

**CONSOLIDATED
POSITION PAPER
ON
THE ANTI TERRORISM BILLS**

**Senate Bill No. 1980, (Anti-Terrorism Act of 2002)
Introduced by Senator Robert Z. Barbers
Senate Bill No. 2263,
Introduced by Senator Ramon Magsaysay, Jr.
And Senator Sergio Osmeña, III
Senate Bill No. 1458 (Anti-Terrorism Act of 2001)
Introduced by Senator Panfilo Lacson**

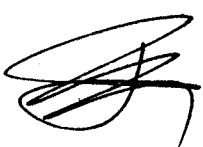
Since these bills treat the same subject matter on anti-terrorism with similar objectives and provisions, this represents the Commission's consolidated position paper.

These three Senate Bills on anti-terrorism, as drafted, cannot be supported by the Commission on Human Rights (CHR) for the following reasons:

1. The International Covenant on Civil and Political Rights Provides for International Standards Which are Legal Obligations Accepted by the Philippine Government

The Philippines became state party to these human rights instruments in 1986. As such the government has accepted legal obligations pursuant thereto.

Article 4. No. 1 of the Covenant on Civil and Political Rights provides that:




"In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the states parties to the present covenant may take measures derogating from their obligations under the present covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin".

The Philippine government under the covenant is under obligation to recognize and respect the provisions thereof. Among them is Article 17, which states that "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation. xxx"

This particular provision and some other provisions in the covenant are reflected in our Philippine bill of rights.

The anti-terrorism bills in issue are clear derogation from our obligation under the International Covenant on Civil and Political Rights and, yet, they do not fall under the exceptions because there is no public emergency which threatens the life of the nation and the existence of which is not yet officially proclaimed. *how*

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2. Vague Provisions Exist in the Bills Which May Be the Source of Human Rights Violations

There is no clear and distinct definition of what terrorism really is. While "terrorism" is an acknowledged global scourge that these bills seek to deter or prevent and punish, existing crimes provided for in the Revised Penal Code already cover the acts purportedly constituting terrorism as mentioned in these anti terrorism bills.

The vagueness on what constitute terrorism as provided for in these proposed legislative measures is also due to their redundancy. It is confusing enough. A case in point is section 3 No. 1 of Senate Bill 1980 which states that:

"xxx

Sec. 3. Acts of Terrorism – Any of the following acts shall constitute terrorism:

1. Causing, attempting or threatening to cause the wanton destruction or loss of lives, liberties or properties through any means with the intent of sowing terror to the public, changing or impeding the operation of public utilities, or disturbing public peace and order whether internationally or domestically, and in the advancement of ideological, political, religious, ethnic, or cultist belief, or any form of belief espousing any cause or purpose.

xxx." *hmm*

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[Signature]

"No law shall be passed abridging the freedom of speech, of expression, or of the press, of the right of the people peaceably to assemble and petition the government for redress of grievances".

- B. The authority to conduct searches and to intercept and to undertake surveillance as provided in these bills violates Section 2, Article 3 of the Constitution which state, that:

"The right of the people to be secured in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the person or things to be seized".

While there are so called "safeguards" provided, the same remains suspect as any law passed curtailing the individual liberties is repugnant to the ideals of a civilized society.

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This above quoted offense is already covered under the Revised Penal Code, specifically Articles 248 (Murder) and 324 (Arson as amended by PD 1613) among others. There is no need for it under the anti-terrorism bills.

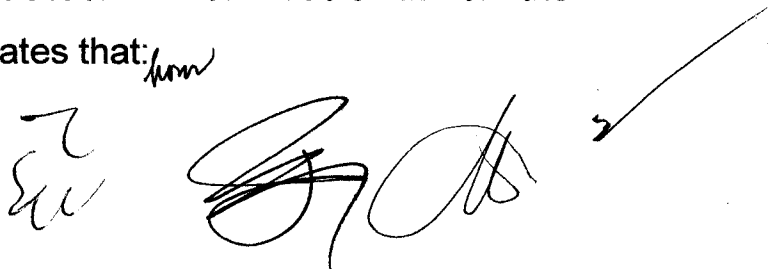
3. **The Provisions in the Bills are Rife with Constitutional Infirmities**

Many of the substantive provisions found in these anti terrorism bills are unconstitutional.

Section 11, Article II of the 1987 Constitution provides, that "the State values the dignity of every human person and guarantees full respect for human rights".

Senate Bills 1980, 2263 and 1458 run counter to this aforementioned State policy by providing provisions that violate human rights as enshrined in the Bill of Rights. Cases in point are the following:

- A. These bills consider as crime membership in terrorist organization or association without clearly defining what terrorism is. The repeal of the anti subversion law is held nugatory by these bills, and this specific provision violates Section 4 of Article III of the Constitution which states that:

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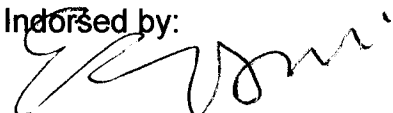
The CHR in its earlier position (copy is hereto attached for immediate reference) criticized Senate Bill No. 1353 (the Anti-Terrorism Act) filed by Senator Juan Ponce Enrile as a dangerous legislative proposal that warrants a strong opposition for its passage. The same is true to the above stated Senate Bills.

While the Commission on Human Rights supports the international efforts of counter-terrorism as mandated in UN resolutions, all acts, measures and proposals should always conform to all applicable human rights instruments and the Bill of Rights in the Philippine Constitution.

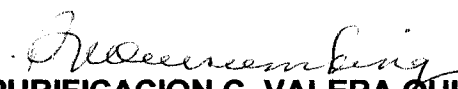
Quezon City, December 11, 2002.


Prepared and submitted by the **Legislative and Special Studies Division (LSSD) (Atty. Gilbert D. Boiser)**


Indorsed by:

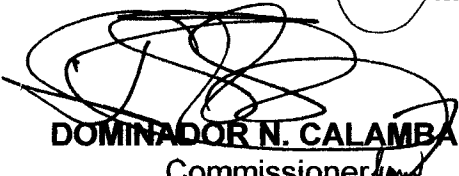

EMMANUEL C. NERI
Director, Legal Office

Approved by:


PURIFICACION C. VALERA
Chairperson *howe*


ELIGIO P. MALLARI
Commissioner *howe*


MALIK G. MARANDANG
Commissioner *howe*


DOMINADOR N. CALAMBA II
Commissioner *howe*