

Title: **Espina et al. vs. Zamora et al.: A Scrutiny of the Retail Trade Liberalization Act of 2000**

**### Facts:**

On March 7, 2000, Philippine President Joseph E. Estrada signed into law Republic Act No. 8762, known as the Retail Trade Liberalization Act of 2000, which repealed the previous law that prohibited foreign nationals from engaging in retail trade within the country. The new law categorized retail trade businesses based on capital and opened certain categories for foreign ownership, ranging from limited foreign equity to full foreign ownership, contingent on the amount of capital.

Petitioners, a group of members from the House of Representatives, filed a petition on October 11, 2000, challenging the constitutionality of R.A. 8762 on several grounds. They contended that the law contravenes specific constitutional provisions aimed at maintaining Filipino control over the national economy, arguing that it would result in alien dominance in retail trade, endangering Filipino enterprises and possibly leading to increased unemployment due to competition from large foreign retailers.

Respondents, government officials in top executive positions, countered by questioning the legal standing of the petitioners and the justiciability of the controversy. They argued that the petitioners had not demonstrated that the law directly infringed any of their rights or those of their constituents and asserted that R.A. 8762 does not violate the Constitution but is aligned with its provisions that allow Congress discretion in inviting foreign investment according to national interests.

**### Issues:**

1. Whether the petitioner lawmakers have the legal standing to challenge the constitutionality of R.A. 8762.
2. Whether R.A. 8762 is unconstitutional.

**### Court's Decision:**

The Supreme Court dismissed the petition for lack of merit, elaborating on two primary issues:

1. **Legal Standing:** The Court decided that the legal standing rule could be relaxed due to the petition's transcendental importance. However, it found that petitioners lacked a

direct and personal stake as they failed to demonstrate being aggrieved by R.A. 8762 either as taxpayers or legislators.

2. **Constitutionality:** On the question of constitutionality, the Court referenced previous decisions to assert that while the Constitution mandates a Filipino preference and control in economic activities, it does not prohibit foreign participation outright. The Court elucidated that R.A. 8762, by liberalizing parts of the retail sector for foreign investment, does not contravene constitutional mandates but operates within the discretion granted to Congress. The safeguards within the law to moderate foreign participation were highlighted as evidence that the act was not unconstitutional.

### ### Doctrine:

This case reinforces the principle that constitutional declarations of principle and state policies (Article II, 1987 Philippine Constitution) are not self-executing provisions. It also underscores the discretionary power of Congress, upon recommendation from the National Economic and Development Authority (NEDA) and considering national interest, to open certain investment areas to foreigners, as provided by Section 10, Article XII of the Constitution.

### ### Class Notes:

1. **Legal Standing:** To challenge a law's constitutionality, one must demonstrate a direct and personal stake in the outcome of the case.
2. **Constitutional Provisions on National Economy:** The provisions under Article II are not self-executing; they need enabling laws for their implementation. Article XII allows Congress discretion to invite foreign investment as deemed beneficial for national interests.
3. **Economic Nationalism vs. Global Engagement:** The Constitution balances the protection of Filipino businesses with the need for engaging in global trade under principles of equality and reciprocity.
4. **Discretion of Congress:** Congress has the prerogative to legislate on matters of economic policy, including the regulation of foreign investment in certain sectors, based on national interest considerations.

### ### Historical Background:

This case contextualizes within a period of economic liberalization and globalization, where the Philippines, like many developing countries, was reevaluating its economic policies

towards foreign investments. The Retail Trade Liberalization Act of 2000 marked a significant shift from the more nationalistic economic stance enshrined in earlier laws towards a framework that allowed for greater foreign participation in the economy, reflecting global and domestic pressures for economic reform and adaptation to the global market dynamics.