Republic of the Philippines
SUPREME COURT
Manila

[filed 16 July 2007]

En Banc

Copy No. ____

SOUTHERN HEMISPHERE ENGAGEMENT NETWORK INC. on behalf of the SOUTH-SOUTH NETWORK (SSN) FOR NON-STATE ARMED GROUP ENGAGEMENT, AND ATTY. SOLIMAN M. SANTOS, JR.;
Petitioners

G.R. No. 178552

- versus -

For CERTIORARI & PROHIBITION
with Prayer for INJUNCTIVE RELIEF

ANTI-TERRORISM COUNCIL, THE EXECUTIVE SECRETARY, THE SECRETARY OF JUSTICE, THE SECRETARY OF FOREIGN AFFAIRS, THE SECRETARY OF NATIONAL DEFENSE, THE SECRTARY OF THE INTERIOR AND LOCAL GOVERNMENT, THE SECRETARY OF FINANCE, THE NATIONAL SECURITY ADVISER, THE CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES, AND THE CHIEF OF THE PHILIPPINE NATIONAL POLICE;
Respondents

X ---------- x

PETITION ON THE UNCONSTITUTIONALITY OF AND THE GRAVE ABUSE OF DISCRETION IN THE APPROVAL OF THE "HUMAN SECURITY ACT OF 2007"

PETITIONER through counsel respectfully sets forth:

"For the international community to do anything resolutely against terrorism, policymakers have to move on. And the best step forward is to begin by defining terrorism. This is a logical first step, much as a physician has to diagnose a patient before prescribing the appropriate treatment."

- Malaysian journalist Bunn Nagara of *The Star*, writing on the Special Session of the Organization of the Islamic Conference (OIC) on 1-3 April 2002 in Kuala Lumpur which failed to reach a consensus on the definition of terrorism

NATURE OF THE PETITION

This is a petition for certiorari and prohibition under Rule 65 of the Rules of Court, with prayer for the injunctive relief of temporary restraining order and/or writ of preliminary injunction, seeking that (a) Republic Act No. 9372, "An Act to Secure the State and Protect Our People from Terrorism," known as the "Human Security Act of 2007" be annulled for being unconstitutional and for being approved with grave abuse of discretion; (b) respondents be commanded to desist from implementing the said Act; and (c) in the meantime, respondents be temporarily restrained, enjoined or otherwise required to refrain from implementing the said Act, including the drafting of implementing rules and regulations. The substantive issue here is both the unconstitutionality of the said Act and the grave abuse of discretion in its approval.

IMPORTANT PRELIMINARY STATEMENT

In arguing this unconstitutionality and grave abuse of discretion issue, we focus only on the first three Sections of the "Human Security Act of 2007," particularly on the gravely flawed definition of terrorism (Sec. 3), the confusion with crimes against humanity (Sec. 2), and the misappropriation of the term/concept of human security (Sec. 1). These flaws, especially in the definition of terrorism, leave the rest of the said Act with no proper or cogent legal foundation to stand on. The same might be said of any implementing rules and regulations – before any effort to draft these, we better first make sure their foundation is right. The legal situation is or would be like that of the proverbial "fruits of a poisoned tree."

And this is why this petition will no longer cover the other sections of the said Act that may also be unconstitutional for being in violation of constitutional and human rights. We imagine that other petitions will surely cover that latter aspect. If the government is to be believed, the new law is actually a "human rights law… There are 59 [or 63, in other news reports] provisions on human rights protection," including the provision that "strictly" prohibits torture and 22 provisions imposing penalties for law enforcers who abuse this law, with only four provisions against the terrorists.[1] Precisely, our point is that, even granting that there are proper and sufficient human rights safeguards in the law, there is a grave problem in the very definition of the crime, to start with, which the law purportedly seeks to secure the state and protect our people from.

Let it be clear that terrorism itself is a grave violation of human rights, including the most basic *right to life* and fundamental *freedom from fear*. It is a very real problem in the world and in our country, as real as the thousands of innocent civilian victims of various bombings and other acts of terrorism. This is why we believe that there ought to be a law on terrorism in the same way that there ought to be a law on war crimes, genocide, crimes against humanity, torture and enforced disappearances, in the same way that there is a law on rebellion and other political offenses, in the same way that there is a law on murder and other common crimes. But let it be a law that properly defines (and penalizes) terrorism, aside from upholding human rights and the rule of law in combating terrorism. The "Human Security Act

[1] Various recent news reports quoting Defense Undersecretary Ricardo Blancaflor, spokesperson of the Anti-Terrorism Council.

of 2007," with its flawed definition of terrorism, will instead even prejudice the legitimate fight against terrorism.

PARTIES

1. PETITIONER SOUTHERN HEMISPHERE ENGAGEMENT NETWORK INC. is a SEC-registered (No. CN2006099450) NGO (***Annex A*** - SEC Certificate of Incorporation) which serves as the Philippine secretariat of the relatively new Filipino-led global initiative called SOUTH-SOUTH NETWORK (SSN) FOR NON-STATE ARMED GROUP ENGAGEMENT (www.southnetwork.org). This includes the constructive engagement of rebel groups in peace processes, human rights, international humanitarian law and other areas of human security. This has become more difficult as well as more necessary in the current post-9/11 era of terrorism and counter-terrorism. SSN seeks to present and support alternative ways of thinking counter-hegemonic to the dominant anti-terrorism analysis and discourse. This includes a human rights approach to terrorism: viewing it as a human rights violation while at the same time upholding human rights as an essential element of counter-terrorism strategy.

2. PETITIONER ATTY. SOLIMAN M. SANTOS, JR. is a concerned citizen taxpayer and a member in good standing of the Integrated Bar of the Philippines (Attorney's Roll No. 32334), Camarines Sur Chapter. He is a human rights lawyer, peace advocate, legal scholar, legislative consultant, and writer/book author. His LL.M. course at the University of Melbourne included a subject on International Criminal Law. He has

written several published articles on the legal definition of terrorism[2] and made policy prescriptions on terrorism in his co-authored and award-winning *Philippine Human Development Report 2005*.[3] He is currently Vice-Chair for NGOs of the Philippine National Red Cross (PNRC) IHL National Committee, Regional Focal Point for Asia of the South-South Network (SSN), and President of the petitioner NGO Southern Hemisphere Engagement Network Inc.

3. BOTH PETITIONERS (1 & 2 above) may be served with notices, papers and court processes at their common office address: 18 Mariposa St., Cubao, Quezon City.

4. On the matter of *locus standi* (legal standing) of the petitioners, suffice it to state "that the issues raised are of transcendental importance which must be settled early" and that there are "far-reaching implications" of the Petition and the questioned Act itself, which also involves disbursement of public funds.[4]

5. RESPONDENTS are the body and the high government officials mainly involved in the implementation of the questioned Act. All but the last two are the designated members of the Anti-Terrorism Council created under Sec. 53 of the questioned Act with a mandate "to implement this Act." The last two, while not members of that Council, will perforce be involved in the implementation because of the nature of their offices and mandates.

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[2] "Terrorism: a question of legal definition" (9/9/02) and "Terrorism: an emerging definition and framework for handling it" (9/11/05).

[3] *Philippine Human Development Report 2005: Peace, Human Security and Human Development in the Philippines* (Quezon City: Human Development Network, 2005) 40-42. This was recently awarded the National Academy of Science and Technology (NAST) Outstanding Book Award for 2007. It is available online at the Human Development Network website www.hdn.org.ph.

[4] See esp. *Prof. Randolf S. David vs. Pres. Gloria Macapagal-Arroyo*, G.R. No. 171409, May 03, 2006, Decision at pp. 21-29 (loose-leaf version); also at pp. 115-23 of the Supreme Court Public Information Office publication *The Supreme Court Speaks: In Defense of Liberty*.

For simplicity in notification, it may suffice to serve notices, papers and court processes to RESPONDENT EXECUTIVE SECRETARY who is the Chairperson of the RESPONDENT COUNCIL, at his office address in Mabini Hall, Malacanang, Manila. Alternatively, additional notices might be sent to the last two respondents, who are non-members of the Council, RESPONDENT CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES with office address at Headquarters, Armed Forces of the Philippines, Camp Aguinaldo, Quezon City, and RESPONDENT CHIEF OF THE PHILIPPINE NATIONAL POLICE with office address at Headquarters, Philippine National Police, Camp Crame, Quezon City.

MATERIAL DATES AND ANNEXES

The questioned "Human Security Act of 2007," which was a consolidation of Senate Bill No. 2137 and House Bill No. 4839, was finally passed by the Senate on February 8, 2007, by the House of Representatives on February 19, 2007, and approved by President Gloria Macapagal-Arroyo on March 6, 2007. By its Special Effectivity Clause (Sec. 62) and executive pronouncements in the media, it takes effect today, 15 July 2007.

A certified true photocopy of the questioned Act is attached as ***Annex B***, with the original certified true photocopy attached to Copy No. 1 of this Petition. This is the only *material* annex required for this Petition, even as there are other attached annexes which are indicated in the relevant portions of this Petition.

FACTS AND CAUSE OF ACTION

1. The facts stated in the preceding section on “Material Dates and Annexes” are hereby adopted and incorporated herein.

2. The implementation of the questioned “Human Security Act of 2007” is already underway as of today, 15 July 2007.

3. But the said Act is unconstitutional as well as approved with grave abuse of legislative and executive discretion, as we shall argue below.

4. There is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law. In the meantime, there is need for injunctive relief against the implementation of an unconstitutional law which has far-reaching implications and involves issues of transcendental importance.

5. Petitioners, and others similarly situated, the entire citizenry in fact, are entitled to the relief demanded. Thus, this Petition.

ISSUE

WHETHER THE “HUMAN SECURITY ACT OF 2007,” AT LEAST IN ITS SECTIONS 1 TO 3, IS UNCONSTITUTIONAL AND/OR WAS APPROVED WITH GRAVE ABUSE OF DISCRETION FOR VIOLATING:

- THE DUE PROCESS CLAUSE
- THE EQUAL PROTECTION CLAUSE
- THE INCORPORATION CLAUSE
- THE TREATY CLAUSE
- THE INTERNATIONAL COOPERATION CLAUSE
- THE PEOPLE’S RIGHT TO PUBLIC INFORMATION

ARGUMENTS

I. THE DEFINITION OF TERRORISM IN SECTION 3 OF THE “HUMAN SECURITY ACT OF 2007” VIOLATES THE DUE PROCESS, EQUAL PROTECTION, INCORPORATION, TREATY AND INTERNATIONAL COOPERATION CLAUSES OF THE CONSTITUTION

The "Human Security Act of 2007" (hereinafter, HSA, for brevity) defines terrorism as follows:

> SEC. 3. *Terrorism* – Any person who 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. Art. 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…

Substantive due process under the Constitution's Article III, Section 1 is, first and foremost, a prohibition of arbitrary laws.[5] And the HSA is arbitrary because it disregards the best possible legal guidance, from international law as well as Philippine constitutional law, in its definition of terrorism. The transcendental importance of this matter, with implications for the deprivation of life, liberty or property, demands nothing less. Because the HSA's definition of the crime of terrorism is flawed, it violates due process for failure in effect to accord all concerned fair notice of what is

[5] Joaquin G. Bernas, S.J., The 1987 Philippine Constitution: A Reviewer-Primer (Manila: Rex Book Store, Inc., 4th ed., 2002) 31.

prohibited. It thus leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle.[6]

In an ideal world, the HSA should have been formulated after a comprehensive international (UN) convention on terrorism with an internationally accepted definition of the term. But this is not an ideal world and nations or states like the Philippines do have to act in response to situations which require the maintenance peace and order, and the protection of the life, liberty and property of the people.[7] Still, there is such a thing as "the next best thing"…

<u>An Emerging International Legal Definition of Terrorism</u>

In the context of our discussion, this is the definition of terrorism formulated in the UN Report *A more secure world: our shared responsibility* by the UN High Level Panel on Threats, Challenges and Change officially endorsed by the then UN Secretary-General Kofi Annan with his covering Note of 2 December 2004 to the 59th session of the UN General Assembly[8] (see ***Annex C*** – the first page Note by the Secretary-General AND pp. 48-49 with paragraphs 157-164 under the sub-heading "4. Defining terrorism"). We quote the last two paragraphs, including key paragraph 164:

> 163. Nevertheless, we believe there is particular value in achieving a consensus definition within the General Assembly, given its unique legitimacy in normative terms, and that it should rapidly complete negotiations on a comprehensive convention on terrorism.
>
> 164. **That definition of terrorism should include the following elements:**
>
> (a) Recognition, in the preamble, that State use of force against civilians is regulated by the Geneva Conventions and other instruments, and, if of sufficient scale, constitutes a war crime by the persons concerned or a crime against humanity;

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[6] See *People vs. de la Piedra*, G.R. No. 121777, January 24, 2001.
[7] See the Constitution, Article II, Sections 3-5, not to mention the inherent police power of the state.
[8] UN Doc A/59/565.

> (b) Restatement that acts under the 12 preceding anti-terrorism conventions are terrorism, and a declaration that they are a crime under international law; and restatement that terrorism in time of armed conflict is prohibited by the Geneva Conventions and Protocols;
>
> (c) Reference to the definitions contained in the 1999 International Convention for the Suppression of the Financing of Terrorism and Security Council resolution 1566 (2004);
>
> (d) **Description of terrorism as "any action**, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolution 1566 (2004), **that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act."** (bold face supplied)

Note first the mention of "12 preceding anti-terrorism conventions." These are existing and binding multilateral conventions on terrorism. But none by itself has a generally accepted single inclusive definition of terrorism. Former International Law Commission (ILC) member Raul I. Goco of the Philippines once pointed out that each of these conventions, which relates to various aspects of the problem, describes only the particular or specific acts or subject-matter covered by it. These are aircraft hijacking and sabotage, crimes against internationally protected persons including diplomatic agents, hostage-taking, physical protection of nuclear material, airport violence, acts against maritime navigation safety, acts against the safety of fixed platforms on the continental shelf, terrorist bombings, and terrorist financing.

Still, as quoted above, the UN High Level Panel recommends the inclusion of specific acts under these 12 anti-terrorism conventions in a comprehensive definition of terrorism. The Panel also recommends specific "reference to the definitions contained in the 1999 International Convention

for the Suppression of the Financing of Terrorism and Security Council resolution 1566 (2004)."

Now, in the 1999 *International Convention for the Suppression of the Financing of Terrorism*, the general definition referred to is found in Article 2, paragraph 1 (b):

> **Any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.** (bold face supplied)

And in the preceding paragraph 1(a) of the same Article 2, what is included is "An act which constitutes an offence within the scope of and as defined in one of the treaties list in the annex." These are nine earlier anti-terrorism conventions. Two others would come after 1999, to make the current total of 12. Most of these have been **ratified by the Philippines**, including significantly this *1999 International Convention for the Suppression of the Financing of Terrorism* with quoted the general definition.[9]

As for Security Council resolution 1566 (2004) adopted on 8 October 2004[10] (***Annex D***), it contains this general definition of terrorism in its paragraph 3:

> …**criminal acts**, including against civilians, committed with the intent to cause death or serious bodily injury, or taking of hostages, with the purpose to provoke a **state of terror** in the general public or in a group of persons or particular persons, intimidate a population or compel a government or an international organization to do or to abstain from doing any act, **which constitute offences within the scope of and as defined in the international conventions and protocols relating to terrorism**… (bold face supplied)

<u>"Acts of Terrorism" in the Geneva Conventions and Protocols</u>

[9] See Senate Resolution No. 85 of October 14, 2003 Concurring in the Ratification of the International Convention for the Suppression of the Financing of Terrorism.
[10] UN Doc S/RES/1566 (2004).

Among those international conventions and protocols, aside from the 12 anti-terrorism conventions, are the Geneva Conventions and Protocols, as are in fact referred to by the UN High Level Panel quoted above. The Geneva Conventions and Protocols are the core treaties of international humanitarian law (IHL). Though IHL applies to situations of armed conflict or during wartime, the idea that it "can provide guidance to the legal approach to terrorism in peacetime" was first broached by the long-time editor of the *International Review of the Red Cross* Hans-Peter Gasser as early as 1985 in a paper entitled "Prohibition of terrorist acts in international humanitarian law."

> The [Fourth] *Geneva Convention* ***Relative to the Protection of Civilian Persons in Time of War*** *of August 12, 1949,* Article 33 provides, among others, that "Collective penalties and likewise **all measures of intimidation or of terrorism are prohibited**." (bold face supplied) The 1977 *Additional Protocol II* ***Relating to the Protection of Victims of Non-International Armed Conflicts***, Article 4, paragraph 2(d) prohibits **"acts of terrorism."** (bold face supplied)
>
> The authoritative international legal commentary on the latter says that such "prohibition of acts of terrorism with no further detail, covers not only acts directed against people, but also acts directed against installations which would cause victims as a side-effect."[11]
>
> But it is the 1977 *Additional Protocol I* ***Relating to the Protection of Victims of International Armed Conflicts***, Article 51, paragraph 2 and the

[11] Yves Sandoz, Christophe Swinarski, and Bruno Zimmerman (eds.), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva: Martinus Nijhoff Publishers, 1987) 1375.

identical Article 13, paragraph 2 of Protocol II which may be said to elaborate on the term "terrorism" and thus provide a core legal framework for a definition of terrorism. The said identical provisions for both international and non-international armed conflicts read as follows:

> The civilian population as such, as well as individual **civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population** are prohibited. (bold face supplied)

The authoritative international legal commentary on the second sentence is instructive:

> … the Conference wished to indicate that **the prohibition covers acts intended to spread terror**; there is no doubt that acts of violence related to a state of war almost always give rise to some degree of terror among the population and sometimes also among the armed forces. It also happens that attacks on armed forces are purposely conducted brutally in order to intimidate the enemy soldiers and persuade them to surrender. This is not the sort of terror envisaged here. **This provision is intended to prohibit acts of violence the primary purpose of which is to spread terror among the civilian population without offering substantial military advantage.** It is interesting to note that threats of such acts are also prohibited. This calls to mind some of the proclamations made in the past threatening the annihilation of civilian populations.[12] (bold face supplied)

Not only has the Philippines ratified the four Geneva Conventions of August 12, 1949 in 1952, signed Protocol I in 1977 and acceded to Protocol II in 1986, the Supreme had also earlier ruled in the 1949 case of ***Kuroda vs. Jalandoni*** (83 Phil. 171) that "the rules and regulations of the Hague and Geneva conventions form part of and are wholly based on the generally accepted principles of international law… Such rules and principles, therefore, form part of the law of our nation *even if the Philippines was not a signatory to the conventions embodying them*." (italics supplied) There is more in the ***Kuroda*** Decision that merits revisitation later.

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[12] Sandoz, *Commentary on the Additional Protocols* 618.

In fact, the particular rule that **"Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited"** is established as a norm of *customary international law* applicable in both international and non-international armed conflicts.[13]

Revisiting the Dissenting Opinion of Justice Tinga in the PP 1017 Case

At this point, we see fit to revisit the "much maligned" Dissenting Opinion of Associate Justice Dante O. Tinga in the "much applauded" PP 1017 case,[14] one of a trilogy "In Defense of Liberty."[15] Given the foregoing discussion, it was Mr. Justice Tinga in that landmark case who showed the best appreciation of the general sense of international law as to what constitutes terrorism, contrary to notions that it is "still an amorphous and vague concept" and "at best fraught with ambiguity." Quoting Tinga:

> … Terrorism has a widely accepted meaning that encompasses many acts already punishable by our general penal laws. There are several United Nations and multilateral conventions on terrorism,[16] as well as declarations made by the United Nations General Assembly denouncing and seeking to combat terrorism.[17] There is a general sense in international law as to what constitutes terrorism, even if no precise definition has been adopted as binding on all nations.[18]

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[13] Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, Volumue I: Rules* (Cambridge: Cambridge University Press, 2005) 8-11.

[14] With lead case being *Prof. Randolf S. David vs. Pres. Gloria Macapagal-Arroyo*, G.R. No. 171409, May 03, 2006. PP 1017 refers to Presidential Proclamation No. 1017 declaring a state of national emergency on February 24, 2006.

[15] From the title of the Supreme Court Public Information Office publication *The Supreme Court Speaks: In Defense of Liberty*, featuring three "Landmark Decisions on the Constitutionally Enshrined Liberty of the Filipino People" on the issues of EO 464, CPR and BP 880, and PP 1017.

[16] Originally, Tinga footnote 53: "To name a few, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973); International Convention for the Suppression of Terrorist Bombings (197); International Convention for the Suppression of the Financing of Terrorism (1999); the International Convention for the Suppression of Acts of Nuclear Terrorism (2005). See 'United Nations Treaty Collection – Conventions on Terrorism,' http://untreaty.un.org/English/Terrorism.asp (visited, 30 April 2006)."

[17] Originally, Tinga footnote 54: "See e.g., Resolution No. 49/60, Adopted by the United Nations General Assembly on 17 February 1995."

[18] At page 33 of the original loose-leaf Dissenting Opinion of Tinga, J., also at pp. 209-10 of the afore-cited publication *The Supreme Court Speaks: In Defense of Liberty*.

In this quote's first footnote (actually footnote 53 in the Dissenting Opinion), Mr. Justice Tinga mentions a new anti-terrorism convention - the *International Convention for the Suppression of Acts of Nuclear Terrorism* (2005) – which is naturally not among "the preceding 12 anti-terrorism conventions" referred to by the UN High Level Panel in its above-quoted Report of December 2004.

The majority opinion/Decision in the PP 1017 case makes reference to the "definitional predicament" regarding terrorism, quoting extensively from the March 12, 2002 Supreme Court Centenary Lecture of Professor Hans Koechler on "The United Nations, the International Rule of Law, and Terrorism, as cited in the Dissenting Opinion of Justice Kapunan in *Lim vs. Executive Secretary*, G.R. No. 151445, April 11, 2002, 380 SCRA 739.[19]

But the PP 1017 case Decision/majority opinion does not quote Justice Kapunan's own paragraph after quoting Koechler, and this is Kapunan:

> **Koechler adds, however, that this failure to distinguish between terrorist acts and acts of national liberation did not prevent the international community from arriving at an implicit or "operative" definition.** For example, in Article [5] of the International Convention for Suppression of Terrorist Bombings, terrorist acts are referred to as "criminal acts …, in particular where they are intended or calculated to provoke a state of terror in the general public or in a group of persons or particular persons" that are under no circumstances justifiable [by] considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature."[20] (bold face and bracketed portions supplied)

In fact, Koechler, in that same 2002 Supreme Court Centenary Lecture, proposed what he called a comprehensive or unified approach, which is not far from the terrorism definitional elements recommended by the UN High Level Panel two years later. According to Koechler, in a

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[19] *Prof. Randolf S. David vs. Pres. Gloria Macapagal-Arroyo*, G.R. No. 171409, May 03, 2006, at pp. 61-63 (loose-leaf version); also at pp. 154-56 of the afore-cited publication *The Supreme Court Speaks: In Defense of Liberty*.

[20] *Lim vs. Executive Secretary*, G.R. No. 151445, April 11, 2002, Dissenting Opinion, at p. 7 (loose-leaf version). The case can be located at 380 SCRA 739.

universal and at the same time unified system of norms – ideally to be created as an extension of existing legal instruments -, there should be corresponding sets of rules (a) penalizing deliberate attacks on civilians or civilian infrastructure in wartime (as covered by the Geneva Conventions), and (b) penalizing deliberate attacks on civilians in peacetime (covered by the 12 so far anti-terrorist conventions). He says "Such a harmonization of the basic legal rules related to politically motivated violent acts against civilians would make it legally consistent also to include the term 'state terrorism' in the general definition of terrorism."

What is the Point of All this Disquisition?

The point is to show that the HSA is an arbitrary law (and therefore violative of substantive due process) by disregarding or not availing of the best that has been created by humanity so far in terms of international law and international legal work on terrorism, from which our people deserve the best possible protection, starting with the protection of the law. The HSA also violates other aspects of the Constitution and constitutional law, making it unconstitutional. In all these senses, it is also grave abuse of legislative and executive discretion.

The HSA's definition of terrorism in Sec. 3, particularly its key qualifying phrase "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," is not in accordance with the best lights of international law, including parts of it that are established customary international law and those which otherwise bind the Philippines

as treaty law. **The most important international legal elements of terrorism are not found in the HSA definition**:

1. First, is "that (it) is intended to cause death or serious bodily **harm to civilians or non-combatants**," in other words, making civilians the object of attack or the deliberate targeting of civilians.

2. Second, "**the purpose of such act is to intimidate a population"** or **"to spread terror among the civilian population," OR "to compel** a Government **[OR] an international organization** to do or abstain from doing any act."

The HSA covers only situations of "coerce(ing) the government." It omits international organizations from similar coercion. It does *not* cover a situation where the purpose is to intimidate or spread terror among the population. The "sowing and creating (of) a condition of widespread and extraordinary fear and panic among the populace" is, in the HSA, only "in order to coerce the government to give in to an unlawful demand."

And so, if we refer to the full title of the HSA, it might only "secure the state" but not "protect our people from terrorism." One might therefore raise here a *constitutional question of equal protection* of the law. Surely, *the people,* as much as *the state,* deserve to be secure from terrorism. In fact, this is what the short title (Sec. 1) of R.A. No. 9372 connotes – *human security* (the security of real people), as distinguished from *state or national security*. But more on the short title "Human Security Act" later.

The way the HSA definition of terrorism is worded, it may even be counter-productive to securing the state (not to mention the people) from

terrorism. What if there is no "unlawful demand"? There were no demands, unlawful or otherwise, made on the occasions of the "most spectacular" terrorist bombings like those of 9/11, Bali I & II, Superferry 14, Madrid train station and London subway. And what if the demand is lawful like say the right of self-determination of the Bangsamoro people? Will bombings of the civilian populace to coerce the government to give in to this lawful demand no longer be considered terrorism?

Note also that the qualification of "a condition of widespread and extraordinary fear and panic among the populace" in the HSA definition of terrorism in Sec. 3 imposes an unduly high threshold of fear and panic among the populace in that it must be "widespread and extraordinary." This threshold is not found at all among the several international legal instruments referred to above. So, if the condition of fear and panic among the populace is not "widespread and extraordinary," will bombings of the civilian populace no longer be considered terrorism?

This is what we meant, at the end of our preliminary statement above, when we said **the HSA, with its flawed definition of terrorism, will instead even prejudice the legitimate fight against terrorism**.

This is not a simple issue of wisdom of the law, which is ordinarily left untouched by the judiciary in deference to the political or policy-making branches of government. The wisdom involved here is the wisdom of international law, especially those portions which have become part of the law of the law of the land by the incorporation and treaty clauses of our Constitution. With regards to the treaty clause, the Philippines is also bound by the fundamental international law principle of *pacta sunt servanda*

(treaties must be observed in good faith) – itself ruled by the Supreme Court to be a generally accepted principle of international law adopted as part of the law of the land.[21] And so, the Supreme Court must look into the constitutional questions now pertaining to the HSA.

As far as the general definition or concept of terrorism is found in the1999 *International Convention for the Suppression of the Financing of Terrorism*, in the 1997 *International Convention for Suppression of Terrorist Bombings*,[22] the Geneva Conventions and Protocol II, the Philippines is bound as a matter of treaty law, having ratified all these, among others, under the Constitution's Article VII, Section 21.

As for Protocol I which has been signed but not yet ratified by the Philippines, its obligation is clearly provided by Article 18 of the 1969 *Vienna Convention on the Law of Treaties*, to which the Philippines is a State-Party: "A State is obliged to refrain from acts which would defeat the object and purpose of a treaty… until it shall have made its intention clear not to become a party to the treaty." Far from it, the respondent Executive Secretary in fact recently issued a statement commemorating this year's "30th Anniversary of the Protocols Additional to the Geneva Conventions" (***Annex E***).

Incidentally, in Article 27 of the same afore-mentioned *Vienna Convention*, it is provided that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty."

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[21] See *La Chemise Lacoste vs. Fernandez* (129 SCRA 373), *Agustin vs. Edu* (88 SCRA 195), and *Tanada vs. Angara* (272 SCRA 18).
[22] See Senate Resolution No. 83 of October 14, 2003 Concurring in the Ratification of the International Convention for the Suppression of Terrorist Bombings.

As far as the general definition or concept of terrorism is found in the Geneva Conventions and in the rules of customary IHL, the Philippines is bound as a matter of the incorporation clause, under the Constitution's Article II, Section 2 and the Supreme Court ruling in *Kuroda vs. Jalandoni* (83 Phil. 171). Apart from such national jurisprudence, there is much international jurisprudence affirming the customary international law status of the whole Geneva Conventions, among others, because of their overwhelming international acceptance.[23]

As for the general definition and concept of terrorism found in UN Security Council resolution 1566 (2004) and in the UN Report *A more secure world: our shared responsibility* by the UN High Level Panel on Threats, Challenges and Change officially endorsed by the then UN Secretary-General Kofi Annan with his covering Note of 2 December 2004 to the 59th session of the UN General Assembly, there is with regards to the Security Council resolution an Article 25 of the 1945 *Charter of the United Nations* which binds the Philippines: "The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter."

With regards to the UN High Level Panel Report endorsed by the Secretary-General to the General Assembly, we might refer to our own Constitution's Article II, Section 2 which incorporates a *policy of international cooperation*, thus: "The Philippines… adheres to the policy of peace, equality, justice, freedom, cooperation and amity with all nations."

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[23] See e.g. the UN Secretary-General's Report to the Security Council preparatory to the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY), New York, 3 May 1993, particularly paragraphs 37-44, pursuant to paragraph 2 of Security Council resolution 808 (1993).

We submit that this implies cooperation with the UN Secretary-General, if not also the UN High Level Panel, on the general thrusts of the Report which includes definitional elements of terrorism.

In arbitrarily disregarding or not availing of all these cited international legal references on a definition of terrorism, Congress and the President, in approving the HSA, violated key constitutional clauses on due process, equal protection, incorporation, treaty, and international cooperation, thereby also committing grave abuse of legislative and executive discretion.

Revisiting *Kuroda vs. Jalandoni* (83 Phil. 171)

It is well worth revisiting this 1949 case involving Executive Order No. 68 establishing military commissions to try Japanese war criminals. We shall, however, focus here only on two key passages from the Decision penned by the venerable Chief Justice Manuel V. Moran, interpreting and applying the incorporation clause of our then 1935 Constitution:

> Article 2 of our Constitution provides in its section 3, that –
>
> > "The Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as part of the law of the nation."
>
> In accordance with the generally accepted principles of international law of the present day, **including the Hague Convention, the Geneva Convention and significant precedents of international jurisprudence established by the United Nations**, all those persons, military or civilian, who have been guilty of planning, preparing or waging a war of aggression and of the commission of crimes and offenses consequential and incidental thereto, in violation of the laws and customs of war, of humanity and civilization, are held accountable therefor. Consequently, in the promulgation and enforcement of Executive Order No. 68, the President of the Philippines has acted in conformity with **the generally accepted principles and policies of international law which are part of our Constitution**.
>
> X X X
>
> Petitioner argues that respondent Military Commission has no justification to try petitioner for acts committed in violation of the Hague Convention and the Geneva Convention because the Philippines is not a signatory to the first and

> signed the second only in 1947. It cannot be denied that **the rules and regulations of the Hague and Geneva Conventions form part of and are wholly based on the generally accepted principles of international law**. In fact, these rules and principles were accepted by the two belligerent nations, the United States and Japan, who were signatories to the two Conventions. **Such rules and principles, therefore, form part of the law of our nation even if the Philippines was not a signatory to the conventions embodying them, for our Constitution has been deliberately general and extensive in its scope and is not confined to the recognition of rules and principles of international law as contained in treaties to which our government may have been or shall be a signatory.** (bold face supplied)

Certain points in these passages merit deeper examination and, we pray, supplemental interpretation or clarification by the present Supreme Court:

1. The ***Kuroda*** Decision was promulgated on March 26, 1949. Obviously, the "Geneva Conventions" it refers to is not the four Geneva Conventions of August 12, 1949, which came several months after the Decision. The latter was apparently referring to earlier Geneva Conventions - the two 1929 Geneva Conventions, one for the Relief of the Wounded and Sick in armies in the Field, and another on Treatment of Prisoners of War. But the ***Kuroda*** ruling covering the 1929 Geneva Conventions would apply just as well, if not more so, to the universally accepted 1949 Geneva Conventions. This case at bar is the golden opportunity for a supplemental interpretation or clarification to that effect by the present Supreme Court.

2. The ***Kuroda*** ruling is to the effect that "rules and regulations," not just general "principles," of the Hague and Geneva Conventions "form part of the law of our nation." In other words, it is the *whole* Hague and Geneva Conventions, including their detailed rules and regulations, not just their general principles, which are incorporated into Philippine law by this Supreme Court ruling interpreting and applying the incorporation clause of

the Constitution. This is justified by the *customary international law status* of both the Hague and Geneva Conventions. The particular Hague Convention which is generally accepted to have achieved such status is the Hague Convention (No. IV) Respecting the Laws and Customs of War on Land and annexed Regulations of October 18, 1907.[24]

3. The ***most significant or far-reaching point*** for possible supplemental interpretation or clarification by the present Supreme Court: the ***Kuroda*** pronouncement on "the generally accepted principles and policies of international law **which are part of our Constitution**.**"** (bold face supplied) At first glance, this seems a slip of the pen of the *ponente*. But on deeper examination, the *ponente*, a venerable Chief Justice no less, must have been careful and deliberate in his choice of words.

The quoted ***Kuroda*** pronouncement does not mean that all "the generally accepted principles and policies [note: policies, not just principles] of international law" are "part of our Constitution." But we submit that ***some*** generally accepted principles of international law ***are part of our Constitution, or may be deemed or ruled part of it, or given constitutional status***. Relatedly, we submit that the phrase "part of the law of the land" in the incorporation clause includes the Constitution because it is in fact part of the law of the land as the highest or fundamental law of the land.

In fact, it has already been pointed out by a Philippine expert in international law, Prof. Merlin M. Magallona, that certain generally accepted principles of international law are already part of the Constitution. The

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[24] See e.g. the UN Secretary-General's Report to the Security Council preparatory to the establishment of the International Criminal Tribunal for the former Yugoslavia (ICTY), New York, 3 May 1993, particularly paragraphs 37-44, pursuant to paragraph 2 of Security Council resolution 808 (1993).

fundamental principle of the Pact of Paris (or the Kellog-Briand Pact) of 1928 on renouncing war as an instrument of national policy is also in our Constitution, Art. II, Sec. 2, in fact together there with the incorporation clause. Another is the principle of sovereign immunity which is embodied in our Constitution, Art. XVI, Sec. 3 ("The state may not be sued without its consent."), as affirmed in *U.S.A. vs. Guinto* (182 SCRA 645) and *Holy See vs. Rosario* (238 SCRA 524).[25]

Surely, there have to be generally accepted principles of international law that are so fundamental that their incorporation into Philippine law should accord them not just ordinary legal but constitutional status. The first thing that comes to mind in this regard are human rights as defined in the International Bill of Rights (i.e. the Universal Declaration and the two International Covenants). Are these not of the same level as the constitutional Bill of Rights (Art. III) and Art. XIII on Social Justice and Human Rights?

And then, of course, there are *jus cogens* or preremptory norms of international law. These are defined in Art. 53 of the 1969 *Vienna Convention on the Law of Treaties*: "a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character." Among the peremptory norms in present-day international law are: prohibition of the use or threat of aggressive armed force; the right of dependent peoples to

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[25] Merlin M. Magallona, *An Introduction to International Law I Relation to Philippine Law* (Quezon City: Merlin M. Magallona, 2nd ed., 1999) 43.

self-determination; and the prohibition under all circumstances, inc. war and national emergency, of slavery, genocide, severe discrimination, taking of hostages, collective punishment, torture, mass extermination, arbitrary killings and summary executions.[26] The last two, might be rephrased as **extrajudicial killings and enforced disappearances**.[27]

The point is that, if "provid(ing) incentives to landowners to invest the proceeds of the agrarian reform program to promote industrialization," etc. (Constitution, Art. XIII, Sec. 8) and "upgrade(ing) the pensions and other benefits due to retirees" (Constitution, Art. XVI, Sec. 8) can be given constitutional status, then with more reason can certain generally accepted principles of international law, like non-derogable human rights or other *jus cogens* norms, be accorded that status.

II. THE DECLARED POLICY IN SECTION 2 OF THE "HUMAN SECURITY ACT OF 2007" OF MAKING TERRORISM A CRIME AGAINST HUMANITY CONFUSES THESE TWO DISTINCT CRIMES AND THUS VIOLATES SUBSTANTIVE DUE PROCESS

In Sec. 2 of the HSA, **"It is declared a policy of the State… to make terrorism a crime…against humanity…"** This places on the level of state policy a confusion between terrorism and crimes against humanity. The looseness with legal language and concepts is arbitrary and does not satisfy the due process need for notice.[28]

Terrorism and crimes against humanity have each their distinct international legal frameworks. That for terrorism was discussed under I.

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[26] Lauri Hannikainen, *Peremptory Norms (Jus Cogens) in International Law: Historical Development, Criteria, Present Status* (Helsinki: Finnish Lawyers' Publishing Company, 1988) 717-18.
[27] Following the theme of the Supreme Court-initiated "National Consultative Summit on Extrajudicial Killings and Enforced Disappearances – Searching for Solutions" on 16-17 July 2007.
[28] Bernas, *The 1987 Constitution: A Reviewer-Primer* 32.

above. Unlike terrorism and for that matter war crimes and genocide which have long-time multilateral treaty-based definitions,[29] crimes against humanity developed largely as a matter of customary international law until its multilateral treaty definition in the 1998 *Rome Statute of the International Criminal Court*, which also has the latest international criminal law definitions of war crimes and genocide.[30] These all represent *different legal frameworks* dealing with *different criminal phenomena* which have come to the fore of global attention at *different eras and contexts*. We are now in the post-9/11 era of international terrorism and counter-terrorism.

Terrorism must be given its just due in terms of a specific legal framework to address it, in the same way that common crimes like murder, political offenses like rebellion, war crimes, crimes against humanity, and genocide have their respective specific legal frameworks. Murder committed in furtherance of rebellion is absorbed by the latter. But rebellion does not absorb war crimes, crimes against humanity, genocide and terrorism even if committed in furtherance of rebellion.

That the emerging international law on terrorism makes use of the international law on war crimes, particularly for terrorism during armed conflict, does not change those differences in legal frameworks. Going back to the quotation at the start of this Petition, we might say that each diagnosis or disease has its corresponding treatment or medicine. That is why we should not confuse different classes of crimes – lest we take the wrong legal

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[29] War crimes defined in the 1947 *Geneva Conventions* and 1977 *Additional Protocols*, and genocide defined in the 1948 *Genocide Convention*.
[30] Timothy L.H. McCormack and Sue Robertson, "Jurisdictional Aspects of the *Rome Statute* for the New International Criminal Court" (1999) 23(3) *Melbourne University Law Review* 635, at 651.

action, like when common crimes are charged for what are really political offenses.

We can take note that during the 112th Assembly of the Inter-Parliamentary Union (IPU) held in Manila on 31 March to 8 April 2005, it passed a Resolution on "The Role of Parliaments in the Establishment and Functioning of Mechanisms to Provide for the Judgment and Sentencing of War Crimes, Crimes Against Humanity, Genocide and Terrorism, with a View to Avoiding Impunity" (***Annex F*** – first page of the Resolution). Note how terrorism is distinct from and not subsumed under or absorbed by war crimes, crimes against humanity and genocide. In the Philippines, the latter three international crimes are the subject of several bills for a "Philippine Act on Crimes Against International Humanitarian Law and Other Serious International Crimes," called the "IHL Bill," for short[31] (***Annex G*** – first page of Senate Bill No. 2511), while terrorism is now covered by the questioned HSA.

Crimes against humanity (CAH), as defined in the *Rome Statute*'s Art. 7, deal with about 11 kinds of acts, including murder, rape, torture, enforced disappearance, and forcible displacement, (and this is the key chapeau or qualification:) "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack." It sounds similar to the emerging international legal definition of terrorism but there are some different elements. CAH does not include such definitional elements of terrorism as the "purpose… to intimidate a population [or "to spread terror among the civilian population"], or to compel a Government or

[31] See e.g. Senate Bill No. 2511 introduced by Senator Richard J. Gordon in the preceding 13th Congress.

an international organization to do or abstain from doing any act." As far as attacks directed against any civilian population, CAH involves a high threshold that these attacks are "widespread and systematic," a qualification not necessarily obtaining in terrorism.

It seems that the CAH qualification of "widespread" was picked up in the confusion by the HSA in its Sec. 3 definition of terrorism characterized by "a condition of widespread and extraordinary fear and panic." But as we said, the emerging international legal definition of terrorism does not require this high threshold of fear and panic (or intimidation and terror).

It seems also that the HSA used the CAH definition in the Rome Statute's Art. 7 as a model for defining terrorism in two parts: (1) a list of acts or specific crimes (in the HSA, six felonies and six special offenses); and (2) a chapeau qualifying the commission of those acts or crimes into terrorism. We will not deal any more here with the HSA choice of six felonies and six special offenses. But off-hand, the HSA listing of 12 specific crimes does not necessarily reflect the acts under the 12 (or 13) multilateral anti-terrorism conventions. This, of course, deserves deeper examination, including the inclusion of the political offense of rebellion which is relevant to the peace process and policy, a policy which may be found in the Constitution.[32]

[32] Unfortunately, the Supreme Court failed to break new jurisprudential ground on a constitutional policy of peace as it may have related to the GRP-MNLF peace negotiations and agreement in 1996 when it dismissed three consolidated cases on this matter on a technicality after nine years of pendency without decision, referring to *Gonzales vs. Torres* (G.R. No. 125314), *Lobregat vs. Torres* (G.R. No. 126449), and *BATAS vs. Torres* (G.R. No. 126628). An argument for a policy of peace to be found in the Constitution is also presented succinctly in Soliman M. Santos, Jr., *The Moro Islamic Challenge: Constitutional Rethinking for the Mindanao Peace Process* (Quezon City: University of the Philippines Press, 2001) 102-03.

III. THE SHORT TITLE PROVIDED FOR IN SECTION 1 OF THE "HUMAN SECURITY ACT OF 2007" IS A DECEPTION AND THEREFORE VIOLATES BOTH SUBSTANTIVE DUE PROCESS AND THE PEOPLE'S RIGHT TO PUBLIC INFORMATION

What's in a short title? What's in a name? Republic Act No. 9372, "An Act to Secure the State and Protect Our People from Terrorism," by its Sec. 1, "**shall henceforth be known as** the 'Human Security Act of 2007'." (bold face supplied). But this is a deception, a "fooling of the people," because counter-terrorism is only one aspect, or more precisely part of one aspect, of human security. As developed under the auspices of the United Nations Development Programme (UNDP), the concept of human security has come to mean "not the abstract security of a regime or state but rather the *security of real people*… in how safe and free ordinary people feel in their daily lives… At its most basic level human security consists of the *freedom from fear*, *freedom from want*, and *freedom from humiliation*."[33]

But as discussed under I. above, the HSA, by its own definition of terrorism, might only "secure the state" but not "protect our people from terrorism." Granting that it would also protect our people from terrorism, this comes under only the "freedom from fear" aspect of human security. Counter-terrorism cannot, therefore, be equated with human security.

To project counter-terrorism as human security is not only deceptive to our people but also dishonest as a misappropriation of a concept currently associated with the UNDP, the independent global Commission for Human Security, and the Human Security Network of countries.[34] The human

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[33] *Philippine Human Development Report 2005* 1.

[34] In 2002, the Partners and Observers in the Human Security Network were Austria, Canada, Chile, Greece, Ireland, Jordan, Mali, The Netherlands, Norway, Slovenia, South Africa, Switzerland and Thailand.

security framework has also been used notably for the Mindanao peace process by the NGO Tabang Mindanaw with the Bishops of Mindanao like the Archbishop of Cotabato Orlando B. Quevedo, O.M.I. This is somewhat like theft of intellectual property, which was seen also in Mindanao with the government's and the military's misappropriation of the concept of peace zones – giving them some kind of "kiss of death," as it were.

There is a danger now with the HSA that such human security and peace efforts of the UNDP and Mindanao peace advocates will become associated with counter-terrorism, which would be unfair to those efforts. One cannot just grab other established terms or concepts and use them for a different purpose, especially where there is prejudice to others. One cannot just play with words, where there are precise meanings, distinctions and even nuances – like with Executive Orders Nos. 364 & 379 transforming the Department of *Agrarian* Reform (DAR) into the Department of *Land* Reform (DLR).[35]

And so, the HSA's short title is arbitrary and does not satisfy the substantive due process need for notice of what the law is really about. It is also a violation of "the right of the people to information on matters of public concern" under the Constitution's Art. III, Sec. 7. **The constitutional right should be interpreted to militate against not only denial of access to official records and government research data but also disinformation – or purported information given out deliberately to deceive**. This also relates to notions of governmental honesty, transparency

[35] A petition involving the constitutionality of these Executive Orders is pending decision by the Supreme Court in *Anak Mindanao vs. Executive Secretary* (G.R. No. 166052). Unfortunately, this low-profile case has not gotten the same priority attention as high-profile, highly-charged or high-charging cases like those "in defense of liberty" or "in defense of the rule of law."

and accountability, which principles of good governance find support in the Constitution.[36]

As they say, you can fool the people some of the time. But, Supreme Court- and God-willing (*Insha Allah*), not this time, by striking down the "Human Security Act of 2007" – at least this short title and its definitional/ conceptual provisions.

PRAYER

WHEREFORE, in view of the foregoing, it is respectfully prayed that:

a) the "Human Security Act of 2007" be annulled for being unconstitutional;

b) respondents be commanded to desist from implementing the said Act;

c) in the meantime, respondents be temporarily restrained, enjoined or otherwise required to refrain from implementing the said Act, including the drafting of implementing rules and regulations;

d) jurisprudential guidance be provided the legislative and executive branches of government as may be necessary for a reformulation of the anti-terrorism law with a definition of terrorism hewing closely to international legal developments, and likewise upholding human rights and the rule of law in combating terrorism; and

e) such incidental relief as law and justice may require be granted.

Naga City for Manila, 15 July 2007.

SOLIMAN M. SANTOS, JR.
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IBP Lifetime O.R. No. 563588
01/02/03- Camarines Sur

[36] See e.g. the Constitution, Art. II, Secs. 27 & 28, and Art. XI, Sec. 1.

VERIFICATION AND CERTIFICATION

REPUBLIC OF THE PHILIPPINES)
NAGA CITY)

I, SOLIMAN M. SANTOS, JR., of legal age and with office address at 18 Mariposa St., Cubao, Quezon City, after being duly sworn, hereby depose and say that:

1. I am the individual petitioner as well as the representative as President of the SEC-registered NGO petitioner in the above-entitled case;

2. I caused the above petition to be prepared and in fact prepared it myself also as counsel; and the allegations therein are true of my personal knowledge or based on authentic records;

3. I further certify hat there is no other case involving the same issues and parties before the Supreme Court, Court of Appeals, or administrative bodies and other agencies of government exercising quasi-judicial functions, and that if I find that there is, I shall inform the Honorable Supreme Court about the same, within five days from knowledge thereof.

SOLIMAN M. SANTOS, JR.
Affiant-Petitioner-Counsel

SUBSCRIBED AND SWORN to before me, this 15th day of July, 2007 in Naga City, Philippines, affiant exhibiting CTC No. 23702214 issued in Canaman, Camarines Sur on February 12, 2007.

Atty. Clarita B. Padilla
[Roll No. 51207]
Notary Public
Valid until Dec. 31, 2007
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