

COUNCIL OF TEACHERS AND STAFF OF COLLEGES AND UNIVERSITIES OF THE PHILIPPINES (CoTeSCUP), SENTRO NG MGA NAGKAKAISANG PROGRESIBONG MGA MANGGAGAWA (SENTRO), FEDERATION OF FREE WOR...

G.R. No. 216930. October 09, 2018

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CAGUIOA, J:

Doon sa ang trona'y ginawa ng dunong, bagong kabataa'y sadyang umuusbong, mga kamalia'y kanyang natutunton, at dangal ng diwa ang pinayayabong; ang liig ng bisyo'y kanyang napuputol; sala'y namumutla kung nasasalubong; sinusupil niya ang bansang ulupong, at hangal mang tao'y kanyang inaampon.

- Jose Rizal[1]

Before the Court are consolidated petitions under Rule 65, assailing the constitutionality of Republic Act (RA) No. 10533[2] (K to 12 Law), RA No. 10157[3] (Kindergarten Education Act), and related issuances of the Department of Education (DepEd), Commission on Higher Education (CHED), Department of Labor and Employment (DOLE) and Technical Education and Skills Development Authority (TESDA) implementing the K to 12 Basic Education Program.

History of the Philippines' Basic Education System

On January 21, 1901, the Philippine Commission created the Department of Public Instruction[4] through Act No. 74[5]. All schools established under the auspices of the Military Government were made under the control of the officers of the Department of Public Instruction[6] and as early as this law, the primary education established through it was considered free.[7] Act No. 74 also made English language as the basis of all public school instruction[8] and allowed optional religious instruction in all schools.[9]

On March 10, 1917, Act No. 2706[10] was passed mandating the recognition and inspection of private schools and colleges by the Secretary of Public Instruction in order to maintain a general standard of efficiency in all private schools and colleges.[11] The authority of the Secretary over private schools and colleges was later on expanded under Commonwealth Act (CA) No. 180[12]. The Secretary was vested with the power "to supervise, inspect and regulate said schools and colleges in order to determine the efficiency of instruction given in the same." [13]

The concept of free public primary instruction was also enshrined in the 1935 Philippine Constitution. Specifically, the State's interest in a complete and adequate system of public education was stated in Section 5, Article XIV:

SEC. 5. All educational institutions shall be under the supervision of and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the

duties of citizenship. Optional religious instruction shall be maintained in the public schools as now authorized by law. Universities established by the State shall enjoy academic freedom. The State shall create scholarships in arts, science, and letters for specially gifted citizens. (Emphasis supplied)

On August 7, 1940, CA No. 586,[14] otherwise known as the Educational Act of 1940, was enacted to comply with the constitutional mandate on free public primary education. This resulted in the revision of the public elementary system,[15] which had the following objectives:

x x x (a) to simplify, shorten, and render more practical and economical both the primary and intermediate courses of instruction so as to place the same within the reach of the largest possible number of school children; (b) to afford every child of school age adequate facilities to commence and complete at least the primary course of instruction; (c) to give every child completing the primary course an adequate working knowledge of reading and writing, the fundamentals of arithmetic, geography, Philippine history and government, and character and civic training; and (d) to insure that all children attending the elementary schools shall remain literate and become useful, upright and patriotic citizens.[16]

To give effect to the foregoing objectives, the Department of Public Instructions was authorized to revise the elementary school curriculum, to be approved by the President, and adjust the academic school calendar to coincide with the working season in the Philippines.[17] In addition, Section 4 set standards for the age of admission to public elementary schools and the minimum length of time for the completion of primary and intermediate courses, to wit:

SEC. 4. With the approval of the President of the Philippines, the required age for admission to the public elementary schools may be raised to not more than nine years and the length of time required for the completion of the elementary instruction comprising both the primary and intermediate courses reduced to not less than five years. Any increase that may be approved in accordance with this section regarding the minimum age of school children shall not affect those already enrolled before the school year 1940-1941.

The law also made compulsory the attendance and completion of elementary education, except when the child was mentally or physically incapable of attending school or when it was inconvenient to do so considering the means of transportation available or on account of economic condition of the parents the child could not afford to continue in school.[18] The parents or guardians or those having control of children therein required to attend school without justification were liable to a fine of not less than twenty nor more than fifty pesos.[19]

In 1947, Executive Order (EO) No. 94[20] was issued renaming the Department of Instructions to the Department of Education.

In 1953, RA No. 896[21] or the Elementary Education Act of 1953 was passed, again revising the elementary school system and instituting a primary course composed of Grades I to IV, and an intermediate course composed of Grades V to VII, thus:

SEC. 3. To put into effect the educational policy established by this Act, the Department of Education is hereby authorized to revise the elementary-school system on the following basis: The primary course shall be composed of four grades (Grades I to IV) and the intermediate course of three grades (Grade V to VII). Pupils who are in the sixth grade of the time this Act goes into effect will not be required to complete the seventh grade before being eligible to enroll in the first year of the secondary school: Provided, That they shall be allowed to elect to enroll in Grade VII if they so desire.

This law also made the enrollment and completion of elementary education mandatory.[22] Every parent or guardian or other person having custody of any child was required to enroll such child in a public school upon attaining seven years of age except when: (1) the child enrolled in or transferred in a private school, (2) the distance from the home of the child to the nearest public school exceeded three kilometers or the said public

school was not safely or conveniently accessible, (3) on account of indigence, the child could not afford to be in school, (4) child could not be accommodated because of excess enrollment, and (5) child was being homeschooled, under the conditions prescribed by the Secretary of Education.[23]

The revision of the elementary school system was guided by the policy stated in Section 5, Article XIV of the 1935 Philippine Constitution and with the consideration that it was "the main function of the elementary school to develop healthy citizens of good moral character, equipped with the knowledge, habits, and ideals needed for a happy and useful home and community life." [24]

In 1972, the Department of Education was again renamed to Department of Education and Culture, through Proclamation No. 1081; [25] and was later on converted to Ministry of Education and Culture in 1978. [26]

The 1973 Philippine Constitution maintained the State's interest in a free public elementary education. This concept of free education was, however, expanded to the secondary level, if the finances of the State permitted it, thus:

Article XV

SEC. 8. (1) All educational institutions shall be under the supervision of, and subject to regulation by, the State. The State shall establish and maintain a complete, adequate, and integrated system of education relevant to the goals of national development.

x x x x

(5) The State shall maintain a system of free public elementary education and, in areas where finances permit, establish and maintain a system of free public education at least up to the secondary level. (Emphasis supplied)

Legislations under the 1973 Philippine Constitution implemented the foregoing policies. In Batas Pambansa (BP) Blg. 232, [27] or the Education Act of 1982, it was declared as a policy of the State "to establish and maintain a complete, adequate and integrated system of education relevant to the goals of national development." [28] And under BP Blg. 232, "Formal Education" was defined as the hierarchically structured and chronologically graded learnings organized and provided by the formal school system and for which certification was required in order for the learner to progress through the grades or move to higher levels." [29] It corresponded to (1) elementary education, which was primarily concerned with providing basic education and usually corresponds to six or seven years, including the preschool programs; [30] and (2) secondary education as "the state of formal education following the elementary level concerned primarily with continuing basic education and expanding it to include the learning of employable gainful skills, usually corresponding to four years of high school." [31] This law also created the Ministry of Education, Culture and Sports, [32] which later on became the Department of Education Culture and Sports by virtue of EO No. 117. [33]

As shown above, both the 1935 and 1973 Philippine Constitution did not state that education at any level was compulsory. This changed in the 1987 Philippine Constitution, which made elementary education mandatory, thus:

Article XIV

SEC. 1. The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

SEC. 2. The State shall:

x x x x

(2) Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school age[.] (Emphasis supplied)

Subsequent legislations implemented the policies stated in the 1987 Philippine Constitution. Thus, secondary education was provided for free in RA No. 6655,[34] otherwise known as the Free Public Secondary Education Act of 1988. Under RA No. 6655, students in public high schools were free from payment of tuition and other school fees.[35] And in response to the mandate of the Constitution to promote and make quality education accessible to all Filipino citizens, RA No. 6728,[36] otherwise known as Government Assistance To Students and Teachers In Private Education Act, was enacted in 1989 where the voucher system under the Private Education Student Financial Assistance Program (PESFA)[37] was implemented as follows:

SEC. 5. Tuition Fee Supplement for Student in Private High School. — (1) Financial assistance for tuition for students in private high schools shall be provided by the government through a voucher system in the following manner:

(a)

For students enrolled in schools charging less than one thousand five hundred pesos (P1,500) per year in tuition and other fees during school year 1988-1989 or such amount in subsequent years as may be determined from time to time by the State Assistance Council: The Government shall provide them with a voucher equal to two hundred ninety pesos (P290.00): Provided, That the student pays in the 1989-1990 school year, tuition and other fees equal to the tuition and other fees paid during the preceding academic year: Provided, further, That the Government shall reimburse the vouchers from the schools concerned within sixty (60) days from the close of the registration period: Provided, furthermore, That the student's family resides in the same city or province in which the high school is located unless the student has been enrolled in that school during the previous academic year.

(b)

For students enrolled in schools charging above one thousand five hundred pesos (P1,500) per year in tuition and other fees during the school year 1988-1989 or such amount in subsequent years as may be determined from time to time by the State Assistance Council, no assistance for tuition fees shall be granted by the Government: Provided, however, That the schools concerned may raise their tuition fees subject to Section 10 hereof.

(2) Assistance under paragraph (1), subparagraphs (a) and (b) shall be granted and tuition fees under subparagraph (c) may be increased, on the condition that seventy percent (70%) of the amount subsidized allotted for tuition fee or of the tuition fee increases shall go to the payment of salaries, wages, allowances and other benefits of teaching and non-teaching personnel except administrators who are principal stockholders of the school, and may be used to cover increases as provided for in the collective bargaining agreements existing or in force at the time when this Act is approved and made effective: Provided, That government subsidies are not used directly for salaries of teachers of non-secular subjects. At least twenty percent (20%) shall go to the improvement or modernization of buildings, equipment, libraries, laboratories, gymnasias and similar facilities and to the payment of other costs of operation. For this purpose, school shall maintain a separate record of accounts for all assistance received from the government, any tuition fee increase, and the detailed disposition and use thereof, which record shall be made available for periodic inspection as may be determined by the State Assistance Council, during business hours, by the faculty, the non-teaching personnel, students of the school concerned, the Department of Education, Culture and Sports and other concerned government agencies.

The voucher system was expanded in RA No. 8545,[38] or the Expanded Government Assistance to Students and

Teachers in Private Education Act, as follows:

SEC. 5. Tuition Fee Supplements for Students in Private High Schools.— (1) Financial Assistance for tuition for students in private high schools shall be provided by the government through a voucher system in the following manner:

(a) For students enrolled in schools charging an amount as may be determined by the State Assistance Council, the government shall provide them with a voucher in such an amount as may be determined by the council: Provided, That the government shall reimburse the vouchers from the schools concerned within one hundred twenty (120) days from the close of the registration period.

(2) Assistance under paragraph (1), subparagraph (a) shall be guaranteed to all private high schools participating in the program for a number of slots as of the effectivity of this Act as the total number of students who availed of tuition fee supplements for school year 1997-1998: Provided, That the State Assistance Council may in subsequent years determine additional slots and/or additional participating high schools as may be deemed necessary.

In the same law, elementary and secondary education were redefined. Elementary education was the first six (6) years of basic education, excluding pre-school and grade seven;^[39] while secondary education was the next four (4) years after completion of basic education.^[40]

In 2001, RA No. 8980^[41] or the Early Childhood Care and Development (ECCD) Act was implemented. This law established a national ECCD system which "refers to the full range of health, nutrition, early education and social services programs that provide for the basic holistic needs of young children from birth to age six (6), to promote their optimum growth and development."^[42] These programs include, among others, optional center-based and home-based early childhood education.^[43]

In the same year, RA No. 9155^[44] or the Governance of Basic Education Act of 2001 was enacted. Section 2 thereof declared it as a State policy "to protect and promote the right of all citizens to quality basic education and to make such education accessible to all by providing all Filipino children a free and compulsory education in the elementary level and free education in the high school level."^[45] Basic education was defined in this law as "the education intended to meet basic learning needs which lays the foundation on which subsequent learning can be based. It encompasses early childhood, elementary and high school education as well as alternative learning systems for out-of-school youth and adult learners and includes education for those with special needs."^[46] It was also in this law where the then Department of Education Culture and Sports was renamed the DepEd.^[47]

Education for All 2015 and the Kindergarten Education Act

In 2000, at the World Education Forum in Dakar, Senegal, one hundred sixty four (164) governments, including the Philippines, pledged to achieve, by 2015, the following six (6) Education for All (EFA) goals: (1) expansion and improvement of early childhood care and education; (2) universal access to complete free and compulsory primary education of good quality; (3) equitable access to appropriate learning and life skills program for youth and adult; (4) improvement of levels of adult literacy, especially for women; (5) gender parity and equality in education; and (6) improvement of all aspects of the quality of education and ensuring their excellence.^[48]

In consonance with the country's agreement to achieve these goals, the DepEd, in 2002, undertook the preparation of the Philippine EFA 2015 Plan of Action, in collaboration with various stakeholders at the national and field levels, including relevant government agencies and civil society groups.^[49] The primary goal of the Philippine EFA 2015 Plan of Action, which the government officially adopted in 2006,^[50] is to provide "basic competencies for all that will bring about functional literacy."^[51] The Philippine EFA 2015 Plan of Action translated the six (6) Dakar goals into four (4) objectives and nine (9) critical tasks, to wit:

Universal Goals and Objectives of Philippine EFA 2015

- Universal Coverage of out of school youth and adults in providing learning needs;
- Universal school participation and total elimination of dropouts and repeaters in grades 1-3;
- Universal completion of the full basic education cycle with satisfactory annual achievement levels; and
- Total community commitment to attain basic education competencies for all.

Nine Urgent and Critical Tasks

- Make every school continuously improve its performance.
- Expand early childhood care and development coverage to yield more EFA benefits.
- Transform existing non-formal and informal learning options into a truly viable alternative learning system yielding more EFA benefits;
- Get all teachers to continuously improve their teaching practices.
- Increase the cycle of schooling to reach 12 years of formal basic education.
- Continue enrichment of curriculum development in the context of pillars of new functional literacy;
- Provide adequate and stable public funding for country-wide attainment of EFA goals;
- Create network of community-based groups for local attainment of EFA goals; Monitor progress in effort towards attainment of EFA goals.[52]

On January 20, 2012, the Philippine Congress took a pivotal step towards the realization of the country's EFA goals with the enactment of the Kindergarten Education Act. Section 2 thereof declared it the policy of the State "to provide equal opportunities for all children to avail of accessible mandatory and compulsory kindergarten education that effectively promotes physical, social, intellectual, emotional and skills stimulation and values formation to sufficiently prepare them for formal elementary schooling" and "to make education learner-oriented and responsive to the needs, cognitive and cultural capacity, the circumstances and diversity of learners, schools and communities through the appropriate languages of teaching and learning."

The Kindergarten Education Act institutionalized kindergarten education, which is one (1) year of preparatory education for children at least five years old,[53] as part of basic education, and is made mandatory and compulsory for entrance to Grade 1.[54] It also mandated the use of the learner's mother tongue, or the language first learned by a child,[55] as the primary medium of instruction in the kindergarten level in public schools, except for the following cases wherein the primary medium of instruction would be determined by the DepEd:

- When the pupils in the kindergarten classroom have different mother tongues or when some of them speak another mother tongue;
- When the teacher does not speak the mother tongue of the learners;
- When resources, in line with the use of the mother tongue, are not yet available; and
- When teachers are not yet trained how to use the Mother Tongue- Based Multilingual Education (MTB-MLE) program.[56]

On April 17, 2012, DepEd, in consultation with the Department of Budget and Management, issued DepEd Order (DO) No. 32,[57] the Kindergarten Education Act's implementing rules and regulations. DO No. 32 provides that

the Kindergarten Education General Curriculum (KEGC) shall focus on the child's total development according to his/her individual needs and socio-cultural background. The KEGC shall be executed in a play-based manner and shall address the unique needs of diverse learners, including gifted children, children with disabilities, and children belonging to indigenous groups.[58]

The K to 12 Law and related issuances.

Before the enactment of the K to 12 Law, the Philippines was the only country in Asia and among the three remaining countries in the world that had a 10-year basic education program.[59] The expansion of the basic education program, however, is an old proposal dating to 1925. The studies are as follows: (a) the Monroe Survey (1925) stated that secondary education did not prepare for life and recommended training in agriculture, commerce, and industry; (b) the Prosser Survey (1930) recommended to improve phases of vocational education such as 7[th] grade shopwork, provincial schools, practical arts training in the regular high schools, home economics, placement work, gardening, and agricultural education; (c) the UNESCO Mission Survey (1949) recommended the restoration of Grade 7; (d) the Education Act of 1953 mandated that the primary course be composed of four grades (Grades I to IV) and the intermediate course of three grades (Grade V to VII); (e) the Swanson Survey (1960) recommended the restoration of Grade 7; (f) Presidential Commission to Survey Philippine Education (PCSPE) (1970) gave high priority to the implementation of an 11-year program, consisting of six years of compulsory elementary education and five years of secondary education; (g) Congressional Commission on Education (EDCOM) Report (1991), recommended that if one year was to be added, it might either be seven years of elementary education or five years of secondary education; (h) Presidential Commission on Educational Reforms (2000) proposed to include the establishment of a one-year pre-baccalaureate system that would also bring the Philippines at par with other countries; and (i) Presidential Task Force on Education (2008) emphasized that in a 12-year pre-university program, it was important "to specify the content of the 11[th] and the 12[th] years and benchmark these with programs abroad." [60]

Despite these proposals, the 10-year basic education cycle remained in force. Thus, prior to the enactment of the K to 12 Law, the Philippines, joined only by Djibouti and Angola, were the only countries in the world with a 10-year basic education system.[61]

To be at par with international standards and in line with the country's commitment in EFA 2015, the Philippine Congress, on May 15, 2013, passed the K to 12 Law, which took effect on June 8, 2013. The K to 12 Law seeks to achieve, among others, the following objectives: (1) decongest the curriculum; (2) prepare the students for higher education; (3) prepare the students for the labor market; and (4) comply with global standards.[62]

One of the salient features of the K to 12 Law is the expansion of basic education from ten (10) years to thirteen (13) years, encompassing "at least one (1) year of kindergarten education, six (6) years of elementary education, and six (6) years of secondary education x x x. Secondary education includes four (4) years of junior high school and two (2) years of senior high school education." [63]

The K to 12 Law also adopts the following key changes in the Basic Education Curriculum (BEC): (1) Mother Tongue (MT) will be used as a primary medium of instruction from Kindergarten to Grade 3 and an additional learning area in Grades 1 to 3; [64] (2) the time allotted per learning area in elementary will generally be reduced to allow off-school learning experiences at home or in the community; while the time allotment in secondary level will generally increase in view of the additional two (2) years in Senior High School; [65] (3) the spiral progression approach will be used in Science, Mathematics, Araling Panlipunan, MAPEH and Edukasyon sa Pagpapakatao, wherein the learning process is built upon previously learned knowledge for students to master their desired competencies by revisiting the subject several times and relating new knowledge or skills with the

previous one;[66] and (4) specialization courses will be offered to prepare students for employment or engage in profitable enterprise after high school.[67]

Apart from mastering core subjects, the additional two (2) years of Senior High School will allow students to choose among academic, technical-vocational, or sports and arts, as specialization, based on aptitude, interest and school capacity.[68] Hence, graduates of Senior High School under the K to 12 BEC are envisioned to already be prepared for employment, entrepreneurship, or middle-level skills development should they opt not to pursue college education.[69]

Furthermore, the K to 12 Law extends the benefits provided under RA No. 8545 to qualified students.[70] DepEd is mandated to engage the services of private education institutions and non-DepEd schools offering Senior High School through the programs under RA No. 8545 and other financial arrangements based on the principle of public-private partnership.

The K to 12 Law also imposes upon the DepEd, CHED, and TESDA, the task to promulgate the implementing rules and regulations, which shall provide, among others, appropriate strategies and mechanisms to ensure the smooth transition from the existing 10-year basic education cycle to the K to 12 cycle addressing issues such as multi-year low enrollment and displacement of faculty of Higher Education Institutions (HEIs) and Technical Vocational Institutions (TVIs).[71]

DepEd is likewise mandated to coordinate with TESDA and CHED in designing the enhanced BEC to ensure college readiness and avoid remedial and duplication of basic education subjects;[72] and to consult other national government agencies and other stakeholders in developing the K to 12 BEC, which shall adhere to the following standards:

(a)

The curriculum shall be learner-centered, inclusive and developmentally appropriate;

(b)

The curriculum shall be relevant, responsive and research-based;

(c)

The curriculum shall be culture-sensitive;

(d)

The curriculum shall be contextualized and global;

(e)

The curriculum shall use pedagogical approaches that are constructivist, inquiry-based, reflective, collaborative and integrative;

(f)

The curriculum shall adhere to the principles and framework of Mother Tongue-Based Multilingual Education (MTB-MLE) which starts from where the learners are and from what they already knew proceeding from the known to the unknown; instructional materials and capable teachers to implement the MTB-MLE curriculum shall be available;

(g)

The curriculum shall use the spiral progression approach to ensure mastery of knowledge and skills after each level; and

(h)

The curriculum shall be flexible enough to enable and allow schools to localize, indigenize and enhance the same based on their respective educational and social contexts. The production and development of locally produced teaching materials shall be encouraged and approval of these materials shall devolve to the regional and division education units.[73]

On September 4, 2013, the K to 12 implementing rules and regulation (K to 12 IRR) were issued.[74] Rule VI of the K to 12 IRR covers the implementation of RA No. 8545 for qualified students enrolled in senior high school. The programs of assistance are available primarily to students who complete junior high school in public schools and taking into consideration other factors such as income background and financial needs of the students.[75] The forms of assistance that the DepEd may provide include a voucher system, "where government issues a coupon directly to students to enable them to enroll in eligible private education institutions or non-DepEd public schools of their choice under a full or partial tuition or schooling subsidy".[76]

Further, Section 31 of the K to 12 IRR confers upon the DepEd, in collaboration with the DOLE, CHED and TESDA, the duty to promulgate the appropriate joint administrative issuance to ensure the sustainability of the private and public educational institutions, and the promotion and protection of the rights, interests and welfare of teaching and non-teaching personnel. For this purpose, the DOLE was tasked to convene a technical panel with representatives from the DepEd, CHED, TESDA and representatives from both teaching and non-teaching personnel organizations, and administrators of educational institutions.[77]

In compliance with the foregoing mandate, DOLE organized three area-wide tripartite education fora on K to 12 in Luzon, Visayas and Mindanao. DOLE also conducted regional consultations with HEIs, teaching and non-teaching personnel.[78]

As a result of the tripartite consultations, DOLE, DepEd, TESDA and CHED issued on May 30, 2014 the Joint Guidelines on the Implementation of the Labor and Management Component of Republic Act No. 10533 (Joint Guidelines). The Joint Guidelines was issued to (a) ensure the sustainability of private and public educational institutions; (b) protect the rights, interests, and welfare of teaching and non-teaching personnel; and (c) optimize employment retention or prevent, to the extent possible, displacement of faculty and non-academic personnel in private and public HEIs during the transition from the existing 10 years basic education cycle to the enhanced K to 12 basic education.[79]

To achieve these goals, the Joint Guidelines provides that the following, in the exercise of management prerogative, shall be observed:

- ensure the participation of workers in decision and policy-making processes affecting their rights, duties, and welfare;
- the DepEd and private educational institutions may hire, as may be relevant to the particular subject, graduates of science, mathematics, statistics, engineering, music and other degree courses needed to teach in their specialized subjects in elementary and secondary education, provided they passed the Licensure Examination for Teachers;
- graduates of technical-vocational courses may teach in their specialized subjects in secondary education, provided that they possess the necessary certification from TESDA and undergo in-service training;
- the DepEd and private educational institutions may hire practitioners, with expertise in the specialized learning areas, to teach in the secondary level, provided that they teach on part-time basis only;
- faculty of HEIs offering secondary education shall be given priority in hiring, provided said faculty is a holder of a relevant Bachelor's degree and must have satisfactorily served as a full time HEI faculty;
- if it is impossible for the affected HEI faculty members and academic support personnel to be placed within the institution, they shall be prioritized in hiring in other private and public senior high schools (SHS);
- faculty of HEIs may be allowed to teach in their general education or subject specialties in secondary education, provided said faculty is a holder of a relevant Bachelor's degree and must have satisfactorily served as a full time HEI faculty;
- without prejudice to existing collective bargaining agreements or institutional policies, HEI faculty and non-teaching personnel who may not be considered may avail of the retrenchment program pursuant to the provisions of the Labor Code; and
- in educational institutions where there is no collective agreement or organized labor union, management may adopt policies in consultation with faculty or non-academic clubs or associations in the school consistent and in accordance with the aforementioned criteria.[80]

K to 12 Program Implementation and CHED Memorandum Order (CMO) No. 20, Series of 2013

The K to 12 basic education was implemented in parts. Universal kindergarten was offered starting School Year (SY) 2011-2012.[81] In 2012, DepEd started unclogging the BEC to conform to the K to 12 Curriculum. Thus, DO No. 31 was issued setting forth policy guidelines in the implementation of the Grades 1 to 10 of the K to 12 Curriculum. DO No. 31 provides that effective SY 2012-2013, the new K to 12 BEC, which follows a spiral approach across subjects and uses the mother tongue as a medium of instruction from Grades 1 to 3, shall be first implemented in Grades 1 and 7 of all public elementary and secondary schools; and while private schools are enjoined to do the same, they may further enhance the curriculum to suit their school's vision/mission.[82]

Five (5) school years from SY 2012-2013, the implementation of the K to 12 basic education was to be completed. In 2018, the first group of Grade 6 and Grade 12 students under the K to 12 BEC are set to graduate.

Accordingly, to accommodate the changes brought about by the K to 12 Law, and after several public consultations with stakeholders were held,[83] CMO No. 20, entitled General Education Curriculum: Holistic Understandings, Intellectual and Civic Competencies was issued on June 28, 2013. CMO No. 20 provides the framework and rationale of the revised General Education (GE) curriculum. It sets the minimum standards for the GE component of all degree programs that applies to private and public HEIs in the country.[84]

Previously, there were two General Education Curricula (GECs), GEC-A and GEC-B. CMO No. 59, Series of

1996 provided for GEC-A, which required 63 units divided into 24 units of language and literature, 15 units of mathematics and natural sciences, 6 units of humanities, 12 units of social sciences, and 6 units of mandated subjects. This was taken by students majoring in the humanities, social sciences, or communication. Meanwhile, CMO No. 4, series of 1997 implemented GEC-B, which was taken by all other students. GEC-B required 51 units divided into 21 units of language and humanities, 15 units of mathematics, natural sciences, and information technology, 12 units of social sciences, and 3 units of mandated subjects.

Under CMO No. 20, the GE curriculum became outcome-oriented and categorized into: (a) Intellectual Competencies; (b) Personal and Civic Competencies; and (c) Practical Responsibilities.[85] This GE curriculum requires the completion of 36 units as compared to the previous 63/51 units requirement. These 36 units are distributed as follows: 24 units of core courses; 9 units of elective courses; and 3 units on the life and works of Rizal.[86] The required GE core courses are: (1) Understanding the Self; (2) Readings in Philippine History; (3) The Contemporary World; (4) Mathematics in the Modern World; (5) Purposive Communication; (6) Art Appreciation; (7) Science, Technology and Society; and (8) Ethics.[87] Further, the GE curriculum provided an element of choice[88] through elective courses which include the following: (1) Mathematics, Science and Technology; (2) Social Sciences and Philosophy; and (3) Arts and Humanities.[89]

The Petitions

Claiming that the K to 12 Basic Education Program violates various constitutional provisions, the following petitions were filed before the Court praying that the Kindergarten Education Act, K to 12 Law, K to 12 IRR, DO No. 31, Joint Guidelines, and CMO No. 20, be declared unconstitutional:

- Petition for Certiorari[90] filed by Council for Teachers and Staff of Colleges and Universities of the Philippines and several other organizations duly organized under Philippine laws, representing faculty and staff of colleges and universities in the Philippines, docketed as G.R. No. 216930;

- Petition to Declare Republic Act No. 10533, otherwise known as the "Enhanced Basic Education Act of 2013," as Unconstitutional and/or Illegal[91] filed by petitioners Antonio "Sonny" Trillanes, Gary C. Alejano, and Francisco Ashley L. Acedillo, in their capacities as citizens, taxpayers, and members of Congress, docketed as G.R. No. 217752;

- Petition to Declare Unconstitutional, Null, Void, and Invalid Certain Provisions of R.A. No. 10533 And Related Department of Education (DepEd) Implementing Rules and Regulations, Guidelines or Orders[92] filed by petitioners Eduardo R. Alicias, Jr. and Aurelio P. Ramos, Jr., in their capacities as citizen, taxpayer, parent and educator, docketed as G.R. No. 218045;

- Petition for Certiorari, Prohibition and Mandamus[93] filed by petitioner Richard Troy A. Colmenares in his capacity as citizen invoking strong public interest and transcendental importance, petitioners Kathlea Francynn Gawani D. Yañgot and several others, as a class, and on behalf of others who stand to suffer direct injury as a result of the implementation of the K to 12 Basic Education Program, and petitioners Rene Luis Tadle and several others, in their capacities as taxpayers concerned that public funds are being illegally and improperly disbursed through the enforcement of the invalid or unconstitutional laws and issuances, docketed as G.R. No. 218098;

- Petition for Certiorari and Prohibition,[94] docketed as G.R. No. 218123, filed by Antonio Tinio, et al., suing in their capacities as taxpayers and concerned citizens;

- Petition for Certiorari, Prohibition and Mandamus[95] filed by petitioners Spouses Ma. Dolores M. Brillantes and Severo L. Brillantes and several others, as students, parents and teachers, who stand to suffer direct injury from the K to 12 BEC and implementation of the two (2) additional years of high school, docketed as G.R. No.

218465; and

- Petition for Certiorari and Prohibition filed by Dr. Bienvenido Lumbera and several others who are faculty and staff of colleges and universities in the Philippines who stand to suffer direct injury in the implementation of CMO No. 20 and Congressman Antonio Tinio and other party-list representatives in their capacities as members of the Congress, who are also collectively suing in their capacities as taxpayers and concerned citizens, docketed as G.R. No. 217451.[96]

The present consolidated petitions pray for the issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction against the implementation of the K to 12 Law and other administrative issuances in relation thereto.

The Solicitor General, on behalf of the public respondents, opposed these petitions.[97] Private respondent Miriam College in G.R. No. 216930 also filed its Comment/Opposition.[98]

On April 21, 2015, the Court issued a TRO in G.R. No. 217451, enjoining the implementation of CMO No. 20 insofar only as it excluded from the curriculum for college the course Filipino and Panitikan as core courses.[99]

However, in G.R. Nos. 216930, 217752, 218045, 218098, 218923 and 218465, the Court denied petitioners' prayer for issuance of TRO and/or Writ of Preliminary Injunction on the implementation of the K to 12 Law, its implementing rules, the Kindergarten Education Act, and other administrative issuances in relation thereto, for lack of merit. [100]

In the Resolutions dated April 5, 2016[101] and April 12, 2016,[102] the Court directed the parties to submit their respective memoranda.

The Issues

Culled from the submissions of petitioners, public respondents, through the Office of the Solicitor General (OSG), and respondent Miriam College, the following are the issues for the Court's resolution:

A. Procedural:

- Whether the Court may exercise its power of judicial review over the controversy;
- Whether certiorari, prohibition and mandamus are proper remedies to assail the laws and issuances.

B. Substantive:

- Whether the K to 12 Law was duly enacted;
- Whether the K to 12 Law constitutes an undue delegation of legislative power;
- Whether DO No. 31 is valid and enforceable;
- Whether the K to 12 Law, K to 12 IRR, DO No. 31 and/or the Joint Guidelines contravene provisions of the Philippine Constitution on:
 - establishing and maintaining a system of free elementary and high school education and making elementary education compulsory for all children of school age (Section 2[2], Article XIV);
 - the right to accessible and quality education at all levels and duty of the State to make such education accessible to all (Section 1, Article XIV);
 - the primary duty of parents to rear and prepare their children (Section 2[2], Article XIV);

- the right of every citizen to select a profession or course of study (Section 5[3], Article XIV);
- patriotism and nationalism (Sections 13 and 17, Article II, Section 3[1] and [2], Article XIV);
- the use of Filipino as medium of official communication and as language of instruction in the educational system (Section 6, Article XIV); and regional languages as auxiliary media of instruction (Section 7, Article XIV);
- academic freedom (Section 5[2], Article XIV); and
- the right of labor to full protection (Section 18, Article II, Section 3, Article XIII and Section 5[4], Article XIV);
- Whether CMO No. 20 contravenes provisions of the Philippine Constitution on:
 - the use of Filipino as medium of official communication and as language of instruction in the educational system (Section 6, Article XIV);
 - preservation, enrichment, and dynamic evolution of a Filipino national culture (Sections 14, 15, and 16, Article XIV);
 - inclusion of the study of the Philippine Constitution as part of the curriculum of all educational institutions (Section 3[1], Article XIV);
 - giving priority to education to foster patriotism and nationalism (Section 17, Article II and Sections 2 and 3, Article XIV); and
 - the protection of the rights of workers and promotion of their welfare (Section 18, Article II and Section 3, Article XIII).
- Whether CMO No. 20 violates the following laws:
 - RA No. 7104 or the Commission on the Filipino Language Act;
 - BP Blg. 232 or the Education Act of 1982; and
 - RA No. 7356 or the Act Creating the National Commission for Culture and the Arts, Establishing National Endowment Fund for Culture and the Arts and For Other Purposes.
- Whether the K to 12 Law violates petitioners' right to substantive due process and equal protection of the laws.

THE COURT'S RULING

Procedural Issues

Power of Judicial Review and the Remedies of Certiorari, Prohibition and Mandamus

The OSG submits that the cases filed by petitioners involve the resolution of purely political questions which go into the wisdom of the law: they raise questions that are clearly political and non-justiciable and outside the power of judicial review.[103] The OSG further asserts that the remedies of certiorari and prohibition sought by petitioners are unwarranted because Congress, DepEd and CHED did not exercise judicial, quasi-judicial or ministerial function, nor did they unlawfully neglect the performance of an act which the law specifically enjoins as a duty, with regard to the assailed issuances.[104]

The Court disagrees.

The political question doctrine is "no longer the insurmountable obstacle to the exercise of judicial power or the impenetrable shield that protects executive and legislative actions from judicial inquiry or review"[105] under the expanded definition of judicial power of the 1987 Philippine Constitution. Section 1, Article VIII thereof authorizes courts of justice not only "to settle actual case controversies involving rights which are legally demandable and enforceable" but also "to determine whether there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

In determining whether grave abuse of discretion amounting to excess or lack of jurisdiction has been committed by any branch or instrumentality of the government, the Court is guided primarily, by the Constitution, and secondarily, by existing domestic and international law, which set limits or conditions to the powers and functions conferred upon these political bodies.[106] Thus, when a case is brought before the Court with serious allegations that a law or executive issuance infringes upon the Constitution, as in these consolidated cases, it becomes not only the right but in fact the duty of the Court to settle the dispute.[107] In doing so, the Court is "not judging the wisdom of an act of a coequal department, but is merely ensuring that the Constitution is upheld." [108] And, if after said review, the Court does not find any constitutional infringement, then, it has no more authority to proscribe the actions under review.[109]

Moreover, that the assailed laws and executive issuances did not involve the exercise of judicial or quasi-judicial function is of no moment. Contrary to the Solicitor General's assertion, it has long been judicially settled that under the Court's expanded jurisdiction, the writs of certiorari and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify, on the ground of grave abuse of discretion, any act of any branch or instrumentality of the government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions.[110]

That said, the Court's power is not unbridled authority to review just any claim of constitutional violation or grave abuse of discretion. The following requisites must first be complied with before the Court may exercise its power of judicial review, namely: (1) there is an actual case or controversy calling for the exercise of judicial power; (2) the petitioner has standing to question the validity of the subject act or issuance, i.e., he has a personal and substantial interest in the case that he has sustained, or will sustain, direct injury as a result of the enforcement of the act or issuance; (3) the question of constitutionality is raised at the earliest opportunity; and (4) the constitutional question is the very *lis mota* of the case.[111] Of these four, the most important are the first two requisites, and thus will be the focus of the following discussion.

Actual case or controversy

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 since the courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions.[112] Related to the requirement of an actual case or controversy is the requirement of "ripeness," and a question is ripe when the act being challenged has a direct effect on the individual challenging it.[113] For a case to be considered ripe for adjudication, it is a prerequisite that an act had been accomplished or performed by either branch of government before a court may interfere, and the petitioner must allege the existence of an immediate or threatened injury to himself as a result of the challenged action.[114]

Relevantly, in *Sps. Imbong v. Ochoa, Jr.*, [115] (*Imbong*) where the constitutionality of the Reproductive Health Law was challenged, the Court found that an actual case or controversy existed and that the same was ripe for judicial determination considering that the RH Law and its implementing rules had already taken effect and that

budgetary measures to carry out the law had already been passed. Moreover, the petitioners therein had sufficiently shown that they were in danger of sustaining some direct injury as a result of the act complained of.[116]

Similar to Imbong, these consolidated cases present an actual case or controversy that is ripe for adjudication. The 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.

Legal Standing

Legal standing refers to a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the challenged governmental act.[117] In constitutional cases, which are often brought through public actions and the relief prayed for is likely to affect other persons,[118] non-traditional plaintiffs have been given standing by this Court provided specific requirements have been met.[119]

When suing as a concerned citizen, the person complaining must allege that he has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.[120]

In the case of taxpayers, they are allowed to sue where there is a claim that public funds are illegally disbursed or that public money is being deflected to any improper purpose, or that public funds are wasted through the enforcement of an invalid or unconstitutional law.[121]

On the other hand, legislators have standing to maintain inviolate the prerogatives, powers, and privileges vested by the Constitution in their office and are allowed to sue to question the validity of any official action which infringe upon their legislative prerogatives.[122]

An organization, asserting the rights of its members, may also be granted standing by the Court.[123]

Petitioners in G.R. Nos. 216930 and 218465 include organizations/federations duly organized under the laws of the Philippines, representing the interest of the faculty and staff of their respective colleges and universities, who allegedly are threatened to be demoted or removed from employment with the implementation of the K to 12 Law. Petitioners in G.R. Nos. 217752 and 218045 are suing as citizens, taxpayers and in their personal capacities as parents whose children would be directly affected by the law in question. Petitioners in G.R. Nos. 218123 and 217451 are suing in their capacities as teachers who allegedly are or will be negatively affected by the implementation of the K to 12 Law and CMO No. 20, respectively, through job displacement and diminution of benefits; and as taxpayers who have the right to challenge the K to 12 Law and CMO No. 20 as public funds are spent and will be spent for its implementation.

Under the circumstances alleged in their respective petitions, the Court finds that petitioners have sufficient legal interest in the outcome of the controversy. And, considering that the instant cases involve issues on education, which under the Constitution the State is mandated to promote and protect, the stringent requirement of direct and substantial interest may be dispensed with, and the mere fact that petitioners are concerned citizens asserting a public right, sufficiently clothes them with legal standing to initiate the instant petition.[124]

Substantive Issues

I.

K to 12 Law was duly enacted

Petitioners question the validity of the enactment of the K to 12 Law claiming that: (1) sectors which would be

directly affected by the K to 12 Basic Education Program were deprived of their right, under Section 16, Article XIII of the 1987 Constitution, to be consulted or participate in matters which involved their interest prior to the passage of the law;[125] (2) the enrolled bill which the President signed into law varies significantly from the reconciled version of the bill as approved by Congress and reported in the Senate Journal on January 30, 2013,[126] and that the Court, pursuant to its ruling in *Astorga v. Villegas*,[127] (*Astorga*) should look into the entries in the Journal to determine whether the K to 12 Law was duly enacted;[128] and (3) the K to 12 Law was incomplete because it failed to provide sufficient standards by which the DepEd, CHED and TESDA, might be guided in addressing the possible impact of the implementation of the K to 12 Law on labor; thus, Section 31 of the K to 12 IRR and the Joint Guidelines, which spring forth from such undue delegation of legislative power, are invalid and unconstitutional.[129]

For its part, the OSG contends that the K to 12 Law was enacted in accordance with the procedure prescribed in the Constitution and that contrary to petitioners' assertion, the text of the enrolled bill which was eventually signed into law is not different from the consolidated bill drafted by the Bicameral Conference Committee and approved by the Senate and House of Representatives.[130] Further, the OSG argues that there is no undue delegation of legislative power because the K to 12 Law provides a sufficient standard on the impact on labor due to its implementation.[131]

Private respondent Miriam College shares the same view that the K to 12 Law sufficiently provided standards to guide the relevant administrative agencies and the private educational institutions in the implementation of the K to 12 Law and address all issues on labor.[132]

The Court holds that, contrary to petitioners' contention, the K to 12 Law was validly enacted.

First, petitioners' claim of lack of prior consultations is belied by the nationwide regional consultations conducted by DepEd pursuant DepEd Memorandum Nos. 38[133] and 98,[134] series of 2011. The regional consultations, which aimed "to inform the public [and] to elicit their opinions, thoughts, and suggestions about the K to 12 program,"[135] ran from February to March 2011 and were participated in by students, parents, teachers and administrators, government representatives, and representatives from private schools and private sectors.[136]

The Philippine Congress, in the course of drafting the K to 12 Law, also conducted regional public hearings between March 2011 to February 2012, wherein representatives from parents-teachers' organizations, business, public/private school heads, civil society groups/non-government organizations/private organizations and local government officials and staffs were among the participants.[137] And even assuming that no consultations had been made prior to the adoption of the K to 12, it has been held that the "[p]enalty for failure on the part of the government to consult could only be reflected in the ballot box and would not nullify government action." [138]

Second, the enrolled bill doctrine applies in this case. Under the "enrolled bill doctrine," the signing of a bill by the Speaker of the House and the Senate President and the certification of the Secretaries of both Houses of Congress that it was passed is conclusive not only as to its provisions but also as to its due enactment.[139] The rationale behind the enrolled bill doctrine rests on the consideration that "[t]he respect due to coequal and independent departments requires the [Judiciary] to act upon that assurance, and to accept, as having passed Congress, all bills authenticated in the manner stated; leaving the court to determine, when the question properly arises, [as in the instant consolidated cases], whether the Act, so authenticated, is in conformity with the Constitution." [140]

Jurisprudence will show that the Court has consistently adhered to the enrolled bill doctrine. Claims that the required three-fourths vote for constitutional amendment has not been obtained,[141] that irregularities attended the passage of the law,[142] that the tenor of the bill approved in Congress was different from that signed by the

President,[143] that an amendment was made upon the last reading of the bill,[144] and even claims that the enrolled copy of the bill sent to the President contained provisions which had been "surreptitiously" inserted by the conference committee,[145] had all failed to convince the Court to look beyond the four corners of the enrolled copy of the bill.

As correctly pointed out by private respondent Miriam College, petitioners' reliance on Astorga is quite misplaced. They overlooked that in Astorga, the Senate President himself, who authenticated the bill, admitted a mistake and withdrew his signature, so that in effect there was no longer an enrolled bill to consider.[146] Without such attestation, and consequently there being no enrolled bill to speak of, the Court was constrained to consult the entries in the journal to determine whether the text of the bill signed by the Chief Executive was the same text passed by both Houses of Congress.[147]

In stark contrast to Astorga, this case presents no exceptional circumstance to justify the departure from the salutary rule. The K to 12 Law was passed by the Senate and House of Representatives on January 20, 2013, approved by the President on May 15, 2013, and, after publication, took effect on June 8, 2013. Thus, there is no doubt as to the formal validity of the K to 12 Law.

Third, there is no undue delegation of legislative power in the enactment of the K to 12 Law.

In determining whether or not a statute constitutes an undue delegation of legislative power, the Court has adopted two tests: the completeness test and the sufficient standard test. 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 to enforce it.[148] The policy to be executed, carried out or implemented by the delegate must be set forth therein.[149] The sufficient standard test, on the other hand, mandates adequate guidelines or limitations in the law to determine the boundaries of the delegate's authority and prevent the delegation from running riot. To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy and identify the conditions under which it is to be implemented.[150]

The K to 12 Law adequately provides the legislative policy that it seeks to implement. Section 2 of the K to 12 Law provides:

SEC. 2. Declaration of Policy. – The State shall establish, maintain and support a complete, adequate, and integrated system of education relevant to the needs of the people, the country and society-at-large.

Likewise, it is hereby declared the policy of the State that every graduate of basic education shall be an empowered individual who has learned, through a program that is rooted on sound educational principles and geared towards excellence, the foundations for learning throughout life, the competence to engage in work and be productive, the ability to coexist in fruitful harmony with local and global communities, the capability to engage in autonomous, creative, and critical thinking, and the capacity and willingness to transform others and one's self.

For this purpose, the State shall create a functional basic education system that will develop productive and responsible citizens equipped with the essential competencies, skills and values for both life-long learning and employment. In order to achieve this, the State shall:

- (a) Give every student an opportunity to receive quality education that is globally competitive based on a pedagogically sound curriculum; that is at par with international standards;
- (b) Broaden the goals of high school education for college preparation, vocational and technical career opportunities as well as creative arts, sports and entrepreneurial employment in a rapidly changing and increasingly globalized environment; and

(c) Make education learner-oriented and responsive to the needs, cognitive and cultural capacity, the circumstances and diversity of learners, schools and communities through the appropriate languages of teaching and learning, including mother tongue as a learning resource.

Moreover, scattered throughout the K to 12 Law are the standards to guide the DepEd, CHED and TESDA in carrying out the provisions of the law, from the development of the K to 12 BEC, to the hiring and training of teaching personnel and to the formulation of appropriate strategies in order to address the changes during the transition period.

SEC. 5. Curriculum Development. — The DepEd shall formulate the design and details of the enhanced basic education curriculum. It shall work with the Commission on Higher Education (CHED) to craft harmonized basic and tertiary curricula for the global competitiveness of Filipino graduates. To ensure college readiness and to avoid remedial and duplication of basic education subjects, the DepEd shall coordinate with the CHED and the Technical Education and Skills Development Authority (TESDA).

To achieve an effective enhanced basic education curriculum, the DepED shall undertake consultations with other national government agencies and other stakeholders including, but not limited to, the Department of Labor and Employment (DOLE), the Professional Regulation Commission (PRC), the private and public schools associations, the national student organizations, the national teacher organizations, the parents-teachers associations and the chambers of commerce on matters affecting the concerned stakeholders.

The DepED shall adhere to the following standards and principles in developing the enhanced basic education curriculum:

- (a) The curriculum shall be learner-centered, inclusive and developmentally appropriate;
- (b) The curriculum shall be relevant, responsive and research-based;
- (c) The curriculum shall be culture-sensitive;
- (d) The curriculum shall be contextualized and global;
- (e) The curriculum shall use pedagogical approaches that are constructivist, inquiry-based, reflective, collaborative and integrative;
- (f) The curriculum shall adhere to the principles and framework of Mother Tongue-Based Multilingual Education (MTB-MLE) which starts from where the learners are and from what they already knew proceeding from the known to the unknown; instructional materials and capable teachers to implement the MTB-MLE curriculum shall be available;
- (g) The curriculum shall use the spiral progression approach to ensure mastery of knowledge and skills after each level; and
- (h) The curriculum shall be flexible enough to enable and allow schools to localize, indigenize and enhance the same based on their respective educational and social contexts. The production and development of locally produced teaching materials shall be encouraged and approval of these materials shall devolve to the regional and division education units.

x x x x

SEC. 7. Teacher Education and Training. — To ensure that the enhanced basic education program meets the demand for quality teachers and school leaders, the DepED and the CHED, in collaboration with relevant partners in government, academe, industry, and nongovernmental organizations, shall conduct teacher education and training programs, as specified:

(a) In-service Training on Content and Pedagogy. — Current DepED teachers shall be retrained to meet the content and performance standards of the new K to 12 curriculum. The DepED shall ensure that private education institutions shall be given the opportunity to avail of such training.

(b) Training of New Teachers. — New graduates of the current Teacher Education curriculum shall undergo additional training, upon hiring, to upgrade their skills to the content standards of the new curriculum. Furthermore, the CHED, in coordination with the DepED and relevant stakeholders, shall ensure that the Teacher Education curriculum offered in these Teacher Education Institutes (TEIs) will meet the necessary quality standards for new teachers. Duly recognized organizations acting as TEIs, in coordination with the DepED, the CHED, and other relevant stakeholders, shall ensure that the curriculum of these organizations meet the necessary quality standards for trained teachers.

(c) Training of School Leadership. — Superintendents, principals, subject area coordinators and other instructional school leaders shall likewise undergo workshops and training to enhance their skills on their role as academic, administrative and community leaders.

Henceforth, such professional development programs as those stated above shall be initiated and conducted regularly throughout the school year to ensure constant upgrading of teacher skills.

SEC. 8. Hiring of Graduates of Science, Mathematics, Statistics, Engineering and Other Specialists in Subjects with a Shortage of Qualified Applicants, Technical-Vocational Courses and Higher Education Institution Faculty. — Notwithstanding the provisions of Sections 26, 27 and 28 of Republic Act No. 7836, otherwise known as the "Philippine Teachers Professionalization Act of 1994", the DepED and private education institutions shall hire, as may be relevant to the particular subject:

(a) Graduates of science, mathematics, statistics, engineering, music and other degree courses with shortages in qualified Licensure Examination for Teachers (LET) applicants to teach in their specialized subjects in the elementary and secondary education. Qualified LET applicants shall also include graduates admitted by foundations duly recognized for their expertise in the education sector and who satisfactorily complete the requirements set by these organizations: Provided, That they pass the LET within five (5) years after their date of hiring: Provided, further, That if such graduates are willing to teach on part-time basis, the provisions of LET shall no longer be required;

(b) Graduates of technical-vocational courses to teach in their specialized subjects in the secondary education: Provided, That these graduates possess the necessary certification issued by the TESDA: Provided, further, That they undergo appropriate in-service training to be administered by the DepED or higher education institutions (HEIs) at the expense of the DepED;

(c) Faculty of HEIs be allowed to teach in their general education or subject specialties in the secondary education: Provided, That the faculty must be a holder of a relevant Bachelor's degree, and must have satisfactorily served as a full-time HEI faculty;

(d) The DepED and private education institutions may hire practitioners, with expertise in the specialized learning areas offered by the Basic Education Curriculum, to teach in the secondary level: Provided, That they teach on part-time basis only. For this purpose, the DepED, in coordination with the appropriate government agencies, shall determine the necessary qualification standards in hiring these experts.

x x x x

SEC. 12. Transitory Provisions. — The DepED, the CHED and the TESDA shall formulate the appropriate strategies and mechanisms needed to ensure smooth transition from the existing ten (10) years basic education cycle to the enhanced basic education (K to 12) cycle. The strategies may cover changes in physical infrastructure, manpower, organizational and structural concerns, bridging models linking grade 10 competencies and the entry requirements of new tertiary curricula, and partnerships between the government

and other entities. Modeling for senior high school may be implemented in selected schools to simulate the transition process and provide concrete data for the transition plan.

To manage the initial implementation of the enhanced basic education program and mitigate the expected multi-year low enrolment turnout for HEIs and Technical Vocational Institutions (TVIs) starting School Year 2016-2017, the DepED shall engage in partnerships with HEIs and TVIs for the utilization of the latter's human and physical resources. Moreover, the DepED, the CHED, the TESDA, the TVIs and the HEIs shall coordinate closely with one another to implement strategies that ensure the academic, physical, financial, and human resource capabilities of HEIs and TVIs to provide educational and training services for graduates of the enhanced basic education program to ensure that they are not adversely affected. The faculty of HEIs and TVIs allowed to teach students of secondary education under Section 8 hereof, shall be given priority in hiring for the duration of the transition period. For this purpose, the transition period shall be provided for in the implementing rules and regulations (IRR).[151]

Clearly, under the two tests, the K to 12 Law, read and appreciated in its entirety, is complete in all essential terms and conditions and contains sufficient parameters on the power delegated to the DepEd, CHED and TESDA. The fact that the K to 12 Law did not have any provision on labor does not make said law incomplete. The purpose of permissible delegation to administrative agencies is for the latter to "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." [152] With the proliferation of specialized activities and their attendant peculiar problems, the legislature has found it necessary to entrust to administrative agencies, who are supposed to be experts in the particular fields assigned to them, the authority to provide direct and efficacious solutions to these problems.[153] This is effected by the promulgation of supplementary regulations, such as the K to 12 IRR jointly issued by the DepEd, CHED and TESDA and the Joint Guidelines issued in coordination with DOLE, to address in detail labor and management rights relevant to implementation of the K to 12 Law.

DO No. 31 is valid and enforceable

Petitioners also claim that DO No. 31 is a usurpation of legislative authority as it creates a law without delegation of power.[154] According to petitioners, DO No. 31, which changed the curriculum and added two (2) more years to basic education, has no statutory basis. It also violates the constitutional right of parents to participate in planning programs that affect them and the right to information on matters of public concern.[155] Petitioners further contend that since DO No. 31 imposes additional obligations to parents and children, public consultations should have been conducted prior to its adoption and that the assailed DO should have been published and registered first with the Office of the National Administrative Register before it can take effect.[156]

Again, petitioners' arguments lack factual and legal bases. DO No. 31 did not add two (2) years to basic education nor did it impose additional obligations to parents and children. DO No. 31 is an administrative regulation addressed to DepEd personnel providing for general guidelines on the implementation of a new curriculum for Grades 1 to 10 in preparation for the K to 12 basic education. DO No. 31 was issued in accordance with the DepEd's mandate to establish and maintain a complete, adequate and integrated system of education relevant to the goals of national development,[157] formulate, plan, implement, and coordinate and ensure access to, promote equity in, and improve the quality of basic education;[158] and pursuant to the Secretary's authority to formulate and promulgate national educational policies,[159] under existing laws.

Moreover, more than a year prior to adoption of DO No. 31, and contrary to petitioners' assertions, DepEd conducted regional consultations and focus group discussions, participated in by students, parents, teachers and administrators, government representatives, and representatives from private schools and private sector,[160] to elicit opinions, thoughts and suggestions about the K to 12 basic education.[161]

There is also no merit in petitioners' claim that publication is necessary for DO No. 31 to be effective. Interpretative regulations and those merely internal in nature, including the rules and guidelines to be followed by subordinates in the performance of their duties are not required to be published.[162] At any rate, the Court notes that DO No. 31 was already forwarded to the University of the Philippines Law Center for filing in accordance with Sections 3 and 4 of the Administrative Code of 1987 and took effect pursuant to said provisions.[163]

Having established that the K to 12 Law and its related issuances were duly enacted and/or validly issued, the Court now discusses whether they contravene provisions of the Constitution.

II.

Police power of the State

Police power is defined broadly as the State's authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare. This all-comprehensive definition provides ample room for the State to meet the exigencies of the times depending on the conditions and circumstances. As the Court eruditely explained in *Basco v. Philippine Amusements and Gaming Corp.*[164] (*Basco*):

The concept of police power is well-established in this jurisdiction. It has been defined as the "state authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare." (*Edu v. Ericta*, 35 SCRA 481, 487) As defined, it consists of (1) an imposition or restraint upon liberty or property, (2) in order to foster the common good. It is not capable of an exact definition but has been, purposely, veiled in general terms to underscore its all-comprehensive embrace. (*Philippine Association of Service Exporters, Inc. v. Drilon*, 163 SCRA 386).

Its scope, ever-expanding to meet the exigencies of the times, even to anticipate the future where it could be done, provides enough room for an efficient and flexible response to conditions and circumstances thus assuming the greatest benefits. (*Edu v. Ericta*, *supra*).

It finds no specific Constitutional grant for the plain reason that it does not owe its origin to the charter. Along with the taxing power and eminent domain, it is inborn in the very fact of statehood and sovereignty. It is a fundamental attribute of government that has enabled it to perform the most vital functions of governance. Marshall, to whom the expression has been credited, refers to it succinctly as the plenary power of the state "to govern its citizens". (*Tribe, American Constitutional Law*, 323, 1978). The police power of the State is a power co-extensive with self-protection and is most aptly termed the "law of overwhelming necessity." (*Rubi v. Provincial Board of Mindoro*, 39 Phil. 660, 708) It is "the most essential, insistent, and illimitable of powers." (*Smith Bell & Co. v. National*, 40 Phil. 136) It is a dynamic force that enables the state to meet the exigencies of the winds of change.[165]

From the legislative history of the Philippine education system as detailed above, one can easily discern that the enactment of education laws, including the K to 12 Law and the Kindergarten Education Act, their respective implementing rules and regulations and the issuances of the government agencies, are an exercise of the State's police power. The State has an interest in prescribing regulations to promote the education and the general welfare of the people. In *Wisconsin v. Yoder*,[166] the U.S. Supreme Court ruled that "[t]here is no doubt as to the power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education." [167]

Here, petitioners essentially assail the State's exercise of police power to regulate education through the adoption of the K to 12 Basic Education Program, because the K to 12 Law and its related issuances purportedly violate the Constitutional provisions as enumerated in the outline of issues above.

Every law has in its favor the presumption of constitutionality.[168] For a law to be nullified, it must be shown that there is a clear and unequivocal breach of the Constitution.[169] The grounds for nullity must be clear beyond reasonable doubt.[170] Hence, for the Court to nullify the assailed laws, petitioners must clearly establish that the constitutional provisions they cite bestow upon them demandable and enforceable rights and that such rights clash against the State's exercise of its police power under the K to 12 Law.

To be sure, the Court's role is to balance the State's exercise of its police power as against the rights of petitioners. The Court's pronouncement in *Secretary of Justice v. Lantion*[171] (*Lantion*) instructs:

x x x The clash of rights demands a delicate balancing of interests approach which is a "fundamental postulate of constitutional law." The approach requires that we "take conscious and detailed consideration of the interplay of interests observable in a given situation or type of situation." These interests usually consist in the exercise by an individual of his basic freedoms on the one hand, and the government's promotion of fundamental public interest or policy objectives on the other.[172]

In fact, in *Wisconsin v. Yoder*,[173] where the question was the validity of a statute criminalizing the failure of parents to allow their children to attend compulsory high school education, the U.S. Supreme Court ruled that although the State's interest in universal education is highly ranked in terms of State functions, this does not free this exercise of State function from the balancing process when it impinges on fundamental rights and interests, specifically the Free Exercise Clause, thus:

There is no doubt as to the power of a State, having a high responsibility for education of its citizens, to impose reasonable regulations for the control and duration of basic education. See, e.g., *Pierce v Society of Sisters*, 268 US 510, 534, 69 L Ed 1070, 1077, 45 S Ct 571, 39 ALR 468 (1925). Providing public schools ranks at the very apex of the function of a State. Yet even this paramount responsibility was, in *Pierce*, made to yield to the right of parents to provide an equivalent education in a privately operated system. There the Court held that Oregon's statute compelling attendance in a public school from age eight to age 16 unreasonably interfered with the interest of parents in directing the rearing of their offspring, including their education in church-operated schools. As that case suggests, the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society. See also *Ginsberg v New York*, 390 US 629, 639 20 L Ed 2d 195, 203, 88 S Ct 1274 (1968); *Meyer v Nebraska*, 262 US 390, 67 L Ed 1042, 43 S Ct 625, 29 ALR 1446 (1923); cf. *Rowan v Post Office Dept.*, 397 US 728, 25 L Ed 2d 736, 90 S Ct 1484 (1970). Thus, a State's interest in universal education, however highly we rank it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the First Amendment, and the traditional interest of parents with respect to the religious upbringing of their children so long as they, in the words of *Pierce*, "prepare [them] for additional obligations." 268 US at 535, 69 L Ed AT 1078.[174]

As quoted above, this balancing of interest approach has been applied in this jurisdiction in *Lantion* in determining whether there was a violation of the private respondent's right to due process when he was not furnished a copy of the request for his extradition. This right was balanced against the country's commitment under the RP-US Extradition Treaty to extradite to the United States of America persons who were charged with the violation of some of its laws. [175]

The Court held in *Lantion* that at the stage of the extradition, it was only at an evaluation stage; thus there was yet no requirement that he be given notice of the proceedings. At that stage, the balance was tilted in favor of the interest of the State in helping suppress crime by facilitating the extradition of persons covered by treaties entered into by the government.[176]

It is with these standards and framework that the Court examines whether the enactments of the Kindergarten Education Act, the K to 12 Law and their implementing rules and regulations, were valid exercises of the State's

police power to regulate education.

In this regard, and to digress, only self-executing provisions of the Constitution embody judicially enforceable rights and therefore give rise to causes of action in court.[177] Accordingly, it is necessary to determine first whether the constitutional provisions invoked by petitioners are self-executing; and if they are, is there a conflict between these rights and the State's police power to regulate education? If a conflict does exist, do the rights of petitioners yield to the police power of the State?

Non-self-executing constitutional provisions

As defined, "a constitutional provision is self-executing if the nature and extent of the right conferred and the liability imposed are fixed by the constitution itself, so that they can be determined by an examination and construction of its terms, and there is no language indicating that the subject is referred to the legislature for action." [178]

In *Manila Prince Hotel v. Government Service Insurance System*, [179] it was ruled that all provisions of the Constitution are presumed self-executing, [180] because to treat them as requiring legislation would result in giving the legislature "the power to ignore and practically nullify the mandate of the fundamental law." [181] And this could result in a cataclysm. [182]

This pronouncement notwithstanding, however, the Court has, in several cases, had occasion to already declare several Constitutional provisions as not self-executory.

In *Tanada v. Angara*, [183] it was settled that the sections found under Article II of the 1987 Philippine Constitution are not self-executing provisions. In fact, in the cases of *Basco*, [184] *Kilosbayan, Inc. v. Morato*, [185] and *Tondo Medical Center Employees Association v. Court of Appeals*, [186] the Court categorically ruled that Sections 11, 12, 13, 17 and 18 of Article II, Section 13 of Article XIII, and Section 2 of Article XIV, of the 1987 Philippine Constitution, respectively, are non-self-executing. The very terms of these provisions show that they are not judicially enforceable constitutional rights but merely guidelines for legislation. [187] And the failure of the legislature to pursue the policies embodied therein does not give rise to a cause of action in the courts. [188]

In specific application to the present petitions, in *Tolentino v. Secretary of Finance*, [189] the Court also ruled that Section 1, Article XIV on the right of all citizens to quality education is also not self-executory. The provision "for the promotion of the right to 'quality education' x x x [was] put in the Constitution as moral incentives to legislation, not as judicially enforceable rights." [190]

Further, Section 6, Article XIV on the use of the Filipino language as a medium of instruction is also not self-executory. The deliberations of the Constitutional Commission confirm this:

MR. DE CASTRO. Madam President.

THE PRESIDENT. Commissioner de Castro is recognized.

MR. DE CASTRO. Just a matter of clarification. On the first sentence, we use Filipino as an official medium of communication in all branches of government. Is that correct?

MR. VILLACORTA. Yes.

MR. DE CASTRO. And when we speak of Filipino, can it be a combination of Tagalog and the local dialect, and, therefore, can be "Taglish"? Is that right?

MR. VILLACORTA. Not really "Taglish," Madam President.

MR. BENNAGEN. It can be standard.

MR. DE CASTRO. Or the combination of the local language and Tagalog?

MR. VILLACORTA. As it naturally evolves.

MR. DE CASTRO. Suppose I am a Muslim official from Sulu and I will use Filipino in my communication. So I will write: "Di makadiari ang iniisip mo." It is a combination of Tausog — "di makadiari" and Tagalog — "ang iniisip mo." The one receiving in the main office may not understand the whole thing. I am just clarifying because when we use Filipino as a medium of official communication, there is a possibility that the message may not be understood when it reaches the central office or when it goes to another area.

MR. VILLACORTA. That is why the wording is, "The government shall take steps to initiate and sustain the use of Filipino." And in Section 1, it says: "as it evolves, it shall be further developed and enriched," the implication being that it will be standardized as a national language.

MR. DE CASTRO. Yes, but then in Section 2, we come out with Filipino as a medium of official communication. I am just giving an example that as an official communication, it may not be understood by the one at the receiving end, especially if one comes from the South and whose message is received in the North or in the center. As I said, "Di makadiari ang iniisip mo," is half Tausog and half Tagalog.

MR. VILLACORTA. Commissioner Bennagen, who is an expert on culture and minorities, will answer the question of the Gentleman.

MR. BENNAGEN. I think what we envision to happen would be for government agencies, as well as other nongovernmental agencies involving this, to start immediately the work of standardization — expanding the vocabularies, standardizing the spelling and all appropriate measures that have to do with propagating Filipino.

MR. DE CASTRO. In short?

MR. BENNAGEN. The work will codify this national lingua franca as it is taking place and will be subjected to other developmental activities.

MR. OPLE. Madam President, may I say a word?

MR. DE CASTRO. In short, does the committee want us to understand that Section 2, even if ratified, will not as yet be effective because it is still subject to the provisions of law and as Congress may deem appropriate? So the medium of official communication among branches of government cannot as yet be Filipino until subject to provisions of law and as Congress may deem appropriate. Is that correct?

MR. OPLE. Madam President.

MR. DE CASTRO. No, I am asking the committee, please.

THE PRESIDENT. What is the answer of the committee?

MR. VILLACORTA. That is correct, Madam President.

MR. DE CASTRO. Thank you.

MR. OPLE. I just wanted to point out that when the words "official communication" is used, this must satisfy the standards of accuracy, precision and, perhaps, clarity or lack of ambiguity; otherwise, it will not be communication. One can lose a war through imprecise communication in government and, therefore, I think the word "communication" should be understood in its correct light — that when one writes from Sulu, as in the example given by Commissioner de Castro, he has to consider the following: Is his communication clear? Is it unambiguous? Is it precise? I just want to point out that when we speak of official communication, these

normal standards of good communication ought to be recognized as controlling, otherwise, the interest of public administration will be vitally affected.

Thank you, Madam President.

THE PRESIDENT. Shall we vote now on the first sentence?

MR. RODRIGO. I think it should be on the first two sentences.

THE PRESIDENT. There was a suggestion, and that was accepted by the committee, to vote on the first sentence.

MR. RODRIGO. Only on the first sentence? But there are two sentences.

THE PRESIDENT. No, that was already approved.

MR. VILLACORTA. Madam President, may I ask for a vote now because this has been extensively discussed.

THE PRESIDENT. Will the chairman read what is to be voted upon?

MR. VILLACORTA. Madam President, the first sentence reads: "SUBJECT TO PROVISIONS OF LAW AND AS CONGRESS MAY DEEM APPROPRIATE, THE GOVERNMENT SHALL TAKE STEPS TO INITIATE AND SUSTAIN THE USE OF FILIPINO AS A MEDIUM OF OFFICIAL COMMUNICATION AND AS LANGUAGE OF INSTRUCTION IN THE EDUCATIONAL SYSTEM."

VOTING

THE PRESIDENT. As many as are in favor of the first sentence, please raise their hand. (Several Members raised their hand.)

As many as are against, please raise their hand. (No Member raised his hand.)

The results show 37 votes in favor and none against; the first sentence is approved.[191]

Section 3, Article XIII, on the protection of labor and security of tenure, was also declared by the Court in *Agabon v. National Labor Relations Commission*,[192] (*Agabon*) as not self-executory. Reiterating *Agabon*, the Court explained in *Serrano v. Gallant Maritime Services, Inc.*,[193] that Section 3, Article XIII, does not automatically confer judicially demandable and enforceable rights and cannot, on its own, be a basis for a declaration of unconstitutionality, to wit:

While all the provisions of the 1987 Constitution are presumed self-executing, there are some which this Court has declared not judicially enforceable, Article XIII being one, particularly Section 3 thereof, the nature of which, this Court, in *Agabon v. National Labor Relations Commission*, has described to be not self-actuating:

Thus, the constitutional mandates of protection to labor and security of tenure may be deemed as self-executing in the sense that these are automatically acknowledged and observed without need for any enabling legislation. However, to declare that the constitutional provisions are enough to guarantee the full exercise of the rights embodied therein, and the realization of ideals therein expressed, would be impractical, if not unrealistic. The espousal of such view presents the dangerous tendency of being overbroad and exaggerated. The guarantees of "full protection to labor" and "security of tenure", when examined in isolation, are facially unqualified, and the broadest interpretation possible suggests a blanket shield in favor of labor against any form of removal regardless of circumstance. This interpretation implies an unimpeachable right to continued employment — a utopian notion, doubtless — but still hardly within the contemplation of the framers. Subsequent legislation is still needed to define the parameters of these guaranteed rights to ensure the protection and promotion, not only the rights of the labor sector, but of the employers' as well. Without specific

and pertinent legislation, judicial bodies will be at a loss, formulating their own conclusion to approximate at least the aims of the Constitution.

Ultimately, therefore, Section 3 of Article XIII cannot, on its own, be a source of a positive enforceable right to stave off the dismissal of an employee for just cause owing to the failure to serve proper notice or hearing. As manifested by several framers of the 1987 Constitution, the provisions on social justice require legislative enactments for their enforceability. (Emphasis added)

Thus, Section 3, Article XIII cannot be treated as a principal source of direct enforceable rights, for the violation of which the questioned clause may be declared unconstitutional. It may unwittingly risk opening the floodgates of litigation to every worker or union over every conceivable violation of so broad a concept as social justice for labor.

It must be stressed that Section 3, Article XIII does not directly bestow on the working class any actual enforceable right, but merely clothes it with the status of a sector for whom the Constitution urges protection through executive or legislative action and judicial recognition. Its utility is best limited to being an impetus not just for the executive and legislative departments, but for the judiciary as well, to protect the welfare of the working class. And it was in fact consistent with that constitutional agenda that the Court in *Central Bank (now Bangko Sentral ng Pilipinas) Employee Association, Inc. v. Bangko Sentral ng Pilipinas*, penned by then Associate Justice now Chief Justice Reynato S. Puno, formulated the judicial precept that when the challenge to a statute is premised on the perpetuation of prejudice against persons favored by the Constitution with special protection — such as the working class or a section thereof — the Court may recognize the existence of a suspect classification and subject the same to strict judicial scrutiny.

The view that the concepts of suspect classification and strict judicial scrutiny formulated in *Central Bank Employee Association* exaggerate the significance of Section 3, Article XIII is a groundless apprehension. *Central Bank* applied Article XIII in conjunction with the equal protection clause. Article XIII, by itself, without the application of the equal protection clause, has no life or force of its own as elucidated in *Agabon*. [194]

Here, apart from bare allegations that the K to 12 Law does not provide mechanisms to protect labor, which, as discussed, have no legal bases, petitioners have not proffered other bases in claiming that the right to protect labor and/or security of tenure was violated with the implementation of the K to 12 Law. To be sure, the protection of labor from illegal dismissal has already been set in stone with the enactment of the Labor Code and the Civil Service Law.

Given the foregoing, petitioners cannot claim that the K to 12 Law and/or any of its related issuances contravene or violate any of their rights under the foregoing constitutional provisions because these provisions simply state a policy that may be "used by the judiciary as aids or as guides in the exercise of its power of judicial review, and by the legislature in its enactment of laws." [195] They do not embody judicially enforceable constitutional rights. [196] In other words, the Kindergarten Education Act, the K to 12 Law and its related issuances cannot be nullified based solely on petitioners' bare allegations that they violate general provisions of the Constitution which are mere directives addressed to the executive and legislative departments. If these directives are unheeded, the remedy does not lie with the courts, but with the power of the electorate in casting their votes. [197] As held in *Tañada v. Angara*: [198] "The reasons for denying a cause of action to an alleged infringement of broad constitutional principles are sourced from basic considerations of due process and the lack of judicial authority to wade 'into the uncharted ocean of social and economic policy-making.'" [199]

In view of the foregoing, the Court shall now proceed to discuss the remaining constitutional provisions, international treaties, and other special laws invoked by petitioners, which have allegedly been violated by the

implementation of the K to 12 Law. For the constitutional provisions, the Court shall determine whether these constitutional provisions are in conflict with the police power of the State in enacting and implementing the K to 12 Law, and if so, whether these constitutional provisions yield to the police power of the State.

Compulsory Elementary and High School Education

Petitioners argue that the legislature violated the Constitution when they made kindergarten and senior high school compulsory. For petitioners, compulsory kindergarten and senior high school expanded the constitutional definition of elementary education and that the Congress violated the rule of constitutional supremacy when it made kindergarten and senior high school compulsory.[200]

On the other hand, the OSG contends that while Section 2, Article XIV states that elementary education shall be compulsory, it did not preclude Congress from making kindergarten and secondary education mandatory (based on the clear wording of the law and deliberations of the Constitutional Commission).[201] Further, the laws advance the right of child to education, and they do not violate any international agreement (Universal Declaration of Human Rights [UDHR], the International Covenant of Economic, Social and Cultural Rights [ICESCR] and the Convention on the Rights of the Child [CRC]) to which the Philippines is a signatory.[202]

The State's policy in implementing the K to 12 Program is stated as follows:

x x x [I]t is hereby declared the policy of the State that every graduate of basic education shall be an empowered individual who has learned, through a program that is rooted on sound educational principles and geared towards excellence, the foundations for learning throughout life, the competence to engage in work and be productive, the ability to coexist in fruitful harmony with local and global communities, the capability to engage in autonomous, creative, and critical thinking, and the capacity and willingness to transform others and one's self.

For this purpose, the State shall create a functional basic education system that will develop productive and responsible citizens equipped with the essential competencies, skills and values for both life-long learning and employment. In order to achieve this, the State shall:

- (a) Give every student an opportunity to receive quality education that is globally competitive based on a pedagogically sound curriculum that is at par with international standards;
- (b) Broaden the goals of high school education for college preparation, vocational and technical career opportunities as well as creative arts, sports and entrepreneurial employment in a rapidly changing and increasingly globalized environment; and
- (c) Make education learner-oriented and responsive to the needs, cognitive and cultural capacity, the circumstances and diversity of learners, schools and communities through the appropriate languages of teaching and learning, including mother tongue as a learning resource.[203]

There is no conflict between the K to 12 Law and related issuances and the Constitution when it made kindergarten and senior high school compulsory. The Constitution is clear in making elementary education compulsory; and the K to 12 Law and related issuances did not change this as, in fact, they affirmed it.

As may be gleaned from the outlined history of education laws in the Philippines, the definition of basic education was expanded by the legislature through the enactment of different laws, consistent with the State's exercise of police power. In BP Blg. 232, the elementary and secondary education were considered to be the stage where basic education is provided.[204] Subsequently, in RA No. 9155, the inclusion of elementary and high school education as part of basic education was affirmed.[205]

The legislature, through the Kindergarten Education Act, further amended the definition of basic education to

include kindergarten. Thereafter, the legislature expanded basic education to include an additional two (2) years of senior high school. Thus, by then, basic education comprised of thirteen (13) years, divided into one (1) year of kindergarten, six (6) years of elementary education, and six (6) years of secondary education — which was divided into four (4) years of junior high school and two (2) years of senior high school.

The Constitution did not curtail the legislature's power to determine the extent of basic education. It only provided a minimum standard: that elementary education be compulsory. By no means did the Constitution foreclose the possibility that the legislature provides beyond the minimum set by the Constitution.

Petitioners also contend that the expansion of compulsory education to include kindergarten and secondary education violates the UDHR, the ICESCR and the CRC.[206]

Petitioners' argument is misleading.

There is nothing in the UDHR, ICESCR and CRC which proscribes the expansion of compulsory education beyond elementary education.

Article 26 of the UDHR states:

- Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
- Parents have a prior right to choose the kind of education that shall be given to their children. (Emphasis and underscoring supplied)

There is absolutely nothing in Article 26 that would show that the State is prohibited from making kindergarten and high school compulsory. The UDHR provided a minimum standard for States to follow. Congress complied with this minimum standard; as, in fact, it went beyond the minimum by making kindergarten and high school compulsory. This action of Congress is, in turn, consistent with Article 41 of the CRC which provides that "[n]othing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in: (a) [t]he law of a State party; or (b) [i]nternational law in force for that State."

The enactment of the K to 12 Law was the manner by which the Congress sought to realize the right to education of its citizens. It is indeed laudable that Congress went beyond the minimum standards and provided mechanisms so that its citizens are able to obtain not just elementary education but also kindergarten and high school. Absent any showing of a violation of any Constitutional self-executing right or any international law, the Court cannot question the desirability, wisdom, or utility of the K to 12 Law as this is best addressed by the wisdom of Congress. As the Court held in *Tablarin v. Gutierrez*[207]:

x x x The petitioners also urge that the NMAT prescribed in MECS Order No. 52, s. 1985, is an "unfair, unreasonable and inequitable requirement," which results in a denial of due process. Again, petitioners have failed to specify just what factors or features of the NMAT render it "unfair" and "unreasonable" or "inequitable." They appear to suggest that passing the NMAT is an unnecessary requirement when added on top of the admission requirements set out in Section 7 of the Medical Act of 1959, and other admission requirements established by internal regulations of the various medical schools, public or private. Petitioners'

arguments thus appear to relate to utility and wisdom or desirability of the NMAT requirement. But constitutionality is essentially a question of power or authority: this Court has neither commission nor competence to pass upon questions of the desirability or wisdom or utility of legislation or administrative regulation. Those questions must be addressed to the political departments of the government not to the courts.

There is another reason why the petitioners' arguments must fail: the legislative and administrative provisions impugned by them constitute, to the mind of the Court, a valid exercise of the police power of the state. The police power, it is commonplace learning, is the pervasive and non-waivable power and authority of the sovereign to secure and promote all the important interests and needs — in a word, the public order — of the general community. An important component of that public order is the health and physical safety and well being of the population, the securing of which no one can deny is a legitimate objective of governmental effort and regulation.[208]

Petitioners also claim that the K to 12 basic education and the two (2) additional years in high school should not have been applied retroactively in violation of Article 4 of the Civil Code.[209] Petitioners assert that students who had already began schooling prior to 2013 or upon the passage of the K to 12 Law already acquired a "vested right" to graduate after the completion of four (4) years of high school, pursuant to Sections 9(2) and 20 of BP Blg. 232; thus, the K to 12 BEC cannot be applied to them.[210]

Again, petitioners' contentions are without merit.

The K to 12 Basic Education Program is not being retroactively applied because only those currently enrolled at the time the K to 12 Law took effect and future students will be subject to the K to 12 BEC and the additional two (2) years of senior high school. Students who already graduated from high school under the old curriculum are not required by the K to 12 Law to complete the additional two (2) years of senior high school.

More importantly, BP Blg. 232 does not confer any vested right to four (4) years of high school education. Rights are vested when the right to enjoyment, present or prospective, has become the property of some particular person or persons as a present interest. The right must be absolute, complete, and unconditional, independent of a contingency, and a mere expectancy of future benefit, or a contingent interest in property founded on anticipated continuance of existing laws, does not constitute a vested right.[211] Contrary to petitioners' assertion, the rights of students under Section 9 of BP Blg. 232 are not absolute. These are subject to limitations prescribed by law and regulations. In fact, while Section 9(2) of BP Blg. 232 states that students have the right to continue their course up to graduation, Section 20 of the same law does not restrict elementary and high school education to only six (6) and four (4) years. Even RA No. 9155 or the Governance of Basic Education Act of 2001, which was enacted under the 1987 Philippine Constitution, does not specify the number of years in elementary and high school. In other words, BP Blg. 232 or RA No. 9155 does not preclude any amendment or repeal on the duration of elementary and high school education. In adding two (2) years of secondary education to students who have not yet graduated from high school, Congress was merely exercising its police power and legislative wisdom in imposing reasonable regulations for the control and duration of basic education, in compliance with its constitutional duty to promote quality education for all.

Right to select a profession or course of study

Petitioners in G.R. No. 218123 insist that the implementation of the K to 12 Law is a limitation on the right of senior high school students to choose their professions.[212] For petitioners, a number of prospective senior high school students will be unable to choose their profession or vocation because of the limit on what senior high schools can offer and the availability of the different strands. This lacks basis.

There is no conflict between the K to 12 Law and its IRR and the right of the senior high school students to

choose their profession or course of study. The senior high school curriculum is designed in such a way that students have core subjects and thereafter, they may choose among four strands: 1) Accountancy, Business and Management (ABM) Strand; 2) Science, Technology, Engineering and Mathematics (STEM) Strand; 3) Humanities and Social Sciences (HUMSS) Strand; and 4) General Academic (GA) Strand.[213]

Petitioners have failed to show that the State has imposed unfair and inequitable conditions for senior high schools to enroll in their chosen path. The K to 12 Program is precisely designed in such a way that students may choose to enroll in public or private senior high schools which offer the strands of their choice. For eligible students, the voucher program also allows indigent senior high school students to enroll in private institutions that offer the strands of their choice.

Mother Tongue as medium of instruction

Petitioners argue that the use of the MT or the regional or native language as primary medium of instruction for kindergarten and the first three (3) years of elementary education contravenes Section 7, Article XIV of the 1987 Philippine Constitution, which expressly limits and constrains regional languages simply as auxiliary media of instruction.[214] This is an argument of first blush. A closer look at the pertinent provisions of the Constitution and the deliberations of the Constitutional Commission reveal the contrary. In fine, there is no conflict between the use of the MT as a primary medium of instruction and Section 7, Article XIV of the 1987 Philippine Constitution.

Sections 6 and 7, Article XIV of the 1987 Philippine Constitution provides:

SEC. 6. The national language of the Philippines is Filipino. As it evolves, it shall be further developed and enriched on the basis of existing Philippine and other languages.

Subject to provisions of law and as the Congress may deem appropriate, the Government shall take steps to initiate and sustain the use of Filipino as a medium of official communication and as language of instruction in the educational system.

SEC. 7. For purposes of communication and instruction, the official languages of the Philippines are Filipino and, until otherwise provided by law, English.

The regional languages are the auxiliary official languages in the regions and shall serve as auxiliary media of instruction therein.

The deliberations of the Constitutional Commission also confirm that MT or regional languages may be used as a medium of instruction:

MR. SUAREZ. Thank you, Madam President. When the Commissioner speaks of auxiliary official languages in their respective regions, what exactly does he have in mind?

MR. BENNAGEN. In addition to Filipino and English, they can be accepted also as official languages, even in government and in education.

MR. SUAREZ. So that not only will they be a medium of instruction or communication but they can be considered also as official languages.

MR. BENNAGEN. That is the intention of the committee. We should respect also the regional languages. x x x[215] (Emphasis and underscoring supplied)

x x x x

MR. DAVIDE. May I be enlightened on some of the aspects of this proposed substitute amendment? The first

is, does it follow from the wording that the regional languages shall serve as an auxiliary media of instruction and no law can prohibit their use as such? This means that subject to provisions of law and as Congress may deem appropriate, it would refer only to what are included in the first sentence. It will not apply to the second sentence relating to regional languages as auxiliary media of instruction.

MR. TREÑAS. That is correct. Precisely, there is a period after "educational system" and that is a new sentence.

MR. DAVIDE. As an auxiliary medium of instruction, it can actually be the primary medium, until Congress shall provide otherwise.

MR. TREÑAS. It shall be auxiliary.

MR. DAVIDE. But in the meantime that Congress shall not have deemed appropriate or that there is no provision of law relating to the use of Filipino as the medium of instruction, it can itself be the primary medium of instruction in the regions.

MR. TREÑAS. That is correct because of the provision of the first sentence.

MR. DAVIDE. On the supposition that there is already a law that Congress had deemed it appropriate, the regional language shall go hand in hand with Filipino as a medium of instruction. It cannot be supplanted in any way by Filipino as the only medium of instruction in the regional level.

x x x x

VOTING

x x x x

MR. VILLACORTA. Shall we vote now on the next sentence, Madam President?

THE PRESIDENT. Will the chairman please read the next sentence.

MR. VILLACORTA. The next sentence, Madam President, reads: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS."

THE PRESIDENT. Commissioner Padilla is recognized before we proceed to vote.

MR. PADILLA. Section 2 of the committee report states:

The official languages of the Philippines are Filipino and English, until otherwise provided by law. The regional languages are the auxiliary official languages in their respective regions.

That second sentence in Section 2 of the committee report may be amended by that second sentence which says: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS." I believe we should consider the first sentence of Section 2 and then say: "THE REGIONAL LANGUAGES SHALL SERVE AS AUXILIARY MEDIA OF INSTRUCTION IN THE RESPECTIVE REGIONS." That is my proposal.

THE PRESIDENT. In other words, the Commissioner's point is that this particular second sentence here should be transposed to Section 2 of the other committee report.

MR. PADILLA. Yes, Madam President.

THE PRESIDENT. What does the committee say?

REV. RIGOS. Madam President, perhaps if we approve the second sentence, we can delete the second sentence in

Section 2. Is that the idea?

MR. PADILLA. That is correct.

REV. RIGOS. Since we are talking about medium of instruction here, we would rather retain it in the first section.

MR. PADILLA. Madam President, but if no mention is made of English, it might be the impression contrary to what has already been agreed upon — that English may not be used as a medium of instruction. And it shall be clear that the first preference is Filipino, the national language, without prejudice to the use of English and also the regional languages.

REV. RIGOS. Madam President, do we understand the Commissioner correctly that he would rather delete that in the first section and amend the second sentence in Section 2?

MR. PADILLA. Yes, Madam President. That is the reason I suggested that the proposal be divided into two sentences. We approved the first sentence. The second sentence should be corrected to Section 2 of the committee report.

MR. VILLACORTA. Madam President, the committee is divided; therefore, we would like the floor to decide on this matter.

MR. PADILLA. The only reason I am saying this is to make clear in the Constitution that the medium of communication and the language of instruction are not only Filipino as a national language, and that the medium of instruction is the regional languages, otherwise, there would be no mention of English. I believe that we are all agreed that the first preference is the national language, Filipino, but it does not prevent the use of English and also of the regional languages.[216] (Emphasis and underscoring supplied)

It is thus clear from the deliberations that it was never the intent of the framers of the Constitution to use only Filipino and English as the exclusive media of instruction. It is evident that Congress has the power to enact a law that designates Filipino as the primary medium of instruction even in the regions but, in the absence of such law, the regional languages may be used as primary media of instruction. The Congress, however, opted not to enact such law. On the contrary, the Congress, in the exercise of its wisdom, provided that the regional languages shall be the primary media of instruction in the early stages of schooling. Verily, this act of Congress was not only Constitutionally permissible, but was likewise an exercise of an exclusive prerogative to which the Court cannot interfere with.

Petitioners further contend that the MTB-MLE is counter-productive, anti-developmental and does not serve the people's right to quality of education, which the State, under the Constitution, is mandated to promote.[217] Moreover, in contrast to the benefits of the MTB-MLE that respondents assert, petitioners claim that comparative international and domestic data have shown MT monolingualism to be inferior; while high literacy and proficiency in English indicates human development, makes people more globally competitive and relatively happier.[218]

Petitioners' arguments are again misplaced. While the Constitution indeed mandates the State to provide quality education, the determination of what constitutes quality education is best left with the political departments who have the necessary knowledge, expertise, and resources to determine the same. The deliberations of the Constitutional Commission again are very instructive:

Now, Madam President, we have added the word "quality" before "education" to send appropriate signals to the government that, in the exercise of its supervisory and regulatory powers, it should first set satisfactory minimum requirements in all areas: curriculum, faculty, internal administration, library, laboratory class and

other facilities, et cetera, and it should see to it that satisfactory minimum requirements are met by all educational institutions, both public and private.

When we speak of quality education we have in mind such matters, among others, as curriculum development, development of learning resources and instructional materials, upgrading of library and laboratory facilities, innovations in educational technology and teaching methodologies, improvement of research quality, and others. Here and in many other provisions on education, the principal focus of attention and concern is the students. I would like to say that in my view there is a slogan when we speak of quality of education that I feel we should be aware of, which is, "Better than ever is not enough." In other words, even if the quality of education is good now, we should attempt to keep on improving it.[219] (Emphasis supplied)

Clearly, when the government, through the K to 12 Law and the DepEd issuances, determined that the use of MT as primary medium of instruction until Grade 3 constitutes a better curriculum, it was working towards discharging its constitutional duty to provide its citizens with quality education. The Court, even in the exercise of its jurisdiction to check if another branch of the government committed grave abuse of discretion, will not supplant such determination as it pertains to the wisdom of the policy.

Petitioners in G.R. No. 218045 also claim that the provision on the use of MT violates the natural and primary right and duty of parents in the rearing of the youth, recognized under Section 12, Article II of the 1987 Philippine Constitution. Petitioners aver that by using the MT in teaching the students, it compels parents to do something utterly redundant, inefficient, and wasteful, as the students are presumably already fluent in speaking their MT.[220] In other words, they no longer need to be taught their native language.

Petitioners are once again incorrect as there is no conflict between the use of MT as a primary medium of instruction and the right of parents in rearing their children.

While Section 12, Article II grants parents the primary right to rear and educate their children, the State, as *parens patriae*, has the inherent right and duty to support parents in the exercise of this constitutional right. In other words, parents' authority and the State's duty are not mutually exclusive but complement each other.[221] In the matter of education, a parent is always the first teacher. The language first learned by the child or his "mother tongue", which the child understands best and hence, an effective tool for further learning, is first and foremost taught by the parent. The inclusion in the K to 12 Program of the MT as a medium of instruction and a subject in the early years of learning is, therefore, not intended to curtail the parents' right but to complement and enhance the same.

Moreover, despite the provision on the use of MT as primary medium of instruction for kindergarten and Grades 1 to 3, Filipino and English remain as subjects in the curriculum during the earlier stages of schooling and will later on be used as primary medium of instruction from Grade 4 onwards. In other words, in addition to the MT, the basics of Filipino and English will still be taught at the early stages of formal schooling; and should the parents, in the exercise of their primary right and duty to rear their children, so desire to give additional Filipino and English lessons to their children, they have the absolute right to do so. Nothing in the K to 12 Law prohibits the parents from doing so.

Academic freedom

Petitioners in G.R. No. 216930 also allege that faculty from HEI stand to lose their academic freedom when they are transferred to senior high school level as provided in the K to 12 Law, the K to 12 Law IRR and the Joint Guidelines.[222]

Without question, petitioners, who are faculty members in HEIs, indeed possess the academic freedom granted by Constitution. This Court, in its previous decisions, has defined academic freedom for the individual member of

the academe as "the right of a faculty member to pursue his studies in his particular specialty and thereafter to make known or publish the result of his endeavors without fear that retribution would be visited on him in the event that his conclusions are found distasteful or objectionable to the powers that be, whether in the political, economic, or academic establishments." [223]

However, the Court does not agree with petitioners that their transfer to the secondary level, as provided by the K to 12 Law and the assailed issuances, constitutes a violation of their academic freedom. While the Court agrees, in principle, that security of tenure is an important aspect of academic freedom — that the freedom is only meaningful if the faculty members are assured that they are free to pursue their academic endeavors without fear of reprisals — it is likewise equally true that convergence of security of tenure and academic freedom does not preclude the termination of a faculty member for a valid cause. [224] Civil servants, like petitioners, may be removed from service for a valid cause, such as when there is a bona fide reorganization, or a position has been abolished or rendered redundant, or there is a need to merge, divide, or consolidate positions in order to meet the exigencies of the service. [225] Hence, petitioners' contention that the law is unconstitutional based on this ground is specious.

Free public education in the elementary and high school levels

Petitioners claim that making kindergarten compulsory limits access to education; [226] that 400,000 to 500,000 Grade 11 students will be forced to enroll in private schools, pushed by government towards a more expensive, not free education; [227] and that there will be a de facto privatization of senior high school education (through the voucher system) and that this is a violation of the constitutional provision mandating free high school education. [228]

The OSG counters that the Senior High School Voucher program (subsidy given to those who will enroll in non-DepEd schools) does not force students to enroll in private SHS. It simply offers a viable alternative to both student and government — to the student, a subsidized private education; and to the government, decongested public schools. [229]

The Court fully agrees with the OSG.

Petitioners' argument that the establishment of the voucher system will result in the de facto privatization of senior high school is not only speculative, it is also without any basis. The voucher system is one of the mechanisms established by the State through RA No. 6728, otherwise known as the Government Assistance to Students and Teachers in Private Education Act. In *Mariño, Jr. v. Gamilla*, [230] the Court recognized that RA No. 6728 was enacted in view of the declared policy of the State, in conformity with the mandate of the Constitution, to promote and make quality education accessible to all Filipino citizens, as well as the recognition of the State of the complementary roles of public and private educational institutions in the educational system and the invaluable contribution that the private schools have made and will make to education. [231] Through the law, the State provided "the mechanisms to improve quality in private education by maximizing the use of existing resources of private education x x x." [232] One of these is the voucher system where underprivileged high school students become eligible for full or partial scholarship for degree or vocational/technical courses.

The program was later expanded through RA No. 8545. In the K to 12 Law, the benefits under RA No. 8545, including the voucher system, were made applicable to qualified students under the enhanced basic education, specifically to the qualified students enrolled in senior high school. [233]

The establishment and expansion of the voucher system is the State's way of tapping the resources of the private educational system in order to give Filipinos equal access to quality education. The Court finds that this manner of implementing the grant of equal access to education is not constitutionally infirm.

CMO No. 20 is constitutional

Petitioners assert that CMO No. 20 is violative of the Constitution because the study of Filipino, Panitikan and the Philippine Constitution are not included as core subjects.

The Court disagrees.

First, the constitutional provisions alleged by petitioners to be violated are non-self-executing provisions. As discussed above, the framers of the Constitution, in discussing Section 6 of Article XIV, explained that the use of Filipino as a medium of official communication is still subject to provisions of law.[234]

In *Knights of Rizal v. DMCI Homes, Inc.*, [235] the Court held that Section 15 on arts and culture of Article XIV is not self-executory because Congress passed laws dealing with the preservation and conservation of our cultural heritage.[236] The Court was of the view that all sections in Article XIV pertaining to arts and culture are all non-self-executing, which includes Section 14 on Filipino national culture and Section 18 on access to cultural opportunities. The Court in *Basco* [237] also ruled that Section 17, Article II on giving priority to education, science and technology, arts, culture, and sports, and Section 2, Article XIV on educational values, are non-self-executing.

Thus, the Court reiterates that these constitutional provisions are only policies that may be "used by the judiciary as aids or as guides in the exercise of its power of judicial review, and by the legislature in its enactment of laws." [238] The Court reiterates that they do not embody judicially enforceable constitutional rights. [239]

Second, it is misleading for petitioners to allege that there is a violation of the constitutional provisions for the simple reason that the study of Filipino, Panitikan and the Constitution are actually found in the basic education curriculum from Grade 1 to 10 and senior high school. To be sure, the changes in the GE curriculum were implemented to ensure that there would be no duplication of subjects in Grade 1 to 10, senior high school and college. Thus, the allegation of petitioners that CMO No. 20 "removed" the study of Filipino, Panitikan and the Constitution in the GE curriculum is incorrect.

As regards Section 3(1), Article XIV on the requirement that all educational institutions shall include the study of the Constitution as part of the curricula, the deliberations of the Constitutional Commission confirm that the intention was for it to be constitutionally mandated. The Court agrees that there is indeed a constitutional mandate that the study of the Constitution should be part of the curriculum of educational institutions. However, the mandate was general and did not specify the educational level in which it must be taught. Hence, the inclusion of the study of the Constitution in the basic education curriculum satisfies the constitutional requirement.

In this regard, it must be emphasized that CMO No. 20 only provides for the minimum standards for the GE component of all degree programs. Under Section 13 of RA No. 7722 or the Higher Education Act of 1994, the CHED is authorized to determine the (a) minimum unit requirements for specific academic programs; (b) general education distribution requirements as may be determined by the Commission; and (c) specific professional subjects as may be stipulated by the various licensing entities. The provision further provides that this authority shall not be construed as limiting the academic freedom of universities and colleges. Therefore, HEIs are given the freedom to require additional Filipino or Panitikan courses to these minimum requirements if they wish to.

Third, petitioners aver that non-inclusion of these subjects in the GE curriculum will result to job displacement of teachers and professors, which contravenes the constitutional provisions on protection of labor and security of tenure. Once more, Section 3, Article XIII and Section 18, Article II do not automatically confer judicially demandable and enforceable rights and cannot, on their own, be a basis for a declaration of unconstitutionality. Further, the Court finds that, in fact, teachers and professors were given the opportunity to participate in the

various consultations and decision-making processes affecting their rights as workers.[240]

CMO No. 20 does not contravene any other laws

As claimed by petitioners, CMO No. 20 violated Section 14 of RA No. 7104 or the Commission on the Filipino Language Act because it interfered with the authority of the Commission on the Filipino Language (CFL) on matters of language. Petitioners reiterate that it is the CFL who has the authority to formulate policies, plans and programs to ensure the further development, enrichment, propagation and preservation of Filipino and other Philippine language[241] and thus, CMO No. 20 should have retained the nine (9) units of Filipino in the GE curriculum, as proposed by the CFL.

Petitioners also aver that CMO No. 20 violates RA No. 7356 or the Law Creating the National Commission for Culture and the Arts because the non-inclusion of Filipino and Panitikan as subjects in the GE curriculum is a violation of our "duty x x x to preserve and conserve the Filipino historical and cultural heritage and resources." [242]

Lastly, petitioners allege that CMO No. 20 violates BP Blg. 232 or the Education Act of 1982, specifically, Section 3 on the role of the educational community to promote the social and economic status of all school personnel and Section 23 on the objectives of tertiary education which includes a general education program that will promote national identity and cultural consciousness.

Again, the Court disagrees.

It must be noted that nothing in these laws requires that Filipino and Panitikan must be included as subjects in the tertiary level. Further, as already established, it is within the authority of the CHED to determine the GE distribution requirements. The Court also reiterates that the study of Filipino and Panitikan can easily be included as courses in the tertiary level, if the HEIs wish to. Thus, petitioners' arguments that CMO No. 20 violates the aforementioned laws must fail.

III.

The K to 12 Law does not violate substantive due process and equal protection of the laws.

Petitioners also assert that the K to 12 Law is unconstitutional for violating the due process clause, as the means employed is allegedly not proportional to the end to be achieved, and that there is supposedly an alternative and less intrusive way of accomplishing the avowed objectives of the law. They point to studies which showed that lengthening the time did not necessarily lead to better student performance. They further assert that "[g]iven adequate instruction, armed with sufficient books, and a conducive learning environment, the Filipino student does not need at all two (2) additional years of senior high school" and hence the imposition of additional years in senior high school is "unduly oppressive an unwarranted intrusion into the right to education of all Filipino students, thus violating their right to substantive due process." [243] In addition, they claim that the assailed law is violative of the due process clause because, allegedly, the law served the interests of only a select few. According to them, majority of the Filipinos will never apply for graduate school admission to a foreign university or for professional work in a foreign corporation, and these are the only people who supposedly need the additional two years of basic education. They point to the fact that Filipinos are being currently employed as caregivers, seafarers, house helpers, etc. despite the fact that they have undergone only ten (10) years of basic education. Hence, the assailed law is unconstitutional for serving the interests of only a select few.[244]

Again, the Court disagrees. There is no conflict between the K to 12 Law and right of due process of the students.

It is established that due process is comprised of two components, namely, 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 procedural due process which consists of the two basic rights of notice and hearing, as well as the guarantee of being heard by an impartial and competent tribunal.[245]

Substantive due process, the aspect of due process invoked in this case, requires an inquiry on the intrinsic validity of the law in interfering with the rights of the person to his property. In *Abakada Guro Party List vs. Ermita*,[246] the Court held:

x x x The inquiry in this regard is not whether or not the law is being enforced in accordance with the prescribed manner but whether or not, to begin with, it is a proper exercise of legislative power.

To be so, the law must have a valid governmental objective, i.e., the interest of the public as distinguished from those of a particular class, requires the intervention of the State. This objective must be pursued in a lawful manner, or in other words, the means employed must be reasonably related to the accomplishment of the purpose and not unduly oppressive.[247] (Emphasis supplied)

Hence, two things must concur: (1) the interest of the public, in general, as distinguished from those of a particular class, requires the intervention of the State; and (2) the means employed are reasonably necessary for the accomplishment of the purpose, and not unduly oppressive on individuals.

Here, the K to 12 Law does not offend the substantive due process of petitioners. The assailed law's declaration of policy itself reveals that, contrary to the claims of petitioners, the objectives of the law serve the interest of the public and not only of a particular class:[248]

SEC. 2. Declaration of Policy. — The State shall establish, maintain and support a complete, adequate, and integrated system of education relevant to the needs of the people, the country and society-at-large.

Likewise, it is hereby declared the policy of the State that every graduate of basic education shall be an empowered individual who has learned, through a program that is rooted on sound educational principles and geared towards excellence, the foundations for learning throughout life, the competence to engage in work and be productive, the ability to coexist in fruitful harmony with local and global communities, the capability to engage in autonomous, creative, and critical thinking, and the capacity and willingness to transform others and one's self.

For this purpose, the State shall create a functional basic education system that will develop productive and responsible citizens equipped with the essential competencies, skills and values for both life-long learning and employment. In order to achieve this, the State shall:

- (a) Give every student an opportunity to receive quality education that is globally competitive based on a pedagogically sound curriculum that is at par with international standards;
- (b) Broaden the goals of high school education for college preparation, vocational and technical career opportunities as well as creative arts, sports and entrepreneurial employment in a rapidly changing and increasingly globalized environment; and
- (c) Make education learner-oriented and responsive to the needs, cognitive and cultural capacity, the circumstances and diversity of learners, schools and communities through the appropriate languages of teaching and learning, including mother tongue as a learning resource. (Emphasis supplied)

All students are intended to benefit from the law. Without ruling on the effectiveness of the revised curriculum, it is erroneous to view the K to 12 Law and the DepEd Orders in question extending basic education by two (2) years simply to comply with international standards; rather, the basic education curriculum was restructured according to what the political departments believed is the best approach to learning, or what they call as the

"spiral approach." This approach, according to respondent, will yield the following benefits for all students: (1) it is decongested and offers a more balanced approach to learning; (2) it would help in freeing parents of the burden of having to spend for college just to make their children employable; (3) it would prepare students with life skills that they learn while schooling; (4) it is seamless; (5) it is relevant and responsive, age-appropriate, and focused on making learners succeed in the 21st century; and (6) it is enriched and learner-centered.[249] Thus, contrary to the claims of petitioners, the assailed law caters to the interest of the public in general, as opposed to only a particular group of people.

Furthermore, the means employed by the assailed law are commensurate with its objectives. Again, the restructuring of the curriculum with the corresponding additional years in senior high school were meant to improve the quality of basic education and to make the country's graduates more competitive in the international arena.

Respondents proffer, and petitioners concede, that the Philippines is the last country to adopt a 12-year basic education curriculum. However, petitioners submit that adding two (2) years in the basic education curriculum is not the answer to achieve these objectives, and that there is supposedly a less intrusive way to achieve these goals, namely, to increase the salaries of the teachers, invest in better and more resource materials, and building of more classrooms to achieve the goal of improving the quality of education in the Philippines. Petitioners ought to be reminded, however, that the objectives of the law are two-pronged. It was meant not only to (1) improve the basic education in the country, but also to (2) make it at par with international standards. It is in this second purpose that the means employed by the assailed law is justified. Thus, having established that the interest of the public in general is at the heart of the law, and that the means employed are commensurate to its objectives, the Court holds that the K to 12 Law is not violative of the due process clause.

The students of Manila Science High School (MSHS), petitioners in G.R. No. 218465, aver, in particular, that the decongestion of the originally existing basic education curriculum and the lengthening of the basic education cycle do not, and should not, be made to apply to them as their curriculum is supposedly congested on purpose.[250] It supposedly should not apply to them because "[they] are gifted and thus are advanced for their age, with the capability to learn better and faster compared to other high school students. Because of their higher mental capabilities, they neither need decongesting nor a longer period of time or any spiral approach, for them to in fact master their heavier in scope and more advanced math and science subjects." [251] They are supposedly "not being trained for immediate employment after high school but for them to pursue tertiary education, particularly career paths either as mathematicians, scientists or engineers, which the country needs most for its development." [252] This, these petitioners asseverate, makes the means employed by the K to 12 Law not reasonably necessary for the accomplishment of its intended purpose. Thus, as applied to MSHS students, the K to 12 Law is arbitrary, unfair, oppressive, discriminatory and unreasonable and thus violative of their substantive due process. [253] They further allege that the law is violative of the equal protection clause for treating them in the same way as all other high school students when they are supposed to be treated differently for not being similarly situated with the rest.[254]

In essence, what these petitioners are saying is that the K to 12 Law did not make a substantial distinction between MSHS students and the rest of the high school students in the country when it, in fact, should have done so.

This contention is without merit.

To assure that the general welfare is promoted, which is the end of the law, a regulatory measure may cut into the rights to liberty and property.[255] Those adversely affected may invoke the equal protection clause only if they

can show that the governmental act assailed, far from being inspired by the attainment of the common goal, was prompted by the spirit of hostility, or at the very least, discrimination that finds no support in reason.[256] This, petitioners' failed to sufficiently show. For this reason, the Court holds that the K to 12 Law did not violate petitioners' right to due process nor did it violate the equal protection clause. In *JMM Promotion and Management, Inc. v. Court of Appeals*,[257] the Court explained the object and purpose of the equal protection clause in this wise:

The equal protection clause is directed principally against undue favor and individual or class privilege. It is not intended to prohibit legislation which is limited to the object to which it is directed or by the territory in which it is to operate. It does not require absolute equality, but merely that all persons be treated alike under like conditions both as to privileges conferred and liabilities imposed. We have held, time and again, that the equal protection clause of the Constitution does not forbid classification for so long as such classification is based on real and substantial differences having a reasonable relation to the subject of the particular legislation. If classification is germane to the purpose of the law, concerns all members of the class, and applies equally to present and future conditions, the classification does not violate the equal protection guarantee.[258] (Emphasis supplied)

To emphasize, valid classifications require real and substantial differences to justify the variance of treatment between the classes. The MSHS students did not offer any substantial basis for the Court to create a valid classification between them and the rest of the high school students in the Philippines. Otherwise stated, the equal protection clause would, in fact, be violated if the assailed law treated the MSHS students differently from the rest of the high school students in the country.

To be clear, the Court is not saying that petitioners are not gifted, contrary to their claims. The Court is merely saying that the K to 12 Law was not infirm in treating all high school students equally. The MSHS students are, after all, high school students just like all the other students who are, and will be, subjected to the revised curriculum.

The Court agrees with these petitioners to the extent of their claim that they have the right granted by Article 3(3) and (6) of Presidential Decree No. 603, or the Child and Youth Welfare Code, to education commensurate with their abilities.[259] However, the Court disagrees that the said right granted by the Child and Youth Welfare Code was violated when the revised curriculum under the K to 12 Law was applied to them. It bears repeating that the law is being merely applied to the whole segment of the population to which petitioners belong. Further, the basic education under the K to 12 was intended to meet the basic learning needs of the students and it is broad enough to cover alternative learning systems for out-of-school learners and those with special needs.[260]

This is not to say that they shall be continually subjected strictly to the K to 12 curriculum which they describe as "inferior," "diluted," and "anemic." [261] The K to 12 Law explicitly recognized the right of schools to modify their curricula subject, of course, to the minimum subjects prescribed by the DepEd:[262]

SEC. 5. Curriculum Development. — The DepED shall formulate the design and details of the enhanced basic education curriculum. It shall work with the Commission on Higher Education (CHED) to craft harmonized basic and tertiary curricula for the global competitiveness of Filipino graduates. To ensure college readiness and to avoid remedial and duplication of basic education subjects, the DepED shall coordinate with the CHED and the Technical Education and Skills Development Authority (TESDA).

To achieve an effective enhanced basic education curriculum, the DepED shall undertake consultations with other national government agencies and other stakeholders including, but not limited to, the Department of Labor and Employment (DOLE), the Professional Regulation Commission (PRC), the private and public schools associations, the national student organizations, the national teacher organizations, the parents-teachers

associations and the chambers of commerce on matters affecting the concerned stakeholders.

The DepED shall adhere to the following standards and principles in developing the enhanced basic education curriculum:

- (a) The curriculum shall be learner-centered, inclusive and developmentally appropriate;
- (b) The curriculum shall be relevant, responsive and research-based;
- (c) The curriculum shall be culture-sensitive;
- (d) The curriculum shall be contextualized and global;
- (e) The curriculum shall use pedagogical approaches that are constructivist, inquiry-based, reflective, collaborative and integrative;
- (f) The curriculum shall adhere to the principles and framework of Mother Tongue-Based Multilingual Education (MTB-MLE) which starts from where the learners are and from what they already knew proceeding from the known to the unknown; instructional materials and capable teachers to implement the MTB-MLE curriculum shall be available;
- (g) The curriculum shall use the spiral progression approach to ensure mastery of knowledge and skills after each level; and
- (h) The curriculum shall be flexible enough to enable and allow schools to localize, indigenize and enhance the same based on their respective educational and social contexts. The production and development of locally produced teaching materials shall be encouraged and approval of these materials shall devolve to the regional and division education units. (Emphasis supplied)

In fact, the K to 12 IRR confirms the inclusiveness of the design of the Enhanced Basic Education in mandating that the enhanced basic education programs should be able to address the physical, intellectual, psychosocial, and cultural needs of learners.[263] The IRR mandates that the Basic Education Program should include programs for the gifted and talented, those with disabilities, the Madrasah Program for Muslim learners, Indigenous Peoples Programs, and Programs for Learners under Difficult Circumstances.[264] The K to 12 IRR also allows the acceleration of learners in public and private educational institutions.[265] Therefore, the remedy of petitioner students is with MSHS and/or DepEd, and not with this Court.

Petitioners in G.R. No. 218045 also challenge the K to 12 Law on the ground of violation of the equal protection clause by arguing that private schools are allowed to offer extra and optional curriculum subjects in addition to those required by the K to 12 Law and DepEd Orders, and thus, rich families will tend to enroll their children in private schools while poor families will be constrained to enroll their children in English starved public schools.[266]

The argument is untenable.

The Court, no matter how vast its powers are, cannot trample on the previously discussed right of schools to enhance their curricula and the primary right of parents to rear their children, which includes the right to determine which schools are best suited for their children's needs. Even before the passage of the K to 12 Law, private educational institutions had already been allowed to enhance the prescribed curriculum, considering the State's recognition of the complementary roles of public and private institutions in the educational system.[267] Hence, the Court cannot sustain petitioners' submission that the assailed law is invalid based on this ground.

Other arguments against the constitutionality of the K to 12 Law

Petitioners in G.R. No. 217752 argue that DepEd's use of global competitiveness as justification in the policy shift to K to 12 is not relevant to the needs of the people and society, as not everyone will be working abroad.[268] Essentially, they are assailing the validity of the law for allegedly violating Section 2(1), Article XIV of the 1987 Philippine Constitution, which states that:

SEC. 2. The State shall:

(1) Establish, maintain, and support a complete, adequate, and integrated system of education relevant to the needs of the people and society[.]

As previously discussed, however, Section 2, Article XIV of the 1987 Philippine Constitution is a non-self-executing provision of the Constitution. Again, as the Court already held in *Basco*, "Section 2 (Educational Values) of Article XIV of the 1987 [Philippine] Constitution x x x are merely statements of principles and policies. As such, they are basically not self-executing, meaning a law should be passed by Congress to clearly define and effectuate such principles." [269] The K to 12 Law is one such law passed by the Legislature to bring the said guiding principle to life. The question of what is 'relevant to the needs of the people and society' is, in turn, within the sole purview of legislative wisdom in which the Court cannot intervene.

Another assertion against the constitutionality of the K to 12 Law is that it allegedly violates the constitutional State duty to exercise reasonable supervision and regulation of educational institutions mandated by Section 4, Article XIV of the 1987 Constitution. Petitioners in G.R. No. 218123 allege that DepEd's Basic Education Sector Transformation Program (BEST) is supported by Australian Aid and managed by CardNo, a foreign corporation listed in the Australian Securities Exchange. CardNo allegedly hires specialists for the implementation of the K to 12 curriculum.[270] This partnership between CardNo and DepEd is allegedly violative of the above Constitutional provision, which reads:

SEC. 4. (1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

(2) Educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. The Congress may, however, require increased Filipino equity participation in all educational institutions.

The control and administration of educational institutions shall be vested in the citizens of the Philippines.

No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. The provisions of this subsection shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.

(3) All revenues and assets of non-stock, non-profit educational institutions used actually, directly, and exclusively for educational purposes shall be exempt from taxes and duties. Upon the dissolution or cessation of the corporate existence of such institutions, their assets shall be disposed of in the manner provided by law.

Proprietary educational institutions, including those cooperatively owned, may likewise be entitled to such exemptions subject to the limitations provided by law including restrictions on dividends and provisions for reinvestment.

(4) Subject to conditions prescribed by law, all grants, endowments, donations, or contributions used actually, directly, and exclusively for educational purposes shall be exempt from tax. (Emphasis supplied)

Petitioners point to Section 4(1) and Section 4(2), paragraph 2, as legal basis for the supposed unconstitutionality

of the partnership between DepEd and CardNo in the implementation of the K to 12 curriculum.

Petitioners' reading of the above Constitutional provisions is erroneous. Sections 4(1) and 4(2) deal with two separate matters that the Framers of the Constitution sought to address. Section 4(1) was a provision added by the Framers to crystallize the State's recognition of the importance of the role that the private sector plays in the quality of the Philippine education system. Despite this recognition, the Framers added the second portion of Section 4(2) to emphasize that the State, in the exercise of its police power, still possesses the power of supervision over private schools. The Framers were explicit, however, that this supervision refers to external governance, as opposed to internal governance which was reserved to the respective school boards, thus:

Madam President, Section 2(b) introduces four changes: one, the addition of the word "reasonable" before the phrase "supervision and regulation"; two, the addition of the word "quality" before the word "education"; three, the change of the wordings in the 1973 Constitution referring to a system of education, requiring the same to be relevant to the goals of national development, to the present expression of "relevant to the needs of the people and society"; and four, the explanation of the meaning of the expression "integrated system of education" by defining the same as the recognition and strengthening of the complementary roles of public and private educational institutions as separate but integral parts of the total Philippine educational system.

When we speak of State supervision and regulation, we refer to the external governance of educational institutions, particularly private educational institutions as distinguished from the internal governance by their respective boards of directors or trustees and their administrative officials. Even without a provision on external governance, the State would still have the inherent right to regulate educational institutions through the exercise of its police power. We have thought it advisable to restate the supervisory and regulatory functions of the State provided in the 1935 and 1973 Constitutions with the addition of the word "reasonable." We found it necessary to add the word "reasonable" because of an obiter dictum of our Supreme Court in a decision in the case of *Philippine Association of Colleges and Universities vs. The Secretary of Education and the Board of Textbooks* in 1955. In that case, the court said, and I quote:

It is enough to point out that local educators and writers think the Constitution provides for control of education by the State.

The Solicitor General cites many authorities to show that the power to regulate means power to control, and quotes from the proceedings of the Constitutional Convention to prove that State control of private education was intended by organic law.

The addition, therefore, of the word "reasonable" is meant to underscore the sense of the committee, that when the Constitution speaks of State supervision and regulation, it does not in any way mean control. We refer only to the power of the State to provide regulations and to see to it that these regulations are duly followed and implemented. It does not include the right to manage, dictate, overrule and prohibit. Therefore, it does not include the right to dominate.[271] (Emphasis supplied)

In stark contrast, Section 4(2), Article XIV, which was copied from the 1973 Philippine Constitution, refers to ownership and administration of individual schools. This interpretation is clear both from a plain reading of the provision itself, and from the deliberations of the Framers of the Constitution:

MR. GUINGONA. The committee refers to both ownership and administration. If I may be allowed to continue, may I refer the Commissioner to the same section that I have specified in the 1973 Constitution. The Commissioner will notice that this particular provision does not only refer to administration because it speaks also of educational institution which should be owned solely by citizens or corporations of the Philippines.

MR. REGALADO. Yes.

MR. GUINGONA. In other words, even in the 1973 Constitution, the contemplation or the intention of the fundamental law was to include both ownership and administration.

MR. REGALADO. They are not merely these, because otherwise there is an error of language in the Constitution then. Paragraph 7 of Section 8 states: "Educational institutions, other than those established by religious orders, mission boards, or charitable organizations."

MR. GUINGONA. Yes.

MR. REGALADO. In other words, with the exception of educational institutions established by religious orders, mission boards, or charitable organizations, then all educational institutions shall be owned solely by citizens of the Philippines and at the time, of course, by corporations or associations 60 per centum of the capital of which is owned by citizens. In other words, educational institutions of religious orders were exempted from that requirement by the very constitutional provision which was further implemented and ramified with clarity in P.D. No. 176.[272]

Thus, petitioners are mistaken in applying Section 4(2), Article XIV to Section 4(1), Article XIV as they deal with completely different matters. The restrictions expressed in Section 4(2), Article XIV only refer to ownership, control, and administration of individual schools, and these do not apply to the State's exercise of reasonable supervision and regulation of educational institutions under Section 4(1), Article XIV. Hence, there is nothing under the provisions of the Constitution which prohibits the State to forge a partnership with a foreign entity, like CardNo, in the exercise of this supervision and regulation of educational institutions.

Further, it is asserted that the K to 12 Law violates the constitutional duty of the State to provide adult citizens, the disabled, and out-of-school youth with training in civics, vocational efficiency, and other skills as commanded by Section 2, Article XIV of the 1987 Philippine Constitution. Petitioners decry the supposed lack of mechanisms in the K to 12 Law to accommodate groups with special needs.[273] As previously discussed, Section 2, Article XIV of the 1987 Philippine Constitution is not a self-executing provision. Furthermore, petitioners' argument has no factual basis because DepEd has already put in place programs to address the needs of indigenous peoples, Muslim children, adult learners, PWDs, out of school youth and other sectors of society in keeping with the aforesaid constitutional provisions, in line with the K to 12 Law. The Court agrees with the following discussion by the OSG in its Comment on this point:

The petitioners' argument has no factual basis because the DepEd has already put in place programs to address the needs of the indigenous peoples, Muslim schoolchildren, adult learners, and persons with disabilities (PWDs) in line with the K-12 program. DepEd Order No. 103, s. 2011 directed the creation of the Indigenous Peoples Education Office (IPsEO), which is a mechanism for the mobilization, implementation, and coordination of all the programs and projects of DepEd pertaining to IPs education, pursuant to "The Indigenous Peoples Rights Act of 1997." This law mandates all government agencies to recognize and promote the rights of Indigenous Cultural Communities and Indigenous Peoples within the framework of national unity and development.

Dep[E]d Order No. 62, s. 2011 entitled "The National Indigenous Peoples Education Policy Framework," was issued to serve as an instrument in promoting shared accountability, continuous dialogue, engagement, and partnership among governments, IPs communities, civil society, and other education stakeholders in upholding the IPs Learners' education rights. In support of DepEd's commitment to strengthen its policy on Indigenous Peoples Education (IPEd), DepEd Order No. 26, s. 2013 promulgated the Implementing Guidelines on the Allocation and Utilization of the Indigenous Peoples Education (IPEd) Program Support Fund.

Likewise, DepEd Order No. 46, s. 2013, entitled "Guidelines on the Madrasah Education Program and Utilization of the Support Fund," was issued to engage Muslim learners with relevant educational opportunities and processes.

On the other hand, DepEd Order No. 39, s. 2013 was issued in support of DepEd's Special Education Program for learners with special needs and disabilities, including those who are gifted and talented. DepEd Memorandum No. 108, s. 2013 entitled "2013 Alternative Learning System Accreditation and Equivalency (ALS & ALE) Test Registration and Administration" was promulgated to facilitate the ALS & ALE Test, designed to measure the competencies of those who have neither attended nor finished the elementary or secondary education in the formal school system. Passers of this test are given a certificate/diploma (which bears the seal and the signature of the Secretary of the Department of Education) certifying their competencies as comparable to graduates of the formal school system. Hence, they are qualified to enroll in the secondary and post secondary schools.

DepEd Order No. 17, s. 2014 was also issued to provide the guidelines on the Abot-Alam Program, a convergence program that is being undertaken by a consortium of various national government agencies, non government organizations, the National Youth Commission, and institutions under the leadership of DepEd to locate the out-of-school youth (OSY) nationwide who are 15-30 years old and who have not completed basic/higher education or who are unemployed, and to mobilize and harmonize programs which will address the OSY's needs and aspirations.

DepEd Order No. 77, s. 2011 organized the Advisory Council for the Education of Children and Youth with Disabilities (ACECYD) to formulate an agenda for action and the framework for collaboration between the DepEd and the disability sector and other stakeholders in providing education to children and youth with disabilities.

DepEd Order No. 64, s. 2011 directed all Schools Division and City Superintendents (SDSs) and District Supervisors to strictly implement relevant policies and best practices on the promotion and compensation of all Alternative Learning System (ALS) mobile teachers and implementers to ensure equal opportunities and standard implementation on the promotion and compensation of the ALS implementers.

Likewise, DepEd Order No. 22, s. 2010, entitled "Mainstreaming and Institutionalizing Madrasah Education Program by Transferring Its Developed Components to the Bureau of Elementary Education, Regional and Division Offices, and the Establishment of Madrasah Education Unit," was promulgated with the ultimate objective of peace building, national unity and understanding. Under this scheme, DepEd shall develop the Standard Madrasah Curriculum (SMC) for Pre-elementary and Secondary levels, along with the development of instructional and learning materials, to complete the cycle of basic education Madrasah.

These inclusion programs are continuously being implemented to respond to the needs of the education sector during the transition period. They show the resolve of the DepEd to harness the necessary systems and structures to respond to the needs of the indigenous peoples, Muslim schoolchildren, adult learners, PWDs, OSYs, and the other sectors of society, in keeping with the constitutional provisions on the rights of indigenous peoples to preserve and develop their cultures, and to provide training in civics, vocational efficiency, and other skills to adult, disabled, and out-of-school youth.[274]

In fine, the contentions of petitioners are therefore without any factual basis and utterly devoid of merit.

IV.

Policy issues

In an attempt to bolster their case against the K to 12 Law, petitioners also raised the following policy issues:

a)

K to 12 only increases the resource gap by creating more need for resources. The solution to the problem is closing the resource gap by giving priority to education in the budget and public spending program of the government and addressing the issue of poverty and malnutrition and programs aimed at alleviating if not

eradicating poverty in the long run but instead government comes up with the K to 12 Law which is a copycat and elitist solution.[275]

b)

K to 12 is problem-ridden. Instead, what we need is to prioritize deficiencies in personnel, facilities and materials; and a nationalist-oriented curriculum relevant to the needs of the people.[276]

c)

The Philippine government does not have enough funds to add two (2) more years of senior high school.[277]

d)

Student-teacher ratio is far from ideal.[278]

e)

Teachers are paid low salaries.[279]

f)

There is no assurance that senior high school results in good employment.[280]

Policy matters are not the concern of the Court. To reiterate, government policy is within the exclusive dominion of the political branches of the government. It is not for the Court to look into the wisdom or propriety of legislative determination.[281] Stated otherwise, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation.[282] Indeed, whether an enactment is wise or unwise, whether it is based on sound economic theory, whether it is the best means to achieve the desired results, whether, in short, the legislative discretion within its prescribed limits should be exercised in a particular manner — all these are matters for the judgment of the legislature, and the serious conflict of opinions does not suffice to bring them within the range of judicial cognizance. When the validity of a statute is challenged on constitutional grounds, the sole function of the court is to determine whether it transcends constitutional limitations or the limits of legislative power.[283] In the case of *Tañada v. Cuenco*,[284] the Court, quoting American authorities, held:

"Elsewhere in this treatise the well-known and well-established principle is considered that it is not within the province of the courts to pass judgment upon the policy of legislative or executive action. Where, therefore, discretionary powers are granted by the Constitution or by statute, the manner in which those powers are exercised is not subject to judicial review. The courts, therefore, concern themselves only with the question as to the existence and extent of these discretionary powers.

"As distinguished from the judicial, the legislative and executive departments are spoken of as the political departments of government because in very many cases their action is necessarily dictated by considerations of public or political policy. These considerations of public or political policy of course will not permit the legislature to violate constitutional provisions, or the executive to exercise authority not granted him by the Constitution or by statute, but, within these limits, they do permit the departments, separately or together, to

recognize that a certain set of facts exists or that a given status exists, and these determinations, together with the consequences that flow therefrom, may not be traversed in the courts." [285] (Emphasis in the original)

Similarly, in *Department of Environment and Natural Resources v. DENR Region 12 Employees*, [286] the Court held that:

x x x. However, these concern issues addressed to the wisdom of the transfer rather than to its legality. It is basic in our form of government that the judiciary cannot inquire into the wisdom or expediency of the acts of the executive or the legislative department, for each department is supreme and independent of the others, and each is devoid of authority not only to encroach upon the powers or field of action assigned to any of the other department, but also to inquire into or pass upon the advisability or wisdom of the acts performed, measures taken or decisions made by the other departments.

The Supreme Court should not be thought of as having been tasked with the awesome responsibility of overseeing the entire bureaucracy. Unless there is a clear showing of constitutional infirmity or grave abuse of discretion amounting to lack or excess of jurisdiction, the Court's exercise of the judicial power, pervasive and limitless it may seem to be, still must succumb to the paramount doctrine of separation of powers. After a careful review of the records of the case, we find that this jurisprudential element of abuse of discretion has not been shown to exist. [287] (Emphasis supplied)

Further, the 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 government. [288] The Court, despite its vast powers, will not review the wisdom, merits, or propriety of governmental policies, but will strike them down only on either of two grounds: (1) unconstitutionality or illegality and/or (2) grave abuse of discretion. [289] For having failed to show any of the above in the passage of the assailed law and the department issuances, the petitioners' remedy thus lies not with the Court, but with the executive and legislative branches of the government. [290]

WHEREFORE, the consolidated petitions are hereby DENIED. Accordingly, the Court declares Republic Act No. 10533, Republic Act No. 10157, CHED Memorandum Order No. 20, Series of 2013, Department of Education Order No. 31, Series of 2012, and Joint Guidelines on the Implementation of the Labor and Management Component of Republic Act No. 10533, as CONSTITUTIONAL. The Temporary Restraining Order dated April 21, 2015 issued in G.R. No. 217451 is hereby LIFTED.

SO ORDERED.

Leonardo-De Castro, C.J., Carpio, Peralta, Del Castillo, Perlas-Bernabe, Jardeleza, Tijam, and A. Reyes, Jr., JJ., concur.

Leonen, J., see separate concurring opinion.

Bersamin and Gesmundo, JJ., on official business.

J. Reyes, Jr., J., on wellness leave.

[1] Translation from Spanish into Filipino of Jose Rizal's poem *Por la Educacion Recibe Lustre la Patria* (Dahil sa Karunungan 'y Nagkakaroon ng Kinang ang Bayan) written in April 1876 originally published by the Jose Rizal Centennial Commission in 1961 (Rizal's Centennial) and reprinted by the National Historical Commission of the Philippines in 1995 and 2008 respectively.

[2] AN ACT ENHANCING THE PHILIPPINE BASIC EDUCATION SYSTEM BY STRENGTHENING ITS CURRICULUM AND INCREASING THE NUMBER OF YEARS FOR BASIC EDUCATION,

APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES, May 15, 2013.

[3] AN ACT INSTITUTIONALIZING THE KINDERGARTEN EDUCATION INTO THE BASIC EDUCATION SYSTEM AND APPROPRIATING FUNDS THEREFOR, January 20, 2012.

[4] Act No. 74, Sec. 1.

[5] AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC INSTRUCTION IN THE PHILIPPINE ISLANDS AND APPROPRIATING FORTY THOUSAND DOLLARS FOR THE ORGANIZATION AND MAINTENANCE OF A NORMAL AND A TRADE SCHOOL IN MANILA, AND FIFTEEN THOUSAND DOLLARS FOR THE ORGANIZATION AND MAINTENANCE OF AN AGRICULTURAL SCHOOL IN THE ISLAND OF NEGROS FOR THE YEAR NINETEEN HUNDRED AND ONE, January 21, 1901.

[6] Act No. 74, Sec. 2.

[7] Id.

[8] Id., Sec. 14.

[9] Id., Sec. 16.

[10] AN ACT MAKING THE INSPECTION AND RECOGNITION OF PRIVATE SCHOOLS AND COLLEGES OBLIGATORY FOR THE SECRETARY OF PUBLIC INSTRUCTION, AND FOR OTHER PURPOSES, March 10, 1917.

[11] Act No. 2706, Sec. 1.

[12] AN ACT TO AMEND SECTIONS 1, 2, 3, 5, 6 AND 12 OF ACT NO. 2706, AS AMENDED BY ACT No. 3075, November 13, 1936.

[13] CA No. 180, Sec. 1 .

[14] AN ACT TO PROVIDE FOR THE REVISION OF THE SYSTEM OF PUBLIC ELEMENTARY EDUCATION IN THE PHILIPPINES INCLUDING THE FINANCING THEREOF, August 7, 1940.

[15] COM. ACT No. 586, Sec. 2.

[16] Id.

[17] Id., Section 3.

[18] Id., Sec. 5.

[19] Id.

[20] REORGANIZING THE DIFFERENT EXECUTIVE DEPARTMENTS, BUREAUS, OFFICES, AND AGENCIES OF THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES, MAKING CERTAIN READJUSTMENTS OF PERSONNEL AND REALLOTMENTS OF FUNDS IN CONNECTION THEREWITH, AND FOR OTHER PURPOSES, October 4, 1947.

[21] AN ACT TO DECLARE THE POLICY ON ELEMENTARY EDUCATION IN THE PHILIPPINES, June 20, 1953.

[22] RA No. 896, Sec. 5.

[23] Id.

[24] RA No. 896, Sec. 2.

[25] Historical Perspective of the Philippine Educational System, < <http://www.deped.gov.ph/history> > (last accessed on September 28, 2018).

[26] CONVERSION OF DEPARTMENTS INTO MINISTRIES, Presidential Decree No. 1397, June 2, 1978.

[27] AN ACT PROVIDING FOR THE ESTABLISHMENT AND MAINTENANCE OF AN INTEGRATED SYSTEM OF EDUCATION, September 11, 1982.

[28] B.P. 232, Section 3.

[29] Id., Sec. 20.

[30] Id., Sec. 20(1).

[31] Id., Sec. 20(2). Emphasis supplied.

[32] Title IV, Chapter I, Section 54, B.P. 232.

[33] REORGANIZATION ACT OF THE MINISTRY OF EDUCATION, CULTURE AND SPORTS, January 30, 1987.

[34] AN ACT ESTABLISHING AND PROVIDING FOR A FREE PUBLIC SECONDARY EDUCATION AND FOR OTHER PURPOSES, May 26, 1988.

[35] RA No. 6655, Sec. 4.

[36] AN ACT PROVIDING GOVERNMENT ASSISTANCE TO STUDENTS AND TEACHERS IN PRIVATE EDUCATION, AND APPROPRIATING FUNDS THEREFOR, June 10, 1989.

[37] RA No. 6728, Sec. 4(4).

[38] AN ACT AMENDING REPUBLIC ACT No. 6728, OTHERWISE KNOWN AS "AN ACT PROVIDING GOVERNMENT ASSISTANCE TO STUDENTS AND TEACHERS IN PRIVATE EDUCATION AND APPROPRIATING FUNDS THEREFOR," ESTABLISHING A FUND FOR THE PURPOSE OF SUBSIDIZING SALARIES OF PRIVATE SCHOOL TEACHERS, AND APPROPRIATING FUNDS THEREFOR, February 24, 1998.

[39] RA No. 8545, Sec. 2.

[40] Id.

[41] AN ACT PROMULGATING A COMPREHENSIVE POLICY AND A NATIONAL SYSTEM FOR EARLY CHILDHOOD CARE AND DEVELOPMENT (ECCD), PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES, December 5, 2000.

[42] RA No. 8980, Sec. 4(a).

[43] Id., Sec. 4(a)(1) and (2).

[44] AN ACT INSTITUTING A FRAMEWORK OF GOVERNANCE FOR BASIC EDUCATION, ESTABLISHING AUTHORITY AND ACCOUNTABILITY, RENAMING THE DEPARTMENT OF EDUCATION, CULTURE AND SPORTS AS THE DEPARTMENT OF EDUCATION, AND FOR OTHER PURPOSES, August 11, 2001.

[45] RA No. 9155, Sec. 2.

[46] Id., Sec. 4(b).

[47] Id., Sec. 6.

[48] Education for All 2000-2015: Achievements and Challenges, UNESCO (2015), pp. xii-xiv, < <http://unesdoc.unesco.org/images/0023/002322/232205e.pdf> > (last accessed on September 28, 2018).

[49] See DepEd Order No. 36, s. 2002, Education for All (EFA) 2015 Plan Preparation.

[50] Rodriguez, Carolyn, Towards Achieving EFA Goals by 2015: The Philippine Scenario, available at < <http://home.hiroshima-u.ac.jp/cice/wp-content/uploads/2014/07/JEF-E7-12.pdf> > (last accessed on September 28, 2018).

[51] Id.

[52] Education for All, Coalition for Better Education, available at < <http://www.cbephils.net/efa.html> > (last accessed on September 28, 2018).

[53] RA No. 10157, Sec. 3(c).

[54] Id., Sec. 4.

[55] Id., Sec. 3(d).

[56] Id., Sec. 5.

[57] IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT (RA) No. 10157 OTHERWISE KNOWN AS "THE KINDERGARTEN EDUCATION ACT", April 17, 2012.

[58] DO No. 32, Sec. 8.

[59] Discussion Paper on the Enhanced K+12 Basic Education Program (DepEd discussion paper), October 5, 2010, p. 4.

[60] Id. at 5-6.

[61] Senate Economic Planning Office, K to 12: The Key to Quality Education (A Policy Brief), p. 1, < <https://www.senate.gov.ph/publications/PB%202011-02%20%20K%20to%2012%20The%20Key%20to%20Quality.pdf> > (last accessed on September 28, 2018).

[62] Id. at 4.

[63] RA No. 10533, Sec. 4.

[64] K to 12 Toolkit: Reference Guide for Teacher Educators, School Administrators and Teachers (K to 12 Toolkit), 2012, pp. 20-21, < http://www.seameo-innotech.org/eNews/Kto12Toolkit_ao17july2012.pdf > (last accessed on September 28, 2018).

[65] Id. at 23 and 33.

[66] Id. at 26.

[67] Id. at 47.

[68] See id. at 27-32.

[69] Senate Economic Planning Office, K to 12: The Key to Quality Education (A Policy Brief), p. 5 < <https://www.senate.gov.ph/publications/PB%202011-02%20-%20K%20to%2012%20The%20Key%20to%20Quality.pdf> > (last accessed on September 28, 2018).

[70] RA No. 10533, Sec. 10.

[71] Id., Sec. 12 and 16.

[72] Id., Sec. 5.

[73] Id.

[74] DO No. 43, s. 2013.

[75] K to 12 IRR, Sec. 22.

[76] Id., Sec. 23.

[77] Id., Sec. 31.

[78] See rollo (G.R. No. 216930), Vol. 2, pp. 1185-1225.

[79] Joint Guidelines, Sec. 3.

[80] Id.

[81] K to 12 Toolkit, p. 14.

[82] See DO No. 31.

[83] Rollo (G.R. No. 217451), Vol. 1, pp. 6-7.

[84] Background and Rationale, CHED MO No. 20, s. of 2013.

[85] CMO No. 20, Sec. 2.

[86] Id., Sec. 3.

[87] Id.

[88] Id., Appendix E.

[89] Id., Sec. 4.

[90] Rollo (G.R. No. 216930), Vol. 1, pp. 7-389, including Annexes.

[91] Rollo (G.R. No. 217752), Vol. 1, pp. 3-113, including Annexes.

[92] Rollo (G.R. No. 218045), Vol. 1, pp. 3-168, including Annexes.

[93] Rollo (G.R. No. 218098) Vol. 1, pp. 3 -194, including Annexes.

[94] Rollo (G.R. No. 218123) Vol. 1, pp. 3-477, including Annexes.

[95] Rollo (G.R. No. 218465) Vol. 1, pp. 3-125, including Annexes.

[96] Rollo (G.R. No. 217451)Vol. 1, pp. 3-343.

[97] Rollo (G.R. No. 216930), Vol. 1, pp. 511-607; Vol. 2, pp. 820- 1272; Vol. 3, pp. 1273-1656.

- [98] Rollo (G.R. No. 216903), Vol. 2, pp. 459-491.
- [99] Rollo (G.R. No. 217451), Vol. 1, pp. 350-356.
- [100] See Resolution dated March 15, 2016, rollo (G.R. No. 216930), Vol. 3, pp. 1782-G to 1782-I.
- [101] Resolution dated April 5, 2016, id. at 1803-A to 1803-C.
- [102] Resolution dated April 12, 2016, rollo (G.R. No. 217451), Vol. 2, pp. 1252-1253.
- [103] Rollo (G.R. No. 216930), Vol. 4, pp. 1953-1962.
- [104] Id. at 1943-1952.
- [105] *Saguisag v. Ochoa, Jr.*, 777 Phil. 280, 347-348 (2016), citing *Oposa v. Factoran*, 296 Phil. 694, 718 (1993).
- [106] See *Francisco, Jr. v. House of Representatives*, 460 Phil. 830, 904 (2003).
- [107] See *Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan v. Executive Secretary*, 685 Phil. 295, 307 (2012); *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, 589 Phil. 387, 486 (2008); *Tañada v. Angara*, 338 Phil. 546, 574 (1997).
- [108] See *J. Panganiban*, Separate Concurring Opinion in *Francisco, Jr. v. House of Representatives*, supra note 106, at 975.
- [109] *Sps. Imbong v. Ochoa, Jr.*, 732 Phil. 1, 121 (2014).
- [110] *Jardeleza v. Sereno*, 741 Phil. 460, 491 (2014), citing *Araullo v. Aquino*, 737 Phil. 457, 531 (2014); *Villanueva v. Judicial and Bar Council*, 757 Phil. 534, 544 (2015).
- [111] *Roy III v. Herbosa*, G.R. No. 207246, November 22, 2016, 810 SCRA 1, 31.
- [112] *Roy III v. Herbosa*, id. at 32, citing *Belgica v. Ochoa, Jr.*, 721 Phil. 416, 519-520 (2013).
- [113] *Belgica v. Ochoa, Jr.*, id. at 519; *Philippine Constitution Association v. Philippine Government*, G.R. Nos. 218406, 218761, 204355, 218407 & 204354, November 29, 2016, 811 SCRA 284, 297.
- [114] *Belgica v. Ochoa, Jr.*, id. at 519-520; *Philippine Constitution Association v. Philippine Government*, id.
- [115] Supra note 109.
- [116] Id. at 124-125.
- [117] *Galicto v. Aquino III*, 683 Phil. 141, 170 (2012).
- [118] *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, supra note 107, at 486, citing *Vicente V. Mendoza*, JUDICIAL REVIEW OF CONSTITUTIONAL QUESTIONS 137 (2004); *Osmeña III v. Abaya*, 778 Phil. 395, 417 (2016).
- [119] See *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, id. at 486-489; see also *Osmeña III v. Abaya*, id. at 417-421.
- [120] *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*, id. at 486, citing *Francisco, Jr. v. House of Representatives*, supra note 106, at 895-896; *Osmeña III v. Abaya*, id. at 419.

- [121] Chavez v. Judicial and Bar Council, 691 Phil. 173, 196 (2012); Osmeña III v. Abaya, id.
- [122] Osmeña III v. Power Sector Assets and Liabilities Management Corp., 770 Phil. 409, 427 (2015).
- [123] Osmeña III v. Abaya, supra note 118, at 419-420.
- [124] See Francisco, Jr. v. House of Representatives, supra note 106, at 896.
- [125] Rollo (G.R. No. 217752), Vol. 2, p. 1082.
- [126] Rollo (G.R. No. 218098), Vol. 2, pp. 1115-1137.
- [127] 155 Phil. 656 (1974).
- [128] Rollo (G.R. No. 218098), Vol. 2, pp. 1131-1137.
- [129] Rollo (G.R. No. 217752), Vol. 2, pp. 1083-1088; rollo (G.R. No. 216930), Vol. 3, pp. 1866-1882.
- [130] Rollo (G.R. No. 216930), Vol. 4, pp. 1963-1973.
- [131] Rollo (G.R. No. 216930), Vol. 1, pp. 533-535.
- [132] Rollo (G.R. No. 216930), Vol. 4, pp. 2107-2114.
- [133] Regional Consultations on the Enhanced K+12 Basic Education Program, February 4, 2011; rollo (G.R. No. 216930), Vol. 2, pp. 957-969.
- [134] Consultation Workshops on the K to 12 Curriculum Mapping Outputs, April 25, 2011; id. at 970-977.
- [135] K to 12 Consultations Report Executive Summary; id. at 978.
- [136] Id.
- [137] See id. at 997-1040.
- [138] Anak Mindanao Party-List Group v. Ermita, 558 Phil. 338, 363 (2007).
- [139] Arroyo v. De Venecia, 343 Phil. 42, 71 (1997); see Tolentino v. Secretary of Finance, 305 Phil. 686, 752 (1994).
- [140] Arroyo v. De Venecia, id. at 72-73.
- [141] Mabanag v. Vito, 78 Phil. 1 (1947).
- [142] Arroyo v. De Venecia, supra note 139, at 72; Abakada Guro Party List v. Ermita, 506 Phil. 1, 88-89 (2005).
- [143] Casco Phil. Chemical Co., Inc. v. Gimenez, 117 Phil. 363 (1963).
- [144] The Philippine Judges Association v. Prado, 298 Phil. 502, 511 (1993).
- [145] Tolentino v. Secretary of Finance, supra note 139, at 753.
- [146] Tolentino v. Secretary of Finance, id.
- [147] Astorga v. Villegas, supra note 127, at 666-667.
- [148] Disini, Jr. v. The Secretary of Justice, 727 Phil. 28, 144 (2014), citing Gerochi v. Department of Energy, 554 Phil. 563, 585 (2007).
- [149] Abakada Guro Party List v. Purisima, 584 Phil. 246, 272 (2008).

[150] Id.

[151] K to 12 Law.

[152] Quezon City PTCA Federation, Inc. v. Department of Education, 781 Phil. 399, 423 (2016), citing Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration, 248 Phil. 762, 773 (1988).

[153] See id. at 422-423.

[154] Rollo (G.R. No. 218098), Vol. 2, pp. 1137-1144.

[155] Id. at 1141-1143.

[156] Id. at 1140-1145.

[157] ADMINISTRATIVE CODE OF 1987, Executive Order No. 292, Title VI, Chapter I, Sec. 2.

[158] RA No. 9155, Sec. 6.

[159] Id., Sec. 7.

[160] Rollo (G.R. No. 216930), Vol. 2, pp. 955-996.

[161] See id. at 978-996.

[162] Villanueva v. Judicial and Bar Council, supra note 110, at 553, citing Tañada v. Tuvera, 230 Phil. 528, 535 (1986).

[163] Rollo (G.R. No. 216930), Vol. 4, p. 1967.

[164] 274 Phil. 323 (1991).

[165] Id. at 336-337.

[166] 406 US 205 (1972).

[167] Id. at 213. Emphasis and underscoring supplied.

[168] Basco v. Philippine Amusements and Gaming Corp., supra note 163, at 343.

[169] Id. at 343-344.

[170] Id. at 344.

[171] 397 Phil. 423 (2000).

[172] Id. at 437.

[173] Supra note 165.

[174] Id. at 213 214.

[175] See Secretary of Justice v. Lantion, supra note 171, at 437-438.

[176] Id. at 438-439.

[177] See Kilosbayan, Inc. v. Morato, 316 Phil. 652, 697-698 (1995).

[178] Manila Prince Hotel v. Government Service Insurance System, 335 Phil. 82, 102 (1997).

[179] Id.

[180] Id. at 102.

[181] Id.

[182] Id.

[183] Supra note 107.

[184] Supra note 163.

[185] Supra note 176.

[186] 554 Phil. 609, 625-626 (2007).

[187] Manila Prince Hotel v. Government Service Insurance System, supra note 178, at 106-107.

[188] Espina v. Zamora, Jr., 645 Phil. 269 (2010).

[189] Supra note 139.

[190] Id. at 766.

[191] IV RECORD OF THE CONSTITUTIONAL COMMISSION 498-499.

[192] 485 Phil. 248 (2004).

[193] 601 Phil. 245 (2009).

[194] Serrano v. Gallant Maritime Services, Inc., id. at 302-304.

[195] Tañada v. Angara, supra note 107, at 580-581.

[196] Id. at 581.

[197] Id.

[198] Supra note 107.

[199] Id. at 581.

[200] Rollo (G.R. No. 21 8098), Vol. 2, pp. 1145-1148.

[201] Rollo (G.R. No. 216930), Vol. 4, pp. 1991-2002.

[202] Id. at 2009-2011.

[203] RA No. 10533, Sec. 2.

[204] BP Blg. 232, Sec. 20.

[205] RA No. 9155, Sec. 4(b).

[206] Rollo (G.R. No. 218098), Vol. 2, pp. 1145-1146.

[207] 236 Phil. 768 (1987).

[208] Id. at 781-782.

[209] Rollo (G.R. No. 218465), Vol. 3, pp. 1508-1509.

[210] Id. at 1508-1510.

[211] Benguet Consolidated Mining Co. v. Pineda, 98 Phil. 711, 722 (1956), citing 16 C.J.S. 214-215.

[212] Rollo (G.R. No. 218123), Vol. 2, pp. 1267-1268.

[213] DO No. 11, series of 2015; rollo (G.R. No. 216930), Vol 3, p. 1416.

[214] Rollo (G.R. No. 218045) Vol 1, pp. 563-571.

[215] IV RECORD OF THE CONSTITUTIONAL COMMISSION 160-161.

[216] IV RECORD OF THE CONSTITUTIONAL COMMISSION 495-496, 499-500.

[217] Rollo (G.R. No. 218045), Vol. 1, pp. 572-577.

[218] Id. at 554, 579-581.

[219] IV RECORD OF THE CONSTITUTIONAL COMMISSION 57.

[220] Rollo (G.R. No. 218045), Vol. 1, p. 560.

[221] See *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*, G.R. No. 225442, August 8, 2017, 835 SCRA 350, 429.

[222] Rollo (G.R. No. 216930), Vol. 3, pp. 1872-1873.

[223] *Garcia v. The Faculty Admission Committee, Loyola School of Theology*, 160-A Phil. 929, 942 (1975).

[224] See *Montemayor v. Araneta University Foundation*, 167 Phil. 667, 668 (1977).

[225] Sec. 2, RA No. 6656, AN ACT TO PROTECT THE SECURITY OF TENURE OF CIVIL SERVICE OFFICERS AND EMPLOYEES IN THE IMPLEMENTATION OF GOVERNMENT REORGANIZATION, June 10, 1988.

[226] Rollo (G.R. No. 218123), Vol. 2, pp. 1256-1267.

[227] Id. at 1258.

[228] Id. at 1256-1260.

[229] Rollo (G.R. No. 216930), Vol. 4, pp. 1976-1980.

[230] 609 Phil. 549 (2009).

[231] Id. at 576.

[232] RA No. 6728, Sec. 2.

[233] K to 12 IRR, Sec. 21.

[234] IV RECORD OF THE CONSTITUTIONAL COMMISSION 495.

[235] G.R. No. 213948, April 25, 2017, 824 SCRA 327.

[236] Id. at 393.

- [237] Supra note 163.
- [238] Tañada v. Angara, supra note 107, at 580-581.
- [239] Id. at 581.
- [240] Rollo (G.R. No. 217451), Vol. 2, pp. 1348-1351.
- [241] RA No. 7104, Sec. 14(a).
- [242] RA No. 7356, Sec. 7.
- [243] Rollo (G.R. No. 218645), Vol. 3, p. 1519.
- [244] Id. at 1520.
- [245] Secretary of Justice v. Lantion, 379 Phil. 165, 202-203 (2000).
- [246] Supra note 142.
- [247] J. Sandoval-Gutierrez, Concurring and Dissenting Opinion, id. at 224.
- [248] RA No. 10533, Sec. 2.
- [249] Rollo (G.R. No. 216930), Vol. 2, p. 829.
- [250] Rollo (G.R. No. 218465) Vol. 3, pp. 1514-1517.
- [251] Id. at 1514-1515.
- [252] Id. at 1515.
- [253] Id.
- [254] Id. at 1515-1516.
- [255] Bautista v. Juinio, 212 Phil. 307, 317 (1984).
- [256] Id. at 317.
- [257] 329 Phil. 87 (1996).
- [258] Id. at 102.
- [259] Rollo (G.R. No. 218465), Vol. 3, pp. 1512-1513.
- [260] RA No. 10533, Sec. 3.
- [261] Rollo (G.R. No. 218465), Vol. 3, pp. 1495, 1497, 1516-1517.
- [262] RA No. 10533, Sec. 5.
- [263] K to 12 IRR, Sec. 8.
- [264] Id.
- [265] K to 12 IRR, Sec. 9.
- [266] Rollo (G.R. No. 218045), Vol. 1, p.555.
- [267] 1987 CONSTITUTION, Art. XIV, Sec. 4(1).

[268] Rollo (G.R. No. 217752), Vol. 1, p. 31.

[269] Supra note 163, at 343.

[270] Rollo (G.R. No. 218123), Vol. 1, pp. 41-42.

[271] IV RECORD OF THE CONSTITUTIONAL COMMISSION 56-57.

[272] Id. at 366.

[273] Rollo (G.R. No. 218123), Vol. 1, pp. 46-47.

[274] Rollo (G.R. No. 216930), Vol. 2, pp. 877-879.

[275] Rollo (G.R. No. 217752), Vol. 1, pp. 28-29.

[276] Rollo (G.R. No. 218123) Vol. 1, pp. 50, 53.

[277] Id. at 49.

[278] Id.

[279] Id. at 50.

[280] Id. at 51.

[281] Fariñas v. Executive Secretary, 463 Phil. 179, 204 (2003).

[282] Angara v. Electoral Commission, 63 Phil. 139, 158 (1936).

[283] Fariñas v. Executive Secretary, supra note 281, at 212.

[284] 103 Phil. 1051 (1957).

[285] Id. at 1065.

[286] 456 Phil. 635 (2003).

[287] Id. at 648.

[288] Angara v. Electoral Commission, supra note 282, at 158-159.

[289] Disomangcop v. Datumanong, 486 Phil. 398, 424-425 (2004).

[290] See Saguisag v. Ochoa, Jr., 791 Phil. 277, 299 (2016).

SEPARATE CONCURRING OPINION

LEONEN, J.:

I concur in the result.

However, I reiterate my opinion that this Court is not a legislative chamber, and thus, does not strike down laws and issuances without an actual case or controversy.

In these consolidated petitions filed under Rule 65, petitioners question the constitutionality of (i) Republic Act No. 10533, otherwise known as the Enhanced Basic Education Act of 2013, (ii) Republic Act No. 10157,

otherwise known as the Kindergarten Education Act, and (iii) related issuances implementing these laws issued by the Department of Education, Commission on Higher Education, Department of Labor and Employment, and Technical Education and Skills Development Authority.

The Enhanced Basic Education Act mandates a basic education program (K-12 program) that is composed of "at least one (1) year of kindergarten education, six (6) years of elementary education, and six (6) years of secondary education, in that sequence."^[1]

In G.R. No. 216930, petitioner Council of Teachers and Staff of Colleges and Universities of the Philippines (COTESCUP) with several other groups and individuals filed a Petition for Certiorari^[2] to represent the faculty and staff of colleges and universities in the Philippines. They allege that respondents committed grave abuse of discretion, causing them and their members serious, grave, and irreparable injury because the assailed laws and issuances will cause massive displacement of faculty and non-academic personnel of higher education institutions. They claim that exceptional and compelling circumstances are present for this Court to take cognizance of the instant case. Moreover, they argue that they did not violate the rule on third-party standing because they are challenging the law on its face for being overbroad and vague.^[3]

In G.R. No. 218465, petitioners Spouses Ma. Dolores M. Brillantes and Severo L. Brillantes, together with the Officers of the Manila Science High School Faculty and Employees Club and several other individuals, filed a class suit through a Petition for Certiorari, Prohibition, and Mandamus.^[4] This Petition was filed on behalf of students, parents, and teachers of Manila Science High School and of other students, parents, and teachers in the Philippines who are similarly situated and who share a common interest with them but are too numerous that it is impracticable to join them as parties.^[5] They claim to have already suffered an injury in the implementation of Republic Act No. 10533 and Department of Education Order No. 31, series of 2012 considering that Manila Science High School has already adopted the K-12 Program beginning school year 2012-2013 and is requiring its students to attend two (2) more additional years of senior high school starting school year 2016-2017.^[6] Furthermore, they contend that students have been unable to take entrance exams for colleges and universities because of the implementation of the law and Department Order.^[7] They further invoke that there are exceptional and compelling reasons for this Court to take cognizance of this case, alleging that the law has far-reaching implications which must be treated with extreme urgency.^[8]

In G.R. No. 218123, petitioners Congressman Antonio Tinio with several individuals filed a taxpayer's suit and a concerned citizens' suit through a Petition for Certiorari, Prohibition, and Mandamus,^[9] alleging that Republic Act No. 10533 is unconstitutional and that the instant case is justiciable because respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction in its legislation and implementation.^[10] They contend that grave injustice and irreparable violations of the Constitution and of the rights of the Filipino people were committed, and that the issues in this case are of transcendental importance.^[11] They point to actual, ongoing, and foreseen damages caused to children, parents, and education workers caused by the implementation of Republic Act No. 10533.^[12] Thus, they further file this case as a class action on behalf of:

(1) all Filipino children - of the current generation and those yet to come- who will be forced to undergo a new yet unconstitutional educational structure, and choose between paying for more just to go on to senior high school or drop out of school altogether; (2) all parents who will have to spend more for just the basic education of their children; (3) tens of thousands of professors and tertiary-level non-teaching staff who will be displaced as result of a new general education curriculum (GEC) necessitated by RA 10533, and (4) all Filipino citizens who live under and abide by the 1987 Constitution, expecting of an education system that is designed to answer their aspirations and needs.^[13]

In G.R. No. 218098, petitioner Richard Troy A. Colmenares (Colmenares) filed a Petition for Certiorari,

Prohibition, and Mandamus[14] in his capacity as a citizen, invoking strong public interest and transcendental importance. Petitioners Kathlea Francynn Gawani D. Yañgot and several others filed the Petition as a class suit on behalf of others who stand to suffer a direct injury from the implementation of the K-12 Program. Petitioners Rene Luis Tadle and others filed the Petition in their capacities as taxpayers, concerned with illegal and improper disbursement of public funds in the implementation of the assailed law and issuances.[15] In their Memorandum, petitioners no longer discussed the issue of justiciability or standing, except to say that the question of whether the enrolled bill doctrine that applies is a justiciable one.

In G.R. No. 218045, petitioners Eduardo R. Alicias, Jr. (Alicias) and Aurelio P. Ramos, Jr. filed a Petition to Declare Unconstitutional, Null, Void and Invalid Certain Provisions of Republic Act No. 10533 and Related Department of Education Implementing Rules and Regulations, Guidelines, or Orders, in their capacities as citizens, taxpayers, parents, and educators.[16]

They primarily assail the provisions that state that the schools' medium of instruction, teaching materials, and assessment shall be in the learners' regional or native tongue for kindergarten and the first three (3) years of elementary education.[17] However, in their Memorandum, they neither discussed their standing to file their Petition nor showed the actual case or controversy from which they are basing their Petition. They simply proceeded to discuss their arguments, stating that their claims are based on undisputed scientific findings as found in Alicias' published research study entitled *The Underlying Science, the Utility of Acquiring Early English Proficiency: The Flawed Mother Tongue-based Multilingual Education Policy*. [18]

In G.R. No. 217752, petitioners Antonio "Sonny" Trillanes IV, Gary C. Alejano, and Francisco Ashley L. Acedillo filed a Petition to Declare Republic Act No. 10533 as Unconstitutional and/or Illegal, in their capacities as citizens, taxpayers, members of Congress, and as parents whose children will be directly or indirectly affected by Republic Act No. 10533.[19] They likewise sue in their capacities as elected representatives of the youth and urban poor, and of students, parents, teachers and non-academic personnel affected by the law, who approached them and requested them to intervene in their behalf.[20]

They raise the national interest, the sanctity of the Constitution, and the system of checks and balances in the government in asking this Court to exercise its power of judicial review.[21]

In G.R. No. 217451, petitioners Dr. Bienvenido Lumbera with several other faculty and staff of colleges and universities in the Philippines filed a Petition for Certiorari and Prohibition, alleging that they stand to suffer direct injury from the implementation of the assailed issuances. Congressman Antonio Tinio and other party-list representatives also filed the Petition in their capacities as members of the Congress, as taxpayers, and concerned citizens.[22]

To oppose these Petitions, private respondent Miriam College filed its Comment/Opposition in G.R. No. 216930, alleging that the Petitions do not involve an actual case or controversy.[23]

It claims that the Petitions raise abstract propositions or speculations not appropriate for judicial review. It argues that the massive displacement of workers is only a theory, and that the implementing agencies already provided for programs for affected faculty members including scholarships for graduate studies and Development Grants. It maintains that it is also an unsupported speculation that Republic Act No. 10533 violates the right to quality education. It likewise contends that the K-12 Program has already been implemented since 2013, and thus, declaring it as unconstitutional would greatly prejudice students who will finish junior high school and have been prepared for senior high school, not for college.[24]

Miriam College further points that no actual case or controversy exists on the lack of publication of the internal

Department of Education Guidelines because these issuances are not required to be published to be valid.[25] They are mere internal policies that do not create new regulations or rights other than those provided by law or administrative issuances.[26] It does not restrict or regulate the public's conduct.[27]

Miriam College also argues that petitioners do not have locus standi.[28]

It contends that petitioners corporations and labor organizations do not have the required interest because the basis of their claims stems from the alleged violation of a constitutional right of a third party. It argues that only professors teaching in the first- and second-year levels of college would be affected by the implementation of Republic Act No. 10533.[29]

It asserts that Rebecca T. Añonuevo, Flordeliz Abanto, Maria Rita Reyes Cucio, and Jomel General also failed to show a personal and direct injury. It argued that a general interest common to their organization's members is not sufficient.[30]

It posits that students Kathlea Francynn Gawani Yañgot, Miel Alexandre Taggaoa, and Agatha Zita Distor failed to show the personal or direct injury that they would sustain in spending two (2) more years in high school.[31]

It claims that Colmenares' filing by way of *actio popularis* shows that he is filing based on the right of each individual citizen to initiate abstract review regardless of the latter's specific legal interest in the case. Thus, it contradicts having a real interest in the case.[32]

It alleges that Vittorio Jerico L. Cawis, representing his 7-month-old daughter Eleannie Jercece Cawis, failed to show the latter's injury in being required to enter kindergarten before entering Grade 1.[33]

It further points that petitioners corporations, namely, COTESCUP, Federation of Free Workers, Public Services Labor Independent Confederation, Far Eastern University Faculty, Adamson University Faculty and Employees Association, Faculty Allied and Worker Union of Centro Escolar University, Faculty Association Mapua Institute of Technology, Lyceum Faculty Association, San Beda College Alabang Employees Association, University of the East Ramon Magsaysay Employees Association-Federation of Free Workers, University of Santo Tomas Faculty Union, Holy Angel University Teachers and Employees Union, Silliman University Faculty Association, and Union of Faculty and Employees of St. Louis University do not have proper authority from their respective Board of Directors or Trustees to institute their Petition.[34] Thus, they have no authority to litigate on behalf of their corporations.[35]

It argues that the representatives of these corporations "cannot arrogate unto themselves the power to represent and sign on behalf of the corporation" because "corporate acts can only be realized through its board of directors/trustees." [36]

On the other hand, the Office of the Solicitor General argues that the Petitions do not raise justiciable issues considering that they raise purely political questions that delve into the wisdom of the law.[37] It claims that the requirement of an actual case or controversy also means that the issue must be susceptible of judicial resolution.[38] It emphasizes that the issues raised by petitioners question the wisdom of the adoption of an integrated education program, which is within the authority of the legislature.[39]

The Office of the Solicitor General further asserts that, even assuming that the Petitions do not raise purely political questions, this Court cannot supplant the acts of the other branches of the government. Its role is limited to determining whether the other branches of the government acted beyond the limits allowed by the Constitution.[40]

The ponencia states that there is an actual case or controversy in this case because the assailed laws and executive

issuances have already taken effect, and that petitioners are directly and considerably affected by their implementation.[41]

It also states that petitioners have sufficient legal interests considering that they are "concerned citizens asserting a public right,"[42] and that the instant cases involve issues on education which the State is constitutionally mandated to promote and protect.

I write this opinion to stress that for this Court to exercise its power of judicial review, it is not enough that a law or regulation is enacted. There must first be an actual case or controversy, that is, an act of implementation affecting another before this Court may take cognizance of the case.

The following are the requisites for this Court to take cognizance of a petition questioning the constitutionality of a law: first, there must be an actual case or controversy involving legal rights that are capable of judicial determination; second, the parties raising the issue must have locus standi; third, the constitutionality of the law or provision in question must be raised at the earliest opportunity; and finally, resolving the constitutionality issue must be essential to the disposition of the case.[43]

I

An actual case or controversy is the first requisite.

Article VIII, Section 1 of the 1987 Constitution states that the exercise of judicial power involves the settling of actual controversies that involve legally demandable and enforceable rights:

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies 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. (Emphasis supplied)

An actual case or controversy means that there is a "conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution." [44] There is said to be a justiciable case or controversy if there is a definite and concrete conflict involving the legal relations of parties who have clashing legal interests.[45] If the conflict is merely conjectural or anticipatory, the case is not ripe for judicial determination.[46] As this Court explained in *Information Technology Foundation of the Philippines v. COMELEC*: [47]

It is well-established in this jurisdiction that "... for a court to exercise its power of adjudication, there must be an actual case or controversy — one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice [C]ourts 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 and not a merely 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.[48] (Citations omitted)

Thus, allegations of abuse or violations of constitutional or legal rights must be anchored on real acts, as opposed to possible, hypothetical, conjectural ones. There must first be an act against another, which the latter claims is

violative of a particular right or is injurious to it, while the other claims that the act is done within the limitations of the law. If an act is not yet performed, there is no actual case or controversy. In *Lozano v. Nograles*,^[49] this Court explained:

An aspect of the "case-or-controversy" requirement is the requisite of "ripeness". In the United States, courts are centrally concerned with whether a case involves uncertain contingent future events that may not occur as anticipated, or indeed may not occur at all. Another approach is the evaluation of the twofold aspect of ripeness: first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration. In our jurisdiction, the issue of ripeness is generally treated in terms of actual injury to the plaintiff. Hence, a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. An alternative road to review similarly taken would be to determine whether an action has already been accomplished or performed by a branch of government before the courts may step in.^[50] (Emphasis supplied, citations omitted)

The rationale for requiring an actual case or controversy is partly to respect the principle of separation of powers. The courts must avoid delving into the wisdom, justice, or expediency of executive acts and legislative enactment. In *Angara v. Electoral Commission*:^[51]

[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.^[52]

In *Garcia v. Executive Secretary*,^[53] this Court ruled that the Judiciary must avoid ruling on questions of policy or wisdom.

The petition fails to satisfy the very first of these requirements — the existence of an actual case or controversy calling for the exercise of judicial power. An actual case or controversy is one that involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice. Stated otherwise, it is not the mere existence of a conflict or controversy that will authorize the exercise by the courts of its power of review; more importantly, the issue involved must be susceptible of judicial determination. Excluded from these are questions of policy or wisdom, otherwise referred to as political questions:

As *Tañada v. Cuenco* puts it, political questions refer "to those questions which, under the Constitution, are to be decided by the people in their sovereign capacity, or in regard to which full discretionary authority has been delegated to the legislative or executive branch of government." Thus, if an issue is clearly identified by the text of the Constitution as matters for discretionary action by a particular branch of government or to the people themselves then it is held to be a political question. In the classic formulation of Justice Brennan in *Baker v. Carr*, "[p]rominent on the surface of any case held to involve a political question is found a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it; or the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion; or the impossibility of a court's undertaking independent resolution without expressing lack of the respect due coordinate branches of government; or an unusual need for unquestioning adherence to a political decision already made; or the potentiality of embarrassment from multifarious pronouncements by various departments on the one question."

....

Stripped to its core, what petitioner Garcia raises as an issue is the propriety of immediately and fully deregulating the oil industry. Such determination essentially dwells on the soundness or wisdom of the timing and manner of the deregulation Congress wants to implement through R.A. No. 8497. Quite clearly, the issue is not for us to resolve; we cannot rule on when and to what extent deregulation should take place without passing upon the wisdom of the policy of deregulation that Congress has decided upon. To use the words of *Baker v. Carr*, the ruling that petitioner Garcia asks requires "an initial policy determination of a kind clearly for non-judicial discretion"; the branch of government that was given by the people the full discretionary authority to formulate the policy is the legislative department.

....

Petitioner Garcia's thesis readily reveals the political, hence, non-justiciable, nature of his petition; the choice of undertaking full or partial deregulation is not for this Court to make.[54] (Emphasis in the original citations omitted)

The other rationale for requiring an actual case or controversy is to avoid rendering merely advisory opinions on legislative or executive acts. Article 8 of the Civil Code states that judicial decisions interpreting the laws and the Constitution are part of the legal system. It is the courts' duty "to make a final and binding construction of law." [55] Absent an actual case or controversy, courts merely answer legal questions with no actual effect on any person, place, or thing affecting the import of its issuances. In my concurring opinion in *Belgica, et al. v. Ochoa*: [56]

Basic in litigation raising constitutional issues is the requirement that there must be an actual case or controversy. This Court cannot render an advisory opinion. We assume that the Constitution binds all other constitutional departments, instrumentalities, and organs. We are aware that in the exercise of their various powers, they do interpret the text of the Constitution in the light of contemporary needs that they should address. A policy that reduces this Court to an adviser for official acts by the other departments that have not yet been done would unnecessarily tax our resources. It is inconsistent with our role as final arbiter and adjudicator and weakens the entire system of the Rule of Law. Our power of judicial review is a duty to make a final and binding construction of law. This power should generally be reserved when the departments have exhausted any and all acts that would remedy any perceived violation of right. The rationale that defines the extent of our doctrines laying down exceptions to our rules on justiciability are clear: Not only should the pleadings show a convincing violation of a right, but the impact should be shown to be so grave, imminent, and irreparable that any delayed exercise of judicial review or deference would undermine fundamental principles that should be enjoyed by the party complaining or the constituents that they legitimately represent.

The requirement of an "actual case," thus, means that the case before this Court "involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic based on extra-legal or other similar considerations not cognizable by a court of justice." Furthermore, "the controversy needs to be definite and concrete, bearing upon the legal relations of parties who are pitted against each other due to their adverse legal interests." Thus, the adverse position of the parties must be sufficient enough for the case to be pleaded and for this Court to be able to provide the parties the proper relief/s prayed for.

The requirement of an 'actual case' will ensure that this Court will not issue advisory opinions. It prevents us from using the immense power of judicial review absent a party that can sufficiently argue from a standpoint with real and substantial interests.[57] (Citations omitted)

Moreover, should the courts be asked to provide answers to hypothetical or conjectural situations, their discretion

and scope may be unrestricted and done without any consideration of arguments of actual affected parties. If they rule on these hypothetical situations, future parties who could argue differently would not be able to present their claims on the law being interpreted. They will simply be limited by the Court's rulings on the hypothetical cases.

In *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*:^[58]

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 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.^[59] (Emphasis in the original)

Similarly in *Spouses Imbong v. Ochoa, Jr.*,^[60] I had the opportunity to point out:

The term justiciability refers to the dual limitation of only considering in an adversarial context the questions presented before courts, and in the process, the courts' duty to respect its co-equal branches of government's powers and prerogatives under the doctrine of separation of powers.

There is a case or controversy when there is a real conflict of rights or duties arising from actual facts. These facts, properly established in court through evidence or judicial notice, provide the natural limitations upon judicial interpretation of the statute. When it is claimed that a statute is inconsistent with a provision of the Constitution, the meaning of a constitutional provision will be narrowly drawn.

Without the necessary findings of facts, this court is left to speculate leaving justices to grapple within the limitations of their own life experiences. This provides too much leeway for the imposition of political standpoints or personal predilections of the majority of this court. This is not what the Constitution contemplates. Rigor in determining whether controversies brought before us are justiciable avoids the counter majoritarian difficulties attributed to the judiciary.

Without the existence and proper proof of actual facts, any review of the statute or its implementing rules will be theoretical and abstract. Courts are not structured to predict facts, acts or events that will still happen. Unlike the legislature, we do not determine policy. We read law only when we are convinced that there is enough proof of the real acts or events that raise conflicts of legal rights or duties. Unlike the executive, our participation comes in after the law has been implemented. Verily, we also do not determine how laws are to be implemented.

The existence of a law or its implementing orders or a budget for its implementation is far from the requirement that there are acts or events where concrete rights or duties arise. The existence of rules do not substitute for real facts.^[61] (Emphasis in the original, citation omitted)

This Court has consistently ruled that an actual case or controversy is necessary even in cases where the constitutionality of a law is being questioned. It is not enough that the statute has been passed. There must still be a real act. The law must have been implemented, and the party filing the case must have been affected by the act of implementation.

In *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*,^[62] this Court refused to take cognizance of a petition questioning the constitutionality of Republic Act No. 9372, finding that the possibility of abuse in its implementation is not enough, thus:

The Court is not unaware that a reasonable certainty of the occurrence of a perceived threat to any constitutional interest suffices to provide a basis for mounting a constitutional challenge. This, however, is

qualified by the requirement that there must be sufficient facts to enable the Court to intelligently adjudicate the issues.

[H]owever, herein petitioners have failed to show that the challenged provisions of RA 9372 forbid constitutionally protected conduct or activity that they seek to do. No demonstrable threat has been established, much less a real and existing one.

Petitioners' obscure allegations of sporadic "surveillance" and supposedly being tagged as "communist fronts" in no way approximate a credible threat of prosecution. From these allegations, the Court is being lured to render an advisory opinion, which is not its function.

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. Such possibility is not peculiar to RA 9372 since the exercise of any power granted by law may be abused. 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.[63] (Emphasis in the original, citations omitted)

Similarly, in *Republic of the Philippines v. Herminio Harry Roque, et al.*,^[64] this Court said that there is no actual case or controversy absent a showing that the government action was taken toward implementing the questioned statute against the filing party.

A perusal of private respondents' petition for declaratory relief would show that they have failed to demonstrate how they are left to sustain or are in immediate danger to sustain some direct injury as a result of the enforcement of the assailed provisions of RA 9372. Not far removed from the factual milieu in the Southern Hemisphere cases, private respondents only assert general interests as citizens, and taxpayers and infractions which the government could prospectively commit if the enforcement of the said law would remain untrammelled. As their petition would disclose, private respondents' fear of prosecution was solely based on remarks of certain government officials which were addressed to the general public. They, however, failed to show how these remarks tended towards any prosecutorial or governmental action geared towards the implementation of RA 9372 against them. In other words, there was no particular, real or imminent threat to any of them.[65] (Emphasis supplied, citation omitted)

In *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*,^[66] petitioners in that case questioned the constitutionality of Department Order No. 118-12 and Memorandum Circular No. 2012-001, alleging that their implementation "may result in the diminution of the income of bus drivers and conductors,"^[67] and that the payment scheme provided in the questioned issuances is "unfit to the nature of operation of public transport system or business."^[68]

This Court dismissed the petition finding that no actual case or controversy existed, considering that the allegations were based on speculation. There was no showing either of how the regulations would result in lower income for bus drivers and conductors, or of how the new payment scheme is unfit to the nature of the business of public bus operators.

In *Philippine Press Institute, Inc. v. Commission on Elections*,^[69] this Court ruled that there is no actual case or controversy as Philippine Press Institute, Inc. failed to allege a specific act against it committed by the Commission on Elections in enforcing or implementing the questioned law such that it sustained an actual or imminent injury, thus:

At all events, the Court is bound to note that PPI has failed to allege any specific affirmative action on the part of Comelec designed to enforce or implement Section 8. PPI has not claimed that it or any of its members has sustained actual or imminent injury by reason of Comelec action under Section 8. Put a little differently, the Court considers that the precise constitutional issue here sought to be raised . . . is not ripe for judicial review for lack of an actual case or controversy involving, as the very *lis mota* thereof, the constitutionality of Section 8.[70]

The same rule applies even though there is an allegation of grave abuse of discretion amounting to lack or excess of jurisdiction. Again, in *Spouses Imbong v. Ochoa, Jr.*,[71] I underscored:

It is true that the present Constitution grants this court with the exercise of judicial review when the case involves the determination of "grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government." This new feature of the 1987 Constitution affects our political question doctrine. It does not do away with the requirement of an actual case. The requirement of an actual case is fundamental to the nature of the judiciary.

No less than Justice Vicente V. Mendoza implied that the rigorous requirement of an actual case or controversy is determinative of the nature of the judiciary. Thus:

[i]nsistence on the existence of a case or controversy before the judiciary undertakes a review of legislation gives it the opportunity, denied to the legislature, of seeing the actual operation of the statute as it is applied to actual facts and thus enables to it to reach sounder judgment.[72] (Citations omitted)

Thus, in the case at bar, I am of the view that the same standard should be used in determining the existence of an actual case or controversy.

Several petitioners in this case have shown that the questioned laws and issuances have been enforced against them. Petitioners students, teachers, and parents have shown that they have been affected by the implementation of Republic Act No. 10533. There is likewise no denying that the questioned laws and issuances have already been enforced and implemented in schools across the Philippines. Schools have adjusted their curriculums so that they are compliant with the K-12 Program. The employments of several teachers have been affected. Parents have been paying tuition fees for the additional two (2) years of senior high school.

For the petitioners who are filing their Petitions not simply on the basis of the laws' enactment but on these laws' implementation and the alleged injuries that they incurred as a result, there is an actual case or controversy in the instant cases.

II

The second requisite for this Court to exercise its power of judicial review is that the party filing must have *locus standi* or legal standing to file the suit. In *The Provincial Bus Operators Association of the Philippines*:[73]

Legal standing or *locus standi* is the "right of appearance in a court of justice on a given question." To possess legal standing, parties must show "a personal and substantial interest in the case such that they have sustained or will sustain direct injury as a result of the governmental act that is being challenged." The requirement of direct injury guarantees that the party who brings suit has such personal stake in the outcome of the controversy and, in effect, assures "that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions."

. . . .

Whether a suit is public or private, the parties must have "a present substantial interest," not a "mere expectancy or a future, contingent, subordinate, or consequential interest." Those who bring the suit must

possess their own right to the relief sought.[74] (Citations omitted)

Generally, to be considered to have standing, the petitioner must be directly affected by the governmental act. However, this Court has taken cognizance of petitions even though the petitioners do not have the required personal or substantial interest because they raised "constitutional issue[s] of critical significance." [75]

Thus, this Court has taken cognizance of cases filed by taxpayers where there is a claim of an unconstitutional tax measure or illegal disbursement of public funds. It has allowed the review of cases filed by voters who have obvious interest in the validity of the questioned election law. The petitions of concerned citizens raising issues of transcendental importance have been heard by this Court. Likewise, legislators may file petitions if their prerogative as legislators has been infringed upon.[76]

In Rule 3, Section 12 of the Rules of Court, a class suit may be filed for numerous parties:

Section 12. Class suit. — When the subject matter of the controversy is one of common or general interest to many persons so numerous that it is impracticable to join all as parties, a number of them which the court finds to be sufficiently numerous and representative as to fully protect the interests of all concerned may sue or defend for the benefit of all. Any party in interest shall have the right to intervene to protect his individual interest.

In my concurring opinion in *Segovia v. Climate Change Commission*, [77] I stated:

A class suit is a specie of a representative suit insofar as the persons who institute it represent the entire class of persons who have the same interest or who suffered the same injury. However, unlike representative suits, the persons instituting a class suit are themselves real parties in interest and are not suing merely as representatives. A class suit can prosper only:

- (a) when the subject matter of the controversy is of common or general interest to many persons;
- (b) when such persons are so numerous that it is impracticable to join them all as parties; and
- (c) when such persons are sufficiently numerous as to represent and protect fully the interests of all concerned.[78]

Thus, a class suit may be filed subject to these requisites.

This Court also allows third-party suits—cases where a party files a petition on behalf of another. However, the following requisites must be present: first,

[T]he litigant must have suffered an 'injury-in-fact,' thus giving him or her a 'sufficiently concrete interest' in the outcome of the issue in dispute; [second,] the litigant must have a close relation to the third party; and [third,] there must exist some hindrance to the third party's ability to protect his or her own interests.[79]

This Court first allowed third-party standing in *White Light Corp. et al. v. City of Manila*. [80]

In *White Light*, hotel and motel operators filed a case to stop the implementation of a Manila City Ordinance which, for the purpose of protecting morality, prohibited hotels, motels, inns, and other similar establishments in the City of Manila from allowing "short-time admission." [81] They argued that their clients' rights to privacy, freedom of movement, and equal protection of the laws were violated.[82]

This Court allowed them to sue on behalf of their clients on the basis of third-party standing, finding that all the requisites for third-party standing are present. It noted that if the Ordinance were enforced, their business interests as hotel and motel operators would be injured considering that they "rely on the patronage of their customers for their continued viability." [83] It also found that there was a hindrance for the clients to bring the suit because

constitutional litigation was then silent on special interest groups that could bring those cases.

This Court has also allowed associations to file petitions on behalf of its members. In *Pharmaceutical and Health Care Association of the Philippines v. Secretary of Health*,^[84] the Pharmaceutical and Health Care Association of the Philippines filed a case on behalf of its members who were manufacturers of breastmilk substitutes to question the constitutionality of the rules implementing the Milk Code. This Court found that "an association has the legal personality to represent its members because the results of the case will affect their vital interests."^[85] It further noted that the amended articles of incorporation of the association stated that it was "to represent directly or through approved representatives the pharmaceutical and health care industry before the Philippine Government and any of its agencies, the medical professions and the general public."^[86] Thus:

This [modern] view fuses the legal identity of an association with that of its members. An association has standing to file suit for its workers despite its lack of direct interest if its members are affected by the action. An organization has standing to assert the concerns of its constituents.

. . . .

. . . We note that, under its Articles of Incorporation, the respondent was organized . . . to act as the representative of any individual, company, entity or association on matters related to the manpower recruitment industry, and to perform other acts and activities necessary to accomplish the purposes embodied therein. The respondent is, thus, the appropriate party to assert the rights of its members, because it and its members are in every practical sense identical . . . The respondent [association] is but the medium through which its individual members seek to make more effective the expression of their voices and the redress of their grievances.^[87] (Citation omitted)

In *Executive Secretary v. The Hon. Court of Appeals*,^[88] Asian Recruitment Council Philippine Chapter, Inc. filed a petition for declaratory relief on behalf of its member recruitment agencies for this Court to declare certain provisions of Republic Act No. 8042 unconstitutional. This Court recognized the standing of the association, noting that it proved that its individual members authorized it to sue on their behalf through board resolutions. It held that Asian Recruitment Council Philippine Chapter, Inc. was able to show that it was the medium used by its members to effectively communicate their grievances.

However, not all associations are allowed to file a suit with third-party standing. This is still always subject to the requisites laid down in jurisprudence. In *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*,^[89] this Court did not allow the association to represent its members because it failed to establish who their members were and if their members allowed them to sue on their behalf. There was no evidence of board resolutions or articles of incorporation. This Court noted that some of the petitioners in that case even had their certificates of incorporation revoked by the Securities and Exchange Commission. It was not enough that they alleged that they were an association that represented members who would be directly injured by the implementation of a law, thus:

The liberality of this Court to grant standing for associations or corporations whose members are those who suffer direct and substantial injury depends on a few factors.

In all these cases, there must be an actual controversy. Furthermore, there should also be a clear and convincing demonstration of special reasons why the truly injured parties may not be able to sue.

Alternatively, there must be a similarly clear and convincing demonstration that the representation of the association is more efficient for the petitioners to bring. They must further show that it is more efficient for this Court to hear only one voice from the association. In other words, the association should show special reasons for bringing the action themselves rather than as a class suit, allowed when the subject matter of the

controversy is one of common or general interest to many persons. In a class suit, a number of the members of the class are permitted to sue and to defend for the benefit of all the members so long as they are sufficiently numerous and representative of the class to which they belong.

In some circumstances similar to those in *White Light*, the third parties represented by the petitioner would have special and legitimate reasons why they may not bring the action themselves. Understandably, the cost to patrons in the *White Light* case to bring the action themselves—i.e., the amount they would pay for the lease of the motels—will be too small compared with the cost of the suit. But viewed in another way, whoever among the patrons files the case even for its transcendental interest endows benefits on a substantial number of interested parties without recovering their costs. This is the free rider problem in economics. It is a negative externality which operates as a disincentive to sue and assert a transcendental right.[90] (Citation omitted)

Thus, associations are allowed to sue on behalf of their members if it is sufficiently established who their members are, that their members authorized them to sue on their behalf, and that they would be directly injured by the challenged governmental acts.

In the present Petitions, petitioners' legal standing should be determined by considering the enumerated requisites.

Petitioners associations and organizations should prove that they were authorized by their members to file the present cases through board resolutions or through their articles of incorporation. They should explain their own injury that is caused or will be caused by the questioned laws and issuances. They should state why their members are prevented from protecting their own interests.

Alleging the transcendental importance of issues is not enough. In *The Provincial Bus Operators Association of the Philippines*: [91]

In addition to an actual controversy, special reasons to represent, and disincentives for the injured party to bring the suit themselves, there must be a showing of the transcendent nature of the right involved.

Only constitutional rights shared by many and requiring a grounded level of urgency can be transcendent. For instance, in *The Association of Small Landowners in the Philippines, Inc. v. Secretary of Agrarian Reform*, the association was allowed to file on behalf of its members considering the importance of the issue involved, i.e., the constitutionality of agrarian reform measures, specifically, of then newly enacted Comprehensive Agrarian Reform Law.

This Court is not a forum to appeal political and policy choices made by the Executive, Legislative, and other constitutional agencies and organs. This Court dilutes its role in a democracy if it is asked to substitute its political wisdom for the wisdom of accountable and representative bodies where there is no unmistakable democratic deficit. It cannot lose this place in the constitutional order. Petitioners' invocation of our jurisdiction and the justiciability of their claims must be presented with rigor. Transcendental interest is not a talisman to blur the lines of authority drawn by our most fundamental law.

....

Again, the reasons cited—the "far-reaching consequences" and "wide area of coverage and extent of effect" of Department Order No. 118-12 and Memorandum Circular No. 2012-001—are reasons not transcendent considering that most administrative issuances of the national government are of wide coverage. These reasons are not special reasons for this Court to brush aside the requirement of legal standing.[92] (Citations omitted)

The following are the factors that determine if 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 raising the questions

being raised.[93] (Citation omitted)

Moreover, there must also be a showing of a "clear or imminent threat to fundamental rights" and of "proper parties suffering real, actual or more imminent injury." [94]

Several of the petitioners in these cases are organizations representing faculty and staff of colleges and universities in the Philippines.

Thus, petitioners' legal standing should be determined by considering the abovementioned requisites.

I note that petitioners organizations and associations in G.R. No. 216930 argue that they did not violate the rule on third-party standing because they are challenging Republic Act No. 10533 and House Bill No. 5493 on its face for being overbroad and vague.[95]

However, in my Dissenting Opinion in *Spouses Imbong v. Ochoa, Jr.*, [96] I discussed:

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.[97]

I find that these present Petitions do not justify a facial review of the assailed laws. Petitioners organizations and associations should have complied with the requirements of third-party standing.

III

Finally, I note that several issues raised in these Petitions pertain to different constitutional matters: education, language, and labor. Several petitioners are invoking the right of citizens to quality education. Some are alleging a

violation of the constitutional provisions on language. Others are raising labor issues as a result of the implementation of the assailed laws.

While these Petitions involve one (1) particular act of legislation, petitioners raise different constitutional issues, the rulings of which involve different resolutions. Petitioners raise questions on justiciability, equal protection, police power, non-self-executing provisions, and state policies on labor, education, and language. The practice of this Court of consolidating the issues under the same law results in cases being tackled based on the subject matter, instead of based on the issues involved. This leads to a shotgun approach in addressing constitutional issues which actually warrant a more in-depth discussion by this Court so as not to compromise the interpretation of principles laid out in laws and jurisprudence.

Hence, I am of the opinion that the consolidation of Petitions should only be done in case the matter involves the same constitutional issues. Defining constitutional issues must be more narrowly tailored so that the decisions of this Court are not to be a catch-all ruling on the validity of the law, but rather an in-depth ruling on the validity of the provisions of the law. This is likewise consistent with the presumption of constitutionality of acts of legislation.

IV

I note that the ponencia cites the Constitutional Commission's deliberations on Article XIV, Section 6 on the use of the Filipino language as a medium of instruction as one of its bases for denying the Petitions.[98] It discusses that based on the deliberations, the framers did not intend to limit the primary media of instruction to only Filipino and English.[99]

It further notes the deliberations of the Constitutional Commission on Article XIV, Sections 3(1),[100] 4(1), [101] and 4(2).[102]

It finds that the framers intended that the study of the Constitution in all educational institutions be constitutionally mandated.[103] It also considers the framers' discussions on the State's power of supervision over private schools.[104]

While I concur in the result, I maintain that the discussions of the Constitutional Commission should not be considered in determining the rights and reliefs of the parties.

In *David v. Senate Electoral Tribunal*,[105] this Court discussed that looking into the intent of the framers of the Constitution allows for great inaccuracy:

In the hierarchy of the means for constitutional interpretation, inferring meaning from the supposed intent of the framers or fathoming the original understanding of the individuals who adopted the basic document is the weakest approach.

These methods leave the greatest room for subjective interpretation. Moreover, they allow for the greatest errors. The alleged intent of the framers is not necessarily encompassed or exhaustively articulated in the records of deliberations. Those that have been otherwise silent and have not actively engaged in interpellation and debate may have voted for or against a proposition for reasons entirely their own and not necessarily in complete agreement with those articulated by the more vocal. It is even possible that the beliefs that motivated them were based on entirely erroneous premises. Fathoming original understanding can also misrepresent history as it compels a comprehension of actions made within specific historical episodes through detached, and not necessarily better-guided, modern lenses.

Moreover, the original intent of the framers of the Constitution is not always uniform with the original understanding of the People who ratified it. In *Civil Liberties Union*:

While it is permissible in this jurisdiction to consult the debates and proceedings of the constitutional convention in order to arrive at the reason and purpose of the resulting Constitution, resort thereto may be had only when other guides fail as said proceedings are powerless to vary the terms of the Constitution when the meaning is clear. Debates in the constitutional convention "are of value as showing the views of the individual members, and as indicating the reasons for their votes, but they give us no light as to the views of the large majority who did not talk, much less of the mass of our fellow citizens whose votes at the polls gave the instrument the force of fundamental law. We think it safer to construe the constitution from what appears upon its face. The proper interpretation therefore depends more on how it was understood by the people adopting it than in the framer's understanding thereof.[106] (Emphasis in the original, citation omitted)

The recorded deliberations may not have covered all opinions and intents of all framers at that time. It only reveals those opinions or intents that have been vocalized. Therefore, basing decisions on what has been recorded in the deliberations may allow for misinterpretations of the constitutional text.

I find that it is best to presume that the intent of the framers has been expressed in the text of the Constitution itself. Had the framers intended to include in the Constitution what has been expressed in the deliberations, they would have expressly provided for it in the Constitution itself.

In any case, the deliberations do not necessarily reflect the views of all citizens who approved the Constitution. Hence, it is better to construe its text in the context of how it is understood by those who adopted it.

In my opinion in *Spouses Imbong v. Ochoa, Jr.*, [107] I expressed:

The meaning of constitutional provisions should be determined from a contemporary reading of the text in relation to the other provisions of the entire document. We must assume that the authors intended the words to be read by generations who will have to live with the consequences of the provisions. The authors were not only the members of the Constitutional Commission but all those who participated in its ratification. Definitely, the ideas and opinions exchanged by a few of its commissioners should not be presumed to be the opinions of all of them. The result of the deliberations of the Commission resulted in a specific text, and it is that specific text — and only that text — which we must read and construe.

The preamble establishes that the "sovereign Filipino people" continue to "ordain and promulgate" the Constitution. The principle that "sovereignty resides in the people and all government authority emanates from them" is not hollow. Sovereign authority cannot be undermined by the ideas of a few Constitutional Commissioners participating in a forum in 1986 as against the realities that our people have to face in the present.[108] (Emphasis in the original, citation omitted)

Furthermore, the Constitutional Commissioners' factual assertions are not always correct. This was shown in their discussions on the right to life when they were formulating Article II, Section 12 of the Constitution. Not only were their opinions and theories different, but new discoveries in science, varying studies in the field of medicine, and theories of different religions have contradicted several key points made during the deliberations.[109]

Resorting to the deliberations should be done as a last option, only when other methods to interpret the constitutional text have failed.

In the present cases, I find that the constitutional text is clear in its meaning, and consulting the deliberations of the Constitutional Commission was not necessary to rule on the Petitions.

V

I further note that the ponencia identifies several provisions of the Constitution as non-self-executing, namely: (i) Article XIV, Sections 1[110] and 2[111] on the right of all citizens to quality education, relevant to the needs of

the people; (ii) Article XIV, Section 6[112] on the use of the Filipino language as a medium of instruction; and (iii) Article XIII, Section 3[113] on the protection of labor and security of tenure.[114]

The ponencia suggests that these are not self-executory provisions, and therefore, petitioners in these cases cannot use them as bases for claiming that Republic Act No. 10533 violated their rights. It maintains that these provisions are not a source of rights or obligations, and are mere policies which may be used as aids in the exercise of judicial review or in the enactment of laws.[115]

I reiterate my opinion in *Knights of Rizal v. DMCI Homes, Inc.* [116] and maintain that all provisions of the Constitution are self-executing:

It is argued that Sections 15 and 16, Article XIV of the Constitution are not self-executing provisions and, therefore, cannot be made basis to stop the construction of Torre de Manila. The dissenting opinion considers that Sections 15 and 16 "do not create any judicially enforceable right and obligation for the preservation, protection or conservation of the "prominence, dominance, vista points, vista corridors, sightlines and setting of the Rizal Park and the Rizal Monument." It adds that Sections 15 and 16 are "mere statements of principles and policy" and that "[t]he constitutional exhortation to 'conserve, promote, and popularize the nation's historical and cultural heritage and resources' lacks 'specific, operable norms and standards' by which to guide its enforcement."

....

I do not agree, however, in making distinctions between self-executing and non-self-executing provisions.

A self-executing provision of the Constitution is one "complete in itself and becomes operative without the aid of supplementary or enabling legislation." It "supplies [a] sufficient rule by means of which the right it grants may be enjoyed or protected." "[I]f the nature and extent of the right conferred and the liability imposed are fixed by the constitution itself, so that they can be determined by an examination and construction of its terms, and there is no language indicating that the subject is referred to the legislature for action," the provision is self-executing.

On the other hand, if the provision "lays down a general principle," or an enabling legislation is needed to implement the provision, it is not self-executing.

To my mind, the distinction creates false second-order constitutional provisions. It gives the impression that only self-executing provisions are imperative.

All constitutional provisions, even those providing general standards, must be followed. Statements of general principles and policies in the Constitution are frameworks within which branches of the government are to operate. The key is to examine if the provision contains a prestation and to which branch of the government it is directed. If addressed either to the legislature or the executive, the obligation is not for this Court to fulfill.

V

There are no second-order provisions in the Constitution. We create this category when we classify the provisions as "self-executing" and "non-self executing." Rather, the value of each provision is implicit in their normative content. [117] (Citations omitted)

All constitutional provisions are self-executory, imperative, and must be complied with. While statements of policies and principles are frameworks for the appropriate government branches to follow, they do not affect their fundamentality and authority as a constitutional provision. I find that the distinction between self-executing provisions and non-self-executing provisions of the Constitution should be abandoned.

In any case, I agree that these provisions are not sufficient legal bases for finding the questioned laws and issuances unconstitutional. There is nothing in the text of the questioned laws or of the related issuances that contravene the said provisions. Likewise, these provisions cover a scope of standards that are too general such that courts cannot grant a specific relief to petitioners. To attempt to grant a relief based on the provisions would encroach on the policy-making powers of the legislative and executive branches.

ACCORDINGLY, I concur with the ponencia.

[1] Rep. Act No. 10533, sec. 4.

[2] Rollo (G.R. No. 2016930), pp. 7-37.

[3] Id. at 1951.

[4] Rollo (G.R. No. 218465), pp. 3-45.

[5] Id. at 1306-1358.

[6] Id. at 1306.

[7] Id. at 1308.

[8] Id.

[9] Rollo (G.R. No. 218123), pp. 3-92.

[10] Id. at 1290.

[11] Id. at 1246.

[12] Id. at 1293.

[13] Id. at 1247.

[14] Rollo (G.R. No. 218098), pp. 3-61.

[15] Ponencia, p. 20.

[16] Rollo (G.R. No. 218045), pp. 3-22.

[17] Id. at 879.

[18] Id. at 882.

[19] Rollo (G.R. No. 218123), p. 1401.

[20] Id. at 1401-1402.

[21] Id. at 1403.

[22] Ponencia, p. 20-21.

[23] Rollo (G.R. No. 218045), pp. 883.

[24] Id. at 884.

[25] Id.

[26] Id. at 885.

[27] Id.

[28] Id.

[29] Id. at 887.

[30] Id.

[31] Id.

[32] Id.

[33] Id. at 888.

[34] Id. at 889.

[35] Id. at 890.

[36] Id. at 889.

[37] Rollo (G.R. No. 216930), p. 1953.

[38] Id. at 1954.

[39] Id. at 1957.

[40] Id. at 1958.

[41] Ponencia, p. 26.

[42] Id. at 27.

[43] *Levy Macasiano v. National Housing Authority*, 296 Phil. 56, 63-64 (1993) [Per C.J. Davide, Jr., En Banc].

[44] *Information Technology Foundation of the Philippines v. COMELEC*, 499 Phil. 281, 304 (2005) [Per C.J. Panganiban, En Banc].

[45] Id.

[46] *Southern Hemisphere Engagement Network v. Anti-Terrorism Council*, 646 Phil. 452, 479 (2010) [Per J. Carpio-Morales, En Banc].

[47] 499 Phil. 281 (2005) [Per C.J. Panganiban, En Banc].

[48] Id. at 304.

[49] 607 Phil. 334 (2009) [Per C.J. Puno, En Banc].

[50] Id. at 341.

[51] 63 Phil. 139 (1936) [Per J. Laurel, En Banc].

[52] Id. at 158-159.

[53] 602 Phil. 64 (2009) [Per J. Brion, En Banc].

[54] Id. at 73-76.

[55] Concurring Opinion of J. Leonen in *Belgica v. Ochoa*, 721 Phil. 416, 661 (2013) [Per J. Perlas-Bernabe, En Banc].

[56] 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, En Banc].

[57] *Id.* at 661-662.

[58] G.R. No. 202275, July 17, 2018 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/july2018/202275.pdf> > [Per J. Leonen, En Banc].

[59] *Id.* at 25.

[60] 732 Phil. 1 (2014) [Per J. Mendoza, En Banc].

[61] *Id.* at 561-562.

[62] 646 Phil. 452 (2010) [Per J. Carpio-Morales].

[63] *Id.* at 481-482.

[64] 718 Phil. 294 (2013) [Per J. Perlas-Bernabe, En Banc].

[65] *Id.* at 305-306.

[66] G.R. No. 202275, July 17, 2018 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/july2018/202275.pdf> > [Per J. Leonen, En Banc].

[67] *Id.* at 27.

[68] *Id.*

[69] 314 Phil. 131 (1995) [Per J. Feliciano, En Banc].

[70] *Id.* at 148-149.

[71] 732 Phil. 1 (2014) [Per J. Mendoza, En Banc].

[72] *Id.* at 572-573.

[73] G.R. No. 202275, July 17, 2018 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/july2018/202275.pdf> > [Per J. Leonen, En Banc].

[74] *Id.* at 27-28.

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

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

[77] G.R. No. 211010, March 7, 2017 <
http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/211010_leonen.pdf > [Per J. Caguioa, En Banc].

[78] *Id.* at 3-4.

[79] *White Light Corp., et al. v. City of Manila*, 596 Phil. 444, 456 (2009) [Per J. Tinga, En Banc].

[80] 596 Phil. 444 (2009) [Per J. Tinga, En Banc].

[81] Id. at 450. Under the questioned Ordinance, short-time admissions mean "admittance and charging of room rate for less than twelve (12) hours at any given time or the renting out of rooms more than twice a day or any other term that may be concocted by owners or managers of said establishments but would mean the same or would bear the same meaning."

[82] Id. at 454.

[83] Id. at 456.

[84] 561 Phil. 386 (2007) [Per J. Austria-Martinez, En Banc].

[85] Id. at 396.

[86] Id.

[87] Id. at 395-396.

[88] 473 Phil. 27 (2004) [Per J. Callejo, Sr., Second Division].

[89] G.R. No. 202275, July 17, 2018 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/july2018/202275.pdf> > [Per J. Leonen, En Banc].

[90] Id. at 32-33.

[91] G.R. No. 202275, July 17, 2018 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/july2018/202275.pdf> > [Per J. Leonen, En Banc].

[92] Id. at 33-34.

[93] *Francisco v. House of Representatives*, 460 Phil. 830, 899 (2003) [Per J. Carpio-Morales, En Banc].

[94] *In Re Supreme Court Judicial Independence v. Judiciary Development Fund*, 751 Phil. 30, 44-45 (2015) [Per J. Leonen, En Banc].

[95] *Rollo* (G.R. No. 218123), p. 951.

[96] 732 Phil. 1 (2014) [Per J. Mendoza, En Banc].

[97] Id. at 583-584.

[98] *Ponencia*, pp. 40 and 52.

[99] Id. at 54.

[100] CONST., art. XIV, sec. 3(1) reads:

Section 3. (1) All educational institutions shall include the study of the Constitution as part of the curricula.

[101] CONST., art. XIV, sec. 4(1) reads:

Section 4. (1) The State recognizes the complementary roles of public and private institutions in the educational system and shall exercise reasonable supervision and regulation of all educational institutions.

[102] CONST., art. XIV, sec. 4(2) reads:

Section 4.

....

(2) Educational institutions, other than those established by religious groups and mission boards, shall be owned solely by citizens of the Philippines or corporations or associations at least sixty per centum of the capital of which is owned by such citizens. The Congress may, however, require increased Filipino equity participation in all educational institutions.

The control and administration of educational institutions shall be vested in citizens of the Philippines. No educational institution shall be established exclusively for aliens and no group of aliens shall comprise more than one-third of the enrollment in any school. The provisions of this subsection shall not apply to schools established for foreign diplomatic personnel and their dependents and, unless otherwise provided by law, for other foreign temporary residents.

[103] Ponencia, p. 59.

[104] Id. at 70.

[105] G.R. No. 221538, September 20, 2016 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/september2016/221538.pdf> > [Per J. Leonen, En Banc].

[106] Id. at 24-25.

[107] 732 Phil. 1 (2014) [Per J. Mendoza, En Banc].

[108] Id. at 597.

[109] See Dissenting Opinion of J. Leonen in *Spouses Imbong v. Ochoa, Jr.*, 732 Phil. 1, 554-666 [Per J. Mendoza, En Banc].

[110] CONST., art. XIV, sec. 1 reads:

Section 1. The State shall protect and promote the right of all citizens to quality education at all levels and shall take appropriate steps to make such education accessible to all.

[111] CONST., art. XIV, sec. 2(1) reads:

Section 2. The State shall: (1) Establish, maintain, and support a complete, adequate, and integrated system of education relevant to the needs of the people and society[.]

[112] CONST., art. XIV, sec. 6 reads:

Section 6. The national language of the Philippines is Filipino. As it evolves, it shall be further developed and enriched on the basis of existing Philippine and other languages.

Subject to provisions of law and as the Congress may deem appropriate, the Government shall take steps to initiate and sustain the use of Filipino as a medium of official communication and as language of instruction in the educational system.

[113] CONST., art. XIII, sec. 3 reads:

Section 3. The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.

[114] Ponencia, pp. 40, 43, 68, and 72.

[115] Id. at 45.

[116] G.R. No. 213948, April 25, 2017 <
<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/april2017/213948.pdf> > [Per J. Carpio, En Banc].

[117] Concurring Opinion of Justice M.V. F. Leonen in Knights of Rizal v. DMCI Homes, Inc., G.R. No. 213948, April 25, 2017 <
http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/april2017/213948_leonen.pdf > 11-13
[Per J. Carpio, En Banc].

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