

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

THIRTEENTH CONGRESS
First Regular Session

HOUSE BILL NO. 2675



Introduced by AKBAYAN Representatives Mario "Mayong" Joyo Aguja, Ana Theresia Hontiveros-Baraquel and Loretta Ann P. Rosales

EXPLANATORY NOTE

This is a bill for a "PHILIPPINE COMPREHENSIVE LAW ON LANDMINES". This law would be the main policy expression of the Philippines' compliance with its international obligations under the two related treaties which it has ratified in recent years, namely:

- the *1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction* (hereinafter, the Ottawa Treaty)
- the *1996 Amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices* (hereinafter, "Amended Protocol II") annexed to the *1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects*.

Under both treaties, States Parties like the Philippines are obliged to take all appropriate legislative and other measures to implement the treaties and suppress violations of the prohibitions and restrictions on the use of landmines, booby traps and other devices.

But the Philippines must not only implement both treaties. It must also **reconcile its implementation of both treaties**. This is because the Ottawa Treaty provides for a total ban on anti-personnel mines, while Amended Protocol II basically merely restricts or regulates the use of all mines, whether anti-personnel or anti-vehicle. The Philippines, through this law, resolves whatever conflict in the

implementation and application of both treaties in favor of a total ban on anti-personnel mines (see Section 2, Paragraph 6 and Section 23, Paragraph 2).

There are more than 100 million mines buried in more than 60 countries. They claim more than 26,000 victims each year, mainly innocent civilians, killed or maimed after the fighting has stopped. A former delegate of the International Committee of the Red Cross (ICRC) once described them as "fighters that never miss, strike blindly, do not carry weapons openly, and go on killing after hostilities are ended." In short, mines are the greatest violators of international humanitarian law. They are **the most ruthless of terrorists**. Stated otherwise, they are "**weapons of mass destruction in slow motion**."

The landmine problem is not much felt in the Philippines because of its limited and largely discriminate use (so far) in the internal armed conflicts with various rebel groups. But the problem exists, no matter how limited, in our war zones as it does for Filipinos who work overseas, including the peacekeeping contingents, in landmine-affected countries. This danger to overseas Filipinos as well as the danger of landmine and landmine technology proliferation from other countries, including producers and exporters in Asia, indicate aspects of the national interest in this problem.

Through this law, the Philippines seeks not only to address its own relatively small (while it is still small) 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. After all, the Philippines has a tradition of adherence to the international rule of law, human rights and international humanitarian law, as shown by its Constitution, jurisprudence and accession to a good number of relevant treaties.

Progressive state practice and *opinio juris* (legal opinion) such as through this law is one way for the Philippines to contribute to a better international legal regime on landmines. This law shows that where a state adheres to both the Ottawa Treaty and Amended Protocol II, **it makes sense to have only one national legislation on landmines which reconciles the implementation of both treaties**.

The ICRC correctly advises adherence to both treaties because, apart from a total ban on anti-personnel mines under the Ottawa Treaty, Amended Protocol II covers other important aspects regarding anti-personnel mines (e.g. recording and use of information: access and security for peacekeeping, humanitarian and enquiry missions; and a technical annex which in fact the Ottawa Treaty makes reference to) as well as the whole matter of anti-vehicle mines plus booby-traps and other devices.

Besides, a state party to Amended Protocol II would be able to invoke it vis-à-vis its own rebel groups which are bound by operation of international law and other states parties to the protocol. It establishes the rule that those who use mines of whatever type are responsible for their removal at the end of hostilities. This could prove an important protection, even for parties to the Ottawa Treaty, in situations of conflict with a state not party to it.

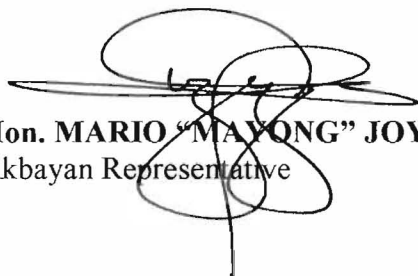
This law adopts as much as possible the applicable provisions of the Ottawa Treaty and Amended Protocol II. It also improves on the Ottawa Treaty in particular, in the light of Philippine experience, other country legislation and recommendations of the ICRC and the International Campaign to Ban Landmines (ICBL). The bill was drafted by the non-governmental organization Philippine Campaign to Ban Landmines (PCBL). Among the **original, innovative or cutting-edge features of the bill** are:

1. definition of anti-personnel mines based on impact or effect, not just on design; clarification as victim-activated, not command-detonated; inclusion of improvised explosive devices, anti-vehicle mines with anti-handling devices, anti-vehicle mines with the same effect as anti-personnel mines, and Claymore mines activated by tripwire (Section 4, Paragraph 2)
2. technical definition of command-detonation, otherwise it is victim-activated (Section 4, Paragraph 3)
3. application of the total ban on anti-personnel mines to their transit and carrying by visiting foreign military vessels and forces (Section 2, Paragraph 8; Section 3, Paragraph 8; Section 5, Paragraph 5)
4. universal jurisdiction and extraterritorial application (Section 2, Paragraph 10; Section 3, Paragraph 7)
5. zero retention of anti-personnel mines (Section 5, Paragraph 3)
6. ban on technology transfer regarding anti-personnel mines (Section 4, Paragraph 16; Section 5, Paragraph 4; Section 9, Paragraph 4)
7. provisions for compliance by the Armed Forces of the Philippines, including the development and use of alternatives to anti-personnel mines for perimeter defense of field detachments, and ensuring that Claymore mines, if ever, are usable and used in command-detonated mode only (Section 16)
8. provisions for compliance by rebel groups, including inclusion of the landmines agenda in peace processes with them (Section 16)
9. creation of a Philippine Coordinating Committee on Landmines (Section 21)
10. international law references for application and interpretation of this Law (Section 23)

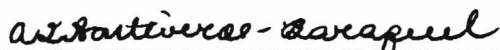
Like efforts towards national implementing legislation on the 1949 Geneva Conventions, the 1998 Rome Statute of the International Criminal Court, and other treaties of International Humanitarian Law and Human Rights, this law also hopes to

infuse more international law consciousness not only in the noble profession of law but also in the noble profession of arms. Let it not be a repeated excuse that *silent enim legis inter arma* (the law stands mute in the midst of arms).

The soonest approval of this bill is therefore most earnestly sought.



Hon. MARIO "MAYONG" JOYO AGUJA
Akbayan Representative



Hon. ANA THERESIA HONTIVEROS-BARAQUEL
Akbayan Representative



Hon. LORETTA ANN P. ROSALES
Akbayan Representative

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HOUSE BILL NO. 2675

Introduced by AKBAYAN Representatives Mario “Mayong” Joyo Aguja, Ana Theresia Hontiveros-Baraquel and Loretta Ann P. Rosales

**AN ACT PROVIDING FOR A TOTAL BAN ON ANTI-PERSONNEL
LANDMINES, FOR OTHER PROHIBITIONS OR RESTRICTIONS ON THE
USE OF LANDMINES, BOOBY-TRAPS AND OTHER DEVICES,
FOR CREATION OF A PHILIPPINE COORDINATING COMMITTEE ON
LANDMINES, AND FOR RELATED PURPOSES**

**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 Law on Landmines**” (PCLL).

Section 2. Declaration of Principles and Policies. -

1. The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to a policy of peace, equality, justice, freedom, cooperation and amity among all nations.
2. Among the generally accepted principles of international law incorporated into Philippine law are the rules and principles of land warfare and of international humanitarian law under the Hague Conventions and the Geneva Conventions, and human rights as defined by the Universal Declaration of Human Rights.
3. Among the generally accepted principles of international humanitarian law, also applicable to landmines, are that the right of the parties to an armed

conflict to choose methods or means of warfare is not unlimited, that the employment in armed conflicts of weapons, projectiles and materials and methods of warfare of a nature to cause grave injury or unnecessary suffering is prohibited, and that a distinction must be made between civilians and combatants.

4. The Philippines wishes to contribute to the overall humanitarian effort to put an end to the suffering and casualties caused by anti-personnel mines that kill or maim hundreds of people, mostly innocent and defenseless civilians and especially children every week world-wide, obstruct economic development and reconstruction, inhibit the return of refugees and internally displaced persons, and other aftermath consequences resulting from the mine emplacements.
5. The Philippines shall take all appropriate measures to implement and to reconcile the implementation of the two international treaties dealing with landmines which it has ratified, viz: the ***1997 Convention on the Prohibition of the Use, Stockpiling, production and Transfer of Anti-Personnel Mines and on their Destruction*** (hereinafter, the "Ottawa Treaty"), and the ***1996 Amended Protocol on Prohibitions and Restrictions on the Use of Mines, Booby-Traps and other Devices*** (hereinafter, "Amended Protocol II) annexed to the ***1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects*** (hereinafter, "1980 Weapons Convention").
6. As far as anti-personnel mines are concerned, the Philippines adopts a total ban, pursuant to the Ottawa Treaty, not just restriction or regulation as contemplated under Amended Protocol II.
7. Pursuant to this total ban on anti-personnel mines, the Armed Forces of the Philippines shall effect the corresponding changes in its military warfare, including the development and use of alternative equipments for perimeter defense of its field detachments.
8. The total ban on anti-personnel mines shall apply to their transit and carrying by visiting foreign military vessels and forces, including in joint military exercises, within the Philippine territory.
9. The inclusion of the landmines agenda in peace processes with rebel groups in the Philippines shall be pursued.
10. As in cases of war crimes, there shall be a universal jurisdiction over and extraterritorial application of this law to persons, whether Filipinos or foreigners, who commit the prohibited acts abroad.

Section 3. Scope of Application. -

1. This law 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 law shall apply, in addition to situations referred to in Article 1 of the 1980 Weapons Convention, to situations referred to in Article 3 common to the Geneva Conventions of 12 August 1949. This law 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. In case of armed conflicts not of an international character occurring in the territory of the State, each party to the conflict shall be bound to apply the prohibitions and restrictions of the law.
4. Nothing in this law 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.
5. Nothing in this law shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the State in the territory where said conflict occurs.
6. The application of the provisions of this law to parties to a conflict, which are not States shall not change their legal status or the legal status of a disputed territory, either explicitly or implicitly.
7. The State shall exercise jurisdiction over all persons, natural or juridical, military or civilian, Filipino or foreign, who commit acts prohibited by this law, no matter where these acts were committed. The same applies even if the acts were committed in the territory of another State, or involved suspects or victims who are not nationals of the State, or posed no direct threat to the State's own particular security interests.
8. The total ban on anti-personnel mines in this law shall apply to their transit and carrying by visiting foreign military vessels and forces, including in joint military exercises, in Philippine territory.

Section 4. Definitions. -

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 designed to be or has the effect of being exploded by the presence, proximity or contact of a person and that will incapacitate, injure or kill one or more persons. It is victim-activated, not command-detonated. It includes improvised explosive devices produced by adapting other munitions to function as anti-personnel mines. It includes anti-

vehicle mines equipped with anti-handling devices or which otherwise have the same effect as anti-personnel mines. It also includes Claymore mines which are activated by tripwire but excludes those which are command-detonated.

3. "Command-detonation" means a system whereby a person manually detonates a mine electrically by an electric firing mechanism. This system allows total control over the mine's effect but requires a person to be present. It is normally used with directional mines such as the Claymore. Mines which are not command-detonated are considered victim-activated.
4. "Anti-vehicle mine" means a mine designed to be detonated by the presence, proximity or contact of a vehicle as opposed to a person.
5. "Anti-handling device" means a device intended to protect a mine which is part of, linked to, attached to or placed under the mine and which activates when an attempt is made to tamper with the mine.
6. "Remotely-delivered mine" means a mine not directly emplaced but delivered by artillery, missile, rocket, mortar, or similar means, or dropped from an aircraft. Mines delivered from a land-based system from less than 500 meters are not considered to be "remotely-delivered", provided that they are used in accordance with Section 7 and other relevant provisions of this law.
7. "Remote control" means control by commands from a distance.
8. "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.
9. "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.
10. "Self-destruction mechanism" means an incorporated or externally attached automatically-functioning mechanism which secures the destruction of the munition into which it is incorporated or to which it is attached.
11. "Self-neutralization mechanism" means an incorporated automatically-functioning mechanism which renders inoperable the munition into which it is incorporated.
12. "Self-deactivating" means automatically rendering a munition inoperable by means of the irreversible exhaustion of a component, for example, a battery, that is essential to the operation of the munition.

13. "Minefield" is a defined area in which mines have been emplaced. Phoney minefields means an area free of mines that simulates a minefield. The term "minefields" include phony minefields.
14. "Mined area" is an area which is dangerous due to the presence of mines.
15. "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, booby-traps and other devices.
16. "Transfer" involves, in addition to the physical movement of mines within, 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. It includes the transfer of technology, patents and intellectual property rights for anti-personnel mines.
17. "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 circumstance ruling at the time, offers a definite military advantage.
18. "Civilian objects" are all objects which are not military objectives as defined in paragraph 17 of this section.

Section 5. Total Ban on Anti-Personnel Mines. -

1. It is prohibited for all persons, natural and juridical, 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;
 - c. To assist, encourage or induce, in any way, anyone to engage in any activity prohibited under this law.
2. The State undertakes to destroy or ensure the destruction of all anti-personnel mines on territory under its jurisdiction or control in accordance with the Ottawa Treaty.
3. There shall be no retention of any number of anti-personnel mines for any purpose.
4. Only the transfer of anti-personnel mines for the purpose of destruction is permitted. Prohibited transfer includes technology transfer.

5. The transit and carrying of anti-personnel mines by visiting foreign military vessels and forces, including in joint military exercises, in Philippine territory is prohibited.

Section 6. General Restrictions on the Use of Mines, Booby-Traps and Other Devices. -

1. Without prejudice to Section 5, this Section applies to:
 - (a) mines in general, including anti-vehicle mines;
 - (b) booby-traps; and
 - (c) other devices.
2. Each party to a conflict is, in accordance with the provisions of this law, responsible for all mines, booby traps and other devices employed by it and undertakes to clear, remove, destroy or maintain them as specified in this law.
3. It is prohibited in all circumstances to use any mine, booby-trap or other device which is designed or of a nature to cause grave injury or unnecessary suffering.
4. Weapons to which this section applies shall strictly comply with the standards and limitations specified in the Technical Annex of Amended Protocol II with respect to each particular category.
5. 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.
6. 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.
7. It is prohibited in all circumstances to direct weapons to which this section applies, either in offense, defense or by way of reprisals, against the civilian population as such or against individual civilians or civilian objects.
8. The indiscriminate use of weapons to which this section applies is prohibited. Indiscriminate use is any placement of 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.
- 9. 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.
- 10. 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.
- 11. 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 7. Restrictions on the Use of Remotely-Delivered Mines. -

- 1. It is prohibited to use remotely-delivered mines unless they are recorded in accordance with sub-paragraph 1 (b) of the Technical Annex of Amended Protocol II.
- 2. It is prohibited to use remotely-delivered mines other than anti-personnel mines, unless, to the extent feasible, they are equipped with an effective self-destruction or self-neutralization mechanism and have a back-up self-deactivation feature, which is designed so that the mine will no longer function as a mine when the mine no longer serves the military purpose for which it was placed in position.
- 3. Effective advance warning shall be given of any delivery of remotely-delivered mines which may affect the civilian population, unless circumstances do not permit.

Section 8. Prohibitions on the Use of Booby-Traps and Other Devices. -

1. Without prejudice to the rules of 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, 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;
 - 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 6, 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 on 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 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 9. Transfers. -

1. In order to promote the purposes of this law, the State:
 - a. undertakes not to transfer any mine the use of which is prohibited by this law;
 - 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 law; and
 - d. undertakes to ensure that any transfer in accordance with this section takes place in full compliance, by both the transferring and recipient State, with the relevant provisions of this law and the applicable norms of international humanitarian law.
2. In the event that the State declares that it will defer compliance with specific provisions on the use of certain mines, as provided for in the Technical Annex of Amended Protocol II, sub-paragraph 1 (a) of this section shall however apply to such mines.
3. The State, pending the effectivity of this law, will refrain from any action which would be inconsistent with sub-paragraph 1 (a) of this section.
4. This section shall be without prejudice to the prohibition on the transfer of anti-personnel mines except for the purpose of destruction. Prohibited transfer includes technology transfer.

Section 10. Penalties. -

1. The principal penalty of imprisonment for violations of Sections 5 and 8, shall be for a specified number of years within a range from 5 to 20 years;
2. The principal penalty of imprisonment for violations of Sections 6 and 7 shall be for a specified number of years within a range from 3 to 15 years;
3. The principal penalty of imprisonment for violation of Sections 9 and 19.7 shall be for a specified number of years within a range from 1 to 10 years;
4. In addition to imprisonment, the Court may order:
 - a. a commensurate fine; and/or
 - b. seizure or forfeiture of anti-personnel mines or components thereof.

Section 11. Destruction of Stockpiled Anti-Personnel Mines. -

The State undertakes to destroy or ensure the destruction of all stockpiled anti-personnel mines it owns or possesses, or that are under its jurisdiction or control, as soon as possible, but not later than four years after the entry into force of the Ottawa Treaty for the Philippines on 1 August 2000.

Section 12. Destruction of Anti-Personnel Mines in Mined Areas. -

1. The State undertakes to destroy or ensure the destruction of all anti-personnel mines in mined areas under its jurisdiction or control, as soon as possible but not later than ten years after the entry into force of the Ottawa Treaty for the Philippines on 1 August 2000.
2. The State shall make every effort to identify all areas under its jurisdiction or control in which anti-personnel mines are known or suspected to be emplaced and shall ensure as soon as possible that all anti-personnel mines in mined areas under its jurisdiction are perimeter-marked, monitored and protected by fencing or other means, to ensure the effective exclusion of civilians, until all anti-personnel mines contained therein have been destroyed. The marking shall at least be the standards set out in Amended Protocol II

Section 13. Recording and Use of Information on Minefields, Mined Areas, Mines, Booby Traps and Other Devices. -

1. All information concerning minefields, mined areas, mines, booby traps and other devices shall be recorded in accordance with the provisions of the Technical Annex of Amended Protocol II.
2. All such records shall be retained by the parties to a conflict, who 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.

At the same time, they shall also make available to the other party or parties to the conflict and to the Secretary-General of the United Nations all such information in their possession concerning minefields, mined areas, mines, booby-traps and other devices laid by them in areas no longer under their control; provided, however, subject to reciprocity, where the forces of a party to a conflict are in the territory of an adverse party, either party may withhold such information from the Secretary General and the other party, to the extent that security interests require such withholding, until neither party is in the territory of the other. In the latter case, the information withheld shall be disclosed as soon as those security interests permit. Wherever possible, the parties to the conflict shall seek, by mutual agreement, to provide for the release of such information at the earliest possible time in a manner consistent with the security interests of each party.

3. This section is without prejudice to the provisions of Sections 14 and 15 of this law.

Section 14. Removal of Minefields, Mined Areas, Mines, Booby-Traps and Other Devices. -

1. 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 6 of this law.
2. The parties to a conflict bear such a responsibility with respect to minefields, mined areas, mines, booby-traps and other devices in areas under their control.
3. With respect to minefields, mined areas, mines, booby-traps and other devices laid by a party in areas over which it no longer exercises control, such party shall provide to the party in control of the area pursuant to paragraph 2 of this section, to the extent permitted by such party, technical and material assistance necessary to fulfill such responsibility.
4. At all times necessary, the parties shall endeavor to reach agreement, both among themselves and, where appropriate, with other States and with international organizations, on the provision of technical and material assistance, including in appropriate circumstances, the undertaking of joint operations necessary to fulfill such responsibilities.

Section 15. Protection from the Effects of Minefields, Mined Areas, Mines, Booby Traps and Other Devices. -

1. Application
 - a. With the exception of the forces and missions referred to in subparagraph 2(a)(i) of this section, this section applies only to missions which are performing functions in an area with the consent of the State on whose territory the functions are performed.
 - b. The application of the provisions of this section to parties in a conflict which are not states shall not change their legal status or the legal status of a disputed territory, explicitly or implicitly.
 - c. The provisions of this section are without prejudice to existing international humanitarian law, or other international instruments as applicable, or decisions by the Security Council of the United Nations, which provide for a higher level of protection to personnel functioning in accordance with this section.
2. Peace-keeping and certain other forces and missions
 - a. This paragraph applies to:

- i. any United Nations force or mission performing peace-keeping, observation or similar functions in any area in accordance with the Charter of the United Nations;
 - ii. any mission established pursuant to Chapter VIII of the Charter of the United Nations and performing functions in the area of conflict.
- b. Each party to a conflict, if so requested by the head of a force or mission to which this paragraph applies, shall:
 - i. so far as it is able, take such measures as are necessary to protect the force or mission from the effects of mines, booby-traps and other devices in any area under its control;
 - ii. if necessary, in order to effectively protect such personnel, remove or render harmless, so far as it is able, all mines, booby-traps and other devices in that area; and
 - iii. inform the head of the force or mission of the location of all known minefields, mined areas, mines, booby-traps and other devices in the area in which the force or mission is performing its functions and, so far as is feasible, make available to the head of the force or mission all information in its possession concerning such minefields, mined areas, mines, booby-traps and other devices.

3. Humanitarian and fact-finding missions of the United Nations System

- a. This paragraph applies to any humanitarian or fact-finding mission of the United Nations System.
- b. Each party to a conflict, if so requested by the head of the mission to which this paragraph applies, shall:
 - i. Provide the personnel of the mission with the protections set out in subparagraph 2(b)(i) of this section; and
 - ii. If access to or through any place under its control is necessary for the performance of the mission's functions and in order to provide the personnel of the mission with safe passage to or through that place:
 - (aa). unless on-going hostilities prevent, inform the head of the mission of a safe route to that place if such information is available; or
 - (bb). if information identifying a safe route is not provided in accordance with subparagraph (aa), so far as is necessary and feasible clear a lane through minefields.

4. Missions of the International Committee of the Red Cross
 - a. This paragraph applies to any mission of the International Committee of the Red Cross performing functions with the consent of the State as provided for by the Geneva Convention of 12 August 1949 and, where applicable, their Additional Protocols.
 - b. Each party to a conflict, if so requested by the head of a mission to which this paragraph applies, shall:
 - i. provide the personnel of the mission with the protections set out in sub-paragraph (2)(b)(i) of this section;
 - ii. take the measures set out in sub-paragraph (3)(b)(ii) of this section.
5. Other Humanitarian Missions and missions of enquiry
 - a. Insofar as paragraphs 2, 3 and 4 above do not apply to them, this paragraph applies to any of the following missions when they are performing functions in the area of a conflict or to assist the victims of a conflict:
 - i. any humanitarian mission of a national Red Cross or Red Crescent society or of their International Federation;
 - ii. any mission of an impartial humanitarian organization, including any impartial humanitarian demining mission; and
 - iii. any mission of enquiry established pursuant to the provisions of the Geneva Conventions of 12 August 1949, and , where applicable, their Additional Protocols.
 - b. Each party to a conflict, if so requested by the head of a mission to which this paragraph applies, shall:
 - i. provide the personnel of the mission with the protections set out in sub-paragraph (2)(b)(i) of this section; and
 - ii. take the measures set out in sub-paragraph (3)(b)(ii) of this section.
6. Confidentiality

All information provided in confidence pursuant to this section shall be treated by the recipient in strict confidence and shall not be released outside the force or mission concerned without the express authorization of the provider of the information.

7. Respect for laws and regulations

Without prejudice to such privileges and immunities as they may enjoy or to the requirements of their duties, personnel participating in the forces and missions referred to in this section shall:

- a. Respects the laws and regulations of the host State; and
- b. Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Section 16. Compliance by the Armed Forces of the Philippines.-

1. Pursuant to this Law, especially its total ban on anti-personnel mines, the Armed Forces of the Philippines shall effect the corresponding changes in its military doctrine and warfare.
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 law.
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 reacquisition by the armed forces of Claymore mines, it shall be ensured that these are usable and used in command-detonated mode only.

Section 17. Compliance by Rebel Groups.-

1. In addition to the enforcement of this law vis-à-vis Philippine internal armed conflicts and rebel groups, the State welcomes the voluntary compliance by rebel groups with the norms established by the Ottawa Treaty and Amended Protocol II, especially the total ban on anti-personnel mines, which they may formalize through any of several available instruments.
2. The inclusion of the landmines agenda in peace processes with rebel groups in the Philippines 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 18. International Cooperation and Assistance. -

1. The State shall consult and cooperate with other States Parties regarding the implementation of the provisions of the Ottawa Treaty and Amended Protocol II, and to work together in a spirit of cooperation to facilitate compliance by States Parties with their obligations under the aforesaid treaties.
2. In fulfilling the obligations under the Ottawa Treaty and Amended Protocol II, the State shall seek assistance, where feasible, from other State Parties to the extent possible.
3. The State undertakes to facilitate and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning the implementation of this law. The State shall not impose undue restrictions on the provision of mine clearance equipment and related technological information for humanitarian purposes.
4. The State, if in a position to do so, shall provide assistance for the care and rehabilitation and social and economic reintegration, of mine victims and for mine awareness programs. Such assistance may be provided , *inter alia*, through the United Nations System, international, regional or national organizations or institutions, the International Committee of the Red Cross, national Red Cross and Red Crescent societies, and their International Federation, non-governmental organizations, or on a bilateral basis.
5. The State, if in a position to do so, shall provide assistance for mine clearance and related activities. Such assistance may be provided, *inter alia*, through the United Nations System, international, regional or national organizations or institutions, non-governmental organizations or institutions, or on a bilateral basis, or by contributing to the United Nations Voluntary Trust Fund for Assistance in Mine Clearance, or other regional funds that deal with demining.
6. The State, if in a position to do so, shall provide assistance for the destruction of stockpiled anti-personnel mines.
7. The State undertakes to provide information to the database on mine clearance established within the United Nations system, especially information concerning various means and technologies of mine clearance, and lists of experts, expert agencies or national points of contact on mine clearance.
8. The State may request the United Nations, regional organizations, other States Parties or other competent intergovernmental or non-governmental fora to assist their authorities in the elaboration of a national demining program to determine, *inter alia*:
 - a. The extent and scope of the anti-personnel mine problem;
 - b. The financial, technological and human resources that are required for the implementation of the program;

- c. The estimated number of years necessary to destroy all anti-personnel mines in mined areas under the jurisdiction or control of the State;
 - d. Mine awareness activities to reduce the incidence of mine-related injuries or deaths;
 - e. Assistance to mine victims;
 - f. The relationship between the government and the relevant governmental, inter-governmental or non-governmental entities that will work in the implementation of this program.
9. The State, when giving and receiving assistance under the provisions of this section, shall cooperate with a view to ensuring the full and prompt implementation of agreed assistance programs.
10. The State undertakes to consult and cooperate with other State Parties bilaterally, through the Secretary-General of the United Nations or through other appropriate international procedures, to resolve any problems that may arise with regard to the interpretation and application of the provisions of the Ottawa Treaty and Amended Protocol II.

Section 19. Transparency Measures. -

1. The State shall report to the Secretary-General of the United Nations as soon practicable, and in any event not later than 180 days after the entry into force of the Ottawa Treaty for the Philippines on 1 August 2000 on:
- a. The national implementation measures referred to in Article 9 of the Ottawa Treaty;
 - b. The total of all stockpiled anti-personnel mines owned or possessed by it, or under its jurisdiction or control, to include a breakdown of the type, quantity and, if possible, lot numbers of each type of anti-personnel mine stockpiled;
 - c. To the extent possible, the location of all mined areas that contain or are suspected to contain, anti-personnel mines under its jurisdiction or control, to include as much detail as possible regarding the type and quantity of each type of anti-personnel mine in each mined area and when they were emplaced;
 - d. The types, quantities, and if possible, lot numbers of all anti-personnel mines retained or transferred for the development of and training in mine detection, mine clearance or mine destruction techniques, or transferred for the purpose of destruction, as well as the institutions authorized by a State Party to retain or transfer anti-personnel mines.

- e. The status of programs for the conversion or de-commissioning of anti-personnel mine production facilities;
 - f. The status of programs for the destruction of anti-personnel mines in accordance with Sections 11 and 12, including details of the methods which will be used in destruction, the location of all destruction sites and the applicable safety and environmental standards to be observed;
 - g. The types and quantities of all anti-personnel mines destroyed after the entry into force of the Ottawa Treaty for the State, to include a breakdown of the quantity of each type of anti-personnel mine destroyed, in accordance with Sections 11 and 12, along with, if possible, the lot numbers of each type of anti-personnel mine in the case of destruction in accordance with Section 11;
 - h. The technical characteristics of each type of anti-personnel mine produced, to the extent known, and those currently owned or possessed by the State, giving, where reasonably possible, such categories of information as may facilitate identification and clearance of anti-personnel mines; at a minimum, this information shall include the dimensions, fusing, explosive content, metallic content, color photographs and other information which may facilitate mine clearance; and
 - i. The measures taken to provide an immediate and effective warning to the population in relation to all areas identified under paragraph 2 of Section 12.
2. The information provided in accordance with this section shall be updated by the State annually, covering the last calendar year, and reported to the Secretary-General of the United Nations, not later than April 30 of each year.
3. The State shall provide annual reports to the Secretary-General of the United Nations on any of the following matters:
- a. dissemination of information on Amended Protocol II and this law to the armed forces and to the civilian population;
 - b. mine clearance and rehabilitation program;
 - c. steps taken to meet technical requirements under this law and any other information pertaining thereto;
 - d. legislation related to Amended Protocol II;
 - e. measures taken on international technical information exchange, on international cooperation on mine clearance, and on technological cooperation and assistance; and

- f. other relevant matters.
- 4. In addition to the State's annual report to the Secretary-General of the United Nations, the State welcomes and encourages the independent monitoring and verification of state and non-state compliance with the Ottawa Treaty and Amended Protocol II, as may be applicable, by impartial humanitarian organizations and relevant non-governmental organizations.
- 5. The officials primarily responsible for the annual reports to the Secretary-General of the United Nations shall have information-gathering powers, including to require the disclosure of information on anti-personnel mines, subject to constitutional rights. He or she may also report voluntarily on other relevant matters not covered by the formal reporting requirements under Article 7 of the Ottawa Treaty or Article 13 of Amended Protocol II.
- 6. The State shall ensure full cooperation, access and security to a peacekeeping, humanitarian, fact-finding or similar missions carrying out activities on its territory or territory under its control, pursuant to Section 15 above (corresponding to Article 12 of Amended Protocol II) or to Article 8 of the Ottawa Treaty.
- 7. It is prohibited to obstruct or deceive any member of such missions exercising his or her functions or powers.

Section 20. International Meetings. -

- 1. The Philippines shall participate actively in the following relevant international meetings, among others:
 - a. Meetings of the State Parties, Review Conferences and Amendment Conferences under the Ottawa Treaty; and
 - b. Annual and Review Conferences of the High Contracting Parties under Amended Protocol II.
- 2. The Philippines shall endeavor to include one representative from a relevant Philippine non-governmental organization or impartial humanitarian organization in its delegations to major international meetings under the Ottawa Treaty and Amended Protocol II.

Section 21. Philippine Coordinating Committee on Landmines (PCCL). -

- 1. A Philippine Coordinating Committee on Landmines shall be created with the following functions and powers:
 - a. Coordinate, plan and monitor Philippine compliance with and implementation of the Ottawa Treaty and Amended Protocol II;

- b. Prepare and submit annual reports under the two treaties;
 - c. Prepare position papers, briefing material, amendment proposals and possible delegates for major international meetings under the two treaties;
 - d. Develop and implement plans and programs for the destruction of anti-personnel mines, mine clearance, mine awareness and victim assistance;
 - e. Issue implementing rules for this law only as may be necessary;
 - f. Conduct information dissemination on this law and the two treaties, especially to the armed forces and rebel groups;
 - g. Initiate investigation of reported violations of this law and, where warranted, refer the matter for prosecution;
 - h. Coordinate international technical cooperation and assistance, including providing information to the database on mine clearance established within the United Nations system;
 - i. Recommend to the legislative and executive departments, including the armed forces, effective measures for compliance with and implementation of the two treaties;
 - j. Empower duly-authorized deputies to enter and search promises to collect and transfer anti-personnel mines for destruction, subject to constitutional guarantees;
 - k. Request the assistance of appropriate departments, bureaus, offices or agencies in the performance of its functions; and
 - l. 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.
2. The Philippine 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, particularly its Office of the United Nations and International Organizations;
 - b. Department of National Defense;
 - c. Armed Forces of the Philippines, including its Office of the Chief, Ordinance and Chemical Services;

- d. Department of the Interior and Local Government;
 - e. Philippine National Police;
 - f. Department of Justice;
 - g. Office of the Presidential Adviser on the Peace Process;
 - h. Department of Health;
 - i. Philippine National Red Cross, particularly its National IHL Committee;
 - j. Philippine Campaign to Ban Landmines;
 - k. Philippine Chapter of the International Association of Bomb Technicians and Investigators; and
 - l. Such other relevant agencies or organizations as may be designated by the President through an executive order activating this Committee.
3. For the initial operating expense of the Philippine Coordinating Committee on Landmines, the amount of _____ is hereby appropriated. Thereafter, it shall submit to the Department of Budget and Management its proposed budget for inclusion in the General Appropriations Act.

Section 22. Designation and training of special courts and prosecutors. -

- 1. The appropriate instrumentalities of the State, namely the Supreme Court and the Department of Justice shall respectively designate special courts, prosecutors and investigators to investigate, prosecute and try, as the case may be, violations of this law. The courts referred to here shall be at the Regional Trial Court level and special divisions of the Court of Appeals.
- 2. The State shall ensure that judges, prosecutors and investigators, especially those designated for purposes of this law, receive effective training in international criminal law, international humanitarian law and human rights.

Section 23. International law references. -

- 1. In the application and interpretation of this Law, the Court shall be guided by:
 - a. The Ottawa Treaty;
 - b. Amended Protocol II;
 - c. Applicable rules and rulings of international humanitarian law and international criminal law;
 - d. Relevant opinions and publications of the most highly qualified publicists and authorities.

2. In case of conflict in the implementation and application of the Ottawa Treaty and Amended Protocol II, the former shall prevail particularly as far as anti-personnel mines are concerned.
3. The application and interpretation of this law must be consistent with internationally recognized human rights.

Section 24. Repealing clause.

All laws, presidential decrees and issuances, executive orders, rules and regulations or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 25. Separability clause.

If any part or provision of this Act shall be held unconstitutional or invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force and effect

Section 26. Effectivity.

This Act shall take effect fifteen (15) days after its publication in two national newspapers of general circulation. The publication shall not be later than seven (7) days after the approval hereof.

Approved,

**SOURCES & REFERENCES FOR 1ST DRAFT BILL ON
“PHILIPPINE COMPREHENSIVE LAW ON LANDMINES” (1/1/03)**

Section 1. Short Title – Original

Section 2. Declaration of Principles and Policies.

1. Philippine Constitution, Art II, Sec 2.
2. *Kuroda vs Jalandoni*, 83 Phil 31, & other Philippine Supreme Court decisions
3. Ottawa Treaty, Preamble, last par
4. Ottawa Treaty, Preamble, first par
5. Ottawa Treaty, Art 9; Amended Protocol II, Art 14 Pars 1 & 2
6. Original
7. Original, + ICRC recommendation
8. Original, + ICBL recommendation
9. Original
10. Original, UK Legislation uses extraterritoriality

Section 3. Scope of Application

- 1-6 Amended Protocol II, Art 1, pars 1-6
7. Original
8. Original, ICBL recommendation

Section 4. Definitions

Mostly taken from Amended Protocol II, Art 2 and Ottawa Treaty, Art 2, except for the following:

2. “Anti-Personnel Mines” – original, + ICBL recommendation & ICRC interpretation
3. “Command-detonation” – a technical concept used by humanitarian deminers
16. “Transfer” – aspect on technology transfer is used in Italian, Spanish and Czech legislation

Section 5. Total ban on Anti-Personnel Mines

- 1-2 Ottawa Treaty, Art 1
3. Original, + ICBL recommendation; some countries have such zero retention of APMs: Austria, Malaysia, New Zealand, Norway, Sweden
4. Ottawa Treaty, Art 3, Par 2; + Italian, Spanish and Czech legislation
5. Original, + ICBL recommendation

Section 6. General Restrictions on use of mines, booby-traps and other devices
- Amended Protocol II, Art 3

Section 7. Restrictions on the use of remotely-delivered mines
- Amended Protocol II, Art 6, except Par 2

Section 8. Prohibitions on use of booby-traps and other devices.
- Amended Protocol II, Art 7

Section 9. Transfers

1-3 Amended Protocol II, Art 8

4. Ottawa Treaty, Art 3, par 2; + Italian, Spanish and Czech legislation

Section 10. Penalties

- Original; pursuant to Ottawa Treaty, Art 9, & Amended Protocol II, Art 14, par 2; + ICRC recommendation

Section 11. Destruction of stockpiled anti-personnel mines

-Ottawa Treaty, Art 4

Section 12. Destruction of anti-personnel mines in mined areas

-Ottawa Treaty, Art 5

Section 13. Recording and use of information on minefields, mined areas, mines, booby-traps and other devices

-Amended Protocol II, Art 9

Section 14. Removal of minefields, mined areas, mines, booby –traps and other devices

-Amended Protocol II, Art 10

Section 15. Protection from the effects of minefields, mined areas, mines, booby-traps and other devices

-Amended Protocol II, Art 12

Section 16. Compliance by the Armed Forces of the Philippines

1. Original, + ICRC recommendation

2. Amended Protocol II, art 14, par 3; ICRC recommendation

3. Amended Protocol II, art 14, par 3

4. Original

5. Original, + ICBL recommendation

Section 17. Compliance by rebel groups

- Original

Section 18. International cooperation and assistance

1. Ottawa Treaty, Art 8, par 1

2-9 Ottawa Treaty, Art 6

10. Amended Protocol II, Art 14, par 4

Section 19. Transparency measures

1-2. Ottawa Treaty, Art 7, pars 1-2

3. Amended Protocol II, Art 13, par 4

4. original

5. ICRC recommendation

6. ICRC recommendation

7. ICRC recommendation

Section 20. International meetings

1. Ottawa Treaty, Art 11-13; Amended Protocol II, Art 13
2. Original

Section 21. Philippine Coordinating Committee on Landmines

- Original

Section 22. Designation and training of special courts and prosecutors

- Original

Section 23. International law references

- 1-2 Original
3. Rome Statute, Art 21 par 2

Section 24. Repealing Clause - standard

Section 25. Separability Clause- standard

Section 26. Effectivity – standard