

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

**University of the Philippines (UP)-
System Faculty Regent Dr. RAMON
GUILLERMO, Executive Board Member,
Education International and Alliance of
Concerned Teachers (ACT)-Philippines
Secretary-General RAYMOND BASILIO,
De La Salle University (DLSU)-Manila
Professor and ACT Private Schools
President Dr. ROWELL MADULA,
University of Santo Tomas (UST)
Faculty Association of Senior High
School President and ACT-Private
Schools Secretary-General JONATHAN
V. GERONIMO, UP-Diliman Director of
Office of Community Relations and
Congress of Teachers and Educators
for Nationalism and Democracy-UP
(CONTEND-UP) Chairperson Dr.
GERRY LANUZA, ACT-NCR Union
Treasurer ANNARIZA C. ALZATE, ACT-
NCR Union Secretary and Quezon City
Public School Teachers' Association
(QCPSTA) Vice-President RUBY ANA
BERNARDO, QCPSTA President and
ACT-NCR Union Regional Council
Member KRISTHEAN A. NAVALES,
ACT-NCR Union Caloocan Chapter
President and ACT-NCR Union
Regional Council Member GRACE
EDORA, Former Director at Komisyon
sa Wikang Filipino (KWF) Dr. AURORA
BATNAG, UP-Diliman Vice Chancellor
for Community Affairs Dr. ALELI
BAWAGAN, All UP Academic
Employees Union National President
and UP Asst. Prof. CARL MARC
RAMOTA, UP-Diliman College of
Science Dean Dr. Giovanni A. Tapang,
Polytechnic University of the
Philippines (PUP)-Manila Institute of
Technology Dean Prof. RAMIR M.**

GR No. _____

For: Certiorari with
Prohibition with Prayer
for Status Quo Ante
Order or Temporary
Restraining Order
and/or Writ of
Preliminary Injunction

CRUZ, Ateneo de Manila University (ADMU) Full Professor and Tanggol Kasaysayan Lead Convener Dr. FRANCIS GEALOGO, DLSU-Manila Professor and Tanggol Wika Lead Convener Dr. DAVID MICHAEL SAN JUAN, UP-Diliman Acting Director of Campus Maintenance Office Ms. PERLITA C. RANA, All UP Academic Employees Union Board Member Dr. MELANIA FLORES, PUP-Manila Center for Human Rights Studies Chief Prof. PAULO BENEDICTO C. VILLAR, UST SIMBAHAYAN Community Development Office Director Dr. ARVIN EBALLO, UST SIMBAHAYAN Assistant Director Prof. FROILAN ALIPAO, PUP-Manila Department of Cooperatives and Social Development Chairperson Dr. HILDA F. SAN GABRIEL, PUP-Manila Department of Communication Research Chairperson KRUPSKAYA T. VALILA, PUP-Manila Department of Sociology Chairperson LOUIE C. MONTEMAR, UP-Diliman Departamento ng Filipino at Panitikan ng Pilipinas Chairperson Dr. VLADIMEIR GONZALES, DLSU-Manila Departamento ng Filipino Chairperson Dr. RHODERICK NUNCIO, DLSU-Manila Professors Dr. RAQUEL SISON-BUBAN, Dr. ERNESTO V. CARANDANG II, Dr. DOLORES TAYLAN, Prof. RAMILITO CORREA, Dr. MARIA LUCILLE ROXAS, MON KARLO MANGARAN, DEBORRAH ANASTACIO, JECONIAH DREISBACH, BILLY DE GUZMAN, and ROMAN GALLEGO, Don Bosco Technical Institute of Makati Teacher ERSELA CARILLO, Philippine Normal University (PNU)-Manila Professor Dr. JOEL COSTA MALABANAN, University of Makati Professor KEVIN PAUL D. MARTIJA, PUP-Manila Professors PATRICIA CAMILLE VILLA, EMY RUTH GIANAN, MARVIN LOBOS and SONNY M. VERSOZA, Colegio de San Juan de

Letran Professor LYRRA I. MAGTALAS,
ADMU Professors Dr. GARY DEVILLES,
Dr. VINCENZ SERRANO and MARK
BENEDICT LIM, ADMU Teacher ELLA
MARA MELANIE DONAIRE, UP-Diliman
Professors SHARON ANNE
PANGILINAN, Dr. ROMMEL
RODRIGUEZ, and Dr. GRACE
CONCEPCION, Asst. Prof. CLOD
MARLAN KRISTER V. YAMBAO, Asst.
Prof. LOUISE JHASHIL SONIDO, and
Prof. SOFIA G. GUILLERMO, UP-Manila
Professor REGINALD VALLEJOS,
Bulacan State University (BuSU)
Professors MARY DEANE DC CAMUA,
MARICRISTH T. MAGALING, JAIME V.
VILLAFUERTE, ISRAEL DC
SAGUINSIN, JENNIFER DELFIN,
JENINA S. REYES, KEANU HAROLD G.
REYES, BOIE L. LOPEZ, JEVINSON B.
FERNANDEZ, JUSTINE G. MENESES,
ANGELO O. SANTOS, REGGIE REY C.
FAJARDO, Educators MARIEL S.
QUIOGUE and DANIM R. MAJERANO,
UST-Manila
Instructors/Professors/Teachers
ADRIAN ROMERO, LEONARDO
GUEVARRA, JR., JOHN CHRISTIAN
VALEROSO, AND DR. CHUCKBERRY
PASCUAL.

Petitioners,

- versus -

**H.E. RODRIGO ROA DUTERTE, SALVADOR
MEDILDEA** in his capacity as Executive
Secretary, **VICENTE SOTTO III**, in his
capacity as the Senate President of the
Philippines and **ALAN PETER CAYETANO** in
his capacity as Speaker of the House of
Representatives of the Philippines,

Respondents.

X-----X

PETITION FOR CERTIORARI AND PROHIBITION
(WITH PRAYER FOR TEMPORARY RESTRAINING ORDER
AND/OR WRIT OF PRELIMINARY PROHIBITORY INJUNCTION)

PETITIONERS, through counsel, unto this Honorable Court, respectfully state:

I. ***Prefatory Statement***

“The struggle of man against power is the struggle of memory against forgetting,” wrote Milan Kundera, a notable Czech writer whose books were banned for a time, in his home country.

As the “Anti-Terrorism Law” is railroaded, rammed down our throats – without even a semblance of ample meaningful discussions in the halls of Congress – by a regime led by a foul-mouthed president who has ordered soldiers to shoot women rebels in the vagina,¹ threatened to bomb Lumad schools,² called for bishops to be killed,³ admitted personally killing at least three suspects,⁴ and that is under the International Criminal Court’s “preliminary examination,”⁵ now, for at least 6,600 tokhang (extrajudicial killings) victims as per official records, the Philippines seems to be losing the struggle against power, against tyranny, as it loses the struggle of memory against forgetting.

The 1987 Constitution – written by luminaries during the height of post-Edsa I euphoria, mindful of imprinting the lessons of history on the pages of a new social contract that guarantees and protects a whole range of civil liberties and human rights as the bases of visions for economic and political democratization – is now under attack and is being torn into shreds through the Anti-Terrorism Law that does away with civil liberties, human rights, and democratic checks and balances, and paves the way for a de-facto dictatorship to supplant what remains of our democracy.

¹ Emily Rauhala, *Rodrigo Duterte tells soldiers to shoot female rebels in the vagina*, Independent, February 12, 2018, available at <https://www.independent.co.uk/news/world/asia/rodrigo-duterte-soldiers-shoot-female-rebels-vagina-philippines-drugs-war-a8206501.html> (last accessed on July 19, 2020).

² Amanda Lingao, *Duterte threatens to bomb Lumad schools*, CNN Philippines, July 25, 2017, available at <https://cnnphilippines.com/news/2017/07/25/Duterte-threatens-to-bomb-Lumad-schools.html?fbclid> (last accessed on July 19, 2020).

³ Ted Regencia, *Philippines’ Duterte: ‘Kill those useless bishops’*, Aljazeera, December 6, 2018, available at <https://www.aljazeera.com/news/2018/12/philippines-duterte-kill-useless-catholic-bishops-181205132220894.html> (last accessed on Jul. 19, 2020).

⁴ *Philippines’ Duterte admits personally killing suspects*, BBC News, December 14, 2016, available at <https://www.bbc.com/news/world-38311655> (last accessed July 19, 2020).

⁵ *Preliminary examination: Republic of the Philippines*, International Criminal Court, available at <https://www.icc-cpi.int/philippines> (last accessed on July 19, 2020).

But, as Filosopong Tasio in Jose Rizal's "Noli Me Tangere" notes, "¡No todos dormían en la noche de nuestros abuelos!" – not everyone slept in the dark night of our forefathers.

We, as educators, stand united now in questioning the constitutionality and legality of the Anti-Terrorism Law , as we remember the lessons of our country's democratic uprisings from Edsa I and beyond.

Never again to Martial Law!

Never again to dictatorship!

Makibaka, 'wag matakot!

II.

Nature of the Petition

1. This is a Petition for Certiorari with Prohibition under Rule 65 of the Rules of Court with a prayer for the issuance of a Status Quo Ante Order or a Temporary Restraining Order and/or Writ of Preliminary Injunction to declare unconstitutional **Republic Act No. 11479** or "An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known as the Human Security Act of 2007," and to prohibit its implementation.

III.

Statement of Material Dates and Timeliness of the Petition

2. On 26 February 2020, the Senate approved, on third and final reading by a vote of 19-2, Senate Bill No. 1083 or "*An Act Amending Certain Provisions of Republic Act No. 9372, Otherwise Known as the "Human Security Act of 2007"*".

3. On 3 June 2020, the House of Representatives approved on third and final reading—by 173 affirmative votes, 31 negative votes, and 29 abstentions—House Bill 6875 or the proposed Anti-Terrorism Act of 2020.

4. On 3 July 2020, President Rodrigo R. Duterte signed Republic Act No. 11479, or "The Anti-Terrorism Act of 2020," into law⁶.

⁶ Available at <https://www.officialgazette.gov.ph/downloads/2020/06jun/20200703-RA-11479-RRD.pdf> (Last accessed on August 6, 2020).

5. On 6 July 2020, the *Anti-Terrorism Act* was published in the print version of the Official Gazette.

6. Under Section 58 of the *Anti-Terrorism Act*, it shall take effect fifteen (15) days after the completion of its publication in the *Official Gazette*. Hence, counted from 6 July 2020, the *Anti-Terrorism Act* took effect on 21 July 2020.

7. Under Rule 65 of the Rules of Court as amended, Petitioners have sixty (60) days from 21 July 2020, or until 19 September 2020, within which to file this Petition. Hence, Petitioners therefore are filing the instant action on time.

IV. The Parties

8. The **Petitioners** in this case are:
- a. **Dr. Ramon Guillermo**, a Filipino, of legal age and Faculty Regent of the University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
 - b. **Raymond Basilio**, a Filipino, of legal age and current secretary general of Alliance of Concerned Teachers (ACT)-Philippines⁷, with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
 - c. **Dr. Rowell Madula**, a Filipino, of legal age and a professor at De La Salle University-Manila, and President of Alliance of Concerned Teachers (ACT)-Private Schools with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

⁷ Founded on 26 June 1982, the Alliance of Concerned Teachers Philippines (ACT) is the largest and broadest organization of teachers in the country, with 180,000 members present in all regions. It also has formations for sub-sectors of workers and employees in the education sector, such as, ACT Private Schools, ACT State Universities and Colleges, and ACT Education Students. ACT is a Philippine affiliate of Internationale de l'Education (Education International), a global union federation that represents trade unions and organizations of teachers and other education employees.

- d. **Jonathan Vergara Geronimo**, a Filipino, of legal age and a teacher at University of Santo Tomas, President of UST Faculty Association of Senior High School, and Secretary-General of ACT-Private Schools with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- e. **Dr. Gerry Lanuza**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman and chairperson of Congress of Teachers and Educators for Nationalism and Democracy-UP (CONTEND-UP), an affiliate organization of ACT-Philippines with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- f. **Annariza C. Alzate**, a Filipino, of legal age and ACT-NCR Union Treasurer, with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- g. **Ruby Ana Bernardo**, a Filipino, of legal age and ACT-NCR Union Secretary and Quezon City Public School Teachers' Association (QCPSTA), with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- h. **Kristhean A. Navales**, a Filipino, of legal age and QCPSTA President and ACT-NCR Regional Council Member, with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- i. **Grace Edora**, a Filipino, of legal age and ACT-NCR Union Caloocan Chapter President and ACT-NCR Union Regional Council Member, with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- j. **Dr. Aurora Batnag**, a Filipino, of legal age and a former director at Komisyon sa Wikang Filipino (KWF) with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- k. **Dr. Aleli Bawagan**, a Filipino, of legal age and Vice Chancellor for Community Affairs at the University of the

Philippines-Diliman, with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- l. **Prof. Carl Marc Ramota**, a Filipino, of legal age and All UP Academic Employees Union National President and UP Asst. Prof., with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City.
- m. **Dr. Giovanni Tapang**, a Filipino, of legal age and UP-Diliman College of Science Dean, with office address at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- n. **Dr. Rhoderick Nuncio** a Filipino, of legal age and a professor at De La Salle University-Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- o. **Dr. Raquel Sison-Buban** a Filipino, of legal age and a professor at De La Salle University-Manila, and Vice Head of the National Committee on Language and Translation under the National Commission for Culture and the Arts with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- p. **Dr. Ernesto V. Carandang II**, a Filipino, of legal age and a professor at De La Salle University-Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- q. **Dr. Dolores Taylan**, a Filipino, of legal age and a professor at De La Salle University-Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- r. **Dr. David Michael San Juan**, a Filipino, of legal age and a professor at De La Salle University-Manila, and among the lead conveners of language advocacy group Tanggol Wika with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- s. **Dr. Joel Costa Malabanan**, a Filipino, of legal age and a professor at Philippine Normal University-Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- t. **Prof. Kevin Paul D. Martija**, a Filipino, of legal age and a professor at University of Makati with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- u. **Dr. Maria Lucille Roxas**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- v. **Prof. Mon Karlo Mangaran**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- w. **Prof. Deborrah Anastacio**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- x. **Prof. Jeconiah Dreisbach**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- y. **Prof. Billy de Guzman**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- z. **Prof. Ramilito Correa**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- aa. **Prof. Roman Gallego**, a Filipino, of legal age and a professor at De La Salle University–Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- bb. **Ms. Ersela Carillo**, a Filipino, of legal age and a teacher at Don Bosco Technical Institute of Makati with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- cc. **Prof. Louie C. Montemar**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- dd. **Prof. Emy Ruth Gianan**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- ee. **Prof. Sonny M. Versoza**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- ff. **Prof. Paulo Benedicto C. Villar**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- gg. **Prof. Patricia Camille Villa**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- hh. **Prof. Ramir M. Cruz**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon

Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- ii. **Dr. Hilda F. San Gabriel**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- jj. **Marvin Lobos**, a Filipino, of legal age and a professor at Polytechnic University of the Philippines with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- kk. **Dr. Francis Gealogo**, a Filipino, of legal age and a professor at the Ateneo de Manila University, and among the lead conveners of the history advocacy group Tanggol Kasaysayan with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- ll. **Dr. Vincenz Serrano**, a Filipino, of legal age and a professor at the Ateneo de Manila University, with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- mm. **Ella Mara Melanie Donaire**, a Filipino, of legal age and a teacher at the Ateneo de Manila University, with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- nn. **Mr. Mark Benedict Lim**, a Filipino, of legal age and a professor at the Ateneo de Manila University, with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- oo. **Dr. Gary Devilles**, a Filipino, of legal age and a professor at the Ateneo de Manila University, with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- pp. **Dr. Vladimeir Gonzales**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman, with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- qq. **Dr. Sharon Pangilinan**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- rr. **Prof. Reginald Vallejos**, a Filipino, of legal age and a professor at the University of the Philippines-Manila with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- ss. **Ms. Perlita Rana**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- tt. **Dr. Melania Flores**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- uu. **Dr. Rommel Rogriguez**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- vv. **Dr. Grace Concepcion**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- ww. **Prof. Clod Marlan Krister V. Yambao**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasodoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

- xx. **Asst. Prof. Louise Jhashul Sonido**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- yy. **Prof. Sofia G. Guillermo**, a Filipino, of legal age and a professor at the University of the Philippines-Diliman with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- zz. **Prof. Carl Marc Ramota**, a Filipino, of legal age and a professor at the University of the Philippines-Manila, with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- aaa. **Prof. Mary Deane DC Camua**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- bbb. **Prof. Maricristh T. Magaling**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- ccc. **Prof. Jaime V. Villafuerte**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- ddd. **Prof. Israel DC Saguinsin**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;
- eee. **Prof. Jennifer Delfin**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon

Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

fff. **Prof. Jenina S. Reyes**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

ggg. **Prof. Keanu Harold G. Reyes**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

hhh. **Prof. Boie L. Lopez**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

iii. **Prof. Jevinson B. Fernandez**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

jjj. **Prof. Justine G. Meneses**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

kkk. **Prof. Angelo O. Santos**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

lll. **Prof. Reggie Rey C. Fajardo**, a Filipino, of legal age and a professor at the Bulacan State University with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

mmm. **Mariel S. Quioge**, a Filipino, of legal age and an educator, with office address c/o at 2/F Teachers' Center,

Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

nnn. **Danim R. Majerano**, a Filipino, of legal age and an educator, with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

ooo. **Mr. Adrian Romero**, a Filipino, of legal age and an NSTP instructor at University of Santo Tomas with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

ppp. **Prof. Leonardo Guevarra, Jr.**, a Filipino, of legal age and a professor at University of Santo Tomas with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

qqq. **Mr. John Christian Valeroso**, a Filipino, of legal age and a teacher at University of Santo Tomas with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

rrr. **Prof. Froilan Alipao**, a Filipino, of legal age and a professor at University of Santo Tomas with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

sss. **Dr. Arvin Eballo**, a Filipino, of legal age and a professor at University of Santo Tomas with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

ttt. **Dr. Chuckberry Pascual**, a Filipino, of legal age and a professor at University of Santo Tomas with office address c/o at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

Petitioners may be served with notices and other processes of this Honorable Court at the address of the undersigned counsel at 2/F Teachers' Center, Napoleon Pornasdoro Building Mines corner Dipolog Street, Brgy. Vasra, Quezon City;

9. The following are the **Respondents**:
- a. **Rodrigo Roa Duterte** is the incumbent President of the Republic of the Philippines, who may be served with notices and other processes of this Honorable Court at the Malacafiang Palace, J.P. Laurel Street, San Miguel, Manila 1005;
 - b. **Salvador Medialdea** is the incumbent Executive Secretary of the Office of the President, who may be served with notices and other processes of this Honorable Court at the Malacafiang Palace Compound, J.P. Laurel Street, San Miguel, Manila 1005;
 - c. **Vicente Sotto III**, with office address at Room 603 and 24 (New Wing 5/F), GSIS Building, Financial Center, Diokno Boulevard, Pasay City, is being impleaded in his capacity as the Senate President of the Philippines; and
 - d. **Alan Peter Cayetano**, with office address at RVM Room 406, House of Representatives, Constitution Hills, Quezon City 1126, is being impleaded in his capacity as the Speaker of the House of Representatives of the Philippines.

10. On March 21, 2008, Edgar Candule, a farmer and a member of the Aeta community in Botolan, Zambales, was arrested by the police on on mere suspicion of being a member of the NPA. He was tortured stating "Tinali nila ako sa monobloc gamit ang wire, tapos kinuryente ako sa kamay, paa, at dibdib," and was thereafter charged with violation of the Human Security Act, the precursor of Republic Act No. 11479 or Anti-Terrorism Act. On November 10, 2010, he was acquitted of the charges and was released after two (2) years and eight (8) months of incarceration.⁸

⁸ Atom Araullo, "Aeta charged with terrorism wants P480M from cops", ABS-CBN News, October 20, 2010, available at <https://news.abs-cbn.com/-depth/12/13/10/aeta-charged-terrorism-wants-p480m-cops>, (Last accessed on August 5, 2020).

11. On February 21, 2018, the Department of Justice applied for proscription The Department of Justice (DOJ) and asked Regional Trial Court Branch 19 of Manila to legally declare the Communist Party of the Philippines-New People's Army (CPP-NPA) as a terrorist organization⁹. The said Petition was filed under Section 17 of the Human Security Act of 2007, which provides that the DOJ must first apply with a regional trial court before an organization, association, or group of persons can be declared as terrorist or outlawed organization.¹⁰

12. In the aforementioned DOJ Petition, Jeanette Ribaya-Cawiding who is a regional coordinator of Alliance of Concerned Teachers (ACT) in the Cordilleras was included in the list of 600 individuals whom the Philippine government formally petitioned to be declared as “terrorist” by a local court.¹¹

13. The City Government of Baguio¹² in Resolution No. 92 stated that Ribaya-Cawiding is a Kankanaey from Besao, Mountain Province and former Chairman of the Tongtongan Ti Umili who is active in Non-Government Organization work in the City of Baguio. The Resolution further declared that the individuals (Ribaya-Cawiding included) never joined the revolutionary groups but are passionate and active in their advocacy on Human Rights and the Indigenous People’s rights and that their inclusion in the list not only violated legal processes, but now poses a threat to their lives and that of their friends and families. Many other entities both local¹³ and global¹⁴ also campaigned for the removal of such terrorist tag on Ribaya-Cawiding and countless others.

14. The name of ANAKPAWIS Chairperson and National

⁹ Scanned copy of the DOJ Petition to Proscribe as uploaded by Rappler available at https://www.scribd.com/document/373360362/DOJ-Petition-to-Proscribe#from_embed, (Last accessed on August 5, 2020).

¹⁰ Nicole-Anne Lagrimas, “DOJ asks Manila court to declare CPP-NPA as terror group”, GMA News Online, February 20, 2018, available at <https://www.gmanetwork.com/news/news/nation/644149/doj-asks-manila-court-to-declare-cpp-npa-as-terror-group/story/>, (Last accessed on August 5, 2020).

¹¹ See Page 4 of a scanned copy of the DOJ Petition to Proscribe uploaded by Rappler available at https://www.scribd.com/document/373360362/DOJ-Petition-to-Proscribe#from_embed (Last accessed on August 6, 2020)

¹² Aileen P. Refuerzo, “Mayor signs call for removal of terrorist tag vs. IP rights advocates”, The City Government of Baguio official website, <http://www.baguio.gov.ph/content/mayor-signs-call-removal-terrorist-tag-vs-ip-rights-advocates> (Last accessed on August 6, 2020)

¹³ “Stop Criminalizing Dissent! Rights Activists are not Terrorists!” Karapatan Alliance Philippines Facebook Page, March 18, 2018, <https://www.facebook.com/karapatan/posts/jeanette-ribaya-cawiding-is-an-educator-in-the-philippines-she-is-a-rightsdefend/10160075074400153/>, (Last accessed on August 6, 2020)

¹⁴ Protection International, “Protection International condemns HRD criminalisation in the Philippines”, March 13, 2018, <https://www.protectioninternational.org/es/news/protection-international-condemns-hrd-criminalisation-philippines> , (Last accessed on August 6, 2020)

Democratic Front peace consultant Randall “Randy” Echanis was likewise included in the list of 600 hundred individuals in the said Petition¹⁵

15. As reported by the World Organisation Against Torture in 2018¹⁶, ACT-Bacolod City Coordinator and human rights advocate Zara Reboton Alvarez, was also among more than 600 individuals who were wrongfully named as respondents in the Department of Justice’s petition¹⁷ to declare CPP-NPA as a terrorist organization.

16. On January 3, 2019, or after almost a year when the DOJ filed the Petition with RTC Branch 19, the government agency was forced to amend its petition and removed about 600 individuals and groups from a list of “terrorists”¹⁸ including Ribaya-Cawiding, Echanis, and Alvarez.

17. On August 10, 2020, while undergoing a medical treatment and unarmed, alleged state security forces raided the house of Randall “Randy” Echanis in Quezon City and was killed.¹⁹ His body bore torture marks and multiple stab and gunshot wounds²⁰. A witness said that barangay officials and police operatives showed up at the area hours after the incident and the remains of Echanis and his neighbor were finally removed from the crime scene at past 4 a.m. News reporters found it odd after no information about the killing came out that time. Policemen from QCPD Station 4, who had jurisdiction in the crime scene, would usually give information to media when slayings like this happen²¹. On the same day, instead of

¹⁵ See Page 3 of a scanned copy of the DOJ Petition to Proscribe uploaded by Rappler available at https://www.scribd.com/document/373360362/DOJ-Petition-to-Proscribe#from_embed, (Last accessed on August 11, 2020).

¹⁶ World Organisation Against Torture, “Philippines: Unfounded terrorist accusations against dozens of human rights defenders”, March 18, 2018, available at <https://www.omct.org/human-rights-defenders/urgent-interventions/philippines/2018/03/d24774/>. (Last accessed on August 18, 2020)

¹⁷ See Page 9 of the scanned copy of the DOJ Petition to Proscribe as uploaded by Rappler available at https://www.scribd.com/document/373360362/DOJ-Petition-to-Proscribe#from_embed, (Last accessed on August 18, 2020).

¹⁸ Kimberlie Quitasol, 600 ‘terrorists’ stricken off revised DOJ petition vs Reds, Inquirer.net, January 11, 2019, available at <https://newsinfo.inquirer.net/1071887/600-terrorists-stricken-off-revised-doj-petition-vs-reds#ixzz6UGMTaBFs>, (Last accessed on August 6, 2020)

¹⁹ Lian Buan, “Anakpawis chair Randy Echanis killed inside Quezon City home”, Rappler, August 10, 2020, available at <https://rappler.com/nation/anakpawis-chair-randy-echanis-killed-inside-quezon-city-home>, (Last accessed on August 11, 2020).

²⁰ Gabriel Pabico Lalu, “Wife identifies slain NDFP consultant’s body, but says cops took it back”, Inquirer.net, August 11, 2020, available at <https://newsinfo.inquirer.net/1319697/ndfp-consultants-wife-positively-identifies-hubbys-body-but-says-cops-took-it-back>, (Last accessed on August 11, 2020).

²¹ Jervis Manahan, “‘Parang tinotorture’: What witnesses heard, saw on the night Echanis, Tagapia died”, ABS-CBN News, August 12, 2020, available at <https://news.abs->

investigating the murder and going after the perpetrators, more than ten members of the police force forcibly took the cadaver of Echanis from the funeral home and also arrested the paralegal guarding the remains²².

18. Just as this Petition is being finalized, on August 17, 2020, almost a month after the Anti-Terror Law's effectivity (as per government reckoning), Zara Reboton Alvarez, who also served as a volunteer resources mobilizer for COVID-19 pandemic-related relief operations, was gunned down in Bacolod City²³.

19. On June 27, 2019, The University of the Philippines (UP) Academic Employees Union (AUPAEU)-Cebu Chapter President Prof. Phoebe Zoe Maria Sanchez "received death threats through SMS," which were linked to state security agents.²⁴ Professor Sanchez, aside from being a faculty union leader, is also a known academic who writes critically on the Duterte regime's social, economic, and political policies. For example, she has written the following articles in 2018 and in 2019, respectively: "Philippines' Duterte Administration and His "Anti-drugs War": Towards a Police State," "The Philippines Tax Reform Acceleration and Inclusion (TRAIN) Law Triggers Mass Poverty: A Calamity Worse than Yolanda, and "The Criminalization of Filipino Children."²⁵ In 2018, she presented the paper "Philippine's Duterte Administration in His Anti-Drugs War, Anti-Muslim War and Anti-Communist War" in an international conference²⁶. With the Anti-Terrorism Law at hand, state security forces will be further emboldened to harass and intimidate academics like Prof. Sanchez, for their union work and research activities too.

cbn.com/news/08/12/20/parang-tinotorture-what-witnesses-heard-saw-on-the-night-echanis-tagapia-died, (Last accessed on August 12, 2020)

²² Kristine Joy Patag, "Guevarra: Police should explain transfer of Echanis' body without widow's consent", Philstar.com, August 11, 2020, available at <https://www.philstar.com/headlines/2020/08/11/2034525/guevarra-police-should-explain-transfer-echanis-body-without-widows-consent>, (Last accessed on August 11, 2020).

²³ Gelera, Shiela, "Activist leader gunned down", Visayan Daily Star, August 18, 2020, available at <https://www.visayandailystar.com/2020/August/18/topstory1.htm>. Last accessed on August 18, 2020.

²⁴ Ronalyn V. Olea, "UP acad union decries death threats, profiling vs members", Bulatlat.com, July 9, 2019, available at <https://www.bulatlat.com/2019/07/09/up-acad-union-decries-death-threats-profiling-vs-members/>, (Last accessed on August 6, 2020).

²⁵ Prof. Phoebe Zoe Maria Sanchez - Archive on Asia-Pacific Research website available at <https://www.asia-pacificresearch.com/author/prof-phoebe-zoe-maria-sanchez>, (Last visited on August 6, 2020).

²⁶ Philippine's Duterte Administration in His Anti-Drugs War, Anti-Muslim War and Anti-Communist War, Oral Presentation by Phoebe Zoe Maria SANCHEZ, University of the Philippines Cebu, Philippines On 16 July 2018, available at <https://isaconf.confex.com/isaconf/wc2018/webprogram/Paper97836.html>, (Last accessed on August 6, 2020).

20. On October 4, 2018, (PNP) Chief Director General Oscar Albayalde issued a statement that professors who are encouraging their students to entertain “rebellious” ideas could find themselves facing contempt charges. During the said press briefing, he was quoted saying:

“Eh kung kasuhan kaya natin yung teachers na nag-iinstigate ng mga estudyante? Diba? They should be also charged for contempt, dahil kung anu-anong itinuturo sa mga [estudyante], kung meron mang faculty members.²⁷”

21. Reports of profiling of ACT members by the PNP reached ACT starting early January 2019, but the first incidents of police officers inquiring into its leaders and members actually began in the last days of 2018.

22. On January 28, 2019, Respondent Raymond Basilio representing the Alliance of Concerned Teachers and its members nationwide filed a Complaint (attached to this Petition as **Annex “A”**) with the Ombudsman against Police Director General Oscar Albayalde and twenty one (21) other police officials for committing the following violations:

- (a) violation of teachers’ right to association, right to assembly and to petition the government for redress of grievances, right to privacy, freedom of expression, and right to protection to labor—all guaranteed by the 1987 Constitution;
- (b) violation of the Data Privacy Act, including violation of the rights of teachers as data subjects and large scale unauthorized access of personal information and sensitive personal information and large scale processing of personal information and sensitive personal information for unauthorized purposes;
- (c) partisan politics and electioneering prohibited by the Election Code and the Administrative Code;
- (d) violation of the rights of teachers—whether members of ACT or not—to public sector unionism under Executive Order 180 (1987) and other applicable laws, in particular, (1)

²⁷ Cathrine Gonzales, “Professors promoting ‘rebellious’ ideas may face contempt – Albayalde”, Inquirer.net, October 4, 2018 available at: <https://newsinfo.inquirer.net/1039167/professors-promoting-rebellious-ideas-may-face-contempt-albayalde>. (Last accessed August 7, 2020)

discrimination by reason of teachers' membership in ACT and participation in the normal activities thereof and (2) interference in the establishment and functions of public sector unions;

(e) violation of the norms of conduct of public officials, including justness and sincerity, political neutrality, and commitment to democracy; and

(f) oppression, misconduct, conduct prejudicial to the best interest of the service, and other offenses under the Administrative Code.

23. The Complaint provides for the numerous harassment and profiling incidents committed against members of ACT.

24. On November 26, 2018, Ms. Mary Jane Apatan, a teacher in Escalante National High School ("NHS") and a former coordinator of ACT Negros, received a message from the Division Supervisor saying that the 62nd Infantry Battalion of the AFP wrote a letter to the Schools Division Office to inform them about an "intelligence report" about her participation in a recent Fact-Finding Mission into an alleged "encounter" between members of the New Peoples' Army (NPA) and the military on 16 November 2018 in Brgy. Washington, Escalante City. On January 4, 2019 Ms. Apatan's school principal told her that a military personnel approached the principal late last year, asking for a list of all the teachers in Escalante NHS. The principal refused to give a list as the military personnel failed to present an official order for the same. (Affidavit of Ms. Apatan, Exhibit A of ANNEX "A")

25. In Baguio City, Ms. Ligaya Annawi, the principal of Pinsao Elementary School, reported that on December 8, 2018, a female police officer accompanied by a male in civilian clothes brought a letter signed by the station commander asking for the list of teachers who are members of ACT, purportedly in relation to the mid-term elections. The police had her sign a receiving copy of the said letter. When Ms. Annawi asked the police officer the relation of the mid-term elections to the survey of the ACT members, the latter answered that she is "just following orders." Ms. Annawi got angry and told the police officer that what they are doing is an intrusion of the teachers' privacy and a blatant violation of the Data Privacy Act. (Affidavit of Principal Annawi, Exhibit B; Letter from Baguio PNP, Exhibit C of ANNEX "A")

26. On 27 December 2018, Mr. Oliver Lucenario, a teacher in Sorsogon, was approached by a police officer in front of the public market. He was asked if he has a list of all the ACT members in their municipality and whether the police should just direct its request for information to the school heads. When asked about the purpose of this query, the police officer said he is following a memorandum that was sent to him by his “higher up.” The teacher told the police officer that its request is improper, adding that the police can write a formal letter to ACT or the CSC. The police said that he will just report the result of their conversation to his “higher up.” (Affidavit of Mr. Lucenario, Exhibit D of ANNEX “A”)

27. The Secretary of ACT Region XIII (CARAGA) also received a report that a school head was approached by a police officer asking for the names of ACT members. (Affidavit of Mrs. Rosanilla Consad, Exhibit E of ANNEX “A”)

28. On 3 January 2019, two police officers came to the Cecilio Apostol Elementary School in Manila and talked to Mr. Alberto Matira, the Faculty Club President, to ask for a list of ACT members in the school. Mr. Matira refused to give the list after reading the faxed memorandum that the police made him read. (Affidavit of Mr. Matira, Exhibit F of ANNEX “A”)

29. Teachers in Muntinlupa were able to get a copy of the 3 January 2019 Memorandum issued by Respondent Aquino, Muntinlupa Police Intelligence Section Chief on behalf of Muntinlupa City Police Chief PSSUPT Gerardo Lacorte Umayao with subject head, **Inventory of All Public and Private School Teachers Who are Members of or Aligned with Alliance of Concerned Teachers (ACT)**. (Exhibit G of ANNEX “A”)

30. On 3 January 2019, two uniformed policemen went to Juan Sumulong Elementary School in Antipolo City and talked to Mr. Manolito Resaba, the faculty federation president, requesting for a list of ACT members. The officers showed a PNP memorandum saved in a mobile phone that orders the inventory of ACT members in schools. Mr. Resaba replied that he will not provide a list without an official request therefor. (Affidavit of Mr. Resaba, Exhibit H of ANNEX “A”)

31. The police officers returned to Mr. Resaba’s school on 7 January 2019, this time handing Mr. Resaba a letter from the Antipolo City Police Station dated 7 January 2019 addressed to him. The letter references a “memorandum received from higher headquarters,

directing this office to conduct inventory of all public and private school teachers who are members, or aligned with Alliance of Concerned Teachers (ACT).” (Letter of Antipolo City Police Station with attached Memorandum from the Rizal Police Provincial Office, Exhibit I of ANNEX “A”)

32. On 14 January 2019, ACT Region X Union received a report of an incident of police profiling in Cagayan de Oro City. (Affidavit of Union President Ophelia Tabacon, Exhibit J of ANNEX “A”)

33. On 8 January 2019 in Angeles City, unidentified policemen visited at least four schools, bringing with them a list of names of teachers whose identities and membership with ACT they sought to verify with the school principals. The principals told them that none of the teachers listed is a member of the faculty of their schools. They immediately reported the unwelcome police visits to the Angeles City Division Superintendent, which resulted in the Schools Division Superintendent (SDS) instructing all 53 school principals in the city not to release any information about their teachers and to instead point them to the DepEd Region and the DepEd Central Office. The principals were also advised to demand from the police an official order from the DepEd allowing the release of the lists. (Affidavit of Mr. Matthew Santiago, Exhibit K of ANNEX “A”)

34. Mr. Marjohn Sante, the President of ACT Pangasinan, also reported repeated visits of PNP officers to his school. At around 2:00 p.m. on 14 January 2019, two men in plainclothes went looking for him in school and asking for his personal details and activities as a teacher-leader in his school. The men showed his principal and administrative officer an alleged written directive from the Director of the Pangasinan Provincial Police Office. When the principal related Mr. Sante’s activities as an ACT officer, the men asked for documents about him. The principal refused, saying that the police must first secure the permission of the DepEd before they can get any information on the teachers. Mr. Sante was informed about the incident at around 9:00 am the following day. An hour later, his co-teacher called him to say that two policemen are again looking for him. He spoke with the officers, with the administrative officer as witness. The policemen started asking for his personal information (birthday). Mr. Sante refused to answer and instead pressed the

officers for the purpose of their inquiry. The policemen replied that they have orders “from their superiors” to find out if he is running in the next elections and planning to serve as an election personnel, among others. Finding these reasons contrived, Mr. Sante kept inquiring about the real purpose behind his interrogation and asked if the same is one of the many incidents of profiling of ACT members all over the country. The policemen denied any knowledge of the police profiling and even feigned ignorance of the nature and character of ACT. (Affidavit of Mr. Sante, Exhibit L of ANNEX “A”)

35. When police officers conducted the profiling in certain schools in Zambales, teachers were able to take a picture of a memorandum from the Zambales Provincial Intelligence Branch addressed to all chiefs of police (COPs). The following are the contents of the Memorandum signed by Police Chief Inspector Pancho Dasca Doble. (Exhibit M of ANNEX “A”)

36. Of the same tenor is the Memorandum issued by Respondent Layug, Chief of the MPD Chief Intelligence Branch (Exhibit N of ANNEX “A”) to “ALL CONCERNED” on 26 December 2018. This Memorandum, which bears the subject heading “Inventory of All Public and Private School Teachers who are members of or aligned with Alliance of Concerned Teachers,” prescribes the listing of the cities, names and schools of ACT members in the same Excel matrix provided in the Muntinlupa City Police Memorandum (Exhibit G) and Rizal Memorandum (Exhibit I).

37. On 7 January 2019, the Angono Municipal Police Station, through its Acting Chief PSUPT Glenn C. Magsino, wrote a letter request to the Angono National High School (Exhibit P of ANNEX “A”) to ask for “a list of names of faculty who are members of Alliance of Concerned Teachers (ACT) for our reference and data.” Magsino cited the PNP’s “emphasis on the active engagement of x x x other government agencies, civil society, and the citizenry in its efforts on crime prevention and crime solution.”

38. A similar letter was received by the Camaman-an Elementary School in Cagayan de Oro City. In a letter dated 14 January 2019 and signed by Respondent Bolanio (Exhibit Q), the Cagayan de Oro City Police is requesting for an inventory of ACT members. , which document “will not just provide important information but will also contribute to positive progress including the strengthening of the relationship between the organization and the Government.”

39. ACT MIMAROPA received reports that an order by the Schools Division Office to all school heads in MIMAROPA was already issued to the School Division Office even before Christmas break. (Affidavit of Ms. Borbe, Exhibit R of ANNEX “A”)

40. The CHR also issued a statement, scoring the profiling as unlawful, unconstitutional, and discriminatory²⁸, to wit:

“Reports of alleged profiling of members of the Alliance of Concerned Teachers (ACT) are alarming as it violates rights to privacy and association, which are guaranteed freedoms in the Constitution among others. Should there be clear grounds against ACT and its members, then the police should be transparent in applying the law and equally ensure that due process is observed. Clandestine operations may lead to a number of abuses as it is easier to deny accountability for any action. We urge the government, particularly the Philippine National Police, to clarify such allegations, especially that a provincial police office confirmed such orders to profile ACT members but other leaderships have denied it. It is important for our police force to stay true to their role as law enforcers. After all, it is their sworn duty to serve and protect the rights of every Filipino.”

41. Citing the law which it is primarily tasked to implement, the Data Privacy Act, Commissioner Raymund Liboro of the NPC was quoted in news reports²⁹ emphasizing that in their collection of personal data, law enforcement agencies must fully respect human rights, particularly the right to information privacy. Liboro earlier said that the collection and processing of personal data by law enforcement agencies have limits. The NPC chief was quoted stating: “The processing of personal data, especially those of sensitive nature, should only be to the extent necessary for the purpose. This means collection should always be consistent with full respect of human rights and the Constitution, particularly the right to information privacy.”

²⁸ <http://chr.gov.ph/statement-of-chr-spokesperson-atty-jacqueline-ann-de-guia-on-the-alleged-police-profiling-of-alliance-of-concerned-teachers-members/>. (Last accessed on August 7, 2020)

²⁹ Janvic Mateo, “National Privacy Commission to PNP: Explain spying on ACT”, Philstar.com, January 10, 2020, available at <https://www.philstar.com/headlines/2019/01/10/1883839/national-privacy-commission-ntp-explain-spying-act>. (Last accessed on August 7, 2020)

42. On the other hand, PNP's statements and reaction to the issue of profiling and harassment has been a confused mixture of denial and admission.

43. PNP Chief Oscar Albayalde denied issuing an order for the profiling against ACT. However, he was quoted in news reports as saying, "As far as I am concerned, I have not signed anything like that at nung mag-leak 'yan, I have already ordered for all intelligence officers involved to be relieved"³⁰ implying, and admitting, that, indeed, something had leaked in the first place. He even defended the profiling saying that ACT members have nothing to fear about the profiling if they are not doing anything illegal and by accusing ACT as a "front organization" of the Communist Party of the Philippines stating, *"Kaya siguro they're profiling kung saan talaga affiliated. Remember, there are pronouncements kasi coming from CPP-NDF na ito ang mga front organization nila."*³¹

44. PNP Intelligence Chief of Zambales Pancho Dasca Doble, confirmed the document passed on by ACT was genuine during a phone interview stating that "We're just following orders." When asked for the purpose of the "inventory," Doble replied: "You don't ask why. It's up to the region. We only pass the order to the stations."³²

45. On October 15, 2020, Alliance of Concerned Teachers (ACT) member Zhaydee Cabañales was shot inside her classroom in Bukidnon.³³

46. On October 16, 2019, Alliance of Concerned Teachers (ACT)-Bulacan coordinator Digna Mateo was arrested on a trumped up murder case³⁴. Prior to her arrest, "Mateo was heavily involved in the certification election campaign of ACT's Region III union. She has

³⁰ Rambo Talabong, "Albayalde sacks cops who 'leaked' memo on ACT teachers", Rappler, January 7, 2019 available at <https://rappler.com/nation/pnp-fires-intel-cops-who-leaked-act-teachers-inventory-memo>. (Last accessed on August 7, 2020)

³¹ Id.

³² Inday Espina-Varona, "Police intel on hunt for members of Alliance of Concerned Teachers", ABS-CBN News, January 6, 2019, available at <https://news.abs-cbn.com/news/01/06/19/police-intel-on-hunt-for-members-of-alliance-of-concerned-teachers>. (Last accessed on August 7, 2020)

³³ CNN Philippines Staff, "Activist teacher shot in classroom in Bukidnon", CNN Philippines, October 16, 2019 available at <https://cnnphilippines.com/regional/2019/10/16/activist-teacher-shot-Bukidnon.html>. (Last accessed on August 7, 2020)

³⁴ Ramon Efren Lazaro, "ACT denounces arrest of its Bulacan coordinator", Ronda Balita, October 16, 2019, available at <http://rondabalita.news/act-denounces-arrest-of-its-bulacan-coordinator>. (Last accessed on August 7, 2020)

been going around Bulacan, visiting schools, and talking to teachers, principals, and supervisors to discuss several teachers' issues and to promote the union. However, similar to other ACT campaigners and supporters especially in the region, Mateo was subjected to surveillance, harassment, and vilification.³⁵ Mateo was arrested a week before the scheduled certification election in Region III³⁶. The Philippine News Agency which is a web-based newswire service of the Philippine government under the supervision of the News and Information Bureau (NIB) of the Presidential Communications Operations Office (PCOO) issued a news article about the arrest and referred to Mateo as a "former high-ranking officer of the New People's Army and coordinator of Alliance of Concerned Teachers."³⁷ Mateo's case thus proves that red tagging, and under the Anti-Terrorism Act, terrorist tagging will only serve to repress legitimate organizations and individuals who are helping workers, teachers etc. in fighting for their rights.

47. On March 27 2020, 55-year old teacher Juliet Espinosa was arrested on charges of sedition, again without warrant³⁸, for a sarcastic yet harmless Facebook post which only expresses anger at our countrymen's desperate situation amidst the pandemic: "Maraming mamamatay sa gutom if hindi tayo magtutulong-tulong na magreport sa Pangulo na inutil ang ating Mayor.... Panawagan sa walang makain, sugurin 'nyo na nang sabay-sabay ang Lagao Gym. Nakatambak doon ang pagkaing para sa inyo." Her son was also arrested. Teacher Juliet was eventually hospitalized for hypertension because of the ordeal³⁹.

³⁵ Alliance of Concerned Teachers Facebook Page, October 18, 2019 available at <https://www.facebook.com/actph1982/photos/a.416944018344795/2693519074020600/?type=1&theater>. (Last accessed on August 7, 2020)

³⁶ Available at http://www.depedbataan.com/issuances/1/division_memorandum_no._369_s._2019.pdf . (last accessed on August 7, 2020)

³⁷ Manny Balbin, "Ex-NPA officer nabbed in Bulacan", Philippine News Agency, October 17, 2019 available at <https://www.pna.gov.ph/articles/1083482?fbclid=IwAR3mfgBy8vflcG5QOJE3B1bORwBH4QBTT8KuzycAhcqo9XRHXvL1JNISJH0>. (Last accessed on August 7, 2020)

³⁸ Rappler, "Teacher, son arrested without warrant in GenSan over Facebook post", March 28, 2020 available at <https://www.rappler.com/nation/256157-teacher-son-arrested-without-warrant-general-santos-city-facebook-post-coronavirus>. (Last accessed August 7, 2020)

³⁹ Lian Buan, "Teacher arrested over Facebook post in GenSan rushed to hospital", Rappler, March 31, 2020, available at <https://www.rappler.com/nation/256529-teacher-arrested-inciting-sedition-rushed-to-hospital-son-still-in-jail-march-31-2020> . (Last accessed on August 7, 2020)

48. On May 2020, the Department of Justice (DOJ) published an official report entitled *THE PHILIPPINE HUMAN RIGHTS SITUATIONER*,⁴⁰ which on p. 25 directly labeled as ACT and CONTEND (organizations to which some of the petitioners are affiliated) as “CPP-CREATED AND LED ABOVEGROUND OR FRONT MASS ORGANIZATIONS AND INSTITUTIONS” along with other known legal organizations. This official publication only served to confirm that the public red-tagging of legitimate organizations by officials of the current administration, is indeed official government policy.

49. On May 11, 2020, Teacher Ronnel Mas was arrested – without warrant⁴¹ – for merely tweeting about an obviously laughable/unserious offer of a bounty to kill Duterte⁴². Mas was jailed for 8 days, before he was freed on bail. The case against him was eventually dismissed⁴³.

50. As journalist Ellen Tordesillas notes⁴⁴, “The case of public school teacher Ronnel Mas should give us a preview of the horror that we would have to go through if and when the Anti-Terrorism bill, which is awaiting the signature of President Duterte, becomes a law. Given the mindset of law enforcement agencies, imagine how it would be if the Anti-Terrorism bill becomes a law. One can be arrested without warrant and detained for 14 days, and possibly another 10 days while they are investigating if you fall under their category of “terrorist.””

51. True enough, as what Tordesillas claimed in her article regarding the mindset of law enforcement agencies, Lt. Gen. Gilbert Gapay, the newly appointed Armed Forces of the Philippines chief, said on August 3, 2020 that he wants the implementing rules of the

⁴⁰ Republic of the Philippines, “THE PHILIPPINE HUMAN RIGHTS SITUATIONER”, May 2020 available at <https://doj.gov.ph/files/2020/news%20articles/The%20Philippine%20Human%20Rights%20Situationer.pdf> (Last accessed on August 5, 2020).

⁴¹ Lian Buan, “DOJ okays warrantless arrest of teacher who posted about 'killing Duterte'”, Rappler, May 14, 2020, available at <https://www.rappler.com/nation/260961-doj-okays-warrantless-arrest-ronnel-mas-teacher-reward-kill-duterte>. (Last accessed on August 7, 2020)

⁴² Lian Buan, NBI arrests teacher who posted about reward to kill Duterte, Rappler, May 12, 2020, available at <https://www.rappler.com/nation/260646-nbi-arrests-teacher-posted-reward-kill-duterte> . (Last accessed on August 7, 2020)

⁴³ Tetch Torres-Tupas, “Olongapo court junks case vs teacher who offered bounty to kill Duterte”, Inquirer.net, June 25, 2020, available at <https://newsinfo.inquirer.net/1297159/olongapo-court-dismisses-case-vs-teacher-who-offered-bounty-to-kill-duterte> . (Last accessed on August 7, 2020)

⁴⁴ Ellen T. Tordesillas, “Ronnel Mas’ case: A preview of the possible horror of Anti-Terrorism law”, verafiles.org, June 26, 2020, available at <https://www.verafiles.org/articles/ronnel-mas-case-preview-possible-horror-anti-terrorism-law>. (Last accessed on August 7, 2020)

Anti-Terrorism Act of 2020, already facing challenges in court for allegedly being unconstitutional, to cover social media use.⁴⁵

52. On August 6, 2020, Respondent and Speaker Alan Peter Cayetano who is a lawyer shared the view of new Armed Forces of the Philippines (AFP) chief Lieutenant General Gilbert Gapay that social media should be regulated in the name of fighting terrorism through his Facebook fan page⁴⁶.

53. In an attempt to “clarify” his previous statement, Gapay declared in an interview on August 8, 2020 that his proposal to add social media in the anti-terrorism law was to regulate the use of the platforms, and not its users.⁴⁷

54. These are disturbing statements from high-ranking officials when it is a basic Constitutional guarantee that the only limitation to freedom of expression may be applied on content and not on the platform being used.

55. On July 2019, the Department of Education suspended the operations of 55 Lumad schools “allegedly for teaching “left-leaning ideologies.”⁴⁸ On October 2019, DepEd ordered the permanent closure of the said schools. DepEd’s decision was purely based on claims⁴⁹ of National Security Adviser Hermogenes Esperon, as the Lumad schools’ side was never amply taken, and DepEd officials did not even visit the schools⁵⁰.

⁴⁵ Kristine Joy Patag, “New AFP chief wants to regulate social media through the anti-terrorism law”, Philstar.com, August 3, 2020, available at <https://www.philstar.com/headlines/2020/08/03/2032644/new-afp-chief-wants-regulate-social-media-through-anti-terrorism-law>. (Last accessed August 7, 2020)

⁴⁶ Mara Cepeda, “Cayetano echoes AFP chief: Social media sites 'new battlefronts in fight vs terrorism'”, Rappler, August 6, 2020, available at <https://rappler.com/nation/cayetano-echoes-afp-chief-social-media-sites-new-battlefronts-fight-vs-terrorism>. (Last accessed on August 10, 2020)

⁴⁷ Katrina Hallare, “AFP chief clarifies: Regulate social media platforms – not users – under anti-terror law”, Inquirer.net, August 8, 2020, available at <https://newsinfo.inquirer.net/1318702/afp-chief-clarifies-regulate-social-media-platforms-not-users-under-anti-terror-law>. (Last accessed on August 10, 2020)

⁴⁸ Matthew Reysio-Cruz, “DepEd shuts down 55 ‘lumad’ schools”. Inquirer.net, July 15, 2019, available at <https://newsinfo.inquirer.net/1141670/deped-shuts-down-55-lumad-schools>. (Last accessed on August 8, 2020)

⁴⁹ Ruth Palo, “DepEd shuts down 55 lumad schools”, CNN Philippines, October 8, 2019, available at <https://www.cnn.ph/regional/2019/10/8/deped-salugpungan-schools.html>. (Last accessed on August 8, 2020)

⁵⁰ Ratziel San Juan, “No due process in DepEd order to close Lumad schools – child rights NGO”, Philstar.com, October 9, 2019 <https://www.philstar.com/headlines/2019/10/09/1958785/no-due-process-deped-order-close-lumad-schools-child-rights-ngo>. (Last accessed on August 8, 2020)

56. Earlier attacks on Lumad schools were also documented in House Resolution No. 144, filed in the House of Representatives on July 29, 2019⁵¹.

57. National Task Force to End Local Communist Armed Conflict (NTF ELCAC) head Major General Antonio Parlade, Jr. – also Armed Forces of the Philippines Deputy Chief of Staff from Civil-Military Operations, hailed DepEd’s closure of the Lumad schools as “appropriate.”⁵² It is interesting to note that Esperon, the de-facto accuser of Lumad schools, was the vice chair of NTF ELCAC⁵³ which Parlade heads.

58. In his official capacity as an AFP official and NTF ELCAC head, Parlade publicly and maliciously labels at least one teacher organization – the Alliance of Concerned Teachers – as a Communist Party of the Philippines front⁵⁴. Parlade also publicly backed a petition before the Commission on Elections “calling for the cancellation of the registration of a number of partylist groups linked to the CPP-NPA,” among which was named ACT Teachers Partylist.⁵⁵ The official Facebook page of the NTF ELCAC has also redtagged ACT, ACT Teachers Partylist, and Congress of Teachers/Educators for Nationalism and Democracy/CONTEND (screenshots of these are attached to this Petition as **Annex “B”**). Hence, Parlade’s close working relationship with Esperon – the vice chairperson of the “Anti-Terrorism Council” which the assailed law has established – only bolsters the fact that the State intends to use the Anti-Terrorism Law to repress, persecute, and prosecute activist teachers and their organizations.

59. The 2019 NTF-ELCAC Annual Report which was submitted to the House of Representatives Committee on Indigenous Cultural Communities and Indigenous Peoples Committee members

⁵¹ House of Representatives Eighteenth Congress, House Resolution 144, http://www.congress.gov.ph/legisdocs/basic_18/HR00144.pdf . (Last accessed on August 8, 2020)

⁵² Priam Nepomuceno, “Closure of 55 Salugpungan schools appropriate: Parlade”, Philippine News Agency, October 8, 2019 available at <https://www.pna.gov.ph/articles/1082626> . (Last accessed on August 8, 2020)

⁵³ Editorial, “Shuttering ‘lumad’ schools”, Inquire.net, July 18, 2019, available at <https://opinion.inquirer.net/122675/shuttering-lumad-schools> . (Last accessed on August 8, 2020)

⁵⁴ Francis Wakefield, “AFP official unmasks CPP fronts, networks”, Manila Bulletin, April 6, 2019, available at <https://mb.com.ph/2019/04/06/afp-official-unmasks-cpp-fronts-networks/>. Last accessed on August 8, 2020)

⁵⁵ Priam Nepomuceno, “Red-linked party lists sued before poll body”, Manila Standard, April 28, 2019, available at <https://manilastandard.net/mobile/article/293491>. (Last accessed on August 8, 2020)

placed the name ACT or the Alliance of Concerned Teachers and its logo under ANNEX A with the title, **The Threat To Peace and Development; CPP-NPA-NDF The Communist Terrorist Group (CTG {})**. The name “ACT” was placed under alleged organizational charts and tables specifically on pages 181, 190, 198, 200 and the ACT logo on page 203. The annual report accused the Alliance of Concerned Teachers as a communist-terrorist organization infiltrating the bureaucracy.

60. In a recent study published by Rappler,⁵⁶ it was shown that PNP pages and accounts habitually share content from dubious, anonymously-managed pages known for perpetuating lies and for red-tagging individuals and groups. Data analyzed by Rappler show patterns of police pages and accounts sharing and even creating their own content that either label critics as terrorists or link them to rebel groups. The propagation of disinformation and harmful content violate social media guidelines for police personnel and the code of conduct for government employees, which prohibits fake, libelous, hurtful, and discriminatory posts, among others. The targets of these false claims and hateful content are vulnerable to harm that may range from trolling to extrajudicial killings.

61. The pattern of red-tagging, vilification, harassment has resulted to different types of human rights abuses and weaponization of the law by state forces against dissenters and members of progressive groups like ACT. From filing of trumped up charges, enforced disappearances and extra-judicial killings, the state of impunity has worsened the human rights situation in the Philippines. Red-baiting (another term for red-tagging) in its most extreme can lead to warrantless arrests, torture, enforced disappearances (ED), or worst, extrajudicial killings (EJK), according to the International Peace Observers Network (IPON) 2012 study⁵⁷. These acts are grave violations of the guaranteed Constitutional rights to life, liberty and security. All of these atrocities are already happening even without the the vague and patently unconstitutional Anti-Terrorism Act.

62. In fact, as claimed by Senator Panfilo Lacson that law enforcement agents are hesitant to file cases under the Human

⁵⁶ Loreben Tuquero, Raisa Serafica, Gemma Bagayaua-Mendoza, Camille Elemia, “With anti-terror law, police-sponsored hate and disinformation even more dangerous”, Rappler, August 13, 2020, available at <https://rappler.com/newsbreak/investigative/anti-terror-law-state-sponsored-hate-disinformation-more-dangerous>. (Last accessed on August 16, 2020)

⁵⁷ International Peace Observers Network (IPON) website, available at <https://ipon-philippines.org/medien/publikationen/>. (Last accessed on August 16, 2020)

Security Act⁵⁸, the possible reason is because of the safeguard under Section 50 of the said law which states that:

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 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. **(Emphasis Ours).**

⁵⁸ Marita Moaje, "Lacson, Esperon cite weaknesses of Human Security Act", Philippine News Agency, June 17, 2020 available at <https://www.pna.gov.ph/articles/1106241>. (Last accessed on August 21, 2020)

This provision has been deleted under the Anti-Terrorism Act subject of this Petition. Nonetheless, the supposed provision which was placed as a safeguard in order to protect civilians from abuses from state agents did not prevent the Philippine National Police from arresting and torturing Edgar Candule in 2008 and subsequently charging him under the Human Security Act. After almost three (3) years of incarceration and acquittal from the crime of terrorism, the state owes him a total amount of Php 480 Million⁵⁹ which has not been settled until today. Hence, the deletion of Damages for Unproven Charge of Terrorism under the Anti-Terror Act will result to more instances of unlawful accusations, illegal detention and torture using the vague provisions of the assailed law.

V

Grounds for the Petition

63. Petitioners respectfully submit that the respondents committed grave abuse of discretion amounting to lack or in excess of jurisdiction when they enacted Republic Act No. 11479 which violates the provisions of the 1987 Constitution, and there is no appeal, or any plain, speedy and adequate remedy in the ordinary course of law.

VI

64. The issues to be resolved herein are:

WHETHER OR NOT THE PETITIONER COMPLIED WITH THE REQUISITES FOR JUDICIAL REVIEW.

WHETHER OR NOT SECTIONS 4, 5, 6, 7, 8 AND 9 OF THE ASSAILED LAW VIOLATE THE DUE PROCESS CLAUSE AND FREEDOM OF SPEECH AND OF EXPRESSION.

WHETHER OR NOT THE ASSAILED LAW VIOLATES ACADEMIC FREEDOM GUARANTEED UNDER ARTICLE XIV, SECTION 5 (2) IN RELATION TO FREEDOM OF SPEECH, EXPRESSION AND ASSOCIATION, WHICH ARE ENSHRINED IN THE BILL OF RIGHTS OF THE 1987 CONSTITUTION.

⁵⁹ Atom Araullo, "Aeta charged with terrorism wants P480M from cops", ABS-CBN News, December 14, 2010, available at <https://news.abs-cbn.com/-depth/12/13/10/aeta-charged-terrorism-wants-p480m-cops>. (Last visited on August 16, 2020)

WHETHER OR NOT SECTION 12 IN RELATION TO THE DEFINITION OF MATERIAL SUPPORT UNDER SECTION 3 (E), SECTIONS 15, 25, 26, 27 AND 36 OF THE ASSAILED LAW VIOLATES THE RIGHT TO DUE PROCESS, ACADEMIC FREEDOM AND RIGHT TO FREEDOM OF SPEECH, EXPRESSION AND ASSOCIATION.

WHETHER OR NOT SECTIONS 16 AND 17 VIOLATE THE CONSTITUTIONAL RIGHT TO PRIVACY BY BEING OVERBROAD AND DO NOT PROVIDE SAFEGUARDS AND TANTAMOUNT TO UNREASONABLE SEARCH WITHOUT A NEED FOR A VALID SEARCH WARRANT.

WHETHER OR NOT SECTION 29 OF THE ASSAILED IS UNCONSTITUTIONAL FOR ALLOWING ARREST WITHOUT JUDICIAL WARRANT AND DETENTION WITHOUT CHARGES EXCEEDING THE ALLOWABLE PERIOD UNDER THE CONSITUTION.

WHETHER OR NOT THE ASSAILED LAW ENCROACHES ON JUDICIAL POWER.

VII. DISCUSSION/ARGUMENTS

The Petition complies with the requisites for judicial review

65. This Petition fulfills the following requisites for judicial review based on jurisprudence:

- a. present or actual dispute or controversy that requires the exercise of judicial powers;
- b. the right to question the legality of a subject act, law, or regulation rooted in a personal and genuine interest in the case, with the assailed act, law, or regulation causing or will cause certain irreparable damages/injury to Petitioners;
- c. the issue of upholding the Constitution has been raised at the earliest opportunity; and
- d. the issue of constitutionality is the *lis mota* of the case.⁶⁰

⁶⁰ See *La Bugal-B'laan Tribal Association v. Victor O. Ramos*, G.R. No. 127882, January 27, 2004, 421 SCRA 148.

66. The petitioners have the right to question the legality and constitutionality of RA 11479 which is the subject of this Petition. This right is rooted in their genuine interest in the case as citizens who as individuals or members of organizations, are negatively affected or will be negatively affected by the implementation of the Anti-Terrorism Act—through prospective repression and chilling effects on (if not total obstructions to) the practice of the inviolable right to organization and freedom of expression.

67. As educators, Petitioners will be covered by the vague definition of “Terrorism” under Section 4 and petitioners stand to suffer directly from the “chilling effect” of the unconstitutional impositions of the *Anti-Terrorism Act*, whose numerous provisions are overbroad and vague that these can be applied arbitrarily on protected speech and symbolic speech of all Filipinos, including that of Petitioners.

68. Petitioners as educators will likewise be unjustly covered by Section 12 of the ATA on “*providing material support to terrorists*” if construed in relation to the overbroad definition of material support under Section 3(e) which includes “*any property, tangible or intangible.*” This would criminalize even the giving of “service” or “training” such as mentorship to any suspected terrorist even without being aware that the practice of their profession would be violative of the ATA.

69. As taxpayers, it is in the Petitioners’ interest to ensure that their taxes will be utilized only for acts that do not violate the Constitution, such as the arbitrary detention without judicial warrant, of citizens who are merely suspected of being “terrorists,” and funding a patently illegal and tyrannical super body (the “Anti-Terrorism Council” or ATC) which grabs some judicial powers and/or disregards judicial remedies and does away with democratic checks and balances.

70. Petitioners, as taxpayers, have the right to challenge the constitutionality of RA 11479 as public funds are spent and will be spent for its implementation as evident in the numerous superpowers given to the ATC in its Section 45 and 46.⁶¹

71. Petitioners are teachers and professors from various educational institutions both public and private including state and private universities. Eight (8) of the petitioners are members of the Alliance of Concerned Teachers (ACT), an organization which has

⁶¹ An Act to Prevent, Prohibit and Penalize Terrorism, Thereby Repealing Republic Act No. 9372, Otherwise Known as The Human Security Act of 2007 [Anti-Terrorism Act of 2020], Republic Act No. 11749, (2020). Henceforth, “Anti-Terror Law.”

been subjected to red-tagging⁶², vilification, profiling⁶³ and harassment⁶⁴ from law enforcement and government agencies.

72. The petitioners are likewise suing as taxpayers, hereby questioning the disbursement of public funds for the implementation of the *Anti-Terrorism Act*, since this law is unconstitutional. They are also bringing this suit as part of the academic community, as literature and academic writers who stand to be directly injured by the unconstitutional nature of the law in question, inasmuch as it infringes on their right to freely express their ideas and opinions on the raging issues of the day through various forms of social media and/or online and print publications.

73. The petitioners as members of the academic community are likewise questioning the chilling effects of certain provisions of the *Anti-Terrorism Act* on academic freedom as guaranteed by the 1987 Philippine Constitution.

74. As Respondents' actions are already causing and will cause grave injustice and irreparable violation of the Constitution and the Filipino people's rights, and given the transcendental importance of the case, Petitioners, as members of the academic community, authors, taxpayers and concerned citizens, seek the issuance of a temporary restraining order and/or writ of preliminary injunction ordering the respondents to cease and desist from proceeding with the implementation of Republic Act No. 11479 and from further threatening and performing acts that violate the Constitution.

75. Petitioners submit that they have *locus standi* to file the instant Petition, having clear personal interests in the matter under judicial review. The proceeding before this Honorable Court involves the assertion and protection of a public right and therefore "the requirement of personal interest is satisfied by the mere fact that the

⁶² Red-tagging has been defined by Associate Justice Marvic Leonen in his dissenting opinion in a Philippine Supreme Court decision as "the act of labelling, branding, naming and accusing individuals and/ or organizations of being left-leaning, subversives, communists or terrorists (used as) a strategy...by State agents, particularly law enforcement agencies and the military, against those perceived to be 'threats' or 'enemies of the State' (Zarate vs. Aquino III, G.R. No. 220028).

⁶³ CNN Philippines Staff, "Teachers' group condemns alleged police profiling of its members", CNN Philippines, January 6, 2019, available at <https://cnnphilippines.com/news/2019/01/06/alliance-of-concerned-teachers-act-ppnp-profiling-teachers-members.html>, (Last accessed on August 6, 2020).

⁶⁴ Jhesset Enano, "Tokhang in Schools, Hands off our teachers, ACT tells PNP", Inquirer.Net, January 6, 2019, available at <https://newsinfo.inquirer.net/1070023/hands-off-our-teachers-act-tells-ppnp>, (Last accessed on August 6, 2020).

petitioner is a citizen, and therefore, a part of the general 'public' which possesses the right."⁶⁵

76. Teachers and education sector workers have reason to worry much about the impact of the Anti-Terrorism Law on academic freedom, free speech, free expression, and right to organization, because under the current regime, teachers have been subjected to the worst forms of repression even before the passage of the Anti-Terrorism Law.

77. Considering that the implementation of RA 11479 involves the disbursement of public funds, it is clear that Petitioners have *locus standi* as taxpayers. The implementation of the constitutionally repugnant provisions of the law will necessarily have to entail the expenditure of public funds.

78. Eight of the Petitioners namely Raymond Basilio, Dr. Rowell Madula, Jonathan Vergara Geronimo, Dr. Gerry Lanuza, Annariza C. Alzate, Ruby Ana Bernardo, Kristhean A. Navales and Grace Edora invoke the direct and personal injury to their own rights as members of ACT and will be discussed below, while the rest of the Petitioners would challenge the assailed law as educators and in relation to their practice of profession as well as its injurious effects to the rights of their fellow education personnel who are too numerous to personally bring the case to the Honorable Court. They therefore seek to represent many other teachers and academics who are threatened by the Anti-Terrorism Act.

79. Petitioners thus implore the Honorable Supreme Court to conduct a judicial review in accordance with Article VIII, Section 1 of the Constitution, as part of the government's system of checks and balances,⁶⁶ particularly if the issue at stake concerns national interest and the sanctity of our Constitution.

80. With the impending implementation of the Anti-Terrorism Law which blatantly violates the Constitution and is posed to embolden state security forces to commit (much much more) human rights violations, there is no plain, speedy and adequate remedy in the ordinary course of law for Petitioners but to avail themselves of the instant Petition pursuant to Sections 1 and 2 of Rule 65 of the Revised Rules of Court.

81. Petitioners have properly verified this petition and duly certified the same against forum shopping. They have also served

⁶⁵ Legaspi vs. Civil Service Commission, G.R. No. L-72119. May 29, 1987, 150 SCRA 530.

⁶⁶ See Dabuet v. Roche Pharmaceuticals, Inc., G.R. No. L-45402, April 30, 1987, 149 SCRA 386.

copies of the Petition upon the respondents by registered mail. A duly accomplished affidavit of service attesting thereto is attached to this Petition. The corresponding docket fees were also paid upon its filing.

82. Hence, Petitioners, as citizens, educators and taxpayers, possess locus standi to question the constitutionality of RA 11479.

83. The issue of the Anti-Terrorism Law's violation of the Constitution has been raised at the earliest opportunity, which per this Honorable Court's definition is at the point of pleading filed in a court with sufficient powers to hear its merits.⁶⁷ As the assailed act is a law, its constitutionality can be resolved by this Honorable Court.

84. The unconstitutionality of RA 11479 is the *lis mota* or the very essence of the current case.

85. Petitioners asks the Honorable Court to declare RA 11479 unconstitutional, in view of the transcendental importance of this case that affects present and future generations of Filipino citizens, especially our children.

86. Petitioners respectfully submit that since the *Anti-Terrorism Act* is an official act of the Legislative and the Executive Departments of the National Government of the Philippines, it is subject to judicial notice under Section 1, Rule 129 of the Rules of Court as amended. Hence, there is no need for the submission in the instant proceeding of a certified true copy of said law.

Sections 4, 5, 6, 7, 8 and 9 of Republic Act No. 11479 violate the due process clause and freedom of speech and of expression under the 1987 Constitution.

87. In **Disini, Jr. v. The Secretary of Justice**,⁶⁸ the Honorable Court affirmed that a facial challenge is applicable to penal statutes that encroach upon freedom of speech, to wit:

⁶⁷ See *Matibat v. Benipayo*, G.R. No. 149036, 2 April 2002, 380 SCRA 49.

⁶⁸ *Disini, Jr. v. The Secretary of Justice, et al.*, G.R. No. 203335, 11 February 2014; https://www.lawphil.net/judjuris/juri2014/feb2014/gr_203335_2014.html

When a penal statute encroaches upon the freedom of speech, a facial challenge grounded on the void-for-vagueness doctrine is acceptable. The inapplicability of the doctrine must be carefully delineated. As Justice Antonio T. Carpio explained in his dissent in *Romualdez v. Commission on Elections*, "we must view these statements of the Court on the inapplicability of the overbreadth and vagueness doctrines to penal statutes as appropriate only insofar as these doctrines are used to mount 'facial' challenges to penal statutes not involving free speech."

In an "as applied" challenge, the petitioner who claims a violation of his constitutional right can raise any constitutional ground – absence of due process, lack of fair notice, lack of ascertainable standards, overbreadth, or vagueness. Here, one can challenge the constitutionality of a statute only if he asserts a violation of his own rights. It prohibits one from assailing the constitutionality of the statute based solely on the violation of the rights of third persons not before the court. This rule is also known as the prohibition against third-party standing.

But this rule admits of exceptions. A petitioner may for instance mount a "facial" challenge to the constitutionality of a statute even if he claims no violation of his own rights under the assailed statute where it involves free speech on grounds of overbreadth or vagueness of the statute.

The rationale for this exception is to counter the "chilling effect" on protected speech that comes from statutes violating free speech. A person who does not know whether his speech constitutes a crime under an overbroad or vague law may simply restrain himself from speaking in order to avoid being charged of a crime. The overbroad or vague law thus chills him into silence.⁶⁹

88. Section 4 of the Anti-Terrorism Act defines the crime of terrorism, as follows:

SEC. 4. *Terrorism* – Subject to Section 49 of this Act, terrorism is committed by any person who within or outside the Philippines, **regardless of the stage of execution:**

(a) Engages in acts intended to cause death or serious

⁶⁹ *Id.*

bodily injury to any person, or endangers a person's life;

(b) Engages in acts intended to cause extensive damage or destruction to a government or public facility, public place or private property;

(c) Engages in acts intended to cause extensive interference with, damage or destruction to critical infrastructure;

(d) Develops, manufactures, possesses, acquires, transports, supplies or uses weapons, explosives or of biological, nuclear, radiological or chemical weapons; and

(e) Release of dangerous substances, or causing fire, floods or explosions

when the purpose of such act, by its nature and context, is to intimidate the general public or a segment thereof, create an atmosphere or **spread a message of fear, to provoke or influence by intimidation the government or any of its international organization**, or seriously destabilize or destroy the fundamental political, economic, or social structures of the country, or create a public emergency or seriously undermine public safety, shall be guilty of committing terrorism and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592, otherwise known as "An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code": **Provided, That, terrorism as defined in this Section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, which are not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety.** (*Emphasis and underscoring supplied*)

89. Section 4 of the Anti-Terrorism Act deleted the concept of "predicate crimes," which had been used to define terrorism under Section 3 of the Human Security Act (HSA)⁷⁰.

⁷⁰ 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;

90. Under the HSA, a "predicate crime" is an indispensable part of its definition of terrorism since this would determine the overt act, if coupled with the other elements in the qualifying phrases under Section 3 of the said law, considered and punished as a terrorist act.

91. As held by this Court in the case of Southern Hemisphere Engagement Network⁷¹:

Before a charge for terrorism may be filed under RA 9372, **there must first be a predicate crime actually committed to trigger the operation of the key qualifying phrases in the other elements of the crime, including the coercion of the government to accede to an "unlawful demand."** Given the presence of the first element, any attempt at singling out or highlighting the communicative component of the prohibition cannot recategorize the unprotected conduct into a protected speech. (Emphasis and underscoring supplied)

92. In the case of the Anti-Terrorism Act, the conduct referred to under sub-paragraphs (a), (b), and (c) of Section 4 have not been defined or enumerated. They only refer to "acts."

93. Much worse is the insertion of the phrase "regardless of the stage of execution" adds to the vague definition of what would constitute as terrorism.

94. Hence, the determination whether a certain act or series of acts, even legal and constitutionally protected acts, would fall

d. Article 248 (Murder);

e. Article 267 (Kidnapping and Serious Illegal Detention);

f. 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. (Section 3, R.A. 9372)

⁷¹ See Southern Hemisphere Engagement Network v. Anti-Terrorism Council, G.R. No. 178552, October 5, 2010

under the definition would rely on the actor's intent, but not the actual conduct itself nor its effect.

95. As held in *People v. Nazario*⁷², the Court, explained the concept of vagueness and why it would make a statute unconstitutional:

A statute or act **suffers from the defect of vagueness when it lacks comprehensible standards that men of common intelligence must necessarily guess at its meaning and differ as to its application.** It is repugnant to the Constitution in two respects: (1) it **violates due process for failure to accord persons, especially the parties targeted by it, fair notice of the conduct to avoid;** and (2) it **leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle.** (Emphasis and underscoring supplied.)

96. The vague definition of terrorism under Section 4 of the assailed law clearly violates the due process clause under Section 1, Article III of the 1987 Constitution, which provides that:

No person shall be deprived of life, liberty, or property without due process of law nor shall any person be denied the equal protection of the law.

97. As Section 4 of the ATA provides that terrorism is “*regardless of the stage of execution,*” it criminalizes mere intent and preparatory acts, which would necessarily include speech, and expressions of thought. Criminalizing actions regardless of the stage of their execution removes the restriction that only overt acts should be punished under the law. Since the stages of execution are not given any context in the assailed law, a person will be vulnerable to being tagged as a terrorist even though that person has not presented any real danger to the public.

98. Therefore, “acts” defined under Section 4 of the ATA are incomprehensible and overbroad. In its common meaning, an act refers to “a thing done” which by logic includes all forms of action. Section 4 in effect punishes all kinds of possible actions that a person can do “**regardless of the stage of execution.**” Intent alone without overt acts should never be a level of culpability punishable by

⁷² G.R. No. L-44143, August 31, 1988

penal statutes because our laws have always required overt illegal acts to be the standard when it comes to punishment.

99. Consequently, the law necessarily restricts the ideas of people such as educators in the practice of their profession where their freedom to express themselves in the form of literature, artwork, lectures and other platforms that may be seen as acts of terrorism as defined in Section 4. Since the definition of terrorism in the Anti-Terrorism Act is overly broad, this will logically result in the curtailment of the right to freedom of speech and expression when a person doubts his or her actions of researching, making and acquiring objects, books or documents that might be seen as connected with terrorist activities. This likewise becomes a prior restraint in pursuing education and practicing the required skills as an educator.

100. In an attempt to justify how terrorism was defined under the assailed law, Senator Panfilo Lacson in a July 2, 2020 speech⁷³ argued that as sponsor of the bill, they included the constitutionally protected right to free speech under Section 4 adding the colatilla:

"xx terrorism as defined in this Section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights, **which are not intended** to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety." (Emphasis and underscoring ours).

101. However, an intelligent reading of the colatilla and in relation to the whole proviso would actually open the floodgates to abuses since the burden of proof is shifted upon the person invoking his or her exercise of the right to free speech, of symbolic speech, of expression, and other similar exercises of civil and political rights that the aforementioned acts are "not intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety."

102. On the other hand, the prerogative to accuse the intent of a person who is exercising constitutionally guaranteed rights is left upon the law enforcement agencies. This supposes that under Section 4 of the assailed law, the colatilla qualifying advocacy,

⁷³ Speech by Senator Panfilo M. Lacson, Rotary Club of Manila Meeting, July 2, 2020, available at http://www.senate.gov.ph/press_release/2020/0702_lacson1.asp (Last accessed on August 22, 2020)

protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights are acts of terrorism when done with supposed ill-intent. Hence, this colatilla is in reality becomes a prior restraint and violates the right to freedom of speech.

103. Clearly, Section 4 of the assailed law punishes the assembly or acts of advocacy of persons even if there is no obvious manifestation of violence. This means that the lawful gathering of citizens to express their advocacy will be considered as terrorism if law enforcement agents assume that there is intent to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety. However, what are the parameters to measure if there was intent to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety?

104. Section 4 of the Anti-Terrorism Act does not provide for any definition or parameters on what "serious risk to public safety" or "serious physical harm" would mean. Logically, there is always a "serious risk to public safety" in any "protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights." This would send a message that the people should refrain from exercising "protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights," so as not to pose a "serious risk to public safety."

105. The vague and overbroad definition of terrorism under Section 4 of the assailed law clearly violates is repugnant to Article III, Section 4 of the 1987 Constitution, which provides that:

Section 4. No law shall be passed abridging the freedom of speech, of expression, or the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

106. Section 5 of the Anti-Terrorism Act provides for the definition and penalty of threat to commit terrorism. The section provides:

SEC. 5. Threat to Commit Terrorism. – Any person who shall threaten to commit any of the acts mentioned in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years.

107. Since the definition of terrorism under Section 4 of the assailed law is already vague and overly broad, a provision which punishes a threat to commit such poorly defined act or acts would

obviously curtail freedom of speech and expression and would violate the due process clause. The mere act of threatening to commit an act which is vaguely defined should not even be punished.

108. Moreover, this will be another layer of chilling effect which will prevent educators to discuss various sociological theories, historical milieus, opinions, ideas and political current events to students that might be interpreted as a threat to commit terrorism given the vague definition of such under the assailed law.

109. Section 6 of the Anti-Terrorism Act provides for the penalty of planning, training, preparing and facilitating the commission of terrorism. The section states:

SEC. 6. Planning, Training, Preparing, and Facilitating the Commission of Terrorism. – It shall be unlawful for any person to participate in the planning, training, preparation and facilitation in the commission of terrorism, **possessing objects connected with the preparation for the commission of terrorism, or collecting or making documents connected with the preparation for the commission of terrorism.** Any person found guilty of the provision of this Act shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592. (Emphasis and underscoring supplied)

110. The crux of the issue on why this section is likewise repugnant to the constitutionally guaranteed rights of freedom of speech and expression and due process clause is again hinged on the problematic definition of terrorism under Section 4 of the assailed law.

111. To illustrate, if the advocacy under Section 4 would be one-sidedly alleged by law enforcement agencies as “terrorism” under its vague and overbroad definition even without overt acts, any material or object such as flags, manifesto, megaphones, propaganda materials and many others which are necessarily used in advocacies or protests may be classified as objects used to plan, prepare, and facilitate the commission of terrorism.

112. Essentially, if an object or material which would necessarily include reading materials such as books, leaflets or newspapers which merely express advocacies or political views and which are usually prescribed and written by educators like petitioners

in schools and universities as reading assignments or sources for research can be connected to the planning, preparation, and facilitation of the commission of terrorism. Hence, anyone who would possess said object or material would be punished under this provision.

113. This kind of environment would add another layer of chilling effect on academics, educators and writers such as petitioners to limit their ideas and criticisms that they may put into writing or in choosing materials for their students to read in order to achieve academic potential and excellence in the academe.

114. Case in point is the recent raid of an office of an urban poor organization in Bulacan on July 26, 2020 where police officers confiscated bundles of copies of Pinoy Weekly⁷⁴, an online and printed magazine that features stories about marginalized sectors. The incident was dubbed by news organization Rappler as “marks a first in recent history that police confiscated copies of a magazine considered a threat to the government” wherein witnesses heard Captain Jun Alejandrino, the Pandi police chief who headed the raid, say that the magazines were “illegal” and “teaches people to fight the government”.

115. With the current abusive culture and ignorance of basic constitutional rights of law enforcement agencies, vague and badly written laws such as the Anti-Terrorism Act will only embolden state forces to abuse and weaponize the law against dissenters.

116. Section 7 of the Anti-Terrorism Act provides for the definition and penalty for conspiring to commit terrorism which provides:

SEC.7. Conspiracy to Commit Terrorism. – **Any conspiracy to commit terrorism** as defined and penalized under Section 4 of this Act shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592.

There is **conspiracy when two (2) or more persons come to an agreement concerning the commission of terrorism as defined in Section 4 hereof and decide to commit the same.** (Emphasis and underscoring supplied)

⁷⁴ Rambo Talabog, “PNP confiscates progressive magazine after Anti-Terror Law takes effect”, Rappler, July 26, 2020, available at <https://rappler.com/nation/pnp-confiscates-progressive-magazine-after-anti-terror-law-takes-effect>. (Last accessed on August 23, 2020)

117. Section 7 is again anchored on the vague and overbroad definition of terrorism under Section 4. To demonstrate how ridiculous this section may be applied, once an act or advocacy which will be unilaterally alleged by law enforcement agents to be intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety under Section 4 of the Anti-Terrorism Act can be used against a person who would merely agree to commit to said act or advocacy and will be punished under this provision.

118. This supposed conspiracy or agreement would include normal activities such as class discussions and demonstrations to advance or promote various advocacies in campus settings. Hence, punishing these acts would hamper on the free flowing exchange of ideas inside classrooms and even actions to further campaigns on various societal issues outside the campus.

119. Hence, Section 7 of the assailed law unjustly penalizes a person's thoughts, ideas, and expression and, thus, transgresses the Constitutional right to free speech.

120. Section 8 of the Anti-Terrorism Act likewise infringes on the right to freedom of speech by making mere proposal as a crime in itself. It states that:

SEC.8. Proposal to Commit Terrorism. – Any person who proposes to commit terrorism as defined in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years. (Emphasis and underscoring supplied)

121. This provision relies on the vague and overbroad definition of terrorism under Section 4 on how proposal to commit terrorism should be ascertained.

122. A person who initially proposed to commit an act or advocacy which will be eventually alleged by state forces to be intended to cause death or serious physical harm to a person, to endanger a person's life, or to create a serious risk to public safety will be punished under this provision. This would inherently include speech or writings including literary works which might include the use of rhetorical device or figures of speech.

123. Mere proposal to commit a vaguely defined act of terrorism and without clear parameters may be used against critics and dissenters. This will be another source of chilling effect and would quell the flow and exchange of thoughts, ideas and opinions

which are relevant and inherent in class discussions and academic research.

124. As provided under Section 9 of the ATA:

SEC.9. Inciting to Commit Terrorism.- Any person who, without taking any direct part in the commission of terrorism, **shall incite others to the execution of any of the acts specified in Section 4 hereof by means of speeches, proclamations, writings, emblems, banners or other representations tending to the same end,** shall suffer the penalty of imprisonment of twelve (12) years. (Emphasis and underscoring supplied.)

125. Absurd as it may sound, the Anti-Terrorism Act's vague phrasing criminalizes even just reading out loud quotes from Jose Rizal's "El Filibusterismo" (especially Simoun's tirades) or from National Artist for Literature Amado V. Hernandez' novel "Mga Ibong Mandaragit" in a public assembly, rally, or lecture. Consider Basilio and Simoun's dialogue in El Filibusterismo's Chapter XXXIII, for example: "*'Nitro-glycerin!' murmured Basilio, stepping backward and instinctively thrusting his hands behind him. **'Nitroglycerin! Dynamite!' Beginning now to understand, he felt his hair stand on end. 'Yes, nitroglycerin!' repeated Simoun slowly, with his cold smile and a look of delight at the glass flask. 'It's also something more than nitro-glycerin—it's concentrated tears, repressed hatred, wrongs, injustice, outrage. It's the last resort of the weak, force against force, violence against violence...This night the most dangerous tyrants will be blown to pieces, the irresponsible rulers that hide themselves behind God and the State, whose abuses remain unpunished because no one can bring them to justice. This night the Philippines will hear the explosion that will convert into rubbish the formless monument whose decay I have fostered.'***" (emphasis supplied).⁷⁵

126. As regards Hernandez' novel, the book itself is replete of words such as "rebolusyon," "himagsikan," and "revolution," and some characters explicitly advocate revolution against exploiters,

⁷⁵ Jose Rizal, translated by Charles Derbyshire, *The Reign of Greed, A Complete English Version of El Filibusterismo from the Spanish of José Rizal*, http://www.gutenberg.org/files/10676/10676-h/10676-h.htm?fbclid=IwAR34dLriEMPHUS2_CwCafUmXBxGRSUc8E7dHmO3xTDNLYJo_7SuC7DHI5x0#d0e4560, (Last accessed August 6, 2020)

while others implicitly do the same. Reading it aloud in public, can thus be construed as an act of “terrorism,” absurd as it may seem.

127. In the related and celebrated *People v. Hernandez*⁷⁶ case, this Court emphasized that the one who made a purportedly subversive speech cannot be punished or be held responsible for its prospective or future impact, to wit:

We next consider the question as to whether the fact that Hernandez delivered speeches of propaganda in favor of Communism and in favor of rebellion can be considered as a criminal act of conspiracy to commit rebellion as defined in the law. In this respect, **the mere fact of his giving and rendering speeches favoring Communism would not make him guilty of conspiracy, because there was no evidence that the hearers of his speeches of propaganda then and there agreed to rise up in arms for the purpose of obtaining the overthrow of the democratic government as envisaged by the principles of Communism.**⁷⁷

128. In the case at bar, the Anti-Terrorism Act chillingly and illegally punishes the one who made the speech, even without sufficient evidence that such speech or pronouncement caused its hearers to commit “terrorism.” A crime cannot be imputed when there is no evidence to support such allegation.

RA 11479 violates academic freedom as enshrined in Article XIV, inasmuch as it violates freedom of speech, expression and association among members of the academe

129. In light of the education sector-related red-tagging, vilification campaigns, profiling and harassment, the Anti-Terrorism Act will only embolden state security forces to repress, persecute, or even prosecute progressive teachers.

130. The Anti-Terrorism Act’s draconian provisions that go against constitutionally guaranteed right to free speech and free expression, will only serve to weaken if not totally destroy academic

⁷⁶ *People v. Hernandez*, G.R. No. L-6025, May 30, 1964, 11 SCRA 223.

⁷⁷ *Id.* Emphasis supplied.

freedom as provided under Article XIV, Section 5 (2) of the 1987 Constitution:

“Academic freedom shall be enjoyed in all institutions of higher learning.”

131. As per the vague definition of terrorism and material support under the Anti-Terrorism Act, Filipino, English, and/or Panitikan/Literature teachers who teach classic literary materials (both local and global) that either tackle rebellion or revolution or have characters that espouse rebellion or revolution or present alternative economic worldviews that challenge capitalism or even those that just describe the corruption and moral decay of specific societies – such as Jose Rizal’s “El Filibusterismo,” George Orwell’s “Animal Farm” and “1984,” National Artist for Literature Amado V. Hernandez’ “Mga Ibong Mandaragit,” former Senator Lope K. Santos’ “Banaag at Sikat,” former Solicitor General Frank Chavez’ “Blighted,” Aurelio Tolentino’s “Napun, Ngeni at Bukas”/“Kahapon, Ngayon, at Bukas,” Jose Rey Munsayac’s “Ang Aso, Ang Pulgas, Ang Bonsai, at Ang Kolorum,” Upton Sinclair’s “The Jungle,” John Steinbeck’s “The Grapes of Wrath,” Victor Hugo’s “Les Misérables,” Mario Vargas Llosa’s “The Feast of the Goat,” Pablo Neruda’s “The Dictator,” Suzanne Collins’ “The Hunger Games” etc. History and/or Literature and/or Film/Cinema subject teachers may also think twice before discussing or showing the ff. similarly-themed mainstream movies in class: “The Young Karl Marx” by Raoul Peck, “Chakravyuh” by Prakash Jha, “V for Vendetta” by James McTeigue, “Suffragette” by Sarah Gavron, “The Wind That Shakes The Barley” by Ken Loach, “Heneral Luna” by Jerrold Tarog, “Liway” by Kip Oebanda,” “Dekada Sienta” by Chito Roño, “Orapronobis” by National Artist for Literature Lino Brocka, to name a few. Staple academic texts, both local and foreign, which many graduate and undergraduate major subjects (in various courses) include in their syllabi/reading lists may also be labeled as akin to inciting to terrorism: Teresita Gimenez Maceda’s “Mga Tinig Mula sa Ibaba: Kasaysayan ng Partido Komunista ng Pilipinas at Partido Sosyalista ng Pilipinas sa Awit, 1930-1955,” Renato Constantino’s “Dissent and Counter-Consciousness,” Ma. Theresa L. De Villa’s “Teorya at Praktika sa Pagsasalin ng Philippine Society and Revolution ni Amado Guerrero, 1968-1982,” Monico Atienza’s “Kilusang Pambansa-Demokratiko sa Wika,” Dante Simbulan’s “When The Rains Come, Will Not The Grass Grow Again? (The Socialist Movement in the Philippines: 1920-1960),” Apolonio Bayani Chua’s “Simulain: Dulambayan ng Manggagawa sa Konteksto ng Militanteng Kilusang Unyonismo (1980-1994),” Friedrich Engels and Karl Marx’s “Communist Manifesto,” Eric Hobsbawm’s “The Age of Revolution: 1789-1848,” Edward S. Herman and Noam Chomsky’s “Manufacturing Consent: The Political Economy of the Mass Media,” etc.

132. More than the above, teachers who encourage students to be critical of the country's exploitative and oppressive social system, of President Duterte's human rights policies or encourage any other critical thinking in schools deemed "anti-government" by the state security forces will now be subject of the terror law. Unless they are "chilled" into silence by the assailed law.

133. Moreover, the chilling effects of the Anti-Terrorism Law will prevent teachers and researchers from utilizing the aforementioned materials and similar materials in their researches and academic endeavors, thereby severely limiting, if not totally destroying their academic freedom.

134. The academe is at the forefront of the production of knowledge. Teachers and students conduct researches and studies that are relevant in describing and understanding societies, and improving the lives of the people. As per the Anti-Terrorism Act, researchers in the academe will be in a very vulnerable position, as some of them are writing researches in areas of studies such as Philippine insurgency, social movements, underground organizations, and other topics that are either written in a perspective critical of the government, or presenting facets of realities from the perspective of insurgent and/or supraconstitutional entities.

135. Petitioners believe that researchers whose main sources of information are people from or materials produced by underground or insurgent organizations – State-labeled "terrorist organizations" – will be put into danger (and at least, to a certain extent, be put out of jobs) by this law. Authors of studies such as Petitioner Rowell Madula's dissertation "Rampa sa Paglaya: Paglalakbay ng mga Bakla sa Sangandaan ng Pag-ibig at Pakikibaka," Laurence Marvin Castillo's thesis "Projects of Liberation: Revolutionary Imagination in Contemporary Philippine Film and Literature," Petitioner Ramon Guillermo's journal article "Blood Brothers: The Communist Party of the Philippines and The Partai Komunis Indonesia," Mykel Andrada's journal article "Rebolusyonyong Palihan: Teorya at Praktika ng Kolektibong Panunuri at Paglikha," Petitioner Jonathan Geronimo's dissertation "Piglas-Bayan: Naratibo, Espasyo at Bayan ng mga Bilanggong Politikal na Manunulat," and Petitioner Rommel Rodriguez's journal article "Tanikala at Talinghaga: Ang Manunulat na Bilanggong Politikal," Rolando Tolentino and Sarah Raymundo's book "Kontra-Gahum: Academics Against Political Killings" and Epifanio San Juan's book "Himagsik: Pakikibaka Tungo sa Mapagpalayang

Kultura,” to name a few, could be terrorist-tagged just because of their writings/researches. Incidentally, at least one of the above-named authors, Professor Andrada was subjected to military surveillance, in connection with his active participation in the broad campaign “to stop the killing of Lumad leaders and activists in Mindanao.⁷⁸”

136. Moreover, other academics who would find their researches valuable and thus utilize those in their classes or cite them in their own writings, could also be terrorist-tagged, while young researchers who are thinking of doing similar critical researches would also find their aspirations hampered if not totally hindered by the Anti-Terrorism Act’s draconian provisions that trample upon academic freedom, and consequently, higher education as we know it.

137. The abovementioned state persecution of Professor Sanchez, a faculty union leader and an academic who has written extensively against the policies of the current regime, is a sampling of things to come, with regard to the Anti-Terrorism Act’s termination of academic freedom in the Philippines. This collective fear, bolstered by the Duterte regime’s record in persecuting and repressing critical voices, has caused some of the aforementioned authors and/or researchers to participate as petitioners in this case.

138. The above-mentioned threat of PNP Oscar Albayalde to teachers when he issued the statement below against teachers who encourage students to entertain “rebellious” ideas is very illustrative on why the law is repugnant to academic freedom:

“Eh kung kasuhan kaya natin yung teachers na nag-iinstigate ng mga estudyante? Diba? They should be also charged for contempt, dahil kung anu-anong itinuturo sa mga [estudyante], kung meron mang faculty members.⁷⁹”

⁷⁸Pinoy Weekly, On the Purported Military Surveillance on PMC’S Prof. Mykel Andrada, Two Others, December 20, 2015, available at <https://www.pinoyweekly.org/2015/12/on-the-purported-military-surveillance-on-pmcs-prof-mykel-andrada-two-others/?fbclid=IwAR2MKZpCHEz3vv8lcTivwDZss7zxXXCDpz25scLjTINihMo5QS6aCxzjFLM> (Last accessed on August 10, 2020)

⁷⁹ Cathrine Gonzales, “Professors promoting ‘rebellious’ ideas may face contempt – Albayalde”, Inquirer.net, October 4, 2018 available at: <https://newsinfo.inquirer.net/1039167/professors-promoting-rebellious-ideas-may-face-contempt-albayalde>. (Last accessed August 7, 2020)

139. The repression of academics who do scientific research in forests, mountains and other similar areas with active insurgency, will also be more intense with the passage of the Anti-Terrorism Act.

140. For example, even before the Anti-Terrorism Act's passage, scientist and then Rijksuniversiteit Groningen (University of Groningen) PhD Researcher⁸⁰ Kim Gargar "was caught in a crossfire between the 67th Infantry Battalion of the Armed Forces of the Philippines and the New People's Army while undertaking research in connection with rehabilitation efforts in Cateel town, which was severely affected by Typhoon Pablo in 2012," in which incident he was wrongfully arrested⁸¹. Under the Anti-Terrorism Act, abuse of power like illegal arrests and unlawful charges by state agents will be more prevalent due to the vague and broad definition of what constitutes terrorism.

141. In a related incident, a release from the DOJ⁸² stated that the death of one of the nation's foremost botanists, Dr. Leonardo Co, found probable cause to charge nine (9) members of the 19th Infantry "Commando" Battalion, 81D, Philippine Army (PA) for the crime of Reckless Imprudence Resulting in Multiple Homicide and Attempted Homicide and twenty-seven (27) others for Obstruction of Justice. It stated that the military could not be completely exculpated from any culpability for firing at the victims as "the inconsistency of [their] testimonies *vis-à-vis* the *corpus delicti*, their instinctive action and appreciation of circumstances then prevailing did not appear faultless or prudent." The remoteness of the site was utilized by the military for their convenience of assuming the researchers as Communists and fired on their backs despite having no real presence of NPAs in the incident as evidenced had shown. The Battalion involved was also found with probable cause to be charged with obstruction of justice when they "willfully and knowingly impeded, frustrated or continuously delayed the prosecution of respondents-members of the 1st squad 1st platoon including its leader 1Lt Odchimar."

⁸⁰ Carolyn O. Arguillas, "Groningen U president writes PNoy on Gargar's case; supervisor describes him as "excellent scientist"", Mindanews.com, October 26, 2013, available at <https://www.mindanews.com/top-stories/2013/10/groningen-u-president-writes-pnoy-on-gargars-case-supervisor-describes-him-as-excellent-scientist/> (Last accessed on August 10, 2020)

⁸¹ Marya Salamat, "Kin, colleagues of 'peoples' scientist' Kim Gargar press for his immediate release", Bulatlat.com, October 6, 2013, available at <https://www.bulatlat.com/2013/10/06/kin-colleagues-of-peoples-scientist-kim-gargar-press-for-his-immediate-release/> (Last accessed on August 10, 2020)

⁸² Department of Justice, Charges Filed in Connection with the Death of Botanist Leonardo Co, March 1, 2013, available at https://doj.gov.ph/news_article.html?newsid=161. (Last accessed on August 10, 2020)

142. The Supreme Court upheld each faculty member's academic freedom in *Garcia v. The Faculty Admission Committee, Loyola School of Theology* (G.R. No. L-40779 November 28, 1975): "There is, as previously noted, the recognition in the Constitution of institutions of higher learning enjoying academic freedom. **It is more often identified with the right of a faculty member to pursue his studies in his particular specialty and thereafter to make known or publish the result of his endeavors without fear that retribution would be visited on him in the event that his conclusions are found distasteful or objectionable to the powers that be, whether in the political, economic, or academic establishments.** For the sociologist, Robert Mclver it is **"a right claimed by the accredited educator, as teacher and as investigator, to interpret his findings and to communicate his conclusions without being subjected to any interference, molestation, or penalization because these conclusions are unacceptable to some constituted authority within or beyond the institution."** As for the educator and philosopher Sidney Hook, this is his version: "What is academic freedom? **Briefly put, it is the freedom of professionally qualified persons to inquire, discover, publish and teach the truth as they see it in the field of their competence.** It is subject to no control or authority except the control or authority of the rational methods by which truths or conclusions are sought and established in these disciplines." (Emphasis and underscoring supplied)

143. In a more recent Supreme Court decision, *DR. Bienvenido Lumbea et. al., vs. President Noynoy Aquino III, et. al.*⁸³, the High Court affirmed the inviolability of academic freedom: **"...academic freedom... is only meaningful if the faculty members are assured that they are free to pursue their academic endeavors without fear of reprisals..."** The same Supreme Court decision also upheld the universities' right to go beyond the minimum curricular requirements set by educational authorities. In the case at bar, that means that universities and by extension, their faculty members, have academic freedom in the actual content of their curricula, an essential and constitutionally-guaranteed freedom which the Anti-Terrorism Act is now poised to destroy, to render inutile or useless, **as it instills fear of reprisals, among teachers and researchers who would use/read/promote/produce/write materials which the State may deem as "terrorist" or "inciting to terrorism."** **This very petition was filed on the basis of such fear of reprisal, hence, this collective act proves that the Anti-Terrorism Act should be struck down as unconstitutional, as it**

⁸³ G.R. No. 217451, October 9, 2018

hinders the free exercise of the teaching profession's cherished academic freedom. (Emphasis and underscoring supplied)

Section 12 in relation to the definition of material support under Section 3 (e), Sections 10, 15, 25, 26, 27 and 36 of the assailed law violates the right to due process, academic freedom and right to freedom of expression and association

144. Section 12 of the Anti-Terrorism Act provides that any person who would provide material support to any person or group committing or planning to commit acts punishable under Section 4 shall be liable as principal for the crime. The Section states:

SEC. 12. Providing Material Support to Terrorists. — Any person who provides material support to any terrorist individual or terrorist organization, association or group of persons committing any of the acts punishable under Section 4 hereof, or knowing that such individual or organization, association, or group of persons is committing or planning to commit such acts, shall be liable as principal to any and all terrorist activities committed by said individuals or organizations, in addition to other criminal liabilities he/she or they may have incurred in relation thereto. (Emphasis and underscoring supplied)

145. This provision must be appreciated in relation to how material support is defined under Section 3 (e) of the assailed law:

SEC. 3. Definition of Terms.- xxx (e) *Material Support* shall refer to any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (one or more individuals who may be or

include oneself), and transportation. (Emphasis and underscoring supplied)

146. Aside from the vague and overbroad definition of terrorism which causes chilling effect upon citizens, the definition of material support to supposed terrorists provides for a wide-range of interpretation as well. The labeling of support as “any property” and classifying such support to cover both “tangible and intangible” may even include mundane materials such as a piece of paper, a cup of coffee or a glass of water.

147. To illustrate the absurdity of the definition in relation to Section 12 of the Anti-Terrorism Act, any person who would give any tangible material to a person or group who would later be charged as terrorists under the assailed law can be charged as principal to the criminal activity without even realizing that he or she has committed a crime. Hence, simple acts of kindness or charitable activities may be considered as a criminal act of giving material support to terrorists.

148. To add to the absurdity, the definition included the terms “services”, “expert advice or assistance” without setting parameters on what type of services, expert advice or even assistance will be covered. Hence, simple acts which are necessarily included in the performance of a profession such as teaching is a form of service and would include giving of “expert” advice and assistance. As an example, an educator may be considered as a principal under Section 12 when his or her student is charged with terrorism under the Anti-Terrorism Act.

149. Thus, Section 12 in relation to Section 3 (e) gives a chilling effect on the citizens and restricts the right to freedom of speech and expression, violates the right to due process, academic freedom and right to freedom association and must be likewise declared unconstitutional.

150. Recruitment and membership in a terrorist organization is defined and punished under Section 10 of the Anti-Terrorism Act. It states:

SEC. 10. Recruitment to and Membership in a Terrorist Organization. - Any person who **shall**

recruit another to participate in, join, commit or support any terrorism or a terrorist individual or any terrorist organization, association or group of persons proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized for the purpose of engaging in terrorism, shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592.

The same penalty shall be imposed on any person who organizes or facilitates the travel of individuals to a state other than their state of residence or nationality for the purpose of recruitment which may be committed through of the following means:

(a) Recruiting another person to serve in any capacity in or with an armed force in a foreign state, whether the armed force forms part of the armed forces of the government of that foreign state or otherwise;

(b) Publishing an advertisement or propaganda for the purpose of recruiting persons to serve in any capacity in or with such an armed force;

(c) Publishing an advertisement or propaganda containing any information relating to the place at which or the manner in which persons may make applications to serve or obtain information relating to service in any capacity in or with such armed force or relating to the manner in which persons may travel to a foreign state for the purpose of serving in any capacity in or with such armed force; or

(d) Performing any other act with the intention of facilitating or promoting the recruitment of persons to serve in any capacity in or with such armed force.

Any person who shall voluntarily and knowingly join any organization, association or group of persons knowing that such organization, association or group of persons is proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized

for the purpose of engaging in terrorism, shall suffer the penalty of imprisonment of twelve (12) years. (Emphasis and underscoring supplied)

151. The implication of the aforementioned provision is that any person who would recruit or join an organization, association or group of persons who are merely proscribed under Section 26 of the Anti-Terrorism Act has already committed a crime even before the outcome of the proscription proceeding or even without the determination of probable cause under Section 27 of the assailed law.

152. Thus, the provision is repugnant to the constitutionally-guaranteed rights of the people to form unions, associations or societies and engaging in the exercise of freedom of speech and expression.

153. Aside from the chilling effect due to the vague and overbroad definition of committing terrorism under Section 4 which will be used as basis for proscription under Section 26, this provision would quell the right of educators such as petitioners to organize themselves as a sector due to its chilling effect and as a result, refrain from joining associations subject of red-tagging, profiling, harassment and vilification similar to what the Alliance of Concerned Teachers is currently experiencing from state forces.

154. More so, the criminalization of an act such as recruitment or joining an organization by mere basis of proscription under Section 26 without determination of probable cause, without any court facilitated hearing or a permanent order of proscription under Section 27 is glaringly a violation of the due process clause.

155. Thus, Section 10 of the Anti-Terrorism Act in relation to UN Security Council designations is repugnant to Article III, Section 22 of the Constitution for being an ex post facto law or bill attainder.

156. This Honorable Court held in **Salvador v. Mapa, Jr.**,⁸⁴ that an ex post facto law is, as follows:

An ex post facto law has been defined as one — (a) which **makes an action done before the passing of the law and which was innocent when done criminal, and**

⁸⁴ G.R. No. 135080, Nov. 28, 2007.

punishes such action; or (b) which aggravates a crime or makes it greater than it was when committed; or (c) which changes the punishment and inflicts a greater punishment than the law annexed to the crime when it was committed; or (d) which alters the legal rules of evidence and receives less or different testimony than the law required at the time of the commission of the offense in order to convict the defendant. (Emphasis and underscoring supplied)

157. Section 10 of the Anti-Terrorism Act is an ex post facto law in relation to UN Security Council designations of terrorist organizations made even before the effectivity of the Anti-Terrorism Act and which will be penalized with the harsher penalty of life imprisonment without the benefit of parole and the benefits of the good conduct time allowance as amended by Republic Act No. 10592.

158. Hence, Section 10 is a grave violation of the 1987 Constitution and must be struck down.

159. The ***Estrada vs. Sandiganbayan***⁸⁵ case elucidates the void-for-vagueness doctrine when the Honorable Court pronounced that when a constitutionally protected right of an individual is in danger of being trampled upon by a criminal statute, such law must be struck down for being void, especially if it is vague. The case specifically states as follows:

“One of the fundamental requirements imposed by the Constitution upon criminal statutes is that pertaining to **clarity and definiteness.** Statutes, particularly **penal laws, that fall short of this requirement have been declared unconstitutional for being vague.** This "void-for-vagueness" doctrine is rooted in the **basic concept of fairness as well as the due process clause of the Constitution.**

The Constitution guarantees both substantive and procedural due process as well as the right of the accused to be informed of the nature and cause of the accusation against him. A criminal statute should not be so vague and uncertain that "men of common

⁸⁵ G.R. No. 148560, November 19, 2001.

intelligence must necessarily guess as to its meaning and differ as to its application. (Emphasis and underscoring supplied)

160. Section 15 of the Anti-Terrorism Act provides for additional penalties against public officials if found guilty of any of the acts penalized under of the assailed law. It states:

SEC. 15. Penalty for Public Official. — If the offender found **guilty of any of the acts defined and penalized under the provisions of this Act is a public official or employee**, he/she shall be charged with the administrative offense of grave misconduct and/or disloyalty to the Republic of the Philippines and the Filipino people, and be meted **with the penalty of dismissal from the service, with the accessory penalties of cancellation of civil service eligibility, forfeiture of retirement benefits and perpetual absolute disqualification from running for any elective office or holding any public office.** (Emphasis and underscoring supplied)

161. Since the definition of a “Public Official” includes “appointive officials and employees, permanent or temporary, whether in the career or non-career service” as provided under Republic Act 6713⁸⁶, public school teachers and state universities and colleges professors are covered by this provision.

162. Given that majority of the provisions of the Anti-Terrorism Act are patently vague and broad, more so, that there is a nationwide profiling of teachers and professors who are members of the Alliance of Concerned Teachers and its affiliate organizations, educators who are practicing their profession in public schools and state universities and colleges, the probability of weaponizing the assailed law against educators in the public sector who are merely exercising their legitimate rights such as the right to organize, right to freedom of speech and expression, right to peaceably to assemble and petition the government for redress of grievances and enjoyment academic freedom is higher.

⁸⁶ Section 3. Definition of Terms -xxx- (b) "Public Officials" includes elective and appointive officials and employees, permanent or temporary, whether in the career or non-career service, including military and police personnel, whether or not they receive compensation, regardless of amount.

163. Hence, Section 15 which imposes for additional penalties on public officials such as educators in the public sector under a patently unconstitutional law subject of this Petition will be deprived of their right to due process and right to property in relation to their means of livelihood which is teaching and right to pursue their profession.

164. The Anti-Terrorism Act through its “SEC. 25. Designation of Terrorist Individual, Groups of Persons, Organizations or Associations,”⁸⁷ “SEC. 26. Proscription of Terrorist Organizations, Association, or Group of Persons,”⁸⁸ and “SEC. 27. Preliminary Order of Proscription,”⁸⁹ blatantly disregards and violates the

⁸⁷ Sec. 25. Designation of Terrorist Individual, Groups of Persons, Organizations or Associations. - Pursuant to our obligations under United Nations Security Council Resolution No. 1373, the ATC shall automatically adopt the United Nations Security Council Consolidated List of designated individuals, group of persons, organizations, or associations designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group.

Request for designations by other jurisdictions or supranational jurisdictions may be adopted by the ATC after determination that the proposed designee meets the criteria for designation of UNSCR 1373.

The ATC may designate an individual, groups of persons, organization, or association, whether domestic or foreign, upon a finding of probable cause that the individual, groups of persons, organization, or association commit, or attempt to commit, or conspire in the commission of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act.

The assets of the designated individual, groups of persons, organization or association above-mentioned shall be subject to the authority of the Anti-Money Laundering Council (AMLC) to freeze pursuant to Section 11 of Republic Act No. 10168.

The designation shall be without prejudice to the proscription of terrorist organizations, associations, or groups of persons under Section 26 of this Act.

⁸⁸ Sec. 26. Proscription of Terrorist Organizations, Association, or Group of Persons. - Any group of persons, organization, or association, which commits any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, or organized for the purpose of engaging in terrorism shall, upon application of the DOJ before the authorizing division of the Court of Appeals with due notice and opportunity to be heard given to the group of persons, organization or association, be declared as a terrorist and outlawed group of persons, organization or association, by the said Court.

The application shall be filed with an urgent prayer for the issuance of a preliminary order of proscription. No application for proscription shall be filed without the authority of the ATC upon the recommendation of the National Intelligence Coordinating Agency (NICA).

⁸⁹ Sec. 27. Preliminary Order of Proscription. – Where the Court has determined that probable cause exists on the basis of the verified application which is sufficient in form and substance, that the issuance of an order of proscription is necessary to prevent the commission of terrorism, he/she shall, within seventy-two (72) hours from the filing of the application, issue a preliminary order of proscription declaring that the respondent is a terrorist and an outlawed organization or association within the meaning of Section 26 of this Act.

aforementioned constitutional provisions on the right to due process, right to free expression, right to organization.

165. The Anti-Terrorism Law violates, indeed, tramples upon the sacred ground of due process, freedom of expression and right to form organizations, contained in Section 4 and 8 in the Bill of Rights.

166. For example, Section 25 in relation to Section 36⁹⁰ of the Anti-Terrorism Law allows the Anti-Terrorism Council (ATC) to

The court shall immediately commence and conduct continuous hearings, which should be completed within six (6) months from the time the application has been filed, to determine whether:

- (a) The preliminary order of proscription should be made permanent;
- (b) A permanent order of proscription should be issued in case no preliminary order was issued;
- or
- (c) A preliminary order of proscription should be lifted. It shall be the burden of the applicant to prove that the respondent is a terrorist and an outlawed organization or association within the meaning of Section 26 of this Act before the court issues an order of proscription whether preliminary or permanent.

The permanent order of proscription herein granted shall be posted in a newspaper of general circulation. It shall be valid for a period of three (3) years after which, a review of such order shall be made and if circumstances warrant, the same shall be lifted.

⁹⁰ Sec. 36. Authority to Freeze. - Upon the issuance by the court of a preliminary order of proscription or in case of designation under Section 25 of this Act, the AMLC, either upon its own initiative or request of the ATC, is hereby authorized to issue an ex parte order to freeze without delay: (a) any property or funds that are in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 9, 8, 9, 10, 11 or 12 of this Act; (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of the aforementioned sections of this Act.

The freeze order shall be effective for a period not exceeding twenty (20) days. Upon a petition filed by the AMLC before the expiration of the period, the effectivity of the freeze order may be extended up to a period not exceeding six (6) months upon order of the Court of Appeals: Provided,

That, the twenty-day period shall be tolled upon filing of a petition to extend the effectivity of the freeze order.

Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines' international obligations, shall be authorized to issue a freeze order with respect to property or funds of a designated organization, association, group or any individual to comply with binding terrorism-related resolutions, including Resolution No. 1373 of the UN Security Council pursuant to Article 41 of the charter of the UN. Said freeze order shall be effective until the basis for the issuance thereof shall have been lifted. During the effectivity of the freeze order, an aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection: Provided, That the person whose property or funds have been frozen may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.

swiftly designate an individual, organizations, associations as terrorist, on the flimsy grounds of mere probable cause, a designation which also impairs their right to due process, free expression, and organization, as the same section allows the State to freeze the assets of “designated terrorists” even without trial. It is thus a patent violation of due process which the Constitution guarantees to safeguard the life, liberty, and property of citizens. The Anti-Terrorism Law’s draconian powers for the ATC virtually eliminates such safeguards.

167. Under Section 36 of the Anti- Terrorism Act, there is no reasonable opportunity to explain one’s side nor is there an opportunity to seek a reconsideration of the action or ruling complained of.

168. An ex parte order to freeze any property or funds is issued even without a determination of probable cause. The Anti-Money Laundering Council (AMLC) is delegated to freeze the account of the person or group of persons if the Anti-Terror Council (ATC) merely requests it to freeze its assets.

169. Contrary to that of the Anti-Money Laundering Act of 2001 as amended⁹¹ where a freeze order can only be mandated by the Court of Appeals, Section 36 of the ATA gives the ATC unrestricted discretion to freeze the subject assets.

170. Under Section 25, a suspected and designated person or entity will not be given any notice that the assets will be frozen nor be given a notice to explain why the freeze order should be lifted. Even in the context of anti-money laundering, only the Court of Appeals is authorized to issue a freeze order⁹² recognizing the gravity of this punishment.

171. Such freezing of assets of “designated terrorists” –is tantamount to killing the organizational capacity, and consequently

However, if the property or funds subject of the freeze order under the immediately preceding paragraph are found to be in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act committed within the jurisdiction of the Philippines, said property or funds shall be the subject of civil forfeiture proceedings as provided under Republic Act No. 10168.

⁹¹ Republic Act No. 9160 as amended by RA 9194.

⁹² *Id.*

the capacity to communicate ideas to the public, of the individual/s and/or organizations who/that have been “designated” by the ATC as a terrorist.

172. Hence, Sections 25 and 36 of the assailed law are unconstitutional for violating one’s right to due process.

173. Section 27 of the Anti-Terrorism Law doubles down on such evil and tyrannical pre-emptive punishment, making individuals and organizations accused of terrorism guilty until proven otherwise, rather than the opposite (which should be the case in a democratic country) – notwithstanding the lame assurance in the provision’s last parts, as such segment unnecessarily empowers the Court to issue a preliminary order of prescription within 72 hours from the filing of the application – again on the grounds of mere probable cause. This is essentially “declaring that a respondent is a terrorist...” while the Court conducts “continuous hearings which should be completed within six (6) months from the time the application has been filed...”

174. This is clearly an unconstitutional bastardization of the right to due process – when the individual or organizations slapped with preliminary proscription (despite their clear presumed innocence until proven otherwise, as per the Constitution) suffer the effects of such proscription, ranging from freezing of assets to total stoppage of operations and even “custodial detention” of its leaders and/or members etc., which, taken together, also constitute a humungous violation of the right to form organizations.

175. In the real world of court backlogs, the mandatory 6-month period of resolution for “terrorism” cases would certainly be not followed, and hence, further expand the duration of unconstitutional violation of the Bill of Rights, for a period in which, we should all remember, the individual/s or organization/s accused could be very well innocent.

176. Such pre-emptive punishment of people or organizations who are yet to be proven guilty beyond reasonable doubt, is tyranny in its worst form, which the High Court must strike down.

Sections 16 and 17 of the assailed law violate the constitutional right to privacy by being overbroad and do not provide safeguards and tantamount to

**unreasonable search without a need
for a valid search warrant**

177. Section 16 of the assailed law elucidates how authorities may conduct surveillance, states as follows:

SEC. 16. Surveillance of Suspects and Interception and Recording of Communications. – The provisions of Republic Act No. 4200, otherwise known as the “Anti-Wire Tapping Law” to the contrary notwithstanding, **a law enforcement agent or military personnel may, upon a written order of the Court of Appeals secretly wiretap, overhear and listen to, intercept, screen, read, surveil, record or collect, with the use of any mode, form, kind or type of electronic, mechanical or other equipment or device or technology now known or may hereafter be known to science or with the use of any other suitable ways and means for the above purposes, any private communications, conversation, discussion/s, data, information, messages in whatever form, kind or nature, spoken or written words (a) between members of a judicially declared and outlawed terrorist organization, as provided in Section 26 of this Act; (b) between members of a designated person as defined in Section 3(e) of Republic Act No. 10168; or (c) any person charged with or suspected of committing any of the crimes defined and penalized under the provisions of this Act:** 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.

The law enforcement agent or military personnel shall likewise be **obligated to (1) file an ex-parte application with the Court of Appeals for the issuance of an order, to compel telecommunications service providers (TSP) and internet service providers (ISP) to produce all customer information and identification records as well as call and text data records, content and other cellular or internet metadata of any person suspected**

of any of the crimes defined and penalized under the provisions of this Act; and (2) furnish the National Telecommunications Commission (NTC) a copy of said application. The NTC shall likewise be notified upon the issuance of the order for the purpose of ensuring immediate compliance. (Emphasis and underscoring supplied)

178. On the other hand, a written order of surveillance is authorized through the process defined in Section 17, which provides, as follows:

SEC. 17. Judicial Authorization, Requisites. – The authorizing division of the Court of Appeals shall issue a written order to conduct the acts mentioned in Section 16 of this Act upon:

(a) **Filing of an ex parte written application by a law enforcement agent or military personnel, who has been duly authorized in writing by the Anti-Terrorism Council (ATC);** and

(b) After examination under oath or affirmation of the applicant and the witnesses he/she may produce, the issuing court determines:

(1) that there is probable cause to believe based on of facts or circumstances that the crimes defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act has been committed, or is being committed, or is about to be committed; and

(2) 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. (Emphasis and underscoring supplied)

179. Sections 16 and 17 are violative of Article III, Section 2⁹³ of the 1987 Constitution which provides for the protection

⁹³ Article III. Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the

of the privacy of individuals against arbitrary intrusions by State agents.

180. The acts of surveillance outlined in Section 16 is tantamount to a search contemplated under Article III, Section 2 of the Constitution. They are arbitrary because there is unrestricted discretion given to the officers in carrying out the mode (i.e., to surveil, record, and collect, among others) and target (i.e., “any private communications, conversation, discussion/s, data, information, messages in whatever form, kind or nature, spoken or written words”).

181. By allowing state agents to perform acts under the assailed law that would need safeguards afforded by a valid search warrant, the constitutional protection against unreasonable searches and seizures is rendered nugatory.

182. More so, the unlimited scope of the data provided under Section 16 takes away from the would-be judge of the Court of Appeals the power to define for himself or herself what kind of data is appropriate for production or surveillance.

183. To highlight, under Section 8 of the Human Security Act of 2007 (R.A. 9372)—the precursor to the assailed law—a formal application for judicial authorization must also be able 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.**” (Emphasis supplied)

184. This critical safeguard has been omitted from the requisites of a judicial authorization to conduct surveillance under the Anti-Terrorism Act.

complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

185. It is relevant to emphasize that the aforementioned massive surveillance and profiling experienced by members of the Alliance of Concerned Teachers including its affiliates was only disclosed due to a leaked memo⁹⁴ by the Philippine National Police. Without the accidental “leak” and courage of witnesses to execute affidavits, this might not be even made known to the public.

186. Thus, under the Anti-Terrorism Act, grave violations against right to privacy and unreasonable searches against the citizens will be “legitimized.”

Section 29 of the assailed law is unconstitutional for allowing arrest without warrant and for allowing the detention of arrested person without charges beyond the period allowed by the Constitution.

187. Section 29 of the Anti-Terrorism Act provides:

SEC. 29. Detention Without Judicial Warrant of Arrest. – The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any law enforcement agent or military personnel, **who having been duly authorized in writing by the ATC has taken custody of a person suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7,8, 9, 10, 11 and 12 of this ACT**, shall without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said suspected person to the proper judicial authority, within a period of fourteen (14) calendar days counted from the moment the said suspected person has been apprehended or arrested, detained and taken into custody by the law enforcement agent or military personnel. The period of detention may be extended to a maximum period of ten (10) calendar days if it is established that (1) further detention of the person/s is necessary to preserve evidence related to terrorism or complete the investigation; (2) further detention of the person/s is necessary to prevent the commission of another

⁹⁴ Rambo Talabong, “Albayalde sacks cops who 'leaked' memo on ACT teachers”, Rappler, January 7, 2019, available at <https://rappler.com/nation/pnp-fires-intel-cops-who-leaked-act-teachers-inventory-memo> (Last accessed on August 24, 2020)

terrorism; and (3) the investigation is being conducted properly and without delay. (Emphasis and underscoring supplied.)

-XXX-

188. Clearly, this provision would allow detention of a person for a maximum of 24 days without a warrant and on mere suspicion by the ATC alone, an agency which does not even belong to the judicial branch. This would undermine the basic standard of probable cause under the Article III, Section 2 of the 1987 Constitution.

189. Hence, Section 29 of the Anti-Terrorism Act violates Article III, Section 2 of the 1987 Constitution which expressly requires a warrant for an arrest or a search. And such warrant must be issued by a judge based on probable cause.

190. Article III, Section 2 of the Constitution provides:

SECTION 2. The right of the people to be **secure in their persons**, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon **probable cause** to be determined **personally by the judge after examination under oath or affirmation of the complainant and the witnesses** he may produce, and particularly describing the place to be searched and the persons or things to be seized. (Emphasis and underscoring supplied.)

191. As espoused in *Macad vs. People*:

“Probable cause” for an arrest or for the issuance of a warrant of arrest would mean “such facts and circumstances which would lead a reasonably discreet and prudent man to believe that an offense has been committed by the person sought to be arrested.”⁹⁵

192. The Anti-Terrorism Law, through its “SEC. 29. Detention Without Judicial Warrant of Arrest” imposes a draconian provision for detention without judicial warrant of arrest – 14 to 24 days – which

⁹⁵ G.R. No. 227366, Aug. 1, 2018.

clearly goes against the Bill of Rights and other lawful exemptions from the ban on warrantless arrest.

193. It is in this context that former Supreme Court Associate Justice Antonio Carpio strongly condemned the Anti-Terrorism Act as something “worse than Martial Law.”⁹⁶

194. Such draconian and Marcosian detention without judicial warrant of arrest would only give legal cover to and exponentially increase the number of illegal/arbitrary detention and torture cases of suspected terrorist/s by state security forces, which the High Court has already settled as illegal and unconstitutional, in the case of *Secretary of National Defense v. Manalo*,⁹⁷ where the High Court ruled in favor of respondents’ right to security, against state security forces that illegally detained and tortured them.

195. The case of the Manalo brothers is just one of the long list of cases of the Philippine state security forces’ violations of civil and human rights, which further emphasize that giving them more powers would only embolden them to commit more and worse abuses: at least 6,600 tokhang/extrajudicial killings from 2016-2019 as per official statistics⁹⁸ – killings which are now subject of the International Criminal Court’s preliminary examination that was announced on 8 February 2018 and is currently on-going.⁹⁹

196. Other similar cases involving state security forces include the abduction and illegal detention of student activists Sherlyn Cadapan and Karen Empeño, contained in the verdict of the Malolos Regional Trial Court Branch 15 released on September 17, 2018¹⁰⁰, false terrorism charges on Edgar Candule who was detained for 8 months before he was declared innocent, a case which was included in the report of the Asian Legal Resource Center to the United Nations Committee Against Torture in 2009¹⁰¹, 11-month illegal detention of Rolly Panesa (whom state security forces mistook for a communist leader), contained in a ruling of the Special 13th Division

⁹⁶ Lian Buan, *PH situation ‘worse than martial law’ under anti-terror bill – Carpio*, Rappler, June 17, 2020, available at <https://www.rappler.com/nation/264082-carpio-anti-terror-bil-will-put-philippines-permanent-situation-worse-than-martial-law> (last accessed Jul. 20, 2020).

⁹⁷ See *Secretary of National Defense v. Manalo*, G.R. No. 180906, October 7, 2008, 568 SCRA 1.

⁹⁸ Catherine Gonzales, *6,600 killed in war vs drugs from July 2016 to May 2019 – PNP*, Philippine Daily Inquirer, June 18, 2019, available at <https://newsinfo.inquirer.net/1131433/6600-killed-in-war-vs-drugs-from-july-2016-to-may-2019-pnp> (last accessed Jul. 20, 2020).

⁹⁹ *Preliminary investigation: Republic of the Philippines*, supra note 5.

¹⁰⁰ *Court finds Palparan, 2 others guilty over disappearance of 2 UP students*, GMA News Online, September 17, 2018, available at <https://www.gmanetwork.com/news/news/nation/668014/bulacan-court-finds-palparan-guilty-of-kidnapping-serious-illegal-detention/story/> (last accessed Jul. 20, 2020).

¹⁰¹ *Alternative report to the United Nations Committee Against Torture*, Asian Legal Resource Centre, available at <http://alrc.asia/wp-content/uploads/2015/08/ALRC-TBR-001-2009-Philippines.pdf> (last accessed Jul. 20, 2020).

ng Court of Appeals, released on July 5, 2019, for Case No. SP – 157740¹⁰², and the murder of Kian de los Santos who was repeatedly shot by the police despite begging for his life, contained in the verdict of the Caloocan City Regional Trial Court Branch 125 released on November 29, 2018¹⁰³.

197. The plethora of human rights violations committed by Philippine state security forces in recent years are also presented and explained in detail, in the June 2020 “Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines”,¹⁰⁴ which the UN High Commissioner for Human Rights Michelle Bachelet followed up with an official speech calling upon the Philippine government to refrain from passing the Anti-Terrorism Act, on the same month¹⁰⁵.

198. It is now necessary to quote some portions of the said Report to further establish how the Philippine State intends to implement the Anti-Terrorism Act’s draconian provisions.

199. The said Report noted this on the police’s practice of planting of evidence: “OHCHR examined police reports on another 25 operations in which 45 persons were killed in Metro Manila between August 2016 and June 2017. Police referred to 34 of these killings as “neutralization”.¹⁰⁶ In all the crime scenes, police claimed to have recovered satchels of methamphetamine and guns allegedly used by the victims to resist police officers. Based on these reports, OHCHR found that the police repeatedly recovered guns bearing the same serial numbers from different victims in different locations. OHCHR identified seven handguns with unique serial numbers. Each handgun appeared in at least two separate crime scenes, while two of them re-appeared in five different crime scenes. The pattern suggests planting of evidence by police officers and casts doubt on the self-defense narrative, implying that the victims were likely unarmed at the time of killing.¹⁰⁷

¹⁰² Panesa v. Mendoza-Ramos, CA-G.R. SP No. 157740, July 5, 2019.

¹⁰³ Gabriel Pabico Lalu, *FULL TEXT: Court’s decision on cops who killed Kian delos Santos*, Philippine Daily Inquirer, November 29, 2019, available at <https://newsinfo.inquirer.net/1058325/full-text-courts-decision-on-cops-who-killed-kian-delos-santos> (last accessed Jul. 20, 2020).

¹⁰⁴ *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Philippines*, Human Rights Council, June 4, 2020, available at <https://www.ohchr.org/Documents/Countries/PH/Philippines-HRC44-AEV.pdf>. Henceforth, “Report of the UN High Commissioner”.

¹⁰⁵ Christia Marie Ramos, *UN human rights chief urges Duterte: ‘Refrain from signing’ anti-terror bill*, Philippine Daily Inquirer, June 30, 2020, available at <https://globalnation.inquirer.net/189097/un-human-rights-chief-urges-duterte-refrain-from-signing-anti-terror-bill> (last accessed Jul. 20, 2020).

¹⁰⁶ *Report of the UN High Commissioner*, *supra* note 43.

¹⁰⁷ *Id.*

200. The said report also emphasized that several of the drug-related arrests amounted to arbitrary detention, to wit:

Government figures indicate that 223,780 ‘drug personalities’ were arrested from 1 July 2016 to 31 December 2019. The Government stated that 204,721 of these individuals were charged with criminal cases, although it is unclear how many may have been related to drug trade and how many to personal drug use, how many were convicted, released or remain in pre-trial detention. The lack of clarity, coupled with due process irregularities, raises concerns that many of these cases may amount to arbitrary detentions.¹⁰⁸

201. If the Philippine state can do it to alleged drug suspects, they can certainly do it to dissenters and critics conveniently suspected as “terrorists”, especially with Anti-Terrorism Act’s unconstitutional superpowers.

202. On current laws and legislation, the United Nations High Commissioner for Human Rights has this to say:

While the Constitution and laws contain strong human rights provisions, several laws give the authorities wide discretion to detain and charge individuals on the grounds of national security without adequate human rights safeguards. These include the Human Security Act of 2007, the 2012 Cyber Crime Protection Act, the 2018 Republic Act 10973 (known as the subpoena powers law) and laws on sedition.

Worrying new laws and amendments have been proposed with the stated aim of strengthening public order and countering terrorism, which risk eroding constitutional and other legal protections. Proposed bills to restore the death penalty for drug-related offences, and to significantly lower the age of criminal responsibility would breach the Philippines’ obligations under international human rights law. The proposed 2020 Anti-Terrorism Act, slated to replace the already problematic Human Security Act, dilutes human rights safeguards, broadens the definition of terrorism and expands the period of detention without warrant from three to 14 days, extendable by another 10 days. The vague definitions in

¹⁰⁸ *Id.*

the Anti-Terrorism Act may violate the principle of legality.¹⁰⁹

203. The United Nations High Commissioner for Human Rights also clarified why people's organizations and individuals affiliated with these organizations have much reason to worry about the unconstitutionality and the imminent threat of the Anti-Terrorism Act to their right to life, liberty, property, and organization:

The Philippines has a long-standing, robust tradition of human rights advocacy and civil society activism, with 60,000 registered non-governmental organizations. This is particularly striking given the pervasive attacks – online and offline – against human rights defenders over many years. For decades now, “red-tagging” – or labelling individuals and groups as communists or terrorists – has been a persistent and powerful threat to civil society and freedom of expression.

Since 2007, various United Nations human rights mechanisms have repeatedly raised concerns about vilification, threats, arbitrary detention, legal harassment, enforced disappearances and killings of human rights defenders. OHCHR requested but did not receive Government figures on killings of human rights defenders, but credible civil society sources have compiled detailed lists documenting hundreds of killings. OHCHR has itself verified the killings of 208 human rights defenders, journalists and trade unionists, including 30 women, between January 2015 and December 2019. Despite efforts to strengthen the dedicated mechanism under Administrative Order 35, the Government has failed to ensure transparent, independent and effective investigations and prosecutions in the vast majority of cases. Of 383 cases dating back to 2001 under the mechanism, 216 have been either dismissed or archived while only 13 have resulted in convictions.¹¹⁰

204. In signing this petition to question the constitutionality of the Anti-Terrorism Law, petitioners have also become instant “terrorists” in the eyes of the State, as National Security Adviser Hermogenes Esperon (who is also a member of the Anti-Terrorism Council) publicly labeled critics of the Anti-Terrorism Law as “terrorist supporters”.¹¹¹

¹⁰⁹ *Id.*

¹¹⁰ *Id.*

¹¹¹ Erwin Colcol, *Esperon: Anti-terrorism law critics could be supporters of terrorists*, GMA News Online, July 5, 2020, available at

The implementation of RA 11479 encroaches on judicial power and disregards constitutional judicial remedies

205. In its entirety, the Anti-Terrorism Act patently encroaches on judicial powers and in effect castrates existing constitutional judicial remedies – from the writ of habeas corpus to the writ of amparo¹¹².

206. In the case at bar, it is important to note that at least two of the current members of the ATC – National Security Adviser Esperon (the ATC’s VICE-CHAIRPERSON) and DILG Sec. Eduardo Año – were both charged as respondents in cases – related to the enforced disappearance of activist Jonas Burgos – filed by her mother Editha Burgos.

207. The Joint Civil Society Report on Torture and Other Inhuman or Degrading Treatment or Punishment in the Philippines stated:

After her March 2013 victory in the Court of Appeals, the battle for justice continues for Jonas Burgos' mother, Editha Burgos. In April 2013, Mrs. Burgos filed a criminal case with the Department of Justice against Maj. Harry Baliaga Jr., Lt. Col. Melquiades Feliciano, Col. Eduardo Año, and other members of the Army's 56th Infantry Battalion, for the abduction of her son and those involved in the cover-up of the crime. The Department of Justice in September 2013 found probable cause in filing charges against Baliaga and three John Does and one Jane Doe for arbitrary detention against Jonas but exonerated two other respondents, Feliciano and Año. Following the Burgos camp's discovery of new evidence and subsequent filing of motion to reopen the case, the Supreme Court upheld the findings of the Court of Appeals but denied the motion. It directed the Department of Justice (DOJ) to look into the evidence and file appropriate charges against “proper parties if such action is warranted by evidence.”¹¹³

<https://www.gmanetwork.com/news/news/nation/745538/esperon-anti-terrorism-law-critics-could-be-supporters-of-terrorists/story/> (last accessed Jul. 20, 2020).

¹¹² Supreme Court, *The Rule on the Writ of Amparo*, [A.M. No. 07-9-12-SC] (October 24, 2007).

¹¹³ *Joint Civil Society Report on Torture and Other Inhuman or Degrading Treatment or Punishment in the Philippines*, United against Torture Coalition-Philippines, March 28, 2016, available at https://www.ecoi.net/en/file/local/1308441/1930_1464093705_int-cat-css-phl-23588-e.pdf

208. Meanwhile, Esperon is among the named respondents in a related writ of amparo case filed by Editha Burgos and resolved the Supreme Court in February 4, 2014¹¹⁴.

209. The aforementioned writ of amparo case is technically unsuccessful despite the pro-human rights decision of the High Court, as Jonas Burgos is still missing and yet to be produced by the state agents that abducted him, as of this writing – 14 years ago, and as if reality is rubbing salt to still-fresh wounds, fast forward to 14 years after Jonas Burgos' abduction, two former military officials tagged in cases filed by her mother, are still in powerful positions and now vested with unlimited superpowers as members of the super body ATC.

210. Even without the draconian Anti-Terrorism Act, some writ of amparo cases (just like Jonas Burgos') have been unsuccessful due to lack of State accountability and action, and hence, with the draconian law being assailed by petitioners, worse fate awaits prospective amparo cases, thereby diluting, if not totally castrating such judicial remedies.

211. Another important judicial remedy which the Anti-Terrorism Act unconstitutionally disregards is the writ of habeas data¹¹⁵.

212. The Anti-Terrorism Act's provisions on far-reaching surveillance and data gathering and harvesting on suspected "terrorists" executed through mere ex-parte motions and mere "probable cause", effectively castrates the judicial writ of habeas data.

VIII

Application for Temporary Restraining Order and/or Writ of Preliminary Injunction

213. Petitioners replead the foregoing assertions in support of the injunctive relief prayed for, they being entitled to it as citizens, educators and taxpayers whose children stand to be adversely affected by the assailed law.

214. RA 11479 is unconstitutional and downright invalid because it violates the people's right to due process, free expression,

¹¹⁴ See Burgos v. Esperon, Jr., G.R. No. 183713, February 4, 2014, 715 SCRA 208.

¹¹⁵ Supreme Court, The Rule on the Writ of Habeas Data, [A.M. No. 08-1-16-SC] (January 22, 2008).

free speech, and organization, and it also violates the separation of powers laid down in the 1987 Constitution.

215. Being a matter of public interest as well as of transcendental importance affecting generations yet to come, there is a compelling necessity to grant the relief prayed for.

216. There is imminent danger of massive human rights violations, even possible extrajudicial killings, as state security forces are emboldened and technically empowered by the Anti-Terrorism Act.

217. To deny petitioners the injunctive writ would pose imminent danger to the life, liberty, and property of citizen-petitioners and even petitioners' children and our people's children and would render the relief prayed for illusory and ineffectual.

EPILOGUE

Indeed, our Constitution does not adopt a stance of neutrality for it vows to protect the Filipino people from the abuses of state power.

It will and should never be neutral.

The eagerness to end terrorism should never be used to curtail basic freedoms and rights guaranteed by the Constitution.

For a war on terrorism that disrespects and disregards the rights of the people is not a war on terrorism.

It is a war against the people.

PRAYER

WHEREFORE, petitioners respectfully pray that:

1. Upon the filing of this Petition, a temporary restraining order and/or writ of preliminary injunction and/or a status quo ante order be issued to restrain and/or enjoin the respondents from implementing the assailed law.

2. Upon hearing and due deliberation, RA 11479, be declared **UNCONSTITUTIONAL** and permanently enjoin its implementation.

The petitioners pray for other reliefs that are just and equitable.

Quezon City for the City of Manila, 19 August 2020.

Counsels for Petitioners

FAHIMA BENOSA TAJAR

Roll of Attorneys No. 73539 / 6-19-19

IBP No. 115364 / 1.31.2020 / MAKATI

PTR No. MKT 8172938 / 1.30.2020 /Makati City

MCLE Compliance No. N/A

(Admitted to the Philippine Bar in 2019)

MIKAELO JAIME C. REYES

Roll of Attorneys No. 71780

IBP No. 120249/01.17.2020/PASIG

PTR No. MKT 8126768/01.08.2020/Makati City

MCLE COMPLIANCE NO. VI-0029090

valid until April 14, 2022

COPY FURNISHED:

RODRIGO ROA DUTERTE

President, Republic of the Philippines
New Executive Building, Malacanang Palace
J.P. Laurel St., San Miguel, Manila

Sec. SALVADOR MEDIALDEA

Ground Floor Premier Guest House
J.P. Laurel St., San Miguel, Manila is being impleaded in
his capacity as Executive Secretary

VICENTE SOTTO III

Senate President, Senate of the Philippines
Room 603 and 24 (New Wing 5/F), GSIS Building,
Financial Center, Diokno Boulevard, Pasay City, is being
impleaded in his capacity as the Senate President of the
Philippines; and

ALAN PETER CAYETANO

Speaker, House of Representatives
RVM Room 406, House of Representatives,
Constitution Hills, Quezon City 1126, is being impleaded in
his capacity as the Speaker of the House of
Representatives of the Philippines.

EXPLANATION OF SERVICE

Copies of this Petition were served upon respondents by private courier service due to quarantine limitations of the COVID-19 pandemic, time constraints and lack of personnel.

FAHIMA BENOSA TAJAR