

**A CONTENT ANALYSIS OF THE HUMAN SECURITY ACT OF 2007-
REPUBLIC ACT 9372: ITS IMPLICATION TO THE
CRIMINAL JUSTICE SYSTEM**

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ABSTRACT

"We will not enjoy security without development, we will not enjoy development without security, and we will not enjoy either without respect for human rights."—UN Secretary-General Kofi Annan

The Human Security Act of 2007 was enacted in the exercise of the police power of the state. Such inherent power however, though ever growing and expanding cannot grow faster than the fundamental law of the state, nor violate the express inhibition of the people's law - the Constitution. It will be an irony if through the Human Security Act, the Filipino people would rather lose the well-treasured liberty.

The purpose of this study was to expose the provisions in the HSA which are vague when applied and to explain its effect to the Constitutional rights. While there is certainly a need for vigilance to prevent terrorism, it will be self-defeating if other priorities such as human rights will be sacrificed in the process.

This study thus aimed to begin work in clearly identifying HSA vague provisions by exploring and understanding the law itself and the spirit of the law.

Using information provided in the Legislative Journal, official publications, on-line resources and numerous articles, the data gathered were analyzed in order to assess the probable impact and legal implications of said provisions and

to make a recommendation that would help in interpreting and construing the provisions of RA 9372.

This study found out that the following are the provisions of RA 9372 which are vague and lacks comprehensible standards where men of common intelligence must necessarily guess at its meaning and differ as to its application:

- a. Section 3 where terrorism is not clearly defined;
- b. Section 4, defining conspiracy, is likewise overbroad;
- c. Section 16 violates due as persons under surveillance or wiretapping are barred from participating in the proceeding to the detriment of their life and liberty. They are not informed of the application or any such authorization order against them or allowed to contest such application;
- d. Section 17 which allows RTC to declare a group of persons to be a "terrorist and outlawed" based on vague definition of terrorism in article 3;
- e. Section 18 expressly stipulates the period of detention without judicial warrant of and authorizes the police or law enforcement personnel who take custody of a suspect are required to "deliver said charged or suspected person to the proper judicial authority within a period of three days and it extends the detention without judicial warrant to three days;
- f. Section 19 sets no express limit to the allowable period of detention in such cases and this is not an issue of numbers, but the fundamental principle of people being detained on mere suspicion of involvement in a terrorist attack that is yet to happen;
- g. Section 26 provides that persons who have been charged with terrorism or conspiracy to commit terrorism even granted bail can be detained under house arrest, restricted from travelling, and/or, prohibited from using any cellular phones, computers or other means of

communicating with people outside their residence; h. Section 28 provides that those “suspected of the crime of terrorism or conspiracy to commit terrorism” could result in the examination of one’s bank “deposits, placements, trust accounts, assets, and record”. This covered R.A. 1405 but not R.A. 6426 which covers foreign currency deposits, thus terrorists would be prompted or alerted to convert their account in the Philippine currency to foreign currency to evade the examination of their bank accounts; i. Section 39 makes people guilty of association because their properties could be seized, sequestered or frozen just for being members of outlawed organizations; j. Section 50 provides damages for unproven charge of terrorism but it does not erase the fact that his or her civil and political rights have been violated. Given the culture of impunity in which the killings of activists and journalists happen, the authorities could be prompted to just summarily execute the wrongly accused so that they do not have to pay the P500,000 penalty for every day of detention.

The framers of the HSA may have the best intentions to protect the people from terrorism but it must understand the role of human rights as empowering of individuals and communities. By protecting these rights, we can help prevent the many conflicts based on poverty, discrimination and exclusion (social, economic and political) that continue to plague humanity and destroy decades of development efforts. The vicious circle of human rights violations that lead to conflicts-which in turn lead to more violations-must be broken. It can be broken by ensuring respect for all human rights as stated by former United Nations High Commissioner for Human Rights, Mary Robinson.