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### **Habeas Data as a Legal Notion**

“The *writ of habeas data* is a relatively new legal notion compared to the traditional writ of *habeas corpus* and the recently promulgated *writ of amparo*. Habeas data literally means ‘you should have the data,’ and is defined by Latin American legal scholars as a writ ‘designed to protect through a petition or complaint, the image, privacy, honor, information self-determination and freedom of information of a person.’”<sup>1</sup>

### **The Philippine Habeas Data**

The Rule on Habeas Data, promulgated by the Supreme Court on January 22, 2008 through AM 08-1-16 was born in the midst of worsening human rights condition in the country through extra-judicial killings, enforced disappearance and torture.<sup>2</sup> “The government of Pres. Gloria Arroyo, through its security forces were believed to be compiling dossiers on the opposition, listing many individuals in the Order of Battle under Oplan Bantay Laya and filing various criminal charges against political opponents and members of the media, considered as political harassment suits.”<sup>3</sup>

“Habeas data was, therefore, promulgated within the context of government compilation of information on individuals on the basis of non-transparent and credible sources promoting fear among many that the said information will be used and abused to harass legitimate dissenters. It was issued at the time that efforts to impose a national ID system has fanned fears among human rights advocates of government’s attempt to establish an Orwellian ‘big brother’ to stifle dissent.”<sup>4</sup>

### **What is the nature and scope of the Philippine Habeas data?**

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<sup>1</sup> Colmenares, Primer on the Writ of Habeas Data, *available at* <http://www.arkibongbayan.org/2008-03March12-nulpejpuno/doc3/PRIMER%20ON%20THE%20WRIT%20OF%20HABEAS%20DATA-2.doc> (last accessed June 19, 2014).

<sup>2</sup> Annotation to the Rule on the Writ of Amparo, pamphlet released by the Supreme Court, p. 49.

<sup>3</sup> Colmenares, *supra* note 1.

<sup>4</sup> *Id.*

Section 1 of the Rule on the Writ of Habeas Data provides that:

The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.<sup>5</sup>

The writ of habeas data is an independent and summary remedy designed to protect the image, privacy, honor, information, and freedom of information of an individual, and to provide a forum to enforce one's right to the truth and to informational privacy.<sup>6</sup> It seeks to protect a person's right to control information regarding oneself, particularly in instances in which such information is being collected through unlawful means in order to achieve unlawful ends.<sup>7</sup> It must be emphasized that in order for the privilege of the writ to be granted, there must exist a nexus between the right to privacy on the one hand, and the right to life, liberty or security on the other.<sup>8</sup>

Essentially, habeas data allows families of victims of enforced disappearance to petition the courts to compel government and security officials to allow access to documents about the missing person.<sup>9</sup>

The rule [as to parties] allows any individual to file the petition on the ground that "*his right to privacy in life, liberty or security is violated or threatened.*"<sup>10</sup> This provision may be interpreted to refer to an act or omission which violates or threatens the right to privacy of an individual which in turn, results in violating or threatening his or her right to life, liberty or security.

Note that under the Rule, the respondent may be:

- i. A public official or employee; or
- ii. A private individual or entity, who is engaged in the gathering, collecting, or storing of data "regarding the person, family, home and correspondence."<sup>11</sup>

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<sup>5</sup> RULE ON THE WRIT OF HABEAS DATA, § 1.

<sup>6</sup> *Manila Electric Co. v. Lim*, G.R. No. 184769, 5 October 2010.

<sup>7</sup> *Roxas v. Arroyo*, G.R. No. 189155, 7 September 2010.

<sup>8</sup> *Gamboa v. Chan*, G.R. No. 193636, 24 July 2012.

<sup>9</sup> *Festin*, SPECIAL PROCEEDINGS: A FORESIGHT TO THE BAR EXAMS, 2011.

<sup>10</sup> *Supra* note 5.

<sup>11</sup> *Id.*

The writ of habeas data cannot be invoked in labor disputes where there is no unlawful violation of the right to life, liberty, or security.<sup>12</sup> Habeas data, also, cannot be invoked when respondents in the petition for issuance of the writ are not gathering, collecting, or storing data or information.<sup>13</sup>

**Case in Point: *Gamboa v. Chan, G.R. No. 193636, 24 July 2012.***

**Facts:**

Former President Gloria Macapagal-Arroyo issued AO no. 275 “Creating an Independent Commission to Address Existence of Private Armies in the Country” which will be called the Zenarosa Commission. Its goal is to eliminate private armies before the May 10, 2010 elections. The said commission then submitted to the President a report regarding private army groups (PAG). Gamboa, a mayor of Dingras Ilocos Norte, whose name was included in the report, alleged that the PNP – Ilocos Norte conducted surveillance operations against her and her aides and classified her as someone who keeps PAG without the benefit of data-verification. She requested her name to be removed from the PNP list.

Gamboa then filed a writ for *Habeas Data*, alleging that her right to privacy was violated. The PNP, on the other hand, maintained that they acted within the bounds of their mandate in conducting the investigation and surveillance of Gamboa. The information in their database pertained to several criminal cases that were charged against the Mayor, in particular, some cases for murder.

The RTC dismissed the case. Gamboa thus filed this present petition on *certiorari* before the Supreme Court.

**Issue:**

Whether the dismissal of the petition for writ of *Habeas Data* was proper.

**Ruling:**

The dismissal of the petition is proper. The writ of *habeas data* is an independent and summary remedy designed to protect the image, privacy, honor, information, and freedom of information of an individual, and to provide a forum to enforce

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<sup>12</sup> *Meralco v. Lim, G.R. No. 184769, 5 October 2010.*

<sup>13</sup> *Castillo v. Cruz, G.R. No. 182165, 25 November 2009.*

ones right to the truth and to informational privacy. It seeks to protect a persons right to control information regarding oneself, particularly in instances in which such information is being collected through unlawful means in order to achieve unlawful ends. It must be emphasized that in order for the privilege of the writ to be granted, there must exist a nexus between the right to privacy on the one hand, and the right to life, liberty or security on the other.

In this case, it is clear that there are other reliefs available to Gamboa to address the purported damage to her reputation. This makes a resort to the extraordinary remedy of the writ of *habeas data* unnecessary and improper. Moreover, She failed to prove that she will be subjected to harassment and unnecessary police surveillance because of the report as a result of the investigations against her. Thus, she failed to establish a connection between a violation of her right to privacy and a purported violation of her right to life, liberty or security.

It is clear from the foregoing discussion that the state interest of dismantling PAGs far outweighs the alleged intrusion on the private life of Gamboa, especially when the collection and forwarding by the PNP of information against her was pursuant to a lawful mandate. Therefore, the privilege of the writ of *habeas data* must be denied.

### **Who has standing to file the petition?**

Section 2 provides that it is the “aggrieved party” who has standing to file the Petition:

Sec. 2 Any aggrieved party may file a petition for the writ of habeas data. However, in cases of extra-judicial killings and enforced disappearance, the petition may be filed by:

- (a) any member of the immediate family of the aggrieved party, namely: the spouse, children or parents; or
- (b) any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph.<sup>14</sup>

If a petition is filed, therefore, on the basis that the violation or threats to the right to privacy is related to or results or may result in extra-judicial killing or enforced disappearance,

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<sup>14</sup> *Supra* note 5, at §2.

the petition may be filed by third parties. In this situation, it is important to allege the threat of extrajudicial killing or enforced disappearance in the petition in order to grant third parties the standing to file the petition. Note that unlike in Amparo, human rights organizations or institutions are no longer allowed to file the petition, possibly in recognition of the privacy aspect of a habeas data petition.<sup>15</sup>

### **Where to file a Petition for a writ of habeas data?**

Section 3 of the Rule on Habeas Data provides:

The petition may be filed with the Regional Trial Court where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored, at the option of the petitioner.

The petition may also be filed with the Supreme Court or the Court of Appeals or the Sandiganbayan when the action concerns public data files of government offices.<sup>16</sup>

Thus, under Section 3, the petition may be filed, at the “option of the petitioner”, with:

- i. The “regional trial court where the respondent or petitioner resides.”
- ii. The regional trial court which has jurisdiction over the place “where the data or information is gathered, collected or stored.”
- iii. The Supreme Court, Court of Appeals or the Sandiganbayan when the action “concerns public data files of government offices.”<sup>17</sup>

If the petition involves ‘public data files of government offices’ [which is interpreted to mean that the respondent is a government personnel or official in charge of a public registry] the petitioner is allowed three options for venue including the filing before the Supreme Court. Otherwise, the petitioner’s venue is restricted to the Regional Trial Courts.

### **Can a petition be filed before a Justice of the Supreme Court, Sandiganbayan or the Court of Appeals?**

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<sup>15</sup> *Id.*

<sup>16</sup> *Id.* at §3.

<sup>17</sup> *Id.*, at §3.

Reading Section 4 [and even Section 14], it seems that it may be filed [by implication] before a justice of a collegial tribunal:

Section 4. *Where Returnable/Enforceable.* –

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When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Court of Appeals or the Sandiganbayan, or any of its justices or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.<sup>18</sup>

Notwithstanding the venue chosen, the writ is enforceable “*anywhere in the Philippines.*”<sup>19</sup>

The hearing on the writ is summary in nature.<sup>20</sup> Under Section 14, however, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admission from the parties.

### **How much is the docket fee for the filing of the Petition?**

Section 5 states that:

No docket and other lawful fees are required from an indigent petitioner. The petition of the indigent shall be docketed and acted upon immediately without prejudice to the subsequent submission of proof of indigency not later than 15 days from the filing of the petition.<sup>21</sup>

The Petitioner may, therefore, file the petition and submit proof of indigency later. Should the court find the proof insufficient, it is hoped that the court merely orders the payment of docket fees rather than dismissing the petition.

### **What should the Petition contain ?**

Section 6 of the Rule provides that:

Sec. 6 A verified petition for a writ of habeas data should contain:

(a) the personal circumstances of the petitioner and the respondent;

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<sup>18</sup> *Id.*, at §4.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*, at §15.

<sup>21</sup> *Id.*,

- (b) the manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party;
- (c) the actions and recourses taken by the petitioner to secure the data or information;
- (d) the location of the files, registers or databases, the government office and the person in charge, in possession or in control of the data or information, if known;
- (e) the reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent. In case of threats, the relief may include a prayer for an order enjoining the act complained of; and
- (f) such other relevant reliefs as are just and equitable.<sup>22</sup>

Firstly, the petition must be verified.

Secondly, the Petition must show the connection between the threatening or violation of the right to privacy and the petitioner's right to life, liberty or property.

Thirdly, it seems from the provision that the petitioner must alleged in the petition if he or she has made attempts to secure the data or have it amended or destroyed before the filing of a petition. This is interpreted by the writer to be an optional requirement, particularly since the petitioner may not know who in particular controls the data.

It must be noted that the location of the file and the name of the person in charge must be alleged in the petition only if 'known' to the petitioner. The rule therefore allows for a petition to prosper even if the specific location or respondent is not exactly known.

Lastly, the reliefs must categorically state what is prayed for. Considering that knowledge of the actual content may not be available to the petitioner upon filing, the Petitioner may ask for the destruction of the entire file available or those portions which violate or threatens his or her right to privacy.<sup>23</sup>

### **When is a writ issued ?**

Section 7 states that :

Sec. 7 Issuance of the writ—Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk shall issue the writ under the seal of the court and cause it to be served within three (3) days from its issuance; or

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<sup>22</sup> *Id.*, at §6.

<sup>23</sup> *Id.*

in case of urgent necessity, the justice or judge may issue the writ under his or her hand, and may deputize any officer or person to serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than ten (10) work days from the date of issuance.<sup>24</sup>

The rule requires courts to ‘immediately’ issue a writ if, from the ‘face’ of the petition, it ought to issue. Although no period for the issuance of the writ was set by the rule, it is expected that the writ should issue forthwith since all the court is required to look into is simply if it ought to issue ‘on its face’.<sup>25</sup>

Under Section 9, in case the “writ cannot be served personally on the respondent, the rules on substituted service shall apply”<sup>26</sup>. Section 8 provides for penalties for the Clerk of Court or the deputized person who refuses to serve the writ.<sup>27</sup>

### **May a petition for habeas data be filed if there is a pending criminal action?**

No<sup>28</sup>, but a motion may be filed in the court hearing the criminal case as provided under Sec. 22, to wit:

Sec. 22 -- When a criminal action has been commenced, no separate petition for the writ shall be filed. The reliefs under the writ shall be available to the aggrieved party by motion in the criminal case. The procedure under this rule shall govern the disposition of the reliefs available under the writ of habeas data.<sup>29</sup>

### **What if a criminal and a separate civil action is filed after the petition is filed?**

If a criminal action is filed subsequent to the filing of a petition for the writ, the petition shall be consolidated with the criminal action as provided under Section 21. If an independent civil action is filed separate from the criminal case, the Petition is consolidated with the criminal action and not with the civil action.<sup>30</sup>

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<sup>24</sup> *Id.*, at §7.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, at §9.

<sup>27</sup> *Id.*, at §8.

<sup>28</sup> *Id.*, at §20.

<sup>29</sup> *Id.*, at §22.

<sup>30</sup> *Id.*, at §21.



In any case, the procedure under the rule on habeas data shall govern the disposition of the reliefs prayed for in a “habeas data motion” filed before the court hearing the criminal case.<sup>31</sup>

**Case in Point: *Castillo v. Cruz, G.R. No. 182165, 25 November 2009.***

**Facts:**

Respondents leased a parcel of land from the Provincial Government of Bulacan. Upon expiration of the lease agreement, the latter demanded that the respondents vacate the premises, which they refused to do. Among other actions filed between the parties, a Writ of Demolition was issued by the MTC in favor of the Provincial Government. Respondents filed a motion for TRO in the RTC, which was granted. However, the demolition was already implemented before the TRO issuance.

On February 21, 2008, the petitioners, who are members of the police force deployed by the Mayor in compliance with a memorandum issued by the Governor instructing him to “protect, secure and maintain the possession of the property,” entered the property. Respondents refused to leave the property. Insisting that the RTC Order of Permanent Injunction enjoined the Province from repossessing it, they shoved petitioners, forcing the latter to arrest them and cause their indictment for direct assault, trespassing and other forms of light threats.

Respondents filed a Motion for Writs of Amparo and Habeas Data.

**Issues:**

- (i) WON Amparo and Habeas Data is proper to property rights; and,
- (ii) WON Amparo and Habeas Data is proper when there is a criminal case already filed.

**Held:**

- (i) **On the first issue:**

Section 1 of the Rules of Writ of Amparo and Habeas Data provides that the coverage of the writs is limited to the protection of rights to life, liberty and security, and the writs cover not only actual but also threats of unlawful acts or omissions.

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<sup>31</sup> *Id.*

Secretary of National Defense v. Manalo<sup>32</sup> teaches: “As the Amparo Rule was intended to address the intractable problem of “extralegal killings” and “enforced disappearances.” Tapuz v. Del Rosario<sup>33</sup> also teaches: “What it is not is a writ to protect concerns that are purely property or commercial. Neither is it a writ that we shall issue on amorphous and uncertain grounds.”

To thus be covered by the privilege of the writs, respondents must meet the threshold requirement that their right to life, liberty and security is violated or threatened with an unlawful act or omission. Evidently, the present controversy arose out of a property dispute between the Provincial Government and respondents. Absent any considerable nexus between the acts complained of and its effect on respondents’ right to life, liberty and security, the Court will not delve on the propriety of petitioners’ entry into the property.

It bears emphasis that respondents’ petition did not show any actual violation, imminent or continuing threat to their life, liberty and security. Bare allegations of petitioners will not suffice to prove entitlement to the remedy of the writ of amparo. No undue confinement or detention was present. In fact, respondents were even able to post bail for the offenses a day after their arrest.

**(ii) On the 2nd issue:**

Respondents’ filing of the petitions for writs of amparo and habeas data should have been barred, for criminal proceedings against them had commenced after they were arrested in flagrante delicto and proceeded against in accordance with Section 6, Rule 112 of the Rules of Court. Validity of the arrest or the proceedings conducted thereafter is a defense that may be set up by respondents during trial and not before a petition for writs of amparo and habeas data.

**What should the respondent’s Return contain?**

Section 10 provides that:

Section 10—Return. The respondent shall file a verified written return together with supporting affidavits within five work days from service of the writ, which period may be reasonably

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<sup>32</sup> *Secretary of National Defense v. Manalo*, G.R. No. 180906, 07 October 2008.

<sup>33</sup> *Tapuz v. Del Rosario*, G.R. No. 182484, 17 June 2007.

extended by the Court for justifiable reasons. The return shall, among other things, contain the following:

- (a) The lawful defense such as national security, state secrets, privileged communication, confidentiality of the source of information of media and others
- (b) In case of respondent in charge, in possession or in control of the said data or information, subject of the petition:
  - i. a disclosure of the data or information about the petitioner, the nature of such data or information, and the purpose for its collection;
  - ii. the steps or actions taken by the respondent to ensure the security and confidentiality of the data or information; and
  - iii. the currency and accuracy of the data or information; and
- (c) other allegations relevant to the resolution of the proceeding.

A general denial of the allegations in the petitions shall not be allowed.<sup>34</sup>

### **How will the hearing be conducted in cases of ‘sensitive’ data?**

The Court may hear the petition in chambers “where the respondent invokes the defense that the release of the data or information in question shall compromise national security or state secrets or when the information cannot be divulged to the public due to its nature or privileged character”.<sup>35</sup>

### **What if the respondent fails to make a Return?**

Sec. 14—In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition *ex parte*, granting the petitioner such relief as the petition may warrant unless the court in its discretion requires the petitioner submit evidence.<sup>36</sup>

### **Is there a penalty for refusing to make or making a false return?**

Sec. 11 Contempt—The court, justice or judge may punish with imprisonment or fine a respondent who commits contempt by making a false return, or refusing to make a return or any person who otherwise disobeys or resists a lawful process or order of the court.<sup>37</sup>

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<sup>34</sup> *Supra* note 5, at §10.

<sup>35</sup> *Id.*, at §12.

<sup>36</sup> *Id.*, at §14.

<sup>37</sup> *Id.*, at §11.

### **Can the respondent file a pleading other than a return?**

No. Section 13 enumerates prohibited pleadings such as, inter alia, motions “*to dismiss, for extension of time, dilatory motion for postponement, bill of particulars, motion to declare respondent in default, intervention, motion for reconsideration of interlocutory orders, Memorandum, counter claim, or reply*”.<sup>38</sup>

### **Is there a period within which the court must decide the petition? What should the decision contain?**

The rule requires the immediate issuance of the writ possibly in recognition of the urgency of remedy<sup>39</sup> particularly in cases involving threat to life or liberty<sup>40</sup>. Also, it is provided in Section 16 of the Rule that the case should be resolved within ten (10) days from the time the petition is submitted for decision, to wit:

Sec. 16 Judgment—The court shall render judgment within ten days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall enjoin the act complained of, or order the deletion, destruction, or rectification of the erroneous data or information and grant other relevant reliefs as may be just and equitable; otherwise the privilege of the writ shall be denied.

Upon its finality, the judgment shall be enforced by the sheriff or any lawful officer as may be designated by the court, justice or judge within five work days.<sup>41</sup>

### **How is a decision appealed?**

The decision on the merits of habeas data petition may be appealed to the Supreme Court on questions of facts or law or both:

Sec. 19 Any party may appeal from the judgment or final order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both. The period of appeal shall be five (5)

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<sup>38</sup> *Id.*, at §13.; Colmenares, *supra* note 1

<sup>39</sup> *Id.*, at §7.

<sup>40</sup> Colmenares, *supra* note 1

<sup>41</sup> *Supra* note 5, at §16.

days from the date of notice or judgment or final order. The appeal shall be given the same priority as habeas corpus or amparo cases.<sup>42</sup>

**Case in Point: *Saez v. Macapagal-Arroyo, G.R. No. 183533, 25 September 2012.***

**Facts:**

On March 6, 2008, the petitioner filed with the Court a petition to be granted the privilege of the writs of *amparo* and *habeas data* with prayers for temporary protection order, inspection of place and production of documents.

Without necessarily giving due course to the petition, the Court issued the writ of *amparo* commanding the respondents to make a verified return, and referred the case to the Court of Appeals (CA) for hearing and decision.

The CA conducted hearings with an intent to clarify what actually transpired and to determine specific acts which threatened the petitioner's right to life, liberty or security.

During the hearings, the petitioner narrated that starting April 16, 2007, he noticed that he was always being followed by a certain "Joel," a former colleague at *Bayan Muna*. "Joel" pretended peddling *pandesal* in the vicinity of the petitioner's store. Three days before the petitioner was apprehended, "Joel" approached and informed him of his marital status and current job as a baker in Calapan, Mindoro Oriental. "Joel" inquired if the petitioner was still involved with *ANAKPAWIS*. When asked by the CA justices during the hearing if the petitioner had gone home to Calapan after having filed the petition, he answered in the negative explaining that he was afraid of Pvt. Osio who was always at the pier.

*CA's Ruling*

CA denied on formal and substantial grounds the reliefs prayed for in the petition and dropping former President Gloria Macapagal Arroyo as a respondent.

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<sup>42</sup> *Id.*, at §19.

There was no attempt at all to clarify how petitioner came to know about Zaldy Osio's presence at their pier if the former had not gone home since the petition was filed and what Zaldy Osio was doing there to constitute violation or threat to violate petitioner's right to life, liberty or security. This Court cannot just grant the privilege of the writs without substantial evidence to establish petitioner's entitlement thereto.

Both the Rules on the Writs of *Amparo*<sup>43</sup> and *Habeas Data*<sup>44</sup> provide that the parties shall establish their claims by substantial evidence. Not only was petitioner unable to establish his entitlement to the privilege of the writs applied for, the exigency thereof was negated by his own admission that nothing happened between him and Joel after July 21, 2007. The filing of the petition appears to have been precipitated by his fear that something might happen to him, not because of any apparent violation or visible threat to violate his right to life, liberty or security.

Petition for Review was filed assailing the foregoing CA decision. On August 31, 2010, the [Supreme] Court issued the Resolution denying the petition for review. Hence, the petitioner filed the instant motion for Reconsideration

**Issue:**

Whether there was substantial evidence to prove petitioner's claims

**Held:**

No substantial evidence exists to prove the petitioner's claims. The Court has ruled that in view of the recognition of the evidentiary difficulties attendant to the filing of a petition for the privilege of the writs of *amparo* and *habeas data*, not only direct evidence, but circumstantial evidence, indicia, and presumptions may be considered, so long as they lead to conclusions consistent with the admissible evidence adduced. With the foregoing in mind, the Court still finds that the CA did not commit a reversible error in declaring that no substantial evidence exist to

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<sup>43</sup> A.M. No. 07-9-12-SC, §17.

<sup>44</sup> *Supra* note 5, at §16.

compel the grant of the reliefs prayed for by the petitioner. The Court took a second look on the evidence on record and finds no reason to reconsider the denial of the issuance of the writs prayed for. Section 19 of both the Rules on the Writ of *Amparo*<sup>45</sup> and *Habeas Data*<sup>46</sup> is explicit that questions of fact and law can be raised before the Court in a petition for review on *certiorari* under Rule 45<sup>47</sup>. As a rule then, the Court is not bound by the factual findings made by the appellate court which rendered the judgment in a petition for the issuance of the writs of *amparo* and *habeas data*. Be that as it may, in the instant case, the Court agrees with the CA that the petitioner failed to discharge the burden of proof imposed upon him by the rules to establish his claims.

It must be stressed, however, that such “threat” must find rational basis on the surrounding circumstances of the case. In this case, the petition was mainly anchored on the alleged threats against his life, liberty and security by reason of his inclusion in the military’s order of battle, the surveillance and monitoring activities made on him, and the intimidation exerted upon him to compel him to be a military asset. While, as stated earlier, mere threats fall within the mantle of protection of the writs of *amparo* and *habeas data*, in the petitioner’s case, the restraints and threats allegedly made lack corroborations, are not supported by independent and credible evidence, and thus stand on nebulous grounds.

## **Conclusion**

“Even if the rule allows for private individuals as respondents, the writ of habeas data may be one of the main remedies for those whose right to life, liberty or security are threatened or violated by acts or omission of public officials.”<sup>48</sup> More often than not, the writ is used by elected officials to harass political opponents and to violate the constitutional rights of the citizens. It must be iterated that privilege of this writ must be used only for furtherance of legitimate ends.

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<sup>45</sup> *Supra* note 5, at §19.

<sup>46</sup> *Supra* note 5, at §19.

<sup>47</sup> 1997 RULES of CIVL PROCEDURE, Rule 45.

<sup>48</sup> Colmenares, *supra* note 1

“It is hoped that the Court will give full play to the use of habeas data as a venue for victims of human rights violations seek redress for the violations and extract accountability for the abuse of information collected, stored and used by the State.”<sup>49</sup>

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<sup>49</sup> Colmenares, *supra* note 1