

EN BANC

G.R. No. 235935 (*Representatives Edcel C. Lagman, Tomasito S. Villarin, Edgar R. Erice, Teddy Brawner Baguilat, Jr., Gary C. Alejano, and Emmanuela A. Billones, petitioners, vs. Sen. President Aquilino Pimentel III, Speaker Pantaleon D. Alvarez, Executive Secretary Salvador Medialdea, Defense Secretary Delfin N. Lorenzana, Budget Secretary Benjamin E. Diokno, and Armed Forces of the Philippines Chief of Staff General Rey Leonardo Guerrero, respondents*)

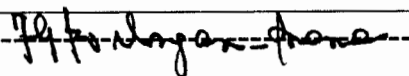
G.R. No. 236061 (*Eufemia Campos Cullamat, Noli Villanueva, Rius Valle, Atty. Neri Javier Colmenares, Dr. Maria Carolina P. Araullo, Renato M. Reyes, Jr., Cristina E. Palabay, Bayan Muna Partylist Representative Carlos Isagani T. Zarate, Gabriela Women's Party Representatives Emerenciana A. De Jesus, and Arlene D. Brosas, Anakpawis Representative Ariel B. Casilao, Act Teacher's Representatives Antonio L. Tinio, and Francisaca L. Castro and Kabataan Partylist Representative Sarah Jane I. Elago, petitioners, vs. President Rodrigo Duterte, Senate President Aquilino Pimentel III, House Speaker Pantaleon Alvarez, Executive Secretary Salvador Medialdea, Defense Secretary Delfin Lorenzana, Armed Forces of the Philippines Chief of Staff Gen. Rey Leonardo Guerrero, Philippine National Police Director-General Ronaldo Dela Rosa, respondents.*)

G.R. No. 236145 (*Loretta Ann P. Rosales, petitioner, vs. President Rodriogo Duterte, represented by Executive Secretary Salvador Medialdea, Martial Law Administrator Secretary Delfin Lorenzana, Martial Law Implementer, General Rey Leonardo Guerrero, and Philippine National Police Director-General Ronaldo M. Dela Rosa, and the Congress of the Philippines, consisting of the Senate of the Philippines represented by Senate President Aquilino Pimentel III and the House of Representatives, represented by House Speaker Pantaleon D. Alvarez., respondents*)

G.R. No. 236155 (*Christina S. Monsod, Dinagat Islands Representative Arlene J. Bag-Ao, Ray Paolo J. Santiago, Nolasco Ritz Lee B. Santos III, Marie Hazel E. Lavitoria, Nicolene S. Arcaina and Jose Ryan S. Pelongco, petitioners, vs. Senate President Aquilino Pimentel III, Speaker Pantaleon D. Alvarez, Executive Secretary Salvador C. Medialdea, Department of National Defense [DND] Secretary Delfin N. Lorenzana, Department of the Interior and Local Government [DILG] Secretary [Officer-In-Charge] Eduardo M. Año, Armed Forces of the Philippines [AFP] Chief of Staff General Rey Leonardo Guerrero, Philippine National Police [PNP] Chief Director General Ronald M. Dela Rosa, National Security Adviser Hermogenes C. Esperon, Jr., respondents*)

Promulgated:

February 6, 2018

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CONCURRING OPINION

VELASCO, JR., J.:

I adhere to the dismissal of the petitions and concur with the declaration of Resolution of Both Houses No. 4 as constitutional. I would, however, like to make some additional observations in connection with my concurrence.

At the threshold of this opinion, I do not find it amiss to note that the Martial Law in Mindanao was extended for the first time up to December 31, 2017. And yet, not one of the petitioners questioned the validity of that extension. This neglect now estops the petitioners from questioning the basis for the presently assailed extension since it is merely a continuation of the extended Martial Law covered by Proclamation No. 216.

But be that as it may, in *Lagman v. Medialdea*,¹ this Court found that **rebellion** exists in Mindanao and that public safety requires the exercise of the Martial Law powers. Thus, it concluded that Proclamation No. 216, declaring Martial Law in the region, has sufficient factual basis. This Court held:

...[T]he following facts and/or events were deemed to have been considered by the President in issuing Proclamation No. 216, as plucked from and extant in Proclamation No. 216 itself:

x x x x

After the assessment by the President of the aforementioned facts, he arrived at the following conclusions, as mentioned in Proclamation No. 216 and the Report:

1) The Maute Group is "openly attempting to remove from the allegiance to the Philippine Government this part of Mindanao and deprive the Chief Executive of his powers and prerogatives to enforce the laws of the land and to maintain public order and safety in Mindanao, constituting the crime of rebellion."

2) "[L]awless armed groups have taken up arms and committed public uprising against the duly constituted government and against the people of Mindanao, for the purpose of removing Mindanao — starting with the City of Marawi, Lanao del Sur — from its allegiance to the Government and its laws and depriving the Chief Executive of his powers and prerogatives to enforce the laws of the land and to maintain public order and safety in Mindanao, to the great damage, prejudice, and detriment of the people therein and the nation as a whole."

¹ G.R. Nos. 231658, 231771 & 231774, July 4, 2017.

3) The May 23, 2017 events "put on public display the groups' clear intention to establish an Islamic State and their capability to deprive the duly constituted authorities — the President, foremost — of their powers and prerogatives."

4) "These activities constitute not simply a display of force, but a clear attempt to establish the groups' seat of power in Marawi City for their planned establishment of a DAESH wilayat or province covering the entire Mindanao."

5) "The cutting of vital lines for transportation and power; the recruitment of young Muslims to further expand their ranks and strengthen their force; the armed consolidation of their members throughout Marawi City; the decimation of a segment of the city population who resist; and the brazen display of DAESH flags constitute a clear, pronounced, and unmistakable intent to remove Marawi City, and eventually the rest of Mindanao, from its allegiance to the Government."


6) "There exists no doubt that lawless armed groups are attempting to deprive the President of his power, authority, and prerogatives within Marawi City as a precedent to spreading their control over the entire Mindanao, in an attempt to undermine his control over executive departments, bureaus, and offices in said area; defeat his mandate to ensure that all laws are faithfully executed; and remove his supervisory powers over local governments."

7) "Law enforcement and other government agencies now face pronounced difficulty sending their reports to the Chief Executive due to the city-wide power outages. Personnel from the BJMP have been prevented from performing their functions. Through the attack and occupation of several hospitals, medical services in Marawi City have been adversely affected. The bridge and road blockades set up by the groups effectively deprive the government of its ability to deliver basic services to its citizens. Troop reinforcements have been hampered, preventing the government from restoring peace and order in the area. Movement by both civilians and government personnel to and from the city is likewise hindered."

8) "The taking up of arms by lawless armed groups in the area, with support being provided by foreign-based terrorists and illegal drug money, and their blatant acts of defiance which embolden other armed groups in Mindanao, have resulted in the deterioration of public order and safety in Marawi City; they have likewise compromised the security of the entire Island of Mindanao."

9) "Considering the network and alliance-building activities among terrorist groups, local criminals, and lawless armed men, the siege of Marawi City is a vital cog in attaining their long-standing goal: absolute control over the entirety of Mindanao. These circumstances demand swift and decisive action to ensure the safety and security of the Filipino people and preserve our national integrity."

Thus, the President deduced from the facts available to him that there was an armed public uprising, the culpable purpose of which was to remove from the allegiance to the Philippine Government a portion of its territory and to deprive the Chief Executive of any of his powers and



prerogatives, leading the President to believe that there was probable cause that the crime of rebellion was and is being committed and that public safety requires the imposition of martial law and suspension of the privilege of the writ of habeas corpus.

A review of the aforesaid facts similarly leads the Court to conclude that the President, in issuing Proclamation No. 216, had sufficient factual bases tending to show that actual rebellion exists.

The President's conclusion, that there was an armed public uprising, the culpable purpose of which was the removal from the allegiance of the Philippine Government a portion of its territory and the deprivation of the President from performing his powers and prerogatives, was reached after a tactical consideration of the facts. In fine, the President satisfactorily discharged his burden of proof.²

Even petitioners at bar, as properly observed in the *ponencia*, concede the existence of rebellion that led to the declaration of Martial Law under Proclamation No. 216.³ The core of petitioners' contention is confined merely to the propriety of the further extension of the Martial Law in Mindanao. In substantiating their argument, however, petitioners neglect that **rebellion is a continuing crime**, the ultimate goal of which is to overthrow the government. The nature of rebellion as a continuing crime has often been repeated by this Court. In *Parong v. Enrile*,⁴ this Court characterized rebellion as a continuing offense, viz:

The last argument of petitioner, namely that the detainees were not caught in flagrante delicto and therefore the arrest was illegal was refuted in the Comment thus: "Again petitioner simply misses the point. As this Court correctly observed, the crimes of subversion and **rebellion are continuing offenses**. Besides this point involves an issue of fact."

A similar ruling was made in *Umil v. Ramos*⁵ where this Court observed that:

.... [H]e (Dural) was committing an offense, when arrested, because Dural was arrested for being a member of the New People's Army, an outlawed organization, where membership is penalized, and for subversion which, like **rebellion is**, under the doctrine of Garcia vs. Enrile, **a continuing offense**, thus:

The crimes of insurrection or rebellion, subversion, conspiracy or proposal to commit such crimes, and other crimes and offenses committed in the furtherance (sic) on the occasion thereof, or incident thereto, or in connection therewith under Presidential Proclamation No. 2045, **are all in the nature of continuing offenses which set them apart from the common offenses**, aside from their essentially involving a massive conspiracy of nationwide magnitude . . .

² Emphasis and underscoring supplied.

³ See pp. 29-31 of the *ponencia*.

⁴ 222 Phil. 170, 180 (1985).

⁵ 279 Phil. 266-344 (1991).

x x x Unlike other so-called "common" offenses, i.e. adultery, murder, arson, etc., which generally end upon their commission, subversion and **rebellion are anchored on an ideological base which compels the repetition of the same acts of lawlessness and violence until the overriding objective of overthrowing organized government is attained.**⁶

Further, while rebellion is the crime of the masses or multitudes, it is not perpetrated in one crowd action or in a single battle. And while the crime of rebellion consists of many acts, involving a vast movement of men and a complex net of intrigues and plots,⁷ these acts are not usually committed in a single instance. Rather, rebellion is pursued and committed in sporadic crimes—murders, kidnappings, arsons, sabotages, raids, hit-and-run tactics, and small skirmishes with the military—mostly by a small group of combatants by what is termed as guerilla warfare.

Rarely is rebellion now committed by a large group of identified men engaging the government in an all-out conventional war in accordance with the Geneva Conventions. It would then be simply naive to dismiss, as the petitioners have, the remaining armed groups in Mindanao as but “phantom remnants” of the defeated terrorists and rebels. The fact that they do exist and still continue fighting is by itself proof of the subsistence of the condition that compelled the administration to proclaim Martial Law in Mindanao.

More importantly, the Armed Forces of the Philippines (AFP) has sufficiently shown that the remaining members of the Maute group, which commenced the rebellion, has not dwindled. Far from it, they have regrouped, increased in number, have been augmented by foreign terrorist fighters and have established linkages with other terrorists and rebel groups. During the oral arguments, the AFP stated thus:

After the successful Marawi Operation, the Basilan-based ASG is left with 74 members; the Maute Group with 30 members; the Maguid Group has 11; and the Turaifie Group has 22 members with a total of 166 firearms.

However, **manpower increased** by more or less 400, with almost the same strength that initially stormed Marawi City, through clandestine and decentralized recruitment of the Daesh-inspired groups at their respective areas of concentration.

ASG Basilan-based recruited more or less 43 new members in Basilan; more or less 250 members by the Maute Group in the Lanao provinces; 37 by the Maguid Group in Sarangani and Sultan Kudarat, and more or less 70 by the Turaifie Group in Maguindanao. These newly recruited personalities were motivated by clannish culture as they are relatives of terrorist personalities; revenge for their killed relatives/parents during the Marawi operations; financial gain as new recruits were given an

⁶ Emphasis and underscoring supplied.

⁷ *People v. Dasig*, G.R. No. 100231, April 28, 1993.

amount ranging from PhP15,000.00 to 50,000.00; and, as radicalized converts.

These newly recruited members are undergoing trainings in tactics, marksmanship and bombing operations at the different areas of Mount Cararao Complex, Butig, and Piagapo all of Lanao Del Sur. Recruits with high potentials were given instruction on IED-making and urban operations.

Furthermore, the situation has become complicated with the influx of Foreign Terrorist Fighters (FTFs), capitalizing on the porous maritime boundaries in Southern Philippines, in the guise as tourists and businessmen. As of this period, 48 FTFs were monitored joining the Daesh-inspired groups, particularly the Maute Group in Lanao and Turaifie Group in Central Mindanao. The closeness of these two groups is predominant with @Abu DAR who has historically established links with Turaifie.

On Dawlah Islamiyah-initiated violent incidents, these have increased to 100% for the 2nd Semester.⁸

Consequently, the burden is upon the petitioners to prove that the rebellion has been quelled by the government forces and has ceased to exist. Petitioners, however, failed to discharge this burden. Instead, petitioners have presented nary a competent and adequate evidence that could refute the facts presented by the AFP and relied upon by the President in requesting the extension of Martial Law. Bare allegations and unfounded conclusions, without more, cannot debunk the finding of both the executive and legislative branches of the government that rebellion continues to pose a danger to the public safety in Mindanao and requires the imposition of Martial Law.

If this Court is to accord due regard to the principle of comity that should exist among the three branches of the Government, it must observe utmost restraint.⁹ It must not modify, much less annul, the action of the other two branches of government as embodied in the assailed Resolution of Both Houses No. 4, unless there is hard and strong evidence that the extension has no factual basis. As no such evidence was presented by the petitioners, there is nothing to offset the “presumption of constitutionality”¹⁰ of Resolution of Both Houses No. 4.

Surely, as an act of both the executive and the legislative branches, Resolution of Both Houses No. 4 has in its favor the presumption of constitutionality,¹¹ which was explained by this Court as follows:

⁸ AFP’s briefing presented during the January 17, 2018 Oral Arguments, pp. 6-7.

⁹ *Tolentino v. Secretary of Finance*, G.R. Nos. 115455 etc., August 25, 1994.

¹⁰ See *Ermita-Malate Hotel and Motel Operations Association, Inc. v. City Mayor of Manila*, 128 Phil. 473-484 (1967).

¹¹ *Cawaling, Jr. v. Commission on Elections*, 420 Phil. 524-537 (2001).

....This presumption is rooted in the doctrine of separation of powers which enjoins upon the three coordinate departments of the Government a becoming courtesy for each other's acts. The theory is that every law, **being the joint act of the Legislature and the Executive, has passed careful scrutiny to ensure that it is in accord with the fundamental law.** This Court, however, may declare a law, or portions thereof, unconstitutional, where a petitioner has shown a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative one. **In other words, the grounds for nullity must be beyond reasonable doubt, for to doubt is to sustain.**¹²

The burden of proving the invalidity of this joint exercise of discretion that is the extension of Martial Law rests on those who challenge it.¹³ In this case, petitioners failed to present any proof, much less clear and convincing evidence, that will convince this Court beyond reasonable doubt of the nullity of the assailed Resolution.¹⁴ Hence, in the absence of the required proof of the unequivocal infraction of the Constitution committed by the President and both houses of Congress, this Court will indulge the presumption of constitutionality of the assailed Resolution of Both Houses No. 4. The validity of the extension of Martial Law embodied therein must perforce prevail.

Past experiences under Martial Law may have led the petitioners to doubt its necessity, efficacy, and the good that it may serve. However, the stark realities of the moment should temper our wariness of the Martial Law powers. We need not fear employing them when necessary for the promotion of public safety and the promotion of public welfare. After all, **it is not a power that can be employed without corresponding responsibility.**¹⁵ In the vein of my opinion in *Lagman*, **Martial Law is by no means an arbitrary license** conferred on the President and the armed forces. As it is borne out of necessity, so it is limited by necessity.

To assuage the fears stoked by the implementation of Martial Law, I deem it proper to restate my opinion in *Lagman* discussing some of the safeguards and constraints that bind the hands of the President and the military that employ the Martial Law powers:

... the source from which the power to proclaim Martial Law springs must be considered. Hence, **if there is no Constitutional provision or statute expressly allowing an intrusion or limitation of a civil liberty, then it is not and will not be allowed.**

Public defense can and should be attained without a total abrogation of all individual rights. Otherwise, "it could be well said that a country, preserved at the sacrifice of all the cardinal principles of liberty, is not worth the cost of preservation." Thus, while this Court recognized

¹² Id. Emphasis supplied.

¹³ *Spouses Lim v. People*, 438 Phil. 749-756 (2002).

¹⁴ See also *Board of Optometry v. Colet*, 328 Phil. 1187-120 (1996).

¹⁵ *Martin v. Mott*, 12 Wheat., 19 (25 U.S.); *Vanderheyden v. Young*, 11 Johns., N.Y., 150, cited in *Barcelona v. Baker, Jr.*, 5 Phil. 87-120 (1905).

in *David* that "arrests and seizures without judicial warrants" can be made during Martial Law, the circumstances justifying such warrantless arrests and seizures under the Rules of Court and jurisprudence must still obtain. Pertinently, Section 5, Rule 113 reads:

SECTION 5. Arrest Without Warrant; When Lawful. — A peace officer or a private person may, without a warrant, arrest a person:

(a) When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) When an offense has just been committed and he has **probable cause** to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it; and

(c) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

As the basis for the declaration of Martial Law — rebellion — is a **continuing crime**, the authorities may resort to warrantless arrests of *persons suspected of rebellion* under the foregoing provision of the Rules of Court. It must, however, be emphasized that the *suspicion of rebellion* upon which a warrantless arrest is made must be based on a **probable cause**, *i.e.*, the ground of suspicion is supported by personal knowledge of facts and circumstances sufficiently strong in themselves to warrant a cautious man's belief that the person sought to be arrested has "committed or is actually committing" the crime of rebellion. Thus, parenthetically, the general arrest orders must be issued by the Armed Forces on the basis of probable cause. Alternatively, it must be shown that the person to be arrested was caught *in flagrante delicto* or has committed or is actually committing an overt act of rebellion or any other offense in the presence of the arresting officer.

In sustaining an arrest without a judicial warrant, Justice Holmes, in *Moyer v. Peabody*, ratiocinated that the "public danger warrants the substitution of executive process for judicial process." However, I subscribe to the position that even during Martial Law, **the jurisdiction of and inquiry by the courts are merely postponed, not ousted or superseded**. Hence, the same tests that would be applied by the civil courts in an inquiry into the validity of a government action must be applied by the military during a Martial Law.

In line with this, searches and seizures without judicial warrants can only be had in the following cases: (1) search of moving vehicles; (2) seizure in plain view; (3) customs searches; (4) waiver or consented searches; (5) stop and frisk situations (Terry search); (6) search incidental to a lawful arrest; (7) exigent and emergency circumstance; and (8) search of vessels and aircraft, where, again, probable cause exists that an offense has been committed and the objects sought in connection with the offense are in the place sought to be searched.



In the restriction of the freedom of speech and of the press, the military must still be guided by the **clear and present danger** test — that words are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantive evils that the military has a right to prevent. Thus, the military can prohibit the dissemination of vital information that can be used by the enemy, *e.g.*, they can ban posts on social media if there is a clear and present danger that such posts will disclose their location. The same test, the presence of clear and present danger, governs the power of the military to disperse peaceable assemblies during Martial Law. As this Court held, tolerance is the rule and limitation is the exception. Otherwise stated, in the absence of clear and present danger, the military is bound by the rules of maximum tolerance under Batas Pambansa Blg. (BP) 880, otherwise known as the "The Public Assembly Act of 1985."


As to the "take-over of news media" mentioned in *David*, Section 17, Article XII of the 1987 Constitution states that: "In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct the operation of any privately-owned public utility or business affected with public interest." Prescinding therefrom, this Court, in *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, held that **police power** justifies a temporary "take over [of] the operation of any business affected with public interest" by the State in times of national emergency:

x x x x

This Court, however, has held that it is the legislature, not the executive, which is the constitutional repository of police power, the existence of a national emergency, such as a rebellion or invasion, notwithstanding. Accordingly, **the power to temporarily take over or direct the operation of any privately-owned public utility or business affected with public interest can only be done whenever there is a law passed by Congress authorizing the same.** This Court, in *David*, explained as much:

x x x x

Indeed, **the military must still be guided by law and jurisprudence and motivated by good faith in the exercise of the supreme force of the State even during a Martial law.** Thus, in its endeavor to restore peace and preserve the state, the military must still make proper adjustments to the safeguards of constitutional liberty under the following legislations intended to protect human rights:

1. Republic Act No. 7438 (*An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers and Providing Penalties for Violations Thereof*)
 2. Republic Act No. 8371 (*The Indigenous Peoples' Rights Act of 1997*)
 3. Republic Act No. 9201 (*National Human Rights Consciousness Week Act of 2002*)
 4. Republic Act No. 9208 (*Anti-Trafficking in Persons Act of 2003*)
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5. Republic Act No. 9262 (*Anti-Violence Against Women and Their Children Act of 2004*)
6. Republic Act No. 9344 (*Juvenile Justice and Welfare Act of 2006*)
7. Republic Act No. 9372 (*Human Security Act of 2007*)
8. Republic Act No. 9710 (*The Magna Carta of Women*)
9. Republic Act No. 9745 (*Anti-Torture Act of 2009*)
10. Republic Act No. 9851 (*Philippine Act on Crimes against International Humanitarian Law, Genocide, and Other Crimes Against Humanity*)
11. Republic Act No. 10121 (*Philippine Disaster Risk Reduction and Management Act of 2010*)
12. Republic Act No. 10168 (*The Terrorism Financing Prevention and Suppression Act of 2012*)
13. Republic Act No. 10353 (*Anti-Enforced or Involuntary Disappearance Act of 2012*)
14. Republic Act No. 10364 (*Expanded Anti-Trafficking in Persons Act of 2012*)
15. Republic Act No. 10368 (*Human Rights Victims Reparation and Recognition Act of 2013*)
16. Republic Act No. 10530 (*The Red Cross and Other Emblems Act of 2013*)

The continuous effectivity of the 1987 Constitution further provides a blueprint by which the military shall act with respect to the civilians and how it shall conduct its operations and actions during the effectivity of Martial Law.

Under Section 2, Article II of the 1987 Constitution, the "generally accepted principles of international law [remains to be] part of the law of the land." Hence, conventions and treaties applicable to non-international armed conflicts including the Geneva Conventions and its Additional Protocols continue to impose the limits on the power and discretion of the armed forces.

Notably, Common Article 3 of the Geneva Conventions enumerates acts that remain prohibited despite the hostilities. It states:

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *'hors de combat'* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria. **To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:**

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;

(c) **outrages upon personal dignity, in particular humiliating and degrading treatment;**

(d) **the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.**

(2) The wounded and sick shall be collected and cared for.

Furthermore, the Fundamental Guarantees under Article 4 of the "Protocol Additional to the Geneva Conventions x x x relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)" remain binding:

1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.

2. Without prejudice to the generality of the foregoing, **the following acts** against the persons referred to in paragraph 1 are **and shall remain prohibited at any time and in any place whatsoever:**

(a) violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;

(b) collective punishments;

(c) taking of hostages;

(d) acts of terrorism;

(e) outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;

(f) slavery and the slave trade in all their forms;

(g) pillage;

(h) threats to commit any of the foregoing acts.

3. Children shall be provided with the care and aid they require, and in particular:

(a) they shall receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care;

(b) all appropriate steps shall be taken to facilitate the reunion of families temporarily separated;

(c) children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;

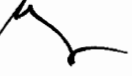
(d) the special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph (c) and are captured;

(e) measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

These international commitments are incorporated into our laws not only by virtue of Section 2, Article II of the 1987 Constitution, but also by the domestic legislations previously enumerated.

Without a doubt, state agents — the members of the armed forces — who abuse their power and discretion under the proclaimed Martial Law and thereby violate their duty as the "protector of the people and the State" are criminally and civilly liable. And here lies the ultimate safeguard against the possible abuses of this emergency power — the **ultimate responsibility** of the officers for acts done in the implementation of Martial Law. To whom much is given, much will be required.

In view of the foregoing, I vote to **DISMISS** the petitions.



PRESBITERO J. VELASCO, JR.
Associate Justice