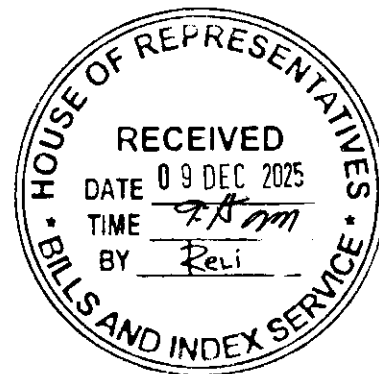


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Batasan Hills, Quezon City

TWENTIETH CONGRESS
First Regular Session

HOUSE BILL NO. 6681



Introduced by Honorable Representative
SARAH JANE I. ELAGO (Gabriela Women's Party)

**AN ACT REPEALING REPUBLIC ACT NO. 11479, OTHERWISE KNOWN
AS THE ANTI-TERRORISM ACT OF 2020**

EXPLANATORY NOTE

The Philippine government was one of the 48 original signatories to the Universal Declaration of Human Rights in 1948. The government later signed and ratified the multilateral treaties on human rights, namely The International Covenant on Civil and Political Rights and The International Covenant on Economic, Social and Cultural Rights. These official acts of the Republic of the Philippines are a commitment that the government shall not only respect human rights but must also protect and promote these rights.

This is unduly contradicted by the passage of the Anti-Terror Act of 2020. Amid the COVID-19 pandemic, economic crisis, and widespread poverty, former President Rodrigo Duterte certified as urgent the Anti-Terrorism Bill instead of legislative measures for free mass testing, production subsidy to farmers and fisherfolk, and financial aid to Filipino households, workers and micro, small and medium enterprises. Insensitive to the woes and suffering of the Filipino people, and the growing public discontent and opposition to the administration's economic policies and failed militaristic pandemic response, the Duterte administration sought to satisfy his military by railroading the Anti-Terrorism Act, which, among others, removed the "cumbersome" safeguards set under the draconian Human Security Act of 2007.

On 29 May 2020, the House Committees on Public Order and Safety, and on National Defense and Security disregarded all the House Bills and the progress made during the numerous intensive committee meetings, and just adopted the Senate version of the Anti-Terrorism Bill. All the bills seeking to amend the Human Security Act of 2007 were substituted by House Bill 6875, a copy of Senate Bill 83, or the Senate version of the Anti-Terrorism Bill. House Bill 6875 was only submitted on 30 May 2020 (Saturday), yet the House swiftly passed the Bill on second reading on 2 July 2020, a day after President Duterte certified the Bill as urgent. The following day, on 3 June 2020, the House of Representatives passed the Anti-Terrorism Bill on third and final reading with a vote of 167-36 and 33 abstentions.

As a matter of fact, the Minority Bloc in the House of Representatives filed House Resolution 944 in opposition to the swift passage of the Anti-Terrorism Bill at the committee level and pointed out that the House members should be given enough time to study and deliberate on the measure. The Makabayan Bloc representatives also expressed opposition to the railroading of the Anti-Terror Bill that will certainly be used to sow fear to the public, silence legitimate dissidents and the opposition, and jeopardize the lives, rights, and welfare of the Filipino people.

Despite widespread protests and opposition from various individuals, groups, and organizations, and the call to Junk the Terror Law, President Duterte signed the Anti-Terrorism Bill into law on July 3, 2020.

The Republic Act No. 11479, otherwise known as the Anti-Terrorism Act of 2020, is worse and harsher than declaring martial law under the 1987 Constitution. Under martial law, according to the Constitution, an individual can only be arrested or detained for three days without a judicial charge; otherwise, they shall be released. However, under the Anti-Terrorism Act, a law enforcement agent or military personnel can detain an individual for 14 to 24 days, without any warrant of arrest, under mere suspicion that they committed “terrorist” acts.

The Act tends to punish the “intent” and not only the “criminal act.” With intent as the basis for punishment, mere suspicion can be used by state authorities to criminalize even dissent. Under Section 4, terrorism is committed by any person who, within or outside the Philippines, regardless of the stage of execution:

- a) Engages in acts **intended** to cause death or serious bodily injury to any person, or endangers a person’s life;
- b) Engages in acts **intended** to cause extensive damage or destruction to a government or public facility, public place, or private property;
- c) Engages in acts **intended** to cause extensive interference with, damage, or destruction to critical infrastructure;

The Act purportedly excludes the exercise of civil and political rights but only when they are “not intended” 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. Given the vagueness of the phrase “not intended,” there is still a possibility that legitimate exercises of civil and political rights can be punished.

The ATA is also susceptible to abuse and misuse of power. Given the broad definition of “terrorism,” the power of the ATC to designate a person or a group as a “terrorist” can result in terrorist-tagging, surveillance and arbitrary detention. In fact, in 2018, the Justice Department, with the help of AFP and PNP intelligence sectors, filed a petition to tag 656 individuals as terrorists. They later trimmed the list down to 8 due to a lack of evidence. Included in the initial 2018 list were Zara Alvarez and Randy Echanis, who were extrajudicially killed last year. Under Section 25,

“The ATC may designate an individual, groups of persons, organization, or association, whether domestic or foreign, **upon a finding of probable cause** that the individual, groups of persons, organization, or association commit, or **attempt to commit**, or conspire in the commission of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act.”

Furthermore, even though the evidence of guilt is not strong and the suspect is entitled to post bail, they can only travel within the municipality or city where they reside; otherwise, the bail will be forfeited. The court can also put the suspect under house arrest devoid of all means of communication to people outside his/her residence. Through this provision of the Anti-Terrorism Act, the State forces easily abuse the law to deprive people’s rights without even the need to provide strong evidence against the accused.

There is also an undue delegation of power. The Act allows the Anti-Terrorism Council (ATC) to designate a person or a group as a terrorist. Such a delegation of power is invalid as the ATC is not part of the Judiciary and some of its members are alter egos of the Executive. Under Section 45,

“The members of the ATC are: (1) the **Executive Secretary**, who shall be its Chairperson; (2) the National Security Adviser who shall be its Vice Chairperson; and (3) the **Secretary of Foreign Affairs**; (4) the **Secretary of National Defense**; (5) the **Secretary of the Interior and Local Government**; (6) the **Secretary of Finance**; (7) the **Secretary of Justice**; (8) the **Secretary of Information and Communications Technology**; and (9) the Executive Director of the Anti-Money Laundering Council (AMLC) Secretariat as its other members.”

Lastly, RA 11479 also removed the safeguard provision existing under the Human Security Act (HSA) of 2007. Under Section 50 of the HSA, any person accused of terrorism who is later acquitted shall be entitled to the payment of damages amounting to ₱500,000 for every day they were detained, deprived of liberty, or arrested without a warrant as a result of such accusation.

Even the Commission on Human Rights, in its 2020 Rights Situation of Human Rights Defenders, said that the law is prone to misuse as it expands the definition of terrorism to include acts that provoke or intimidate the government.

“The Commission worries that the over-broad definition of terrorism gives the government unbridled power to determine who are ‘suspected terrorists’ – which may include ordinary citizens and HRDs. The law also allows the *ex parte* designation of organizations as terrorist groups and penalizes recruitment to and membership in such organizations. The Commission finds that the law does not have sufficient safeguards

against abuse and can be easily used to commit human rights violations.”

No wonder the Anti-Terrorism Act, dubbed as the “Terror Law,” was met by 37 petitions, making it the most challenged legislation in the Supreme Court’s recent history.

Last 7 December 2021, the Supreme Court upheld that the Anti-Terrorism Act is not unconstitutional. The Court declared only two provisions of the Act as unconstitutional, specifically the:

- a) Qualifier portion of Section 4, which states “which are not intended 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,” for being “overbroad and violative of freedom of expression;” and a
- b) Portion of Section 25, which allows “request for designations by other jurisdictions or supranational jurisdictions may be adopted by the ATC after determination that the proposed designee meets the criteria for designation of UNSCR No. 1373” as a second method of designation.

On 26 April 2022, the Supreme Court denied with finality the motions for reconsideration of its decision on petitions against the Anti-Terrorism Act of 2020 due to lack of substantial issues and arguments raised by the petitioners.

The first victims of the Terror Law are the two Aeta farmers from San Marcelino, Zambales, namely Japer Gurung and Junior Ramos. They were accused of firing at military personnel, resulting in the death of one soldier during an encounter on 21 August 2020. Also, “while in detention, Gurung claimed they were tortured into admitting being members of the New Peoples’ Army (NPA)—an allegation that the military has denied.”¹

After almost a year of detention, the Olongapo Regional Trial Court dismissed the case on 15 July 2021, saying that it was a case of mistaken identity. According to the decision of the Court, the “prosecution failed to discharge the burden of proving the identities of the accused as perpetrators of the crime.” The Court also took note of the inconsistencies in the sworn statements of soldier-witnesses. It also added that the warrantless search conducted on the accused is invalid, rendering inadmissible the grenade and other ammunition seized from them.²

The Terror Law instills fear not only in students and professors who are active in expressing their opinions towards the government. It also poses a chilling effect on the media and civil society groups, who act as gatekeepers of the political system and are vital to democratization, as they are instruments to keep the government in check

¹ <https://newsinfo.inquirer.net/1461278/olongapo-court-acquits-2-aetas-in-first-anti-terror-law-case>

² <https://www.cnnphilippines.com/news/2021/7/19/Anti-Terrorism-Law-Aeta-charges-Duterte-.html>

in times of various forms of abuse of power, keeping the transparency and accountability of public officials to their constituencies.

The climate of fear and impunity, along with the rabid red-tagging and terror-tagging perpetuated by the National Taskforce to End Local Communist Armed Conflict, should be stopped. The State's pursuit of combating terrorism should not be in exchange of the rights of the very people it should serve and protect. To fight terrorism, the State should not be the terrorists sowing fear and disgust to its citizens.



REP. SARAH JANE I. ELAGO

Gabriela Women's Party

Republic of the Philippines
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TWENTIETH CONGRESS
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HOUSE BILL NO. **6681**

Introduced by Honorable Representative
SARAH JANE I. ELAGO (Gabriela Women's Party)

**AN ACT REPEALING REPUBLIC ACT NO. 11479, OTHERWISE KNOWN
AS THE ANTI-TERRORISM ACT OF 2020**

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

SECTION 1. Republic Act No. 11479 (An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known As The "Human Security Act of 2007"), otherwise known as the "Anti-Terrorism Act of 2020," is hereby repealed.

SECTION 2. *Repealing Clause.* All laws, jurisprudence, executive issuances or letters of instruction, or any part thereof that are inconsistent with the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SECTION 3. *Effectivity Clause.* – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or one (1) newspaper of general circulation.

Approved,