



Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated NOVEMBER 10, 2015, which reads as follows:

“G. R. No. 220028 (Bayan Muna Party-List Rep. Carlos Isagani T. Zarate, Gabriela Women’s Party Rep. Emerenciana de Jesus, Former Anakpawis Party-List Rep. Rafael V. Mariano, Former Bayanmuna Party-List Rep. Teodoro Casiño, Cristina Palabay, Sr. Mary Francis Añoover, Rev. Irma M. Balaba, Jacqueline Ruiz, Heirs of Former Anakpawis Party-List Rep. Crispin Beltran, represented by Ofelia Beltran Balleta, petitioners v. H. E. Benigno Simeon C. Aquino III in his capacity as the Commander-in-Chief of the Armed Forces of the Philippines, Voltaire Gazmin in his capacity as the Secretary of National Defense, Lt. Gen. Hernando Iriberry in his capacity as Chief of Staff of the Armed Forces of the Philippines (AFP), Maj. Gen. Virgilio A. Hernandez in his capacity as Deputy Commander for Intelligence of the Armed Forces of the Philippines, Brig. Gen. Arnold M. Quiapo in his capacity as the Chief of the Intelligence Service of the Armed Forces of the Philippines (ISAFP), Maj. Gen. Eduardo Año in his capacity as the Commanding General of the Philippine Army (PA), Brig. Gen. Honorato S. de los Reyes in his capacity as the Deputy Commanding General for Personnel of the AFP, P/Dir. Ricardo Marquez in his capacity as Chief of the Philippine National Police (PNP), Lt. Gen. Aurelio Baladad in his capacity as the Commanding General of the Eastern Mindanao Command, Col. Harold Cabrerros, Commanding Officer of the 1003rd Brigade, Lt. Col. Zosimo Oliveros in his capacity as the Commanding Officer of the 68th Infantry Battalion, Lt. Col. Roberto Bunagan in his capacity as the Commanding Officer of the 60th

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Infantry Battalion, and **C/Supt. Victor Deona** in his capacity as the Director of the Criminal Investigation and Detection Group (CIDG), **P/SSupt. Joel Pernito** in his capacity as the Regional Director of the Eastern Mindanao Criminal Investigation and Detection Unit, **P/CInsp. Warren E. Dablo** in his capacity as the Team Leader of the Davao City Criminal Investigation Division, and John Does and Jane Does, *respondents*)

X-----X

RESOLUTION

Before the Court is a Petition for a Writ of *Amparo* and for a Writ of *Habeas Data* filed by the following petitioners: Bayan Muna Party-List Rep. Carlos Isagani Zarate (petitioner Zarate), Gabriela Women's Party Rep. Emerenciana De Jesus (petitioner De Jesus), former Anakpawis Party-List Rep. Rafael Mariano (petitioner Mariano), former Bayan Muna Party-List Rep. Teodoro Casiño (petitioner Casiño), Karapatan Secretary General Cristina Palabay (petitioner Palabay), Sr. Mary Francis Añover (petitioner Añover) of the Rural Missionaries of the Philippines, Rev. Irma Balaba (petitioner Balaba) of the United Church of Christ in the Philippines, Children's Rehabilitation Center (CRC) Executive Director Jacqueline Ruiz (petitioner Ruiz), and the Heirs of Crispin Beltran (petitioner Heirs of Crispin Beltran).

Petitioners aver that they are members of various progressive party-lists and/or national and religious organizations, and that these organizations have been wrongfully tagged by the military and the police as "communist front organizations."¹

As alleged in the petition, sometime in March 2014, the Government commenced intensified military offensives in Talaingod, Davao del Norte under the rubric of counterinsurgency.² In April 2014, about 1,300 Manobos allegedly evacuated to Davao City to escape the effects of said military operations. These evacuees returned to their communities in May 2014.³

Beginning January 2015, however, some of the Manobos started going back to Davao City. By July 2015, approximately 700 Manobos were at the United Church of Christ in the Philippines (UCCP) Haran. Petitioners claimed that these Manobos sought refuge at UCCP Haran due to the persisting militarization of their communities and their forcible recruitment to the paramilitary group, Alamara.⁴

¹ Rollo, p. 10.
² Id. at 18-19.
³ Id. at 19.
⁴ Id.

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Certain Manobos claimed, on the other hand, that they were deceived into going to Davao City; that, upon reaching UCCP Haran, they were deprived of their freedom of locomotion and were held there against their will from 3 February 2015 to 25 February 2015; that during said period they were forced to listen to lectures and join rallies; that their repeated pleas to go home fell on deaf ears until a fellow tribe member was found dead, hanging lifeless on a tree, inside the UCCP Haran compound; and that it was only then that they were allowed to go home with the body of the deceased.⁵

On 12 May 2015 the Criminal Investigation and Detection Group (CIDG) forwarded to the Office of the City Prosecutor of Davao City a complaint for violation of Art. 267 of the Revised Penal Code (*Kidnapping and Serious Illegal Detention*), and Republic Act No. 9208 (*Anti-Trafficking in Persons Act of 2003*), as amended by R.A. No. 10364 (*Expanded Anti-Trafficking in Persons Act of 2012*).⁶ Said complaint was filed by Datu Kalumpot Dalon, Datu Laris Landahay, Libara Angkomog, Toto Angkomog, Juvanie Angkomog, Limar Mansomoy-At, and Tata Angkomog-Lundia against defendants Rev. Jurie Jaime, Sheena Duazo, Hanimay Suazo, Ryan Laniba, Tony Salubre, Jimboy Marciano, May Ann Sapar, Jaja Necosio, Pedro Arnado, Kerlan Fanagel, Sr. Stella Matutina, Sr. Restita Miles, Isidro Andao, Kharlo Manano, Riuz Valle, and other John Does.

To determine who would be charged in the complaint, the complainants were shown “lists” from which they purportedly identified the defendants. It appears that the photographs of petitioners De Jesus, Mariano,⁷ Casiño, and Añover were in the “first list,” while the photographs of petitioners Zarate, Palabay, Balaba, and Ruiz were in the “second list.”

Petitioners now aver that the inclusion of their names and photographs in the “lists” indicates that they are and have been the subject of State surveillance.⁸ Coupled with instances of harassment in the past, attempts to

⁵ *Rollo*, pp. 80-101; In the Joint Affidavit-Complaint of Datu Kalumpot Dalon and Datu Laris Landahay, as well as in the Joint Affidavit-Complaint of Libara Angkomog, Limar Mansomoy-At, Toto Angkomog, and Juvanie Angkomog, these Manobos averred that sometime in January 2015, they received a letter from a Kumander Jose inviting them to go to Davao City to attend a dialogue with President Aquino, Manny Pacquiao, and Mayor Duterte. They were told that the dialogue is of great urgency, and that they will be away for just three days. Moreover, they were promised free transportation, food, and accommodations, plus sacks of rice, grocery items, kitchen utensils, and farm tools if they will attend said dialogue.

Enticed by the offer, they went to Davao City, assisted by certain persons, and were brought to UCCP Haran. Therein, they were told that they were not allowed to go out of the compound without permission and, in fact, the compound was with a concrete fence and a steel gate which was padlocked. Those who had cellphones were also forced to surrender the same.

⁶ *Id.* at 51-52.

⁷ In the list, the name is that of petitioner Mariano, but the corresponding photograph is that of the late Beltran.

⁸ *Rollo*, p. 24.

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incriminate them in fabricated criminal charges, and insinuations of their links with the New People's Army (NPA), petitioners argue that their inclusion in the "lists" are threats to their life, liberty, and security warranting the protection of the writ of *amparo*.⁹

Additionally, petitioners claim that as there is absolutely no basis for the inclusion of their names and photographs in the "lists," then respondents should be compelled via the writ of *habeas data* to disclose and to provide petitioners with copies of all information and evidence pertaining to them which respondents have in their files or records, and for such information to be destroyed.¹⁰

After a careful review of the averments of the petition and the records of the case, we dismiss the petition.

The writ of *amparo* is a "remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity."¹¹

In *Tapuz v. Del Rosario*,¹² the Court was emphatic in saying that a writ of *amparo*, "intended to address violations of or threats to the rights to life, liberty or security, as an extraordinary and independent remedy beyond those available under the prevailing Rules, or as a remedy supplemental to these Rules," is not one to issue on "amorphous and uncertain grounds."

This is precisely the reason why Section 5(c) of A. M. No. 07-9-12-SC (*Rule on the Writ of Amparo*) requires every petition to state "the right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits."

As an additional safeguard, Sections 17 & 18 of the *Rule on the Writ of Amparo* requires substantial evidence. "Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. It is more than a mere imputation of wrongdoing or violation that would warrant a finding of liability against the person charged."¹³

⁹ Id. at 31.

¹⁰ Id. at 31-32.

¹¹ Sec. 1, A. M. No. 07-9-12-SC.

¹² 577 Phil. 636, 652 (2008).

¹³ *In re: Petition for the Issuance of a Writ of Amparo in favor of Lilibeth O. Ladaga*, 13 November 2012, 685 SCRA 322, 340.

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The writ of *amparo* is an extraordinary remedy as it is available not only for violations of life, liberty, and security, but also against threatened violations of such. But not all threats are protected by the *Amparo* Rule. As previously elucidated by this Court, “only **actual threats**, as may be established from all the facts and circumstances of the case, can qualify as a violation that may be addressed under the Rule on the Writ of *Amparo*.”¹⁴

Having these guidelines in mind, we hold that petitioners failed to substantially prove that their life, liberty and security are threatened with violation.

The petitioners’ general statements to the effect that 143 members of Bayanmuna were victims of extrajudicial killings during the Arroyo administration, and that 12 members and leaders of Bayanmuna have been killed under the Aquino administration;¹⁵ that from 2010 to 2015, more than 150 peasant leaders, farmers, and fisher-folks have been killed while scores of others have suffered from other forms of human rights abuses;¹⁶ that 133 members of Kilusang Magbubukid ng Pilipinas (KMP) were extrajudicially killed under the Arroyo administration, and that under the Aquino administration, 158 peasants have been killed, 22 of whom are members of the KMP;¹⁷ and that from 2001 to 2015, 38 leaders and members of the KARAPATAN alliance have been victims of extrajudicial killings¹⁸ are empty averments in the context of the *Amparo* Rule. Mere membership in these organizations or sectors cannot equate to an actual threat that would warrant the issuance of a writ of *amparo*.

Moreover, as the writ of *amparo* is sought individually and granted individually, then we should assess the situation of the petitioners individually. Lumping together the previous and present experiences of petitioners may give off the impression that, indeed, taken together, petitioners’ life, liberty and security are threatened to be violated. But this way of presenting the obtaining situation is misleading. A perusal of their individual circumstances negates the conclusion that they are each entitled to a writ of *amparo*.

Petitioner Zarate avers that his inclusion in the “lists,” coupled with his previous inclusion in the Order of Battle (OB) of the military, the filing of two charges of serious illegal detention and violation of R. A. No. 7610 (*Anti-Child Abuse Law*) in connection with the detention of the Manobos in UCCP Haran, and the fact of his being a former representative of Bayanmuna Party-list which has been labeled by the Government, through

¹⁴ Id. at 344.

¹⁵ *Rollo*, p. 11.

¹⁶ Id. at 12.

¹⁷ Id. at 13.

¹⁸ Id. at 31.

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the military, as a “front organization” of the Communist Party of the Philippines, entitle him to a writ of *amparo*.

We note, however, that the matter of petitioner Zarate’s supposed inclusion in the military’s OB has already been addressed by the Court in the consolidated cases of *In re: Petition for the Issuance of a Writ of Amparo in favor of Lilibeth O. Ladaga, et al.*,¹⁹ where we similarly held that a writ of *amparo* was unavailing. As for the pending cases against petitioner Zarate, suffice it to say that the complaints were duly supported by affidavits,²⁰ police blotters,²¹ medical records,²² and reports of social workers.²³ Thus, at this point, we cannot say that these are fabricated criminal charges or that they were filed to threaten petitioner Zarate’s life, liberty, and security. As for his membership in the Bayanmuna Party-list, we reiterate our pronouncement that mere membership in such an organization cannot be considered as an actual threat as to justify the issuance of a writ of *amparo*.

As for petitioner De Jesus, she merely cites her status as the current party-list representative of Gabriela Women’s Party. Similarly, petitioner Ruiz cites her position as Executive Director of the CRC.

As we have earlier said, however, mere membership in such organizations do not equate to actual threats which will warrant the issuance of a writ of *amparo*.

Petitioners Mariano and Casiño, on the other hand, cite their previous charge of rebellion,²⁴ and their earlier implication in a kidnapping with murder case.

The filing of cases, however, cannot be characterized as an unlawful act or omission in the context of the *Amparo* Rule. In *Chairperson Siegfred B. Mison v. Hon. Paulino Q. Gallegos and Ja Hoon Ku*,²⁵ we said that “(a)s the *Amparo* Rule was intended to address the intractable problem of “extralegal killings” and “enforced disappearances,” its coverage, in its present form, is confined to these two instances or to threats thereof.” Clearly then, having failed to show how the legal cases against them translates to threats of extralegal killings and enforced disappearances, petitioners Mariano and Casiño are not entitled to the writ of *amparo*.

Petitioner Palabay points to the labeling of the administrations of Presidents Macapagal-Arroyo and Aquino of KARAPATAN as “front

¹⁹ Supra note 13.

²⁰ *Rollo*, pp. 248-251 and 273-276.

²¹ *Id.* at 257-261 and 282-285.

²² *Id.* at 262, and 286-287.

²³ *Id.* at 252-256 and 277-281.

²⁴ *Batasan* 5.

²⁵ G. R. Nos. 210759, 211403 & 211590, 23 June 2015.

organization of the CPPA-NPA-NDP,”²⁶ and the death in 2013 of one of their human rights worker who was allegedly included in the “target list” of the military.²⁷

Again, we emphasize that mere membership in said organization is not an actual threat that entitles one to a writ of *amparo*. Moreover, the fact of death of one of KARAPATAN’s workers, without corroborative evidence that his death was on account of his membership in KARAPATAN, is not an actual threat that will pass the test of substantial evidence.

Petitioner Añoover claims that the schools run by the Rural Missionaries of the Philippines for the Manobos have been occupied by soldiers, and that these schools were tagged as “communist schools” providing education for rebels.

Petitioner Añoover, however, fails to allege any personal circumstances showing how her right to life, liberty, and security are threatened to be violated.

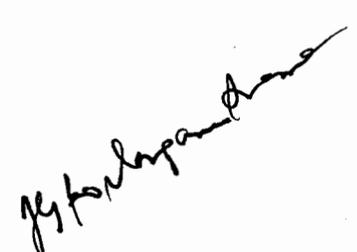
Petitioner Balaba, for her part, reports that after the dialogue at the Commission on Human Rights regarding the detention of the Manobos in UCCP Haran, three unidentified men believed to be agents of the State went to the Pastoral House to look for her in four different occasions; and also that she noticed a vehicle with red plates (SLB 383) parked just six meters away from the gate of the parsonage, with a man who was always on his cellphone, and which left after a couple of hours.

Of all the petitioners, it is only petitioner Balaba who alleged personal circumstances claiming threatened violations of her right to life, liberty and security. The next question, then, is whether these allegations constitute substantial evidence as to warrant the issuance of a writ of *amparo*.

We answer in the negative. The instances cited by petitioner Balaba fail to demonstrate an actual threat to her life, liberty, and security. In the *Ladaga* case where the petitioner therein claimed that the inclusion of her name in the OB List presented a threat to her security because other known activists whose names or the names of their militant organizations were also included in the said OB List met violent deaths, and as her vehicle was tailed by motorcycle-riding men, and as suspicious men attempted entry into her home, the Court held that “the existence of the OB List could not be directly associated with the menacing behavior of suspicious men or the violent

²⁶ Rollo, p. 30.

²⁷ Id. at 31.



deaths of certain personalities.”²⁸ Similarly, in the case at bar, we cannot conclude that petitioner Balaba’s inclusion in the “lists” has a direct relation to the circumstances she experienced, which circumstances are even less menacing than the ones reported in the *Ladaga* case.

Time and again, we have held that “[t]he alleged threat to herein petitioners’ rights to life, liberty and security must be actual, and not merely one of supposition or with the likelihood of happening.”²⁹ The writ of *amparo*, being an extraordinary remedy, “[a]ccordingly, the remedy ought to be resorted to and granted judiciously, lest the ideal sought by the *Amparo* Rule be diluted and undermined by the indiscriminate filing of *amparo* petitions for purposes less than the desire to secure *amparo* reliefs and protection and/or on the basis of unsubstantiated allegations.”³⁰

Let us now discuss petitioners’ prayer for the writ of *habeas data*. The writ of *habeas data* is a “remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting, or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.”³¹

The extraordinary writ of *habeas data* “provides a judicial remedy to protect a person’s right to control information regarding oneself, particularly in instances where such information is being collected through unlawful means in order to achieve unlawful ends.”³²

Similar to the writ of *amparo*, Section 6 of A. M. No. 08-1-16-SC (*Rule on the Writ of Habeas Data*) provides that the petition should aver “the manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party.” The *Habeas Data* Rule likewise requires substantial evidence.³³

²⁸ *In re: Petition for the Issuance of a Writ of Amparo in favor of Lilibeth O. Ladaga*, supra note 13 at 342.

²⁹ *Id.* at 344.

³⁰ *Chairperson Siegfred B. Mison vs. Hon. Paulino Q. Gallegos and Ja Hoon Ku*, supra note 25.

³¹ Sec. 1, A. M. No. 08-1-16-SC.

³² *In re: The Petition for the Writ of Amparo and Habeas Data in favor of Noriel H. Rodriguez*, 676 Phil. 84 (2011).

³³ Sec. 16 states that: The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by **substantial evidence**, the court shall enjoin the act complained of, or order the deletion, destruction, or rectification of the erroneous data or information and grant other relevant reliefs as may be just and equitable; otherwise, the privilege of the writ shall be denied. (Emphasis ours)

Upon its finality, the judgment shall be enforced by the sheriff or any lawful officers as may be designated by the court, justice or judge within five (5) working days.

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In the present petition, petitioners fail to show how their right to privacy is violated given that the information contained in the “lists” are only their names, their positions in their respective organizations, and their photographs. All these data are of public knowledge and are readily accessible even to civilians, especially since petitioners are known personalities who are often featured in news reports.

We also note that petitioner Heirs of Crispin Beltran joined the present petition to “seek the issuance of a Writ of Habeas Data to determine what documents are in the possession of the respondents pertaining to Rep. Crispin Beltran who died on 20 May 2008.”³⁴

Although the petition for a writ of *habeas data* may be filed by family member, or even relatives, on behalf of the aggrieved party,³⁵ the *Habeas Data* Rule presupposes that the aggrieved party is still alive as Section 6 of the said Rule requires the petitioner to show how the violation of the aggrieved party’s right to privacy or threats of such violation affect the aggrieved party’s right to life, liberty or security. Given the obtaining circumstances, petitioner Heirs of Crispin Beltran do not have the legal standing to file the present petition.

In conclusion, let us recall the case of *In re: The Petition for the Writ of Amparo and the Writ of Habeas Data in favor of Francis Saez*,³⁶ where the Court recognized that “in view of the evidentiary difficulties attendant to the filing of a petition for the privilege of the writs of amparo and habeas data, not only direct evidence, but circumstantial evidence, indicia, and presumptions may be considered, so long as they lead to conclusions consistent with the admissible evidence adduced.” In the present case, however, the allegations of petitioners do not even constitute circumstantial evidence as to justify the issuance of the extraordinary writs.

WHEREFORE, premises considered, the Court hereby **DISMISSES** the present petition.” Brion and Mendoza, JJ., on leave. (3)

Very truly yours,


FELIPA B. ANAMA
Clerk of Court CBH

(with Dissenting Opinion of Justice Marvic M. V. F. Leonen)

³⁴ Rollo, p. 7.

³⁵ Rule on the Writ of Habeas Data, A. M. No. 08-1-16-SC, Sec. 2.

³⁶ G. R. No. 183533, 25 September 2012, 681 SCRA 678, 690.

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