

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

15TH CONGRESS
First Regular Session

HOUSE BILL NO. 3050

Introduced by **REP. SALVADOR H. ESCUDERO III**

EXPLANATORY NOTE

Section 24, Article XVIII of the 1987 Constitution provides that as a State Policy, "Private armies and other armed groups not recognized by duly constituted authority shall be dismantled. All paramilitary forces including Civilian Home Defense Forces not consistent with the citizen armed force established in this Constitution, shall be dissolved or, where appropriate, converted into the regular force."

It is the intent of this bill to address the oversight of government to implement the dismantling of private armed groups and armies – entities often involved in violations of laws, engage in acts of terrorism and other abuse. As evidenced in the recent Maguindanao Massacre, failure to keep private armies in check results in lawlessness and enables them to operate beyond the framework of the Constitution.

Hence, in the best interest of the Republic, the immediate approval of this bill is urgently sought.


SALVADOR H. ESCUDERO III
Representative
1st District, Sorsogon

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AN ACT
IMPLEMENTING SECTION 24, ARTICLE XVIII OF THE CONSTITUTION ON
THE DISMANTLING OF PRIVATE ARMIES AND OTHER PRIVATE ARMED
GROUPS NOT RECOGNIZED BY DULY CONSTITUTED AUTHORITY AND
APPROPRIATING FUNDS THEREFOR

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

SECTION 1. *Title.* This act shall be known as "The Anti-Private Army and Private Armed Groups Act of 2010."

SEC. 2. *Declaration of Policy; Prohibited Acts.* It is the policy of the State pursuant to Section 24, Article XVIII of the Constitution that private armies and other private armed groups not recognized by duly constituted authority shall be dismantled.

Towards this end, the following acts are prohibited:

- (a) leadership and membership in the organization, establishment, maintenance and/or of private armies or other armed groups or refusal to disband after notice from duly constituted authority;
- (b) abuse of the utilization of military and police personnel as security detail;
- (c) abuse of various permits pertaining to firearms as well as the unregistered importation thereof;
- (d) utilization of paramilitary forces and/or private security agencies as private armies or private armed groups; or
- (e) protection, financing, supplying or otherwise giving aid and comfort to private armies and other private armed groups.

SEC. 3. *Definition of Terms.*

- a. *Dismantling* – refers to the disbandment, disarming, demobilization or dissolution of private armies and other private armed groups, as well as the arrest and prosecution of

those involved, or their voluntary surrender of firearms and abandonment of their organization and activities.

b. **Financial and Logistical Resources** – include all forms of transportation, communication, safe houses, bank accounts, business, money-producing activities, sources of weaponry, front organizations, etc. which private armies and other armed groups use to support their existence or activities.

c. **Government Connection** – covers the areas pertaining to government units, civil service, the PNP and the AFP where officials and any personnel thereof are found to be leaders, members, protectors, financiers or suppliers of private armies or other private armed groups, or are otherwise benefiting economically or psychologically from the existence or activities thereof.

d. **Leadership** – pertains to natural or juridical persons who organized or recruit members for a private army or private armed groups, maintain and/or use private armies and other private armed groups, control the actions or activities thereof, provide the direction or “brains” thereof, direct the commission of activities prohibited by this Act, or otherwise derive political, economic or psychological advantage out of the existence or activities thereof.

e. **Membership** – refers to those who directly participate in the activities of private armies and other private armed groups without falling within the definition of leadership, are accomplices or accessories as defined by the Revised Penal Code to the criminal activities thereof, the commission of activities prohibited by this Act, or otherwise give aid and comfort to the leaders and members thereof.

f. **Private Armed Group** – is a group of at least three (3) but not more than nine (9) individuals, with weaponry, not recognized by duly constituted authority, or is utilized for the advancement, promotion and/or protection of vested political and/or economic interest, of any individual, family, clan or private group. The private armed group may be utilized, but not limited to, as bodyguards, intimidation force, or mercenaries or for the commission of activities prohibited by this Act.

g. **Private Army** - is a group of at least ten (10) individuals, with a leadership structure and weaponry, which is utilized in the same way as a private armed group.

This also refers to authorized government para-military forces which no longer possess strategic or tactical value in the maintenance of peace and order.

The definition includes the so-called “lost commands”, as well as paramilitary forces and private security forces utilized for the advancement, promotion and/or protection of vested political and/or economic interests.

This definition does not include rebel armies or units such as those of the National Democratic Front (NDF), Moro National Liberation Front (MNLF), and *Rebolusyunaryong Alyansang Makabansa* (RAM).

h. **Recognized by Duly Constituted Authority** – means authorized by law, in accordance with law, or operating according to law. This term refers mainly to citizen soldiers or reservists under RA 7077. This definition shall also include duly-registered private security agencies and gun clubs, provided that these are not utilized for the

advancement, promotion and/or protection of vested political and/or economic interests of any individual, family, clan or private group.

i. **Security Detail** – is a schedule and duty detail of the Armed Forces of the Philippines (AFP) or Philippine National Police (PNP) personnel assigned to provide security to persons and/or property and includes a listing of the type of firearms, with respective serial numbers, that the personnel are authorized to carry in the performance of their mission or duty.

j. **Weaponry** – covers all types of weapons which include firearms, explosives, ammunition and other deadly weapons used by private armies or other private armed groups.

SEC. 4. Penalties for Leaders and Members. - The leaders and members of a private army or private armed group who commit any of the prohibited acts in Section 2, Subparagraphs (a), (d), and (e) of this Act shall suffer the penalty imposed under this Section.

Any leader of a private army or a private armed group shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years, or a fine of not less than Two hundred thousand pesos (200,000) but not more than One million pesos (P1,000,000); or both such fine and imprisonment, at the discretion of the court: *Provided*, That if the leader is a public officer, he shall, in addition to the penalty herein imposed, suffer perpetual absolute disqualification from holding public office and be subject to administrative sanctions.

If the leadership uses the veil of a juridical person, the responsible officers thereof shall also be punished as leaders. In addition, the registration, license or permit of the corporation, partnership, business enterprise, association, or organization shall be cancelled or revoked.

If the leader is an alien, he shall, after serving his penalty, be deported.

Protector, financiers or suppliers shall be treated and punished as leaders.

Any member of a private army or a private armed group shall suffer the penalty of imprisonment of not less than six (6) months and one (1) day but not more than six (6) years, or a fine of not less than Five thousand pesos (P5,000) but not more than Fifty thousand pesos (P50,000); or both such fine and imprisonment, as the discretion of the court: *Provided*, That if the member is a public officer or government employee, he shall, in addition to the penalty herein imposed, suffer temporary absolute disqualification from holding public office and be subject to administrative sanctions.

SEC.5. Confiscation of Weaponry. - All weaponry of private armies and other private armed groups shall be confiscated, whether licensed or not, and shall be disposed of under existing policies, particularly for firearms, explosive and ammunition.

SEC. 6. Submission of Security Detail. - A Security Detail shall be submitted to the Director General of the Philippine National Police (PNP) by all civilians, heads of civilian offices, corporations, organizations, associations and the like, as basis for the legal authority to detail security personnel. The Security Detail shall be kept current and updated from time to time as the need arises.

SEC. 7. *Abuse of Security Detail.* - This prohibited act under Section 2, Subparagraph (b) shall include but not be limited to the following:

- a. excess number of military and/or police personnel as security detail for Very Important Persons (VIP) under existing policies;
- b. utilization of an allowable security detail for the advancement, promotion and/or protection of vested political and/or economic interests, including criminal or oppressive acts;
- c. utilization of unauthorized personnel as security detail; or
- d. formation of so-called civil security units.

Those responsible shall be punished with imprisonment of not less than six (6) months and one (1) day nor more than six (6) years, or by a fine of not less than Five thousand pesos (P5,000) nor more than Two hundred thousand pesos (P200,000), or both such fine and imprisonment, at the discretion of the court: *Provided*, That if the offender is a public officer, he shall, in addition to the penalty herein imposed, be subject to the administrative sanctions.

SEC. 8. *Abuse of Firearms Licenses or Permits.* This prohibited act under Section 2, Subparagraph (c) shall include but not be limited to the following:

- a. violations of existing policies on the ban on the carrying of firearms outside of the residence, issuance of Memorandum Receipts (MR), Mission Orders (MO), duty detail orders, licenses to own and permits to carry firearms;
- b. unauthorized issuance of MR or MO to carry firearms;
- c. unauthorized acquisition of firearms by government units; or
- d. unauthorized importation of firearms which are not registered in accordance with law.

Those responsible shall be punished according to Section 4 hereof, without prejudice to liability for illegal possession of firearms and violations of other applicable laws.

SEC. 9. *Paramilitary Forces As Private Armies or Private Armed Groups.* - Paramilitary forces, such as the CAFGUs and CVOs, which are utilized as private armies or private armed groups, or which no longer possess strategic or tactical value in the maintenance and administration of peace and order, shall be dismantled, demobilized or dissolved immediately. Erring personnel shall be dismissed from the service immediately, without prejudice to prosecution for criminal acts or commission of acts prohibited by this Act.

SEC. 10. *Security Agencies as Private Armies.* - Private security agencies which are utilized as private armies or private armed groups shall be dismantled and disarmed, and their registrations cancelled or revoked. Private security forces shall be regulated against their utilization for the advancement, promotion and/or protection of vested political and/or economic interest, beyond legitimate security needs or the activities prohibited by this Act. No public officials shall own or operate any private security agency. A violation of the latter

prohibition shall subject the public officer to administrative sanctions and the security agency to cancellation of its registration.

SEC. 11. *Priorities in Dismantling of Private Armies.* – The Department of the Interior and Local Government (DILG), Department of National Defense (DND) and Department of Justice (DOJ) shall prioritize the following in the dismantling of private armies:

- a. large and long-existing private armies;
- b. private armies with government connections;
- c. paramilitary forces and private security forces which are utilized as private armies;
- d. private armies with formidable weaponry, financial and/or logistical resources; and
- e. leaders, protectors, financiers and suppliers of private armies.

SEC. 12. *Sanctions on Unit Commanders and Heads.* - Unit commanders or heads of law enforcement units who are negligent in dismantling private armies and other private armed groups in their respective areas of responsibility shall be subject to administrative sanctions.

SEC. 13. *Incentives.* The full range of incentives shall be applied in the dismantling of private armies and private armed groups, to include but not limited to the following:

- a. reward and incentives to government witnesses and informants;
- b. immunity from criminal prosecution to government witnesses;
- c. State Witness rule;
- d. Witness Protection program;
- e. non-prosecution for voluntary surrender of weaponry and voluntary disbandment within a specified period;
- f. incentives for the voluntary surrender of firearms as in the “*Balik-baril*” program; or
- f. promotions and incentives for meritorious action of law enforcement units.

SEC. 14. *Monitoring System.* There shall be set into place a system to monitor the following:

- a. surrendered or confiscated weaponry, financial and/or logistical resources;
- b. deactivated or demobilized members of paramilitary forces;
- c. security details for VIPs; and

d. licenses and permits pertaining to firearms and explosives including the importation thereof.

SEC. 15. *Special Prosecutors.* - The Department of Justice (DOJ), in coordination with the Offices of the State, Provincial and City Prosecutors, shall designate at least two (2) prosecutors in each province and city to handle prosecution of cases for violations of this Act.

SEC. 16. *Jurisdiction.* - The Regional Trial Courts shall have original and exclusive jurisdiction over all cases involving offenses punishable under this Act.

SEC. 17. *Oversight Committee.* - Within thirty (30) days from the approval of this Act, there shall be formed an Oversight Committee which shall monitor the implementation of this Act. The Oversight Committee shall be composed of the Secretary of the Interior and Local Government as Chairman and the Secretary of the National Defense, the Secretary of Justice, the National Security Adviser, the Director General of the Philippine National Police, the Chief of Staff of the Armed Forces of the Philippine, two (2) members of the Senate to be designated by the Senate President, and two (2) members of the House of Representatives to be designated by the Speaker.

SEC. 18. *Implementing Rules and Regulations.* - Within thirty (30) days from the effectivity of this Act, the Departments of the Interior and Local Government, Justice and National Defense in coordination with other agencies of government concerned shall promulgate and issue the necessary Rules and Regulation for the effective implementation of this Act without prejudice, however, to the immediate implementation of the provisions of this Act which do not require any implementing rules and regulations.

SEC. 19. *Report to Congress.* - The Oversight Committee shall submit quarterly reports to Congress on the status of the implementation of this Act.

SEC. 20. *Appropriations.* - The amount necessary for the dismantling of private armies and other private armed groups shall be charged to the appropriations of the Department of the Interior and Local Government under the current General Appropriations Act. Thereafter, such amount as may be necessary for the continued dismantling of private armies and other private armed groups shall be included in the annual General Appropriations Act.

SEC. 21. *Separability Clause.* - If for any reason, any section or provision of this Act, or any portion thereof, or the application of such section, provision or portion thereof to any person, group or circumstance is declared invalid or unconstitutional, the remainder of this Act or the application of such provision to other persons, groups or circumstances shall not be affected by such declaration.

SEC. 22. *Repealing Clause.* All laws, decrees, executive orders, issuances and rules and regulations which are inconsistent with the provisions of this Act are hereby considered repealed, amended or modified accordingly.

SEC. 23. *Effectivity.* This Act shall take effect thirty (30) days after its publication in the *Official Gazette* or in at least two (2) national newspapers of general circulation.

Approved,