurisdiction over the case of the person thus arrested. The judge shall forthwith submit his/her report within three calendar days from the time the suspect was brought to his/her residence or office. Immediately after taking custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, the police or law enforcement personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest: Provided, That where the arrest is made during Saturdays, Sundays, holidays or after office hours, the written notice shall be served at the residence of the judge nearest the place where the accused was arrested. The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the police or law enforcement personnel who fails to notify and judge as provided in the preceding paragraph.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of; twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent and thirty-six (36) hours, for crimes, or offenses punishable by afflictive or capital penalties, or their equivalent.

115. Meanwhile, Section 7 of Rule 112 of the Revised Rules OF Court tackles preliminary investigation and inquest when an accused is lawfully be arrested without warrant:

Section 7. When accused lawfully arrested without warrant. — When a person is lawfully arrested without a warrant involving an offense which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing rules. In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace office directly with the proper court on the basis of the affidavit of the offended party or arresting officer or person.

Before the complaint or information is filed, the person arrested may ask for a preliminary investigation in accordance with this Rule, but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, in the presence of his counsel. Notwithstanding the waiver, he may apply for bail and the investigation must be terminated within fifteen (15) days from its inception.

After the filing of the complaint or information in court without a preliminary investigation, the accused may, within five (5) days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense as provided in this Rule.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

116. A cursory reading of these provisions would reveal a very apparent thought — Section 29 is a distinct and specific provision of the Anti-Terrorism Act which provides for a detention period of fourteen days, extendible to another period of ten days, to address the need of law enforcement agencies for sufficient time to gather evidence that can withstand judicial scrutiny. It does not in any way repeal Article 125 of the Revised Penal Code as it exists to address an exact and defined scenario of an authorized prolonged detention. It provides for a specific situation where an arresting officer is allowed to detain a person, who was previously lawfully arrested without a judicial warrant, for a period of fourteen days without incurring any criminal liability for arbitrary detention under Article 125 of the Revised Penal Code.

117. In the same vein, it does not overhaul Section 7, Rule 112 as there is nothing in Section 29 which scraps the process of preliminary investigation or inquest from the procedural parlance involving a detainee who has been lawfully arrested without a warrant.

118. Moreover, there is nothing in Section 29 which categorically states that it is repealing Article 125 of the Revised Penal Code and Section 7, Rule 112 of the Revised Rules of Court. In fact, Section 29 recognizes Article 125 of the Revised Penal Code in this wise: "*The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, ...*". Hence, what petitioner Jurado impresses upon this Honorable Court is an implied repeal by Section 29.

119. But, petitioner Jurado obviously forgets the elementary rule that a repeal by implication is frowned upon in this jurisdiction. It is not favored unless it is manifest that the legislative authority so intended or unless it is convincingly and unambiguously demonstrated that the subject laws or orders are clearly repugnant and patently inconsistent that they cannot co-exist. This is because the legislative authority is presumed to know the existing law so that if repeal was intended, the proper step is to express it.¹¹²

¹¹² The United Harbor Pilot's Association of the Philippines, Inc. v. Association of International Shipping Lines, Inc., G.R. No. 133763 (2002).

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

120. Furthermore, in order to effect a repeal by implication, the latter statute must be so irreconcilably inconsistent and repugnant with the existing law that they cannot be made to reconcile and stand together.

121. This is not the case here. As previously discussed, Section 29 presses the need of preventing and prosecuting terrorists in this jurisdiction, which makes it patently consistent with and germane to the subject matter of the Anti-Terrorism Act.

122. To recap, Section 29 is germane to the subject matter of the Anti-Terrorism Act. It does not repeal nor overhaul Article 125 of the Revised Penal Code and Section 7, Rule 112 of the Revised Rules of Court. In short, Section 29 is absolutely not a rider.

The House of Representatives did not violate Section 26 (2), Article VI of the Constitution.

123. Petitioner Jurado further contends that the House of Representatives purportedly bypassed the requirements set by Section 26 (2), Article VI of the Constitution, which allegedly deprived its members the opportunity to examine HB No. 6875.

124. Petitioner's contention is hollow.

125. Section 26 (2), Article VI of the Constitution provides:

2. No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, **except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency.** Upon

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the yeas and nays entered in the Journal.¹¹³

126. The import of the aforequoted provision is to dispense with the above requirements – to conduct three readings of the bill on separate days and to furnish members of the House of Representatives copies of the bill’s final form three days before its passage – when the President certifies a bill as urgent. This is consistent with the rulings of this Honorable Court in *Tolentino v. Secretary of Finance*¹¹⁴ and *Abas Kida v. Senate of the Philippines*.¹¹⁵ Respondents thus quote:

The petitioners in G.R. No. 197280 also challenge the validity of RA No. 10153 for its alleged failure to comply with Section 26 (2), Article VI of the Constitution which provides that before bills passed by either the House or the Senate can become laws, they must pass through three readings on separate days. The exception is when the President certifies to the necessity of the bill's immediate enactment.

The Court, in *Tolentino v. Secretary of Finance*, explained the effect of the President's certification of necessity in the following manner:

The presidential certification dispensed with the requirement not only of printing but also that of reading the bill on separate days. The phrase "except when the President certifies to the necessity of its immediate enactment, etc." in Art. VI, Section 26[2] qualifies the two stated conditions before a bill can become a law: [i] the bill has passed three readings on separate days and [ii] it has been printed in its final form

¹¹³ Emphasis supplied.

¹¹⁴ G.R. No. 115455, August 25, 1994.

¹¹⁵ G.R. Nos. 196271, 196305, 197221, 197280, 197282, 197392 & 197454, October 18, 2011.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

and distributed three days before it is finally approved.

...

That upon the certification of a bill by the President, the requirement of three readings on separate days and of printing and distribution can be dispensed with is supported by the weight of legislative practice. For example, the bill defining the *certiorari* jurisdiction of this Court which, in consolidation with the Senate version, became Republic Act No. 5440, was passed on second and third readings in the House of Representatives on the same day [May 14, 1968] after the bill had been certified by the President as urgent.

In the present case, the records show that the President wrote to the Speaker of the House of Representatives to certify the necessity of the immediate enactment of a law synchronizing the ARMM elections with the national and local elections. Following our *Tolentino* ruling, the President's certification exempted both the House and the Senate from having to comply with the three separate readings requirement.¹¹⁶

127. Clearly, by virtue of the President's certification, the House of Representative committed no constitutional violation when it dispensed with the three-day rule.

128. Unconvinced, petitioner Jurado casts doubt on the propriety of the President's certification as urgent of HB No. 6875, the precursor of the Anti-Terrorism Act. He insists that the swift enactment of the law deprived the members of the House of Representatives the opportunity to study the subject bill and even resulted to an erroneous counting of votes.

¹¹⁶ Emphasis supplied.

129. Again, petitioner Jurado is clutching at straws.

130. Absent any showing of grave abuse of discretion, the judicial department, in deference to a co-equal branch, will not review the factual basis of the President's certification as urgent of HB No. 6875. *Abas Kida*¹¹⁷ is instructive:

On the follow-up contention that no necessity existed for the immediate enactment of these bills since there was no public calamity or emergency that had to be met, again we hark back to our ruling in *Tolentino*:

The sufficiency of the factual basis of the suspension of the writ of *habeas corpus* or declaration of martial law Art. VII, Section 18, or the existence of a national emergency justifying the delegation of extraordinary powers to the President under Art. VI, Section 23(2) is subject to judicial review because basic rights of individuals may be of hazard. **But the factual basis of presidential certification of bills, which involves doing away with procedural requirements designed to insure that bills are duly considered by members of Congress, certainly should elicit a different standard of review.** [Emphasis supplied.]

The House of Representatives and the Senate — in the exercise of their legislative discretion — gave full recognition to the President's certification and promptly enacted RA No. 10153. Under the circumstances, nothing short of grave abuse of discretion on the part of the two houses of Congress can justify our intrusion under our power of judicial review.

The petitioners, however, failed to provide us with any cause or justification for this course of action. Hence, while the judicial department and this Court are not bound by the acceptance of the President's certification by both the House of

¹¹⁷ *Supra.*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Representatives and the Senate, prudent exercise of our powers and respect due our co-equal branches of government in matters committed to them by the Constitution, caution a stay of the judicial hand.

In any case, despite the President's certification, the two-fold purpose that underlies the requirement for three readings on separate days of every bill must always be observed to enable our legislators and other parties interested in pending bills to intelligently respond to them. Specifically, the purpose with respect to Members of Congress is: (1) to inform the legislators of the matters they shall vote on and (2) to give them notice that a measure is in progress through the enactment process.

We find, based on the records of the deliberations on the law, that both advocates and the opponents of the proposed measure had sufficient opportunities to present their views. In this light, no reason exists to nullify RA No. 10153 on the cited ground.¹¹⁸

131. Here, petitioner Jurado failed to attribute any grave abuse of discretion committed by the President when he certified the HB No. 6985 as an urgent bill. The absence of grave abuse of discretion became more evident when the members of the House of Representatives fully recognized the President's certification and immediately deliberated on HB No. 6875 and eventually passed the Anti-Terrorism Act. In fact, Representatives Zarate and Lagman, both members of the House of Representatives and also petitioners herein, tacitly admitted the validity of the President's certification when they did not raise it as an issue in their respective Petitions. Verily, petitioner Jurado's reservation on the President's certification is untenable.

132. By the same token, petitioner Jurado's insinuation that, based on news articles,¹¹⁹ the swift enactment of the Anti-Terrorism Act deprived members of the House of

¹¹⁸ Emphasis supplied.

¹¹⁹ Jurado Petition, Annexes "C" and "D."

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Representatives an opportunity to study the law and resulted to an erroneous counting of votes, should likewise be rejected.

133. For one, these news articles do not salvage petitioner Jurado's plea since it would practically compel this Honorable Court to rule on factual issues and, in turn, circumvent the settled doctrine that this Honorable Court is not a trier of facts.¹²⁰ For another, these news articles should not be accorded any probative value since they are "hearsay evidence, twice removed" and, hence, inadmissible.¹²¹

134. And more importantly, petitioner Jurado himself, the Senate transmitted its SB No. 1083 to the House of Representatives on February 27, 2020 for the latter's concurrence.¹²² Note that HB No. 6875 adopted *in toto* SB No. 1083.¹²³ Petitioner Lagman, et al. even remarked that HB No. 6875 is a "copycat" of SB No. 1083.¹²⁴ Hence, between February 27, 2020 and July 3, 2020, the members of the House of Representatives had more than three months, or approximately ninety-seven days, to study the proposed legislation before it was finally voted upon on July 3, 2020.

135. Ineluctably, *sans* any clear showing that some members of the House of Representatives were deprived of the opportunity to study the bill and that their votes were erroneously counted, the deliberation and voting conducted in the House of Representatives enjoy the presumption of regularity¹²⁵ and are, thus, valid.

136. In sum, the House of Representatives complied with the mandatory requirements set by the Constitution when it enacted the Anti-Terrorism Act.

¹²⁰ Abogado v. Department of Environment and Natural Resources, G.R. No. 246209, September 3, 2019.

¹²¹ Feria y Pacquing v. Court of Appeals, G.R. No. 122954, February 15, 2000.

¹²² Jurado Petition, p. 11, par. 33.

¹²³ *Id.*, at p. 14, par. 42.

¹²⁴ Lagman Petition, p. 13, par. 51.

¹²⁵ Section 3, Rule 132, Revised Rules of Court.

The wisdom and necessity behind the enactment of Anti-Terrorism Act are political questions which, pursuant to the doctrine of separation of powers, are beyond the ambit of judicial scrutiny.

137. Petitioners bewail the crafting and eventual passage of the Anti-Terrorism Act.

138. In particular, petitioners Calleja, et al., stated that they do not assail the wisdom and necessity of the law.¹²⁶ However, they did state that despite calls from various human rights and church groups to reconsider and/or remove the alleged unconstitutional provisions in the Anti-Terrorism Act, said provisions remained.¹²⁷ Petitioner CTUHR, et al. share this same observation.¹²⁸

139. Meanwhile, petitioners Sta.Maria, et al. also impliedly attack the wisdom of the enactment of the law and harp that the Anti-Terrorism Act should not have seen the light of day¹²⁹ because it allegedly lowers the threshold in imposing limitations on a person's fundamental rights yet gives the government and the ATC more powers.¹³⁰

140. And petitioner Lagman he attacks the wisdom and necessity of the law, brushing aside the apparent intent of the lawmakers to provide the country with a stronger law against terrorism similar to what other nations have done.¹³¹ He also questions the necessity of the Anti-Terrorism Act, claiming that there is no deficiency in the law it replaced *i.e.* the Human Security Act. He further argues that there are other statutes which are applicable and already adequate to deter terrorism and prosecute

¹²⁶ Calleja Petition, p. 3.

¹²⁷ Calleja Petition, par. 13, p. 7.

¹²⁸ Center for Trade Union Petition, p. 8.

¹²⁹ Sta. Maria Petition, p. 5.

¹³⁰ Sta. Maria Petition, p. 20.

¹³¹ Lagman Petition, par. 141, p. 52.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

terrorists. He claims that the Anti-Terrorism Act should not have included the imposition of sanctions by the FATF.¹³² He also laments the passage of the law at the time when the country is facing the effects of the COVID-19 pandemic.¹³³

141. Petitioners Zarate, et al., also impliedly attack the wisdom of the Anti-Terrorism Act by alleging that public opinion from various sectors and civil society is overwhelmingly opposed to its enactment.¹³⁴ They question the necessity of the law on the ground that that the acts sought to be defeated are already addressed by existing penal laws.¹³⁵

142. Questions on the propriety and timeliness of the law's enactment are political questions, hence, beyond the ambit of judicial scrutiny.

143. The leading case of *Tañada v. Cuenco*¹³⁶ held that a political question "is a matter which is to be exercised by the people in their primary political capacity, or that it has been specifically delegated to some other department or particular officer of the government, with discretionary power to act."

144. Indeed, the wisdom and necessity behind the enactment of a law are matters of political question. Their determination exclusively rests upon Congress and due deference from the courts is expected. This must be so because said discretion of Congress emanates from its plenary mandate to enact laws. In *Garcia v. Drilon*,¹³⁷ this Honorable Court categorically stated that the exercise of discretion with respect to what motivates Congress to enact a law and how it wishes to accomplish its intentions, are matters solely within its prerogative which the Judiciary may not supersede. Moreover, in numerous cases, this

¹³² Lagman Petition, pars. 52-57, 61, pp. 16-17.

¹³³ Lagman Petition, pars. 64-67, pp. 17-18.

¹³⁴ Zarate Petition, par. 45, p. 18.

¹³⁵ Zarate Petition, par. 144, p. 49.

¹³⁶ G.R. No. L-10520, February 28, 1957.

¹³⁷ G.R. No. 179267, June 25, 2013.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Honorable Court afforded respect and gave a wide latitude to the wisdom of Congress in the enactment of laws.¹³⁸

145. As will be thoroughly discussed hereunder, Congress acted within its legislative authority in enacting the Anti-Terrorism Act. Hence, the subject matter of these petitions is clearly beyond the ambit of this Honorable Court's power of judicial review.

The issue on the President's Certification of House Bill No. 6875 as urgent is a political question as it involves the President's authority and discretion.

146. Petitioner Jurado's contention that the certification by the President of HB No. 6875 as urgent is invalid or improper for not being in conformity with Section 26 (2), Article VI of the Constitution is futile.¹³⁹

147. Indeed, to be certified as urgent, the proposed legislation must pertain to a public calamity or emergency. In this regard, the definition of the term "emergency" in the Constitution is already settled. Emergency, as a generic term, connotes the existence of conditions suddenly intensifying the degree of existing danger to life or well-being beyond that which is accepted as normal. The elements of intensity, variety, and perception are implicit in this definition. As explained in *David v. Macapagal-Arroyo*,¹⁴⁰ this jurisdiction has adopted the same concept of emergency as perceived by the legislature or executive in the United States of America since 1933, to that which have been occasioned by a wide range of situations, classifiable under three principal heads: (a) economic; (b) natural disaster; and (c) national security.¹⁴¹ It may further include rebellion, economic crisis,

¹³⁸ See *Abakada Guro Party List v. Ermita*, G.R. Nos. 168056, 168207, 168461, 168463, and 168730, September 3, 2005; *People v. Tongko*, G.R. No. 123567, June 5, 1998; *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, *supra*.

¹³⁹ *Jurado Petition*, p 12.

¹⁴⁰ G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, 3 May 2006.

¹⁴¹ *Id.*, emphases in the original.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

pestilence or epidemic, typhoon, flood, or other similar catastrophe of nationwide proportions or effect.¹⁴²

148. In the case of HB No. 6875, the emergency addressed by the presidential certification is the menace which terrorist acts may bring, such as the Marawi Siege in 2017, the Jolo Cathedral suicide bombing in 2019, and separate bombings at Isulan and Indanan also in 2019,¹⁴³ which shook the peace and order situation and bore a large hole in the core of the country's state of national security, and left litter of bodies of loved ones and rubble of what used to be homes.

149. In this light, the exercise of the prerogative to certify a legislation as urgent is basically a matter within the discretion of the President; hence, it is a political question beyond the reach of the judicial arm. As the Chief of the executive branch of the government, the President heads both the DND and the DILG. Not to be overlooked, the President is also the Commander-in-Chief of the Armed Forces.¹⁴⁴ Being fully abreast with the current prevailing state of the country's national security, the President has the primary responsibility to defend the country and its people. The President's power to act in the manner that would bring success in the performance of this sacred duty is borne by the laws enacted by Congress.

150. All information from all sources go to the President and he has a full complement of public officers in different fields of expertise who provide him with data and advise in handling state matters involving defense and security issues. Effectively, the whole executive branch of the government is the President's source in determining what bill he would consider as urgent and why. Needless to say, every legislation certified by the President as urgent has undergone the scrutiny of the minds of specialized agencies equipped with technical expertise on matters touching such legislation.

¹⁴² *Id.*

¹⁴³ See Substantive and Procedural Facts of this Consolidated Comment.

¹⁴⁴ Section 18, Article VI, 1987 Constitution,

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

151. More importantly, it is already settled that presidential certifications of a bill as urgent is not subject to heightened scrutiny.¹⁴⁵ Whether to treat and certify a bill as urgent to address an emergency, such as the alarming emergence of terrorist acts, is best left to the sound discretion of the executive department, whose judgment, absent any good cause or justification may not be intruded by the courts through its power of judicial review.

152. In *Abas Kida v. Senate of the Philippines*,¹⁴⁶ this Honorable Court refused to inquire into the wisdom of certifying as urgent the passage of HB No. 4146 and SB No. 2756, thus:

On the follow-up contention that no necessity existed for the immediate enactment of these bills since there was no public calamity or emergency that had to be met, again we hark back to our ruling in *Tolentino*:

The sufficiency of the factual basis of the suspension of the writ of *habeas corpus* or declaration of martial law Art. VII, Section 18, or the existence of a national emergency justifying the delegation of extraordinary powers to the President under Art. VI, Section 23(2) is subject to judicial review because basic rights of individuals may be of hazard. **But the factual basis of presidential certification of bills, which involves doing away with procedural requirements designed to insure that bills are duly considered by members of Congress, certainly should elicit a different standard of review.**

The House of Representatives and the Senate — in the exercise of their legislative discretion — gave full recognition to the President's certification and promptly

¹⁴⁵ *Abas Kida v. Senate of the Philippines, infra.*

¹⁴⁶ G.R. No. 196271, 18 October 2011.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

enacted R.A. No. 10153. Under the circumstances, nothing short of grave abuse of discretion on the part of the two houses of Congress can justify our intrusion under our power of judicial review.¹⁴⁷

153. Verily, *Abas Kida* cautioned courts from being baited into probing the wisdom of a presidential certification under the guise of judicial review, by petitions crying supposed violation of constitutional rights, so as to steer clear of the possibility of encroaching on the powers of a co-equal branch. This rule especially holds true in cases in which Congress committed to the President's certification, like in *Abas Kida* and the present case.

154. Notably, petitioner Jurado did not proffer any valid cause or justification that will trigger this Honorable Court's power of judicial review. Petitioner Jurado failed to show, and there is nothing on record to show, that the members of the House of Representatives were denied the opportunity to examine HB No. 6875 because of the President's certification.¹⁴⁸ Curiously, there is nothing on record that any one member of the House of Representatives questioned the reality of the factual basis of the certification.¹⁴⁹ Petitioner Jurado's bare allegations that the standing bills¹⁵⁰ were overhauled when the House of Representatives adopted SB No. 1083 as HB No. 6875, and that after the second reading no other amendments from the members of the House were entertained despite deep concerns as to the constitutionality of SB No. 1083,¹⁵¹ without proof and which the records dispute, may not serve as reasons enough to cross the threshold of separation of powers and review the factual basis of the presidential certification.

155. Thus, as this Honorable Court held, "while the judicial department and this Honorable Court are not bound by the acceptance of the President's certification by both the House of Representatives and the Senate, prudent exercise of

¹⁴⁷ Emphasis in the original.

¹⁴⁸ *Cf.* *Abas Kida v. Senate of the Philippines, supra.*

¹⁴⁹ *Cf.* *Tolentino v. Secretary of Finance, supra.*

¹⁵⁰ H.B. Nos. 551, 2082, 2847, 3103, 3143, and 5710.

¹⁵¹ Jurado Petition, p. 14.

our powers and respect due our co-equal branches of government in matters committed to them by the Constitution, caution a stay of judicial hand."¹⁵²

The President is immune from suit.

156. Petitioners Zarate, et al., CTHUR, et al., and Sanlakas impleaded the President, in his capacity as the Chief Executive and Commander-in-Chief under the Constitution, as respondent in the present case. The President, according to petitioners, had already performed an act relevant to the Anti-Terrorism Act when he signed said law on July 3, 2020, which allegedly rendered the present case ripe for adjudication.

157. Petitioners are barking up the wrong tree.

158. The President's immunity from suit is not a novel issue. The seminal case of *David v. Macapagal-Arroyo*¹⁵³ categorically held that an incumbent President is immune from suit, albeit the absence of any express provision in the Constitution granting the same, *viz.*:

Incidentally, it is not proper to implead President Arroyo as respondent. **Settled is the doctrine that the President, during his tenure of office or actual incumbency, may not be sued in any civil or criminal case, and there is no need to provide for it in the Constitution or law. It will degrade the dignity of the high office of the President, the Head of State, if he can be dragged into court litigations while serving as such.** Furthermore, it is important that he be freed from any form of harassment, hindrance or distraction to enable him to fully attend to the performance of his official duties and functions. Unlike the legislative and judicial branch, only one constitutes the executive branch and anything which impairs his usefulness in the discharge of the many great and important

¹⁵² Cf. *Abas Kida v. Senate of the Philippines*, *supra*.

¹⁵³ G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489, and 171424, May 3, 2006.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

duties imposed upon him by the Constitution necessarily impairs the operation of the Government. However, this does not mean that the President is not accountable to anyone. Like any other official, he remains accountable to the people but he may be removed from office only in the mode provided by law and that is by impeachment.¹⁵⁴

159. Relatedly, this Honorable Court has recently held that presidential immunity admits no qualification or restriction while the President is holding such office. *De Lima v. Duterte*¹⁵⁵ instructs:

While the concept of immunity from suit originated elsewhere, the ratification of the 1981 constitutional amendments and the 1987 Constitution made our version of presidential immunity unique. Section 15, Article VII of the 1973 Constitution, as amended, provided for immunity at two distinct points in time: the first sentence of the provision related to immunity during the tenure of the President, and the second provided for immunity thereafter. At this juncture, we need only concern ourselves with immunity during the President's tenure, as this case involves the incumbent President. As the framers of our Constitution understood it, which view has been upheld by relevant jurisprudence, the President is immune from suit *during his tenure*.

Unlike its American counterpart, the concept of presidential immunity under our governmental and constitutional system does not distinguish whether or not the suit pertains to an official act of the President. Neither does immunity hinge on the nature of the suit. The lack of distinctions prevents us from making any distinctions. We should still be guided by our precedents.

Accordingly, the concept is clear and allows no qualifications or restrictions that the President cannot be sued while holding such office.

¹⁵⁴ Emphasis supplied.

¹⁵⁵ G.R. No. 227635 (Resolution), October 15, 2019.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

160. Without, therefore, any legal justification to depart from the doctrine of presidential immunity, petitioners should not be allowed to conveniently implead the President as a respondent in this case.

161. Nonetheless, assuming *arguendo* that the President may still be sued, petitioners must allege the specific act or omission, committed by the President pursuant to the Anti-Terrorism Act, that violated or threatened to violate their protected rights.¹⁵⁶ To this end, petitioners failed miserably.

162. To be sure, the mandate of implementing the provisions of the Anti-Terrorism Act may be said to ultimately lie in the hands of the President as the Chief Executive. However, it bears to stress that, as of this writing, the President's only participation in said law was to affix his signature in the enrolled bill. The law has not yet been implemented, and there has never been an attempt by the Executive Department to implement the same before its effectivity.

163. Neither can the petitioners' allusion to previous acts allegedly committed by the President suffice to incriminate the President in relation to the Anti-Terrorism Act. These alleged acts have no factual and legal implications on how the Executive Department will implement the law once it becomes effective.

164. The foregoing disquisitions only tender one conclusion: the incumbent President enjoys an absolute immunity from suit. As such, he should be dropped as a respondent in the subject Petitions.

¹⁵⁶ Rubrico v. Macapagal Arroyo, G.R. No. 183871, February 18, 2010.

The Sta. Maria, Lagman, Zarate, Jurado, CTUHR, Monsod and Sanlakas Petitions suffer from formal defects and procedural infirmities which merit their outright dismissal by this Honorable Court.

165. This Honorable Court has repeatedly held that, “procedural rules are not to be disdained as mere technicalities. They may not be ignored to suit the convenience of a party. Adjective law ensures the effective enforcement of substantive rights through the orderly and speedy administration of justice. Rules are not intended to hamper litigants or complicate litigation. But they help provide for a vital system of justice where suitors may be heard in the correct form and manner, at the prescribed time in a peaceful though adversarial confrontation before a judge whose authority litigants acknowledge. Public order and our system of justice are well served by a conscientious observance of the rules of procedure.”¹⁵⁷

166. A simple glance at the Sta. Maria and Monsod Petitions would show that these failed to comply with the requirement of Section 2(a), Rule 7 of the Revised Rules of Court which provides:

Section 2. *The body.* — The body of the pleading sets fourth its designation, the allegations of the party’s claims or defenses, the relief prayed for, and the date of the pleading.

(a) *Paragraphs.* — **The allegations in the body of a pleading shall be divided into paragraphs so numbered to be readily identified,** each of which shall contain a statement of a single set of circumstances so far as that can be done with convenience. A paragraph may be referred to by its number in all succeeding pleadings.¹⁵⁸

¹⁵⁷ Levi Strauss & Co. v. Blancaflor, G.R. No. 206779, April 20, 2016.

¹⁵⁸ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

167. The Lagman Petition likewise suffers from substantial infirmities. For one, the Verification and Certification on Non-Forum Shopping¹⁵⁹ was not signed. For another, the Verification and Certification on Non-Forum Shopping was not notarized. Also, the Lagman Petition failed to state the required attestations found in Section 4, Rule 7 of the Revised Rules of Court.

168. In this regard, Sections 1 and 2, Rule 65 of the same Rules specifically require a petition for certiorari and a petition for prohibition to be verified and accompanied by a certification of non-forum shopping. Meanwhile, Section 4, Rule 7 sets forth the manner by which a pleading is verified, with emphasis on the requirement of a signature, as well as the required attestations, to wit:

A pleading is verified by an affidavit of an affiant duly authorized to sign said verification. The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading, and shall allege the following attestations:

(a) The allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents;

(b)The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and

(c) The factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the affiant shall further serve as a certification of the truthfulness of the allegations in the pleading.

169. Additionally, under Section 5, Rule 7, the principal party shall certify under oath or in a sworn certification: (a)

¹⁵⁹ Lagman Petition, p. 54.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

that he or she has not commenced any action involving the same issues in any court, tribunal, or quasi-judicial agency and, to the best of his or her knowledge, no such other action or claim is pending therein; (b) if there is a pending action, a complete statement of the present status; and (c) if he or she should learn that the same action has been filed or is pending, he or she shall report that fact within five calendar days to the court where the initiatory pleading has been filed.

170. The rules on verification and certification are basic, necessary and mandatory for procedural orderliness.¹⁶⁰ This Honorable Court elucidated on the importance of compliance with the verification requirements, *viz.:*

The verification requirement is significant, as it is intended to secure an assurance that the allegations in the pleading are true and correct and not the product of the imagination or a matter of speculation, and that the pleading is filed in good faith. Verification is deemed substantially complied with when, as in this case, one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.¹⁶¹

171. Similarly, the filing of a certificate of non-forum shopping is mandatory. Non-compliance cannot be excused by the fact that petitioner is not guilty of forum-shopping.¹⁶² Even with the filing of such certificate, if it is not notarized, the principal party is not deemed to have done so under oath. Because Section 5, Rule 7 was not followed in terms of the statement being under oath, there is no valid certification against non-forum shopping to speak of.

172. In this case, the aforementioned defects in the Lagman, Jurado Petition are not negligible. They constitute blatant violations of the pertinent rules on verification and certification on non-forum shopping.

¹⁶⁰ Bank of the Philippine Islands v. Court of Appeals, G.R. No. 168313, October 6, 2010.

¹⁶¹ Martos v. New San Jose Builders, Inc., G.R. No. 192650, October 24, 2012; citations omitted.

¹⁶² Spouses Melo v. Court of Appeals, G.R. No. 123686, November 16, 1999.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

173. A pleading that lacks a proper verification shall be treated as an unsigned pleading.¹⁶³ The absence of a proper verification results in the petition being dismissible.¹⁶⁴ Likewise, failure to observe the rules on certification shall be cause for the dismissal of the case.¹⁶⁵

174. In line with *Martos vs. New San Jose Builders, Inc.*,¹⁶⁶ one cannot gather with certainty whether the Lagman Petition was filed in good faith. Because of the absence of petitioner Lagman's signature, there is no assurance that his allegations are true and correct. Ultimately, the rules on verification were not substantially complied with.

175. Petitioner Lagman did not cite any compelling reason for his failure to sign the verification. He cannot rely on a subsequent correction to cure the defective certification.¹⁶⁷ Worse, he cannot even invoke substantial compliance with the rules on certification, simply because he is the lone petitioner in the instant petition. As such, there is no exceptional ground for this Honorable Court to liberally apply the rules in petitioner Lagman's favor.

176. As for the Zarate and Sanlakas Petitions, they have no attached Verification and Certification of Non-Forum Shopping in violation of the above mentioned Rules. Thus, the unverified Zarate and Sanlakas Petitions must be treated too as a mere scrap of paper. Additionally, pursuant to Section 5, Rule 7 of the Revised Rules of Court, the glaring absence of a Certification of Non-Forum Shopping in the Zarate and Sanlakas Petitions is a clear ground for their dismissal.

177. Like the Lagman Petition, the Jurado, CTUHR and Monsod Petitions failed to state the required attestations under Section 4, Rule 7 of the Revised Rules of Court.

¹⁶³ Section 4, Rule 7, Revised Rules of Court.

¹⁶⁴ Chua v. Torres, et al., G.R. No. 151900, August 30, 2005.

¹⁶⁵ Section 5, Rule 7, Revised Rules of Court.

¹⁶⁶ *Supra*.

¹⁶⁷ Argallon-Jocson, et al. v. Court of Appeals, G.R. No. 162836, July 30, 2009.

178. Surely, procedural rules exist for good reason—they are tools designed to facilitate the adjudication of cases. Courts and litigants alike are thus enjoined to abide strictly by the rules.¹⁶⁸ A tempering of their application is the exception rather than the rule, and only upon a showing of justifiable reasons and of at least a reasonable attempt at compliance with them.¹⁶⁹

179. At this juncture, it is evident that the Petitions are riddled with procedural infirmities that warrant no less than outright dismissal. Be that as it may, should this Honorable Court subscribe to a liberal reading of its rules, the Petitions are all devoid of merit for reasons which will be exhaustively discussed hereunder.

SUBSTANTIVE ARGUMENTS

The enactment of Anti-Terrorism Act is a legitimate exercise of the police power by the State which has general welfare as its object.

180. The enactment of the Anti-Terrorism Act is a valid exercise of the State’s police power. In *Zabal v. Duterte*,¹⁷⁰ this Honorable Court exhaustively described the nature of police power:

Police power, amongst the three fundamental and inherent powers of the state, is the most pervasive and comprehensive. “It has been defined as the `state authority to enact legislation that may interfere with personal

¹⁶⁸ Garbo v. Court of Appeals, G.R. No. 107698, July 5, 1996.

¹⁶⁹ Rephrased from a passage in *Mediserv, Inc. v. CA*, G.R. No. 161368, April 5, 2010. The original reads: “It is settled that liberal construction of the rules may be invoked in situations where there may be some excusable formal deficiency or error in a pleading, provided that the same does not subvert the essence of the proceeding and connotes at least a reasonable attempt at compliance with the rules. After all, rules of procedure are not to be applied in a very rigid, technical sense; they are used only to help secure substantial justice.”

¹⁷⁰ *Supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

liberty or property in order to promote general welfare." "As defined, it consists of (1) imposition or restraint upon liberty or property, (2) in order to foster the common good. It is not capable of exact definition but has been purposely, veiled in general terms to underscore its all-comprehensive embrace." The police power "finds no specific Constitutional grant for the plain reason that it does not owe its origin to the Charter" since "it is inborn in the very fact of statehood and sovereignty." It is said to be the "inherent and plenary power of the State which enables it to prohibit all things hurtful to the comfort, safety, and welfare of the society." **Thus, police power constitutes an implied limitation on the Bill of Rights. After all, "the Bill of Rights itself does not purport to be an absolute guaranty of individual rights and liberties. 'Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's will.' It is subject to the far more overriding demands and requirements of the greater number."**¹⁷¹

181. The tests to determine the validity of a police measure are as follows: (a) the interests of the public generally, as distinguished from those of a particular class, require the exercise of the police power; and (b) the means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals.¹⁷² This is the rational basis test.

182. An intermediate review is warranted when the statute is an economic legislation. Intermediate review requires an important government interest. Here, it would suffice if government is able to demonstrate substantial connection between its interest and the means it employs. In accordance with *White Light*, "the availability of less restrictive measures [must have been] considered." This demands a conscientious effort at devising the least restrictive means for attaining its avowed interest. It is

¹⁷¹ Citations omitted and emphasis supplied.

¹⁷² *Chavez v. Romulo*, G.R. No. 157036, June 9, 2004.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

enough that the means employed is conceptually the least restrictive mechanism that the government may apply.¹⁷³

183. For statutes that (a) interferes with the exercise of fundamental rights, including the basic liberties guaranteed under the Constitution, or (b) burdens suspect classes,; this Honorable Court has utilized the strict scrutiny test.¹⁷⁴ Under the strict scrutiny test, it must be shown that the challenged law is narrowly tailored in order to achieve compelling governmental interests and that the mechanisms it adopts are the least burdensome or least drastic means to achieve its ends:

Fundamental rights which give rise to Strict Scrutiny include the right of procreation, the right to marry, the right to exercise First Amendment freedoms such as free speech, political expression, press, assembly, and so forth, the right to travel, and the right to vote.

Because Strict Scrutiny involves statutes which either classifies on the basis of an inherently suspect characteristic or infringes fundamental constitutional rights, the presumption of constitutionality is reversed; that is, such legislation is assumed to be unconstitutional until the government demonstrates otherwise. **The government must show that the statute is supported by a compelling governmental interest and the means chosen to accomplish that interest are narrowly tailored.** Gerald Gunther explains as follows:

...The intensive review associated with the new equal protection imposed two demands a demand not only as to means but also as to ends. Legislation qualifying for strict scrutiny required a far closer fit between classification and statutory purpose than the rough and ready flexibility traditionally tolerated by the old equal protection: means had to be shown "necessary" to achieve statutory ends, not merely

¹⁷³ Separate Opinion of J. Leonen in SPARK v. Quezon City, *supra*.

¹⁷⁴ SPARK v. Quezon City, *supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

“reasonably related.” Moreover, equal protection became a source of ends scrutiny as well: legislation in the areas of the new equal protection had to be justified by “compelling” state interests, not merely the wide spectrum of “legitimate” state ends.

Furthermore, the **legislature must adopt the least burdensome or least drastic means available for achieving the governmental objective.**¹⁷⁵

The State has a compelling interest in the protection of its citizens from terrorism.

184. A primordial duty of a State is the protection of public order and the promotion of public safety. This duty is enshrined in Section 4, Article II of the Consitution which provides:

Section 4. The prime duty of the Government is to serve and protect the people. The Government may call upon the people to defend the State and, in the fulfillment thereof, all citizens may be required, under conditions provided by law, to render personal, military or civil service.

185. There is no doubt that the security of the Filipino people is threatened by terrorism.

186. When the ISIS terror group began to lose ground in the Middle East, its members and sympathizers brought the fight to Southeast Asia. Eventually, the notoriety of ISIS attracted the attention of local extremist groups. In fact, the AFP has obtained an ISIS propaganda material, a document entitled “*Dabiq*,” which stated that as early as November 2014, a number of groups in the Philippines had already pledged their allegiance to the caliphate.¹⁷⁶

¹⁷⁵ Separate Opinion of Justice Marivic Leonen in SPARK v. Quezon City, *supra*.

¹⁷⁶ *Supra* note 7.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

187. Recently, local terrorist groups perpetrated bombing attacks in Mindanao: the January 27, 2019 Jolo Cathedral bombing, the April 3, 2019 and September 7, 2019 Isulan bombings, and the June 28, 2019 and September 8, 2019 Indanan bombings.¹⁷⁷

188. Senator Lacson laid down the state of terrorism in the Philippines in his Sponsorship Speech delivered on February 6, 2019,¹⁷⁸ to wit:

(a) The menacing threat of terrorism continues to spread with even more daring and sophisticated means. While other countries have long responded aggressively to protect and safeguard their citizens, our existing laws are neither sufficient nor responsive to the threat.

(b) The Global Terrorism Index of 2018 ranked the Philippines as the 10th country most negatively affected by terrorism. In fact, our country experienced the highest negative impact from terrorism among states in the Asia-Pacific region. While other states across the globe are starting to see a downtrend in the number of deaths due to terrorism, we are included in the top 10 countries with the largest increase in deaths from terrorism from 2016-2017.

(c) In 2017, despite the effectivity Human Security Act of 2007, said law did not prevent the armed conflict in Marawi, Lanao del Sur, between government forces and pro-ISIS militants. From this, the government reported the death of 900 Maute-ISIS affiliated fighters, 168 government forces, and 47 civilians. The total damage and lost opportunities cost is estimated at P18.23 billion, excluding the cost of war material and other combat service support operations, which was estimated at more than P6 billion. Post-war, the

¹⁷⁷ See Substantive and Procedural Facts of this Consolidated Comment.

¹⁷⁸ Panfilo M. Lacson, Sponsorship Speech for the Anti-Terrorist Act (17th Congress), <https://pinglacson.net/2019/02/06/sponsorship-speech-anti-terrorism-act-of-2019/>, last accessed on July 14, 2020.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

government's conservative estimate for the cost of Marawi's rehabilitation is pegged at P72.58 billion. Furthermore, the fighting in Marawi forced out around 72,000 families or 359,000 individuals, many of whom remain displaced to this day.

(d) Since the passage of the Human Security Act of 2007 more than a decade ago and during its efficacy, it remained severely underutilized. To illustrate, it took five long years to finally declare the Abu Sayyaf Group a terrorist or outlawed organization in 2015. Despite the increasing number of deaths due to terrorism, only one conviction¹⁷⁹ was secured by the State under said law.

189. Moreover, the UN Global Counter-Terrorism Strategy recognizes that terrorism laws are fundamental government obligations to safeguard human rights and the protection of individuals, *viz.*:

Terrorism clearly has a very real and direct impact on human rights, with devastating consequences for the enjoyment of the right to life, liberty and physical integrity of victims. In addition to these individual costs, terrorism can destabilize Governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have a real impact on the enjoyment of human rights.

Security of the individual is a basic human right and the protection of individuals is, accordingly, a fundamental obligation of Government. States therefore have an obligation to ensure the human rights of their nationals and others by taking positive measures to protect them against the threat of terrorist acts and bringing the perpetrators of such acts to justice.¹⁸⁰

¹⁷⁹ RTC of Taguig City, finding accused NUR A. SUPIAN guilty of committing acts falling under Section 3 of the Human Security Act.

¹⁸⁰ Human Rights, Terrorism and Counter-terrorism, <https://www.ohchr.org/documents/publications/factsheet32en.pdf>, last accessed July 10, 2020.

190. Evidently, terrorism has a real and direct impact on human rights, with devastating consequences on the enjoyment of the right to life, liberty and physical integrity of victims. In addition to these individual costs, terrorism can destabilize governments, undermine civil society, jeopardize peace and security, and threaten social and economic development. All of these also have a real impact on the enjoyment of human rights.¹⁸¹ Terrorism is a very real problem that ought to be decisively addressed on all fronts—something that petitioners would surely readily agree with.

The Anti-Terrorism Act adopts the least restrictive means in its implementation.

191. It is beyond doubt that the susceptibility of a law to *potential* abuse is a harsh reality. Fully aware of this, Senator Lacson, in his February 6, 2019 Sponsorship Speech¹⁸² for the Anti-Terrorism Act, made perfectly clear that there are corresponding safeguards in the law to avoid the threat of abuse; that every intrusion calls for checks from the judiciary; and, that lengthy imprisonment penalties are provided to deter exploitation of the law.

192. In his October 2, 2019 Sponsorship Speech¹⁸³ for the same law, Senator Lacson emphasized that reinforcing the country's anti-terrorism laws and safeguarding the rights of potential accused or suspects of terrorism are equally important and must go hand in hand, *viz.:*

It is therefore incumbent upon the legislature to amend the Human Security Act of 2007. Our country needs an anti-terror law that would provide a strong legal backbone to

¹⁸¹ Available at <https://www.ohchr.org/documents/publications/factsheet32en.pdf>, last accessed July 10, 2020.

¹⁸² Panfilo M. Lacson, Sponsorship Speech for the Anti-Terrorism Act (17th Congress), <https://pinglacson.net/2019/02/06/sponsorship-speech-anti-terrorism-act-of-2019/>, last accessed on July 16, 2020.

¹⁸³ Panfilo M. Lacson, Sponsorship Speech for the Anti-Terrorism Act of 2019 (18th Congress), <https://pinglacson.net/2019/10/02/sponsorship-speech-for-the-anti-terrorism-act-of-2019-18th-congress/>, last accessed on July 16, 2020.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

support our criminal justice response to terrorism, enable our law enforcers the much-needed tools to protect our people from the threat of terrorism, **and at the same time, safeguard the rights of those accused of the crime.** We need a strong legal structure that deals with terrorism in order to exact accountability, liability, and responsibility. Those who have committed, are about to commit, or are supporting those who commit terrorist acts should be prosecuted and penalized accordingly.

...

Lastly, Mr. President, I emphasize that **amending the Human Security Act does not take away the intent and spirit of the human rights safeguards provided by RA 9372 for persons accused of Terrorist Acts and Preparatory Acts.** Furthermore, by amending RA 9372, we ensure that our anti-terror law is clear, concise, and balanced. We strive to provide the state a strong legal backbone to protect the life, liberty and property of the Filipino people against the evils of terrorism.¹⁸⁴

193. Senate deliberations reveal a deliberate intent on the part of Congress to provide added measure of protection, *viz.:*

Mr. Pimentel. Then another issue, Mr. President. In the same section, immediately after mentioning the penalty for committing a terrorist act, there is a proviso that the definition of terrorist acts shall not cover legitimate exercises of rights and freedom of expression.

Senator Lacson. That is correct, Mr. President.

Senator Pimentel. Why was there a need to immediately qualify? Is there a danger or a close relationship between exercise of basic

¹⁸⁴ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

rights and some acts which can be mistaken for as terrorist acts?

Senator Lacson. As pointed out by the honorable lady senator from Panay during her interpellations, *iyong* legitimate exercise *ay mayroong* labor strike, and the laborers *ay nagkaroon ng* violence, *hindi sila mako-cover dito*. *Kasi* legitimate exercise of freedom of expression or *nag-e-express sila ng* dissent. *Kung iko-cover pa rin natin sila, medyo lalong magiging* wayward.

Senator Pimentel. Yes, Mr. President. *Tama nga po iyon na hindi talaga sila covered. Pero nag-aalala lamang ako na* immediately after defining terrorist acts, we have to clarify that the exercise of fundamental rights will not be covered. *So, mayroon palang danger na mapagkamalan ang* exercise of basic rights as a terrorist act *kasi sinunod kaagad natin*.

Senator Lacson. For clarity and for emphasis, Mr. President, *para lamang malinaw*, this is one of the safeguards. *Kasi* if we do not include that proviso, I am sure the gentleman will be interpellating along that line. *Bakit kulang?* That is why we deemed it wise *na i-qualify na lamang natin na hindi kasama iyong* legitimate exercise of the freedom of expression, et cetera.¹⁸⁵

...

Senator Drilon. ...

Now, let me cite some specific example and try to draw an opinion from the good sponsor. Currently, we see a lot of rallies, protests in Hong Kong. That kind of protests has led to the collapse of the economy of Hong Kong practically. The anti-government protests have gone on for six months and have really harmed the economy. Now, assuming for the sake of argument, that something similar happens here, would that act or the act of the protesters be considered as an act of terrorism because they are compelling the government to do something by force or intimidation?

¹⁸⁵ TSN dated January 28, 2020; Annex “6”.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Senator Lacson. **No, Mr. President. It will not be included because the fundamental rights are always respected even in this proposed measure.**

Senator Drilon. Yes, but supposed as in Hong Kong, there were instances of violence.

Senator Lacson. But we are always bound by the purpose, Mr. President. If the purpose is enumerated, then...

Senator Drilon. The purpose in Hong Kong is to force the Hong Kong government...

Senator Lacson. **To allow them to exercise their fundamental rights, their freedom, even to choose their leaders, to exercise suffrage. If that is the purpose, it does not constitute an act of terrorism, Mr. President.**

Senator Drilon. All right. Mr. President, it is good that we have this on record because this would guide us in attempting to make clearer the provisions here so that it does not lead to an overarching or overreach in terms of the exposure to crimes of terrorism.¹⁸⁶

194. The Anti-Terrorism Act's Declaration of Policy captured the foregoing intent:

Sec. 2 Declaration of Policy. – It is declared a policy of the State to protect life, liberty, and property from terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against The Law of the Nations.

In the implementation of the policy stated above, **the State shall uphold the basic rights and fundamental liberties of the people as enshrined in the Constitution.**

¹⁸⁶ TSN dated December 17, 2019, pp. 48-50; Annex “2”; Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

The State recognizes that the fight against terrorism requires a comprehensive approach, comprising political, economic, diplomatic, militarily, and legal means duly taking into account the root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities. Such measures shall include conflict management and post-conflict peacebuilding, addressing the roots of conflict by building state capacity and promoting equitable economic development.

Nothing in this Act shall be interpreted as a curtailment, restriction or diminution of constitutionally recognized powers of the executive branch of the government. **It is to be understood, however, that the exercise of the constitutionally recognized powers of the executive department of the government shall not prejudice respect for human rights which shall be absolute and protected at all times.**¹⁸⁷

195. For a better appreciation of the safeguards under the Anti-Terrorism Act, some of the most notable are listed below, to wit:

- a. Excluding from the definition of terrorism legitimate exercises of civil and political rights, including but not limited to engaging in advocacy, protest, dissent, stoppage of work, industrial or mass action which are not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety.¹⁸⁸
- b. Prohibition on the surveillance and, interception and recording of communication and confidential business correspondence between lawyers and clients, doctors and patients, journalists and their sources.¹⁸⁹
- c. Limiting the period of judicial authorization of surveillance to 60 days, extendible or

¹⁸⁷ Emphasis supplied.

¹⁸⁸ Section 4, Anti-Terrorism Act.

¹⁸⁹ Section 16, Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

renewable to a non-extendible period of 30 days from the expiration of the original period.¹⁹⁰

- d. Requiring prior judicial authorization and determination of probable cause for the following:
 - i. Surveillance of suspects;¹⁹¹
 - ii. Interception and recording of communications;¹⁹²
 - iii. Issuance of an order of proscription;¹⁹³
 - iv. Issuance of a precautionary hold departure order¹⁹⁴
- e. Submission/filing of a written notification to the judge of the court nearest the place of apprehension or arrest of a person suspected of committing terrorism or any member of a group of persons, organization or association proscribed under Section 26.¹⁹⁵
- f. The written notice shall contain the following facts: (a) the time, date, and manner of arrest; (b) the location or locations of the family detained suspect/s; and (c) the physical and mental condition of the detained suspect/s.¹⁹⁶
- g. The law enforcement agent or military personnel shall likewise furnish the ATC and the CHR of the written notice given to the judge.¹⁹⁷
- h. Imposing upon the head of the detaining facility the duty to ensure that the detained suspects is informed of his/her rights as a detainee and to ensure the access to the detainee by his/her counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities.¹⁹⁸

¹⁹⁰ Section 19, Anti-Terrorism Act.

¹⁹¹ Section 16, Anti-Terrorism Act.

¹⁹² Section 16, Anti-Terrorism Act.

¹⁹³ Section 26, Anti-Terrorism Act.

¹⁹⁴ Section 34, Anti-Terrorism Act.

¹⁹⁵ Section 29, Anti-Terrorism Act.

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

¹⁹⁸ *Ibid.*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- i. Observance by law enforcement agents of the custodial detention rights of an apprehended or arrested and detained person who is charged with or suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12 of the Anti-Terrorism Act .¹⁹⁹
- j. In case of need to extend the period of detention of a suspected person, the arresting officer must first establish the presence of the following circumstances: (a) That further detention of the suspected person is necessary to preserve evidence related to the terrorist act or to complete the investigation; (b) That further detention of the suspected person is necessary to prevent the commission of another terrorist act; and (c) That the investigation is being conducted properly and without delay.²⁰⁰
- k. Requiring the maintenance of an Official Custodial Logbook by the law enforcement custodial unit in whose care and control the person suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12 of the Anti-Terrorism Act has been placed under custodial arrest and detention. This logbook shall record all important events bearing on and all relevant details regarding the treatment of the detained person while under custodial arrest and detention and shall be considered as a public document and opened to and made available for the inspection and scrutiny of the lawyer of the person under custody or any member of his/her family or relative by consanguinity or affinity within the fourth civil degree or his/her physician at any time of the day or night subject to reasonable restrictions by the custodial facility.²⁰¹
- l. Absolute prohibition on the use of torture and other cruel, inhumane and degrading treatment or punishment, as defined in Sections 4 and 5 of Republic Act No. 9745

¹⁹⁹ Section 30, Anti-Terrorism Act.

²⁰⁰ Section 29, Anti-Terrorism Act.

²⁰¹ Section 32, Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

otherwise known as the "Anti-Torture Act of 2009," at any time during the investigation or interrogation of a detained suspected terrorist.²⁰²

- m. Consequently, any evidence obtained from said detained person resulting from such treatment shall be, in its entirety, inadmissible and cannot be used as evidence in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.²⁰³
- n. In cases involving crimes defined and penalized under the provisions of this Act, the judge concerned shall set the case for continuous trial on a daily basis from Monday to Thursday or other short-term trial calendar to ensure compliance with the accused's right to speedy trial.²⁰⁴
- o. Formulation and adoption by the ATC of a program that shall ensure respect for human rights and adherence to the rule of law as the fundamental bases of the fight against terrorism. Such program shall guarantee compliance with the same as well as with international commitments to counterterrorism-related protocols and bilateral and/or multilateral agreements.²⁰⁵
- p. With due regard for the rights of the people as mandated by the Constitution and pertinent laws, the ATC shall, among others:
 - i. Direct the speedy investigation and prosecution and prosecution of all persons detained or accused for any crime defined and penalized under the Act;²⁰⁶
 - ii. Monitor the progress of the investigation and prosecution of all persons accused and/or detained for

²⁰² Section 33, Anti-Terrorism Act.

²⁰³ *Ibid.*

²⁰⁴ Section 44, Anti-Terrorism Act.

²⁰⁵ Section 45(d), Anti-Terrorism Act.

²⁰⁶ Section 46(c), Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

any crime defined and penalized under the provisions of the Act,²⁰⁷ and

iii. Investigate *motu proprio* or upon complaint any report of abuse, malicious application or improper implementation by any person of the provision of the Act.²⁰⁸

q. Granting the CHR the highest priority to the investigation and prosecution of violations of civil and political rights of persons in relation to the implementation of the Act.²⁰⁹

r. There shall be due regard for the welfare of any suspects who are elderly, pregnant, persons with disability, women and children while they are under investigation, interrogation or detention.²¹⁰

s. Unauthorized or malicious interception and/or recordings by any law enforcement agent or military personnel who conducts surveillance activities without a valid judicial authorization shall be punishable by imprisonment of ten years.²¹¹

t. The penalty of imprisonment of ten years shall be imposed upon the police or law enforcement agent or military personnel who fails to notify any judge in case of warrantless arrests of a suspected person under the Act.²¹²

u. The penalty of imprisonment of ten years shall be imposed upon any law enforcement agent or military personnel who has violated the rights of persons under their custody. Unless the law enforcement agent or military personnel who violated the rights of a detainee or detainees is duly identified, the same penalty shall be imposed on the head of the law enforcement unit or military unit

²⁰⁷ Section 46, Anti-Terrorism Act.

²⁰⁸ Section 46(n), Anti-Terrorism Act.

²⁰⁹ Section 47, Anti-Terrorism Act.

²¹⁰ Section 51, Anti-Terrorism Act.

²¹¹ Section 25, Anti-Terrorism Act.

²¹² Section 29, Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

having custody of the detainee at the time the violation was done.²¹³

- v. Any person who maliciously, or without authorization, examines deposits, placements, trust accounts, assets, or records in a bank or financial institution, shall suffer the penalty of four years of imprisonment.²¹⁴
- w. Imprisonment of ten years shall be imposed upon any person, law enforcement agent or military personnel, judicial officer or civil servant who, not being authorized by the Court of Appeals to do so, reveals in any manner or form any classified information under the Act. The penalty imposed is without prejudice and in addition to any corresponding administrative liability the offender may have incurred for such acts.²¹⁵
- x. Any public officer who has direct custody of a detained person and, who, by his deliberate act, misconduct or inexcusable negligence, causes or allows the escape of such detained person shall be guilty of an offense and shall suffer the penalty of ten (10) years of imprisonment.²¹⁶
- y. The penalty of imprisonment of six years shall be imposed upon any person who knowingly furnishes false testimony, forged document or spurious evidence in any investigation or hearing conducted in relation to any violations under the Act.²¹⁷
- z. Establishment of a Joint Congressional Oversight Committee which shall have the authority to summon law enforcement or military officers and the members of the ATC to appear before it, and require them to answer questions and submit written reports about the implementation of the Act.²¹⁸

²¹³ Section 31, Anti-Terrorism Act.

²¹⁴ Section 37, Anti-Terrorism Act.

²¹⁵ Section 41, Anti-Terrorism Act.

²¹⁶ Section 42, Anti-Terrorism Act.

²¹⁷ Section 43, Anti-Terrorism Act.

²¹⁸ Section 50, Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- aa. Mandating the Bureau of Jail Management and Penology (BJMP) and the Bureau of Corrections (BuCor) to establish a system of assessment and classification for persons charged for committing terrorism and preparatory acts punishable under the Act. Said system shall cover the proper management, handling, and interventions for said persons detained. Persons charged under the Act are mandated to be detained in existing facilities of the BJMP and the BuCor.²¹⁹

196. Evidently, the Anti-Terrorism Act is brimming with strong safeguards that can effectively prevent and dissuade a law enforcer from perpetrating abuse in its implementation. In addition, a person may find himself/herself a victim of a wrongful implementation of the law may also find refuge in several safeguards and remedies which are scattered in other existing laws and rules, such as, but not limited to the following:

- a. The Anti-Torture Act of 2009 (R.A. No. 9745);
- b. The Anti-Enforced or Involuntary Disappearance Act of 2012 (R.A. No. 10353);
- c. The Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof (R.A. No. 7438);
- d. Article 32²²⁰ of the Civil Code of the Philippines; and

²¹⁹ Section 52, Anti-Terrorism Act.

²²⁰ Article 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

- (1) Freedom of religion;
- (2) Freedom of speech;
- (3) Freedom to write for the press or to maintain a periodical publication;
- (4) Freedom from arbitrary or illegal detention;
- (5) Freedom of suffrage;
- (6) The right against deprivation of property without due process of law;
- (7) The right to a just compensation when private property is taken for public use;
- (8) The right to the equal protection of the laws;

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- e. The Rules of this Honorable Court on the human rights writs which are:
 - i. The Writ of Habeas Corpus (Rule 102 of the Revised Rules of Court);
 - ii. The Writ of Amparo (A.M. No. 07-9-12-SC); and
 - iii. The Writ of Habeas Data (A.M. No. 08-1-16-SC).

197. Despite the above long list of safeguards, petitioner Lagman claims that the Anti-Terrorism Act abandoned the safeguards provided under the Human Security Act and posits that the safeguards in the new law are merely superficial and artificial recognition of civil and political rights.²²¹

198. The above claim is misleading.

199. Indeed, a few safeguards under the Human Security Act are not retained in the Anti-Terrorism Act.

-
- (9) The right to be secure in one's person, house, papers, and effects against unreasonable searches and seizures;
 - (10) The liberty of abode and of changing the same;
 - (11) The privacy of communication and correspondence;
 - (12) The right to become a member of associations or societies for purposes not contrary to law;
 - (13) The right to take part in a peaceable assembly to petition the Government for redress of grievances;
 - (14) The right to be free from involuntary servitude in any form;
 - (15) The right of the accused against excessive bail;
 - (16) The right of the accused to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witness in his behalf;
 - (17) Freedom from being compelled to be a witness against one's self, or from being forced to confess guilt, or from being induced by a promise of immunity or reward to make such confession, except when the person confessing becomes a State witness;
 - (18) Freedom from excessive fines, or cruel and unusual punishment, unless the same is imposed or inflicted in accordance with a statute which has not been judicially declared unconstitutional; and
 - (19) Freedom of access to the courts.

In any of the cases referred to in this article, whether or not the defendant's act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

The responsibility herein set forth is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute.

²²¹ Lagman Petition, pp. 47-48.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

However, since this is a legislative discretion, due deference must be given to the exercise thereof by Congress. This political decision was made by Congress with the aim of creating a well-balanced law that effectively combats terrorism and, at the same time, duly preserves the civil liberties and fundamental rights of the people and of the person suspected or accused of violating the law.

200. The intent behind said legislative decision can be gleaned from the following explanation by Senator Lacson:

Nations have made headway in amending or passing new anti-terrorism laws. Sadly, we could not say the same for our country. **Since its enactment in 2007, our country's legislative framework for anti-terrorism has remained toothless, to say the least.**

Only in the Philippines—as the expression goes—where the anti-terror law has literally more provisions restricting our law enforcers than bringing terrorists to justice. That is not an exaggeration. Under the current Human Security Act, there are only four instances for terrorists to be prosecuted under the law. These are: commission of the actual crime of terrorism; conspiracy to commit terrorism; accomplice; and accessory. On the other hand, there are a total of 20 instances where law enforcers can be charged and penalized for violations of the Human Security Act. I believe this is not rational. Add to this the penalty of P500,000 per day to be paid by the government to anyone erroneously detained for possible terrorism. This is not only irrational, Mr. President; it borders on the absurd.

Sadly, the Human Security Act has proven to fail in terms of its efficacy as an anti-terrorism measure. Despite the real and present threat presented by terrorist organizations, groups, and individuals to the Filipino people, we have had only one conviction for violation of the law. Imagine that, time and again, and seemingly more and more often, we hear of terrorist attacks happening, with a mounting number of those killed and injured. One conviction, Mr. President. That alone is enough

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

proof of the ineptness and inadequacy of the current law.

It is therefore incumbent upon the legislature to amend the Human Security Act of 2007. Our country needs an anti-terror law that would provide a strong legal backbone to support our criminal justice response to terrorism, enable our law enforcers the much-needed tools to protect our people from the threat of terrorism, and at the same time, safeguard the rights of those accused of the crime. We need a strong legal structure that deals with terrorism in order to exact accountability, liability, and responsibility. Those who have committed, are about to commit, or are supporting those who commit terrorist acts should be prosecuted and penalized accordingly.²²²

201. To be sure, no provision in the Constitution was transgressed when Congress decided not to adopt some of the safeguards under the Human Security Act in the Anti-Terrorism Act. This decision is a valid and reasonable exercise of its legislative discretion which is entitled to deference, pursuant to the pronouncement of this Honorable Court in *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*,²²³ wherein this Honorable Court respected the choice of Congress to modify the standards of basic education, *viz.*:

The enactment of the *K to 12 Law* was the manner by which the Congress sought to realize the right to education of its citizens. It is indeed laudable that Congress went beyond the minimum standards and provided mechanisms so that its citizens are able to obtain not just elementary education but also kindergarten and high school. **Absent any showing of a violation of any Constitutional self-executing right or any international law, the Court cannot question the desirability, wisdom, or utility of the K to 12 Law as this**

²²² Panfilo M. Lacson, Sponsorship Speech for the Anti-Terrorism Act of 2019 (18th Congress), <https://pinglacson.net/2019/10/02/sponsorship-speech-for-the-anti-terrorism-act-of-2019-18th-congress/>, last accessed on July 15, 2020; emphasis supplied.

²²³ *Supra*.

is best addressed by the wisdom of Congress.

...

It is thus clear from the deliberations that it was never the intent of the framers of the Constitution to use only Filipino and English as the exclusive media of instruction. It is evident that Congress has the power to enact a law that designates Filipino as the primary medium of instruction even in the regions but, in the absence of such law, the regional languages may be used as primary media of instruction. The Congress, however, opted not to enact such law. On the contrary, the Congress, in the exercise of its wisdom, provided that the regional languages shall be the primary media of instruction in the early stages of schooling. Verily, this act of Congress was not only Constitutionally permissible, but was likewise an exercise of an exclusive prerogative to which the Court cannot interfere with.²²⁴

202. While some of the safeguards provided under the Anti-Terrorism Act are mere reaffirmation of constitutional rights, statutory guarantees, and jurisprudential pronouncements, this fact does not water-down the purpose of these safeguards. On the contrary, the echoing of these principles enhances the potency of the Anti-Terrorism Act in deterring the commission of *potential* abuse in its implementation.

203. Furthermore, contrary to petitioner Lagman's description, these safeguards are neither superficial nor artificial recognition of civil and political rights. Without a doubt, no law enforcement agent worth his salt is unaware of the "threefold liability rule" which holds that the wrongful acts or omissions of a public officer may give rise to civil, criminal, and administrative liabilities. This simply means that a public officer may be held civilly, criminally, and administratively liable for a wrongful doing.²²⁵

²²⁴ Emphasis supplied.

²²⁵ Ramiscal v. Commission on Audit, G.R. No. 213716, October 10, 2017.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

204. Therefore, a law enforcer will be reluctant to violate these safeguards blatantly, otherwise, he will expose himself to the threefold liability rule which will arise not only under the Anti-Terrorism Act, but also under other existing laws.

205. Thus, the Anti-Terrorism Act passes muster when analyzed under the strict scrutiny test. The State's police power constitutes an implied limitation to the Bill of Rights, and that even liberty itself, the greatest of all rights, is subject to the far more overriding demands and requirements of the greater number.²²⁶

206. For the Anti-Terrorism Act, the undue restraint on individual rights is illusory. The law has explicitly and specifically provided for procedures and safeguards in order that any curtailment of political and civil rights would not occur. The perceived *potential* abuse in the implementation of a law is feasibly preventable by the effective safeguards incorporated into the law. And owing to these very same safeguards, the impact of the law's intrusion into the enjoyment of fundamental rights by individuals – whether innocent, suspected, accused, or convicted – will be minimized.

207. Under the Anti-Terrorism Act is a valid enactment by Congress that fully recognizes the individual rights accorded by the Constitution.

The Anti-Terrorism Act cannot be nullified based on conjectural or anticipatory fear that it will be abused by the law enforcement agents of the State.

208. Petitioners further posit that the alleged vagueness and overbreadth of the law would necessarily lead to abuse

²²⁶ Zabal v. Duterte, *supra*.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

being committed by law enforcement agents. Petitioners Calleja, et al. contend that the law provides the executive a potent vehicle to repress activism and dissenting voices.²²⁷ Petitioners Sta. Maria, et al. argue that allowing the law to take effect will legitimize wrongdoings, allow transgressions to constitutional liberties, and give license for wrongdoers to act with impunity.²²⁸

209. For their part, petitioner Zarate, et al. worry that the enforcers themselves are susceptible to become terrorists themselves, terrorizing the members of the society by depriving them of the mantle of protection accorded by the fundamental law of the land.²²⁹ In addition, petitioner Lagman maintains that, the more power given by this law to police and military enforcers as well as to administrative implementors like the ATC and Anti-Money Laundering Council (AMLC) without or with diluted accountability, the more they are emboldened to commit abuses and excesses derogating civil liberties and fundamental freedoms.²³⁰

210. It bears recalling that in the 2006 case of *Randolf David v. Pres. Gloria Macapagal-Arroyo*,²³¹ this Honorable Court held that "(t)he validity of a statute or ordinance is to be determined from its general purpose and its efficiency to accomplish the end desired." This Honorable Court concluded that "courts are not at liberty to declare statutes invalid although they may be abused in the manner of application."

211. The Anti-Terrorism Act makes clear that its purpose is to protect life, liberty, and property from terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people. Its definition of terrorism accomplishes this purpose because it provides notice that courts can punish specific acts as crimes of terrorism if the violator possessed the necessary criminal intent and the required attendant circumstances existed. Therefore, petitioners' allegations that the Philippine government may be apt to abuse the Anti-Terrorism Act, most

²²⁷ Calleja Petition, p. 3.

²²⁸ Sta. Maria Petition, p. 2.

²²⁹ Zarate Petition, p. 2.

²³⁰ Lagman Petition, par. 17. p. 60.

²³¹ G.R. No. 171396, March 3, 2006.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

of which are anchored on speculative situations, will certainly not warrant the invalidation of the law. Well settled is the rule that courts are not at liberty to declare statutes invalid, although they may be abused or misabused, and may afford an opportunity for abuse in the manner of application.²³²

212. To stress, the invalidation of a law based on speculative or hypothetical fears is never allowed. As previously discussed, a requirement of judicial review is justiciability. This Honorable Court is barred from rendering a decision based on assumptions, speculations, conjectures, and hypothetical or fictional illustrations. Apropos is the Court's ruling in *Southern Hemisphere* on the issue of potential abuse:

The possibility of abuse in the implementation of RA 9372 does not avail to take the present petitions out of the realm of the surreal and merely imagined. Such possibility **is not peculiar to RA 9372 since the exercise of any power granted by law may be abused. Allegations of abuse must be anchored on real events before courts may step in to settle actual controversies** involving rights which are legally demandable and enforceable.

213. Notably, even in the cases that this Honorable Court had actually taken notice of police abuse, particularly in the conduct of illegal drugs buy-bust operations, in no instance that this Honorable Court hint that the nullification of R.A. No. 9165 or the "Dangerous Drugs Act" is the suitable remedy. In those cases, this Honorable Court, confronted with issues about police abuse, looked into the safeguards provided by R.A. No. 9165 and then determined if those safeguards were observed. When the safeguards are found to have been disregarded, a judgment of acquittal is rendered in favor of the accused, without diminishing, in whatever extent, the validity of the law.

²³² Tondo Medical Center Employees Association v. Court of Appeals, G.R. No. 167324, July 17, 2007.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

214. Evidently, nullifying the Anti-Terrorism Act is not the proper remedy to the potential abuses that might result from its enforcement.

215. The Anti-Terrorism Act is not a novel piece of legislation of its kind. Prior to its enactment, the Human Security Act was in effect. Petitioners hardly mention of any case in which law enforcement agents were convicted for abusing the provisions of the Human Security Act. Corollarily, *sans* tangible proof to the contrary, the State agents who are tasked to enforce the Anti-Terrorism Act should be presumed to perform their sworn duty in a regular manner.²³³

216. Indeed, this Honorable Court already recognized that most government actions are inspired with noble intentions, all geared towards the betterment of the nation and its people. It must be emphasized that the true enemies of the people are the terrorists, some of whom have already infiltrated our society, cunningly disguising themselves as law abiding citizens, but are stealthily hatching atrocious plots to cast an atmosphere of fear upon the people, to seriously undermine public safety, or to destabilize the fundamental political, economic, or social structure of the country, while monitoring with pleasure the recent influx of petitions assailing the Anti-Terrorism Act.

217. Verily, petitioners' villainous depiction of the State's law enforcement agents is therefore extremely unfair, factually baseless, and devoid of legal moorings.

The Anti-Terrorism Act does not violate the "due process" clause of the Constitution.

218. Section 1, Article III of the Constitution ordains:

²³³ People v. Cabiles, G.R. No. 220758, June 7, 2017.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

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.

219. The guaranty of due process of law is a constitutional safeguard against any arbitrariness on the part of the Government, whether committed by the legislature, the executive, or the judiciary. It is a protection essential to every inhabitant of the country, for, as a commentator on Constitutional Law has vividly written:²³⁴

... If the law itself unreasonably deprives a person of his life, liberty, or property, he is denied the protection of due process. If the enjoyment of his rights is conditioned on an unreasonable requirement, due process is likewise violated. Whatsoever be the source of such rights, be it the Constitution itself or merely a statute, its unjustified withholding would also be a violation of due process. Any government act that militates against the ordinary norms of justice or fair play is considered an infraction of the great guaranty of due process; and this is true whether the denial involves violation merely of the procedure prescribed by the law or affects the very validity of the law itself.

220. In the main, the majority of the consolidated Petitions attempt to mount a facial challenge on the Anti-Terrorism Act, particularly Sections 4, 5, 9, 10, 25 and 26 thereof, due to what they allege as "vague" and "overbroad" definitions of acts constituting terrorism. These definitions purportedly violate substantive due process, such that men of common intelligence would supposedly guess as to their meaning and differ as to their application.

221. To support their facial challenge, petitioners Sta. Maria, et al. singled out Sections 6, 9, 10, and 12 which they perceive to "penalize modes of speech, expression, and

²³⁴ Legaspi v. City of Cebu, G.R. No. 159110, December 10, 2013; citing Cruz, Constitutional Law, 2007 Ed., pp. 100-101.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

association, thereby equally subject to facial attack for being unwarranted, excessive, and overbroad encroachments on the freedom of expression."²³⁵ On his end, Petitioner Lagman asseverates that the Act criminalizes "proposal", "threats", and "inciting" to commit terrorism which infringe on the right to free speech, as well as the right to petition the government for redress of grievances."²³⁶ Additionally, petitioner Sanlakas avers that the Act is not merely an ordinary penal statute, but one that crosses into the constitutionally protected areas of free speech, free expression, and free assembly, thereby making it vulnerable and susceptible to a facial challenge.²³⁷

222. Petitioners' facial challenge on the constitutionality of the Anti-Terrorism Act must be totally rejected for two reasons: (a) the *in terrorem* effect inherent in penal statutes preclude a facial challenge; and (b) the ruling in *Disini v. Executive Secretary*²³⁸ is an exception to the non-applicability of facial challenge to penal laws on the ground of the void-for-vagueness doctrine because the provisions of R.A. No. 10175, otherwise known as the Cybercrime Prevention Act of 2012, govern the novel medium of cyberspace—a unique trait not shared by either the Anti-Terrorism Act or the Human Security Act.

223. Thus, it is important to distinguish between a "facial" challenge and an "as-applied" challenge to a statute. One primary distinction between the two methods of challenging legislation is that a facial challenge to a statute seeks to invalidate it in its entirety because every application is unconstitutional, whereas an as-applied challenge seeks to invalidate a particular application of a statute. A second distinction between the two is that a facial challenge may be brought soon after a statute's passage in a legislature; however, an as-applied challenge, as the name suggests, can only be brought once it has been enforced. In this sense, a facial challenge is prospective, or forward looking, because it seeks to prevent a law from being enforced and thus violating someone's constitutional rights, and an as-applied challenge

²³⁵ Sta. Maria Petition, pp. 34-35.

²³⁶ Lagman Petition, pp. 20-21.

²³⁷ Sanlakas Petition, p. 7.

²³⁸ *Disini v. Executive Secretary*, *infra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

is retrospective, or backward looking, because it seeks to redress a constitutional violation that has already occurred. Since facial challenges have the potential to invalidate a statute in its entirety, they are said to be disfavored.²³⁹

224. A successful facial challenge carries greater consequences than an as-applied challenge, *i.e.*, the entire legislation is invalidated. It is, therefore, disfavored and permitted to be used sparingly. In *Washington State Grange v. Washington State Republican Party*,²⁴⁰ the U.S. Supreme Court stated several reasons for disfavoring facial challenges, to wit:

Claims of facial invalidity often rest on speculation. As a consequence, they raise the risk of “premature interpretation of statutes on the basis of factually barebones records”.²⁴¹ Facial challenges also run contrary to the fundamental principle of judicial restraint that courts should neither “anticipate a question of constitutional law in advance of the necessity of deciding it” nor “formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.”²⁴² Finally, facial challenges threaten to short circuit the democratic process by preventing laws embodying the will of the people from being implemented in a manner consistent with the Constitution. We must keep in mind that “[a] ruling of unconstitutionality frustrates the intent of the elected representatives of the people.”²⁴³

225. Procedurally, the present Petitions must fail for being impermissible facial attacks on a penal statute. This Honorable Court has succinctly declared that a facial invalidation or an “on-its-face” invalidation of criminal statutes is not appropriate.²⁴⁴ *Estrada v. Sandiganbayan*²⁴⁵ explained that penal statutes have general *in terrorem* effect

²³⁹ *Washington State Grange v. Washington State Republican Party*, 552 U.S. 442, 7 (2008).

²⁴⁰ *Ibid.*

²⁴¹ *Sabri v. United States*, 541 U.S. 600, 609 (2004). Internal quotation marks and brackets omitted.

²⁴² *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288, 347

²⁴³ *Ayotte v. Planned Parenthood of Northern New Eng.*, 546 U.S. 320, 329 (2006).

²⁴⁴ *Spouses Romualdez v. Comelec*, *supra*.

²⁴⁵ *Estrada v. Sandiganbayan*, *supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

resulting from its very existence, and if a facial challenge is allowed for this reason alone, the State may well be prevented from enacting laws to deter socially harmful conduct.²⁴⁶ The constitutionality of a criminal statute such as the Anti-Terrorism Act cannot be challenged on the basis of “overbreadth” and “void-for-vagueness” doctrines, which apply only to free-speech cases.

226. In *Romualdez v. Sandiganbayan*,²⁴⁷ this Honorable Court, in no uncertain terms, has declared that facial invalidation of criminal statutes is not appropriate, thus:

It is best to stress at the outset that the overbreadth and the vagueness doctrines have special application only to free-speech cases. **They are not appropriate for testing the validity of penal statutes.** Mr. Justice Vicente V. Mendoza explained the reason as follows:

“A facial challenge is allowed to be made to a vague statute and to one which is overbroad because of possible ‘chilling effect’ upon protected speech. The theory is that ‘[w]hen statutes regulate or proscribe speech and no readily apparent construction suggests itself as a vehicle for rehabilitating the statutes in a single prosecution, the transcendent value to all society of constitutionally protected expression is deemed to justify allowing attacks on overly broad statutes with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with narrow specificity.’ The possible harm to society in permitting some unprotected speech to go unpunished is outweighed by the possibility that the protected speech of others may be deterred and perceived grievances left to fester because of possible inhibitory effects of overly broad statutes.

²⁴⁶ *Romualdez v. Sandiganbayan*, G.R. No. 152259, July 29, 2004.

²⁴⁷ *Ibid.*; citations omitted.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

This rationale does not apply to penal statutes. Criminal statutes have general in terrorem effect resulting from their very existence, and, if facial challenge is allowed for this reason alone, the State may well be prevented from enacting laws against socially harmful conduct. In the area of criminal law, the law cannot take chances as in the area of free speech.

...

In sum, the doctrines of strict scrutiny, overbreadth, and vagueness are analytical tools developed for testing "on their faces" statutes in free speech cases or, as they are called in American law, First Amendment cases. **They cannot be made to do service when what is involved is a criminal statute. With respect to such statute, the established rule is that 'one to whom application of a statute is constitutional will not be heard to attack the statute on the ground that impliedly it might also be taken as applying to other persons or other situations in which its application might be unconstitutional.** As has been pointed out, 'vagueness challenges in the First Amendment context, like overbreadth challenges typically produce facial invalidation, while statutes found vague as a matter of due process typically are invalidated [only] 'as applied' to a particular defendant.'"

...

Indeed, **an "on-its-face" invalidation of criminal statutes would result in a mass acquittal of parties whose cases may not have even reached the courts. Such invalidation would constitute a**

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

departure from the usual requirement of “actual case and controversy” and permit decisions to be made in a sterile abstract context having no factual concreteness. In *Younger v. Harris*, this evil was aptly pointed out by the U.S. Supreme Court in these words:

“[T]he task of analyzing a proposed statute, pinpointing its deficiencies, and requiring correction of these deficiencies before the statute is put into effect, is rarely if ever an appropriate task for the judiciary. The combination of the relative remoteness of the controversy, the impact on the legislative process of the relief sought, and above all the speculative and amorphous nature of the required line-by-line analysis of detailed statutes, x x x ordinarily results in a kind of case that is wholly unsatisfactory for deciding constitutional questions, whichever way they might be decided.”

For this reason, **generally disfavored is an on-its-face invalidation of statutes, described as a “manifestly strong medicine” to be employed “paringly and only as a last resort.”** In determining the constitutionality of a statute, therefore, its provisions that have allegedly been violated must be examined in the light of the conduct with which the defendant has been charged.

As conduct – not speech – is its object, the challenged provision must be examined only “as applied” to the defendant, herein petitioner, and should not be declared unconstitutional for overbreadth or vagueness.²⁴⁸

²⁴⁸ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

227. In *Southern Hemisphere*,²⁴⁹ this Honorable Court reiterated that a facial challenge against a criminal statute on either ground of vagueness or overbreadth is impermissible:

Distinguished from an **as-applied** challenge which considers only extant facts affecting real litigants, a **facial** invalidation is an examination of the **entire law**, pinpointing its flaws and defects, not only on the basis of its actual operation to the parties, but also on the assumption or prediction that its very existence may cause others not before the court to refrain from constitutionally protected speech or activities.

Justice Mendoza accurately phrased the subtitle in his concurring opinion that the vagueness and overbreadth doctrines, as grounds for a facial challenge, are not applicable to **penal laws. A litigant cannot thus successfully mount a facial challenge against a criminal statute on either vagueness or overbreadth grounds.**

The allowance of a facial challenge in free speech cases is justified by the aim to avert the "chilling effect" on protected speech, the exercise of which should not at all times be abridged. As reflected earlier, this rationale is inapplicable to plain penal statutes that generally bear an "*in terrorem effect*" in deterring socially harmful conduct. In fact, the legislature may even forbid and penalize acts formerly considered innocent and lawful, so long as it refrains from diminishing or dissuading the exercise of constitutionally protected rights.

The Court reiterated that there are "critical limitations by which a criminal statute may be challenged" and "underscored that an 'on-its-face' invalidation of penal statutes x x x may not be allowed."²⁵⁰

²⁴⁹ *Supra.*

²⁵⁰ Emphasis in the original.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

228. As above stated, this Honorable Court provides an exception in *Disini*.²⁵¹ To be clear, *Disini* is an exception to the rule. Petitioners' mere invocation that the law would create a "chilling effect" is insufficient to bring their claims under this narrow exception. In *Disini*, this Honorable Court explained:

As already stated, the cyberspace **is an incomparable, pervasive medium of communication**. It is inevitable that any government threat of punishment regarding certain uses of the medium creates a chilling effect on the constitutionally-protected freedom of expression of the great masses that use it. In this case, the particularly complex web of interaction on social media websites would give law enforcers such latitude that they could arbitrarily or selectively enforce the law.²⁵²

229. In contrast to the Cybercrime Prevention Act, the Anti-Terrorism Act does not regulate speech made in a novel, incomparable or pervasive medium of communication. Petitioners have not shown, much less alleged, that the communication or medium of communication targeted by the Anti-Terrorism Act is incomparable or pervasive. *Disini* is therefore inapplicable.

230. Moreover, the Anti-Terrorism Act, like its predecessor, the Human Security Act, regulates and penalizes conduct. *Southern Hemisphere* elucidates:

Utterances not elemental but inevitably incidental to the doing of the criminal **conduct** alter neither the intent of the law to punish socially harmful conduct nor the essence of the whole act as **conduct** and not speech. This holds true a fortiori in the present case where the expression figures only as an inevitable incident of making the element of coercion perceptible. [Emphasis in the original.]

²⁵¹ *Supra*.

²⁵² Emphasis and underscoring supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

[I]t is true that the agreements and course of conduct here were as in most instances brought about through speaking or writing. But it has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was, in part, initiated, evidenced, or carried out by means of language, either spoken, written, or printed. Such an expansive interpretation of the constitutional guaranties of speech and press would make it practically impossible ever to enforce laws against agreements in restraint of trade as well as many other agreements and conspiracies deemed injurious to society.²⁵³

231. By embarking on a facial challenge, petitioners have imposed upon themselves the burden of proving that there can be no instance when the assailed law may be valid—a burden that they miserably failed to discharge. Thus, in *David v. Macapagal Arroyo*,²⁵⁴ this Honorable Court held:

And *third*, a **facial challenge on the ground of overbreadth is the most difficult challenge to mount successfully, since the challenger must establish that there can be no instance when the assailed law may be valid.** Here, petitioners did not even attempt to show whether this situation exists.

Petitioners likewise seek a facial review of PP 1017 on the ground of vagueness. This, too, is unwarranted.

Related to the “overbreadth” doctrine is the “void for vagueness doctrine” which holds

²⁵³ Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, *supra*; citing *Giboney v. Empire Storage and Ice Co.*, 336 U.S. 490, 93 L. Ed. 834, 843-844 (1949); Cf *Brown v. Hartlage*, 456 U.S. 45, 71 L. Ed 2d 732, 742 (1982) that acknowledges: x x x The fact that such an agreement [to engage in illegal conduct] necessarily takes the form of words does not confer upon it, or upon the underlying conduct, the constitutional immunities that the First Amendment extends to speech. Finally, while a solicitation to enter into an agreement arguably crosses the sometimes hazy line distinguishing conduct from pure speech, such a solicitation, even though it may have an impact in the political arena, remains in essence an invitation to engage in an illegal exchange for private profit, and may properly be prohibited; italics and underscoring supplied.

²⁵⁴ *David v. Macapagal-Arroyo*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489, and 171424, May 3, 2006.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

that “a law is facially invalid if men of common intelligence must necessarily guess at its meaning and differ as to its application.” It is subject to the same principles governing overbreadth doctrine. For one, it is also an analytical tool for testing “on their faces” statutes in free speech cases. And like overbreadth, it is said that a litigant may challenge a statute on its face only if it is vague in all its possible applications. *Again, petitioners did not even attempt to show that PP 1017 is vague in all its application.* They also failed to establish that men of common intelligence cannot understand the meaning and application of PP 1017.”²⁵⁵

232. Invariably, facial invalidation or “on-its-face” invalidation on the basis of “overbreadth” or “vagueness” is wholly inappropriate under the Anti-Terrorism Act, a penal statute the object of which is conduct coupled with intent, not speech.

233. Thus, petitioners’ facial challenge must fail.

Section 4 of the Anti-Terrorism Act is neither intrinsically vague nor impermissibly overbroad.

234. Section 4 of the Anti-Terrorism Act defines the crime of terrorism in this manner:

SEC. 4. *Terrorism.* - Subject to Section 49 of this Act, terrorism is committed by any person who within or outside the Philippines, regardless of the stage of execution:

- (a) Engages in acts intended to cause death or serious bodily injury to any person, or endangers a person’s life;

²⁵⁵ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- (b) Engages in acts intended to cause extensive damage or destruction to a government or public facility, public place or private property;
- (c) Engages in acts intended to cause extensive interference with, damage or destruction to critical infrastructure;
- (d) Develops, manufactures, possesses, acquires, transports, supplies or uses weapons, explosives or of biological, nuclear, radiological or chemical weapons; and
- (e) Release of dangerous substances, or causing fire, floods or explosions

when the purpose of such act, by its nature and context, is to intimidate the general public or a segment thereof, create an atmosphere or spread a message of fear, to provoke or influence by intimidation the government or any of its international organization, or seriously destabilize or destroy the fundamental political, economic, or social structures of the country, or create a public emergency or seriously undermine public safety, shall be guilty of committing terrorism and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592, otherwise known as "An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code": *Provided, That, terrorism as defined in this Section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety."*

235. Petitioners assail the constitutionality of Section 4 on the ground that the definition of "terrorism" is unclear, such that people cannot reasonably know whether they are

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

committing terrorism,²⁵⁶ thereby violating the right to due process enshrined in Section 1, Article III of the Constitution.

236. Petitioners Calleja, et al. contend that due to the Anti-Terrorism Act's failure to define terrorism, "anyone can be pointed to as a suspect of terrorism even if the person is not engaged in any illegal activity." They impute vagueness: on item (a) for not qualifying the terms "serious bodily injury" and "endangers"; item (b) for the lack of a metric as to what constitutes "extensive damage;" item (c) for not providing parameters as to the meanings of "extensive interference" or "critical infrastructure;" item (d) for lacking a definition and scope anent the term "weapons;" and item (e) for the alleged vagueness of the acts punished therein, as well as what appears to be the lack of a definition of "dangerous substance."²⁵⁷

237. Petitioners Sta. Maria, et al. posit that the definition of terrorism in Section 4 is so vague and broad such that it can be read to include legitimate and lawful gatherings and demonstrations where people assemble to exercise their freedom of speech, of expression, and of the press. They claim, like the other petitioners, that there was a failure to define the predicate acts in items (a) to (e) of Section 4, which would "indubitably [give] law enforcement agents and military personnel unbridled discretion to arbitrarily flex their muscle in carrying out [the law's] provisions merely on the basis of their 'suspicion', intuition, or understanding."²⁵⁸

238. For his part, petitioner Lagman claims that Section 4 is vague in that "what is criminalized are mere intentions to commit certain acts." He similarly alleges that the portion in Section 4 that begins with "when the purpose of such act, by its nature and context, ..." only qualifies item (e).²⁵⁹

239. For their part, petitioners Zarate, et al., they decry how the deletion of the elements of "predicate crime" and "actual effect" in the Human Security Act would make anyone

²⁵⁶ Zarate Petition, par. 70, p. 26.

²⁵⁷ Calleja Petition, pp. 32-35.

²⁵⁸ Sta. Maria Petition, p. 27.

²⁵⁹ Lagman Petition, pp. 24-26.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

and everyone susceptible to being considered as terrorist despite not being punished under existing laws or without regard to its actual effects. To their minds, the property or infrastructure subject of interference, damage, or destruction in items (b) and (c) of Section 4, can be "anything, anywhere, ... public or private."²⁶⁰

240. Meanwhile, petitioners Monsod, et al. assert that the definition of terrorism under Section 4, in itself, and as basis for holding a person liable under Sections 5, 6, 7, 8, 9, 10, 11, 12 and 14, is unconstitutional for being overbroad. They maintain that the acts defined in the said provisions cover legitimate activity necessary for the people to exercise their constitutionally protected rights to free speech and expression.²⁶¹

241. Petitioners' assertions lack merit.

242. For emphasis, "vague" and "overbroad" standards apply only to speech and not conduct. The plain and simple language used in Section 4 debunks any allegation of vagueness as to what acts are penalized. Also, there is nothing in the said section which punishes speech. On the contrary, Section 4 clearly punishes conduct, the purpose of which and by its nature and context, produces the qualifying circumstances mentioned in the succeeding paragraph that qualify the acts enumerated from (a) to (e) to terrorism.

243. In determining whether a statute or act suffers from the defect of vagueness, petitioners must show that the law lacks comprehensible standards that men of common intelligence must necessarily guess its meaning and differ as to its application. The law must be demonstrated to be repugnant to the Constitution in two respects: (a) it violates due process for failure to accord persons, especially the parties targeted by it, fair notice of the conduct to avoid; and (b) it leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle.²⁶²

²⁶⁰ Zarate Petition, pp. 24-30.

²⁶¹ Monsod Petition, p. 16.

²⁶² Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council, *supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

244. Paragraphs (a) to (c) of Section 4 explicitly begin with “engages in acts.” On the other hand, Paragraphs (d) and (e) clearly describe action words, *i.e.*, “*develops, manufactures, possesses, acquires, transports, supplies or uses...*”, “*release of...*”, or “*causing...*” Finally, the general modifier to all paragraphs state that “when the purpose of such act...”

245. Going to the substance of Section 4, its provisions are neither intrinsically vague nor impermissibly overbroad contrary to what petitioners gratuitously assert.

246. One of the primary rules in statutory construction is that where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.²⁶³

247. Likewise, words must not only be taken in accordance with their plain meaning alone, but also in relation to other parts of the statute.²⁶⁴ It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, *i.e.*, that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment.²⁶⁵ Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. The statute’s clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole.²⁶⁶ Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.²⁶⁷

248. Here, petitioners nitpicked particular words or phrases in Section 4, interpreted them in isolation, and railed

²⁶³ Chavez v. Judicial and Bar Council, G.R. No. 202242, July 17, 2012.

²⁶⁴ Philippine International Trading Corporation v. Commission on Audit, G.R. No. 183517, June 22, 2010.

²⁶⁵ Land Bank of the Philippines v. AMS Farming Corporation, G.R. No. 174971, October 15, 2008.

²⁶⁶ Mactan-Cebu International Airport Authority v. Urgello, G.R. No. 162288, April 4, 2007.

²⁶⁷ Smart Communications, Inc. v. City of Davao, G.R. No. 155491, September 16, 2008.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

against their supposed vagueness or overbreadth. Contrary to petitioners' strained assertions, however, it takes no prophetic skill to divine the clear, plain, and unambiguous meaning of the words in Section 4. A simple resort to their ordinary meaning suffices.

249. Section 4 clearly defines five distinct acts. These are:

- | | |
|--|---|
| <ol style="list-style-type: none">1. Acts intended to cause death or serious bodily injury to any person, or endangers a person's life2. Acts intended to cause extensive damage or destruction to a government or public facility, public place or private property3. Acts intended to cause extensive interference with, damage or destruction to critical infrastructure4. Development, manufacture, possession, acquisition, transportation, supply or use of weapons, explosives or of biological, nuclear, radiological or chemical weapons5. Release of dangerous substances, or causing fire, floods or explosions | <p>when the purpose of such act, by its nature and context, is to intimidate the general public or a segment thereof, create an atmosphere or spread a message of fear, to provoke or influence by intimidation the government or any international organization, or seriously destabilize or destroy the fundamental political, economic, or social structures of the country, or create a public emergency or seriously undermine public safety</p> |
|--|---|

Provided, That, terrorism as defined in this section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety.

250. These enumerated acts must be taken together with the general qualifier of specific intent which succeeds them. Said differently, it is conduct, coupled with specific intent, which clearly comprises the crime of terrorism. This

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

was the clear import of the Senate deliberations on Section 4, to wit:

Senator Drilon. Mr. President, if we read the provision carefully, the acts enumerated in (A) to (E) when the purpose of such act, by its nature and context, is to intimidate and put fear except an actual bombing because that would be covered by other sections. It is just the purpose to induce government by force to do or to abstain from doing such an act.

Our question here, Mr. President, what is the difference between this and the crime of grave threats under the Revised Penal Code?

Senator Lacson. It is the purpose, Mr. President. A simple crime of grave threats without the purpose of sowing terrorism or committing terroristic act, *iba po iyon*. We are always bound by the intent and purpose of the act.

...

Senator Lacson. As we defined it and as the gentleman mentioned earlier, *ito iyong* Section 4, *iyong* fundamental. *Ito po*, "The purpose of such act, by its nature and context, is to intimidate, put in fear, force or induce the government or any international organization, or the public to do or to abstain from doing any act, or seriously destabilize or destroy the fundamental political economic or social structures of the country..."

Senator Drilon. So, just in answer to my question, what distinguishes an ordinary crime of grave threat is the purpose of the offender in committing the crime.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. So that, if it is for the purpose of intimidating, put in fear, force or induce the government or any international organization, or the public to do or abstain from

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

doing an act, that is considered a terrorist act.²⁶⁸

...

Senator Drilon. Mr. President, the definition of Terrorist Acts under pages 5, 6, and 7 of the measure would clearly define when it is applicable to ordinary crimes, to act of terrorism, or freedom fighters. In other words, the difficulty in the definition of anti-terrorism is that it is either an ordinary crime, an act of terrorism, or acts committed by freedom fighters. Would the good sponsor agree with that?

Senator Lacson. It all depends on the intent and the purpose of the act, Mr. President.

Senator Drilon. That is correct, Mr. President. Yes, that is the purpose of the act, and I agree with that. That is why by the definition on page 7, from line 6 down, it is very clear that when the purpose of such act, by its nature or context, is to intimidate, put in fear, force or induce the government or any international organization, or the public to do any act or abstain from doing any act, or seriously destabilize, et cetera, et cetera.²⁶⁹

...

Senator Lacson. We have to refer back to the intent and purpose of the commission of that particular act, Mr. President. *Naka-define naman po iyan* under Section 4. *Kung nasa labas na ng* definition *at ang* effect is on an individual or a group of individuals *na wala naman itong* bearing on the acts as enumerated, specifically *iyong* intent and purpose, *baka po mahirapan tayong i-justify*.

Senator Tolentino. Again, Mr. President, with due respect, I ask again the question: Are we protecting, primarily, the State, or are we protecting the people, or are we protecting both?

²⁶⁸ TSN dated December 17, 2019, pp. 48-49; Annex “2”.

²⁶⁹ TSN dated January 21, 2020, p. 15; Annex “3”.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Senator Lacson. The answer is both, Mr. President. *Ang nakalagay*, "The purpose of such act by its nature and context, must be committed to, (1) intimidate, put in fear, force or induce the government." Everything depends on the circumstances bound by the intent and purpose of such act. *Kung papasok naman po roon sa category ng mine-mention dito sa proposed measure, then, probably... it depends on the appreciation of evidence pertaining to the intent of the act as committed.*²⁷⁰

...

Senator Pimentel. So, in this new Anti-Terrorism Act, we will always look at the intent and purpose of the perpetrator, of the accused, Mr. President.

Senator Lacson. That is correct, Mr. President.²⁷¹

251. Petitioners Calleja, et al. fault Section 4(c) as vague in relation to the terms "extensive interference" and "critical infrastructure." To recall, Section 4(c) contemplates extensive interference to critical infrastructure. However, it is plain that "extensive" means "having a wide or considerable extent."

252. Furthermore, Section 3(a) of the Anti-Terrorism Act provides a clear definition of "critical infrastructure," to wit:

SEC. 3. Definition of Terms. –

- (a) *Critical Infrastructure* shall refer to an asset or system, whether physical or virtual, so essential to the maintenance of vital societal functions or to the delivery of essential public services that the incapacity or destruction of such systems and assets would have a debilitating impact on national defense and

²⁷⁰ TSN dated January 27, 2020, pp. 30-31; Annex "5".

²⁷¹ TSN dated January 28, 2020, p. 20; Annex "6".

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

security, national economy, public health or safety, the administration of justice, and 11 other functions analogous thereto. It may include, but is not limited to, an asset or system affecting telecommunications, water and energy supply, emergency services, food security, fuel supply, banking and finance, transportation, radio and television, information systems and technology, chemical and nuclear sectors. ...

253. Moreover, and particularly in response to petitioner Lagman's second contention, under the rules on syntax, the conjunctive word "and" denotes a "joinder or union" of words, phrases, or clause.²⁷² The word "and," whether used to connect words, phrases or full sentences, must be accepted as binding together and as relating to one another.²⁷³ "And" in statutory construction implies conjunction or union.²⁷⁴ Taking the words into proper account, it is sufficiently clear that the phrase "when the purpose of such act" is a qualifier applicable to items (a) all the way to (e).

254. Petitioner Lagman hastens to add that the vagueness and overbreadth of Section 4 are supposedly compounded by the deletion of the inculpatory element of "political motive" which is internationally prescribed, citing the Office of the UN High Commissioner for Human Rights, Fact Sheet No. 32. According to him, the clear purpose of deleting the element of political motive in the Anti-Terrorism Act is to "facilitate the apprehension, prosecution, and conviction of a suspected terrorist without imputing and proving any political or ideological motive."²⁷⁵

255. Petitioner Lagman's contentions are misplaced and misinformed.

²⁷² Microsoft Corp. v. Manansala, G.R. No. 166391, October 21, 2015; *citing* Agpalo, Statutory Construction, (4th Ed. 1998), p. 203.

²⁷³ Commissioner of Internal Revenue v. Ariete, G.R. No. 164152, January 21, 2010; *citing* Laurel, Statutory Construction Cases & Materials, (1999 Revised Edition), p. 139.

²⁷⁴ LICOMCEN, Inc. v. Foundation Specialists, Inc., G.R. No. 167022, August 31, 2007.

²⁷⁵ Lagman Petition, pars. 97-99.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

256. Petitioner Lagman seems oblivious to the fact that the words in Section 4 were in fact largely patterned from international standards defining terrorism.

257. In 2011, the Appeals Chamber of the Special Tribunal for Lebanon—the world's first international court with jurisdiction over the crime of terrorism²⁷⁶—declared after a review of international law sources that the customary law definition of terrorism consists of the following key elements, to wit:²⁷⁷

- a. the perpetration of a criminal act (such as murder, kidnapping, hostage-taking, arson, and so on), or threatening such an act;
- b. **the intent to spread fear among the population** (which would generally entail the creation of public danger) or directly or indirectly coerce a national or international authority to take some action, or to refrain from taking it; and
- c. when the act involves a transnational element.²⁷⁸

258. Granting that the presence of the third element lent more credence to the notion that what the Special Tribunal for Lebanon sought to define was international/transnational terrorism, it did show a continuing slant *vis-à-vis* the world's understanding of terrorism—from purpose-based to effect-based.²⁷⁹ Incidents like the October 2017 mass shooting at a music festival in the United States of America, killing at least 59 and injuring as many as 527—an act devoid, from all

²⁷⁶ The Special Tribunal for Lebanon has jurisdiction over persons responsible for the attack of February 14, 2005 leading to the death of former Lebanese prime minister Rafik Hariri and the deaths or injury of other persons, as well as other related attacks from October 1, 2004 and December 12, 2005. It is the first tribunal of its kind with jurisdiction to deal with terrorism as a discrete crime. About the STL. Special Tribunal for Lebanon. <https://www.stl-tsl.org/en/about-the-stl>, last accessed on July 17, 2020.

²⁷⁷ Interlocutory Decision on the Applicable Law: Terrorism, Conspiracy, Homicide, Perpetration, Cumulative Charging (Appeals Chamber), STL-11-01/I, February 16, 2011.

²⁷⁸ Emphasis supplied.

²⁷⁹ Lazreg, H. B., *The debate over what constitutes terrorism*, The Conversation, <https://theconversation.com/the-debate-over-what-constitutes-terrorism-86812>, last accessed on July 13, 2020.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

appearances, of any political motive—trigger constant conversation on the shift in what acts are terroristic.

259. Back in 1998, the Arab Convention for the Suppression of Terrorism²⁸⁰ formulated the following definition of terrorism:

Any act or threat of violence, **whatever its motives or purposes**, that occurs in the advancement of an individual or collective criminal agenda and **seeking to sow panic among people, causing fear** by harming them, or placing their lives, liberty or security in danger, or **seeking to cause damage to the environment or to public or private installations or property or to occupying or seizing them, or seeking to jeopardize national resources.**²⁸¹

260. Published in 2004, UNSC Resolution 1566,²⁸² which delved on threats to international peace and security caused by terrorist acts, proffered the following definition for terrorism:

Criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, **with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act.**²⁸³

²⁸⁰ A PDF translated from the original Arabic by the UN English Translation Service (unofficial translation) can be perused at https://www.unodc.org/images/tldb-f/conv_arab_terrorism.en.pdf, last accessed on July 14, 2020.

²⁸¹ Emphasis and underscoring supplied.

²⁸² S/Res/1566 (2004), available at <https://www.un.org/ruleoflaw/files/n0454282.pdf>, last accessed on July 14, 2020.

²⁸³ Emphasis and underscoring supplied.

261. In November that same year, a UN Report²⁸⁴ hearkened to UNSC Resolution No. 1566 in describing terrorism as:

any act intended to cause death or serious bodily harm to civilians or non-combatants **with the purpose of intimidating a population or compelling a government or an international organization to do or abstain from doing any act.**²⁸⁵

262. Meantime, the European Union (EU) defined terrorism in Article 1 of its 2002 Framework Decision on Combating Terrorism as:

[...] given their nature or context, may seriously damage a country or an international organization where committed with the aim of: **seriously intimidating a population; or unduly compelling a Government or international organization to perform or abstain from performing any act; or seriously destabilizing or destroying the fundamental political, constitutional, economic or social structures of a country or an international organization.**²⁸⁶

263. Verily, the influence of these definitions on the wording of Section 4 is undeniable. It cannot be gainsaid, then, that the provision is well-couched in international standards.

264. Furthermore, Section 4 is peculiar in the sense that quite apart from other penal laws that simply define a crime, this particular provision has built-in specific safeguards to protect fundamental rights, a substantial protection which petitioners conveniently disregarded or dismissed as "apparent-than-real."

²⁸⁴ United Nations, *UN Reform*, March 21, 2005. Archived from the original on April 27, 2007. <https://web.archive.org/web/20070427012107/http://www.un.org/unifeed/script.asp?scriptId=73>, last accessed July 14, 2020.

²⁸⁵ Emphasis supplied.

²⁸⁶ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

265. The proviso, however, far from being illusory, expressly protects the very freedoms which petitioners claim to be endangered, i.e., "advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights which are not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety."

266. From the foregoing, it is clear that Section 4 of the Anti-Terrorism Act is neither intrinsically vague nor impermissibly overbroad. It is not intended to restrain political rights, especially the freedom of speech, expression, and of the press. Petitioners' facial challenge, which rests on mere speculation, surmises, and conjecture, must be rejected in order not to short-circuit the democratic process by preventing laws embodying the will of the people from being implemented in a manner consistent with the Constitution.

267. Petitioner Lagman questions the constitutionality of Sections 5, 8, and 9 of the Anti-Terrorism Act, claiming, on the premise that Section 4 defining terrorism is void for vagueness, that "(i)t is inordinately strange that there is a culpable threatener, (*sic*) proponent, or inciter but there is no terrorist."²⁸⁷

268. Petitioners Calleja, et al. allege the same for Sections 5, 9, 10, 25, and 26. They assail how Section 5 appears to "punish mere threats," on top of its vagueness arising from Section 4's own—a characteristic they purport to be shared with Section 9. They also impinge upon Section 10 for the vagueness of the acts constituting terrorism enumerated therein,; Section 25 for alleged failure to indicate how the ATC will proceed with the designation of terrorist individuals and groups,; and Section 26 for the vagueness and overbreadth of the term "terrorist organization."²⁸⁸

²⁸⁷ Lagman Petition, p. 20.

²⁸⁸ Calleja Petition, pp. 42-50.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

269. Petitioners Zarate, et al., Sta. Maria, et al., and Monsod, et al. claim that Sections 5, 6, 7, 8, 9, 10, 11,²⁸⁹ and 12²⁹⁰ are vague because Section 4, from which the provisions rely *vis-à-vis* the definition of terrorism, is allegedly vague.²⁹¹ Petitioners Sta. Maria, et al. further maintain that Sections 25, 26, and 27 are equally vague and overbroad for their reliance on Sections 4 to 12.²⁹²

270. Petitioners Calleja, et al. insist that Sections 25 and 26 are vague since they do not afford the adversely affected person or group any opportunity whatsoever to be represented or heard, or to present contravening evidence in their defense as the ATC makes its finding of probable cause as basis for the terrorist designation.²⁹³

271. Petitioners Monsod, et al. claim that Section 25 violates the constitutional right to due process as it grants the ATC the authority, upon its own determination of probable cause, to designate individuals or groups as terrorists without any formal finding of guilt or judicial intervention.²⁹⁴

272. Petitioners CTUHR, et al., on the other hand, posit that Section 25 is unconstitutional as it infringes upon the right to form associations without granting a person the opportunity to show that the association he/she has joined is

²⁸⁹ SEC. 11. Foreign Terrorist. — The following acts are unlawful and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592:

- (a) For any person to travel or attempt to travel to a state other than his/her state of residence or nationality, for the purpose of perpetrating, planning, or preparing for, or participating in terrorism, or providing or receiving terrorist training;
- (b) For any person to organize or facilitate the travel of individuals who travel to a state other than their states of residence or nationality knowing that such travel is for the purpose of perpetrating, planning, training, or preparing for, or participating in terrorism or providing or receiving terrorist training; or
- (c) For any person residing abroad who comes to the Philippines to participate in perpetrating, planning, training, or preparing for, or participating in terrorism or provide support for or facilitate or receive terrorist training here or abroad.

²⁹⁰ SEC. 12. Providing Material Support to Terrorists. — Any person who provides material support to any terrorist individual or terrorist organization, association or group of persons committing any of the acts punishable under Section 4 hereof, knowing that such individual or organization, association, or group of persons is committing or planning to commit such acts, shall be liable as principal to any and all terrorist activities committed by said individuals or organizations, in addition to other criminal liabilities he/she or they may have incurred in relation thereto.

²⁹¹ Zarate Petition, p. 53; Sta. Maria Petition, p. 30.

²⁹² Sta. Maria Petition, pp. 30, 40-43.

²⁹⁴ Monsod Petition, p. 21.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

a legal one.²⁹⁵ For their part, petitioners Sta. Maria, et al. claim that Section 25 is unclear and vague as to what quantum of evidence must be present to meet the standard of probable cause.²⁹⁶

273. Petitioners are all sorely mistaken. Sections 5 to 12 and 25 to 27 of the Anti-Terrorism Act are neither vague nor impermissibly overbroad.

274. Sections 5 to 12 refer to the conduct and specific intent mentioned in Section 4; hence, the earlier discussion on Section 4 pertaining to its sufficiency and clarity also applies to Sections 5 to 12.

275. Specifically, Sections 5, 8, and 9 deal with unprotected expression as they involve advocacy of imminent lawless action and danger to national security,²⁹⁷ and are thus permissibly restricted. Sections 5, 8, and 9 provide:

SEC. 5. *Threat to Commit Terrorism.* — Any person who shall threaten to commit any of the acts mentioned in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years.

SEC. 8. *Proposal to Commit Terrorism.* - Any person who proposes to commit terrorism as defined in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years.

SEC. 9. *Inciting to Commit Terrorism.* - Any person who, without taking any direct part in the commission of terrorism, shall incite others to the execution of any of the acts specified in Section 4 hereof by means of speeches, proclamations, writings, emblems, banners or other representations tending to the same end, shall suffer the penalty of imprisonment of twelve (12) years.

²⁹⁵ Central Petition, p. 49.

²⁹⁶ Sta. Maria Petition, p. 43.

²⁹⁷ Chavez v. Gonzales, G.R. No. 168338, February 15, 2008.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

276. As correctly cited by Senator Lacson during the Senate deliberations, the prohibitions under these Sections fall within the same class of crimes already punished under the Revised Penal Code, such as *Grave Threats* under Article 282, *Inciting to War or Giving Motives for Reprisal* under Article 118, *Proposal to Commit Rebellion* under Article 136, *Inciting Rebellion or Insurrection* under Article 138, and *Inciting to Sedition* under Article 142.²⁹⁸

277. Moreover, a parallel analysis from jurisprudence can be drawn as held by this Honorable Court in *Espuelas v. People*,²⁹⁹ viz.:

Writings which tend to overthrow or undermine the security of the government or to weaken the confidence of the people in the government are against the public peace, and are criminal not only because they tend to incite to a breach of the peace but because they are conducive to the destruction of the very government itself (See 19 Am. Law Rep. 1511). Regarded as seditious libels they were the subject of criminal proceedings since early times in England. (*V op. cit.*).

...

Analyzed for meaning and weighed in its consequences the article cannot fail to impress thinking persons that it seeks to sow the seeds of sedition and strife. The infuriating language is not a sincere effort to persuade, what with the writer's simulated suicide and false claim to martyrdom and what with is failure to particularize. **When the use irritating language centers not on persuading the readers but on creating disturbances, the rationale of free speech cannot apply and the speaker or writer is removed from the protection of the constitutional guaranty.**³⁰⁰

²⁹⁸ See TSNs dated January 28, 2020, at p.32, and February 3, 2020, pp. 14-19.

²⁹⁹ G.R. No. L-2990, December 17, 1951.

³⁰⁰ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

278. Section 10, on the other hand, is not subject to scrutiny under the doctrines of “void for vagueness” or “overbreadth,” considering that, as previously discussed, these standards apply only to speech and not conduct. However, a plain reading of Section 10 shows that it proscribes conduct and not speech, e.g., recruitment, organization, or facilitation of travel.

279. As Sections 25, 26 and 27 were mentioned in relation to the above provisions, the same conclusion can be reached. They were neither vague nor overbroad. In any case, these sections shall be thoroughly discussed in the latter part of this Consolidated Comment.

280. Again, Sections 5 to 12 and 25 to 27 of the Anti-Terrorism Act do not suffer from vagueness or overbreadth. Petitioners’ arguments in this regard are bereft of legal support and tenuous at best.

281. As to petitioners Calleja, et al.’s allegation, it must be borne in mind that the absence of any in-statute remedy is not constitutionally proscribed and a basis for declaring a penal statute vague. Again, a statute is considered vague when a person of common intelligence must guess at its meaning and not when the law does not have a method of controverting an executive function.

282. At any rate, petitioners anchor the vagueness of Sections 5, 6, 7, 78, 9, 10, 11, 12, 25, 26 and 27 on the alleged vague definition of terrorism in Section 4. As has been discussed, Section 4 is clear and does not suffer from vagueness or overbreadth.

The Anti-Terrorism Act does not violate the constitutional right against unreasonable searches and seizure.

283. Section 2, Article III of the Constitution provides:

The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant of warrant of arrest shall issue, except upon probable cause to be determined personally by a judge, after examination under oath or affirmation of the complainant and the witnesses he may produce, particularly describing the place to be searched, or the persons or things to be seized.

284. The Anti-Terrorism Act contains sufficient safeguards to protect the inherent right of the people against unreasonable searches and seizures.

Section 17 of the Anti-Terrorism Act does not violate the requirement that a search warrant shall only issue upon a finding of probable cause determined personally by a judge.

285. Petitioners Calleja, et al. assert that Sections 16 and 17 of the Anti-Terrorism Act violate a person's right against unreasonable searches and seizures by authorizing collection of private communication and data from designated and suspected persons without judicial determination of probable cause.³⁰¹

³⁰¹ Calleja Petition, p. 53.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

286. Contrary to petitioners' claims, however, it is apparent from a simple reading of Sections 16 and 17 that a judicial determination of probable cause by a special division consisting of three justices of the Court of Appeals precedes any act of collecting communications and other data.

287. To emphasize, Section 17 requires a finding of probable cause for purposes of surveillance, interception, and recording of communications under Section 16. Likewise, Section 25 adopted the same threshold in the designation of individuals, groups, organizations, or associations as terrorists. When it comes to the issuance of order of proscription, finding of probable cause is still required under Section 27. So too, probable cause is a requisite for the AMLC to investigate, inquire, and examine bank deposits under Section 35³⁰² of the Act.

288. Further, Section 2 of the same law which was cited above, shows that the intent—indeed, the animating spirit—behind the Anti-Terrorism Act is to stand consistent and in harmony with the Constitution and the fundamental rights and liberties it protects. Taken in this light, simply because Section 29³⁰³ uses the word “suspected” does not mean that

³⁰² SEC. 35. Anti-Money Laundering Council Authority to Investigate, Inquire into and Examine Bank Deposits. - Upon the issuance by the court of a preliminary order of proscription or in case of designation under Section 25 of this Act, the AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to investigate:

- (a) any property or funds that are in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act; and
- (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of the aforementioned sections of this Act.

The AMLC may also enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and -controlled corporations in undertaking measures to counter the financing of terrorism, which may include the use of its personnel, facilities and resources.

For purposes of this section and notwithstanding the provisions of Republic Act No. 1405, otherwise known as the “Law on Secrecy of Bank Deposits”, as amended; Republic Act No. 6426, otherwise known as the “Foreign Currency Deposit Act of the Philippines”, as amended; Republic Act No. 8791, otherwise known as “The General Banking Law of 2000” and other laws, the AMLC is hereby authorized to inquire into or examine deposits and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a court order.

³⁰³ SEC. 29. Detention Without Judicial Warrant of Arrest. - The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any law enforcement agent or military personnel, who, having been duly authorized in writing by the ATC has taken custody of a person suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said suspected person to the proper judicial authority within a period of fourteen (14)

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

the “probable cause” threshold has been supplanted and that arrest can now be undertaken under mere suspicion when the entirety of the Act is in fact geared toward protecting the same fundamental rights.

289. Taking a step further, the use of “suspected” in Section 29 simply refers to a person who is not charged or under process issued by a court. This especially becomes obvious when Section 29 is read in consonance with the following provisions:

Sec. 17. Judicial Authorization, Requisites. – The authorizing division of the Court of Appeals shall issue a written order to conduct the acts mentioned in Section 16 of this Act upon:

...

that there is probable cause to believe based on personal knowledge of facts or circumstances that the crimes defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act has been committed, or is

calendar days counted from the moment the said suspected person has been apprehended or arrested, detained, and taken into custody by the law enforcement agent or military personnel.

The period of detention may be extended to a maximum period of ten (10) calendar days if it is established that:

- (1) further detention of the person/s is necessary to preserve evidence related to terrorism or complete the investigation;
- (2) further detention of the person/s is necessary to prevent the commission of another terrorism; and
- (3) the investigation is being conducted properly and without delay.

Immediately after taking custody of a person suspected of committing terrorism or any member of a group of persons, organization or association proscribed under Section 26 hereof, the law enforcement agent or military personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest of the following facts:

- (a) the time, date, and manner of arrest;
- (b) the location or locations of the detained suspect/s and
- (c) the physical and mental condition of the detained suspect/s.

The law enforcement agent or military personnel shall likewise furnish the ATC and the Commission on Human Rights (CHR) of the written notice given to the judge.

The head of the detaining facility shall ensure that the detained suspect is informed of his/her rights as a detainee and shall ensure access to the detainee by his/her counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities.

The penalty of imprisonment of ten (10) years shall be imposed upon the police or law enforcement agent or military personnel who fails to notify any judge as provided in the preceding paragraph.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

being committed, or is about to be committed;
and

that there is probable cause to believe based on personal knowledge of facts or circumstances that evidence, which is essential to the conviction of any **charged or suspected person** for, or to the solution or prevention of, any such crimes, will be obtained. (underscoring and emphasis supplied)

...

Sec. 18. Classification and Contents of the Order of the Court. – [. . .] The written order of the authorizing division of the Court of Appeals shall specify the following: (a) the identity, such as name and address, if known, of the person or persons whose communications, messages, conversations, discussions, or spoken or written words are to be tracked down, tapped, listened to, intercepted, and recorded; and in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations **or if the person or persons suspected of committing any of the crimes defined and penalized under the provisions of this Act are not fully known**, such person or persons shall be the subject of continuous surveillance...

...

Sec. 30. Rights of a Person under Custodial Detention. – The moment a **person charged with or suspected** of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act is apprehended or arrested and detained, he/she shall forthwith be informed, by the arresting law enforcement agent or military personnel to whose custody the person concerned is brought, of his/her right...³⁰⁴

³⁰⁴ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

290. Sections 16 and 17 are clear that a law enforcement agent or military personnel may “secretly wiretap, overhear and listen to, intercept, screen, read, surveil, record or collect” “private communications, conversation, discussion/s, data, information, and messages” between members of a judicially declared and outlawed terrorist organization, members of designated person, and suspected terrorists, only upon a written order from the Court of Appeals.

291. Such written order shall be issued only upon showing of the existence of probable cause, based on the examination of the applicant and the witnesses he/she may produce, that terrorism as defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 has been committed, or is being committed, or is about to be committed by the suspected terrorist.

292. As such, it is the Justices of the Court of Appeals seated in special division, not the members of the ATC, who shall discern whether or not a written order for surveillance of suspects and interception and recording of communications shall be issued. Significantly, the assailed Sections 16 and 17 should be read in conjunction with Section 45 of the law, which explicitly states that, “(n)othing herein shall be interpreted to empower the ATC to exercise any judicial or quasi-judicial power or authority.”

293. As an added safeguard—and as mentioned earlier—the law provides in Section 24³⁰⁵ that any surveillance made by a law enforcement agent or military personnel without the necessary surveillance order from the Court of Appeals will merit the offender an imprisonment of ten years, in addition to declaring any evidence gathered as inadmissible as evidence in any court or proceeding.

³⁰⁵ Sec. 24. *Unauthorized or Malicious Interceptions and/or Recordings* – Any law enforcement agent or military personnel who conducts surveillance activities without a valid judicial authorization pursuant to Section 17 of this Act shall be guilty of this offense and shall suffer the penalty of imprisonment of ten (10) years. All information that have been maliciously procured should be made available to the aggrieved party.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

294. Interestingly, while arguing for the lack of judicial determination of probable cause, petitioners Calleja, et al. admitted that Section 17 is in the nature of a judicial warrant,³⁰⁶ thereby contradicting their own argument.

295. Clearly, there is no violation of the requirement that a search warrant shall issue only upon a finding of probable cause determined personally by the judge.

Section 17 of the Anti-Terrorism Act does not prohibit the quashal of a warrant issued under the same Section.

296. Petitioners Calleja, et al. and Zarate, et al. argue that the Anti-Terrorism Act does not provide the suspected terrorist the remedy of quashal of the warrant. They claim that the written order, being a classified information under Section 18³⁰⁷ thereof, lacks transparency, thereby denying the suspected terrorist of an opportunity to contest the same.

297. Petitioners' assertions are baseless.

³⁰⁶ Calleja Petition, p. 53.

³⁰⁷ SEC. 18. Classification, and Contents of the Order of the Court, - The written order granted by the authorizing division of the Court of Appeals as well as the application for such order, shall be deemed and are hereby declared as classified information. Being classified information, access to the said documents and any information contained in the said documents shall be limited to the applicants, duly authorized personnel of the ATC, the hearing justices, the clerk of court and duly authorized personnel of the hearing or issuing court.

The written order of the authorizing division of the Court of Appeals shall specify the following:

- (a) the identity, such as name and address, if known, of the person or persons whose communications, messages, conversations, discussions, or spoken or written words are to be tracked down, tapped, listened to, intercepted, and recorded; and, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations or if the person or persons suspected of committing any of the crimes defined and penalized under the provisions of this Act are not fully known, such person or persons shall be the subject of continuous surveillance;
- (b) the identity of the law enforcement agent or military personnel, including the individual identity of the members of his team, judicially authorized to undertake surveillance activities;
- (c) the offense or offenses committed, or being committed, or sought to be prevented; and,
- (d) the length of time within which the authorization shall be used or carried out.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

298. There is nothing in the law which prohibits the suspected terrorist from availing themselves of the appropriate remedies in questioning the validity of the written order of surveillance after the filing of the case in court.

299. The declared policy of the State to protect life, liberty and property, and the nature of terrorist attacks necessarily require the conduct of surveillance. Declaring as classified information the Court of Appeals' written order for surveillance is necessary to preserve the truthfulness of the information intended to be gathered. To declare otherwise would defeat the very objective of surveillance, which is to monitor the activities and communications of suspected terrorists for the purpose of gathering information for a possible case of terrorism.

300. The conduct of surveillance is likened to a search warrant proceeding.

301. This Honorable Court clearly explained in *United Laboratories, Inc. v. Isip*³⁰⁸ the nature of a search warrant proceeding, to wit:

A search warrant proceeding is, in no sense, a criminal action or the commencement of a prosecution. The proceeding is not one against any person, but is solely for the discovery and to get possession of personal property. It is a special and peculiar remedy, drastic in nature, and made necessary because of public necessity. It resembles in some respect with what is commonly known as John Doe proceedings. While an application for a search warrant is entitled like a criminal action, it does not make it such an action.

302. Notably, during the conduct of surveillance, no case has yet been filed against the suspected terrorist. His/her right to avail of legal remedies shall commence from the time of filing of the appropriate case in court.

³⁰⁸ G.R. No. 163858, June 28, 2005.

303. After the filing of a case for any violation of the Anti-Terrorism Act, the accused shall then have the right to file the appropriate motion to question the validity of the written order or warrant and pray for the suppression of evidence seized.³⁰⁹ If there is indeed a violation of the right of the accused against unreasonable searches and seizure, any information obtained during the conduct of the surveillance shall be inadmissible in evidence in any court or proceeding.³¹⁰ On the other hand, if no case has been filed, and there is a finding that the information gathered during the conduct of surveillance has been maliciously procured, the same shall be made available to the aggrieved party.³¹¹

304. Indeed, Section 17 does not prohibit the quashal of the warrant/written order issued under authority of the Court of Appeals.

The Anti-Terrorism Act does not violate the constitutional right to privacy.

305. The right to privacy is a constitutionally enshrined right, a component of personal liberty protected by the due process clause.³¹² Section 3(1), Article III of the Consitution reads:

SEC. 3. (1) The privacy of communication and correspondence shall be inviolable **except**

³⁰⁹ Sec. 19. *Effective Period of Judicial Authorization.* — ... the applicant law enforcement agent or military personnel shall have thirty (30) days after the termination of the period granted by the Court of Appeals as provided in the preceding paragraphs within which to file the appropriate case before the Public Prosecutor's Office for any violation of this Act.

³¹⁰ Sec. 23. *Evidentiary Value of Deposited Materials.* – Any listened to, intercepted, or recorded communications, messages, conversations, discussions, or spoken or written words, or any part or parts thereof, or any information or fact contained therein, including their existence, content, substance, purport, effect, or meaning, which have been secured in violation of the pertinent provisions of this Act, shall be inadmissible and cannot be used as evidence against anybody in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

³¹¹ Sec. 24. *Unauthorized or Malicious Interceptions and/or Recordings* – Any law enforcement agent or military personnel who conducts surveillance activities without a valid judicial authorization pursuant to Section 17 of this Act shall be guilty of this offense and shall suffer the penalty of imprisonment of ten (10) years. **All information that have been maliciously procured should be made available to the aggrieved party.** (Emphasis supplied.)

³¹² Gamboa v. Chan, G.R. No. 193636, July 24, 2012.

upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.

306. The right to privacy is just as well-ensconced in statutes, such as the Civil Code, the Revised Penal Code, and special laws, including R.A. No. 10173 or the Data Privacy Act of 2012. Many of these laws provide penalties for their violation in the form of imprisonment, fines, or damages. These laws will serve, as they always have, as powerful deterrents not only in the establishment of any administrative rule that will violate the constitutionally protected right to privacy, but also to would-be transgressors of such right.³¹³

307. Petitioners Calleja, et al., Sta. Maria, et al., Lagman, Zarate, et al., and CTUHR, et al. all argue that the Anti-Terrorism Act violates this right. In particular, petitioners Zarate, et al., quoting *Barnicki v. Vopper*,³¹⁴ decry how “(f)ear or suspicion that one’s speech is being monitored by a stranger, even without the reality of such activity, can have a seriously inhibiting effect upon the willingness to voice critical and constructive ideas.”³¹⁵ Here, the petitions paint the purported chilling effect of the law on the freedom of expression, speech, and the press as “all too real.”

308. Petitioners’ concerns are unfounded.

309. To start, in a number of cases, like in the case of *Sps. Hing v. Choachuy*,³¹⁶ this Honorable Court affirmed the use of the “reasonable expectation of privacy” test in determining whether a person has a reasonable expectation of privacy and whether the expectation has been violated. As expounded in *Ople v. Torres*,³¹⁷ the reasonableness of a person’s expectation of privacy depends on a two-part test, to wit: (a) whether, by his conduct, the individual has exhibited an expectation of privacy; and (b) this expectation is one that society recognizes as reasonable.

³¹³ J. Kapunan’s dissent in *Ople v. Torres*, et al., G.R. No. 127685, July 23, 1998.

³¹⁴ 532 U.S. 514 (2001).

³¹⁵ Zarate Petition, pp. 41-42.

³¹⁶ G.R. No. 179736, June 26, 2013.

³¹⁷ G.R. No. 127685, July 23, 1998.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

310. On the heels of this premise, it follows that where a person does not have an expectation of privacy or one's expectation of privacy is not reasonable to society, the alleged intrusion is not a "search" that would impinge upon privacy rights.³¹⁸ For one, in *People v. Johnson*,³¹⁹ this Honorable Court recognized that increased concern over terrorist activity justifies a concomitant lowering of expectations of privacy *vis-à-vis* airport security procedures.

311. One need not look far to see the realities that necessitated the passage of the Anti-Terrorism Act. The string of suicide bombings in the country and the hard-fought Marawi siege are but recent reminders of this. Sometime in January 2019, an Indonesian couple blew themselves up at a cathedral in Jolo, killing 23 and wounding more than 100 innocent Filipinos who were only there to pray.³²⁰ On April 3, 2019, an explosion rocked a restaurant in Kalawag 3, Isulan, Sultan Kudarat, resulting in one casualty and 17 injured.³²¹

312. On June 28, 2019, twin bombings took place at a military checkpoint in Sitio Tanjung, Barangay Kajatian, Indanan, Sulu—the first case in Philippine history of suicide bombing perpetrated by local terrorists.³²² This was followed by another suicide bombing attempt on September 8, 2019 in the same barangay in Sulu, which sought to target a detachment manned by the Philippine Army's 35th Infantry Battalion.³²³ Petitioners simply cannot deny that the worsening problem of terrorism is existing, immediate, apparent, and unfortunately, "all too real."

³¹⁸ *Saluday v. People*, G.R. No. 215305, April 3, 2018.

³¹⁹ G.R. No. 138881, December 18, 2000

³²⁰ Mendoza, R., & Romano, D. *The Diplomat*, *The Philippines Anti-Terrorism Act: Who Guards the Guardians?*, <https://thediplomat.com/2020/07/the-philippines-anti-terrorism-act-who-guards-the-guardians/>, last accessed on July 10, 2020.

³²¹ 18 hurt in Isulan blast, <https://www.mindanews.com/top-stories/2019/04/18-hurt-in-isulan-blast/>, last accessed on July 11, 2020.

³²² 5 killed, 9 hurt in Sulu military camp attack, <https://www.pna.gov.ph/articles/1073596>, last accessed July 11, 2020.

³²³ Suicide bomber dies in Philippines; no other casualties, <https://apnews.com/023e299742f84d1188d9fb032a955eb9>, last accessed on July 11, 2020.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

313. Of course, as with any matter under the Bill of Rights, the “reasonable expectation of privacy” test implies constant weighing and balancing of competing values and priorities.³²⁴ On one hand, the right to be left alone is “the most comprehensive of rights and the right most valued by civilized men.”³²⁵ On the other, as espoused by the theory of the social contract, “[humanity gains] civil rights in return for accepting the obligation to respect and defend the rights of others, giving up some freedoms to do so.”³²⁶

314. Petitioners ought to make no mistake—the provisions of the Anti-Terrorism Act should allay any fear of intrusion or disrespect, if at all, of the people’s privacy rights. In the first place, the core parameters for the implementation of the law are clear-cut and unequivocally spelled out in its Declaration of Policy under Section 2 which pertinently states that “that the exercise of the constitutionally recognized powers of the executive department of the government shall not prejudice respect for human rights which shall be absolute and protected at all times.”

315. The plain letter of Section 2 militates against petitioners’ fear-mongering. Verily, the Anti-Terrorism Act makes a hardline, no-compromise stance in its respect and protection of fundamental human rights “absolute[ly, and] at all times”—rights which include the right to privacy.³²⁷ *Verba legis non est recedendum.*³²⁸ On this alone, petitioners’ claims fail.

316. More significantly, the Anti-Terrorism Act is possessed of safeguards that ensure rightful acquisition and handling of surveilled information as above discussed. Thus, as will be shown hereunder, the Anti-Terrorism Act, as a shield

³²⁴ Gorospe, *Constitutional Law: Notes and Readings on the Bill of Rights, Citizenship and Suffrage, Vol. 1*, p. 665.

³²⁵ *Morfè v. Mutuc*, G.R. No. L-20387, January 31, 1968.

³²⁶ Rivers, N., *International Security Studies* (2019 ed.), p. 36.

³²⁷ Article 17, International Covenant on Civil and Political Rights. The passage reads: “1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home[,] or correspondence, nor to unlawful attacks on his honour or reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.”

³²⁸ From the words of a statute, there should be no departure. *Bolos v. Bolos*, G.R. No. 186400, October 20, 2010.

that protects Filipino life and liberty, present and future, does not infringe on constitutionally protected privacy rights.

A secret tap of communications under Section 16 can only be done after a determination of probable cause by the Court of Appeals and therefore does not violate the right to privacy.

317. Petitioner Lagman asserts that the maximum period of ninety days for the wiretapping of a suspected terrorist is “inordinately long and repressive.” According to him, after law enforcers have secured an authority to wiretap from the Court of Appeals on the basis of probable cause, it does not stand to reason that the period for a secret tap would extend to ninety days unless the evidence was “contrived and manufactured to justify a fishing expedition or a witch hunt.” This, he decries as offensive to a person’s privacy rights.³²⁹

318. Relatedly, petitioner Lagman compares Section 16 of the Anti-Terrorism Act with Section 8³³⁰ of the Human Security Act which provides that surveillance and wiretapping can only be authorized by the Court of Appeals if “there is no other effective means readily available for acquiring such evidence.” Petitioner Lagman claims that the latter safeguard was “completely obliterated” in the Anti-Terrorism Act, and

³²⁹ Lagman Petition, p. 29.

³³⁰ SEC. 8. Formal Application for Judicial Authorization. — The written order of the authorizing division of the Court of Appeals to track down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of any person suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall only be granted by the authorizing division of the Court of Appeals upon an ex parte written application of a police or of a law enforcement official who has been duly authorized in writing by the Anti-Terrorism Council created in Section 53 of this Act to file such ex parte application, and upon examination under oath or affirmation of the applicant and the witnesses he may produce to establish:

- (a) that there is probable cause to believe based on personal knowledge of facts or circumstances that the said crime of terrorism or conspiracy to commit terrorism has been committed, or is being committed, or is about to be committed;
- (b) that there is probable cause to believe based on personal knowledge of facts or circumstances that evidence, which is essential to the conviction of any charged or suspected person for, or to the solution or prevention of, any such crimes, will be obtained; and,
- (c) that there is no other effective means readily available for acquiring such evidence.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

concludes that "it is [now] open season for the invasion of one's privacy of communication."³³¹

319. Petitioner Lagman's assertions do not hold water.

320. To assume that the application to the Court of Appeals to wiretap as provided under Section 16 is for "fishing expedition or witch hunt" or the evidence proffered by the applicant is "contrived and manufactured" simply implies a lack of faith in the Philippine judicial system and a prejudgment on the intelligence and integrity of the Justices of the Court of Appeals who are tasked to determine the existence of probable cause for the issuance of the written order allowing the conduct of wiretapping. Section 16 vests upon the Court of Appeals exclusive authority to issue the written order, thus:

Sec. 16. Surveillance of Suspects and Interception and Recording of Communications.

– The provisions of Republic Act No. 4200, otherwise known as the "Anti-Wire Tapping Law" to the contrary notwithstanding, a law enforcement agent or military personnel may, **upon a written order of the Court of Appeals** secretly wiretap, overhear and listen to, intercept, screen, read, surveil, record or collect, with the use of any mode, ... any private communications, conversation, discussions, data, information, messages in whatever form, kind or nature, spoken or written words (a) between members of a judicially declared and outlawed terrorist organization, as provided in Section 26 of this Act; (b) between members of a designated person as defined in Section 3(e) of Republic Act No. 10168; or (c) any person charged with or suspected of committing any of the crimes defined and penalized under the provisions of this Act: Provided, That, surveillance, interception and recording of communications between lawyers and clients, doctors and patients, journalists and their sources and confidential business correspondence shall not be authorized.

³³¹ Lagman Petition., p. 30.

321. The crucial role of the Judiciary here serves as a safeguard against the so-called fishing expeditions and ensures that the authority to conduct a secret tap shall only be granted if the Court of Appeals finds probable cause for it.

322. Anent Petitioner Lagman's gripes on what he perceives as "open season" against the people's privacy rights, it would appear that he is connecting nonexistent dots. The fact that Section 8 of the Human Security Act was not adopted and carried in Section 16 of the Anti-Terrorism Act does not equate to automatic abuse—a clear case of *non sequitur*. No order of priority is ever established to follow in obtaining evidence in terrorist activities. To iterate, the acts or damage sought to be prevented is catastrophic and immediate. Hence, urgency is imperative.

323. Petitioner Lagman likewise insists that the Anti-Terrorism Act imposes no sanction whatsoever on law enforcers who maliciously and baselessly secure an order authorizing a secret tap. Here, petitioner Lagman asseverates that the "lack" of penalty would embolden law enforcers to arbitrarily contrive an *ex-parte* application to obtain a written order authorizing a wiretap.³³³

324. This claim is patently untrue.

325. Notably, Section 24 of the Anti-Terrorism Act penalizes any law enforcement personnel who conducts surveillance activities without a valid judicial authority or who maliciously obtains interceptions or recordings.

326. Petitioner Lagman argues, as well, that under Section 9³³⁴ of the Human Security Act, the person subjected

³³² Emphasis supplied.

³³³ *Ibid.*

³³⁴ SEC. 9. Classification and Contents of the Order of the Court. — The written order granted by the authorizing division of the Court of Appeals as well as its order, if any, to extend or renew the same, the original application of the applicant, including his application to extend or renew, if any, and the written authorizations of the Anti-Terrorism Council shall be deemed and are hereby declared as classified

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

to the wiretap had the right to be informed that wiretapping is being conducted against him so that he can move to quash the order authorizing the said wiretap. Petitioner Lagman denounces the deletion of this “safeguard” in the Anti-Terrorism Act, thereby allowing the wiretapping to persist for a maximum of ninety days without the person subjected thereto having any opportunity to object to the same.³³⁵ Similarly, petitioners CTUHR, et al. assert that the *ex parte* nature of the application for surveillance deprives the person whose conversation is to be recorded the chance to oppose the same.³³⁶

327. The deletion of a particular provision of the Human Security Act lies on the wisdom of the legislators who crafted the Anti-Terrorism Act. Thus, petitioners Lagman and CTUHR, et al.’s claim here is problematic. Such deletion even bolsters why the Human Security Act has failed to curtail terrorism in the country.

328. The essence of wiretapping is to “secretly” overhear and listen to, intercept, screen, read, surveil, record or collect private communications, conversation, discussion/s, data, information, messages between (a) members of a judicially declared and outlawed terrorist organization as

information: Provided, That the person being surveilled or whose communications, letters, papers, messages, conversations, discussions, spoken or written words and effects have been monitored, listened to, bugged or recorded by law enforcement authorities has the right to be informed of the acts done by the law enforcement authorities in the premises or to challenge, if he or she intends to do so, the legality of the interference before the Court of Appeals which issued the written order.

The written order of the authorizing division of the Court of Appeals shall specify the following:

- (a) the identity, such as name and address, if known, of the charged or suspected person whose communications, messages, conversations, discussions, or spoken or written words are to be tracked down, tapped, listened to, intercepted, and recorded and, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations or if the person suspected of the crime of terrorism or conspiracy to commit terrorism is not fully known, such person shall be subject to continuous surveillance provided there is a reasonable ground to do so;
- (b) the identity (name, address, and the police or law enforcement organization) of the police or of the law enforcement official, including the individual identity (names, addresses, and the police or law enforcement organization) of the members of his team, judicially authorized to track down, tap, listen to, intercept, and record the communications, messages, conversations, discussions, or spoken or written words;
- (c) the offense or offenses committed, or being committed, or sought to be prevented; and,
- (d) the length of time within which the authorization shall be used or carried out.

³³⁵ Lagman Petition, p. 30.

³³⁶ CTUHR Petition, p. 32.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

declared in the Anti-Terrorism Act; (b) members of a designated person as defined in Section 3(e) of R.A. No. 10168 otherwise known as the "Terrorism Financing Prevention and Suppression Act"; or (c) any person charged with or suspected of committing any of the crimes defined and penalized under the Anti-Terrorism Act.³³⁷

329. To illustrate, former U.S. President George W. Bush has once pointed out that "two of the September 11 hijackers who flew the plane into the Pentagon—Khalid Almihdhar and Nawaf Alhazmi—communicated while they were in the United States to other members of Al Qaeda who were overseas, but [the U.S. federal government did not] know they were [there] until it was too late."³³⁸ In recognizing wiretapping as a crucial part of the U.S. counter-terrorism effort, it was noted that if the programs implemented in the PATRIOT Act, the U.S. anti-terrorism law, were already in place prior to the September 11 attacks, programs which included wiretapping and interception of communications, the hijackers may have been identified, located, and stopped.³³⁹

330. Naturally, wiretapping, as authorized under Section 16 of the Anti-Terrorism Act, would be useless if judicially declared, designated, or suspected terrorists knew that they were being listened to. It strips its strategic value. Therefore, the claim of petitioners to disclose the application to wiretap in order for the target or targets to contest the wiretapping is downright nonsensical, absurd, and defeats its very purpose.

³³⁷ Section 16, Anti-Terrorism Act.

³³⁸ Hewitt, M., *Wiretapping: A Necessity for Effectively Combating Terrorism in the 21st Century*, Liberty University (2008), <https://digitalcommons.liberty.edu/cgi/viewcontent.cgi?article=1040&context=honors>, last accessed on July 11, 2020.

³³⁹ *Ibid.*

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

The production of customer information and records by virtue of a surveillance order from the Court of Appeals under Section 16 does not intrude upon the private sphere of an individual.

331. Petitioners Calleja, et al. argue that law enforcers may compel telecommunications and internet service providers to produce all customer information and identification records without qualification. According to them, this requirement is broad as it will give law enforcers unqualified access to the personal data, information, and records of a person without any compelling interest on the matter. Thus, this method, according to them, being an “intrusion to the private sphere of an individual” should not be allowed.³⁴⁰

332. This argument is misleading.

333. In the first place, law enforcers or military personnel cannot require the telecommunications companies and internet service providers to produce customer information and identification records without a written order from the Court of Appeals. Moreover, law enforcers are required to make a Return and that evidence obtained under the judicial authorization shall be sealed in envelopes and turned over to the Court of Appeals which issued the written authorization. Section 20 is clear in this regard, to wit:

SEC. 20. Custody of Intercepted and Recorded Communications. – All tapes, discs, other storage devices, recordings, notes, memoranda, summaries, excerpts and all copies thereof obtained under the judicial authorization granted by the Court of Appeals shall, within forty-eight (48) hours after the expiration of the period fixed in the written order or the extension or renewal granted

³⁴⁰ Calleja Petition, p. 57.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

thereafter, **be deposited with the issuing court in a sealed envelope or sealed package, as the case may be, and shall be accompanied by a joint affidavit of the applicant law enforcement agent or military personnel and the members of his team. ...**³⁴¹

334. Furthermore, law enforcers must execute a joint affidavit stating that no duplicates have been made, or if duplicates were made, that the same are included in the deposited envelope to the Court of Appeals, *viz.* :

SEC. 21. Contents of Joint Affidavit. —
The joint affidavit of the law enforcement agent or military personnel shall state: (a) the number of tapes, discs, and recordings that have been made; (b) the dates and times covered by each of such tapes, discs, and recordings; and (c) the chain of custody or the list of persons who had possession or custody over the tapes, discs and recordings.

The joint affidavit shall also certify under oath that no duplicates or copies of the whole or any part of any of such tapes, discs, other storage devices, recordings, notes, memoranda, summaries, or excerpts have been made, or, if made, that all such duplicates and copies are included in the seeded envelope or sealed package, as the case may be, deposited with the authorizing division of the Court of Appeals.

It shall be unlawful for any person, law enforcement agent or military personnel to omit or exclude from the joint affidavit any item or portion thereof mentioned in this Section.

Any person, law enforcement agent or military officer who violates any of the acts proscribed in the preceding paragraph shall suffer the penalty of imprisonment of ten (10) years.

³⁴¹ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

335. As an additional safeguard, law enforcers can only open the deposited envelope through a written order of the Court of Appeals upon written application of the DOJ and with notice to the party concerned, thus:

SEC. 22. Disposition of Deposited Materials. – The sealed envelope or sealed package and the contents thereof referred to in Section 20 of this Act, shall be deemed and are hereby declared classified information. The sealed envelope or sealed package shall not be opened, disclosed, or used as evidence unless authorized by a written order of the authorizing division of the Court of Appeals which written order shall be granted only upon a written application of the Department of Justice (DOJ) duly authorized in writing by the ATC to file the application with proper written notice to the person whose conversation, communication, message, discussion or spoken or written words have been the subject of surveillance, monitoring, recording and interception to open, reveal, divulge, and use the contents of the sealed envelope or sealed package as evidence.

The written application, with notice to the party concerned, for the opening, replaying, disclosing, or using as evidence of the sealed package or the contents thereof shall clearly state the purpose or reason for its opening, replaying, disclosing, or its being used as evidence.

Violation of this section shall be penalized by imprisonment of ten (10) years.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

A surveillance order issued by the Court of Appeals under Section 16 does not vest upon the Executive a perpetual authority to probe into a person or organization's communications.

336. Section 19 of the Anti-Terrorism Act ensures that judicial authorizations to wiretap a judicially declared, designated, or suspected terrorist would not be abused, viz.:

SEC. 19. Effective Period of Judicial Authorization. — Any authorization granted by the Court of Appeals, pursuant to Section 17 of this Act, shall only be effective for the length of time specified in the written order of the authorizing division of the Court of Appeals which shall not exceed a period of sixty (60) days from the date of receipt of the written order by the applicant law enforcement agent or military personnel.

The authorizing division of the Court of Appeals may extend or renew the said authorization to a non-extendible period, which shall not exceed thirty (30) days from the expiration of the original period: Provided, That the issuing court is satisfied that such extension or renewal is in the public interest: and Provided, further. That the ex parte application for extension or renewal, which must be filed by the original applicant, has been duly authorized in writing by the ATC.

In case of death of the original applicant or in case he is physically disabled to file the application for extension or renewal, the one next in rank to the original applicant among the members of the team named in the original written order shall file the application for extension or renewal; Provided, finally, That, the applicant law enforcement agent or military personnel shall have thirty (30) days after the termination of the period granted by the Court

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

of Appeals as provided in the preceding paragraphs within which to file the appropriate case before the Public Prosecutor's Office for any violation of this Act.

For purposes of this provision, the issuing court shall require the applicant law enforcement or military official to inform the court, after the lapse of the 30-day period of the fact that an appropriate case for violation of this Act has been filed with the Public Prosecutor's Office.

337. Under the aforementioned Section, the judicial authorization to wiretap is effective only for a period of sixty days and a maximum of ninety days, after which the law enforcement officer concerned must, within thirty days from the expiration of the judicial authorization to wiretap, file the appropriate case with the Public Prosecutor's Office and make a report to the Court of Appeals.

The Anti-Terrorism Act does not prohibit making surveillance data available to the aggrieved party should he or she be absolved of suspicion.

338. The Anti-Terrorism Act does not prohibit making surveillance data obtained by law enforcement officers or the military personnel available to the suspected terrorist once he or she is absolved of suspicion, or when the data was obtained maliciously or without authority. In fact, Section 24 not only makes unauthorized or malicious surveillance a crime punishable by ten years' imprisonment, it also categorically provides that surveillance data acquired maliciously or without authority should be made available to the aggrieved party, viz.:

Sec. 24. Unauthorized or Malicious Interceptions and/or Recordings. – Any law enforcement agent or military personnel who conducts surveillance activities without a valid judicial authorization pursuant to Section 17 of

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

this Act shall be guilty of this offense and shall suffer the penalty of imprisonment of ten (10) years. All information that have been maliciously procured should be made available to the aggrieved party.³⁴²

339. Furthermore, Section 15 mandates the filing of administrative charges of grave misconduct and/or disloyalty to the Republic and the people against a public officer found guilty of any of the acts defined and punished under the Anti-Terrorism Act, which includes Section 24:

SEC. 15. Penalty for Public Official. – If the offender found guilty of any of the acts defined and penalized under any of the provisions of this Act is a public official or employee, he/she shall be charged with the administrative offense of grave misconduct and/or disloyalty to the Republic of the Philippines and the Filipino people, and be meted with the penalty of dismissal from the service, with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits and perpetual absolute disqualification from running for any elective office or holding any public office.³⁴³

340. Moreover, Section 23 adds an additional layer of protection, providing that surveillance data obtained in violation of the Anti-Terrorism Act shall be inadmissible and cannot be used as evidence against anybody:

*Sec. 23. Evidentiary Value of Deposited Materials. – Any listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words, or any part or parts thereof or any information or fact contained therein, including their existence, content, substance, purport, effect, or meaning, **which have been secured in violation of the pertinent provisions of this Act, shall be inadmissible and cannot***

³⁴² Emphasis supplied.

³⁴³ Emphasis supplied.

be used as evidence against anybody in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.³⁴⁴

341. Putting all these aside, it would appear that what is left are but petitioners' fears that the enforcement of the law—Sections 16 and 17 in particular—would be prone to State abuse.

342. Petitioners' villainous depiction of law enforcement is extremely unfair, factually baseless, and devoid of legal moorings.

343. As already established, the Anti-Terrorism Act is brimming with provisions that serve to prevent and dissuade the perpetuation of abuse in its implementation. When these are pit against the fear of *potential abuse*, petitioners' fear becomes trivial.

344. Thus, in light of the lowered expectation of privacy that comes with the State's constitutional duty to serve and protect the people³⁴⁵ and the protective measures in the law, it is safe to conclude that Sections 16 and 17 of the Anti-Terrorism Act do not transgress on the constitutional right to privacy.

The Anti-Terrorism Act does not violate the constitutional freedoms of speech, expression, of the press, and of association, the rights to peaceably assemble and petition the government for redress of grievances.

345. Section 4, Article III of the Constitution provides:

³⁴⁴ Emphasis supplied.

³⁴⁵ Section 4, Article II of the Constitution provides, in no uncertain terms: "Section 4. **The prime duty of the Government is to serve and protect the people.** ..." (Emphasis supplied.)

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

No law shall be passed abridging 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.

346. Petitioners Calleja, et al, Zarate, et al., Lagman, Monsod, et al. and Sanlakas claim that the Anti-Terrorism Act is unconstitutional supposedly due to its vague and overbroad definitions of acts constituting terrorism.³⁴⁶ Petitioners Sta. Maria, et al. meanwhile argue that Section 4 is utterly vague on its face for failing to specify a standard in ascertaining the acts penalized as terrorism.³⁴⁷ Petitioners Monsod, et al. likewise contends that Section 9 of the Anti-Terrorism Act is unconstitutional because it directly stifles free speech.³⁴⁸

347. Petitioners' claims are incorrect.

348. The Anti-Terrorism Act does not violate the Constitutional freedoms of speech and expression, of the press and of association, and the rights to peaceably assemble and petition the government for redress of grievances.

Section 4 regulates conduct and not speech.

338. As previously discussed, terrorism seeks to penalize conduct, not speech nor freedom of expression.

339. In the case of *United States v. O'Brien*,³⁴⁹ the U.S. Supreme Court clearly made a distinction between speech and conduct. It determined that "when a person's speech, directed to another person or group of persons, is of a quality that is likely to engender violent conduct, that communication,

³⁴⁶ Calleja Petition, par. 57. p. 32; Zarate Petition, pars. 64 and 70, pp. 24 and 26; Lagman Petition, par. 93, p. 24.

³⁴⁷ Sta. Maria Petition, p. 29.

³⁴⁸ Monsod Petition, p. 15.

³⁴⁹ 391 U.S. 367 (1968).

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

though verbal, is not speech as a part of a dialogue.”³⁵⁰ Such speech is more akin in nature to conduct, because it is more likely to provoke conduct, than dialogue.³⁵¹ Therefore, it may be restricted as fighting words without regard to the message being communicated.³⁵²

340. Notably, the U.S. Supreme Court articulated a four-prong test to determine whether the government regulation was sufficiently important to justify the limitation on free speech.³⁵³ The elements of the test are as follows: (a) the conduct is such that it may be constitutionally regulated; (b) the regulation furthers a substantial government interest; (c) the government interest is unrelated to the suppression of free speech; and (d) the limitations on speech are no greater than what are essential to further the asserted government interest.³⁵⁴

342. The Anti-Terrorism Act satisfies the foregoing tests.

343. For the first test, the acts constituting the elements of the crime terrorism fall within the same class of crimes already punished under the Revised Penal Code, such as *Grave Threats* under Article 282, *Inciting to War or Giving Motives for Reprisal* under Article 118, *Proposal to Commit Rebellion* under Article 136, *Inciting Rebellion or Insurrection* under Article 138, and *Inciting to Sedition* under Article 142. Indeed, these are conducts that are already regulated. Hence, the first element is present.

345. Section 4 of the same Act clearly defines and delimits the crime of terrorism. Again, it likewise explicitly states “the nature and context” of terrorism, i.e., those that are committed for specific objectives, namely – “(a) to intimidate, put in fear, force or induce the government or any international organization, or the public to do or to abstain from doing any act; (b) to seriously destabilize or destroy the

³⁵⁰ Aviva O. Wertheimer, *The First Amendment Distinction Between Conduct and Content: A Conceptual Framework for Understanding Fighting Words Jurisprudence*, 63 *Fordham L. Rev.* 793 (1994), available at <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=3142&context=flr;The..>

³⁵¹ *Id.*

³⁵² *Id.*

³⁵³ *O'Brien*, 391 U.S. at 377.

³⁵⁴ *Id.*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

fundamental political, economic or social structures of the country, and (c) to create a public emergency or undermine public safety”.

346. In *Southern Hemisphere*,³⁵⁵ this Honorable Court ruled:

... What the law seeks to penalize is conduct, not speech.

Before a charge for terrorism may be filed under RA 9372, there must first be a predicate crime actually committed to trigger the operation of the key qualifying phrases in the other elements of the crime, including the coercion of the government to accede to an “unlawful demand.” Given the presence of the first element, any attempt at singling out or highlighting the communicative component of the prohibition cannot recategorize the unprotected conduct into a protected speech.

347. In other words, the enumerated qualifying objectives determine whether the criminal acts fall under the realm of terrorism. In *Lagman v. Medialdea*,³⁵⁶ this Honorable Court easily distinguished terrorism from the crime of rebellion:

In determining what crime was committed, we have to look into the main objective of the malefactors. If it is political, such as for the purpose of severing the allegiance of Mindanao to the Philippine Government to establish a *wilayat* therein, the crime is rebellion. If, on the other hand, the primary objective is to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand, the crime is terrorism.

³⁵⁵ *Supra*.

³⁵⁶ G.R. Nos. 231658, 231771, and 231774, July 4, 2017.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

348. During the Senate deliberations,³⁵⁷ Senator Lacson clearly pointed out that the law delimits what acts are constitutive of terrorism:

Senator Drilon. Mr. President, the definition of Terrorist Acts under pages 5, 6, and 7 of the measure would clearly define when it is applicable to ordinary crimes, to act of terrorism, or freedom fighters. In other words, the difficulty in the definition of anti-terrorism is that it is either an ordinary crime, an act of terrorism, or acts committed by freedom fighters. Would the good sponsor agree with that?

Senator Lacson. It all depends on the intent and the purpose of the act, Mr. President.

Senator Drilon. That is correct, Mr. President. Yes, that is the purpose of the act, and I agree with that. That is why by the definition on page 7, from line 6 down, it is very clear that when the purpose of such act, by its nature or context, is to intimidate, put in fear, force or induce the government or any international organization, or the public to do any act or abstain from doing any act, or seriously destabilize, et cetera, et cetera. Now, in the United States, the statute that defines terrorism clearly indicates that it is the use of violence or threat of violence in the pursuit of political, religious, ideological, or social objectives. Would that standard be applied also to the proposed measure which would distinguish it from an ordinary criminal?

Senator Lacson. That could qualify but not necessarily, Mr. President, because we are bound by the purpose of the act being committed.

Senator Drilon. Well, precisely, in the United States statute, the purpose is in pursuit of political, religious, or ideological objectives. Would this be the same purpose that would

³⁵⁷ Senate TSN dated January 21, 2020, pp. 15-18; Annex “3”.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

qualify the act as an act of terrorism under our proposed measure?

Senator Lacson. We removed that provision actually, Mr. President. We did not apply. We are not applying the provision under the US statute on the definition of Terrorist Acts.

Senator Drilon. So that we spread that into the Record that the act of terrorism need not be in pursuit of a political, religious, ideological, or social objective.

Senator Lacson. That is correct, Mr. President. And in lieu of that, we substituted the purpose of the act by its nature and context. It must be committed to: (1) intimidate, put in fear, force or induce the government or any international organization, or the public to do or to abstain from doing any act; (2) seriously destabilize or destroy the fundamental political, economic or social structures of the country, and (3) create a public emergency or undermine public safety. So, we substituted what are stated under the US statute.

Senator Drilon. There is an effort to broaden the applicability; it need not be for political, religious, ideological, or social objectives. So, that need not be alleged in the information and not proven in the course of the trial that this is the purpose, is that correct?

Senator Lacson. That is correct, Mr. President.

Senator Drilon. In fact, this definition is more consistent with the pending convention in the UN, the proposed Comprehensive Convention on International Terrorism, which does not indicate that political motivation is essential.

Senator Lacson. Exactly, Mr. President.

Senator Drilon. Now, under the proposed definition in the Comprehensive Convention on International Terrorism, when the purpose of the conduct by its nature or context is to intimidate a population or compel a government or international organization to

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

do or abstain from doing any act, that is in substance adopted in the proposed measure. Is that correct?

Senator Lacson. That is correct, Mr. President.

341. Anent the second and third tests, it cannot be overemphasized that the Anti-Terrorism Act was enacted to protect individuals from terrorist attacks. This stems from the general duty of States to protect individuals under their jurisdiction against interference in the enjoyment of human rights. More specifically, this part of the Philippines' obligations to ensure respect for the right to life and the right to security. It is therefore a regulation of conduct to protect a compelling state interest and is unrelated to the suppression of free speech.

349. As for the fourth test, the Anti-Terrorism Act's limitations on speech are no greater than what are essential to further the asserted government interest. Section 4(e) of the Act expressly states that terrorism does not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person life, or to create a serious risk to public safety.

350. From foregoing, it is well established that the definition of terrorism and its corresponding penal provisions pass the *O'brien* tests.

350. To iterate, Section 4 clearly defined and delimited the crime of terrorism. Hence, the Anti-Terrorism Act does not abridge the constitutionally enshrined rights—the freedoms of speech, expression, of the press, and of association, and the right to peaceably assemble and petition the government for redress of grievances.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

Sections 5, 9, 10, 25 and 26 of the Anti-Terrorism Act pass the clear and present danger test.

351. Petitioners Calleja, et al. assail the constitutionality of Sections 5, 9, 10, 25 and 26 for supposedly failing the strict scrutiny test. They contend that there is no compelling State interest to curtail and/or regulate protected rights. Thus, they claim that "the fears these very sections try to address are already being prevented and/or addressed by the Revised Penal Code and special penal laws in the status quo, while Constitutional rights are safeguard and guaranteed."³⁵⁸

352. Petitioners are utterly mistaken.

353. The assailed provisions pass the clear and present danger test.

354. The clear and present danger doctrine, first formulated by Justice Holmes, accords protection for utterances so that the printed or spoken words may not be subject to prior restraint or subsequent punishment unless their expression creates a clear and present danger of bringing about a substantial evil which the government has the power to prohibit.³⁵⁹ Under the doctrine, freedom of speech and of press is susceptible of restriction when and only when necessary to prevent grave and immediate danger to interests which the government may lawfully protect. As it were, said doctrine evolved in the context of prosecutions for rebellion and other crimes involving the overthrow of government. It was originally designed to determine the latitude which should be given to speech that espouses anti-government action, or to have serious and substantial deleterious consequences on the security and public order of the community.³⁶⁰

³⁵⁸ Calleja Petition, par. 84, p. 52.

³⁵⁹ See Soriano v. Laguardia, G.R. Nos. 164785 & 165636, April 29, 2009.

³⁶⁰ Soriano v. Laguardia, *supra*.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

355. In *Eastern Broadcasting Corporation v. Dans, Jr.*,³⁶¹ this Honorable Court stated:

All forms of media, whether print or broadcast, are entitled to the broad protection of the freedom of speech and expression clause. The test for limitations on freedom of expression continues to be the clear and present danger rule - that words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that the lawmaker has a right to prevent.

356. Such danger must not only be clear but must also be present.³⁶² There should be no doubt that what is feared may be traced to the expression complained of.³⁶³

357. In *Chavez v. Gonzales*,³⁶⁴ this Honorable Court held:

From the language of the specific constitutional provision, it would appear that the right to free speech and a free press is not susceptible of any limitation. But the realities of life in a complex society preclude a literal interpretation of the provision prohibiting the passage of a law that would abridge such freedom. **For freedom of expression is not an absolute, nor is it an "unbridled license that gives immunity for every possible use of language and prevents the punishment of those who abuse this freedom.**

Thus, all speech are not treated the same. **Some types of speech may be subjected to some regulation by the State under its pervasive police power, in order that it may not be injurious to the equal right of others or those of the community or society.** The difference in treatment is expected because the

³⁶¹ G.R. No. L-59329, July 19, 1985.

³⁶² See *Gonzales, et al. v. Katigbak*, G.R. No. L-69500, July 22, 1985.

³⁶³ *Ibid.*

³⁶⁴ G.R. No. 168338, February 15, 2008.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

relevant interests of one type of speech, e.g., political speech, may vary from those of another, e.g., obscene speech. Distinctions have therefore been made in the treatment, analysis, and evaluation of the permissible scope of restrictions on various categories of speech. We have ruled, for example, that in our jurisdiction slander or libel, lewd and obscene speech, as well as "fighting words" are not entitled to constitutional protection and may be penalized.³⁶⁵

358. While indeed Section 4, in defining terrorism listed acts already punishable as regular crimes, it qualified such acts to be committed for a specific purpose. As discussed above, such purpose distinguishes terrorism from other crimes. Given that terrorism is committed to either intimidate the general public or segment, create an atmosphere or spread a message of fear, provoke or influence by intimidation the government or any international organization, seriously destabilize or destroy the fundamental political, economic, or social structures of the country, or create a public emergency or seriously undermine public safety, it poses an existential threat to the government and the security of the people. Hence, it meets the clear and present danger test.

The Anti-Terrorism Act does not violate the freedom of religion and belief.

359. The freedom of religion and belief is enshrined in Section 5, Article III of the Constitution:

No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

³⁶⁵ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

360. Petitioners Zarate, et. al assail Sections 16, 17, 18,³⁶⁶ 19, 20,³⁶⁷ and 22 of the Anti-Terrorism Act for allegedly violating the constitutionally protected right to freedom of religion and belief as revered in the above cited provision. They anchor this battle on the supposed non-inclusion of priest-penitent relationship from the itemized communications in Section 16 which cannot be a subject of a clandestine surveillance. This non-inclusion, according to petitioners Zarate, et al. violates a person's right to freedom of religion and belief.³⁶⁸

361. Petitioners are mistaken.

³⁶⁶ SEC. 18. Classification, and Contents of the Order of the Court, - The written order granted by the authorizing division of the Court of Appeals as well as the application for such order, shall be deemed and are hereby declared as classified information. Being classified information, access to the said documents and any information contained in the said documents shall be limited to the applicants, duly authorized personnel of the ATC, the hearing justices, the clerk of court and duly authorized personnel of the hearing or issuing court.

The written order of the authorizing division of the Court of Appeals shall specify the following:

- (a) the identity, such as name and address, if known, of the person or persons whose communications, messages, conversations, discussions, or spoken or written words are to be tracked down, tapped, listened to, intercepted, and recorded; and, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations or if the person or persons suspected of committing any of the crimes defined and penalized under the provisions of this Act are not fully known, such person or persons shall be the subject of continuous surveillance;
- (b) the identity of the law enforcement agent or military personnel, including the individual identity of the members of his team, judicially authorized to undertake surveillance activities;
- (c) the offense or offenses committed, or being committed, or sought to be prevented; and,
- (d) the length of time within which the authorization shall be used or carried out.

³⁶⁷ SEC. 20. Custody of Intercepted- and Recorded Communications. - All tapes, discs, other storage devices, recordings, notes, memoranda, summaries, excerpts and all copies thereof obtained under the judicial authorization granted by the Court of Appeals shall, within forty-eight (48) hours after the expiration of the period fixed in the written order or the extension or renewal granted thereafter, be deposited with the issuing court in a sealed envelope or sealed package, as the case may be, and shall be accompanied by a joint affidavit of the applicant law enforcement agent or military personnel and the members of his/her team.

In case of death of the applicant or in case he/she is physically disabled to execute the required affidavit, the one next in rank to the applicant among the members of the team named in the written order of the authorizing division of the Court of Appeals shall execute with the members of the team that required affidavit.

It shall be unlawful for any person, law enforcement agent or military personnel or any custodian of the tapes, discs, other storage devices recordings, notes, memoranda, summaries, excerpts and all copies thereof to remove, delete, expunge, incinerate, shred or destroy in any manner the items enumerated above in whole or in part under any pretext whatsoever.

Any person who removes, deletes, expunges, incinerates, shreds or destroys the items enumerated above shall suffer the penalty of imprisonment of ten (10) years.

³⁶⁸ Zarate Petition, p. 66.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

362. The Human Security Act, the progenitor of the Anti-Terrorism Act, was also questioned on the ground that it violated the privileged nature of priest-penitent relationships through a petition for declaratory relief before the trial court. When the case reached this Honorable Court, the petition for declaratory relief was dismissed on the ground, among others, that the issues raised were not ripe for adjudication, *viz:*

As to the fifth requisite for an action for declaratory relief, neither can it be inferred that the controversy at hand is ripe for adjudication since the possibility of abuse, based on the above-discussed allegations in private respondents' petition, remain **highly-speculative and merely theorized**. It is well-settled that a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.³⁶⁹

363. Verily, the foregoing principle should likewise apply here. Petitioners' apprehension that Sections 16, 17, 18, 19, 20, and 22 will violate the sanctity of priest-penitent relationship is highly-speculative and merely theorized and, therefore, deserves scant consideration.

The Anti-Terrorism Act does not violate the constitutional freedom of association.

364. Section 8, Article III of the Constitution states:

The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies **for purposes not contrary to law** shall not be abridged.³⁷⁰

³⁶⁹ Republic vs. Roque, G.R. No. 204603, September 24, 2013; emphasis supplied.

³⁷⁰ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

365. Petitioners' assertion that Sections 10, 25, and 26 violate freedom of association is fallacious.

366. Again, the definition of terrorism does not include advocacy, protest, dissent, stoppage in work, industrial or mass action, and other similar exercise of civil and political rights if their specific intent is not as mentioned in Section 4.

367. Section 10 reads:

Sec. 10. Recruitment to and Membership in a Terrorist Organization. – Any person who **shall recruit another to participate in, join, commit or support terrorism or a terrorist individual or any terrorist organization, association or group of persons** proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized for the purpose of engaging in terrorism, shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592.

The same penalty shall be imposed on any person who organizes or facilitates the travel of individuals to a state other than their state of residence or nationality for the purpose of recruitment which may be committed through any of the following means:

- (a) Recruiting another person to serve in any capacity in or with an armed force in a foreign state, whether the armed force forms part of the armed forces of the government of that foreign state or otherwise;
- (b) Publishing an advertisement or propaganda for the purpose of recruiting persons to serve in any capacity in or with such an armed force;
- (c) Publishing an advertisement or propaganda containing any information relating to the place at which or the manner in which persons may make applications to serve or obtain information relating to service in any capacity in or with such armed force or relating to the manner in which persons may travel to a foregoing state for the

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- purpose of serving in any capacity in or with such armed force; or
- (d) Performing any other act with the intention of facilitating or promoting the recruitment of persons to serve in any capacity in or with such armed force.

Any person who shall voluntarily and knowingly join any organization, association or group of persons knowing that such organization, association or group of persons is proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized for the purpose of engaging in terrorism, shall suffer the penalty of imprisonment of twelve (12) years.³⁷¹

368. Clearly, the acts being punished are: (a) recruiting another to participate in, join, commit or support terrorism or a terrorist or any terrorist organization, association or group of persons proscribed under Section 26 of the Act, or designated by the UNSC as a terrorist organization, or organized for the purpose of engaging in terrorism; and (b) organizes or facilitates the travel of individuals to a state other than their state of residence or nationality for the purpose of recruitment; and (c) voluntarily and knowingly joining any organization, association or group of persons knowing that such organization, association or group of persons is proscribed under Section 26 of this Act, or designated by the UNSC as a terrorist organization, or organized for the purpose of engaging in terrorism.

369. Essentially, the law contemplated classification of organizations. The first involves the organization proscribed under Section 26 or designated by the UN as a terrorist organization while the second involves the armed forces of a foreign state.³⁷²

370. As to the first classification, said organizations are contrary to law, and associating with them is unlawful and is thus prohibited.

³⁷¹ Emphasis supplied.

³⁷² Section 10, par. 1.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

371. As for the second one, it is evident that the recruitment and membership in the armed forces of a foreign state is, for all intents and purposes, outrightly criminal and illegal. A citizen or subject owes, not a qualified and temporary, but an absolute and permanent allegiance, which consists in the obligation of fidelity and obedience to his government or sovereign; and that this absolute and permanent allegiance should not be confused with the qualified and temporary allegiance which a foreigner owes to the government or sovereign of the territory wherein he resides, so long as he remains there, in return for the protection he receives, and which consists in the obedience to the laws of the government or sovereign.³⁷³

372. The Constitution is very clear that while the freedom to associate is a protected right, it is not absolute. Hence, anyone is free to associate with any group, organization, society or association, provided that the purpose of such group, organization, society or association is not contrary to law.

373. During the deliberation on HB No. 6875,³⁷⁴ one of the proponent-authors, Rep. Biazon, cited an illustration:

(PO – Deputy Speaker Estrella)

REP. BROSAS. Mr. Speaker, Ginoong Sponsor, kaya po natin tinututulan iyong pagtanggap sa predicate crimes dahil po alam naman natin na magagamit talaga ito sa mga ordinaryong sirkumstansya at ordinaryong mamamayan. Bahagi, sinabi po ninyo kaninam bahagi ng definition ng “terrorism” iyong “Engage in acts intended to cause extensive interference with damage or destruction to critical infrastructure” at kabilang sa critical infrastructure ang transportation.

Kung halimbawa, Ginoong Speaker, nagsagawa ng road blockades ang mga jeepney drivers na ayaw pa ring pahintulutan ng

³⁷³ Anastacio Laurel v. Eriberto Misa, G.R. No. L-409, 30 January 1947.

³⁷⁴ Dated June 2, 2020, 6:35 pm, pp. 1-3; **Annex “9**Error! Reference source not found.”.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

gobyerno na pumasada kahit pa tatlong buwan na silang walang kita sa ilalim ng community quarantine, maitutring silang terorista sa batas na ito. Tama ba, Mr. Sponsor, Ginoong Speaker?

REP. BIAZON. Mali po. Hindi po saklaw iyong pagkilos noon gating mga jeepney drivers na magkaroon ng blockades tungkol doon sa kanilang kabuhayan. Masasakop po iyan doon sa sinasabi nating "exclusion" na sinasabi nga pong mayroong ibinibigay na leeway para hindi isama ang protest, dissent, stoppage of work, and mass action na ang purpose ay mag-exercise ng civil and political rights.

Hindi ho totoo o hindi tama na sabihing ordinaryong mamamayan ay nasasakop ng Anti-Terror Bill sapagkat doon pa lamang po sa definition ng "terrorism", alam natin po na hindi ordinaryong mamamayan ang tinutukoy ng panukalang batas kung hindi iyong mga tao na nais maghasik ng violence, ng disorder doon po sa way of life or iyong peaceful living ng lahat ng mga mamamayan.

...

REP BIAZON. Mr. Speaker alam ninyo po isa ako doon sa naging proponent ng Human Security Act of 2007. Noong tinatalakay naming iyong batas noong panahon na iyon, noong panukalang batas pa siya, pareho rin po iyong mga apprehensions na nanaririnig nating ginagamit dito sa kasalukuyang tinatalakay natin, iyong improvement ng Security Act, similar apprehensions. But ano ho ang nakita natin? Halos hindi nga ho nagamit iyong batas dahil hindi naman po kasi ma-a-apply sa ordinaryong mamamayan iyong definition na inilalagay natin dito sa mga ipinapanukala nating batas, Tulad po nito nga, hindi po natin masasabing kasama sa sakop iyong jeepney drivers na nag-blockade dahil gusto nilang i-improve ang kabuhayan nila dahil wala naman po silang ginagawang acts intended to cause death, **wala naman ho silang ginagawag**

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

acts intended to cause extensive damage and destruction to government facilities.

So, mayroon hong nakalista na mga requirements para pumasok ka at isaklaw na magamit iyong batas na ito sa iyo. **Kaya po, again, isinasama natin iyong nakalagay ditto exclusively na mga exclusions**

...³⁷⁵

374. Another proponent-author Rep. Nograles, illustrated the limitation as follows:³⁷⁶

REP. CABATBAT. Thank you, Mr. Speaker.

Base sa narinig ko, mukhang wala yatang magiging amendment, but I will still try my luck. Mr. Speaker, Mr. Sponsor, kung nabalitaan natin iyong mga nangyayari ngayon sa Amerika, nagkakaroon ngayon ng riot, looting dahil sa ginawang pagpatay kay George Floyd. At kung maaalala din natin, noong bago magkaroon ng COVID, si Archie Paray ay nang-hostage sa Greenhills dahil sa mga hinaing niya sa kanyang employer.

Ngayon sa parehong sitwasyon na ito, ang paniniwala naming ay hindi terorismo iyong mga pangyayaring iyon, kaya naman, Mr. Speaker, Mr. Sponsor, I would like to (inaudible) the following words in Section 4, to wit: **MASS ACTIONS, VIGILS, PROTESTS AND SIMILAR MASS MOVEMENT THAT SUDDENLY EVOLVED INTO RIOTS, DISORDERLY ACTIONS, AND LOOTING WITHOUT PROOF THAT THE SAME WAS PREMEDITATED OR THAT IT WAS COORDINATED SHALL NOT BE CONSIDERED AS ACTS OF TERRORISM.**

SIMILARLY, ILLEGAL ACTS DUE TO OUTBURST OF EMOTIONS OR ISOLATED ACTS OF PEOPLE WHO GOES BERSERK DUE TO POLITICAL FRUSTRATIONS, MEDICAL CONDITIONS, OR OTHER PERSONAL MOTIVES SHALL NOT BE CONSIDERED AS ACTS OF TERRORISM, BUT SHOULD RATHER BE

³⁷⁵ Emphasis supplied.

³⁷⁶ HB No. 6875, House Deliberation dated June 2, 2020, 8:10 p.m., pp. 1-2; Annex "10".

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

CONSIDERED AS AILMENTS OF OUR SOCIETY THAT NEED TO BE ADDRESSED THROUGH REFORMS AND OTHER CONSTRUCTIVE LEGISLATION TO ALLEVIATE THE CONDITION OF OUR POOREST SECTORS.

Isa po ito sa aking mga amendments, Mr. Speaker, Mr. Sponsor, and would the Sponsor be amenable?

REP. NOGRALES (J.B.) Thank you Mr. Speaker, I agree with the analysis of the honorable – my fellow Party-List Congressman Argel. **However, we don't need to amend it for that implied – those actions are already implied that they are not acts of terrorism.** So, we don't see any necessity to amend the current bill as it is.³⁷⁷

375. As held in *Dennis v. United States*,³⁷⁸ "the formation ... of such a highly organized conspiracy, with rigidly disciplined members subject to call when the leaders ... felt that the time has come for action, ... disposes of the contention that a conspiracy to advocate, as distinguished from the advocacy itself, cannot be constitutionally restrained because it comprises only the preparation. It is the existence of the conspiracy which creates the danger ... If the ingredients are present, we cannot bind the Government to wait until the catalyst is added."

376. From the foregoing, it is clear that Section 10 does not infringe the right to form association nor does it limit a citizen's exercise of civil and political rights. Again, what the law curtails are those acts that are intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety.

377. As for Sections 25 and 26, the immediately succeeding paragraphs will exhaustively discuss how these provisions could not possibly contravene the freedom of association, among others.

³⁷⁷ Emphasis supplied.

³⁷⁸ 341 U.S. 494 (1951).

Under the Anti-Terrorism Act, the ATC's powers, duties and responsibilities are purely executive in nature. Hence, it does not violate the separation of powers.

378. Petitioners Calleja, et al. argue that Section 25 of the Anti-Terrorism Act sanctions the usurpation by the executive department of judicial authority to determine probable cause for the issuance of an arrest warrant. According to them, this specific provision gives the ATC the sole discretion to determine who the terrorists are and what acts constitute terrorism.³⁷⁹

379. Petitioners Calleja et al. further argue that the law merely tags who are terrorists. They specifically quoted Retired Justice Antonio T. Carpio, viz.:

How will the ATC makes such designation? Is a hearing required where the individual or organization is represented? The only requirement under section 25 is "upon probable cause" which means that the ATC must have reasonable grounds to believe, based at least on affidavits of government witnesses, that the individual or organization is engaged in terrorism. However, probable cause does not require a hearing where the individual or an organization can be heard to rebut the government witnesses. Thus under Section 25, the ATC can make the designation ex parte, without hearing the person or organization to be designated as engaged in terrorism.³⁸⁰

380. The above queries are misguided, if not downright disingenuous.

381. Section 25 of the Anti-Terrorism Act states:

³⁷⁹ Calleja Petition, pp. 58-59.

³⁸⁰ Calleja Petition, p.50

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Pursuant to our obligations under the United Nations Security Council Resolution (UNSCR) No. 1373, the ATC shall automatically adopt the United Nations Security Council Consolidated List of designated individual, group of persons, organizations, or associations designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group.

Request for designation by other jurisdictions or supranational jurisdictions may be adopted by the ATC after determination that the proposed designee meets the criteria for designation of UNSCR No. 1373.

The ATC may designate an individual, group of persons, organization, or association, whether domestic or foreign, upon a finding of probable cause that the individual, groups of persons, organization, or association commit, or attempt to commit, or conspire in the commission of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act.

The assets of the designated individual, group of persons, organization or association above-mentioned shall be subject to the authority of the Anti-Money Laundering Council (AMLC) to freeze pursuant to Section 11 of Republic Act No. 10168.

The designation shall be without prejudice to proscription of terrorist organizations, associations, or group of persons under Section 26 of this Act.

382. Notably, there is nothing in the above-quoted Section which confers authority on the ATC to determine probable cause for the issuance of a warrant of arrest. Indubitably, the Act did not intend to constitute the ATC as a judicial body.

383. In addition, two points must be emphasized here.

384. *First*, probable cause is itself the legal standard and quantum of evidence.³⁸¹ Probable cause is the existence of such facts and circumstances as would excite the belief in a reasonable mind, acting on the facts within the knowledge of the prosecutor, that the person charged was guilty of the crime for which he was prosecuted. The term neither means “actual or positive cause” nor imports absolute certainty. It is merely based on opinion and reasonable belief. Thus, a finding of probable cause does not require an inquiry into whether there is sufficient evidence to procure a conviction. It is enough that it is believed that the act or omission complained of constitutes the offense charged.³⁸²

385. *Second*, it is common understanding in remedial law that while on one hand, executive determination of probable cause is for purposes of the filing of an information, and on the other, judicial determination of probable cause is for the issuance of a warrant of arrest, in both of these instances, the evidence necessary to establish probable cause is based only on the likelihood, or probability, of guilt³⁸³ or, in the case of Section 25, the probability that an individual or a group commits, attempts to commit, or conspires in the commission of acts of terrorism under Sections 4 to 12 of the Anti-Terrorism Act. This will be further elucidated below.

The determination of probable cause in designation is consistent with international practice and is grounded on legal standards.

386. Under Section 25 of the Anti-Terrorism Act, there are three ways to designate individuals, groups of persons, or organizations: (a) by automatic adoption of the UNSC Resolution; (b) through a request from other jurisdictions or

³⁸¹ Lagman v. Medialdea, G.R. No. 231658, July 4, 2017. “[Probable cause] merely necessitates an “average man [to weigh] the facts and circumstances without resorting to the calibration of the rules of evidence of which he has no technical knowledge. xxx”” (Emphasis supplied.)

³⁸² Estrada v. Ombudsman, G.R. Nos. 212140-41, January 21, 2015.

³⁸³ *Ibid.*

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

supranational jurisdictions; and (c) through a determination by the ATC.

387. It is readily apparent from the first two methods that the ATC does not have sole control over the designation of individuals, organizations, or groups of persons. For the first method, the ATC has adopted the UNSC Consolidated List,³⁸⁴ without need of an independent positive act on its part. For the second method, the ATC is guided by the criteria found in UNSC Resolution No. 1373. Reference of these two methods to instruments emanating from the Security Council confirms the state's compliance with its international obligation, particularly the International Convention for the Suppression of the Financing of Terrorism, which the Philippines ratified.³⁸⁵

388. Indeed, designation is an accepted international practice. There is nothing unusual in designating individuals, groups of persons, organizations or associations as a terrorist or financier. As a matter of fact, and as mentioned earlier, there is already a UNSC Consolidated List to this effect. The Philippines has never manifested its objection or reservation to the basis and procedure for including certain individuals and organizations in the list, a clear indication that it has duly recognized the authority of an international body such as the UNSC.

389. On an international scale, designation facilitates the ATC's smooth performance of another function – taking action on relevant resolutions issued by the UNSC and on foreign requests to designate terrorist individuals, associations, organizations or groups of persons.³⁸⁶ Likewise, it is a manifestation of how the ATC accomplishes its task of ensuring compliance with international commitments to counterterrorism-related protocols and bilateral and/or multilateral agreements.³⁸⁷

³⁸⁴<https://scsanctions.un.org/fop/fop?xml=htdocs/resources/xml/en/consolidated.xml&xslt=htdocs/resources/xsl/en/consolidated.xsl>, last accessed on 10 July 2020.

³⁸⁵ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-11&chapter=18#EndDec, last accessed on 10 July 2020.

³⁸⁶ Section 46(i), Anti-Terrorism Act.

³⁸⁷ Section 45, Anti-Terrorism Act.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

390. Contrary to petitioners' claim, the ATC does not have unfettered discretion, under Section 25 of the Anti-Terrorism Act, to determine who the terrorists are and what acts constitute terrorism. A careful reading of the provision reveals that the ATC is guided by the standard of probable cause. Again, under Philippine law, probable cause needs only to rest on evidence showing that more likely than not, a crime has been committed and was committed by the suspect.³⁸⁸

391. The standard of probable cause is further limited by explicit reference to specific offenses in the Anti-Terrorism Act. In other words, the determination of probable cause, for the purpose of designation, is hinged on the commission, attempt to commit, or conspiracy to commit nine acts, namely: terrorism, threat to commit terrorism, planning, training, preparing, and facilitating the commission of terrorism, conspiracy to commit terrorism, proposal to commit terrorism, inciting to commit terrorism, recruitment to and membership in a terrorist organization, being a foreign terrorist, and providing material support to terrorists.³⁸⁹

392. Accordingly, before the ATC designates an individual, group of persons, organization, or association, there must be a reasonable belief that one of the nine offenses has been committed and that the subject committed the act. Observance of this quantum of evidence ensures that the ATC cannot designate on mere suspicion.

393. The scope of a "designated person"³⁹⁰ in the law's definition of terms validates the particularity of who or what can be categorized as such. To note, the "designated person" is limited to those identified by the UNSC, those included in paragraph 3, Section 25 of the law, and, in addition, those enumerated in Section 3(e)³⁹¹ of R.A. No. 10168 or the

³⁸⁸ Estrada v. Office of the Ombudsman, *supra*..

³⁸⁹ Sections 2-12, Anti-Terrorism Act.

³⁹⁰ Section 3(b), Anti-Terrorism Act.

³⁹¹ (1) any person or entity designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supranational jurisdiction; (2) any organization, association, or group of persons proscribed pursuant to Section 17 of the Human Security Act of 2007; or (3) any person, organization, association, or group of persons whose funds or property, based on probable cause are subject to seizure and sequestration under Section 39 of the Human Security Act of 2007.

Terrorism Financing Prevention and Suppression Act of 2012. Therefore, in no way will designation cover a random individual, organization, group of persons, or association.

394. Ultimately, the ATC's designation follows a statutory threshold. Guided by this quantum of evidence, the ATC can proceed with the performance of its executive function of implementing the law and developing mechanisms to combat terrorism. This is the hallmark of separation of powers, as embodied in the last paragraph³⁹² of Section 45 of the Anti-Terrorism Act.

There are three kinds of designation under Section 25.

395. The three kinds of designation are: (a) by automatic adoption of the UNSC Resolution; (b) request for designation by other jurisdictions or supranational jurisdictions; and (c) designation by the ATC.

396. For the first classification, upon release by the UNSC of a designation list, the ATC shall adopt the list and request the AMLC to freeze without delay the property or funds of said designated person or entity in accordance with Section 11 of R.A. No. 10168. This same provision is incorporated under Section 36³⁹³ of the Anti-Terrorism Act.

³⁹² "Nothing herein shall be interpreted to empower the ATC to exercise any judicial or quasi-judicial power or authority."

³⁹³ SEC. 36. Authority to Freeze. - Upon the issuance by the court of a preliminary order of proscription or in case of designation under Section 25 of this Act, the AMLC, either upon its own initiative or request of the ATC, is hereby authorized to issue an ex parte order to freeze without delay:

- (a) any property or funds that are in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or violation of Sections 4, 6, 7, 10, 11 or 12 of this Act; and
- (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of the aforementioned sections of this Act.

The freeze order shall be effective for a period not exceeding twenty (20) days. Upon a petition filed by the AMLC before the expiration of the period, the effectivity of the freeze order may be extended up to a period not exceeding six(6) months upon order of the Court of Appeals: Provided, That, the twenty-day period shall be tolled upon filing of a petition to extend the effectivity of the freeze order.

Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines' international obligations, shall be authorized to issue a freeze order with respect to property or funds of a designated organization, association, group or any individual to comply with binding terrorism-related resolutions, including UNSCR No. 1373 pursuant to Article 41 of the charter of the UN. Said freeze order shall be effective until the basis for the issuance thereof shall have been lifted. During the effectivity of the freeze

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

397. Again, designation under this system is the country's compliance with its international obligations. This is a necessary consequence of our adherence to the principle of *pacta sunt servanda* codified under Article 26 of the Vienna Convention on the Law of Treaties³⁹⁴ and embodied in in Section 2, Article II of the Constitution which provides that the Philippines "adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations." Thus, in *Landbank v. Atlanta Industries*,³⁹⁵ this Honorable Court said:

[T]he Government of the Philippines is therefore obligated to observe its terms and conditions under the rule of ***pacta sunt servanda***, a **fundamental maxim of international law that requires the parties to keep their agreement in good faith**. It bears pointing out that **the pacta sunt servanda rule has become part of the law of the land through the incorporation clause found under Section 2, Article II of the 1987 Philippine Constitution**, which states that the Philippines "adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations."

order, an aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection: Provided, That the person whose property or funds have been frozen may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.

However, if the property or funds subject of the freeze order under the immediately preceding paragraph are found to be in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act committed within the jurisdiction of the Philippines, said property or funds shall be the subject of civil forfeiture proceedings as provided under Republic Act No. 10168.

³⁹⁴ United Nations, *Vienna Convention on the Law of Treaties*, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, available at: https://treaties.un.org/Pages/ViewDetailsIII.aspx?src=TREATY&mtmsg_no=XXIII-1&chapter=23&Temp=mtmsg3&clang=_en [accessed July 15, 2020].

³⁹⁵ G.R. No. 193796, 02 July 2014.

398. Indeed, designation under this system allows the Philippines to comply with its obligations under UNSC Resolution No. 1373 and the FATF Recommendations.

399. UNSC Resolution No. 1373, a counter-terrorism measure passed in the wake of the September 11, 2001 terrorist attacks on the United States of America,³⁹⁶ designates and/or identifies individuals, groups of persons, organizations, associations as terrorists, one who finances terrorism, or a terrorist organization or group.

400. UNSC Resolution No. 1373 directs member States, such as the Philippines, to “prohibit their nationals from making funds, financial services, or economic resources available to those who commit terrorist acts”, among others.

401. The success of a terrorist enterprise is based on its ability to sanitize and conceal its finances. This allows terrorists to operate freely, using their financial gains to expand their criminal pursuits and can have devastating economic and social consequences for countries, especially those in the process of development and those with fragile financial systems. The economy, society, and ultimately the security of countries used as terrorist financing platforms are all therefore imperiled. Thus, every means should be exerted to uncover the financial network of terrorists and undermine the flow of their funds, with the end goal of preventing and suppressing the further commission of terrorist acts.

402. Moreover, the designation of terrorist individuals, groups of persons, organizations, or associations, that is, Section 25 of the Anti-Terrorism Act, is considered as one of the non-negotiables as per the Philippines’ Mutual Evaluation findings.³⁹⁷

³⁹⁶ United Nations, Security Council unanimously adopts wide-ranging anti-terrorism resolution; calls for suppressing financing, improving international cooperation, <https://web.archive.org/web/20011003002542/https://www.un.org/News/Press/docs/2001/sc7158.doc.htm> /, last accessed on July 11, 2020.

³⁹⁷ The Mutual Evaluation (ME) is an assessment of a country’s levels of (1) technical compliance with international anti-money laundering/counter-terrorism financing (AML/CTF) standards; and (2) effectiveness of the country’s existing AML/CTF mechanisms. The ME is one of the Philippines’ commitments pursuant to the Terms of Reference of the Asia Pacific Group (APG) on Money Laundering. According to APG rules, members mutually evaluate their peers to assess compliance with

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

403. To be exact, in 2019, the Philippines underwent its Mutual Evaluation where it was rated as only partially compliant of the FATF's Recommendation 6.³⁹⁸ Thus, it cannot be over-emphasized that the Philippines needs to amend its legal frameworks: (a) to be able to take *ex parte* action against persons or entities proposed UNSC Resolution No. 1373 for designation; (b) to introduce the preliminary asset preservation orders; to allow individuals to be designated as terrorists under Section 17 of the Human Security Act; and (c) to allow for an evidentiary standard of "reasonable grounds/basis" for proposing designations under UNSC Resolution No. 1267 and deciding whether or not to make a designation under UNSC Resolution No. 1373.

404. Highlighting on this premise, should the Philippines fail to enact the necessary laws and demonstrate effective implementation of the same, it will be grey-listed. The FATF shall then publicly identify the Philippines as a high-risk jurisdiction with strategic AML/CTF deficiencies. Grey-listing will have a negative impact on the reputation of the economy and the cost of doing business with its citizens, both as individuals and through juridical entities.

405. Some of the adverse effects of grey-listing are:

- (a) The European Union (EU) will require its members to immediately impose enhanced due diligence (EDD) on Filipino nationals and businesses that are transacting through EU channels.
- (b) Subjecting an individual or entity to Enhanced Due Diligence (EDD) will entail additional costs and additional paperwork or justification.
- (c) Additional costs and paper work could push banks and financial institutions to

international AML/CTF standards, particularly the Financial Action Task Force (FATF) Forty Recommendations

³⁹⁸ Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing. *See* The Philippines' Measures to Combat Money Laundering and Terrorist Financing, October 2019. <http://www.fatf-gafi.org/publications/mutualevaluations/documents/mer-philippines-2019.html>.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

do a cost-benefit analysis in determining whether or not to continue doing business. If costs outweigh the benefits, it could result to de-risking or de-banking.

(d) If the relationship is continued, these additional costs will naturally be charged to Filipino nationals and businesses in the form of higher interest rates or higher processing fees.

(e) Additional paperwork and justifications likewise mean delays in processing transactions.

406. With these additional cost of transactions, the OFW remittances will have higher costs entailing additional expenses and less money for living and educations expenses for the family.

407. For Philippine financial institutions (FIs), the possible effects may include:

- (a) Prohibiting FIs from establishing subsidiaries or branches or representative offices, or otherwise taking into account the fact that the FI is from a country that does not have adequate AML/CTF systems;
- (b) Prohibiting FIs from relying on third parties located in the listed country to conduct elements of the Customer Due Diligence (CDD) process;
- (c) Requiring FIs to review and amend, or, if necessary, terminate correspondent relationships with FIs in the country concerned;
- (d) Requiring increased supervisory examination and/or external audit requirements for branches and subsidiaries of FIs based in the listed country; and

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

- (e) Requiring increased external audit requirements for financial groups with respect to any of their branches and subsidiaries located in the listed country.

408. Certainly, grey-listing would have an effect on international trade, remittances, and humanitarian financial flows that support economic growth and development. Sections 24 and 25 of the Anti-Terrorism Act serve as a lifeline to the continued strength of the Philippine financial system.

409. For the second type of designation, the ATC, upon receipt of the request to designate, shall determine if the proposed designee meets the criteria for designation under UNSC Resolution No. 1373.

410. The third kind of designation is the determination made by the ATC. Pursuant to Section 25, the ATC shall designate an individual, groups of persons, organization, or association, whether domestic or foreign, upon finding of probable cause that the individual, groups of persons, organization, or association commits or attempt to commit, or conspires to commit terrorism. It is worthy to mention that these acts fall within the designation criteria provided under UNSC Resolution No. 1373.

411. Verily, designation is a preventive measure intended to trigger the issuance of a freeze order and the conduct of a bank inquiry. The freeze order is intended to prevent designated terrorists from accessing funds that may be used to carry out a terrorist attack. A bank inquiry allows an investigation into the behavior of the account and determine potential links. Designation will enable the Philippines to comply with its obligations under UNSC Resolution 1373, which among others, requires the provision of targeted financial sanctions to prevent terrorism financing.

412. The freezing of assets contemplated in the Anti-Terrorism Act is in reference to pertinent provisions of the R.A. No. 10168. Section 11 thereof provides:

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

SEC. 11. Authority to Freeze. – The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to issue an ex parte order to freeze without delay: (a) property or funds that are in any way related to financing of terrorism or acts of terrorism; or (b) property or funds of any person, group of persons, terrorist organization, or association, in relation to whom there is probable cause to believe that they are committing or attempting or conspiring to commit, or participating in or facilitating the commission of financing of terrorism or acts of terrorism as defined herein.

413. To emphasize, the ATC’s designation of terrorists merely serves as a preventive measure intended to trigger the issuance of the “freeze order” and a “bank inquiry” by the AMLC to prevent designated terrorists from accessing funds or assets that can be used to carry out a terrorist attack.

414. Also, pursuant to the provisions of R.A. No. 10168, an aggrieved party is not left without recourse in the wake of an order to freeze assets. During the effectivity of the freeze order, an aggrieved party may, within twenty days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection.³⁹⁹ In addition, partial withdrawal of the frozen funds/assets may be allowed for humanitarian reasons as well as for reasonable family needs and sustenance of the designated person.

415. To recapitulate, in the first two instances, the ATC’s act of designation finds its ground in the Philippines’ responsibilities as a UN member-State. In the third, no vagary exists in what petitioners Calleja, et al. and Sta. Maria, et al. perceive as a “failure” to afford potential designees the right to be heard. In fact, the provision is clear that designation is as intrusive to due process rights in the same way as getting placed on the immigration watchlist.

³⁹⁹ Section 11 of the TFPSA.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Designation is an executive function.

416. Designation is essentially an executive function. It involves the faithful enforcement of the Anti-Terrorism Act.

417. The enforcement of the law against terrorism entails a determination of facts constituting an infraction. Once the factual background has been ascertained based on probable cause, the ATC can utilize the tools within its disposal to prevent the proliferation of terrorist acts.

418. Further, as mentioned above, designation serves the function of triggering and facilitating the issuance of a freeze order to prevent the designees from accessing funds. Also, designation allows the ATC to authorize the conduct of surveillance of identified individuals, group of persons, or organizations, pursuant to Section 16 of the Act.

419. To allay the fear of petitioners Monsod, et al.,⁴⁰⁰ mere designation does not automatically result in the freezing of assets. The determination of the propriety of freezing assets is within the authority of the AMLC, with the intervention of the Court of Appeals.⁴⁰¹ Hence, the appropriate sanctions will be ascertained and imposed by a government entity other than the AMLC. This confirms the lack of penal sanctions which may be imposed by the ATC under the law. More importantly, this validates the fact that no judicial power has been granted to the ATC.

420. Hence, the position of petitioners Monsod, et al. is based on a wrong premise that under the Anti-Terrorism Act, the ATC has been authorized to impose penal sanctions, effectively assuming functions reserved for the judiciary.

421. Indeed, the issuance of freeze orders and the conduct of surveillance operations help the ATC in fulfilling its

⁴⁰⁰ Monsod Petition, pp. 21-22.

⁴⁰¹ Section 11, R.A. No. 10168.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

mandate to implement the Act and to “assume the responsibility for the proper and effective implementation of the policies of the country against terrorism.”⁴⁰² These preventive measures become possible through the ATC’s performance of executive function of designation.

422. Clearly, designation is strictly an act of law enforcement and implementation, which is purely an executive function.⁴⁰³

423. Contrary to petitioner Calleja’s claim, the ATC’s discretion to designate is not like nor equal to the judicial function of determination of probable cause for the issuance of a warrant of arrest. In fact, the Anti-Terrorism Act categorically states that the duties of the ATC should not be construed to be an exercise of judicial or quasi-judicial function.⁴⁰⁴ This definitely confirms the nature of the ATC as an entity under the executive department, possessing the duty of implementing the law.⁴⁰⁵

424. Furthermore, designation is likewise an administrative function of the ATC. Administrative functions pertain to the regulation and control over the conduct of individuals.⁴⁰⁶ They also involve the promulgation of rules to carry out the policy of the legislature,⁴⁰⁷ which, in this case, is to “protect life, liberty, and property from terrorism.”⁴⁰⁸ An administrative function does not entail an opportunity to be heard. Neither does it require the production and weighing of evidence, and the corresponding resolution of issues.⁴⁰⁹

425. Based on the above-mentioned scope of an administrative function, designation connotes regulating the conduct of individuals and groups involved in terrorist acts. It

⁴⁰² Section 45, Anti-Terrorism Act.

⁴⁰³ City Engineer of Baguio, et al. v. Baniqued, G.R. No. 150270, November 26, 2008.

⁴⁰⁴ Section 45, Anti-Terrorism Act.

⁴⁰⁵ See Meralco vs. Energy Regulatory Board, G.R. No. 145399, March 17, 2006.

⁴⁰⁶ In Re: Designation of Judge Rodolfo U. Manzano as Member of the Ilocos Norte Provincial Committee on Justice, A.M. No. 88-7-1861-RTC, 5 October 1988; *citing* Nasipit Stevedoring Services, Inc. v. Tapucar, SP-07599-R, 29 September 1978, and Blacks Law Dictionary.

⁴⁰⁷ *Ibid.*

⁴⁰⁸ Section 2, Anti-Terrorism Act.

⁴⁰⁹ Villarosa vs. Commission on Elections, G.R. No. 133927, November 29, 1999; *citing* the Concurring Opinion of J. Antonio in University of Nueva Carceres, et. al. v. Martinez, et. al., G.R. No. L-31152, March 27, 1974.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

is a means towards achieving the policy of securing lives and ensuring the safety of the people from terrorism. As a matter of fact, and to validate its performance of an administrative function, the ATC does not conduct a hearing and does not resolve an issue before designation.

426. Correlatively, an examination of the specific functions of the ATC is in order. Designation is a realization of the ATC's duty to "establish and maintain comprehensive database information systems on terrorism, terrorist activities, and counterterrorism operations".⁴¹⁰ Additionally, designation is a mechanism for the ATC to "establish and maintain coordination with and the cooperation and assistance of other states, jurisdictions, international entities and organizations in preventing and combating international terrorism."⁴¹¹

427. Moreover, the ATC has technical expertise especially in the context of the assailed designation. The ATC consists of the Executive Secretary, the National Security Adviser, Secretary of Foreign Affairs, the Secretary of National Defense, the Secretary of Interior and Local Government, the Secretary of Finance, the Secretary of Justice, the Secretary of Information and Communications Technology, and the Executive Director of the Anti-Money Laundering Council Secretariat.⁴¹² Without question, these are key officials of vital government agencies. Prior to their membership in the ATC, these government agencies are in-charge of delivering essential services to the people. These include national security, international relations, peace and order, prosecution for crimes, and information technology.

428. These fields of governance cover matters that are very much pertinent to combatting terrorism. Courts will not interfere in matters within the sound discretion and special technical knowledge of government agencies.⁴¹³

⁴¹⁰ Section 46(e), Anti-Terrorism Act.

⁴¹¹ Section 46(h), Anti-Terrorism Act.

⁴¹² Section 45, Anti-Terrorism Act.

⁴¹³ Energy Regulatory Board vs. Court of Appeals, G.R. No. 113079, April 20, 2001.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

429. Indeed, the foregoing confirms that designation is an executive and administrative function geared towards the effective implementation of the law. Consequently, it does not amount to usurpation of judicial power.

Designation, being an administrative process under the Anti-Terrorism Council, is distinct from proscription, which is a judicial function of the Court of Appeals.

430. Designation under Section 25 and proscription under Section 26 are different in definition and application.

431. Section 26 of the Anti-Terrorism Act provides:

SEC. 26. Proscription of Terrorist Organizations, Association, or Group of Persons.

– Any group of persons, organization, or association, which commits any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, or organized for the purpose of engaging in terrorism shall, upon application of the DOJ before the authorizing division of the Court of Appeals with due notice and opportunity to be heard given to the group of persons, organization or association, be declared as a terrorist and outlawed group of persons, organization or association, by the said Court.

The application shall be filed with an urgent prayer for the issuance of a preliminary order of proscription. No application for proscription shall be filed without the authority of the ATC upon the recommendation of the National Intelligence Coordinating Agency (NICA).

432. As a corollary to Section 26, Section 27 provides for the procedure for the issuance by the Court of Appeals of a preliminary order of proscription. It reads:

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

SEC. 27. Preliminary Order of Proscription.

- Where the Court has determined that probable cause exists on the basis of the verified application which is sufficient in form and substance, that the issuance of an order of proscription is necessary to prevent the commission of terrorism, he/she shall, within seventy-two (72) hours from the filing of the application, issue a preliminary order of proscription declaring that the respondent is a terrorist and an outlawed organization or association within the meaning of Section 26 of this Act.

The court shall immediately commence and conduct continuous hearings, which should be completed within six (6) months from the time the application has been filed, to determine whether:

- (a) The preliminary order of proscription should be made permanent;
- (b) A permanent order of proscription should be issued in case no preliminary order was issued; or
- (c) A preliminary order of proscription should be lifted.

It shall be the burden of the applicant to prove that the respondent is a terrorist and an outlawed organization or association within the meaning of Section 26 of this Act before the court issues an order of proscription whether preliminary or permanent.

The permanent order of proscription herein granted shall be published in a newspaper of general circulation. It shall be valid for a period of three (3) years after which, a review of such order shall be made and if circumstances warrant the same shall be lifted.

433. Again, it is imperative to stress that designation under Section 25 is an executive and administrative function of designating a person, group, or association as a terrorist. Designation is not judicial in nature, the process and outcome of which does not amount to indictment or conviction and will not necessarily lead to proscription under Section 26.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

434. Proscription, on the other hand, entails a judicial process and remains a province of the court.⁴¹⁴ In filing a petition, the court is requested to declare as terrorists or outlawed organization or association individuals or groups which commit terrorism or are organized for the purpose of committing terrorism, after giving them due notice and opportunity to be heard.

435. An application for proscription cannot be filed without an authority from the ATC. In addition, before the grant of authority by the ATC, there must be a corresponding recommendation from the National Intelligence Coordinating Agency (NICA).⁴¹⁵

436. Furthermore, the last paragraph of Section 25 of the Act sets forth a clear distinction between the two. It says that "the designation shall be without prejudice to the proscription of terrorist organizations, associations or groups of persons under Section 26 of this Act." However, lest it may be understood, it bears stressing that designation will not automatically result to proscription.

437. From the foregoing, it is readily apparent that designation is an executive function of the ATC. It cannot be confused with the performance of judicial functions, such as proscription or issuance of a warrant of arrest. Consequently, Section 25 of the Anti-Terrorism Act does not contravene the principle of separation of powers.

Proscription is a judicial process.

438. As previously discussed, proscription is a judicial process, embodied in Section 26 of the Anti-Terrorism Act.

⁴¹⁵ Section 26, R.A. No. 11479.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

439. Proscription is a judicial process duly recognized under the Human Security Act. Section 17 of the said Act spells out the process of proscription, thusly:

SEC. 17. Proscription of Terrorist Organizations, Association, or Group of Persons. — Any organization, association, or group of persons organized for the purpose of engaging in terrorism, or which, although not organized for that purpose, actually uses the acts to terrorize mentioned in this Act or to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand shall, upon application of the Department of Justice before a competent Regional Trial Court, with due notice and opportunity to be heard given to the organization, association, or group of persons concerned, be declared as a terrorist and outlawed organization, association, or group of persons by the said Regional Trial Court.

440. There are three manifest differences between the Anti-Terrorism Act's and the Human Security Act's versions of proscription, as follows: (a) the definition of terrorism upon which proscription is based; (b) the court of jurisdiction; and (c) and the requirement that an application for proscription must be filed with the authority of the ATC upon the recommendation of the NICA.

441. As laid out in Section 26 of the Anti-Terrorism Act, proscription must now be filed before the Court of Appeals and not just the Regional Trial Court. In addition, the DOJ can no longer apply for an application for proscription absent authority of the ATC upon recommendation of the NICA. These changes establish multiple layers of checks and balances to avoid the indiscriminate application for proscription against organizations, associations, or groups of persons.

442. The proscription of a group of persons, an organization, or an association, which commits any of the acts of terrorism is a central feature in legal regimes aimed at the

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

suppression of terrorism. Without such feature, a State is at the mercy of terrorists and terrorist organizations who are insulated from suit absent an actual commission of a terrorist act. By the time the legal framework comes into play, lives have already been lost, properties destroyed and national security compromised.

Section 29 provides for measures against persons validly arrested and not a license to arrest any person based on mere suspicion.

443. Save for petitioners Sanlakas, et al. and CTUHR, et al., petitioners unanimously contend that Section 29 violates the right to due process insofar as it supposedly allows the ATC to authorize warrantless arrest upon mere suspicion.⁴¹⁶ Petitioners maintain that this is contrary to the Constitution and to the prevailing jurisprudence requiring finding of “probable cause”—as opposed to mere suspicion—before conduct of arrest.

444. Petitioners’ arguments are misguided.

445. Related to the exercise of judicial power, as quoted in the previous section, is the protection of the right of the people against unreasonable searches and seizures, *viz.*

The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.⁴¹⁷

⁴¹⁶ Calleja Petition, pp. 22-23; Sta. Maria Petition, pp. 47-49; Zarate Petition, pp. 69-70; Lagman Petition, p. 49.

⁴¹⁷ Article III, Section 2, 1987 Philippine Constitution.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

446. Meanwhile, the questioned Section 29 of the Anti-Terrorism Act reads:

The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any law enforcement agent or military personnel, who, having, been duly authorized in writing by the ATC has taken custody of a person suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said suspected person to the proper judicial authority within a period of fourteen (14) calendar days counted from the moment the said suspected person has been apprehended or arrested, detained, and taken into custody by the law enforcement agent or military personnel. The period of detention may be extended to a maximum period of ten (10) calendar days if its is established that (1) further detention of the person/s is necessary to preserve evidence related to terrorism or complete the investigation; (2) further detention of the person/s is necessary to prevent the commission of another terrorism; and (3) the investigation is being conducted properly and without delay.

Immediately after taking custody of a person suspected of committing terrorism or any member of a group of persons, organization or association proscribed under Section 26 hereof, the law enforcement agent or military personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest of the following facts: (a) the time, date, and manner of arrest; (b) the location or locations of the detained suspect/s and (c) the physical and mental condition of the detained suspects. The law enforcement agents or military personnel shall likewise furnish the ATC and the Commission on Human Rights (CHR) of the written notice given to the judge.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

The head of the detaining facility shall ensure that the detained suspect is informed of his/her rights as a detainee and shall ensure access to the detainee by his/her counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities.

The penalty of imprisonment of ten (10) years shall be imposed upon the police or law enforcement agency or military personnel who fails to notify any judge as provided in the preceding paragraph.

447. It is apparent at once that petitioners reached a similar conclusion based on a literal and truncated reading of the law. Petitioners concluded that the law abrogated "probable cause" as threshold and supplanted it with "suspicion" just because Section 29 uses the latter instead of the former. Petitioners Sta. Maria, et al.'s exposition best exemplifies this truncated reading of the law that is behind petitioners' arguments. They opine:

The use of the term "suspected" in relation to committing terroristic acts as the determining factor for the ATC to direct the law enforcement agents of the PNP and the military personnel of the AFP to arrest and detain persons in **VERY CLEAR**. Also, the term "suspected" is used in three distinct provisions of the Anti-Terrorism Act (Sections 29, 30 and 32) which clearly shows that the legislators' use of the word is deliberate and intentional.

Moreover, Section 30 (*Rights of a Person Under Custodial Detention*) refers to a person "charged with or suspected," clearly indicating that there are two situations that are involved in the law. (i) One involves being "charged," which may involve being charged via a criminal information that is based on a finding of probable cause; and (ii) the other involves being merely "suspected" where no probable cause is involved.

In the interpretation of statutes, words shall be used in their ordinary signification unless the law itself provides for another import

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

or meaning. A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As Section 29's use of "suspected" is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*.

...

The Merriam-Webster Dictionary defines "suspicion" as the "act or an instance of suspecting something wrong **without proof or on slight evidence**" The word "suspected" does not even rise to the level of probable cause; "suspected" can even proceed from mere hearsay evidence.⁴¹⁸

448. The rule on *verba legis* notwithstanding, it is an even paramount rule in statutory construction that every part of a statute must be read and interpreted with reference to its context. As this Honorable Court pronounced in *Philippine International Trading Corporation vs. Commission on Audit*:⁴¹⁹

It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, i.e., that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment. Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. The statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole. Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.

⁴¹⁸ Sta. Maria Petition, pp. 47-48.

⁴¹⁹ *Supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

449. Indeed, when read as a whole, there is nothing in the Anti-Terrorism Act that abrogates the threshold of probable cause.

450. What becomes readily apparent from a closer reading of the following provisions is that the phrases “charged with” and “suspected of” are used as antithesis—a direct converse—of each other such that a person “suspected of” is one who is simply not yet been “charged with” for violation of the Anti-Terrorism Act before a court.

451. Indeed, a warrantless arrest of a person who has not been charged before a court is in fact sanctioned by law. Under Section 5, Rule 113 of the Revised Rules of Court, warrantless arrest is allowed under the following instances:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

452. Under the Anti-Terrorism Act, the person arrested and detained after a warrantless arrest is suspected of committing the crime of terrorism. This is to differentiate him from the person who, after a preliminary investigation, is charged with the crime of terrorism. This interrelation between a suspect and a charged person (or accused) is also seen in the Philippine Act on Crimes Against International

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Humanitarian Law, Genocide and other Crimes Against Humanity.⁴²⁰ Section 17, Chapter VII of which provides:

CHAPTER VII
JURISDICTION

Section 17. *Jurisdiction*.- The State shall exercise jurisdiction over persons, whether military or civilian, **suspected or accused** of a crime defined and penalized in this Act, regardless of where the crime is committed, provided, any one of the following conditions is met:

- (a) The accused is a Filipino citizen;
- (b) The accused, regardless of citizenship or residence, is present in the Philippines; or
- (c) The accused has committed the said crime against a Filipino citizen.

...

453. This Honorable Court also has, in its Decisions, equated a suspect with a detained person but not yet charged with a crime. For example, in *People v. Muleta*⁴²¹ this Honorable Court enumerated the rights of a suspect during custodial investigation:

An extra-judicial confession extracted in violation of constitutionally enshrined rights is inadmissible in evidence. **During custodial investigation, suspects** have the rights, among others, (1) to remain silent, (2) to have an independent and competent counsel, (3) to be provided with such counsel, if unable to secure one, (4) to be assisted by one in case of waiver, which should be in writing, of the foregoing; and (5) to be informed of all such rights and of the fact that anything he says can and will be used against him.

⁴²⁰ R.A. No. 9851.

⁴²¹ *People v. Muleta*, G.R. No. 130189, June 25, 1999; emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

454. More pointedly, in *Remegio v. People*,⁴²² this Honorable Court described a person arrested without a warrant under the parameters of Section 5, Rule 113 as a suspect, thus:

A lawful arrest may be effected with or without a warrant. With respect to the latter, the parameters of Section 5, Rule 113 of the Revised Rules of Criminal Procedure should - as a general rule - be complied with:

...

The aforementioned provision identifies three (3) instances when warrantless arrests may be lawfully effected. These are: (a) an **arrest of a suspect** in flagrante delicto; (b) an **arrest of a suspect** where, based on personal knowledge of the arresting officer, there is probable cause that said suspect was the perpetrator of a crime which had just been committed; and (c) an arrest of a prisoner who has escaped from custody serving final judgment or temporarily confined during the pendency of his case or has escaped while being transferred from one confinement to another.

455. Contrary to petitioners' interpretation, therefore, the use of "suspected" in Section 29 does not at all signify an abandonment of probable cause as threshold in warrantless arrest under Section 5(b), Rule 113 of the Revised Rules of Court. Neither does Section 29 seek to carve out a new exception to the rules governing valid warrantless arrests. Instead, consistent with the context of the entire law, the provision must be construed to contemplate warrantless arrest under the circumstances mentioned in Section 5(b), Rule 113 of the same Rules like in *Remegio v. People*.⁴²³

⁴²² G.R. No. 227038, July 31, 2017.

⁴²³ *Supra*.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

The fourteen-day detention period under Section 29 of the of the Anti-Terrorism Act is neither arbitrary nor unjustified.

456. Section 18, Article VII of the Constitution states:

Section 18. [...] During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within **three days**, otherwise he shall be released.⁴²⁴

457. Except for petitioner Sanlakas, et al., petitioners next contend that the fourteen days of detention sanctioned under Section 29 of the Act is not only arbitrary and unreasonable but also unconstitutional.⁴²⁵ Petitioner Lagman perhaps best captures the gist of the argument. He opines:

Since a person cannot be detained beyond three days even if the privilege of the writ of Habeas Corpus is suspended, the more reason that no one can be detained beyond three days at any other time, and, especially if, the writ is not suspended. No law can provide what the Constitution prohibits.⁴²⁶

458. Once again, the argument is misguided.

459. It escapes respondents how Section 18, Article VII of the Constitution finds application in this case. Precisely, Section 29 does not contemplate an extraordinary situation where the privilege of the writ of *habeas corpus* has been suspended. Otherwise, and in such case, the three-day rule in Section 18 of Article VII would certainly apply.

⁴²⁴ Emphasis supplied.

⁴²⁵ Monsod Petition, pp. 21-22; Jurado Petition, pp. 16-17; CTUHR Petition, pp. 47-49; Calleja Petition, pp. 35-39; Sta. Maria Petition, pp. 53-55; Zarate Petition, pp. 71-74; Lagman Petition, pp. 41-16.

⁴²⁶ Lagman Petition, p. 72.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

460. Quite apparent too, petitioners fail to point to any other provision in the Constitution setting a limit on the duration of detention in situations other than that contemplated in Section 18, Article VII. That is because there is none. Contrary to petitioner Lagman's position, there is nothing in the Constitution that prohibits a period of detention longer than three days. What the law does not prohibit, it allows.⁴²⁷

461. Furthermore, as can be gleaned from the discussions during the deliberations of the Senate, the fourteen-day detention period which may be extended for ten more days, is far from arbitrary:

Senator Hontiveros. Thank you, Mr. President.

I would like to proceed now to Section 23 of the bill which amends Section 27 and increases the period of detention from three days to 14 days. What is the rationale, Mr. President, for increasing the period of detention from three days to 14 days? So, from half week to two weeks. In the worst case scenarios, is it so that subjects might possibly be subjected to 14 days of enhanced investigation or interrogation until they crack?

Senator Lacson. Mr. President, in his cosponsorship speech, Sen. Ronald dela Rosa shared with the members of this Body his first-hand experience in Davao City. The 36-hour reglementary period is not enough to build up a case against the suspected terrorist.

With the permission of the lady senator, let us hear directly from Senator Dela Rosa what he experienced; and it created more damage when he was not able to file or make the inquest proceedings on the arrested suspects.

Senator Dela Rosa. Thank you, and [sic] Mr. President.

⁴²⁷ In the Matter of the Adoption of Stephanie Nathy Astorga Garcia, G.R. No. 148311, March 31, 2005.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Based on my personal experience, indeed, the spirit of this bill is to secure the state and protect our people from terrorism by giving more teeth to our law enforcement in its anti-terror campaign. Then, I think we should extend the reglementary period from the maximum 36 hours to what is being peened in this bill. Because as per my experience, ISIS terrorist Muhammad Reza, which I presented during my cosponsorship speech, I was able to arrest him in Davao City, but I had to release him before 36 hours because I do not have enough evidence to hold him further or beyond 36 hours. But I was fully convinced and the intelligence committee was fully convinced and they were forcing me, they were pleading before me not to release this guy because he was very dangerous. But I told them that I cannot do otherwise; I cannot break the law. So, I had to release him. But months later, Mr. President, the intelligence committee showed me the video from YouTube the three of them, including Mohammad Reza were holding the head of the European victim and slashing the throat of the victim. So, from being local black flag terrorist here in the Philippines, in Lanao del Sur, he travelled to Raqqa, Iraq and became an ISIS member. So, he was able to slash a lot more throats of ISIS victims in Iraq and Syria. If there was a law allowing me to hold him beyond 36 hours, then many more lives could have been saved.

Senator Hontiveros. The current Human Security Act already provides not just 36 hours, but 72 hours—*doble po*—or three days. *Ang tinatanong ko lamang ay hindi ba sapat na iyong tatlong araw, doble sa panahon na mayroon? Kailangan pa ba talagang dagdadan hanggang dalawang lingo?* In fact, should not the case built up before arrest? *Noong naaresto sa wakas iyong Mohammad Reza and definitely, persons like him should be arrested and subjected to our laws, bago pa siya inaresto, hindi po ba nabigyan ng ebidensya* ang good gentleman from Davao ng intelligence community? *Ano po iyong evidence na mayroon* that prompted the good gentleman to make the arrest in the first place? It must have been substantive enough.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

Senator Dela Rosa. For the information of the good lady from Panay, *ibang-iba po iyong intelligence reports from investigative reports.* Intelligence reports have no evidentiary value but they are classified as A1, meaning, coming from the direct source and from first-hand information. *Iba po iyon. Alam natin na iyan na iyan talaga,* but legally, it cannot stand in court. *So iyan po ang dilemma ngayon ng law enforcers...*⁴²⁸

462. This exchange between Senators Dela Rosa and Hontiveros shows that the increase in detention period from three days under the Human Security Act to fourteen days under the Anti-Terrorism Act is intended to address the need of law enforcement agencies for adequate time to obtain sufficient evidence that will hold against judicial scrutiny. The fourteen-day period, therefore, is a policy decision reached after considering the unique nature of terrorism. It needs emphasis at this point that terrorism is not just an ordinary crime. The UNSC itself declared that “terrorism in all forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivation...”⁴²⁹

463. As Senator Lacson explained during the Senate deliberations, terrorism is such a serious threat to international peace and security that even our neighboring countries provide for a much longer period of detention:

Senator Lacson. ... On top of what Senator Dela Rosa has shared with us, during the committee hearings, the members of the law enforcement agencies shared with us their experience na kulang talaga iyong three days and they need, more or less, 14 days. That is the reason why we incorporated in this measuring iyong reglementary period na 14 days.

We are just trying to be at par with other ASEA neighbors or ASEA countries—Sri Lanka,

⁴²⁸ TSN dated January 22, 2020, pp. 28-30; Annex “4”.

⁴²⁹ United Nations Security Council Resolution No. 2178 (2014), p. 1.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

14 days; Australia, 14 days; Bangladesh, 15 days; Indonesia, 21 days; Pakistan, 30 days, Malaysia, 59 days; and Singapore, 730 days. Ito yung reglementary periods...⁴³⁰

464. Equally important, Section 29⁴³¹ of the same Act provides for safeguards against possible abuse, most significantly through judicial intervention.

465. Given that the imposition of the fourteen-day detention period is already subject to judicial intervention, it follows that even the ten-day extension is subject to the same judicial process. In fact, this intent can be gleaned from the following exchange between Senators Drilon and Lacson during the Senate deliberations:

Senator Drilon. Now, in the previous answer of the good sponsor, he says that he is amenable to 14 calendar days provided that an application for an extension can be provided.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. That should be before the court.

Senator Lacson. Before the court, Mr. President

Senator Drilon. Not just the Anti-Terrorism Council.

Senator Lacson. No, Mr. President.

Senator Drilon. In other words, it must be a judicial process.

⁴³⁰ TSN dated January 22, 2020, p. 31; Annex “4”.

⁴³¹ Immediately after taking custody of a person suspected of committing terrorism or any member of a group of persons, organization or association proscribed under Section 26 thereof, the law enforcement agent or military personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest of the following facts: (a) the time, date, and manner of arrest; (b) the location or locations of the detained suspect/s and (c) the physical and mental condition of the detained suspect/s. The law enforcement agent or military personnel shall likewise furnish the ATC and the Commission on Human Rights (CHR) of the written notice given to the judge.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

Senator Lacson. It should be by the court, Mr. President.⁴³²

466. Section 29, therefore, strikes the balance between the need to strengthen counter-terrorism measures whilst protecting the fundamental rights of a suspect from potential abuse.

Section 29 of the Anti-Terrorism Act does not authorize the ATC to issue warrants of arrest.

467. In all petitions, petitioners equate the written authority issued by the ATC under Section 29 of the Anti-Terrorism Act to a warrant of arrest.

468. They are gravely mistaken.

469. The Anti-Terrorism Act does not encroach on the exclusive judicial function to issue warrants of arrest on the basis of probable cause.

470. Again, Section 45 of the Act is clear when it says that "(n)othing herein shall be interpreted to empower the ATC to exercise any judicial or quasi-judicial power or authority." Indeed, the ATC cannot exercise functions exclusively reserved for the judiciary.

471. Senator Lacson expressed the intent of this provision in a letter to the National President of the Integrated Bar of the Philippines.⁴³³ He unequivocally explained that the written authority mentioned in Section 29 is not meant to expand the existing rules on arrest found in Rule 113, Section 5 of the Revised Rules of Court.

472. In the first place, nothing in the law allows the ATC to issue an order of arrest. The issuance of a warrant of arrest

⁴³² TSN dated February 3, 2020, p. 40; **Annex "7"**.

⁴³³ Senator Panfilo Lacson's letter to the Integrated Bar of the Philippines dated June 15, 2020.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

remains to be a judicial process. The written authority issued by the ATC should not be equated to a judicial warrant. The said authorization is a law enforcement tool that enables the arresting officer to detain a person who is arrested without a judicial warrant for a period of fourteen days without incurring any criminal liability for arbitrary detention under Article 125 of the Revised Penal Code.

473. Verily, Section 29 is intended to be read in conjunction with the current rules on warrantless arrest. Currently, there are three grounds that will justify a warrantless arrest. As explained earlier, these situations are enumerated in Section 5, of Rule 113.

474. The first kind of warrantless arrest sanctioned by Section 5, Rule 113 is known as an *in flagrante delicto* arrest. For this warrantless arrest to maintain its constitutionality, the arresting office or person must pass the overt-act test by proving concurrence with two essential elements to wit: (a) the person to be arrested must execute an overt act indicating that he [or she] has just committed, is actually committing, or is attempting to commit a crime; and (b) such overt act is done in the presence or within the view of the arresting officer.⁴³⁴

475. The second kind of warrantless arrest is known as a hot pursuit arrest. The rule requires that an offense has just been committed. It connotes "immediacy in point of time." It is important to note that when a crime was in fact committed, it does not automatically bring the case under this rule. An arrest under Section 5(b) of Rule 113, entails a time element from the moment the crime is committed up to the point of arrest. For a hot pursuit arrest to be appreciated, the arresting officer or person must have personal knowledge of the circumstances indicating that the person sought to be arrested committed the crime.⁴³⁵

476. Law enforcers need not personally witness the commission of a crime. However, they must have personal

⁴³⁴ Veridiano vs. People, G.R. No. 200370, June 7, 2017.

⁴³⁵ *Ibid.*

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

knowledge of facts and circumstances indicating that the person sought to be arrested committed it.⁴³⁶

477. Thus, for an arrest to be effected under the Anti-Terrorism Act, only two scenarios are contemplated: (a) the person suspected to be a terrorist must have executed an overt act indicating that he or she has just committed, is actually committing, or is attempting to commit the crime of terrorism and that such overt act is done in the presence or within the view of the arresting officer; or (b) that an act of terrorism has, in fact, just been committed and the arresting officer has personal knowledge of that fact of the crime of terrorism as well as circumstances indicating that the person sought to be arrested committed the crime.

478. Additionally, Section 29 mandates that notice be sent immediately to the nearest judge, the ATC and the Commission on Human Rights (CHR). It particularly states that "the law enforcement agent or military personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest of the following facts: (a) the time, date, and manner of arrest; (b) the location or locations of the detained suspect/s and (c) the physical and mental condition of the detained suspect/s. The law enforcement agent or military personnel shall likewise furnish the ATC and the CHR of the written notice given to the judge."

479. This requirement safeguards the rights and physical being of the arrested person since it is an official acknowledgment from the government that it has custody of the person suspected of committing a crime under the Anti-Terrorism Act, thereby preventing the suspect or detainee from being detained for a period longer than what the law allows. To ensure compliance, Section 29⁴³⁷ thereof imposes a penalty for failure to notify any judge of an arrest under this law.

480. So too, petitioner Jurado argues that Section 29 of the authorizes the ATC, through the law enforcement

⁴³⁶ *Ibid.*

⁴³⁷ The penalty of imprisonment of ten (10) years shall be imposed upon the police or law enforcement agent or military personnel who fails to notify any judge as provided in the preceding paragraph.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

agents, to waive the rights of the accused under Article 125 of the Revised Penal Code, as amended. He opines:

In the guise of supposedly amending Article 125 of the Revised Penal Code, Section 29 of R.A. No. 11479 vests upon the ATC the authority to allow the law enforcement operatives to effectively disregard Article 125 of the Revised Penal Code, **without the express consent of the person who actually "owns" the right - the detainee.** Thus, first paragraph of Section 29 R.A. No. 11479 provides: ...⁴³⁸

481. Additionally, petitioner Jurado insists that the written authority by the ATC in favor of law enforcement agents, as referred to in Section 29, likewise authorizes said agents to waive the rights of an accused under Article 125 of the Revised Penal Code.

482. This is far from the truth.

483. For emphasis, Article 125 of the Revised Penal Code, in relation to Section 7, Rule 112 of the Revised Rules of Court, states:

(Revised Penal Code)

ART. 125. *Delay in the delivery of detained persons to the proper judicial authorities.* - The penalties provided in the next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of; twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent and thirty-six (36) hours, for crimes, or offenses punishable by afflictive or capital penalties, or their equivalent.

⁴³⁸ Jurado Petition, p. 43.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

In every case, the person detained shall be informed of the cause of his detention and shall be allowed, upon his request, to communicate and confer at any time with his attorney or counsel.

(Revised Rules of Court)

Section 7. When accused lawfully arrested without warrant. - When a person is lawfully arrested without a warrant involving an offense which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing rules. In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or person.

Before the complaint or information is filed, **the person arrested may ask for a preliminary investigation in accordance with this Rule, but he must sign a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, in the presence of his counsel.** Notwithstanding the waiver, he may apply for bail and the investigation must be terminated within fifteen (15) days from its inception.

After the filing of the complaint or information in court without a preliminary investigation, the accused may, within five days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense as provided in this Rule.⁴³⁹

484. Most pertinently, there is nothing in Section 29, or anywhere in the Anti-Terrorism Act for that matter, which provides that the written authority referred therein shall likewise contain a waiver of a suspect's rights under Article 125 of the Revised Penal Code much less authorize said law enforcement agents to execute such waiver. Very simply, as

⁴³⁹ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

Section 29 states, the written authority only allows the law enforcement agents to detain the arrested person for fourteen days subject to the conditions stated in the same provision.

485. Second, under Section 29, even when a person is detained for fourteen days, the rights of the detainee remains intact. Nothing in the law removes the detainee's right to sign a waiver of the provisions of Article 125 of the Revised Penal Code. In other words, the implementation of Section 7 of Rule 112 of the Rules of Court is not altered. The Anti-Terrorism Act simply extends the number of days within which he may sign the waiver.

486. Illustratively, when a person is arrested under this law, he may, at any time within fourteen days, sign a waiver of the provisions of Article 125 with the assistance of his counsel or attorney. By doing so, he may ask that a preliminary investigation be conducted instead of an inquest proceeding. Contrary to what petitioner Jurado's claim, the right to ask for the waiver is maintained even with this law.

487. In fact, the law ensures that the rights of a detainee are respected. The third paragraph of Section 29 provides:

The head of the detaining facility shall ensure that the detained suspect is informed of his/her rights as a detainee and shall ensure access to the detainee by his/her counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities.

488. Notably, these are the very same rights also mentioned in Article 125 of the Revised Penal Code. Equally important, under the last paragraph of Section 29, the failure on the part of the law enforcement agent to notify the judge in accordance with Section 29 shall merit imprisonment of ten years.

489. In fine, there is no violation of the principle of separation of powers as the ATC was never authorized, in the

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

first place, to issue a warrant of arrest. Given the foregoing, Section 29 of the Act is constitutional.

The Anti-Terrorism Act recognizes the constitutional right to bail and does not alter any rules on the grant thereof.

490. Section 13 of Article III of the Constitution provides:

Section 13. All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

491. As defined in Rule 114, Section 1 of the Revised Rules of Court, bail is the security required and given for the release of a person who is in the custody of the law, that he will appear before any court in which his or her appearance may be required as stipulated in the bail bond or recognizance.⁴⁴⁰ Its object is to relieve the accused of imprisonment and the state of the burden of keeping him/her, pending the trial, and at the same time, to put the accused as much under the power of the court as if he/she were in custody of the proper officer, and to secure the appearance of the accused so as to answer the call of the court and do what the law may require of him.⁴⁴¹

492. Furthermore, Section 4 of Rule 114 of the same Rules states that "all persons in custody shall be admitted to bail as a matter of right, with sufficient sureties, or released on recognize as prescribed by law or this Rule (a) before or after conviction by the Metropolitan Trial Court, Municipal Trial

⁴⁴⁰ *Supra*.

⁴⁴¹ 6 Am. Jur. [Rev. Ed.], Bailment, S6.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

Court, Municipal Trial Court in Cities, or Municipal Circuit Trial Court, and (b) before conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua*, or life imprisonment.”

493. The general rule is that any person, before being convicted of any criminal offense, shall be bailable, unless he is charged with a capital offense, or with an offense punishable with *reclusion perpetua* or life imprisonment, and the evidence of his guilt is strong. Hence, from the moment he is placed under arrest, or is detained or restrained by the officers of the law, he can claim the guarantee of his provisional liberty under the Bill of Rights, and he retains his right to bail unless he is charged with a capital offense, or with an offense punishable with *reclusion perpetua* or life imprisonment, and the evidence of his guilt is strong. Once it has been established that the evidence of guilt is strong, no right to bail shall be recognized.⁴⁴²

494. As a result, bail is a matter of right prior to conviction by the Regional Trial Court (RTC) for any offense not punishable by death, *reclusion perpetua*, or life imprisonment, or even prior to conviction for an offense punishable by death, *reclusion perpetua*, or life imprisonment when evidence of guilt is not strong.⁴⁴³

495. Petitioners Zarate, et al. and CTUHR, et al., submit that Section 34 of the Anti-Terrorism Act impairs the constitutional right to bail.⁴⁴⁴

496. Petitioners are wrong.

497. The Anti-Terrorism Act reinforces the right of an accused to apply for and granted bail, when it is considered as a matter of right under our Rules.

⁴⁴² Enrile v. Sandiganbayan, G.R. No. 213847, August 18, 2015; *citing* Government of the United States of America v. Purganan, G.R. No. 148571, September 24, 2002.

⁴⁴³ Enrile v. Sandiganbayan, *supra.*

⁴⁴⁴ Zarate Petition, par. 248; CTUHR Petition, par. 7.11.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

498. Section 34 thereof states in clear and irrefutable terms:

Sec. 34. Restriction on the Right to Travel.—...

In cases where evidence of guilt is not strong, and the **person charged is entitled to bail and is granted the same**, the court, upon application by the prosecutor, shall limit the right of travel of the accused to within the municipality or city where he/she resides or where the case is pending, in the interest of national security and public safety, consistent with Article III, Section 6 of the Constitution. The court shall immediately furnish the DOJ and the Bureau of Immigration (BI) with the copy of said order. Travel outside of said municipality or city, without the authorization of the court, shall be deemed a violation of the terms and conditions of his/her bail, which shall be forfeited as provided under the Rules of Court.⁴⁴⁵

499. Relevantly, the following are the crimes punished under the Anti-Terrorism Act and their corresponding penalties:

| Legal Provision | Crime | Imposable Penalty |
|------------------------|--|--------------------------|
| Section 4 | Terrorism | Life Imprisonment |
| Section 5 | Threat to Commit Terrorism | 12 years of imprisonment |
| Section 6 | Planning, Training, Preparing and Facilitating the Commission of Terrorism | Life Imprisonment |
| Section 7 | Conspiracy to Commit Terrorism | Life Imprisonment |
| Section 8 | Proposal to Commit Terrorism | 12 years of imprisonment |
| Section 9 | Inciting to Commit Terrorism | 12 years of imprisonment |

⁴⁴⁵ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

| | | |
|------------|---|---|
| Section 10 | Recruitment to and Membership in a Terrorist Organization | Life Imprisonment or 12 years of imprisonment |
| Section 11 | Foreign Terrorist | Life Imprisonment |
| Section 12 | Providing Material Support to Terrorists | As a principal |

500. Thus, those who are charged under Sections 5, 8, 9 and 10 of the Anti-Terrorism Act, where the imposable penalty is twelve years of imprisonment, may still apply for and may be granted bail in accordance with the Revised Rules of Court, prior to their conviction.

501. On the other hand, those who are criminally charged for violation of Sections 4, 5, 6, 10, 11 and 12, where the imposable penalty is life imprisonment and where the evidence of guilt is not strong, are also not effectively precluded under the assailed law to apply for bail. Nevertheless, it must be remembered that since these individuals are charged for a capital offense, then the accused's prayer for bail is subject to the discretion of the trial court.⁴⁴⁶

502. Evidently, petitioners' contention that the Anti-Terrorism Act impairs an accused's right to bail is devoid of any merit. An accused, under the above-mentioned circumstances, may still seek temporary liberty by applying for bail.

503. Petitioners Zarate, et al. and CTUHR, et al. also staunchly maintain that the house arrest and restriction of an accused's right to communicate is an arbitrary, unreasonable and unjustified restriction on the right to bail. Additionally, they argue that such restriction may be considered as a detention similar to secret detention places and solitary incommunicado which are prohibited under our Constitution.⁴⁴⁷

504. Petitioners are patently mistaken.

⁴⁴⁶ People v. Escobar, G.R. No. 214300, July 26, 2017.

⁴⁴⁷ Zarate Petition, par. 258; CTUHR Petition, par. 7.15.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

505. *First*, it must be remembered that these restrictions were merely lifted from the Human Security Act which was not found by this Honorable Court to be unconstitutional from the time of its passage until its repeal.

506. *Second*, the placing of an accused or even a convict on house arrest is legally permissible. Under the Revised Penal Code, one who is convicted for a crime punishable by the penalty or *arresto menor* may serve his or her sentence at his or place of residence under the surveillance of an office of the law.⁴⁴⁸ Thus, when an accused is placed under house arrest, the same is done pursuant to an order lawfully issued by the court. In stark contrast, detention in secret places and solitary incommunicado are outlawed under our Constitution and R.A. No. 9745, otherwise known as the Anti-Torture Act of 2009, as these are done covertly to subject an individual to mental or psychological torture with impunity.

507. *Third*, the ban on the use of telephones, cellphones, e-mails and other similar communications by the accused with people outside his or her residence may be lifted upon his application and by virtue of an order from the court. Otherwise stated, an accused is not barred from proving to the satisfaction of the court the necessity and reasonableness of communication with a person outside his or her residence.

508. From the foregoing, there can be no other conclusion than the Anti-Terrorism Act neither impairs the constitutional right to bail nor does it alter the prevailing rules in the grant thereof.

The Anti-Terrorism Act imposes a valid restriction on the the right to travel of an accused.

509. Section 6, Article III of the Constitution provides:

⁴⁴⁸ Section 88, Revised Penal Code.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

Sec. 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. **Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.**⁴⁴⁹

510. Petitioners Zarate, et al. likewise question the imposition of a limit on the right to travel of an accused who is released on bail to within the municipality or city where he or she resides or where the case is pending.⁴⁵⁰

511. The question, however, does not merit the attention of this Honorable Court.

512. The right to travel is not absolute. There are constitutional, statutory and inherent limitations regulating the right to travel. Our Constitution provides that the right to travel may be impaired only in the interest of national security, public safety or public health, as may be provided by law.⁴⁵¹ In *Silverio vs. Court of Appeals*, this Honorable Court elucidated, thus:

Article III, Section 6 of the 1987 Constitution should be interpreted to mean that while the liberty of travel may be impaired even without Court Order, the appropriate executive officers or administrative authorities are not armed with arbitrary discretion to impose limitations. They can impose limits only on the basis of "national security, public safety, or public health" and "as may be provided by law," a limitive phrase which did not appear in the 1973 text (The Constitution, Bernas, Joaquin G.,S.J., Vol. I, First Edition, 1987, p. 263). Apparently, the phraseology in the 1987 Constitution was a reaction to the ban on international travel imposed under the previous regime when there was a Travel Processing

⁴⁴⁹ Emphasis supplied.

⁴⁵⁰ Zarate Petition, par. 253.

⁴⁵¹ Genuino v. De Lima, G.R. No. 197930, April 17, 2018.

Center, which issued certificates of eligibility to travel upon application of an interested party.

513. In the assailed law, it cannot be denied that the purpose for curtailing the right to travel of an accused is for national security and public safety. As opined by Justice Antonio T. Carpio in *Genuino v. De Lima*,⁴⁵² “the phrases ‘national security’ and ‘public safety,’ which recur in the text of the Constitution as grounds for the exercise of powers or curtailment of rights, are intentionally broad to allow interpretative flexibility, but circumscribed at the same time to prevent limitless application. At their core, these concepts embrace acts undermining the State’s existence or public security. At their fringes, they cover acts disrupting individual or communal tranquility. Either way, violence or potential of violence features prominently.”

514. Undeniably, acts of terrorism severely undermine our country’s national security and the safety of every Filipino. As a matter of fact, the Philippines ranked 9th among the countries in the world that were negatively impacted by terrorism based on the Global Terrorism Index released in 2019.⁴⁵³

515. Significantly, in *Leave Division v. Heusdens*,⁴⁵⁴ this Honorable Court has already recognized that there are constitutional, statutory and inherent limitations regulating the right to travel. Some of these statutory limitations are the following:

The Human Security Act of 2010 or Republic Act (R.A.) No. 9372. The law restricts the right to travel of an individual charged with the crime of terrorism even though such person is out on bail.

The Philippine Passport Act of 1996 or R.A. No. 8239. Pursuant to said law, the Secretary of Foreign Affairs or his authorized

⁴⁵² Concurring Opinion of Justice Antonio Carpio in *Genuino v. De Lima*, *supra*.

⁴⁵³ Global Terrorism Index: PH 9th most affected by terrorism in 2018, <https://cnnphilippines.com/news/2019/11/21/ph-global-terrorism-index-2019.html>, last accessed on July 11, 2020.

⁴⁵⁴ A.M. No. P-11-2927, December 13, 2011.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

consular officer may refuse the issuance of, restrict the use of, or withdraw, a passport of a Filipino citizen.

The "Anti- Trafficking in Persons Act of 2003" or R.A. No. 9208. Pursuant to the provisions thereof, the Bureau of Immigration, in order to manage migration and curb trafficking in persons, issued Memorandum Order Radjr No. 2011-011, allowing its Travel Control and Enforcement Unit to "offload passengers with fraudulent travel documents, doubtful purpose of travel, including possible victims of human trafficking" from our ports.

The Migrant Workers and Overseas Filipinos Act of 1995 or R. A. No. 8042, as amended by R.A. No. 10022. In enforcement of said law, the Philippine Overseas Employment Administration (POEA) may refuse to issue deployment permit to a specific country that effectively prevents our migrant workers to enter such country.

The Act on Violence against Women and Children or R.A. No. 9262. The law restricts movement of an individual against whom the protection order is intended.

Inter-Country Adoption Act of 1995 or R.A. No. 8043. Pursuant thereto, the Inter-Country Adoption Board may issue rules restrictive of an adoptee's right to travel "to protect the Filipino child from abuse, exploitation, trafficking and/or sale or any other practice in connection with adoption which is harmful, detrimental, or prejudicial to the child."⁴⁵⁵

516. Moreover, the curtailment of the right of an accused to travel requires an application by the prosecutor and a corresponding order from the trial court. The issuance of such order is inarguably within the power of the courts:

A court has the power to prohibit a person admitted to bail from leaving the Philippines.

⁴⁵⁵ Emphasis supplied.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

This is a necessary consequence of the nature and function of a bail bond.⁴⁵⁶ As explained in *Santiago v. Vasquez*:⁴⁵⁷

Courts possess certain inherent powers which may be said to be implied from a general grant of jurisdiction, in addition to those expressly conferred on them. These inherent powers are such powers as are necessary for the ordinary and efficient exercise of jurisdiction; or essential to the existence, dignity and functions of the courts, as well as to the due administration of justice; or are directly appropriate, convenient and suitable to the execution of their granted powers; and include the power to maintain the court's jurisdiction and render it effective in behalf of the litigants.

Therefore, while a court may be expressly granted the incidental powers necessary to effectuate its jurisdiction, a grant of jurisdiction, in the absence of prohibitive legislation, implies the necessary and usual incidental powers essential to effectuate it, and, subject to existing laws and constitutional provisions, every regularly constituted court has the power to do all things that are reasonably necessary for the administration of justice within the scope of its jurisdiction. Hence, demands, matters, or questions ancillary or incidental to, or growing out of, the main action, and coming within the above principles, may be taken cognizance of by the court and determined, since such jurisdiction is in aid of its authority over the principal matter, even though the court may thus be called on to consider and decide matters which, as original causes of action, would not be within its cognizance.

Furthermore, a court has the inherent power to make interlocutory orders necessary to protect its jurisdiction. Such being the case, with more reason may a party litigant be subjected to proper coercive measures where he disobeys a proper order, or commits a fraud on the court or the opposing party, the result of which is that the jurisdiction of the court would

⁴⁵⁶ Manotoc, Jr. v. Court of Appeals, G.R. No. L-62100, May 30, 1986.

⁴⁵⁷ G.R. Nos. 99289-90, January 27, 1993.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

be ineffectual. What ought to be done depends upon the particular circumstances.

Turning now to the case at bar, petitioner does not deny and, as a matter of fact, even made a public statement that she had every intention of leaving the country allegedly to pursue higher studies abroad. We uphold the course of action adopted by the Sandiganbayan in taking judicial notice of such fact of petitioner's plan to go abroad and in thereafter issuing *sua sponte* the hold departure order, in justified consonance with our preceding disquisition. To reiterate, the hold departure order is but an exercise of respondent court's inherent power to preserve and to maintain the effectiveness of its jurisdiction over the case and the person of the accused.⁴⁵⁸

517. Holding an accused in a criminal case within the reach of the Courts by preventing his/her departure from the Philippines must be considered as a valid restriction on his right to travel so that he/she may be dealt with in accordance with law. The offended party in any criminal proceeding is the People of the Philippines. It is to the People's interest that criminal prosecutions should run their course and proceed to finality without undue delay, with an accused holding himself/herself amenable at all times to Court Orders and processes.⁴⁵⁹

518. Verily, the limitations imposed by the assailed law on an accused's right to travel under the Anti-Terrorism Act is a valid restriction, as it serves a legitimate purpose, that is, the preservation of our national security and safety of Filipinos.

⁴⁵⁸ Citations omitted.

⁴⁵⁹ Silverio v. Court of Appeals, G.R. No. 94284, April 8, 1991.

The Anti-Terrorism Act does not infringe the academic freedom of institutions of higher learning, teachers and students.

There is nothing in the Anti-Terrorism Act which prohibits the free exercise of academic freedom.

519. Paragraph 2 of Section XIV, Article V of the Constitution provides:

Academic freedom shall be enjoyed in all institutions of higher learning.

520. Academic freedom, or to be precise, the institutional autonomy of universities and institutions of higher learning, is enshrined in the Constitution. It includes the freedom to determine for themselves, on academic grounds, (a) who may teach, (b) what may be taught, (c) how it shall be taught, and (d) who may be admitted to study.⁴⁶⁰

521. Petitioners Sta. Maria, et al. fear that the Anti-Terrorism Act *may* infringe on academic freedom. They contend that free and robust academic discussion *may* be hindered by a threat or danger of being interpreted as falling within the five enumerated acts of terrorism in Section 4 of the law. To illustrate their point, petitioners Sta. Maria, et al. present several scenarios: *What if* a professor is charged with inciting to terrorism for discussing the concept of revolutions? *Is it possible* for a teacher who discusses the *El Filibusterismo* to be charged with proposing to commit terrorism? *What if* a professor is charged with proposal to commit or inciting to terrorism for discussing concepts related to the justification of war? *What if* professors discuss socialism, Marxism, or

⁴⁶⁰ Cudia v. The Superintendent of the Philippine Military Academy, G.R. No. 211362, February 24, 2015; 1987 Constitution, Article XIV, Section 5(2).

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

liberation theology? Would law professors be prevented from discussing Constitutional rights and freedoms?⁴⁶¹

522. Petitioners attempt to frame these scenarios in a manner that unduly causes alarm and concern. In doing so, however, they conveniently overlooked the clear language of Section 4.

523. The law itself provides an answer to petitioners' imagined concerns.

524. Specifically provided under Section 4 is that an act of terrorism shall only be punishable if, "by its nature and context", the act intimidates the general public or segment thereof, creates an atmosphere or spreads a message of fear, or provokes or influences by intimidation the government or any international organization, or seriously destabilizes or destroys the fundamental political, economic, or social structures of the country, or creates a public emergency or seriously undermines public safety.

525. Conversely, if the exercise of academic freedom is in the nature of a legitimate exercise of civil and political rights, and is "not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety," then it is not nor will it be penalized as an act of terrorism.

526. The legislature, not unmindful of the dangers of petitioners' imagined scenarios, specifically framed Section 4 to uphold the cherished rights and freedoms embodied in the Constitution, including academic freedom.

527. However, academic freedom, like any other freedom, is not unbridled. "Even liberty itself, the greatest of all rights, is not unrestricted license to act according to one's will. It is subject to the far more overriding demands and requirements of the greater number."⁴⁶²

⁴⁶¹ Sta. Maria Petition, pp. 66-67.

⁴⁶² Philippine Association of Service Exporters, Inc. v. Drilon, G.R. No. 81958, June 30, 1988.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

528. Indeed, "academic freedom has never been meant to be an unabridged license. It is a privilege that assumes a correlative duty to exercise it responsibly."⁴⁶³ Academic freedom cannot be used as an excuse to create a superclass of citizens and exempt them from the State's legitimate exercise of police power. To hold otherwise would be to subvert this freedom into degenerate license.

529. Petitioners Sta. Maria, et al. further suggest that the designation of the Department of Education (DepEd) and the Commission on Higher Education (CHED) as support agencies of the ATC would enable the latter to dictate on what academic institutions can and cannot teach.⁴⁶⁴

530. Petitioners Sta. Maria, et al. are wrong.

531. A plain reading of Section 45 of the Anti-Terrorism Act reveals the purpose for designating DepEd and CHED as support agencies, to wit:

... implement [the] Act and assume the responsibility for the proper and effective implementation of the policies of the country against terrorism ...

...

... formulate and adopt comprehensive, adequate, efficient, and effective plans, programs, or measures to prevent, counter, suppress, or eradicate the commission of terrorism in the country and to protect the people from such acts ... create such focus programs to prevent and counter terrorism as necessary, to ensure the counterterrorism operational awareness of concerned agencies, to conduct legal action and to pursue legal and legislative initiatives to counter terrorism, prevent and stem terrorist financing, and to ensure compliance with international

⁴⁶³ Cudia v. The Superintendent of the Philippine Military Academy, *supra*; 1987 Constitution, Article XIV, Section 5(2).

⁴⁶⁴ Sta. Maria Petition, p. 68.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

commitments to counterterrorism-related protocols and bilateral and/or multilateral agreements, and identify the lead agency for each program ...

532. The above-cited provision does not sanction ATC's interference in the academic institutions' legitimate exercise of academic freedom through DepEd or CHED.

533. Hence, it is evident that the Anti-Terrorism Act does not contravene the academic freedom.

**OPPOSITION TO PETITIONERS'
PRAYER FOR THE ISSUANCE OF
TEMPORARY RESTRAINING
ORDER AND WRIT OF
PRELIMINARY
INJUNCTION AND/OR OTHER
INJUNCTIVE REMEDIES**

Petitioners are not entitled to a temporary restraining order (TRO), writ of preliminary injunction and/or other injunctive remedies.

Petitioners do not possess a clear and unmistakable right which will be violated by the passage of the Anti-Terrorism Act.

534. Petitioners primarily rest their entitlement to the issuance of a TRO and a writ of preliminary injunction on general allegations that the implementation of the Anti-Terrorism Act will cause grave and irreparable injury to their constitutional rights.⁴⁶⁵

⁴⁶⁵Calleja Petition, p. 62; Lagman Petition, p. 53, par. 144; Sta. Maria Petition, p. 70; and Zarate, 2020, p.81.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

535. Petitioners' contentions are bereft of merit.

536. Section 3, Rule 58⁴⁶⁶ of the Revised Rules of Court prescribes the instances when a writ of preliminary injunction may be issued. Pursuant to said provision, to be entitled to a writ of preliminary injunction, petitioners must establish the following requisites: (a) the applicant must have a clear and unmistakable right, that is a right *in esse*; (b) there is a material and substantial invasion of such right; (c) there is an urgent need for the writ to prevent irreparable injury to the applicant; and (d) no other ordinary, speedy, and adequate remedy exists to prevent the infliction of irreparable injury.⁴⁶⁷

537. The primary requirement in issuing a writ of preliminary injunction is the existence of a clear and unmistakable right in favor of the applicant.⁴⁶⁸ An injunction will not issue to protect a right not *in esse*, or a right which is merely contingent and may never arise since. To be protected by injunction, the alleged right must be clearly founded on or granted by law or is enforceable as a matter of law.⁴⁶⁹

538. In the present case, petitioners do not have the right to the issuance of a TRO or writ of preliminary injunction because they do not possess a clear and unmistakable right that is to be violated by the passage of the Anti-Terrorism Act. As thoroughly discussed above, none of petitioners' constitutional rights are impaired with the passage and the impending implementation of said law. Again, petitioners' allegations are merely based on pure speculation.

⁴⁶⁶ Section 3. Grounds for issuance of preliminary injunction. — A preliminary injunction may be granted when it is established:

(a) That the applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts either for a limited period or perpetually;

(b) That the commission, continuance or non-performance of the act or acts complained of during the litigation would probably work injustice to the applicant; or

(c) That a party, court, agency or a person is doing, threatening, or is attempting to do, or is procuring or suffering to be done some act or acts probably in violation of the rights of the applicant respecting the subject of the action or proceeding, and tending to render the judgment ineffectual.

⁴⁶⁷ DPWH v. City Advertising Ventures Corporation, G.R. No. 182944, November 9, 2016.

⁴⁶⁸ Office of City Mayor of Parañaque v. Ebio, G.R. No. 156303, December 19, 2007.

⁴⁶⁹ Heirs of Yu, et al. v. Honorable Court of Appeals, et al., G.R. No. 182371, September 4, 2013.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

539. Evidently, there exists no clear legal right upon which petitioners anchor their application for preliminary injunctive relief. As succinctly put by this Honorable Court, "'(c)lear legal right,' within the meaning of Rule 58 contemplates a right 'clearly founded in or granted by law.' Any hint of doubt or dispute on the asserted legal right precludes the grant of preliminary injunctive relief."⁴⁷⁰ In the absence of a clear legal right, the issuance of the injunctive writ will constitute grave abuse of discretion.⁴⁷¹

Petitioners also failed to prove that they will sustain grave and irreparable injury from the implementation of the Anti-Terrorism Act.

540. Aside from their failure to prove a clear and unmistakable right or a right *in esse*, petitioners likewise miserably failed to prove the element of grave and irreparable injury. The element of irreparable injury must be such that is frequent, recurring, incapable of pecuniary estimation, and one which leaves the aggrieved party without other adequate modes of redress.⁴⁷²

541. Jurisprudence tells us when an injury is considered irreparable:

Respecting the element of irreparable injury, the landmark case of *Social Security Commission v. Bayona* teaches:

Damages are irreparable within the meaning of the rule relative to the issuance of injunction where there is no standard by which their amount can be measured with reasonable accuracy (Crouc v. Central Labor Council, 83 ALR, 193). "An irreparable injury which a court of equity will enjoin includes that degree of wrong of a repeated and continuing

⁴⁷⁰ Bicol Medical Center, et al v. Botor, et al, G.R. No. 214073, October 4, 2017.

⁴⁷¹ See Ocampo v. Sison, G.R. No. 164529, June 19, 2007.

⁴⁷² Philippine Virginia Tobacco Administration v. De Los Angeles, et al, G.R. No. L-27829, August 19, 1988.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

kind which produce hurt, inconvenience, or damage that can be estimated only by conjecture, and not by any accurate standard of measurement". An irreparable injury to authorize an injunction consists of "a serious charge of, or is destructive to, the property it affects, either physically or in the character in which it has been held and enjoined, or when the property has some peculiar quality or use, so that its pecuniary value will not fairly recompense the owner of the loss thereof".⁴⁷³

542. Applying the above principle, petitioners failed to show and prove that they will suffer damage and injury with such grave and irreparable nature, resulting in manifest injustice. Perforce, this Honorable Court must not issue a TRO or a writ of preliminary injunction.

543. To stress, a TRO or a writ of preliminary injunction are preservative remedies for the protection of substantive rights and interests. A TRO is of the same nature as an injunction, it is not designed to protect contingent or future rights; the possibility of irreparable damage without proof of actual existing right is not a ground for the issuance thereof.⁴⁷⁴ A TRO issues only if the matter is of such extreme urgency that grave injustice and irreparable injury would arise unless it is issued immediately.⁴⁷⁵

544. Furthermore, it is the public, not the petitioners, who will actually suffer grave and irreparable injury if the injunctive relief prayed for is issued. The Anti-Terrorism Act is the embodiment of years of hard work towards peace as one of the major objectives of this nation is the total eradication of terrorist groups, which have always considered the Philippines as a "safe haven". Through its enactment, the Philippine Government is finally given an opportunity to address and eliminate all traces of terrorism, and to attain meaningful self-governance within the framework of the

⁴⁷³ *Ermita v. Aldecoa-Delorino, supra*; citations omitted and emphasis supplied.

⁴⁷⁴ *Brizuela v. Dingle and Legaspi*, G.R. No. 175371, April 30, 2008; *citing Heirs of Asuncion v. Gervacio, Jr., et al.*, G.R. No. 115741, March 9, 1999; emphasis supplied.

⁴⁷⁵ *Australian Professional Realty, Inc. v. Municipality of Padre Garcia Batangas Province*, G.R. No. 183367, March 14, 2012.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

X-----X

Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.

545. If this Honorable Court were to grant the injunctive relief prayed for by petitioners, the enjoinder of the implementation of the assailed law will deny our law enforcement agents the opportunity to fight and prevent terrorism. Inevitably, an injunctive writ would only further stall the years of meaningful investigation and crime-detection.

546. Beyond cavil, it is ultimately the Filipino people who will suffer grave and irreparable injury if the injunctive relief prayed for by petitioners is issued.

The issuance of a TRO or a writ of preliminary injunction would operate as a prejudgment of the case.

547. In determining whether or not petitioners are entitled to the issuance of injunctive relief, this Honorable Court would have to pass upon the inevitable issue of whether the Anti-Terrorism Act is constitutional, which is the very main issue of this case. This is because petitioners' prayer for TRO hinges on their alleged rights which would be violated supposedly by the implementation of the same Act.

548. In *Searth Commodities Corporation, et al. v. Court of Appeals*,⁴⁷⁶ this Honorable Court warned the courts that a premature *issuance* of an injunction may result to the virtual acceptance of the claimant's main claim, *to wit*:

The prevailing rule is that courts should avoid issuing a writ of preliminary injunction which would in effect dispose of the main case without trial. In the case at bar, if the lower court issued the desired writ to enjoin the sale of the properties premised on the aforementioned justification of the petitioners,

⁴⁷⁶ G.R. No. 64220, March 31, 1992.

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

the issuance of a writ would be a virtual acceptance of their claim that the foreclosure sale is null and void. **There would in effect be a prejudgment of the main case and a reversal of the rule on the burden of proof since it would assume the proposition which the petitioners are ineptively bound to prove.**⁴⁷⁷

549. In *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*,⁴⁷⁸ this Honorable Court denied the prayer for TRO because “no injunctive writ could be issued pending a final determination of petitioner’s actual and existing right over the property. The grant of an injunctive writ could operate as a prejudgment of the main case.”

550. Hence, in deciding whether petitioners are entitled to injunctive relief, this Honorable Court would have to pass upon the constitutionality of the Anti-Terrorism Act. Indeed, the issuance of a TRO or a writ of preliminary injunction would operate as a prejudgment of the case.

551. Finally, courts must exercise utmost caution, prudence and judiciousness in the issuance of temporary restraining orders and injunctive writs. The issuance of a writ of preliminary injunction is an extraordinary peremptory remedy available only on grounds provided by law.⁴⁷⁹ There is no power the exercise of which is more delicate, which requires greater caution, deliberation and sound discretion, or more dangerous in a doubtful case, than the issuance of an injunction. The writ should not be granted lightly or precipitately, but only when the court is fully satisfied that the law permits it and the emergency demands it.⁴⁸⁰

552. In the absence of the most essential preconditions for the issuance of an injunctive relief, petitioners’ prayer for

⁴⁷⁷ Emphasis supplied and citations omitted.

⁴⁷⁸ *Evy Construction and Development Corporation v. Valiant Roll Forming Sales Corporation*, G.R. No. 207938, October 11, 2017.

⁴⁷⁹ *Valley Trading v. CFI Isabela*, G.R. No. L-49529, March 31, 1989.

⁴⁸⁰ *Garcia v. Burgos*, G.R. No. 124130, June 29, 1998.

CONSOLIDATED COMMENT

Calleja, et a. v. Executive Secretary, et al.

GR. Nos. 252578-80, 252585, 252613, 252623-24 and 252646

x-----x

the issuance of a TRO and writ of preliminary injunction and/or other injunctive reliefs must be denied.

PRAYER

Respondents respectfully pray that this Honorable Court:

1. **NOTE** this Consolidated Comment;
2. **DENY** petitioners' prayer for the issuance of a temporary restraining order and writ of preliminary injunction; and
3. **DENY** due course to and **DISMISS** the Petitions for utter lack of merit.

Respondents also ask for other forms of relief that the Court may deem just and equitable under the premises.

Makati City for Manila City, July 17, 2020.

Signatures on the following page...

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X



JOSE C. CALIDA

Solicitor General

Roll No. 24852

IBP Lifetime No. 015360, 08-18-16

MCLE Exemption No. VII-OSG000228, 11-08-19



MA. ANTONIA EDITA C. DIZON

Assistant Solicitor General

Roll No. 33774

IBP Lifetime No. 010284, 12-12-11

MCLE Exemption No. VII-OSG000219, 11-05-19



MARISSA B. DELA CRUZ-GALANDINES

Assistant Solicitor General

Roll No. 37023

IBP No. 113527, 01-14-20

MCLE Exemption No. VII-OSG000214, 11-05-19



BERNARD G. HERNANDEZ

Assistant Solicitor General

Roll No. 34618

IBP Lifetime No. 08866, 2-1-10

MCLE Exemption No. VII-OSG000218, 11-05-19



VIDA G. SAN VICENTE

Assistant Solicitor General

Roll No. 33995

IBP Lifetime No. 09503, 01-07-11

MCLE Exemption No. VI-000380, 04-02-18

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X



JOHN EMMANUEL F. MADAMBA

Assistant Solicitor General

Roll No. 37363

IBP No. 086444, 07-24-19

MCLE Exemption No. VII-OSG000220, 11-05-19



REX BERNARDO L. PASCUAL

Assistant Solicitor General

Roll No. 38914

IBP Lifetime No. 01997, 10-30-00

MCLE Exemption No. VII-OSG002251, 01-14-20



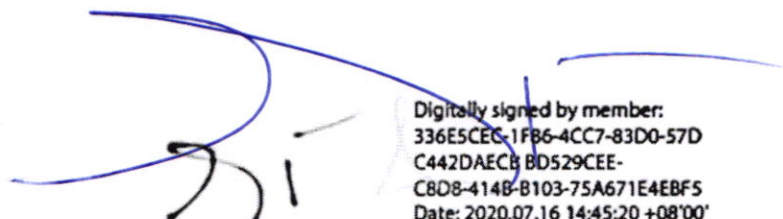
MAGTANGGOL M. CASTRO

Assistant Solicitor General

Roll No. 35970

IBP No. 105263, 01-01-20

MCLE Exemption No. VII-OSG000222, 11-05-19



Digitally signed by member:
336E5CEC-1F86-4CC7-83D0-57D
C442DAECB-BD529CEE-
C8D8-414B-B103-75A671E4EBF5
Date: 2020.07.16 14:45:20 +08'00'

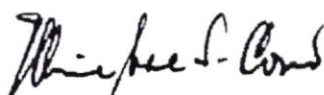
ERIC REMEGIO O. PANGA

Assistant Solicitor General

Roll No. 39377

IBP Lifetime No. 04291, 01-09-03

MCLE Exemption No. VII-OSG000212, 11-05-19



ELLAINE ROSE A. SANCHEZ-CORRO

Assistant Solicitor General

Roll No. 36514

IBP Lifetime No. 02444, 06-08-01

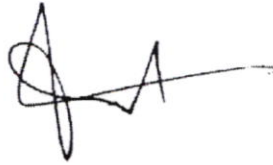
MCLE Exemption No. VII-OSG000216, 11-05-19

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X



MARIA CIELO G. SE-RONDAIN

Assistant Solicitor General

Roll No. 35028

IBP Lifetime No. 08902, 02-16-10

MCLE Exemption No. VI-000882, 09-17-18



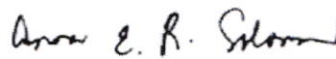
THOMAS M. LARAGAN

Assistant Solicitor General

Roll No. 38842

IBP Lifetime No. 09144, 04-29-10

MCLE Exemption No. VII-OSG000215, 11-05-19



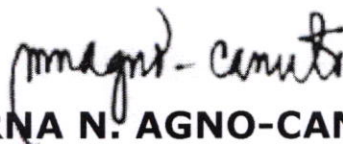
ANNA ESPERANZA R. SOLOMON

Assistant Solicitor General

Roll No. 33927

IBP Lifetime No. 014623, 03-01-16

MCLE Exemption No. VI-000371, 04-02-18



MYRNA N. AGNO-CANUTO

Assistant Solicitor General

Roll No. 39183

IBP Lifetime No. 014623, 03-01-16

MCLE Exemption No. VI-000373, 04-02-18

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X

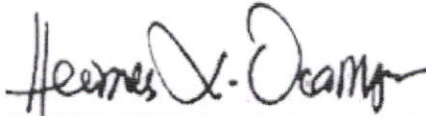

MARISSA MACARAIG-GUILLEN

Assistant Solicitor General

Roll No. 33725

IBP Lifetime No. 00253

MCLE Exemption No. VII-OSG000229, 11-08-19



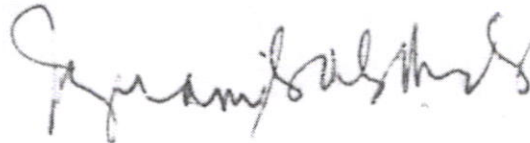
HERMES L. OCAMPO

Assistant Solicitor General

Roll No. 40169

IBP Lifetime No. 09135, 4-28-10

MCLE Exemption No. VI-000633, 05-24-18



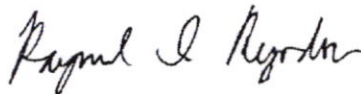
NYRIAM SUSAN S. HERNANDEZ

Assistant Solicitor General

Roll No. 35338

IBP Lifetime No. 07708, 8-13-08

MCLE Exemption No. VII-OSG000221, 11-05-19



RAYMUND I. RIGODON

Assistant Solicitor General

Roll No. 39730

IBP Lifetime No. 013395, 2-12-15

MCLE Exemption No. VII-OSG000217, 11-05-19



MARIA HAZEL V. ACANTILADO

Assistant Solicitor General

Roll No. 43682

IBP Lifetime No. 02780

MCLE Exemption No. VI-000375, 04-02-18

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X



ANGELITA V. MIRANDA

Assistant Solicitor General

Roll No. 42949

IBP Lifetime No. 02113

MCLE Exemption No. VII-OSG000211, 11-05-19



HENRY S. ANGELES

Assistant Solicitor General

Roll No. 45837

IBP Lifetime No. 016075, 4-21-17

MCLE Exemption No. VI-002494, 04-24-19



ALEXANDER S. SALVADOR

Assistant Solicitor General

Roll No. 42940

IBP Lifetime No. 013968

MCLE Exemption No. VII-OSG002146, 12-19-19



PEÑAFRANCIA C. CARPIO DEVESA

Assistant Solicitor General

Roll No. 37203

IBP Lifetime No. 018148, 11-07-17

MCLE Exemption No. VII-OSG-000136, 09-10-19



JOSEPH L. GUEVARRA

Assistant Solicitor General

Roll No. 36854

IBP Lifetime No. 010364, 01-06-12

MCLE Compliance No. VI-0026445, 05-31-19

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X

Maria Victoria V. Sardillo

MARIA VICTORIA V. SARDILLO

Assistant Solicitor General

Roll No. 47226

IBP Lifetime No. 07223

MCLE Compliance No. VI-0029360, 11-19-19

Diana Carl de Vera

Diana Carl de Vera

DIANA C. DE VERA

Assistant Solicitor General

Roll No. 42914

IBP Lifetime No. 08543

MCLE Compliance No. V-0008863, 07-01-15

Gilbert U. Medrano

GILBERT U. MEDRANO

Assistant Solicitor General

Roll No. 47392

IBP Lifetime No. 03598

MCLE Compliance No. VI-0021105, 03-26-19

James Lee Cundangan

JAMES LEE CUNDANGAN

Senior State Solicitor

(Officer-in-Charge)

Roll No. 47481

IBP Lifetime Membership No. 09142, 04-29-10

MCLE Compliance No. VI-0023137, 04-11-19

Arleen T. Reyes

ARLEEN T. REYES

Senior State Solicitor

Roll No. 41324

IBP Lifetime No. 1885, 05-17-00

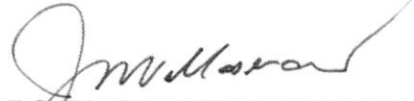
MCLE Compliance No. VI-0021131, 03-26-19

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 25258 , 252613, 252623-24, and 252646.

X-----X



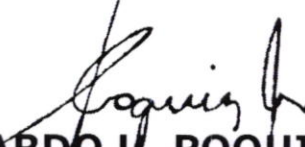
JOEL N. VILLASERAN

Senior State Solicitor

Roll No. 55935

IBP Lifetime No. 08748

MCLE Compliance No. VI-0021160




EDUARDO U. POQUIZ, JR.

State Solicitor II

Roll No. 56036

IBP No. 113526, 04-10-19

MCLE Compliance No. VI-0024683, 04-10-19



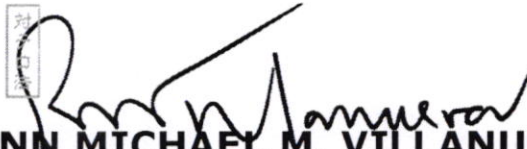
JOSEPH RYAN C. ABALOS

State Solicitor I

Roll No. 56952

IBP Lifetime No. 08282

MCLE Compliance No. VI-0020782, 03-26-19



RONN MICHAEL M. VILLANUEVA

State Solicitor I

Roll No. 62239

IBP Lifetime No. 012240

MCLE Compliance No. VI-0021159, 03-26-19



KAMILLE DEANNE M. LAGASCA-MAHIG

Associate Solicitor III

Roll No. 64279

IBP Lifetime No. 013913, 06-17-15

MCLE Compliance No. VI-0021088, 03-26-19

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X



ALEXIS JOSEPH R. NOBLE

Associate Solicitor III

Roll No. 64717

IBP No. 121543, 01-09-20

MCLE Compliance No. VI-0028161, 07-29-19



JUSTIN RYAN D. MORILLA

Associate Solicitor III

Roll No. 67042

IBP Lifetime No. 029305, 09-24-18

MCLE Compliance No. VI-0021111, 03-26-19



MA. CARINA G. LOPEZ

Associate Solicitor II

Roll No. 66417

IBP No. 114140, 02-04-20

MCLE Compliance No. VI-0001789, 03-15-17



MINA FRANCESCA D. BATUNGBACAL

Associate Solicitor III

Roll No. 64290

IBP Lifetime No. 018737

MCLE Exemption No. VI-CL002959



HACEL GRACE T. DELA CRUZ

Associate Solicitor II

Roll No. 69359

IBP Life Member Roll No. 002566, 05-11-2017

MCLE Compliance No. VI-0021040, 03-26-2019

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 252585, 252613, 252623-24, and 252646.

X-----X



KYLE BRYAN M. GUERRERO

Associate Solicitor I

Roll No. 71564

IBP No. 108579, 01-08-20

MCLE Compliance No. VI-0021066



STEVEN G. GATACELO

Associate Solicitor I

Roll No. 69440

IBP No. 058930, 01-22-20

MCLE Compliance No. VI-0030055, 12-22-19



JOSE DOMINIC F. CLAVANO IV

Associate Solicitor I

Roll No. 77330

IBP Member No. 088588, 05-14-19

Admitted to the Bar in 2019

OFFICE OF THE SOLICITOR GENERAL

134 Amorsolo Street, Legaspi Village,

1229 Makati City

Tel. No.: 988-1674 (Trunkline)

Fax No.: 813-4585

Website: www.osg.gov.ph

Email: osgatateam@osg.gov.ph

Copy furnished:

Atty. Leonard Peejay V. Jurado Law Office

G/F Unit C, Dona Enriqueta Building

No. 46 Kamias Road, Quezon City

Ateneo Human Rights Center

4/F Ateneo Professional Schools Building

20 Rockwell Drive, Rockwell Center

Makati City

CONSOLIDATED COMMENT

Calleja, et al. v. Executive Secretary, et al

GR. Nos. 252578-80, 25258 , 252613, 252623-24, and 252646.

X-----X

Calleja Law Office

Unit 2904-C, West Tower, PSE Centre
Exchange Road, Ortigas Center
Pasig City

Dean J.V. Bautista

Suite 906, The Richmond Plaza
21 San Miguel Avenue cor. Lourdes Avenue
Ortigas Center, Pasig City

MAKABAYAN National Headquarters

Block 31, Lot 13, A. Bonifacio Street
New Capitol Estates 1, Batasan Hills
Quezon City

Melencio S. Sta. Maria

6/F Far Eastern University Makati Campus
Sen. Gil Puyat Avenue cor. Malugay Street
Makati City

Pro-Labor Legal Assistance Center

No. 33-B, E. Rodriguez Sr. Avenue
Brgy. Dona Josefa, Quezon City

Rep. Edcel C. Lagman

Rm. N-411, House of Representatives
Quezon City

EXPLANATION

The foregoing **Comment** will be electronically filed and served to this Honorable Court and to the parties due to limited office personnel.



GILBERT U. MEDRANO

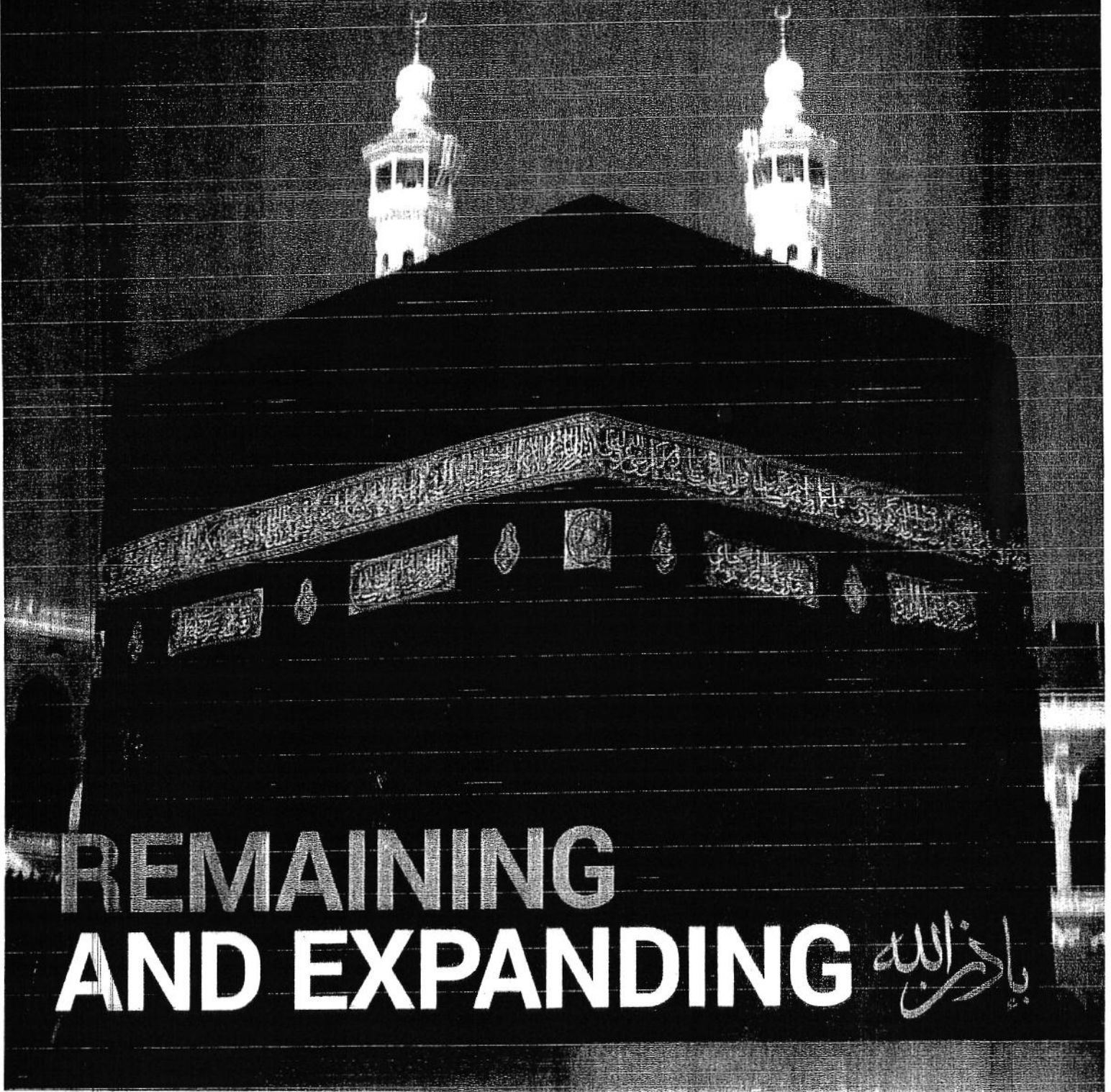
Assistant Solicitor General

ANNEX "1"

DABIQ

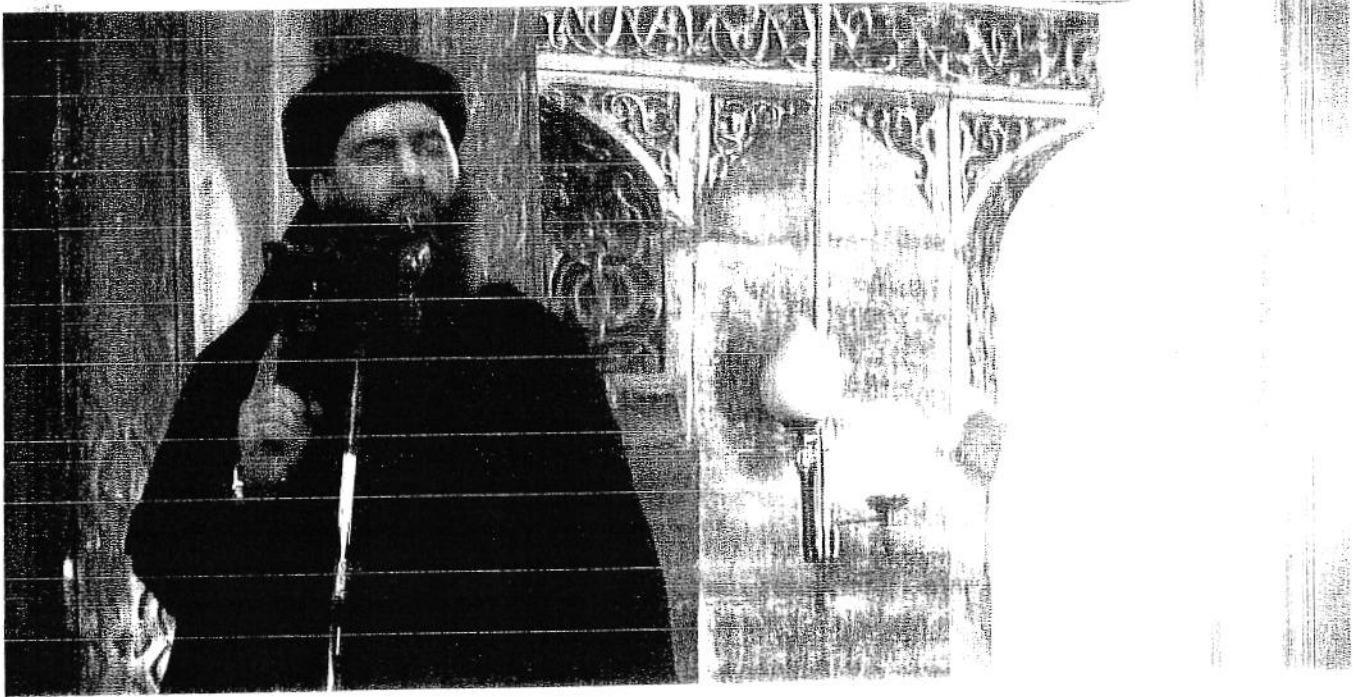
1436
MUHARRAM

5
SHE



**REMAINING
AND EXPANDING**

بِسْمِ اللَّهِ



REMAINING AND EXPANDING

On the 17th of Muharram 1436, the world heard announcements from the mujāhidin of the Arabian Peninsula, Yemen, Sinai, Libya, and Algeria, pronouncing their bay'āt to the Khālifah of the Muslims, Abū Bakr al-Husaynī al-Baghdādī (hafidhahullāh).

All of them announced uniformly:

"Allah – the Exalted – said, {And hold firmly to the rope of Allah all together and do not become divided} [Āl 'Imrān: 103]. And Allah's Messenger (sallallāhu 'alayhi wa sallam) said, "Whoever dies while not having a pledge of allegiance, dies a death of jāhiliyyah" [Sahīh Muslim on the authority of 'Imrān]. Therefore, in obedience to the order of Allah ('azza wa jall) and in obedience to His Messenger (sallallāhu 'alayhi wa sallam), ordering not to divide and to stick to the jamā'ah, we declare the bay'ah to the Khālifah Ibrāhīm Ibn 'Awwād Ibn Ibrāhīm al-Qurashi al-Husaynī, pledging to selflessly hear and obey, in times of hardship and ease, and in times of delight and dislike. We pledge not to dispute the matter of those in authority except if we see obvious kufr concerning which we have proof from Allah. We

the Khālifah and support him, in obedience to Allah and actualization of the unheeded obligation of the era."

They then each gave their own piece of advice and wisdom concerning the obligation of unifying under the banner of the Khilāfah.

The mujāhidin from Algeria advised the mujāhidin everywhere:

"We especially remind the mujāhidin who sacrificed all that is dear and precious, offered their souls without hesitation, and called out, 'Our mission and goal is to establish Allah's Shari'ah on the Earth and Khilāfah upon the methodology of prophethood.' So why do you delay this now? We ask you by Allah, does this delay bring joy to the believers and anger the kuffār? Or the opposite?"

The mujāhidin from the Arabian Peninsula informed the muwāhidin of their lands that they no longer needed to travel far to perform jihād under the banner of the Khilāfah:



THE ISLAMIC STATE IN BARQAH (LIBYA)

Peninsula, the truth has appeared and prevailed. So come to your State and rally around your Khalifah. O muwahhidin in the lands of al-Haramayn, glad tidings, for the jihād that you prepared your saddles for has arrived to the doorsteps of your homes, and no borders will inhibit you from reaching it, nor will any passports or visas prevent you from achieving it."

The mujāhidin from Libya directed the Muslims to the obligation of unity and refuted doubts against this obligation:

"We pledged allegiance because there is no cure for khilāf (differing) other than the Khilāfah. Likewise, we call every Muslim towards this good, for indeed, it is even more infuriating for the enemies of Allah. By Allah, our rallying under one leader is harder on the enemies of Allah than a thousand victories on the battlefield. And do not be deceived by the desertion of the deserters. Ibn Hazm (rahimahullāh) said, 'As for he who says that the imāmah is not valid except with the approval of the Ummah's dignitaries all across the various lands, then this is false, because it is asking for something that is unachievable, is not within anyone's capability, and is the most

burden anyone with what is beyond their scope. Allah says, {And He has not placed upon you in the religion any difficulty} [Al Hajj: 78]."



EXECUTION OF SISI'S APOSTATE SOLDIERS IN SINAI

The mujāhidin of Sinai reminded the mujāhidin of the obligation of unity under the Khilāfah:

"As for my message to my mujāhid brothers on all the fronts, what do you desire? What do you aspire for? After a state was established for Islam and the Muslims and a Khalifah and Amīr for the believers was appointed, suddenly you

it by not standing beneath its banner, at a time in which the world has completely gathered against it. What is wrong with you? What is your excuse, O mujāhidīn? Your unity is strength and your division is weakness. Its might is your might, if only you understood. There is no good in you if they reach it and harm it while you have a single breath left. And I do not think you will allow such to happen. So settle your matter, gather yourselves, and support your state, for you depend on it and it depends on you. By Allah, it is upon the clear truth and supported by Allah, the Mighty, the Strong. So fear Allah, your Lord. Do not let Shaytān deceive you with his propaganda and slander. Indeed, he is a clear enemy to you.”

The mujāhidīn of Yemen counseled the Muslims with the prophetic advice and order for the times of division:

“Allah’s Messenger (sallallāhu ‘alayhi wa sallam) had given us glad tidings of Khilāfah upon the methodology of prophethood. And indeed, by Allah, we have seen it as a Khilāfah upon the methodology of prophethood. And when we heard the trumpets of the Jews and Christians – the callers upon the gates of Hellfire – we answered the order of Allah’s Messenger that obliged sticking to the jamā’ah of the Muslims and their Imām, for Hudhayfah (radiyallāhu ‘anh) said, ‘The people used to ask Allah’s Messenger (sallallāhu ‘alayhi wa sallam) about good, and I used to ask him about evil, fearing that it might overtake me...’ In the hadith, he says, ‘Is there any evil after this good?’ He responded, ‘Yes, callers upon the gates of Hellfire. Whoever answers them will be throw into it by them.’ He said, ‘O Allah’s Messenger, describe them to me.’ He said, ‘They are from our skin and speak with our tongues.’ He said, ‘So what do you order me with if I reach that time?’ He said, ‘Stick to the jamā’ah of the Muslims and their Imām’ [Al-Bukhārī and Muslim].”

Then on the 20th of Muharram 1436, the Khalīfah Ibrāhīm (hafidhahullāh) officially announced the

wilāyāt, and the nullification of all parties and groups therein. In one of the most powerful addresses given since the establishment of the Islamic State, he said, “Glad tidings, O Muslims, for we give you good news by announcing the expansion of the Islamic State to new lands, to the lands of al-Haramayn and Yemen... to Egypt, Libya, and Algeria. We announce the acceptance of the bay’ah of those who gave us bay’ah in those lands, the nullification of the groups therein, the announcement of new wilāyāt for the Islamic State, and the appointment of wulāt for them.”

Prior to the announcement of the new wilāyāt, a number of groups in Khurāsān, al-Qawqāz, Indonesia, Nigeria, the Philippines, and elsewhere had pledged their allegiance to the Khalīfah, and continue to do so daily. The Islamic State announced the acceptance of the bay’āt from all of these groups and individuals – may Allah accept their noble oath and keep them firm upon their covenant, free of falter – but delayed the announcement of their respective wilāyāt, while recognizing that some groups from the aforementioned lands are larger and stronger than a few of those related to the newly announced wilāyāt. This delay should end with either the appointment or recognition of leadership by the Khalīfah for those lands where multiple groups have given bay’āt and merged, or the establishment of a direct line of communication between the Khilāfah and the mujāhid leadership of lands who have yet to contact the Islamic State and thus receive information and directives from the Khalīfah. May Allah bring glad tidings from these lands and others soon and fill the believers’ hearts with further joy.



TUESDAY, DECEMBER 17, 2019

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 41st session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Let us all stand for a minute of silent prayer.

Everybody rose for a minute of silent prayer.

ROLL CALL

The Secretary will please call the roll.

The Secretary, reading:

| | |
|--|---------|
| Senator Sonny Angara..... | Present |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano..... | Present |
| Senator Leila M. de Lima..... | * |
| Senator Ronald "Bato" M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | Present |
| Senator Christopher Lawrence T. Go..... | Present |
| Senator Richard J. Gordon..... | Absent |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel "Lito" M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present |
| Senator Emmanuel "Manny" D. Pacquiao..... | Present |
| Senator Francis "Kiko" Pangilinan..... | Present |
| Senator Aquilino "Koko" Pimentel III | Present |
| Senator Grace Poe..... | Present |
| Senator Ralph G. Recto..... | Present |
| Senator Ramon Bong Revilla Jr..... | Present |
| Senator Francis "Tol" N. Tolentino..... | Present |
| Senator Joel Villanueva..... | Present |

* Under detention

Senator Cynthia A. Villar..... Present
Senator Juan Miguel F. Zubiri Present
The President..... Present

The President. With 15 senators present, the Chair declares the presence of a quorum.

Before I recognize the Majority Leader, I would just like to, again, make mention of the importance of this day. Aside from being the birthday of our champion, Senator Pacquiao, it is also the 14th wedding anniversary of our Majority Leader, Senator Zubiri, and his lovely wife, Audrey. *Labing-apat na taon na palang nagtitiis si Audrey. [Laughter]*

So, congratulations.

The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

Mr. President, we would like to greet our dear colleague, Senator Pacquiao, a happy birthday.

THE JOURNAL
(Consideration Deferred)

Mr. President, I move that we defer the consideration of the *Journal* of the 40th session, Monday, December 16, 2019, to a later hour.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Mr. President, we have a few guests here. We have athletes, gold medalists, and medalists from the Southeast Asian Games. I have two particular athletes whom I am pretty much proud and honored

because they come from Bukidnon—Ms. Christine Hallasgo of the women’s marathon and Sarah Dequinan of women’s heptathlon. They are both gold medalists from my province.

The President. Welcome to the Senate.

Senator Zubiri. Mr. President, Christine is our marathon winner. She is the fastest in the long-distance running.

The President. Congratulations.

Senator Zubiri. Mr. President, we also have with us the SEA Games medalists from the City of Valenzuela. *Mayroon ba itong cash gift? Kasi ako, mayroon ako sa Bukidnon.*

Mr. President, *bibigyan ni Senator Gatchalian iyan.*

We have Mr. Jose Fernando Casares, gold medalist, Philippine triathlon; Noelito Jose Jr., bronze medalist of men’s fencing individual epee; Baby Jessica Canabal, bronze medalist of women’s taekwando; Brandhon Kyrielle Aquino, bronze medalist of sailing; Jeniel “Haze” Bata-anon, gold medalist of e-sports; and John Michael Pasco, bronze medalist of beach handball.

Please rise to be recognized.

The President. Congratulations to our SEA Games medalists from Valenzuela.

Senator Zubiri. Reminder *po sa senator from Valenzuela iyong kanilang cash gifts po, Mr. President. [Laughter]*

Mr. President, we have resolutions that we would like to take up for adoption.

The President. Are these part of the Reference of Business?

Senator Zubiri. Mr. President, if resolutions can be pulled out, but if the Senate President wishes, we can have the Reference of Business.

I move that we proceed to the Reference of Business.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1238, entitled

AN ACT GRANTING CIVIL SERVICE ELIGIBILITY TO GOVERNMENT EMPLOYEES WHOSE STATUS OF APPOINTMENT IS EITHER CASUAL OR CONTRACTUAL, AND WHO HAVE CONTINUOUSLY RENDERED AT LEAST SEVEN (7) YEARS OF EFFICIENT SERVICE

Introduced by Senator Marcos

The President. Referred to the Committee on Civil Service, Government Reorganization and Professional Regulation

The Secretary. Senate Bill No. 1239, entitled

AN ACT ESTABLISHING THE PHILIPPINE BUILDING ACT OF 2019, THEREBY REPEALING PRESIDENTIAL DECREE NO. 1096, AND FOR OTHER PURPOSES

Introduced by Senator Lacson

The President. Referred to the Committees on Public Works; and Finance

RESOLUTIONS

The Secretary. Senate Concurrent Resolution No. 4, entitled:

CONCURRENT RESOLUTION URGING THE BANGSAMORO TRANSITION AUTHORITY TO DESIGNATE ITS REPRESENTATIVES TO THE PHILIPPINE CONGRESS-BANGSAMORO PARLIAMENT FORUM TO BE CREATED PURSUANT TO ARTICLE VI, SECTION 3 OF REPUBLIC ACT NO. 11054, OTHERWISE KNOWN AS THE “ORGANIC LAW FOR THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO” AND TO MEET WITH THE DELEGATES DESIGNATED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE

Introduced by Senator Zubiri

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 277, entitled:

A RESOLUTION HONORING AND COMMENDING THE PHILIPPINE WINDSURFING TEAM FOR GARNERING GOLD MEDALS IN THE 30TH SOUTHEAST ASIAN (SEA) GAMES

Introduced by Senator Pacquiao

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 278, entitled:

RESOLUTION COMMENDING AND CONGRATULATING THE MEMBERS OF THE PHILIPPINE NATIONAL TEAM WHO HAVE COMPETED AND WON MEDALS FOR THEIR ASTONISHING PERFORMANCE, PLACING THE COUNTRY AS THE TOP OVERALL CHAMPION IN THE 30TH SOUTHEAST ASIAN GAMES

Introduced by Senator Go

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 279, entitled:

A RESOLUTION COMMENDING THE OUTSTANDING YOUNG MEN OF 2019

Introduced by Senator Pacquiao

The President. To the Archives

The Secretary. Proposed Senate Resolution No. 280, entitled:

A RESOLUTION COMMENDING AND CONGRATULATING
JOHNRIEL CASIMERO FOR WINNING THE WBO
BANTAMWEIGHT WORLD CHAMPIONSHIP AT THE ARENA
BIRMINGHAM IN BIRMINGHAM, UNITED KINGDOM

Introduced by Senator Pacquiao

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 281, entitled:

RESOLUTION CONGRATULATING AND COMMENDING THE
MEDALISTS FROM THE CITY OF VALENZUELA AT THE
30TH SOUTHEAST ASIAN GAMES

Introduced by Senator Gatchalian

The President. Referred to the Committee on Rules

COMMITTEE REPORTS

The Secretary. Committee Report No. 31, prepared and submitted jointly by the Committees on Trade, Commerce and Entrepreneurship; Ways and Means and Finance, on Senate Bill No. 1240, with Senators Villar, Zubiri and Pimentel III as authors thereof, entitled:

AN ACT INSTITUTIONALIZING BAMBOO INDUSTRY
DEVELOPMENT IN THE PHILIPPINES, CREATING THE
BAMBOO INDUSTRY DEVELOPMENT CENTER (BIDC),
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER
PURPOSES

recommending its approval in substitution of Senate Bill Nos. 337 and 524.

Sponsor: Senator Pimentel

The President. To the Calendar for Ordinary Business

The Secretary. Committee Report No. 32, prepared and submitted jointly by the Committees on Trade, Commerce and Entrepreneurship; and Local Government, on Senate Bill No. 1241, with Senators Recto and Pimentel III as authors thereof, entitled:

AN ACT INSTITUTIONALIZING THE ESTABLISHMENT OF TIMBANGAN NG BAYAN CENTERS IN PUBLIC AND PRIVATE MARKETS, AMENDING FOR THE PURPOSE CHAPTER II, TITLE III OF REPUBLIC ACT NO. 7394 OTHERWISE KNOWN AS THE "CONSUMER ACT OF THE PHILIPPINES"

recommending its approval in substitution of Senate Bill No. 761.

Sponsor: Senator Pimentel

The President. To the Calendar for Ordinary Business

The Majority Leader is recognized.

Senator Zubiri. Thank you very much, Mr. President.

I have an omnibus sponsorship of two resolutions, Mr. President, Proposed Senate Resolution Nos. 245 and 246. Should we proceed one by one, Mr. President?

The President. The Majority Leader may do so, unless there is an objection on the Floor.

Senator Zubiri. Thank you, Mr. President.

So, if I may be allowed to be recognized, Mr. President.

The President. Yes, Senator Zubiri is recognized.

Senator Zubiri. With the permission of the Body, I move that we take up Proposed Senate Resolution Nos. 245 and 246.

CONSIDERATION OF P.S. RES. NO. 245
(Congratulating and Commending Christine Hallasgo)

Senator Zubiri. Mr. President, I move that we consider Proposed Senate Resolution Nos. 245 as reported out by the Committee on Rules.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Proposed Senate Resolution No. 245 is now in order. With the permission of the Body, the Secretary will read only the title of the resolution without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 245, entitled

RESOLUTION CONGRATULATING AND COMMENDING
CHRISTINE HALLASGO FOR WINNING A GOLD MEDAL IN
THE 30TH SOUTHEAST ASIAN GAMES AFTER EMERGING
VICTORIOUS IN THE WOMEN'S MARATHON AT THE NEW
CLARK CITY IN CAPAS, TARLAC ON 6 DECEMBER 2019

The following is the whole text of the resolution:

P. S. Res. No. 245

[Insert]

CONSIDERATION OF P.S. RES. NO. 246
(Congratulating and Commending Sarah Noveno Dequinan)

Senator Zubiri. Mr. President, I move that we consider Proposed Senate Resolution Nos. 246 as reported out by the Committee on Rules.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Proposed Senate Resolution No. 246 is now in order. With the permission of the Body, the Secretary will read only the title of the resolution without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 246, entitled

RESOLUTION CONGRATULATING AND COMMENDING SARAH
NOVENO DEQUINAN FOR WINNING A GOLD MEDAL IN THE
30TH SOUTHEAST ASIAN GAMES AFTER EMERGING
VICTORIOUS IN THE WOMEN'S HEPTATHLON AT THE

ATHLETICS STADIUM IN THE NEW CLARK CITY IN CAPAS,
TARLAC ON 8 DECEMBER 2019

The following is the whole text of the resolution:

P. S. Res. No. 246

[Insert]

Senator Zubiri. Mr. President, if I may be recognized.

The President. The Majority Leader is recognized.

SPONSORSHIP SPEECH OF SENATOR ZUBIRI

Senator Zubiri. Mr. President, I take the Floor today to congratulate two women from Bukidnon who brought pride to our province and to the nation by netting gold medals at the Southeast Asian Games.

For the women's marathon held at New Clark City on 6 December 2019, 27-year-old Christine Hallasgo from Malaybalay City, Bukidnon, stormed through the competition to a triumphant gold medal finish, completing the 42-kilometer race in only 2 hours, 56 minutes, and 56 seconds. This win was an underdog surprise and a stunning upset, coming from a first-time SEA Games competitor.

For the women's heptathlon held at Clark City on 8 December 2019, Sarah Noveno Dequinan brought the country's name to similar acclaim. The 23-year-old athlete from Valencia, Bukidnon collected 5,101 points throughout the 100-meter hurdles, the high jump, the shot put, the 200-meter run, the running long jump, the javelin throw, and the 800-meter run to ultimately score the gold. With this feat, Sarah has claimed a win that has eluded us

since the legendary Elma Muros achieved it in 2001. Almost two decades later, we can once again proudly claim that the “toughest woman in Asia” is a Filipina.

Both Christine and Sarah had to do the difficult thing of leaving their families in Bukidnon for a while in order to put in the necessary training for the SEA Games. Their sacrifice, suffice it to say, has paid off immensely. We, in Bukidnon, could not be more proud of them. They have put our beloved province on the map, and they have brought great pride to the nation.

For all of this, Mr. President, it is my honor to commend Christine and Sarah, who are testament to the astounding capabilities of the empowered Filipina.

ADOPTION OF P. S. RES. NOS. 245 AND 246

Mr. President, there are no amendments and no interpellators, I move, with the permission of the Body, that we adopt Proposed Senate Resolution Nos. 245 and 246.

The President. Is there any objection? *[Silence]* There being none, Proposed Senate Resolution No. 245, taking into consideration Proposed Senate Resolution No. 246, is hereby adopted.

MANIFESTATION OF SENATOR ZUBIRI (Cosponsorship and Coauthorship of All Members of P.S. Res. Nos. 245 and 246)

Senator Zubiri. Mr. President, for the record as well, could we make all members of the Senate as cosponsors and coauthors of the measures?

The President. We make that on record.

Senator Zubiri. Thank you, Mr. President.

Before we pause to recognize and give them the resolutions, I would like to move forward with the other resolutions on the SEA Games athletes so that we can pause quickly and have photo with all of them together.

The President. Yes, the Majority Leader may do so.

CONSIDERATION OF P. S. RES. NO. 281
(Congratulating and Commending the Medalists from the City of Valenzuela)

Senator Zubiri. Mr. President, I move that we consider Proposed Senate Resolution No. 281 as reported out by the Committee on Rules.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Proposed Senate Resolution No. 281 is now in order. With the permission of the Body, the Secretary will read only the title of the resolution without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Proposed Senate Resolution No. 281, entitled

RESOLUTION CONGRATULATING AND COMMENDING THE
MEDALISTS FROM THE CITY OF VALENZUELA AT THE
30TH SOUTHEAST ASIAN GAMES

The following are the whole texts of the resolutions:

P. S. Res. No. 281

[Insert]

Senator Zubiri. Mr. President, may we recognize the sponsor of the measure, Sen. Win Gatchalian.

The President. Former Mayor Win Gatchalian of Valenzuela is recognized.

SPONSORSHIP SPEECH OF SENATOR GATCHALIAN

Senator Gatchalian. Thank you, Mr. President.

Mr. President, distinguished colleagues, good afternoon.

I am in high spirits as I stand before all of you this afternoon. Only one week has passed since the Philippines clinched the overall championship at the 30th Southeast Asian Games, but up to now, we are still elated with the historic win that our athletes delivered for our country.

By the time our athletes have hauled 149 gold, 117 silver, and 121 bronze medals, we all knew how it felt to win as one. Mr. President, today, I am proud to pay tribute to Valenzuela's athletes who took part in making history and showed our Southeast Asian neighbors that Filipino talent is truly world-class.

Let us recognize my fellow *kababayans* from Valenzuela who are here with us this afternoon, two of them bagged gold medals: Mr. Fernando Jose Casares in the triathlon-mixed relay; and Jeniel "Haze" Bata-Anon in e-sports. Four Valenzuelanos also clinched bronze medals: Noelito Jose Jr. of the Philippine Fencing Team, and coincidentally, he is also a Pio Valenzuela scholar—that is a very coveted scholarship program in Valenzuela; Brandhon Kyrielle Aquino of the Sailing International Men's Event; Baby Jessica Canabal of the Taekwondo Women's Team; and John Michael "Amay" Pasco of the Men's Beach Handball Team.

Bilang isang mamamayan at dating alkalde ng Lungsod ng Valenzuela, lubos kong ipinagmamalaki ang tagumpay ng aking mga kababayan sa nagdaang SEA Games. Commending our players from Valenzuela is not just an acknowledgment of their talent and triumph, but it also proved to us that hard

work, determination, and love for sports have led them to greater heights. *Hindi po biro, Mr. President, ang pinagdaanan nilang sakrispisyo sa pagsasanay para lamang maiuwi ang medalya. Mas lalong hindi biro ang maging malayo sa kanilang mga mahal sa buhay para lamang mag-ensayo.*

Hindi lamang po sila ang nagbibigay ng inspirasyon sa akin. Nagpapasalamat din po ako sa lahat ng mga taga-Valenzuela na taos-pusong nagbibigay ng suporta sa ating mga manlalaro.

Our very own players received an outpouring of well wishes and other forms of support from our local government officials to every *kababayan* on the streets of Valenzuela City. *At sa kanilang pagwawagi, hindi lamang sila nag-uwi ng karangalan para sa kanilang sarili. Ang kanilang tagumpay ay tagumpay ng Lungsod ng Valenzuela at ng ating bansa.*

Mr. President, our winning athletes remind us that it is time for us to write a new chapter in the history of sports development in our country. They inspire us to create a nurturing environment that will help them develop their talents, exceed their limits, and achieve their dreams.

I strongly believe that the greatest honor we can give them is to boost sports development in our country so that athletes like them could reach their full potential and be well-equipped for the world stage. Let us both maintain and sustain the enthusiasm and energy we showed at the Southeast Asian Games and support the next generation of Filipino athletes.

Looking forward to the new year, I am very excited on our proposed Philippine High School for Sports that will help us develop more world-class Filipino athletes.

It is my dream to see more young Valenzuelanos develop their talents and become global athletes.

Sa mga kapwa kong Valenzuelano na nagdala ng karangalan sa aming mahal na lungsod at sa buong bansa, alam kong malayo pa ang inyong mararating upang makapag-uwi ng mas marami pang karangalan. Sa pagpapatuloy ng inyong paglalakbay, makakaasa kayo na katuwang po ninyo ako.

Mr. President, dear colleagues, I urge you to join me in congratulating and commending our Southeast Asian Games medalists from the City of Valenzuela who brought honor and pride to our country.

Mabuhay ang mga atletang Pinoy! Mabuhay ang mga manlalaro ng Valenzuela City!

Maraming Salamat po.

The President. The Majority Leader is recognized.

Senator Zubiri. Mr. President, may we recognize Senator dela Rosa.

The President. Senator dela Rosa is recognized.

MANIFESTATION OF SENATOR DELA ROSA

Senator Dela Rosa. Thank you, Mr. President, for allowing me to present my short manifestation on the same topic—the performance of our athletes in the last SEA Games.

Mr. President, I join my colleagues in this august Chamber in commending all our Filipino athletes who have actively and excellently participated in the recent Southeast Asian Games. Not only did they reap gold, silver, and bronze medals for our country, but they also won the hearts of other SEA Games competitors and the whole world, for demonstrating the highest degree of sportsmanship, discipline, and supreme distinction of what Filipino athletes are made of.

Being a sportsperson myself, I feel the joy and the triumph of our local athletes whose hours of tireless practice and indefatigable sacrifices paved the way to success.

I was once a varsity player of the Philippine Military Academy. I was into boxing, judo, and wrestling during my PMA days, and almost made it to the national team in wrestling during the Gintong Alay days of Michael Keon.

Being into sports not only enhances the physical stamina and well-being of an individual, but likewise nurtures one's emotional and mental discipline in achieving the personal goal of excelling in one's chosen sports.

Maraming salamat sa ating mga atleta na naging magandang huwaran sa ating mga kabataan na magtuon ng panahon sa sports.

Saludo ako sa ating mga atletang Pilipino! Salamat sa karangalang ipinagkaloob ninyo sa ating bansa at mamamayang Pilipino!

Thank you, Mr. President.

The President. The Majority Leader is recognized.

MANIFESTATION OF SENATOR ZUBIRI
(Cosponsorship and Coauthorship of All the Members)

of P. S. Res. No. 281)

Senator Zubiri. Mr. President, with the permission of the sponsor, Senator Gatchalian, I ask that all members of the Senate be made cosponsors and coauthors of the measure.

The President. Place that on record.

ADOPTION OF P. S. RES. NO. 281

Senator Zubiri. Mr. President, there are no other members who wish to interpellate and there are no amendments as well. I move that we adopt Proposed Senate Resolution No. 281.

The President. Is there any objection? *[Silence]* There being none, Proposed Senate Resolution No. 281 is adopted.

SUSPENSION OF SESSION

Senator Zubiri. Mr. President, may I ask for a one-minute suspension of the session to give the resolution of congratulations to our medalists.

The President. Is there any objection? *[Silence]* There being none, the session is suspended.

It was 3:23 p.m.

RESUMPTION OF SESSION

At 3:29 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Zubiri. Mr. President, I know in the agenda today, we marked the Anti-Terrorism Act as number one priority.

The President. Yes.

Senator Zubiri. But my assistant Majority Leader has been badgering me today if he can just read his three-page sponsorship speech, to which Senator Lacson graciously acceded to allow the sponsorship of the good gentleman from Bulacan.

SPECIAL ORDER

Senator Zubiri. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 30 on Senate Bill No. 1233, entitled

AN ACT EXPANDING THE USE OF THE LEGAL ASSISTANCE
FUND, AMENDING FOR THE PURPOSE SECTION 26 OF
REPUBLIC ACT NO. 8042, AS AMENDED, OTHERWISE
KNOWN AS THE MIGRANT WORKERS AND OVERSEAS
FILIPINOS ACT OF 1995

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1233—Migrant Workers
and Overseas Filipinos Legal Assistance Fund

Senator Zubiri. Mr. President, I move that we consider Senate Bill No. 1233 as reported out under Committee Report No. 30.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Consideration of Senate Bill No. 1233 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1233, entitled

AN ACT EXPANDING THE USE OF THE LEGAL ASSISTANCE
FUND, AMENDING FOR THE PURPOSE SECTION 26 OF
REPUBLIC ACT NO. 8042, AS AMENDED, OTHERWISE
KNOWN AS THE MIGRANT WORKERS AND OVERSEAS
FILIPINOS ACT OF 1995

The following is the whole text of the bill:

S. No. 1233

[Insert]

The President. The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

Mr. President, I ask that we recognize the sponsor, Sen. Joel Villanueva,
to sponsor the measure.

The President. Sen. Joel Villanueva is recognized.

SPONSORSHIP SPEECH OF SENATOR VILLANUEVA

Senator Villanueva. Thank you, Mr. President; thank you, Mr. Majority
Leader.

Maganda at mapagpalang hapon po sa ating lahat.

Mr. President and my distinguished colleagues, it is my honor as
chairman of the Committee on Labor, Employment and Human Resources
Development to sponsor Senate Bill No. 1233 under Committee Report No. 30
or “An Act Expanding the Use of the Legal Assistance Fund, Amending for the
Purpose Section 26 of Republic Act No. 8042, as Amended, Otherwise Known
as the Migrant Workers and Overseas Filipinos Act.”

G. Pangulo, tatlong buwan na po ang nakararaan nang magbaba ng hatol ang Syrian District Criminal Court na guilty sa kasong murder si Mouna Ali Hassoun, ang employer ng kababayan nating inabuso, pinaslang, at itinago sa loob ng freezer sa isang inabandonang apartment sa Kuwait na si Joanna Demafelis. Halos tatlong taon pong paghihintay mula nang una nating mabalitaan ang pagkawala ni Joanna Demafelis noong 2017.

Habang nakikipaglaban para sa hustisya ang kaniyang mga pamilya at mahal sa buhay ang ating gobyerno, isang kababayan din natin ang kinidnap at ginahasa naman noong ika-4 ng Hunyo 2019 ng isang Kuwaiti police officer na si Fayed Naser Hamad Alajmy. Nangyari po ito pagdating na pagdating sa Kuwait ng ating kababayan para magtrabaho bilang household service worker.

Dalawang linggo matapos ang insidenteng ito, isang kababayan naman nating biktima ng illegal recruitment at human trafficking ang namatay sa Morocco matapos siyang tumalon diumano mula sa ikatlong palapag ng tinitirhang apartment matapos daw ang mainit na pakikipagtalo sa kaniyang employer noong ika-22 ng Hunyo 2019.

Ang tatlong pangyayaring ito ay napakaliit na porsiyento lamang ng hindi po mabilang na kaso ng pang-aabuso sa ating mga OFWs. Noong ika-6 lamang ng Oktubre, 158 Pilipino mula sa United Arab Emirates na biktima ng illegal recruitment at human trafficking ang sapilitan ding umuwi at ipinauwi dito sa ating bansa.

Bukod po sa physical abuse, marami rin sa ating mga kababayan ang nakaranas ng psychological abuse kaya nga po isinulong at ipinasa natin noong

nakaraang Kongreso ang Social Welfare Attaché Law; hindi pagbabayad ng tamang suweldo o delayed na pagbayad ng suweldo; contract alteration tulad ng nangyari sa mga Pinoy truck drivers sa Poland at Germany, at sa iba pang lugar sa Europa.

Maging sa atin pong opisina, G. Pangulo, araw-araw po tayong nakatatanggap ng mga liham, sulat, at e-mail mula sa mga OFWs sa iba't-ibang panig ng mundo; humihingi ng tulong upang ma-rescue sila sa kanilang mga mapang-aping employers, o upang matulungan sila sa mga kasong nasasangkutan nila sa ibang bansa.

Kaya nga po, G. Pangulo, kailangan natin ng makabuluhang reporma sa ating batas upang paigtingin pa ang proteksiyon para sa ating mga bagong bayani, para sa ating mga OFWs, gayundin ang mga programang magpapatingkad ng pagkalinga ng gobyerno sa kanila.

This is in line with the 1987 Constitution, Mr. President, which decrees the full protection of labor, both local and overseas, as a primary social economic force. To be sure, however, full protection of labor under the Constitution does not simply mean and end at mere provision by the State of work and equal employment opportunities for its workforce. Full protection of labor more significantly implies a continuing positive duty on the part of the Senate to ensure that the rights of its workers are at all times protected and their welfare promoted and improved at every chance possible.

According to the Department of Labor and Employment (DOLE), as of June 2019, there are approximately 8,985,377 Filipinos abroad—3,352,188 of

which are Filipino migrant workers. Meanwhile, according to the Department of Foreign Affairs (DFA), the number of overseas Filipinos who have sought the help of the DFA for legal assistance has been on a steady increase. In 2018, there are approximately 3,735 overseas Filipinos who have been assisted by the DFA through the legal assistance fund. Meanwhile, as of August 31, 2019, approximately 4,116 have already benefited from the legal assistance fund.

These data reflect not only the practical utility of the legal assistance fund and its advantages, but also and more importantly, Mr. President, the existence of the actual need for immediate and prompt legal assistance to the thousands of migrant workers and Filipinos abroad.

Mr. President, it is in this context that I am sponsoring Senate Bill No. 1233 under Committee Report No. 30, which aims to amend Section 26 of the Migrant Worker's Act, and aims to achieve the following:

First, this measure seeks to strengthen and expand the use of the legal assistance fund to include bonds required not just by the courts, but also by other agencies or tribunal. The law's application, thus, is not only limited to payment of bonds for purposes of securing provisional liberties, but also to such other bonds required by courts, tribunals, or government agencies.

Second, the proposed amendment to Section 26 of the Migrant Workers Act authorizes our foreign posts to engage the services of paralegals with special knowledge and familiarity with the language, laws, rules, procedures, customs, and traditions of the foreign country. Mr. President, this allows our foreign posts to immediately provide, at the very least, such basic or first aid

legal services that migrant workers and overseas Filipinos in distress may need. The aim is to advance and improve not only the quality, but also the promptness of the delivery of these services to our migrant workers and overseas Filipinos.

Third, the amendments mandate in no uncertain terms that legal support and the legal assistance fund shall immediately and at all times be made available to distressed migrant workers and Filipinos abroad. It further clarifies that such assistance shall be given from the moment the case is initiated, or the proceeding is commenced, until its termination, promulgation, and execution. This assistance extends further to all appeals taken on these cases, thereby guaranteeing full and complete support to distressed Filipino overseas.

Lastly, Mr. President, the measure clarifies that the implementing rules and regulations of the Act may authorize the secretary of foreign affairs to delegate the authority to approve an expenditure chargeable to the fund to the head of post, subject, of course, to existing rules and regulations of the Commission on Audit (COA). Mr. President, this is to address the concern raised during our technical working group discussions that actions on requests for legal assistance by some OFWs are delayed because of the bureaucratic approval process in availing of the fund. Accordingly, before a legal expense can be charged to the fund, an approval from the main office of the Department of Foreign Affairs is still needed, which sometimes, may be

detrimental to the welfare, not to mention mental health, of migrant workers and overseas Filipino in distress.

Therefore, Mr. President, we urge our esteemed colleagues to rally behind this noble effort to further strengthen the protection afforded by the State to our migrant workers and overseas Filipinos. The risks and vulnerabilities suffered by our countrymen overseas cannot be overemphasized.

Indeed, the proposed amendments to the Migrant Workers Act are a testament to the State's continuing effort to give true meaning to the constitutional edict of giving "full protection" to our migrant workers and distressed overseas Filipinos.

As the eminent Associate Justice of the Supreme Court Abraham Sarmiento once observed, "It is bad enough that the country has to send its sons and daughters to strange lands because it cannot satisfy their employment needs at home. Under these circumstances, the Government is duty-bound to ensure that our toiling expatriates have adequate protection, personally and economically, while away from home." It is, thus, just fitting and appropriate and in line with the celebration of the "Month of Overseas Filipinos," that this Chamber fully and immediately approve Senate Bill No. 1233 under Committee Report No. 30.

Before I end my speech, Mr. President, please allow me to reiterate our thanks and appreciation to all our colleagues for their interest and support to this measure, most especially our coauthors, Senators Nancy Binay and

Ronald “Bato” dela Rosa, and the members of the Committee on Labor and Employment who actively participated during the deliberations of this bill.

Maraming salamat po, at muli, pagpalain tayong lahat ng ating Panginoong Diyos.

The President. Majority Leader.

MANIFESTATION OF SENATOR ZUBIRI
(Insertion of the Sponsorship Speeches of Senators Dela Rosa and Binay
on S. No. 1233 Into the *Record*)

Senator Zubiri. Thank you, Mr. President.

Sen. Ronald “Bato” M. dela Rosa and Sen. Nancy Binay would like to insert into the *Record* their cosponsorship speeches.

The President. The cosponsorship speeches of Senators Dela Rosa and Binay be inserted into the *Record*.

MOTION OF SENATOR ZUBIRI
(Cosponsorship of All the Members Present of Senate Bill No. 1233)

Senator Zubiri. Mr. President, there are requests from our colleagues, Senators Angara, Poe, Pacquiao, and myself, to be made coauthors of the measure.

The President. Senators Gatchalian and Pimentel also, and all those present.

Senator Zubiri. With the permission of the Body, Mr. President, I move that all members present be made cosponsors of Senate Bill No. 1233.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

SUSPENSION OF CONSIDERATION OF S. NO. 1233

Senator Zubiri. Mr. President, to allow our colleagues to study the measure further, I move that we suspend consideration of Senate Bill No. 1233.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Mr. President, we have in the gallery Mayor Haron Omar of Magsaysay, Lanao del Norte, and his party.

The President. Welcome to the Senate.

BILL ON SECOND READING S. No. 1083 – Anti-Terrorism Act of 2019 *(Continuation)*

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. Mr. President, we are in the period of interpellations.

I ask that we recognize the distinguished senator from Cavite, Sen. Panfilo M. Lacson; and to interpellate, our distinguished Minority Leader, Sen. Franklin M. Drilon.

The President. The gentleman from Cavite, chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation, Sen. Ping Lacson, is recognized; and to interpellate, the Minority Leader, Sen. Frank Drilon.

Senator Drilon. Thank you, Mr. President.

Mr. President, given the importance of this measure, I do hope that I can attract the attention of our colleagues in the period of interpellations, where we will seek to clarify certain issues.

This is just a manifestation on record.

Thank you, Mr. President.

Mr. President, will the gentleman from Cavite, sponsor of the measure, yield the Floor for a few questions?

Senator Lacson. To the distinguished Minority Leader, one of the acknowledged better minds in this Chamber, any intervention coming from him to enhance this measure is very much appreciated. So, willingly, Mr. President.

Senator Drilon. Thank you very much, Mr. President.

We wish to assure the good sponsor that the questions we will raise here and the amendments that we will submit later during the period of amendments are aimed to make the provisions clear, remove the ambiguities, both in substance and procedure, to make the law and its implementation and prosecution more effective.

It is in this context that we are availing of this period of interpellations in order that we can submit to the good sponsor our views as to how to improve the bill so that the prosecution arm and the law enforcement agencies of this government can be more effective in their task to secure our borders and our national security.

So, to start with, Mr. President, the gentleman is fully familiar with the concept and principle of civilian supremacy in our Constitution.

Senator Lacson. That is an assurance, Mr. President.

Senator Drilon. Yes, it is found in Article II, Declaration of Principles, Section 3 of our Constitution which says and I quote: “Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the State. Its goal is to secure the sovereignty of the State and the integrity of the national territory.” These are the very clear terms of our Constitution and reiterate the principle of civilian supremacy.

We note, Mr. President, that the bill proposed gives an expansive role to our military establishment in the fight against terrorism. Just to give a few examples of amendments in the proposed measure which gives an expansive role to our armed forces would be: 1) The military is given the authority to undertake surveillance activities upon the order of the Court of Appeals; 2) The military establishment can also apply with the Court of Appeals to compel telecommunications service providers and internet service providers to produce customer information and identification records; 3) The military can also apply for an order to undertake surveillance activities; 4) The military can execute a joint affidavit in connection with the deposit of intercepted and recorded communications with the issuing court; 5) The military can also take into custody a person charged with or suspected of committing any terrorist act or any attempt or conspiracy to commit terrorist acts, or any member of the proscribed group of persons, organization or association without need of judicial warrant of arrest and subject to certain conditions; 6) The Armed Forces of the Philippines may also conduct, upon authority of the court,

examination of bank records. This expansive role of the military is found in various sections of the proposed measure.

Our question, Mr. President, is, given this role given by the bill to the military, if it becomes a law, does this impinge on the principle of civilian supremacy enshrined in our 1987 Constitution?

Senator Lacson. Definitely not, Mr. President, because the primary function of law enforcement rests on the police organization. The military will play a supportive role to assist our police officials in the implementation of this proposed measure.

Senator Drilon. Very good. In other words, the primacy of the PNP is recognized under the proposed measure, notwithstanding the expansive role given to the Armed Forces of the Philippines.

Senator Lacson. That is correct, Mr. President.

In the performance of law enforcement functions, it is still the PNP and the NBI that will play the lead role. But, of course, in some areas where terrorism is, shall we say, abundant in its activities and the military presence is needed, then they are also allowed to exercise or to secure judicial authorization in monitoring or conducting surveillance against the terrorist groups or terrorist individuals, Mr. President.

Senator Drilon. Mr. President, should we not give the Armed Forces of the Philippines a more extensive role where the situation or the act constitutes serious threat to national security?

Senator Lacson. That is correct, Mr. President. But the primacy of the civilian authority is still there because if they conduct surveillance, they still need to get judicial authorization from the civilian court. In this case, in our proposal, not from an ordinary regional trial court but from the Court of Appeals.

Senator Drilon. Yes, that is the present law. What we are really saying, Mr. President, is that when it involves a suppression of insurgency and other serious threats to our national security, I think it should be accepted that the military should play a bigger role and maybe even take a lead.

Let me cite to the good sponsor Section 12 of Republic Act No. 6975.

SEC. 12. Relationship of the Department of the Interior and Local Government with the Department of National Defense. – The Department of the Interior and Local Government shall be relieved of the primary responsibility on matters involving the suppression of insurgency and other serious threats to national security. The Philippine National Police shall, through information gathering and performance of its ordinary police functions, support the Armed Forces of the Philippines on matters involving suppression of insurgency, except in cases where the President shall call on the PNP to support the AFP in combat operations.

In other words, Mr. President, what we are saying is, under our present law and practice, the AFP is given a lead role even on matters involving national security. Is that a correct proposition?

Senator Lacson. That is the impression of the good gentleman under Republic Act No. 6975. That is correct, Mr. President. But the military operate mostly in the rural areas where insurgency is so prevalent that the police cannot handle alone the situation or the security threat. But by and large, generally speaking, the Armed Forces of the Philippines will be in charge of

external threats, while internal threats are taken care of by the Philippine National Police.

Senator Drilon. We are raising this question, Mr. President, because whether the armed forces or the police would have jurisdiction over an offense would depend really on the purpose for which the act is being committed where it threatens national security. It is our submission that this is within the purview of a terrorist activity which should be within the jurisdiction and primary responsibility of the armed forces as right now defined under our existing laws.

Senator Lacson. As I said, Mr. President, if it involves external threats then the Armed Forces of the Philippines takes the lead role. But as far as internal threats, it is a rather complex situation because we can consider acts of terrorism as borderless crimes because a terroristic act may be committed outside of our jurisdiction and, precisely, we intended to make the application of the law proactive to prevent any massive damage on our infrastructure, on the social, political, and even economic structure of the country.

Senator Drilon. Just to be clear and it should be spread on the record, that in the view of the sponsor, the Philippine National Police has the primary obligation and duty to suppress terrorism and the AFP will play a secondary role and only in those instances which are specified in the proposed law.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. Thank you, Mr. President.

Let us go to some specific issues in the bill, Mr. President.

Let us go to Section 4, Mr. President. First, a comment: I believe that the noun “terrorism” as a description of the crime is better than “terrorist acts.” So, at the appropriate time, maybe we can retain the noun “terrorism” to describe the offense rather than “terrorist acts.” In any case, that will come later on. I am just submitting that this early for the consideration of the good sponsor.

Senator Lacson. Yes, Mr. President.

Senator Drilon. Section 4 provides, “Any person who commits any of the following unlawful acts, in or outside of the Philippines, regardless of its stage of execution” is guilty of terrorism. First, this is the extraterritoriality principle because of the phrase “in or outside the Philippines.”

Mr. President, the present law clearly indicates when the extraterritoriality will apply and, in those instances, it is very clear that the nexus of the offense or an element of the offense takes place within the boundaries of the Philippines, or concerns Filipinos, or an establishment recognized as part of the Philippine territory. In other words, it is not simply because a terrorist act was committed but because of the fact that it concerns the Philippines.

Senator Lacson. That is not quite accurate, Mr. President. Even a foreigner who comes to the Philippines or a foreign terrorist...that is why we had dedicated one section defining a foreign terrorist because even if he is not a Filipino and he commits acts of terrorism abroad and he attempts to come to the Philippines, then, he may be put under the jurisdiction of this proposed measure.

Senator Drilon. Firstly, Mr. President, I am just talking about the present law.

Senator Lacson. The present law. I am sorry, Mr. President.

Senator Drilon. Mr. President, the present law, under Section 58, defines the principle when extraterritoriality will apply: 1) when the person who commits crimes defined and punished under this Act within the terrestrial domain of the Philippines; 2) when the individual persons who, although physically outside the territory of the Philippines, commit, conspire or plot to commit any of the offenses punished by this Act inside the territorial limits of the Philippines; 3) persons who, although physically outside the territorial limits of the Philippines, commit any of the said crimes on a board Philippine ship; 4) when the person, although outside the territorial boundaries of the Philippines, commits crimes against a Filipino citizen; 5) when the individuals who, while physically outside the territorial jurisdiction of the Philippines, commit said crimes directly against the Philippine government.

So, if we will note, Mr. President, in the present law, there is always a relation to the security of the Philippines, or the security of its territory, or the security of a Filipino citizen.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. Now, is there a change in that concept? Because it would appear under Section 4 that there is no longer a need for a nexus in the Philippines.

Senator Lacson. That is still the principle applied under the proposed measure, Mr. President. It is the interest or the safety and security of the Philippines and any Filipino residing this country.

Senator Drilon. Yes. I agree with that, Mr. President. That is when the principle of extraterritoriality clearly applies. So, at the appropriate time, would the good sponsor agree to maybe reinstate those instances when extraterritoriality applies, and the important factor is that there must be an element or the objective must involve a Philippine national, Philippine territory, et cetera.

Senator Lacson. Definitely, Mr. President. We will maintain that same principle.

Senator Drilon. Yes, because the way it is phrased here, Mr. President, right now, the way the bill is phrased, especially in the case of foreign terrorist who is punished when they cross borders—that is found in the bill—when they go from one country to the other with a purpose of committing terrorist acts, he is punishable by life imprisonment by Philippine courts.

Senator Lacson. Under the proposed measure, Mr. President.

Senator Drilon. Yes, under the proposed measure. So, theoretically, if a Malaysian terrorist will travel to Indonesia to commit acts of terrorism in Indonesia, it can be punished under the definition of a “foreign terrorist” under the law?

Senator Lacson. Theoretically, yes, Mr. President. But the long arm of the Philippine law cannot overreach to a country like Indonesia or Malaysia.

When they are here, then we acquire jurisdiction. In the first place, even if we have the capability to arrest them in Indonesia, we cannot apply this proposed measure in Indonesia.

Senator Drilon. All right.

Senator Lacson. But if they attempt to come here, even if they committed the crime of terrorism in Indonesia or Malaysia, or elsewhere, then they can be punished with the maximum penalty of life imprisonment without the benefit of parole, Mr. President.

Senator Drilon. All right. Let me clarify that, Mr. President.

Senator Lacson. What we are trying to avoid here is to make the Philippines a safe haven for terrorists. If the gentleman remembers the Maute fighters, they were influenced by foreign terrorists. We do not want that to happen again in the Philippines, Mr. President.

Senator Drilon. Right. But did they not commit a punishable offense while in Philippine territory? For example, if they intended to commit terrorist acts in the Philippines, yes, they can be punished.

Senator Lacson. Yes, they can be punished.

Senator Drilon. But if there is no such act committed or no overt act is committed in the Philippines, I think, it is a little difficult to accept that we will punish them. Maybe we should deport or extradite them to the country where the offense was committed. But I do not think it is a correct legal principle that they should be punished in the Philippines for acts done in another country which does not affect the Philippines at all.

Senator Lacson. But if they attempt to come here, then, as I said, once they are here, they may be punished under this proposed measure.

Precisely, we intend to expand the coverage of terrorist acts, Mr. President. Even if the terrorist act was committed outside of our jurisdiction, once they attempt to come here, and we have sufficient evidence to show that he is a foreign terrorist who is coming to the Philippines, then, by all means, the proposed measure will be giving the authority to arrest and punish. But, of course, it depends on the intent and purpose of coming here.

Senator Drilon. Yes. If he just comes here to go to Boracay and...

Senator Lacson. If he is a foreign terrorist?

Senator Drilon. Yes, theoretically.

Senator Lacson. Yes, Mr. President. He can still be covered under the proposed measure.

Senator Drilon. That is a little difficult to accept, Mr. President. Are we saying that terrorism is a continuing offense so that a foreign terrorist who crosses the border but has no intention whatsoever of doing anything or violating Philippine law, or committing any acts of terrorism—and there is no evidence—will he be subject to life imprisonment here?

Senator Lacson. Under the territoriality principle, yes, Mr. President?

Senator Drilon. No. Well, the way it is defined...

Senator Lacson. If he goes to Boracay on R&R but he is a foreign terrorist who has committed acts of terrorism abroad, then he is simply covered under the proposed measure under the principle of territoriality.

Senator Drilon. There is no nexus or point of contact for the Philippines. Why should we punish him with life imprisonment when there is no point of contact?

May I yield the Floor to Senator Tolentino who wants to contribute.

Senator Tolentino. Mr. President.

The President. Senator Tolentino is recognized.

MANIFESTATION OF SENATOR TOLENTINO

Senator Tolentino. Mr. President, with the permission of the good sponsor and the Minority Leader. Perhaps, I would just like to interject an item as the Minority Leader interjected Article 2 of the Revised Penal Code, which is correct. The provision mentioned states “Should commit an offense while on a Philippine ship,” et cetera, among others. But, perhaps, the good sponsor is now referring to a new customary international law which is generally accepted. And I am now referring to the universality principle. And I would like to quote this and, probably, as part of this parliamentary conversation, this would clarify what the good sponsor is saying that, indeed, even without the nexus being posited by the good Minority Leader, there is indeed jurisdiction, and I quote, Mr. President, “A universal jurisdiction would apply, and it refers to an idea that a national court may prosecute individuals for serious crimes against international law such as crimes against humanity, war crimes, genocide, torture, terrorism, based on the principle that such crimes harm the international community.”

I heard of a crime committed in Indonesia without a connection to Philippine penal laws or international order itself which individual States may also protect, Mr. President.

Generally, universal jurisdiction is invoked when other traditional bases of criminal jurisdictions are not available. For example, the defendant is not a national of the State; the defendant did not commit a crime in that State's territory or against its nationals; or the State's own national interests are not adversely affected, Mr. President.

The norm suggests that States are obligated to intervene diplomatically or even to the extreme, militarily, to prevent the commission of such crimes, Mr. President. That is probably the missing link that the good Minority Leader is trying to find out--where is the nexus, where is the connection? The connection lies in the disruption of the general peace, of the general international legal order, when someone commits a crime whether it is within the territory or outside the territory of the Philippines by a foreign national, by a Filipino, if it effects crimes such as terrorism, Mr. President. I am quoting this, this will be part of the parliamentary exchange when, probably, the good sponsor would be in the period of individual amendments. I just retorted this because the good Minority Leader was looking for a nexus or a legal connection.

So, the umbilical cord, so to speak, is found in the universality principle which I have just stated, Mr. President.

Senator Lacson. Thank you, Mr. President.

What the gentleman from Cavite has pointed out is the definition of universal jurisdiction. The Institute of International Law in its resolution on universal jurisdiction provides that, and I would like to quote, “Universal jurisdiction in criminal matters, as an additional ground of jurisdiction, means the competence of a State to prosecute alleged offenders and to punish them if convicted irrespective of the place of commission of the crime and regardless of any link—nexus—of active or passive nationality, or other grounds of jurisdiction recognized by international law.”

That is what he just pointed out and rightly so, Mr. President, because in our case, we are invoking the extrajudicial application provided that this clause could be justified by one of the recognized principles: 1) active nationality principle; 2) protective principle; 3) passive principle; and 4) the universality principle under international law.

Senator Drilon. Well, Mr. President, the present Revised Penal Code very clearly outlines when extraterritoriality can be evoked. Let me read Article 2: “*Application of its provisions.* - Except as provided in treaties and laws of preferential application, the provisions of this Code shall be enforced not only within the Philippine archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

(5) Should commit any of the crimes against national security and the law of nations.”

What are the crimes against national security? Treason, conspiracy and proposal to commit treason, misprision of treason, and espionage, and crimes

against the law of nations include inciting to war or giving motives for reprisals, violation of neutrality, correspondence with a hostile country, flight to the enemy country, piracy in general, and mutiny on the high seas or in Philippine waters.

In the case of *People vs. Lol-lo and Saraw* decided by the Supreme Court, the Supreme Court held that piracy is not a crime against any particular State but against all mankind. That is why even when not one of the elements—where there is no point of contact in the Philippines—they are punished because by tradition and by practice, piracy is a crime against humanity. But if we will notice, Mr. President, extraterritoriality is an exception to the general rule.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. And, therefore, that exception must be clearly justified because a very broad and loose application of extraterritoriality can result in many difficult legal questions to resolve. And in this particular case, the gentleman is saying that even if there is no point of contact in the Philippines, the terrorist can be imprisoned for life in the Philippines.

Mr. President, looking at this proposed measure, somewhere here is a definition that when a foreign terrorist crosses international borders—not even going to the Philippines—he can be punished by life imprisonment in the Philippines.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. In other words, if a foreign terrorist would move from one country to another or abroad, sowing terrorist acts in foreign countries and has nothing to do with the Philippines, it is still a crime under the Philippine law.

Senator Lacson. As clearly pointed out by Senator Tolentino, Mr. President, we are now applying the definition of “universal jurisdiction” because the provision under the Revised Penal Code is very limiting and that is the reason why we included the phrase “in or outside of the Philippines.”

During the committee hearing, Mr. President, last August 13, General Monteguda, the NICA director general, raised one problem that the law must address. *Kaya nga isiningit natin dito ito*, Mr. President. For example, and this is theoretical, what do we do to a Filipino who joined the ISIS abroad and is planning to come back here *sa Pilipinas*? And in the same manner, we are also faced with the parallel question: What should we do with foreigners who commit terrorist acts abroad and then come to the Philippines to evade prosecution in the place where they committed their terrorist acts? *Kaya medyo in-expand nga natin* to cover foreign terrorists; and even those who committed terroristic acts abroad may be covered or may be punished under the proposed measure, Mr. President.

Senator Drilon. Well, our submission, Mr. President, is that there are remedies available in those instances other than life imprisonment. I am not saying that we should be helpless, but what we are saying is, to punish that person with life imprisonment when he had absolutely no intention to violate

the integrity of the national territory or the national sovereignty or the security of the Philippines. We should impose life imprisonment because, Mr. President, in case of conflict of laws, for example, in order that it applies, there must be a point of contact in one country. That is our problem with a very broad and, to our mind, overarching jurisdiction.

I am sorry, Mr. President, but my little knowledge of the law would not accept the proposition that he who had nothing to do with the Philippines, not plotting against the Philippines, not doing act which would undermine our national security, who comes here--even if he does not come here--the bill would punish crossing borders abroad in the way it is phrased now.

Senator Lacson. *Hindi* applicable.

Senator Drilon. Yes, Mr. President.

Senator Lacson. This will not apply, Mr. President. The general principle that would apply is that, if a foreign terrorist commits the crime abroad and he does not come to the Philippines, then we cannot really reach him. We cannot acquire jurisdiction. But under the proposed measure, he can be punished once he attempts to come to the Philippines even on R&R.

Senator Drilon. Mr. President, to our mind, those are two different issues--the matter of ability to enforce the law and the law itself. Let me cite to the good gentleman page 10, Section 10 of the proposed measure. Let me read it, and we invite the sponsor to this. It says:

“SEC. 10. *FOREIGN TERRORIST.* – THE FOLLOWING ACTS ARE UNLAWFUL AND SHALL BE PUNISHED WITH THE PENALTY OF LIFE

IMPRISONMENT WITHOUT THE BENEFIT OF PAROLE AND THE BENEFITS OF R. A. NO. 10592:

(A) FOR ANY PERSON TO TRAVEL OR ATTEMPT TO TRAVEL TO A STATE OTHER THAN HIS/HER STATE OF RESIDENCE OR NATIONALITY, FOR THE PURPOSE OF PERPETRATING, PLANNING, OR PREPARING FOR, OR PARTICIPATING IN TERRORIST ACTS, OR PROVIDING OR RECEIVING TERRORIST TRAINING.”

Here, Mr. President, it is very clear that a foreign terrorist who is planning to commit such acts abroad, nothing to do with the Philippines, the fact that he crosses borders would make him liable for life imprisonment in the Philippines.

Senator Lacson. Not for crossing borders but for planning a terrorist act in any country outside of his area of residence.

Senator Drilon. Mr. President, maybe we should clarify that because on page 10, line 6, letter (A), the following acts are unlawful and is punished by life imprisonment for any person to travel or attempt to travel to a state other than his/her state of residence or nationality for the purpose of perpetrating, planning, or preparing for, or participating in terrorist acts, or providing or receiving terrorist training. Here, we are punishing somebody who travels.

Senator Lacson. No, Mr. President. We are punishing his purpose of perpetrating, planning, or preparing for, or participating in terrorist acts, or providing or receiving terrorist training, et cetera, not the act of traveling.

Senator Drilon. No, Mr. President. If that is the intention, first of all, that is not how it is written because what is punished is traveling or attempting to travel to a state other than his or her state of residence for purposes of. So, it is the act of traveling which is punished, and the act of traveling is for the purpose of committing terrorism.

Senator Lacson. The act of traveling per se will not be punishable. But if he travels for the purpose of committing the following acts as enumerated, then that is the one we are punishing.

Senator Drilon. And that act has nothing to do with the Philippines.

Senator Lacson. Even if it has nothing to do with the Philippines, yes, Mr. President. Because that is why we are applying the definition of universal jurisdiction, Mr. President.

Senator Drilon. Yes, Mr. President.

Senator Lacson. Let me point out, Mr. President. The basis for this is a UN Security Council Resolution 2178 in 2014. It says, "Calls upon all Member States, in accordance with their obligations under international law, to cooperate in efforts to address the threat posed by foreign terrorist fighters, including by preventing the radicalization to terrorism and recruitment of foreign terrorist fighters, including children, preventing foreign terrorist fighters from crossing their borders, disrupting, and preventing financial support to foreign terrorist fighters, and developing and implementing prosecution, rehabilitation, and reintegration strategies for returning foreign terrorist fighters." That is the basis of this provision, Mr. President.

Senator Drilon. Yes, Mr. President. I am sorry but I did not comprehend.

Senator Lacson. It is qualified by the purpose. Traveling per se is not punishable, Mr. President.

Senator Drilon. All right. It is traveling for the purpose.

Senator Lacson. For the purpose, Mr. President.

Senator Drilon. Right, Mr. President. But what is punished is the traveling.

Senator Lacson. No, Mr. President. The purpose of committing such acts—*iyon po ang pinaparusahan*—not the traveling. Traveling is incidental to the purpose of committing the acts as enumerated.

Senator Drilon. All right. Anyway, may we have a copy of what the gentleman just read, Mr. President?

Senator Lacson. This one? Yes, Mr. President.

If the person does not commit the purpose as enumerated and he keeps on traveling, we would not mind him, Mr. President. He can travel for all he cares. But if he travels for the purpose of committing the acts as enumerated, then that is the act that we are punishing, Mr. President.

Senator Drilon. The gentleman is interpreting the call on Member States to cooperate in efforts to address the threat posed by foreign terrorist by punishing the foreign terrorist with life imprisonment.

Senator Lacson. Mr. President, *puwede nating pag-usapan kung ang isyu rito ay iyong penalty.*

Senator Drilon. All right, Mr. President.

Senator Lacson. *Puwede natin i-negotiate iyan*, Mr. President. If the point being raised by the distinguished Minority Leader is *bakit pareho ng penalty doon sa actual commission of the terrorist acts dito sa traveling* for the purpose of committing some acts as enumerated, then I am amenable to some amendments in this regard.

Senator Drilon. Well, thank you, Mr. President. But also the fact that he travels from, say in my example, from Malaysia to Indonesia for the purpose of committing terrorist acts in Indonesia, he is subject to the penalty of life imprisonment under Philippine law.

Senator Lacson. Understood, Mr. President.

Senator Drilon. That is a little difficult for me to accept as a penalty.

Senator Lacson. That is a little harsh, Mr. President.

Senator Drilon. Yes. All right, Mr. President.

Now, under Section 4 also, it enumerates the acts which are considered unlawful. We are going beyond now the extraterritorial issue. The following acts which are considered unlawful and it enumerates under page 6 the unlawful acts that are punishable. What I note significant here is on page 7, line 4, "threat to commit any of the acts listed in paragraphs (A) to (D) of this section." In other words, a threat is considered a punishable act. Would the gentleman sponsor confirm that, Mr. President?

Senator Lacson. That is correct, Mr. President. Threat to commit any of the acts listed in paragraphs (A) to (D) of the section, meaning, the previous

paragraphs. But it is qualified again when the purpose of such act, by its nature and context, is to intimidate and so forth and so on.

Senator Drilon. Yes, we understand that, Mr. President. But what we are referring to would be connecting the threat to commit any of the acts listed in paragraphs (A) to (D) of the section where the purpose is as so stated. With Section 6 of the measure, which proposes to amend Section 4 of the present law, it punishes an attempt to commit.

Let me read Section 6, Mr. President. Section 4 of the Act is hereby renumbered and amended to read as follows:

"SEC. 6. ATTEMPT OR Conspiracy to Commit A TERRORIST ACT. - ANY ATTEMPT TO COMMIT ANY OF THE ACTS DEFINED AND PENALIZED UNDER SECTION 4 OF THIS ACT SHALL BE PENALIZED BY LIFE IMPRISONMENT..."

Senator Lacson. I see the Minority Leader's point, Mr. President.

Senator Drilon. One who is guilty of an attempt is sentenced...

Senator Lacson. Life imprisonment without parole, et cetera, Mr. President.

Senator Drilon. Without parole, Mr. President. Under Section 4, an attempt to commit any of the acts listed in paragraphs (A) to (D), a threat to commit is a crime, is that correct?

Senator Lacson. That is correct, Mr. President, under subparagraph "E. THREAT TO COMMIT ANY OF THE ACTS LISTED IN PARAGRAPHS (A) TO (D) OF THIS SECTION."

Senator Drilon. Yes, Mr. President. Also an attempt to commit is also a crime.

Senator Lacson. Under Section 6, Mr. President.

Senator Drilon. Under Section 6?

Senator Lacson. Yes, Mr. President.

Senator Drilon. Now, may we know what is an attempt to threaten?

What is an attempted threat because that is what it means. *[Laughter]*

Senator Lacson. It is not attempting to threaten, Mr. President.

Senator Drilon. Yes, Mr. President, but what is it.

Senator Lacson. Attempting to commit and threatening to commit, Mr. President. Anyway, if there is a problem in the language, then, we are open to amendments along this line. But what we have intended under these two provisions, Sections 4 and 6, *iba iyong* threatening to commit *at iba iyong* attempting to commit. *Hindi ito iyong* “attempting to threaten.”

Senator Drilon. *Iyon po ang labas*, “attempt to threaten.”

Senator Lacson. Anyway, we are open to amendment. There is no perfect bill, Mr. President.

Senator Drilon. I am sorry, Mr. President?

Senator Lacson. There is no perfect bill.

Senator Drilon. And there is no pride of authorship.

Thank you, Mr. President, for that very welcome manifestation.

My reading of Section 4 (E), particularly on line 9, when the act that has been punished seriously destabilized or destroyed the fundamental political, economic or social structures of the country, or created a public emergency or undermined public safety, can we be a bit more specific than such description?

Senator Lacson. All right, Mr. President.

One example is, if this hall is bombed...

Senator Drilon. I am sorry, Mr. President?

Senator Lacson. If this Senate Session Hall is bombed, right now as we debate on the measure, then they have successfully destabilized, or seriously destabilized, or destroyed the fundamental political, even the economic and social structures of the country, Mr. President. That is one example.

Senator Drilon. All right.

Senator Lacson. Imagine if this hall is bombed, we are all gone, Mr. President, and the fundamental political structure has been destroyed, has been damaged. *Iyong parang nangyari sa Designated Survivor.*

Senator Drilon. Mr. President, if we read the provision carefully, the acts enumerated in (A) to (E) would be punished when the purpose of such act, by its nature and context, is to intimidate or put fear except an actual bombing because that would be covered by other sections. It is just the purpose to induce government by force to do or to abstain from doing such an act.

Our question here, Mr. President, what is the difference between this and the crime of grave threats under the Revised Penal Code?

Senator Lacson. It is the purpose, Mr. President. A simple crime of grave threats without the purpose of sowing terrorism or committing terroristic acts, *iba po iyon.* We are always bound by the intent and purpose of the act.

Senator Drilon. In other words, it is a national security issue that makes it an act of terrorism or not?

Senator Lacson. Not necessarily, Mr. President.

Senator Drilon. Yes, but...

Senator Lacson. As we defined it and as the gentleman mentioned earlier, *ito iyong* Section 4, *iyong* fundamental. *Ito po*, “The purpose of such act, by its nature and context, is to intimidate, put in fear, force or induce the government or any international organization, or the public to do or to abstain from doing any act, or seriously destabilize or destroy the fundamental political economic or social structures of the country...”

Senator Drilon. So, just in answer to my question, what distinguishes an ordinary crime of grave threat is the purpose of the offender in committing the crime.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. So that, if it is for the purpose of intimidating, put in fear, force or induce the government or any international organization, or the public to do or abstain from doing an act, that is considered a terrorist act.

Now, let me cite some specific example and try to draw an opinion from the good sponsor. Currently, we see a lot of rallies, protests in Hong Kong. That kind of protests has led to the collapse of the economy of Hong Kong practically. The anti-government protests have gone on for six months and have really harmed the economy. Now, assuming for the sake of argument, that something similar happens here, would that act or the act of the protesters be considered as an act of terrorism because they are compelling the government to do something by force or intimidation?

Senator Lacson. No, Mr. President. It will not be included because the fundamental rights are always respected even in this proposed measure.

Senator Drilon. Yes, but supposed as in Hong Kong, there were instances of violence.

Senator Lacson. But we are always bound by the purpose, Mr. President. If the purpose is enumerated, then...

Senator Drilon. The purpose in Hong Kong is to force the Hong Kong government...

Senator Lacson. To allow them to exercise their fundamental rights, their freedom, even to choose their leaders, to exercise suffrage. If that is the purpose, it does not constitute an act of terrorism, Mr. President.

Senator Drilon. All right. Mr. President, it is good that we have this on record because this would guide us in attempting to make clearer the provisions here so that it does not lead to an overarching or overreach in terms of the exposure to crimes of terrorism.

Senator Lacson. We are grateful that the gentleman is pointing this out, so that we can further enlighten our colleagues that such acts, no matter how violent, if the purpose is not as enumerated under the proposed measure, then those are not acts of terrorism.

For example, even if there is violence on the streets to call for freeing Senator De Lima, that is not terrorism, Mr. President. That is a legitimate exercise of the freedom to assemble. But they may be punished under a separate--

Senator Drilon. Under the Revised Penal Code.

Senator Lacson. Yes, under the Revised Penal Code, Mr. President.

Senator Drilon. There is no question about that.

Now, for example—again, I just want to cite examples in order to draw the intent of the author—if we recall, after the MOA-AD was rejected as unconstitutional, there was some violence in Mindanao, and the objective was, very clearly, to press for the passage of the Bangsamoro Basic Law. If this measure was law at that time, would the members of the Bangsamoro be liable for terrorism?

Senator Lacson. If the purpose does not fall under the provision as stated here, then--

Senator Drilon. The purpose, Mr. President, is to compel the government to enact the Bangsamoro Basic Law.

Senator Lacson. I do not think it will fall under the provisions of this proposed measure, Mr. President.

Senator Drilon. Why is that, Mr. President? The proposed measure says “to induce the government or the public to do or abstain from doing any act.” Compelling the government to pass the Bangsamoro Basic Law, would that put us in danger of being labelled as terrorists?

Senator Lacson. Well, I suppose what they are fighting for is their right to self-determination, Mr. President. So, it may not constitute a terrorist act.

Senator Drilon. We must be very careful because I agree with the good sponsor that if we look at history, there were struggles for independence that

were attended by violence. And I do not think history will be kind to us if we call them terrorists.

Senator Lacson. No, Mr. President, we will not call them terrorists. I repeat, we will always be bound by the purpose, as enumerated.

Senator Pimentel. With the permission of the two gentlemen, Mr. President, a little interjection.

The President. Senator Pimentel is recognized.

Senator Pimentel. Just to pursue the example of the Minority Leader, Mr. President, if I may. For example, even if in the end, they are cleared of terrorism charges because they were ruled to have just exercised their fundamental right—wanting to exercise their right to self-determination—but in the meantime, some or many of them would have spent time in jail being held. So, that is probably one danger that we should guard against. Because, maybe in the end, *sabi nga*, it did not amount to a terrorist act, but there is some suffering which will be inflicted upon our people because of some vagueness in the law.

Senator Lacson. Let me cite, Mr. President, the existing jurisprudence in *Lagman vs. Medialdea*. *Ang sabi ng Korte Suprema po rito*, “In determining what crime was committed, we have to look into the main objective of the malefactors. If it is political, such as for the purpose of severing the allegiance of Mindanao to the Philippine Government to establish a *wilayat* therein, the crime is rebellion. If, on the other hand, the primary objective is to sow and create a condition of widespread and extraordinary fear and panic among the

populace in order to coerce the government to give in to an unlawful demand, the crime is terrorism.”

Senator Pimentel. That is under the present law, Mr. President.

Senator Lacson. That is a jurisprudence covering the Human Security Act.

Senator Pimentel. Yes, that is why. That is a jurisprudence based on present law which the bill seeks to overhaul.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. That is why I am appreciating the interpellation of the Minority Leader because we are testing now the concepts in this overhauled bill.

Senator Lacson. Same here, Mr. President.

Senator Pimentel. The present law has been interpreted by the Supreme Court. So, if we are happy with that...

Senator Lacson. We are not happy.

Senator Pimentel. Precisely. The next question is, why did we overhaul? So, if we are overhauling, we must be very clear with concepts because we might endanger fundamental freedoms or rights even though we say that they are protected. I hope I am clear because even at the end of the trial, let us say, the persons are acquitted but the length of the trial, they suffered.

Senator Lacson. That is correct. That is a correct observation and a valid concern, Mr. President.

Senator Pimentel. Thank you, Mr. President.

Senator Lacson. I am glad to be interpellated by a bar topnotcher and another placer in the bar, Mr. President. Being a non-lawyer, I am so proud to be in the midst of these two gentlemen.

Senator Drilon. And if we notice, Mr. President, the questions are without malice. It is an attempt to clarify the provisions of the proposed bill.

Senator Lacson. And, we are very grateful, Mr. President.

Senator Drilon. Thank you.

Mr. President, one naughty question. Was Sen. Gregorio Honasan...

Senator Lacson. A terrorist? *[Laughter]*

Senator Drilon. ...would have been a terrorist? *[Laughter]*

If we have the law, would Senator Honasan been a terrorist?

Senator Lacson. No, Mr. President. Senator Honasan would be guilty of violation of coup d'etat, Article 134-A, because the elements are different.

Senator Drilon. I do not know. That is subject to a debate. But from the way I read the sponsor's present bill, Senator Honasan would be a terrorist.

Senator Lacson. Not really, Mr. President. But he would be a coup plotter who always failed, by the way, who never succeeded.

The President. No, he succeeded at the first time.

Senator Lacson. EDSA I, Mr. President. After that, he was a consistent failure. *[Laughter]*

Senator Drilon. Mr. President, may I request that I suspend my interpellation because if we look at the hall, there are only six of us and these

are very important issues that we are raising which I had hoped would be listened to by our colleagues so that when we come to a vote, it will be an intelligent vote.

And, at this point, Mr. President, with the indulgence and probably with the consent of the sponsor, we would like to suspend.

Senator Lacson. I agree with the observation of the gentleman. Anyway, it is better that we discuss this very deliberately, Mr. President.

Senator Drilon. So, we move to suspend our interpellation.

The President. We suspend the interpellation or the session?

Senator Lacson. I move that we suspend the session for one minute, Mr. President.

The President. We will suspend the interpellation of Senator Drilon.

SUSPENSION OF SESSION

The session is suspended for one minute, if there is no objection. [*There was none*].

It was 4:44 p.m.

RESUMPTION OF SESSION

At 5:41 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Zubiri. Mr. President, I ask that we recognize the Minority Leader.

The President. Sen. Frank Drilon, the Minority Leader, is recognized.

Senator Drilon. Mr. President, after we suspended the session, Senator Lacson and I had a conversation. And given the fact that the House of Representatives is still far from coming up with the bill, in fact, it is just in the committee, we have agreed that we will suspend our interpellation until next month when we come back for our session.

With that agreement with the good sponsor, this representation suspends, with the consent of the Chamber, our availment of the period of interpellations, Mr. President.

The President. Majority Leader, we would like to entertain a motion to suspend consideration of the measure.

SUSPENSION OF CONSIDERATION OF S. NO. 1083

Senator Zubiri. Yes, Mr. President. With that, I move that we suspend consideration of Senate Bill No. 1083 under Committee Report No.9.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Thank you, Mr. President.

Mr. President, we have another measure to tackle and a couple of more measures, particularly on a bill that is close to my heart and the heart of Senator Pimentel. This is on the bamboo industry.

SPECIAL ORDER

Mr. President, with the permission of the Body, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 31 on Senate Bill No. 1240, entitled

AN ACT INSTITUTIONALIZING BAMBOO INDUSTRY DEVELOPMENT IN THE PHILIPPINES, CREATING THE BAMBOO INDUSTRY DEVELOPMENT CENTER (BIDC), APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1240—Bamboo Industry Development Center

Senator Zubiri. Mr. President, I move that we consider Senate Bill No. 1240 as reported out under Committee Report No. 31.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Consideration of Senate Bill No. 1240 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1240, entitled

AN ACT INSTITUTIONALIZING BAMBOO INDUSTRY
DEVELOPMENT IN THE PHILIPPINES, CREATING THE
BAMBOO INDUSTRY DEVELOPMENT CENTER (BIDC),
APPROPRIATING FUNDS THEREFOR, AND FOR OTHER
PURPOSES

The following is the whole text of the bill:

Senate Bill No. 1240

[Insert]

Senator Zubiri. Mr. President, I ask that we recognize our distinguished sponsor, no other than my *kababayan* from Mindanao, Sen. Aquilino “Koko” Pimentel III, chairman of the Committee on Trade, Commerce and Entrepreneurship.

The President. The gentleman from Mindanao, former Senate President Aquilino Pimentel III, is recognized.

SPONSORSHIP SPEECH OF SENATOR PIMENTEL

Senator Pimentel. Thank you, Mr. President and Majority Leader.

Mr. President and my esteemed colleagues, and our honored guests, ladies and gentlemen, good afternoon.

Bamboo is a quick-growing versatile non-timber forest product which is often used as a wood substitute. It is found in different regions of the world, and is utilized extensively for a wide range of purposes such as walls, panels, handicrafts, consumer products, and novelty products.

There are over a thousand bamboo species in the world and bamboo industries are now thriving not only in Asia but also in other continents as well. In the Philippines, there are about 62 species of bamboo, 21 of which are endemic or native to the country while the rest were introduced from other countries such as China.

The bamboo provides environmental benefits to the society. It is a sustainable resource that can grow under a range of climatic conditions. It provides approximately 35% more oxygen and absorbs 40% more carbon dioxide as compared to trees, which results in improvement in the air quality. Further, cultivation of bamboo provides organic matter, controls soil erosion, and regulates water levels in watersheds.

In 2018, the global bamboo market is valued at US\$68.8 billion and is expected to grow about 5% more from 2019 to 2025. This industry has so

much more potential. However, despite the bamboo's importance, statistics on its resources, production, and trade in the Philippines remain scarce and inconsistent; hence, unreliable. The lack of reliable and comprehensive data on Philippine bamboo resources and utilization hinders its sustainable development and limits bamboo's potential to contribute to the Philippine economy.

The DTI, DOST, DENR, and DA, under their respective mandates have tried to address the issue of insufficiency of bamboo information and resources through various research and studies. The aim is to provide a comprehensive assessment of the Philippines' bamboo resources. However, the lack of a specific body concentrated on studying and developing the bamboo industry makes it harder for the government to unlock its true potential. There is a need to properly gather data and information on the production and commercial use of bamboo products in order to tap its full potential. This will not only provide additional resources to boost our economy, but also livelihood opportunities for many individuals, groups, and communities in our country.

Therefore, the Committee on Trade, Commerce and Entrepreneurship, jointly with the Committees on Finance; and Ways and Means, are proposing Committee Report No. 31 or the Bamboo Industry Development Act of 2019. This report or substitute bill is the result of hearings by the committee on Senate bills authored by Sen. Cynthia A. Villar and Sen. Juan Miguel "Migz" F. Zubiri. So, this representation sincerely thanks the authors of the bills for

focusing our attention on the bamboo industry and opening our eyes to the importance of the said industry and of bamboo as a plant, Mr. President.

Mr. President, this representation would also like to thank the supporters of this effort who are here with us—some of them are here with us this afternoon—from the DENR Ecosystems Research and Development Bureau, Mr. Cer Jay Jimenez; from the Bamboo Industry Development and formerly from DOST-FPRDI, Dr. Florentino Tesoro; from Bambuhay, Mr. Mark Gersava; and from DTI-BOI, Ms. Graciela Juatco, among others.

This bill seeks to institutionalize bamboo industry development in the Philippines by strengthening the Philippine Bamboo Industry Development Council (PBIDC), which shall be administratively attached to the DTI, and creating the Bamboo Industry Development Center (BIDC), the one-stop shop for all bamboo industry-related activities, from research and development to trade promotion and education.

The bill also highlights the duty of the DENR to ensure the production and propagation of bamboo for commercialization, and to collect accurate data on bamboo species in the Philippines. The Department of Science and Technology-Forest Products Research and Development Institute (DOST-FPRDI) is also designated as the main research and development arm for bamboo utilization. It is hoped that through this initiative, we will be able to maximize the full potential of our bamboo resources. Furthermore, to encourage investors in bamboo nurseries and plantations, incentives are provided such as the exemption from payment of any government share for the

use of public lands for commercial bamboo plantation for a period of 10 years, among others. Through these initiatives, the government will be able to collect complete and accurate data on bamboo for commercialization to maximize the benefits of producing and developing the bamboo industry.

Mr. President, and my distinguished colleagues, I would like to seek your full support for the immediate passage of this bill. I believe that through this initiative, the bamboo industry will benefit the Filipino people.

Before I end, I would like to give our dear colleagues bamboo straws given to us by our friends in the bamboo industry.

Maraming salamat po sa inyong lahat.

The President. The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

Mr. President, may I be allowed also to cosponsor the measure?

The President. Yes.

SPONSORSHIP SPEECH OF SENATOR ZUBIRI

Senator Zubiri. Mr. President, with somewhere between 44,000 to 53,000 hectares of bamboo stand across our islands, the bamboo industry is one of the biggest areas of agricultural potential for the country. Even now, without a dedicated institution and development plan to guide the growth of the industry, bamboo has somehow managed to weather the storm—like the grass itself, the industry has proven itself resilient in the face of many challenges.

Despite all odds, the bamboo has managed to keep its relevance as one of our most defining cultural signifiers, bringing a uniquely Filipino stamp to such things as the humble *bahay kubo*, or the 200-year-old Bamboo Organ of Las Piñas, or the innovative works of celebrated architects and designers like Bobby Mañosa or Kenneth Cobonpue.

But we cannot let the future of the bamboo plant lie entirely on its cultural cachet. Right now, we are the fifth biggest bamboo industry in the world, but our numbers pale in comparison to the billion-dollar bamboo industries of China and Vietnam. This is unfortunate, given that we have 21 bamboo species native to the country, in addition to the 60 to 80 introduced species that we also grow on our lands. We really could and should be going toe-to-toe with the bamboo-exporting heavyweights that are currently leaving us in the dust.

Instead, we have left the industry to its own devices and given its very little support. We do not even have a dedicated institution to oversee the development of the industry, equivalent to the role of the Philippine Coconut Authority, or the Sugar Regulatory Administration, for instance. Our bamboo development initiatives are pursued by different entities, who are unable to synergize their efforts toward the development of the industry as a whole.

Without a governing institution in place, the bamboo industry continues to grow stagnant. The necessary research and development toward the modernization of the field is not prioritized and funded, leaving us with dated processing and utilization technologies. The performance of the sector is also

left unassessed, given that no institution is in charge of collecting and analyzing data regarding the industry's raw materials, employment rates, and economic impact.

In order to truly champion agricultural development, we need to grant proper support to all our agricultural industries, which means ensuring that the bamboo industry gets its due. This bill aims to do just that. Under this bill, the creation of the Philippine Bamboo Industry Roadmap will set the industry on track for sustainable growth, as overseen and supported by the proposed Philippine Bamboo Industry Development Council, which will operate under the Department of Trade and Industry (DTI). The Council will be attached to the DTI so it can prioritize the economic potential of the industry, and take advantage of the rising demands in the international bamboo market. But while DTI fulfills that mandate, the Department of Environment and Natural Resources will also be heavily involved in the Council's programs, tasked to ensure that the industry's economic growth will not come at the cost of ecological destruction.

With the Council in place, the industry will no longer have to struggle to succeed as a fractured sector.

And I would like to add that in my many years of trying to push this measure, whenever we asked the agency in charge, *ang itinuturo nila ay DA. Pagdating sa DA, DENR—hinihingi ng DENR, hinihingi ng DA*. And yet, they give very little to the promotion of bamboo. So, we are happy that the DTI has

taken its place and has taken the cudgels for the promotion of the bamboo industry.

So now, Mr. President, we will, with this measure, have a coordinating body that will bring disparate industry players together and guide them toward unified success. And with the roadmap as guide, as formulated by the Council, the industry will have a clear and focused path to carving its place as one of the bamboo heavyweights of the world market.

A strengthened bamboo industry will also be immensely beneficial to the environment. Bamboo prevents soil erosion and flooding, and it is known to be a particularly effective agent of carbon capture, meaning it traps and isolates carbon dioxide from the atmosphere. A healthier bamboo sector then will mean a healthier environment for us all.

As we know, Mr. President, in my farm in Batangas, I put up a bamboo farm which I got from the Carolina Farms of Mrs. Jimenez, the wife of Meynard Jimenez of GMA 7, and we were able to buy the so-called Buddha Bamboo which is a very cute pygmy bamboo and it grows only by about 10 feet and it has little ripples like the stomach of a Buddha, so it is called Buddha Bamboo.

And we also have iron bamboo. It is all black, super *matigas*, *kapag ginagamitan mo ng itak o bolo ay nasisira at napupurool iyong itak*. *Mayroon pong mga variegated bamboo* that I like as well, one of my favorites, which is green and yellow bamboo, and many, many others.

We have in Bukidnon, Mr. President, what we call the giant bamboo. It is about this thick like a tree and it grows as high as 100 feet tall and is found in the areas between Pasugong and Malaybalay in Bukidnon.

So, there is so much potential in the bamboo industry, so much so that the flooring of my house, Mr. President, was made out of bamboo. It looks like wood panels, but it is actually bamboo. So, it is what we call “engineered wood” but made out of bamboo slats.

So, there is so much potential in the industry, Mr. President, and there is such a great demand for it in the local and international markets, especially in architecture and design, in chemical and medical industries, and in the culinary industry. These markets are hungry and waiting, we just need to help the local bamboo industry get on track to fulfil that demand, and that help will come in the form of the development roadmap and the development council. The growth of the bamboo industry will mark a huge win for the nation—economically, culturally, and even environmentally.

And even, Mr. President, the Province of Iloilo, for example, they have a huge bamboo industry. Wherever I go from the mountains of Iloilo up to the coastal areas, *mayroon po silang kawayan doon*.

In the Island of Panay, they also utilize a lot of bamboo. And, of course, in Mindanao. And, as I said, it is so easy to grow and *siya po ang naiiwan kapag may bagyo*. We all know, of course, the fabled story on the bamboo where the mighty tree, once the typhoon comes, sometimes succumbs to its

winds and falls to the ground, but it is the bamboo, with its elasticity, survivability and resilience, that remains and survives.

As such, Mr. President, I urge our colleagues to join us in seeing the passage of this important measure.

Mabuhay po at maraming salamat po, Mr. President.

The President. The Majority Leader is recognized.

MANIFESTATION OF SENATOR ZUBIRI
(Coauthorship of Senator Gatchalian of S. No. 1240)

Senator Zubiri. Mr. President, there is a request from our colleague, Senator Gatchalian, that he be made coauthor of the measure.

The President. All right, we place that on record.

SUSPENSION OF CONSIDERATION OF S. NO. 1240

Senator Zubiri. With that, Mr. President, to allow our colleagues to study the measure further, I move that we suspend consideration of Senate Bill No. 1240.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

SUSPENSION OF SESSION

Senator Zubiri. Thank you, Mr. President.

Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:59 p.m.

RESUMPTION OF SESSION

At 6:01 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

CONFERENCE COMMITTEE ON S. NO. 1074/H. NO. 1026
(Excise Tax on Alcohol Products)

Senator Zubiri. Mr. President, I move that we proceed to the Senate President's designation of an additional conferee to the Bicameral Conference Committee on the disagreeing provisions of Senate Bill No. 1074 and House Bill No. 1026.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

For the Bicameral Conference Committee on the disagreeing provisions on Senate Bill No. 1074, Sen. Ronald "Bato" dela Rosa is designated as an additional member of the committee.

MOTION OF SENATOR ZUBIRI
(Referral of the Speech of Senator Go on November 25, 2019 to the Blue Ribbon Committee; and to the Committee on Sports as the Secondary Committee)

Senator Zubiri. Mr. President, before we adjourn, the Minority Leader and I had spoken earlier and he presented to me the speech made last November 25 by the distinguished member of this Chamber, Senator Go, and it was a speech about the Southeast Asian Games. The Minority Leader pointed out correctly that we did not refer the speech to any committee. Therefore, Mr. President, I move that we refer the said speech to the Blue Ribbon Committee as well as to the Committee on Sports, as the secondary committee.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

MANIFESTATION OF SENATE PRESIDENT SOTTO
(That P.S Res. No. 245 and P.S. No. 246 are Two Separately Approved Resolutions)

And just for the record, related to the approval of the two resolutions that we passed earlier for the two gold medalists in the recent SEA Games, I made a mispronouncement by saying that Proposed Senate Resolution No. 245 was taking into consideration Proposed Senate Resolution No. 246.

Senator Zubiri. These are two separate resolutions, Mr. President.

The President. These are two separately approved resolutions. So, what we approved, for the record, is Proposed Senate Resolution No. 245. And, thereafter, we are correctly manifesting that we are also approving Proposed Senate Resolution No. 246, and not what the presiding officer mentioned as taking into consideration. For the record.

Senator Zubiri. Yes, Mr. President.

The President. So we ask that the *Record* reflect in today's session.

SUSPENSION OF SESSION

Senator Zubiri. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 6:04 p.m.

RESUMPTION OF SESSION

At 6:10 p.m., the session was resumed.

The President. The session is resumed.

CONFERENCE COMMITTEE ON S. NO. 1074/H. NO. 1026
(Excise Tax on Alcohol Products)

Majority Leader, there is an even number in the Bicameral Conference Committee, therefore, we would like to designate an additional member. Sen. Koko Pimentel is also an added member of the Bicameral Conference Committee on Senate Bill No. 1074.

So designated.

Senator Zubiri. Mr. President, before we adjourn, I would just like to greet also Sen. Manny Pacquiao, once again, a happy, happy birthday. I can go early to my dinner with my wife.

The President. Happy wedding anniversary to the Majority Leader.

Senator Zubiri. Thank you, Mr. President.

ADJOURNMENT OF SESSION

Mr. President, I move that we adjourn the session until three o'clock tomorrow afternoon, Wednesday, December 18, 2019.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock tomorrow afternoon, Wednesday, December 18, 2019.

It was 6:11 p.m.

TUESDAY, JANUARY 21, 2020

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 44th session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Let us stand for the opening prayer to be led by Sen. Joel Villanueva.

Everybody rose for the prayer.

PRAYER

Senator Villanueva. *Tayo po ay manalangin.*

Dakilang Diyos, Ama naming sumasalangit, Diyos na may gawa ng langit at lupa, kami po ay lumalapit at naninikluhod sa Iyo, humihingi ng kapatawaran ano mang kasalanan sa isip, sa salita at sa gawa. Hugasan Ninyo po kami ng Inyong banal na dugo na nabuhos sa krus ng kalbaryo, at damitan Mo kami ng damit ng katwiran upang makalapit sa Iyo.

Inilalapit po namin ang aming mga kababayan lalo na ang mga biktima ng nag-alborotong Bulkang Taal. Yakapin Mo po sila ng Iyong pagmamahal, tulungan, at maging ang aming pamahalaan para matulungan at mabigyan ng tamang tulong para makabangon ang aming mga kababayan.

Tulungan Ninyo rin po ang bawat isa sa amin dito sa Senado sa paggawa ng aming tungkulin. At higit sa lahat, magampanan

namin ang aming responsibilidad bilang Iyong mga lingkod para sa aming minamahal na bayang Pilipinas.

Sa Inyo po ang lahat ng papuri at pasasalamat, at maingat po naming ibinabalik ang lahat ng papuri't pasasalamat.

Sa tanging pangalan po ng aming Panginoong Hesus, ang lahat po ay makiisa at magsabi ng Amen.

ROLL CALL

The President. Amen.

The Secretary will please call the roll.

The Secretary, *reading:*

| | |
|--|-----------|
| Senator Sonny Angara..... | |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano..... | Present |
| Senator Leila M. de Lima..... | * |
| Senator Ronald "Bato" M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | |
| Senator Christopher Lawrence T. Go..... | Present |
| Senator Richard J. Gordon..... | |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel "Lito" M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present |
| Senator Emmanuel "Manny" D. Pacquiao | Present |
| Senator Francis "Kiko" Pangilinan | Present** |
| Senator Aquilino "Koko" Pimentel III | Present |
| Senator Grace Poe | Present |
| Senator Ralph G. Recto | Present |
| Senator Ramon Bong Revilla Jr. | Present |
| Senator Francis "Tol" N. Tolentino..... | Present |
| Senator Joel Villanueva | Present |

Senator Cynthia A. Villar Present
Senator Juan Miguel F. Zubiri Present
The President Present

The President. With 19 senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

Before we take up official business, we would like to greet our colleague, Sen. Ronald “Bato” dela Rosa, a very happy birthday, Mr. President. We can see from his outfit that it is a special day today. *Nagpaburda po ng barong* for his birthday.

SUSPENSION OF SESSION

The President. Happy birthday to Sen. Ronald “Bato” dela Rosa.

The Chair declares a one-minute suspension to greet Senator Dela Rosa, if there is no objection. *[There was none.]*

It was 3:04 p.m.

RESUMPTION OF SESSION

At 3:05 p.m., the session was resumed

The President. The session is resumed.

* Under detention

** Arrived after the roll call

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Mr. President, we have very special guests in the gallery today.

We have with us the New Zealand Opposition National Party delegation headed by the Hon. Simon Bridges, leader of the Opposition National Party; Hon. Gerry Brownlee, Shadow leader of the House of Representatives and member of the Ilam National Party; Hon. Mark Mitchell, member of the Parliament for Rodney and member of the National Party; Hon. Paulo Garcia, district member of the National Party and the only Filipino in the New Zealand Parliament; and Hon. David Strachan, New Zealand ambassador to the Philippines.

The President. We welcome all our guests from New Zealand to the Philippine Senate. Thank you for joining us this afternoon.

Senator Zubiri. Mr. President, I have had a wonderful experience of visiting New Zealand and celebrated the new year in Auckland about three years ago, and I must say that their country is a very beautiful country.

The President. And they also have very delicious agricultural products.

Senator Zubiri. Yes, Mr. President, especially lamb and milk. Actually, a lot of our milk and butter come from New Zealand.

We have also other guests in the gallery: Mr. Greco Belgica of the Presidential Anti-Corruption Commission and company; *Tita* Bing Pimentel,

the mother of Sen. Koko Pimentel; and students from Our Lady of the Abandoned Catholic School in Muntinlupa City.

The President. Welcome to the Senate.

THE JOURNAL

Senator Zubiri. Mr. President, I move that we dispense with the reading of the *Journal* of the 43rd session, Monday, January 20, 2020, and consider it approved.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, I move that we proceed to the Reference of Business.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1264, entitled

AN ACT PROMOTING INTEGRATED URBAN AGRICULTURAL
DEVELOPMENT IN ALL METROPOLITAN AREAS
NATIONWIDE TO ADDRESS FOOD SECURITY CONCERNS
AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Revilla

The President. Referred to the Committees on Agriculture, Food and Agrarian Reform; and Finance

The Secretary. Senate Bill No. 1265, entitled

AN ACT REGULATING THE DONATION AND TRANSPLANTATION
OF HUMAN ORGANS AND TISSUES FROM LIVING DONORS

Introduced by Senator Revilla

The President. Referred to the Committees on Health and Demography; and Finance

The Secretary. Senate Bill No. 1266, entitled

AN ACT STRENGTHENING MEANINGFUL YOUTH PARTICIPATION
IN LOCAL GOVERNANCE AND FURTHER AMENDING
REPUBLIC ACT 10742 OTHERWISE KNOWN AS THE
“SANGGUNIANG KABATAAN REFORM ACT OF 2015”

Introduced by Senator Revilla

The President. Referred to the Committees on Youth; Local Government; and Finance

The Secretary. Senate Bill No. 1267, entitled

AN ACT INCREASING THE MONTHLY SOCIAL PENSION OF
SENIOR CITIZENS, EXPANDING THE COVERAGE
THEREOF

Introduced by Senator Revilla

The President. Referred to the Committees on Social Justice, Welfare and Rural Development; and Finance

The Secretary. Senate Bill No. 1268, entitled

AN ACT SIMPLIFYING THE CONFIRMATION OF IMPERFECT
TITLES, AMENDING FOR THE PURPOSE PRESIDENTIAL
DECREE NO. 1529, COMMONWEALTH ACT NO. 141 AND
REPUBLIC ACT NO. 9176, AND FOR OTHER PURPOSES

Introduced by Senator Angara

The President. Referred to the Committee on Justice and Human Rights

The Secretary. Senate Bill No. 1269, entitled

AN ACT AMENDING REPUBLIC ACT NO. 11232 OTHERWISE
KNOWN AS, “AN ACT PROVIDING FOR THE REVISED

CORPORATION CODE OF THE PHILIPPINES,” AND FOR
OTHER PURPOSES

Introduced by Senator Marcos

The President. Referred to the Committees on Constitutional Amendments and Revision of Codes; Trade, Commerce and Entrepreneurship; and Finance

The Secretary. Senate Bill No. 1270, entitled

AN ACT AMENDING SECTION 2 OF REPUBLIC ACT NO. 10868,
OTHERWISE KNOWN AS THE CENTENARIANS ACT OF
2016 AND FOR OTHER PURPOSES

Introduced by Senator De Lima

The President. Referred to the Committees on Social Justice, Welfare and Rural Development; and Finance

The Secretary. Senate Bill No. 1271, entitled

AN ACT REGULATING THE USE OF MOBILE PHONES AND
OTHER ELECTRONIC GADGETS TO STUDENTS FROM
KINDERGARTEN TO SENIOR HIGH SCHOOL IN ALL PUBLIC
AND PRIVATE SCHOOLS

Introduced by Senator De Lima

The President. Referred to the Committee on Basic Education, Arts and Culture

RESOLUTION

The Secretary. Proposed Senate Resolution No. 287, entitled

RESOLUTION DIRECTING THE APPROPRIATE COMMITTEE TO INVESTIGATE, IN AID OF LEGISLATION, THE HIGH-HANDED, ARROGANT, AND IRRESPONSIBLE ACTS OF ONE ANGELINE XIWEN THAM, A FOREIGN NATIONAL DOING BUSINESS IN THE PHILIPPINES FOR THE PURPOSES OF (1) REVIEWING CURRENT LAWS IN ORDER TO PREVENT SIMILARLY MINDED PERSONS FROM BULLYING AND MISLEADING PHILIPPINE GOVERNMENT AGENCIES AND

OFFICIALS AND (2) DECLARING ANGELINE XIWEN THAM
AS PERSONA NON GRATA

Introduced by Senator Pimentel

The President. Referred to the Committees on Public Services; and
Foreign Relations

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1272, entitled

AN ACT AMENDING REPUBLIC ACT NO. 10121, OTHERWISE
KNOWN AS 'PHILIPPINE DISASTER RISK REDUCTION AND
MANAGEMENT ACT OF 2010' BY REINFORCING LOCAL
GOVERNMENT COORDINATION AND RESPONSE EFFORTS,
AND FOR OTHER PURPOSES

Introduced by Senator Tolentino

The President. Referred to the Committees on National Defense and
Security, Peace, Unification and Reconciliation; and Local Government

The Secretary. Senate Bill No. 1273, entitled

AN ACT ESTABLISHING THE REVISED CHARTER OF THE
GOVERNMENT SERVICE INSURANCE SYSTEM

Introduced by Senator Revilla

The President. Referred to the Committees on Government
Corporations and Public Enterprises; Civil Service, Government Reorganization
and Professional Regulation; Ways and Means; and Finance

The Secretary. Senate Bill No. 1274, entitled

AN ACT CREATING THE PROVINCE OF WESTERN MAGUINDANAO

Introduced by Senator Revilla

The President. Referred to the Committees on Local Government; and Electoral Reforms and People's Participation

The Secretary. Senate Bill No. 1275, entitled

AN ACT CREATING THE TAAL VOLCANO REHABILITATION AND DEVELOPMENT COMMISSION, ESTABLISHING THE TAAL VOLCANO REHABILITATION AND DEVELOPMENT FUND FOR THE PURPOSE OF EXTENDING AID, RELIEF, RESETTLEMENT, REHABILITATION, LIVELIHOOD, AND DEVELOPMENT PROGRAMS AND SERVICES TO COMMUNITIES ADVERSELY AFFECTED BY THE TAAL VOLCANO ERUPTION, AND FOR OTHER PURPOSES

Introduced by Senator Recto

The President. Referred to the Committees on National Defense and Security, Peace, Unification and Reconciliation; Local Government; and Finance

The Secretary. Senate Bill No. 1276, entitled

AN ACT ADJUSTING THE MINIMUM AMOUNT FOR DEATH INDEMNITY, MORAL AND EXEMPLARY DAMAGES UNDER REPUBLIC ACT NO. 386 OR THE CIVIL CODE OF THE PHILIPPINES

Introduced by Senator Drilon

The President. Referred to the Committee on Justice and Human Rights

The Secretary. Senate Bill No. 1277, entitled

AN ACT AUGMENTING THE EMPLOYEE BENEFITS FOR THE SOLICITORS OF THE OFFICE OF THE SOLICITOR GENERAL BY PROVIDING RETIREMENT, DEATH AND SURVIVORSHIP BENEFITS, AND APPROPRIATING FUNDS THEREFOR

Introduced by Senator Dela Rosa

The President. Referred to the Committees on Civil Service, Government Reorganization and Professional Regulation; Justice and Human Rights; and Finance

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 288, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPACT AND EFFECTIVENESS OF REPUBLIC ACT NO. 10121 OR THE 'PHILIPPINE DISASTER RISK REDUCTION AND MANAGEMENT ACT OF 2010' AND EXISTING INTER-AGENCY COORDINATION MECHANISMS AND MEASURES OF THE NATIONAL GOVERNMENT, THE LOCAL GOVERNMENT UNITS AND THE PRIVATE SECTOR ON DISASTER RISK REDUCTION, RESPONSE AND RECOVERY IN THE COUNTRY WITH THE END VIEW OF STRENGTHENING DISASTER RISK REDUCTION, RESPONSE AND RECOVERY AND MANAGEMENT PLANS AND PROGRAMS OF THE GOVERNMENT THROUGH APPROPRIATE LEGISLATION

Introduced by Senator Gatchalian

The President. Referred to the Committees on National Defense and Security, Peace, Unification and Reconciliation; and Local Government

The Secretary. Proposed Senate Resolution No. 289, entitled

RESOLUTION URGING THE GOVERNMENT SERVICE INSURANCE SYSTEM, THE SOCIAL SECURITY SYSTEM, AND THE HOME DEVELOPMENT MUTUAL FUND TO EXTEND CALAMITY OR EMERGENCY LOANS TO AND/OR IMPOSE A ONE YEAR MORATORIUM ON LOAN AMORTIZATIONS OF MEMBERS WHO ARE RESIDENTS OF THE TAAL VOLCANO ERUPTION CALAMITY AREAS; THE LOCAL GOVERNMENT UNITS TO BE MORE LENIENT TO AFFECTED BUSINESSES ON THE PAYMENT OF REAL PROPERTY TAXES, RENEWAL OF BUSINESS PERMITS AND IMPOSITION OF PENALTIES; AND THE PRIVATE AND GOVERNMENT BANKS TO DEFER LOAN PAYMENTS OF AFFECTED BORROWERS

Introduced by Senator Gatchalian

The President. Referred to the Committees on Government Corporations and Public Enterprises; Local Government; and Ways and Means

The Secretary. Proposed Senate Resolution No. 290, entitled

RESOLUTION URGING THE IMMEDIATE RELEASE OF FUNDS FOR THE AID, RELIEF, RESETTLEMENT, REHABILITATION, LIVELIHOOD, DEVELOPMENT AND SOCIAL PROGRAMS AND SERVICES TO COMMUNITIES ADVERSELY AFFECTED BY THE TAAL VOLCANO ERUPTION, AND DIRECTING THE APPROPRIATE SENATE COMMITTEE TO IMMEDIATELY CALL THE NATIONAL DISASTER RISK REDUCTION AND MANAGEMENT COUNCIL (NDRRMC) FOR A SENATE BRIEFING TO ASSESS THE SITUATION AND DETERMINE THE NEEDS OF THE AFFECTED LOCALITIES AND THE TOTAL BUDGET REQUIREMENTS TO ADDRESS THE CALAMITY

Introduced by Senator Recto

The President. Referred to the Committees on Finance; and National Defense and Security, Peace, Unification and Reconciliation

The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

In compliance with Section 26 of Republic Act No. 10121, which is the Philippine Disaster Risk Reduction and Management Act of 2010, and also the request of the chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation, Sen. Panfilo Lacson, I move, Mr. President, that we constitute the oversight committee of the said measure.

May I ask the chairman on who he would want to designate as members of his committee.

The President. Senator Lacson is recognized.

MOTION OF SENATOR LACSON
(Nomination and Election of the Members of the
Joint Congressional Oversight Committee
on Republic Act No. 10121)

Senator Lacson. Thank you, Mr. President.

I move that the following be made members of the Joint Congressional Oversight Committee on Republic Act No. 10121: for the majority, Sen. Francis “Tol” N. Tolentino, Sen. Ronald “Bato” dela Rosa, and Sen. Christopher Lawrence T. Go, Mr. President. And since under the provision of the Act, the minority shall have at least two members and since there are only two members, not including the Minority Leader who is already an ex officio member, with the permission of the Minority Leader, I ask that Sen. Francis “Kiko” Pangilinan and Sen. Risa Hontiveros be made as members.

The President. And His Honor as chairman.

Senator Lacson. And this representation as chairman, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the enumerated names are hereby elected as members of the oversight committee.

BILL ON SECOND READING
S. No. 1083—Anti-Terrorism Act of 2019
(Continuation)

Senator Zubiri. Thank you, Mr. President. With that, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, may we recognize Sen. Panfilo M. Lacson; and to interpellate, the distinguished Minority Leader, Sen. Franklin Drilon.

The President. The consideration of the measure is in order. Senator Lacson, chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation, is recognized; and the Minority Leader Sen. Franklin Drilon, for the interpellation,.

Senator Drilon. Thank you very much, Mr. President. Will the gentleman from Cavite, the sponsor of the measure, yield for further questions on this proposed measure?

Senator Lacson. This is just a continuation of the suspended interpellation of the distinguished Minority Leader. Willingly, Mr. President.

Senator Drilon. Thank you very much, Mr. President. Once more, allow us to spread into the *Record* our commendation to the gentleman from Cavite for exerting effort in order to amend the present Human Security Act which admittedly can stand improvement and would have to respond to what we have experienced in this area in the last several years since its enactment.

The most significant portion of the measure, Mr. President, is the definition of acts of terrorism under Section 4 of the measure. This is important because it defines the crime that is sought to be punished under the law. The first issue we note is that by the definition of Terrorist Acts, it includes “any person”—this is found on lines 20 and 21 of page 5. By this

definition of “any person” that is covered by this Act, this would include state actors or agents of the law. Is that a correct definition?

Senator Lacson. That is a correct definition because it states any person without exception, Mr. President.

Senator Drilon. Is that the intention, Mr. President, that it would include any person? That it would include members of the armed forces, just for the record?

Senator Lacson. As long as they fall under the categories as stated in the succeeding paragraphs, Mr. President.

Senator Drilon. We have to examine this closely, Mr. President, because this is a criminal act. And therefore, as the sponsor being the former chief of the Philippine National Police would agree, we must have a precise legal definition, otherwise, the police agencies would find difficulty in providing the kind of evidence to the prosecutor in order to prosecute the crime.

Now, in international law, there is yet no precise definition of terrorism, is that correct?

Senator Lacson. That is correct, Mr. President. As a matter of fact, there are at least 10 definitions.

Senator Drilon. I am sorry, Mr. President?

Senator Lacson. There are at least 10 definitions of terrorism, Mr. President.

Senator Drilon. From my readings, there are over a hundred definitions of what constitutes terrorism.

Senator Lacson. There are over 109 definitions. I stand corrected, Mr. President.

Senator Drilon. We are reading the same material, Mr. President.

Senator Lacson. Wikipedia. *[Laughter]*

Senator Drilon. Mr. President, the definition of Terrorist Acts under pages 5, 6, and 7 of the measure would clearly define when it is applicable to ordinary crimes, to act of terrorism, or freedom fighters. In other words, the difficulty in the definition of anti-terrorism is that it is either an ordinary crime, an act of terrorism, or acts committed by freedom fighters. Would the good sponsor agree with that?

Senator Lacson. It all depends on the intent and the purpose of the act, Mr. President.

Senator Drilon. That is correct, Mr. President. Yes, that is the purpose of the act, and I agree with that. That is why by the definition on page 7, from line 6 down, it is very clear that when the purpose of such act, by its nature or context, is to intimidate, put in fear, force or induce the government or any international organization, or the public to do any act or abstain from doing any act, or seriously destabilize, et cetera, et cetera.

Now, in the United States, the statute that defines terrorism clearly indicates that it is the use of violence or threat of violence in the pursuit of

political, religious, ideological, or social objectives. Would that standard be applied also to the proposed measure which would distinguish it from an ordinary criminal?

Senator Lacson. That could qualify but not necessarily, Mr. President, because we are bound by the purpose of the act being committed.

Senator Drilon. Well, precisely, in the United States statute, the purpose is in pursuit of political, religious, or ideological objectives. Would this be the same purpose that would qualify the act as an act of terrorism under our proposed measure?

Senator Lacson. We removed that provision actually, Mr. President. We did not apply. We are not applying the provision under the US statute on the definition of Terrorist Acts.

Senator Drilon. So that we spread that into the *Record* that the act of terrorism need not be in pursuit of a political, religious, ideological, or social objective.

Senator Lacson. That is correct, Mr. President. And in lieu of that, we substituted the purpose of the act by its nature and context. It must be committed to: (1) intimidate, put in fear, force or induce the government or any international organization, or the public to do or to abstain from doing any act; (2) seriously destabilize or destroy the fundamental political, economic or social structures of the country, and (3) create a public emergency or undermine public safety. So, we substituted what are stated under the US statute.

Senator Drilon. There is an effort to broaden the applicability; it need not be for political, religious, ideological, or social objectives. So, that need not be alleged in the information and not proven in the course of the trial that this is the purpose, is that correct?

Senator Lacson. That is correct, Mr. President.

Senator Drilon. In fact, this definition is more consistent with the pending convention in the UN, the proposed Comprehensive Convention on International Terrorism, which does not indicate that political motivation is essential.

Senator Lacson. Exactly, Mr. President.

Senator Drilon. Now, under the proposed definition in the Comprehensive Convention on International Terrorism, when the purpose of the conduct by its nature or context is to intimidate a population or compel a government or international organization to do or abstain from doing any act, that is in substance adopted in the proposed measure. Is that correct?

Senator Lacson. That is correct, Mr. President.

Senator Drilon. Now, what bothers me in this definition, Mr. President, is that on Section 4 of the measure, the definition of what constitutes terrorist acts are basically based on the proposed convention but letter (E) of the measure refers to "THREAT TO COMMIT ANY OF THE ACTS LISTED IN PARAGRAPHS (A) TO (D) IN THIS SECTION" which is not included in all these conventions. And to me, this poses a little difficulty because--allow me to

explain--if we relate this Section 4 to Section 6, Section 6 is attempt or conspiracy to commit a terrorist act. It says: "ANY ATTEMPT TO COMMIT ANY OF THE ACTS DEFINED AND PENALIZED UNDER SECTION 4 OF THIS ACT SHALL BE PENALIZED BY LIFE IMPRISONMENT WITHOUT THE BENEFIT OF PAROLE AND THE BENEFITS OF R.A. NO. 10592."

When we combine these two provisions, we will come up with a crime called "attempted threat" to commit terrorism which is a little difficult for me to accept and we will find difficulty defining what is an attempt to threaten.

Senator Lacson. Actually, Mr. President, I already read the gentleman's mind before we even rose to the podium. And I am willing to bargain to remove the word "attempt."

Senator Drilon. Thank you very much, Mr. President. Because that really confuses. Thank you for that response so that we can remove that letter (E).

Senator Lacson. At the proper time.

Senator Drilon. At the proper time so that we can make the definition more precise.

Also included in the definition is when the purpose of the act is to seriously destabilize or destroy the fundamental political, economic or social structures of the country, this qualification is not found in the proposed convention. What exactly does this mean?

Senator Lacson. That is still on Section 4, Mr. President?

Senator Drilon. Yes, it is still on Section 4, on page 7, lines 9 to 11. In other words, it is an act of terrorism “WHEN THE PURPOSE OF SUCH ACT, BY ITS NATURE AND CONTEXT, IS TO...”

Senator Lacson. “DESTABILIZE OR DESTROY THE FUNDAMENTAL POLITICAL, ECONOMIC OR SOCIAL STRUCTURES.”

Senator Drilon. As we said, this is not found in the proposed convention. May we be benefited by an explanation for the record on exactly what this means when and if a prosecutor would want to prosecute a crime under this definition?

Senator Lacson. This particular provision, Mr. President, or portion of the purpose, we culled this from the different provisions of other ASEAN countries. This is a combination of all available anti-terrorism acts in other countries, particularly ASEAN countries. And we got this particular provision from most of the ASEAN countries’ anti-terrorism statutes, Mr. President.

Senator Drilon. The reason why we are asking that, Mr. President, is that, to our mind, the qualification is a little bit broad. What kind of acts would fall under the description of “seriously destabilize or destroy the fundamental political, economic, or social structures of the country?”

Senator Lacson. Well, if businesses cannot function anymore or cannot do their usual activities anymore because of threats of terrorism or terrorist acts itself, then that could fall under this category, Mr. President. Or if a government agency—say, the Senate as an institution—cannot function

because of a terrorist act or a threat of a terrorist act, then that would affect the fundamental political structure of the country. Or even the Philippine Stock Exchange, if it is a subject of a terrorist act, then it will hinder or even affect adversely the economic activities of that country, in this case, the Philippines.

Senator Drilon. Mr. President, is that not covered by the preceding line which states would intimidate the public to do or abstain from doing a particular act?

Senator Lacson. It may be different, Mr. President, because in the preceding paragraph, it involves the public at large, but in this case, we are hampering the business activities of, as I mentioned earlier, the Philippine Stock Exchange, for example.

Senator Drilon. Mr. President, Senator Tolentino wishes to intervene. I am willing to yield the Floor to him.

The President. With the permission of the two gentlemen, Senator Tolentino is recognized.

Senator Tolentino. Mr. President, with the sufferance of Senator Lacson, I would like to direct my questions to the interpellator, the Minority Leader.

Senator Drilon. I do not think that is proper, Mr. President.

Senator Tolentino. Just for clarificatory purposes.

Senator Lacson. Just to clarify.

Senator Tolentino. Just to clarify and for the information of this Body. And it has been done...

The President. Well, perhaps, the best way for the gentleman from Cavite is to make a manifestation. The interpellator is Senator Drilon.

Senator Tolentino. Yes, Mr. President. Just a point of clarification.

The President. If the gentleman wants to ask a question, he may ask the sponsor.

Senator Tolentino. Of course that is if the good interpellator would like to clarify, Mr. President. Because this is germane to the issue previously discussed as regards the sovereign agent which, I think, is very critical in Section 4 and Section 6. Or if the good sponsor can answer, I will...

Senator Drilon. Mr. President, for an orderly proceeding, maybe the principal sponsor can attempt to answer and we would react to that as an interpellator. But it is a little difficult to accept a process wherein the interpellator would be asked questions, Mr. President.

Senator Tolentino. No, Mr. President. Just for the information of the Body and the general public. I just wish the Body to be clarified regarding an item—of course, with the permission of the Minority Leader—relative to Section 4 and Section 6 which we have skipped.

Senator Drilon. The gentleman may go ahead, Mr. President.

Senator Tolentino. And if the good sponsor will answer, with more reason that I will pursue this, with the permission of the gentleman, of course.

The discussion is anchored on an agent acting in behalf of a State. Mr. President, if the two gentlemen could probably clarify to this representation, if an agent or a military officer or a police officer is acting pursuant to his duties, is it not included in the state immunity doctrine? Considering that he is an agent of the State, he cannot be sued even if an act is considered as a terroristic act; he is not bound to be hailed in a foreign court or in a national court because he is acting in behalf of the State. Is my proposition correct from the two gentlemen?

The President. The sponsor may react or answer.

Senator Lacson. As I responded to the distinguished Minority Leader earlier, the law does not exempt anyone. But the person committing the act of terrorism must be bound by the purpose as stated under the measure, Mr. President. If the purpose is different or outside of the mission or the mandate assigned to that particularly military officer or agent of the government, then he should be, likewise, held accountable or criminally liable for such act terrorism.

Senator Drilon. Mr. President, with the permission of the good sponsor, in my humble view, this bill and the law should not apply to state agents because they are governed by some other law--the Penal Code or some other act.

In fact, in the United States, Mr. President, the Anti-Terrorism bill as defined in Title 22, Chapter 38, U.S. Code No. 2656, specifically includes only

acts committed by non-state actors. So that a state actor, although he is liable for the crime committed, the crime is not under the Anti-Terrorism Law but under another statute—the Revised Penal Code.

Senator Lacson. The gentleman may be referring to the Articles of War, Mr. President. If we are members of the Armed Forces of the Philippines, then we are covered by the Articles of War instead of some criminal acts covered by the civil courts. The gentleman may be referring to that.

Senator Drilon. Yes. Well, because also...

Senator Lacson. But, what about members of the PNP or some uniformed services who are not covered by the Articles of War? Does it also mean that...

Senator Drilon. Well, that is the way with the gentleman from Cavite...

Senator Tolentino. Mr. President, perhaps the example cited by the good Minority Leader refers to, perhaps, the overall umbrella covering consular officers, diplomatic officers, who are probably exempt from suit. But, there are peculiarities, and the good sponsor is familiar with this, when our PNP officer is made a police attaché and as a police attaché, he has a diplomatic immunity likewise.

So, I am referring to a person who might probably be involved in espionage, who will later on claim that he is not part of this because he is a diplomat. And because of that, he is immune from suit and, therefore, cannot

be subjected to the provisions of this proposed bill. I would like to clarify that, Mr. President, or should it be expressly stated in the proposed bill?

Senator Drilon. Mr. President, if I recall, in the previous session when this bill was calendared, I specifically asked the question of the good sponsor. It was a question asked in jest but very applicable to what we are debating today. And, I asked a specific question: Was Senator Honasan a terrorist? Remember, he was a member of the armed forces at the time when the coup d'état was launched, and he did acts which will compel the government to do something.

Now, in other words, by ordinary definition, because the law says “any person,” Senator Honasan would have been covered. But the gentleman from Cavite, the good sponsor, said, “No, Senator Honasan would have been covered by the Revised Penal Code, including the coup d'état, if that was existing at that time, but not by the Anti-Terrorism Law because he was a state actor. He was a member of the armed forces.” That is how the debate went on. Of course, it is a matter for this Body to decide later on how to precisely define this. I am just basing my questions and interpellations on the phrase “any person.” That means, whether or not one is a state agent or a law enforcement officer, if he commits acts which fall under the definition, he can be prosecuted under the Anti-Terrorism Law. That is how I understood it, Mr. President.

The President. Did the Minority Leader concur with the answer of the gentleman from Cavite, Senator Lacson?

Senator Lacson. I do not think so, Mr. President.

Senator Drilon. Mr. President, under the present wording of the bill, Senator Honasan could have been prosecuted if this was law because the law says “any person.”

Senator Lacson. Except that there is no retroactive effect, Mr. President.

Senator Drilon. No, no. I mean, assuming...

Senator Lacson. And at that time, it is hypothetical.

Senator Drilon. ...assuming that at that time they were committed, this was already in existence. By the phrase “any person,” Mr. President, that would include Senator Honasan because it does not exempt state agents, meaning, public officers, who could be prosecuted for another crime but not under the Anti-Terrorism bill. That is all I am saying.

It is not that we are exempting from criminal prosecution the acts committed, but the prosecution should be under another statute, not under this statute. That is all we are saying.

But, of course, it is a policy issue. Right now, the good sponsor is saying “any person” is covered. And, at a certain point, the Chamber would have to vote on such policy issue, Mr. President.

The President. All right.

Senator Tolentino. Mr. President, one last point before I yield the Floor.

The President. Yes.

Senator Tolentino. Relative to Section 4--which I recall was exhaustively discussed during that December session; I forgot the date--and it has something to do with the unlawful acts committed in or outside of the Philippines, Mr. President.

Senator Drilon. Yes, we will come into that later.

Senator Tolentino. Just one last question, Mr. President, before I yield the Floor.

This is something to do with the long-arm statute and the possibility of this jurisdiction serving summons or placing into its jurisdiction persons outside the territory of the Philippines, Mr. President.

I did my research during the Christmas break. And for the information of this Body, it appears, and perhaps the Committee on Foreign Relations should take cognizance of this, that the Philippines is not even a signatory to a very important convention, not related to criminal law, but civil or commercial matters. It is entitled "The Hague Convention on Service Abroad of Judicial and Extrajudicial Documents," Mr. President.

What I am trying to say, Mr. President, is, how do we acquire jurisdiction of a person outside of the Philippines who, apparently, is planning to commit or attempting to commit any terroristic act if we cannot even serve the necessary processes or documents to acquire jurisdiction over that person? To highlight the matter, we are very familiar with the *Ghosn case* which involves a Brazilian president of Nissan, who was prosecuted in Japan, went to Turkey, and then,

finally, settled in Lebanon, and even Japan, with the help of the Interpol, cannot acquire jurisdiction over Mr. Ghosn, who, apparently, posted bail in Tokyo and then escaped before Christmas.

I am looking at the administrative difficulty of enforcing Section 4 insofar as acts committed outside of the Philippines, Mr. President. That is my last question. And if the good sponsor, or if the Minority Leader, can help clarify this predicament on how our courts will acquire a long-arm jurisdiction over a person outside the Philippines is for us to really analyze.

Senator Lacson. Well, the answer to that is yes and no. If it is outside of the jurisdiction of the Philippines, then we cannot acquire jurisdiction. But once he steps into our territory, then we can acquire jurisdiction under the proposed provision in this measure, Mr. President.

And as we also mentioned last December, we are applying the territoriality principle. And the gentleman himself clarified that when he interjected that we can actually acquire jurisdiction over foreign terrorists, but only when they step on the shores of the country, Mr. President.

Senator Tolentino. One last point, Mr. President. In terms of the prescription of crimes committed here. Because we might reach a point that the perpetrators might be in the Philippines, the other conspirators might be outside of the Philippines, and the period of prescription for those outside of the Philippines will start only once the court acquires jurisdiction. So, we might be placed in an administrative dilemma wherein some of the co-

conspirators are already in jail, or perhaps released, or perhaps the crime has prescribed. But for the other participants coming from outside of our territory, it will only commence once they enter our territory. Am I correct?

So, this would entail a very difficult administrative, judicial, and prosecutorial proceedings insofar as our criminal justice system is concerned, Mr. President.

Senator Lacson. I think the law on prescription will apply. For capital offenses, it is 20 years. So, if that terrorist does not come to our country to be prosecuted, and after a lapse of 20 years, the crime against him shall prescribe.

I hope I am correct with my response, Mr. President.

Senator Tolentino. Thank you, Mr. President. Thank you to the two gentlemen for allowing me to interject. I just have some administrative nuances that I will probably expound during the period of amendments, especially as regards the jurisdiction on criminal cases and the long-arm jurisdiction of our courts, if there is any.

I would like to thank the two gentlemen. *Salamat po.*

Senator Lacson. Anything that will enhance this measure is, of course, welcome, Mr. President.

Senator Drilon. Thank you, Mr. President. Thank you to the gentleman from Cavite, Senator Tolentino.

Mr. President, on the issue of extraterritoriality, a cardinal principle of criminal law is that the criminal law applies only within the territory of the State which enacts this criminal law. I repeat that: As a general principle, penal statutes are only applicable within the territory of the State which enacts the criminal statutes. An exception is extraterritoriality. Meaning, even if the offense was committed outside of the country which enacts the law, the principle of extraterritoriality can be extended even on those acts committed outside of the jurisdiction. And under our Revised Penal Code, there are very specific application of extraterritoriality when the code can be made to apply as, for example, when an offense is committed while on Philippine ship or airship, where it is to counterfeit a currency note of the Philippines, or where the acts are committed by public officers in the exercise of their functions. So, there is a point of contact with the Philippines.

My problem with the way the present law is worded, it does not anymore require a point of contact with the Philippines. So that, with due respect to the good sponsor, it may or it can lead to absurd situations and the administrative difficulties which the good gentleman, Senator Tolentino, mentioned.

Just to cite an example, Mr. President.

A Malaysian who plans to commit a terrorist act in Indonesia and crosses the border to Indonesia, would have nothing to do with the Philippines, when he comes to the country, he can be charged and sentenced to life imprisonment.

It is a little difficult that apart from the over extension of the principle of extraterritoriality which is premised on the interest of the State being prejudiced by an act outside of its jurisdiction, that is the principal premise. Even if the Philippines has nothing to do with it, the person who commits a terrorist act can be liable for life imprisonment.

In the previous period of interpellations, the good sponsor said, we do not want to be a party or we want to make sure that we do our share as an obligation to the community of nations that we should punish those guilty of terrorist acts even if there has no relation to the Philippines.

If that is the purpose, Mr. President, would the gentleman agree to first limit the extraterritoriality exception to those which are enumerated in the Revised Penal Code and under Section 58 of the present law? Instead of a criminal offense, once the terrorist comes to our country, he is stopped at the border and deported to the place where he committed the terrorist act.

Senator Lacson. The distinguished Minority Leader is correct because in the customary international law scheme of jurisdiction, the territoriality principle serves as the basic principle of jurisdiction. Exceptionally, however, Mr. President, national laws may be given extraterritorial application provided that these laws could be justified by one of the recognized principles of extraterritorial jurisdiction under public international law; active personality principle, passive principle, protective principle, and universality principle. And because of the global nature of terrorism, we can apply the universality

principle to cover even foreign terrorists who have committed acts of terrorism outside of the Philippine jurisdiction. That is what we are applying here, to apply the provisions of the Revised Penal Code, maybe to delimit.

Senator Drilon. At the end, this is a policy issue. I believe that as a lawyer, I cannot subscribe to that proposal and even considering the administrative difficulties pointed out by Senator Tolentino.

We can imagine, Mr. President, how difficult it is to gather evidence abroad in order to prosecute this case in our jurisdiction. I think, we will be fulfilling our obligation if we make sure, if we exert every effort and make sure that our laws would allow us to hold in our borders a terrorist and deport him or her to the country where he or she is facing a case for anti-terrorism acts rather than prosecuting him/her here with all the difficulties attendant to such prosecution. I think, it is more effective if we deport the person to the country where the acts were committed because if we incarcerate the person here, it is entirely possible that it becomes his base to recruit Filipino terrorists.

So, that is why our humble suggestion is that, yes, if these are foreign terrorists who come to the shore of the country or to our boarder, do not allow them entry; deport them immediately to the country where they are facing criminal charges. The gentleman from Cavite should be fully familiar with this being the former chief of the Philippine National Police that there are so-called “red alerts” when an accused from a foreign country comes to our shores and the Interpol red alert is on record to deport him immediately.

To me, policy consideration would dictate that we should follow that same process because of the difficulties that we would encounter. And, regrettably, I cannot agree that even if no element of the crime concerns the Philippines, we can impose a life imprisonment here. Because in the first place, we may not even be able to prove this offense because of the difficulty of the evidence. If I were the counsel for a foreign terrorist, the first thing I will do is to ask for a speedy trial, and if the prosecution cannot present evidence, then that terrorist is released. And the difficult deportation proceedings would have to be instituted.

Senator Lacson. May I respond, Mr. President?

Senator Drilon. Yes, please, Mr. President.

Senator Lacson. Times have changed, Mr. President. Terrorism is a new phenomenon. And having said that, the Revised Penal Code does not contemplate because it was passed in 1932.

Senator Drilon. Yes, Mr. President.

Senator Lacson. And terrorism was non-existent, never heard of, at that time, Mr. President. So, to limit the definition or the coverage of terrorist acts within the provisions of the Revised Penal Code, would be a disservice to the safety and security of our people.

Senator Drilon. What we are talking here is the principle of extraterritoriality.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. It is the applicability of the law outside of our jurisdiction. The general principle is, the laws apply only within the territory of the enacting State. The exception is extraterritoriality. Whether or not it is terrorism or another crime, that principle will still apply—extraterritoriality. It is not because a person has a particular crime.

Senator Lacson. We are only introducing the extraterritoriality principle in the proposed measure, Mr. President. In ordinary crimes, we are not...

Senator Drilon. I know, Mr. President. But may we know why we are making an exception or removing all the conditions basically from the application of extraterritoriality in case of terrorism? Because under the present law, there is a provision which allows extraterritorial application.

Senator Lacson. We are not removing, Mr. President, we are precisely including or applying the principle of extraterritoriality.

Senator Drilon. No, Mr. President. On pages 56 and 57 of the bill, Section 58 of the present law on extraterritorial application of the act, it is bracketed, and, therefore, proposed to be deleted.

Senator Lacson. Let me check, Mr. President.

Senator Drilon. Yes, please.

I move that we suspend the session for one minute, Mr. President.

SUSPENSION OF SESSION

The President. Is there any objection? *[Silence]* There being none, the session is suspended.

It was 3:39 p.m.

RESUMPTION OF SESSION

At 4:00 p.m., the session was resumed.

The President. The session is resumed.

Senator Lacson. We bracketed that particular provision because it is too limiting, Mr. President. It delimits the power of the State. And precisely, we bracketed that to replace it with a new provision that would expand.

Senator Drilon. The sponsor bracketed it and inserted the phrase “IN OR OUTSIDE OF THE PHILIPPINES” without any qualification whatsoever so that we can prosecute everybody.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. I mean, we can prosecute anyone, a member of the ISIS or a terrorist in Indonesia, et cetera. But one thing that we can see is that we cannot enforce administratively this power. What I would like to point out and support the administrative difficulties as pointed out by Senator Tolentino is that terrorist acts are committed in different States, how do we propose to prosecute these under the principle of extraterritoriality? In other words, the act does not in any way compel the Philippine government to do any particular act because it has nothing to do with the Philippines. But we are imposing, if convicted, a life imprisonment which is a little stretched.

I repeat, we are punishing somebody for committing a terrorist act which has nothing to do with the country and would even punish by life

imprisonment a person guilty of terrorism who would cross borders. So that a member of the ISIS who would cross to...

Senator Lacson. I am glad the gentleman mentioned ISIS, Mr. President. A case in point. What do we do to a Filipino who goes abroad, joins the ISIS, and comes back here? Will we just let him go?

Senator Drilon. No, Mr. President. We deport him to the place.

Senator Lacson. But he is a Filipino. How can we deport a Filipino? We cannot deport a Filipino, Mr. President.

Senator Drilon. No, Mr. President, I disagree with that. That is why we have extradition treaties, and depending on the terms of the extradition treaty, we can have our own citizens deported to a foreign country to face the criminal case filed in that other country.

I will repeat. The mere fact that one is a Filipino does not exempt him from being brought to the other country wherein he committed a crime. That is what an extradition treaty is all about.

The President. But what if the Filipino did not commit any crime in that country? He just made himself a member of some organizations.

Senator Lacson. Terrorist organization that is proscribed, then that is already a criminal act, Mr. President.

The President. Here in the Philippines.

Senator Lacson. Even abroad, Mr. President.

The President. In all of the countries abroad?

Senator Lacson. Countries where the laws on terrorism provide for proscription of terrorist organizations. Then, just being a member is already a criminal act.

The President. What if he comes from a country that does not proscribe?

Senator Lacson. We can extradite him, Mr. President.

Senator Drilon. Yes, Mr. President, we can extradite him.

The President. We can extradite him.

Senator Drilon. In that example, Mr. President, assuming that in the United States, an organization is deemed a terrorist organization and a Filipino joins that organization, then we can deport him to the United States.

The President. All right. If the Filipino is in Iran or Syria and he joins a terrorist group there, and then he comes over to the Philippines?

Senator Drilon. The remedy that I am proposing is that if it is a crime in the place where he came from, we should arrest him at the border.

The President. No. In my example, he is not. He did not commit a crime in that particular place. I am just using Syria as an example. But what if he did not commit any crime and terrorism is not illegal in that particular country and when he comes over to the Philippines, he is now a member of that certain terrorist group?

Senator Drilon. Well, Mr. President, a few years back, we repealed the Anti-Subversion Law which punished a person by a simple membership in the

Communist Party of the Philippines. That was a principle that we have accepted—mere membership in any subversible organization is not punishable.

Now, we can debate on that here should the terrorist organization is based in the Philippines. But if the terrorist organization is based abroad, I cannot accept that a territoriality principle would be made to apply. As we said, the better remedy could be, in our mind, not to allow the entry of the foreigner in our shores and deport him to the place where the...

Senator Lacson. With the permission of the Minority Leader.

The President. Yes.

Senator Lacson. What we are trying to avoid here is to make the Philippines a safe haven for terrorists.

Senator Drilon. We know, Mr. President.

Senator Lacson. What if the country where the Filipino came from does not have an extradition treaty with the Philippines? What will we do with the Filipino, Mr. President? He is here to commit the crime of terrorism precisely because he is already a member of a terrorist organization like the ISIS which happened in Marawi City.

Senator Drilon. Well, in Marawi City, that is not a good example, Mr. President, because there were acts of terrorism.

Senator Lacson. No, without the actual terroristic activities perpetrated there. The members of ISIS who landed in Marawi City to plan to commit

terrorism, we cannot do anything about them because of the absence of this provision, Mr. President. We are trying to be proactive.

Senator Drilon. We accept that, Mr. President, but the purpose of being proactive, to our mind, can be served if we exclude the criminal or the terrorist from our territory. If he is a Filipino, then we can bring him to the jurisdiction where he faces this crime.

Well, because if he is recruited here, Mr. President, that is already a terrorist act under our proposal. We are talking about acts committed outside of the Philippines. If he is recruited here, he commits a crime here, right?

The President. But if he goes abroad and becomes a member in Syria, for example, and then we do not have extradition treaties with Syria, but he is here now in the Philippines and here he is a member of a...

Senator Drilon. Well, he can be prosecuted here.

The President. Here. Yes, precisely.

Senator Drilon. Because he committed a crime here when he became a member of a proscribed organization.

The President. All right. Then we concur with the answer then.

Senator Tolentino. Mr. President, again, with the permission of the two gentlemen, just a manifestation.

Senator Drilon. Maybe the good gentleman, Senator Tolentino, can avail of the period of interpellation at the appropriate time so that our train of thought will not be interrupted. Just as a matter of better procedure.

Senator Tolentino. Mr. President, just one line here. Relative to the crimes committed outside, perhaps the good sponsor—with due respect—should be made aware of the current trend that most Latin American countries now have blocking statutes. Meaning to say, if we file a case against a Nicaraguan in the United States, the Nicaraguan court will not assume jurisdiction if we file again another case against that Nicaraguan national. That goes the same with citizens coming from Costa Rica, Guatemala, Ecuador, and Dominican Republic. What these Latin American countries are doing is, they file a case in the United States as the forum; we will no longer assume jurisdiction because the United States has more resources. “Go ahead, try it in the United States.” But here we are, with due respect, in our proposed bill, we are willing to assume more cases to be filed in our home court, so to speak, though we might lack the resources.

With due respect, Mr. President, this is against the current trend of unloading cases and giving it to courts, to forum with more resources, such as the United States. They can try in their federal courts the terrorists and the Latin American countries will no longer accept that. So, I am looking at the situation wherein we file a case against a Nicaraguan terrorist and, thereafter, the evidence sprouted in Nicaragua. Nicaragua will no longer accept that and it probably will undermine our own case. Just a manifestation to further highlight the difficulty of having a long-arm statute with grave administrative difficulties.

Salamat po, Minority Leader; *salamat po*, good sponsor.

Senator Lacson. I would like to posit a situation, Mr. President. What if a Filipino participated in the planning abroad of a terroristic act in the Philippines with the assistance of some foreign terrorists? With the gentleman's proposition, we cannot do anything about him when he comes back to our country having planned the terrorist act abroad to be perpetrated in the Philippines.

Senator Drilon. No, Mr. President. He could be prosecuted here even if he planned it abroad because it involves the Philippines.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. So, therefore, the extraterritoriality is squarely applicable because there is a contact point—the Philippines. That is all what we are saying because the way it is phrased now under the bill, our courts can acquire jurisdiction over all acts of terrorism all over the world.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. So, it is a little difficult to accept Mr. President, because it simply runs contrary to the basic principles of territoriality. Anyway, we will be submitting this amendment in the course of the period of amendments because, apparently, the sponsor is not willing to yield at this particular point.

Senator Lacson. Well, I cannot accept that a Filipino ISIS member trained abroad would come back to the Philippines and we just welcome him, not doing anything to proactively prevent any possible act of terrorism. That is

what I cannot accept, Mr. President, because it entails loss of lives, destruction of properties, destruction of the economy, and the destruction of the fundamental political structure of the country. Shall we wait for the act to be consummated before we act?

Senator Drilon. No, Mr. President, we are not waiting for that. We will not be waiting for that. The moment he becomes a member of ISIS which under the conventions are considered a terrorist organization, once he joins that--

Senator Lacson. And then comes back to the Philippines, he can be arrested?

Senator Drilon. --and comes back to the Philippines, we can protect ourselves by not allowing him entry into our borders and deport him to a place...

Senator Lacson. Mr. President, that is if we are able to monitor that he is coming back. But if we are not able to monitor that he has already come back; he has already mingled with the community...

The President. Passed through the back door.

Senator Lacson. ...what can we do, Mr. President, kill him?

Senator Drilon. No, Mr. President. We are talking here about principles of territoriality and extraterritoriality.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. The first principle is that a criminal statute is only applicable and enforceable within the borders of the country which enacted the law; exception--extraterritoriality. Therefore, the exception must be fully understood and qualified because it is an exception to the territoriality principle under our criminal laws. That is all that we are saying. We are saying that in order to justify the applicability for acts committed outside of the country, it must have a point of contact with the Philippines. Whether the plan is against a Philippine official or committed on board a Philippine ship, we should have that principle of extraterritoriality present. Because a system that would make us the venue for terrorist acts all over the world is simply not something that, as a principle, we can agree with, Mr. President.

Senator Lacson. That is the reason why I enumerated the different principles under the territoriality principle, Mr. President—active, passive, protective, and universality—and any of those principles can apply.

Senator Drilon. Mr. President, on the questions raised about a Filipino citizen, the international law, particularly on conflict of laws, would allow jurisdiction over acts committed outside of the borders by the citizen of that country on the principle of nationality which accords jurisdiction to the country where the criminal is its citizen. And in the enumeration, maybe what we can do is amend Section 58 of the present law by including, as an application of the principle of extraterritoriality, where the terrorist act is committed by a Filipino.

Senator Lacson. How about if it is committed by a foreign terrorist who would come to the Philippines, Mr. President?

Senator Drilon. When it is committed by a foreign terrorist abroad with no point of contact for the Philippines, the principle of territoriality will apply, and if he comes to the Philippines, the remedy should be to deport him and not allow entry into the country rather than letting him undergo trial in our jurisdiction when we have nothing to do with it. I think we fulfill our international obligation by denying him entry. Now, we can agree to the proposition that if he is a Filipino, who committed terrorist acts outside by the nationality theory--we can prosecute him here.

Senator Lacson. I am afraid that there would be a situation that we will be too late to act, Mr. President. That foreign terrorist may have already committed a terrorist act before we even proceed with the deportation proceedings.

Senator Drilon. No, Mr. President. Because as he enters our border, he is immediately deprived of liberty.

Senator Lacson. If we are able to detect and monitor him, Mr. President.

Senator Drilon. Well, precisely. The same concern would be on a foreign terrorist who...

Senator Lacson. I am referring to a foreign terrorist, Mr. President.

Senator Drilon. No, Mr. President. Because this would apply to all. Whether a foreign terrorist who commits an act of terrorism outside of a

country with no relation to the Philippines or if he even crosses borders internationally would be liable for life imprisonment here. He has nothing to do with the Philippines.

Senator Gordon. I think, I am lost. I agree with everything that the Minority Leader said. But I just want to clarify, are we talking about a foreign terrorist who commits an act of terrorism abroad and comes in here? The Minority Leader is correct; he will immediately be deported. He will not be allowed here. But if he gets in here, he has already violated a terrorism provision.

Senator Lacson. Yes, that is correct.

Senator Gordon. Here in our country. Even if he is a foreign terrorist who attacks another country.

Senator Lacson. That is correct, Mr. President.

Senator Gordon. Is that the principle that the gentleman is trying to...

Senator Lacson. Yes, Mr. President.

Senator Gordon. So, Mr. President...

Senator Lacson. Under the territoriality principle, that is correct, Mr. President.

Senator Drilon. No, that is not it.

Senator Gordon. I just want to be clarified because if he committed an act against a foreign entity abroad, under the principle of this measure, any

Filipino or foreigner who commits an act in or outside the Philippines is liable.
Is that correct?

Senator Lacson. That is correct.

Senator Drilon. We are amenable to punishing him if he is a Filipino on the principle of nationality.

Senator Gordon. That is correct, follows him wherever he is.

Senator Drilon. Yes, but when he is a foreigner, committing a terrorist act abroad which targets any and not the Philippines, I do not think that the principle of extraterritoriality should apply, but we are not without any remedy. Our remedy is to exclude him from our jurisdiction.

Senator Gordon. I see the point of Senator Lacson, if he comes in here, he becomes a threat because he is skilled; he is a bomb maker.

Senator Drilon. He becomes a threat. That is why we have the right to exclude him at our border.

Senator Gordon. We have a very porous country...

Senator Lacson. May I ask a simple question, Mr. President? Is terrorism a crime against humanity and the law of nations? It is.

Senator Drilon. Yes, it is.

Senator Lacson. And that we should apply. Even if he commits a crime of terrorism abroad and he comes to the Philippines, then he must be prosecuted.

Senator Gordon. Under the IHL, *hindi ba?* If he commits barbaric acts, kills a lot of people, and he tries to come in here, we have a solemn duty to arrest him not under the terrorism law but under the IHL.

Senator Lacson. That is what we are proposing under this measure.

Senator Gordon. *Hindi ba* under the IHL?

Senator Drilon. International Humanitarian Law. There is no authority to arrest somebody who violates an international convention, Mr. President.

Senator Lacson. That is why we are including it in the amendment of the Human Security Act. We are trying to strengthen the law against terrorism.

Senator Drilon. Yes, I commend the effort of the good sponsor to strengthen but we have a principle in law that we should not interpret the law to the point of absurdity. And it is our humble proposition that to make the extraterritoriality principle apply to every act of terrorism all over the world.

Senator Gordon. Mr. President, with the permission of the Minority Leader, I agree with Senator Lacson. Because, I think, if somebody like that guy from Baghdad...Baghdad was bombed by the Americans which was considered a crime. He was training people to bomb camps of the Americans. And he comes to our country. What can we do about him? Deport him, correct?

Senator Drilon. Deport him, yes, to the place where he is facing the criminal case.

Senator Gordon. He is already here like the bomb maker Marwan.

Senator Drilon. Deport him.

Senator Gordon. But we have to arrest him first, right?

Senator Drilon. No, deport him. The moment we filed a deportation proceedings, we can already hold him in detention under our laws.

Senator Gordon. Let me argue my point of it. We have 7,647 islands at last count, if I remember. And he can come in here; he becomes a clear and present danger here because he can train, he can bomb, he can maim people here. So, the point here is, perhaps, the debate is not on extraterritoriality alone but the very fact that it is practically self-defense on the part of the country to have him arrested.

Senator Lacson. That is correct, Mr. President.

Senator Gordon. And if we put that in the terrorism law, I think, that might be acceptable. Because for example in Britain, they have a lot of Muslim guys who leave their country and go to Syria--even bomb other people in Syria and other places--go to Turkey and sometimes they are arrested. I think we should look at that. When they come back, are they arrested in Britain? I think, they are.

Senator Lacson. My concern, Mr. President, if we do not include that provision, then the Philippines will be a safe haven of terrorists.

Senator Gordon. That is my point exactly.

Senator Lacson. *Mag-aalisan sila roon, pupunta silang lahat sa Pilipinas.*

Senator Drilon. *Pero ang sinasabi ko nga, our remedy, instead of prosecuting them here where the prosecution is very difficult and almost impossible, exclude them from the Philippine territory, deport them to the place where they committed the offense and where they are facing charges, and not allow them entry into the country. That is all that we are saying, Mr. President.*

Senator Gordon. I just have two problems with that, Mr. President.

Senator Drilon. Mr. President, maybe at the appropriate time, when Senator Gordon has the Floor. *[Laughter]*

Senator Gordon. Now, the Minority Leader is bullying me. *[Laughter]*

The President. Following the thesis of the Minority Leader, yes, indeed, that can be so, but we will have to arrest him in order to deport him.

Senator Drilon. Yes, that is correct, Mr. President.

The President. *Manlalaban iyon. [Laughter]*

Senator Gordon. I get the point here.

Senator Lacson. That is a different concept, Mr. President.

Senator Drilon. Well, because when we charge him, we also have to arrest him.

The President. Yes.

Senator Drilon. So, the point is, we can deprive that terrorist of his liberty, whether through a warrant of arrest in a case filed or through a deportation proceeding when we would deport him to the country where he is facing criminal charges.

Senator Gordon. Or in a special operation like Mamasapano.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, may we ask for a suspension of the session?

The President. Is there any objection? *[Silence]* There being none, the session is suspended for a few minutes.

It was 4:27 p.m.

RESUMPTION OF SESSION

At 5:07 p.m., the session was resumed.

The President. The session is resumed.

Senator Zubiri. Thank you, Mr. President. We would like to suspend the interpellation of Sen. Franklin Drilon. He asked to suspend for the meantime and he will raise a few questions a bit later in the deliberations for the record.

The President. All right.

Senator Zubiri. Mr. President, I believe we have two colleagues who want to interpellate, one is Sen. Richard Gordon, and the other is Sen. Risa Hontiveros.

SUSPENSION OF SESSION

Mr. President, I move that we suspend the session for one minute because they are still not in the Session Hall.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:07 p.m.

RESUMPTION OF SESSION

At 5:09 p.m., the session was resumed.

The President. The session is resumed.

Senator Zubiri. Mr. President, our colleagues have requested if they can continue the interpellation of the bill tomorrow.

SUSPENSION OF CONSIDERATION OF S. NO. 1083

Therefore, Mr. President, I move that we suspend consideration of Senate Bill No. 1083.

The President. Is there any objection? *[Silence]* There being none, consideration of Senate Bill No. 1083 is suspended.

COMMITTEE REPORT NO. 17

(Re: P.S. Res. Nos. 106, 107, 108, and 123, taking into Consideration the Privilege Speech on the Good Conduct Time Allowance of Senator Gordon Delivered on August 27, 2019)
(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Proposed Senate Resolution Nos. 106, 107, 108, 123 and the Privilege Speech on the Good Conduct Time Allowance of Sen. Richard Gordon delivered on August 27, 2019 as reported out under Committee Report No. 17.

The President. Is there any objection? *[Silence]* There being none, consideration of Proposed Senate Resolution Nos. 106, 107, 108, 123 and the Privilege Speech on the Good Conduct Time Allowance of Sen. Richard Gordon delivered on August 27, 2019 are now in order.

Senator Zubiri. May we now recognize Sen. Richard Gordon.

The President. Sen. Richard Gordon, chairman of the Committee on Justice and Human Rights and Blue Ribbon, is recognized.

Senator Gordon. Yes, Mr. President. We are ready to accept any interpellations.

The President. The Majority Leader is recognized.

Senator Zubiri. Mr. President, I ask that we recognize the Minority Leader.

The President. The Minority Leader is recognized.

Senator Drilon. Just a parliamentary inquiry, Mr. President.

The President. Yes.

PARLIMENTARY INQUIRY OF SENATOR DRILON

Senator Drilon. This report is a partial report of the resolution.

Senator Gordon. That is correct, Mr. President.

Senator Drilon. For the record, there will be another report which is to complete the report on the resolution.

Senator Gordon. Yes, Mr. President.

Senator Drilon. Thank you very much, Mr. President.

The President. All right, we place that on record.

Senator Zubiri. I think, this is Part I, Mr. President.

The President. So, this is Part I of the report.

Senator Zubiri. That is correct, Mr. President. There is still a Part II.

The President. The committee will have, in a future time, a committee report on the GCTA.

Senator Zubiri. I believe so, Mr. President.

With that, Mr. President, I move that we close the period of interpellations.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. I move that we open the period of amendments, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Gordon. Mr. President, we have no amendments.

Senator Zubiri. There being no member who wishes to propose amendment, I move that we close the period of amendments.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

ADOPTION OF COMMITTEE REPORT NO. 17

Senator Zubiri. With that, Mr. President, there being no interpellation, I move that we adopt Proposed Senate Resolution Nos. 106, 107, 108, 123 and the Privilege Speech on the Good Conduct Time Allowance of Sen. Richard J. Gordon.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Thank you, Mr. President.

Senator Gordon. Mr. President, just a very short privilege speech.

Senator Zubiri. Mr. President, may we allow Senator Gordon to deliver his privilege speech.

The President. Sen. Richard Gordon is recognized.

PRIVILEGE SPEECH OF SENATOR GORDON

Senator Gordon. Thank you, Mr. President.

I would like to rise on a point of personal privilege, Mr. President, principally because of the rising threat of a mysterious disease in the form of coronavirus that is now raging in Wuhan, China. In view of the fact that it is a novel coronavirus first reported in Wuhan when more than 40 individuals were taken ill, apparently from their exposure in a seafood market in Wuhan.

On January 20, 2020—and this is what is disconcerting—no less than Chinese President Xi Jinping said that it is extremely crucial to take every possible measure to combat a new coronavirus that has infected 217 people in China.

At the point of the reports a week ago, no human-to-human transmission was documented—that is good. However, in the past few days, some countries have confirmed the spread of this virus—one confirmed case in Seoul, South Korea; two confirmed cases in Bangkok, Thailand; one confirmed case in Tokyo, Japan; and other countries have suspected cases—two suspected in Vietnam; six suspected in Singapore; and one pending further tests.

In the Philippines, the Department of Health (DOH) just disclosed today that it is currently investigating cases here. One is the case of a five-year-old who traveled from Wuhan, China and was admitted in Cebu City for manifesting fever, throat irritation, and cough prior to entering the Philippines.

DOH is also monitoring three individuals with flu-like symptoms upon entering the country via the Kalibo International Airport from China, but without any history of travel to Wuhan and without any known contact with a confirmed 2019 novel coronavirus (2019-nCoV) case, Severe Acute Respiratory (SARS) Illness case, or sick animals.

Coronaviruses are a large family of viruses ranging from the common cold to more serious infections such as MERS-CoV and SARS-CoV. Common signs of coronavirus infection include respiratory symptoms, fever, cough, shortness of breath and breathing difficulties. In severe cases, it can cause pneumonia, acute respiratory syndrome, kidney failure, and even death.

It is but natural that we all be concerned in the Philippines about this virus, not only because we have heavy traffic of travelers from China, but we are on the coast of Chinese New Year, Mr. President, which is on January 25, and this is one of the longest holidays in China where everybody travels. *Lahat po ay nagbibiyaha ryan.* They travel within China and they also travel beyond China and the Philippines is one of their favorite destinations.

In 2019, there are about 1.5 million Chinese tourists in the country. In January 2019 alone, 131,196 Chinese flew to the Philippines. That is so far in January last year.

This is serious and we must act swiftly and boldly. I have been informed that, as we speak, there is a global emergency meeting regarding this outbreak.

It is our duty to prepare for a possible spread of the coronavirus in our country. Airports and seaports need to be on full alert. Beyond this, every hospital, every health facility--public, private or run by local governments--have to put in place contingency plans for patients who are consulting for runny nose, cough, sore throat, and fever.

We should put a firewall in the hospitals which can prevent the virus from spreading. We could also designate specific hospitals to cater to these kinds of cases.

First, as we know, when they go in, if there are suspected cases, they should not be allowed to go to the main hospital. There should be an isolation ward that will receive them so it does not spread.

We know that it can easily mutate. We also know that in outbreaks of coronavirus like SARS and MERS, hospitals have had to close down and health workers who see the patients are at high risk for disease and even death.

Unfortunately, as we may have noticed, many people are experiencing flu-like symptoms already. So what are the plans? What are the protocols for hospitals? What measures are in place to prepare for an outbreak?

With more than half a million people also in evacuation sites in Batangas, one could imagine how a contagious virus could wreck havoc on our people who are displaced.

I would like to call on the leadership of all government agencies to immediately put in place the preparedness plans for this weekend, a time of high risk – travelling of people from China to all parts of the world – information is critical, and all the mandatory quarantine and contact tracing machinery need to be in place. They are already in place in our major airports, but certainly, we are in archipelagic country, *maaaring pumasok iyan sa maliliit na bayan at sa maliliit na port natin*.

Let us not wait for this to go out of hand. I am glad that the DOH is already on hand. They had a press conference today and I am happy that they are alerted to this. Let us sound the alarm now and prepare for a worst case scenario. We must always do that. Through timely preparedness, we will save lives and protect our people. Therefore, there must be a very good communication plan so that people will not panic and would know what to do. Communication plan that would turn an unthinkable and preventable illness that could cause serious disease and unexpected death to a better result, Mr. President.

Thank you very much, Mr. President.

The President. The Majority Leader is recognized.

MOTION OF SENATOR ZUBIRI
(Referral of the Privilege Speech of Senator Gordon to the Committee on Health and Demography)

Senator Zubiri. Mr. President, I move that we refer the privilege speech of the distinguished gentleman from Zambales, Senator Gordon, to the Committee on Health and Demography.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

We have a Second Additional Reference of Business.

Senator Zubiri. Yes, Mr. President. I move that we proceed to the Second Additional Reference of Business.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

The Secretary will read the Second Additional Reference of Business.

SECOND ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1278, entitled

AN ACT AMENDING SECTION 16 OF REPUBLIC ACT NO. 7160,
OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF
1991, AND FOR OTHER PURPOSES

Introduced by Senator Villanueva

The President. Referred to the Committee on Local Government

The Secretary. Senate Bill No. 1279, entitled

AN ACT STRENGTHENING TECHNICAL VOCATIONAL EDUCATION AND
TRAINING (TVET) IN THE PHILIPPINES BY INCORPORATING
APPRENTICESHIP AND DUAL TRAINING SYSTEM, PROVIDING
FOR CONTINUOUS TRAINING OF THE UNEMPLOYED, AND
EXPANDING THE PROVISION OF ENTERPRISE-BASED
EDUCATION AND TRAINING, AND FOR OTHER PURPOSES

Introduced by Senator Villanueva

The President. Referred to the Committees on Higher, Technical and Vocational Education; Labor, Employment and Human Resources Development; Ways and Means; and Finance

The Secretary. Senate Bill No. 1280, entitled

AN ACT MANDATING FOOD MANUFACTURERS TO DISPLAY COLOR-CODED NUTRITIONAL INFORMATION ON FOOD PACKAGING AND FOR OTHER PURPOSES

Introduced by Senator Villanueva

The President. Referred to the Committees on Health and Demography; and Trade, Commerce and Entrepreneurship

The Secretary. Senate Bill No. 1281, entitled

AN ACT PROVIDING FOR THE LIFETIME VALIDITY OF BIRTH CERTIFICATES ISSUED BY THE PHILIPPINE STATISTICS AUTHORITY AND FOR OTHER PURPOSES

Introduced by Senator Villanueva

The President. Referred to the Committees on Civil Service, Government Reorganization and Professional Regulation

The Secretary. Senate Bill No. 1282, entitled

AN ACT INTEGRATING ENVIRONMENTAL EDUCATION IN THE SENIOR HIGH SCHOOL (SHS) CURRICULUM

Introduced by Senator Villanueva

The President. Referred to the Committee on Basic Education, Arts and Culture

The Secretary. Senate Bill No. 1283, entitled

AN ACT PROVIDING SCHOLARSHIP TO QUALIFIED STUDENTS TAKING MEDICAL EDUCATION PROGRAMS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Villanueva

The President. Referred to the Committees on Higher, Technical and Vocational Education; Health and Demography; and Finance

The Secretary. Senate Bill No. 1284, entitled

AN ACT GRANTING DISASTER RESPONSE VOLUNTEERS LEAVE WITH PAY TO QUALIFIED EMPLOYEES IN THE GOVERNMENT SECTOR AND FOR OTHER PURPOSES

Introduced by Senator De Lima

The President. Referred to the Committee on Civil Service, Government Reorganization and Professional Regulation

The Secretary. Senate Bill No. 1285, entitled

AN ACT ENCOURAGING VOLUNTEERISM DURING EMERGENCIES BY PROTECTING VOLUNTEERS FROM LIABILITY AND PROVIDING MANDATORY INSURANCE COVERAGE TO THE VOLUNTEERS

Introduced by Senator De Lima

The President. Referred to the Committees on Social Justice, Welfare and Rural Development; and Justice and Human Rights

RESOLUTIONS

The Secretary. Senate Concurrent Resolution No. 5, entitled

CONCURRENT RESOLUTION URGING THE BANGSAMORO TRANSITION AUTHORITY TO DESIGNATE ITS REPRESENTATIVES TO THE PHILIPPINE CONGRESS-BANGSAMORO PARLIAMENT FORUM TO BE CREATED PURSUANT TO ARTICLE VI, SECTION 3 OF REPUBLIC ACT NO. 11054, OTHERWISE KNOWN AS THE 'ORGANIC LAW FOR THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO' AND TO MEET WITH THE DELEGATES DESIGNATED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE

Introduced by Senator Zubiri

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 291, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, TO DETERMINE THE PREPAREDNESS OF THE PHILIPPINE GOVERNMENT ON THE DETECTION, PREVENTION, MINIMIZATION, TREATMENTS, AND CONTAINMENT MEASURES ON THE REPORTED POTENTIAL OUTBREAK OF AN UNKNOWN PNEUMONIA VIRUS IN CHINA, AND THE CAPACITY OF OUR HEALTH WORKERS AND PROFESSIONALS TO HANDLE SAID DISEASE

Introduced by Senator Villanueva

The President. Referred to the Committee on Health and Demography

The Secretary. Proposed Senate Resolution No. 292, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON COOPERATIVES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF REPUBLIC ACT NO. 11364 OR THE COOPERATIVE DEVELOPMENT AUTHORITY CHARTER OF 2019 AND THE FORMULATION OF ITS IMPLEMENTING RULES AND REGULATIONS WITH THE END IN VIEW OF STRENGTHENING THE COOPERATIVE SECTOR AND THE FULL IMPLEMENTATION OF THE PROVISIONS OF THE LAW

Introduced by Senator Zubiri

The President. Referred to the Committee on Cooperatives

The Secretary. Proposed Senate Resolution No. 293, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE UNKNOWN STRAIN OF CORONAVIRUS FIRST DETECTED IN WUHAN, CHINA, WITH THE INTENTION OF DETERMINING APPROPRIATE MEASURES AND NECESSARY FUNDING REQUIREMENTS TO ENSURE A QUICK AND EFFICIENT GOVERNMENT RESPONSE TO ADDRESS A POSSIBLE OUTBREAK OF THE MYSTERIOUS RESPIRATORY VIRUS IN THE COUNTRY

Introduced by Senator Binay

The President. Referred to the Committees on Health and Demography; and Finance

COMMITTEE REPORT

The Secretary. Committee Report No. 33, submitted jointly by the Committees on Public Order and Dangerous Drugs; and Justice and Human Rights, on P. S. Res. No. 47, introduced by Senator Hontiveros, entitled

RESOLUTION URGING THE SENATE COMMITTEES ON PUBLIC ORDER AND DANGEROUS DRUGS AND JUSTICE TO CONDUCT AN INVESTIGATION IN AID OF LEGISLATION ON THE SPATE OF KILLINGS THAT DEVASTATED THE ISLAND OF NEGROS AND THE CIRCUMSTANCES THAT ALLOWED FOR THE LAWLESS VIOLENCE THAT CLOAKED THE PROVINCE, WITH THE END IN VIEW OF ATTAINING JUSTICE FOR THE SLAIN VICTIMS AND CREATING POLICIES THAT WILL ADEQUATELY ADDRESS THE ROOT CAUSE OF THE CONFLICT IN THE PROVINCE”;

and P. S. Res. No. 65 introduced by Senator De Lima, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE IMPLEMENTATION OF MEMORANDUM ORDER NO. 32, OTHERWISE KNOWN AS ‘OPLAN SAURON’, IN RELATION TO THE RECENT SPATE OF KILLINGS IN THE PROVINCE OF NEGROS ORIENTAL, IN PARTICULAR, AND OTHER AFFECTED AREAS

recommending its adoption of the recommendations and their immediate implementation.

Sponsor: Senator Dela Rosa

The President. To the Calendar for Ordinary Business

The Majority Leader is recognized.

Senator Zubiri. Mr. President, we have some housekeeping matters.

We have been officially informed by the House of Representatives that it will hold its plenary session tomorrow, Wednesday, the 22nd of January 2019, at the Batangas City Convention Center at 1:00 p.m.

The President. I think they just want to inform us. So, we place that on record. We take note of the manifestation of the House of Representatives.

Senator Zubiri. We have a few change of referrals, Mr. President.

MOTION OF SENATOR ZUBIRI

(Change of Referral of Senate Bill No. 1 from the Committee on Health and Demography to the Committee on Higher, Technical and Vocational Education as the Primary Committee)

With the consent of the Body, I move that we transfer the referral of Senate Bill No. 1, the Medical Scholarship bill, from the Committee on Health and Demography to the Committee on Higher, Technical and Vocational Education as the primary committee. Similar bills were filed and referred to the Committee on Higher, Technical and Vocational Education, and the committee wants to set the hearing already, Mr. President. So, for the record.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

MOTION OF SENATOR ZUBIRI

(Change of Referral of S. No. 1259 from the Committee on Basic Education, Arts and Culture to the Committee on Civil Service, Government Reorganization and Professional Regulation as the Primary Committee)

Senator Zubiri. Also, Mr. President, Senate Bill No. 1259, Teacher's Salary Upgrading Act. With the consent of the Body, I move that we transfer the referral of Senate Bill No. 1259 from the Committee on Basic Education, Arts and Culture to the Committee on Civil Service, Government Reorganization and Professional Regulation as the primary committee since

similar bills of the same nature were referred to the Committee on Civil Service, Government Reorganization and Professional Regulation.

The President. Is there any objection? [*Silence*] There being none, the motions is approved.

Senator Zubiri. Thank you, Mr. President.

CONSIDERATION OF S. CT. RES. NO. 5
(Representatives to the Philippine Congress-Bangsamoro Parliament Forum)

Mr. President, I move that we consider Senate Concurrent Resolution No. 5.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Consideration of Senate Concurrent Resolution No. 5 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting into the *Record* the whole text thereof.

The Secretary. Senate Concurrent Resolution No. 5, entitled

CONCURRENT RESOLUTION URGING THE BANGSAMORO TRANSITION AUTHORITY TO DESIGNATE ITS REPRESENTATIVES TO THE PHILIPPINE CONGRESS-BANGSAMORO PARLIAMENT FORUM TO BE CREATED PURSUANT TO ARTICLE VI, SECTION 3 OF REPUBLIC ACT NO. 11054, OTHERWISE KNOWN AS THE "ORGANIC LAW FOR THE BANGSAMORO AUTONOMOUS REGION IN MUSLIM MINDANAO" AND TO MEET WITH THE DELEGATES DESIGNATED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES FOR THE PURPOSE

The following is the whole text of the resolution:

Senator Zubiri. Thank you, Mr. President.

Mr. President, as sponsor of the measure, I am willing to take any interpellation. I believe the good chairman of the Committee on Local Government would like ask to a few questions on the measure.

The President. Senator Tolentino is recognized.

Senator Tolentino. Yes, Mr. President. With the permission of the Majority Leader.

Senator Zubiri. Yes, Mr. President.

Senator Tolentino. When the Bangsamoro Law was passed, may I inquire if it is the intention of Congress to supersede the constitutional oversight functions of Congress over a creature of Congress itself because apparently, Mr. President, under Section 2 in said law, there is an intergovernmental relations mechanism which, in the resolution just proposed, in Section 3, the succeeding section, calls for the creation of a Philippine Congress-Bangsamoro Parliament Forum. Am I correct to state that this forum would picture Congress itself or even the Senate as a coequal body in terms of juridical and legislative relationships would be concerned?

Senator Zubiri. Not at all, Mr. President. Not a coequal body because the idea for the intergovernmental relations system or setup was really to harmonize particular programs of government. For example, if there is a

problem between the Department of Health and BARMM with the Ministry of Health, the intergovernmental relations body headed by their minister and our secretary will meet to iron out these problems. But, on oversight functions, there is no question that the Constitution is very clear that Congress has an oversight function when it comes to measures emanating from these chambers.

Senator Tolentino. So, Mr. President, it is still correct to reaffirm and validate that in the constitutional sphere of things, executive, legislative and judicial would still be the legal axis so to speak.

Senator Zubiri. Yes, Mr. President. And, also I have here the transcript of records, the discussions during the debate: “When asked by Senate President Pimentel at that time to sight an example on how an issue can be resolved through the intergovernmental regulations mechanism, Senator Zubiri cited how the Philippine Congress and the Bangsamoro Parliament Forum could help in the creation of a new separate province. Also, if the Bangsamoro Parliament Forum could approach Congress through the said forum to ask for assistance in the creation of new LGU.” So, that was the idea on the mechanism.

I think, to put it in proper context, the good gentleman from Cavite had approached me yesterday and, basically, had said that they would want to have a hearing under the Committee on Local Government on the updates on the Bangsamoro Organic Law which, I think, is a very laudable hearing. I would attend it myself to also see what is going on on the ground.

Unfortunately, there was a letter sent to the good senator which I also retrieved just now. Basically, the chief minister had asked that the only time that they could meet with us is through the intergovernmental relations mechanism. In other words, through the forum, which I feel is unfortunate because there is nothing wrong for them to come. We actually asked private sectors to come here. We have heads of private corporations come here to shed light on particular issues. They are not even part of government. So, I think, we have to relay the message, Mr. President, as a Body, that that was not the intent of that particular section or that particular provision of the Bangsamoro Law.

We, at any time, can still call out a government agency to come, and to shed light, and to report to us what is going on in these particular agencies. Even at times, we ask the Executive department, even the Judiciary, when we have cases and the chairman of the Committee on Justice and Human Rights takes up issues on the Judiciary--on their budget, on bills pertaining to them. Even an independent member of government attends these particular hearings.

So, that is why this concurrent resolution is very important, Mr. President, because we will now form our delegates because I would like to relay this as part of the leadership and author of the measure, together with the Senate President. And, as a matter of fact, I recommended the chairman of the Committee on Local Government and the chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation in

particular, to be members of this intergovernmental body which is the Bangsamoro Parliament Forum. Because on the first meeting, I would like us to inform them that that was not the intent of the creation of this Body. We can still invite them to attend, and they should actually. We should encourage them to attend these hearings in the Senate, if that would satisfy the good gentleman.

Senator Tolentino. So, the proposed resolution, as crafted, would reaffirm the supremacy of Congress insofar as the constitutional mechanism is concerned and that a mere creation of Congress cannot be considered as a coequal. Perhaps, in Section 3, the purpose of the law was related to the administrative details which would remove an extra amount of time from Congress itself in convening as a Body, a committee perhaps, and asking some details from the Bangsamoro entity. So we now have Section 3, which will have a Philippine Congress Bangsamoro Parliament Forum, wherein the details that would not need the intercession of Congress, or the Senate as a Body, would be needed. Am I correct in that interpretation, Mr. President?

Senator Zubiri. Definitely, Mr. President. The Constitution supersedes all measures passed by Congress.

Senator Tolentino. Thank you, Mr. President.

Senator Zubiri. I ask that we recognize the Minority Leader, Mr. President.

The President. The Minority Leader, Senator Drilon, is recognized.

Senator Drilon. If we can help clarify the issue, Mr. President.

If we recall, Mr. President, when the bill was passed in our Chamber, it contained a lot of powers which were supposedly shared by the national government and the Bangsamoro regional government. And when we sat down in the bicameral conference committee, we pointed out that these powers being shared can cause a lot of confusion and a lot of conflict because by the very nature of its being a shared power, then the two bodies—the Bangsamoro government and national government—will try to exercise that power. So, the issue was, who will resolve the dispute or the disagreements? That is why in the course of the bicameral conference, we said, “Okay, we want a clear delineation of authority. What is the Bangsamoro authority? What is the national government authority? So that we avoid this confusion.”

And I concur with the good gentleman from Cavite that we should not be giving up the powers of Congress. And this interparliament forum, or whatever it is, should not be interpreted as a diminution of the power of Congress because that is never the intention.

Senator Zubiri. Yes, Mr. President.

Senator Drilon. Just to repeat, we veered away from shared powers because precisely this inter-government agencies would be the forum where the power is shared to discuss what will happen or how it will be resolved.

So, it is in that sense that there is no more shared power, and this Bangsamoro Legislative Forum should only be used like any committee deliberation in Congress, Mr. President, so just to clarify.

Senator Zubiri. I completely agree with the two gentlemen, Mr. President. And, as we know, the distinguished Minority Leader was actually in charge of the legal issues of the Bangsamoro Organic Law. Definitely, during the discussions, there was no way that we were going to diminish our powers of oversight. That was never the intention, and, for the record, we would like to put that on record during the discussions. And, as I said earlier, no law that we passed here can substitute the Constitution or is higher than the Constitution of the Republic of the Philippines.

Actually, we are just constituting this, Mr. President, so that we can already start the dialogue with them, and we would like to remind them that Congress has oversight functions. So, *iyon lamang po ito*, which is under Section 3 of the law.

The President. Thank you. I am, indeed, starting to believe that you are really a tag team. *[Laughter]*

Senator Zubiri. *Hindi naman po.* Because, Mr. President, as we know, the Minority Leader is a legal luminary. And there is only a few legal luminaries in the Senate.

So, with that, I reiterate that I share the view of the good chairman of the Committee on Local Government and our distinguished Minority Leader.

Mr. President, no other member wishes to interpellate on the measure. I move that we close the period of interpellations.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, no amendments as well. I move that we close the period of amendments.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, before we move to adopt, under the law, aside from the leadership, which is the Senate President Pro Tempore, Majority Leader, and the Minority Leader, the Senate President may also designate other members he deems fit to be part of this parliament forum.

I would make a suggestion, Mr. President, at a later hour, to include our chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation; and the chairman of the Committee on Local Government.

The President. I will submit to the suggestion of the Majority Leader.

ADOPTION OF S. CT. RES NO. 5

Senator Zubiri. Mr. President, I move that we adopt Senate Concurrent Resolution No. 5.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

ADJOURNMENT OF SESSION

Senator Zubiri. Mr. President, since there being no other matters to be taken up today, I move that we adjourn the session until three o'clock tomorrow afternoon, Wednesday, January 22, 2020.

The President. Is there any objection? [*Silence*] There being none, the session is adjourned until three o'clock tomorrow afternoon, Wednesday, January 22, 2020.

It was 5:39 p.m.

WEDNESDAY, JANUARY 22, 2020

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 45th session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Let us stand for the opening prayer to be led by Sen. Cynthia A. Villar.

Everybody rose for the prayer.

PRAYER

Senator Villar.

Let us put ourselves in the presence of God.

Dahil sa ang ating buong bansa, lalo na ang ating mga kababayan na lubos na apektado sa Batangas, Tagaytay, at sa kalapit na mga lugar sa Calabarzon Region, ay patuloy na nababahala at nag-aalala sa napipintong pagputok ng Taal Volcano, ating dasalin ang panalangin ni Cardinal Luis Antonio Tagle:

“Diyos na makapangyarihan, muli kaming humaharap sa pagsubok dulot ng pagsabog ng Bulkang Taal. Napakaliit namin upang harapin ang lakas ng bulkan. Subalit naniniwala kaming mapapahupa ng Iyong kamay ang bangis nito. Iligtas Mo po kami sa kapahamakan, lalo na ang mga mahihirap, may karamdaman, mga bata at nakatatanda at nag-iisa.

Paigtingin Mo rin sa amin ang pagdadamayan, pagmamalasakit at pangangalaga sa kapwa at kalikasan. Hinihiling namin ito sa ngalan ni Hesukristo kasama ng Espiritu Santo.

Amen.”

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

| | |
|--|-----------|
| Senator Sonny Angara..... | |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano..... | Present |
| Senator Leila M. de Lima..... | * |
| Senator Ronald “Bato” M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | |
| Senator Christopher Lawrence T. Go..... | Present |
| Senator Richard J. Gordon..... | Present |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel “Lito” M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present** |
| Senator Emmanuel “Manny” D. Pacquiao | Present |
| Senator Francis “Kiko” Pangilinan | Present |
| Senator Aquilino "Koko" Pimentel III | Present |
| Senator Grace Poe | |
| Senator Ralph G. Recto | |
| Senator Ramon Bong Revilla Jr. | Present |
| Senator Francis “Tol” N. Tolentino..... | Present |
| Senator Joel Villanueva | Present |
| Senator Cynthia A. Villar | Present |
| Senator Juan Miguel F. Zubiri | Present |
| The President | Present |

The President. With 17 senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

*Under detention

**Arrived after the roll call

THE JOURNAL

Senator Zubiri. Mr. President, I move that we dispense with the reading of the *Journal* of the 44th session, Tuesday, January 21, 2020, and consider it approved.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Mr. President, before we take up other matters, we would like to greet guests who are here with us.

We have Board Member Nestor “Bobot” Fongwan Jr. of Benguet, guest of Sen. Bong Go; and ASEZ (Save the Earth from A to Z), World Mission Society Church of God, a university student volunteers group from South Korea.

The President. We welcome all our guests to the Senate.

Senator Zubiri. Mr. President, I move that we proceed to the Reference of Business.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

The Secretary will read the Reference of Business.

BILL ON FIRST READING

The Secretary. Senate Bill No. 1286, entitled

AN ACT APPROPRIATING THE SUM OF THIRTY BILLION PESOS
(P30,000,000,000) AS SUPPLEMENTAL APPROPRIATIONS
FOR FY 2020, AND FOR OTHER PURPOSES

Introduced by Senator Recto

The President. Referred to the Committee on Rules
COMMUNICATIONS

The Secretary. Letters from the Office of the President of the Philippines transmitting to the Senate two (2) original copies of the following Republic Acts which were signed by President Rodrigo Roa Duterte:

Republic Act No. 11462, entitled

AN ACT POSTPONING THE MAY 2020 BARANGAY AND SANGGUNIANG KABATAAN ELECTIONS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9164, AS AMENDED BY REPUBLIC ACT NO. 9340, REPUBLIC ACT NO. 10632, REPUBLIC ACT NO. 10656, REPUBLIC ACT NO. 10923 AND REPUBLIC ACT NO. 10952, AND FOR OTHER PURPOSES;

Republic Act No. 11463, entitled

AN ACT ESTABLISHING MALASAKIT CENTERS IN ALL DEPARTMENT OF HEALTH (DOH) HOSPITALS IN THE COUNTRY AND IN THE PHILIPPINE GENERAL HOSPITAL (PGH), PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES;

Republic Act No. 11464, entitled

AN ACT EXTENDING THE AVAILABILITY OF THE 2019 APPROPRIATIONS TO DECEMBER 31, 2020, AMENDING FOR THE PURPOSE SECTION 65 OF THE GENERAL PROVISIONS OF REPUBLIC ACT NO. 11260, THE GENERAL APPROPRIATIONS ACT OF FISCAL YEAR 2019;

and Republic Act No. 11466, entitled

AN ACT MODIFYING THE SALARY SCHEDULE FOR CIVILIAN GOVERNMENT PERSONNEL AND AUTHORIZING THE GRANT OF ADDITIONAL BENEFITS, AND FOR OTHER PURPOSES

The President. To the Archives

The Secretary. Letters from the Bangko Sentral ng Pilipinas, transmitting to the Senate copies of the following certified and authenticated BSP issuances, in compliance with Section 15 (a) of Republic Act No. 7653 (The New Central Bank Act):

Circular Letter Nos. CL-2019-084, 085, 086, 087, 088 and CL-2020-001 dated 21, 22 November 2019; 2, 19, 23 December 2019 and 2 January 2020;

Circular Nos. 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069 and 1070 dated 25, 26 November 2019; 3, 4, 13, 26 and 27 December 2019; and

Memorandum Nos. M-2019-027, 028, 029 and 030 dated 15, 26 November 2019; 12 and 18 December 2019

The President. Referred to the Committee on Banks, Financial Institutions and Currencies

The Secretary. Letter from the Union of Local Authorities of the Philippines, Inc. furnishing the Senate a copy of the ULAP National Executive Board Resolution No. 2019-21, entitled

A RESOLUTION CONSTITUTING THE UNION OF LOCAL AUTHORITIES OF THE PHILIPPINES (ULAP) INTERIM NATIONAL EXECUTIVE BOARD (NEB) AND ITS INTERIM OFFICERS TO PERFORM THEIR DUTIES AND FUNCTIONS UNTIL SUCH TIME THAT THE REGULAR NEB HAS BEEN DULY CONSTITUTED AND ITS REGULAR OFFICERS ELECTED AND SWORN INTO OFFICE

The President. Referred to the Committee on Local Government

The Majority Leader is recognized.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Thank you, Mr. President.

Mr. President, we would like to recognize our guests in the gallery.

We have the multi-awarded mayor of Cauayan, Isabela, Mayor Bernard Dy.

We also have with us the ladies of the Immaculate Conception Academy.

The President. Welcome to the Senate.

BILL ON SECOND READING
S. No. 1083—Anti-Terrorism Act of 2019
(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. Mr. President, I ask that we recognize the sponsor of the measure, Sen. Panfilo M. Lacson; and to interpellate, our distinguished colleague, Sen. Risa Hontiveros.

The President. Senator Hontiveros is recognized to interpellate the sponsor, Sen. Panfilo Lacson.

Senator Hontiveros. Thank you, Mr. President; thank you, good sponsor.

Mr. President, let me begin by assuring the good sponsor that I am one with him in finding durable solutions to the scourge of terrorism which remains a serious global threat. According to the Global Terrorism Database, the annual death toll caused by terrorism stands at about 21,000 people worldwide mostly in the Middle East, Africa, and South Asia.

Therefore, Mr. President, my questions do not aim to question the fundamental rationale of bearing down strongly against terrorism. Our people

do need to be protected from acts of terrorism. However, it is equally important that we do not, in our zeal, unintentionally provide tools that can be abused to stifle legitimate political dissent and criticism, remove safeguards already enshrined in our Bill of Rights, and inadvertently create uncertainty and imprecision in our laws.

So, to start off, Mr. President, in Section 2, I noticed that the third and fourth paragraphs of the “*Declaration of Policy*” were deleted. The third paragraph spoke of a comprehensive approach in the fight against terrorism including post-conflict peace-building and promoting equitable economic development. While the fourth paragraph, on the other hand, guaranteed that human rights remain absolute and protected.

As both a peace advocate and a human rights advocate, may I know from the good sponsor why these paragraphs were deleted?

Senator Lacson. First of all, I would like to thank the distinguished lady from Panay Island for expressing her full support for the passage of this measure.

Yes, Mr. President, we proposed to delete the paragraph of the “*Declaration of Policy*” for the simple reason that we want the goal of this proposed legislation to focus on the empowerment of the government to address terrorism as a crime. We removed the paragraph to emphasize the focus of law on anti-terrorism efforts. The proposed law clearly differentiates between anti-terrorism and human security. Nevertheless, let me assure the

distinguished lady that all human rights safeguards are retained in the bill as these are embedded in the relevant provisions.

Senator Hontiveros. Mr. President, I welcome and thank the good sponsor for that categorical assurance that all human rights safeguards remain embedded in the bill. However, *alam naman po natin* and *alam naman po ng* good sponsor as a veteran lawmaker, *na madalas na kung ano iyong sinasabi talaga ng isang batas ay iyon ang itinuturing na mahalaga. At iyong hindi sinasabi, bagamat maaaring sabihing embedded diyan ay maaaring ituring na hindi kasing-halaga.* That is the reason I asked this first question because I am hoping that we are not sending our people the message that we are looking at less comprehensive solutions to terrorism *sa pagtatampok lamang ng* law enforcement and not anymore explicitly mentioning human rights and peace.

I hope that we are not sending the message that we are willing to compromise fundamental freedoms in the interest of more effectively implementing law enforcement approaches, Mr. President.

Senator Lacson. That is also the reason why we did not include in any of the provisions the right of citizens to peaceably assemble. *Wala na po iyon doon, inalis na namin. Basta* legitimate expression of the exercise of freedom of speech or expression, *hindi po namin isinama rito at walang* punishment doon.

Senator Hontiveros. Thank you, Mr. President.

I will get to a related question to the point just mentioned by the good sponsor in terms of the fundamental civil and political rights of our people a little later.

Mr. President, in Section 4 of the committee report, in the definition of "TERRORIST ACTS," the phrase "REGARDLESS OF ITS STAGE OF EXECUTION" was introduced. I would like to ask the good sponsor this question: Does it mean that an attempted act of terrorism is punished in the same way as a consummated act of terrorism? *Dahil po* in the Revised Penal Code, the penalty of a consummated offense differs from the penalty for a frustrated or an attempted offense. Are we changing this in this bill? And if so, why?

Senator Lacson. We want to be as much as possible proactive, Mr. President. But as taken up during the interpellation of the distinguished Minority Leader, we are willing to take out the word "attempted" and instead, retain the word "conspiracy" to commit terrorist acts. Of course, we retain the phrase "at any stage" either in preparation, planning, training, et cetera.

Senator Hontiveros. I thank the good sponsor, Mr. President, for that reiteration of his commitment in the interpellation of the Minority Leader to remove the term "attempted." But perhaps, at the proper time, I will continue to try to tease out possible alternative ways of formulating this provision to address my concern about the implications of the phrase "regardless of its stage of execution." In this same section, Mr. President--and this was also

discussed by the good sponsor with the good Minority Leader--under paragraph B of Section 4: "ATTACKS THAT RESULT IN MAJOR ECONOMIC LOSS" and "DESTROY THE FUNDAMENTAL POLITICAL, ECONOMIC OR SOCIAL STRUCTURES OF THE COUNTRY" are considered terrorism. A threat to commit the same is also considered terrorism in paragraph E.

Doon sa pag-uusap din po ng good sponsor at ng Minority Leader na-point out na ayaw nating magpasa ng batas na may provision which may be interpreted or implemented to the point of absurdity. So, let me see po. If, for example, a labor group threatens to strike or to conduct work stoppage, and said strike or work stoppage may be argued by some to result in major economic loss, even destroy the economic structure of the country, could members of this labor group be considered terrorists?

Senator Lacson. *Mayroon pong proviso rito na basta legitimate exercise of the freedom of expression or mag-express ng dissent, hindi po kasama rito, hindi mako-cover. Explicitly provided po iyan sa Section 4, iyong last paragraph po. Nandiyan.*

Senator Hontiveros. *Salamat po, Mr. President. Siyempre laging sasabihin ng labor group kung mag-i-strike or magwo-work stoppage na, "Ito legitimate expression namin."*

Senator Lacson. If I may read for the record.

Senator Hontiveros. Yes, Mr. President.

Senator Lacson. “PROVIDED, THAT, TERRORIST ACTS AS DEFINED UNDER THIS SECTION SHALL NOT COVER LEGITIMATE EXERCISES OF THE FREEDOM OF EXPRESSION AND TO PEACEABLY ASSEMBLE, INCLUDING BUT NOT LIMITED TO ENGAGING IN ADVOCACY, PROTEST, DISSENT OR MASS ACTION WHERE A PERSON DOES NOT HAVE THE INTENTION TO USE OR URGE THE USE OF FORCE OR VIOLENCE OR CAUSE HARM TO OTHERS.” Guaranteed *po iyon*, Mr. President.

Senator Hontiveros. *Salamat po sa garantiyang iyan*, Mr. President. *Pero gaya po ng sinabi ko kanina, siyempre laging sasabihin ng ating mga kababayang manggagawa kapag nagwelga sila, kapag nag-work stoppage sila na ito ay legitimate expression, freedom of expression, at freedom of association iyong karapatan ng paggawa. Pero kung kunwari sa welga nila or work stoppage nila sasabihin ng Department of Labor and Employment, halimbawa, na dahil sa welgang ito o dahil sa work stoppage na ito ay magkakaroon ng serious or major economic loss, o kung sasabihin na ang work stoppage or welga na ito would actually destroy the economic structure of the country, kung ganoong klaseng claims ang gawin, puwede bang magamit itong panukalang batas para ituring silang mga terorista?*

Senator Lacson. *Unang-una po*, we are bound by the intent or motive, *iyong purpose po*, at saka kung wala naman pong violence na nangyari ay hindi naman po puwedeng makasuhan under this proposed measure.

Senator Hontiveros. Thank you, Mr. President. Indeed, the intent, very clearly articulated also in the bill, is important.

Lastly, on that question of violence, what if in the process of strike or work stoppage *nagkaroon ng dispersal, nagkaroon ng karahasan?* The good chairman of the Committee on Labor, Employment and Human Resources Development could cite a few examples of recent incidents *na dininig nila sa komite. Kung magkaroon ng violence* not instigated by the workers but in the course of the strike or work stoppage, could this bill be stretched to determine that they are terrorists?

Senator Lacson. *Hindi po kasi, unang-una, hindi naman iyon ang intent. Ang intent ng mga nagprotesta, mga laborers ay mag-strike, mag-express ng kanilang sariling dissent o iyong expression ng kanilang pagprotesta sa puwedeng sabihin na nating mga bad labor practices. So, hindi po papasok dito sa probisyong ito. Malinaw po iyon.*

Senator Hontiveros. *Salamat, good sponsor; salamat, Mr. President, para sa paglilinaw na iyon.*

In Section 5, Mr. President, "IT SHALL BE UNLAWFUL FOR A PERSON TO X X X POSSESSING OBJECTS CONNECTED IN THE COMMISSION OF A TERRORIST ACT OR COLLECTING OR MAKING DOCUMENTS LIKELY TO FACILITATE THE COMMISSION OF A TERRORIST ACT."

So, first question about this Section 5, Mr. President--the mere act of possession of documents likely to facilitate a terrorist act is punishable or

would be punishable under this act, would be punishable by life imprisonment? Is it then *mala prohibita*?

Senator Lacson. Yes, Mr. President. *Kasi kung maliwanag naman na may explosives, may bomba iyong materials na hinahawakan nito, maliwanag na ang kaniyang intent ay para mag-commit ng terrorist acts, puwede po talaga siyang makasuhan under this proposed measure.*

Senator Hontiveros. *Ibig pong sabihin ng good sponsor, ito ay parang manuals, instructional materials kung paano magbuo ng explosives to conduct a terrorist act?*

Senator Lacson. *Tama po, Mr. President. Kung halimbawa, manual na paggawa ng bomba, manual kung paano mag-operate ng weapons of mass destruction; or puwedeng sabihin natin na mga poisonous substances na ang intent ay maliwanag na para mag-sow ng terror, ay puwede po talagang makasuhan.*

Senator Hontiveros. *Salamat, Mr. President.*

At konektado sa follow-up question ko na what kind of materials are likely to facilitate the commission of a terrorist act? So, nasimulan na po nating pag-usapan iyong mga manuals to conduct terrorist acts or to manufacture iyong mga material sa pagsasagawa ng mga terrorist acts.

Pero kung, halimbawa, a person collects handbooks, say, on military matters or even textbooks on basic chemical procedures; if a person reads Marxist or Marxian literature or materials that call for a revolution pero purely

for reading pleasure, will that person get a life imprisonment without parole? *Hindi ko maiwasang isipin kung paano kaya itong probisyon. Ito ay maaaring gamitin sa mga maya't mayang pinag-iinitan nating student activists sa mga unibersidad, mga academicians, mga intelektuwal, kahit pa mga fans ng progresibong banda tulad ng U2.* What kind of materials, Mr. President?

Senator Lacson. I would say, Mr. President, that that is a matter of defense. *Kasi kung maipakikita naman niya na, "Hindi, itong mga materials na ito ay gusto ko ring mag-aral to counter terrorism," or sa ibang kadahilanan,* it is a matter of defense when it comes to that.

Senator Hontiveros. Fair enough, Mr. President, that it is a matter of defense. And I wish, in fact, the good sponsor would have been willing to extend this principle that it is a matter of defense in the case of any and all documents. But I suppose that we will have to agree to disagree on that.

Senator Lacson. We are always bound by the intent of the person, Mr. President.

Senator Hontiveros. And *siguro*, Mr. President, just to express at this point in time of my interpellation of the good sponsor, *dahil ito siguro iyong* thread leading through all my questions; *ito iyong* thought behind all my questions. We need to craft laws assuming the most despotic of implementors *dahil hindi po natin alam kung sino-sino ang mamumuno at magpapatupad ng ating mga batas.* We need to craft laws assuming not the most benign of leaders, not the most enlightened *sa mga* policymakers at law enforcers, not

the most benign of leaders. We need to assume the most despotic of implementors. *Kaya iyong medyo matinding degree of caution at voice ko sa pagtatanong ng mga tanong na ito.*

To continue, Mr. President, and related *doon sa naunang pinag-usapan namin ng good sponsor*--Section 8 penalizes, and I quote, "ANY PERSON WHO DISTRIBUTES OR OTHERWISE MAKES A MESSAGE AVAILABLE TO THE PUBLIC WITH THE INTENT TO INCITE ANOTHER BY ANY MEANS, DIRECTLY OR INDIRECTLY TO COMMIT A TERRORIST ACT WHERE SUCH CONDUCT CAUSES A DANGER OF SUCH ACTS BEING ACTUALLY COMMITTED." So, *medyo mahaba po*, Mr. President. *Ang una pong tanong ko sa good sponsor*, how do we make a message available to the public with the intent to incite another by any means directly or indirectly to commit a terrorist act? And let us note the word "indirectly." *Puwede ba nating kasuhan ang U2 para sa protest songs nila? Para mas lokal, puwede ba natin i-charge ang Buklod o si Bamboo for inciting us na baliktarin ang tatsulok?*

Senator Lacson. *Kapag sinabi nating "inciting," directed against the general public, ito iyong puwedeng mag-lead doon sa pag-commit ng terrorist acts. Pero kung wala namang call to commit violence or to commit terrorist activities or terrorist acts, then hindi naman po siguro puwedeng masaklaw nitong batas. Kung maliwanag naman na nagtatawag na na tayo ay magpasabog o kaya ay pumatay sa pamamagitan ng pagsagasa ng truck tulad*

ng nangyari sa Nice, France nang walang ibang intent kung hindi mag-sow ng terror, papasok po iyon dito.

Senator Hontiveros. *Iyon po, Mr. President, mga halimbawa ng mga directly inciting another to commit a terrorist act. Nagiging mas mahirap po, mas subject to interpretation, at sa ilalim nga noong sinabi kong posibleng most despotic of implementors, mas magiging problematic posible iyong paggamit noong salitang “indirectly.”*

At the proper time, Mr. President, I will propose and would like to seek the opinion of the good sponsor at this point in time if he would accept an amendment removing the word “indirectly.”

Senator Lacson. We can talk about that, Mr. President.

Senator Hontiveros. Again, fair enough. Thank you for that possibility, Mr. President.

And further to this provision, how do we determine when the conduct causes a danger of such acts actually being committed? How do we measure danger? *Paano po sinusukat iyong panganib lalo na po kung “indirectly inciting” na sinasabi?*

Senator Lacson. I am sorry, Mr. President, I did not quite hear the...

Senator Hontiveros. No problem, Mr. President. *Paano po natin susukatin iyong panganib? How do we measure danger? How do we determine when the conduct, lalo na kung indirect conduct, actually causes a danger of such acts being committed?*

Senator Lacson. Well, it redounds to the violence that will be created. *Babalik na naman tayo roon sa intent at saka iyong purpose noong pag-i-incite to commit terrorist acts, Mr. President.*

Senator Hontiveros. So, again, just to reiterate, at this point in time, Mr. President, *na ipu-pursue ko sa good sponsor iyong sinabi nilang puwede naming pag-usapan iyong posibleng pag-delete noong salitang “indirectly.”* Because it would tend to create situations *na ma-interpret at ma-i-apply itong* Section 8 excessively.

Senator Lacson. We will be guided by the existing jurisprudence in this regard and there are many, Mr. President. *Iyong Chavez vs. Raul Gonzales, marami po ito na puwede natin gawing* reference at the proper time.

Senator Hontiveros. Yes, Mr. President, at the proper time.

Salamat po.

I would like to go now, Mr. President, to the provisions on proscription. So, Section 21 amends Section 24 of the Human Security Act and states that: “Any GROUP OF PERSONS, organization, OR association, COMMITS ANY OF THE ACTS DEFINED AND PENALIZED UNDER THE PROVISIONS OF THIS ACT, OR EXISTS FOR THE PURPOSE OF ENGAGING IN TERRORIST ACTS shall, upon application of the Department of Justice before a competent Regional Trial Court, with due notice and opportunity to be heard given to the GROUP OF PERSONS, organization OR association, be declared as a terrorist

and outlawed GROUP OF PERSONS, organization OR association, by the said Regional Trial Court.”

In the next section, Section 22, the court is required within 72 hours from filing of the application to issue a preliminary order of proscription. The respondent has the right to be heard and to show why the order of proscription should be set aside, and the court is required to schedule a hearing within a six-month period from the filing of the verified application to determine whether the order of prosecution should be made permanent, set aside, modified or lifted.

Now, Mr. President, am I understanding it correctly that while the RTC must act on the urgent prayer within 72 hours--*tatlong araw lamang*--it is given the leisurely period of six months within which to schedule a hearing to give the proscribed group or organization its day in court. *Samakatuwid*, within this six-month period, the proposed amendments give the State and its agents a freehand to, perhaps, wiretap, conduct surveillance, arrest, and detain any of its members without a warrant, examine bank records and accounts, freeze and seize properties, et cetera. And these are all legally possible even before the organization or any of its members is given a chance to be heard. *Kasi sa tatlong araw ay kailangang maaksiyunan, pero anim na buwan bago puwedeng dinggin iyong kabilang panig*. Is my understanding of the proposed amendments what was intended, Mr. President?

Senator Lacson. *Hindi po ganoon, Mr. President. Iyong order of proscription ay ginawa nating time-bound because of the experience in the case of the Abu Sayyaf. It took, I think, 11 or 12 years before the court rendered a decision to proscribe Abu Sayyaf as a terrorist organization. In the meantime, so many kidnappings were committed in Basilan, Tawi-Tawi, and Sulu. Kaya po natin naisip na gawing time-bound iyong gawain ng korte para mag-render ng decision to proscribe or not. But in the meantime, we are also giving them the authority to issue a temporary order of proscription within 72 hours.*

Thank you, Mr. President.

Senator Hontiveros. Yes, Mr. President. So, *tama po iyong pagkaintindi ko. Sa loob ng tatlong araw ay kailangang maaksiyunan kahit through a preliminary order of proscription pero iyong na-proscribe kahit preliminarily ay sa loob pa ng anim na buwan puwedeng mag-set ng date at time iyong korte para sa summary hearing. Hindi naman siguro lahat ng posibleng ma-temporarily proscribed or preliminarily proscribed na mga organisasyon ay kasing tindi ng Abu Sayyaf. What about groups who may later be proven na maling na-proscribe bilang terrorist or outlawed organization, sa loob ng anim na buwan wala silang day in court? Samantalang iyong action which was taken against them ay naaksiyunan within just three days. Paano po iyong proportion doon?*

Senator Lacson. Mr. President, it does not necessarily mean that every time a petition is filed for proscription that the court will issue a temporary order of proscription, *puwedeng* outright denied *iyong* temporary order of proscription. And we are giving the court, under this proposed measure, six months within which they should make the proscription order final or it could also be dismissed at any time within the six-month period.

Senator Hontiveros. *Opo*, Mr. President. *Pero posibleng* ma-preliminarily proscribed within three days.

Senator Lacson. *Puwede po*, Mr. President.

Senator Hontiveros. And what if *nga po na pagkatapos nang pagdinig nitong kaso ay mapatunayang mali pala ang na-proscribe, hindi pala siya* terrorist organization, *hindi siya dapat na-outlaw*, its members had to wait six months to present their side for the consideration of the court? So, the court does not have to do it. The court does not have to act on the request for a preliminary order of proscription, but it can, it may.

So, *paano po iyong balanse roon*, Mr. President?

Senator Lacson. *Iyong* temporary order of proscription, *hindi ito* arbitrary. *Kailangan ay mayroong ma-establish na probable cause iyong korte, iyong* RTC. In the same manner, when a suspect is brought before a prosecutor under inquest proceedings, unless *mag-waive ng* preliminary investigation *iyong* respondent or *iyong* suspect, *iyong* prosecutor is mandated to establish probable cause or to outright dismiss the case or release the respondent in the

meantime that further investigation is being conducted by law enforcement. So, *hindi naman ganoon ka-harsh na basta nag-file ng petition for proscription ay puwede na kaagad paghuhulihin at arbitrarily the court can just issue the temporary order of proscription. Instead, the court must first determine if there is probable cause before issuing such temporary order of proscription. So, mayroon pong due process ito.*

Senator Hontiveros. Thank you, Mr. President.

Totoo nga na dapat may due process sa pag-implementa ng anumang batas. Pero gaya ng nasabi ko po kanina, if we assume na posibleng sa anumang panahon magkaroon ng despotic implementor, hindi laging benign leader ang magpapatupad; hindi laging itataguyod iyong due process.

Senator Lacson. Mr. President, let me correct the impression that *iyong Judiciary natin* is independent of the Executive branch. And if we question the wisdom of the court, then we are questioning the integrity of the Judiciary.

Let us assume that the RTC judges are competent enough to determine whether there is or there is no probable cause before they will issue a temporary order of proscription.

Senator Hontiveros. Certainly, Mr. President. I am presuming the independence and competence of our Judiciary. *At kung mapapansin po nila, hindi ko kasi itinatanong iyong 72-hour period, iyong three-day period. Ang mas ko pong itinatanong talaga ay iyong parang disproportionately at napakahabang six-month period within which time puwede namang dinigin*

iyong posibleng preliminarily proscribed. Dahil kapag ang situwasyon ay nasa ilalim ng isang despotic implementor, and I am not referring to the Judiciary here, Mr. President, iyon na nga. Paano na po iyong situwasyon noong na-proscribe tapos posibleng maghihintay ng kalahating taon bago siya...

Senator Lacson. *Ganito po iyong analogy. A better analogy is a common criminal case. A respondent or an accused is arrested. And then the law enforcement is mandated to deliver that person before a prosecutor within a reglementary period, say, in the case of capital offenses—36 hours.*

Pagdating sa fiscal, pag may probable cause, ipa-file iyong Information. And it will take a while before the Court can determine guilt or acquittal ng suspects. So, ganoon din po ang takbo ng pangyayari dito. Before the court could issue a temporary order of proscription within 72 hours, kailangang ma-establish clearly na mayroong probable cause. And mayroong six months ang judge to issue a final proscription order.

If there is no sufficient evidence to sustain or to support a final proscription order, then *idi-dismiss din ng court iyon*. But as the lady senator said, as we have discussed earlier—*tama po iyon, within three days, nag-isyu ng temporary order of proscription, pero ang safeguard naman doon ay kailangang maka-establish muna ng probable cause iyong RTC.*

Remember, this is a judicial determination of probable cause, it is even higher than the ordinary probable cause established by a prosecutor.

Senator Hontiveros. Yes, Mr. President. But, of course, *hindi tulad ng mga ordinaryong* criminal case, *itong* proscription *sa usapin ng* terrorism is for the entire group. So, it would allow the state a free hand, *iyon na nga po*, to surveil or to wiretap, et cetera, all its members.

So, perhaps, at the proper time, Mr. President, I could propose an amendment for the consideration of the good sponsor, with emphasis on that six-month period being so much longer than the 72-hour period.

Thank you, Mr. President.

I am still here in Section 22. One amendment is to include groups of persons and not just organizations and associations. So, could I test this with the good sponsor? “Any member of such a proscribed group of persons can be made subject of warrantless arrest and detention, seizure and forfeiture of property, et cetera, even without committing the specific acts that caused death or destruction or other circumstances defining an act of terror.”

Senator Lacson. I am sorry, Mr. President.

Senator Hontiveros. Yes, Mr. President. I would like to clarify with the good sponsor if my understanding is correct *na* any member of a proscribed group of persons can be made subject of warrantless arrest and detention, seizure and forfeiture of property, et cetera, even without committing the specific acts that caused death or destruction?

Senator Lacson. That is correct, Mr. President, as long as it is clearly established that such person is a member of that proscribed terrorist organization.

Senator Hontiveros. And since these are individuals, Mr. President, can these include conjugal or family assets or only assets held by terrorist groups because, as the proposed amendments are written, they do not seem to distinguish between and among such classes of property?

Senator Lacson. I would like to assume that *kapag* conjugal property and one of the spouses is an established member of that proscribed terrorist organization, then subject *sa* forfeiture *iyon kasi* co-owner *siya noong* properties *na iyon, iyong* assets.

Senator Hontiveros. Thank you, Mr. President.

Now, *ito naitanong din po ni* Minority Leader, *kasama ng* good sponsor: terror organizations that existed for the purpose of committing what could arguably, in some other setting, be defined under this bill as acts of terror, such as the Reform the Armed Forces Movement or even the Magdalo Group. However, it appears that they no longer do so since existing or being organized for engaging in terrorist acts can be interpreted as permanent characteristics of such groups. Could they be made the subject of this proscription order?

Senator Lacson. Which one, Mr. President?

Senator Hontiveros. Earlier, the good sponsor discussed with the Minority Leader the RAM or the Reform the Armed Forces Movement or even in an earlier administration, *itinuturing na* terrorist movement.

Senator Lacson. *Iba po iyong intent. Kasi iyong Reform the Armed Forces Movement, ang intent nila is to overthrow and it is a criminal act called coup d'état. So, iba po iyon.*

So, we will just go back to the definition of a terrorist act, Mr. President.

Senator Hontiveros. *At hindi rin naman po na-contemplate ng good sponsor na ang isang grupo katulad ng Magdalo Group ay masama sa definition ng terrorist group sa bill na ito.*

Senator Lacson. *Ang jurisprudence naman po rito ay iyong Lagman vs. Medialdea. May mga existing naman pong Supreme Court rulings na puwede nating gawing reference, Mr. President.*

Senator Hontiveros. Thank you, Mr. President.

Now, what is the standard of evidence that will be used to prove membership considering that many such organizations *ay hindi naman po sila exactly nagme-maintain ng roster of members, hindi naman sila nagme-maintain ng records katulad ng ganitong membership rule.*

The danger of a too lax standard of evidence is that we are giving, *at ito nga iyong sabi ko* thread winding through all my questions, Mr. President, about possibly the most despotic of implementors, we are giving future authoritarian regimes *carte blanche* to arrest or detain any one it can link to a

terrorist organization no matter how tenuous the connection. So, *ano pong* standard of evidence *ang gagamitin?*

Senator Lacson. We will always be guided by the rule of evidence, Mr. President. *Kung hindi naman ma-establish* clearly *na miyembro siya ng* proscribed terrorist organization, he would not be subject to arrest.

Mr. President, I noticed that every time the lady senator mentions the word “despotic,” she always looks beyond me. *[Laughter]*

Senator Hontiveros. I am waving to my mistah, Mr. President.

Senator Lacson. She is always looking at her classmate.

Senator Hontiveros. Thank you, Mr. President.

Napag-usapan natin ang korte kanina, Mr. President. Now, what is the rationale for letting the RTC rule on applications for proscription? *Bakit hindi po iyong* Supreme Court or *iyong* Court of Appeals considering that the Court of Appeals is the one with jurisdiction to authorize wiretapping and surveillance activities? Related *po itong tanong na ito sa usapin ng* freedom of association *at iyong kabuuang* Bill of Rights *natin.* So, *bakit hindi po iyong* Supreme Court *na lamang o iyong* Court of Appeals?

Senator Lacson. *Unang-una po, iyong* accessibility. *Pangalawa,* under the existing law which is RA 9372, RTC *talaga iyong nagga-grant ng* petition for proscription.

Senator Hontiveros. At the proper time, would the good sponsor consider laying the responsibility for proscribing on a higher level of the Judiciary than the RTC?

Senator Lacson. *Baka lalong magtagal*, Mr. President. Unlike *iyong sa* judicial authorization to wiretap, we are amenable. In fact, we have already included in the committee report to elevate it to the level of the Court of Appeals, as suggested by the distinguished Minority Leader.

Senator Hontiveros. Thank you, Mr. President.

Lastly, on these sections--Sections 20 and 21--what is the venue for the application? The law does not even specify the venue. So, technically, can the application be filed with any RTC in the country? I believe this has the potential to be abused.

Senator Lacson. *Magde-designate po iyong Supreme Court ng special courts for the purpose.*

Senator Hontiveros. So, the Supreme Court will designate which RTCs may receive such?

Senator Lacson. Special courts for this purpose, Mr. President.

Senator Hontiveros. Special courts at the level of the RTC.

Senator Lacson. *Parang mga heinous crime courts na nag-designate iyong Supreme Court.* In this particular case, the Supreme Court will designate special courts to hear proscription petitions on anti-terrorism cases, Mr. President.

Senator Hontiveros. Thank you, Mr. President.

I would like to proceed now to Section 23 of the bill which amends Section 27 and increases the period of detention from three days to 14 days. What is the rationale, Mr. President, for increasing the period of detention from three days to 14 days? So, from half week to two weeks. In the worst scenarios, is it so that subjects might possibly be subjected to 14 days of enhanced investigation or interrogation until they crack?

Senator Lacson. Mr. President, in his cosponsorship speech, Sen. Ronald dela Rosa shared with the members of this Body his first-hand experience in Davao City. The 36-hour reglementary period is not enough to build up a case against the suspected terrorist.

With the permission of the lady senator, let us hear directly from Senator Dela Rosa what he experienced; and it created more damage when he was not able to file or make the inquest proceedings on the arrested suspects.

Senator Dela Rosa. Thank you, and Mr. President.

Based on my personal experience, indeed, the spirit of this bill is to secure the state and protect our people from terrorism by giving more teeth to our law enforcement in its anti-terror campaign. Then, I think we should extend the reglementary period from the maximum period of 36 hours to what is being penned in this bill. Because as per my experience, ISIS terrorist Muhammad Reza, which I presented during my cosponsorship speech, I was able to arrest him in Davao City, but I had to release him before 36 hours

because I do not have enough evidence to hold him further or beyond 36 hours. But I was fully convinced and the intelligence community was fully convinced and they were forcing me, they were pleading before me not to release this guy because he was very dangerous. But I told them that I cannot do otherwise; I cannot break the law. So, I had to release him. But months later, Mr. President, the intelligence committee showed me the video from YouTube the three of them, including Mohammad Reza were holding the head of the European victim and slashing the throat of the victim. So, from being local black flag terrorist here in the Philippines, in Lanao del Sur, he travelled to Raqqa, Iraq and became an ISIS member. So, he was able to slash a lot more throats of ISIS victims in Iraq and Syria. If there was a law allowing me to hold him further beyond 36 hours, then many more lives could have been saved.

Senator Hontiveros. The current Human Security Act already provides not just 36 hours, but 72 hours--*doble po*—or three days. *Ang tinatanong ko lamang ay hindi ba sapat na iyong tatlong araw, doble sa panahon na mayroon? Kailangan pa ba talagang dagdagan hanggang dalawang linggo?* In fact, should not the case be built up before arrest? *Noong naaresto sa wakas iyong Mohammad Reza and definitely, persons like him should be arrested and subjected to our laws, bago pa siya inaresto, hindi po ba nabigyan ng ebidensiya ang good gentleman from Davao ng intelligence community? Ano po iyong evidence na mayroon that prompted the good gentleman to make the arrest in the first place? It must have been substantive enough.*

Senator Dela Rosa. For the information of the good lady from Panay, *ibang-iba po iyong* intelligence reports from investigative reports. Intelligence reports have no evidentiary value but they are classified as A1, meaning, coming from the direct source and from first-hand information. *Iba po iyon. Alam natin na iyan na iyan talaga*, but legally, it cannot stand in court. So, *iyang po ang dilemma ngayon ng* law enforcers.

Babalik lamang ako sa sinabi ng ating interpellator, the good senator from Panay, that instead of using the 72 hours as provided by the Human Security Act, the law enforcers are more inclined to use the 36 hours provided by ordinary laws other than the Human Security Act because we find more convenience in using the other laws and because we find the Human Security Act very anti-police. Instead of giving more teeth to the police, it is giving more fear to the police because of that provision.

Senator Lacson. Because of the P500,000 per day fine, Mr. President. So, instead of filing cases for violation of the Human Security Act, the police would instead file ordinary violations of the Revised Penal Code to avoid this, *sasabihin natin*, sword of Damocles.

Senator Hontiveros. I understand, Mr. President.

Senator Lacson. *Pagbabayaran sila ng* P500,000 per day once the suspected terrorist is acquitted.

On top of what Senator Dela Rosa has shared with us, during the committee hearings, the members of the law enforcement agencies shared with

us their experience *na kulang talaga iyong* three days and they need, more or less, 14 days. That is the reason why we incorporated in this measure *iyong* reglementary period *na* 14 days.

We are just trying to be at par with other ASEAN neighbors or ASEAN countries--Sri Lanka, 14 days; Australia, 14 days; Bangladesh, 15 days; Indonesia, 21 days; Pakistan, 30 days; Malaysia, 59 days; and Singapore, 730 days. *Ito iyong* reglementary periods. *Tapos tayo*, non-extendible *iyong* 14 days.

In other countries or in other jurisdictions, like Thailand, *puwede pa silang mag-extend ng* another 30 days; Indonesia, extendable *hanggang* 120 days; Malaysia, extendible *hanggang dalawang taon*; Maldives, extendible to an indefinite period; and Singapore, indefinite period. *Mabait po tayo kasi alam ko po nandiyan kayo kaya ang sabi ko* 14 days, *tama na*.

Senator Hontiveros. Thank you, Mr. President.

Mr. President, I understand *na ganito po ang trend sa iba at karamihan ng mga bansa sa region natin. Mas gusto ko pa nga na hindi tayo manatiling mabait pero...*

Senator Lacson. So, we value human rights, Mr. President.

Senator Hontiveros. Exactly, Mr. President.

Senator Lacson. That is what I meant by saying *na mabait tayo*.

Senator Hontiveros. Yes, exactly, Mr. President.

Kahit na nagmumukha tayong odd man out, mas gusto ko po sanang manatili tayong nagtataguyod ng mahabang track record ng ating bansa struggling to uphold human rights and civil liberties even under very challenging circumstances tulad nitong global threat nga ng terrorism na humanap ng mga creative pero effective na paraan. I was even surprised doon sa sinabi ng good gentleman from Davao na walang evidentiary value bilang investigation report iyong intelligence report. Because I know even as a civilian at bilang mistah ng good gentleman from Davao, and the good sponsor knows this even more as a former chief-PNP, how hard our police and military intelligence units work to gather iyong sinabi nga ng good gentleman from Davao—A1 intelligence information which will enable our law enforcement officers to arrest these suspected terrorists or these terrorists. Kaya ko itinanong na hindi ba iyong pag-aresto roon kay Mohammad Reza was actually backed up by solid evidence that could stand in court in the prosecution of the case, Mr. President.

Senator Lacson. Well, the bottom line here is, Mr. President, had Senator Dela Rosa, or Colonel Dela Rosa at that time been, accorded this particular provision extending the reglementary period for terrorist, sana na-save natin iyong na-slash na leeg doon sa Iraq.

On top of that, Mr. President, let me just inform the gentlelady that there are safeguards that are put in place to prevent abuses under this particular provision. Number one, the law enforcer taking custody shall notify in writing

the judge nearest the place of arrest of the following facts: time, date, manner of arrest, location or locations of the detained suspects, physical and mental condition of the detained suspects. These are the additional safeguards na naisip naming ilagay para mabawasan or mawala iyong possible abuses ng law enforcement agents.

So, hindi puwede iyong itago-tago because they will be answerable. They are also mandated to furnish with a written notice iyong anti-terrorism council, Mr. President. Ito iyong mga safeguards.

Senator Hontiveros. Thank you, Mr. President.

Of course, we also believe that we have to consider the rationale behind the original provision in the Human Security Act which is to prevent or frustrate an imminent attack. Because if an attack is already being carried out, then is it not correct to say that not only can our security forces arrest the perpetrators in flagrante delicto but they can also use deadly force to preserve public order or save lives?

Senator Lacson. Well, we should not wait for the destruction or the killing to happen before we conduct the arrest, Mr. President. We want to be proactive because *malalakas na po iyong mga anti-terrorism laws* in other jurisdictions. If we are left behind, we are opening up our country to be a safe haven for these terrorists. *Ito pa po, Section 20, iyong penalty for failure to deliver suspect to the proper judicial authority, mayroon po tayong provision na puwede silang makulong.* Of course, it is already provided for under existing

laws, *iyong tinatawag na “arbitrary detention” pero nai-emphasize pa rin po natin iyon.*

Senator Hontiveros. *Salamat po, Mr. President.*

At sa totoo lamang po, itong pinag-uusapan nating longer period of detention na sinasabi na global trend at nakikita natin sa ating rehiyon ay ginagamit laban sa mga estudyante, mga pro-democracy activists, pati mga human rights lawyers na lahat po ay hindi mga terorista and there is no evidence that it contributes meaningfully against terrorism. Ito po ay mula sa Amnesty International.

Senator Lacson. *On the other hand, let us look at it from another perspective, Mr. President. Itong mga countries na ito, they are adequately equipped. Tayo po ay hindi masyado. And iyong existence ng batas na umiiral sa kanila that provides for a longer reglementary period could be contributory kung bakit kakaunti marahil iyong nangyayaring mga terroristic activities in their areas. Sa atin, nagiging laboratory, nagiging training ground just like Marwan and the other terrorists sa Marawi. Kaya po nangyayari iyon kasi mas magaan sila sa Pilipinas because of our weak laws on terrorism.*

Senator Hontiveros. *Mr. President, I think it would be arguable na roon sa mga bansa na mas may mahahabang reglementary period, lalo na iyong mga mauunlad na bansa sa kanila ay posibleng humuhupa ang terorismo because they are addressing the root causes of terrorism in a balanced way kasama ng*

effective law enforcement. So, *hindi lamang* heavily *sa* law enforcement, *may kasama po*.

Senator Lacson. And effective laws, Mr. President.

Senator Hontiveros. Which is the argument of the good sponsor that we do not have right now. And effective laws which, I know, is what we are all seeking to.

Senator Lacson. Which we do not have right now, Mr. President.

Senator Hontiveros. Which is the argument of the good sponsor that we do not have right now, Mr. President. At the proper time, I will propose some possible amendments to achieve that objective as part of the community of nations, to address the threat of terrorism while still unequivocally upholding our commitments to human rights and civil liberties.

Further, Mr. President, if our security forces are still in the process of investigating a terrorist conspiracy, can they not build their case using the mechanisms already provided, for example, in the Terrorism Financing Prevention and Suppression Act? Secondly, the surveillance order provision in the current HSA or applying for a good old-fashioned search warrant under the Rules of Court?

Senator Lacson. It is time to improve or enhance the Human Security Act by way of amending it, Mr. President, including all these provisions because right now, there is only one conviction. Imagine, when did we pass the Human Security Act? It is in 2007. We are now in 2020. So far, there is only

one conviction and one difficulty which we suggested that we delete, *iyong* predicate crimes. *Ito iyong* one of the handicaps. We have to prove first the predicate crimes before we can even proceed to prosecute the terrorist for violating the Human Security Act. That is why, we deemed it necessary to just delete the predicate crimes.

Senator Hontiveros. I see, Mr. President. If the State needs 14 days with the suspect to get anything useful from him or her, *hindi po ba* fishing expedition *na iyon?*

Senator Lacson. Definitely no, Mr. President. *Sa amin nga pong* committee hearing, *ito iyong* common experience *ng mga* law enforcement agencies present, *ang sabi nila ay kulang na kulang talaga iyong* three days. *Ang hinihingi pa po nila ay 90 days na hindi nga ako pumayag dahil naalala ko kayo. [Laughter]*

Senator Hontiveros. *Salamat pong muli,* Mr. President. I will count on that *kapag magpo-propose na ng mga* amendments.

Last follow-up question, Mr. President, *doon sa pinag-usapan natin kanina kung ano ba ang mala prohibita. Marami po kasi sa naging pag-uusap natin ang naging sagot ay, "Let us always look at the intent." Ano nga po ba iyong mala prohibita? Ano po ba iyong mga offenses sa ilalim ng batas na ito na hindi kailangan iyong intent? Ano iyong mala prohibita at ano naman iyong mga kailangan ng intent? Kasi doon sa pinag-usapan natin kaninang possession of documents, ang sabi ay mala prohibita siya.*

Senator Lacson. *Iyong intent po is an indispensable element. Kailangan ay ma-establish natin na iyong intent is really to commit a terrorist act, Mr. President. We cannot deviate from that.*

Senator Hontiveros. *Pero ang sabi ng good sponsor kanina, iyong “possession of documents likely to facilitate a terrorist act” ay mala prohibita, so hindi kailangan iyong intent.*

Senator Lacson. *Kasi po may intent siya, Mr. President. Hintayin pa ba natin na maisagawa niya iyong kaniyang terrorist activities?*

Senator Hontiveros. Perhaps, Mr. President, in closing my interpellation and thanking the good sponsor, *ilan po sa mga punto na ito na hindi po tayo sang-ayon sa posisyon ay susubukan kong balikan at the proper time sa period of amendments. Para din pong gawing mas malinaw ang mga probisyon ng isang napaka-importanteng panukala which is interpreted and implemented excessively, or because of lack of clarity could actually do more harm than good. At isang susubukan kong linawin ay itong tungkol sa mga punto rito na may kinalaman sa mala prohibita which does not require intent.*

Senator Lacson. Rest assured, Mr. President, that at the proper time, I am with the lady senator in really further strengthening, especially the safeguards to protect human rights but not to the point *na isa-sacrifice naman natin iyong safety ng karamihan ng ating mga kababayan.*

Senator Hontiveros. Let us search for that balance, Mr. President, with the help of the good sponsor, probably a difficult balance, *pero tingin ko*

necessary *talaga kung saan magtatagpo iyong* human rights *at iyong* public safety *o kung saan magtatagpo ang* public safety *at* human rights.

So, by way of ending, *gusto ko lamang ulitin ito*: We do craft laws assuming the possible worst in our future implementors. Democracy demands a healthy distrust of power *at alam po natin iyan bilang* legislature *na maya't maya nagtse-check* and balance *sa dalawa pang* branches of government. So, let us continue to deliberate on this measure but let us also keep these tenets in mind. At the very least, let us make our laws as clear as possible and remove all possible ambiguity.

Marami pong salamat, good sponsor; *salamat po*, Mr. President.

Senator Lacson. Thank you very much, Mr. President.

Senator Villanueva. Mr. President.

The President. The Majority Leader is recognized.

Senator Villanueva. At this juncture, to continue the interpellation, may we recognize Sen. Bong Revilla to ask questions to the good gentleman from Cavite, Senator Lacson.

The President. Senator Revilla is recognized.

Senator Revilla. Thank you, Mr. President.

May the gentleman from Cavite, my *kababayan*, yield for some clarificatory questions?

Senator Lacson. Willingly to my *kababayan* from Bacoor City, Mr. President.

Senator Revilla. Thank you, Mr. President.

Mr. President, the 2019 Global Terrorism Index (GTI) ranked the Philippines ninth among the 163 countries in the world. *Ayon po sa report na ito, kahit na bumaba sa ating bansa ang terror-related deaths at terror-related incidents, the Philippines remains the only Southeast Asian country to be included in the top 10 list most impacted by terrorism. Nakababahala po ang report na ito kaya naman napapanahon ang panukala ng aking kababayan na si Senator Lacson na amyendahan ang Human Security Act at ito po ay aking sinusupportahan. Mayroon lamang po akong ilang katanungan.*

Now, Mr. President, under the Human Security Act of 2007, the commission of acts of terrorism is anchored on the commission of certain predicate crimes like piracy, kidnapping, rebellion, et cetera. *Pero dito po sa proposed anti-terrorism act, particularly Section 4, I noticed that the predicate crimes have been removed. May I know the reason for removing the predicate crimes? Have we not made the definition of terrorism or terrorist act overbroad, thereby making prosecution of the crime difficult? O mas pinadali natin ang pag-prosecute dahil sa bagong definition, Mr. President?*

Senator Lacson. Thank you for that question, Mr. President.

Based on our experience, after the Human Security Act was passed in 2007, there is only one conviction and one of the identified handicaps is the presence of predicate crimes. We have had just only one conviction since that time because we have to prove first the existence of the predicate crime or

crimes identified before we can even proceed to prosecute under the Human Security Act. So we deemed it wise to just remove the predicate crimes.

Senator Revilla. So, *mas madali na po ang prosecution, Mr. President.*

Senator Lacson. *Hindi pa natin alam dahil hindi pa naipapasa ang batas.*

Senator Revilla. *Hindi pa natin nasusubukan. So, sa pananaw po ng sponsor, mas mapadadali ba?*

Senator Lacson. *Iyon po talaga ang isang handicap kung bakit isa pa lamang iyong nagiging conviction. At tinanong namin iyong judge mismo na nag-convict, si Judge Felix Reyes ng Taguig, at sinabi niyang nahirapan talaga siya dahil kailangang i-prove niya muna iyong predicate crime bago pa lamang mai-prove iyong violation ng Human Security Act.*

Senator Revilla. Mr. President, the Philippine Human Security Act was enacted more than 10 years ago--*miyembro po ako ng Thirteenth Congress noong naipasa ang batas na ito--maaari po bang malaman kung mayroon na bang na-convict sa kasalukuyan nating batas laban sa terorismo?*

Senator Lacson. *Iisa lamang po. Ang na-proscribe na terrorist organization ay iisa pa lamang din, iyong Abu Sayyaf. Kaya talagang napakahina po ng batas. Unang-una, natatakot po at nag-aalala iyong ating law enforcement agencies na bakit pa tayo magpa-file ng violation ng Human Security Act, samantalang kapag na-acquit iyan, pagbabayaran tayo ng P500,000 per day of detention. So, ang ginagawa po nila, maski nahuli nila*

iyong maliwanag na terorista, like in Marawi City, ang pina-file nila ay multiple murder. Kung ano-anong mga violation na lamang ng Revised Penal Code kasi nga nangangamba sila na kapag nagkamali iyong prosecution at na-acquit, saan sila kukuha ng pangmulta? Isipin na lamang natin na kung makulong ng sampung araw, iyong P500,000 a day, P5 million po iyon na manggagaling sa bulsa ng law enforcement agents na humuli at nag-detain. Napakahirap po talagang gamitin bilang weapon against terrorism ang Human Security Act of 2007. Kaya kailangan po talagang i-amend.

Senator Revilla. *Dapat amyendahan talaga.*

Ang susunod ko pong katanungan ay patungkol sa Sections 21 at 22 ng Anti-Terrorism Act regarding proscription of terrorist organizations, association, or group of persons. Naitanong na po ito kanina ni Senator Hontiveros tungkol sa proscription; mayroon lamang po akong ilang karagdagang tanong, Mr. President. Ang probisyon na ito para sa proscription ng terrorist organizations, association, or group of persons ay hindi po bagong probisyon. Mayroon din pong ganitong probisyon under the Human Security Act of 2007, tama po ba?

Senator Lacson. *Tama po iyon, Mr. President.*

Senator Revilla. What is new here is the issuance of a preliminary order of proscription under Section 22 of the proposed Anti-Terrorism Act, is this correct, Mr. President?

Senator Lacson. *Tama po iyon, Mr. President.*

Senator Revilla. May I know, Mr. President, the purpose why we added this specific provision? What is the importance of the immediate issuance of a preliminary order of proscription?

Senator Lacson. *Tulad po ng nasabi ko kanina, iyong Abu Sayyaf group na alam naman nating lahat na talagang a band of terrorists, it took the RTC to issue the order of proscription after 12 years. In the meantime, namamayagpag po iyong Abu Sayyaf sa pangki-kidnap, pagputol ng ulo, pagte-terrorize. So, naisipan po natin itong probisyon na ito na aside from making the order of proscription time-bound on the part of the RTC, iyong six months, binigyan pa rin natin ng poder o ng kapangyarihan iyong korte na mag-issue ng preliminary order of proscription na within 72 hours puwede siyang mag-issue ng preliminary order of proscription. That will be made permanent by way of a final order of proscription within six months kung mayroong sufficient ground to order the proscription.*

Senator Revilla. Once the preliminary order of proscription has been issued, *ano po ba ang epekto nito?* May law enforcement or military personnel conduct surveillance on the preliminarily proscribed terrorist organizations, associations, or group of persons?

Senator Lacson. *Marami pong puwedeng magawa. Puwedeng i-freeze na iyong assets, iyong accounts, pagkatapos puwede ring arestuhin iyong mga established na mga miyembro ng terrorist organization na na-proscribe na o na-isuhan ng preliminary order of proscription. Na puwede naman pong*

mabalewala kung hindi mag-i-issue ng permanent within six months. Halimbawa, after one month, nakita na kulang talaga iyong basehan para ipagpatuloy iyong temporary or preliminary order of proscription, puwedeng i-lift iyon.

Senator Revilla. Mr. President, *ano po ang mangyayari kung pagkatapos maaresto ang mga suspects, pagkatapos mag-surveillance ng mga awtoridad, pagkatapos ma-examine o mabuksan ang mga bank accounts ay ise-set aside o ipawalang bisa ng korte ang preliminary order of proscriptions, will our law enforcement or military personnel face charges from these organizations, associations, or groups? Ano po ba ang mangyayari sa mga nakalap na impormasyon, Mr. President?*

Senator Lacson. *Hindi naman puwedeng makasuhan na po iyong ating law enforcement kasi valid naman iyong grounds nila for arresting and mag-freeze ng mga accounts or assets noong mga persons.*

Senator Revilla. *Doon po sa mga information, G. Pangulo, ano po ang mangayayari doon? Ano ang gagawin nila?*

Senator Lacson. *May confidentiality iyon. Hindi puwedeng kung kani-kanino ibibigay. Nasa provision po iyon na talagang limitado lamang po ang makaaalam noong mga information na iyon.*

Senator Revilla. Under the said section, the order of proscription issued by the RTC is valid for three years. Thereafter, the order shall be reviewed. May I know the procedure for the review, Mr. President? Will the

court *motu proprio* review it, or the law enforcement or the military personnel has to file a petition?

Senator Lacson. *Tama po iyon. Within three years puwedeng ma-lift na iyong proscription.*

Senator Revilla. *Papaano po iyong procedure ng review?*

Senator Lacson. The normal course of due process, Mr. President, will apply--*iyong filing, lahat kompleto po iyon.*

Senator Revilla. Mr. President, may I just go back to the GTI report I mentioned earlier?

Under the report, GTI noted the New People's Army (NPA) as the terror group responsible for over 36% of terror-related deaths and 39% of terror-related incidents recorded. Still according to GTI, NPA is the Philippines' deadliest terror group followed by the Bangsamoro Islamic Freedom Movement (BIFM).

Mr. President, *mayroon po bang proscription case na isinampa laban sa NPA o laban sa BIFM?*

Senator Lacson. *Mayroon pong pending na petition pero hindi pa po nakakapag-decide iyong RTC.*

Senator Revilla. So, *wala pong...*

Senator Lacson. *Wala pa po, Mr. President. Hindi pa declared na terrorist organization ang CPP-NPA dito sa ating bansa.*

Senator Revilla. *Mayroon din po akong ilang katanungan tungkol sa Section 26, Mr. President.*

Section 26 of the proposed Anti-Terrorism Act of 2019 speaks of Anti-Terrorism Commission. Is this the same as the Anti-Terrorism Council under Section 41 of the proposed act or a different entity?

Senator Lacson. *Ano po iyon?*

Senator Revilla. Is this the same Anti-Terrorism Council under Section 41 of the proposed act or a different entity?

Senator Lacson. *Mayroon pong mga additional members ng Anti-Terrorism Council. Iyong secretary ng DICT, secretary ng DOST, DOTr, DOLE, DSWD, iyong Presidential Adviser for Peace, Reunification and Unity, at saka iyong chief minister ng BARMM ay ginawang miyembro rin ng Anti-Terrorism Council.*

Senator Revilla. Mr. President, may I recommend the inclusion of the executive director of AMLC as member of the Anti-Terrorism Council, considering the important role that they play in the counter-terrorism financing? *Mukhang hindi po yata sila nakasama.*

Senator Lacson. Member *po ang* Department of Finance. *At iyon namang* Anti-Money Laundering Council...

Senator Revilla. *Pasok sa* Department of Finance.

Senator Lacson. *Opo, Mr. President. Kaya puwede rin siya ang mag-*represent *sa* secretary of finance *doon sa* Anti-Terrorism Council.

Senator Revilla. So, *puwede rin pong ilagay natin doon sa batas para mas klaro?*

Senator Lacson. Well, at the proper time, if the gentleman will introduce the amendment, we will consider, Mr. President.

Senator Revilla. Thank you, Mr. President. Again, I support this measure.

Mabuhay po kayo.

Senator Lacson. *Maraming salamat po,* Mr. President.

Senator Gordon. Mr. President.

The President. The gentleman from Zambales, Sen. Richard Gordon, is recognized.

Senator Gordon. Thank you very much, Mr. President.

Will the good gentleman yield for just a few questions?

Senator Lacson. Willingly to the distinguished gentleman from Zambales and Cavite, of course.

Senator Gordon. Mr. President, there are bound to be good Samaritans, let us say, in an encounter between terrorist or what have you. There will be good Samaritans who could probably be a doctor, could be a Red Cross volunteer who would provide first aid. Would that be considered material support?

Senator Lacson. No, Mr. President. *Basta* humanitarian aid under the auspices of the United Nations *o kaya* *iyong* Philippine National Red Cross.

Senator Gordon. International Red Cross.

Senator Lacson. *Maski po sa giyera, puwede silang tumulong sa kalaban.*

Senator Gordon. Yes, that is correct, Mr. President.

Senator Lacson. *Ganoon din po rito, basta humanitarian aid exempted po.*

Senator Gordon. I am constrained to make sure that this is clarified because to the uninitiated, they might need that support.

So, would the gentleman be willing to accept an amendment later on during the period of amendment.

Senator Lacson. Of course, Mr. President.

Senator Gordon. Thank you very much, Mr. President.

Senator Lacson. And thank you for that input because *hindi namin naisama sa* committee report and I am glad that the gentleman mentioned that because as an afterthought, *naisip namin na iyong trabaho nila sa* Philippine National Red Cross, humanitarian aid, *hindi dapat masaklaw noong pagbibigay ng* material support, Mr. President.

Senator Gordon. *Opo*, Mr. President. *Iyon ay talagang* by international convention—International Committee of the Red Cross, International Federation—or for that matter the Philippine Red Cross *ay* covered *iyon*.

*Pero ang sinasabi ko, halimbawa--*and the gentleman already answered it, I just wanted to clarify it further, all the questions we are asking, like

Senator Drilon and all the others here--is to make sure that when the court gets a case here, they can go back to the records *para malinaw kung ano ang intensiyon natin, para malinaw na malinaw.*

So, having said that, *iyong* good Samaritan *na* doctor or first aider *na tinulungan iyong* terrorist to save his life or to alleviate his suffering, he is not covered by that because that is a humanitarian act.

Senator Lacson. That is correct, Mr. President.

Senator Gordon. There will be occasions, for an example, where the Red Cross will go—and we do this—even to the NPA camps or even to the Abu Sayyaf. We talked about that with them. I personally have done that. And we tell them, “Hey, you are bound also by International Humanitarian Law and *huwang ninyo kaming guguluhin dahil magbibigay kami ng dugo.*” All combatants are involved in our franchise *na dapat tulungan ang* combatants whether legal or illegal, legitimate government or the rebels.

Obviously, in this particular case, that will also not be considered as giving material support or comfort to the enemy.

Senator Lacson. I would like to reiterate, yes, Mr. President.

Senator Gordon. Thank you, Mr. President. I appreciate that very much.

Now, I just want to have some questions clarified especially on the matter of proscription. “Proscription” is a big word, not very common.

Senator Lacson. Yes, Mr. President.

Senator Gordon. And, therefore, *para lamang maliwanagan ang mga nakikinig sa atin, iyong “proscription” is an application para ma-identify natin lahat iyong mga terrorist organizations. Tama po ba iyon?*

Senator Lacson. *Tama po iyon.*

Senator Gordon. *Para sa ganoon, kapag na-identify sila, pag hinuli sila ay puwede silang ma-detain for certain number of hours na hindi na magwo-worry ang mga tauhan natin.*

Senator Lacson. *Tama po iyon.*

Senator Gordon. Of course, legitimately done.

So, the process is, they apply for proscription which must be granted or not granted by the court within 72 hours. Would that be correct, Mr. President?

Senator Lacson. That is just the preliminary order of proscription; *iyong six months, iyon po ang final.*

Senator Gordon. And the final, within six months, with hearing.

Senator Lacson. Yes. Due process, Mr. President.

Senator Gordon. So, that is a very good proposition here because that means that we are really being careful in the matter of whom to proscribe, that the government is a respecter of human rights.

Senator Lacson. *Ang ayaw lamang po natin dito is iyong “one to sawa.”*

Senator Gordon. That is correct, Mr. President.

Senator Lacson. *Kaya nilagyan natin ng period na within six months, kailangang mag-decide na iyong court whether to grant or not iyong petition for proscription.*

Senator Gordon. Thank you very much, Mr. President.

And having said that, let me now go into another aspect of it. There are such things as principal, accomplice, and accessory. Those who give material support, *iyon ang unang objective para malaman. Ngayon, kapag nagbigay ka ng material support, how will we determine kung sino ang principal or kung sino ang accomplice?* Because *iyong principal, obviously, indispensability ang kailangan.* He cannot do it without the help of the principal, the supporter. Is that correct, Mr. President?

Senator Lacson. That is correct, Mr. President.

Senator Gordon. Now, the accomplice is kind of hard because material support *iyon.* Could the gentleman give us some examples, for the benefit of posterity, when somebody becomes a principal and when somebody becomes an accomplice?

Senator Lacson. *Kapag principal po, either by direct participation or by inducement.*

Senator Gordon. That is correct, Mr. President.

Senator Lacson. *Iyon po ang principal. Kung co-conspirator ka, part ka ng conspiracy, principal ka.*

Senator Gordon. And the common denominator will be indispensable *iyong ginagawa mo.*

Senator Lacson. Indispensable, *tama po.*

Senator Gordon. *Tama po iyan.* In other words, *hindi magagawa kung hindi ka kasama.*

Senator Lacson. *Opo.*

Senator Gordon. Now, *iyong accomplice po pareho iyon, nagbibigay ng material support.* When does he become an accomplice? Because *parang mahirap ang definition na lalayo ka sa principal kung tumutulong ka.* When does helping describe as an accomplice?

Senator Lacson. Well, at any stage of the execution, *puwede kang maging accomplice, Mr. President.*

Senator Gordon. Mr. President, may I make an example, if the gentleman does not mind?

Supposing there are terrorist organizations and they are going to conduct bombing activities or whatever, and everybody is assigned, *“Ikaw ay tagadala ng bomba, ikaw ay tagasuot ng bomba.”* Those are principals.

Senator Lacson. Yes, Mr. President.

Senator Gordon. But supposing in the course, *nadaan ng isang tao iyong mga taong kakilala niya, “Pare, puwede ko bang hiram in iyang sasakyan mo at ihatid mo ako doon sa lugar?”* And without him knowing it or even on the

way there, he gets to know it and he wants to get out but he can no longer get out, what is he now? Is he a principal or an accomplice?

Senator Lacson. I think *papasok po iyon sa accomplice.*

Senator Gordon. Accomplice.

Senator Lacson. *Opo.*

Senator Gordon. I am just clarifying because that is a very thin line. In other words, he is unwilling *pero nandiyan na, isinakay niya, naibigay niya ang tulong. Pero baka nga hindi pa rin accomplice dahil under duress siya, hindi ba?*

Senator Lacson. That is a matter of defense, Mr. President.

Senator Gordon. Yes, that is correct, of course, Mr. President.

So, *ito, accomplice siya kapag tinawag ang tricycle, “Halika, kunin mo ito, samahan mo ako at pupunta ako roon.” Napasama siya—accomplice.*

Senator Lacson. *Kung alam niya iyong intent at willingly sumama siya at naghatid, puwede siyang makasuhan as an accomplice, Mr. President.*

Senator Gordon. *Naghatid siya pero ayaw niya, pero takot siya. Mayroong intimidation factor.*

Senator Lacson. *Depensa niya po iyon kung tinututukan siya ng baril at kung hindi niya isasakay ay papatayin siya, under duress.*

Senator Gordon. *Kahit ipinakita lamang ang baril, “Sumama ka.”*

Senator Lacson. Under duress *na rin po iyon.*

Senator Gordon. Under duress *na rin iyon*. So, *may lusot siya*. *Iyon ang depensa*.

Senator Lacson. *Depensa niya iyon*.

Senator Gordon. *Kasi* I just want to be clear *iyong sa accomplice*. *Basta ang principal distinction is, sa principal ay talagang* the crime could not be committed without him, which is basic in the Revised Penal Code.

Now, *sa accomplice, medyo nahihilo ako nang kaunti dahil* this is a continuing process *lalo na kung conspiracy iyan at naisama siya*. When does one become an accomplice? *Parang mahirap maging hindi siya ang principal*.

Senator Lacson. *Kung nahihirapan po ang ginoo at abogado siya, lalong mahihirapan ako*. [Laughter]

Senator Gordon. In other words, *kung nagkakaalaman na, mahirap na hindi kasi* he is adding moral support.

Senator Lacson. Mr. President, it all depends on the appreciation of first, the prosecutor, and eventually, the judge.

Senator Gordon. Yes.

Senator Lacson. Again, it depends on how the prosecution and the defense will present their arguments, Mr. President.

Senator Gordon. I am glad that the sponsor took away the provision of P500,000 per day.

Senator Lacson. *Naku, malungkot, opo*.

Senator Gordon. *Tinanggal na natin iyan, hindi ba? Because talagang makagugulo. Pero, on the other hand, kailangan din. Ang ating ginawa riyang ay inilagay natin ang definition ng proscription para there is a process para they are allowed how long now to detain somebody. Fifteen days or fourteen days?*

Senator Lacson. Fourteen, Mr. President.

Senator Gordon. Non-extendable?

Senator Lacson. Non-extendable, Mr. President.

Senator Gordon. Non-extendable. So, if we do not file a case within 14 days...

Senator Lacson. We have to release.

Senator Gordon. We have to release.

Senator Lacson. Without any penalty.

Senator Gordon. Without any penalty or any sanction. I am glad that that is clear and this makes the military or the police bolder. *Wala na iyong cloud of threat na puwede silang ma-fine ng malaki.* But how do we protect the citizen from *gulang? Magulang iyong enforcer.* In other words, *hahabaaan niya, gagawa siya ng paraan para maitago iyong prisoner.*

Senator Lacson. *Mahirap po iyan kasi may provision po tayo rito na kailangang i-inform niya iyong judge sa pinakamalapit na lugar kung saan nangyari iyong arrest. Susulatan pa niya iyong Anti-Terrorism Council na*

iyong taong inaresto, pangalan ng tao, lahat ng circumstances ay nakasulat po roon.

Senator Gordon. Again, this is a matter of defense. If he says, “*Wala po akong kuwan, hindi ako makapunta roon sa judge.*”

Senator Lacson. *Pero malinaw po ang depensa ryan dahil may written notice sa ATC. Kung wala pong maipakitang written notice, medyo malabo iyong depensa.*

Senator Gordon. When does the written notice come in? On the first day he arrested him? *Kailangan bang maibigay iyong notice on the first day of arrest?*

Senator Lacson. *Sa Anti-Terrorism Council po.*

Senator Gordon. So, first day.

Senator Lacson. Yes, Mr. President, upon arrest.

Senator Gordon. So, *talagang hindi siya makakagulang doon.*

Senator Lacson. *At saka iyong judge in the nearest location where the arrest was conducted, kailangang ma-inform din. May mga penalty po iyan kapag hindi niya ginawa.*

Senator Gordon. Of course. Now, my next question would be *iyong sinasabi nga natin kanina, hindi sila maka-aresto dahil natatakot sila kaya ang ginagawa nila, Revised Penal Code na lamang.* So, *ito ngayon, wala nang takot diyan.* The problem now is when the arresting personality, whether he be a policeman or a military or anybody in charge with authority to arrest, is how he

prevents himself from being accused of being arbitrary and capricious because there is still room for arbitrariness and capriciousness and for abuse.

Senator Lacson. In the conduct of the arrest, Mr. President, that is correct.

Senator Gordon. He would have to explain to the court that he did everything possible to make sure that in the performance of duty, he was able to do that. Would there be any requirement like that?

Senator Lacson. *Hindi na rin po natin pinapalitan iyong provision sa citizen's arrest in this case. Kaya lamang, ang in-expand natin ay iyong period. In ordinary crimes, hindi puwede iyong nasa planning stage, hindi naman niya ginawa, hindi naman siya nag-commit ng crime. Pero dahil iyong tinatawag nating inchoate offense, hindi pa nangyari, nasa simula pa lamang, puwede na nating arestuhin because we want to be proactive because this is a new phenomenon, Mr. President, which is global in nature, and we are trying to avoid for this phenomenon to become a new normal. Kaya gusto nating bigyan ng special treatment dito sa batas iyong ngipin ng law enforcement agencies natin to really implement the law on terrorism.*

Senator Gordon. This is a fact of reality nowadays that we are infested by possible terrorists who are bound to do ill will with impunity and they do not care.

Now, let us put it this way—I am not necessarily agreeing with what I am saying here—the penalty of life imprisonment or death might be too large and too big, so much so that it opens the avenue for bribery.

Senator Lacson. Of course, Mr. President.

Senator Gordon. So, how do we rerun that? *Dapat*, like what the sponsor have said, first day *pa lamang ay alam na natin na inaresto na niya*. So, the commanding officer, the superintendent in charge, or whoever is in charge of this gentleman should be able to make sure that he is not doing this to intimidate others for bribery, *hindi ba? Kasi kapag masyadong malaki ang penalty, baka ang mangyari ay maging hanapbuhay*.

Senator Lacson. *Mas malaki iyong bribery kasi mas malaki ang penalty.*

Senator Gordon. Yes, Mr. President. *Iyon ang isang concern*. I can see where the good sponsor is headed here and I support it, but I am just trying to find out ways to avoid that.

Senator Lacson. It is important that we are discussing these things because it will be part of our record. And when the time comes, we will have enough reference to go back to, Mr. President.

Senator Gordon. That is right, Mr. President. That is the whole object of the exercise—to make sure that there is sufficient discussion here so that when the courts ask, *“Ano ba ang intention nila?” Malinaw*.

Senator Lacson. Yes, Mr. President.

Senator Gordon. So, really, the penalty of life imprisonment is severe because a terrorist will exact either to follow or not to follow because they are intimidated to do something that a government will be forced to do something. Because, otherwise, he will kill people or he will crash a plane or something like that, and that is why it has to be heavy.

Senator Lacson. By the way, Mr. President, *iyong* 14-day reglementary period is not arbitrary or whimsical. There are grounds to be followed or to be complied with. Before one can be detained for 14 days, it must be established that: “(1) further detention of the person/s is necessary to preserve evidence related to the terrorist act or complete the investigation; (2) further detention of the person/s is necessary to prevent the commission of another terrorist act; and (3) the investigation is being conducted properly and without delay.” So, without these grounds, the law enforcement agent or agents cannot just arbitrarily apply the 14-day reglementary period. *Mayroong mga grounds pa po iyan.*

Senator Gordon. Thank you very much for that, Mr. President.

Now, in the case of terrorism, these have been probably taken up in the original security act--there will be such things as torture reduction, *iyong mga ganiyan.* Has that been taken into consideration in the hearings?

Senator Lacson. *Opo. Bawal po iyon,* Mr. President.

Senator Gordon. *Bawal mag-torture,* Mr. President.

Senator Lacson. That will be covered by another provision of the Revised Penal Code or any anti-torture act--*iyong mga naipasa nating batas*, Mr. President.

Senator Gordon. How does one prove *kung wala namang testigo? Kayo-Sila-sila lamang noong nahuli siya*, and then *na-torture siya*; there are no marks; *talo na siya, wala siyang testigo*.

Senator Lacson. *Magaling po iyong pulis kapag ganoon.*

Senator Gordon. *Oo nga, Mr. President. So, I am just trying to figure a way out na hindi tayo basta-basta maa-accuse na we are being irresponsible here.*

Senator Lacson. *Nandiyan po sa Section 29 ng ating proposed measure—Penalty for Threat, Intimidation, Coercion, or Torture in the Investigation and Interrogation of a Detained Person.*

Senator Gordon. Yes, Mr. President, I am aware of that.

Senator Lacson. From 12 years and one day *hanggang 20 years* of imprisonment *ang aabutin ng ating law enforcement agents kapag nag-violate sila rito* under Section 29.

Senator Gordon. But, precisely, for so much as we are trying to preempt terrorists, we are giving high penalties and we are going to proscription, the other side of the coin is to prevent and make sure that the law enforcement agent will be true to his oath, true to his code, and what are the

things that we have done to make sure that he is not able to do so, over and above the penalties that we are going to assign to him.

Senator Lacson. *Mabuti at nandito pa si Senator Hontiveros. Mayroon pa pong concurrent jurisdiction ang Commission on Human Rights. Isinama po natin under Section 40.*

Senator Gordon. Yes, Mr. President.

Senator Lacson. *Para talaga ma-safeguard iyong human rights ng detained suspects, Mr. President.*

Senator Gordon. And they are supposed to inform them also on the first day.

Senator Lacson. Yes, Mr. President.

Senator Gordon. If the gentleman wants to introduce an amendment, then we can also include because, anyway, we are informing the council, the judge, and we might as well include the Human Rights Commission *doon sa pag-notify.*

Senator Gordon. I am just trying to ask these questions so that we can see that the playing field is level. *Tagilid tayo, and then iyong nagte-terrorize, walang qualms iyan about killing and crashing a plane. Pero, on the other hand, tayo we play by the rules. We have to tell the court on the first day. We have to tell the Human Rights Commission.*

I think in the Human Security Act of the United States, *ang ginagawa nila, dinadala nila sa Uzbekistan. Dinadala nila sa ibang areas para hindi sila*

mako-cover niyan. Dinadala nila sa Guantanamo. Pero dito, walang magdadala sa atin sa ibang lugar diyan, and we do not have the resources to do that either. Would that be correct, Mr. President?

Senator Lacson. Yes, Mr. President. *Mayroon pang additional consequence kapag nangyari iyong cruel, inhuman, degrading treatment, talagang absolutely prohibited, mababalewala lahat iyong ebidensiya. Magiging inadmissible.*

Senator Gordon. Fruit of the poisonous tree.

Senator Lacson. Yes, Mr. President.

Senator Gordon. *Lahat ng kinuha nila, because they did that, erased.*

Senator Lacson. Erased *lahat iyong ebidensiya maski malakas.*

Senator Gordon. One more question which I hope I can remember right now on the matter of.... Well, it will come back to me later. I am just so darn tired that we are not having had too much sleep. Maybe at some time, if the interpellations are not finished yet.

Senator Lacson. *Ako rin po, Mr. President, medyo pagod na rin. Puwede tayong mag-break muna.*

Senator Gordon. That is correct, Mr. President. We have been working since this morning and we have been doing a good law actually.

Senator Lacson. That is correct, Mr. President.

Senator Gordon. So, I would request that my interpellation be suspended, Mr. President. Anyway, Senator Drilon is still going to ask. And

with the permission of the good sponsor, I would like to be able to ask some questions should it come back to me, just a few questions just to make sure that it will be all right.

Thank you very much, Mr. President.

Senator Lacson. There is another bill under consideration, and I am excited to hear the interpellation of Senator Drilon to Senator Tolentino.

SUSPENSION OF SESSION

Senator Zubiri. Our distinguished colleague from Cavite is going to ask the sponsor a few questions, but maybe we can take a break, Mr. President. May I ask that the session be suspended for a few minutes?

The President. Is there any objection? *[Silence]* There being none, the session is suspended for a few minutes.

It was 4:43 p.m.

RESUMPTION OF SESSION

At 5:31 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Zubiri. Mr. President, we will continue the interpellations on Senate Bill No. 1083, with the permission, of course, of the sponsor.

The President. I understand that they would want to suspend consideration of the measure so that we can proceed to the next item in the agenda.

SUSPENSION OF SESSION

Senator Zubiri. May I ask for a one-minute suspension of the session, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the session is suspended.

It was 5:32 p.m.

RESUMPTION OF SESSION

At 5:32 p.m., the session was resumed.

The President. The session is resumed.

SUSPENSION OF CONSIDERATION OF S. NO. 1083

Senator Zubiri. Mr. President, I move that we suspend consideration of Senate Bill No. 1083.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING S. No. 1211—LGU Transportation Act *(Continuation)*

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1211 as reported out under Committee Report No. 25.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1211 is now in order.

Senator Zubiri. Mr. President, may we recognize Sen. Francis “Tol” Tolentino; and to interpellate, the distinguished Minority Leader, Sen. Franklin Drilon.

The President. The sponsor of the measure, Sen. Francis Tolentino, is recognized; and to interpellate, the Minority Leader, Sen. Franklin Drilon.

Senator Drilon. Thank you, Mr. President. Will the gentleman sponsor yield for a few questions?

Senator Tolentino. Willingly, Mr. President, to the erudite Minority Leader.

Senator Drilon. Mr. President, there is an old adage which says “Necessity is the mother of all inventions.” It is because of the necessity to have a solution to our horrendous traffic problem in Metro Manila that the Angkas issue is now on the forefront of our news. The effort to provide convenient transportation to our riding public, even if it is fraught with some danger, is being pushed because of the necessity of looking for a solution. It is because of the adage “necessity is the mother of all inventions” that there is an effort to provide emergency powers to our secretary of transportation. It is in that aspect that I see the effort of the good sponsor to pass this provision which seeks to amend Section 17 of the Local Government Code or Republic Act No. 7160.

So, Mr. President, may I know what this provision seeks to address? We were going through the sponsorship speech and it would appear that indeed it

is the traffic issue which is being highlighted and so this amendment is being proposed.

Our first question is, what can be done by the LGU under the proposed amendment which they cannot do at present? In other words, are the LGUs prohibited under the Local Government Code from engaging in the activity outlined in the proposed measure?

Senator Tolentino. Yes, Mr. President. The question really calls to my mind the relevance of the provisions of the Local Government Code as applied to the current situation which the good gentleman termed as “a requirement for necessity.”

Mr. President, under the current Local Government Code, our LGUs, while basically empowered to have their own measures to alleviate the traffic conditions, are more or less shackled by existing regulation or the nonexistence of a legal mandate that would empower them, so to speak, to have their own traffic solutions. Principally, I refer to highly urbanized cities endeavoring to have their own rail-based transport systems within their jurisdiction. For instance, I mind the situation of Makati, they want to have their own subway system but the present governing laws, specifically Republic Act No. 7718 or the BOT Law, and all other existing regulations would limit their capacity to enter into such projects without going through the rigorous, burdensome process of going to the NEDA, the ICC, and perhaps taking more years before a project from conceptualization to operation is approved.

If I may add, Mr. President, since the enactment of the Local Government Code, only one LGU was able to have its own project but it is not related to transportation. It is a slaughterhouse rehabilitation of the Municipality of Kalibo, Aklan, since the BOT and PPP regulations were enacted.

Senator Drilon. Mr. President, yes, so much was said in the sponsor's sponsorship speech. For the record, we just want to understand this bill. When the sponsor says that the local governments are seeking to be empowered to have their own measures since they are today shackled in coming up with solutions particularly on transportation matter, is the gentleman saying that the purpose of the bill is to unshackle the local government units from these restrictive provisions and revise the present regulatory framework for transportation projects?

So, that is the question, we want to be clarified. Because the reason for that, Mr. President, is the way we read the measure as worded, it is not obligatory; it is permissive. It is encouraging the local government units to go into transportation projects and, therefore, to point out that they have this power to do so because right now it would appear that only the city governments would have this power. We are trying to understand what issue or what policy is being addressed.

To be more specific, is the intention to remove what the good sponsor calls as the "restrictions in the exercise of power," the restrictions being the regulations and laws which allow national government to interfere in the

execution of these projects? That is what we want to be clarified of because at this point, with the responses of the good sponsor, we are not clear as to what it should be. In fact, in the sponsorship speech of the good sponsor--let me quote on page 38, "It is the view of the committee that it is now crucial to turbocharge the functions and capabilities of the LGUs in addressing road congestion and creating a balanced transport system."

Again, in that context, Mr. President, what do we exactly intend to achieve by this bill? Do we empower the local government units without regard to the present regulatory framework? Or are we just encouraging them to get into these projects and still be subjected to the regulatory framework that is found in the present law?

Senator Tolentino. Yes, Mr. President, that is a very good question. But if the good gentleman would look at the proposed measure, the word "shall" was expressly mentioned. It stated, "All local government units 'shall' endeavor to provide..."

Senator Drilon. Allow me to interrupt, Mr. President.

Shall and yet endeavor, Mr. President. In other words, what is required of the local government is to plan out and attract investors in this area. That is how I understand the provision, and I do not understand it to mean that the local government unit is now obliged to come up with a transport system using local government funds. We are trying to clarify what exactly is meant by this proposal.

Senator Tolentino. Yes, Mr. President.

The word mentioned a while ago by the good Minority Leader is consistent with the word I mentioned during my sponsorship speech which refers to “turbocharging.” It will unleash the creative and innovative spirit of the LGUs especially in answering the necessity, not just the current transportation requirements, but even the future requirements of a local government unit.

Precisely, Mr. President, this bill is addressed to the highly urbanized LGUs which would give them the legal cloak insofar as entering into agreements with private transportation or mass transportation companies which right now is not present. Because based on experience, if an LGU, for instance, Cebu, would want to have its own monorail system, even if we have a back-to-back city council resolution coming from two city administrations, no foreign investor or partner would endeavor to enter because there seems to be a legal obstacle here. We are precisely in a twilight legal zone because while they have autonomy, but in reality, they do not have because projects more than P200 million, for instance, have to go through the NEDA-ICC.

Senator Drilon. Just to interrupt, if the good sponsor does not mind, just to bring home the point and we will understand what is the purpose here, will the projects that will be undertaken by the local government units designed to address road congestion and creating a balanced transport system now dispensed with the approval of NEDA? Just to be clear.

Senator Tolentino. Yes, Mr. President.

Senator Drilon. So, they do not need to go to NEDA anymore?

Senator Tolentino. Yes, Mr. President.

Senator Drilon. All right. To me, we should specify that if that is the policy. That policy, I am sorry, but I do not read it in the present amendment. I am not saying that I have objections to that but I just want to know that that is the purpose.

So, the gentleman is confirming that the purpose is to empower the LGUs to undertake these projects without regard to the present regulatory framework? Just for the record.

Senator Tolentino. That is correct, Mr. President. That is why in the amendment, there is a phrase there “whether domestic or national without any sovereign guarantee.”

Senator Drilon. No, the sovereign guarantee is completely separate. As pointed out by the good sponsor, presently, if the project is over P200 million, it will go to NEDA.

Senator Tolentino. Yes, Mr. President.

Senator Drilon. If the project is over... I cannot memorize.

Senator Tolentino. P20 million, local sanggunian; P50 million, provincial sanggunian...

Senator Drilon. No, that is the authorization.

Senator Tolentino. Yes, Mr. President.

Senator Drilon. I am talking about, say, a project costing P1 billion. Let us say the Makati project which costs over a billion pesos. Firstly, the present project in Makati would require NEDA approval and all that stuff?

Senator Tolentino. That is correct, Mr. President.

Senator Drilon. It did so?

Senator Tolentino. That is correct, Mr. President.

Senator Drilon. Now, if we pass this law, that project will not need NEDA approval?

Senator Tolentino. That is correct, Mr. President.

Senator Drilon. And it can be done by the city.

Senator Tolentino. That is correct, Mr. President. Of course, the law envisions a consultation with relevant national government and transportation planning agencies, and this would involve NEDA, for planning; DOTr, for intermodal and connectivity purposes. Perhaps the national government has a plan to have a link within that area, so it is envisioned to interconnect future national government projects with what the LGUs will be doing.

Senator Drilon. This representation has no problem with that, Mr. President. I will just rely on the expertise of the good sponsor who is a former chairman of the MMDA to make sure that the intention of the law is clear. *Para po hindi magkagulo ang LGU at saka iyong national government, unless we so specify.*

Right now, projects worth P2.5 billion and above would require approval of the NEDA—first, to the ICC and then the NEDA board. Let me highlight this because if a local government unit, for example, would seek foreign financing without warranties of the national government, the first question that the funder will ask is: Have you secured NEDA approval? And then the local government will say, “No. Under Section 17 of the law, I do not need NEDA approval.” If I were the counsel for the funder, I would not be comfortable with that because the way I read Section 17(K), it does not imply that NEDA approval is necessary. So, I am pointing this out so that we will be clear as to what the intent is. I am not objecting to it but I am just pointing this out. Now, having said that, what does the NEDA itself say?

Senator Tolentino. Mr. President, regarding the previous point for possible amendment, this representation is willing to clarify that in a phrase or two with this proposed amendment to Section 17 at a later date.

Mr. President, I received a letter—it is in my folder—coming from the NEDA director general. It is somewhere in my files--and apparently, even during the budget hearings of NEDA, I conferred with Secretary Pernia, and they do not have any objection because all of these, as in the words of the President Pro Tempore, would catalyze a local Build, Build, Build. It will spur regional economic growth which is supposed to be anchored on the transportation system, Mr. President. So, NEDA is amenable.

Senator Drilon. NEDA is amenable probably with the way it is worded now because they may have the same reading as I have that this does not require a change in the regulatory framework, meaning, NEDA can be disregarded so long as there is no national fund involved. That could be their frame of mind, Mr. President. And, therefore, it is best that, first, we clarify what the intention is and what the policy of Congress is by stating clearly what the law is. So, at that point, NEDA can react properly. If it is okay with them, we want to hold them to their word and not have it vetoed by the President because it is entirely possible that they will object to the revision of the regulatory framework and recommend a veto from the President. That is why, to me, it is very important that we state clearly what our intention is, and if we can secure the concurrence of the Cabinet, particularly NEDA, then it would be best. But, otherwise, we will do it by ourselves as policymakers of this government.

Now, still on the issue of the regulatory framework, would the transport system that is put up still require a certificate of public convenience and Necessity (CPCN)?

Senator Tolentino. Mr. President, I do believe that a concurrence coming from the DOTr would still be needed, and under the umbrella, probably the LTFRB would come. That is why, Mr. President, in the bill itself, the consultation process has been highlighted with the national government agencies concerned.

My reading, Mr. President, correct me if I am wrong, is that a CPC would be very applicable for those who are interested in a public convenience certificate which is being offered to the general public as a privilege granted but in a situation wherein it is the government itself giving the imprimatur by virtue of this law to the LGUs. I would surmise that that is the general certificate of public convenience itself, the authority given to the local government units to operate by itself because surely, in an LGU jurisdiction, there will be no three or four or five competitors competing in one subway system unlike, perhaps, the Tokyo metropolitan railways. So, in itself, the law will be providing the CPC, my reading, correct me if I am wrong, to the LGU concerned.

Senator Drilon. Mr. President, that is a matter that can be subjected to a further study. But under the present system, a private sector can be authorized on a PPP setup to operate the transport facility authorized by the LGU. In that instance where the private sector operates and given the statement of the good sponsor that the regulatory framework is being set aside, the question is, would the operator of an LGU project in a joint venture or in a build-operate-transfer system be required to secure a CPCN?

Senator Tolentino. No, Mr. President. I am not directly saying that it should be set aside. The provisions of existing laws specifically relative to common carriers, the duties...

Senator Drilon. No, I am just talking about the regulatory framework,
Mr. President

Senator Tolentino. Yes, Mr. President. That is why, in the bill, we never shunned the regulatory powers of the relevant national government transportation agency but we espoused the national government agency-LGU cooperation through a system of consultation. Before we can proceed with this project, we must know if the DOTr has a pending plan or a future plan for this route, for this neighborhood, for this highly densified area. So that, in itself, Mr. President, will not do away with the regulatory functions of the national government but it is different with the usual franchise given, for instance, to a bus company because, here, we are talking of an LGU exercising its functions. And with the huge investments involved, probably, it cannot be compared with the usual public hearings conducted by LTFRB or another regulatory agency, even Marina for that matter. So, I would suppose that this is a hybrid empowerment of the LGUs. As correctly stated by the good Minority Leader, it is borne out of the necessity and then my speech spoke of a turbocharging the LGUs concerned.

Senator Drilon. Mr. President, up to this point, this representation is not clear as to whether or not we are repealing the powers of the national agencies insofar as the present transportation system is concerned. We have already pointed out NEDA, the need of the requirement of NEDA approval when

the project goes beyond a certain amount; the LTFRB, for the franchising; the DOTr which has the mandate under that law; the MMDA; the LTO.

Now, what I am just saying, Mr. President, is, we should clarify the roles of these national agencies vis-à-vis the powers that will be exercised by the LGU in relation to the proposed amendment.

In order to hasten the approval of this act, may I propose that the good sponsor recast Section 17 in order to already enumerate and be precise as to the intent. And we are willing to terminate the period of interpellation for our part so long as we can go back to the interpellation period for purposes of the amendments that will be introduced by the good sponsor, taking into consideration the debate that we have for the past one hour.

Senator Tolentino. Yes, Mr. President. I would seem to agree with the good Minority Leader that in terms of safety standards, the rail gauges, the systems to be implemented by the LGU in conjunction with the private operator, the national safety standards of a railroad system, or even a subway, even though we do not have a subway yet, should be of national standards. Bearing in mind that whatever projects the LGUs may propose or implement, it would reflect on the national transport system. So, I agree with the good gentleman, Mr. President, that this can still be amended to include the safety standards, the matter of providing the consent of the national government, specifically as to the relevant, if we call it franchise or authority, to be secured

first from the appropriate government agency and, in this case, I reckon that to be the DOTr, Mr. President.

Senator Drilon. So, is it the intention to dispense with this permit required?

Senator Tolentino. No, Mr. President. I am amenable to the proposal and that will be part of our amendments to have the permitting process as part and with due regard to the safety standards. But I would also surmise that no legitimate, even foreign railroad company with a background to speak of, would put in place a defective or even a below standard transport system. But I agree with the gentleman.

Senator Drilon. So, Mr. President, I am amenable to terminating my interpellation having already drawn from the good sponsor the answers that I would like to hear although not reflected in my interpretation in the present bill. So that if we can be given a copy of the proposed amendments and we understand that we will be permitted to ask questions after the amendments are submitted in order to clarify the intent of the law, on our part, we have no problems with terminating the period of interpellations on this bill and await the amendment which, we hope, will reflect the discussion this afternoon.

Just one more point, Mr. President. Will the law, once passed, also require the local government unit to earmark local funds for this project?

Senator Tolentino. Yes, Mr. President. It is now part of the autonomous powers of the local government unit but subject, of course, to existing fiscal

restraints because there appears to be a 20% cap on the expenditures that a local government unit can do for this purpose.

Senator Drilon. I understand that, Mr. President.

Senator Tolentino. But as regards the amendments, willingly, Mr. President, we will provide the good Minority Leader the amendments as part of his interpellation.

Senator Drilon. In existence today is Memorandum Circular No. 2016-120 or the Guidelines for the Implementation of the Public-Private Partnership for the People Initiative for Local Governments (LGU P4). This circular expands the modalities for public/private partnerships beyond those provided in the BOT Law. May we know if this will still apply once the bill becomes a law?

Senator Tolentino. Yes, Mr. President. The cited regulation, probably, will be superseded insofar as the transportation aspect is concerned. But as regards slaughterhouses, municipal libraries, city hospitals and clinics, that would still be applicable because this bill is anchored on the transportation problem which we are experiencing right now, and which we will still experience in the near future. Because I have stated this several times over that there is always a threshold of urban congestion and population. And most of our growing regional urban centers and cities in the Visayas, of course, we have Iloilo; in Cebu, we have Lapu-Lapu-Mandaue Growth Center; the Angeles-San Fernando area; the Butuan-Cagayan de Oro-Davao area; of course, not to mention Metro Manila, will always be confronting this problem of

traffic congestion. And we really think, Mr. President, that it is not only because of the transport demand which exceeds the transport supply that we really have to prepare. And I think it behooves upon the Congress to prepare, through the appropriate legislative measures, the measures that we should be doing 10 years from now doing it today.

And I thank the good Minority Leader for allowing me to expand this by specifying the provisions that would really be needed to avoid the uncertainties, so to speak, in case this might be subjected to a judicial question, Mr. President.

Senator Drilon. All right. With that, Mr. President, we can terminate our interpellation on the understanding that the amendments will be given to us in advance so that we can raise questions during the period of interpellations or in the period of amendments in order to clarify the new regime once a bill becomes a law.

With that, Mr. President, I manifest that we no longer have questions at this stage.

Senator Tolentino. Thank you, Mr. President. I thank the good Minority Leader himself for the very enlightening clarificatory questions.

The President. The Majority Leader is recognized.

Senator Zubiri. Thank you to the good gentlemen on the Floor, Mr. President.

Mr. President, no other member wishes to interpellate on the measure. Therefore, I move that we terminate the period of interpellations.

I so move, with the permission of the Body, and without prejudice to asking clarificatory questions during the period of amendments.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

SUSPENSION OF CONSIDERATION OF S. NO. 1211

Senator Zubiri. I move that we suspend consideration of Senate Bill No. 1211.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

ADJOURNMENT OF SESSION

Senator Zubiri. With that, Mr. President, I move that we adjourn the session until three o'clock in the afternoon of Monday, January 27, 2020.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock in the afternoon of Monday, January 27, 2020.

It was 6:08 p.m.

MONDAY, JANUARY 27, 2020

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 46th session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Let us stand for the opening prayer to be led by Sen. Juan Miguel “Migz” F. Zubiri.

Everybody rose for the prayer.

PRAYER

Senator Zubiri.

Our Lady of Guadalupe, Mother of the True God, our Merciful Mother, we Thy children come today in an act of filial homage of faith, love and trust, to solemnly consecrate our nation, the Philippines, to Thy Immaculate Heart. Take it from our fragile hands into Thy own; defend it and guard it as Thy own property; make our Lord Jesus reign, conquer and rule in it. Outside of Him there is no salvation.

We, Thy people, feel a terrible storm raging around us, threatening to disperse and destroy the faithful flock of those who bless Thee because Thou art the Mother of our Lord Jesus. Afflicted, we stretch out our suppliant hands towards Thy Divine Son, as we cry out: Save us, O Lord, for we perish!

Intercede for the Philippines, Our Lady, in this grave hour when evil winds blow, bringing cries of death against Thy Son and against the civilization founded on His teachings, deceiving minds, perverting hearts, and lighting the fires of hatred and revolution in the world. Help of Christians, pray for us!

Intercede for the Philippines, Our Lady, in this troubled hour when the unclean waves of an open immorality, which has even lost the notion of sin, exalt the rehabilitation of the flesh in the face of the very Cross of Thy Divine Son, threatening to choke in this

world the lily of virtue nourished by the Eucharistic Blood of Jesus Christ. Virgin most Powerful, pray for us!

Intercede for the Philippines, Our Lady, in this hour of passions and doubts when even the good run the risk of being lost. Unite all the Filipino people around Thy Divine Son, in the love of the Church and also in cultivation of virtue, in respect for order and fraternal charity. Queen of Peace, pray for us!

Our Lady of Guadalupe, please pray for us.

Our Lord Jesus, please pray for us.

Amen.

The President. The MMDA Chorale will lead us in the singing of the Philippine national anthem. The Group will also render another song entitled *Bayan Ko*.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

| | |
|--|-----------|
| Senator Sonny Angara..... | Present |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano | Present |
| Senator Leila M. de Lima..... | * |
| Senator Ronald "Bato" M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | Present |
| Senator Christopher Lawrence T. Go..... | Present |
| Senator Richard J. Gordon..... | |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel "Lito" M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present |
| Senator Emmanuel "Manny" D. Pacquiao..... | Present |
| Senator Francis "Kiko" Pangilinan..... | Present |
| Senator Aquilino "Koko" Pimentel III | Present |
| Senator Grace Poe..... | Present** |

| | |
|---|---------|
| Senator Ralph G. Recto..... | Present |
| Senator Ramon Bong Revilla Jr..... | Present |
| Senator Francis "Tol" N. Tolentino..... | Present |
| Senator Joel Villanueva..... | Present |
| Senator Cynthia A. Villar..... | Present |
| Senator Juan Miguel F. Zubiri | Present |
| The President..... | Present |

The President. With 21 senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Thank you, Mr. President.

Mr. President, we would just like to recognize some guests in the gallery.

We have with us from the National Intelligence Coordinating Agency (NICA), Deputy Director General Abelardo P. Villacorta, together with Assistant Director General Theodore Libardo and Director Candido Bontogon.

We also have Director Florentino P. Manalastas Jr. of the Anti-Terrorism Council-Program Management Center (ATC-PMC); And, of course, our PLLO Assistant Secretary Orville A. Ballitoc.

The President. Welcome to all our guests.

Thank you.

Senator Zubiri. Mr. President, we would like to recognize Sen. Manny Pacquiao for a manifestation on the celebration of National Bible Day today.

The President. Sen. Manny Pacquiao is recognized.

 * Under detention
 ** Arrived after the roll call

MANIFESTATION OF SENATOR PACQUIAO

Senator Pacquiao. Thank you, Mr. President. Good afternoon.

Today, we celebrate the National Bible Day.

Every last Monday of January, we gather as a nation to reaffirm our faith. By virtue of Republic Act No. 11163, we take time to unite in professing the teachings of our Lord.

As we rejoice in the Word of God, may we take this opportunity to find more meaningful conversations with one another, Mr. President. Let us endeavor to be bearers of the good news throughout the world and allow the wisdom of His Word fill our hearts with love, hope, and joy.

For the longest time, our nation has faltered by trying to live by bread alone. While it is important to nourish our body to attain physical strength, feeding our spirit and soul by witnessing the Living Truth in the way towards growing in faith.

Today, let us pause and communicate with our God to express our overflowing gratitude for the multitude of blessings we receive as a nation. Let us strive towards unity. In Mark 3:24, the Holy Bible says, "If a kingdom is divided against itself, that kingdom cannot stand." Let these words of our Lord resonate in our actions. With wisdom and courage, let us abandon our earthly ways that divide us. In the midst of all the problems and trials that we are facing, let us choose to live with courage and compassion, Mr. President. Together, let us choose to fix our eyes on our God because apart from Him, we are nothing.

Before I end this manifestation, Mr. President, I would like to leave these verses in Jeremiah 9:23 and 24, “This is what the Lord says: ‘Let not the wise boast of their wisdom or the strong boast of their strength or the rich boast of their riches, but let the one who boasts boast about this: that they have the understanding to know me, that I am the Lord, who exercises kindness, justice and righteousness on earth, for in these I delight,’ declares the Lord.”

Thank you, Mr. President.

Senator Villanueva. Mr. President.

The President. Senator Villanueva is recognized.

MANIFESTATION OF SENATOR VILLANUEVA

Senator Villanueva. Thank you, Mr. President.

This is in relation to the manifestation made by our distinguished colleague who principally authored and sponsored the National Bible Day that we passed, I think, three or four years ago. It is important indeed that we go back to the word of God as Matthew 4:4 says: “Man shall not live by bread alone, but on every word that comes from the mouth of God.” And in John 15:5 God said, “I am the vine; you are the branches. If you remain in Me and I in you, you will bear much fruit; for without Me you can do nothing, apart from Me, you can do nothing.” That is why I join, not only the distinguished gentleman from Sarangani but our brothers and sisters in Christ, in celebrating the National Bible Day. It is important that we be reminded of the word of God which gives light, guidance, and direction for our everyday living.

Thank you, Mr. President, and may God bless us all.

The President. All right. The Majority Leader is recognized.

Senator Zubiri. Happy National Bible Day to everyone, Mr. President.

THE JOURNAL

Mr. President, I move that we dispense with the reading of the *Journal* of the 45th session, Wednesday, January 22, 2020, and consider it approved.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Zubiri. Mr. President, I move that we proceed to the Reference of Business.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1287, entitled

AN ACT ENSURING THE FUNDAMENTAL EQUALITY OF MEN AND WOMEN UNDER THE LAWS ON MARRIAGE AND FAMILY RELATIONS, AMENDING FOR THE PURPOSE ARTICLES 14, 96, 124, 211, AND 225 OF EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS THE “FAMILY CODE OF THE PHILIPPINES”

Introduced by Senator Hontiveros

The President. Referred to the Committee on Women, Children, Family Relations and Gender Equality

The Secretary. Senate Bill No. 1288, entitled

AN ACT CREATING THE OFFICE OF THE SURGEON GENERAL OF THE PHILIPPINES, PROVIDING ITS FUNCTIONS,

APPROPRIATING FUNDS THEREFOR AND FOR OTHER
PURPOSES

Introduced by Senator Tolentino

The President. Referred to the Committees on Health and Demography;
and Finance

The Secretary. Senate Bill No. 1291, entitled

AN ACT INCREASING THE BED CAPACITY OF THE EAST AVENUE
MEDICAL CENTER FROM SIX HUNDRED (600) TO ONE
THOUSAND (1,000) BEDS AND APPROPRIATING FUNDS
THEREFOR

Introduced by Senator Angara

The President. Referred to the Committees on Health and Demography;
and Finance

The Secretary. Senate Bill No. 1292, entitled

AN ACT PROMOTING ENVIRONMENTAL CONSCIOUSNESS
THROUGH EDUCATION AND CIVIC ENGAGEMENT IN
ORDER TO INCREASE SOCIAL RESPONSIBILITY AMONG
THE YOUTH, APPROPRIATING FUNDS THEREFOR AND
FOR OTHER PURPOSES

Introduced by Senator Sotto

The President. Referred to the Committees on Basic Education, Arts and
Culture; Higher, Technical and Vocational Education; and Finance

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 294, entitled

RESOLUTION CONGRATULATING AND COMMENDING EMIL Q.
JAVIER, Ph.D. FOR BEING NAMED NATIONAL SCIENTIST
OF THE PHILIPPINES BY VIRTUE OF PROCLAMATION No.
781

Introduced by Senator Binay

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 295, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES
TO CONDUCT AN INQUIRY IN AID OF LEGISLATION ON
THE STATUS OF THE ANIMALS LEFT BEHIND DURING THE
TAAL ERUPTION, WITH THE END IN VIEW OF PROVIDING
FOR THEIR INCLUSION IN EVACUATION AND DISASTER
RISK REDUCTION PLANS

Introduced by Senator Binay

The President. Referred to the Committee on National Defense and
Security, Peace, Unification and Reconciliation

COMMUNICATIONS

Letters from the Bangko Sentral ng Pilipinas transmitting to the Senate copies
of the following certified and authenticated BSP issuances in
compliance with Section 15(a) of Republic Act No. 7653 (The New
Central Bank Act):

Circular Letter Nos. CL-2020-002, 003, 004, 005 and 006 dated 8 and
10 January 2020;

and Circular No. 1071 dated 8 January 2020.

The President. Referred to the Committee on Banks, Financial
Institutions and Currencies

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1293, entitled

AN ACT INCREASING THE PENALTIES OF DECEPTIVE, UNFAIR,
AND UNCONSCIONABLE SALES ACTS OR PRACTICES,
PARTICULARLY IN TIMES OF CALAMITY, EMERGENCY
CONFLICT AND DISTRESS, THEREBY AMENDING
REPUBLIC ACT NO. 7394 OTHERWISE KNOWN AS THE
“CONSUMER ACT OF THE PHILIPPINES”

Introduced by Senator Marcos

The President. Referred to the Committee on Trade, Commerce and
Entrepreneurship

The Secretary. Senate Bill No. 1294, entitled

AN ACT DECLARING DECEMBER 12 EVERY YEAR A SPECIAL WORKING HOLIDAY IN THE ENTIRE COUNTRY TO COMMEMORATE THE FEAST OF OUR LADY OF GUADALUPE

Introduced by Senator Lapid

The President. Referred to the Committee on Basic Education, Arts and Culture

The Secretary. Senate Bill No. 1295, entitled

AN ACT ESTABLISHING THE TAX REGIME OF PHILIPPINE OFFSHORE GAMING OPERATORS, AMENDING FOR THIS PURPOSE SECTIONS 27, 28, 42 AND 199 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED

Introduced by Senator Recto

The President. Referred to the Committee on Ways and Means

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 296, entitled

RESOLUTION URGING THE EXECUTIVE DEPARTMENT TO ENSURE EFFICIENT IMPLEMENTATION OF THE PLANS AND MEASURES ON THE REPATRIATION OF OVERSEAS FILIPINO WORKERS IN LIGHT OF THE MIDDLE EAST TENSIONS, THEREBY SAFEGUARDING PUBLIC WELFARE AND INTEREST

Introduced by Senator Marcos

The President. Referred to the Committees on Labor, Employment and Human Resources Development; and Foreign Relations

The Secretary. Proposed Senate Resolution No. 297, entitled

RESOLUTION DIRECTING THE SENATE COMMITTEE ON URBAN PLANNING HOUSING AND RESETTLEMENT, IN AID OF LEGISLATION AND IN THE EXERCISE OF THE SENATE'S OVERSIGHT FUNCTIONS, TO URGENTLY CALL UPON THE DEPARTMENT OF HUMAN SETTLEMENTS AND URBAN DEVELOPMENT AND OTHER RELEVANT AGENCIES TO

FORMULATE A SUSTAINABLE TAAL VOLCANO
RESETTLEMENT AND REHABILITATION PROGRAM

Introduced by Senators Tolentino and Dela Rosa

The President. Referred to the Committee on Urban Planning, Housing and Resettlement

COMMUNICATIONS

The Secretary. Letter from the Office of the President of the Philippines transmitting to the Senate two (2) original copies of Republic Act No. 11465, entitled

AN ACT APPROPRIATING FUNDS FOR THE GOVERNMENT OF
THE REPUBLIC OF THE PHILIPPINES FROM JANUARY ONE
TO DECEMBER THIRTY-ONE, TWO THOUSAND AND
TWENTY, AND FOR OTHER PURPOSES

which was signed by President Rodrigo Roa Duterte

The President. To the Archives

The Secretary. Letter from the Office of the President of the Philippines transmitting to the Senate two (2) original copies of Republic Act No. 11467, entitled

AN ACT AMENDING SECTIONS 109, 141, 142, 143, 144, 147, 152,
263, 263-A, 265, AND 288-A, AND ADDING A NEW
SECTION 290-A TO REPUBLIC ACT NO. 8424, AS
AMENDED, OTHERWISE KNOWN AS THE NATIONAL
REVENUE CODE OF 1997, AND FOR OTHER PURPOSES

which was signed by President Rodrigo Duterte, together with his line-veto message in accordance with Article 6, Section 27(2) of the Constitution, which provides that “the President shall have the power to veto any particular items in an appropriation, revenue or tariff bill.”

The President. To the Archives

COMMITTEE REPORT

The Secretary. Committee Report No. 34 prepared and submitted jointly by the Committees on Energy; Science and Technology; Ways and Means; and Finance on S. No. 1296 with Senator Gatchalian as author thereof, entitled

AN ACT ESTABLISHING THE PHILIPPINE ENERGY RESEARCH AND
POLICY INSTITUTE, DEFINING ITS OBJECTIVES, POWERS,
AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND
FOR OTHER PURPOSES

recommending its approval in substitution of S. No. 172.

Sponsor: Senator Gatchalian

The President. To the Calendar for Ordinary Business

Majority Leader.

Senator Zubiri. Thank you, Mr. President.

BILL ON SECOND READING
S. No. 1083 – Anti-Terrorism Act of 2019
(Continuation)

Mr. President, with the permission of the Body, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. This is An Act Amending Certain Provisions of Republic Act No. 9372, Otherwise Known as An Act to Secure the State and Protect our People from Terrorism.

May we recognize the sponsor, Senator Lacson; and to interpellate, Senator Tolentino.

The President. The gentleman from Cavite, chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation, Senator Lacson, is recognized; and to interpellate, another gentleman from Cavite, Senator Tolentino.

Senator Tolentino. With the permission of the good gentleman, Mr. President.

Senator Lacson. From the distinguished gentleman from Cavite, anything that will enhance or improve the proposed measure, of course, it is most welcome, Mr. President.

Senator Tolentino. And I likewise seek the permission of the good sponsor if I may be allowed to recite a list of cases that would probably serve as the fulcrum of my interpellation, Mr. President. These are cases which are known and which will probably be the center of my interpellation.

Senator Lacson. The gentleman may go ahead, Mr. President.

Senator Tolentino. Thank you, Mr. President.

I would like to place on record the following cases that would probably be of interest to the good sponsor and this honorable Body relative to the bill under consideration, the Senate bill amending the Human Security Act, Mr. President.

There is a case, *Alejandro vs. Republic of Cuba*. On February 24, 1996, the Cuban air force shot down two unarmed US civilian aircraft over international waters, killing all four occupants. Three of them were US nationals.

In 1997, the families of the three US victims obtained a judgement against Cuba for approximately US\$187.6 million in compensatory and punitive damages.

My second case, Mr. President, *Flatow vs. Islamic Republic of Iran*. On April 9, 1995, a suicide bomber drove a van loaded with explosives into a bus to the Gaza strip, killing seven Israeli soldiers and one US national, Alisa Michelle Flatow, a 20-year-old college student spending a semester abroad in Israel. A terrorist group, the Shaqaqi faction of Palestine Islamic Jihad, which was funded by the government of Iran, claimed responsibility for the explosion. On March 11, 1998, the family of Miss Flatow obtained a judgement in the US court against Iran for US\$247 million in compensatory and punitive damages.

My third case, Mr. President, *Cicippio vs. Islamic Republic of Iran*. Two US nationals associated with the American University of Beirut and a third US national who operates two private schools in Beirut were kidnapped in May 1985 in Lebanon by the Hezbollah, a group receiving material support from the government of Iran. The three men were imprisoned in extreme conditions and tortured until their release ranging from one and a half years to five years. On August 27, 1998, Mr. President, the three US nationals, along with their spouses, obtained a judgment against Iran for US\$65 million in compensatory damages.

My final case, Mr. President, *Eisenfeld vs. Islamic Republic of Iran*. On February 25, 1996, two US citizens, Matthew Eisenfeld and Sara Duker were killed in Israel by a bomb placed on a bus by the militant Palestinian organization Hamas, which was funded by the government of Iran. On July 11, 2000, the families of the victims obtained a judgment against Iran for US\$327 million in compensatory and punitive damages.

Finally, one more case, Mr. President, Abu Khattala, the alleged conspirator behind the 2014 attack in Benghazi, Libya which resulted in the death of US Ambassador J. Christopher Stevens, was also held in a court in the United States which resulted in damages, likewise.

Bakit ko po sinasabi ito, Mr. President? Dito po sa panukalang batas, with all due respect, *napuna ko po na parang nakaligtaan po natin iyong* civil damages. I support this measure. I think this is one of the vital pieces of legislation that will be produced by the Eighteenth Congress, and I congratulate the good sponsor, Senator Lacson, for having authored this act amending the Human Security Act of 2007. *Napuna ko lamang, Mr. President, bakit parang wala po iyong* civil damages?

Senator Lacson. The point of the gentleman from Cavite is well-taken except that, probably, the reason is we are a weak nation. Unlike the United States, they can implement by seizing assets or properties of these foreign nationals involved in acts of terrorism. Maybe that is one of the reasons. I am just thinking aloud, Mr. President, having in mind that we do not have the capacity or the capability to implement or actually award the damages that are supposed to be awarded to the victims of acts of terrorism *kaya hindi po naisama siguro.* But the point of the gentleman is well-taken. We should really include even damages or the civil liabilities of not only the terrorists but if it is State-sponsored, probably even the state or states involved.

Senator Tolentino. Mr. President, recently--and I probably would beg to

disagree insofar as the weakness of our legal institution is concerned, recently, the whole country witnessed the promulgation of the decision relative to the Maguindanao massacre case. *Inilatag na po ng husgado iyong desisyon at nakita natin*, Mr. President, *na napakaraming binigyan ng damages*. To cite one example, for victim Napoleon Salaysay, the heirs were awarded civil indemnity of P100,000; moral damages of P100,000; exemplary damages of P100,000; and loss of earning capacity of P2,250,004.50.

Mr. President, I would like to place this on record, even our good friend Rep. Toto Mangudadatu was given the following amount for the death of Bai Genalyn Mangudadatu: civil indemnity of P100,000; moral damages of P100,000; exemplary damages of P100,000; and temperate damages of P100,000.

Will the gentleman agree *na* we really need to include a provision on damages insofar as this proposed law is concerned?

Senator Lacson. We may, Mr. President, except that under Article 100. *Civil liability of a person guilty of felony*, the judge can actually include in the decision the award of damages to victims of crimes. So, it may still be applied on the victims of acts of terrorism.

Senator Tolentino. That is correct, Mr. President. Article 100 of the Revised Penal Code states that: "Every person criminally liable for a felony is also civilly liable."

Senator Lacson. That is correct, Mr. President.

Senator Tolentino. So, it would mean, Mr. President, *na automatic na iyon na kapag nag-file ng criminal case*, the civil case is likewise instituted.

Senator Lacson. That is correct, Mr. President.

Senator Tolentino. My only concern with that provision, Mr. President, is that there is also a complementing provision found in our Rules of Court that in cases where it involves Article 33 of the Revised Penal Code which deals with physical injuries--and the term “physical injuries” includes death—a separate civil action can be filed.

So, again, Mr. President, probably the gentleman would be agreeable, during the period of amendments, to have this as part of the proposed law.

Senator Lacson. At the proper time, Mr. President, if the gentleman will introduce the appropriate amendments, then we can consider. Although Article 33 is a separate provision *na unless waived, kasama na rin po iyon*.

Senator Tolentino. Mr. President, the reason why I have this line of questioning is that this is very basic that in criminal cases, we have to prove guilt beyond reasonable doubt.

Senator Lacson. Yes, Mr. President.

Senator Tolentino. In civil cases, all we need is preponderance of evidence.

If I may ask the good sponsor, if in the event that a crime filed under this proposed bill is dismissed, can the offended parties—the victims and the relatives—still file another civil case?

Senator Lacson. As the gentleman clearly stated, the threshold in the decision-making of the judge are different. For criminal cases, it is guilt beyond reasonable doubt, while in civil cases, it is only preponderance of evidence. So, yes, the victims of crimes, even if the criminal aspect of the case has been dismissed, can also pursue civil damages, Mr. President.

Senator Tolentino. Then again, Mr. President, I would want to have the exact rationale of this law. Are we trying to protect the State because this is a criminal case, or are we also attempting to protect the civilians, the victims of the terroristic acts. So, we have now a venue for civil actions, Mr. President.

Senator Lacson. Both, Mr. President.

Senator Tolentino. Which is more important, Mr. President, the criminal aspect or the civil aspect?

Senator Lacson. I would say that they are both important. But coming from the perspective of national security which is included in our national interest, then the protection of the State should come first before the protection of individuals, although they are both equally important, Mr. President.

Senator Tolentino. But, again, Mr. President, relative to the recital of cases I mentioned a while ago, even in other jurisdictions, it would appear that the trend right now is to have the offending party, the terrorist organizations, be held to account civilly. That is the current trend. I forgot to mention the case of Pan Am Flight 103, the Lockerbie bombing, which

happened in Libya, but the plane fell somewhere in Scotland and the award of damages was given in the United States.

So, would the gentleman agree with me that inasmuch as we are protecting the State by having a strict anti-terrorism law, we also have to protect the rights of our residents here in the Philippines?

Senator Lacson. Yes, Mr. President, although we may have to update the damages because outdated *na masyado iyong ating* Revised Penal Code. *At napapansin ko na kapag nag-a-award ng damages iyong mga korte, minsan, isandaang piso; minsan singkuwenta pesos. Kung ganoon kalaki iyong damage* inflicted on victims of terrorism, maybe we can incorporate civil damages by updating the amount, maybe as an amendment. I am not sure about this, Mr. President, as an amendment also to Article 100 or Article 33 of the Revised Penal Code on civil liability.

Please help me out because I am not a lawyer, Mr. President, if that can be done as an amendment to both articles by way of the passage of a stronger anti-terrorism act.

Senator Tolentino. Yes, Mr. President. That is why I would like to deposit the current trend of the award of treble damages. Because I see in Section 42 of the proposed law, there is a provision which allows the Anti-Money Laundering Council to freeze and forfeit the funds, banks deposits, placements, trust accounts, assets and property of whatever kind and nature belonging to a person suspected or charged of any crime defined and penalized under the provisions of this Act.

What I am trying to point, Mr. President, is that-- I have been asking around, what would happen if we freeze the bank accounts of supposed-to-be terrorist organizations or terrorists? *Hindi po ba dapat ay sa halip na i-freeze ay i-allocate na lamang natin?* We should earmark this for the victims under a civil liability regime *na mayroon pong pagkukunan*. Because the apprehension of the good sponsor is that, probably, we might not have enough funds to award the victims. But here, we have under Section 42, I think, it is paragraph 6, that the Anti-Money Laundering Council is authorized to freeze and forfeit the funds.

So, is the gentleman amenable to a future amendment that probably would allocate whatever is frozen to answer for the needs of the victims' families, the victims of the explosions, not to mention the livelihood, the scholarship, the education of the children of those who lost their lives?

Senator Lacson. Yes, Mr. President. But we should clarify this because freezing is different from confiscation. When a final decision is rendered, that is the time, or if the Anti-Money Laundering Council, after freezing, and the criminal aspect of the case proceeds, thereby convicting the respondents who committed the acts of terrorism, then probably it could proceed to that situation, Mr. President.

Senator Tolentino. That is why, Mr. President, I think I got the concurrence, if I heard it right...

Senator Lacson. That is correct, Mr. President.

Senator Tolentino. ...of the good sponsor that a civil liability suit can proceed independently of the criminal aspect. The civil liability will just have a mere preponderance of evidence as the quantum of proof. So, a case might transpire that *mauuna pa ho iyong civil case na matapos kaya puwede nang mag-award si judge coming from the frozen assets. Puwede kaya iyon, Mr. President?*

Senator Lacson. I would agree with the gentleman from Cavite.

Senator Tolentino. So, what would happen now, Mr. President, is that we will have an amount that can be granted by the court even prior to the conclusion of the criminal case, am I correct, Mr. President?

Senator Lacson. After due process, that is correct, Mr. President.

Senator Tolentino. So, perhaps, with the permission of the good gentleman, in a later date, during the period of amendments, I might propose a similar amendment.

But going back again, Mr. President, to the venue which, I think, the good Minority Leader has been trying to extrapolate from the good sponsor, if I may be permitted to give an example. If a terrorist group would meet—no offense to the places and the LGU heads in those areas—perhaps in Lamitan, Basilan, and plan to have a terrorist attack and, thereafter, meet again in Zamboanga City to finalize the details, meeting perhaps some members of the Jemaah Islamiyah, and then, probably executing the terrorist attack through a terroristic act in Pagadian and, thereafter, escaping to the jungles of Sulu. Where exactly is the venue of the criminal case that should be filed by the

prosecutor? Is it in Lamitan? Is it in Zamboanga City? Is it in Pagadian? Or is it in Sulu?

Senator Lacson. There will be special courts constituted or established in this regard, Mr. President.

Senator Tolentino. So, special courts will be established, Mr. President.

Senator Lacson. Like the heinous crime courts, Mr. President.

Senator Tolentino. So, again, the general jurisdiction of the regional trial court would be set aside in favor of the...

Senator Lacson. Special court.

Senator Tolentino. Special courts.

The reason, Mr. President, why I am mentioning this... I would like to take this opportunity likewise to remember a colleague of the previous Congress who just died, Rep. Edgar Mendoza. He was a resident of Batangas and he went to visit some clients in Calamba City, probably, to collect some legal fees, as far as the newspaper accounts would show, and then his body, together with his driver and one security aid, was found burned in Tiaong, Quezon. Reports would now show that the planning was done in Bilibid, Muntinlupa.

Again, for purposes of venue, Mr. President, I do not know where the Department of Justice will file the case. Is it in Muntinlupa where the planning was done? Or is it in Calamba City where Representative Mendoza—God bless his soul—met the clients? Or will it be in Tiaong, Quezon where his body was found? Or is it in Batangas where he resides? I am saying this because, Mr.

President, in criminal cases, venue is jurisdictional. If a court does not have jurisdiction, the case can be dismissed.

Senator Lacson. Under the principle of a continuing crime, Mr. President, any of the special courts in those areas that the gentleman mentioned may acquire jurisdiction.

Senator Tolentino. I agree, Mr. President, and this buttresses the claim of the good sponsor that this law can have an extraterritorial effect and that is, probably, what I will try to figure out. If we are in agreement that the case can be filed anywhere where the essential ingredients of the crime were committed, then, probably, Mr. President, there is a need, with due respect, to reevaluate and to revisit the plan to have a special court. Because in some instances, in the case I mentioned, some witnesses would probably come out in Zamboanga City, some evidence would be in Zamboanga City, and it is easier to get the witnesses from Zamboanga City rather than in Basilan and Sulu. So, probably, if the gentleman would agree, there is a need to revisit that provision of having a special court. Because there are probably some nuances and details that can be gotten from the place where the essential ingredient of the terroristic act was hatched, Mr. President.

Senator Lacson. Special courts are also jurisdictional, Mr. President, because the Supreme Court may create special courts in different areas. So, jurisdiction can also apply in case of special courts.

Senator Tolentino. So, Mr. President, would the good sponsor agree that perhaps we can place in one of the provisions here that this terroristic act

or terrorist act can be declared as a transitory crime? Because, I have glanced over several laws passed by the recent congresses relative to this, and if given a chance by the good sponsor, I can cite one, Mr. President.

Senator Lacson. Yes, please, Mr. President.

Senator Tolentino. There was a law passed in 1995, Republic Act No. 8042, the “Migrant Workers and Overseas Filipinos Act of 1995.” It states that a criminal action arising from illegal recruitment shall be filed not only in the Regional Trial Court of the province or city where the offense was committed, but it can also be filed where the offended party actually resides at the time of the commission of the offense. Verily, Mr. President, the reason for this is probably for the convenience of the offended party to file the case in her or his place of residence, *lalong-lalo na kung na-illegal recruitment iyong ating kababayang OFW*. So, *dito po sa Anti-Terrorism Law, puwede rin po kaya siguro*, Mr. President, if the good sponsor will agree, *na kung saan mas marami iyong ebidensiya, mas madaling kumuha ng testigo, doon na lamang i-file?*

Senator Lacson. There are factors to be considered, like the security of witnesses, because some witnesses maybe under threat in areas where they are appearing. So, that is probably one of the reasons why special courts are necessary to be created for purposes of this offense--for violation of the Anti-Terrorism Act.

It is so stated in Section 46 of the proposed measure, Mr. President.
“TRIAL OF PERSONS CHARGED UNDER THIS ACT. — ANY PERSON CHARGED FOR THE COMMISSION OF TERRORIST ACTS AND THE

PREPARATORY ACTS PUNISHED UNDER THIS ACT SHALL BE TRIED IN SPECIAL COURTS CREATED FOR THIS PURPOSE. IN THIS REGARD, THE SUPREME COURT SHALL DESIGNATE CERTAIN BRANCHES OF THE REGIONAL TRIAL COURTS AS ANTI-TERROR COURTS WHOSE JURISDICTION IS EXCLUSIVELY LIMITED TO TRY VIOLATIONS OF THE PROVISIONS OF THIS ACT.”

Senator Tolentino. I agree, Mr. President, that we have to have a functioning judicial body even in places where terrorist plots are being hatched.

Pero, Mr. President, we look at our recent experience. The Maguindanao massacre case took how many years to be completed? *Lahat po ng testigo ay dinala sa Bicutan, doon na po nag-hearing*. We created a special court; all the lawyers will go to that court; and the accused were all imprisoned in that area. But, again, even with that special system, it took several years for that case to be concluded, Mr. President.

Would the gentleman agree that even if we have special courts, if the available witnesses and evidence would be coming from far-flung areas, it would still be hard for a competent judge to conclude the case, more so with several death threats, and what have you, Mr. President?

Senator Lacson. There is a second paragraph under Section 46, Mr. President. It states: “Persons charged under the provisions of this Act shall be allowed to remotely appear and provide testimonies through the use of videoconferencing and such other technologies now known or may hereafter be known to science as approved by the Supreme Court.”

So, that will take care of the concern of the gentleman, Mr. President.

Senator Tolentino. I thank the good sponsor for that clarification. But then again, probably in the period of amendments, I would hasten to include the transitory nature of a terroristic act similar again to a very clear example—Batas Pambansa Blg. 22.

In Batas Pambansa Blg. 22, the offended party has several options where to file it. We can file it where the check was drawn; we can file it where the check was issued; we can file it where the check was delivered; and, we can file it where the check was dishonored. So, if we issue a check in Cavite City, that can be filed in Cavite City; if it bounced in Batangas, we can file again a case in Batangas.

And the same is the nature of an act of terrorism because I agree with the good sponsor that terrorism, which is, the ability to project and instill fear and terror, is not just located to a certain locality. It can be through the use of social media which can be done in a split second nationwide. I think the effects of a terroristic act will not just be felt in the place where the bombing was committed. It will even be felt in far-flung areas or islands of this country.

Senator Lacson. At the proper time, during the period of amendments, once the distinguished gentleman proposes these amendments, then we will consider, Mr. President.

Senator Tolentino. Again, if the good sponsor will agree with me that the purpose of terrorism is to instill fear and make a political and ideological statement.

Having said that, Mr. President, I now go to the aspect of extraterritoriality principle.

Alam po natin na dito talaga tayo mahihirapan. And this probably would reach the Supreme Court at some point in time because the proposed law would acknowledge even if a terroristic act was initiated abroad, in or outside of the Philippines, regardless of its stage of execution, the person can be held liable.

Senator Lacson. Yes, Mr. President. There is one principle called *aut dedere aut judicare*. It is an obligation to extradite or prosecute. It is contained in the United Nations Security Council Resolution No. 1373 in 2001, paragraphs (2-E) and (3-D); United Nations Security Council Resolution No. 1456 in 2003, paragraph (3); and United Nations Security Council Resolution No. 1566 in 2004, paragraph (2).

The principle expresses the common objective of states in fighting serious forms of crimes, terrorism included. If this is challenged before the Supreme Court, we have enough jurisprudence, even resolutions issued by the United Nations, to support our contention that the principle of territoriality can apply.

Senator Tolentino. So, that would mean, Mr. President, let us say, if I change now my example, instead of hatching the plot in Lamitan, Basilan, it was hatched in Singapore. Even if the planning stage was done in Singapore, the perpetrators, the conspirators can be held liable under this law, am I correct, Mr. President?

Senator Lacson. That is correct, Mr. President.

Senator Tolentino. Mr. President, to further aid this august Chamber in navigating this extraterritoriality precept which was well explained by the good sponsor, I would like to place on record a law likewise passed by this Congress, although in a different manner, which probably would help the good gentleman and the committee revise, refine, retune or retool the contents of the proposed bill, it is Republic Act No. 9262. Republic Act No. 9262 is called the “Anti-Violence Against Women and Their Children Act of 2004.”

Mr. President, although this is off-tangent to the bill under consideration, but given the concurrence of the good sponsor that a terroristic act is designed to instill fear, I would propose in future amendments that we include in the definition of “terrorist acts” psychological violence, if the good gentleman will agree. Because, if I may be given a chance to explain this, under that Republic Act No. 9262, there is a portion relative to psychological violence.

There is a case—I have it with me—dated January 11, 2018. It is “AAA” because that is how they captioned this—“AAA, *Petitioner vs. BBB, Respondent*”, G.R. No. 212448, dated January 11, 2018. The *ponente* is Justice Tijam.

Ito po iyong nangyari: There was a couple residing in Pasig and the husband, apparently, works as an OFW in Singapore. The husband was found by the wife as having committed an act of adultery, having a relationship with a certain Singaporean woman named Lisel Mok and produced photographs and other acts in violation of the marriage between husband and wife. Because of

this, Mr. President, the wife sued the husband. The husband said, “No, the court cannot have jurisdiction over me because I am in Singapore.” The court said—and this probably might be related to the advocacy of my *kababayan* from Cavite—that psychological violence is the means employed by the perpetrator while mental anguish or emotional anguish is the effect caused to or damage sustained by the affected party; therefore, it is an element of the crime and the Pasig Regional Trial Court has jurisdiction.

Having said that, Mr. President, are we in agreement that acts of terror are forms of psychological violence? Because even if we are not part of the area that was bombed, even if we are not a family member of that person whose limbs were cut or who was beheaded, the psychological violence instilled in society is more than enough to produce fear among the members of the populace.

Therefore, Mr. President, if we apply this, and if the good gentleman is willing to have psychological violence as part of the terroristic acts, then probably we can have extraterritoriality.

If I may get response from the good sponsor? Mr. President.

Senator Lacson. Mr. President, I may have a problem with that because *ang* terrorist act should be direct, more at the public at large, and *doon sa* State. *Pero iyong na-cite na ng* gentleman example *masyadong personal na yata*. So, *baka ma-overextend iyong coverage ng* Anti-Terrorist Act, *doon pa tayo ma-strike down sa* Supreme Court *kung mayroong magku-question*.

Senator Tolentino. *Hindi po, Mr. President. Ang gusto ko lamang palabasin doon is that the form of psychological violence, even if, in my example, it just involved the wife, is probably tantamount to eliciting fear.*

If I may add, Mr. President, as a personal experience, when I was a mayor, Mr. President, that was during the height of Wakaoji case—*bata pa po ako noon, bata pa rin si General Gualberto, major ng CIS—iyong mga kidnappers ay naglabas lamang po ng litrato na putol na ang kamay ni Mr. Wakaoji, natakot na ang lahat-- Natakot na ang Crame, natakot na iyong pinagtatrabahuan niya sa Tokyo--at ang akala po ay talagang pinutulan na ng daliri si Mr. Wakaoji pero tinupi lamang pala para piktyuran.*

Again, Mr. President, violence need not be physical. It can be psychological. That is why I am asking, for purposes of enhancing the extraterritoriality concept here is that if we include psychological violence, perhaps, there is a chance that we can surmount any constitutional challenge knowing that we already have a Supreme Court decision on this.

Senator Lacson. May I invite the gentleman's attention to Section 2 under the proposed measure, *Declaration of Policy*, Mr. President. I think it is enough that we are stating here: "It is declared a policy of the State to protect life, liberty, and property from acts of terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations." That is exactly the

reason why we are applying the principle of territoriality because it is a crime against humanity.

Kung isasama po natin pati iyong psychological effect on a private person or on an individual, baka masyado nang ma-extend iyong coverage nitong ating proposed measure, Mr. President.

Senator Tolentino. I agree, Mr. President. *Hindi po sa private individual, for instance, to make another...*

Senator Lacson. Psychological violence may only be applied on individuals, Mr. President. It may not be applied on a...*Medyo mahirap yatang i-interpret along that line.*

Senator Tolentino. Again, if I may deviate that, Mr. President. For example, if a video is shown to the family members of the kidnapped victim wherein the kidnapped victim is about to be beheaded and asking for the help of the government, and even the President, not just the family, to agree to the demands of the terrorists, would that be an act that would have an effect not just on the family members but even society at large?

Senator Lacson. We have to refer back to the intent and purpose of the commission of that particular act, Mr. President. *Naka-define naman po iyan under Section 4. Kung nasa labas na ng definition at ang effect is on an individual or a group of individuals na wala naman itong bearing on the acts as enumerated, specifically iyong intent and purpose, baka po mahirapan tayong i-justify.*

Senator Tolentino. Again, Mr. President, with due respect, I ask again the question: Are we protecting, primarily, the State, or are we protecting the people, or are we protecting both?

Senator Lacson. The answer is both, Mr. President. *Ang nakalagay,* “The purpose of such act by its nature and context, must be committed to, (1) intimidate, put in fear, force or induce the government.” Everything depends on the circumstances bound by the intent and purpose of such act. *Kung papasok naman po roon sa category ng mine-mention dito sa proposed measure, then, probably... it depends on the appreciation of evidence pertaining to the intent of the act as committed.*

Nothing is absolute *naman dito*, Mr. President. We have to prove the intent of the commission of such act.

Senator Tolentino. Then again, Mr. President, I leave that to the plenary to decide because my thinking here—that is why I recited a litany of cases when I first had the Floor—was that to strengthen our civil liability regime insofar as terrorism is concerned.

Senator Lacson. *Iyong example po ng gentleman, Mr. President, ay puwedeng pumasok under terrorist acts, puwede ring hindi. Depende nga po kung ano iyong masasaklaw roon sa kaniyang intent—in accordance with the intent or purpose of the commission of the act.*

Senator Tolentino. One last point, Mr. President, before I yield the floor, and it has something to do with how the court here, be it a special court or the general regional trial court, would acquire jurisdiction over the person of an

offender who is outside the territory of the Philippines. Because we all know that jurisdiction over a person would only happen in two instances: upon his arrest or apprehension, with or without a warrant of arrest; and the voluntary submission or appearance to the jurisdiction of the court. *Kung nasa labas po siya ng Pilipinas, halimbawa po nasa Indonesia, papaano po tayo magkakaroon ng jurisdiction over that person in this proposed bill?*

Senator Lacson. *Wala po. Kapag pumunta siya rito, mamalasin siya, pero kung nasa Indonesia siya, we cannot acquire jurisdiction. That is so stated in the bill, Mr. President. For example, he hatched the plan to commit terrorist acts in the Philippines, but he is in Indonesia. Until and unless he lands or he comes to the Philippines, then we cannot acquire jurisdiction.*

Senator Tolentino. So, then again, Mr. President, it opens the wide array of possibilities for a civil action to have a greater long arm reach.

Senator Lacson. *Kapag civil action, Mr. President, we can. Although it may be more difficult to prove, but we can.*

Senator Tolentino. Yes, Mr. President. Mr. President, we are all in agreement-- and as I validated this with General Bato—that seldom do we meet a stand-alone terrorist. He must be a member of an organization, that organization is well-funded, and that well-funded organization must be based somewhere in a part of this planet where they are doing business and where they have corporate residence perhaps.

So, is it possible for the gentleman to agree to an amendment that would strengthen the civil liability regime that will enable Philippine authorities, or

even the offended party, to file a case against a foreign national, a foreign group, or a foreign corporation, based somewhere and secure a civil damages award? Because we all know, Mr. President, even Osama bin Laden has a recruitment agency before, functioning in the Philippines and functioning in the Middle East. And, for the record, several courts have already awarded damages to the victims of the 911. So, is it possible that we also pursue that line of judicial legal legislative trend of exerting a long arm outreach to enable us to acquire jurisdiction over a foreign national, not in a criminal process but in a civil process?

Senator Lacson. As far as civil liability, yes, Mr. President.

Senator Tolentino. So, *ang ibig sabihin, baka mas madali pa dahil a* mere preponderance of evidence *po tayo*. And if we can identify their properties abroad, their assets abroad...

Senator Lacson. No, if we can identify their properties or assets here, we can run after these people civilly, in accordance with the provision that we discussed earlier, Mr. President.

Senator Tolentino. Because, Mr. President, we have under the Rules of Court, Rule 14, "Section 15. *Extraterritorial service*. — When the defendant does not reside and is not found in the Philippines, and the action affects the personal status of the plaintiff or relates to or the subject of which is, property in within the Philippines, in which the defendant has or claims a lien or interest, actual or contingent xxx," the court can summon the defendant either

by publication in a newspaper of general circulation or by sending a copy of the summons to the last known address of the defendant.

Senator Lacson. Or, through the Regional Trial Court having jurisdiction.

Senator Tolentino. Yes, Mr. President. So, what I am saying, and the good sponsor would probably...

Senator Lacson. I have experienced that, Mr. President, when Blanquita Pelaez sued me in the United States for some supply contract that I did not implement because it was onerous and grossly disadvantageous to the Philippine National Police. She sued me. And I was invoking that the service of summons should be coursed through a regional trial court here which will, instead, issue the summons to me. But it did not happen Mr. President.

Senator Tolentino. One last point, Mr. President—I think the records would show that I already mentioned this during the previous session. *Nakalulungkot po*, Mr. President—and probably this is also a reason for the non-service of summons, but no offense—there is a Hague Service Convention which was entered into by 120 nations in November 1965, *hindi po pumirma ang Pilipinas. Iyong Hague Service Convention, mayroon po roong transnational service of process—puwede tayong magpadala ng summons sa attorney general ng Amerika; tatanggapin nila; sila na ang magde-deliver. Iyon namang Japan, puwedeng magpadala sa atin. Ganoon po ang ginagawa ng Japan ngayon—nagpapadala na lamang sila ng summons para mahuli iyong dating*

president *ng* Nissan. *Nakakalungkot po*, we are not a member of that Hague Service Convention.

I think the good gentleman will personally support this representation in this endeavor that, perhaps, the Senate Committee on Foreign Relations, through the Department of Foreign Affairs, can have this untangled. Why are we not a member of that very important Hague Service Convention when matters such as civil, commercial, and even acts of terrorism are now of a global nature?

Ayaw ko na pong pahabain ito, Mr. President, *dahil pangako ko po kay* Senator Lacson that I will be brief. But again, having said all of those things, there is another way—civil regime—that can strengthen this law. There are other existing measures that can be added up to buttress the provisions of this proposed bill. And I truly support the good sponsor on this measure. I have mentioned and I will repeat it again, this is one of the more vital legislative measures that will be passed by this Eighteenth Congress, Mr. President.

Mr. President, I thank the good sponsor and I yield the Floor.

Senator Lacson. Thank you, Mr. President.

I appreciate the input of the good gentleman from Cavite.

SUSPENSION OF SESSION

The President. The session is suspended for one minute if there is no objection. *[There was none]*

It was 4:07 p.m.

RESUMPTION OF SESSION

At 4:13 p.m., the session was resumed.

The President. The session is resumed.

Senator Zubiri. Thank you, Mr. President.

Mr. President, to allow our colleagues to interpellate further on Senate Bill No. 1083 tomorrow, I move that we suspend consideration of the same.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Zubiri. Before we take up the second item on the Agenda, Mr. President, just some housekeeping measures.

MOTION OF SENATOR ZUBIRI

(Transfer of Referral of S. No. 147 from the Committee on Basic Education, Arts and Culture to the Committee on Agriculture, Food and Agrarian Reform as the Primary Committee)

With the consent of the Body, Mr. President, after consulting with the chairpersons of the affected committees, I move that we transfer the referral of Senate Bill No. 147, Establishment of Instructional Gardens in All Elementary and Secondary Schools, from the Committee on Basic Education, Arts and Culture to the Committee on Agriculture, Food and Agrarian Reform as the primary committee.

The Committee on Basic Education, Arts and Culture shall remain as the secondary committee. It has the consent of Senator Gatchalian.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

SPECIAL ORDER

Senator Zubiri. Mr. President, with the permission of the Body, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 34 on Senate Bill No. 1296, entitled

AN ACT ESTABLISHING THE PHILIPPINE ENERGY RESEARCH
AND POLICY INSTITUTE, DEFINING ITS OBJECTIVES,
POWERS, AND FUNCTIONS, PROVIDING FUNDS
THEREFOR, AND FOR OTHER PURPOSES

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1296—Philippine Energy Research and Policy Institute Act

Senator Zubiri. Mr. President, I move that we consider Senate Bill No. 1296 as reported out under Committee Report No. 34.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Consideration of Senate Bill No. 1296 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1296, entitled

AN ACT ESTABLISHING THE PHILIPPINE ENERGY RESEARCH
AND POLICY INSTITUTE, DEFINING ITS OBJECTIVES,
POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR,
AND FOR OTHER PURPOSES

The following is the whole text of the bill:

[Insert]

The President. The Majority Leader is recognized.

Senator Zubiri. Mr. President, I ask that we recognize the sponsor, the distinguished chairman of the Committee on Energy, Sen. Win Gatchalian.

The President. Sen. Win Gatchalian, chairman of the Committee on Energy, is recognized to sponsor the measure.

SPONSORSHIP SPEECH OF SENATOR GATCHALIAN

Senator Gatchalian. Thank you, Mr. President.

Mr. President, distinguished colleagues, a pleasant afternoon to all.

During the time I served as the chairman of the Senate Energy Committee of the Seventeenth Congress, I had the privilege of studying the best case practices of well-performing energy sectors in developed countries across the world. One element they had in common was the presence of academe-based energy institute.

Energy is one of the most research-intensive fields within the public policy arena, characterized by rapidly evolving technologies which redefine the parameters of the game at a blistering pace. Institutes such as the Stanford Precourt Institute for Energy of Stanford University, the Solar Energy Research Institute of Singapore at the National University of Singapore, and the Energy Institute at Haas Berkeley in the University of California, Berkeley engage in

research and development, training and education, and policy development. These independent, multidisciplinary, and collaborative institutions serve as the backbone for innovation and progress in the energy sectors of their host countries. These institutes play essential roles in the field of energy by contributing to knowledge creation and industry development, disseminating policy recommendations backed by rigorous empirical evidence, and training the students of today to become the key decision makers of tomorrow.

Unfortunately, no such institute exists in the Philippines at the present. Hence, Mr. President, the bill I am sponsoring today—Senate Bill No. 1296 under Committee Report No. 34—seeks to establish the Philippine Energy Research and Policy Institute (PERPI). PERPI will perform critical research and policy development, and capacity building work to steer the Philippine energy sector towards greater energy security, equity, and sustainability. We envision PERPI to stand at the forefront of Philippine energy research and policy development, as an institution solely devoted to these pursuits.

To be established at the country's national university, the University of the Philippines, PERPI will serve as an independent body which will undertake multidisciplinary research, explore and develop cutting-edge technologies, and provide autonomous and objective policy output for the benefit of private and public energy players alike. PERPI will be a think-tank, a laboratory, an innovation incubator, and a sparring partner of the government energy policy apparatus, all in one. As a publicly-funded institute, PERPI will be charged with ensuring that the results of its energy research and policy development

activities can be utilized to craft energy sector reforms for the benefit of the national economy and the lives of the Filipino people.

To achieve the worthy motivations for its establishment, PERPI will exercise the following functions:

1. Formulate and conduct research and development on energy, energy technology, public policy issues in energy markets, and other pressing issues and problems all backed by rigorous empirical evidence;
2. Establish linkages with government agencies, other universities, and private and public institutions on existing energy research and policy studies;
3. Establish research and policy development programs and capacity building trainings on energy;
4. Enhance the masters and doctoral pool of researchers and faculty in the field of energy;
5. Establish local and foreign linkages in energy research and policy development; and
6. Serve as the repository of all energy-related researches, studies, and data to be generated by the institute and other academic, public, and private groups, organizations, and institutions.

Mr. President, the functions of the Institute will be carried out by an illustrious team of seasoned academicians and energy sector professionals under the direction of a full-time executive director who will be a recognized

expert in energy policy and research development. Further guidance will be given by the executive board composed primarily of representatives from the academe and the private sector, from the fields of engineering, law, science, statistics, economics, and public health. To fund PERPI's research, a special account for energy research shall be established which will recognize and accept grants, contributions, and donations for such purpose, while PERPI's operations shall be initially funded through a budget of one hundred million pesos.

Mr. President, it is my sincere belief that the development of a stable, affordable, and sustainable energy supply will be critical to meeting the country's ambitious long-term socioeconomic goals. The research output of the Philippine Energy Research and Policy Institute, in turn, will be essential to turning this vision into a reality.

With this in mind, Mr. President, distinguished peers, I urge you to support the passage of this legislation.

Thank you, Mr. President. *Maraming salamat po.*

The President. The Majority Leader is recognized.

Senator Zubiri. Mr. President, I ask that we recognize Senator Tolentino.

The President. Senator Tolentino is recognized.

MANIFESTATION OF SENATOR TOLENTINO

Senator Tolentino. Mr. President, I would like to cast my support to this very much needed piece of legislation for our country to achieve energy security and self-sufficiency which is a key item in the Philippine Development

Plan of 2017 to 2022. This is very important because energy consumption drives economic growth and is a key input for socioeconomic development. In particular, access to clean energy is considered vital for modern living and necessary element for all production sectors to function, even during crises and calamities.

Our country's self-sufficiency program, however, remains to be a challenge as we continue to rely heavily on fossil fuels such as natural gas and coal and imported energy.

As a result, Philippine electricity prices are the highest in Southeast Asia at roughly P0.20 per kilowatt or P10 per kilowatt. There is also much more to be done in our renewable energy sector which has been officially institutionalized only in 2008 with the passage of Republic Act No. 9513 or the Renewable Energy Act.

However, the root of the matter is the scarcity of energy research and policy programs in the country, especially that we are now in the era of rapidly growing scientific and technological discoveries. Resolving our country's energy situation will not just require a single solution, but a multidisciplinary approach that will cut across energy regulations and fiscal constraints.

With the passage of this bill, this humble representation believes that not only the future of energy but the energy sector of the present will be further empowered as we continue to strive towards self-sufficiency for the good of the whole country.

I congratulate the good sponsor, Sen. Win Gatchalian.

The President. The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 1296

Mr. President, with that, I move that we suspend consideration of Senate Bill No. 1296.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

ADJOURNMENT OF SESSION

Senator Zubiri. We have no other matters to take up today, Mr. President, I move that we adjourn the session until three o'clock in the afternoon, Tuesday, January 28, 2020.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock in the afternoon of Tuesday, January 28, 2020.

It was 4:24 p.m.

TUESDAY, JANUARY 28, 2020

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 47th session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Let us all stand for a minute of silent prayer.

Everybody rose for a minute of silent prayer.

ROLL CALL

The Secretary will please call the roll.

The Secretary, reading:

| | |
|--|----------|
| Senator Sonny Angara..... | Present* |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano | Present |
| Senator Leila M. de Lima..... | ** |
| Senator Ronald "Bato" M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | Present |
| Senator Christopher Lawrence T. Go..... | Present |
| Senator Richard J. Gordon..... | Present |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel "Lito" M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present* |
| Senator Emmanuel "Manny" D. Pacquiao..... | Present |
| Senator Francis "Kiko" Pangilinan..... | Present |
| Senator Aquilino "Koko" Pimentel III | Present* |
| Senator Grace Poe..... | |
| Senator Ralph G. Recto..... | Present* |
| Senator Ramon Bong Revilla Jr..... | Present |
| Senator Francis "Tol" N. Tolentino..... | Present |
| Senator Joel Villanueva..... | Present* |
| Senator Cynthia A. Villar..... | Present |
| Senator Juan Miguel F. Zubiri | Present |
| The President..... | Present |

* Arrived after the roll call

** Under detention

The President. With 17 senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

THE JOURNAL

Senator Zubiri. Mr. President, I move that we dispense with the reading of the *Journal* of the 46th session, Monday, January 27, 2020, and consider it approved.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Mr. President, we have several guests in the gallery today.

We have Mayor Arth Bryan Celeste from the City of Alaminos, Pangasinan.

We also have Gov. Santiago B. Cane Jr. from Agusan del Sur, together with his mayors: Mayor Phoebe L. Corvera of San Luis, Mayor Leonida P. Manpatilan of Esperanza, Mayor Sylvia Elorde of Bunawan, Mayor Myrna S. Mondejar of Veruela, Mayor Lorife Magadan Otaza of Loreto, Mayor Symond Caguiat of Santa Josefa, and Mayor Frederick Mark Mellana of Prosperidad. These are my neighbors, Mr. President; we share the same boundary with this beautiful Province of Agusan del Sur.

The President. We welcome all our friends from Agusan del Sur to the Senate this afternoon. Thank you for the visit.

Senator Zubiri. Mr. President, I move that we proceed to the Reference of Business.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1297, entitled

AN ACT ESTABLISHING A DIAGNOSTIC LABORATORY FOR LIVESTOCK-RELATED DISEASES IN EVERY PROVINCE WHERE THE LIVESTOCK INDUSTRY IS A MAJOR ECONOMIC ACTIVITY, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Lapid

The President. Referred to the Committees on Agriculture, Food and Agrarian Reform; and Finance

The Secretary. Senate Bill No. 1298, entitled

AN ACT PROVIDING FOR THE DESIGNATION OF COMMUNITY SHELTERS IN TIMES OF NATURAL DISASTERS, CALAMITIES AND OTHER EMERGENCIES

Introduced by Senator Lapid

The President. Referred to the Committees on Urban Planning, Housing and Resettlement; and Local Government

The Secretary. Senate Bill No. 1299, entitled

AN ACT EXEMPTING QUALIFIED OVERSEAS FILIPINO WORKERS (OFWS) FROM THE COVERAGE OF REPUBLIC ACT NO. 10912, OTHERWISE KNOWN AS THE CONTINUING PROFESSIONAL DEVELOPMENT ACT OF 2016

Introduced by Senator Lapid

The President. Referred to the Committee on Civil Service, Government Reorganization and Professional Regulation

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 298, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY ON THE TOTAL DAMAGE OF THE TAAL VOLCANO ERUPTION IN ORDER TO ASSESS THE TOTAL FINANCIAL REQUIREMENTS FOR THE AID, RELIEF, RESETTLEMENT, REHABILITATION, RECONSTRUCTION, AND LIVELIHOOD SUPPORT TO COMMUNITIES ADVERSELY AFFECTED BY THE NATURAL CATASTROPHE

Introduced by Senator Angara

The President. Referred to the Committees on National Defense and Security, Peace, Unification and Reconciliation; and Finance

The Secretary. Proposed Senate Resolution No. 299, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT THE VALIDITY AND IMPLEMENTATION OF THE ENHANCED DEFENSE COOPERATION AGREEMENT (EDCA) BETWEEN THE REPUBLIC OF THE PHILIPPINES AND THE UNITED STATES OF AMERICA BE URGENTLY REVIEWED

Introduced by Senator Marcos

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 300, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE CONTINUED INCAPACITY OF THE SUGAR REGULATORY AND ADMINISTRATION (SRA) IN STRENGTHENING THE SUGAR INDUSTRY

Introduced by Senator Marcos

The President. Referred to the Committee on Agriculture, Food and Agrarian Reform

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTION

The Secretary. Proposed Senate Resolution No. 301, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY ON THE PREPAREDNESS OF THE CONCERNED GOVERNMENT AGENCIES, PARTICULARLY THE DEPARTMENT OF HEALTH (DOH), IN THE EVENT THAT THE NOVEL CORONAVIRUS (2019-nCoV) SPREAD IN THE PHILIPPINES AND BECOME AN EPIDEMIC, WITH THE END IN VIEW OF UPDATING AND INFORMING THE SENATE OF THE PHILIPPINES AND THE GENERAL PUBLIC

Introduced by Senator Zubiri

The President. Referred to the Committee on Health and Demography

The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

SUSPENSION OF SESSION

Mr. President, I move that we suspend the session for one minute to confer with the interpellators of the measure.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 3:06 p.m.

RESUMPTION OF SESSION

At 3:06 p.m. the session was resumed.

The President. The session is resumed.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Mr. President, before we tackle the official business of the day, we would like to recognize the presence of the students from the Manila Adventist College School of Law and Jurisprudence.

The President. Welcome to the Senate.

BILL ON SECOND READING
S. No. 1083 — Anti-Terrorism Act of 2019
(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. Mr. President, the parliamentary status of this measure is that we are in the period of interpellations. May I ask that we recognize the sponsor of the measure, Sen. Panfilo M. Lacson, and to interpellate, the distinguished former Senate President, Sen. Aquilino “Koko” Pimentel III.

The President. The gentleman from Cavite and the gentleman from Mindanao are recognized, Sen. Panfilo M. Lacson and Sen. Aquilino “Koko” Pimentel III.

Senator Pimentel. Thank you, Mr. President. With the permission of the honorable sponsor, this representation would just like to ask some clarificatory questions about the pending measure.

Senator Lacson. On this sixth day of interpellation, Mr. President, still willing and able.

Senator Pimentel. Well, important measures, Mr. President, are really subjected to intensive and extensive examination. So, *karangalan ng isang panukala na tawagin siyang “walang kamatayang panukala” kasi talagang importante po ito. [Laughter]*

Mr. President, I noticed that this is an act to amend an existing law, the Human Security Act. And yet, I noticed that we amended the title from—because if this measure becomes law it will now no longer be the Human Security Act, it will now be the Anti-Terrorism Act. And then we also amended the entire definition. Before, it was called terrorism in the existing law. Now, we call this terrorist acts but the substance will be overhauled. Although the measure is entitled as an amendment, practically, we are really overhauling the Human Security Act, with the effect of actually repealing the Human Security Act and enacting an entirely new law which we will now call the Anti-Terrorism Act.

Senator Lacson. The gentleman is correct in his observation that we are actually overhauling and effectively repealing the Human Security Act, Mr. President. As a matter of fact, there is a suggestion—although this will be brought up during the period of amendments—that we will just insert the existing provisions under the Human Security Act and rename the bill, once it is enacted into law, as the Anti-Terrorism Act of 2020.

Senator Pimentel. So, what will happen during the period of amendments, Mr. President? We will also overhaul this measure?

Senator Lacson. That is correct, Mr. President. But we will insert the existing provisions under RA 9732. So, as suggested by the distinguished Minority Leader, it will no longer be known as RA 9732, as amended by whatever RA number this will be known after we pass the measure.

Senator Pimentel. Yes, I get it. So, what we will do is, we will write the new concepts and then we will insert the uncontested sections of the existing law in the proper places?

Senator Lacson. That is correct, Mr. President.

Senator Pimentel. I get it, Mr. President. That would be easier.

Senator Lacson. And that is not without reason, Mr. President. We found out during committee hearings that “human security” is too broad a concept. *Masyadong broad po ito, ang laki ng nako-cover.* And we want to focus on terrorism. So, that is one of the reasons why we decided to rename the title of the existing law.

Senator Pimentel. All right. So, if the purpose of the measure now is to focus on fighting terrorism, all the more that we have to carefully, properly, and clearly define that very specific purpose of the law, which is to fight terrorism.

Senator Lacson. That is correct, Mr. President.

Senator Pimentel. In the existing law, Mr. President, there is a joint oversight committee, as I understand. Was it ever convened, and what were the findings of this committee?

Senator Lacson. Yes, there is an oversight committee but it has never been convened, Mr. President.

Senator Pimentel. So, unfortunately, we do not have with us information or data from the joint oversight committee on how the law has been implemented, the achievements of the existing law, and the difficulties in implementing the existing law?

Senator Lacson. That will be taken care of by the oversight function of Congress, and the Anti-Terrorism Council will regularly review and find out the effectiveness of this act, Mr. President.

Senator Pimentel. Yes, but I want to refer to the existing act. Because right now, we have this law which is called the Human Security Act, and we are overhauling it--completely changing its face, its character, and its focus. So, there must be a reason why we are doing this. What has been the feedback about the implementation of the Human Security Act? Has it been a dead letter law?

Senator Lacson. Actually, the proposal came from the Anti-Terrorism Council, Mr. President. But we also endeavored to study the different anti-terrorism laws of the different countries, so we came up with this new definition under the proposed measure.

Senator Pimentel. Correct me if my understanding is misplaced, Mr. President. When we looked at the trend in other countries, because I think I heard in the previous interpellation that there are more than 109 definitions of

the concept of terrorism, so I am assuming that these are legal definitions. So, there are at least 109 different laws maybe in 109 different jurisdictions.

Senator Lacson. Not necessarily. Our reference is the Wikipedia, Mr. President.

Senator Pimentel. But, anyway, many definitions. So, meaning to say that when the council looked at the trend worldwide, they saw that the trend was to focus specifically on terrorism.

Senator Lacson. Yes, Mr. President, taking into consideration three elements: *iyong* acts, intent, *at saka iyong* safeguards. *Doon na lamang tayo nag-compress, nag-focus sa tatlo--acts, intent, and safeguards.*

Senator Pimentel. Acts, intent, and safeguards. Are these main categories also present in the anti-terrorism laws of the countries which the council cites.

Senator Lacson. That is our observation, Mr. President.

Senator Pimentel. But why cannot we live with the current Human Security Act? Why the need to overhaul it?

Senator Lacson. We want to be compliant with the existing international standards, Mr. President, and State obligations.

Senator Pimentel. Was there something wrong with our definition of terrorism in the Human Security Act?

Senator Lacson. Very wrong, Mr. President. That is the reason why there is only one conviction so far after so many years because we passed the Human Security Act in 2007. It is now 2020 and so far, there is only one

conviction. We also invited as one of our resource persons the judge himself who rendered that guilty verdict. *Ang sabi niya, napakahirap talaga* because of the predicate crimes. And besides, the law enforcement agencies themselves refused to file violations or to file cases against persons for violation of the Human Security Act because there is a sword of Damocles hanging over their heads. Because if the respondents are acquitted, then they are mandated under the existing law to pay a fine of P500,000 per day. So, *sa halip na mag-file po sila ng violation ng Human Security Act, nagpa-file na lamang sila ng multiple murder or whatever other offenses covered by the Revised Penal Code.*

Senator Pimentel. So, as I understand it, Mr. President, the record of the Human Security Act is one conviction.

Senator Lacson. One conviction, one proscription, Mr. President.

Senator Pimentel. One proscription. May we know which organization?

Senator Lacson. It is the Abu Sayyaf, Mr. President. And it took them at least seven years after the passage.

Senator Pimentel. But on the other side of the coin, Mr. President, there is no record of any wrongful detention or imprisonment?

Senator Lacson. I do not have the records; no data, Mr. President. But I assume that for every apprehension or every arrest, or arrests made by law enforcement agencies, *mayroon talagang lalabas at lalabas na puwedeng wrongful detention.* But if we are referring to that provision of providing for a fine of P500,000, then *wala namang naparusahan ng ganoon.*

Senator Pimentel. Among the law enforcers?

Senator Lacson. Yes, Mr. President. Because they refuse to file under this act and our colleague here who just retired from the PNP will attest to that.

Senator Pimentel. So, maybe the Human Security Act was only invoked once and in one conviction, there is a 100% batting average.

Senator Lacson. There is 100% conviction rate, probably, Mr. President.

Senator Pimentel. But, Mr. President...

Senator Lacson. So, added information, according to the Anti-Terrorism Council, *mayroong mga cases na na-dismiss*. And now, those arrested are claiming for damages, *iyong* invoking that provision of P500,000 fine.

Senator Pimentel. In the measure we are discussing, Mr. President, we are going to delete the sections providing for this P500,000 fine.

Senator Lacson. Definitely, Mr. President.

Senator Pimentel. And this is supposed to be a safeguard. So, what safeguards are we now going to replace this with?

Senator Lacson. Imprisonment. *Medyo matagal ang* imprisonment of the law enforcer. *Iyon lamang sa* arbitrary detention. *At saka tinaasan natin iyong* penalty up to 20 years—12 years and one day to 20 years. *Maraming* safeguards *ang na-retain* but we are not including anymore the P500,000 fine.

Senator Pimentel. But if we look at the, let us say, victim of a wrongful application of the Anti-Terrorism Act, he was really wrongfully detained without basis.

Senator Lacson. I do not know the details, Mr. President.

Senator Pimentel. Is there any mechanism to compensate that person for lost income, the suffering, the moral damages during the...

Senator Lacson. *Puwedeng pumasok sa damages*, Mr. President.

Senator Pimentel. But we do not recognize it in the current measure. He will have to base his cause of action from the Civil Code or some other...

Senator Lacson. We would rather leave it to the court, Mr. President. There is another law that covers it.

Senator Pimentel. Yes, there is a victim's compensation fund. If I remember correctly, there is a ceiling. I think the total amount that can be given is P10,000.

For as long as we can make that clear that although the new law deletes the section providing for an amount of damages per day, it does not mean that the person aggrieved by wrongful implementation of the law has no more recourse to claim for damages. He can still claim for damages, if we can make that very clear.

Senator Lacson. Of course, Mr. President.

Senator Pimentel. If this representation can come up with wording, although not in the amount of P500,000, is the sponsor open to accommodating such a section in the measure?

Senator Lacson. Is the gentleman intending to put an amount again but not P500,000? *Baka maging arbitrary na naman po*, Mr. President. Anyway, there is another law that covers compensation or damages.

Senator Pimentel. We will take a look into that other law, Mr. President, should it be sufficient.

Senator Lacson. *May kasama pa po itong* perpetual disqualification from public office *kung* public officer *iyong* involved, Mr. President.

Senator Pimentel. But that is the deterrent from the point of view of the law enforcer from abusing his powers under the law.

Senator Lacson. Mr. President, *hindi* compensatory.

Senator Pimentel. But I am looking at the compensation for the victim of the abuse.

Senator Lacson. At the proper time, let us talk about it, Mr. President.

Senator Pimentel. Mr. President, I noticed that Section 2 of the measure amends Section 2 of the existing law, and deletes the last two paragraphs of Section 2, *Declaration of Policy*.

Are these two paragraphs no longer meaningful or relevant?

Senator Lacson. They are still relevant, Mr. President.

Senator Pimentel. Or are they obstacles to better law enforcement?

Senator Lacson. *Ang talagang* objective *lamang* is to focus on terrorism-- how to fight terrorism, Mr. President. Anyway, *lahat ng* human rights safeguards *ay* present *dito sa* proposed measure. Retained *naman po iyan lahat doon sa mga* succeeding provisions.

Senator Pimentel. *Nakasama ba itong* last two paragraphs *sa Declaration of Policy?*

Senator Lacson. Na-delete *na po natin*, Mr. President.

Senator Pimentel. *Iyong* third paragraph, “the State recognizes that the fight against terrorism.” So, it is about terrorism.

Why are we deleting them if they are not doing any damage, why can we not just leave them there?

Senator Lacson. Our objective is just to focus on terrorism *pero lahat naman ng* safeguards, if we go through the different provisions under the different paragraphs, *nandiyan po*, retained *lahat. Dinagdagan pa natin*, Mr. President.

Senator Pimentel. Will retaining the last two paragraphs of Section 2, destroy the new intent and new emphasis or focus of the measure?

Senator Lacson. *Hindi naman po pero wala namang problema.* We just want to focus on terrorism *kaya* we decided to delete, Mr. President.

Senator Pimentel. Yes, Mr. President. The third paragraph, which is recommended for deletion, talks about terrorism.

Senator Lacson. Well, no problem, Mr. President.

Senator Pimentel. So, at least, when the time comes, maybe the motion is not to...

Senator Lacson. Not to delete?

Senator Pimentel. Unless, these are responsible for the non-invocation of the Human Security Act. *Hindi naman siguro.*

Senator Lacson. No, Mr. President. As I said, if we go through the rest of the provisions, *nandoon naman lahat iyong* human rights safeguards, Mr. President.

Senator Pimentel. In the definition of terms, Mr. President, have we addressed the concern raised by the Minority Leader about foreign terrorist? *Okey na po ba ito? We will amend this at the proper time?*

Senator Lacson. I am sorry, Mr. President.

Senator Pimentel. Mr. President, the definition of “foreign terrorist?”

Senator Lacson. Yes, it is there, Mr. President.

Senator Pimentel. Is there already an agreement that, at the proper time, we will amend the “foreign terrorist,” Mr. President?”

Senator Lacson. No, there is no agreement, Mr. President.

Senator Pimentel. Because if we are to go to the section on “foreign terrorist,” can a Filipino be considered a foreign terrorist?

Senator Lacson. Well, a foreign terrorist should be a foreigner, Mr. President.

Senator Pimentel. Yes, precisely, Mr. President.

Senator Lacson. But a Filipino who has hatched a plan to commit a terrorist act in the Philippines or has committed terrorist acts abroad, once he comes back to the Philippines, may be covered under this Act, Mr. President.

Senator Pimentel. Yes, Mr. President. But is he going to be under Section 10, a foreign terrorist?

Senator Lacson. Well, a Filipino cannot be a foreign terrorist, Mr. President.

Senator Pimentel. Precisely, because as written, if I look at Section 10, paragraph (C), that could be a Filipino, or any person residing abroad...

Senator Lacson. Well, a Filipino who has become a resident abroad may be categorized as a foreigner, Mr. President, if he has lost his Filipino citizenship. By origin, he is a Filipino, but he has...

Senator Pimentel. Not necessarily because “residing” is the word. That is why maybe during the amendment, if we can clarify what a foreign terrorist is.

And may we know, Mr. President, where we got this? This is a new section, *ano?* This is a new concept, Mr. President?

Senator Lacson. This is a new section, Mr. President.

Senator Pimentel. Did we get this from any model law that we examined?

Senator Lacson. Yes, Mr. President. This is being practiced in other countries.

Senator Pimentel. Which country, Mr. President?

Senator Lacson. United States, Mr. President. *Ang basis po rito sa definition ng “foreign terrorist fighters” ay ang UN Security Council Resolution 2178.* This was adopted in 2014. It says, “(c)alls upon all member States in accordance with their obligations under international law to cooperate in efforts to address the threat posed by foreign terrorist fighters, including, by preventing the radicalization to terrorism and recruitment of foreign terrorist fighters, including children, preventing foreign terrorist fighters from crossing their borders, disrupting and preventing financial support to foreign terrorist

fighters, and developing and implementing prosecution, rehabilitation, and reintegration strategies, for returning foreign terrorist fighters.”

Ito po iyang definition ng “foreign terrorist”, “individuals who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict and resolving to address this threat.” Iyon po iyang definition doon sa Resolution.

Senator Pimentel. Yes, Mr. President.

So, is the sponsor open to filipinizing the definition by stating that a foreign terrorist is not a Filipino?

Senator Lacson. *In-adopt po natin dito sa mismong...Iyang definition ng United Nations ay eksakto.*

Senator Pimentel. Yes, Mr. President. *Nakita ko nga.* But in the context of a Philippine law when we define a foreign terrorist, we should add that “that person who is not a Filipino,” et cetera, et cetera, makes him a foreign terrorist. Otherwise, if he is a Filipino, can he be a foreign terrorist?

Senator Lacson. As I said, we just adopted the definition under the UN Resolution that I stated earlier, Mr. President. And clearly, it stated here, *iyon, nag-travel sa isang State other than their states of residence or nationality for the purpose of...Kung ang purpose niya in traveling is to perpetrate, plan, or prepare for, or participate in terrorist acts, et cetera, et cetera, Mr. President.*

Senator Pimentel. And then I noticed that in the definition of “foreign terrorists” under paragraph...

Senator Lacson. I think the operative phrase here is “other than their states of residence or nationality,” Mr. President. So, *kung* Filipino national *siya*, he may not fall under the category of a foreign terrorist.

Senator Pimentel. Yes, Mr. President. So, we can make that categorically clear, Mr. President.

Senator Lacson. This falls under Section 3, *doon sa* definition ng “foreign terrorists.”

Senator Pimentel. Yes, it is letter (C), Mr. President.

And then, the definition under letter (D), Mr. President, “INCITING TO COMMIT TERRORIST ACTS.”

Senator Lacson. Is that still under Section 10, Mr. President?

Senator Pimentel. *Hindi*, Mr. President. It is in Section 3, *DEFINITION OF TERMS*, letter (D). Does the effort have to be credible or convincing for it to fall under inciting to commit terrorist acts?

Senator Lacson. Yes, inciting to commit terrorist acts, Mr. President?

Senator Pimentel. Yes, Mr. President, page 3, letter (D). If a person, let us say, goads another individual to commit any of the crimes punishable under the act by, let us say, by verbally...

Senator Lacson. Verbal, written, or visual.

Senator Pimentel. But do we need to assess whether the person is credible or convincing enough, or a mere mention of inviting another person to commit a terrorist act, is that already inciting?

Senator Lacson. I do not think credibility should be a major factor in determining if he... Because being convincing would mean that he was able to convince. *Medyo palayo na po tayo siguro.* We are always bound by the intent and purpose of that individual in committing that particular act, *para hindi po tayo maligaw*, Mr. President. *Kasi kapag hindi naman pumapasok doon sa intent or iyong purpose of that individual in goading or provoking, instigating, persuading another individual, hindi po papasok iyon dito.* But as long as the intent and purpose *ay klaro*, it does not matter if he is convincing enough, because *parang medyo* subjective *yata iyong pag-determine kung convincing o hindi.*

Senator Pimentel. So, in this new Anti-Terrorism Act, we will always look at the intent and purpose of the perpetrator, of the accused, Mr. President.

Senator Lacson. That is correct, Mr. President.

Senator Pimentel. If we have a problem with the things being subjective, is it not looking at the intent and purpose also subjective because those two things reside in the mind of the perpetrator? How can we penetrate the mind of the perpetrator?

Senator Lacson. Mr. President, it is so provided under Section 4 after enumerating the acts because we have already removed the predicate crimes. For a better definition, *in-specify na po natin dito* from letters (a) to (e). *Pero*

mayroon po ritong succeeding paragraph: “WHEN THE PURPOSE OF SUCH ACT, BY ITS NATURE AND CONTEXT, IS TO INTIMIDATE, PUT IN FEAR, FORCE OR INDUCE THE GOVERNMENT OR ANY INTERNATIONAL ORGANIZATION OR THE PUBLIC TO DO”--government, international organization *at saka iyong* public, *ito po iyong ina-address dito*. *Tapos, mayroon po ritong* “TO DO OR TO ABSTAIN FROM DOING ANY ACT, OR SERIOUSLY DESTABILIZE OR DESTROY THE FUNDAMENTAL POLITICAL, ECONOMIC OR SOCIAL STRUCTURES OF THE COUNTRY, OR CREATE A PUBLIC EMERGENCY OR UNDERMINE PUBLIC SAFETY, SHALL BE GUILTY.” *Nandiyan po ang* boundaries and parameters.

Senator Pimentel. So, we will derive the purpose by looking at the nature of what was done and then the effect, the context, the implication, *iyon po ba iyon?*

Senator Lacson. *Opo.*

Senator Pimentel. So, *titingnan natin.*

Senator Lacson. *Kasi sa Revised Penal Code, nandiyan din iyong Art. 118, Inciting to war or giving motives for reprisals; Art. 138, Inciting a rebellion or insurrection; and Art. 142, Inciting to sedition. Ito po in-specify na natin iyong paragraph na na-mention ng ginoo about incitement.*

Senator Pimentel. Since *nandiyan na po tayo sa* Section 4, *mayroon kasing napansin dito na* as far as purposes of the terrorist act is concerned, am I correct in my understanding that there are four possible purposes? “TO INTIMIDATE” *iyong isa, et cetera; “SERIOUSLY DESTABILIZE” iyong isa;*

“CREATE A PUBLIC EMERGENCY” *iyong pangatlo*; and then “UNDERMINE PUBLIC SAFETY” *iyong pang-apat*. *Iyon po ba iyon? Basta anyone of these four, kapag present siya, then that is your purpose. And then we look at your acts, the acts should...*

Senator Lacson. Any of the four, Mr. President.

Senator Pimentel. Any of the four?

Senator Lacson. Yes, Mr. President.

Senator Pimentel. My problem is, *iyong fourth kasi*, if the purpose of the act, “BY ITS NATURE AND CONTEXT, IS TO xxx UNDERMINE PUBLIC SAFETY”, and then all of the acts enumerated before that paragraph are “ATTACKS xxx WEAPONS, EXPLOSIVES xxx DANGEROUS SUBSTANCES”. So, *hindi po ba catch-all na iyon? Whatever you do, you undermine public safety, pasok ka na sa definition ng terrorism.*

Senator Lacson. Well, *iyon ang consequence, iyon ang resulting factor. Pero kapag tiningnan natin sa purpose of such act, any of those acts—nandiyan iyong “TO INTIMIDATE, PUT IN FEAR, FORCE OR INDUCE THE GOVERNMENT”...*

Senator Pimentel. Yes, Mr. President. But the act must not fulfill all the four purposes. Any one of the four purposes is enough, *tama po ba iyon?*

Senator Lacson. *Tama po iyon kasi “OR” iyong nakalagay rito.*

Senator Pimentel. *Kaya nga po.* So, but all of the acts before that paragraph can be said to undermine public safety. So, *pasok na parati.* If there is an attack that caused death...

Senator Lacson. *Hindi po* all the acts, any of the acts, Mr. President.

Senator Pimentel. Yes, but I am referring to paragraph (A), before that paragraph which says, “ATTACKS THAT CAUSE DEATH xxx OR ENDANGERS A PERSONS’ LIFE”, that undermines public safety. And then letter (B), “ATTACKS THAT CAUSE EXTENSIVE DAMAGE OR DESTRUCTION”, that undermines public safety. Number three, you have “WEAPONS, EXPLOSIVES OR OF BIOLOGICAL OR CHEMICAL WEAPONS”, that undermines public safety.

Senator Lacson. *Ang* limitation *po nito ay nandoon sa unahan ng* paragraph: “WHEN THE PURPOSE OF SUCH ACT, BY ITS NATURE AND CONTEXT, IS TO INTIMIDATE, PUTTING FEAR”, *hindi naman ito* as if stand-alone *iyong* “UNDERMINE PUBLIC SAFETY”, *mayroon pa ring* qualification.

Senator Pimentel. But, Mr. President, as I understand it, actually we can skip the three other purposes. If the purpose of undermining public safety can be derived from the context, then terrorism has occurred. *Kasi* not all purposes must be achieved, *tama po ba iyon?* Any one, Mr. President.

Senator Lacson. Any one, Mr. President.

Senator Pimentel. And in my reading of the measure, undermining public safety is one independent purpose.

Senator Lacson. That is correct, Mr. President.

When the purpose is to undermine public safety, and it is precipitated by any of the acts as enumerated, *papasok po iyon.*

Senator Pimentel. Yes, Mr. President, but the acts enumerated before that paragraph always involve public safety. So, in the context, we can always use the fourth purpose.

Senator Lacson. *Parang* catch-all.

Senator Pimentel. *Wala ka nang lusot sa terrorism.*

Senator Lacson. “OR CREATE A PUBLIC EMERGENCY OR UNDERMINE PUBLIC SAFETY”, yes, the gentleman is correct.

Senator Pimentel. In my reading, Mr. President, separate *pa rin iyon* or is that one?

Senator Lacson. *Hindi* alternative, Mr. President.

Senator Pimentel. Yes, creating a public emergency is one purpose, undermining public safety is another purpose. There are actually four purposes. If the sponsor is willing to revisit because this is the heart and soul of the new measure.

Senator Lacson. The definition.

Senator Pimentel. Yes, Mr. President. Otherwise, *kung wala ito*, we will stay with the Human Security Act. But this is the heart and soul of the new measure, and this is a penal law. We have to be precise and very clear about what acts we are punishing.

Then another issue, Mr. President. In the same section, immediately after mentioning the penalty for committing a terrorist act, there is a proviso that the definition of terrorist acts shall not cover legitimate exercises of rights and freedom of expression.

Senator Lacson. That is correct, Mr. President.

Senator Pimentel. Why was there a need to immediately qualify? Is there a danger or a close relationship between exercise of basic rights and some acts which can be mistaken for as terrorist acts?

Senator Lacson. As pointed out by the honorable lady senator from Panay during her interpellations, *iyong* legitimate exercise *ay mayroong* labor strike, and the laborers *ay nagkaroon ng* violence, *hindi sila mako-cover dito*. *Kasi* legitimate exercise of freedom of expression or *nag-e-express sila ng* dissent. *Kung iko-cover pa rin natin sila, medyo lalong magiging* wayward.

Senator Pimentel. Yes, Mr. President. *Tama nga po iyon na hindi talaga sila covered*. *Pero nag-aalala lamang ako na* immediately after defining terrorist acts, we have to clarify that the exercise of fundamental rights will not be covered. So, *mayroon palang danger na mapagkamalan ang* exercise of basic rights as a terrorist act *kasi sinunod kaagad natin*.

Senator Lacson. For clarity and for emphasis, Mr. President, *para lamang malinaw*, this is one of the safeguards. *Kasi* if we do not include that proviso, I am sure the gentleman will be interpellating along that line. *Bakit kulang?* That is why we deemed it wise *na i-qualify na lamang natin na hindi kasama iyong* legitimate exercise of the freedom of expression, et cetera.

Senator Pimentel. So, in the legitimate exercise of a right, can there be an attack?

Senator Lacson. Yes, Mr. President. *Puwedeng mag-erupt*.

Senator Pimentel. Attacks, manufacture or possession of weapons, et cetera.

Senator Lacson. *Iyong* legitimate exercise of the freedom of expression, et cetera, might result in some violence that could result in destruction of properties or loss of lives, *hindi po mako-cover iyon*, and that is the reason why we included that proviso or that qualification. *Para lamang malinaw*, Mr. President.

Senator Pimentel. In that scenario where there is a legitimate exercise of fundamental rights, who made the attack?

Senator Lacson. Those expressing dissent in the exercise of their freedom of expression. *Kung mag-result* regardless of who initiated, that could be initiated by their act of expressing their freedom of dissent or expression *na nag-result sa violence*, then they should not be covered under the definition of a terrorist act because, again, *babalik na naman tayo sa intent and purpose*.

Senator Pimentel. Definitely, *ang intent niya* is legitimate exercise of fundamental rights. So, we just made it doubly clear, Mr. President.

Senator Lacson. For clarity, Mr. President.

Senator Pimentel. Mr. President, have we addressed paragraph (E) of Section 4 about the threats? *Tatanggalin na po ba natin iyong threats?*

Senator Lacson. "THREAT TO COMMIT ANY OF THE ACTS LISTED IN PARAGRAPHS (A) TO (D)."

Senator Pimentel. Yes, Mr. President.

Senator Lacson. *Hindi po.*

Senator Pimentel. *Hindi po.* Because paragraph (C) mentions “RESEARCH INTO, AND DEVELOPMENT OF, BIOLOGICAL AND CHEMICAL WEAPONS”. So a threat to research will be punishable if we will not refine the language, Mr. President.

Senator Lacson. Again, as suggested by Senator Drilon, *iyong attempt inalis po natin doon sa succeeding paragraphs na attempt or conspiracy.* We are removing or deleting the word “attempt.”

Senator Pimentel. Well, I am just pointing that out, Mr. President. Maybe we can take a second look because if we will read paragraph (E) with paragraph (C), then a “threat to research” *masyado na po yatang malayo iyon sa terrorism.*

Senator Lacson. A “threat to research?”

Senator Pimentel. Yes, Mr. President. Because paragraph (C) punishes “AS WELL RESEARCH INTO, AND DEVELOPMENT OF, BIOLOGICAL AND CHEMICAL WEAPONS”. That is in paragraph (C). If we read it with paragraph (E), a “THREAT TO COMMIT ANY OF THE ACTS LISTED IN PARAGRAPHS (A) TO (D) OF THIS SECTION” including paragraph (C)...

Senator Lacson. Even the attempt to research.

Senator Pimentel. The threat, *hindi pala attempt.*

Senator Lacson. Threat to research.

Senator Pimentel. *Kapag mayroong nagsabi,* “I will research into”...
[Laughter] I mean because this is a penal provision that is why we are concernED about the wording, Mr. President.

Senator Lacson. That is where the gentleman is coming from, Mr. President.

Senator Pimentel. *Kaya kanina sinabi ko to the credit of the Human Security Act wala namang wrongfully sigurong na-detain. Ayaw naman natin na this will now be the black mark or record of this new measure na marami namang naapektuhan sa wide net na cast niya.*

Senator Lacson. We can craft a language to further clarify this, Mr. President.

Senator Pimentel. Yes, Mr. President.

How about “attacks?” Is that a clear concept, “attack?” Do we not need to define what an attack is?

Senator Lacson. An attack is an attack, Mr. President.

Senator Pimentel. Yes, Mr. President. That is why when I raised...

Senator Lacson. I really cannot think of anymore...

Senator Pimentel. What is an attack?

Senator Lacson. Well, if I attack the gentleman now, that is an attack, Mr. President. *[Laughter]*

Senator Pimentel. How did it amount to an attack? Is it because there was a physical contact?

Senator Lacson. Yes. That is one form of an attack, Mr. President.

Senator Pimentel. Because there is another kind of attack. Paragraph (A) is a person-to-person attack. Paragraph (B) is an attack on facilities.

Senator Lacson. *Pero na-qualify na natin ito*, Mr. President, attacks that cause death or serious bodily injury to a person; attacks that cause extensive damage or destruction to a government or public facility, and so on and so forth.

Senator Pimentel. Because, actually, when I raised this with my staff, we were also divided. Some said that an attack is clear but for me, I think, I need to define what an attack is, Mr. President.

Senator Lacson. Anyway, that is the purpose of this interpellation, and we are open to any suggestion, any amendment later on to further clarify or enhance, or make this law more applicable and effective, Mr. President.

Senator Pimentel. For example, Mr. President, since we are now defining terms, if I go back to “Section 3. *DEFINITION OF TERMS*”, do we not think that we need to define international organization which is mentioned in Section 4? *Importante rin po iyon kasi* one purpose is to intimidate or force the government or any international organization. Do we need to define?

Senator Lacson. If the gentleman would like to further clarify what an international organization is, then we are open to that.

Senator Pimentel. Yes, Mr. President, thank you.

And then Section 26 mentions supranational jurisdiction. Is the sponsor open to also inserting a definition of what is a supranational jurisdiction?

Senator Lacson. Yes, Mr. President.

Senator Pimentel. And then SECTION 45 mentions extraordinary rendition.

Senator Lacson. Mr. President, any term or any phrase that may be deemed vague or not clear, we are open to further clarification.

Senator Pimentel. Another phrase not clear to me but which may be clear to the sponsor is extraordinary rendition found in SECTION 45. *Iyan po ba ang practice ng ibang bansa? Wala naman po yata tayong ganiyan.* Is the good sponsor also open to defining extraordinary rendition?

Senator Lacson. Yes, Mr. President.

Senator Pimentel. Actually, talking about *Extraordinary Rendition* of SECTION 45, I think there is really no need to mention extraordinary rendition because we do not need to resort to that, especially if we have a mutual legal assistance treaty with the requesting State, Mr. President. Because in our mutual legal assistance treaties, one common provision or feature there is, “A person detained by Philippine authorities may be sent to the requesting State to testify in a case where they need that person.” And then, *ibabalik din po siya sa atin.*

I do not think we need to resort to the concept of allowing extraordinary rendition, Mr. President.

Senator Lacson. My understanding of extraordinary rendition, Mr. President, is covertly sending a foreign criminal or terrorist suspect to be interrogated in another country with less rigorous regulations for the humane

treatment of prisoners. *Iyon po ang understanding ko kaya nilagyan natin ng “Ban.”*

Senator Pimentel. Covertly, *pero may “unless” kasi tayo, mayroong exception. Ang point ko, Mr. President, sa mutual legal assistance treaties, pwede na iyon. We do not need to, siguro, link it or connect it with extraordinary rendition.*

Senator Lacson. “(u)nless his or her testimony”...

Senator Pimentel. Yes, Mr. President.

Senator Lacson. We are open, Mr. President.

Senator Pimentel. And then, in the *DEFINITION OF TERMS*, paragraph (E) on page 3...

Senator Lacson. What section is that, Mr. President?

Senator Pimentel. It is on Section 3, Mr. President, page 3, paragraph (E), there is this phrase “EXPERT ADVICE”, *kasi material support iyon, hindi ba*, which is, if a person extends material support to a terrorist, that person is punished also.

Senator Lacson. That is correct, Mr. President.

Senator Pimentel. The phrase “MATERIAL SUPPORT” is being explained or defined. There is this phrase “EXPERT ADVICE.” *Natakot lamang po ako sa mga pañero/pañera, Mr. President. Is legal advice...*

Senator Lacson. Of course not, Mr. President. Even an advice coming from a doctor cannot be covered. It should be in relation to perpetrating an act of terrorism.

Senator Pimentel. Because *mayroon kasi sa dulo*, Mr. President, “EXCEPT MEDICINE OR RELIGIOUS MATERIALS.”

Senator Lacson. So, *lagyan na natin ng legal*, Mr. President.

Senator Pimentel. Yes, Mr. President. This is a new section, the “*PROPOSAL TO COMMIT TERRORIST ACTS*”?

Senator Lacson. What section is that, Mr. President?

Senator Pimentel. It is on Section 7, Mr. President.

Senator Lacson. It is “*PROPOSAL TO COMMIT TERRORIST ACTS*”, Mr. President.

Senator Pimentel. This is a new section, a new idea, Mr. President?

Senator Lacson. Yes, Mr. President. We want to be proactive before a terrorist act occurs because we are considering the tremendous impact on the destruction of lives and properties and even on humanity. This is a crime against humanity that is why we are proposing to include “*PROPOSAL TO COMMIT TERRORIST ACTS*” as a punishable act.

Senator Pimentel. My worry, Mr. President, is the evidence and how to prove this. The charge can easily be made and it might be a word versus word scenario.

Senator Lacson. Not necessarily because it depends on the circumstances, Mr. President. Remember, the good gentleman knows this as a lawyer, *hindi naman puwedeng stand-alone ang isang ebidensiya*. It must be corroborated by other pieces of evidence: circumstantial or direct, even

testimonial, as long as there are pieces of evidence that are supportive of one another, then it is up to the judge to determine.

Senator Pimentel. Anyway, the penalty is bailable.

Senator Lacson. Yes, it is eight years. *Kung ako ang masusunod, Mr. President, dapat hindi bailable ito.*

Senator Pimentel. *Pero baka dito tayo magkakaroon ng clogging of our dockets sa proposal kasi ang dali pong mag-charge, mahirap i-prove pero bahala na ang korte. Baka ganoon ang magiging attitude.*

Senator Lacson. We are always bound by the Rules of Evidence, Mr. President, so...

Senator Pimentel. Yes, the accused may eventually be acquitted, but in the meantime, there will be a case. That is my worry.

Senator Lacson. *Hindi naman po ito novel. Sa RPC, mayroon din tayong conspiracy and proposal to commit coup d'etat, rebellion or insurrection.*

Senator Pimentel. For those chosen, yes. For those chosen crimes, we punish proposal and then conspiracy. And terrorism is at that level as grave as those crimes where we punish conspiracy and proposal, Mr. President.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. Another new concept is inciting to commit terrorist act, Mr. President.

Senator Lacson. Yes, we have discussed this earlier, Mr. President.

Senator Pimentel. How is this different from proposal?

Senator Lacson. By its definition, even under the Revised Penal Code, *magkaiba naman po iyang proposal at saka iyang inciting.*

Senator Pimentel. *Ang proposal po ba ay mayroon siyang specific na kino-convince? Si inciting ba ay parang just a shotgun appeal?*

Senator Lacson. *Ang proposal po ay puwedeng nasa planning na. One is proposing to commit a terrorist act. Then iyang inciting, ang audience dito ay hindi specific person. Parang we are addressing the communication to the general public.*

Senator Pimentel. *Pero sa inciting, Mr. President, the conduct causes a danger of such act being actually committed. So, iyon ang sinasabi ko kanina, iyang credibility of the person. So, ito, we will only be charged of inciting if the prosecutor believes that one's call is going to be actually committed. Hindi pa ba iyon?*

Senator Lacson. Not necessarily. So that if we make that as a requirement that the one inciting to commit a terrorist act should be able to convince the public at large or goad to do it *parang medyo kailangan na ma-commit pa iyang terrorism. We want to be proactive nga, Mr. President.*

Senator Pimentel. So, can we revisit this phrase? Unless I am misappreciating its meaning, *may phrase po sa Section 8, "...WHERE SUCH CONDUCT CAUSES A DANGER OF SUCH ACTS BEING ACTUALLY COMMITTED", hindi ba iyon ang ibig sabihin? "SUCH ACTS" ang ibig sabihin noon ay terrorist acts po, hindi ba?*

Senator Lacson. Terrorist *iyon*, Mr. President.

Senator Pimentel. So, incorporated into inciting to commit terrorist acts is the credibility of the person inciting because there is now a danger of such terrorist acts being actually committed, which is not in the earlier section on the definition of “inciting” in Section 3.

Senator Lacson. In this case, Mr. President, I think the “clear and present danger rule” should apply, and we have jurisprudence in this regard.

Senator Pimentel. But it is just the phrase, Mr. President. Maybe we can revisit that. Because if that is not the intention, but it is there, we better review why it is there.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. Then, another new concept, Mr. President, “SEC. 9. *RECRUITMENT TO AND MEMBERSHIP IN A TERRORIST ORGANIZATION.*” Is this new? I believe so. It is new.

Senator Lacson. Yes, this is a new concept, Mr. President.

Senator Pimentel. There is a phrase here, Mr. President, the organization or association or group of persons is organized for the purpose of engaging in terrorist acts. *Mayroon po iyan. Kasi* either the person is recruited to support any terrorist act or individual or any organization, association or group of persons—*doon lamang po ako sa pangatlo naka-focus*—“WHICH IS PROSCRIBED UNDER SECTION 24”—*klaro po iyon*—or declared by the United Nations Security Council as a terrorist organization—*okey po iyon*. But *mayroon ding* “association organized for the purpose of engaging in terrorist

acts.” How will we know that an organization is organized for the purpose of engaging in terrorist acts? *Kasi* life imprisonment *din po ito*.

Senator Lacson. That is not necessarily proscribed, Mr. President.

Senator Pimentel. That is correct, Mr. President; not necessarily proscribed. So, *walang* court pronouncement that this is a terrorist organization. So, our justification in charging a recruiter is that we are recruiting someone into an organization organized for the purpose of engaging in terrorist acts. *Paano kaya ma-prove iyon*, Mr. President? *Baka masyadong mahirap*.

Senator Lacson. That is a matter of evidence, Mr. President.

Senator Pimentel. Yes, but *puwede ring ma-acquit ang* accused.

Senator Lacson. A terrorist organization which is not yet proscribed, because *iyong* proscription, although *ni-limit na natin sa* six months, but there is a period within which that terrorist organization may not be formally proscribed or judicially proscribed. So, we included that for that reason, Mr. President.

Senator Pimentel. So, do we not lose the value of proscribing? Because there will be no need to proscribe.

Senator Lacson. Not really, Mr. President, even if it is not proscribed but if it is a terrorist organization that is capable of committing terrorist acts. That is the reason why we included that. Function *na ng* evidence *iyon*, Mr. President. Not necessarily at the level of the court, but it is a matter of evidence as far as law enforcement or prosecution.

Senator Pimentel. Because they can always allege that “this group has been organized for the purpose of engaging in terrorist acts. You are recruiting someone to join that group. We will charge you with recruitment.” Ultimately, they may be acquitted, but then, in the meantime, *may kaso*. My concern is, how do we prove? But then, Mr. President, if there is an organization organized for the purpose of engaging in terrorist acts, do we not already have an existing conspiracy, Mr. President?

Senator Lacson. As I said, it is a matter of evidence, Mr. President.

Senator Pimentel. *Ang point ko is, kahit tanggalin ito, hindi ba sa conspiracy na siya papasok? Kasi another crime na naman. May crime kasi na conspiracy in another section, may crime naman dito na membership in a terrorist organization or recruitment. So, hindi ba...*

Senator Lacson. *Ang conspiracy is more on the planning stage, Mr. President.*

Senator Pimentel. *Kasi, Mr. President, when the organization is organized for the purpose of engaging in terrorist acts, hindi ba conspiracy na po iyon?*

Senator Lacson. No. We are talking here of an organization, terrorist organization.

Senator Pimentel. *Na nagsama-sama sila to...*

Senator Lacson. No, Mr. President. Conspiracy may involve at least two or more persons. This section, Section 9, pertains to an organization. And if they are recruiting somebody to join that organization, regardless of whether it

is already proscribed or not, then they may be committing a crime. But, again, we will be guided by the rules on evidence in this regard.

Senator Pimentel. Well, *kung* defense counsel *ka*, *tatanungin mo na lamang sa* fiscal, “Why did you not have this organization proscribed if you already know that the organization was organized for the purpose of engaging in terrorist acts?” That is my only concern, Mr. President.

Senator Lacson. What the gentleman is saying, Mr. President, once it is established as a terrorist organization, *may* conspiracy *na*. That is the point of the gentleman?

Senator Pimentel. My point is, *parang* this is to lose a ground to charge somebody for recruiting a person into an organization and the allegation is that organization is for the purpose of engaging in terrorist acts. *Wala naman iyan sa* articles *nila*, definitely. So, *iyong* proscribed, *okey na iyon*, *nag-hearing na ang korte noon at alam na na* this is a terrorist organization. But, this one...

Senator Lacson. Not yet proscribed.

Senator Pimentel. So, *ang daming puwedeng i-charge* under that ground. Ultimately, they may be acquitted, but the point is *mayroong kaso* because the allegation is that their group is organized for terrorist activities. *Paano nalaman iyon?*

Senator Lacson. Not just an accusation or allegation, Mr. President. There should be enough evidence to show that that organization is a terrorist organization but not yet proscribed.

Senator Pimentel. Yes, Mr. President.

Senator Lacson. And if they are recruiting somebody to join that terrorist organization, regardless of whether or not *na-proscribe na*, then they may be committing an act under this proposed measure, Mr. President.

Senator Pimentel. But the logical subsequent acts of the DOJ must be to proscribe that organization, have that proscribed.

Senator Lacson. Eventually, Mr. President.

Senator Pimentel. *Dapat ganoon*, Mr. President. *Kasi*, otherwise, *sa trial, idedepensa na kaagad noong defense attorney nila*. Then, what steps have they taken to proscribe this organization as a terrorist organization? *Kung wala*, therefore *sasabihin noong defense attorney sa prosecution*, “You yourselves are in doubt of whether or not this organization was organized for terroristic activities.”

Senator Lacson. As I have said, Mr. President, one major amendment that we are introducing or new concept is to be proactive because a terrorist act is a terrorist act. As much as possible, we want to prevent it from being committed. So, *iyon po iyong underlying reason kung bakit* we want to be proactive in several provisions.

Senator Pimentel. Yes, Mr. President. When we look at the structure of the measure we are considering, *huli na nga lahat*.

What will happen to attempt? Are we deleting attempt?

Senator Lacson. We are removing that, Mr. President.

Senator Pimentel. So, *huli na lahat*—proposal, inciting, conspiracy, recruitment, membership, even if they are outside.

Senator Lacson. *Tama po iyon.*

Senator Pimentel. Yes, *nakita ko po iyon.* The intention is really to deter by making everyone understand that...

Senator Lacson. *Kasi* a terrorist act that has caused tremendous damage, largely on properties, cannot be undone, Mr. President. And it has already succeeded in putting in fear, intimidating the government or any international organization which the gentleman proposed to be more finely defined. Then, that is the purpose of this measure.

Senator Pimentel. We join in the effort to streamline, make clear the concept of terrorism, and make all acts connected with terrorism punishable in the Philippines in solidarity with the rest of the world. I think that is what is happening with the rest of the world, Mr. President.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. My only worry is that even if we have a section to penalize abuse of the law enforcer, for as long as the abuse cannot be proven, the law enforcer may not be punished and yet the aggrieved person spent x number of days under detention.

Talking about detention, because I have read in some countries, for example--*hindi ko na babanggitin iyong bansa, mayroong isa*--a person in a country spent a thousand days in jail without any charges. *Siguro*, presumably,

sa anti-terrorism law *nila iyon*. What is the longest possible detention period of an accused in a terrorist act without charges?

Senator Lacson. Under the proposed measure, 14 days, non-extendible, Mr. President. In other countries: Malaysia, 59 days; Indonesia, 21 days; Singapore, two years, renewable *pa* for an unlimited period; Pakistan, 30 days; et cetera.

Senator Pimentel. So, at least, *hindi natin kinopya iyong mga draconian measures. Hindi naman po natin kinopya.*

Senator Lacson. Those law enforcement agencies that we invited, *ang gusto nila ay 90 days.*

Senator Pimentel. Why did we end up with 14 days? Is it 14 calendar days or 14 working days?

Senator Lacson. Working days, Mr. President.

Senator Pimentel. What kind of days, Mr. President, calendar days or working days?

Senator Lacson. Working days, Mr. President.

Senator Pimentel. So, policy *na lamang iyong 14 days?*

Senator Lacson. Yes, Mr. President.

Senator Pimentel. But is it automatic that every time we detain, we will extend it to 14 days?

Senator Lacson. No, Mr. President. *May mga qualifications. Iyong necessity of detaining them for a maximum period of 14 working days, kailangan na i-prove pa iyon.*

Senator Pimentel. *Kung sa Christmas period ito, mahaba iyong 14 working days na iyon.*

Senator Lacson. When I was still with law enforcement, *medyo sinasadya namin iyan, Mr. President. Hinuhuli namin ng Sabado ng umaga.*

Because during the committee hearings, we asked our law enforcement agencies, those who acted, *ano ba iyong* reasonable time for them to be able to gather enough evidence to successfully, at least, *maka-comply sila roon sa* inquest proceedings, of course, *na* reasonable *iyong* time. And they came up with *iyong* 14 days should be enough although some of them were suggesting or proposing a 90-day reglementary period.

Senator Pimentel. *Basta klaro po, Mr. President, na hindi ibig sabihin noon...*

Senator Lacson. *Hindi automatic, Mr. President.*

Senator Pimentel. *Sundin pa rin iyong nasa Revised Penal Code na since this is a grave crime, 72 hours, iyan yata ang pinaka...*

Senator Lacson. *Ito po iyong mga* grounds for the 14-working day period of preventive detention. It must be established that: 1) the further detention of the person or persons is necessary to preserve evidence related to the terrorist act or complete the investigation; 2) the further detention of the person or persons is necessary to prevent the commission of another terrorist act; and 3) that investigation is being conducted properly. *Mayroong mga* qualifications, Mr. President.

Senator Pimentel. I noticed the word “further.” So, *ang ibig sabihin*, the further detention will only extend up to a maximum of 14 days. So, what is the original detention period as a general rule?

Senator Lacson. Thirty-six hours, Mr. President. *Iyon ang nasa Revised Penal Code.*

Senator Pimentel. We follow the Revised Penal Code.

Senator Lacson. *Tapos, mayroon pa pong safeguards iyan.* Law enforcer taking custody shall notify in writing the judge nearest the place of arrest. *Ito pa po, lalagyan pa ng* time, date, manner of arrest, location or locations of the detained suspects, physical and mental condition of the detained suspects. *Tapos, mandated pa to report in writing iyong Anti- Terrorism Council.* There are safeguards available, Mr. President.

Senator Pimentel. So, as I have stated earlier, I really notice the structure of the measure. *Talagang walang lusot, talagang lahat.* And then, *pati iyong stages of...ano ang tawag dito?*

Senator Lacson. And the state of execution.

Senator Pimentel. Not only that, but the level of criminal participation, from principal, accomplice, accessory, *lahat po.*

Senator Lacson. Yes, Mr. President.

Senator Pimentel. *Ang problema ko lamang po* is, for an accomplice, for example, found in Section 8, page 12 of the report, since we have also another concept—*may bago rin tayong* concept, Section 5—PLANNING, TRAINING, PREPARING AND FACILITATING THE COMMISSION OF A TERRORIST ACT.

Are the concepts overlapping? Because an accomplice is “someone who, by previous or simultaneous acts, cooperated in the execution of the terrorist act.” That is the Revised Penal Code’s definition. We just applied it to the terrorist acts.

Senator Lacson. We made reference to Article 17 of the Revised Penal Code.

Senator Pimentel. Yes, Mr. President. But our measure introduces a new crime—Section 5—the planning, training, preparing, and facilitating the commission of a terrorist act.

So, did the accomplice not, through simultaneous acts, facilitate the commission of terrorism? Hence, *sa* Section 5 *siya hahabulin* which is life imprisonment.

Senator Lacson. Without the benefit of parole, Mr. President.

Senator Pimentel. Yes, Mr. President. Life imprisonment—that is a maximum penalty. *Ang* accomplice *ay* 17 years, four months, and one day to 20 years. And maybe this is Revised Penal Code adjustment.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. One degree lower *ba*?

Senator Lacson. It is 17 years, four months, and one day to 20 years.

Senator Pimentel. So, *iyon po iyon*. So, since we are covering all bases—*ang daming* acts *na* punishable, stages *na* punishable, criminal liability—*baka*, Mr. President, *may nag-overlap*. But the accomplice—simultaneous act—can be part of facilitating Section 5, an independent crime.

Senator Lacson. Yes, Mr. President.

But if one is an accomplice and he has participated under Section 5, then, that will not qualify one as an accomplice.

Senator Pimentel. *Oo, kasi Section 5 naman, Mr. President, ay ano...*

Senator Lacson. *Ang Section 5 is preparatory iyon. Being an accomplice doon sa execution na iyon, Mr. President.*

Senator Pimentel. *Sa Section 5, if one participated in the facilitation, in the commission of a terrorist act—life.*

Senator Lacson. That is correct, Mr. President, *kasi part of the planning. Kapag accomplice, ibang stage na po iyon. Wala na iyon sa preparatory.*

Senator Pimentel. In Section 5, “and” *po ba iyan?* “You must have participated in the planning AND training...”

Senator Lacson. Preparatory.

Senator Pimentel. ...AND preparation.

Senator Lacson. That is correct, Mr. President.

Ang understanding ko sa accomplice is, ang stage niyan ay execution.

Senator Pimentel. All right. Because I have the same problem *pagdating sa "accessory."* An “accessory” is someone who conceals or destroys the body of the crime or the effects or instruments thereof. *Ang sabi ay accessory ko siya.* But *balik na naman ako sa Section 5, if one is possessing objects connected in the commission of a terrorist act, then, he is in Section 5. He is not an accessory. One is a principal sa Section 5.*

Senator Lacson. Mr. President, let us read again “SEC. 5, *PLANNING, TRAINING, PREPARING AND FACILITATING THE COMMISSION OF A TERRORIST ACT.* - IT SHALL BE UNLAWFUL FOR ANY PERSON TO PARTICIPATE IN THE PLANNING, TRAINING, PREPARATION AND FACILITATION IN THE COMMISSION OF A TERRORIST ACT, POSSESSING OBJECTS CONNECTED TO THE COMMISSION OF A TERRORIST ACT OR COLLECTING OR MAKING DOCUMENTS LIKELY TO FACILITATE XXX.”

Senator Pimentel. So, independent *po iyong* “POSSESSING OBJECTS.”

Senator Lacson. Yes, independent, Mr. President, because it says here, “OR.”

Senator Pimentel. Yes. So, an instrument of the crime or effects...

Senator Lacson. Mere possession connected in the commission of a terrorist act.

Senator Pimentel. That is right, Mr. President. So, *paano iyon?* Principal *siya roon--life iyon.* But *ang* accessory who does it by concealing the effects or instruments of the crime is an accessory. But principal *siya sa* Section 5, as far as my understanding is concerned.

Senator Lacson. *Pero magkaiba iyong* context, Mr. President. As I mentioned earlier, Section 5 refers to preparatory *kaya papasok bale sa* principal. *Iyong* accessory is after the commission.

Senator Pimentel. So, the possession of the objects connected in the commission of a terrorist act was before the commission.

Senator Lacson. Before, yes--to facilitate the commission of a terrorist act.

Senator Pimentel. Section 5 *siya*; Section 5, principal, life *siya*.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. But if it is after, *inabot lamang sa kaniya* for him to *ano...*

Senator Lacson. *Itinago niya.*

Senator Pimentel. So, that is the normal definition of the accessory. So, maybe, if we can clarify because...

Senator Lacson. Yes, that is a case in point, Mr. President. For example, *hindi naman siya kasama sa planning; hindi naman siya ang nag-facilitate; na-commit nga iyong terrorist act, nilapitan siya ng terrorist, sinabi sa kanya, "Pakitago mo nga itong explosives kasi baka madisgrasya ako rito,"* and he conceals it, then, accessory *ang labas niya.*

Senator Pimentel. Yes, Mr. President.

Balik ako roon sa accomplice na may simultaneous act ang accomplice--previous pa. Ang accomplice kasi yata is by previous or simultaneous act, so, the accomplice can really be mistaken for a principal in Section 5.

Senator Lacson. Previous or simultaneous, Mr. President.

Senator Pimentel. Yes, Mr. President. That is the danger, Mr. President, that the accomplice may be mixed with the principals in Section 5. But, anyway, we will reexamine...

Senator Lacson. Mr. President, I am very appreciative of the effort of the good gentleman because we are also aiming at a near perfect if not a perfect legislation in this regard because I consider this as an important piece of legislation and the sponsor really appreciates the intervention of the good gentleman no matter how tedious and how detailed. *[Laughter]*

Senator Pimentel. This measure already qualifies under the “*walang kamatayan*” category. So, it is an honor, Mr. President, to have sponsored a *walang kamatayan na* bill.

Last *na lamang siguro ito*, Mr. President. *Siguro sa* amendment *na lamang* if we can qualify our amendments with some explanation.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. In the accessory, we are deleting the standard paragraph for accessory found in the Revised Penal Code *na* although he did all of these things, except profiting from the crime, if he is a close relative of the criminal, he cannot be an accessory. *Dinilete* (delete) *natin*, so, does that not mean that a close relative who...

Senator Lacson. *Kasama pa rin iyon*, Mr. President.

Senator Pimentel. A close relative now who harbors or assists in the escape of the principal which is--if I remember correctly, in the Revised Penal Code for other crimes, he is not an accessory because he is a close relative. Here, he will be an accessory for terrorism. *Kasi dinilete* (delete) *natin*, Mr. President, *naka-delete iyang ano*. Is that the intention?

Senator Lacson. That is correct, Mr. President, we deleted that portion.

Senator Pimentel. Are we not going against human nature, Mr. President?

Senator Lacson. The gentleman can say that, Mr. President, but this is a crime that we should all abhor.

Senator Pimentel. But the accessory never participated, *iyon ang assumption doon, na wala nga siyang alam* beforehand; *nalaman na lamang niya* after. But profiting, *siyempre* punishable *talaga iyon*. But, of course, the human nature or instinct to help their close relative, are we going against that? And then we will now be charging a lot more people for being accessory to terrorist, human nature *nga kasi*.

Senator Lacson. Well, to respond to that, Mr. President, *iyong* ordinary crime is a crime against person or persons, but we are talking here of a crime against humanity. So, I would like to think that this is a special case. And to harbor a terrorist fighter *maski kamag-anak mo, medyo mahirap din*.

Senator Pimentel. *Pero* close *naman*, Mr. President, it must be a really, really close relative. *Iyan na iyong* rule. Is there any other crime where we also changed the rule on accessory? Only for this one, *hindi ba?*

Senator Lacson. This is novel, Mr. President

Senator Pimentel. *Kaya nga*, this is a new feature of the measure. So, maybe...

Senator Lacson. We can discuss this further, Mr. President. I just asked my staff if in other jurisdictions *mayroong ganoong* provision, and as of now, *wala*. So, this is being introduced only under this proposed measure.

Senator Pimentel. For the first time, yes.

Anyway, this is a policy question, Mr. President.

Senator Lacson. Yes, Mr. President.

Senator Pimentel. No right or wrong answer. We are establishing a new policy as far as terrorism is concerned, Mr. President.

Senator Lacson. I agree, Mr. President.

Senator Pimentel. So, Mr. President, I would like to thank the good sponsor for his patience.

Senator Lacson. And I thank the good gentleman more, Mr. President. I thank the good gentleman more for all the...

Senator Pimentel. *Marami pa sana*, Mr. President.

Senator Lacson. I am still open, Mr. President. Anything that will really make this measure, as I have said, if not perfect, near perfect, then I am all for it.

Senator Pimentel. *Ako naman*, I am only after a workable law where the batting average for conviction is high or a respectable batting average.

Senator Lacson. We are overhauling the Human Security Act *kasi* it is a dead letter law, Mr. President, *walang silbi*.

Senator Pimentel. Thank you, Mr. President; thank you, good sponsor.

Senator Lacson. Thank you, distinguished gentleman from Cagayan de Oro.

The President. The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

Mr. President, we still have a few interpellators, one of them is Senator Gordon and a few others. But we can allow them some more time to study. We can take this up once again tomorrow.

SUSPENSION OF CONSIDERATION OF S. NO. 1083

Mr. President, I move that we suspend consideration of Senate Bill No. 1083.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

SUSPENSION OF SESSION

Senator Zubiri. Mr. President, may I ask for a one-minute suspension of the session?

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 4:28 p.m.

RESUMPTION OF SESSION

At 4:33 p.m., the session was resumed.

The President. The session is resumed.

Senator Zubiri. Mr. President, our distinguished colleague, the sponsor of Senate Bill No. 1240, the second item in our agenda, Senator Pimentel, will be tackling the measure tomorrow after consulting with the stakeholders on particular provisions that we have discussed together with the Minority Leader.

Mr. President, there are no other items to take up. We would just like to remind our colleagues on who will interpellate on Senate Bill No. 1083

tomorrow—Senator Gordon, Senator Pangilinan, and the Minority Leader who has some further clarificatory questions.

ADJOURNMENT OF SESSION

Mr. President, I move that we adjourn the session until three o'clock in the afternoon of Wednesday, January 29, 2020.

The President. Is there any objection? [*Silence*] There being none, the session is adjourned until three o'clock in the afternoon of Wednesday, January 29, 2020.

It was 4:34 p.m.

MONDAY, FEBRUARY 3, 2019

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 49th session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Let us all stand for the opening prayer to be led by Sen. Pia S. Cayetano.

Everybody rose for the prayer.

PRAYER

Senator Cayetano. Let us all put ourselves in the presence of the Lord.

Heavenly Father,

Amid the perils that hound the world today, we ask for Your continues protection. We remember Your Holy Words from Isaiah 41:10, "So do not fear, for I am with you; do not be dismayed, for I am your God. I will strengthen you and help you, I will uphold you with my righteous right hand."

We take comfort in these Holy Words as we continue to pray for the safety of our entire nation and the world. As social media has given us the means to have information at our fingertips, give us the wisdom to filter the right information from the wrong ones. Give us the humility to listen to the real experts and different opinions, and to even be able to undertake the unpopular route, if that is the right one.

All of these, we lift up to You, O Lord,

Amen.

The President. Amen.

Please remain standing for the singing of the national anthem. The Senate Choir will lead us in the singing of the national anthem, and then the group will also render a song entitled *Ako ay Pilipino*.

NATIONAL ANTHEM

Everybody remained standing for the singing of the national anthem.

[Choir Singing Ako ay Pilipino]

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, *reading:*

| | |
|--|---------|
| Senator Sonny Angara..... | Present |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano..... | Present |
| Senator Leila M. de Lima..... | * |
| Senator Ronald “Bato” M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | Present |
| Senator Christopher Lawrence T. Go..... | Present |
| Senator Richard J. Gordon..... | Present |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel “Lito” M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present |
| Senator Emmanuel “Manny” D. Pacquiao..... | Present |
| Senator Francis “Kiko” Pangilinan..... | Present |
| Senator Aquilino “Koko” Pimentel III | Present |
| Senator Grace Poe..... | Present |
| Senator Ralph G. Recto..... | |
| Senator Ramon Bong Revilla Jr..... | Present |
| Senator Francis “Tol” N. Tolentino..... | Present |
| Senator Joel Villanueva..... | Present |
| Senator Cynthia A. Villar..... | Present |
| Senator Juan Miguel F. Zubiri | Present |
| The President..... | Present |

The President. With 22 senators present, the Chair declares the presence of a quorum.

Senator Zubiri. Mr. President.

The President. The Majority Leader is recognized.

*Under detention

MANIFESTATION OF SENATOR ZUBIRI
(On the Implementation of Stricter Protocols on Visitations Relative to
Coronavirus Outbreak)

Senator Zubiri. Mr. President, just for the information of our colleagues who were not in the meeting earlier at 1:30 this afternoon, with the permission of the Senate President, we would just like to inform the Body and all the staff, together with our colleagues that we will be implementing stricter protocols on visitations due to the outbreak of the coronavirus all over the world with the alarming contamination rate.

The Senate majority and minority had agreed to implement stricter protocols on visitations, especially those seeking financial assistance, due to health requirements, as well as asking our colleagues to limit visits to official matters, Mr. President. Just for the information of the Body.

If there are questions, of course, from our colleagues who were not able to attend the meeting, they can approach either myself or the Senate President for any protocols.

The President. Thank you, Majority Leader.

We will issue an official memorandum to this effect within the day.

Senator Zubiri. That is correct, Mr. President.

I spoke earlier, Mr. President, to the members of the House of Representatives, headed by Speaker Alan Cayetano, and the latter said that they will also do the same protocols.

It is not just one house of the Legislative body but both Houses to make sure that we do not add to the spreading of the disease in our country.

The President. Yes. This is what we call “precautionary measures.”

Senator Zubiri. Temporarily, Mr. President, until we see a light at the end of this very dark tunnel of this coronavirus problem.

ACKNOWLEDGMENT OF GUEST

Mr. President, before we move to other matters, we just like to recognize the Speaker of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), Atty. Pangalian Balindong. He is with us.

The President. Welcome to the Senate.

THE JOURNAL

Senator Zubiri. Mr. President, with the permission of the Body, I move that we dispense with the reading of the *Journal* of the 48th session, Wednesday, January 29, 2020, and consider the same as approved.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, I move that we proceed to the Reference of Business.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1300, entitled

AN ACT PROTECTING INDIVIDUALS WITH MIXED FILIPINO
HERITAGE FROM DISCRIMINATORY ACTS

Introduced by Senator Tolentino

The President. Referred to the Committee on Women, Children, Family Relations and Gender Equality

The Secretary. Senate Bill No. 1301, entitled

AN ACT INSTITUTIONALIZING GOVERNMENT SUPPORT TO GIFTED AND TALENTED STUDENTS, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

Introduced by Senator Tolentino

The President. Referred to the Committees on Basic Education, Arts and Culture; Higher, Technical and Vocational Education; and Finance

The Secretary. Senate Bill No. 1302, entitled

AN ACT MANDATING THE INSTALLATION OF GRAY WATER TREATMENT SYSTEMS/FACILITIES IN BUILDINGS AND IMPOSING PENALTIES FOR VIOLATION THEREOF

Introduced by Senator Poe

The President. Referred to the Committee on Public Works

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 303, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES, TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLICATIONS OF THE TERMINATION OF RP-US VISITING FORCES AGREEMENT

Introduced by Senator Binay

The President. Referred to the Committees on Foreign Relations; and National Defense and Security, Peace, Unification and Reconciliation

The Secretary. Proposed Senate Resolution No. 304, entitled

RESOLUTION CONGRATULATING AND COMMENDING HIDILYN F. DIAZ FOR SUCCESSFULLY DOMINATING THE 2020 ROMA WEIGHTLIFTING WORLD CUP WITH THREE GOLD MEDALS ON 28 JANUARY 2020 IN ROME, ITALY, SECURING FOR THE COUNTRY A SPOT IN THE 2020 SUMMER OLYMPICS IN TOKYO, JAPAN

Introduced by Senator Zubiri

The President. Referred to the Committee on Rules

The Secretary. Proposed Senate Resolution No. 305, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT
TERMINATION OF, OR WITHDRAWAL FROM, TREATIES
AND INTERNATIONAL AGREEMENTS CONCURRED IN BY
THE SENATE SHALL BE VALID AND EFFECTIVE ONLY
UPON CONCURRENCE BY THE SENATE

Introduced by Senator Drilon

The President. Referred to the Committees on Foreign Relations; and
National Defense and Security, Peace, Unification and Reconciliation

The Secretary. Proposed Senate Resolution No. 306, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE THAT
THE VALIDITY AND IMPLEMENTATION OF THE VISITING
FORCES AGREEMENT BETWEEN THE REPUBLIC OF THE
PHILIPPINES AND THE UNITED STATES OF AMERICA
SHOULD BE URGENTLY REVIEWED

Introduced by Senator Marcos

The President. Referred to the Committees on Foreign Relations; and
National Defense and Security, Peace, Unification and Reconciliation

The Secretary. Proposed Senate Resolution No. 307, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEE
TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON
GARBAGE IMPORTED INTO THE COUNTRY, WITH THE
GOAL OF FORMULATING POLICY INTERVENTIONS TO
RESOLVE GARBAGE IMPORTATION ISSUES

Introduced by Senator Cayetano

The President. Referred to the Committees on Environment, Natural
Resources and Climate Change; and Foreign Relations

The Secretary. Proposed Senate Resolution No. 308, entitled

RESOLUTION DECLARING 2020 AS THE SUSTAINABLE
DEVELOPMENT GOALS DECADE OF ACTION

Introduced by Senator Cayetano

The President. Referred to the Committee on Sustainable Development Goals, Innovation and Futures Thinking

COMMUNICATION

The Secretary. Letter from the Office of the President of the Philippines transmitting to the Senate two (2) original copies of R.A. No. 11468, entitled:

AN ACT DESIGNATING THE THIRD SUNDAY OF NOVEMBER
EVERY YEAR AS THE NATIONAL DAY OF REMEMBRANCE
FOR ROAD CRASH VICTIMS, SURVIVORS, AND THEIR
FAMILIES

which were signed by President Rodrigo Roa Duterte.

The President. To the Archives.

There is an Additional Reference of Business.

ADDITIONAL REFERENCE OF BUSINESS

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1303, entitled

AN ACT ESTABLISHING THE SCIENCE FOR CHANGE PROGRAM

Introduced by Senator Lacson

The President. Referred to the Committees on Science and Technology; and Finance

The Secretary. Senate Bill No. 1304, entitled

AN ACT AMENDING ARTICLES 14, 19, 124, 211 AND 225 OF
EXECUTIVE ORDER NO. 209, OTHERWISE KNOWN AS
THE FAMILY CODE OF THE PHILIPPINES

Introduced by Senator De Lima

The President. Referred to the Committee on Women, Children, Family Relations and Gender Equality

The Secretary. Senate Bill No. 1305, entitled

AN ACT AMENDING SECTION 9 OF PRESIDENTIAL DECREE NO. 651, ENTITLED “REQUIRING THE REGISTRATION OF BIRTHS AND DEATHS IN THE PHILIPPINES WHICH OCCURRED FROM JANUARY 1, 1974 AND THEREAFTER”

Introduced by Senator De Lima

The President. Referred to the Committee on Justice and Human Rights

The Secretary. Senate Bill No. 1306, entitled

AN ACT REDEFINING THE MANDATE OF THE PUBLIC ATTORNEY’S OFFICE (PAO), AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9046 AND PERTINENT PROVISIONS OF EXECUTIVE ORDER NO. 292, OTHERWISE KNOWN AS THE “ADMINISTRATIVE CODE OF 1987” AS AMENDED, AND FOR OTHER PURPOSES

Introduced by Senator De Lima

The President. Referred to the Committees on Justice and Human Rights; and Civil Service, Government Reorganization and Professional Regulation

The Secretary. Senate Bill No. 1307, entitled

AN ACT REDEFINING THE CRIME OF SYNDICATED ESTAFA, AMENDING FOR THE PURPOSE SECTION 1 OF PRESIDENTIAL DECREE NO. 1689

Introduced by Senator De Lima

The President. Referred to the Committee on Justice and Human Rights

RESOLUTION

The Secretary. Proposed Senate Resolution No. 309, entitled:

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEES, TO CONDUCT AN INQUIRY AND ASSESSMENT, IN AID OF LEGISLATION, ON THE VISA UPON ARRIVAL POLICY FOR CHINESE NATIONALS WITH THE END IN VIEW OF ENSURING THAT THE VISA UPON ARRIVAL SCHEME

WOULD NOT POSE HEALTH RISKS AND FACILITATE THE
PROLIFERATION OF SEX TRAFFICKING AND
PROSTITUTION IN THE COUNTRY

Introduced by Senator Binay

The President. Referred to the Committees on Foreign Relations; and Women, Children, Family Relations and Gender Equality

The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

ACKNOWLEDGMENT OF GUEST

We also have with us in the gallery, Mr. President, Gov. Miguel Luis Villafuerte of Camarines Sur. He is here with us today.

The President. Welcome to the Senate.

BILL ON SECOND READING
S. No. 1083--Anti-Terrorism Act of 2019
(Continuation)

Senator Zubiri. Mr. President, with the permission of the Body, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. Mr. President, I move that we recognize the sponsor, Sen. Panfilo M. Lacson; and to interpellate, the distinguished Minority Leader, Sen. Franklin M. Drilon.

The President. For the nth time, Sen. Panfilo M. Lacson is recognized, the chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation; and to interpellate, the Minority Leader, Sen. Franklin M. Drilon.

Senator Lacson. Thank you, Mr. President.

As long as Senator Lapid has not interpellated yet, all interpellations are welcome. *[Laughter]*

Senator Drilon. Thank you, Mr. President.

With the permission of the Chamber and with the consent of Senator Lacson, allow us to take the Floor once more.

Senator Lacson. Thank you to the distinguished Minority Leader. Anything that will improve the final version of this measure, definitely, we will welcome the Minority Leader, Mr. President.

Senator Drilon. Thank you very much Mr. President.

I would just like to place of record that maybe we can finish today given the comments of the Senate President, at least, on my part. But we cannot guarantee that the interpellation will finish because in the list is Senator Gordon. *[Laughter]*

Mr. President, our interpellation this afternoon will touch on the definition of terrorism.

Mr. President, the acts being punished here must have legal precision because in many of the acts punished, the penalty is life imprisonment. Therefore, we must be very clear of what acts are being punished. As I said, we must have legal precision and certainty in the definition of terrorism which we are punishing by life imprisonment.

The issue, therefore, is, when will one be charged with violation of the Anti-Terror Act, when will he be charged with rebellion, when is it *coup d'état*,

when is it sedition? And the reason for that is, in our statute books right now, there are acts which can qualify under any of these four laws. We take note that terrorism itself in the definition internationally in many fora is that the main objective of terrorism is to sow fear and spread violence. But the bill that we are proposing today and we are debating on would include, as an element, the fact that the purpose of the terror acts would be qualified through their purpose, namely, to intimidate, put in fear, force or induce the government or any international organization, or the public to do or to abstain from doing any act, or seriously destabilize or destroy the fundamental political, economic or social structures of the country, or create a public emergency or undermine public safety.

We are reading this, Mr. President, because the reality is, when a fiscal is confronted with a complaint by the law enforcement authorities, he has to judge what information will be filed in court, especially, that the elements of terrorism, for example, *coup d'état*, rebellion, sedition, would have similar elements.

So, the question in general that we have, Mr. President, is, how does one distinguish and how does a fiscal decide whether the act is punishable, let us say, under rebellion, sedition, *coup d'état*, or anti-terrorism? What are the distinguishing factors?

Senator Lacson. I am glad that distinguished gentleman from Iloilo asked that question, Mr. President.

To further clarify, aside from the definition as contained in Section 4 of this proposed measure, further guidance may be taken from existing jurisprudence, Mr. President. I am referring to G.R. No. 231658, decided by the Supreme Court only on July 4, 2017. This is *Lagman vs. Medialdea*. It says that, I am quoting from the decision, “In determining what crime was committed, we have to look into the main objective of the malefactors. If it is political, such as for the purpose of severing the allegiance of Mindanao to the Philippine Government to establish a *wilayat* therein, the crime is rebellion. If, on the other hand, the primary objective is to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand, the crime is terrorism. Here, we have already explained and ruled that the President did not err in believing that what is going on in Marawi City is one contemplated under the crime of rebellion.”

Senator Drilon. Yes, Mr. President. Thank you for that citation. But let me read into the *Record*, the definition of rebellion under Art. 134 of the Revised Penal Code. It says: “The crime of rebellion or insurrection is committed by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Republic of the Philippines or any part thereof, of any body of land, naval or other armed forces, or depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives.”

This is exactly what also the act of terrorism would have as a purpose when it says, seriously destabilize or destroy the fundamental political, economic, or social structures of the country and force or induce the government or any international organization or the public to do or to abstain from doing any particular act.

We find the definition broad enough to include rebellion, and, that is, I guess, where our difficulty is. Because the reality is, the fiscal would have to judge what crime or what information to file. And we do hope that we can spread into the *Record* the difference because this is what the fiscal will be looking at—what is the intention of Congress?

Senator Lacson. Mr. President, that is the reason why we inserted a phrase under the second paragraph, after enumerating the acts that would constitute acts of terrorism. We cited in the second paragraph, “WHEN THE PURPOSE OF SUCH ACT, BY ITS NATURE AND CONTEXT, IS TO INTIMIDATE, PUT IN FEAR,” so forth and so on.

Now, let me go further in my citation of the Supreme Court ruling in *Lagman vs. Medialdea*: “Besides, there is nothing in Art. 134 of the RPC and RA 9372 which states that rebellion and terrorism are mutuality exclusive of each other or that they cannot coexist together. RA 9372 does not expressly or impliedly repeal Art. 134 of the RPC. And while rebellion is one of the predicate crimes of terrorism, one cannot absorb the other as they have different elements.” Mr. President. That is quoting again from *Lagman vs. Medialdea*.

Further, Mr. President, under the Revised Penal Code, the elements of rebellion are as follows: “(1) That there be (a) public uprising, and (b) taking arms against the government;

(2) That the purpose of the uprising or movement is either: (a) to remove from the allegiance to said government or its laws: (1) the territory of the Philippines or any part thereof, or (2) any body of land, naval, or other armed forces; or (b) to deprive the Chief Executive or Congress, wholly or partially, of any of their powers or prerogatives,” Mr. President.

Senator Drilon. Thank you, Mr. President.

In our view, those elements of rebellion would be encompassed in the general purpose which would qualify an act as an act of terrorism and what is that? An act of terrorism is done for the purpose of forcing or inducing the government or any international organization or the public to do or to abstain from doing any act.

I think, the definition is broad enough to certainly cover rebellion. We are raising this only for the guidance of those who will implement this law, Mr. President.

Senator Lacson. Thank you, Mr. President.

In our definition, there is no public uprising involved in the crime of terrorism as in the case of rebellion, Mr. President. There is no public uprising. That is an element present in the crime of rebellion that is not present in the crime as proposed under this bill, Mr. President.

Senator Drilon. There is no public uprising.

Senator Lacson. That is correct, Mr. President. So, *mayroon pong* delineation.

Senator Drilon. Yes, Mr. President.

Senator Lacson. *Kung wala naman pong* public uprising, *hindi po masasaklaw ng* terrorism.

Senator Drilon. Now, an act of violence would have to be something that will not qualify as rising publicly?

Senator Lacson. Those are two different elements, in my view, at least, Mr. President. *Kasi malinaw naman doon sa* rebellion under Article 134 *iyong* public uprising. In the case of this proposed measure, *hindi po kailangan iyong* element *ng* public uprising.

Senator Drilon. The Marawi siege, Mr. President, is that rebellion or is that an act of terrorism?

Senator Lacson. Kindly state the question again, Mr. President.

Senator Drilon. The Marawi siege, if it happened after we passed this law and the sponsor is the prosecutor, Mr. President, which crime will the sponsor charge those who staged the Marawi siege? Is it rising publicly, therefore, rebellion or is it an act of violence which would be under terrorism?

Senator Lacson. It will depend on the evidence as presented by the prosecutor, Mr. President. Assuming that we have passed this measure, *kung ang* elements *ay magpo-*fall under the provisions of the proposed measure, then the prosecutor may file for violation of Anti-Terrorism Law. But if the nature and context, by which the crime was committed, would not constitute

violation of this act, as in the case of Marawi siege, then the case that was filed was rebellion, Mr. President.

Senator Drilon. Yes, Mr. President. In fact, what took place in the Marawi siege could very well fall under the definition of the purpose for which terrorism is committed and that is to force or induce the government or the public to do or abstain from doing any act or seriously destabilize or destroy the fundamental, political, economic, and social structure of the country. When they tried to remove Marawi from the country, would that be rebellion or would that be terrorism?

Senator Lacson. The Minority Leader is correct, Mr. President. I will not argue the point. However, the law that is still existing when the Marawi siege was committed, *mayroong* predicate crimes. That is why the government agents chose to file the case of rebellion.

Senator Drilon. Yes, Mr. President.

Senator Lacson. Because they will have to prove first the crime of rebellion being committed before they can proceed to...

Senator Drilon. I guess our question says, Mr. President--if I may interrupt--we are assuming a situation where the Marawi incident took place when we have already passed this law.

Senator Lacson. Then I suppose that the government would have filed a case of terrorism instead of rebellion, Mr. President. Because if we agree to remove or delete the predicate crimes, then it would encourage the government to file the case of terrorism instead of rebellion.

Senator Drilon. All right, Mr. President.

Senator Lacson. I think that is the primary reason why the government chose to file the case of rebellion against the attackers in Marawi instead of terrorism, aside from the P500,000 penalty or fine.

Senator Drilon. Which we are deleting, Mr. President.

Senator Lacson. Which we are deleting, Mr. President.

By the way, Mr. President, in the case of terrorism, *maski isang* individual *ay puwedeng mag-commit*. But *ang* rebellion, there must be public uprising, so it necessitates the participation of other individuals, not just one person. Because I cannot imagine one person or an individual committing public uprising.

Senator Drilon. All right. If I were the defense counsel and my client is being charged with anti-terrorism...

Senator Lacson. Under this proposed measure?

Senator Drilon. Under this proposed measure, Mr. President.

We know that the crime of rebellion does not carry the penalty of life imprisonment, does it? Just to check, Mr. President.

Senator Lacson. I think it is also a capital offense, Mr. President. I may be wrong, I stand corrected.

Senator Drilon. I do not know, Mr. President, that is why I am also asking.

But assuming, for the sake of argument that rebellion is not a capital offense--we can check that--if I were the defense counsel, I will try to prove that

the act committed was rebellion and not terrorism. Question: Assuming that I am able to prove rebellion, but the charge is terrorism, can I be convicted for rebellion?

Senator Lacson. Yes, Mr. President, because that is another offense. I do not think the second jeopardy will set in.

Senator Drilon. Yes, Mr. President.

Senator Lacson. Because even if the crime of terrorism under this measure is dismissed for some reason, the crime of rebellion can still be pursued.

Senator Drilon. Yes, Mr. President. I have no question in my mind that the crime of rebellion can still be pursued because there is no double jeopardy.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. But can the judge, having heard the evidence and having seen that the element of terrorism has not been proven but, in fact, all the evidence point to rebellion, can the judge convict the accused of rebellion in a charge sheet or Information which charges terrorism?

Let me premise this, Mr. President. As we lawyers know, in the Revised Penal Code where we are charged with murder and we cannot prove an element, let us say, of treachery, we can still be convicted of homicide because they fall within the same class of crimes, or whatever. Now, would that same theory be applicable here? Because here, rebellion is punished under the Revised Penal Code and terrorism is punished under a special law. Can we

convict one for terrorism or for rebellion under the Revised Penal Code when, in fact, we are charging him under terrorism which is a special law?

Senator Lacson. As the Minority Leader clearly stated, Mr. President, this is a special law. In the case of murder downgraded to homicide, *iba po iyang* rule. Yes, the judge cannot convict him for another crime which is rebellion, if he deems it wise or he does not find sufficient evidence to convict the person or the suspect or the respondent for the crime of terrorism because he has been arraigned for the crime of terrorism, not the crime of rebellion. So, *hindi puwedeng ma-convict sa rebellion kasi ang arraignment niya ay terrorism.*

Senator Drilon. Anyway, just to end the debate there, in the example that I gave under the Revised Penal Code, so long as the crimes fall under the same title, he can be convicted of a lesser crime. But I will not tarry any further there, Mr. President, I would just request the good sponsor to study this very well.

Senator Lacson. Yes, Mr. President.

Senator Drilon. And find out how we can provide in the law elements which can distinguish one from the other, so that the prosecutor and the judge will not be in a quandary. As I said, when the committee amendments are proposed, I do hope that the good sponsor can take this interpellation into account.

Senator Lacson. Of course, Mr. President. Except that this is a substitute bill so I would leave it to the distinguished gentleman to introduce the amendments.

Senator Drilon. Or maybe we can waive the rule so that we can have a better understanding of it.

Senator Lacson. *Baka mapagalitan tayo ng* Majority Leader, Mr. President.

Senator Drilon. *Ako ang bahala riyan. [Laughter]*

The other question, Mr. President, is: What is the difference in the elements of a *coup d'état* and an act of terrorism, for the record?

Senator Lacson. *Ang coup d'état po* under Art. 134-A, *ang purpose niya* is, "cease or diminish state power," as amended by RA 6968.

Senator Drilon. Is it not that the purpose of a *coup d'état* is to cease or diminish state power?

Senator Lacson. *Iyon nga po.*

Senator Drilon. That would also fall under the broad definition of terrorism.

Senator Lacson. But *babalik tayo uli roon sa* intent and purpose. *Iyong* objective *ng* malefactors, Mr. President, will be guided or will be bound by the definition as to the intent and purpose of the act being committed.

Senator Drilon. Yes, Mr. President. Because the way the definition is now crafted, whether or not one is a public officer or a military or a police, he

can be convicted under the anti-terrorism measure. Whereas, in *coup d'etat*, unless one is a public officer, he cannot fall under this.

Senator Lacson. *Iyon na nga po*, Mr. President, the elements of *coup d'etat*, and may I enumerate, especially No. 1, that the offender is a person or persons belonging to the military or police or holding any public office or employment...

Senator Drilon. That is correct, Mr. President. My problem is that the sponsor's definition of terrorism covers "any person."

Senator Lacson. Yes, Mr. President.

Senator Drilon. In the debate last time, it was not clear. I will cite Senator Honasan only by way of example because he is a classic example. Now, if he is still a member of the Armed Forces of the Philippines and he commits what he had committed, will he be charged as a terrorist or a *coup d'etat*? I am not saying that there is proof against Senator Honasan, just on a theoretical discussion. If Senator Honasan was still a coronel and he committed what he did commit and we have already the Anti-Terrorism Law, with what crime will he be charged?

Senator Lacson. It is *coup d'etat*, Mr. President, *kasi klaro naman ang kaniyang* purpose. *Ang* purpose *ni* Senator Honasan, assuming that he is guilty, is to cease or diminish state power.

Senator Drilon. Yes, Mr. President. The purpose is to diminish state power which is also covered by the broad definition of forcing or inducing the government to...

Senator Lacson. I see the point of the gentleman, Mr. President. But, the evidence will clearly show the objective, the intent, or purpose of the person committing the act.

Senator Drilon. Mr. President, would not this position of the person be more crucial? Meaning, if he committed the acts of terrorism while he was a public officer, he would be charged under *coup d'état* under Article 134-A rather than a terrorist.

Senator Lacson. To seize or diminish the state power, *magkaiba naman po iyon doon sa* we are preventing government to perform its function, Mr. President. We are always guided by the intent and purpose.

Senator Drilon. *Kaya nga po.* That is why I thought, Mr. President, that the clearer guide would be whether or not...

Senator Lacson. Yes, I understand where the gentleman is coming from, Mr. President.

Senator Drilon. ...whether or not the person being charged is a public officer or a military or police officer which, therefore, qualifies him under *coup d'état*. But if he is not a public officer, then it can be under the act of terrorism. But my problem is, in the definition of the sponsor, terrorism covers any person. And that is why I asked this question because I remember that the first time I took the Floor on the period of interpellations, the sponsor clearly stated that Senator Honasan, under the circumstances, cannot be charged under terrorism because he is a public officer and, therefore, he commits a *coup d'état*.

On the other hand, in the second session, on the same period of interpellations, the sponsor said that Senator Honasan can be charged for terrorism. Which is which now, Mr. President?

Senator Lacson. I wish Senator Honasan were here, Mr. President, so he can interject and state for the record his purpose at that time.

Senator Drilon. Well, my problem with that is, the purpose could be the same whether it is an act of terrorism or a *coup d'état*.

Senator Lacson. I think, the operative phrase is “seize or diminish state power,” Mr. President. I think, it was clear when Senator Honasan reportedly embarked on several adventures, as a matter of fact, was to seize power or diminish state power. *Hindi naman po ang purpose niya* was to terrorize.

Senator Drilon. No, Mr. President.

Senator Lacson. *Klaro po iyon.*

Senator Drilon. Well, that is precisely my problem. *Hindi naman ang purpose niya* is only to terrorize. But the purpose is to seize and diminish state power and to destabilize political structure.

Anyway, as I said, I would like to see this clearer definition or clarity in this area because I see this as an area of confusion and difficulty. Of course, that is our view. The sponsor may take another view. But, I think, there is nothing wrong with clarifying so that the intent of the....

Senator Lacson. Of course, I am in full agreement, Mr. President. That is why this discussion might establish the proper language in defining the acts of terrorism as it appears in the proposed measure.

Senator Drilon. So, again, just to summarize, we would earnestly request the good sponsor that, in the period of amendment, he will now make it clearer in the language what are the elements of terrorism, rebellion, sedition, or *coup d'état*, which would distinguish one from the other so that the prosecutor and the judge can see clearly which direction they should take in punishing the acts being committed.

Senator Lacson. With the active help and support of the gentleman, I think we can come up with a... I understand where the gentleman is coming from because *medyo* encompassing *ang mga* elements *dito* as proposed, Mr. President.

Senator Drilon. I can sympathize with the sponsor. It is not easy.

Senator Lacson. Thank you for sympathizing with me, Mr. President.

Senator Drilon. That is why my luck, however, is that I am the one asking the questions. *[Laughter]*

Senator Lacson. We are dealing here with at least 109 definitions of terrorism. That is why we really have to clarify each and every word that is used in defining--only in the definition of terrorism, Mr. President.

Senator Drilon. Yes, Mr. President.

Again, the general question: When is a liberation or democracy movement an act of terrorism, if it is? In other words, how does one distinguish between a liberation movement or a democracy movement from terrorism? For example, Nelson Mandela, was he a terrorist or was he a leader of a liberation movement?

Assuming that we have a Nelson Mandela in the country at some future time, would that person be considered as the leader of a liberation movement or a democratic movement?

Because, Mr. President, this is not a theory. It actually happens as we talk.

Senator Lacson. Even in the Philippines, Mr. President, in 1986.

Senator Drilon. Yes, it actually happens. In 1986, it happened. In Hong Kong, there are democracy movements; the violence takes place. If that happens here, is he a terrorist or a leader of a democracy movement?

Senator Lacson. Mr. President, I was handed this quote: "One man's terrorist is another man's freedom fighter."

Senator Drilon. That is correct, Mr. President. So, where does that prove us?

Senator Lacson. As articulated by Senator Hontiveros, I think, if I recall it correctly, *halimbawa*, "legitimate" *iyong* purpose in expressing dissent, let us say, under the condition of a martial rule where *maraming mga* abuses--I am not trying to put on the spot. *Wala naman pala rito. Ayun. [Laughter]*

Senator Drilon. *Nandiyan. [Laughter]*

Senator Lacson. And people would rise up in arms to correct an abusive regime and *nanalo sila*, then *iyon nga iyong* quote *na*, "One man's terrorist is another man's freedom fighter."

Senator Drilon. *Kung hindi sila nanalo?*

Senator Lacson. *Patay sila*, Mr. President—terrorists *sila* or *mga* rebels *sila*. And they will be answerable criminally for their acts. And that is a fact of life.

As in the case of Nelson Mandela, the reason why he is now being acclaimed as a hero *ay dahil nanalo sila*, Mr. President. That is a fact of life.

But going back to our discussion, I would like to believe that we have to really consider and look seriously at the intent and purpose of the act. *Kaya nga idinagdag pa natin iyong* “by its nature and context,” Mr. President

Senator Drilon. Yes, Mr. President. I do not disagree with that generally, except that if we analyze it deeper, the broad definition of terrorism would include rebellion, sedition, and *coup d’état*.

In any case, we have already manifested that and at the appropriate time, maybe the good sponsor can look at the definition more closely and see how this vagueness or broad definition can be better addressed.

So, absent the purpose or the intent that would qualify it as an act of terrorism, it would be punished under the Revised Penal Code?

Senator Lacson. That is correct, Mr. President.

Senator Drilon. Rebellion.

Senator Lacson. Or *coup d’etat*.

Senator Drilon. All right. One more issue and then I will yield the Floor to Senator Gordon; and this is the issue of proscription.

Mr. President, under the proposed measure, it is a mandatory requirement for the judge to issue a preliminary order of proscription within

72 hours after the filing of the application should the judge determine that there is probable cause to show that a group is a terrorist organization, is that correct?

Senator Lacson. That is correct, Mr. President.

Senator Drilon. And this preliminary order based on probable cause under the measure can be the basis for the detention of the alleged members of the organization.

Senator Lacson. As listed, Mr. President. Each and every member *ay kailangang mayroon ding makitang* probable cause *ng* membership of a proscribed organization, even in the preliminary order of proscription.

Senator Drilon. We are just talking first about the order of proscription.

Senator Lacson. All right, Mr. President.

Senator Drilon. And based on probable cause, a preliminary order can be the basis of detention of the alleged members of the organization. Is that a correct reading, Mr. President?

Senator Lacson. That is correct, Mr. President, even the freezing of the assets.

Senator Drilon. And then, the burden of proof is shifted from the government to the proscribed group because it imposes upon the group the burden of showing, for good cause, why a preliminary order of proscription must be set aside.

In other words, the one who is charged will be the one to show that the order has no basis. Is that not a little difficult in terms of our Constitution because the burden of proof is shifted to the defendant? The law creates a presumption that it is a proscribed organization and, therefore, he must now prove that it is not.

To my mind, it is a little contrary to what we understand to be the presumption of innocence when we have that kind of a system. The concern is that the preliminary order of proscription may be used to justify the random detention of the individuals under the guise of their membership in a preliminarily proscribed group.

In other words, once the judge has ruled on the basis of the preliminary submission that XYZ organization is a terrorist group, then on that basis of the order of proscription, the detention may had and the defendant has to show that the order has no basis because the burden of proof is shifted to him, rather than the burden being in the prosecutor and the government. Do we not find this a little difficult?

Senator Lacson. Mr. President, it is akin to a respondent against whom a warrant of arrest was issued by the judge on the basis of probable cause. On this basis, he is not being convicted yet. And while undergoing trial, since the crime is unbailable, then he is detained until such time that the judge grants bail or the prosecution fails to prove guilt beyond reasonable doubt. *Pareho rin po iyong principle na iyon.* It does not necessarily mean *na iyong* burden of proof has shifted to the respondent to prove that he should not be detained

because, remember, the threshold that the judge would follow before he will issue a preliminary order of proscription is probable cause, in the same manner that when a prosecutor files the Information, clearly, the prosecutor has already found probable cause against the individual; and the judge, necessarily, after judicial determination of probable cause, would issue a warrant of arrest. *Pareho rin iyon, wala pong pagkakaiba roon sa regular due process that we are following or observing.*

In this case, *tama po iyon*, detained *iyong* person because the judge himself has already found probable cause to proscribe the organization to include the members who have been established to be members of that proscribed or preliminarily proscribed organization. And within six months, the judge will have to determine if *iyong* preliminary order of proscription will be a permanent order, Mr. President. So, I do not see any deviation from the regular practice of detaining a person after finding probable cause. Of course, under the new rules, *hindi porke at may* probable cause *iyong* prosecutor, *iyong* judge will automatically follow. There is such a thing as judicial determination of probable cause which, I believe, is also similar in this situation.

Senator Drilon. The present procedure is that when the information is filed, the judge, on the basis of his own personal examination, would determine that a warrant of arrest should be issued.

Senator Lacson. There is indeed a probable cause. We call it judicial determination of probable cause.

Senator Drilon. That is correct, Mr. President.

Senator Lacson. Before, during our time when I was still with law enforcement, *hindi na kailangan. Kapag sinabi ng prosecutor na, “We are filing this Information on the basis of probable cause,”* the judge had no other option.

Senator Drilon. That is correct. That is how the jurisprudence developed.

Senator Lacson. Evolved.

Senator Drilon. Evolved. So that at a certain point, the Supreme Court has ruled that the judge would have to examine personally and determine whether or not there is probable cause. Is that procedure applicable here?

Senator Lacson. Yes, Mr. President.

Senator Drilon. So that when the application is filed for declaring an organization as a proscribed organization, the judge would have to determine.

Senator Lacson. Yes, Mr. President.

Senator Drilon. Maybe we can include. In other words, the provision in the Constitution will apply insofar as that is concerned.

Senator Lacson. Yes, Mr. President. Without the judge finding probable cause, he would not issue a preliminary order of proscription.

Ito iyong process, if I may, Mr. President.

Senator Drilon. Yes, Mr. President.

Senator Lacson. As provided for, under the proposal, with the authority of the Anti-Terrorism Council, upon the recommendation of the NICA, the DOJ

shall file an application before a competent RTC for the proscription of any group.

Senator Drilon. Yes, Mr. President.

Senator Lacson. *Tapos, puwede ring gumawa ng* preliminary order of proscription, but *kailangang sundin pa rin ng judge iyong* judicial determination of probable cause before he issues the preliminary order of proscription. *Iyon pa rin po ang* threshold.

Senator Drilon. All right, Mr. President. I will eagerly await how that will be phrased in the amendments that I assume will be submitted, so that that kind of situation will be clearly enunciated in the law.

All right. The judge determines that there is probable cause to declare an organization as a proscribed organization and issues the order. That is fine. What about the individuals who are supposed to be members of that? What kind of safeguards can we include in the law so that the mere fact that it is a proscribed organization should not result in every alleged member to be arrested?

Senator Lacson. Indiscriminate, yes, Mr. President.

Senator Drilon. Remember that under the proposed measure, Mr. President, one can be detained for 14 working days, so there could be some degree of arbitrariness. For example, I am alleged to be a member of a proscribed organization and, therefore, I am arrested and detained for 14 working days on the allegation that I am a member of an organization which is proscribed, how do we guard against abuses?

Senator Lacson. That is a different matter, Mr. President.

To arrest an alleged member of a proscribed organization, it is incumbent upon the government to prove that he is really a member before he can be arrested.

Iyon naman pong warrantless arrest, iba naman po iyon.

Senator Drilon. No, I am not talking about that.

Senator Lacson. *Hindi dahil sa mayroong* reasonable ground or *mayroong* ground *iyong* police officer to arrest a person just because he is reportedly a member or allegedly a member, *hindi siya pupuwedeng basta arestuhin.* The government should prove that the person to be arrested is indeed a member of that proscribed organization.

Senator Drilon. Not only he is a member, but he knowingly, under the measure, became a member.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. So that unless there is proof that he knowingly became a member, knowing that it is a terrorist organization, he cannot be arrested.

Senator Lacson. Yes, Mr. President.

Senator Drilon. We make that clear because that is very critical for the appreciation of the measure.

Senator Gordon wishes to intervene. I have no problem with Senator Gordon...

Senator Lacson. Mr. President, with the indulgence of Senator Gordon. *Ito po iyong sa* Section 9, second paragraph, "ANY PERSON WHO SHALL

VOLUNTARILY AND KNOWINGLY JOIN ANY ORGANIZATION, ASSOCIATION OR GROUP OF PERSONS KNOWING THAT SUCH ORGANIZATION, ASSOCIATION OR GROUP OF PERSONS IS PROSCRIBED UNDER SECTION 24 OF THIS ACT, OR THE UNITED NATIONS SECURITY COUNCIL-DESIGNATED TERRORIST ORGANIZATION, OR ORGANIZED FOR THE PURPOSE OF ENGAGING IN TERRORIST ACTS, SHALL SUFFER THE PENALTY OF xxx.”

Senator Drilon. So, just for the record, it is not mere membership in the proscribe organization, but it must be shown that he knowingly and voluntarily, with full knowledge of the nature of the organization, joined it. In other words, it is not automatic that one who is a member of a proscribed organization could be arrested.

Senator Lacson. Yes, Mr. President. That is correct. That is expressly provided under Section 9.

Senator Drilon. Mr. President, I yield the Floor to Senator Gordon.

Senator Gordon. The gentleman from Iloilo read my mind. This time he has the correct reading of my mind, Mr. President, that mere membership is not a ground for arrest. He has to knowingly join the organization.

Senator Drilon. And it must be proven before the court that he is a member who knowingly joined that organization.

Senator Gordon. It is very important for the Supreme Court later on when they interpret.

Thank you, Mr. President.

Senator Lacson. As a matter of fact, Mr. President, there is a pending petition from DOJ to declare CPP-NPA as a proscribed terrorist organization. And the government has submitted a list of members. So, *doon lamang po naka-limit iyong mga puwedeng arestuhin* and, later on, if they can submit or file supplemental petition to include additional members, *kailangang i-prove pa rin nila na iyon nga*, knowingly, voluntarily and so forth and so on, Mr. President.

Senator Drilon. But is there not a phrase somewhere in the proposed measure, “is presumed to know”? One is qualified for arrest if he is presumed to know.

Senator Lacson. Let me check but as far as I am concerned, *wala po iyong* presumption of knowing.

Senator Drilon. It is in providing material support.

Senator Lacson. In providing material support, Mr. President.

Senator Drilon. Yes, *mayroon po*, Mr. President.

I yield the Floor to Senator Tolentino, Mr. President.

Senator Tolentino. With the permission of the gentleman, just one clarificatory question, Mr. President.

The President. Senator Tolentino is recognized.

Senator Tolentino. Mr. President, the United Nations declared proscribed organizations. Will this need a court determination or validation whether these are really terrorist fronts or organizations, or we just rely on the declaration of the United Nations?

Senator Lacson. I suppose it should require an act of a court in the Philippines to formalize the United Nations' resolution declaring a terrorist organization as a proscribed organization, Mr. President.

Senator Tolentino. Mr. President, may we know from the good sponsor that at this stage, preliminarily, do we have a listing of the said United Nations proscribed organizations? Will this include the well-known Middle Eastern terrorist fronts that this representation mentioned during the interpellation granted by the good sponsor?

Senator Lacson. The gentleman is referring to the UN list?

Senator Tolentino. Yes, Mr. President.

Senator Lacson. There is a list, Mr. President. Al-Qaeda is one; ISIS is another, Mr. President. There is a list under the United Nations' resolution of these proscribed terrorist organizations.

Senator Tolentino. So, Mr. President, from the answer of the good sponsor, it would now mean that even if there is a prior list coming from the United Nations, it is not automatic that knowingly becoming a member of the proscribed organizations by the United Nations would merit an offense as enunciated by the proposed law.

Senator Lacson. It should be formalized by a competent regional trial court, Mr. President, to formally proscribe the... yes, it must be brought before a court which will now formally issue an order of proscription, Mr. President.

Senator Tolentino. My final query again to reiterate my previous interpellation and which, I think, was already answered. If the court

determination would come out during that hearing, how would the accused, the member, exculpate himself? Because the declaration probably might come out during the hearing and the timing of his membership might be a priori or probably it was done before the declaration of the court that said organization is a terrorist organization. Just last one point, Mr. President.

Senator Lacson. *Hindi ko na po nasundan sa haba ng tanong ninyo, Mr. President.*

Senator Tolentino. To rephrase, Mr. President, *maaari po ba kaya na roon sa hearing lamang nalaman noong naging miyembro na iyon palang nasalihan niya ay isang terrorist front?* So, how can he now...

Senator Lacson. *Hindi po papasok sa knowingly, Mr. President.*

Senator Tolentino. *Hindi na, Mr. President.*

Senator Lacson. But, of course, *kung kaya namang i-prove ng gobyerno na knowingly, then problema niya iyon, Mr. President—matter of evidence.*

Senator Tolentino. I thank the good gentleman and the Minority Leader for the time given. I yield the Floor.

Senator Drilon. Mr. President, may I suggest that on page 24, Section 22 which includes a new Section 25, that the good sponsor should examine closely the paragraph starting on line 22 which says: "THE COURT WILL SCHEDULE A SUMMARY HEARING AT A DATE AND TIME WITHIN A SIX-MONTH PERIOD FROM THE FILING OF THE VERIFIED APPLICATION, WHEN THE RESPONDENT MAY, FOR GOOD CAUSE, SHOW WHY THE ORDER OF PROSCRIPTION SHOULD BE SET ASIDE." This is where I was saying that we

have shifted the burden of proof to the one who is arrested because he has now to show that the order of proscription should be set aside rather than the government justifying why it should be maintained—something that would not be acceptable as a principle of fair play and justice.

Senator Lacson. *Ganito po iyan*, Mr. President. *Iyong* burden of proof stays with the government, but after 72 hours and the judge determines probable cause for the issuance of preliminary order of proscription against the organization concerned, what is shifted is the burden of evidence from the government to the other party.

Senator Drilon. Mr. President, the burden on the government is only to show probable cause.

Senator Lacson. Within the six-month period, Mr. President.

Senator Drilon. Yes, Mr. President. Therefore, that standard of proof is not that high but then, under the proposal, we already shifted the burden to the accused. Is it not better if the order is reversed so that within that period the prosecution must show that, indeed, the preliminary order is valid and supported by evidence rather than shifting the burden to the defendant? Because, remember, this is a summary hearing and this is just for the establishment of a probable cause. The standard of evidence is low or the hurdle, for purposes of evidence, is low but yet, the burden is shifted to the accused.

We would like to see a revision of this provision so that it will be consistent with fair play, Mr. President.

Senator Lacson. I agree, Mr. President. I would like to cite here another jurisprudence, *Corpus vs. Sarmiento*, G.R. No. L-45137, it says here: “When a prima facie case is established by the prosecution in a criminal case, as in the case at bar, the burden of proof does not shift to the defense. It remains throughout the trial with the party upon whom it is imposed—the prosecution. It is the burden of evidence which shifts from party to party depending upon the exigencies of the case in the course of the trial. This burden of going forward with the evidence is met by evidence which balances that introduced by the prosecution. Then the burden shifts back.”

I am open to amendment or open to further improving the language under Section 25, paragraph 2, Mr. President.

Senator Drilon. Thank you, Mr. President.

Senator Lacson. *Pero nakalagay rin naman dito na, “WHEN THE RESPONDENT MAY, FOR GOOD CAUSE, SHOW WHY THE ORDER OF PROSCRIPTION SHOULD BE SET ASIDE.”* So, *naroon pa naman iyong provision na iyon.* But, anyway, as I have stated earlier, I am open to further improving this particular provision.

Senator Drilon. On page 25, Mr. President, who is the “Deputized law enforcement agency or military personnel?” My impression is that only certain officials are authorized to file charges. Who is the deputized law enforcement agency or military personnel? May we be merited with an explanation on this, Mr. President?

Senator Lacson. It is rather vague, Mr. President. I would like to believe that it is the Anti-Terrorism Council (ATC) that will issue the authority. The gentleman is correct, we should be more specific.

Senator Drilon. So, conceptually, it is the Anti-Terrorism Council which is the source of deputization.

Senator Lacson. Yes, Mr. President.

Senator Drilon. Now, the good sponsor, on page 20, specified 14 working days. This is actually three weeks if we will consider this on a calendar basis, because if we will exclude Saturday and Sunday, this is actually three weeks, Mr. President.

Senator Lacson. Yes, Mr. President, five, five, and four working days.

Senator Drilon. That is 19 days, Mr. President.

Senator Lacson. It should be equivalent to seven, Mr. President. Another five, which should be equivalent to seven; another four...Yes, Mr. President.

Senator Drilon. Yes, Mr. President. Fourteen working days can be subject to various interpretations. It may happen that there are special nonworking holidays, et cetera.

Senator Lacson. Holy week, Mr. President.

Senator Drilon. Holy week, yes. Will this be vigorously altered if we talk about calendar days? So that there is no more debate as to whether it is a working day or a nonworking day.

Senator Lacson. We can strike a bargain, Mr. President.

Senator Drilon. Yes, Mr. President.

Senator Lacson. Fourteen calendar days, subject to an extended period of, let us say, another four days or maybe five days.

Senator Drilon. Who determines that, Mr. President?

Senator Lacson. The court, Mr. President.

Senator Drilon. All right. While we are willing to consider that...

Senator Lacson. Because in other jurisdictions, Mr. President, *mayroon silang* extension—Singapore, as I mentioned earlier, 732 days, *tapos puwedeng i-extend* indefinitely. In other jurisdictions, *mayroong ganoon*.

Senator Drilon. We are open to that, Mr. President, as long as it is reasonable.

Senator Lacson. Yes, Mr. President.

Senator Drilon. So, we will await the proposed amendment. Also, on page 20, lines 11 to 14, the provision is proposed to be deleted. The existing provision would provide “that the arrest of those suspected of the crime of terrorism or conspiracy to commit terrorism must result from the surveillance under Section 7, or examination of bank deposits under Section 27 of this Act.”

Senator Lacson. What section, Mr. President?

Senator Drilon. This is on page 26—I am sorry—lines 11 to 14, which is a provision of the existing law but which is now bracketed and, therefore, proposed to be deleted. May we spread into the *Record* the rationale of this deletion?

SUSPENSION OF SESSION

Senator Lacson. I move for a one-minute suspension of the session, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 4:20 p.m.

RESUMPTION OF SESSION

At 4:20 p.m., the session was resumed.

The President. The session is resumed.

Senator Lacson. Actually, *pandagdag sa safeguards ito*, Mr. President.

Senator Drilon. I am sorry, Mr. President?

Senator Lacson. This is additional safeguard because under Republic Act No. 9372, if we will read the proviso or the provision that we propose to delete, “[*Provided*, That the arrest of those suspected of the crime of terrorism or conspiracy to commit terrorism must result from the surveillance under Section 7 and examination of bank deposits under Section 27 of this Act.]”

Senator Drilon. Yes. That is proposed to be deleted, Mr. President.

Senator Lacson. Yes, Mr. President.

Senator Drilon. Our question is, can the good sponsor spread into the *Record* the rationale for this deletion?

Senator Lacson. It is additional safeguard, Mr. President.

Senator Drilon. In fact, this is a safeguard and it is proposed to be deleted, Mr. President. So, we just want the record to reflect the rationale for the deletion of the safeguard.

SUSPENSION OF SESSION

Senator Lacson. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 4:21 p.m.

RESUMPTION OF SESSION

At 4:23 p.m., the session was resumed.

The President. The session is resumed.

Senator Lacson. This is proposed to be deleted *para maging* proactive, Mr. President. Because as stated in the previous paragraphs, what we are aiming here is to prevent the occurrence of acts of terrorism because the damage is so huge--loss of lives and properties. So in lieu of that, we inserted the phrase under Section 27, "PERSONNEL OR DEPUTIZED LAW ENFORCEMENT AGENCY OR MILITARY personnel IF IT IS ESTABLISHED THAT (1) FURTHER DETENTION OF THE PERSON/S IS NECESSARY TO PRESERVE EVIDENCE RELATED TO THE TERRORIST ACT OR COMPLETE THE INVESTIGATION; (2) FURTHER DETENTION OF THE PERSON/S IS NECESSARY TO PREVENT THE COMMISSION OF ANOTHER TERRORIST ACT; AND (3) THE INVESTIGATION IS BEING CONDUCTED PROPERLY AND WITHOUT DELAY."

Senator Drilon. Anyway, again, this is one area probably which the good sponsor, if he is minded to, can clarify in the period of amendments.

Senator Lacson. Yes, Mr. President.

Senator Drilon. Just for the record.

Senator Lacson. This can be balanced by the inclusion of several additional safeguards under the proposed measure, Mr. President.

It says, “the law enforcer taking custody shall notify in writing the judge nearest the place of arrest of the following facts: time, date, and manner of arrest; location or locations of the detained suspects; physical and mental condition.” And then also furnished *din iyong* Anti-Terrorism Council (ATC). We agreed earlier to the proposal of Senator Hontiveros to include the Commission on Human Rights.

Senator Drilon. Now, in the previous answer of the good sponsor, he says that he is amenable to 14 calendar days provided that an application for an extension can be provided.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. That should be before the court.

Senator Lacson. Before the court, Mr. President.

Senator Drilon. Not just the Anti-Terrorism Council.

Senator Lacson. No, Mr. President.

Senator Drilon. In other words, it must be a judicial process.

Senator Lacson. It should be by the court, Mr. President.

Senator Drilon. Again, just for the record, why is the requirement for an official custodial logbook under Section 23 of the present law being deleted?

Senator Lacson. In lieu of that, Mr. President, those that I have enumerated earlier, *ang ipinalit natin ay iyong* “The judge nearest the place of arrest must be informed.”

Senator Drilon. All right.

Senator Lacson. So, *mas* effective *pa iyon*, Mr. President, than the custodial logbook.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? [*Silence*] There being none, the session is suspended for one minute.

It was 4:27 p.m.

RESUMPTION OF SESSION

At 4:28 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. Just a few more minutes, with the indulgence of the sponsor, before I yield the Floor to Senator Gordon.

On page 34, we are deleting Sections 27 and 28 on the *Judicial Authorization Required to Examine Bank Deposits, Accounts, and Records*. Does this mean that the bank deposits can be examined even without court authorization? Or is that covered by other sections?

Senator Lacson. It is just a restatement of terrorist financing under Republic Act No. 10168, Mr. President, *iyong* effectively amending the Anti-Money Laundering Act, Mr. President.

Sa language nga nila, Mr. President, surplusage, already provided by other laws.

Senator Drilon. Yes, Mr. President.

On page 40, Section 32, which is on bank inquiry and examination, does the law enforcer need authority from the court to examine bank accounts in case the court declares an organization as a terrorist organization? In other words, would mere designation as a terrorist organization authorize the law enforcement to examine and open bank accounts?

Senator Lacson. The provision under RA 10168 is applicable here, Mr. President.

Senator Drilon. For the education of this representation, what are those, Mr. President? Because the way I read this Section 32, as amended, it says, “UPON ORDER OF THE COURT DECLARING AN ORGANIZATION, ASSOCIATION, OR GROUP PERSONS AS TERRORIST OR AN OUTLAWED ORGANIZATION OR ASSOCIATION IN ACCORDANCE IN SEC. 24 x x x LAW ENFORCEMENT OFFICERS OR MILITARY PERSONNEL, THRU THE ANTI-MONEY LAUNDERING COUNCIL, MAY CONDUCT AN INQUIRY AND EXAMINATION INTO THE BANK ACCOUNTS AND INVESTMENTS OF SUCH ORGANIZATION, ASSOCIATION, GROUP OF PERSONS OR INDIVIDUAL.” In other words, the situation here is, upon being declared as a terrorist organization without any further need of a court authorization, the bank accounts may be opened through the Anti-Money Laundering Council.

Senator Lacson. Mr. President, under Sec. 11 of the Anti-Money Laundering Act, ATC “is hereby authorized to issue an *ex parte* order to freeze without delay.” *Nandoon po iyon.* This is with reference to the Anti-Money Laundering Act.

Senator Drilon. So, there is an act of the court to freeze?

Senator Lacson. Yes, Mr. President.

Senator Drilon. But would that requirement be dispensed with the way Section 32 is proposed to be amended? Because the way I envisioned Section 32 is, to declare an organization as a proscribed organization, the law enforcement, through the Anti Money Laundering Council, may conduct an inquiry and examine the bank accounts and investments of such organization, then, it says, "SUCH INQUIRY AND EXAMINATION SHALL BE IN ACCORDANCE WITH REPUBLIC ACT NO. 9160."

The problem here, Mr. President, that I see is, while one sentence already implies that it can be done without any court order, the second sentence says, the inquiry shall be in accordance with Republic Act No. 9160 which requires a court order. Can the good sponsor clarify this?

Senator Lacson. We are not amending the provisions under the Anti-Money Laundering Act, as amended by RA 10168 or the Terrorism Financing Act. *Wala po tayong ginagalaw doon.*

Senator Drilon. I know, but what does that mean, Mr. President? Just for the record, for the education of this representation. Once an organization is declared as an outlawed organization in accordance with Section 24 and an order of proscription is issued, that authority would be enough for the AMLC to open the accounts of the terrorist organization.

Senator Lacson. That is correct, Mr. President, as provided under Section 11 of the Terrorism Financing Act or RA 10168.

Senator Drilon. Now, is it not the court order in those instances refers...

Senator Lacson. No more, Mr. President. It says here: “*Authority to Freeze.* – The AMLC, either upon its own initiative xxx.” I am quoting Section 11 of RA 10168.

Senator Drilon. Yes, but that is the authority to freeze, Mr. President.

Senator Lacson. That is correct, Mr. President.

Senator Drilon. But what about the authority to examine?

Senator Lacson. That is under Section 10, Mr. President. Section 10 states that: “Section 10. *Authority to Investigate Financing of Terrorism.* - The AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to investigate xxx.”

Senator Drilon. All right. I guess I have exhausted the good portion of our issues, may we just be permitted to raise additional clarificatory question once the amendments are introduced in accordance with our interpellation this afternoon.

Senator Lacson. Certainly, Mr. President. My mindset and attitude have not changed. Anything that will improve the final version of this measure is most welcome.

Senator Drilon. That is good, Mr. President, because, indeed, we have a common purpose here--to strengthen our ability to fight terrorism. But at the same time, we are conscious of our obligation to make sure that abuses are not committed in the name of fighting terrorism because the line is not very clear

and so, therefore, we will just await the period of amendments and we reserve the right, with the permission of the good sponsor, to raise clarificatory questions when the amendments are introduced.

Senator Lacson. Mr. President, we thank the distinguished Minority Leader in that regard.

Senator Drilon. Mr. President, *para hindi na po sabihin na walang kamatayan, wala na akong itatanong. [Laughter]*

Thank you, Mr. President.

Senator Lacson. Thank you, Mr. President.

The President. All right. Is Senator Gordon going to interpellate?

Senator Gordon. Yes, Mr. President.

The President. Can we have a few minutes of break before we do so?

Senator Gordon. All right, Mr. President.

SUSPENSION OF SESSION

The President. With the permission of the Body, the session is suspended for a few minutes, if there is no objection. *[There was none].*

It was 4:39 p.m.

RESUMPTION OF SESSION

At 5:17 p.m., the session was resumed.

The President. The session is resumed.

Before the break, Senator Lacson was still on the Floor, still on the Anti-Terrorism bill, Senate Bill No. 1083, and the Minority Leader terminated his interpellation.

I would like to take this opportunity to correct myself in the last session that the Minority Leader did not give me a bamboo tray. He did give me a bamboo tray last December but I lost it. So, he is giving me another one today.

Senator Zubiri. I would like to also thank him, Mr. President, because he is apparently giving me one today.

The President. Thank you very much.

Yes, Senator Pimentel.

Senator Pimentel. I confirm receipt of the bamboo tray.

Senator Zubiri. Mr. President, *ini imbestigahan ko pa kung sino ang nag-uwi ng aking bamboo tray. [Laughter] Kaya talagang delikado siya sa akin.* Is it there? Can I see it?

The President. So, again, to continue the interpellation, Mr. President.

Senator Zubiri. Mr. President, I ask that we recognize Senator Gordon.

The President. Sen. Richard J. Gordon is recognized to interpellate.

Senator Gordon. Thank you very much, Mr. President.

I think a few questions have already been clarified.

This is really for further clarification in case the matter gets into the Supreme Court sometime in the future. Hopefully, if we clarify this, the Supreme Court will have an easier time.

Now, Mr. President, in the matter of proscription, when proscription occurs--just a very quick question--does that automatically or, at least, at the very least, allow the government to start freezing assets?

Senator Lacson. Yes, Mr. President.

Senator Gordon. And, Mr. President, under the Dangerous Drugs Act, when assets are frozen after a case, it is immediately forfeited in favor of the government. Now, in this particular case, we are following the AMLA procedure.

Senator Lacson. That is correct, Mr. President.

Senator Gordon. We go to AMLA and then we go to the courts?

Senator Lacson. The AMLA will file ex parte, too, Mr. President. And the Court of Appeals will issue the freeze order.

Senator Gordon. Now, my final question, Mr. President: Where did the frozen assets go?

Senator Lacson. It will go to AMLA in the meantime, Mr. President.

Senator Gordon. AMLA *pa rin*.

Senator Lacson. Yes, Mr. President.

Senator Gordon. So, it is under the AMLA.

Senator Lacson. It is under the AMLA, Mr. President.

Senator Gordon. All right, just to be clarified, Mr. President.

Thank you, Mr. President. That is all.

Senator Lacson. Thank you, Mr. President.

The President. We have just witnessed a miracle. *[Laughter]*

Senator Zubiri. We should have the doctor checked our distinguished senator from Zambales, Mr. President.

Senator Gordon. I know that everyone misses my interpellation, so I wanted to disappoint everyone this time. *[Laughter]*

Senator Zubiri. Mr. President, since no other member wishes to interpellate, I move that we close the period of interpellation of Senate Bill No. 1083.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, I ask that we recognize the Minority Leader, Sen. Franklin Drilon.

The President. The Minority Leader, Sen. Franklin Drilon, is recognized.

MOTION OF SENATOR DRILON
(Suspension of the *Rules of the Senate*)

Senator Drilon. Mr. President, we have extensively studied the measure and it is extremely difficult. There are a lot of implications on every provision and it involves the study of so many laws. The good sponsor is the one who is most familiar with the bill as he is the one who drafted it. It is a substitute bill and under our *Rules*, there can be no committee amendments and, therefore, we proceed with the individual amendments.

May I move, Mr. President, that in the period of amendments, the *Rules* be suspended in order to allow the committee to introduce committee amendments so that we can have a better appreciation of how the bill will look like with the amendments submitted by the committee. Otherwise, if we proceed with the individual amendments, we will find it very difficult, and would hardly understand what the bill is all about.

The President. All right.

Senator Drilon. So, that is, if it is in order, Mr. President, I would so move.

The President. All right. With the approval of the members, we may do so. So the motion of the Minority Leader may be approved by the Body.

Technically, it is the individual amendment of the sponsor, but given the manifestation that the Minority Leader has placed on record, I do not see any problem at all.

Is there any objection? *[Silence]* There being none, the motion of the Minority Leader is approved.

Senator Zubiri. Thank you, Mr. President.

The President. We will recognize Senator Lacson during the period of amendments.

Senator Zubiri. We would like to ask Senator Lacson if he would ask for another day?

Senator Lacson. I concur, Mr. President. It would be a privilege.

Senator Zubiri. Is the good sponsor ready to open the period of amendments or not yet?

Senator Lacson. Not yet, Mr. President. We have to consolidate and review the interpellation.

Senator Zubiri. Actually, that makes a lot of sense, Mr. President. All the discussions that we had on the Floor, we will incorporate them into amendments so that we will have a proper flow of the amendments from page one up to the last page. Unlike, if individually, if we all provide our

amendments, *ang mangyayari niyan, magkakagulo tayo*; back to page one every time somebody stands up. So, that makes sense, Mr. President.

The President. Of course, it will become a new working draft from the sponsor.

Senator Zubiri. That is correct, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 1083

Mr. President, while waiting for the committee amendments, I move that we suspend consideration of Senate Bill No. 1083.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING S. No. 1240—Bamboo Industry Development Act of 2019 *(Continuation)*

Senator Zubiri. Mr. President, with the permission of the Body, I move that we resume consideration of Senate Bill No. 1240 as reported out under Committee Report No. 31.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1240 is now in order.

Senator Zubiri. Mr. President, the parliamentary status of this measure is that we are in the period of interpellations.

We still have one more interpellator but I believe Sen. Bong Revilla has agreed to no longer interpellate and just provide amendments on this measure.

We thank the good senator for that. Therefore, we move to close the period of interpellations.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Mr. President, I ask that we recognize the sponsor of the measure, Sen. Aquilino “Koko” Pimentel III, for his committee amendments.

The President. Senator Pimentel is recognized for the period of amendments.

Senator Pimentel. Actually Mr. President, we are still in the period of interpellation, so, my motion is if we can close it...

The President. It is closed already. We already closed it.

MANIFESTATION OF SENATOR PIMENTEL
(Coauthorship of Senators Revilla, Binay, Gordon, and Drilon
of S. No. 1240)

Senator Pimentel. Before I proceed, I would like to manifest the request of Senators Revilla and Binay to be recorded as coauthors of the measure, including Senator Gordon, Mr. President.

The President. All right, we place it on record.

How about the bamboo guy from Iloilo?

Senator Pimentel. They are originally coauthors already, Mr. President. Senator Zubiri, Senator Drilon, and Senator Villar are original authors.

Senator Zubiri. Mr. President, for the record, this is the beautiful bamboo tray from Iloilo made by the Carmelite Missionaries gifted to us by the distinguished Minority Leader. It is very beautiful.

The President. All right. Thank you again.

Senator Pimentel. So, I stand corrected, Mr. President, we include Senator Drilon as coauthor.

The President. All right. Thank you.

Senator Pimentel. So, at this point, Mr. President, there are not less than nine proposed amendments. We have not yet finalized the exact wording of that nine, Mr. President. So, if we can schedule this for tomorrow, we will be ready by tomorrow.

The President. Majority Leader, the sponsor is requesting for a postponement for tomorrow on the period of amendments.

Senator Zubiri. Yes, Mr. President. I believe the distinguished sponsor was approached by the chairman of the Committee on Agriculture, Food and Agrarian Reform, Sen. Cynthia Villar, in the lounge to include certain amendments and to include programs on the measure. So, I believe the good gentleman will still have to review that and probably be able to propose tomorrow.

Senator Pimentel. I will be proposing nine individual amendments but the authorship can be traced back to... four of them from the Minority Leader, four from Senator Villar, and then one is a joint amendment by Senators Binay and Revilla. That is the case, Mr. President.

So, the bottom line is, can we schedule this for tomorrow?

Senator Zubiri. Yes, absolutely, Mr. President.

The President. Yes.

Senator Pimentel. Thank you, Mr. President.

Senator Zubiri. Right now, the Senate President is the only one in the agenda tomorrow until our other committee chairperson can come up with their committee reports. *[Laughter]* *Wala na tayong* topic.

May I make an appeal to my colleagues to fast-track their committee reports.

The President. To hasten their committee reports.

Senator Zubiri. Yes, Mr. President.

MANIFESTATION OF SENATOR PIMENTEL
(Coauthorship of Senators Villanueva and Tolentino of S. No. 1240)

Senator Pimentel. Mr. President, Senator Villanueva also requested to be a coauthor and Senator Tolentino has also manifested.

The President. All right. We place that on record.

Senator Pimentel. Thank you, Mr. President.

SUSPENSION OF CONSIDERATION OF S. NO. 1240

Senator Zubiri. Mr. President, I move that we suspend consideration of Senate Bill No. 1240.

The President. Is there any objection? *[Silence]* There being no objection, the motion is approved.

MOTION OF SENATOR ZUBIRI
(Transfer of Referral of S. No. 1138 from the Committee on Local Government to the Committee on Agriculture, Food and Agrarian Reform as Primary Committee and Committee on Local Government as the Secondary Committee)

Senator Zubiri. Just administrative matters, Mr. President. With the consent of the Body, after consulting the chairpersons of the concerned

committees, I move that we transfer the referral of Senate Bill No. 1138--this is An Act Strengthening Local Government Participation in Agriculture Development by Institutionalizing a Ten Percent (10%) Budgetary Allocation from their Internal Revenue Allotment--from the Committee on Local Government to the Committee on Agriculture, Food and Agrarian Reform as primary committee and the Committee on Local Government will become the secondary committee.

I believe the chairman of the Committee on Local Government agrees to the change of referral, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Thank you, Mr. President.

There is a Second Additional Reference of Business, Mr. President. This is just a short list.

The President. The Secretary will proceed with the Second Additional Reference of Business.

SECOND ADDITIONAL REFERENCE OF BUSINESS

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 310, entitled

RESOLUTION CREATING A SELECT OVERSIGHT COMMITTEE ON
INTELLIGENCE AND CONFIDENTIAL FUNDS, PROGRAMS
AND ACTIVITIES

Introduced by Senators Sotto III and Lacson

The President. Referred to the Committee on Rules.

The Secretary. Proposed Senate Resolution No. 311, entitled

RESOLUTION DIRECTING THE PROPER SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION AND WITHIN THE CONTEXT OF THE PROGRAMME FOR INTERNATIONAL STUDENT ASSESSMENT (PISA) RESULTS, IN ORDER FOR THE SENATE TO ALIGN ITS LEGISLATIVE INITIATIVES AND BUDGETARY PRIORITIES WITH THE VISION OF THE DEPARTMENT OF EDUCATION AS IT PIVOTS ITS FOCUS FROM ACCESS TO QUALITY IN THE BASIC EDUCATION SECTOR, AND TO SUSTAIN THE BOLD EFFORTS OF OTHER STAKEHOLDERS TO IMPROVE THE EDUCATION SYSTEM AND MAKE IT INSTRUMENTAL TO DEVELOPING THE COUNTRY'S HUMAN CAPITAL AND SERVE AS A MAJOR CATALYST TO NATIONAL DEVELOPMENT

Introduced by Senator Gatchalian

The President. Referred to the Committee on Basic Education, Arts and Culture

The Secretary. Proposed Senate Resolution No. 312, entitled

RESOLUTION EXPRESSING THE SENSE OF THE SENATE FOR THE PRESIDENT TO RECONSIDER HIS PLAN TO UNILATERALLY WITHDRAW FROM THE VISITING FORCES AGREEMENT WITH THE UNITED STATES OF AMERICA

Introduced by Senators Sotto, Lacson, and Drilon

The President. Referred to the Committees on Foreign Relations; and National Defense and Security, Peace, Unification and Reconciliation

The Majority Leader is recognized.

ADJOURNMENT OF SESSION

Senator Zubiri. With that, Mr. President, there being no other matters to take up today, I move that we adjourn the session until three o'clock in the afternoon, Tuesday, February 4, 2020.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock in the afternoon, Tuesday, February 4, 2020.

It was 5:30 p.m.

WEDNESDAY, FEBRUARY 19, 2020

OPENING OF THE SESSION

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

The President. The 57th session of the Senate in the First Regular Session of the Eighteenth Congress is hereby called to order.

Sen. Imee R. Marcos will lead the Chamber in prayer.

Everybody rose for the prayer.

PRAYER

Senator Marcos.

Father, You are the Lord and the one true master of our beautiful nation. Nothing that happens in this country, may it be good or evil, ever escapes You. Nor are You ever caught by surprise, like us, hapless and vulnerable.

It is thus that we beseech You today to protect us from all evil, from enemies both natural and human, from new and mutating diseases, from nature's calamities and endless conflict. Protect us, O Lord, from the greed and avarice of men and nations.

Lord, by the authority You have given us, the senators of this blessed republic, we beg for Your mercy and the protection of our people, for every Filipino in pain, in poverty, and in sickness.

Today, we declare and decree that with You, we shall fight the enemies, illegal drugs, corruption, terrorism, and the scourge of godlessness that plague our nation.

Take charge, O Lord; protect and guide us so that once again
Your glory will fill our islands, the Philippines.

In the name of Jesus we believe and pray.

Amen.

ROLL CALL

The President. The Secretary will please call the roll.

The Secretary, reading:

| | |
|--|----------|
| Senator Sonny Angara..... | Present |
| Senator Maria Lourdes Nancy S. Binay..... | Present |
| Senator Pia S. Cayetano..... | Present |
| Senator Leila M. de Lima..... | * |
| Senator Ronald “Bato” M. dela Rosa..... | Present |
| Senator Franklin M. Drilon..... | Present |
| Senator Win Gatchalian..... | Present |
| Senator Christopher Lawrence T. Go..... | Present* |
| Senator Richard J. Gordon..... | Present |
| Senator Risa Hontiveros..... | Present |
| Senator Panfilo M. Lacson..... | Present |
| Senator Manuel “Lito” M. Lapid..... | Present |
| Senator Imee R. Marcos..... | Present |
| Senator Emmanuel “Manny” D. Pacquiao | Present |
| Senator Francis “Kiko” Pangilinan | Present |
| Senator Aquilino "Koko" Pimentel III | |
| Senator Grace Poe | Present |
| Senator Ralph G. Recto | Present |
| Senator Ramon Bong Revilla Jr. | Present |
| Senator Francis “Tol” N. Tolentino..... | Present |
| Senator Joel Villanueva | Present |
| Senator Cynthia A. Villar | Present |
| Senator Juan Miguel F. Zubiri | Present |
| The President | Present |

The President. With 20 senators present, the Chair declares the presence of a quorum.

The Majority Leader is recognized.

Senator Zubiri. Thank you, Mr. President.

ACKNOWLEDGMENT OF GUESTS

Mr. President, before we take up official matters, we just have some guests in the gallery.

The chairperson of the Commission on Higher Education (CHED), our dear friend, Dr. J. Prospero E. De Vera III, is here with us.

We have also Mayor Jennifer “Ina Alegre” Cruz of Pola, Oriental Mindoro and our Binibining Pilipinas 2020 candidate, Patricia Garcia—the guests of Senator Recto and Senator Go.

The President. We welcome all our guests to the Senate this afternoon.

THE JOURNAL

Senator Zubiri. Thank you, Mr. President.

Mr. President, I move that we dispense with the reading of the *Journal* of the 56th session, Tuesday, February 18, 2020, and consider it approved.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

The Majority Leader is recognized.

* Under detention

Senator Zubiri. While we are waiting for the guest of Sen. Pia Cayetano to enter the gallery for her sponsorship speech, I move that we proceed to the Reference of Business.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

The Secretary will read the Reference of Business.

REFERENCE OF BUSINESS

MESSAGE FROM THE HOUSE OF REPRESENTATIVES

The Secretary.

February 17, 2020

The Honorable
VICENTE C. SOTTO III
President of the Senate
Room 606, 211 & 24
New Wing 5th Floor, GSIS Building
Financial Center, Diokno Boulevard
Pasay City

Mr. President:

I have been directed to inform the Senate that the House of Representatives on even date passed House Bill No. 137, entitled:

“AN ACT IMPOSING STIFFER PENALTIES FOR CHILD ABUSE, EXPLOITATION AND DISCRIMINATION, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7610, AS AMENDED”

to which it requests the concurrence of the Senate.

Respectfully yours,

(Sgd.) JOSE LUIS G. MONTALES
Secretary General

The President. Referred to the Committees on Justice and Human Rights; and Women, Children, Family Relations and Gender Equality

BILLS ON FIRST READING

The Secretary. Senate Bill No. 1360, entitled

AN ACT MAKING THE POSITION OF A COOPERATIVE OFFICER MANDATORY IN THE MUNICIPAL, CITY AND PROVINCIAL LEVELS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7160, OTHERWISE KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

Introduced by Senator Hontiveros

The President. Referred to the Committees on Local Government; and Cooperatives

The Secretary. Senate Bill No. 1361, entitled

AN ACT MANDATING BANKING INSTITUTIONS TO STRENGTHEN
THE FINANCING SYSTEM FOR AGRICULTURAL, FISHERIES,
AND RURAL DEVELOPMENT IN THE PHILIPPINES AND FOR
OTHER PURPOSES

Introduced by Senator Angara

The President. Referred to the Committees on Agriculture, Food and Agrarian Reform; and Banks, Financial Institutions and Currencies

The Secretary. Senate Bill No. 1362, entitled

AN ACT CREATING A FRAMEWORK FOR THE SUSTAINABLE
DEVELOPMENT GOALS

Introduced by Senator Cayetano

The President. Referred to the Committee on Sustainable Development Goals, Innovation and Futures Thinking

The Secretary. Senate Bill No. 1363, entitled

AN ACT PROVIDING FOR PROTECTION OF THE REMITTANCES
OF OVERSEAS FILIPINO WORKERS (OFWs), AND FOR
OTHER PURPOSES

Introduced by Senator Pacquiao

The President. Referred to the Committees on Banks, Financial Institutions and Currencies; and Labor, Employment and Human Resources Development

The Secretary. Senate Bill No. 1364, entitled

AN ACT REDUCING FOOD WASTE THROUGH FOOD DONATIONS
AND FOOD WASTE RECYCLING

Introduced by Senator Pacquiao

The President. Referred to the Committees on Agriculture, Food and Agrarian Reform; Social Justice, Welfare and Rural Development; and Ways and Means

RESOLUTIONS

The Secretary. Proposed Senate Resolution No. 326, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF MARTIAL LAW IN MINDANAO PURSUANT TO PROCLAMATION NO. 26, ISSUED BY PRESIDENT RODRIGO R. DUTERTE ON 23 MAY 2017, WITH THE END IN VIEW OF CHRONICLING THE ACCOMPLISHMENTS AND LEARNINGS DURING THE PERIOD, DETERMINING WHETHER OR NOT THE REBELLION IN THE REGION WAS PUT UNDER CONTROL, AND EXACTING ACCOUNTABILITY ON HOW PUBLIC FUNDS WERE SPENT, THE NUMBER OF ARRESTS MADE AND CASES FILED, HOW THE GOVERNMENT DEALT WITH HUMAN RIGHTS VIOLATIONS IN THE REGION, AND HOW THE GOVERNMENT IS HELPING IN THE REHABILITATION OF THE REGION

Introduced by Senator De Lima

The President. Referred to the Committee on National Defense and Security, Peace, Unification and Reconciliation

The Secretary. Proposed Senate Resolution No. 327, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED REPORTS OF HISTORICAL REVISIONISM PROPAGATED USING THE OFFICIAL GAZETTE, AND INTO THE REPORTED DELETION AND INACCESSIBILITY OF DOCUMENTS AND VITAL INFORMATION THEREIN, TO ENSURE THAT THE RELIABILITY AND VERACITY OF MATTERS CONTAINED THEREIN ARE HELD SACRED AND PRESERVED WITH UTMOST DILIGENCE

Introduced by Senator De Lima

The President. Referred to the Committee on Public Information and Mass Media

The Secretary. Proposed Senate Resolution No. 328, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE CONTINUED FLIGHTS FROM CHINA AND ITS SPECIAL ADMINISTRATIVE REGIONS, IN VIOLATION OF THE TRAVEL BAN AND PUTTING FILIPINOS AT RISK

Introduced by Senator Marcos

The President. Referred to the Committee on Public Services

The Secretary. Proposed Senate Resolution No. 329, entitled

RESOLUTION DIRECTING THE APPROPRIATE SENATE COMMITTEES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE NATIONAL WATER PROGRAMS, ACTIVITIES, AND PROJECTS BEING IMPLEMENTED BY THE GOVERNMENT TO ENSURE ADEQUATE SUPPLY OF WATER THROUGHOUT THE COUNTRY AND TO ENSURE THAT A WATER CRISIS IS AVERTED

Introduced by Senator Villanueva

The President. Referred to the Committees on Public Works; and Environment, Natural Resources and Climate Change

COMMUNICATIONS

The Secretary. Letters from the Bangko Sentral ng Pilipinas, transmitting to the Senate copies of the following certified and authenticated BSP issuances in compliance with Section 15 (a) of Republic Act No. 7653 (The New Central Bank Act):

Memorandum Nos. M-2020-001 and 002 both dated 30 January 2020;
and Circular No. 1072 dated 31 January 2020.

The President. Referred to the Committee on Banks, Financial Institutions and Currencies

COMMITTEE REPORT

The Secretary. Committee Report No. 51, prepared and submitted jointly by the Committees on Basic Education, Arts and Culture; Youth; Ways

and Means; and Finance, on Senate Bill No. 1365, with Senators Gatchalian and Binay as authors thereof, entitled

AN ACT INSTITUTIONALIZING THE ALTERNATIVE LEARNING SYSTEM IN BASIC EDUCATION FOR OUT-OF-SCHOOL YOUTH, ADULTS, AND CHILDREN IN SPECIAL EXTREME CASES AND APPROPRIATING FUNDS THEREFOR

recommending its approval in substitution of Senate Bill No. 740.

Sponsor: Senator Gatchalian

The President. To the Calendar for Ordinary Business

The Majority Leader is recognized.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Thank you, Mr. President.

Mr. President, we would just like to acknowledge the guests of Sen. Pia Cayetano in the gallery.

We have with us the distinguished secretary of the Department of Finance, Sec. Carlos G. Dominguez; former Prime Minister Cesar Virata; former DOF Sec. Margarito Teves; Sec. Ramon M. Lopez of the DTI, my good friend; Sec. Ernesto Pernia of the NEDA; Usec. Karl Kendrick T. Chua; Usec. Ceferino S. Rodolfo of the DTI; the governor of the Management Association of the Philippines (MAP); chairman of the Tax Committee of PCCI, Atty. Benedicta A. Du-Baladad; Mr. Jeffrey T. Ng, chairman of the Subdivision and Housing Developers Association, Incorporated; Mr. Filomeno Sta. Ana, coordinator of the Action for Economic Reforms; Dr. Epictetus Patalinghug, professor emeritus of the UP Virata School of Business; and Dr. Recide, professor of the UP School of Economics.

We also have with us guests from Dagupan City, Coun. Cisco Jay Flores and Atty. Idel Morales, Mr. President.

The President. We would like to welcome our distinguished guests to the Senate this afternoon.

SPECIAL ORDER

Senator Zubiri. Mr. President, with the permission of the Body, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 50 on Senate Bill No. 1357, entitled

AN ACT REFORMING THE CORPORATE INCOME TAX AND INCENTIVES SYSTEM, AMENDING FOR THE PURPOSE SECTIONS 4, 20, 27, 28, 34 AND 290 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND CREATING THEREIN NEW TITLE XIII, AND FOR OTHER PURPOSES

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING

S. No. 1357—Corporate Income Tax and Incentives Reform Act or CITIRA

Senator Zubiri. Mr. President, I move that we consider Senate Bill No. 1357 as reported out under Committee Report No. 50 by the Committee on Ways and Means.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Senate Bill No. 1357 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1357, entitled

AN ACT REFORMING THE CORPORATE INCOME TAX AND INCENTIVES SYSTEM, AMENDING FOR THE PURPOSE SECTIONS 4, 20, 27, 28, 34 AND 290 OF THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND CREATING THEREIN NEW TITLE XIII, AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 1357

[Insert]

The President. Majority Leader.

Senator Zubiri. Mr. President, may we recognize the distinguished sponsor, the chairperson of the Committee on Ways and Means, Sen. Pia Cayetano.

The President. The distinguished lady from Taguig and Pateros is recognized to sponsor the measure.

Senator Cayetano. Thank you, Mr. President.

SUSPENSION OF SESSION

Mr. President, may I ask for a one-minute suspension of the session while we set up the screen?

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 3:11 p.m.

RESUMPTION OF SESSION

At 3:14 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

ACKNOWLEDGMENT OF GUESTS

Senator Zubiri. Before we recognize the distinguished sponsor, we would just like to recognize the guests in the gallery.

We have with us Representative Suarez and Representative Suansing.

The President. Yes, we would like to welcome to the Senate Representative Suansing and the debonair governor of Quezon who is now a congressman, Representative Suarez.

Senator Zubiri. Mr. President, I ask that we recognize Sen. Pia Cayetano.

The President. Yes, Sen. Pia Cayetano has the Floor.

SPONSORSHIP SPEECH OF SENATOR CAYETANO

Senator Cayetano. Thank you, Mr. President.

Mr. President, distinguished colleagues, today I rise to sponsor and seek your support for Senate Bill No. 1357, per Committee Report No. 50, also known as the CITIRA bill, which has two main objectives: 1) lowering the corporate income tax rate; and 2) modernizing the tax incentive system, making it more fair, efficient, and accountable.

Mr. President, from the onset, let me clarify a major issue. A major source of resistance to this bill is the fear that incentives will be removed once this measure is enacted. This will not be the case. In truth, what we intend to do is to continue a sound investment scheme, the details of which this representation will explain as we go along.

Having said that, allow me to start with a bit of history.

I am sure that both Senate President Sotto and Senate Minority Leader Drilon, the leaders of both sides of this Chamber, would also know from their experience that since a bill on rationalizing tax incentives was first proposed in 1995, the Department of Finance and the Department of Trade and Industry have urged Congress to finally make this crucial reform happen.

But even further down memory lane, when I was a college student in the School of Economics in the University of the Philippines, my father, the late Sen. Rene Cayetano, was a member of the Batasan and was appointed as the deputy minister for Trade and Industry and concurrently administrator of the Export Processing Zone Authority (EPZA). I had the opportunity to visit the export processing zones in Bataan, Baguio, and Cebu. In fact, my thesis was on fiscal incentives. This was in 1985.

But here we are today in the year 2020. Mr. President, in the series of hearings and meetings we conducted, we gave members of the business community, civil society, the academe, government, and business associations the opportunity to share their views in depth. The DOF and the DTI also held their own briefings with key stakeholders. The bill before us is a new and fairer deal between businesses and the Filipino people.

So, Where Are We Now and What Are We Doing?

We are cognizant that Philippine enterprises are the backbone of the economy and that they contribute to national development by supplying much-needed employment and livelihood. And yet, companies doing business in the

Philippines are slapped with a 30% corporate income tax rate, the highest in the region.

May I direct the Body's attention to the screen where it shows the Philippines on the far rate with the highest corporate income tax.

To address this, we will bring down the corporate income tax rate from 30% to 20% over the next 10 years. This should result in some 1.5 million more jobs, a feat I am certain that we can accomplish. So far, we have already provided millions of jobs to the economy. We believe that the reduction of 1% per year is the pace that does not compromise the country's vital fiscal resources.

However, Mr. President, we cannot talk about the corporate tax regime without earnestly discussing the tax regime for companies that have received unreviewed, and almost unconditional special tax treatment for decades.

From 2015 to 2017, the Philippine government granted more than P1 trillion in tax incentives in the form of exemptions and tax discounts to various companies.

In 2017 alone, the government granted billions of pesos to a select group of some 3,150 businesses. These companies pay an effective rate of 6% to 13% of corporate income tax as opposed to other enterprises that pay the regular 30% corporate income tax.

Let me make this clear again, I mentioned the amount of incentives, Mr. President, not to say that we will scrap them. All we want to do is rationalize them.

Incentives should not be given out to any corporation without the proper conditions. They should be performance-based and targeted, and granted in such a way that would benefit the public by way of providing employment, boosting needed industries, and promoting the growth of less developed areas in the country.

When we give out incentives on behalf of the people, then we are duty bound to ascertain that we get what is rightly due to them. That is the essence of this bill: a fair deal for all, and the best deal for Filipinos.

My point, Mr. President, is that true incentives yield results, like the situation with our neighbors, Singapore and Malaysia. If a tax perk is given without a clear set of conditions, without a time limit, and without adequate oversight, it is not an incentive. It is a giveaway, and our country cannot afford corporate giveaways.

The billions of incentives we granted are equivalent to more than 10% of our 2020 national government budget, around 80% of the budget of the Department of Education (DepEd), and more than four times the amount allocated to the Department of Health.

So, Let Us Discuss the Tax Incentive Principles

With billions of pesos on the line, we need to ensure that the incentives which the government provides are in accordance with the following principles based on international good practices:

1. Performance-based: There should be clear attainment of actual investment, job creation, export, countryside development, and

research and development commitments; else, incentives will only be wasted. *Parang* scholarship grant, *dapat may resulta, pasado sa exam, at maka-graduate.*

2. Targeted: To minimize leakage and to avoid spreading our scarce resources too thinly, tax incentives should be given to activities with significant positive contribution to the economy, or those that really matter for the future, as specified in the Strategic Investment Priorities Plan (SIPP), to be determined by the Board of Investments (BOI);
3. Time-bound: There should be a reasonable time frame for the enjoyment of incentives, and an extension period for companies that perform and contribute to the economy. *Parang* allowance *na ibinibigay ng magulang sa anak, hindi puwedeng habang buhay;* and, finally,
4. Transparent: Monitoring and evaluation of tax incentives should be institutionalized and reported by the government to the public. *Iyong pinaghihirapang buwis ng ordinaryong taxpayer ang ginagamit nating pampondo sa incentives, kaya nararapat lamang na alam ng taumbayan kung saan napupunta ang buwis nila.*

Let me add another principle: the incentive system should be governed well. Currently, there are 13 different investment promotion agencies (IPAs), each with its own charter and mandate that offer different menus of incentives to various industries, sometimes not in line with national priorities, and often

without the DOF or the DTI knowing. As a result, there is no one simple set of incentives that the country may promote to potential investors. This can be very confusing and definitely not investor-friendly.

Another concern is that the number of industries that could potentially get incentives from these IPAs, which is some two-thirds of the economy, also make our incentive system indiscriminately open to just about any activity, and thus open to abuse.

This representation thus proposes that there be: (1) a set of incentives for different projects or activities, depending on the location and industry; and (2) incentives that shall be based on the Strategic Investment Priorities Plan (SIPP), which will be determined by the BOI, in coordination with the Fiscal Incentives Review Board, IPAs, government agencies administering tax incentives, and the private sector. We also propose to expand the functions of the Fiscal Incentives Review Board, a body that currently grants incentives to government-owned or controlled corporations, to also approve all incentives given to private companies, as recommended by the IPAs. We also recommend that this board oversee the IPAs. This much needed governance reform is at the heart of the CITIRA bill.

Before I proceed with more details of the proposed bill, allow me to acknowledge the work of some of our predecessors such as Senator Recto, who filed the first Fiscal Incentives Review Board expansion bill in 2001 and Senator Drilon, who authored the Tax Incentives Management and Transparency Act, or the TIMTA Law, passed in 2015. The law mandates

companies to provide the government with data to estimate the tax incentives they receive, which is now being used to objectively assess our tax incentives. Both senators, along with Senators Lacson and Villar, have also filed in previous congresses bills on fiscal incentives rationalization. We are now building on their ideas to move the reform forward.

I would also like to put on record that our team painstakingly took the time to ease the transition period for investors and minimize the drastic changes the new incentive scheme could bring to their businesses.

Let me now discuss the salient points of the reform as proposed by this representation.

Reduction in the Corporate Income Tax Rate

As mentioned earlier, the corporate income tax rate shall be lowered gradually by one 1% point each year, from the current 30% to 20% by 2029.

We have made the reduction of corporate income tax automatic in our version for the first five years to ensure predictability. By 2025, the reduction can be suspended by the President upon recommendation of the secretary of finance, if the projected deficit target as a percentage of GDP exceeds the programmed deficit.

Modernization of the Fiscal Incentive System

The centerpiece of the country's current tax incentives regime is the income tax holiday or ITH for 4 to 6 years, and the special 5% tax on gross income earned or GIE, in lieu of all taxes, both national and local.

The 5% tax on GIE is granted forever without conditions, even if the firm does not contribute to the economy in terms of jobs and exports at a level commensurate to the amount of incentives given. My dear colleagues, no other country gives incentives forever like we do.

Dear colleagues, it is time to end a regime that distributes costs to the many, and concentrates benefits to the few.

Sunset Provisions

After listening to the concerns and apprehensions of existing investor groups that will be affected by this bill, we came up with terms that address their request for a smoother transition period. This addresses our objective, which is to keep companies and investors here in the country while rationalizing the incentives that we give them.

For Those Granted ITH Only

Existing registered activities granted the income tax holiday shall be allowed to complete the remainder of their income tax holiday period.

For Those Granted 5% GIE But Not Yet Enjoyed

These are the firms with unfinished ITH and a succeeding gross income earned (GIE) of 5%. In their case, their ITH will be allowed to expire on schedule and will be followed by a 5% GIE, with a maximum of 5 years. If the firm has no ITH but is about to go into 5% GIE, they will also enjoy 5% GIE for a maximum of 5 years.

Granted and Currently Enjoying 5% of GIE Forever

Existing registered activities that were granted the 5% tax on GIE, in lieu of all taxes, will be allowed 2 to 7 more years as a transition period, while paying the same rate of 5% GIE. The duration of the proposed transition period is as follows:

- 2 years for those who have been receiving the GIE incentive for more than 10 years;
- 3 years for those who have been receiving the GIE incentive for between 5 and 10 years;
- 5 years for those who have been receiving the GIE incentive for below 5 years, and
- A special 7 years for those that meet any of the following conditions:
 - a. Exporting 100% of their goods and services,
 - b. Employing at least 10,000 Filipino workers, or
 - c. Engaging in highly footloose activities.

In addition, Mr. President, after the sunset period, they will be allowed to apply under the new incentive package where they will be assessed under the new package created by virtue of this bill.

What is the New Incentives Package?

Under our version of CITIRA, a registered activity may be granted an income tax holiday of 2 to 4 years, followed by a special corporate income tax (SCIT) rate that is based on gross income earned (GIE). The special corporate income tax rate will be equivalent to 8% GIE for 2020, 9% for 2021, and 10% for 2022 and onwards.

Like the current system, this shall be in lieu of all other taxes, and can be availed of for 3 to 4 years, depending on the location and activity. This provision preserves the one-stop shop nature of present incentives. We hear

the concerns of investors that they do not want to deal with many government agencies when paying taxes. This is why we retained the “in lieu of” provision and one-stop shop. Based on my discussion with the firms, this particular provision already addresses 90% of their concern.

The initial availment of tax incentives, which includes income tax holiday (ITH) plus the special corporate income tax (SCIT) rate is from 5 to 8 years, depending on the category of the registered activity as indicated on the screen. There are three categories: basic, enhanced, and advance. This is our response to the need to make incentives more targeted to locations that need them and industries that we want to promote.

Duration of the income tax holiday (ITH) and special corporate income tax (SCIT) per category is already shown on the screen, and there is more good news in our version. The availment of special corporate income tax may be extended by 3 to 4 years at a time or more than once, up to a maximum of 12 years, depending on the category, so long as the firm remains true to its performance commitments.

In lieu of the special corporate income tax, the registered activity may instead be granted enhanced deductions shown on the screen subject to the regular prevailing corporate income tax rate. These enhanced deductions incentivize good behavior such as local job creation, exports, and investment in hi-tech. As proposed by the DTI, our enhanced deductions menu was expanded to include deductions for power costs to account for the country’s challenges in this area. The expanded deductions list is shown on the screen.

Like the income tax holiday (ITH) and the special corporate income tax (SCIT), the availment of the enhanced deduction may be extended also for up to 12 years.

And to attract the big investors, like what Vietnam did with Samsung, the President may give incentives for a longer period of up to 40 years for highly desirable projects, provided that the benefit that the public could derive from such investment is clear and convincing and far outweighs the cost of the incentives that will be granted.

Governance of Fiscal Incentives

To ensure that incentives granted are performance-based, time-bound, targeted, and transparent, the present Fiscal Incentives Review Board's function is expanded so that it can provide proper oversight over the IPAs, in the same way that the GCG Law of 2011 created the Governance Commission on GOCCs to oversee the GOCCs and ensure better performance and accountability.

Under our proposal, the Board will be chaired by the DOF and co-chaired by the DTI, with representatives from the Office of the President, DBM, and NEDA.

Let me assure all the officials and employees of the IPAs that we are not abolishing their agencies or cutting down jobs. IPAs will continue to perform their function of promoting investments in the Philippines, receive and process applications, and recommend to the Fiscal Incentives Review Board worthy incentives for approval by the Board. None of them shall lose their jobs

because of this reform. Section 9 of Senate Bill No. 1357 specifically provides: The IPAs shall maintain their functions and powers as provided under the special laws governing them except on the approval of incentives.

Mr. President, esteemed colleagues, allow me to underscore one final point, and this is the urgency of our task ahead. Let us end the uncertainty.

As an economics graduate, Mr. President, I was trained to think of resources, including our fiscal space, as limited. With limited fiscal resources derived from the hard work of our countrymen, we must ask ourselves the following questions as we deliberate on this measure:

1. Should we cut taxes for many, or should we keep conditions loose for the few?
2. Should we move incentives towards Philippine labor and Philippine products, or should we continue privileges that have gained our economy little value-added?
3. When we spend our country's fiscal resources, do we prefer more accountability or less?

On these basic questions of principle, I trust that this Senate of the people has seen the merits of this reform.

Further, as part of our commitment to the United Nations 2030 Agenda for Sustainable Development, all efforts must be exerted to achieve the Sustainable Development Goals (SDGs) by 2030. This is the ideal future, a future where there is no poverty, and where our people and economy thrive.

Rationalizing incentives and lowering the corporate income tax will bring in more investments and provide more jobs for Filipinos. This ensures that we remain on target with SDG 8, which promotes decent work and economic growth; SDG 9, promoting inclusive and sustainable industrialization and fostering innovation; and, of course, SDG 1, which calls for ending poverty in all its forms. This is only the beginning, as working on just one SDG creates a ripple effect on all the other SDGs, especially on hunger, health, education, and equality. A flourishing economy driven by the Filipino people will safeguard the country's future, even beyond 2030.

Dear colleagues, the Body appointed me to be the chair of the Committee on Ways and Means and trusted to study the matter and make recommendations. I humbly ask that we review these proposals, keeping in mind that the greater majority will benefit from the lowering of the corporate income tax and that a rationalized incentives scheme that rewards investments that are result-based will lead to greater prosperity for our nation.

Thank you, Mr. President.

The President. Thank you, Senator Cayetano.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1357

Senator Zubiri. Mr. President, to allow our colleagues to study the measure further, I move that we suspend consideration of Senate Bill No. 1357.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1083—The Law on the Prevention of Terrorist Acts of 2020
(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1083, as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. Mr. President, the status of this measure is that we are in the period of individual amendments.

I ask that we recognize the sponsor, Sen. Panfilo M. Lacson; and to propound amendments, our Minority Leader, Sen. Franklin Drilon.

The President. The gentleman from Cavite, Senator Lacson, chairman of the Committee on National Defense and Security, Peace, Unification and Reconciliation, is recognized; and the Minority Leader, Sen. Franklin Drilon, the gentleman from Iloilo, is recognized to continue with the period of individual amendments.

We will now be using the amended copy as of February 18, 2020.

Senator Drilon. That is correct, Mr. President.

The President. Thank you.

DRILON AMENDMENT

Senator Drilon. Mr. President, on page 1, Section 1, we propose to go back to the text of the original title of the Anti-Terrorism Act as contained in the committee report and change the year to “2020”. If accepted, Section 1 will now

read as follows: SECTION 1. *Short Title.* – This Act shall henceforth be known as “THE ANTI-TERRORISM ACT OF 2020.”

We submit, Mr. President.

The President. What does the sponsor say?

SUSPENSION OF SESSION

Senator Drilon. Mr. President, may we request for a one-minute suspension of the session?

The President. Is there any objection? [*Silence*] There being none, the session is suspended for one minute.

It was 3:39 p.m.

RESUMPTION OF SESSION

At 3:40 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. Mr. President, we have proposed the amendment to Section 1 on the premise that in our discussion with the good sponsor, he has agreed to use the noun “terrorism” to describe the crime rather than “terrorist act” as we explained to the good sponsor that the crimes under the Revised Penal Code are in nouns rather than adjectives. Except for acts of lasciviousness, I do not find any crime in the Revised Penal Code which describes it as an act and always as a noun. It is in that regard that we are proposing amendment to Section 1 so that it is now called the “Anti-Terrorism Act of 2020,” a shorter version which will make reference to the law easier.

Senator Lacson. Thank you, Mr. President.

Initially, I expressed some reservations in using the word “terrorism” as it was revealed during the interpellations that there are at least 109 definitions of

terrorism. However, with the assurance that the word “terrorism” will be adequately and appropriately described in the acts as listed in the measure, then I accept the amendment, Mr. President.

Senator Drilon. Yes, Mr. President. As we explained to the good sponsor, we are not defining “terrorism” as a word but we are defining it by the enumeration of the acts which is the same concept as originally proposed by the good sponsor.

Senator Lacson. Thank you, Mr. President.

I accept the amendment.

The President. The amendment is accepted.

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 2, delete lines 16 to 22, and replace the same with the following:

(A) CRITICAL INFRASTRUCTURE SHALL REFER TO AN ASSET OR SYSTEM, WHETHER PHYSICAL OR VIRTUAL, SO ESSENTIAL TO THE MAINTENANCE OF VITAL SOCIETAL FUNCTIONS OR TO THE DELIVERY OF ESSENTIAL PUBLIC SERVICES THAT THE INCAPACITY OR DESTRUCTION OF SUCH SYSTEMS AND ASSETS WOULD HAVE A DEBILITATING IMPACT ON NATIONAL DEFENSE AND SECURITY, NATIONAL ECONOMY, PUBLIC HEALTH OR SAFETY, THE ADMINISTRATION OF JUSTICE, AND OTHER FUNCTIONS ANALOGOUS THERETO. IT MAY INCLUDE, BUT IS NOT LIMITED TO, AN ASSET OR SYSTEM AFFECTING TELECOMMUNICATIONS, WATER

AND ENERGY SUPPLY, EMERGENCY SERVICES, FOOD SECURITY, FUEL SUPPLY, BANKING AND FINANCE, TRANSPORT, RADIO AND TELEVISION, INFORMATION SYSTEMS AND TECHNOLOGY, CHEMICAL AND NUCLEAR SECTORS.

That is the end of the proposed amendment.

Senator Lacson. It is accepted, Mr. President.

The President. The amendment is accepted.

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Thank you, Mr. President.

On page 5, delete lines 8 and 9, and replace the same with the following:
SECTION 4. *TERRORISM.* – SUBJECT TO SECTION 48 OF THIS ACT, TERRORISM IS COMMITTED BY ANY PERSON WHO, WITHIN OR OUTSIDE THE PHILIPPINES, REGARDLESS OF THE STAGE OF EXECUTION:

And we retain the rest of the enumeration.

The President. Lines 11 to 19.

Senator Drilon. Yes, Mr. President.

The President. What does the sponsor say?

Senator Lacson. We accept, Mr. President, except, of course... Are we tackling already letter (C) or not yet?

The President. Not yet.

Senator Lacson. Only the first paragraph, Mr. President.

The President. Yes, only the first line.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 11, delete the words “Acts that may cause”, and replace the same with ENGAGES IN ACTS INTENDED TO CAUSE. So that line 11 will now read: A. ENGAGES IN ACTS INTENDED TO CAUSE.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 12, add letter S at the end of the word “endanger”. It will now read: ENDANGERS.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 13, delete the phrase “Acts that may cause”, and replace the same with ENGAGES IN ACTS INTENDED TO CAUSE.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 14...

Senator Lacson. On line 16, letter (C), Mr. President.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 3:47 p.m.

RESUMPTION OF SESSION

At 3:47 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon is recognized.

Senator Drilon. On page 5, line 14, we propose to delete the phrase “critical infrastructure” because we will propose later on to create a separate paragraph for “critical infrastructure”.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Still on page 5, delete lines 16 to 17 starting with the word “Development” until the phrase “use of”, and replace the same with DEVELOPS, MANUFACTURES, POSSESSES, ACQUIRES, TRANSPORTS, SUPPLIES OR USES.

I so move, Mr. President.

Senator Lacson. I am inclined to accept, except that I will have to refer this to Senator Marcos because we have adopted the proposed amendment of

Senator Marcos. We would just like to hear her comment, Mr. President. This is about CBRN or the chemical, biological, radiological, and nuclear terrorism.

The President. Senator Marcos is recognized.

Is the lady senator amenable to the proposed amendment which slightly amends her proposed amendments?

Senator Marcos. In principle, Mr. President, I am, but subject to language, inclusion, and prioritizing of cyber terrorism.

Senator Lacson. *Wala pa roon; CBRN pa lamang ito, Mr. President.*

Senator Drilon. *Wala pa tayo ryan, Mr. President.*

The President. Letter (C) *pa lamang.*

Senator Lacson. It is about CBRN *pa lamang. Wala pang* cyber terrorism.

Senator Marcos. CBRN, *sa* chemical, biological, radiological, and nuclear terrorism *pa lamang po?*

Senator Lacson. Yes, Mr. President.

Senator Marcos. All right, Mr. President.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

So, we retain.

Senator Drilon. On the same page, line 17, delete the comma (,) after the word “weapons” and insert the word OR.

Senator Lacson. It is accepted, Mr. President.

The President. What about the next “or”, is the Minority Leader going to amend that? There must be an editorial amendment then.

Senator Drilon. Subject to style, Mr. President.

The President. *Puwede na iyong comma.*

Senator Lacson. Kindly continue, Mr. President, *naputol sa “or”*.

The President. *Oo nga, “or” lamang.* We need to edit this, “weapons OR explosives or of biological, nuclear, radiological or chemical weapons”.

Senator Drilon. We are going to propose the deletion of the phrase “or of biological, nuclear, radiological or chemical weapons” on lines 17 and 18.

The President. Is the Minority Leader going to propose to replace it or not?

Senator Drilon. Yes, Mr. President. We are going to propose to delete that portion.

The President. Yes. But will the Minority Leader replace it or not?

Senator Drilon. No, Mr. President.

The President. That is the problem of Senator Marcos because that is her amendment.

Senator Marcos. Mr. President, inasmuch as it is, in principle, retained, I am amenable to the amendment.

The President. No, it is...

Senator Drilon. We withdraw the amendment if it causes difficulty, Mr. President.

The President. Yes, it will cause.

Senator Drilon. Yes, Mr. President. We are withdrawing the amendment.

The President. All right. The proposed amendment is withdrawn.

Senator Marcos. Thank you very much, Mr. President.

The President. The Minority Leader may proceed with the next amendment.

Senator Drilon. On the same page, after (B), insert the following new paragraph as paragraph (C): ENGAGES IN ACTS INTENDED TO CAUSE EXTENSIVE INTERFERENCE WITH, DAMAGE OR DESTRUCTION TO CRITICAL INFRASTRUCTURE.

Senator Lacson. It is accepted, Mr. President.

The President. It becomes letter what?

Senator Drilon. Letter (C), Mr. President. So, letter (C) on line 16 becomes letter D and letter (D) becomes letter E.

Senator Lacson. It is accepted, Mr. President.

The President. All right. Is there any objection? *[Silence]* There being none, the amendment is approved.

The Minority Leader may proceed.

Senator Drilon. On line 21 of the same page, after the word “intimidate”, insert the phrase THE GENERAL PUBLIC, OR A SEGMENT THEREOF.

Senator Lacson. Then continue with the word “put”?

Senator Drilon. Yes, Mr. President.

The President. Just inserting the phrase.

Senator Drilon. Yes, Mr. President.

The President. What does the sponsor say?

Senator Lacson. Kindly read again the proposed amendment, Mr. President.

Senator Drilon. On page 5, line 21, after the word “intimidate”, insert the words THE GENERAL PUBLIC, OR A SEGMENT THEREOF.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 21, delete the words “put in”, and replace it with CREATE AN ATMOSPHERE OR SPREAD A MESSAGE OF FEAR.

Senator Lacson. That is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 22, delete the phrase “force or induce”, and replace it with PROVOKE OR INFLUENCE BY INTIMIDATION.

Senator Lacson. What is the word again, Mr. President?

Senator Drilon. PROVOKE OR INFLUENCE BY INTIMIDATION.

Senator Lacson. That is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, lines 22 to 23, delete the phrase “or the public to do or to abstain from doing any act”.

Allow me to explain this, Mr. President, because this is a substantial amendment. We are proposing to delete the phrase “or the public to do or to abstain from doing any act” as this phrase makes it difficult to distinguish this with political crimes under the Revised Penal Code. We repeat that, Mr. President: The use of the phrase “or the public to do or to abstain from doing any act” will make this also an act of rebellion. And, therefore, the amendments are aimed to differentiate terrorism from *coup d' etat*, rebellion, and sedition. That is the only purpose, Mr. President.

The President. Can the Minority Leader read now how it will read from lines 21 to 23?

Senator Lacson. Kindly read again, Mr. President, because I want to be clarified if we are retaining the phrase “or seriously destabilize or destroy the fundamental political, economic...”

Senator Drilon. Yes, we are retaining that, Mr. President.

Senator Lacson. All right.

The President. Yes. That is why we want to listen how it will come out.

Senator Drilon. All right. We start from line 21, to read: “when the purpose of such act, by its nature and context, is to intimidate THE GENERAL PUBLIC OR A SEGMENT THEREOF, CREATE AN ATMOSPHERE OR SPREAD A MESSAGE of fear, PROVOKE OR INFLUENCE BY INTIMIDATION the government or any of its international organization or seriously destabilize or

destroy the fundamental political, economic, or social structures of the country, create a public emergency or SERIOUSLY undermine public safety, shall be guilty of committing TERRORISM and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of R.A. No. 10592; *PROVIDED, THAT TERRORISM...*” Well, we can introduce this later.

The President. All right. So, what does the sponsor say?

Senator Lacson. It is accepted. But I would like to hear the comment of Senator Villanueva because he is the proponent of the proviso, Mr. President. “*Provided, That, terrorist acts as defined*”, et cetera.

The President. *Pero mamaya pa iyon.* We are not there yet. We are still on line 24 *pa lamang.*

Senator Lacson. It is accepted, subject to style, because of the comma (,).

Is there any objection? [*Silence*] There being none, the amendment is approved.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, may I ask for a one-minute suspension of the session?

The President. Is there any objection? [*Silence*] There being none, the session is suspended for one minute.

It was 4:01 p.m.

RESUMPTION OF SESSION

At 4:01 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. On line 29, delete the following: “terrorist acts as defined under this Section” until the word “others” on page 6.

I repeat that. On page 5, delete starting with the word “terrorist” on line 29 until the word “others” on page 6, line 2, and replace the same with the following: TERRORISM AS DEFINED IN THIS SECTION SHALL NOT INCLUDE ADVOCACY, PROTEST, DISSENT, STOPPAGE OF WORK, INDUSTRIAL OR MASS ACTION, AND OTHER SIMILAR EXERCISES OF CIVIL AND POLITICAL RIGHTS, WHICH ARE NOT INTENDED TO CAUSE DEATH OR SERIOUS PHYSICAL HARM TO A PERSON, TO ENDANGER A PERSON’S LIFE, OR TO CREATE A SERIOUS RISK TO PUBLIC SAFETY.

Senator Lacson. I am inclined to accept except that this is the amendment introduced by Senator Villanueva which we initially adopted, Mr. President.

So, we would like to hear from Senator Villanueva.

The President. Senator Villanueva is recognized.

Senator Villanueva. Thank you, Mr. President; thank you, distinguished sponsor.

Upon consultation with the distinguished sponsor and upon hearing the statements and the amendments propounded by our distinguished Minority Leader, it looks to me that we are not deviating with the intention of this particular provision, but we are telling out and detailing this particular provision. So, I am amenable, Mr. President, and thank you.

The President. All right. So, there is no objection from the proponent earlier.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

What did the gentleman do with the “terrorist act” on line 25? Is he changing that to TERRORISM?

Senator Lacson. As proposed by Senator Drilon, Mr. President.

Senator Drilon. An omnibus amendment, Mr. President, all references to “terrorist acts” will be replaced with TERRORISM.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Consistent with what we have just proposed as an omnibus amendment, on page 6, line 4, “*Terrorist Acts*” will be replaced with TERRORISM.

The President. *Sunod-sunod iyan*, all sections—omnibus. So, carried already.

Senator Drilon. Yes, Mr. President.

The President. All right.

Senator Drilon. On line 6, we propose to delete the phrase “and one day to twenty (20) years”. So, that it is just “twelve (12) years”, Mr. President.

Senator Lacson. Straight 12 years. We accept, Mr. President.

Senator Drilon. For the record, this is to standardize the penalties.

The President. The same rationale as in the previous proposed amendment.

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On line 25, delete the phrase “eight (8) years and one day to”. So, it will now read:

SECTION 8. *Proposal to Commit TERRORISM.* - Any person who proposes to commit TERRORISM as defined in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On Section 9, again, “*Terrorist Acts*” should simply read as TERRORISM, and we propose to reword Section 9 as follows:

ANY PERSON WHO, WITHOUT TAKING ANY DIRECT PART IN THE COMMISSION OF TERRORISM, SHALL INCITE OTHERS TO THE EXECUTION OF ANY OF THE ACTS SPECIFIED IN ARTICLE 4 HEREOF, BY MEANS OF SPEECHES, PROCLAMATIONS, WRITINGS, EMBLEMS, BANNERS OR OTHER REPRESENTATIONS TENDING TO THE SAME END, SHALL SUFFER THE PENALTY OF IMPRISONMENT OF TWELVE (12) YEARS.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 7, line 5, instead of “26”, it should be 27.

Senator Lacson. It is already stated in the latest copy, Mr. President.

Senator Drilon. All right. I am sorry.

We propose to insert before line 9 the following:

THE SAME PENALTY SHALL BE IMPOSED ON ANY PERSON WHO ORGANIZES OR FACILITATES THE TRAVEL OF INDIVIDUALS TO A STATE OTHER THAN THEIR STATE OF RESIDENCE OR NATIONALITY FOR THE PURPOSE OF RECRUITMENT WHICH MAY BE COMMITTED THROUGH ANY OF THE FOLLOWING MEANS:

- i. RECRUITING ANOTHER PERSON TO SERVE IN ANY CAPACITY IN OR WITH AN ARMED FORCE IN A FOREIGN STATE, WHETHER THE ARMED FORCE FORMS PART OF THE ARMED FORCES OF THE GOVERNMENT OF THAT FOREIGN STATE OR OTHERWISE;
- ii. PUBLISHING AN ADVERTISEMENT OR PROPAGANDA, FOR THE PURPOSE OF RECRUITING PERSONS TO SERVE IN ANY CAPACITY IN OR WITH SUCH AN ARMED FORCE;
- iii. PUBLISHING AN ADVERTISEMENT OR PROPAGANDA CONTAINING ANY INFORMATION RELATING TO THE PLACE AT WHICH, OR THE MANNER IN WHICH, PERSONS MAY MAKE APPLICATIONS TO SERVE, OR OBTAIN INFORMATION RELATING TO SERVICE, IN ANY CAPACITY IN OR WITH SUCH ARMED FORCE OR RELATING TO THE MANNER IN WHICH PERSONS MAY TRAVEL TO A FOREIGN STATE FOR THE PURPOSE OF SERVING IN ANY CAPACITY IN OR WITH SUCH ARMED FORCE; OR
- iv. PERFORMING ANY OTHER ACT WITH THE INTENTION FACILITATING OR PROMOTING THE RECRUITMENT OF PERSONS TO SERVE IN ANY CAPACITY IN OR WITH SUCH ARMED FORCE.

Senator Lacson. Did the gentleman say five, Mr. President? It should be four, after iii, iv.

Senator Drilon. Is it accepted, Mr. President?

Senator Lacson. It is accepted, Mr. President.

The President. Is that the usual practice, we use “i” instead of numbers and “iv” as four?

Senator Lacson. IV, Mr. President.

The President. All right, accepted. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. We are now on page 7, Mr. President, Section 11 on line 16, instead of “*Foreign Terrorist*”, we say TERRORIST TRAVEL so that...

SUSPENSION OF SESSION

Senator Lacson. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 4:11 p.m.

RESUMPTION OF SESSION

At 4:13 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. Mr. President, can we restate the proposed amendments on page 7, line 13, delete the phrase “eight (8) years and one day to” so that the imprisonment is 12 years.

The President. All right. What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Mr. President, we withdraw the amendment on line 16. So, it will retain the present wording of “*Foreign Terrorist.*”

On page 8...

The President. Page 8, “*Providing Material Support to Terrorists.*” Is the gentleman amending that?

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? [*Silence*] There being none, the session is suspended for one minute.

It was 4:14 p.m.

RESUMPTION OF SESSION

At 4:15 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon is recognized.

Senator Drilon. Still on page 7, lines 29 to 31, delete the phrase starting with the words “including acts of” as we have transposed this in an earlier section.

The President. So, we put a period (.) after the word “training”.

Senator Drilon. Yes, Mr. President.

Senator Lacson. It is semicolon (;), Mr. President.

The President. Yes, semicolon (;).

Senator Drilon. Yes, semicolon (;), Mr. President. So, on lines 29 to 31, we delete the phrase “including acts of recruitment which may be committed

through any of the following means:” and insert a semicolon (;) after the word “training”.

Senator Lacson. Up to line 31, Mr. President.

Senator Drilon. Yes, Mr. President.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 8, delete lines 1 to 17 as these were transposed to another section.

The President. I expected that—lines 1 to 17.

Senator Drilon. Yes, Mr. President.

Senator Lacson. That is under Section 10, Mr. President?

Senator Drilon. Yes, Mr. President.

Senator Lacson. It is accepted.

The President. It is already in Section 10 or we are inserting it in Section 10?

Senator Lacson. It is already in Section 10, Mr. President.

The President. All right. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On Section 12, “*Providing Material Support to Terrorists*”, we propose to delete the word “knowingly”, a matter of style. It is also referred to on line 27, the word “known”, et cetera. So, it is just a matter of style, Mr. President.

The President. So, on line 25, delete the word “knowingly”.

Senator Drilon. Yes, Mr. President. We are not changing anything, a matter of style.

The President. “Any person who provides...”

Senator Lacson. Delete the word “knowingly”, Mr. President.

The President. Remove the word “knowingly”.

Senator Drilon. That is correct, Mr. President, because it is also found in the subsequent...

The President. On line 27, “or who should have known”.

Senator Drilon. Just to complete this amendment, Mr. President, on the same page, line 27, delete the phrase “or who should have known” and replace the same with the word KNOWING.

Senator Lacson. It is better, Mr. President. It is accepted.

The President. All right. So, remove the word “knowingly” on line 25, and on line 27, make it KNOWING, replacing the phrase “or who should have known”.

Is there any objection? *[Silence]* There being none, the amendment is approved.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 4:19 p.m.

RESUMPTION OF SESSION

At 4:20 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon is recognized.

Senator Drilon. Mr. President, on page 9, lines 5 to 10, we propose to delete this provision because any person who participates or cooperates in the execution of the crimes of terrorism under Section 4 is guilty of terrorism.

We note that persons who provide material support to terrorists are liable as principals. Therefore, there is no reason why a person who actually cooperated in the execution of the act should be punished with a penalty lower than life imprisonment.

Senator Lacson. It is better, Mr. President. It is accepted.

The President. The Minority Leader does not want a second class criminal? *[Laughter]*

All right. Is there any objection? *[Silence]* There being none, the amendment is approved.

SUSPENSION OF SESSION

Senator Drilon. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 4:22 p.m.

RESUMPTION OF SESSION

At 4:23 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon is recognized.

Senator Drilon. Mr. President, just as a matter of style, please renumber the provisions with the deletion of lines 5 to 10.

The President. The new Section 14.

All right. So renumbered.

Senator Lacson. To avoid confusion, for the purpose of discussion, can we just refer to the old numbering in the meantime, Mr. President?

The President. In the meantime, all right--the one as of February 18.

Senator Drilon. Yes, I agree, Mr. President.

The President. All right.

Senator Drilon. On page 9, line 14, delete the word “and”, as a matter of style.

Just to continue on the same page, lines 14 and 15, after the word “therein”, delete the following phrase: “either as principal or accomplice under Articles 17 and 18 of the Revised Penal Code”.

On the same page, line 21, delete “ten (10) years and one day to”.

On the same page, lines 22 to 23, and up to page 9A, delete lines 24 to 25, and replace the same with the following: NO PERSON, REGARDLESS OF RELATIONSHIP OR AFFINITY, SHALL BE EXEMPT FROM LIABILITY UNDER THIS SECTION.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. We now turn to page 12.

The President. Page 12.

Senator Drilon. On page 12, as line 32, insert the following:

IF NO CASE IS FILED WITHIN THE THIRTY (30)-DAY PERIOD, THE APPLICANT LAW ENFORCEMENT OR MILITARY OFFICIAL SHALL IMMEDIATELY NOTIFY THE PERSON SUBJECT OF THE SURVEILLANCE, INTERCEPTION AND RECORDING OF THE TERMINATION OF THE SAID SURVEILLANCE, INTERCEPTION AND RECORDING. THE PENALTY OF IMPRISONMENT OF SIX (6) YEARS SHALL BE IMPOSED UPON THE APPLICANT LAW ENFORCEMENT OR MILITARY OFFICIAL WHO FAILS TO NOTIFY THE PERSON SUBJECT OF THE SURVEILLANCE, MONITORING, INTERCEPTION AND RECORDING, AS SPECIFIED ABOVE.

FOR PURPOSES OF THIS PROVISION, THE ISSUING COURT SHALL REQUIRE THE APPLICANT LAW ENFORCEMENT OR MILITARY OFFICIAL TO INFORM THE COURT AFTER THE LAPSE OF THE 30-DAY PERIOD OF THE FACT THAT AN APPROPRIATE CASE FOR VIOLATION OF THIS ACT HAS BEEN FILED WITH THE PUBLIC PROSECUTOR'S OFFICE. IF NO SUCH CASE HAS BEEN FILED, SAID APPLICANT LAW ENFORCEMENT OR MILITARY OFFICIAL SHALL BE REQUIRED WITHIN THE SAME PERIOD TO INFORM THE ISSUING COURT THAT THE PERSON SUBJECT OF THE SURVEILLANCE, INTERCEPTION AND RECORDING HAS BEEN NOTIFIED OF THE TERMINATION THEREOF.

Senator Lacson. We are expressing some reservation on the proposed amendment, Mr. President, simply because we conferred with some law enforcement officials and they maintained that there might be some sleeper cells, that if we inform the person, the subject of the surveillance after the lapse of the 60-day or the 90-day period including the extension, there may be sleeper cells that can still operate and they could be warned by the person who was subject of the surveillance.

Senator Drilon. So, the objection is on the first paragraph?

Senator Lacson. Inform. The notification or on first paragraph, "SHALL IMMEDIATELY NOTIFY THE PERSON SUBJECT OF THE SURVEILLANCE, INTERCEPTION AND RECORDING OF THE TERMINATION."

Senator Drilon. In other words, if no case is filed within the 30-day period, the applicant law enforcement shall immediately notify, et cetera, et cetera.

Senator Lacson. If we can just go away with the notification for the reason that I advanced earlier. This is an appeal from the law enforcement officers.

Senator Drilon. We maintain the second paragraph.

Senator Lacson. Except the last portion. It is all right to inform the issuing court.

Senator Drilon. Yes, Mr. President.

Senator Lacson. Mr. President, but the phrase “THAT THE PERSON SUBJECT OF THE SURVEILLANCE, INTERCEPTION AND RECORDING HAS BEEN NOTIFIED OF THE TERMINATION THEREOF.”

Senator Drilon. All right. The first paragraph is not accepted. We are withdrawing the first paragraph, Mr. President.

The President. All right.

Senator Lacson. Informing the court is fine with us, Mr. President.

Senator Drilon. Informing the court, yes, Mr. President. We retain the first sentence of the second paragraph and delete the remaining of the second paragraph.

The President. Perhaps, the Minority Leader is pertaining to starting from “FOR PURPOSES OF THIS PROVISION” all the way to “OFFICE” period (.).

Senator Drilon. If we will just read the second paragraph, it will read:
FOR PURPOSES OF THIS PROVISION, THE ISSUING COURT SHALL REQUIRE THE APPLICANT LAW ENFORCEMENT OR MILITARY OFFICIAL TO INFORM THE COURT AFTER THE LAPSE OF THE 30-DAY PERIOD OF THE FACT THAT AN APPROPRIATE CASE FOR A VIOLATION OF THIS ACT HAS BEEN FILED WITH THE PUBLIC PROSECUTOR’S OFFICE.

That is all, Mr. President. The other proposed amendments are withdrawn.

The President. All right.

Senator Lacson. That is very much appreciated. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 13, line 18, delete the phrase “and one day to twelve (12) years”.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Lacson. Starting with the phrase “six (6) years”.

The President. Is it “imprisonment of six (6) years period(.)”?

Senator Drilon. Yes, Mr. President.

The President. He is removing the “one day to twelve (12) years”.

Is the distinguished sponsor accepting that? Will the gentleman adopt it?

Senator Lacson. Mr. President, just for uniformity and consistency, can we retain the ten years?

The President. Will we consider just the amended line?

Senator Drilon. So that the proposal on line 17 is to delete the phrase “six (6) years” and on line 18, the phrase “and one day to twelve (12) years”. And in lieu of that, TEN (10) YEARS period (.)

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 14, line 6, delete the phrase “eight (8) years and one day to ten (10) years”, and replace the same with SIX (6) YEARS.

Senator Lacson. Can we make it 10 years, Mr. President?

Senator Drilon. Remove the phrase “eight (8) years and one day to ten (10) years” and replace the period with SIX (6) YEARS.

The President. He is proposing a much lower penalty of six years. This is on the *Disposition of Deposited Materials*.

Senator Lacson. That is the subject of our discussion with Senator Pangilinan, Mr. President.

The President. And?

Senator Lacson. And we agreed on 10 years to make it consistent with the other violations of law enforcement officers, Mr. President.

Senator Drilon. So, what is the proposed penalty?

Senator Lacson. Ten years, Mr. President.

The President. So we can remove “eight (8) years and one day to” on lines 23 and 24. So, it shall read: penalized by imprisonment of TEN (10) YEARS.

Senator Drilon. Whenever a violation of law enforcement officer is involved, we should want to retain 10 years, Mr. President, as an added safeguard as proposed by Senator Pangilinan.

The President. All right. Is the amendment to the amendment acceptable to all?

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Consistent with that, Mr. President, on page 20, line 9, delete the phrase “and one day to twelve (12) years”.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 15, line 7, delete the phrase “and one day to twelve (12) years”. So, we will just retain “ten (10) years”.

The President. All right.

What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 15A.

Senator Lacson. Mr. President, before proceeding to page 15A, I recall Senator Pangilinan wanted to restate the provision under RA 9372 on *Unauthorized or Malicious Interceptions and/or Recordings*. Since I accepted the amendment, subject to style, I would like to ask Senator Pangilinan to submit the proposed amendment so we can harmonize it with the other provisions.

The President. That is still on line 15, Section 25.

Senator Lacson. Line 15, Section 25, *Unauthorized or Malicious Interceptions and/or Recordings*.

Senator Pangilinan was proposing to notify the person, subject of the surveillance, if there are illegal or malicious interceptions, and that would be tantamount to violating the principle against self-incrimination. Because if the police officer will notify the subject of the surveillance due to illegal interception or recording of communication, it might amount to that. So, I would like to clarify the specific amendment to be submitted by Senator Pangilinan, but he is not here.

The President. What is this highlighted sentence on lines 8 and line 8a—ALL INFORMATION THAT HAVE BEEN MALICIOUSLY PROCURED SHOULD BE MADE AVAILABLE TO THE AGGRIEVED PARTY?

Senator Lacson. This is found on page 15, line 8, Mr. President.

The President. Yes.

Senator Lacson. ALL INFORMATION THAT HAVE BEEN MALICIOUSLY PROCURED SHOULD BE MADE AVAILABLE TO THE AGGRIEVED PARTY.

The President. Yes, this is now incorporated in our February 18 copy.

Senator Lacson. That is correct, Mr. President.

Senator Lacson. Is this the Pangilinan amendment?

Senator Lacson. Yes, Mr. President, but we want to be clarified on the intent of this proposed amendment. While I accepted the proposed amendment, I also indicated that it should be subject to style.

My understanding when he introduced the amendment is that after the court has been informed and all the materials can be disposed of, that is the time that the person may be informed of, say, if a particular number has been subject of wiretapping and the law enforcement officer included another mobile number, then that is tantamount to malicious or illegal... But the point is, who will determine if the person was subjected to illegal wiretapping? We should not require the law enforcement officer to submit to the aggrieved party or to the person who was the subject of interception of communication the information.

The President. I see the point, but the proposed amendment here which is highlighted, was this introduced during that time?

Senator Lacson. It was introduced, but I accepted conditionally, Mr. President. I said, subject to style, and we would now like to be clarified.

The President. According to the Secretariat, this was subject to style. This was styled based on the proposed amendment of Senator Pangilinan and the sponsor. This is how they worded it.

Senator Lacson. Yes, Mr. President, and we would like to be clarified on the intent of the amendment of Senator Pangilinan.

The President. We will probably table this and ask Senator Pangilinan to join us here in the Session Hall.

Senator Lacson. So we can proceed with the amendments of Senator Drilon, in the meantime.

The President. Senator Drilon is recognized.

Senator Drilon. Thank you, Mr. President.

We go now on page 16, line 2, delete the phrase “competent Regional Trial Court”, and replace the same with AUTHORIZING DIVISION OF THE COURT OF APPEALS.

Mr. President, the reason is that the order of proscription has very serious consequences and in all of the provisions here, it is always the designated division of the Court of Appeals. So, just for consistency, we propose that instead of the RTC, it should be the Court of Appeals. That is also the present system insofar as the Anti-Money Laundering Law is concerned.

The President. So, the gentleman wants to replace the phrase “competent Regional Trial Court” with...

Senator Drilon. After the word “before”, replace the phrase “competent Regional Trial Court” with the phrase AUTHORIZING DIVISION OF THE COURT OF APPEALS, Mr. President.

The President. So, the gentleman wants to use an article “an” instead of “a”?

Senator Drilon. No, Mr. President. It should read: “before THE”.

The President. All right. We replace the article “a” also. We remove the phrase “a competent Regional Trial Court”, and replace it with the phrase THE AUTHORIZING DIVISION OF THE COURT OF APPEALS.

What does the sponsor say?

Senator Lacson. I have no problem with that, except that I would just like to remind the Minority Leader that also included under the proposed

measure is the designation by the Supreme Court of special courts. It is not any RTC, Mr. President.

Senator Drilon. Yes, we are aware of that. So, with that, Mr. President, can we ask for the approval of our proposed amendment on line 2?

The President. What does the sponsor say?

Senator Lacson. Grudgingly, Mr. President, it is accepted. *[Laughter]*

The President. With a grieving heart, he has accepted.

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Mr. President, on the same page, line 5, the heart of the sponsor need not grieve because this is on the same subject, just delete the words "Regional Trial", so that it will just read: BY THE SAID COURT.

Senator Lacson. We accept, Mr. President.

The President. That will suffice as far as the sponsor is concerned.

Is there any objection? *[Silence]* There being none, the amendment is approved.

The Majority Leader is recognized.

Senator Zubiri. Mr. President, with the permission of Senator Drilon, I was approached by one of our colleagues, Senator Marcos, that she has a proposal. She has an anterior amendment on the earlier pages. So, *para hindi na magkagulo at babalikan pa natin*, maybe we can recognize her as well, with the permission of the two gentlemen.

The President. Senator Marcos is recognized.

Senator Marcos. Yes, Mr. President. Earlier on, part of sufferance of Senator Drilon who clearly has the Floor, I have been waiting for the mention of cybercrime and cyber terrorism.

The President. What page is that?

Senator Marcos. There is no mention as I see it, although I want a clarification from Senator Lacson if indeed it was included. It was originally under Sections 11 and 12. I was told that this is included under “CRITICAL INFRASTRUCTURE” in Section 3(A). But to my mind, that definition is grossly inadequate given that cyber terrorism is the prime mode of the commission of this crime today.

It only indicates that critical infrastructure should be felled, including information services. I think that is grossly inadequate given the attacks that we suffer that result in violence against noncombatant targets which glorify terrorists with staged beheadings on Facebook. That is a prime method of recruitment that tends to sow and create a condition of fear and panic among the populace. *Kung tatanggapin sana ni Senator Lacson na may sarili ng provision iyang cyber terrorism.*

The President. Where does the lady senator propose to place it? May we hear the proposal?

Senator Marcos. The inclusion was originally under Sections 11 and 12 because I had hoped that Section 11 would be inserted after Section 10 to define “CBRN” and a new Section 12 to define “cyber terrorism.”

So, I would just like to clarify with Senator Lacson if those were acceptable since CBRN was mentioned earlier but I was assured that cyber terrorism would be included at some point in time. But we are already towards the end, and in defining penalties and jurisdiction, we are not yet there.

The President. So the proposal, if the sponsor will look into it, would be on page 7 after Section 10 and a new Section 11?

Senator Marcos. A new SECTION 11 for CBRN, Mr. President.

The President. And the title is?

Senator Marcos. And the title would be *CBRN TERRORISM* as well as *CYBER TERRORISM*, depending on the sponsor's wisdom, Mr. President.

The President. So, would the lady senator want to incorporate it in one section or...

Senator Lacson. Is it a separate section, Mr. President?

Senator Marcos. It is up to the good sponsor, Mr. President.

Senator Lacson. Although under the definition of Senator Drilon, he made mention of "INFORMATION SYSTEMS AND TECHNOLOGY" which is more encompassing, Mr. President, than just cyber...

Senator Marcos. My concern, Mr. President, is the use of cyber terrorism in the glorification of criminals, the Facebook beheadings that are used for recruiting terrorists, the fake news that spreads all sorts of rumors throughout the population that panics everyone and, certainly, the system that coerces government or institutions. This does not include the felling of an entire information structure which is what is considered traditionally but the

untraditional and the new methods of terrorism such as the drone attack and the drone assassination were clearly cyber terror, and the use of digital and electronic technology was essential to the commission of the crime. I think these need to be encompassed.

Senator Lacson. Can we ask for some time to review this, Mr. President, because it might affect the freedom of expression as guaranteed under the Constitution?

Senator Marcos. Certainly, Mr. President, provided we give some priority to cyber terrorism because that is clearly the way of the uncertain terrorist future.

Senator Lacson. Well-taken, Mr. President. Just give us some time to just review so we can be assured that we are not running afoul of the provision of the Constitution.

The President. All right. Then we will be having two points to review: One is found on page 15 which is the proposal of Senator Pangilinan, which we cannot determine today; and the proposal of Senator Marcos which will have to be found after Section 10 on page 7.

In the meantime, we will ask the sponsor to review both proposals.

Senator Marcos. Thank you very much, Mr. President, our sponsor, as well as, of course, our distinguished Minority Leader for his sufferance and forbearance. I will also do my very best to come up with language that abides closely by the Constitution.

The President. Yes. It might be easier if the lady senator will submit to the sponsor already the proposed amendment later on.

Senator Marcos. Yes, Mr. President. I have actually submitted it in writing but I will review.

The President. All right.

Senator Marcos. Thank you, Mr. President.

The President. The Minority Leader may continue. We are still on page 16.

Senator Drilon. Still on page 16, Mr. President. On line 11, delete the words “Regional Trial”, consistent with the amendment in the preceding lines.

The President. What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On line 12, delete the word “judge”.

The President. What does the sponsor say?

Senator Lacson. We delete the whole phrase “Regional Trial Court judge”, Mr. President?

The President. No. He is retaining the word “Court”.

Senator Drilon. Yes, Mr. President, retain “Court”.

Senator Lacson. That is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 13, after the word “substance”, insert the following: THAT THE ISSUANCE OF AN ORDER OF PROSCRIPTION IS NECESSARY TO PREVENT THE COMMISSION OF TERRORISM. So, it will now read:

SECTION 28. *Preliminary Order of Proscription.* - Where the Court has determined that probable cause exists on the basis of the verified application which is sufficient in form and substance THAT THE ISSUANCE OF AN ORDER OF PROSCRIPTION IS NECESSARY TO PREVENT THE COMMISSION OF TERRORISM, he/she shall, within seventy two (72) hours after the filing of the application, issue a preliminary order of proscription declaring the respondent as a terrorist and an outlawed organization or association within the meaning of Section 27 of this Act.

The President. “...declaring that the respondent as—is—a terrorist...” both are acceptable, subject to style. What does the sponsor say?

Senator Lacson. May we be clarified on the word “necessary”, Mr. President? Necessary to prevent?

Senator Drilon. No, that the order of proscription is necessary to prevent the commission of terrorism. Let me read the sentence for clarity.

SECTION. 28. *Preliminary Order of Proscription.* - Where the Court has determined that probable cause exists on the basis of the verified application which is sufficient in form and substance THAT THE ISSUANCE OF AN ORDER OF PROSCRIPTION IS NECESSARY TO PREVENT THE COMMISSION OF TERRORISM.

Senator Lacson. That is accepted, Mr. President. Are we withdrawing the word “prima facie”?

Senator Drilon. No, Mr. President. I am just reading probable cause.

Senator Lacson. So, the gentleman is no longer introducing...

Senator Drilon. No more.

Senator Lacson. All right, Mr. President, accepted. So, it is still based on probable cause?

Senator Drilon. That is correct, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, delete lines 17 to 21 and replace the same with the following: THE COURT SHALL CONDUCT CONTINUOUS HEARINGS, WHICH SHOULD BE COMPLETED WITHIN SIX (6) MONTHS FROM THE TIME THE APPLICATION HAS BEEN FILED, TO DETERMINE WHETHER: (A) THE PRELIMINARY ORDER OF PROSCRIPTION SHOULD BE MADE PERMANENT; (B) A PERMANENT ORDER OF PROSCRIPTION SHOULD BE ISSUED IN CASE NO PRELIMINARY ORDER WAS ISSUED; OR (C) A PRELIMINARY ORDER OF PROSCRIPTION SHOULD BE LIFTED. IT SHALL BE THE BURDEN OF THE APPLICANT TO PROVE THAT THE RESPONDENT IS A TERRORIST AND AN OUTLAWED ORGANIZATION OR ASSOCIATION WITHIN THE MEANING OF SECTION 26 OF THIS ACT, BEFORE THE COURT ISSUES AN ORDER OF PROSCRIPTION, WHETHER PRELIMINARY OR PERMANENT.

The President. As of now Section 27.

Senator Lacson. Provided that we follow the renumbering later on, Mr. President, that is accepted.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 22, insert the word PERMANENT before the word “proscription”.

The President. What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 17, this is on “*Detention Without Judicial Warrant of Arrest,*” line 5, delete the phrase “charged with or”.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 10, delete the phrase “charged or”.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 20, delete the phrase “charged with or”.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Drilon. On the same page, line 12, place a period (.) after the word “personnel” and insert the following phrase: THE PERIOD OF DETENTION MAY BE EXTENDED TO A MAXIMUM PERIOD OF TEN (10) CALENDAR DAYS.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Drilon. On the same page, line 16, delete the semicolon (;) after the word “delay” and the phrase...

SUSPENSION OF SESSION

Mr. President, may I ask for a one-minute suspension of the session?

The President. Is there any objection? [*Silence*] There being none, the session is suspended for one minute.

It was 4:57 p.m.

RESUMPTION OF SESSION

At 4:58 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. On page 17, line 16, replace the semicolon (;) after the word “delay” with a period (.) and delete the rest of the sentence until line 19 with the word “order” as the previous amendment was already accepted.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 18, line 1, delete the phrase “and one day to twelve (12) years”.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. A matter of style, on the same page, line 26, delete the phrase “*Penalty for*”. The title of the provision there shall now read: “*Violation of the Rights of a Detainee.*”

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On line 27, delete the phrase “and one day to twelve (12) years”.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 19, line 4, matter of style, Mr. President. We propose to delete the phrase “*Requirement for an*”. The title should simply be *Official Custodial Logbook and Its Contents.*

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 19, lines 5 and 6, delete the phrase “charged with or”.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 20, line 9, replace the phrase “ten (10) years and one day to twelve (12) years” with the phrase SIX (6) YEARS.

Senator Lacson. Ten years or 12 years, Mr. President?

The President. Six *ang* proposal *niya*.

Senator Drilon. Just for consistency, Mr. President, it should be TEN (10) YEARS.

The President. Remove “and one day to twelve (12) years”?

Senator Drilon. Yes, Mr. President.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Senator Hontiveros has an anterior amendment, Mr. President.

The President. Senator Hontiveros is recognized.

HONTIVEROS AMENDMENT

Senator Hontiveros. Thank you, Mr. President.

With the indulgence of the good sponsor and the good Minority Leader, I would like to propose an anterior amendment.

On page 16, line 21, to make a further amendment to the amendment proposed by the Minority Leader and accepted by the good sponsor, that it would now read: THE COURT SHALL IMMEDIATELY COMMENCE AND CONDUCT CONTINUOUS HEARINGS and so on and so forth.

The President. This was deleted by the Minority Leader, page 16, lines 17 to 21.

Senator Lacson. It was already deleted, Mr. President.

Senator Hontiveros. Yes, Mr. President. And then he proposed an amendment which, if I recall correctly, was accepted by the good sponsor, which, as of now, reads: THE COURT SHALL CONDUCT CONTINUOUS HEARINGS, if I remember correctly.

Senator Lacson. Yes, that is correct, Mr. President.

Senator Hontiveros. Thank you, Mr. President. If that is correct, then I wish to propose an anterior amendment to this accepted amendment that would now read: THE COURT SHALL IMMEDIATELY COMMENCE AND CONDUCT CONTINUOUS HEARINGS and so on and so forth.

I so move, Mr. President.

Senator Lacson. *Anong page iyan,* Mr. President?

Senator Hontiveros. Page 16, Mr. President, line 21, replacing the previous lines 17 to 21.

Senator Lacson. With the permission of Senator Drilon, the sponsor accepts, Mr. President.

Senator Hontiveros. Thank you, Mr. President.

Senator Drilon. No objection, Mr. President.

Senator Hontiveros. Thank you, Mr. President; thank you, Minority Leader.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

We go back to page 20.

DRILON AMENDMENTS

Senator Drilon. On page 20, line 22, Section 35, *Restriction on the Right to Travel*, insert the word INVESTIGATING before “prosecutor”, and delete the phrase “handling the case”. Matter of style, Mr. President.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On line 24, after the acronym “PHDO”, insert a comma (,) and the phrase UPON A PRELIMINARY DETERMINATION OF PROBABLE CAUSE IN THE PROPER REGIONAL TRIAL COURT.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. And on the same page, line 23, delete the phrase “in accordance with the Supreme Court Rule on PHDO”, matter of style. This presumed that the PHDO is in accordance with the Supreme Court rules issued.

Senator Lacson. It is accepted, Mr. President.

The President. So, the proposal of the gentleman comes after the word “respondent”?

Senator Drilon. Yes, Mr. President.

The President. All right. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 21, line 19, delete the title...Sorry.

SUSPENSION OF SESSION

Senator Lacson. Mr. President, I move that we suspend the session for one minute.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:06 p.m.

RESUMPTION OF SESSION

At 5:07 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. On page 21, line 14, delete the phrase “to cancel the passport of the accused” and replace it with the following: TO INITIATE THE PROCEDURE FOR THE CANCELLATION OF THE PASSPORT OF THE ACCUSED.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 21, line 19, change the title to *ANTI-MONEY LAUNDERING COUNCIL AUTHORITY TO INVESTIGATE, INQUIRE INTO AND EXAMINE BANK DEPOSITS.*

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 23, line 11, the provision on Republic Act No. 9372 or the Human Security Act is being deleted in the bill. We propose to reinstate the amendment on Section 37, which shall read as follows:

SECTION 37. MALICIOUS EXAMINATION OF A BANK OR A FINANCIAL INSTITUTION. ANY PERSON WHO MALICIOUSLY, OR WITHOUT AUTHORIZATION, EXAMINES DEPOSITS, PLACEMENTS, TRUST ACCOUNTS, ASSETS, OR RECORDS IN A BANK OR FINANCIAL INSTITUTION IN RELATION TO SECTION 36 SHALL SUFFER THE PENALTY OF FOUR (4) YEARS.

Senator Lacson. It is accepted, Mr. President.

The President. Simply SUFFER THE PENALTY OF FOUR (4)YEARS?

Senator Drilon. This is in line with the Bank Secrecy Law, Mr. President.

Senator Lacson. It is accepted, Mr. President. And since this is a new provision, a new section, I move that we renumber the succeeding sections.

The President. All right, subject to style. Is there any objection?
[Silence] There being none, the amendment is approved.

Senator Drilon. On the same page, line 12, remove the word “*Provision*”, matter of style; “*Safe Harbor*” should be the title of the measure.

The President. Before the Minority Leader continue, it bothers me—when we say SHALL SUFFER THE PENALTY OF FOUR (4) YEARS, four years of what? Four years of massage or four years of imprisonment? [Laughter]

Senator Drilon. PENALTY OF FOUR (4) YEARS OF IMPRISONMENT—I am sorry, Mr. President.

The President. So, IMPRISONMENT. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lacson. Thank you, Mr. President.

The President. Please proceed.

Senator Drilon. On the same page, lines 12 to 14, we will just read the provision now as follows: *Safe Harbor*.—No administrative, criminal or civil proceedings shall lie against any person acting in good faith when implementing the TARGETED FINANCIAL SANCTIONS AS PROVIDED UNDER PERTINENT United Nation Security Resolutions.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? [Silence] There being none, the amendment is approved.

Senator Lacson. I was just tempted to say earlier that when three people of the same age discuss, when two forget, one remembers. [Laughter]

The President. Agreed.

We are still on page 23.

Senator Drilon. Still on page 23, line 16, delete the words “*Penalty of*”, a matter of style, Mr. President.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 20, after the word “Section”, insert 26 AND, Mr. President.

The President. So, it becomes Section 26 AND 27.

Senator Lacson. Subject to renumbering, Mr. President.

Senator Drilon. Renumbering, yes, Mr. President.

The President. All right, subject to renumbering.

Senator Drilon. Yes, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Still on the same page, line 21, replace “ten (10) years and one day to twelve (12) years” with FOUR (4) YEARS, Mr. President.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Still on the same page, line 23, after the title, insert the phrase THE IMMUNITY AND PROTECTION OF GOVERNMENT WITNESSES

SHALL BE GOVERNED BY. I will just read the whole sentence with the amendment: *Immunity and Protection of Government Witnesses*. – THE IMMUNITY AND PROTECTION OF GOVERNMENT WITNESSES SHALL BE GOVERNED BY the provisions of R.A. No. 6981, otherwise known as the “The Witness Protection, Security and Benefits Act”, and then delete the rest of the sentence, Mr. President.

The provisions of the Witness Protection, Security and Benefits Act is more liberal in application rather than Sections 17 and 18 of Rule 119. This is because under the Witness Protection, Security and Benefits Act, it is the secretary of justice who can determine who are the witnesses and exclude the proposed witnesses from the filing of the Information.

Under Rule 119, Sections 17 and 18 of the Revised Rules of Court, it is the court which will have to rule and that ruling is subject to appeal. And, therefore, to strengthen the prosecution, instead of basing it on the Rules of Court, we should base it on the Witness Protection Program, Mr. President.

The President. What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? [*Silence*] There being none, the motion is approved.

Senator Drilon. On page 24, lines 7 to 8, delete the phrase “twelve (12) years and one day to twenty (20) years” and replace it with SIX (6) YEARS.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Drilon. On the same page, line 5, we propose to reinstate Section 44 of the Human Security Act on *Infidelity in the Custody of Detained Persons*. We propose to reinstate, with amendments, the deleted Section 44, and it will read as follows: SECTION [BLANK] . - *Infidelity in the Custody of Detained Persons*. ANY PUBLIC OFFICER WHO HAS DIRECT CUSTODY OF A DETAINED PERSON UNDER THE PROVISIONS OF THIS ACT AND WHO BY HIS DELIBERATE ACT, MISCONDUCT OR INEXCUSABLE NEGLIGENCE, CAUSES OR ALLOWS THE ESCAPE OF SUCH DETAINED PERSON SHALL BE GUILTY OF AN OFFENSE AND SHALL SUFFER THE PENALTY OF: (A) TEN (10) YEARS OF IMPRISONMENT IF THE DETAINED PERSON HAS ALREADY BEEN CONVICTED AND SENTENCED IN A FINAL JUDGMENT OF A COMPETENT COURT; (B) SIX (6) YEARS OF IMPRISONMENT IF THE DETAINED PERSON HAS NOT YET BEEN CONVICTED AND SENTENCED IN A FINAL JUDGMENT OF A COMPETENT COURT.

The President. What does the sponsor say?

Senator Lacson. So, in committing infidelity in the custody of detained persons, there is a distinction between a detained person who has already been convicted, and a person that has not yet been convicted? So, there are two levels of punishment. Is that the suggestion, Mr. President?

Senator Drilon. This is basically a provision of the Revised Penal Code, Mr. President. The distinction is in the Revised Penal Code; we just followed it.

The President. The Minority Leader just followed the distinction in the RPC?

Senator Drilon. Yes, Mr. President.

The President. Well, this is an improvement because in the Revised Penal Code, infidelity in custody of a prisoner is very light.

Senator Lacson. But my concern, Mr. President, is, a terrorist, regardless of whether he has been convicted or still undergoing trial, is potentially a threat to humanity.

The President. That is right. So, what does the sponsor think?

Senator Lacson. My proposal is to impose the same penalty regardless of the status of the case, Mr. President.

The President. *Kung* detained or *kung* convicted *na*.

Senator Lacson. Convicted or otherwise, my suggestion is to impose the same penalty because of the gravity of the offense.

Senator Drilon. Mr. President, we should consider that this is a penalty on the police officer who has custody, and to impose life imprisonment maybe a...

Senator Lacson. No, not that, Mr. President.

The President Not life; lighter. *Huwag daw mas magaan.*

Senator Lacson. Not that, Mr. President. There should be no distinction in an inexcusable release of a prisoner who has been convicted and who is still undergoing trial.

The President. Whether detained or convicted, *pareho*.

Senator Drilon. All right, Mr. President.

Senator Lacson. A similar penalty should be imposed on the custodian who deliberately released a suspected terrorist undergoing trial.

Senator Drilon. So, there is no distinction between a detention prisoner and a convicted prisoner insofar as infidelity is concerned?

Senator Lacson. That is correct, Mr. President.

Senator Drilon. Then, we have no objection to that amendment, and we can place probably 10 years.

Senator Lacson. Ten years, yes, Mr. President.

The President. All right, subject to style. Accepted, sponsor?

Senator Lacson. Yes, thank you, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Lacson. I just move to renumber again the sections.

The President. Yes, this will probably be the new Section 43 instead, subject to renumbering.

Senator Drilon. We turn now to page 24.

The President. Page 24 *pa rin?*

Senator Drilon. *Anti-Terrorism Council*, Mr. President.

Senator Lacson. Yes, Mr. President.

Senator Drilon. On page 24.

The President. Page 24, *Anti-Terrorism Council*.

Senator Drilon. All right. The amendment will be to delete on lines 23 to 28, Mr. President.

The President. Lines 23 to 28.

Senator Drilon. So, from line 23, starting with the phrase “the Secretary of Science and Technology” up to the number “(16)” on line 28. So, the ninth member is “the Executive Director of the Anti-Money Laundering Council (AMLC) Secretariat”. We do not see really the need to have this many, especially the Secretary of Science and Technology, the Secretary of Labor and Employment...

The President. So, the Minority Leader is removing all from number (9), “the Secretary of Science and Technology”, all the way to “(BARMM), and” on line 28.

Senator Drilon. And number (16), Mr. President.

The President. Yes, making number (16) a number (9).

Senator Drilon. No, Mr. President, number (9) is retained.

The President. Yes, it becomes number (9).

Senator Drilon. Yes, Mr. President.

The President. All right. To remove all these number of members in the Anti-Terrorism Council that is starting to sound like a Bamboo Council.

[Laughter]

What does the sponsor say?

Senator Drilon. *Labing-anim po iyong miyembro.*

Senator Lacson. It is accepted, Mr. President, except that I propose that we retain them as members of the support agencies. Their agencies will be retained in the support agencies.

Senator Drilon. All right.

The President. What does that mean?

Senator Lacson. Support agencies as mentioned on page 25, line 13.

The President. All right. So, the sponsor accepts as is now.

Is there any objection? *[Silence]* There being none, the amendment is approved.

It is nine *lamang*.

Senator Drilon. It is nine *lamang*, Mr. President.

The President. So, we can proceed to line...

Senator Drilon. This is not the Bamboo Council, Mr. President.

[Laughter]

Mr. President, on page 27, lines 7 and 8, delete the phrase “alleged violation of any of the acts defined and penalized under Sections 4, xxx” until line 9.

We repeat that, Mr. President. On lines 7 and 8, delete the phrase starting from the words “alleged violation” on line 7 until the word “Act” on line 9.

The President. Until “Act” on line 9.

Senator Drilon. Yes, Mr. President, line 9. From the word “alleged” on line 7 up to the “Act” on line 9, and replace the same with FOR ANY CRIME DEFINED AND PENALIZED UNDER THIS ACT.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 27, lines 11 to 13, delete the phrase “for alleged violation of any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9 10, 11 and 12 of this Act” and replace with FOR ANY CRIME DEFINED AND PENALIZED UNDER THE PROVISIONS OF THIS ACT.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 28, lines 11 to 13, delete the phrase starting with the words “such as” on line 11, ending with the acronym “AMLC” on line 13.

The President. No replacement, just deletion?

Senator Drilon. Yes, Mr. President.

The President. So, a comma (,) after the word “destruction”.

What does the sponsor say?

Senator Lacson. Is it a comma (,) or a semicolon (;), Mr. President?

Senator Drilon. That is semicolon, after the phrase “mass destruction”
Mr. President.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, lines 17 to 18, matter of style, remove the phrase starting with “Sections 4, 5, 6, 7, 8, 9, 10...” up to the words “said crimes” on the next line and replace the same with the words THIS ACT.

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On the same page, line 27, just remove the phrase “*Role of the*”, just say *Commission on Human Rights (CHR)*, matter of style.

The President. What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Mr. President, on pages 30...

LACSON AMENDMENT

Senator Lacson. Before that, Mr. President. On page 28, “*Role of the Commission on Human Rights*”, this is found on the present law. I have an issue with the phrase “concurrent jurisdiction to prosecute public officials, law enforcers”, et cetera. I maintain that the Commission on Human Rights has no prosecutorial powers, so, I will move to amend or delete the phrase “concurrent jurisdiction to prosecute public officials”, et cetera.

The President. So, we put period (.) after the phrase “implementation of this Act”.

Senator Lacson. Yes, Mr. President.

The President. *May word na* “prosecution” *din sa umpisa*—“The CHR shall give the highest priority to the investigation and prosecution...” et cetera.

Senator Lacson. That is all right, Mr. President, because they can assist in the prosecution, but they should not have concurrent jurisdiction to prosecute.

The President. So, we put a period (.) after the word “Act”, and we delete all the way until line 2 of page 29.

Senator Lacson. From the word “and” on line 29 all the way to line 2 on page 29.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

DRILON AMENDMENT

Senator Drilon. On page 30, line 26, *Promoting Peace and Industry in Schools, Learning Centers and Training Institutions*, this provision has no place in an Anti-Terrorism bill. I do not know why this is here. So, we propose to delete the entire section.

The President. Delete the entire Section 50. What does the sponsor say?

Senator Lacson. Before I accept, I would like to defer to the proponent of this amendment, Mr. President.

The President. Senator Marcos is recognized.

Senator Marcos. Yes, Mr. President. This was borne out of the experience that we just endured in the lumad schools in the Cotabato area as well as the recruitment by the NPA in PUP and in other schools here in Metro Manila. As a result, I think this amendment was put together. But, perhaps, there are other laws that can take care of that, we concede that this amendment may be sacrificed.

Thank you, Mr. President.

The President. With that manifestation, what does the sponsor say?

SUSPENSION OF SESSION

Senator Lacson. May I ask for a one-minute suspension of the session, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the session is suspended.

It was 5:32 p.m.

RESUMPTION OF SESSION

At 5:33 p.m., the session was resumed.

The President. The session is resumed.

Senator Drilon. The proposal is to delete the entire section.

The President. What does the sponsor say?

Senator Lacson. It is accepted, Mr. President.

The President. It is accepted.

Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 29, line 9, delete the phrase “*of this Act*”, just a matter of style.

The President. We delete the phrase “*of this Act*” in the title of Section 48.

Senator Lacson. It is accepted, Mr. President.

The President. It is accepted.

Is there any objection? [*Silence*] There being none, the amendment is approved.

Senator Drilon. On page 30, lines 7 and 8, delete the phrase “Republic of the Philippines, without exception whatsoever, shall submit the case without undue delay to the DOJ for the purpose of prosecution”, and replace the same with the following phrase: ANTI-TERRORISM COUNCIL SHALL REFER THE CASE TO THE BUREAU OF IMMIGRATION FOR DEPORTATION OR TO THE DOJ FOR PROSECUTION.

I repeat, on page 30, lines 7 and 8, delete the phrase “Republic of the Philippines, without exception whatsoever, shall submit the case without undue delay to the DOJ for the purpose of prosecution”, and replace the same with the phrase: ANTI-TERRORISM COUNCIL SHALL REFER THE CASE TO THE BUREAU OF IMMIGRATION FOR DEPORTATION OR TO THE DOJ FOR PROSECUTION. The option is given to the Anti-Terrorism Council where to refer the matter.

Mr. President, the reason why we are doing this is, in case there is really no evidence and there is no option to refer it to the Bureau of Immigration,

referring it to the DOJ may result in a situation where, because of lack of evidence, the terrorist is released. To foreclose that possibility, we are proposing to give the Anti-Terrorism Council the option of either referring it to the Bureau of Immigration or to the prosecuting fiscal...

The President. For deportation.

Senator Drilon. ...for deportation or to the DOJ for prosecution.

The President. That is correct. What does the sponsor say?

Senator Lacson. Mr. President, under the principle of *aut dedere aut judicare*, Mr. President—prosecute or extradite.

Senator Drilon. Yes, Mr. President.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. On page 32, delete lines 8 to 12, *Applicability of the Revised Penal Code*. Anyway, if it is applicable, the Revised Penal Code itself contains a similar provision.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. Finally, on the same page, delete lines 14 to 18. This is *Appropriations*; again, it has no place in this bill. It can certainly deserve this appropriation but it should be in the budget, Mr. President, not here. That is why we propose to delete lines 14 to 18.

Senator Lacson. We accept, Mr. President.

The President. Is there any objection? *[Silence]* There being none, the amendment is approved.

Senator Drilon. We have no more amendments, Mr. President.

Senator Lacson. Thank you, Mr. President.

The President. All right. May we direct the Secretariat to produce another clean copy.

Senator Zubiri. Mr. President, may I just ask a question? Is this the same law that we filed? *[Laughter]*

The President. Why? Does the Majority Leader not recognize it?

Senator Zubiri. *Parang hindi na*, Mr. President. Let me see. We will wait for the clean copy, Mr. President.

The President. Well, it probably has become better.

SUSPENSION OF SESSION

Senator Zubiri. Yes, Mr. President. May I just ask for a one-minute suspension to confer with the sponsor because one of our colleagues wants to propose amendments but he is not here today. So, I will have to ask the pleasure of the sponsor. I will always follow the pleasure of the sponsor.

The President. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 5:39 p.m.

RESUMPTION OF SESSION

At 5:44 p.m., the session was resumed.

The President. The session is resumed.

The Majority Leader is recognized.

Senator Zubiri. Mr. President, after conferring with the author and sponsor, I completely agree that we have put this on the agenda for several weeks now, *ang loko nga natin dito ay walang kamatayang* Anti-Terrorism Act and today is supposed to be the final day of deliberations.

To give our colleagues a chance to be able to propose some amendments, the good sponsor...

The President. If they still have some amendments.

Senator Zubiri. Yes, Mr. President.

The good sponsor is willing to wait until the end of the session which is about another hour from now while we are deliberating on the bill of Senator Gatchalian and sponsorships of about three other members. That would be one hour from now. May we ask the staff of Senator Tolentino and Senator Pimentel to please give us the proposed amendments, if possible now, so that we can study this and if the sponsor will agree to further sponsor these amendments.

The President. All right. Because there had been a number of days already for the period of amendments. We have had several revised copies already.

Senator Zubiri. Yes, Mr. President.

The President. And once a bill has passed through the washing machine of the Minority Leader-- *[Laughter]*

Senator Zubiri. The improvements of the Minority Leader.

The President. --it could probably be a good bill already.

Senator Zubiri. Yes, Mr. President.

The President. So, what is the pleasure of the Majority Leader?

SUSPENSION OF CONSIDERATION OF S. NO. 1083

Senator Zubiri. So, with that, Mr. President, I move that we suspend consideration temporarily of Senate Bill No. 1083 for an hour while awaiting the proposed amendments.

The President. But we are promising the sponsor that we will pass it on Second Reading today.

Senator Zubiri. Yes, Mr. President, I am not going home today without making the motion.

The President. All right, very good. So, in the meantime, there is a motion to temporarily suspend consideration of Senate Bill No. 1083.

Is there any objection? *[Silence]* There being none, the motion is approved.

Senator Zubiri. Thank you, Mr. President.

Mr. President, I move that we take up some other matters.

Sen. Cynthia Villar would like to sponsor Senate Bill No. 1342.

At this juncture, Sen. Vicente C. Sotto III relinquished the Chair to Sen. Joel Villanueva.

SPECIAL ORDER

Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 47 on Senate Bill No. 1342, entitled

AN ACT ADDRESSING FOOD SECURITY CONCERNS THROUGH
INTEGRATING INSTRUCTIONAL GARDENS IN PRIMARY AND
SECONDARY SCHOOL CURRICULA AND PROMOTING THE
USE OF URBAN AGRICULTURE, AND FOR OTHER PURPOSES

The Presiding Officer [Senator Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

BILL ON SECOND READING

S. No. 1342 – Instructional Gardens and Urban Agriculture Act of 2020

Senator Zubiri. Mr. President, I move that we consider Senate Bill No. 1342 as reported out under Committee Report No. 47.

The Presiding Officer [Senator Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

Consideration of Senate Bill No. 1342 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1342, entitled

AN ACT ADDRESSING FOOD SECURITY CONCERNS THROUGH
INTEGRATING INSTRUCTIONAL GARDENS IN PRIMARY AND
SECONDARY SCHOOL CURRICULA AND PROMOTING THE
USE OF URBAN AGRICULTURE, AND FOR OTHER PURPOSES

The following is the whole text of the bill:

Senate Bill No. 1342

[Insert]

Senator Zubiri. May we recognize the sponsor, the distinguished lady senator from Las Piñas, the chairperson of the Committee on Agriculture, Food and Agrarian Reform, no other than Sen. Cynthia Villar.

The Presiding Officer [Senator Villanueva]. The lady senator from Las Piñas, Sen. Cynthia Villar, is recognized.

SPONSORSHIP SPEECH OF SENATOR VILLAR

Senator Villar. Mr. President, my esteemed colleagues, a pleasant afternoon to all.

Mr. President, as the chairperson of the Committee on Agriculture, Food and Agrarian Reform, together with the Committees on Basic Education, Arts and Culture; Finance; and Ways and Means, I am pleased to submit Committee Report No. 47. This Committee Report is the result of Senate Bill Nos. 147, 257, 280, 587, and 1264, which were primarily referred to the Committee on Agriculture, Food and Agrarian Reform.

This bill aims to address the issue of food security starting with teaching the youths the fundamental concepts about nutrition, the cultural and historical aspects of food supply, as well as the rudiments of planting through the integration of instructional gardens in primary and secondary schools all over the country.

Under this bill, local government units will have a crucial role in promoting food security, improved health, addressing poverty, and creating savings in household expenditures through institutionalizing urban agriculture.

It is the intention of this bill to address the problems revealed by recent studies, which show the increase in number of Filipino children suffering from malnutrition, stunted growth, and obesity. Dearth of government policies providing for access to information on nutrition will continue to be an obstacle in promoting healthy growth and development of children. Towards this end, I seek the approval of Committee Report No. 47 on Senate Bill No. 1342.

Thank you very much, Mr. President.

The Presiding Officer [Sen. Villanueva.] Thank you, Senator Villar.

The Majority Leader is recognized.

SUSPENSION OF CONSIDERATION OF S. NO. 1342

Senator Zubiri. Mr. President, to allow our colleagues to study the measure, I move that we suspend consideration of Senate Bill No. 1342.

The Presiding Officer [Sen. Villanueva.] Is there any objection?

[Silence] There being none, the motion is approved.

SPECIAL ORDER

Senator Zubiri. Mr. President, I move that we transfer from the Calendar for Ordinary Business to the Calendar for Special Orders Committee Report No. 51 on Senate Bill No. 1365, entitled

AN ACT INSTITUTIONALIZING THE ALTERNATIVE LEARNING SYSTEM IN BASIC EDUCATION FOR OUT-OF-SCHOOL YOUTH, ADULTS, AND CHILDREN IN SPECIAL EXTREME CASES AND APPROPRIATING FUNDS THEREFOR

The Presiding Officer [Sen. Villanueva.] Is there any objection?

[Silence] There being none, the motion is approved.

BILL ON SECOND READING
S. No. 1365—Alternative Learning System Act

Senator Zubiri. Mr. President, I move that we consider Senate Bill No. 1365 as reported out under Committee Report No. 51.

The President. Is there any objection? *[Silence]* There being none, the motion is approved.

Consideration of Senate Bill No. 1365 is now in order. With the permission of the Body, the Secretary will read only the title of the bill without prejudice to inserting in the *Record* the whole text thereof.

The Secretary. Senate Bill No. 1365, entitled

AN ACT INSTITUTIONALIZING THE ALTERNATIVE LEARNING SYSTEM IN BASIC EDUCATION FOR OUT-OF-SCHOOL YOUTH, ADULTS, AND CHILDREN IN SPECIAL EXTREME CASES AND APPROPRIATING FUNDS THEREFOR

The following is the whole text of the bill:

Senate Bill No. 1365
(Insert)

Senator Zubiri. Mr. President, may we recognize the distinguished gentleman from Valenzuela, the chairman of the Committee on Basic Education, Arts and Culture, no other than Sen. Win Gatchalian.

The Presiding Officer [Sen. Villanueva.] The dashing bachelor from Valenzuela, Senator Gatchalian, is recognized.

Senator Gatchalian. But I am just second to the *trabahador ng Senado*, Mr. President.

SPONSORSHIP SPEECH OF SENATOR GATCHALIAN

Mr. President, esteemed fellow senators, I bid this Body good afternoon.

Over the past decade, Mr. President, the Philippines has enacted a number of landmark laws which have achieved substantial reforms within our education system. However, despite the gains we have made, we must also remember the millions of Filipinos who continue to be left behind by our education system.

According to the May 2018 Philippines Education Note of the World Bank Group, at least 24 million Filipinos over the age of 15 have not completed

basic education. There are an additional 2.4 million children between ages five and 14 who are not in school. In essence, this means that 26.4 million Filipinos—roughly one-fourth of the Philippine population—have been denied the right to basic education enshrined in the 1987 Constitution.

The Department of Education's Alternative Learning System (ALS) is the government's primary means of providing accessible education to out-of-school youth, adult Filipinos, and children in special extreme cases whose right to basic education has been denied. Through the non-formal module-based lessons of the Accreditation & Equivalency Program, ALS allows these learners to make up for the lost time and earn basic and secondary education credentials by passing the A&E assessments and certifications. In theory, the goal of ALS is to achieve a 100% high school graduation rate among Filipinos.

Unfortunately, ALS has not been able to live up to this admittedly ambitious goal. Between 2016 to 2018, a little over two million Filipinos enrolled in ALS. Only 1.4 million completed the A&E Program, and just 390,057 passed the A&E Test. This means that during that three-year period, only 7.6% of all eligible Filipino learners enrolled in ALS. Worse, only 1.5% of them were able to earn their basic or secondary education equivalency through the program.

Mr. President, the anemic rate of engagement of eligible children, OSYs, and adult learners in the Alternative Learning System is simply unacceptable. To deny their right to education is to deny these vulnerable citizens a second chance at creating better lives for themselves and their families. We must act

now to reverse this injustice and provide our countrymen with the education they deserve.

With this in mind, Mr. President, the bill we are sponsoring today seeks to institutionalize and reform the Alternative Learning System of the Department of Education. This legislation was crafted to address in careful detail the gaps and weaknesses within the current ALS framework, in close coordination with the Department of Education and other critical stakeholders.

First, the Alternative Learning System Act seeks to institutionalize the Alternative Learning System as a parallel learning system complementary to the formal education system through the establishment of the Bureau of Alternative Education (BAE) within the Department of Education. In 2016, the reorganization of the DepEd caused the dissolution of the Bureau of Alternative Learning System, with its functions being integrated into other bureaus of the Department. Previously, non-formal education had always had its own bureau under the DepEd since the 1940s.

Based on the input of DepEd and other stakeholders, the lack of a dedicated ALS bureau has negatively impacted the DepEd's capacity to operate alternative learning programs and regulate its Accreditation and Equivalency (A&E) Programs. Thus, the re-establishment of a separate bureau within the DepEd will enhance the institutional and technical capacities of the department to operate alternative learning programs that meet high standards of educational quality, learner access, and learner outcomes regarding both basic literary and more advanced equivalency and accreditations.

Second, this bill seeks to expand and strengthen the ALS teacher program. According to the DepEd, there are only 9,535 ALS teachers nationwide. With 840,446 learners enrolled in ALS in the year 2018, this means that the learner-to-teacher ratio was 88 to 1. And considering that as many as 26.4 million Filipinos qualify to enroll in the Alternative Learning System, this means that there is only one teacher for every 2,768 potential ALS learners.

To address this problem by facilitating the recruitment of new ALS teachers and facilitators, as well as promoting the professional growth of existing ALS teachers, Section 10 of the bill mandates the Department of Budget and Management to work with the DepEd and the Civil Service Commission to create teaching positions for ALS teachers and allocate the corresponding salary grades.

In addition, the DepEd shall also hire ALS literacy volunteers and instructional managers to be ALS teachers through a contracting scheme to augment the needed human resource requirements for the implementation of the ALS programs. The bill also provides allowances to ALS teachers, who are mostly mobile, for transportation and teaching aids.

This bill also mandates the establishment of at least one ALS Community Learning Center or CLC in every municipality and city throughout the country. Unlike the formal education system, which has school buildings, there is no dedicated learning space for ALS programs to hold classes or give tests. This was a major problem identified by the DepEd in the prior implementation of

ALS. Through the establishment of ALS CLCs across the country, ALS teachers and learners will finally have access to the physical infrastructure needed to facilitate learning.

Lastly, the ALS Act will empower the private sector to partner with the government in the delivery of ALS services by mandating the formulation of standards for service delivery, including teacher qualifications, teacher deployment, teacher trainings, remuneration, and system of rewards and incentives which are responsive to the needs and distinct situations of the particular areas serviced by these non-governmental actors.

All in all, Mr. President, the reformed and revitalized Alternative Learning System envisioned by the ALS Act is poised to provide millions of Filipino learners with a second chance to obtain a quality education. The potential of this legislation to uplift the lives of millions of our fellow citizens is boundless. Just ask our colleague, one of the most famous ALS graduates, Sen. Manny Pacquiao. Unfortunately, *wala po siya rito*. Our senator and boxing champion was a first year high school dropout, who took and passed the A&E Test under the ALS program in 2007. He got his high school diploma and is now an inspiration and model for out-of-school youth and adults who are determined to learn and gain functional literacy skills outside of formal schooling.

Mr. President, *panahon na para tutukan natin ang mga pangangailangan ng mga kabataang Pilipino na nangangailangan ng tamang edukasyon sa ating lipunan. Isang malaking kapabayaan kung hindi natin pagtutuunan ng pansin ang milyon-milyong Pilipino na hindi nag-aaral. Ang panukalang batas na*

inihain ng inyong lingkod ay naglalayong mailapit sa kanila ang pagkakataon para magkaroon ng mas maganda at mas masaganang kinabukasan.

As the chairman of the Senate Committee on Basic Education, Arts and Culture, I hope you will all join me in advocating for the swift passage and enactment of this bill into law.

Thank you, Mr. President.

The Presiding Officer [Senator Villanueva]. Thank you, Senator Gatchalian.

Majority Leader.

Senator Zubiri. Thank you, Mr. President.

Actually, Senator Pacquiao did not just finish high school, but he recently got his college diploma from the University of Makati (UMak).

The Presiding Officer [Senator Villanueva]. How is that? Because of the ALS?

Senator Zubiri. Yes, Mr. President, because of his ALS, he was able to finish high school to be able to take up his college course. So, congratulations as well to the sponsor.

MOTION OF SENATOR ZUBIRI
(Cosponsorship of Senators Revilla, Recto, Pacquiao, and Binay and Insertion
of their Cosponsorship Speeches into the *Record*)

Mr. President, we have four members who wish to cosponsor the measure and they requested that their cosponsorship speeches be inserted into the *Record* and deemed as read in the Senate. These are Senators Revilla,

whose speech is already here for submission to the Secretariat, Senator Recto, Senator Pacquiao, and Senator Binay.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, motion is approved.

The following are the text of the Sponsorship Speeches of Senators Revilla, Recto, Pacquiao and Binay:

(INSERT)

SUSPENSION OF CONSIDERATION OF S. NO. 1365

Senator Zubiri. Mr. President, to allow our colleagues to study the measure further, I move that we suspend consideration of Senate Bill No. 1365.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

BILL ON SECOND READING

S. No. 1086--The Philippine High School for Sports Act of 2019
(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1086 as reported out under Committee Report No. 12.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, resumption of consideration of Senate Bill No. 1086 is now in order.

Senator Zubiri. This is a very important measure as far as I am concerned, Mr. President, creating the Philippine High School for Sports. The parliamentary status of the measure is that we are in the period of amendments. One of our colleagues has an amendment to make, Sen. Richard Gordon.

So, may we suspend for one minute to be able to contact Senator Gordon.

The Presiding Officer [Sen. Villanueva]. Senator Gordon is at the lounge.

Senator Zubiri. Instead of suspending, Mr. President, let us continue so that the proposed amendment submitted by Senator Tolentino may be tackled by the sponsor. So, I ask that we recognize Senator Gatchalian.

The Presiding Officer [Sen. Villanueva]. The distinguished gentleman from Valenzuela is recognized.

TOLENTINO AMENDMENT

Senator Gatchalian. Thank you, Mr. President.

I would just like to manifest the amendment of Senator Tolentino. Apparently, he is sick today and he sent me his amendment for this representation to put on record.

So, on page 2A, line 19, add a new paragraph which shall read as follows:

THE PHSS SHALL LIKEWISE ENSURE AN ALTERNATIVE AND EQUITABLE ADMISSION PROCESS TO ENHANCE THE ACCESS OF INDIGENOUS PEOPLES, PERSONS WITH DISABILITIES, AND STUDENTS FROM OTHER MARGINALIZED GROUPS.

I so move, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the amendment is approved.

SUSPENSION OF SESSION

Senator Gatchalian. Mr. President, I move that we suspend the session for one minute.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the session is suspended for one minute.

It was 6:02 p.m.

RESUMPTION OF SESSION

At 6:04 p.m., the session was resumed.

The Presiding Officer [Sen. Villanueva]. The session is resumed.

Just to remind the Body that we are using the amended copy as of February 18, 2020 of Senate Bill No. 1086.

Senator Gatchalian. Yes, Mr. President.

The Presiding Officer [Sen. Villanueva]. The distinguished gentleman from Zambales, Sen. Richard J. Gordon, is recognized.

Senator Gordon. Thank you very much, Mr. President.

I would request my colleague and seatmate, Senator Gatchalian, if he will accept some amendments.

Senator Gatchalian. Yes, Mr. President.

Senator Gordon. Then, we are done. He has already accepted all the amendments. *[Laughter]*

GORDON AMENDMENTS

Mr. President, I will address the amendments to my good colleague.

On page 1, line 7, after the word “shall”, insert the phrase ESTABLISH A NATIONAL SPORTS PROGRAM.

Senator Gatchalian. It is accepted, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*

There being none, the amendment is approved.

Senator Gordon. On the same page, line 7, after the word “programs”, insert the word INTRAMURALS and add a comma (,), Mr. President.

Senator Gatchalian. It is accepted, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*

There being none, the amendment is approved.

Senator Gordon. On Section 2, with respect to the *Declaration of Principles*, Mr. President, it shall now read: Sec. 2. *Declaration of Principles.* – ARTICLE XIV OF THE 1987 CONSTITUTION RECOGNIZES THE ROLE OF THE STATE TO PROTECT AND PROMOTE THE RIGHT OF ALL CITIZENS TO QUALITY EDUCATION AT ALL LEVELS AND TO TAKE APPROPRIATE STEPS TO MAKE SUCH EDUCATION ACCESSIBLE TO ALL. The State ALSO recognizes the vital role of the youth in nation-building and shall promote and protect their physical, moral, spiritual, intellectual, and social well-being. Towards this end, the State shall ESTABLISH A NATIONAL SPORTS PROGRAM WHICH shall promote physical education and encourage sports programs, INTRAMURALS, comma (,)—that is the amendment, Mr. President.

The Presiding Officer [Sen. Villanueva]. What does the sponsor say?

Senator Gatchalian. It is accepted, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*

There being none, the amendment is approved.

Senator Gordon. Thank you, Mr. President.

Just for purposes of history, Mr. President. The rationale, of course, is that the State shall establish a national sports program to ensure that all schools are promoting physical education, intramurals, and other league competitions to foster teamwork, discipline, and camaraderie. That is in the Constitution.

The Presiding Officer [Sen. Villanueva]. Yes.

Senator Gordon. Now, on page 3A, line 29c, after the word “SYSTEM”, insert the phrase IN ACCORDANCE WITH A NATIONAL SPORTS PROGRAM.

The Presiding Officer [Sen. Villanueva]. What does the sponsor say?

Senator Gatchalian. It is accepted, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*
There being none, the amendment is approved.

Senator Gordon. Mr. President, just to be sure, it will now read: (A) TO FORMULATE POLICIES, GUIDELINES AND CRITERIA IN ORDER TO RATIONALIZE THE ESTABLISHMENT, ADMINISTRATION AND OPERATION OF THE SPORTS HIGH SCHOOLS UNDER THE PHILIPPINE HIGH SCHOOL FOR SPORTS SYSTEM IN ACCORDANCE WITH THE NATIONAL SPORTS PROGRAM.

The Presiding Officer [Sen. Villanueva]. All right.

Senator Gordon. Thank you, Mr. President.

And then, the last amendment, Mr. President, is on page 4, line 26, insert a new paragraph (I), to read as: (I) TO RECRUIT THE BEST STUDENT ATHLETES FOR THE DIFFERENT REGIONS OF THE PHILIPPINES TO BE

ENROLLED IN THE PHSS TO BETTER HONE THEIR SKILLS AND TALENTS
semi-colon (;).

Senator Gatchalian. It is accepted, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*
There being none, the amendment is approved.

Senator Gordon. That is all, Mr. President. I thank the good sponsor for facilitating all the amendments because these are meant to follow what Sen. Risa Hontiveros stated that we should have a national sports program accompanying the Philippine high school.

Senator Gatchalian. I also thank the good gentleman from Zambales, my seatmate, and my chairman in the Red Cross for enhancing the bill and putting in the bill that a national program is indeed a necessary activity to make sure that everything is in line in terms of our sports agenda.

Thank you, Mr. President.

The Presiding Officer [Sen. Villanueva]. Thank you, Senators Gordon and Gatchalian.

The Majority Leader is recognized.

Senator Zubiri. Mr. President, with that, I move that we close the period of amendments.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*
There being none, the motion is approved.

MOTION OF SENATOR ZUBIRI
(Coauthorship of Senators Gordon, Zubiri, Hontiveros, Villanueva, and
Dela Rosa of S. No. 1086)

Senator Zubiri. Mr. President, with the permission of the good sponsor, if we can be made as coauthors of the measure: Senator Gordon, myself, Senator Hontiveros...

The Presiding Officer [Sen. Villanueva]. And this representation.

Senator Zubiri. Senator Villanueva, the presiding officer, and Senator Dela Rosa, who is also a sportsman, a great combat shooter, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

Senator Zubiri. Thank you, Mr. President.

APPROVAL OF S. NO. 1086 ON SECOND READING

Mr. President, I move that we vote on Second Reading on Senate Bill No. 1086.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]*
There being none, we shall now vote on Second Reading on Senate Bill No. 1086.

As many as are in favor of the bill, say *aye*.

Several Members. *Aye.*

The Presiding Officer [Sen. Villanueva]. As many as are against the bill, say *nay*. *[Silence]*

Senate Bill No. 1086 is approved on Second Reading.

SUSPENSION OF CONSIDERATION OF S. NO. 1086

Senator Zubiri. Mr. President, I move that we suspend consideration of Senate Bill No. 1086.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

SUSPENSION OF SESSION

Senator Zubiri. While we are waiting for our colleagues for two more measures, may we ask for a one-minute suspension of the session.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]* There being none, the session is suspended for one minute.

It was 6:11 p.m.

RESUMPTION OF SESSION

At 6:19 p.m., the session was resumed.

The Presiding Officer [Sen. Villanueva]. The session is resumed.

The Majority Leader is recognized.

BILL ON SECOND READING

S. No. 1296 - Philippine Energy Research and Policy Institute Act
(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1296 as reported out under Committee Report No. 34.

The Presiding Officer [Sen. Villanueva]. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1296 is now in order.

Senator Zubiri. Mr. President, the parliamentary status of this measure is that we are in the period of interpellations. No other colleague would like to interpellate the distinguished gentleman from Valenzuela, unless the presiding officer would want to.

The Presiding Officer [Sen. Villanueva]. I am being tempted but...
[Laughter]

Senator Zubiri. I believe it is just really a policy institute, Mr. President.

The Presiding Officer [Sen. Villanueva]. Yes, I have seen this.

Senator Zubiri. Mr. President, I move to close the period of interpellations.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

Senator Zubiri. And also for the record, Sen. Franklin M. Drilon, our distinguished Minority Leader, is listed here. I sought his position on this and he says that he will no longer interpellate. Just for the record, Mr. President.

The Presiding Officer [Sen. Villanueva]. Well, we already decided on terminating the period of interpellations.

Senator Zubiri. Yes, Mr. President.

So, the next motion is to move for the period of amendments, I believe the good sponsor has amendments. So, I move to open the period of amendments.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

The distinguished gentleman from Valenzuela is recognized.

GATCHALIAN AMENDMENTS

Senator Gatchalian. Mr. President, for the record, this bill has been approved in the Seventeenth Congress. Unfortunately, our counterpart in the Lower House never approved their version. So, I refiled it during the Eighteenth Congress, and now I am seeking the approval of the Body.

To proceed with the amendments, Mr. President, I have only a few amendments.

On page 7, delete lines 18 to 28.

I so move, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

Senator Gatchalian. On page 7, lines 30 to 31, delete the phrase “For the organizational and operational requirements of the Institute”, such that the section now starts with THERE IS HEREBY APPROPRIATED OUT OF THE GENERAL APPROPRIATIONS ACT.

I so move, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

Senator Gatchalian. On page 7, line 32, delete the words and figure “One Hundred Million Pesos (100,000,000.00)”, and replace it with the words and figure TWO HUNDRED MILLION PESOS (P200,000,000.00).

I so move, Mr. President.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

Senator Gatchalian. That is all, Mr. President. Thank you very much.

The Presiding Officer [Sen. Villanueva]. Thank you Senator Gatchalian.

The Majority Leader is recognized.

MOTION OF SENATOR ZUBIRI
(Coauthorship and Cosponsorship of Senators Villanueva, Zubiri, Hontiveros,
and Dela Rosa of S. No. 1296)

Senator Zubiri. Mr. President, with the permission also of the sponsor, I move that Sen. Joel Villanueva, myself, Sen. Risa Hontiveros, and Sen. Ronald “Bato” dela Rosa be made cosponsors and coauthors.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

Senator Zubiri. Mr. President, I move to close the period of amendments.

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the motion is approved.

APPROVAL OF S. NO. 1296 ON SECOND READING

Senator Zubiri. Mr. President, I move that we vote on Second Reading on Senate Bill No. 1296, as amended.

The Presiding Officer [Sen. Villanueva]. Is there any objection? [Silence]
There being none, we shall now vote on Second Reading on Senate Bill No. 1296, as amended.

As many as are in favor of the bill, say *aye*.

Several Members. *Aye*.

The Presiding Officer [Sen. Villanueva]. As many as are against the bill, say *nay*. [Silence]

Senate Bill No. 1296, as amended, is approved on Second Reading.

SUSPENSION OF CONSIDERATION OF S. NO. 1296

Senator Zubiri. Mr. President, I move that we suspend consideration of Senate Bill No. 1296.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

Senator Zubiri. Before we go back to the measure of Senator Lacson, just a housekeeping matter, Mr. President. I am not sure if I was made a coauthor of Senate Bill No. 1365, the Alternative Learning System bill.

MOTION OF SENATOR ZUBIRI
(Cosponsorship and Coauthorship of Senators Zubiri, Villanueva, Drilon,
Hontiveros, and Dela Rosa of S. No. 1365)

With the permission of the sponsor, I move that Sen. Joel Villanueva, together with this representation, Sen. Franklin M. Drilon, Sen. Risa Hontiveros, and Sen. Ronald “Bato” dela Rosa be made as cosponsors and coauthors of Senate Bill No. 1365.

The Presiding Officer [Sen. Villanueva]. Is there any objection?

[Silence] There being none, the motion is approved.

SUSPENSION OF SESSION

Senator Zubiri. Mr. President, may I ask for a one-minute suspension of the session?

The Presiding Officer [Sen. Villanueva]. Is there any objection?
[Silence] There being none, the session is suspended.

It was 6:26 p.m.

RESUMPTION OF SESSION

At 6:27 p.m., the session was resumed with Senate President Vicente C. Sotto III presiding.

The President. The session is resumed.

BILL ON SECOND READING
S. No. 1083—The Law on the Prevention of
Terrorist Acts of 2020

(Continuation)

Senator Zubiri. Mr. President, I move that we resume consideration of Senate Bill No. 1083 as reported out under Committee Report No. 9.

The President. Is there any objection? *[Silence]* There being none, resumption of consideration of Senate Bill No. 1083 is now in order.

Senator Zubiri. Mr. President, we are still in the period of amendments. I believe Senator Tolentino has already submitted his proposed amendments to the distinguished sponsor.

May I ask that we recognize the sponsor, Sen. Panfilo Lacson.

The President. The gentleman from Cavite, Sen. Panfilo Lacson, is recognized.

Senator Lacson. Mr. President, may I ask that we now close the period of amendments.

The President. I thought there were some amendments from Senator Tolentino.

Senator Lacson. Mr. President, nobody is here to introduce amendments.

There is an understanding which was relayed to the staff of the senators concerned that we will just take up their proposed amendments during the bicameral conference committee.

Senator Zubiri. If that is the agreement, Mr. President, I move that we close the period of amendments.

The President. Is there any objection? *[Silence]* There being none, the period of amendments is closed.

APPROVAL OF S. NO. 1083 ON SECOND READING

Senator Zubiri. Mr. President, I move that we vote on Second Reading on Senate Bill No. 1083, as amended.

The President. Is there any objection? *[Silence]* There being none, we shall now vote on Second Reading on Senate Bill No. 1083, as amended.

As many as are in favor of the bill, say *aye*.

Several Members. *Aye.*

The President. As many as are against the bill, say *nay*. *[Silence]*
Senate Bill No. 1083, as amended, is approved on Second Reading.

Senator Zubiri. Mr. President, so that Senator Tolentino would have peace of mind, probably in the bicameral conference committee, we can appoint him as a member thereof. Anyway, he should be.

The President. Yes, after we approve this on Third Reading.

Senator Zubiri. Yes, Mr. President, because he is the chairman of the Committee on Local Government.

SUSPENSION OF CONSIDERATION OF S. NO. 1083

I move that we suspend consideration of Senate Bill No. 1083.

The President. Is there any objection? *[Silence]* There being none, consideration of the measure is suspended.

Senator Zubiri. Mr. President, on Monday, we have very important hearings. I believe they would like to borrow the Session Hall for these important hearings.

Mr. President, with the permission of the Body, we sought the approval of all our colleagues on this and it was 99% approved that we adjourn the session until the 26th of February, 2020 because on the 25th, we have no work. It is a declared national holiday.

ADJOURNMENT OF SESSION

So, Mr. President, to allow our colleagues to utilize all our rooms on Monday for very important hearings, particularly the Session Hall, we move to adjourn the session until three o'clock in the afternoon, Wednesday, February 26, 2020.

The President. Is there any objection? *[Silence]* There being none, the session is adjourned until three o'clock in the afternoon, Wednesday, February 26, 2020.

It was 6:31 p.m.

(PO – Deputy Speaker Estrella)

REP. BIAZON. ... iyong mga predicate crimes, nagiging balakid din po iyong pag-specify pa ho ng mga batas na iyon dahil ang lalabas ay kailangan pa ho nilang patunayan iyong violation noong batas na iyon bago pa natin sila ihabla o bago natin ituloy iyong sa pag-violate ng Human Security Act.

So, sa pagpasa natin nitong batas na ito, pinaliliit po natin ang mundo ng mga terorista, pinapamadali natin ang pag-prosecute po sa kanila.

REP. BROSAS. Mr. Speaker, Ginoong Sponsor, kaya po natin tinututulan iyong pagtanggap sa predicate crimes dahil po alam natin na magagamit talaga ito sa mga ordinaryong sirkumstansya at ordinaryong mamamayan. Bahagi, sinabi po ninyo kanina, bahagi ng definition ng “terrorism” iyong “Engages in acts intended to cause extensive interference with damage or destruction to critical infrastructure” at kabilang sa critical infrastructure ang transportation.

Kung halimbawa, Ginoong Sponsor, nagsagawa ng road blockades ang mga jeepney drivers na ayaw pa ring pahintulutan ng gobyerno na pumasada kahit pa tatlong buwan na silang walang kita sa ilalim ng community quarantine, maituturing silang terorista sa batas na ito. Tama ba, Mr. Sponsor, Ginoong Speaker?

REP. BIAZON. Mali po. Hindi po saklaw iyong pagkilos noong ating mga jeepney drivers na magkaroon ng blockade tungkol doon sa kanilang kabuhayan. Masasakop po iyan doon sa sinasabi nating “exclusion” na sinasabi nga pong mayroong ibinibigay na leeway para hindi isama ang protest, dissent, stoppage

of work, and mass action na ang purpose ay mag-exercise ng civil and political rights.

Hindi ho totoo o hindi tama na sabihing ordinaryong mamamayan ay nasasakop ng Anti-Terrorism Bill sapagkat doon pa lamang po sa definition ng “terrorism”, alam natin po na hindi ordinaryong mamamayan ang tinutukoy ng panukalang batas kung hindi iyong mga tao na nais maghasik ng violence, ng disorder doon po sa way of life or iyong peaceful living ng lahat ng mga mamamayan.

REP. BROSAS. Mr. Speaker, Mr. Sponsor, madali pong sabihin ng Sponsor na hindi covered or covered ng terrorist act ito pero sa aktwal po, halimbawa, hindi naman ganoon iyong nangyayari. Halimbawa, ngayon nga lang po sa pagkakaroon ng complaint ng ating mga jeepney drivers banda sa Caloocan ay hinuli na sila. So, what more pa kapag magkakaroon ng batas na magwe-weaponize pa na lalo, na pupuwede silang pumasok dito sa mga definition na ito, “critical infrastructure”—transportation? So, napakalawak po nito at pupuwede pong magamit. Kaya po sinasabi namin na ang dali-dali nating sabihin pero sa aktwal na mga pangyayari, pupuwede talagang gamitin, Mr. Sponsor, Mr. Speaker.

REP. BIAZON. Mr. Speaker, alam ninyo po isa ako doon sa naging proponent ng Human Security Act of 2007. Noong tinatalakay namin iyong batas noong panahon na iyon, noong panukalang batas pa siya, pareho rin po iyong mga apprehensions na **naririnig** nating ginagamit dito sa kasalukuyang

tinatalakay natin, **iyong improvement ng Security Act**, similar apprehensions. But ano ho ang nakita natin? Halos hindi nga ho nagamit iyong batas dahil hindi naman po kasi ma-a-apply sa ordinaryong mamamayan iyong definition na inilalagay natin dito sa mga ipinapanukala nating batas. Tulad po nito nga, hindi po natin masasabing kasama sa sakop iyong jeepney drivers na nag-blockade dahil gusto nilang i-improve ang kabuhayan nila dahil wala naman po silang ginagawang acts intended to cause death, wala naman ho silang ginagawang acts intended to cause extensive damage and destruction to government facilities. So, mayroon hong nakalista na mga requirements para pumasok ka at isaklaw na magamit **iyong batas na ito sa iyo**. Kaya po, again, isinasama natin iyong nakalagay dito exclusively **na** mga exclusions na exercise on civil and political rights.

So, mayroon ho naman tayong mga nakikita na ginamitan ng ibang batas, depende na ho kasi sa mga ...

/atc

(PO – Deputy Speaker Estrella)

REP. TADURAN. ... I move that we recognize the Honorable Argel Joseph Cabatbat of MAGSASAKA Party-List for his individual amendments.

So moved, Mr. Speaker.

THE DEPUTY SPEAKER (Rep. Estrella). The distinguished Gentleman representing the MAGSASAKA Party-List is hereby recognized. *(Gavel)* Please proceed.

REP. CABATBAT. Ako na ba? Hello. Mr. Speaker, can you hear me?

THE DEPUTY SPEAKER (Rep. Estrella). Yes, loud and clear. The Gentleman representing the MAGSASAKA Party-List is hereby recognized. *(Gavel)*

REP. CABATBAT. Thank you, Mr. Speaker.

Base sa narinig ko, mukhang wala yatang magiging amendment, but I will still try my luck. Mr. Speaker, Mr. Sponsor, kung nabalitaan natin iyong mga nangyayari ngayon sa Amerika, nagkakaroon ngayon ng riot, looting dahil sa ginawang pagpatay kay **George** Floyd. At kung maaalala din natin, noong bago magkaroon ng COVID, si **Archie** Paray ay nang-hostage sa Greenhills dahil sa mga hinaing niya sa kanyang employer.

Ngayon sa parehong sitwasyon na 'to, ang paniniwala **namin** ay hindi terorismo iyong mga pangyayaring iyon, kaya naman, Mr. Speaker, Mr. Sponsor, I would like to *(inaudible)* the following words in Section 4, to wit: MASS ACTIONS, VIGILS, PROTESTS AND SIMILAR MASS MOVEMENT THAT SUDDENLY EVOLVED INTO RIOTS, DISORDERLY ACTIONS, AND LOOTING WITHOUT

PROOF THAT THE SAME WAS PREMEDITATED OR THAT IT WAS COORDINATED SHALL NOT BE CONSIDERED AS ACTS OF TERRORISM.

SIMILARLY, ILLEGAL ACTS DUE TO OUTBURST OF EMOTIONS OR ISOLATED ACTS OF PEOPLE WHO GOES BERSERK DUE TO POLITICAL FRUSTRATIONS, MEDICAL CONDITIONS, OR OTHER PERSONAL MOTIVES SHALL NOT BE CONSIDERED AS ACTS OF TERRORISM, BUT SHOULD RATHER BE CONSIDERED AS AILMENTS OF OUR SOCIETY THAT NEED TO BE ADDRESSED THROUGH REFORMS AND OTHER CONSTRUCTIVE LEGISLATION TO ALLEVIATE THE CONDITION OF OUR POOREST SECTORS.

Isa po ito sa aking mga amendments, Mr. Speaker, Mr. Sponsor, and would the Sponsor be amenable?

REP. NOGRALES (J.B.). Thank you, Mr. Speaker. I agree with the analysis of the honorable—my fellow Party-List Congressman Argel. However, we don't need to amend it for that implied—those actions are already implied that they are not acts of terrorism. So, we don't see any necessity to amend the current bill as it is.

REP. CABATBAT. Thank you, Mr. Speaker, Mr. Sponsor. Although I disagree, but thank you, thank you for that concession and admission that it is implied. Nonetheless, Mr. Speaker, Mr. Sponsor, another proposed amendment, doon po sa Section 4(a) that says, "Engages in acts intended to cause death or serious bodily injury to any person, or endangers a person's life", baka naman po puwede natin ma-amend, "bodily injury to or endangers AT LEAST ONE OR MORE RANDOM PERSONS".

So, para ma-differentiate lang po natin iyong murder or multiple murder at serious physical injuries sa terrorism. Would the distinguished Sponsor be amenable to that amendment?

REP. NOGRALES (J.B.). Mr. Speaker, to read Section 4(a) means you have to read Section 4 *in toto* which includes the very much intent in subsection (e) ...

/cmg

**Security Council**

Distr.: General

28 September 2001

Resolution 1373 (2001)**Adopted by the Security Council at its 4385th meeting, on
28 September 2001***The Security Council,**Reaffirming* its resolutions 1269 (1999) of 19 October 1999 and 1368 (2001) of 12 September 2001,*Reaffirming also* its unequivocal condemnation of the terrorist attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, and expressing its determination to prevent all such acts,*Reaffirming further* that such acts, like any act of international terrorism, constitute a threat to international peace and security,*Reaffirming* the inherent right of individual or collective self-defence as recognized by the Charter of the United Nations as reiterated in resolution 1368 (2001),*Reaffirming* the need to combat by all means, in accordance with the Charter of the United Nations, threats to international peace and security caused by terrorist acts,*Deeply concerned* by the increase, in various regions of the world, of acts of terrorism motivated by intolerance or extremism,*Calling* on States to work together urgently to prevent and suppress terrorist acts, including through increased cooperation and full implementation of the relevant international conventions relating to terrorism,*Recognizing* the need for States to complement international cooperation by taking additional measures to prevent and suppress, in their territories through all lawful means, the financing and preparation of any acts of terrorism,*Reaffirming* the principle established by the General Assembly in its declaration of October 1970 (resolution 2625 (XXV)) and reiterated by the Security Council in its resolution 1189 (1998) of 13 August 1998, namely that every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts,*Acting* under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States shall:

- (a) Prevent and suppress the financing of terrorist acts;
- (b) Criminalize the wilful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used, in order to carry out terrorist acts;
- (c) Freeze without delay funds and other financial assets or economic resources of persons who commit, or attempt to commit, terrorist acts or participate in or facilitate the commission of terrorist acts; of entities owned or controlled directly or indirectly by such persons; and of persons and entities acting on behalf of, or at the direction of such persons and entities, including funds derived or generated from property owned or controlled directly or indirectly by such persons and associated persons and entities;
- (d) Prohibit their nationals or any persons and entities within their territories from making any funds, financial assets or economic resources or financial or other related services available, directly or indirectly, for the benefit of persons who commit or attempt to commit or facilitate or participate in the commission of terrorist acts, of entities owned or controlled, directly or indirectly, by such persons and of persons and entities acting on behalf of or at the direction of such persons;

2. *Decides also* that all States shall:

- (a) Refrain from providing any form of support, active or passive, to entities or persons involved in terrorist acts, including by suppressing recruitment of members of terrorist groups and eliminating the supply of weapons to terrorists;
- (b) Take the necessary steps to prevent the commission of terrorist acts, including by provision of early warning to other States by exchange of information;
- (c) Deny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens;
- (d) Prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or their citizens;
- (e) Ensure that any person who participates in the financing, planning, preparation or perpetration of terrorist acts or in supporting terrorist acts is brought to justice and ensure that, in addition to any other measures against them, such terrorist acts are established as serious criminal offences in domestic laws and regulations and that the punishment duly reflects the seriousness of such terrorist acts;
- (f) Afford one another the greatest measure of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of terrorist acts, including assistance in obtaining evidence in their possession necessary for the proceedings;
- (g) Prevent the movement of terrorists or terrorist groups by effective border controls and controls on issuance of identity papers and travel documents, and through measures for preventing counterfeiting, forgery or fraudulent use of identity papers and travel documents;

3. *Calls* upon all States to:

(a) Find ways of intensifying and accelerating the exchange of operational information, especially regarding actions or movements of terrorist persons or networks; forged or falsified travel documents; traffic in arms, explosives or sensitive materials; use of communications technologies by terrorist groups; and the threat posed by the possession of weapons of mass destruction by terrorist groups;

(b) Exchange information in accordance with international and domestic law and cooperate on administrative and judicial matters to prevent the commission of terrorist acts;

(c) Cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts;

(d) Become parties as soon as possible to the relevant international conventions and protocols relating to terrorism, including the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999;

(e) Increase cooperation and fully implement the relevant international conventions and protocols relating to terrorism and Security Council resolutions 1269 (1999) and 1368 (2001);

(f) Take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts;

(g) Ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts, and that claims of political motivation are not recognized as grounds for refusing requests for the extradition of alleged terrorists;

4. *Notes* with concern the close connection between international terrorism and transnational organized crime, illicit drugs, money-laundering, illegal arms-trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials, and in this regard *emphasizes* the need to enhance coordination of efforts on national, subregional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security;

5. *Declares* that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations;

6. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council, consisting of all the members of the Council, to monitor implementation of this resolution, with the assistance of appropriate expertise, and *calls upon* all States to report to the Committee, no later than 90 days from the date of adoption of this resolution and thereafter according to a timetable to be proposed by the Committee, on the steps they have taken to implement this resolution;

7. *Directs* the Committee to delineate its tasks, submit a work programme within 30 days of the adoption of this resolution, and to consider the support it requires, in consultation with the Secretary-General;

8. *Expresses* its determination to take all necessary steps in order to ensure the full implementation of this resolution, in accordance with its responsibilities under the Charter;

9. *Decides* to remain seized of this matter.



Security Council

Distr.: General

20 January 2003

Resolution 1456 (2003)

**Adopted by the Security Council at its 4688th meeting, on
20 January 2003**

The Security Council,

Decides to adopt the attached declaration on the issue of combating terrorism.

Annex

The Security Council,

Meeting at the level of Ministers for Foreign Affairs on 20 January 2003 reaffirms that:

- terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security;
- any acts of terrorism are criminal and unjustifiable, regardless of their motivation, whenever and by whomsoever committed and are to be unequivocally condemned, especially when they indiscriminately target or injure civilians;
- there is a serious and growing danger of terrorist access to and use of nuclear, chemical, biological and other potentially deadly materials, and therefore a need to strengthen controls on these materials;
- it has become easier, in an increasingly globalized world, for terrorists to exploit sophisticated technology, communications and resources for their criminal objectives;
- measures to detect and stem the flow of finance and funds for terrorist purposes must be urgently strengthened;
- terrorists must also be prevented from making use of other criminal activities such as transnational organized crime, illicit drugs and drug trafficking, money-laundering and illicit arms trafficking;
- since terrorists and their supporters exploit instability and intolerance to justify their criminal acts the Security Council is determined to counter this by contributing to peaceful resolution of disputes and by working to create a climate of mutual tolerance and respect;
- terrorism can only be defeated, in accordance with the Charter of the United Nations and international law, by a sustained comprehensive approach involving the active participation and collaboration of all States, international and regional organizations, and by redoubled efforts at the national level.

* * *

The Security Council therefore calls for the following steps to be taken:

1. All States must take urgent action to prevent and suppress all active and passive support to terrorism, and in particular comply fully with all relevant resolutions of the Security Council, in particular resolutions 1373 (2001), 1390 (2002) and 1455 (2003);
2. The Security Council calls upon States to:
 - (a) become a party, as a matter of urgency, to all relevant international conventions and protocols relating to terrorism, in particular the 1999 international convention for the suppression of the financing of terrorism and to support all international initiatives taken to that aim, and to make full use of the sources of assistance and guidance which are now becoming available;

-
- (b) assist each other, to the maximum extent possible, in the prevention, investigation, prosecution and punishment of acts of terrorism, wherever they occur;
 - (c) cooperate closely to implement fully the sanctions against terrorists and their associates, in particular Al-Qaeda and the Taliban and their associates, as reflected in resolutions 1267 (1999), 1390 (2002) and 1455 (2003), to take urgent actions to deny them access to the financial resources they need to carry out their actions, and to cooperate fully with the Monitoring Group established pursuant to resolution 1363 (2001);
 3. States must bring to justice those who finance, plan, support or commit terrorist acts or provide safe havens, in accordance with international law, in particular on the basis of the principle to extradite or prosecute;
 4. The Counter-Terrorism Committee must intensify its efforts to promote the implementation by Member States of all aspects of resolution 1373 (2001), in particular through reviewing States' reports and facilitating international assistance and cooperation, and through continuing to operate in a transparent and effective manner, and in that regard the Council;
 - (i) stresses the obligation on States to report to the CTC, according to the timetable set by the CTC, calls on the 13 States who have not yet submitted a first report and on the 56 States who are late in submitting further reports to do so by 31 March, and requests the CTC to report regularly on progress;
 - (ii) calls on States to respond promptly and fully to the CTC's requests for information, comments and questions in full and on time, and instructs the CTC to inform the Council of progress, including any difficulties it encounters;
 - (iii) requests the CTC in monitoring the implementation of resolution 1373 (2001) to bear in mind all international best practices, codes and standards which are relevant to the implementation of resolution 1373 (2001), and underlines its support for the CTC's approach in constructing a dialogue with each State on further action required to fully implement resolution 1373 (2001);
 5. States should assist each other to improve their capacity to prevent and fight terrorism, and notes that such cooperation will help facilitate the full and timely implementation of resolution 1373 (2001), and invites the CTC to step up its efforts to facilitate the provision of technical and other assistance by developing targets and priorities for global action;
 6. States must ensure that any measure taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law;
 7. International organizations should evaluate ways in which they can enhance the effectiveness of their action against terrorism, including by establishing dialogue and exchanges of information with each other and with other relevant international actors, and directs this appeal in particular to those technical agencies and organizations whose activities relate to the control of the use of

or access to nuclear, chemical, biological and other deadly materials; in this context the importance of fully complying with existing legal obligations in the field of disarmament, arms limitation and non-proliferation and, where necessary, strengthening international instruments in this field should be underlined;

8. Regional and subregional organizations should work with the CTC and other international organizations to facilitate sharing of best practice in the fight against terrorism, and to assist their members in fulfilling their obligation to combat terrorism;
9. Those participating in the Special Meeting of the Counter-Terrorism Committee with international regional and subregional organizations on 7 March 2003 should use that opportunity to make urgent progress on the matters referred to in this declaration which involve the work of such organizations;

* * *

The Security Council also:

10. emphasizes that continuing international efforts to enhance dialogue and broaden the understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, to further strengthen the campaign against terrorism, and to address unresolved regional conflicts and the full range of global issues, including development issues, will contribute to international cooperation and collaboration, which by themselves are necessary to sustain the broadest possible fight against terrorism;
11. reaffirms its strong determination to intensify its fight against terrorism in accordance with its responsibilities under the Charter of the United Nations, and takes note of the contributions made during its meeting on 20 January 2003 with a view to enhancing the role of the United Nations in this regard, and invites Member States to make further contributions to this end;
12. invites the Secretary General to present a report within 28 days summarizing any proposals made during its ministerial meeting and any commentary or response to these proposals by any Security Council member;
13. encourages Member States of the United Nations to cooperate in resolving all outstanding issues with a view to the adoption, by consensus, of the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism;
14. decides to review actions taken towards the realization of this declaration at further meetings of the Security Council.

**Security Council**

Distr.: General
8 October 2004

Resolution 1566 (2004)

**Adopted by the Security Council at its 5053rd meeting, on
8 October 2004**

The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999 and 1373 (2001) of 28 September 2001 as well as its other resolutions concerning threats to international peace and security caused by terrorism,

Recalling in this regard its resolution 1540 (2004) of 28 April 2004,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations and international law,

Deeply concerned by the increasing number of victims, including children, caused by acts of terrorism motivated by intolerance or extremism in various regions of the world,

Calling upon States to cooperate fully with the Counter-Terrorism Committee (CTC) established pursuant to resolution 1373 (2001), including the recently established Counter-Terrorism Committee Executive Directorate (CTED), the "Al-Qaida/Taliban Sanctions Committee" established pursuant to resolution 1267 (1999) and its Analytical Support and Sanctions Monitoring Team, and the Committee established pursuant to resolution 1540 (2004), and *further calling* upon such bodies to enhance cooperation with each other,

Reminding States that they must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights, refugee, and humanitarian law,

Reaffirming that terrorism in all its forms and manifestations constitutes one of the most serious threats to peace and security,

Considering that acts of terrorism seriously impair the enjoyment of human rights and threaten the social and economic development of all States and undermine global stability and prosperity,

Emphasizing that enhancing dialogue and broadening the understanding among civilizations, in an effort to prevent the indiscriminate targeting of different

religions and cultures, and addressing unresolved regional conflicts and the full range of global issues, including development issues, will contribute to international cooperation, which by itself is necessary to sustain the broadest possible fight against terrorism,

Reaffirming its profound solidarity with victims of terrorism and their families,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security;

2. *Calls upon* States to cooperate fully in the fight against terrorism, especially with those States where or against whose citizens terrorist acts are committed, in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle to extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens;

3. *Recalls* that criminal acts, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a state of terror in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism, are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature, and *calls upon* all States to prevent such acts and, if not prevented, to ensure that such acts are punished by penalties consistent with their grave nature;

4. *Calls upon* all States to become party, as a matter of urgency, to the relevant international conventions and protocols whether or not they are a party to regional conventions on the matter;

5. *Calls upon* Member States to cooperate fully on an expedited basis in resolving all outstanding issues with a view to adopting by consensus the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism;

6. *Calls upon* relevant international, regional and subregional organizations to strengthen international cooperation in the fight against terrorism and to intensify their interaction with the United Nations and, in particular, the CTC with a view to facilitating full and timely implementation of resolution 1373 (2001);

7. *Requests* the CTC in consultation with relevant international, regional and subregional organizations and the United Nations bodies to develop a set of best practices to assist States in implementing the provisions of resolution 1373 (2001) related to the financing of terrorism;

8. *Directs* the CTC, as a matter of priority and, when appropriate, in close cooperation with relevant international, regional and subregional organizations to start visits to States, with the consent of the States concerned, in order to enhance

the monitoring of the implementation of resolution 1373 (2001) and facilitate the provision of technical and other assistance for such implementation;

9. *Decides* to establish a working group consisting of all members of the Security Council to consider and submit recommendations to the Council on practical measures to be imposed upon individuals, groups or entities involved in or associated with terrorist activities, other than those designated by the Al-Qaida/Taliban Sanctions Committee, including more effective procedures considered to be appropriate for bringing them to justice through prosecution or extradition, freezing of their financial assets, preventing their movement through the territories of Member States, preventing supply to them of all types of arms and related material, and on the procedures for implementing these measures;

10. *Requests* further the working group, established under paragraph 9 to consider the possibility of establishing an international fund to compensate victims of terrorist acts and their families, which might be financed through voluntary contributions, which could consist in part of assets seized from terrorist organizations, their members and sponsors, and submit its recommendations to the Council;

11. *Requests* the Secretary-General to take, as a matter of urgency, appropriate steps to make the CTED fully operational and to inform the Council by 15 November 2004;

12. *Decides* to remain actively seized of the matter.

**Security Council**

Distr.: General
14 September 2005

Resolution 1624 (2005)

**Adopted by the Security Council at its 5261st meeting, on
14 September 2005**

The Security Council,

Reaffirming its resolutions 1267 (1999) of 15 October 1999, 1373 (2001) of 28 September 2001, 1535 (2004) of 26 March 2004, 1540 (2004) of 28 April 2004, 1566 (2004) of 8 October 2004, and 1617 (2005) of 29 July 2005, the declaration annexed to its resolution 1456 (2003) of 20 January 2003, as well as its other resolutions concerning threats to international peace and security caused by acts of terrorism,

Reaffirming also the imperative to combat terrorism in all its forms and manifestations by all means, in accordance with the Charter of the United Nations, and also *stressing* that States must ensure that any measures taken to combat terrorism comply with all their obligations under international law, and should adopt such measures in accordance with international law, in particular international human rights law, refugee law, and humanitarian law,

Condemning in the strongest terms all acts of terrorism irrespective of their motivation, whenever and by whomsoever committed, as one of the most serious threats to peace and security, and *reaffirming* the primary responsibility of the Security Council for the maintenance of international peace and security under the Charter of the United Nations,

Condemning also in the strongest terms the incitement of terrorist acts and *repudiating* attempts at the justification or glorification (*apologie*) of terrorist acts that may incite further terrorist acts,

Deeply concerned that incitement of terrorist acts motivated by extremism and intolerance poses a serious and growing danger to the enjoyment of human rights, threatens the social and economic development of all States, undermines global stability and prosperity, and must be addressed urgently and proactively by the United Nations and all States, and *emphasizing* the need to take all necessary and appropriate measures in accordance with international law at the national and international level to protect the right to life,

Recalling the right to freedom of expression reflected in Article 19 of the Universal Declaration of Human Rights adopted by the General Assembly in 1948 ("the Universal Declaration"), and recalling also the right to freedom of expression

in Article 19 of the International Covenant on Civil and Political Rights adopted by the General Assembly in 1966 (“ICCPR”) and that any restrictions thereon shall only be such as are provided by law and are necessary on the grounds set out in paragraph 3 of Article 19 of the ICCPR,

Recalling in addition the right to seek and enjoy asylum reflected in Article 14 of the Universal Declaration and the non-refoulement obligation of States under the Convention relating to the Status of Refugees adopted on 28 July 1951, together with its Protocol adopted on 31 January 1967 (“the Refugees Convention and its Protocol”), and also *recalling* that the protections afforded by the Refugees Convention and its Protocol shall not extend to any person with respect to whom there are serious reasons for considering that he has been guilty of acts contrary to the purposes and principles of the United Nations,

Reaffirming that acts, methods, and practices of terrorism are contrary to the purposes and principles of the United Nations and that knowingly financing, planning and inciting terrorist acts are also contrary to the purposes and principles of the United Nations,

Deeply concerned by the increasing number of victims, especially among civilians of diverse nationalities and beliefs, caused by terrorism motivated by intolerance or extremism in various regions of the world, *reaffirming* its profound solidarity with the victims of terrorism and their families, and *stressing* the importance of assisting victims of terrorism and providing them and their families with support to cope with their loss and grief,

Recognizing the essential role of the United Nations in the global effort to combat terrorism and *welcoming* the Secretary-General’s identification of elements of a counter-terrorism strategy to be considered and developed by the General Assembly without delay with a view to adopting and implementing a strategy to promote comprehensive, coordinated and consistent responses at the national, regional and international level to counter terrorism,

Stressing its call upon all States to become party, as a matter of urgency, to the international counter-terrorism Conventions and Protocols whether or not they are party to regional Conventions on the matter, and to give priority consideration to signing the International Convention for the Suppression of Nuclear Terrorism adopted by the General Assembly on 13 April 2005,

Re-emphasizing that continuing international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and addressing unresolved regional conflicts and the full range of global issues, including development issues, will contribute to strengthening the international fight against terrorism,

Stressing the importance of the role of the media, civil and religious society, the business community and educational institutions in those efforts to enhance dialogue and broaden understanding, and in promoting tolerance and coexistence, and in fostering an environment which is not conducive to incitement of terrorism,

Recognizing the importance that, in an increasingly globalized world, States act cooperatively to prevent terrorists from exploiting sophisticated technology, communications and resources to incite support for criminal acts,

Recalling that all States must cooperate fully in the fight against terrorism, in accordance with their obligations under international law, in order to find, deny safe haven and bring to justice, on the basis of the principle of extradite or prosecute, any person who supports, facilitates, participates or attempts to participate in the financing, planning, preparation or commission of terrorist acts or provides safe havens,

1. *Calls upon* all States to adopt such measures as may be necessary and appropriate and in accordance with their obligations under international law to:

(a) Prohibit by law incitement to commit a terrorist act or acts;

(b) Prevent such conduct;

(c) Deny safe haven to any persons with respect to whom there is credible and relevant information giving serious reasons for considering that they have been guilty of such conduct;

2. *Calls upon* all States to cooperate, inter alia, to strengthen the security of their international borders, including by combating fraudulent travel documents and, to the extent attainable, by enhancing terrorist screening and passenger security procedures with a view to preventing those guilty of the conduct in paragraph 1 (a) from entering their territory;

3. *Calls upon* all States to continue international efforts to enhance dialogue and broaden understanding among civilizations, in an effort to prevent the indiscriminate targeting of different religions and cultures, and to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter incitement of terrorist acts motivated by extremism and intolerance and to prevent the subversion of educational, cultural, and religious institutions by terrorists and their supporters;

4. *Stresses* that States must ensure that any measures taken to implement paragraphs 1, 2 and 3 of this resolution comply with all of their obligations under international law, in particular international human rights law, refugee law, and humanitarian law;

5. *Calls upon* all States to report to the Counter-Terrorism Committee, as part of their ongoing dialogue, on the steps they have taken to implement this resolution;

6. *Directs* the Counter-Terrorism Committee to:

(a) Include in its dialogue with Member States their efforts to implement this resolution;

(b) Work with Member States to help build capacity, including through spreading best legal practice and promoting exchange of information in this regard;

(c) Report back to the Council in twelve months on the implementation of this resolution.

7. *Decides* to remain actively seized of the matter.

INDEX OF ANNEXES

| ANNEX | DESCRIPTION |
|----------------|---|
| 1 | Dabiq: Remaining and Expanding (Muharram 1436 or November 2014; Annex "1" |
| Senate Records | |
| 2 | TSN dated December 17, 2019; Annex "2" |
| 3 | TSN dated January 21, 2020; Annex "3" |
| 4 | TSN dated January 22, 2020; Annex "4" |
| 5 | TSN dated January 27, 2020; Annex "5" |
| 6 | TSN dated January 28, 2020; Annex "6" |
| 7 | TSN dated February 3, 2020; Annex "7" |
| 8 | TSN dated February 19, 2020; Annex "8" |
| House Records | |
| 9 | TSN dated June 2, 2020, 6:35 p.m.; Annex "9" |
| 10 | TSN dated June 2, 2020, 8:10 p.m.; Annex "10" |
| 11 | United Nations Security Council Resolutions; Annex "11" |
| 12 | UNSC 1373, Threats to International Peace and Security Caused by Terrorist Acts; Annex "12" |
| 13 | UNSC 1456, High-Level Meeting of the Security Council: Combating Terrorism; Annex "13" |
| 14 | UNSC 1566, Threats to International Peace and Security Caused by Terrorist Acts; Annex "14" |



Republic of the Philippines
Office of the Solicitor General

AFFIDAVIT OF SERVICE

(Revised pursuant to A.M. No. 19-10-20-SC)

I, **JOEL N. VILLASERAN**, Senior State Solicitor, **OFFICE OF THE SOLICITOR GENERAL**, with Office address at 134 Amorsolo St., Legaspi Village Makati City, after being sworn to depose and say:

That on 07/17/2020, I served a copy of the following pleading/paper:

NATURE OF THE PLEADING

CONSOLIDATED COMMENT

In **G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624 and 252646**, entitled:

ATTY. HOWARD M. CALLEJA, ATTY. JOSEPH PETER J. CALLEJA, ATTY. CHRISTOPHER JOHN P. LAO, DE LA SALLE BROTHERS, INC., as represented by Br. Armin A. Luistro, FSC, DR. REYNALDO J. ECHAVEZ, NAPOLEON L. SIONGCO, and RAEYAN M. REPOSAR, *Petitioners*, - versus - **EXECUTIVE SECRETARY, NATIONAL SECURITY ADVISER, SECRETARY OF FOREIGN AFFAIRS, SECRETARY OF NATIONAL DEFENSE, SECRETARY OF INTERIOR AND LOCAL GOVERNMENT, SECRETARY OF FINANCE, SECRETARY OF JUSTICE, SECRETARY OF INFORMATION AND COMMUNICATIONS TECHNOLOGY, and EXECUTIVE DIRECTOR OF THE ANTI-MONEY LAUNDERING COUNCIL (AMLC)**, *Respondents*;

REP. EDCEL C. LAGMAN, *Petitioner*, - versus - **EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, ANTI-TERRORISM COUNCIL (ATC), ANTI-MONEY LAUNDERING COUNCIL (AMLC), SENATE OF THE REPUBLIC OF THE PHILIPPINES**, represented by **SENATE PRESIDENT VICENTE C. SOTTO III**, and **THE HOUSE OF REPRESENTATIVES**, represented by **SPEAKER ALAN PETER S. CAYETANO**, *Respondents*;

MELENCIO S. STA. MARIA, EIRENE JHONE E. AGUILA, GIDEON V. PEÑA, MICHAEL T. TIU, JR., FRANCIS EUSTON R. ACERO, PAUL CORNELIUS T. CASTILLO, and EUGENE T. KAW, *Petitioners*, - versus - **EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, SECRETARY OF JUSTICE MENARDO I. GUEVARRA, THE ANTI-TERRORISM COUNCIL, ARMED FORCES OF THE PHILIPPINES CHIEF OF STAFF FILEMON SANTOS, JR., PHILIPPINE NATIONAL POLICE CHIEF ARCHIE FRANCISCO F. GAMBOA, NATIONAL SECURITY ADVISER HERMOGENES C. ESPERON, JR., SECRETARY OF FOREIGN AFFAIRS TEODORO L. LOCSIN, JR., SECRETARY OF THE INTERIOR AND LOCAL**

GOVERNMENT EDUARDO M. AÑO, SECRETARY OF DEFENSE DELFIN N. LORENZANA, SECRETARY OF FINANCE CARLOS G. DOMINGUEZ III, SECRETARY OF INFORMATION AND COMMUNICATIONS TECHNOLOGY GREGORIO HONASAN II, and ANTI-MONEY LAUNDERING COUNCIL EXECUTIVE DIRECTOR MEL GEORGIE B. RACELA, Respondents;

BAYAN MUNA PARTY-LIST REPRESENTATIVES CARLO ISAGANI T. ZARATE, FERDINAND GAITE AND EUFEMIA CULLAMAT; GABRIELA WOMEN'S PARTY REPRESENTATIVE ARLENE D. BROSAS; ACT-TEACHERS PARTY-LIST REPRESENTATIVE FRANCE L. CASTRO; KABATAAN PARTYLIST REPRESENTATIVE SARAH JANE I. ELAGO; BAYAN MUNA PARTY-LIST PRESIDENT, SATURNINO OCAMPO; MAKABAYAN CO-CHAIRPERSON LIZA LARGOZA MAZA; BAYAN MUNA PARTY-LIST CHAIRPERSON NERI J. COLMENARES; ACT-TEACHERS PARTY-LIST PRESIDENT ANTONIO TINIO, AND ANAKPAWIS PARTY-LIST VICE-PRESIDENT ARIEL CASILAO, and MAKABAYAN SECRETARY GENERAL, NATHANAEL SANTIAGO, Petitioners, - versus - PRESIDENT RODRIGO DUTERTE, EXECUTIVE SECRETARY SALVADOR MEDIALDEA, AND THE ANTI-TERRORISM COUNCIL, REPRESENTED BY ITS CHAIRMAN SALVADOR MEDIALDEA, Respondents.

RUDOLF PHILIP B. JURADO, Petitioner, - versus - THE ANTI-TERRORISM COUNCIL, THE EXECUTIVE SECRETARY, SECRETARY OF JUSTICE, SECRETARY OF FOREIGN AFFAIRS, SECRETARY OF NATIONAL DEFENSE, THE SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT, SECRETARY OF FINANCE, THE NATIONAL SECURITY ADVISER, CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES, DIRECTOR GENERAL OF THE PHILIPPINE NATIONAL POLICE, THE SENATE OF THE PHILIPPINES, AND THE HOUSE OF REPRESENTATIVES OF THE PHILIPPINES, Respondents.

CENTER FOR TRADE UNION AND HUMAN RIGHTS (CTUHR), REPRESENTED BY DAISY ARAGO, PRO-LABOR LEGAL ASSISTANCE CENTER (PLACE), REPRESENTED BY ATTY. NOEL V. NERI, ARMANDO TEODORO, JR., VIOLETA ESPIRITU, and VIRGINIA FLORES, Petitioners, - versus - HON. RODRIGO R. DUTERTE, IN HIS CAPACITY AS PRESIDENT AND COMMANDER-IN-CHIEF OF THE REPUBLIC OF THE PHILIPPINES, HON. SALVADOR MEDIALDEA, AS EXECUTIVE SECRETARY, ANTI-TERRORISM COUNCIL (ATC), ARMED FORCES OF THE PHILIPPINE (AFP), REPRESENTED BY LT. GEN. FELIMON SANTOS JR. and the PHILIPPINE NATIONAL POLICE (PNP), REPRESENTED BY LT. GEN. ARCHIE GAMBOA, Respondents.

CHRISTIAN S. MONSOD, FELICITAS A. ARROYO, RAY PAOLO J. SANTIAGO, AMPARITA STA. MARIA, MARIA ILSEA W. SALVADOR, MARIANNE CARMEL B. AGUNOY, XAMANTHA XOFIA A. SANTOS, MARIA PAULA S. VILLARIN, PAULA SOPHIA ESTRELLA, IGNATIUS MICHAEL D. INGLES, ERNESTO B. NERI, FR. ALBERT E. ALEJO, S.J., PAULA ZAYCO ABERASTURI, WYANET AISHA ELIORA M. ALCIBAR, SENTRONG MGA NAGKAKAISA AT PROGRESIBONG MANGGAGAWA (SENTRON), represented by its Secretary-General JOSUA T. MATA, Petitioners, - versus - EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, NATIONAL SECURITY ADVISER HERMOGENES C. ESPERON, JR., DEPARTMENT OF FOREIGN AFFAIRS SECRETARY

TEODORO L. LOCSIN, JR., DEPARTMENT OF NATIONAL DEFENSE SECRETARY DELFIN N. LORENZANA, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT SECRETARY EDUARDO M. AÑO, DEPARTMENT OF FINANCE SECRETARY CARLOS G. DOMINGUEZ III, DEPARTMENT OF JUSTICE SECRETARY MENARDO I. GUEVARRA, DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY GREGORIO B. HONASAN II, ANTI-MONEY-LAUNDERING COUNCIL EXECUTIVE DIRECTOR MEL GEORGIE B. RACELA, ALL MEMBERS OF THE ANTI-TERRORISM COUNCIL, ARMED FORCES OF THE PHILIPPINES CHIEF OF STAFF GENERAL FILEMON SANTOS, JR., PHILIPPINE NATIONAL POLICE CHIEF GENERAL ARCHIE FRANCISCO F. GAMBOA, Respondents.

SANLAKAS, represented by Marie Marguerite M. Lopez, Petitioner,- versus - RODRIGO R. DUTERTE, as President and Commander-in-Chief of All the Armed Forces, SENATE, and HOUSE OF REPRESENTATIVES, Respondents.

pursuant to Section 4, 5, 6, 7, 8 and 9, Rule 13 of the 2019 Proposed Amendments to the 1997 Rules of Civil Procedure, as follows:

By Electronic Mail:

REP. EDCEL C. LAGMAN
Petitioner and Counsel
House of Representatives, Batasan Complex,
Quezon City
Email: edcel.lagman@house.gov.ph
karina_lagman@yahoo.com

(/) By simultaneously sending an e-mail to the parties or to their counsel, copy furnishing them in the email filing the pleading, on 17 July 2020 via osgatateam@osg.gov.ph as evidenced by a screenshot of the Sent email.

MELENCIO S. STA. MARIA
Petitioner and Counsel
Far Eastern University – Institute of Law
6/F Far Eastern University Makati Campus
Sen. Gil Puyat Avenue cor. Malugay St.,
Makati City
Email: mstamaria2016@gmail.com

MAKABAYAN NATIONAL HEADQUARTERS
Counsel for the Petitioners (Zarate et.al.)
Block 31 Lot 13 A. Bonifacio St.,
New Capitol Estates I, Batasan Hills,
1126 Quezon City
Email: maknational@gmail.com

CALLEJA LAW OFFICE
Counsel for the Petitioner
Unit 2904-C, West Tower, PSE Centre,
Exchange Road, Ortigas Center,
Pasig City, 1605
Email: callejalaw@callejalaw.com

PRO-LABOR LEGAL ASSISTANCE CENTER
Counsel for the Petitioner (Center for Trade Union)
No. 33-B E. Rodriguez Sr. Avenue
Brgy. Doña Josefa, Quezon City
Email: prolaborlegalassistance@yahoo.com

**ATTY. LEONARD PEEJAY V. JURADO LAW
OFFICE
Counsel for the Petitioner (Rudolf Philip B.
Jurado)**

G/F Unit C, Dona Enriqueta Bldg.
No. 46 Kamias Road, Quezon City 1102
Email: rpjlawoffice@yahoo.com

**ATENEHO HUMAN RIGHTS CENTER
Counsel for the Petitioners (Monsod et. al.,)**

4/F Ateneo Professional School Building
20 Rockwell Drive, Rockwell Center, Makati City
1200
Email: ahrc.law@ateneo.edu

**DEAN J.V. BAUTISTA
Counsel for the Petitioners (SANLAKAS)**

Suite 906 The Richmond Plaza
21 San Miguel Ave. cor. Lourdes Ave.
Ortigas Center, Pasig City 1605
Email: sanlakascoalition@gmail.com



JOEL N. VILLASERAN
Senior State Solicitor

SUBSCRIBED AND SWORN to before me this 07/17/2020 of at Makati City, Philippines, affiant exhibiting to me his OSG Employee ID No. 2008-11117 issued at Makati City, Philippines.



OMAR T. GABRIELES
State Solicitor I



Republic of the Philippines
Office of the Solicitor General

VERIFIED DECLARATION
FOR E-FILING

I, **JOEL N. VILLASERAN**, *Senior State Solicitor* of the Office of the Solicitor General, with office address at 134 Amorsolo St., Legaspi Village, Makati City 1229, hereby declare that the foregoing *Consolidated Comment* in **G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624 and 252646**, entitled:

ATTY. HOWARD M. CALLEJA, ATTY. JOSEPH PETER J. CALLEJA, ATTY. CHRISTOPHER JOHN P. LAO, DE LA SALLE BROTHERS, INC., as represented by Br. Armin A. Luistro, FSC, DR. REYNALDO J. ECHAVEZ, NAPOLEON L. SIONGCO, and RAEYAN M. REPOSAR, *Petitioners*, - versus - **EXECUTIVE SECRETARY, NATIONAL SECURITY ADVISER, SECRETARY OF FOREIGN AFFAIRS, SECRETARY OF NATIONAL DEFENSE, SECRETARY OF INTERIOR AND LOCAL GOVERNMENT, SECRETARY OF FINANCE, SECRETARY OF JUSTICE, SECRETARY OF INFORMATION AND COMMUNICATIONS TECHNOLOGY, and EXECUTIVE DIRECTOR OF THE ANTI-MONEY LAUNDERING COUNCIL (AMLC),** *Respondents*;

REP. EDCCEL C. LAGMAN, *Petitioner*, - versus - **EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, ANTI-TERRORISM COUNCIL (ATC), ANTI-MONEY LAUNDERING COUNCIL (AMLC), SENATE OF THE REPUBLIC OF THE PHILIPPINES,** represented by **SENATE PRESIDENT VICENTE C. SOTTO III,** and **THE HOUSE OF REPRESENTATIVES,** represented by **SPEAKER ALAN PETER S. CAYETANO,** *Respondents*;

MELENCIO S. STA. MARIA, EIRENE JHONE E. AGUILA, GIDEON V. PEÑA, MICHAEL T. TIU, JR., FRANCIS EUSTON R. ACERO, PAUL CORNELIUS T. CASTILLO, and EUGENE T. KAW, *Petitioners*, - versus - **EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, SECRETARY OF JUSTICE MENARDO I. GUEVARRA, THE ANTI-TERRORISM COUNCIL, ARMED FORCES OF THE PHILIPPINES CHIEF OF STAFF FILEMON SANTOS, JR., PHILIPPINE NATIONAL POLICE CHIEF ARCHIE FRANCISCO F. GAMBOA, NATIONAL SECURITY ADVISER HERMOGENES C. ESPERON, JR., SECRETARY OF FOREIGN AFFAIRS TEODORO L. LOCSIN, JR., SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT EDUARDO M. AÑO, SECRETARY OF DEFENSE DELFIN N. LORENZANA, SECRETARY OF FINANCE CARLOS G. DOMINGUEZ III, SECRETARY OF INFORMATION AND COMMUNICATIONS TECHNOLOGY GREGORIO HONASAN II, and ANTI-MONEY LAUNDERING COUNCIL EXECUTIVE DIRECTOR MEL GEORGIE B. RACELA,** *Respondents*;

BAYAN MUNA PARTY-LIST REPRESENTATIVES CARLO ISAGANI T. ZARATE, FERDINAND GAITE AND EUFEMIA CULLAMAT; GABRIELA WOMEN'S PARTY REPRESENTATIVE ARLENE D. BROSAS; ACT-TEACHERS PARTY-LIST REPRESENTATIVE FRANCE L. CASTRO; KABATAAN PARTYLIST REPRESENTATIVE SARAH JANE I. ELAGO; BAYAN MUNA PARTY-LIST PRESIDENT, SATURNINO OCAMPO; MAKABAYAN CO-CHAIRPERSON LIZA LARGOZA MAZA; BAYAN MUNA PARTY-LIST CHAIRPERSON NERI J. COLMENARES; ACT-TEACHERS PARTY-LIST PRESIDENT ANTONIO TINIO, AND ANAKPAWIS PARTY-LIST VICE-PRESIDENT ARIEL CASILAO, and MAKABAYAN SECRETARY GENERAL, NATHANAEL SANTIAGO, *Petitioners*, - versus - PRESIDENT RODRIGO DUTERTE, EXECUTIVE SECRETARY SALVADOR MEDIALDEA, AND THE ANTI-TERRORISM COUNCIL, REPRESENTED BY ITS CHAIRMAN SALVADOR MEDIALDEA, *Respondents*;

RUDOLF PHILIP B. JURADO, *Petitioner*, - versus - THE ANTI-TERRORISM COUNCIL, THE EXECUTIVE SECRETARY, SECRETARY OF JUSTICE, SECRETARY OF FOREIGN AFFAIRS, SECRETARY OF NATIONAL DEFENSE, THE SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT, SECRETARY OF FINANCE, THE NATIONAL SECURITY ADVISER, CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES, DIRECTOR GENERAL OF THE PHILIPPINE NATIONAL POLICE, THE SENATE OF THE PHILIPPINES, AND THE HOUSE OF REPRESENTATIVES OF THE PHILIPPINES, *Respondents*;

CENTER FOR TRADE UNION AND HUMAN RIGHTS (CTUHR), REPRESENTED BY DAISY ARAGO, PRO-LABOR LEGAL ASSISTANCE CENTER (PLACE), REPRESENTED BY ATTY. NOEL V. NERI, ARMANDO TEODORO, JR., VIOLETA ESPIRITU, and VIRGINIA FLORES, *Petitioners*, - versus - HON. RODRIGO R. DUTERTE, IN HIS CAPACITY AS PRESIDENT AND COMMANDER-IN-CHIEF OF THE REPUBLIC OF THE PHILIPPINES, HON. SALVADOR MEDIALDEA, AS EXECUTIVE SECRETARY, ANTI-TERRORISM COUNCIL (ATC), ARMED FORCES OF THE PHILIPPINE (AFP), REPRESENTED BY LT. GEN. FELIMON SANTOS JR. and the PHILIPPINE NATIONAL POLICE (PNP), REPRESENTED BY LT. GEN. ARCHIE GAMBOA, *Respondents*;

CHRISTIAN S. MONSOD, FELICITAS A. ARROYO, RAY PAOLO J. SANTIAGO, AMPARITA STA. MARIA, MARIA ILSEA W. SALVADOR, MARIANNE CARMEL B. AGUNOY, XAMANTHA XOFIA A. SANTOS, MARIA PAULA S. VILLARIN, PAULA SOPHIA ESTRELLA, IGNATIUS MICHAEL D. INGLES, ERNESTO B. NERI, FR. ALBERT E. ALEJO, S.J., PAULA ZAYCO ABERASTURI, WYANET AISHA ELIORA M. ALCIBAR, SENTRONG MGA NAGKAKAISA AT PROGRESIBONG MANGGAGAWA (SENTRON), represented by its Secretary-General JOSUA T. MATA, *Petitioners*, - versus - EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, NATIONAL SECURITY ADVISER HERMOGENES C. ESPERON, JR., DEPARTMENT OF FOREIGN AFFAIRS SECRETARY TEODORO L. LOCSIN, JR., DEPARTMENT OF NATIONAL DEFENSE SECRETARY DELFIN N. LORENZANA, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT SECRETARY EDUARDO M. AÑO, DEPARTMENT OF FINANCE SECRETARY CARLOS G. DOMINGUEZ III, DEPARTMENT OF JUSTICE SECRETARY MENARDO I. GUEVARRA, DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY GREGORIO B. HONASAN II, ANTI-MONEY-LAUNDERING COUNCIL EXECUTIVE DIRECTOR MEL GEORGIE B. RACELA, ALL MEMBERS OF THE ANTI-TERRORISM COUNCIL, ARMED FORCES OF THE PHILIPPINES CHIEF

OF STAFF GENERAL FILEMON SANTOS, JR., PHILIPPINE NATIONAL POLICE CHIEF GENERAL ARCHIE FRANCISCO F. GAMBOA, Respondents; and

SANLAKAS, represented by Marie Marguerite M. Lopez, Petitioner, - versus - RODRIGO R. DUTERTE, as President and Commander-in-Chief of All the Armed Forces, SENATE, and HOUSE OF REPRESENTATIVES, Respondents;

hereto submitted electronically *via email* and in accordance with the Efficient Use of Paper Rule is complete and true copy of the said pleading filed with the Supreme Court.

Makati City, Philippines, 17 July 2020.



JOEL N. VILLASERAN
Senior State Solicitor

SUBSCRIBED AND SWORN to before me this 07/17/2020 of at Makati City, Philippines, affiant exhibiting to me his OSG Employee ID No. 2008-11117 issued at Makati City, Philippines.



OMAR T. GABRIELES
State Solicitor I