



REPUBLIC OF THE PHILIPPINES
Senate
Pasay City

Journal

SESSION NO. 47
Tuesday, January 28, 2020

**EIGHTEENTH CONGRESS
FIRST REGULAR SESSION**

SESSION NO. 47
Tuesday, January 28, 2020

CALL TO ORDER

At 3:00 p.m., the Senate President, Hon. Vicente C. Sotto III, called the session to order.

PRAYER

The Body observed a minute of silent prayer.

ROLL CALL

Upon direction of the Senate President, the Secretary of the Senate, Atty. Myra Marie D. Villarica, called the roll, to which the following senators responded:

Binay, M. L. N. S.	Lapid, M. L. M.
Cayetano, P. S.	Pacquiao, E. M. D.
Dela Rosa, R. B. M.	Pangilinan, F. N.
Drilon, F. M.	Revilla Jr., R. B.
Gatchalian, W.	Sotto III, V. C.
Go, C. L. T.	Tolentino, F. T. N.
Gordon, R. J.	Villar, C. A.
Hontiveros, R.	Zubiri, J. M. F.
Lacson, P. M.	

With 17 senators present, the Chair declared the presence of a quorum.

Senators Angara, Marcos, Pimentel, Recto and Villanueva arrived after the roll call.

Senator De Lima was unable to attend the session as she was under detention.

Senator Poe was absent.

APPROVAL OF THE JOURNAL

Upon motion of Senator Zubiri, there being no objection, the Body dispensed with the reading of the Journal of Session No. 46 (January 27, 2020) and considered it approved.

**ACKNOWLEDGMENT
OF THE PRESENCE OF GUESTS**

At this juncture, Senator Zubiri acknowledged the presence in the gallery of the following guests:

- Mayor Arth Bryan Celeste of Alaminos City, Pangasinan;
- Gov. Santiago B. Cane Jr. of Agusan del Sur;
- Mayor Phoebe L. Corvera of San Luis, Agusan del Sur;
- Mayor Leonida P. Manpatilan of Esperanza, Agusan del Sur;
- Mayor Sylvia Elorde of Bunawan, Agusan del Sur;
- Mayor Myrna S. Mondejar of Veruela, Agusan del Sur;

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- Mayor Lorife Magadan Otaza of Loreto, Agusan del Sur;
- Mayor Symond Caguiat of Santa Josefa, Agusan del Sur; and
- Mayor Frederick Mark Mellana of Prosperidad, Agusan del Sur.

Senate President Sotto welcomed the guests to the Senate.

REFERENCE OF BUSINESS

The Secretary of the Senate read the following matters and the Chair made the corresponding referrals:

BILLS ON FIRST READING

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

To the Committees on Agriculture, Food and Agrarian Reform; and Finance

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

To the Committees on Urban Planning, Housing and Resettlement; and Local Government

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

To the Committee on Civil Service, Government Reorganization and Professional Regulation

RESOLUTIONS

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

To the Committees on National Defense and Security, Peace, Unification and Reconciliation; and Finance

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

To the Committee on Rules

Proposed Senate Resolution No. 300, entitled

RESOLUTION URGING THE APPROPRIATE SENATE COMMITTEE TO

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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

To the Committee on Agriculture, Food and Agrarian Reform

ADDITIONAL REFERENCE OF BUSINESS

RESOLUTION

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

To the Committee on Health and Demography

SUSPENSION OF SESSION

Upon motion of Senator Zubiri, the session was suspended.

It was 3:06 p.m.

RESUMPTION OF SESSION

At 3:06 p.m., the session was resumed.

**ACKNOWLEDGMENT
OF THE PRESENCE OF GUESTS**

At this juncture, Senator Zubiri acknowledged the presence in the gallery of students from the

Manila Adventist College School of Law and Jurisprudence.

Senate President Sotto welcomed the guests to the Senate.

**COMMITTEE REPORT NO. 9
ON SENATE BILL NO. 1083
(Continuation)**

Upon motion of Senator Zubiri, there being no objection, the Body resumed consideration, on Second Reading, of Senate Bill No. 1083 (Committee Report No. 9), 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.

Senator Zubiri stated that the parliamentary status was still the period of interpellations.

Thereupon, the Chair recognized Senator Lacson, sponsor of the measure, and Senator Pimentel for his interpellation.

**INTERPELLATION
OF SENATOR PIMENTEL**

Preliminarily, Senator Pimentel noted that the measure seeks to amend an existing law, the Human Security Act, not only to a number of provisions thereof but the title itself, so that when the proposed measure is enacted into law, it would no longer be known as the Human Security Act but would become the Anti-Terrorism Act. He also noted that the entire definition of “terrorism” would be amended and changed to “terrorist acts,” effectively overhauling and substituting the existing law with an entirely new law called Anti-Terrorism Act. Senator Lacson confirmed Senator Pimentel’s observation that the law would be overhauled and effectively repealed. He revealed that, in fact, there was a suggestion that during the period of amendments, existing provisions under the Human Security Act that were untouched would simply be inserted, new concepts would be introduced and the bill would be renamed as the Anti-Terrorism Act of 2020 because during the committee hearings the term “human security” was found to be a very broad concept, and the Committee

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wanted the bill to focus on terrorism. Senator Pimentel stated that with the change of focus, there is all the more the need to carefully, properly and clearly define the specific purpose of the bill.

Asked by Senator Pimentel if the joint oversight committee created pursuant to the existing law has ever been convened, Senator Lacson replied in the negative. He said that since there was no information or data from the joint oversight committee—because it was never convened—on how the law has been implemented as well as its achievements and the difficulties in implementing it, this function of information- and data-gathering would be taken care of by Congress in the exercise of its oversight function and the Anti-Terrorism Council would regularly review and determine the effectiveness of the law.

Since the existing Human Security Act would be overhauled, its face, character, focus would be completely changed, Senator Pimentel asked if there has been any feedback about its implementation or if it has become a dead-letter law.

Senator Lacson explained that the proposal to overhaul the law actually came from the Anti-Terrorism Council, and the Committee also endeavored to study the different anti-terrorism laws of different countries.

Senator Pimentel recalled that during the previous interpellations, it was mentioned that there were more than 109 definitions of terrorism. Asked if the Council saw that the worldwide trend was to focus specifically on terrorism, Senator Lacson replied in the affirmative, adding that the Council also took into consideration in the definition the three elements of 1) acts, 2) intent, and 3) safeguards, all of which are present in the anti-terrorism laws of the countries which the Council cited.

Asked if the Council could not live with the existing Human Security Act and why there was a need to overhaul it, Senator Lacson said that the reason is to be compliant with existing international standards and state obligations.

Asked if there was something wrong with the definition of terrorism in the Human Security Act, Senator Lacson replied in the affirmative, saying it was the very reason why there was only one conviction thus far after so many years since the

Human Security Act was passed in 2007. In fact, he related that according to the judge who rendered the guilty verdict, the law was difficult because of the predicate crimes. Moreover, he disclosed that the agencies themselves refused to file cases against persons for violation of the Human Security Act because of the sword of Damocles hanging over their heads, which is the threat of paying a hefty fine of P500,000 per day of detention if the respondents are acquitted, and that they would rather file multiple murder charges or whatever other offenses are covered by the Revised Penal Code.

On whether there was record of any wrongful detention or imprisonment, Senator Lacson stated there would always be a wrongful detention for every apprehension or arrest made by law enforcement agencies, but no one has been so far penalized as far as the provision for a fine of P500,000 was concerned because the law enforcers refused to file cases under the existing act. He also admitted that there were actually dismissed cases according to the Anti-Terrorism Council, and revealed that those arrested, in fact, were currently claiming for damages and are invoking the provision of a P500,000 fine. He confirmed that said provision would be deleted and replaced with the penalty of imprisonment from 12 years and one day to 20 years and perpetual disqualification to hold public office.

Asked if there was any compensatory mechanism to a victim of a wrongful application of the Anti-Terrorism Act in terms of lost income, suffering, and moral damages, Senator Lacson said that the victim could file a claim for damages under the Civil Code or some other law. He agreed to discuss at the proper time any proposal to compensate victims of unlawful application of the law.

As to the rationale for the deletion of the last two paragraphs of Section 2 (*Declaration of Policy*), Senator Lacson assured that the intent was mainly to focus on terrorism, saying that all human rights safeguards were retained in the succeeding provisions of the bill.

Asked if a Filipino is covered by the term “foreign terrorist” under Section 10, Senator Lacson replied in the negative, saying that a foreign terrorist should be a foreigner; thus, a Filipino who became a resident abroad may be considered a foreigner if he has lost his Filipino citizenship.

P 88

Saying that the term “foreign terrorist” should be clarified during the period of amendments, Senator Pimentel inquired if there was any model law from which the term was derived. In reply, Senator Lacson stated that the definition was adopted from the UN Security Council Resolution 2178 on Foreign Terrorist Fighters (2014), the relevant points of which he quoted, to wit: “xxx 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, xxx.” He said that based on the resolution, the term “foreign terrorist fighters” are “individuals who travel to a state other than their states of residence or nationality for the purpose of perpetrating, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict.”

Asked if he would agree to “Filipinizing” the definition of “foreign terrorist” by saying that a foreign terrorist is not a Filipino, Senator Lacson maintained that the definition used in Section 3 (C) was exactly adopted from the UN Resolution and that the operative phrase is “other than their states of residence or nationality.” He placed on record that a Filipino national does not fall under the category of a foreign terrorist.

On Section 3(D), Senator Pimentel asked whether the effort of an individual has to be assessed as credible or convincing enough to be categorized as inciting to commit terrorist acts, or whether a mere mention of inviting another person to commit a terrorist act is already considered as inciting. Senator Lacson stated that credibility should not be a major factor, the more important consideration being that the individual was able to convince another through verbal, written, or visual communication. He pointed out that the commission of the terrorist act is bound by the intent and purpose of an individual by directly or indirectly goading, provoking, instigating, or persuading another individual or organization, and that it does no matter if the person is convincing enough since its determination is subjective in nature.

To the remark that determining the intent and purpose of the perpetrator is also subjective, Senator Lacson stated that for better definition, Section 4 specified the boundaries and parameters of punishable acts which are 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 structure of the country, or undermine public safety, where the intent and purpose could be derived from, by looking at its effect, context, and implication.

Senator Pimentel asked if any of the acts—to intimidate, to seriously destabilize, to create a public example or to undermine public safety—determines the purpose of the offender. Senator Lacson replied in the affirmative. He explained that the fulfillment of any of the four purposes is enough. He pointed out that the limitation to the purpose of undermining public safety is qualified and precipitated by any of the enumerated acts in the first paragraph of Section 4. He added that the purpose to undermine public safety could be a stand-alone context on terrorism because it always involves public safety similar to the other three purposes indicated in the measure.

Senator Pimentel pointed out that the definition of terrorist acts is the heart and soul of the new measure and that as a penal law, the bill has to be precise and very clear about what acts it is punishing. He also noted that after the definition of terrorist acts, immediately mentioned thereafter was the penalty for committing a terrorist act, and a proviso that the definition of terrorists acts “shall not cover legitimate exercises of rights and freedom of expression.” He then asked why there was need to immediately qualify “terrorist acts” and if there is a close relationship between the exercise of basic rights and some acts which could be mistaken as terrorist acts. He expressed concern on the possibility of misconstruing the exercise of basic rights as a terrorist act since the provision clarifying that the exercise of fundamental rights would not be covered was immediately written right after the definition that qualifies what would constitute terrorist acts. Senator Lacson explained that he deemed it wise to qualify the exclusion of the “legitimate exercises of freedom of expression” and others from terrorist acts for clarity and emphasis.

Asked if there could be an attack during a legitimate exercise of a right, Senator Lacson replied



in the affirmative, clarifying that if the legitimate exercise of freedom of expression resulted in some violence, destruction of properties, or loss of lives, it should not be covered in the definition of terrorist acts. Senator Pimentel agreed, saying that the intent was clearly the legitimate exercise of fundamental rights.

Senator Pimentel asked if the word "threat" in Section 4(E) would be removed as he expressed concern on the wording because a threat to commit the acts stated in paragraphs (a) to (d), specifically underscoring the term "research" in paragraph (c), would constitute a terrorist act punishable under the proposed law. He said he does not want the said provision in the new measure to be the black mark or record that would greatly affect people because of its wide scope. Senator Lacson agreed to improve the language of the provision for clarity.

Senator Pimentel asked if the word "attack" was a clear concept and whether there was a need to define what amounts to an attack. He noted that paragraph (a) is a person-to-person attack which can be a physical attack, while paragraph (b) is an attack on facilities. Senator Lacson said that such types of attacks were already qualified as attacks that cause death or serious bodily injury, attacks that cause extensive damage or destruction to a government, and so on. He agreed to consider any suggestion or amendment to further clarify, enhance, and make the measure more applicable and effective.

Asked if there is a need to define "international organization" which was mentioned in Section 4, Senator Lacson replied in the affirmative. He also agreed to Senator Pimentel's proposal to define what a "supranational jurisdiction" is as mentioned in Section 26.

Senator Pimentel also noted that the term "extraordinary rendition" in Section 45 was of no use because the country does not need to resort to it especially if it has a Mutual Legal Assistance Treaty with the requesting State. He said that one common provision in Mutual Legal Assistance Treaties states that "a person detained by Philippine authorities may be sent to requesting State to testify in a case where that person's testimony is needed." In reply, Senator Lacson said that extraordinary rendition is covertly sending a foreign criminal or terrorist suspect to be interrogated in another country with less vigorous regulations for the humane treatment of prisoners,

the reason why the word "ban" was included in Section 45.

Senator Pimentel, however, said that while a prisoner is sent covertly, there is an exception as indicated by the prohibitive word "unless" in Section 45 of the proposed measure unlike in a Mutual Legal Assistance Treaty where there is no such restriction. Senator Lacson replied that he is open to further clarifications on any term or phrase in the measure that might be deemed vague or unclear.

On the *Definition of Terms* in Section 3, Senator Pimentel said that the term "Expert Advice" would be tantamount to material support to a terrorist; thus, under the proposed measure, a person who gives "expert advice" is punished. Asked whether legal advice would qualify as expert advice, Senator Lacson replied in the negative, explaining that the advice should be in relation to perpetrating an act of terrorism. He said that even an advice coming from a doctor cannot be covered. He agreed to include "legal advice" in paragraph (e) specifically in the phrase "except medicine or religious materials."

Adverting to Section 7 (*Proposal To Commit Terrorist Acts*), Senator Pimentel noted that the provision introduces a new concept, but he worried what evidence would be used to prove that a person is proposing to commit a terrorist act. He feared that charges could be easily made and would result in a word-versus-word scenario.

Senator Lacson explained that the evidence to prove the crime would depend on the circumstances and must be corroborated by other pieces of evidence, either circumstantial or direct.

Asked if the proposal to commit terrorist acts is a bailable offense, Senator Lacson replied in the affirmative, saying that the penalty is eight years.

Senator Pimentel expressed apprehension that it might cause clogging in the court dockets because of the attitude it might bring that it would now become easy to file charges of proposal to commit terrorist acts but hard to prove it, thereby it becomes the burden of the courts to determine. Senator Lacson said that the case would always be bound by the Rules of Evidence. Senator Pimentel said he was worried that the accused may eventually be acquitted, but that in the meantime, there would still be a case. Senator Lacson said the offense or crime was not

unusual or novel because there are also cases of conspiracy and proposal to commit *coup d'etat*, rebellion or insurrection. Senator Pimentel agreed that for chosen crimes, the law punishes the proposal and the conspiracy and that terrorism is at that level as grave as those crimes where the law punishes conspiracy and proposal.

Senator Pimentel noted that Section 8 (*Inciting To Commit Terrorist Acts*) was another new concept in the measure. Asked how different it is from Section 7 (*Proposal To Commit Terrorist Acts*), Senator Lacson said that by its definition and even under the Revised Penal Code, proposal is different from inciting. He explained that a proposal would already be at the planning stage such that one is already proposing to commit a terrorist act, while in inciting, there is an audience, which is the general public.

Senator Pimentel said that in inciting the act, the conduct causes the danger of such act being actually committed, and a person, also looking at his credibility, would only be charged for inciting if the prosecutor believes that his call is going to be actually committed. Asked to confirm if that was what inciting was about, Senator Lacson replied that it was not necessarily so. He said that if the requirement is that the one inciting to commit a terrorist act should be able to convince the public at large to do it, that would mean that a terrorist act was actually committed.

Senator Pimentel then asked what the phrase "where such conduct causes a danger of such acts being actually committed" in Section 8 means. He noted that already incorporated in "inciting to commit terrorist acts" is the credibility of the person who is inciting because there is danger that such terrorist acts were being actually committed, which was not contemplated in the definition of "inciting" in Section 3.

Senator Lacson said that in the particular case, the "clear and present danger rule" should apply. Senator Pimentel proposed that Section 3 be revisited and reviewed.

Asked by Senator Pimentel whether "Recruitment to and Membership in a Terrorist Organization" as defined in Section 9 was a new concept, Senator Lacson replied in the affirmative.

Senator Pimentel noted that in the section appears a phrase "organization or association or groups of

persons is organized for the purpose of engaging in terrorist acts," and at the same time also refers to a person recruited "to support any terrorist act or individual or any organization, association or groups of persons which is proscribed under Section 24 of the Act or declared by the United Nations Security Council ...," which carries a penalty of life imprisonment. He then asked how it could be determined that an organization was organized for the purpose of engaging in terrorist acts. Senator Lacson replied that the provision refers to an organization not necessarily proscribed.

Senator Pimentel stated that in the absence of a court pronouncement that the organization is a terrorist organization, it would be difficult to prove and to charge a person for recruiting someone into an organization for the purpose of engaging in a terrorist act. Senator Lacson explained that a terrorist organization which was not yet proscribed has a period of six months within which it may not be formally or judicially proscribed.

Asked by Senator Pimentel if the value of proscribing would be lost when there is no need to proscribe, Senator Lacson said that a terrorist organization is still capable of committing terrorist acts even if it is not proscribed. He said that it would be up to the law enforcement agency or prosecution to prove that the organization, although not proscribed, is capable of committing terrorist acts.

Senator Pimentel said that law enforcers could always allege that a group has been organized for the purpose of engaging in terrorist acts and be charged with recruitment, and although that group may ultimately be acquitted, it has, in the meantime, a pending case. He said that his concern was how it could be proven that an organization was organized for the purpose of engaging in terrorist acts. He said that even without the provision, it would be covered by the provision on conspiracy found in another section or by the section on membership in a terrorist organization or recruitment.

Senator Lacson pointed out that conspiracy occurs more in the planning stage. He further explained that Section 9 pertains to a terrorist organization and regardless of whether or not it was proscribed, if that organization recruits, it may be committing a crime.

Senator Pimentel said that if he were the defense counsel, he would merely ask the prosecutor why he



did not have the organization proscribed when he knew that the organization was organized for the purpose of engaging in terrorist acts. He said that he does not see any problem with an organization which has been proscribed, his concern being with regard to organizations that have not yet been proscribed. He said that several charges may be filed and they may ultimately be acquitted; in the meantime, however, they have a case because of allegations as a terrorist group.

Senator Lacson said that there should be enough evidence to show that the organization is a terrorist organization even if it has not yet been proscribed. However, he said that any person recruiting another to join a terrorist organization, regardless of whether or not the organization has been proscribed, may be committing a crime under the proposed measure.

Senator Pimentel said that the logical act of the DOJ would be to have the organization proscribed; otherwise, the defense would ask them why they have not taken steps to proscribe the organization as a terrorist organization, and it may appear that the prosecution doubted whether the organization was organized for terrorist activities.

Senator Lacson explained that one major amendment being introduced is to make the law proactive because a terrorist act is a terrorist act and it must be prevented.

Asked about the provision on attempted terrorism, Senator Lacson said that it has been removed, but provisions on proposal, inciting, conspiracy to commit terrorism, recruitment and membership to terrorist organizations were introduced, the reason being that terrorist acts cause tremendous damage to life and property which could not be undone, and put fear and intimidation on the government or any international organization.

Senator Pimentel gave assurance of his support to streamline and to make clear the concept of terrorism and make all acts connected with terrorism punishable in the country, in solidarity with the rest of the world. However, he lamented that even if a section to penalize abuses committed by law enforcers was introduced, for as long as the abuses could not be proven, the law enforcer may not be punished and the aggrieved person would have to suffer indefinite days under detention. Relative thereto, he recalled having read that in one country, an accused spent a

thousand days in jail without any charges, presumably under its anti-terrorism laws. Asked for the longest possible detention period that an accused in a terrorist act may suffer without charges, Senator Lacson said that the bill proposed 14 days, while other countries have their respective detention period: Malaysia, 59 days; Indonesia, 21 days; Singapore, two years, renewable for an unlimited period; and Pakistan, 30 days.

Asked whether the maximum 14 days may be extended, Senator Lacson said that there are qualifications to consider and the necessity of detaining the accused for a maximum of 14 working days has to be proven. He recalled that during the committee hearings, the law enforcement agencies were asked on the reasonable time for them to be able to gather evidence to successfully comply with the inquest proceedings, among others, and that they came up with 14 days.

Senator Lacson also outlined the following grounds for the 14-working day period of preventive detention that must be established: 1) that further detention of the person or persons is necessary to preserve evidence related to the terrorist act or complete the investigation; 2) that 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.

Asked what the original detention period was as a general rule, Senator Lacson said that it was 36 hours under the Revised Penal Code. He added that the bill provides the following safeguards: the law enforcer taking custody shall notify in writing the judge nearest the place of arrest indicating the time, date, manner of arrest, location or locations of detained suspects, physical and mental conditions of the detained suspects; and the law enforcer must report in writing the matter of the arrest to the Anti-Terrorism Council.

Senator Pimentel noted that the amendments to the law not only cover the stages of execution of the crime but also the level of criminal participation from principal, accomplice, and accessory. However, he feared that there could be some overlapping between Section 8 (*Accomplice*) and Section 5 which refers to planning, training, preparing and facilitating. He explained that under the Revised Penal Code, an accomplice is "someone who, by previous or simultaneous acts, cooperated in the execution of the terrorist act."

1090

Senator Lacson clarified that the accomplice referred to in Section 5 would not qualify as an accomplice under the Revised Penal Code. He said that Section 5 refers to the preparatory stage, while conspiracy or being an accomplice refers to the execution of a crime. He said that one who participates in the facilitation or commission of a terrorist act is punishable with life imprisonment without the benefit of parole.

Senator Pimentel said that he has a similar problem with an “accessory” because under the Revised Penal Code an accessory is someone who conceals or destroys the body of the crime or the effects or instruments thereof, while under Section 5, if one possesses objects connected with the commission of a terrorist act, he is not an accessory but a principal.

To clarify, Senator Lacson adverted to Section 5 on *Planning, Training, Preparing and Facilitating the Commission of a Terrorist Act*, to wit: “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 in the commission of a terrorist act or collecting or making documents likely to facilitate the commission of a terrorist act xxx”

Senator Pimentel noted that possession of objects is an independent instrument of the crime or effects. Senator Lacson stated that the mere possession of objects connected in the commission of the act is a crime. He explained that Section 5 refers to the preparatory stage of committing the crime of terrorism. He stated that a person is a principal of the crime if he participated in the preparatory stage, while the accessory participated after the commission of the crime. He pointed out, however, that if a person was not part of the planning and did not facilitate the crime but concealed the instruments involved after the crime, he becomes an accessory and would not get the penalty of life imprisonment.

Senator Pimentel expressed concern that accomplices in a simultaneous act could be mistaken as principals under Section 5. He stated that the provision should be reexamined and clarified.

Senator Lacson expressed appreciation for Senator Pimentel’s intervention in making a very important bill a near perfect legislation no matter how tedious and detailed it could get.

On another matter, Senator Pimentel noted that the Committee would be deleting the standard paragraph relative to the accessory in a crime found in the Revised Penal Code, that although a person did all the things except profiting from the crime, he cannot be an accessory if he is a close relative of the criminal. He said that, in effect, in terrorism, a close relative would become an accessory to the crime of terrorism.

To the observation that the bill was going against the human nature aspect of a person to help a relative, Senator Lacson said that while it could be invoked, it would still be a crime that everyone should abhor. He stated that while family relationship could be involved in an ordinary crime, it must not apply to cases of terrorism which is a crime against humanity. He said that it would be difficult to harbor a terrorist fighter even if he is a close relative.

Senator Pimentel noted that it is only in the bill that the rules on accessory were changed. He said that being a new feature, it must be discussed further.

Senator Lacson stated that he has asked his staff to look at other jurisdictions which contain the same provision.

Thereafter, Senator Pimentel thanked Senator Lacson for his patience in answering his questions. He said that while he still has other queries, his goal was only to have a workable law where the batting average for conviction is high or respectable.

Senator Lacson assured the Body that he was open to anything that would make the measure near perfect. He reiterated his belief that the current Human Security Act is a dead letter law.

SUSPENSION OF CONSIDERATION OF SENATE BILL NO. 1083

Upon motion of Senator Zubiri, there being no objection, the Body suspended consideration of the bill.

SUSPENSION OF SESSION

Upon motion of Senator Zubiri, the session was suspended.

It was 4:28 p.m.



RESUMPTION OF SESSION

At 4:33 p.m., the session was resumed.

ADJOURNMENT OF SESSION

Upon motion of Senator Zubiri, there being no objection, Senate President Sotto declared the session adjourned until three o'clock in the afternoon of the following day.

It was 4:34 p.m..

I hereby certify to the correctness of the foregoing.



ATTY. MYRA MARIE D. VILLARICA

Secretary of the Senate

PS # A -

Approved on January 29, 2020