



The Legal Rights and Natural Resources Center, Inc. – Kasama sa Kalikasan/ Friends of the Earth – Philippines (LRC-KsK/FoE-Phils) is a policy and legal research, and advocacy institution. It is organized as a non-stock, non-profit, non-partisan organization duly registered with the Securities and Exchange Commission (SEC). It started its actual operations in February 1988. The Center is the Philippine member of the Friends of the Earth International (FOEI).

The LRC-KsK's overall mission is to work for the Empowerment of marginalized indigenous peoples and rural communities directly dependent on natural resources. The Center believes that it is through the Empowerment of women and men in marginalized communities directly dependent on our resources that a sustainable, equitable, and gender-just use and stewardship of our natural resources is viable. This mission is accomplished through a dynamic, cohesive, independent organization of dedicated, committed, and fulfilled women and men as working communities of direct users of natural resources.

The Center's main advocacy has been the recognition and protection of the rights of the indigenous peoples and rural communities directly dependent on natural resources as essential components of any program on sustainable development and more importantly, social justice and human rights. Empowerment is essential, but it is not the only requirement to achieve meaningful reforms. The peoples' aspirations must eventually be adopted, articulated and implemented by the State. Hence, the Center seeks to catalyze changes in laws, policies and structures and to assist and facilitate the development of capacities of local communities in asserting their rights and effectively addressing inequalities.

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HSA of 2007

A Clear and Present Danger on Human Security



All publications of LRC-KsK/FoE-Phils. are dedicated to the countless committed individuals and communities who struggle everyday for a more dignified existence. They are the primary source of our insight and inspiration.

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HSA of 2007:

A Clear and Present Danger on Human Security

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Executive Summary

The Human Security Act of 2007 took effect on July 15, 2007. The law, being overbroad and vague, has given rise to a general feeling of apprehension and insecurity. In essence, the law fails to protect the people from real acts of terrorism, and instead promotes state-led terrorism.

Under the HSA, "terrorist acts" include political offenses and actions without distinguishing them from true acts of terrorism. Neither does the law make a distinction between a suspect and an accused—both are subject to surveillance and wiretapping, seizure and sequestration of assets. Organizations, particularly those critical of the regime, can easily be proscribed as "terrorists" and their members prosecuted. The law also extends its application outside the country. Thus, the new law provides for the legal justification for state and security forces to go after the "enemies of the state" it will now call "terrorists," and this time, replete with legal guarantees and all-out impunity.

Everybody is potentially affected by this law as it creates a vicious web of suspicion and distrust, especially given the current political context and the people in power. International and national non-organizations are equally susceptible to the application of the law, as they extend their support to communities, groups and individuals—the legitimate voices of dissent—against repression and misrule.

Thus, this briefing paper is primarily designed for communities, peoples' organizations, and local and international non-government organizations. It traces the various ways and means by which the arms of the law may extend to interfere with legitimate and needed forms of assistance to marginalized sectors. Further, it also provides options, suggestions, and other means by which these organizations may better protect themselves while working with their partners.

The Human Security Act should not be a hindrance to the peoples' desire to air their grievances and exercise legitimate activities to assert their rights. Thus, there is all the more a need for collaboration and cooperation among the communities and organizations to say NO to the Arroyo government's HSA and to work for its repeal.

Main Features of the Human Security Act

1. Criminalization of terrorism and the conspiracy to commit terrorism
2. Proscription of terrorist organizations
3. Extraordinary powers given to government
 - a. Against whom:
 - Accused terrorists and conspirators to commit terrorism
 - Suspects
 - Organizations, associations, groups of persons
 - Members of organizations, associations, groups of persons
 - b. Affecting the following rights:
 - Life, liberty and property
 - Due process
 - Equal protection of the laws
 - Right from unreason-able search and seizure
 - Privacy of communication and correspondence
 - Freedom of speech, expression of the press
 - Peaceable assemblies
 - Petition the government for redress of grievances
 - Right from the employment of physical, psychological or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions
 - Religious freedom
 - Liberty of abode
 - Travel
 - Information
 - Obligation of contracts
 - Right from torture
 - Bail
 - Presumption of innocence until proven guilty
 - Right to be heard
 - Right to be informed of the nature and cause of the accusation
 - Speedy, impartial and public trial
 - Speedy disposition of cases
 - Freedom from detention based on political beliefs and aspirations
 - Right from excessive fines, cruel, degrading or inhuman punishment
 - Right from bill of attainder
4. Structure
 - a. Creation of an Anti-Terrorism Council
 - b. Creation of a Grievance Committee
 - c. Creation of an Oversight Committee in Congress
 - d. Assignment of a special division in the Court of Appeals to handle terrorism cases
 - e. Additional functions to the Commission on Human Rights

- Prosecuting powers
 - Issuance of written approval for the indefinite detention of an accused or suspect in cases of imminent or actual attack
5. Penalties
 - a. Introduction of a new penalty of "forty (40) years of imprisonment"
 - b. Penalizing public officials with varying periods of imprisonment
 - c. Imposition of liquidated damages amounting to at least Five Hundred Thousand Pesos (P500,000.00) against law enforcers
 6. Other laws are affected (amended, modified or repealed):
 - a. Constitution
 - b. Revised Penal Code
 - c. Rules of Court
 - d. Indeterminate Sentence Law
 - e. Law on Secrecy of Bank Deposits¹
 - f. Anti-Money Laundering Act of 2001²
 - g. Other Special laws

¹ Republic Act 1405, as amended.

² Republic Act 9160, as amended.

Background

On 6 March 2007, Republic Act 9372, An Act to Secure the State and Protect Our People from Terrorism, otherwise known as "The Human Security Act," was signed into law by President Gloria Macapagal Arroyo. This Act originated from House Bill No. 4839 and Senate Bill No. 2137. The law, however, became effective only on 15 July 2007, or two months after the 2007 National Elections held on 14 May 2007, for fear that this law would be abused during this period.

Prior to the passage of the law, the Philippines has been beset with a long drawn out war with armed groups – punctuated with on-and-off peace talks and negotiations. In 1995, Executive Order No. 246, creating the National Action Committee on Anti-Hijacking, and Executive Order No. 281, creating the Presidential Task Force on Intelligence and Counter-Intelligence, were passed. Several proposed Anti-Terror Bills were likewise proposed in Congress.

After the September 11, 2001 attacks in the United States, the administration strengthened the country's alliance with the United States. US troops held a series of Balikatan exercises to equip local military with skills to better hunt down the Abu Sayyaf, which was reportedly connected to the terrorist attacks against the US. Since then, the US government has also provided the country with more than \$400 million in military assistance.³

Due to continuous attacks injuring and killing numerous civilians, the Philippines was the subject of a diplomatic reproach from the US, United Kingdom, and Australia for not being able to crack down on the local 'terrorist' groups.⁴ Thus, the administration adopted an aggressive campaign to pass an Anti-Terrorism Bill.

Even before its passage, however, the law had been under continuous attack from all sectors of society. The main critique of its passage has been that it promotes state-sponsored terrorism as it represses and curtails the peoples' basic and fundamental freedoms. The law was crafted as such so as to superficially soothe the dissent of those concerned about human rights. Even the title of the law itself desperately attempts to soften its impending harshness in curtailing the liberties and rights of the people.

The Human Security Act of 2007 continues to be the subject of harsh criticisms. No less than the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism, Martin Scheinin, has called for the repeal, or at the least, amendments of the overbroad definition and application of the law, expressing the concern "that many provisions of the Human Security Act are

3 LRC-KsK, Issue Paper 2005-01. "Looking Behind Counter-Terrorism Measures. Are they for the Protection or for the Persecution of the People?" p. 8., citing the "Philippine Progress" Washington Times Editorial, March 29, 2004.

4 Ibid. p. 9, citing the "US Behind Anti-Terror Drive, says NY Times" (April 12, 2004). Philippine Daily Inquirer.

not in accordance with international human rights standards."⁵ It has also been noted that the principal sponsor of the Senate Bill version of the law is Senator Juan Ponce Enrile, a known Marcos loyalist who is the self-proclaimed 'author' of martial law.⁶ He was the Secretary of National Defense at the height of innumerable human rights violations during the Marcos regime. Enrile introduced in Congress the first draft of an anti-terrorism bill in 1996. On October 12, 2005, Enrile, together with Senators Villar, Lacson, Jinggoy Estrada, Magsaysay, Jr., and Lim, filed Senate Bill No. 2137. On October 25, 2005, the President certified the Bill for immediate enactment. The Bill was passed within a year and a half thereafter, and is now known as the Human Security Act.

Currently, the administration faces numerous allegations of political repression and impunity for failing to address the hundreds of extrajudicial killings,⁷ still unsolved since Arroyo assumed the Presidency. It is still reeling from the series of Supreme Court decisions striking down four executive issuances that were constitutionally challenged as they curtailed the human rights of the people. These issuances were Presidential Proclamation 1017, together with General Order No. 5, which gave unlimited powers to the Armed Forces; Executive Order 464, which banned executive officials from appearing before legislative inquiries; and, the Calibrated Preemptive Response, which allowed law enforcers to disband peaceful assemblies. To date, Senator Ma. An Consuelo Madrigal, former Senators Sergio Osmeña II and Wigberto Tañada, lawyer groups led by the Integrated Bar of the Philippines, and seventeen organizations and eight other individuals have filed petitions before the Supreme Court challenging the constitutionality of the Human Security Act.

This briefing paper will attempt to dissect and explain how this law operates for the benefit or for the detriment of the Filipino people. More importantly, this briefing paper also includes the criminal acts that are enumerated under the HSA so that groups, communities, and individuals may be more prepared to address the issue.

What is terrorism?

Terrorism is defined under the law as an offense having five basic elements.⁸ It is committed when: (Section 3)

5 "UN SPECIAL RAPPOURTEUR CALLS FOR CHANGES TO THE PHILIPPINES' HUMAN SECURITY ACT," [http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/B34290F01513578BC125729C00581865?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/B34290F01513578BC125729C00581865?OpenDocument)

6 Remollino, Alexander M., "Juan Ponce Enrile: Martial Law Architect: HSA Sponsor," *Bulatlat*. http://www.worldproutassembly.org/archives/2007/07/juan_ponce_enri.html.

7 According to the report of UNSR Philip Alston in 2007 on the Philippine situation, the extrajudicial killings ranges from 100 to 800 "depending on who is counting and how." However, he states in his press statement dated February 21, 2007 that the number is "high enough to be distressing." Meanwhile, *Indigenous Peoples Rights Monitor* (Manila, 2007), has pegged the number of indigenous peoples to 130 who have been victims of extrajudicial killings.

8 Due to the vagueness of the definition of terrorism, other groups or individuals have different enumeration or interpretation of these elements.

1. A person commits an act punishable under any of the following provisions of the Revised Penal Code:

- a. Article 122 (**Piracy in General and Mutiny in the High Seas or in the Philippine Waters**);
- b. Article 134 (**Rebellion or Insurrection**);
- c. Article 134-a (**Coup d'Etat**), including acts committed by private persons;
- d. Article 248 (**Murder**);
- e. Article 267 (**Kidnapping and Serious Illegal Detention**);
- f. Article 324 (**Crimes Involving Destruction**);

Or commits an act punishable under any of the following special laws:

- a. Presidential Decree No. 1613 (**The Law on Arson**);
- b. Republic Act No. 6969 (**Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990**);
- c. Republic Act No. 5207, (**Atomic Energy Regulatory and Liability Act of 1968**);
- d. Republic Act No. 6235 (**Anti-Hijacking Law**);
- e. Presidential Decree No. 532 (**Anti-piracy and Anti-highway Robbery Law of 1974**); and,
- f. Presidential Decree No. 1866, as amended (**Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives**)

[Please refer to Annex B for the complete list of acts under this enumeration]

2. by doing any of these acts, the person has created or sowed a condition of widespread and extraordinary fear and panic
3. among the populace
4. in order to coerce the government
5. to give in to an unlawful demand

The absence of any one of these elements will not make the act a terrorist act.

However, each and every one of the elements of "terrorism" is vague and ambiguous. In criminal law, for a person to be found guilty of a crime, each and every one of the elements should be proven beyond reasonable doubt in a court of law. Thus, it is important for each and every element be clearly defined, leaving the Executive branch of the government to only enforce the law. If the law is vague or ambiguous, it is void.

In addition to proving the elements of terrorism, the elements of the acts under the Revised Penal Code and other special laws must also be proven.

Under the HSA, four of the elements are vague.

The law does not define what "widespread and extraordinary fear and panic" is.

For example, in the middle of the night a person sets on fire a closet room of a factory

building and the fire alarm is tripped. There are only ten workers present during that time. Having been trained for such an occasion, they vacate the building without running or screaming. How do we measure fear and panic in this case? If there is panic, how will we know if it is "widespread" if the factory were in the middle of nowhere? How do we measure "extraordinary"?

If the factory were in the middle of nowhere, and were far away from the poblacion or the town proper, is there no populace to speak of? How do we define populace?

Finally, the perpetrator of the fire leaves a message saying that s/he is protesting the use of chemicals scientifically proven to cause cancer among children and is demanding that the local government unit comply with the law banning the substance. Is his/her demand 'unlawful' when the use of the chemical is already prohibited by the national government? What if there were no demand made at all?

Is there terrorism in this case?

On the other hand, given the facts of this case, what if the person set fire to a factory building owned by an internationally-known company? What if this fire were part of a concerted effort in other factories owned by that company all over the country? What if there were no demand made to the government? Was there no act of terrorism?

Conversely, what if an organized community barricaded a watershed area to prevent the entry of heavy mining equipment? They shout and raise their placards, and demand for the cancellation of the approved mining permit. They take the keys from the driver of the heavy equipment and drive it to the middle of the road to block other incoming vehicles belonging to the mining company. Law enforcers may interpret that in this case all the elements of a crime are present. The community is thus susceptible to the provisions of the Human Security Act.

Is conspiracy to commit terrorism punished under the law?

Yes. Under the law conspiracy to commit terrorism occurs when two or more people have come to an agreement to commit any of the enumerated acts of terrorism. (Section 4)

Take note that the mere agreement and decision to commit an act of terrorism, without necessarily having to do it, is already punished by the law. The preposterous, yet very real, example of an arrest under this provision is during a public demonstration or a rally, where a person, delivering a speech, has made rhetorical and emotional comments protesting national policies, and the crowd agrees to these statements. Each and every one of these people may now be arrested for conspiracy to commit terrorism.

The very definition of terrorism is a crime of result. So prior to the act of terrorism itself, it cannot be known if all the elements of the crime shall be present. Therefore, the

law punishes persons for conspiracy to commit terrorism without even knowing if all the elements of the crime of terrorism are met.

What are the penalties for the crime of terrorism and conspiracy to commit terrorism?

The penalty imposed by the law for an act of terrorism is forty (40) years of imprisonment without the benefit of parole as provided in the Indeterminate Sentence Law [ISL] (Act No. 4103).

The penalty imposed for conspiracy to commit terrorism is also forty (40) years of imprisonment.

There is no penalty of "forty (40) years of imprisonment" under the Revised Penal Code.

Meanwhile, the law is silent on the possible benefit of parole for those who have been convicted of conspiracy to commit terrorism. Take note that under the ISL, the benefit of parole shall **not** be available only to those convicted of offenses punished with the death penalty or life imprisonment. Since laws should be construed to the benefit of the accused, it must mean that those who are convicted of conspiracy to commit terrorism shall have the benefit of parole under the ISL.

The penalty for accomplices is 17 years, 4 months and 1 day to 20 years of imprisonment.

The penalty for accessories is 10 years and 1 day to 12 years of imprisonment.

Can a person or persons be charged with the crimes enumerated in Section 3 of the Human Security Act?

No. Under Section 49, when a person or persons have already been prosecuted for the crime of terrorism, s/he may no longer be prosecuted for the offense or act that is necessarily included in the offense charged under the HSA.

Persons who are charged under this law should therefore make sure that they are not charged twice with the same act simultaneously or after the case has been dismissed.

Can organizations be tagged as terrorists as well?

Yes. The law enumerates the organizations which may be proscribed as terrorist organizations:

1. Those that are organized for the purpose of engaging in terrorism;
2. Those not organized for terrorism but actually use the acts of terrorism.

An organization may be judicially declared as a terrorist organization upon the Department of Justice's filing of an application with a competent Regional Trial Court with due notice. In turn, the organization, association or group of persons will be given an opportunity to be heard.

Again, the definition of "terrorist organizations" is vague and ambiguous, opening the floodgates to violations of the fundamental rights of free speech, privacy, assembly, association and redress of grievances, among many others.

The law is unclear how this provision shall be implemented. Although the organization, association or group of persons shall be given an opportunity to be heard, it is not clear whether or not this will happen in a full blown trial. An organization, association, or a group of persons is merely a juridical person, and as such, it cannot be found 'guilty' of crimes. However, once an organization is proscribed as a 'terrorist organization,' the members of the organization shall be consequently called 'terrorists' as well, without the benefit of a full trial. More importantly, this provision has done away with the basic right to be 'presumed innocent until proven guilty.'

This provision is a bill of attainder or a legislative act which inflicts punishment without judicial trial. If the punishment is less than death, the act is termed a bill of pains and penalties.⁹ The HSA is a bill of attainder as it punishes the members of the organization by mere membership or association. It allows the surveillance, examination, investigation, freezing, sequestration, seizure, among other things, of the property and communications of the members of the organization which has been proscribed as a terrorist organization.

What are the rights under the Constitution that are affected?

At the least:

- Life, liberty and property
- Due process
- Equal protection of the laws
- Right from unreasonable search and seizure
- Privacy of communication and correspondence
- Freedom of speech, expression of the press
- Peaceable assemblies
- Petition the government for redress of grievances
- Religious freedom
- Presumption of innocence until proven guilty
- Right to be informed of the nature and cause of the accusation
- Speedy, impartial and public trial
- Speedy disposition of cases
- Freedom from detention based on political beliefs and aspirations
- Right from excessive fines, cruel, degrading or inhuman punishment
- Right from the employment

⁹ Bernas, "The Constitution of the Republic of the Philippines: A Commentary", p. 492 citing Cummings vs. Missouri, 4 Wall, 277 (US 1867).

- Liberty of abode
- Travel
- Information
- Obligation of contracts
- Right from torture
- Bail
- Right to be heard

of physical, psychological or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions

- Right from bill of attainder

Can the rights of the suspected terrorists be curtailed as well?

Yes. Scattered within the law are provisions putting suspected terrorists in the same position as persons who are charged with the crime of terrorism and proscribed terrorist organizations.

These provisions are:

1. Section 7 (**Surveillance of Suspects and Interception and Recording of Communications**),
2. Section 18 (**Period of Detention without Judicial Warrant of Arrest**),
3. Section 27 (**Judicial Authorization to Examine Bank Deposits, Accounts, Records**), and
4. Section 39 (**Seizure and Sequestration**).

These provisions clearly violate a person's right to be presumed innocent before being proven guilty. If a person is indeed suspected of committing crimes under this Act, there is nothing to prevent law enforcement agencies from undergoing the regular processes for warrants to be issued. The danger of these provisions is that these give rise to fishing expeditions, which occur when law enforcers, without or lacking in evidence to charge a person for a crime, has done a general search or surveillance for the slightest chance that evidence will present itself to them. Fishing expeditions are prohibited under the Constitution as they violate due process.

Can persons be put under surveillance, or their private conversations and communications tapped into?

Yes, a police or law enforcement unit may, upon a written order of the Court of Appeals, listen to, intercept and record, with the use of any mode, form, kind or type of electronic or other surveillance equipment or intercepting and tracking devices, or with the use of any other suitable ways and means for that purpose, any communication, message, conversation, discussion, or spoken or written words between members of a judicially declared and outlawed terrorist organization, association, or group of persons or of any person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism. (Section 8)

This is another infringement of the people's right to privacy. First, it allows fishing expeditions. Second, the provision compensates for the law enforcement agencies' lack of competence and efficiency to collect evidence through the existing legal processes.

Take note that for a written authorization from the authorizing division of the Court of Appeals to be issued, the applicant should establish the following:

1. there is probable cause to believe based on a personal knowledge of facts or circumstances that the said crime of terrorism or conspiracy to commit terrorism has been committed, or is being committed or is about to be committed;
2. there is probable cause to believe based on a personal knowledge of facts or circumstances evidence which is essential to the conviction of any charged or suspected for, or to the solution or prevention of any such crimes will be prevented;
3. there is no other effective means readily available to acquire such evidence.

Again, if the applicant based his/her personal knowledge on the facts, then there is nothing to prevent the law enforcer from applying existing legal processes.

The application for a written authorization for surveillance or wiretapping is an *ex parte* proceeding; meaning, that the suspect or the accused is not given a chance to be heard on this issue. Although the law provides that the person, suspect, or organization should be notified of the surveillance, it does not indicate when these persons shall be notified. It is only clear that the persons shall be notified of the termination of the surveillance or wiretapping. It would, however, render the surveillance nugatory if the person is informed prior to the surveillance.

Does this provision have exceptions?

Yes, communications between lawyers and their clients, doctors and their patients, journalists and their sources and confidential business correspondences are not to be monitored. However, the law does not include in this list communications between priests and their congregations. Therefore, priests may be required to divulge information communicated in confession.

Does the surveillance have a time limit?

Yes. The person may be under surveillance or communications may be intercepted for a maximum period of sixty (60) days with court authority. The law mandates that the applicant file the appropriate charges within thirty (30) days upon the termination of the surveillance. Otherwise, the person under surveillance will be notified of the termination of the same. The law enforcer is also susceptible to charges of Malicious Interceptions/ Recordings, having a penalty of imprisonment for ten (10) years and one day to twelve (12) years, and perpetual absolute disqualification from public office.

Are there other personal documents and/or effects that may be seized under this law?

Yes. Section 27 provides that law enforcers may examine or freeze deposits, placements, trust accounts, assets and records in the bank or financial institutions, or gather any relevant information about these bank or financial documents.

Similar to the application for surveillance and/or wiretapping, the procedure for examination or freezing of bank or financial accounts is *ex parte*. Either the special division of the Court of Appeals or the Anti-Terrorism Council shall have the power to issue the written authorization to examine or freeze these accounts upon the determination of probable cause or upon the express consent of the accused or the suspect.

The banks or financial institutions meanwhile will not be allowed to deny access to these accounts. Otherwise, they shall also be prosecuted, facing a penalty of ten (10) years and one day to twelve (12) years. Furthermore, these accounts may be seized and sequestered even prior to the conviction of the accused or the suspect. Thus, the integrity of the banking sector will be also put in jeopardy.

This is once again violative of a person's right to privacy and to property. The person suspected or charged with the crime of terrorism is not notified of such examination or freezing. It is only when they are in dire need of their assets and they cannot access these will they be made aware of what had happened; or, only after the termination of such examination or freezing shall the person be notified in writing of the fact. Though the person may request for the withdrawal of his/her money, the person shall also be restricted by the government with regard to the amount of money s/he is allowed to withdraw.

What is the relation of the Human Security Act with the Anti-Money Laundering Act?

Under the Anti-Money Laundering Act, it is a crime when the proceeds of an unlawful activity as defined are transacted, thereby making them appear to have originated from legitimate sources. Financial institutions have a duty or obligation to report to the Anti-Money Laundering Council if the transaction or sources of transaction is either a covered transaction or a suspicious transaction under the Act. A covered transaction is a transaction in cash or other equivalent monetary instrument involving a total amount in excess of Five hundred thousand pesos (P500,000.00) within one (1) banking day. Meanwhile, a suspicious transaction is a transaction with covered institutions, regardless of the amounts involved, where any of the following circumstances exist:

1. There is no underlying legal or trade obligation, purpose or economic justification;
2. The client is not properly identified;

3. The amount involved is not commensurate with the business or financial capacity of the client;
4. Taking into account all known circumstances, it may be perceived that the client's transaction is structured in order to avoid being the subject of reporting requirements under the Act;
5. Any circumstance relating to the transaction which is observed to deviate from the profile of the client and/or the client's past transactions with the covered institution;
6. The transaction is in any way related to an unlawful activity or offense under this Act that is about to be, is being, or has been committed; or
7. Any transaction that is similar or analogous to any of the foregoing.

The banking or financial institutions are further prohibited from reporting or communicating to their clients that they have been reported to the AMLC. The AMLC may further request from another State its assistance in investigating, freezing and sequestering accounts, proceeds, et cetera, covered under the law.

Though the HSA does not in particular refer to the Anti-Money Laundering Law (AML), by implication, there are still some adverse effects to organizations and individuals.

First, under the AML, banks are required to report covered transactions to the AMLC. Upon receipt of the report, the AMLC may also pass this information to the Anti-Terrorism Council (ATC). Thus, the organization or the individual may be suspected of terrorism or conspiracy to commit terrorism.

Second, under the AML, financial institutions are prohibited from communicating to their clients of the submission of the report or any other information related to such report. Therefore, there is no way by which the client would know whether his/her assets, property or money was already frozen or sequestered.

Third, the AML provides for the application of the law even outside the territory of the Philippines, similar to the HSA. Therefore, even offshore accounts are covered under these laws.

Are arrests without warrants allowed under this law?

Yes. Law enforcers, after applying and being authorized by the Anti-Terrorism Council, may take into custody a person charged with or a suspect of the crime to commit terrorism, or conspiracy to commit terrorism for three (3) days before delivering the person to the proper judicial authority. The arrest should be a result of the surveillance conducted under Section 7 of the law, as discussed above. (Section 18)

Not only does the law promote fishing expeditions, but it also rewards these expeditions to the detriment of the person accused or suspected of the crime of terrorism or conspiracy to commit terrorism. More importantly, if the person was already under

surveillance for a considerable length of time, and the purpose of the surveillance was exactly to gather enough evidence to convict the person or prevent that person from committing the crime of terrorism or conspiracy to commit terrorism, then law enforcers have more than enough reason to apply for a warrant of arrest before taking into custody the person accused or suspected of terrorism or conspiracy to commit terrorism.

Before detention, the law enforcer shall personally deliver the person accused or suspect to a judge, either in his/her residence or office, nearest the place of arrest. The judge meanwhile is required to do the following:

1. ascertain the arresting officer's identity;
2. ascertain the arrested person's identity;
3. inquire into the reasons for the arrest;
4. determine, by questioning and personal observation, whether the arrested person was subjected to any physical, moral or psychological torture, by whom, and why; and
5. within three calendar days from the time the arrested person was brought before him or her, submit a report to the court with jurisdiction over the arrested person, stating in detail what he or she observed when the arrested person was brought to him or her.

The law then states that upon arrest, the law enforcer shall immediately notify in writing the judge of the court nearest to the place of the arrest. If the time of arrest falls after office hours, the notice shall be sent to the residence of the judge nearest to the place of arrest. This provision is confusing to say the least. On one hand, the law imposes a condition to bring the person arrested personally to the judge; but on the other hand, it merely requires the law enforcer to notify the judge in writing of the arrest.

Apparently, the notification or presentment of the arrested person to the judge is not the same with "delivery to a judicial authority." For one, laws provide for a definite procedure on how this may be done. For another, it still requires the law enforcer to deliver the person to the proper judicial authorities even after presentment or notification to the judge.

The reason for the three-day detention is not clear. Under the Rules of Court, a person may be legally arrested without a warrant under the following conditions:

1. When, in the presence of the law enforcer, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
2. when an offense has just been committed and the law enforcer has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and
3. when the person to be arrested is a prisoner who has escaped from a penal establishment or place where s/he is serving final judgment or temporarily confined while his/her case is pending, or has escaped while being transferred from one confinement to another.

The circumstances provided by the law thus expand these conditions for lawful arrests without warrant.

Under Article 125 of the Revised Penal Code, the maximum period allowed for a law enforcer to detain a person accused of crimes punishable by afflictive or capital penalties or their equivalent, is thirty-six (36) hours or half the period under the HSA. This is therefore an amendment to Article 125, as it provides an exception of the general rule.

Furthermore, it is the Anti-Terrorism Council which orders for the arrest of the accused or the suspect. Again, if law enforcers, pursuant to the surveillance they conducted for the arrest of the person, have gathered enough evidence, there is no legal impediment why these law enforcers have to go through the Anti Terrorism Council and not through the regular courts of law. The function of the ATC is superfluous and redundant.

Does the law authorize detention for an unlimited period?

Yes. The law provides that, during an actual and imminent terrorist attack, law enforcers may secure the written authorization of a municipal, city, provincial or regional office of the Human Rights Commission, or a judge of the regular courts, the Sandiganbayan or a justice of the Court of Appeals, to hold the detained person for an indefinite period. Under the law, the law enforcers must determine the connection of the suspect with the actual or imminent terrorist attack within three (3) days after detention. Thereafter, the law enforcers are **only** required to secure the written authorization for the extension of the detention within five (5) days after the detention of the accused. It does not impose a maximum number of days during which an accused or a suspect may be detained. (Section 19)

Furthermore, law enforcers are not liable under Article 125 of the RPC, where it provides that persons under arrest should be delivered immediately to the proper judicial authorities.

These two provisions are clearly against the basic human right to life, liberty and property. Furthermore, they violate the rights of the accused to be informed of the nature and cause of the accusation against him/her and to have a speedy, impartial and public trial.

Take note that under the Constitution, the President may suspend the writ of habeas corpus in instances of invasion or rebellion. However, upon suspension of the writ, the President is mandated to report within forty-eight hours to Congress the reason for the suspension of the writ. The liberty of a person detained is so important that the Constitution limits the power of the President to a maximum of two (2) days. However, under this law, the liberty of the person is rendered insignificant as it allows an indefinite period of detention.

Moreover, this provision gives the Commission on Human Rights additional functions and powers in allowing a person to be detained indefinitely. The function of the CHR is to provide appropriate legal measures for the protection of the human rights of all persons. Contrary to its mandate, under this law, the CHR is made an accomplice or an instrument in violating the human rights of the people. The CHR is seemingly elevated to the position of the 'proper judicial authority.' Take note that under the Constitution, only the courts of justice or judges of these courts vested with judicial power to order the temporary detention of confinement of a person charged with having committed a public offense are the proper judicial authorities.

Does the law assure the rights of the persons under 'custodial detention'?

Yes. The law assures that the rights of the accused under arrest and detention are protected. Included in these enumeration of rights under Section 21, is the right to have a competent and independent counsel. Given that most demonstrations against the entry of government-sponsored extractive industries occur in far-flung areas, persons who are arrested under this act are highly susceptible to intimidation and coercion. Lawyers in these areas are far in between, if ever there are any at all. Community members who have been arrested because they have voiced out their opposition to government can be easily threatened by law enforcers with the penalties imposed by this law.

Can the person detained be granted bail?

The general rule on bail is that it is a matter of right. The exception to this rule is, when the penalty for an offense is punishable by death, *reclusion perpetua*, or life imprisonment, and the guilt is strong, bail is then discretionary on the part of the judge of the court where the application for bail is filed. It is only when the evidence of guilt is strong that bail shall not be allowed. The provisions in the HSA are, however, confusing.

As mentioned earlier, the law introduces a new penalty of forty (40) years of imprisonment. Under the Rules of Court, there are only three degrees of penalty when bail is discretionary: when the penalty is (1) death, (2) *reclusion perpetua*, or (3) life imprisonment. Section 26 of HSA states, "when the evidence of guilt is not strong," which implies that bail, under this law, is discretionary. It is a basic principle in criminal law that laws must be construed in favor of the accused, and are strictly construed against the state. Again, the law has amended the Rules of Court in including the penalty imposed as one where bail is discretionary.

Are there conditions to the bail?

Yes. The law again contradicts itself on this matter.

Under the HSA, bail can be granted when the evidence of guilt is not strong. This simply means that there was no sufficient evidence to prove that the person is a danger to himself, to others, and to the state. Yet, despite this fact, upon application by the prosecution, the court may issue an order limiting the right to travel of the accused within the municipality/city where the accused resides.

Worse yet, despite the fact that evidence of guilt is not strong, the accused may be put under house arrest for an indefinite period upon the order of the court. The mere term "house arrest" already contradicts the very nature of bail, which is a security for the **release** of the person **under the custody of law**. While under house arrest, the accused may not use any form of communication with people outside the residence. This is clearly against the Constitution and international human rights instruments. Section 12 of Article III of the Constitution prohibits secret detention places, solitary, **incommunicado**, or other similar forms of detention. The law does not consider that the accused will not be able to feed himself/herself or the family, will not be able to work, and will not be able to go to the hospital, among other basic activities of day-to-day living. Furthermore, the HSA does not consider the possibility that the person may be living alone. Clearly, it is a violation of the basic human rights of the person to be punished in this way, especially when the evidence of guilt is not strong to begin with.

What is equally alarming is that the provision states that the person shall possibly be under these conditions of house arrest or restricted travel until the case is dismissed or upon the acquittal of the accused. In a country where justice takes too long, the accused could be forced to endure this torture for many years. Incommunicado house arrest is worse than actual imprisonment.

Does the law provide safeguards for abuses in the implementation of the law?

Yes. The penalty accompanying abuses and misuse of the law by law enforcers are the following:

1. Imprisonment for six (6) months
 - a. refusal or delay in release of damages to be paid to the accused (Section 50)
2. Imprisonment for six (6) years and one day to eight (8) years for:
 - a. failure to notify in writing the person of the reason for opening the deposited materials subject of surveillance and wiretapping;
 - b. failure to notify in writing the person of examination and freezing of bank accounts;
 - c. failure to notify in writing the person of the opening of information from the examination or freezing of bank accounts (Section 33)
3. Imprisonment for six (6) years and one day to twelve (12) years for:

- a. violation of custody of intercepted and recorded communications (Section 11);
 - b. failure to notify the person that the deposited materials subject of surveillance and wiretapping shall be opened (Section 13);
 - c. violation of custody of information and documents from the examination or freezing of bank accounts (Section 32);
 - d. perjury in the joint affidavit executed pursuant to surveillance and wiretapping, examination and freezing of bank accounts (Section 38);
 - e. infidelity in the custody of detained persons, if the detainee has not been convicted and sentenced in a final judgment (Section 44)
4. Imprisonment for ten (10) years and one day to twelve (12) years for:
- a. failure to notify the person of the termination of surveillance and wiretapping (Section 10);
 - b. unauthorized or malicious interceptions and/or recordings (Section 16);
 - c. unauthorized or malicious examination or freezing of bank accounts (Section 36)
 - d. failure to notify the judge in writing of the arrest of an accused (Section 18);
 - e. failure to deliver suspect to the proper judicial authority within three days (Section 20);
 - f. violation of the Rights of a detainee (Section 22);
 - g. failure to keep or violate the requirements of the official custodial logbook (Section 23);
 - h. failure to notify in writing of the examination and freezing of bank accounts (Section 30);
 - i. violation of a court order allowing access to bank accounts by the accused (Section 39);
 - j. refusal of or delay in restoration of seized or sequestered assets and properties (Section 42)
 - k. loss, misuse, diversion, and dissipation of seized and sequestered accounts, assets and records (Section 43);
 - l. unauthorized revelation of classified materials;
5. Imprisonment for twelve (12) years and one day to twenty (20) years for:
- a. threat, intimidation, coercion, and torture in the investigation and interrogation of a detainee (Section 20);
 - b. infidelity in the custody of detained persons, if the detainee has been convicted and sentenced in a final judgment (Section 44);
 - c. furnishing false or spurious evidence or forged documents

6. Liquidated damages of Five hundred thousand Pesos (P500,000.00) each day for
 - a. the period of seizure and sequestration of property and assets to be paid to the accused upon the acquittal or dismissal of the case. (Section 41)
 - b. the period of the accused was detained or deprived of liberty or arrested without a warrant (Section 50).

Currently, law enforcers are also apprehensive in implementing this law since it has imposed harsh and onerous penalties against possible abuses. On the other hand, given that there are hundreds of unsolved extrajudicial killings, this law even promotes these condemnable acts since summary executions are undoubtedly and unarguably cheaper than going through legal processes.

Still, this provision may be utilized to ensure that law enforcers would respect the human rights of persons, communities, and organizations. If law enforcers are aware that these persons know the safeguards in the Human Security Act, then they would be scared to abuse or even use the law. Thus, it is also equally important to know the processes and mechanisms which persons, communities and organizations may use to monitor and check law enforcers. In short, we should make sure that law enforcers are aware of this law and its ramifications to them as well.

Who shall implement the law?

The Anti-Terrorism Council is a multi-agency body created by the HSA to implement the HSA and assume the responsibility for the proper and effective implementation of the anti-terrorism policy of the country. The Council shall formulate and adopt comprehensive, adequate, efficient, and effective anti-terrorism plans, programs, and counter-measures to suppress and eradicate terrorism in the country and to protect the people from acts of terrorism. (Section 17)

Who are the members of the Anti-Terrorism Council?

The Anti-Terrorism Council has the following members (as of the publication of this material):

1. the Executive Secretary (Chairperson) – Eduardo Ermita
2. the Secretary of Justice (Vice Chairperson) – Raul Gonzalez
3. the Secretary of Foreign Affairs - Alberto Romulo
4. the Secretary of National Defense – Gilberto Teodoro, Jr.
5. the Secretary of the Interior and Local Government – Ronaldo Puno
6. the Secretary of Finance – Margarito Teves
7. the National Security Advisor – Norberto Gonzales

The National Intelligence Coordinating Agency shall be the Secretariat of the Council. The National Bureau of Investigation, the Bureau of Immigration, the Office

of Civil Defense, the Intelligence Service of the Armed Forces of the Philippines, the Anti-Money Laundering Council, the Philippine Center on Transnational Crime, and the Philippine National Police intelligence and investigative elements shall serve as support agencies for the Council. (Section 17)

Like any other government policy, the implementation of such a policy shall largely depend on the personalities who are the decision-makers in a government body or agency. However, for this particular law, the personalities behind these positions are even more so important, as they have the fundamental rights of the people in their hands. By knowing who these personalities are, we may also determine how the law is to be implemented.

Unfortunately, the profile of some of the people holding the key positions in the Council is alarming. For one, Eduardo Ermita was a Senior Military Assistant during the height of martial law, being in the Office of the Undersecretary of National Defense. Together with Norberto Gonzales, he has been accused for 'architecting' the military operation "Oplan Bantay Laya," a campaign to 'neutralize' identified groups and individuals.¹⁰ Raul Gonzalez, meanwhile, is infamous for his bombastic comments on human rights reports, discrediting Amnesty International and Phillip Alston's report on the human rights conditions here in the Philippines. He has also been accused of being biased in the handling of the Subic rape case in favor of the US military men. He was also reprimanded by the Supreme Court in the case of the Batasan 6 for being impartial, and that his office was used for political ends.¹¹ Norberto Gonzalez, for his part, has been accused of labeling political organizations as communists, among others.¹²

These are the people to implement the law. Some of them were instrumental in upholding Martial Law. And they are the same people who have defended the unconstitutional and repressive executive issuances the President has issued throughout her term.

Take note that the law does not provide for a budget in the creation of this Council.

Aside from the Anti-Terrorism Council, are there any other government bodies involved?

Yes, the Commission on Human Rights. Under this law, the CHR has been given concurrent jurisdiction to prosecute public officials, law enforcer or other persons who may have violated the civil and political rights of the accused. (Section 56)

¹⁰ <http://davaotoday.com/2007/08/06/human-security-act-legitimizes-arroyos-state-terrorism-ndf-southern-mindanao/>

¹¹ *Ladlad, et. al. vs. Velasco, et. al.; Maza et. al vs. Gonzalez, et. al.; Beltran et. al. vs. Gonzalez, et. al., G.R. Nos. 172070-72; G.R. Nos. 172074-76; G.R. No. 175013.*

¹² <http://www.arkibongbayan.org/2006-12/Dec19-TributeToGil/doc/satur%20ocampo%20on%20red%20labelling.txt>

If this is the same Commission on Human Rights as provided by the Constitution, then the additional grant of powers given by the Human Security Act shall fall under Section 17, paragraph (11), Article XIII of the Constitution. Under the Constitution, the powers of the CHR with regard to human rights violations involving civil and political rights are limited to investigative powers only. However, no additional budget has been given to the CHR for the performance of its prosecuting powers.

The law has also created a Grievance Committee composed of the Ombudsman, Solicitor General and an Undersecretary of the Department of Justice. They shall hold office in Manila and will have subcommittees in Luzon, Visayas and Mindanao. The function of the Grievance Committee is to investigate, review and file complaints against erring officials in the implementation of this law. (Section 56)

For communities who are usually victimized by militarization and law enforcement abuses, they are again left to find the means and resources to file complaints against erring officials. They are, in short, left to fend for themselves.

This is also a waste of taxpayers' money. There are already established legal processes where complaints may be filed against government officials who have abused their powers. There is no need to create a new one, which, notably, involves the same people who will address these complaints if they were filed under the existing legal processes.

Again, the law does not create a budget for the creation of the grievance committee.

The third body created by this law is the Oversight Committee composed of the members of the Senate and the House of Representatives. It is equally a waste of effort, money, and resources.

What the law should have provided for was the intensive training of law enforcers on human rights and the protection of the people from real acts of terrorism. What the law has created instead are additional emoluments, allowances, and salaries for these public officials who are sorely lacking in skill in applying a human rights-based approach in the implementation of the laws.

That being said, we should however, still maximize the functions of these bodies. First, as a show of strength to those who have attempted to use this law and second, to be able to make these erring officials accountable for what they have done.

Can the law be applied even outside the Philippines?

Yes, in five instances to:

1. Individual persons who are physically outside the Philippines but who have committed the acts defined under the law within the territory of the Philippines;

2. Individual persons who are physically outside the Philippines but aboard a Philippine vessel;
3. Individual persons who are physically outside the Philippines but commit the acts within Philippine embassies, consulates or diplomatic premises belonging to or are occupied by the Philippine government in an official capacity;
4. Individual persons who are physically outside the Philippines but commit the crime against Philippine citizens, where race or ethnicity is a factor in the commission of the crime;
5. Individual persons who are physically outside the Philippines but commit the acts against the Philippine government. (Section 58)

Take note that under international law, embassies, consulates and diplomatic premises, as well as Philippine vessels, are already considered within the jurisdiction of the country.

This provision means that, though the perpetrator is outside the territory of the Philippines, the Philippines may, under applicable international laws, request for the arrest of the persons. However, the extradition of a person to the Philippines would require that the Philippines have executed treaties with the countries involved. It is only through extradition that the Philippines may request for the surrender the accused or suspect to the Philippine government for the prosecution of a crime.

On the other hand, this law provides, upon the approval of the Department of Justice, for the extraordinary rendition of persons whose testimony may be needed in a terrorist-related investigation or judicial trial. A "rendition" is the return of a fugitive to the State in which s/he is accused of having committed a crime upon order of the State to which s/he has gone. (Section 57)

Can the law be applied to non-Filipinos?

Yes, if they have committed the act within Philippine territory or under any of the conditions enumerated above. (Section 58)

How does this law affect international non-government organizations or donor organizations extending assistance to Philippine-based NGOs and POs?

Even international development organizations and donor agencies that extend assistance to local and national non-government organizations, peoples' organizations, and/or marginalized communities and individuals are susceptible to this law in many ways.

First, the law directly applies to proscribed organizations. Again, proscribed organizations are those that either engage in acts of terrorism or are organized to commit terrorism. Given that the definition of terrorism itself is very vague, it is easy to say that

donor organizations or support organizations are doing acts of terrorism in financing activities which may be considered as terrorist acts.

Second, they may also be considered as conspirators to commit terrorism when they agree or allow the organizations, persons, or groups to do acts of terrorism or conspire to commit terrorism.

Third, members of donor organizations or NGOs assisting communities may be considered suspects under the law if they are engaged in activities that are considered terrorists acts or they are suspected of conspiring to commit terrorism. Thus, they may be subject to surveillance, wiretapping, seizure and sequestration of properties, indefinite detention, et cetera. In short, the law does not differentiate between international development organizations and NGOs in the Philippines.

Furthermore, the law extends its influence to where the international development organization is based, so the whole organization, and not just its local counterpart, is affected.

These organizations or their members may also be indirectly affected. Take note that under the HSA, it is not only the financial accounts, documents and instruments that may be investigated, examined, seized or opened. This also includes other relevant information that relate to the subject account, document and instruments.

For example, a legitimate organization ABC is suspected as a terrorist organization. DEF is extending its assistance to ABC by providing funding. The Anti-Terrorism Council issues an authorization to examine the accounts of ABC. Under the Anti-Money Laundering Law and in relation to the HSA, the identities and other information of the bank account are given to the law enforcers. In turn, the law enforcers find out that DEF has funded the activities of ABC. The law enforcers may now also examine or investigate the accounts of DEF within and outside the Philippines. The law enforcers then suspect DEF to be an organization which funds terrorist activities in the Philippines. Thus, the members of DEF may now be subject to surveillance as well, aside from the freezing of the assets, within and without the Philippines, to the point that the law enforcers can arrest a member of the organization and detain that person for an indefinite number of days.

What can communities, organizations and individuals do?

Everyone is a potential victim of this law, given its overbroad and ambiguous definition and application. As citizens of the country, we should be vigilant in monitoring the government's positions, policies, and implementation of this law. Communities, support groups, NGOs and other members of the CSO should work in solidarity so that law implementers may be held accountable.

For NGOs, the following may be done to address the dangers posed by the law:

1. Conduct intensive information education campaigns (IEC) in areas where there are military, paramilitary and police presence, and even in areas where government-sponsored projects or programs are in place.

2. Maximize the safeguards provided by this law. Immediately report human rights abuses to the authorities who belong to an office different from those whose personnel have violated this law.

Take note that, to respond to extrajudicial killings and enforced disappearances, the Supreme Court has passed the rules on the Writ of Amparo. The writ is an order issued by the court ordering the respondent to do an active investigation or explain to the court the measures taken to determine the circumstances surrounding the death or disappearance of the person. The resolution of the case is given high priority, and shall be acted upon within seven (7) days, or if it is obvious that the court should issue the writ immediately, it would do so. The case will continue everyday until it is resolved. The writ may be applied by any aggrieved person or qualified party or entity.

Even more recently, the rules on the writ of habeas data was passed to complement the writ of amparo and habeas corpus and respond further to growing human rights abuses. The writ of habeas data seeks to protect the image, privacy, honor, self-determination, and freedom of information of a person.

3. Assist communities and other NGOs through the following:

- training for the formation of a Quick Reaction Team or paralegals to respond to emergency situations;
- training in the documentation of incidents;
- training in the filing of complaints about abuses of this law;

4. Prepare a kit that includes an explanation of the law and a directory of media practitioners, lawyers or paralegals, regular courts, the nearest police stations, the Commission on Human Rights Office, offices of the Ombudsman, et cetera.

5. Maximize linkages with the media to expose abuses of this law through the release of press releases, facts sheets, and the like;

6. Generate support from national and international networks, including United Nations bodies that will help pressure the Philippine government for the repeal of the law;

For communities, it is recommended that they:

1. Contact NGOs or legal organizations, some of which are enumerated in Annex D, that can provide assistance regarding human rights abuses;
2. Be observant and vigilant;
3. Strengthen relationships and identify areas of cooperation with other communities and NGOs;
4. Take active roles in the activities enumerated above.

ANNEX A

LRC-KSK Statement on the Human Security Act of 2007 or Republic Act (RA) 9372

HUMAN SECURITY ACT OF 2007: A DRACONIAN MEASURE OF INSECURITY AND TERROR

It is the height of irony and insult to the Filipino people that a recently passed and newly implemented law is named the Human Security Act (HSA) of 2007 or Republic Act (RA) 9372. The HSA, which took effect on July 15, 2007, stands accused of promoting insecurity and fear.

Flawed to its core and hated like the regime that produced it, the HSA is the Arroyo government's belligerent response to the growing popular resistance to its misrule. Also known as the (anti) terrorism law, the HSA is being deplored as the regime's latest and most comprehensive legal measure of repression and curtailment of our fundamental rights and basic freedoms.

The Human Security Act of 2007 is riddled with grave infirmities and loopholes and breaches the Constitution, international human rights as well as international humanitarian laws and principles. Its growing number of critics are calling for its outright repeal.

A key issue against this law is the dangerously vague, encompassing, and overarching notion of "terrorism" that draws no distinction between "acts of terror" and legitimate exercise of dissent and social protest. The fundamental principle of due process is seriously violated in this regard. Anyone can be accused of the crime of "terrorism" that is not precisely and legally defined. By criminalizing dissent and by drawing no distinction between legitimate acts of protests and political actions versus common crimes, the HSA is a draconian measure of insecurity and terror.

The HSA comes at a time, when the legitimacy of the Arroyo government is seriously being challenged and a prevailing climate of impunity has come to characterize the regime's brazen disregard for human rights and its gruesome record of atrocities committed against its staunchest critics—the social activists, human rights defenders and the left movement. We have witnessed, for instance, how the likes of Jonas Burgos, son of a press freedom and anti-Martial Law icon could be abducted in broad daylight by

suspected agents of the state and be made to disappear until today. We have known that tens to hundreds of suspected leftist activists were shot dead by hooded assailants astride their motorcycles.

Against this national backdrop of lawlessness and a climate of fear and terror, the Human Security Act of 2007 or RA 9372 will open the floodgates for the wholesale violations of human rights and civil liberties.

The Legal Rights and Natural Resources Center-Kasama sa Kalikasan/ Friends of the Earth-Philippines (LRC-KsK/FOE-Phils.) joins the growing voices of indignation against the HSA and the louder clamor for its repeal. Such a highly infirm law has no place in a supposedly democratic society and political system supposedly governed by the rule of law.

Given the regime's track record of mounting atrocities and human rights abuse, the unreformed military and the police forces, the national security-mindset of the HSA's architects and implementors and the red-baiting and labeling of groups, organizations and individuals critical of the government's policies and actions, we have all the reasons to doubt the so-called safeguards that the HSA contain against arbitrary acts and abuse.

Under the HSA, "terrorist acts" include political offenses and actions such as rebellion and insurrection, thus criminalizing political dissent and actions. Suspected offenders under the law are subject to surveillance and wiretapping, and their assets frozen. Organizations, particularly those critical of the regime, can easily be proscribed as "terrorists" and their members prosecuted. Thus, the new law provides for the legal justification for state and security forces to go after the "enemies of the state" it will now call "terrorists," and this time, replete with legal guarantees and all-out impunity.

This early, the law's architects and implementors are itching to wield the full force of RA 9372 on anyone it will conveniently call "communists" and "terrorists." This includes even legal organizations and elected public officials that are among the most strident critics of the regime and its harmful policies and actions.

Assault against the legitimate right to self-determination

The LRC-KsK expresses particular concern about the RA 9372's impact on the Indigenous peoples and other vulnerable sectors whose sources of subsistence and even their whole way of life stand seriously threatened by the adverse impact of the GMA government's frenzied drive to attract large-scale investors into the extractive industries such as mining, logging and plantations.

For instance, given the regime's policy of attracting huge mining investments in resource-rich areas all over the country, where many indigenous peoples and rural producers reside, and given the deeply flawed legal and justice system that has largely failed to give redress to the aggrieved poor, it is not hard to believe that the full weight of the law may well be used — in the guise of targeting "terrorists" and "threats to national security" — in order to pacify and silence affected communities and indigenous peoples resisting incursion of large-scale mining into their ancestral domains.

The enforcement of the HSA runs ominously parallel with the government's announcement to develop 23 priority mining investments areas all over the Philippines and to attract around \$7 to \$10B worth of large-scale mining investments in the country by 2010 the last year of the GMA's remaining presidential term. The HSA can indeed help ensure that large-scale mining incursions will successfully bulldoze their way over the indigenous peoples' sacred and ancestral lands.

Who can stop the regime's minions and their allies in the mining industry from subjecting anti-mining protesters, non-government organizations, and church organizations to surveillance, witch hunts, harassment, and when all else fail, proscribing them as "terrorist" organizations or "communist fronts"?

When indigenous peoples will put up barricades to stop huge mining equipment from bulldozing their way into their sacred lands and ancestral domains, what will stop the regime's local minions, in complicity with mining companies, to label these acts of protests as "economic sabotage" and "terrorist acts"?

The HSA 2007 can thus be used against the indigenous peoples' right to self-determination and just struggles of local communities to assert their right, and to defend the country's national patrimony.

May we then ask: who is terrorizing whom? Who is responsible for and promoting the insecurity of our people? It is the height of absurdity that the very regime that has caused the people's continued misery and sufferings, and has thus continued to fan the flames of discontent, has now proclaimed to save the people from threats of "terrorism" and threats to their security.

The Arroyo government is afraid of its own shadows and has no one to blame but itself for the increasing national restiveness against its governance. It has allowed its own security and survival to take precedence over the people's security and well-being, basic rights, and fundamental freedoms.

We say no to the Arroyo government's HSA that is passed in our name. We refuse to accept that the Arroyo regime's need for security and survival is also our own. Instead, we call for the repeal of the HSA and for the reversal of anti-people policies and programs that are at the roots of armed conflicts, terrorist threats, and national unrest that continue to besiege our country and society.

It is increasingly clear to more and more people that the Human Security Act of 2007 — far from providing the Filipino people the security from fear and want — is an illegal, unjust, and anti-people legislation aimed at instilling fear and paralyzing people into inaction.

The Arroyo regime should remember well the lessons from its predecessors and from their ill-fated policies and actions: injustice and repression begets resistance. And nothing can subdue the power of a united and determined people struggling for justice and defending their rights and hard-won freedoms.

From the women and men of

The Legal Rights and Natural Resources Center-
Kasama sa Kalikasan/Friends of the Earth-Philippines
(LRC-KSK/FOE-Phils.)

For questions and additional information, please contact Sammy Gamboa at sammybkk05@gmail.com

ANNEX B

ELEMENTS, MODALITIES AND COMBINATIONS OF CRIMES UNDER SECTION 3 OF THE HUMAN SECURITY ACT:

Under the Revised Penal Code (RPC)

Act	Modalities	Elements
1. Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters)	a. any person who, on the high seas, shall attack or seize a vessel or	<ul style="list-style-type: none"> • any person on the high seas • shall attack or seize a vessel
	b. not being a member of its complement nor a passenger, shall seize the whole or part of the cargo of said vessel, its equipment, or personal belongings of its complement or passengers	<ul style="list-style-type: none"> • not being a member of its complement nor a passenger • seize any of the following: <ul style="list-style-type: none"> the whole of the cargo of the vessel, - part of the cargo of the vessel - personal belongings - of the complement or passengers
2. Article 134 (Rebellion or Insurrection);	a. by rising publicly and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, 1) naval or other armed forces, 2) the territory of the Philippine Islands or any part thereof, of any body of land;	<ul style="list-style-type: none"> • public uprising • taking up arms against the government • purpose is to remove allegiance to the government or its laws the: <ul style="list-style-type: none"> - territory if the Philippines or any part - any body of land, naval or other armed forces
	b. depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives.	<ul style="list-style-type: none"> • public uprising • taking up arms against the government • purpose is to deprive the Chief Executive or the legislature, wholly or partially of any of their powers or prerogative

Act	Modalities	Elements
<p>3. Article 134-a (Coup d'Etat), including acts committed by private persons;</p>	<p>is a swift attack accompanied by violence, intimidation, threat, strategy or stealth, directed against one of the following:</p> <ol style="list-style-type: none"> 1) duly constituted authorities of the Republic of the Philippines, 2) or any military camp or installation, 3) communications network, 4) public utilities, or 5) other facilities needed for the exercise and continued possession of power, <p>singly or simultaneously carried out anywhere in the Philippines by any person or persons, belonging to the military or police or holding any public office of employment with or without civilian support or participation for the purpose of seizing or diminishing state power</p>	<ul style="list-style-type: none"> • the offender is a person or persons belonging to the military or police or holding any public office or employment • committed by means of a swift attack accompanied by violence, intimidation, threat, strategy, or stealth, • the attack is directed against: <ol style="list-style-type: none"> 1) duly constituted authorities of the Republic of the Philippines, 2) or any military camp or installation, 3) communications network, 4) public utilities, or 5) other facilities needed for the exercise and continued possession of power, • the purpose of the attack is to seize or diminish state power.
<p>4. Article 248 (Murder)</p>	<p>any person who, not falling within the provisions of Article 246 (parricide) shall kill another, if committed with any of the following attendant circumstances:</p> <ol style="list-style-type: none"> 1) with treachery, taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense or of means or persons to insure or afford impunity. 	<ul style="list-style-type: none"> • a person was killed • the accused killed that person • the killing was attended by any of the enumerated qualifying circumstances • that killing is neither parricide nor infanticide

Act	Modalities	Elements
	<ol style="list-style-type: none"> 2) in consideration of a price, reward, or promise. 3) by means of inundation, fire, poison, explosion, shipwreck, stranding of a vessel, detailment or assault upon a street car or locomotive, fall of an airship, by means of motor vehicles, or with the use of any other means involving great waste and ruin. 4) on occasion of any of the calamities enumerated in the preceding paragraph, or of an earthquake, eruption of a volcano, destructive cyclone, epidemic or other public calamity. 5) with evident premeditation. 6) with cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse. 	
<p>5. Article 267 (Kidnapping and Serious Illegal Detention);</p>	<p>any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty:</p> <ol style="list-style-type: none"> 1) if the kidnapping or detention shall have lasted more than five days. 2) if it shall have been committed simulating public authority. 3) if any serious physical injuries shall have been inflicted upon the person kidnapped or detained; or if threats to kill him shall have been made. 	<ul style="list-style-type: none"> • the offender is a private individual • kidnaps or detains another, or in any other manner deprives the person liberty • the act of kidnapping or detention must be illegal • any of the following enumerated circumstances are present

Act	Modalities	Elements
	4) if the person kidnapped or detained shall be a minor, female or a public officer.	
6. Article 324 (Crimes Involving Destruction)	any person who shall cause destruction by means of: 1) explosion, 2) discharge of electric current, 3) inundation, 4) sinking or stranding of a vessel, 5) intentional damaging of the engine of said vessel, 6) taking up the rails from a railway track, 7) maliciously changing railway signals for the safety of moving trains, 8) destroying telegraph wires and telegraph posts, or those of any other system, and, 9) in general, by using any other agency or means of destruction as effective as those above enumerated	<ul style="list-style-type: none"> any person who causes destruction by any means under the enumerated circumstances.

Special Laws

Act	Modalities	Elements
7. Presidential Decree No. 1613 (The Law on Arson);	<p>a. any person who burns or sets fire to the property of another</p> <p>b. a person sets fire to his own property under circumstances which expose to danger the life or property of another</p>	<ul style="list-style-type: none"> any person who burns or sets fire property of another a person sets fire to his own property exposing to danger the life or property of another any person who burns or sets fire property of another

Act	Modalities	Elements
	<p>c. destructive arson</p> <p>1) any arsenal, shipyard, storehouse or military powder or fireworks factory, ordinance, storehouse, archives or general museum of the Government.</p> <p>2) any passenger train or motor vehicle in motion or vessel out of port.</p> <p>3) in an inhabited place, any storehouse or factory of inflammable or explosive materials.</p>	<ul style="list-style-type: none"> a person shall burn any of the enumerate
	<p>d. other forms of arson:</p> <p>1) any building used as offices of the government or any of its agencies;</p> <p>2) any inhabited house or dwelling;</p> <p>3) any industrial establishment, shipyard, oil well or mine shaft, platform or tunnel;</p> <p>4) any plantation, farm, pastureland, growing crop, grain field, orchard, bamboo grove or forest;</p> <p>5) any rice mill, sugar mill, cane mill or mill central; and</p> <p>6) any railway or bus station, port, wharf or warehouse.</p>	<ul style="list-style-type: none"> a person shall burn any of the enumerated
8. Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990);	a. knowingly use a chemical substance or mixture which is imported, manufactured, processed or distributed in violation of this Act or implementing rules and regulations or orders;	<ul style="list-style-type: none"> the law prohibits the import, manufacture process or distribute a chemical substance or mixture that the person knowingly uses this prohibited substance

Act	Modalities	Elements
	b. failure or refusal to submit reports, notices or other information, access to records as required by this Act, or permit inspection of establishment where chemicals are manufactured, processed, stored or otherwise held;	<ul style="list-style-type: none"> there is an obligation to submit reports, notices or other information, access to records, or permit inspection of establishment where chemicals are manufactured, processed, stored or otherwise held the person fails or refuses to comply with such an obligation
	c. failure or refusal to comply with the pre-manufacture and pre-importation requirements; and	<ul style="list-style-type: none"> there is an obligation to comply with pre-manufacture and pre-importation requirements; the person fails or refuses to comply with these requirements
	d. cause, aid, or facilitate, directly or indirectly, in the storage, importation, or bringing into Philippine territory, including its maritime economic zones, even in transit, either by means of land, air or sea transportation or otherwise keeping in storage any amount of hazardous and nuclear wastes in any part of the Philippines.	<ul style="list-style-type: none"> there is a prohibition on hazardous and nuclear wastes that the person causes, aids, or facilitate, directly or indirectly: <ol style="list-style-type: none"> in the storage, importation, or bringing into Philippine territory, including its maritime economic zones, even in transit, either by means of land, air or sea transportation or otherwise keeping in storage any amount of hazardous and nuclear wastes in any part of the Philippines.
9. Republic Act No. 5207, (Atomic Energy Regulatory and Liability Act of 1968)	a. shall be unlawful for any person to transfer, construct, receive, own, possess, operate, import or export any atomic energy facility except under a license	<ul style="list-style-type: none"> the person: <ol style="list-style-type: none"> transferred, constructed, received, owned, possessed, operated,

Act	Modalities	Elements
		<ol style="list-style-type: none"> imported, or exported any atomic energy facility <ul style="list-style-type: none"> there is no license for such activities
	b. if the nuclear damage resulted wholly or partly either from the gross negligence of the person suffering the damage or from an act or omission of such person done with intent to cause damage	<ul style="list-style-type: none"> there is an atomic energy facility there is a nuclear damage the damage resulted from <ol style="list-style-type: none"> gross negligence act or omission it is done with the intent to cause damage
11. Republic Act No. 6235 (Anti-Hijacking Law)	a. unlawful for any person to compel a change in the course or destination of an aircraft of Philippine registry, or	<ul style="list-style-type: none"> the person compelled a change in the course or destination of an aircraft the aircraft is of Philippine registry
	b. to seize or usurp the control thereof, while it is in flight	<ul style="list-style-type: none"> the person seized or usurped the control of the aircraft the Philippine aircraft is in flight
	c. unlawful for any person to compel an aircraft of foreign registry to land in Philippine territory or	<ul style="list-style-type: none"> the person compelled an aircraft to land in Philippine territory the aircraft is of foreign registry
	d. to seize or usurp the control thereof while it is within the said territory	<ul style="list-style-type: none"> the person seized or usurped the control of the foreign aircraft while it is in Philippine territory
	e. unlawful for any person, natural or juridical, to ship, load or carry in any passenger aircraft operating as a public utility within the Philippines, any explosive, flammable, corrosive or poisonous substance or material	<ul style="list-style-type: none"> the person loaded or carried to a passenger aircraft any explosive, flammable, corrosive or poisonous material the aircraft is operating as a public utility within the Philippines

Act	Modalities	Elements
12. Presidential Decree No. 532 (Anti-piracy and Anti-highway Robbery Law of 1974);	a. any attack upon or seizure of any vessel,	<ul style="list-style-type: none"> • committed by any person, including a passenger or member of the complement of the vessel • the offender attacks or seizes a vessel • the vessel is in Philippine waters
	b. or the taking away of the whole or part thereof or its cargo, equipment, or the personal belongings of its complement or passengers, irrespective of the value thereof, by means of violence against or intimidation of persons or force upon things,	<ul style="list-style-type: none"> • committed by any person, including a passenger or member of the complement of the vessel • the vessel is in Philippine waters • the person takes away any of the following: <ol style="list-style-type: none"> 1) whole or part of the vessel 2) cargo of the vessel, 3) equipment 4) personal belongings of the complement of passengers • by means of the following: <ol style="list-style-type: none"> 1) violence against persons 2) intimidation of persons 3) force upon things
	c. the seizure of any person for ransom, extortion or other unlawful purposes, committed by any person on any Philippine Highway	<ul style="list-style-type: none"> • committed by any person • on any Philippine highway • seizure of any person • the seizure or kidnapping of the person is for any of the following: <ol style="list-style-type: none"> 1) ransom 2) extortion 3) or other unlawful purposes

Act	Modalities	Elements
	d. or the taking away of the property of another by means of violence against or intimidation of person or force upon things or other unlawful means,	<ul style="list-style-type: none"> • committed by any person - on any Philippine highway • the person taking away the property of another • by means of the following: <ol style="list-style-type: none"> 1) violence against a person 2) intimidation of a person 3) force upon things 4) or other unlawful means
	e. any person who knowingly and in any manner aids or protects pirates or highway robbers/brigands, such as giving them information about the movement of police or other peace officers of the government,	<ul style="list-style-type: none"> • any person • knowingly and in any manner • aids or protects pirates or highway robbers/brigands • such as giving them information about the movement of police or other peace officers of the government
	f. or acquires or receives property taken by such pirates or brigands or in any manner derives any benefit therefrom;	<ul style="list-style-type: none"> • any person • who acquires or receives • property taken by pirates or brigands, or in any manner derives benefit therefrom
	g. or any person who directly or indirectly abets the commission of piracy or highway robbery or brigandage	<ul style="list-style-type: none"> • any person • directly or indirectly abets • the commission of piracy or highway robbery or brigandage

Act	Modalities	Elements
16. Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives)	a. any person who shall unlawfully : 1) manufacture, 2) deal in, 3) acquire, 4) dispose, or 5) possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition	<ul style="list-style-type: none"> • any person • unlawfully do any of the following: <ol style="list-style-type: none"> 1) manufacture, 2) deal in, 3) acquire, 4) dispose, or 5) possess • any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition.
	b. any person who shall unlawfully : 1) manufacture, 2) assemble, 3) deal in, 4) acquire, 5) dispose, or 6) possess handgrenade(s), rifle grenade(s), and other explosives, including but not limited to "pillbox bombs", "molotov cocktail bombs", "fire bombs", or other incendiary devices capable of producing destructive effect on contiguous objects or causing injury or death to any person.	<ul style="list-style-type: none"> • any person • unlawfully do any of the following: <ol style="list-style-type: none"> 1) manufacture, 2) assemble, 3) deal in, 4) acquire, 5) dispose, or 6) possess • handgrenade(s), rifle grenade(s), and other explosives, including but not limited to "pillbox bombs", "molotov cocktail bombs", "fire bombs", or other incendiary devices capable of producing destructive effect on contiguous objects or causing injury or death to any person.
	c. unlawfully tamper, change, deface or erase the serial number of any firearm	<ul style="list-style-type: none"> • any person • unlawfully do any of the following acts: <ol style="list-style-type: none"> 1) tamper 2) change 3) deface 4) erase the serial number of any firearm

Act	Modalities	Elements
	d. any person who shall unlawfully repack, alter or modify the composition of any lawfully manufactured explosives.	<ul style="list-style-type: none"> • any person • unlawfully do the following acts: <ol style="list-style-type: none"> 1) repack, 2) alter 3) modify • the composition of any lawfully manufactured explosives
	e. any person, civilian or military, who shall issue authority to carry firearm and/or ammunition outside of residence, without authority therefor.	<ul style="list-style-type: none"> • any person, • without authority to issue firearm and/or ammunition outside of residence • has issued authority to others to carry firearm and/or ammunition outside of the residence.

ALTERNATIVE LAW GROUPS' STATEMENT ON THE HUMAN SECURITY ACT OF 2007

We, the Alternative Law Groups, Inc. (ALG), a coalition of eighteen (18) legal-resource non-government organizations that work for the empowerment of the poor and marginalized sectors in the country, reject and condemn the Human Security Act of 2007 (R.A. No. 9372). This law threatens the peoples' rights to life, liberty, and property, and endangers constitutionally protected rights to due process. It is the worst installment yet employed by the government in its campaign against the genuine exercise of civil and political rights of communities and organizations, following the constitutionally infirm Executive Order 464, Calibrated Preemptive Response and Presidential Proclamation 1017.

For almost two decades, our organizations have worked with marginalized communities and sectors of society in seeking justice and justice system reforms. History has shown that these communities are the most affected by tactics employed by the government to silence the voices of opposition at the ground level. The Human Security Act further restricts the right of the people to seek redress on the government's failure to provide basic services and address national concerns.

The Human Security Act's definition of "terrorism" is so overly broad that it can encompass legitimate and non-terrorist activities, resulting in a chilling effect for those who are lawfully exercising their civil and political human rights. The provisions on surveillance, interception and recording of private communications, prolonged and unlimited period of detention without warrant, and proscription of terrorist organizations, associations, or groups of persons, effectively infringe constitutionally guaranteed rights. Given that the constitutional guarantees have often been observed in breach even before the passage of the Human Security Act, a law that authorizes direct contravention of these guarantees on the basis of a hazy definition of "terrorism" would open the floodgates to more abuses and violations.

Under these circumstances, the poor and marginalized sectors are the most vulnerable to abuses in the implementation of the Human Security Act because they lack the resources to ensure that their rights are respected and protected. Even prior to the passage of the law, the rights of the poor and marginalized sectors have not been recognized and have been trampled upon — a depressing fact that continues to this day. With the passage of the law, this situation will worsen.

As it is, even without the law, Moro communities in Mindanao, Metro Manila and elsewhere have been raided, religious leaders forcibly taken, and innocent civilians illegally arrested, tortured and detained, all in the name of counter-terrorism. As if the high level of militarization in many areas, especially in Sulu and Central Mindanao, is not enough to disrupt the simple lives of the residents, the Human Security Act will surely embolden state authorities to encroach on their civil liberties. The Moro is always singled out as the usual suspect in bombings that occur whenever peace becomes a likely prospect and the business of war is threatened. The Human Security Act will certainly reinforce such discriminatory stereotyping of the Moro as terrorist.

The Human Security Act is indeed alarming in the context of the current political and economic policies of the government that facilitate the entry of foreign investments in the extractive industry and agribusiness sector, once again affecting the poor and marginalized sectors the most. Considering that militarization and numerous human rights violations connected with development aggression are pervasive at the ground level, the Human Security Act only legitimizes the unlawful and inhumane treatment of communities and organizations opposing development aggression.

The law is clearly another blatant attempt to silence the voices of communities who are suffering from the effects of national policies, laws and regulations that only work for the benefit of a few and continue to violate individual and collective rights. The law merely serves to distract the general public from the real terrorism that is happening now — the rampant violations of people's rights, including the extrajudicial killings of activists, human rights defenders, journalists, and lawyers, and the government impunity that accompany such violations. The law does not address these issues, nor does it provide for adequate safeguards in the protection of the rights of the general public.

The Human Security Act of 2007 is not the answer to achieving peace and security throughout the country. This can only be done through good governance, transparency, accountability, a human-rights approach in the implementation of policies and laws, and genuine efforts to ensure public participation. Unfortunately, this is where the present government is sorely lacking. Unless these issues are answered, the Human Security Act of 2007 shall only be another backward step from true national development and security. This is an Act that promotes government-led terrorism.

We call on all lawyers, paralegals, communities, and civil society organizations to demand the repeal of the Human Security Act. We call on all members of civil society to remain vigilant in the protection of the rights of the poor and marginalized sectors and to ensure the accountability of those who perpetrate acts curtailing fundamental freedoms!

DIRECTORY OF PHILIPPINE LEGAL ORGANIZATIONS

Communities and other NGOs may contact the following for legal assistance with regard to the implementation of the HSA:

Alternative Law Groups: HUMAN RIGHTS SECURITY ALERT Hotline (02) 4268569 or (02) 4330760; www.alternativelawgroups.org
Room 215, Institute of Social Order, Ateneo de Manila University, Loyola Heights, Quezon City

Members:

Ateneo Human Rights Center – AHRC
G/F APS Building, 20 Rockwell Drive, Rockwell Center, 1200 Makati City
Phone: (632)8972142/8997691 loc 2109
Fax: (632)8994342
Email: ahrc@aps.ateneo.edu

Alternative Law Research and Development Center, Inc. – ALTERLAW
Unit M4, Minnesota Mansion Ermin Garcia St., Cubao Quezon City
Phone: (632) 4391132
Fax: (632) 4391132
Email: alterlaw_inc@yahoo.com.ph

The Albert Schweitzer Association, Philippines, Inc. – ASAP
66 Linao St., Sta. Mesa Heights, Quezon City
Phone: (632) 732 3140
Fax: (632) 731 2396
Email: asapinc@vasia.com

Balay Alternative Legal Advocates for Development in Mindanaw, Inc. -
BALAOD-Mindanao
Door # 3 Balay Mindanao Peace Center 53-A 12th St., Zone 2, Upper Buhaw
9000 Cagayan de Oro City
Phone: (63 8822) 738794
Fax: (63 8822) 738402
Email: balao dmindanao@gmail.com
URL: <http://balaymindanao.org>

Children's Legal Bureau, Inc. - CLB
#10 Queen's Road, Camputhaw, Cebu City
Phone: (63 32) 255 8016
Fax: (63 32) 254 5091
Email: clbphilis@pacific.net.ph

Environmental Legal Assistance Center (ELAC)
Door 7, Ouano Compound, 318 General Maxilom Avenue,
6000 Cebu City, Philippines

Phone: (63 32) 2533833; Telefax +63 32 4126694;
Email: elac@mozcom.com
www.elac.org.ph

Free Rehabilitation, Economic, Education and Legal Assistance Volunteers
Association, Inc. – FREELAVA
Room 207 Mingson Building cor. Juan Luna and Zamora Sts., 6000 Cebu
City Phone: (63 32) 256 2718
Fax: (63 32) 254 7739
Email: freelava@mozcom.com

KAISAHAN Tungo sa Kaunlaran ng Kanayunan at Repormang Pansakahan
– KAISAHAN
3 Mahabagin Street, Teacher's Village West, 1101 Quezon City
Phone: (63 2) 433 0760 / 925 4303
Fax: (63 2) 926 6042
Email: kaisahan@zpdce.net / kaisahan@philonline.com
URL: <http://www.kaisahan.net>

Kanlungan Center Foundation, Inc. – KANLUNGAN
No. 77 K-10th Street, Kamias, 1102 Quezon City
Phone: (63 2) 928 2384
Fax: (63 2) 433 0953
Email: kcfi@philonline.com.ph
URL: <http://www.kanlungan.ngo.ph>

Legal Rights and Natural Resources Center, Inc. - Kasama sa Kalikasan/
Friends of the Earth - Philippines - LRC-KSK/FOEI-Phils.
Rm. 329 Eagle Court Bldg, 26 Matalino St., East Central District,
Diliman 1101 Quezon City
Phone: (63 2) 928 1372
Fax: (63 2) 920 7172
Email: lrcsk@lrcsk.org
URL: <http://www.lrcsk.org/>

Tanggapang Panligal Ng Katutubong Pilipino – PANLIPI
Unit 303, JGS Bldg., 30 Sgt. Tuazon cor. Dr. Lascano Sts.,
Brgy. Laging Handa, Quezon City
Phone: (63 2) 372 3716
Email: panlipi@pltdsl.net

Pagilingkod Batas Pangkapatiran Foundation – PBPF
493 Gen. Luna Extension, Mt. Apo Street, 8000 Davao City
Phone: (63 82) 305 6936
Fax: (63 82) 227 7816
Email: pbpdvo@pltdsl.net

Pilipina Legal Resources Center, Inc. – PLRC
3B Anda Corporate Center, F. Inigo St., 8000 Davao City
Phone: (63 82) 224 3238

Fax: (63 82) 224 3238
Email: plrcphil@info.com.ph

Participatory Research Organization of Communities and Education
Towards Struggle for Self-Reliance-Panay - PROCESS-Panay
Muelle Loney cor. Yulo Street, Iloilo City
Phone: (63 33) 337 7386
Fax: (63 33) 337 7386
Email: processiloilo@yahoo.com

Sentro ng Alternatibong Lingap Panligal – SALIGAN
Ground Floor, Cardinal Hoffner Training Center, Social Development
Complex, Ateneo de Manila University, Loyola Heights, Quezon City
Phone: (63 2) 426 6001 loc. 4858 to 60
Fax: (63 2) 426 6124
Email: saligan@saligan.org
URL: <http://www.saligan.org/>

Tanggol Kalikasan – TK
Room M-01, CRM Building III, 106 Kamias Road, 1102 Quezon City
Phone: (63 2) 925 5611 to 12 / 438 8734
Fax: (63 2) 434 9141
Email: tanggol@tanggol.org
URL: <http://www.tanggol.org>

Women's Legal Bureau – WLB
Room 305 UP-CSWCD Bldg. Magsaysay Ave.,
UP Diliman 1101 Quezon City
Phone: (63 2) 921 4389
Fax: (63 2) 921 4389
Email: wlb@philonline.com.hk
URL: <http://www.womenslegalbureau.com>

Women's Legal Education, Advocacy and Defense Foundation, Inc.
– WOMENLEAD
#59 Mahabagin St., Teachers' Village, Diliman 1101 Quezon City
Phone: (63 2) 425 1369
Fax: (63 2) 435 6823
Email: wlead@pldtdsl.net
URL: <http://www.wlead.org>

Amnesty International, Philippines
17 Kasing-kasing St. Corner 8th, Kamias
Quezon City
Phone : (632) 927 9856
Fax: (632) 927 6008

Free Legal Assistance Group (FLAG),
Room 204 Cabrera II Building, 64 Timog Avenue, Quezon
City, Metro Manila, Philippines;

Phone (632) 96-54-77; fax (632) 817-5410 Attn:Diokno 14862 SCC BH PS;
e-mail: flag@flag.com.ph

Integrated Bar of the Philippines
IBP Building, No.15 Julia Vargas Avenue
Ortigas Center, Pasig City, Philippines
National Committee on Legal Aid
Tel. Nos. 631-3016, 910-0408
Fax No. 631-3013
Email: ncla@ibp.org.ph

KARAPATAN – Alliance for the Advancement of People's Rights
23-D Mabuhay St., Bgy. Central, Diliman, Quezon City
Phone: (+632) 4341865
Telefax: (+632) 9267877
Email: krptn@philonline.com

The National Union of Peoples' Lawyers (NUPL) National Secretariat
3F Erythrina Bldg, Maaralin cor. Matatag Sts.,
Central District, Diliman, Quezon City, Philippines
Phone number: (63-2) 920-6660
Email address: nupl2007@gmail.com

Philippine Human Rights Information Center (PhilRights)
53-B Maliksi St., Brgy. Pinyahan, 1100 Quezon City
Tel. nos. +(632) 433-1714 and +(632) 436-5686
E-mail: philrights@philrights.org

Task Force Detainees of the Philippines
53-B Maliksi Street, Brgy. Pinyahan, Quezon City
Phone: (632) 4362633
Fax: (632) 4331714

University of the Philippines, Office of Legal Aid
UP College of Law, Diliman, Quezon City
Trunkline: 920-5514

The local Public Attorney's Office

FULL TEXT OF THE HUMAN SECURITY ACT

REPUBLIC ACT NO. 9372

AN ACT TO SECURE THE STATE AND PROTECT
OUR PEOPLE FROM TERRORISM

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

SECTION 1. Short Title. — This Act shall henceforth be known as the "Human Security Act of 2007."

SEC. 2. Declaration of Policy. — It is declared a policy of the State to protect life, liberty, and property from acts of terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against the Filipino people, against humanity, and against the law of nations.

In the implementation of the policy stated above, the State shall uphold the basic rights and fundamental liberties of the people as enshrined in the constitution.

The State recognizes that the fight against terrorism requires a comprehensive approach, comprising political, economic, diplomatic, military, and legal means duly taking into account the root causes of terrorism without acknowledging these as justifications for terrorist and/or criminal activities. Such measures shall include conflict management and post-conflict peace-building, addressing the roots of conflict by building state capacity and promoting equitable economic development.

Nothing in this Act shall be interpreted as a curtailment, restriction or diminution of constitutionally recognized powers of the executive branch of the government. It is to be understood, however, that the exercise of the constitutionally recognized powers of the executive department of the government shall not prejudice respect for human rights which shall be absolute and protected at all times.

SEC. 3. Terrorism. — Any person who commits an act punishable under any of the following provisions of the Revised Penal Code:

1. Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters);
2. Article 134 (Rebellion or Insurrection);
3. Article 134-a (Coup d'Etat), including acts committed by private persons;
4. Article 248 (Murder);
5. Article 267 (Kidnapping and Serious Illegal Detention);
6. Article 324 (Crimes Involving Destruction,

or under

1. Presidential Decree No. 1613 (The Law on Arson);
2. Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990);
3. Republic Act No. 5207, (Atomic Energy Regulatory and Liability Act of 1968);
4. Republic Act No. 6235 (Anti-Hijacking Law);
5. Presidential Decree No. 532 (Anti-piracy and Anti-highway Robbery Law of 1974); and,
6. Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives)

thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of the crime of terrorism and shall suffer the penalty of forty (40) years of imprisonment, without the benefit of parole as provided for under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended.

SEC. 4. Conspiracy to Commit Terrorism. — Persons who conspire to commit the crime of terrorism shall suffer the penalty of forty (40) years of imprisonment.

There is conspiracy when two or more persons come to an agreement concerning the commission of the crime of terrorism as defined in Section 3 hereof and decide to commit the same.

SEC. 5. Accomplice. — Any person who, not being a principal under Article 17 of the Revised Penal Code or a conspirator as defined in Section 4 hereof, cooperates in the execution of either the crime of terrorism or conspiracy to commit terrorism by previous or simultaneous acts shall suffer the penalty of from seventeen (17) years, four (4) months one day to twenty (20) years of imprisonment.

SEC. 6. Accessory. — Any person who, having knowledge of the commission of the crime of terrorism or conspiracy to commit terrorism, and without having participated therein, either as principal or accomplice under Articles 17 and 18 of the Revised Penal Code, takes part subsequent to its commission in any of the following manner: (a) by profiting himself or assisting the offender to profit by the effects of the crime; (b) by concealing or destroying the body of the crime, or the effects, or instruments thereof, in order to prevent its discovery; (c) by harboring, concealing, or assisting in the escape of the principal or conspirator of the crime, shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Notwithstanding the above paragraph, the penalties prescribed for accessories shall not be imposed upon those who are such with respect to their spouses, ascendants, descendants, legitimate, natural, and adopted brothers and sisters, or relatives by affinity within the same degrees, with the single exception of accessories falling within the provisions of subparagraph (a).

SEC. 7. Surveillance of Suspects and Interception and Recording of Communications. — The provisions of Republic Act No. 4200 (Anti-wire Tapping Law) to the contrary

notwithstanding, a police or law enforcement official and the members of his team may, upon a written order of the Court of Appeals, listen to, intercept and record, with the use of any mode, form, kind or type of electronic or other surveillance equipment or intercepting and tracking devices, or with the use of any other suitable ways and means for that purpose, any communication, message, conversation, discussion, or spoken or written words between members of a judicially declared and outlawed terrorist organization, association, or group of persons or of any person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism.

Provided, That surveillance, interception and recording of communications between lawyers and clients, doctors and patients, journalists and their sources and confidential business correspondence shall not be authorized.

SEC. 8. Formal Application for Judicial Authorization. – The written order of the authorizing division of the Court of Appeals to track down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of any person suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall only be granted by the authorizing division of the Court of Appeals upon an ex parte written application of a police or of a law enforcement official who has been duly authorized in writing by the Anti-Terrorism Council created in Section 53 of this Act to file such ex parte application, and upon examination under oath or affirmation of the applicant and the witnesses he may produce to establish: (a) that there is probable cause to believe based on personal knowledge of facts or circumstances that the said crime of terrorism or conspiracy to commit terrorism has been committed, or is being committed, or is about to be committed; (b) that there is probable cause to believe based on personal knowledge of facts or circumstances that evidence, which is essential to the conviction of any charged or suspected person for, or to the solution or prevention of, any such crimes, will be obtained; and, (c) that there is no other effective means readily available for acquiring such evidence.

SEC. 9. Classification and Contents of the Order of the Court. – The written order granted by the authorizing division of the Court of Appeals as well as its order, if any, to extend or renew the same, the original application of the applicant, including his application to extend or renew, if any, and the written authorizations of the Anti-Terrorism Council shall be deemed and are hereby declared as classified information: Provided, That the person being surveilled or whose communications, letters, papers, messages, conversations, discussions, spoken or written words and effects have been monitored, listened to, bugged or recorded by law enforcement authorities has the right to be informed of the acts done by the law enforcement authorities in the premises or to challenge, if he or she intends to do so, the legality of the interference before the Court of Appeals which issued the written order. The written order of the authorizing division of the Court of Appeals shall specify the following: (a) the identity, such as name and address, if known, of the charged or suspected person whose communications, messages, conversations, discussions, or spoken or written words are to be tracked down, tapped, listened to, intercepted, and recorded and, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations or if the person suspected of the crime of terrorism or conspiracy to commit terrorism is not fully known, such person shall be subject to continuous surveillance

provided there is a reasonable ground to do so; (b) the identity (name, address, and the police or law enforcement organization) of the police or of the law enforcement official, including the individual identity (names, addresses, and the police or law enforcement organization) of the members of his team, judicially authorized to track down, tap, listen to, intercept, and record the communications, messages, conversations, discussions, or spoken or written words; (c) the offense or offenses committed, or being committed, or sought to be prevented; and, (d) the length of time within which the authorization shall be used or carried out.

SEC. 10. Effective Period of Judicial Authorization. – Any authorization granted by the authorizing division of the Court of Appeals, pursuant to Sec. 9 (d) of this Act, shall only be effective for the length of time specified in the written order of the authorizing division of the Court of Appeals, which shall not exceed a period of thirty (30) days from the date of receipt of the written order of the authorizing division of the Court of Appeals by the applicant police or law enforcement official.

The authorizing division of the Court of Appeals may extend or renew the said authorization for another non-extendible period, which shall not exceed thirty (30) days from the expiration of the original period: Provided, That the authorizing division of the Court of Appeals is satisfied that such extension or renewal is in the public interest: and Provided, further, That the ex parte application for extension or renewal, which must be filed by the original applicant, has been duly authorized in writing by the Anti-Terrorism Council.

In case of death of the original applicant or in case he is physically disabled to file the application for extension or renewal, the one next in rank to the original applicant among the members of the team named in the original written order of the authorizing division of the Court of Appeals shall file the application for extension or renewal: Provided, That, without prejudice to the liability of the police or law enforcement personnel under Section 20 hereof, the applicant police or law enforcement official shall have thirty (30) days after the termination of the period granted by the Court of Appeals as provided in the preceding paragraphs within which to file the appropriate case before the Public Prosecutor's Office for any violation of this Act.

If no case is filed within the thirty (30)-day period, the applicant police or law enforcement official shall immediately notify the person subject of the surveillance, interception and recording of the termination of the said surveillance, interception and recording. The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the applicant police or law enforcement official who fails to notify the person subject of the surveillance, monitoring, interception and recording as specified above.

SEC. 11. Custody of Intercepted and Recorded Communications. – All tapes, discs, and recordings made pursuant to the authorization of the authorizing division of the Court of Appeals, including all excerpts and summaries thereof as well as all written notes or memoranda made in connection therewith, shall, within forty-eight (48) hours after the expiration of the period fixed in the written order of the authorizing division of the Court of Appeals or within forty-eight (48) hours after the expiration of any extension or renewal granted by the authorizing division of the Court of Appeals, be deposited with the authorizing Division of the Court of Appeals in a sealed envelope or sealed

package, as the case may be, and shall be accompanied by a joint affidavit of the applicant police or law enforcement official and the members of his team.

In case of death of the applicant or in case he is physically disabled to execute the required affidavit, the one next in rank to the applicant among the members of the team named in the written order of the authorizing division of the Court of Appeals shall execute with the members of the team that required affidavit.

It shall be unlawful for any person, police officer or any custodian of the tapes, discs and recordings, and their excerpts and summaries, written notes or memoranda to copy in whatever form, to remove, delete, expunge, incinerate, shred or destroy in any manner the items enumerated above in whole or in part under any pretext whatsoever.

Any person who removes, deletes, expunges incinerates, shreds or destroys the items enumerated above shall suffer a penalty of not less than six (6) years and one day to twelve (12) years of imprisonment.

SEC. 12. Contents of Joint Affidavit. – The joint affidavit of the police or of the law enforcement official and the individual members of his team shall state: (a) the number of tapes, discs, and recordings that have been made, as well as the number of excerpts and summaries thereof and the number of written notes and memoranda, if any, made in connection therewith; (b) the dates and times covered by each of such tapes, discs, and recordings; (c) the number of tapes, discs, and recordings, as well as the number of excerpts and summaries thereof and the number of written notes and memoranda made in connection therewith that have been included in the deposit; and (d) the date of the original written authorization granted by the Anti-Terrorism Council to the applicant to file the ex parte application to conduct the tracking down, tapping, intercepting, and recording, as well as the date of any extension or renewal of the original written authority granted by the authorizing division of the Court of Appeals.

The joint affidavit shall also certify under oath that no duplicates or copies of the whole or any part of any of such tapes, discs, and recordings, and that no duplicates or copies of the whole or any part of any of such excerpts, summaries, written notes, and memoranda, have been made, or, if made, that all such duplicates and copies are included in the sealed envelope or sealed package, as the case may be, deposited with the authorizing division of the Court of Appeals.

It shall be unlawful for any person, police or law enforcement official to omit or exclude from the joint affidavit any item or portion thereof mentioned in this Section.

Any person, police or law enforcement officer who violates any of the acts proscribed in the preceding paragraph shall suffer the penalty of not less than ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 13. Disposition of Deposited Materials. – The sealed envelope or sealed package and the contents thereof, which are deposited with the authorizing division of the Court of Appeals, shall be deemed and are hereby declared classified information, and the sealed envelope or sealed package shall not be opened and its contents (including the tapes, discs, and recordings and all the excerpts and summaries thereof and the notes and memoranda made in connection therewith) shall not be divulged, revealed, read,

replayed, or used as evidence unless authorized by written order of the authorizing division of the Court of Appeals, which written order shall be granted only upon a written application of the Department of Justice filed before the authorizing division of the Court of Appeals and only upon a showing that the Department of Justice has been duly authorized in writing by the Anti-Terrorism Council to file the application with proper written notice the person whose conversation, communication, message discussion or spoken or written words have been the subject of surveillance, monitoring, recording and interception to open, reveal, divulge, and use the contents of the sealed envelope or sealed package as evidence.

Any person, law enforcement official or judicial authority who violates his duty to notify in writing the persons subject of the surveillance as defined above shall suffer the penalty of six (6) years and one day to eight (8) years of imprisonment.

SEC. 14. Application to Open Deposited Sealed Envelope or Sealed Package. – The written application with notice to the party concerned to open the deposited sealed envelope or sealed package shall clearly state the purpose or reason: (a) for opening the sealed envelope or sealed package; (b) for revealing or disclosing its classified contents; (c) for replaying, divulging, and or reading any of the listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words (including any of the excerpts and summaries thereof and any of the notes or memoranda made in connection therewith); and, (d) for using any of said listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words (including any of the excerpts and summaries thereof and any of the notes or memoranda made in connection therewith) as evidence.

Any person, law enforcement official or judicial authority who violates his duty to notify as defined above shall suffer the penalty of six (6) years and one day to eight (8) years of imprisonment.

SEC. 15. Evidentiary Value of Deposited Materials. – Any listened to, intercepted, and recorded communications, messages, conversations, discussions, or spoken or written words, or any part or parts thereof, or any information or fact contained therein, including their existence, content, substance, purport, effect, or meaning, which have been secured in violation of the pertinent provisions of this Act, shall absolutely not be admissible and usable as evidence against anybody in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

SEC. 16. Penalty for Unauthorized or malicious Interceptions and/or Recordings. – Any police or law enforcement personnel who, not being authorized to do so by the authorizing division of the Court of Appeals, tracks down, taps, listens to, intercepts, and records in whatever manner or form any communication, message, conversation, discussion, or spoken or written word of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

In addition to the liability attaching to the offender for the commission of any other offense, the penalty of ten (10) years and one day to twelve (12) years of imprisonment and the accessory penalty of perpetual absolute disqualification from public office shall

be imposed upon any police or law enforcement personnel who maliciously obtained an authority from the Court of Appeals to track down, tap, listen to, intercept, and record in whatever manner or form any communication, message, conversation, discussion, or spoken or written words of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism: Provided, That notwithstanding Section 13 of this Act, the party aggrieved by such authorization shall be allowed access to the sealed envelope or sealed package and the contents thereof as evidence for the prosecution of any police or law enforcement personnel who maliciously procured said authorization.

SEC. 17. Proscription of Terrorist Organizations, Association, or Group of Persons. – Any organization, association, or group of persons organized for the purpose of engaging in terrorism, or which, although not organized for that purpose, actually uses the acts to terrorize mentioned in this Act or to sow and create a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand shall, upon application of the Department of Justice before a competent Regional Trial Court, with due notice and opportunity to be heard given to the organization, association, or group of persons concerned, be declared as a terrorist and outlawed organization, association, or group of persons by the said Regional Trial Court.

SEC. 18. Period of Detention Without Judicial Warrant of Arrest. – The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any police or law enforcement personnel, who, having been duly authorized in writing by the Anti-Terrorism Council has taken custody of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said charged or suspected person to the proper judicial authority within a period of three (3) days counted from the moment the said charged or suspected person has been apprehended or arrested, detained, and taken into custody by the said police, or law enforcement personnel: Provided, That the arrest of those suspected of the crime of terrorism or conspiracy to commit terrorism must result from the surveillance under Section 7 and examination of bank deposits under Section 27 of this Act.

The police or law enforcement personnel concerned shall, before detaining the person suspected of the crime of terrorism, present him or her before any judge at the latter's residence or office nearest the place where the arrest took place at any time of the day or night. It shall be the duty of the judge, among other things, to ascertain the identity of the police or law enforcement personnel and the person or persons they have arrested and presented before him or her, to inquire of them the reasons why they have arrested the person and determine by questioning and personal observation whether or not the suspect has been subjected to any physical, moral or psychological torture by whom and why. The judge shall then submit a written report of what he/she had observed when the subject was brought before him to the proper court that has jurisdiction over the case of the person thus arrested. the judge shall forthwith submit his/her report within three (3) calendar days from the time the suspect was brought to his/her residence or office.

Immediately after taking custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, the police or law enforcement personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest: Provided, That where the arrest is made during Saturdays, Sundays, holidays or after

office hours, the written notice shall be served at the residence of the judge nearest the place where the accused was arrested.

The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the police or law enforcement personnel who fails to notify any judge as provided in the preceding paragraph.

SEC. 19. Period of Detention in the Event of an Actual or Imminent Terrorist Attack. – In the event of an actual or imminent terrorist attack, suspects may not be detained for more than three (3) days without the written approval of a municipal, city, provincial or regional official of a Human Rights Commission or judge of the municipal, regional trial court, the Sandiganbayan or a justice of the Court of Appeals nearest the place of the arrest. If the arrest is made during Saturdays, Sundays, holidays or after office hours, the arresting police or law enforcement personnel shall bring the person thus arrested to the residence of any of the officials mentioned above that is nearest the place where the accused was arrested. The approval in writing of any of the said officials shall be secured by the police or law enforcement personnel concerned within five (5) days after the date of the detention of the persons concerned: Provided, however, That within three (3) days after the detention the suspects, whose connection with the terror attack or threat is not established, shall be released immediately.

SEC. 20. Penalty for Failure to Deliver Suspect to the Proper Judicial Authority Within Three (3) Days. – The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any police or law enforcement personnel who has apprehended or arrested, detained and taken custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism and fails to deliver such charged or suspected person to the proper judicial authority within the period of three (3) days.

SEC. 21. Rights of a Person Under Custodial Detention. – The moment a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism is apprehended or arrested and detained, he shall forthwith be informed, by the arresting police or law enforcement officers or by the police or law enforcement officers to whose custody the person concerned is brought, of his or her right: (a) to be informed of the nature and cause of his arrest, to remain silent and to have competent and independent counsel preferably of his choice. If the person cannot afford the services of counsel of his or her choice, the police or law enforcement officers concerned shall immediately contact the free legal assistance unit of the Integrated Bar of the Philippines (IBP) or the Public Attorney's Office (PAO). It shall be the duty of the free legal assistance unit of the IBP or the PAO thus contacted to immediately visit the person(s) detained and provide him or her with legal assistance. These rights cannot be waived except in writing and in the presence of the counsel of choice; (b) informed of the cause or causes of his detention in the presence of his legal counsel; (c) allowed to communicate freely with his legal counsel and to confer with them at any time without restriction; (d) allowed to communicate freely and privately without restrictions with the members of his family or with his nearest relatives and to be visited by them; and, (e) allowed freely to avail of the service of a physician or physicians of choice.

SEC. 22. Penalty for Violation of the Rights of a Detainee. – Any police or law enforcement personnel, or any personnel of the police or other law enforcement custodial

unit that violates any of the aforesaid rights of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Unless the police or law enforcement personnel who violated the rights of a detainee or detainees as stated above is duly identified, the same penalty shall be imposed on the police officer or head or leader of the law enforcement unit having custody of the detainee at the time the violation was done.

SEC. 23. Requirement for an Official Custodial Logbook and Its Contents. – The police or other law enforcement custodial unit in whose care and control the person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism has been placed under custodial arrest and detention shall keep a securely and orderly maintained official logbook, which is hereby declared as a public document and opened to and made available for the inspection and scrutiny of the lawyer or lawyers of the person under custody or any member of his or her family or relative by consanguinity or affinity within the fourth civil degree or his or her physician at any time of the day or night without any form of restriction. The logbook shall contain a clear and concise record of: (a) the name, description, and address of the detained person; (b) the date and exact time of his initial admission for custodial arrest and detention; (c) the name and address of the physician or physicians who examined him physically and medically; (d) the state of his health and physical condition at the time of his initial admission for custodial detention; (e) the date and time of each removal of the detained person from his cell for interrogation or for any purpose; (f) the date and time of his return to his cell; (g) the name and address of the physician or physicians who physically and medically examined him after each interrogation; (h) a summary of the physical and medical findings on the detained person after each of such interrogation; (i) the names and addresses of his family members and nearest relatives, if any and if available; (j) the names and addresses of persons who visit the detained person; (k) the date and time of each of such visits; (l) the date and time of each request of the detained person to communicate and confer with his legal counsel or counsels; (m) the date and time of each visit, and date and time of each departure of his legal counsel or counsels; and, (n) all other important events bearing on and all relevant details regarding the treatment of the detained person while under custodial arrest and detention.

The said police or law enforcement custodial unit shall upon demand of the aforementioned lawyer or lawyers or members of the family or relatives within the fourth civil degree of consanguinity or affinity of the person under custody or his or her physician issue a certified true copy of the entries of the logbook relative to the concerned detained person without delay or restriction or requiring any fees whatsoever including documentary stamp tax, notarial fees, and the like. This certified true copy may be attested by the person who has custody of the logbook or who allowed the party concerned to scrutinize it at the time the demand for the certified true copy is made.

The police or other law enforcement custodial unit who fails to comply with the preceding paragraph to keep an official logbook shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 24. No Torture or Coercion in Investigation and Interrogation. – No threat, intimidation, or coercion, and no act which will inflict any form of physical pain or torment, or mental, moral, or psychological pressure, on the detained person, which shall vitiate his free-will, shall be employed in his investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism; otherwise, the evidence obtained from said detained person resulting from such threat, intimidation, or coercion, or from such inflicted physical pain or torment, or mental, moral, or psychological pressure, shall be, in its entirety, absolutely not admissible and usable as evidence in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

SEC. 25. Penalty for Threat, Intimidation, Coercion, or Torture in the Investigation and Interrogation of a Detained Person. – Any person or persons who use threat, intimidation, or coercion, or who inflict physical pain or torment, or mental, moral, or psychological pressure, which shall vitiate the free-will of a charged or suspected person under investigation and interrogation for the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of twelve (12) years and one day to twenty (20) years of imprisonment.

When death or serious permanent disability of said detained person occurs as a consequence of the use of such threat, intimidation, or coercion, or as a consequence of the infliction on him of such physical pain or torment, or as a consequence of the infliction on him of such mental, moral, or psychological pressure, the penalty shall be twelve (12) years and one day to twenty (20) years of imprisonment.

SEC. 26. Restriction on Travel. – In cases where evidence of guilt is not strong, and the person charged with the crime of terrorism or conspiracy to commit terrorism is entitled to bail and is granted the same, the court, upon application by the prosecutor, shall limit the right of travel of the accused to within the municipality or city where he resides or where the case is pending, in the interest of national security and public safety, consistent with Article III, Section 6 of the Constitution. Travel outside of said municipality or city, without the authorization of the court, shall be deemed a violation of the terms and conditions of his bail, which shall then be forfeited as provided under the Rules of Court.

He or she may also be placed under house arrest by order of the court at his or her usual place of residence.

While under house arrest, he or she may not use telephones, cellphones, e-mails, computers, the internet or other means of communications with people outside the residence until otherwise ordered by the court.

The restrictions abovementioned shall be terminated upon the acquittal of the accused or of the dismissal of the case filed against him or earlier upon the discretion of the court on motion of the prosecutor or of the accused.

SEC. 27. Judicial Authorization Required to Examine Bank Deposits, Accounts, and Records. – The provisions of Republic Act No. 1405 as amended, to the contrary notwithstanding, the justices of the Court of Appeals designated as a special court to handle anti-terrorism cases after satisfying themselves of the existence of probable cause

in a hearing called for that purpose that (1) a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, (2) of a judicially declared and outlawed terrorist organization, association, or group of persons, and (3) of a member of such judicially declared and outlawed organization, association, or group of persons, may authorize in writing any police or law enforcement officer and the members of his/her team duly authorized in writing by the anti-terrorism council to: (a) examine, or cause the examination of, the deposits, placements, trust accounts, assets and records in a bank or financial institution; and (b) gather or cause the gathering of any relevant information about such deposits, placements, trust accounts, assets, and records from a bank or financial institution. The bank or financial institution concerned shall not refuse to allow such examination or to provide the desired information, when so ordered by and served with the written order of the Court of Appeals.

SEC. 28. Application to Examine Bank Deposits, Accounts, and Records. – The written order of the Court of Appeals authorizing the examination of bank deposits, placements, trust accounts, assets, and records: (1) of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, (2) of any judicially declared and outlawed terrorist organization, association, or group of persons, or (3) of any member of such organization, association, or group of persons in a bank or financial institution, and the gathering of any relevant information about the same from said bank or financial institution, shall only be granted by the authorizing division of the Court of Appeals upon an ex parte application to that effect of a police or of a law enforcement official who has been duly authorized in writing to file such ex parte application by the Anti-Terrorism Council created in Section 53 of this Act to file such ex parte application, and upon examination under oath or affirmation of the applicant and the witnesses he may produce to establish the facts that will justify the need and urgency of examining and freezing the bank deposits, placements, trust accounts, assets, and records: (1) of the person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, (2) of a judicially declared and outlawed terrorist organization, association or group of persons, or (3) of any member of such organization, association, or group of persons.

SEC. 29. Classification and Contents of the Court Order Authorizing the Examination of Bank Deposits, Accounts, and Records. – The written order granted by the authorizing division of the Court of Appeals as well as its order, if any, to extend or renew the same, the original ex parte application of the applicant, including his ex parte application to extend or renew, if any, and the written authorizations of the Anti Terrorism Council, shall be deemed and are hereby declared as classified information: Provided, That the person whose bank deposits, placements, trust accounts, assets, and records have been examined, frozen, sequestered and seized by law enforcement authorities has the right to be informed of the acts done by the law enforcement authorities in the premises or to challenge, if he or she intends to do so, the legality of the interference. The written order of the authorizing division of the Court of Appeals designated to handle cases involving terrorism shall specify: (a) the identity of the said: (1) person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, (2) judicially declared and outlawed terrorist organization, association, or group of persons, and (3) member of such judicially declared and outlawed organization, association, or group of persons, as the case may be, whose deposits, placements, trust accounts, assets, and records are to be examined or the information to be gathered; (b) the identity of the bank or financial institution where such deposits, placements, trust accounts, assets, and

records are held and maintained; (c) the identity of the persons who will conduct the said examination and the gathering of the desired information; and, (d) the length of time the authorization shall be carried out.

SEC. 30. Effective Period of Court Authorization to Examine and Obtain Information on Bank Deposits, Accounts, and Records. – The authorization issued or granted by the authorizing division of the Court of Appeals to examine or cause the examination of and to freeze bank deposits, placements, trust accounts, assets, and records, or to gather information about the same, shall be effective for the length of time specified in the written order of the authorizing division of the Court of Appeals, which shall not exceed a period of thirty (30) days from the date of receipt of the written order of the authorizing division of the Court of Appeals by the applicant police or law enforcement official.

The authorizing division of the Court of Appeals may extend or renew the said authorization for another period, which shall not exceed thirty (30) days renewable to another thirty (30) days from the expiration of the original period, provided that the authorizing division of the Court of Appeals is satisfied that such extension or renewal is in the public interest, and provided further that the application for extension or renewal, which must be filed by the original applicant, has been duly authorized in writing by the Anti-Terrorism Council.

In case of death of the original applicant or in case he is physically disabled to file the application for extension or renewal, the one next in rank to the original applicant among the members of the team named in the original written order of the authorizing division of the Court of Appeals shall file the application for extension or renewal: Provided, That, without prejudice to the liability of the police or law enforcement personnel under Section 19 hereof, the applicant police or law enforcement official shall have thirty (30) days after the termination of the period granted by the Court of Appeals as provided in the preceding paragraphs within which to file the appropriate case before the Public Prosecutor's Office for any violation of this Act.

If no case is filed within the thirty (30)-day period, the applicant police or law enforcement official shall immediately notify in writing the person subject of the bank examination and freezing of bank deposits, placements, trust accounts, assets and records. The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the applicant police or law enforcement official who fails to notify in writing the person subject of the bank examination and freezing of bank deposits, placements, trust accounts, assets and records.

Any person, law enforcement official or judicial authority who violates his duty to notify in writing as defined above shall suffer the penalty of six (6) years and one day to eight (8) years of imprisonment.

SEC. 31. Custody of Bank Data and Information Obtained after Examination of Deposits, Placements, Trust Accounts, Assets and Records. – All information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and other documents obtained from the examination of the bank deposits, placements, trust accounts, assets and records of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism, (2) a judicially declared and outlawed

terrorist organization, association, or group of persons, or (3) a member of any such organization, association, or group of persons shall, within forty-eight (48) hours after the expiration of the period fixed in the written order of the authorizing division of the Court of Appeals or within forty-eight (48) hours after the expiration of the extension or renewal granted by the authorizing division of the Court of Appeals, be deposited with the authorizing division of the Court of Appeals in a sealed envelope or sealed package, as the case may be, and shall be accompanied by a joint affidavit of the applicant police or law enforcement official and the persons who actually conducted the examination of said bank deposits, placements, trust accounts, assets and records.

SEC. 32. Contents of Joint Affidavit. – The joint affidavit shall state: (a) the identifying marks, numbers, or symbols of the deposits, placements, trust accounts, assets, and records examined; (b) the identity and address of the bank or financial institution where such deposits, placements, trust accounts, assets, and records are held and maintained; (c) the number of bank deposits, placements, trust accounts, assets, and records discovered, examined, and frozen; (d) the outstanding balances of each of such deposits, placements, trust accounts, assets; (e) all information, data, excerpts, summaries, notes, memoranda, working sheets, reports, documents, records examined and placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals; (f) the date of the original written authorization granted by the Anti-Terrorism Council to the applicant to file the ex parte application to conduct the examination of the said bank deposits, placements, trust accounts, assets and records, as well as the date of any extension or renewal of the original written authorization granted by the authorizing division of the Court of Appeals; and (g) that the items enumerated were all that were found in the bank or financial institution examined at the time of the completion of the examination.

The joint affidavit shall also certify under oath that no duplicates or copies of the information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and documents acquired from the examination of the bank deposits, placements, trust accounts, assets and records have been made, or, if made, that all such duplicates and copies are placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals.

It shall be unlawful for any person, police officer or custodian of the bank data and information obtained after examination of deposits, placements, trust accounts, assets and records to copy, to remove, delete, expunge, incinerate, shred or destroy in any manner the items enumerated above in whole or in part under any pretext whatsoever.

Any person who copies, removes, deletes, expunges, incinerates, shreds or destroys the items enumerated above shall suffer a penalty of not less than six (6) years and one day to twelve (12) years of imprisonment.

SEC. 33. Disposition of Bank Materials. – The sealed envelope or sealed package and the contents thereof, which are deposited with the authorizing division of the Court of Appeals, shall be deemed and are hereby declared classified information, and the sealed envelope or sealed package shall not be opened and its contents shall not be divulged, revealed, read, or used as evidence unless authorized in a written order of the authorizing division of the Court of Appeals, which written order shall be granted only upon a written application of the Department of Justice filed before the authorizing division of

the Court of Appeals and only upon a showing that the Department of Justice has been duly authorized in writing by the Anti-Terrorism Council to file the application, with notice in writing to the party concerned not later than three (3) days before the scheduled opening, to open, reveal, divulge, and use the contents of the sealed envelope or sealed package as evidence.

Any person, law enforcement official or judicial authority who violates his duty to notify in writing as defined above shall suffer the penalty of six (6) years and one day to eight (8) years of imprisonment.

SEC. 34. Application to Open Deposited Bank Materials. – The written application, with notice in writing to the party concerned not later than three (3) days of the scheduled opening, to open the sealed envelope or sealed package shall clearly state the purpose and reason: (a) for opening the sealed envelope or sealed package; (b) for revealing and disclosing its classified contents; and, (c) for using the classified information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and documents as evidence.

SEC. 35. Evidentiary Value of Deposited Bank Materials. – Any information, data, excerpts, summaries, notes, memoranda, work sheets, reports, or documents acquired from the examination of the bank deposits, placements, trust accounts, assets and records of: (1) a person charged or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism, (2) a judicially declared and outlawed terrorist organization, association, or group of persons, or (3) a member of such organization, association, or group of persons, which have been secured in violation of the provisions of this Act, shall absolutely not be admissible and usable as evidence against anybody in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

SEC. 36. Penalty for Unauthorized or Malicious Examination of a Bank or a Financial Institution. – Any person, police or law enforcement personnel who examines the deposits, placements, trust accounts, assets, or records in a bank or financial institution of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism, (2) a judicially declared and outlawed terrorist organization, association, or group of persons, or (3) a member of such organization, association, or group of persons, without being authorized to do so by the Court of Appeals, shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

In addition to the liability attaching to the offender for the commission of any other offense, the penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any police or law enforcement personnel, who maliciously obtained an authority from the Court of Appeals to examine the deposits, placements, trust accounts, assets, or records in a bank or financial institution of: (1) a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism, (2) a judicially declared and outlawed terrorist organization, association, or group of persons, or (3) a member of such organization, association, or group of persons: Provided, That notwithstanding Section 33 of this Act, the party aggrieved by such authorization shall upon motion duly filed be allowed access to the sealed envelope or sealed package and

the contents thereof as evidence for the prosecution of any police or law enforcement personnel who maliciously procured said authorization.

SEC. 37. Penalty of Bank Officials and Employees Defying a Court Authorization. – An employee, official, or a member of the board of directors of a bank or financial institution, who refuses to allow the examination of the deposits, placements, trust accounts, assets, and records of: (1) a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism, (2) a judicially declared and outlawed terrorist organization, association, or group of persons, or (3) a member of such judicially declared and outlawed organization, association, or group of persons in said bank or financial institution, when duly served with the written order of the authorizing division of the Court of Appeals, shall be guilty of an offense and shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 38. Penalty for False or Untruthful Statement or Misrepresentation of Material Fact in Joint Affidavits. – Any false or untruthful statement or misrepresentation of material fact in the joint affidavits required respectively in Section 12 and Section 32 of this Act shall constitute a criminal offense and the affiants shall suffer individually the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 39. Seizure and Sequestration. – The deposits and their outstanding balances, placements, trust accounts, assets, and records in any bank or financial institution, moneys, businesses, transportation and communication equipment, supplies and other implements, and property of whatever kind and nature belonging: (1) to any person suspected of or charged before a competent Regional Trial Court for the crime of terrorism or the crime of conspiracy to commit terrorism; (2) to a judicially declared and outlawed organization, association, or group of persons; or (3) to a member of such organization, association, or group of persons shall be seized, sequestered, and frozen in order to prevent their use, transfer, or conveyance for purposes that are inimical to the safety and security of the people or injurious to the interest of the State.

The accused or a person suspected of may withdraw such sums as may be reasonably needed by the monthly needs of his family including the services of his or her counsel and his or her family's medical needs upon approval of the court. He or she may also use any of his property that is under seizure or sequestration or frozen because of his or her indictment as a terrorist upon permission of the court for any legitimate reason.

Any person who unjustifiably refuses to follow the order of the proper division of the Court of Appeals to allow the person accused of the crime of terrorism or of the crime of conspiracy to commit terrorism to withdraw such sums from sequestered or frozen deposits, placements, trust accounts, assets and records as may be necessary for the regular sustenance of his or her family or to use any of his or her property that has been seized, sequestered or frozen for legitimate purposes while his or her case is pending shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 40. Nature of Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Records. – The seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records belonging to a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism shall be deemed as property held in trust by the bank or financial institution for such person and the

government during the pendency of the investigation of the person suspected of or during the pendency of the trial of the person charged with any of the said crimes, as the case may be and their use or disposition while the case is pending shall be subject to the approval of the court before which the case or cases are pending.

SEC. 41. Disposition of the Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Record. – If the person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism is found, after his investigation, to be innocent by the investigating body, or is acquitted, after his arraignment or his case is dismissed before his arraignment by a competent court, the seizure, sequestration and freezing of his bank deposits, placements, trust accounts, assets and records shall forthwith be deemed lifted by the investigating body or by the competent court, as the case may be, and his bank deposits, placements, trust accounts, assets and records shall be deemed released from such seizure, sequestration and freezing, and shall be restored to him without any delay by the bank or financial institution concerned without any further action on his part. The filing of any appeal on motion for reconsideration shall not state the release of said funds from seizure, sequestration and freezing.

If the person charged with the crime of terrorism or conspiracy to commit terrorism is convicted by a final judgment of a competent trial court, his seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records shall be automatically forfeited in favor of the government.

Upon his or her acquittal or the dismissal of the charges against him or her, the amount of Five Hundred Thousand Pesos (P500,000.00) a day for the period in which his properties, assets or funds were seized shall be paid to him on the concept of liquidated damages. The amount shall be taken from the appropriations of the police or law enforcement agency that caused the filing of the enumerated charges against him or her.

SEC. 42. Penalty for Unjustified Refusal to Restore or Delay in Restoring Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Records. – Any person who unjustifiably refuses to restore or delays the restoration of seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records of a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism after such suspected person has been found innocent by the investigating body or after the case against such charged person has been dismissed or after he is acquitted by a competent court shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 43. Penalty for the Loss, Misuse, Diversion or Dissipation of Seized, Sequestered and Frozen Bank Deposits, Placements, Trust Accounts, Assets and Records. – Any person who is responsible for the loss, misuse, diversion, or dissipation of the whole or any part of the seized, sequestered and frozen bank deposits, placements, trust accounts, assets and records of a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

SEC. 44. Infidelity in the Custody of Detained Persons. – Any public officer who has direct custody of a detained person under the provisions of this Act and who by his deliberate act, misconduct, or inexcusable negligence causes or allows the escape of such

detained person shall be guilty of an offense and shall suffer the penalty of: (a) twelve (12) years and one day to twenty (20) years of imprisonment, if the detained person has already been convicted and sentenced in a final judgment of a competent court; and (b) six (6) years and one day to twelve (12) years of imprisonment, if the detained person has not been convicted and sentenced in a final judgment of a competent court.

SEC. 45. Immunity and Protection of Government Witnesses. – The provisions of Republic Act No. 6981 (Witness Protection, Security and Benefits Act) to the contrary notwithstanding, the immunity of government witnesses testifying under this Act shall be governed by Sections 17 and 18 of Rule 119 of the Rules of Court: Provided, however, That said witnesses shall be entitled to benefits granted to witnesses under said Republic Act No. 6981.

SEC. 46. Penalty for Unauthorized Revelation of Classified Materials. – The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon any person, police or law enforcement agent, judicial officer or civil servant who, not being authorized by the Court of Appeals to do so, reveals in any manner or form any classified information under this Act.

SEC. 47. Penalty for Furnishing False Evidence, Forged Document, or Spurious Evidence. – The penalty of twelve (12) years and one day to twenty (20) years of imprisonment shall be imposed upon any person who knowingly furnishes false testimony, forged document or spurious evidence in any investigation or hearing under this Act.

SEC. 48. Continuous Trial. - In cases of terrorism or conspiracy to commit terrorism, the judge shall set the case for continuous trial on a daily basis from Monday to Friday or other short-term trial calendar so as to ensure speedy trial.

SEC. 49. Prosecution Under This Act Shall Be a Bar to Another Prosecution Under the Revised Penal Code or Any Special Penal Laws. - When a person has been prosecuted under a provision of this Act, upon a valid complaint or information or other formal charge sufficient in form and substance to sustain a conviction and after the accused had pleaded to the charge, the acquittal of the accused or the dismissal of the case shall be a bar to another prosecution for any offense or felony which is necessarily included in the offense charged under this Act.

SEC. 50. Damages for Unproven Charge of Terrorism. – Upon acquittal, any person who is accused of terrorism shall be entitled to the payment of damages in the amount of Five Hundred Thousand Pesos (P500,000.00) for every day that he or she has been detained or deprived of liberty or arrested without a warrant as a result of such an accusation. The amount of damages shall be automatically charged against the appropriations of the police agency or the Anti-Terrorism Council that brought or sanctioned the filing of the charges against the accused. It shall also be released within fifteen (15) days from the date of the acquittal of the accused. The award of damages mentioned above shall be without prejudice to the right of the acquitted accused to file criminal or administrative charges against those responsible for charging him with the case of terrorism.

Any officer, employee, personnel, or person who delays the release or refuses to release the amounts awarded to the individual acquitted of the crime of terrorism as directed

in the paragraph immediately preceding shall suffer the penalty of six (6) months of imprisonment.

If the deductions are less than the amounts due to the detained persons, the amount needed to complete the compensation shall be taken from the current appropriations for intelligence, emergency, social or other funds of the Office of the President.

In the event that the amount cannot be covered by the current budget of the police or law enforcement agency concerned, the amount shall be automatically included in the appropriations of the said agency for the coming year.

SEC. 51. Duty to Record and Report the Name and Address of the Informant. - The police or law enforcement officers to whom the name of a suspect in the crime of terrorism was first revealed shall record the real name and the specific address of the informant.

The police or law enforcement officials concerned shall report the informant's name and address to their superior officer who shall transmit the information to the Congressional Oversight Committee or to the proper court within five (5) days after the suspect was placed under arrest or his properties were sequestered, seized or frozen.

The name and address of the informant shall be considered confidential and shall not be unnecessarily revealed until after the proceedings against the suspect shall have been terminated.

SEC. 52. Applicability of the Revised Penal Code. - The provisions of Book I of the Revised Penal Code shall be applicable to this Act.

SEC. 53. Anti-Terrorism Council. – An Anti-Terrorism Council, hereinafter referred to, for brevity, as the "Council," is hereby created. The members of the Council are: (1) the Executive Secretary, who shall be its chairperson; (2) the Secretary of Justice, 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; and (7) the National Security Advisor, as its other members.

The Council shall implement this Act and assume the responsibility for the proper and effective implementation of the anti-terrorism policy of the country. The Council shall keep records of its proceedings and decisions. All records of the Council shall be subject to such security classifications as the Council may, in its judgment and discretion, decide to adopt to safeguard the safety of the people, the security of the Republic, and the welfare of the nation.

The National Intelligence Coordinating Agency shall be the Secretariat of the Council. The Council shall define the powers, duties, and functions of the National Intelligence Coordinating Agency as Secretariat of the Council. The National Bureau of Investigation, the Bureau of Immigration, the Office of Civil Defense, the Intelligence Service of the Armed Forces of the Philippines, the Anti-Money Laundering Council, the Philippine Center on Transnational Crime, and the Philippine National Police intelligence and investigative elements shall serve as support agencies for the Council.

The Council shall formulate and adopt comprehensive, adequate, efficient, and effective anti-terrorism plans, programs, and counter-measures to suppress and eradicate terrorism in the country and to protect the people from acts of terrorism. Nothing herein shall be interpreted to empower the Anti-Terrorism Council to exercise any judicial or quasi-judicial power or authority.

SEC. 54. Functions of the Council. - In pursuit of its mandate in the previous Section, the Council shall have the following functions with due regard for the rights of the people as mandated by the Constitution and pertinent laws:

1. Formulate and adopt plans, programs and counter-measures against terrorists and acts of terrorism in the country;
2. Coordinate all national efforts to suppress and eradicate acts of terrorism in the country and mobilize the entire nation against terrorism proscribed in this Act;
3. Direct the speedy investigation and prosecution of all persons accused or detained for the crime of terrorism or conspiracy to commit terrorism and other offenses punishable under this Act, and monitor the progress of their cases;
4. Establish and maintain comprehensive data-base information systems on terrorism, terrorist activities, and counter-terrorism operations;
5. Freeze the funds property, bank deposits, placements, trust accounts, assets and records belonging to a person suspected of or charged with the crime of terrorism or conspiracy to commit terrorism, pursuant to Republic Act No. 9160 otherwise known as the Anti-Money Laundering Act of 2001, as amended;
6. Grant monetary rewards and other incentives to informers who give vital information leading to the apprehension, arrest, detention, prosecution, and conviction of person or persons who are liable for the crime of terrorism or conspiracy to commit terrorism;
7. Establish and maintain coordination with and the cooperation and assistance of other nations in the struggle against international terrorism; and
8. Request the Supreme Court to designate specific divisions of the Court of Appeals and regional trial courts in Manila, Cebu City and Cagayan de Oro City, as the case may be, to handle all cases involving the crime of terrorism or conspiracy to commit terrorism and all matters incident to said crimes. The Secretary of Justice shall assign a team of prosecutors from: (a) Luzon to handle terrorism cases filed in the regional trial court in Manila; (b) from the Visayas to handle cases filed in Cebu City; and (c) from Mindanao to handle cases filed in Cagayan de Oro City.

SEC. 55. Role of the Commission on Human Rights. - The Commission on Human Rights shall give the highest priority to the investigation and prosecution of violations of civil and political rights of persons in relation to the implementation of this Act; and for this purpose, the Commission shall have the concurrent jurisdiction to prosecute public officials, law enforcers, and other persons who may have violated the civil and political rights of persons suspected of, accused of, or detained for the crime of terrorism or conspiracy to commit terrorism.

SEC. 56. Creation of a Grievance Committee. - There is hereby created a Grievance Committee composed of the Ombudsman, as chair, and the Solicitor General, and an undersecretary from the Department of Justice (DOJ), as members, to receive and evaluate complaints against the actuations of the police and law enforcement officials in the implementation of this Act. The Committee shall hold office in Manila.

The Committee shall have three (3) subcommittees that will be respectively headed by the Deputy Ombudsmen in Luzon, the Visayas and Mindanao. The subcommittees shall respectively hold office at the Offices of Deputy Ombudsmen. Three (3) Assistant Solicitors General designated by the Solicitor General, and the regional prosecutors of the DOJ assigned to the regions where the Deputy Ombudsmen hold office shall be members thereof. The three (3) subcommittees shall assist the Grievance Committee in receiving, investigating and evaluating complaints against the police and other law enforcement officers in the implementation of the Act. If the evidence warrants it, they may file the appropriate cases against the erring police and law enforcement officers. Unless seasonably disowned or denounced by the complainants, decisions or judgments in the said cases shall preclude the filing of other cases based on the same cause or causes of action as those that were filed with the Grievance Committee or its branches.

SEC. 57. Ban on Extraordinary Rendition. - No person suspected or convicted of the crime of terrorism shall be subjected to extraordinary rendition to any country unless his or her testimony is needed for terrorist related police investigations or judicial trials in the said country and unless his or her human rights, including the right against torture, and right to counsel, are officially assured by the requesting country and transmitted accordingly and approved by the Department of Justice.

SEC. 58. Extra-Territorial Application of this Act. - Subject to the provision of an existing treaty of which the Philippines is a signatory and to any contrary provision of any law of preferential application, the provisions of this Act shall apply: (1) to individual persons who commit any of the crimes defined and punished in this Act within the terrestrial domain, interior waters, maritime zone, and airspace of the Philippines; (2) to individual persons who, although physically outside the territorial limits of the Philippines, commit, conspire or plot to commit any of the crimes defined and punished in this Act inside the territorial limits of the Philippines; (3) to individual persons who, although physically outside the territorial limits of the Philippines, commit any of the said crimes on board Philippine ship or Philippine airship; (4) to individual persons who commit any of said crimes within any embassy, consulate, or diplomatic premises belonging to or occupied by the Philippine government in an official capacity; (5) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes against Philippine citizens or persons of Philippine descent, where their citizenship or ethnicity was a factor in the commission of the crime; and (6) to individual persons who, although physically outside the territorial limits of the Philippines, commit said crimes directly against the Philippine government.

SEC. 59. Joint Oversight Committee. - There is hereby created a Joint Oversight Committee to oversee the implementation of this Act.

The Oversight Committee shall be composed of five (5) members each from the Senate and the House in addition to the Chairs of the Committees of Public Order of both Houses who shall also Chair the Oversight Committee in the order specified herein. The

membership of the Committee for every House shall at least have two (2) opposition or minority members. The Joint Oversight Committee shall have its own independent counsel.

The Chair of the Committee shall rotate every six (6) months with the Senate chairing it for the first six (6) months and the House for the next six (6) months. In every case, the ranking opposition or minority member of the Committee shall be the Vice Chair.

Upon the expiration of one year after this Act is approved by the President, the Committee shall review the Act particularly the provisions that authorize the surveillance of suspects of or persons charged with the crime of terrorism. To that end, the Committee shall summon the police and law enforcement officers and the members of the Anti-Terrorism Council and require them to answer questions from the members of Congress and to submit a written report of the acts they have done in the implementation of the law including the manner in which the persons suspected of or charged with the crime of terrorism have been dealt with in their custody and from the date when the movements of the latter were subjected to surveillance and his or her correspondences, messages, conversations and the like were listened to or subjected to monitoring, recording and tapping.

Without prejudice to its submitting other reports, the Committee shall render a semi-annual report to both Houses of Congress. The report may include where necessary a recommendation to reassess the effects of globalization on terrorist activities on the people, provide a sunset clause to or amend any portion of the Act or to repeal the Act in its entirety.

The courts dealing with anti-terrorism cases shall submit to Congress and the President a report every six (6) months of the status of anti-terrorism cases that have been filed with them starting from the date this Act is implemented.

SEC. 60. Separability Clause. - If for any reason any part or provision of this Act is declared unconstitutional or invalid, the other parts or provisions hereof which are not affected thereby shall remain and continue to be in full force and effect.

SEC. 61. Repealing Clause. - All laws, decrees, executive orders, rules or regulations or parts thereof, inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 62. Special Effectivity Clause. - After the bill shall have been signed into law by the President, the Act shall be published in three (3) newspapers of national circulation; three (3) newspapers of local circulation, one each in Ilocos Norte, Baguio City and Pampanga; three (3) newspapers of local circulation, one each in Cebu, Iloilo and Tacloban; and three (3) newspapers of local circulation, one each in Cagayan de Oro, Davao and General Santos City.

The title of the Act and its provisions defining the acts of terrorism that are punished shall be aired everyday at primetime for seven (7) days, morning, noon and night over three (3) national television and radio networks; three (3) radio and television networks, one each in Cebu, Tacloban and Iloilo; and in five (5) radio and television networks, one each in Lanao del Sur, Cagayan de Oro, Davao City, Cotabato City and Zamboanga

City. The publication in the newspapers of local circulation and the announcements over local radio and television networks shall be done in the dominant language of the community.

After the publication required above shall have been done, the Act shall take effect two (2) months after the elections are held in May 2007.

Thereafter, the provisions of this Act shall be automatically suspended one month before and two months after the holding of any election.

Approved,

sgd.
JOSE DE VENEZIA, JR.
Speaker of the House of Representatives

sgd.
MANNY VILLAR
President of the Senate

This Act which is a consolidation of Senate Bill No. 2137 and House Bill No. 4839 was finally passed by the Senate and the House of Representatives on February 8, 2007 and February 19, 2007, respectively.

sgd.
ROBERTO P. NAZARENO
Secretary General, House of Representatives

sgd.
OSCAR G. YABES
Secretary of the Senate

Approved: March 6, 2007

sgd.
GLORIA MACAPAGAL-ARROYO
President of the Philippines

Legal Rights and Natural Resources Center, Inc. –
Kasama sa Kalikasan/Friends of the Earth – Philippines
(LRC-KsK/FoE-Phils.)

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