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[G.R. No. 215650. March 28, 2023]

AUGUSTO L. SYJUCO, JR., *Petitioner*, *v.* **JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS; HONORITO D. CHANECO, in his capacity as ADMINISTRATOR OF LIGHT RAIL TRANSIT AUTHORITY; and RENATO Z. SAN JOSE, in his capacity as Officer-in-Charge of the METRO RAIL TRANSIT 3 OFFICE,** *Respondents*.

[G.R. No. 215653. March 28, 2023]

BAGONG ALYANSANG MAKABAYAN, represented by its SECRETARY GENERAL, RENATO REYES, JR.; TEODORO CASIÑO; MELQUIADES A. ROBLES; ELMER C. LABOG; SAMMY T. MALUNES; FERDINAND R. GAITE; VENCER CRISOSTOMO; JOSSEL I. EBESATE; GLORIA G. ARELLANO; HERMAN TIU LAUREL; MYRLEON E. PERALTA; AMORSOLO L. COMPETENTE; ELVIRA Y. MEDINA; MARIA DONNA GREY MIRANDA; ANGELO VILLANUEVA SUAREZ; JOSE SONNY G. MATULA; DAVID L. DIWA; JAMES BERNARD E. RELATIVO; AND GIOVANNI A. TAPANG, *Petitioners*, *v.* **JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS; RENATO Z. SAN JOSE, in his capacity as OFFICER-IN-CHARGE OF METRO RAIL TRANSIT 3 OFFICE; LIGHT RAIL TRANSIT AUTHORITY, represented by HONORITO D. CHANECO as ADMINISTRATOR; METRO RAIL TRANSIT CORPORATION; and LIGHT RAIL MANILA CORPORATION,** *Respondents*.

[G.R. No. 215703. March 28, 2023]

UNITED FILIPINO CONSUMERS AND COMMUTERS, INC., represented by its PRESIDENT, RODOLFO B. JAVELLANA, JR., *Petitioner*, *v.* **JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS; METRO RAIL TRANSIT CORPORATION; and LIGHT RAIL TRANSIT AUTHORITY,** *Respondents*.

[G.R. No. 215704. March 28, 2023]

BAYAN MUNA REPRESENTATIVE NERI JAVIER COLMENARES; BAYAN MUNA REPRESENTATIVE CARLOS ISAGANI ZARATE; ANTHONY IAN CRUZ; IMELDA V. LUNA; and CARL ANTHONY ALA, *Petitioners*, *v.* **JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS; LIGHT RAIL TRANSIT AUTHORITY; and RENATO Z. SAN JOSE, in his capacity as OFFICER-IN-CHARGE OF METRO RAIL TRANSIT 3 OFFICE,** *Respondents*.

[G.R. No. 216735. March 28, 2023]

JOSEPH VICTOR G. EJERCITO, JOSE L. ATIENZA, JR., IRWIN C. TIENG, MARIANO MICHAEL DEL MONTE VELARDE, JR., LEAH D. PAQUIZ, GUSTAVO S. TAMBUNTING, JESUS CRISPIN C. REMULLA, ALAN A. TANJUSAY, ALLAN S. MONTAÑO, LEODY Q. DE GUZMAN, RENATO B. MAGTUBO; and ANNIE E. GERON, *Petitioners*, *v.* **WINSTON M. GINEZ, in his capacity as CHAIRPERSON OF THE LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD; JOSEPH EMILIO A. ABAYA, in his capacity as SECRETARY OF DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS; RENATO Z. SAN JOSE, in in his capacity as OFFICER-**

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IN-CHARGE OF METRO RAIL TRANSIT 3 OFFICE; LIGHT RAIL TRANSIT AUTHORITY; METRO RAIL TRANSIT CORPORATION; and LIGHT RAIL MANILA CORPORATION, *Respondents*.

D E C I S I O N

LOPEZ, J., *J.*:

The doctrine in *Vigan Electric Light Company, Inc. v. Public Service Commission*[1] on dispensing with the requirements of notice and hearing when the administrative body acts in a quasi-legislative capacity does not apply in cases where the law itself expressly provides for the procedure and requirements for the validity of an administrative rule. In such cases, the Court—as the stronghold for the *Rule of Law*—has no other recourse but to apply the law.

This Court resolves the consolidated Petitions for *Certiorari* and/or Prohibition,[2] assailing the constitutionality of Department of Transportation and Communications *(DOTC)*[3] Department Order No. 2014-014 (*D.O. No. 2014-014*), which mandated the application of the "user-pays" principle and adopted a uniform base fare for the Light Rail Transit *(LRT)* Lines 1 and 2 and the Metro Rail Transit *(MRT)* Line 3 of PHP11.00 plus PHP1.00 per kilometer of distance traveled.

In the Resolution[4] dated March 10, 2015, this Court ordered the consolidation of G.R. Nos. 215650, 215653, 215703, 215704, and 216735.

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1 119 Phil. 304 (1964).

2 *Rollo* (G.R. No. 215650), Vol. I, pp. 3–24; *Rollo* (G.R. No. 215653), Vol. I, pp. 3–110; *Rollo* (G.R. No. 215703), Vol. I, pp. 3–39; *Rollo* (G.R. No. 215704), Vol. I, pp. 3–42; *Rollo* (G.R. No. 216735), Vol. I, pp. 3–153.

3 Renamed as the Department of Transportation by virtue of Republic Act No. 10844, also known as the "Department of Information and Communications Technology Act of 2015."

4 *Rollo* (G.R. No. 216735), Vol. I, p. 154.

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Petitioners alleged, in substance, that D.O. No. 2014-014 violates the due process clause of the Constitution as it was issued without prior notice and hearing.[5] They insisted that the effective 50 to 87% increase in the fare rates is ruthless, arbitrary,[6] and without basis in fact and in law.[7] Ultimately, they pray that D.O. No. 2014-014 be struck down as illegal and unconstitutional, and that respondents be permanently enjoined from implementing the provisions thereof.

A Brief History of the LRT and MRT Systems in the Philippines

During the 1970s, road traffic in Metro Manila had become so notorious and systematic that the government started exploring the possibility of introducing a modern mass transit system. The goal was to "relieve traffic congestion, improve the urban environment[,] and develop alternative economic and residential areas away from the city center."[8]

From 1976 to 1977, the World Bank funded a study conducted by Freeman Fox and Associates, which suggested a street-level light railway. Upon review of the then Ministry of Transportation and Communications *(MOTC)*, it recommended that because of the many intersections along the proposed route, an elevated light railway is the best option. In relation to this, the MOTC commissioned another foreign firm for a supplementary study that was completed within three months.[9]

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5 *Rollo* (G.R. No. 215653), Vol. III, pp. 1062–1063.

6 *Rollo* (G.R. No. 216735), Vol. II, p. 785.

7 *Rollo* (G.R. No. 215650), Vol. I, p. 11.

8 Ricardo T. Jose, Marco Stefan B. Lagman, Daniel L. Mabazza, Jose Regin F. Regidor, Jonathan M. Villasper, Planning Metro Manila's Mass Transit System <https://riles.upd.edu.ph/wp-content/uploads/2018/02/001-Planning-Metro-Manila_s-Transport-System_-Jose-Lagman-Mabazza-Regidor-Villasper.pdfs> accessed on April 10, 2022, citing Kawabata, Y. and Aoki, H. (2009) Republic of the Philippines Metro Manila Mass Rail Transit Development (I), (II), (III). Field Survey 2008-2009.

9 LRTA History, <https://www.lrta.gov.ph/lrta-history> accessed on April 10, 2022.

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On July 12, 1980, then President Ferdinand E. Marcos signed Executive Order No. 603 (*E.O. No. 603*), creating respondent Light Rail Transit Authority (*LRTA*), a government instrumentality vested with corporate powers[10] and an attached agency to the DOTC.[11] Under E.O. No. 603, the LRTA is "primarily responsible for the construction, operation, maintenance, and/or lease of light rail transit systems in the Philippines x x x."[12]

To finance the LRT project, the Philippines obtained from the Belgian government a soft and interest-free loan for PHP300,000,000.00 payable in 30 years. An additional loan in the amount of PHP700,000,000.00 was further provided by a Belgian consortium, which also provided cars, signaling, power control, telecommunications, training, and technical assistance.[13]

On December 1, 1984, the LRT-Taft Avenue Line was officially opened to the public. Today, the LRT Line 1 *(LRT-1)* is a 19.65-kilometer elevated railway system servicing 19 stations[14] along the route of Taft Avenue in Baclaran, Pasay City to Roosevelt Station in Quezon City.[15] The LRTA originally managed the operations and maintenance of the LRT-1 until it was turned over to respondent Light Rail Manila Corporation *(LRMC)*, pursuant to a 32-year concession agreement executed in September 2015 between the now Department of Transportation *(DOTr)*, LRMC, and the LRTA.[16]

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[10] *Light Rail Transit Authority v. Quezon City*, 864 Phil. 963, 981 (2019).

[11] Administrative Code, Book IV, Title XV, Chapter 6, Sec. 24.

[12] Executive Order No. 603 (1980), Sec. 2.

[13] LRTA History <https://www.lrta.gov.ph/lrta-history> accessed on April 10, 2022.

[14] The Roosevelt Station of LRT-1 is temporarily closed since September 2020 for the construction of the common station that will connect the LRT-1, MRT Line 3, and the MRT Line 7, which is expected to open by 2022. <https://www.philstar.com/nation/2020/08/08/2033672/lrt-1-close-roosevelt-station> accessed on April 10, 2022.

[15] LRTA History <https://www.lrta.gov.ph/lrta-history> accessed on April 10, 2022.

[16] LRMC Company Profile <https://lrmc.ph/about/company-profile/> accessed on April 10, 2022.

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Meanwhile, in 1996, construction for the LRT Line 2 *(LRT-2)*, popularly known as *The Megatren*, began. The PHP31-billion-peso construction was funded by soft loans secured mainly from the Japan Bank for International Corporation.[17] Phase One of the LRT-2 covering the stations of Santolan, Katipunan, Anonas, and Araneta Center-Cubao began operations on April 5, 2003, while Phase Two servicing stations from Betty Go-Belmonte to Legarda was inaugurated on April 5, 2004.[18] The LRT-2 East Extension Project, which added two new stations in Marikina-Pasig and Antipolo, respectively, was inaugurated on July 1, 2021 and was opened to the public in the same month.[19] The operations and maintenance of the LRT-2 is under the management of the LRTA.

The MRT Line 3 *(MRT-3)*, on the other hand, is a 16.9-kilometer modern rail system traversing the stretch of Epifanio Delos Santos Avenue *(EDSA)*, with stations from North Avenue in Quezon City to Taft Avenue in Pasay City. It was intended to alleviate the chronic traffic congestion along EDSA.[20] In 1992, the DOTC entered into a Build-Lease-and-Transfer Agreement *(BLT Agreement)* with EDSA LRT Corporation LTD for the construction of the MRT-3 system. EDSA LRT Corporation LTD was later purchased by respondent Metro Rail Transit Corporation *(MRTC)*, which then began the construction of the MRT-3 in 1996.[21] On August 8, 1997, a revised BLT Agreement was signed between the DOTC and the MRTC, under which the MRTC will own, build, and

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[17] LRTA History <https://www.lrta.gov.ph/lrta-history> accessed on April 10, 2022.

[18] LRT Line 2 Operations and Maintenance Project Information Memorandum <https://ppp.gov.ph/wp-content/uploads/2014/08/LRT2-OM-ProjectInfoMemo-FINAL.pdf> accessed on April 10, 2022.

[19] PHL President Duterte LRT-2 inaugurates East Extension Project <https://www.lrta.gov.ph/phl-president-duterte-inaugurates-lrt-2-east-extension-project/> accessed on April 10, 2022.

[20] DOTR MRT 3 History <http://www.dotrmrt3.gov.ph/about> accessed on April 10, 2022.

[21] History of MRT 3 <http://www.mrt3.com/index.php/menu-about.html> accessed on April 10, 2022.

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maintain the system, while the DOTC will hold the franchise and run the operations, including the collection of fares.[22] The MRT-3 was officially completed and inaugurated for full operations on July 20, 2000.[23]

Demand for the rail transit systems has consistently grown over its years of operation. According to the 2014 Annual Report of the LRTA, LRT-1 carried a total of 170.73 million passengers, while the LRT-2 ferried a total of 72.85 million riders that year. The daily average passenger ridership for both systems was 475,798 and 201,794, respectively.[24] Based on the report, moreover, ridership for LRT-1 and LRT-2 has continually increased over the past five years, suggesting the commuting public's preference over the rail system due to its affordability and efficiency.[25] Meanwhile, the MRT-3 transported a total of 167.82 million passengers in 2014, with an average daily ridership of 464,871,[26] over the capacity of the system that was designed to carry 360,000 to 380,000 passengers only.[27]

Antecedents of D.O. No. 2014-014

The operations of the LRT and the MRT are, as a policy, subsidized by the national government to maintain affordable fares and boost ridership. In 2014, the LRTA was allotted a budget of PHP9,567,612,000.00 to augment its income for payment of

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[22] DOTR MRT 3 History <http://www.dotrmrt3.gov.ph/about> accessed on April 10, 2022.

[23] *Id.*

[24] 2014 LRTA Annual Report <https://www.lrta.gov.ph/wp-content/uploads/2021/03/Annual-Report-2014.pdf> accessed on April 10, 2022.

[25] *Id.*

[26] MRT 3 Daily Average Ridership 1999-2016 <https://dotr.gov.ph/railways-sector/mrt/ridership.html#mrt3-daily-average-ridership-1999-2020> accessed on April 10, 2022.

[27] Abaya: MRT-3 Operating at Overcapacity <https://news.abs-cbn.com/nation/metro-manila/02/26/14/abaya-mrt-3-operating-over-capacity> accessed on April 10, 2022.

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personnel services, maintenance and other operating expenses, as well as capital outlay and debt servicing.[28] Meanwhile, the MRT-3 was allotted PHP4,091,473,000.00[29] as subsidy for mass transport, which shall be used in case its fare box revenue and non-rail income is not sufficient to cover the amount needed for payment of prior and current years' equity rental and maintenance fees and other obligations to the MRTC.[30]

In view of reducing government subsidy, the Office of the President, on August 5, 2010, directed the LRTA to conduct a comparative study on the operating costs of the LRT and the MRT *vis-à-vis* public utility buses.[31] On August 25, 2011, the LRTA management presented the result of the study to the LRTA Board for its consideration. Upon request of the LRTA Board, DOTC Assistant Secretary George Esguerra also presented a report based on the Transportation Society of the Philippines's review, which it made as part of its volunteer work with the DOTC. Thereafter, the LRTA Board instructed the LRTA management to conduct a joint study with Assistant Secretary Esguerra *(the Team)*. In September 2010, the Team presented their Fare Rationalization Study Report to the LRTA management.[32] The DOTC presented the report to the top officials of the DOTC and the LRTA Board

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[28] LRTC Corporate Budget for Calendar Year 2014 as approved by the Department of Budget and Management <https://www.lrta.gov.ph/wp-content/uploads/2020/12/COB-2014.pdf> accessed on April 10, 2022.

[29] Details of FY 2014 Budget, Title XXIII. Sec. A.

[30] General Appropriations Act of 2014, Title XXIII, Special Provisions:

4. Servicing of Metro Rail Transit Obligations. The amount needed for the payment of prior and current years' obligations for equity rental and maintenances fees and other obligations, such as, staffing and administrative cost, agency fee, cost for special repairs, and systems insurance due to the Metro Rail Transport Corporation (MRTC), as specified in the build-lease-and-transfer agreement executed between the DOTC and MRTC, shall be charged against the fare box revenue and all non-rail collections/income of the Metro Rail Transit (MRT) 3: PROVIDED, That in case of insufficient collections/income, the same may be augmented by the amounts appropriated herein for mass transport subsidy.

[31] *Rollo* (G.R. No. 215650), Vol. I, p. 114.

[32] Id.

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during its meeting in October 2010.[33] On October 27, 2010, the Secretary of Finance, the Secretary of Budget and Management, the Secretary of Transportation and Communications, and the Secretary of Socio-Economic Planning *(economic managers)* executed a Memorandum for the President regarding the LRT fare adjustment.[34]

Eventually, the study report was submitted to the LRTA Board for its approval during its regular meeting on January 11, 2011. During the meeting, the LRTA Board provisionally approved the fare adjustment of PHP11.00 boarding fare plus PHP1.00/km, with the corresponding fare matrices, subject to a public consultation to be held on two occasions—February 4 and 5, 2011.[35]

The LRTA management published the Notice of Public Consultation in the Philippine Daily Inquirer on January 20, 2011 and in The Manilla Bulletin on January 27, 2011.[36] On February 24, 2011, the LRTA Administrator issued a Memorandum to the LRTA Board on the Report on the Public Consultation Conducted for the LRTA's Fare Adjustment and Request for Approval of Management's Recommendation for a Revised Fare Legal for LRT-1 and LRT-2.[37] The Report suggested that the proposed fare adjustment was not acceptable to the public.[38]

After duly considering the result of the public consultation, the LRTA Board approved its fare adjustment of distance-based fare scheme of PHP11.00 plus PHP1.00/km with the 20% student discount, to be implemented after consultation with the LTFRB and 30 days from the last day of proper publication. On April 20, 2011, the LTFRB concurred with the approved PHP11.00 plus PHP1.00/km fare adjustment and granting of a 20% student

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[33] Id. at 114 and 105.

[34] Id. at 1000.

[35] Id. at 114 and 105.

[36] Id.

[37] *Rollo* (G.R. No. 215650), Vol. II, p. 1000.

[38] *Rollo* (G.R. No. 215650), Vol. I, p. 118.

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discount. Yet, on May 9, 2011, the LRTA Board and the DOTC decided to indefinitely defer the implementation of the fare increase.[39]

During its meeting on June 26, 2013, the LRTA Board approved anew the PHP11.00 plus PHP1.00/km fare adjustment for LRT-1 and LRT-2 but withdrew the 20% discount for students. During former President Benigno Simeon Aquino III's State of the Nation Address *(SONA)* on July 22, 2013, he reiterated the need to adjust the LRTA's and MRTC's fares so that the government subsidy for the MRTC and the LRTA can be used for other social services.[40] In a Secretary's Certificate dated November 26, 2013, the LRTA Board affirmed the PHP11.00 plus PHP1.00/km fare adjustment for LRT-1 and LRT-2, as previously approved in 2011. The 1st step fare adjustment was scheduled to be implemented on August 1, 2013, while the 2nd step implementation shall be decided after the public consultation.[41] Therefore, another public consultation was held on December 12, 2013.[42]

On December 18, 2013, the LRTA Board confirmed the LRT fare adjustment using the PHP11.00 plus PHP1.00/km formula, subject to consultation with the LTFRB.[43] In a letter dated December 19, 2013, the LTFRB Chairman signified that the LTFRB had no objections to the fare adjustment.[44]

On December 18, 2014, public respondent DOTC Secretary Jose Emilio A. Abaya issued D.O. No. 2014-014.[45] It was published in the Philippine Daily Inquirer on December 20, 2014 and became effective 15 days after, or on January 4, 2015.[46] D.O. No. 2014-014

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[39] *Rollo* (G.R. No. 215650), Vol. II, pp. 1000–1001.

[40] *Id.*

[41] *Rollo* (G.R. No. 215650), Vol. I, p. 122.

[42] *Id.* at 131–132.

[43] *Id.* at 124.

[44] *Id.* at 134.

[45] *Rollo* (G.R. No. 215653), Vol. I, p. 84.

[46] *Rollo* (G.R. No. 215650), Vol. I, p. 70.

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states that the imposition of the uniform base fare of PHP11.00 plus PHP1.00 per kilometer of distance traveled is in accordance with the LRTA's Board Resolution, as concurred in by the Land Transportation Franchising Regulatory Board *(LTFRB)* and recommended by the MRT-3 Office.

D.O. No. 2014-014 effectively increased the total fare per ride for all the three rail systems by 50% to 87%. Prior to its issuance, single-journey fares for the LRT-1, LRT-2, and the MRT-3 range from PHP12.00 to PHP20.00, PHP12.00 to PHP15.00, and PHP10.00 to PHP15.00, respectively. Under D.O. No. 2014-014, the new fare ranges are PHP15.00 to PHP30.00, PHP15.00 to PHP25.00, and PHP13.00 to PHP28.00.[47] It is the first increase for the LRT-2 and the MRT-3 since formal operations began, and the most recent for the LRT-1 since 2003.

The Petitions Before this Court

Following the issuance of D.O. No. 2014-014 are the consolidated Petitions filed before this Court assailing the constitutionality and legality of the fare increase mandated by the DOTC.

Petitioners are former and present members of the House of Representatives;[48] labor groups and unions[49] and/or their members and officers;[50] as well as citizens, taxpayers, and regular commuters.[51] They argue that they have the standing to question the validity of D.O. No. 2014-014 because the riding public in general "actually and specifically suffer direct and substantial

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[47] *Id.* at 133.

[48] *Rollo*, (G.R. No. 215704), Vol. I, pp. 10-11; *Rollo* (G.R. No. 216735), Vol. I, pp. 10–11.

[49] *Rollo* (G.R. No. 215653), Vol. I, p. 6; *Rollo* (G.R. No. 215703), Vol. I, p. 5.

[50] *Rollo* (G.R. No. 215653), Vol. I, pp. 7–8; *Rollo* (G.R. No. 216735), Vol. I, pp. 12-13.

[51] *Rollo* (G.R. No. 215650), Vol. I, p. 4; *Rollo* (G.R. No. 215653), Vol. I, pp. 7-8; *Rollo* (G.R. No. 215704), Vol. I, pp. 10–11; *Rollo* (G.R. No. 216735), Vol. I, p. 11.

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injury" as a result of the implementation of the fare increase in the LRT and the MRT.[52] Thus, they meet the requirement of the direct injury test, as they are directly affected by the "untimely, unreasonable, arbitrary, and capricious imposition of the fare hikes."[53]

Petitioners also argue that a direct invocation of this Court's jurisdiction is justified in the present case. They assert that the petitions fall under the exceptions to the principle of hierarchy of courts since they raise issues affecting the public in general and the advancement of public interests.[54] Thus, these are matters of transcendental importance that involve genuine constitutional issues which are for the Court to resolve.[55]

In the same vein, petitioners contend that the present case is an exception to the application of the doctrine of exhaustion of administrative remedies because D.O. No. 2014-014 is a patent nullity, the "implementation of which is detrimental to public interest." Moreover, there is no other plain, speedy, and adequate remedy to address the issues raised by petitioners.[56]

Petitioners also aver that *certiorari* and prohibition under Rule 65 of the Rules of Court are the proper vehicles to assail the constitutionality of D.O. No. 2014-014. They argue that public respondents, in issuing D.O. No. 2014-014, exceeded their authority as conferred by law and acted in violation of the prescribed procedure for the setting of public transportation fares.[57] Further, the issuance of D.O. No. 2014-014 is quasi-judicial in nature, correctible through *certiorari*.[58]

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[52] *Rollo* (G.R. No. 215650), Vol. III, p. 1046.

[53] *Rollo* (G.R. No. 215703), Vol. I, pp. 6–9.

[54] *Rollo* (G.R. No. 216735), Vol. II, p. 790.

[55] *Rollo* (G.R. No. 215653), Vol. III, pp. 1049–1050.

[56] *Rollo* (G.R. No. 215704), Vol. II, pp. 807–808.

[57] *Rollo* (G.R. No. 216735), Vol. II, p. 746.

[58] *Rollo* (G.R. No. 215653), Vol. III, p. 1052.

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On the merits, petitioners claim that the DOTC Secretary has no power to implement a fare increase for the LRT and the MRT. Under Executive Order No. 202 issued on June 19, 1987, the quasi-judicial powers and functions to adjudicate fare adjustments were transferred from the DOTC to the LTFRB.[59] Moreover, the operation of the LRT and the MRT is subject to the same regulatory impositions applicable to public services under Commonwealth Act No. 146 (*CA No. 146*).[60] Here, the DOTC did not comply with the requirements for fixing and determination of rates provided in Section 16 (c) of CA No. 146.[61] Neither does the LRTA have the power to approve fare increases for the light rail system in the absence of a delegation of legislative authority in its favor.[62]

Petitioners also posit that D.O. No. 2014-014 was issued without the required notice and hearing in violation of the due process clause and the right to full public disclosure under the Constitution. What transpired during the so-called public consultation on December 12, 2013 by the DOTC was merely a presentation of the new fare matrix of the LRT and the MRT, without meaningful public participation. Thus, petitioners' right to information on matters of public concern was similarly violated since the basis of the fare adjustment was not made public. More importantly, D.O. No. 2014-014 violates the state policy of protecting the rights of workers and promoting their welfare under Section 18, Article II of the Constitution. The fare increase will diminish the measly salary of the laborers earning minimum wage or below who represent majority of the ridership of the LRT and the MRT.[63]

Finally, petitioners argue that the fare increase is not necessary because the legislature already granted the DOTC an approved

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[59] *Rollo* (G.R. No. 216735), Vol. II, p. 779.

[60] *Rollo* (G.R. No. 215650), Vol. II, p. 1054.

[61] *Rollo* (G.R. No. 216735), Vol. II, p. 784.

[62] *Rollo* (G.R. No. 215704), Vol. II, p. 816.

[63] *Rollo* (G.R. No. 216735), Vol. II, pp. 774–778.

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total agency budget of PHP2.65 billion for 2015 and an additional supplemental budget amounting to PHP1.207 billion for 2014, which included an allocation to supplement the ridership of the LRT and the MRT and to pay for the maintenance, repairs, and rehabilitation of both rail systems.[64]

Petitioners pray that D.O. No. 2014-014 be declared null and void and that respondents be enjoined from further implementing the fare increase provided thereunder.[65]

For their part, public respondents counter that petitioners have no standing to bring the present suit for failure to establish direct injury as a result of the issuance of D.O. No. 2014-014. The fare increase under D.O. No. 2014-014 only implements a reduction of government subsidy, the grant of which is not a legally demandable right. Petitioners-legislators similarly do not have the standing to file the present case since there is no allegation of usurpation of the powers of Congress. Finally, petitioners cannot invoke their status as taxpayers, since D.O. No. 2014-014 is neither a tax measure nor a form of disbursement of public funds.[66]

Anent the propriety of the present petitions, LRMC avers that the remedies of *certiorari* and prohibition are not proper modes to review and question the executive department's economic policy decisions, including which sectors of the society or activities of the government to subsidize. No one has a vested right to a government subsidy, and its grant or withdrawal is purely a discretionary prerogative of the executive and judicial departments.[67]

On substantive issues, respondents argue that it is the DOTC and the LRTA which have the authority to determine the fare rates of the MRT and the LRT, respectively. Contrary to petitioners'

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[64] *Id.* at 777.

[65] *Rollo* (G.R. No. 215650), Vol. I, p. 16; *Rollo* (G.R. No. 215653), Vol. I, p. 58; *Rollo* (G.R. No. 215703), Vol. I, p. 26; *Rollo* (G.R. No. 215704), Vol. I, p. 30; *Rollo* (G.R. No. 216735), Vol. I, p. 48.

[66] *Rollo* (G.R. No. 215650), Vol. II, pp. 976–977.

[67] *Rollo* (G.R. No. 215650), Vol. III, pp. 1192–1193.

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assertion, the determination of the fare rates of the LRT and the MRT is governed by E.O. No. 292, otherwise known as the Administrative Code of 1987, and the LRTA Charter, and not by CA No. 146.[68]

The LRTA adds that, not being a regulatory body with quasi-judicial function, its power is quasi-legislative in nature where notice and hearing is not a requirement of due process. Nevertheless, the LRTA complied with the requirement of public participation under Section 9, Chapter 2, Book VII of the Administrative Code of 1987 when it published the Notice of Public Consultation twice for the February 4 and 5, 2011 public consultations, and twice for the December 21, 2013 public consultation.[69]

Respondents insist that the fare adjustment under D.O. No. 2014-014 is merely a reduction of government subsidy. On this score, petitioners have no right to demand that the current levels of subsidy from the government for the LRT and the MRT be maintained. The adoption of the user-pays principle is also pursuant to the 2011 to 2016 Medium-Term Philippine Development Plan and was "envisioned to result in an equitable distribution of government funds currently dedicated to [subsidizing] the operations of the [LRT/MRT] rail lines in Metro Manila to much-needed development projects and relief operations in other parts of Luzon, the Visayas, and Mindanao."[70] Thus, the decision to grant subsidies is a discretionary question and a non-ministerial prerogative of the executive and legislative department which cannot be enjoined or compelled.[71] What petitioners dispute in the present case is the wisdom of extending or withholding government subsidies, a policy question over which the Court has no jurisdiction.[72]

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[68] *Rollo* (G.R. No. 216735), Vol. II, pp. 864–866.

[69] *Id.* at 887–890.

[70] *Rollo* (G.R. No. 215650), Vol. II, pp. 983–986.

[71] *Rollo* (G.R. No. 215650), Vol. III, pp. 1178–1179.

[72] *Id.* at 1184.

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Respondents pray that the consolidated Petitions be denied for lack of merit.

In the Resolution[73] dated August 23, 2022, this Court required the parties to move in the premises and update Us on the current situation regarding the rates in the LRT, and whether the fares were charged to commuters, within 30 days from notice.

In their Joint Manifestation and Compliance[74] dated December 19, 2022 in G.R. Nos. 215653 and 215704, petitioners, through counsel, manifested that the LRMC petitioned for a fare increase in 2016, 2018, and 2022, which were all denied by the government. This prompted the LRMC to file an arbitration request with the International Chamber of Commerce on May 6, 2022 against the DOTC and the LRTA in a disclosure made by the Metro Pacific Investments Corporation which holds a stake in the LRMC. The LRMC claimed that as of March 31, 2022, the money claims for fare differentials and losses, costs, and expenses amounted to approximately PHP2.67 billion. These are in addition to the long overdue fare adjustments which the LRMC asserts it is authorized to do every two years under its concession agreement. Petitioners emphasized that the fares for LRT-1, LRT-2, and MRT-3 have remained the same as it were in 2015.[75]

Meanwhile, the LRTA, in its Compliance[76] dated December 19, 2022, also stated that the fares being implemented in LRT-1 and LRT-2 today are still based on the formula provided in D.O. No. 2014-014. The LRTA likewise confirmed the ongoing arbitration request filed by the LRMC against it and the DOTC before the International Chamber of Commerce.

The Issues

For this Court's resolution are the following issues:

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[73] *Rollo* (G.R. No. 215650), Vol. IV, p. 1665.

[74] *Id.* at 1691–1705.

[75] *Id.* at 1693–1694.

[76] Not yet attached to the *rollo*.

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First, whether the present case is justiciable. Subsumed under this issue are the following:

1. Whether the remedies of *certiorari* and prohibition are proper;
2. Whether the consolidated Petitions were filed in violation of the principle of hierarchy of courts and the doctrine of exhaustion of administrative remedies;
3. Whether the issues raised are policy questions over which the Court has no jurisdiction;
4. Whether the case is ripe for adjudication; and
5. Whether petitioners have the requisite standing to file their respective Petitions.

Second, whether D.O. No. 2014-014 is valid and constitutional. This involves the resolution of:

1. Whether the DOTC or the LRTA has the power to regulate the fares for the MRT and the LRT, respectively;
2. Whether the issuance of D.O. No. 2014-014 requires notice and hearing; and
3. Whether the fare increase is reasonable.

This Court's Ruling

The present Petitions must be DISMISSED.

I.

The Judiciary is a stronghold for the *Rule of Law*. Because it can view issues through the lens of objectivity and isolate itself from political tension and external influences,[77] the Judiciary is a refuge that society can trust to dispense justice and carry out noble principles like due process and even equity, in appropriate circumstances. Consistent with the tripartite allocation of powers, the Judiciary will neither inquire into the wisdom of the law[78] nor

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[77] Rene B. Gorospe, Political Law 546 (2016 Edition).

[78] *Tañada v. Tuvera*, 230 Phil. 528, 537 (1986).

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engage in socio-economic or political experimentations.[79] The Judiciary is only concerned with what the law says, and when called upon to exercise judicial power, it will not hesitate to say what the law is.[80] The extent of judicial power was best enunciated in *Marbury v. Madison*:[81]

> It is emphatically the province and duty of the Judicial Department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the Courts must decide on the operation of each.
>
> So, if a law be in opposition to the Constitution, if both the law and the Constitution apply to a particular case, so that the Court must either decide that case conformably to the law, disregarding the Constitution, or conformably to the Constitution, disregarding the law, the Court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.[82]

In a century of uncertainty, with the political climate being in a state of flux, the Court's exercise of judicial review is powerful enough to bring balance and restore equilibrium.[83] It can rein in the unauthorized exercise of power by the legislative or executive branches of government.[84]

Certiorari as the appropriate remedy

Section 1, Article VIII of the 1987 Constitution on the power of judicial review serves as the Court's guide to determine the propriety of seeking redress from the Court. Thus:

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[79] *Atong Paglaum, Inc. v. Commission on Elections*, 707 Phil. 454, 549 (2013).

[80] *Marbury v. Madison*, 5 U.S. 137, 177 (1803), also cited in RENE B. GOROSPE, POLITICAL LAW 546 (2016).

[81] 5 U.S. 137 (1803).

[82] *Id.* at 177–178.

[83] Separate Opinion of Associate Justice Renato C. Corona in *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 1022 (2003), also cited in RENE B. GOROSPE, POLITICAL LAW 557 (2016).

[84] *Id.*

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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.

From the foregoing flows the Court's power to not only settle actual controversies involving rights which are legally demandable and enforceable but also determine if any branch or instrumentality of the government has acted beyond the scope of its powers.[85] The latter is known as the expanded scope of judicial power.

The driving force behind the evolution of a court's judicial power varies depending on jurisdiction. Here, the court's judicial power was ushered in by a deep, dark, and disturbing past—"the use and abuse of the political question doctrine during the martial law era under former President Ferdinand Marcos."[86] The past may have been bleak, nonetheless, this Court's expanded scope of judicial power shaped the landscape of the Philippine judiciary and ensured "the potency of the power of judicial review to curb grave abuse of discretion by any branch or instrumentality of the government."[87] Indeed, the parties must not think the judiciary is too weak, as to put the other branches of government beyond its reach, or too strong, as to engage in judicial legislation. As a guardian of the law and the Constitution, it is the judiciary's duty to ease any tension in the separation of powers and harmonize the tripartite allocation thereof.

To address grave abuse of discretion by any government branch or instrumentality, parties can invoke Sections 1 and/or 2, Rule 65 of the Rules of Court, which provides:

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[85] *Kilusang Mayo Uno et al. v. Hon. Aquino et al.*, 850 Phil. 1168, 1181–1182 (2019).

[86] *Id.* at 1182.

[87] *Id.*, citing *Francisco, Jr. v. The House of Representatives*, 460 Phil. 830, 883 (2003).

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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, or 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.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the paragraph of Section 3, Rule 46.

SECTION 2. *Petition for Prohibition*.—When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are 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 or any other 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 commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

Textually, Sections 1 and 2 above refer only to the acts or proceedings of a tribunal, board, or officer exercising judicial, quasi-judicial, or ministerial functions. It is well-settled, however, that an administrative agency may exercise either quasi-judicial or quasi-legislative powers, or a mixture of both.[88] Thus, parties are often confounded about the proper remedy to assail the validity or constitutionality of a rule or regulation issued by an

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[88] *Holy Spirit Homeowners Association, Inc. v. Sec. Defensor*, 529 Phil. 573, 585 (2006).

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administrative agency in the performance of its quasi-legislative functions. Certainly, the capacity in which the administrative agency exercises its power affects a party's appropriate remedy to assail its acts or proceedings.[89]

Quasi-legislative versus quasi-judicial powers of administrative agencies

In the present case, the DOTC, being an administrative agency,[90] issued D.O. No. 2014-014 pursuant to its quasi-legislative powers. In arguing that *certiorari* is the appropriate remedy to question the validity of D.O. No. 2014-014, petitioners assert that the DOTC Secretary usurped a quasi-judicial function.[91] They allege that in issuing D.O. No. 2014-014, the DOTC had to determine facts and circumstances to establish a just and reasonable ground to allow the fare increase.[92] Private respondent LRMC, on the other hand, contests the propriety of prohibition and *certiorari* as remedies to challenge the validity of D.O. No. 2014-014.[93] According to it, *certiorari* and prohibition are not available as a means to review and question the executive department's economic or governance policy decisions as to what sectors or activities merit government support through subsidies, which are exclusively executive and legislative prerogative decisions.[94]

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[89] *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, G.R. No. 200418, November 10, 2020.

[90] See Administrative Code, Introductory Provisions, Secs. 2(4) and (7). An agency of the government refers to any of the various units of the Government, including a department, which refers to an executive department created by law. See also ADM. CODE, BOOK IV, TITLE XV, CHAPTER 1, where the DOTC is listed as one of the departments under the Executive Branch.

[91] *Rollo* (G.R. No. 215650), Vol. III, p. 1052.

[92] *Id.*

[93] *Id.* at 1192.

[94] *Id.*

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In *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*,[95] this Court differentiated between quasi-judicial and quasi-legislative functions:

> Quasi-judicial or adjudicatory functions refer to "the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law." Quasi-legislative or rule-making functions refer to "the power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the doctrine of non-delegability and separability of powers."[96]

Here, public respondent DOTC Secretary Abaya was exercising rule-making functions when he issued D.O. No. 2014-014. Section 3(15), Chapter 1, Title XV, Book IV of the Administrative Code of 1987 authorizes the DOTC to determine, fix, or prescribe charges or rates pertinent to the operation of land transportation utility facilities and services. The power to fix rates is also a result of delegated legislation. As early as 1991, this Court, citing the *Shreveport Rate Cases*,[97] had already characterized rate-fixing as an act of Congress, which may exercise the power to delegate.[98]

Ordinarily, regular courts have the jurisdiction to pass upon the validity or constitutionality of a rule or regulation issued by an administrative agency in the performance of its quasi-legislative function.[99] For instance, this Court, in *Smart Communications, Inc. v. National Telecommunications Commission*[100] ruled that since

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[95] *Supra* note 89.

[96] *Id.*

[97] *Houston East and West Texas Railway Company v. United States*, 234 U.S. 342 (1914).

[98] *Employers Confederation of the Philippines v. National Wages and Productivity Commission*, 278 Phil. 747, 753 (1991).

[99] *Smart Communications, Inc. v. National Telecommunications Commission*, 456 Phil. 145, 158 (2003).

[100] 456 Phil. 145 (2003).

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the National Telecommunications Commission *(NTC)* issued Memorandum Circular No. 13-6-2000 and the Memorandum dated October 6, 2000 in the exercise of its quasi-legislative or rule-making power, petitioners therein correctly lodged an action for declaration of nullity in the Regional Trial Court *(RTC)*. *Certiorari* petitions also often get confused with ones for declaratory relief. In the dissent of our esteemed colleague, Senior Associate Justice Marvic M.V.F. Leonen, in *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*,[101] he noted that the confusion with *certiorari* may have been caused by actions that were acted upon by the court as *certiorari* petitions but should have really been considered as ones for declaratory relief.[102]

Assimilating the thrust of our jurisprudence[103] on the matter so far, what is clear is that whether the action of the administrative

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[101] 802 Phil. 116 (2016).

[102] In his dissent, Justice Leonen cited *Spouses Imbong v. Hon. Ochoa et al.*, 732 Phil. 1 (2014) and *Disini, Jr. et al. v. The Secretary of Justice*, 727 Phil. 28 (2014), where the Court took cognizance of the petitioners despite having no actual controversies yet.

[103] See *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, G.R. No. 200418, November 10, 2010, *supra* note 89, a case that sanctioned the use of *certiorari* and prohibition as remedies to assail the action of an administrative agency in the exercise of its quasi-legislative power *(Confederation)*. See also *DENR Employees Union v. Abad*, G.R. No. 204152, January 19, 2021, where the Court recognized that although Budget Circular No. 2011-5 was issued by the Department of Budget and Management Secretary's rule-making or quasi-legislative functions, the Court's judicial power under Article VIII, Section 1 of the 1987 Constitution is broad enough "to include the determination of 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 even in their exercise of legislative and quasi-legislative functions." *But see Private Hospitals Association of the Philippines, Inc. v. Medialdea*, 842 Phil. 747 (2018), which, although recognizing *certiorari* and prohibition as proper legal vehicles to assail the constitutionality of R.A. No. 10932, nevertheless, dismissed the petition for failing to satisfy the requirements of the exercise of the Court's expanded scope of judicial power.

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agency is in the exercise of its quasi-judicial or quasi-legislative power, the Court has taken the invocation of Sections 1 and/or 2 of Rule 65 to include the expanded scope of judicial power.[104] This means they are "appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify, when proper, acts of legislative and executive officials."[105] As long as petitioner can *prima facie*[106] show that the governmental branch or instrumentality has gravely abused its discretion amounting to lack or excess of jurisdiction, and has overstepped the delimitations of its powers, the courts may "set right, undo, or restrain"[107] such act by way of *certiorari* and prohibition.[108]

Direct invocation of the Court's jurisdiction and the doctrine of hierarchy of courts

That being said, the foregoing discussion does not excuse petitioners from complying with the doctrine of hierarchy of courts. This Court's, the Court of Appeals' *(CA)*, and the RTC's concurrent jurisdiction to issue writs of *certiorari*, prohibition, and similar writs does not give petitioners an unbridled discretion to choose any forum.[109] In *Private Hospitals Association of the Philippines, Inc. v. Medialdea*,[110] this Court explained the doctrine in greater detail:

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[104] *Kilusang Mayo Uno et al. v. Hon. Aquino, et al. supra* note 85, at 1183.

[105] *Francisco, Jr. et al. v. Toll Regulatory Board et al.*, 648 Phil. 54, 86 (2010).

[106] *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*, *supra* note 101, at 141.

[107] *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, *supra* note 89, citing *Araullo et al. v. Pres. Aquino et al.*, 737 Phil. 457, 531 (2014).

[108] *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, *supra* note 103.

[109] *Holy Spirit Homeowners Association, Inc. v. Sec. Defensor*, 529 Phil. 573, 587 (2006).

[110] *Supra* note 103.

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Jurisdiction over petitions for *certiorari* and prohibition are shared by this Court, the Court of Appeals, the Sandiganbayan and the Regional Trial Courts. Since the remedies of *certiorari* and prohibition are available to assail the constitutionality of a law, the question as to which court should the petition be properly filed consequently arises given that the hierarchy of courts "also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs."

Respondents argue that direct resort to this Court is unjustified and thus violates the doctrine of hierarchy of courts.

Under the doctrine of hierarchy of courts, "recourse must first be made to the lower-ranked court exercising concurrent jurisdiction with a higher court." As a rule, "direct recourse to this Court is improper because the Supreme Court is a court of last resort and must remain to be so in order for it to satisfactorily perform its constitutional functions, thereby allowing it to devote its time and attention to matters within its exclusive jurisdiction and preventing the overcrowding of its docket."

Nevertheless, we cautioned in *The Diocese of Bacolod, et al. v. COMELEC, et al.*, that the Supreme Court's role to interpret the Constitution and act in order to protect constitutional rights when these become exigent is never meant to be emasculated by the doctrine of hierarchy of courts. As such, this Court possesses full discretionary authority to assume jurisdiction over extraordinary actions for *certiorari* filed directly before it for exceptionally compelling reasons, or if warranted by the nature of the issues clearly and specifically raised in the petition.

As developed by case law, the instances when direct resort to this Court is allowed are enumerated in *The Diocese of Bacolod* as follows: (a) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (b) when the issues involved are of transcendental importance; (c) in cases of first impression; (d) the constitutional issues raised are better decided by the Supreme Court; (e) the time element or exigency in certain situations; (f) the filed petition reviews an act of a constitutional organ; (g) when there is no other plain, speedy, and adequate remedy in the ordinary course of law; (h) the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.

The present petition, while directed against an act of a co-equal branch of the government and concerns a legislative measure directly affecting

the health and well-being of the people, actually presents no *prima facie* challenge, as hereunder expounded, as to be so exceptionally compelling to justify direct resort to this Court.[111] (Citations omitted)

To warrant a direct invocation of this Court's original jurisdiction to issue these writs, petitioners must cite special and important reasons therefor, like when the issues involved are of transcendental importance, the time element or exigency in certain situations, or the petition includes questions that are dictated by public welfare or demanded by the broader interest of justice.[112] As will be discussed momentarily, this Court finds that all these cited exceptions prevail so as to justify the exercise of the Court's original jurisdiction.

Going back to the propriety of a Rule 65 petition, this Court's pronouncement in *Francisco, Jr. et al. v. Toll Regulatory Board et al.*,[113] is instructive. There, this Court considered the petitions for *certiorari* and prohibition as appropriate, considering that petitioners ascribed grave abuse of discretion against the Toll Regulatory Board *(TRB)* for entering into contracts or agreements without the required public bidding mandated by law, among others. The Court explained:

> Petitions for *certiorari* and prohibition are, as here, appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify, when proper, acts of legislative and executive officials. The present petitions allege that then President Ramos had exercised *vis-à-vis* an assignment of franchise, a function legislative in character. As alleged, too, the TRB, in the guise of entering into contracts or agreements with PNCC and other juridical entities, virtually enlarged, modified to the core and/or extended the statutory franchise of PNCC, thereby usurping a legislative prerogative. The usurpation came in the form of executing the assailed STOAs and the issuance of TOCs. Grave abuse of discretion is also laid on the doorstep of the TRB for its act of entering into these same contracts or agreements without the required

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[111] *Id.* at 779–781.

[112] *Id.* at 781. (Citations omitted).

[113] 648 Phil. 54 (2010).

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public bidding mandated by law, specifically the BOT Law (R.A. 6957, as amended) and the Government Procurement Reform Act (R.A. 9184).

In fine, the *certiorari* petitions impute on then President Ramos and the TRB, the commission of acts that translate *inter alia* into usurpation of the congressional authority to grant franchises and violation of extant statutes. The petitions make a *prima facie* case for *certiorari* and prohibition; an actual case or controversy ripe for judicial review exists. Verily, when an act of a branch of government is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute. In doing so, the judiciary merely defends the sanctity of its duties and powers under the Constitution.[114] (Citations omitted)

As in this case, petitioners likewise ascribe grave abuse of discretion against: (1) public respondent DOTC Secretary Abaya for issuing D.O. No. 2014-014 when he had no jurisdiction to decide on the issue of rate hikes;[115] and (2) the LRTA, for having no authority to approve fare rate increases for the LRT system.[116] According to petitioners, D.O. No. 2014-014 was issued with grave abuse of discretion for violating the due process requirements of notice and hearing[117] and for being unreasonable.[118] They argue that the fare hike as a policy choice is in grave abuse of discretion.[119] Additionally, they seek that public respondents be enjoined from implementing D.O. No. 2014-014. Thus, this Court finds the petitions for *certiorari* and prohibition as appropriate remedies. Nonetheless, petitioners must still comply with the requisites for judicial review.

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[114] *Id.* at 86–87.

[115] *Rollo* (G.R. No. 215650), p. 1061.

[116] *Id.* at 1057.

[117] *Id.* at 1062.

[118] *Id.* at 1074.

[119] *Id.* at 1072.

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This Court's power of judicial review

Although "[i]t is emphatically the province and duty of the judicial department to say what the law is,"[120] the power of judicial review does not exist in a vacuum. Questions involving the constitutionality or validity of a law or governmental act may only be heard and decided by this Court provided that the requirements for judicial inquiry are complied with,[121] which are: "(a) there must be an actual case or controversy calling for the exercise of judicial power; (b) the person challenging the act must have the standing to question the validity of the subject act or issuance; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the very *lis mota* of the case."[122] The power of judicial review is limited by these four exacting requisites.[123]

Justiciability

Preliminarily, this Court deems it proper to address respondents' assertion that this Court has no jurisdiction over the consolidated Petitions on the ground that the issues raised involve a question of wisdom and policy.

Public respondents DOTC Secretary Abaya and Renato Z. San Jose, the Officer-in-Charge of the MRT-3 Office, posit that the fare adjustment was a policy change.[124] They maintain that there is no right to demand a government subsidy because questions of whom to subsidize and which socio-economic objectives to advance are policy choices determined by the political departments.[125] That benefits were previously enjoyed by certain sectors in the country

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[120] *Marbury v. Madison*, *supra* note 81, at 177.

[121] *Belgica et al. v. Hon. Sec. Ochoa, Jr. et al.*, 721 Phil. 416, 519 (2013).

[122] *Id.* (Emphasis and citations omitted).

[123] *Spouses Imbong v. Hon. Ochoa et al., supra* note 102, at 122.

[124] *Rollo* (G.R. No. 215650), Vol. II, p. 983.

[125] *Id.*

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is not a ground to judicially compel the government to adhere to the same policy.[126] Since the fare adjustment under D.O. No. 2014-014 is operationally equivalent to a reduction of government subsidy, the policy cannot be judicially constrained.[127]

Private respondents LRMC and MRTC second public respondents' contentions by interposing that what D.O. No. 2014-014 does is merely to announce, for the guidance of the rail systems' riders and the general public, that the DOTC, and therefore, the executive department, will propose a budget for the next fiscal year that will reduce the rail systems' subsidies.[128] Since D.O. No. 2014-014 simply announces a reduction of government subsidies, rather than a mere upward adjustment of fares for the rail systems, then its issuance is not governed by the jurisdictional and procedural requirements for fare hike applications but by the rules for the grant, maintenance, reduction, or withdrawal of government subsidies.[129] Resultantly, there is no prior notice and hearing required for the Executive Department to be able to make that decision and announcement.[130]

According to private respondents, because the decision to grant subsidies is a discretionary question or a non-ministerial prerogative as to what economic philosophy/policy and program of government an elected administration thinks best to adopt, petitioners can cite no duty on the part of, and so no clear right to enjoin or compel, the Executive and the Legislative Departments to continue providing fare subsidies of whatever amount to the rail system's riders. This means that petitioners may also not enjoin the DOTC from announcing or implementing any Executive decision not to propose, and not to ask the Legislature to approve, a budget earmarking funds to maintain previous subsidies for that class of commuters at their former, or at any

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[126] *Id.*

[127] *Id.*

[128] *Rollo* (G.R. No. 215650), Vol. III, p. 1175.

[129] *Id.* at 1174.

[130] *Id.* at 1175.

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other, levels.[131] Petitioners' views are competing economic and governance philosophies regarding the wisdom of extending or withholding government subsidies to or from certain beneficiaries under certain circumstances.[132] In short, they are economic policy arguments meant for the electorate or halls of Congress.[133]

We disagree.

Questions of policy or wisdom, oftentimes referred to as political questions, were defined in the early case of *Tañada et al. v. Cuenco et al.*,[134] as:

> [T]hose questions which, under the Constitution, are to be *decided by the people* in their sovereign capacity, or in regard to which *full discretionary authority* has been delegated to the Legislature or executive branch of the Government. It is concerned with issues dependent upon the *wisdom*, not legality, of a particular measure.[135] (Emphasis in the original).

As a general assertion, the political question doctrine prohibits the courts from interfering with the workings of a co-equal branch of government.[136] It is predicated on the principle of separation of powers, such that this Court cannot substitute its judgment and decide a matter which by its nature or by law, is exclusively lodged on the concerned executive or legislative official.[137] It rests on prudential considerations[138] and serves to preserve the complementary nature of the political and judicial branches to the end of upholding the rights of the general public at all times.[139]

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[131] *Id.* at 1178–1179.

[132] *Id.* at 1184.

[133] *Id.*

[134] 103 Phil. 1051 (1957).

[135] *Id.* at 1067.

[136] *Integrated Bar of the Philippines v. Hon. Zamora*, 392 Phil. 618, 637 (2000).

[137] *Marcos v. Sec. Manglapus*, 258 Phil. 479, 507 (1989).

[138] *Estrada v. Desierto*, 406 Phil. 1, 41 (2011).

[139] *The Diocese of Bacolod et al. v. Commission on Elections et al.*, 751 Phil. 301, 337 (2015).

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However, the invocation of the political question doctrine does not automatically prevent this Court from inquiring into and very narrowly and specifically crossing the exclusive domain of the two other branches of government when called upon to exercise power of judicial review. In *Francisco, Jr. v. The House of Representative*,[140] We emphasized that the expanded scope of judicial power under Section 1, Article VIII of the 1987 Constitution covers questions that are "not truly political in nature," reviewable by the courts if only to the extent of determining whether the political branch acted within the constitutional limits of its powers, thus:

> From the foregoing record of the proceedings of the 1986 Constitutional Commission, it is clear that judicial power is not only a power; it is also a *duty*, a duty which cannot be abdicated by the mere specter of this creature called the political question doctrine. Chief Justice Concepcion hastened to clarify, however, that Section 1, Article VIII was not intended to do away with "truly political questions." From this clarification it is gathered that there are two species of political questions: (1) "truly political questions" and (2) those which "are not truly political questions."
>
> **Truly political questions are thus beyond judicial review, the reason being that respect for the doctrine of separation of powers must be maintained. On the other hand, by virtue of Section 1, Article VIII of the Constitution, courts can review questions which are not truly political in nature.**
>
> As pointed out by *amicus curiae* former dean Pacifico Agabin of the UP College of Law, this Court has in fact in a number of cases taken jurisdiction over questions which are not truly political following the effectivity of the present Constitution.
>
> In *Marcos v. Manglapus*, this Court, speaking through Madame Justice Irene Cortes, held:
>
> > The present Constitution limits resort to the political question doctrine and broadens the scope of judicial inquiry into areas which the Court, under previous constitutions, would have normally left to the political departments to decide.

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[140] 460 Phil. 830 (2003).

In *Bengzon v. Senate Blue Ribbon Committee*, through Justice Teodoro Padilla, this Court declared:

> The "allocation of constitutional boundaries" is a task that this Court must perform under the Constitution. Moreover, as held in a recent case, *"(t)he political question doctrine neither interposes an obstacle to judicial determination of the rival claims. The jurisdiction to delimit constitutional boundaries has been given to this Court. It cannot abdicate that obligation mandated by the 1987 Constitution, although said provision by no means does away with the applicability of the principle in appropriate cases."*

And in *Daza v. Singson*, speaking through Justice Isagani Cruz, this Court ruled:

> In the case now before us, the jurisdictional objection becomes even less tenable and decisive. *The reason is that, even if we were to assume that the issue presented before us was political in nature, we would still not be precluded from resolving it under the expanded jurisdiction conferred upon us that now covers, in proper cases, even the political question.*

Section 1, Article VIII, of the Court does not define what are justiciable political questions and non-justiciable political questions, however. Identification of these two species of political questions may be problematic. There has been no clear standard. The American case of *Baker v. Carr* attempts to provide some:

> x x x Prominent on the surface of any case held to involve a political question is found a *textually demonstrable constitutional commitment* of the issue to a coordinate political department; or *a lack of judicially discoverable and manageable standards for resolving it*; or the *impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion*; or the *impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government*; or an *unusual need for questioning adherence to a political decision already made*; or the *potentiality of embarrassment from multifarious pronouncements by various departments on one question*.

Of these standards, the more reliable have been the first three: (1) a textually demonstrable constitutional commitment of the issue to a coordinate political department; (2) the lack of judicially discoverable

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and manageable standards for resolving it; and (3) the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion. These standards are not separate and distinct concepts but are interrelated to each in that the presence of one strengthens the conclusion that the others are also present.

The problem in applying the foregoing standards is that the American concept of judicial review is radically different from our current concept, for Section 1, Article VIII of the Constitution provides our courts with far less discretion in determining whether they should pass upon a constitutional issue.

In our jurisdiction, the determination of a truly political question from a non-justiciable political question lies in the answer to the question of whether there are constitutionally imposed limits on powers or functions conferred upon political bodies. If there are, then our courts are duty-bound to examine whether the branch or instrumentality of the government properly acted within such limits.[141] (Emphasis supplied)

Indeed, the 1987 Constitution greatly limited the applicability of the political question doctrine when it expanded the court's power of judicial review to include the determination of 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. As it is, the political question doctrine is "no longer [an] insurmountable obstacle of judicial power" which protects executive and legislative actions from judicial review.[142] Thus, while this Court cannot substitute its judgment for that of the executive or legislative branches, it may look into the question whether the exercise of their power has been made in grave abuse of discretion.[143]

It is accurate to point out that the grant or withdrawal of subsidy to government projects involves a question of policy or wisdom.

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[141] *Id.* at 910–912.

[142] *Oposa v. Hon. Factoran*, 296 Phil. 694, 718 (1993).

[143] *Integrated Bar of the Philippines v. Hon. Zamora*, 392 Phil. 618, 639 (2000).

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The grant of subsidy and/or budget to various government activities and programs goes through the national budgeting process, a function that is shared exclusively between the executive and legislative department. Thus, the Executive Branch determines the government budgetary priorities and activities in line with available revenues and borrowing limits. The Congress, in turn, deliberates and acts on the budget proposals of the President.[144] Once the Congress approves the national budget and legislates the General Appropriations Act, the executive department "exercises

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[144] The Government budgeting process consists of four major phases:

1. *Budget preparation*. The first step is essentially tasked upon the Executive Branch and covers the estimation of government revenues, the determination of budgetary priorities and activities within the constraints imposed by *available revenues* and by *borrowing limits*, and the translation of desired priorities and activities into expenditure levels.

   Budget preparation starts with the budget call issued by the Department of Budget and Management. Each agency is required to submit agency budget estimates in line with the requirements consistent with the general ceilings set by the Development Budget Coordinating Council (DBCC).

. . . .

2. *Legislative authorization*. — At this stage, Congress enters the picture and deliberates or *acts* on the budget proposals of the President, and Congress in the exercise of its own judgment and wisdom *formulates* an appropriation act precisely following the process established by the Constitution, which specifies that no money may be paid from the Treasury except in accordance with an appropriation made by law.

. . . .

3. *Budget Execution*. Tasked on the Executive, the third phase of the budget process covers the various *operational* aspects of budgeting. The establishment of obligation authority ceilings, the evaluation of work and financial plans for individual activities, the continuing review of government fiscal position, the regulation of funds releases, the implementation of cash payment schedules, and other related activities comprise this phase of the budget cycle.

. . . .

4. *Budget accountability*. The fourth phase refers to the evaluation of actual performance and initially approved work targets, obligations incurred, personnel hired and work accomplished are compared with the targets set at the time the agency budgets were approved. (*Guingona, Jr. v. Hon. Carague*, 273 Phil. 443, 460-461 [1991]).

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all roles and prerogatives" in the implementation and enforcement thereof, unless otherwise provided by the Constitution.[145] In this regard, this Court, in *Araullo et al. v. Pres. Aquino et al.*,[146] recognized that the President, "in keeping with [his/her] duty to faithfully execute laws," has "sufficient discretion during the execution of the budget to adapt the budget to changes in the country's economic situation."[147]

Evidently, the decision on whether to grant, withdraw, or reduce government subsidy is a question of economic policy cognizable only by the executive and legislative departments. It involves an evaluation of various socio-economic factors and an examination of factual considerations, matters which are simply beyond the competence of this Court.

In the present case, while D.O. No. 2014-014 has for its purpose the reduction of government subsidy, the determination of the actual rates thereunder involved rate-fixing principles. Indeed, the objective was for the rates to be updated and sustainable enough to cover a huge portion of the operating costs of the system, to the end that government subsidy of the individual fares will be considerably lessened. Respondents themselves mentioned that some of the key decision points for the fare adjustment under D.O. No. 2014-014 were: (1) non-alignment of the LRT and MRT fares with those of road-based public utility vehicles;[148] and (2) improvement of facilities and continuous provision of better services with the LRTA's investment on rehabilitation and upgrading of the system.[149]

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[145] *Belgica et al. v. Hon. Sec. Ochoa, Jr. et al.*, 721 Phil. 416, 536 (2013).

[146] 737 Phil. 457 (2014).

[147] *Id.* at 571, citing Daniel Tomassi, "Budget Execution," in Budgeting and Budgetary Institutions, ed. Anwar Shah (Washington: The International Bank for Reconstruction and Development/World Bank, 2007), p. 279.

[148] LRTA Fare Restructuring Study, *Rollo* (G.R. No. 215650), Vol. I, p. 89.

[149] *Rollo* (G.R. No. 215650), Vol. II, pp. 1011–1012.

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In other words, the fare adjustment under D.O. No. 2014-014 was not simply an outright result of a decrease in government subsidy. On the contrary, the rates thereunder were arrived at after consideration and balancing of economic factors and interests. It was, to be sure, an exercise of the DOTC's and the LRTA's rate-fixing power which called "for a technical examination and a specialized review of specific details primarily entrusted to the administrative or regulating authority."[150] As it involved rate-fixing, the issuance of D.O. No. 2014-014 necessarily warranted compliance with the requirements provided by the law.

Verily, the present case does not involve purely questions of policy or wisdom. What is involved here is the administrative agencies' rate-fixing power, the exercise of which is circumscribed by specific requirements of law. In other words, the question is whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the government, over which this Court undoubtedly has jurisdiction.

More significantly, petitioners raise a grave violation of the Constitution and domestic laws as a result of the fare increase for the LRT and the MRT. The issue, therefore, is "judicial rather than political."[151] Indeed, when a case is brought before this Court with serious allegations that a law or executive issuance infringes upon the Constitution, "it becomes not only the right but in fact the duty of the [Court] to settle the dispute."[152]

Actual case or controversy

In *Belgica et al. v. Hon. Sec. Ochoa et al.*,[153] the Court elucidated on the requirement of an actual case or controversy, in connection with ripeness, thus:

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[150] *National Power Corporation v. Philippine Electric Plant Owners Association (PEPOA), Inc.*, 521 Phil. 73, 85 (2006).

[151] *Tañada v. Angara*, 338 Phil. 546, 574 (1997), citing *Aquino, Jr. v. Ponce Enrile*, 158-A Phil. 1 (1974).

[152] *Id.*

[153] 721 Phil. 416 (2013).

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. . . Jurisprudence provides that an actual case or controversy is one which "involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute." In other words, "[t]here must be **a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence**." Related to the requirement of an actual case or controversy is the requirement of "ripeness," meaning that the questions raised for constitutional scrutiny are already ripe for adjudication. "A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the **existence of an immediate or threatened injury to itself as a result of the challenged action**." "Withal, courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions."[154] (Emphasis supplied; Citations omitted)

There is an actual case or controversy in the present case. The parties do not dispute that D.O. No. 2014-014 has already been implemented as of January 4, 2015. Petitioners' insistence on the nullity of D.O. No. 2014-014 and respondents' assertion of its validity, together with the grounds in support of their respective arguments, portray their conflicting legal rights. Petitioners, on the one hand, claim that the fare increase brought about by D.O. No. 2014-014 violated their right to due process for having been issued without notice and hearing.[155] They also posit that public respondents DOTC and LRTA acted with grave abuse of discretion by acting beyond the scope of their jurisdiction. Respondents, on the other hand, argue that the implementation of the fare adjustment scheme did not require notice and hearing[156] and that petitioners do not have any right to demand a government subsidy.[157]

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[154] *Id.* at 519–520.

[155] *Rollo* (G.R. No. 215650), Vol. IV, p. 1062.

[156] *Rollo* (G.R. No. 215650), Vol. I, p. 978.

[157] *Id.* at 983.

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These polarizing views on the alleged nullity of D.O. No. 2014-014 can be interpreted and enforced based on existing law and jurisprudence and, therefore, make it a case susceptible of judicial resolution. In fact, D.O. No. 2014-014 has been in force and effect for almost eight (8) years now. This also makes it ripe for adjudication, as the injury is neither merely immediate nor threatened; it is currently being endured.

Ripeness

As mentioned above, closely related to the requirement of an actual case or controversy is the element of ripeness, that is, whether the constitutional questions raised before the court are ripe for adjudication. A case that is ripe for adjudication presupposes that "something had by then been accomplished or performed by either branch [of government],"[158] at which point the Court may step in and determine the validity of the assailed act. The element of ripeness, "as an aspect of the timing of a case or controversy," is essential whether the petition for *certiorari* assailing a government act was filed under Rule 65 of the Rules of Court or pursuant to the expanded jurisdiction of this Court under the Constitution.[159]

In dealing with ripeness, this Court has consistently inquired into whether the "act being challenged has had a direct adverse effect on the individual challenging it."[160] In *Atty. Lozano et al.*

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[158] *Francisco, Jr. v. The House of Representatives*, *supra* note 140, at 902, citing v. *Tan et al. v. Macapagal, etc.*, 150 Phil. 778, 784 (1972).

[159] *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*, *supra* note 101, at 145.

[160] *Belgica et al. v. Hon. Sec. Ochoa, Jr. et al.*, *supra* note 121. In *Belgica*, this Court ruled that there exists an immediate or threatened injury to petitioners arising from the unconstitutional use of funds under the "Pork Barrel System" since the challenged funds and the provisions allowing for their utilizations were then existing and operational. See also *Council of Staff Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, 841 Phil. 724 (2018), where this Court held that since R.A. No. 10533 (K to 12 Law), RA No. 10157 (Kindergarten Education Act), and their related executive issuances have already taken effect, the petitioners who are faculty members, students, and parents, are directly and considerably affected by their implementation; *Inmates of the New Bilibid Prison, Muntinlupa City*

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v. Speaker Nograles,[161] this Court also said that whether a case is ripe for adjudication is determined by an evaluation of two aspects: "*first*, the fitness of the issues for judicial decision; and *second*, the hardship to the parties entailed by withholding court consideration."[162]

With respect particularly to the acts of administrative agencies, this Court, in *Kilusang Mayo Uno et al. v. Hon. Aquino et al.*,[163] said that "ripeness is ensured under the doctrine of exhaustion of administrative remedies."[164] The doctrine precludes the court from taking cognizance of a case unless all remedies within the administrative machinery have been exhausted by the petitioner. It allows administrative officers "every opportunity to decide a matter that comes within [their] jurisdiction."[165] Indeed, failure to exhaust administrative remedies available is fatal to a party's cause of action and absent a finding of waiver or *estoppel*, renders the case dismissible for lack of cause of action.[166] In *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*,[167] this Court ruled that the doctrine finds application in a petition for *certiorari* questioning the act of an administrative

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v. De Lima, 854 Phil. 675, 694 (2019), where this Court ruled that Section 4, Rule I of the Implementing Rules and Regulations of R.A. No. 10592 (An Act Amending Articles 29, 94, 97, 09 and 99 of Act No. 3185, As Amended, Otherwise Known as the Revised Penal Code) providing for the prospective application of the new procedures and standards of behavior for the grant of good conduct time allowance has a direct adverse effect on petitioners and those detained and convicted who are similarly situated.

[161] 607 Phil. 334 (2009).

[162] *Id.* at 341.

[163] 850 Phil. 1168 (2019).

[164] *Id.* at 1192.

[165] *Spouses Gonzales v. Marmaine Realty Corporation*, 778 Phil. 451, 456 (2016).

[166] *Id.* at 457.

[167] *Supra* note 101.

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agency, without distinction on whether the act is quasi-judicial, quasi-legislative, or purely regulatory in nature.[168]

Admittedly, petitioners in the present case failed to establish that they availed of any administrative remedy before seeking relief from this Court. The records do not show that petitioners previously asked for reconsideration from the DOTC, the LRTA, or the Office of the President regarding the issuance of D.O. No. 2014-014. Nevertheless, the doctrine of exhaustion of administrative remedies, grounded on sound public policy and practical considerations, is not an inflexible rule.[169] In *Spouses Chua v. Hon. Ang et al.*,[170] the Court held that prior exhaustion of administrative remedies may be dispensed with:

> (a) when there is a violation of due process; (b) *when the issue involved is purely a legal question*; (c) when the administrative action is patently illegal amounting to lack or excess of jurisdiction; (d) when there is estoppel on the part of the administrative agency concerned; (e) when there is irreparable injury; (f) *when the respondent is a department secretary whose acts as an alter ego of the President bear the implied and assumed approval of the latter*; (g) when to require exhaustion of administrative remedies would be unreasonable; (h) when it would amount to a nullification of a claim; (i) when the subject matter is a private land in land case proceedings; (j) when the rule does not provide a plain, speedy and adequate remedy; or (k) *when there are circumstances indicating the urgency of judicial intervention*.[171] (Emphasis supplied)

This Court finds the presence of three (3) compelling reasons why petitioners' non-exhaustion of administrative remedies and direct resort to this Court are justified in the present case.

First, the question raised by petitioners, *i.e.*, the validity and constitutionality of the fare increase under D.O. No. 2014-014, is purely legal since "it does not involve an examination of the probative value of the evidence presented by the parties" and

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[168] *Id.* at 144.

[169] *Republic of the Philippines v. Lacap*, 546 Phil. 87, 97 (2007).

[170] 614 Phil. 416 (2009).

[171] *Id.* at 425.

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"does not require technical knowledge and experience but one that would involve the interpretation and application of law."[172] Indeed, the issues surrounding the issuance of D.O. No. 2014-014 may be resolved by this Court based on prevailing law and jurisprudence.

Second, D.O. No. 2014-014 was issued by public respondent DOTC Secretary Abaya, whose acts as an alter ego bear the implied and assumed approval of the president. In any event, former President Aquino III himself, during his SONA on July 22, 2013, announced the need to increase the LRT and MRT fares in order to decrease government subsidy and allocate more budget for other social services.

Third, the records disclose that the first petition, docketed as G.R. No. 215650, was filed on January 5, 2015. Considering that this case has been pending for more than seven (7) years, the interests of justice dictate that it be resolved now, lest further harm and injury be inflicted on petitioners who claim to be directly affected by the fare increase under D.O. No. 2014-014. The public interest involved in the issues raised justifies a departure from the established rule and calls for a speedy resolution of the case that will ultimately need to be resolved by this Court.

Locus standi

If the constitutional question or assailed illegal act is not brought by a party who has *locus standi*, or the standing to challenge it, then the Court may still refuse to exercise judicial review.[173] The definition of *locus standi* is straightforward. It is simply a "right of appearance in a court of justice on a given question."[174] In public suits, however, the determination of *locus standi* becomes more difficult.[175] The plaintiff, who is a representative of the public, may

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[172] *Republic of the Philippines v. Lacap*, *supra* note 169, at 98.

[173] *Francisco, Jr. et al. v. Toll Regulatory Board et al.*, *supra* note 105.

[174] *Prof. David v. Pres. Macapagal-Arroyo*, 522 Phil. 705, 755 (2006). (Citations omitted).

[175] *Id.* at 756.

be a citizen or a taxpayer, in which case, he or she must show entitlement to seek judicial protection.[176]

In recent times, the judicial landscape has allowed both citizen and taxpayer standing in public suits, but against such suits the aggrieved plaintiff must show a direct injury.[177] This Court enumerated:

> To have standing, one must establish that he has a "personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement." Particularly, he must show that (1) he has suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable action.[178] (Citations omitted)

The petitioners come before this Court as concerned citizens, taxpayers, various organizations of workers, students, and the youth, labor groups and unions, regular commuters, or members of the commuting public, and either former or present members of the House of Representatives. Regarding taxpayers, public respondent DOTC Secretary Abaya argues that petitioners cannot sue as such because DO No. 2014-014 is neither a tax measure nor a form of disbursement of public funds.[179] Respondent LRMC, on the other hand, contends that petitioners as taxpayers do not challenge the unlawful use of public funds but seek to compel the use of public funds to benefit their own limited class.[180] As for the members of the House of Representatives, public respondent DOTC Secretary Abaya also posits that they do not have standing as legislators because they did not allege that there was a usurpation of the powers of Congress as a body to which they belong as members.[181] Finally, most of respondents are in accord that DO

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[176] *Id.*

[177] *Id.* at 757.

[178] *Francisco, Jr. et al. v. Toll Regulatory Board et al.*, *supra* note 105.

[179] *Rollo* (G.R. No. 215650), Vol. II, p. 977.

[180] *Rollo* (G.R. No. 215650), Vol. III, p. 1191.

[181] *Id.*

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No. 2014-014 merely implements a reduction of government subsidy, although resulting in the adjustment of fares.[182]

True, DO No. 2014-014 may neither be a tax measure nor a form of disbursement of public funds. Taxpayer suits, however, are broad enough to include claims "that public funds are illegally disbursed or that public money is being deflected to any improper purpose, or that public funds are wasted through the enforcement of an invalid or unconstitutional law."[183] Respondents do not deny, in fact they passionately profess, that DO No. 2014-014 is a reduction of government subsidy. The 2nd paragraph of DO No. 2014-014 states:

> It is envisioned that this fare scheme will result in an equitable distribution of ***government funds*** currently dedicated to subsidizing the operations of the above rail lines in Metro Manila to much-needed development projects and relief operations in other parts of Luzon, the Visayas, and Mindanao. (Emphasis and italics supplied)

That these government funds are being re-directed to unknown development projects and relief operations in other parts of the country is enough to bring a taxpayer's suit, considering that public money is under threat of being deflected to an improper purpose. These subsidies are still government funds emanating from the National Treasury, the coffers of which petitioners as taxpayers religiously contribute to.

Then again, "the rule on standing is a matter of procedural technicality, which may be relaxed when the subject in issue or the legal question to be resolved is of transcendental importance to the public."[184] In *Francisco, Jr. et al. v. Toll Regulatory Board, et al.*,[185] this Court acknowledged that the other petitioners, as taxpayers and/or mere users of the tollways or representatives

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[182] *Id.* at 1190–1192; *Rollo* (G.R. No. 215650), Vol. II, p. 976.

[183] *Belgica et al. v. Hon. Sec. Ochoa, Jr. et al.*, *supra* note 153, at 528.

[184] *Francisco, Jr. et al. v. Toll Regulatory Board et al.*, 648 Phil. 54, 87 (2010). (Citations omitted).

[185] *Francisco, Jr. et al. v. Toll Regulatory Board et al.*, 648 Phil. 54 (2010).

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of such users, would ordinarily not be clothed with the requisite standing, nevertheless, it relaxed the rule on *locus standi* "owing to the transcendental importance and the paramount public interest in the implementation of the laws on the Luzon tollways, a roadway complex used daily by hundreds of thousands of motorists."[186]

Similarly, the issue in the present case, involving as it does the LRT and the MRT, is of transcendental importance. True, "transcendental importance" is not a magic wand that can be waived to prompt the Court to act liberally and imbue petitioners with standing where they possess none, but the paramount public interest in the implementation of the laws on the rail transit systems cannot be denied. The preamble of E.O. No. 603, the law creating the LRTA, has itself recognized:

> WHEREAS, ***the economic growth, stability and security of the Nation require an efficient, adequate, economical, safe, convenient, and dependable transportation system that shall truly be responsive to the demands of the populace consistent with the total scope of metropolitan needs***;
>
> WHEREAS, Metropolitan Manila, as the premier metropolis of the country, ***requires an efficient mass transportation system which can provide its people with safe, fast and reliable mobility***;
>
> WHEREAS, a Metropolitan Manila transportation, land use and development planning study was conducted to guide transportation investments and operations, and such study indicates that a light rail transit system is recommended, among others, to alleviate the worsening traffic and transportation situation in Metropolitan Manila, within the context of a rational land use pattern;
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> . . . . (Emphasis and italics supplied)

In declaring that the LRTA is a government instrumentality exercising corporate powers and therefore, exempt from real property tax, this Court in *Light Rail Transit Authority v. Quezon City*[187] declared that the light rail transit undoubtedly performs a crucial role in the lives of the people in Metro Manila:

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[186] *Id.* at 87–88.

[187] *Supra* note 10.

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As both a matter of social data and acceptable legal reasoning, it is erroneous to conclude that to date, the LRTA has been engaged in profit-making business. More than ever, its gargantuan tasks are to establish and operate a viable public transportation system via the light rail trains to address the demands of the riding public and to alleviate the worsening traffic and transportation situation at least in Metro Manila.

Given the mandate and purpose of the LRTA, it stands to reason that the LRTA's railroads, carriageways, terminal stations, and the lots on which they are found and/or constructed are properties of public dominion intended for public use. As such, they are exempt from real property tax under Section 234 (a) of the Local Government Code.

. . . .

The light rail transit system is one of the major means of transportation in Metro Manila. The bulk of public commuters takes the light rail transit to go to and from their residences and places of work and other places of social interaction.

. . . .

Undoubtedly, the light rail transit performs a crucial role in the lives of the people in Metro Manila. And the fact that by necessary implication, it has to pass through several local government units, the protection accorded to properties of public dominion for public use must be extended to the LRTA and its properties. x x x[188] (Citations omitted)

Prof. David v. Pres. Macapagal-Arroyo[189] reminded the bench, the bar, and the public that "the question of *locus standi* is but corollary to the bigger question of proper exercise of judicial power. This is the underlying legal tenet of the 'liberality doctrine' on legal standing."[190] Given the notability of the rail transit systems' role in providing mass transportation to millions of Filipinos in the metro, this Court will shirk its avowed duty to render justice through the law if it were to pass upon an issue as vital as the one

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[188] *Id.*

[189] *Prof. David v. Pres. Macapagal-Arroyo*, 522 Phil. 705 (2006).

[190] *Id.* at 763.

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involved here. In the interest of judicial economy,[191] this Court will not evade its Constitutional responsibility to settle, once and for all, the issue of the alleged invalidity of these transit systems' fare increases.

II (A).

The DOTC has the authority to implement a fare increase over the MRT-3

Petitioners BAYAN *et al.* argue that public respondent DOTC Secretary Abaya issued D.O. No. 2014-014 without jurisdiction.[192] As such, it is void and without legal effect.[193] They cite 5 reasons why: *first*, the DOTC is the contracting party of the MRTC in the Build-Lease-Transfer Agreement;[194] *second*, the DOTC agreed to recommendations made by an amorphous office, designated as MRT-3 Office;[195] *third*, the DOTC Secretary is the President's alter ego who clings to the latter's penchant for disregarding Congress' duly appropriated item for the light railway transit subsidies; *fourth*, there are reports that "the DOTC people" have ties to the private investors, at least, for the LRT-1 and LRT-2 projects;[196] and *fifth*, public respondents have eliminated themselves from being possible avenues for relief.[197] Petitioners BAYAN *et al.*, however, have not substantiated these arguments. Consequently, they fade in the face of the DOTC's clear authority to implement a fair increase over the railway transit systems.

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[191] *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, *supra* note 89.

[192] *Rollo* (G.R. No. 215650), Vol. IV, p. 1061.

[193] *Id.*

[194] *Id.* at 1069.

[195] *Id.* at 1071.

[196] *Id.*

[197] *Id.*

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Against petitioners BAYAN *et al.*'s speculative arguments are the DOTC's rate-fixing power, galvanized not only in law but also in jurisprudence.

As early as *Ynchausti Steamship Co. v. Public Utility Commissioner*,[198] this Court has characterized rate-fixing as "a legislative and governmental power over which the Government has complete control."[199] Indeed, rate-fixing is "essentially a legislative power."[200] In *Philippine Interisland Shipping Association of the Philippines v. Court of Appeals*,[201] this Court recalled how in the 1920s, there was once a great battle over the validity of the exercise of the rate-fixing power by administrative agencies—an issue of undue delegation arose because the power delegated was legislative.[202] But three factors catapulted the creation of administrative agencies and the delegation to them of legislative power—the growing complexity of modern society, the multiplication of the subjects of government regulations, and the increased difficulty of administering the laws.[203]

Philippine Interisland recognized that as then President Marcos could delegate the rate-making power to the Philippine Ports Authority *(PPA)*, having been granted legislative power under Amendment No. 6 of the 1973 Constitution, he could also exercise it in certain instances. In other words, since the power is legislative in nature, then President Marcos had the authority to fix rates for as long as he wielded legislative power. The president's exercise of the power, however, did not imply a withdrawal of the same power vested in the PPA to impose, fix, and prescribe rates through subordinate legislation.

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[198] 42 Phil. 621 (1922).

[199] *Id.* at 624.

[200] *Philippine Interisland Shipping Association of the Philippines v. Court of Appeals*, 334 Phil. 449, 463 (1997).

[201] 334 Phil. 449 (1997).

[202] *Id.* at 463.

[203] *Id.*

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Subordinate legislation is "the rule-making power of agencies tasked with the administration of government."[204] In *Quezon City PTCA Federation, Inc. v. Department of Education*,[205] this Court explained that subordinate legislation is borne out of "the exigencies that contemporary governance must address":[206]

> The three powers of government—executive, legislative, and judicial—have been generally viewed as non-delegable. However, in recognition of the exigencies that contemporary governance must address, our legal system has recognized the validity of "subordinate legislation," or the rule-making power of agencies tasked with the administration of government. In *Eastern Shipping Lines v. Philippine Overseas Employment Administration*:
>
> > The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of the legislative power, however, such occasions have become more and more frequent, if not necessary. This has led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.
> >
> > The reason is the increasing complexity of the task of government and the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them.

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[204] *Quezon City PTCA Federation, Inc. v. Department of Education*, 781 Phil. 399, 422 (2016).

[205] 781 Phil. 399 (2016).

[206] *Id.* at 422.

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> The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation."
>
> With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. These regulations have the force and effect of law."

Administrative agencies, however, are not given unfettered power to promulgate rules. As noted in *Gerochi v. Department of Energy*, two requisites must be satisfied in order that rules issued by administrative agencies may be considered valid: the completeness test and the sufficient standard test:

> In the face of the increasing complexity of modern life, delegation of legislative power to various specialized administrative agencies is allowed as an exception to this principle. Given the volume and variety of interactions in today's society, it is doubtful if the legislature can promulgate laws that will deal adequately with and respond promptly to the minutiae of everyday life. Hence, the need to delegate to administrative bodies—the principal agencies tasked to execute laws in their specialized fields—the authority to promulgate rules and regulations to implement a given statute and effectuate its policies. *All that is required for the valid exercise of this power of subordinate legislation is that the regulation be germane to the objects and purposes of the law and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law. These requirements are denominated as the* ***completeness test*** *and the* ***sufficient standard test***."[207] (Emphasis supplied; Citations omitted)

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[207] *Id.* at 422–424.

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The exercise of subordinate legislation must always be circumscribed by the completeness test and the sufficient standard test.[208] For a valid delegation of legislative power, the legislature must have: (1) set forth the policy to be executed, carried out, or implemented by the delegate; and (2) prescribed sufficient guidelines or limitations in the law to map out the boundaries of the delegate's authority.[209] Thus, when an administrative agency establishes a rate, "its act must both be non-confiscatory and must have been established in the manner prescribed by the legislature; otherwise, in the absence of a fixed standard, the delegation of power becomes unconstitutional."[210]

Petitioners Bayan Muna *et al.* contend that the DOTC has no authority to regulate fare schedules of the light railway systems in the absence of a statute or law that confers it the power to decide on rate increases.[211]

This Court disagrees.

The Administrative Code of 1987 sets forth the DOTC's mandate and declared policy:

SECTION 1. *Declaration of Policy*.—The State is committed to the maintenance and expansion of ***viable, efficient, fast, safe and dependable*** transportation and communications systems as effective instruments for national recovery and economic progress. It shall not compete as a matter of policy with private enterprise and shall operate transportation and communications facilities only in those areas where private initiatives are inadequate or non-existent.

SECTION 2. *Mandate*.—The Department of Transportation and Communications shall be the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity of the Executive Branch of the government in the promotion, development and

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[208] *Id.* at 424.

[209] *Id.*, citing *ABAKADA GURO Party List (formerly AASJS et al.) v. Hon. Purisima et al.*, 584 Phil. 246 (2008).

[210] *Philippine Communications Satellite Corporation v. Alcuaz*, 259 Phil. 707, 715 (1989).

[211] *Rollo* (G.R. No. 215704), Vol. I, p. 22.

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regulation of ***dependable and coordinated*** networks of transportation and communications systems as well as in the ***fast, safe, efficient and reliable*** postal, transportation and communications services.[212] (Emphasis supplied)

To pursue such mandate, Section 3 (15), Chapter 1, Title XV, Book IV vested in the Department the power, among others, to:

> SECTION 3. *Powers and Functions*.—To accomplish its mandate, the Department shall:
>
> . . . .
>
> (15) ***Determine, fix or prescribe charges or rates pertinent*** to postal services and ***to the operation of public air and land transportation utility facilities and services***, except such rates or charges as may be prescribed by the Civil Aeronautics Board under its charter and, in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating member or by bodies or associations recognized by the Philippine government as the proper arbiter of such charges or rates;
>
> . . . . (Emphasis supplied)

Further, the Administrative Code of 1987 has vested in the secretaries of each department the authority and responsibility for the exercise of the mandate of the department and for the discharge of its powers and functions.[213] The department secretary shall have supervision and control over the department.[214]

Concomitantly, the same Code has granted the department secretaries the express power to:

> SECTION 7. *Powers and Functions of the Secretary*. — The Secretary shall:
>
> . . . .

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[212] Adm. Code, Book IV, Title XV, Chapter 1, Secs. 1 and 2.

[213] Adm. Code, Book IV, Chapter 2, Sec. 6.

[214] *Id.*

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(3) Promulgate rules and regulations necessary to carry out department objectives, policies, functions, plans, programs and projects;

. . . .[215]

Considering all the foregoing provisions, the then DOTC, in the exercise of its rate-fixing and rule-making power, is limited by the DOTC's declared policy and mandate—viability, efficiency, speed, safety, dependability, and reliability. In other words, the legislature validly delegated its rate-fixing power to the DOTC, such power having been appropriately circumscribed by complete policies and sufficient guidelines. Anyhow, this Court has ruled that when it comes to rate-fixing, "the only standard which the legislature is required to prescribe for the guidance of the administrative authority is that the rate be reasonable and just."[216] In the absence of an express requirement as to reasonableness, the standard is considered implied.[217]

Clearly, public respondent DOTC Secretary Abaya merely exercised such rate-faxing and rule-making authority through subordinate regulation by promulgating D.O. No. 2014-014, or "Light Rail Transit (LRT) Lines 1 & 2 and Metro Rail Transit (MRT) Line 3 Fare Adjustment."

The then DOTC's power to determine, fix, or prescribe charges or rates undoubtedly extends to the MRT-3, LRT-1, and LRT-2. Without a doubt, these railway transit systems fall within the purview of "public land transportation utility facilities and services" over which the DOTC can exercise its rate-fixing power pursuant to Section 3(15), Chapter 1, Title XV, Book IV of the Administrative Code of 1987. Yet, with respect to the LRT, the power of the DOTC is limited by the LRTA's authority to prescribe its fares under its own charter.

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[215] Adm. Code, Book IV, Chapter 2, Sec. 7.

[216] *Philippine Communications Satellite Corporation v. Alcuaz*, 259 Phil. 707, 715 (1989).

[217] *Id.*

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The LRTA has the authority to implement a fare increase over LRT-1 and LRT-2

To recall, E.O. No. 603 dated July 12, 1980 created the LRTA as the agency "primarily responsible for the construction, operation, maintenance, and/or lease of light rail systems in the Philippines."[218] Upon the issuance of the Administrative Code of 1987, the LRTA was designated as an attached agency of the then DOTC.[219] As an attached agency, the LRTA was mandated to continue to operate and function in accordance with its charter, E.O. No. 603, except insofar as it conflicts with the provisions of the Code.[220]

Under Article 2, Section 4 of E.O. No. 603, the general powers of the LRTA, which shall be exercised by its Board of Directors, are:

> SEC. 4. General Powers.—The Authority, through the Board of Directors, may undertake such action as are expedient for or conducive to the attainment of the purposes and objectives of the Authority, or of any purpose reasonably incidental to or consequential upon any of these purposes. As such, the Authority shall have the following general powers:
>
> . . . .
>
> **(13) To determine the fares payable by persons travelling on the light rail system, in consultation with the Board of Transportation;**
>
> . . . .
>
> (16) To exercise such powers and perform such duties as may be necessary to carry out the business and purposes for which the Authority was established or which, from time to time, may be declared by the Board of Directors to be necessary, useful, incidental or auxiliary to accomplish such purposes; and generally,

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[218] E.O. No. 603, Art. 1, Sec. 2.

[219] Adm. Code, Book IV, Title XV, Chapter 6, Sec. 23.

[220] E.O. No. 292, Book IV, Title XV, Chapter 6, Sec. 24 provides:

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> to exercise all powers of an Authority under the Corporation Law that are not inconsistent with the provisions of this Order, or with orders pertaining to government corporate budgeting, organization, borrowing, or compensation. (Emphasis supplied)

Clearly, E.O. No. 603 vests the LRTA with the authority to determine the fares for the light rail system, subject only to consultation with the defunct Board of Transportation, the functions and powers of which are now exercised by the LTFRB. In the present case, the LRTA exercised this power when its Board of Directors issued a Resolution providing for the increase of fares for LRT-1 and LRT-2 under D.O. No. 2014-014, duly concurred in by the LTFRB.

Petitioners Bayan Muna *et al.* argue that in any case, the LRTA cannot implement fare increases for the light rail system without government regulation. They insist that the power of the LRTA to determine fares under Section 4(13) of E.O. No. 603 should be read in connection with the purpose of the LRTA as a government owned and controlled corporation *(GOCC)*, which is primarily proprietary in nature. Thus, while the LRTA is authorized to determine fares, this may be implemented only upon the approval of a regulatory agency. Otherwise, it would be contrary to public policy and detrimental to public interest if the LRTA is allowed to unilaterally increase its fares.[221]

In *Light Rail Transit Authority v. Quezon City*,[222] this Court already ruled that the LRTA cannot be classified as a GOCC because it was not organized as a stock or non-stock corporation. The LRTA is actually a government instrumentality vested with corporate powers because *first*, it performs functions which are "less commercial than governmental, and more for public use and public welfare than for profit-oriented service," and *second*, "it

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SECTION 24. Functions of Attached Agencies and Corporations.—The Agencies attached to the Department shall continue to operate and function in accordance with the respective charters or laws creating them, except when they conflict with this Code.

[221] *Rollo* (G.R. No. 215704), Vol. II, pp. 814–817.

[222] 864 Phil. 963 (2019).

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enjoys operational autonomy, as it exists by virtue of its Charter, and its powers and functions are vested in and exercised by its Board of Directors."[223]

More importantly, in the same case, this Court had the opportunity to revisit its earlier ruling in *Light Rail Transit Authority v. Central Board of Assessment Appeals (LRTA-CBAA Case)*,[224] where the LRTA was found to be "engaged in a service-oriented commercial endeavor," and was therefore liable for payment of real property tax for its patrimonial properties, particularly its carriageways and terminal stations.[225] We said that the ruling in the LRTA-CBAA Case must now be understood in light of the developments brought about by this Court's decision in *Manila International Airport Authority (MIAA) v. Court of Appeals*,[226] promulgated on July 20, 2006. In finding anew that the LRTA is "not engaged in a profit-earning business like a private corporation," this Court said in *Light Rail Transit Authority v. Quezon City*:[227]

> . . . ***LRTA v. CBAA*** held that LRTA was engaged in an ordinary business because it was charging fees for the use of its properties. This reasoning no longer holds water. We adopt in full the disquisition of the En Banc in ***MIAA v. CA***:
>
> > The Airport Lands and Buildings are devoted to public use because they are used by the public for international and domestic travel and transportation. The fact that the MIAA collects terminal fees and other charges from the public does not remove the character of the Airport Lands and Buildings as properties for public use. The operation by the government of a tollway does not change the character of the road as one for public use. Someone must pay for the maintenance of the road, either the public indirectly through the taxes they pay the government, or only those among the public who actually use the road through the toll fees they pay upon using

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[223] *Id.* at 981.

[224] 396 Phil. 860 (2000).

[225] *Id.* at 870.

[226] 528 Phil. 181 (2006).

[227] *Supra* note 222.

the road. The tollway system is even a more efficient and equitable manner of taxing the public for the maintenance of public roads.

The charging of fees to the public does not determine the character of the property whether it is of public dominion or not. Article 420 of the Civil Code defines property of public dominion as one "intended for public use." Even if the government collects toll fees, the road is still "intended for public use" if anyone can use the road under the same terms and conditions as the rest of the public. The charging of fees, the limitation on the kind of vehicles that can use the road, the speed restrictions and other conditions for the use of the road do not affect the public character of the road.

The terminal fees MIAA charges to passengers, as well as the landing fees MIAA charges to airlines, constitute the bulk of the income that maintains the operations of MIAA. The collection of such fees does not change the character of MIAA as an airport for public use. Such fees are often termed user's tax. This means taxing those among the public who actually use a public facility instead of taxing all the public including those who never use the particular public facility. A user's tax is more equitable—a principle of taxation mandated in the 1987 Constitution.

Verily, ***MIAA v. CA*** relevantly addresses the present social milieu which the provision of public transportation plays in the lives of our people. Indeed, with so much public expenses to take care of, the government cannot be left alone to fully fund all public services which are essential to the viability of our communities, most especially our means of public transportation. Hence, the mere fact that consumers must pay all, or in the case of the operations of our light rail transit, some of the expenses, should not detract from the nature of the service the government entity offers or the characterization of all the infrastructure which the operations require.

To be sure, the LRTA and its properties are tasked to establish the light rail transit in the country. To pursue this mandate and purpose, the LRTA pioneered the construction of light rail transit infrastructure, which was financed through foreign loans. The revenues from the LRTA operations were designed to pay for the loans incurred for its construction. The LRTA operations were intended as a public utility rather than as a profit-making mechanism. The income which the LRTA generates is being used for its operations, especially the maintenance of rail tracks and trains. Section 2 of EO 603 provides for the re-capitalization of excess revenues and for such other purposes that will enhance the LRTA's mandate and purpose:

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> The Authority shall conduct its business, according to prudent commercial principles and shall ensure, as far as possible, that its revenues for any given year are, at least sufficient to meet its expenditures. Any excess of revenues over expenditure in any fiscal year may be applied by the Authority in any way consistent with this Order, including such provisions for the renewal of capital assets and the repayment of loans, as the Authority may consider prudent.

Based on an independent 2008-2009 field survey report, the LRTA income barely covered costs for operating expenses. The operating profit from the operation of Lines 1 and 2 was in a deficit. Reasons for plus net income in certain years were due to foreign exchange gain and infusion of subsidies from the government.

As both a matter of social data and acceptable legal reasoning, it is erroneous to conclude that ***to date***, the LRTA has been engaged in profit-making business. **More than ever**, its gargantuan tasks are to establish and operate a viable public transportation system via the light rail trains to address the demands of the riding public and to alleviate the worsening traffic and transportation situation at least in Metro Manila.[228] (Emphasis in the original)

Thus, it is now settled that the LRTA is a service entity created for a public purpose, that is, to ensure the reliability and quality of the light rail systems in the country for the benefit of the riding public and motorists around the metro. The LRTA's power to impose the fares for the use of the light rail systems is not pursuant to a commercial or profit-making venture, but is actually incidental and necessary to achieve the public purpose for which it was created. Contrary to petitioners' insistence, therefore, the LRTA's implementation of a fare increase for the light rail systems need not be approved by a separate regulatory agency to be valid. Its power in this regard is complete in itself and is conferred by no less than its charter, E.O. No. 603. On this score, it is necessary to stress that the rate-fixing power of the LRTA, similar to the DOTC's, is in the nature of subordinate legislation.

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[228] *Light Rail Transit Authority v. Quezon City*, *supra* note 222, at 987–989.

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E.O. No. 603 was issued by President Marcos pursuant to Presidential Decree No. 1416 (*P.D. No. 1416*),[229] which granted the president the continuing authority to reorganize the national government. P.D. No. 1416, to recall, was promulgated on June 9, 1978 in the exercise of President Marcos' legislative powers under Section 3(2) of Article XVII of the 1973 Constitution,[230] and consequently, had the force and effect of law at the time.[231] The preamble of P.D. No. 1416 states:

> WHEREAS, the organizational structure of the national government should continuously be attuned and responsive to the current needs and requirements of the national development program;
>
> WHEREAS, there is a need to periodically review the organizational structure in order that needed administrative reforms can be expeditiously effected to attain an efficient government machinery;
>
> WHEREAS, it is *necessary to effect economy and promote efficiency in the government*[.]

Specifically, P.D. No. 1416 allowed the President, at his discretion, to "[a]bolish departments, offices, agencies or functions which may not be necessary, *or create those which are necessary, for the efficient conduct of government functions,*

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[229] GRANTING CONTINUING AUTHORITY TO THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES TO REORGANIZE THE NATIONAL GOVERNMENT; The last paragraph of the preamble clause of E.O. No. 603 states:

> NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of powers vested in me by Presidential Decree No. 1416, do hereby order the creation and organization of a Light Rail Transit Authority.

[230] (2) All proclamations, orders, decrees, instructions, and acts promulgated, issued, or done by the incumbent President shall be part of the law of the land, and shall remain valid, legal, binding, and effective even after lifting of martial law or the ratification of this Constitution, unless modified, revoked, or superseded by subsequent proclamations, orders, decrees, instructions, or other acts of the incumbent President, or unless expressly and explicitly modified or repealed by the regular National Assembly.

[231] See *Aquino, Jr. v. Commission on Elections*, 159 Phil. 328 (1975).

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services and activities,"[232] among others. In *Larin v. Executive Secretary*,[233] this Court recognized P.D. No. 1416, later expanded by P.D. No. 1772,[234] as a valid source of the president's "power to group, consolidate bureaus and agencies, to abolish offices, to transfer functions, to create and classify functions, services and activities and to standardize salaries and materials" in the national government.[235]

Thus, it is clear that there is a valid delegation of legislative power to the LRTA to fix the rates for the LRT-1 and the LRT-2. This power is circumscribed by a standard that is found in the policy underlying the grant to the President of the authority to reorganize the national government—to effect economy and promote efficiency in the government, as well as in the conduct of its functions, services and activities. To be sure, as early as the case of *Cervantes v. Auditor General*,[236] this Court already considered the promotion of "simplicity, economy, and efficiency" in operations as sufficient standard for the delegation of legislative power to the president to create the defunct Government Enterprises Council in order to effect reforms and changes in government owned and controlled corporations.[237]

All told, the authority of the DOTC and the LRTA to impose and regulate the fares for the MRT and the LRT, respectively, is beyond cavil. In fact, this Court has ruled that the grant of rate-fixing powers

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[232] P.D. No. 1416, Sec. 2(b).

[233] 345 Phil. 962 (1997).

[234] Amending Presidential Decree No. 1416.

[235] *Larin v. Executive Secretary*, *supra* note 232, at 979. But note that in *Biraogo v. The Philippine Truth Commission of 2010* (651 Phil. 374, 447 [2010]), this Court held that P.D. No. 1416 is "already stale, anachronistic, and inoperable," and became *functus officio* when the President lost legislative powers upon the convening of the first Congress pursuant to Section VI, Article XVIII of the 1987 Constitution. Concomitantly, it can no longer be invoked to justify the president's act of creating a public office under the 1987 Constitution.

[236] 91 Phil. 359 (1952).

[237] *Id.* at 362.

to administrative agencies is "now commonplace."[238] In holding that the TRB, LTFRB, National Telecommunications Commission, and Energy Regulatory Commission *(ERC)* all exercise similar delegated rate-fixing powers, this Court in *Francisco, Jr. et al. v. Toll Regulatory Board et al.*,[239] recognized the crucial role played by administrative bodies vested with more expertise and specialized knowledge and even acknowledged their position in the bureaucracy as the "fourth department of the government."[240]

The LTFRB does not have the authority to implement and/or adjudicate fare increases for the rail transit system

The rate-fixing authority of the DOTC and the LRTA having been established, this Court finds it necessary, in order to obviate any lingering questions on the matter, to clarify the extent of the LTFRB's regulatory powers over fare, rates, and charges of public land transportation services, which petitioners Joseph Ejercito *et al.* insist extend to the operation of rail transit systems.

Briefly, petitioners Joseph Ejercito *et al.* posit that E.O. No. 125-A gave the DOTC mere direct line supervision and control over its regional offices and the duty to formulate, develop, and implement its plans, policies, programs, and projects. They allege that under E.O. No. 202, the quasi-judicial powers and functions to adjudicate fare adjustments of the DOTC are transferred to the LTFRB. Consequently, it is now the LTFRB which has the power to impose and implement any fare increase for the MRT and the LRT.[241]

The LTFRB was created by virtue of E.O. No. 202 signed by President Corazon C. Aquino on June 19, 1987. It is under the administrative control and supervision of the DOTC Secretary,[242] which also exercises appellate jurisdiction over its

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[238] *Francisco, Jr. et al. v. Toll Regulatory Board et al.*, *supra* note 185, at 107.

[239] *Id.*

[240] *Id.*

[241] *Rollo* (G.R. No. 216735), Vol. II, pp. 779–781.

[242] E.O. No. 202, Sec. 4 provides:

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decisions, orders, or resolutions.[243] Based on Section 5 of E.O. No. 202, the powers and functions of the LTFRB are:

a. To prescribe and regulate routes of service, economically viable capacities and zones or areas of operation I of public land transportation services provided by motorized vehicles in accordance with the public land transportation development plans and programs approved by the Department of Transportation and Communications;

b. To issue, amend, revise, suspend or cancel Certificates of Public Convenience or permits authorizing the operation of public land transportation services provided by motorized vehicles, and to prescribe the appropriate terms and conditions therefor;

c. To determine, prescribe and approve and periodically review and adjust, reasonable fares, rates and other related charges, relative to the operation of *public land transportation services provided by motorized vehicles*[.][244]

According to Section 5(c) of E.O. No. 202, the power of the LTFRB to determine, prescribe, approve, and periodically review fares, rates, and other related charges applies specifically to the operation of public land transportation services *provided by motorized vehicles*. There can be no issue as to the nature of the LRT and the MRT as a public land transportation service. The question is whether they are considered *motorized vehicles* as to

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SECTION 4. Supervision and Control Over the Board. -The Secretary of Transportation and Communications, through his duly designated Undersecretary, shall exercise administrative supervision and control over the Land Transportation Franchising and Regulatory Board.

[243] E.O. No. 202, Sec. 6 provides:

SECTION 6. Decision of the Board; Appeals therefrom and/or Review thereof. The Board, in the exercise of its powers and functions, shall sit and render its decision en banc. Every such decision, order, or resolution of the Board must bear the concurrence and signature of at least two (2) members thereof. The decision, order or resolution of the Board shall be appealable to the Secretary within thirty (30) days from receipt of the decision: Provided, That the Secretary may *motu proprio* review any decision or action of the Board before the same becomes final.

[244] E.O. No. 202, Sec. 5.

fall under the LTFRB's fare-setting power. Admittedly, E.O. No. 202 does not define what is considered a *motorized vehicle*. The term "motor vehicle" first appeared in R.A. No. 4136[245] and was defined as:

> (a) "Motor Vehicle" shall mean any vehicle propelled by any power other than muscular power *using the public highways*, but *excepting* road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, *vehicles which run only on rails or tracks*, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes.

R.A. No. 4136 regulates vehicles that use the public highway. It provides for the rules governing application, registration, and operation of these vehicles, as well as licensing of owners, dealers, and driver, and other similar matters. Following the definition under R.A. No. 4136, the MRT and the LRT are not considered motor vehicles since both run on rail or tracks only.

Nevertheless, the extent of the LTFRB's fare-setting authority may be viewed and understood more clearly in light of its regulatory toolset and the nature of its functions. Under E.O. No. 202, the LTFRB is mandated to regulate the operation of public land transportation services provided by motorized vehicles primarily by a) prescribing and regulating the routes of service, capacities, and zones or areas of operation; and b) issuing, amending, revising, suspending, or canceling Certificates of Public Convenience or permits. Clearly, these regulatory mechanisms apply to entities or persons that are operating or are seeking to operate public transportation utilities. They do not apply to the LRT and the MRT, the nature of which is *sui generis* and unlike any other existing public service or utilities. For one, the routes of service of the LRT and the MRT are already pre-determined by the respective layouts of their rail systems. For another, the operations of the LRT and the MRT do not require a Certificate of Public

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[245] Also known as "The Land Transportation and Traffic Code," which took effect on June 20, 1964.

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Convenience or a permit, since they are owned and operated, respectively, by an instrumentality of the national government.[246]

It should be pointed out that E.O. No. 202 creating the LTFRB was issued prior to the effectivity of the Administrative Code of 1987, which took effect only on July 15, 1987. Under the Administrative Code of 1987, the LRTA was designated as an attached agency of DOTC[247] and was expressly allowed to continue operating in accordance with its charter, except insofar as it conflicts with the provisions of the Code.[248] In short, the LRTA retained all its powers and functions under E.O. No. 603, including the authority to regulate the fares for the LRT, even after the creation of the LTFRB.

Meanwhile, contrary to petitioners Joseph Ejercito *et al.*'s insistence, E.O. No. 125-A[249] granted the DOTC the power to:

(p) *Determine, fix and/or prescribe charges and/or rates pertinent to the operation of public air and land transportation utility facilities and services*, except such rates and/or charges as may be prescribed by the Civil Aeronautics Board under its charter, and, in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating member or by bodies or associations

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[246] See *Olongapo and Electric Light and Power Corporation v. National Power Corporation*, 233 Phil. 153 (1987), where this Court, citing Sections 13 (a) and 14 of Commonwealth Act No. 46, also known as the Public Service Act, said that public services owned or operated by any instrumentality of the national government or by any government owned and controlled corporation are not required to secure certificates of public convenience.

[247] Adm. Code, Book IV, Title XV, Chapter 6, Sec. 23.

[248] Adm. Code, Book IV, Title XV, Chapter 6, Sec. 24 provides:

SECTION 24. Functions of Attached Agencies and Corporations.—The Agencies attached to the Department shall continue to operate and function in accordance with the respective charters or laws creating them, except when they conflict with this Code.

[249] Amending Executive Order No. 125, Entitled "Reorganizing the Ministry of Transportation and Communications Defining Its Powers and Functions, And For Other Purposes." Approved on April 19, 1987.

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recognized by the Philippine government as the proper arbiter of such charges or rates.[250]

When the Administrative Code of 1987 took effect, this provision was carried over to the functions and power the DOTC under Book IV, Title XV, Chapter 1, Section 3(15).[251] From the foregoing, it is clear that the creation of the LTFRB did not operate to altogether remove the power of the DOTC to regulate the fares of public land transportation utilities and services. On the contrary, the DOTC retained this power, except only to the extent that it has been vested to other administrative agencies like the LRTA, the LTFRB, and the Civil Aeronautics Board.

II (B).

Notice and hearing are required for any fare increase in the LRT and the MRT

This Court is mindful of decisions pronouncing that notice and hearing are not essential when an administrative agency acts pursuant to its rule-making power or in the exercise of legislative functions.[252] In the early case of *Vigan Electric Light Company, Inc. v. Public Service Commission (Vigan Electric)*,[253] this Court has delineated when the exercise of an administrative agency's

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[250] Section 1 amending Section 5 of E.O. No. 125.

[251] Adm. Code, Book IV, Title XV, Chapter 1, Sec. 3 (15) provides:
(15) *Determine, fix and/or prescribe charges and/or rates pertinent to the operation of public air and land transportation utility facilities and services*, except such rates and/or charges as may be prescribed by the Civil Aeronautics Board under its charter, and, in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating member or by bodies or associations recognized by the Philippine government as the proper arbiter of such charges or rates.

[252] *Quezon City PTCA Federation, Inc. v. Department of Education*, 781 Phil. 399, 444 (2016), citing *Central Bank of the Philippines v. Cloribel*, 150-A Phil. 86 (1972).

[253] *Supra* note 1.

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rate fixing-power partakes either of a legislative or quasi-judicial character. When such rules and/or rates are meant to apply to all enterprises of a given kind throughout the Philippines, they partake of a legislative character.[254] Meanwhile, when the rule applies exclusively to a specific party and predicated upon the finding of a fact, the function performed partakes of a quasi-judicial character.[255]

Vigan Electric further drew a line between when notice and hearing are required and when they are not. When the administrative agency performs a quasi-judicial function, notice and hearing are required. Otherwise, when the administrative agency performs a legislative function, notice and hearing are not required.

Here, the rate fixed by D.O. No. 2014-014 affects all Filipinos riding the railway transit systems without distinction. Undoubtedly, and as earlier discussed, the DOTC exercised a legislative function when it issued D.O. No. 2014-014. Nevertheless, it must be clarified that the doctrine laid down in *Vigan Electric* has since been modified by this Court when it comes to the notice and hearing requirements. As it now stands, the rule that prior notice and hearing are not requirements of due process when the administrative rule was issued in the agency's exercise of legislative function, does not apply where when the law itself expressly requires it,[256] as in this case.

Section 9, Chapter 2, Book VII of the Administrative Code of 1987 explicitly provides that when it comes to rate-fixing, the proposed rates must have been published in a newspaper of general circulation at least two weeks before the first hearing thereon. Hence:

SECTION 9. Public Participation.—(1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices

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[254] *Id.* at 312.

[255] *Id.*

[256] *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*, 494 Phil. 664, 677 (2005).

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of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

(2) ***In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.***

(3) In case of opposition, the rules on contested cases shall be observed. (Emphasis supplied)

The foregoing provision is clear, straightforward, and admits of no room for interpretation. Rate-fixing requires notice and hearing, which notice must come at least two weeks before the hearing.

In *Manila International Airport Authority (MIAA) v. Airspan Corporation*,[257] this Court ruled that MIAA, an attached agency of the DOTC, cannot validly raise fees, charges, and rates without prior notice and public hearing. As an attached agency, the MIAA is governed by the Administrative Code of 1987, which specifically requires notice and public hearing in the fixing of rates, therefore:

> As an attached agency of the DOTC, the MIAA is governed by the Administrative Code of 1987. The Administrative Code specifically requires notice and public hearing in the fixing of rates:
>
> BOOK VII. – Administrative Procedure
>
> SEC. 9. *Public Participation*. – . . . (2) In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.
>
> It follows that the rate increases imposed by petitioner are invalid for lack of the required prior notice and public hearing. They are also *ultra vires* because, to begin with, petitioner is not the official authorized to increase the subject fees, charges, or rates, but rather the DOTC Secretary.
>
> To conclude, petitioner's Resolution Nos. 98-30 and 99-11 and the corresponding administrative orders, which increased the fees, charges, and rates specified therein, without the required prior notice and hearing

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[257] 486 Phil. 1136 (2004).

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as well as approval of the DOTC Secretary, are null and void. The RTC Decision, which permanently enjoined petitioner from collecting said increases and ordered refund to respondents of the amounts paid pursuant to the said Resolutions, must be upheld. However, any refund should cover only the differential brought about by the unauthorized increases contained in said Resolutions.[258]

Section 38, Chapter 7, Book IV of the Administrative Code of 1987 provides that there are three kinds of administrative relationships: (1) supervision and control; (2) administrative supervision; and (3) attachment.[259] The same Section defines the three relationships as follows:

CHAPTER 7
Administrative Relationships

SECTION 38. Definition of Administrative Relationships.—Unless otherwise expressly stated in the Code or in other laws defining the special relationships of particular agencies, administrative relationships shall be categorized and defined as follows:

(1) Supervision and Control.—Supervision and control shall include authority to act directly whenever a specific function is entrusted by law or regulation to a subordinate; direct the performance of duty; restrain the commission of acts; review, approve, reverse or modify acts and decisions of subordinate officials or units; determine priorities in the execution of plans and programs; and prescribe standards, guidelines, plans and programs. Unless a different meaning is explicitly provided in the specific law governing the relationship of particular agencies, the word "control" shall encompass supervision and control as defined in this paragraph.

(2) Administrative Supervision.—(a) Administrative supervision which shall govern the administrative relationship between a department or its equivalent and regulatory agencies or other agencies as may be provided by law, shall be limited to the authority of the department or its equivalent to generally oversee the operations of such agencies and to insure that

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[258] *Id.* at 1145–1146.

[259] *Peñafrancia Shipping Corporation et al. v. 168 Shipping Lines, Inc.*, 795 Phil. 753, 772 (2016).

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they are managed effectively, efficiently and economically but without interference with day-to-day activities; or require the submission of reports and cause the conduct of management audit, performance evaluation and inspection to determine compliance with policies, standards and guidelines of the department; to take such action as may be necessary for the proper performance of official functions, including rectification of violations, abuses and other forms of maladministration; and to review and pass upon budget proposals of such agencies but may not increase or add to them;

(b) Such authority shall not, however, extend to: (1) appointments and other personnel actions in accordance with the decentralization of personnel functions under the Code, except when appeal is made from an action of the appointing authority, in which case the appeal shall be initially sent to the department or its equivalent, subject to appeal in accordance with law; (2) contracts entered into by the agency in the pursuit of its objectives, the review of which and other procedures related thereto shall be governed by appropriate laws, rules and regulations; and (3) the power to review, reverse, revise, or modify the decisions of regulatory agencies in the exercise of their regulatory or quasi-judicial functions; and

(c) Unless a different meaning is explicitly provided in the specific law governing the relationship of particular agencies, the word "supervision" shall encompass administrative supervision as defined in this paragraph.

(3) Attachment.—(a) This refers to the lateral relationship between the department or its equivalent and the attached agency or corporation for purposes of policy and program coordination. The coordination may be accomplished by having the department represented in the governing board of the attached agency or corporation, either as chairman or as a member, with or without voting rights, if this is permitted by the charter; having the attached corporation or agency comply with a system of periodic reporting which shall reflect the progress of programs and projects; and having the department or its equivalent provide general policies through its representative in the board, which shall serve as the framework for the internal policies of the attached corporation or agency;

(b) Matters of day-to-day administration or all those pertaining to internal operations shall be left to the discretion or judgment of the executive officer of the agency or corporation. In the event that the Secretary and the head of the board or the attached agency or corporation strongly disagree on the interpretation and application of policies, and

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the Secretary is unable to resolve the disagreement, he shall bring the matter to the President for resolution and direction;

(c) Government-owned or controlled corporations attached to a department shall submit to the Secretary concerned their audited financial statements within sixty (60) days after the close of the fiscal year; and

(d) Pending submission of the required financial statements, the corporation shall continue to operate on the basis of the preceding year's budget until the financial statements shall have been submitted. Should any government-owned or controlled corporation incur an operating deficit at the close of its fiscal year, it shall be subject to administrative supervision of the department; and the corporation's operating and capital budget shall be subject to the department's examination, review, modification and approval.

Among the three, attachment is the most lenient since the relationship is merely for policy and program coordination. Moreover, the provisions on supervision and control do not apply to chartered institutions attached to a department. *Peñafrancia Shipping Corporation et al. v. 168 Shipping Lines, Inc.*[260] distinguished among the three relationships:

Among the three, the relationship of supervision and control between a department and a subordinate agency is the most stringent since the department has the power to review the decisions of the subordinate agency. This power is not available in administrative supervision as Section 38 expressly states that the department shall have no power to review the decisions of regulatory agencies in the exercise of their regulatory or quasi-judicial functions. As to the relationship of attachment, while the law is silent on the presence or absence of such power to review by the department, Section 38(3) would indicate that the Legislature did not intend that the decisions of an attached agency be subject to review by the department prior to appealing before the proper court. Section 38(3) indicates the most lenient kind of administrative relationship since the *lateral* relationship is limited to policy and program coordination. Thus, in *Beja v. Court of Appeals*, we distinguished an attached agency from one which is under departmental supervision and control or administrative supervision:

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[260] 795 Phil. 753 (2016).

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> An attached agency has a larger measure of independence from the Department to which it is attached than one which is under departmental supervision and control or administrative supervision. This is borne out by the "lateral relationship" between the Department and the attached agency. The attachment is merely for "policy and program coordination." With respect to administrative matters, the independence of an attached agency from Departmental control and supervision is further reinforced by the fact that even an agency under a Department's administrative supervision is free from Departmental interference with respect to appointments and other personnel actions "in accordance with the decentralization of personnel functions" under the Administrative Code of 1987. **Moreover, the Administrative Code explicitly provides that Chapter 8 of Book IV on supervision and control shall not apply to chartered institutions attached to a Department.** (Emphasis supplied; Citations omitted)[261]

Despite having a larger measure of independence from the department to which it is attached, *MIAA* has already established that attached agencies are still governed by the provisions of the Administrative Code on notice and public hearing in the fixing of rates. This goes without saying that as an attached agency of the DOTC, the LRTA should similarly follow the requirements in Section 9, Chapter 2, Book VII of the Administrative Code of 1987.

Regarding the MRT-3 Office, Section 39, Chapter 8, Book IV of the Administrative Code of 1987 expressly provides that the Secretary shall have supervision and control over the bureaus, offices, and agencies under him or her:

> Sec. 39. *Secretary's Authority*.—
>
> (1) The Secretary shall have supervision and control over the bureaus, offices, and agencies under him, subject to the following guidelines:
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> . . . .

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[261] *Id.* at 772-774.

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(2) This Chapter shall not apply to chartered institutions or government-owned or controlled corporations attached to the department.

Thus, in the absence of a provision prescribing that the relationship between a department and its subordinate agency is either of attachment or administrative supervision, the authority of the Secretary to exercise supervision and control over all bureaus, offices, and agencies under him or her prevails. Admittedly, the MRT-3 Office is an office under the DOTC. It is neither a chartered institution nor a government-owned or controlled corporation attached to the department, and the Administrative Code of 1987 has not specified its relationship with the DOTC as either one of attachment or administrative supervision. Following Section 39 above, the DOTC and the MRT-3 Office are governed by the relationship of supervision and control. With more reason, therefore, should the provision on notice and hearing in the fixing of rates apply to the MRT-3 Office.

In any case, this Court has held that when an administrative rule substantially increases the burden of those governed, the agency must afford those directly affected a chance to be heard and be duly informed before the issuance is given the force and effect of law. In *Department of Environment and Natural Resources Employees Union v. Abad*,[262] We said:

Accordingly, an administrative regulation can be construed as simply interpretative or internal in nature, dispensing with the requirement of publication, when its applicability needs nothing further than its bare issuance, for it gives no real consequence more than what the law itself has already prescribed. When, however, the administrative rule goes beyond merely providing for the means that can facilitate or render least cumbersome the implementation of the law but substantially increases the burden of those governed, it behooves the agency to accord at least to those directly affected a chance to be heard, and thereafter, to be duly informed, before that new issuance is given the force and effect of law.

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[262] *Supra* note 103.

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In this case, while the assailed DBM Budget Circular No. 2011-5 dated December 26, 2011 was, in fact, published in the Philippine Star, it was done only on February 25, 2012, or two months after the issuance of the same on December 29, 2011, and two months after the DENR's grant of the CNA incentive on December 28, 2011. In addition, as certified by the U.P. Law Center-ONAR, the circular was not filed therewith as mandated by the Administrative Code of 1987.

As previously discussed, this would not have mattered had the said circular been merely interpretative or internal in nature. Unfortunately, however, DBM Budget Circular No. 2011-5 cannot be said to give no real consequence more than what the law itself has already prescribed nor can it be said that it does not affect substantial rights of any person. Prior issuances on the matter of the CNA incentive merely require that the CNA Incentive shall be derived from savings generated by an agency which are no longer intended for any specific purpose after all its planned targets, programs, and services for the year have been accomplished. They do not, however, impose any maximum allowable amount which government agencies must limit the incentive to. Otherwise put, without the disputed circular, there would be no maximum allowable amount of ₱25,000.00 for the CNA incentive per qualified employee. As such, the circular was issued not to simply interpret the law.

Neither was it issued to regulate only the personnel of an administrative agency, nor issued by an administrative superior concerning guidelines to be followed by their subordinates in the performance of their duties. ***The subject circular actually increases the burden of those governed, encompassing not merely the personnel of a particular administrative agency, such as the DENR in this case, but employees of all NGAs, SUCs, LGUs, GOCCs, and GFIs in the country. Its publication, therefore, cannot be dispensed with***.[263] (Emphasis supplied; Citations omitted)

While *DENR* referred to the requirement of publication, the principle remains the same. More importantly, *DENR* applied the requirement of publication under Chapter 2, Book VIII of the Administrative Code of 1987, which similarly houses the requirement of public participation under Section 9 thereof. Here, since D.O. No. 2014-014 substantially increased the burden of the

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[263] *Id.*

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commuting public due to the fare increase, compliance with the requirements of notice and hearing is indispensable.

D.O. No. 2014-014 substantially complied with the requirements of notice and hearing

Petitioners argue that D.O. No. 2014-014 was issued without the required notice and hearing. Thus, they were deprived of the opportunity to confront and cross-examine the DOTC's resource and point persons and fully determine the basis of the fare increase. Petitioners insist that for lack of notice and hearing, D.O. No. 2014-014 is null and void.[264]

Petitioners lament that the hearings conducted in 2011 and 2013 violate their right to due process since the conditions and grounds relied upon by the public respondents for the fare increase under D.O. No. 2014-014 are different from those in 2011 and 2013 when the rate hike was withdrawn due to the public's opposition. They contend that the public is entitled to a new and original round of notice and hearing since the issuance of D.O. No. 2014-014 represents a change in the withdrawal of the proposed fare hike in the previous years.[265]

The records show that plans to increase the fare increase of the LRT and the MRT started as early as 2010. On August 5, 2010, in view of reducing government subsidy, the Office of the President directed the LRTA to conduct a comparative study on the operating costs of the LRT and the MRT *vis-à-vis* public utility buses.[266] On August 25, 2011, the LRTA management presented the result of the study to the LRTA Board for its consideration.[267] Subsequently, the LRTA management also conducted a joint study with the DOTC regarding the possible fare increase for the LRT and the MRT. On October 27, 2010, the DOTC and the LRTA issued a Fare

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[264] *Rollo* (G.R. No. 215650), Vol. I, p. 1066.

[265] *Id.*

[266] *Rollo* (G.R. No. 215650), Vol. I, p. 114.

[267] *Id.*

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Restructuring Executive Report[268] stating that a fare increase in the LRT and the MRT will considerably reduce government subsidy and will generate additional income for the operation of the rail lines. The DOTC-LRTA Study Team ultimately recommended a fare structure of PHP11.00 plus PHP1.00/km for the LRT. The DOTC then presented the report to the top officials of the DOTC and the LRTA Board during its meeting in October 2010.[269] On October 27, 2010, the Secretary of Finance, the Secretary of Budget and Management, the Secretary of Transportation and Communications, and the Secretary of Socio-Economic Planning *(economic managers)* executed a Memorandum[270] for the President regarding the LRT fare adjustment.

This precipitated the first official proposal to increase the fares of the LRT and the MRT. On January 20 and 27, 2011 a Notice of Public Consultation[271] was published in the Philippine Daily Inquirer and the Manila Bulletin for the proposed fare adjustment in LRT-1, LRT-2, and MRT-3. After duly considering the result of the public consultation, the fare adjustment of distance-based fare scheme of PHP11.00 plus PHP1.00/km with the 20% student discount was approved. Yet, on May 9, 2011, the LRTA Board and the DOTC decided to indefinitely defer the implementation of the fare increase.[272]

During former President Benigno Simeon Aquino III's SONA on July 22, 2013, he reiterated the need to adjust the LRT's and MRT's fares so that the government subsidy for the MRTC and the LRTA can be used for other social services.[273] In a Secretary's Certificate dated November 26, 2013, the LRTA Board affirmed the PHP11.00 plus PHP1.00/km fare adjustment

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[268] *Id.* at 108–110.

[269] *Id.* at 105 and 114.

[270] *Id.* at 105–108.

[271] *Id.* at 109.

[272] *Rollo* (G.R. No. 215650), Vol. II, pp. 1000–1001.

[273] *Id.*

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for LRT-1 and LRT-2, as previously approved in 2011. Notices of Public Consultation[274] were again published in the Philippine Daily Inquirer and the Manila Bulletin on December 5, 2013 for the proposed fare adjustments in the LRT and MRT lines. On December 12, 2013, the public hearing was conducted. Present were DOTC Undersecretary Eduardo S.L. Oban and respondent Renato San Jose, then Officer-in-Charge of the MRT-3 Office.[275]

On December 18, 2014, public respondent DOTC Secretary Jose Emilio A. Abaya issued D.O. No. 2014-014.[276] In the Press Release[277] issued by the DOTC on December 20, 2014 regarding D.O. No. 2014-014, it stated that the fare increase adopts the user-pay principle which requires riders to pay an amount close to the actual cost of their trip. This will result in the reduction of government subsidy which, in turn, will free up budget that may be used for development projects and relief operations in other parts of the country.

It is clear that prior to the issuance of D.O. No. 2014-014, public consultations were held on February 4 and 5, 2011, and on December 12, 2013 after due notice. While the fare increase eventually materialized only on December 20, 2014 through the issuance of D.O. No. 2014-014, the basis of and purpose for the proposed hike remained the same ever since—the reduction of government subsidy over the operations of the LRT and the MRT. Notably, D.O. No. 2014-014 even retained the initially proposed fare structure of PHP11.00 plus PHP1.00/km for the LRT and the MRT back in 2010.

As pointed out by Associate Justice Amy C. Lazaro-Javier, "there is no requirement in Section 9 (2) or anywhere in the Administrative Code of 1987 that the hearings or public consultations ought to be

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[274] *Id.* at 131–132.

[275] *Rollo* (G.R. No. 215653), Vol. I, p. 95.

[276] *Id.* at 84.

[277] *Id.* at 106–107.

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held within a particular time frame before the adoption of the final order of fare or rate adjustments."[278]

Since D.O. No. 2014-014 is a mere reiteration of the proposed fare increases in 2011 and 2013, the public consultations previously held substantially serve the purpose of the hearing requirement under Section 9, Chapter 2, Book VII of the Administrative Code of 1987. Chief Justice Alexander G. Gesmundo accurately noted that in the present case, "there is no showing of any drastic changes in social and economic conditions that have occurred between December 2013 to December 2014 as to radically alter the perspectives of those who attended the prior year's consultation and other persons affected by the issuance."[279]

It should be emphasized that the requirements of notice and hearing in the present case are not empty formalities. They are at the core of procedural due process which "concerns itself with government action adhering to established process when it makes an intrusion into the private sphere."[280] The conduct of notice and hearing gives affected stakeholders an opportunity to evaluate and oppose a measure that will heavily affect their everyday lives.

On this score, this Court has held that "the essence of due process is simply an opportunity to be heard, or as applied to administrative proceedings, a fair and reasonable opportunity to explain one's side."[281] Indeed, there is no required format or template by which the hearing is to be conducted. Section 9, Chapter 2, Book VII of the Administrative Code of 1987 also does not prescribe any particular manner as to how public participation should be undertaken. As stated by Associate Justice Alfredo

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[278] Concurring Opinion, p. 4.

[279] *Id.*

[280] *White Light Corporation et al. v. City of Manila*, 596 Phil. 444, 461 (2009).

[281] *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*, *supra* note 256, at 679, citing *National Semiconductor (HK) Distribution, Ltd. v. National Labor Relations Commission*, 353 Phil. 551, 558 (1998).

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Benjamin S. Caguioa, "due process is not a rigid and inflexible concept." Depending on the circumstances, it "varies with the subject matter and necessities of the situation."[282] In relation to administrative proceedings, "due process should not be tantamount to the requirements for judicial or adjudicatory processes.[283]

As raised by Associate Justice Maria Filomena D. Singh during the public consultations on February 4 and 5, 2011, the attendees were able to express their concerns and opposition to the proposed fare adjustment. The participants even articulated their own recommendations regarding the fare increase. Meanwhile, petitioners in G.R. No. 216735 admitted that during the public consultation on December 12, 2013, those present were given the chance to participate in the discussion and that one of the participants even asked about the authority of those presiding the consultation to hear the case of a proposed fare hike.[284] Unlike what petitioners insist, there is no inherent right to confront or cross-examine the other party in proceedings of this nature. So long as interested parties are given an adequate opportunity and avenue to air their views prior to the adoption of a new rule, the essence of due process is deemed served.

II (C).

The rates under D.O. No. 2014-014 are reasonable and just

Petitioners posit that the fare increase is arbitrary because it provided no basis or formula for computation of the fare increases presented. The fare increase is, therefore, unjust and unreasonable.[285]

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[282] Concurring Opinion, p. 14, citing *Rubi v. Provincial Board of Mindoro*, 39 Phil. 660, 707 (1919) and *Saunar v. Exec. Sec. Ermita et al.*, 822 Phil. 536, 546 (2017).

[283] *Id.*

[284] *Rollo* (G.R. No. 215650) Vol. II, pp. 876–877.

[285] *Rollo* (G.R. No. 215650), Vol. III, p. 1074.

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It bears reiterating that "the power to fix rates is a legislative function, whether exercised by the legislature itself or delegated through an administrative agency."[286] In case exercised by an administrative agency, the only required standard is for the rate to be reasonable and just.[287]

Nevertheless, "a determination of whether the rates so fixed are reasonable and just is a purely judicial question and is subject to the review of the courts."[288] Moreover, the determination of the justness and reasonableness of a certain rate is a question of fact calling for the exercise of discretion, good sense, and a fair, enlightened, and independent judgment.[289] Being a question of fact, high regard is given to the factual findings of administrative bodies in the fixing of their rates, it being a technical matter within their area of expertise.[290] Rate-fixing calls for no less than a technical examination and a specialized review of specific details that courts may not be equipped to partake.[291] As such, these matters are primarily entrusted to the administrative or regulating authority.[292]

In *NASECORE v. MERALCO*,[293] this Court affirmed the ERC's approval of MERALCO's applications for the translation distribution rates of the ERC-approved Annual Revenue Requirement, using the Performance-Based Regulation methodology, covering the first and second regulatory years

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[286] *Republic of the Philippines v. Manila Electric Company*, 440 Phil. 389, 398 (2002).

[287] *Philippine Communications Satellite Corporation v. Alcuaz*, 259 Phil. 707, 715 (1989).

[288] *Republic of the Philippines v. Manila Electric Company*, 440 Phil. 389 (2002).

[289] *Id.* at 399.

[290] *Id.*

[291] *NASECORE v. MERALCO*, 797 Phil. 12, 30 (2016).

[292] *Id.*

[293] 797 Phil. 12 (2016).

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2007 to 2011 period. This Court sustained the reasonableness of the rates approved by the ERC after finding that MERALCO's rate applications were approved only after the ERC "conducted the necessary proceedings, received evidence in support of the applications and, thereafter, made an independent evaluation of the same."[294] Thus:

> It must be stressed that since rate-fixing calls for a technical examination and a specialized review of specific details which the courts are ill-equipped to enter, such matters are primarily entrusted to the administrative or regulating authority. Hence, the factual findings of administrative officials and agencies that have acquired expertise in the performance of their official duties and the exercise of their primary jurisdiction are generally accorded not only respect but, at times, even finality if such findings are supported by substantial evidence. Absent any of the exceptions laid down by jurisprudence, such factual findings of quasi-judicial agencies, especially when affirmed by the CA, are binding on this Court.
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> As determined by the ERC, which was affirmed by the CA, petitioners failed to sufficiently show that the rates approved in the proceedings below were unreasonable as they claimed to be. As pointed out by the CA, MERALCO's rate applications were approved only after the ERC conducted the necessary proceedings, received evidence in support of the applications and, thereafter, made an independent evaluation of the same. Thus, the CA cannot be faulted in sustaining the reasonableness of the rates approved by the ERC. In *Ynchausti Steamship Co. v. Public Utility Commissioner*, this Court articulated that "[t]here is a legal presumption that the fixed rates are reasonable, and it must be conceded that the fixing of rates by the Government, through its authorized agents, involves the exercise of reasonable discretion and unless there is an abuse of that discretion, the courts will not interfere."
>
> For another, petitioners decry the ERC's failure to wait for and take into consideration the complete audit on the books, records, and accounts of MERALCO by the COA before approving MERALCO's new rates. According to them, *Lualhati* directed the ERC to request the COA to perform such audit relative to MERALCO's provisionally-approved increase and unbundled rates. Petitioners further add that due to ERC's

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[294] *Id.* at 31.

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unbridled approval of new rates, MERALCO was able to amass excess profits in the amount of ₱39,208,556,000.00 for the period of 2003-2008, thus, giving it an average annual return of investment of 51%, which is way above the 12% return on investment generally allowed for public utilities.[295] (Citations omitted).

In the present case, petitioners failed to prove that the rates under D.O. No. 2014-014 were unreasonable or unjust. To note, the proposed fare increase of PHP11.00 plus PHP1.00/km was initially determined by the DOTC-LRTA Study Team in 2010 after conducting an examination of the various factors affecting the operations and status of the rail lines. According to the team's Fare Restructuring Executive Report,[296] the rail lines are not generating substantial revenues, requiring greater government subsidies to cover operating and maintenance costs. It was also pointed out that the LRT and MRT fares have fallen below the fare levels of Metro Manila buses and jeepneys for the end-to-end travel of the rail lines. Thus, three fare options were initially considered to approximate the prevailing fare of air-conditioned buses in the metro: (1) PHP9.00 [boarding fee] plus PHP1.00/km; (2) PHP10.00 [boarding fee] plus PHP1.00/km; and (3) PHP11.00 [boarding fee] plus PHP1.00/km. Ultimately, the team proposed the increase of PHP11.00 plus PHP1.00/km since it will reduce government subsidy the most.[297]

From the foregoing, it cannot be said that the fare increase under D.O. No. 2014-014 was arrived at arbitrarily. Clearly, the rates thereunder were determined after a thorough and independent evaluation made by the DOTC and the LRTA. Moreover, the DOTC and the LRTA followed the prescribed procedure in implementing the fare increase. As discussed above, due notice was issued and public consultations were held before D.O. No. 2014-014 took effect.

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[295] *Id.* at 30–31.

[296] *Rollo* (G.R. No. 215653), Vol. I, pp. 108–110.

[297] *Id.*

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Without a clear showing that the DOTC or the LRTA acted arbitrarily or capriciously, this Court shall not interfere in the exercise of their statutorily-granted powers.[298] Their findings and conclusions with regard to the fare increase under D.O. No. 2014-014 must thus be respected.

This Court reiterates that with regard to any changes in the rates of the LRT and the MRT fares, the requirements under Section 9, Chapter 2, Book VII of the Administrative Code of 1987 must be strictly observed. The twin requirements on notice and hearing are not dispensable. Otherwise, any proposed changes or fare increase shall be void and of no effect.

In this case, there was substantial compliance with the requirements of notice and hearing. The purpose for which these requirements were enacted was sufficiently served. Perforce, the validity of D.O. No. 2014-014 must be sustained.

As a final note, this Court clarifies that the result of the pending arbitration request filed by the LRMC with the International Chamber of Commerce on May 6, 2022 against the DOTr and the LRTA will have no effect on our ruling on the consolidated Petitions. The arbitration request involves the petition for fare increase in 2016, 2018, and 2022 made by the LRMC which were all denied by the government. It does not deal with the fare increase mandated under D.O. 2014-014.

ACCORDINGLY, the Petitions are **DISMISSED**. This Court upholds the validity of the Department of Transportation and Communications Department Order No. 2014-014.

SO ORDERED.

Hernando, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, Dimaampao, Marquez, Kho, Jr., and *Singh, JJ.*, concur.

Gesmundo, C.J., see separate concurring opinion.

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[298] *Republic of the Philippines v. Manila Electric Company*, *supra* note 289, at 400.

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Leonen, J., on official leave but left a vote; see separate concurring opinion.

Lazaro-Javier, J., see concurrence.

Caguioa, J., see concurring and dissenting opinion.

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The Solicitor General for public respondents.

CONCURRING OPINION

GESMUNDO, *C.J.*:

This case involves five consolidated petitions that assail the constitutionality of the Department of Transportation and Communications *(DOTC)* Department Order No. 2014-014 (DO 2014-014), which mandated the application of the user-pays principle and adopted a uniform base fare for the Light Rail Transit *(LRT)* Lines 1 and 2 and the Metro Rail Transit *(MRT)* Line 3.

I concur with the *ponencia* in upholding the validity of DO 2014-014. Nevertheless, I write this Opinion to expound on the actual case or controversy requirement. On the merits, I discuss the matter of public participation in a government agency's exercise of quasi-legislative function.

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Actual case or controversies;
grave abuse of discretion

Section 1, Article VIII of the Constitution defines traditional judicial power as the duty of the courts of justice "to settle actual controversies involving rights which are legally demandable and enforceable," and expanded judicial power as the duty "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." Case law provides that whether in the traditional or expanded mode, the exercise of judicial power requires the presence of an *actual case or controversy*.[1]

In view of the actual case or controversy requirement, courts decline to issue advisory opinions, resolve hypothetical or feigned problems, or mere academic questions. This limitation is anchored on the separation of powers principle and defines the role of the Judiciary in the government. It assures that courts will not intrude into areas reserved to other branches of government.[2]

To reiterate, the presence of *actual case or controversy* is required in both traditional or expanded modes of judicial review;[3] however, the concept may slightly vary depending on the mode used.

In the traditional sense, "an actual case or controversy is one which involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished

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[1] The rationale for this requirement goes into the role of the Judiciary in the constitutional framework of government. (*Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, 589 Phil. 387, 481 [2008]), which states that "[t]he limitation of the power of judicial review to actual cases and controversies defines the role assigned to the judiciary in a tripartite allocation of power, to assure that the courts will not intrude into areas committed to the other branches of government."

[2] See *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, supra.

[3] See note 1.

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from a hypothetical or abstract difference or dispute. To be justiciable, the case or controversy must present a **contrariety of legal rights** that can be interpreted and enforced on the basis of existing law and jurisprudence."[4]

Under the expanded mode, however, the requirement of an actual case or controversy is simplified as a ***prima facie* showing of grave abuse of discretion in the assailed governmental act**.[5] This was articulated in *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association*,[6] *viz.*:

> The Court's expanded jurisdiction — *itself an exercise of judicial power* — does not do away with the actual case or controversy requirement in presenting a constitutional issue, but effectively **simplifies** this requirement by merely requiring **a *prima facie* showing of grave abuse of discretion in the assailed governmental act**.[7] (Emphases supplied)

To recall, the expanded *certiorari* jurisdiction was an innovation under the 1987 Constitution. Under this mode of judicial review, courts are "empowered to determine if any government branch or instrumentality has acted beyond the scope of its powers, such that there is grave abuse of discretion."[8] It has been held that the "Constitution sets forth in no uncertain language the restrictions and limitations upon governmental powers and agencies. If these restrictions and limitations are transcended[,] it would be inconceivable if the Constitution had not provided for a mechanism by which to direct the course of government along

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4 *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, 842 Phil. 747, 782 (2018); see also *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, supra.

5 *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, id.

6 802 Phil. 116 (2016).

7 Id. at 141.

8 *Kilusang Mayo Uno v. Aquino III*, 850 Phil. 1168, 1181-1182 (2019), citing *Araullo v. Aquino III*, 737 Phil. 457, 525 (2014).

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constitutional channels."[9] Such mechanism is the extraordinary mode of judicial review.

In the present case, the *ponencia* holds that there exists an actual case or controversy because there are polarizing views on the alleged nullity of DO 2014-014. On the one hand, petitioners argue that the assailed issuance violated their right to due process for having been issued without notice and hearing; on the other hand, respondents claim that the implementation of the fare adjustment scheme did not require notice and hearing.[10] Moreover, the *ponencia* underscores that the issue raised is not merely a policy question as to be beyond the scope of judicial review. Considering that the fare adjustment under DO 2014-014 involves rate-fixing, its issuance necessitates compliance with the requirements laid out by law.[11]

I agree that there is an actual case or controversy. Viewed from the lens of the expanded *certiorari* jurisdiction, this means that petitioners in the present case were able to show *prima facie* grave abuse of discretion on the part of respondents when the latter issued DO 2014-014 in contravention of the constitutional right to procedural due process (*i.e.*, lack of notice and hearing). To emphasize, grave abuse or violation is based not merely on a statutory requirement, but on a constitutional provision. Notably, Sec. 1, Art. III of the Constitution guarantees the right to due process. Alleging lack of notice and hearing, petitioners claim a violation of such right.

Notice and hearing requirement

On the merits, petitioners argue that DO 2014-014 is invalid for having been issued without notice and hearing.[12] Based on the facts presented, public consultations were held by the LRT

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[9] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 879 (2003), citing *Angara v. Electoral Commission*, 63 Phil. 139, 157 (1936).

[10] *Ponencia*, p. 29.

[11] Id. at 27-28.

[12] Id. at 57.

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Administrator in February 2011 and December 2013 for the rate increase that was supposed to be implemented either in 2011 or 2014, but the increase then did not materialize.[13] Petitioners posited that the public is entitled to a fresh round of notice and hearing since the fare increase under DO 2014-014 represents a "change in the withdrawal of the proposed fare hike in the previous years."[14]

The *ponencia* holds that the issuance of DO 2014-014 substantially complied with the requirements of notice and hearing.[15] It highlights that prior to the issuance of DO 2014-014, public consultations were already held in February 2011 and December 2013 after due notice. DO 2014-014 "even retained the initially proposed fare structure" back in 2010.[16] Hence, the fare hike in DO 2014-014 is a mere reiteration of the increase proposed in 2011 and 2013 for which public consultations were conducted.

I agree. I hasten to add that, to my mind, the time interval between the December 2013 consultation and the issuance of the assailed DO 2014-014 in December 2014 is reasonably short, which renders unnecessary the conduct of a new round of consultation. Besides, there is no showing of any drastic changes in social and economic conditions that have occurred between December 2013 and December 2014 as to radically alter the perspectives of those who attended the prior year's public consultation and other persons affected by the issuance. Notably, the travelers or commuters that use the LRT lines 1 and 2 are similar to those that use the MRT line 3 and have already been given opportunities to express their positions during the 2013 consultation. In my considered view, the public consultation in 2013 could sufficiently be deemed as the statutorily required hearing before the issuance of the new rates fixed under DO 2014-014.

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[13] Id.

[14] Id. at 59.

[15] Id. at 56-59.

[16] Id. at 58.

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To expound, "the fixing of rates is generally a legislative power, whether exercised by the legislature itself or delegated through an administrative agency."[17] Distinguishing between quasi-judicial and quasi-legislative acts of fixing rates, the Court has pronounced, thus:

> Where the rules and/or rates imposed by an administrative agency *apply exclusively to a particular party*, predicated upon a finding of fact, the agency performs a function partaking of a *quasi-judicial* character and prior notice and hearing are essential to the validity thereof.
>
> If the agency is in the exercise of its *legislative* functions or where the rates are meant to apply to *all enterprises of a given kind* throughout the country, however, the grant of **prior notice and hearing** to the affected parties is **not a requirement** of due process[,] **except where the legislature itself requires it**.[18] (Emphases supplied; italics in the original)

Therefore, based on prevailing jurisprudence on quasi-legislative functions, the general rule is that prior notice and hearing are not requirements of due process.[19] The exception is when a statute requires them, as in this case. Notably, Sec. 9, Chapter 2, Book VII of the Administrative Code of 1987 *(Administrative Code)* states, thus:

> Section 9. *Public Participation*.—x x x
>
> x x x x
>
> (2) **In the fixing of rates**, no rule or final order shall be valid unless the proposed rates shall have been **published** in a newspaper of general circulation at least two (2) weeks before the **first hearing** thereon. (Emphases supplied)

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[17] *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*, 494 Phil. 664, 676 (2005).

[18] Id. at 676-677; see also *Equi-Asia Placement, Inc. v. Department of Foreign Affairs*, 533 Phil. 590, 606 (2006); *Philippine Consumers Foundation, Inc. v. Secretary of Education, Culture, and Sports*, 237 Phil. 606, 611 (1987), citing *Abella, Jr. v. Civil Service Commission*, 485 Phil. 182, 207 (2004).

[19] *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*, supra.

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As observed by the *ponencia*, this statutory provision explicitly contains the requisite notice and hearing before the fixing of rates in a government agency's exercise of quasi-legislative functions.[20]

Based on the Administrative Code, the conduct of a prior hearing is mandatory. In *Manila International Airport Authority (MIAA) v. Airspan Corporation*,[21] the rate increases imposed by MIAA were invalidated for lack of notice and public hearing as required under the Administrative Code. In that case, no public hearing was conducted at all prior to the issuance of the new rates. The Court also found the issuance *ultra vires* because it was not issued by the DOTC Secretary as the official authorized to increase the rates.

A reading of the above-quoted provision, however, shows that there is no required time difference between the hearing or public consultation *vis-à-vis* the issuance of the rates. To illustrate the point, the provision does not state that a lapse of say, one or two years, from the hearing date up to the issuance of the new rates would render the hearing ineffective and thus, necessitate a new notice and hearing.

In *Carbonilla v. Board of Airlines Representatives*,[22] the Bureau of Customs conducted several meetings for two years with the concerned agencies to discuss the proposed increase in the rate of overtime pay, in compliance with the Administrative Code provision on rate-fixing. Therein respondents participated in those meetings, and thus, they cannot claim denial of due process in the increase of the overtime rate. The facts show that the review of overtime pay started in April 2002, and after several meetings, the Customs Administrative Order was approved by the Secretary of Finance in February 2005 and became effective in March 2005. It bears pointing out that more than two years had lapsed from the time the review was initiated.

Based on the foregoing, no time interval between the hearing or public consultation is mandated under the Administrative

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[20] See *ponencia*, p. 51.

[21] 486 Phil. 1136 (2004).

[22] *Carbonilla v. Board of Airlines Representatives*, 673 Phil. 413 (2011).

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Code and the issuance of the new fixed rates, as long as public hearing or consultation is conducted.

In the present case, the facts presented provide that public consultations were conducted back in February 2011 and in December 2013, but the rate increase discussed then did not materialize.[23] In my view, the issuance of the assailed DO 2014-014 constitutes the end product of the previous consultations despite the passage of one year. As the *ponencia* observes, "the basis and purpose for the proposed hike remained the same ever since—the reduction of government subsidy over the operation of the LRT and the MRT."[24]

To stress, the purpose of the public hearing requirement is to enable the government agencies and the affected members of the public to discuss concerns in order to balance their interests.[25] This objective was achieved in this case when the 2013 public consultation was conducted. Notably, the oppositions to the proposed fare hike were heard, as statutorily required. In my view, the concerns expressed by the attendees can be deemed unchanged a year later, considering that there were no tectonic shifts in the social and economic conditions in the country from 2013 to 2014.

On these scores, it is my humble view that the required public hearing or consultation prior to the issuance of DO 2014-014 was adequately complied with.

As a final note, I am fully aware of the practical implication of the Court's Decision on the general commuting public who will have to contend with high fees in availing of the train system in the metropolitan area. It bears stressing that the role of the Court with respect to judicial review is not to look into the wisdom and good judgment of the other co-equal branches of government. Rather, its solemn duty is to ascertain whether the

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[23] See *ponencia*, p. 58.

[24] Id.

[25] *Manila International Airport Authority v. Airspan Corporation*, *supra* note 21, at 1147, which states: "Balancing of interests among the parties concerned, in a public hearing, is obviously called for."

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constitutionally-imposed boundaries against the executive and legislative branches are breached, which will result to grave abuse of discretion that must be remedied by the Court. Considering that the hearing requirement is met, the Court is duty-bound to uphold the constitutionality of the assailed issuance. I am steadfast that in rendering judgment, the Court does not dwell in the wisdom of the policy set forth by the executive branch of the government. Needless to say, the executive branch may reassess its rate-fixing policy to again take into account the concerns of the public.

WHEREFORE, I vote to **DISMISS** the petitions, and accordingly, uphold the validity of Department Order No. 2014-014 issued by the Department of Transportation and Communications.

SEPARATE CONCURRING OPINION

LEONEN, *J.*:

I agree with the *ponencia*.

This Court's pronouncement in *Vigan Electric Light Co., Inc. v. Public Service Commission*[1] is clear. Notice and hearing are generally not mandated in quasi-legislative acts *unless the law provides otherwise*.[2]

When the law explicitly demands a notice and hearing, the administrative agency cannot disregard these requirements on the reason that the act is done in furtherance of a quasi-legislative function. The notice and hearing become imperative and components of procedural due process. Ultimately, due process is not only conditioned on notice and hearing but on the constitutional mandate under Article III, Section 1. This constitutional provision is the basis for all State policy.

Rate-fixing is a task specifically delegated to administrative agencies possessing the specialization and technical knowledge

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1 119 Phil. 304 (1964) [Per J. Concepcion, *En Banc*].

2 *Id.*

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in their field. Part of this sensitive function involves the exercise of the administrative agencies' sound discretion. However, the rate imposed must still be just and reasonable. It should not be discriminatory and confiscatory.

It must be emphasized that it is the public who will eventually bear the burden of the rate increase. Thus, the public must be given full information why there is a rate adjustment and how the administrative agency determined the new rate. The public must have an opportunity to be heard and to contest the fare increase. Without a reasonable explanation and a meaningful dialogue between the public and respondents, the core of public participation mandated by the Administrative Code is transgressed.

I

"[J]udicial review is the courts' power to decide on the constitutionality of exercises of power by the other branches of government and to enforce constitutional rights."[3]

This Court's duty is expressed in the Constitution. In Article VIII, Section 1:

> 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.[4]

The 1987 Constitution introduced the expanded scope of judicial power.[5] Under the expanded scope, courts are not only bound to "settle actual controversies involving rights which are

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[3] *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*].

[4] CONST., art. VIII, sec. 1.

[5] *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019 [Per J. Leonen, *En Banc*].

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legally demandable and enforceable[,]" but are also expected "to determine if any government branch or instrumentality has acted beyond the scope of its powers, such that there is grave abuse of discretion."[6]

In *GSIS Family Bank Employees Union v. Villanueva*,[7] we explained that the expanded scope intends to prevent courts from declining review based on the political question doctrine.

> Jurisprudence has consistently referred to these two (2) as the court's traditional and expanded powers of judicial review.
>
> Traditional judicial power is the court's authority to review and settle actual controversies or conflicting rights between dueling parties and enforce legally demandable rights. An actual case or controversy exists "when the case presents conflicting or opposite legal rights that may be resolved by the court in a judicial proceeding."
>
> On the other hand, the framers of the 1987 Constitution deliberately expanded this Court's power of judicial review to prevent courts from seeking refuge behind the political question doctrine and turning a blind eye to abuses committed by the other branches of government.[8]

Further, prior to the 1987 Constitution, *certiorari* petitions under Rule 65 are strictly applied to correct only "errors of jurisdiction of judicial and quasi-judicial bodies."[9] With the expanded scope of judicial review, this Court has allowed Rule 65 as a vehicle for petitions invoking the Court's expanded jurisdiction based on its power to relax its rules.[10] In *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*:[11]

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[6] *Id.*

[7] G.R. No. 210773, January 23, 2019 [Per J. Leonen, Third Division].

[8] *Id.*

[9] *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116, 136 (2016) [Per J. Brion, *En Banc*].

[10] *Id.* at 139.

[11] *Id.*

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In contrast, existing Court rulings in the exercise of its expanded jurisdiction have allowed the direct filing of petitions for *certiorari* and prohibition with the Court to question, for grave abuse of discretion, actions or the exercise of a function that violate the Constitution. The governmental action may be questioned regardless of whether it is quasi-judicial, quasi-legislative, or administrative in nature. The Court's expanded jurisdiction does not do away with the actual case or controversy requirement for presenting a constitutional issue, but effectively simplifies this requirement by merely requiring a *prima facie* showing of grave abuse of discretion in the exercise of the governmental act.[12]

Clearly, the text of Article VIII, Section 1 does not distinguish the cause for grave abuse. Any governmental act which violates a statute or treaty is grave abuse of discretion. More so, this Court is not precluded from resolving Rule 65 petitions against government bodies that do not exercise judicial, quasi-judicial, or ministerial functions.[13] In *Araullo v. Aquino III*:[14]

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 functions. This application is expressly authorized by the text of the second paragraph of Section 1, supra.

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.[15]

Nevertheless, this Court's expanded jurisdiction does not tantamount to abandonment of the requisites of justiciability.

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[12] *Id.* at 149.

[13] *Kilusang Magbubukid ng Pilipinas v. Aurora Pacific Economic Zone and Freeport Authority*, G.R. Nos. 198688 & 208282, November 24, 2020 [Per J. Leonen, *En Banc*].

[14] 752 Phil. 716 (2014) [Per J. Bersamin, *En Banc*].

[15] *Id.* at 531.

Constitutional adjudication is still subject to limitations. In *Angara v. Electoral Commission*:[16]

> The Constitution is a definition of the powers of government. Who is to determine the nature, scope and extent of such powers? The Constitution itself has provided for the instrumentality of the judiciary as the rational way. And when the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed "judicial supremacy" which properly is the power of judicial review under the Constitution. Even then, this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.[17]

For a controversy to be deemed justiciable, the following must be sufficiently demonstrated by the petitioner:

> "(1) an actual case or controversy over legal rights which require the exercise of judicial power; (2) standing or *locus standi* to bring up the constitutional issue; (3) the constitutionality was raised at the earliest opportunity; and (4) the constitutionality is essential to the disposition of the case or its *lis mota*."[18]

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[16] 63 Phil. 139 (1936) [Per J. Laurel, *En Banc*].

[17] *Id.* at 158–159.

[18] *National Federation of Hog Farmers, Inc. v. Board of Investments*, G.R. No. 205835, June 23, 2020 [Per J. Leonen, *En Banc*].

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There is an actual case or controversy "when there is a conflict of legal rights or an assertion of opposite legal claims between the parties that is susceptible or ripe for judicial resolution."[19] The suit must involve a "definite and concrete dispute touching on the legal relations of the parties who have adverse legal interests."[20]

This requirement prevents this Court from making "hypothetical pronouncements on abstract, contingent[,] and amorphous issues"[21] and from rendering a mere advisory opinion without practical use or value.[22] Therefore, this Court will not pass upon the validity of an act of government or a statute without a showing of actual injury.[23]

Even under the expanded scope of judicial review, the requirement of actual case or controversy is not dispensed with. In *Falcis III v. Civil Registrar General*:

> Basic in litigation raising constitutional issues is the requirement that there must be an actual case or controversy. This Court cannot render an advisory opinion. We assume that the Constitution binds all other constitutional departments, instrumentalities, and organs. We are aware that in the exercise of their various powers, they do interpret the text of the Constitution in the light of contemporary needs that they should address. A policy that reduces this Court to an adviser for official acts by the other departments that have not yet been done would unnecessarily tax our resources. It is inconsistent with our role as final arbiter and adjudicator and weakens the entire system of the Rule of Law. Our power of judicial review is a duty to make a final and binding construction of law. This power should generally be reserved when the departments have exhausted any and all acts that would remedy any perceived violation of right. The rationale that defines the extent of our doctrines laying down

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[19] *Republic v. Mupas*, 769 Phil. 21, 225 (2015) [Per J. Brion, *En Banc*].

[20] *Id.*

[21] *Kilosbayan, Inc. v. Guingona, Jr.*, 302 Phil. 107, 210 (1994) [Per J. Davide, Jr., *En Banc*].

[22] *Republic v. Mupas*, 769 Phil. 21, 225 (2015) [Per J. Brion, *En Banc*].

[23] *Kilosbayan, Inc. v. Guingona, Jr.*, 302 Phil. 107, 210 (1994) [Per J. Davide, Jr., *En Banc*].

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exceptions to our rules on justiciability are clear: Not only should the pleadings show a convincing violation of a right, but the impact should be shown to be so grave, imminent, and irreparable that any delayed exercise of judicial review or deference would undermine fundamental principles that should be enjoyed by the party complaining or the constituents that they legitimately represent.[24]

Meanwhile, "[l]egal standing is a party's personal and substantial interest in the case such that he [or she] has sustained, or will sustain, direct injury as a result of its enforcement."[25] A litigant's interest in the case must be "material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest."[26] Similar to an actual case or controversy, the requirement of legal standing ensures that a party is "seeking a concrete outcome or relief that may be granted by courts."[27] In *Kilusang Magbubukid ng Pilipinas v. Aurora Pacific Economic Zone and Freeport Authority*,[28] we explained:

> A direct injury is required to be shown to guarantee that the filing party has a "personal stake in the outcome of the controversy and, in effect, assures 'that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.'" Thus, the person praying for a judicial remedy must show "a legal interest or right to it, otherwise, the issue presented would be purely hypothetical and academic."[29]

Further, the constitutional issue should have been raised at the earliest opportunity. This means that the litigant should have immediately raised the issue in the proceedings in the lower

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[24] *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*].

[25] *Id.*

[26] *Id.*

[27] *Id.*

[28] G.R. Nos. 198688 & 208282, November 24, 2020 [Per J. Leonen, *En Banc*].

[29] *Id.*

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court.[30] Lastly, the constitutional issue must be the *lis mota* of the case, meaning, a litigant must show that the resolution of the constitutional questions is necessary to resolve the case.[31]

Here, petitioners have demonstrated the petitions' justiciability.

First, there is an actual case given the conflict of legal rights asserted by petitioners against respondents. Specifically, petitioners claimed that their constitutional right to due process was violated when respondents established a rate hike without prior notice and hearing. Moreover, Department Order No. 2014-014 has already been implemented since January 4, 2015.

Second, petitioners have the legal standing to sue considering that they represent members who are regular commuters directly affected by the fare increase.

Third, petitioners have raised the issue of constitutionality at the earliest opportunity when they directly filed the Petition before this Court. Lastly, the constitutionality of the approval of the rate hike and issuance of Department Order No. 2014-014 is at the core of the disposition of the Petitions.

However, respondents stressed that the Petitions must be dismissed for violating the doctrine of exhaustion of administrative remedies and hierarchy of courts.

When acts of administrative agencies are assailed, the ripeness of the case for adjudication is ensured under the doctrine of exhaustion of administrative remedies.[32] Under this doctrine, petitioners must have exhausted all remedies available to them under the law before raising their case before this Court. This allows the administrative agency to exercise its power to its full extent and correct or reconsider its actions. Otherwise, it would be

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[30] *Arceta v. Mangrobang*, 476 Phil. 106, 115 (2004) [Per J. Quisumbing, *En Banc*].

[31] *Id.*

[32] *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019 [Per J. Leonen, *En Banc*].

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premature for courts to review the case.[33] In *Diocese of Bacolod v. COMELEC*,[34] we explained:

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.[35]

However, this doctrine admits certain exceptions. This Court possesses full discretion to assume jurisdiction if there are exceptional compelling reasons. *Diocese of Bacolod* summarized these exceptions:

(1) when there are genuine issues of constitutionality that must be addressed at the most immediate time;

(2) when the issues involved are of transcendental importance;

(3) cases of first impression;

(4) the constitutional issues raised are better decided by the Court;

(5) exigency in certain situations;

(6) the filed petition reviews the act of a constitutional organ;

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[33] *Id.*

[34] 751 Phil. 301 (2015) [Per J. Leonen, *En Banc*].

[35] *Id.* at 329–330.

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(7) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; [and]

(8) the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."[36]

Similar to the doctrine on exhaustion of administrative remedies, the doctrine on hierarchy of courts ensures that this Court remains a court of last resort.[37] This doctrine restricts parties from going directly to this Court when relief may be obtained from the lower courts.[38] It is also grounded on practical judicial policy to prevent "inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, as well as to prevent the congestion of the Court's dockets."[39]

This doctrine, however, is not an inflexible rule. A direct invocation of this Court's original jurisdiction is allowed when there are compelling reasons or when the issues raised are pure questions of law.[40] In *Aala v. Uy*,[41] we enumerated the exceptions to the doctrine on hierarchy of courts. Thus:

Immediate resort to this Court may be allowed when any of the following grounds are present: (1) when genuine issues of constitutionality are raised that must be addressed immediately; (2) when the case involves transcendental importance; (3) when the case is novel; (4) when the

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[36] *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120, 173 (2019) [Per J. Jardeleza, *En Banc*], *citing The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 331–335 (2015) [Per J. Leonen, *En Banc*].

[37] *Aala v. Uy*, 803 Phil. 36, 54 (2017) [Per J. Leonen, *En Banc*].

[38] *Id.*

[39] *Id.*

[40] *Id.* at 57.

[41] *Id.*

constitutional issues raised are better decided by this Court; (5) when time is of the essence; (6) when the subject of review involves acts of a constitutional organ; (7) when there is no other plain, speedy, adequate remedy in the ordinary course of law; (8) when the petition includes questions that may affect public welfare, public policy, or demanded by the broader interest of justice; (9) when the order complained of was a patent nullity; and (10) when the appeal was considered as an inappropriate remedy.[42]

Here, petitioners invoked the jurisdiction of this Court without appealing before respondents and without first seeking recourse before the Regional Trial Court and Court of Appeals, which have concurrent jurisdiction to issue writs of *certiorari* and prohibition. In proceeding to file directly before this Court, petitioners have disregarded the doctrines of exhaustion of administrative remedies and hierarchy of courts.

Notwithstanding, the Petitions fall under some of the recognized exceptions. Specifically, the Petitions raised issues which directly affect public welfare. Daily commuters who use LRT 1, LRT 2, and MRT already bore the burden of the rate increase. It has been almost eight years since the increase took effect. Further, as pointed out by the *ponencia*, the Petitions present an issue of transcendental importance given the paramount public interest involved.

Although I agree, it must be stressed that bypassing the judicial hierarchy is not justified by simply raising issues of transcendental importance.

In *Gios-Samar, Inc. v. Department of Transportation and Communications*,[43] we have clarified that to invoke the exception of transcendental importance, petitioners must raise pure questions of law. Ultimately, the factor which allows this Court to excuse the violation of judicial hierarchy is the nature of the question raised in the petition and not the invocation of special and important reasons.[44]

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[42] *Id.*

[43] G.R. No. 217158, March 12, 2019 [Per J. Jardeleza, *En Banc*].

[44] *Id.*

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In *Gios-Samar*, this Court took time to go through a long line of cases where exceptions to the hierarchy of courts were allowed. And in those cases, there were clear factual parameters which allowed this Court to resolve the controversies. Thus:

> An examination of the cases wherein this Court used "transcendental importance" of the constitutional issue raised to excuse violation of the principle of hierarchy of courts would show that resolution of factual issues was not necessary for the resolution of the constitutional issue/s. These cases include *Chavez v. Public Estates Authority, Agan, Jr. v. Philippine International Air Terminals Co., Inc.*, *Jaworski v. Philippine Amusement and Gaming Corporation, Province of Batangas v. Romulo, Aquino III v. Commission on Elections*, *Department of Foreign Affairs v. Falcon*, *Capalla v. Commission on Elections*, *Kulayan v. Tan*, *Funa v. Manila Economic & Cultural Office*, *Ferrer, Jr. v. Bautista*, and *Ifurung v. Carpio-Morales*. In all these cases, there were no disputed facts and the issues involved were ones of law.
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> In *Agan*, we stated that "[t]he facts necessary to resolve these legal questions are well established and, hence, need not be determined by a trial court." In Jaworski, the issue is whether Presidential Decree No. 1869 authorized the Philippine Amusement and Gaming Corporation to contract any part of its franchise by authorizing a concessionaire to operate internet gambling. In *Romulo*, we declared that the facts necessary to resolve the legal question are not disputed. In *Aquino III*, the lone issue is whether RA No. 9716, which created an additional legislative district for the Province of Camarines Sur, is constitutional. In *Falcon*, the threshold issue is whether an information and communication technology project, which does not conform to our traditional notion of the term "infrastructure," is covered by the prohibition against the issuance of court injunctions under RA No. 8975. Similarly, in *Capalla*, the issue is the validity and constitutionality of the Commission on Elections' Resolutions for the purchase of precinct count optical scanner machines as well as the extension agreement and the deed of sale covering the same. In *Kulayan*, the issue is whether Section 465 in relation to Section 16 of the Local Government Code authorizes the respondent governor to declare a state of national emergency and to exercise the powers enumerated in his Proclamation No. 1-09. In *Funa*, the issue is whether the Commission on Audit is, under prevailing law, mandated to audit the accounts of the Manila Economic and Cultural Office. In *Ferrer*, the issue is the constitutionality of the Quezon City ordinances imposing socialized housing tax and garbage fee. In *Ifurung*,

the issue is whether Section 8 (3) of RA No. 6770 or the Ombudsman Act of 1989 is constitutional.

More recently, in *Aala v. Uy*, the Court *En Banc*, dismissed an original action for *certiorari*, prohibition, and *mandamus*, which prayed for the nullification of an ordinance for violation of the equal protection clause, due process clause, and the rule on uniformity in taxation. We stated that, not only did petitioners therein fail to set forth exceptionally compelling reasons for their direct resort to the Court, they also raised factual issues which the Court deems indispensable for the proper disposition of the case. We reiterated the time-honored rule that we are not a trier of facts: "[T]he initial reception and appreciation of evidence are functions that [the] Court cannot perform. These are functions best left to the trial courts."

To be clear, the transcendental importance doctrine does not clothe us with the power to tackle factual questions and play the role of a trial court. The only circumstance when we may take cognizance of a case in the first instance, despite the presence of factual issues, is in the exercise of our constitutionally-expressed task to review the sufficiency of the factual basis of the President's proclamation of martial law under Section 18, Article VII of the 1987 Constitution. The case before us does not fall under this exception.[45]

In this case, the factual allegations of the case are clear and straightforward. The questions raised by petitioners are pure questions of law. Thus, while it is apparent that petitioners disregarded the judicial hierarchy and the administrative remedies, this Court may proceed to resolve the controversies raised in the Petitions. The facts that constitute the Petitions are sufficient to equip this Court to settle the issues raised without needing further factual parameters.

Further, petitioners are not questioning the wisdom of the rate increase but its legality. Specifically, petitioners assail the authority of the Department of Transportation and Communications Secretary to implement the fare increase, and the lack of notice and hearing in violation of the due process clause under the Constitution.

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[45] *Id.*

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Lastly, respondents contend that the remedies of *certiorari* and prohibition are not proper modes of review and assail the Executive department's economic policy decisions, including which sectors to subsidize. They aver that the grant or withdrawal of government subsidy is purely a discretionary prerogative of the Executive department.[46] In other words, respondents submit that this is a question of policy which cannot be reviewed by this Court. This is untenable.

Respondents cannot evade the review of the rate increase on the basis of a policy question. To reiterate, the question raised by the Petitions is a pure question of law which may be taken cognizance by this Court. Petitioners are mainly questioning the procedure taken by respondents in approving and implementing the rate increase. This goes into the applicable law and rules mandated to be followed by respondents in approving the rate adjustment. Thus, respondents cannot raise the political question doctrine.

II

Article III, Section 1 of the Constitution mandates due process:

ARTICLE III

Bill of Rights

SECTION 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.[47]

Due process means "a law which hears before it condemns."[48] It essentially entails "idea of fair play."[49] Due process has both procedural and substantive elements. In *Ermita-Malate Hotel and Motel Operators Association, Inc. v. The Honorable City Mayor of Manila*,[50] this Court elucidated:

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[46] *Ponencia*, p. 12.

[47] CONST., art. III, sec. 1.

[48] *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 262 (2018) [Per J. Leonen, *En Banc*].

[49] *Id.* at 265.

[50] 127 Phil. 306 (1967) [Per J. Fernando, *En Banc*].

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There is no controlling and precise definition of due process. It furnishes though a standard to which governmental action should conform in order that deprivation of life, liberty or property, in each appropriate case, be valid. What then is the standard of due process which must exist both as a procedural and as substantive requisite to free the challenged ordinance, or any government action for that matter, from the imputation of legal infirmity; sufficient to spell its doom? It is responsiveness to the supremacy of reason, obedience to the dictates of justice. Negatively put, arbitrariness is ruled out and unfairness avoided. To satisfy the due process requirement, official action, to paraphrase Cardozo, must not outrun the bounds of reasons and result in sheer oppression. Due process is thus hostile to any official action marred by lack of reasonableness. Correctly has it been identified as freedom from arbitrariness. It is the embodiment of the sporting idea of fair play. It exacts fealty "to those strivings for justice" and judges the act of officialdom of whatever branch "in the light of reason drawn from considerations of fairness that reflect [democratic] traditions of legal and political thought." It is not a narrow or "technical conception with fixed content unrelated to time, place and circumstances," decisions based on such a clause requiring a "close and perceptive inquiry into fundamental principles of our society." Questions of due process are not to be treated narrowly or pedantically in slavery to form or phrases.[51]

The procedural aspect of due process is concerned with "government action adhering to the established process when it makes an intrusion into the private sphere."[52] In *Medenilla v. Civil Service Commission*:[53]

"Due process of law implies the right of the person affected thereby to be present before the tribunal which pronounces judgment upon the question of life, liberty, and property in its most comprehensive sense; to be heard, by testimony or otherwise, and to have the right of controverting, by proof, every material fact which bears on the question of the right in the matter involved."

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[51] *Id.* at 318–319.

[52] *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018 [Per J. Leonen, *En Banc*].

[53] 272 Phil. 107 (1991) [Per J. Gutierrez, Jr., *En Banc*].

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The essence of due process is the opportunity to be heard. The presence of a party is not always the cornerstone of due process. What the law prohibits is not the absence of previous notice but the absolute absence thereof and lack of opportunity to be heard.[54]

Meanwhile, substantive due process "requires that laws be grounded on reason and be free from arbitrariness."[55] There must be a sufficient justification for depriving a person of life, liberty, or property.[56] In *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*:[57]

Essentially, substantive due process is satisfied if the deprivation is done in the exercise of the police power of the State. Called "the most essential, insistent and illimitable" of the powers of the State, police power is the "authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare." In the negative, it is the "inherent and plenary power in the State which enables it to prohibit all that is hurtful to the comfort, safety, and welfare of society." "The reservation of essential attributes of sovereign power is . . . read into contracts as a postulate of the legal order."[58]

Generally, procedural due process requires notice and hearing. Notice and hearing are essential components of administrative due process, and it is a right guaranteed by the Constitution. Due process is not only conditioned on notice and hearing but on the constitutional mandate under Article III, Section 1. Due process is the basis for all State policy.

In *Globe Telecom, Inc. v. National Telecommunications Commission*:[59]

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[54] *Id.* at 115.

[55] *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 265 (2018) [Per J. Leonen, *En Banc*].

[56] *Id.*

[57] *Id.*

[58] *Id.* at 265–266.

[59] 479 Phil. 1 (2004) [Per J. Tinga, Second Division].

Notice and hearing are the bulwark of administrative due process, the right to which is among the primary rights that must be respected even in administrative proceedings. The right is guaranteed by the Constitution itself and does not need legislative enactment. The statutory affirmation of the requirement serves merely to enhance the fundamental precept. The right to notice and hearing is essential to due process and its non-observance will, as a rule, invalidate the administrative proceedings.[60]

However, the requirement of previous notice and hearing is limited by the nature of act of the administrative agency. When the agency acts pursuant to its quasi-judicial function, notice and hearing are required. This does not generally apply in an administrative agency's exercise of quasi-legislative power.

Quasi-judicial or administrative adjudicatory power is the "power of the administrative agency to adjudicate the rights of persons before it."[61] It is the "power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with standards laid down by the law itself in enforcing and administering the same law."[62] In *Heirs of Zoleta v. Land Bank of the Philippines*,[63] we explained the rationale behind the grant of quasi-judicial power. Thus:

Quasi-judicial power is vested in administrative agencies because complex issues call for "technical knowledge and speed in countless controversies which cannot possibly be handled by regular courts." Congress may, by law, grant administrative agencies the exclusive original jurisdiction over cases within their competence. Consistent with their specialized but narrowly limited competencies, the scope of the quasi-judicial power vested in administrative agencies is delineated in an agency's enabling statute:

In general, the quantum of judicial or quasi-judicial powers which an administrative agency may exercise is defined in the enabling act of such

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60 *Id.* at 38.

61 *Heirs of Zoleta v. Land Bank of the Philippines*, 816 Phil. 389, 411 (2017) [Per J. Leonen, Second Division].

62 *Id.*

63 *Id.*

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agency. In other words, the extent to which an administrative entity may exercise such powers depends largely, if not wholly, on the provisions of the statute creating or empowering such agency.[64]

Meanwhile, quasi-legislative power is "the power of an administrative agency to make rules and regulations that have the force and effect of law so long as they are issued within the confines of the granting statute."[65]

An administrative agency's exercise of quasi-legislative power is limited by the standard and the manner of the exercise prescribed in the law. Thus, the administrative agency's determination and establishment of rates must be both "non-confiscatory and must have been established in the manner prescribed by the legislature[.]"[66] In *Philippine Communications Satellite Corp. v. Alcuaz*:[67]

> Fundamental is the rule that delegation of legislative power may be sustained only upon the ground that some standard for its exercise is provided and that the legislature in making the delegation has prescribed the manner of the exercise of the delegated power. Therefore, when the administrative agency concerned, respondent NTC in this case, establishes a rate, its act must both be non-confiscatory and must have been established in the manner prescribed by the legislature; otherwise, in the absence of a fixed standard, the delegation of power becomes unconstitutional. In case of a delegation of rate-fixing power, the only standard which the legislature is required to prescribe for the guidance of the administrative authority is that the rate be reasonable and just. However, it has been held that even in the absence of an express requirement as to reasonableness, this standard may be implied.[68]

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64 *Id.* at 411–412.

65 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 233 (2018) [Per J. Leonen, *En Banc*].

66 *Philippine Communications Satellite Corp. v. Alcuaz*, 259 Phil. 707, 715 (1989) [Per J. Regalado, *En Banc*].

67 *Id.*

68 *Id.*

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Rate-fixing is a function which may be legislative or adjudicative. In *Vigan Electric Light Co., Inc. v. Public Service Commission*,[69] this Court made a categorical pronouncement that rate-fixing is of a legislative character when the rules or rates "are meant to apply to all enterprises of a given kind throughout the Philippines."[70]

In *Vigan Electric Light Co., Inc.*, this Court ruled that the rate-fixing partakes of a quasi-judicial function because the rate was exclusively applied to petitioner after a finding of fact.[71] Further, this Court underscored that the applicable statute explicitly requires notice and hearing.[72] Thus, previous notice and hearing are required. The applicable law in that case, Commonwealth Act No. 146, is clear:

Indeed, Sections 16 (c) and 20 (a) of Commonwealth Act No. 146 explicitly require notice and hearing. The pertinent parts thereof provide:

> "SEC. 16. The Commission shall have the power, upon proper notice and hearing in accordance with the rules and provisions of this Act, subject to the limitations and exceptions mentioned and saving provisions to the contrary:
>
> xxx xxx xxx
>
> "(c) To fix and determine individual or joint rates, tolls, charges classifications, or schedules thereof, as well as commutation, mileage, kilometrage, and other special rates which shall be imposed, observed, and followed thereafter by any public service: Provided, That the Commission may, in its discretion, approve rates proposed by public services provisionally and without necessity of any hearing; but it shall call a hearing thereon within thirty days thereafter, upon publication and notice to the concerns operating in the territory affected: Provided, further, that in case the public service equipment of an operator is used principally or

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69 119 Phil. 304 (1964) [Per J. Concepcion, *En Banc*].

70 *Id.* at 305.

71 *Id.*

72 *Id.*

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> secondarily for the promotion of a private business, the net profits of said private business shall be considered in relation with the public service of such operator for the purpose of fixing the rates.
>
> "Sec. 20. Acts requiring the approval of the Commission.—Subject to established limitations and exceptions and saving provisions to the contrary, it shall be unlawful for any public service or for the owner, lessee or operator thereof, without the approval and authorization of the Commission previously had—
>
> "(a) To adopt, establish, fix, impose, maintain, collect or carry into effect any individual or joint rates, commutation, mileage or other special rate, toll, fare, charge, classification or itinerary. The Commission shall approve only those that are just and reasonable and not any that are unjustly discriminatory or unduly preferential, only upon reasonable notice to the public services and other parties concerned, giving them a reasonable opportunity to be heard, . . ."

Since compliance with law must be presumed, it should be assumed that petitioner's current rates were fixed by respondent after proper notice and hearing. Hence, a modification of such rates cannot be made, over petitioner's objection, without such notice and hearing, particularly considering that the factual basis of the action taken by respondent is assailed by petitioner.[73]

The Court reiterated this position in *Central Bank of the Philippines v. Cloribel*,[74] where we held that previous notice and hearing are constitutionally required in a judicial or quasi-judicial proceeding. This is due to the fact that quasi-judicial proceedings are "generally dependent upon a past act or event which has to be established or ascertained."[75] This is not applicable in quasi-legislative proceedings where it is "not essential to the validity of general rules or regulations promulgated to govern future conduct of a class of persons or enterprises, *unless the law provides otherwise*[.]"[76]

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[73] *Id.* at 312–313.

[74] 150-A Phil. 86 (1972) [Per J. Concepcion, Second Division].

[75] *Id.* at 101.

[76] *Id.*

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Nevertheless, this pronouncement does not dilute the importance of due process in quasi-legislative rate-fixing. The exercise of quasi-legislative power is still conditioned on due process.

In *Kilusang Mayo Uno Labor Center v. Garcia, Jr.*,[77] this Court underscored the burden and implications of rate hikes to the public.

> Moreover, rate making or rate fixing is not an easy task. It is a delicate and sensitive government function that requires dexterity of judgment and sound discretion with the settled goal of arriving at a just and reasonable rate acceptable to both the public utility and the public. Several factors, in fact, have to be taken into consideration before a balance could be achieved. A rate should not be confiscatory as would place an operator in a situation where he will continue to operate at a loss. Hence, the rate should enable public utilities to generate revenues sufficient to cover operational costs and provide reasonable return on the investments. On the other hand, a rate which is too high becomes discriminatory. It is contrary to public interest. A rate, therefore, must be reasonable and fair and must be affordable to the end user who will utilize the services.
>
> Given the complexity of the nature of the function of rate-fixing and its far-reaching effects on millions of commuters, government must not relinquish this important function in favor of those who would benefit and profit from the industry. Neither should the requisite notice and hearing be done away with. The people, represented by reputable oppositors, deserve to be given full opportunity to be heard in their opposition to any fare increase.[78]

When the law clearly demands notice and hearing, the administrative agency cannot disregard these requirements on the reason that the act is done in furtherance of a quasi-legislative function. The notice and hearing become imperative and components of procedural due process. Thus, when the law mandates that public participation through notice and hearing should be observed, this cannot be ignored by the administrative agency, even if the act is quasi-legislative in character.

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[77] 309 Phil. 358 (1994) [Per J. Kapunan, First Division].

[78] *Id.* at 378.

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Here, the fixing of rates for the base fare in LRT 1, LRT 2, and MRT is done in exercise of the Department of Transportation and Communications' quasi-legislative function. The increase of rates is not merely applied to a specific user or segment of users. The rate hike is applied across the board. Respondent Light Rail Transit Authority pointed this out and concluded that notice and hearing are not required.

Respondent is mistaken.

While, ordinarily, notice and hearing are not mandated in quasi-legislative acts, the applicable statute in rate adjustments explicitly requires prior notice and hearing. Thus, these requirements must be satisfied by respondents.

As pointed out by the *ponencia*, Section 9, Chapter 2, Book VII of the Administrative Code of 1987 requires the publication of the proposed rates in a newspaper of general circulation at least two weeks prior to the first hearing. The provision is clear:

> SECTION 9. Public Participation—(1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.
>
> *(2) In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.*
>
> (3) In case of opposition, the rules on contested cases shall be observed. (Emphasis supplied)[79]

In this case, no public consultations were conducted for the fare increase for MRT. While there were public consultations for LRT 1 and LRT 2 fare increase, the consultations were for the rate increase in 2011 and 2013, which failed to materialize. Thus, the rate increase implemented in Department Order No. 2014-014 of the then Department of Transportation and Communications does not comply with the requirements prescribed by the law. This transgresses petitioners' constitutional right to due process.

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[79] Executive Order No. 292 (1987), Book VII, Chapter 2, sec. 2.

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More so, respondents failed to provide basis for the increase of rates. While respondents insist that this is due to the reduction of government subsidy, which is a discretion of the Executive, it must be underscored that the decision to increase the rate imposes a huge burden on the public. The 50 to 87% increase in the fare is arbitrary.

Rate-fixing is a task specifically delegated to administrative agencies possessing the specialization and technical knowledge in their field. Part of this sensitive function involves the exercise of the administrative agencies' sound discretion. However, the rate presented must still be just and reasonable. It should not be discriminatory and confiscatory.

This is the rationale behind the requirement of public participation under the Administrative Code. It must be emphasized that it is the public who will ultimately bear the burden of the rate increase. Thus, the public must be given full information why there is a rate adjustment and how respondents determined the new rate. The public must have an opportunity to be heard and to contest the fare increase. Without a reasonable explanation and a meaningful dialogue between the public and respondents, the core of public participation mandated by the Administrative Code is transgressed.

ACCORDINGLY, I vote to grant the Petitions.

CONCURRENCE

LAZARO-JAVIER, *J.*:

I **concur** with the dismissal of the petitions.

I **agree** with the *ponencia* of my esteemed colleague Associate Justice Jhosep Y. Lopez that Department Order No. 2014-014 (DO 2014-014) of the then Department of Transportation and Communications (DOTC) **complied** with Book VII, Chapter 2, Section 9(2) of the *Administrative Code of 1987*.

This provision reads in full:

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SECTION 9. Public Participation. — x x x x

(2) In the fixing of rates, **no rule or final order shall be valid** unless the **proposed rates** shall have been **published** in a newspaper of general circulation **at least two (2) weeks before the first hearing thereon**. (Emphasis supplied)

x x x x

The facts are not disputed. As I gather from the *ponencia*:

Fares for the trains at the Light Rail Transit (LRT) Lines 1 and 2 and the Metro Rail Transit (MRT) Line 3 were subsidized by our taxpayers, riders, and non-riders alike. In August 2010, to reduce the subsidies, the Office of the President directed the Light Rail Transit Authority (LRTA), a government instrumentality vested with corporate powers *and* an attached agency to the DOTC, to conduct studies on the feasibility of fare rate hikes. Later, the DOTC was itself involved in this staff work. The study was vetted by top officials of the LRTA and the DOTC.

In October 2010, the Secretary of Finance, the Secretary of Budget and Management, the Secretary of Transportation and Communications, and the Secretary of Socio-Economic Planning (economic managers) executed a Memorandum for the Office of the President regarding the LRT fare adjustment. Eventually, the study report was submitted to the LRTA Board for its approval during its regular meeting in January 2011. During the meeting, the LRTA Board *provisionally* approved the **proposed fare adjustment of PHP11.00 boarding fare plus PHP1.00/km, with the corresponding fare matrices**.

Apparently, in compliance with the above-quoted Section 9, the LRTA Board scheduled **public consultation to be held on two occasions**—February 4 and 5, 2011. It **also published** the Notice of Public Consultation in the Philippine Daily Inquirer on January 20, 2011 and The Manilla Bulletin on January 27, 2011.

The result of the public consultations was unfavorable to the proposed fare adjustment. The LRTA Board, nevertheless, *finally* approved at its level the fare adjustment based on the distance-based fare scheme. The Land Transportation Franchising

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and Regulatory Board (LTFRB) concurred in the proposed fare adjustment.

In May 2011, however, the LRTA Board and the DOTC decided to **indefinitely defer the implementation** of the fare increase. The proposed fare adjustment was dormant until June 26, 2013 when the LRTA Board revived the proposed fare adjustment *with its amendment to remove student discounts*. On July 22, 2013, in his State of the Nation Address, then President Benigno Simeon Aquino III announced the policy to remove subsidies to the MRT and LRT fares.

On November 26, 2013, the LRTA Board simply **resurrected the 2011 proposed fare adjustment**, *i.e.*, PHP11.00 plus PHP1.00/km fare adjustment for LRT-1 and LRT-2, as its *provisional* fare adjustment proposal. This was the first step fare adjustment. It was scheduled to be implemented on August 1, 2013. A second step implementation was decided to run through a **public consultation that was held on December 12, 2013**.

On December 18, 2013, the LRTA Board **confirmed** at its level the LRT fare adjustment using the same PHP11.00 plus PHP1.00/km formula, subject to consultation with the LTFRB. On December 19, 2013, the LTFRB Chair signified that the LTFRB had no objections to the fare adjustment.

On December 18, 2014, respondent Abaya, then DOTC Secretary, issued the assailed DO 2014-014. This was published in the Philippine Daily Inquirer on December 20, 2014 and became effective on January 4, 2015. DO 2014-014 imposed the uniform base fare of PHP11.00 plus PHP1.00 per kilometer of distance traveled.

The proposed fare adjustment was the **same 2011 proposed fare adjustment** that was published in a newspaper of general circulation on January 20, 2011, or at least two weeks prior to the first public consultation on February 4, 2011. In due course, this same proposed fare adjustment resulted in the assailed DO 2014-014.

Clearly, DO 2014-014 **complied** with Section 9(2) as above-quoted. The proposed fare adjustment was in fact **published** on

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January 20, 2011, or at least **two weeks** prior to the **first** hearing, which was the **first public consultation** on February 4, 2011. The end-product—DO 2014-014—must be upheld since the *proposed rates* were published as instructed by Section 9(2).

First, the statutory requirement of publication at least two weeks prior to the first hearing or public consultation is **distinct** from the element of the public participation itself where the public may be heard. They should not be confused with each other.

In any event, there is **no requirement** in Section 9(2) or anywhere in the *Administrative Code of 1987* that the hearings or public consultations **ought to be held within a particular time frame** before the adoption of the final order of fare or rate adjustments.

Second, the mandatory **publication** in Section 9(2) has **nothing** to do with the time interval between the public consultations held *and* the date of **actual publication** of the **final order** of fare or rate adjustments, which here is DO 2014-014. Section 9(2) is clear that the publication refers to the ***proposed*** **rates** and the time interval of at least two weeks prior to the first hearing. Thus, respondents **clearly adhered** to Section 9(2).

The purpose of the publication requirement is **to give notice** to the public to vent their sentiments on the proposed fare adjustment. The notice **precisely gave that desired result**. The first two public consultations resulted in the deferral of the implementation of the proposed fare hike. The third one allowed further vetting of the proposal. The solicitation of the LTFRB's position gave a government third-party objective assessment thereof. It cannot be said that Section 9(2) publication did not accomplish its purpose.

Third, Section 9 (1) of Book VII, Chapter 2 of the *Administrative Code of 1987* itself defines public participation in the fixing of rates (or fares in the case at bar) as simply the **opportunity to interested parties to submit their views prior to the adoption** of the final order of fare or rate adjustments, **as far as practicable**.[1] Here,

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[1] SECTION 9. Public Participation.—(1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed

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there were **three public consultations** and **two referrals to the LTFRB**, which is **not** obliged by law but was nonetheless done as a check-and-balance mechanism.

To be sure, even if there were oppositions to the proposed fare adjustments, the **rules on contested case** did **not** come into play. Under Section 9(3) of Book VII, Chapter 2 of the *Administrative Code of 1987*, "[i]n case of opposition, the rules on contested cases shall be observed." Section 2(5) of Book VII, Chapter 1, however, defines a **contested case** as:

> x x x any proceeding, including licensing, in which the legal rights, duties or privileges **asserted by specific parties** as required by the Constitution or by law are to be determined after hearing. (Emphasis supplied)
>
> x x x x

Here, the proposed fare adjustments were to impact *en masse*. **No specific parties** were involved. To apply the rules[2] on

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rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

[2] Administrative Code of 1987, Book VII, Chapter 3: SECTION 11. Notice and Hearing in Contested Cases.—(1) In any contested case all parties shall be entitled to notice and hearing. The notice shall be served at least five (5) days before the date of the hearing and shall state the date, time and place of the hearing.

(2) The parties shall be given opportunity to present evidence and argument on all issues. If not precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement or default.

(3) The agency shall keep an official record of its proceedings.

SECTION 12. Rules of Evidence.—In a contested case:

(1) The agency may admit and give probative value to evidence commonly accepted by reasonably prudent men in the conduct of their affairs.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, the parties shall be given opportunity to compare the copy with the original. If the original is in the official custody of a public officer, a certified copy thereof may be accepted.

(3) Every party shall have the right to cross-examine witnesses presented against him and to submit rebuttal evidence.

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contested cases where millions of riders are **potential parties** and **witnesses** would **grind agency proceeding and action to a halt**. Further, as the Court has stressed several times, rate-fixing looks to the future and not to past events for which a hearing to ascertain these past disputed facts are determined. Hence, a judicial-type notice and hearing is inappropriate.

Thus, in *GMA Network, Inc. v. Commission on Elections*,[3] the Court held:

In earlier cases, the Court observed that the issuance of rules and regulations in the exercise of an administrative agency's quasi-legislative

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(4) The agency may take notice of judicially cognizable facts and of generally cognizable technical or scientific facts within its specialized knowledge. The parties shall be notified and afforded an opportunity to contest the facts so noticed.

SECTION 13. Subpoena.—In any contested case, the agency shall have the power to require the attendance of witnesses or the production of books, papers, documents and other pertinent data, upon request of any party before or during the hearing upon showing of general relevance. Unless otherwise provided by law, the agency may, in case of disobedience, invoke the aid of the Regional Trial Court within whose jurisdiction the contested case being heard falls. The Court may punish contumacy or refusal as contempt.

SECTION 14. Decision.—Every decision rendered by the agency in a contested case shall be in writing and shall state clearly and distinctly the facts and the law on which it is based. The agency shall decide each case within thirty (30) days following its submission. The parties shall be notified of the decision personally or by registered mail addressed to their counsel of record, if any, or to them.

SECTION 15. Finality of Order.—The decision of the agency shall become final and executory fifteen (15) days after the receipt of a copy thereof by the party adversely affected unless within that period an administrative appeal or judicial review, if proper, has been perfected. One motion for reconsideration may be filed, which shall suspend the running of the said period.

SECTION 16. Publication and Compilation of Decisions.—(1) Every agency shall publish and make available for public inspection all decisions or final orders in the adjudication of contested cases.

(2) It shall be the duty of the records officer of the agency or his equivalent functionary to prepare a register or compilation of those decisions or final orders for use by the public.

[3] 742 Phil. 174 (2014).

or rule making power generally **does not require prior notice and hearing** except if the law provides otherwise. **The requirement for an opportunity to be heard under the exception is provided for under** Book VII, Chapter 2, **Section 9** of Executive Order (EO) No. 292 (the Administrative Code of 1987). This provision reads:

> Section 9. Public Participation.—
>
> (1) If not otherwise required by law, an agency shall, **as far as practicable**, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

A **patent characteristic of this provision** is **its permissive language** in **requiring notice** and **the opportunity to be heard**. The **non-mandatory nature of a prior hearing** arises from the **nature of the proceedings** where **quasi-legislative power** is exercised: the proceedings **do not involve the determination of past events or facts** that would otherwise have to be ascertained as basis of an agency's action and discretion. **On the contrary**, the proceedings are **intended to govern future conduct**. Accordingly, the **requirement of prior notice and hearing is not indispensable for the validity** of the exercise of the power.[4] (Emphasis supplied)

Senior Associate Justice Leonen was emphatic of this rule when his *ponencia*[5] ruled:

> However, **notice and hearing** are **not required** when an administrative agency exercises its quasi-legislative power. The reason is that in the exercise of quasi-legislative power, the administrative agency makes no "determination of past events or facts."[6] (Emphasis supplied)

In *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*,[7] the Court equated the fixing of rates affecting *en masse* with a quasi-legislative power where generally **no** notice and hearing are mandatory:

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4 Id. at 276–277.

5 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205 (2018).

6 Id. at 265.

7 494 Phil. 664 (2005).

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The fixing of rates is generally a legislative power, whether exercised by the legislature itself or delegated through an administrative agency.

Where the rules and/or rates imposed by an administrative agency apply exclusively to a particular party, predicated upon a finding of fact, the agency performs a function partaking of a quasi-judicial character and prior notice and hearing are essential to the validity thereof.

If the **agency is in the exercise of its legislative functions or where the rates are meant to apply to all enterprises of a given kind** throughout the country, however, the grant of **prior notice and hearing to the affected parties is not a requirement of due process** except where the legislature itself requires it.[8] (Emphasis supplied)

The above rulings echoed precedents such as *Alliance for the Family Foundation, Philippines, Inc. v. Garin*,[9] *Dagan v. Philippine Racing Commission*,[10] and *Abella v. Civil Service Commission*.[11]

The **hearing** or **public participation** element in Section 9(2) is **fulfilled** where **consultations** were **held to give interested personalities the opportunity** to attend and submit their views. In *Carbonilla v. Board of Airlines Representatives*,[12] the Court thus decided:

BAR raises the alleged failure of BOC to publish the required notice of public hearing and to conduct public hearings to give all parties the opportunity to be heard prior to the issuance of CAO 1-2005 as required under Section 9(2), Chapter I, Book VII of the Administrative Code of the Philippines. Section 9 (2) provides:

Sec. 9. Public Participation.—(1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.

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[8] *Id.* at 676–677.

[9] 793 Phil. 831 (2017).

[10] 598 Phil. 406 (2009).

[11] 485 Phil. 182 (2004).

[12] 673 Phil. 413 (2011).

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(2) In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.

(3) In cases of opposition, the rules on contested cases shall be observed.

BAR's argument has no merit.

The BOC **created a committee to re-evaluate the proposed increase** in the rate of overtime pay and for two years, **several meetings were conducted** with the agencies concerned to discuss the proposal. **BAR and the Airline Operators Council participated in these meetings** and discussions. Hence, BAR cannot claim that it was denied due process in the imposition of the increase of the overtime rate. CAO 1-2005 was published in the Manila Standard, a newspaper of general circulation in the Philippines on 18 February 2005 and while it was supposed to take effect on 5 March 2005, or 15 days after its publication, the BOC-NAIA still deferred BAR's compliance until 16 March 2005.[13] (Emphasis supplied)

Notably, the public participation called for in Section 9 does **not** guarantee a result in favor of anyone, especially any oppositor. The actual process is governed by what is practicable, which in turn must also account for the nature of the decision involved and the process that the agency itself sees to be reasonable. It is a hearing on what the future holds. It is not a hearing to correct past grievances, though this may be a relevant backdrop to the **future**. In any event, the agency proceeding is **not required by any law** to set a timeline between the holding of the public consultations and the making of a final order. **Ideally**, there should only be a **short gap**. It is unlike the requirement for courts to decide within a certain period after the termination of the court proceedings—but even then the court decision does not become void just because it was rendered late.

Finally, we cannot hamstring the political branches of government in their manner of arriving at policy decisions. The string of precedents above-mentioned is the **clearest indicator of our sincerest respect** for the proceedings and work of these counterpart political agencies.

[13] Id. at 441–442.

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Respondents were confounded with decisions whether to continue with subsidies or allow the user-pays principle to determine the price of riding the LRT and MRT. Telling them **how to conduct their unearthing of legislative and policy-related facts**, I most respectfully submit, is **beyond our competence** to dictate. Telling them what legislative and policy-related facts are relevant and what are already stale is also **beyond our institutional ability** to determine. We look only at whether they have complied with the law, here, Book VII, Chapter 2, Section 9 of the *Administrative Code of 1987*, on publication and public participation. As shown, respondents faithfully have.

ACCORDINGLY, I concur in the **dismissal** of the petitions and vote to **confirm** the validity of the Department Order No. 2014-014.

CONCURRING AND DISSENTING OPINION

CAGUIOA, *J.*:

These consolidated petitions challenge the validity of Department of Transportation and Communications[1] (DOTC) Department Order (DO) No. 2014-014,[2] which adopted a uniform distance-based fare scheme for the Light Rail Transit (LRT) Lines 1 (LRT-1) and 2 (LRT-2), and the Metro Rail Transit (MRT) Line 3 (MRT-3).[3] Petitioners claim, among others, that the DOTC Secretary and the Light Rail Transit Authority (LRTA) do not have the authority to impose a fare increase for the LRT

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[1] Following the creation of the Department of Information and Communications Technology (DICT) by virtue of Republic Act No. 10844 (AN ACT CREATING THE DEPARTMENT OF INFORMATION AND COMMUNICATIONS TECHNOLOGY, DEFINING ITS POWERS AND FUNCTIONS APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES, dated May 23, 2016), the DOTC is now the Department of Transportation (DOTr).

[2] Light Rail Transit (LRT) Lines 1 & 2 and Metro Rail Transit (MRT) Line 3 Fare Adjustment, dated December 18, 2014.

[3] *Ponencia*, p. 4.

and the MRT. In addition, they posit that DO No. 2014-014 was issued without the requisite notice and hearing, in violation of the due process clause of the Constitution. Thus, they filed the present petitions before the Court to nullify DO No. 2014-014 and to enjoin respondents from further implementing the fare increase.[4]

The *ponencia* dismisses the petitions and upholds the validity of DO No. 2014-014 for substantially complying with the requirements of notice and hearing. The notice and hearing requirement for fixing rates is applicable in this case, despite the quasi-legislative nature of the issuance, following *Manila International Airport Authority v. Airspan Corporation*[5] *(MIAA)*, where the Court held that attached agencies to the DOTC should comply with the requisite public consultation under Executive Order No. 292 or the Administrative Code of 1987 (Administrative Code).[6]

As for the substantive due process requirements, the *ponencia* finds that the fares were reasonable and just, as these were determined in consideration of a number of factors affecting the operations and status of the rail lines.[7]

I concur as to the result. However, I respectfully maintain my dissent from the holding by the majority that the assailed issuance is a rate-fixing regulation.

The threshold issue here is the reduction of the subsidies to the passenger fares for the LRT-1, the LRT-2, and the MRT-3, which alone resulted in the concomitant increase of fares. While the issue of subsidy reduction, as a policy decision, is relevant to the procedural issue of justiciability, it is also significant in determining whether notice and hearing are required in the first place. The Court should therefore make a prior determination that the assailed Department Order was indeed an exercise of the

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4 Id. at 12.

5 486 Phil. 1136 (2004), cited in the *ponencia*, p. 51.

6 Id. at 1145.

7 *Ponencia*, pp. 61-63.

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rate-fixing authority before going into the merits of the notice and hearing requirements.

Thus, I respectfully submit this Concurring and Dissenting Opinion to expound on my position that the challenged regulation does ***not*** involve rate-fixing. Rather, it only implements the executive policy of reducing the subsidies allotted for the expenses of operating the railway system. For this reason, there is no legal requirement for the DOTC and the LRTA to hold any public consultation before its implementation, the consequent adjustment in the fares having resulted ***only*** from the decreased subsidy.

That being said, if the Court were to assume that the subject regulation is in the nature of a rate-fixing function, I agree with the *ponencia* that the DOTC and the LRTA complied with the notice and hearing requirements under the Administrative Code. The exercise of a quasi-legislative or rate-fixing power is not as stringent as those required for quasi-judicial proceedings. To this point, the records clearly establish that the DOTC and the LRTA held public consultations for the new fare scheme that comply with the notice and requirement hearing in the Administrative Code. The adjusted fare scheme, brought about by the reduction in government subsidy, is likewise reasonable and just.

I.

Respondents in these consolidated petitions, particularly the Light Rail Manila Corporation and the Metro Rail Transit Corporation, argue that DO No. 2014-014 was merely a reduction in government subsidy. As such, the challenged regulation is not an exercise of a rate-fixing authority by the LRTA and the DOTC, which requires prior notice and hearing.[8] Relatedly, the DOTC points out that the fare adjustment was made pursuant to legitimate policy objectives, which include the "[r]eallocation of government resources to other priority infrastructure and social services

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[8] *Rollo* (G.R. No. 215650), Vol. 3, pp. 1171-1179, 1232-1239, Memorandum for Public Respondents dated November 3, 2016.

projects," as well as to "[reduce] the government subsidies to the LRT lines and cross-subsidies to Metro Manila commuters by all taxpayers."[9] For these reasons, respondents collectively argue that the requirement of prior public consultation should not apply.

The *ponencia* does not discuss the merits of this argument, and immediately proceeds instead to rule on the respective authority of the DOTC and the LRTA to increase the fare for the MRT-3, and for the LRT-1 and LRT-2. The DOTC and the LRTA are ultimately found to have acted within the bounds of their authority in providing for higher rates for transit commuters.[10] While the challenged regulation is deemed to have been validly issued, the *ponencia*'s ruling is premised on the conclusion that DO No. 2014-014 was in the nature of a rate-fixing regulation, which in turn, must comply with the notice and hearing requirements of the Administrative Code.

I respectfully disagree.

"Rates" refer to the:

> "charge to the public for a service open to all and upon the same terms, including individual or joint rates, tolls, classifications, or schedules thereof, as well as commutation, mileage, kilometrage and other special rates which shall be imposed by law or regulation to be observed and followed by any person."[11]

Since a fare represents the price applicable to commuters using public transport, it may be reasonably inferred that setting or adjusting fares may constitute as "rate-fixing."

However, the revision of the fare schedule by virtue of DO No. 2014-014 was not an exercise of the regulatory power to fix rates. In order to come within the purview of the regulatory function of "rate-fixing," the rates must be for purposes of not only covering

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[9] *Rollo* (G.R. No. 215650), Vol. 2, p. 986, Memorandum for Public Respondents dated November 3, 2016.

[10] *Ponencia*, pp. 35-46.

[11] ADMINISTRATIVE CODE of 1987, Book VII, Chapter 1, Sec. 2(3).

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the costs of operation, but also of providing the public utility with a reasonable return on investment.

In *Republic v. Manila Electric Co.*,[12] the Court explained the considerations in prescribing or adjusting rates for the services of a public utility:

> In regulating rates charged by public utilities, the State protects the public against arbitrary and excessive rates while maintaining the efficiency and quality of services rendered. **However, the power to regulate rates does not give the State the right to prescribe rates which are so low as to deprive the public utility of a reasonable return on investment. Thus, the rates prescribed by the State must be [ones] that [yield] a fair return on the public utility upon the value of the property performing the service and one that is reasonable to the public for the services rendered.** The fixing of just and reasonable rates involves a balancing of the investor and the consumer interests.
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> In his famous dissenting opinion in the 1923 case of *Southwestern Bell Tel. Co. v. Public Service Commission*, Mr. Justice Brandeis wrote:
>
> > The thing devoted by the investor to the public use is not specific property, tangible and intangible, but capital embarked in an enterprise. Upon the capital so invested, the Federal Constitution guarantees to the utility the opportunity to earn a fair return x x x. The Constitution does not guarantee to the utility the opportunity to earn a return on the value of all items of property used by the utility, or of any of them.
> >
> > x x x x
> >
> > The investor agrees, by embarking capital in a utility, that its charges to the public shall be reasonable. His [or her] company is the substitute for the State in the performance of the public service, thus becoming a public servant. **The compensation which the Constitution guarantees an opportunity to earn is the reasonable cost of conducting the business.**
> >
> > x x x x

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[12] 440 Phil. 389 (2002).

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In determining the just and reasonable rates to be charged by a public utility, three major factors are considered by the regulating agency: a) rate of return; b) rate base; and c) the return itself or the computed revenue to be earned by the public utility based on the rate of return and rate base. The rate of return is a judgment percentage which, if multiplied with the rate base, provides a fair return on the public utility for the use of its property for service to the public. The rate of return of a public utility is not prescribed by statute but by administrative and judicial pronouncements. This Court has consistently adopted a 12% rate of return for public utilities. The rate base, on the other hand, is an evaluation of the property devoted by the utility to the public service or the value of invested capital or property which the utility is entitled to a return.[13] (Emphasis supplied)

As well, in *Kilusang Mayo Uno Labor Center v. Garcia, Jr.*,[14] the Court discussed the nature of rate-fixing in this wise:

Moreover, rate making or rate fixing is not an easy task. It is a delicate and sensitive government function that requires dexterity of judgment and sound discretion with the settled goal of arriving at a just and reasonable rate acceptable to both the public utility and the public. Several factors, in fact, have to be taken into consideration before a balance could be achieved. A rate should not be confiscatory as would place an operator in a situation where he [or she] will continue to operate at a loss. **Hence, the rate should enable public utilities to generate revenues sufficient to cover operational costs *and provide reasonable return on the investments*.** On the other hand, a rate which is too high becomes discriminatory. It is contrary to public interest. A rate, therefore, must be reasonable and fair and must be *affordable* to the end user who will utilize the services.[15] (Emphasis supplied)

While administrative agencies engaged in rate-fixing should balance the interests of the public with the public utility rendering the service, ultimately, a "public utility is entitled to a just

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[13] Id. at 397-400.

[14] 309 Phil. 358 (1994).

[15] Id. at 378.

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compensation and a fair return upon the value of its property while it is being used by the public."[16]

From the foregoing, it may easily be gleaned that the function of fixing rates necessarily involves a determination of a reasonable return on the investment on the part of the public utility.

The significance of this purpose should not be lost to the Court. Here, the DOTC and the LRTA did not issue DO No. 2014-014 to increase the earnings and in turn, recoup the investments made in the railway systems. It was issued in response to the President's fiscal policy, a policy which the President had every authority to impose, of reducing the government subsidy on these railway transit systems. The *ponencia* itself recognizes this, citing former President Benigno Simeon Aquino III's State of the Nation Address on July 22, 2013, in which "he reiterated the need to adjust the LRT's and MRT's fares so that the government subsidy x x x can be used for other social services."[17]

As a matter of policy, the government may subsidize social and economic programs for the general welfare of the public. These subsidies are often more apparent in targeted assistance programs such as the Fuel Subsidy Program, where identified beneficiaries are directly provided with cash to lessen the impact of the increase in oil prices.[18] Also illustrative of the direct targeted assistance programs is the *Pantawid Pasada Program* where certain franchise holders of public utility jeepneys nationwide were provided with

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[16] *Metropolitan Water District v. Public Service Commission*, 58 Phil. 397, 400 (1933).

[17] *Ponencia*, p. 57.

[18] Department of Budget and Management, *DBM Releases P3.0 Billion for Fuel Subsidy and Discount Programs*, available at <https://www.dbm.gov.ph/index.php/secretary-s-corner/press-releases/list-of-press-releases/2102-dbm-releases-p3-0-billion-for-fuel-subsidy-and-discount-programs#>; See also Republic Act No. 11639, 2022 General Appropriations Act, Volume I-B, XXV, Department of Transportation, available at <https://www.dbm.gov.ph/wp-content/uploads/GAA/GAA2022/VolumeI/DOTr/DOTr.pdf>, where an appropriation for the Fuel Subsidy Program is allotted for public utility vehicle (PUV), taxi, tricycle, and full-time ride-hailing and delivery service drivers nationwide, when the average crude oil price reaches a certain threshold (Special Provision no. 8).

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a fuel card for a certain amount.[19] Other subsidy programs also come in the form of discounts for a specified class of persons, as in the case of senior citizens, who are granted 20% discounts in commodities, to improve their welfare as they are "less likely to be gainfully employed, more prone to illnesses and other disabilities and, thus, in need of subsidy in purchasing basic commodities."[20]

In the case of public transport systems, the government may likewise subsidize the costs for the operation of a public transit. This ensures that majority of its users are able to afford the fare, which in turn, increases mobility. A recent example is the EDSA Bus Carrousel, which was fully subsidized by the government and provided road-based transport at no cost to commuters along the route.[21]

For the major urban public railways such as the LRT-1, the LRT-2, and the MRT-3, the government subsidy is not as direct because commuters still pay for the fare in order to use the train. The government, however, bears a significant portion of the costs to operate these transit systems.[22] The Memorandum[23] dated

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[19] LTFRB, *Pantawid Pasada* Fuel Card Processes and Requirements, available at <https://ltfrb.gov.ph/?p=3938>.

[20] *Manila Memorial Park, Inc. v. Secretary of Social Welfare and Development*, 722 Phil. 538, 578 (2013).

[21] *N.B.* This was funded through, R.A. No. 11494, AN ACT PROVIDING FOR COVID-19 RESPONSE AND RECOVERY INTERVENTIONS AND PROVIDING MECHANISMS TO ACCELERATE THE RECOVERY AND BOLSTER THE RESILIENCY OF THE PHILIPPINE ECONOMY, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES, or the Bayanihan to Recover as One Act, dated September 11, 2020, Secs. 4(fff) and 10(g)(2).

[22] Andra Charis Mijares, Madan B. Regmi, Tetsuo Yai, *Enhancing the sustainability and inclusiveness of the Metro Manila's urban transportation systems: Proposed fare and policy reforms*, UN ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (ESCAP), Transport and Communications Bulletin for Asia and the Pacific (No. 84, 2014), available at <https://www.unescap.org/sites/default/files/Bulletin%2084%20-%20Article%203_0.pdf>.

[23] *Rollo* (G.R. No. 215650), Vol. 1, pp. 105-108.

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October 27, 2010 by the Secretary of Finance, the Secretary of Budget and Management, the Secretary of Transportation and Communications, and the Socio-Economic Planning Secretary showed that the government subsidized more than half of the fares for each passenger as the farebox revenue for these railways cannot fully cover the total operating and maintenance expenses. The relevant figures in the October 27, 2010 Memorandum may be summarized in this wise:

	Average Fare	Full-Cost Fare (2010)	Government Subsidy	Percentage of Government Subsidy
LRT-1	₱14.20	₱35.77	₱21.57	60%
LRT-2	₱13.51	₱60.75	₱47.24	78%
MRT-3	₱12.30	₱60.03	₱47.73	80%

Immediately preceding the issuance of DO No. 2014-014, the actual cost per passenger for the LRT-1 and LRT-2 was ₱34.74 as of December 12, 2013. Since the passenger pays an average of ₱14.28, the difference of ₱20.46 or 59% of the actual cost was shouldered by the government. For the MRT-3, the actual cost was ₱53.96 and the average fare was ₱12.30. The difference of ₱41.66, which represents 77% of the actual cost, was likewise assumed by the government.[24]

Unlike the targeted subsidies in which financial assistance is readily handed out to identified beneficiaries, the subsidy for these railway systems indirectly benefits the public by keeping the fare down. Be that as it may, much in same way that the government cannot be precluded from reducing these direct financial subsidies, either by decreasing the amount or cutting down the number of beneficiaries, the Court cannot bar the government from substantially decreasing the subsidies extended to the commuting public. To my mind, **these are matters of Executive wisdom that the Court cannot inquire into**.

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[24] Id. at 218; Andra Charis Mijares, Madan B. Regmi, Tetsuo Yai, *Enhancing the sustainability and inclusiveness of the Metro Manila's urban transportation systems: Proposed fare and policy reforms*, supra note 22.

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A careful reading of DO No. 2014-014 would reveal that its issuance was predicated on the "user-pays" principle in the Medium-Term Philippine Development Plan, with the end view of "an equitable distribution of government funds currently dedicated to subsidizing the operations of the [LRT-1, the LRT-2, and the MRT-3] in Metro Manila to much-needed development projects and relief operations in other parts of Luzon, Visayas, and Mindanao."[25] The tenor of the challenged regulation, therefore, was not to increase the fares for the solitary purpose of generating more revenue for these railways—rather, it implements the reduction of subsidies allotted for the operation and maintenance expenses of the LRT and the MRT, in line with the fiscal policy of the Executive to reallocate these funds for other worthwhile government projects.

In this light, prior notice and hearing are not required, as this is not a rate-fixing function within the purview of the Administrative Code. At the risk of being repetitive, the rates were not adjusted to allow the railway operators to profit from the operation of the public utility, or to recoup their capital expenditures. The fares were inevitably affected because the government subsidy to cover the deficit between the cost and the farebox revenue was reduced.[26] Stated differently, had the subsidy been granted through direct monetary transfer to each passenger in order to cover a portion of his or her fare, the subsequent reduction or withdrawal of the subsidy, which results in the payment of an increased or adjusted fare, cannot be characterized as a rate-fixing function.

On this point, it bears noting that the preparation of the government budget is an Executive function, conferred by the Constitution on the President. Section 22, Article VII of the 1987 Constitution states:

Section 22. The President shall submit to Congress within thirty days from the opening of every regular session as the basis of the general

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[25] DO No. 2014-014 dated December 18, 2014.

[26] *See* Andra Charis Mijares, Madan B. Regmi, Tetsuo Yai, *Enhancing the sustainability and inclusiveness of the Metro Manila's urban transportation systems: Proposed fare and policy reforms*, *supra* note 22.

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appropriations bill, a budget of expenditures and sources of financing, including receipts from existing and proposed revenue measures.

While no public funds may be paid out of the Treasury except in pursuance of an appropriation made by law, Congress may not increase the appropriation recommended by the President.[27] This is founded on the principle that fiscal matters relating to the preparation and execution of the government budget are functions of the Executive. The Court's ruling in *Guingona, Jr. v. Carague*[28] emphasizes the discretion granted to the President in the preparation of the budget:

The Government budgetary process has been graphically described to consist of four major phases as aptly discussed by the Solicitor General:

> The Government budgeting process consists of four major phases:
>
> > 1. *Budget preparation*. The first step is essentially tasked upon the Executive Branch and covers the estimation of government revenues, **the determination of budgetary priorities and activities within the constraints imposed by available revenues and by borrowing limits, and the translation of desired priorities and activities into expenditure levels**.
> >
> > Budget preparation starts with the budget call issued by the Department of Budget and Management. Each agency is required to submit agency budget estimates in line with the requirements consistent with the general ceilings set by the Development Budget Coordinating Council (DBCC).
> >
> > With regard to debt servicing, the DBCC staff, based on the macroeconomic projections of interest rates (*e.g.*, LIBOR rate) and estimated sources of domestic and foreign financing, estimates debt service levels. Upon issuance of budget call, the Bureau of Treasury computes for the interest

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[27] CONSTITUTION, Art. VI, Sec. 25(1).

[28] 273 Phil. 443 (1991).

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> and principal payments for the year for all direct national government borrowings and other liabilities assumed by the same.
>
> 2. *Legislative authorization*. At this stage, Congress enters the picture and deliberates or acts on the budget proposals of the President, and Congress in the exercise of its own judgment and wisdom formulates an appropriation act precisely following the process established by the Constitution, which specifies that no money may be paid from the Treasury except in accordance with an appropriation made by law.[29] (Emphasis supplied)

Evidently, any grant or withdrawal of financial assistance has a corresponding item in the appropriations bill, the amount of which is left to the discretion of the President. The consequence of expanding or contracting subsidies, while felt as an increase or decrease in the prices of goods or, as in this case, the fares for public transit, is only an effect of the Executive's exercise of its authority to determine the budget. The Court certainly has no business in questioning the extent of these subsidies. Neither should the Court unduly burden the authority of the Executive by subjecting to public consultation any concomitant withdrawal or reduction of subsidies.

In *Citizens' Alliance for Consumer Protection v. Energy Regulatory Board*,[30] the Court was confronted with a challenge on the constitutionality of the Oil Price Stabilization Fund (OPSF), or the trust account established to minimize the frequent price changes brought about by the adjustments in prices for crude oil and petroleum products. In rejecting the challenge that the same was oppressive and arbitrary, the Court recognized that the OPSF "is in effect a device through which the domestic prices of petroleum products are subsidized in part."[31] Any question as to its propriety were deemed as questions that go into "the wisdom, justice and expediency of the establishment of the OPSF, issues

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[29] Id. at 460.

[30] 245 Phil. 467 (1988).

[31] Id. at 485.

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which are not properly addressed to this Court and which this Court may not constitutionally pass upon."[32]

Further, in *Garcia v. Executive Secretary*,[33] the Court did not give due course to the challenge on the constitutionality of the law deregulating the oil industry. The Court emphasized that any ruling deciding on when and to what extent the deregulation should take place would necessarily pass upon the wisdom of the policy of deregulation.[34]

Verily, issues on the extent of a government subsidy, much less the grant thereof, are matters of policy that are left for the determination of the Executive. With the increasing ridership in the LRT and the MRT, and considering the inevitable depreciation of the railway's over time, the burden of continuously covering the operation and maintenance expense would likewise increase. In this regard, any adjustment to the subsidy, or even the non-adjustment thereof, would unavoidably have an effect on the fares. Such effect, by itself, does not immediately trigger the requirements for public consultation. To rule that the policy decision to subsidize a public transit system is an exercise of rate-fixing would inevitably bind the President to requirements of notice and hearing under the Administrative Code. **This is a delimitation on the power of the President not only to prescribe the budget, but it likewise imposes a heavy fiscal burden to be carried by each succeeding administration**.

In sum, DO No. 2014-014 was only issued pursuant to the fiscal policy of withdrawing or reducing the subsidies on the operation and maintenance of these railways. By issuing the challenged regulation, the DOTC and the LRTA were not engaged in the exercise of a rate-fixing function, for which the requisite public consultation must be observed. Ultimately, the President's exercise of his or her power to propose the budget for the administration of government includes the concomitant power to make adjustments in the subsidies for the government's programs.

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[32] Id. at 486.

[33] 602 Phil. 64 (2009).

[34] Id. at 75.

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II.

At any rate, even on the assumption that DO No. 2014-014 is an exercise of the DOTC's and LRTA's rate-fixing authority, I submit that the requisites of prior notice and hearing were complied with and that the adjusted fares are just and reasonable.

I expound.

The question as to whether notice and hearing is required in the exercise of an administrative agency's quasi-legislative power is not novel. As the *ponencia* aptly discussed, this issue was initially settled in *Vigan Electric Light Company, Inc. v. The Public Service Commission*[35] *(Vigan Electric)*, where the Court held that when the rules or rates are meant to apply to all without distinction, then the rate-fixing function partakes of a legislative character that does not require prior notice and hearing. However, if the rates apply exclusively to one party, grounded upon a finding of fact, the function partakes of a quasi-judicial character, the exercise of which demands prior notice and hearing.[36]

This doctrine was reiterated in *Central Bank of the Philippines v. Cloribel*[37] *(Central Bank)*. The Court, however, further clarified that previous notice and hearing are not essential to the validity of rules and regulations that impose rates for the general public, unless there is a statutory requirement to this effect:

> Then, too, the Central Bank is supposed to gather relevant data and make the necessary study, but has no legal obligation to notify and hear anybody, before exercising its power to fix the maximum rates of interest that banks may pay on deposits or any other obligations. Previous notice and hearing, as elements of due process, are constitutionally required for the protection of life or vested property rights, as well as of liberty, when its limitation or loss takes place in consequence of a judicial or quasi-judicial proceeding, generally dependent upon a past act or event which has to be established or ascertained. **It is not essential to the**

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[35] 119 Phil. 304 (1964).

[36] Id. at 312.

[37] 150-A Phil. 86 (1972).

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validity of general rules or regulations promulgated to govern future conduct of a class of persons or enterprises, unless the law provides otherwise, and there is no statutory requirement to this effect, insofar as the fixing of maximum rates of interest payable by banks is concerned.[38] (Emphasis supplied)

Thus, while *Vigan Electric* indeed dispensed with the requirement of prior notice and hearing in the administrative agency's exercise of its rate-fixing authority, this is not a hard-and-fast rule. If the governing law requires the conduct of notice and hearing before the adjustment or imposition of rates, there should be compliance with these twin requirements even if the rates apply to all enterprises, without distinction. This rule was concisely summarized in *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*[39] *(Association of International Shipping Lines)*, where the Court held as follows:

> Where the rules and/or rates imposed by an administrative agency apply exclusively to a **particular party**, predicated upon a finding of fact, the agency performs a function partaking of a **quasi-judicial character and prior notice and hearing are essential to the validity thereof**.
>
> If the agency is in the exercise of its **legislative functions or where the rates are meant to apply to all enterprises of a given kind throughout the country, however, the grant of prior notice and hearing to the affected parties is not a requirement of due process <u>except where the legislature itself requires it</u>**.[40] (Emphasis and underscoring supplied)

In *Francisco, Jr. v. Toll Regulatory Board*,[41] the Court was confronted with the validity of the provisions in the Supplemental Toll Operation Agreements that supposedly tied the hands of the Toll Regulatory Board (TRB) by allowing automatic adjustments in toll rates according to a fixed formula. These

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[38] Id. at 101.

[39] 494 Phil. 664 (2005).

[40] Id. at 676-677.

[41] 648 Phil. 54 (2010).

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provisions, petitioners therein claimed, negated the public hearing requirement.[42] The Court rejected this argument, declaring that the plain language of Presidential Decree (PD) No. 1112[43] and PD No. 1894[44] should apply, which allow only the imposition of initial toll rates without any public hearing. For subsequent toll rate adjustments, the Court pronounced that the tollway operators and the TRB are statutorily required to undergo the requirements of public hearing and publication.[45]

Parenthetically, in *MIAA*, the Court was confronted with the validity of the revised fees, charges, and rates for the use of the facilities of the Manila International Airport Authority (MIAA). Respondents therein alleged that the new rates lack prior notice and hearing, as these were imposed without complying with the requirements of the Administrative Code.[46] The MIAA countered that its charter authorizes it to increase fees without need of public hearing.[47] However, the Court ruled that since the MIAA is an attached agency of the DOTC (now, the DOTr), it is likewise governed by Section 9(2), Chapter 2, Book VII of the Administrative Code, which requires notice and public hearing in the fixing of rates.[48] The MIAA failed to comply with this requirement, and as a result, the rate increases were declared invalid.

Based on the foregoing, it is evident that *Vigan Electric* was effectively modified by the Court's succeeding pronouncements in *Central Bank, Association of International Shipping Lines*, and *MIAA*. Accordingly, when the governing law imposes the

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[42] Id. at 125-126.

[43] Titled TOLL OPERATION DECREE, dated March 31, 1977.

[44] Titled AMENDING THE FRANCHISE OF THE PHILIPPINE NATIONAL CONSTRUCTION CORPORATION, dated December 22, 1983.

[45] *Francisco, Jr. v. Toll Regulatory Board*, supra note 41, at 139.

[46] *Manila International Airport Authority v. Airspan Corporation*, supra note 5, at 1140.

[47] Id. at 1142.

[48] Id. at 1145.

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requirement of notice and hearing even for rules and rates promulgated pursuant to an agency's rule-making power, compliance with this requirement is essential to the validity thereof. In other words, despite the quasi-legislative character of rate-fixing, the administrative agency may not necessarily dispense with the requirement of public consultation when the governing statute explicitly requires the conduct of notice and hearing. In such instances, the administrative agency should notify the public and provide it an opportunity to be heard before imposing the new rates.

III.

Having established that the Court should likewise inquire whether the governing law requires notice and hearing, I submit that even assuming *arguendo* that these requisites are required in the issuance of DO No. 2014-014, the same were duly observed.

The twin requirements on notice and hearing are pertinently provided under the Administrative Code, to wit:

> SECTION 9. *Public Participation*.—(1) If not otherwise required by law, an agency shall, as far as practicable, publish or circulate notices of proposed rules and afford interested parties the opportunity to submit their views prior to the adoption of any rule.
>
> (2) **In the fixing of rates, no rule or final order shall be valid unless the proposed rates shall have been published in a newspaper of general circulation at least two (2) weeks before the first hearing thereon.**
>
> (3) In case of opposition, the rules on contested cases shall be observed.[49] (Emphasis supplied)

As earlier mentioned, the Court already recognized in *MIAA* that the DOTC (hereinafter, the DOTr) is governed by this provision of the Administrative Code. Thus, it cannot unilaterally impose new rates, even if such rates apply to the general public, without the required notice and hearing. Otherwise, the regulation will

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[49] ADMINISTRATIVE CODE of 1987, Book VII, Chapter 2 (Rules and Regulations).

be declared void for violating the due process requirements of the Administrative Code.

Be that as it may, the *MIAA* ruling does not squarely apply in this case.[50] Unlike the factual circumstances of *MIAA* where there was a complete absence of notice and hearing, the DOTr in this case did not unilaterally impose the new fare scheme for the public railways. On the contrary, the records show that it sufficiently complied with the requirements of the Administrative Code before issuing DO No. 2014-014.

The *ponencia* itself establishes that there were three separate dates for public consultation preceding DO No. 2014-014: on February 4 and 5, 2011, and on December 12, 2013.[51] The records further establish that Notices of Public Consultation were published in two newspapers of general circulation for each date, as required under Section 9(2), Chapter 2, Book VII of the Administrative Code:

> (1) The Notice of Public Consultation for February 4 and 5, 2011 was published in the Philippine Daily Inquirer and Manila Bulletin on January 20 and 27, 2011,[52] respectively;
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> (2) The Notice of Public Consultation for December 12, 2013 was likewise published in the Philippine Daily Inquirer and Manila Bulletin on December 5, 2013.[53]

As the *ponencia* now recognizes, the clear conduct of notice and hearing through these public consultations constitutes sufficient compliance with the Administrative Code. Petitioners argue, however, that public consultations should have been conducted anew, since the factual circumstances obtaining during the hearings conducted in 2011 and 2013 no longer apply when the fare adjustment was subsequently enacted in 2014. In other words, the public consultation should have been conducted immediately

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[50] *Ponencia*, pp. 51-54.

[51] Id. at 8-9.

[52] *Rollo* (G.R. No. 215650), Vol. 1, p. 120.

[53] Id. at 131-132.

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prior or contemporaneous to the issuance of DO No. 2014-014 in order to be valid.

Petitioners' arguments are untenable.

The prior notice and hearing requirements are undoubtedly anchored on due process considerations. Due process, however, is not a rigid and inflexible concept. It depends on the circumstances and "varies with the subject matter and necessities of the situation."[54] For administrative proceedings, due process should not be tantamount to the requirements for judicial or adjudicatory processes. In the exercise of a quasi-legislative power, the administrative agency does not determine the rights and liabilities of particular parties before the tribunal. It also does not require the administrative agency to consider conflicting evidence, or to assess the credibility of witnesses. In the end, when an administrative agency is exercising its quasi-legislative power, it is called to make a judgment on a matter of policy within its mandate and expertise that would apply to all persons without distinction.

Thus, in *Association of International Shipping Lines*, the Court held that it is within the sound discretion of the Philippine Ports Authority to increase the stevedoring and arrastre charges in its ports.[55] While such regulation was initially deemed as an exercise of its rule-making power, the Court ruled in the alternative that even if prior notice and hearing were required, this was adequately complied with by the public hearing held on November 8, 2000 with the stakeholders.[56] As in this case, the public hearing in *Association of International Shipping Lines* was held more than a year prior to the issuance of the challenged regulation on December 21, 2001, but the Court upheld the regulation nonetheless.

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[54] See *Rubi v. Provincial Board of Mindoro*, 39 Phil. 660, 707 (1919); see also *Saunar v. Ermita*, 822 Phil. 536, 546 (2017).

[55] *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*, supra note 39, at 674.

[56] Id. at 677.

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Likewise, in *Republic v. Maria Basa*,[57] herein *ponente* upheld the DOTC's issuance that increased the fines for traffic violations, even if the public consultations were held in 2002, or six years prior to the implementation thereof. This issuance was eventually superseded by another, for which consultations were indeed conducted several months prior. That the proximity of the consultations to either regulation was not issue in this case is precisely the point. The number of public consultations or the period it took to notify the public did not affect the validity of these issuances.

Here, while the most recent public consultation was held a year prior to the issuance of DO No. 2014-014, the fare scheme did not deviate from the proposal previously consulted with the public. DO No. 2014-014 still adhered to the distance-based fare computation with ₱11.00 as the base fare and an additional ₱1.00 per kilometer. To be sure, the implementation of the new fare scheme was merely deferred. There was no material change in the proposal, and as such, the consultations held in February 2011 and December 2013 should suffice. Bearing in mind the nature of DO No. 2014-014 as a quasi-legislative issuance, the DOTr complied with the requirement of notice and hearing, consistent with the spirit of public participation and transparency enshrined in the Administrative Code.

In all, the essence of due process is to afford the public an opportunity to be heard, or to grant it a fair and reasonable opportunity to explain its side.[58] This ensures responsiveness in policy-making, which in turn, allows for a more effective government administration. If the Court were to hold otherwise, the distinction between an administrative agency's adjudicatory and regulatory functions is rendered nugatory. Worse, this can seriously hamper the discharge of an administrative agency's

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[57] G.R. Nos. 206486, 212604, 212682, and 212800, August 16, 2022, available at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68571>.

[58] See *Association of International Shipping Lines, Inc. v. Philippine Ports Authority*, supra note 39, at 679.

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regulatory functions, as this effectively requires the agency to adhere to the same standards of due process as in quasi-judicial cases. The Court should not bind the hands of administrative agencies in the exercise of their regulatory functions by imposing a restrictive interpretation of the public consultation requirement in the Administrative Code.

IV.

Furthermore, I respectfully submit that the fare increase under DO No. 2014-014 is, in any case, just and reasonable.

In the fixing of rates, the only standard which the legislature is required to prescribe for the guidance of the administrative authority is that the rate be reasonable and just.[59] What is a just and reasonable rate is a question of fact calling for the exercise of discretion, good sense, and a fair, enlightened, and independent judgment. The requirement of reasonableness comprehends such rates which must not be so low as to be confiscatory, or too high as to be oppressive. In determining whether a rate is confiscatory, it is essential also to consider the given situation, requirements, and opportunities of the utility.[60]

Here, given the long years since the fares in the subject public utilities have been increased, it cannot be gainsaid that the herein adjustments made are just and reasonable.

Prior to the implementation of the present increase, the last time the LRT-1 ticket prices were even increased was in 2003. On the other hand, as for the LRT-2 and the MRT-3, this was the first time that their ticket prices were increased since their first operations in 2003 and 2000, respectively. As shown in the Memorandum to the President dated October 27, 2010 on the key decision points about the LRT Fare Adjustment submitted by the then Administration's economic managers, the LRT fares in 2010 have fallen below the fare levels of Metro Manila buses

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[59] *Republic v. Manila Electric Company*, supra note 12, at 398.

[60] Id.

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and jeepneys.[61] The Memorandum indeed demonstrated that an average 8.25-kilometer trip charged ₱14.20 for LRT-1, ₱13.51 for LRT-2, and ₱12.30 for MRT-3. Meanwhile, the same trip charged an average of ₱11.55, ₱15.01, and ₱18.15 for jeepneys, regular buses, and aircon buses, respectively.[62]

As such, the then LRT and MRT fares were shown to have been no longer aligned with those of road-based public utility vehicles, and thus necessitated an increase.[63]

Moreover, the Memorandum significantly provided that to keep the LRT fares at their then current rates would increase the total government subsidy from ₱13.85 billion in 2010 to ₱17.06 billion in 2011 because the farebox ratio or net retail revenue of the LRTA lines was projected to fall below 1.0, which meant higher operating and maintenance costs.[64]

Finally, as aptly raised by the LRTA, the fare adjustment was needed in order for it to have the capacity to utilize its revenues not solely on maintenance and operation costs, but also for the improvement of its facilities and for its continuous provision of better services with its investment in rehabilitation and upgrading of the system.[65] The reduction in the subsidy was likewise intended for repurposing these funds for other development projects and relief operations in other parts of the country.[66]

All these foregoing reasons show that incontrovertibly, the fare adjustments were just and reasonable policy determinations of the Executive. It should not escape the attention of the Court that petitioners, in essence, dispute the wisdom and the justification

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61 *Rollo* (G.R. No. 215650), Vol. 1, p. 105, Annex 2 of the Public Respondent LRTA's Comment.

62 Id.

63 Id. at 89, LRTA Fare Restructuring Study.

64 Id. *Rollo* (G.R. No. 215650), Vol. 2, p. 1009, LRTA Memorandum.

65 *Rollo* (G.R. No. 215650), Vol. 2, pp. 1011-1012, LRTA Memorandum.

66 *Rollo* (G.R. No. 215650), Vol. 1, p. 133, DO No. 2014-014.

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for the reduction of subsidies, and the consequent effect on the rail lines' fares. These are matters beyond the purview of the Court's power of judicial review as it is not equipped with the authority to weigh the competing values of subsidizing public transit and a sound fiscal policy. In the final analysis, the questions presented in these consolidated cases are best addressed to the political departments of government.

Based on these premises, I **CONCUR** in the result. I **DISSENT** insofar as DO No. 2014-014 is deemed to be a rate-fixing regulation.