

Philippine Supreme Court upholds anti-democratic Anti-Terrorism Law

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On December 7, the Philippine Supreme Court ruled that the majority of President Rodrigo Duterte's Anti-Terrorism Act of 2020 was constitutional, rejecting 37 petitions against it. The ruling, which greenlights the full implementation of the draconian law, is a significant step toward authoritarian rule in the country.

The Anti-Terrorism Law grants sweeping powers of surveillance and arrest to the unelected Anti-Terrorism Council, a government body, composed of military, police and administration personnel, which was created by the law.

The Supreme Court has not yet released the full text of its ruling, but issued an exceptionally brief media release, in which the court declared that it found the "challenged provisions of the Republic Act 11479 are not unconstitutional" with the exception of two clauses.

By a vote of 12-3, the Supreme Court removed a qualifier in the last paragraph of Section 4 that declared "advocacy, protest, dissent, stoppage of work, industrial mass action, and other similar exercises of civil and political right" were terrorist acts if there was intent "to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety."

The qualifier was declared "unconstitutional for being overbroad and violative of freedom of expression." The proviso would have allowed the police and military to declare a protest "terrorist" on the basis of what they claimed to be its "intent."

Voting 9-6, the Supreme Court ruled a second clause unconstitutional which allowed the ATC to designate a person or organization as a terrorist on the basis of a request from "other jurisdictions or supranational jurisdictions."

Beyond these two modifications, the law has been upheld in its entirety. It is a sweeping attack on

democratic rights.

The Anti-Terrorism Law was approved in July 2020 by an overwhelming majority in Congress—in the Senate, by a vote of 19-2 and in the House by 173 to 31 with 29 abstentions. It was quickly signed into law by Duterte.

The ruling class in the Philippines is in a headlong rush toward authoritarian forms of rule. This drive is fuelled by its growing fear of an explosion of social anger from the working class and the impoverished masses who are deprived of jobs, livelihood, health, and very lives in the midst of the pandemic.

The Anti-Terrorism law replaced the Human Security Act of 2007 of then President Gloria Arroyo. The new law provides judicial powers to the Anti-Terrorism Council, authorizing it to designate individuals and organizations as terrorist based on secret deliberations and to order warrantless arrests of these individuals, detaining for them for up to 24 days without bringing them before any judicial authority.

Among the bodies operating under the authority of the ATC is the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC). NTF-ELCAC has the power to label anyone as "Communist" which under the terms of the law falls under the definition of "Terrorist." The red-tagging of the NTF-ELCAC has led to hundreds of activists being arrested and scores killed in police raids.

The new law gives the military police powers and, under the direction of the ATC, authorizing it to arrest and detain, conduct their own investigations and surveillance of individuals and organizations designated as terrorists.

The decision of the Supreme Court was not a surprise. It had already set a precedent in its ruling on the Human Security Act, when it dismissed all

constitutional challenges, dispensing with constitutionally enshrined democratic rights in the name of public safety.

Twelve out of the 15 sitting judges in last week's ruling were appointed to the Supreme Court by Duterte. The 37 petitions for a declaration of unconstitutionality were submitted by two major lawyers' organizations, the retired Supreme Court Chief Justice Antonio Carpio, deans of several law schools, and religious and journalist associations.

The Supreme Court Justices delayed the court proceedings for months and, during oral arguments displayed open contempt for the concerns that the constitution was being blatantly violated. The government lawyers defending the law were manifestly incompetent. None of this mattered. The court handed down a political decision that had the backing of the overwhelming majority of the ruling class.

The Maoist Communist Party of the Philippines (CPP), and the various organizations that follow its nationalist political line such as Makabayan, called on the working class to have faith in the court and in the democratic sensibilities of sections of the bourgeoisie. In keeping with this outlook, they have attempted to present the ruling as a partial victory, focusing attention on the clause that was struck down rather than the law that was upheld.

In an interview with the news organization Rappler following the announcement of the Supreme Court decision, Neli Colmenares, senatorial candidate of Makabayan, declared that the Supreme Court decision was a big deal because "activists and Filipinos alike would now feel more free to express dissent to the government."

Colmenares, who is himself an attorney and knows better, told the media, "Many feared the anti-terrorism law, they did not want to speak, they did not want to join in the exercise of their constitutional rights for fear of being called a terrorist, but now they have an assurance from the Supreme Court."

Colmenares campaigned for Duterte in 2016, with Makabayan and the CPP working in alliance with him. Now he heads Makabayan's campaign to support bourgeois opposition candidate, Leni Robredo. Robredo declared two weeks ago that she supported the mandate of NTF-ELCAC. While Colmenares and his associates expressed dismay at this statement, they

have continued to support Robredo.

Makabayan, and the various organizations associated with it, is attempting to chloroform the Filipino working class. Looking to form an alliance with a section of the capitalist class, all of whom support the authoritarian measures of the Anti-Terrorism Law, it is downplaying the open assault on democratic rights.

The Supreme Court's decision will undoubtedly accelerate the already vicious campaign of the state against activists, human rights campaigners, unionists and peasant organizations. According to KARAPATAN, a human rights organization, between 2001 and 2020, 1,967 activists were extrajudicially killed and 247 disappeared.

At least 1,126 individuals affiliated with various cause-oriented groups have been arrested and detained under the Duterte administration, as of June 2021. During the same period, at least 2,725 were arrested but not detained.

The rapid shift to authoritarian rule being undertaken in the Philippines is mirrored around the world and is driven by the same global capitalist crisis. Similar anti-terrorism laws have been legislated and implemented in Indonesia, India, Pakistan, Australia, Ethiopia, Turkey, and Egypt. In India and Egypt, some of the most brutal examples of the anti-terrorism laws have been used to suppress any resistance to military and right-wing rule.



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