

## EN BANC

[ G.R. No. 178552, October 05, 2010 ]

**SOUTHERN HEMISPHERE ENGAGEMENT NETWORK, INC., ON BEHALF OF THE SOUTH-SOUTH NETWORK (SSN) FOR NON-STATE ARMED GROUP ENGAGEMENT, AND ATTY. SOLIMAN M. SANTOS, JR., PETITIONERS, VS. ANTI-TERRORISM COUNCIL, THE EXECUTIVE SECRETARY, THE SECRETARY OF JUSTICE, THE SECRETARY OF FOREIGN AFFAIRS, THE SECRETARY OF NATIONAL DEFENSE, THE SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT, THE SECRETARY OF FINANCE, THE NATIONAL SECURITY ADVISER, THE CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES, AND THE CHIEF OF THE PHILIPPINE NATIONAL POLICE, RESPONDENTS.**

[G.R. NO. 178554]

**KILUSANG MAYO UNO (KMU), REPRESENTED BY ITS CHAIRPERSON ELMER LABOG, NATIONAL FEDERATION OF LABOR UNIONS-KILUSANG MAYO UNO (NAFLU-KMU), REPRESENTED BY ITS NATIONAL PRESIDENT JOSELITO V. USTAREZ AND SECRETARY GENERAL ANTONIO C. PASCUAL, AND CENTER FOR TRADE UNION AND HUMAN RIGHTS, REPRESENTED BY ITS EXECUTIVE DIRECTOR DAISY ARAGO, PETITIONERS, VS. HON. EDUARDO ERMITA, IN HIS CAPACITY AS EXECUTIVE SECRETARY, NORBERTO GONZALES, IN HIS CAPACITY AS ACTING SECRETARY OF NATIONAL DEFENSE, HON. RAUL GONZALES, IN HIS CAPACITY AS SECRETARY OF JUSTICE, HON. RONALDO PUNO, IN HIS CAPACITY AS SECRETARY OF THE INTERIOR AND LOCAL GOVERNMENT, GEN. HERMOGENES ESPERON, IN HIS CAPACITY AS AFP CHIEF OF STAFF, AND DIRECTOR GENERAL OSCAR CALDERON, IN HIS CAPACITY AS PNP CHIEF OF STAFF, RESPONDENTS.**

[G.R. NO. 178581]

**BAGONG ALYANSANG MAKABAYAN (BAYAN), GENERAL ALLIANCE BINDING WOMEN FOR REFORMS, INTEGRITY, EQUALITY, LEADERSHIP AND ACTION (GABRIELA), KILUSANG MAGBUBUKID NG PILIPINAS (KMP), MOVEMENT OF CONCERNED CITIZENS FOR CIVIL LIBERTIES (MCCCL), CONFEDERATION FOR UNITY, RECOGNITION AND ADVANCEMENT OF GOVERNMENT EMPLOYEES (COURAGE), KALIPUNAN NG DAMAYANG MAHIHIRAP (KADAMAY), SOLIDARITY OF CAVITE WORKERS, LEAGUE OF FILIPINO STUDENTS (LFS), ANAKBAYAN, PAMBANSANG LAKAS NG KILUSANG MAMAMALAKAYA (PAMALAKAYA), ALLIANCE OF CONCERNED TEACHERS (ACT),**

**MIGRANTE, HEALTH ALLIANCE FOR DEMOCRACY (HEAD), AGHAM, TEOFISTO GUINGONA, JR., DR. BIENVENIDO LUMBERA, RENATO CONSTANTINO, JR., SISTER MARY JOHN MANANSAN OSB, DEAN CONSUELO PAZ, ATTY. JOSEFINA LICHAUCO, COL. GERRY CUNANAN (RET.), CARLITOS SIGUION-REYNA, DR. CAROLINA PAGADUAN-ARAUULLO, RENATO REYES, DANILO RAMOS, EMERENCIANA DE LESUS, RITA BAUA, REY CLARO CASAMBRE, PETITIONERS, VS. GLORIA MACAPAGAL-ARROYO, IN HER CAPACITY AS PRESIDENT AND COMMANDER-IN-CHIEF, EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF JUSTICE SECRETARY RAUL GONZALES, DEPARTMENT OF FOREIGN AFFAIRS SECRETARY ALBERTO ROMULO, DEPARTMENT OF NATIONAL DEFENSE ACTING SECRETARY NORBERTO GONZALES, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT SECRETARY RONALDO PUNO. DEPARTMENT OF FINANCE SECRETARY MARGARITO TEVES, NATIONAL SECURITY ADVISER NORBERTO GONZALES, THE NATIONAL INTELLIGENCE COORDINATING AGENCY (NICA), THE NATIONAL BUREAU OF INVESTIGATION (NBI), THE BUREAU OF IMMIGRATION, THE OFFICE OF CIVIL DEFENSE, THE INTELLIGENCE SERVICE OF THE ARMED FORCES OF THE PHILIPPINES (ISAFP), THE ANTI-MONEY LAUNDERING COUNCIL (AMLC), THE PHILIPPINE CENTER ON TRANSNATIONAL CRIME, THE CHIEF OF THE PHILIPPINE NATIONAL POLICE GEN. OSCAR CALDERON, THE PNP, INCLUDING ITS INTELLIGENCE AND INVESTIGATIVE ELEMENTS, AFP CHIEF GEN. HERMOGENES ESPERON, RESPONDENTS.**

**[G.R. NO. 178890]**

**KARAPATAN, ALLIANCE FOR THE ADVANCEMENT OF PEOPLE'S RIGHTS, REPRESENTED HEREIN BY DR. EDELINA DE LA PAZ, AND REPRESENTING THE FOLLOWING ORGANIZATIONS: HUSTISYA, REPRESENTED BY EVANGELINE HERNANDEZ AND ALSO ON HER OWN BEHALF; DESAPARECIDOS, REPRESENTED BY MARY GUY PORTAJADA AND ALSO ON HER OWN BEHALF, SAMAHAN NG MGA EX-DETAINEES LABAN SA DETENSYON AT PARA SA AMNESTIYA (SELDA), REPRESENTED BY DONATO CONTINENTE AND ALSO ON HIS OWN BEHALF, ECUMENICAL MOVEMENT FOR JUSTICE AND PEACE (EMJP), REPRESENTED BY BISHOP ELMER M. BOLOCON, UCCP, AND PROMOTION OF CHURCH PEOPLE'S RESPONSE, REPRESENTED BY FR. GILBERT SABADO, OCARM, PETITIONERS, VS. GLORIA MACAPAGAL-ARROYO, IN HER CAPACITY AS PRESIDENT AND COMMANDER-IN-CHIEF, EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF JUSTICE SECRETARY RAUL GONZALEZ, DEPARTMENT OF FOREIGN AFFAIRS SECRETARY ALBERTO ROMULO, DEPARTMENT OF NATIONAL DEFENSE ACTING SECRETARY NORBERTO GONZALES, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT SECRETARY RONALDO PUNO, DEPARTMENT OF FINANCE SECRETARY MARGARITO TEVES, NATIONAL SECURITY ADVISER NORBERTO GONZALES, THE NATIONAL INTELLIGENCE COORDINATING AGENCY (NICA), THE**

**NATIONAL BUREAU OF INVESTIGATION (NBI), THE BUREAU OF IMMIGRATION, THE OFFICE OF CIVIL DEFENSE, THE INTELLIGENCE SERVICE OF THE ARMED FORCES OF THE PHILIPPINES (ISAFP), THE ANTI-MONEY LAUNDERING COUNCIL (AMLC), THE PHILIPPINE CENTER ON TRANSNATIONAL CRIME, THE CHIEF OF THE PHILIPPINE NATIONAL POLICE GEN. OSCAR CALDERON, THE PNP, INCLUDING ITS INTELLIGENCE AND INVESTIGATIVE ELEMENTS, AFP CHIEF GEN. HERMOGENES ESPERON, RESPONDENTS.**

**[G.R. NO. 179157]**

**THE INTEGRATED BAR OF THE PHILIPPINES (IBP), REPRESENTED BY ATTY. FELICIANO M. BAUTISTA, COUNSELS FOR THE DEFENSE OF LIBERTY (CODAL), SEN. MA. ANA CONSUELO A.S. MADRIGAL AND FORMER SENATORS SERGIO OSMEÑA III AND WIGBERTO E. TAÑADA, PETITIONERS, VS. EXECUTIVE SECRETARY EDUARDO ERMITA AND THE MEMBERS OF THE ANTI-TERRORISM COUNCIL (ATC), RESPONDENTS.**

**[G.R. NO. 179461]**

**BAGONG ALYANSANG MAKABAYAN-SOUTHERN TAGALOG (BAYAN-ST), GABRIELA-ST, KATIPUNAN NG MGA SAMAHYANG MAGSASAKA-TIMOG KATAGALUGAN (KASAMA-TK), MOVEMENT OF CONCERNED CITIZENS FOR CIVIL LIBERTIES (MCCCL), PEOPLES MARTYRS, ANAKBAYAN-ST, PAMALAKAYA-ST, CONFEDERATION FOR UNITY, RECOGNITION AND ADVANCEMENT OF GOVERNMENT EMPLOYEES (COURAGE-ST), PAGKAKAISA'T UGNAYAN NG MGA MAGBUBUKID SA LAGUNA (PUMALAG), SAMAHAN NG MGA MAMAMAYAN SA TABING RILES (SMTR-ST), LEAGUE OF FILIPINO STUDENTS (LFS), BAYAN MUNA-ST, KONGRESO NG MGA MAGBUBUKID PARA SA REPORMANG AGRARYO KOMPRA, BIGKIS AT LAKAS NG MGA KATUTUBO SA TIMOG KATAGALUGAN (BALATIK), SAMAHAN AT UGNAYAN NG MGA MAGSASAKANG KABABAIHAN SA TIMOG KATAGALUGAN (SUMAMAKA-TK), STARTER, LOSÑOS RURAL POOR ORGANIZATION FOR PROGRESS & EQUALITY, CHRISTIAN NIÑO LAJARA, TEODORO REYES, FRANCESCA B. TOLENTINO, JANNETTE E. BARRIENTOS, OSCAR T. LAPIDA, JR., DELFIN DE CLARO, SALLY P. ASTRERA, ARNEL SEGUNE BELTRAN, PETITIONERS, VS. GLORIA MACAPAGAL-ARROYO, IN HER CAPACITY AS PRESIDENT AND COMMANDER-IN-CHIEF, EXECUTIVE SECRETARY EDUARDO ERMITA, DEPARTMENT OF JUSTICE SECRETARY RAUL GONZALEZ, DEPARTMENT OF FOREIGN AFFAIRS SECRETARY ALBERTO ROMULO, DEPARTMENT OF NATIONAL DEFENSE ACTING SECRETARY NORBERTO GONZALES, DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT SECRETARY RONALDO PUNO, DEPARTMENT OF FINANCE SECRETARY MARGARITO TEVES, NATIONAL SECURITY ADVISER NORBERTO GONZALES, THE NATIONAL INTELLIGENCE COORDINATING AGENCY (NICA), THE NATIONAL BUREAU OF**

**INVESTIGATION (NBI), THE BUREAU OF IMMIGRATION, THE OFFICE OF CIVIL DEFENSE, THE INTELLIGENCE SERVICE OF THE ARMED FORCES OF THE PHILIPPINES (ISAFP), THE ANTI-MONEY LAUNDERING COUNCIL (AMLC), THE PHILIPPINE CENTER ON TRANSNATIONAL CRIME, THE CHIEF OF THE PHILIPPINE NATIONAL POLICE GEN. OSCAR CALDERON, THE PNP, INCLUDING ITS INTELLIGENCE AND INVESTIGATIVE ELEMENTS, AFP CHIEF GEN. HERMOGENES ESPERON, RESPONDENTS.**

**D E C I S I O N**

**CARPIO MORALES, J.:**

Before the Court are six petitions challenging the constitutionality of Republic Act No. 9372 (RA 9372), "An Act to Secure the State and Protect our People from Terrorism," otherwise known as the *Human Security Act of 2007*,<sup>[1]</sup> signed into law on March 6, 2007.

Following the effectivity of RA 9372 on July 15, 2007,<sup>[2]</sup> petitioner Southern Hemisphere Engagement Network, Inc., a non-government organization, and Atty. Soliman Santos, Jr., a concerned citizen, taxpayer and lawyer, filed a petition for certiorari and prohibition on July 16, 2007 docketed as **G.R. No. 178552**. On even date, petitioners Kilusang Mayo Uno (KMU), National Federation of Labor Unions-Kilusang Mayo Uno (NAFLU-KMU), and Center for Trade Union and Human Rights (CTUHR), represented by their respective officers<sup>[3]</sup> who are also bringing the action in their capacity as citizens, filed a petition for certiorari and prohibition docketed as **G.R. No. 178554**.

The following day, July 17, 2007, organizations Bagong Alyansang Makabayan (BAYAN), General Alliance Binding Women for Reforms, Integrity, Equality, Leadership and Action (GABRIELA), Kilusang Magbubukid ng Pilipinas (KMP), Movement of Concerned Citizens for Civil Liberties (MCCCL), Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE), Kalipunan ng Damayang Mahihirap (KADAMAY), Solidarity of Cavite Workers (SCW), League of Filipino Students (LFS), Anakbayan, Pambansang Lakas ng Kilusang Mamamalakaya (PAMALAKAYA), Alliance of Concerned Teachers (ACT), Migrante, Health Alliance for Democracy (HEAD), and Agham, represented by their respective officers,<sup>[4]</sup> and joined by concerned citizens and taxpayers Teofisto Guingona, Jr., Dr. Bienvenido Lumbera, Renato Constantino, Jr., Sister Mary John Manansan, OSB, Dean Consuelo Paz, Atty. Josefina Lichauco, Retired Col. Gerry Cunanan, Carlitos Siguion-Reyna, Dr. Carolina Pagaduan-Araullo, Renato Reyes, Danilo Ramos, Emerenciana de Jesus, Rita Baua and Rey Claro Casambre filed a petition for certiorari and prohibition docketed as **G.R. No. 178581**.

On August 6, 2007, Karapatan and its alliance member organizations Hustisya, Desaparecidos, Samahan ng mga Ex-Detainees Laban sa Detensyon at para sa Amnestiya (SELDA), Ecumenical Movement for Justice and Peace (EMJP), and Promotion of Church People's Response (PCPR), which were represented by their respective officers<sup>[5]</sup> who are also bringing action on their own behalf, filed a petition for certiorari and prohibition docketed as **G.R. No. 178890**.

On August 29, 2007, the Integrated Bar of the Philippines (IBP), Counsels for the Defense of Liberty (CODAL),<sup>[6]</sup> Senator Ma. Ana Consuelo A.S. Madrigal, Sergio Osmeña III, and Wigberto E. Tañada filed a petition for certiorari and prohibition docketed as **G.R. No. 179157**.

Bagong Alyansang Makabayan-Southern Tagalog (BAYAN-ST), other regional chapters and organizations mostly based in the Southern Tagalog Region,<sup>[7]</sup> and individuals<sup>[8]</sup> followed suit by filing on September 19, 2007 a petition for certiorari and prohibition docketed as **G.R. No. 179461** that replicates the allegations raised in the BAYAN petition in **G.R. No. 178581**.

Impleaded as respondents in the various petitions are the Anti-Terrorism Council<sup>[9]</sup> composed of, at the time of the filing of the petitions, Executive Secretary Eduardo Ermita as Chairperson, Justice Secretary Raul Gonzales as Vice Chairperson, and Foreign Affairs Secretary Alberto Romulo, Acting Defense Secretary and National Security Adviser Norberto Gonzales, Interior and Local Government Secretary Ronaldo Puno, and Finance Secretary Margarito Teves as members. All the petitions, except that of the IBP, also impleaded Armed Forces of the Philippines (AFP) Chief of Staff Gen. Hermogenes Esperon and Philippine National Police (PNP) Chief Gen. Oscar Calderon.

The Karapatan, BAYAN and BAYAN-ST petitions likewise impleaded President Gloria Macapagal-Arroyo and the support agencies for the Anti-Terrorism Council like the National Intelligence Coordinating Agency, National Bureau of Investigation, Bureau of Immigration, Office of Civil Defense, Intelligence Service of the AFP, Anti-Money Laundering Center, Philippine Center on Transnational Crime, and the PNP intelligence and investigative elements.

The petitions fail.

### ***Petitioners' resort to certiorari is improper***

Preliminarily, *certiorari* does not lie against respondents who do not exercise judicial or quasi-judicial functions. Section 1, Rule 65 of the Rules of Court is clear:

Section 1. *Petition for certiorari.*--When any tribunal, board or officer **exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction**, and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require. (Emphasis and underscoring supplied)

Parenthetically, petitioners do not even allege with any modicum of particularity how respondents acted without or in excess of their respective jurisdictions, or with grave abuse of discretion amounting to lack or excess of jurisdiction.