KILUSANG MAYO UNO, NATIONAL FEDERATION OF LABOR UNIONS-KILUSANG MAYO UNO (NAFLU-KMU), JOSELITO V. USTAREZ, EMILIA P. DAPULANG, SALVADOR T. CARRANZA, MARTIN T. CUSTODIO, JR. AND ...

G.R. NO. 167798. April 19, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

This case involves two consolidated petitions for certiorari, prohibition, and mandamus under Rule 65 of the Rules of Court, seeking the nullification of Executive Order No. 420 (EO 420) on the ground that it is unconstitutional.

EO 420, issued by President Gloria Macapagal-Arroyo on 13 April 2005, reads:

> REQUIRING ALL GOVERNMENT AGENCIES AND GOVERNMENT-OWNED AND CONTROLLED CORPORATIONS TO STREAMLINE AND HARMONIZE THEIR IDENTIFICATION (ID) SYSTEMS, AND AUTHORIZING FOR SUCH PURPOSE THE DIRECTOR-GENERAL, NATIONAL ECONOMIC AND DEVELOPMENT AUTHORITY TO IMPLEMENT THE SAME, AND FOR OTHER PURPOSES
> WHEREAS, good governance is a major thrust of this Administration;
>
> WHEREAS, the existing multiple identification systems in government have created unnecessary and costly redundancies and higher costs to government, while making it inconvenient for individuals to be holding several identification cards;
>
> WHEREAS, there is urgent need to streamline and integrate the processes and issuance of identification cards in government to reduce costs and to provide greater convenience for those transacting business with government;
>
> WHEREAS, a unified identification system will facilitate private businesses, enhance the integrity and reliability of government-issued identification cards in private transactions, and prevent violations of laws involving false names and identities.
>
> NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines by virtue of the powers vested in me by law, do hereby direct the following:
>
> Section 1. Adoption of a unified multi-purpose identification (ID) system for government. - All government agencies, including government-owned and controlled corporations, are hereby directed to adopt a unified multi-purpose ID system to ensure the attainment of the following objectives:
>
> - To reduce costs and thereby lessen the financial burden on both the government and the public brought about by the use of multiple ID cards and the maintenance of redundant database containing the same or related information;
>
> - To ensure greater convenience for those transacting business with the government and those availing of

government services;

- To facilitate private businesses and promote the wider use of the unified ID card as provided under this executive order;

- To enhance the integrity and reliability of government-issued ID cards; and

- To facilitate access to and delivery of quality and effective government service.

Section 2. Coverage - All government agencies and government-owned and controlled corporations issuing ID cards to their members or constituents shall be covered by this executive order.

Section 3. Data requirement for the unified ID system - The data to be collected and recorded by the participating agencies shall be limited to the following:

Name
Home Address
Sex
Picture
Signature
Date of Birth
Place of Birth
Marital Status
Names of Parents
Height
Weight
Two index fingers and two thumbmarks
Any prominent distinguishing features like moles and others
Tax Identification Number (TIN)

Provided that a corresponding ID number issued by the participating agency and a common reference number shall form part of the stored ID data and, together with at least the first five items listed above, including the print of the right thumbmark, or any of the fingerprints as collected and stored, shall appear on the face or back of the ID card for visual verification purposes.

Section 4. Authorizing the Director-General, National Economic and Development Authority, to Harmonize All Government Identification Systems. - The Director-General, National Economic Development Authority, is hereby authorized to streamline and harmonize all government ID systems.

Section 5. Functions and responsibilities of the Director-General, National Economic and Development Authority. - In addition to his organic functions and responsibilities, the Director-General, National Economic and Development Authority, shall have the following functions and responsibilities:

- Adopts within sixty (60) days from the effectivity of this executive order a unified government ID system containing only such data and features, as indicated in Section 3 above, to validity establish the identity of the card holder:

- Enter into agreements with local governments, through their respective leagues of governors or mayors, the Commission on Elections (COMELEC), and with other branches or instrumentalities of the government, for the purpose of ensuring government-wide adoption of and support to this effort to streamline the ID systems in government;

- Call on any other government agency or institution, or create sub-committees or technical working groups, to provide such assistance as may be necessary or required for the effective performance of its functions; and

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- Promulgate such rules or regulations as may be necessary in pursuance of the objectives of this executive order.

Section 6. Safeguards. - The Director-General, National Economic and Development Authority, and the pertinent agencies shall adopt such safeguard as may be necessary and adequate to ensure that the right to privacy of an individual takes precedence over efficient public service delivery. Such safeguards shall, as a minimum, include the following:

- The data to be recorded and stored, which shall be used only for purposes of establishing the identity of a person, shall be limited to those specified in Section 3 of this executive order;

- In no case shall the collection or compilation of other data in violation of a person's right to privacy shall be allowed or tolerated under this order;

- Stringent systems of access control to data in the identification system shall be instituted;

- Data collected and stored for this purpose shall be kept and treated as strictly confidential and a personal or written authorization of the Owner shall be required for access and disclosure of data;

- The identification card to be issued shall be protected by advanced security features and cryptographic technology; and

- A written request by the Owner of the identification card shall be required for any correction or revision of relevant data, or under such conditions as the participating agency issuing the identification card shall prescribe.

Section 7. Funding. - Such funds as may be recommended by the Department of Budget and Management shall be provided to carry out the objectives of this executive order.

Section 8. Repealing clause. - All executive orders or issuances, or portions thereof, which are inconsistent with this executive order, are hereby revoked, amended or modified accordingly.

Section 9. Effectivity. - This executive order shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation.

DONE in the City of Manila, this 13th day of April, in the year of Our Lord, Two Thousand and Five.

Thus, under EO 420, the President directs all government agencies and government-owned and controlled corporations to adopt a uniform data collection and format for their existing identification (ID) systems.

Petitioners in G.R. No. 167798 allege that EO 420 is unconstitutional because it constitutes usurpation of legislative functions by the executive branch of the government. Furthermore, they allege that EO 420 infringes on the citizen's right to privacy.[1]

Petitioners in G.R. No. 167930 allege that EO 420 is void based on the following grounds:

- EO 420 is contrary to law. It completely disregards and violates the decision of this Honorable Court in Ople v. Torres et al., G.R. No. 127685, July 23, 1998. It also violates RA 8282 otherwise known as the Social Security Act of 1997.

- The Executive has usurped the legislative power of Congress as she has no power to issue EO 420. Furthermore, the implementation of the EO will use public funds not appropriated by Congress for that purpose.

- EO 420 violates the constitutional provisions on the right to privacy

(i) It allows access to personal confidential data without the owner's consent.

(ii) EO 420 is vague and without adequate safeguards or penalties for any violation of its provisions.

(iii) There are no compelling reasons that will legitimize the necessity of EO 420.

- Granting without conceding that the President may issue EO 420, the Executive Order was issued without public hearing.

- EO 420 violates the Constitutional provision on equal protection of laws and results in the discriminatory treatment of and penalizes those without ID.[2]

Issues

Essentially, the petitions raise two issues. First, petitioners claim that EO 420 is a usurpation of legislative power by the President. Second, petitioners claim that EO 420 infringes on the citizen's right to privacy.

Respondents question the legal standing of petitioners and the ripeness of the petitions. Even assuming that petitioners are bereft of legal standing, the Court considers the issues raised under the circumstances of paramount public concern or of transcendental significance to the people. The petitions also present a justiciable controversy ripe for judicial determination because all government entities currently issuing identification cards are mandated to implement EO 420, which petitioners claim is patently unconstitutional. Hence, the Court takes cognizance of the petitions.

The Court's Ruling

The petitions are without merit.

On the Alleged Usurpation of Legislative Power

Section 2 of EO 420 provides, "Coverage. - All government agencies and government-owned and controlled corporations issuing ID cards to their members or constituents shall be covered by this executive order." EO 420 applies only to government entities that issue ID cards as part of their functions under existing laws. These government entities have already been issuing ID cards even prior to EO 420. Examples of these government entities are the GSIS,[3] SSS,[4] Philhealth,[5] Mayor's Office,[6] LTO,[7] PRC,[8] and similar government entities.

Section 1 of EO 420 directs these government entities to "adopt a unified multi-purpose ID system." Thus, all government entities that issue IDs as part of their functions under existing laws are required to adopt a uniform data collection and format for their IDs. Section 1 of EO 420 enumerates the purposes of the uniform data collection and format, namely:

- To reduce costs and thereby lessen the financial burden on both the government and the public brought about by the use of multiple ID cards and the maintenance of redundant database containing the same or related information;

- To ensure greater convenience for those transacting business with the government and those availing of government services;

- To facilitate private businesses and promote the wider use of the unified ID card as provided under this executive order;

- To enhance the integrity and reliability of government-issued ID cards; and

- To facilitate access to and delivery of quality and effective government service.

In short, the purposes of the uniform ID data collection and ID format are to reduce costs, achieve efficiency and

reliability, insure compatibility, and provide convenience to the people served by government entities.

Section 3 of EO 420 limits the data to be collected and recorded under the uniform ID system to only 14 specific items, namely: (1) Name; (2) Home Address; (3) Sex; (4) Picture; (5) Signature; (6) Date of Birth; (7) Place of Birth; (8) Marital Status; (9) Name of Parents; (10) Height; (11) Weight; (12) Two index fingers and two thumbmarks; (13) Any prominent distinguishing features like moles or others; and (14) Tax Identification Number.

These limited and specific data are the usual data required for personal identification by government entities, and even by the private sector. Any one who applies for or renews a driver's license provides to the LTO all these 14 specific data.

At present, government entities like LTO require considerably more data from applicants for identification purposes. EO 420 will reduce the data required to be collected and recorded in the ID databases of the government entities. Government entities cannot collect or record data, for identification purposes, other than the 14 specific data.

Various laws allow several government entities to collect and record data for their ID systems, either expressly or impliedly by the nature of the functions of these government entities. Under their existing ID systems, some government entities collect and record more data than what EO 420 allows. At present, the data collected and recorded by government entities are disparate, and the IDs they issue are dissimilar.

In the case of the Supreme Court,[9] the IDs that the Court issues to all its employees, including the Justices, contain 15 specific data, namely: (1) Name; (2) Picture; (3) Position; (4) Office Code Number; (5) ID Number; (6) Height; (7) Weight; (8) Complexion; (9) Color of Hair; (10) Blood Type; (11) Right Thumbmark; (12) Tax Identification Number; (13) GSIS Policy Number; (14) Name and Address of Person to be Notified in Case of Emergency; and (15) Signature. If we consider that the picture in the ID can generally also show the sex of the employee, the Court's ID actually contains 16 data.

In contrast, the uniform ID format under Section 3 of EO 420 requires only "the first five items listed" in Section 3, plus the fingerprint, agency number and the common reference number, or only eight specific data. Thus, at present, the Supreme Court's ID contains far more data than the proposed uniform ID for government entities under EO 420. The nature of the data contained in the Supreme Court ID is also far more financially sensitive, specifically the Tax Identification Number.

Making the data collection and recording of government entities unified, and making their ID formats uniform, will admittedly achieve substantial benefits. These benefits are savings in terms of procurement of equipment and supplies, compatibility in systems as to hardware and software, ease of verification and thus increased reliability of data, and the user-friendliness of a single ID format for all government entities.

There is no dispute that government entities can individually limit the collection and recording of their data to the 14 specific items in Section 3 of EO 420. There is also no dispute that these government entities can individually adopt the ID format as specified in Section 3 of EO 420. Such an act is certainly within the authority of the heads or governing boards of the government entities that are already authorized under existing laws to issue IDs.

A unified ID system for all these government entities can be achieved in either of two ways. First, the heads of these existing government entities can enter into a memorandum of agreement making their systems uniform. If the government entities can individually adopt a format for their own ID pursuant to their regular functions under existing laws, they can also adopt by mutual agreement a uniform ID format, especially if the uniform format will result in substantial savings, greater efficiency, and optimum compatibility. This is purely an administrative

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matter, and does not involve the exercise of legislative power.

Second, the President may by executive or administrative order direct the government entities under the Executive department to adopt a uniform ID data collection and format. Section 17, Article VII of the 1987 Constitution provides that the "President shall have control of all executive departments, bureaus and offices." The same Section also mandates the President to "ensure that the laws be faithfully executed."

Certainly, under this constitutional power of control the President can direct all government entities, in the exercise of their functions under existing laws, to adopt a uniform ID data collection and ID format to achieve savings, efficiency, reliability, compatibility, and convenience to the public. The President's constitutional power of control is self-executing and does not need any implementing legislation.

Of course, the President's power of control is limited to the Executive branch of government and does not extend to the Judiciary or to the independent constitutional commissions. Thus, EO 420 does not apply to the Judiciary, or to the COMELEC which under existing laws is also authorized to issue voter's ID cards.[10] This only shows that EO 420 does not establish a national ID system because legislation is needed to establish a single ID system that is compulsory for all branches of government.

The Constitution also mandates the President to ensure that the laws are faithfully executed. There are several laws mandating government entities to reduce costs, increase efficiency, and in general, improve public services.[11] The adoption of a uniform ID data collection and format under EO 420 is designed to reduce costs, increase efficiency, and in general, improve public services. Thus, in issuing EO 420, the President is simply performing the constitutional duty to ensure that the laws are faithfully executed.

Clearly, EO 420 is well within the constitutional power of the President to promulgate. The President has not usurped legislative power in issuing EO 420. EO 420 is an exercise of Executive power - the President's constitutional power of control over the Executive department. EO 420 is also compliance by the President of the constitutional duty to ensure that the laws are faithfully executed.

Legislative power is the authority to make laws and to alter or repeal them. In issuing EO 420, the President did not make, alter or repeal any law but merely implemented and executed existing laws. EO 420 reduces costs, as well as insures efficiency, reliability, compatibility and user-friendliness in the implementation of current ID systems of government entities under existing laws. Thus, EO 420 is simply an executive issuance and not an act of legislation.

The act of issuing ID cards and collecting the necessary personal data for imprinting on the ID card does not require legislation. Private employers routinely issue ID cards to their employees. Private and public schools also routinely issue ID cards to their students. Even private clubs and associations issue ID cards to their members. The purpose of all these ID cards is simply to insure the proper identification of a person as an employee, student, or member of a club. These ID cards, although imposed as a condition for exercising a privilege, are voluntary because a person is not compelled to be an employee, student or member of a club.

What require legislation are three aspects of a government maintained ID card system. First, when the implementation of an ID card system requires a special appropriation because there is no existing appropriation for such purpose. Second, when the ID card system is compulsory on all branches of government, including the independent constitutional commissions, as well as compulsory on all citizens whether they have a use for the ID card or not. Third, when the ID card system requires the collection and recording of personal data beyond what is routinely or usually required for such purpose, such that the citizen's right to privacy is infringed.

In the present case, EO 420 does not require any special appropriation because the existing ID card systems of

government entities covered by EO 420 have the proper appropriation or funding. EO 420 is not compulsory on all branches of government and is not compulsory on all citizens. EO 420 requires a very narrow and focused collection and recording of personal data while safeguarding the confidentiality of such data. In fact, the data collected and recorded under EO 420 are far less than the data collected and recorded under the ID systems existing prior to EO 420.

EO 420 does not establish a national ID card system. EO 420 does not compel all citizens to have an ID card. EO 420 applies only to government entities that under existing laws are already collecting data and issuing ID cards as part of their governmental functions. Every government entity that presently issues an ID card will still issue its own ID card under its own name. The only difference is that the ID card will contain only the five data specified in Section 3 of EO 420, plus the fingerprint, the agency ID number, and the common reference number which is needed for cross-verification to ensure integrity and reliability of identification.

This Court should not interfere how government entities under the Executive department should undertake cost savings, achieve efficiency in operations, insure compatibility of equipment and systems, and provide user-friendly service to the public. The collection of ID data and issuance of ID cards are day-to-day functions of many government entities under existing laws. Even the Supreme Court has its own ID system for employees of the Court and all first and second level courts. The Court is even trying to unify its ID system with those of the appellate courts, namely the Court of Appeals, Sandiganbayan and Court of Tax Appeals.

There is nothing legislative about unifying existing ID systems of all courts within the Judiciary. The same is true for government entities under the Executive department. If government entities under the Executive department decide to unify their existing ID data collection and ID card issuance systems to achieve savings, efficiency, compatibility and convenience, such act does not involve the exercise of any legislative power. Thus, the issuance of EO 420 does not constitute usurpation of legislative power.

On the Alleged Infringement of the Right to Privacy

All these years, the GSIS, SSS, LTO, Philhealth and other government entities have been issuing ID cards in the performance of their governmental functions. There have been no complaints from citizens that the ID cards of these government entities violate their right to privacy. There have also been no complaints of abuse by these government entities in the collection and recording of personal identification data.

In fact, petitioners in the present cases do not claim that the ID systems of government entities prior to EO 420 violate their right to privacy. Since petitioners do not make such claim, they even have less basis to complain against the unified ID system under EO 420. The data collected and stored for the unified ID system under EO 420 will be limited to only 14 specific data, and the ID card itself will show only eight specific data. The data collection, recording and ID card system under EO 420 will even require less data collected, stored and revealed than under the disparate systems prior to EO 420.

Prior to EO 420, government entities had a free hand in determining the kind, nature and extent of data to be collected and stored for their ID systems. Under EO 420, government entities can collect and record only the 14 specific data mentioned in Section 3 of EO 420. In addition, government entities can show in their ID cards only eight of these specific data, seven less data than what the Supreme Court's ID shows.

Also, prior to EO 420, there was no executive issuance to government entities prescribing safeguards on the collection, recording, and disclosure of personal identification data to protect the right to privacy. Now, under Section 5 of EO 420, the following safeguards are instituted:

> - The data to be recorded and stored, which shall be used only for purposes of establishing the identity of a person, shall be limited to those specified in Section 3 of this executive order;

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- In no case shall the collection or compilation of other data in violation of a person's right to privacy be allowed or tolerated under this order;

- Stringent systems of access control to data in the identification system shall be instituted;

- Data collected and stored for this purpose shall be kept and treated as strictly confidential and a personal or written authorization of the Owner shall be required for access and disclosure of data;

- The identification card to be issued shall be protected by advanced security features and cryptographic technology;

- A written request by the Owner of the identification card shall be required for any correction or revision of relevant data, or under such conditions as the participating agency issuing the identification card shall prescribe.

On its face, EO 420 shows no constitutional infirmity because it even narrowly limits the data that can be collected, recorded and shown compared to the existing ID systems of government entities. EO 420 further provides strict safeguards to protect the confidentiality of the data collected, in contrast to the prior ID systems which are bereft of strict administrative safeguards.

The right to privacy does not bar the adoption of reasonable ID systems by government entities. Some one hundred countries have compulsory national ID systems, including democracies such as Spain, France, Germany, Belgium, Greece, Luxembourg, and Portugal. Other countries which do not have national ID systems, like the United States, Canada, Australia, New Zealand, Ireland, the Nordic Countries and Sweden, have sectoral cards for health, social or other public services.[12] Even with EO 420, the Philippines will still fall under the countries that do not have compulsory national ID systems but allow only sectoral cards for social security, health services, and other specific purposes.

Without a reliable ID system, government entities like GSIS, SSS, Philhealth, and LTO cannot perform effectively and efficiently their mandated functions under existing laws. Without a reliable ID system, GSIS, SSS, Philhealth and similar government entities stand to suffer substantial losses arising from false names and identities. The integrity of the LTO's licensing system will suffer in the absence of a reliable ID system.

The dissenting opinion cites three American decisions on the right to privacy, namely, Griswold v. Connecticut,[13] U.S. Justice Department v. Reporters Committee for Freedom of the Press,[14] and Whalen v. Roe.[15] The last two decisions actually support the validity of EO 420, while the first is inapplicable to the present case.

In Griswold, the U.S. Supreme Court declared unconstitutional a state law that prohibited the use and distribution of contraceptives because enforcement of the law would allow the police entry into the bedrooms of married couples. Declared the U.S. Supreme Court: "Would we allow the police to search the sacred precincts of the marital bedrooms for telltale signs of the use of contraceptives? The very idea is repulsive to the notions of privacy surrounding the marriage relationship." Because the facts and the issue involved in Griswold are materially different from the present case, Griswold has no persuasive bearing on the present case.

In U.S. Justice Department, the issue was not whether the State could collect and store information on individuals from public records nationwide but whether the State could withhold such information from the press. The premise of the issue in U.S. Justice Department is that the State can collect and store in a central database information on citizens gathered from public records across the country. In fact, the law authorized the Department of Justice to collect and preserve fingerprints and other criminal identification records nationwide. The law also authorized the Department of Justice to exchange such information with "officials of States, cities

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and other institutions." The Department of Justice treated such information as confidential. A CBS news correspondent and the Reporters Committee demanded the criminal records of four members of a family pursuant to the Freedom of Information Act. The U.S. Supreme Court ruled that the Freedom of Information Act expressly exempts release of information that would "constitute an unwarranted invasion of personal privacy," and the information demanded falls under that category of exempt information.

With the exception of the 8 specific data shown on the ID card, the personal data collected and recorded under EO 420 are treated as "strictly confidential" under Section 6(d) of EO 420. These data are not only strictly confidential but also personal matters. Section 7, Article III of the 1987 Constitution grants the "right of the people to information on matters of public concern." Personal matters are exempt or outside the coverage of the people's right to information on matters of public concern. The data treated as "strictly confidential" under EO 420 being private matters and not matters of public concern, these data cannot be released to the public or the press. Thus, the ruling in U.S. Justice Department does not collide with EO 420 but actually supports the validity EO 420.

Whalen v. Roe is the leading American case on the constitutional protection for control over information. In Whalen, the U.S. Supreme Court upheld the validity of a New York law that required doctors to furnish the government reports identifying patients who received prescription drugs that have a potential for abuse. The government maintained a central computerized database containing the names and addresses of the patients, as well as the identity of the prescribing doctors. The law was assailed because the database allegedly infringed the right to privacy of individuals who want to keep their personal matters confidential. The U.S. Supreme Court rejected the privacy claim, and declared:

> Disclosures of private medical information to doctors, to hospital personnel, to insurance companies, and to public health agencies are often an essential part of modern medical practice even when the disclosure may reflect unfavorably on the character of the patient. Requiring such disclosures to representatives of the State having responsibility for the health of the community does not automatically amount to an impermissible invasion of privacy. (Emphasis supplied)

Compared to the personal medical data required for disclosure to the New York State in Whalen, the 14 specific data required for disclosure to the Philippine government under EO 420 are far less sensitive and far less personal. In fact, the 14 specific data required under EO 420 are routine data for ID systems, unlike the sensitive and potentially embarrassing medical records of patients taking prescription drugs. Whalen, therefore, carries persuasive force for upholding the constitutionality of EO 420 as non-violative of the right to privacy.

Subsequent U.S. Supreme Court decisions have reiterated Whalen. In Planned Parenthood of Central Missouri v. Danforth,[16] the U.S. Supreme Court upheld the validity of a law that required doctors performing abortions to fill up forms, maintain records for seven years, and allow the inspection of such records by public health officials. The U.S. Supreme Court ruled that "recordkeeping and reporting requirements that are reasonably directed to the preservation of maternal health and that properly respect a patient's confidentiality and privacy are permissible."

Again, in Planned Parenthood of Southeastern Pennsylvania v. Casey,[17] the U.S. Supreme Court upheld a law that required doctors performing an abortion to file a report to the government that included the doctor's name, the woman's age, the number of prior pregnancies and abortions that the woman had, the medical complications from the abortion, the weight of the fetus, and the marital status of the woman. In case of state-funded institutions, the law made such information publicly available. In Casey, the U.S. Supreme Court stated: "The collection of information with respect to actual patients is a vital element of medical research, and so it cannot be said that the requirements serve no purpose other than to make abortion more difficult."

Compared to the disclosure requirements of personal data that the U.S. Supreme Court have upheld in Whalen, Danforth and Casey as not violative of the right to privacy, the disclosure requirements under EO 420 are far benign and cannot therefore constitute violation of the right to privacy. EO 420 requires disclosure of 14 personal data that are routine for ID purposes, data that cannot possibly embarrass or humiliate anyone.

Petitioners have not shown how EO 420 will violate their right to privacy. Petitioners cannot show such violation by a mere facial examination of EO 420 because EO 420 narrowly draws the data collection, recording and exhibition while prescribing comprehensive safeguards. Ople v. Torres[18] is not authority to hold that EO 420 violates the right to privacy because in that case the assailed executive issuance, broadly drawn and devoid of safeguards, was annulled solely on the ground that the subject matter required legislation. As then Associate Justice, now Chief Justice Artemio V. Panganiban noted in his concurring opinion in Ople v. Torres, "The voting is decisive only on the need for appropriate legislation, and it is only on this ground that the petition is granted by this Court."

EO 420 applies only to government entities that already maintain ID systems and issue ID cards pursuant to their regular functions under existing laws. EO 420 does not grant such government entities any power that they do not already possess under existing laws. In contrast, the assailed executive issuance in Ople v. Torres sought to establish a "National Computerized Identification Reference System,"[19] a national ID system that did not exist prior to the assailed executive issuance. Obviously, a national ID card system requires legislation because it creates a new national data collection and card issuance system where none existed before.

In the present case, EO 420 does not establish a national ID system but makes the existing sectoral card systems of government entities like GSIS, SSS, Philhealth and LTO less costly, more efficient, reliable and user-friendly to the public. Hence, EO 420 is a proper subject of executive issuance under the President's constitutional power of control over government entities in the Executive department, as well as under the President's constitutional duty to ensure that laws are faithfully executed.

WHEREFORE, the petitions are DISMISSED. Executive Order No. 420 is declared VALID.

SO ORDERED.

Panganiba, C.J., Quisumbing, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Tinga, Chico-Nazario, Garcia, Garcia, and Velasco, Jr., JJ., concur.
Puno., J., on leave.
Ynares-Santiago, J., see dissenting opinion.
Azcuna, J., concur in the dissent.

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[1] Rollo, pp. 6-7.

[2] Rollo, pp. 15-16.

[3] Government Service Insurance System.

[4] Social Security System.

[5] Philippine Health Insurance Corporation. Section 8 of RA No. 7875 (National Health Insurance Act) provides: "SECTION 8. Health Insurance ID Card. - In conjunction with the enrollment provided above, the Corporation through its local office shall issue a health insurance ID which shall be used for purposes of identification, eligibility verification, and utilization recording. The issuance of this ID card shall be accompanied by a clear explanation to the enrollee of his rights, privileges and obligations as a member. A list of health care providers

accredited by the Local Health Insurance Office shall likewise be attached thereto."

[6] Section 4(m) of RA No. 7432 (Senior Citizens Act), as expanded by RA No. 9257, provides:

"In the availment of the privileges mentioned above, the senior citizen or elderly person may submit as proof of his/her entitlement thereto any of the following:

(a) an ID issued by the city or municipal mayor or of the barangay captain of the place where the senior citizen or the elderly resides;
(b) the passport of the elderly person or senior citizen concerned; and

x x x."

[7]Land Transportation Office. Section 24 of RA No. 4136 (Land Transportation and Traffic Code, as amended) provides: "SECTION 24. Use of Driver's License and Identification Card. - Every license issued under the provisions of this Act to any driver shall entitle the holder thereof, while the same is valid and effective, to operate motor vehicles described in such license: Provided, however, That every licensed professional driver, before operating a public utility vehicle registered under classification (b) of Section seven hereof, as amended by Batas Pambansa Bilang 74, shall secure from the Director, upon payment of the sum of five pesos, a driver's identification card which he shall, at all times while so operating a public utility vehicle, display in plain sight in the vehicle being operated. The identification card shall be issued simultaneously with the license.

[8]Professional Regulation Commission. Section 19 of RA No. 9292 (Electronics Engineering Law of 2004) provides: "SECTION 19. Issuance of the Certificate of Registration and Professional Identification Card. " x x x

A Professional Identification Card bearing the registration number, date of registration, duly signed by the Chairperson of the Commission, shall likewise be issued to every registrant who has paid the prescribed fee. This identification card will serve as evidence that the holder thereof is duly registered with the Commission." See also Section 19 of RA No. 9200 (Philippine Geodetic Engineering Act of 1998).

[9] Like GSIS and SSS, there is no express provision of law authorizing the Supreme Court to issue ID cards to its employees. However, any employer necessarily must issue ID cards to its employees for several purposes. First, an ID card is necessary to identify those who may enter the premises of the employer, especially in areas where non-employees are prohibited. Second, an ID or reference number is necessary for a computerized payroll system. Third, an ID card is necessary to identify those who can withdraw stock or borrow property of the employer. In the case of GSIS and SSS, they issue ID cards not only to their employees but also to their members. Like any mutual association, GSIS and SSS can issue membership cards to their members who contribute to the trust funds they administer and who are entitled to the corresponding benefits.

[10] Sections 126 and 128 of the Omnibus Election Code (BP Blg. 881) provide: "SECTION 126. Registration of voters. " On the seventh and sixth Saturdays before a regular election or on the second Saturday following the day of the proclamation calling for a new special election, plebiscite or referendum, any person desiring to be registered as a voter shall accomplish in triplicate before the board of election inspectors a voter's affidavit in which shall be stated the following data:
(a) Name, surname, middle name, maternal surname;
(b) Date and place of birth;
(c) Citizenship;
(d) Periods of residence in the Philippines and in the place of registration;
(e) Exact address with the name of the street and house number or in case there is none, a brief description of the locality and the place;

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(f) A statement that the applicant has not been previously registered, otherwise he shall be required to attach a sworn application for cancellation of his previous registration; and
(g) Such other information or data which may be required by the Commission.
The voter's affidavit shall also contain three specimens of the applicant's signature and clear and legible prints of his left and right hand thumbmarks and shall be sworn to and filed together with four copies of the latest identification photograph to be supplied by the applicant.
The oath of the applicant shall include a statement that he does not have any of the disqualifications of a voter and that he has not been previously registered in the precinct or in any other precinct.
Before the applicant accomplishes his voter's affidavit, the board of election inspectors shall appraise the applicant of the qualifications and disqualifications prescribed by law for a voter. It shall also see to it that the accomplished voter's affidavit contains all the data therein required and that the applicant's specimen signatures, the prints of his left and right hand thumbmarks and his photograph are properly affixed in each of the voter's affidavit.
x x x
SECTION 128. Voter's identification. - The identification card issued to the voter shall serve and be considered as a document for the identification of each registered voter: Provided, however, That if the voter's identity is challenged on election day and he cannot present his voter identification card, his identity may be established by the specimen signatures, the photograph or the fingerprints in his voter's affidavit in the book of voters. No extra or duplicate copy of the voter identification card shall be prepared and issued except upon authority of the Commission.
Each identification card shall bear the name and the address of the voter, his date of birth, sex, civil status, occupation, his photograph, thumbmark, the city or municipality and number of the polling place where he is registered, his signature, his voter serial number and the signature of the chairman of the board of election inspectors.
Any voter previously registered under the provisions of Presidential Decree Numbered 1896 who desires to secure a voter identification card shall, on any registration day, provide four copies of his latest identification photograph to the board of election inspectors which upon receipt thereof shall affix one copy thereof to the voter's affidavit in the book of voters, one copy to the voter identification card to be issued to the voter and transmit through the election registrar, one copy each to the provincial election supervisor and the Commission to be respectively attached to the voter's affidavit in their respective custody."

[11] Section 48, Chapter 5, Book VI of the Revised Administrative Code of 1987 provides: "SECTION 48. Cost Reduction. - Each head of a department, bureau, office or agency shall implement a cost reduction program for his department, bureau, office or agency for the purpose of reducing cost of operations and shall submit to the President reports on the results of the implementation thereof. The Department of Budget shall provide technical and other necessary assistance in the design and implementation of cost reduction activities. An incentive award not exceeding one month's salary may be granted to any official or employee whose suggestion for cost reduction has been adopted and shall have actually resulted in cost reduction, payable from the savings resulting therefrom.

Similarly, Section 54 of PD No. 1177 (Budget Reform Decree of 1977) provides: "SECTION 54. Cost Reduction. - Each head of department, bureau, office or agency shall implement a cost reduction program for his department, bureau, office or agency for the purpose of reducing cost of operations and shall submit to the President reports on the results of the implementation thereof. The Budget Commission shall provide technical and other necessary assistance in the design and implementation of cost reduction activities. An incentive award not exceeding one month's salary may be granted to any official or employee whose suggestion for cost reduction has been adopted and shall have actually resulted in cost reduction, payable from the savings resulting therefrom.

In addition, the annual General Appropriations Act contains similar provisions mandating cost reduction in all government offices.

Moreover, Section (a) of RA No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) also provides: "Commitment to public interest. - x x x All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues." (Emphasis supplied)

[12] Identity Cards, Privacy International,

http://www.privacy.org/pi/activities/idcard/idcard_faq.html.

[13] 381 U.S. 479 (1965).

[14] 489 U.S. 749 (1989).

[15] 429 U.S. 589 (1977).

[16] 428 U.S. 52 (1976).

[17] 505 U.S. 833 (1992).

[18] 354 Phil. 948 (1998).

[19] Section 1 of Administrative Order No. 308 dated 12 December 1996 states: "SEC 1. Establishment of a National Computerized Identification Reference System. - A decentralized Identification Reference System among the key basic services and social security providers is hereby established."

DISSENTING OPINION

YNARES-SANTIAGO, J.:

The ponencia dismissed the petitions and upheld the validity of Executive Order (E.O.) No. 420 ruling that E.O. No. 420 applies only to government agencies that issue ID cards as part of their functions; that E.O. No. 420 limits the data to be collected and recorded to only 14 specific items; that the issuance of E.O. No. 420 is well within the power of the President to promulgate.

With due respect, I do not agree with the ponente in saying that E.O. No. 420 is constitutional. On the contrary, E.O. No. 420 constitutes a usurpation of legislative functions by the executive branch of the government; infringes on the citizenry's right to privacy; and completely disregards and violates the decision of this Court in Ople v. Torres.[1]

Encroachment on the law making powers of the legislature:

The Constitution allocated constitutional authority to each of the three co-equal branches of the government to ensure political independence of each branch and provided sufficient checks and balances against the hazards of concentrated power in the hands of any one branch. Thus, the Constitution explicitly provides that the legislature shall be vested in the Congress, the executive power shall be vested in the President, and judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

The doctrine of separation of powers does not however, absolutely prohibit delegation of legislative authority.

The Constitution itself makes the delegation of legislative powers to the President.[2] Sections 23(2) and 28(2) of Article VI provide thus:

> Sec. 23(2): In times of war or other national emergency, the Congress may, by law, authorize the President, for a limited period and subject to such restrictions as it may prescribe, to exercise powers necessary and proper to carry out a declared national policy. Unless sooner withdrawn by resolution of the Congress, such powers shall cease upon the next adjournment thereof.
>
> Sec. 28(2): The Congress may, by law, authorize the President to fix within specified limits, and subject to such limitations and restrictions as it may impose, tariff rates, import and export quotas, tonnage and wharfage dues, and other duties or imposts within the framework of the national development program of the Government.

Respondents cite the Constitution, particularly Section 1, Article VII, as basis for the issuance of E.O. No. 420. The contention is untenable. Said provision merely declares that "the executive power shall be vested in the President of the Philippines." It is generally defined as the power to enforce and administer laws. It is the power of carrying the laws into practical operation and enforcing their due observance.[3] It does not in any way permit a delegation of legislative power. Likewise, respondents cannot validly cite Sections 23(2) and 28(2) of Article VI as above quoted since they refer to a delegation of certain powers which may be exercised only in times of war or other national emergency or the imposition of certain taxes or duties within the framework of the national development program of the government. Certainly, E.O. No. 420 does not fall in either category.

Respondents also claim that the Administrative Code of 1987 also empowers the President to issue executive orders[4] and vests upon her residual powers;[5] that the President has the inherent right to formulate rules which officials of the executive branch of government shall abide.

Indeed, the Administrative Code of 1987 delegates to the President certain ordinance powers in the form of presidential issuances, which include executive orders, administrative orders, proclamations, memorandum orders, memorandum circulars, and general and special orders. These issuances have the force and effect of laws. Executive Orders are acts of the President providing for rules of a general or permanent character in implementation or execution of constitutional or statutory powers.[6] Among the rules and regulations that may be issued by the President are those intended for the guidance of subordinate executive officials to promote a more efficient and cost effective administration of government department and agencies. To this genre of regulations E.O. No. 420 allegedly belongs.

The case of Walter E. Olsen & Co. v. Herstein[7] discusses at length executive orders, to wit:

> x x x Executive Order No. 41 is nothing more or less than a command from a superior to an inferior. It creates no relation except between the official who issues it and the official who receives it. Such orders, whether executive or departmental, have for their object simply the efficient and economical administration of the affairs of the department to which or in which they are issued in accordance with the law governing the subject matter. They are administrative in their nature and do not pass beyond the limits of the department to which they are directed or in which they are published, and, therefore, create no rights in third persons. They are based on, and are the product of, a relationship in which power is their source and obedience their object. (Emphasis added)

To be valid, an administrative issuance, such as an executive order, must comply with the following requisites:

> (1) Its promulgation must be authorized by the legislature;
>
> (2) It must be promulgated in accordance with the prescribed procedure;

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(3) It must be within the scope of the authority given by the legislature; and

(4) It must be reasonable.[8]

It cannot be argued that E.O. No. 420 is nothing more than the President's exercise of the power of control over the executive branch of the government. While it is true that the President wields executive and administrative powers and participate in rule making through delegated legislative authority, however, Congress cannot abdicate its legislative powers and delegate them, unless the Constitution and the law so grant. Notwithstanding, the avowal by the respondents that E.O. No. 420 is merely an internal regulation to promote efficiency in government operations and greater convenience for those transacting business with the government, the unrestricted and unrestrained impact of a unified multi-purpose ID system divests itself of the pretensions of an internal management issuance. As the term denotes, the multipurpose ID card system can be utilized in any and all conceivable situations involving government or even private transactions as the whereas clause so states. Unlike existing government ID cards which are designed for specific and official transactions, the multipurpose ID is devoid of such specificity. The scope of its usage is staggering and all encompassing. With its ubiquitous application, its legal and practical repercussions will not be confined solely to the corridors of the executive departments but will overflow even beyond. Thus, E.O. No. 420, while ostensibly an internal regulation, runs counter to the letter and spirit of the doctrine that an executive order is nothing more or less than a command from a superior to an inferior; that it creates no relation except between the official who issues it and the official who receives it.

Another statutory basis invoked by respondents to justify E.O. No. 420 is Sec. 20, Chapter 7, Title I, Book III of the Administrative Code of 1987 which states:

> Sec. 20. Residual Powers. - Unless Congress provides otherwise, the President shall exercise such other powers and functions vested in the President which are provided for under the laws and which are not specifically enumerated above or which are not delegated by the President in accordance with law.

However, the residual power contemplated above can operate only within the context of a pre-existing law. It cannot stand independent of a valid legislative act. Thus, the legal character of E.O. No. 420 is much unlike that of E.O. No. 132 as illustrated in Larin v. Executive Secretary[9] where the Court upheld the challenged order since there exists statutory basis that the President is authorized to effect organizational changes including the creation of offices in the department or agency concerned. Further ratiocinating on the legality of E.O. 132, the Court held:

> Another legal basis of E.O. No. 132 is Section 20, Book III of E.O. No. 292 which states:
>
> "Sec. 20. Residual Powers. - Unless Congress provides otherwise, the President shall exercise such other powers and functions vested in the President which are provided for under the laws and which are not specifically enumerated above or which are not delegated by the President in accordance with law." (italic ours)
>
> This provision speaks of such other powers vested in the President under the law. What law then gives him the power to reorganize? It is Presidential Decree No. 1772 which amended Presidential Decree No. 1416. These decrees expressly grant the President of the Philippines the continuing authority to reorganize the national government, which includes the power to group, consolidate bureaus and agencies, to abolish offices, to transfer functions, to create and classify functions, services and activities and to standardize salaries and materials. The validity of these two decrees are unquestionable. The 1987 Constitution clearly provides that "all laws, decrees, executive orders, proclamations, letters of instructions and other executive issuances not inconsistent with this Constitution shall remain operative until amended, repealed or revoked. So far, there is yet no law amending or repealing said decrees." [10]

Unlike the challenged order in Larin v. Executive Secretary, E.O. No. 420 is devoid of constitutional or statutory basis.

E.O. No. 420 vis-vis A.O. No. 308:

The case of Ople v. Torres[11] involves A.O. No. 308 which also provides for the adoption of a national computerized reference ID system to provide Filipino citizens and foreign residents with the facility to conveniently transact business with basic service and social security providers and other government instrumentalities.

In Ople v. Torres, the Court struck down A.O. No. 308 for being unconstitutional. The Court rejected the argument that A.O. No. 308 merely implements the Administrative Code of 1987 since it establishes for the first time a National Computerized Identification Reference System, which requires a delicate adjustment of various contending state policies - the primacy of national security, the extent of privacy interest against dossier gathering by government, and the choice of policies, among others. It was held that A.O. No. 308 involves a subject that is not appropriate to be covered by an administrative order.

The same is true with E.O. No. 420. Although couched differently, A.O. No. 308 and E.O. No. 420 are similar in their effects and intent.

A.O. No. 308 requires a concerted and collaborative effort among the various basic services and social security providing agencies and other government instrumentalities to achieve the national ID system, while E.O. No. 420 requires all government agencies and instrumentalities to institute a unified multipurpose ID system.

At the forefront of the implementation of both ID systems is the entire government machinery. The government as an institution is the most dominant fixture in any civilized society. Its decisions virtually affect every facet in the life of every citizen. With all government instrumentalities required to adopt the proposed ID system, its reach and extent becomes practically inescapable since, as in the words of Ople v. Torres, "no citizen will refuse to get this identification card for no one can avoid dealing with government. It is thus clear as daylight that without the ID, a citizen will have difficulty exercising his rights and enjoying his privileges."[12]

The proposed ID systems incorporate a reference number, denominated as the Population Reference Number in A.O. No. 308 and as a "common reference number" in E.O. No. 420. This reference number, together with other data requirements and information, shall then be collected and stored in a centralized computer database, which is sought to establish a government-wide linkage among concerned agencies, or to reduce the cost for the maintenance of redundant database containing the same or related information. Like A.O. No. 308, the collated and stored data under E.O. No. 420 will be made readily accessible to any government agency or instrumentality which makes a request. The State is afforded an unbridled authority to retrieve or utilize stored data for whatever purpose it deems necessary. Although E.O. No. 420 spells out the general intent of the proposed ID system, which is to establish the identity of the person, it is difficult to decipher a more specific reason for its adoption. After all, an ID card, whatever form or design it takes, is essentially a tool for identification. The equivocal and vague objective of the proposed ID system is an invitation not only to its proper use but also to its misuse and abuse.

Even the safeguards delineated in E.O. No. 420 will not cure its fatal infirmities. Other than the motherhood assurances of confidentiality, or that the data stored will be used solely for establishing the identity of a person, or the proscription against violation of the right to privacy, there are no clear, specific and categorical guarantees that would dispel trepidations and suspicions of mistreatment and abuse. We can only repeat the apprehensions resoundingly expressed in Ople v. Torres:

> We can even grant, arguendo, that the computer data file will be limited to the name, address and other basic

> personal information about the individual. Even that hospitable assumption will not save A.O. No. 308 from constitutional infirmity for again said order does not tell us in clear and categorical terms how these information gathered shall be handled. It does not provide who shall control and access the data, under what circumstances and for what purpose. These factors are essential to safeguard the privacy and guaranty the integrity of the information. Well to note, the computer linkage gives other government agencies access to the information. Yet, there are no controls to guard against leakage of information. When the access code of the control programs of the particular computer system is broken, an intruder, without fear of sanction or penalty, can make use of the data for whatever purpose, or worse, manipulate the data stored within the system.[13]

Prescinding from the above reasoning, the identification of the 14 items to be collected under E.O. No. 420 does not divest it of its illegality. It does not narrow down its application in the absence of well-defined parameters for its application.

Right to Privacy:

The right to privacy is the inalienable right of an individual to be let alone. As a legal precept, the privacy of an individual takes its bearing from common law which recognized a man's house as his castle, impregnable, often, even to its own officers engaged in the execution of its commands. Although the great preponderance of American judicial authority have recognized the existence of the right of privacy, it was the publication in 1890 of Harvard Law Review[14] article entitled "The Right to Privacy" by Warren and Brandeis (later Justice Brandeis) which crystallized the right as an independent legal right and opened the doors for a more systematic formulation of the distinctive principles upon which it is based. That article synthesized at one stroke a whole new category of legal rights and initiated a new field of jurisprudence.[15]

The U.S. Constitution does not explicitly express the right to privacy, yet the U.S. Supreme Court has repeatedly recognized, albeit implicitly, such a right in its efforts to preserve the individual's control over his personal image. The U.S. Supreme Court, in 1965, recognized that privacy is within the legal penumbra of the Bill of Rights, particularly in the First, Third, Fourth, Fifth and Ninth Amendments.[16]

In Griswold v. Connecticut,[17] the U.S. Supreme Court laid down the constitutional foundations of the right to privacy. The Court recognized the need to protect basic constitutional rights and applied the same against the states under the Due Process Clause, mandating a stricter scrutiny for laws that interfere with "fundamental personal rights" than for those regulating economic relations. One such fundamental personal right, the right to privacy, was deemed to have penumbras, formed by emanations from those guarantees that help give life and substance reasoning that the First, Third, Fourth, Fifth and Ninth Amendments of the American Constitution imply "zones of privacy" that form the basis for the general privacy right affirmed in Griswold v. Connecticut.

The U.S. Supreme Court is yet to fully expand the right to privacy to the level of an independent doctrine covering personal information, although the Federal High Court implicitly acknowledged the existence of the right to information in Whalen v. Roe.[18] In that case, the State of New York passed a law requiring physicians to identify patients obtaining prescription drugs enumerated in the Controlled Substance Act of 1972, drugs with medical application but with potential for abuse. The names and addresses of the patients were required to be recorded in a centralized computer file of New York State's Department of Health. The issue presented before the U.S. Supreme Court was whether the State of New York could keep a centralized computer record of the names and addresses of all persons who obtained certain drugs pursuant to a doctor's prescription.

The U.S. Supreme Court upheld the constitutionality of the above statute since it complied with certain safeguards to the right to privacy, namely: 1) while a person's interest in avoiding disclosure of personal matters is an aspect of the right to privacy, the law did not give a grievous threat to establish a constitutional violation; 2) the statute was necessary to assist in the enforcement of the law designed to minimize the misuse of dangerous drugs; 3) the

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patient-identification requirement was a product of an orderly and rational legislative decision made upon recommendation by a commission, which held hearings on this matter; 4) the law was narrowly drawn and contained several safeguards against indiscriminate disclosure; 5) the law laid down the procedure for the gathering, storage, and retrieval of the information; 6) it enumerated who were authorized to access the data; and 7) it prohibited public disclosure of the data by imposing penalties for its violation.

In a related case, Justice Department v. Reporters Committee for Freedom of the Press,[19] dealt with a request for "rap sheets" compiled by the FBI. The information was gathered from public records across the country and stored in a computer database. In that case, the U.S. Supreme Court upheld withholding the information and articulated a "practical obscurity" doctrine (a judicial acceptance of "forgive and forget") in which the Court assumed that computers exacerbate the threat to personal privacy by eliminating the natural elements of time and distance among "scattered bits of information" that once afforded individuals the ability to distance themselves from past mistakes and start their lives anew. It further concluded that compilations of personal information taken from generally accessible public records enjoyed a rejuvenated privacy interest when stored in government computers and that disclosure of certain categories of public information held in computers always constituted an undue privacy threat and could routinely be deemed an unwarranted privacy threat and be withheld without a case-by-case analysis. Exemptions 6 & 7 of the Freedom of Information Act (FOIA) had been interpreted by courts as requiring a balancing of competing interests, whereby the courts considered the privacy interests at stake against the public benefit from disclosure. The Court held a seemingly narrow view of the public interest served by disclosure, focusing only on information that had an obvious bearing on the agency's performance of its statutory duties. In other words, although the government collects vast amounts of information on virtually every facet of society, the public is entitled to have access only to information pertaining to governmental functions.

Philippine jurisprudence on the right to privacy, not to mention informational privacy, is at its infancy. There are very few occasions that Philippine courts are given the opportunity to resolve and expound on issues relating to the right to privacy as a constitutional guarantee. One reason given by Justice Jorge R. Coquia, in his treatise[20] on the matter is that the Philippine Constitution expressly guarantees only the privacy of communication and jurisprudence.[21]

With the exception of Ople v. Torres, the more notable case is Morfe v. Mutuc[22] where the Court first recognized the constitutional right to privacy as laid down in Griswold v. Connecticut. The case of Ramirez v. Court of Appeals[23] arose from petitioner's act of secretly tape recording an event in direct violation of Republic Act (R.A.) No. 4200 or the Anti-Wiretapping Act. Therein, the court clarified that even a person privy to a communication who records his private conversation with another without the knowledge of the latter will qualify as a violator under Section 1 of R.A. No. 4200.

The basic attribute of an effective right to informational privacy is the individual's ability to control the flow of information concerning or describing him, which however must be overbalanced by legitimate public concerns. To deprive an individual of his power to control or determine whom to share information of his personal details would deny him of his right to his own personhood. For the essence of the constitutional right to informational privacy goes to the very heart of a person's individuality, a sphere as exclusive and as personal to an individual which the state has no right to intrude without any legitimate public concern.

As the erosion of personal privacy by computer technology and advanced information systems accelerate, the individual's ability to control its use has diminished. Sharing of data among government agencies and private and public organizations are not uncommon. Aside from the chilling prospect that one's profile is being formed from the gathering of data from various sources, there is also the unsettling thought that these data may be inaccurate, outdated or worse, misused. There is therefore a pressing need to define the parameters on the use of electronic

files or information, to be properly initiated by a legislative act and not formulated in a mere executive order masquerading as an internal regulation, as in the case of E.O. No. 420.

Even granting that E.O. No. 420 constitutes a valid exercise of executive power, it must still be struck down because it falls short of the guarantees laid down in Whalen v. Roe and Ople v. Torres. There is no specific and foolproof provision against the invasion of the right to privacy, particularly, those dealing with indiscriminate disclosure, the procedure for the gathering, storage, and retrieval of the information, an enumeration of the persons who may be authorized to access the data; and the sanctions to be imposed against unauthorized use and disclosure. Although it was mentioned in Section 3 of E.O. No. 420 that the data to be collected will be limited to the enumeration therein, yet it failed to provide the yardstick on how to handle the subsequent and additional data that will be accumulated when the ID is used for future governmental and private transactions.

Thus, we reiterate the caveat enunciated in Ople v. Torres that "the right to privacy does not bar all incursions into individual privacy. The right is not intended to stifle scientific and technological advancements that enhance public service and the common good. It merely requires that the law be narrowly focused and a compelling interest justifies such intrusions. Intrusions into the right must be accompanied by proper safeguards and well-defined standards to prevent unconstitutional invasions. We reiterate that any law or order that invades individual privacy will be subjected by this Court to strict scrutiny."[24]

In fine, E.O. No. 420 is unconstitutional for lack of constitutional and statutory basis; its subject matter is not appropriate subject of an executive order; and it violates the constitutionally guaranteed right to privacy.
ACCORDINGLY, I vote to GRANT the petitions.

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[1] 354 Phil. 948 (1998).

[2] Agpalo, Ruben E., Philippine Administrative Law, 2004 Edition, p. 149.

[3] Ople v. Torres, supra note 1 at 967.

[4] Section 2, Chapter 2, Title I, Book III, Administrative Code of 1987.

[5] Section 20, Chapter 7, Id.

[6] Id. at 150.

[7] 32 Phil. 520, 532 (1915).

[8] Hon. Executive Secretary v. Southwing Heavy Industries, Inc., G.R. Nos. 164171, 164172 & 168741, February 20, 2006.

[9] 345 Phil. 962 (1997).

[10] Id. at 979.

[11] Supra note 1.

[12] Id. at 969.

[13] Id. at 978.

[14] 4 Harv. Law Rev. 193 (1890).

[15] 62A Am Jur 2d, 635 § 3.

[16] Griswold v. Connecticut, 381 U.S. 479, 14 L Ed. 2d 510 (1965).

[17] Id.

[18] 429 U.S. 589, 51 L Ed. 2d 64 (1977).

[19] 489 U.S. 749, 109 S. Ct. 1468, 103 L. Ed. 2d 774 (1989).

[20] Annotation: The National Computerized Identification Reference System as Violation of the Right to Privacy, 293 SCRA 201, 215.

[21] CONSTITUTION, Art. III, Sec. 3(1).

[22] 130 Phil. 415 (1968).

[23] G.R. No. 93833, September 28, 1995, 248 SCRA 590.

[24] Supra note 1 at 985.

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