

# ‘LEGALISING STATE TERRORISM’

## The Impact of Anti-Terrorism Laws on Peace, Justice and Human Rights in the Philippines

December 2003

Reyvi Mariñas\*

*[Current discourse on ‘terrorism’ tends to focus more often on ‘non-state actors’ rather than the state. There are widely shared presumptions that what states do have a certain kind of legitimacy, while ‘non-state actors’ challenging that legitimacy have been demonised and perceived as ‘evil’ and ‘the other’ that seeks to destroy the status quo. There is a need to understand the perpetuation of state’s brutality and violence in a wider and deeper social and historico-political context. The Philippines is a case in point. The recent enactment of a series of Anti-Terrorism bills shows the reinforcement and legitimisation of the so-called ‘state terrorism’ amidst a worsening political, social and economic crisis of the country.]*

### Contents

I	Introduction	2
II	Background and Context	2
III	Impact on People’s Basic Rights to Live	4
IV	Impact on People’s Civil Liberties and Freedom	7
V	Impact on People’s ‘National Democratic’ Aspiration and Struggle	10
VI	Australia’s Growing Role and Support	13
VII	Conclusion	17

---

\* BA, LLB, Pgrad Dip LP, Grad Dip in Law (International and Comparative Law) (Monash); Barrister and Solicitor of the Supreme Court of Victoria; Committee Member, Philippine Caucus for Peace (PCP), Melbourne. I would like to thank other Committee Members of the PCP for their valuable comments on earlier drafts of this paper.

## I Introduction

The 'war on terror' has created a pretext for governments to suppress people's movements for democracy and human rights by enacting oppressive national security laws and measures. In the Philippines, violence and other brutal practices have long been used by the state as a fundamental means to preserve the status quo, which also supports the neo-liberal economic agenda of Western expansionism and militarism. This has all been done at the expense of people's welfare, livelihood and human rights. It would seem that the state's reluctance to address people's injustices and inequalities in society, exacerbated by acute poverty, unemployment, landlessness and social conflicts, could also be equated as a form of 'terrorism'. As more and more people resist against state's brutality, together with its oppressive and inhumane policies of today's neo-liberal globalisation, there is a need to develop a genuine 'democratic space' for all. The introduction and use of national security laws and measures will only fuel the long-established state violence and further escalate the already complicated and deepening people's struggle and crisis in the Asia-Pacific region.

This paper aims to provide a comprehensive analysis of the proposed Anti-Terrorism bill in the Philippines and its impact on the Filipino people's struggle to achieve peace, justice and human rights. The paper is divided into five parts. The first part will provide a background and context on the state's use and reliance on national security laws and measures in the Philippines from colonial era up to the Marcos dictatorship. The next three parts (Parts 3-5) will then examine and discuss the bill's impact on: (1) people's basic rights to live (economic and social rights); (2) people's civil liberties and freedom (civil and political rights); and (3) people's 'national democratic' aspirations and struggle (nationhood and independence). The final part will consider Australia's growing role and support on the US 'war on terror' and will expose the various measures that Australia undertook since the 2002 Bali bombings.

## II Background and Context

Throughout Philippine history, Western powers and dominant local elites have constantly used national security laws and measures to suppress the 'national democratic' aspirations of the people. Many of these laws and measures have their roots in colonial

emergency powers that continue to evolve up to the present time, and have been implemented by the ruling elite to ensure their dominance and control. More than 300 years of Spanish colonial rule (1521-1898) in the Philippines resulted the formation of a so-called 'theocratic state' — the unity of church and state.<sup>1</sup> In this structure, repressive colonial measures, such as the *encomienda* system,<sup>2</sup> were used to integrate small societies (*pueblos*) to collect tributes, spread the Catholic faith and organised forced labour and military conscription.

The American colonial period (1898-1940) saw a colonial power using the rest of the powers of the state against the Filipino people. Repressive laws including the Sedition Law (1901), Brigandage Law (1902), Reconciliation Act (1903) and Flag Law (1907) were implemented to give effect on the use of force and violence against all nationalist Filipinos.<sup>3</sup> These national security laws and measures were essentially perpetuated during the post-colonial era (1947-present). This time, the Anti-Subversion Law (Republic Act No.1700) was enacted in 1957 by the Philippine Congress to deal with subversion and rebellion.<sup>4</sup>

The Anti-Subversion Law, which penalised mere membership in the Communist Party of the Philippines, was even expanded during the Marcos martial law era (1972-1985). Presidential decrees were promulgated to suppress political opposition and dissent at the time. For example, Proclamation No. 1081, issued by President Marcos on 21 September 1972, placed the whole country under military dictatorship through martial law.<sup>5</sup> The Marcos authoritarian regime allowed the suspension of the privilege of the writ

---

<sup>1</sup> J. M. Sison and J. de Lima, *Philippine Economy and Politics*, Philippines, Aklat ng Bayan, 1998, p. 70.

<sup>2</sup> The *encomienda* system, established in all Spanish colonies at the time, was authorised to exact tributes from all people in the colony. The *encomendero*, the head or patron of the *encomienda*, in turn, was appointed to ensure collection of tributes: see especially J. S. Arcilla SJ, *An Introduction to Philippine History*, Manila, Ateneo de Manila University Press, 1998, 4<sup>th</sup> Edition, pp. 21-22.

<sup>3</sup> S. Ocampo, 'US Armed Intervention in the Philippines and the People's Struggle for National Freedom', (Speech prepared for the International Solidarity Mission Against US Armed Intervention in the Philippines, 28 July, 2002) posted by *Bulatlat.com* <<http://www.bulatlat.com/news/2-26/2-26-saturday.html>>.

<sup>4</sup> This law known as 'An Act to Outlaw the Communist Party of the Philippines and Similar Associations, Penalizing Membership Therein, and for Other Reasons' was repealed in 1992 by the Ramos Government for being unconstitutional.

<sup>5</sup> D. B. Shirmer and S. R. Shalom (eds), *The Philippines Reader: A History of Colonialism, Neocolonialism, Dictatorship and Resistance*, Boston, South End Press, 1987, p. 166.

of habeas corpus, the closing down of Congress, the taking over of the media, and widespread abuses of human rights that include the system of torture against political prisoners. The regime was ruled by a series of presidential decrees that relied heavily on the use of the military and the police for enforcement.

Successive government's use of national security laws and measures became the crucial element on the survival of the state and the perpetuation of the dominant elite class that seeks protection from it. The state's use of repressive laws and measures has continuously endured within the socio-political framework of the Philippines in recent times. One of the clear expressions of the state's use of and reliance on repressive laws and measures in recent times is the enactment of a series of Anti-Terrorism bills in the country.<sup>6</sup>

### III Impact on People's Basic Rights to Live

The proposed bill in the Philippines has the potential to undermine the people's basic rights to live.<sup>7</sup> In developing countries, the people's rights to basic existence and necessities are of paramount consideration. These basic rights encompass the vital rights to food, water, education, shelter, clothing, health, and labour.

However, under the current President Macapagal-Arroyo regime, these basic people's rights have been undermined. No meaningful welfare and development policies have been implemented to improve the economic situation of the most deprived sectors of society including the workers, peasants, urban poor, fisherfolks, women, young people and indigenous groups. On the contrary, the lives of these people continue to deteriorate. In 2001, figures show that 67% (55.5 million Filipinos) of the total population

---

<sup>6</sup> The proposed bills, pending in both the Philippine House of Representatives and the Senate, including House Bill 3802 and Senate Bills 1980 and 1458, have been consolidated by the Justice Committee under the title, 'An Act Defining the Crime of Terrorism, and the Financing, Preparation and Facilitation of Acts of Terrorism, Providing Penalties Therefor and For Other Purposes', also known as the Philippine Anti-Terrorism Act of 2002 (hereinafter 'the bill').

<sup>7</sup> Basic rights to live, in this context, describes economic and social rights that include the right to adequate standard of living, adequate food, adequate housing, adequate care and work-related rights: see A. Eide, 'Economic and Social Rights' in J. Symonides (ed) *Human Rights: Concept and Standards*, Aldershot, Dartmouth, 2000, pp. 128-46.

of 82 million people is below the poverty line.<sup>8</sup> The poverty is so entrenched that Filipinos continue to leave the country for jobs overseas.<sup>9</sup> The neo-liberal globalisation policies of successive governments have kept the Philippines in acute poverty, thereby rendering the lives of the poor more vulnerable and fragile. Here two vital sectors are worth discussing to exemplify the current impact of neo-liberal globalisation policies of the succeeding Philippine governments.

In the agricultural sector, over a million jobs have been lost, with 690,000 rural families thrown into poverty since the country's membership in the World Trade Organisation (WTO) in 1994.<sup>10</sup> A large portion of the population, particularly children below the age of five (about a third), is hungry and/or malnourished because of lack of access to adequate food. In the island of Mindanao alone, the main corn producing island in the country, about half of its population (7 million) live below the poverty line, with incomes not enough to meet people's basic needs for nutrition, shelter and clothing.<sup>11</sup> In the countryside, the mode of production remains backward and outdated. The sham land reform program implemented by the changing regimes kept the farmers landless and maintains feudal and semi-feudal relations.<sup>12</sup>

In the education sector, the Philippines rank poorly compared to its Southeast Asian counterparts when it comes to access and standard of education. Recent figures show that over half, or 52% of Filipinos 21 years and older, never got to finish high school; and

---

<sup>8</sup> See Bayan Muna, *Fact Sheet on the Philippines*, Updated 23 June 2003.

<sup>9</sup> It is estimated that about 3,000 Filipinos depart each day to find work in other countries.

<sup>10</sup> Teddy Casiño, 'Impact of WTO agreements on Philippine society and the struggle of resistance', (Speech delivered during the Seminar-Workshop on the GATT-WTO, Quezon City, Philippines, 23 July 2003).

<sup>11</sup> Task Force Detainees of the Philippines (TFDP), *The Peoples' Human Rights in the Philippines: Amidst War and Globalisation*, January- December 2002, p. 6 <<http://www.tfdp.org/publications/hrsit2002.pdf>>.

<sup>12</sup> Feudal backwardness and rural poverty in the Philippines remains very entrenched. Around 75% of the country's economy and 70% of the population are connected to agriculture, 8.2 million out of the 10.1 million agricultural labour force do not own land and 3.7 million poor families are living in the countryside: see Bayan Muna, above n 8. For a commentary on the government's Comprehensive Agrarian Reform Program (CARP), see Committee on Economic, Social and Cultural Rights, 'Concluding Observations on Philippines', (U.N. Doc. E/C. 12/1995/7) para 19 <<http://www1.umn.edu/humanrts/esc/PHILPNS.htm>>.

only 13% of Filipinos over 21 years are college graduates.<sup>13</sup> Overall, public education in the country is under-funded relative to other neighbouring countries (with the exception of Indonesia).<sup>14</sup> Efforts to improve efficiency in resource allocation and service delivery in public education have been hampered by government mismanagement and poor implementation of specific programs and resources for intended use. It is ironic to see that whilst the Philippine government cannot find the resources for people's education, it somehow manages to find billions to wage 'war' against its own people.

Meanwhile, 'anti-terrorist hysteria' has been used in order to justify the current regime's 'all out war' policy against an 'invisible and treacherous enemy', which was indeed anticipated on the outset to be protracted and open-ended. The state's pro-war policy seems logical because it serves the pro-elite and pro-globalisation economic policies of Western countries for sustained profits protected by military strength. According to José Africa, '[i]ncreased state intervention in the economy and around the world to the benefit of US monopoly capital has been justified, however tenuously, in one fell swoop: it is a matter of national and global security'.<sup>15</sup>

Indeed, one can make a connection between the state's justification of enacting national security laws and measures to suppress its political enemies as 'terrorists', on the one hand, and the state's need to support a more aggressive neo-liberal globalising offensive in favour of dominant elitists and multinational corporations at the expense of people's basic rights and welfare on the other. Gripped with a lingering global recession, despotic states purport to create a stable 'political and social order' that would ensure their economic survival and existence within the 'capitalist world-system'.<sup>16</sup> The state needs a stable 'political and social order' not only to entrench the neo-liberal globalisation dictates of the global market, but also to silence people's voice and to suppress genuine participation in the grass-roots level. One can observe that economic and political power

---

<sup>13</sup> S. Ocampo, 'Our Struggle for Education' (Keynote Address to the 3<sup>rd</sup> National Convention of Leaders of State Universities and Colleges, Oroquieta City, Misamis Occidental, Philippines, 24 November, 2002) posted by *Bulatlat.com* <<http://www.bulatlat.com/statements/2-42/2-42-satur.html>>.

<sup>14</sup> P. Gerson, *Poverty, Income Distribution, and Economic Policy in the Philippines* (1998) 18.

<sup>15</sup> J. E. Africa, 'Paper Tiger: US Imperialism's Struggle Against Economic Crisis' in *Unmasking the War on Terror: US Imperialist Hegemony and Crisis*, Philippines, Center for Anti-Imperialist Studies, 2002, p. 13.

<sup>16</sup> I. Wallerstein, 'The rise and future demise of the world capitalist system: concepts for comparative analysis' in R. Little and M. Smith (eds) *Perspectives on World Politics*, London and N. Y., Routledge, 1991, 2<sup>nd</sup> ed, p. 316.

does not really lie on the state. Rather, actual power rests only on the hands of the few at the top. This phenomenon is the so-called 'weak state tradition'.<sup>17</sup>

The Philippine state is a good example this. In the Philippines, the state is a captive of powerful ruling elite (big comprador-landlord class). The acquisition of economic and political power is established by 'political tradition' that values personal rather than institutional or sectional loyalties.<sup>18</sup> Because economic and political power has been so decentralised and dispersed, the state has always been relatively weak in the face of such powerful society-based forces. Here, the ruling elite uses the power of state machineries, not only to protect their huge tracks of lands, industries, banks, markets and investments, but also to impoverish and deprive the toiling masses of their basic rights to live.

'Terrorism' of this type seems worse, morally speaking, as the state is attacking its very own people for whom it should be providing social welfare, livelihood and development. As Jacques Derrida recently commented: 'Can't one terrorize without killing? ... Can't "letting die", "not wanting to know that one is letting others die" — hundreds of millions of human beings, from hunger, AIDS, lack of medical treatment, and so on — also be part of a "more or less" conscious and deliberate terrorist strategy?'.<sup>19</sup>

#### IV Impact on People's Civil Liberties and Freedom

Since the very beginning, the introduction of the bill has confronted determined oppositions from civil libertarians, human rights groups and people's organisations, who repeatedly express that the proposed bills have the potential to curtail people's fundamental civil and political rights. There are alarming provisions in the bill that are perceived to be 'superfluous, vague, open to abuse and violative of civil liberties and

---

<sup>17</sup> See especially T. C. Rivera, *State of the Nation: Philippines*, Singapore, Institute of Southeast Asian Studies, 1996, pp. 10-13.

<sup>18</sup> J. Hutchison, 'Class and State Power in the Philippines' in K. Hewison et al (eds) *Southeast Asia in the 1990s: Authoritarianism, Democracy and Capitalism*, St. Leonards, Allen & Unwin, 1993, p. 200.

<sup>19</sup> J. Derrida, 'Autoimmunity: Real and Symbolic Suicides', interviewed by Giovanna Borradori in *Philosophy in time of terror: dialogues with Jürgen Habermas and Jacques Derrida*, Chicago and London, The University of Chicago Press, 2003, p. 108.

human rights'.<sup>20</sup> Let me now discuss the important aspects of the proposed bill in light of the current human rights situation in the Philippines.

First, the bill is unconstitutional because it violates the people's fundamental rights to privacy, freedom of speech and freedom of assembly and association expressly enshrined in the 1987 Philippine Constitution. The bill seeks to authorise law enforcement officers to 'tap wire or cable, or secretly overhear, intercept, or record communication through the Internet and electronic mails or spoken word' if there are 'reasonable grounds' to intercept or obstruct 'terrorism'.<sup>21</sup> It also authorises the freezing of 'terrorists' assets, and to pry into 'suspicious accounts' to determine guilt by association.<sup>22</sup> Worst of all, the bill grants authorities broad powers to arrest, search, seize and detain a suspected person for up to 72 hours without charges, which could even 'extend the period of detention' up to a maximum of 30 days.<sup>23</sup> These measures are clear violations not only of the Constitution and its Bill of Rights, but also of existing rules of criminal procedures including the right to silence, the right to counsel and the right to due process of law.

Second, the bill absolutely ignores the real violent and harsh effects of 'state terrorism'. While the bill lists a number of 'terrorists acts' commonly attributed to political dissenters and armed revolutionary groups (murder, kidnapping, arson, destruction of property, etc),<sup>24</sup> it is, in fact, silent on atrocities that are usually committed by the military, para-military and police forces that include rape, torture, indiscriminate bombing, hamletting, forced evacuations, harassments, summary executions, abductions, arbitrary arrests and other forms of cruel and inhumane practices. Indeed, recent documentations by human rights groups show massive human rights violations committed by the military under the current Macapagal-Arroyo regime. Many of the victims are members of organised peasant groups, trade unions, human rights advocates, women, indigenous peoples and other groups who are critical with the government's oppressive policies.<sup>25</sup>

---

<sup>20</sup> T. Casiño, 'Congress Rides the Anti-Terror Express', *Paninindigan*, Quezon City, Philippines, April 2003, p. 2.

<sup>21</sup> Anti-Terrorism Act of 2002, s 10.

<sup>22</sup> Anti-Terrorism Act of 2002, s 13.

<sup>23</sup> Anti-Terrorism Act of 2002, s 11.

<sup>24</sup> Anti-Terrorism Act of 2002, s 3.

<sup>25</sup> According to the latest report, there are at least 219 individuals killed: 32 of whom are members of the Left political party *Bayan Muna* (People First); 10 are human rights workers, the latest casualties are

Third and finally, the bill appears to be a resuscitation of a 'Cold War legislation', the Anti-Subversion Law, which was repealed in 1992 for being unconstitutional. Professor Roland Simbulan observes that '[s]ection 7 of the proposed anti-terrorist bill is nearly a word-for-word reproduction of a martial law decree, PD 1975, issued on May 2, 1985'.<sup>26</sup> One can look at Section 1 of the Presidential Decree 1975, which states:

*Whoever knowingly, wilfully and by overt acts affiliates with, becomes or remains a member of a subversive association or organization..., whether committed within or outside the territorial jurisdiction of the Philippines, shall be punished by...*<sup>27</sup>

Interestingly enough, Section 7 (Membership in a Terrorist Organization) of the proposed bill provides:

*Any person in the Philippines...who...knowingly, wilfully and by overt acts affiliates himself with, becomes or remains a member of any organization whether domestic or foreign, whose purposes include the conduct or commission of terrorism, whether in or out of the country, is guilty of an offense, and when convicted, shall suffer the penalty of...*<sup>28</sup>

The bill therefore singles out punishment of a particular person or group of persons, and not of specific acts. The mere 'threat' to commit a 'terrorist act' is considered a crime (guilty at first glance); likewise mere membership with a so-called 'terrorist organization'

---

Eden Marcellena, Secretary-General of the Alliance for the Advancement of Peoples Rights- Southern Tagalog (KARAPATAN-ST), and Eddie Gumanoy, Chairperson of the *Kalipunan ng mga Samahang Magbubukid sa Timog Katagalugan* (KASAMA-TK). Furthermore, the report also reveals that there are currently 316 political prisoners: 11 of whom are women and 2 are nursing mothers; 15 are minors and 10 are elderly: see generally KARAPATAN, *The Philippine Human Rights Situation* (Alliance for the Advancement of People's Rights, Philippines, 07 June 2003), p. 2.

<sup>26</sup> R. Simbulan, 'The Real Threats to National Security and Constitutional Rights: The Philippines After September 11, 2001', (Paper presented before the 'International Workshop on National Security Laws and Constitutional Rights in the Asia Pacific Region', sponsored by the Department of Pacific and Asian History, Research School of Pacific and Asian Studies, Australian National University, Canberra, 8-9 October, 2002), p. 8.

<sup>27</sup> Ibid (emphasis in original).

<sup>28</sup> Ibid (emphasis in original). See also Section 7 of the Senate Bill 1458, introduced by Senator Panfilo Lacson on 23 July, 2001 <<http://www.pinglacson.ph/b458.htm>>.

is also a crime (guilty by association). It pronounces 'guilt' upon persons suspected to be a 'terrorist' or members of 'terrorist organizations' without providing due process of law.

In summary, the bill provides no protection and guarantee on people's basic civil and political rights. It is also unconstitutional because it usurps and encroaches on the role of the judiciary, undermining the fundamental principle of Separation of Powers under the Philippines Constitution. It further grants the 'state machinery' (military, para-military and police) a licence to abuse their powers to eliminate political adversaries and oppositions, thereby further contributing to the rise of the so-called 'state terrorism'.

## V Impact on People's 'National Democratic' Aspiration and Struggle

With the worsening political and economic crisis in the Philippines, the enactment of the bill would only heighten the Macapagal-Arroyo regime's unquestioning support for the US military intervention and its 'war on terror'. Few months after the September 11 attack, the US has created a 'second front' on its 'war on terror' by sending US military forces in Basilan Island in southern Philippines.<sup>29</sup> The US found a convenient excuse for a stronger and direct military presence in the country by linking the Abu Sayyaf Group (ASG) to the Al Qaida. But the public is well aware of the fact that the ASG took roots during the CIA's covert war operation against the Russians in Afghanistan in the 1980s. It is obvious that the US is using the 'war on terror' doctrine to ward off Muslim secessionist movements in Southeast Asia, and to escalate its armed presence in southern Philippines and other parts of the country.

Muslim secessionist movements, including the Moro Islamic Liberation Front (MILF), are not the only targets. The current phase of US interventionism in the Philippines is also being calibrated for a deeper involvement in the government's counter-insurgency campaign against the armed revolutionary movements led by the National Democratic Front of the Philippines (NDFP) and its chief political consultant, José Maria Sison, the Communists Party of the Philippines (CPP) and its armed-wing, the New People's Army

---

<sup>29</sup> See 'Basilan: The Next Afghanistan' (Report of International Peace Mission to Basilan Philippines, 23-27 March 2002), p. 2.

(NPA). The Philippine government and the Armed Forces of the Philippines (AFP) have affirmed the US government's classification of these groups as 'terrorist'. The government not only has escalated its military operation in the countryside where NPA guerrillas are active, but also it has heightened its covert operations including summary executions of suspected revolutionary mass leaders.<sup>30</sup> The Philippine-US government collaboration is therefore promoting a fascist, wholesale 'state terrorism' to suppress the increasing social discontent and mass revolutionary resistance of ordinary oppressed people.

It is important to conceptualise the question of armed revolutionary struggle as a 'necessary precondition' of any oppressed society.<sup>31</sup> From a third world perspective, the thinking of Filipino revolutionaries also reflects the same imperative to grasp the total situation in light of the people's 'national democratic' aspirations and struggle. Here, 'national democracy' is a movement that arouse the people's consciousness 'not only to remove the root causes of national exploitation, but also to develop the mass strength to engage in nation building'.<sup>32</sup> In the Philippines, the people's aspiration and struggle for 'national democracy' can be understood as an historical phenomenon. The Filipino nation was born in the battlefield. It was born out of struggle — the people's struggle against Spanish colonialism and US imperialism as well as the vicious puppetry of succeeding neo-colonial regimes. A reactionary neo-colonial state, such as that in the Philippines, would rather use counter-revolutionary or, on the current discourse, counter-terrorist violence, than undertake basic reforms to meet the basic demands of the people.

This brings us to the issue of Anti-Terrorism bill and the question of 'war and peace' at the heart of the matter. 'War and peace' has been a recurring theme in the Philippine mass struggle for hundreds of years. As the then Senator Wigberto Tañada explained on this matter:

The kind of peace that we seek is not simply the absence of violence and bloodshed or the termination of war. It is rooted in the understanding that war thrives on the

---

<sup>30</sup> See above n 25 and accompanying text.

<sup>31</sup> See E. San Juan Jr., 'Terrorism and Marxist Insurgency in the Philippines' posted by *Bulatlat.com* <<http://www.bulatlat.com/news/3-6/3-6-terrorismpils.html>>.

<sup>32</sup> J. M. Sison, *Struggle for National Democracy*, Quezon City, Philippines, Lagda Publishing, 1995, Third Edition, p. 144.

institutionalised violence of poverty and inequity, landlessness and homelessness, injustice and oppression. It necessitates the eradication of the economic, social and political structures that breed social conflict and 'insurgent' (quote ours) wars.<sup>33</sup>

In a sense, the question of 'peace' is thus a question of 'war'; or in other words, why there is 'war' and why people adhere to 'armed revolutionary struggle', as a course of action, is inextricably linked with the attainment of the people's avowed vision and goals for a just, peaceful and humane society.

Let me first explain the question of 'war'. There is an ongoing 'war', a so-called 'people's war', in the Philippines. This 'war' is being waged by both the CPP-NPA in the countryside and the MILF in southern Philippines. The CPP-NPA has a long history of fighting against US domination in the country, together with its allies, bureaucrats, landlords and compradors. The MILF, on the other hand, is fighting for the Moro<sup>34</sup> people's right to ancestral domain, the right to political self-determination and the right to cultural heritage. However, the passage of the bill would only send a tacit signal of approval for increase of military actions and further the suffering and abuses of ordinary people, especially the Moro people. At present, the recent fighting between the military and the MILF has displaced over half a million (500,000) internal refugees in southern Philippines.<sup>35</sup> As a result, the destruction of resources and other means of survival have led to fatal deaths and health problems, especially to infants, children, pregnant women and elderly.<sup>36</sup>

Turning now to the question of 'peace', it is clear that the bill is being used to sabotage the ongoing peace negotiations with armed rebel groups. The Macapagal-Arroyo regime needs to enact this bill to legally declare the armed revolutionary movements and groups

---

<sup>33</sup> Senator Wigberto Tañada quoted in BUGKOS-National Center for People's Art and Literature, *War and Peace in the Philippines: The Question and the Quest*, Quezon City, Philippines, BUGKOS-National Center for People's Art and Literature, 1992, p. xvii.

<sup>34</sup> The name 'Moro' originated from a Spanish word meaning 'Moorish' or 'Moor' and was used by Spanish colonisers to refer to the 'inhabitants of Mindanao, usually Muslim in religion': see especially Henry Kamen, *Spain's Road to Empire: The Making of a World Power 1492-1763*, London, Allen Lane, 2002, Ch 5: 'Pearl of the Orient', p. 204.

<sup>35</sup> Norwegian Refugee Council, 'Profile of Internal Displacement: Philippines', Compilation of the information available in the Global IDP Database of the Norwegian Refugee Council (as of 18 November 2002), p. 7 <<http://www.idpproject.org>>.

<sup>36</sup> Ibid 55-63.

as 'terrorists'. Even before the September 11 attack, the NDFP finds it difficult to negotiate with the Philippine government in a situation where former elite members of the AFP appointed in the Cabinet and other high positions, arbitrarily overrule, lay aside and junk any draft undertaken by the government and NDFP negotiating panels.<sup>37</sup> Also, the scope and intensity of military build-up and the deployment of US military forces in combat areas in southern Philippines show 'a well-planned and grand design to terminate the peace talks' between the Philippine government and the MILF.<sup>38</sup> Peace negotiations with the NDFP and the MILF have, in fact, both led to human rights agreements.<sup>39</sup> None of these were ever sincerely adhered to by the government, but instead violated.

With an alleged 'terrorist group' at hand, the US is now putting pressure on the Philippine government to pass the Anti-Terrorism bill. In Asia, the US pressure can be seen in Washington's deliberate call to remove some sections of the Anti-Terrorism Treaty of the Association of Southeast Asian Nations (ASEAN).<sup>40</sup> These sections contain provisions that respect the principle of sovereignty, equal treatment, and territorial integrity amongst ASEAN members. In exchange, the US government promised technical and financial aid to help the region fight terrorism. This is a clear manifestation of US intervention on the internal affairs of the region.

## VI Australia's Growing Role and Support

---

<sup>37</sup> J. V. Abueva, 'Philippine Democratization and the Consolidation of Democracy Since the 1986 EDSA Revolution: An Overview of the Main Issues, Trends and Prospects' in F. B. Miranda (ed) *Democratization: Philippine Perspectives*, Quezon City, Philippines, University of the Philippines Press, 1997, p. 39.

<sup>38</sup> G. A. Corpuz, 'Mission to Launch Global Campaign vs Gov't Offensives in South', *Bulatlat.com* (Philippines) 6 March 2003 <<http://www.bulatlat.com/news/3-6/3-6-offensive.html>>.

<sup>39</sup> The first agreement was the signing of the Comprehensive Agreement on Respect for Human Rights and International Humanitarian Law (CARHRIHL) on 16 March 1998 between the Government of the Republic of the Philippines (GRP) and NDFP, and the second one was the Tripoli Agreement on Implementing guidelines on Humanitarian, Rehabilitation and Development Aspects on Peace, signed on 2 June 2001 between GRP and MILF.

<sup>40</sup> R. delos Santos, 'Anti-Terrorism Act: A Prelude to Authoritarian Rule?' posted by *Tinig.com*, Vol 21, 15 Oct 2002 <<http://www.tinig.com/v21/v21.terror.html>>.

There are strong indications that Australia is following the footsteps of the US-led global 'war on terror' in the Asia-Pacific region. Since the September 11 attack and the Bali bombings, Australian Prime Minister, John Howard, has strongly asserted that Australia reserved the right 'to take *pre-emptive* action against terrorists in a neighbouring — meaning Southeast Asian — country'.<sup>41</sup> This assertion has led into the creation of a new 'Howard doctrine' of unilateralism and pre-emptive action that would give his government a blank cheque to act as the 'deputy sheriff' of the US in the region.

During and after the Cold War, Australia's strategic policy has always been part of the broader US agenda to promote hegemony and to support a US-led defence coalition that would 'meet any securities arising from changes in state power across the region'.<sup>42</sup> Australia is one of the closest allies of the US in the Asia-Pacific region, a bond that was established by the ANZUS (Australia-New Zealand-US) Treaty. It hosts several US military bases, key global communications and spy centres and joint military technology projects. It is claimed that 'since the 1950s, Australia has been the undoubted world authority on eavesdropping on Indonesia as well as Malaysia, Thailand and parts of the Philippines'.<sup>43</sup> Furthermore, Australia is the US' partner in developing the Pentagon Star Wars-typed ballistic missile defence project to be used for the so-called New Missile Defence (NMD) system in the Asia-Pacific.<sup>44</sup> By collaborating with the US, Australia also reaps huge profits as the region's top arms manufacturer and exporter.

The Bali bombings, heightened by the global 'war on terror', represent a major turning point for Australia's national security and defence policies. Australia's immediate task is to pinpoint Southeast Asia as the hub of terrorism, linking regional Islamic groups with international terrorist networks. The 2003 Government Report on Australia's national security affirms this task and identifies the region as a critical strategic and security dimension for Australia. The report states that 'militant extremists in Southeast Asia are prepared to take up the Al Qaida cause and that Australia has been identified as a

---

<sup>41</sup> A. Broinowski, *Howard's War*, Melbourne, Scribes Publications, 2003, p. 19 (emphasis in original).

<sup>42</sup> N. Viviani, 'Australia and Southeast Asia', in J. Cotton and J. Ravenhill (eds) *Seeking Asian Engagement: Australia in World Affairs, 1991-95*, Melbourne, Oxford University Press, 1997, p. 152.

<sup>43</sup> P. Daley, 'Europe gets the jitters as war tension mounts', *The Age* (Melbourne), 8 March 2003 <<http://www.theage.com.au/articles/2003/03/08/1046826570881.html>>.

<sup>44</sup> B. Tuazon, 'Bush's "War on Terrorism" and the US Drive for World Hegemony' in *Unmasking the War on Terror: US Imperialist Hegemony and Crisis*, Philippines, Center for Anti-Imperialist Studies, 2002, p. 40.

target'.<sup>45</sup> The Australian government stresses that the change in strategic environment in the Asia-Pacific region needs a more aggressive and vigilant response, where direct military activities 'may well be called on to contribute to further efforts in the War on Terror'.<sup>46</sup> This shows that such interventions can be used if Australia thinks that it is in its 'national interest' to do so.

The recent 'coup attempt' in the Philippines on 27 July 2003 has tested Australia's more aggressive role in the region. The Australian government was actually considering sending Australian forces to the Philippines, had the Philippine government asked for help.<sup>47</sup> Indeed, Australia's 2000 Defence White Paper proves as much by emphasising Australia's preparedness and ability to deploy highly skilled forces abroad.<sup>48</sup> In a broader context, Australia's immediate military response to the Philippine crisis may well be understood in connection with its decision to send troops and police into the Solomon Islands in an attempt to restore order. The doctrine of 'failed states',<sup>49</sup> invoked by Howard, justifies this kind of action. John Hinkson explains that '[t]he fears about *failed states* creating the conditions for global terrorists and the "need" to intervene despite sovereignty represent key features of this revolutionary policy'.<sup>50</sup> With this concern in the minds of the people in the region, such interventions (military or otherwise) in the internal affairs of a country, attacks the very notion of state sovereignty, which is well established and recognised under the rubric of international norms and principles. Unfortunately, Howard's doctrine of the right to intervene on 'failed states' and emphasis on unilateral action rather than multilateral dialogue has further distanced Australia from its neighbours.

At present, Australia is also following the pace of US unilateralism when it comes to joint military and counter-terrorist operations in the region. In fact, Prime Minister Howard

---

<sup>45</sup> See Commonwealth of Australia, *Australia's National Security: A Defence Update 2003*, 2003. p. 11.

<sup>46</sup> Ibid 13.

<sup>47</sup> 'Australia may send forces to Manila, police chief says', *Philippine Daily Inquirer* (Manila) 27 July 2003 <[http://www.inq7.net/brk/2003/jul/27/brkpol\\_12-1.htm](http://www.inq7.net/brk/2003/jul/27/brkpol_12-1.htm)>.

<sup>48</sup> See especially Commonwealth of Australia, *Defence 2000: Our Future Defence Force*, 2000, Ch 6: 'Australia's Military Strategy', pp. 46-57.

<sup>49</sup> The doctrine of 'failed states' describes those states that have 'dysfunctional institutions' (shifting 'towards disintegration into anarchistic structures'), which 'allow easy entry by terrorists who can then employ resources for terror': J. Hinkson, 'With frens like these: Australia's Solomons intervention will solve little', *Arena Magazine*, Melbourne, No. 66 August-September 2003, p. 5.

<sup>50</sup> Ibid 6 (emphasis added).

visited the Philippines in mid-July 2003 to sign a new counter-terrorism treaty with President Macapagal-Arroyo. It was revealed that the treaty would provide 'greater sharing of intelligence, joint training in counter-terrorism and increased cooperation between law enforcement agencies' of the two countries.<sup>51</sup> Here, it is also important to stress Australia's long-established military relationship with the Philippines under the so-called 'Defence Cooperation Program' (DCP). The program not only 'seeks to enhance the military relationship between the two countries', but it also 'attends to visiting Australian ships, aircraft and personnel in all areas of the Philippines, Australian Defence Industry representatives and other interested parties to enable them to meet their counterparts and customers within the country ...'.<sup>52</sup> As I mentioned earlier, the massive military-industrial complex of the US, Australia and its allies reaps billions of dollars to advance their economic interests in preparations for war because, for them, this is good business.

Australia's domestic action on combating and restraining 'terrorism' further highlights its growing role on US-led 'war on terror' in the Asia-Pacific. In 2002, on the guise of protecting the Australian people from possible terrorist attacks, the Howard government introduced a series of 'counter-terrorism' legislation that clearly undermines fundamental democratic rights of ordinary Australians. Like its Philippine counterpart, the legislation has given unprecedented repressive powers to the executive government and its agencies. The legislation grants sweeping powers to proscribe organisations and jail their members for alleged support of 'terrorism'. With the US influence, the Australian government also outlawed several lists of armed revolutionary groups in the Philippines.<sup>53</sup> The legislation stipulates that any person who 'directs' or 'provides support' to the activities of a terrorist organisation, knowing it to be terrorist, can be jailed for 25 years, or, if they are 'reckless' as to whether the organisation is terrorist or not, for 15

---

<sup>51</sup> 'Philippines, Australia sign anti-terror pact', *The Age* (Melbourne) 14 July 2003 <<http://www.theage.com.au/articles/2003/07/14/1058034924908.html>>.

<sup>52</sup> See especially Defence Section, Australian Embassy in the Philippines website at <<http://www.australia.com.ph/defence/index.html>>.

<sup>53</sup> Amongst members and individuals listed by the Australian government are the following: José Ma. Sison, CPP-NPA, and ASG. It is interesting to note in the lists that the government has also relied on President Bush's *Executive Order No. 13224*, implemented on 23 September 2001, to enlist other individuals: see, eg, *Charter of the United Nations (Anti-Terrorism – Persons and Entities) Lists 2001* and *Charter of the United Nations (Anti-Terrorism – Persons and Entities) Lists 2002 (No. 4)*.

years.<sup>54</sup> Membership is defined to include 'informal membership' or taking 'steps to become a member'.<sup>55</sup>

This action is a clear expression of the current Australian government to exploit public's 'fear of terrorism', which allows them to outlaw groups seen as a political threat. The legislation's profound implications on the question of armed struggle and peace process in the Philippines are also far-reaching and harsh. The legislation, in fact, is being pushed to harass, intimidate and silence the progressive and growing legitimate voice of the people both in Australia and around the region. In particular, such groups that support the Philippine cause could be harassed and, even worse, jailed under the Australian legislation. A closer look at both Australia and the Philippines' counter-terrorism measures and legislations provides us an indication that the truth is more than simply curbing 'terrorism' and other related activities. These measures and legislations are rather attacking the fundamental rights and freedoms of the people.

## VII Conclusion

It is clear that the state's use of force, violence and other brutal practices in the Philippines has become a permanent feature of the country's political life. This method has sought to preserve the status quo that continuously supports the Philippine ruling elite and the neo-liberal economic agenda of the West at the expense of people's welfare, livelihood and development. We saw that many of the purported national security laws and measures have their roots in the country's past colonial rule. Today, after the September 11 attack, it is clear that, in the pretext of 'war on terror', the enactment of the bill is an indication of the Macapagal-Arroyo government's attempt to restore a so-called 'strong republic' — an authoritarian republic reminiscent of Marcos' 'new society'. With an unequivocal support of the US and its allies, the government has launched repressive acts at home by suppressing the people's basic rights to live, their civil liberties and freedom, and their 'national democratic' aspirations and struggle.

Australia's growing role and support on the 'war on terror' are a matter of great concern. Australia's behaviour and action threaten the very essence of the people's aspiration and longing for peace, justice and human rights in the region. But the 'war on terror' pushes

---

<sup>54</sup> See, eg, *Criminal Code 1995* (Cth) divs 102.2(2), 102.2(7).

<sup>55</sup> Div 102.1(1).

governments in the region to use the doctrine to justify their repressive actions in the name of national security. It should not be forgotten that all acts of violence committed in the name of national security and violates international human rights norms and principles are morally and legally wrong. Indeed, state terror and violence, in any form, are considered to be 'terrorist acts' themselves. Military action and national security laws and measures are clearly not the answer to fight terrorism. The only way to fight terrorism is to fight the institutionalised terror of poverty and injustices in today's world.