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[G.R. NO. 171396, May 03, 2006]

PROF. RANDOLF S. DAVID, LORENZO TAÑADA III, RONALD LLAMAS, H. HARRY L. ROQUE, JR., JOEL RUIZ BUTUYAN, ROGER R. RAYEL, GARY S. MALLARI, ROMEL REGALADO BAGARES, CHRISTOPHER F.C. BOLASTIG, PETITIONERS, VS. GLORIA MACAPAGAL-ARROYO, AS PRESIDENT AND COMMANDER-IN-CHIEF, EXECUTIVE SECRETARY EDUARDO ERMITA, HON. AVELINO CRUZ II, SECRETARY OF NATIONAL DEFENSE, GENERAL GENEROSO SENG, CHIEF OF STAFF, ARMED FORCES OF THE PHILIPPINES, DIRECTOR GENERAL ARTURO LOMIBAO, CHIEF, PHILIPPINE NATIONAL POLICE, RESPONDENTS.

G.R. NO. 171409

NIÑEZ CACHO-OLIVARES AND TRIBUNE PUBLISHING CO., INC., PETITIONERS, VS. HONORABLE SECRETARY EDUARDO ERMITA AND HONORABLE DIRECTOR GENERAL ARTURO C. LOMIBAO, RESPONDENTS.

G.R. NO. 171485

FRANCIS JOSEPH G. ESCUDERO, JOSEPH A. SANTIAGO, TEODORO A. CASINO, AGAPITO A. AQUINO, MARIO J. AGUJA, SATUR C. OCAMPO, MUJIV S. HATAMAN, JUAN EDGARDO ANGARA, TEOFISTO DL. GUINGONA III, EMMANUEL JOSEL J. VILLANUEVA, LIZA L. MAZA, IMEE R. MARCOS, RENATO B. MAGTUBO, JUSTIN MARC SB. CHIPECO, ROILO GOLEZ, DARLENE ANTONINO-CUSTODIO, LORETTA ANN P. ROSALES, JOSEL G. VIRADOR, RAFAEL V. MARIANO, GILBERT C. REMULLA, FLORENCIO G. NOEL, ANA THERESIA HONTIVEROS-BARAQUEL, IMELDA C. NICOLAS, MARVIC M.V.F. LEONEN, NERI JAVIER COLMENARES, MOVEMENT OF CONCERNED CITIZENS FOR CIVIL LIBERTIES REPRESENTED BY AMADO GAT INCIONG, PETITIONERS, VS. EDUARDO R. ERMITA, EXECUTIVE SECRETARY, AVELINO J. CRUZ, JR., SECRETARY, DND RONALDO V. PUNO, SECRETARY, DILG, GENEROSO SENG, AFP CHIEF OF STAFF, ARTURO LOMIBAO, CHIEF PNP, RESPONDENTS.

G.R. NO. 171483

KILUSANG MAYO UNO, REPRESENTED BY ITS CHAIRPERSON ELMER C. LABOG AND SECRETARY GENERAL JOEL MAGLUNSOD, NATIONAL FEDERATION OF LABOR UNIONS - KILUSANG MAYO UNO (NAFLU-KMU), REPRESENTED BY ITS NATIONAL PRESIDENT, JOSELITO V. USTAREZ, ANTONIO C. PASCUAL,

SALVADOR T. CARRANZA, EMILIA P. DAPULANG, MARTIN CUSTODIO, JR., AND ROQUE M. TAN, PETITIONERS, VS. HER EXCELLENCY, PRESIDENT GLORIA MACAPAGAL-ARROYO, THE HONORABLE EXECUTIVE SECRETARY, EDUARDO ERMITA, THE CHIEF OF STAFF, ARMED FORCES OF THE PHILIPPINES, GENEROSO SENG, AND THE PNP DIRECTOR GENERAL, ARTURO LOMIBAO, RESPONDENTS.

G.R. NO. 171400

ALTERNATIVE LAW GROUPS, INC. (ALG), PETITIONER, VS. EXECUTIVE SECRETARY EDUARDO R. ERMITA, LT. GEN. GENEROSO SENG, AND DIRECTOR GENERAL ARTURO LOMIBAO, RESPONDENTS.

G.R. NO. 171489

JOSE ANSELMO I. CADIZ, FELICIANO M. BAUTISTA, ROMULO R. RIVERA, JOSE AMOR M. AMORADO, ALICIA A. RISOS-VIDAL, FELIMON C. ABELITA III, MANUEL P. LEGASPI, J.B. JOVY C. BERNABE, BERNARD L. DAGCUTA, ROGELIO V. GARCIA AND INTEGRATED BAR OF THE PHILIPPINES (IBP), PETITIONERS, VS. HON. EXECUTIVE SECRETARY EDUARDO ERMITA, GENERAL GENEROSO SENG, IN HIS CAPACITY AS AFP CHIEF OF STAFF, AND DIRECTOR GENERAL ARTURO LOMIBAO, IN HIS CAPACITY AS PNP CHIEF, RESPONDENTS.

G.R. NO. 171424

LOREN B. LEGARDA, PETITIONER, VS. GLORIA MACAPAGAL-ARROYO, IN HER CAPACITY AS PRESIDENT AND COMMANDER-IN-CHIEF; ARTURO LOMIBAO, IN HIS CAPACITY AS DIRECTOR-GENERAL OF THE PHILIPPINE NATIONAL POLICE (PNP); GENEROSO SENG, IN HIS CAPACITY AS CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES (AFP); AND EDUARDO ERMITA, IN HIS CAPACITY AS EXECUTIVE SECRETARY, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

All powers need some restraint; practical adjustments rather than rigid formula are necessary.^[1] Superior strength - the use of force - cannot make wrongs into rights. In this regard, the courts should be vigilant in safeguarding the constitutional rights of the citizens, specifically their liberty.

Chief Justice Artemio V. Panganiban's philosophy of liberty is thus most relevant. He said: **"In cases involving liberty, the scales of justice should weigh heavily against government and in favor of the poor, the oppressed, the marginalized, the dispossessed and the weak."** Laws and actions that restrict fundamental rights come to the courts "with a heavy presumption against their

constitutional validity."^[2]

These seven (7) consolidated petitions for *certiorari* and prohibition allege that in issuing Presidential Proclamation No. 1017 (PP 1017) and General Order No. 5 (G.O. No. 5), President Gloria Macapagal-Arroyo committed grave abuse of discretion. Petitioners contend that respondent officials of the Government, in their professed efforts to defend and preserve democratic institutions, are actually trampling upon the very freedom guaranteed and protected by the Constitution. Hence, such issuances are void for being unconstitutional.

Once again, the Court is faced with an age-old but persistently modern problem. *How does the Constitution of a free people combine the degree of **liberty**, without which, **law** becomes tyranny, with the degree of law, without which, liberty becomes license?*^[3]

On February 24, 2006, as the nation celebrated the 20th Anniversary of the *Edsa People Power I*, President Arroyo issued PP 1017 declaring a state of national emergency, thus:

NOW, THEREFORE, I, Gloria Macapagal-Arroyo, President of the Republic of the Philippines and Commander-in-Chief of the Armed Forces of the Philippines, by virtue of the powers vested upon me by Section 18, Article 7 of the Philippine Constitution which states that: "The President. . . whenever it becomes necessary, . . . may call out (the) armed forces to prevent or suppress. . . rebellion. . .," and in my capacity as their Commander-in-Chief, **do hereby command the Armed Forces of the Philippines, to maintain law and order throughout the Philippines, prevent or suppress all forms of lawless violence as well as any act of insurrection or rebellion and to enforce obedience to all the laws and to all decrees, orders and regulations promulgated by me personally or upon my direction; and as provided in Section 17, Article 12 of the Constitution do hereby declare a State of National Emergency.**

She cited the following facts as bases:

WHEREAS, over these past months, elements in the **political opposition have conspired with authoritarians of the extreme Left represented by the NDF-CPP-NPA and the extreme Right, represented by military adventurists - the historical enemies of the democratic Philippine State** - who are now in a tactical alliance and engaged in a concerted and systematic conspiracy, over a broad front, to bring down the duly constituted Government elected in May 2004;

WHEREAS, these conspirators have repeatedly tried to bring down the President;

WHEREAS, the claims of these elements have been recklessly magnified by certain segments of the national media;

WHEREAS, this series of actions is hurting the Philippine State - by

obstructing governance including **hindering the growth of the economy and sabotaging the people's confidence in government and their faith in the future of this country;**

WHEREAS, these actions are adversely affecting the economy;

WHEREAS, these activities give totalitarian forces of both the extreme Left and extreme Right the opening to intensify their avowed aims to bring down the democratic Philippine State;

WHEREAS, Article 2, Section 4 of the our Constitution makes the defense and preservation of the democratic institutions and the State the primary duty of Government;

WHEREAS, the activities above-described, their consequences, ramifications and collateral effects constitute a **clear and present danger** to the safety and the integrity of the Philippine State and of the Filipino people;

On the same day, the President issued G. O. No. 5 implementing PP 1017, thus:

WHEREAS, over these past months, elements in the political opposition have conspired with authoritarians of the extreme Left, represented by the NDF-CPP-NPA and the extreme Right, represented by military adventurists - the historical enemies of the democratic Philippine State - and who are now in a tactical alliance and engaged in a concerted and systematic conspiracy, over a broad front, to bring down the duly-constituted Government elected in May 2004;

WHEREAS, these conspirators have repeatedly tried to bring down our republican government;

WHEREAS, the claims of these elements have been recklessly magnified by certain segments of the national media;

WHEREAS, these series of actions is hurting the Philippine State by obstructing governance, including hindering the growth of the economy and sabotaging the people's confidence in the government and their faith in the future of this country;

WHEREAS, these actions are adversely affecting the economy;

WHEREAS, these activities give totalitarian forces; of both the extreme Left and extreme Right the opening to intensify their avowed aims to bring down the democratic Philippine State;

WHEREAS, Article 2, Section 4 of our Constitution makes the defense and preservation of the democratic institutions and the State the primary duty of Government;

WHEREAS, the activities above-described, their consequences, ramifications and collateral effects constitute a clear and present danger

to the safety and the integrity of the Philippine State and of the Filipino people;

WHEREAS, Proclamation 1017 date February 24, 2006 has been issued declaring a State of National Emergency;

NOW, THEREFORE, I GLORIA MACAPAGAL-ARROYO, by virtue of the powers vested in me under the Constitution as President of the Republic of the Philippines, and Commander-in-Chief of the Republic of the Philippines, and pursuant to Proclamation No. 1017 dated February 24, 2006, do hereby call upon the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), to prevent and suppress acts of terrorism and lawless violence in the country;

I hereby direct the Chief of Staff of the AFP and the Chief of the PNP, as well as the officers and men of the AFP and PNP, **to immediately carry out the necessary and appropriate actions and measures to suppress and prevent acts of terrorism and lawless violence.**

On March 3, 2006, exactly one week after the declaration of a state of national emergency and after all these petitions had been filed, the President lifted PP 1017. She issued Proclamation No. 1021 which reads:

WHEREAS, pursuant to Section 18, Article VII and Section 17, Article XII of the Constitution, Proclamation No. 1017 dated February 24, 2006, was issued declaring a state of national emergency;

WHEREAS, by virtue of General Order No.5 and No.6 dated February 24, 2006, which were issued on the basis of Proclamation No. 1017, the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP), were directed to maintain law and order throughout the Philippines, prevent and suppress all form of lawless violence as well as any act of rebellion and to undertake such action as may be necessary;

WHEREAS, the AFP and PNP have effectively prevented, suppressed and quelled the acts lawless violence and rebellion;

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by law, hereby **declare that the state of national emergency has ceased to exist.**

In their presentation of the factual bases of PP 1017 and G.O. No. 5, respondents stated that the proximate cause behind the executive issuances was the conspiracy among some military officers, leftist insurgents of the New People's Army (NPA), and some members of the political opposition in a plot to unseat or assassinate President Arroyo.^[4] They considered the aim to oust or assassinate the President and take-over the reigns of government as a clear and present danger.

During the oral arguments held on March 7, 2006, the Solicitor General specified the facts leading to the issuance of PP 1017 and G.O. No. 5. **Significantly, there was no refutation from petitioners' counsels.**