

Duterte signs draconian anti-terrorism law in the Philippines

By Joseph Santolan
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On July 3, Philippine President Rodrigo Duterte signed Republic Act 11479, known as the Anti-Terrorism Act of 2020, into law. The law grants sweeping police state powers, including the authorization of warrantless wiretapping and surveillance, and warrantless arrests for up to 24 days of anyone accused by a presidentially-appointed commission of "terrorism."

On Tuesday, July 7, four separate petitions, consolidated into a single case, were filed before the Supreme Court challenging the constitutionality of the new law and calling for a Temporary Restraining Order (TRO) on its implementation. The Court has given the executive and legislative branch 10 days to prepare a response.

The Anti-Terrorism Act replaces the Human Security Law of 2007, which was signed by the administration of President Gloria Macapagal Arroyo. The 2007 law authorized warrantless arrests on charges of terrorism for up to three days but obligated the state agency responsible for the arrest to pay legal compensation of up to 500,000 pesos (\$US10,000) a day to the detainee in the event that a court deems that they were wrongfully arrested.

The Philippine military and police have long been clamouring for the lifting of these restrictions and for an expansion of their unrestricted powers to arrest and to surveil the population unimpeded by the requirements for evidence or formal charges.

Philippine news agency, Rappler, reported that the impetus behind the 2020 Anti-Terrorism law came from "the generals" who "wanted a 30-day period for warrantless arrests to allow them to conduct their investigation." They made clear that this period of warrantless detention would be used for interrogation and torture, stating that it was not until the "second or

third week" that "suspects normally break."

The Anti-Terrorism Law grants to a presidentially-appointed body, known as the Anti-Terrorism Council (ATC), the authority to designate anyone a 'terrorist.' Anyone deemed a terrorist can be detained for 24 days—14 days extendable by an additional 10. The law removes any legal compensation for wrongful imprisonment. The precise definition of 'terrorism' is thus irrelevant, as no penalty incurs to the state for throwing someone in jail on entirely spurious grounds.

The police and military are likewise free to carry out warrantless surveillance and wiretaps for a period of 90 days—60 extendable by 30—of anyone deemed a terrorist and the law obligates telecommunications companies to turn over all records pertaining to anyone so labelled. Anyone who deletes or destroys material—personal notes, recordings, etc—that the state deems to be evidence will be subject to 10 years imprisonment.

The bank accounts of alleged terrorists can be subject to warrantless investigations and their assets can be frozen for up to six months.

The law defines 'terrorist' in the most sweeping terms, including anyone who engages in acts intended to cause death to another person, to cause extensive damage to a government facility or critical infrastructure, or to interfere with the delivery of a critical service, such as transportation.

While the law has a proviso exempting acts of "advocacy, protest and dissent, including the stoppage of work" it immediately mitigates this exemption by stipulating that if such activities "create a serious risk to public safety" they constitute terrorism.

These exemptions are a pretence to the observance of democratic norms that the law is in fact a fundamental attack upon. There is no formal process to review the

decisions of the ATC, and there is no penalty imposed for violating the exemptions. The Anti-Terror law gives the state, through the auspices of the ATC, carte blanche to arrest and surveil the population without any democratic or legal constraint.

Phil Robertson, deputy Asia director at Human Rights Watch, summarized the implications of the law, "The new counter terrorism law could have a horrific impact on basic civil liberties, due process, and the rule of law amid the Philippines' shrinking democratic space," he said. "The Philippine people are about to face an Anti-Terrorism Council that will be prosecutor, judge, jury, and jailer."

There is almost no opposition being voiced to the Anti-Terror law in the ruling class. They see the measure as necessary to suppress growing levels of social opposition among the broad masses of the population, who are suffering tremendously under the crisis of the coronavirus and the government's use of this crisis to further crack down on the poorest layers.

The law passed the Senate by a vote of 19-2 and the House by 173 to 31 with 29 abstentions.

That the target of the law is mass dissent was made clear in the repeated statements by the military and the Duterte administration that it was largely "Communists" who opposed the bill. Defense Secretary Delfin Lorenzana stated that those criticising the law were "mostly Reds."

The ATC will be run by the National Intelligence Coordinating Agency (NICA), a government agency which originated in the era of McCarthyism and which has for more than half a century specialized in persecuting activists, journalists, environmentalists, workers and farmers on the grounds that they were "Communists."

Among the terms of the new law is the provision that "speeches, proclamations or writings deemed to be inciting terrorism" are punishable with 12 years imprisonment. The law's sweeping definition of terrorism would make it possible that someone who advocated for a mass transit strike, to be imprisoned, if such a strike were deemed a "threat to public safety."

The case against the law now before the Supreme Court confronts the precedent established in 2010 when the Court ruled that the 2007 Human Security Law was constitutional, rejecting petitions against it on the grounds that none of the petitioners had been charged

under the law.

Duterte broadcast his weekly address to the nation in the early morning of July 8, declaring, "you should not be afraid, if you are not a terrorist." Over the weekend, however, the National Task Force to End Local Communist Armed Conflict published a long list of various legal organizations which it alleged had direct ties to the armed insurgency being carried out by the New Peoples Army of the Communist Party of the Philippines. The sweeping list targets tens of thousands of activists, union organizers, workers and farmers.

Over the past four years of the Duterte administration, tens of thousands of impoverished Filipinos have been killed by the police and paramilitary organizations, who are conducting, with state sanctioned impunity, a genocidal campaign against the poorest sections of Philippine society on the pretext of a war on drugs. The Anti-Terrorism Act is a significant further step toward the implementation of a police state.

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