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[G.R. No. 211559. October 15, 2019]

ERIC F. ACOSTA and NATHANIEL G. DELA PAZ, *petitioners, vs.* **HON. PAQUITO N. OCHOA, in his capacity as Executive Secretary, HON. MANUEL A. ROXAS III, in his capacity as Secretary of the Interior and Local Government, POLICE DIRECTOR GENERAL ALAN LM. PURISIMA, in his capacity as Director General, Philippine National Police, POLICE CHIEF SUPERINTENDENT MELITO M. MABILIN, in his capacity as Director, Civil Security Group, Philippine National Police, and POLICE CHIEF SUPERINTENDENT LOUIE T. OPPUS, in his capacity as Chief, Firearms and Explosives Office, Philippine National Police,** *respondents.*

[G.R. No. 211567. October 15, 2019]

PROGUN (PEACEFUL RESPONSBILE OWNERS OF GUNS), INC., *petitioner, vs.* **THE PHILIPPINE NATIONAL POLICE,** *respondent.*

[G.R. No. 212570. October 15, 2019]

GUNS AND AMMO DEALERS ASSOCIATION OF THE PHILIPPINES, INC., *petitioner, vs.* **THE PHILIPPINE NATIONAL POLICE, PNP FIREARMS AND EXPLOSIVES OFFICE, and PNP CIVIL SECURITY GROUP,** *respondents.*

[G.R. No. 215634. October 15, 2019]

PROGUN (PEACEFUL RESPONSIBLE OWNERS OF GUNS), INC., *petitioner, vs.* **THE PHILIPPINE NATIONAL POLICE,** *respondent.*

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SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; JUDICIAL DEPARTMENT; POWER OF JUDICIAL REVIEW; ACTUAL CASE OR CONTROVERSY REQUIREMENT; THERE IS AN ACTUAL CASE OR CONTROVERSY IF IT INVOLVES A CONFLICT OF LEGAL RIGHTS, AN ASSERTION OF OPPOSITE LEGAL CLAIMS SUSCEPTIBLE OF JUDICIAL RESOLUTION; THE ISSUE PRESENTED SHOULD BE DEFINITE AND CONCRETE, TOUCHING ON THE LEGAL RELATIONS OF PARTIES HAVING ADVERSE LEGAL INTEREST; A PETITION WHICH RAISES NO ACTUAL FACTS IS DISMISSIBLE FOR FAILURE TO PRESENT AN ACTUAL CASE OR CONTROVERSY.— Acosta and Dela Paz, petitioners in G.R. No. 211559, did not allege actual facts in their Petition. As such, they failed to bring an actual case or controversy before this Court. Article VIII. Section 1 of the Constitution requires an actual case or controversy for this Court's exercise of its power of judicial review x x x. There is an actual case or controversy if it involves "a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution[.]" The issue presented should be "definite and concrete, touching on the legal relations of parties having adverse legal interests." Such is necessary for this Court to avoid giving advisory opinions, using its limited resources to resolve hypothetical cases or conjectural issues instead of properly devoting time to the more pressing and important cases for its resolution. Actual facts, as opposed to hypothetical ones, must exist for there to be an actual case or controversy. x x x. Petitioners Acosta and Dela Paz assail the constitutionality of Republic Act No. 10591 because it allegedly violated their right to bear arms, their right to property, and even the right to presumption of innocence by disqualifying from holding a firearm license those who have committed a crime involving a firearm. However, they did not show that their firearm licenses were revoked because of any of the provisions of the law or its Implementing Rules and Regulations. Petitioners Acosta and Dela Paz also raise the issue of the omission of engineers from Section 7.3 of the Implementing Rules and Regulations as professionals who may apply for a permit to carry firearms outside of residence, contrary to Section 7 of Republic Act No. 10591. They also assail Section 7.9 of the Implementing Rules

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and Regulations, which allegedly adversely affect members of a law enforcement agency such as the Armed Forces of the Philippines and the Philippine National Police. Yet, they made no allegation that they are engineers, or that when they applied for a permit to carry a firearm outside of residence, they were denied because of Section 7.3. Likewise, they did not allege that they are members of a law enforcement agency. Thus, petitioners Acosta and Dela Paz raised no actual facts in their Petition. Their Petition in G.R. No. 211559, therefore, is dismissible for their failure to present an actual case or controversy.

2. ID.; ID.; ID.; ID.; LEGAL STANDING REQUIREMENT; LEGAL STANDING IS THE RIGHT OF APPEARANCE IN A COURT OF JUSTICE ON A GIVEN QUESTION, WHICH ENSURES THAT THE PARTY BRINGING THE CASE HAS A "PERSONAL AND SUBSTANTIAL INTEREST IN ITS OUTCOME", NOT A "MERE EXPECTANCY OR A FUTURE, CONTINGENT, SUBORDINATE, OR CONSEQUENTIAL INTEREST," SUCH THAT HE/SHE HAS SUSTAINED, OR WILL SUSTAIN, DIRECT INJURY AS A RESULT OF ITS ENFORCEMENT; EXCEPTIONS TO THE RULE ON LEGAL STANDING.— Petitioners Acosta, Dela Paz, and PROGUN, however, have legal standing to file the present suit. An aspect of justiciability, legal standing is the "right of appearance in a court of justice on a given question." It ensures that the party bringing the case has a "personal and substantial interest in [its outcome] such that he [or she] has sustained, or will sustain, direct injury as a result of its enforcement[.]" What is essential is *direct injury*, as this guarantees a "personal stake in the outcome of the controversy" which, in turn, assures "that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions." The concept of legal standing is similar to the concept of "interest" in private suits: it refers to "a present substantial interest," not a "mere expectancy or a future, contingent, subordinate, or consequential interest." Thus, under the Rules of Court, actions must be prosecuted or defended in the name of the real party-in-interest. The exceptions to the rule on legal standing were summarized in *Funa v. Villar*. In that case, this Court enumerated four (4) types of "non-traditional suitors" who, though not having been directly injured by the assailed governmental act, were nonetheless allowed

to file the petition because they raised issues of critical significance: 1.) For *taxpayers*, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional; 2.) For *voters*, there must be a showing of obvious interest in the validity of the election law in question; 3.) For *concerned citizens*, there must be a showing that the issues raised are of transcendental importance which must be settled early; and 4.) For *legislators*, there must be a claim that the official action complained of infringes their prerogatives as legislators.

3. ID.; ID.; ID.; ID.; EXCEPTION TO THE DIRECT INJURY RULE; CONCEPT OF THIRD-PARTY STANDING; A LITIGANT MAY FILE A CASE ON BEHALF OF THIRD PARTIES WHEN: (1) THE LITIGANT MUST HAVE SUFFERED AN 'INJURY-IN-FACT,' THUS GIVING HIM OR HER A 'SUFFICIENTLY CONCRETE INTEREST' IN THE OUTCOME OF THE ISSUE IN DISPUTE; (2) THE LITIGANT MUST HAVE A CLOSE RELATION TO THE THIRD PARTY; AND (3) THERE MUST EXIST SOME HINDRANCE TO THE THIRD PARTY'S ABILITY TO PROTECT HIS OR HER OWN INTERESTS.— Through *White Light Corporation v. City of Manila*, the concept of third-party standing was introduced in our jurisdiction as another exception to the direct injury rule. Under this concept, a litigant may file a case on behalf of third parties when the following criteria concur: (1) "the litigant must have suffered an 'injury-in-fact,' thus giving him or her a 'sufficiently concrete interest' in the outcome of the issue in dispute"; (2) "the litigant must have a close relation to the third party"; and (3) "there must exist some hindrance to the third party's ability to protect his or her own interests."

4. ID.; ID.; ID.; ID.; CONCEPT OF THIRD-PARTY STANDING; ASSOCIATIONS MAY SUE ON BEHALF OF THEIR MEMBERS, BUT THE SAME MUST SUFFICIENTLY ESTABLISH WHO THEIR MEMBERS ARE, THAT THEIR MEMBERS AUTHORIZED THE ASSOCIATIONS TO SUE ON THEIR BEHALF, AND THAT THE MEMBERS WOULD BE DIRECTLY INJURED BY THE CHALLENGED GOVERNMENTAL ACTS; FACTORS TO CONSIDER. — Associations may likewise sue on behalf of their members, as they are but a "medium through which their] individual members

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seek to make more effective the expression of their voices and the redress of their grievances." However, if they are to do so, associations "must sufficiently [establish] who their members [are], that their members authorized the associations to sue on their behalf, and that the members would be directly injured by the challenged governmental acts." This Court, in *The Provincial Bus Operators Association of the Philippines,* summarized the factors to be considered in granting standing to associations and corporations suing on behalf of its members: The liberality of this Court to grant standing for associations or corporations whose members are those who suffer direct and substantial injury depends on a few factors. In all these cases, there must be an actual controversy. Furthermore, there should also be a clear and convincing demonstration of special reasons why the truly injured parties may not be able to sue. Alternatively, there must be a similarly clear and convincing demonstration that the representation of the association is more efficient for the petitioners to bring. They must further show that it is more efficient for this Court to hear only one voice from the association. In other words, the association should show special reasons for bringing the action themselves rather than as a class suit, allowed when the subject matter of the controversy is one of common or general interest to many persons. In a class suit, a number of the members of the class are permitted to sue and to defend for the benefit of all the members so long as they are sufficiently numerous and representative of the class to which they belong. x x x. In addition to an actual controversy, special reasons to represent, and disincentives for the injured party to bring the suit themselves, there must be a showing of the transcendent nature of the right involved. Only constitutional rights shared by many and requiring a grounded level of urgency can be transcendent…. x x x.

5. ID.; ID.; ID.; ID.; INDIVIDUAL FIREARM LICENSE HOLDERS HAVE LEGAL STANDING TO QUESTION THE INSPECTION OF THEIR HOUSE FOR FIREARM REGISTRATION; THE PEACEFUL RESPONSIBLE OWNERS OF GUNS (PROGUN), INC. IS CLOTHED WITH LEGAL STANDING TO BRING ON BEHALF OF ITS INDIVIDUAL MEMBERS A SUIT TO QUESTION A POSSIBLE VIOLATION OF THEIR CONSTITUTIONAL RIGHT TO UNREASONABLE

SEARCHES; GUNS AND AMMO DEALERS AND PROGUN LACK LEGAL STANDING TO ASSAIL THE PHILIPPINE NATIONAL POLICE'S REFUSAL TO DECENTRALIZE ITS OFFICES AND ITS OVERREGULATION OF GUN-RELATED ESTABLISHMENTS.— x x x [A]costa and Dela Paz assail the omission of engineers from Section 7.3 of the Implementing Rules and Regulations; yet , they never alleged that they are engineers, the persons supposedly injured by Section 7.3 Neither did they allege that they were members of the Philippine National Police, the Armed Forces of the Philippines, or any law enforcement agency allegedly injured by Section 7.9 of the Implementing Rules. However, as individual firearms license holders, petitioners Acosta and Dela Paz are the ones who stand to suffer direct injury should the inspection of their house be required for firearm registration. As for the Petition in G.R. No. 211567, this Court finds petitioner PROGUN sufficiently clothed with legal standing to bring on behalf of its individual members a suit to question a possible violation of their constitutional right to unreasonable searches. The same cannot be said for petitioners Guns and Ammo Dealers and PROGUN in G.R. No. 215634. x x x [T]hey assail respondent Philippine National Police's refusal to decentralize its offices and its overregulation of gun-related establishments, as these acts supposedly harm their business interests. Yet, there is no showing of any hindrance to their members' ability to protect their own business interests. For these reasons, the Petitions in G.R. 212570 and G.R. No. 215634 are dismissible for lack of legal standing on the part of petitioners Guns and Ammo Dealers and PROGUN.

6. REMEDIAL LAW; COURTS; HIERARCHY OF COURTS DOCTRINE; RECOURSE MUST FIRST BE SOUGHT FROM LOWER COURTS SHARING CONCURRENT JURISDICTION WITH A HIGHER COURT; ACTIONS FOR *CERTIORARI,* PROHIBITION, AND *MANDAMUS* ASSAILING THE CONSTITUTIONALITY OF REPUBLIC ACT NO. 10591 AND THE 2013 IMPLEMENTING RULES AND REGULATIONS, SHOULD BE BROUGHT BEFORE A REGIONAL TRIAL COURT, NOT DIRECTLY BEFORE THE SUPREME COURT.— Petitioners directly sought recourse from this Court, in violation of the doctrine of hierarchy of courts. Under this doctrine, recourse must first be sought from lower courts sharing

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concurrent jurisdiction with a higher court. This is "to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner." Continued this Court in *The Diocese of Bacolod v. Commission on Elections*: 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. x x x. Here, to assail the constitutionality of some of the provisions of Republic Act No. 10591 and their corresponding provisions in the 2013 Implementing Rules and Regulations, petitioners filed actions for *certiorari*, prohibition, and *mandamus*—actions that could have been brought before a regional trial court. In *Ynot v. Intermediate Appellate Court*, this Court interpreted the constitutional provision on its jurisdiction to "'review, revise, reverse, modify or affirm on appeal or *certiorari*, as the law or rules of court may provide,' final judgments and orders of lower courts in, among others, all cases involving the constitutionality of certain measures." This, according to this Court, "simply means that the resolution of such cases may be made in the first instance by these lower courts."

7. ID.; ID.; ID.; THE COURT SETS ASIDE THE RULE ON HIERARCHY OF COURTS AND PROCEEDS WITH THE JUDICIAL DETERMINATION OF CASES OF NATIONAL INTEREST AND OF SERIOUS IMPLICATIONS.— [T]his Court shall proceed to resolve the merits of the case as it has done in *Chavez v. Romulo*, a case likewise involving the right to bear arms. It stated: On the alleged breach of the doctrine of hierarchy of courts, suffice it to say that the doctrine is not an iron-clad dictum. In several instances where this Court was confronted with cases of national interest and of serious implications, it never hesitated to set aside the rule and proceed with the judicial determination of the cases. The case at bar is of similar import as it involves the citizens' right to bear arms.

8. POLITICAL LAW; ADMINISTRATIVE LAW; ADMINISTRATIVE AGENCIES; TO VALIDLY EXERCISE THEIR QUASI-LEGISLATIVE POWERS, ADMINISTRATIVE AGENCIES MUST COMPLY WITH THE "COMPLETENESS TEST" WHICH REQUIRES THAT THE LAW TO BE IMPLEMENTED BE COMPLETE AND SHOULD SET FORTH THEREIN THE POLICY TO BE EXECUTED, CARRIED OUT OR

IMPLEMENTED BY THE DELEGATE, AND THE "SUFFICIENT STANDARD TEST" WHICH REQUIRES THAT THE LAW TO BE IMPLEMENTED MUST SPECIFY THE LIMITS OF THE DELEGATE'S AUTHORITY, ANNOUNCE THE LEGISLATIVE POLICY, AND IDENTIFY THE CONDITIONS UNDER WHICH IT IS TO BE IMPLEMENTED. — Under Republic Act No. 10591, the authority to issue firearms licenses and permits to carry them outside of residence remains with the Philippine National Police. Section 44 specifically authorized the Chief of the Philippine National Police to promulgate the necessary rules and regulations to effectively implement the law. x x x. Still, to validly exercise their quasi-legislative powers, administrative agencies must comply with two (2) tests: (1) the completeness test; and (2) the sufficient standard test. The completeness test requires that the law to be implemented be "complete [and should set forth] therein the policy to be executed, carried out or implemented by the delegate." On the other hand, the sufficient standard test requires that the law to be implemented contain "adequate guidelines ... to map out the boundaries of the delegate's authority[.]" "To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy[,] and identify the conditions under which it is to be implemented." Furthermore, the Administrative Code requires that administrative agencies file with the University of the Philippines Law Center the rules they adopt, which will then be effective 15 days after filing.

9. ID.; THE COMPREHENSIVE FIREARMS AND AMMUNITION REGULATION ACT (REPUBLIC ACT NO. 10591) AND THE 2013 IMPLEMENTING RULES AND REGULATIONS (IRR); THE 2013 IMPLEMENTING RULES AND REGULATIONS OF RA NO. 10591 IS NOT IN THE NATURE OF AN *EX POST FACTO* LAW; NO ONE BECAME AN INSTANT CRIMINAL UNDER THE LAW.— Petitioner PROGUN argues that the Implementing Rules and Regulations is an *ex post facto* law—a law that makes criminal an act done before its passage but innocent at the time of its commission — the enactment of which is prohibited in Article III, Section 22 of the Constitution. x x x. There is no such retroactive application mandated in the Implementing Rules and Regulations. On the contrary, firearm licenses to possess Class-A light weapons issued before the passage of Republic Act No. 10591 are still recognized both

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under Republic Act No. 10591 and its Implementing Rules x x x. If the Implementing Rules and Regulations were indeed in the nature of an *ex post facto* law, then private individuals who possess Class-A light weapons under the old law must be expressly punished under the new law because the new law only allows them to own and possess small arms. Yet, as expressly provided in the law, existing license holders of Class-A light weapons may renew their licenses under the new law and Implementing Rules. As to petitioner PROGUN's claim that in 2014, the Philippine National Police "suddenly declared all existing firearms licenses as vacated" and required all to renew and re-apply for a new license under the new law under the pain of prosecution for illegal possession of firearms, this claim is unsubstantiated. No one became an "instant criminal" under the new law.

10. ID.; ID.; REPUBLIC ACT NO. 10591 SETS FORTH A SUFFICIENT STANDARD IN THE OWNERSHIP, POSSESSION AND DEALING IN FIREARMS; PROVISIONS IN THE IMPLEMENTING RULES AND REGULATIONS TO REGULATE THE ACTIVITIES OF GUN CLUBS, SPORTS SHOOTERS, RELOADERS, GUNSMITHING, COMPETITIONS, AND INDENTORS ARE NOT MORE RESTRICTIVE THAN THE LAW.— [P]etitioner PROGUN in G.R. No. 215634 argues that the Implementing Rules and Regulations has gone overboard and prescribed additional and more restrictive regulations for gun clubs, sports shooters, reloaders, gunsmithing, competitions, indentors, among others, "none of which is provided for by any reasonable standard" in Republic Act No. 10591. However, it did not demonstrate how these regulations were "more restrictive" as compared with the law. On the contrary, Republic Act No. 10591 sets forth a sufficient standard found in Section 2. It lays down the State policy to "maintain peace and order and protect the people against violence" by providing "a *comprehensive* law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof[.]" As such, the Chief of the Philippine National Police incorporated provisions in the Implementing Rules and Regulations to regulate the activities of gun clubs, sports shooters, reloaders, gunsmithing, competitions, and indentors, which are related to the ownership, possession, and dealing in firearms.

11. ID.; ID.; FEES AND LICENSES CHARGED UNDER THE IMPLEMENTING RULES AND REGULATIONS ARE NOT UNREASONABLE.— Petitioner PROGUN likewise claims that the Implementing Rules and Regulations exacts numerous new fees and licenses such as sports shooters licenses, collectors licenses, license to purchase barrel and cylinder parts, among others, which are allegedly not required by law. To this, it can be said that Republic Act No. 10591 explicitly states that "reasonable licensing fees" may be provided in the Implementing Rules. Except for petitioner PROGUN's assertion that the fees charged are numerous, there is no showing how these fees imposed were unreasonable.

12. ID.; ID.; NO ADDITIONAL PENAL PROVISIONS RELATING TO FIREARMS USE IN THE IMPLEMENTING RULES AND REGULATIONS.— As to PROGUN's claim that penal provisions were added in the Implementing Rules, this is easily belied by a side-by-side comparison of the provisions of Republic Act No. 10591 and the Implementing Rules and Regulations x x x. When it comes to the penal provisions, the text of the Implementing Rules and Regulations is almost a carbon copy of the law from which it is based. If there is any discrepancy, it is in item (g), where the Implementing Rules omitted the acquisition or possession of ammunition for a Class-A light weapon as a punishable act. Still, contrary to PROGUN's claim, the Philippine National Police placed no additional penal provisions relating to firearms use in the Implementing Rules.

13. ID.; ID.; THE IMPLEMENTING RULES AND REGULATIONS WAS PROMULGATED AFTER THE CONDUCT OF PUBLIC CONSULTATIONS.— Petitioner PROGUN also argues that the Implementing Rules and Regulations was allegedly drafted without the required consultation with the concerned sectors of society. This issue, however, is a factual question not proper in the present Petitions. In any case, this Court is inclined to believe respondent Philippine National Police's assertion that the meetings on the drafting of the Implementing Rules were well-attended by groups of gun dealers, private security agencies, and groups of gunsmiths and gun repair and customizing shops. This was evidenced by the Attendance Sheets and Minutes of the Stakeholders Hearing and Consultation attached to respondent Philippine National Police's Comment.

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The public hearing on August 15, 2013 was even attended by petitioner PROGUN, disproving its claim that no public consultations and hearings were conducted in the drafting of the Implementing Rules. The Implementing Rules was, therefore, promulgated after the conduct of public consultations, in compliance with Section 44 of Republic Act No. 10591.

14. ID.; ID.; THE BEARING OF ARMS IS NOT A CONSTITUTIONAL RIGHT, BUT A MERE STATUTORY PRIVILEGE, GRANTED AND HEAVILY REGULATED BY THE STATE; THUS, THERE COULD NOT HAVE BEEN A DEPRIVATION OF A PERSON'S RIGHT TO DUE PROCESS IN REQUIRING A LICENSE FOR THE POSSESSION OF FIREARMS.— Petitioners mainly assail the constitutionality of Republic Act No. 10591 and its Implementing Rules and Regulations on the ground that they violate their "right to bear arms." The history of our laws, however, reveals that we Filipinos have never had such constitutional right. The bearing of arms in our jurisdiction was, and still is, a mere statutory privilege, heavily regulated by the State. None of our Constitutions ever provided the right to bear arms. x x x. This Court interpreted this omission to mean that in the Philippines, "no private person [was] bound to keep arms." The bearing of arms was considered a mere option, and a citizen then desiring to obtain a firearm "must do so upon such terms as the Government sees fit to impose[.]" In 1908, this Court in *The Government of the Philippine Islands v. Amechazurra* stated: [N]o private person is bound to keep arms. Whether he does or not is entirely optional with himself, but if, for his own convenience or pleasure, he desires to possess arms, he must do so upon such terms as the Government sees fit to impose, for the right to keep and bear arms is not secured to him by law. The Govermnent can impose upon him such terms as it appear. If he is not satisfied with the terms imposed, he should decline to accept them, but, if for the purpose of securing possession of the arms he does agree to such conditions, he must fulfill them. At present, the bearing of arms remains a "mere statutory privilege, not a constitutional right." In the 2004 case of *Chavez*, decided during the effectivity of the present Constitution, this Court characterized the keeping and bearing of arms as a "mere statutory creation." From our first firearms law, Act No. 1780 (1907), to Act No. 2711 (1917), then Presidential

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Decree No. 1866 (1983), and finally, under the current Republic Act No. 10591, any person desiring to keep and bear arms must obtain a license from the State to avail of the privilege. x x x. With the bearing of arms being a mere privilege granted by the State, there could not have been a deprivation of petitioners' right to due process in requiring a license for the possession of firearms. Article III, Section 1 of the Constitution is clear that only life, liberty, or property is protected by the due process clause.

15. ID.; ID.; THERE IS NO VESTED RIGHT IN THE CONTINUED OWNERSHIP AND POSSESSION OF FIREARMS; THE LICENSE TO POSSESS A FIREARM IS "NEITHER A PROPERTY NOR A PROPERTY RIGHT"; AS A MERE "PERMIT OR PRIVILEGE TO DO WHAT OTHERWISE WOULD BE UNLAWFUL," IT DOES NOT ACT AS A CONTRACT BETWEEN THE AUTHORITY GRANTING IT AND THE PERSON TO WHOM IT IS GRANTED.— It is settled that the license to possess a firearm is not property. In *Chavez*, then Chief of Police Hermogenes E. Ebdane, Jr., taking cue from a speech delivered by then President Gloria Macapagal Arroyo, issued the Philippine National Police Guidelines suspending the issuance of permits to carry firearms outside of residence "to avert the rising crime incidents." Francisco I. Chavez (Chavez), a licensed gun owner with a permit to carry a firearm outside of residence, petitioned this Court to void the Guidelines for allegedly violating his right to due process. He argued that "the ownership and carrying of firearms are constitutionally protected property rights which cannot be taken away without due process of law and without just cause." This Court disagreed with Chavez, ruling that there is no vested right in the continued ownership and possession of firearms. Like any other license, the license to possess a firearm is "neither a property nor a property right." As a mere "permit or privilege to do what otherwise would be unlawful," it does not act as "a contract between the authority granting it and the person to whom it is granted[.]" Being in the nature of a license, the permit to carry firearm outside residence is neither a property nor a property right. A grantee of the permit does "not have a property interest in obtaining a license to carry a firearm[.] x x x. x x x. *Chavez* remains a binding precedent because, like Presidential Decree No. 1866, which was effective during the

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promulgation of *Chavez*, the assailed Republic Act No. 10591 still requires a license for ownership and possession of firearms.

16. ID.; ID.; ID.; THE RIGHT TO SELF-DEFENSE, IF IT IS TO BE DONE THROUGH THE USE OF FIREARMS, IS GRANTED TO CITIZENS WHO HAVE SATISFIED THE QUALIFICATIONS FOR OBTAINING A LICENSE TO OWN AND POSSESS FIREARMS UNDER THE LAW.— [R]epublic Act No. 10591 did not elevate the status of the right to bear arms from a privilege to a full-fledged statutory right. A close examination of the declared State policy in Republic Act No. 10591 reveals that the right to bear arms remains a mere privilege: x x x Section 2 recognizes that the right to self-defense is provided as a justifying circumstance under the Revised Penal Code. However, this right to self-defense, if it is to be done through the use of firearms, is granted to "qualified citizens": those who have satisfied the qualifications for obtaining a license to own and possess firearms under Republic Act No. 10591. Therefore, even with the new law, the exercise of the right to use a firearm, even for self-defense, is still subject to State regulation.

17. ID.; ID.; REPUBLIC ACT NO. 10591 WHICH REGULATES THE USE OF FIREARMS, IS A VALID POLICE POWER MEASURE, AS THE MAINTENANCE OF PEACE AND ORDER AND THE PROTECTION OF THE PEOPLE FROM VIOLENCE ARE NOT ONLY FOR THE GOOD OF THE GENERAL PUBLIC, BUT ARE FUNDAMENTAL DUTIES OF THE STATE, AND THE MEANS EMPLOYED TO FULFILL THESE DUTIES, BY REQUIRING A LICENSE FOR THE OWNERSHIP AND POSSESSION OF FIREARMS AND A PERMIT TO CARRY THE WEAPON OUTSIDE OF RESIDENCE, ARE REASONABLY NECESSARY.— Assuming, for the sake of argument, that the right to possess a firearm were considered a property right, it is doctrine that property rights are always subject to the State's police power, defined as the "authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare." x x x. In *Chavez*, this Court reiterated that "laws regulating the acquisition or possession of guns have frequently been upheld as reasonable exercise of the police power." This Court likewise discussed the test to determine the validity of a police power measure: (1) "[t]he interests of the public generally, as distinguished from those of a particular class, require the exercise

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of the police power" and (2) "[t]he means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals." Applying this test, this Court found that the Philippine National Police Guidelines, which suspended the issuance of permits to carry firearms outside of residence, was a valid police power measure. It held that the interest of the general public was satisfied, since the Guidelines was issued in response to the rise in high-profile crimes. As to the means employed to retain peace and order in society, this Court stated that the revocation of all permits to carry firearms outside of residence would make it difficult for criminals to commit gun violence and victimize others. This Court, thus, deemed the regulation reasonable x x x. Like the assailed Guidelines in *Chavez*, Republic Act No. 10591, which regulates the use of firearms, is a valid police power measure. The maintenance of peace and order and the protection of people from violence are not only for the good of the general public; they are fundamental duties of the State, the fulfillment of which strengthens its legitimacy. The means employed to fulfill these State duties—requiring a license for the ownership and possession of firearms and a permit to carry the weapon outside of residence—are reasonably necessary.

18. ID.; ID.; SECTION 4(g) OF R.A. NO. 10591 AND SECTION 4.4 (a) OF THE IRR WHICH PROHIBIT CONVICTS AND THOSE CURRENTLY ACCUSED IN A PENDING CRIMINAL CASE PUNISHED WITH IMPRISONMENT FOR MORE THAN TWO YEARS FROM APPLYING FOR A FIREARM LICENSE, ARE REASONABLE MEASURES SINCE A *PRIMA FACIE* FINDING OF AN APPLICANT'S GUILT INDICATES HIS/HER PROPENSITY TO VIOLATE THE LAW, AND ARE NOT VIOLATIVE OF THE CONSTITUTIONAL GUARANTEE TO PRESUMPTION OF INNOCENCE.— The x x x provisions assailed by petitioners are consistent with these general interests of maintaining peace and order and protecting the people from violence. Section 4(g) of Republic Act No. 10591 and its corresponding provision in the Implementing Rules and Regulations, Section 4.4(a), both require that an applicant for a firearm license has not been convicted or is currently an accused in a pending criminal case punished with imprisonment for more than two (2) years x x x. Contrary to petitioners Acosta and Dela Paz's argument, these provisions do not violate the

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constitutional guarantee to presumption of innocence. Congress restricted the privilege to apply for a firearm from convicts and those currently accused in a pending criminal case punished with imprisonment for more than two (2) years, since a *prima facie* finding of an applicant's guilt indicates his or her propensity to violate the law. If Republic Act No. 10591 is to function as a preventive measure against gun violence, then it is prudent to prohibit those who, during the preliminary investigation stage, were found probably guilty of an offense. Besides, the acquittal or permanent dismissal of the criminal case re-qualifies an applicant to acquire a license. Thus, the restriction is but a reasonable measure in line with the State policy in Republic Act No. 10591.

19. ID.; ID.; SECTION 7.11.2 (b) OF THE IMPLEMENTING RULES AND REGULATIONS WHICH REQUIRES THAT FIREARMS BE SECURED IN THE COMPARTMENT OF VEHICLES OR MOTORCYCLES, IS CONSISTENT WITH THE PROHIBITION ON DISPLAYING THE FIREARM, AND PREVENTS FIREARMS OWNERS FROM IMPULSIVELY USING THEIR FIREARMS IN CASES OF ALTERCATION, AND SECTION 7.12 (b) WHICH REQUIRES THAT FIREARMS NOT BE BROUGHT INSIDE PLACES OF WORSHIP, PUBLIC DRINKING, AND AMUSEMENT, AND ALL OTHER COMMERCIAL PUBLIC ESTABLISHMENTS IS A REASONABLE MEASURE TO PREVENT MASS SHOOTINGS.— Even Section 7.11.2(b) of the Implementing Rules and Regulations, which requires that firearms be secured in the compartment of vehicles or motorcycles, and Section 7.12(b), which requires that firearms not be brought inside places of worship, public drinking, and amusement, and all other commercial or public establishments, are reasonably related to the purpose of the law: x x x. Keeping the firearm secured in the compartment of a vehicle or motorcycle is consistent with the prohibition on displaying the firearm. It also prevents firearms owners from impulsively using their firearms in cases of altercation. Since places of worship, public drinking, and amusement, and all other commercial or public establishments are usually flocked with people, the prohibition on bringing the firearm to these public places is a reasonable measure to prevent mass shootings.

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20. ID.; ID.; SECTION 10 OF R.A. NO. 10591 AND ITS IMPLEMENTING RULES AND REGULATIONS WHICH PROVIDE THAT ONLY SMALL ARMS MAY BE REGISTERED IN THE NAME OF PRIVATE INDIVIDUALS OR ENTITIES AND OWNERSHIP OF LIGHT WEAPONS IS ONLY ALLOWED FOR MEMBERS OF THE ARMED FORCES OF THE PHILIPPINES, THE PHILIPPINE NATIONAL POLICE, AND OTHER LAW ENFORCEMENT AGENCIES, ARE A VALID EXERCISE OF POLICE POWER AS PRIVATE INDIVIDUALS OR ENTITIES' USE OF SMALL FIREARM TO DEFEND ONESELF IS REASONABLY NECESSARY TO REPEL THE UNLAWFUL AGGRESSION, WHILE THE USE OF LIGHT WEAPONS BY THE LAW ENFORCEMENT AGENCIES IS NECESSARY IN THE FULFILLMENT OF THEIR DUTIES TO MAINTAIN PEACE AND ORDER AND PROTECT THE PUBLIC.— Still related to the purpose of maintaining peace and order and preventing gun violence is Section 10 of Republic Act No. 10591 and its corresponding provision in the Implementing Rules and Regulations. Both prohibit the registration of Class-A light weapons to private individuals x x x. As can be gleaned from both provisions, only small arms—those primarily designed for individual use, to be fired from the hand or shoulder —may be registered in the name of private individuals or entities. In contrast, the ownership of Class-A light weapons—"self-loading pistols, rifles, carbines, submachine guns, assault rifles and light machine guns not exceeding caliber 7.62MM which have fully automatic mode"—is only allowed for members of the Armed Forces of the Philippines, the Philippine National Police, and other law enforcement agencies. The reason is not hard to see. Unlike small arms, which are incapable of fully automatic bursts of discharge, Class-A light weapons are self-loading, entirely capable of inflicting multiple injuries on others. Thus, consistent with its declared policy in Republic Act No. 10591, the State balanced its interests to, on the one hand, keep violence at a minimum, and on the other, grant the right of the people to self-defense. The use of a small arm to defend oneself is, for the State, that which is reasonably necessary to repel the unlawful aggression. As for the members of the Armed Forces of the Philippines, the Philippine National Police, and other law enforcement agencies, their duties to maintain peace and order

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and protect the public allow for the use of Class-A light weapons.

21. ID.; ID.; SECTION 26 OF R.A. 10591 AND ITS IMPLEMENTING RULES AND REGULATIONS WHICH PROHIBIT THE TRANSFER OF FIREARMS OWNERSHIP THROUGH SUCCESSION ARE VALID EXERCISES OF POLICE POWER, AS THE QUALIFICATIONS FOR ACQUIRING A FIREARM LICENSE ARE HIGHLY PERSONAL TO THE LICENSEE, AND MAY NOT BE POSSESSED BY HIS OR HER RELATIVE OR NEXT OF KIN.— [T]he prohibition on the transfer of firearms ownership through succession is a valid exercise of police power. x x x. The qualifications for acquiring a firearm license under Section 4 of the law are highly personal to the licensee. These qualifications may not be possessed by his or her relative or next of kin. It is, therefore, only correct that the rights to own and possess a firearm are non-transferrable by succession. At any rate, should he or she be interested, the deceased's relative or next of kin may apply for a license to own and possess the deceased's registered firearm under Section 26 of Republic Act No. 10591.

22. ID.; ID.; ID.; SECTION 39 OF R.A. NO. 10591 AND ITS IMPLEMENTING RULES AND REGULATIONS; THE AUTOMATIC REVOCATION OF LICENSE IF THE REGISTERED FIREARM IS USED FOR THE COMMISSION OF A CRIME IS JUSTIFIED, FOR THE STATE CAN REVOKE THE LICENSE WITHOUT VIOLATING THE DUE PROCESS CLAUSE WHERE IT FINDS THAT BEARING ARMS WOULD BE CONTRARY TO ITS LEGITIMATE INTERESTS.—As to the automatic revocation of license if the registered firearm is used for the commission of a crime, Section 39(a) of Republic Act No. 10591 and its corresponding provision in the Implementing Rules and Regulations state x x x. The commission of the crime indicates the licensee's propensity for violence, which is contrary to the declared State policy of maintaining peace and order and protecting the people from violence. In such a case, the revocation of the license would be justified. To reiterate, ownership and possession of firearms is not a property right, but a mere privilege. Should the State find that bearing arms would be contrary to its legitimate interests, it can revoke the license without violating the due process clause.

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23. ID.; ID.; ID.; SECTION 9 OF R.A. NO. 10591 WHICH MANDATES APPLICANTS FOR TYPES 3 TO 5 FIREARMS LICENSES TO COMPLY WITH THE REQUIREMENT OF INSPECTION OF THE FIREARMS AT THE RESIDENCE INDICATED AT THE APPLICATION CANNOT BE CONSIDERED A REASONABLE SEARCH, AS THERE IS A LEGITIMATE, ALMOST ABSOLUTE, EXPECTATION OF PRIVACY IN ONE'S RESIDENCE; THE PRESENCE OF THE EXPECTATION OF PRIVACY AND SOCIETY'S PERCEPTION OF IT AS REASONABLE RENDER THE STATE'S INTRUSION A "SEARCH", WHICH REQUIRES A SEARCH WARRANT.— Perhaps the most contentious provision in Republic Act No. 10591 is Section 9, which mandates applicants for Types 3 to 5 licenses to comply with "inspection … requirements." x x x. The Philippine National Police, in the *pro forma* Individual Application for New Firearm Registration, included a paragraph indicating the Consent of Voluntary Presentation for Inspection, to be signed by the applicant. It provides that the applicant agrees to voluntarily consent to the inspection of the firearm at the residence indicated in the application. x x x. The present Constitution provides the prohibition on unreasonable searches and seizures in Article III, Section 2: x x x. What constitutes a "reasonable search" depends on whether a person has an "expectation of privacy, which society regards as reasonable[.]" The presence of this expectation of privacy *and* society's perception of it as reasonable render the State's intrusion a "search" within the meaning of Article III, Section 2, and which intrusion thus requires a search warrant. x x x. A reduced expectation of privacy is the reason why the inspection of persons and their effects under routine inspections, such as those done in airports, seaports, bus terminals, malls, and similar public places, does not require a search warrant. These routine inspections are considered reasonable searches, clearly done to ensure public safety. A reasonable search, however, is different from a warrantless search. While a reasonable search arises from a reduced expectation of privacy, a warrantless search, which is presumed unreasonable, dispenses with a search warrant for practical reasons. This is why a search incidental to a lawful arrest, search of evidence in plain view, consented search, and extensive search of moving private vehicle do not require a search warrant. From all these, this Court holds that the inspection requirement under Republic Act No. 10591, as

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interpreted by the Philippine National Police in the Implementing Rules, *cannot* be considered a reasonable search. There is a legitimate, almost absolute, expectation of privacy in one's residence.

24. POLITICAL LAW; CONSTITUTIONAL LAW; BILL OF RIGHTS; RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES; THE RIGHT AGAINST UNREASONABLE SEARCHES AND SEIZURES MAY BE WAIVED IF IT CAN BE SHOWN THAT THE CONSENT WAS UNEQUIVOCAL, SPECIFIC, AND INTELLIGENTLY GIVEN, UNCONTAMINATED BY ANY DURESS OR COERCION; PARAMETERS FOR GIVING A VALID CONSENT TO SEARCH ONE'S HOME, DISCUSSED.— [T]he right against unreasonable searches and seizures may be waived if it can be shown that the consent was "unequivocal, specific, and intelligently given, uncontaminated by any duress or coercion." In *Caballes v. Court of Appeals*, this Court discussed the parameters for giving a valid consent to search one's home: Doubtless, the constitutional immunity against unreasonable searches and seizures is a personal right which may be waived. The consent must be voluntary in order to validate an otherwise illegal detention and search, *i.e.*, the consent is unequivocal, specific, and intelligently given, uncontaminated by any duress or coercion. Hence, consent to a search is not to be lightly inferred, but must be shown by clear and convincing evidence. The question whether a consent to a search was in fact voluntary is a question of fact to be determined from the totality of all the circumstances. Relevant to this determination are the following characteristics of the person giving consent and the environment in which consent is given: (1) the age of the defendant; (2) whether he was in a public or secluded location; (3) whether he objected to the search or passively looked on; (4) the education and intelligence of the defendant; (5) the presence of coercive police procedures; (6) the defendant's belief that no incriminating evidence will be found; (7) the nature of the police questioning; (8) the environment in which the questioning took place; and (9) the possibly vulnerable subjective state of the person consenting. It is the State which has the burden of proving, by clear and positive testimony, that the necessary consent was obtained and that it was freely and voluntarily given.

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25. ID.; REPUBLIC ACT NO. 10591; SECTION 9 THEREOF; APPLICANT'S SIGNING OF THE CONSENT OF VOLUNTARY PRESENTATION FOR INSPECTION IN THE *PRO FORMA* INDIVIDUAL APPLICATION FOR NEW FIREARM REGISTRATION DOES NOT RESULT IN A TRUE AND VALID CONSENTED SEARCH, AS THE LAW IS SILENT AS TO THE PARAMETERS OF THE INSPECTION SUCH AS THE SCOPE, FREQUENCY, AND EXECUTION OF THE INSPECTION, WHICH RENDERS APPLICANTS FOR FIREARMS LICENSES INCAPABLE OF INTELLIGENTLY WAIVING THEIR RIGHT TO THE UNREASONABLE SEARCH OF THEIR HOME.— In requiring a waiver in the *pro forma* Individual Application for New Firearm Registration, the Philippine National Police appears to recognize the inviolability of the home. Nevertheless, signing the Consent of Voluntary Presentation for Inspection does *not* result in a true and valid consented search. Section 9 of Republic Act No. 10591 provides that applicants for Types 3 to 5 licenses "must comply with the inspection ... requirements." However, the law is silent as to the scope, frequency, and execution of the inspection. This means that the Chief of the Philippine National Police is presumed to fill in these details in the Implementing Rules and Regulations. However, even the Implementing Rules is completely silent as to the parameters of the inspection. This renders applicants for firearms licenses incapable of intelligently waiving their right to the unreasonable search of their homes.

26. ID.; ID.; SECTION 9 OF R.A. NO. 10591 AND ITS IMPLEMENTING RULES AND REGULATIONS WHICH AUTHORIZE WARRANTLESS INSPECTION OF HOUSES ARE UNCONSTITUTIONAL FOR BEING VIOLATIVE OF THE PROHIBITION ON UNREASONABLE SEARCHES AND SEIZURES; FOR WAIVER OF THE RIGHT AGAINST UNREASONABLE SEARCHES TO BE VALID, THE PROVISION ALLOWING FOR THE INSPECTION MUST BE AS INFORMATIVE AS TO DETAIL ITS SCOPE AND EXTENT; OTHERWISE, GOVERNMENT OFFICIALS ARE GIVEN UNBRIDLED DISCRETION AND POWER.— [T]his Court finds that Section 9 of Republic Act No. 10591 and its corresponding provision in the Implementing Rules are unconstitutional for being violative of Article III, Section 2 of the Constitution. Section 9 authorizes warrantless inspections

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of houses which, x x x are unreasonable and, therefore, require a search warrant. Furthermore, Section 9 miserably failed to provide the scope and extent of the inspections, making them overbroad. While the State has heavy regulated the use of and dealing in firearms to maintain peace and order, this does not excuse the utter lack of standards for the conduct of inspection. What this does is give unbridled discretion and power to government officials, the very discretion that Article III, Section 2 guards against. True, the standard of reasonableness can be found in the law and its Implementing Rules and Regulations. However, "reasonable" as a standard for inspection is not enough. For the waiver of the right against unreasonable searches to be valid, the provision allowing for the inspection must be as informative as to detail its scope and extent. Therefore, signing the Consent of Voluntary Presentation for Inspection in the *pro forma* Individual Application for New Firearm Registration cannot be considered a valid waiver of the right against unreasonable searches under Article III, Section 2 of the Constitution. The applicant cannot intelligently consent to the warrantless inspection allowed in Republic Act No. 10591 because of the utter lack of parameters on how the inspection shall be conducted.

27. ID.; ID.; ID.; THE INSPECTION OF THE FIREARMS AT THE APPLICANT'S RESIDENCE MAY ONLY BE DONE WITH A SEARCH WARRANT.— This Court notes that the Implementing Rules and Regulations has since been amended in 2018, with its Section 9.3 now providing the scope of the inspection relating to applications for Types 3-5 licenses x x x. To this Court, the inspection contemplated in Section 9.3 of the 2018 Implementing Rules, though it now provides the scope and extent of the inspection, may only be done with a search warrant as required in Article III, Section 2 of the Constitution. Considering that the inspection is done before a license is issued, there is no compelling urgency to immediately conduct the inspection. A search warrant must first be obtained from a judge to determine probable cause for its issuance.

28. ID.; ID.; SECTION 4.10 OF THE IMPLEMENTING RULES WHICH REQUIRES A PERSON INTENDING TO APPLY AS A SPORTS SHOOTER TO SUBMIT A CERTIFICATION FROM THE PRESIDENT OF A RECOGNIZED GUN CLUB OR SPORTS SHOOTING ASSOCIATION THAT HE OR SHE IS

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JOINING THE COMPETITION IS NOT VIOLATIVE OF THE CONSTITUTIONAL RIGHT OF FREEDOM OF ASSOCIATION.— This Court does not find Section 4.10 of the Implementing Rules violative of Article III, Section 8 of the Constitution on the freedom of association x x x. It has been held that Article III, Section 8 not only guarantees the freedom to associate; it also protects the freedom *not* to associate. The provision is not basis to compel others to form or join an association. Reading Section 4.10, this Court finds that nothing in it compels a sports shooter applicant to join a gun club or sports shooting association. All that Section 4.10 provides is that a person intending to apply as a sports shooter must submit a certification from the president of a recognized gun club or sports shooting association that he or she is joining the competition. The reason is that shooting competitions are usually sponsored by gun clubs and sports associations which, in turn, must be duly registered with and accredited in good standing by the Firearms and Explosive Office of the Philippine National Police. This certification ensures that the extra ammunition is indeed granted to legitimate sports shooters, which is remarkably more than that allowed to an ordinary owner of a firearm. Thus, Section 4.10 does not violate Article III, Section 8 of the Constitution.

REYES, A. JR., *J., separate concurring and dissenting opinion*:

1. REMEDIAL LAW; RULES OF PROCEDURE; WHERE CONSTITUTIONAL RIGHTS ARE INVOLVED, VIOLATIONS OF PROCEDURAL TECHNICALITIES MAY BE SET ASIDE BY THE COURT IN ITS DISCRETION IN THE INTEREST OF SUBSTANTIAL JUSTICE.— x x x. In spite of the x x x lapses, x x x the Petitions were not outrightly denied on [the] procedural grounds; x x x. x x x [S]ince constitutional rights are involved, technicalities should not impede the resolution of the present consolidated petitions. Indeed, the petitioners' violations are mere procedural technicalities which the Court may set aside in its discretion in the interest of substantial justice. In *Chavez v. Hon. Romulo*, the Court was confronted with a petition that also sought to enjoin the implementation of guidelines regarding the carrying of firearms outside residence. Despite procedural barriers, the Court treated the matter as one of national interest and of serious implication, and as such, entertained the

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petitioner despite the attendant procedural infirmities. There is no reason why the present case should be dealt with differently.

2. POLITICAL LAW;COMPREHENSIVE FIREARMS AND AMMUNITION REGULATION ACT (REPUBLIC ACT NO. 10591) AND THE 2013 IMPLEMENTING RULES AND REGULATIONS (IRR); INSPECTION REQUIREMENTS; THE INSPECTION UNDER R.A. NO. 10591 AND ITS IRR MUST BE STRUCK DOWN FOR FAILURE TO LIMIT THE FREQUENCY OF INSPECTION; AN INSPECTION PRIOR TO THE ISSUANCE OF TYPES 3 TO 5 LICENSES MUST BE ALLOWED AS AN ADJUNCT OF ADMINISTRATIVE SEARCH, BUT THE INSPECTION MUST BE LIMITED ONLY TO ONE INSTANCE, THAT IS PRIOR TO THE ISSUANCE OF THE LICENSE; THE RIGHT TO PRIVACY DOES NOT BAR ALL INCURSIONS INTO INDIVIDUAL PRIVACY, BUT THE INTRUSIONS INTO THE RIGHT MUST BE ACCOMPANIED BY PROPER SAFEGUARDS AND WELL-DEFINED STANDARDS TO PREVENT UNCONSTITUTIONAL INVASIONS.— There is no fundamental right to bear arms in the Philippines, thus, the State may regulate gun ownership through the exercise of its police power. x x x. [R]equiring Types 3 to 5 license applicants to sign the *pro forma* "Consent of Voluntary Presentation for Inspection" violates Article III, Section 2 of the 1987 Constitution, but, primarily because there are no sufficient safeguards to carry out the inspection. In *Ople v. Torres*, the Court held that "the right to privacy does not bar all incursions into individual privacy." However, "intrusions into the right must be accompanied by proper safeguards and well-defined standards to prevent unconstitutional invasions. We reiterate that any law or order that invades individual privacy will be subjected by this Court to strict scrutiny." x x x Based on Section 9 of R.A. No. 10591, Types 3 to 5 licenses allow a citizen to own and possess at least six registered firearms. In view of the gravity, responsibility, and possible repercussions of owning and possessing at least six firearms in one's residence x x x the State must still be given an opportunity to ensure compliance with the vault and safety requirements under R.A. No. 10951, and the only way to confirm compliance is through the conduct of an initial, one-time inspection, complemented by a subsequent inspection in case of compelling urgency, as

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the *ponencia* suggests. In *People of the Philippines v. O'Cochlain*, the Court noted that administrative searches are allowed in certain situations where special needs arise and securing a prior search warrant is rendered impracticable x x x. From this vantage ground, an inspection prior to the issuance of Types 3 to 5 licenses must be allowed as an adjunct of administrative search, owing to the weight of responsibility involved in gun ownership, which from its nature, necessitates a stricter regulatory scheme. Nevertheless, inspection under R.A. No. 10591 and its IRR must be struck down for failure to limit the frequency of inspection. While Section 9.3 of the 2018 Revised IRR provides for more guidelines, x x x the inspection must be subjected to further and more stringent standards, such as limiting the inspection only to one instance—prior to the issuance of the license. This is to ensure that the applicant has complied with the safety measures and vault requirements under the law.

3. ID.; ID.; SECTION 7.12(b) OF THE IRR OF R.A. NO. 10591 PROHIBITS THE BRINGING OF FIREARMS INSIDE PLACES OF WORSHIP, PUBLIC DRINKING, AMUSEMENT PLACES, AND ALL OTHER COMMERCIAL OR PUBLIC ESTABLISHMENTS; THE BLANKET PROHIBITION ON CARRYING FIREARMS INSIDE ALL COMMERCIAL OR PUBLIC ESTABLISHMENTS RENDERS NUGATORY THE PERMIT TO CARRY FIREARMS OUTSIDE OF RESIDENCE (PTCFOR) SECURED BY THE OWNERS OF THESE COMMERCIAL ESTABLISHMENTS AND IS UNDULY RESTRICTIVE ON THE PART OF THE BUSINESSMEN,WHO BY THE NATURE OF THEIR BUSINESS OR UNDERTAKING, ARE EXPOSED TO THE HIGH RISK OF BEING TARGET OF CRIMINAL ELEMENTS.— For the purpose of maintaining public peace and order, Section 7.11.2(b) of the IRR of R.A. No. 10591 commands that firearms be secured inside a vehicle or motorcycle compartment, and Section 7.12(b) of the IRR of R.A. No. 10591 prohibits the bringing of firearms inside places of worship, public drinking, amusement places, and all other commercial or public establishments. x x x. However, x x x an exemption must be made for commercial establishment owners who own licensed firearms. The blanket prohibition on carrying firearms inside all commercial or public establishments poses an issue insofar as it renders nugatory the PTCFOR secured

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by the owners of these commercial establishments. While x x x maintaining public peace and order is important, enjoining even the commercial establishment owners themselves from bringing their firearms inside their place of business serves no viable purpose. Some commercial establishment owners such as small-scale business owners or sole proprietors cannot afford to engage the services of private security. With the prohibition, they are left with little to no means of protecting themselves or their clients against unlawful elements who may enter their establishments and commit violence. Verily, it is a declared State policy under Section 2 of R.A. No. 10951 that "the State recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms." Prohibiting even these owners from bringing their firearms to their place of business does not support this declared State policy and contradicts the purpose for which establishment owners' PTCFOR was secured. This prohibition also runs counter to Section 7 of R.A. No. 10591, which recognizes businessmen, who by the nature of their business or undertaking, are exposed to high risk of being target of criminal elements. Thus, x x, this all-out prohibition in Section 7.12(b) of the IRR is unduly restrictive on their part.

4. ID.; ID.; ID.; SECTION 4.10 (b) OF THE IRR WHICH REQUIRES A SPORTS SHOOTER APPLICANT TO SUBMIT A CERTIFICATION FROM THE PRESIDENT OF A RECOGNIZED GUN CLUB OR SPORTS SHOOTING ASSOCIATION THAT HE/SHE IS JOINING THE COMPETITION IS UNCONSTITUTIONAL AS IT COMPELS A SPORTS SHOOTER APPLICANT TO JOIN THE GUN CLUB TO WHICH SUCH PRESIDENT BELONGS, WHICH IS VIOLATIVE OF THE SPORTS SHOOTERS' RIGHT TO FREEDOM OF ASSOCIATION; THE CONSTITUTIONALLY GUARANTEED RIGHT TO FORM AN ASSOCIATION DOES NOT INCLUDE THE RIGHT TO COMPEL OTHERS TO FORM OR JOIN ONE.—x x x**.** x x x [T]he requirement of a submitting a certification from the President of a recognized gun club tacitly compels a sports shooter applicant to join the gun club to which such President belongs, for it is reasonable to believe that no President of a gun club would issue a certification to non-members. Thus, this requirement under Section 4.10(b) is violative of the sports shooters' right to freedom of association.

> Section 8, Article III of the 1987 Constitution guarantees the right of people to join or form associations: Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged. However, "[t]he constitutionally guaranteed freedom of association includes the freedom *not* to associate." "It should be noted that the provision guarantees the right to form an association. It does not include the right to compel others to form or join one."

APPEARANCES OF COUNSEL

Moreno & Associates for petitioners in G.R. No. 211559.

Tabujara & Associates Law Offices for petitioner in G. R. Nos. 211567 & 215634.

Joseph C. Cerezo for petitioner in G.R. No. 212570.

The Solicitor General for respondents.

D E C I S I O N

LEONEN, *J.*:

There is no constitutional right to bear arms. Neither is the ownership or possession of a firearm a property right. Persons intending to use a firearm can only either accept or decline the government's terms for its use.

The grant of license, however, is without prejudice to the inviolability of the home. The right of the people against unreasonable searches and seizures remains paramount, and the government, in the guise of regulation, cannot conduct inspections of applicants for firearm licenses unless armed with a search warrant.

This Court resolves the consolidated Petitions assailing the constitutionality of certain provisions of Republic Act No. 10591, or the Comprehensive Firearms and Ammunition Regulation Act, and their corresponding provisions in the 2013 Implementing Rules and Regulations for allegedly violating petitioners' right to bear arms, right to property, and right to privacy.

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Republic Act No. 10591, enacted on May 29, 2013, currently regulates the ownership, possession, carrying, manufacture, dealing in, and importation of firearms and ammunition in the country. It was enacted with the view of maintaining peace and order and protecting the people from violence.[1] Its Implementing Rules and Regulations was promulgated on December 7, 2013 pursuant to the rule-making power granted to the Chief of the Philippine National Police.[2]

After the Implementing Rules and Regulations had become effective, the Philippine National Police centralized all firearms licensing applications and renewals at its headquarters at Camp Crame, Quezon City. The *pro forma* application form for firearm registration, to be accomplished and signed by the applicant, contained a paragraph on the "Consent of Voluntary Presentation for Inspection":

CONSENT OF VOLUNTARY PRESENTATION FOR INSPECTION

I hereby undertake to renew the registration of my firearm/s on or before the expiration of the same; that, pursuant to the provisions

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[1] Republic Act No. 10591 (2013), Sec. 2 provides:

SECTION 2. *Declaration of State Policy*. — It is the policy of the State to maintain peace and order and protect the people against violence. The State also recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms. Towards this end, the State shall provide for a comprehensive law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime, stop the proliferation of illegal firearms or weapons and the illegal manufacture of firearms or weapons, ammunition and parts thereof.

[2] Republic Act No. 10591 (2013), Sec. 44 provides:

SECTION 44. *Implementing Rules and Regulations*. — Within one hundred twenty (120) days from the effectivity of this Act, the Chief of the PNP, after public hearings and consultation with concerned sectors of society, shall formulate the necessary rules and regulations for the effective implementation of this Act to be published in at least two (2) national newspapers of general circulation.

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of Republic Act No. 10591, I voluntarily give my consent and authorize the PNP to inspect my firearm/s described above at my residence/ address as indicated in my application and, to confiscate or forfeit the same in favor of the government for failure to renew my firearm/ s registration within six (6) months before the date of its expiration.[3]

If the application is approved, the firearm license card is delivered through Werfast Documentary Agency, a courier service, instead of having it picked up at Camp Crame or in the regional offices of the Philippine National Police.[4]

On March 25, 2014, licensed firearm owners Eric F. Acosta (Acosta) and Nathaniel G. Dela Paz (Dela Paz) filed before this Court a Petition for Prohibition,[5] assailing the constitutionality of the following provisions of law and acts:

a) Sections 4(g),[6] 10,[7] 26,[8] and 39 (a),[9] all of Republic Act No. 10591;

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[3] Available at PNP Firearms and Explosives Office,<pnpfeo.net/repository/ category/12juridical?download=60:fa-registration-of-juridical> (last visited on October 14, 2019).

[4] *Rollo* (G.R. No. 211559), p. 850, Memorandum for petitioner PROGUN in G.R. No. 211567, and 781, Consolidated Memorandum for respondents.

[5] *Id*. at 3-96.

[6] Republic Act No. 10591 (2013), Sec. 4(g) partly provides:

SECTION 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. — In order to qualify and acquire a license to own and possess a firearm or firearms and ammunition, the applicant must be a Filipino citizen, at least twenty-one (21) years old and has gainful work, occupation or business or has filed an Income Tax Return (ITR) for the preceding year as proof of income, profession, business or occupation.

In addition, the applicant shall submit the following certification issued by appropriate authorities attesting the following:

. . . . . .

(g) The applicant has not been convicted or is currently an accused in a pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years.

[7] Republic Act No. 10591 (2013), Sec. 10 provides:

SECTION 10. *Firearms That May Be Registered*. — Only small arms may be registered by licensed citizens or licensed juridical entities for

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b) Sections 4.4(a),[10] 4.10(b),[11] 7.3,[12] 7.9,[13] 7.11.2(b),[14]

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ownership, possession and concealed carry. A light weapon shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized by the President in the performance of their duties: *Provided*, That private individuals who already have licenses to possess Class-A light weapons upon the effectivity of this Act shall not be deprived of the privilege to continue possessing the same and renewing the licenses therefor, for the sole reason that these firearms are Class "A" light weapons, and shall be required to comply with other applicable provisions of this Act.

[8] Republic Act No. 10591 (2013), Sec. 26 provides:

SECTION 26. *Death or Disability of Licensee*. — Upon the death or legal disability of the holder of a firearm license, it shall be the duty of his/her next of kin, nearest relative, legal representative, or other person who shall knowingly come into possession of such firearm or ammunition, to deliver the same to the FEO of the PNP or Police Regional Office, and such firearm or ammunition shall be retained by the police custodian pending the issuance of a license and its registration in accordance with this Act. The failure to deliver the firearm or ammunition within six (6) months after the death or legal disability of the licensee shall render the possessor liable for illegal possession of the firearm.

[9] Republic Act No. 10591 (2013), Sec. 39 (a) provides:

SECTION 39. *Grounds for Revocation, Cancellation or Suspension of License or Permit*. — The Chief of the PNP or his/her authorized representative may revoke, cancel or suspend a license or permit on the following grounds:

(a) Commission of a crime or offense involving the firearm, ammunition, of major parts thereof[.]

[10] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 4.4(a) provides:

SECTION 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. —

4.4 The written application to own and possess firearm/s shall be filed at the FEO, in three (3) legible copies duly notarized, and must be accompanied by the original copy of the following requirements:

a) Clearances issued by the Regional Trial Court (RTC) and Municipal/Metropolitan Trial Court (MTC) that has jurisdiction over the place where the applicant resides and/or the Sandiganbayan as the case may be, showing that he/she has not been convicted by final judgment of a crime involving moral turpitude or that he/she has not been convicted or is currently an accused in any pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years[.]

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7.12(b),[15] 10.3,[16] 26.3,[17] 26.4,[18] and 39(1)(a)[19] of the 2013 Implementing Rules and Regulations; and

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[11] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 4.10 provides:

SECTION 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. —

. . . . . .

4.10 A qualified applicant shall submit the following requirements to apply as a sports shooter:

a) A copy of the License to Own and Possess Firearms;

b) Certification from the President of a recognized Gun Club or Sports Shooting Association; and

c) Written Authority or Consent from Parents/Guardian (for minors).

[12] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.3 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.3 For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business and hence are not required to submit threat assessment certificates:

a) Members of the Philippine Bar;

b) Certified Public Accountants;

c) Accredited media practitioners from recognized media institutions; Cashiers and bank tellers;

d) Priests, Ministers, Rabbi, Imams;

e) Physicians and nurses; and

f) Businessmen, who by the nature of their business or undertaking duly recognized or regulated by law, are exposed to high risk of being targets of criminal elements.

[13] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.9 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.9 Members of the PNP, AFP and other Law Enforcement Agencies must apply for a PTCFOR-LEA, in order to be authorized to carry the corresponding government-issued firearm outside of residence:

a) The Police Regional Director or his equivalent in the AFP and other law enforcement agencies, shall endorse to the Chief, PNP all application for PTCFOR-LEA;

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c) The requirement of signing the Consent of Voluntary Presentation for Inspection in the *pro forma* application form for firearm registration, for violating Article III,

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b) The application must be accompanied by the latest appointment order of the personnel applying for PTCFOR-LEA and a certificate of non-pending case duly issued for the purpose;

c) The PTCFOR-LEA shall be issued only by the Chief, PNP through PTCFOR-Secretariat and shall be valid only for one (1) year;

d) The fees to be charged in the filing of application for PTCFOR-LEA shall only be in such minimal amount corresponding to the actual administrative cost necessary for the issuance of the permit, as may be determined by the PNP; and

e) The PTCFOR-LEA should always be accompanied by the corresponding Memorandum Receipt/Acknowledgment Receipt of Equipment (MR/ARE)[.]

[14] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.11.2 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.11 The following guidelines regarding the manner of carrying firearms shall be observed:

. . . . . .

7.11.2 For All Other Persons: (including members of the PNP, AFP and other LEAs in civilian attire)

a) Display of firearms is prohibited. The firearms must always be concealed; Violation of this provision shall be subject for immediate revocation of the License to Own and Possess Firearms and Firearm Registration.

b) *The firearm must be secured inside a vehicle or a motor cycle compartment*[.] (Emphasis supplied)

[15] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.12(b) provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.12 The following other restriction shall likewise be observed:

a) PTCFOR-LEA is non-transferable.

b) *The firearm shall not be brought inside places of worship, public drinking and amusement places and all other commercial or public establishment.* (Emphasis supplied)

c) The PTCFOR-LEA must be carried together with the valid MR/ARE, or MO/LO as the case may be.

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Section 2[20] of the Constitution on the right against unreasonable searches and seizures.[21]

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d) Expired, revoked, cancelled, or nullified License to Own and Possess Firearm and firearm registration will automatically invalidate the corresponding PTCFOR-LEA.

[16] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 10.3 provides:

SECTION 10. *Firearms That May Be Registered*.—

. . . . . .

10.3 Private individuals who are already licensed holders for Class-A light weapons as herein defined upon the effectivity of this IRR shall not be deprived of the lawful possession thereof, provided that they renew their licenses and firearm registration and they continue to possess the standard requirements mentioned in paragraphs 4.1 and 4.4, in this IRR.

[17] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 26.3 provides:

SECTION 26. *Death or Disability of the Licensee*. —

. . . . . .

26.3 When a licensed citizen with registered firearm dies or become legally disabled, his/her next of kin, nearest relative, legal representative, or any other person who shall knowingly come into possession of the registered firearm shall cause the delivery of the same to the FEO or Police Regional Office or through the nearest police station which has jurisdiction over the licensee and/or the registered firearm.

[18] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 26.4 provides:

SECTION 26. *Death or Disability of the Licensee*. —

. . . . . .

26.4 In case of death or legal disability of the licensee, the next of kin, nearest relative, legal representative or any other person who shall knowingly come into possession of the registered firearm shall register the firearm/s provided he/she meets the standard requirements and qualifications in accordance with RA 10591 and its IRR.

[19] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 39(1)(a) provides:

SECTION 39. *Grounds for Revocation, Cancellation or Suspension of License or Permit*. —

39.1 The Chief, PNP or his/her authorized representative may revoke, cancel or suspend a license or permit on the following grounds:

a) Commission of a crime or offense involving the firearm, ammunition or major parts or pendency of a criminal case involving the firearm, ammunition or major parts thereof[.]

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Acosta and Dela Paz's Petition was docketed as G.R. No. 211559.

On the same day, Peaceful Responsible Owners of Guns, Inc. (PROGUN), a registered nonstock, nonprofit corporation that aims to represent the interests of legitimate and licensed gun owners in the Philippines,[22] filed its own Petition for *Certiorari*, Prohibition, and *Mandamus*[23] with prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction. PROGUN questions the following:

a) the centralization of all firearms licensing, renewal, and testing at the Philippine National Police Headquarters at Camp Crame, Quezon City, to the detriment of those who would be coming from places far from Metro Manila;

b) the requirement for applicants for a firearm license to waive their right to privacy and allow the police to enter their dwellings, in violation of Article III, Section 2 of the Constitution on the right against unreasonable searches and seizure; and

c) the outsourcing of the delivery of firearm license to a courier service, depriving the licensee of the right to use the firearm within the period from approval of the application to the actual date of delivery of the license card.[24]

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[20] CONST., Art. III, Sec. 2 provides:

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[21] *Rollo* (G.R. No. 211559), pp. 88-89.

[22] *Rollo* (G.R. No. 211567), p. 5.

[23] *Id*. at 3-22.

[24] *Id*. at 10, 12-13, and 15.

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PROGUN's Petition was docketed as G.R. No. 211567.

Acting on PROGUN's prayer, this Court issued a Temporary Restraining Order[25] on April 8, 2014, restraining the Philippine National Police, until further orders from this Court, from doing the following: (a) centralizing all firearms applications and renewals at the Philippine National Police Headquarters at Camp Crame, Quezon City; (b) utilizing any courier services for delivering firearms license cards; and (c) implementing and enforcing the "waiver and consent" requirement for licensing and registration of firearms.

Further, the Philippine National Police was ordered to continue accepting, processing, and approving applications for and renewals of firearms licenses at its regional offices, and to reinstate and reopen the satellite offices of its Civil Security Group and Firearms and Explosives, Security Agencies and Guards Section, as well as the previously accredited testing centers for drug, neuro-psych, and medical clinics in all regions for firearms licensing requirements. Finally, this Court allowed the release of approved license cards via pick-up.[26]

This Court likewise ordered the consolidation of G.R. Nos. 211559 and 211567 in its April 22, 2014 Resolution.[27]

On June 6, 2014, Guns and Ammo Dealers Association of the Philippines (Guns and Ammo Dealers), allegedly "an umbrella organization of about 50 members who are authorized firearms dealers in the Philippines[,]"[28] filed its Petition for *Mandamus* and *Certiorari*[29] with prayer for the issuance of a temporary restraining order and/or a writ of preliminary injunction. The following are its grounds for filing the Petition:

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[25] *Id*. at 150-154.

[26] *Id*. at 153-154.

[27] *Id*. at 172-173.

[28] *Rollo* (G.R. No. 212570), p. 3.

[29] *Id*. at 3-17.

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a) The Philippine National Police's refusal or failure to establish regional and provincial offices where individual applicants may obtain the requirements for firearm licenses allegedly deprive Guns and Ammo Dealers' members of the profits from their firearm businesses, as they have no licensed customers to sell their firearms to. Many of the employees of gun dealers were likewise laid off due to losses from zero sales.

b) The Philippine National Police's refusal to accept and act on any firearm license application since January 2014 constitutes grave abuse of discretion.[30]

c) The centralization of firearms licensing in Camp Crame, Quezon City harms individual applicants from the provinces and in violation of their right to due process of law.[31]

Guns and Ammo Dealers' Petition was docketed as G.R. No. 212570. It was consolidated with G.R. Nos. 211559 and 211567 through this Court's June 25, 2014 Resolution.[32]

On July 3, 2014, PROGUN filed a Verified Petition for Contempt[33] alleging that the Philippine National Police violated this Court's April 8, 2014 Temporary Restraining Order. According to it, the Philippine National Police continued to require applicants to sign the Consent of Voluntary Presentation for Inspection in the *pro forma* application form for firearm registration even after the Temporary Restraining Order had been issued. Moreover, the Philippine National Police opened only some but not all of its regional offices and accredited testing centers, with the remaining 90% of applicants from the provinces still being required to file their applications at Camp Crame, Quezon City.[34]

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[30] *Id*. at 7-8.

[31] *Id*. at 8-10.

[32] *Id*. at 21-22.

[33] *Rollo* (G.R. No. 211567), pp. 200-211.

[34] *Id*. at 203.

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In its Comment[35] to the Verified Petition for Contempt, the Philippine National Police alleged at the outset that it had already ceased from engaging the services of Werfast Documentary Agency as a courier service for delivering firearm license cards.[36] As to the Consent of Voluntary Presentation for Inspection, the Philippine National Police admitted that the paragraph still appeared in the *pro forma* application form for firearm registration, but asserted that it has stopped implementing warrantless inspections based on the waiver. It had also commenced the printing of new *pro forma* applications without the Consent of Voluntary Presentation for Inspection. Lastly, the Philippine National Police denied that it refused to open its regional offices. To support its claim, it attached Memoranda showing that it has already reverted to its decentralized system of accepting applications for and renewals of firearm licenses.[37]

In its Reply,[38] PROGUN maintained that the reprinted forms attached by the Philippine National Police in its Comment were the Individual Application for License to Own and Possess Firearm, which is different from what PROGUN was assailing: the Individual Application for New Firearm Registration Form.[39] PROGUN also insisted that the Philippine National Police still refused to accept applications for and renewals of firearm licenses in its regional offices, calling the Memoranda annexed to the Comment as "self-serving[.]"[40]

In the meantime, on December 23, 2014, PROGUN filed another Petition for *Certiorari*, Prohibition, and *Mandamus*,[41] still with a prayer for temporary restraining order and/or a writ

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[35] *Id*. at 303-309.

[36] *Id*. at 305.

[37] *Id*. at 305-306.

[38] *Id*. at 374-379.

[39] *Id*. at 374-375.

[40] *Id*. at 375.

[41] *Rollo* (G.R. No. 215634), pp. 3-20.

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of preliminary injunction. Docketed as G.R. No. 215634, the Petition was brought on the following grounds:

a) The declaration that the firearm licenses issued under the old law are deemed vacated, and the requirement for all existing firearm holders to reapply for a new firearm license under Republic Act No. 10591 renders the latter an *ex post facto* law. The new law penalizes those who were validly holding licenses under the old law.

b) Exceeding its rule-making power, the Philippine National Police overregulated the firearm-related activities of gun clubs, sports shooters, reloaders, gunsmithing, competitions, and indentors. It also imposed numerous fees which are not authorized under Republic Act No. 10591.

c) The Philippine National Police added penal provisions in the Implementing Rules and Regulations, exercising a power exclusively vested in Congress.

d) The Philippine National Police drafted the Implementing Rules and Regulations without the required public consultation, in violation of Section 44 of Republic Act No. 10591.[42]

Per this Court's January 13, 2015 Resolution,[43] G.R. No. 215634 was consolidated with G.R. Nos. 211559, 211567, and 212570.

With all the Comments[44] and Replies[45] in and considering the allegations, issues, and arguments adduced in the submissions

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[42] *Id.* at 7-8.

[43] *Id.* at 72.

[44] *Rollo* (G.R. No. 211559), pp. 219-266; *Rollo* (G.R. No. 211567), pp. 239-293; *Rollo* (G.R. No. 212570), pp. 81-96; and *Rollo* (G.R. No. 215634), pp. 125-151.

[45] *Rollo* (G.R. No. 211559), pp. 279-285; *Rollo* (G.R. No. 211567), pp. 335-371; *Rollo* (G.R. No. 212570), pp. 172-181.

of the parties, this Court gave due course to the Petitions in its February 7, 2017 Resolution,[46] and required the parties to file memoranda.

The first to file was Guns and Ammo Dealers, which filed its Memorandum[47] on April 25, 2017. The Philippine National Police and the rest of the respondents, represented by the Office of the Solicitor General, filed their Consolidated Memorandum[48] on May 8, 2017. Acosta and Dela Paz filed theirs[49] on June 2, 2017, followed last by PROGUN, which filed its Memoranda in G.R. No. 211567[50] and G.R. 215634[51] on June 23, 2017.

Based on the submissions of the parties, the issues for this Court's resolution are the following:

First, whether or not an actual case or controversy exists warranting this Court's exercise of its power of judicial review under Article VIII, Section 1 of the Constitution;

Second, whether or not petitioners have legal standing to file their respective Petitions;

Third, whether or not petitioners' direct recourse to this Court was proper in light of the doctrine of hierarchy of courts;

Fourth, whether or not the 2013 Implementing Rules and Regulations of Republic Act No. 10591 is in the nature of an *ex post facto* law by deeming as vacated all firearm licenses issued under the old law, and compelling the re-application under the new law under pain of prosecution for illegal possession of firearms;

Fifth, whether or not the Chief of the Philippine National Police made additional and more restrictive regulations for gun

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[46] *Rollo* (G.R. No. 211559), pp. 633-635.

[47] *Id*. at 665-678, filed via registered mail.

[48] *Id*. at 713-787, filed via registered mail.

[49] *Id*. at 797-828.

[50] *Id*. at 848-867.

[51] *Id*. at 830-847.

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clubs, sports shooters, reloaders, gunsmithing, competitions, and indentors, thereby exceeding its rule-making power granted in Section 44 of Republic Act No. 10591;

Sixth, whether or not the licensing fees charged under the Implementing Rules and Regulations are too numerous and, therefore, unreasonable;

Seventh, whether or not the Chief of the Philippine National Police added penal provisions in the Implementing Rules and Regulations, thereby invalidly exercising a power exclusively vested in Congress;

Eighth, whether or not the Implementing Rules and Regulations was drafted with the required consultation with the concerned sectors of society;

Ninth, whether or not the Philippine National Police exceeded its authority by centralizing firearms license applications and renewals at its headquarters at Camp Crame, Quezon City and outsourcing the delivery of firearms license cards to a courier service;

Tenth, whether or not Section 7.3 of the Implementing Rules and Regulations is void for omitting engineers as persons who may apply for a permit to carry firearm outside of residence and, therefore, contrary to Section 7 of Republic Act No. 10591;

Eleventh, whether or not the requirement of a license to own and operate a firearm is a violation of petitioners' right to bear arms;

Twelfth, whether or not the requirement of a license to own and operate a firearm is a valid exercise of police power and, therefore, not violative of the right to due process;

Thirteenth, whether or not signing the Consent of Voluntary Presentation for Inspection violates Article III, Section 2 of the Constitution on the protection against unreasonable searches and seizures;

Fourteenth, whether or not requiring a certification from the president of a recognized gun club or sports shooting association

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in order to obtain a firearm license violates Article III, Section 8 of the Constitution on the freedom of association; and

Finally, whether or not respondents are guilty of contempt of court.

In the main, petitioners argue that Republic Act No. 10591 and its Implementing Rules and Regulations unduly restrict their right to bear arms, their right to property, and their right to privacy. The government, through the Philippine National Police, counters that the keeping and bearing of arms is a mere privilege, not a right. Thus, whoever seeks to obtain a firearm license has to either accept or decline the government's terms for the use and possession of a firearm.

The Petitions are partly granted. Section 9.3 of the 2013 Implementing Rules and Regulations of Republic Act No. 10591 is unconstitutional. It is declared void for violating Article III, Section 2 of the Constitution on the right against unreasonable searches and seizures. Signing the Consent of Voluntary Presentation for Inspection appearing in the *pro forma* application form for firearm registration is likewise declared void and of no force and effect.

As for the rest of the assailed provisions of Republic Act No. 10591 and the 2013 Implementing Rules and Regulations, petitioners miserably failed to make a case for their unconstitutionality.

I

Acosta and Dela Paz, petitioners in G.R. No. 211559, did not allege actual facts in their Petition. As such, they failed to bring an actual case or controversy before this Court.

Article VIII, Section 1 of the Constitution requires an actual case or controversy for this Court's exercise of its power of judicial review:

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

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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.

There is an actual case or controversy if it involves "a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution[.]"[52] The issues presented should be "definite and concrete, touching on the legal relations of parties having adverse legal interests."[53] Such is necessary for this Court to avoid giving advisory opinions, using its limited resources to resolve hypothetical cases or conjectural issues instead of properly devoting time to the more pressing and important cases for its resolution.

Actual facts, as opposed to hypothetical ones, must exist for there to be an actual case or controversy. In *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*,[54] the Petitions were dismissed for lack of actual facts. In that case, the petitioners assailed the constitutionality of Republic Act No. 9372, or the Human Security Act, alleging that they were subjected to "close security surveillance by state security forces"[55] and were branded as "enemies of the [S]tate"[56] on the basis of the law. This Court held that there were no actual facts for it to decide the consolidated cases as the allegations were unsubstantiated and, therefore, not "anchored on real events[.]"[57]

When this Court dismissed the *Southern Hemisphere* petitions, petitions for declaratory relief assailing the constitutionality of the Human Security Act were pending before the Regional

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[52] *Information Technology Foundation of the Philippines v. Commission on Elections*, 499 Phil. 281, 304 (2005)[Per *C.J.* Panganiban, *En Banc*].

[53] *Id.* at 304-305.

[54] 646 Phil. 452 (2010)[Per *J.* Carpio Morales, *En Banc*].

[55] *Id.* at 473.

[56] *Id.*

[57] *Id.* at 483.

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Trial Court of Quezon City. The Republic of the Philippines, who was the respondent in the declaratory relief cases, filed a motion to dismiss before the trial court. The motion, however, was denied, leading the Republic of the Philippines to file a petition for *certiorari* before this Court. In granting the writ of *certiorari*, this Court in *Republic v. Roque*[58] stated that the petitions for declaratory relief did not properly allege a "state of facts indicating imminent and inevitable litigation":[59]

> Pertinently, a justiciable controversy refers to an existing case or controversy that is appropriate or ripe for judicial determination, not one that is conjectural or merely anticipatory. Corollary thereto, by "ripening seeds" it is meant, not that sufficient accrued facts may be dispensed with, but that a dispute may be tried at its inception before it has accumulated the asperity, distemper, animosity, passion, and violence of a full blown battle that looms ahead. The concept describes a state of facts indicating imminent and inevitable litigation provided that the issue is not settled and stabilized by tranquilizing declaration.
>
> A perusal of private respondents' petition for declaratory relief would show that they have failed to demonstrate how they are left to sustain or are in immediate danger to sustain some direct injury as a result of the enforcement of the assailed provisions of RA 9372. Not far removed from the factual milieu in the *Southern Hemisphere* cases, private respondents only assert general interests as citizens, and taxpayers and infractions which the government could prospectively commit if the enforcement of the said law would remain [untrammeled]. As their petition would disclose, private respondents' fear of prosecution was solely based on remarks of certain government officials which were addressed to the general public. They, however, failed to show how these remarks tended towards any prosecutorial or goverrnmental action geared towards the implementation of RA 9372 against them. In other words, there was no particular, real or imminent threat to any of them.[60] (Emphasis supplied, citations omitted)

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[58] 718 Phil. 294 (2013)[Per *J.* Perlas-Bernabe, *En Banc*].

[59] *Id.* at 305.

[60] *Id.* at 305-306.

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Recently, in *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*,[61] this Court dismissed the petition filed by associations of provincial bus operators assailing the constitutionality of Department Order No. 118-12, which mandated the part-fixed-part-performance-based compensation system for bus drivers and conductors. The petitioners alleged, first, that the compensation scheme "may [result] in [the] diminution of the income of ... bus drivers and conductors."[62] It also claimed that the compensation scheme was "unfit to the nature of operation of public transport system or business."[63]

In dismissing the Petition, this Court found the petitioners' allegations unsubstantiated and bare, with no actual facts to support them. Reiterating that actual facts must support petitions brought under the expanded jurisdiction of this Court in Article VIII, Section 1 of the Constitution, this Court stated:

> Even the expanded jurisdiction of this Court under Article VIII, Section 1 does not provide license to provide advisory opinions. An advisory opinion is one where the factual setting is conjectural or hypothetical. In such cases, the conflict will not have sufficient concreteness or adversariness so as to constrain the discretion of this Court. After all, legal arguments from concretely lived facts are chosen narrowly by the parties. Those who bring theoretical cases will have no such limits. They can argue up to the level of absurdity. They will bind the future parties who may have more motives to choose specific legal arguments. In other words, for there to be a real conflict between the parties, *there must exist actual facts from which courts can properly determine whether there has been a breach of constitutional text*.[64] (Emphasis in the original, citation omitted)

Like the petitions in *Southern Hemisphere*, *Roque*, and *The Provincial Bus Operators Association of the Philippines*,

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[61] G.R. No. 202275, July 17, 2018, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64411>[Per *J.* Leonen, *En Banc*]

[62] *Id*.

[63] *Id*.

[64] *Id*.

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the Petition in G.R. No. 211559 alleges no actual facts from which this Court can intelligently adjudicate the issues raised in it. Petitioners Acosta and Dela Paz assail the constitutionality of Republic Act No. 10591 because it allegedly violated their right to bear arms, their right to property, and even the right to presumption of innocence by disqualifying from holding a firearm license those who have committed a crime involving a firearm.[65] However, they did not show that their firearm licenses were revoked because of any of the provisions of the law or its Implementing Rules and Regulations.

Petitioners Acosta and Dela Paz also raise the issue of the omission of engineers from Section 7.3[66] of the Implementing Rules and Regulations as professionals who may apply for a permit to carry firearms outside of residence, contrary to Section 7[67] of

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[65] *Rollo* (G.R. No. 211559), pp. 47-64, Petition for Prohibition, and 811-813, Memorandum of petitioners Acosta and Dela Paz.

[66] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.3 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.3 For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business and hence are not required to submit threat assessment certificates:

a) Members of the Philippine Bar;

b) Certified Public Accountants;

c) Accredited media practitioners from recognized media institutions; Cashiers and bank tellers;

d) Priests, Ministers, Rabbi, Imams;

e) Physicians and nurses; and

f) Businessmen, who by the nature of their business or undertaking duly recognized or regulated by law, are exposed to high risk of being targets of criminal elements.

[67] Republic Act No. 10591 (2013), Sec. 7 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. — A permit to carry firearms outside of residence shall be issued by the Chief of the PNP or his/her duly authorized representative to any

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Republic Act No. 10591. They also assail Section 7.9[68] of the Implementing Rules and Regulations, which allegedly adversely

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qualified person whose life is under actual threat or his/her life is in imminent danger due to the nature of his/her profession, occupation or business.

It shall be the burden of the applicant to prove that his/her life is under actual threat by submitting a threat assessment certificate from the PNP.

For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business:

(a) Members of the Philippine Bar;
(b) Certified Public Accountants;
(c) Accredited Media Practitioners;
(d) Cashiers, Bank Tellers;
(e) Priests, Ministers, Rabbi, Imams;
(f) Physicians and Nurses;
(g) Engineers; and
(h) Businessmen, who by the nature of their business or undertaking, are exposed to high risk of being targets of criminal elements.

[68] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.9 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.9 Members of the PNP, AFP and other Law Enforcement Agencies must apply for a PTCFOR-LEA, in order to be authorized to carry the corresponding government-issued firearm outside of residence:

a) The Police Regional Director or his equivalent in the AFP and other law enforcement agencies, shall endorse to the Chief, PNP all application for PTCFOR-LEA;

b) The application must be accompanied by the latest appointment order of the personnel applying for PTCFOR-LEA and a certificate of non-pending case duly issued for the purpose;

c) The PTCFOR-LEA shall be issued only by the Chief, PNP through PTCFOR-Secretariat and shall be valid only for one (1) year;

d) The fees to be charged in the filing of application for PTCFOR-LEA shall only be in such minimal amount corresponding to the actual administrative cost necessary for the issuance of the permit, as may be determined by the PNP; and

e) The PTCFOR-LEA should always be accompanied by the corresponding Memorandum Receipt/Acknowledgment Receipt of Equipment (MR/ARE)[.]

affect members of a law enforcement agency such as the Armed Forces of the Philippines and the Philippine National Police. Yet, they made no allegation that they are engineers, or that when they applied for a permit to carry a firearm outside of residence, they were denied because of Section 7.3. Likewise, they did not allege that they are members of a law enforcement agency.

Thus, petitioners Acosta and Dela Paz raised no actual facts in their Petition. Their Petition in G.R. No. 211559, therefore, is dismissible for their failure to present an actual case or controversy.

II

Petitioners Acosta, Dela Paz, and PROGUN, however, have legal standing to file the present suit.

An aspect of justiciability, legal standing is the "right of appearance in a court of justice on a given question."[69] It ensures that the party bringing the case has a "personal and substantial interest in [its outcome] such that he [or she] has sustained, or will sustain, direct injury as a result of its enforcement[.]"[70] What is essential is *direct injury*, as this guarantees a "personal stake in the outcome of the controversy"[71] which, in turn, assures "that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."[72]

The concept of legal standing is similar to the concept of "interest" in private suits: it refers to "a present substantial interest,"[73]

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[69] *Advocates for Truth in Lending, Inc. v. Bangko Sentral Monetary Board*, 701 Phil. 483, 493 (2013) [Per *J.* Reyes, *En Banc*].

[70] *Francisco, Jr. v. The House of Representatives*, 460 Phil. 830, 893 (2003) [Per *J.* Carpio Morales, *En Banc*].

[71] *Association of Flood Victims v. Commission on Elections*, 740 Phil. 472, 481 (2014) [Per Acting *C.J.* Carpio, *En Banc*].

[72] *Id*.

[73] *Galicto v. Aquino III*, 683 Phil. 141, 171 (2012) [Per *J.* Brion, *En Banc*].

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not a "mere expectancy or a future, contingent, subordinate, or consequential interest."[74] Thus, under the Rules of Court, actions must be prosecuted or defended in the name of the real party-in-interest.[75]

The exceptions to the rule on legal standing were summarized in *Funa v. Villar*.[76] In that case, this Court enumerated four (4) types of "non-traditional suitors" who, though not having been directly injured by the assailed governmental act, were nonetheless allowed to file the petition because they raised issues of critical significance:

> 1.) For *taxpayers*, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
>
> 2.) For *voters*, there must be a showing of obvious interest in the validity of the election law in question;
>
> 3.) For *concerned citizens*, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
>
> 4.) For *legislators*, there must be a claim that the official action complained of infringes their prerogatives as legislators.[77] (Emphasis in the original)

Through *White Light Corporation v. City of Manila*,[78] the concept of third-party standing was introduced in our jurisdiction as another exception to the direct injury rule. Under this concept, a litigant may file a case on behalf of third parties when the following criteria concur: (1) "the litigant must have suffered an 'injury-in-fact,' thus giving him or her a 'sufficiently concrete interest' in the outcome of the issue in dispute";[79] (2) "the

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[74] *Id*.

[75] RULES OF COURT, Rule 3, Sec. 2.

[76] 686 Phil. 571 (2012) [Per *J.* Velasco, Jr., *En Banc*].

[77] *Id.* at 586.

[78] 596 Phil. 444 (2009) [Per *J.* Tinga, *En Banc*].

[79] *Id.* at 456.

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litigant must have a close relation to the third party";[80] and (3) "there must exist some hindrance to the third party's ability to protect his or her own interests."[81]

In *White Light*, this Court allowed hotel and motel operators to sue on behalf of its patrons to assail the constitutionality of Manila City Ordinance No. 7774 prohibiting hotels and motels in Manila from charging wash-up rates. This Court stated that not only were the business interests of hotel and motel operators affected by the Ordinance, but the constitutional rights of their patrons were violated through its enactment.

Associations may likewise sue on behalf of their members, as they are but a "medium through which [their] individual members seek to make more effective the expression of their voices and the redress of their grievances."[82] However, if they are to do so, associations "must sufficiently [establish] who their members [are], that their members authorized the associations to sue on their behalf, and that the members would be directly injured by the challenged governmental acts."[83]

This Court, in *The Provincial Bus Operators Association of the Philippines*, summarized the factors to be considered in granting standing to associations and corporations suing on behalf of its members:

> The liberality of this Court to grant standing for associations or corporations whose members are those who suffer direct and substantial injury depends on a few factors.
>
> In all these cases, there must be an actual controversy. Furthermore, there should also be a clear and convincing demonstration of special reasons why the truly injured parties may not be able to sue.

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[80] *Id*.

[81] *Id*.

[82] *Executive Secretary v. Court of Appeals*, 473 Phil. 27, 51 (2004) [Per *J.* Callejo, Second Divion].

[83] *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018,< //http://elibrary.judiciary.gov.ph/thebookself/showdocs/1/64411> [Per *J.* Leonen, *En Banc*].

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Alternatively, there must be a similarly clear and convincing demonstration that the representation of the association is more efficient for the petitioners to bring. They must further show that it is more efficient for this Court to hear only one voice from the association. In other words, the association should show special reasons for bringing the action themselves rather than as a class suit, allowed when the subject matter of the controversy is one of common or general interest to many persons. In a class suit, a number of the members of the class are permitted to sue and to defend for the benefit of all the members so long as they are sufficiently numerous and representative of the class to which they belong.

In some circumstances similar to those in *White Light*, the third parties represented by the petitioner would have special and legitimate reasons why they may not bring the action themselves. Understandably, the cost to patrons in the *White Light* case to bring the action themselves — *i.e.*, the amount they would pay for the lease of the motels — will be too small compared with the cost of the suit. But viewed in another way, whoever among the patrons files the case even for its transcendental interest endows benefits on a substantial number of interested parties without recovering their costs. This is the free rider problem in economics. It is a negative externality which operates as a disincentive to sue and assert a transcendental right.

In addition to an actual controversy, special reasons to represent, and disincentives for the injured party to bring the suit themselves, there must be a showing of the transcendent nature of the right involved.

Only constitutional rights shared by many and requiring a grounded level of urgency can be transcendent....

This Court is not a forum to appeal political and policy choices made by the Executive, Legislative, and other constitutional agencies and organs. This Court dilutes its role in a democracy if it is asked to substitute its political wisdom for the wisdom of accountable and representative bodies where there is no unmistakable democratic deficit. It cannot lose this place in the constitutional order. Petitioners' invocation of our jurisdiction and the justiciability of their claims must be presented with rigor. Transcendental interest is not a talisman to blur the lines of authority drawn by our most fundamental law.[84] (Citation omitted)

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[84] *Id*.

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As discussed, petitioners Acosta and Dela Paz assail the omission of engineers from Section 7.3[85] of the Implementing Rules and Regulations;[86] yet, they never alleged that they are

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[85] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.3 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.3 For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business and hence are not required to submit threat assessment certificates:

a) Members of the Philippine Bar;

b) Certified Public Accountants;

c) Accredited media practitioners from recognized media institutions; Cashiers and bank tellers;

d) Priests, Ministers, Rabbi, Imams;

e) Physicians and nurses; and

f) Businessmen, who by the nature of their business or undertaking duly recognized or regulated by law, are exposed to high risk of being targets of criminal elements.

[86] Republic Act No. 10591 (2013), Sec. 7 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. — A permit to carry firearms outside of residence shall be issued by the Chief of the PNP or his/her duly authorized representative to any qualified person whose life is under actual threat or his/her life is in imminent danger due to the nature of his/her profession, occupation or business.

It shall be the burden of the applicant to prove that his/her life is under actual threat by submitting a threat assessment certificate from the PNP.

For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business:

(a) Members of the Philippine Bar;
(b) Certified Public Accountants;
(c) Accredited Media Practitioners;
(d) Cashiers, Bank Tellers;
(e) Priests, Ministers, Rabbi, Imams;
(f) Physicians and Nurses;
(g) Engineers; and
(h) Businessmen, who by the nature of their business or undertaking, are exposed to high risk of being targets of criminal elements.

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engineers, the persons supposedly injured by Section 7.3. Neither did they allege that they were members of the Philippine National Police, the Armed Forces of the Philippines, or any law enforcement agency allegedly injured by Section 7.9 of the Implementing Rules.

However, as individual firearms license holders, petitioners Acosta and Dela Paz are the ones who stand to suffer direct injury should the inspection of their houses be required for firearm registration.

As for the Petition in G.R. No. 211567, this Court finds petitioner PROGUN sufficiently clothed with legal standing to bring on behalf of its individual members a suit to question a possible violation of their constitutional right to unreasonable searches.

The same cannot be said for petitioners Guns and Ammo Dealers and PROGUN in G.R. No. 215634. To recall, they assail respondent Philippine National Police's refusal to decentralize its offices and its overregulation of gun-related establishments, as these acts supposedly harm their business interests. Yet, there is no showing of any hindrance to their members' ability to protect their own business interests.

For these reasons, the Petitions in G.R. 212570 and G.R. No. 215634 are dismissible for lack of legal standing on the part of petitioners Guns and Ammo Dealers and PROGUN.

III

Petitioners directly sought recourse from this Court, in violation of the doctrine of hierarchy of courts.

Under this doctrine, recourse must first be sought from lower courts sharing concurrent jurisdiction with a higher court.[87] This is "to ensure that every level of the judiciary performs its designated roles in an effective and efficient

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[87] See *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64411> [Per *J.*, Leonen, *En Banc]*

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manner."[88] Continued this Court in *The Diocese of Bacolod v. Commission on Elections*:[89]

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.

The Court of Appeals is primarily designated as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.

This court, on the other hand, leads the judiciary by breaking new ground or further reiterating — in the light of new circumstances or in the light of some confusions of bench or bar — existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.[90] (Citation omitted)

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[88] *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 329 (2015) [Per *J.* Leonen, *En Banc*].

[89] 751 Phil. 301 (2015) [Per *J.* Leonen, *En Banc*].

[90] *Id.* at 329-330.

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In *Gios-Samar, Inc. v. Department of Transportation and Communications*,[91] this Court extensively discussed the evolution of this Court's original and concurrent jurisdiction which eventually led to the development of the doctrine of hierarchy of courts. This Court then determined that the doctrine is, ultimately, a "constitutional filtering mechanism designed to enable the Court to focus on the more fundamental and essential tasks assigned to it by the highest law of the land":

> Strict adherence to the doctrine of hierarchy of courts is an effective mechanism to filter the cases which reach the Court. As of December 31, 2016, 6,526 new cases were filed to the Court. Together with the reinstated/revived/reopened cases, the Court has a total of 14,491 cases in its docket. Of the new cases, 300 are raffled to the Court En Banc and 6,226 to the three Divisions of the Court. The Court En Banc disposed of 105 cases by decision or signed resolution, while the Divisions of the Court disposed of a total of 923 by decision or signed resolution.
>
> These, clearly, are staggering numbers. The Constitution provides that the Court has original jurisdiction over five extraordinary writs and by our rule-making power, we created four more writs which can be filed directly before us. There is also the matter of appeals brought to us from the decisions of lower courts. Considering the immense backlog facing the court, this begs the question: *What is really the Court's work? What sort of cases deserves the Court's attention and time?*
>
> We restate the words of Justice Jose P. Laurel in *Angara* that the Supreme Court is the final arbiter of the Constitution. Hence, direct recourse to us should be allowed only when the issue involved is one of law. However, and as former Associate Justice Vicente V. Mendoza reminds, the Court may still choose to avoid passing upon constitutional questions which are confessedly within its jurisdiction if there is some other ground on which its decision may be based. The so-called "seven pillars of limitations of judicial review" or the "rules of avoidance" enunciated by US Supreme Court Justice Brandeis in his concurring opinion in *Ashwander v. Tennessee Valley Authority* teaches that:

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[91] G.R. No. 217158, March 12, 2019, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> [Per *J.* Jardeleza, *En Banc*].

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1. The Court will not pass upon the constitutionality of legislation in a friendly, non-adversary proceeding, declining because to decide such questions "is legitimate only in the last resort, and as a necessity in the determination of real, earnest and vital controversy between individuals. It never was the thought that, by means of a friendly suit, a party beaten in the legislature could transfer to the courts an inquiry as to the constitutionality of the legislative act."

2. The Court will not "anticipate a question of constitutional law in advance of the necessity of deciding it." "It is not the habit of the Court to decide questions of a constitutional nature unless absolutely necessary to a decision of the case."

3. The Court will not "formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied."

4. The Court will not pass upon a constitutional question, although properly presented by the record, if there is also present some other ground upon which the case may be disposed of. This rule has found most varied application. Thus, if a case can be decided on either of two grounds, one involving a constitutional question, the other a question of statutory construction or general law, the Court will decide only the latter. Appeals from the highest court of a state challenging its decision of a question under the Federal Constitution are frequently dismissed because the judgment can be sustained on an independent state ground.

5. The Court will not pass upon the validity of a statute upon complaint of one who fails to show that he is injured by its operation. Among the many applications of this rule, none is more striking than the denial of the right of challenge to one who lacks a personal or property right. Thus, the challenge by a public official interested only in the performance of his official duty will not be entertained. In *Fairchild v. Hughes*, the Court affirmed the dismissal of a suit brought by a citizen who sought to have the Nineteenth Amendment declared unconstitutional. In *Massachusetts v. Mellon*, the challenge of the federal Maternity Act was not entertained although made by the Commonwealth on behalf of all its citizens.

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6. The Court will not pass upon the constitutionality of a statute at the instance of one who has availed himself of its benefits.

7. "When the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided." ...

Meanwhile, in *Francisco, Jr. v. Nagmamalasakit na mga Mananganggol ng mga Manggagawang Pilipino, Inc.*, the Court summarized the foregoing "pillars" into six categories and adopted "parallel guidelines" in the exercise of its power of judicial review, to wit:

The foregoing "pillars" of limitation of judicial review, summarized in *Ashwander v. Tennessee Valley Authority* from different decisions of the United States Supreme Court, can be encapsulated into the following categories:

1. that there be absolute necessity of deciding a case
2. that rules of constitutional law shall be formulated only as required by the facts of the case
3. that judgment may not be sustained on some other ground
4. that there be actual injury sustained by the party by reason of the operation of the statute
5. that the parties are not in estoppel
6. that the Court upholds the presumption of constitutionality.

As stated previously, parallel guidelines have been adopted by this Court in the exercise of judicial review:

1. actual case or controversy calling for the exercise of judicial power;

2. the person challenging the act must have "standing" to challenge; he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;

3. the question of constitutionality must be raised at the earliest possible opportunity;

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4. the issue of constitutionality must be the very *lis mota* of the case.

Thus, the exercise of our power of judicial review is subject to these four requisites and the further requirement that we can only resolve pure questions of law. These limitations, when properly and strictly observed, should aid in the decongestion of the Court's workload.[92] (Citations omitted)

Here, to assail the constitutionality of some of the provisions of Republic Act No. 10591 and their corresponding provisions in the 2013 Implementing Rules and Regulations, petitioners filed actions for *certiorari*, prohibition, and *mandamus*—actions that could have been brought before a regional trial court.[93]

In *Ynot v. Intermediate Appellate Court*,[94] this Court interpreted the constitutional provision on its jurisdiction to "'review, revise, reverse, modify or affirm on appeal or *certiorari*, as the law or rules of court may provide,' final judgments and orders of lower courts in, among others, all cases involving the constitutionality of certain measures."[95] This, according to this Court, "simply means that the resolution of such cases may be made in the first instance by these lower courts."[96]

In any case, this Court shall proceed to resolve the merits of the case as it has done in *Chavez v. Romulo*,[97] a case likewise involving the right to bear arms. It stated:

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[92] *Id*.

[93] *Batas Pambansa Blg*. 129 (1981), Sec. 21 provides:

SECTION 21. Original jurisdiction in other cases. — Regional Trial Courts shall exercise original jurisdiction:

(1) In the issuance of writs of *certiorari*, prohibition, *mandamus*, *quo warranto, habeas corpus* and injunction which may be enforced in any part of their respective regions[.]

[94] 232 Phil. 615 (1987) [Per *J*. Cruz, *En Banc*].

[95] *Id.* at 621.

[96] *Id*.

[97] 475 Phil. 486 (2004)[Per *J*. Sandoval-Gutierrez, *En Banc*].

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On the alleged breach of the doctrine of hierarchy of courts, suffice it to say that the doctrine is not an iron-clad dictum. In several instances where this Court was confronted with cases of national interest and of serious implications, it never hesitated to set aside the rule and proceed with the judicial determination of the cases. The case at bar is of similar import as it involves the citizens' right to bear arms.[98] (Citation omitted)

IV

As an exception to the non-delegation of legislative power, Congress has historically delegated to the chief of the police force the power to approve or disapprove applications for license to possess or deal with firearms. Under Republic Act No. 6975, or the Department of the Interior and Local Government Act of 1990, the authority to issue licenses for the possession of firearms and explosives is now exclusively granted to the Philippine National Police.[99] This was extensively discussed in *Chavez*:

It is true that under our constitutional system, the powers of government are distributed among three coordinate and substantially independent departments: the legislative, the executive and the judiciary. Each has exclusive cognizance of the matters within its jurisdiction and is supreme within its own sphere.

Pertinently, the power to make laws—the legislative power—is vested in Congress. Congress may not escape its duties and responsibilities by delegating that power to any other body or authority. Any attempt to abdicate the power is unconstitutional and void, on the principle that "*delegata potestas non potest delegari*" — "delegated power may not be delegated."

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[98] *Id*. at 498-499.

[99] Republic Act No. 6975 (1990), Sec. 24(f) provides:

SECTION 24. *Powers and Functions*. — The PNP shall have the following powers and functions:

. . . . . .

(f) Issue licenses for the possession of firearms and explosives in accordance with law[.]

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The rule which forbids the delegation of legislative power, however, is not absolute and inflexible. It admits of exceptions. An exception sanctioned by immemorial practice permits the legislative body to delegate its licensing power to certain persons, municipal corporations, towns, boards, councils, commissions, commissioners, auditors, bureaus and directors. Such licensing power includes the power to promulgate necessary rules and regulations.

The evolution of our laws on firearms shows that since the early days of our Republic, the legislature's tendency was always towards the delegation of power. Act No. 1780, delegated upon the Governor-General (now the President) the authority (*1*) to approve or disapprove applications of any person for a license to deal in firearms or to possess the same for personal protection, hunting and other lawful purposes; and (*2*) to revoke such license any time. Further, it authorized him to issue regulations which he may deem necessary for the proper enforcement of the Act. With the enactment of Act No. 2711, the "Revised Administrative Code of 1917," the laws on firearms were integrated. The Act retained the authority of the Governor General provided in Act No. 1780. Subsequently, the growing complexity in the Office of the Governor-General resulted in the delegation of his authority to the Chief of the Constabulary. On January 21, 1919, Acting Governor-General Charles E. Yeater issued Executive Order No. 8 authorizing and directing the Chief of Constabulary to act on his behalf *in approving and disapproving applications for personal, special and hunting licenses*. This was followed by Executive Order No. 61 designating the Philippine Constabulary (PC) as the government custodian of all firearms, ammunitions and explosives. Executive Order No. 215, issued by President Diosdado Macapagal on December 3, 1965, granted the Chief of the Constabulary, not only the authority to approve or disapprove applications for personal, special and hunting license, but also *the authority to revoke the same*. With the foregoing developments, it is accurate to say that the Chief of the Constabulary had exercised the authority for a long time. In fact, subsequent issuances such as Sections 2 and 3 of the Implementing Rules and Regulations of Presidential Decree No. 1866 perpetuate such authority of the Chief of the Constabulary. Section 2 specifically provides that any person or entity desiring to possess any firearm "*shall first secure the necessary permit/license/authority from the Chief of the Constabulary*." With regard to the issuance of PTCFOR, Section 3 imparts: "*The Chief of Constabulary may, in meritorious cases as determined by him and under such conditions*

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as he may impose, authorize lawful holders of firearms to carry them outside of residence." These provisions are issued pursuant to the general power granted by P.D. No. 1866 *empowering him to promulgate rules and regulations for the effective implementation of the decree*. At this juncture, it bears emphasis that P.D. No. 1866 is the chief law governing possession of firearms in the Philippines and that it was issued by President Ferdinand E. Marcos in the exercise of his legislative power.

. . . . . .

By virtue of Republic Act No. 6975, the Philippine National Police (PNP) absorbed the Philippine Constabulary (PC). Consequently, the PNP Chief succeeded the Chief of the Constabulary and, therefore, assumed the latter's licensing authority. *Section 24 thereof specifies, as one of PNP's powers, the issuance of licenses for the possession of firearms and explosives in accordance with law*. This is in conjunction with the PNP Chiefs "power to issue detailed implementing policies and instructions" on such "matters as may be necessary to effectively carry out the functions, powers and duties" of the PNP.[100] (Emphasis in the original, citations omitted)

Under Republic Act No. 10591, the authority to issue firearms licenses and permits to carry them outside of residence remains with the Philippine National Police. Section 44 specifically authorized the Chief of the Philippine National Police to promulgate the necessary rules and regulations to effectively implement the law:

SECTION 44. *Implementing Rules and Regulations*. — Within one hundred twenty (120) days from the effectivity of this Act, the Chief of the PNP, after public hearings and consultation with concerned sectors of society, shall formulate the necessary rules and regulations for the effective implementation of this Act to be published in at least two (2) national newspapers of general circulation.

Still, to validly exercise their quasi-legislative powers, administrative agencies must comply with two (2) tests: (1) the completeness test; and (2) the sufficient standard test.

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[100] *Chavez v. Romulo*, 475 Phil. 486, 499-505 (2004) [Per *J.* Sandoval-Gutierrez, *En Banc*].

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The completeness test requires that the law to be implemented be "complete [and should set forth] therein the policy to be executed, carried out or implemented by the delegate."[101] On the other hand, the sufficient standard test requires that the law to be implemented contain "adequate guidelines ... to map out the boundaries of the delegate's authority[.]"[102] "To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy[,] and identify the conditions under which it is to be implemented."[103] Furthermore, the Administrative Code requires that administrative agencies file with the University of the Philippines Law Center the rules they adopt, which will then be effective 15 days after filing.[104]

Since Congress expressly granted the Chief of the Philippine National Police the power to issue rules and regulations to implement Republic Act No. 10591, the fundamental issue to be resolved by this Court is whether the Chief of Police validly exercised this quasi-legislative power in light of the completeness and sufficient standard tests.

IV(A)

Petitioner PROGUN argues that the Implementing Rules and Regulations is an *ex post facto* law — a law that makes criminal an act done before its passage but innocent at the time of its commission[105] the enactment of which is prohibited in Article III, Section 22 of the Constitution.[106] According to petitioner PROGUN, the Philippine National Police deemed vacated all

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[101] *ABAKADA GURO Party List v. Purisima*, 584 Phil. 246, 272 (2008) [Per *J.* Corona, *En Banc*].

[102] *Id*.

[103] *Id*.

[104] ADM. CODE, Book VII, Ch. 2, Sec. 3.

[105] *United States v. Conde*, 42 Phil. 766, 770 (1922)[Per *J.* Johnson, First Division].

[106] CONST., Art. VIII, Sec. 22 provides:

SECTION 22. No *ex post facto law* or bill of attainder shall be enacted.

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firearm licenses issued under the old law, forcing existing license holders to re-apply under the new law under pain of being charged for illegal possession of firearms. It asserts that the Implementing Rules and Regulations made the new law and its requirements for acquiring a firearm license retroactively apply to existing licensed firearm holders. This supposedly meant that firearm holders who could legally own and possess firearms under the old law become "instant criminals"[107] under the new law.

There is no such retroactive application mandated in the Implementing Rules and Regulations. On the contrary, firearm licenses to possess Class-A light weapons issued before the passage of Republic Act No. 10591 are still recognized both under Republic Act No. 10591 and its Implementing Rules:

Republic Act No. 10591	**Implementing Rules (2013)**
SECTION 10. *Firearms That May Be Registered.* — Only small arms may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry. A light weapon shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized by the President in the performance of their duties: *Provided, That private individuals who already have licenses to possess Class-A light weapons upon the effectiviy of this Act shall not be deprived of the privilege to continue possessing the same and*	SECTION 10. *Firearms That May Be Registered.* — 10.1 Only small arms as defined in this IRR may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry. 10.2 A light weapon as defined in this IRR shall be lawfully acquired or possessed exclusively the AFP, the PNP and other law enforcement agencies authorized for such purpose by the President or by law that Congress may pass after the effectivity of this IRR. 10.3 *Private individuals who are already licensed holders for*

[107] *Rollo* (G.R. No. 211559), p. 831, Memorandum of petitioner PROGUN in G.R. No. 215634.

renewing the licenses therefor, for the sole reason that these firearms are Class "A" light weapons, and shall be required to comply with other applicable provisions of this Act. (Emphasis supplied)	*Class-A light weapons as herein defined upon the effectivity of this IRR shall not be deprived of the lawful possession thereof, provided that they renew their licenses and firearm registration and they continue to possess the standard requirements mentioned in paragraphs 4.1 and 4. 4, in this IRR.* (Emphasis supplied)

If the Implementing Rules and Regulations were indeed in the nature of an *ex post facto* law, then private individuals who possess Class-A light weapons under the old law must be expressly punished under the new law because the new law only allows them to own and possess small arms. Yet, as expressly provided in the law, existing license holders of Class-A light weapons may renew their licenses under the new law and Implementing Rules.

As to petitioner PROGUN's claim that in 2014, the Philippine National Police "suddenly declared all existing firearms licenses as vacated"[108] and required all to renew and re-apply for a new license under the new law under the pain of prosecution for illegal possession of firearms, this claim is unsubstantiated. No one became an "instant criminal" under the new law.

IV(B)

Next, petitioner PROGUN in G.R. No. 215634 argues that the Implementing Rules and Regulations has gone overboard and prescribed additional and more restrictive regulations for gun clubs, sports shooters, reloaders, gunsmithing, competitions, indentors, among others, "none of which is provided for by any reasonable standard"[109] in Republic Act No. 10591. However,

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[108] *Id*. at 834.

[109] *Id*. at 838.

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it did not demonstrate how these regulations were "more restrictive" as compared with the law.

On the contrary, Republic Act No. 10591 sets forth a sufficient standard found in Section 2.[110] It lays down the State policy to "maintain peace and order and protect the people against violence" by providing "a *comprehensive* law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof[.]" As such, the Chief of the Philippine National Police incorporated provisions in the Implementing Rules and Regulations to regulate the activities of gun clubs, sports shooters, reloaders, gunsmithing, competitions, and indentors, which are related to the ownership, possession, and dealing in firearms.

This Court agrees with respondents Executive Secretary and Philippine National Police when they argued that:

> ... The constant and multifarious problems arising from firearms -related activities that the legislature may not have anticipated, demands that the[Philippine National Police] be allowed reasonable elbow-room in crafting the [Implementing Rules and Regulations], as well as ample latitude in determining the most effective and efficient measures to regulate such activities. Since statutes are usually couched in general terms, after expressing the policy, purposes, objectives, remedies, and sanctions intended by the legislature, the details and the manner of carrying out their policies are often best left to the administrative agency entrusted with its enforcement.[111] (Citation omitted)

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[110] Republic Act No. 10591 (2013), Sec. 2 provides:

SECTION 2. *Declaration of State Policy*. It is the policy of the State to maintain peace and order and protect the people against violence. The State also recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms. Towards this end, the State shall provide for a comprehensive law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime, stop the proliferation of illegal firearms or weapons and the illegal manufacture of firearms or weapons, ammunition and parts thereof.

[111] *Rollo* (G.R. No. 211559), p. 769, Consolidated Memorandum of respondents.

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IV(C)

Petitioner PROGUN likewise claims that the Implementing Rules and Regulations exacts numerous new fees and licenses such as sports shooters licenses, collectors licenses, license to purchase barrel and cylinder parts, among others, which are allegedly not required by law.[112] To this, it can be said that Republic Act No. 10591 explicitly states that "reasonable licensing fees"[113] may be provided in the Implementing Rules. Except for petitioner PROGUN's assertion that the fees charged are numerous, there is no showing how these fees imposed were unreasonable.

IV (D)

As to PROGUN's claim that penal provisions were added in the Implementing Rules, this is easily belied by a side-by-side comparison of the provisions of Republic Act No. 10591 and the Implementing Rules and Regulations:

Republic Act No. 10591	**Implementing Rules (2013)**
ARTICLE V PENAL PROVISIONS	RULE V *Penal Provisions*
SECTION 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:	SECTION 28. *Unlawful Acquisition or Possession of Firearms and Ammunition.* — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:
a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;	a) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small arm;

[112] *Id*. at 838, Memorandum of petitioner PROGUN in G.R. No. 215634.

[113] Republic Act No. 10591 (2013), Secs. 4 and 11.

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(b) The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed if three (3) or more small arms or Class-A light weapons are unlawfully acquired or possessed by any person;	b) The penalty of *reclusion temporal* to *reclusion perpetua* shall be imposed if three (3) or more small arms or Class-A light weapons are unlawfully acquired or possessed by any person;
(c) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a Class-A light weapon;	c) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a Class-A light weapon;
(d) The penalty of *reclusion perpetua* shall be imposed upon any person who shall unlawfully acquire or possess a Class-B light weapon;	d) The penalty of *reclusion perpetua* shall be imposed upon any person who shall unlawfully acquire or possess a Class-B light weapon;
(e) The penalty of one (1) degree higher than that provided in paragraphs (a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions: (1) Loaded with ammunition or inserted with a loaded magazine; (2) Fitted or mounted with laser or any gadget used to guide the shooter to hit the target such as thermal weapon sight (TWS) and the like; (3) Fitted or mounted with sniper scopes, firearm muffler or firearm silencer; (4) Accompanied with an extra barrel; and (5) Converted to be capable of firing full automatic bursts.	e) The penalty of one (1) degree higher than that provided in paragraphs a) to (c) in this section shall be imposed upon any person who shall unlawfully possess any firearm under any or combination of the following conditions: 1) Loaded with ammunition or inserted with a loaded magazine; 2) Fitted or mounted with laser or any gadget used to guide the shooter to hit the target such as thermal weapon sight (TWS) and the like; 3) Fitted or mounted with sniper scopes, firearm muffler or firearm silencer;

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(f) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a small arm; (g) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a ***small arm or Class-A light weapon***. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter; (h) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-A light weapon; (i) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-A light weapon, the former violation shall be absorbed by the latter; (j) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who	4) Accompanied with an extra barrel; 5) Converted to be capable of firing full automatic bursts. f) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a small arm; g) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for ***a small arm***. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter; h) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-A light weapon; i) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-A light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-A light weapon, the former violation

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shall unlawfully acquire or possess a major part of a Class-B light weapon; and (k) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-B light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-B light weapon, the former violation shall be absorbed by the latter.	shall be absorbed by the latter; j) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess a major part of a Class-B light weapon; and k) The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-B light weapon. If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-B light weapon, the former violation shall be absorbed by the latter. (Emphasis supplied)

When it comes to the penal provisions, the text of the Implementing Rules and Regulations is almost a carbon copy of the law from which it is based. If there is any discrepancy, it is in item (g), where the Implementing Rules omitted the acquisition or possession of ammunition for a Class-A light weapon as a punishable act. Still, contrary to PROGUN's claim, the Philippine National Police placed no additional penal provisions relating to firearms use in the Implementing Rules.

IV(E)

Petitioner PROGUN also argues that the Implementing Rules and Regulations was allegedly drafted without the required consultation with the concerned sectors of society. This issue, however, is a factual question not proper in the present Petitions.

In any case, this Court is inclined to believe respondent Philippine National Police's assertion that the meetings on the drafting of the Implementing Rules were well-attended by groups of gun dealers, private security agencies, and groups of gunsmiths

and gun repair and customizing shops. This was evidenced by the Attendance Sheets[114] and Minutes of the Stakeholders Hearing and Consultation[115] attached to respondent Philippine National Police's Comment. The public hearing on August 15, 2013 was even attended by petitioner PROGUN,[116] disproving its claim that no public consultations and hearings were conducted in the drafting of the Implementing Rules. The Implementing Rules was, therefore, promulgated after the conduct of public consultations, in compliance with Section 44 of Republic Act No. 10591.

IV(F)

Petitioner PROGUN in G.R. No. 211567 claims that the Philippine National Police gravely abused its discretion in centralizing the applications for and renewals of firearms licenses and permits at the headquarters of the Philippine National Police at Camp Crame, Quezon City, to the detriment of those living far from Metro Manila.

To this, it must be noted that the processing of firearm license applications and renewals has already been decentralized to the Philippine National Police's regional and other satellite offices.[117] Therefore, the issue of whether the centralization was grave abuse of discretion on the part of the Chief of the Philippine National Police has already been rendered moot. It need not be discussed.

The same can be said on the outsourcing of the firearm license delivery to a courier service. The outsourcing having already been discontinued,[118] the issue is rendered moot.

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[114] *Rollo* (G.R. No. 215634), pp. 158-175. See also *id*. at 180-207 and 224-225.

[115] *Id*. at 176-179. See also *id*. at 208-223 and 226-231.

[116] *Id*. at 180 and 190.

[117] *Rollo* (G.R. No. 211559), p. 736, Consolidated Memorandum of respondents.

[118] *Id*. at 781, Consolidated Memorandum of respondents.

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IV(G)

Meanwhile, petitioners Acosta and Dela Paz question the omission of engineers from Section 7.3[119] of the Implementing Rules and Regulations, which lists persons who may apply for a permit to carry firearm outside of residence.

It appears that the omission was inadvertent. At any rate, engineers may still apply for a permit to carry on the basis of Section 7[120]

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[119] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 7.3 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.3 For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business and hence are not required to submit threat assessment certificates:

a) Members of the Philippine Bar;

b) Certified Public Accountants;

c) Accredited media practitioners from recognized media institutions; Cashiers and bank tellers;

d) Priests, Ministers, Rabbi, Imams;

e) Physicians and nurses; and

f) Businessmen, who by the nature of their business or undertaking duly recognized or regulated by law, are exposed to high risk of being targets of criminal elements.

[120] Republic Act No. 10591 (2013), Sec. 7 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. — A permit to carry firearms outside of residence shall be issued by the Chief of the PNP or his/her duly authorized representative to any qualified person whose life is under actual threat or his/her life is in imminent danger due to the nature of his/her profession, occupation or business.

It shall be the burden of the applicant to prove that his/her life is under actual threat by submitting a threat assessment certificate from the PNP.

For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business:

(a) Members of the Philippine Bar;

(b) Certified Public Accountants;

(c) Accredited Media Practitioners;

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of Republic Act No. 10591. After all, the provisions of a statute cannot be amended by an implementing rule.[121]

IV(H)

In assailing Section 7.9 of the Implementing Rules and Regulations, petitioners Acosta and Dela Paz claims that the provision requires members of the Philippine National Police, Armed Forces of the Philippines, and other law enforcement agencies to apply for a permit to carry firearm outside of residence. This, they assert, violates Section 6 of Republic Act No. 10591.

Section 6 states that firearms issued to members of the Armed Forces of the Philippines, Coast Guard, and other law enforcement agencies shall only be reported to, not registered with, the Firearms and Explosives Office of the Philippine National Police:

> SECTION 6. *Ownership of Firearms by the National Government.* — All firearms owned by the National Government shall be registered with the FEO of the PNP in the name of the Republic of the Philippines. Such registration shall be exempt from all duties and taxes that may otherwise be levied on other authorized owners of firearms. For reason of national security, firearms of the Armed Forces of the Philippines (AFP), Coast Guard and other law enforcement agencies shall only be reported to the FEO of the PNP.

Section 7.9 of the Implementing Rules and Regulations does not violate Section 6 of Republic Act No. 10591. Consistent with Section 6 of the law, the requirements under Section 7.9 do not entail a disclosure by the applicant of the details of the government-issued firearm assigned to him or her:

(d) Cashiers, Bank Tellers;

(e) Priests, Ministers, Rabbi, Imams;

(f) Physicians and Nurses;

(g) Engineers; and

(h) Businessmen, who by the nature of their business or undertaking, are exposed to high risk of being targets of criminal elements.

[121] See *Grande v. Antonio*, 727 Phil. 448, 458 (2014) [Per *J.* Velasco, Jr., *En Banc*].

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SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business.—*

. . . . . .

7.9 Members of the PNP, AFP and other Law Enforcement Agencies must apply for a PTCFOR-LEA, in order to be authorized to carry the corresponding government-issued firearm outside of residence:

a) The Police Regional Director or his equivalent in the AFP and other law enforcement agencies, shall endorse to the Chief, PNP all application for PTCFOR-LEA;

b) The application must be accompanied by the latest appointment order of the personnel applying for PTCFOR-LEA and a certificate of non-pending case duly issued for the purpose;

c) The PTCFOR-LEA shall be issued only by the Chief, PNP through PTCFOR-Secretariat and shall be valid only for *one (1) year*;

d) The fees to be charged in the filing of application for PTCFOR-LEA shall only be in such minimal amount corresponding to the actual administrative cost necessary for the issuance of the permit, as may be determined by the PNP; and

e) The PTCFOR-LEA should always be accompanied by the corresponding Memorandum Receipt/ Acknowledgment Receipt of Equipment (MR/ARE)[.]

V

Petitioners mainly assail the constitutionality of Republic Act No. 10591 and its Implementing Rules and Regulations on the ground that they violate their "right to bear arms." The history of our laws, however, reveals that we Filipinos have never had such constitutional right. The bearing of arms in our jurisdiction was, and still is, a mere statutory privilege, heavily regulated by the State.

None of our Constitutions ever provided the right to bear arms. Notably missing in the Philippine Bill of 1902, enacted

by the United States Congress to serve as the organic law of the Insular Government of the Philippine Islands, was a provision similar to the Second Amendment of the United States Constitution. The Second Amendment on the right of the people of the United States to keep and bear arms provides:

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

This Court interpreted this omission to mean that in the Philippines, "no private person [was] bound to keep arms."[122] The bearing of arms was considered a mere option, and a citizen then desiring to obtain a firearm "must do so upon such terms as the Government sees fit to impose[.]"[123] In 1908, this Court in *The Government of the Philippine Islands v. Amechazurra*[124] stated:

> [N]o private person is bound to keep arms. Whether he does or not is entirely optional with himself, but if, for his own convenience or pleasure, he desires to possess arms, he must do so upon such terms as the Government sees fit to impose, for the right to keep and bear arms is not secured to him by law. The Government can impose upon him such terms as it appear. If he is not satisfied with the terms imposed, he should decline to accept them, but, if for the purpose of securing possession of the arms he does agree to such conditions, he must fulfill them.[125]

At present, the bearing of arms remains a "mere statutory privilege, not a constitutional right."[126] In the 2004 case of *Chavez*, decided during the effectivity of the present Constitution, this Court characterized the keeping and bearing of arms as a "mere

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[122] *The Government of the Philippine Islands v. Amechazurra*, 10 Phil. 637, 639 (1908) [Per *J.* Willard, First Division].

[123] *Id*.

[124] 10 Phil. 637 (1908) [Per *J.* Willard, First Division].

[125] *Id*. at 639.

[126] *Chavez v. Romulo*, 475 Phil. 486, 510 (2004) [Per *J.* Sandoval-Gutierrez, *En Banc*].

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statutory creation."[127] From our first firearms law, Act No. 1780 (1907),[128] to Act No. 2711 (1917),[129] then Presidential Decree No. 1866 (1983),[130] and finally, under the current Republic Act

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[127] *Id*.

[128] Act No. 1780 (1907), Sec. 9 provided:

SECTION 9. Any person desiring to possess one or more firearm for personal protection, or for use in hunting or other lawful purposes only, and ammunition therefor, shall make application for a license to possess such firearm or firearms or ammunition as hereinafter provided. Upon making such application, and before receiving the license, the applicant shall make a cash deposit in the postal savings bank in the sum of one hundred pesos for each firearm for which the license is to be issued, or in lieu thereof he may give a bond in such form as the Governor-General may prescribe, payable to the Government of the Philippine Islands, in the sum of two hundred pesos for each such firearm: PROVIDED, HOWEVER, That persons who are actually members of gun clubs, duly formed and organized at the time of the passage of this Act, who at such time have a license to possess firearms, shall not be required to make the deposit or give the bond prescribed by this section, and the bond duly executed by such persons in accordance with existing law shall continue to be security for the safekeeping of such arms.

[129] Act No. 2711 (1907), Sec. 887 provided:

SECTION 887. *License required for individual keeping arms for personal use — Security to be given*. — Any person desiring to possess one or more firearms for personal protection or for use in hunting or other lawful purposes only, and ammunition thereof, shall make application for a license to possess such firearm or firearms or ammunition as hereinafter provided. Upon making such application, and before receiving the license, the applicant shall, for the purpose of security, deposit a United States or Philippine Government bond, or make a cash deposit in the Postal Savings Bank in the sum of forty pesos for each firearm for which the license is to be issued, and shall indorse the certificate of deposit therefor to the Philippine Treasurer, such deposit to bear no interest, or shall give a personal or property bond signed by two persons or by a surety company, in such form as the President may prescribe, payable to the Government of the Philippines, in the sum of one hundred pesos for each such firearm: *Provided, however*, That the existing bonds upon the approval of this Act shall continue as they are or, at the option of the interested party, the same can be renewed in accordance with the provisions hereof: *Provided, further*, That *bonafide* and active members of duly organized gun clubs and accredited by the Chief of Staff of the Philippine Army shall not be required to make the deposit or give the bond prescribed in this section.

[130] Presidential Decree No. 1866 (1983), Sec. 1 provided:

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No. 10591, any person desiring to keep and bear arms must obtain a license from the State to avail of the privilege.

The following are the pertinent provisions of Republic Act No. 10591 governing the ownership and possession of firearms and their registration and licensing for use:

ARTICLE II

Ownership and Possession of Firearms

SECTION 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. — In order to qualify and acquire a license to own and possess a firearm or firearms and ammunition, the applicant must be a Filipino citizen, at least twenty-one (21) years old and has gainful work, occupation or business or has filed an Income Tax Return (ITR) for the preceding year as proof of income, profession, business or occupation.

In addition, the applicant shall submit the following certification issued by appropriate authorities attesting the following:

SECTION 1. *Unlawful Manufacture, Sale, Acquisition, Disposition or Possession of Firearms or Ammunition or Instruments Used or Intended to be Used in the Manufacture of Firearms of Ammunition*. — The penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* shall be imposed upon any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any firearm, part of firearm, ammunition or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition.

If homicide or murder is committed with the use of an unlicensed firearm, the penalty of death shall be imposed.

If the violation of this Section is in furtherance of, or incident to, or in connection with the crimes of rebellion, insurrection or subversion, the penalty of death shall be imposed.

The penalty of *reclusion temporal* in its maximum period to *reclusion perpetua* shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall willfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs.

The penalty of *prision mayor* shall be imposed upon any person who shall carry any licensed firearm outside his residence without legal authority therefor.

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(a) The applicant has not been convicted of any crime involving moral turpitude;

(b) The applicant has passed the psychiatric test administered by a PNP-accredited psychologist or psychiatrist;

(c) The applicant has passed the drug test conducted by an accredited and authorized drug testing laboratory or clinic;

(d) The applicant has passed a gun safety seminar which is administered by the PNP or a registered and authorized gun club;

(e) The applicant has filed in writing the application to possess a registered firearm which shall state the personal circumstances of the applicant;

(f) The applicant must present a police clearance from the city or municipality police office; and

(g) The applicant has not been convicted or is currently an accused in a pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years.

For purposes of this Act, an acquittal or permanent dismissal of a criminal case before the courts of law shall qualify the accused thereof to qualify and acquire a license.

The applicant shall pay the reasonable licensing fees as may be provided in the implementing rules and regulations of this Act.

An applicant who intends to possess a firearm owned by a juridical entity shall submit his/her duty detail order to the FEO of the PNP.

. . . . . .

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. — A permit to carry firearms outside of residence shall be issued by the Chief of the PNP or his/her duly authorized representative to any qualified person whose life is under actual threat or his/her life is in imminent danger due to the nature of his/her profession, occupation or business.

It shall be the burden of the applicant to prove that his/her life is under actual threat by submitting a threat assessment certificate from the PNP.

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For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business:

(a) Members of the Philippine Bar;

(b) Certified Public Accountants;

(c) Accredited Media Practitioners;

(d) Cashiers, Bank Tellers;

(e) Priests, Ministers, Rabbi, Imams;

(f) Physicians and Nurses;

(g) Engineers; and

(h) Businessmen, who by the nature of their business or undertaking, are exposed to high risk of being targets of criminal elements.

ARTICLE III
Registration and Licensing

. . . . . .

SECTION 9. *Licenses Issued to Individuals*. — Subject to the requirements set forth in this Act and payment of required fees to be determined by the Chief of the PNP, a qualified individual may be issued the appropriate license under the following categories:

Type 1 license — allows a citizen to own and possess a maximum of two (2) registered firearms;

Type 2 license — allows a citizen to own and possess a maximum of five (5) registered firearms;

Type 3 license — allows a citizen to own and possess a maximum of ten (10) registered firearms;

Type 4 license — allows a citizen to own and possess a maximum of fifteen (15) registered firearms; and

Type 5 license — allows a citizen, who is a certified gun collector, to own and possess more than fifteen (15) registered firearms.

For Types 1 to 5 licenses, a vault or a container secured by lock and key or other security measures for the safekeeping of firearms shall be required.

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For Types 3 to 5 licenses, the citizen must comply with the inspection and bond requirements.

VI

With the bearing of arms being a mere privilege granted by the State, there could not have been a deprivation of petitioners' right to due process in requiring a license for the possession of firearms. Article III, Section 1 of the Constitution is clear that only life, liberty, or property is protected by the due process clause:

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.

It is settled that the license to possess a firearm is not property. In *Chavez*, then Chief of Police Hermogenes E. Ebdane, Jr., taking cue from a speech delivered by then President Gloria Macapagal Arroyo, issued the Philippine National Police Guidelines suspending the issuance of permits to carry firearms outside of residence "to avert the rising crime incidents."[131] Francisco I. Chavez (Chavez), a licensed gun owner with a permit to carry a firearm outside of residence, petitioned this Court to void the Guidelines for allegedly violating his right to due process. He argued that "the ownership and carrying of firearms are constitutionally protected property rights which cannot be taken away without due process of law and without just cause."[132]

This Court disagreed with Chavez, ruling that there is no vested right in the continued ownership and possession of firearms. Like any other license, the license to possess a firearm is "neither

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[131] *Chavez v. Romulo*, 475 Phil. 486, 491 (2004) [Per *J*. Sandoval-Gutierrez, *En Banc*].

[132] *Id*. at 497.

a property nor a property right."[133] As a mere "permit or privilege to do what otherwise would be unlawful,"[134] it does not act as "a contract between the authority granting it and the person to whom it is granted[.]"[135]

Being in the nature of a license, the permit to carry firearm outside residence is neither a property nor a property right. A grantee of the permit does "not have a property interest in obtaining a license to carry a firearm[.]"[136] Citing *Erdelyi v. O'Brien*,[137] decided by the United States Court of Appeals Ninth Circuit, this Court held that the "[p]roperty interests protected by the Due Process Clause ... do not arise whenever a person has only 'an abstract need or desire for,' or 'unilateral expectation of a benefit."[138] True property rights "arise from 'legitimate claims of entitlement ... defined by existing rules or understanding that stem from an independent source, such as ... law[.]"[139] Chavez's petition was, therefore, dismissed.

Nevertheless, petitioner PROGUN in G.R. No. 215634 contends that *Chavez* is inapplicable for bearing a factual milieu different from the present consolidated cases. According to it, *Chavez* involved the suspension of the issuance of permits to carry a firearm outside of residence during the election gun ban, while the present case allegedly involved criminalizing what was previously the lawful activity of keeping firearms within one's residence.[140] Furthermore, *Chavez* was promulgated in 2004, when Presidential Decree No. 1866 was still in effect,

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[133] *Id*. at 512.

[134] *Id*.

[135] *Id*.

[136] *Id*.

[137] 680 F 2d 61 (1982).

[138] *Chavez v. Romulo*, 475 Phil. 486, 512 (2004) [Per *J*. Sandoval-Gutierrez, *En Banc*] citing *Erdelyi v. O'Brien*, 680 F 2d 61 (1982).

[139] *Id*.

[140] *Rollo* (G.R. No. 211559), p. 836, Memorandum of petitioner PROGUN in G.R. No. 215634.

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while the present case involves the new firearms law, Republic Act No. 10591.[141] Lastly, *Chavez* was promulgated when bearing arms was a mere statutory privilege. The cases before this Court now, petitioner PROGUN argues, are different because Republic Act No. 10591 allegedly expressly recognized the right to bear arms as a statutory right.[142]

Notwithstanding petitioner PROGUN's claims, *Chavez* is applicable here. The suspension of the issuance of permits to carry firearms outside of residence was not made during the election gun ban. Instead, what triggered the suspension was the reported rise in high-profile crimes in 2003, including the killing of former New People's Army leader Rolly Kintanar.

Chavez remains a binding precedent because, like Presidential Decree No. 1866, which was effective during the promulgation of *Chavez*, the assailed Republic Act No. 10591 still requires a license for ownership and possession of firearms.

Further, Republic Act No. 10591 did not elevate the status of the right to bear arms from a privilege to a full-fledged statutory right. A close examination of the declared State policy in Republic Act No. 10591 reveals that the right to bear arms remains a mere privilege:

ARTICLE I

Title, Declaration of Policy and Definition of Terms

SECTION 2. *Declaration of State Policy*. — It is the policy of the State to maintain peace and order and protect the people against violence. The State also recognizes *the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms*. Towards this end, the State shall provide for a comprehensive law regulating the ownership, possession, carrying, manufacture, dealing in and importation of firearms, ammunition, or parts thereof, in order to provide legal support to law enforcement agencies in their campaign against crime, stop the proliferation of illegal firearms or weapons

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[141] *Id*. at 836-837.

[142] *Id*. at 837.

and the illegal manufacture of firearms or weapons, ammunition and parts thereof. (Emphasis supplied)

Section 2 recognizes that the right to self-defense is provided as a justifying circumstance under the Revised Penal Code.[143] However, this right to self-defense, if it is to be done through the use of firearms, is granted to "qualified citizens": those who have satisfied the qualifications for obtaining a license to own and possess firearms under Republic Act No. 10591. Therefore, even with the new law, the exercise of the right to use a firearm, even for self-defense, is still subject to State regulation.

Assuming, for the sake of argument, that the right to possess a firearm were considered a property right, it is doctrine that property rights are always subject to the State's police power, defined as the "authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare."[144]

As early as 1914, this Court has held that the use of deadly weapons such as a firearm is subject to police power. In *United States v. Villareal*,[145] the appellant was convicted of carrying a concealed deadly weapon penalized under Act No. 1780.[146] On appeal before this Court, the appellant argued that prohibiting the keeping and use of firearms without a license was violative

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[143] REV. PEN. CODE, Art. 11(1) provides:

ARTICLE 11. Justifying Circumstances. — The following do not incur any criminal liability:

1. Anyone who acts in defense of his person or rights, provided that the following circumstances concur:

First. Unlawful aggression;

Second. Reasonable necessity of the means employed to prevent or repel it;

Third. Lack of sufficient provocation on the part of the person defending himself.

[144] *Philippine Association of Service Exporters, Inc. v. Drilon*, 246 Phil. 393, 398 (1988) [Per *J.* Sarmiento, *En Banc*].

[145] 28 Phil. 390 (1914) [Per *J.* Carson, *En Banc*].

[146] Also Known as An Act to Regulate the Importation, Acquisition, Possession, Use, and Transfer of Firearms, and to Prohibit the Possession of Same Except in Compliance with the Provisions of this Act (1907).

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of the due process clause then under Section 5 of the Philippine Bill of 1902.

In denying the appeal, this Court conceded that "it is beyond the power of a legislature or municipal body to prohibit entirely the keeping and use of military arms[.]"[147] Still, the State "may, in the exercise of its police powers, for the purpose of suppressing crime and lawlessness, lawfully regulate the use of such weapons[.]"[148] This Court's discussion in *Villareal* included the historical justification for regulating the bearing of arms, beginning with the Statute of Northampton of 1328. Also discussed were the fundamental reasons, reasons that still hold today, for the regulation of firearms "to increase the security of life and limb"[149] and "to suppress crime and lawlessness":[150]

> Counsel's contention seems to be based on those provisions of the Philippine Bill of Rights which prohibit the enactment of a law depriving any person of life, liberty, or property without due process of law, or denying to any person the equal protection of the laws. He insists that restrictions placed on the carrying of deadly weapons have the effect of depriving the owner of the free use and enjoyment of his property, and that the granting of licenses to some persons to carry firearms and the denial of that right to others is a denial to the latter of the equal protection of the laws.
>
> Both the statute in question and the provision of the Philippine Bill of Rights with which it is claimed it is in conflict were enacted under American sovereignty, and both are to be construed more especially in the light of American authority and precedent. The earliest English statute (St. 2 Edw. III, c. 3) regulating the bearing of arms, enacted in the year 1328 A. D., was but an affirmation of the common law offense of going around with unusual and dangerous weapons to the terror of the people. Many statutes have been enacted since that time in England and the United States, regulating the carrying

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[147] *United States v. Villareal*, 28 Phil. 390, 391 (1914) [Per *J.* Carson, *En Banc*].

[148] *Id.*

[149] *Id.* at 393.

[150] *Id.*

and the use of weapons, and these have, as a rule, been held to be constitutional, especially when the prohibitions have been directed to the wearing or carrying of deadly weapons in a concealed manner. (See 48 Cent. Digest, tit. Weapons, and, many cases there cited.)

There can be no real question as to the police power of the state to regulate the use of deadly weapons for the purpose of suppressing or restraining crime and lawlessness. Undoubtedly there are many deadly weapons, such as knives, bolos, krises and the like which every citizen has a right to own and to use in the various activities of human life. But the right to own and to, use such weapons does not carry with it the right to use them to the injury of his neighbor or so as to endanger the peace and welfare of the community. "It is a settled principle, growing out of the nature of well-ordered civil society, that every holder of property, however absolute and unqualified may be his title, holds it under his implied liability that his use of it may be so regulated that it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the rights of the community." [*(*]*Com. vs. Alger, 7 Cush. (Mass.), 53, 84.) Provided the means adopted are reasonably necessary for the accomplishment of the end in view, not unduly oppressive upon individuals, and in the interest of the public generally rather than of a particular class, the legislature may adopt such regulations as it deems proper restricting, limiting, and regulating the use of private property in the exercise of its police power. (U. S. vs. Toribio, 15 Phil. Rep., 85.)*

We think there can be no question as to the reasonableness of a statutory regulation prohibiting the carrying of concealed weapons as a police measure well calculated to restrict the too frequent resort to such weapons in moments of anger and excitement. We do not doubt that the strict enforcement of such a regulation would tend to increase the security of life and limb, and to suppress crime and lawlessness, in any community wherein the practice of carrying concealed weapons prevails, and this without being unduly oppressive upon the individual owners of these weapons. It follows that its enactment by the legislature is a proper and legitimate exercise of the police power of the state.[151] (Emphasis in the original)

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[151] *Id.* at 391-393.

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In *Chavez*, this Court reiterated that "laws regulating the acquisition or possession of guns have frequently been upheld as reasonable exercise of the police power."[152]

This Court likewise discussed the test to determine the validity of a police power measure: (1) "[t]he interests of the public generally, as distinguished from those of a particular class, require the exercise of the police power";[153] and (2) "[t]he means employed are reasonably necessary for the accomplishment of the purpose and not unduly oppressive upon individuals."[154]

Applying this test, this Court found that the Philippine National Police Guidelines, which suspended the issuance of permits to carry firearms outside of residence, was a valid police power measure. It held that the interest of the general public was satisfied, since the Guidelines was issued in response to the rise in high-profile crimes. As to the means employed to retain peace and order in society, this Court stated that the revocation of all permits to carry firearms outside of residence would make it difficult for criminals to commit gun violence and victimize others. This Court, thus, deemed the regulation reasonable:

> It is apparent from the assailed Guidelines that the basis for its issuance was the need for peace and order in the society. Owing to the proliferation of crimes, particularly those committed by the New People's Army (NPA), which tends to disturb the peace of the community, President Arroyo deemed it best to impose a nationwide gun ban. Undeniably, the motivating factor in the issuance of the assailed Guidelines is the interest of the public in general.
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> The only question that can then arise is whether the means employed are appropriate and reasonably necessary for the accomplishment of the purpose and are not unduly oppressive. In the instant case, the assailed Guidelines do not entirely prohibit possession of firearms. What they proscribe is merely the carrying

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[152] *Chavez v. Romulo*, 475 Phil. 486, 516 (2004) [Per *J*. Sandoval-Gutierrez, *En Banc*].

[153] *Id*. at 515.

[154] *Id*.

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of firearms outside of residence. However, those who wish to carry their firearms outside of their residences may re-apply for a new PTCFOR. This we believe is a reasonable regulation. If the carrying of firearms is regulated, necessarily, crime incidents will be curtailed. Criminals carry their weapon to hunt for their victims; they do not wait in the comfort of their homes. With the revocation of all PTCFOR, it would be difficult for criminals to roam around with their guns. On the other hand, it would be easier for the PNP to apprehend them.

Notably, laws regulating the acquisition or possession of guns have frequently been upheld as reasonable exercise of the police power. In *State vs. Reams*, it was held that the legislature may regulate the right to bear arms in a manner conducive to the public peace. With the promotion of public peace as its objective and the revocation of all PTCFOR as the means, we are convinced that the issuance of the assailed Guidelines constitutes a reasonable exercise of police power.[155] (Citations omitted)

Like the assailed Guidelines in *Chavez*, Republic Act No. 10591, which regulates the use of firearms, is a valid police power measure. The maintenance of peace and order and the protection of people from violence are not only for the good of the general public; they are fundamental duties of the State, the fulfillment of which strengthens its legitimacy. The means employed to fulfill these State duties—requiring a license for the ownership and possession of firearms and a permit to carry the weapon outside of residence—are reasonably necessary. As discussed, licenses to operate firearms have been required under the old firearms laws. For Congress, stricter gun laws are effective in reducing gun-related violence.

The following provisions assailed by petitioners are consistent with these general interests of maintaining peace and order and protecting the people from violence. Section 4(g) of Republic Act No. 10591 and its corresponding provision in the Implementing Rules and Regulations, Section 4.4(a), both require that an applicant for a firearm license has not been convicted or is currently an accused in a pending criminal case punished with imprisonment for more than two (2) years:

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[155] *Id.* at 515-516.

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Republic Act No. 10591	Implementing Rules (2013)
SECTION 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. — In order to qualify and acquire a license to own and possess a firearm or firearms and ammunition, the applicant must be a Filipino citizen, at least twenty-one (21) years old and has gainful work, occupation or business or has filed an Income Tax Return (ITR) for the preceding year as proof of income, profession, business or occupation. In addition, the applicant shall submit the following certification issued by appropriate authorities attesting the following: ... ... (g) The applicant has not been convicted or is currently an accused in a pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years. For purposes of this Act, an acquittal or permanent dismissal of a criminal case before the courts of law shall qualify the accused thereof to qualify and acquire a license.	SECTION 4. *Standards Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. — .... 4.4 The written application to own and possess firearm/s shall be filed at the FEO, in three (3) legible copies duly notarized, and must be accompanied by the original copy of the following requirements: a) Clearances issued by the Regional Trial Court (RTC) and Municipal/Metropolitan Trial Court (MTC) that has jurisdiction over the place where the applicant resides and/or the Sandiganbayan as the case may be, showing that he/she has not been convicted by final judgment of a crime involving moral turpitude or that he/she has not been convicted or is currently an accused in any pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years[.]

Contrary to petitioners Acosta and Dela Paz's argument, these provisions do not violate the constitutional guarantee to

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presumption of innocence.[156] Congress restricted the privilege to apply for a firearm from convicts and those currently accused in a pending criminal case punished with imprisonment for more than two (2) years, since a *prima facie* finding of an applicant's guilt indicates his or her propensity to violate the law. If Republic Act No. 10591 is to function as a preventive measure against gun violence, then it is prudent to prohibit those who, during the preliminary investigation stage, were found probably guilty of an offense. Besides, the acquittal or permanent dismissal of the criminal case re-qualifies an applicant to acquire a license.[157]

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[156] CONST., Art. III, Sec. 14(2) provides:

SECTION 14....

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

[157] Republic Act No. 10591 (2013), Sec. 4 provides:

SECTION 4. *Standards and Requisites for Issuance of and Obtaining a License to Own and Possess Firearms*. — In order to qualify and acquire a license to own and possess a firearm or firearms and ammunition, the applicant must be a Filipino citizen, at least twenty-one (21) years old and has gainful work, occupation or business or has filed an Income Tax Return (ITR) for the preceding year as proof of income, profession, business or occupation.

In addition, the applicant shall submit the following certification issued by appropriate authorities attesting the following:

(a) The applicant has not been convicted of any crime involving moral turpitude;

(b) The applicant has passed the psychiatric test administered by a PNP-accredited psychologist or psychiatrist;

(c) The applicant has passed the drug test conducted by an accredited and authorized drug testing laboratory or clinic;

(d) The applicant has passed a gun safety seminar which is administered by the PNP or a registered and authorized gun club;

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Thus, the restriction is but a reasonable measure in line with the State policy in Republic Act No. 10591.

Even Section 7.11.2(b) of the Implementing Rules and Regulations, which requires that firearms be secured in the compartment of vehicles or motorcycles, and Section 7.12(b), which requires that firearms not be brought inside places of worship, public drinking, and amusement, and all other commercial or public establishments, are reasonably related to the purpose of the law:

> SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business....*
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> . . . . . .
>
> 7.11 The following guidelines regarding the manner of carrying firearms shall be observed:
>
> . . . . . .
>
> 7.11.2 *For All Other Persons* (including members of the PNP, AFP and other LEAs in civilian attire)
>
> . . . . . .
>
> b) The firearm must be secured inside a vehicle or a motor cycle compartment.
>
> 7.12 The following other restriction shall likewise be observed:
>
> . . . . . .

(e) The applicant has filed in writing the application to possess a registered firearm which shall state the personal circumstances of the applicant;

(f) The applicant must present a police clearance from the city or municipality police office; and

(g) The applicant has not been convicted or is currently an accused in a pending criminal case before any court of law for a crime that is punishable with a penalty of more than two (2) years.

For purposes of this Act, an acquittal or permanent dismissal of a criminal case before the courts of law shall qualify the accused thereof to qualify and acquire a license.

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b) The firearm shall not be brought inside places of worship, public drinking and amusement places and all other commercial or public establishment.

Keeping the firearm secured in the compartment of a vehicle or motorcycle is consistent with the prohibition on displaying the firearm.[158] It also prevents firearms owners from impulsively using their firearms in cases of altercation.

Since places of worship, public drinking, and amusement, and all other commercial or public establishments are usually flocked with people, the prohibition on bringing the firearm to these public places is a reasonable measure to prevent mass shootings.

Still related to the purpose of maintaining peace and order and preventing gun violence is Section 10 of Republic Act No. 10591 and its corresponding provision in the Implementing Rules and Regulations. Both prohibit the registration of Class-A light weapons to private individuals:

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[158] Implementing Rules and Regulations of Republic Act No. 10159 (2013), Sec. 7.11.2 provides:

SECTION 7. *Carrying of Firearms Outside of Residence or Place of Business*. —

. . . . . .

7.11 The following guidelines regarding the manner of carrying firearms shall be observed:

. . . . . .

7.11.2 *For All Other Persons*: (including members of the PNP, AFP and other LEAs in civilian attire)

a) Display of firearms is prohibited. The firearms must always be concealed; Violation of this provision shall be subject for immediate revocation of the License to Own and Possess Firearms and Firearm Registration.

b) The firearm must be secured inside a vehicle or a motorcycle compartment.

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Republic Act No. 10591	Implementing Rules (2013)
SECTION 10. *Firearms That May Be Registered*. — Only small arms may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry. A light weapon shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized by the President in the performance of their duties: *Provided*, That private individuals who already have licenses to possess Class-A light weapons upon the effectivity of this Act shall not be deprived of the privilege to continue possessing the same and renewing the licenses therefor, for the sole reason that these firearms are Class "A" light weapons, and shall be required to comply with other applicable provisions of this Act.	SECTION 10. *Firearms That May Be Registered*. — 10.1 Only small arms as defined in this IRR may be registered by licensed citizens or licensed juridical entities for ownership, possession and concealed carry. 10.2 A light weapon as defined in this IRR shall be lawfully acquired or possessed exclusively by the AFP, the PNP and other law enforcement agencies authorized for such purpose by the President or by law that Congress may pass after the effectivity of this IRR. 10.3 Private individuals who are already licensed holders for Class-A light weapons as herein defined upon the effectivity of this IRR shall not be deprived of the lawful possession thereof, provided that they renew their licenses and firearm registration and they continue to possess the standard requirements mentioned in paragraphs 4.1 and 4.4, in this IRR.

As can be gleaned from both provisions, only small arms—those primarily designed for individual use, to be fired from the hand or shoulder[159]—may be registered in the name of private individuals or entities. In contrast, the ownership of Class-A light weapons—"self-loading pistols, rifles, carbines, submachine guns, assault rifles and light machine guns not exceeding caliber

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[159] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 3(3.62).

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7.62MM which have fully automatic mode"[160] — is only allowed for members of the Armed Forces of the Philippines, the Philippine National Police, and other law enforcement agencies.

The reason is not hard to see. Unlike small arms, which are incapable of fully automatic bursts of discharge,[161] Class-A light weapons are self-loading, entirely capable of inflicting multiple injuries on others. Thus, consistent with its declared policy in Republic Act No. 10591, the State balanced its interests to, on the one hand, keep violence at a minimum, and on the other, grant the right of the people to self-defense.

The use of a small arm to defend oneself is, for the State, that which is reasonably necessary to repel the unlawful aggression. As for the members of the Armed Forces of the Philippines, the Philippine National Police, and other law enforcement agencies, their duties to maintain peace and order and protect the public allow for the use of Class-A light weapons. This Court agrees with respondents when they argued that:

> ... Section 10 of RA 10591 is a legitimate exercise of police power by the State. In the wrong hands, Class-A Light Weapons, with their capability to inflict multiple injuries to a large number of people at a rate several times faster than small arms, are highly destructive instruments and pose serious threats to public safety. Thus, the limitation imposed by Section 10 of RA 10591 on the ownership and possession of Class-A Light weapons is a valid restraint on property rights aimed at fostering the common good.[162]

Likewise, the prohibition on the transfer of firearms ownership through succession is a valid exercise of police power. Section 26 of Republic Act No. 10591 and its equivalent provision in the Implementing Rules and Regulations state:

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[160] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 3(3.47).

[161] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 3(3.62).

[162] *Rollo* (G.R. No. 211559), p. 755, Consolidated Memorandum of respondents.

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Republic Act No. 10591	Implementing Rules (2013)
SECTION 26. *Death or Disability of Licensee*. — Upon the death or legal disability of the holder of a firearm license, it shall be the duty of his/her next of kin, nearest relative, legal representative, or other person who shall knowingly come into possession of such firearm or ammunition, to deliver the same to the FEO of the PNP or Police Regional Office, and such firearm or ammunition shall be retained by the police custodian pending the issuance of a license and its registration in accordance with this Act. The failure to deliver the firearm or ammunition within six (6) months after the death or legal disability of the licensee shall render the possessor liable for illegal possession of the firearm.	SECTION 26. *Death or Disability of the Licensee*. — ... ... 26.3 When a licensed citizen with registered firearm dies or become legally disabled, his/her next of kin, nearest relative, legal representative, or any other person who shall knowingly come into possession of the registered firearm shall cause the delivery of the same to the FEO or Police Regional Office or through the nearest police station which has jurisdiction over the licensee and/or the registered firearm. 26.4 In case of death or legal disability of the licensee, the next of kin, nearest relative, legal representative or any other person who shall knowingly come into possession of the registered firearm shall register the firearm/s provided he/she meets the standard requirements and qualifications in accordance with RA 10591 and its IRR.

The qualifications for acquiring a firearm license under Section 4 of the law are highly personal to the licensee. These qualifications may not be possessed by his or her relative or next of kin. It is, therefore, only correct that the rights to own and possess a firearm are non-transferrable by succession. At any rate, should he or she be interested, the deceased's relative or next of kin may apply for a license to own and possess the deceased's registered firearm under Section 26 of Republic Act No. 10591. As argued by respondents:

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. . . Article 776 of the Civil Code specifically provides that inheritance includes all the property, rights and obligations of a person which are not extinguished by his death. Thus, what the heirs can only inherit are the rights which are not extinguished by the decedent's death. Since the license to own and possess a firearm is only a privilege and is strictly personal to the firearm license holder, it is therefore not transmissible to the heirs of the former. In addition, they cannot interpret said provision so as to include practically everything owned by the decedent. Common sense dictates that things, articles, and belongings which are highly regulated and are prohibited by law such as contraband and drugs or those that have been already removed from private ownership, like Class-A light weapons, cannot be transmitted to the heirs by operation of law. If their interpretation is to be accepted, then a ridiculous situation would arise wherein the heirs, without intending to violate the applicable law, would be indiscriminately subjected to criminal prosecution for illegal possession of a firearm.[163]

As to the automatic revocation of license if the registered firearm is used for the commission of a crime, Section 39(a) of Republic Act No. 10591 and its corresponding provision in the Implementing Rules and Regulations state:

Republic Act No. 10591	**Implementing Rules (2013)**
SECTION 39. *Grounds for Revocation, Cancellation or Suspension of License or Permit.*—	SECTION 39. *Grounds for Revocation, Cancellation or Suspension of License or Permit.*—
The Chief of the PNP or his/her authorized representative may revoke, cancel or suspend a license or permit on the following grounds:	39.1 The Chief, PNP or his/her authorized representative may revoke, cancel or suspend a license or permit on the following grounds:
(a) Commission of a crime or offense involving the firearm, ammunition, of major parts thereof[.]	a) Commission of a crime or offense involving the firearm, ammunition or major parts or pendency of a criminal case involving the firearm, ammunition or major parts thereof[.]

[163] *Id*. at 756.

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The commission of the crime indicates the licensee's propensity for violence, which is contrary to the declared State policy of maintaining peace and order and protecting the people from violence. In such a case, the revocation of the license would be justified.

To reiterate, ownership and possession of firearms is not a property right, but a mere privilege. Should the State find that bearing arms would be contrary to its legitimate interests, it can revoke the license without violating the due process clause.

VII

Perhaps the most contentious provision in Republic Act No. 10591 is Section 9, which mandates applicants for Types 3 to 5 licenses to comply with "inspection... requirements." The law and the corresponding provision in the Implementing Rules state:

Republic Act No. 10591	**Implementing Rules (2013)**
SECTION 9. *Licenses Issued to Individuals*. — Subject to the requirements set forth in this Act and payment of required fees to be determined by the Chief of the PNP, a qualified individual may be issued the appropriate license under the following categories: Type 1 license — allows a citizen to own and possess a maximum of two (2) registered firearms; Type 2 license — allows a citizen to own and possess a maximum of five (5) registered firearms; Type 3 license — allows a citizen to own and possess a maximum of ten (10) registered firearms;	SECTION 9. *Licenses Issued to Individuals*.— ... ... 9.6 For Types 3 to 5 licenses, the licensed citizen must comply with the inspection requirements of the PNP. Failure on their part to comply with any of the requirements herein mentioned is a ground for the cancellation of license and/or registration.

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Type 4 license — allows a citizen to own and possess a maximum of fifteen (15) registered firearms; and Type 5 license — allows a citizen, who is a certified gun collector, to own and possess more than fifteen (15) registered firearms. For Types 1 to 5 licenses, a vault or a container secured by lock and key or other security measures for the safekeeping of firearms shall be required. *For Types 3 to 5 licenses, the citizen must comply with the inspection and bond requirements.* (Emphasis supplied)	

The Philippine National Police, in the *pro forma* Individual Application for New Firearm Registration, included a paragraph indicating the Consent of Voluntary Presentation for Inspection, to be signed by the applicant. It provides that the applicant agrees to voluntarily consent to the inspection of the firearm at the residence indicated in the application:

CONSENT OF VOLUNTARY PRESENTATION
FOR INSPECTION

I hereby undertake to renew the registration of my firearm/s on or before the expiration of the same; that, pursuant to the provisions of Republic Act No. 10591, *I voluntarily give my consent and authorize the PNP to inspect my firearm/s described above at my residence/ address as indicated in my application* and, to confiscate or forfeit the same in favor of the government for failure to renew my firearm/ s registration/s within six (6) months before the date of its expiration. (Emphasis supplied)

In petitioners' view, this inspection is an unreasonable search prohibited in Article III, Section 2 of the Constitution and a violation of their right to privacy. Further, signing the Consent of Voluntary Presentation for Inspection would allegedly be

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an invalid waiver, as it is not given "freely, voluntarily, and knowingly"[164] by the applicant who would just sign it, lest the application not be approved.

This Court agrees with petitioners.

The Fourth Amendment on the right against unreasonable searches and seizures was added to the United States Constitution in response to the rampant abuse by customs officers of "writs of assistance" during the colonial period in America.[165] Writs of assistance allowed customs officers to brazenly enter and ransack buildings in search of allegedly smuggled goods, to the detriment of the owners of the building.[166] The Fourth Amendment provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

When the Americans arrived, Section 5 of the Philippine Bill of 1902 became effective here, generically providing that "the right to be secure against unreasonable searches and seizures shall not be violated." The Philippine Autonomy Act, or the Jones Law of 1916, similarly provided in its Section 3 that "the right to be secured against unreasonable searches and seizures shall not be violated."

As for the 1935 Constitution, the provision against unreasonable searches and seizures was worded quite similarly with the Fourth Amendment. But it was added that probable cause shall be determined by the judge:

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[164] *Id*. at 857, Memorandum of petitioner PROGUN in G.R. No. 211567.

[165] LEONARD W. LEVY, *ORIGINS OF THE BILL OF RIGHTS*, 150-179 (2000).

[166] *Id*.

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ARTICLE III
Bill of Rights

SECTION 1. . . .

. . . . . .

(3) The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, to be determined by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

With the enactment of the 1973 Constitution, the right against unreasonable searches and seizures was expanded to cover all such search and seizure "of whatever nature and for any purpose[.]" Its Article IV, Section 3 stated:

ARTICLE IV
Bill of Rights

. . . . . .

SECTION 3. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall not be violated, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined by the judge, or such other responsible officer as may be authorized by law, after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched, and the persons or things to be seized.

The present Constitution provides the prohibition on unreasonable searches and seizures in Article III, Section 2:

ARTICLE III
Bill of Rights

. . . . . .

SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable,

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and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

In the recent case of *Saluday v. People*,[167] this Court interpreted the text of Article III, Section 2 such that it only operates against "unreasonable" searches and seizures; thus, when the search is "reasonable," the requirement of a search warrant under this provision does not apply.

What constitutes a "reasonable search" depends on whether a person has an "expectation of privacy, which society regards as reasonable[.]"[168] The presence of this expectation of privacy *and* society's perception of it as reasonable render the State's intrusion a "search" within the meaning of Article III, Section 2, and which intrusion thus requires a search warrant. In *Saluday*, this Court expounded on the requirement of legitimate expectation of privacy, which originated from *Katz v. United States*:[169]

> Indeed, the constitutional guarantee is not a blanket prohibition. Rather, it operates against "unreasonable" searches and seizures only. Conversely, **when a search is "reasonable," Section 2, Article III of the Constitution does not apply**. As to what qualifies as a reasonable search, the pronouncements of the U.S. Supreme Court, which are doctrinal in this jurisdiction, may shed light on the matter.
>
> In the seminal case of *Katz v. United States*, the U.S. Supreme Court held that the electronic surveillance of a phone conversation without a warrant violated the Fourth Amendment. According to the U.S. Supreme Court, what the Fourth Amendment protects are people, not places such that what a person knowingly exposes to the public, even in his or her own home or office, is not a subject of Fourth Amendment protection in much the same way that what he or she seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected, thus:

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[167] G.R. No. 215305, April 3, 2018, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63922> [Per Acting *C.J.* Carpio, *En Banc*].

[168] *Id*.

[169] 389 U.S. 347 (1967).

> Because of the misleading way the issues have been formulated, the parties have attached great significance to the characterization of the telephone booth from which the petitioner placed his calls. The petitioner has strenuously argued that the booth was a "constitutionally protected area." The Government has maintained with equal vigor that it was not. But this effort to decide whether or not a given "area," viewed in the abstract, is "constitutionally protected" deflects attention from the problem presented by this case. For the Fourth Amendment protects people, not places. **What a person knowingly exposes to the public, even in his own home or office, is not a subject of Fourth Amendment protection.** *See Lewis v. United States*, 385 U.S. 206, 210; *United States v. Lee*, 274 U.S. 559, 563. But what he seeks to preserve as private, even in an area accessible to the public, may be constitutionally protected. *See Rio's v. United States*, 364 U.S. 253; *Ex parte Jackson*, 96 U.S. 727, 733....

Further, Justice John Harlan laid down in his concurring opinion the two-part test that would trigger the application of the Fourth Amendment. *First*, a person exhibited an actual (subjective) expectation of privacy. *Second*, the expectation is one that society is prepared to recognize as reasonable (objective).

The prohibition of unreasonable search and seizure ultimately stems from a person's right to privacy. Hence, only when the State intrudes into a person's expectation of privacy, which society regards as reasonable, is the Fourth Amendment triggered. Conversely, where a person does not have an expectation of privacy or one's expectation of privacy is not reasonable to society, the alleged State intrusion is not a "search" within the protection of the Fourth Amendment.[170] (Emphasis in the original, citations omitted)

A reduced expectation of privacy is the reason why the inspection of persons and their effects under routine inspections, such as those done in airports, seaports, bus terminals, malls, and similar public places, does not require a search warrant.[171]

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[170] G.R. No. 215305, April 3, 2018, <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63922>[Per *C.J.* Carpio, *En Banc*].

[171] *Id*.

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These routine inspections are considered reasonable searches, clearly done to ensure public safety.

A reasonable search, however, is different from a warrantless search. While a reasonable search arises from a reduced expectation of privacy, a warrantless search, which is presumed unreasonable, dispenses with a search warrant for practical reasons. This is why a search incidental to a lawful arrest, search of evidence in plain view, consented search, and extensive search of moving private vehicle do not require a search warrant.[172]

From all these, this Court holds that the inspection requirement under Republic Act No. 10591, as interpreted by the Philippine National Police in the Implementing Rules, *cannot* be considered a reasonable search. There is a legitimate, almost absolute, expectation of privacy in one's residence.

Indeed, the oft-cited remark of William Pitt, an English statesman and later on Prime Minister of England, rings true up to this day despite having been made more than three (3) centuries ago:

> The poorest man may, in his cottage, bid defiance to all the forces of the Crown. It may be frail; its roof may shake; the wind may blow through it; the storm may enter; the rain may enter, but the King of England may not enter; all his force dare not cross the threshold of the ruined tenement.[173]

Article 10 of the Malolos Constitution of 1899 even provided that, save for some exceptions, "[n]o one shall enter the dwelling house of any Filipino or a foreigner residing in the Philippines without his consent":

> ARTICLE 10. No one shall enter the dwelling house of any Filipino or a foreigner residing in the Philippines without his consent, except in urgent cases of fire, inundation, earthquake or other similar danger, or by reason of unlawful aggression from within, or in order to assist a person therein who cries for help.

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[172] *Id*.

[173] Speech in opposition to Excise Bill on perry and cider (1763).

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Outside of these cases, the entry into the dwelling house of any Filipino or foreigner resident in the Philippines or the search of his papers and effects can only be decreed by a competent court and executed only in the daytime.

The search of papers and effects shall be made always in the presence of the person searched or of a member of his family and, in their absence, of two witnesses resident of the same place.

However, when a criminal caught *in fraganti* should take refuge in his dwelling house, the authorities in pursuit may enter into it, only for the purpose of making an arrest.

If the criminal should take refuge in the dwelling house of a foreigner, the consent of the latter must first be obtained.

The 1904 case of *United States v. Arceo*[174] echoes the principle of "inviolability of the dwelling":

The inviolability of the house is one of the most fundamental of all the individual rights declared and recognized in the political codes of civilized nations. No one can enter into the home of another without the consent of its owners or occupants.

The privacy of the home — the place of abode, the place where a man with his family may dwell in peace and enjoy the companionship of his wife and children unmolested by anyone, even the king, except in the rare cases — has always been regarded by civilized nations as one of the most sacred personal rights to which men are entitled. Both the common and the civil law guaranteed to man the right of absolute protection to the privacy of his home. The king was powerful; he was clothed with majesty; his will was the law, but, with few exceptions, the humblest citizen or subject might shut the door of his humble cottage in the face of the monarch and defend his intrusion into that privacy which was regarded as sacred as any of the kingly prerogatives. The poorest and most humble citizen or subject may, in his cottage, no matter how frail or humble it is, bid defiance to all the powers of the state; the wind, the storm and the sunshine alike may enter through its weather-beaten parts, but the king may not enter against its owner's will; none of the forces dare to cross the threshold even the humblest tenement without its owner's consent.

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[174] 3 Phil. 381 (1904) [Per *J.* Johnson, *En Banc*].

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"A man's house is his castle," has become a maxim among the civilized peoples of the earth. His protection therein has become a matter of constitutional protection in England, America, and Spain, as well as in other countries.[175]

Still, the right against unreasonable searches and seizures may be waived if it can be shown that the consent was "unequivocal, specific, and intelligently given, uncontaminated by any duress or coercion."[176] In *Caballes v. Court of Appeals*,[177] this Court discussed the parameters for giving a valid consent to search one's home:

> Doubtless, the constitutional immunity against unreasonable searches and seizures is a personal right which may be waived. The consent must be voluntary in order to validate an otherwise illegal detention and search, *i.e.*, the consent is unequivocal, specific, and intelligently given, uncontaminated by any duress or coercion. Hence, consent to a search is not to be lightly inferred, but must be shown by clear and convincing evidence. The question whether a consent to a search was in fact voluntary is a question of fact to be determined from the totality of all the circumstances. Relevant to this determination are the following characteristics of the person giving consent and the environment in which consent is given: (1) the age of the defendant; (2) whether he was in a public or secluded location; (3) whether he objected to the search or passively looked on; (4) the education and intelligence of the defendant; (5) the presence of coercive police procedures; (6) the defendant's belief that no incriminating evidence will be found; (7) the nature of the police questioning; (8) the environment in which the questioning took place; and (9) the possibly vulnerable subjective state of the person consenting. It is the State which has the burden of proving, by clear and positive testimony, that the necessary consent was obtained and that it was freely and voluntarily given.[178] (Citations omitted)

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[175] *Id*. at 384.

[176] *Caballes v. Court of Appeals*, 424 Phil. 263, 286 (2002) [Per J. Puno, *En Banc*].

[177] 424 Phil. 263 (2002) [Per J. Puno, *En Banc*].

[178] *Id*. at 286.

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In requiring a waiver in the *pro forma* Individual Application for New Firearm Registration, the Philippine National Police appears to recognize the inviolability of the home. Nevertheless, signing the Consent of Voluntary Presentation for Inspection does *not* result in a true and valid consented search.

Section 9 of Republic Act No. 10591 provides that applicants for Types 3 to 5 licenses "must comply with the inspection ... requirements." However, the law is silent as to the scope, frequency, and execution of the inspection. This means that the Chief of the Philippine National Police is presumed to fill in these details in the Implementing Rules and Regulations. However, even the Implementing Rules is completely silent as to the parameters of the inspection. This renders applicants for firearms licenses incapable of intelligently waiving their right to the unreasonable search of their homes.

Even in other jurisdictions, broad and sweeping administrative searches are not acceptable.[179] In *Frank v. Maryland*,[180] the United States Supreme Court upheld the validity of a warrantless inspection of a house allegedly infested by rats. This led to the conviction of its owner who, for refusing entry to the inspector, was found to have violated Baltimore's Health Code.

In *Frank*, the United States Supreme Court recognized the necessity of warrantless inspections to ensure compliance with laws. It noted that "[i]nspection[s] without a warrant, as an adjunct to a regulatory scheme for the general welfare of the community and not as a means of enforcing the criminal law,"[181] are valid, having "antecedents deep in ... history."[182] As to a

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[179] In *People v. Marti*, 271 Phil. 51 (1991)[Per J. Bidin, Third Division] and *Saluday v. People*, G.R. No. 215305, April 3, 2018, <http://elibrary.judiciary.gov. ph/thebookshelf/showdocs/1/63922> [Per Acting *C.J.* Carpio, *En Banc*], this Court held that American jurisprudence on the Fourth Amendment are doctrinal in our jurisdiction. However, I am of the contrary view and maintain that these cases are merely persuasive.

[180] 359 U.S. 360 (1959).

[181] *Id.* at 367.

[182] *Id.*

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possible violation of the right to privacy, the United States High Court stated that warrantless inspections "only... touch, at most, upon the periphery of the important interests safeguarded by the Fourteenth Amendment's protection against official intrusion":[183]

> The attempted inspection of appellant's home is merely to determine whether conditions exist which the Baltimore Health Code proscribes. If they do, appellant is notified to remedy the infringing conditions. No evidence for criminal prosecution is sought to be seized. Appellant is simply directed to do what he could have been ordered to do without any inspection, and what he cannot properly resist, namely, act in a manner consistent with the maintenance of minimum community standards of health and wellbeing, including his own. Appellant's resistance can only be based not on admissible self-protection, but on a rarely voiced denial of any official justification for seeking to enter his home. The constitutional "liberty" that is asserted is the absolute right to refuse consent for an inspection designed and pursued solely for the protection of the community's health, even when the inspection is conducted with due regard for every convenience of time and place.
>
> The power of inspection granted by the Baltimore City Code is strictly limited, more exacting than the analogous provisions of many other municipal codes. Valid grounds for suspicion of the existence of a nuisance must exist. Certainly the presence of a pile of filth in the back yard combined with the rundown condition of the house gave adequate grounds for such suspicion. The inspection must be made in the daytime. Here was no midnight knock on the door, but an orderly visit in the middle of the afternoon with no suggestion that the hour was inconvenient. Moreover, the inspector has no power to force entry and did not attempt it. A fine is imposed for resistance, but officials are not authorized to break past the unwilling occupant.
>
> Thus, not only does the inspection touch, at most, upon the periphery of the important interests safeguarded by the Fourteenth Amendment's protection against official intrusion, but it is hedged about with safeguards designed to make the least possible demand on the individual occupant, and to cause only the slightest restriction

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[183] *Id*.

on his claims of privacy. Such a demand must be assessed in the light of the needs which have produced it.[184]

Frank was overturned in *Camara v. Municipal Court*.[185] In the latter case, a municipal health inspector entered an apartment building to determine compliance with the San Francisco Housing Code. During the inspection, the building manager informed the inspector that Ronald Camara (Camara), the person leasing the building's ground floor, used part of the property as his residence. The inspector, claiming that the ground floor could not be used as a residence based on the building's occupancy permit, demanded entry to the property. Camara refused the inspector entry as no search warrant was presented.

When the inspector returned two (2) days later, still unarmed with a warrant, Camara again refused him entry. A citation to appear before the district attorney's office and the return of two (2) more inspectors after, Camara still did not let the inspectors into the leased property for lack of a search warrant. Camara was eventually charged with a criminal complaint for violating the municipal code for refusing to permit a lawful inspection.

In *Camara*, the United States Supreme Court conceded that the "translation of the abstract prohibition against 'unreasonable searches and seizures' into workable guidelines for the decision of particular cases is a difficult task which has for many years divided the members of [its] Court."[186] Still, "except in certain carefully defined classes of cases,"[187] the United States Supreme Court reiterated that "a search of private property without proper consent is 'unreasonable' unless it has been authorized by a valid search warrant."[188]

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[184] *Id.* at 366-367.

[185] 387 U.S. 523 (1967).

[186] *Id.* at 528.

[187] *Id.*

[188] *Id.* at 528-529.

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In overturning *Frank*; the United States Supreme Court recognized in *Camara* that routine inspections are "less hostile"[189] than a search in relation to a criminal investigation. However, this does not mean that "the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior"[190] or that the privacy interests involved during an inspection are merely "periphera1."[191] For one, "criminal entry under the guise of official sanction is a serious threat to personal and family security."[192] Furthermore, in an inspection, the house occupant has no way of knowing its scope and limits, unlike in a search done through the "warrant machinery contemplated by the Fourth Amendment."[193] Lastly, refusal to grant entry to an inspector may lead to prosecution:

> To the *Frank* majority, municipal fire, health, and housing inspection programs "touch at most upon the periphery of the important interests safeguarded by the Fourteenth Amendment's protection against official intrusion," because the inspections are merely to determine whether physical conditions exist which do not comply with minimum standards prescribed in local regulatory ordinances. Since the inspector does not ask that the property owner open his doors to a search for "evidence of criminal action" which may be used to secure the owner's criminal conviction, historic interests of "self-protection" jointly protected by the Fourth and Fifth Amendments are said not to be involved, but only the less intense "right to be secure from intrusion into personal privacy."
>
> We may agree that a routine inspection of the physical condition of private property is a less hostile intrusion than the typical policeman's search for the fruits and instrumentalities of crime. For this reason alone, *Frank* differed from the great bulk of Fourth Amendment cases which have been considered by this Court. But we cannot agree that the Fourth Amendment interests at stake in

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[189] *Id*. at 530.

[190] *Id*.

[191] *Id*.

[192] *Id*. at 531.

[193] *Id*. at 532.

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these inspection cases are merely "peripheral." It is surely anomalous to say that the individual and his private property are fully protected by the Fourth Amendment only when the individual is suspected of criminal behavior. For instance, even the most law-abiding citizen has a very tangible interest in limiting the circumstances under which the sanctity of his home may be broken by official authority, for the possibility of criminal entry under the guise of official sanction is a serious threat to personal and family security. And even accepting *Frank's* rather remarkable premise, inspections of the kind we are here considering do, in fact, jeopardize "self-protection" interests of the property owner. Like most regulatory laws, fire, health, and housing codes are enforced by criminal processes. In some cities, discovery of a violation by the inspector leads to a criminal complaint. Even in cities where discovery of a violation produces only an administrative compliance order, refusal to comply is a criminal offense, and the fact of compliance is verified by a second inspection, again without a warrant. Finally, as this case demonstrates, refusal to permit an inspection is itself a crime, punishable by fine or even by jail sentence.

The *Frank* majority suggested, and appellee reasserts, two other justifications for permitting administrative health and safety inspections without a warrant. First, it is argued that these inspections are "designed to make the least possible demand on the individual occupant." The ordinances authorizing inspections are hedged with safeguards, and at any rate the inspector's particular decision to enter must comply with the constitutional standard of reasonableness even if he may enter without a warrant. In addition, the argument proceeds, the warrant process could not function effectively in this field. The decision to inspect an entire municipal area is based upon legislative or administrative assessment of broad factors such as the area's age and condition. Unless the magistrate is to review such policy matters, he must issue a "rubber stamp" warrant which provides no protection at all to the property owner.

In our opinion, these arguments unduly discount the purposes behind the warrant machinery contemplated by the Fourth Amendment. Under the present system, when the inspector demands entry, the occupant has no way of knowing whether enforcement of the municipal code involved requires inspection of his premises, no way of knowing the lawful limits of the inspector's power to search, and no way of knowing whether the inspector himself is acting under proper authorization. These are questions which may be reviewed

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by a neutral magistrate without any reassessment of the basic agency decision to canvass an area. Yet only by refusing entry and risking a criminal conviction can the occupant at present challenge the inspector's decision to search. And even if the occupant possesses sufficient fortitude to take this risk, as appellant did here, he may never learn any more about the reason for the inspection than that the law generally allows housing inspectors to gain entry. The practical effect of this system is to leave the occupant subject to the discretion of the official in the field. This is precisely the discretion to invade private property which we have consistently circumscribed by a requirement that a disinterested party warrant the need to search. We simply cannot say that the protections provided by the warrant procedure are not needed in this context; broad statutory safeguards are no substitute for individualized review, particularly when those safeguards may only be invoked at the risk of a criminal penalty.[194] (Citations omitted)

The United States Supreme Court further clarified in *Camara* that there is no question as to the reasonableness of administrative inspections or whether they are done for the common good. The question, rather, should be whether such inspection should be made with a warrant:

The final justification suggested for warrantless administrative searches is that the public interest demands such a rule: it is vigorously argued that the health and safety of entire urban populations is dependent upon enforcement of minimum fire, housing, and sanitation standards, and that the only effective means of enforcing such codes is by routine systematized inspection of all physical structures. Of course, in applying any reasonableness standard, including one of constitutional dimension, an argument that the public interest demands a particular rule must receive careful consideration. But we think this argument misses the mark. The question is not, at this stage, at least, whether these inspections may be made, but whether they may be made without a warrant. For example, to say that gambling raids may not be made at the discretion of the police without a warrant is not necessarily to say that gambling raids may never be made. In assessing whether the public interest demands creation of a general exception to the Fourth Amendment's

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[194] *Id.* at 530-533.

warrant requirement, the question is not whether the public interest justifies the type of search in question, but whether the authority to search should be evidenced by a warrant, which in turn depends in part upon whether the burden of obtaining a warrant is likely to frustrate the governmental purpose behind the search. It has nowhere been urged that fire, health, and housing code inspection programs could not achieve their goals within the confines of a reasonable search warrant requirement. Thus, we do not find the public need argument dispositive.[195] (Citation omitted)

It was held in *Camara* that a warrantless inspection of a home is deemed reasonable if it involves an emergency situation concerning health and safety. For instance, the seizure of unwholesome food, compulsory smallpox vaccination, health quarantine, and summary destruction of tubercular cattle were found as proper subjects of prompt inspections. However, if "there is no compelling urgency to inspect at a particular time or on a particular day[,]"[196] a warrant should "be sought only after entry is refused unless there has been a citizen complaint or there is other satisfactory reason for securing immediate entry."[197] Ultimately, the judgment of conviction against Camara was vacated since there was no emergency situation and, therefore, no compelling urgency to enter the property he was renting.

The United States Supreme Court has given the same protection to owners of private commercial establishments.

In *See v. City of Seattle*,[198] See, the owner of a locked commercial warehouse, was convicted under the City of Seattle's Fire Code for refusing entry to an inspector. The legal basis cited for the inspection provided:

INSPECTION OF BUILDING AND PREMISES. It shall be the duty of the Fire Chief to inspect and he may enter all buildings and premises, except the interiors of dwellings, as often as may be necessary for

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[195] *Id*. at 533.

[196] *Id*. at 539.

[197] *Id*. at 539-540.

[198] 387 U.S. 541 (1967).

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the purpose of ascertaining and causing to be corrected any conditions liable to cause fire, or any violations of the provisions of this Title, and of any other ordinance concerning fire hazards.[199]

See challenged the constitutionality of the provision for allegedly violating the Fourth Amendment and in light of the *Camara* ruling. See argued,[200] and the United States Supreme Court agreed, that there is "no justification for so relaxing Fourth Amendment safeguards where the official inspection is intended to aid enforcement of laws prescribing minimum physical standards for commercial premises."[201] It stated:

> As we explained in *Camara*, a search of private houses is presumptively unreasonable if conducted without a warrant. The businessman, like the occupant of a residence, has a constitutional right to go about his business free from unreasonable official entries upon his private commercial property. The businessman, too, has that right placed in jeopardy if the decision to enter and inspect for violation of regulatory laws can be made and enforced by the inspector in the field without official authority evidenced by a warrant.[202]

The United States Supreme Court in *See* found administrative inspections of business premises akin to administrative agency subpoenas for inspection of corporate books or records. According to it, the subpoena should "be sufficiently limited in scope, relevant in purpose, and specific in directive so that compliance will not be unreasonably burdensome."[203] Further, it clarified that it did "not in any way imply that business premises may not reasonably be inspected in many more situations than private homes, nor[did it] question such accepted regulatory techniques as licensing programs which require inspections prior to operating a business or marketing a product."[204] Should the constitutionality of such

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[199] *Id*.

[200] *Id*. at 542.

[201] *Id*. at 543.

[202] *Id*.

[203] *Id*. at 544.

[204] *Id*. at 546.

programs be challenged, the United States High Court held that the issue should be resolved "on a case-by-case basis under the general Fourth Amendment standard of reasonableness."[205]

Exceptions were carved out in *Colonnade Catering Corporation v. United States*[206] and *United States v. Biswell*.[207]

Colonnade involved a catering firm that unknowingly had an Internal Revenue Service agent as a guest in one (1) of its parties. While at the party, the federal agent noticed that liquor was being served and noted a possible violation of the excise tax law. Later, federal agents arrived at the party and, without the manager's consent, inspected Colonnade's cellar. They then asked that the locked liquor room be opened, to which the manager replied that only Colonnade's president, a certain Rozzo, may unlock the liquor room. When Rozzo arrived, he asked for a search warrant from the federal agents, but they insisted that they did not need any. Rozzo continued to refuse the inspection until one (1) of the agents eventually broke the lock and entered the liquor room, seizing bottles of liquor suspected of being refilled against the law.

In upholding the warrantless inspection of the liquor room, the United States Supreme Court held that "the long history of the regulation of the liquor industry"[208] justified the inspection. It emphasized the governmental interest in the payment of excisable or dutiable articles such as liquor, holding that Congress "has broad power to design such powers of inspection under the liquor laws as it deems necessary to meet the evils at hand."[209] However, "where Congress has authorized inspection but made no rules governing the procedure that inspectors must follow, the Fourth Amendment and its various restrictive rules apply."[210]

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[205] *Id*.

[206] 397 U.S. 72 (1969).

[207] 406 U.S. 311 (1972).

[208] *Colonnade Catering Corporation v. United States*, 397 U.S. 72, 75 (1970).

[209] *Id*. at 76.

[210] *Id*. at 77.

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In *Biswell*, meanwhile, a federal treasury agent sought to inspect, without a warrant, a locked gun storeroom owned by Biswell. As basis, the agent cited provisions of the Gun Control Act of 1968, which authorized during business hours entry to "the premises (including places of storage) of any firearms or ammunition ... dealer ... for the purpose of inspecting or examining (1) any records or documents required to be kept ... and (2) any firearms or ammunition kept or stored by such ... dealer... at such premises."[211]

Biswell had intentionally asked for a search warrant but, having been informed of the relevant provisions of the Gun Control Act, unlocked the storeroom and allowed the agent to enter and inspect it. The agent seized two (2) rifles, which Biswell was not licensed to possess. He was subsequently charged with and convicted of dealing in firearms without paying the required occupational tax.

In ruling on the case, the United States Supreme Court held that the agent's warrantless inspection of Biswell's armory did not violate the Fourth Amendment. The search was not accompanied by unauthorized force. Biswell, having been apprised of the law, submitted to lawful authority and allowed the inspection.[212]

While not deeply rooted in history like inspections under the liquor laws, the United States Supreme Court held in *Biswell* that inspections under firearms laws should be allowed "to prevent violent crime and to assist the States in regulating the firearms traffic within their borders."[213] It noted that there are large interests at stake, and that "inspection is a crucial part of the regulatory scheme, since it assures that weapons are distributed through regular channels and in a traceable manner, and makes possible the prevention of sales to undesirable customers and the detection of the origin of particular firearms."[214]

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[211] 406 U.S. 311 (1972).

[212] *Id*. at 315.

[213] *Id*.

[214] *Id*. at 315-316.

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As such, in *Biswell*, the United States Supreme Court deemed warrantless inspections of gun stores "reasonable official conduct under the Fourth Amendment."[215] It pronounced:

> [I]f inspection is to be effective and serve as a credible deterrent, unannounced, even frequent, inspections are essential. In this context, the prerequisite of a warrant could easily frustrate inspection, and, if the necessary flexibility as to time, scope, and frequency is to be preserved, the protections afforded by a warrant would be negligible.[216]

As to possible violations of the right to privacy that warrantless inspections under the Gun Control Act entail, the United States High Court stated that "[w]hen a dealer chooses to engage in this pervasively regulated business and to accept a federal license, he [or she] does so with the knowledge that his [or her] business records, firearms, and ammunition will be subject to effective inspection."[217]

After *Colonnade* and *Biswell*, the *Camara* rule-that inspections of private commercial premises require a warrant-was upheld in *Marshall v. Barlow's, Inc.*[218] In that case, an inspector from the Occupational Safety and Health Administration sought entry to a company's work area to inspect for safety hazards and possible violations of the Occupational Safety and Health Act. Ferrol Barlow (Barlow), the company president, refused admission to the inspector, who had no search warrant. Three (3) months later, the Secretary of Labor petitioned the District Court to compel Barlow to admit the inspector. The requested order was granted. However, despite the order, Barlow refused entry to the inspector and subsequently filed an action for injunction before the District Court. Citing *Camara* and *See*, the District Court granted injunction against searches and seizure under the Occupational Safety and Health Act. The Secretary of Labor appealed the injunction to the United States Supreme Court.

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[215] *Id*. at 316.

[216] *Id*.

[217] *Id*.

[218] 436 U.S. 307 (1978).

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Affirming the injunction, the United States High Court reiterated the rulings in *Camara* and *See* that warrantless inspections of dwellings and business premises are unreasonable, thus requiring a search warrant.[219] The exception is only for "closely regulated"[220] industries "long subject to close supervision and inspection,"[221] as held in *Colonnade*. There being no showing that Barlow's line of business had long been subjected to close supervision and inspection, the inspection provision under the Occupational Safety and Health Act was declared unconstitutional.

In *Donovan v. Dewey*,[222] the United States Supreme Court upheld the constitutionality of Section 103(a) of the Federal Mine Safety and Health Act of 1977, which allowed the warrantless inspection of underground mines at least four (4) times a year and surface mines at least twice a year. Under the same provision, follow-up inspections are undertaken to determine whether the discovered violations have been rectified.

In upholding the constitutionality of warrantless inspections of mines, the United States Supreme Court stated that they do not violate the Fourth Amendment. First, it found that there is a substantial governmental interest in improving the health and safety conditions of the States' underground and surface mines.[223] It declared that mining has had a "notorious history of serious accidents and unhealthful working conditions,"[224] such that its regulation has been "sufficiently pervasive and defined that the owner of such a facility cannot help but be aware that he 'will be subject to effective inspection.'"[225] Second, the law specifically provided "the standards with which a mine operator

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[219] *Id*. at 312.

[220] *Id*. at 313.

[221] *Id*.

[222] 452 U.S. 594 (1981).

[223] *Id*. at 602.

[224] *Id*. at 603.

[225] *Id*.

is required to comply[.]"[226] Third, the Mine Safety and Health Act provided remedies available for possible violations of privacy such as the prohibition on forcible entries.

Adding that a provision to conduct the inspection "at . . . reasonable times, and within reasonable limits and in a reasonable manner"[227] is not sufficient, the United States High Court noted that the scope and limits of the inspection must be provided in the law. Ultimately, Section 103(a) of the Federal Mine Safety and Health Act of 1977 was upheld constitutional.

Going back to the case at hand, this Court finds that Section 9 of Republic Act No. 10591 and its corresponding provision in the Implementing Rules are unconstitutional for being violative of Article III, Section 2 of the Constitution.

Section 9 authorizes warrantless inspections of houses which, as has been extensively discussed, are unreasonable and, therefore, require a search warrant. Furthermore, Section 9 miserably failed to provide the scope and extent of the inspections, making them overbroad. While the State has heavy regulated the use of and dealing in firearms to maintain peace and order, this does not excuse the utter lack of standards for the conduct of inspection. What this does is give unbridled discretion and power to government officials, the very discretion that Article III, Section 2 guards against.

True, the standard of reasonableness can be found in the law and its Implementing Rules and Regulations. However, "reasonable" as a standard for inspection is not enough. For the waiver of the right against unreasonable searches to be valid, the provision allowing for the inspection must be as informative as to detail its scope and extent.

Therefore, signing the Consent of Voluntary Presentation for Inspection in the *pro forma* Individual Application for New Firearm Registration cannot be considered a valid waiver of the right against unreasonable searches under Article III, Section 2 of

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[226] *Id*. at 604.

[227] *Id*. at 601.

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the Constitution. The applicant cannot intelligently consent to the warrantless inspection allowed in Republic Act No. 10591 because of the utter lack of parameters on how the inspection shall be conducted.

This Court notes that the Implementing Rules and Regulations has since been amended in 2018, with its Section 9.3 now providing the scope of the inspection relating to applications for Types 3-5 licenses:

Implementing Rules(2013)	**Implementing Rules (2018)**
SECTION 9. *Licenses Issued to Individuals*. — ... ... 9.6 For Types 3 to 5 licenses, the licensed citizen must comply with the inspection requirements of the PNP. Failure on their part to comply with any of the requirements herein mentioned is a ground for the cancellation of license and/or registration.	SECTION 9. *Licenses Issued to Individuals*. — ... ... 9.3 For Types 3 to 5 licenses, licensed citizens must comply with the inspection requirements of the PNP before the issuance of license. Failure on their part to comply with any of the requirements herein mentioned is a ground for the denial of license. The inspection shall be limited to visual, announced seven days prior, and conducted during office hours (8:00 AM to 5:00 PM) in the presence of the licensed citizen or his authorized representative and must be limited to the compliance on vault requirement. The Inspection Team shall be covered with a Letter Order issued by the Director, CSG.

To this Court, the inspection contemplated in Section 9.3 of the 2018 Implementing Rules, though it now provides the scope and extent of the inspection, may only be done with a search warrant as required in Article III, Section 2 of the Constitution. Considering that the inspection is done before a license is issued, there is no compelling urgency to immediately conduct the

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inspection. A search warrant must first be obtained from a judge to determine probable cause for its issuance.

VIII

Petitioner PROGUN in G.R. No. 211559 claims that Section 4.10 of the 2013 Implementing Rules and Regulations violates the right to freedom of association. It theorizes that by requiring a certification from the president of a recognized gun club or sports shooting association in order to obtain a firearms license, Section 4.10 compels the applicant to join a gun club or sports shooting association against his or her will. Section 4.10 of the 2013 Implementing Rules provides:

> SECTION 4. *Standards and Requisites for Issuance and Obtaining a License to Own and Possess Firearms.—*
>
> . . . . . .
>
> 4.10 A qualified applicant shall submit the following requirements to apply as a sports shooter:
>
> a) A copy of the License to Own and Possess Firearms;
>
> b) Certification from the President of a recognized Gun Club or Sports Shooting Association; and
>
> c) Written Authority or Consent from Parents/Guardian (for minors).

This Court does not find Section 4.10 of the Implementing Rules violative of Article III, Section 8 of the Constitution on the freedom of association, which provides:

> SECTION 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

It has been held that Article III, Section 8 not only guarantees the freedom to associate; it also protects the freedom *not* to associate. The provision is not basis to compel others to form or join an association.[228]

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[228] *Sta. Clara Homeowners' Association v. Spouses Gaston*, 425 Phil. 221, 235 (2002) [Per *J.* Panganiban, Third Division].

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Reading Section 4.10, this Court finds that nothing in it compels a sports shooter applicant to join a gun club or sports shooting association. All that Section 4.10 provides is that a person intending to apply as a sports shooter must submit a certification from the president of a recognized gun club or sports shooting association that he or she is joining the competition. The reason is that shooting competitions are usually sponsored by gun clubs and sports associations which, in turn, must be duly registered with and accredited in good standing by the Firearms and Explosive Office of the Philippine National Police.[229] This certification ensures that the extra ammunition is indeed granted to legitimate sports shooters,[230] which is remarkably more than that allowed to an ordinary owner of a firearm.

Thus, Section 4.10 does not violate Article III, Section 8 of the Constitution.

IX

Finally, this Court dismisses petitioner PROGUN's Verified Petition for Contempt brought under Rule 71, Section 3[231] of

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[229] Republic Act No. 10591 (2013), Sec. 3(o).

[230] Implementing Rules and Regulations of Republic Act No. 10591 (2013), Sec. 12 provides:

SECTION 12. *License to Possess Firearms Necessarily Includes Possession of Ammunition*.—

12.1 The license to individual or juridical entity for the ownership and possession of registered firearms necessarily includes the license to possess ammunition appropriate to the registered firearm which shall not exceed fifty (50) rounds per firearm at any given time.

12.2 A licensed citizen shall secure first a sports shooter's license before he/she be allowed to possess ammunition more than the prescribed quantity. Only licensed sports shooter shall be allowed to possess ammunition of more than fifty (50) rounds but not more than one thousand (1000) rounds for each of the registered firearm. However, in meritorious cases, a licensed sports shooter may request for approval from the Chief, PNP through the FEO to carry more than the allowed quantity which is subject to additional fees.

[231] RULES OF COURT, Rule 71, Sec. 3 provides:

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the Rules of Court. It appears that the Philippine National Police has complied with our directives in the April 8, 2014 Temporary Restraining Order.[232]

WHEREFORE, the Petitions in G.R. Nos. 212570 and 215634 are **DISMISSED**.

As for the Petitions in G.R. Nos. 211559 and 211567, they are **PARTLY GRANTED**. Section 9.3 of the 2013 Implementing Rules and Regulations of Republic Act No. 10591 is declared **UNCONSTITUTIONAL** for being contrary to Article III, Section 2 of the Constitution. The Philippine National Police is **PROHIBITED** from requiring individual applicants—either for a license to own and possess firearm or for a new firearm registration—to sign the Consent of Voluntary Presentation for Inspection, or otherwise requiring inspection of their houses as a requirement for a license to own and possess firearm unless, armed with a search warrant.

This Court's April 8, 2014 Temporary Restraining Order is made **PERMANENT**.

Finally, petitioner Peaceful Responsible Owners of Guns, Inc.'s Verified Petition for Contempt is **DISMISSED** for lack of merit.

SO ORDERED.

Bersamin, C.J., Carpio, Peralta, Perlas-Bernabe, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, and *Zalameda, JJ.,* concur.

SECTION 3. *Indirect contempt to be punished after charge and hearing.*— After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as maybe fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

. . . . . .

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court[.]

[232] *Rollo* (G.R. No. 211567), pp. 306-307, Comment on the Verified Petition for Contempt.

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Reyes, A. Jr., J., see separate and concurring opinion.

Reyes, J. Jr., J., on leave.

SEPARATE CONCURRING AND DISSENTING OPINION

A. REYES, JR., *J.*:

The preservation of peace and order is a forefront duty of the State, however, no matter how noble the ends sought to be achieved may be, the State may not unnecessarily intrude upon the constitutional rights of its people.

As a brief background, the petitioners assail the constitutionality of some provisions of Republic Act (R.A.) No. 10591 otherwise known as, "An Act Providing for a Comprehensive Law on Firearms and Ammunition and Providing Penalties for Violations thereof" and its Implementing Rules and Regulations (IRR) for allegedly infringing upon their right to bear arms, right to property and right to privacy.

Precedence of National Interest over Rule on Technicalities

At the outset, the *ponencia* notes the absence of the requisites for a valid exercise of the Court's power of judicial review, particularly:

First, there is no actual case or controversy that is ripe for the Court's resolution. The petitioners in G.R. No. 211559 do not allege facts that will confirm the existence of an actual case or controversy to warrant the Court's exercise of its judicial power. As discussed in the *ponencia*, an actual case or controversy is necessary for the Court to avoid using its time and limited resources in resolving mere hypothetical cases or conjectural issues.

Next, the petitioners do not have legal standing to file the present suit. Petitioners Eric F. Acosta and Nathaniel G. Dela Paz did not allege that they are engineers, but they raise as issue

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the omission of engineers in Section 7.3[1] of the IRR of R.A. No. 10591 as professionals who are not required to submit threat assessment certificates in applying for a Permit to Carry Firearms Outside of Residence (PTCFOR). There is also no showing that the petitioners PROGUN and Guns and Ammo Dealers Association of the Philippines were authorized by their members to sue on their behalf. Thus, the absence of legal standing on the part of the petitioners to file the present suit.

Lastly, the *ponencia* observes that the petitioners violated the doctrine of hierarchy of courts when they directly sought recourse from the Court.

In spite of the foregoing lapses, I find it striking that the Petitions were not outrightly denied on these procedural grounds; in fact, the *ponencia* extensively discussed the issues raised by the petitioners. I wish to emphasize that since constitutional rights are involved, technicalities should not impede the resolution of the present consolidated petitions. Indeed, the petitioners' violations are mere procedural technicalities which the Court may set aside in its discretion in the interest of substantial justice. In *Chavez v. Hon. Romulo*,[2] the Court was confronted with a petition that also sought to enjoin the implementation of guidelines regarding the carrying of firearms outside residence. Despite procedural barriers, the Court treated the matter as

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[1] 7.3 For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business and hence are not required to submit threat assessment certificates:

a) Members of the Philippine Bar;

b) Certified Public Accountants;

c) Accredited media practitioners from recognized media institutions; Cashiers and bank tellers;

d) Priests, Ministers, Rabbi, Imams;

e) Physicians and Nurses; and

f) Businessmen, who by the nature of their business or undertaking duly recognized or regulated by law, are exposed to high risk of being targets of criminal elements.

[2] 475 Phil. 486 (2004).

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one of national interest and of serious implication,[3] and as such, entertained the petition despite the attendant procedural infirmities. There is no reason why the present case should be dealt with differently.

Now, with respect to the substantive issues.

Invalidity of the Inspection Requirement

There is no fundamental right to bear arms in the Philippines, thus, the State may regulate gun ownership through the exercise of its police power. In line with this, I stand with the *ponencia* in declaring Section 9.6[4] of the IRR of R.A. No. 10591 which was promulgated in 2013 unconstitutional, albeit for a different reason.

I agree that requiring Types 3 to 5 license applicants to sign the *pro forma* "Consent of Voluntary Presentation for Inspection" violates Article III, Section 2 of the 1987 Constitution,[5] but, primarily because there are no sufficient safeguards to carry out the inspection. In *Ople v. Torres*,[6] the Court held that "the right to privacy does not bar all incursions into individual privacy."[7] However, "intrusions into the right must be accompanied by proper safeguards and well-defined standards to prevent unconstitutional invasions. We reiterate that any law

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[3] *Id*. at 499.

[4] 9.6 For Types 3 to 5 licenses, the licensed citizen must comply with the inspection requirements of the PNP. Failure on their part to comply with any of the requirements herein mentioned is a ground for the cancellation of license and/or registration.

[5] Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

[6] 354 Phil. 948 (1998).

[7] *Id*. at 985.

or order that invades individual privacy will be subjected by this Court to strict scrutiny."[8]

The *ponencia* rules that even though Section 9.3[9] of the 2018 Revised IRR of R.A. No. 10591 now provides for the scope and extent of the inspection, a search warrant must be first obtained considering that there is no compelling urgency to immediately conduct the inspection.

Based on Section 9[10] of R.A. No. 10591, Types 3 to 5 licenses allow a citizen to own and possess at least six registered firearms.

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[8] *Id*.

[9] 9.3. For Types 3 to 5 licenses, licensed citizens must comply with the inspection requirements of the PNP before the issuance of license. Failure on their part to comply with any of the requirements herein mentioned is a ground for the denial of license. The inspection shall be limited to visual, announced seven days prior, and conducted during office hours (8:00 AM to 5:00 PM) in the presence of the licensed citizen or his authorized representative and must be limited to the compliance on vault requirement. The Inspection Team shall be covered with a Letter Order issued by the Director, CSG.

[10] Section 9. *Licenses Issued to Individuals*. — Subject to the requirements set forth in this Act and payment of required fees to be determined by the Chief of the PNP, a qualified individual may be issued the appropriate license under the following categories;

Type 1 license — allows a citizen to own and possess a maximum of two (2) registered firearms;

Type 2 license — allows a citizen to own and possess a maximum of five (5) registered firearms;

Type 3 license — allows a citizen to own and possess a maximum of ten (10) registered firearms;

Type 4 license — allows a citizen to own and possess a maximum of fifteen (15) registered firearms; and

Type 5 license — allows a citizen, who is a certified gun collector, to own and possess more than fifteen (15) registered firearms.

For Types 1 to 5 licenses, a vault or a container secured by lock and key or other security measures for the safekeeping of firearms shall be required.

For Types 3 to 5 licenses, the citizen must comply with the inspection and bond requirements.

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In view of the gravity, responsibility, and possible repercussions of owning and possessing at least six firearms in one's residence, I am of the opinion that the State must still be given an opportunity to ensure compliance with the vault and safety requirements under R.A. No. 10951, and the only way to confirm compliance is through the conduct of an initial, one-time inspection, complemented by a subsequent inspection in case of compelling urgency, as the *ponencia* suggests.

In *People of the Philippines v. O'Cochlain*,[11] the Court noted that administrative searches are allowed in certain situations where special needs arise and securing a prior search warrant is rendered impracticable, *viz*.:

> US courts have permitted exceptions to the Fourth Amendment when "special needs, beyond the normal need for law enforcement, make the warrant and probable cause requirement impracticable" such as work-related searches of government employees' desks and offices, warrantless searches conducted by school officials of a student's property, government investigators conducting searches pursuant to a regulatory scheme when the searches meet "reasonable legislative or administrative standards," and a State's operation of a probation system. The Fourth Amendment permits the warrantless search of "closely regulated" businesses; "special needs" cases such as schools, employment, and probation; and "checkpoint" searches such as airport screenings under the administrative search doctrine.[12] (Citation omitted)

From this vantage ground, an inspection prior to the issuance of Types 3 to 5 licenses must be allowed as an adjunct of administrative search, owing to the weight of responsibility involved in gun ownership, which from its nature, necessitates a stricter regulatory scheme.

Nevertheless, inspection under R.A. No. 10591 and its IRR must be struck down for failure to limit the frequency of inspection. While Section 9.3 of the 2018 Revised IRR provides for more guidelines, my view is that the inspection must be subjected to

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[11] G.R. No. 229071, December 10, 2018.

[12] *Id*.

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further and more stringent standards, such as limiting the inspection only to one instance — prior to the issuance of the license. This is to ensure that the applicant has complied with the safety measures and vault requirements under the law.

Exception to Prohibition on Bringing Firearms inside Commercial Establishments

For the purpose of maintaining public peace and order, Section 7.11.2(b)[13] of the IRR of R.A. No. 10591 commands that firearms be secured inside a vehicle or motorcycle compartment, and Section 7.12(b)[14] of the IRR of R.A. No. 10591 prohibits the bringing of firearms inside places of worship, public drinking, amusement places, and all other commercial or public establishments.

The *ponencia* holds the view that keeping a firearm secured in a motor vehicle compartment or motorcycle prevents the firearm owner from impulsively using the firearm in case of altercation. Meanwhile, the restriction on bringing a firearm to commercial or public places is a reasonable measure to prevent mass shootings.

I agree.

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[13] 7.11 The following guidelines regarding the manner of carrying firearms shall be observed:

x x x x x x x x x

7.11.2 For All Other Persons: (including members of the PNP, AFP and other LEAs in civilian attire)

x x x x x x x x x

b) The firearm must be secured inside a vehicle or a motorcycle compartment.

[14] 7.12 The following other restriction shall likewise be observed:

x x x x x x x x x

b) The firearm shall not be brought inside places of worship, public drinking and amusement places and all other commercial or public establishment.

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However, it is my opinion that an exemption must be made for commercial establishment owners who own licensed firearms. The blanket prohibition on carrying firearms inside all commercial or public establishments poses an issue insofar as it renders nugatory the PTCFOR secured by the owners of these commercial establishments.

While I agree that maintaining public peace and order is important, enjoining even the commercial establishment owners themselves from bringing their firearms inside their place of business serves no viable purpose. Some commercial establishment owners such as small-scale business owners or sole proprietors cannot afford to engage the services of private security. With the prohibition, they are left with little to no means of protecting themselves or their clients against unlawful elements who may enter their establishments and commit violence. Verily, it is a declared State policy under Section 2 of R.A. No. 10951 that "the State recognizes the right of its qualified citizens to self-defense through, when it is the reasonable means to repel the unlawful aggression under the circumstances, the use of firearms." Prohibiting even these owners from bringing their firearm to their place of business does not support this declared State policy and contradicts the purpose for which establishment owners' PTCFOR was secured.

This prohibition also runs counter to Section 7[15] of R.A. No. 10591, which recognizes businessmen, who by the nature

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[15] Section 7. *Carrying of Firearms Outside of Residence or Place of Business*. — A permit to carry firearms outside of residence shall be issued by the Chief of the PNP or his/her duly authorized representative to any qualified person whose life is under actual threat or his/her life is in imminent danger due to the nature of his/her profession, occupation or business.

It shall be the burden of the applicant to prove that his/her life is under actual threat by submitting a threat assessment certificate from the PNP.

For purposes of this Act, the following professionals are considered to be in imminent danger due to the nature of their profession, occupation or business:

x x x x x x x x x

of their business or undertaking, are exposed to high risk of being target of criminal elements. Thus, in my view, this all-out prohibition in Section 7.12(b) of the IRR is unduly restrictive on their part.

Certification as Implicit Compulsion to Join Gun Clubs

Anent the requirement for sports shooters to get a certification from the president of a recognized gun club under Section 4.10[16] of the IRR, the *ponencia* espouses that there is nothing in Section 4.10 that compels a sports shooter applicant to join a gun club or shooting association.

According to the *ponencia*, all that Section 4.10 provides is that a person intending to apply as a sports shooter must submit a certification from the President of a recognized gun club or sports shooting association that he or she is joining the competition.

Again, I depart from the *ponencia's* ruling in this regard.

To my mind, the requirement of submitting a certification from the President of a recognized gun club tacitly compels a sports shooter applicant to join the gun club to which such President belongs, for it is reasonable to believe that no President of a gun club would issue a certification to non-members. Thus, this requirement under Section 4.10(b) is violative of the sports shooters' right to freedom of association.

Section 8, Article III of the 1987 Constitution guarantees the right of people to join or form associations:

(h) Businessmen, who by the nature of their business or undertaking, are exposed to high risk of being targets of criminal elements.

[16] 4.10 A qualified applicant shall submit the following requirements to apply as a sports shooter:

a) A copy of the License to Own and Possess Firearms;

b) Certification from the President of a recognized Gun Club or Sports Shooting Association; and

c) Written Authority or Consent from Parents/Guardian (for minors).

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Section 8. The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

However, "[t]he constitutionally guaranteed freedom of association includes the freedom *not* to associate."[17] "It should be noted that the provision guarantees the right to form an association. It does not include the right to compel others to form or join one."[18]

In view of the foregoing, I vote to **DECLARE** Section 4.10(b) of the Implementing Rules and Regulations **UNCONSTITUTIONAL** for violating Section 8, Article III of the 1987 Constitution.

Nonetheless, I **CONCUR** with the majority in its other dispositions.

EN BANC

[G.R. No. 218388. October 15, 2019]

MANILA INTERNATIONAL AIRPORT AUTHORITY, *petitioner, vs.* **COMMISSION ON AUDIT,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL COMMISSIONS; COMMISSION ON AUDIT (COA); DEFERENCE IS GIVEN TO THE DECISIONS AND RESOLUTIONS OF THE COA AND THE COURT MAY ONLY INTERVENE TO CORRECT AN

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[17] *Sta. Clara Homeowners' Association v. Sps. Gaston*, 425 Phil. 221, 235 (2002).

[18] *Id*.