



The Anti-Terrorism Act: Recipe for Undeclared Martial Law

Bagong Alyansang Makabayan (BAYAN)
June 2007

**Defy state terrorism!
Junk Human Security Act!**

Welcome to the dark ages.

On February 8, voting 16-2, the Senate passed on final reading the Anti-Terrorism Act, euphemistically titled, the Human Security Act (HSA) of 2007. A day after, the bicameral conference committee of both Houses of Congress adopted the Senate version in full. Eventually, both the Senate and the Lower House ratified the bicameral report in a two-day special session called for by President Gloria Macapagal-Arroyo. In a matter of days, on March 6, 2007, Arroyo signed the bill into law. The bill was passed into law ahead of other more important and urgent pieces of legislation such as the P125 wage increase, and the compensation bill for Marcos human rights victims.

Contrary to statements by opposition senators who initially fought the bill but eventually voted in favor of it, the new law is not at all "toothless". It is replete with provisions that violate fundamental civil, political and human rights found in the Bill of Rights of the Philippine Constitution and in international human rights and humanitarian law conventions.

Prior to the signing of the Anti-Terror Act, the US-Arroyo regime has already unleashed the military, paramilitary and police forces on the people and spurred them to commit the most despicable human rights violations and even crimes against humanity including massacres, assassinations, abductions, illegal detention and torture and the displacement of people from their homes and land with the use of armed force.

Such atrocities are clearly in line with the regime's counter-insurgency program called Oplan Bantay Laya (OBL) I and II that is based on its boast of defeating the armed revolutionary movement led by the Communist Party of the Philippines (CPP) by 2010.

The Human Security Act provides the "legal teeth" long sought by the military and police forces in committing with impunity acts of state terrorism.

The main objective of the Act is to further suppress the people's movement for national liberation and democracy and the broad range of forces opposing the US-Arroyo regime including the

The "war of terror" has been discredited as nothing more than a justification for and continuation of US imperialist aggression and expansionism. In the course of this war, people's lives are being destroyed and their rights systematically violated.

The Arroyo regime has chosen to give its all out support for the US "war on terror" despite worldwide condemnation and rejection of this policy. Arroyo has sponsored the ASEAN covenant against "terrorism" which gives the US a new platform for intervention in Southeast Asia. The covenant calls on ASEAN members to enact their own "anti-terror" laws.

Taken in the broader context of the crisis of the Arroyo presidency, the approval of the terror measure is also a move to get continued US support for the Arroyo administration government by showing the Philippine government's unconditional endorsement of the US terror war.

The HSA is also a means for the Arroyo regime to stay in power by suppressing its critics and foes. No amount of safety nets can make the new terror law any less malevolent. In the hands of a regime with an extremely bad human rights record, the so-called anti-terror measure can and will be easily abused to serve the campaign of repression of the regime.

Foreign governments, the United Nations special rapporteur, the Permanent Peoples' Tribunal and many other non-governmental formations have already assailed the worsening human rights situation under the Arroyo regime.

There can be no middle ground on this one, not when our basic freedoms and rights are being subjected to more intense attacks. The terror law or the Human Security Act, a patently fascist measure, must be stopped.

We must use all available means to prevent the further trampling of our rights and the imposition of an undeclared martial law. We have frustrated this government's previous attempts at institutionalizing repression. We have defied the worst forms of repression. Once again we are called to stand together in opposing a rising dictatorship. ###

5. State terrorism

The Anti-Terror law will nourish the monster that is state terrorism. The law contemplates a state of fascist rule without the necessity of declaring outright martial law.

The US-Arroyo regime will use the Anti-Terror Law as a legal bludgeon to intensify its all-out war policy against the armed revolutionary movement, to persist with impunity in extrajudicial killings and other human rights violations and to create a climate of fear and heighten political repression against its fiercest critics and the struggling masses of the people.

Within the context of Bush regime's global war of terror, Arroyo's own "anti-terror" campaign is itself a form of terrorism. No less than the Philippine Supreme Court Chief Justice Reynato Puno said that the "mindless war on terror" has caused much of the human rights violations in the country today.

In many places in the world, the bitter experiences with the so-called US-led war on terror has caused the world's people to clamor for a review if not reversal, of repressive laws and policies instituted in the name of "anti-terrorism." The US Supreme Court for example has struck down as unconstitutional some of the practices employed by the Bush regime against US citizens and other nationals such as wiretapping and arbitrary arrest and detention.

Since the September 11 attacks in New York, the US government has been waging a so-called war on terrorism which involved the invasion and occupation of Afghanistan and Iraq. This war of terror is premised on what are now considered as lies of the Bush administration, including the lie that weapons of mass destruction were present in Iraq and threatened world peace.



opposition, dissenters and the independent media, even without resorting to a declaration of martial law.

1. Dangerously vague definition

The definition of "terrorism" is deliberately made vague and overbroad. Section 3 of the terror law defines "terrorism" as an act of "sowing and creating a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand."

The parameters of what constitutes this vague and loosely defined crime of "terrorism" will eventually be determined by Malacanang through the Justice Department and its notoriously unjust secretary, Raul Gonzalez, and the newly formed Anti-terrorism Council which includes the right-wingers and fascists in the Cabinet Oversight Committee on Internal Security (COC-IS) such as Executive Secretary Gen. Eduardo Ermita and National Security Adviser Norberto Gonzales.

With this kind of definition and the people that will determine its application, Arroyo can use the law as an instrument to quell legitimate expressions of political dissent and social protest. For example, mass actions calling for the ouster of Arroyo are already labeled as part and parcel of "destabilization plots" and "conspiracies to commit rebellion"; thus, it would be easy for the government to classify them as "coercing the government to give in to an unlawful demand." Workers strikes have also been categorized by the Arroyo regime as "terroristic" and tantamount to economic sabotage.

Constitutional experts have asserted that the law is void because it is vague. At the heart of the debate on the new terror law is the basic definition of terrorism from where abuses will inevitably arise. To date, there is yet no internationally accepted definition of terrorism. The term "terrorism" has been used by imperialist states and their allies during the Cold War era to demonize and delegitimize national liberation movements waging armed revolution against colonialism and neocolonialism. Back then and even up to now, one man's terrorist could be another man's freedom fighter.

Were “terrorism” to be properly defined to refer to systematic and deliberate violence used solely or mainly against civilians or entire communities of people, imperialist wars of aggression and state terrorism would then be recognized as the worst kinds of terrorism by the sheer amount of death and destruction as well as socio-cultural degradation inflicted on entire peoples and civilian populations.

The number of less than 3000 civilian death casualties in the 9/11 attacks is small in comparison to the 1.5 million Iraqi death casualties in the US-UK war of aggression and sanctions against Iraq and the more than 650,000 Iraqi civilian death casualties in the second war of aggression and occupation of Iraq.

State terrorism or the rule of open terror within particular states is another form of terrorism. It usually entails the repression of the entire people through massacres, assassinations, illegal detention and torture and the displacement of people from their homes and land with the use of armed force

By making “terrorism” as a catch-all crime that is too vague and too broad, the imperialists and their puppet states have messed up the clear distinction between common crimes and political offenses. The punishment for political crimes is usually lighter than common crimes because the former are considered socially motivated rather than driven by self-interest and may be open to political solution through negotiations and satisfaction of social demands. But the US has made it a point to define terrorism as the threat or use of violence against persons and property to “advance social and political objectives”. It is hell-bent on criminalizing as “terrorism” the people’s struggle for national and social liberation.

Judging from the recent pronouncements and practice of the regime, the first casualties of the proposed bill would be members of revolutionary armed movements, like the CPP/NPA/NDF and the MILF. This would be contrary to established Philippine jurisprudence such as the Hernandez Doctrine, which states that all acts in pursuit of one’s political beliefs are absorbed in one crime of rebellion and cannot be divided into several common crimes.

commit “terrorism”; freezing bank accounts and funds of suspected “terrorists”; and establishing and maintaining a database on “terrorism.”

4. Peace talks

The enactment of the terror bill and the expected proscription of the CPP and NPA as “terrorist organizations” essentially forecloses the possibility of meaningful peace negotiations leading to a negotiated political settlement between the Government of the Republic of the Philippines (GRP) and the National Democratic Front of the Philippines (NDFP). Whether the NDFP is proscribed by the Arroyo regime as “terrorist” or not, it will find negotiations impossible with the reactionary Philippine government after the proscription of the CPP and NPA as “terrorist”.

According to NDFP Chief Negotiator Luis Jalandoni, “The Arroyo regime has scuttled the peace talks. It has declared its militarist plan to destroy the revolutionary movement before 2010. It has flagrantly violated the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) by committing crimes against humanity, perpetrating extrajudicial killings of more than 830 unarmed civilians, enforced disappearances on about 200 persons and frustrated killings on more than 350 persons, among other gross human rights violations.”

Jalandoni also said, “The Arroyo regime has also charged those involved in the peace negotiations on the side of the NDFP with rebellion, thereby violating the Joint Agreement on Safety and Immunity Guarantees (JASIG). Also in flagrant violation of the JASIG, it has summarily executed Sotero Llamas, Political Consultant of the NDFP, and caused the involuntary disappearance of NDFP Consultants and their immediate families and staff, namely, Rogelio Calubad and his son Gabriel; Prudencio Calubid, his wife Celine Palma and two companions, Leopoldo Ancheta and Philip Limjoco.”

Despite not being tagged yet as “terrorists”, the MILF and MNLF have in the past been linked by the government to the Abu Sayyaf and Jamaah Islamiya said to be operating in Mindanao. The “terrorist” tag is intermittently used by the US-Arroyo regime to blackmail the MILF into a disadvantageous position, if not eventual capitulation, in its stalled peace negotiations with the government.

employed by the US Central Intelligence Agency against suspected “terrorists.”

3. Anti-Terrorism Council

The anti-terror law will give rise to a fascist council tasked with overseeing the implementation of the law. Section 53 provides for the creation of the Anti-Terrorism Council composed of the executive secretary, secretaries of justice, interior and local government, national defense, foreign affairs, finance and the national security adviser. The National Intelligence Coordinating Agency serves as the council’s secretariat.

Most of the members of the Anti-Terrorism Council are already part of the notorious COC-IS.

Executive Secretary Ermita, Justice Secretary

Gonzalez and Security Adviser Gonzales are the masterminds of repressive policies and measures such as the Oplan Bantay Laya, Proclamation 1017, Calibrated Preemptive Response policy and Executive Order 464. The three are now joined by newly appointed Defense Secretary Hermogenes Ebdane, a retired general linked to the Garcillano election fraud scandal. The Foreign Affairs Secretary Alberto Romulo on the other hand has proven to be a staunch supporter of United States foreign policy even if these are inimical to the interests of the Filipino people.

The Council’s functions include: directing the arrest of suspected “terrorists”, recommending the proscription of suspected “terrorist” organizations, speedy investigation and prosecution of all persons accused or detained for the crime of terrorism or conspiracy to



The Arroyo government has long been itching to tag the CPP-NPA-NDF as terrorist organizations. There have also been actuations on the part of the Arroyo regime tagging the MILF as a supporter of so-called terrorist organization like the Jemaah Islamiya. Also in danger of being tagged as “terrorists” are groups which state agents have already labeled as “communist front organizations” and “enemies of the state”. These include legal and legitimate people’s organizations, that are already facing various forms of harassment under the present system.

Apart from a vague definition of terrorism, Sec. 17 of the proposed bill allows for the proscription of alleged “terrorist” organizations on the mere application by the Department of Justice before any Regional Trial Court (RTC). All it takes is for Raul Gonzales to file a case before any RTC and an organization, association or group of persons may be declared as a “terrorist” and thus, outlawed.

Subsequently, it would also be easy to arrest and detain indefinitely individuals as officers and members of “terrorist” organizations or as accomplices and accessories in the commission of “terrorism”. Members of an already proscribed organization can be easily subjected to rigorous surveillance and punitive sanctions. These make the Anti-Terror Act a bill of attainder, which criminalizes and punishes individuals on the basis of guilt by association.

2. Violation of rights

Suspects of “terrorism” will be denied their right to due process and presumption of innocence. As mentioned, the Anti-Terror Act provides for the easy proscription or illegalization of organizations and individuals. Detention within 72 hours is easily justified and legalized, more than enough time to torture and even murder a detainee. Other violations made easy include indefinite detention on the non-bailable charge of terrorism, the freezing and confiscation of financial assets, the easy incrimination of so-called accomplices and accessories, the unlimited intrusions of surveillance into privacy and family life, the oppressive restraints even on those released on bail, extraordinary rendition and so on.

Under Sec. 19, “in the event of actual or imminent terrorist attack, suspects may be detained for 72 hours without warrant.” With the proven track record of Philippine governments, starting with the Marcos Dictatorship all the way to the current US-Arroyo regime, to manufacture scenarios that would justify a police crackdown or the mobilization of military troops to quell any form of civil disturbance, it would not be difficult for the government to manufacture an “actual or imminent terrorist attack.”

Also, “(m)unicipal, city, provincial or regional human rights commission officials are authorized to order the detention of suspected terrorists for up to 72 hours.” This is a clear violation of the Sec. 18, Article VII of the Constitution which provides, “During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released.” Not even the Commission on Human Rights on any level, can circumvent this constitutionally guaranteed safeguard.

Section 26 states: “Restriction on the Right to Travel : In cases where evidence of guilt is not strong, and the person charged is “granted... bail, the court shall limit the right of travel of the accused to within the municipality or city where he resides. He or she may also be placed under house arrest by order of the court. While under house arrest, he or she may not use telephones, cell phones, emails, computers, the internet or other means of communications with people outside his residence until otherwise ordered by the court.” Thus, even in cases where the evidence is weak and bail is allowed, suspects are still faced with the prospect of being held incommunicado while under house arrest.



The new law can violate a person’s right to privacy. Section 7 legalizes the surveillance of terror suspects. Authorities may intercept and record all communications of suspected terrorists and their alleged conspirators. Wiretapping and other forms of electronic surveillance need only the approval of any competent Regional Trial Court. The power to eavesdrop is easily subject to abuse.

Under Sec. 27, bank deposits, accounts and records of suspected terrorists and their alleged conspirators may be examined by authorities. The key concept here is that even mere suspects can be subjected to bank examinations. All pertinent information involving a suspected account, including transactions

with other accounts, can also be examined by the authorities. .

Section 57 of the law says that it bans extraordinary rendition but actually authorizes it under certain conditions. The practice of “extraordinary rendition” allows terror suspects or vital witnesses to be rendered or transferred to a foreign government as part of investigations into terrorism. Under the new law, a person may be extraordinarily rendered to a foreign country if his or her testimony is vital in a terror-related police probe or in other legal proceedings. The Philippine government will merely require an official assurance that the rights of the terror suspect will be respected by the requesting country.

In the worst practices of extraordinary rendition, people can be snatched and brought to a foreign land and charged with the crime of terrorism or be forced to take part in other “legal” proceedings. This extrajudicial process has often been accompanied by torture. Extraordinary rendition has been a well-documented as a practice