Supreme Court E-Library

EN BANC

[G.R. No. 235891. September 20, 2022]

PRINCESS SHERISSE A. ABINES, PAUL ANDREI A. ABINES, SHANE NICOLE A. ABINES, and RALPH CHRISTIAN A. ABINES (represented by their mother ZEN[*] J. ABAIGAR); JAM MICHAEL S. ALANO (represented by his mother MARILOU S. ALANO); BERNARD C. ALVIAR (represented by his mother SHERLY C. ALVIAR); RUBY A. ANDRADE (represented by her mother ROSABELITA A. ANDRADE); CHERRY LYN N. AZARIAS (represented by her mother EMELISA N. AZARIAS); CRISTAN M. BALLETA (represented by his mother ANGELITA MONTE); IAN LHENOCKS B. BALUNSAY (represented by his grandmother PERPETUA B. BAJARO); LUIS EMMANUEL A. BERNARDO (represented by his mother MICHELLE A. BERNARDO), KAYLA DENICE L. BONGANAY and ASHLEY SALAR (represented by their mother ANGELITA SALAR); REISAL JAMES BONGANAY, RAFAEL JOSH BONGANAY, and RUSSEL JACOB BONGANAY (represented by their mother REALYN BONGANAY); HEARTLYN B. BOMBITA and LEANN B. BOMBITA (represented by their mother ANGELITA B. BOMBITA); DANIEL S. BOZAR (represented by his mother MARINA S. BOZAR); BABY LYKA BUENO (represented by her mother NANCITA G. BUENO); DENMARK BUEZA, JOMALLYN BUEZA, JODELLYN BUEZA, APRILDELYN BUEZA, and DEZZIERY BUEZA[**] (represented by their mother JOCELYN BUEZA); GERALD R. CAMPOS (represented by his mother ZENAIDA R. CAMPOS), ALYSSA L.

[*] "Lea J. Abaigar" in some parts of the Petition, but signed as "Zen Abaigar" in the Verification.

[**] "Dezziery Bueza" in some parts of the Petition but signed as "Dezznery Bueza" in the Verification.

Supreme Court E-Library

CORTEZ and WILSON L. CORTEZ (represented by their mother MA. VICTORIA CORTEZ); JESSA MAE V. CORTEZ (represented by her mother MELBA A. VELO); GIECEL M. ESPIRITU and MAC RALDGIE M. ESPIRITU (represented by their mother MARICEL M. MORALES), KIM E. ESTARDO (represented by her mother LOLITA E. ESTARDO); CHRISTIAN JAY E. FERNANDEZ (represented by his mother CHINKY E. FERNANDEZ); EDGIE G. FRIAS, EDGIELYN G. FRIAS, and EMILY G. FRIAS (represented by their mother AGUEDA FRIAS); CRYSTAL MAY E. GABAS and ANGEL MAY E. GABAS (represented by their mother EVANGELINE E. GABAS); RENZ S. GALLERO and RAYEN S. GALLERO (represented by their mother NORLYN S. GALLERO); JANIAH DENISE O. GABRIEL (represented by her mother JANET GABRIEL); MAE BEATRIZ S. GIME, RJ S. GIME, and JENNY ROSE S. GIME (represented by their grandmother OLIVA A. BAYONA,[***] ROCHELLE MAY V. GRANDE (represented by her mother MELDEA L. VILLA); KJ PAUL GUEVARRA and MA. KAYE GUEVARRA (represented by RICK GUEVARRA); ALEYA SAM GOMEZ MAGDARAOG (represented by her mother KRISTEL MAY GOMEZ MAGDARAOG), MARIA LOURDES A. MONCADA (represented by her mother MARY JANE A. MONCADA); LORENCE V. NAGWE (represented by his mother LORNA NAGWE); JESSAREN M. PADUA, JHASSIE MAE M. PADUA, and JHESSICA MHAE M. PADUA (represented by their mother MARITES T. MAYUGA); SUNNY ROSE PAPIONA (represented by her mother SALVACION PAPIONA); JANINA S. PESTAÑO (represented by her mother MARICEL S. SANTOS); RHIAN A. PRECILLA (represented by JUDITH ABINES); JESON M. REX, ELLAIN M. REX, and JOVIELYN M. REX (represented

[***] "Oliva A. Bayona" in some parts of the Petition but signed as "Olivia A. Bayona" in the Verification.

Supreme Court E-Library

by their mother ROSEMARIE M. REX); PRECIOUS SHAKIRA E. REYES and PRECIOUS LADY BELLE E. REYES (represented by their grandmother LOLITA ESTARDO); AIRA B. RICAFRANCA (represented by her mother CHRISTINA BALLETA); SHANILLE A. ROGA[****] (represented by her mother IRISH G. AUSEJO); RANIEL TERCIAS (represented by his mother ANGELINA T. MEDOLLAR); RONELLYN B. TROGUE (represented by her mother NELLY O. TROGUE); JAY V. VALLENTE and JEAN V. VALLENTE (represented by their mother ELSTER V. VALLENTE); ROLLY JOHN N. YBERA and MARK ANTHONY N. YBERA (represented by their mother MARITES N. YBERA); HON. EMERENCIANA A. DE JESUS; HON. ARLENE D. BROSAS; JOAN MAY E. SALVADOR (in her capacity as Secretary-General of GABRIELA National Alliance of Women); and MADELLA T. SANTIAGO (in her capacity as the Executive Director of the Association for the Rights of Children in South East Asia-ARCSEA), *Petitioners*, *v.* **DR. FRANCISCO T. DUQUE III (in his capacity as the Secretary of the Department of Health), DR. LYNDON L. LEE SUY (in his capacity as the Program Director of the DOH-National Center for Disease Prevention and Control), NELA CHARADE G. PUNO, RPh (in her capacity as the Director General of the Food and Drug Administration), HON. LEONOR MAGTOLIS BRIONES (in her capacity as the Secretary of the Department of Education), HON. CATALINO S. CUY (in his capacity as the Officer-in-Charge of the Department of the Interior and Local Government),** *Respondents*.

[****] "Shanelle A. Roga" in some parts of the Petition but signed as "Shanille A. Roga."

Supreme Court E-Library

D E C I S I O N

LEONEN,[*****] ***J.*:**

A petition for continuing mandamus may be filed when a government agency, instrumentality, or officer unlawfully neglects the performance of an act in connection with the enforcement or violation of the environmental law, regulation, or right, or excludes another person from the use or enjoyment of that right.[1] It "should mainly involve an environmental and other related law, rule, regulation, or a right therein."[2]

Clearly, the Petition for a Writ of Continuing Mandamus before this Court does not involve any ecological right nor does it allege any right involving protection of the environment or the ecology. It mainly invokes alleged violations on the right to health. Thus, petitioners cannot resort to this kind of writ. Even if it does, the Petition must be dismissed for insufficiency of substance. The acts sought by petitioners to be performed are not enjoined by law as a duty. They are not ministerial acts.

A writ of continuing mandamus should not be issued when it, directly or indirectly, substitutes judicial discretion for executive or legislative prerogatives. Thus, every petition for a writ of continuing mandamus should clearly allege: (a) the serious and systematic inability of the respondents to meet their constitutional or statutory obligations to protect and preserve the environment despite repeated demands; (b) convincing circumstances that the non-issuance of the writ will result in to irreparable damage to our ecology within the scope provided in our rules; and (c) specific, measurable, attainable, realistic, and timebound objectives that have rational relation to the irreparable damage sought to be avoided.

Furthermore, judicial relief related to health and environmental rights should always be based upon reasonable, sufficient, scientific as well as established and sufficient empirical basis.

[*****] Designated as Acting Chief Justice per Special Order No. 2194.

1 RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 8, sec. 1.

2 *Dolot v. Paje*, 716 Phil. 458 (2013) [Per J. Reyes, En Banc].

Supreme Court E-Library

The Petition fails to comply with all these.

This Court resolves a Petition for Mandamus[3] under Rule 65 filed by 74 children, represented by their parents (collectively, petitioners) who were inoculated with Dengvaxia,[4] the dengue vaccine developed by Sanofi Pasteur. The Petition, which was directly filed before this Court, seeks the issuance of a writ of continuing mandamus[5] against Dr. Francisco T. Duque III (Duque), Dr. Lyndon L. Lee Suy, Nela Charade G. Puno, RPh, Hon. Leonor Magtolis Briones, and Hon. Catalino S. Cuy (collectively, respondents), who are all government officials involved in the implementation of the Dengvaxia vaccination program. Petitioners allege that respondents failed to protect the right to health of those who were subjected to the Department of Health's dengue immunization program. Petitioners claim that they were used as "guinea pigs" in an experiment conducted by the government and pharmaceutical giant Sanofi Pasteur.[6]

In December 2015, during the Climate Change Summit in Paris, France, former President Benigno C. Aquino III and Department of Health Secretary Janette Garin (Garin) met with officials of Sanofi Pasteur to discuss Dengvaxia.[7] Back then, Dengvaxia was expected to be the first vaccine against the dengue virus.[8]

Subsequently, Garin proposed to procure 3 million doses of Dengvaxia to the Department of Budget and Management. A few

---

3 *Rollo*, pp. 3–54.

4 The World Health Organization describes Dengvaxia as "a live recombinant tetravalent dengue vaccine, based on the yellow fever 17D vaccine strain, given as a 3-dose series with 6 months between each dose. The vaccine has 4 components, encoding for antigens of the four dengue virus strains. Dengvaxia is the first dengue vaccine to be licensed. Licensure means that a national regulatory authority reviewed all of the data on the vaccine, found that the benefits outweigh the risks, and permitted the company to have a marketing authorization to sell the product in that country." <https://www.who.int/news-room/questions-and-answers/item/dengue-vaccines>

5 RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 8, sec. 1.

6 *Rollo*, pp. 6–7.

7 Id. at 460.

8 Id. at 525.

Supreme Court E-Library

days later, the Food and Drug Administration approved Dengvaxia for consumption.[9] The Department of Health Family Health Office then requested to exempt Dengvaxia from the assessment of the Philippine National Formulary, which is a requirement for government procurement.[10]

The Department of Budget and Management then issued a ₱3.5 billion Special Allotment Release Order for the purchase of Dengvaxia.[11]

In February 2016, the Philippine Children's Medical Center requested for the procurement of 600,000 vials of Dengvaxia. A Certificate of Exemption was later issued in favor of Dengvaxia.[12]

After Garin issued the disbursement voucher, the Philippine Children's Medical Center purchased Dengvaxia vials from Zuellig Pharma, the local distributor of the vaccine.[13]

Through a series of memoranda, the Department of Health and the Department of the Interior and Local Government announced the implementation of the school-based dengue vaccination program in National Capital Region, Region III, and Region IV-A. The program covers all elementary students nine years old and above.[14]

In July 2016, Garin's successor, Department of Health Secretary Paulyn Ubial (Ubial), issued a resolution suspending the vaccination program over safety concerns.[15] However, Ubial later lifted the suspension and even expanded its coverage to include Cebu, citing the historically large number of dengue cases in the region.[16]

---

[9] Id. at 460.

[10] Id. at 460–461.

[11] Id. at 461.

[12] Id.

[13] Id.

[14] Id.

[15] Id. at 462.

[16] Id. at 462, 532.

Supreme Court E-Library

During the program's implementation, numerous studies emerged stating the adverse effects of the vaccine.[17] This prompted Congress to conduct separate investigations on the safety and efficacy of the vaccination program, as well as its procurement process.[18]

In November 2017, Sanofi Pasteur released an updated information on Dengvaxia, which stated that the vaccine is only beneficial to those "who had [a] prior infection"[19] and that those who were not previously infected by the dengue virus may develop "cases of severe disease . . . following vaccination upon a subsequent dengue infection."[20] Sanofi Pasteur did not recommend vaccination to those who had no history of dengue.[21]

Following this advisory, Ubial's successor, Duque suspended the implementation of the dengue vaccination program on December 1, 2017.[22] Following this announcement, the Food and Drug Administration suspended the sale, marketing, and distribution of Dengvaxia.[23]

In December 2017, petitioners filed a Petition for Mandamus[24] before this Court. Subsequently, respondents filed their Comment,[25] to which petitioners filed their Reply.[26]

In a February 18, 2020 Resolution,[27] this Court required the parties to submit their respective memoranda, to which petitioners[28] and respondents[29] complied.

---

17 Id. at 462–465.

18 Id. at 463–464.

19 Id. at 464.

20 Id.

21 Id.

22 Id. at 464–465.

23 Id. at 465.

24 Id. at 3-54.

25 Id. at 167–210.

26 Id. at 415–438

27 Id. at 453.

28 Id. at 456–485.

29 Id. at 520–569.

Supreme Court E-Library

Through their parents, petitioner-children who were inoculated with Dengvaxia assert that they possess the standing to file the present case. They allege that they sustained a direct and substantial injury because of the vaccination program, claiming that their health and very lives were put at risk because of Dengvaxia.[30]

Other petitioners are suing as citizens, taxpayers, and legislators.[31] Alternatively, they argue that this Court can exercise liberality on the requirement of legal standing considering that the right to health, the core issue involved in this case, is a matter of transcendental importance.[32]

Petitioners claim that the Petition does not violate the doctrine of hierarchy of courts. Although petitioners concede that this Court's original jurisdiction over petitions for mandamus is not exclusive, they argue that the present case falls under the exceptions to the general rule.[33] They cite several of the exceptions enumerated in *The Diocese of Bacolod v. Commission on Elections*,[34] namely: "when the issues involved are of transcendental importance," "the time element presented in this case cannot be ignored," "petitioners rightly claim that they had no other plain, speedy, and adequate remedy from the ordinary course of law that could free them from the injurious effects of respondents' acts," and "the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice."[35]

In particular, petitioners stress that the risks and effects of Dengvaxia on their health and lives have far-reaching implications. Time element is present in this petition because petitioners are already experiencing health issues allegedly caused by the vaccine. They further claim that direct redress to this Court is

---

30 Id. at 466.

31 Id.

32 Id. at 467.

33 Id.

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

35 *Rollo*, pp. 467–468.

Supreme Court E-Library

justified by the lack of other plain, speedy, and adequate remedy and the public welfare and policy issues they raised.[36]

Petitioners claim that respondents failed "to protect the right to health of every Filipino,"[37] a duty mandated by the Constitution and other relevant laws.[38]

Petitioners also cite Articles 3 and 11 of Presidential Decree No. 603.[39] They also mention some provisions of international conventions to which the Philippines is a state party.[40]

---

[36] Id. at 467–468.

[37] Id. at 468–469.

[38] Id., citing several provisions of the 1987 Constitution, namely:

Article II, Section 15: The State shall protect and promote the right to health of the people and instill health consciousness among them.

Article XIII, Section 11: The State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health and other social services available to all the people at affordable cost. There shall be priority for the needs of the underprivileged sick, elderly, disabled, women, and children. The State shall endeavor to provide free medical care to paupers.

Article XIII, Section 12: The State shall establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country's health needs and problems.

Article XV, Section 3 (2): The State shall defend: . . . (2) The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development[.]

[39] Id. at 471–472, citing Presidential Decree No. 603, art. 3, which provides:
Article 3. Rights of the Child. — All children shall be entitled to the rights herein set forth without distinction as to legitimacy or illegitimacy, sex, social status, religion, political antecedents, and other factors.
(1) Every child is endowed with the dignity and worth of a human being from the moment of his conception, as generally accepted in medical parlance, and has, therefore, the right to be born well.
. . . .
(3) Every child has the right to a well-rounded development of his personality to the end that he may become a happy, useful and active member of society.
. . . .
(4) Every child has the right to a balanced diet, adequate clothing, sufficient

Supreme Court E-Library

Petitioners likewise highlight the mandate of the Department of Health under the Administrative Code as the "sole provider of

---

shelter, proper medical attention, and all the basic physical requirements of a healthy and vigorous life.
(5) Every child has the right to be brought up in an atmosphere of morality[.]
. . . .
(8) Every child has the right to protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development.
(9) Every child has the right to live in a community and a society that can offer him an environment free from pernicious influences and conducive to the promotion of his health and the cultivation of his desirable traits and attributes.
. . . .
(11) Every child has the right to an efficient and honest government that will deepen his faith in democracy and inspire him with the morality of the constituted authorities both in their public and private lives.
Article 11. Promotion of Health. — The promotion of the Child's health shall begin with adequate pre-natal and post-natal care both for him and his mother. All appropriate measures shall be taken to insure his normal total development.
It shall be the responsibility of the health, welfare, and educational entities to assist the parents in looking after the health of the child.

[40] Id. at 470, citing Article 12 of the International Covenant on Economic, Social and Cultural Rights, which provides:
1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
(b) The improvement of all aspects of environmental and industrial hygiene;
(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.
Article 24 of the Convention on the Rights of the Child states:
1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in

Supreme Court E-Library

health services"[41] as well as the Food and Drug Administration's regulatory functions.[42]

---

particular, shall take appropriate measures:
a. To diminish infant and child mortality;
b. To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
c. To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
d. To ensure appropriate pre-natal and post-natal health care for mothers;
e. To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
f. To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

[41] Id. at 475.

[42] Id. at 475–477, citing:
Executive Order 102, Section 1: Mandate. Consistent with the provisions of the Administrative Code of 1987 and RA 7160 (the Local Government Code), the DOH is hereby mandated to provide assistance to local government units (LGUs), people's organization (PO) and other members of civic society in effectively implementing programs, projects and services that will:
a) promote the health and well-being of every Filipino;
b) prevent and control diseases among populations at risks;
c) protect individuals, families and communities exposed to hazards and risks that could affect their health; and
d) treat, manage and rehabilitate individuals affected by disease and disability.
Republic Act No. 9711, Section 5: To carry out the provisions of this Act, there is hereby created an office to be called the Food and Drug Administration (FDA) in the Department of Health (DOH). Said Administration shall be under the Office of the Secretary and shall have the following functions, powers and duties:
(a) To administer the effective implementation of this Act and of the rules and regulations issued pursuant to the same;

Supreme Court E-Library

Petitioners argue that aside from respondents' noncompliance with its mandate under the Constitution and other relevant laws,

---

(b) To assume primary jurisdiction in the collection of samples of health products;
(c) To analyze and inspect health products in connection with the implementation of this Act;
(d) To establish analytical data to serve as basis for the preparation of health products standards, and to recommend standards of identity, purity, safety, efficacy, quality and fill of container;
(e) To issue certificates of compliance with technical requirements to serve as basis for the issuance of appropriate authorization and spot-check for compliance with regulations regarding operation of manufacturers, importers, exporters, distributors, wholesalers, drug outlets, and other establishments and facilities of health products, as determined by the FDA;
. . . .
(h) To conduct appropriate tests on all applicable health products prior to the issuance of appropriate authorizations to ensure safety, efficacy, purity, and quality;
(i) To require all manufacturers, traders, distributors, importers, exporters, wholesalers, retailers, consumers, and non-consumer users of health products to report to the FDA any incident that reasonably indicates that said product has caused or contributed to the death, serious illness or serious injury to a consumer, a patient, or any person;
(j) To issue cease and desist orders motu prop[r]io or upon verified complaint for health products, whether or not registered with the FDA: Provided, That for registered health products, the cease and desist order is valid for thirty (30) days and may be extended for sixty (60) days only after due process has been observed;
(k) After due process, to order the ban, recall, and/or withdrawal of any health product found to have caused the death, serious illness or serious injury to a consumer or patient, or is found to be imminently injurious, unsafe, dangerous, or grossly deceptive, and to require all concerned to implement the risk management plan which is a requirement for the issuance of the appropriate authorization;
(l) To strengthen the post market surveillance system in monitoring health products as defined in this Act and incidents of adverse events involving such products;
(m) To develop and issue standards and appropriate authorizations that would cover establishments, facilities and health products;
(n) To conduct, supervise, monitor and audit research studies on health and safety issues of health products undertaken by entities duly approved by the FDA;
(o) To prescribe standards, guidelines, and regulations with respect to information, advertisements and other marketing instruments and promotion,

Supreme Court E-Library

respondents failed to perform "their own study and assessment on the effects of Dengvaxia before the [vaccination] program was rolled out."[43] They also claim that the procurement of Dengvaxia and the implementation of the immunization program were done haphazardly and were beset with anomalies.[44]

Petitioners mainly ask for the issuance of a writ of continuing mandamus.[45] Specifically, petitioners pray that respondents be ordered to: (1) "publicly disseminate, on a regular basis, the report of the Task Force created and designated to monitor and review the school-based immunization program involving Dengvaxia and submit the same to the House of Representatives and Senate Committees on Health"[;][46] (2) "conduct further study and review on the safety and efficacy of Dengvaxia,"[47] which should be open to the public and subject to review by independent medical experts; (3) create a registry or list of all those who had been inoculated with Dengvaxia; (4) provide free medical services to all inoculated children and monitor any adverse effects caused by the vaccine; (5) provide free medical treatment and hospitalization to inoculated children if they suffer from a Dengvaxia-related illness; and (6) conduct "initial and free consultations of inoculated children" in all areas covered by the program.[48]

Petitioners invoke this Court's power to "promulgate rules concerning the protection and enforcement of constitutional

---

sponsorship, and other marketing activities about the health products as covered in this Act;
(p) To maintain bonded warehouses and/or establish the same, whenever necessary or appropriate, as determined by the director-general for confiscated goods in strategic areas of the country especially at major ports of entry; and
(q) To exercise such other powers and perform such other functions as may be necessary to carry out its duties and responsibilities under this Act.

43 *Rollo*, p. 478.

44 Id.

45 Id. at 479.

46 Id. at 483.

47 Id.

48 Id. at 483–484.

Supreme Court E-Library

rights."[49] Although the writ of continuing mandamus is "a relief available only in environmental cases" pursuant to the Rules of Procedure on Environmental Cases, petitioners claim that "the importance and urgency of the relief sought . . . warrant [their] entitlement thereto."[50]

They cite *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*,[51] emphasizing that even a writ of continuing mandamus was issued prior to the promulgation of the Rules of Procedure on Environmental Cases.[52]

In their Memorandum,[53] respondents argue that the Petition should be dismissed for violating the doctrine of hierarchy of courts. [54] They contend that the threat to the right to health, which may warrant the direct filing of the petition, was unfounded and baseless.[55]

Respondents further assert that petitioners failed to cite any special or important reason to warrant a direct recourse to this Court. In any case, they claim that the issues raised by petitioners are not purely questions of law.[56] Citing *Gios-Samar, Inc. v. Department of Transportation and Communications*,[57] respondents aver that special and important reasons warrant original petitions before this Court only if the petition raised purely legal questions. Moreover, petitioners could have raised their concerns with respondents before they filed the Petition.[58]

---

[49] Id. at 41.

[50] Id. at 479–480.

[51] 595 Phil. 305 (2008) [Per J. Velasco, Jr., En Banc].

[52] *Rollo*, p. 480.

[53] Id. at 520–569.

[54] Id. at 536–539.

[55] Id. at 538.

[56] Id. at 539.

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

[58] *Rollo*, pp. 538–539.

Supreme Court E-Library

Respondents further assert that mandamus under Rule 65 and Rules of Procedure for Environmental Cases does not lie because the reliefs demanded by the petitioners are not ministerial acts.[59] For instance, the propriety of a "review by independent and competent medical experts"[60] of the safety and efficacy involves exercise of judgment. Respondents assert that they have full discretion in protecting and promoting the Filipino's right to health and as experts, they are in a better position to carry out their mandate.[61]

Respondents claim that a writ of continuing mandamus is neither available to petitioners, considering that this may only be issued in connection with the enforcement or violation of environmental law.[62]

Respondents add that this Court cannot issue the writ of continuing mandamus and grant the reliefs prayed for by petitioners because this will violate the separation of powers among the Executive, Legislative, and Judicial branches. Moreover, the reliefs sought by the petitioners would unduly burden this Court of supervising respondents who are not part of the Judiciary.[63]

In any case, respondents assert that the Petition has been rendered moot because they already accomplished the reliefs sought by petitioners.[64]

First, the Department of Health has been proactive in disseminating information regarding the dengue immunization program. Respondents cite Department of Health Administrative Order No. 2018-0008, a risk communication program on Dengvaxia. Moreover, the Department of Health has submitted

---

[59] Id. at 542–543.

[60] Id. at 543.

[61] Id. at 546.

[62] Id. at 543.

[63] Id. at 546.

[64] Id. at 547–564.

Supreme Court E-Library

reports of the immunization program to the Congress and has fully cooperated in the investigations.[65]

Second, the Food and Drug Administration has been studying and reviewing the safety and efficacy of Dengvaxia.[66] It coordinates with Sanofi Pasteur for the submission of Periodic Safety Update Report as well as any global safety issues or alert from other national regulatory agency.[67] Further, as early as 2017, the Department of Health has created a taskforce mandated to "[r]eview and manage concerns related [to] the dengue immunization."[68]

Third, the Department of Health has already created a master list of children who were inoculated with Dengvaxia, but this cannot be released in view of the Data Privacy Act of 2012. The Department of Health also issued the Interim Guidelines on the Surveillance of Adverse Effects among Dengvaxia Vaccinees, where all vaccinees were identified and issued a Dengvaxia identification card. However, the National Privacy Commission issued an advisory to the Department of Health, declaring that the information contained in the master list is classified as sensitive personal information.[69]

Fourth, the Department of Health has taken measures to ensure immediate assistance to vaccinees should they manifest adverse symptoms.[70] Respondents add that initial consultations of inoculated children would not address the health concerns brought about by the vaccination.[71] Moreover, vaccinees are presently being monitored by the Department of Health and mechanisms are put in place for the early diagnosis, referral, and management of

---

65 Id. at 548–549.

66 Id. at 550.

67 Id. at 551–553.

68 Id. at 552.

69 Id. at 554–555.

70 Id. at 556.

71 Id. at 557.

Supreme Court E-Library

dengue, if any.[72] The medical service for dengue-related symptoms are also provided for free.[73]

Respondents add that the surveillance and healthcare will initially run for five years, and subsequent developments may prompt the Department of Health to amend its policies.[74]

The issues for this Court's resolution are the following:

First, whether or not petitioners have legal standing to file the Petition;

Second, whether or not the Petition is an exemption from the doctrine on hierarchy of courts; and,

Finally, whether or not petitioners are entitled to the issuance of a writ of continuing mandamus. Subsumed under this issue is whether or not the issuance of the writ violates the principle of separation of powers.

I

Legal standing is the "right of appearance in a court of justice on a given question."[75] Parties possess "standing if they stand to be benefited if the case is resolved in their favor, or if they shall suffer should the case be decided against them."[76]

A party's interest must be material. It must be "an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest."[77] Direct injury ensures that the "party who brings suit has such personal

---

[72] Id. at 558.

[73] Id. at 561.

[74] Id. at 563.

[75] *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 249 (2018) [Per J. Leonen, En Banc]. (Citation omitted)

[76] *Pangilinan v. Cayetano*, G.R. No. 238875, March 16, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67374> [Per J. Leonen, En Banc]. (Citation omitted)

[77] Id.

Supreme Court E-Library

stake in the outcome of the controversy and, in effect, assures that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."[78]

The requirement of legal standing is based on the doctrine of separation of powers. It also has a practical basis. In *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*:[79]

> The requirements of legal standing . . . [is] "built on the principle of separation of powers, sparing as it does unnecessary interference or invalidation by the judicial branch of the actions rendered by its co-equal branches of government." In addition, economic reasons justify the rule. Thus:
>
> > A lesser but not insignificant reason for screening the standing of persons who desire to litigate constitutional issues is economic in character. Given the sparseness of our resources, the capacity of courts to render efficient judicial service to our people is severely limited. For courts to indiscriminately open their doors to all types of suits and suitors is for them to unduly overburden their dockets, and ultimately render themselves ineffective dispensers of justice. To be sure, this is an evil that clearly confronts our judiciary today.
>
> Standing in private suits requires that actions be prosecuted or defended in the name of the real party-in-interest, interest being "material interest or an interest in issue to be affected by the decree or judgment of the case[,] [not just] mere curiosity about the question involved." Whether a suit is public or private, the parties must have "a present substantial interest," not a "mere expectancy or a future, contingent, subordinate, or consequential interest." Those who bring the suit must possess their own right to the relief sought.[80] (Citations omitted)

In *Falcis III v. Civil Registrar General*,[81] the Court clarified that while the rule admits of exceptions for suits filed by taxpayers,

---

[78] *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 249 (2018) [Per J. Leonen, En Banc]. (Citation omitted)

[79] Id. at 205.

[80] Id. at 249–250.

[81] G.R. No. 217910, September 3, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65744> [Per J. Leonen, En Banc].

Supreme Court E-Library

legislators, or concerned citizens, parties must still 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.[82] (Citations omitted)

Here, petitioners have legal standing based on the direct injury they sustained for being inoculated with Dengvaxia. These petitioner-children's health and welfare are at stake. They are directly affected whether or not the petition will be granted.

Thus, they possess the legal standing to challenge the immunization program and to pray for reliefs in connection with it.

II

The doctrine of hierarchy of courts demands parties to seek recourse first "from lower courts sharing concurrent jurisdiction with a higher court."[83] This allows the Court to function as a court of last resort so that it can "satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition."[84]

The doctrine facilitates judicial efficiency as it "enables courts at each level to act in keeping with their peculiar competencies."[85]

---

[82] Id.

[83] *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 238 (2018) [Per J. Leonen, En Banc]. (Citation omitted)

[84] Id. at 239. (Citation omitted)

[85] *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65744> [Per J. Leonen, En Banc].

Supreme Court E-Library

Lower courts are better equipped to evaluate evidence and to review the determination of facts while this Court determines new doctrines and sharpens existing jurisprudence based on questions of laws raised before it. In *The Diocese of Bacolod v. Commission on Elections*:[86]

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the "actual case" that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.
>
> The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.
>
> This court, on the other hand, leads the judiciary by breaking new ground or further reiterating — in the light of new circumstances or in the light of some confusions of bench or bar — existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.

---

[86] 751 Phil. 301 (2015) [Per J. Leonen, En Banc].

Supreme Court E-Library

In other words, the Supreme Court's role to interpret the Constitution and act in order to protect constitutional rights when these become exigent should not be emasculated by the doctrine in respect of the hierarchy of courts. That has never been the purpose of such doctrine.[87] (Citation omitted)

Thus, while this Court shares original and concurrent jurisdiction with lower courts, litigants are not at liberty to invoke this Court's jurisdiction at the first instance. Direct invocation of this Court's original jurisdiction should be allowed only for exceptional reasons which are clearly and specifically pleaded by a party. In *People v. Cuaresma*:[88]

This concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. . . . A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy. It is a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket. . . . Indeed, the removal of the restriction on the jurisdiction of the Court of Appeals in this regard, *supra* — resulting from the deletion of the qualifying phrase, "in aid of its appellate jurisdiction" — was evidently intended precisely to relieve this Court *pro tanto* of the burden of dealing with applications for the extraordinary writs which, but for the expansion of the Appellate Court's corresponding jurisdiction, would have had to be filed with it.[89]

Nevertheless, this Court has discretionary power and it can assume jurisdiction over petitions filed directly before it when warranted.[90] *Gios-Samar* summarized the exceptions:

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

---

87 Id. at 329–330.

88 254 Phil. 418 (1989) [Per J. Narvasa, First Division].

89 Id. at 427.

90 *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, G.R. No. 200418, November 10, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67024> [Per J. Leonen, En Banc].

Supreme Court E-Library

(2) when the issues involved are of transcendental importance;
(3) cases of first impression;
(4) the constitutional issues raised are better decided by the Court;
(5) exigency in certain situations;
(6) the filed petition reviews the act of a constitutional organ;
(7) when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law that could free them from the injurious effects of respondents' acts in violation of their right to freedom of expression; [and]
(8) the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."[91]

In all these exceptions, the questions presented to this Court must be purely legal, regardless of the petition's transcendental importance. There should be no dispute and question with respect to the facts.[92]

The Petition violates the doctrine of hierarchy of courts.

Rule 8, Section 2 of the Rules of Procedure for Environmental Cases provides original and concurrent jurisdiction to regional trial courts, the Court of Appeals, and the Supreme Court over petitions for continuing mandamus. The doctrine of hierarchy of courts dictates that the Petition should have been filed first before the regional trial court.

Petitioners claim exception from the rule. They assert that the issues they raised are of transcendental importance, that a time element is involved, that there is no other plain, speedy, and adequate remedy, and that public welfare and public policy is at stake.

Notwithstanding these reasons, the Petition still fails. To resolve the issues in the Petition, questions of fact must be threshed out

---

[91] *Gios-Samar, Inc. v. Department of Transportation and Communications*, G.R. No. 217158, March 12, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> [Per J. Jardeleza, En Banc], citing *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301 (2015) [Per J. Leonen, En Banc].

[92] Id.

Supreme Court E-Library

and evidence must be evaluated. A proceeding for the issuance of a writ of continuing mandamus necessarily requires the submission of evidence and evaluation of facts.[93] Petitioners seek to compel respondents to do certain acts, but the determination of whether or not respondents have failed to abide by their legal duty with respect to the immunization program would involve factual matters which have not been established before any court.

In any case, even if we give due course to the Petition, it must still be dismissed.

III

The principle of separation of powers is embedded in our Constitution.[94] It is not expressly provided in the Constitution's text but it is implied in the division of powers among three government branches: the Legislative, Executive, and Judiciary.[95]

Under this principle, each branch is "supreme within its own sphere," having "exclusive cognizance of matters within its jurisdiction."[96] "The principle presupposes mutual respect by and

---

[93] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 8, sec. 1 provides:

> Section 1. *Petition for continuing mandamus*. – When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

[94] *Angara v. Electoral Commission*, 63 Phil. 139, 156 (1936) [Per J. Laurel, En Banc].

[95] Id. at 156.

[96] Id.

Supreme Court E-Library

[among the three branches] and calls for them to be left alone to discharge their duties as they see fit."[97]

Thus, one branch cannot overstep and encroach upon the jurisdiction and function of another; otherwise, there may be a concentration of powers in a single branch which may aggrandize its power at the expense of another branch. In *Belgica v. Ochoa*:[98]

> "[T]he legislature has no authority to execute or construe the law, the executive has no authority to make or construe the law, and the judiciary has no power to make or execute the law." The principle of separation of powers and its concepts of autonomy and independence stem from the notion that the powers of government must be divided to avoid concentration of these powers in any one branch; the division, it is hoped, would avoid any single branch from lording its power over the other branches or the citizenry. To achieve this purpose, the divided power must be wielded by co-equal branches of government that are equally capable of independent action in exercising their respective mandates. Lack of independence would result in the inability of one branch of government to check the arbitrary or self-interest assertions of another or others.[99] (Citations omitted)

Nevertheless, the separation of powers does not intend a detachment of the three branches.[100] The Constitution provides for a system of checks and balances to ensure that there is coordination among the branches of the government.[101]

Within our constitutional order, the Legislative enacts the law, the Executive enforces the law, and the Judiciary interprets and applies it to cases and controversies.[102]

---

[97] *Anak Mindanao Party-List Group v. Executive Secretary*, 558 Phil. 338, 353 (2007) [Per J. Carpio Morales, En Banc]. (Citation omitted)

[98] 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, En Banc].

[99] Id. at 534–535.

[100] *Angara v. Electoral Commission*, 63 Phil. 139, 157 (1936) [Per J. Laurel, En Banc].

[101] Id. at 157.

[102] *Ople v. Torres*, 354 Phil. 948, 966 (1998) [Per J. Puno, En Banc].

Supreme Court E-Library

Legislative power is vested in the Congress, while executive power is vested in the President.[103] Executive power is the "power of carrying the laws into practical operation and enforcing their due observance."[104] To effectively perform this function, the President wields control over the executive department, bureaus, and offices.[105]

Meanwhile, judicial power belongs to the Supreme Court and other courts. Courts have the duty "to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether . . . 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."[106]

This Court cannot arrogate upon itself the power and responsibility of overseeing the entire government. In *DENR v. DENR Region 12 Employees*:[107]

> The Supreme Court should not be thought of as having been tasked with the awesome responsibility of overseeing the entire bureaucracy. Unless there is a clear showing of constitutional infirmity or grave abuse of discretion amounting to lack or excess of jurisdiction, the Court's exercise of the judicial power, pervasive and limitless it may seem to be, still must succumb to the paramount doctrine of separation of powers.[108] (Citation omitted)

The Judiciary cannot take part in the execution of laws.[109] Courts cannot claim superiority on matters involving another agency's technical expertise.[110]

---

[103] Id.

[104] Id. at 967. (Citation omitted)

[105] Id.

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

[107] 456 Phil. 635 (2003) [Per J. Ynares-Santiago, First Division].

[108] Id. at 648.

[109] *Belgica v. Ochoa*, 721 Phil. 416, 534 (2013) [Per J. Perlas-Bernabe, En Banc].

[110] *See* J. Leonen's Dissenting Opinion in *West Tower Condominium Corp. v. First Phil. Industrial Corp.*, 760 Phil. 304, 352 (2015) [Per J. Velasco, Jr., En Banc].

Supreme Court E-Library

In the same vein, courts will not interfere with discretionary acts of the Executive unless there is grave abuse of discretion amounting to lack or excess of jurisdiction.[111] Mandamus will not lie against the Legislative and Executive if it involves purely discretionary functions, as respect to a co-equal branch of government. In *Knights of Rizal v. DMCI Homes, Inc.*:[112]

> It is the policy of the courts not to interfere with the discretionary executive acts of the executive branch unless there is a clear showing of grave abuse of discretion amounting to lack or excess of jurisdiction. Mandamus does not lie against the legislative and executive branches or their members acting in the exercise of their official discretionary functions. This emanates from the respect accorded by the judiciary to said branches as co-equal entities under the principle of separation of powers.
>
> In *De Castro v. Salas*, we held that no rule of law is better established than the one that provides that mandamus will not issue to control the discretion of an officer or a court when honestly exercised and when such power and authority is not abused.[113] (Citation omitted)

Only in highly exceptional cases does this Court grant mandamus to compel actions involving judgment and discretion. Even then, the Court can only order a party "to act, but not to act one way or the other."[114]

IV

The concept of continuing mandamus was introduced in the 2008 case of *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*.[115] Here, respondent filed a complaint against petitioner-government agencies for their alleged neglect in abating the pollution in Manila Bay. The Regional Trial

---

[111] *Knights of Rizal v. DMCI Homes, Inc.*, 809 Phil. 453, 534 (2017) [Per J. Carpio, En Banc].

[112] Id.

[113] Id. at 533.

[114] Id. at 534. (Citation omitted)

[115] 595 Phil. 305 (2008) [Per J. Velasco, Jr., En Banc].

Supreme Court E-Library

Court and the Court of Appeals ordered the petitioners to clean up and rehabilitate Manila Bay.[116]

Affirming the lower courts, this Court ruled that petitioner-government agencies may be compelled "to perform[] their mandates and duties towards cleaning up the Manila Bay and preserving the quality of its water to the ideal level."[117] It held that under the principle of continuing mandamus, "the Court may, under extraordinary circumstances, issue directives with the end in view of ensuring that its decision would not be set to naught by administrative inaction or indifference."[118] It cites Supreme Court of India cases *Vineet Narain v. Union of India*[119] and *M.C. Mehta v. Union of India*[120] which were used to "enforce directives of the court to clean up the length of the Ganges River[.]"[121]

Accordingly, this Court issued a writ of continuing mandamus, ordering several government agencies to "clean-up, rehabilitate, and preserve Manila Bay, and restore and maintain its waters to . . . level . . . fit for swimming, skin-diving, and other forms of contact recreation."[122] The heads of government agencies were directed to submit to this Court quarterly reports of the activities they have undertaken.[123]

The writ of continuing mandamus was subsequently incorporated in the Rules of Procedure for Environmental Cases. The Rules define a writ of continuing mandamus as a court issuance in an environmental case which directs any governmental agency or instrumentality or officer to "perform an act or series of

---

[116] Id. at 322–325.

[117] Id. at 343.

[118] Id.

[119] I SCC 226 (1998).

[120] 4 SC 463 (1987).

[121] *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, 595 Phil. 305, 343 (2008) [Per J. Velasco, Jr., En Banc].

[122] Id. at 348.

[123] Id. at 352.

Supreme Court E-Library

acts decreed by final judgment which shall remain effective until judgment is fully satisfied."[124]

A petition for continuing mandamus may be filed when a government agency, instrumentality, or officer unlawfully neglects the performance of an act in connection with the enforcement or violation of the environmental law, regulation, or right, or excludes another person from the use or enjoyment of that right.[125] It "should mainly involve an environmental and other related law, rule or regulation or a right therein."[126]

Continuing mandamus is this Court's exercise of power to carry its jurisdiction into effect under Rule 135, Section 6 of the Rules of Court. The rule states:

> Section 6. *Means to carry jurisdiction into effect*. — When by law jurisdiction is conferred on a court or judicial officer, all auxiliary writs, processes and other means necessary to carry it into effect may be employed by such court or officer; and if the procedure to be followed in the exercise of such jurisdiction is not specifically pointed out by law or by these rules, any suitable process or mode of proceeding may be adopted which appears comfortable to the spirit of the said law or rules.

The Rules contemplate situations where environmental law enforcement may be inadequate. A judicial component may be required to settle questions on the propriety of the agency's action or inaction.[127] The rationale of the rules explains:

> Environmental law highlights the shift in the focal-point from the initiation of regulation by Congress to the implementation of regulatory programs by the appropriate government agencies. Thus, a government

---

[124] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 1, sec. 4 (c).

[125] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 8, sec. 1.

[126] *Dolot v. Paje*, 716 Phil. 458, 472 (2013) [Per J. Reyes, En Banc].

[127] PHILIPPINE JUDICIAL ACADEMY, RATIONALE TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES at 76, <available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_rationale.pdf>

Supreme Court E-Library

agency's inaction, if any, has serious implications on the future of environmental law enforcement. Private individuals, to the extent that they seek to change the scope of the regulatory process, will have to rely on such agencies to take the initial incentives, which may require a judicial component. Accordingly, questions regarding the propriety of an agency's action or inaction will need to be analyzed.[128]

Similar to special civil actions for certiorari, prohibition, and mandamus, the Rules of Procedure on Environmental Cases require that the petition should be sufficient in form and substance; otherwise, it may be dismissed outright.[129] In *Dolot v. Paje*:[130]

> Sufficiency of substance, on the other hand, necessitates that the petition must contain substantive allegations specifically constituting an actionable neglect or omission and must establish, at the very least, a *prima facie* basis for the issuance of the writ, *viz.*: (1) an agency or instrumentality of government or its officer unlawfully neglects the performance of an act or unlawfully excludes another from the use or enjoyment of a right; (2) the act to be performed by the government agency, instrumentality or its officer is specifically enjoined by law as a duty; (3) such duty results from an office, trust or station in connection with the enforcement or violation of an environmental law, rule or regulation or a right therein; and (4) there is no other plain, speedy and adequate remedy in the course of law.[131] (Citation omitted)

When a writ of continuing mandamus is issued and the judgment has attained finality, the court "retains jurisdiction over the case to ensure that the government agency concerned is performing its tasks as mandated by law and to monitor the effective performance of said tasks."[132] In essence, the writ is a "command of continuing

---

[128] PHILIPPINE JUDICIAL ACADEMY, RATIONALE TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES at 76, <available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_rationale.pdf>

[129] *Abogado v. Department of Environment and Natural Resources*, G.R. No. 246209, September 3, 2019 [Per J. Leonen, En Banc].

[130] 716 Phil. 458 (2013) [Per J. Reyes, En Banc].

[131] Id. at 472.

[132] Id. at 473.

Supreme Court E-Library

compliance with a final judgment."[133] The judgment will be satisfied only upon the final return of the writ when the court deems that the judgment has been fully implemented.[134]

Mandamus does not lie unless the acts to be performed are enjoined by law. The duty of respondent-government agencies to perform the acts must be clearly provided for by law. Neither petitioners nor this Court can order respondent-government agencies how to perform their functions with respect to any immunization program; otherwise, this Court will effectively usurp the power and prerogatives of the executive in their enactment of their programs.

This Court cannot exercise supervisory powers over executive departments and agencies. These administrative agencies possess the competence, experience, and specialization in their respective fields.[135] On the other hand, this Court does not have the expertise to resolve these technical issues.[136] In *Knights of Rizal*, we held:

> The Court cannot "substitute its judgment for that of said officials who are in a better position to consider and weigh the same in the light of the authority specifically vested in them by law." Since the Court has "no supervisory power over the proceedings and actions of the administrative departments of the government," it "should not generally interfere with purely administrative and discretionary functions." The power of the Court in mandamus petitions does not extend "to direct the exercise of judgment or discretion in a particular way or the retraction or reversal of an action already taken in the exercise of either."[137] (Citations omitted)

Substantially, a petition for the issuance of a writ of continuing mandamus involves a government office or officer who "neglects the performance of an act which the law specifically

---

[133] Id.

[134] Id.

[135] *See Philippine International Trading Corporation v. Presiding Judge Angeles*, 331 Phil. 723, 748 (1996) [Per J. Torres, Jr., Second Division].

[136] *Knights of Rizal v. DMCI Homes, Inc.*, 809 Phil. 453, 532 (2017) [Per J. Carpio, En Banc].

[137] Id. at 532.

Supreme Court E-Library

enjoins" and the writ commands this office or person "to do an act or series of acts" to satisfy the law.[138]

In *Segovia v. Climate Change Commission*,[139] this Court reiterated that the duty sought to be enforced by a writ of continuing mandamus must be clearly provided by law:

> *Mandamus* lies to compel the performance of duties that are purely ministerial in nature, not those that are discretionary, and the official can only be directed by *mandamus* to act but not to act one way or the other. The duty being enjoined in *mandamus* must be one according to the terms provided in the law itself. Thus, the recognized rule is that, in the performance of an official duty or act involving discretion, the corresponding official can only be directed by *mandamus* to act, but not to act one way or the other.[140] (Citations omitted)

Litigants must establish the breach committed by the government office or officer by alleging and substantiating the acts falling within the law which it neglected. This is satisfied when they identify the parameters and end-goals which the law allows. It involves proving before the courts the inability of the government agency or officer to perform this duty and the irreparable damage that will result from this inaction.

A writ of continuing mandamus is not infinite. Any petition should be precise and should include clear and judicially verifiable parameters for when the duration of the mandamus will end. The parameters should always be based on empirical proof, as well as reasonable scientific grounds. This is more apparent in petitions involving environmental rights. Various schools of thought are involved in the protection of the environment and these result to different approaches in resolving environmental issues.[141] Thus, litigants must clearly demonstrate the irreparable damage they

---

[138] RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, rule 8, sec. 1.

[139] 806 Phil. 1019 (2017) [Per J. Caguioa, En Banc].

[140] Id. at 1037.

[141] PHILIPPINE JUDICIAL ACADEMY, RATIONALE TO THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES at 41, available at https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_rationale.pdf>

Supreme Court E-Library

seek to avoid, indicate the specific remedies, how they are satisfied, and their scientific bases.

In sum, every petition for a writ of continuing mandamus should clearly allege: (a) serious and systematic inability of the respondents to meet their constitutional or statutory obligations to protect and preserve the environment despite repeated demands; (b) convincing circumstances that the non-issuance of the writ will result to irreparable damage to our ecology within the scope provided in our rules; and (c) specific, measurable, attainable, realistic, and timebound objectives that have rational relation to the irreparable damage sought to be avoided.

The Petition fails to comply with these.

Foremost, petitioners cannot pray for the issuance of a writ of continuing mandamus because the controversy does not involve the enforcement or violation of an environmental law or right. While admitting that their cause of action does not arise in relation to an environmental law, petitioners bank on the importance and urgency of the relief sought.[142] However, the Rules of Procedure on Environmental Cases clearly requires that the petition is anchored on a violation or enforcement of environmental law. This Petition mainly invokes alleged violations on the right to health. Thus, petitioners cannot resort to this kind of writ.

In any case, even if we treat this as a petition for mandamus under Rule 65 of the Rules of Court, it must still fail. The acts sought by the petitioners to be performed are not enjoined by law as a duty. They are not ministerial acts.

To reiterate, petitioners pray for the following: (1) public and regular dissemination of the Task Force's report on the Dengvaxia immunization program; (2) submission of the report to the Congress; (3) creation of a list of children inoculated with Dengvaxia; (4) provision of free medical services to these children and monitor any adverse effect caused by Dengvaxia; (5) provision of free medical treatment and hospitalization if they

---

[142] *Rollo*, pp. 479–480.

Supreme Court E-Library

suffer from a Dengvaxia-related illness; and (6) initial and free consultations of inoculated children.

These specific acts are not laid down in any of the laws and instruments cited by the petitioners. To reiterate, this Court cannot claim superiority over respondent-government agencies and decide for them the policies in managing the immunization program. The reliefs prayed for by the petitioners involve purely administrative and discretionary functions.

Moreover, we cannot find any serious or systematic inability of respondents in the performance of their duties. Considering that these are agencies possessing the technical knowledge and specialization in their fields, the judgments of the Food and Drug Administration and the Department of Health are given significant weight and should not be impulsively disturbed. When the vaccine was approved by the Food and Drug Administration, there is a reasonable presumption that the approval is based on science and the subsequent recommendation by the Department of Health enjoys a presumption of constitutionality. The presumption becomes heavier and more pronounced when there is a public health crisis such as a pandemic. Therefore, litigants who challenge the rolling out of the vaccine, as mandated by the Department of Health as experts in the field, must overcome the heavy presumption of constitutionality.

Petitioners failed to ground their petition on scientific and empirical bases. They did not present studies and research which demonstrates that the vaccine failed to satisfy safety and health standards. There are no sufficient scientific grounds proving grave error in the Food and Drug Administration's and the Department of Health's approval and distribution of the vaccine.

In any case, the reliefs sought by petitioners were already satisfied by respondents. In their Memoranda, respondents submit that they have been disseminating public information regarding the immunization program under Department of Health Administrative Order No. 2018-0008. Moreover, the Department of Health has submitted their reports to the Congress while the Food and Drug Administration has been studying and reviewing the safety and efficacy of Dengvaxia. The Department of Health

Supreme Court E-Library

has also been monitoring the children inoculated with Dengvaxia and has offered medical services to them for free. A master list of children inoculated with Dengvaxia was also created but due to privacy concerns, it cannot be released to the public as advised by the National Privacy Commission.

In all, this Court refrains from intervening in the discretionary functions and prerogatives of the Executive department. Moreover, considering that mandamus may only be granted to enforce clear legal rights provided by law, this Court should dismiss the Petition for Mandamus.

ACCORDINGLY, the Petition for Mandamus is **DISMISSED**.

SO ORDERED.

Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, and *Kho, Jr., JJ.*, concur.

Singh, J., see separate opinion.

Gesmundo, C.J. and *M. Lopez, J.*, on official business.

APPEARANCES OF COUNSEL

Alnie G. Foja et al. for petitioners.
The Solicitor General for respondents.

SEPARATE OPINION

SINGH, *J.*:

Senior Associate Justice, Hon. Marvic Mario Victor F. Leonen has discussed the issues in this case with utmost clarity and definitiveness. Nonetheless, I wish to add to the discussions of these issues, in particular, to detail the history and present status of our country's vaccination program, and to share some thoughts on the applicability of the relief of continuing *mandamus* in a case of this nature.

At the core of this controversy is whether it is proper for this Court to direct government agencies to provide specific services

Supreme Court E-Library

in relation to the 2015 Dengue Immunization Program through a writ of mandamus or a writ of continuing mandamus.

Petitioners, seventy-four (74) children inoculated with Dengvaxia represented by their parents, claim that they have sustained a direct and substantial injury due to the vaccination program. The other petitioners are private citizens and legislators, collectively invoking the Court's power to promulgate rules for the protection and enforcement of their constitutional right to health, a matter of transcendental import.

Collectively, the petitioners pray for the respondent agencies to provide the following services in connection with the Dengue Immunization Program: [1]

1. Publicly disseminate, on a regular basis, the report of the task force created and designated to monitor and review the school-based immunization program involving Dengvaxia and to submit the same to the House of Representatives and Senate Committees on Health;
2. Conduct further study and review on the safety and efficacy of Dengvaxia, which should be open to the public and subject to review by independent medical experts;
3. Create a registry or list of all those who had been inoculated with Dengvaxia;
4. Provide free medical services to all inoculated children and monitor any adverse effects caused by the vaccine;
5. Provide free medical treatment and hospitalization to inoculated children if they suffer from a Dengvaxia-related illness; and
6. Conduct initial and free consultations of inoculated children in all areas covered by the program.

I agree with the *ponencia* that this Petition ought to be dismissed for insufficiency of substance. Petitioners' resort to a petition for *mandamus* under Rule 65 is untenable, there being no law that mandates the Food and Drug Administration **(FDA)**, the Departments of Health **(DOH)**, Education **(DepEd)**, and

[1] *Decision*, p. 11.

Supreme Court E-Library

the Interior and Local Government **(DILG)** to grant petitioners' prayers in relation to the immunization program. The actions sought from respondents are clearly subject to Executive discretion, which the Judiciary has no power to compel. Neither can a writ of continuing *mandamus* be issued as their prayers do not arise from a violation or enforcement of an environmental law.

At the risk of the Court encroaching on the duties of a co-equal branch of government, this Petition must be dismissed.

In *La Bugal-B'laan Tribal Association v. Ramos*,[2] the Court restrained itself from intruding into policy matters to allow the President and Congress maximum discretion in using the mineral resources of our country and in securing the assistance of foreign groups to eradicate the grinding poverty of our people and answer their cry for viable employment opportunities in the country. "The Judiciary is loath to interfere with the due exercise by co-equal branches of government of their official functions." In deciding on the legality of certain provisions of Republic Act (**R.A.**) No. 7942, or the Philippine Mining Act of 1995, the Court yielded the wisdom of the development of the mining industry to the political branches of government.

Assuming *arguendo* that the petitioners' claims carry substantial legal weight, the Judiciary must, in the same vein, allow the national government, primarily through the DOH, to develop and implement a national immunization program in accordance with its mandate.

Section 2, Title IX of Executive Order (**E.O.**) No. 292 instituting the Revised Administrative Code of 1987 **(the Administrative Code)** provides that the DOH shall be primarily responsible for the formulation, planning, implementation, and coordination of policies and programs in the field of health.[3] The primary function of the DOH is the promotion, protection, preservation, and restoration of the health of the people through the provision and delivery of health services and through the regulation and encouragement of

---

[2] 465 Phil. 860-985 (2004).

[3] ADMINISTRATIVE CODE, sec. 2.

Supreme Court E-Library

providers of health goods and services.[4] Likewise, the powers and functions indicated under Section 3, Title IX[5] of the Administrative Code merely outline the scope of the DOH's powers, and does not pertain to ministerial acts which can immediately be implemented by the DOH without the further exercise of discretion.

Policy and science behind immunization

Vaccines have been around for over 200 hundred years and are recognized to be among the greatest advances in public health.

---

[4] *Id*.

[5] *Id*., Sec. 3, viz.: "Section 3. *Powers and Functions*. — The Department shall:

(1) Define the national health policy and formulate and implement a national health plan within the framework of the government's general policies and plans, and present proposals to appropriate authorities on national issues which have health implications;

(2) Provide for health programs, services, facilities and other requirements as may be needed, subject to availability of funds and administrative rules and regulations;

(3) Coordinate or collaborate with, and assist local communities, agencies and interested groups including international organizations in activities related to health;

(4) Administer all laws, rules and regulations in the field of health, including quarantine laws and food and drug safety laws;

(5) Collect, analyze and disseminate statistical and other relevant information on the country's health situation, and require the reporting of such information from appropriate sources;

(6) Propagate health information and educate the population on important health, medical and environmental matters which have health implications;

(7) Undertake health and medical research and conduct training in support of its priorities, programs and activities;

(8) Regulate the operation of and issue licenses and permits to government and private hospitals, clinics and dispensaries, laboratories, blood banks, drugstores and such other establishments which by the nature of their functions are required to be regulated by the Department;

(9) Issue orders and regulations concerning the implementation of established health policies; and

(10) Perform such other functions as may be provided by law."

Supreme Court E-Library

They are also considered among the most cost-effective public health interventions.[6]

Each year, up to three million children worldwide are saved by vaccines from deadly diseases. Since 1988, the number of children paralyzed by polio has fallen by over 99%. In the past two decades, measles vaccination has averted over 23 million deaths.[7] Thanks to vaccines, more than 20 life-threatening diseases are now preventable.[8]

While used interchangeably and intimately related, vaccination and immunization are not synonymous. Vaccination more precisely refers to the act of inoculating or injecting the vaccine, or the "act of introducing a vaccine into the body to produce protection from a specific disease."[9] Immunization is what happens to the body after inoculation, the "process by which a person becomes protected against a disease through vaccination."[10] Thus, our health authorities can vaccinate; however, whether such vaccination eventually leads to immunization is beyond their control. This can be aptly illustrated by looking at the efficacy rate of well-known vaccines — a dose of Measles Mumps Rubella vaccine is 93% effective against measles, 78% against mumps, and 97% against

---

[6] WHO, *Vaccines and Immunization*, https://www.who.int/health-topics/vaccines-and-immunization?adgroupsurvey={adgroupsurvey}&gclid=Cj0KCQjwrs2XBhDjARIsAHVymmRyAmzcubjxEGvdAiOZ8VQI3FrywRpJRV7YVpL1w_YUUIwOL11JWDIaAunlEALw_wcB#tab=tab_1 (accessed last August 10, 2022)

[7] UNICEF on Immunization, https://www.unicef.org/immunization (accessed last August 12, 2022).

[8] WHO Vaccines and Immunization, https://www.who.int/health-topics/vaccines-and-immunization?adgroupsurvey={adgroupsurvey}&gclid=Cj0KCQjwrs2XBhDjARIsAHVymmRyAmzcubjxEGvdAiOZ8VQI3FrywRpJRV7YVpL1w_YUUIwOL11JWDIaAunlEALw_wcB#tab=tab_1 (accessed last August 10, 2022).

[9] US Centers for Disease Control & Prevention, *Vaccines and Immunizations, Immunization: The Basics*, https://www.cdc.gov/vaccines/vac-gen/imz-basics.htm (accessed last August 12, 2022).

[10] Id.

Supreme Court E-Library

rubella,[11] while two doses of inactivated polio vaccine are 90% effective.[12] A 100% vaccine efficacy rate cannot be guaranteed.[13]

When vaccines induce immunity, they protect an individual directly. However, vaccination does not guarantee immunity for a multitude of reasons; some vaccinated persons do not mount an immune response. There are also some individuals who cannot be vaccinated altogether. While unvaccinated individuals remain susceptible to disease, vaccines can still offer an indirect protection as when a significant number of individuals in the population are vaccinated and immunized. Vaccinated individuals, who become immunized, are not only protected from the disease, but are also able to prevent further transmission to other persons, thereby indirectly protecting those who are otherwise susceptible to the disease. Thus, health authorities aim to vaccinate enough individuals within a population to achieve what is known as "herd immunity" or "herd protection."[14]

Vaccination in the Philippines

The Expanded Program on Immunization **(EPI)** was conceived in 1974 by the World Health Organization **(WHO)**, following

---

[11] US Centers for Disease Control & Prevention, *Vaccines and Preventable Disease, Measles, Mumps, and Rubella, Vaccination: What Everyone Should Know*, https://www.cdc.gov/vaccines/vpd/mmr/public/index.html#:~:text=One%20dose%20of%20MMR%20vaccine%20is%2093%25%20effective%20against%20measles.(weakened)%20live%20virus%20vaccine (accessed last August 12, 2022).

[12] US Centers for Disease Control & Prevention, *Vaccines and Preventable Disease, Polio Vaccine Effectiveness and Duration of Protection*, https://www.cdc.gov/vaccines/vpd/polio/hcp/effectiveness-duration-protection.html#:~:text=Two%20doses%20of%20inactivated%20polio.polio%20vaccine%20(tOPV)%2C%20or (accessed last August 12, 2022).

[13] US Centers for Disease Control & Prevention, Vaccine Safety: Overview, History, and How the Safety Process Works, https://www.cdc.gov/vaccinesafety/ensuringsafety/history/index.html (accessed last November 21, 2022).

[14] Pollard AJ, Bijker EM. *A guide to vaccinology: from basic principles to new developments. Nat Rev Immunol*. 2021;21(2):83 — 100.doi: 10.1038/s41577-020-00479-7, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7754704/ (accessed last August 10, 2022).

Supreme Court E-Library

the 27th World Health Assembly, based on the Member-States' collective aspiration to promote and develop vaccination in all countries, particularly to "promote measures to assist countries in extending their immunization programmes to cover the greatest possible percentage of susceptible populations."[15]

The Philippines' very own EPI was established in 1976 through Presidential Decree (**P.D.**) No. 996,[16] which made basic vaccination compulsory for all infants and children below eight years of age.[17] The vaccines against the following diseases were included in the EPI: (1) tuberculosis (BCG vaccine); (2) diphtheria, tetanus, and pertussis; (3) polio (oral poliomyelitis vaccine); (4) measles; and (5) rubella. Apart from these, P.D. No. 996 allowed for the provision of additional vaccine services upon the recommendation of the Council for the Welfare of Children to the Secretary of Health.[18]

Under P.D. No. 996, the DOH was tasked to provide vaccination services for free. Meanwhile, institutions where children were educated, treated, or cared for have also been directed to provide basic vaccination services under P.D. No. 996 in coordination with the DOH.[19] All schools, public and private, have been mandated to provide vaccination services to school entrants who have yet to be vaccinated.[20]

A decade later, the Philippines, through Presidential Proclamation No. 6, Series of 1986, expressed its support for the international goal, adopted by the United Nations General Assembly in 1985, to achieve Universal Child Immunization by

---

15 World Health Assembly Resolution WHA.27.57 (May 23, 1974).

16 Providing for Compulsory Basic Immunization for Infants and Children Below Eight Years of Age. Presidential Decree No. 996. (September 22, 1976).

17 PRES. DEC. No. 996, Providing for Compulsory Basic Immunization for Infants and Children Below Eight Years of Age (September 16, 1976).

18 PRES. DEC. No. 996, Sec. 2.

19 *Id*. sec. 5.

20 *Id.* sec. 6.

Supreme Court E-Library

1990.[21] All national government agencies, under the leadership of the then Ministries of Health and of Social Services, were mandated to mobilize their networks to immunize all Filipino children against leading causes of child mortality and morbidity —polio, measles, diphtheria, pertussis, tetanus, and tuberculosis —while civil society was likewise called to join efforts towards the goal.[22] In the same year, a National Immunization Committee was formed to handle the coordination for the EPI.[23]

In 1992, as part of its commitment to the global goal to eradicate polio by the year 2020, the Philippines Poliomyelitis Eradication Project was launched. Under Presidential Proclamation No. 46, the DOH was tasked to lead the project and make the country polio-free by 1995. To do this, the agency was given authority to call on government agencies and non-government organizations for assistance.[24]

The EPI was further expanded with the enactment of R.A. No. 7846[25] in 1994. The law required compulsory vaccination against Hepatitis B in addition to the basic vaccination services for children under eight years under P.D. No. 996.

With the enactment of R.A. No. 10152, or the Mandatory Infants and Children Immunization Act of 2011, mandatory basic vaccination for all infants and children was expanded to eight diseases, along with vaccines for such other diseases as may be determined by the Secretary of Health. This authority of the Secretary of Health reiterates the authority granted through P.D.

---

[21] PRES. PROC. NO. 6, series of 1986, Implementing A United Nations Goal on Universal Child Immunization by 1990.

[22] *Id.*

[23] Reyes, MSG, Dee, EC, and Ho, BL, *Vaccination in the Philippines: experiences from history and lessons for the future*, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8115747/ (accessed last August 8, 2022).

[24] PRES. PROC. Reaffirming the Commitment to the Universal Child and Mother Immunization Goal by Launching the Polio Eradication Project.

[25] REP. ACT NO. 7846 (1994). An Act requiring compulsory immunization against Hepatitis B for infants and children below eight years old, amending for the purpose Presidential Decree No. 996, December 30, 1994.

Supreme Court E-Library

No. 996, while dispensing with the need for recommendations from the CWC.

> Sec. 3. Coverage. — The mandatory basic immunization for all infants and children provided under this Act shall cover the following vaccine-preventable diseases:
>
> (a) Tuberculosis;
> (b) Diphtheria, tetanus and pertussis;
> (c) Poliomyelitis;
> (d) Measles;
> (e) Mumps;
> (f) Rubella or German measles;
> (g) Hepatitis-B;
> (h) H. Influenza type B (HIB); and
> (i) Such other types as may be determined by the Secretary of Health in a department circular.
>
> x x x

As a result of the foregoing efforts and policies, the Philippines was able to achieve significant milestones in EPI over the last four decades.

From 1989 to 2009, data from the DOH shows that deaths and illnesses due to diphtheria, pertussis, neonatal tetanus, tuberculosis, and measles have been significantly reduced. There were zero deaths from pertussis since 1989, and zero deaths for diphtheria since 1996. Measles deaths have declined in the 1990s. In 2000, the Philippines reached polio-free status.[26] Deaths due to tetanus have continuously decreased, and the country was able to eliminate maternal neonatal tetanus in 2017.[27]

It bears stressing that while successful in reducing the burden of vaccine-preventable diseases, the program has not been able

---

[26] Department of Health, *National Immunization Program Manual of Operations*, p. 30.

[27] Ulep, VGT, & Uy, J, *An Assessment of the Expanded Program on Immunization (EPI) in the Philippines: Challenges and Ways Forward*, Philippine Institute for Development Studies, Discussion Paper Series No. 2021-04, February 2021, https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2104.pdf (accessed last August 8, 2022).

Supreme Court E-Library

to prevent occasional outbreaks. Measles outbreaks occurred in 2013-2014,[28] 2018, and almost two decades after being declared polio-free, a polio outbreak was declared in 2019.[29] In response, the DOH intensified nationwide polio campaigns, together with WHO, UNICEF, and other partners, and in 2021 the closure of the polio-outbreak was declared.[30]

The Court must uphold Executive discretion in the conduct of the vaccination program

The foregoing exposition shows that from its very inception, the vaccination program has been under the leadership and stewardship of the DOH. Apart from implementing the program for the prescribed vaccines, the DOH, through the Secretary of Health, has been given sufficient discretion to determine which additional vaccines should be included in the program since its inception. The authority for innovating and steering strategies to achieve vaccination goals, as well as to address incidents such as outbreaks, has likewise been ceded to the DOH.

The laws passed by Congress as regards the DOH's implementation of the vaccination program clearly demonstrate how the Legislature has consistently recognized the Executive's technical expertise in the field of public health, and this Court is worst to similarly recognize the same.

As aptly explained in the *ponencia*, the DOH is primarily responsible for the formulation, planning, implementation, and

---

[28] Department of Health, *National Immunization Program Manual of Operations*.

[29] WHO Joint News Release, *WHO, UNICEF and partners support Philippine Department of Health's polio outbreak response*, 9 September 2019, https://www.who.int/philippines/news/detail/19-09-2019-who-unicef-and-partners-support-philippine-department-of-health-s-polio-outbreak-response (accessed last August 8, 2022).

[30] WHO Joint News Release, *WHO, UNICEF laud end of polio outbreak in the Philippines*, 11 June 2021, https://www.who.int/philippines/news/detail/11-06-2021-who-unicef-laud-end-of-polio-outbreak-in-the-philippines (accessed last August 8, 2022).

Supreme Court E-Library

coordination of policies and programs in the field of health. In turn, R.A. No. 9155, or the Governance of Basic Education Act of 2001, tasks the DepEd to set the general directions for educational policies and standards and establish authority, accountability and responsibility for achieving higher learning outcomes,[31] *inter alia*. Meanwhile, the DILG, under E.O. No. 292, is mandated to primarily assist the President in the exercise of general supervision over local governments.

Clearly, these offices are outside the province of the Judiciary, lest it is the petitioners' true desire for the Court to decide on the science behind any national vaccination program, and its implementation and monitoring across schools and communities. Jurisprudence instructs that regulations enacted by administrative agencies to implement and interpret laws they are entrusted to enforce are entitled to great respect.[32] They partake of the nature of a statute and are just as binding as if they have been written in the statute itself. As such, administrative regulations have the force and effect of law and enjoy the presumption of legality. Unless and until they are overcome by sufficient evidence showing that they exceeded the bounds of the law,[33] their validity and legality must be upheld.

The Court consistently avoids ruling on constitutional questions and presumes that the acts of the political departments are valid, absent a clear and unmistakable showing to the contrary, in deference to the doctrine of separation of powers.[34] This means that the measure had first been carefully studied by the executive

---

[31] REP. ACT NO. 9155 (2001), sec. 3. Lapsed into law on August 11, 2001, without the President's signature, pursuant to Sec. 27 (1), Article VI of the Constitution.

[32] *Cawad v. Abad*, 764 Phil. 705-764 (2015), *Dacudao v. Secretary of Justice*, 688 SCRA 109, 123, (2013) citing *ABAKADA Guro Party List v. Purisima*, 584 Phil. 246, 283 (2008).

[33] *Cawad v. Abad*, 764 Phil. 705-764 (2015).

[34] *International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (Philippines)*, G.R. Nos. 209271, 209276, 209301 & G.R. No. 209430 (Resolution), July 26, 2016.

Supreme Court E-Library

department and found to be in accord with the Constitution before it was finally enacted and approved.[35]

Verily, I join the ponente's exhaustive disquisition on the principle of separation of powers of government that warns of encroaching on powers belonging to a different branch. Thus, the legislature cannot enforce laws nor participate in their execution.[36] In the same way, the Executive cannot legislate and interpret laws.[37] The Judiciary, on the other hand, "cannot inquire into the wisdom or expediency of the acts of the executive or the legislative."[38] Each branch is independent and supreme within its own sphere and the encroachment by one branch on another is to be avoided at all costs.[39]

The case is moot and academic

This Petition has become moot and academic.

The respondents have already performed the petitioners' requests, save for the release of the master list, which the DOH cannot do without running afoul of prevailing data privacy laws. No less than the National Privacy Commission, through then-Privacy Commissioner Raymund Enriquez Liboro, in its advisory opinion dated February 26, 2018, warned that the disclosure to another government agency or private entity of a copy of the DOH master list of individuals vaccinated with Dengvaxia must be "provided for by existing laws and regulations or a data subject has given his or her consent."[40] The requested list was classified as sensitive personal information, and relates to minors, which the NPC identifies as a vulnerable group of data subjects. Thus, the disclosure of information concerning these individuals is proscribed absent proof of consent from the minor data subject:

---

[35] *Id.*

[36] *Belgica v. Ochoa*, 721 Phil. 416-732 (2013).

[37] *Id.*

[38] *Department of Environment and Natural Resources v. DENR Region 12 Employees*, 456 Phil. 635-648 (2003).

[39] *Biraogo v. Philippine Truth Commission of 2010*, 651 Phil. 374-773 (2010).

[40] *Id.*

Supreme Court E-Library

The release of a copy of the master list of students and individuals who were vaccinated with Dengvaxia ®, which contains sensitive personal information to the requesting (sic), to any requesting public, could constitute an unwarranted invasion of personal privacy.

We urge the DOH to be circumspect in releasing information relating to sensitive personal information of individuals. It should do so only if it is satisfied that such release is authorized under law and adheres to data privacy principles, and reasonable and appropriate security measures are in place for the protection of said data. In order to fulfill its own mandate, the DOH collects the health information of Filipinos, who should be able to trust that their information will be protected and used only for the purpose by which they are collected.[41]

The Court may likewise take judicial notice that the DOH issued several Administrative Orders **(A.O.)** to implement policies that address the petitioners' appeals.

1. A.O. No. 2018-0004 (February 9, 2018), *Interim Guidelines on the Surveillance of Adverse Events among Dengvaxia Vaccinees (AEDV Surveillance)*, directing health facilities and health professionals from both the public and private sectors to cater to and manage individuals who have received at least one (1) dose of Dengvaxia and have thereafter experienced adverse events.

2. A.O. No. 2018-0005, (February 13, 2018), *Interim Guidelines on Dengue Diagnosis, Referral and Management for Dengvaxia Vaccinated Individuals*, to provide technical guidance to health workers on the diagnosis, referral, and management of Dengvaxia-vaccinated individuals who acquire dengue infection.

3. A.O. No. 2018-0006 (February 20, 2018), *Interim Guidelines for Specimen Collection, Initial Testing, Storage, Packaging and Transport for Confirmatory Testing of Cases from Surveillance of Adverse Events among Dengvaxia Vaccinees (AEDV) and Designation of Sub-National Laboratories and*

---

[41] *Press Release: Privacy Commission cautions DOH on sharing of Dengvaxia master list*, 6 March 2018, | 11:00 AM GMT+0800 Last Edit: November 11, 2021, https://www.privacy.gov.ph/2018/03/privacy-commission-cautions doh-on-sharing-of-dengvaxia-master-list/ (August 15, 2022).

Supreme Court E-Library

Partner Testing Laboratories to address several challenges in the collection, storage, and transport of specimens resulting from confusion regarding the protocol for the same; it likewise identified several subnational laboratories to augment the capacity of the Research Institute for Tropical Medicine, which serves as the National Reference Laboratory for Dengue and other arboviruses, and central laboratory for confirmatory testing.

4. A.O. No. 2018-0007 (February 28, 2018), *Interim Guidelines on Investigating Deaths related to Dengvaxia Immunization*, to institute standard operating procedures in the conduct of autopsy and in the investigation of deaths associated with Dengvaxia vaccines (it was subsequently amended by A.O. 2018-0007-A, in June 2018).

5. A.O. No. 2018-0008 (March 1, 2018), *Interim Guidelines Risk Communication for Dengue/Dengvaxia Immunization Concerns*, which covers the delivery of key messages on immunization, dengue prevention, and actions undertaken by the DOH, and outlines the strategies and tools that shall be utilized to address public concerns about Dengvaxia vaccination and rebuild the public's trust in the vaccination program of the DOH.

6. A.O. No. 2018-0010 (March 14, 2018), *Interim Guidelines on Health Financing for Medical Needs of Dengvaxia Vaccinees*, on 14 March 2018, which allowed for the identification and profiling of vaccinees in Regions III, IV-A, and the NCR, where the vaccine was first introduced, and outlines the health financing and payment mechanisms for the medical needs of vaccinees, to ensure their timely and equitable access to healthcare services.

As for the FDA, the *ponencia* notes that it has been studying and reviewing the safety and efficacy of Dengvaxia, and coordinating with the manufacturer for periodic safety reports and alerts on possible issues, in keeping with its mandate for post-market surveillance for health products.[42]

---

[42] REP. ACT NO. 9711, sec. 5.

Supreme Court E-Library

Clearly, all the reliefs prayed for by the petitioners have already been addressed by the respondents.

The writs of mandamus and continuing mandamus cannot issue

Similar to an ordinary *mandamus*, the Rules of Procedure for Environmental Cases[43] provide that a writ of continuing *mandamus* may be invoked to compel government agencies to perform acts specifically enjoined by law.

> RULE 8
> WRIT OF CONTINUING MANDAMUS
>
> SECTION 1. Petition for continuing mandamus. — **When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins** as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping. (emphasis supplied)

In this case, the petitioners, apart from citing the scope of the agencies' powers and functions, have failed to point to specific provisions of the law where the supposed duties are purportedly required.

Assuming *arguendo* that the powers and functions they cite constitute positive duties that respondents must perform, there is also no showing of unlawful neglect on the part of the respondent

---

[43] A.M. No. 09-6-8-SC (2010).

Supreme Court E-Library

agencies. Clearly, the respondents have not been remiss, as the preceding discussion would show that they have actively and willingly implemented programs to address the concerns of the petitioners, within their respective authorities, without need for a judicial directive.

The writ of continuing *mandamus* was brought about by the necessity for urgent action and to ensure that the Court's orders will not be rendered futile through the inaction of concerned administrative agencies. In *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*,[44] the Court explained:

> It thus behooves the Court to put the heads of the petitioner-department-agencies and the bureaus and offices under them on continuing notice about, and to enjoin there to perform, their mandates and duties towards cleaning up the Manila Bay and preserving the quality of its water to the ideal level. Under what other judicial discipline describes as "continuing *mandamus*": *the Court may, under extraordinary circumstances, issue directives with the end in view of ensuring that its decision would not be set to naught by administrative inaction or indifference. In India, the doctrine of continuing mandamus* was used to enforce directives of the court to clean up the length of the Ganges River from industrial and municipal pollution.
>
> x x x
>
> In the light of the ongoing environmental degradation, the Court wishes to emphasize the extreme necessity for all concerned executive departments and agencies to immediately act and discharge their respective official duties and obligations. Indeed, time is of the essence; hence, there is a need to set timetables for the performance and completion of the tasks, some of them as defined for them by law and the nature of their respective offices and mandates.
>
> The importance of the Manila Bay as a sea resource, playground, and as a historical landmark cannot be over-emphasized. It is not yet too late in the day to restore the Manila Bay to its former splendor and bring back the plants and sea life that once thrived in its blue waters. But the tasks ahead, daunting as they may be, could only be accomplished if those mandated, with the help and cooperation of all civic-minded individuals, would put their minds to these tasks and take responsibility. This means

[44] 595 Phil. 305-352 (2008).

Supreme Court E-Library

that the State, through petitioners, has to take the lead in the preservation and protection of the Manila Bay.

The era of delays, procrastination, and *ad hoc* measures is over. Petitioners must transcend their limitations, real or imaginary, and buckle down to work before the problem at hand becomes unmanageable. Thus, we must reiterate that different government agencies and instrumentalities cannot shirk from their mandates; they must perform their basic functions in cleaning up and rehabilitating the Manila Bay. We are disturbed by petitioners' hiding behind two untenable claims: (1) that there ought to be a specific pollution incident before they are required to act; and (2) that the cleanup of the bay is a discretionary duty. (emphasis in the original; citations omitted)[45]

Again, assuming that the respondents have a duty to perform the acts prayed for by the petitioners, unlike in the *Manila Bay*[46] case, records do not bare neglect on the part of the respondents, nor any indicia that the respondents will renege on their obligations once this Court issues a directive. Thus, even if we disregard the fact that this case involves a public health issue, and not an environmental one, or any other issue under any other related law, rule, regulation, or right, the Petition must still fail. The extraordinary circumstances prevailing in *Manila Bay*[47] are not present here. There is no basis for the Court to extend the application of the writ of continuing *mandamus* to the public health issue before us, based on the attendant facts and circumstances.

The *ponencia* lays down the following guidelines for the issuance of a Writ of Continuing Mandamus.

Thus, every Petition for a Writ of Continuing Mandamus should clearly allege (a) the serious and systemic inability of respondents to meet their constitutional or statutory obligations to protect and preserve the environment despite repeated demands, (b) convincing circumstances that the non-issuance of the writ will result in irreparable damage to our ecology within the scope provided in our rules, and (c) specific, measurable, attainable, realistic and timebound objectives that have rational relation to the irreparable damage sought to be avoided.[48]

---

[45] *Id.*

[46] *Id*.

[47] *Id.*

[48] *Decision*, p. 5.

Supreme Court E-Library

I wholeheartedly agree with the statement in the *ponencia* that "judicial relief to health and environmental rights should always be based upon reasonable scientific as well as established and sufficient bases." This should, of course, be viewed in light of the precautionary principle in the Rules of Procedure for Environmental Cases, and should not be construed as imposing a higher standard. The precautionary principle allows the court to err on the side of caution in the absence of scientific certainty. The Rules of Procedure for Environmental Cases provide:

> RULE I
> GENERAL PROVISIONS
>
> Section 2 (f) Precautionary principle states that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat.
>
> x x x
>
> RULE 20
> PRECAUTIONARY PRINCIPLE
>
> Section 1. Applicability. — When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it. The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.
>
> Section 2. Standards for application. — In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.[49]

In conclusion, I wish to emphasize that the antecedents of the government's vaccination program and the foregoing discussions clearly evince that the Judiciary has no authority to interfere in the Executive's implementation and administration of the vaccination program. Therefore, I concur in the erudite *ponencia*, subject to the foregoing discussions.

---

[49] A.M. No. 09-6-8-SC (2010).