Supreme Court E-Library

EN BANC

[G.R. No. 206486; August 16, 2022]

REPUBLIC OF THE PHILIPPINES, represented by the LAND TRANSPORTATION OFFICE AND THE DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, *Petitioner*, *v.* **MARIA BASA EXPRESS JEEPNEY OPERATORS AND DRIVERS ASSOCIATION, INC., RIBO D. WAYOS, and TIMOTEO B. SAROL,** *Respondents*.

[G.R. No. 212604; August 16, 2022]

ANGAT TSUPER SAMAHAN NG MGA TSUPER AT OPERATOR NG PILIPINAS-GENUINE ORGANIZATION ("ANGAT TSUPER/STOP AND GO"), INC., with its local affiliates, QUIAPO-PASIG AUV DRIVERS AND OPERATORS ASSOCIATION, INC., CONCERNED OPERATORS METRO EAST TRANSPORT, INC., BAYAMBANG-BAUTISTA-CARMEN, LRT MALL JODA, MUSTAI, VACATI, PMAQ TRANSPORT, VMMJODA, GOOD SAMARITAN, BAPPSODA, MMJODAI, MSMCUDOA, SAN JOAQUIN FX OPERATORS AND DRIVERS ASSOCIATION, JARDAN TRANSPORT COOPERATIVE,NHODAI,CUKRLAJODA,GRSDOA, SQBJODA, TAGUIG EXPRESS TRANSPORT OPERATORS AND DRIVERS ASSOCIATION, DAU-MALOLOS VIA NLEX DRIVERS AND OPERATORS ASSOCIATION, SAMAHAN NG MGA DRIVER AT OPERATOR NG BARANGAY GREATER LAGRO (LSDOA ASSN.), all represented by its President, PASCUAL "*JUN*" A. MAGNO, JR., *Petitioners*, *v.* **JOSEPH EMILIO AGUINALDO ABAYA, in his capacity as Secretary of the DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, ALFONSO V. TAN, JR., in his capacity as Assistant Secretary of the LAND TRANSPORTATION OFFICE,**

and WINSTON M. GINEZ, in his capacity as Chairman of the LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD, *Respondents*.

PAGKAKAISA NG MGA SAMAHAN NG TSUPER AT OPERATORS NATIONWIDE (PISTON), represented by its Secretary General GEORGE SAN MATEO, *Petitioner-In-Intervention*.

[G.R. No. 212682; August 16, 2022]

XIMEX DELIVERY EXPRESS, INC., *Petitioner*, *v.* **DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, herein represented by HON. JOSEPH EMILIO AGUINALDO ABAYA, LAND TRANSPORTATION OFFICE, herein represented by Assistant Secretary ALFONSO V. TAN, JR., and LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD, represented by ATTY. WINSTON M. GINEZ,** *Respondents*.

[G.R. No. 212800; August 16, 2022]

ERNESTO C. CRUZ, for himself and as President of the NATIONAL CONFEDERATION OF TRANSPORTWORKERS, INC. (NCTU), ARNULFO D. ABRIL, for himself and as Chairman of SAMAHAN NG MGA TSUPER AT OPERATOR SA STARMALL EDSA CROSSING KALENTONG AT ANNEX, INC. (STOMECKA) and EMMANUEL G. FEROLINO, for himself and as President of ZAPOTE BACOOR TALABA BINAKAYAN KAWIT BACAO TANZA JEEPNEY OPERATORS AND DRIVERS ASSOCIATION, INC. (ZABATABINKABATAN JODA), *Petitioners*, *v.* **DEPARTMENT OF TRANSPORTATION AND COMMUNICATIONS, LAND TRANSPORTATION OFFICE and LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD,** *Respondents*.

Supreme Court E-Library

D E C I S I O N

LOPEZ, J., *J.*:

"When, therefore, one devotes his [or her] property to a use in which the public has an interest, he [or she], in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he [or she] has thus created. He [or she] may withdraw his [of her] grant by discontinuing the use, but so long as he [or she] maintains the use, he [or she] must submit to control."[1]

The Consolidated Petitions

This Court has before it the delicate task of determining the constitutionality and validity of Joint Administrative Order No. 2014-01 *(JAO No. 2014-01)*[2] and its predecessor, Department Order No. 2008-39 *(D.O. No. 2008-39)*,[3] issued by the Department of Transportation and Communications *(DOTC)*, through the Land Transportation Office *(LTO)* and the Land Transportation Franchising and Regulatory Board *(LTFRB)*.

In **G.R. No. 206486,** the Republic of the Philippines (*Republic*), represented by the DOTC and the LTO, filed a Petition for Review on *Certiorari*[4] under Rule 45 of the Rules of Court, assailing the Resolutions of the Court of Appeals (*CA*) dated November 15, 2012[5] and March 21, 2013,[6] dismissing its Petition for *Certiorari* for being the incorrect mode of appeal. The instant

---

1 *Fisher v. Yangco Steamship Company*, 31 Phil. 1, 19 (1915). (Citations omitted)

2 Entitled "*Revised Schedule of Fines and Penalties for Violations of Laws, Rules and Regulations Governing Land Transportation*." Approved: June 2, 2014.

3 Entitled "*Revised Schedule of LTO Fines and Penalties for Traffic and Administrative Violations*." Approved: August 26, 2008.

4 *Rollo* (G.R. No. 206486), Vol. I, pp. 8-46.

5 Id. at 48-50. Penned by Associate Justice Aurora C. Lantion and concurred in by Associate Justices Ramon R. Garcia and Myra V. Garcia-Fernandez.

6 Id. at 52-53.

Supreme Court E-Library

petition likewise prays that the Decision[7] dated May 2, 2012 of the Regional Trial Court, Branch 5, Baguio City (*RTC*), declaring the unconstitutionality of D.O. No. 2008-39, be set aside.

In **G.R. Nos. 212604, 212682,** and **212800**, petitioners Angat Tsuper Samahan ng mga Tsuper at Operator ng Pilipinas-Genuine Organization (*Angat Tsuper*), Ximex Delivery Express, Inc. (*Ximex*), Ernesto C. Cruz (*Ernesto*), as President of the National Confederation of Transportworkers, Inc. or National Confederation of Transportworkers Union (*NCTU*) and Chairperson of Samahan ng mga Tsuper at Operator sa Starmall Edsa Crossing Kalentong at Annex, Inc. (*STOMECKA*), and Emmanuel G. Ferolino (*Emmanuel*), as President of Zapote Bacoor Talaba Binakayan Kawit Bacao Tanza, Jeepney Operators and Driver's Association, Inc. (*ZABATABINKABATAN JODA*) filed their respective Petitions for *Certiorari*[8] under Rule 65 of the Rules of Court to declare JAO No. 2014-01 unconstitutional and to prohibit the DOTC and the LTO from effecting its implementation.

Joining as petitioners-in-intervention are Pagkakaisa ng mga Samahan ng Tsuper at Operators Nationwide (*PISTON*)[9] and the Philippine National Taxi Operators Association (*PNTOA*),[10] having filed respective petitions assailing the constitutionality of JAO No. 2014-01.

The Antecedent Facts

G.R. No. 206486

On October 6, 2008, the DOTC, through the LTO, issued a new penalty scheme for violations committed by motor vehicles plying the roads of Metro Manila under D.O. No. 2008-39.[11] The Order was published in the Philippine Daily Inquirer on October 9 and

---

7 Penned by Hon. Antonio M. Esteves; id. at 314-318.

8 *Rollo* (G.R. No. 212604), Vol. I, pp. 3-20; *Rollo* (G.R. No. 212682), Vol. I, pp. 3-29; *Rollo* (G.R. No. 212800), Vol. I, pp. 3-23.

9 *Rollo* (G.R. No. 212604), Vol. I, pp. 74-106.

10 *Rollo* (G.R. No. 212682), Vol. I, pp. 412-446.

11 *Rollo* (G.R. No. 206486), Vol. I, pp. 143-152.

Supreme Court E-Library

16, 2008,[12] as evidenced by an Affidavit of Publication[13] dated October 24, 2008, prepared by Classified Ads Manager Lourdes C. Diaz.

On March 4, 2009, officers of the LTO apprehended three drivers, including respondents Ribo D. Wayos (*Ribo*) and Timoteo B. Sarol (*Timoteo*), both members of the Maria Basa Express Jeepney Operators and Drivers Association, Inc. (*Maria Basa*) for "out of line" or "deviation" charges while traveling along their route in Baguio City.[14] The officers informed the three drivers that, pursuant to D.O. No. 2008-39, the corresponding penalty for their violations were ₱6,000.00, and upon failure to settle the same within 72 hours, there would be a surcharge of ₱1,500.00 a day.[15]

Alleging that D.O. No. 2008-39 suffered from fatal and congenital constitutional defects, Manuel S. Kitan, as President of Maria Basa, together with Ribo and Timoteo, filed a Petition[16] dated March 16, 2009 before the RTC, praying that judgment be rendered declaring D.O. No. 2008-39 unconstitutional and that an injunctive writ be issued enjoining the implementation of the Order. The instant petition was amended[17] and was subsequently filed on August 28, 2009.

The instant petition argued that D.O. No. 2008-39 was confiscatory in nature because it allowed the LTO to simultaneously act as an arresting officer, prosecutor, and judge, which, in effect, abdicates the power of the government to arrest, prosecute, and eventually sentence the violator.[18] It also raised that the Order was anti-poor, oppressive, and untimely as it prejudices the livelihood of taxicabs and jeepney drivers in the face of a global economic crisis.[19]

---

[12] Id. at 153-154.

[13] Id. at 155.

[14] Id. at 159.

[15] Id. at 14; see D.O. No. 2008-39(E)(60); *Rollo*, G.R. No. 206486, Vol. I, p. 146.

[16] *Rollo* (G.R. No. 206486), Vol. I, pp. 156-167.

[17] Id. at 169-180.

[18] Id. at 175.

[19] Id. at 176.

Supreme Court E-Library

On May 2, 2012, the RTC rendered a Decision[20] declaring the provisions of D.O. No. 2008-39 null and void. The RTC disposed in this wise:

WHEREFORE, LTO Department Order 2008-39 is likewise declared **NULL** and **VOID** for being **UNCONSTITUTIONAL**. Consequently, the application for a **Permanent Writ of Preliminary Injunction** is **GRANTED** and the **LAND TRANSPORTATION OFFICE (LTO)**, **DEPARTMENT OF TRANSPORTATION AND COMMUNICATION[S] (DOTC)**, and **all persons and offices acting in their behalf** are hereby directed to **CEASE** and **DESIST** from implementing LTO Department Order 2008-39.

SO ORDERED.[21]

In finding the petition meritorious, the RTC ruled that D.O. No. 2008-39 was neither promulgated to be a disciplinary nor punitive measure in the exercise of police power, but was aimed to generate funds for the government coffers. This conclusion mainly stemmed from the testimony of a member of the LTO's Revision Committee on Administrative Fees and Charges, who testified that the assailed Order was meant to "improve revenue collection."[22] Moreover, an examination of the prefatory statement of Executive Order (*E.O.*) No. 218,[23] the predecessor of D.O. No. 2008-39, provides, among others:

WHEREAS, there is a need to improve revenue collection to achieve revenue targets and fund the government's socio-economic programs;

WHEREAS, fees and charges remain a significant source of revenue for the government;

x x x x

---

[20] Id. at 314-318.

[21] Id. at 318.

[22] Id. at 317.

[23] Entitled "*Reactivating the Task Force on Fees and Charges, Expanding its Membership and Functions and Providing Guidelines for the Review of the Proposed Rate Increase of Fees and Charges by National Government Agencies and Government-Owned or Controlled Corporations under EO 197, Series of 2000*." Approved: March 15, 2000.

Supreme Court E-Library

WHEREAS, for social considerations, health, education, and other social services are generally free or subsidized by the government; x x x

Concomitantly, given that the power to tax lies with the legislative, one that is beyond the power of government agencies, D.O. No. 2008-39 should be declared without force and any legal effect.

On May 25, 2012, the Office of the Solicitor General (*OSG*), on behalf of the Republic, filed a Motion for Reconsideration[24] arguing in favor of the constitutionality of D.O. No. 2008-39. It contended that the increase in revenue measure from the collection of fees and penalties was merely incidental and that the same was implemented to regulate transportation pursuant to the police power of the state. The motion was denied in an Order[25] dated September 10, 2012 for failure to raise new and substantial arguments.

Undaunted, the OSG filed a Petition for *Certiorari*[26] before the CA. In the main, it alleged that Hon. Antonio M. Esteves, as RTC judge, rendered a decision tainted with grave abuse of discretion, as he blatantly failed to resolve the OSG's Motion to Admit Public Documents[27] dated February 1, 2011, wherein the OSG sought to show that the issuance of D.O. No. 2008-39 was done with the required public consultation, and its Manifestation and Motion[28] dated May 28, 2012, praying for the admission of certain exhibits to fortify its case.

On November 15, 2012, the CA issued a Resolution[29] dismissing the petition. It ruled that the resort to a petition for *certiorari* under Rule 65 is an improper remedy to assail the RTC decision. Instead, the OSG should have appealed the decision because it constituted a final determination of the rights of the parties, which may only be rectified through an appeal.[30]

---

[24] *Rollo* (G.R. No. 206486), Vol. I, pp. 319-344.

[25] Id. at 387.

[26] Id. at 411-467.

[27] Id. at 207-218.

[28] Id. at 345-355.

[29] Id. at 48-50.

[30] Id. at 49.

Supreme Court E-Library

On December 7, 2012, the OSG sought reconsideration,[31] which was denied by the CA in its Resolution[32] dated March 21, 2013.

On May 16, 2013, the OSG, on behalf of the respondents, elevated the matter to this Court *via* a Petition for Review on *Certiorari*[33] under Rule 45 of the Rules of Court, maintaining that the CA erred in dismissing the petition based on mere technicalities despite the presence of serious legal questions that would greatly impact public interest. It also reiterated its earlier argument that the RTC gravely erred in declaring D.O. No. 2008-39 unconstitutional, having been issued according to the police power of the State. Moreover, the increase in the fines was a measure meant to discourage the commission of traffic violations, which resulted in road accidents.[34]

G.R. Nos. 212604, 212682, 212800

After more than six years in operation, D.O. No. 2008-39 was revised *via* the issuance of JAO No. 2014-01[35] dated June 2, 2014, and upon requisite publication, took effect on June 19, 2014. Seeing the issuance as a strong advocate for the eradication of colorum vehicles, certain stakeholders, such as the Cebu Integrated Transport Service Multi-Purpose Cooperative[36] and other owners and operators of privately-owned and/or for hire motor vehicles, expressed support for JAO No. 2014-01.[37]

Despite the patronage of certain groups, Angat Tsuper filed a Petition[38] directly with this Court on June 10, 2014 questioning the constitutionality of JAO No. 2014-01. Docketed as **G.R. No. 212604**, the petition prayed that this Court issue a temporary

---

31 Id. at 468-488.

32 Id. at 52-53.

33 Id. at 8-46.

34 Id.

35 *Rollo* (G.R. No. 212604), Vol. I, pp. 107-119.

36 See Official Statement dated July 21, 2014; *Rollo* (G.R. No. 212604), Vol. II, p. 792.

37 See "Expression of Support to LTO and LTFRB Joint Administrative Order No. 2014-01 dated 2 June 2014"; id. at 793-795.

38 *Rollo* (G.R. No. 212604), Vol. I, pp. 3-20.

Supreme Court E-Library

restraining order and/or a writ of preliminary prohibitory injunction to enjoin the DOTC from implementing the subject order. In a Minute Resolution[39] dated July 1, 2014, **G.R. No. 212604** was consolidated with the earlier case, **G.R. No. 206486.**

On June 16, 2014, Ximex, a domestic forwarding and trucking company, filed with this Court a Petition for *Certiorari* and Prohibition,[40] docketed as **G.R. No. 212682**, similarly assailing the constitutionality of JAO No. 2014-01. In the petition, Ximex argued that the implementation of its provisions would cause "unimaginable and irreversible" economic loss, especially to the trucking and transport industry, which would be unduly prevented from continuing its respective businesses due to the unreasonable impositions of the Order.[41] In a Minute Resolution[42] dated July 15, 2014, **G.R. No. 212682** was consolidated with **G.R. Nos. 206486** and **212604**.

On June 26, 2014, Ernesto, as President of NCTU and Chairperson of STOMECKA, and Emmanuel, as Chairperson of ZABATABINKABATAN JODA, filed with this Court a Petition for *Certiorari* and Prohibition,[43] docketed as **G.R. No. 212800**, submitting that the revised fees and penalties found in JAO No. 2014-01 were issued *ultra vires* and with grave abuse of discretion.[44] As with the previous petitions, the instant case was consolidated with **G.R. Nos. 206486, 212604,** and **212682** in a Minute Resolution[45] dated July 15, 2014.

On July 18, 2014, PISTON filed a Motion for Intervention[46] and a Petition-in-Intervention[47] in **G.R. No. 212604**. As an association

---

39 Id. at 59-60.

40 *Rollo* (G.R. No. 212682), Vol. I, pp. 3-20.

41 Id. at 11.

42 *Rollo* (G.R. No. 212682), Vol. I, pp. 77-77-A.

43 *Rollo* (G.R. No. 212800), Vol. I, pp. 3-23.

44 Id. at 16-18.

45 Id. at 59-60.

46 *Rollo* (G.R. No. 212604), Vol. I, pp. 71-73.

47 Id. at 74-106.

Supreme Court E-Library

of various organizations of jeepney drivers and operators and other public transportation groups, PISTON asserted that it possessed legal interest in the matter in litigation because it will be adversely affected by the implementation of JAO No. 2014-01.[48]

Finally, on August 10, 2015, PNTOA filed a Motion for Intervention[49] and a Petition-in-Intervention[50] in the consolidated cases. It argued that it was constrained to file a petition under Rule 65 as there appeared to be no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law available, considering that it previously resorted to a Petition for Declaratory Relief under Rule 63 of the Rules of Court before the RTC.[51]

Issues

Petitioners in the consolidated cases advance the following arguments in support of their respective petitions, to wit:

G.R. No. 206486

I.

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN DISMISSING THE PETITION FOR *CERTIORARI* OUTRIGHT FOR ALLEGEDLY BEING THE WRONG REMEDY.

II.

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW IN NOT DECLARING THAT DEPARTMENT ORDER NO. 2008-39 IS CONSTITUTIONAL.[52]

G.R. No. 212604

I.

PUBLIC RESPONDENTS EXERCISED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ENACTING AND ISSUING JOINT

---

48 Id.

49 *Rollo* (G.R. No. 212682), Vol. I, pp. 406-411.

50 Id. at 412-446.

51 Id. at 414-415.

52 *Rollo* (G.R. No. 206486), Vol. II, p. 565.

Supreme Court E-Library

ADMINISTRATIVE ORDER NO. 2014-01 AS THERE IS NO VALID DELEGATION OF LEGISLATIVE POWER MAKING THE SAME UNCONSTITUTIONAL;

II.

PUBLIC RESPONDENTS EXERCISED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ENACTING AND ISSUING VAGUE AND AMBIG[U]OUS JOINT ADMINISTRATIVE ORDER NO. 2014-01 [; and]

III.

PUBLIC RESPONDENTS EXERCISED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ENACTING AND ISSUING JOINT ADMINISTRATIVE ORDER NO. 2014-01 AS IT VIOLATES DUE PROCESS MAKING THE SAME UNCONSTITUTIONAL.[53]

G.R. No. 212682

I.

RESPONDENTS COMMITTED GRAVE ABUSE OF DISCRETION IN ENACTING [JAO] NO. 2014-01 WHEN THEY DID NOT CONSIDER THE PERNICIOUS EFFECT OF ITS CONFISCATORY NATURE AND WITHOUT REGARD TO ITS NEGATIVE ECONOMIC RAMIFICATIONS;

II.

[JAO] NO. 2014-01 CONTAINS PROVISIONS WHICH ARE PATENTLY ARBITRARY, OPPRESSIVE, AND CONFISCATORY IN VIOLATION OF THE EXPRESS MANDATE OF THE 1987 CONSTITUTION;

III.

[JAO] NO. 2014-01 IS PATENTLY VOID APPLYING THE "VOID FOR VAGUENESS" AND "OVERBREADTH" DOCTRINES WITH REFERENCE TO ITS PARTICULAR PROVISIONS;

IV.

JOINT ADMINISTRATIVE ORDER NO. 2014-01 VIOLATES THE EQUAL PROTECTION CLAUSE;

---

[53] *Rollo* (G.R. No. 212604), Vol. I, pp. 9-10.

Supreme Court E-Library

V.

FOR THE PATENT INVALIDITY OF RESPONDENTS' ACT OF ISSUING [JAO] NO. 2014-01, WHICH IS AN EXERCISE OF AUTHORITY IN EXCESS OR BEYOND ITS JURISDICTION, AN ORDER COMMANDING RESPONDENTS TO DESIST, AND ENJOINING THEM PERMANENTLY FROM IMPLEMENTING [JAO] NO. 2014-01.[54]

G.R. No. 212800

I.

THE QUASI-LEGISLATIVE POWER OF DOTC UNDER SECTION 5 (O) OF EXECUTIVE ORDER NO. 125, AS AMENDED, AND SECTION 3 (14), CHAPTER 1, TITLE V OF THE ADMINISTRATIVE CODE DOES NOT INCLUDE PRESCRIBING PENALTIES FOR VIOLATIONS OF LAWS GOVERNING LAND TRANSPORTATION[;]

II.

LTO AND LTFRB HAVE NO DELEGATED QUASI-LEGISLATIVE POWER TO REVISE FINES AND PENALTIES FOR VIOLATIONS OF LAWS GOVERNING LAND TRANSPORTATION[;]

III.

THE REVISED FINES AND PENALTIES IN JAO NO. 2014-01 ARE UNREASONABLE AND EXCESSIVE IN CONTRAVENTION TO THE CONSTITUTION.[55]

In support of its Petition-for-Intervention, PISTON relies on the following grounds:

I.

RESPONDENTS ACTED ERRONEOUSLY AND WITH GRAVE ABUSE OF DISCRETION IN ISSUING JOINT ADMINISTRATIVE ORDER NO. 2014-01 DESPITE THE FACT THAT IT VIOLATES THE PRINCIPLE OF POLICE POWER AS EMBODIED IN OUR 1987 CONSTITUTION[;]

II.

RESPONDENTS ACTED WITH GRAVE ABUSE OF DISCRETION AND BLATANTLY ERRED IN ISSUING JAO NO. 2014-01 DESPITE

---

[54] *Rollo* (G.R. No. 212682), Vol. I, pp. 8-9.

[55] *Rollo* (G.R. No. 212800), Vol. I, pp. 7-8.

Supreme Court E-Library

THE FACT THAT IT VIOLATES SEC. 19(1), ART. III OF THE 1987 CONSTITUTION ON THE PROHIBITION OF EXCESSIVE FINES[;]

III.

RESPONDENTS ACTED WITH GRAVE ABUSE OF DISCRETION AND BLATANTLY ERRED IN ISSUING JAO NO. 2014-01 NOTWITHSTANDING THE FACT THAT THE SAME IS *ULTRA VIRES*, THE DETERMINATION OF THE SUBJECT FINES BEING CONFINED TO THE LEGISLATURE AND NOT EXPRESSLY DELEGATED TO ANY ADMINISTRATIVE BODY[; and]

IV.

RESPONDENTS GRAVELY ABUSED ITS DISCRETION AND BLATANTLY ERRED IN ISSUING JAO NO. 2014-01 NOTWITHSTANDING THE FACT THAT SOME OF ITS PROVISIONS ARE VAGUE ON WHOM TO IMPOSE THE PENALTIES.[56]

Similarly, PNTOA, in its Petition-in-Intervention, raises the following arguments:

I.

THE ASSAILED PROVISIONS OF THE JAO NO. 2014-01 ARE UNCONSTITUTIONAL FOR BEING VIOLATIVE OF SUBSTANTIVE DUE PROCESS.

A. The Assailed Provisions of the JAO No. 2014-01 are unduly oppressive and confiscatory in nature and does not further the legitimate government interest of public safety and order.

B. The absence of a prescriptive period for ALL the offenses penalized under Article IV of the JAO No. 2014-01 make[s] the offenses a perpetual violation for the Operators, and puts their entire livelihood perpetually at risk;

C. Full discretion is left up to the drivers to report their apprehensions under the JAO No. 2014-01 to their respective Operators.

D. Respondents LTFRB/LTO are NOT REQUIRED under the JAO No. 2014-[01] to inform the Operators of apprehensions of their Drivers.

---

[56] *Rollo* (G.R. No. 212604), Vol. I, pp. 85-86.

Supreme Court E-Library

II.

THE ASSAILED PROVISIONS ARE UNCONSTITUTIONAL FOR BEING VIOLATIVE OF THE EQUAL PROTECTION CLAUSE.

A. Lack of classification when necessary is likewise violative of the equal protection clause.

III.

ALLEGATIONS IN SUPPORT OF THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER AND/OR THE WRIT OF PRELIMINARY INJUNCTION.

A. Confiscation of plate numbers on first offense is bad faith.

B. Preventive Suspension is being enforced even if it is not provided under the JAO No. 2014-01.[57]

On the basis of the pleadings, this Court summarizes the pivotal issues for resolution, as follows:

G.R. No. 206486

Whether or not the Court of Appeals erred in dismissing the petition for *certiorari* for being an incorrect mode of appeal.

G.R. Nos. 206486, 212604, 212682, 212800

Whether or not D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional:

A. For being issued without delegated legislative power;
B. For being an invalid exercise of police power;
C. For being oppressive and arbitrary in nature;
D. For being vague and overbroad;
E. For being violative of substantive due process; and lastly,
F. For being violative of the equal protection clause.

Our Ruling

Prior to resolving the arguments propounded by the consolidated petitions, it is crucial for this Court to first examine the legislative history and underpinnings of D.O. No. 2008-39 and JAO No. 2014-01.

---

[57] *Rollo* (G.R. No. 212682), Vol. I, pp. 420-421.

Supreme Court E-Library

The Development of D.O. No. 2008-39 and JAO No. 2014-01

Approved on June 20, 1964, Republic Act (*R.A.*) No. 4136,[58] or the "*Land Transportation and Traffic Code*," created the Land Transportation Commission *(LTC)* under the DOTC. Under Section 4,[59] Article III of R.A. No. 4136, the Commissioner of the

---

[58] Entitled "*An Act to Compile the Laws Relative to Land Transportation and Traffic Rules, To Create a Land Transportation Commission and for Other Purposes*."

[59] SECTION 4. *Creation of the Commission*. –

x x x x

The Commissioner shall be responsible for the administration of this Act and shall have, in connection therewith, the following powers and duties, in addition to those mentioned elsewhere in this Act:

(1) With the approval of the Secretary of Public Works and Communications, to issue rules and regulations not in conflict with the provisions of this Act, prescribing the procedure for the examination, licensing and bonding of drivers; the registration and re-registration of motor vehicles, transfer of ownership, change of status; the replacement of lost certificates, licenses, badges, permits or number plates; and to prescribe the minimum standards and specifications including allowable gross weight, allowable length, width and height or motor vehicles, distribution of loads, allowable loads on tires, change of tire sizes, body design or carrying capacity subsequent to registration and all other special cases which may arise for which no specific provision is otherwise made in this Act.

(2) To compile and arrange all applications, certificates, permits, licenses, and to enter, note and record thereon transfers, notifications, suspensions, revocations, or judgments of conviction rendered by competent courts concerning violations of this Act, with the end in view of preserving and making easily available such documents and records to public officers and private persons properly and legitimately interested therein.

(3) To give public notice of the certificates, permits, licenses and badges issued, suspended or revoked and/or motor vehicles transferred and/or drivers bonded under the provisions of this Act.

(4) The Commissioner of Land Transportation, with the approval of the Secretary of Public Works and Communications, may designate as his deputy and agent any employee of the Land Transportation Commission, or such other government employees as he may deem expedient to assist in the carrying out the provisions of this Act.

(5) The Commissioner of Land Transportation and his deputies are hereby authorized to make arrest for violations of the provisions of this Act in so far as motor vehicles are concerned; to issue *subpoena* and *subpoena duces tecum* to compel the appearance of motor vehicle operators and drivers and/or other persons or conductors; and to use all reasonable means within their powers to secure enforcement of the provisions of this Act.

Supreme Court E-Library

LTC was empowered to, among others, issue rules and regulations regarding the regulation of motor vehicles.

Recognizing the growing complexity of the transportation sector, then President Corazon C. Aquino issued Executive Order (*E.O.*) No. 125[60] in 1987, deriving from her legislative power granted under the 1986 Freedom Constitution.[61] The Order abolished the LTC with the creation of the Bureau of Land Transportation (*BLT*), the predecessor of the LTO. Under Section 13 of E.O. No. 125(2), the BLT was given the function of "developing, formulating, and recommending plans, programs,

---

(6) The Commissioner of Land Transportation or his deputies may at any time examine and inspect any motor vehicle to determine whether such motor vehicle is registered, or is unsightly, unsafe, overloaded, improperly marked or equipped, or otherwise unfit to be operated because of possible excessive damage to highways, bridges and/or culverts.

(7) The Philippine Constabulary and the city and municipal police forces are hereby given the authority and the primary responsibility and duty to prevent violations of this Act, and to carry out the police provisions hereof within their respective jurisdictions: *Provided*, That all apprehensions made shall be submitted for final disposition to the Commissioner and his deputies within twenty-hour hours from the date of apprehension.

(8) All cases involving violations of this Act shall be endorsed immediately by the apprehending officer to the Land Transportation Commission. Where such violations necessitate immediate action, the same shall be endorsed to the traffic court, city or municipal court for summary investigation, hearing and disposition, but in all such cases, appropriate notices of the apprehensions and the dispositions thereof shall be given to the Commissioner of Land Transportation by the law-enforcement agency and the court concerned.

Notation of all such dispositions shall be entered in the records, and copy shall be mailed to the owner and to the driver concerned.

[60] Entitled "*Reorganizing the Ministry of Transportation and Communications Defining its Powers and Functions and for Other Purposes*." Approved: January 30, 1987.

[61] Provisional Constitution of the Republic of the Philippines, Rule II, Sec. 1, Proclamation No. 3 (Declaring a National Policy to Implement the Reforms Mandated by the People, Protecting their Basic Rights, Adopting a Provisional Constitution, and Providing for an Orderly Transition to a New Government under a New Constitution. Approved: March 25, 1986:

Section 1. Until a legislature is elected and convened under a New Constitution, **the President shall continue to exercise legislative power**. (Emphasis supplied)

Supreme Court E-Library

policies, standards, specifications, and guidelines pertaining to land transportation." Particularly, it shall:

(a) Establish and prescribe rules and regulations for routes, zones and/or areas of particular operators of public land services;

(b) Establish and prescribe rules and regulations for the issuance of certificates of public convenience for the operation of public and land transportation utilities and services such as motor vehicles, trimobiles, and railroad lines;

(c) Establish and prescribe rules and regulations for the inspection and registration of public and land transportation facilities such as motor vehicles, trimobiles, and railroad lines;

(d) Establish and prescribe rules and regulations for the issuance of licenses to qualified motor vehicle drivers, trimobile drivers, motor vehicle conductors, train engineers and train conductors;

(e) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, including the penalties for violation thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;

(f) Determine, fix and/or prescribe charges and/or rates pertinent to the operation of public and land utility facilities and services except in cases where charges or rates are established by international bodies or association of which the Philippines is a participating member or by bodies or association recognized by the Philippine Government as the proper arbiter of such charges or rates;

(g) Establish and prescribe the rules, regulations, procedures and standards for the accreditation of driving schools;

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

In the same year, E.O. No. 125 was amended by E.O. No. 125-A,[62] which expanded the power of the DOTC, through the BLT, to include the imposition of penalties. Section 1 of E.O. No. 125-A reads:

---

[62] Entitled *"Amending Executive Order No. 125, entitled 'Reorganizing the Ministry of Transportation and Communications, Defining its Powers and Functions, and for Other Purposes.'"* Approved: April 13, 1987.

Supreme Court E-Library

Sec. 1. Sections 5, 8, 9, 10 and 11 of Executive Order No. 125, otherwise known as the Reorganization Act of the Ministry of Transportation and Communications, are hereby amended to read as follows:

> Sec. 5. *Powers and Functions*. — To accomplish its mandate, the Department shall have the following powers and functions:
>
> x x x x
>
> (o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, **including the penalties for violations thereof**, and for the deputation of appropriate law enforcement agencies in pursuance thereof;[63]

With the abolition of the LTC, Section 4[64] of E.O. No. 125-A transferred its staff functions to the service offices of the department proper and its line functions to the Department Regional Offices for Land Transportation. These regional offices comprise what is presently known as the LTO.

On July 25, 1989, the LTO issued Memorandum Circular No. 89-105 (*M.C. No. 89-105*),[65] which established the fines and penalties for the violation of rules and regulations of motor vehicles and land transportation. The fines and penalties were

---

[63] Emphasis supplied.

[64] Sec. 4. Section 17 of Executive Order No. 125 is hereby renumbered as Section 13 and amended to read as follows:
Sec. 13. Abolition/Transfer/Consolidation:
a. The Land Transportation Commission is hereby abolished and its staff functions are transferred to the service offices of the Department Proper and its line functions are transferred to the Department Regional Offices for Land Transportation as provided in Section 11 herein. Such transfer of functions is subject to the provisions of Section 15 (b) hereof. The quasi-judicial powers and functions of the Commission are transferred to the Department. The corresponding position structure and staffing pattern shall be approved and prescribed by the Secretary pursuant to Section 16 hereof.

[65] Entitled "*Penalties for and Jurisdiction over Violations of Laws, Rules, and Regulations Governing Land Transportation and the Legal Structure for Adjudication*"; *Rollo* (G.R. No. 206486), Vol. I, p. 54.

Supreme Court E-Library

subsequently increased in 1993 by the issuance of Department Order No. 93-693 (*D.O. No. 93-693*).[66]

On March 15, 2000, then President Joseph Ejercito Estrada issued E.O. No. 218.[67] In light of the need to improve revenue collection and to achieve the government's socio-economic programs,[68] the Order reactivated the Task Force on Fees and Charges to review the increase in fees and charges by the national government agencies. To institute the Implementing Rules and Regulations (*IRR*) of E.O. No. 218, Joint Circular No. 2000-2[69] was issued through the efforts of both the Department of Finance (*DOF*) and the Department of Budget and Management (*DBM*). In line with such issuances, and considering that the rates ascribed under D.O. No. 93-693 had not been adjusted since its implementation in 1993,[70] the DOF instructed the LTO to revise its administrative fines and charges.

For such purpose, the LTO, through then Assistant Secretary Roberto T. Lastimoso, in Office Order No. RTL-00-02136[71] dated May 6, 2002, formed a Revision Committee on LTO Administrative Fees and Charges, specifically to review the LTO fees and charges in consultation with the transport sector. Such public consultations were held with the objective of gathering different perspectives from various stakeholders on the proposed revisions, to wit:

---

66 Entitled "*Revised Schedule of Administrative Fees and Charges of the Land Transportation Office*." Approved: November 19, 1992; id. at 55-73.

67 Entitled "*Reactivating the Task Force on Fees and Charges, Expanding its Membership and Functions and Providing Guidelines for the Review of the Proposed Rate Increase of Fees and Charges by National Government Agencies and Government-Owned or Controlled Corporations Under EO 197, Series of 2000*." Approved: March 15, 2000; id. at 74-75.

68 Id. at 74.

69 Entitled "*Implementing Rules and Regulations of Executive Order Nos. 197 and 218*" dated April 4, 2000; id. at 76-81.

70 *Rollo* (G.R. No. 206486), Vol. I, p. 12.

71 Id. at 82.

Supreme Court E-Library

(1) May 28[72] and June 21, 2002,[73] October 3, 2003,[74] and January 11, 2005,[75] at the LTO Bldg., East Avenue, Quezon City;
(2) June 26, 2002, Cebu City;[76] and
(3) July 18, 2002, at the Department of Public Works and Highways Conference Hall, Magsaysay Ave., Davao City.[77]

In attendance during those forums were several drivers and operators of transport companies, as well as a majority of the transport groups nationwide.[78]

On October 6, 2008, upon the approval of the DOTC Secretary, D.O. No. 2008-39[79] was finally issued, embodying the revisions to D.O. No. 93-693 through the adoption of a new penalty scheme.

On January 16, 2012, after almost four years from the issuance of D.O. No. 2008-39, the DOTC, in Special Order No. 2012-20,[80] created a Technical Working Group (*TWG*) for the purpose of reviewing and amending of D.O. No. 2008-39 to impose higher fines and stiffer penalties against colorum operators and drivers.[81]

A series of collaborative consultations were conducted by the TWG with various stakeholders all over the Philippines in drafting the amendments to D.O. No. 2008-39, or what would eventually be JAO No. 2014-01, some of which were:

---

72 Id. at 83-92.

73 Id. at 93-105.

74 Id. at 122-129.

75 Id. at 130-142.

76 Id. at 106-107.

77 Id. at 108-121.

78 Id. at 13.

79 Id. at 143-152.

80 *Rollo* (G.R. No. 212604), Vol. II, pp. 729-730; Entitled "Creation of a Technical Working Group." Approved: January 16, 2012.

81 *Rollo* (G.R. No. 212604), Vol. I, p. 177.

Supreme Court E-Library

(1) April 10, 2014 at Malarayat Lion's Den, Old City Hall Compound, Lipa City;[82]

(2) April 8, 2014 at the Kanzo Hall and Restaurant, Pañaranda Street, Legaspi, Albay, and on April 10, 2014[83] at the Conventional Hall, The Avenue Plaza Hotel, Magsaysay Avenue, Naga City;[84]

(3) April 10, 2014 at the Sacred Heart Convention Center, Jakosalem St., Cebu City;[85]

(4) April 11, 2014 at the Davao City Recreation Center, Quimpo Boulevard, Davao City.[86]

Finally, after these extensive deliberations, JAO No. 2014-01[87] was issued on June 2, 2014, which took effect on June 19, 2014.

Against this legal and factual backdrop, this Court finds that the instant petition in **G.R. No. 206486** is meritorious. On the other hand, the petitions in **G.R. Nos. 212604, 212682,** and **212800** have no merit.

The constitutionality of D.O. No. 2008-39 and JAO No. 2014-01 is upheld.

G.R. No. 206486

The OSG, on behalf of petitioner Republic, argues that the CA committed reversible error and should have given due course to its Petition for *Certiorari*. Due to the case's far-reaching ramifications involving transcendental questions, and given that the subject matter necessarily involves nationwide public welfare and safety, the OSG ratiocinates that the CA should have refused to yield to procedural barriers in order to resolve these

---

[82] *Rollo* (G.R. No. 212604), Vol. II, pp. 737-742.

[83] Id. at 746-749.

[84] Id. at 750-752.

[85] Id. at 753-781.

[86] Id. at 782-791.

[87] *Rollo* (G.R. No. 212604), Vol. I, pp. 107-119.

Supreme Court E-Library

serious legal questions.[88] It also invoked the ruling in *Republic v. Sandiganbayan*,[89] which states: "(a)ccordingly, the writ of *certiorari* may issue notwithstanding the existence of an available alternative remedy, if such remedy is inadequate or insufficient in relieving the aggrieved party of the injurious effects of the order complained of."[90]

In their Comment[91] filed on August 13, 2014, respondents Maria Basa, along with drivers Ribo and Timoteo, counter that, as the Decision rendered by the RTC is a final judgment that fully disposed of the issues and merits of the case, the proper remedy should have been an ordinary appeal filed within 15 days upon receipt of the assailed Decision. Consequently, by reason of the erroneous and improper remedy resorted to by the OSG after the lapse of the 15-day period to appeal, the Decision of the RTC in declaring D.O. No. 2008-39 as null and void is now final and executory.[92]

The Court of Appeals erred in outrightly dismissing the Petition for Certiorari for being the wrong remedy.

The petition is impressed with merit.

This Court is not oblivious to the principle that appeal by way of a petition for review on *certiorari* under Rule 45 *vis-à-vis certiorari via* a petition for *certiorari* under Rule 65 are markedly different remedies. While the purpose of an appeal is to bring up for review a final judgment or order of the lower court, the remedy of *certiorari* is to correct certain acts of any tribunal, board, or officer exercising judicial functions performed without or in excess of its or his jurisdiction, or with grave abuse of discretion,

---

88 *Rollo* (G.R. No. 206486), Vol. I, p. 23.

89 678 Phil. 358 (2011).

90 Id. at 390-391.

91 *Rollo* (G.R. No. 206486), Vol. II, pp. 602-615.

92 Id. at 605.

Supreme Court E-Library

and there is no appeal nor any plain, speedy and adequate remedy in the ordinary course of law.[93]

In *Madrigal Transport, Inc. v. Lapanday Holdings Corporation*,[94] this Court pointed out that "[w]here appeal is available to the aggrieved party, the action for *certiorari* will not be entertained. Remedies of appeal (including petitions for review) and *certiorari* are mutually exclusive, not alternative or successive."[95] Hence, *certiorari* is not and cannot be a substitute for an appeal, especially if one's own negligence or error in one's choice of remedy occasioned such loss or lapse.[96]

At first blush, it would appear that the OSG availed of the wrong remedy when it sought to assail the Decision of the RTC by filing a petition for *certiorari*. It is well settled that the proper remedy to obtain a reversal of judgment on the merits, final orders, or resolutions, is an appeal. While the petition attributes grave abuse of discretion on the part of Hon. Antonio M. Esteves as judge, this Court, in *Chua v. People*,[97] nevertheless instructs that an appeal should still be sought as a recourse "even if the error ascribed to the court rendering the judgment is its lack of jurisdiction over the subject matter, or the exercise of power in excess thereof, or grave abuse of discretion in the findings of fact or of law set out in the decision, order or resolution."[98] As emphasized in *Spouses Leynes v. Former Tenth Division of the Court of Appeals*,[99] "where an appeal is available, *certiorari* will not prosper, even if the ground therefor is grave abuse of discretion."[100]

All things considered, however, this Court is not in agreement with the conclusion of the CA in dismissing the petition based

---

[93] *Spouses Lansang v. Court of Appeals*, 263 Phil. 119, 124 (1990).

[94] 479 Phil. 768 (2004).

[95] Id. at 782.

[96] *Teh v. Teh Tan, et al.*, 650 Phil. 130, 141 (2010).

[97] 821 Phil. 271 (2017).

[98] Id. at 279.

[99] 655 Phil. 25 (2011).

[100] Id. at 43.

Supreme Court E-Library

on mere procedural error. While the availability of an appeal precludes *certiorari*, this oft-repeated rule still admits of exceptions. After all, the acceptance of a petition for *certiorari*, and the decision to give the same due course, is generally addressed to the sound discretion of this Court.

In *Department of Education v. Cunanan*,[101] this Court cites certain exceptional instances, to wit: "(a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority."[102] In any case, when the stringent application of the rules would result in manifest injustice, the Court may set aside such technicalities and take cognizance of the petition before it. In *Tanenglian v. Lorenzo, et al.*,[103] which involves similar facts, the CA was found to be in error for dismissing the petition for *certiorari* instead of resolving the issues raised therein. In *Tanenglian*, this Court instructed:

> The Court has allowed some meritorious cases to proceed despite inherent procedural defects and lapses. This is in keeping with the principle that rules of procedure are mere tools designed to facilitate the attainment of justice and that strict and rigid application of rules which would result in technicalities that tend to frustrate rather than promote substantial justice must always be avoided. It is a far better and more prudent cause of action for the court to excuse a technical lapse and afford the parties a review of the case to attain the ends of justice, rather than dispose of the case on technicality and cause grave injustice to the parties, giving a false impression of speedy disposal of cases while actually resulting in more delay, if not a miscarriage of justice.[104]

Recognizing the broader interest of justice, this Court finds that petitioner's case fits more the exception rather than the general rule. Considering that the crux of the petition remains to be the constitutionality of D.O. No. 2008-39, which evidently involves

---

[101] 594 Phil. 451 (2008).

[102] Id. at 460.

[103] 573 Phil. 472 (2008).

[104] Id. at 489.

Supreme Court E-Library

novel issues of first impression that carries far-reaching economic and policy implications, this Court finds that compelling grounds exist for the CA to have granted *certiorari* despite the availability of appeal. More, a procedural relaxation of the rules should have been applied as the instant petition for *certiorari* was filed well within the reglementary period to file an appeal. Here, the Order denying petitioner's motion for reconsideration was received on October 22, 2012, while the petition was filed on November 6, 2012, well within the allowable period to interpose an appeal.[105] Relatedly, in *Punongbayan-Visitacion v. People*,[106] this Court suspended its procedural rules by treating a petition for *certiorari* as an appeal having been filed within the reglementary period to file an appeal.

This Court shall now come to grips with the core issue of the consolidated petitions—whether D.O. No. 2008-39 and its revised version, JAO No. 2014-01, is constitutional.

G.R. Nos. 206486, 212604, 212682, 212800

Prefatorily, it has not escaped this Court's attention that the petitions under **G.R. Nos. 212604, 212682, 212800**, as well as the petitions-in-intervention respectively filed by PISTON and PNTOA invoke this Court's power of judicial review, which is tritely defined as "the power to review the constitutionality of the actions of the other branches of the government."[107] It is through this power that this Court enforces and upholds the supremacy of the Constitution as the highest law of the land. To ensure the proper exercise of this power of review in the context of constitutional litigation, certain requisites must be satisfied, to wit: (1) an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have "standing" to challenge it; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.[108]

---

[105] See Motion for Reconsideration dated December 3, 2012; *Rollo* (G.R. No. 206486), Vol. I, p. 471.

[106] 823 Phil. 212 (2018).

[107] *Garcia v. Executive Secretary*, 602 Phil. 64, 73 (2009).

[108] *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 892 (2003).

Supreme Court E-Library

Here, this Court finds nothing irregular or erroneous in exercising its power of judicial review. Conspicuously, the instant petitions satisfy the first two requisites, which have been weighed as the most essential.

First, an actual case or controversy is one which involves "a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute."[109] It is a settled condition precedent that there be "an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts."[110]

In the case of *Inmates of the New Bilibid Prison, Muntinlupa City v. De Lima*,[111] this Court elaborated that an actual case or controversy exists in the instance where there is a "contrariety of legal rights." It further declared that the existence of an actual case or controversy does not call for concrete acts, as an actual case may exist even in the absence of tangible instances:

> **There is an actual case or controversy in the case at bar because there is a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence.** Respondents stand for the prospective application of the grant of GCTA, TASTM, and STAL while petitioners and intervenors view that such provision violates the Constitution and Article 22 of the RPC. The legal issue posed is ripe for adjudication as the challenged regulation has a direct adverse effect on petitioners and those detained and convicted prisoners who are similarly situated. There exists an immediate and/or threatened injury and they have sustained or are immediately in danger of sustaining direct injury as a result of the act complained of. In fact, while the case is pending, petitioners are languishing in jail. If their assertion proved to be true, their illegal confinement or detention in the meantime is oppressive. With the prisoners' continued incarceration, any delay in resolving the

---

[109] *Private Hospitals Association of the Philippines, Inc. (PHAPI) v. Medialdea*, 842 Phil. 747, 782 (2018).

[110] *Information Technology Foundation of the Philippines v. Commission on Elections*, 499 Phil. 281, 305 (2005).

[111] G.R. Nos. 212719 & 214637, June 25, 2019, 905 SCRA 599, 619.

Supreme Court E-Library

case would cause them great prejudice. Justice demands that they be released soonest, if not on time.

There is no need to wait and see the actual organization and operation of the MSEC. Petitioners Edago[,] *et al.*[,] correctly invoked Our ruling in *Pimentel, Jr. v. Hon. Aguirre*. There, **We dismissed the novel theory that people should wait for the implementing evil to befall on them before they could question acts that are illegal or unconstitutional, and held that "[by] the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy even without any other overt act."** Similar to *Pimentel, Jr.*, the real issue in this case is whether the Constitution and the RPC are contravened by Section 4, Rule 1 of the IRR, not whether they are violated by the acts implementing it. **Concrete acts are not necessary to render the present controversy ripe. An actual case may exist even in the absence of tangible instances when the assailed IRR has actually and adversely affected petitioners.** The mere issuance of the subject IRR has led to the ripening of a judicial controversy even without any other overt act. If this Court cannot await the adverse consequences of the law in order to consider the controversy actual and ripe for judicial intervention, the same can be said for an IRR. Here, petitioners need not wait for the creation of the MSEC and be individually rejected in their applications. They do not need to actually apply for the revised credits, considering that such application would be an exercise in futility in view of respondents' insistence that the law should be prospectively applied. If the assailed provision is indeed unconstitutional and illegal, there is no better time than the present action to settle such question once and for all.[112]

A perusal of the petitions convincingly shows a palpable presence of an actual and substantial controversy. It bears stressing that the lack of pending charges against petitioners in violation of JAO No. 2014-01 is of no moment. After all, the subject of the petitions in G.R. Nos. 212604, 212682, 212800 pertain to JAO No. 2014-01, which is an updated version of D.O. No. 2008-39, which, in turn, is the subject of G.R. No. 206486, and for which the petitioners therein were charged. It bears mentioning that in G.R. No. 206486, drivers who were members of Maria Basa were charged with violation of D.O. No. 2008-39 for being out of line

---

[112] Id. at 619-620. (Citations omitted; Italics in the original)

Supreme Court E-Library

while traveling along their route in Baguio City,[113] meting out the penalty of ₱6,000.00, and upon failure to settle the same within 72 hours, there would be a surcharge of ₱1,500.00 a day.[114] Such pending charges against the Maria Basa drivers cannot be equated to the "sterile abstract context having no factual concreteness" as described in *Romualdez v. Hon. Sandiganbayan*.[115]

Closely linked to the concept of an actual or justiciable case or controversy is the requirement of ripeness.[116] A question is considered ripe for adjudication when the act being challenged has had a direct adverse effect on the individual or entity challenging it.[117] To expand, a case is likewise considered ripe for adjudication if the party alleging such fact can show that "he has sustained **or is immediately in danger of sustaining some direct injury as a result of the act complained of**."[118] It cannot be denied that the petitioners in G.R. Nos. 212604, 212682, 212800, being drivers and operators, are similarly situated with the petitioners in G.R. No. 206486 such that an immediate and threatened injury[119] actually exists. The certainty of going through the same experience as what the drivers had in G.R. No. 206486 is imminent. To be

---

[113] *Rollo* (G.R. No. 206486), Vol. I, p. 159.

[114] Id. at 14; see D.O. No. 2008-39(E)(60); *Rollo*, G.R. No. 206486, Vol. I, p. 146.

[115] 479 Phil. 265, 283 (2004).

[116] *The Province of North Cotabato, et al. v. The Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP), et al.*, 589 Phil. 387, 481 (2008).

[117] *Corales, et al. v. Republic of the Philippines*, 716 Phil. 432, 451 (2013); *Philippine Constitution Association (PHILCONSA), et al. v. Philippine Government (GPH), et al.*, 801 Phil. 472, 486 (2016).

[118] *Joint Ship Manning Group, Inc. v. Social Security System*, G.R. No. 247471, July 7, 2020. (Emphasis ours)

[119] In *Belgica v. Ochoa*, 721 Phil. 416, 519-520 (2013), it was held that "A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action."

Supreme Court E-Library

apprehended and fined for violation of the provisions of the JAO No. 2014-01 is not simply a hypothetical scenario as in fact, a group of individuals has already been charged by its predecessor, D.O. No. 2008-39, which is part of the consolidated cases before this Court in G.R. No. 206486.

Verily, given the pending action against the drivers of Maria Basa, the other petitioners fare no better and are placed directly in the line of fire. As JAO No. 2014-01 was already in effect at the time when the instant petitions were filed, the drivers and operators of public utility vehicles, as stakeholders of the transport industry, are the most likely to be in danger of sustaining some direct injury by way of apprehension or penalty in the implementation of JAO No. 2014-01.[120]

Given the presence of a definite and concrete set of facts that indicate a live case before it, this Court may very well exercise its power of judicial review to its full extent. Ultimately, as the petitions alleged acts or omissions on the part of public respondents that exceed their authority, the petitioners make a *prima facie* case for *certiorari* and an actual case or controversy ripe for adjudication exists. As emphatically held in *Province of North Cotabato, et al. v. The Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP), et al.*,[121] "when an act of a branch of government is seriously alleged to have infringed the Constitution, it becomes not only right but[,] in fact[,] the duty of the [J]udiciary to settle the dispute."[122]

To bolster this Court's position, Associate Justice Alfredo Benjamin S. Caguioa likewise added that an actual and justiciable controversy exists in this case due to the evident clash of legal rights between the parties, considering their reliance on their respective interpretations of D.O. No. 2008-39 and JAO No. 2014-01 *vis-à-vis* the 1987 Constitution:

[p]etitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention, assert the unconstitutionality of JAO No. 2014-01, a

---

[120] Separate Concurring Opinion, p. 6.

[121] *Supra* note 116.

[122] Id. at 486.

Supreme Court E-Library

question of law evidently susceptible of judicial resolution. The DOTC, LTO, and LTFRB, for their part, insist that they possess the legal authority or the delegated legislative power to enact JAO No. 2014-01. They also dispute petitioner's assertions that the provisions of JAO No. 2014-01 are vague and overbroad, confiscatory and excessive. In this regard, whether the DOTC, LTO, or the LTFRB possess delegated legislative authority is answered by referring to the relevant statutes creating these agencies. Again, a question of law evidently susceptible of judicial resolution.[123]

Second, it is imperative that parties bringing suit must have the necessary "standing." This requirement focuses on the determination of whether those assailing the governmental act have the right of appearance to bring the matter to the court of adjudication.[124] Otherwise stated, petitioners must have a personal and substantial interest in the case such that they have sustained, or will sustain, direct injury as a result of its enforcement.[125] More particularly, the term "interest" pertains to material interest, or "an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest."[126]

Irrefragably, this Court is convinced that petitioners have sufficiently established a substantial interest in the outcome of the controversy. To repeat, as drivers and operators of public utility vehicles, they are the most vulnerable to being penalized under the provisions of JAO No. 2014-01, considering the higher penalties prescribed therein. As aptly observed by Justice Caguioa:

x x x **Notably, the penalties under JAO No. 2014-01 for first-time colorum violators include a fine of Php1,000,000.00 for buses, Php200,000.00 for trucks and vans, Php120,000.00 for sedans, and Php50,000.00 for jeepneys, coupled with the impoundment of the motor vehicle for three (3) months. These are, by any measure, huge amounts or penalties that entail punishing financial burdens – especially taking into consideration the situation of the petitioners**

---

[123] Separate Concurring Opinion, p. 5.

[124] *Saguisag, et al. v. Executive Secretary Ochoa*, 777 Phil. 280, 351 (2016).

[125] *Funa v. Chairman Duque III, et al.*, 748 Phil. 169, 179 (2014).

[126] *Joya v. Presidential Commission on Good Government*, 296-A Phil. 595, 603 (1993).

Supreme Court E-Library

as mere drivers and operators of motor vehicles.[127] (Underscoring in the original)

With regard to G.R. No. 206486, it bears reiteration that the drivers were charged with violating the provisions of D.O. No. 2008-39. Given their pending charges, petitioners clearly have a personal stake in the outcome of the case, as they stand to suffer a direct injury in the continued enforcement of the regulation. Reasonably, they cannot be faulted for exercising their freedom to impugn its very validity.

Finally, the glaring transcendental importance of the issues tackled in this case cannot be ignored. *Saguisag, et al. v. Executive Secretary Ochoa*[128] is on point:

> [W]hen those who challenge the official act are able to craft an issue of transcendental significance to the people, the Court may exercise its sound discretion and take cognizance of the suit. It may do so in spite of the inability of the petitioners to show that they have been personally injured by the operation of a law or any other government act.[129]

This Court however is aware that the general invocation of transcendental importance, without more, is insufficient for this Court to exercise discretion over the case. As appropriately pointed out by Senior Associate Justice Marvic M.V.F. Leonen, this Court should be "wary not to always accept the transcendental importance argument at the expense of justiciability."[130]

Such is not the case with regard to the instant petitions. As painstakingly discussed, there exists an actual case before this Court, coupled with petitioners' standing before this forum. Nevertheless, this case is one of first impression, involving public welfare and the advancement of public policy. Being in effect since 2014, the issues involving motor vehicle regulation affects millions of Filipinos, whose lives, careers, and businesses depend upon the efficiency of the country's land transportation services.

---

[127] Separate Concurring Opinion, p. 12.

[128] *Supra* note 124.

[129] Id. at 359.

[130] Separate Concurring Opinion, p. 2.

Supreme Court E-Library

Conformably, resolving the serious constitutional issues brought to the fore should not be delayed a day longer.

For the foregoing reasons, this Court shall now proceed to review the substantive merits of the aforementioned petitions.

A.
On the Delegation of Legislative Power

In **G.R. No. 206486,**[131] petitioner Republic asserts that D.O. No. 2008-39 was issued in the exercise of the LTO's delegated rule-making power under Section 13 of E.O. No. 125, as amended, to "establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, including the penalties for violations thereof." More importantly, D.O. No. 2008-39 merely amended D.O. No. 93-693; it did not supplant, override, or modify any law. There was also no transgression of procedure, as public consultations were made and presented to the public.

In **G.R. No. 212604**,[132] petitioner Angat Tsuper asserts that JAO No. 2014-01 was not the edict of DOTC *per se*, as it was jointly issued by public respondents Alfonso V. Tan, Jr. and Winston M. Ginez in their capacities as Assistant Secretary of the LTO and the Chairman of the LTFRB, respectively. Angat Tsuper argues that under E.O. No. 125, as amended, it is the DOTC, and not the LTO and the LTFRB, which has the power to "establish and prescribe the corresponding rules and regulations for enforcement of laws governing land transportation, air transportation and postal services, including the penalties thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof."[133]

In **G.R. No. 212682**,[134] petitioner Ximex raises that, for rules and regulations to be considered as a valid delegation of power, they must be germane to the object and purpose of the law and should never run contrary to the standards provided therein.

---

[131] *Rollo* (G.R. No. 206486), Vol. I, pp. 8-46.

[132] *Rollo* (G.R. No. 212604), Vol. I, pp. 3-20.

[133] Id. at 11.

[134] *Rollo* (G.R. No. 212682), Vol. II, pp. 3-29.

Supreme Court E-Library

Here, JAO No. 2014-01 contains oppressive and confiscatory provisions, and is not germane to the object and standards laid down by the law. It further argues that the DOTC, in merely approving, without evaluating the issuance thereof, relinquished control and supervision over the LTO and the LTFRB, which jointly issued JAO No. 2014-01.

In **G.R. No. 212800**,[135] petitioners Ernesto and Emmanuel maintains that E.O. No. 125, under which JAO No. 2014-01 was issued, does not empower the DOTC to prescribe penalties for violations of *laws* governing land transportation; instead, E.O. No. 125 merely allows the DOTC to lay down penalties for the violation of *rules and regulations* it would thereafter issue. Neither does the LTO nor the LTFRB have delegated quasi-legislative power to revise fines and penalties in the absence of an express provision that they are authorized to do so.

In arguing that JAO No. 2014-01 is an invalid delegation of legislative powers, PISTON, in its petition-in-intervention,[136] claims that the DOTC did not have any standard upon which it based its action. Thus, it had unrestricted discretion to fix the increase in the amount of penalties found therein. It likewise insists that the DOTC could only prescribe the corresponding rules for the enforcement of the penalties for violations of the laws governing land transportation, but it could not, by itself, prescribe what these penalties should be, the latter being left entirely to the discretion of the legislature.

In its Comment[137] in **G.R. No. 206486**, respondents Maria Basa, Ribo, and Timoteo, aver that the power and authority to regulate and interfere with the right of motor vehicles in public places is lodged primarily in Congress, and not to the LTO or the LTFRB.

In its Consolidated Comment[138] in **G.R. Nos. 212604, 212682,** and **212800**, the OSG, on behalf of the agencies DOTC, LTO, and

---

[135] *Rollo* (G.R. No. 212800), Vol. I, pp. 3-23.

[136] *Rollo* (G.R. No. 212604), Vol. I, pp. 74-106.

[137] *Rollo* (G.R. No. 206486), Vol. II, pp. 602-615.

[138] Id. at 640-679.

Supreme Court E-Library

LTFRB *(public respondents)*, contends that in view of the public respondents' sworn duty to effectively implement and strictly enforce land transportation laws and the categorical declaration under E.O. No. 125, E.O. No. 202[139] dated June 19, 1987, E.O. No. 266[140] dated July 25, 1987, and E.O. No. 292,[141] it behooved the public respondents to issue JAO No. 2014-01 in order to address the threat to public safety posed by the proliferation of colorum vehicles.

There is no undue delegation of legislative power.

The power of Congress to delegate the execution of laws has long been recognized by this Court.

As a general rule, legislative power, or the power to make, alter, or repeal laws, is a quintessential and non-delegable power of the legislature.[142] Fr. Joaquin G. Bernas, S.J., a member of the Constitutional Commission, cites Historian Edward S. Corwin's Commentary on the Constitution of the United States, in explaining the rationale of this principle:

> At least three distinct ideas have contributed to the development of the principle that legislative power cannot be delegated. One is the doctrine of separation of powers: Why go to the trouble of separating the three powers of government if they can straightway remerge on their own motion? The second is the concept of due process of law, which precludes the transfer of regulatory functions to private persons. Lastly, there is the maxim of agency "*Delegata potestas non potest delegari*," which John Locke borrowed and formulated as a dogma of political science . . . Chief Justice Taft offered the following explanation of the origin and limitations of this idea as a postulate of constitutional law: "The well-known maxim '*delegata potestas non potest delegari*,' applicable

---

[139] Entitled "*Creating the Land Transportation Franchising and Regulatory Board*."

[140] Entitled "*Providing for Two Service Units in the Office of the Assistant Secretary for Land Transportation in the Department of Transportation and Communications, Defining the Powers and Functions Thereof and for Other Purposes*."

[141] Entitled "*Administrative Code of 1987*."

[142] *Yazaki Torres Manufacturing, Inc. v. Court of Appeals*, 526 Phil. 79, 89 (2006).

Supreme Court E-Library

to the law of agency in the general common law, is well understood and has had wider application in the construction of our Federal and State Constitutions than it has in private law . . . The Federal Constitution and State Constitutions of this country divide the governmental power into three branches . . . In carrying out that constitutional division . . . it is a breach of the National fundamental law if Congress gives up its legislative power and transfers it to the President, or to the Judicial branch, or if by law it attempts to invest itself or its members with either executive power or judicial power. This is not to say that the three branches are not co-ordinate parts of one government and that each in the field of its duties may not invoke the action of the two other branches in so far as the action invoked shall not be an assumption of the constitutional field of action of another branch. In determining what it may do in seeking assistance from another branch, the extent and character of that assistance must be fixed according to common sense and the inherent necessities of the governmental coordination.[143]

This principle of non-delegability is not absolute, as administrative agencies have been endowed with the limited power to issue rules and regulations. Aptly called "quasi-legislative" or "rule-making" power, it is the "power to make rules and regulations which results in delegated legislation that is within the confines of the granting statute and the non-delegability and separability of powers."[144]

The rationale behind allowing administrative agencies to promulgate rules and regulations was explained in *Philippine International Trading Corporation v. Presiding Judge Angeles*,[145] to wit:

Similarly, the grant of quasi-legislative powers in administrative bodies is not unconstitutional. Thus, as a result of the growing complexity of the modern society, it has become necessary to create more and more administrative bodies to help in the regulation of its ramified activities. Specialized in the particular field assigned to them, they can deal with

---

[143] Joaquin G. Bernas, S.J., *The 1987 Constitution of the Republic of the Philippines: A Commentary* (2003) pp. 663-664.

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

[145] 331 Phil. 723 (1996).

Supreme Court E-Library

the problems thereof with more expertise and dispatch than can be expected from the legislature or the courts of justice. This is the reason for the increasing vesture of quasi-legislative and quasi-judicial powers in what is now not unreasonably called the fourth department of the government.[146]

This principle stems from the previous ruling in *Antipolo Realty Corporation v. National Housing Authority*,[147] which elucidated that this limited delegation of authority to administrative agencies arises out of the need for special competence and experience which was recognized as essential in order to resolve questions of a "complex or specialized character." The delegation of legislative power also addresses the recognized gap that the legislature cannot adequately promulgate laws that would deal with and respond promptly to the minutiae of everyday life.[148]

The administrative agencies' rule-making power is relatively pervasive, as the rules, regulations, and general orders they enact pursuant to the powers delegated to them, have the force and effect of law[149] and are binding on all persons subject to them.[150]

To be sure, the power of administrative agencies to issue rules and regulations is by no means an abdication of legislative power. As early as 1916, this Court, in *Compania General De Tabacos De Filipinas v. The Board of Public Utility Commissioners*,[151] made a distinction between what is strictly legislative *vis-à-vis* what is considered within the realm of administrative authority. Citing the United States case of *Cincinnati, W. & Z.R.R. Co. v. Clinton County Comrs.*,[152] this Court said that legislative power, or the power to make the law which involves a discretion as to what it shall be, cannot be delegated; on the other hand, administrative

---

[146] Id. at 748.

[147] 237 Phil. 389, 395-396 (1987).

[148] *Gerochi v. Department of Energy*, 554 Phil. 563, 584 (2007).

[149] *Geukeko v. Araneta, etc.*, 102 Phil. 706, 713 (1957).

[150] *Enrique T. Yuchengco, Inc., et al. v. Velayo*, 200 Phil. 703, 712 (1982).

[151] 34 Phil. 136 (1916).

[152] 1 Ohio St., 77 (1852).

Supreme Court E-Library

power, which pertains to the authority or discretion with regard to its execution, exercised under and in pursuance of the law, could be validly delegated or surrendered.

To prevent a total transference of legislative authority to administrative agencies and to forestall any violation of the principle of separation of powers, there must exist a law which delegates these powers to administrative agencies. Conformably, such rules promulgated "must be within the confines of the granting statute and must involve no discretion as to what the law shall be, but merely to fix the details in the execution or enforcement of the policy set out in the law itself."[153]

In determining whether such enabling law constitutes a valid delegation of legislative power, jurisprudence has developed two (2) tests, namely, (1) the completeness test, and (2) the sufficient standard test. The parameters of such tests were clearly defined by the Court in *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*,[154] to wit:

> x x x Under the first test, the law must be complete in all its terms and conditions when it leaves the legislature such that when it reaches the delegate the only thing he will have to do is enforce it. Under the sufficient standard test, there must be adequate guidelines or limitations in the law to map out the boundaries of the delegate's authority and prevent the delegation from running riot.[155]

Stated differently, a law is complete when it sets forth therein the policy to be executed, carried out, or implemented by the delegate.[156] To be sufficient, the standard laid down must specify the limits of the delegate's authority, announce the legislative policy, and identify the conditions under which it is to be implemented.[157]

---

[153] *Republic v. Drugmaker's Laboratories, Inc., et al.*, 728 Phil. 480, 489 (2014).

[154] 248 Phil. 762 (1988).

[155] Id. at 772. (Citations omitted)

[156] *Pelaez v. Auditor General*, 122 Phil. 965, 974 (1965).

[157] *ABAKADA Guro Party List (formerly AASJS) v. Hon. Purisima*, 584 Phil. 246, 272 (2008).

Supreme Court E-Library

Given the trend of this Court's previous rulings, the attempt of the consolidated petitions to strike down D.O. No. 2008-39 and JAO No. 2014-01 on the ground of undue delegation of legislative power cannot prosper.

As previously discussed, E.O. No. 125, as amended, was issued pursuant to the legislative power of then President Corazon C. Aquino under the 1986 Freedom Constitution, expressly vesting upon the DOTC the delegated power to establish and prescribe rules and regulations for the enforcement of laws governing land transportation, including the penalties for violations thereof:

> Sec. 1. Sections 5, 8, 9, 10 and 11 of Executive Order No. 125, otherwise known as the Reorganization Act of the Ministry of Transportation and Communications, are hereby amended to read as follows:
>
> x x x x
>
> Sec. 5. *Powers and Functions*. To accomplish its mandate, the Department shall have the following powers and functions:
>
> x x x x
>
> (o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;[158]

While this Court has, in the past, recognized "public interest," "justice and equity," "public convenience and welfare" and "simplicity, economy and welfare,"[159] as sufficient standards, the clear-cut policy laid down in E.O. No. 125 is nowhere near vague or general. The commitment to the "maintenance and expansion of viable, efficient, and dependable transportation and communication system as effective instrument (sic) for national

---

[158] E.O. No. 125-A.

[159] *ABAKADA Guro Party List v. Hon. Purisima*, *supra* note 157, at 275, citing *Equi-Asia Placement, Inc. v. Department of Foreign Affairs*, 533 Phil. 590, 609 (2006).

Supreme Court E-Library

recovery and economic progress"[160] and the principal mandate given to the DOTC, to be the primary agency in the regulation of the transportation system and the provision of "fast, safe, efficient, and reliable . . . services"[161] are clear enough standards to guide and limit the agency to determine the details in implementing the provisions thereof.

To add, the Administrative Code of 1987, or E.O. No. 292, also conferred broad rule-making powers to the DOTC:

Title XV Transportation and Communications

Chapter 1 General Provisions

x x x x

Section 3. *Powers and Functions*. — To accomplish its mandate, the Department shall:

x x x x

(4) Administer and enforce all laws, rules and regulations in the field of transportation and communications;

x x x x

(7) Issue certificates of public convenience for the operation of public land and rail transportation utilities and services;

x x x x

---

[160] Section 3 of E.O. No. 125 reads:
Sec. 3. Declaration of Policy. — The state is committed to the maintenance and expansion of viable, efficient and dependable transportation and communication system as effective instrument for national recovery and economic progress. It shall not compete as a matter of policy with private enterprises and shall operate transportation and communication facilities only in those areas where private initiatives are inadequate or non-existent.

[161] Sec. 4. Mandate. — The Ministry shall be the primary policy, planning, programming, coordinating, implementing, regulating, and administrative entity of the Executive Branch of the government in the promotion, development and regulation of dependable and coordinated networks of transportation and communication system, as well as in the fast, safe, efficient and reliable postal, transportation and communication services.

Supreme Court E-Library

(10) Establish and prescribe rules and regulations for the establishment, operation and maintenance of such telecommunications facilities in areas not adequately served by the private sector in order to render such domestic and overseas services that are necessary with due consideration for advances in technology;

(11) Establish and prescribe rules and regulations for the issuance of certificates of public convenience for public land transportation utilities, such as motor vehicles, trimobiles and railways;

(12) Establish and prescribe rules and regulations for the inspection and registration of air and land transportation facilities, such as motor vehicles, trimobiles, railways and aircraft;

(13) Establish and prescribe rules and regulations for the issuance of licenses to qualified motor vehicle drivers, conductors and airmen;

(14) Establish and prescribe the corresponding rules and regulations for enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;

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

x x x x

(18) Perform such other powers and functions as may be provided by law.[162]

It bears stressing that the delegated legislative power of the DOTC to issue rules and regulations was already recognized in jurisprudence. In *Alliance of Non-Life Insurance Workers of the Philippines v. Mendoza*,[163] what was at issue was the validity

---

[162] E.O. No. 292, Book IV, Title XV, Chapter 1, Sec. 3.

[163] G.R. No. 206159, August 26, 2020.

Supreme Court E-Library

of the DOTC's issuance of D.O. No. 2007-28, which sought to eliminate the proliferation of fake and fraudulent Compulsory Third-Party Liability insurance. Petitioners *via* a petition for review on *certiorari* assailed the issuance as *ultra vires*, arguing that the DOTC did not have the authority to regulate the insurance business. In dismissing the petition and finding that the DOTC was clothed with the proper authority, this Court disposed, thus:

> The pertinent powers of the DOTC are enumerated under Section 5 of Executive Order No. 125, as amended:
>
> x x x x
>
> D.O. No. 2007-28 was issued pursuant to DOTC's exercise of its delegated legislative power under the foregoing provision. Its issuance was done pursuant to its quasi-legislative powers. Thus, the doctrine of exhaustion of administrative remedies does not apply in this case.[164]

Given these, this Court is convinced that the aforementioned laws are complete in all its essential terms and conditions and that it contains sufficient standards. Consistent with the shopworn rule in statutory construction, statutes are to be read in a manner that would "breathe life into it, rather than defeat it, and is supported by the criteria in cases of this nature that all reasonable doubts should be resolved in favor of the constitutionality of a statute."[165]

Subsequent legislation creating LTO and the LTFRB were likewise issued pursuant to the exercise of legislative power of President Aquino. Under E.O. No. 202,[166] the LTFRB, as an agency under the DOTC, was given the power to "determine, prescribe, and approve and periodically review and adjust reasonable fares, rates, and other charges relative to the operation of public land transportation services" as well as to "formulate, administer, implement, and enforce rules and regulations on land transportation public utilities."[167] It was also given the power

---

[164] *Supra.*

[165] *Metropolitan Manila Development Authority v. Garin*, 496 Phil. 82, 95-96 (2005). (Citations omitted)

[166] Entitled "*Creating the Land Transportation Franchising and Regulatory Board*." Approved: June 19, 1987.

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

Supreme Court E-Library

to issue, amend, revise, suspend, or even cancel Certificates of Public Convenience (*CPCs*) provided to motorized vehicles.[168]

Senior Associate Justice Leonen, however, points out that while the powers and functions of the LTFRB are provided by law, the policies governing its creation are noticeably absent:[169]

> SECTION 5. *Powers and Functions of the Land Transportation Franchising and Regulatory Board*. — The Board shall have the following powers and functions:
>
> x x x x
>
> b. To issue, amend, revise, suspend or cancel Certificates of Public Convenience or permits authorizing the operation of public land transportation services provided by motorized vehicles, and to prescribe the appropriate terms and conditions therefor;
>
> c. To determine, prescribe and approve and periodically review and adjust, reasonable fares, rates and other related charges, relative to the operation of public land transportation services provided by motorized vehicles;
>
> x x x x
>
> k. To formulate, promulgate, administer, implement and enforce rules and regulations on land transportation public utilities, standards of measurements and/or design, and rules and regulations requiring operators of any public land transportation service to equip, install and provide in their utilities and in their stations such devices, equipment facilities and operating procedures and techniques as may promote safety, protection, comfort and convenience to persons and property in their charges as well as the safety of persons and property within their areas of operations;[170]

As to the LTO, E.O. No. 266[171] established two service units in the Office of the Assistant Secretary for Land Transportation

---

[168] E.O. No. 202, Sec. 5(b).

[169] Separate Concurring Opinion, p. 14.

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

[171] Entitled "*Providing for Two Service Units in the Office of the Assistant Secretary for Land Transportation in the Department of Transportation and Communications, Defining the Powers and Function Thereof and for Other Purposes*." Approved: July 25, 1987.

Supreme Court E-Library

in the DOTC, namely, the Law Enforcement Service and the Traffic Adjudication Service. More particularly, Section 3 thereof provides that the Traffic Adjudication Service has the power to promulgate rules and regulations. In taking a closer look at the provisions, Justice Leonen fittingly discerns that the powers of the Traffic Adjudication Service are quasi-judicial in nature. Thus, it is not empowered to actually promulgate rules or impose penalties on violations of land transportation laws; rather, its powers are limited to promulgating rules and regulations governing the proceedings before it:[172]

> Sec. 3. The Traffic Adjudication Service shall have the following powers and functions:
>
> a) To hear and decide cases involving violations of laws, rules and regulations governing land transportation and to impose fines and/or penalties therefor; provided that violations resulting in damage to property and/or physical injuries or violations constituting offenses punishable under the Revised Penal Code or other penal laws shall be under the jurisdiction of the regular courts;
>
> b) To order the impounding of motor vehicles and confiscation of plates or the arrest of violators of laws, rules and regulations governing land transportation;
>
> x x x x
>
> d) To promulgate rules and regulations governing the proceedings before it; provided that except with respect to paragraph c, the rules of procedures and evidence prevailing in the courts of law shall not be controlling and all reasonable means to ascertain the facts in each case shall be used without regard to technicalities of law and procedures but all in the interest of due process; and
>
> e) To perform such other functions and duties as may be provided by law, or as may be necessary, or proper or incidental to its powers and functions.

Given the noticeable limitations to the power of the LTFRB and the LTO in issuing rules and regulations, it must be remembered that it was the DOTC, as the primary agency, that approved D.O.

---

[172] Separate Concurring Opinion, p. 16.

Supreme Court E-Library

No. 2008-39. With regard to JAO No. 2014-01, while the Assistant Secretary of the LTO and the Chairperson of the LTFRB signed the same, it was the DOTC Secretary, then Joseph Emilio Aguinaldo Abaya, who eventually approved it. As laid down in *Land Transportation Office v. City of Butuan*,[173] it is the DOTC, working through the LTO and the LTFRB as its sub-agencies, that has "since been tasked with implementing laws pertaining to land transportation."[174]

In the same breath, the argument of Angat Tsuper that the DOTC divested its authority to the LTO and the LTFRB in the issuance of JAO No. 2014-01[175] is specious and is considered nitpicking at best. It must be emphasized that the functions of the LTO, formerly the BLT, was transferred to the DOTC and its regional offices pursuant to E.O. No. 125-A, while the LTFRB itself, pursuant to E.O. No. 202, is empowered to issue certain rules and regulations and provide for penalties thereof. In any case, the fact that respondent Joseph Emilio Aguinaldo Abaya, in his capacity as then DOTC Secretary, merely approved JAO No. 2014-01 without actually issuing the same does not necessarily lead to the conclusion that it "was not the edict of the DOTC *per se*, but by its attached agencies."[176]

In fine, contrary to the asseveration of PISTON,[177] this Court is more than convinced that D.O. No. 2008-39 and JAO No. 2014-01 should not be stricken down as unconstitutional, not having been issued with an unfettered discretion without any sufficient standard expressed by the delegating laws. After all, statutes conferring powers to administrative agencies are to be liberally construed to enable them to discharge their assigned duties in accordance with the legislative purpose.[178]

---

[173] 379 Phil. 887 (2000).

[174] Id. at 895.

[175] See *Rollo* (G.R. No. 212604), Vol. I, pp. 10-12.

[176] Id. at 11.

[177] Id. at 97-98.

[178] *Solid Homes, Inc. v. Payawal*, 257 Phil. 914, 921 (1989).

Supreme Court E-Library

At this juncture, and in consonance with legislative intent, it is well to be reminded that while D.O. No. 2008-39 and JAO No. 2014-01 are not rendered *ultra vires*, the primary authority in terms of crafting traffic policies within Metro Manila is with the Metro Manila Development Authority (*MMDA*).

As clearly mandated under R.A. No. 7924,[179] the MMDA was created as a special development and administrative region with the specific intention to provide basic services affecting or involving Metro Manila. The provision of such services is perceived to have "metro-wide impact," which includes transport and traffic management services.

> Sec. 3. Scope of MMDA Services. — x x x
>
> x x x x
>
> (b) x x x the formulation, coordination and monitoring of policies, standards, programs and projects to rationalize the existing transport operations, infrastructure requirements, the use of thoroughfares, and promotions of safe and convenient movement of persons and goods: **provision for the mass transport system and the institution of a system to regulate road users; administration and implementation of all the enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system** in Metropolitan Manila[.][180]

To effectively provide such services, it is within the province of the MMDA to "set the policies concerning traffic in Metro Manila"[181] and to "x x x fix, impose and collect fines and penalties involving all kinds of violations of traffic rules and regulations, whether moving or non-moving in nature, and confiscate and suspend or revoke driver's licenses in the enforcement of such traffic laws and regulations[.]"[182]

---

[179] Entitled "*An Act Creating the Metropolitan Manila Development Authority, Defining its Powers and Functions, Providing Funding Therefor and for Other Purposes*." Approved: March 1, 1995.

[180] Emphasis supplied.

[181] R.A. No. 7924, Sec. 5(e).

[182] R.A. No. 7924, Sec. 5(f).

Supreme Court E-Library

Furthermore, the MMDA exercises its authority through the Metro Manila Council (*Council*). As its policy-making body, the Council is empowered to "promulgate rules and regulations and set policies and standards for metro-wide application governing the delivery of basic services, prescribe and collect service and regulatory fees, and impose and collect fines and penalties."[183] In crafting such policies, rules and regulations, the Council coordinates with various stakeholders and relevant offices with overlapping functions in order to provide uniform and consistent measures. Section 4 of R.A. No. 7924 explicitly stipulates that the heads of the DOTC, DPWH, the Department of Tourism (*DOT*), the DBM, the Housing Urban and Development Coordinating Committee (*HUDCC*) and the Philippine National Police (*PNP*), or their duly authorized representatives shall attend meetings of the Council as non-voting members.

Withal, it becomes clear that the legislature has intended to grant the MMDA the power to decide on policies and regulations concerning transport and traffic within Metro Manila. This however, does not abrogate the power of the DOTC, the LTO, and the LTFRB to prescribe rules for the enforcement of laws governing land transportation. Be that as it may, however, its authority is still circumscribed by that of the MMDA with respect to traffic management in Metro Manila. This Court quotes with approval the observations of Justice Caguioa:

> x x x But within the jurisdiction of the MMDA, the MMDA's mandate and authority to impose and prescribe the appropriate penalties for violations of traffic rules should prevail over these agencies. While the MMDA's functions may overlap with these agencies, it should be emphasized that its creation is premised on the need to coordinate metro-wide services that transcend territorial boundaries, which is particularly relevant for transport and traffic management. x x x[184]

---

[183] R.A. No. 7924, Sec. 6(d).

[184] Separate Concurring Opinion, pp. 19-20.

Supreme Court E-Library

B.
On the Exercise of Police Power

In **G.R. No. 206486,**[185] petitioner Republic contends that D.O. No. 2008-39 was issued pursuant to the police power of the State. Motor vehicles are instruments of potential danger, so much so that the right to operate them in public spaces is not a natural and unrestrained right, but a privilege subject to reasonable regulation in the interest of public safety and welfare. While fees and penalties would necessarily generate government revenue, the same is merely incidental to the primary purpose of D.O. No. 2008-39, which is to regulate.

In **G.R. No. 212682**,[186] petitioner Ximex postulates that public respondents formulated and enacted JAO No. 2014-01 in a reckless manner, without due regard to the unimaginable and irreversible economic loss it would create. Considering what motor vehicle operators earn realistically in a day, the exorbitant fees imposed by the order is tantamount to a curtailment of the right to earn a living and is patently a proscribed exercise of police power for being arbitrary, oppressive, and confiscatory.

In **G.R. No. 212800**,[187] petitioners Ernesto and Emmanuel add that the amounts of fines and penalties in JAO No. 2014-01 are so stiff that it is disproportionate to the offense committed. To illustrate, the penalties of ₱50,000.00, impoundment for three months, revocation of the CPC, blacklisting as public utility vehicle, and the revocation of its registration for merely being out-of-line, as penalized under Section IV(1b) of JAO No. 2014-01, are clearly excessive and are nowhere near proportionate to the offense under any circumstance. As another example, violations in connection with franchise amounts to ₱5,000.00, or more than 10 times the daily minimum wage.

In its Petition-for-Intervention,[188] PISTON asseverates that, while JAO No. 2014-01 passes the first test to determine the

---

[185] *Rollo* (G.R. No. 206486), Vol. I, pp. 8-46.

[186] *Rollo* (G.R. No. 212682), Vol. II, pp. 3-29.

[187] *Rollo* (G.R. No. 212800), Vol. I, pp. 3-23.

[188] *Rollo* (G.R. No. 212604), Vol. I, pp. 74-106.

Supreme Court E-Library

validity of a police measure, having been issued by the government agencies for the purpose of reducing traffic violations, it manifestly fails the second test, as the subject penalties imposed therein constitute an unreasonable interference on one's trade, profession, or calling.

In another Petition-in-Intervention,[189] PNTOA submits that the penalties imposed, specifically the penalty of the cancellation of the CPC, is unduly oppressive, confiscatory in nature, and fails to further the legitimate government interest of public safety and order. Particularly, the penalty imposed is greatly disproportionate to the infractions it seeks to penalize. Worse, the assailed provisions unduly penalize the operators, who all stand to lose their respective CPCs, by the mere acts of their drivers, with or without damage to anyone's person or property, such as the refusal to render service to a passenger for no valid reason. Even assuming that a passenger would be damaged by any offense, the cessation of the operation of an entire fleet of motor vehicles covered by a CPC cannot be said to be proportionate to the actual damage sustained. On this score, PNTOA observes that the absence of a prescriptive period of all the offenses penalized under Article IV of JAO No. 2014-01 make the offenses a perpetual violation for the operators and renders their entire livelihood perpetually at risk.

In their Comment[190] in **G.R. No. 206486**, respondents Maria Basa, with Ribo and Timoteo, insist that JAO No. 2014-01, in increasing the fees and penalties imposed on motor vehicle drivers, including public utility drivers, to 300% to 1000%, is obviously an invalid exercise of police power. The primary purpose of the order is not for regulation, but for revenue generation. They claim that the LTO and the LTFRB failed to provide evidence of reasonableness of the 300% to 1000% increase in the existing rates. Granting that the LTO and the LTFRB are empowered to regulate and interfere with the right to use motor vehicles, this may not be done through their whims and caprices.

---

[189] *Rollo* (G.R. No. 212682), Vol. I, pp. 412-446.

[190] *Rollo* (G.R. No. 206486), Vol. II, pp. 602-615.

Supreme Court E-Library

To counter, the OSG, in its Consolidated Comment[191] in **G.R. Nos. 212604, 212682,** and **212800**, aver that the fines and penalties provided by JAO No. 2014-01 are in place in order to guarantee continued public safety and ensure effective public service in land transportation. Contrary to petitioners' asseverations, they are not confiscatory, arbitrary, oppressive, unreasonable, and excessive, considering that E.O. No. 125, E.O. 202, E.O. 266, and the Administrative Code clearly granted respondents the authority to not only "establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation," but also to establish and prescribe "the penalties for violations thereof."[192] To deprive public respondents of the authority to impose fines and penalties would be a dangerous precedent and would effectively cause the repudiation of their jurisdiction over land transportation services and operators.

There is no invalid exercise of police power; consequently, the fines and penalties found therein cannot be considered as oppressive and arbitrary in nature.

Police power, which primarily rests in the legislative organ of the government, is the inherent power to "prescribe regulations to promote the health, morals, peace, good order, safety, and general welfare of the people."[193] Considered as the most essential, insistent, and illimitable of all governmental processes, it addresses the needs and demands of society and of nations, whose interests have multiplied to unimaginable proportions.[194] This Court, in *Binay v. Domingo*,[195] went as far as saying that on the exercise of police power depends "the security of social order,

---

[191] Id. at 640-679.

[192] Id. at 667.

[193] *Ermita-Malate Hotel and Motel Operators Association, Inc., et al. v. Hon. City Mayor of Manila*, 127 Phil. 306, 318 (1967).

[194] See *Ichong, etc., et al. v. Hernandez, etc., et al.*, 101 Phil. 1155, 1163 (1957).

[195] 278 Phil. 515 (1991).

Supreme Court E-Library

the life and health of the citizen, the comfort of an existence in a thickly-populated community, the enjoyment of private and social life, and the beneficial use of property";[196] to a certain extent, it is the very foundation on which our social system rests.[197]

Entrenched in jurisprudence is the principle that police power is not capable of an exact definition and has been purposely veiled in general terms in order to underscore its comprehensiveness to meet all exigencies and provide the space to respond to certain conditions and circumstances.[198] Notwithstanding its near boundless nature, this Court is cognizant of the limits to the exercise of police power. The power is validly exercised if (a) the interest of the public generally, as distinguished from those of a particular class, require the interference of the State, and (b) the means employed are reasonably necessary to the attainment of the object sought to be accomplished and not unduly oppressive upon individuals.[199] Simply put, there must be a concurrence of a lawful subject and a lawful method; lacking a concurrence of such requisites, the measure shall be struck down as "an arbitrary intrusion into private rights and a violation of the due process clause."[200]

To serve as guideposts, this Court has applied the "lawful subject-lawful method" test in a number of cases to determine the validity of the exercise of police power.

In *Social Justice Society v. Mayor Atienza, Jr.*,[201] the *Sangguniang Panlungsod* of the City of Manila enacted Ordinance No. 8027, which reclassified certain areas in Manila from industrial to commercial and directed the owners and operators of businesses to cease and desist from operating their businesses within six months

---

[196] Id. at 521-522.

[197] Id. at 522.

[198] *Carlos Superdrug Corporation v. Department of Social Welfare and Development*, 553 Phil. 120, 132 (2007).

[199] *Department of Education, Culture and Sports v. San Diego*, 259 Phil. 1016, 1021 (1989).

[200] *Hon. Fernando v. St. Scholastica's College*, 706 Phil. 138, 158 (2013).

[201] 546 Phil. 485 (2007).

Supreme Court E-Library

from its effectivity. One such business affected was the "Pandacan Terminals" of the oil companies Caltex Philippines, Inc., Petron Corporation, and Pilipinas Shell Petroleum Corporation. This Court found that the ordinance was a valid exercise of police power, given the concurrence of the two-requisites: a lawful subject, to safeguard the rights to life, security, and safety of all the inhabitants of Manila; and a lawful method, the enactment of the ordinance reclassifying the land to effectively end the operation of the oil companies to avoid "catastrophic devastation that will surely occur in case of a terrorist attack on the Pandacan Terminals."[202]

In *Drugstores Association of the Philippines, Inc., et al. v. National Council on Disability Affairs, et al.*,[203] this Court upheld the constitutionality of R.A. No. 7277, which provides for a mandatory 20% discount on the purchase of medicine by persons with disability pursuant to a valid exercise of police power. This Court ruled that such discount, which invoked the participation of the private sector, was supported by a valid subject—public interest, public benefit, public welfare, and public convenience. More, the means employed "to provide a fair, just and quality health care to persons with disability (*PWDs*)" are reasonably related to the enactment of the law, and are not oppressive, considering that as a form of reimbursement, the discount extended to PWDs can be claimed by concerned establishments as allowable tax deductions.[204]

Finally, in *Kilusang Mayo Uno, et al. v. Aquino, et al.*,[205] petitioner Kilusang Mayo Uno, along with others, filed a Petition for *Certiorari* and Prohibition questioning the issuances of the Social Security System (*SSS*), which approved in the main, an increase in the contribution rate and maximum monthly salary credit. Finding the issuance as a valid exercise of police power, this Court ratiocinated that the public interest involved is the State's

---

[202] Id. at 494.

[203] 795 Phil. 166 (2016).

[204] Id. at 185.

[205] 850 Phil. 1168 (2019).

Supreme Court E-Library

"goal of establishing, developing, promoting, and perfecting a sound and viable tax-exempt social security system."[206] As to the means, the SSS and the Social Security Commission, were empowered to increase the contribution rate and the monthly salary credits. This Court found that the contribution rate increase of 0.6% was nowhere near unreasonable or unjust.

A common thread running through these cited cases is that while police power is primarily lodged in the legislature, it may delegate this power to several organs. As expounded in *Metro Manila Development Authority v. Bel-Air Village Association, Inc.*,[207] it may delegate it to the President, the administrative agencies, the lawmaking bodies of municipal corporations, and even to local government units.[208]

As an administrative agency, the DOTC, pursuant to E.O. No. 125, as amended, is vested with delegated police power to prescribe and administer rules and regulations as may be necessary to ensure the effective implementation of the law, such as D.O. No. 2008-39 and JAO No. 2014-01 in the case at bench. This is consistent with this Court's ruling in *Metropolitan Manila Development Authority v. Viron Transportation Co., Inc.*,[209] where the delegated police power of the DOTC was settled. This Court explained:

> It is readily apparent from the abovequoted provisions of E.O. No. 125, as amended, that the President, then possessed of and exercising legislative powers, mandated the DOTC to be the primary policy, planning, programming, coordinating, implementing, regulating and administrative entity to promote, develop and regulate networks of transportation and communications. The grant of authority to the DOTC includes the power to establish and administer comprehensive and integrated programs for transportation and communications.
>
> As may be seen further, the Minister (now Secretary) of the DOTC is vested with the authority and responsibility to exercise the mandate

---

[206] Id. at 1215.

[207] 385 Phil. 586 (2000).

[208] Id. at 601.

[209] 557 Phil. 121 (2007).

Supreme Court E-Library

given to the department. Accordingly, the DOTC Secretary is authorized to issue such orders, rules, regulations and other issuances as may be necessary to ensure the effective implementation of the law.

x x x x

Respecting the President's authority to order the implementation of the Project in the exercise of the police power of the State, suffice it to stress that **the powers vested in the DOTC Secretary to establish and administer comprehensive and integrated programs for transportation and communications and to issue orders, rules and regulations to implement such mandate (which, as previously discussed, may also be exercised by the President) have been so delegated for the good and welfare of the people. Hence, these powers partake of the nature of police power**.[210]

Cognizant of these parameters, this Court finds that the issuance of D.O. No. 2008-39 and JAO No. 2014-01 is a legitimate exercise of delegated police power by the DOTC.

There is little argument that measures calculated to promote the safety and convenience of the public who rely on public or private land transportation is an appropriate subject for the exercise of police power. The overriding consideration to maintain public safety and to promote general welfare necessitates the eradication of colorum vehicles, which is the major source of traffic congestion and accidents in the streets of Metro Manila.

As a viable solution, the DOTC determined that it was high time to revise the provisions of D.O. No. 2008-39, finding that the meager amounts and lenient penalties provided thereunder could not altogether purge the proliferation of such unlicensed vehicles plying the streets.[211] Connectedly, the imposition of penalties in the form of fines, vehicle impoundments, or even the revocation of a CPC or a driver's license is not incompatible with the spirit and purpose of the subject orders. Having been given the power to

---

[210] Id. at 138-140. (Emphasis supplied; Underscoring omitted)

[211] See Special Order No. 2012-20 entitled "*Creation of a Technical Working Group for the Amendment of Department Order No. 2008-39 (Revised Schedule of LTO Fines and Penalties for Traffic and Administrative Violations)*"; *Rollo* (G.R. No. 212604), Vol. II, pp. 729-730.

Supreme Court E-Library

not only establish rules and regulations, but to also prescribe the penalties for its violations, the DOTC was well within its province to re-examine previous penalties and to revise or adjust the same, to properly respond to present realities or as the conditions or circumstances would demand. To deprive the DOTC of such power would be to effectively negate its pursuit towards fulfilling its mandate of being the "primary policy, planning, programming, coordinating, implementing, regulating, and administrative entity of the executive branch of the government in the promotion, development and regulation of dependable and coordinated networks of transportation and communication system, as well as in the fast, sale, efficient and reliable postal, transportation and communication services."[212]

More alarming, the OSG pointed out that there was a wanton disregard for compliance with land transportation policies, which have led to successive vehicular accidents resulting in death or grave injury to persons, such as the accident involving a GV Florida bus last February 7, 2014, where it was found that the bus was not authorized to operate as its engine and chassis numbers differed from the ones listed under official records.[213] To note, these findings were left uncontroverted by the consolidated petitions. Hence, this Court, within its bounds, will not allow further risk to human life. The rules regulating land transportation designed for the safety and convenience of the riding public must be strictly complied with. Consequently, violations thereof should not be dismissed or slightly treated, lest they breed irreparable disasters.

Evidently, the increase in the fines and the imposition of stricter penalties under JAO No. 2014-01 were reasonably necessary and directly related as an implement to guarantee continued public safety and effective public service in land transportation. This Court emphasizes that the operation of public services may be subjected to restraints and burdens in favor of, and to guarantee, general comfort.

---

[212] E.O. No. 125, Sec. 4.

[213] See Consolidated Comment; *Rollo* (G.R. No. 206486), Vol. II, pp. 666-667.

Supreme Court E-Library

Collaterally, the figures proffered by the LTFRB are startling and cannot be ignored—in less than a month after the implementation of JAO No. 2014-01, there were 6,862 new applications for the issuance of a CPC to operate truck for hire services, bringing the total number of applicants of CPCs to 26,570.[214] Surely, these statistics cannot be disregarded as they demonstrate the positive effect of JAO No. 2014-01. To borrow the words of the Court in its ruling in *Metropolitan Manila Development Authority v. Garin*,[215] when there is a traffic law or regulation validly enacted by the legislature or those agencies to whom legislative powers have been delegated, such agency is not precluded—and in fact is duty-bound—to confiscate and suspend or revoke drivers' licenses in the exercise of its mandate of transport and traffic management.

It ought to follow that the argument that D.O. No. 2008-39 and JAO No. 2014-01 is arbitrary, oppressive, and confiscatory must likewise fail.

Verily, petitioners were in no way caught unaware of the subject orders; neither were they issued in a reckless and arbitrary manner. On the contrary, stakeholders who stand to be affected by the orders were engaged in open dialogue. It bears reiteration that even before the implementation of D.O. No. 2008-39 last October 6, 2008, several public consultations with various groups from the transport sector all over the country were conducted. A similar series of consultations were also held prior to the issuance of JAO No. 2014-01 for the purpose of revising the previous rates and prescribing stiffer penalties. Of significance is the fact that several groups composed of various owners and operators of motor vehicles, privately-owned and for hire, expressed full support to JAO No. 2014-01 as a deterrent and a preventive measure to "stop or reduce likely violators."[216]

The fact that drivers and operators are permitted to be heard belies any claim that JAO No. 2014-01 is oppressive. As already

---

[214] See Certification dated July 23, 2014, *Rollo* (G.R. No. 206486), Vol. III, p. 1440.

[215] *Supra* note 165, at 95.

[216] *Rollo* (G.R. No. 212604), Vol. II, pp. 792-795.

Supreme Court E-Library

discussed, this finds support under its general provisions, wherein apprehensions may be questioned *via* a written contest, which will be resolved by the LTO within five days from receipt of said contest.[217] Notwithstanding confiscation of their license, drivers are still allowed to provisionally operate upon the issuance of a Temporary Operator's Permit (*TOP*) effective for a period of 72 hours.[218]

With regard to franchise violations, this Court finds that operators are given ample opportunity under JAO No. 2014-01 to seek relief from any threat of suspension or revocation of their respective licenses. Upon the issuance of a show cause order informing the operator of a franchise violation, he/she may file a verified explanation within a non-extendible period of five days from receipt of the order. After a decision has been made regarding the violation, operators are given an opportunity to file a motion for reconsideration, and thereafter, file an appeal to the DOTC Secretary within a non-extendible period of 10 days from receipt of the decision.[219]

Likewise unpersuasive is the assertion that the fines and penalties are confiscatory, as it constitutes a deprivation of property rights and an unlawful and unreasonable interference on trade, profession, and calling.[220] It is well entrenched that a license to drive is not a property right, but a privilege granted by the State, which may be suspended or revoked by the State in the exercise of its police power in the interest of the public safety and welfare.[221] Thus, operators and drivers who are given such concessions, which do not ripen into property rights, must reckon with the rules and regulations relating to the operation of motor vehicles. In any case, there can be no meaningful implementation

---

[217] JAO No. 2014-01, General Provisions, V.

[218] Id.

[219] Id.

[220] See Petition, *Rollo* (G.R. No. 212604), Vol. I, pp. 89-90; Petition, *Rollo* (G.R. No. 212800), Vol. I, p. 385.

[221] *Metropolitan Manila Development Authority v. Garin*, *supra* note 165, at 89-90.

Supreme Court E-Library

of D.O. No. 2008-39 and JAO No. 2014-01 if violating the same has no commensurate consequence.

Assuming *arguendo* that drivers and operators possess property rights to their trade and profession, such rights must bend for the sake of general welfare. When conditions so demand as determined by the legislature, property rights must bow to the primacy of police power because property rights, though sheltered by due process, must yield to the general welfare[222] and to the promotion of public good.

Similarly situated are the holders of CPCs who are at risk of losing their franchise upon non-compliance to JAO No. 2014-01. In this regard, the Court's ruling in *Luque, et al. v. Hon. Villegas, etc., et al.*,[223] is apropos:

> Petitioner's argument pales on the face of the fact that the very nature of a certificate of public convenience is at cross purposes with the concept of vested rights. To this day, the accepted view, at least insofar as the State is concerned, is that "a certificate of public convenience constitutes neither a franchise nor a contract, confers no property right, and is a mere license or privilege." **The holder of such certificate does not acquire a property right in the route covered thereby. Nor does it confer upon the holder any proprietary right or interest of franchise in the public highways. Revocation of this certificate deprives him of no vested right. Little reflection is necessary to show that the certificate of public convenience is granted with so many strings attached. New and additional burdens, alteration of the certificate, and even revocation or annulment thereof is reserved to the State.**[224]

If only to harp on the lack of any vested rights on the part of the operators to possess a CPC, being a mere privilege afforded by the State, the ruling in *Fisher v. Yangco Steamship Company*[225] finds specific application, to wit:

---

[222] *Carlos Superdrug Corporation v. Department of Social Welfare and Development*, *supra* note 198, at 132.

[223] 141 Phil. 108 (1969).

[224] Id. at 119-120. (Citations omitted; emphasis supplied)

[225] *Supra* note 1.

Common carriers exercise a sort of public office, and have duties to perform in which the public is interested. Their business is, therefore, affected with a public interest, and is subject of public regulation. (New Jersey Steam Nav. Co. *v.* Merchants Bank, 6 How., 344, 382; Munn *v.* Illinois, 94 U.S. 113, 130.) **Indeed, this right of regulation is so far beyond question that it is well settled that the power of the state to exercise legislative control over railroad companies and other carriers "in all respects necessary to protect the public against danger, injustice and oppression" may be exercised through boards of commissioners.** (New York, etc. R. Co. *v.* Bristol, 151 U.S. 556, 571; Connecticut, etc. R. Co. *v.* Woodruff, 153 U.S. 689.)[226]

In no uncertain terms, neither can this Court give merit to the submission of petitioner Ximex that such restrictions under the order would bring about "unimaginable and irreversible" economic loss.[227] Absent an iota of proof that the subject orders would ultimately result in economic breakdown or that its implementation would result in severe losses, it remains as speculation and need not be threshed, lest it detain this Court's discourse. There is no point in engaging in legal jousts that dwell on premises that remain theoretical. To iterate the ruling in *Carlos Superdrug Corporation v. Department of Social Welfare and Development*,[228] "[p]olice power as an attribute to promote the common good would be diluted considerably if on the mere plea of petitioners that they will suffer loss of earnings and capital, the questioned provision is invalidated."[229]

Finally, from the aforementioned purposes of the assailed D.O. No. 2008-39 and JAO No. 2014-01, it can be easily gleaned that the fines found therein are not a tax as espoused by respondents Maria Basa, Ribo, and Timoteo in G.R. No. 206486,[230] but an exaction in the exercise of the State's police power through the DOTC. To reiterate the ruling in *Planters Products, Inc. v.*

---

[226] Id. at 18. (Emphasis supplied)

[227] See Petition, *Rollo* (G.R. No. 212682), Vol. I, p. 11.

[228] *Supra* note 198.

[229] Id.

[230] *Rollo* (G.R. No. 206486), Vol. II, p. 610.

Supreme Court E-Library

Fertiphil Corporation,[231] "the main purpose of police power is the regulation of a behavior or conduct, while taxation is revenue generation."[232]

In concluding that D.O. No. 2008-39 was issued primarily to generate revenue for the government coffers, the RTC, in its Decision[233] dated May 2, 2012 anchored its findings on the certain whereas clauses of E.O. No. 218, which led to the issuance of D.O. No. 2008-39. More specifically, the whereas clauses state:

WHEREAS, there is a need to improve revenue collection to achieve revenue targets and fund the government's socio-economic programs;

WHEREAS, fees and charges remain a significant source of revenue for the government;

x x x x

WHEREAS, for social consideration, health, education and other social services are generally free or subsidized by the government;
x x x[234]

A cursory examination of the other provisions of E.O. No. 218, however, will prove that such basis is myopic and selective, thus restricting the expansive purpose for which E.O. No. 218 was created. Time and again, it has been held that a "statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole."[235]

On this score, a further reading of the other whereas clauses and provisions would reveal that aside from the underlying consideration of regulating health, education, and the provision

---

[231] 572 Phil. 270 (2008).

[232] Id. at 293.

[233] *Rollo* (G.R. No. 206486), Vol. I, pp. 314-318.

[234] Id. at 316-317. (Emphasis and underscoring in the original)

[235] *Philippine International Trading Corporation v. Commission on Audit*, 635 Phil. 447, 454 (2010).

Supreme Court E-Library

of social services for the benefit of the public, the increased fees and charges under D.O. No. 2008-39 only served to reimburse the cost of regulating the transport industry, and was not primarily intended to raise revenue:

x x x x

WHEREAS, since the cost of rendering government services or regulating certain activities has risen drastically and the government does not have sufficient resources to sustain, improve or expand these services, **it is necessary that the rates of fees and charges be upgraded commensurately with the increase in the cost of their administration**;

x x x x

Section 1. Guiding Principles. — In revising the fees and charges, all department, bureaus, offices, units, and agencies including government-owned or controlled corporations shall be **guided by the universal concept of user charges, which is to recover at least the full cost of services rendered**. Fees and charges have to be reviewed from time to time in accordance with such concept[.][236]

This concept akin to reimbursement also finds support in the IRR of E.O. No. 218, as issued by the DOF and the DBM:

4.0 DETERMINATION OF RATES

4.1 The rates of fees and charges **shall be revised at just and reasonable rates sufficient to recover at full costs of services rendered**. The upgrading of rates shall in no case be less than twenty (20%) percent except as may be determined by the Task Force on Fees and Charges.[237]

Judging from the amount of fees and its guiding principles which formed rationale for the fees and charges under D.O. No. 2008-39, and as revisited in JAO No. 2014-01, this Court does not hesitate to rule that such fees and charges were principally put in place for regulatory and not for revenue purposes.

For reasons hereunder given, this Court plainly rejects the theory of undue delegation of police power in the issuance of D.O. No. 2008-39 and JAO No. 2014-01.

---

[236] *Rollo* (G.R. No. 206486), Vol. I, p. 74. (Emphasis supplied)

[237] Id. at 77. (Emphasis supplied)

Supreme Court E-Library

C.
On the Application of the Void-for-Vagueness and Overbreadth Doctrines

In **G.R. No. 212604**,[238] petitioner Angat Tsuper bewails that certain provisions of JAO No. 2014-01 are void for being vague, to wit:

x x x x

24. Rule IV (1) or "Colorum Violation" of JAO is void for being vague as it does not indicate who will be the one paying the penalty, the owner/operator or driver of the public utility vehicle. In the implementation of the same, both owner/operator may deny payment of the same due to the absence of in whose liability the penalty be imposed. It necessitates unending future proceedings on who is liable;

25. Rule IV (11) does not indicate how and when does complete, correct, and updated operator's information shall be provided by the Board [LTFRB]. It must be stated that the JAO shall take effect and be implemented on June 19, 2014. The provisions is void for being vague;

26. Rule IV (18) is void of being vague with respect to UV [Utility Vehicles]. It must be stated that UV has [a] fixed route and it is known (as to its destination), thus preventing them by the LTFRB to place [a] sign board. Stated differently, if the route is SM Fairview-Kalaw and *vice-versa*, after departing from its terminal in SM Fairview the same is fully loaded with passengers presumably bound for Kalaw and there is no need to place [a] sign board. This was stated in the Certificate of Public Convenience (CPC). However, under the JAO they are required to place [a] sign board. This is vague; and

27. Rule IV (19) or pick and drop of passengers outside the terminal is likewise void for being vague and [is] in fact [a] preposterous provision. The same is void with respect to PUJ [Public Utility Jeepneys] and PUB [Public Utility Buses]. This Honorable Court is not unaware that some public utility jeep has no terminal, they go round and round or **"sibat"** in the transport sector parlance. To concretize, a PUJ with Fairview-Quiapo and *vice-versa* route. It will leave SM Fairview and turn again for Fairview underneath the Quiapo bridge so when it reached SM Fairview it will turn again bound for Quiapo. Along the way, it

---

[238] *Rollo* (G.R. No. 212604), Vol. I, pp. 3-20.

Supreme Court E-Library

> pick up (sic) and drop passenger. With the provision of the JAO, will it now be prohibited from picking and dropping passenger along its route[?] So with those with terminal with the same route, if a passenger or a student of one of the universities in the U-belt area including UST took a ride at its terminal in SM Fairview and wishes to alight at España or Lerma (going to Recto), can the driver must (sic) not drop him or her else said driver will be caught under this provision of the JAO. *Res ipsa loquitur*. Simply vague.[239]

In **G.R. No. 212682**,[240] petitioner Ximex further disparages several provisions in JAO No. 2014-01 which appear vague and overbroad. For one, between paragraphs 1 to 5[241] of Title IV thereof, one is left speculating which penalties will be applied if the apprehended vehicle is without a CPC. Such vagueness is likewise evident under paragraph 7[242] of Title IV. The provision penalizes the employment of reckless, insolent, discourteous, or arrogant drivers. Penalizing the operators for acts of the drivers

---

[239] Id. at 12-13.

[240] *Rollo* (G.R. No. 212682), Vol. II, pp. 3-29.

[241] IV

VIOLATIONS IN CONNECTION WITH FRANCHISE

1. Colorum Violation - A motor vehicle is considered operating as "*colorum*" under any of the following circumstances:

a. A private motor vehicle operating as a PUV but without proper authority from the LTFRB;

b. A PUV operating outside of its approved route or area without a prior permit from the Board or outside the exceptions provided under existing memorandum circulars;

c. A PUV operating differently from its authorized denomination (ex. those approved as school service but operating as UV express, or those approved as tourist bus transport but operating as city or provincial bus); and

d. A PUV with suspended or cancelled CPC and the Decision/Order of suspension or cancellation is executory;

e. A PUV with expired CPC and without a pending application for extension of validity timely filed before the Board.

2. Refusal to render service to the public or convey passenger to destination.

3. Overcharging/Undercharging of fare.

4. Failure to provide proper body markings.

5. No franchise/Certificate of Public Convenience or evidence of franchise presented during apprehension or carried inside the motor vehicle.

[242] 7. Employing reckless, insolent, discourteous or arrogant drivers.

Supreme Court E-Library

clearly presumes a deliberate act of operators, as employers, in hiring drivers who possess qualities that are unfit to serve the riding public. Moreover, paragraph 7 does not provide an opportunity for the driver to disprove that he was neither reckless, insolent, discourteous, or arrogant; neither is the operator accorded an opportunity to explain his/her side before he/she is fined. Ximex also submits that paragraph 8[243] of Title IV is similarly vague, as it leaves one questioning as to who will be penalized.

Echoing the earlier petitions, PISTON, in its Petition-for-Intervention,[244] insists that certain provisions of JAO No. 2014-01 are vague on whom to impose the penalties, such as (1) the penalty of a ₱1 million fine for colorum buses, ₱200,000.00 for colorum trucks and vans, and ₱50,000.00 for colorum jeepneys; (2) failure to provide proper body markings; and (3) failure to provide fare discount to those entitled under existing laws and pertinent rules. Necessarily, it should be declared invalid for being vague in its provisions.

Arguing on behalf of respondents, the OSG maintains that the alleged provisions under JAO No. 2014-01 are clear and comprehensible. In fact, it can be easily understood with the use of simple statutory construction and reference to the terms and conditions found enclosed in the CPC and licenses granted to petitioners. It likewise contends that challenging JAO No. 2014-01 on the basis of overbreadth and vagueness finds no application herein, as such principles only find specific relevance in free speech cases, which are markedly different from the instant cases.[245]

D.O. No. 2008-39 and JAO No. 2014-01 is not vague or overbroad.

As defined by the Court in *Samahan ng mga Progresibong Kabataan (SPARK), et al. v. Quezon City, et al.*,[246] a statute or act is considered as defective due to vagueness when it "lacks

---

[243] 8. Allowing an unauthorized driver to drive PUV or allowing a driver to drive PUV without bringing his/her driver's license.

[244] *Rollo* (G.R. No. 212604), Vol. I, pp. 74-106.

[245] *See* Consolidated Comment, *rollo* (G.R. No. 206486), Vol. II, pp. 662-667.

[246] 815 Phil. 1067 (2017).

Supreme Court E-Library

comprehensible standards that men of common intelligence must necessarily guess at its meaning and differ as to its application." The Court in that case was emphatic that statutes or acts, if void, are repugnant to the Constitution in two respects: "(1) it violates due process for failure to accord persons, especially the parties targeted by it, fair notice of the conduct to avoid; and (2) it leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle."[247]

On the other hand, a statute is considered void for overbreadth when "it offends the constitutional principle that a governmental purpose to control or prevent activities constitutionally subject to state regulations may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedoms."[248] Retired former Chief Justice Reynato S. Puno, in his Concurring Opinion in *Social Weather Stations, Inc., et al. v. Commission on Elections*,[249] opined that the essence of overbreadth is that "government has gone too far: its legitimate interest can be satisfied without reaching so broadly into the area of protected freedom."[250]

To begin with, the doctrines of void-for-vagueness and overbreadth first finds its application in cases involving the transgression or curtailment of a citizen's right to free speech or any inhibition of speech-related conduct.

In *Estrada v. Sandiganbayan*,[251] the Court *En Banc* adopted the analysis of Associate Justice Vicente V. Mendoza that the overbreadth and vagueness doctrines are to be enforced only on cases pertaining to free speech:

The overbreadth and vagueness doctrines then have special application only to free speech cases. They are inapt for testing the

---

[247] Id. at 1095.

[248] *Adiong v. Commission on Elections*, G.R. No. 103956, March 31, 1992, 207 SCRA 712, 719-720.

[249] 409 Phil. 571 (2001).

[250] Id. at 599.

[251] 421 Phil. 290 (2001).

Supreme Court E-Library

validity of penal statutes. As the U.S. Supreme Court put it, in an opinion by Chief Justice Rehnquist, "we have not recognized an 'overbreadth' doctrine outside the limited context of the First Amendment." In *Broadrick v. Oklahoma*, the Court ruled that "claims of facial overbreadth have been entertained in cases involving statutes which, by their terms, seek to regulate only spoken words" and, again, that "overbreadth claims, if entertained at all, have been curtailed when invoked against ordinary criminal laws that are sought to be applied to protected conduct." For this reason, it has been held that "a facial challenge to a legislative act is x x x the most difficult challenge to mount successfully, since the challenger must establish that no set of circumstances exists under which the Act would be valid." As for the vagueness doctrine, it is said that a litigant may challenge a statute on its face only if it is vague in all its possible applications. "A plaintiff who engages in some conduct that is clearly proscribed cannot complain of the vagueness of the law as applied to the conduct of others."

In sum, the doctrines of strict scrutiny, overbreadth, and vagueness are analytical tools developed for testing "on their faces" statutes in free speech cases or, as they are called in American law, First Amendment cases. They cannot be made to do service when what is involved is a criminal statute. With respect to such statute, the established rule is that "one to whom application of a statute is constitutional will not be heard to attack the statute on the ground that impliedly it might also be taken as applying to other persons or other situations in which its application might be unconstitutional." As has been pointed out, "vagueness challenges in the First Amendment context, like overbreadth challenges typically produce facial invalidation, while statutes found vague as a matter of due process typically are invalidated [only] 'as applied' to a particular defendant." Consequently, there is no basis for petitioner's claim that this Court review the Anti-Plunder Law on its face and in its entirety[.][252]

The idea that the doctrine of overbreadth is limited to free speech cases was reiterated in *Romualdez v. Hon. Sandiganbayan*[253] and *Southern Hemisphere Engagement Network, Inc., et al. v. Anti-Terrorism Council, et al.*[254] The Court, in *Southern Hemisphere*, was unequivocal regarding the doctrine of overbreadth:

---

[252] Id. at 430-432. (Emphases supplied; Citations omitted)

[253] *Supra* note 115.

[254] 646 Phil. 452 (2010).

Supreme Court E-Library

It is settled, on the other hand, that the application of the overbreadth doctrine is limited to a facial kind of challenge and, owing to the given rationale of a facial challenge, applicable only to free speech cases.

By its nature, the overbreadth doctrine has to necessarily apply a facial type of invalidation in order to plot areas of protected speech, inevitably almost always under situations not before the court, that are impermissibly swept by the substantially overbroad regulation. Otherwise stated, a statute cannot be properly analyzed for being substantially overbroad if the court confines itself only to facts as applied to the litigants.

x x x x

In restricting the overbreadth doctrine to free speech claims, the Court, in at least two cases, observed that the US Supreme Court has not recognized an overbreadth doctrine outside the limited context of the First Amendment, and that claims of facial overbreadth have been entertained in cases involving statutes which, by their terms, seek to regulate only spoken words. In *Virginia v. Hicks*, it was held that rarely, if ever, will an overbreadth challenge succeed against a law or regulation that is not specifically addressed to speech or speech-related conduct. Attacks on overly broad statutes are justified by the "transcendent value to all society of constitutionally protected expression."[255]

With regard to the doctrine of vagueness, it may be well to point out that it has evolved and is at present, not merely limited to free speech cases anymore. Thus, this Court shall not stay its hand from assessing the constitutionality of statute or regulation by the mere theory that the same is void for being vague. To emphasize, in *Samahan ng mga Progresibong Kabataan (SPARK), et al. v. Quezon City, et al.*,[256] the Court was asked to assess the vagueness of various curfew ordinances for minors in Quezon City, Manila, and Navotas. The challenge was anchored on its supposed absence of parameters in identifying suspected curfew violators. The Court, notwithstanding the obvious fact that such ordinances did not involve the exercise of speech and expression, markedly passed upon the vagueness challenge, finding that the

---

[255] Id. at 490-491. (Emphasis supplied; Citations omitted)

[256] *Supra* note 246.

Supreme Court E-Library

arguments of petitioners were unconvincing. Succinctly, the Court ruled that while the curfew ordinances did not venture to state any parameters law enforcement agents were still bound to follow the prescribed measures found under Republic Act No. 9344[257] in apprehending curfew violators.

Most importantly, the vagueness doctrine "is premised on due process considerations."[258] As Justice Caguioa submits, this Court has often subjected laws or regulations that do not involve speech to the vagueness challenge.[259]

Applying the foregoing principles, this Court discerns nothing in the challenged provisions of JAO No. 2014-01 that is either vague or ambiguous as contended in the consolidated petitions. As admonished in *Congressman Garcia v. Executive Secretary*,[260] "the policy of the courts is to avoid ruling on constitutional questions and to presume that the acts of the political departments are valid in the absence of a clear and unmistakable showing to the contrary."

To properly construe the provisions of JAO No. 2014-01, it is opportune to reiterate the opinion of retired Associate Justice Estela M. Perlas-Bernabe in *Philippine Contractors Accreditation Board v. Manila Water Company, Inc.*:[261]

x x x We should emphasize the rule in statutory construction that "every part of the statute must be interpreted with reference to the context, *i.e.*, that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment. Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law."

---

[257] Entitled "*An Act Establishing a Comprehensive Juvenile Justice and Welfare System, Creating the Juvenile Justice and Welfare Council under the Department of Justice, Appropriating Funds Therefor and for Other Purposes*." Approved: April 28, 2006.

[258] *Samahan ng mga Progresibong Kabataan (SPARK), et al. v. Quezon City, et al.*, *supra* note 246.

[259] Separate Concurring Opinion, p. 16.

[260] 281 Phil. 572, 579 (1991).

[261] G.R. No. 217590, March 10, 2020.

Supreme Court E-Library

Thus, a statute or act cannot be unwittingly rendered uncertain and void without considering its entirety and every part thereof to ascertain its meaning. By necessary implication, it must likewise be read in conjunction with, and complementary to, other issuances to arrive at an accurate interpretation. It is also a cardinal rule in statutory construction that –

> x x x every statute must be so interpreted and brought in accord with other laws as to form a uniform system of jurisprudence – *interpretere et concordare legibus est optimus interpretendi*. Thus, if diverse statutes relate to the same thing, they ought to be taken into consideration in construing any one of them, as it is an established rule of law that all acts in *pari materia* are to be taken together, as if they were one law.[262] (Citations omitted)

First, Title IV(1) of JAO No. 2014-01 cannot be fully understood without considering the last two paragraphs under the column *"PENALTIES"* within the same Title and number, which reads:

> In determining the frequency of offenses, **the LTFRB and its RFRBs will count offenses against operators and not against a particular motor vehicle or CPC**. Hence, the second apprehension of a vehicle belonging to the same operator, regardless of whether the first and second vehicle are apprehended are included in the same or different CPCs, shall be counted as second (2nd) offense.
>
> If a **private motor vehicle operating as a PUV but without proper authority from the LTFRB is apprehended**, the LTFRB or RFRBs shall, in addition to the abovementioned fines, impounding, and penalty, **disqualify the registered owner, and in case of a corporation, all its stockholders and directors, to operate any kind of public land transportation**.[263]

Contrary to the argument of petitioners Angat Tsuper and Ximex, the clear language of Title IV(1) may be interpreted in its ordinary acceptation: that in terms of colorum violations involving

---

[262] *Philippine International Trading Corporation v. Commission on Audit*, *supra* note 235, at 458.

[263] Title IV, "*Violations in Connection with Franchise*," under "*Penalties*." (Emphasis supplied)

Supreme Court E-Library

public utility vehicles (*PUVs*),[264] the penalty shall be suffered by operators who are holders or previous holders of CPCs; effectually, if a second apprehension is made on a vehicle involving the same operator, it shall automatically be counted as a second offense. On the other hand, penalties by private motor vehicles which operate as PUVs absent the requisite authority[265] shall be counted against the registered owner and, in case of a corporation, against its stockholders and directors.

In a similar manner, Title IV(2) through (2) and (8),[266] when read together with the last paragraphs of Title IV, makes it easily discernible that fines and penalties shall be counted against operators and not against a particular motor vehicle or CPC, regardless of whether the latter holds or a non-holder of a CPC, *viz.*:

Except in cases of colorum violation, as provided above, the LTFRB, in the application of these fines and penalties, shall count offenses against

---

[264] 1. Colorum Violation — x x x
x x x x
b. A PUV operating outside of its approved route or area without a prior permit from the Board or outside the exceptions provided under existing memorandum circulars;
c. A PUV operating differently from its authorized denomination (ex. those approved as school service but operating as UV express, or those approved as tourist bus transport but operating as city or provincial bus); and
d. A PUV with suspended or cancelled CPC and the Decision/Order of suspension or cancellation is executory; and
e. A PUV with expired CPC and without a pending application for extension of validity timely filed before the Board.

[265] 1. Colorum Violation — x x x

a. A private motor vehicle operating as a PUV but without proper authority from the LTFRB;

[266] 2. Refusal to render service to the public or convey passenger to destination.
3. Overcharging/Undercharging of fare.
4. Failure to provide proper body markings.
5. No franchise/Certificate of Public Convenience or evidence of franchise presented during apprehension or carried inside the motor vehicle.
x x x x

8. Allowing an unauthorized driver to drive PUV or allowing a driver to drive PUV without bringing his/her driver's license.

Supreme Court E-Library

operators and not against a particular motor vehicle or CPC. Hence, the second offense committed by a different vehicle of the same operator shall be counted as second (2nd) offense and another offense by a third vehicle of the same operator shall be counted as a third (3rd) offense, provided all apprehended vehicles belong to the same CPC.

Fines and penalties provided for under existing Memorandum Circulars of the LTFRB which are not provided for in this Joint Administrative Order shall continue to be applied by the Board and Regional Franchising and Regulatory Offices.[267]

On another point, there is likewise dearth in merit in alleging vagueness under Title IV(7).[268] A plain reading of the provision does not yield an interpretation that JAO No. 2014-01 penalizes operators for deliberately hiring drivers that "possess qualities that are unfit to serve the riding public.[269] *Au contraire*, there is nothing inconsistent with penalizing operators for the acts of their drivers that demonstrate recklessness, insolence, discourtesy, or arrogance, in view of their employer-employee relationship.[270] In *Spouses*

---

[267] See last paragraphs under Title IV, "*Violations in Connection with Franchise*."

[268] 7. Employing reckless, insolent, discourteous, or arrogant drivers.

[269] *See* Petition, *Rollo* (G.R. No. 212682), Vol. I, p. 16.

[270] The Court's ruling in *Jardin v. National Labor Relations Commission*, 383 Phil. 187, 197-198 (2000) is clear:

In a number of cases decided by this Court, we ruled that the relationship between jeepney owners/operators[,] on one hand[,] and jeepney drivers[,] on the other[,] under the boundary system is that of employer-employee and not of lessor-lessee. We explained that in the lease of chattels, the lessor loses complete control over the chattel leased although the lessee cannot be reckless in the use thereof, otherwise he would be responsible for the damages to the lessor. In the case of jeepney owners/operators and jeepney drivers, the former exercise supervision and control over the latter. **The management of the business is in the owner's hands. The owner[,] as holder of the certificate of public convenience[,] must see to it that the driver follows the route prescribed by the franchising authority and the rules promulgated as regards its operation.** Now, the fact that the drivers do not receive fixed wages but get only that in excess of the so-called "boundary" they pay to the owner/operator is not sufficient to withdraw the relationship between then from that of employer and employee. **We have applied by analogy the above-stated doctrine to the relationships between bus owner/operator and bus conductor, auto-*calesa* owner/operator and driver, and recently between taxi owners/operators and taxi drivers. Hence, petitioners are**

Supreme Court E-Library

Hernandez v. Spouses Dolor,[271] this Court already established that an employer may be held solidarily liable for certain acts of his or her employees, in light of Articles 2176 and 2180 of the Civil Code.

Article 2180 provides:

ARTICLE 2180. The obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

Guardians are liable for damages caused by the minors or incapacitated persons who are under their authority and live in their company.

The owners and managers of an establishment or enterprise are likewise responsible for damages caused by their employees in the service of the branches in which the latter are employed or on the occasion of their functions.

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

The State is responsible in like manner when it acts through a special agent; but not when the damage has been caused by the official to whom the task done properly pertains, in which case what is provided in Article 2176 shall be applicable.

Lastly, teachers or heads of establishments of arts and trades shall be liable for damages caused by their pupils and students or apprentices, so long as they remain in their custody.

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage. x x x

---

undoubtedly employees of private respondent because as taxi drivers they perform activities which are usually necessary or desirable in the usual business or trade of their employer[.] (Emphases supplied)

[271] 479 Phil. 593 (2004).

Supreme Court E-Library

On the other hand, Article 2176 provides —

Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a *quasi-delict* and is governed by the provisions of this Chapter.

While the above provisions of law do not expressly provide for solidary liability, the same can be inferred from the wordings of the first paragraph of Article 2180 which states that *the obligation imposed by Article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible*.

Moreover, Article 2180 should be read with Article 2194 of the same Code, which categorically states that *the responsibility of two or more persons who are liable for quasi-delict is solidary*. In other words, the liability of joint tortfeasors is solidary. Verily, under Article 2180 of the Civil Code, an employer may be held solidarily liable for the negligent act of his employee.[272]

In any event, it is incumbent upon operators, as holders of CPCs and owners of their respective businesses, to ensure that their drivers abide by the rules that regulate their continued use, operation, and enjoyment thereof. Consequently, deemed incorporated into and forming an integral part of every CPC are the provisions of LTFRB Memorandum Circular No. 2011-004,[273] which enumerate certain terms and conditions that will form every decision or CPC issued by the LTFRB. Anent the employment of drivers, operators holding CPCs are enjoined to comply with paragraph 29 thereof, to wit:

The PUV operator shall employ drivers, conductors, and inspectors and other personnel who are courteous and of good moral character. In no case shall the PUV operator employ any person who has been convicted by a competent court of homicide and/or serious physical injuries, theft, estafa, robbery and crimes against chastity, unless with prior written approval by the Board.

---

[272] Id. at 601-603. (Emphases and italics supplied; Citation omitted)

[273] Entitled "*2011 Revised Terms and Conditions of CPC and Providing Penalties for Violations Thereof*." Approved: May 25, 2011.

Supreme Court E-Library

It is well to remember that "[p]ublic utilities are privately-owned and operated businesses whose service are essential to the general public. They are enterprises which specially cater to the needs of the public and conduce to their comfort and convenience."[274] Unquestionably, operators are to abide by these terms and conditions if only to avoid a situation where the riding public would be endangered by the actions of their drivers, which could have been prevented at the outset.

Lastly, neither can the petitions rely on the argument that paragraph 7 does not provide the driver or the operator an opportunity to disprove allegations against them. To recapitulate, Title V of JAO No. 2014-01 provides for a mechanism wherein apprehensions may be questioned through a written contest. As to franchise violations, operators are given a chance to explain their side within a certain period. In case of an unfavorable decision, a motion for reconsideration and even an appeal may be filed with the DOTC Secretary.

As correctly argued by the OSG, the insistence that Title IV(11)[275] is vague is likewise misplaced. This provision must be read together with paragraph 34 of LTFRB Memorandum Circular No. 2011-004, which provides how and when the operator's information must be given to the LTFRB:

> 34. The PUV operator shall submit to the Board **on or before May 15th of every year** an Annual Report in the form prescribed by the Board. The PUV operator shall also submit with the Annual Report a Certification from the Social Security System that all contributions for the employees have been paid.
>
> • PUV operators engaged in one or more than one class/denomination of public service shall file a separate Annual Report for each.[276]

---

[274] *Kilusang Mayo Uno Labor Center v. Hon. Garcia, Jr.*, 309 Phil. 358, 360 (1994).

[275] 11. Failure to provide the Board with complete, correct, and updated operator's information (such as, but not limited to, address, contact numbers, list of drivers, etc.) and other forms of misrepresentation.

[276] Id.

Supreme Court E-Library

Acts are not rendered uncertain merely due to general terms used therein or due to the failure to define each and every word used, given that they may be read in harmony with other issuances, as in this case, to shed light on its proper meaning and implementation.

In terms of Title IV(18),[277] there appears to be nothing vague when the provision is understood alongside paragraphs 39 to 42 of LTFRB Memorandum Circular No. 2011-004, which lays down with specificity the requirements of the signboard, which, upon a careful reading of its terms, have been required for the benefit of the riding public, who cannot be expected to recall each and every route undertaken, and who should be apprised on the riding capacity of the PUVs on the road in the most accessible manner, to wit:

> 39. Each public utility vehicle, when not actually offered for public service while operating on highways, shall display on its front, a signboard of suitable size on which shall be written in letters legible at a short distance the inscription: **"NOT AVAILABLE."**
>
> 40. Each taxicab shall be provided with signs **"ON CALL"** and **"GARAGE"** which shall be displayed near the taximeter or at the windshield when the taxicab driver is on his way to pick-up a passenger pursuant to a call made by the passenger at the operator's garage or when the taxicab driver is on its way back to the operator's garage. Said signs must be legible to a distance of at least thirty (30) meters.
>
> 41. Public utility vehicles (when applicable) shall carry on its front above the windshield a signboard/panel route of suitable size, legible at a distance, on which shall be written the route of the particular trip being undertaken in accordance with the corresponding Certificate of Public Convenience. Said signboard/panel route must be lighted when the motor vehicle is operated after dark.
>
> 42. Public utility vehicles shall be provided with sign "FULL" which should be displayed when the vehicle is carrying its maximum capacity. In vehicles of the closed type, said sign shall be placed in a conspicuous part of the entrance and on the left side of the windshield.[278]

---

[277] 18. No sign board ** (PUJ, PUB, UV).

[278] Id. (Emphasis supplied).

Supreme Court E-Library

Finally, Title IV(19)[279] is fully appreciated if reconciled with paragraph 26 of LTFRB Memorandum Circular No. 2011-004. While PUJs and PUBs have no designated terminal, it is imperative that for purposes of loading and unloading freight or passengers, they should stop either at a curb or in any designated area, for which this Court can only surmise to be for purposes of safety and orderliness:

> 26. For the purpose of loading and/or unloading freight or passengers, motor vehicles should be drawn to the curb or to any designated loading and unloading areas.

In sum, this Court holds that the challenged provisions pass constitutional muster for not being vague and are thus justified in its existence.

D.
On Substantive Due Process

Angat Tsuper, in its Petition in **G.R. No. 212604**,[280] alleges that in light of the May 2, 2012 Decision of the RTC declaring the unconstitutionality of D.O. No. 2008-39, the fines and penalties under R.A. No. 4136 should lie, and not those provided by JAO No. 2014-01, which merely revised the unconstitutional D.O. No. 2008-39. By mere comparison, Angat Tsuper points out that the fines and penalties in R.A. No. 4136 increased by more than 300% in D.O. No. 2008-39 and by more than a thousand percent in JAO No. 2014-01. Constitutive of a restraint of trade, such exorbitant increase was excessive, unreasonable, oppressive, and is offensive to the due process clause of the Constitution. By way of an example, Rule I(a), or Driving without a valid driver's license/ conductor's permit, metes out a penalty of ₱3,000.00, coupled with disqualification from being granted a driver's license and driving a motor vehicle for a period of one year. If, for one reason or another, due to inadvertence, a full-time public utility driver failed to bring with him/her his/her driver's license, he/she stands

---

[279] 19. Pick and Drop of Passengers outside the terminal (PUJ, PUB, UV).*

[280] *Rollo* (G.R. No. 212604), Vol. I, pp. 3-20.

Supreme Court E-Library

to lose not only his/her week's earnings, but his/her livelihood for one year.[281]

In its Petition-in-Intervention,[282] PNTOA insists in arguing that JAO No. 2014-01 failed to meet the second test of reasonableness, which it considers as the "heart" of substantive due process.[283] Particularly, it penalizes operators with the cancellation of their CPC based on "driver-centric" offenses committed by the drivers themselves, such as refusal to render service to the public or convey passengers to their destination, overcharging or undercharging of fare, employing reckless, insolent, discourteous, or arrogant drivers, failure to provide fare discount to those entitled under existing laws and pertinent memorandum circulars of the LTFRB, allowing personnel and passengers to smoke inside the vehicle, operating under a false, tampered, or defective taximeter, and carrying illegal or prohibited cargo.[284]

In glaring opposition, the OSG avers that since R.A. No. 4136 and Commonwealth Act No. 146[285] (*C.A. No. 146*) are laws passed in 1964 and 1936, respectively, the fines and penalties prescribed therein are nominal and merely serve as token penalties compared to today's values. Thus, it is within the realm of reasonableness that these fines and penalties be revised based on prevailing values, pursuant to the authority granted to respondents by E.O. No. 125, as amended, E.O. No. 266, and the Administrative Code.[286] In its Comment[287] to PNTOA's Petition, it emphasized that while the mentioned offenses were committed by the drivers themselves,

---

[281] Id. at 15.

[282] *Rollo* (G.R. No. 212682), Vol. I, pp. 412-446.

[283] Id. at 421.

[284] Id. at 427-429.

[285] Entitled *"An Act To Reorganize The Public Service Commission, Prescribe Its Powers And Duties, Define And Regulate Public Services, Provide And Fix The Rates And Quota Of Expenses To Be Paid By The Same, And For Other Purposes, otherwise known as "Public Service Act."* Approved: November 7, 1936.

[286] See Consolidated Comment, *Rollo* (G.R. No. 206486), Vol. II, pp. 640-679.

[287] *Rollo* (G.R. No. 212682), Vol. II, pp. 599-620.

Supreme Court E-Library

the operators cannot be fully exculpated from liability; after all, it is a well-settled rule that the relationship between taxi drivers and operators is that of an employer-employee relationship. Thus, as employers of taxi drivers, the operators have the bounden duty to ascertain that their employees abide by the rules and regulations provided by law as well as those included in their CPCs. Failure to do so shall rightfully result in the revocation or annulment of their CPC, being a privilege that the State may revoke.[288]

D.O. No. 2008-39 and JAO No. 2014-01 are not violative of substantive due process.

In *J.M. Tuason & Co., Inc. v. The Land Tenure Administration*,[289] this Court defined due process as a mandate of reason, frowning on arbitrariness. It is the "antithesis of any governmental act that smacks of whim or caprice. It negates state power to act in an oppressive manner. It is, as had been stressed so often, the embodiment of the sporting idea of fair play. In that sense, it stands as a guaranty of justice. That is the standard that must be met by any governmental agency in the exercise of whatever competence is entrusted to it."[290]

In *Secretary of Justice v. Hon. Lantion*,[291] this Court expanded its understanding of due process by recognizing that the concept is elastic in its interpretation, and is dynamic and resilient in character to make it capable of addressing modern problems, having been designed from earliest time to the present to "meet the exigencies of an undefined and expanding future."[292] Of equal significance, this Court further refined this definition by distinguishing between the components of due process: *first*, substantive due process which requires the intrinsic validity of the law in interfering with the rights of the person to his life, liberty, or property; and *second*, procedural due process, which consists of the two basic rights of

---

[288] Id. at 612.

[289] 142 Phil. 393 (1970).

[290] Id. at 416.

[291] 379 Phil. 165 (2000).

[292] Id. at 202.

Supreme Court E-Library

notice and hearing, as well as the guarantee of being heard by an impartial and competent tribunal.[293]

Germane to the case at bench is the concept of substantive due process, which inquires whether the government has sufficient justification for depriving a person of life, liberty, or property.[294] To be so, it must be determined whether the law has a valid governmental objective which must be pursued in a lawful manner.[295] As decided in the early case of *United States v. Toribio*,[296] the Court, quoting *Lawton v. Steel*,[297] reiterated:

> x x x [T]he State may interfere wherever the public interests demand it, and in this particular a large discretion is necessarily vested in the legislature to determine, not only what the interests of the public require, but what measures are necessary for the protection of such interests. **To justify the State in thus interposing its authority in behalf of the public, it must appear, first, that the interests of the public generally, as distinguished from those of a particular class, require such interference; and, second, that the means are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive upon individuals**. The legislature may not, under the guise of protecting the public interests, arbitrarily interfere with private business, or impose unusual and unnecessary restrictions upon lawful occupations. In other words, its determination as to what is a proper exercise of its police powers is not final or conclusive, but is subject to the supervision of the court.[298]

In ruling that the issuance of D.O. 2008-39 and JAO No. 2014-01 is a legitimate exercise of police power, this Court, as a competent arbiter of the reasonableness of governmental action, already upheld that the eradication of colorum vehicles, in order to maintain public safety and to promote general welfare,

---

[293] Id. at 202-203.

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

[295] See *Mayor Rama v. Judge Moises, et al.*, 802 Phil. 29, 59 (2016).

[296] 15 Phil. 85, 98 (1910). (Citation omitted)

[297] 152 U.S. 133 (1894), citing *Barbier v. Connolly*, 113 U.S. 27 (1885), *Kidd v. Pearson*, 128 U.S. 1 (1888).

[298] *United States v. Toribio*, *supra* note 296. (Emphasis supplied; Citations omitted)

Supreme Court E-Library

necessitates state interference, and that the increase in the fees and the imposition of stricter penalties is necessary and is within the ambit of authority of the DOTC. As pointed out by the OSG, considering that the fines and penalties previously prescribed therein represent nominal values, having been issued as early as 1964, it was well within reason that the appropriate fines and penalties be re-examined to hew more closely to prevailing values.[299]

Sad to state, but the argument dealing with the propriety of the amount of the fines and strictness of the penalties, which have been reached after several consultations with members of the transport sectors, indubitably looks into the wisdom and efficiency of D.O. No. 2008-39 and JAO No. 2014-01, which are matters beyond this Court's power of judicial review. It is settled that it is not the province of the judiciary to concern itself with the wisdom, justice, policy, or expediency of a statute.[300] Further, neither is it the business of this Court to remedy every unjust situation that may arise from the application of a particular law or government issuance. While this Court has resolved to take jurisdiction over these consolidated petitions questioning the acts of the executive branch, "the principle remains that it is powerless to review the wisdom, merits, or propriety thereof, as it may strike them down only on either of two grounds: (1) unconstitutionality or illegality, and (2) grave abuse of discretion."[301]

That being said, this Court shall stay its hand from interfering in matters addressed to the sound discretion of the government agency entrusted with the regulation of activities coming under the special and technical training and knowledge of such agency. Consistent with the doctrine of separation of powers, this Court accords great respect to the decisions and actions of administrative authorities given their knowledge, ability, and expertise in the enforcement of laws and regulations entrusted to their jurisdiction.[302]

---

[299] *See* Consolidated Comment, *Rollo* (G.R. No. 206486), Vol. II, p. 668.

[300] *Garcia v. Judge Drilon, et al.*, 712 Phil. 44, 89 (2013).

[301] *Atitiw v. Zamora*, 508 Phil. 321, 341 (2005).

[302] *Drugstores Association of the Philippines, Inc., et al. v. National Council on Disability Affairs, et al.*, *supra* note 203, at 191.

Supreme Court E-Library

Lastly, very little needs to be added in relation to the liability of operators for the acts of their drivers, having been already ruled squarely by this Court. As the continued management of their business is directly intertwined with the privilege of operating under a CPC, it is mandatory upon the operators, as employers, to secure strict compliance from their respective drivers, as employees. Failure to do so would amount to a revocation or suspension of their CPC, which as earlier resolved, is a privilege that the State may revoke.

E.
On the Equal Protection Clause

In its Petition in **G.R. No. 212682**,[303] Ximex points out that under 1(e), Title IV of JAO No. 2014-01, a PUV operating with an expired CPC, but with a pending application for renewal thereof, is exempt from any penalty, whereas a PUV caught operating, but has applied for a CPC for the first time, is held liable to suffer a penalty under its provisions. Ximex asserts that such distinction is arbitrary and violative of the equal protection clause, as both applicants, one renewing and the other applying for the first time, fully intend to comply with the provisions of JAO No. 2014-01 in good faith. Equally violative is the failure of JAO No. 2014-01 to provide a distinction between PUVs servicing the riding public in general and those servicing private entities for the transport of their goods. Ximex posits that substantial distinctions exist between these two classes of PUVs to merit classification to best serve the intention of JAO No. 2014-01.[304]

PNTOA, as petitioner-intervenor, takes the position that there exists substantial distinctions among operators which JAO No. 2014-01 failed to consider, thus causing an unintended unequal effect upon all operators. To be precise, PNTOA avers that distinctions should have been made between operators who hold one CPC covering only one unit or vehicle, *vis-à-vis* operators with CPCs covering several units or vehicles. When both kinds of operators lose their CPC due to a violation of JAO No. 2014-01,

---

[303] *Rollo* (G.R. No. 212682), Vol. II, pp. 3-29.

[304] Id.

Supreme Court E-Library

the operator holding one CPC covering a single unit will not stand to lose his/her business. This is in stark contrast to an operator with a single CPC covering several units, who may stand to effectively lose his/her entire livelihood and business. Resultantly, there appears to be no uniform application of JAO No. 2014-01, as it affects the operator holding one CPC covering multiple units differently or more gravely than an operator with a CPC covering only a single unit.[305]

Contesting Ximex, the OSG finds its contentions preposterous. The OSG elaborates that "[a] PUV plying the roads with an expired CPC and without a pending application for extension of validity is as good as a PUV without a CPC. On the other hand, a PUV with an expired CPC but with a pending application for extension of validity of the CPC is as good as a PUV with a valid and subsisting CPC and may continue plying its authorized routes."[306] Anent the PNTOA's arguments,[307] the OSG clarified that in the first place, operators do not have a vested right to the CPCs, since the grant of the same is but a mere privilege and not a right. Being a mere privilege granted to the State, the latter has the right to annul and revoke the CPCs held by the operators whenever it finds a violation of the rules and regulations provided by law.

D.O. No. 2008-39 and JAO No. 2014-01 are not violative of the equal protection clause.

The equal protection clause under Article III of the 1987 Constitution[308] means that "no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in the same place and in like circumstances."[309]

---

[305] *Rollo* (G.R. No. 212682), Vol. I, pp. 431-432.

[306] See Consolidated Comment, *Rollo* (G.R. No. 206486), Vol. II, p. 669.

[307] *Rollo* (G.R. No. 212682), Vol. II, pp. 599-620.

[308] Section 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

[309] *Tolentino v. Board of Accountancy, et al.*, 90 Phil. 83, 90 (1951), citing *Missouri v. Lewis*, 101 U.S. 22, 31 (1879).

Supreme Court E-Library

Relevant to this case, the mandate of the equal protection clause is expansive, aiming at all official state actions, not just those of the legislature. *Biraogo v. The Philippine Truth Commission of 2010*[310] further expounds that "[i]ts inhibitions cover all the departments of the government, including the political and executive departments, and extend to all actions of a state denying equal protection of the laws, through whatever agency or whatever guise is taken."[311]

The guarantee of equal protection is not violated by a law based on reasonable classification. In other words, the equal protection clause does not preclude classification, nor does it demand absolute equality, of individuals who may be accorded different treatment under the law, as long as the classification is "reasonable and not arbitrary."[312] Thus, classification, in order to be considered reasonable, must "(1) rest on substantial distinctions; (2) be germane to the purposes of the law; (3) not be limited to existing conditions only; and (4) apply equally to all members of the same class."[313]

Inasmuch as the arguments of the consolidated petitions rest mainly on the issue of substantial distinctions, it is prudent to be guided by the standards replete in jurisprudence.

In *People v. Solon*,[314] a city ordinance requiring drivers of animal-drawn vehicles to pick up, gather, and deposit in receptacles the manure emitted or discharged by their vehicle-drawing animals in public places was questioned for being violative of the equal protection clause, the same being discriminatory, partial, and oppressive as it does not equally apply to all owners and possessors of animals, and its application limited only to owners

---

[310] 651 Phil. 374 (2010).

[311] Id. at 459.

[312] *National Power Corporation v. Pinatubo Commercial*, 630 Phil. 599, 609 (2010).

[313] *Philippine Rural Electric Cooperatives Association, Inc. v. The Secretary of Department of the Interior and Local Government*, 451 Phil. 683, 690-691 (2003).

[314] 110 Phil. 39 (1960).

Supreme Court E-Library

and drivers of vehicle-drawing animals. Unconvinced, the Court clarified that substantial distinctions exist between owners of vehicle-drawing animals *vis-à-vis* other owners and possessors of animals, principally due to their frequency in public spaces and in view of the evidence that wastes discharged by these animals and deposited in receptacles averaged 5,000 kilos a day, as opposed to non-vehicle drawing animals, whose numbers in public spaces are negligible and their appearance merely occasional.

In *Taxicab Operators of Metro Manila, Inc., et al. v. The Board of Transportation, et al.*,[315] petitioners, who are taxicab operators, assailed the constitutionality of Memorandum Circular No. 77-42 issued by the then Board of Transportation, which provided for the phasing out and replacement of old and dilapidated taxicabs in Metro Manila. Specifically, they allege that the questioned circular did not afford them equal protection of the law, the same being enforced solely in Metro Manila and directed only towards the taxi industry. The Court in this case found that the infringement of the equal protection clause could not be successfully claimed, as it is of common knowledge that taxicabs in Metro Manila, compared to those of other places, are subjected to heavier traffic pressure and more constant use. Considering that traffic conditions are not the same in every city, a substantial distinction exists.

Finally, in *Department of Education, Culture and Sports v. San Diego*,[316] the Court upheld the constitutionality of the rule disallowing an applicant who had thrice failed the National Medical Admission Test (NMAT) from taking it again. In the case, this Court found substantial distinctions between medical students *vis-à-vis* other students who are otherwise not subjected to the NMAT and the "three-flunk" rule. This Court ratiocinated that "the medical profession directly affects the very lives of the people, unlike other careers which, for this reason, do not require more vigilant regulation."[317]

---

[315] 202 Phil. 925 (1982).

[316] *Supra* note 199.

[317] Id. at 1023.

Supreme Court E-Library

By the same token, 1(e), Title IV of JAO No. 2014-01 meets these standards and is based on a reasonable classification intended to protect the safety of the riding public and to mitigate the seriousness of the traffic issues on public thoroughfares. Indeed, as juxtaposed by the OSG, substantial distinctions clearly exist between a PUV operating under an expired CPC but *with* a timely filed pending application for extension *vis-à-vis* a PUV applying for the first time, contrary to the supposition of Ximex. A PUV plying the roads with a pending, first time application is tantamount to operating without a CPC, an act in direct contravention to law. Evidently, a PUV under these circumstances cannot be considered as having the intention to comply with the terms and conditions of a CPC in good faith. In contrast, PUVs operating under an expired CPC but with a pending and timely filed application is differently situated, as it may continue operating on its authorized routes as explicitly provided in Section 18, Chapter III, Book VII of the Administrative Code, to wit:

> Section 18. *Non-expiration of License*. – Where the licensee has made timely and sufficient application for the renewal of a license with reference to any activity of a continuing nature, **the existing license shall not expire until the application shall have been finally determined by the agency**.[318]

To add, former Chief Justice Puno, speaking for the Court in *Quinto, et al. v. Commission on Elections*[319] made a timely reminder that the allegation of statute's distinction as "unfair, underinclusive, unwise or not the best solution from a public-policy standpoint" is insufficient to invalidate the same.[320] By implication, such rule would apply to orders issued by administrative agencies, as in this case.

Neither can this Court find merit in the contention that JAO No. 2014-01 should have made a distinction between PUVs servicing the riding public and those servicing private entities for the transport of their goods for such classes, since both categories

---

[318] Emphasis supplied.

[319] 627 Phil. 193 (2010).

[320] Id. at 233.

Supreme Court E-Library

require requisite authority from the concerned agency to continue its operations. Besides, there is no constitutional requirement that requires regulations to reach each and every class to which it may be applied.[321] More importantly, it will not do to simply theorize that such classification would best serve the intendment of the regulatory laws; without any compelling proof to consider, such theories are wholly insufficient to convince this Court. It is elementary that in equal protection challenges, the law must be convincingly shown to be arbitrary and capricious.[322] On this point, the consolidated petitions have failed and in fact, did not even attempt, to discharge such burden.

At the risk of sounding repetitious, as drivers and operators do not possess any absolute or vested rights on their authority to operate, being a mere privilege accorded by the State, it is in no position to dictate that a substantial distinction be made between operators who hold one CPC covering only one unit or vehicle and operators with CPCs covering several units or vehicles. While this Court is not insensitive to the plight of operators, it is not within its power to pass upon or look into the wisdom of such classification. Necessarily, holders of CPCs are reminded that while they may conduct their businesses however they see fit, they operate under pain of complying with the terms and conditions therein, no matter how subjectively burdensome or restrictive they may be.

Prescinding therefrom, this Court finds that the herein assailed provisions are not violative of the equal protection clause.

A Final Note

The case before this Court is one impressed with public interest, as it involves the state of this country's thoroughfares and the use of motor vehicles plying its streets. Woefully, the present conditions are not so far removed from the previous situation in *Metropolitan*

---

[321] Id. at 232.

[322] Dissenting Opinion of Former Associate Justice Conchita Carpio Morales in *Biraogo v. The Philippine Truth Commission of 2010*, *supra* note 310, at 704.

Supreme Court E-Library

Manila Development Authority v. Viron Transportation Co., Inc.[323] last 2007:

x x x x

Vehicles have increased in number. Traffic congestion has moved from bad to worse, from tolerable to critical. The number of people who use the thoroughfares has multiplied x x x,

have remained unchecked and have reverberated to this day. Traffic jams continue to clog the streets of Metro Manila, bringing vehicles to a standstill at main road arteries during rush hour traffic and sapping people's energies and patience in the process.[324]

To aggravate the already pernicious nature of the roads is the proliferation of colorum vehicles. As their continued conduct absent requisite authority would immeasurably endanger the lives of the riding public, it is necessary for the State, pursuant to its police power devolving unto the DOTC and its agencies, to place reasonable restrictions in the form of higher fees and stricter penalties upon the operation of motor vehicles. In fine, this Court fails to see how the issuance of D.O. No. 2008-39 and its amended version, JAO No. 2014-01 is an outright affront to the Constitution and an intrusion to private rights. If at all, the assailed orders only serve to further the initiatives of the State concerning anything that proves to be a menace to public safety and welfare.

WHEREFORE, the Petition in **G.R. No. 206486** is **GRANTED.** The Petitions in **G.R. Nos. 212604, 212682, and 212800** are **DISMISSED.** Department Order No. 2008-39 and Joint Administrative Order No. 2014-01 are hereby declared **CONSTITUTIONAL**, and thus, **VALID**, in accordance with this Decision.

SO ORDERED.

Gesmundo, C.J., Hernando, Inting, Zalameda, Gaerlan, Rosario, Dimaampao, and *Marquez, JJ.*, concur.

---

[323] *Supra* note 209.

[324] *Id.* at 126, citing *Luque v. Villegas*, 141 Phil. 108 (1969). (Citations omitted)

Supreme Court E-Library

Caguioa and *Lazaro-Javier, JJ.*, see concurring opinions.

Leonen, J., see separate concurring and dissenting opinion.

Kho, Jr., J., no part.

M. Lopez and *Singh, JJ.*, on leave.

APPEARANCES OF COUNSEL

The Solicitor General for petitioner Republic of the Philippines.
Erro Pahilga Law Offices for petitioners in G.R. No. 212604.
E.M. Avila Law Office for respondents in G.R. No. 206486.
Calleja Law Office for petitioner-intervenors.
Pro-Labor Legal Assistance for petitioner-intervenors.
Nelson C. Delgado, Jr. for petitioner in G.R. No. 212682.
Emmanuel T. Cruz for petitioner in G.R. No. 212800.

CONCURRING OPINION

CAGUIOA, *J.*:

The subject of these consolidated cases are two administrative issuances concerning traffic regulation: *first*, Department Order (D.O.) No. 2008-39, titled "*Revised Schedule of LTO Fines and Penalties for Traffic and Administrative Violations*,"[1] issued by the Department of Transportation and Communications (DOTC),[2] through the Land Transportation Office (LTO);[3] and *second*, Joint Administrative Order (JAO) No. 2014-01, titled "*Revised Schedule of Fines and Penalties for Violations of Laws, Rules and Regulations Governing Land Transportation*," jointly issued by the LTO and the Land Transportation Franchising and Regulatory

---

1 *Rollo* (G.R. No. 206486), Vol. I, pp. 143-152.

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

3 *Ponencia*, p. 4.

Supreme Court E-Library

Board (LTFRB), with the approval of the DOTC, effectively superseding D.O. No. 2008-39.[4]

In essence, these regulations prescribe the penalties and rates for the violation of traffic rules and regulations.

Respondents in G.R. No. 206486 specifically assail D.O. No. 2008-39 for being oppressive and confiscatory in nature.[5] Meanwhile, petitioners in G.R. Nos. 212604, 212682, 212800 and the petitions-in-intervention primarily allege that the succeeding regulation, JAO No. 2014-01, is *ultra vires*, there being no valid delegation of legislative power to the DOTC, the LTFRB, and the LTO to prescribe rates for the violation of traffic regulations.[6]

The *ponencia* finds that the questions raised against D.O. No. 2008-39 and JAO No. 2014-01 are ripe and justiciable. The validity of the challenged regulations is also ultimately upheld, as D.O. No. 2008-39 and JAO No. 2014-01 were validly issued pursuant to the DOTC's rule-making authority and in line with its function of regulating the transportation system.[7] The *ponencia* likewise rejects petitioners' submissions that the regulations are vague and overbroad, as the violations alleged to be ambiguous are easily discernible from a reasonable reading thereof.[8]

I concur with respect to the procedural and substantive rulings of the *ponencia*.

The *ponencia* correctly rules that there is an actual case or controversy. I submit this Concurring Opinion to expound on my position that petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention, were able to establish the requisites for judicial review. I also reiterate my position in *Calleja v. Executive Secretary*[9] *(Calleja)* that the vagueness doctrine should not be confined to free speech cases.

---

4 Id. at 8.

5 Id. at 4-7.

6 Id. at 11-13.

7 Id. at 43-44.

8 Id. at 50-59.

9 G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624,

Supreme Court E-Library

Furthermore, I agree with the ruling on the substantive issues, especially with respect to the DOTC's authority to prescribe rates for the violation of traffic rules, and that neither D.O. No. 2008-39 nor JAO No. 2014-01 is vague or overbroad. However, I respectfully submit that the powers of the DOTC, in prescribing and imposing penalties for violations of land transportation laws, are circumscribed by the authority of the Metropolitan Manila Development Authority (MMDA) to set traffic policies in Metro Manila. This includes the administration of a single ticketing system, the imposition and collection of fines and penalties for all kinds of traffic violations, and the confiscation, suspension, and revocation of drivers' licenses in the enforcement of such traffic laws and regulations.[10]

I.

Briefly, the relevant antecedents that resulted in the filing of the present petitions before the Court should be restated to provide the appropriate context for my concurrence with the *ponencia*'s ruling on the procedural issues.

G.R. No. 206486

On March 4, 2009, a couple of drivers, who were members of the Maria Basa Express Jeepney Operators and Drivers Association, Inc. (Maria Basa), were apprehended by LTO officers for "out of line"[11] operations, a traffic violation penalized under D.O. No. 2008-39 with a fine of ₱6,000.00 for the first offense. Finding D.O. No. 2008-39 oppressive, the President of Maria Basa, together

---

252646, 252702, 252726, 252733, 252736, 252741, 252747, 252755, 252759, 252765, 252767, 252768, UDK 16663, 252802, 252809, 252903, 252904, 252905, 252916, 252921, 252984, 253018, 253100, 253118, 253124, 253242, 253252, 253254, 254191 & 253420, December 7, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67914>.

[10] R.A. No. 7924, AN ACT CREATING THE METROPOLITAN MANILA DEVELOPMENT AUTHORITY, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDING THEREFOR AND FOR OTHER PURPOSES (approved March 1, 1995), Sec. 5(f).

[11] N.B. "Out of line" operations refer to the operation of public utility vehicles outside of the approved route for the trip (See LTFRB Memorandum Circular No. 2006-023, Exemptions for Out of Line Operations, April 7, 2006).

Supreme Court E-Library

with the drivers, filed a petition before Branch 5, Regional Trial Court of Baguio City (RTC) to challenge the constitutionality of D.O. No. 2008-39. The President and the drivers of Maria Basa argued that it was confiscatory in nature and allowed the LTO to simultaneously act as an arresting officer, prosecutor, and judge. They further stated that the challenged regulation was anti-poor, oppressive, and prejudicial to the livelihood of public utility vehicle operators and drivers.[12]

The RTC, in its Decision dated May 2, 2012, declared the provisions null and void. It found that D.O. No. 2008-39 was issued for the purpose of generating funds, and as such, encroached on the legislative's power to tax. Aggrieved, the Office of the Solicitor General (OSG), on behalf of the Republic of the Philippines (Republic), filed a petition for *certiorari* before the Court of Appeals (CA). However, the CA dismissed the Rule 65 petition for being an improper remedy. Thus, the Republic filed the present petition for review on *certiorari*, docketed as G.R. No. 206486, questioning the CA's dismissal of its petition and the RTC's decision striking down the challenged regulation.[13]

G.R. Nos. 212604, 212682, 212800

During the pendency of the petition in G.R. No. 206486 with this Court, JAO No. 2014-01 took effect on June 19, 2014, effectively superseding D.O. No. 2008-39. The prescribed fines for violations of traffic regulations and rules governing land transportation were higher compared to D.O. No. 2008-39. Soon after, the subsequent petitions for *certiorari* assailing its constitutionality were filed with the Court.[14] Petitioners' main arguments are summarized as follows:

(1) Angat Tsuper Samahan ng mga Tsuper at Operator ng Pilipinas-Genuine Organization, Inc. ("Angat Tsuper/ Stop and Go") (Angat Tsuper), petitioner in G.R. No. 212604, assails JAO No. 2014-01 for being *ultra vires*,

---

[12] *Ponencia*, pp. 6-5.

[13] Id. at 7-8; *rollo* (G.R. No. 206486), Vol. I, pp. 22-41.

[14] *Ponencia*, p. 8.

Supreme Court E-Library

as there was no valid delegation of legislative power to the DOTC, the LTO, and the LTFRB. Angat Tsuper likewise argues that JAO No. 2014-01 is vague and ambiguous and violates its right to due process.[15]

(2) Ximex Delivery Express, Inc. (Ximex), petitioner in G.R. No. 212682, primarily avers that JAO No. 2014-01 is arbitrary, oppressive, and confiscatory. As in G.R. No. 212604, Ximex assails JAO No. 2014-01 for being vague and overbroad, and for violating the equal protection clause.[16]

(3) National Confederation of Transportworkers Union, Inc. (NCTU), petitioner in G.R. No. 212800, argues that the quasi-legislative power of the DOTC does not include prescribing penalties for violations of laws governing land transportation. NCTU also argues that neither the LTO nor the LTFRB possesses the power of subordinate legislation, and as such, neither can prescribe the fines and penalties for violations of land transportation laws.[17]

(4) Pagkakaisa ng mga Samahan ng Tsuper at Operators Nationwide (PISTON) and the Philippine National Taxi Operators Association (PNTOA) joined petitioners in G.R. Nos. 212604 and 212800, respectively, by filing their petitions-in-intervention. PISTON and PNTOA allege that the fines prescribed in JAO No. 2014-01 are excessive and confiscatory. PISTON further reiterates that the issuance is *ultra vires* and should be struck down under the void for vagueness principle.[18] PNTOA, meanwhile, argues that the challenged regulation violates the equal protection clause and the substantive due process rights of operators.[19]

---

[15] Id. at 10.

[16] Id.

[17] Id. at 11.

[18] Id. at 11-12.

[19] Id.

Supreme Court E-Library

Prior to ruling on the substantive issues, the *ponencia* emphasizes that the exercise of the Court's power of judicial review necessitates the presence of the following requisites: (1) an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have "standing"; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.[20] All of these requisites were deemed as present in this case.

The *ponencia* holds that petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention were able to "convincingly [show] a palpable presence of an actual and substantial controversy,"[21] there being opposing legal claims that are susceptible of judicial resolution. The *ponencia* also states that the Court need not wait for petitioners to be charged with a violation of JAO No. 2014-01 because at the time of the filing of the present petitions, the challenged regulation was already in effect. Petitioners, who are drivers and operators of public utility vehicles, would most likely suffer from the increase in the fines for traffic violations prescribed in JAO No. 2014-01.[22]

As earlier stated, I fully agree with the *ponencia*'s position on these procedural issues.

The Court had occasion to rule in *Araullo v. Aquino III*[23] that the remedies of *certiorari* and prohibition are available to correct any grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the subject of the controversy was not an exercise of judicial, quasi-judicial or ministerial functions. This is in line with the expanded power of judicial review vested in the Court. Thus, as long as the requirements for judicial review are sufficiently met, the Court must not refrain from exercising its authority.[24]

---

[20] Id. at 21.

[21] Id. at 22.

[22] Id. at 22-24.

[23] 752 Phil. 716 (2014).

[24] Id. at 532.

Supreme Court E-Library

Whenever the *certiorari* jurisdiction of the Court is invoked, as petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention here have invoked, there must be a *prima facie* showing of grave abuse of discretion in the assailed governmental act which, in essence, is the actual case or controversy.[25]

In *Province of North Cotabato v. GRP Peace Panel on Ancestral Domain*[26] *(Province of North Cotabato)* where the constitutionality of the draft Memorandum of Agreement on the Ancestral Domain (MOA-AD) was challenged, the Court defined an "actual case or controversy" as follows:

> An actual case or controversy involves **a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute**. There must be a **contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence**. The Court can decide the constitutionality of an act or treaty only when a proper case between opposing parties is submitted for judicial determination.[27] (Emphasis supplied)

This definition of an actual case or controversy was echoed in *Belgica v. Executive Secretary*[28] *(Belgica)*, which involved

---

[25] *Pangilinan v. Cayetano*, G.R. Nos. 238875, 239483 & 240954, March 16, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67374>.

[26] 599 Phil. 387 (2008).

[27] Id. at 481.

[28] G.R. No. 210503, October 8, 2019, 922 SCRA 23. The Court held:

> Jurisprudence defines an actual case or controversy as "one which '**involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute**.'" Subsumed in the requirement of an actual case or controversy is the requirement of ripeness, and "[f]or a case to be considered ripe for adjudication, it is a prerequisite that something has then been accomplished or performed by either branch before a court may come into the picture, **and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action**." To be sure, the Court may not wield its power of judicial review to address a hypothetical problem. "Without any completed action **or a concrete threat of injury to the petitioning party**,

Supreme Court E-Library

a petition for *certiorari* and prohibition against the lump-sum discretionary funds in the 2014 General Appropriations Act (GAA), and in *Spouses Imbong v. Ochoa, Jr.*[29] *(Imbong)*, which resolved the constitutionality of Republic Act (R.A.) No. 10354, otherwise known as the Responsible Parenthood and Reproductive Health Act of 2012 (RH Law).

However, Associate Justice Amy C. Lazaro-Javier (Justice Lazaro-Javier) objects to the phrases "evident clash of the parties' legal claims" and "clear showing of conflicting legal rights" as standards for an actual case or controversy for purportedly over-expanding its meaning. In her view, the reality of a "multi-cultural and multi-opinionated society such as ours"[30] would always give rise to a clash of legal claims, legal rights, and legal obligations. Justice Lazaro-Javier further argues that under this definition, any position genuinely advocated by any individual would be deemed an actual case or controversy.[31]

With respect, I disagree. These standards should not be indiscriminately abandoned simply by virtue of the possibility that plaintiffs may bring cases that are not truly justiciable.

---

the act is not yet ripe for adjudication." (Emphasis and underscoring supplied) (pp. 53-54)

[29] 732 Phil. 1 (2014). The Court stated:

> An actual case or controversy means an existing case or controversy that is appropriate or ripe for determination, not conjectural or anticipatory, lest the decision of the court would amount to an advisory opinion. The rule is that courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging. **The controversy must be justiciable — definite and concrete, touching on the legal relations of parties having adverse legal interests. In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof, on the other; that is, it must concern a real, tangible and not merely a theoretical question or issue**. There ought to be an actual and substantial controversy admitting of **specific relief through a decree conclusive in nature**, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts. (Emphasis supplied) (p. 123)

[30] Concurrence of Associate Justice Amy C. Lazaro-Javier, p. 3.

[31] Id.

Supreme Court E-Library

At the onset, it should be emphasized that these phrases should not be read in isolation. The presence of an "actual case or controversy" is not hinged only on the existence of "[conflicting] legal rights," "assertion of opposite legal claims," and "contrariety of legal rights." These are further qualified by the requirement that the conflict must be susceptible of judicial resolution, or that the Court can adjudicate the controversy on the basis of law and jurisprudence.

Furthermore, corollary to the requirement of an actual case or controversy is the ripeness of the issue for adjudication. And a case is considered ripe for adjudication when "something had then been accomplished or performed by either branch x x x and the petitioner [alleges] the existence **of an immediate or threatened injury to itself as a result of the challenged action**."[32] The Court, in *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*[33] *(SPARK)*, notably found that there exists an actual case or controversy "given the evident clash of the parties' legal claims."[34] Furthermore, since the curfew ordinances subject of the case in *SPARK* were already operative, the Court held that "[t]he purported threat or incidence of injury is, therefore, not merely speculative or hypothetical but rather, real and apparent."[35] In this regard, the Court held that the requirement of ripeness is satisfied when the petitioner is able to show that "he has sustained **or is immediately in danger** of sustaining some direct injury as a result of the act complained of."[36]

With these principles in mind, the Court is not bound by an overly expansive definition of a justiciable controversy. Rather, the standards to determine the existence of an actual case are couched in terms that are general enough to allow the Court to exercise its power of judicial review when warranted, but are adequately

---

[32] *Province of North Cotabato v. GRP Peace Panel on Ancestral Domain*, *supra* note 26, at 481.

[33] 815 Phil. 1067 (2017).

[34] Id. at 1091.

[35] Id.

[36] Id. Emphasis and underscoring supplied.

Supreme Court E-Library

specific to allow the Court to dismiss purely speculative claims or those that merely seek advisory opinions.

On this point, it bears noting that in *Province of North Cotabato*, the Court rejected the argument that there was no justiciable controversy because of the preliminary nature of the MOA-AD being challenged in that case. The Court held that "[c]oncrete acts under the MOA-AD are not necessary to render the present controversy ripe."[37] In other words, the fact that the MOA-AD was not yet effective did not negate the ripeness of the controversy. It was sufficient that the petitions alleged acts or omissions on the part of therein respondents that exceed the Constitution or violate their mandate under the law:

> **As the petitions allege acts or omissions on the part of respondent that exceed their authority, by violating their duties under E.O. No. 3 and the provisions of the Constitution and statutes, the petitions make a *prima facie* case for *Certiorari*, Prohibition, and *Mandamus*, and an actual case or controversy ripe for adjudication exists.** When an act of a branch of government is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute.[38] (Emphasis and underscoring supplied)

Here, petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention aver that the challenged issuances conflict with various provisions of the Constitution. They filed their respective petitions after the issuance of JAO No. 2014-01, which effectively superseded D.O. No. 2008-39. Their petitions raise several issues, which the *ponencia* pared down to the following:

1) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for having been issued in the absence or in excess of the DOTC, the LTO, and the LTFRB's quasi-legislative power;

---

[37] *Province of North Cotabato v. GRP Peace Panel on Ancestral Domain*, supra note 26, at 483.

[38] Id. at 486.

Supreme Court E-Library

(2) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for being an invalid exercise of police power;

(3) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for being vague and overbroad;

(4) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for violating the substantive due process rights of drivers and public utility operators; and

(5) Whether D.O. No. 2008-39 and JAO No. 2014-01 are unconstitutional for violating the equal protection clause.[39]

A plain reading of these issues would show that the petitions are able to establish a *prima facie* case for grave abuse of discretion on the part of the DOTC, the LTO, and the LTFRB. They assail the authority of the DOTC, the LTO, and the LTFRB to impose sanctions and fix the rates for traffic violations, as these agencies purportedly acted in excess of their mandates under their respective governing laws. Furthermore, by issuing the challenged regulations, respondents allegedly violated the Constitution.

The foregoing issues also patently show an "evident clash of the parties' legal claims"[40] that the Court may properly adjudicate. Petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention assert the unconstitutionality of JAO No. 2014-01, a question of law evidently susceptible of judicial resolution. The DOTC, the LTO, and the LTFRB, for their part, insist that they possess the legal authority or the delegated legislative power to enact JAO No. 2014-01. They also dispute petitioners' assertions that the provisions of JAO No. 2014-01 are vague and overbroad, confiscatory, and excessive.[41] In this regard, whether the DOTC, the LTO, and the LTFRB possess delegated legislative authority

---

[39] *Ponencia*, p. 13.

[40] *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*, supra note 33, at 1091.

[41] *Rollo* (G.R. No. 212604), Vol. I, pp. 195-201.

Supreme Court E-Library

is answered by referring to the relevant statutes creating these agencies—again, a question of law evidently susceptible of judicial resolution. Furthermore, whether there is a violation of substantive due process rights and the equal protection clause, or whether the provisions of D.O. No. 2008-39 and JAO No. 2014-01 are vague and overbroad, may be resolved by an examination of the assailed regulations against the relevant provisions of the Constitution. Still again, another question of law evidently susceptible of judicial resolution.

The Court's ruling in *Inmates of the New Bilibid Prison v. De Lima*[42] *(Inmates of the New Bilibid Prison)* is also instructive:

> **There is an actual case or controversy in the case at bar <u>because there is a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence</u>.** Respondents stand for the prospective application of the grant of GCTA, TASTM, and STAL while petitioners and intervenors view that such provision violates the Constitution and Article 22 of the RPC. **The legal issue posed is ripe for adjudication as the challenged regulation has a direct adverse effect on petitioners and those detained and convicted prisoners who are similarly situated.** There exists an immediate and/or threatened injury and they have sustained or are immediately in danger of sustaining direct injury as a result of the act complained of. In fact, while the case is pending, petitioners are languishing in jail. If their assertion proved to be true, their illegal confinement or detention in the meantime is oppressive. With the prisoners' continued incarceration, any delay in resolving the case would cause them great prejudice. Justice demands that they be released soonest, if not on time.

There is no need to wait and see the actual organization and operation of the MSEC. Petitioners Edago, *et al.*, correctly invoked Our ruling in *Pimentel, Jr. v. Hon. Aguirre*. There, We dismissed the novel theory that people should wait for the implementing evil to befall on them before they could question acts that are illegal or unconstitutional, and held that "**[by] the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy <u>even without any other overt act</u>**." Similar to *Pimentel, Jr.*, the real issue in this case is whether the Constitution and the RPC are contravened by Section 4, Rule 1 of the IRR, not whether they are

---

[42] G.R. Nos. 212719 & 214637, June 25, 2019, 905 SCRA 599.

Supreme Court E-Library

violated by the acts implementing it. **Concrete acts are not necessary to render the present controversy ripe. An actual case may exist even in the absence of tangible instances when the assailed IRR has actually and adversely affected petitioners. The mere issuance of the subject IRR has led to the ripening of a judicial controversy even without any other overt act.** If this Court cannot await the adverse consequences of the law in order to consider the controversy actual and ripe for judicial intervention, the same can be said for an IRR. Here, petitioners need not wait for the creation of the MSEC and be individually rejected in their applications. They do not need to actually apply for the revised credits, considering that such application would be an exercise in futility in view of respondents' insistence that the law should be prospectively applied. If the assailed provision is indeed unconstitutional and illegal, there is no better time than the present action to settle such question once and for all.[43] (Emphasis and underscoring supplied)

Thus, much in the same way that therein petitioners in *Inmates of the New Bilibid Prison* need not await concrete acts to render the controversy ripe, the Court need not wait for petitioners to be charged with a violation of JAO No. 2014-01 before the case is considered ripe for adjudication. At the risk of repetition, petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention argue that JAO No. 2014-01 is unconstitutional for violating their due process rights and the equal protection clause. They further argue that the regulation is *ultra vires* and is an excessive exercise of police power. As the DOTC, the LTO, and the LTFRB are accused of having infringed the Constitution by the issuance of JAO No. 2014-01, and its predecessor regulation, D.O. No 2008-39, the effectivity of these regulations already poses an immediate threat to petitioners. It must be emphasized that petitioners are drivers and operators of public utility vehicles who are in danger of being apprehended or penalized with the new regulation on traffic violations.

As well, the Court need not await any further concrete act or for the "implementing evil to befall" petitioners, who are drivers and operators of public utility vehicles. This would only be an "exercise in futility" as the alleged constitutional defects of JAO No. 2014-01 are not made any more apparent should any of the

---

[43] Id. at 619-621.

Supreme Court E-Library

petitioners be apprehended for any of these traffic violations. This holds especially true for the issue on whether Congress indeed granted respondents the authority to set rates for traffic violations. Thus, I maintain that the only material fact is the issuance and the effectivity of the challenged regulations.

Neither is this case any less ripe because petitioners did not exhaust the administrative remedies available under Executive Order (E.O.) No. 292[44] or in JAO No. 2014-01. These rules obviously cannot provide the reliefs sought by petitioners, all of whom claim that JAO No. 2014-01 should be struck down for being unconstitutional.

To be clear, I do not have any disagreement with the position of Senior Associate Justice Marvic M.V.F. Leonen[45] and Justice Lazaro-Javier[46] that there should always be an actual case or controversy for the Court to exercise its power of judicial review. This is a constitutional requirement that the Court cannot simply disregard.[47] However, I cannot subscribe to the proposed reformulation of rules for determining the presence of an actual case or controversy ripe for judicial adjudication that straightjackets the Court's manner of taking cognizance of cases. Requiring actual and concrete facts for all cases would indiscriminately increase the bar for plaintiffs to bring cases before the courts, no matter how flagrant the constitutional violation.

Furthermore, this approach not only undermines the Court's expanded power of judicial review, but renders nugatory the reliefs that can be granted, which by their very nature must be secured before an overt act takes place. For instance, in an action for declaratory relief under Rule 63 of the Rules of Court, a plaintiff interested under a written instrument, whose rights are affected by a governmental regulation, must initiate the petition before breach or violation thereof. Any breach, before the action

---

[44] ADMINISTRATIVE CODE OF 1987, approved on July 25, 1987.

[45] See Separate Opinion of Senior Associate Justice Marvic M.V.F. Leonen, pp. 4-6.

[46] See Concurrence of Associate Justice Amy C. Lazaro-Javier, pp. 2-4.

[47] CONSTITUTION, Art. VIII, Sec. 1.

Supreme Court E-Library

for declaratory relief is filed, is sufficient to bar the action as this already constitutes an actionable violation.[48] Similarly, it is incongruous to require concrete facts in an action for quieting of title, which may be brought by a plaintiff with a legal or equitable title to a real property effectively in anticipation that another deed, claim, encumbrance, or proceeding casting cloud on his or her title is actually invalid or inoperative.[49] In these cases, the existence of overt acts, or concrete facts or violations is not always equivalent to the existence of a justiciable controversy.

To be sure, petitioners did not file their petitions in anticipation of respondents' issuance of a regulation increasing the fines for traffic violations. Neither did they speculate as to the contents of the regulation, nor the authority of the DOTC, the LTO, and the LTFRB to impose such regulation. The *ponencia* itself judiciously passes upon each question and arrives at the conclusion that the challenged regulations are valid. The *ponencia* does this without having to speculate or create abstract and hypothetical scenarios. Certainly, it is the practice of proceeding to discuss the merits of the substantive arguments raised in the petition, even after ruling that the case is not justiciable, that the Court lends itself to abstractions.[50]

Notably, in *Pimentel, Jr. v. Aguirre*[51] *(Pimentel)*, the Court resolved a petition for *certiorari* and prohibition to annul an administrative order issued by the President, which requires local government units to reduce their expenditures by 25% of their authorized regular appropriations for non-personal services. The order further reduced the amount of internal revenue allotment to be withheld from local government units. Former Associate Justice Santiago M. Kapunan dissented from the majority, arguing

---

[48] *Ollada v. Central Bank*, 115 Phil. 284, 291 (1962), cited in the Dissenting Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Department of Health v. Philippine Tobacco Institute, Inc.*, G.R. No. 200431, July 31, 2021, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68029>.

[49] See *Salvador v. Patricia, Inc.*, 799 Phil. 116 (2016).

[50] See Separate Concurring Opinion of Associate Justice Florentino P. Feliciano in *Gascon v. Arroyo*, 258-A Phil. 354 (1989).

[51] 391 Phil. 84 (2000).

that the case was premature as the conduct has not yet occurred and the challenged construction was not adopted by the administering agency. The Court, refuting the supposed prematurity of the petitions, held that:

> This is a rather novel theory — that people should await the implementing evil to befall on them before they can question acts that are illegal or unconstitutional. **Be it remembered that the real issue here is whether the Constitution and the law are contravened by Section 4 of AO 372, not whether they are violated by the acts implementing it.** In the unanimous *en banc* case *Tañada v. Angara*, this Court held that when an act of the legislative department is seriously alleged to have infringed the Constitution, settling the controversy becomes the duty of this Court. By the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy even without any other overt act. Indeed, even a singular violation of the Constitution and/or the law is enough to awaken judicial duty. Said the Court:
>
> > In seeking to nullify an act of the Philippine Senate on the ground that it contravenes the Constitution, the petition no doubt raises a justiciable controversy. Where an action of the legislative branch is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute. "The question thus posed is judicial rather than political. The duty (to adjudicate) remains to assure that the supremacy of the Constitution is upheld." Once a "controversy as to the application or interpretation of a constitutional provision is raised before this Court x x x, it becomes a legal issue which the Court is bound by constitutional mandate to decide."
>
> > x x x x
>
> > As this Court has repeatedly and firmly emphasized in many cases, it will not shirk, digress from or abandon its sacred duty and authority to uphold the Constitution in matters that involve grave abuse of discretion brought before it in appropriate cases, committed by any officer, agency, instrumentality or department of the government.[52] (Emphasis and underscoring supplied)

Likewise, in *Imbong*, the Court also held that an actual case or controversy exists and that the same is ripe for judicial

---

[52] Id. at 107-108.

Supreme Court E-Library

determination because the RH Law and its implementing rules were already enacted at the time of the filing of the petition. The Court further stated that the medical practitioners and providers are "**in danger of being criminally prosecuted**"[53] by virtue of the effectivity of the law.[54]

Later, in *Belgica*, the Court deemed the challenge to the constitutionality of the 2014 GAA justiciable even if the petition for *certiorari* was not prompted by any finding of irregularity by the Commission on Audit. The Court held that the implementation of the alleged unconstitutional provisions of the 2014 GAA might result in the "**possible** misapplication of public funds which cause '**injury or hardship to taxpayers**,'"[55] and as such, the controversy was ripe.

I thus agree with the *ponencia* that petitioners in G.R. Nos. 212604, 212682, 212800, and the petitions-in-intervention need

---

[53] *Spouses Imbong v. Ochoa, Jr.*, supra note 29, at 125. Emphasis supplied.

[54] See *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, 841 Phil. 724, 787 (2018), where the Court held that there is a justiciable controversy because "[t]he assailed laws and executive issuances have already taken effect and petitioners herein, who are faculty members, students and parents, are individuals directly and considerably affected by their implementation."; *Didipio Earth-Savers' Multi-Purpose Association, Inc. v. Gozun*, 520 Phil. 457, 472 (2006), where the Court held:

> In the instant case, there exists a live controversy involving a clash of legal rights as Rep. Act No. 7942 has been enacted, DAO 96-40 has been approved and an [FTAA has] been entered into. The FTAA holders have already been operating in various provinces of the country. Among them is CAMC which operates in the provinces of Nueva Vizcaya and Quirino where numerous individuals including the petitioners are imperiled of being ousted from their landholdings in view of the CAMC FTAA. In light of this, the court cannot await the adverse consequences of the law in order to consider the controversy actual and ripe for judicial intervention. Actual eviction of the land owners and occupants need not happen for this Court to intervene.

See also *Saguisag v. Ochoa, Jr.*, 777 Phil. 280, 351 (2016) where the Court deemed "the performance of an official act by the Executive Department that led to the entry into force of an executive agreement [as] sufficient to satisfy the actual case or controversy requirement."

[55] *Belgica v. Executive Secretary*, supra note 28, at 54. Emphasis supplied.

Supreme Court E-Library

not be charged first under JAO No. 2014-01 before they can have standing to sue. Petitioners were able to establish sufficient interest in the outcome of the controversy as frequent drivers or operators of motor vehicles who are more vulnerable to being penalized under JAO No. 2014-01 with the higher fines prescribed therein. **Notably, the penalties under JAO No. 2014-01 for first-time colorum violators include a fine of ₱1,000,000.00 for buses, ₱200,000.00, for trucks and vans, ₱120,000.00 for sedans, and ₱50,000.00 for jeepneys, coupled with the impoundment of the motor vehicle for three months.**[56] **These are, by any measure, huge amounts or penalties that entail punishing financial burdens — especially taking into consideration the situation of petitioners as drivers and operators of motor vehicles.**

Likewise, the failure to display the International Symbol of Accessibility and the failure to designate seats for persons with disabilities are penalized with a fine of ₱50,000.00 for the first offense, ₱75,000.00 for the second offense, and ₱100,000.00 for the third offense. Again, these are certainly huge sums of money, the imposition of which would directly or materially affect petitioners as they would have to pay these gargantuan sums should the validity of JAO No. 2014-01 prevail.

Parenthetically, in *Falcis III v. Civil Registrar General*,[57] the Court emphasized that for exceptional suits filed by taxpayers, legislators, or concerned citizens, the party must claim some kind of injury-in-fact. This requirement of standing, taken together with the requisite justiciable controversy, further restricts the filing of baseless and hypothetical suits before the courts. Be that as it may, the required injury-in-fact should not be construed to mean that petitioners must be apprehended under the challenged regulation before they can have standing to sue. As the Court stated:

> Even for exceptional suits filed by taxpayers, legislators, or concerned citizens, this Court has noted that the party must claim some kind of injury-in-fact. For concerned citizens, it is an allegation that the continuing enforcement of a law or any government act has denied the party some

---

[56] JAO No. 2014-01, Title IV(1).

[57] G.R. No. 217910, September 3, 2019, 917 SCRA 197.

Supreme Court E-Library

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.**[58] (Emphasis and underscoring supplied)

In fine, the *ponencia* is correct in giving due course to the challenge on D.O. No. 2008-39 and JAO No. 2014-01. The Court must remain steadfast in exercising its power of judicial review, especially when called upon to rule on the Executive or Legislative's alleged infringement of the Constitution. When a co-equal branch is alleged to have violated the Constitution or a statute, as in this case, it is the illegal or unconstitutional act of such co-equal branch that becomes subject of the controversy for the adjudication of the Court. Thus, any such requirement of concrete facts is satisfied by the enactment or issuance of the statute or regulation being challenged.

II.

Petitioners argue that JAO No. 2014-01 is vague and overbroad. Among the portions of JAO No. 2014-01 that petitioners particularly assail is with respect to colorum violations. Angat Tsuper asserts that JAO No. 2014-01 fails to indicate who will be held liable for colorum violations, as it does not allegedly indicate whether it is the owner or operator, or the driver of the public utility vehicle that should pay the penalty. PISTON also raises the same issue, going further by arguing that the violations for failure to provide proper body markings and failure to provide fair discount also does not indicate who should be held liable for the penalties.[59] The *ponencia* rejects these arguments, holding that the terms in JAO No. 2014-01 are unambiguous and may be easily understood by reconciling it with the other related regulations issued by the LTFRB.[60]

---

[58] Id. at 356-357.

[59] *Ponencia*, p. 50.

[60] Id. at 50-59.

Supreme Court E-Library

Prior to ruling on the alleged vagueness and overbreadth of the challenged regulations, the *ponencia* reiterates that the Court "shall not stay its hand from assessing the constitutionality of [a] statute or regulation by the mere theory that the same is void for being vague."[61] Again, I fully concur with this position. It is time for the Court to shift away from the restrictive application of the vagueness doctrine *vis-à-vis* non-speech regulating measures.

A statute or regulation is considered overbroad when it sweeps unnecessarily broadly and invades the area of protected freedoms.[62] Meanwhile, a vague statute is primarily offensive to the right to due process because it fails to provide fair notice of the conduct being prohibited or penalized.[63] As a consequence, law enforcers are granted unbridled discretion in carrying out its provisions, encouraging the arbitrary arrest and convictions of individuals.[64]

It is true that the overbreadth doctrine is generally applied to statutes that infringe on the freedom of speech because of the chilling effect that results from the operation of an overbroad statute. In the same manner, a vague statute that regulates speech and other forms of expression operates to inhibit the exercise of these freedoms. It is in this sense that the vagueness and overbreadth doctrines are related.[65] But even if these doctrines are related, it should be emphasized that the void-for-vagueness doctrine is not exclusive to cases involving speech. As mentioned, the "fair notice" standard is the main criteria to determine the application of the void-for-vagueness doctrine.

Thus, in *SPARK*, the Court markedly passed upon the vagueness challenge against various curfew ordinances, which obviously did not involve the exercise of freedom of speech and expression. The

---

[61] Id. at 53.

[62] *Chavez v. Commission on Elections*, 480 Phil. 915, 929 (2004).

[63] See Dissenting Opinion of Associate Justice Dante O. Tinga in *Spouses Romualdez v. COMELEC*, 576 Phil. 357, 423 (2008); *People v. Dela Piedra*, 403 Phil. 31, 47-48 (2001).

[64] See *People v. Dela Piedra*, id. at 48.

[65] Separate Concurring and Dissenting Opinion of Associate Justice Alfredo Benjamin S. Caguioa in *Calleja v. Executive Secretary*, supra note 9.

Supreme Court E-Library

challenge was anchored on the supposed absence of standards for law enforcers to identify suspected curfew violators, consequently allowing the unbridled enforcement of the ordinance. The Court, in *SPARK*, found the arguments of petitioners unconvincing, ruling that even in the absence of such parameters in the curfew ordinances, law enforcers are still bound by the provisions of the Juvenile Justice and Welfare Act of 2006[66] in apprehending violators.

In *Estrada v. Sandiganbayan*[67] *(Estrada)*, the Court was asked to determine whether the Plunder Law is vague for failing to provide a statutory definition of the terms describing the prohibited conduct. In no uncertain terms, the Court rejected the vagueness challenge not because the Plunder Law is not a speech-regulating measure, but because there was fair notice of the prohibited conduct, which may be ascertained from the plain reading of its text.

To emphasize, it is well-settled that "[t]he void for vagueness doctrine is premised on due process considerations."[68] On this basis, the Court has often subjected laws or regulations that do not involve speech to the vagueness challenge. Thus, I pointed out in *Calleja* that the Court should refrain from adhering to its incoherent pronouncements where the vagueness challenge against a non-speech regulating measure is rejected solely because the case does not involve free speech. As in *SPARK* and *Estrada*, the Court can refer to the text of the regulation and conclude that the provisions of JAO No. 2014-01 may be fully understood by reading its entirety or in conjunction with related regulations.

In this regard, the *ponencia* aptly holds:

> Contrary to the argument of petitioners Angat Tsuper and Ximex, the clear language of Title IV(1) may be interpreted in its ordinary acceptation: that in terms of colorum violations involving public utility vehicles (*PUVs*), the penalty shall be suffered by operators who are holders or previous holders of CPCs; effectually, if a second apprehension

---

66 R.A. No. 9344, dated April 28, 2006.

67 421 Phil. 290 (2001).

68 *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*, supra note 33, at 1095.

Supreme Court E-Library

is made on a vehicle involving the same operator, it shall automatically be counted as a second offense. On the other hand, penalties by private motor vehicles which operate as PUVs absent the requisite authority shall be counted against the registered owner and, in case of a corporation, against its stockholders and directors.

In a similar manner, Title IV(2) through (2) and (8), when read together with the last paragraphs of Title IV, makes it easily discernible that fines and penalties shall be counted against operators and not against a particular motor vehicle or CPC, regardless of whether the latter holds or [is] a non-holder of a CPC, *viz.*:

x x x x

On another point, there is likewise dearth in merit in alleging vagueness under Title IV(7). A plain reading of the provision does not yield an interpretation that JAO No. 2014-01 penalizes operators for deliberately hiring drivers that "possess qualities that are unfit to serve the riding public." x x x

x x x x

Acts are not rendered uncertain merely due to general terms used therein or due to the failure to define each and every word used, given that they may be read in harmony with other issuances, as in this case, to shed light on its proper meaning and implementation.

In terms of Title IV(18), there appears to be nothing vague when the provision is understood alongside paragraphs 39 to 42 of LTFRB Memorandum Circular No. 2011-004, which lays down with specificity the requirements of the signboard, which, upon a careful reading of its terms, have been required for the benefit of the riding public, who cannot be expected to recall each and every route undertaken, and who should be apprised on the riding capacity of the PUVs on the road in the most accessible manner, to wit:

x x x x

Finally, Title IV(19) is fully appreciated if reconciled with paragraph 26 of LTFRB Memorandum Circular No. 2011-004. While PUJs and PUBs have no designated terminal, it is imperative that for purposes of loading and unloading freight or passengers, they should stop either at a curb or in any designated area, for which the Court can only surmise to be for purposes of safety and orderliness.[69] (Emphasis supplied)

---

[69] *Ponencia*, pp. 54-59.

Supreme Court E-Library

Again, the Court should not lose sight of the fact that the vagueness doctrine is underpinned by due process considerations of fair and proper notice. It is high time that the Court finally and simply take the bull by the horns. Hence, the *ponencia* is a move in the appropriate direction by ruling that JAO No. 2014-01 is patently clear, without having to preface the ruling that the vagueness challenge is improper.

III.

With respect to the substantive issues, the *ponencia* upholds the authority of the DOTC, the LTO, and the LTFRB to prescribe rules and regulations to enforce laws governing land transportation, including the penalties for the violations thereof. Under E.O. No. 125-A,[70] the DOTC and the LTO were vested with the power to prescribe rules and regulations to enforce laws on land transportation, including the penalties for the violations thereof. The LTFRB, meanwhile, was authorized by virtue of E.O. No. 202[71] to regulate the certificates of public convenience (CPCs) awarded to motor vehicles, as well as to adjust fares, rates, and charges relating to the operation of land transportation services provided by motor vehicles. According to the *ponencia*, these laws likewise provide sufficient standards by which these administrative agencies may exercise their delegated legislative power. Thus, the assailed traffic regulations are declared by the *ponencia* as not *ultra vires*.[72]

I agree with the *ponencia*. The grant of rule-making powers to administrative agencies has long been recognized as an exception to the non-delegability of legislative power.[73] In view of the growing complexity and variety of public functions, the legislature may delegate the discretion to determine how the

---

[70] Amendments to E.O. No. 125, dated April 13, 1987.

[71] CREATING THE LAND TRANSPORTATION FRANCHISING AND REGULATORY BOARD, dated June 19, 1987.

[72] *Ponencia*, pp. 29-36.

[73] *Pantaleon v. MMDA*, G.R. No. 194335, November 17, 2020, accessed at <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67017>; see also *People v. Maceren*, 169 Phil. 437, 447-448 (1997).

Supreme Court E-Library

law may be enforced and fill in the gaps for its implementation. Certainly, prescribing penalties for the violation of traffic rules and regulations is within the authority of the DOTC, through the LTO and the LTFRB, having been charged with the duty to implement laws relating to land transportation.

That said, my concurrence is subject to the submission that with the enactment of R.A. No. 7924, or the MMDA Law, it is the MMDA that is the primary authority on traffic policies **in Metro Manila**.

The creation of the MMDA was aimed at centralizing the delivery of metro-wide services within Metro Manila—services that have a metro-wide impact and which transcends local political boundaries. This includes the delivery of transport and traffic management services, or:

> x x x **the formulation, coordination, and monitoring of policies, standards, programs and projects to rationalize the existing transport operations**, infrastructure requirements, the use of thoroughfares, and promotion of safe and convenient movement of persons and goods; provision for the mass transport system and the institution of a system to regulate road users; **administration and implementation of all traffic enforcement operations, traffic engineering services and traffic education programs, including the institution of a single ticketing system in Metropolitan Manila**."[74] (Emphasis supplied)

In order to effectively carry out its functions, the MMDA was explicitly granted the authority to "set the policies concerning traffic in Metro Manila"[75] and to "[i]nstall and administer a single ticketing system, fix, impose and collect fines and penalties for all kinds of violations of traffic rules and regulations."[76]

The MMDA is mandated to exercise this authority through the Metro Manila Council, composed of the mayors of the cities and municipalities comprising Metro Manila, the president of the Metro Manila Vice Mayors League, and the president of the

---

[74] R.A. No. 7924, Sec. 3(b).

[75] Id. at Sec. 5(e).

[76] Id. at Sec. 5(f).

Supreme Court E-Library

Metro Manila Councilors League. The Council is responsible for promulgating rules and regulations, and setting policies for the delivery of basic services within its jurisdiction.[77] Notably, the Secretary of the DOTC (now, the DOTr), the Department of Public Works and Highways, Department of Tourism, Department of Budget and Management, Housing and Urban Development Coordinating Council, and Philippine National Police or their duly authorized representatives, attend meetings of the Council as non-voting members.[78] In this manner, the MMDA can coordinate its policies with its stakeholders and the relevant offices with overlapping functions.

Thus, there is a clear legislative intent to grant the MMDA with the power to set the policies concerning traffic in Metro Manila, and the duty to coordinate and regulate the implementation of all programs and projects concerning traffic management. This is further apparent from Section 5(f) of the MMDA Law, which specifically mentions that the MMDA has the authority to "impose and collect fines and penalties for all kinds of violations of traffic rules and regulations x x x in the enforcement of such traffic laws and regulations, the provisions of RA 4136[79] x x x to the contrary notwithstanding." In all, while the DOTr, through the LTO, is authorized to "[e]stablish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation x x x including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof,"[80] its authority is circumscribed by that of the MMDA with respect to traffic management in Metro Manila.

To be clear, this does not negate the authority of the DOTr, the LTO, and the LTFRB, to prescribe rules for the enforcement of laws governing land transportation. But within the jurisdiction of the MMDA, the MMDA's mandate and authority to impose and prescribe the appropriate penalties for violations of traffic rules

---

77 Id. at Sec. 6(d).

78 Id. at Sec. 4.

79 R.A. No. 4136 refers to the "LAND TRANSPORTATION AND TRAFFIC CODE."

80 E.O. No. 125-A, Sec. 1, amending E.O. No. 125, Sec. 5.

Supreme Court E-Library

should prevail over these agencies. While the MMDA's functions may overlap with these agencies, it should be emphasized that its creation is premised on the need to coordinate metro-wide services that transcend territorial boundaries, which is particularly relevant for transport and traffic management. Verily, while I agree that D.O. No. 2008-39 and JAO No. 2014-01 are not *ultra vires*, I submit that with respect to the regulation of traffic in Metro Manila, the primary policymaking body is still the MMDA.

All told, I concur with the *ponencia* especially with respect to the resolution of the procedural issues, as well as with the application of the vagueness doctrine to the challenged regulation. To my mind, the power of judicial review was rightfully exercised as this ultimately fulfills the Court's role in the system of checks and balances. It should be emphasized that concomitant to the expanded power of judicial review is the duty to determine the validity of any legislative or executive action. As the final arbiter of legal controversies, there should be no question on the propriety of the Court's exercise of this power whenever an act of a government agency or instrumentality is alleged to have infringed the Constitution or the law.

CONCURRENCE

LAZARO-JAVIER, *J.*:

Overall, I agree with the *ponencia* that Department Order (DO) No. 2008-39 and Joint Administrative Office (JAO) No. 2014-01 issued by the Department of Transportation and Communications (DOTC) through the Land Transportation Office (LTO) and Land Transportation Franchising and Regulatory Board (LTFRB) are constitutional.

First off, I agree that there is **no actual case or controversy** in the petitions initiated by the private parties. But there is one important point to this element of actual case or controversy. Should a petitioner wait for a **confrontation** with a State agent, either through a formal charge or a warning, before an actual case or controversy arises? It depends.

Supreme Court E-Library

In **free speech** cases, the **mere** presence of the censorship law or subsequent punishment legislation and the chilling effect it brings upon the petitioner **generally** should be enough. This is because free speech is **infringed** once that **mental and emotional block to making a speech**, verbal or action, is there. A person who is unsure (*i.e.*, overbroad) or does not know (*i.e.*, vague) whether their speech constitutes a crime under an overbroad or vague law may **simply restrain themself from speaking** in order to avoid being charged of a crime. Hence, at this point of breach of free speech, there is already an actual case or controversy. There are **also other factors** to consider though. The **chill to free speech** as the core of an actual case or controversy about free speech restrictions is especially relevant to **those who ordinarily talk a lot**.

A journalist, for instance, would have more credibility and real stake to claim **chill** to free speech than one who does not make it their business or way of life to speak. As between a journalist, for instance, or a *balut* vendor, while both make speech their livelihood, content-wise restrictions would probably be more chilling to the former than the latter. If a lawyer has to choose between them as the template petitioner in a free speech case, the circumstances will point to the journalist as the likely plaintiff.

To illustrate further, where religious freedom is the impacted right, a Jehovah's Witness member would probably have an actual case or controversy in case the Court issues a circular declaring all non-marital relationships between already married employees as grossly immoral conduct punishable by dismissal upon affirmation by a single witness, **despite *bona fide* religious practice and belief to the contrary**. In this case, the concerned court employee need not wait for the formal charge or warning to take place before assailing the Court circular. This is because the circular **already infringes** the employee's religious freedom to practice the tenets of their faith—the mere existence of the Court circular, a declaration amounting to a bill of attainder, **coerces** or **compels** the employee to make a choice already, their religion or their employment, which itself **is already a violation of their religious freedom** *even if* the employee has **not yet made the choice** to abandon their faith.

Supreme Court E-Library

Where a statute is passed prohibiting the praying of the Lord's Prayer inside government buildings, in private or otherwise, a religious adherent who prays this prayer is **already coerced** or **compelled to exercise** their fundamental right one way or the other. This **coercion** or **compulsion** satisfies the foundation for an actual case or controversy, because it is **itself an infringement of the right already**.

When it comes to fundamental rights **where mere intellectual or emotional coercion or compulsion** is **itself a breach** of these rights, we **do not have to wait** for an interaction with a State agent either by means of a formal charge or warning before we could say that *there is an actual case or controversy*. The mere coercion or compulsion is already the breach, a violation of a right has occurred, to constitute already a cause of action.

To summarize, I respectfully submit that **an actual case or controversy arises NOT** when **"evident clash of the parties' legal claims"** or the **"clear showing of conflicting legal rights"** exists, but **when rights have been violated, there is a *prima facie* showing of this violation**, and the **assailed State action is the cause of this violation**. This definition would also answer issues about the component of **standing**. Of course, the Court is left with the **discretion to reject** claims where the violation is ***de minimis*** or there are **questions of fact** that have yet to be resolved. The **remedy** in that case would be **lodged elsewhere**, not the Court. The aggrieved party would have to consult a lawyer, and this is where lawyers would earn their living from the practice of law.

My respectful and good faith objection to the use of **"evident clash of the parties' legal claims"** or the **"clear showing of conflicting legal rights"** as identical standards of actual case or controversy is that it is **open-ended** and **over-expansive**. For instance, a feminist advocate would have a **genuine and evident legal claim** that clashes with Republic Act (RA) No. 11210 (2019) extending maternity leave to 105 days. This is because it leaves the burden of child care to the woman alone, which is contrary to the feminist advocate's principles and the *Family Code* obligation of joint parental responsibility. **But**, *does that grant the advocate an*

Supreme Court E-Library

actual case or controversy to prohibit its implementation and sue the government agency concerned and the advocate's employer and all other employers who are mandated to comply with RA 11210? I do **not** think so, because in the reality of things in a multi-cultural and multi-opinionated society such as ours, there will always be evident clashing of legal claims, legal rights and legal obligations.

Let us study the petitions filed by the private parties. I assume that all of them are professional drivers, that is, they earn their living from driving customers to and from pick-up points to destinations. They are represented by their respective organizations. These organizations have the standing to assert the concerns of its constituents.[1] On the other hand, respondents increased the penalties for driving violations. The drivers claim the fines are excessive and confiscatory, beyond their means to pay for in case of apprehension.

As stated, for one, the test is **not** whether there is "**evident clash of the parties' legal claims**" or the "**clear showing of conflicting legal rights**." In the nature of things, this clash or conflicting claims is to be ordinarily expected. The true test is, **whether rights have been violated, where there is a *prima facie* showing of this violation**, and **whether the assailed State action is the cause of this violation**.

Unlike free speech or freedom of religious thought and practice, the *chilling effect towards defensive* and *safe driving* is **not an infringement** of any right known to us. If the drivers follow the rules, why would they fear the harsh penalties? In other words, with only the **fear of apprehension** to hold on to, with only the **coercion**, **compulsion** or **chilling effects** to **drive safely** and **defensively**, not aggressively, to **operate only road-worthy** vehicles, to be **responsible** and **professional drivers**, there is **simply no right** breached by the assailed State issuances. In these circumstances, unlike free speech and free religion, such coercion, compulsion and chilling effects **do not produce** an actual case or controversy. There have been **no true breaches of**

---

[1] *Executive Secretary v. Court of Appeals*, 473 Phil. 27, 50 (2004).

Supreme Court E-Library

any right owned by the drivers or their respective organizations. All they have mustered is a fear and distrust of traffic enforcers, but **in the absence of facts showing actual confrontations with traffic enforcers** in the form of traffic citations or **showing their inability to already practice their profession as drivers**, because currently they are still driving and operating public utility vehicles, there is **no actual case or controversy**.

Too, in framing the standards for the existence of an actual case or controversy, we should guard against over expanding it, otherwise, we might set the stage for advisory opinions, declaratory judgments before the Court, or reference matters, all anathema to the principle of an actual case or controversy.

Two. As held in *Southern Hemisphere Engagement Network, Inc., et al. v. Anti-Terrorism Council, et al.*,[2] the prevailing doctrine limits overbreadth to "a **facial kind of challenge** and, owing to the given rationale of a **facial challenge**, applicable only to free speech cases," and, as held in *Spouses Romualdez v. Commission on Elections*, religious freedom and other fundamental rights. This is the case for overbreadth because –

> [b]y its nature, the overbreadth doctrine has to necessarily apply a facial type of invalidation in order to plot areas of protected speech, inevitably **almost always under situations not before the court**, that are impermissibly swept by the substantially overbroad regulation. Otherwise stated, a statute cannot be properly analyzed for being substantially overbroad if the court confines itself only to facts as applied to the litigants.

On the other hand, also in *Southern Hemisphere Engagement Network, Inc., et al. v. Anti-Terrorism Council, et al.*, void-for-vagueness may be applied to cases beyond free speech if "examined in light of the specific facts of the case at hand and **not with regard to . . . facial validity**." In other words, vagueness challenges that **do not involve free speech must be examined as-applied** to the particular circumstances of specific defendants.

To explain, the argument of **void-for-vagueness** can be raised in a **facial challenge** against a **free speech law**, that is, the petitioner

---

[2] 646 Phil. 452, 492 (2010).

Supreme Court E-Library

reads the law, believes sincerely that they cannot understand what it means, and **as a result, their free speech is shackled by this sword of vagueness hanging over their head**. Persons who do not know whether their speech constitutes a crime under a vague law **may simply restrain themselves from speaking** in order to avoid being charged of a crime. At this point, there are enough facts and the existence of an actual controversy for the courts to resolve the legal claim.

On the other hand, **void-for-vagueness** as an element of the due process right can be invoked against non-free speech matters **not facially** but only **as-applied** to the particular circumstances of the named petitioner. This is because, one, it is difficult really to determine with finality whether a statute is vague in **other circumstances** because there are **several probable permutations** of these circumstances where the law would **not** be vague, and two, it is **enough** that the law is **not vague** in **one instance** to uphold its validity. The fair procedure is therefore to limit the void-for-vagueness challenge to the **facts actually facing the petitioner and not to any other** when free speech is not being infringed.

The **overbreadth** argument can similarly be used to assail both free speech and non-free speech cases.

In a free speech case, a person who is **unsure whether their speech constitutes a crime** under an overbroad law may **just choose not to speak at all** to avoid being charged with a crime. The **overbreadth** doctrine assumes that individuals **will understand what a statute prohibits** and **will accordingly refrain** from that behavior, even **though some of it is protected**. In a free speech case, overbreadth may be raised either as a **facial** or an **as-applied** challenge. This doctrine allows the court to examine matters **not before it** in order **to determine** whether the law **also prohibits protected** speech. **As-applied**, the court may also look into the speech that the petitioner has been and/or will be making if it is also penalized by the law though it is protected; if the law does, then it could be overbroad.

In **non-free speech** matters, the challenge would only be **as-applied** to the petitioner's circumstances. Indigenous persons

Supreme Court E-Library

already accused of violating the *Revised Forestry Code* could probably invoke the indigenous peoples' right to harvest from their ancestral domains. The indigenous persons can claim that the criminal charge must be quashed for being **overbroad** as it also criminalizes the exercise of their rights as indigenous peoples.

In this example, could an indigenous community or an indigenous rights' advocate challenge the *Revised Forestry Code* or the *National Integrated Protected Area System* (NIPAS) law **even before** an indigenous person or indigenous community is prejudiced by either of them? I do **not** think that this **facial** challenge is allowed. Conservation laws **inherently** have an **in terrorem effect**. This is the **reason for their being**. Hence, this chilling and terrorizing impact is **never reason enough** to invalidate these laws. It is **their purpose to restrain** and **prevent**. Otherwise, if we were to allow challenges to their validity *solely because of* or *due to their effects* as such, the State would **be restricted from preventing** or **penalizing such socially harmful anti-conservation conduct**.

Such **facial overbreadth challenge** in **non-free speech** cases is **also inappropriate** since –

> . . . it is likewise settled that "lawmakers have no positive constitutional or statutory duty to define each and every word in an enactment, as long as the legislative will is clear, or at least, can be gathered from the whole act."[3]

A facial challenge on the ground of overbreadth is the most difficult challenge to mount successfully, since **the challenges must establish that there can be no instance when the assailed law may be valid**. To be invalidated, the law must be **utterly vague on its face**, such that **it cannot be clarified by either a saving clause or by construction**.[4] This cannot happen in a **facial** challenge.

I now expound on my concurrence.

---

[3] *Perez v. LPG Refillers Association of the Philippines*, 558 Phil. 177, 180-181 (2007).

[4] *People v. Nazario*, 247 Phil. 276, 286 (1988).

Supreme Court E-Library

There is a valid delegation of legislative power by the President

In the exercise of her legislative power, then President Corazon C. Aquino issued Executive Order No. (EO) 125 and later EO 125-A which amended the former. EO 125, as amended, expressly delegated to the DOTC the power, among others, **to establish and prescribe rules and regulations for the enforcement of laws governing land transportation, including the penalties and violations thereof**.[5]

Subsequently, EO 202 and EO 266 were issued expressly conferring the foregoing delegated power to the LTFRB and LTO, respectively—both agencies being under the DOTC.

Under EO 202, the LTFRB was given the power to "determine, prescribe, and approve and periodically review and adjust reasonable fares, rates, and other charges relative to the operation of public land transportation services" as well as to "formulate, administer, implement, and enforce rules and regulations on land transportation public utilities." It was also given the power to issue, amend, revise, suspend, or even cancel Certificates of Public Convenience (CPC) provided to motorized vehicles. Meanwhile, EO 266 established two service units in the Office of the Assistant Secretary for Land Transportation in the DOTC. One of the units is called the Traffic Adjudication Service which is empowered to issue rules and regulations governing land transportation and to impose fines and penalties.[6]

---

[5] Sec. 1. Sections 5, 8, 9, 10 and 11 of Executive Order No. 125, otherwise known as the Reorganization Act of the Ministry of Transportation and Communications, are hereby amended to read as follows:
x x x x
Sec. 5. Powers and Functions. — To accomplish its mandate, the Department shall have the following powers and functions:
(o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof.

[6] *Ponencia*, pp. 30-31.

Supreme Court E-Library

The subsequent Administrative Code of 1987 or EO 292, reiterated the delegated power of the DOTC, LTO, and LTFRB, conferring upon them broad rule-making powers.[7]

What are needed for a valid delegation are: (1) the completeness of the [executive order] making the delegation; and (2) the presence of a sufficient standard.[8]

To determine **completeness**, all of the terms and provisions of the law must leave nothing to the delegate except to implement it. "What only can be delegated is not the discretion to determine what the law shall be but the discretion to determine how the law shall be enforced." And as for the enforcement of a delegated power, the same may only be effected in conformity with a **sufficient standard**, which is used "to map out the boundaries of the delegate's authority and thus prevent the delegation from running riot." The law must contain the limitations or guidelines to determine the scope of authority of the delegate.[9]

The rule-making power of the DOTC is found in Section 5 of EO 125, as amended by EO 125-A, *viz.*:

Sec. 5. Powers and Functions. To accomplish its mandate, the Department shall have the following powers and functions:

(a) Formulate and recommend national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation and communications systems at the national, regional and local levels;

(b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation, or

---

[7] E.O. No. 292, Book IV, Title XV, Chapter 1, Sec. 3; E.O. No. 292, Book IV, Title XV, Chapter 2, Secs. 10-12; E.O. No. 292, Book IV, Title XV, Chapter 5, Sec. 19.

[8] *Department of Trade and Industry v. Steelasia Manufacturing Corp.*, G.R. No. 238263, November 16, 2020, citing *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019, 899 SCRA 492.

[9] *Department of Trade and Industry v. Steelasia Manufacturing Corp.*, G.R. No. 238263, November 16, 2020, citing *Kilusang Mayo Uno v. Aquino III*, *supra*.

Supreme Court E-Library

organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such program;

(c) Assess, review and provide direction to transportation and communication research and development programs of the government in coordination with other institutions concerned;

(d) Administer and enforce all laws, rules and regulations in the field of transportation and communications;

(e) Coordinate with the Department of Public Works and Highways in the design, location, development, rehabilitation, improvement, construction, maintenance and repair of all infrastructure projects and facilities of the Department. However, government corporate entities attached to the Department shall be authorized to undertake specialized telecommunications, ports, airports and railways projects and facilities as directed by the President of the Philippines or as provided by law;

(f) Establish, operate and maintain a nationwide postal system that shall include mail processing, delivery services, and money order services and promote the art of philately;

(g) Issue certificates of public convenience for the operation of public land and rail transportation utilities and services;

(h) Accredit foreign aircraft manufacturers and/or international organizations for aircraft certification in accordance with established procedures and standards;

(i) Establish and prescribe rules and regulations for identification of routes, zones and/or areas of operations of particular operators of public land services;

(j) Establish and prescribe rules and regulations for the establishment, operation and maintenance of such telecommunications facilities in areas not adequately served by the private sector in order to render such domestic and overseas services that are necessary with due consideration for advances in technology;

Supreme Court E-Library

(k) Establish and prescribe rules and regulations for the operation and maintenance of a nationwide postal system that shall include mail processing, delivery services, money order services and promotion of philately;

(l) Establish and prescribe rules and regulations for issuance of certificates of public convenience for public land transportation utilities, such as motor vehicles, trimobiles and railways;

(m) Establish and prescribe rules and regulations for the inspection and registration of air and land transportation facilities, such as motor vehicles, trimobiles, railways and aircrafts;

(n) Establish and prescribe rules and regulations for the issuance of licenses to qualified motor vehicle drivers, conductors, and airmen;

(o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;

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

(q) Establish and prescribe the rules, regulations, procedures and standards for the accreditation of driving schools;

(r) Administer and operate the Civil Aviation Training Center (CATC) and the National Telecommunications Training Institute (NTTI); and

(s) Perform such other powers and functions as may be prescribed by law, or as may be necessary, incidental, or proper to its mandate or as may be assigned from time to

Supreme Court E-Library

> time by the President of the Republic of the Philippines. (emphasis supplied)

The standards relevant to this case are found in RA 4136,[10] as amended.

There is no question that the terms of RA 4136 are complete in itself. Among others, the law lays down the prohibited acts in the field of land transportation, as well as the corresponding penalties for their violations. Not only that, this law also contains sufficient standards which is to control the registration and operation of motor vehicles and the licensing of owners, dealers, conductors, drivers, and similar matters.

Similarly, Section 4 of EO 125 provides sufficient standards for the DOTC in the implementation of its delegated power, *viz.*:

> Sec. 4. Mandate. The [Department of Transportation and Communications] shall be the primary policy, planning, programming, coordinating, **implementing**, **regulating** and **administrative entity** of the Executive Branch of the government **in the promotion, development and regulation of dependable and coordinated networks of transportation and communication systems as well as in the fast, safe, efficient and reliable postal, transportation and communications services. (emphasis supplied)**

In fine, the DOTC, and the agencies under it, the LTO and LTFRB in particular, do not have to do anything else except implement the provisions based on the standards and limitations provided by the foregoing statutory provisions. Verily, there was valid delegation of legislative power to the DOTC.

In *Alliance of Non-Life Insurance Workers of the Philippines v. Mendoza*,[11] the Court has already recognized the DOTC's delegated power. The Court traced the DOTC's power to regulate (DO 2007-28) insurance business, particularly Compulsory Third-Party Liability insurance, from its delegated legislative power under the same EO 125, as amended.

---

[10] Land Transportation and Traffic Code, Republic Act No. 4136, June 20, 1964.

[11] G.R. No. 206159, August 26, 2020.

Supreme Court E-Library

As for the challenge against the authority of the LTO and LTFRB to jointly issue JAO No. 201-01 by themselves, suffice it to state that while JAO No. 201-01 seems to have been jointly released by these two agencies, the release has not been established to be in the form of an official issuance. On the contrary, the document released by the LTO and LTFRB recognized the primary authority of the DOTC, manifested by their act of designating a space for its (DOTC) imprimatur. At most, the fact that JAO No. 201-01 was jointly initiated by the LTO and LTFRB can be taken as a mere recommendation to the DOTC. The same would not have taken any effect unless approved by it (DOTC).

There is valid exercise of Police Power

In imposing fines and penalties for violations of the land transportation law, the DOTC, LTO, and LTFRB, is merely exercising its power to regulate land transportation activities. The purpose is not to exact revenues but to regulate. More, DO No. 2008-39 and its successor JAO No. 2014-01 merely implements the concerned land transportation law. Both DO No. 2008-39 and JAO No. 2014-01 merely revised the existing outline of fees and penalties prior to their issuances.

In distinguishing tax and regulation as a form of police power, the determining factor is the purpose of the implemented measure. If the purpose is primarily to raise revenue, then it will be deemed a tax even though the measure results in some form of regulation. On the other hand, **if the purpose is primarily to regulate, then it is deemed a regulation and an exercise of the police power of the state, even though incidentally, revenue is generated**.[12]

The use of public and private vehicles is a regulated activity that concerns public interest. From the fact itself that the use of motor vehicles on the road necessitates license, it is already apparent that driving of motor vehicles is a privilege and the exercise of which needs regulation for the safety and general welfare of the public.

---

[12] *Angeles University Foundation v. City of Angeles*, 689 Phil. 623, 638 (2012).

Supreme Court E-Library

The business of a common carrier holds such a peculiar relation to the public interest that there is superinduced upon it the right of public regulation. (*Budd v. New York*, 143 U.S. 517, 533.) When private property is "affected with a public interest it ceases to be *Juris privati* only." Property becomes clothed with public interest when used in a manner to make it of public consequence and affect the community at large. "When, therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and **must submit to be controlled by the public for the common good**, to the extent of the interest he has thus created. **He may withdraw his grant by discontinuing the use, but so long as he maintains the use he must submit to control**."[13]

In *Rizal Light & Ice Co., Inc. v. The Municipality of Morong, Rizal and The Public Service Commission*,[14] the Court acknowledged the need to protect and uphold public interest over that of private interest (of those granted a certificate of public convenience; in the cited case, to operate an electric service), *viz.*:

It should be observed that Section 16(n) of Commonwealth Act No. 146, as amended, confers upon the Commission ample power and discretion to order the cancellation and revocation of any certificate of public convenience issued to an operator who has violated, or has willfully and contumaciously refused to comply with, any order, rule or regulation of the Commission or any provision of law. What matters is that there is evidence to support the action of the Commission. In the instant case, as shown by the evidence, the contumacious refusal of the petitioner since 1954 to comply with the directives, rules and regulations of the Commission, its violation of the conditions of its certificate and its incapability to comply with its commitment as shown by its inadequate service, were the circumstances that warranted the action of the Commission in not merely imposing a fine but in revoking altogether petitioner's certificate. **To allow petitioner to continue its**

---

[13] *Land Transportation Franchising and Regulatory Board v. G.V. Florida Transport, Inc.*, 811 Phil. 728, 743 (2017), citing *Luque v. Villegas*, 141 Phil. 108 (1969).

[14] 134 Phil. 232, 248-249 (1968).

Supreme Court E-Library

operation would be to sacrifice public interest and convenience in favor of private interest.

A grant of a certificate of public convenience confers no property rights but is a mere license or privilege, and such privilege is forfeited when the grantee fails to comply with his commitments behind which lies the paramount interest of the public, for public necessity cannot be made to wait, nor sacrificed for private convenience. (*Collector of Internal Revenue v. Estate of F. P. Buan, et al.*, L-11438 and *Santiago Sambrano, et al. v. PSC, et al.*, L-11439 & L-11542-46, July 31, 1958)

(T)he Public Service Commission, . . . has the power to specify and define the terms and conditions upon which the public utility shall be operated, and to make reasonable rules and regulations for its operation and the compensation which the utility shall receive for its services to the public, and for any failure to comply with such rules and regulations or the violation of any of the terms and conditions for which the license was granted, **the Commission has ample power to enforce the provisions of the license or *even to revoke it, for any failure or neglect to comply with any of its terms and provisions***.

x x x x[15] (emphasis supplied)

To emphasize, "**[a] grant of a certificate of public convenience confers no property rights but is a mere license or privilege, and such privilege is forfeited when the grantee fails to comply with his commitments behind which lies the paramount interest of the public, for public necessity cannot be made to wait, nor sacrificed for private convenience**."

To clarify, while DO No. 2008-39 would seem to have been issued for the purpose of increasing the revenue of the State as mandated by EO 218 by also increasing the prevailing fees and penalties for violation of land transportation law, the fact remains that the primary purpose of this imposition, from the onset, is the regulation of land transportation related activities. Too, it would not be accurate to conclude that the revised fines under DO No. 2008-39 were made primarily to generate revenue. As correctly observed in the *ponencia*, the increased fees and charges under

---

[15] *Land Transportation Franchising and Regulatory Board v. G.V. Florida Transport, Inc.*, *supra* at 740.

Supreme Court E-Library

DO No. 2008-39 only served to reimburse the cost of regulating the transport industry, and was not primarily intended to raise revenue, *viz.*:

On this score, a further reading of the other whereas clauses and provisions would reveal that aside from the underlying consideration of regulating health, education, and the provision of social services for the benefit of the public, the increased fees and charges under D.O. No. 2008-39 only served to reimburse the cost of regulating the transport industry, and was not primarily intended to raise revenue:

> WHEREAS, since the cost of rendering government services or regulating certain activities has risen drastically and the government does not have sufficient resources to sustain, improve or expand these services, it is necessary that the rates of fees and charges be upgraded commensurately with the increase in the cost of their administration;
>
> x x x x
>
> Section 1. Guiding Principles. In revising the fees and charges, all department, bureaus, offices, units, and agencies including government-owned or controlled corporations shall be guided by the universal concept of user charges, which is to recover at least the full cost of services rendered. Fees and charges have to be reviewed from time to time in accordance with such concept. x x x[16]

Verily, it remains that the imposed fines and penalties are intended to primarily regulate land transportation activities, thus, a valid exercise of police power.

Notably, the challenge against the alleged oppressive, etc. character of the fines and penalties under JAO No. 2014-01 is mainly anchored on the revised fines under it (JAO No. 2014-01) being equivalent to 300% to 1,000% of the fines under its predecessor DO No. 2008-39. Standing alone, however, this does not make the revised fines arbitrary, oppressive, and confiscatory. Whether these amounts are excessive does not depend on the financial capability of the person or entity upon whom or which the fine was imposed. Rather, it depends mainly on the violation committed, and the need to deter, if not completely eradicate,

---

[16] *Ponencia*, pp. 46-47.

Supreme Court E-Library

similar violations. As observed in the *ponencia*, the DOTC determined that it was high time to revise the provisions of DO No. 2008-39, as such meager amounts and lenient penalties, without more, could not altogether purge the proliferation of unlicensed vehicles plying the roads and streets.[17]

Another. The argument that the revised outline of fines under JAO No. 2014-01 is a curtailment of the public utility vehicle drivers and operators' right to earn a living, given what they supposedly earn in a day- implying a meager earning, is highly speculative. As to how much these drivers and operators earn in a day cannot be taken judicial notice of by the Court. The same must be established by evidence.

More, as found in the ponencia, petitioners were not unaware of the intention to revise the then prevailing rates of fines prior to the issuance of DO No. 2008-39 on October 6, 2008. Stakeholders that stand to be affected by the orders were engaged in open dialogue. Several public consultations with various groups from the transport sector all over the country were conducted. Series of consultations were also held prior to the issuance of JAO No. 2014-01 which provides stiffer fines and penalties. Conveniently, the proposed issuances were supported by groups of motor vehicle owners and operators. In particular, the groups recognized the proposed JAO No. 2014-01 as a deterrent and a preventive measure to "stop or reduce likely violators" of land transportation law.[18]

Violators are not left without recourse after their apprehension. Under the general provisions of JAO No. 2014-01, citation for a violation may be questioned via a written contest, which shall be resolved by the LTO within five days from its receipt. Too, the issuance of a Temporary Operator's Permit (TOP) effective for a period of 72 hours will allow drivers to provisionally operate despite confiscation of their license. Similarly, JAO No.

---

[17] *Ponencia*, p. 42, citing Special Order No. 2012-20 entitled "Creation of a Technical Working Group for the Amendment of Department Order No. 2008-39" (Revised Schedule of LTO Fines and Penalties for Traffic and Administrative Violations).

[18] *Ponencia*, p. 43.

Supreme Court E-Library

2014-01 gives operators an opportunity to seek relief from any threat of suspension or revocation of their respective certificates or licenses. The operator, upon receipt of a show cause order (franchise violation), may file a verified explanation within a non-extendible period of five days from receipt. And when applicable, the operator may move for the reconsideration of the decision, and later appeal to the DOTC Secretary within a non-extendible period of ten days.[19]

Further, in less than a month after the implementation of JAO No. 2014-01, there were 6,862 new applications for the issuance of a CPC to operate truck for hire services, bringing the total number of applications for the issuance of CPCs to 26,570. This statistic demonstrates the positive effect of JAO No. 2014-01.[20]

No Violation of Equal Protection Clause

Finally, the void-for-vagueness and Overbreadth Doctrines find no application in this case for lack of claim of any transgression or curtailment of the right to free speech or any inhibition of speech-related conduct.[21] And as for the guarantee of equal protection, the same is not violated by a reasonable classification.[22]

I agree with the *ponencia* that substantial distinctions exist between (1) a [Public Utility Vehicle (PUV)] operating under an expired CPC but with a pending application for extension and (2) a PUV applying for the first time, *viz.*:

> A PUV plying the roads with a pending, first time application is tantamount to operating without a CPC, an act in direct contravention to law. Evidently, a PUV under these circumstances cannot be considered as having the intention to comply with the terms and conditions of a CPC in good faith. In contrast, PUVs operating under an expired CPC but with a pending and timely filed application is differently situated, as

---

[19] *Ponencia*, pp. 43-44.

[20] *Ponencia*, p. 43.

[21] *Ponencia*, p. 50.

[22] *Ponencia*, p. 63.

Supreme Court E-Library

it may continue operating on its authorized routes as explicitly provided in Section 18, Chapter III, Book VII of the Administrative Code x x x.

To add, it is a settled rule of statutory construction that the express mention of one person, thing, or consequence implies the exclusion of all others.[23] Hence, it cannot be insisted that a PUV applying for license for the first time be treated the same way as a PUV operating under an expired CPC enjoying the continuous exercise of a privilege pending the concerned agency's action on their application for renewal of CPC, as provided under the Administrative Code.

On the other hand, a law or administrative issuance/order cannot make a distinction when there should be none. Here, there could be no distinction between PUVs servicing the riding public and those servicing private entities for the transport of their goods. There is no dispute that both operate as public utility vehicles. Both are bound to the same general rules and regulations affecting land transportation, registration, and licensing.

Accordingly, I agree that the petition should be dismissed, and the constitutionality of Department Order No. 2008-39 and Joint Administrative Order No. 2014-01, sustained.

SEPARATE OPINION

LEONEN, *J.*:

The parties, in this case, argue against the constitutionality of Joint Administrative Order No. 2014-01 and Department Order No. 2008-39, which impose penalties and fines for violations of land transportation laws by motor vehicles.

I agree with the *ponencia*'s resolution of the issues in this case. Nonetheless, I take this opportunity to raise a few points on the requirement of an actual case or controversy for judicial review, transcendental interest, and delegation of legislative power.

---

[23] *De La Salle Araneta University v. Bernardo*, 805 Phil. 580 (2017).

Supreme Court E-Library

I

The *ponencia* held that this Court may validly exercise its power of judicial review.[1] It found that in G.R. No. 206486, there are pending charges against respondent Maria Basa's member drivers for violations of Department Order No. 2008-39.[2] Since Joint Administrative Order No. 2014-01 is an updated version of Department Order No. 2008-39, these charges remove G.R. Nos. 212604, 212682, and 212800 from any "sterile abstract context having no factual concreteness."[3] Thus, there exists an actual case or controversy.[4]

The *ponencia* found that the case is ripe for adjudication, considering the petitioners in G.R. Nos. 212604, 212682, and 212800 are similarly situated as the drivers in G.R. No. 206486, such that an immediate and threatened injury actually exists.[5] That petitioners will go through the same experience as the Maria Basa drivers is certain and imminent.[6] It is not a hypothetical scenario because drivers have already been charged under the previous issuance.[7] Joint Administrative Order No. 2014-01 was already in effect and was being implemented when the petitions were filed.[8]

The *ponencia* also found that petitioners have legal standing. They have shown that they have a substantial interest in the outcome of the case as drivers of public utility vehicles are most vulnerable to being penalized by Joint Administrative Order No. 2014-01.[9] The possible direct injury and personal stake in the resolution of the case is especially clear for the parties in G.R.

---

1 *Ponencia*, p. 23.

2 Id.

3 Id.

4 Id. at 24.

5 Id. at 23.

6 Id.

7 Id.

8 Id. at 24.

9 Id. at 25.

Supreme Court E-Library

No. 206486, who are drivers charged with violating Department Order No. 2008-39.[10]

The *ponencia* noted the transcendental importance of the issues in this case which involve public welfare and the advancement of public policy.[11] The case is one of first impression affecting millions of Filipinos who depend on the country's land transportation services.[12] This, along with the other judicial review requirements, is enough for this Court to rule on the case.

I agree that the requisites for judicial review are present in this case. However, I wish to clarify some additional points on the requirement of an actual case or controversy.

To determine the constitutionality of a government act, the requisites for judicial review must be present:

> (1) there must be an actual case or controversy calling for the exercise of judicial power;
>
> (2) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
>
> (3) the question of constitutionality must be raised at the earliest opportunity; and
>
> (4) the issue of constitutionality must be the very *lis mota* of the case.[13] (Citations omitted)

Most important of these requisites is the necessity for an actual case or controversy, which is embodied in Article VIII, Section 1 of the Constitution:

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

---

[10] Id.

[11] Id. at 26.

[12] Id.

[13] *In re: Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement v. Abolition of Judiciary Development Fund*, 751 Phil. 30 (2015) [Per J. Leonen, *En Banc*].

Supreme Court E-Library

Judicial power includes the duty of the courts of justice to *settle actual controversies involving rights which are legally demandable and enforceable*, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

The presence of an actual case or controversy means there is a "conflict of legal right, an opposite legal claim susceptible of judicial resolution."[14]

. . . [A] petitioner bringing a case before this Court must establish that there is a legally demandable and enforceable right under the Constitution. There must be a real and substantial controversy, with definite and concrete issues involving the legal relations of the parties, and admitting of specific relief that courts can grant."[15]

In *Kilusang Mayo Uno v. Aquino III*,[16] this Court discussed the guidelines to determine whether there is an actual case or controversy:

Jurisprudence lays down guidelines in determining an actual case or controversy. In *Information Technology Foundation of the Philippines v. Commission on Elections*, this Court required that "the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other; that is, it must concern a real and not a merely theoretical question or issue." Further, there must be "an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts."

Courts, thus, cannot decide on theoretical circumstances. They are neither advisory bodies, nor are they tasked with taking measures to prevent *imagined possibilities* of abuse.

Hence, in *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, this Court ruled:

---

[14] *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65208> [Per J. Leonen, *En Banc*].

[15] Id.

[16] G.R. No. 210500, April 2, 2019 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65208> [Per J. Leonen, En Banc].

Supreme Court E-Library

> Without any justiciable controversy, the petitions have become pleas for declaratory relief, over which the Court has no original jurisdiction. Then again, declaratory actions characterized by "double contingency," where both the activity the petitioners intend to undertake and the anticipated reaction to it of a public official are merely theorized, lie beyond judicial review for lack of ripeness.
>
> *The possibility of abuse in the implementation of RA 9372 does not avail to take the present petitions out of the realm of the surreal and merely imagined. . . . Allegations of abuse must be anchored on real events before courts may step in to settle actual controversies involving rights which are legally demandable and enforceable.* (Emphasis supplied, citations omitted)

In *Republic v. Roque*, this Court further qualified the meaning of a justiciable controversy. In dismissing the Petition for declaratory relief before the Regional Trial Court, which assailed several provisions of the Human Security Act, we explained that justiciable controversy or ripening seeds refer to:

> . . . an existing case or controversy that is appropriate or ripe for judicial determination, not one that is conjectural or merely anticipatory. *Corollary thereto, by "ripening seeds" it is meant, not that sufficient accrued facts may be dispensed with, but that a dispute may be tried at its inception before it has accumulated the asperity, distemper, animosity, passion, and violence of a full blown battle that looms ahead*. The concept describes a state of facts indicating imminent and inevitable litigation provided that the issue is not settled and stabilized by tranquilizing declaration.[17] (Emphasis supplied and citations omitted)

The necessity of an actual case or controversy arises from the principle of separation of powers of the three branches of government:

> This requirement [of an actual case or controversy] goes into the nature of the judiciary as a co-equal branch of government. It is bound by the doctrine of separation of powers, and will not rule on any matter or cause the invalidation of any act, law, or regulation, if there is no actual or sufficiently imminent breach of or injury to a right. The courts

---

[17] Id.

Supreme Court E-Library

interpret laws, but the ambiguities may only be clarified in the existence of an actual situation.[18]

It is also meant to ensure that this Court avoids issuing advisory opinions. In *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*,[19]

> An actual case or controversy is "one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution." A case is justiciable if the issues presented are "definite and concrete, touching on the legal relations of parties having adverse legal interests." The conflict must be ripe for judicial determination, not conjectural or anticipatory; otherwise, this Court's decision will amount to an advisory opinion concerning legislative or executive action. In the classic words of *Angara v. Electoral Commission*:
>
> > [T]his power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented. Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the governments.
>
> Even the expanded jurisdiction of this Court under Article VIII, Section 1 does not provide license to provide advisory opinions. An advisory opinion is one where the factual setting is conjectural or hypothetical. In such cases, the conflict will not have sufficient concreteness or adversariness so as to constrain the discretion of this Court. After all, legal arguments from concretely lived facts are chosen narrowly by the parties. Those who bring theoretical cases will have no such limits. They

---

[18] Id.

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

Supreme Court E-Library

can argue up to the level of absurdity. They will bind the future parties who may have more motives to choose specific legal arguments. In other words, for there to be a real conflict between the parties, *there must exist actual facts from which courts can properly determine whether there has been a breach of constitutional text*.[20]

Thus, simply alleging that a legal or administrative issuance is unconstitutional without showing any legal right affected by their implementation is not enough to vest this Court with jurisdiction to hear the case. I thus take exception to any position that an actual and justiciable controversy exists on the sole basis that a question of law susceptible to judicial resolution is raised as an issue in a case. The issue of whether a relevant government agency validly issued an issuance does not make an actual case or controversy, especially in the absence of an actual or imminent violation of a right.

Nonetheless, I agree with the *ponencia*'s finding that this case presents an actual controversy considering that the respondents in G.R. No. 206486 represent parties who were already apprehended under the assailed Department Order No. 2008-39. While the petitioners in G.R. Nos. 212604, 212682, and 212800 have not been apprehended under Joint Administrative Order No. 2014-01. The latter is a revised version of Department Order No. 2008-39. Considering it is currently being implemented, there is ripening adjudication—a threat and an imminence to an actual injury to be sustained. Litigation is inevitable if the issue is not settled judicially.

II

I also wish to emphasize that raising the transcendental importance of a matter as an issue is not an exception to the requirement of an actual case or controversy. It is not sufficient to dispense with the requirements of justiciability.

In *Gios-Samar, Inc. v. Department of Transportation and Communications*, this Court outlined how "transcendental importance" evolved from being originally cited as an exception

---

[20] Id.

Supreme Court E-Library

to the rules on legal standing to also being an exception to the doctrine of hierarchy of courts. However, *Gios-Samar* maintained that the transcendental importance argument could only be accepted in cases with purely legal issues. It is not sufficient to cite only "special and important reasons." The issues raised should not put forth questions of fact:

> . . . [W]hen a question before the Court involves determination of a factual issue indispensable to the resolution of the legal issue, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. Such question must first be brought before the proper trial courts or the CA, both of which are specially equipped to try and resolve factual questions.[21]

In my separate opinion in *Gios-Samar*, I further discussed that this Court should be wary not to always accept the transcendental importance argument at the expense of the requisites of justiciability:

> Thus, I propose that we further tame the concept that a case's "transcendental importance" creates exceptions to justiciability. The elements supported by the facts of an actual case, and the imperatives of our role as the Supreme Court within a specific cultural or historic context, must be made clear. They should be properly pleaded by the petitioner so that whether there is any transcendental importance to a case is made an issue. That a case has transcendental importance, as applied, may have been too ambiguous and subjective that it undermines the structural relationship that this Court has with the sovereign people and other departments under the Constitution. Our rules on jurisdiction and our interpretation of what is justiciable, refined with relevant cases, may be enough.
>
> However, consistent with this opinion, we cannot wholly abandon the doctrinal application of cases with transcendental importance. That approach just does not apply in this case. Here, we have just established that cases calling for questions of fact generally cannot be cases from which we establish transcendental importance. Generally, we follow

---

[21] *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*].

the doctrine of respect for hierarchy of courts for matters within our concurrent original jurisdiction.[22] (Citations omitted)

This Court further elaborated on this in *Pangilinan v. Cayetano*.[23] A party cannot simply rely on the argument of transcendental importance for this Court to hear their case. The party invoking it must clearly show why this Court must exercise its power of judicial review, including the facts constituting the actual case or controversy in question:[24]

> Transcendental importance is often invoked in instances when the petitioners fail to establish standing in accordance with customary requirements. However, its general invocation cannot negate the requirement of *locus standi*. Facts must be undisputed, only legal issues must be present, and proper and sufficient justifications why this Court should not simply stay its hand must be clear.
>
> *Falcis* explained:
>
> > *Diocese of Bacolod* recognized transcendental importance as an exception to the doctrine of hierarchy of courts. In cases of transcendental importance, imminent and clear threats to constitutional rights warrant a direct resort to this Court[.]
> >
> > . . . .
> >
> > Still, it does not follow that this Court should proceed to exercise its power of judicial review just because a case is attended with purely legal issues. Jurisdiction ought to be distinguished from justiciability. Jurisdiction pertains to competence "to hear, try[,] and decide a case." On the other hand,
> >
> > > [d]etermining whether the case, or any of the issues raised, is justiciable is an exercise of the power granted to a court with jurisdiction over a case that involves constitutional adjudication. Thus, even if this Court has jurisdiction, the

---

[22] J. Leonen, Separate Opinion in *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*].

[23] G.R. Nos. 238875, 239483 & 240954, March 16, 2021 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67374> [Per J. Leonen, *En Banc*].

[24] Id.

Supreme Court E-Library

> canons of constitutional adjudication in our jurisdiction allow us to disregard the questions raised at our discretion.

Appraising justiciability is typified by constitutional avoidance. This remains a matter of enabling this Court to act in keeping with its capabilities. Matters of policy are properly left to government organs that are better equipped at framing them. Justiciability demands that issues and judicial pronouncements be properly framed in relation to established facts:

> *Angara v. Electoral Commission* imbues these rules with its libertarian character. Principally, *Angara* emphasized the liberal deference to another constitutional department or organ given the majoritarian and representative character of the political deliberations in their forums. It is not merely a judicial stance dictated by courtesy, but is rooted on the very nature of this Court. Unless congealed in constitutional or statutory text and imperatively called for by the actual and non-controversial facts of the case, this Court does not express policy. This Court should channel democratic deliberation where it should take place.
>
> xxx xxx xxx
>
> Judicial restraint is also founded on a policy of conscious and deliberate caution. This Court should refrain from speculating on the facts of a case and should allow parties to shape their case instead. Likewise, this Court should avoid projecting hypothetical situations where none of the parties can fully argue simply because they have not established the facts or are not interested in the issues raised by the hypothetical situations. In a way, courts are mandated to adopt an attitude of judicial skepticism. What we think may be happening may not at all be the case. Therefore, this Court should always await the proper case to be properly pleaded and proved.

Thus, concerning the extent to which transcendental importance carves exceptions to the requirements of justiciability, "[t]he elements supported by the facts of an actual case, and the imperatives of our role as the Supreme Court within a specific cultural or historic context, must be made clear":

. . . .

Supreme Court E-Library

> ***Otherwise, this Court would cede unfettered prerogative on parties. It would enable the parties to impose their own determination of what issues are of paramount, national significance, warranting immediate attention by the highest court of the land.*** (Emphasis supplied, citations omitted)

Chamber of Real Estate and Builders' Associations, Inc. v. Energy Regulatory Commission lists the following considerations to determine whether an issue is of transcendental importance:

> (1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in the questions being raised. (Citation omitted)
>
> . . . .
>
> This Court is competent to decide legal principles only in properly justiciable cases. That a party must have standing in court is not a mere technical rule that may easily be waived. Courts should be scrupulous in protecting the principles of justiciability, or else their legitimacy may be undermined. Transcendental importance of issues excusing requisite standing should not be so recklessly invoked, and is justified only in extraordinary circumstances.
>
> The alleged transcendental importance of the issues raised here will be better served when there are actual cases with the proper parties suffering an actual or imminent injury[.][25] (Emphasis supplied and citations omitted)

I thus maintain that alleging the transcendental importance of the issues in a case is not sufficient to warrant the exercise of this Court's power of judicial review—especially if it lacks the requisite of an actual case or controversy.

III

I thus discuss what constitutes exceptions to the requirement of an actual case or controversy.

---

[25] Id.

Supreme Court E-Library

The constitutional issues raised in justiciable cases may be classified into four types: (i) violations of constitutional rights or fundamental liberties; (ii) constitutional issues involving allocation of powers between other branches of the government; (iii) violations of constitutional requirements; and (iv) constitutional amendments and provisions.

As discussed, an actual case or controversy is required in all these constitutional cases. However, exceptions to this rule may be raised in a case of the first classification, i.e., there is a violation of constitutional rights or fundamental liberties, more particularly: (i) when the case involves free speech and other rights cognate to free expression; and (ii) when the case involves an egregious or imminent violation of fundamental rights. In *Parcon-Song v. Parcon*:[26]

> Article VIII, Section 1 of the Constitution, which specifies that courts may act on any grave abuse of discretion by any government branch or instrumentality, does not license this Court to issue advisory opinions. Apart from an actual case or controversy, this Court must be satisfied that the reliefs prayed for require the resolution of a constitutional issue.
>
> There are exceptions, namely: (a) when a facial review of the statute is allowed, as in cases of actual or clearly imminent violation of the sovereign rights to free expression and its cognate rights; or (b) when there is a clear and convincing showing that a fundamental constitutional right has been actually violated in the application of a statute, which are of transcendental interest. The violation must be so demonstrably and urgently egregious that it outweighs a reasonable policy of deference in such specific instance. The facts constituting that violation must either be uncontested or established on trial. The basis for ruling on the constitutional issue must also be clearly alleged and traversed by the parties. Otherwise, this Court will not take cognizance of the constitutional issue, let alone rule on it.[27]

In the first exception, i.e., freedom of expression cases, a facial review is allowed, and the requirement of an actual case or controversy may be waived if the questioned law or issuance is

---

[26] *Parcon-Song v. Parcon*, G.R. No. 199582, July 7, 2020 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66525> [Per J. Leonen, En Banc].

[27] Id.

Supreme Court E-Library

so overbroad that it will have a chilling effect on free speech and expression. In my opinion in *Calleja v. Executive Secretary*,[28] I discussed that the rationale for allowing a facial review of such cases is because of the primacy of free speech in the hierarchy of rights:

> A facial challenge involves "an examination of the entire law, pinpointing its flaws and defects, not only on the basis of its actual operation to the parties, but also on the assumption or prediction that its very existence may cause others not before the court to refrain from constitutionally protected speech or activities." Facial challenge or an "on its face" invalidation of a law is a recognized exception to the requirement of actual case or controversy[.]
>
> . . . .
>
> Though lacking an actual case, a facial challenge is allowed to prevent the possibility of the law from harming persons that did not come to court. It is distinguished from an "as-applied" challenge, which only considers "extant facts affecting real litigants."
>
> Nonetheless, precisely due to its lack of an actual case, and it being a "manifestly strong medicine," a facial challenge is only used as a last resort, and only applicable to free speech cases.
>
> Freedom of expression is one of the fundamental principles of a democratic government. It is an indispensable condition of nearly every other form of freedom, thus standing on a higher level than substantive economic freedom and other liberties[.]
>
> . . . .
>
> Free expression means more than the right to manifest approval of existing political beliefs and economic arrangements. It includes the freedom to discuss "the thought we hate, no less than the thought we agree with." It is a precondition for one to enjoy other rights, such

---

[28] J. Leonen, Concurring and Dissenting Opinion in *Calleja v. Executive Secretary*, G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624, 252646, 252702, 252726, 252733, 252736, 252741, 252747, 252755, 252759, 252765, 252767, 252768, 16663, 252802, 252809, 252903, 252904, 252905, 252916, 252921, 252984, 253018, 253100, 253118, 253124, 253242, 253252, 253254, 254191 & 253420, December 7, 2021 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67914> [Per J. Carandang, *En Banc*].

Supreme Court E-Library

as the right to vote, freedom to peaceably assemble, and freedom of association. Free expression is essential to ensure press freedom. It protects minorities against majoritarian abuses perpetrated through the framework of democratic governance while simultaneously benefiting the majority that refuses to listen. It would best serve its high purpose when it "induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."

Owing to the cherished status that free speech enjoys in the hierarchy of rights, any form of regulation deserves even more than a long, hard look.

One of the analytical tools to test whether a statute that regulates free speech can be invalidated is the overbreadth doctrine. Under the overbreadth doctrine, a law is void when it unnecessarily sweeps broadly and invades on the area of protected freedoms to further a governmental purpose. The law casts too wide a net in its looseness and imprecision such that it is susceptible to many interpretations, including sanctions on the legitimate exercise of one's fundamental rights.

The overbreadth doctrine posits that any "possible harm to society in permitting some unprotected speech to go unpunished is outweighed by the possibility that the protected speech of others may be deterred and perceived grievances left to fester because of possible inhibitory effects of overly broad statutes." In *Estrada*:

> A facial challenge is allowed to be made to a vague statute and to one which is overbroad because of possible "chilling effect" upon protected speech. The theory is that "[w]hen statutes regulate or prescribe speech and no readily apparent construction suggests itself as a vehicle for rehabilitating the statutes in a single prosecution, the transcendent value to all society of constitutionally protected expression is deemed to justify allowing attacks on overly broad statutes with no requirement that the person making the attack demonstrate that his own conduct could not be regulated by a statute drawn with narrow specificity." (Citations omitted)

It is easy to see why overbroad laws should be struck down: They give off a "chilling effect" on free speech and expression. These fundamental rights sit at the core of our democracy, so delicate and protected, that the "threat of sanctions may deter their exercise almost as potently as the actual application of sanctions."[29] (Citations omitted)

---

[29] Id.

Supreme Court E-Library

As to any issue raised relating to vagueness, I maintain my stance in my dissenting opinion in *Spouses Imbong v. Ochoa, Jr.*:[30]

> The prevailing doctrine today is that:
>
> > a facial challenge only applies to cases where the free speech and its cognates are asserted before the court. While as a general rule penal statutes cannot be subjected to facial attacks, a provision in a statute can be struck down as unconstitutional when there is a clear showing that there is an imminent possibility that its broad language will allow ordinary law enforcement to cause prior restraints of speech and the value of that speech is such that its absence will be socially irreparable.
>
> Broken down into its elements, a facial review should only be allowed when:
>
> > First, the ground for the challenge of the provision in the statute is that it violates freedom of expression or any of its cognates;
> >
> > Second, the language in the statute is impermissibly vague;
> >
> > Third, the vagueness in the text of the statute in question allows for an interpretation that will allow prior restraints;
> >
> > Fourth, the "chilling effect" is not simply because the provision is found in a penal statute but because there can be a clear showing that there are special circumstances which show the imminence that the provision will be invoked by law enforcers;
> >
> > Fifth, the application of the provision in question will entail prior restraints; and
> >
> > Sixth, the value of the speech that will be restrained is such that its absence will be socially irreparable. This will necessarily mean balancing between the state interests protected by the regulation and the value of the speech excluded from society.
>
> *Facial challenges can only be raised on the basis of overbreadth and not on vagueness*. *Southern Hemisphere* demonstrated how vagueness relates to violations of due process rights, whereas facial challenges are raised on the basis of overbreadth and limited to the realm of freedom of expression.[31]

---

[30] J. Leonen, Dissenting Opinion in *Spouses Imbong v. Ochoa, Jr.*, 732 Phil. 1 (2014) [Per J. Mendoza, *En Banc*].

[31] Id. at 583-284.

Supreme Court E-Library

In this case, there is no showing that the questioned issuances affect any right to free speech or freedom of expression. Thus, this exception does not apply.

As to the second exception, the lack of an actual case or controversy is excused if the case involves an egregious or imminent violation of fundamental rights and the facts constituting this violation are complete, undisputed, and established in a lower court. In *Kilusang Magbubukid ng Pilipinas v. Aurora Pacific Economic Zone and Freeport Authority*,[32]

> There are narrow instances when this Court may review a statute on its face despite the lack of an actual case. *A facial review is allowed in cases of patently imminent violation of fundamental rights. The violation must be so demonstrably blatant that it overrides the policy of constitutional deference. However, the facts constituting the violation must be complete, undisputed, and established in a lower court*.
>
> Petitioners should have first gone to our trial courts, which are equipped to receive and assess evidence, and may later appeal before the appellate court, so that facts would be synthesized and conflicting claims resolved. By filing their Petitions immediately before this Court, petitioners missed the opportunity to have complete and clear factual submissions.
>
> Without first resolving the factual disputes, it is not clear whether there was a direct, material, and substantial injury to petitioners. There is no factual concreteness and adversariness to enable this Court to determine the parties' rights and obligations.
>
> An exception to the rule on hierarchy of courts is not warranted here. Strict adherence to the rule is our standing judicial policy. Bypassing it requires more than just raising issues of transcendental importance. To allow exceptions, there must first be justiciability.[33] (Emphasis supplied and citations omitted)

As earlier discussed, this exception need not also be invoked because an actual case or controversy exists in G.R. No. 206486: the parties were apprehended under the assailed Department

---

[32] G.R. Nos. 198688 & 208282, November 24, 2020 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67550> [Per J. Leonen, *En Banc*].

[33] Id.

Supreme Court E-Library

Order No. 2008-39. Necessarily, this actual case or controversy is attached to Department Order No. 2008-39's updated version, Joint Administrative Order No. 2014-01, which is the subject of G.R. Nos. 212604, 212682, and 212800, and the currently implemented issuance. The assailed issuances present a ripening adjudication—a continued threat and imminence to an actual injury to be sustained.

IV

I also take this opportunity to discuss my position that it is time this Court promulgate rules and regulations for raising constitutional issues, especially those calling for the exercise of its expanded jurisdiction under Article 8, Section 1 of the 1987 Constitution.

Currently, parties use Rule 65 of the Rules of Court as their judicial remedy to raise constitutional issues. However, the clear language used in Rule 65 shows it is meant to be the remedy in case of grave abuse of discretion of government instrumentalities exercising judicial or quasi-judicial powers. It does not explicitly mention that it may be filed in case of grave abuse of discretion of any branch or instrumentality of government:

RULE 65

Certiorari, Prohibition and Mandamus

SECTION 1. *Petition for Certiorari*. — When any tribunal, board or officer *exercising judicial or quasi-judicial functions* has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

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

Supreme Court E-Library

I maintain that Rule 65 is only used as a de facto modality because there are no specific rules for raising constitutional issues. This was first observed by former Associate Justice Arturo Brion in *Association of Medical Clinics for Overseas Workers, Inc. v. GCC Approved Medical Centers Association, Inc.*,[34]

> The use of petitions for *certiorari* and prohibition under Rule 65 is a remedy that judiciaries have used long before our Rules of Court existed. As footnoted below, these writs — now recognized and regulated as remedies under Rule 65 of our Rules of Court — have been characterized as "supervisory writs" used by superior courts to keep lower courts within the confines of their granted jurisdictions, thereby ensuring orderliness in lower courts' rulings.
>
> We confirmed this characterization in *Madrigal Transport v. Lapanday Holdings Corporation*, when we held that a writ is founded on the supervisory jurisdiction of appellate courts over inferior courts, and is issued to keep the latter within the bounds of their jurisdiction. Thus, the writ corrects only errors of jurisdiction of judicial and quasi-judicial bodies, and cannot be used to correct errors of law or fact. For these mistakes of judgment, the appropriate remedy is an appeal.
>
> This situation changed after 1987 when the new Constitution "expanded" the scope of judicial power by providing that —
>
> > Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine ***whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government****. (italics supplied)*
>
> In Francisco v. The House of Representatives, we recognized that this expanded jurisdiction was meant "to ensure the potency of the power of judicial review to curb grave abuse of discretion by 'any branch or instrumentalities of government.'" Thus, the second paragraph of Article VIII, Section 1 engraves, for the first time in its history, into black letter law the "expanded *certiorari* jurisdiction" of this Court, whose nature and purpose had been provided in the sponsorship speech of its proponent, former Chief Justice Constitutional Commissioner Roberto Concepcion:

---

[34] 802 Phil. 116 (2016) [Per J. Brion, *En Banc*].

. . . .

> Briefly stated, courts of justice determine the limits of power of the agencies and offices of the government as well as those of its officers. In other words, the judiciary is the final arbiter on the question whether or not a branch of government or any of its officials has acted without jurisdiction or in excess of jurisdiction, or so capriciously as to constitute an abuse of discretion amounting to excess of jurisdiction or lack of jurisdiction. This is not only a judicial power but a duty to pass judgment on matters of this nature.
>
> This is the background of paragraph 2 of Section 1, which means that the courts cannot hereafter evade the duty to settle matters of this nature, by claiming that such matters constitute a political question. (italics in the original; emphasis and underscoring supplied)

Meanwhile that no specific procedural rule has been promulgated to enforce this "expanded" constitutional definition of judicial power and because of the commonality of "grave abuse of discretion" as a ground for review under Rule 65 and the courts' expanded jurisdiction, the Supreme Court—*based on its power to relax its* rules—allowed Rule 65 to be used as the medium for petitions invoking the courts' expanded jurisdiction based on its power to relax its Rules. This is however an *ad hoc* approach that does not fully consider the accompanying implications, among them, that Rule 65 is an essentially distinct remedy that cannot simply be bodily lifted for application under the judicial power's expanded mode. The terms of Rule 65, too, are not fully aligned with what the Court's expanded jurisdiction signifies and requires.

On the basis of almost thirty years' experience with the courts' expanded jurisdiction, the Court should now fully recognize the attendant distinctions and should be aware that the continued use of Rule 65 on an *ad hoc* basis as the operational remedy in implementing its expanded jurisdiction may, in the longer term, result in problems of uneven, misguided, or even incorrect application of the courts' expanded mandate.

The present case is a prime example of the misguided reading that may take place in constitutional litigation: the procedural issues raised apparently spring from the lack of proper understanding of what a petition for *certiorari* assails under the traditional and expanded modes, and the impact of these distinctions in complying with the procedural

Supreme Court E-Library

requirements for a valid petition.[35] (Emphasis supplied and citations omitted)

I thus reassert this position that there is no existing procedural vehicle to raise cases of grave abuse of discretion of the other branches or instrumentalities of government. There is a vacuum, and I maintain that it is high time this Court address it by promulgating specific rules and regulations for cases calling for the exercise of this Court's expanded jurisdiction under Article 8, Section 1 of the Constitution.

V

I agree with the *ponencia*'s disposition that the delegation of legislative power to the Department of Transportation and Communications is valid.

The *ponencia* held there is no undue delegation of legislative power to warrant the invalidation of the assailed issuances.[36] It found that the Department of Transportation and Communications was vested with powers to promulgate the questioned issuances.[37]

Executive Order No. 125 vested the Department of Transportation and Communications with the power to establish rules and regulations to enforce land transportation laws and to impose penalties for its violations.[38] Executive Order No. 297 also gave it rule-making powers, and jurisprudence has also recognized its delegated power.[39] The *ponencia* found that the delegating laws are complete in all their essential terms and conditions and contain sufficient standards that are not vague or general.[40]

As to the Land Transportation Franchising and Regulatory Board, the *ponencia* noted that under Executive Order No. 202, the Land Transportation Franchising and Regulatory Board has the power to determine, approve, review, and adjust fares, rates,

---

[35] Id. at 136-140.

[36] *Ponencia*, p. 30.

[37] Id. at 31-33.

[38] Id. at 31.

[39] Id. at 32-33.

[40] Id. at 31 and 33.

Supreme Court E-Library

and other charges on the operation of public land transportation services. It also has the power to formulate rules, implement them on land transportation utilities, and issue, revise, suspend or cancel Certificates of Public Convenience to motorized vehicles.[41]

For the Land Transportation Office, the *ponencia* discussed that Executive Order No. 206 provides two service units under the Land Transportation Office's Office of the Assistant Secretary for Land Transportation in the Department of Transportation and Communications: (i) Law Enforcement Service and (ii) Traffic Adjudication Service. The latter has the power to promulgate rules and regulations governing proceedings before it.[42]

The *ponencia* acknowledged that the power of the Land Transportation Franchising and Regulatory Board and Land Transportation Office to issue rules and regulations is limited.[43] Nonetheless, the Department of Transportation and Communications, as the primary agency, still approved the questioned issuances. It approved Department Order No. 2008-39.[44] Similarly, Joint Administrative Order No. 2014-01, while signed by the Land Transportation Franchising and Regulatory Board and Land Transportation Office, was still eventually approved by the Department of Transportation and Communications Secretary, and the Department of Transportation and Communications was tasked with implementing it.[45]

The *ponencia* discussed that statutes conferring power to administrative agencies should be liberally construed to enable them to discharge their assigned duties.[46]

However, I wish to assert that the tests to determine the validity of the delegation of legislative power should be strictly applied in these and in all future cases.

---

41 Id. at 33-34.

42 Id. at 35.

43 Id.

44 Id.

45 Id.

46 Id. at 36.

Supreme Court E-Library

The delegation of legislative power is recognized because of the growing complexity of government tasks and the need for technical or specialized expertise in several areas of public service. In *Eastern Shipping Lines v. Philippine Overseas Employment Administration*:[47]

> The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of the legislative power, however, such occasions have become more and more frequent, if not necessary. This has led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.
>
> The reason is the increasing complexity of the task of government and the growing inability of the legislative to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them.
>
> The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation.''
>
> With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department

---

[47] 248 Phil. 762 (1988) (Per J. Cruz, First Division].

Supreme Court E-Library

of Labor on the new Labor Code. These regulations have the force and effect of law.[48]

However, as it is still an exception to the rule, the delegation of legislative power is subject to restrictions, which this Court has narrowed to two tests: the completeness and sufficient standard tests. In *Pantaleon v. Metro Manila Development Authority*,[49]

> As a rule, legislative power is generally non-delegable. A recognized exception, however, is the grant of rule-making power to administrative agencies. "Delegated rule-making has become a practical necessity in modern governance due to the increasing complexity and variety of public functions[.]"
>
> . . . .
>
> Thus, Congress may delegate the authority to promulgate rules to implement a law and effectuate its policies. To be permissible, however, the delegation must satisfy the *completeness* and *sufficient standard* tests.
>
> > In the face of the increasing complexity of modern life, delegation of legislative power to various specialized administrative agencies is allowed as an exception to this principle. Given the volume and variety of interactions in today's society, it is doubtful if the legislature can promulgate laws that will deal adequately with and respond promptly to the minutiae of everyday life. Hence, the need to delegate to administrative bodies — the principal agencies tasked to execute laws in their specialized fields — the authority to promulgate rules and regulations to implement a given statute and effectuate its policies. *All that is required for the valid exercise of this power of subordinate legislation is that the regulation be germane to the objects and purposes of the law and that the regulation be not in contradiction to, but in conformity with, the standards prescribed by the law. These requirements are denominated as the* ***completeness test*** *and the* ***sufficient standard test***[.]

---

[48] Id. at 772-773.

[49] *Pantaleon v. Metro Manila Development Authority*, G.R. No. 194335, November 17, 2020 <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67017> [Per J. Leonen, *En Banc*].

Supreme Court E-Library

The delegation of legislative power is valid only if:

> . . . the law (a) is complete in itself, setting forth therein the policy to be executed, carried out, or implemented by the delegate; and (b) fixes a standard — the limits of which are sufficiently determinate and determinable — to which the delegate must conform in the performance of his functions. A sufficient standard is one which defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected.[50] (Emphasis supplied and citations omitted)

Thus, a law delegating legislative power must be: "complete in itself, setting forth . . . the policy to be executed, carried out, or implemented by the delegate; and fixes a standard—the limits of which are sufficiently determinate and determinable—to which the delegate must conform in the performance of his functions."[51]

As stated by the *ponencia*, the law is deemed complete if it sets forth the policy to be executed, carried out, or implemented. Likewise, its standards are deemed sufficient if "it specifies the limits of the delegate's authority, announces the legislative policy, and identifies the conditions under which it is to be implemented."[52]

Both requisites must be present and cannot be deemed satisfied by vague statements lacking clear and delineated parameters and measurable standards. Failure to comply with these two tests renders the delegation of legislative power invalid.

I thus maintain that although it was recognized by this Court in the past, simply stating the standards of "public interest," "justice and equity," "public convenience and welfare," and "simplicity, economy and welfare" are not sufficient to comply with the requirement.[53] I find that these standards, standing alone, are vague and do not pass the sufficient standard test. They do not limit the

---

[50] Id.

[51] Id.

[52] *Ponencia*, p. 30.

[53] Id. at 36.

Supreme Court E-Library

authority delegated or identify the conditions for implementation. Thus, these may dilute the import of the measurable standards needed to pass the tests for a valid delegation of legislative power.

Applying these requirements to this case, I agree with the *ponencia* that the delegation of power to the Department of Transportation and Communications is valid. The governing policies are found in Executive Order No. 125:[54]

> RECALLING that the reorganization of the government is mandated expressly in Article II, Section 1 (a), and Article III of the Freedom Constitution;
>
> HAVING IN MIND that pursuant to Executive Order No. 5 (1986), it is directed that necessary and proper changes in the organizational and functional structures of the government, its agencies and instrumentalities, be effected in order to *promote efficiency and effectiveness in the delivery of public services*;
>
> CONSIDERING that *viable and dependable transportation and communications networks are necessary tools for economic recovery*;
>
> CONSIDERING FURTHER that *rapid technological advances in communication facilities require a distinct response to the peculiar problems of this field*;
>
> REALIZING that the growing complexity of the transportation sector has necessitated its division into various sub-sectors to *facilitate the regulation and promotion of the sector as a whole*; and
>
> REALIZING FURTHER that the State needs to *regulate these networks and promote their continuous upgrading in order to preserve their viability and enhance their dependability*;
>
> . . .
>
> SECTION 3. *Declaration of Policy*. — The State is committed to the *maintenance and expansion of viable, efficient and dependable transportation and communications systems* as effective instruments for national recovery and economic progress. It shall not compete as a matter of policy with private enterprise and shall operate transportation and communications facilities only in those areas where private initiatives are inadequate or non-existent.

---

[54] Executive Order No. 125 (1987).

Supreme Court E-Library

The Department of Transportation and Communications' powers and functions are found in Executive Order No. 125-A:[55]

SECTION 5. *Powers and Functions*. — To accomplish its mandate, the Department shall have the following powers and functions:

(a) Formulate and recommend national policies and guidelines for the preparation and implementation of integrated and comprehensive transportation and communications systems at the national, regional and local levels;

(b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation, or organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such program;

(c) Assess, review and provide direction to transportation and communications research and development programs of the government in coordination with other institutions concerned;

(d) Administer and enforce all laws, rules and regulations in the field of transportation and communications;

(e) Coordinate with the Department of Public Works and Highways in the design, location, development, rehabilitation, improvement, construction, maintenance and repair of all infrastructure projects and facilities of the Department. However, government corporate entities attached to the Department shall be authorized to undertake specialized telecommunications, ports, airports and railways projects and facilities as directed by the President of the Philippines or as provided by law;

(f) Establish, operate and maintain a nationwide postal system that shall include mail processing, delivery services, and money order services and promote the art of philately;

(g) Issue certificates of public convenience for the operation of public land and rail transportation utilities and services;

(h) Accredit foreign aircraft manufacturers and/or international organizations for aircraft certification in accordance with established procedures and standards;

---

[55] Executive Order No. 125-A (1987).

Supreme Court E-Library

(i) Establish and prescribe rules and regulations for identification of routes, zones and/or areas of operations of particular operators of public land services;

(j) Establish and prescribe rules and regulations for the establishment, operation and maintenance of such telecommunications facilities in areas not adequately served by the private sector in order to render such domestic and overseas services that are necessary with due consideration for advances in technology;

(k) Establish and prescribe rules and regulations for the operation and maintenance of a nationwide postal system that shall include mail processing, delivery services, money order services and promotion of philately;

(l) Establish and prescribe rules and regulations for issuance of certificates of public convenience for public land transportation utilities, such as motor vehicles, trimobiles and railways;

(m) Establish and prescribe rules and regulations for the inspection and registration of air and land transportation facilities, such as motor vehicles, trimobiles, railways and aircrafts;

(n) Establish and prescribe rules and regulations for the issuance of licenses to qualified motor vehicle drivers, conductors, and airmen;

(o) Establish and prescribe the corresponding rules and regulations for the enforcement of laws governing land transportation, air transportation and postal services, including the penalties for violations thereof, and for the deputation of appropriate law enforcement agencies in pursuance thereof;

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

(q) Establish and prescribe the rules, regulations, procedures and standards for the accreditation of driving schools;

Supreme Court E-Library

(r) Administer and operate the Civil Aviation Training Center (CATC) and the National Telecommunications Training Institute (NTTI); and

(s) Perform such other powers and functions as may be prescribed by law, or as may be necessary, incidental, or proper to its mandate or as may be assigned from time to time by the President of the Republic of the Philippines."

It is complete and contains sufficient standards to be considered a valid delegation of legislative power.

However, the same cannot be said for the Land Transportation Franchising and Regulatory Board and the Land Transportation Office.

For the Land Transportation Franchising and Regulatory Board, while its powers and functions are found in Executive Order No. 202,[56] the policies governing its creation are noticeably absent:

WHEREAS, the Department of Transportation and Communications is vested with, among others, quasi-judicial powers and functions pursuant to Executive Order No. 125, as amended;

NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:

SECTION 1. *Creation of the Land Transportation Franchising and Regulatory Board*. — There is hereby created in the Department of Transportation and Communications, the Land Transportation Franchising and Regulatory Board, hereinafter referred to as the "Board".

SECTION 2. *Composition of the Board*. — The Board shall be composed of a Chairman and two (2) members with the same rank, salary and privileges of an Assistant Secretary, all of whom shall be appointed by the President of the Philippines upon recommendation of the Secretary of Transportation and Communications. One (1) member of the Board shall be a member of the Bar and shall have engaged in the practice of law in the Philippines for at least five (5) years, another a holder of a degree in civil engineering, and the other a holder of a degree in economics, finance or management both with the same number of years of experience and practice.

---

[56] Executive Order No. 202 (1987).

Supreme Court E-Library

SECTION 3. *Executive Director and Support Staff of the Board*. — The Board shall have an Executive Director who shall also be appointed by the President of the Philippines upon the recommendation of the Secretary of Transportation and Communications. He shall have the rank, salary and privileges of a Department Service Chief. He shall assist the Board in the performance of its powers and functions.

The Board shall be supported by the Technical Evaluation Division, Legal Division, Management Information Division, Administrative Division and Finance Division.

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

SECTION 5. *Powers and Functions of the Land Transportation Franchising and Regulatory Board*. — The Board shall have the following powers and functions:

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

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

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

d. To issue preliminary or permanent injunction, whether prohibitory or mandatory, in all cases in which it has jurisdiction, and in which cases the pertinent provisions of the Rules of Court shall apply;

e. To punish for contempt of the Board, both direct and indirect, in accordance with the pertinent provisions of, and the penalties prescribed by, the Rules of Court;

Supreme Court E-Library

f. To issue *subpoena* and *subpoena duces tecum* and summon witnesses to appear in any proceedings of the Board, to administer oaths and affirmations;

g. To conduct investigations and hearings of complaints for violation of the public service laws on land transportation and of the Board's rules and regulations, orders, decisions and/or rulings and to impose fines and/or penalties for such violations;

h. To review *motu proprio* the decisions/actions of the Regional Franchising and Regulatory Office herein created;

i. To promulgate rules and regulations governing proceedings before the Board and the Regional Franchising and Regulatory Office: *Provided*, That except with respect to paragraphs d, e, f and g hereof, the rules of procedure and evidence prevailing in the courts of law should not be controlling and it is the spirit and intention of said rules that the Board and the Regional Franchising and Regulatory Offices shall use every and all reasonable means to ascertain facts in its case speedily and objectively and without regard to technicalities of law and procedures, all in the interest of due process;

j. To fix, impose and collect, and periodically review and adjust, reasonable fees and other related charges for services rendered;

k. To formulate, promulgate, administer, implement and enforce rules and regulations on land transportation public utilities, standards of measurements and/or design, and rules and regulations requiring operators of any public land transportation service to equip, install and provide in their utilities and in their stations such devices, equipment, facilities and operating procedures and techniques as may promote safety, protection, comfort and convenience to persons and property in their charges as well as the safety of persons and property within their areas of operations;

l. To coordinate and cooperate with other government agencies and entities concerned with any aspect involving public land transportation services with the end in view of effecting continuing improvement of such services; and

m. To perform such other functions and duties as may be provided by law, or as may be necessary, or proper or incidental to the purposes and objectives of this Executive Order.

Supreme Court E-Library

As to the Land Transportation Office, under Executive Order No. 266,[57] the powers and functions of the Traffic Adjudication Service in the Office of the Assistant Secretary for Land Transportation in the Department of Transportation and Communications are quasi-judicial in nature. It is not empowered to promulgate rules or impose penalties on violations of land transportation laws. Its powers are limited to promulgating rules and regulations governing the proceedings before it:

> WHEREAS, there is a need to upgrade the Law Enforcement Division in the Office of the Assistant Secretary for Land Transportation into a service unit in order to make more effective the enforcement of traffic laws, rules and regulations;
>
> WHEREAS, for a more meaningful law enforcement, it is likewise imperative to create within the Office of the Assistant Secretary for Land Transportation a service unit that shall specifically discharge the quasi-judicial powers and functions of the Department of Transportation and Communications insofar as violations of traffic laws, rules and regulations are concerned;
>
> NOW, THEREFORE, I, CORAZON C. AQUINO, President of the Philippines, do hereby order:
>
> SECTION 1. There shall be two service units in the Office of the Assistant Secretary for Land Transportation in the Department of Transportation and Communications, namely:
>
> 1) Law Enforcement Service, and
> 2) Traffic Adjudication Service.
>
> Each of the aforesaid service units shall be headed by a Service Chief to be appointed by the President upon recommendation of the Secretary of Transportation and Communications.
>
> SECTION 2. The existing Law Enforcement Division in the Office of the Assistant Secretary for Land Transportation is hereby upgraded into a service unit which shall henceforth be known and the Law Enforcement Service and shall have the same functions and powers as those that the existing division now exercises.
>
> SECTION 3. The Traffic Adjudication Service shall have the following powers and functions:

---

[57] Executive Order No. 266 (1987).

Supreme Court E-Library

a) To hear and decide cases involving violations of laws, rules and regulations governing land transportation and to impose fines and/or penalties therefor; provided that violations resulting in damage to property and/or physical injuries or violations constituting offenses punishable under the Revised Penal Code or other penal laws shall be under the jurisdiction of the regular courts;

b) To order the impounding of motor vehicles and confiscation of plates or the arrest of violators of laws, rules and regulations governing land transportation;

c) To issue *subpoena* and *subpoena duces tecum* and to summon witnesses to appear in any proceeding thereof, and to administer oaths and affirmations;

d) To promulgate rules and regulations governing the proceedings before it; provided that except with respect to paragraph c, the rules of procedures and evidence prevailing in the courts of law shall not be controlling and all reasonable means to ascertain the facts in each case shall be used without regard to technicalities of law and procedures but all in the interest of due process; and

e) To perform such other functions and duties as may be provided by law; or as may be necessary, or proper or incidental to its powers and functions.

I thus maintain that there is no valid delegation of legislative power to the Land Transportation Office and the Land Transportation Franchising and Regulatory Board. These administrative bodies are not authorized to issue rules and regulations to enforce transportation laws or to impose penalties or fines for violations.

Nonetheless, since the Department of Transportation and Communications signed Department Order No. 2008-39 and issued the final approval for Joint Administrative Order No. 2014-01, I agree with the *ponencia* that these questioned issuances are validly promulgated.

ACCORDINGLY, I **CONCUR** in the result. I vote to **GRANT** the Petition in G.R. No. 206486, and to **DENY** the petitions in G.R. Nos. 212604, 212682, and 212800.