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[G.R. No. 248680. November 5, 2024]

MIGRANTE INTERNATIONAL, FELIZA B. BENITEZ, JENNIFER BORBE, MARIA LOVINA CASTRO, MICHELLE CUSTODIO, ERVIE FUENTES, FATIMA MAMPO, ELVIRA MONTERO, ROSARIO J. VALDESCO, VERNA VILLANCIO, NERI COLMENARES, CARLOS ISAGANI T. ZARATE, FERDINAND GAITE, EUFEMIA CULLAMAT, Bayan Muna Partylist Representatives; ARLENE D. BROSAS, Gabriela Women's Party Representative; FRANCISCA L. CASTRO, ACT-Teachers Partylist Representative; and SARAH JANE I. ELAGO, Kabataan Partylist Representative, *Petitioners, v.* **SOCIAL SECURITY SYSTEM, represented by CARLOS G. DOMINGUEZ III, in his capacity as Chairman, AURORA C. IGNACIO, SSS President and Vice-Chairman, DEPARTMENT OF FOREIGN AFFAIRS, represented by TEODORO LOCSIN, JR., in his capacity as Secretary, and DEPARTMENT OF LABOR AND EMPLOYMENT, represented by SILVESTRE H. BELLO III, in his capacity as Secretary, and PHILIPPINE OVERSEAS EMPLOYMENT ADMINISTRATION, represented by its Administrator BERNARD OLALIA,** *Respondents*.

D E C I S I O N

SINGH, *J.*:

Before the Court is a Petition for *Certiorari* and Prohibition[1] under Rule 65 of the Rules of Court filed by petitioners Migrante International, Feliza B. Benitez, Jennifer Borbe, Maria Lovina Castro, Michelle Custodio, Ervie Fuentes, Fatima Mampo, Elvira Montero, Rosario J. Valdesco, Verna Villancio,

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[1] *Rollo*, pp. 3–73.

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Neri Colmenares, Carlos Isagani T. Zarate, Ferdinand Gaite, Eufemia Cullamat, Bayan Muna Partylist Representatives; Arlene D. Brosas, Gabriela Women's Party Representative; Francisca L. Castro, ACT-Teachers Partylist Representative; and Sarah Jane I. Elago, Kabataan Partylist Representative (collectively Migrante International et al.). Migrante International et al. seek to nullify subsections (a), (c), and (e) of Section 9-B of Republic Act No. 11199[2] or the Social Security Act of 2018 and Rule 14, Sections 1, 5, 5.a, 5.b, 6, 7(iii), and 7(iv) of the Implementing Rules and Regulations (IRR) of Republic Act No. 11199,[3] for violating the equal protection clause of the Constitution, for being an unjust deprivation of property, and for violating the right to travel.[4] Migrante International et al. also seek to prohibit the respondents from enforcing the aforementioned provisions of Republic Act No. 11199 and its IRR.[5]

The Facts

On February 7, 2019, then President Rodrigo Duterte signed into law Republic Act No. 11199,[6] otherwise known as the Social Security Act of 2018. One of the significant amendments introduced by Republic Act No. 11199 is the compulsory coverage by the Social Security System (SSS) of all sea-based and land-based Overseas Filipino Workers (OFWs). For this purpose, land-based OFWs are treated in the same manner as self-employed persons. Pertinently, the assailed provisions of Republic Act No. 11199 are quoted as follows:

Section 9-B. *Compulsory Coverage of Overseas Filipino Workers (OFWs)* -

(a) Coverage in the SSS shall be compulsory upon all sea-based and land-based OFWs as defined under Republic Act No. 8042, otherwise

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2 (2018).

3 *Rollo*, p. 6.

4 *Id.* at 18–19.

5 *Id.* at 6.

6 (2019).

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known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022: *Provided*, That they are not over [60] years of age.

All benefit provisions under this Act shall apply to all covered OFWs. The benefits include, among others, retirement, death, disability, funeral, sickness[,] and maternity.

. . . .

(c) *Land-based OFWs are compulsory members of the SSS and considered in the same manner as self-employed persons* under such rules and regulations that the Commission shall prescribe.

. . . .

(e) *The Department of Foreign Affairs (DFA), the Department of Labor and Employment (DOLE) and, the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.* (Emphasis supplied)

In accordance with Section 30 of Republic Act No. 11199, the Social Security Commission (SSC) promulgated the IRR of Republic Act No. 11199, which was published in the Philippine Star on June 2, 2019. Rule 14 of the IRR pertains to the compulsory coverage of OFWs. The challenged provisions of Rule 14 are quoted as follows:

RULE 14
Coverage of Overseas Filipino Workers

SEC 1. COMPULSORY OFW COVERAGE. - Coverage in the SSS shall be compulsory upon all sea-based and land-based OFWs as defined under [Republic Act] No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995 as amended [by Republic Act No. 10022], provided they are not over [60] years of age. [Sec 9-B, (a), 1st par]

i. An OFW refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which [they are] not [citizen] or on-board a vessel navigating the foreign seas other than a government ship used for military or noncommercial purposes, or on an installation located offshore or on the high seas. A "person to be engaged in a remunerated activity" refers to an applicant worker who has been promised or assured employment overseas.

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ii. An OFW shall be allowed to register for initial coverage with the SSS up to the day of [their] 60th birthday.

. . . .

SEC 5. LAND-BASED OFWS. - Land-based OFWs are compulsory members of the SSS and are considered in the same manner as self-employed persons, until a Bilateral Labor Agreement (BLA) shall have been entered into, under the following provisions of the Social Security Act of 2018 and such other rules and regulations that the Commission shall prescribe: [Sec 9-B, (c)]

i. If the land-based OFW realizes no income in any given month, [they] shall not be required to pay contributions for that month; [Sec 11-A]

ii. The contributions of land-based OFWs shall be fixed and determined in accordance with the provisions of the Social Security Act of 2018; [Sec 19-A in relation to Sec 4 (a) (4)]

iii. The monthly earnings declared by a land-based OFW at the time of [their] registration with the SSS shall be the basis of [their] initial MSC and the corresponding amount of monthly contribution; [Sec 19-A, 1st proviso]

iv. A land-based OFW member shall pay both the employer and the employee contributions; and [Sec 19-A, 1st proviso)

v. The monthly earnings declared by a land-based OFW at the time of [their] registration shall remain the basis of [their] MSC unless [they make] another declaration of [their] monthly earnings, in which case such latest declaration becomes the new basis of [their] MSC. [Sec 19-A, 2nd paragraph]

SEC. 5.a. MSC FOR LAND-BASED OFWs. - The minimum MSC for land-based OFWs shall be [PHP 8,000.00] [SSC Resolution No. 90 dated [January 25,] 2017], provided that those who are receiving monthly earnings lower than [PHP] 8,000.00 shall pay the contribution based on the said minimum MSC. [Sec 4 (a) (9), 2nd proviso]

Changes in the MSC of a land-based OFW member shall be in accordance with the following policies: [SSC Resolution No. 728 dated [August 20,] 2014]

i. For the initial contribution payment, [they] shall be allowed to change [their] MSC to an MSC higher or lower than the one indicated at the time of registration, depending on actual

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deployment and realization of earnings abroad without having to present any proof thereof, provided that the new MSC is not lower than the prevailing minimum MSC for OFWs. Said contribution shall be deemed as the new declaration of earnings and shall be the basis in determining compliance with the allowable change in succeeding MSC.

ii. A land-based OFW member who is below [55] years old shall be allowed to change [their] MSC without limit in frequency and in number of salary brackets in a given calendar year, but in no case shall it be lower than the prevailing minimum MSC for OFWs. Submission of written request or declaration of earnings is not required.

iii. A land-based OFW member who is 55 years old and above shall be allowed to increase [their] MSC only once in a given calendar year and by one [] salary bracket only from the last posted MSC, regardless of whether proof of earnings is presented or not, except for the following cases whereby certain rules shall apply accordingly:

a) In case of a change in [their] membership type from employed/self-employed/voluntary to OFW-member for the first time, [they] shall be allowed to increase [their] MSC without limit and without having to present proof of earnings; and

b) In case of a higher maximum MSC under a new applicable schedule of contributions, [they] shall be allowed to increase [their] MSC up to the new maximum MSC, without having to present proof of earnings, provided that [their] last posted MSC corresponds to the maximum MSC under the immediately preceding schedule of contributions.

The corresponding MSC of the first contribution in the above cases shall be the basis in determining compliance with the allowable change in succeeding MSC. No limit shall be imposed in case of decrease in MSC, but in no case shall it be lower than the prevailing minimum MSC for OFWs.

iv. An OFW-member may opt to pay [their] monthly contributions in advance regardless of the number of months or years. However, [they] may be required to settle underpayment/s in the future resulting from any policy change affecting the applicable schedule of contributions for the advance payments made.

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SEC 5.b. DEADLINE FOR PAYMENT OF LAND-BASED OFWs. - The deadline for payment of contributions of land-based OFW members shall be as follows: [SSC Resolution No. 728 dated [August 20,] 2014]

i. Contributions for the months of January to September of a given calendar year may be paid up to December 31 of the same year; and

ii. Contributions for the months of October to December of a given calendar year may be paid up to January 31 of the succeeding year. No contribution paid retroactively by a land-based OFW-member based on the above deadline shall be used in determining [their] eligibility to any benefit arising from a contingency wherein the date of payment is within or after the semester of contingency.

SEC 6. MANDATE OF DFA AND DOLE. – The DFA, the DOLE and all its agencies involved in deploying OFWs for employment abroad are mandated to negotiate BLAs with the OFWs' host countries to ensure that the employers of land-based OFWs, similar to the principals of sea-based OFWs, pay the required contributions, in which case these land-based OFWs shall no longer be considered in the same manner as self-employed persons under the Social Security Act of 2018. Instead, they shall be considered as compulsorily covered employees with employer and employee shares in contributions that shall be provided for in the BLAs and their implementing administrative agreements, [Sec 9-B, (d)] provided that in countries which already extend social security coverage to OFWs, the DFA through the Philippine Embassies and the DOLE shall negotiate further agreements to serve the best interests of the OFWs. [Sec 9-B, (d), proviso]

SEC 7. BILATERAL SOCIAL SECURITY AND LABOR AGREEMENTS AND OTHER MEASURES FOR ENFORCEMENT. - The DFA, the DOLE and the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement. [Sec 9-B, (e)]

. . . .

iii. For land-based OFWs in countries without any SSA or BLA with the Republic of the Philippines, the measures for enforcement of compulsory coverage shall include, among others, the collection of contribution payments by the Philippine Overseas Employment Administration (POEA) and/or the concerned attached DOLE agencies, through its

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applicable documentation and deployment processes such as the issuance of Overseas Employment Certificate (OEC), as follows:

a) For new hires, direct/name hires and government-to-government hires - one [] monthly contribution; and

b) For re-hires/returning workers/Balik-Manggagawa - three [] monthly contributions.

iv. The DFA, the DOLE and the SSS shall enter into an agreement on the implementation of their joint mandate to ensure the compulsory coverage of OFWs, covering the following undertakings, among others:

a) Creation of a Joint Committee to craft the enabling issuances/ instruments;
b) Establishment of data linkages and compliance monitoring schemes;
c) Arrangements on OFW member servicing and benefit disbursements, including the required documentation for unemployment benefit claims;
d) Rationalization of SSS representation in Foreign Service Posts; and
e) Conduct of information campaigns.

Migrante International et al. filed this Petition before the Court against the SSS, the Department of Foreign Affairs (DFA), the Department of Labor and Employment (DOLE), and the Philippine Overseas Employment Administration (POEA) (collectively DFA et al.), to seek the nullification of subsections (a), (c), and (e) of Section 9-B of Republic Act No. 11199 and Rule 14, Sections 1, 5, 5-A, 5-B, 6, 7 (iii), and 7 (iv) of its IRR, for being unconstitutional. Migrante International et al. also pray to prohibit the respondents from enforcing the assailed provisions of Republic Act No. 11199 and its IRR.

The Arguments of Migrante International et al.

Procedural Aspects

Migrante International et al. assert that they have met the requisites for judicial review.[7] According to Migrante International et al., there exists an actual case or controversy in

[7] *Id.* at 350.

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this case, given the evident clash of the parties' respective legal claims.[8] Furthermore, Republic Act No. 11199 has already been signed by the President and the IRR has been published in a newspaper of general circulation. Thus, the threat of injury is not merely speculative or hypothetical, but, rather, real and apparent.[9]

Migrante International et al. also maintain that they all have legal standing to file the Petition as citizens, considering that the issues raised are of transcendental importance.[10] Petitioner Migrante International (Migrante) asserts its legal standing as an association of Filipino migrants that has chapters in 24 countries.[11] Petitioners Feliza B. Benitez, Jennifer Borbe, Maria Lovina Castro, Michelle Custodio, Ervie Fuentes, Fatima Mampo, Elvira Montero, Rosario J. Valdesco, and Verna Villancio, all land-based OFWs, (collectively petitioners land-based OFWs) argue that they have sufficiently shown their standing to file the Petition, as they are in immediate danger of sustaining some direct injury because of the enforcement of the assailed law and IRR.[12] Migrante International et al., who are legislators, assert legal standing based on the alleged infringement of their legislative prerogatives.[13]

Additionally, Migrante International et al. argue that the remedies of *certiorari* and prohibition are proper since the Petition raises constitutional issues.[14] Further, Migrante International et al. claim that the direct recourse to the Court is justified, emphasizing transcendental issues involving pure questions of law raised in the Petition.[15]

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[8] *Id.* at 351.

[9] *Id.*

[10] *Id.* at 11.

[11] *Id.*

[12] *Id.* at 354.

[13] *Id.* at 355.

[14] *Id.* at 356.

[15] *Id.*

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Finally, the respondents DFA, DOLE, and POEA were properly impleaded since the Petition is also one for prohibition and they are the government agencies mandated to implement the law.[16]

Substantive Aspects

Migrante International et al. argue that Section 9-B, subsections (a), (c), and (e) of Republic Act No. 11199 are unconstitutional for violating the equal protection clause.[17] They contend that land-based OFWs are not similarly situated as local employees on account of the nature of their employment.[18] Unlike local employees whose employers contribute to SSS, there is no similar favorable provision for land-based OFWs.[19] Since their employers are outside Philippine jurisdiction, the land-based OFWs must pay both employee and employer shares. While the assailed law envisions bilateral agreements with the host countries of the OFWs to change this, Migrante International et al. highlight that this remains uncertain. Meanwhile, land-based OFWs bear the burden.[20]

Additionally, Migrante International et al. argue that treating land-based OFWs as self-employed persons lacks reasonable justification.[21] Furthermore, they question the distinction between land-based and sea-based OFWs regarding employer contributions. Sea-based OFWs have manning agencies paying for them, while land-based OFWs—even those with agents—must cover the entire SSS premium until bilateral agreements are secured.[22]

Moreover, Migrante International et al. challenge the compulsory contribution mechanism under Rule 14, Section

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[16] *Id.* at 357.

[17] *Id.* at 358.

[18] *Id.* at 359.

[19] *Id.* at 360.

[20] *Id.* at 361.

[21] *Id.* at 362.

[22] *Id.* at 28.

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7(iii) of the IRR. Under this provision, land-based OFWs must pay contributions as self-employed before leaving the country as a requirement for receiving their overseas employment certificate (OEC).[23] Migrante International et al. claim that this imposition deprives them of property without due process and restricts their right to work.[24] Additionally, it is *ultra vires* on the part of the SSS to enforce compulsory coverage of land-based OFWs through the issuance of OECs.[25] Migrante International et al. claim that enforcing SSS coverage *via* OEC issuance is patently oppressive and discriminatory.[26]

Finally, Migrante International et al. assert that the issuance of OEC to ensure collection of SSS contributions violates the constitutional right to travel.[27]

The Arguments of DFA et al.

Procedural Aspects

On the other hand, DFA et al. posit that the Petition does not satisfy all the requirements for the exercise of judicial review.[28]

Regarding legal standing, DFA et al. contend that Migrante International et al. have not effectively demonstrated direct and personal injury resulting from the implementation of the assailed provisions of Republic Act No. 11199 and its IRR.[29] Specifically, the petitioners land-based OFWs lack legal standing because they have not proven current deployment or employment. Regarding petitioner Migrante, the respondent SSS points out that it did not submit any proof to establish its authority to represent its members.[30] Furthermore, the respondents DFA, POEA, and

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[23] *Id.* at 365.

[24] *Id.* at 366.

[25] *Id.*

[26] *Id.* at 367.

[27] *Id.* at 369.

[28] *Id.* at 393; 443.

[29] *Id.* at 395.

[30] *Id.* at 397.

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DOLE argue that Migrante has also failed to demonstrate how its existence or its purpose as an association will suffer or be injured as a result of the enactment of the assailed provisions of Republic Act No. 11199 and its IRR.[31] The respondents SSS, DFA, and DOLE also contend that the argument of Migrante International et al., who are legislators, that the assailed provisions of the IRR infringe on their legislative prerogatives, lacks legal basis.[32] DFA et al. also dispute Migrante International et al.'s claim that the issues raised in the Petition are of transcendental importance.[33]

DFA et al. argue that the Petition does not pose an actual and justiciable controversy.[34] The respondent SSS emphasized that Migrante International et al. failed to show that there is an actual injury committed against OFWs because of the enactment of the assailed provisions of Republic Act No. 11199 and its IRR.[35] Further, respondents DFA, DOLE, and POEA stressed that Republic Act No. 11199 and its IRR would have no real effect on the OFWs unless the instrumentalities of the government with jurisdiction over OFW deployment — particularly the DOLE and the POEA—promulgate rules and regulations or perform acts in furtherance of the provisions.[36] The Petition failed to show an instance where the POEA denied the issuance of an OEC to an OFW for failure to pay SSS contributions.[37]

Moreover, the respondents DFA, DOLE, and POEA argue that a petition for *certiorari* and prohibition is not a remedy available to Migrante International et al. to question the wisdom of a declared state policy requiring compulsory coverage in the SSS.[38] The manner in which OFWs are to be covered by the SSS

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31 *Id.* at 447.

32 *Id.* at 449.

33 *Id.* at 398; 449.

34 *Id.* at 400; 443.

35 *Id.* at 403.

36 *Id.* at 445.

37 *Id.*

38 *Id.* at 452.

is a prerogative exclusively vested in the legislature.[39] This policy matter was determined by the Congress during the enactment of Republic Act No. 11199. Although the choice made by the Congress may be perceived as erroneous, the appropriate remedy is to seek the amendment or repeal of the statute through legislative channels.[40]

Similarly, DFA et al. claim that Migrante International et al. erred by directly filing the Petition before the Court without exhausting other available remedies.[41] They could have filed an ordinary action before the Regional Trial Court (RTC) or filed a petition for declaratory relief.[42] Furthermore, they failed to adhere to the doctrine of hierarchy of courts, bypassing lower courts without compelling reasons.[43]

Additionally, the respondents DFA, DOLE, and POEA argue that Migrante International et al. erred in impleading them as respondents.[44] The Petition failed to specify acts committed by the DFA, DOLE and POEA amounting to grave abuse of discretion. These government agencies did not promulgate rules or regulations or perform acts related to the assailed provisions of Republic Act No. 11199 and its IRR.[45] Respondents DFA, DOLE, and POEA point out that notably absent from the Petition are the House of Representatives and the Senate, despite their role in enacting the law—a procedural oversight given their status as indispensable parties.[46]

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39 *Id.* at 454.

40 *Id.*

41 *Id.*

42 *Id.* at 455.

43 *Id.* at 404; 457.

44 *Id.* at 463.

45 *Id.*

46 *Id.* at 463–464.

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Substantive Aspects

The respondent SSS emphasized that Republic Act No. 11199 and its IRR are presumed constitutional, unless proven otherwise.[47]

DFA et al. dispute Migrante International et al.'s claim that there is a violation of the equal protection clause.[48] Land-based OFWs, like other employees, must be afforded social protection; thus, the requirement for compulsory coverage.[49] However, considering the jurisdictional impediment regarding the foreign employers of land-based OFWs, there is necessarily a different treatment as to the payment of their contribution.[50] Like self-employed persons, no employer may be compelled to pay the employer's share for the land-based OFWs. Thus, according to the respondents, land-based OFWs and self-employed persons are similarly situated.[51]

Additionally, the respondents DFA, DOLE, and POEA point out that the difference in the treatment of land-based and sea-based OFWs rests on a substantial distinction that is germane to the purpose of the law.[52] Sea-based OFWs' principal employers are bound by standard contracts and international conventions, making them liable for SSS contributions.[53] Manning agencies, acting as employers for sea-based OFWs, share this liability.[54] However, no similar legal or contractual provision requires foreign employers of land-based OFWs to contribute to the SSS.[55]

Furthermore, respondents DFA, DOLE, and POEA added that the compulsory collection of SSS contributions from land-

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47 *Id.* at 407.

48 *Id.* at 407; 465.

49 *Id.* at 408.

50 *Id.* at 467–468.

51 *Id.* at 409, 469.

52 *Id.* at 471.

53 *Id.* at 471–472.

54 *Id.* at 410; 472.

55 *Id.* at 472.

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based OFWs does not constitute deprivation of property.[56] This imposition is reasonably necessary to enforce the constitutional mandate of promoting social justice under Republic Act No. 11199, as well as in the exercise of the police power of the State.[57] It ensures the existence of SSS benefits that covered OFWs will enjoy during times of need. SSS contributions are not a burden, but serve as preparation and protection against possible unforeseen circumstances.[58] As to the use of the OEC to ensure collection of the SSS contributions, respondent SSS argue that this is a legal compulsion in the exercise of the police power of the State.[59]

Finally, Migrante International et al. argue that the requirements for issuance of OEC, which include payment of SSS premiums, does not violate the right to travel.[60] Respondent SSS points out that these requirements do not curtail the right to travel considering the highly regulatory nature of overseas employment.[61] In this regard, respondents DFA, DOLE, and POEA added that the State can validly impose various procedures and requirements before an OFW can be deployed for work abroad.[62]

The Issues

This Court resolves the following issues:

The Procedural Issues

I. Whether a petition for *certiorari* and prohibition is the correct remedy in assailing the provisions of Republic Act No. 11199 and its IRR.

II. Whether the direct resort to the Court is justified.

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[56] *Id.* at 474.

[57] *Id.* at 475.

[58] *Id.* at 478.

[59] *Id.* at 418.

[60] *Id.* at 420; 479.

[61] *Id.* at 420.

[62] *Id.* at 484.

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III. Whether the Petition satisfy all the requisites for judicial review.

The Substantive Issues

I. Whether subsections (a), (c) and (e) of Section 9-B of Republic Act No. 11199 and Sections 1, 5, 5-A, 5-B, 6, 7 (iii) and (iv) of the IRR, violate the equal protection clause of the Constitution.

II. Whether the compulsory collection of contribution mechanism under Rule 14, Section 7(iii) of the IRR a valid exercise of the State's police power.

III. Whether Rule 14, Section 7(iii) of the IRR violate the right to travel.

The Ruling of the Court

The Procedural Issues

Propriety of a Petition for Review on Certiorari and Prohibition

Migrante International et al. seek to declare as unconstitutional certain provisions of Republic Act No. 11199 and its IRR. For this purpose, they availed of the remedy of *certiorari* and prohibition under Rule 65 of the Rules of Court. On the other hand, DFA et al. argue that a petition for *certiorari* and prohibition is not a remedy available to question the wisdom of a declared State policy requiring the compulsory coverage of OFWs in the SSS.

Under Article VIII, Section 1 of the Constitution, judicial power includes the duty of the courts of justice not only "to settle actual controversies involving rights which are legally demandable and enforceable," but also "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." The Court's expanded power of judicial review provides:

> Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law. Judicial power includes the duty of the courts of justice to settle actual controversies

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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.

In *Francisco v. The House of Representatives*,[63] the Court recognized that this expanded jurisdiction was meant "to ensure the potency of the power of judicial review to curb grave abuse of discretion by 'any branch or instrumentality of government.'"[64]

As early as in *Tañada v. Angara*,[65] the Court has held that *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review, prohibit, or nullify, when proper, acts of legislative and executive officials.

This principle has been consistently invoked by the Court in cases where the Court's expanded judicial power was invoked to question the constitutionality of legislative and executive acts.

In *Magallona v. Ermita*,[66] the Court allowed the resort to *certiorari* and prohibition to assail the constitutionality of Republic Act No. 9522, which adjusted the country's archipelagic baselines and classified the baseline regime of nearby territories.

In *Belgica, et al. v. Hon. Exec. Sec. Ochoa, Jr., et al.*,[67] the Court affirmed that the special civil actions of *certiorari* and prohibition are proper remedial vehicles to test the constitutionality of the Pork Barrel System.

In *Araullo v. Aquino*,[68] the Court clarified that the remedies of *certiorari* and prohibition are broader in scope and reach, and affirmed that these are appropriate remedies to assail the constitutionality of the Disbursement Acceleration Program

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63 460 Phil. 830 (2003) [Per J. Carpio Morales, *En Banc*].

64 *Id.* at 883.

65 338 Phil. 546, 575 (1997) [Per J. Panganiban, First Division].

66 671 Phil. 243 (2011) [Per J. Carpio, *En Banc*].

67 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, *En Banc*].

68 752 Phil. 716 (2015) [Per J. Bersamin, *En Banc*].

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(DAP) of the executive and all other issuances implementing the DAP.

In *Samahan ng mga Progresibong Kabataan v. Quezon City*,[69] the Court held as proper the remedies of the writs of *certiorari* and prohibition to assail the constitutionality of curfew ordinances.

In *Private Hospitals Association of the Philippines, Inc. v. Medialdea*,[70] the Court ruled that the remedies of *certiorari* and prohibition under Rule 65 of the Rules of Court were correctly availed of to assail the constitutionality of Republic Act No. 10932 and enjoin its enforcement, notwithstanding that these governmental actions do not involve the exercise of judicial, quasi-judicial or ministerial functions.

In *ACT Teachers Rep. Antonio Tinio v. Duterte*,[71] the Court took cognizance of a petition for *certiorari* and prohibition to question the constitutionality of Republic Act No. 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN) Act.

In the recent case of *Bayyo Association, Inc. v. Tugade*,[72] the Court reiterated that a petition for *certiorari* and prohibition is a proper remedy in assailing the constitutionality of paragraph 5.2 of Department Order No. 2017-011 issued by the Department of Transportation.

Following this trend in jurisprudence and considering that the present Petition assails the constitutionality of Republic Act No. 11199 and its IRR, Migrante International et al. correctly availed of the special civil action of *certiorari* and prohibition.

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[69] 815 Phil. 1067 (2017) [Per J. Perlas-Bernabe, *En Banc*].

[70] 842 Phil. 747 (2018) [Per J. Tijam, *En Banc*].

[71] G.R. Nos. 236118 and 236925, January 24, 2023 [Per J. Dimaampao, *En Banc*] at 12. This pinpoint citation refers to the Copy of the Decision uploaded to the Supreme Court website.

[72] G.R. No. 254001, July 11, 2023 [Per J. Singh, *En Banc*] at 9. This pinpoint citation refers to the Copy of the Decision uploaded to the Supreme Court website.

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Direct resort to the Court is justified

DFA et al. claim that Migrante International et al. violated the doctrine of hierarchy of courts when it directly filed the Petition before the Court.[73] Migrante International et al. counter that the direct recourse to the Court is justified considering that the Petition raises transcendental issues involving questions of law.[74]

The doctrine of hierarchy of courts dictates that, as a rule, petitions for the issuance of extraordinary writs should first be made with the lower-ranked court exercising concurrent jurisdiction with a higher court.[75]

Nonetheless, the Court has recognized several exceptions to the rule on hierarchy of courts. In *The Diocese of Bacolod v. COMELEC*,[76] the Court enumerated instances where direct resort to the Court is allowed:

1. when there are genuine issues of constitutionality that must be addressed at the most immediate time;
2. when the issues involved are of transcendental importance;
3. in cases of first impression;
4. the constitutional issues raised are better decided by the Supreme Court;
5. the time element or exigency in certain situations;
6. the filed petition reviews an act of a constitutional organ;
7. when there is no other plain, speedy, and adequate remedy in the ordinary course of law;
8. the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.[77]

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[73] *Rollo*, p. 404.

[74] *Id.* at 357.

[75] *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, 842 Phil. 747, 779–780 (2018) [Per J. Tijam, *En Banc*].

[76] 751 Phil. 301 (2015) [Per J. Leonen, *En Banc*].

[77] *Id.* at 331–335.

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To justify a direct resort to this Court, the parties must clearly and specifically allege in their petitions the special and important reasons therefor. More importantly, the Court emphasized in *GIOS-SAMAR, Inc. v. Department of Transportation and Communications*,[78] that to invoke this Court's original jurisdiction, only questions of law must be involved. This Court is not a trier of facts; it is not equipped to receive and evaluate evidence in the first instance.

The Court notes that this is not the first time that a petition assailing the constitutionality of Section 9-B of Republic Act No. 11199 was filed before this Court. In *Joint Ship Manning Group, Inc. v. Social Security System*,[79] the Court took cognizance of a petition for *certiorari* and prohibition filed by manning agencies seeking to annul and declare as unconstitutional Section 9-B of Republic Act No. 11199 for an alleged violation of their constitutionally guaranteed rights to due process and equal protection. The Court justified the direct resort to the Court because of the existence of two of the exceptions, particularly: (1) that this case is of first impression; and (2) that the present issue involves public welfare and the advancement of public policy or demanded by the broader interest of justice. The Court explained that the assailed law pertains to the welfare of OFWs, who are considered modern-day Filipino heroes, and the grant of social protection in their favor. Additionally, the Court observed that, for the first time, the social security membership and contributions, particularly of our seafarers, are mandated by law. Consequently, the Court deemed it necessary to discuss the substantive aspect of the issues involved in that case.

In this case, the law assailed is likewise Republic Act No. 11199. Unlike *Joint Ship Manning*, however, the assailed provisions in this case pertain to land-based OFWs. Nevertheless, the Court also finds it imperative to ensure that the mandatory social security coverage of land-based OFWs adheres to constitutional

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[78] 849 Phil. 120 (2019) [Per J. Jardeleza, *En Banc*].

[79] 876 Phil. 596, 615–616 (2020) [Per J. Gesmundo, *En Banc*].

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parameters. Further, the question of whether the assailed provisions of Republic Act No. 11199 and its IRR violate the Constitution not only presents a genuine issue of constitutionality, but also involves a question of law. Thus, the direct resort to the Court is justified.

Requisites for Judicial Review

Notwithstanding the propriety of the legal vehicle employed, the requirements for the exercise of the Court's judicial review, even under its expanded jurisdiction, must nevertheless be satisfied, namely:

> (1) an actual case or controversy calling for the exercise of judicial power;
>
> (2) the person challenging the act must have 'standing' to challenge; he or she must have a personal and substantial interest in the case such that he or she has sustained, or will sustain, direct injury as a result of this enforcement;
>
> (3) the question on constitutionality must be raised at the earliest possible opportunity; and
>
> (4) the issue of constitutionality must be the very *lis mota* of the case.

Actual Case or Controversy

Of utmost importance among the requirements for justiciability is the existence of an actual case or controversy. In *Kilusang Mayo Uno, et al. v. Aquino III*,[80] the Court discussed the concept of actual case or controversy:

> There is an actual case or controversy if there is a "conflict of legal right, an opposite legal claims susceptible of judicial resolution." A petitioner bringing a case before this Court must establish that there is a legally demandable and enforceable right under the Constitution. There must be a real and substantial controversy, with definite and concrete issues involving the legal relations of the parties, and admitting of specific relief that courts can grant.[81]

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[80] 850 Phil. 1168 (2019) [Per J. Leonen, *En Banc*].

[81] *Id.* at 1188.

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In *Information Technology Foundation of the Philippines v. COMELEC*,[82] the Court elaborated on the requirement of actual case and controversy:

> In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other; that is, it must concern a real and not merely a theoretical question or issue. There ought to be an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.[83]

There is also an actual case or controversy when there is a clear and convincing showing of contrariety of legal rights. In *Atty. Calleja v. Executive Secretary Medialdea*,[84] the Court explained what contrariety of legal rights is:

> *An actual case or controversy exists when there is a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. The issues presented must be definite and concrete, touching on the legal relations of parties having adverse interests. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence.* Corollary thereto, the case must not be moot or academic, or based on extra-legal or other similar considerations not cognizable by a court of justice. All these are in line with the well-settled rule that this Court does not issue advisory opinions, nor does it resolve mere academic questions, abstract quandaries, hypothetical or feigned problems, or mental exercises, no matter how challenging or interesting they may be. Instead, case law requires that there is ample showing of *prima facie* grave abuse of discretion in the assailed governmental act in the context of actual, not merely theoretical, facts.[85] (Emphasis supplied, citations omitted)

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[82] 499 Phil. 281 (2005) [Per C.J. Panganiban, *En Banc*].

[83] *Id.* at 305.

[84] 918-B Phil. 1 (2021) [Per J. Carandang, *En Banc*].

[85] *Id.* at 55–56.

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In *Executive Secretary v. Filipinas Shell Petroleum Corp.*,[86] the Court reiterated this pronouncement and further clarified how contrariety of rights may be established:

> Thus, in asserting a contrariety of legal rights, merely alleging an incongruence of rights between the parties is not enough. *The party availing of the remedy must demonstrate that the law is so contrary to their rights that there is no interpretation other than that there is a factual breach of rights. No demonstrable contrariety of legal rights exists when there are possible ways to interpret the provision of a statute, regulation, or ordinance that will save its constitutionality.* In other words, the party must show that the only possible way to interpret the provision is one that is unconstitutional. Moreover, the party must show that the case cannot be legally settled until the constitutional issue is resolved, that is, that it is the very *lis mota* of the case, and therefore, ripe for adjudication.[87] (Emphasis supplied, citation omitted)

In *Belgica v. Ochoa*,[88] the Court found the existence of an actual and justiciable controversy because the parties' opposing legal claims regarding the constitutionality of the pork barrel system, satisfied the requirement of contrariety of legal rights.[89]

In *Universal Robina Corporation v. Department of Trade and Industry*,[90] the Court found a clear and convincing presence of contrariety of legal rights between respondent Department of Trade and Industry, which maintained its authority when profiteering occurred, and the petitioner, which maintained that the provision on profiteering is void for vagueness.

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[86] G.R. No. 209216, February 21, 2023 [Per S.A.J. Leonen, *En Banc*].

[87] *Id.* at 21–22. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[88] 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, *En Banc*].

[89] *Id.* at 520.

[90] G.R. No. 203353, February 14, 2023 [Per J. Leonen, *En Banc*] at 13. This pinpoint citation refers to the Copy of the Decision uploaded to the Supreme Court website.

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In *Octaviano v. Board of Architecture of the Professional Regulation Commission*,[91] the Court found that the requirement of contrariety of legal rights is satisfied considering the parties' adverse and antagonistic positions on the constitutionality and validity of the assailed resolutions.

Closely related to the requisite of actual case or controversy is that the question must be ripe for adjudication. A question is considered ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it.[92] In *Atty. Lozano v. Speaker Nograles*,[93] the Court declared that whether a case is ripe for adjudication is determined by an evaluation of two aspects: "first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration."[94]

Applying these precepts, the Court finds that there exists an actual and justiciable controversy in this case considering the evident clash of the parties' legal claims, particularly on whether the assailed provisions of Republic Act No. 11199 and its IRR violate the land-based OFW's constitutional rights. Further, the Court notes that Republic Act No. 11199 has been in force for the last five years. The contested provisions, should they be deemed unconstitutional, have already affected land-based OFWs.

Locus standi

In the case of *Anak Mindanao Party List Group v. Exec. Sec. Ermita*,[95] the Court discussed the concept of "locus standi" or legal standing:

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[91] G.R. No. 239350, August 22, 2023 [Per J. Leonen, *En Banc*] at 12. This pinpoint citation refers to the Copy of the Decision uploaded to the Supreme Court website.

[92] *Integrated Bar of the Philippines v. Zamora*, 392 Phil. 618, 632–633 (2000) [Per J. Kapunan, *En Banc*].

[93] 607 Phil. 334 (2009) [Per C.J. Puno, *En Banc*].

[94] *Id.* at 341.

[95] 558 Phil. 338 (2007) [Per J. Carpio Morales, *En Banc*].

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Locus standi or legal standing has been defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question on standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.[96]

It has been held that a party who assails the constitutionality of a statute must have a direct and personal interest. It must show not only that the law or any governmental act is invalid, but also that it sustained or is in immediate danger of sustaining some direct injury as a result of its enforcement, and not merely that it suffers thereby in some indefinite way. It must show that it has been or is about to be denied some right or privilege to which it is lawfully entitled or that it is about to be subjected to some burdens or penalties by reason of the statute or act complained of.[97]

For a concerned party to be allowed to raise a constitutional question, it must show that: (1) it has personally suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable action.[98]

The legal standing doctrine, however, admits of exceptions. This Court has taken cognizance of petitions filed by those lacking personal or substantial interest in the challenged governmental act, yet whose petitions raise "constitutional issue[s] of critical significance."[99] In *Funa v. Villar*,[100] the Court summarized the requirements for granting legal standing to "non traditional suitors:"[101]

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[96] *Id.* at 350.

[97] *Id.* at 351.

[98] *Id.*

[99] *Funa v. Villar*, 686 Phil. 571, 585 (2012) [Per J. Velasco, Jr., *En Banc*].

[100] 686 Phil. 571 (2012) [Per J. Velasco, Jr., *En Banc*].

[101] *Id.* at 585–586.

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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.[102]

Nonetheless, the Court emphasized in *Falcis v. Civil Registrar General*,[103] that even for exceptional suers, the party must claim some kind of injury-in-fact:

> For concerned citizens, it is an allegation that the continuing enforcement of a law or any government act has denied the party some right or privilege to which they are entitled, or that the party will be subjected to some burden or penalty because of the law or act being complained of. For taxpayers, they must show "sufficient interest in preventing the illegal expenditure of money raised by taxation[.]" Legislators, meanwhile, must show that some government act infringes on the prerogatives of their office. Third-party suits must likewise be brought by litigants who have "sufficiently concrete interest" in the outcome of the dispute.[104]

In this case, petitioner Migrante asserts its legal standing as an association of Filipino migrants that has chapters in 24 countries.

The Court has previously allowed associations to sue on behalf of their members.

In *The Executive Secretary v. The Hon. Court of Appeals*,[105] the Asian Recruitment Council Philippine Chapter, Inc. filed a petition for declaratory relief before the Court seeking to declare certain provisions of Republic Act No. 8042[106] or the Migrant

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[102] *Id.*

[103] 861 Phil. 388 (2019) [Per J. Leonen, *En Banc*].

[104] *Id.* at 533.

[105] 473 Phil. 27 (2004) [Per J. Callejo, Sr., Second Division].

[106] (1995).

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Workers and Overseas Filipinos Act of 1995 unconstitutional. The association sued on behalf of its members who were recruitment agencies. The Court took cognizance of the association's petition and said that an association "is but the medium through which its individual members seek to make more effective the expression of their voices and the redress of their grievances."[107] The Court found that the board resolutions of the individual members of the Asian Recruitment Council Philippine Chapter, Inc. attached to the petition, were enough proof that the individual members authorized the association to sue on their behalf.

In *Pharmaceutical and Health Care Association of the Philippines v. Duque III*,[108] the Court allowed the Pharmaceutical and Health Care Association of the Philippines to sue on behalf of its members to question the constitutionality of the rules implementing the Milk Code. The Court considered the amended articles of incorporation of the association and found that it was formed "to represent directly or through approved representatives the pharmaceutical and health care industry before the Philippine Government and any of its agencies, the medical professions and the general public.[109] Citing the case of *Executive Secretary v. Court of Appeals*,[110] the Court declared that "the modern view is that an association has standing to complain of injuries to its members."[111]

In *Holy Spirit Homeowners Association, Inc. v. Defensor*,[112] the Holy Spirit Homeowners Association, Inc. filed a petition for prohibition, praying that this Court enjoin the National Government Center Administration Committee from enforcing the rules implementing RA No. 9207. The Court declared that the Holy Spirit Homeowners Association, Inc. "ha[d] the legal

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[107] 473 Phil. 27, 51 (2004) [Per J. Callejo, Sr., Second Division].

[108] 561 Phil. 386 (2007) [Per J. Austria-Martinez, *En Banc*].

[109] *Id.* at 396.

[110] 473 Phil. 27 (2004) [Per J. Callejo, Sr., Second Division].

[111] *Id.* at 50.

[112] 529 Phil. 573 (2006) [Per J. Tinga, *En Banc*].

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standing to institute the [petition for prohibition] whether or not it is the duly recognized association of homeowners in the [National Government Center]."[113] The Court noted that the individual members of the association were residents of the National Government Center. Therefore, "they are covered and stand to be either benefited or injured by the enforcement of the [implementing rules], particularly as regards the selection process of beneficiaries and lot allocation to qualified beneficiaries."[114]

Notably, in these cases, the Court found that the associations established who their members were, their authority to sue on behalf of their members, and that the members would be directly injured by the challenged governmental acts.

On the contrary, in *Provincial Bus Operators Association of the Phils. v. DOLE*,[115] the Court found that the Provincial Bus Operators Association of the Philippines failed to establish who their members were and if these members allowed them to sue on their behalf. The Court noted that the association did not present any proof, such as board resolutions of their alleged members or their own articles of incorporation, authorizing them to act as their members' representatives in suits involving their members' individual rights.[116]

Similarly, in *Bayyo*, the Court dismissed a petition for *certiorari* and prohibition filed before the Court to seek the nullification of paragraph 5.2 of Department Order No. 2017-011 issued by the Department of Transportation, due to the petitioners' lack of legal standing. The Court noted that Bayyo Association Inc. merely submitted its SEC Certificate of Registration. The Court found this insufficient to establish that it is a legitimate association of PUJ operators and drivers. Further, Bayyo Association Inc. also failed to establish who its members were and whether it has been duly authorized by said members to institute the case.

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[113] *Id.* at 584.

[114] *Id.*

[115] 836 Phil. 205 (2018) [Per J. Leonen, *En Banc*].

[116] *Id.* at 257.

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In this case, Migrante submitted its Certificate of Incorporation, Articles of Incorporation, and By-Laws. However, an examination of these documents would show that these do not establish who the members of Migrante are. Further, Migrante failed to submit any proof of its authority to institute the case on behalf of the migrant workers it purportedly represents. Thus, Migrante has no standing to sue as an association on behalf of its members.

As to the petitioners who are land-based OFWs, respondent SSS correctly observed that they failed to clearly state if they are currently deployed or employed as OFWs since the OECs they submitted were processed years before the assailed law took effect.[117] Further, the Court agrees with the respondents that they failed to establish that they sustained any injury or are in imminent danger of sustaining some direct injury as a result of the promulgation of the assailed provisions of Republic Act No. 11199 and its IRR. Hence, the petitioners land-based OFWs have not established their legal standing either.

Regarding petitioners who are legislators, they claim that they have established their legal standing. According to them, the assailed provisions of the IRR are *ultra vires* and infringe on their legislative prerogatives.

The Court agrees.

When the implementing rules and regulations issued by the Executive contradict or add to what Congress has provided by legislation, the issuance of these rules amounts to an undue exercise of legislative power and an encroachment of Congress' prerogatives.[118] Consequently, the allegation in the Petition that the assailed provisions of the IRR directly contravenes the provisions of Republic Act No. 11199 grants a member of Congress legal standing to challenge the issuance to prevent undue encroachment of legislative power by the executive.[119]

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[117] *Rollo*, p. 395.

[118] *Purisima v. Lazatin*, 801 Phil. 395, 413 (2016) [Per J. Brion, *En Banc*].

[119] *Rollo*, p. 366.

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Nonetheless, in this case, all the petitioners invoke one of the exceptions to the rule on legal standing: they are filing this Petition as concerned citizens, raising issues of transcendental importance.[120]

To be clear, the mere invocation of the alleged transcendental importance of the issues raised is not enough to automatically clothe the petitioners with legal standing.

As previously discussed, there exists an actual case or controversy before the Court. To reiterate the Court's ruling in *Joint Ship Manning Group, Inc., et al. v. Social Security System, et al.*,[121] Republic Act No. 11199 concerns the grant of social protection in favor of OFWs. This law, which has been effective since 2019, mandates the social security membership and contributions of OFWs for the first time. By addressing the issues related to compulsory coverage in the SSS of land-based OFWs, the Court can ensure that this social security protection operates in their favor. Hailed as modern-day heroes for their significant contributions to the Philippine economy, resolving the constitutional issues at hand would also serve as a recognition of their service and sacrifices.

Earliest Possible Opportunity

Regarding the third requirement that the question on constitutionality must be raised at the earliest possible opportunity, the Court held in *Arceta v. Mangrobang*[122] that it does not necessitate an immediate elevation of the matter to the Court. Earliest opportunity means that the question of unconstitutionality of the act in question should have been immediately raised in the proceedings in the court below. Considering that the present constitutional challenge against Republic Act No. 11199 and its IRR was directly filed with this Court, the third requirement of

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[120] *Id.* at 11.

[121] 876 Phil. 596 (2020) [Per J. Gesmundo, *En Banc*].

[122] 476 Phil. 106 (2004) [Per J. Quisumbing, *En Banc*].

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judicial review of "earliest possible opportunity" is met because the issue of constitutionality is raised at the first instance.[123]

Lis Mota

The final requirement of *lis mota* dictates that "[t]he Court will not pass upon a constitutional question, although properly presented.... if the case can be disposed of on some other [ground] such as the application of a statute or general law."[124] Thus, the petitioners must be able to show that the case cannot be legally resolved unless the constitutional question raised is adjudicated. The *lis mota* requirement is based on the rule that every law has in its favor the presumption of constitutionality, and to justify its nullification, there must be a clear and unequivocal breach of the Constitution, and not one that is doubtful, speculative, or argumentative.[125]

In this case, the Petition allege constitutional issues affecting the provisions of Republic Act No. 11199 and its IRR. Thus, the issue of constitutionality raised in the Petition is the very *lis mota* of the case.

Having resolved the procedural issues, the constitutionality of the assailed provisions of Republic Act No. 11199 and its IRR must now be addressed squarely.

The Substantive Issues

No Violation of the Equal Protection Clause

The petitioners argue that Section 9-B, subsections (a), (c), and (e) of Republic Act No. 11199 are unconstitutional for violating the equal protection clause.[126]

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[123] *Atty. Calleja v. Executive Secretary Medialdea*, 918-B Phil. 1 (2021) [Per J. Carandang, *En Banc*].

[124] *Parcon-Song v. Parcon*, 876 Phil. 364, 400 (2020) [Per J. Leonen, *En Banc*], *citing Ty v. Hon. Trampe*, 321 Phil. 81, 103 (1995) [Per J. Panganiban, *En Banc*].

[125] *Garcia v. Executive Secretary*, 602 Phil. 64, 82 (2009) [Per J. Brion, *En Banc*].

[126] *Rollo*, p. 358.

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The equal protection clause under the Constitution means that "no person or class of persons shall be denied of the same protection of laws which is enjoyed by other persons or other classes in the same place and in like circumstances."[127]

The equal protection clause is directed principally against undue favor and individual or class privilege. It is not intended to prohibit legislation which is limited to the object to which it is directed or by the territory in which it is to operate. It does not require absolute equality, but merely that all persons be treated alike under like conditions both as to privileges conferred and liabilities imposed.[128]

The equal protection clause, therefore, does not preclude classification of individuals who may be accorded different treatment under the law as long as the classification is reasonable and not arbitrary,[129] such that: (1) it rests on substantial distinctions; (2) it is germane to the purpose of the law; (3) it is not limited to existing conditions only; and (4) it applies equally to all members of the same class.[130] It is only in cases where there are real and substantial differences to distinguish one class from another that the law may treat and regulate one class differently from the other.[131]

Thus, a statute that treats one class differently from another class will not violate the equal protection clause as long as the classification is valid. In *Samahan ng Progresibong Kabataan v.*

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[127] *Tolentino v. Board of Accountancy*, 90 Phil. 83, 90 (1951) [Per J. Bautista, *En Banc*].

[128] *Zomer Development Company, Inc. v. Special Twentieth Division of the Court of Appeals, Cebu City, et al.*, 868 Phil. 93, 108 (2020) [Per J. Leonen, *En Banc*].

[129] *National Power Corporation v. Pinatubo Commercial*, 630 Phil. 599, 609 (2010) [Per J. Corona, Third Division].

[130] *GSIS, Cebu City Branch v. Montesclaros*, 478 Phil. 573, 587 (2004) [Per J. Carpio, *En Banc*].

[131] *Id.* at 587–588.

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Quezon City,[132] the Court summarized the three tests to determine the reasonableness of a classification:

> The strict scrutiny test applies when a classification either (i) interferes with the exercise of fundamental rights, including the basic liberties guaranteed under the Constitution, or (ii) burdens suspect classes. The intermediate scrutiny test applies when a classification does not involve suspect classes or fundamental rights, but requires heightened scrutiny, such as in classifications based on gender and legitimacy. Lastly, the rational basis test applies to all other subjects not covered by the first two tests.[133]

In this case, the Court must apply only the rational basis test since Republic Act No. 11199 is a social welfare legislation. Rational basis test is applied to legislative or executive acts that have the general nature of economic or social welfare legislation.[134]

In this jurisdiction, the Court mainly decides equal protection challenges using a "rational basis" test, coupled with a "deferential" scrutiny of legislative classifications and a reluctance to invalidate a law unless there is a showing of a clear and unequivocal breach of the Constitution.[135] In *British American Tobacco v. Sec. Camacho*,[136] the Court explained that:

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[132] 815 Phil. 1067 (2017) [Per J. Perlas-Bernabe, *En Banc*].

[133] *Id.* at 1113–1114, *citing Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 487 Phil. 531 (2004) [Per J. Puno, *En Banc*]; *White Light Corporation v. City of Manila*, 596 Phil. 444 (2009) [Per J. Tinga, *En Banc*]; *Ang Ladlad LGBT Party v. COMELEC*, 632 Phil. 32, 77 (2010) [Per J. Del Castillo, *En Banc*]; JOAQUIN BERNAS, S.J. THE 1987 CONSTITUTION OF THE PHILIPPINES: A COMMENTARY 139–140 (2009); Concurring Opinion of Associate Justice Teresita J. Leonardo-de Castro in *Garcia v. Drilon*, 712 Phil. 44, 124–127 (2013) [Per J. Perlas-Bernabe, *En Banc*]; *Disini, Jr. v. Secretary of Justice*, 727 Phil. 28, 97–98 (2014) [Per J. Abad, *En Banc*]; *Mosqueda v. Filipino Banana Growers & Exporters Association, Inc.*, 793 Phil. 17 (2016) [Per J. Bersamin, *En Banc*].

[134] J. Nachura, Concurring and Dissenting Opinion in *Biraogo v. The Philippine Truth Commission of 2010*, 651 Phil. 374 (2010) [Per J. Mendoza, *En Banc*].

[135] *Biraogo v. The Philippine Truth Commission of 2010*, 651 Phil. 374, 549 (2010) [Per J. Mendoza, *En Banc*].

[136] 584 Phil. 489 (2008) [Per J. Ynares-Santiago, *En Banc*].

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Under this test, a legislative classification, to survive an equal protection challenge, must be shown to rationally further a legitimate state interest. The classifications must be reasonable and rest upon some ground of difference having a fair and substantial relation to the object of the legislation. Since every law has in its favor the presumption of constitutionality, the burden of proof is on the one attacking the constitutionality of the law to prove beyond reasonable doubt that the legislative classification is without rational basis. *The presumption of constitutionality can be overcome only by the most explicit demonstration that a classification is a hostile and oppressive discrimination against particular persons and classes, and that there is no conceivable basis which might support it.*[137] (Emphasis supplied)

The Court notes that a declared policy of Republic Act No. 11199 is to extend social security protection to Filipino workers, local or overseas, and their beneficiaries.[138]

Thus, for the first time, sea-based and land-based OFWs are now compulsorily covered by the SSS. For this purpose, land-based OFWs are treated in the same manner as self-employed persons. However, the DFA, the DOLE, and all its agencies involved in deploying OFWs for employment abroad are mandated to negotiate bilateral labor agreements with the OFWs' host countries to ensure that the employers of land-based OFWs, similar to the principals of sea-based OFWs, pay the required SSS contributions, in which case these land-based OFWs shall no longer be considered in the same manner as self-employed persons.

Migrante International et al. point out that land-based OFWs are treated in the same manner as local employees in terms of compulsory coverage in the SSS.[139] However, Migrante International et al. argue that land-based OFWs are not similarly situated as local employees, since the employers of land-based OFWs are beyond the ambit of Philippine laws and government enforcement.[140] While treated alike in terms of compulsory coverage, the petitioners

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[137] *Id.* at 525.

[138] Republic Act No. 11199 (2018), sec. 2.

[139] *Rollo*, p. 362.

[140] *Id.* at 360.

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question the difference of treatment in terms of the privilege of mandating the employer's contribution.[141] Additionally, Migrante International et al. argue that the treatment of land-based OFWs as self-employed persons has no reasonable justification[142] because unlike self-employed persons, land-based OFWs are employees with actual employers.[143] Furthermore, there is no reasonable basis for land-based OFWs to be treated differently from sea-based OFWs.[144] Sea-based OFWs have manning agencies paying for them as employers, while land-based OFWs, even those with manning agents, will have to pay the whole amount of SSS premiums until such time as the Philippine government secures the bilateral agreements.[145]

The Court finds that there is reasonable basis to warrant differential treatment among local employees, self-employed persons, land-based OFWs, and sea-based OFWs.

As previously mentioned, Republic Act No. 11199 aims to extend social security protection to Filipino workers, both local and overseas, and their beneficiaries. Irrespective of employment type, all employees have the right to access essential social security benefits. Social security serves as a safeguard against various life-cycle risks, including old age, unemployment, sickness, injury, maternity, disability, and loss of income. Without such protection, employees and their beneficiaries could face insurmountable financial hardships due to unforeseen events. Therefore, Republic Act No. 11199 mandates compulsory coverage in the SSS to ensure that its members have timely and reliable social security protection. Membership in the SSS aligns with the lawful exercise of the police power of the State.[146]

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[141] *Id.* at 362.

[142] *Id.*

[143] *Id.* at 363.

[144] *Id.*

[145] *Id.* at 364.

[146] *Philippine Blooming Mills Co., Inc. v. Social Security System*, 124 Phil. 499 (1966) [Per J. Barrera, *En Banc*].

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Furthermore, the right to social security is firmly anchored in international human rights law, particularly the Universal Declaration of Human Rights (UDHR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Articles 22 and 25 of the UDHR categorically state that everyone, as a member of society, has the right to social security, as well as to a standard of living adequate for their health and well-being. Additionally, Article 9 of the ICESCR establishes a clear legal obligation for countries to progressively implement the right to social security.

As a signatory to these international human rights instruments, the passage of Republic Act No. 11199 to specifically include OFWs in the coverage of the SSS, affirms the Philippines' commitment to the progressive realization of providing all employees the right to social security protection. Thus, the Court affirms that membership in the SSS is mandatory for all OFWs, whether land-based or sea-based.

In ensuring that all workers have access to social security protection, the State must address differences in the employees' nature of employment, status, and place of work. However, this cannot be done in transgression of fundamental rights.

The Court notes that land-based OFWs occupy a unique position. Indubitably, they have the right to social security protection, just like any other employee. However, as correctly pointed out by the respondents, the absence of social security agreements or bilateral labor agreements leaves the Philippine government without a means to compel foreign employers to contribute the employer's share of SSS premiums.[147] Consequently, land-based OFWs find themselves compelled to bear the supposed employer's share, akin to self-employed individuals. This arrangement arises not from discrimination, but from practical necessity.

As to the differential treatment of land-based OFWs and sea-based OFWs, the Court has already settled in *Joint Ship Manning*

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[147] *Id.* at 468.

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Group, Inc. that Section 9-B of Republic Act No. 11199 does not violate the equal protection clause due to the presence of a substantial distinction:

> Contrary thereto, land-based OFWs do not have singular or uniform employment contract because of the variety of work they perform. Their contracts depend on the nature of their employment and their place of work.
>
> This is not the first time that the issue of the substantial distinction between the sea-based OFWs and land-based OFWs has been raised before the Court. In *The Conference of Maritime Manning Agencies, Inc. v. Philippine Overseas Employment Administration (Conference of Maritime Manning Agencies, Inc.)*, the petitioners therein assailed the constitutionality of the POEA's power to increase the minimum compensation and benefits in favor of seafarers under their SEC. One of their arguments was that there is violation of the equal protection clause because of an alleged discrimination against foreign shipowners and principals employing Filipino seamen and in favor of foreign employers employing overseas Filipinos who are not seamen, or land-based OFWs.
>
> In that case, the Court declared that there was no violation of the equal protection clause because there is valid substantial distinction between sea-based OFWs and land-based OFWs, particularly, in work environment, safety, dangers and risks to life and limb, and accessibility to social, civic, and spiritual activities. It was stated that:
>
> > There is, as well, no merit to the claim that the assailed resolution and memorandum circular violate the equal protection and contract clauses of the Constitution. To support its contention of inequality, the petitioners claim discrimination against foreign shipowners and principals employing Filipino seamen and in favor of foreign employers employing overseas Filipinos who are not seamen.
> >
> > It is an established principle of constitutional law that the guaranty of equal protection of the laws is not violated by legislation based on reasonable classification. And for the classification to be reasonable, it (1) must rest on substantial distinctions; (2) must be germane to the purpose of the law; (3) must not be limited to existing conditions only; and (4) must apply equally to all members of the same class. *There can be no dispute about the dissimilarities between land-based and sea-based Filipino overseas workers in terms of, among other things, work environment, safety, dangers*

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> *and risks to life and limb, and accessibility to social, civic, and spiritual activities.*
>
> *Accordingly, it is an indisputable fact that there is a substantial distinction between sea-based OFWs and land-based OFWs as enunciated in the cited case of Conference of Maritime Manning Agencies, Inc. Thus, these two [] classifications of OFWs can be treated differently.*[148] (Emphasis supplied, citations omitted)

Further, the petitioners in *Joint Ship Manning Group, Inc.* also argued that the different classification of manning agencies of seafarers, as solidarily liable with the principal foreign ship owners for SSS contributions, is unfair. They pointed out that the DFA and DOLE are only mandated to secure bilateral labor agreements with land-based OFWs, but not for sea-based OFWs, which violates the equal protection clause.

The Court rejected the argument and explained that:

> Thus, the solidary liability of manning agencies with respect to principal foreign ship owners has been established by law, particularly, [Republic Act] No. 8042, as amended, and duly implemented by the 2016 POEA Rules. Sec. 9-B (b) of [Republic Act] No. 11199, which treats manning agencies as employers for the sole purpose of recognizing their joint and solidary liability in favor of seafarers, simply acknowledged the existing law and regulations. This provision was not created by Congress out of thin air; instead, it was based on the cited law and regulations, which manning agencies already acceded to. Due to this existing and recognized solidary liability of manning agencies, it was reasonable for the law to no longer mandate the DFA and DOLE to secure bilateral labor agreements because the SSS coverage of the seafarers are already safeguarded.[149]

Thus, the liability of manning agencies with respect to the contribution of SSS premiums of sea-based OFWs under Section 9-B of Republic Act No. 11199, is founded on legal and contractual obligations. In contrast, there is no singular or uniform

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[148] *Joint Ship Manning Group, Inc. et al. v. Social Security System, et al.*, 876 Phil. 596, 619–620 (2020) [Per J. Gesmundo, *En Banc*].

[149] *Id.* at 624.

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employment contract applicable to land-based OFWs, which would justify imposing the same solidary liability to pay SSS contributions on their recruitment agencies.

Thus, the Court finds that the classification in Section 9-B of Republic Act No. 11199 is grounded on substantial distinctions and rationally furthers a legitimate State interest. Importantly, this classification is also germane to the purpose of the law. Similarly, the assailed provisions do not apply only to existing conditions. All land-based OFWs are completely covered by the SSS, without any conditions. Hence, the third and fourth requisites—that the classification must not be limited to existing conditions only and that it must apply equally to all members of the same class—are complied with. There is therefore no violation of the equal protection clause.

Invalid Exercise of Police Power

The petitioners argue that the mechanism by which the compulsory SSS contributions are collected from the land-based OFWs under Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 constitutes an unjust deprivation of property without due process of law.[150] According to the petitioners, it is *ultra vires* on the part of the SSS to enforce compulsory coverage of land-based OFWs through the issuance of OECs.[151] Additionally, the petitioners argue that this is patently oppressive.[152]

Article III, Section 1 of the Constitution states that no person shall be deprived of property without due process of law. Protected property includes the right to work and the right to earn a living. In *JMM Promotion and Management, Inc. v. Court of Appeals*,[153] the Court held that:

> A profession, trade[,] or calling is a property right within the meaning of our constitutional guarantees. *One cannot be deprived of the right to*

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[150] *Rollo*, p. 366.

[151] *Id.*

[152] *Id.* at 367.

[153] 329 Phil. 87 (1996) [Per J. Kapunan, First Division].

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work and the right to make a living because these rights are property rights, the arbitrary and unwarranted deprivation of which normally constitutes an actionable wrong.[154] (Emphasis supplied)

However, the right to property is not absolute. The State may deprive persons of property through the exercise of police power. However, such deprivation must be carried out with due process.

In the exercise of police power, "property rights of private individuals are subjected to restraints and burdens in order to secure the general comfort, health, and prosperity of the state."[155] The State's police power must not be arbitrary or unreasonable. Its purpose is to promote general welfare, public health and safety, among others. This measure, exercised out of necessity, may interfere with personal liberties or property rights in order to advance common good.[156] To warrant such interference, two requisites must concur: (a) the interests of the public generally, as distinguished from those of a particular class, require the interference of the State; and (b) the means employed are reasonably necessary to the attainment of the object sought to be accomplished and not unduly oppressive upon individuals. In other words, the proper exercise of the police power requires the concurrence of a lawful subject and a lawful method.[157]

To reiterate, Republic Act No. 11199 was enacted pursuant to the policy of the government to "promote social justice and ensure meaningful protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden."[158] It is clear that said enactment implements the general

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[154] *Id.*

[155] *Didipio Earth-Savers' Multi-Purpose Association, Inc. v. Sec. Gozun*, 520 Phil. 457, 476 (2006) [Per J. Chico-Nazario, *En Banc*].

[156] *Southern Luzon Drug Corporation v. DSWD*, 809 Phil. 315, 342 (2017) [Per J. Reyes, *En Banc*].

[157] *Department of Education, Culture and Sports v. San Diego*, 259 Phil. 1016, 1021 (1989) [Per J. Cruz, *En Banc*].

[158] Republic Act No. 11199 (2018), sec. 2.

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welfare mandate of the Constitution and constitutes a lawful subject for the exercise of the police power of the State.

What is being challenged here, however, is the mechanism by which the compulsory SSS contributions are collected from the land-based OFWs. To recall, the assailed provision of the IRR provides that for land-based OFWs in countries without any social security agreements or bilateral labor agreements with the Philippines, the measures for enforcement of compulsory coverage shall include, among others, the collection of contribution payments by the POEA and/or the concerned attached DOLE agencies, through its applicable documentation and deployment processes such as the issuance of the OEC.

As correctly pointed out by Migrante International et al., this is beyond the rule-making power delegated by the legislature to respondents the SSS, the DFA, and the DOLE. Section 9-B (e) of Republic Act No. 11199 provides that the DFA, DOLE, and SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.[159]

The Court agrees with the petitioners that the use of deployment processes, such as the OECs, cannot be considered as "other measures for enforcement" following the principle of *ejusdem generis*.

The basic statutory construction principle of *ejusdem generis* states that a general term following an enumeration of specific words of the same class is to be construed to include or be restricted to things akin to or resembling, or of the same kind or class as those specifically mentioned.[160]

In *National Power Corporation v. Angas*,[161] the Court explained the purpose and rationale of the principle of *ejusdem generis*:

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[159] *Rollo* at 366.

[160] *Liwag v. Happy Glen Loop Homeowners Association, Inc.*, 690 Phil. 321, 333 (2012) [Per J. Sereno, Second Division].

[161] 284-A Phil. 39 (1992) [Per J. Paras, Second Division].

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The purpose of the rule on *ejusdem generis* is to give effect to both the particular and general words, by treating the particular words as indicating the class and the general words as including all that is embraced in said class, although not specifically named by the particular words. This is justified on the ground that if the lawmaking body intended the general terms to be used in their unrestricted sense, it would have not made an enumeration of particular subjects but would have used only general terms. [2 Sutherland, Statutory Construction, 3rd ed., pp. 395-400].[162]

In this case, the general phrase "other measures for enforcement" follows the enumeration of "bilateral social security and labor agreements." These bilateral social security and labor agreements are established with countries hosting OFWs to safeguard their welfare and social security rights. Applying the principle of *ejusdem generis*, the "other measures of enforcement" should be of a similar nature to bilateral social security and labor agreements. Notably, the use of OECs does not fall within the same category as bilateral social security and labor agreements.

Furthermore, in his sponsorship speech, Senator Richard Gordon emphasized that land-based and sea-based OFWs are included in the coverage of the SSS to ensure that they would have pension when they retire. Senator Gordon highlighted that the DFA and the DOLE would be the primary agencies that would negotiate for the OFWs, especially those working in Middle East countries, while enhancing the functions of the Philippine embassies therein, to enable them to collect the SSS contributions.[163] Thus, Republic Act No. 11199 placed the primary burden on the DFA and the DOLE to ensure the compulsory collection of the SSS contributions of land-based OFWs. Consequently, it can be reasonably concluded that intrusive measures, such as subjecting the issuance of the OECs to this pre-condition, were not intended as "other measures for enforcement" for the collection of SSS contributions.

Additionally, the POEA and the concerned attached DOLE agencies are not authorized by Republic Act No. 11199 to collect

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[162] See also *Pelizloy Realty Corporation v. The Province of Benguet*, 708 Phil. 466, 481 (2013) [Per J. Leonen, Third Division].

[163] Journal, Senate, 17th Congress, Session No. 76 (May 22, 2018).

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SSS contributions nor is the SSS allowed to delegate collection of SSS contributions to these agencies. While the SSS is given the authority to formulate, adopt, amend and/or rescind such rules and regulations as may be necessary to carry out the provisions and purposes of Republic Act No. 11199,[164] its exercise must be within the confines of the law it seeks to implement. It has been settled that the rules and regulations that administrative agencies promulgate should be within the scope of the statutory authority granted by the legislature to the administrative agency. It is required that the regulation be germane to the objects and purposes of the law, and be not in contradiction to, but in conformity with, the standards prescribed by law. They must conform to and be consistent with the provisions of the enabling statute in order for such rule or regulation to be valid.[165] Thus Rule 14, Section 7(iii) of the IRR must be struck down for being inconsistent with the provisions of Republic Act No. 11199.

Additionally, requiring the land-based OFWs to pay in advance their SSS contributions for the issuance of their OECs is not reasonably necessary to accomplish the State's objective of affording them social security protection. As correctly pointed out by Migrante International et al., land-based OFWs who have not even commenced employment yet, much less received their salaries, are compelled to advance their SSS contributions. It is also noteworthy that, in fact, prior to the issuance of an OEC, a worker is technically not considered an OFW yet. The OEC serves as proof that the worker has been processed by the POEA for deployment.[166] However, despite this, they are being compelled to prepay the required SSS contributions; otherwise, they cannot leave the country due to the absence of an OEC. This situation places an undue burden on our OFWs, who often resort to borrowing money to cover costly deployment expenses. The

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[164] Republic Act No. 11199 (2018), sec. 4(a)(1).

[165] *SMART Communications Inc. v. National Telecommunications Commission*, 456 Phil. 145, 156 (2003) [Per J. Ynares-Santiago, First Division].

[166] Rule II, no. 26, Revised POEA Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Filipino Workers of 2016.

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Court is reminded of the hardships and sacrifices faced by our OFWs. In *Olarte v. Nayona*,[167] the Court held that:

> Our overseas workers belong to a disadvantaged class. Most of them come from the poorest sector of our society. Their profile shows they live in suffocating slums, trapped in an environment of crimes. Hardly literate and in ill health, their only hope lies in jobs they find with difficulty in our country. Their unfortunate circumstance makes them easy prey to avaricious employers. They will climb mountains, cross the seas, endure slave treatment in foreign lands just to survive. Out of despondence, they will work under sub-human conditions and accept salaries below the minimum. The least we can do is to protect them with our laws.[168]

Furthermore, to enforce compulsory coverage of land-based OFWs through the issuance of OECs is unduly oppressive, unreasonable, and repugnant to the Constitution. It undermines the mandate of the Constitution to protect the rights of overseas workers and to promote their welfare. Article XIII, Section 3 of the Constitution states that the State shall: (1) afford full protection to overseas labor; (2) promote full employment and equality of employment opportunities for all; and (3) guarantee the rights of all workers to security of tenure, humane conditions of work, and a living wage. Article II, Section 18 of the Constitution states that, "The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare." Yet, this provision places an undue burden on the land-based OFWs by imposing as condition to the issuance of their OEC the payment of the employer's contribution, an onus not placed on any other class of employee under the SSS coverage.

To emphasize, Republic Act No. 11199 itself offers less intrusive measures to ensure the collection of SSS contributions from land-based OFWs. These include social security agreements, bilateral labor agreements, and other similar measures for enforcement. Requiring OFWs to pay their SSS contributions before they can secure their OECs does not meet the criteria for a valid police power measure.

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[167] 461 Phil. 429 (2003) [Per J. Sandoval-Gutierrez, Third Division].

[168] *Id.* at 431.

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Violation of the Right to Travel

Finally, Migrante International et al. assert that Section 7(iii) of Rule 14 of the IRR of Republic Act No. 11199 also violates their right to travel.

The Court agrees.

The right to travel is part of the "liberty" of which a citizen cannot be deprived without due process of law. It is part and parcel of the guarantee of freedom of movement that the Constitution affords its citizen.[169] Pertinently, Article III, Section 6 of the Constitution provides:

> Section 6. The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety or public health, as may be provided by law.

Based on the foregoing, it is apparent that the right to travel is not absolute. It may be impaired by a law that concerns national security, public safety or public health. It does not differentiate between measures that directly restrict the right to travel and those that do so indirectly in furtherance of another State purpose. Any government action that indirectly or incidentally affects a constitutional right is still significant, as any impairment of constitutionally protected rights must strictly comply with the Constitution's mandate.[170]

In the case of *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*,[171] the Court examined the significance of the right to travel, highlighting its connection to other fundamental rights. The Court emphasized that the right to travel refers to the right to move freely from the Philippines to other countries or within the Philippines. It is a right embraced within the general concept

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[169] *Genuino v. De Lima*, 829 Phil. 691, 715–716 (2018).

[170] *See* J. Caguioa, Dissenting Opinion in *Zabal v. Duterte*, 846 Phil. 743, 929 (2019) [Per J. Del Castillo, *En Banc*].

[171] 815 Phil. 1067 (2017) [Per J. Perlas-Bernabe, *En Banc*].

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of liberty and includes the right of citizens to be free to use their faculties in lawful ways and to live and work where they desire or where they can best pursue the ends of life. It is essential as it enables individuals to access and exercise their other rights, such as the rights to education, free expression, assembly, association, and religion.[172] In *SPARK*, the Court characterized curfew ordinances as restrictive of the minors' right to travel, although primarily imposed for the interest of public safety, particularly the promotion of juvenile safety and prevention of juvenile crime.

Similarly, in this case, the assailed provision of the IRR provides that land-based OFWs are required to pay in advance their SSS contributions for the issuance of the OEC. However, without the OEC, a land-based OFW's right to travel abroad is significantly restricted, as their right to work overseas hinges on obtaining the OEC. Without the OEC, a land-based OFW cannot be deployed to their place of work. Since the primary purpose of a land-based OFW's travel abroad is to work, requiring them to pay their SSS contributions in advance to obtain their OEC effectively deprives them of their right to travel and, consequently, their livelihood. Thus, the assailed provision of the IRR poses an actual restriction on the right to travel, although primarily imposed to enforce collection of SSS contributions. Additionally, this impairment on the land-based OFWs' right to travel does not serve the interest of national security, public safety or public health; rather, it primarily aims to enforce the collection of the required SSS contributions.

Furthermore, the existence of a law is a requirement for the curtailment of the right to travel.

In *Genuino v. De Lima*,[173] the Court highlighted the necessity of a law before the right to travel may be impaired:

> Clearly, under the provision, there are only three considerations that may permit a restriction on the right to travel: national security, public safety or public health. *As a further requirement, there must be an explicit provision of statutory law or the Rules of Court providing*

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[172] *Id.* at 1106.

[173] 829 Phil. 691 (2018) [Per J. Reyes, Jr., *En Banc*].

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for the impairment. The requirement for a legislative enactment was purposely added to prevent inordinate restraints on the person's right to travel by administrative officials who may be tempted to wield authority under the guise of national security, public safety or public health. This is in keeping with the principle that ours is a government of laws and not of men and also with the canon that provisions of law limiting the enjoyment of liberty should be construed against the government and in favor of the individual.[174] (Emphasis supplied)

In this case, the restriction on the land-based OFWs' right to travel is merely provided in an IRR. As mentioned, the existence of a law is a requirement for the curtailment of the right to travel. It is essential to note that the IRR is not a law; it is merely an administrative issuance designed to implement the provisions of Republic Act No. 11199. The authority of the Social Security Commission to promulgate the assailed provision of the IRR is anchored on Section 9-B and Section 30 of Republic Act No. 11199, which respectively provides:

Section 9-B. *Compulsory Coverage of Overseas Filipino Workers (OFWs)* -

(a) Coverage in the SSS shall be compulsory upon all sea-based and land-based OFWs as defined under Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022: *Provided*, That they are not over [60] years of age.

All benefit provisions under this Act shall apply to all covered OFWs. The benefits include, among others, retirement, death, disability, funeral, sickness and maternity.

. . . .

(c) Land-based OFWs are compulsory members of the SSS and considered in the same manner as self-employed persons under such rules and regulations that the Commission shall prescribe.

. . . .

(e) *The DFA, the DOLE and, the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.*

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[174] *Id.* at 717.

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Section 30. *Implementing Rules and Regulations*. - The Commission shall promulgate the necessary rules and regulations to implement this Act not later than [90] days after its effectivity. (Emphasis supplied)

Certainly, there is nothing in the foregoing provisions of Republic Act No. 11199 which authorizes the restriction of the right to travel to enforce the land-based OFWs compulsory coverage in the SSS. Any impairment or restriction in the exercise of a constitutional right must be clear, categorical and unambiguous. The rule is that:

> Constitutional and statutory provisions control with respect to what rules and regulations may be promulgated by an administrative body, as well as with respect to what fields are subject to regulation by it. It may not make rules and regulations which are inconsistent with the provisions of the Constitution or a statute, particularly the statute it is administering or which created it, or which are in derogation of, or defeat, the purpose of a statute.[175]

Consequently, the constitutional requirement that any impairment of the right to travel must be explicitly provided in a law is not met.

A Final Note

Social security protection is fundamentally grounded in the State's police power. By mandating social security coverage, the State ensures that all workers, regardless of their nature of employment, location, and status, have access to essential social security benefits, in times of need. This is especially beneficial to OFWs, who leave their families behind to work abroad. Aside from enduring separation from their loved ones, OFWs often face harsh working conditions, including long hours, excessive workloads and inadequate safety measures. Through coverage in the SSS, OFWs and their beneficiaries are safeguarded from the hazards of disability, sickness, maternity, old age, death, and loss of income. While social security protection for OFWs is crucial, the State grapples with challenges related to differences in workers' nature

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[175] *SMART Communications, Inc. v. National Telecommunications Commission,* 456 Phil. 145, 156 (2003) [Per J. Ynares-Santiago, First Division].

of employment, status, and place of work. In addressing these challenges, the State is justified in making reasonable distinctions among workers to ensure comprehensive SSS for all. However, it is essential that the State does not unduly burden OFWs when enforcing the collection of SSS contributions. Unfortunately, the assailed provision of the IRR of Republic Act No. 11199 requires land-based OFWs to pay SSS contributions before receiving their OEC. This measure unjustly deprives land-based OFWs of their right to work and places an inordinate restraint on their right to travel. To truly honor the sacrifices of our OFWs, often hailed as modern-day heroes, it is crucial to refrain from oppressive policies that unfairly burden them.

ACCORDINGLY, the Petition for *Certiorari* and Prohibition is **PARTLY GRANTED**. Rule 14, Section 7(iii) of the Implementing Rules and Regulations of Republic Act No. 11199 is declared **UNCONSTITUTIONAL** for being contrary to Sections 1 and 6 of Article III of the Constitution.

The Social Security System, Philippine Overseas Employment Administration, and Department of Labor and Employment are **PERMANENTLY ENJOINED** from implementing this unconstitutional provision.

The constitutionality of the assailed provisions of Republic Act No. 11199 and the remaining assailed provisions of the Implementing Rules and Regulations of Republic Act No. 11199 are **UPHELD**. Pursuant to Rule 50, Section 1 of the Implementing Rules and Regulations of Republic Act No. 11199, these provisions remain in force and effect.

SO ORDERED.

Gesmundo, C.J., Inting, Zalameda, M. Lopez, Rosario, J. Lopez, Dimaampao, Marquez, and *Kho, Jr., JJ.*, concur.

Leonen, S.A.J. and *Caguioa*, *J.*, see separate concurring and dissenting opinions.

Lazaro-Javier, J., see dissent.

Hernando, *J.*, on official business.

Gaerlan, *J.*, on official leave.

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APPEARANCES OF COUNSEL

National Union of Peoples' Lawyers for petitioners.
The Solicitor General for respondent.
Office of the Government Corporate Counsel for respondent Social Security System.

SEPARATE CONCURRING AND DISSENTING OPINION

LEONEN, *J.*:

I agree with the *ponencia* that the mechanism in Rule 14, Section 7(iii) of the Implementing Rules and Regulations of Republic Act No. 11199, which is designed to collect contributions for the Social Security System (SSS) from land-based Overseas Filipino Workers (OFW) through the issuance process of Overseas Employment Certificates (OEC), is *ultra vires* and must be struck down. Nevertheless, I do not concur with the conclusion that there is a substantial distinction between land-based and sea-based OFWs that justifies the difference in their treatment under the statute, because land-based OFWs are forced to make SSS contributions solely on their account.

I agree with the petitioners that the collection mechanism introduced by Rule 14, Section 7(iii) of the Implementing Rules and Regulations is beyond the terms of the statute.[1] To recall, the relevant portions of Republic Act No. 11199 are:

> Section 9-B. Compulsory Coverage of Overseas Filipino Workers (OFWs) –
>
> (a) Coverage in the SSS shall be compulsory upon all sea-based and land-based OFWs as defined under Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022: *Provided*, That they are not over sixty (60) years of age.
>
> All benefit provisions under this Act shall apply to all covered OFWs. The benefits include, among others, retirement, death, disability, funeral, sickness and maternity.

[1] *Ponencia*, p. 23.

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. . .

(c) Land-based OFWs are compulsory members of the SSS and considered in the same manner as self-employed persons under such rules and regulations that the Commission shall prescribe.

(d) The Department of Foreign Affairs (DFA), the Department of Labor and Employment (DOLE) and all its agencies involved in deploying OFWs for employment abroad are mandated to negotiate bilateral labor agreements with the OFWs' host countries to ensure that the employers of land-based OFWs, similar to the principals of sea-based OFWs, pay the required SSS contributions, in which case these land-based OFWs shall no longer be considered in the same manner as self-employed persons in this Act. Instead, they shall be considered as compulsorily covered employees with employer and employee shares in contributions that shall be provided for in the bilateral labor agreements and their implementing administrative agreements: *Provided*, That in countries which already extend social security coverage to OFWs, the DFA through the Philippine embassies and the DOLE shall negotiate further agreements to serve the best interests of the OFWs.

(e) The DFA, the DOLE and, the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.

(f) Upon the termination of their employment overseas, OFWs may continue to pay contributions on a voluntary basis to maintain their rights to full benefits.

On the other hand, the provision in question in the Implementing Rules and Regulations states:

Section 7. *BILATERAL SOCIAL SECURITY AND LABOR AGREEMENTS AND OTHER MEASURES FOR ENFORCEMENT*. - The DFA, the DOLE and the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement. [Sec 9-B, (e)]

. . .

iii. For land-based OFWs in countries without any SSA or BLA with the Republic of the Philippines, the measures for enforcement

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of compulsory coverage shall include, among others, the collection of contribution payments by the Philippine Overseas Employment Administration (POEA) and/or the concerned attached DOLE agencies, through its applicable documentation and deployment processes such as the issuance of Overseas Employment Certificate (OEC), as follows:

> a) For new hires, direct/name hires and government-to-government hires - one (1) monthly contribution; and
>
> b) For re-hires/returning workers/Balik-Manggagawa - three (3) monthly contributions.

The questioned provision equates the Philippine Overseas Employment Administration's processes for the issuance of OECs as one "measure for enforcement" mentioned in Section 9-B, paragraph (e) of Republic Act No. 11199. However, as pointed out by the *ponencia*, this cannot be a correct interpretation, following the principle of *ejusdem generis*.

Paragraph (e) speaks of "bilateral social security and labor agreements" which may be pursued by the Department of Foreign Affairs, the Department of Labor and Employment, and the SSS to ensure compulsory coverage. In line with this, the "other measures for enforcement" mentioned should also belong to the same kind or class. The immediately preceding paragraph (d) further supports this interpretation, where the Department of Foreign Affairs and the Department of Labor and Employment are expressly mandated to negotiate these labor agreements with host countries for further protection of land-based OFWs. In ensuring the compulsory coverage of land-based OFWs, the burden is placed on the government, through the agencies mentioned in the law, to negotiate favorable terms for our workers.

Thus, when the law places on the State the obligation to ensure compulsory coverage, it does not mean that this duty is already discharged if, through one way or another, payments for mandatory contributions are made. The provision highlights the mandate on the State to negotiate these bilateral agreements with urgency; it does not shift the burden to the land-based OFWs.

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In any case, the processes for the issuance of OECs within the labor agencies cannot be used to collect these mandatory SSS contributions. An OEC, under the relevant rules, refers to "the document issued to Overseas Filipino Workers, which serves as proof that the worker has been processed by the [Philippine Overseas Employment Administration] or [Philippine Overseas Labor Office]."[2] It only certifies that an OFW has already undergone the processes of the Philippine Overseas Employment Administration. On the other hand, it is the SSS which is duty-bound to implement the provisions of Republic Act No. 11199. As also noted by the *ponencia*, the law does not authorize the SSS to delegate collections to other government agencies,[3] nor is the collection of SSS contributions covered by the processes certified by the OEC. Therefore, this mechanism is clearly beyond the limits placed by the law.

The increasing trend in allowing administrative agencies wide latitude to implement legislation they specialize in is not an unbridled license to come up with ways that are not germane to the law. Construing "other measures for enforcement" in Republic Act No. 11199, Section 9-B, paragraph (e) to include only those measures that are related to the other items mentioned in the enumeration within the same paragraph is a matter of reasonable interpretation.[4] It is not meant to arbitrarily and narrowly restrict a government measure, especially when such measure is found to be beyond what is contemplated by the statute. Practicality and feasibility are not substitutes for legal authority.

Besides the question of whether the provision in the Implementing Rules and Regulations is *ultra vires*, there is also a question of its validity as a police power measure on its own. For the exercise of police power to be valid, jurisprudence holds that:

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[2] Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Filipino Workers of 2016, POEA Governing Board Resolution No. 07-16 (2016), Rule II, sec. 26.

[3] *Ponencia*, p. 33.

[4] *Id.* at 2.

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It must appear that the interests of the public generally, as distinguished from those of a particular class, require an interference with private rights and the means must be reasonably necessary for the accomplishment of the purpose and not unduly oppressive of private rights. It must also be evident that no other alternative for the accomplishment of the purpose less intrusive of private rights can work. More importantly, a reasonable relation must exist between the purposes of the measure and the means employed for its accomplishment, for even under the guise of protecting the public interest, personal rights and those pertaining to private property will not be permitted to be arbitrarily invaded.[5]

The subject of the legislation is not in question here. What is scrutinized is the means employed by government to achieve its purpose. On this note, I find that the Implementing Rules and Regulations' expansion of the statute to include the OEC issuance process as an avenue to collect mandatory SSS contributions is unreasonable. It unjustifiably shifts the financial burden completely onto land-based OFWs to involuntarily fill the gap caused by the absence of labor and security agreements that are supposed to be for their interest. Worse, their compulsory SSS contributions are made a prerequisite to securing their OECs, which as discussed, involves a completely different process and serves a completely different purpose. The peculiar situation of land-based OFWs, whose employers are outside Philippine jurisdiction, should not be taken as sufficient justification to compel land-based OFWs to take on an additional financial burden under the guise of their protection and administrative practicality. Land-based OFWs, who are private persons, cannot be made to give up their hard-earned money to fulfill a deficiency on the part of government. That the means employed by government is the most practical and efficient way to enforce compulsory coverage does not make it legal and constitutional.

On the allegation of the violation of the right to travel, I agree with the *ponencia* and petitioners that the unreasonable requirement of paying mandatory SSS contributions before the

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[5] *White Light Corporation v. City of Manila*, 596 Phil. 444, 448 (2009) [Per J. Tinga, *En Banc*].

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issuance of the OEC unduly restricts the right to travel. This right and its limitations are expressed in the Constitution:

> Section 6. The liberty of abode and of changing the safe within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety or public health, as may be provided by law.[6]

Thus, the right to travel can only be impaired when (1) there is a law, and (2) such law furthers the interests of national security, public safety, or public health. In this case, the requirement to pay compulsory contributions prior to the issuance of the OEC is only found in the Implementing Rules and Regulations. Nowhere in Republic Act No. 11199 is the OEC issuance process mentioned as a mechanism to collect mandatory contributions. The OEC is a requirement for all departing workers that permits a land-based OFW to travel abroad to commence their employment.[7] This is clearly not just an administrative requirement, but an impairment of the constitutional right.

Even more fundamental to this case is the issue of whether land-based OFWs should make mandatory SSS contributions on their sole account at all. Petitioners raise an equal protection issue, questioning the difference in their treatment as opposed to local employees and sea-based OFWs.[8]

The *ponencia* finds that there is no violation of the equal protection clause when land-based OFWs are made to pay their entire SSS contribution, including their employer's supposed

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[6] CONST., art. III, sec. 6.

[7] Revised POEA Rules and Regulations Governing the Recruitment and Employment of Landbased Filipino Workers of 2016, POEA Governing Board Resolution No. 07-16 (2016), Rule IX, sec. 72. Departure of Workers. — All departing Overseas Filipino Workers shall present their OECs to the Immigration Officer. For this purpose, the Administration, in coordination with the Bureau of Immigration, shall establish a one-stop validation procedure in all exit points for all departing Overseas Filipino Workers.

[8] *Ponencia*, p. 8.

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share. It states that "there is reasonable basis to warrant differential treatment among local employees, self-employed persons, land-based OFWs, and sea-based OFWs."[9]

In our Constitution, the right to equal protection of the laws[10] guarantees that persons in similar circumstances and who fall in the same class should be treated the same "in terms of privileges conferred and liabilities enforced."[11] It prohibits "undue favor and individual or class privilege, as well as hostile discrimination of the oppression of inequality."[12] Nevertheless, Congress is not prohibited from making necessary distinctions and classifications in legislation, as long as they are made reasonably and not arbitrarily.[13]

Thus, the test for a reasonable classification has been expressed as follows: first, it must rest on substantial distinctions; second, it must be germane to the purposes of the law; third, it must not be limited to existing conditions only; and fourth, it must apply to all members of the same class.[14]

As pointed out by the *ponencia*, the issue of whether Section 9-B of Republic Act No. 11199 violates the equal protection clause was touched upon in the *En Banc* case of *Joint Ship Manning Group, Inc. v. Social Security System*.[15]

In that case, petitioners manning agencies of sea-based OFWs raised the equal protection clause because Republic Act No. 11199, particularly Section 9-B, paragraph (b), provided for their solidary

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[9] *Id.* at 27.

[10] CONST., art III, sec. 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[11] *Sameer Overseas Placement Agency v. Cabiles*, 740 Phil. 403, 434 (2014) [Per J. Leonen, *En Banc*]. Citations omitted.

[12] *Id.*

[13] *Id.* at 450.

[14] *Id.* at 435.

[15] 876 Phil. 596 [Per J. Gesmundo, *En Banc*].

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liability with their principals with respect to civil liabilities for violations of the law.[16] They argued that recruitment agencies of land-based OFWs are not similarly treated despite performing the same functions; land-based OFWs are instead treated as self-employed members whose employers are not held liable in any way.

Thus, what petitioners in *Joint Ship Manning Group* were essentially raising was a question on the nature and extent of their liability. This was the context of the equal protection issue and the pronouncements in that case. It was whether there was valid justification to treat the manning agencies of sea-based OFWs and the recruitment agencies of land-based OFWs differently.

Joint Ship Manning Group indeed states that "there is a substantial distinction between sea-based OFWs and land-based OFWs,"[17] and proceeds with a discussion on how sea-based OFWs have only one standard contract because of their similar working conditions, as opposed to land-based OFWs who have no uniform employment contract because their jobs vary greatly.[18]

However, a closer reading of the case reveals that the Court made these statements in relation to the question of whether the law was justified to hold manning agencies of sea-based OFWs solidarily liable with their principals when recruitment agencies of land-based OFWs were not. The distinction made was to

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[16] Republic Act No. 11199 (2018), sec. 9-B, par. (b). Manning agencies are agents of their principals and are considered as employers of sea-based OFWs.

For purposes of the implementation of this Act, any law to the contrary notwithstanding manning agencies are jointly and severally or solidarily liable with their principals with respect to the civil liabilities incurred for any violation of this Act.

The persons having direct control, management or direction of the manning agencies shall be held criminally liable for any act or omission penalized under this Act notwithstanding Section 28(f) hereof.

[17] *Joint Ship Manning Group v. Social Security System*, 876 Phil. 596, 618 [Per J. Gesmundo, *En Banc*].

[18] *Id.*

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ultimately highlight the differences between these two kinds of agencies, and not between the two kinds of OFWs. After all, the petitioners in *Joint Ship Manning Group* were manning agencies that wanted to be put in the same circumstance as their counterpart recruitment agencies for land-based OFWs, who were free from liability. The dispositive portion of that case only upheld the constitutionality of Section 9-B "insofar as sea-based Overseas Filipino Workers are concerned."[19]

This is not the case here. The issue on equal protection in this case is raised because petitioners directly question the difference in the treatment of land-based OFWs compared to sea-based OFWs and local employees, in relation to the former's compulsory inclusion in the law's coverage and the corresponding mandatory contributions they must pay.

Looking at the issue through this lens, I disagree with the *ponencia*'s finding that there is a substantial distinction between land-based OFWs and sea-based OFWs that justifies the difference in their treatment in relation to their compulsory coverage under Republic Act No. 11199.

The *ponencia* points to the unique situation of land-based OFWs, where "the absence of social security and bilateral labor agreements leaves the Philippine government without means to compel foreign employers to contribute the employer's share of SSS premiums,"[20] resulting in land-based OFWs having to shoulder even their supposed employers' shares out of "practical necessity."[21] To me, this is not sufficient basis for a reasonable classification that passes the equal protection test. A real and substantial distinction between land-based OFWs and sea-based OFWs, in relation to their compulsory coverage and mandatory payment of SSS contributions, does not exist.

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[19] *Id.* at 639. The dispositive portion states:

WHEREFORE, the petition is **DENIED**. Section 9-B of Republic Act No. 11199, or the Social Security Act of 2018, insofar as sea-based Overseas Filipino Workers are concerned, is **CONSTITUTIONAL**.

[20] *Ponencia*, p. 28.

[21] *Id.*

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I say this because once this practical necessity is removed by the successful negotiation of a bilateral social security and labor agreement between the Philippine government and the host country, the difference in treatment of land-based OFWs concerning their mandatory contributions likewise ceases. Land-based OFWs, much like sea-based OFWs and those locally employed, will now have employers who can share in their contributions to the SSS, but the nature of their employment does not change, the roles and risks they take remain the same.

The unique situation, therefore, of land-based OFWs is not that they have no employers who can share in their contributions or that the jobs they perform vary greatly compared to sea-based OFWs, but that there is no existing legal mechanism to compel their employers to contribute their shares. Until that ideal situation is achieved, which is the obligation of the State, I do not think there is a basis to discriminately burden land-based OFWs with mandatory, solo, and full payments of their SSS contributions. In other words, until there is a mechanism to compel land-based OFWs' employers to contribute, like in the case of sea-based OFWs and those locally employed, it would be a violation of the equal protection clause to compel them to shoulder their employers' share precisely because of the lack of the same enforcement mechanism.

Thus, considering their circumstances, the real situation of land-based OFWs is more akin to Filipino permanent residents of their host countries, who are covered by the SSS only on a voluntary basis.[22] This is because they are not strictly self-employed *per se* because they hold valid employment abroad. At the same time, without an enforcement measure contemplated by Section 9-B, paragraph (e) of Republic Act No. 11199, the SSS does not have jurisdiction to compel contributions from land-based OFWs' foreign employers.

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[22] *See* Republic Act No. 11199 (2018), sec. 9-B. par. (g). Filipino permanent migrants, including Filipino immigrants, permanent residents and naturalized citizens of their host countries may be covered by the SSS on a voluntary basis.

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In any case, Section 9-B, paragraph (f) allows OFWs to continue paying their contributions on a voluntary basis following the termination of their overseas employment,[23] so there is a recognition that voluntary contribution is not contradictory to the nature of overseas work in relation to payment of premiums. It also shows that the supposed substantial distinction between land-based and sea-based OFWs when it comes to their contributions is not decisive and persisting.

To end, I wish to note that the *ponencia* quotes *Olarte v. Nayona*[24] to paint a grim picture of what pushes an OFW to go overseas. While I agree that this may be the case for some of our modern-day heroes, I assert that the reality faced by an OFW is fundamentally one about dignified choice. Every OFW makes that hopeful but heartbreaking decision to leave behind their families and country to seek better economic opportunities in a foreign land. This is not an easy or comfortable choice, but it is a dignified one because it is an exercise of one's agency often accompanied by selfless personal sacrifices. Just the same, there is some rejection of this dignity when the State compels OFWs to contribute more than what is due from them under the guise of a practical necessity that the OFW has no control over. Removing the compulsory nature of SSS coverage and contribution for land-based OFWs in countries without bilateral social security and labor agreements with the Philippines would make their participation voluntary and also done out of personal choice.

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[23] *See* Republic Act No. 11199 (2018), sec. 9-B, par. (f). Upon the termination of their employment overseas, OFWs may continue to pay contributions on a voluntary basis to maintain their rights to full benefits.

[24] 461 Phil. 429, 431 (2003) [Per J. Sandoval-Gutierrez, Third Division]. The quoted portion states, "Our overseas workers belong to a disadvantaged class. Most of them come from the poorest sector of our society. Their profile shows they live in suffocating slums, trapped in an environment of crimes. Hardly literate and in ill health, their only hope lies in jobs they find with difficulty in our country. Their unfortunate circumstance makes them easy prey to avaricious employers. They will climb mountains, cross the seas, endure slave treatment in foreign lands just to survive. Out of despondence, they will work under sub-human conditions and accept salaries below the minimum. The least we can do is to protect them with our laws."

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ACCORDINGLY, I vote to **GRANT** the Petition. Republic Act No. 11199, Section 9-B, paragraphs (a), (c), and (e), insofar as they make Social Security System coverage and contributions compulsory for land-based Overseas Filipino Workers in the absence of bilateral social security and labor agreements, are **UNCONSTITUTIONAL**. Likewise, Rule 14, Sections 1, 5, 5.a, 5.b, 6, 7(iii), and 7(iv) of the Implementing Rules and Regulations of Republic Act No. 11199, insofar as they compel contributions from land-based Overseas Filipino Workers in the absence of bilateral social security and labor agreements, are **UNCONSTITUTIONAL**. Rule 14, Section 7(iii) is also *ultra vires* and is **NULL AND VOID**.

CONCURRING AND DISSENTING OPINION

CAGUIOA, *J.*:

One of the significant amendments introduced by Republic Act No. 11199[1] or the Social Security Act of 2018 is the extension of the compulsory coverage in the Social Security System (SSS) to Overseas Filipino Workers (OFWs), both land-based and sea-based.[2] For this purpose, the law mandates that land-based OFWs shall be treated in the same manner as self-employed persons under such rules and regulations that the Social Security Commission

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[1] An Act Rationalizing and Expanding the Powers and Duties of the Social Security Commission to Ensure the Long-Term Viability of the Social Security System, Repealing for the Purpose Republic Act No. 1161, as Amended by Republic Act No. 8282, Otherwise Known as the "Social Security Act of 1997," approved February 7, 2019.

[2] Section 9-B. *Compulsory Coverage of Overseas Filipino Workers (OFWs)* –

(a) Coverage in the SSS shall be compulsory upon all sea-based and land-based OFWs as defined under Republic Act No. 8042, otherwise known as the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022: *Provided*, That they are not over sixty (60) years of age.

All benefit provisions under this Act shall apply to all covered OFWs. The benefits include, among others, retirement, death, disability, funeral, sickness and maternity.

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(SSC) shall prescribe.[3] Meanwhile, the manning agencies, as agents of their principals, shall be considered as the employers of sea-based OFWs.[4] The law also provides that the Department of Foreign Affairs (DFA), Department of Labor and Employment (DOLE), and SSS shall ensure the compulsory coverage of OFWs through bilateral social security and labor agreements (BSS/LA) and other measures for enforcement.[5]

Pursuant to Section 30 of Republic Act No. 11199, the SSC issued the Implementing Rules and Regulations of Republic Act No. 11199 (IRR). Based on the IRR, land-based OFWs, like self-employed persons, shall pay both the employee and employer contributions,[6] until such time that a BSS/LA is negotiated with the host countries of land-based OFWs to ensure that their employers, like the principals of sea-based OFWs, pay the

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[3] Section 9-B. *Compulsory Coverage of Overseas Filipino Workers (OFWs)* – . . . .

(c) Land-based OFWs are compulsory members of the SSS and considered in the same manner as self-employed persons under such rules and regulations that the Commission shall prescribe.

[4] Section 9-B. *Compulsory Coverage of Overseas Filipino Workers (OFWs)* – . . . .

(b) Manning agencies are agents of their principals and are considered as employers of sea-based OFWs.

For purposes of the implementation of this Act, any law to the contrary notwithstanding manning agencies are jointly and severally or solidarily liable with their principals with respect to the civil liabilities incurred for any violation of this Act.

The persons having direct control, management or direction of the manning agencies shall be held criminally liable for any act or omission penalized under this Act notwithstanding Section 28(f) hereof.

[5] Section 9-B. *Compulsory Coverage of Overseas Filipino Workers (OFWs)* – . . .

(e) The DFA, the DOLE and, the SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.

[6] IRR, Rule 14, sec. 5(iv).

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required contributions.[7] Rule 14, Section 7(iii) of the IRR also provides that for land-based OFWs in countries without any BSS/LA with the Philippines, the measures of enforcement shall include the collection of the contributions as a pre-condition to the issuance of the Overseas Employment Certificate (OEC) of land-based OFWs.

The *ponencia* upholds the constitutionality of the aforementioned provision of Republic Act No. 11199 and its IRR, except Rule 14, Section 7(iii) of the IRR insofar as it requires the payment of SSS contributions before an OEC may be issued to a land-based OFW.[8] According to the *ponencia*, contrary to the allegations of petitioners, the assailed provisions of the law and the IRR do not violate the equal protection clause.[9] However, it declares that Rule 14, Section 7(iii) of the IRR constitutes an invalid exercise of police power and rule-making power, and violates the land-based OFWs' right to travel.[10]

Ultimately, I concur in the result.

I write this Opinion merely to offer added discussion on the equal protection clause and to raise my reservations as to the finding of violation of the right to travel.

Equal Protection Clause

Parsed, petitioners' arguments in relation to the equal protection clause is two-pronged. First, they argue that Section 9-B(a), (c), and (e) of Republic Act No. 11199 and its related provisions in the IRR violate the equal protection clause because land-based OFWs are treated in the same manner as local employees, inasmuch as both are now subject to the compulsory coverage of SSS, even though they are actually not similarly situated since the employers of land-based OFWs are outside the Philippines and are thus

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[7] IRR, Rule 14, sec. 5, *id.*

[8] *Ponencia*, p. 38.

[9] *Id.* at 24–30.

[10] *Id.* at 30–37.

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beyond the ambit of our laws.[11] Second, they posit that the same provisions unduly discriminate against land-based OFWs because unlike local employees and sea based OFWs, land-based OFWs are treated in the same manner as self-employed persons, such that they are required to pay both the employee and employer contributions to SSS. On the other hand, local employees have their local employers, while sea-based OFWs have their respective manning agencies, to shoulder the employer's share and remit the premiums to SSS.[12]

According to the *ponencia*, there is no violation of the equal protection clause since there is reasonable basis to warrant a differential treatment among local employees, land-based OFWs, and sea-based OFWs. The policy behind Republic Act No. 11199 is to extend social security protection to all Filipino workers, both local and overseas. In order to achieve this, however, the State must address the differences in the nature of employment of local employees and overseas workers.[13] The *ponencia* explains that the difference in the treatment of local employees, land-based OFWs, and sea-based OFWs arises not from discrimination, but out of practical necessity,[14] thus:

> Land-based OFWs occupy a unique position. Indubitably, they have the right to social security protection, just like any other employee. However, as correctly pointed out by the respondents, the absence of social security agreements or bilateral labor agreements leaves the Philippine government without a means to compel foreign employers to contribute the employer's share of SSS premiums. Consequently, land-based OFWs find themselves compelled to bear the supposed employer's share, akin to self-employed individuals. This arrangement arises not from discrimination, but from practical necessity.
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> As to the differential treatment of land-based OFWs and sea-based OFWs, the Court has already settled in *Joint Ship Manning Group,*

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[11] *Rollo*, pp. 22–26.

[12] *Id.* at 22–30.

[13] *Ponencia*, pp. 24–30.

[14] *Id.* at 28.

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Inc. that Section 9-B of Republic Act No. 11199 does not violate the equal protection clause due to the presence of substantial distinction:

. . . .

Thus, the liability of manning agencies with respect to the contribution of SSS premiums of sea-based OFWs under Section 9-B of Republic Act No. 11199, is founded on legal and contractual obligations. In contrast, there is no singular or uniform employment contract applicable to land-based OFWs, which would justify imposing the same solidary liability to pay SSS contributions on their recruitment agencies.

Thus, the Court finds that the classification in Section 9-B of Republic Act No. 11199 is grounded on substantial distinctions and rationally furthers a legitimate State interest. Importantly, this classification is also germane to the purpose of the law. Similarly, the assailed provisions do not apply only to existing conditions. All land-based OFWs are completely covered by the SSS, without any conditions. Hence, the third and fourth requisites—that the classification must not be limited to existing conditions only and that it must apply equally to all members of the same class—are complied with. There is therefore no violation of the equal protection clause.[15]

While I agree with the conclusion drawn by the *ponencia*, I submit this Opinion to fully address the issues that were raised by petitioners in relation to the equal protection clause. Considering that the present case touches upon the Constitutional rights of our modern-day heroes, it would be a disservice to them if the Court's decision does not fully eliminate their doubts and leave out some of their questions. Thus, with due respect, I offer the following thoughts.

A. The SSS compulsory coverage may be extended to land-based OFWs even though their employers are situated outside the Philippines

For the first issue presented by petitioners—that land-based OFWs should not be subjected to the compulsory coverage of SSS

[15] *Id.* at 28–30.

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because unlike local employees, their employers are outside our jurisdiction—I respectfully opine that petitioners' reliance on the equal protection clause is misplaced.

The Constitutionally enshrined right to equal protection requires that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed.[16] However, the Court has time and again ruled that the equal protection clause-does not require absolute equality, but merely that all persons be treated alike under like conditions both as to privileges conferred and liabilities imposed.[17] In other words, the law is not required to provide for equality among all persons if they are not similarly situated. Verily, it recognizes that "inherent in the right to legislate is the right to classify."[18] Accordingly, the legislature is allowed to classify the subjects of legislation, provided the classification is reasonable and not arbitrary, based on the following requirements: (1) it must be based on substantial distinctions; (2) it must be germane to the purpose of the law; (3) it must not be limited to existing conditions; and (4) it must apply equally to all members of the class.[19]

"The problem, thus, in equal protection cases is one of determining the validity of the classification made by law."[20] Stated differently, if a law is made applicable to all without favoring or discriminating a particular class, then there could be no violation of the equal protection clause, as in the present case insofar as Republic Act No. 11199 extends the compulsory coverage of SSS to all OFWs.

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[16] *Garcia v. Judge Drilon*, 712 Phil. 44, 90 (2013) [Per J. Perlas-Bernabe, *En Banc*].

[17] *Zomer Development Company v. Court of Appeals*, 868 Phil. 93, 108 (2020) [Per J. Leonen, *En Banc*].

[18] JOAQUIN G. BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 139 (2009).

[19] *Garcia v. Judge Drilon*, *supra* note 16, at 90–91.

[20] BERNAS, *supra* note 18, at 139.

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Through Republic Act No. 11199, coverage in SSS is now compulsory upon all Filipino workers, whether local or overseas. Thus, social security protection in the form of retirement, death, disability, funeral, sickness and maternity benefits, among others, is now available to all Filipino workers, even to land-based OFWs.[21] It is therefore clear that Republic Act No. 11199 does not discriminate. On the contrary, it is one of the State's responses to the growing clamor for a more vigorous effort towards the elimination of inequalities. This is even more true because as early as 1988, sea-based OFWs are already covered by SSS pursuant to the Memorandum of Agreement between SSS and DOLE stating that one of the conditions of the Standard Employment Contract of seafarers would be that sea-based OFWs shall be covered by SSS.[22]

Verily, while it is not the business of the Court to comment on the wisdom of a particular law, I respectfully submit that the policy behind Republic Act No. 11199 towards making the SSS benefits accessible to all, regardless of the nature, location, or status of employment, is noble. Our land-based OFWs, as well as their families and other beneficiaries, also need social security protection, regardless of the fact that their employers are beyond the reach of Philippine laws. Indeed, for purposes of providing social security protection, one should not distinguish between local employees and overseas workers, much less between land-based and sea-based OFWs.

B. Requiring land-based OFWs to pay both the employee and employer contributions does not violate their right to equal protection

Anent the second issue, I opine as well that requiring land-based OFWs to pay both the employee and employer contributions

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[21] Republic Act No. 11199, sec. 9-B(a).

[22] *See Joint Ship Manning Group, Inc. v. SSS*, 876 Phil. 596, 607 (2020) [J. Gesmundo, *En Banc*].

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to SSS does not violate the land-based OFWs' right to equal protection. As aptly ruled by the *ponencia*, this arrangement arises not from discrimination, but from administrative feasibility.[23]

It is settled that for all compulsory members of SSS, both the employer and the employee should contribute to the employee's monthly premium contributions.[24] This is true for all. In the case of local employees, their employers are required by law to withhold their employees' share and remit the same to SSS together with the employer's contributions.[25] For sea-based OFWs, their manning agencies, who by law are considered as their employers, are also required to remit both the employee and employers share to SSS.[26] On the other hand, since the shares of the employers of land-based OFWs are beyond the jurisdiction of Philippine laws, the duty to pay both employee and employer contributions is placed on the land-based OFWs.[27] It is therefore clear that Republic Act No. 11199 treats local employees, sea-based OFWs, and land-based OFWs equally since all their monthly SSS premiums comprise of both the employee and the employer contributions.

While it is true that the current set-up is burdensome to land-based OFWs since they have to actually shell out money for their and their employer's SSS contributions pending execution of a BSS/LA with their host countries, this difference in treatment

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[23] *See ponencia*, p. 28.

[24] *Haveria v. SSS*, 839 Phil. 237, 248 (2018) [Per J. Caguioa, Second Division].

[25] Social Security Law, secs. 18 and 19.

[26] IRR, Rule 14, sec. 3(iv) provides:

> . . . .
>
> iv. Manning agencies shall be responsible for performing functions of the employer under the Social Security Act of 2018 and this IRR that include, among others, the timely reporting for coverage of sea-based OFWs, regular remittance of required contributions and advance payment of short-term benefits.

[27] IRR, Rule 14, sec. 5(iv) provides:

> . . . .
>
> iv. A land-based OFW member shall pay both the employer and the employee contributions; and [Sec 19-A, 1st proviso]

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was carefully considered by the legislative branch. At the risk of being repetitive, unlike local employees, the employers of land-based OFWs are outside the Philippines and cannot therefore be compelled to remit the contributions. In the same vein, the Court in *Joint Ship Manning Group, Inc. v. SSS*,[28] explained that unlike land-based OFWs, all sea-based OFWs have only one standard contract, which provides for the rights and obligations of the manning agencies, and which includes the duty to remit the SSS contributions of and for the sea-based OFWs. In other words, the difference in the manner or means by which the premium contributions are collected from local employees, land-based OFWs, and sea-based OFWs rests on substantial distinctions.

To clarify, however, nothing in the law states that land-based OFWs are compelled to bear the burden of their employers' share or that they could not collect the same from their employers. Verily, until such time BSS/LAs are executed, land-based OFWs are not prevented from collecting from their employers the latter's share in the monthly SSS contributions, or from demanding a higher salary to cover for their employers' share in the SSS premium. While I recognize that these solutions may be arduous to some, I respectfully submit that mere inconvenience cannot trump the presumption of constitutionality that Republic Act No. 11199 enjoys. "A law is not invalid because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality."[29]

In view of the foregoing, I opine that extending the compulsory coverage of SSS to land-based OFWs and requiring payment of both the employee and employer contributions from them do not violate the land-based OFWs' right to equal protection.

Right to Travel

As regards Rule 14, Section 7(iii) of the IRR, I submit that, contrary to the *ponencia*, this does not violate the land-based OFWs' right to travel.

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[28] *Joint Ship Manning Group Inc. v. SSS*, *supra* note 22.

[29] *Garcia v. Judge Drilon*, *supra* note 16, at 90.

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Rule 14, Section 7(iii) of the IRR provides:

iii. For land-based OFWs in countries without any SSA or BLA with the Republic of the Philippines, the measures for enforcement of compulsory coverage shall include, among others, the collection of contribution payments by the [POEA] and/or the concerned attached DOLE agencies, through its applicable documentation and deployment processes such as the issuance of [OEC], as follows:

a) For new hires, direct/name hires and government-to-government hires—one (1) monthly contribution; and

b) For re-hires/returning workers/Balik-Manggagawa—three (3) monthly contributions.

The constitutional right to travel is part of liberty, which a citizen cannot be deprived of without due process of law. However, this right is not absolute, as it is subject to constitutional, statutory, and inherent limitations.[30]

Article III, Section 6 of the Constitution provides that right to travel may be impaired in the interest of national security, public safety, or public health, as may be provided by law. In *Leave Division, OAS, OCA v. Heusdens*,[31] the Court enumerated some of the statutory limitations on the right to travel:

1) The Human Security Act of 2010 or [Republic Act No. 9372]. The law restricts the right to travel of an individual charged with the crime of terrorism even though such person is out on bail.

2) The Philippine Passport Act of 1996 or [Republic Act No. 8239]. Pursuant to said law, the Secretary of Foreign Affairs or his [or her] authorized consular officer may refuse the issuance of, restrict the use of, or withdraw, a passport of a Filipino citizen.

3) The "Anti-Trafficking in Persons Act of 2003" or [Republic Act No. 9208]. Pursuant to the provisions thereof, the Bureau of Immigration, in order to manage migration and curb trafficking in persons, issued Memorandum Order RADJR No. 2011-011, allowing its Travel Control

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[30] *Sy v. Sandiganbayan*, 841 Phil. 475, 484 (2018) [Per J. Perlas-Bernabe, Second Division].

[31] 678 Phil. 328 (2011) [Per J. Mendoza, *En Banc*].

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and Enforcement Unit to "offload passengers with fraudulent travel documents, doubtful purpose of travel, including possible victims of human trafficking" from our ports.

4) The Migrant Workers and Overseas Filipinos Act of 1995 or [Republic Act No. 8042], as amended by [Republic Act No. 10022]. In enforcement of said law, the [POEA] may refuse to issue deployment permit to a specific country that effectively prevents our migrant workers to enter such country.

5) The Act on Violence against Women and Children or [Republic Act No. 9262]. The law restricts movement of an individual against whom the protection order is intended.

6) Inter-Country Adoption Act of 1995 or [Republic Act No. 8043]. Pursuant thereto, the Inter-Country Adoption Board may issue rules restrictive of an adoptee's right to travel "to protect the Filipino child from abuse, exploitation, trafficking and/or sale or any other practice in connection with adoption which is harmful, detrimental, or prejudicial to the child."[32] (Citation omitted)

On the other hand, an example of an inherent limitation to the right to travel is the power of courts to prohibit persons charged with a crime from leaving the country. For instance, "the court's power to prohibit a person admitted to bail from leaving the Philippines is a necessary consequence of the nature and function of a bail bond. As a result, a person with a pending criminal case and provisionally released on bail does not have an unrestricted right to travel."[33]

In ruling that Rule 14, Section 7(iii) of the IRR impairs the right to travel of land-based OFWs, the *ponencia* rules:

[T]he assailed provision of the IRR provides that land-based OFWs are required to pay in advance their SSS contributions for the issuance of the OEC. However, without the OEC, a land-based OFW's right to travel abroad is significantly restricted, as their right to work overseas hinges on obtaining the OEC. Without the OEC, a land-based OFW cannot be deployed to their place of work. Since the primary purpose of a land-

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[32] *Id.* at 339–340.

[33] *Sy v. Sandiganbayan*, *supra* note 30, at 484–485.

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based OFW's travel abroad is to work, requiring them to pay their SSS contributions in advance to obtain their OEC effectively deprives them of their right to travel and, consequently, their livelihood. Thus, the assailed provision of the IRR poses an actual restriction on the right to travel, although primarily imposed to enforce collection of SSS contributions. Additionally, this impairment on the land-based OFWs' right to travel does not serve the interest of national security, public safety or public health; rather, it primarily aims to enforce the collection of the required SSS contributions.[34]

Contrary to the position taken by petitioners and the *ponencia*,[35] I believe there is nothing in Rule 14, Section 7(iii) of the IRR that prevents land-based OFWs from travelling. To be sure, they are still allowed to travel for work, subject only to certain conditions, such as the payment of SSS premium in this case. I respectfully submit that these conditions, such as the requirement to obtain a passport, to go through immigration checks, to pay travel taxes, or in the case of OFWs, to secure an OEC, are only administrative requirements and not impairments to the right to travel.

Conclusion

That said, I join the *ponencia* in still declaring Rule 14, Section 7(iii) of the IRR as unconstitutional. To this end, I express my full concurrence with the *ponencia*'s view that Rule 14, Section 7(iii) of the IRR is an invalid exercise of police power.[36] While the objective or purpose of the rule is lawful, the manner or means employed is far from reasonably necessary and unduly oppresses against land-based OFWs. The *ponencia* explains thus:

Additionally, requiring the land-based OFWs to pay in advance their SSS contributions for the issuance of their OECs is not reasonably necessary to accomplish the State's objective of affording them social security protection. **As correctly pointed out by [petitioners], land-based OFWs who have not even commenced employment yet, much less received their salaries, are compelled to advance their**

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[34] *Ponencia*, p. 35.

[35] *Id.*

[36] *Id.* at 34.

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SSS contributions. It is also noteworthy that, in fact, prior to the issuance of an OEC, a worker is technically not considered an OFW yet. The OEC serves as proof that the worker has been processed by the POEA for deployment. However, despite this, they are being compelled to prepay the required SSS contributions; otherwise, they cannot leave the country due to the absence of an OEC. This situation places an undue burden on our OFWs, who often resort to borrowing money to cover costly deployment expenses.[37] (Emphasis supplied, citation omitted)

Moreover, the *ponencia* also correctly pointed out that Rule 14, Section 7(iii) of the IRR is an invalid exercise of the SSC's rule-making power and is therefore *ultra vires*, *viz*:

> As correctly pointed out by [petitioners], this is beyond the rule-making power delegated by the legislature to respondents the SSS, the DFA, and the DOLE. Section 9-B(e) of Republic Act No. 11199 provides that the DFA, DOLE, and SSS shall ensure compulsory coverage of OFWs through bilateral social security and labor agreements and other measures for enforcement.
>
> . . . .
>
> In this case, the general phrase "other measures for enforcement" follows the enumeration of "bilateral social security and labor agreements." These bilateral social security and labor agreements are established with countries hosting OFWs to safeguard their welfare and social security rights. **Applying the principle of *ejusdem generis*, the "other measures of enforcement" should be of a similar nature to bilateral social security and labor agreements. Notably, the use of OECs does not fall within the same category as bilateral social security and labor agreements.**[38] (Emphasis supplied)

ACCORDINGLY, I vote to only **PARTIALLY GRANT** the instant Petition. While the constitutionality of Section 9-B(a), (c), and (e) of Republic Act No. 11199 and its related provisions in the IRR should be upheld, Rule 14, Section 7(iii) of the IRR should be declared unconstitutional.

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[37] *Id.* at 33.

[38] *Id.* at 31–32.

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DISSENT

LAZARO-JAVIER, *J.*:

The *majority* granted the petition and struck down Rule 14, Section 7(iii) of the Implementing Rules and Regulations (IRR) of Republic Act No. 11199[1] as unconstitutional for the following reasons: (1) although the mandatory compulsory coverage of land-based and sea-based Overseas Filipino Workers (OFWs) in the Social Security System (SSS) under Republic Act No. 11199 is a lawful exercise of the State's police power, the ***mechanism*** by which the compulsory SSS contributions are collected from land-based OFWs under Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 does not meet the criteria for a valid police power measure; (2) the subject provision was issued beyond the rule-making power delegated by the legislature to respondents SSS, Department of Foreign Affairs (DFA), and Department of Labor and Employment (DOLE); and (3) the subject provision violated the right to travel of land-based OFWs.

I dissent.

Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 is a valid exercise of police power

The *ponencia* ordains that Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 places an undue burden on land-based OFWs by imposing as condition to the issuance of their Overseas Employment Certificate (OEC) the payment of one monthly contribution under the SSS Law, an onus not placed on any other class of employee under the SSS coverage.

I differ.

Article XIII, Section 3 of the Constitution provides that, "[the] State shall afford *full protection* to labor, *local and overseas*, organized and unorganized, and promote full employment

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[1] Social Security Act of 2018.

opportunities for all." Guided by this State policy, the promotion of full employment, while a fundamental goal, should not come at the expense of the government's constitutional obligation to protect its workforce, particularly the overseas workforce. The mandate is clear. In protecting our workers, the State shall not settle for half measures. The State ought not to provide anything less than full protection.

Accordingly, the mechanism to enforce compulsory coverage of land-based OFWs through the issuance of OECs under Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 is reasonably necessary to accomplish the purpose of the law. The said measure is not unduly oppressive; rather, it was formulated to address the gap in the law as will be substantiated below.

Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 outlines the rule *for cases where land-based OFWs are deployed to countries without any Social Security Agreements (SSAs) or bilateral labor agreements (BLAs) with the Philippines*. Simply put, Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 applies ***only to unique*** situations where land-based OFWs will be assigned to countries with which our government has no existing SSAs or BLAs or where the government is still in the process of negotiating with these countries to provide SSAs or BLAs primarily for the protection of our OFWs. To be sure, Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 fills in the gap of the law *until* the DFA, the DOLE, and all its agencies involved in deploying OFWs for employment abroad have successfully negotiated SSAs or BLAs with these countries.

In a nutshell, this is a mere ***back-up mechanism***. The primary mechanism is the execution of the SSAs or BLAs. While the Philippine government works to establish SSAs and BLAs, the absence of these agreements leaves many OFWs exposed to potential risks, especially in the event of an emergency, injury, illness, or even death. Hence, the government must create a system for these situations.

To my mind, there is no other more practical and efficient way to ensure the compulsory coverage of these land-based OFWs

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in the SSS but by requiring them to pay one month's worth of contributions in advance, as a condition to the issuance of the OEC prior to their deployment to these countries.

Currently, the Philippines has established SSAs with Austria, Belgium, Canada, Denmark, France, Germany, Japan, Korea, Luxembourg, Netherlands, Portugal, Quebec, Spain, Sweden, UK, and Northern Ireland.[2] It, however, lacks SSAs or BLAs with countries where a significant number of land-based OFWs are deployed such as Kuwait, United Arab Emirates, Hong Kong, and Taiwan.[3]

This highlights the crucial role of the enforcement mechanisms established under the SSS Law. In these instances where SSAs or BLAs are not yet in effect, should land-based OFWs wait for them to be finalized and executed to be protected and entitled to the benefits under the SSS law? Is it just for these workers to remain in a prolonged state of uncertainty, deprived of security and support? Is it acceptable for them to be left in this indefinite limbo, especially when their welfare is at stake? Does this align with the rationale and intent of the law?

The answer is a resounding "***NO!***"

The IRR must adopt proactive stance for land-based OFWs to be placed under the mantle of protection of SSS law before they are deployed abroad.

In *JMM Promotion and Management, Inc. v. Court of Appeals*,[4] this Court recognized that it is a valid exercise of

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[2] Bilateral Social Security Agreements, *available at* https://www.sss.gov.ph/bilateral-agreements (last accessed on February 13, 2025); *see also* Negotiating for Bilateral Social Security Agreements (2017), *available at* https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@asia/@ro-bangkok/documents/meetingdocument/wcms_561812.pdf (last accessed on February 13, 2025).

[3] Jessie Yeung and Xyza Cruz Bacani, When Love is not Enough, CNN (2020), *available at* https://edition.cnn.com/interactive/2020/11//asia/hong-kong-filipino-helpers-dst/ (last accessed on February 13, 2024).

[4] 329 Phil. 87, 91 (1996) [Per J. Kapunan, First Division].

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police power to require an Artist Record Book as a precondition to the processing by the Philippine Overseas Employment Administration (POEA) of any contract for overseas employment to regulate the deployment of female entertainers to Japan.

To extend the fullest protection to our overseas workers, *JMM Promotion and Management* pronounced that their welfare and protection should be the priority. It aptly ruled that *protection to labor does not indicate promotion of employment alone*, viz.:

> In any event, apart from the State's police power, the Constitution itself mandates government to extend the fullest protection to our overseas workers. The basic constitutional statement on labor, embodied in Section 18 of Article II of the Constitution provides:
>
> Sec. 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.
>
> More emphatically, the social justice provisions on labor of the 1987 Constitution in its first paragraph states:
>
> > The State shall afford full protection to labor, local and overseas, organized and unorganized and promote full employment and equality of employment opportunities for all.
> >
> > *Obviously, protection to labor does not indicate promotion of employment alone. Under the welfare and social justice provisions of the Constitution, the promotion of full employment, while desirable, cannot take a backseat to the government's constitutional duty to provide mechanisms for the protection of our workforce, local or overseas.* As this Court explained in *Philippine Association of Service Exporters (PASEI) v. Drilon*, in reference to the recurring problems faced by our overseas workers:
> >
> > > What concerns the Constitution more paramountly is that such an employment be above all, decent, just, and humane. It is bad enough that the country has to send its sons and daughters to strange lands because it cannot satisfy their employment needs at home. Under these circumstances, the Government is duty-adequate protection, personally and economically, while away from home.[5] (Emphasis supplied)

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[5] *Id.* at 98–99.

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Requiring land-based OFWs to pay one monthly contribution prior to deployment has the same nature and objective. While this requirement may impose a certain burden on the workers, it cannot be stressed enough that this serves a critical purpose: to safeguard their welfare and that of their families.

This obligation takes on heightened significance given that many host countries lack SSAs or bilateral agreements with the Philippines. A contract is the meeting of the minds between two parties. In SSAs or BLAs, the contracting parties are the host countries and the Philippines where various factors are involved before the parties can even start to negotiate. International laws and domestic laws of both nations are considered. The Philippines can neither compel nor force host countries to instantly execute SSAs or BLAs. These negotiations take time.

Meantime, what will happen to the land-based OFWs? Surely, the lack of SSAs or BLAs should not hinder the State to pursue its endeavor to protect all land-based OFWs under the SSS laws. The State was backed into a corner, and was *constrained* to adopt this immediate and effective mechanism ***in the interim***, as the duty to provide protection to these workers, regardless of the circumstances, must remain paramount

Besides, the subject provision only requires land-based OFWs to pay *one monthly contribution* before being deployed, *regardless of the duration of their contract abroad*. Under SSS Circular No. 2024-010, this pertains *only to 15% of their monthly salary credit*. To be sure, the range of compensation and the corresponding amount contribution are reproduced below:

Range of Compensation	**Amount of Contribution**
Below 8,250	1,200
8,250 – 8,749.99	1,275
8,750 – 9,249.99	1,350
9,250 – 9,749.99	1,425
9,750 – 10,249.99	1,500
10,250 – 10,749.99	1,575
10,750 – 11,249.99	1,650
11,250 – 11,749.99	1,725

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11,750 – 12,249.99	1,800
12,250 – 12,749.99	1,875
12,750 – 13,249.99	1,950
13,250 – 13,749.99	2,025
13,750 – 14,249.99	2,100
14,250 – 14,749.99	2,175
14,750 – 15,249.99	2,250
15,250 – 15,749.99	2,325
15,750 – 16,249.99	2,400
16,250 – 16,749.99	2,475
16,750 – 17,249.99	2,550
17,250 – 17,749.99	2,625
17,750 – 18,249.99	2,700
18,250 – 18,749.99	2,775
18,750 – 19,249.99	2,850
19,250 – 19,749.99	2,925
19,750 – 20,249.99	3,000
20,250 – 20,749.99	3,075
20,750 – 21,249.99	3,150
21,250 – 21,749.99	3,225
21,750 – 22,249.99	3,300
22,250 – 22,749.99	3,375
22,750 – 23,249.99	3,450
23,250 – 23,749.99	3,525
23,750 – 24,249.99	3,600
24,250 – 24,749.99	3,675
24,750 – 25,249.99	3,750
25,250 – 25,749.99	3,825
25,750 – 26,249.99	3,900
26,250 – 26,749.99	3,975
26,750 – 27,249.99	4,050
27,250 – 27,749.99	4,125
27,750 – 28,249.99	4,200
28,250 – 28,749.99	4,275

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28,750 – 29,249.99	4,350
29,250 – 29,749.99	4,425
29,750 – 30,249.99	4,500
30,250 – 30,749.99	4,575
30,750 – 31,249.99	4,650
31,250 – 31,749.99	4,725
31,750 – 32,249.99	4,800
32,250 – 32,749.99	4,875
32,750 – 33,249.99	4,950
33,250 – 33,749.99	5,025
33,750 – 34,249.99	5,100
34,250 – 34,749.99	5,175
34,750 and above	5,250

One monthly contribution – is this unduly burdensome? Indubitably, the sole purpose of this one-time payment is to place land-based OFWs under the protection of SSS law. This *one* monthly contribution will be the gateway for them to avail of the benefits under the SSS Law: (1) sickness benefits; (2) maternity benefits; (3) disability benefits; (4) retirement benefits; (5) funeral benefits; and (6) unemployment benefits. This is but a small price compared to the long-term security and well-being it affords to the workers and their families. Indeed, this is the most reasonable and least intrusive means that the executive body could muster for those deployed to countries without SSAs and BLAs, *for the time being*, before said bilateral agreements are executed.

More, *the timing of this requirement is crucial*. The protection afforded by the SSS must commence as early as possible, and the most opportune moment for the state to enforce this obligation while the workers are still within its jurisdiction. Requiring SSS contributions as a condition for deployment ensures that the state retains the necessary leverage to compel compliance. Once the workers leave, enforcement becomes significantly more challenging, *if not impossible*. By compelling compliance at the earliest stage, the state fulfills its duty to safeguard its citizens against the vicissitudes of life abroad.

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The necessity for land-based OFWs to remit their SSS contributions before departing the country is rooted in the principle of protection. The State cannot afford to delay the protection of its overseas workers simply because international negotiations take time.

In sum, Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 is a valid exercise of police power and is thus constitutional.

Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199 was not issued beyond the rule-making power delegated by the legislature to respondents SSS, DFA, and DOLE

The *majority* declared that respondents SSS, DFA, and DOLE acted beyond the rule-making power delegated by the legislature in issuing Rule 14, Section 7(iii) of the IRR of Republic Act No. 11199.

I disagree.

Republic Act No. 11199 was enacted to realize the State's goal of extending social security protection to all Filipino workers, including land-based OFWs. This compulsory coverage of all land-based OFWs entails the employment of necessary measures to ensure their social security protection.

Delegation of legislative power has become the rule and its non-delegation the exception. The reason is the increasing complexity of modern life and many technical fields of governmental functions as in matters pertaining to tax exemptions. This is coupled by the growing inability of the legislature to cope directly with the many problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be reasonably expected to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present day undertakings, the legislature may not have the competence, let

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alone the interest and the time, to provide the required direct and efficacious, not to say specific solutions.[6]

For a valid delegation of power, it is essential that the statute delegating the power must be: (a) be complete in itself—it must set forth therein the policy to be executed, carried out or implemented by the delegate; and (b) fix a standard—the limits of which are sufficiently determinate or determinable—to which the delegate must conform in the performance of his functions.[7]

Osmeña v. Orbos[8] decreed that the standard *may even be implied*. In *Tatad v. Secretary of the Department of Energy*,[9] we stated that courts bend as far back as possible to sustain the constitutionality of laws which are assailed as unduly delegating legislative powers and further ruled:

> The validity of delegating legislative power is now a quiet area in our constitutional landscape. As sagely observed, delegation of legislative power has become an inevitability in light of the increasing complexity of the task of government. Thus, courts bend as far back as possible to sustain the constitutionality of laws which are assailed as unduly delegating legislative powers. Citing *Hirabayashi v. United States* as authority, Mr. Justice Isagani A. Cruz states "that even if the law does not expressly pinpoint the standard, the courts will bend over backward to locate the same elsewhere in order to spare the statute, if it can, from constitutional infirmity."

In *Department of Transportation v. Philippine Petroleum Sea Transport Association*,[10] we noted that even general standards were accepted by the Court in numerous instances, viz.:

> *To be sure, the Court has sustained the validity of similar, if not more general standards in other cases.* Indeed, the Court has, in numerous instances, accepted as sufficient standards policies as general as:

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[6] *National Power Corporation v. Province of Lanao del Sur*, 332 Phil. 303, 321–322 (1996) [Per J. Bersamin, First Division].

[7] *Lagman v. Pichay*, 888 Phil. 434, 505 (2020) [Per J. Leonen, *En Banc*].

[8] 292-A Phil. 848 (1993) [Per C.J. Narvasa, *En Banc*].

[9] 346 Phil. 321, 361 (1997) [Per J. Puno, *En Banc*].

[10] 837 Phil. 144, 176 (2018) [Per J. Velasco, Jr., *En Banc*].

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"[P]ublic interest" in *People v. Rosenthal*, "justice and equity" in *Antamok Gold Fields v. CIR*, "public convenience and welfare" in *Calalang v. Williams*, and "simplicity, economy and efficiency" in *Cervantes v. Auditor General*, to mention only a few cases. In the United States, the "sense and experience of men" was accepted in *Mutual Film Corp. v. Industrial Commission*, and "national security" in *Hirabayashi v. United States*.[11] (Emphasis supplied, citations omitted)

The *ponencia* agreed with petitioners that the use of deployment processes, cannot be considered as "other measures for enforcement" following the principle of *ejusdem generis*. It rules that "other measures of enforcement" should be of a similar nature to bilateral social security and labor agreements. It noted that the use of OECs does not fall within the same category as bilateral social security and labor agreements. Hence, it is concluded that the measure employed in the IRR is *ultra vires*.

This restrictive interpretation creates a situation where there will be unaddressed gaps in the law. This leaves a gaping hole in the law that is too severe to be ignored, especially since most land-based OFWs are sent to host countries without existing SSALs or BLAs.

As emphasized and admitted in the *ponencia*, the treatment of land-based OFWs as self-employed persons "arises not from discrimination, but from ***practical necessity***."

The unique position of land-based OFWs gives the SSS a wide latitude of discretion in implementing and enforcing the law which was made for their own protection. Congress delegated the enforcement measure to SSS for flexibility. Hence, the phrase "other measures of enforcement" should not be construed so narrowly that it could stifle the most practical and feasible measures adopted by the government to enforce this noble piece of social legislation.

The inclusion of "other measures of enforcement" signifies that the law recognizes various methods to ensure compliance. This

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[11] *Id.*

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provision supports a comprehensive approach that goes beyond bilateral agreements. This flexibility enables the government to adopt strategies to effectively reach and protect OFWs, ensuring they understand the importance of their contributions. The flexibility inherent in the phrase "other measures of enforcement" underscores the law's commitment to safeguard the rights and well-being of OFWs through various effective strategies, ultimately empowering them and enhancing their financial security.

To emphasize, the Court concedes that compulsory coverage of land-based OFWs is a valid exercise of police power. The only issue is the manner of enforcement. There is this vast vacuum in the law for those deployed to countries without SSLAs and BLAs. For this situation, how will the State enforce the mandatory coverage of land-based OFWs?

This is where the IRR comes into play. In the first place, IRRs were made to fill in the gaps of the law and provide the necessary details to carry out the letter of the law. The nitty-gritty of execution is a function left to the administrative bodies. The *ponencia*, however, mandates that the *only way* to enforce the law is through bilateral agreements. Because of this rigid interpretation, the said gap in the law will never be addressed, and the higher purpose of the law for the coverage of all land-based OFWs was ignored and will remain unfulfilled. *The elbow room granted to administrative bodies has turned into a suffocating straightjacket.*

Besides, as pointed out by the erudite Associate Justice Alfredo Benjamin S. Caguioa in his Reflection, land-based OFWs are not prevented from collecting from their employers the latter's share in the monthly SSS contributions, or from demanding a higher salary to cover for their employers' share in the SSS premium.

The SSS Law was amended solely for the purpose of expanding the powers and duties of the Social Security Commission and to extend social security protection to land-based OFWs, yet the *majority* adopted a restrictive interpretation that contradicts the heart and soul of the law. If the interpretation adopted by the Court defeats the purpose of the law, then the law itself is reduced to nothing and becomes meaningless. *Cessante ratione legis, cessat ipsa lex* (the reason for the law ceasing, the law itself also ceases).

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There is no violation of the right to travel of land-based OFWs

The *ponencia* rules that Rule 14, Section 7(iii) of the IRR violates the right to travel as the disputed provision requires the payment of advance contributions before the issuance of an OEC, a document that land-based OFWs must secure before traveling abroad.

I take exception to this ruling.

First, In *Genuino v. De Lima*,[12] the Court has recognized that in the enforcement of labor laws, the Philippine Overseas Employment Administration (POEA) may refuse to issue deployment permits to a specific country that effectively prevents our migrant workers to enter such country, viz.:

> Further, in *Leave Division, Office of the Administrative Services (OAS)-Office of the Court Administrator (OCA) v. Wilma Salvation P. Heusdens*, the Court enumerated the statutes which specifically provide for the impairment of the right to travel, viz.:
>
> Some of these statutory limitations [to the right to travel] are the following:
>
> 1] *The Human Security Act of 2010 or [R.A.] No. 9372.* The law restricts the right to travel of an individual charged with the crime of terrorism even though such person is out on bail.
>
> 2] *The Philippine Passport Act of 1996 or R.A. No. 8239.* Pursuant to said law, the Secretary of Foreign Affairs or his authorized consular officer may refuse the issuance of, restrict the use of, or withdraw a passport of a Filipino citizen.
>
> 3] The "*Anti-Trafficking in Persons Act of 2003*" *or R.A. No. 9208.* Pursuant to the provisions thereof, the [BI], in order to manage migration and curb trafficking in persons, issued Memorandum Order RADJR No. 2011-011, allowing its Travel Control and Enforcement Unit to "offload passengers with fraudulent travel documents, doubtful purpose of travel, including possible victims of human trafficking" from our ports.

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[12] 829 Phil. 691 (2018) [Per J. Reyes, Jr., *En Banc*].

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> 4] *The Migrant Workers and Overseas Filipinos Act of 1995 or R.A. No. 8042, as amended by R.A. No. 10022.* In enforcement of said law, the Philippine Overseas Employment Administration (POEA) may refuse to issue deployment permit to a specific country that effectively prevents our migrant workers to enter such country.
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> 5] *The Act on Violence against Women and Children or R.A. No. 9262.* The law restricts movement of an individual against whom the protection order is intended.
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> 6] *Inter-Country Adoption Act of 1995 or R.A. No. 8043.* Pursuant thereto, the Inter-Country Adoption Board may issue rules restrictive of an adoptee's right to travel "to protect the Filipino child from abuse, exploitation, trafficking and/or sale or any other practice in connection with adoption which is harmful, detrimental, or prejudicial to the child."[13] (Emphasis supplied, citations omitted)

With due respect, the collection of contribution payments from land-based OFWs for the issuance of OECs is not a new restriction on the right to travel but is merely an administrative requirement thereon. Similarly, the issuance of the OEC is already subject to other administrative requirements pertaining to the payment of contributions to the Overseas Workers Welfare Administration, viz.:

> SECTION 120. Issuance of Overseas Employment Certificate. — An OEC shall be issued only upon compliance with the documentary requirements for contract processing and payment of POEA processing fee and OWWA Membership contribution.

The regulation of a profession, calling, business or trade has always been upheld as a legitimate subject of a valid exercise of the police power by the state particularly when their conduct affects either the execution of legitimate governmental functions, the preservation of the State, the public health and welfare, and public morals, such as in this case. The imposition of requirements prior to deployment abroad is nothing new. Professionals leaving for abroad are required to pass rigid written and practical exams

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[13] *Id.* at 720–721.

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before they are deemed fit to practice their trade. Seamen are required to take tests determining their seamanship.[14] *How is this method different?*

Second, as discussed, this police power measure can only be enforced prior to their deployment while the State still has jurisdiction over them. *The timing of enforcement is a matter of strategy and practicality to afford the fullest protection to land-based OFWs.*

While OFWs remain within the territorial boundaries of the Philippines, the State possesses the authority to impose certain conditions on their ability to leave the country. This authority is grounded in the responsibility of the State to protect its citizens, especially those who may be vulnerable to the challenges of working abroad.

Additionally, the enforcement of this requirement prior to departure allows the State to utilize its regulatory mechanisms effectively. Once workers depart for another country, the State's ability to monitor, compel, or support compliance diminishes significantly. In fact, the complexities of international employment often make it difficult for the State to enforce such obligations from afar.

If the State will not enforce this regulatory measure before deployment, then when? Allowing compliance at a later time will inevitably breed noncompliance with the SSS Law, especially when pressing financial obligations back home begin to surface. By then, the need to make their SSS contributions become the last priority. When this happens, how else can the State compel or enforce compliance? In the meantime, when the OFW is repatriated due to the end of their contract, illness, or death, what kind of social security protection can they or their families turn to?

If the State allows them to postpone this financial obligation until after their departure, it undermines the very purpose of

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[14] *JMM Promotion and Management, Inc. v. Court of Appeals*, 329 Phil. 87, 100 (1996) [Per J. Kapunan, First Division].

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the SSS Law—which is to provide timely support in the face of adversity.

In essence, the timing of this measure is not arbitrary; it is a strategic decision rooted in the State's duty to protect its citizens and uphold their rights. By ensuring that SSS contributions are made before deployment, the State fortifies its role as a guardian of the welfare of OFWs, establishing a framework that supports them during their journeys and ultimately enhancing their overall well-being. Therefore, this police power measure is not only appropriate but necessary, as it aligns with the State's obligation to prioritize the safety and security of its citizens in an increasingly globalized labor market. This requirement does not act as a barrier to travel; rather, it enhances the workers's ability to embark on their overseas employment with the assurance of social security protection in place.

Third, I also take exception to the *ponencia*'s pronouncement that the implementation of Rule 14, Section 7(iii), of the IRR does not serve the interest of public health.

Notably, Section 2 of Republic Act No. 11199 seeks, as a policy, to ensure meaningful social security protection to members and their beneficiaries against the hazards of disability, sickness, viz.:

> Section 2. Declaration of Policy. - It is the policy of the State to establish, develop, promote and perfect a sound and viable tax-exempt social security system suitable to the needs of the people throughout the Philippines which shall promote social justice through savings, and ensure meaningful social security protection to members and their beneficiaries against the hazards of disability, sickness, maternity, old age, death, and other contingencies resulting in loss of income or financial burden. Towards this end, the State shall endeavor to extend social security protection to Filipino workers, local or overseas, and their beneficiaries.

In the pursuit of this policy, Sections 13 and 14 of the same law provide for disability and sickness benefits, respectively.

With due respect, it is my position that even assuming that the contributions required before the issuance of the OEC is not a mere

administrative requirement, the restriction still serves the interest of public health and is thus a valid limitation to the right to travel.

A final note

I stand with the Court in protecting the rights of our workers. In giving them ***full*** protection as mandated by the Constitution, I submit that these necessary mechanisms must be enforced. We must not fall into the trap of fixating solely on the initial burdens imposed on land-based OFWs to pay one monthly contribution prior to deployment. Instead, we ought to adopt a broader perspective focusing on the long-term benefits of this requirement, both for the workers themselves and for society as a whole.

While the initial cost may appear burdensome, it is important to view these payments as an investment in the future security of OFWs. The long-term benefits of SSS membership—such as access to financial assistance during emergencies, health care services, and support in cases of disability or death—far outweigh the upfront obligation. These protections can greatly reduce financial strain during crises, providing essential peace of mind as workers navigate the uncertainties of employment abroad.

From a societal perspective, ensuring that OFWs are enrolled in the SSS before they leave the country benefits the entire nation. It reduces the potential financial burden on the State in cases where workers may require social safety net support upon their return due to unforeseen circumstances. By equipping OFWs with the necessary resources to protect themselves and their families, the State invests in the overall resilience of its citizenry, fostering a more stable and secure society.

To repeat, we should shift our focus to the substantial long-term benefits and the loftier purposes of this State regulation. By doing so, it can better advocate for the welfare of its citizens and ensure that they are equipped to handle the complexities of working abroad, ultimately enhancing their quality of life and contributing positively to the nation's social fabric.

The end justifies the means. The state has a fundamental duty to protect its most vulnerable citizens. Imagine sending soldiers

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into battle without weapons—an act of utter recklessness that jeopardizes lives. Just as no soldier should face the chaos of war unarmed, no land-based OFW should be dispatched without the essential protections of SSS coverage. It is a ***moral imperative*** to equip them with the safety nets they need to navigate the uncertainties of life abroad.

All told, I vote to **DISMISS** both the petition and uphold the constitutionality of Rule 14 Section 7(iii) of the IRR of Republic Act No. 11199.