

Echoes of Fear: How the Anti-Terror Law Haunts Philippine Democracy

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How far should a nation go to defend itself from terror? When the Philippines enacted a law, did it truly fortify our safety, or did it plant the seeds of silence? Can a law meant to stop violence also threaten the critics who speak up? Why do lawyers, journalists, activists, and ordinary citizens now warn that a shield against extremists may double as a sword against dissent? And ultimately, if the law that promises security begins to weaken our basic constitutional freedom, who will protect democracy from its protector?

One of the controversial laws in the country was when the Philippine government enacted Republic Act No. 11479, otherwise known as the Anti- Terrorism Act (ATA), with the stated goal of strengthening the country's ability to prevent and respond to terrorism.^[1] However, amid the global rise in authoritarian measures cloaked in national security rhetoric under President Rodrigo Duterte, the ATA has sparked a growing chorus of alarm from legal scholars, human rights advocates, journalists, activists, and even, ordinary citizens. This article examines how the ATA, while designed to safeguard public safety, simultaneously endangers democratic freedoms, weakens constitutional safeguards, and invites the abuse of state power.^[2]

All over 37 consolidated petitions challenged the constitutionality of ATA due to the transcendental issues on freedom of expression and other fundamental rights.^[3] Local human rights groups have raised concern that the climate of killing, and impunity will worsen under the ATA.^[4] Authorities have harassed, prosecuted, and even killed hundreds of activists, leaders, and journalists branded as communist sympathizers, with a UN report noting at least 248 such killings between 2015 and 2019. This record has spurred various groups—including those behind online petitions on Action Network—to call for a veto.^[5]

^[1] Rep. Act No. 11479 (2020)

^[2] Human Rights Watch, Philippines: New Anti-Terrorism Act Endangers Rights Special Council Would Usurp Court Powers, June 5, 2020, Available at <https://www.hrw.org/news/2020/06/05/philippines-new-anti-terrorism-act-endangersright> (last visited May 23, 2025)

^[3] Calleja, et al. v Executive Secretary, G.R. Nos. 252578, et al., December 7, 2021

^[4] Altermidya, On the red-tagging of Altermidya Network at the Dec. 1 senate hearing (1 Dec. 2020), <https://www.altermidya.net/on-the-incredulous-red-tagging-ofaltermidya-network-at-the-dec-1-senate-hearing/> (last visited June 2, 2025)

^[5] Action Network, Duterte, DOJ, Philippine Supreme Court: Junk the Anti-Terrorism Law, Available at <https://actionnetwork.org/petitions/duterte-veto-the-anti-terrorismbill> (last visited May 23, 2025)

Moreover, international human-rights organizations have urged the Philippine government to scrap the Anti-Terrorism Act, calling it a grave threat to civil liberties. Amnesty International's Asia-Pacific Regional Director Nicholas Bequelin warned that "even the mildest government critics can be labelled terrorists," describing the law as "a new weapon to brand and hound any perceived enemies of the state," and stressing that its vague definition of terrorism will only worsen attacks on human-rights defenders.^[6] Tess McEvoy, Programme Manager and Legal Counsel at the International Service for Human Rights, echoed these concerns, noting that the measure "fails to comply with international human rights law" and will "severely restrict due process and the rule of law," leaving defenders "even more vulnerable."^[7] Additionally, Human Rights Watch's deputy Asia director Phil Robertson likewise branded the statute "a human-rights disaster in the making," warning that it "will open the door to arbitrary arrests and long prison sentences for people or organizations that have displeased the president."^[8]

Dangers of ATA

The ATA possesses overbroad and vague definition of terrorism, warrantless arrest and extended detention without charges, power of the Anti-Terrorism Council (ATC) to designate terrorists, surveillance and interception of communications, and criminalization of "Inciting to Terrorism."

Section 4 of the law criminalizes acts intended to "intimidate the general public," "create an atmosphere or spread a message of fear," or "provoke or influence by intimidation the government"—even when such acts are not directly linked to violence, so long as they are "intended" to cause harm.^[9] The law criminalizes not only violent acts but also those intended to cause fear, intimidate the government, or interfere with infrastructure. In other words, it does not clearly distinguish between actual terrorism and acts of protest, dissent, or civil disobedience, as long as authorities interpret them to have "terroristic intent." The Philippine government's increasingly expansive and ambiguous definition of "terrorism" has allowed security agencies and officials—particularly the Armed Forces, NICA, and the National Task Force to End Local Communist Armed Conflict—to label a broad spectrum of peaceful critics and civil-society actors as "terrorists" or "communists," a tactic known as

^[6] Amnesty International, Philippines: Dangerous anti-terror law yet another setback for human rights, July 3, 2020, Available at <https://www.amnesty.org/en/latest/news/2020/07/philippines-dangerous-antiterrorlaw-yet-another-setback-for-human-rights/> (last visited June 2, 2025)

^[7] T. McEvoy, Philippines | Anti-Terrorism Law further threatens the safety of human rights defenders, July 22, 2020, International Service for Human Rights, Available at <https://ishr.ch/latest-updates/philippines-anti-terrorism-law-further-threatens-safetyhuman-rights-defenders/> (last visited June 2, 2025)

^[8] Human Rights Watch, Philippines: New Anti-Terrorism Act Endangers Rights Special Council Would Usurp Court Powers, June 5, 2020 Id. at 01

^[9] Rep. Act. No. 11479 (2020) Id. at 01

red-tagging that is carried out without due process and often without a shred of evidence beyond their dissenting views.^[10]

By stretching the term far beyond the model definition, which confines terrorism to intentional hostage-taking, lethal or seriously injurious violence, or other acts that already amount to serious crimes under national law, the 2020 Anti-Terrorism Act and its implementing rules give the executive unchecked powers of surveillance, arrest, and prolonged detention; human rights defenders, labor organizers, public-interest lawyers, journalists, religious groups, and political opposition figures have consequently faced harassment, arbitrary arrests, and even extrajudicial killings.^[11] Human Rights Watch says the new Anti-Terrorism Act drops the 2007 law's human-rights safeguards and instead gives the executive broad powers to target peaceful activists, repeating the abuses of Duterte's drug war and weakening Philippine democracy by cutting the courts out of the process.^[12]

The overbreadth doctrine, long recognized by the Supreme Court of the Philippines, holds that laws should not infringe on protected freedoms more than necessary.¹³ Under the ATA, acts of protest, dissent, or advocacy may fall within the scope of terrorism, depending on how authorities interpret "intent" and "intimidation." This renders legitimate expression potentially punishable by law, creating a chilling effect on freedom of speech and assembly. Peaceful protests against government policies, like rallies or pickets, may be interpreted as acts meant to "intimidate" government or "create an atmosphere of fear." In 2020, youth activists, such as members of Kabataan Partylist, have been red-tagged and threatened with arrest under this provision. Student leaders and protesters in Iloilo were profiled by police, with social media posts being monitored and linked to terrorism simply for criticizing the government.^[14]

Another legal flaw is the grant of extended detention. Under Section 29, law enforcement agencies may detain a person suspected of terrorism without a judicial warrant for up to 24 days, far exceeding the 3-day period allowed under the Constitution during suspension of the writ of habeas corpus.^[15]

^[10] Commission on Human Rights of the Philippines (CHR), Report on the Situation of Human Rights Defenders in the Philippines (Jul. 2020), <http://chr.gov.ph/wpcontent/uploads/2020> (last visited June 2, 2025)

^[11] International Commission of Jurists, *Danger in Dissent: Counterterrorism and Human Rights in the Philippines* (2022) Available at <https://www.icj.org/wp-content/uploads/2022/01> (last visited June 2, 2025)

^[12] Brent H. Lyew, Comment, *An Examination of the Philippines' Anti-Terror Law—Suaviter in Modo, Fortiter in Re*, 19 Pac. Rim L. & Pol'y J. 187 (2010). Available at: <https://digitalcommons.law.uw.edu/wilj/vol19/iss1/8> (last visited May 24, 2025)

^[13] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, G.R. No. 178552, October 5, 2010.

^[14] Center for International Law. (2021). *The Impact of the Anti-Terrorism Law on Freedom of Expression in the Philippines*. <https://centerlaw.org.ph> (last visited May 24, 2025)

^[15] Const. (1987), Article VII, Sec. 18

This provision raises significant concerns about the right to liberty, protection from arbitrary detention, and the right to be informed of charges and to bail, as enshrined in Article III, Section 1, 2, and 14 of the 1987 Constitution. The lack of immediate judicial oversight creates an avenue for abuses, especially in politically charged contexts where activists, journalists, or opposition figures are often labeled as “enemies of the state.” It gives law enforcement a powerful tool to detain critics or activists preemptively, even if there's insufficient evidence for a formal charge.

Amanda Echanis, a peasant rights organizer, was arrested in 2020 while with her one-month-old baby. She was accused of illegal possession of firearms and explosives—a common charge used against activists—and tagged as a terrorist sympathizer.^[16] Although her detention did not fall squarely under the ATA, the law's aftermath has made warrantless arrests of dissenters—framed as anti-insurgency measures—appear routine.

Another point is on giving the superpowers of the Anti-Terrorism Council (ATC), a body composed of Cabinet officials under the Executive branch. Under Section 25 of the law, ATC is empowered to designate individuals or groups as terrorists, freeze their assets, and recommend their arrest—without trial or judicial determination.

This violates the principle of presumption of innocence and due process under the Bill of Rights. The Supreme Court in the case of *David v. Macapagal-Arroyo* emphasized “any intrusion into the rights of the people must be accompanied by safeguards anchored on judicial review and fairness”.^[17] The ATA veers away from these standards, effectively concentrating police and quasi-judicial functions into a single executive body.

In May 2021, community doctor Naty Castro, who worked with lumad communities, was arrested and designated as a terrorist due to alleged links to communist groups. Her detention caused public uproar due to the lack of due process and evidentiary hearing.^[18]

Further, under Section 16- 19 of the law, is the surveillance and interception of communications. The law authorizes 60 to 90 days of surveillance on suspects with minimal

^[16] L. Buan, Daughter of slain activist Randy Echanis arrested in Cagayan – Anakpawis, Rappler, December 2, 2020, Available at <https://www.rappler.com/philippines/anakpawis-says-echanis-daughter-amandalacaba-arrested-in-cagayan-december-2020/> (last visited June 3, 2025)

^[17] *David v. Macapagal-Arroyo*, G.R. No. 171396, May 3, 2006.

^[18] H. Gomez and F. Gallardo, Family cries foul over way police arrested doctor Natividad Castro, Rappler, February 19, 2022, Available at <https://www.rappler.com/philippines/family-cries-foul-over-way-police-arrested-natividad-castro/> (last visited June 3, 2025)

judicial oversight.^[19] It permits interception of private communication, including digital and personal correspondence, even before a person is formally charged. Imagine this effect to the person in community? It violated their basic and fundamental rights of liberty, privacy, and free speech. These provisions could be weaponized by the government to silence critics, monitor journalists, force opposition candidates to mum, and compel civil society organizations to be passive, as people who dissented will be vulnerable to this possible abused of power.

Although, there is no direct case has surfaced where this provision was publicly used. However, journalists and human rights groups report heightened fear that their conversations are being tapped, especially those covering counterinsurgency programs and military operations in Mindanao and Northern Luzon.^[20]

Since the passage of the ATA, red-tagging has intensified. The mere threat of being accused under the ATA discourages free expression and civic engagement—key pillars of a functioning democracy. This climate of fear mirrors tactics used during authoritarian regimes, where security laws served to suppress dissent rather than protect the public. The Philippine experience during martial law under Ferdinand Marcos Sr. serves as a historical warning about how broadly framed laws can be used to dismantle democratic institutions from within. Therefore, red-tagging should never been normalize in today's society, more even in the passage of this law. What to do about it? Fight back!

In the case of *Deduro v Vinoya*, the decision underscores the court's duty to protect constitutional rights amid practices like red-tagging that can lead to severe violations. The Supreme Court highlighted that red-tagging constitutes a legitimate threat justifying the issuance of a writ of amparo and ordered the petition to return to the lower court for full adjudication.^[21] Moreover, in the infamous landmark case of *Broadcast Journalist Atom Araullo v Lorraine Badoy and Jeffrey Celiz*, the Quezon City Regional Trial Court held that red-tagging is a threat to an individual's right to life, liberty, and security.^[22] This case empowers the victims of red-tagging to seek legal redress.

^[19] Rep. Act. No. 11479 (2020)

Id. at 01

Id. at 02

^[20] Høiby, M. (2019). *Covering Mindanao: The Safety of Local vs. Non-local Journalists in the Field*. *Journalism Practice*, 14(1), 67–83. <https://doi.org/10.1080/17512786.2019.1598884> (last visited June 3, 2025); Amnesty International, *supra* note 2

^[21] *Deduro v Vinoya*, GR No. 254753, July 4, 2023

^[22] K. Daguno-Bersamina, *Atom Araullo wins P2M damages in red-tagging case vs Badoy, Celiz*, *Phil Star*, December 14, 2024, Available at <https://www.philstar.com/headlines/2024/12/14/2407367/atom-araullo-wins-p2mdamages-red-tagging-case-vs-badoy-celiz>, (last visited June 3, 2025)

Lastly, one of the fearful provisions of the law is Section 9 which criminalize inciting to terrorism. The law penalizes those who "incite others to commit terrorism" through speeches, writings, or other expressions, without needing a direct link to an actual terror act. It criminalizes intent, a subjective concept that can easily be weaponized against political opponents. People may be punished for critical works if their messages are interpreted as radical or provocative determined by ATC and the government.

In 2021, poet Ericson Acosta in Negros were reportedly surveilled and harassed by state agents. Acosta was later killed, but earlier linked his art to insurgency—raising concerns over cultural expression being interpreted as incitement.^[23]

SC Ruling: A Partial Win

In December 2021, the Supreme Court upheld nearly all of the Anti-Terrorism Act, invalidating only two of its provisions which are the following: the qualifier in the protest exemption of Section 4 — the phrase “which are not intended to cause death or serious physical harm to a person, to endanger a person’s life, or to create serious risk to public safety”; and the second mode of designation in Section 25 that allowed the Anti-Terrorism Council (ATC) to tag persons or groups as terrorists upon mere “request of another jurisdiction or supranational jurisdiction.” Corresponding references in the Implementing Rules and Regulations were likewise voided.^[24]

The rest of Section 4’s definition of terrorism, the 14- to 24-day warrantless detention under Section 29, ATC powers of asset freezing and surveillance, and other challenged sections survived facial attack. The Court ordered the Court of Appeals to draft special procedural rules for proscription cases under Sections 26–27, to ensure due-process safeguards before organizations are outlawed as terrorist entities. Moreso, the Court ruled that Congress may legislate stronger counter-terror measures and that most of the Act passes strict-scrutiny review for a compelling state interest in national security.^[25]

Despite the unconstitutionality of the said provisions, the totality of the law is still in place under the principle of partial unconstitutionality and severability. In the case of *Layno Sr. v Sandiganbayan et al.*, the court ruled that that only the unconstitutional application or provision may be struck down, not necessarily the entire law.^[26]

^[23] Commission on Human Rights, Statement on the Killing of NDFP Consultant and Peasant Organizer in Negros Oriental, Available at <https://chr.gov.ph/2022/statements/press-statement/statement-of-the-commissionon-human-rights-on-the-killing-of-an-ndfp-consultant-and-a-peasant-organizer-in-negros-occidental/> (last visited June 3, 2025)

^[24] *Calleja, et al. v Executive Secretary*, supra note 1

^[25] *Ibid.*

^[26] *Layno, Sr. v Sandiganbayan*, GR. No. 65848, May 24, 1985

Chilling Effect Despite SC Decision

The 2021 decision removed only two phrases; it left untouched the core machinery that merges policing, prosecution, and political discretion. As long as a Cabinet body can name “terrorists,” police can jail them for three weeks without charge, and prosecutors can stretch rhetoric into “incitement,” citizens will think twice before marching, posting, writing, donating, or organising. That pervasive self-censorship—the classic chilling effect—is precisely what keeps the ATA dangerous despite the Court’s limited pruning.

In an era when journalists and human-rights advocates are demonized, “fake news” spreads rapidly online, and dissenters are killed, the government could weaponize this law to silence critics and stifle free expression—rights that are essential to good governance and the very soul of democracy.

A nation must defend itself against terror, but only to the extent that doing so does not erode the civil liberties that define its democracy, for real safety is measured as much by the presence of rights as by the absence of violence.

The Anti-Terrorism Act claims to fortify public security, yet its vague definitions, warrantless-arrest powers, and executive authority to brand individuals as terrorists have instead sown seeds of silence, chilling legitimate protest and debate. A statute intended to stop violence can indeed imperil those who speak out: by criminalizing “incitement” on the basis of intent that officers alone infer, and by allowing detention for up to twenty-four days without charge, the Act places critics almost as much at risk as criminals.

Lawyers, journalists, activists, and ordinary citizens sound the alarm because they have witnessed the law wielded as a weapon—community doctors tagged by the Anti-Terrorism Council, labor organizers jailed on thin evidence, indigenous leaders frozen out of their own bank accounts. These cases prove that the shield against extremists can quickly become a sword against dissent.

And when a law promising security begins instead to weaken constitutional freedoms, it falls to an engaged public, an independent judiciary, and legislators willing to amend or repeal overreaching provisions to protect democracy from its self-declared protector. Unless its excesses are curbed, the Philippines may succeed in guarding its people from bombs only to leave them exposed to the quieter but longer-lasting damage of fear and silence.

Then, what can you do now?