

Republic of the Philippines
HOUSE OF REPRESENTATIVES

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **3684**



Introduced by Representative Gloria Macapagal-Arroyo

AN ACT DECLARING A NATIONAL EMERGENCY AGAINST DRUGS AND TERRORISM, ESTABLISHING A NATIONAL POLICY TO AUTHORIZE THE PRESIDENT, IN ACCORDANCE WITH THE CONSTITUTION, TO EXERCISE NECESSARY AND PROPER POWERS TO ADDRESS SUCH EMERGENCY

EXPLANATORY NOTE

The Philippines is currently suffering from a national emergency, involving drugs, terrorism, and lawlessness, which threatens the very life of the nation and our people.

Recent statistics show that the nationwide drug proliferation rate is 27% with 3.7 million illegal drug users in the country while the affected youth comprise 1% of the total population. Ninety-four percent of all barangays in Metro Manila have been drug infiltrated. Nationwide illegal drugs pandemic rate¹ is 27% or 11,321 out of 42,036 barangays.² In addition, the Philippines has the highest abuse rate for methamphetamine hydrochloride, or shabu, in East Asia, according to the 2011 United Nations World Drug Report.³ The statistics are alarming.

The emergency continues as there are 1,466 killed drug personalities in police operations which were reported by the Philippine National Police, while 1,490 vigilante killings were recorded, for a total of close to 3,000 killings in just some 70 days since the assumption of office of the present administration. The government program "Tokhang" has created widespread fear among the general public and resulted in the surrender of some 700,000 drug pushers and/or users, thus creating problems such as lack of detention and drug rehabilitation centers.

Meanwhile, terrorism is a crime under the Human Security Act of 2007 and describes such act as causing "widespread and extraordinary fear and panic among the populace". The Human Rights Watch reported that there were 38 major bombings on civilians that resulted to 402 killed and 32 injured individuals from 2000 to 2007.⁴ A total of at least 40 killed and 246 injured civilians had been reported from the major bombings from 2009 to the present.⁵

¹ "Affectation rate" was the term used by the PNP in its presentation before the Senate Committee on Justice.

² Philippine Drug Enforcement Agency, PNP Presentation before the Senate Committee on Justice and Human Rights, August 23, 2016.

³ Jerry Esplanada, UN Drug Report: Philippines has highest rate of shabu in East Asia, 27 March 2012, <http://newsinfo.inquirer.net/168143/un-drug-report-philippines-has-highest-rate-of-shabu-use-in-east-asia>, <last accessed on 10 September 2016>.

⁴ Human Rights Watch, Philippines Lives Destroyed, 2007, https://www.hrw.org/reports/2007/philippines0707/philippines_lives_destroyed.pdf, <last accessed 10 September 2016>.

⁵ *Ibid.*

Terrorist incidents have escalated in the country as the most recent bombing in Davao took place on 2 September 2016 with a total of 14 people dead and 71 injured. At least five countries have issued travel warnings to their citizens in the Philippines following the deadly Davao night market explosion, namely: Australia, United States, United Kingdom, Canada and Singapore.

On September 4, 2016, the President issued Proclamation No. 55, entitled *Declaring a State of National Emergency on Account of Lawless Violence in Mindanao*. However, it must be underscored that the existence of a national emergency needs to be officially declared by Congress alongside a national policy to allow the President to effectively take the necessary and proper measures required by the exigencies of the situation, but for a limited period only, and subject to restrictions prescribed by Congress.

'Riding in tandem' motorcyclist committed over 3,000 crimes in Metro Manila in 2013.⁶ Vigilante killings numbers to 1,490. Lawlessness abound.

Detention is better than killings, because life is precious. But drug lords and terrorists must go to jail and be penalized to serve the ends of justice and protect the people from lawless elements. On the other hand, government state actors like the police or military who are called out to enforce the emergency powers will be administratively charged and prosecuted if they abuse their authority and commit human rights abuses. A system of checks and balances shall be in place, inviting the participation of all branches of government.

This bill seeks to protect civil liberties and promote checks and balances, under Article VI, Section 23 (2) of the Constitution, while ensuring the apprehension of big-time drug lords and terrorists to protect our people from lawless elements which have crippled the country. To address the national emergency, the principle of *salus populi est suprema lex* (*The welfare of the people is the supreme law.*) is invoked.



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2nd District, Pampanga

⁶ Julliane Love De Jesus, Inquirer.net, January 28, 2014, < <http://newsinfo.inquirer.net/570697/riding-in-tandem-motorcyclists-committed-over-3000-crimes-in-metro-manila-in-2013-police>>.

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AN ACT DECLARING A NATIONAL EMERGENCY AGAINST DRUGS AND TERRORISM, ESTABLISHING A NATIONAL POLICY TO AUTHORIZE THE PRESIDENT, IN ACCORDANCE WITH THE CONSTITUTION, TO EXERCISE NECESSARY AND PROPER POWERS TO ADDRESS SUCH EMERGENCY

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

SECTION 1. *Short Title.* - This Act shall be known as the "National Emergency Against Drugs and Terrorism Act of 2016."

Sec. 2. *Declaration of a National Emergency.* - The prime duty of the government is to serve and protect the people. Given past and recent events involving illegal drugs and terrorism besieging the nation, a national emergency only against illegal drugs and terrorism is hereby declared to address such emergency.

Sec. 3. *Declaration of a National Policy.* - The State values the dignity of every human person and guarantees full respect for human rights. Due to and by reason thereof, it is hereby declared a national policy to authorize the President, in accordance with the Constitution, to exercise necessary and proper powers for a limited period only and subject to restrictions prescribed by this Act to effectively address the declared national emergency against illegal drugs and terrorism in this Act.

Sec. 4. *Authorized Powers.* - Pursuant to Article VI, Section 23 (2) of the Constitution, and to implement the declared national policy, the President is hereby authorized to exercise the following powers for a limited period only and subject to restrictions prescribed by this Act:

a) To fortify law enforcement agencies of the government and for this purpose, to train law enforcement personnel, reorganize, abolish or create offices; split group, or merge positions; transfer functions, equipment, properties, records and personnel; institute cost-cutting measures; and take such other related actions; provided, that this shall not result in the diminution of the present salaries and benefits of the personnel of these agencies;

b) To appoint special prosecutors from the National Prosecution Service, whose office will be open twenty-four (24) hours everyday, including Saturdays, Sundays, and holidays, to receive complaints, conduct preliminary investigation, and file information in cases involving illegal drugs and terrorism;

c) To appoint special defense counsels from the Public Attorney's Office, whose office will be open twenty-four (24) hours everyday, including Saturdays, Sundays, and holidays, to advise, represent, and defend apprehended persons or the accused in cases involving illegal drugs and terrorism;

d) To issue hold-departure orders and orders limiting the right to travel of persons of interest in cases involving illegal drugs and terrorism for national security and public safety, consistent with Article III, Section 6 of the Constitution;

e) To inquire into or examine records, logbooks, and registers in cases involving illegal drugs and terrorism with any person, whether natural or juridical, without a court order, notwithstanding Republic Act No. 10173, otherwise known as the Data Privacy Act of 2012, or any law to the contrary;

f) To inquire into or examine deposits and investments in cases involving illegal drugs and terrorism with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a court order, notwithstanding Republic Act No. 1405, otherwise known as the Law on Secrecy of Bank Deposits, as amended, or any law to the contrary;

g) To issue orders to freeze without delay property or funds that are in any way related to cases involving illegal drugs and terrorism during the pendency of such cases;

h) To issue orders to suspend the application of Republic Act No. 4200, otherwise known as the Anti-Wiretapping Law, in cases involving illegal drugs and terrorism for national security and public safety;

i) To transfer and separate terrorism and illegal drugs-related prisoners to appropriate prison or detention facilities for public safety;

j) To convert existing buildings and structures into appropriate prison or detention facilities;

k) To initiate the construction and building of separate and isolated maximum security prison or detention facilities for high risk terrorists and drug lords; and

l) To authorize alternative modes of procurement in procuring relevant infrastructure projects, goods, and consulting services, including but not limited to forensic laboratories, prison or detention facilities, and law enforcement tools, such as dash board

cameras, police body cameras, and electronic bracelets; provided, that in all instances, the President shall promote economy and efficiency.

Sec. 5. *Special Courts.* - There shall be special courts to hear cases involving illegal drugs and terrorism in every judicial region, the judges of whom and the issuance of processes shall be available twenty-four (24) hours everyday, including Saturdays, Sundays, and holidays, to conduct continuous and speedy trial not exceeding sixty (60) days with a decision to be made within ten (10) days from the case being submitted for decision. The special courts shall have jurisdiction over cases in Section 9 of this Act. The Supreme Court shall exercise supervision over these special courts to ensure compliance with this Section.

Sec. 6. *Preliminary Attachment.* - In cases involving illegal drugs and terrorism, the provisional remedy of preliminary attachment shall automatically ensue to all properties directly or indirectly owned by the defendant as applicable to secure the satisfaction of any judgment in such cases.

Sec. 7. *Confiscation and Escheat in Illegal Drugs.* - All properties, including a den, dive, or resort, used in illegal drugs or where illegal drugs are intentionally sold or used, such as common carriers, clubs, restaurants, and other establishments, shall be confiscated and escheated in favor of the government.

Sec. 8. *Official Logbook and Closed Circuit Television Data.* - Law enforcement agencies in whose care and control persons of interest in cases involving illegal drugs and terrorism have been placed under custodial arrest and detention shall keep a securely and orderly maintained official logbook and Closed Circuit Television (CCTV) data. The official logbook and CCTV data are hereby declared as public documents and made available for inspection and scrutiny at any time of the day or night by relatives within the fourth civil degree of consanguinity or affinity, priests or religious ministers, lawyers, and physicians of persons in interest under custody.

The official logbook and CCTV data shall contain a clear and concise record of (a) the name, description, and address of the detained person; (b) the date and exact time of his initial admission for custodial arrest and detention; (c) the name and address of the physician who examined him physically and medically; (d) the state of his health and his physical and mental condition at the time of his initial admission for custodial detention; (e) the date and time of each removal of the detained person from his cell for interrogation or for any purpose; (f) the date and time of his return to his cell; (g) the name and address of the physician who physically and medically examined him after each interrogation; (h) a summary of the physical and medical findings on the detained person after each interrogation; (i) the names and addresses of his family members and nearest relatives, if any

and if available; (j) the names and addresses of persons who visit the detained person; (k) the date and time of each of such visits; (l) the date and time of each request of the detained person to communicate and confer with his legal counsel; (m) the date and time of each visit, and date and time of each departure of his legal counsel; and, (n) all other important events bearing on and all relevant details regarding the treatment of the detained person while under custodial arrest and detention.

A copy of the official logbook and CCTV data shall be biweekly submitted to Congress as provided under this Act.

Sec. 9. *Prevention of Abuses.* – Public officials, including law enforcement personnel, violating the law in implementing this Act and willfully failing to attend hearings shall be immediately put under preventive suspension during the national emergency and be disciplined in accordance with existing law.

Sec. 10. *Curfew.* – During the national emergency, minors below eighteen (18) years old shall be required to have a curfew between 11 pm up to 4 am for their protection, except minors who are accompanied by a parent or guardian or adult relative within the fourth civil degree of consanguinity or affinity.

Sec. 11. *Writ of Salus Populi Est Suprema Lex.* – During the national emergency, upon probable cause of a clear and present danger including but not limited to terrorism, any person possessing intelligence information vital to the protection of life and limb may be ordered by the judge through a writ of *salus populi est suprema lex* to submit to the proper authorities for investigation for as long as reasonably required in the interest of national security or public safety.

Sec. 12. *Prohibition on the Issuance of an Injunction.* – No court, except the Supreme Court, may issue any temporary restraining order, preliminary injunction, or preliminary mandatory injunction against the implementation of this Act.

Sec. 13. *Construction or Interpretation of the Powers.* – In the exercise of the powers provided herein, the State shall ensure that the rights enshrined in the Constitution, particularly the Bill of Rights, shall be observed. Nothing in this Act shall be construed or interpreted as a restriction of the Bill of Rights or the Constitution.

Sec. 14. *Duration.* – The declared national emergency against terrorism and illegal drugs in this Act, including the powers granted to the President under this Act, shall subsist, be valid, and be effective for a period of one hundred eighty (180) days only from the effectivity of this Act, unless sooner withdrawn by a joint resolution of Congress.

Sec. 15. *Information and Education Campaign.* – The government, through the Department of Education and various local government units, in cooperation with the Parent

Teacher Associations, shall inform and educate the public, particularly the youth, and provide them with properly trained teachers and guidance counselors in every school to teach and guide them about the dangers of illegal drugs and terrorism.

Sec. 16. *Appropriation.* - The amount needed for the implementation of this Act shall be charged against the current year's appropriation.

Sec. 17. *Oversight Committee.* - To monitor the implementation of this Act and the exercise of the powers granted hereunder, a Congressional Oversight Committee for the protection of the rights of the people during the national emergency is hereby constituted composed of three (3) members each from the House of Representatives and the Senate. The Congressional Oversight Committee may invite interested parties to its oversight proceedings.

Sec. 18. *Report to Congress.* - The President shall submit a biweekly report to Congress on the implementation of this Act, including a copy of the official logbook and a list of persons charged with or suspected of the crime of terrorism or illegal drugs-related crime.

Sec. 19. *Repealing Clause.* - All laws, decrees, orders, rules and regulations or other issuances or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 20. *Separability Clause.* - If any portion or provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in force and effect.

Sec. 21. *Effectivity.* - This Act shall take effect after fifteen (15) days following the completion of its publication either in the Official Gazette or in a newspaper of general circulation in the Philippines.

Approved,