Republic of the Philippines
Supreme Court
Manila

EN BANC

MARYNETTE R. GAMBOA,
Petitioner,

- versus -

P/SSUPT. MARLOU C. CHAN, in his capacity as the PNP-Provincial Director of Ilocos Norte, and **P/SUPT. WILLIAM O. FANG,** in his capacity as Chief, Intelligence Division, PNP Provincial Office, Ilocos Norte,
Respondents.

G.R. No. 193636

Present:

CARPIO, *J.*,
VELASCO, JR.,
LEONARDO-DE CASTRO,*
BRION,**
PERALTA,***
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,**
SERENO,
REYES, and
PERLAS-BERNABE, *JJ.*

Promulgated:

JULY 24, 2012

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D E C I S I O N

SERENO, *J.*:

Before this Court is an Appeal by Certiorari (Under Rule 45 of the Rules of Court) filed pursuant to Rule 19[1] of the Rule on the Writ of *Habeas*

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* On official leave.

** On leave.

*** On official business.

[1] Sec. 19. Appeal. - Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

Data,[2] seeking a review of the 9 September 2010 Decision in Special Proc. No. 14979 of the Regional Trial Court, First Judicial Region, Laoag City, Branch 13 (RTC Br. 13).[3] The questioned Decision denied petitioner the privilege of the writ of *habeas data*.[4]

At the time the present Petition was filed, petitioner Marynette R. Gamboa (Gamboa) was the Mayor of Dingras, Ilocos Norte.[5] Meanwhile, respondent Police Senior Superintendent (P/SSUPT.) Marlou C. Chan was the Officer-in-Charge, and respondent Police Superintendent (P/SUPT.) William O. Fang was the Chief of the Provincial Investigation and Detective Management Branch, both of the Ilocos Norte Police Provincial Office.[6]

On 8 December 2009, former President Gloria Macapagal-Arroyo issued Administrative Order No. 275 (A.O. 275), "Creating an Independent Commission to Address the Alleged Existence of Private Armies in the Country."[7] The body, which was later on referred to as the Zeñarosa Commission,[8] was formed to investigate the existence of private army groups (PAGs) in the country with a view to eliminating them before the 10 May 2010 elections and dismantling them permanently in the future.[9] Upon the conclusion of its investigation, the Zeñarosa Commission released and submitted to the Office of the President a confidential report entitled "A Journey Towards H.O.P.E.: The Independent Commission Against Private Armies' Report to the President" (the Report).[10]

The period of appeal shall be five (5) working days from the date of notice of the judgment or final order.

The appeal shall be given the same priority as in *habeas corpus* and *amparo* cases.

[2] A.M. No. 08-1-06-SC, 22 January 2008.

[3] *Rollo*, pp. 36-47; Decision dated 9 September 2010.

[4] Id. at 47.

[5] Id. at 4, Appeal by Certiorari.

[6] Id. at 39-40, Decision; id. at 142-143, Affidavit of P/SSupt. Chan dated 21 July 2010; id. at 144-145, Affidavit of P/Supt. Fang dated 21 July 2010.

[7] 108 O.G. 310 (Jan., 2010).

[8] Named after the Chairperson, retired Court of Appeals Associate Justice Monina Arevalo-Zeñarosa. The other members of the body included Bishop Juan de Dios Pueblos, D.D., Alleem Mahmod Mala L. Adilao, (Ret.) General Virtus V. Gil, (Ret.) Lieutenant General Edilberto Pardo Adan, (Ret.) Herman Zamora Basbaño, Dante Lazaro Jimenez, and General Jaime Callada Echeverria(+). *Rollo*, pp. 292-299.

[9] Supra note 7.

[10] *Rollo*, pp. 287-563; *rollo*, p. 20, Appeal by Certiorari; *rollo*, p. 591, Comment.

Gamboa alleged that the Philippine National Police in Ilocos Norte (PNP–Ilocos Norte) conducted a series of surveillance operations against her and her aides,[11] and classified her as someone who keeps a PAG.[12] Purportedly without the benefit of data verification, PNP–Ilocos Norte forwarded the information gathered on her to the Zeñarosa Commission,[13] thereby causing her inclusion in the Report's enumeration of individuals maintaining PAGs.[14] More specifically, she pointed out the following items reflected therein:

(a) The Report cited the PNP as its source for the portion regarding the status of PAGs in the Philippines.[15]

(b) The Report stated that "x x x the PNP organized one dedicated Special Task Group (STG) for each private armed group (PAG) to monitor and counteract their activities."[16]

(c) Attached as Appendix "F" of the Report is a tabulation generated by the PNP and captioned as "Status of PAGs Monitoring by STGs as of April 19, 2010," which classifies PAGs in the country according to region, indicates their identity, and lists the prominent personalities with whom these groups are associated.[17] The first entry in the table names a PAG, known as the Gamboa Group, linked to herein petitioner Gamboa.[18]

(d) Statistics on the status of PAGs were based on data from the PNP, to wit:

> The resolutions were the subject of a national press conference held in Malacañang on March 24, 2010 at which time, the Commission was also asked to comment on the PNP report that out of one hundred seventeen (117) partisan armed groups validated, twenty-four (24) had

[11] Id. at 6, Appeal by Certiorari; id. at 51-52, Petition for the Writ of *Habeas Data*.
[12] Id. at 20-23, Appeal by Certiorari; id. at 52, Petition for the Writ of *Habeas Data*.
[13] Id.
[14] Id. at 20-23, Appeal by Certiorari.
[15] Id. at 20, Appeal by Certiorari; id. at 337, Report.
[16] Id. at 20-21, Appeal by Certiorari; id. at 338, Report.
[17] Id. at 21, Appeal by Certiorari; id. at 430-463, Appendix "F" of the Report.
[18] Id. at 431, Appendix "F" of the Report.

> been dismantled with sixty-seven (67) members apprehended and more than eighty-six (86) firearms confiscated.
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> Commissioner Herman Basbaño qualified that said statistics were based on PNP data but that the more significant fact from his report is that the PNP has been vigilant in monitoring the activities of these armed groups and this vigilance is largely due to the existence of the Commission which has continued communicating with the [Armed Forces of the Philippines (AFP)] and PNP personnel in the field to constantly provide data on the activities of the PAGs. Commissioner Basbaño stressed that the Commission's efforts have preempted the formation of the PAGs because now everyone is aware that there is a body monitoring the PAGs[']movement through the PNP. Commissioner [Lieutenant General Edilberto Pardo Adan] also clarified that the PAGs are being destabilized so that their ability to threaten and sow fear during the election has been considerably weakened.[19]

(e) The Report briefly touched upon the validation system of the PNP:

> Also, in order to provide the Commission with accurate data which is truly reflective of the situation in the field, the PNP complied with the Commission's recommendation that they revise their validation system to include those PAGs previously listed as dormant. In the most recent briefing provided by the PNP on April 26, 2010, there are one hundred seven (107) existing PAGs. Of these groups, the PNP reported that seven (7) PAGs have been reorganized.[20]

On 6 and 7 July 2010, ABS-CBN broadcasted on its evening news program the portion of the Report naming Gamboa as one of the politicians alleged to be maintaining a PAG.[21] Gamboa averred that her association with a PAG also appeared on print media.[22] Thus, she was publicly tagged as someone who maintains a PAG on the basis of the unverified information that the PNP-Ilocos Norte gathered and forwarded to the Zeñarosa Commission.[23] As a result, she claimed that her malicious or reckless inclusion in the enumeration of personalities maintaining a PAG as published in the Report also made her, as well as her supporters and other

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[19] Id. at 21-22, Appeal by Certiorari; id. at 348-349, Report.
[20] Id. at 22, Appeal by Certiorari; id. at 364, Report.
[21] The records refer to two different television news programs: the Position Paper indicates TV Patrol World, while the Return of the Writ mentions *Bandila*; id. at 6-7, Appeal by Certiorari; id. at 37, Decision; id. at 59, Affidavit of Demijon Castillo dated 9 July 2010; id. at 133, Return of the Writ; id. at 147-148, Position Paper of Gamboa; id. at 591, Comment.
[22] Id. at 6-7, Appeal by Certiorari; id. at 166, Position Paper of Gamboa.
[23] Id. at 52-53, Petition for the Writ of *Habeas Data*.

people identified with her, susceptible to harassment and police surveillance operations.[24]

Contending that her right to privacy was violated and her reputation maligned and destroyed, Gamboa filed a Petition dated 9 July 2010 for the issuance of a writ of *habeas data* against respondents in their capacities as officials of the PNP-Ilocos Norte.[25] In her Petition, she prayed for the following reliefs: (a) destruction of the unverified reports from the PNP-Ilocos Norte database; (b) withdrawal of all information forwarded to higher PNP officials; (c) rectification of the damage done to her honor; (d) ordering respondents to refrain from forwarding unverified reports against her; and (e) restraining respondents from making baseless reports.[26]

The case was docketed as Special Proc. No. 14979 and was raffled to RTC Br. 13, which issued the corresponding writ on 14 July 2010 after finding the Petition meritorious on its face.[27] Thus, the trial court (a) instructed respondents to submit all information and reports forwarded to and used by the Zeñarosa Commission as basis to include her in the list of persons maintaining PAGs; (b) directed respondents, and any person acting on their behalf, to cease and desist from forwarding to the Zeñarosa Commission, or to any other government entity, information that they may have gathered against her without the approval of the court; (c) ordered respondents to make a written return of the writ together with supporting affidavits; and (d) scheduled the summary hearing of the case on 23 July 2010.[28]

In their Return of the Writ, respondents alleged that they had acted within the bounds of their mandate in conducting the investigation and

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[24] Id. at 52-54.
[25] Id. at 48-58.
[26] Id.
[27] Id. at 113-114, Writ of *Habeas Data* dated 14 July 2010; id. at 115-117, Order dated 14 July 2010.
[28] Id.

surveillance of Gamboa.[29] The information stored in their database supposedly pertained to two criminal cases in which she was implicated, namely: (a) a Complaint for murder and frustrated murder docketed as NPS DOC No. 1-04-INQ-091-00077, and (b) a Complaint for murder, frustrated murder and direct assault upon a person in authority, as well as indirect assault and multiple attempted murder, docketed as NPS DOCKET No. 1-04-INV-10-A-00009.[30]

Respondents likewise asserted that the Petition was incomplete for failing to comply with the following requisites under the Rule on the Writ of *Habeas Data*: (a) the manner in which the right to privacy was violated or threatened with violation and how it affected the right to life, liberty or security of Gamboa; (b) the actions and recourses she took to secure the data or information; and (c) the location of the files, registers or databases, the government office, and the person in charge, in possession or in control of the data or information.[31] They also contended that the Petition for Writ of *Habeas Data*, being limited to cases of extrajudicial killings and enforced disappearances, was not the proper remedy to address the alleged besmirching of the reputation of Gamboa.[32]

RTC Br. 13, in its assailed Decision dated 9 September 2010, dismissed the Petition.[33] The trial court categorically ruled that the inclusion of Gamboa in the list of persons maintaining PAGs, as published in the Report, constituted a violation of her right to privacy, to wit:

> In this light, it cannot also be disputed that by her inclusion in the list of persons maintaining PAGs, [Gamboa]'s right to privacy indubitably has been violated. The violation understandably affects her life, liberty and security enormously. The untold misery that comes with the tag of having a PAG could even be insurmountable. As she essentially alleged in her petition, she fears for her security that at any time of the day the unlimited

[29] Id. at 118-145, Return of the Writ dated 22 July 2010.
[30] Id. at 125.
[31] Id. at 126-131.
[32] Id. at 131-132.
[33] Id. at 36-47, Decision.

> powers of respondents may likely be exercised to further malign and destroy her reputation and to transgress her right to life.
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> By her inclusion in the list of persons maintaining PAGs, it is likewise undisputed that there was certainly intrusion into [Gamboa]'s activities. It cannot be denied that information was gathered as basis therefor. After all, under Administrative Order No. 275, the Zeñarosa Commission was tasked to investigate the existence of private armies in the country, with all the powers of an investigative body under Section 37, Chapter 9, Book I of the Administrative Code of 1987.
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> By her inclusion in the list of persons maintaining PAGs, [Gamboa] alleged as she accused respondents, who are public officials, of having gathered and provided information that made the Zeñarosa Commission to include her in the list. Obviously, it was this gathering and forwarding of information supposedly by respondents that petitioner barks at as unlawful. x x x.[34]

Despite the foregoing findings, RTC Br. 13 nevertheless dismissed the Petition on the ground that Gamboa failed to prove through substantial evidence that the subject information originated from respondents, and that they forwarded this database to the Zeñarosa Commission without the benefit of prior verification.[35] The trial court also ruled that even before respondents assumed their official positions, information on her may have already been acquired.[36] Finally, it held that the Zeñarosa Commission, as the body tasked to gather information on PAGs and authorized to disclose information on her, should have been impleaded as a necessary if not a compulsory party to the Petition.[37]

Gamboa then filed the instant Appeal by Certiorari dated 24 September 2010,[38] raising the following assignment of errors:

> 1. The trial court erred in ruling that the Zeñarosa Commission be impleaded as either a necessary or indispensable party;

[34] Id. at 41-42.
[35] Id. at 44.
[36] Id. at 44-46.
[37] Id. at 47.
[38] Id. at 3-34.

> 2. The trial court erred in declaring that [Gamboa] failed to present sufficient proof to link respondents as the informant to [sic] the Zeñarosa Commission;
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> 3. The trial court failed to satisfy the spirit of *Habeas Data*;
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> 4. The trial court erred in pronouncing that the reliance of the Zeñarosa Commission to [sic] the PNP as alleged by [Gamboa] is an assumption;
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> 5. The trial court erred in making a point that respondents are distinct to PNP as an agency.[39]

On the other hand, respondents maintain the following arguments: (a) Gamboa failed to present substantial evidence to show that her right to privacy in life, liberty or security was violated, and (b) the trial court correctly dismissed the Petition on the ground that she had failed to present sufficient proof showing that respondents were the source of the report naming her as one who maintains a PAG.[40]

Meanwhile, Gamboa argues that although A.O. 275 was a lawful order, fulfilling the mandate to dismantle PAGs in the country should be done in accordance with due process, such that the gathering and forwarding of unverified information on her must be considered unlawful.[41] She also reiterates that she was able to present sufficient evidence showing that the subject information originated from respondents.[42]

In determining whether Gamboa should be granted the privilege of the writ of *habeas data*, this Court is called upon to, first, unpack the concept of the right to privacy; second, explain the writ of *habeas data* as an extraordinary remedy that seeks to protect the right to informational privacy; and finally, contextualize the right to privacy vis-à-vis the state interest involved in the case at bar.

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[39] Id. at 7-8, Appeal by Certiorari.
[40] Id. at 589-622, Comment dated 3 January 2011.
[41] Id. at 647-656, Reply dated 29 January 2012.
[42] Id.

The Right to Privacy

The right to privacy, as an inherent concept of liberty, has long been recognized as a constitutional right. This Court, in *Morfe v. Mutuc*,[43] thus enunciated:

> The due process question touching on an alleged deprivation of liberty as thus resolved goes a long way in disposing of the objections raised by plaintiff that the provision on the periodical submission of a sworn statement of assets and liabilities is violative of the constitutional right to privacy. There is much to be said for this view of Justice Douglas: "**Liberty in the constitutional sense must mean more than freedom from unlawful governmental restraint; it must include privacy as well, if it is to be a repository of freedom**. The right to be let alone is indeed the beginning of all freedom." As a matter of fact, this right to be let alone is, to quote from Mr. Justice Brandeis "the most comprehensive of rights and the right most valued by civilized men."
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> The concept of liberty would be emasculated if it does not likewise compel respect for his personality as a unique individual whose claim to privacy and interference demands respect. x x x.
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> x x x x x x x x x
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> x x x [I]n the leading case of Griswold v. Connecticut, Justice Douglas, speaking for five members of the Court, stated: "Various guarantees create zones of privacy. The right of association contained in the penumbra of the First Amendment is one, as we have seen. The Third Amendment in its prohibition against the quartering of soldiers 'in any house' in time of peace without the consent of the owner is another facet of that privacy. The Fourth Amendment explicitly affirms the 'right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.' The Fifth Amendment in its Self-Incrimination Clause enables the citizen to create a zone of privacy which government may not force him to surrender to his detriment. The Ninth Amendment provides: 'The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." After referring to various American Supreme Court decisions, Justice Douglas continued: "These cases bear witness that the right of privacy which presses for recognition is a legitimate one."
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> So it is likewise in our jurisdiction. The right to privacy as such is accorded recognition independently of its identification with liberty; in itself, it is fully deserving of constitutional protection. The language of Prof. Emerson is particularly apt: "**The concept of limited government has always included the idea that governmental powers stop short of certain intrusions into the personal life of the citizen. This is indeed**

[43] 130 Phil. 415 (1968).

> **one of the basic distinctions between absolute and limited government**. Ultimate and pervasive control of the individual, in all aspects of his life, is the hallmark of the absolute state. In contrast, a system of limited government, safeguards a private sector, which belongs to the individual, firmly distinguishing it from the public sector, which the state can control. Protection of this private sector — protection, in other words, of the dignity and integrity of the individual — has become increasingly important as modern society has developed. All the forces of a technological age — industrialization, urbanization, and organization — operate to narrow the area of privacy and facilitate intrusion into it. In modern terms, the capacity to maintain and support this enclave of private life marks the difference between a democratic and a totalitarian society."[44] (Emphases supplied)

In *Ople v. Torres*,[45] this Court traced the constitutional and statutory bases of the right to privacy in Philippine jurisdiction, to wit:

> **Indeed, if we extend our judicial gaze we will find that the right of privacy is recognized and enshrined in several provisions of our Constitution**. It is expressly recognized in section 3 (1) of the Bill of Rights:
>
> > Sec. 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.
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> Other facets of the right to privacy are protected in various provisions of the Bill of Rights, *viz*:
>
> > Sec. 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.
> >
> > Sec. 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.
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> > Sec. 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of

[44] Id. at 433-436.
[45] 354 Phil. 948 (1998).

> national security, public safety, or public health as may be provided by law.
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> x x x x x x x x x
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> Sec. 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.
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> Sec. 17. No person shall be compelled to be a witness against himself.
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> Zones of privacy are likewise recognized and protected in our laws. The Civil Code provides that "[e]very person shall respect the dignity, personality, privacy and peace of mind of his neighbors and other persons" and punishes as actionable torts several acts by a person of meddling and prying into the privacy of another. It also holds a public officer or employee or any private individual liable for damages for any violation of the rights and liberties of another person, and recognizes the privacy of letters and other private communications. The Revised Penal Code makes a crime the violation of secrets by an officer, the revelation of trade and industrial secrets, and trespass to dwelling. Invasion of privacy is an offense in special laws like the Anti-Wiretapping Law, the Secrecy of Bank Deposits Act and the Intellectual Property Code. The Rules of Court on privileged communication likewise recognize the privacy of certain information.
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> Unlike the dissenters, we prescind from the premise that **the right to privacy is a fundamental right guaranteed by the Constitution**, hence, it is the burden of government to show that A.O. No. 308 is justified by some compelling state interest and that it is narrowly drawn. x x x.[46] (Emphases supplied)

Clearly, the right to privacy is considered a fundamental right that must be protected from intrusion or constraint. However, in *Standard Chartered Bank v. Senate Committee on Banks*,[47] this Court underscored that the right to privacy is **not absolute**, *viz*:

> With respect to the right of privacy which petitioners claim respondent has violated, suffice it to state that privacy is not an absolute right. While it is true that Section 21, Article VI of the Constitution, guarantees respect for the rights of persons affected by the legislative investigation, not every invocation of the right to privacy should be allowed to thwart a legitimate congressional inquiry. In *Sabio v. Gordon*, we have held that the right of the people to access information on matters of public concern generally prevails over the right to privacy of ordinary financial transactions. In that case, we declared that the right to privacy is

[46] Id. at 972-975.
[47] G.R. No. 167173, 27 December 2007, 541 SCRA 456.

> not absolute where there is an overriding compelling state interest. Employing the rational basis relationship test, as laid down in *Morfe v. Mutuc*, there is no infringement of the individual's right to privacy as the requirement to disclosure information is for a valid purpose, in this case, to ensure that the government agencies involved in regulating banking transactions adequately protect the public who invest in foreign securities. Suffice it to state that this purpose constitutes a reason compelling enough to proceed with the assailed legislative investigation.[48]

Therefore, when the right to privacy finds tension with a competing state objective, the courts are required to weigh both notions. In these cases, although considered a fundamental right, the right to privacy may nevertheless succumb to an opposing or overriding state interest deemed legitimate and compelling.

The Writ of **Habeas Data**

The writ of *habeas data* is an independent and summary remedy designed to protect the image, privacy, honor, information, and freedom of information of an individual, and to provide a forum to enforce one's right to the truth and to informational privacy.[49] It seeks to protect a person's right to control information regarding oneself, particularly in instances in which such information is being collected through unlawful means in order to achieve unlawful ends.[50] It must be emphasized that in order for the privilege of the writ to be granted, there must exist a nexus between the right to privacy on the one hand, and the right to life, liberty or security on the other. Section 1 of the Rule on the Writ of *Habeas Data* reads:

> *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 information regarding the person, family, home and correspondence of the aggrieved party.

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[48] Id. at 475-476 [citing *Morfe v. Mutuc*, supra note 43; *Gordon v. Sabio*, 535Phil. 687 (2006)].
[49] *Manila Electric Co. v. Lim*, G.R. No. 184769, 5 October 2010, 632 SCRA 195, 202.
[50] *Roxas v. Arroyo*, G.R. No. 189155, 7 September 2010, 630 SCRA 211, 239.

The notion of informational privacy is still developing in Philippine law and jurisprudence. Considering that even the Latin American *habeas data*, on which our own Rule on the Writ of *Habeas Data* is rooted, finds its origins from the European tradition of data protection,[51] this Court can be guided by cases on the protection of personal data decided by the European Court of Human Rights (ECHR). Of particular note is *Leander v. Sweden,*[52] in which the ECHR balanced the right of citizens to be free from interference in their private affairs with the right of the state to protect its national security. In this case, Torsten Leander (Leander), a Swedish citizen, worked as a temporary replacement museum technician at the Naval Museum, which was adjacent to a restricted military security zone.[53] He was refused employment when the requisite personnel control resulted in an unfavorable outcome on the basis of information in the secret police register, which was kept in accordance with the Personnel Control Ordinance and to which he was prevented access.[54] He claimed, among others, that this procedure of security control violated Article 8 of the European Convention of Human Rights[55] on the right to privacy, as nothing in his personal or political background would warrant his classification in the register as a security risk.[56]

The ECHR ruled that the storage in the secret police register of information relating to the private life of Leander, coupled with the refusal to allow him the opportunity to refute the same, amounted to an interference in his right to respect for private life.[57] However, the ECHR held that the interference was **justified** on the following grounds: (a) the personnel control system had a legitimate aim, which was the protection of national

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[51] Guadamuz, A. "Habeas Data vs the European Data Protection Directive," 2001 (3) *The Journal of Information, Law and Technology (JILT)*. <http://www2.warwick.ac.uk/fac/soc/law/elj/jilt/2001_3/guadamuz/>
[52] 26 March 1987, 9 EHRR 433.
[53] Para. 10.
[54] Paras. 12-13, 15-17, 19.
[55] Article 8. 1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder of crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
[56] Para. 47.
[57] Para. 48.

security,[58] and (b) the Personnel Control Ordinance gave the citizens adequate indication as to the scope and the manner of exercising discretion in the collection, recording and release of information by the authorities.[59] The following statements of the ECHR must be emphasized:

> 58. **The notion of necessity implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim pursued** (see, inter alia, the Gillow judgment of 24 November 1986, Series A no. 109, p. 22, § 55).
>
> 59. However, the Court recognises that the national authorities enjoy a margin of appreciation, the scope of which will depend not only on the nature of the legitimate aim pursued but also on the particular nature of the interference involved. In the instant case, **the interest of the respondent State in protecting its national security must be balanced against the seriousness of the interference with the applicant's right to respect for his private life.**
>
> There can be no doubt as to the necessity, for the purpose of protecting national security, for the Contracting States to have laws granting the competent domestic authorities power, firstly, to collect and store in registers not accessible to the public information on persons and, secondly, to use this information when assessing the suitability of candidates for employment in posts of importance for national security.
>
> Admittedly, the contested interference adversely affected Mr. Leander's legitimate interests through the consequences it had on his possibilities of access to certain sensitive posts within the public service. On the other hand, the right of access to public service is not as such enshrined in the Convention (see, inter alia, the Kosiek judgment of 28 August 1986, Series A no. 105, p. 20, §§ 34-35), and, apart from those consequences, the interference did not constitute an obstacle to his leading a private life of his own choosing.
>
> In these circumstances, the Court accepts that the margin of appreciation available to the respondent State in assessing the pressing social need in the present case, and in particular in choosing the means for achieving the legitimate aim of protecting national security, was a wide one.
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> 66. **The fact that the information released to the military authorities was not communicated to Mr. Leander cannot by itself warrant the conclusion that the interference was not "necessary in a democratic society in the interests of national security", as it is the very absence of such communication which, at least partly, ensures the efficacy of the personnel control procedure** (see, mutatis mutandis, the above-mentioned Klass and Others judgment, Series A no. 28, p. 27, § 58).

[58] Para. 49.
[59] Para. 56.

> The Court notes, however, that various authorities consulted before the issue of the Ordinance of 1969, including the Chancellor of Justice and the Parliamentary Ombudsman, considered it desirable that the rule of communication to the person concerned, as contained in section 13 of the Ordinance, should be effectively applied in so far as it did not jeopardise the purpose of the control (see paragraph 31 above).
>
> 67. The Court, like the Commission, thus reaches the conclusion that the safeguards contained in the Swedish personnel control system meet the requirements of paragraph 2 of Article 8 (art. 8-2). Having regard to the wide margin of appreciation available to it, the respondent State was entitled to consider that **in the present case the interests of national security prevailed over the individual interests of the applicant** (see paragraph 59 above). **The interference to which Mr. Leander was subjected cannot therefore be said to have been disproportionate to the legitimate aim pursued.** (Emphases supplied)

Leander illustrates how the right to informational privacy, as a specific component of the right to privacy, may yield to an overriding legitimate state interest. In similar fashion, the determination of whether the privilege of the writ of *habeas data*, being an extraordinary remedy, may be granted in this case entails a delicate balancing of the alleged intrusion upon the private life of Gamboa and the relevant state interest involved.

The collection and forwarding of information by the PNP vis-à-vis the interest of the state to dismantle private armies

The Constitution explicitly mandates the dismantling of private armies and other armed groups not recognized by the duly constituted authority.[60] It also provides for the establishment of one police force that is national in scope and civilian in character, and is controlled and administered by a national police commission.[61]

Taking into account these constitutional fiats, it is clear that the issuance of A.O. 275 articulates a legitimate state aim, which is to

[60] Constitution, Art. XVIII, Sec. 24.
[61] Constitution, Art. XVI, Sec. 6.

investigate the existence of PAGs with the ultimate objective of dismantling them permanently.

To enable the Zeñarosa Commission to achieve its goals, A.O. 275 clothed it with the powers of an investigative body, including the power to summon witnesses, administer oaths, take testimony or evidence relevant to the investigation and use compulsory processes to produce documents, books, and records.[62] A.O. 275 likewise authorized the Zeñarosa Commission to deputize the Armed Forces of the Philippines, the National Bureau of Investigation, the Department of Justice, the PNP, and any other law enforcement agency to assist the commission in the performance of its functions.[63]

Meanwhile, the PNP, as the national police force, is empowered by law to (a) enforce all laws and ordinances relative to the protection of lives and properties; (b) maintain peace and order and take all necessary steps to ensure public safety; and (c) investigate and prevent crimes.[64]

Pursuant to the state interest of dismantling PAGs, as well as the foregoing powers and functions accorded to the Zeñarosa Commission and the PNP, the latter collected information on individuals suspected of maintaining PAGs, monitored them and counteracted their activities.[65] One of those individuals is herein petitioner Gamboa.

This Court holds that Gamboa was able to sufficiently establish that the data contained in the Report listing her as a PAG coddler came from the PNP. Contrary to the ruling of the trial court, however, the forwarding of information by the PNP to the Zeñarosa Commission was **not** an unlawful act that violated or threatened her right to privacy in life, liberty or security.

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[62] A.O. 275, Sec. 5(a).
[63] A.O. 275, Sec. 5(f).
[64] Republic Act No. 6975, otherwise known as the Department of Interior and Local Government Act of 1990, Sec. 24(a), (b), (c).
[65] *Rollo*, p. 338; Report.

The PNP was rationally expected to forward and share intelligence regarding PAGs with the body specifically created for the purpose of investigating the existence of these notorious groups. Moreover, the Zeñarosa Commission was explicitly authorized to deputize the police force in the fulfillment of the former's mandate, and thus had the power to request assistance from the latter.

Following the pronouncements of the ECHR in *Leander*, the fact that the PNP released information to the Zeñarosa Commission without prior communication to Gamboa and without affording her the opportunity to refute the same cannot be interpreted as a violation or threat to her right to privacy since that act is an inherent and crucial component of intelligence-gathering and investigation. Additionally, Gamboa herself admitted that the PNP had a validation system, which was used to update information on individuals associated with PAGs and to ensure that the data mirrored the situation on the field.[66] Thus, safeguards were put in place to make sure that the information collected maintained its integrity and accuracy.

Pending the enactment of legislation on data protection, this Court declines to make any further determination as to the propriety of sharing information during specific stages of intelligence gathering. To do otherwise would supplant the discretion of investigative bodies in the accomplishment of their functions, resulting in an undue encroachment on their competence. However, to accord the right to privacy with the kind of protection established in existing law and jurisprudence, this Court nonetheless deems it necessary to caution these investigating entities that information-sharing must observe strict confidentiality. Intelligence gathered must be released exclusively to the authorities empowered to receive the relevant information. After all, inherent to the right to privacy is the freedom from "unwarranted

[66] Id. at 21-22, Appeal by Certiorari; id. at 364, Report.

exploitation of one's person or from intrusion into one's private activities in such a way as to cause humiliation to a person's ordinary sensibilities."[67]

In this case, respondents admitted the existence of the Report, but emphasized its confidential nature. That it was leaked to third parties and the media was regrettable, even warranting reproach. But it must be stressed that Gamboa failed to establish that respondents were responsible for this unintended disclosure. In any event, there are other reliefs available to her to address the purported damage to her reputation, making a resort to the extraordinary remedy of the writ of *habeas data* unnecessary and improper.

Finally, this Court rules that Gamboa was unable to prove through substantial evidence that her inclusion in the list of individuals maintaining PAGs made her and her supporters susceptible to harassment and to increased police surveillance. In this regard, respondents sufficiently explained that the investigations conducted against her were in relation to the criminal cases in which she was implicated. As public officials, they enjoy the presumption of regularity, which she failed to overcome.

It is clear from the foregoing discussion that the state interest of dismantling PAGs far outweighs the alleged intrusion on the private life of Gamboa, especially when the collection and forwarding by the PNP of information against her was pursuant to a lawful mandate. Therefore, the privilege of the writ of *habeas data* must be denied.

WHEREFORE, the instant petition for review is **DENIED**. The assailed Decision in Special Proc. No. 14979 dated 9 September 2010 of the Regional Trial Court, Laoag City, Br. 13, insofar as it denies Gamboa the privilege of the writ of *habeas data*, is **AFFIRMED**.

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[67] *Social Justice Society v. Dangerous Drugs Board*, G.R. Nos. 157870, 158633 and 161658, 3 November 2008, 570 SCRA 410, 431.

SO ORDERED.

MARIA LOURDES P. A. SERENO
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

(On official leave)
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On leave)
ARTURO D. BRION
Associate Justice

(On official business)
DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ROBERTO A. ABAD
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

(On leave)
JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296
The Judiciary Act of 1948, as amended)