

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS
First Regular Session

121
House Bill No. _____

Introduced by Representative JUAN MIGUEL MACAPAGAL ARROYO

AN ACT ABSOLUTELY PROHIBITING THE USE OF MINES, BOOBY-TRAPS AND OTHER DEVICES, PROVIDING FOR A TOTAL BAN ON ANTI-PERSONNEL LANDMINES AND CREATING FOR THIS PURPOSE A COORDINATING COMMITTEE ON LANDMINES

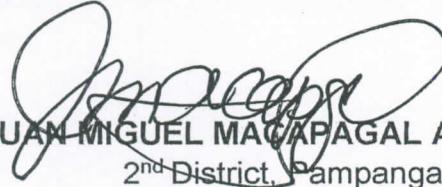
EXPLANATORY NOTE

The Duterte Administration is determined to put an end to the suffering and casualties caused by anti-personnel mines, that kill mostly innocent and defenseless civilians and children and obstruct economic development. The Administration further recognizes that a total ban of anti-personnel mines would be an important confidence-building measure.

This bill seeks not only to address its own relatively landmine problem in its internal armed conflicts but also to contribute to the overall humanitarian effort to solve the global scourge of anti-personnel mines.

This measure is based on the UN Mine Ban Treaty and Protocol on the Prohibition or Restriction on the Use of Mines, Booby-traps and other Devices.

In view of the foregoing, the immediate approval of this bill is earnestly sought.


JUAN MIGUEL MACAPAGAL ARROYO
2nd District, Pampanga

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

SECTION 1. *Short Title.* - This Act shall be known as the "Philippine Comprehensive Act on Landmines of ____".

SECTION 2. *Declaration of Policy.* - It is hereby declared the policy of the State that the use of specific types of weapons which are considered to cause unnecessary or unjustifiable suffering to combatants or to affect civilians indiscriminately should be banned. The State further undertakes never under any circumstances:

- a) To use anti-personnel mines;
- b) To develop, produce, otherwise acquire, stockpile, retain or transfer to anyone, directly or indirectly, anti-personnel mines; and
- c) To assist, encourage or induce, in any way, anyone to engage in any activity prohibited under this Act.

SECTION 3. *Scope.* —

1. This Act relates to the use on land of the mines, booby-traps and other devices, defined herein, including mines laid to interdict beaches, waterway crossings or river crossings, but does not apply to the use of anti-ship mines at sea or in inland waterways.

2. This Act shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

3. Nothing in this Act shall be invoked for the purpose of affecting the sovereignty of the State or the responsibility of the Government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

4. Nothing in this Act shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict in the territory of which that conflict occurs.

SECTION 4. *Definition of Terms.* —

For the purpose of this Act:

1. "Mine" means a munition placed under, on or near the ground or other surface area and designed to be exploded by the presence, proximity or contact of a person or vehicle.

2. "Anti-personnel mine" means a mine primarily designed to be exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons.

3. "Booby-trap" means any device or material which is designed, constructed or adapted to kill or injure, and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act.

4. "Other devices" means manually-emplaced munitions and devices including improvised explosive devices designed to kill, injure or damage and which are activated manually, by remote control or automatically after a lapse of time.

5. "Military objective" means, so far as objects are concerned, any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

6. "Minefield" is a defined area in which mines have been emplaced and "mined area" is an area which is dangerous due to the presence of mines. "Phoney minefield" means an area free of mines that simulates a minefield. The term "minefield" includes phoney minefields.

7. "Recording" means a physical, administrative and technical operation designed to obtain, for the purpose of registration in official records, all available information facilitating the location of minefields, mined areas, mines, booby-traps and other devices.

8. "Transfer" involves, in addition to the physical movement of mines into or from national territory, the transfer of title to and control over the mines, but does not involve the transfer of territory containing emplaced mines.

SECTION 5. *General Restrictions on the Use of Mines, Booby-Traps and Other Devices.* —

1. This Section applies to:

(a) mines;

(b) booby-traps; and

(c) other devices.

2. It is prohibited in all circumstances to use any mine, booby-trap or other device which is designed or of a nature to cause superfluous injury or unnecessary suffering.

3. It is prohibited to use mines, booby-traps or other devices which employ a mechanism or device specifically designed to detonate the munition by the presence of commonly available mine detectors as a result of their magnetic or other non-contact influence during normal use in detection operations.

4. It is prohibited to use a self-deactivating mine equipped with an anti-handling device that is designed in such a manner that the anti-handling device is capable of functioning after the mine has ceased to be capable of functioning.

5. It is prohibited in all circumstances to direct weapons to which this Section applies, either in offence, defense or by way of reprisals, against the civilian population as such or against individual civilians or civilian objects.

6. The indiscriminate use of weapons to which this Section applies is prohibited. Indiscriminate use is any placement of such weapons:

(a) which is not on, or directed against, a military objective. In case of doubt as to whether an object which is normally dedicated to civilian purposes, such as a place of worship, a house or other dwelling or a school, is being used to make an effective contribution to military action, it shall be presumed not to be so used; or

(b) which employs a method or means of delivery which cannot be directed at a specific military objective; or

(c) which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

7. Several clearly separated and distinct military objectives located in a city, town, village or other area containing a similar concentration of civilians or civilian objects are not to be treated as a single military objective.

8. All feasible precautions shall be taken to protect civilians from the effects of weapons to which this Section applies. Feasible precautions are those precautions which are practicable or practically possible taking into account all circumstances ruling at the time, including humanitarian and military considerations. These circumstances include, but are not limited to:

(a) the short- and long-term effect of mines upon the local civilian population for the duration of the minefield;

(b) possible measures to protect civilians (for example, fencing, signs, warning and monitoring);

(c) the availability and feasibility of using alternatives; and

(d) the short- and long-term military requirements for a minefield.

9. Effective advance warning shall be given of any emplacement of mines, booby-traps and other devices which may affect the civilian population, unless circumstances do not permit.

SECTION 6. *Prohibitions on the Use of Booby-traps and Other Devices.* —

1. Without prejudice to the rules of national and international law applicable in armed conflict relating to treachery and perfidy, it is prohibited in all circumstances to use booby-traps and other devices which are in any way attached to or associated with:

- (a) internationally recognized protective emblems, signs or signals;
- (b) sick, wounded or dead persons;
- (c) burial or cremation sites or graves;
- (d) medical facilities, medical equipment, medical supplies or medical transportation;
- (e) children's toys or other portable objects or products specially designed for the feeding, health, hygiene, clothing or education of children;
- (f) food or drink;
- (g) kitchen utensils or appliances except in military establishments, military locations or military supply depots;
- (h) objects clearly of a religious nature;
- (i) historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; or
- (j) animals or their carcasses.

2. It is prohibited to use booby-traps or other devices in the form of apparently harmless portable objects which are specifically designed and constructed to contain explosive material.

3. Without prejudice to the provisions of Section 5, it is prohibited to use weapons to which this Section applies in any city, town, village or other area containing a similar concentration of civilians in which combat between ground forces is not taking place or does not appear to be imminent, unless either:

- (a) they are placed on or in the close vicinity of a military objective; or
- (b) measures are taken to protect civilians from their effects, for example, the posting of warning sentries, the issuing of warnings or the provision of fences.

SECTION 7. *Transfers.* — In order to promote the purposes of this Act, the State:

- (a) undertakes not to transfer any mine the use of which is prohibited by this Act;

- (b) undertakes not to transfer any mine to any recipient other than a State or a State agency authorized to receive such transfers;
- (c) undertakes to exercise restraint in the transfer of any mine the use of which is restricted by this Act; and
- (d) undertakes to ensure that any transfer in accordance with this Section takes place in full compliance, with the relevant provisions of this Act and the applicable norms of national and international humanitarian law.

SECTION 8. *Penalties.* — Any person, whether natural or juridical, who commits any of the prohibited acts provided under Sections 5 and 6 shall, upon conviction, at the discretion of the court, be penalized by:

- (a) A fine, the amount of which to be determined by the Court; or
- (b) Imprisonment of prision correccional in its minimum period up to prision mayor in its maximum period; or
- (c) Both fine and imprisonment and seizure or forfeiture of anti-personnel mines or components thereof as may be determined by the Court.

SECTION 9. *Recording and Use of Information on Minefields, Mines Areas, Mines, Booby-Traps and Other Devices.* —

1. All information concerning minefields, mined areas, mines, booby-traps and other devices shall be recorded.

2. All such records shall be retained by the State or State agency, which shall, without delay after the cessation of active hostilities, take all necessary and appropriate measures, including the use of such information, to protect civilians from the effects of minefields, mined areas, mines, booby-traps and other devices in areas under their control.

3. This Article is without prejudice to the provisions of Section 10 of this Act.

SECTION 10. *Removal of Minefields, Mined Areas, Mines, Booby-Traps and Other Devices.* — Without delay after the cessation of active hostilities, all minefields, mined areas, mines, booby-traps and other devices shall be cleared, removed, destroyed or maintained in accordance with Section 5 of this Act.

SECTION 11. *Compliance by the Armed Forces of the Philippines.* —

1. Pursuant to this Act, especially its total ban on anti-personnel mines, the Armed Forces of the Philippines shall effect the corresponding changes in its military doctrine.

2. The Armed Forces of the Philippines shall issue relevant military instructions and operating procedures, including the notification of units and enterprises involved in arms development, production, acquisition and transfer.

3. Armed forces personnel shall receive training commensurate with their duties and responsibilities to comply with the provisions of this Act.

4. The Armed Forces shall develop and use alternatives to anti-personnel mines for perimeter defense of its field detachments, such as various early warning devices.

5. In cases of the reacquisition by the Armed Forces of claymore mines, it shall be ensured that these are usable and used in command-detonated mode only.

SECTION 12. *Compliance by Rebel Groups.* –

1. In addition to the enforcement of this Act vis-à-vis Philippine international armed conflicts and rebel groups, the State welcomes the voluntary compliance by rebel groups.

2. The inclusion of the landmines agenda in peace process with rebel groups shall be pursued.

3. The State recognizes the special role of impartial humanitarian organization in the engagement of rebel groups on a total ban on anti-personnel mines and other humanitarian norms, and shall provide an enabling environment for such engagement.

SECTION 13. *Coordinating Committee on Landmines (CCL).* – There shall be created a Coordinating Committee on Landmines which shall have the following powers and functions:

- (a) Coordinate, plan and monitor the Philippine's compliance with the proper implementation of the Ottawa Treaty and Amended Protocol II;
- (b) Prepare and submit annual reports under the two treaties;
- (c) Develop and implement plans and programs for the destruction of anti-personnel mines, mine clearance, mine awareness and victim assistance;
- (d) Issue implementing rules and regulations for the purpose of this Act as may be deemed necessary;
- (e) Conduct information dissemination on this Act and the two treaties, especially to the armed forces and rebel groups;
- (f) Initiate investigation of reported violations of this Act and, when warranted, refer the matter for prosecution;
- (g) Empower duly-authorized deputies to enter and search premises to collect and transfer anti-personnel mines for destruction; subject to constitutional guarantees; and
- (h) Exercise such other powers and functions necessary for the effective implementation of its mandate as may be provided by law or delegated by the President.

SECTION 14. *Composition of the CCL.* – The Coordinating Committee on Landmines shall be composed of senior representatives of the following agencies and organizations who shall elect a Chairperson and such other officers as may be necessary from among themselves:

- (a) Department of Foreign Affairs
- (b) Department of National Defense

- (c) Armed Forces of the Philippines
- (d) Department of Interior and Local Government
- (e) Department of Justice
- (f) Department of Health
- (g) Office of the Presidential Adviser on Peace Process
- (h) Commission on Human Rights
- (i) Philippine National Police
- (j) Such other relevant agencies or organizations as may be designated by the President

SECTION 15. *Appropriations.* — The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SECTION 16. *Separability Clause.* — Any provision of this Act declared unconstitutional shall not affect the validity of the other provisions thereof.

SECTION 17. *Repealing Clause.* — All orders, rules, regulations and other issuances, or parts thereof, which are inconsistent with this Act, are hereby repealed or modified accordingly.

SECTION 18. *Effectivity.* — This Act shall take effect fifteen (15) days after its complete publication in at least two (2) newspapers of general circulation.

Approved,