

TERRORISM & THE PHILIPPINES

**An Analysis of the Anti-Terror Bill 2020
& the
Potential Impacts of its Implementation**

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UNDERSTANDING THE BILL

On 26 February 2020, the Senate passed on third and final reading [Senate Bill No 1083](#) or the Anti-Terror Bill. On 1 June 2020, President Rodrigo Duterte certified the bill, principally authored by Senator Panfilo Lacson, as urgent. Two days later, despite opposition from various groups, the House of Representatives approved its version, [House Bill No 6875](#).

The Bill seeks to repeal and replace the [Human Security Act of 2007 \(HSA\)](#), in a bid to counter terrorism in the nation more stringently. However the bill has become a point of contention as it has come to negatively affect Human Rights in the country.

ANTI-TERRORISM BILL



— WHO CAN BE TAGGED AS TERRORISTS? —

- 1** Anyone who engages in acts intended to cause death or serious physical injury to another person.
- 2** Anyone who engages in acts intended to cause extensive damage to a government or public facility, public place or private property.
- 3** Anyone who engages in acts intended to damage critical infrastructure.
- 4** Anyone who develops, possesses, acquires, transports or uses deadly explosive weapons.
- 5** Anyone who releases dangerous substances, causes fire or floods with the aim to intimidate the public, government or international organisations.

— HOW IT WORKS? —

Upon application by the Department of Justice, the Court of Appeals can tag individuals and organisations as terrorists in just 72 hours.

— PUNISHMENT —

Those found guilty will suffer the penalty of life imprisonment without the benefit of parole.

Source: The ASEAN Post

According to the bill, a person suspected of terrorist activities by the Anti-Terror Council (ATC) is liable to be arrested without a court-warrant. The Anti-Money Laundering Council no longer needs a court warrant to carry out investigations. However the term “terrorism” and “acts or terrorism” has been expanded under the bill creating grey areas and leaving room for abuse of power by authorities. The safeguard against malicious investigations, a warrant from the Court of Appeals (CA), has thus been done away.

The suspect in question can be detained for a period extending more than 24 days without being presented before a judge and their phone can be tapped for an indefinite time. The surveillance period for the suspected individuals/organizations has also been extended by 30 days. The surveillance measures thus defined are highly extensive.

The bill also does away with erstwhile penalties in case of wrong detection i.e. any official who is found to have wrongfully arrested the suspect will not face any charges. In the HSA, the accused has the right to be informed of the termination of the surveillance, interception, and recording should there be no case filed against him or her for any violation of the law which have been deleted in the current version. There have been talks to do away with other rights such as the accused's right to know about the legal remedies at his disposal and detention.

All in all, the bill bestows the executive branch with extensive powers, some of which were formerly reserved solely for judicial exercise.

BACKGROUND

The Philippines exists in a terrorism hotspot and has seen the devastating impact of its economy and social life. This bill aims to tackle this issue by adding extra protections in identifying and arresting those accused of terrorism, particularly by increasing surveillance by changing sentencing regulation. According to Senator Lacson, the author of the Act, the Act “aims to protect the Philippines and its citizens from terrorist acts that know no timing nor borders, perpetrated in a manner so sudden, least expected and indiscriminate – as in, anytime, probably even today, tomorrow or next week”¹

This bill is a successor to the Human Security Act (2007) with some key differences. Firstly, it expands on the definition what constitutes as terrorism, by including more detail on the threat and the conspiracy to commit terrorism in Sections 5 and 7 with additions on planning, training and recruitment to an organisation deemed as terrorist. For these crimes it also extends the sentencing from 40 years to a lifetime sentence and removes the capability for a parole or early release on good behaviour. Increased surveillance and longer warrantless detentions are also an integral part of the new bill that make it much more widespread than the Human Security Act.

You can read more about a comparison of the 2007 Act and the 2020 Act [here](#).

This bill has emerged in light of several major terrorist threat, most notably the Battle of Marawi or the Marawi Siege from May 2017 to October 2017 between ISIL affiliated militants- the Maute group- and the Philippine government, where the militants aimed to establish a Caliphate city within the Muslim dominated city. This siege has had a devastating impact on the

¹ (2020, June 4). Be wary of disinformation drive vs. Anti-Terror Act: solon Retrieved June 24, 2020, from <https://www.pna.gov.ph/articles/1104949>

city to this day as it slowly begins its rebuilding process. Local news reports claim that many of the leaders of this movement were foreigners from Indonesia and Malaysia who had radicalised local Muslims and Moro minorities. Rural areas like Marawi in the South Philippines tend to be frequently attacked by terrorist groups, including most recently, an attack on a relief distribution centre in early June.

On a wider scale, the growing presence of ISIL affiliated groups like the Maute group or Abu Sayyed across SouthEast Asia has led to questions being raised about how prepared this region is for such transnational terror threats. There have been terrorist threats and attacks from groups like Abu Sayyef Group (ASF), Bangsamoro Islamic Freedom Fighters (BIFF), Jemaah Islamiyah (JI) who have been affiliated with the radical Islamist group Daesh, along with radical communist groups like the National Peoples Army (NPA).² While attacks and clashes are particularly prominent in rural areas, shopping malls and religious buildings like churches tend to be prominent targets in cities. Despite lockdown measures due to the COVID-19 pandemic, there has not been a reduction in terror attacks, with many groups attacking relief rural stations.

EFFECTIVENESS

WHAT EFFECT DOES IT HAVE ON THE TARGET POPULATION?

At face value, this policy aims to tackle the very real threat of terrorism in South East Asia, both home grown and international. However to understand how this bill would work, it is also necessary to understand the geography of terrorism in the Philippines. As evidenced by the Battle of Marawi, a majority of terrorist acts occur in the rural and Southern areas. Urban areas like Manila are not in any means free from terrorist attacks, but they are relatively few and far between. Rural villages for instance are being regularly attacked, even as of June 2020 where a police station in the Parang town was shot at by two gunmen, suspected to be from Abu Sayyaf. However, this act takes a more blanket approach to approaching terrorism, and inadvertently focuses on urban areas, which tend to be hotbeds of protests and activism against the current government.

This Act which has been pushed as urgent through parliament also comes at the price of other bills, particularly those that focused on an economic bailout for the people, which is especially important for those who are in the rural agricultural areas, unable to continue to earn without being outdoors. The bill also had minimal public consultation, which might also suggest that the bill might have elements that might have been

² "Terrorism - Philippines travel advice - GOV.UK." Accessed June 25, 2020. <https://www.gov.uk/foreign-travel-advice/philippines/terrorism>.

UNINTENDED EFFECTS

WHAT ARE THE UNINTENDED EFFECTS OF THIS BILL?

However, the more relevant aspects of this policy are its unintended effects on potentially curtailing the freedom of speech that is leading to online and in-person opposition. Many have little faith in the actual implementation of the policy and whether it would actually target the groups it intends to target. Its reduction of *habeas corpus* (or the ability to contest unfair arrests in front of a judge and jury) is particularly targeted as something that can be abused by the police in order to conduct unfair arrests.

While it claims to be aimed at those with terrorist intent, many have observed the current administration's attitude towards political dissenters, and the wrath of the Duterte's "War on Drugs" policy as evidence for the abuse that might come to those against the government.

Across the Philippines, there have been roughly 6,600 extrajudicial executions in 2017 by police officers, who have also been reported to target poor communities by planting evidence, hiring paid killers or fabricating reports. Duterte's speeches targeting even one off drug users has also called for citizens to kill addicts themselves. This war on drugs policy is a larger part of the claims that Duterte's government is leading to a decline in human rights within the Philippines.

The infamous case of Maria Ressa, one of the most prominent Filipina journalists who has also exposed many aspects of the current Duterte government (including his confession of killing three people) has often been cited as the reason that those who are against the incumbent government might have used the bill as a way of curtailing their opposition. In summary, Ressa—who has been consistently critical of the Duterte government—was arrested under the Cybercrime Prevention Act 2012 which was intended to tackle serious online issues like child pornography, over a statement that she made about a Filipino businessman in 2012. Despite clear regulation in the act itself, this bill was applied retroactively claiming that her original statement had a typo.

Many critics are aware that despite several sections (most notably Section 2 of the bill) guaranteeing that the bill would not be used to curtail Filipino rights, the actual implementation of it is unlikely to consider this. Police abuse and misuse of policy to arrest political dissidents has been a common feature in the Filipino police force and critics feel that there is little to suggest that the ground level reality will be any different when it comes to the enactment of this policy.

Additionally, in sections 37 and 43, there is a reduction in the penalties for producing malicious or spurious evidence. This is particularly pertinent due to the history of the police within the

Philippines as outlined above. If there is already an established history of planted or faking evidence with drug related policy, there is little (in the practical sense) that hinders evidence planting or tampering in the case of reduced jail sentences.

Many also cite the plight of the Moro and Muslim minority communities in Southern Philippines, who have not only faced the direct impacts of terrorism, but have also been impacted by the more military oriented counter-terrorism measures and are likely to suffer under this law as well. These measures have often led to displacement and violence within these communities, and according to some reports, led to more terrorist splinter groups.³

EQUITY

WHAT ARE THE EFFECTS OF THIS BILL ON DIFFERENT GROUPS?

The impact on political dissidents has been outlined above. Well-intentioned acts like the Cybercrime prevention act have had similar provisions as to Section 2, and have led to unintended consequences and manipulation by government led organisations, and it is clear why people might assume the same would happen with this bill as well. However, the impact of this bill also extended to freedom of speech within the press. With Ressa's arrest, her prominent news company, Rappler, along with other news networks like ABS-CBN might be cowed into not reporting in such a meticulous and scrutinising way of the current government, which is essential in ensuring that the wider world has access to what is going on the Philippines, the 13th largest Asian economy. The viewing of activists and media as a threat, might be an unconscious way that the government attempts to stamp out the freedom of the press and freedom of speech.

Due to the laws aim at radical Islamist terrorist groups within South East Asia, there has also been fear that this group might be highly xenophobic and islamophobic in practice to the Muslim minority in the Philippines

COST

WHAT IS THE FINANCIAL COST OF THE BILL, IF IMPLEMENTED?

Philippines' economy is the world's 36th largest economy by nominal GDP, 13th largest in Asia and the 3rd largest economy in ASEAN. However, COVID-19 has taken an economic toll on the

³ (2020, June 25). The Philippines' anti-terror bill is poised to cause ... - Al Jazeera. Retrieved June 27, 2020, from <https://www.aljazeera.com/indepth/opinion/philippines-anti-terror-bill-poised-terror-200623145405529.html>

archipelagic country as well. Philippines observed one of the strictest and longest lockdowns and the hands of the virus and even the restrictions were eased people opted to stay home. The life of Filipinos was already negatively impacted due to the resultant mass unemployment, crumbling of the public health system and a struggling Health Department. In face of such emergencies for the President to push for the bill as urgent is ill-timed at the least. The fact that the bill was pushed even ahead of an economic stimulus package as a part of COVID-19 fund.

As mentioned above, the current government is renowned for its draconian measures and the problem of terrorism has been quite persistent. Duterte has already been targeting privatization, especially those under liberal-leaning business houses without proposing suitable alternatives. Even though the FDI in the country is riding an all-time high of \$7.7 billion, resultant political instability might lose out on already staggering foreign investments in light of progressively fragile international environment.

The fear is well founded as the jobless rate had surged to 17.7% in April from 5.1% in January due to the lockdown. Eight business groups, including the prominent Makati Business Club and Management Association of the Philippines, also expressed opposition to the bill. "We strongly urge our national leaders and the private sector to be focused fully at this time on what really matters: developing policies that will address multiple socio-economic shocks resulting from the COVID-19 pandemic, strengthening our health systems, improving the investment climate to create more jobs," they said in a joint statement.⁴

Philippines, a part of Asia Pacific Group (APG), was put on a 12 month observation period in October last year to address strategic deficiencies in its anti-money laundering and counter-terrorism financing systems. However, taking the global pandemic in consideration, the Paris based watchdog Financial Action Task Force has extended the observation period which will now end in February of 2021 instead of October 2020.⁵

Though the country's compliance with global rules had improved, the Anti-Money Laundering Council said, it must pass and show it could implement tougher measures to combat terrorism before the observation period set by the intergovernmental Financial Action Task Force expires in February. Failure to do so, it said, could lead to the Philippines being included in the global watchdog's grey list, which could hurt the economy, already reeling from the impact of the COVID-19 pandemic.

⁴ (2020, June 5). Duterte's anti-terror push amid economic woes draws backlash. Retrieved June 25, 2020, from <https://asia.nikkei.com/Politics/Duterte-s-anti-terror-push-amid-economic-woes-draws-backlash>

⁵ (2020, May 14). FATF gives Philippines more time to address dirty money flaws. Retrieved June 23, 2020, from <https://www.philstar.com/business/2020/05/14/2013787/fatf-gives-philippines-more-time-address-dirty-money-flaws>

“The Philippines’ inclusion in the grey list will result in an additional layer of scrutiny from regulators and financial institutions,” the council said in a statement, adding it will also put at risk the country’s goal of getting an “A” credit rating.⁶

However, the government was criticised for pushing the bill ahead of the economic stimulus package, and accused of pushing personal agendas.

ACCEPTABILITY

DO THE RELEVANT STAKEHOLDERS VIEW THE BILL AS ACCEPTABLE?

The bill was hastily passed with a ratio of 19-2 in favour of the bill by the House of Representatives. Only Senator Risa Hentiveros and Senator Francis Panglilan voted against the proposed bill and at the House, only the members of the Makabayan bloc of lawmakers and Quezon City Rep. Kit Belmonte opposed it.

The principal author, Senator Lacson pointed towards the failure of the bill’s predecessor, Human Security Act of 2007, in achieving its goal. The various terrorist attacks mentioned above were cited as grounds for using a stricter approach in dealing with terrorism. He further said that in comparison to only 4 instances on the grounds of which a person can be prosecuted under HSA, the new bill offers 20 instances.

However, the political opposition has come down hard on opposing the bill. They question several grey areas in the proposed bill which could easily be abused by the authorities. They also point to several sections of the bill which would undermine the Bill of Rights in the 1857 Constitution.

Since the definition of what constitutes terrorism has been broadened, many fear the bill blurs distinction between “activism” and “terror activities”. Senator Lacson maintains how the definition excludes advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, however critics are quick to point that such provision rarely translates to reality. Keeping in mind the current administration’s troublesome history and the iron-hand provided to authorities in determining the conditions, similar concerns are echoed by the public as well international organizations.

⁶ (2020, June 13). Philippines must pass anti-terrorism bill to stay off 'grey list Retrieved June 23, 2020, from <https://www.dtnext.in/News/World/2020/06/13163027/1235913/Philippines-must-pass-antiterrorism-bill-to-stay-off-vpf>

Human Rights watch termed it a “disaster in making” and alleged that “the law will open doors to arbitrary arrests and long prison sentences for people or representatives of organizations that have displeased the president.” It further questioned the broad role of the Anti-Terrorism Council, which is composed of Presidential appointees and will be run by the National Intelligence Coordinating Agency (NICA), the government’s main intelligence body along with National Task Force to End Local Communist Armed Conflict created by the Philippines National Security Council which is already under fire for harassment against activists. Such evidence raises serious questions about the effect of the bill on civil liberties.⁷

The International Coalition for Human Rights in the Philippines (ICHRP) warned of "an all-out escalation of rights abuses" with the "railroading" of the new law.

"The proposed anti-terrorism bill is the last piece of the puzzle of the Duterte government's martial law. President Duterte has repeatedly denied the existence of martial law during the pandemic, however, the rising number of activists and civilians being jailed, harassed, and killed says otherwise," the rights group said.⁸

Similar organisations such as [Amnesty International](#) and [Human Rights Council](#) have objected to the bill on similar grounds. Jose Manuel Diokno, a renowned human rights lawyer alleged that the bill was meant to stifle the critics of Duterte’s administration and questioned the urgency of the bill as it was prioritized over an on-going pandemic.

Lawyers as well Business Houses have also opposed the bill on grounds of several grey areas and the possible economic effects given the damages caused by COVID-19. Around 20 lawmakers have also withdrawn their initial support and Lawmaker Khalid Dimaporo said he supports the eradication of terrorism in the Philippines but he abstained from voting because they were not allowed to ask questions during the plenary deliberations on the controversial anti-terrorism bill at the House of Representatives.⁹

Retaliation has also come from the general public as well. On June 12, 2020 protesters came out on the street in huge numbers; over 1,000 Filipinos led by anti-Duterte activists flocked the streets as the nation celebrated the 122nd anniversary of its independence from spanish rule.

Wearing face masks and observing physical distancing to protect themselves from the coronavirus, the protesters held placards and chanted slogans such as “Junk terror bill!” and

⁷ (2020, June 5). Philippines: New Anti-Terrorism Act Endangers Rights Retrieved June 25, 2020, from <https://www.hrw.org/news/2020/06/05/philippines-new-anti-terrorism-act-endangers-rights>

⁸ (2020, June 10). Philippines to enact new anti-terror bill amid protests. Retrieved June 26, 2020, from <https://www.aa.com.tr/en/asia-pacific/philippines-to-enact-new-anti-terror-bill-amid-protests/1872159>

⁹ (n.d.). The Philippine Star (@PhilippineStar) | Twitter. Retrieved June 26, 2020, from <https://twitter.com/philippinestar>

“Activists not terrorists!”. Presidential spokesman Harry Roque has defended the bill, saying elements were modelled on those used in countries that had dealt effectively with extremism. Interior Secretary Eduardo Año said he had instructed the police to exercise maximum tolerance while monitoring the protesters, even as he warned mass gatherings are prohibited under the country’s coronavirus quarantine rules.¹⁰

CONCLUSION

The Anti-Terror Bill 2020 is a controversial bill that aims to address the significant risk of terrorism within the Philippines. It works to expand the reach of the Human Security Act 2007 in many ways, ranging from the definition of terrorism to the surveillance measures it allows. However, there has been a strong opposition against the bill politically and publicly, due to the fact that many claim it infringes on human rights, in particular, the right to free speech. Critics believe that despite the bill having provisions to protect human rights, the implementation of this policy by the police force and other bodies will not consider those rights. Despite this, the bill has passed 19-2 in the House of Representatives and is waiting for approval in the Senate.

Some Filipinos believe that the way to address the issue of terror is to take a more peace building human rights based approach to tackling terrorism rather than criminalising it. Terrorism directly infringes on human rights of the people it is impacting and when treated in a violent, forceful manner will continue to do so as evidenced in the Moro and Muslim communities. By addressing the root of the cause of terrorism and creating space for negotiation, terrorism is likely to be better tackled in a more systematic manner. The autonomous area in Bangsamoro, for instance, is currently transitioning to a regional government and is aiming to demilitarise both militant and Filipino forces in that area. While much remains to be done, the framing the issue of terrorism as something that can be resolved in the wider process of becoming more peaceful and cooperative will be essential in the future of the Philippines.

¹⁰ "Philippine protesters rally over controversial anti ... - Reuters." 12 Jun. 2020, <https://www.reuters.com/article/us-philippines-rights-protests/philippine-protesters-rally-over-controversial-anti-terror-bill-idUSKBN23J1FG>. Accessed 26 Jun. 2020.

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The Parley Project is a student-led initiative which focuses on research-driven solutions for global agendas. Started in 2020 the project aims to be a platform where students like us can voice their opinions and hone the understanding of the world around them. It is an endeavour to explore the intricacies of the increasingly globalised world and to unpack the politics behind the same.

We aim to connect students to professionals for mutually insightful discussions and conversations about various pressing agendas. Through various youth conferences and carefully curated agenda-specific events we wish to bring together inquisitive minds to research and provide new insights to contemporary issues and come up with solutions for the same.



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