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G.R. No. 231658	**REPRESENTATIVES EDCEL C. LAGMAN, TOMASITO S. VILLARIN, GARY C. ALEJANO, EMMANUEL A. BILLONES, TEDDY BRAWNER BAGUILAT, JR., RAUL A. DAZA AND EDGAR R. ERICE, Petitioners, v. HON. SALVADOR C. MEDIALDEA, EXECUTIVE SECRETARY, HON. DELFIN N. LORENZANA, SECRETARY OF THE DEPARMENT OF NATIONAL DEFENSE AND MARTIAL LAW ADMINISTRATOR; AND GEN. EDUARDO AÑO, CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES AND MARTIAL LAW IMPLEMENTOR, Respondents.**
G.R. No. 231771	**EUFEMIA CAMPOS CULLAMAT, VIRGILIO T. LINCUNA, ATELIANA U. HIJOS, ROLAND A. COBRADO, CARL ANTHONY D. OLALO, ROY JIM BALANGHIG, RENATO REYES, JR., CRISTINA E. PALABAY, AMARYLLIS H. ENRIQUEZ, ACT TEACHERS' REPRESENTATIVE ANTONIO L. TINIO, GABRIELA WOMEN'S PARTY REPRESENTATIVE ARLENE D. BROSAS, KABATAAN PARTY-LIST REPRESENTATIVE SARAH JANE I. ELAGO, MAE PANER, GABRIELA KRISTA DALENA, ANNA ISABELLE ESTEIN, MARK VINCENT D. LIM, VENCER MARI CRISOSTOMO, AND JOVITA MONTES, Petitioners, v. PRESIDENT RODRIGO DUTERTE, EXECUTIVE SECRETARY SALVADOR MEDIALDEA, DEFENSE SECRETARY DELFIN LORENZANA, ARMED FORCES OF THE PHILIPPINES CHIEF OF STAFF LT. GENERAL EDUARDO AÑO, AND PHILIPPINE NATIONAL POLICE DIRECTOR-GENERAL RONALD DELA ROSA, Respondents.**
G.R. No. 231774	**NORKAYA S. MOHAMAD, SITTIE NUR DYHANNA S. MOHAMAD, NORAISAH S. SANI, AND ZAHRIA P. MUTI-MAPANDI, Petitioners, v. 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) CATALINO S. CUY, ARMED FORCES OF THE PHILIPPINES (AFP) CHIEF OF STAFF GENERAL EDUARDO AÑO, PHILIPPINE**

NATIONAL POLICE (PNP) CHIEF DIRECTOR-GENERAL RONALD DELA ROSA, and NATIONAL SECURITY ADVISER HERMOGENES C. ESPERON, JR., Respondents.

Promulgated:

July 4, 2017

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SEPARATE CONCURRING OPINION

LEONARDO-DE CASTRO, *J.*:

I concur in the DISMISSAL of the Petitions filed in these consolidated cases but I am compelled to write this separate opinion to elucidate the grounds for my concurring vote which, in some respects, deviate from the grounds adduced by my colleagues who also belong to the majority.

These three cases were denominated as petitions filed under the third paragraph of Section 18, Article VII of the 1987 Constitution. Petitioners collectively seek a ruling from this Court nullifying, for alleged lack of sufficient factual basis, Presidential Proclamation No. 216 dated May 23, 2017 which declared a state of martial law and suspended the privilege of the writ of *habeas corpus* in the whole of Mindanao. Proclamation No. 216 is quoted in full hereunder:

PROCLAMATION NO. 216
DECLARING A STATE OF MARTIAL LAW AND SUSPENDING THE PRIVILEGE OF THE WRIT OF HABEAS CORPUS IN THE WHOLE OF MINDANAO

WHEREAS, Proclamation No. 55, series of 2016, was issued on 04 September 2016 declaring a state of national emergency on account of lawless violence in Mindanao;

WHEREAS, Section 18, Article VII of the Constitution provides that "x x x in case of invasion or rebellion, when the public safety requires it, he (the President) may, for a period not exceeding sixty days, suspend the privilege of the writ of *habeas corpus* or place the Philippines or any part thereof under martial law x x x";

WHEREAS, Article 134 of the Revised Penal Code, as amended by R.A. No. 6968, provides that "the crime of rebellion or insurrection is committed by rising and taking arms against the Government for the purpose of removing from the allegiance to said Government or its laws, the territory of the Republic of the Philippines or any part thereof, of any

body of land, naval or other armed forces, or depriving the Chief Executive or the Legislature, wholly or partially, of any of their powers or prerogatives";

WHEREAS, part of the reasons for the issuance of Proclamation No. 55 was the series of violent acts committed by the Maute terrorist group such as the attack on the military outpost in Butig, Lanao del Sur in February 2016, killing and wounding several soldiers, and the mass jailbreak in Marawi City in August 2016, freeing their arrested comrades and other detainees;

WHEREAS, today, 23 May 2017, the same Maute terrorist group has taken over a hospital in Marawi City, Lanao del Sur, established several checkpoints within the City, burned down certain government and private facilities and inflicted casualties on the part of Government forces, and started flying the flag of the Islamic State of Iraq and Syria (ISIS) in several areas, thereby 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; and

WHEREAS, this recent attack shows the capability of the Maute group and other rebel groups to sow terror, and cause death and damage to property not only in Lanao del Sur but also in other parts of Mindanao.

NOW, THEREFORE, I, RODRIGO ROA DUTERTE, President of the Republic of the Philippines, by virtue of the powers vested in me by the Constitution and by law, do hereby proclaim, as follows:

SECTION 1. There is hereby declared a state of martial law in the Mindanao group of islands for a period not exceeding sixty days, effective as of the date hereof.

SECTION 2. The privilege of the writ of habeas corpus shall likewise be suspended in the aforesaid area for the duration of the state of martial law.

DONE in the Russian Federation, this 23rd day of May in the year of our Lord Two Thousand and Seventeen.

As previously stated, petitioners base their separate actions on Section 18, Article VII (entitled "Executive Department"), which reads:

Sec. 18. The President shall be the Commander-in-Chief of all armed forces of the Philippines and whenever it becomes necessary, he may call out such armed forces to prevent or suppress lawless violence, invasion or rebellion. In case of invasion or rebellion, when the public safety requires it, he may, for a period not exceeding sixty days, suspend the privilege of the writ of *habeas corpus* or place the Philippines or any part thereof under martial law. Within forty-eight hours from the proclamation of martial law or the suspension of the privilege of the writ of *habeas corpus*, the President shall submit a report in person or in

> writing to the Congress. The Congress, voting jointly, by a vote of at least a majority of all its members in regular or special session, may revoke such proclamation or suspension, which revocation shall not be set aside by the President. Upon the initiative of the President, the Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress, if the invasion or rebellion shall persist and public safety requires it.
>
> The Congress, if not in session, shall, within twenty-four hours following such proclamation or suspension, convene in accordance with its rules without need of a call.
>
> **The Supreme Court may review, in an appropriate proceeding filed by any citizen, the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ or the extension thereof, and must promulgate its decision thereon within thirty days from its filing.**
>
> A state of martial law does not suspend the operation of the Constitution, nor supplant the functioning of the civil courts or legislative assemblies, nor authorize the conferment of jurisdiction on military courts and agencies over civilians where civil courts are able to function, nor automatically suspend the privilege of the writ.
>
> The suspension of the privilege of the writ shall apply only to persons judicially charged for rebellion or offenses inherent in or directly connected with invasion.
>
> During the suspension of the privilege of the writ, any person thus arrested or detained shall be judicially charged within three days, otherwise he shall be released. (Emphasis supplied.)

The above-quoted constitutional provision has laid to rest the issues that were the subject of lengthy debates in the cases of *Lansang v. Garcia*[1] and *Aquino v. Ponce Enrile*,[2] including those touching on the political question doctrine; the nature, extent and scope of martial law; and the respective constitutional boundaries or spheres of competence of the Executive Department, the Legislative Department and the Judiciary in relation to the proclamation by the President of martial law and the suspension of the privilege of the writ of *habeas corpus*.

Particularly, the 1987 Constitution categorically institutionalized (a) the power of this Court to review the sufficiency of the factual basis of the proclamation of martial law and the suspension of the said privilege; and (b) the power of Congress to revoke or, upon the initiative of the President, to extend the said proclamation and suspension. **The 1987 Constitution expressly laid out as well the consequences or effects of a state of martial law, specifically that: the operation of the Constitution is not suspended; civil courts and legislative bodies shall continue to function; no**

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1 149 Phil. 547 (1971).
2 158-A Phil. 1, 132 (1974).

jurisdiction is conferred on military courts or agencies over civilians where civil courts are able to function; the privilege of the writ of *habeas corpus* is not automatically suspended by the declaration of martial law; and any citizen has legal standing to initiate before the Supreme Court an appropriate proceeding as the avenue for the exercise of the power of judicial review of the aforesaid Presidential actions.

The detailed provisions of the 1987 Constitution have thus eliminated many of the controversial issues that previously confronted the Court in the Marcos martial law cases, which were brought about by the obscurity of the concept of martial law, notwithstanding that unlike the United States Constitution, the 1935 and 1973 Philippine Constitutions already explicitly empowered the chief executive, as Commander-in-Chief of the Armed Forces of the Philippines, to proclaim martial law and suspend the privilege of the writ of *habeas corpus*. Still, there are provisions in the 1987 Constitution that have engendered varying interpretations among the Members of this Court, which resulted in our differences in opinion on such issues as the nature of the "appropriate proceeding" where the Supreme Court may review the factual basis of the aforesaid Presidential actions, the test to determine the sufficiency of the factual basis of the proclamation of martial law or the suspension of the privilege of the writ of *habeas corpus* by the President, and the concept of "rebellion" adverted to in Section 18, Article VII.

Nature of the "appropriate proceeding" provided in Section 18, Article VII

With respect to a preliminary and technical aspect of the consolidated petitions at bar, the Court is called upon to pass upon the issue of what constitutes "an appropriate proceeding" as the means to secure a judicial review of the constitutional sufficiency of a martial law proclamation and/or a suspension of the privilege of the writ of *habeas corpus*.

On one side, respondents claim that the "appropriate proceeding" referred to in Section 18, Article VII is a petition for *certiorari* on the theory that it is the most suitable remedy among the actions enumerated in Section 5(1), Article VIII[3] of the Constitution over which this Court exercises original jurisdiction. On the other hand, petitioners posit that the appropriate remedy is a petition filed under Section 18, Article VII, a proceeding that they characterize as *sui generis*.

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[3] Section 5(1), Article VIII of the 1987 Constitution provides:
SECTION 5. The Supreme Court shall have the following powers:
(1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.

In the resolution of this particular issue, I am of the opinion that Sections 1 and 5 of Article VIII do not restrict the jurisdiction of the Court to the actions mentioned therein. Furthermore, petitioners may file with this Court an action denominated as a petition under Section 18, Article VII for it is the Constitution itself that (a) grants a judicial remedy to any citizen who wishes to assail the sufficiency of the basis of a proclamation of martial law or the suspension of the privilege of the writ of *habeas corpus*; and (b) confers jurisdiction upon this Court to take cognizance of the same. The lack of any specific rules governing such a petition does not prevent the Court from exercising its constitutionally mandated power to review the validity or propriety of a declaration of martial law and/or the suspension of the privilege of the writ of *habeas corpus* as the Court may adopt in its discretion any rule or procedure most apt, just and expedient for this purpose.

It is long settled in jurisprudence that independent of any statutory provision, every court has the inherent power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction.[4] Relevantly, this doctrine is embodied in Section 6, Rule 135 of the Rules of Court,[5] which states:

> SECTION 6. *Means to carry jurisdiction into effect.* — When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and **if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears conformable to the spirit of said law or rules.** (Emphasis supplied.)

Nonetheless, I must register my vigorous objection to the implication that a petition under Section 18, Article VII is the ***only*** appropriate proceeding wherein the issue of sufficiency of the factual basis of a declaration of martial law and/or the suspension of the privilege of the writ of *habeas corpus* may be raised. It is my considered view that this issue may be raised in any action or proceeding where the resolution of such issue is germane to the causes of action of a party or the reliefs prayed for in the complaint or petition.

The meaning and the import of the term "appropriate proceeding" are best understood in the context of the scope, extent, conditions and limitations of the exercise of governmental powers during martial law under Section 18, Article VII of the 1987 Constitution.

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4 *Shioji v. Harvey*, 43 Phil. 333, 342 (1922).

5 *See Go Lea Chu v. Gonzales*, 130 Phil. 767, 776-777 (1968) in relation to the counterpart Section 6, Rule 135 under the then prevailing Rules of Court.

I am in wholehearted agreement with the *ponencia* that the intent of the framers of our Constitution in expressly providing for judicial review under Section 18, Article VII is to provide an additional safeguard against possible abuse of the executive power to declare martial law or to suspend the privilege of the writ of *habeas corpus*. However, I do not believe that the same framers, who are so zealously opposed to the rise of dictatorship, would limit our citizens' judicial remedies against an unconstitutional or oppressive martial law regime to a single type of "*sui generis*" action or proceeding that at the time of their deliberations was yet unnamed and unseen, and for which no specific rules of procedure had even been promulgated.

A wide plethora of situations affecting the citizenry in general or specific individuals may arise from governmental actions taken or performed by the President or by the martial law administrator or by other government officials during the existence of the state of martial law.

Justice Claudio Teehankee in his separate opinion in the case of *Aquino v. Ponce Enrile*,[6] stated:

> Pertinent to this question is the Court's adoption in *Lansang* of the doctrine of *Sterling vs. Constantine* enunciated through U.S. Chief Justice Hughes that even when the state has been placed under martial law "x x x (W)hen there is a *substantial showing that the exertion of state power has overridden private rights* secured by that Constitution, the subject is *necessarily one for judicial inquiry* in an **appropriate proceeding** directed against the individuals charged with the transgression. To such a case, the Federal judicial power extends (Art. 3, Sec. 2) and, so extending, *the court has all the authority appropriate to its exercise.* x x x. (Emphasis supplied, citation omitted.)

A party may find cause to seek the nullification or prohibition of acts committed by government officials in the implementation of martial law on the ground of grave abuse of discretion in which case a petition for *certiorari* and/or prohibition may be his/her best judicial recourse. There is no constitutional or procedural bar for the issue of sufficiency of factual basis of a martial law proclamation to be raised in a petition for *certiorari* or prohibition should a party choose to avail of these remedies. It is jurisprudentially accepted that:

> With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, *even if the latter does not exercise judicial, quasi-judicial or ministerial*

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6 Supra note 2 at 132.

> *functions*. This application is expressly authorized by the text of the second paragraph of Section 1 [Article VIII of the 1987 Constitution].
>
> Thus, petitions for *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.[7]

Pertinently, *Fortun v. President Macapagal-Arroyo*[8] and its consolidated cases illustrate the diverse situations that may precipitate the filing of an "appropriate proceeding" under Section 18, Article VII. These situations can be gleaned from certain questions identified by the Court for resolution in connection with the threshold issue of whether there is sufficient factual basis for the issuance by then President Gloria Macapagal-Arroyo of Proclamation No. 1959, which declared martial law within the Province of Maguindanao, except for certain excluded areas. These issues were:

> 3. Whether the declaration of martial law or the suspension of the writ authorizes warrantless arrests, searches and seizures;
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> x x x x
>
> 6. Whether this Court's determination of the sufficiency of the factual basis of the declaration of martial law or suspension of the writ, which in the meantime has been lifted and restored, respectively, would be essential to the resolution of **issues concerning the validity of related acts that the government committed during the time martial law was in force**. (Emphasis supplied.)

In *Fortun* and its consolidated cases, separate petitions for *certiorari*, petition for prohibition, and petition for *certiorari*, prohibition and mandamus were filed assailing the validity of Proclamation No. 1959 for lack of factual basis. While the majority opinion dismissed the petitions for being moot and academic, the separate opinions, whether concurring or dissenting, tacitly admitted the availability of the aforesaid special civil actions in questioning the validity of Proclamation No. 1959. This is implicit in the Dissenting Opinion of Justice Antonio T. Carpio (Justice Carpio) that the aforesaid petitions in *Fortun* and its consolidated cases may "prosper" as "any citizen" is clothed with legal standing to challenge the constitutionality of the declaration of martial law or suspension of the writ. Justice Carpio also opined that the Court should exercise its review power in *Fortun* and its consolidated cases which were filed as special civil actions as exceptions to the requirement of an actual case or controversy.[9] Justice Presbitero J. Velasco, Jr. (Justice Velasco) was also in favor of entertaining the petitions as exceptions to the requirement of an actual controversy in exercising the power of judicial review. Verily, at the time that the Court was deliberating on *Fortun*, it was never contemplated that the petitions

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7 *Araullo v. Aquino III*, 737 Phil. 457, 531 (2014).
8 684 Phil. 526, 584 (2012).
9 Id. at 587-591.

therein were improper modes of invoking the Court's review power over a martial law declaration.

To my mind, the Court may even review the sufficiency of the factual basis for a declaration of martial law or the suspension of the privilege of the writ in a *habeas corpus* proceeding. This has judicial precedent in such cases as *Lansang v. Garcia*[10] wherein the Court inquired into the "constitutional sufficiency" of the factual bases for the suspension of the privilege of the writ of *habeas corpus*; and *Aquino v. Ponce Enrile*[11] wherein the Court took cognizance of the issue of constitutional sufficiency of the factual bases for the proclamation of martial law. In both instances, the issue of factual sufficiency was elevated to the Court through petitions for *habeas corpus* as petitioners therein uniformly asserted that they were illegally arrested and detained.

The importance of a petition for a writ of *habeas corpus* as a judicial remedy under martial law was discussed by Commissioner Florenz D. Regalado during the 1986 Constitutional Commission's deliberation, to wit:

> MS. QUESADA: But there is a possibility then that the Congress cannot be convened because many of its Members have already been arrested.
>
> MR. RAMA: There is always that possibility; that is why I am narrowing that chance.
>
> x x x x
>
> MR.QUESADA: One of the assurances was that there were enough safeguards that the President would not just be able to use that power without some other conditions. So, are there any parts of the Constitution that would so protect the civilians or the citizens of the land?
>
> MR. RAMA: Yes, there are safeguards.
>
> MR. REGALADO: May I also inform Commissioner Quesada that the judiciary is not exactly just standing by. A **petition for a writ of *habeas corpus***, if the Members [of Congress] are detained, **can immediately be applied for, and the Supreme Court shall also review the factual basis.** x x x.[12] (Emphases supplied.)

It would be unjust, unreasonable and contrary to the orderly administration of justice to require a person who might have been illegally detained under martial law to file a petition for a writ of *habeas corpus* separately from a petition under Section 18, Article VII if he/she wishes to secure his/her liberty and at the same time question the constitutional validity of a proclamation of martial law or a suspension of the privilege of the writ of *habeas corpus*. That would be an inimical consequence of a

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10 Supra note 1.

11 Supra note 2.

12 Record of the 1986 Constitutional Commission No. 044, Vol. II, July 31, 1986, pp. 503-504.

ruling by this Court that the "appropriate proceeding" envisaged by the framers of our Constitution under Section 18, Article VII refers solely to a petition filed specifically for the purpose of questioning the sufficiency of the factual basis of a martial law proclamation or a suspension of the privilege of the writ of *habeas corpus*.

As for concerns that a petition for *certiorari,* prohibition or *habeas corpus* imposes procedural constraints that may hinder the Court's factual review of the sufficiency of the basis for a declaration of martial law or the suspension of the privilege of *habeas corpus*, these may all be addressed with little difficulty. In the hierarchy of legal authorities binding on this Court, constitutional provisions must take precedence over rules of procedure. It is Section 18, Article VII of the 1987 Constitution which authorizes the Court to review factual issues in order to determine the sufficiency of the factual basis of a martial law declaration or a suspension of the privilege of the writ of *habeas corpus* and, as discussed above, the Court may employ the most suitable procedure in order to carry out its jurisdiction over the issue as mandated by the Constitution. Time and again, the Court has stressed that it has the inherent power to suspend its own rules when the interest of justice so requires.[13]

The Court should be cautious that it does not take a position in these consolidated cases that needlessly restricts our people's judicial remedies nor carelessly clips our own authority to take cognizance of the issue of constitutional sufficiency under Section 18, Article VII in ***any*** appropriate action that may be filed with the Court. Such would be antagonistic to the clear intent of the framers of the 1987 Constitution to empower our citizens and the Judiciary as a vital protection against potential abuse of the executive power to declare martial law and suspend the privilege of the writ of *habeas corpus.*

The Sufficiency of Factual Basis of Proclamation No. 216

I find it crucial to point out at the outset the underlying rationale behind the constitutional provision conferring upon the President, as Commander-in-Chief of the Armed Forces of the Philippines, three levels of emergency powers, such as (1) whenever necessary to call out such armed forces to prevent lawless violence, invasion or rebellion; or (2) to suspend the privilege of the writ of *habeas corpus*; or (3) to place the Philippines or any part thereof under martial law both in case of invasion or rebellion. In the past, a Member of this Court fittingly stated that:

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13 *See*, for example, *Strategic Alliance Development Corp. v. Radstock Securities Ltd.*, 622 Phil. 431, 475 (2009), citing *Solicitor General v. The Metropolitan Manila Authority*, 281 Phil. 925, 933 (1991).

> The right of a government to maintain its existence is the most pervasive aspect of sovereignty. To protect the nation's continued existence, from external as well as internal threats, the government "is invested with all those inherent and implied powers which, at the time of adopting the Constitution, were generally considered to belong to every government as such, and as being essential to the exercise of its functions" (Mr. Justice Bradley, concurring in *Legal Tender Cases* [US] 12 Wall. 457, 554, 556, 20 L. ed. 287, 314, 315). To attain this end, nearly all other considerations are to be subordinated. The constitutional power to act upon this basic principle has been recognized by all courts in every nation at different periods and diverse circumstances.[14]

The above-mentioned extraordinary powers vested by the Constitution under Section 18, Article VII upon the President as Commander-in-Chief of the Armed Forces of the Philippines implement the principle declared in Section 3, Article II of the Constitution, quoted below:

> Sec. 3. Civilian authority is, at all times, supreme over the military. The Armed Forces of the Philippines is the protector of the people and the state. Its goal is to secure the sovereignty of the State and the integrity of the national territory.

In *Carpio v. Executive Secretary*,[15] we held:

> [T]he President, as Commander-in-Chief, is not a member of the Armed Forces. He remains a civilian whose duties under the Commander-in-Chief provision "represent only a part of the organic duties imposed on him. All his other functions are clearly civil in nature." His position as a civilian Commander-in-Chief is consistent with, and a testament to, the constitutional principle that "civilian authority is, at all times, supreme over the military. x x x."

Rebellion, which is directed against the sovereignty and territorial integrity of the state, is a ground for the exercise of the second and third levels of emergency powers of the President, the existence of which is now invoked by the issuance of Proclamation No. 216.

The Concept of Rebellion

To determine the sufficiency or adequacy of the factual basis for the declaration of martial law and the suspension of the writ, an understanding of the concept of "rebellion" employed in Section 18, Article VII of the 1987 Constitution is necessary.

The concept of rebellion in our penal law was explained in the leading case of *People v. Hernandez*,[16] where the Court ruled that the word "rebellion" evokes, not merely a challenge to the constituted authorities, but,

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14 Justice Felix Q. Antonio, Separate Opinion in *Aquino v. Ponce Enrile*, supra note 2 at 288.
15 283 Phil. 196, 212 (1992).
16 99 Phil. 515, 520-521 (1956).

also, civil war, on a bigger or lesser scale, with all the evils that go with it; and that all other crimes, which are committed either **singly** or **collectively** and as a necessary means to attain the purpose of rebellion, or in connection therewith and in furtherance thereof, constitute only the simple, not complex, crime of rebellion. The Court also underscored that political crimes are those directly aimed against the political order and that the decisive factor in determining whether a crime has been committed to achieve a political purpose is the **intent** or **motive** in its commission.

While rebellion is considered as an act of terrorism under the law,[17] the latter can be used to achieve a political end, such as removing from allegiance to the State any part of the national territory or overthrowing the duly constituted authorities. Even so, such lawless elements engaged in terrorism will never acquire any status recognized under International Humanitarian Law. Yet, acts of terrorism may be taken into account in the context of determining the necessity for a declaration of martial law within our constitutional framework.

Plainly then, rebellion can be committed through an offense or a violation of any special law so long as it is done as a necessary means to attain, or in furtherance of, the purpose of rebellion. In *Ponce Enrile v. Amin*,[18] the Court held that the offense of harboring or concealing a fugitive, or a violation of Presidential Decree No. 1829, if committed in furtherance of the purpose of rebellion, should be deemed to form part of the crime of rebellion instead of being punished separately. The Court explained:

> All crimes, whether punishable under a special law or general law, which are mere components or ingredients, or committed in furtherance thereof, become absorbed in the crime of rebellion and cannot be isolated and charged as separate crimes in themselves. Thus:
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> > "This does not detract, however, from the rule that the ingredients of a crime form part and parcel thereof, and hence, are absorbed by the same and cannot be punished either separately therefrom or by the application of Article 48 of the Revised Penal Code. x x x" [Citing People v. Hernandez]
>
> The *Hernandez* and other related cases mention common crimes as absorbed in the crime of rebellion. These common crimes refer to all acts of violence such as murder, arson, robbery, kidnapping, *etc.* as provided in the Revised Penal Code. The attendant circumstances in the instant case, however, constrain us to rule that the theory of absorption in rebellion cases must not confine itself to common crimes but also to offenses under special laws which are perpetrated in furtherance of the political offense.

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17 Section 3(b), Republic Act No. 9372 "Human Security Act of 2007."

18 267 Phil. 603, 611-612 (1990).

In his dissenting opinion in *Fortun*, Justice Velasco states that the Constitution does not require precision in establishing the fact of rebellion. In support of this, he cites an excerpt from the Brief of *Amicus Curiae* Fr. Joaquin Bernas, S.J., as follows:

> From all these it is submitted that the focus on public safety adds a nuance to the meaning of rebellion in the Constitution which is not found in the meaning of the same word in Article 134 of the Penal Code. The concern of the Penal Code, after all, is to punish *acts of the past*. But the concern of the Constitution is to counter threat to public safety both *in the present and in the future* arising from present and past acts. Such nuance, it is submitted, gives to the President a degree of flexibility for determining whether rebellion constitutionally exists as basis for martial law even if facts cannot obviously satisfy the requirements of the Penal Code whose concern is about past acts. To require that the President must first convince herself that there can be proof beyond reasonable doubt of the existence of rebellion as defined in the Penal Code and jurisprudence can severely restrict the President's capacity to safeguard public safety for the present and the future and can defeat the purpose of the Constitution.
>
> **What all these point to are that the twin requirements of "actual rebellion or invasion" and the demand of public safety are inseparably entwined. But whether there exists a need to take action in favour of public safety is a factual issue different in nature from trying to determine whether rebellion exists**. The need of public safety is an issue whose existence, unlike the existence of rebellion, is not verifiable through the visual or tactile sense. Its existence can only be determined through the application of prudential estimation of what the consequences might be of existing armed movements. Thus, in deciding whether the President acted rightly or wrongly in finding that public safety called for the imposition of martial law, the Court cannot avoid asking whether the President acted wisely and prudently and not in grave abuse of discretion amounting to lack or excess of jurisdiction. Such decision involves the verification of factors not as easily measurable as the demands of Article 134 of the Penal Code and can lead to a prudential judgment in favour of the necessity of imposing martial law to ensure public safety even in the face of uncertainty whether the Penal Code has been violated. This is the reason why courts in earlier jurisprudence were reluctant to override the executive's judgment.
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> In sum, since the President should not be bound to search for proof beyond reasonable doubt of the existence of rebellion and since deciding whether public safety demands action is a **prudential matter**, the function of the President is far from different from the function of a judge trying to decide whether to convict a person for rebellion or not. **Put differently, looking for rebellion under the Penal Code is different from looking for rebellion under the Constitution**.[19] (Emphases supplied.)

In *Aquino*, the Court expounded on the sophisticated and widespread nature of a modern rebellion, which rings more true today, in this wise:

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[19] *Fortun v. President Macapagal-Arroyo*, supra note 8 at 629-630.

> The state of rebellion continues up to the present. The argument that while armed hostilities go on in several provinces in Mindanao there are none in other regions except in isolated pockets in Luzon, and that therefore there is no need to maintain martial law all over the country, ignores the sophisticated nature and ramifications of rebellion in a modern setting. It does not consist simply of armed clashes between organized and identifiable groups on fields of their own choosing. It includes subversion of the most subtle kind, necessarily clandestine and operating precisely where there is no actual fighting. Underground propaganda, through printed news sheets or rumors disseminated in whispers; recruitment of armed and ideological adherents, raising of funds, procurement of arms and materiel, fifth-column activities including sabotage and intelligence — all these are part of the rebellion which by their nature are usually conducted far from the battle fronts. They cannot be counteracted effectively unless recognized and dealt with in that context.[20]

To construe the existence of rebellion in the strict sense employed in the Revised Penal Code to limit martial law to places where there are actual armed uprising will hamper the President from exercising his constitutional authority with foreseeable dire consequences to national security and at great peril to public safety.

Standard of Proof to Determine Sufficiency of Factual Basis and Manner by which Standard is Applied

The Constitution vests upon the Supreme Court the duty to determine the sufficiency of the factual basis of the Presidential proclamation of martial law. The Constitution does not prescribe the quantum of proof to determine the "sufficiency" or "adequacy" of the factual basis for such a proclamation. We can only rely on settled jurisprudence but bearing in mind the nature of the respective responsibilities lodged upon the President, the Legislature and the Judiciary under Section 18, Article VII of the Constitution, where the system of checks and balances, as a concomitant feature of the principle of the separation of powers, is made distinctly manifest.

There are seeming differences as to the standard or test to determine the sufficiency of the factual basis for the Presidential Proclamation. This arises from the confusion as to two concepts: (1) the standard to be used and (2) the manner the standard shall be applied.

In *Lansang*, the Court adopted this view:

> [T]hat judicial inquiry into the basis of the questioned proclamation can go *no further* than to satisfy the Court *not* that the President's decision is *correct* and that public safety was endangered by the rebellion and

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20 *Aquino v. Ponce Enrile*, supra note 2 at 48-49.

> justified the suspension of the writ, but that in suspending the writ, the President **did not act *arbitrarily***.[21] (Emphasis supplied.)

Justice Antonio T. Carpio uses the test of "probable cause" to determine the sufficiency of factual basis of Proclamation No. 216, which in this case is the existence of rebellion in Mindanao. Justice Francis H. Jardeleza prefers to use "reasonableness," not arbitrariness. Justice Carpio cites the definition of probable cause as follows:

> Probable cause has been defined as a "set of facts and circumstances as would lead a **reasonably discreet and prudent man** to believe that the offense charged in the information or any offense included therein has been committed by the person sought to be arrested.[22] (Emphasis supplied.)

In a similar vein, Justice Jardeleza elucidated his view as follows:

> Accordingly, the standard of review in determining whether actual rebellion exists and whether public safety requires the extraordinary presidential action should likewise be guided by reasonableness. As well put in an American case, reasonableness is "what from the calm sea level of common sense, applied to the whole situation, is not illegitimate in view of the end attained." Since the objective of the Court's inquiry under Article VII, Section 18 is to verify the sufficiency of the factual basis of the President's action, the standard may be restated as ***such evidence that is adequate to satisfy a reasonable mind*** *seeking the truth (or falsity) of its factual existence.* (Emphasis supplied, citations omitted.)

While I do not subscribe to the meaning of rebellion advanced by Justice Carpio, his view on the quantum of proof to sustain the proclamation of martial law and the suspension of the writ, which is "probable cause," is consistent, I believe, with my view that the test to be applied to determine sufficiency of factual basis for the exercise of said Presidential power is **reasonableness** or the **absence of arbitrariness**. "Probable cause" and "reasonableness" are two sides with almost the same meaning or with little difference in degree of proof necessary. "Probable cause" and "reasonableness" are the same standards to sustain the assailed Presidential proclamation.

The various tests advocated by the Justices appear to use interchangeable terms. Notably, the term "arbitrary" is defined as "existing or coming about... as a capricious and unreasonable act of will."[23] In *Aquino v. Ponce Enrile*,[24] Justice Cecilia Muñoz Palma described the arbitrariness test in this manner:

> The President's action was neither capricious nor arbitrary. An arbitrary act is one that arises from an unrestrained exercise of the will,

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21 *Lansang v. Garcia*, supra note 1 at 594.
22 *Fortun v. President Macapagal-Arroyo*, supra note 8 at 597-598.
23 Webster's Ninth New Collegiate Dictionary (1986), p. 99.
24 Supra note 2 at 483.

> caprice, or personal preference of the actor (Webster's 3rd New International Dictionary, p. 110), one which is **not founded on a fair or substantial reason** (*Bedford Inv. Co. vs. Folb,* 180 P. 2d 361, 362, cited in Words & Phrases, Permanent Ed., Vol. 3-A, p. 573), is without adequate determining principle, **non-rational, and solely dependent on the actor's will**. (*Sweig vs. U.S.* D.C. Tex., 60 F. Supp. 785, Words & Phrases, *supra*, p. 562) x x x. (Emphases supplied.)

Premises considered, there is an apparent consensus that "reasonableness" is the proper test to be used in these consolidated cases which is but the other side of the same coin as the "arbitrariness" test: what is *reasonable* is *not arbitrary*.

At this point, I express my reservation regarding the view of Justice Jardeleza which relates the concept of good faith with the arbitrariness standards as a basis for his objection to this test. He states:

> The danger of fusing the sufficiency-of-factual-basis test with the standard of arbitrariness/grave abuse of discretion is this: the sufficiency of the factual basis is being measured by grave abuse of discretion. This is problematic because the phrase "grave abuse of discretion" carries a specific legal meaning in our jurisdiction. It refers to such capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction; the abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility. While inquiry into the sufficiency of factual basis *may* yield a finding consistent with the accepted definition of grave abuse of discretion, such as when the presidential proclamation was totally bereft of factual basis or when such factual basis had been manufactured by the executive, the correlation is not perfect. Good faith reliance on inaccurate facts, for instance, does not strictly satisfy the "capricious and whimsical" or "arbitrary or despotic" standard. By setting the sufficiency-of-factual-basis standard, the Constitution foreclosed good faith belief as an absolute justification for the declaration of martial law or suspension of the privilege of the writ. Under Article VII, Section 18, the Court is vested with the power to revoke the proclamation, not because of grave abuse of discretion, but because of insufficiency of factual basis. (Citations omitted.)

The concept of "good faith" or "bad faith" should not be confused with the test of "arbitrariness." "Good faith" or "bad faith" refers to the state of mind of a person. It is a concept different from the exercise of one's sound judgment in a given situation. Good faith in declaring martial law which is not based on sufficient facts will not justify the existence or continuation of martial law. If at all, good faith may have a bearing only the accountability of the President who declared martial law which does not meet the constitutional sufficiency test.

The above-mentioned standards, which essentially are synonymous with "reasonableness," if applied as threshold requirements for a martial law

declaration, oblige us to **uphold** the Presidential proclamation. Consistent with these standards, to **nullify** the proclamation must necessarily require proof that the action taken was capricious or arbitrary, which would amount to "grave abuse of discretion" within the contemplation of Section 1, of Article VIII, which reads:

> Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
>
> Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

In *Maturan v. Commission on Elections*,[25] we explained:

> Grave abuse of discretion is committed "when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, such as where the power is exercised in an **arbitrary** or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law." x x x. (Emphasis supplied.)

Nevertheless, to discharge faithfully the Court's duty under Section 18, Article VII requires more than setting the test or standard. What is equally important is adopting the process or the **manner** by which the test or standard is properly applied. Hence, Justice Cecilia Muñoz Palma stressed the importance of how the test is applied in *Aquino v. Ponce Enrile*[26] which I quote here:

> [W]hile that may be true, as it is the *Lansang* decision is a "giant leap" in the interest of judicial supremacy in upholding fundamental rights guaranteed by the Constitution, for that reason I cannot agree that We discard said decision or emasculate it so as to render its ruling a farce. The test of arbitrariness of executive action adopted in the decision is a sufficient safeguard; **what is vital to the people is the manner by which the test is applied by the Court** in both instances, *i.e.*, suspension of the privilege of the writ of habeas corpus and/or proclamation of martial law. (Emphasis supplied.)

The procedure followed by the Court in *Lansang* was replicated in these cases where the Court assumed an active role in ascertaining whether or not there is evidence to show that the President's proclamation has sufficient or adequate factual basis. At its own initiative, the Court held a closed-door briefing by high-ranking defense and military officials in the presence of the Solicitor General and a representative of the petitioners, to

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25 G.R. No. 227155, March 28, 2017.
26 Supra note 2 at 483.

be informed of classified information upon which the President acted. This is judicial activism consistent with the intent of Section 18, Article VII. To comply with its constitutional duty under said provision, the Court may opt not to strictly apply the usual rules on burden of proof, if in its sound judgment, the procedure it used complied with the requirement of due process of law.

The theoretical foundation of *Lansang* remains sound but perhaps what was lacking then was the judicial will to resolutely apply the theory and follow it to its logical conclusion. While the Court should not pass upon whether the exercise of Presidential discretion is **correct**, we must nonetheless, as the present Constitution now demands, **carefully weigh the facts before us to determine whether there is real and rational basis for the President's action**.

Hence, it is necessary for the Court to carefully examine the facts cited by the respondents as basis for issuing Proclamation No. 216 to determine whether or not the President acted arbitrarily or unreasonably or capriciously. Do the facts presented to the Court show that the President acted as a "reasonably discreet and prudent man" such that he had reasonable factual basis when he issued Proclamation No. 216? This is the next and final item in this judicial inquiry.

Characterization of the armed hostilities averred in Proclamation No. 216 and in the Report of the President to Congress as actual rebellion

The facts relied upon by the President have demonstrated more than sufficient overt acts of armed public uprising in the island of Mindanao against the government. These have already been pointed out and extensively discussed by the *ponencia* of Justice Mariano C. del Castillo (Justice Del Castillo).

Respondents had convincingly shown that the series of violent acts and atrocities committed by the Abu Sayyaf and Maute terrorist groups were "intended to lay the groundwork for the eventual establishment of a DAESH *wilayah* or province in Mindanao." These factual bases for the declaration of martial law in the island of Mindanao were confirmed by defense military officials during the closed-door briefing of the Court. AFP Chief of Staff Eduardo Año informed the Court that he had briefed the President on the situation in Mindanao frequently and on a regular basis. In its Memorandum dated June 19, 2017, the Office of the Solicitor General amply recited past, current, and related events, prior to the declaration of martial law, that would support the factual claim that the Abu Sayyaf and Maute terrorist groups are aiming to establish a *wilayah* in the island of Mindanao:

9. There are four ISIS-linked local rebel groups that operate in different parts of Mindanao. These groups have formed an alliance for the purpose of establishing a *wilayah*, or Islamic province, in Mindanao. The four (4) groups, which find their roots in different parts of Mindanao, are as follows:

a. The Abu Sayyaf Group from Basilan ("ASG-Basilan"), led by Isnilon Hapilon ("Hapilon");

b. Ansarul Khilafah Philippines ("AKP"), also known as the Maguid Group, from Saranggani and Sultan Kudarat. The group is led by Mohammad Jaafar Maguid;

c. The Maute Group from Lanao del Sur led by Omar Maute; and

d. Bangsamoro Islamic Freedom Fighters ("BIFF"), based in the Liguasan Marsh, Maguindanao.

x x x x

13. [I]n April 2016, the ISIS' weekly online newsletter, *Al Naba*, announced the appointment of ASG-Basilan leader, Hapilon, as the *emir* or leader of all ISIS forces in the Philippines. The appointment of Hapilon as its Philippine *emir* was further confirmed in a June 21, 2016 online video by ISIS entitled "The Solid Structure." The video hailed Hapilon as the *mujahid* authorized to lead the soldiers of the Islamic State in the Philippines.

14. The appointment by the ISIS of an *emir* in the Philippines furthered the unification of the local rebel groups. Sometime in June 2016, members of the different ISIS-linked local rebel groups consolidated in Basilan where its new *emir* operates his rebel group.

15. On December 31, 2016, Hapilon and about thirty (30) of his followers, including eight (8) foreign terrorists, were surveilled in Lanao del Sur. According to military intelligence, Hapilon performed a symbolic *hijra* or pilgrimage to unite with the ISIS-linked groups in mainland Mindanao. This was geared towards realizing the five (5)-step process of establishing a *wilayah*, which are: *first*, the pledging of allegiance to the Islamic State; *second*, the unification of all terrorist groups who have given *bay'ah* or their pledge of allegiance; *third*, the holding of consultations to nominate a *wali* or a governor of a province; *fourth*, the achievement of consolidation for the caliphate through the conduct of widespread atrocities and uprisings all across Mindanao; and *finally*, the presentation of all of these to the ISIS leadership for approval or recognition.

16. On the first week of January 2017, a meeting among these ISIS-linked rebel groups was supposed to take place in Butig, Lanao del Sur for the purpose of declaring their unified pledge of allegiance to ISIS and re-naming themselves as the *Da'wahtul Islamiyah Waliyatul Mashriq* ("DIWM"). This was, however, preempted by the death of Mohammad

> Jaafar Maguid (a.k.a. *Tokboy*), then leader of the AKP, coupled with the conduct of a series of military operations in the area.
>
> 17. The appointment by ISIS of an *emir* in the Philippines is already the third step in the establishment of a *wilayah* in Mindanao. Moreover, these groups now have the unified mission of wresting control of Mindanaoan territory from the government for the purpose of establishing a *wilayah*.[27]

These factual antecedents show that there is probable cause or reasonable ground to believe that the series of violent acts and atrocities committed by the Abu Sayyaf and Maute terrorist groups are directed against the political order in Mindanao with no other apparent purpose but to remove from the allegiance of the Republic of the Philippines the island 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 therein.

On the other hand, petitioners maintain that the facts relied upon by the President in support of his declaration of martial law are invariably false, simulated, and/or hyperbolic. However, the evidence presented by petitioners to bolster these claims consisted mainly of unverified news articles culled from news websites on cyberspace with nary an author or credible source presented in court or, who at the very least, executed an affidavit to corroborate what has been alleged. Jurisprudence has established that newspaper articles amount to "hearsay evidence, twice removed" and are, therefore, not only inadmissible but without any probative value at all, whether objected to or not, unless offered for a purpose other than proving the truth of the matter asserted.[28] Therefore, given the inadmissibility and lack of probative value of petitioners' proffered evidence, the *ponencia* was correct in upholding the factual bases relied upon by the President – facts which are sourced from the entire intelligence-gathering machinery of the government itself and presented in utmost detail personally to the Members of this Court in closed session.

With regard to the contention that since Marawi City is the epicenter of hostilities, it is therefore error on the part of the President to subject the entire Mindanao region under martial rule. Petitioners submit that the proper course of action should have been to declare martial law only in Marawi City and its immediate environs. This contention is misplaced. The 1987 Constitution concedes to the President, through Section 18, Article VII or the Commander-in-Chief clause, the discretion to determine the territorial coverage or application of martial law or suspension of the privilege of the writ of *habeas corpus* and I quote:

> [I]n case of invasion or rebellion, when the public safety requires it, [the President] may, for a period not exceeding sixty days, suspend the

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27 Memorandum of Respondents dated June 19, 2017, pp. 5-8.

28 *Feria v. Court of Appeals*, 382 Phil. 412, 423 (2000).

> privilege of the writ of *habeas corpus* or place **the Philippines or any part thereof** under martial law. x x x (Emphasis supplied.)

What is clear from this provision is a tacit acknowledgment that since the President possesses the means and wherewithal to access vital and classified information from the government's entire intelligence apparatus, he is given wide latitude to define the metes and bounds within which martial law or the suspension of the privilege of the writ of *habeas corpus* should take effect.

In the consolidated cases at bar, the intelligence report that was presented to the Members of this Court in closed session indicated that several local armed groups other than those presently engaged in the fighting in Marawi City have established alliances with the Maute group to form an ISIS-linked organization with the aim of establishing a *wilayah* in Mindanao and eventually dismembering the entire Mindanao region from Philippine territory. Prior and contemporaneous events likewise suggest that the same groups were committed to this concerted act of rebellion all over Mindanao. These said events include but are not limited to the following:

> a. There had been six (6) kidnappings from January 2017 up to the present, resulting to sixteen (16) victims. Notably, three (3) of the victims were beheaded, five (5) were released and nine (9) others were rescued with twenty-seven (27) victims still being held in captivity;
>
> b. IED attack at a night market in Roxas Avenue, Davao City on September 2, 2016, leading to the death of fifteen (15) people and the injury of more than sixty (60) others;
>
> c. On November 5, 2016, the ASG [Abu Sayyaf Group] abducted a German national, Juergen Kantner, and killed his wife, Sabine Merz;
>
> d. Siege in Butig, Lanao del Sur from November 26 to December 1, 2016, which resulted in skirmishes with government troops and the eventual withdrawal of the group amid several fatalities;
>
> e. On December 28, 2016, the members of BIFF [Bangsamoro Islamic Freedom Fighters] lobbed two (2) grenades at the provincial office of Shariff, Maguindanao;
>
> f. On January 12, 2017, an IED exploded in Barangay Campo Uno, Basilan thereby killing one (1) civilian and injuring another;
>
> g. On January 19, 2017, the ASG kidnapped three (3) Indonesian crew members near Bakungan Island, Tawi-tawi;
>
> h. On January 29, 2017, the ASG detonated an IED in Barangay Danapah, Basilan resulting in the death of two (2) children and the wounding of three (3) others;

i. Ambush of military elements in Marawi City on February 16, 2017, to include MAJ JERICO P MANGALUS PA and one (1) enlisted personnel;

j. Carnapping in Iligan City on February 24, 2017 which led to government pursuit operations killing two (2) members identified as Azam Taher AMPATUA and @WOWIE and the apprehension of Eyemen Canulo ALONTO in Tagoloan, Lanao del Norte on the same day;

k. On February 26, 2017, the ASG beheaded its German kidnap victim, Juergen Kantner in Sulu;

l. On March 5, 2017, Mrs Omera Lotao MADID was kidnapped in Saguiaran, Lanao del Sur by suspected Maute Group elements;

m. On April 11, 2017, the ASG infiltrated Inabanga, Bohol leading to firefights between the rebels and government troops;

n. On April 20, 2017, the ASG kidnapped SSgt. Anni Siraji and beheaded him three (3) days later; and,

o. From February to May 2017, there were eleven (11) separate instances of IED explosions by the BIFF in Mindanao. This resulted in the death and wounding of several military and civilian persons.[29]

Furthermore, the AFP Intelligence Report, entitled "*Timeline of ASG and Maute Collaboration*" discloses that as early as April 18, 2017, Abdullah Maute had dispatched his followers to the cities of Marawi, Iligan, and Cagayan de Oro to conduct bombing operations, carnapping, and "liquidation" of AFP and PNP personnel in the said areas.[30]

These circumstances clearly indicate a concerted effort of formerly separate armed groups now united under an ISIS flag to essentially undertake a rebellion in the Mindanao region. Beyond doubt, this is constitutionally satisfactory justification for the President to declare a state of martial law and the suspension of the privilege of the writ of *habeas corpus* all over Mindanao. Hence, I fully concur with the conclusion of Justice Del Castillo as to the constitutional sufficiency of the factual bases for the issuance of Proclamation No. 216.

In view of the foregoing, I vote to **DISMISS** the petitions in these consolidated cases.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

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29 Memorandum of Respondents dated June 19, 2017, pp. 73-74.

30 Id. at 74, referring to Annex "7" of the Affidavit of Eduardo Año dated June 17, 2017.