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G.R. No. 216930: COUNCIL OF TEACHERS AND STAFF OF COLLEGES AND UNIVERSITIES OF THE PHILIPPINES (COTESCUP), ET AL., *petitioners*, v. SECRETARY OF EDUCATION, ET AL., *respondents.*

G.R. No. 217451: DR. BIENVENIDO LUMBERA (PAMBANSANG ALAGAD NG SINING AT PROFESSOR EMERITUS, UP), ET AL., *petitioners,* v. PANGULONG BENIGNO SIMEON "NOYNOY" C. AQUINO III, ET AL., *respondents.*

G.R. No. 217752: ANTONIO "SONNY" F. TRILLANES IV, GARY C. ALEJANO, AND FRANCISCO ASHLEY L. ACEDILLO, *petitioners,* v. HON. PAQUITO N. OCHOA, JR., IN HIS CAPACITY AS EXECUTIVE SECRETARY, ET AL., *respondents.*

G.R. No. 218045: EDUARDO R. ALICIAS, JR. AND AURELIO P. RAMOS, JR., *petitioners,* v. DEPARTMENT OF EDUCATION AND THE SECRETARY OF THE DEPED, *respondents.*

G.R. No. 218098: RICHARD TROY A. COLMENARES, ET AL., *petitioners*, v. DEPARTMENT OF EDUCATION SECRETARY ARMIN A. LUISTRO, ET AL., *respondents.*

G.R. No. 218123: CONGRESSMAN ANTONIO TINIO (REPRESENTATIVE, ACT TEACHERS PARTY LIST), ET AL., *petitioners,* v. PRESIDENT BENIGNO SIMEON "NOYNOY" C. AQUINO III, ET AL., *respondents.*

G.R. No. 218465: MA. DOLORES BRILLANTES, SEVERO L. BRILLANTES, ET AL., *petitioners,* v. PRESIDENT BENIGNO SIMEON C. AQUINO III, ET AL., *respondents.*

Promulgated:
October 9, 2018

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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

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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.

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

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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.

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]

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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.

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]

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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.

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]

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30 Id.
31 Id.
32 Id.
33 Id. at 888.
34 Id. at 889.
35 Id. at 890.
36 Id. at 889.

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]

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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].

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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)

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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.

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.

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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].

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.
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> 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.
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> 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)

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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.

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

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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].

> whether controversies brought before us are justiciable avoids the counter majoritarian difficulties attributed to the judiciary.
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> 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

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61 Id. at 561–562.

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

> 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

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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.

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.

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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.

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]

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[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].

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.

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[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.

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

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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.

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:

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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].

> 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.

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[90] Id. at 32–33.

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)

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[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].

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

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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].

> 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

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[97] Id. at 583–584.

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.

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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.

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

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[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.

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]

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[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].

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]

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[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.

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"

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[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].

> 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.

MARVIC M.V.F. LEONEN
Associate Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court

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[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].