

SENATE BILL NO. 23

Introduced by Senator M. A. Madrigal

EXPLANATORY NOTE

Republic Act 9372, otherwise known as the "Human Security Act," is probably the most dangerous piece of legislation passed by the Philippine Congress. It is replete with provisions that violate the Constitutional guarantees to freedom of speech, freedom of communication and correspondence, right to travel as well as an individual's right to be secure in their things and in their person. Some of the law's onerous provisions include the following:

First, the restriction on the person's right to travel is not reasonable as it may be undertaken even when the evidence of guilt is not strong. The person under house arrest may be prohibited from using the Internet, cell phone, telephone or any other means of communication, thereby effectively rendering him incommunicado. This curtailment of mobility may be stopped only upon acquittal. In the meantime, the person has already been unduly deprived of necessary communication with family or friends.

Second, police, military or any government law officer, without incurring any criminal liability, may engage in wiretapping, to the detriment of the people's inviolable right to privacy. This may be done through an *ex parte* written application before the Court of Appeals.

Third, though it is only a precautionary measure, RA 9372 does not preclude the fact of possible infringement into private conversations among citizens who are merely exercising their right to freedom of expression. Though there is a provision of informing the person that he is being placed under surveillance, it is a belated mechanism where the probability of violation of civil rights may have already been committed.

Fourth, even the legitimate exercise of one's right for redress of grievances may be considered as "terrorism," by reason solely of one's membership in an organization, association or group of persons that has been proscribed as "terrorist," even if the charge may be baseless or manufactured.

Fifth, a person may be arrested and detained without judicial warrant of arrest for a period of three (3) days, where the arresting officer shall not incur any liability. This may be utilized as a means to harass those who are critical of the government, or even those who may be the subject of mere personal enmity by police officers and other law enforcers.

Sixth, though there is a requisite procedure before detention (i.e., presentation before the judge and the written report of such judge), for a person merely exercising freedom of expression, being penalized with three (3) days of imprisonment without sanction on the arresting officer is an insult to the civil liberties we enjoy as a people.

Seventh, bank deposits, accounts and records may be examined through a mere *ex parte* written application by the police and military officers. The written application and order of the court allowing such examination is considered classified information.

Eighth, this is also applicable in the disposition of the frozen bank deposits, placements, trust accounts, assets and records of a suspect. Should the person be later on adjudged innocent, there is already a deprivation of the enjoyment of one's assets. No matter how much recompense the person may be given in exchange, this does not erase the stigma and the hardship that his family already went through.

In the hands of a repressive regime like that of Mrs. Gloria Macapagal-Arroyo, the anti-terrorism law creates a *shadow criminal justice system* that, in turn, can be used as an instrument of greater terror perpetrated by people in power against their critics and political opponents.

According to the provisions of the law, which I would like to describe as a law on "panic," there is no clear definition of who a terrorist is. A person may be labeled as a terrorist by reason solely because of his political or religious belief and his defense thereof. The law's definition of terrorism is too broad and too sweeping, covering many crimes that are already punishable under existing laws. The law also blurs the distinction between real acts of terrorism and ordinary crimes. Worse, it can be interpreted to include all acts in pursuit of legitimate dissent. In a time of intense crisis and undisguised political repression, the law can and will be used to illegalize the legitimate activities of critics and opponents of the current administration.

The vagueness of defining a terrorist is not limited to the Philippines alone. Since 1995, the United Nations has yet to come up with a clear definition of who or what a terrorist is.

We oppose the use of violence against civilians under any guise. But national security should not be used as an excuse to stifle basic freedoms and the human rights guaranteed by the Constitution. There is nothing neither human nor secure about a law that erodes democratic processes. In the end, we all lose out under such a law that takes its toll on all our freedoms by stealth and at midnight when we are all asleep. The "Human Security Act" must be repealed.

M. A. MADRIGAL

FOURTEENTH CONGRESS)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

S. B. NO. 23

Introduced by Senator M. A. Madrigal

AN ACT
REPEALING REPUBLIC ACT 9372, OTHERWISE KNOWN
AS THE "HUMAN SECURITY ACT OF 2007"

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

Section 1. – Any provision of law to the contrary notwithstanding, Republic Act 9372 otherwise known as the "Human Security Act of 2007" is hereby repealed.

Section 2. – This Act shall take effect fifteen (15) days after its complete publication in a newspaper of general circulation.

Approved,