Republic of the Philippines
Supreme Court
Manila

EN BANC

OSCAR B. PIMENTEL, ERROL B. COMAFAY, JR., RENE B. GOROSPE, EDWIN R. SANDOVAL, VICTORIA B. LOANZON, ELGIN MICHAEL C. PEREZ, ARNOLD E. CACHO, AL CONRAD B. ESPALDON, ED VINCENT S. ALBANO, LEIGHTON R. SIAZON, ARIANNE C. ARTUGUE, CLARABEL ANNE R. LACSINA, KRISTINE JANE R. LIU, ALYANNA MARI C. BUENVIAJE, IANA PATRICIA DULA T. NICOLAS, IRENE A. TOLENTINO and AUREA I. GRUYAL,

Petitioners,

- versus -

LEGAL EDUCATION BOARD, as represented by its Chairperson, HON. EMERSON B. AQUENDE, and LEB Member HON. ZENAIDA N. ELEPAÑO,

Respondents;

ATTYS. ANTHONY D. BENGZON, FERDINAND M. NEGRE, MICHAEL Z. UNTALAN, JONATHAN Q. PEREZ, SAMANTHA WESLEY

G.R. No. 230642

Present:

BERSAMIN, *C.J.*,
CARPIO,
PERALTA,*
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A. JR.,
GESMUNDO,
REYES, J. JR.,
HERNANDO,**
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, *JJ.*

Promulgated:

September 10, 2019

* No part.
** On official business.

K. ROSALES, ERIKA M. ALFONSO, KRYS VALEN O. MARTINEZ, RYAN CEAZAR P. ROMANO, and KENNETH C. VARONA,

Respondents-in-Intervention;

APRIL D. CABALLERO, JEREY C. CASTARDO, MC WELLROE P. BRINGAS, RHUFFY D. FEDERE, CONRAD THEODORE A. MATUTINO and numerous others similarly situated, ST. THOMAS MORE SCHOOL OF LAW AND BUSINESS, INC., represented by its President RODOLFO C. RAPISTA, for himself and as Founder, Dean and Professor, of the College of Law, JUDY MARIE RAPISTA-TAN, LYNNART WALFORD A. TAN, IAN M. ENTERINA, NEIL JOHN VILLARICO as law professors and as concerned citizens,

Petitioners-Intervenors;

x----------x

FRANCIS JOSE LEAN L. ABAYATA, GRETCHEN M. VASQUEZ, SHEENAH S. ILUSTRISMO, RALPH LOUIE SALAÑO, AIREEN MONICA B. GUZMAN, DELFINO ODIAS, DARYL DELA CRUZ, CLAIRE SUICO, AIVIE S. PESCADERO, NIÑA CHRISTINE DELA PAZ, SHEMARK K. QUENIAHAN, AL JAY T. MEJOS, ROCELLYN L. DAÑO,* MICHAEL ADOLFO, RONALD A. ATIG, LYNNETTE C. LUMAYAG, MARY CHRIS LAGERA, TIMOTHY B.

G.R. No. 242954

---

* Also referred to as "Jocelyn L. Daño" in some parts of the *rollo*.

FRANCISCO, SHEILA MARIE C. DANDAN, MADELINE C. DELA PEÑA, DARLIN R. VILLAMOR, LORENZANA L. LLORICO, and JAN IVAN M. SANTAMARIA,

Petitioners,

- versus -

HON. SALVADOR MEDIALDEA, Executive Secretary, and LEGAL EDUCATION BOARD, herein represented by its Chairperson, EMERSON B. AQUENDE,

Respondents.

x----------x

DECISION

REYES, J. JR., *J.*:

On the principal grounds of encroachment upon the rule-making power of the Court concerning the practice of law, violation of institutional academic freedom and violation of a law school aspirant's right to education, these consolidated Petitions for Prohibition (G.R. No. 230642) and *Certiorari* and Prohibition (G.R. No. 242954) under Rule 65 of the Rules of Court assail as unconstitutional Republic Act (R.A.) No. 7662,[1] or the Legal Education Reform Act of 1993, which created the Legal Education Board (LEB). On the same principal grounds, these petitions also particularly seek to declare as unconstitutional the LEB issuances establishing and implementing the nationwide law school aptitude test known as the Philippine Law School Admission Test or the PhiLSAT.

The Antecedents

Prompted by clamors for the improvement of the system of legal education on account of the poor performance of law students and law schools in the bar examinations,[2] the Congress, on December 23, 1993, passed into law R.A. No. 7662 with the following policy statement:

> SEC. 2. *Declaration of Policies.* - It is hereby declared the policy of the State to uplift the standards of legal education in order to prepare law students for advocacy, counselling, problem-solving, and decision-

---

1 AN ACT PROVIDING FOR REFORMS IN LEGAL EDUCATION, CREATING FOR THE PURPOSE, A LEGAL EDUCATION BOARD AND FOR OTHER PURPOSES.

2 *See In Re: Legal Education*, B.M. No. 979-B, September 4, 2001 (Resolution).

making, to infuse in them the ethics of the legal profession; to impress on them the importance, nobility and dignity of the legal profession as an equal and indispensable partner of the Bench in the administration of justice and to develop social competence.

Towards this end, the State shall undertake appropriate reforms in the legal education system, require proper selection of law students, maintain quality among law schools, and require legal apprenticeship and continuing legal education.

R.A. No. 7662 identifies the general and specific objectives of legal education in this manner:

SEC. 3. *General and Specific Objective of Legal Education.* –

(a) Legal education in the Philippines is geared to attain the following objectives:

(1) to prepare students for the practice of law;

(2) to increase awareness among members of the legal profession of the needs of the poor, deprived and oppressed sectors of society;

(3) to train persons for leadership;

(4) to contribute towards the promotion and advancement of justice and the improvement of its administration, the legal system and legal institutions in the light of the historical and contemporary development of law in the Philippines and in other countries.

(b) Legal education shall aim to accomplish the following specific objectives:

(1) to impart among law students a broad knowledge of law and its various fields and of legal institutions;

(2) to enhance their legal research abilities to enable them to analyze, articulate and apply the law effectively, as well as to allow them to have a holistic approach to legal problems and issues;

(3) to prepare law students for advocacy, [counseling], problem-solving and decision-making, and to develop their ability to deal with recognized legal problems of the present and the future;

(4) to develop competence in any field of law as is necessary for gainful employment or sufficient as a foundation for future training beyond the basic professional degree, and to develop in them the desire and capacity for continuing study and self-improvement;

(5) to inculcate in them the ethics and responsibilities of the legal profession; and

(6) to produce lawyers who conscientiously pursue the lofty goals of their profession and to fully adhere to its ethical norms.

For these purposes, R.A. No. 7662 created the LEB, an executive agency which was made separate from the Department of Education, Culture and Sports (DECS), but attached thereto solely for budgetary purposes and administrative support.[3] The Chairman and regular members of the LEB are to be appointed by the President for a term of five years, without reappointment, from a list of at least three nominees prepared, with prior authorization from the Court, by the Judicial and Bar Council (JBC).[4]

Section 7 of R.A. No. 7662 enumerates the powers and functions of the LEB as follows:

SEC. 7. *Powers and Functions.* – For the purpose of achieving the objectives of this Act, the Board shall have the following powers and functions:

(a) to administer the legal education system in the country in a manner consistent with the provisions of this Act;

(b) to supervise the law schools in the country, consistent with its powers and functions as herein enumerated;

(c) to set the standards of accreditation for law schools taking into account, among others, the size of enrollment, the qualifications of the members of the faculty, the library and other facilities, without encroaching upon the academic freedom of institutions of higher learning;

(d) to accredit law schools that meet the standards of accreditation;

(e) to prescribe minimum standards for law admission and minimum qualifications and compensation to faculty members;

(f) to prescribe the basic curricula for the course of study aligned to the requirements for admission to the Bar, law practice and social consciousness, and such other courses of study as may be prescribed by the law schools and colleges under the different levels of accreditation status;

(g) to establish a law practice internship as a requirement for taking the Bar which a law student shall undergo with any duly accredited private or public law office or firm or legal assistance group anytime during the law course for a specific period that the Board may decide, but not to exceed a total of twelve (12) months. For this purpose, the Board shall prescribe the necessary guidelines for such accreditation and the

---

3 Republic Act No. 7662, Sec. 4.
4 Id. at Sec. 5.

> specifications of such internship which shall include the actual work of a new member of the Bar[;]
>
> (h) to adopt a system of continuing legal education. For this purpose, the Board may provide for the mandatory attendance of practicing lawyers in such courses and for such duration as the Board may deem necessary; and
>
> (i) to perform such other functions and prescribe such rules and regulations necessary for the attainment of the policies and objectives of this Act.

On the matter of accreditation of law schools, R.A. No. 7662 further elaborates:

> SEC. 8. *Accreditation of Law Schools.* – Educational institutions may not operate a law school unless accredited by the Board. Accreditation of law schools may be granted only to educational institutions recognized by the Government.
>
> SEC. 9. *Withdrawal or Downgrading of Accreditation.* – The [LEB] may withdraw or downgrade the accreditation status of a law school if it fails to maintain the standards set for its accreditation status.
>
> SEC. 10. *Effectivity of Withdrawal or Downgrading of Accreditation.* – The withdrawal or downgrading of accreditation status shall be effective after the lapse of the semester or trimester following the receipt by the school of the notice of withdrawal or downgrading unless, in the meantime, the school meets and/or upgrades the standards or corrects the deficiencies upon which the withdrawal or downgrading of the accreditation status is based.

Bar Matter No. 979-B
Re: Legal Education

In July 2001, the Court's Committee on Legal Education and Bar Matters (CLEBM), through its Chairperson, Justice Jose C. Vitug, noted several objectionable provisions of R.A. No. 7662 which "go beyond the ambit of education of aspiring lawyers and into the sphere of education of persons duly licensed to practice the law profession."[5]

In particular, the CLEBM observed:

> x x x [U]nder the declaration of policies in Section 2 of [R.A. No. 7662], the State "shall x x x require apprenticeship and continuing legal education." The concept of continuing legal education encompasses education not only of law students but also of members of the legal profession. [This] implies that the [LEB] shall have jurisdiction over the education of persons who have finished the law course and are already

---

5 *In Re: Legal Education*, B.M. No. 979-B, supra note 2.

licensed to practice law[, in violation of the Supreme Court's power over the Integrated Bar of the Philippines].

x x x Section 3 provides as one of the objectives of legal education increasing "awareness among members of the legal profession of the needs of the poor, deprived and oppressed sectors of the society." Such objective should not find a place in the law that primarily aims to upgrade the standard of schools of law as they perform the task of educating aspiring lawyers. Section 5, paragraph 5 of Article VIII of the Constitution also provides that the Supreme Court shall have the power to promulgate rules on "legal assistance to the underprivileged" and hence, implementation of [R.A. No. 7662] might give rise to infringement of a constitutionally mandated power.

x x x [Section 7(e) giving the LEB the power to prescribe minimum standards for law admission and Section 7(h) giving the LEB the power to adopt a system of continuing legal education and for this purpose, the LEB may provide for the mandatory attendance of practicing lawyers in such courses and for such duration as the LEB may deem necessary] encroach upon the Supreme Court's powers under Section 5, paragraph 5 of Article VIII of the Constitution. Aside from its power over the Integrated Bar of the Philippines, the Supreme Court is constitutionally mandated to promulgate rules concerning admission to the practice of law.[6]

While the CLEBM saw the need for the LEB to oversee the system of legal education, it cautioned that the law's objectionable provisions, for reasons above-cited, must be removed.[7]

Relative to the foregoing observations, the CLEBM proposed the following amendments to R.A. No. 7662:

SEC. 2. *Declaration of Policies.* – It is hereby declared the policy of the State to uplift the standards of legal education in order to prepare law students for advocacy, counseling, problem-solving, and decision-making; to infuse in them the ethics of the legal profession; to impress upon them the importance, nobility and dignity of the legal profession as an equal and indispensable partner of the Bench in the administration of justice; and, to develop socially-committed lawyers with integrity and competence.

Towards this end, the State shall undertake appropriate reforms in the legal education system, require proper selection of law students, provide for legal apprenticeship, and maintain quality among law schools.

x x x x

---

6 Id.
7 Id.

SEC. 3. *General and Specific Objectives of Legal Education.* x x x

x x x x

2.) to increase awareness among law students of the needs of the poor, deprived and oppressed sectors of society;

x x x x

SEC. 7. *Power and functions.* – x x x

(a) to regulate the legal education system in accordance with its powers and functions herein enumerated;

(b) to establish standards of accreditation for law schools, consistent with academic freedom and pursuant to the declaration of policy set forth in Section 2 hereof;

(c) to accredit law schools that meet the standards of accreditation;

(d) to prescribe minimum standards for admission to law schools including a system of law aptitude examination;

(e) to provide for minimum qualifications for faculty members of law schools;

(f) to prescribe guidelines for law practice internship which the law schools may establish as part of the curriculum; and

(g) to perform such other administrative functions as may be necessary for the attainment of the policies and objectives of this Act."[8] (Underscoring supplied)

x x x x

In a Resolution[9] dated September 4, 2001, the Court approved the CLEBM's explanatory note and draft amendments to R.A. No. 7662. The Senate and the House of Representatives were formally furnished with a copy of said Resolution. This, notwithstanding, R.A. No. 7662 remained unaltered.

LEB Issuances

In 2003, the Court issued a resolution authorizing the JBC to commence the nomination process for the members of the LEB. In 2009, the LEB was constituted with the appointment of Retired Court of Appeals Justice Hilarion L. Aquino as the first Chairperson and followed by the appointment of LEB members, namely, Dean Eulogia M. Cueva, Justice Eloy R. Bello, Jr., Dean Venicio S. Flores and Commission on Higher

---

[8] Id.
[9] Id.

Education (CHED) Director Felizardo Y. Francisco. Despite the passage of the enabling law in 1993, the LEB became fully operational only in June 2010.

Acting pursuant to its authority to prescribe the minimum standards for law schools, the LEB issued *Memorandum Order No. 1, Series of 2011* (LEBMO No. 1-2011) providing for the Policies and Standards of Legal Education and Manual of Regulation for Law Schools.

Since then, the LEB had issued several orders, circulars, resolutions, and other issuances which are made available through their website:

A. Orders

Number	Title/Subject
LEBMO No. 2	Additional Rules in the Operation of the Law Program
LEBMO No. 3-2016	Policies, Standards and Guidelines for the Accreditation of Law Schools to Offer and Operate Refresher Courses
LEBMO No. 4-2016	Supplemental to [LEBMO] No. 3, Series of 2016
LEBMO No. 5-2016	Guidelines for the [Prerequisite] Subjects in the Basic Law Courses
LEBMO No. 6-2016	Reportorial Requirements for Law Schools
LEBMO No. 7-2016	Policies and Regulations for the Administration of a Nationwide Uniform Law School Admission Test for Applicants to the Basic Law Courses in All Law Schools in the Country
LEBMO No. 8-2016	Policies, Guidelines and Procedures Governing Increases in Tuition and Other School Fees, and Introduction of New Fees by Higher Education Institutions for the Law Program
LEBMO No. 9-2017	Policies and Guidelines on the Conferment of Honorary Doctor of Laws Degrees
LEBMO No. 10-2017	Guidelines on the Adoption of Academic/School Calendar
LEBMO No. 11-2017	Additional Transition Provisions to [LEBMO] No. 7, Series of 2016, on PhiLSAT
LEBMO No. 12-2018	LEB Service/ Transaction Fees

LEBMO No. 13-2018	Guidelines in the Conduct of Summer Classes
LEBMO No. 14-2018	Policy and Regulations in Offering Elective Subjects
LEBMO No. 15-2018	Validation of the Licenses of, and the Law Curriculum/Curricula for the Basic Law Courses in use by Law Schools and Graduate Schools of Law
LEBMO No. 16-2018	Policies, Standards and Guidelines for the Academic Law Libraries of Law Schools
LEBMO No. 17-2018	Supplemental Regulations on the Minimum Academic Requirement of Master of Laws Degree for Deans and Law Professors/Lecturers/Instructors in Law Schools
LEBMO No. 18-2018	Guidelines on Cancellation or Suspension of Classes in All Law Schools
LEBMO No. 19-2018	Migration of the Basic Law Course to Juris Doctor
LEBMO No. 20-2019	Discretionary Admission in the AY 2019-2020 of Examinees Who Rated Below the Cut-off/Passing Score but Not Less than 45% in the Philippine Law School Admission Test Administered on April 7, 2019

B. Memorandum Circulars

Number	Title/Subject
LEBMC No. 1	New Regulatory Issuances
LEBMC No. 2	Submission of Schedule of Tuition and Other School Fees
LEBMC No. 3	Submission of Law School Information Report
LEBMC No. 4	Reminder to Submit Duly Accomplished LSIR Form
LEBMC No. 5	Offering of the Refresher Course for AY 2017-2018
LEBMC No. 6	Applications for LEB Certification Numbers

LEBMC No. 7	Application of Transitory Provisions Under [LEBMO] No. 7, Series of 2017 and [LEBMO] No. 11, Series of 2017 in the Admission of Freshmen Law Students in Basic Law Courses in Academic Year 2017-2018
LEBMC No. 8	Guidelines for Compliance with the Reportorial Requirements Under [LEBMO] No. 7, Series of 2016 for Purposes of the Academic Year 2017-2018
LEBMC No. 9	Observance of Law Day and Philippine National Law Week
LEBMC No. 10	September 21, 2017 Suspension of Classes
LEBMC No. 11	Law Schools Authorized to Offer the Refresher Course in the Academic Year 2016-2017
LEBMC No. 12	Law Schools Authorized to Offer the Refresher Course in the Academic Year 2017-2018
LEBMC No. 13	Legal Research Seminar of the Philippine Group of Law Librarians on April 4-6, 2018
LEBMC No. 14	CSC Memorandum Circular No. 22, s. 2016
LEBMC No. 15	Law Schools Authorized to Offer the Refresher Course in the Academic Year 2018-2019
LEBMC No. 16	Clarification to [LEBMO] No. 3, Series of 2016
LEBMC No. 17	Updated List of Law Schools Authorized to Offer the Refresher Course in the Academic Year 2018-2019
LEBMC No. 18	PHILSAT Eligibility Requirement for Freshmen in the Academic Year 2018-2019
LEBMC No. 19	Guidelines for the Limited Conditional Admission/Enrollment in the 1st Semester of the Academic Year 2018-2019 Allowed for Those Who Have Not Taken the PhiLSAT

LEBMC No. 20	Updated List of Law Schools Authorized to Offer the Refresher Course in the Academic Year 2018-2019
LEBMC No. 21	Adjustments/Corrections to the Requirements for Law Schools to be Qualified to Conditionally Admit/Enroll Freshmen Law Students in AY 2018-2019
LEBMC No. 22	Advisory on who should take the September 23, 2018 PhiLSAT
LEBMC No. 23	Collection of the PhiLSAT Certificate of Eligibility/Exemption by Law Schools from Applicants for Admission
LEBMC No. 24	Observance of the Philippine National Law Week
LEBMC No. 25	Competition Law
LEBMC No. 26	Scholarship Opportunity for Graduate Studies for Law Deans, Faculty Members and Law Graduates with the 2020-2021 Philippine Fulbright Graduate Student Program
LEBMC No. 27	Advisory on April 7, 2019 PhiLSAT and Conditional [Enrollment] for Incoming Freshmen/1st Year Law Students
LEBMC No. 28	April 25-26, 2019 Competition Law Training Program
LEBMC No. 29	Detailed Guidelines for Conditional Enrollment Permit Application
LEBMC No. 30	Law Schools Authorized to Offer Refresher Course in AY 2019-2020
LEBMC No. 31	Law Schools Authorized to Offer Refresher Course in AY 2019-2020
LEBMC No. 40	Reminders concerning Conditionally Enrolled Freshmen Law Students in AY 2019-2020

C. Resolutions and Other Issuances

Number	Title/Subject
Resolution No. 16	Reportorial Requirement for Law Schools with Small Students Population
Resolution No. 7, Series of 2010	Declaring a 3-Year Moratorium in the Opening of New Law Schools
Resolution No. 8, Series of 2010	Administrative Sanctions
Resolution No. 2011-21	A Resolution Providing for Supplementary Rules to the Provisions of LEBMO No. 1 in regard to Curriculum and Degrees Ad Eundem
Resolution No. 2012-02	A Resolution Eliminating the Requirement of Special Orders for Graduates of the Basic Law Degrees and Graduate Law Degrees and Replacing them with a Per Law School Certification Approved by the Legal Education Board
Resolution No. 2013-01	Ethical Standards of Conduct for Law Professors
Resolution No. 2014-02	Prescribing Rules on the Ll.M. Staggered Compliance Schedule and the Exemption from the Ll.M. Requirement
Resolution No. 2015-08	Prescribing the Policy and Rules in the Establishment of a Legal Aid Clinic in Law Schools
Order	Annual Law Publication Requirements
Chairman Memorandum	Restorative Justice to be Added as Elective Subject

The PhiLSAT under LEBMO No. 7-2016, LEBMO No. 11-2017, LEBMC No. 18-2018, and related issuances

As above-enumerated, among the orders issued by the LEB was *Memorandum Order No. 7, Series of 2016* (LEBMO No. 7-2016) pursuant to its power to "prescribe the minimum standards for law admission" under Section 7(e) of R.A. No. 7662.

The policy and rationale of LEBMO No. 7-2016 is to improve the quality of legal education by requiring all those seeking admission to the basic law course to take and pass a nationwide uniform law school admission test, known as the PhiLSAT.[10]

The PhiLSAT is essentially an aptitude test measuring the examinee's communications and language proficiency, critical thinking, verbal and quantitative reasoning.[11] It was designed to measure the academic potential of the examinee to pursue the study of law.[12] Exempted from the PhiLSAT requirement were honor graduates who were granted professional civil service eligibility and who are enrolling within two years from their college graduation.[13]

Synthesizing, the key provisions of LEBMO No. 7-2016 are as follows:

> (1) The policy and rationale of requiring PhiLSAT is to improve the quality of legal education. The PhiLSAT shall be administered under the control and supervision of the LEB;[14]
>
> (2) The PhiLSAT is an aptitude test that measures the academic potential of the examinee to pursue the study of law;[15]
>
> (3) A qualified examinee is either a graduate of a four-year bachelor's degree; expecting to graduate with a four-year bachelor's degree at the end of the academic year when the PhiLSAT was administered; or a graduate from foreign higher education institutions with a degree equivalent to a four-year bachelor's degree. There is no limit as to the number of times a qualified examinee may take the PhiLSAT;[16]
>
> (4) The LEB may designate an independent third-party testing administrator;[17]
>
> (5) The PhiLSAT shall be administered at least once a year, on or before April 16, in testing centers;[18]
>
> (6) The testing fee shall not exceed the amount of ₱1,500.00 per examination;[19]

---

10 LEBMO No. 7-2016, par. 1.
11 *Rollo* (G.R. No. 230642), Vol. I, p. 216.
12 LEBMO No. 7-2016, supra, par. 2.
13 Id. at par. 10.
14 Id. at par. 1.
15 Id. at par. 2.
16 Id. at par. 3.
17 Id. at par. 4.
18 Id. at par. 5.
19 Id. at par. 6.

(7) The cut-off or passing score shall be 55% correct answers, or such percentile score as may be prescribed by the LEB;[20]

(8) Those who passed shall be issued a Certificate of Eligibility while those who failed shall be issued a Certificate of Grade;[21]

(9) Passing the PhiLSAT is required for admission to any law school. No applicant shall be admitted for enrollment as a first year student in the basic law course leading to a degree of either Bachelor of Laws or Juris Doctor unless he has passed the PhiLSAT taken within two years before the start of the study;[22]

(10) Honor graduates granted professional civil service eligibility who are enrolling within two years from college graduation are exempted from taking and passing the PhiLSAT for purposes of admission to the basic law course;[23]

(11) Law schools, in the exercise of academic freedom, can prescribe additional requirements for admission;[24]

(12) Law schools shall submit to LEB reports of first year students admitted and enrolled, and their PhiLSAT scores, as well as the subjects enrolled and the final grades received by every first year student;[25]

(13) Beginning academic year 2018-2019, the general average requirement (not less than 80% or 2.5) for admission to basic law course under Section 23 of LEBMO No. 1-2011 is removed;[26]

(14) In academic year 2017-2018, the PhiLSAT passing score shall not be enforced and the law schools shall have the discretion to admit in the basic law course, applicants who scored less than 55% in the PhiLSAT, provided that the law dean shall submit a justification for the admission and the required report;[27] and

---

20 Id. at par. 7.
21 Id. at par. 8.
22 Id. at par. 9.
23 Id. at par. 10.
24 Id. at par. 11.
25 Id. at par. 12.
26 Id. at par. 13.
27 Id. at par. 14.

(15) Law schools, in violation of LEBMO No. 7-2016, shall be administratively sanctioned as prescribed in Section 32[28] of LEBMO No. 2-2013[29] and/or fined up to ₱10,000.00.[30]

Effective for the academic year 2017 to 2018, no applicant to law school was allowed admission without having taken and passed the PhiLSAT. The first PhiLSAT examination was held on April 16, 2017 in seven pilot sites: Baguio City, Metro Manila, Legazpi City, Cebu City, Iloilo City, Davao City, and Cagayan de Oro. A total of 6,575 out of 8,074 examinees passed the first-ever PhiLSAT. For the first PhiLSAT, the passing grade was adjusted by the LEB from 55% to 45% by way of consideration.

Since the PhiLSAT was implemented for the first time and considering further that there were applicants who failed to take the PhiLSAT because of the inclement weather last April 16, 2017, the LEB issued *Memorandum Order No. 11, Series of 2017* (LEBMO No. 11-2017).

Under LEBMO No. 11-2017, those who failed to take the first PhiLSAT were allowed to be admitted to law schools for the first semester of academic year 2017 to 2018 for justifiable or meritorious reasons and conditioned under the following terms:

2. Conditions – x x x

a. The student shall take the next scheduled PhiLSAT;

b. If the student fails to take the next scheduled PhiLSAT for any reason, his/her conditional admission in the law school shall be automatically revoked and barred from enrolling in the following semester;

c. If the student takes the next scheduled PhiLSAT but scores below the passing or cut-off score, his/her conditional admission shall also be revoked and barred from enrolling in the following semester, unless the law school expressly admits him/her in the exercise of the discretion given under Section/Paragraph 14 of LEBMO No. 7, Series of 2016, subject to the requirements of the same provision;

d. The student whose conditional admission and enrol[l]ment is subsequently revoked shall not be entitled to the reversal of the school fees assessed and/or refund of the school fees paid; and

---

28 Sec. 32. The imposable administrative sanctions are the following:
a) Termination of the law program (closing the law school);
b) Phase-out of the law program; and
c) Provisional cancellation of the Government Recognition and putting the law program of the substandard law school under Permit Status.

29 Additional Rules in the Operation of the Law Program.

30 LEBMO No. 7-2016, par. 15.

> e. The student shall execute under oath, and file with his/her application for a Permit for Conditional Admission/Enrol[l]ment, an UNDERTAKING expressly agreeing to the foregoing conditions.[31]

The conditional admission and enrollment under LEBMO No. 11-2017 and the transitory provision provided in LEBMO No. 7-2016 were subsequently clarified by the LEB through its *Memorandum Circular No. 7, Series of 2017* (LEBMC No. 7-2017).

On September 24, 2017 and April 8, 2018, the second and third PhiLSATs were respectively held.

On October 26, 2017, the LEB issued a *Memorandum* reminding law schools, law students, and other interested persons that the passing of the PhiLSAT is required to be eligible for admission/enrollment in the basic law course for academic year 2017 to 2018. It was also therein clarified that the discretion given to law schools to admit those who failed the PhiLSAT during the initial year of implementation is only up to the second semester of academic year 2017-2018.

Because of the confusion as to whether conditional admission for academic year 2018 to 2019 may still be allowed, the LEB issued *Memorandum Circular No. 18, Series of 2018* (LEBMC No. 18-2018). Under LEBMC No. 18-2018, it was clarified that the conditional admission was permitted only in academic year 2017 to 2018 as part of the transition adjustments in the initial year of the PhiLSAT implementation. As such, by virtue of LEBMC No. 18-2018, the conditional admission of students previously allowed under LEBMO No. 11-2017 was discontinued.

Nevertheless, on July 25, 2018, the LEB issued *Memorandum Circular No. 19, Series of 2018* (LEBMC No. 19-2018) allowing limited conditional admission/enrollment in the first semester of academic year 2018 to 2019 for those applicants who have never previously taken the PhiLSAT. Those who have taken the PhiLSAT and scored below the cut-off score were disqualified. In addition, only those law schools with a passing rate of not less than 25%, are updated in the reportorial requirement and signified its intention to conditionally admit applicants were allowed to do so. The limited enrollment was subject to the condition that the admitted student shall take and pass the next PhiLSAT on September 23, 2018, otherwise the conditional enrollment shall be nullified. Non-compliance with said circular was considered a violation of the minimum standards for the law program for which law schools may be administratively penalized.

The fourth PhiLSAT then pushed through on September 23, 2018.

---

[31] LEBMO No. 11-2017, par. 2.

The Petitions

Days before the scheduled conduct of the first-ever PhiLSAT on April 16, 2017, petitioners Oscar B. Pimentel (Pimentel), Errol B. Comafay (Comafay), Rene B. Gorospe (Gorospe), Edwin R. Sandoval (Sandoval), Victoria B. Loanzon (Loanzon), Elgin Michael C. Perez (Perez), Arnold E. Cacho (Cacho), Al Conrad B. Espaldon (Espaldon) and Ed Vincent S. Albano (Albano) [as citizens, lawyers, taxpayers and law professors], with their co-petitioners Leighton R. Siazon (Siazon), Arianne C. Artugue (Artugue), Clarabel Anne R. Lacsina (Lacsina) and Kristine Jane R. Liu (Liu) [as citizens, lawyers and taxpayers], Alyanna Mari C. Buenviaje (Buenviaje) and Iana Patricia Dula T. Nicolas (Nicolas) [as citizens intending to take up law] and Irene A. Tolentino (Tolentino) and Aurea I. Gruyal (Gruyal) [as citizens and taxpayers] filed their Petition for Prohibition,[32] docketed as G.R. No. 230642, principally seeking that R.A. No. 7662 be declared unconstitutional and that the creation of the LEB be invalidated together with all its issuances, most especially the PhiLSAT, for encroaching upon the rule-making power of the Court concerning admissions to the practice of law.[33] They prayed for the issuance of a temporary restraining order (TRO) to prevent the LEB from conducting the PhiLSAT.

Respondents-in-intervention Attys. Anthony D. Bengzon (Bengzon), Ferdinand M. Negre (Negre), Michael Z. Untalan (Untalan), Jonathan Q. Perez (Perez), Samantha Wesley K. Rosales (Rosales), Erika M. Alfonso (Alfonso), Krys Valen O. Martinez (Martinez), Ryan Ceazar P. Romano (Romano), and Kenneth C. Varona (Varona) [as citizens and lawyers] moved to intervene and prayed for the dismissal of the Petition for Prohibition.[34]

On February 12, 2018, petitioners-in-intervention April D. Caballero (Caballero), Jerey C. Castardo (Castardo), MC Wellroe P. Bringas (Bringas), Rhuffy D. Federe (Federe) and Conrad Theodore A. Matutino (Matutino) [as graduates of four-year college course and applicants as first year law students], St. Thomas More School of Law and Business, Inc., [as an educational stock corporation] and Rodolfo C. Rapista (Rapista), Judy Marie Rapista-Tan (Rapista-Tan), Lynnart Walford A. Tan (Tan), Ian M. Enterina (Enterina) and Neil John Villarico (Villarico) [as citizens and law professors] intervened and joined the Petition for Prohibition of Pimentel, *et al.*, seeking to declare R.A. No. 7662 and the PhiLSAT as unconstitutional.[35]

---

32 *Rollo* (G.R. No. 230642), Vol. I, pp. 6-22.
33 Id. at 8-11.
34 Id. at 38-59.
35 Id. at 289-320.

Thereafter, a Petition for *Certiorari* and Prohibition, docketed as G.R. No. 242954, was filed by petitioners Francis Jose Lean L. Abayata (Abayata), Gretchen M. Vasquez (Vasquez), Sheenah S. Ilustrismo (Ilustrismo), Ralph Louie Salaño (Solaño), Aireen Monica B. Guzman (Guzman) and Delfino Odias (Odias) [as law students who failed to pass the PhiLSAT], Daryl Dela Cruz (Dela Cruz), Claire Suico (Suico), Aivie S. Pescadero (Pescadero), Niña Christine Dela Paz (Dela Paz), Shemark K. Queniahan (Queniahan), Al Jay T. Mejos (Mejos), Rocellyn L. Daño (Daño), Michael Adolfo (Adolfo), Ronald A. Atig (Atig), Lynette C. Lumayag (Lumayag), Mary Chris Lagera (Lagera), Timothy B. Francisco (Francisco), Sheila Marie C. Dandan (Dandan), Madeline C. Dela Peña (Dela Peña), Darlin R. Villamor (Villamor), Lorenzana Llorico (Llorico) and Jan Ivan M. Santamaria (Santamaria) [as current law students who failed to take the PhiLSAT] seeking to invalidate R.A. No. 7662 or, in the alternative, to declare as unconstitutional the PhiLSAT. They also sought the issuance of a TRO to defer the holding of the aptitude test.[36]

These Petitions were later on consolidated by the Court and oral arguments thereon were held on March 5, 2019.

Temporary Restraining Order

On March 12, 2019, the Court issued a TRO[37] enjoining the LEB from implementing LEBMC No. 18-2018 and, thus, allowing those who have not taken the PhiLSAT prior to the academic year 2018 to 2019, or who have taken the PhiLSAT, but did not pass, or who are honor graduates in college with no PhiLSAT Exemption Certificate, or honor graduates with expired PhiLSAT Exemption Certificates to conditionally enroll as incoming freshmen law students for the academic year 2019 to 2020 under the same terms as LEBMO No. 11-2017.

Subsequently, the LEB issued *Memorandum Circular No. 27, Series of 2019* (LEBMC No. 27-2019) stating that the PhiLSAT scheduled on April 7, 2019 will proceed and reiterated the requirements that must be complied with for the conditional enrollment for the academic year 2019 to 2020.

The Parties' Arguments

In G.R. No. 230642

Petitioners in G.R. No. 230642 argue that R.A. No. 7662 and the PhiLSAT are offensive to the Court's power to regulate and supervise the

---

36 *Rollo* (G.R. No. 242954), Vol. I, pp. 3-39.
37 *Rollo* (G.R. No. 230642), Vol. III, pp. 1309-1311.

legal profession pursuant to Section 5(5), Article VIII[38] of the Constitution and that the Congress cannot create an administrative office that exercises the Court's power over the practice of law. They also argue that R.A. No. 7662 gives the JBC additional functions to vet nominees for the LEB in violation of Section 8(5), Article VIII [39] of the Constitution.

In their Memorandum, petitioners also question the constitutionality of the LEB's powers under Section 7(c)[40] and 7(e)[41] to prescribe the qualifications and compensation of faculty members and Section 7(h)[42] on the LEB's power to adopt a system of continuing legal education as being repugnant to the Court's rule-making power concerning the practice of law. They also argue that the PhiLSAT violates the academic freedom of law schools and the right to education.

Petitioners-in-intervention meanwhile contend that the PhiLSAT violates the right to liberty and pursuit of happiness of the student-applicants. They posit that the PhiLSAT violates the equal protection clause as it is an arbitrary form of classification not based on substantial distinctions. They also argue that the PhiLSAT violates the right of all citizens to quality and accessible education, violates academic freedom, and is an unfair academic requirement. It is also their position that the PhiLSAT violates due process as it interferes with the right of every person to select a profession or course of study. They also argue that R.A. No. 7662 constitutes undue delegation of legislative powers.

In G.R. No. 242954

Petitioners in G.R. No. 242954 argue that *certiorari* and prohibition are proper remedies either under the expanded or traditional jurisdiction of the Court. They also invoke the doctrine of transcendental importance.

---

38 Sec. 5. The Supreme Court shall have the following power:
x x x x
(5) Promulgate rules concerning pleading, practice, and procedure in all courts, the admission to the practice of law, and the integration of the Bar which, however, may be repealed, altered, or supplemental by the Batasang Pambansa. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights.

39 Sec. 8. x x x
(5) The [Judicial and Bar] Council shall have the principal function of recommending appointees to the Judiciary. It may exercise such other functions and duties as the Supreme Court may assign to it.

40 Republic Act No. 7622, Sec. 7. *Powers and Functions.* – x x x
x x x x
(c) [T]o set the standards of accreditation for law schools taking into account, among others, the size of enrollment, **the qualifications of the members of the faculty**, the library and other facilities, without enroaching upon the academic freedom of institutions of higher learning[.] (Emphasis supplied)

41 Sec. 7. (e) [T]o prescribe minimum standards for **law admission** and minimum qualifications and compensation of faculty members[.] (Emphasis supplied)

42 Sec. 7. (h) [T]o adopt a system of **continuing legal education**. For this purpose, the Board may provide for the mandatory attendance of **practicing lawyers** in such courses and for such duration as the Board may deem necessary[.] (Emphases supplied)

Substantively, they contend that R.A. No. 7662, specifically Section 3(a)(2)[43] on the objective of legal education to increase awareness among members of the legal profession, Section 7(e) on law admission, 7(g)[44] on law practice internship, and 7(h) on adopting a system of continuing legal education, and the declaration of policy on continuing legal education[45] infringe upon the power of the Court to regulate admission to the practice of law. They profess that they are not against the conduct of law school admission test *per se*, only that the LEB cannot impose the PhiLSAT as the power to do so allegedly belongs to the Court.[46]

It is also their contention that the PhiLSAT violates academic freedom as it interferes with the law school's exercise of freedom to choose who to admit. According to them, the LEB cannot issue penal regulations, and the consequent forfeiture of school fees and the ban on enrollment for those who failed to pass the PhiLSAT violate due process.

The Comments

Procedurally, the Office of the Solicitor General (OSG), representing the LEB, argues that *certiorari* and prohibition are not proper to assail the constitutionality of R.A. No. 7662 either under the traditional or expanded concept of judicial power. For the OSG, R.A. No. 7662 was enacted pursuant to the State's power to regulate all educational institutions, and as such, there could be no grave abuse of discretion. It also claims that the Congress is an indispensable party to the petitions.

Substantively, the OSG contends that the Court's power to regulate admission to the practice of law does not include regulation of legal education. It also defends Section 7(e) on the LEB's power to prescribe minimum standards for law admission as referring to admission to law schools; Section 7(g) on the LEB's power to establish a law practice internship as pertaining to the law school curriculum which is within the

---

43 Sec. 3. *General and Specific Objective of Legal Education.* – (a) Legal education in the Philippines is geared to attain the following objectives:
x x x x
(2) [T]o increase awareness among **members of the legal profession** of the needs of the poor, deprived and oppressed sectors of society[.] (Emphasis supplied)

44 Sec. 7. (g) [T]o establish a **law practice internship** as a requirement for taking the Bar which a law student shall undergo with any duly accredited private or public law office or firm or legal assistance group anytime during the law course for a specific period that the Board may decide, but not to exceed a total of twelve (12) months. For this purpose, the Board shall prescribe the necessary guidelines for such accreditation and the specifications of such internship which shall include the actual work of a new member of the Bar[.] (Emphasis supplied)

45 Sec. 2. *Declaration of Policies.* – It is hereby declared the policy of the State to uplift the standards of legal education in order to prepare law students for advocacy, counselling, problem-solving, and decision-making, to infuse in them the ethics of the legal profession; to impress on them the importance, nobility and dignity of the legal profession as an equal and indispensable partner of the Bench in the administration of justice and to develop social competence.
Towards this end, the State shall undertake appropriate reforms in the legal education system, require proper selection of law students, maintain quality among law schools, and require legal apprenticeship and **continuing legal education**. (Emphasis supplied)

46 *Rollo* (G.R. No. 242954), Vol. I, p. 29.

power of the LEB to regulate; and 7(h) on the LEB's power to adopt a system of continuing legal education as being limited to the training of lawyer-professors.[47] Anent the argument that R.A. No. 7662 gives the JBC additional functions not assigned to it by the Court, the OSG points out that the Court had actually authorized the JBC to process the applications for membership to the LEB making this a non-issue.

In defending the validity of the PhiLSAT, the OSG advances the argument that the PhiLSAT is the minimum standard for entrance to law schools prescribed by the LEB pursuant to the State's power to regulate education. The OSG urges that the PhiLSAT is no different from the National Medical Admission Test (NMAT) which the Court already upheld as a valid exercise of police power in the seminal case of *Tablarin v. Gutierrez*.[48]

It is also the position of the OSG that neither the PhiLSAT nor the provisions of R.A. No. 7662 violate academic freedom because the standards for entrance to law school, the standards for accreditation, the prescribed qualifications of faculty members, and the prescribed basic curricula are fair, reasonable, and equitable admission and academic requirements.

For their part, respondents-in-intervention contend that R.A. No. 7662 enjoys the presumption of constitutionality and that the study of law is different from the practice of law.

In its Comment to the Petition-in-Intervention, the OSG dismisses as speculative the argument that the PhiLSAT is anti-poor, and adds that the Court has no competence to rule on whether the PhiLSAT is an unfair or unreasonable requirement, it being a question of policy.

Respondents-in-intervention, for their part, argue that the right of the citizens to accessible education means that the State shall make quality education accessible only to those qualified enough, as determined by fair, reasonable, and equitable admission and academic requirements. They dispute the claimed intrusion on academic freedom as law schools are not prevented from selecting who to admit among applicants who have passed the PhiLSAT. They stress that the right to education is not absolute and may be regulated by the State, citing *Calawag v. University of the Philippines Visayas*.[49]

By way of Reply, petitioners-in-intervention emphasize that the doctrine in *Tablarin*[50] is inapplicable as medical schools are not the same as

---

47 Id. at 86-87.
48 236 Phil. 768 (1987).
49 716 Phil. 208 (2013).
50 *Tablarin v. Gutierrez*, supra.

law schools. They further aver that the decline in enrollment as a result of the implementation of the PhiLSAT is not speculative.[51]

The Issues

After a careful consideration of the issues raised by the parties in their pleadings and refined during the oral arguments, the issues for resolution are synthesized as follows:

I. Procedural Issues:
   A. Remedies of *certiorari* and prohibition; and
   B. Requisites of judicial review and the scope of the Court's review in the instant petitions.

II. Substantive Issues:
   A. Jurisdiction over legal education;
   B. Supervision and regulation of legal education as an exercise of police power;
      1. Reasonable supervision and regulation
      2. Institutional academic freedom
      3. Right to education
   C. LEB's powers under R.A. No. 7662 *vis-à-vis* the Court's jurisdiction over the practice of law; and
   D. LEB's powers under R.A. No. 7662 *vis-à-vis* the academic freedom of law schools and the right to education.

The Rulings of the Court

I.
Procedural Issues

A.
Remedies of *Certiorari* and Prohibition

The propriety of the remedies of *certiorari* and prohibition is assailed on the ground that R.A. No. 7662 is a legislative act and not a judicial, quasi-judicial, or ministerial function. In any case, respondents argue that the issues herein presented involve purely political questions beyond the ambit of judicial review.

The Court finds that petitioners availed of the proper remedies.

---

[51] In support, petitioners-in-intervention attached to their Partial Compliance and Motion, certifications issued by St. Thomas More School of Law and Business, Inc., St. Mary's College of Tagum, Inc. College of Law, and Western Leyte College School of Law tending to show a decrease in the number of enrollees from academic year 2017 to 2018 to academic year 2018 to 2019. They also attached a Summary of Enrollment (of 44 out of the 126 law schools) furnished by the Philippine Association of Law Schools which tend to show that 37 out of the 44 law schools experienced a decrease in enrollment. (*Rollo* [G.R. No. 242954], Vol. III, pp. 1463-1477).

The 1935[52] and 1973[53] Constitutions mention, but did not define, "judicial power." In contrast, the 1987 Constitution lettered what judicial power is and even "expanded" its scope.

As constitutionally defined under Section 1, Article VIII of the 1987 Constitution,[54] judicial power is no longer limited to the Court's duty to settle actual controversies involving rights which are legally demandable and enforceable, or the power of adjudication, but also includes, the duty to determine whether or not 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. This innovation under the 1987 Constitution later on became known as the Court's traditional jurisdiction and expanded jurisdiction, respectively.[55]

The expanded scope of judicial review mentions "grave abuse of discretion amounting to lack or excess of jurisdiction" to harbinger the exercise of judicial review; while petitions for *certiorari*[56] and prohibition[57] speak of "lack or excess of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction." Petitions for *certiorari* and prohibition as it is understood under Rule 65 of the Rules of Court are traditionally regarded as supervisory writs used as a means by superior or appellate courts, in the exercise of their supervisory jurisdiction, to keep subordinate courts within the bounds of their jurisdictions. As such, writs of

---

52 Art. VIII, Sec. 1. The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law.

53 Art. X, Sec. 1. The Judicial power shall be vested in one Supreme Court and in such inferior courts as may be established by law. The Batasang Pambansa shall have the power to define, prescribe, and apportion the jurisdiction of the various courts, but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section five hereof.

54 Sec. 1. The judicial power shall be vested in the 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.

55 *See Francisco, Jr. v. The House of Representatives*, 460 Phil. 830, 883, 909-910 (2003).

56 RULES OF COURT, Rule 65, Sec. 1, provides:

Sec. 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

57 Id. at Sec. 2. *Petition for Prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

certiorari and prohibition correct only errors of jurisdiction of judicial and quasi-judicial bodies.[58]

However, considering the commonality of the ground of "grave abuse of discretion," a Rule 65 petition, as a procedural vehicle to invoke the Court's expanded jurisdiction, has been allowed.[59] After all, there is grave abuse of discretion when an act is done contrary to the Constitution, the law or jurisprudence, or is executed whimsically, capriciously or arbitrarily, out of malice, ill will, or personal bias.[60] In *Spouses Imbong v. Ochoa, Jr.*,[61] the Court emphasized that *certiorari*, prohibition and *mandamus* are appropriate remedies to raise constitutional issues.

That it is a legislative act which is being assailed is likewise not a ground to deny the present petitions.

For one, the 1987 Constitution enumerates under Section 5(2)(a), Article VIII,[62] the Court's irreducible powers which expressly include the power of judicial review, or the power to pass upon the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation.

For another, the Court's expanded jurisdiction, when invoked, permits a review of acts not only by a tribunal, board, or officer exercising judicial, quasi-judicial or ministerial functions, but also by any branch or instrumentality of the Government. "Any branch or instrumentality of the Government" necessarily includes the Legislative and the Executive, even if they are not exercising judicial, quasi-judicial or ministerial functions.[63] As such, the Court may review and/or prohibit or nullify, when proper, acts of legislative and executive officials, there being no plain, speedy, or adequate remedy in the ordinary course of law.[64]

The power of judicial review over congressional action, in particular, was affirmed in *Francisco, Jr. v. The House of Representatives*,[65] wherein the Court held:

---

58 *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116, 136 (2016).

59 Id. at 139.

60 *Ocampo v. Enriquez*, 798 Phil. 227, 294 (2016).

61 732 Phil. 1, 121 (2014).

62 Sec. 5. The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

63 *Araullo v. Aquino III*, 737 Phil. 457, 531 (2014), citing *Holy Spirit Homeowners Association, Inc. v. Defensor*, 529 Phil. 573, 587 (2006).

64 *Spouses Imbong v. Ochoa*, supra.

65 Supra note 55, at 891-892.

> There is indeed a plethora of cases in which this Court exercised the power of judicial review over congressional action. Thus, in *Santiago v. Guingona, Jr.*, this Court ruled that **it is well within the power and jurisdiction of the Court to inquire whether the Senate or its officials committed a violation of the Constitution or grave abuse of discretion in the exercise of their functions and prerogatives**. In *Tañada v. Angara,* where petitioners sought to nullify an act of the Philippine Senate on the ground that it contravened the Constitution, it held that the petition raised a justiciable controversy and that **when an action of the legislative branch is alleged to have seriously infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute**. In *Bondoc v. Pineda*, [this Court] declared null and void a resolution of the House of Representatives withdrawing the nomination, and rescinding the election, of a congressman as a member of the House Electoral Tribunal for being violative of Section 17, Article VI of the Constitution. In *Coseteng v. Mitra*, it held that the resolution of whether the House representation in the Commission on Appointments was based on proportional representation of the political parties as provided in Section 18, Article VI of the Constitution is subject to judicial review. In *Daza v. Singson,* it held that the act of the House of Representatives in removing the petitioner from the Commission on Appointments is subject to judicial review. In *Tañada v. Cuenco,* it held that **although under the Constitution, the legislative power is vested exclusively in Congress, this does not detract from the power of the courts to pass upon the constitutionality of acts of Congress**. In *Angara v. Electoral Commission,* it exercised its power of judicial review to determine which between the Electoral Commission and the National Assembly had jurisdiction over an electoral dispute concerning members of the latter. (Internal citations omitted; emphases supplied)

This was reiterated in *Villanueva v. Judicial and Bar Council*,[66] as follows:

> With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. This application is expressly authorized by the text of the second paragraph of Section 1, supra.
>
> **Thus, petitions for *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials**. (Internal citation omitted; emphasis supplied)

Consistently, in *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City,*[67] the remedies of *certiorari* and prohibition were regarded as

---

66 757 Phil. 534, 544 (2015).

67 G.R. No. 225442, August 8, 2017, 835 SCRA 350.

proper vehicles to assail the constitutionality of curfew ordinances, and in *Agcaoili v. Fariñas*,[68] to question the contempt powers of the Congress in the exercise of its power of inquiry in aid of legislation.

The consistency in the Court's rulings as to the propriety of the writs of *certiorari* and prohibition under Rule 65 of the Rules of Court to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions, but also to correct, undo, or restrain any act of grave abuse of discretion on the part of the legislative and the executive, propels the Court to treat the instant petitions in the same manner.

B.
Requisites for Judicial Review

The power of judicial review is tritely defined as the power to review the constitutionality of the actions of the other branches of the government.[69] For a proper exercise of its power of review in constitutional litigation, certain requisites must be satisfied: (1) an actual case or controversy calling for the exercise of judicial power; (2) the person challenging the act must have "standing" to challenge; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality must be the very *lis mota* of the case.[70]

These requisites are effective limitations on the Court's exercise of its power of review because judicial review in constitutional cases is quintessentially deferential, owing to the great respect that each co-equal branch of the Government affords to the other.

Of these four requisites, the first two, being the most essential,[71] deserve an extended discussion in the instant case.

1. Actual Case or Controversy

Fundamental in the exercise of judicial power, whether under the traditional or expanded setting, is the presence of an actual case or controversy.[72] An actual case or controversy is one which involves a conflict of legal rights and an assertion of opposite legal claims susceptible of

---

68 G.R. No. 232395, July 3, 2018.

69 *Garcia v. Executive Secretary*, 602 Phil. 64, 73 (2009). *See also Angara v. Electoral Commission*, 63 Phil. 139, 158 (1936), where the Court held that the Court's duty under the Constitution is "to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them."

70 *Garcia v. Executive Secretary,* id., citing *Francisco, Jr. v. The House of Representatives*, supra note 55, at 892.

71 *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452, 471 (2010).

72 *Association of Medical Clinics for Overseas Workers, Inc., (AMCOW), v. GCC Approved Medical Centers Association, Inc.*, supra note 58, at 140.

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.

To be justiciable, the controversy must be definite and concrete, touching on the legal relations of parties having adverse legal interests. It must be shown from the pleadings that there is an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other. There must be an actual and substantial controversy and not merely a theoretical question or issue. Further, the actual and substantial controversy must admit specific relief through a conclusive decree and must not merely generate an advisory opinion based on hypothetical or conjectural state of facts.[73]

Closely associated with the requirement of an actual or justiciable case or controversy is the ripening seeds for adjudication. Ripeness for adjudication has a two-fold aspect: *first*, the fitness of the issues for judicial decision; and *second*, the hardship to the parties entailed by withholding court consideration. The first aspect requires that the issue must be purely legal and that the regulation subject of the case is a "final agency action." The second aspect requires that the effects of the regulation must have been felt by the challenging parties in a concrete way.[74]

To stress, a constitutional question is ripe for adjudication when the challenged governmental act has a direct and existing adverse effect on the individual challenging it.[75] While a reasonable certainty of the occurrence of a perceived threat to a constitutional interest may provide basis for a constitutional challenge, it is nevertheless still required that there are sufficient facts to enable the Court to intelligently adjudicate the issues.[76]

In this regard, the Court's pronouncement in *Philippine Association of Colleges and Universities (PACU) v. Secretary of Education*[77] deserves reiteration:

> **It should be understandable, then, that this Court should be doubly reluctant to consider petitioner's demand for avoidance of the law aforesaid, [e]specially where, as respondents assert, petitioners suffered no wrong – nor allege any – from the enforcement of the criticized statute.**
>
> It must be evident to any one that the power to declare a legislative enactment void is one which the judge,

---

73 *Information Technology Foundation of the Philippines v. Commission on Elections,* 499 Phil. 281, 304-305 (2005).

74 *De Borja v. Pinalakas na Ugnayan ng Maliliit na Mangingisda ng Luzon, Mindanao at Visayas,* G.R. Nos. 185320 and 185348, April 19, 2017, 823 SCRA 550, 571-572.

75 *ABAKADA Guro Partylist v. Purisima*, 584 Phil. 246, 266 (2008).

76 *De Castro v. Judicial and Bar Council*, 629 Phil. 629, 686-687 (2010), citing *Buckley v. Valeo*, 424 U.S. 1, 113-118 (1976) <https://supreme.justia.com/cases/federal/us/424/1/> and *Regional Rail Reorganization Act Cases*, 419 U.S. 102, 138-148 (1974) <https://supreme.justia.com/cases/federal/us/419/102/> (visited May 31, 2019).

77 97 Phil. 806, 809-811 (1955).

conscious of the fallibility of human judgment, will shrink from exercising in any case where he can conscientiously and with due regard to duty and official oath decline the responsibility. x x x

When a law has been long treated as constitutional and important rights have become dependent thereon, the Court may refuse to consider an attack on its validity. x x x

As a general rule, the constitutionality of a statute will be passed on only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned. x x x

x x x x

It is an established principle that to entitle a private individual immediately in danger of sustaining a direct injury as the result of that action and it is not sufficient that he has merely a general [interest] to invoke the judicial power to determine the validity of executive or legislative action he must show that he has sustained or [has an] interest common to all members of the public. x x x

Courts will not pass upon the constitutionality of a law upon the complaint of one who fails to show that he is injured by its operation. x x x

The power of courts to declare a law unconstitutional arises only when the interests of litigants require the use of that judicial authority for their protection against actual interference, a hypothetical threat being insufficient. x x x

Bona fide suit. – Judicial power is limited to the decision of actual cases and controversies. The authority to pass on the validity of statutes is incidental to the decision of such cases where conflicting claims under the Constitution and under a legislative act assailed as contrary to the Constitution are raised. It is legitimate only in the last resort, and as necessity in the determination of real, earnest, and vital controversy between litigants. x x x

x x x x

An action, like this, is brought for a positive purpose, nay, to obtain actual and positive relief. x x x Courts do not sit to adjudicate mere academic questions to satisfy scholarly interest therein, however intellectually solid the problem may be. This is [e]specially true where the issues "reach constitutional dimensions, for then there comes into play regard for the court's duty to avoid decision of constitutional issues unless avoidance becomes evasion." x x x (Internal citations omitted; emphases supplied)

Ultimately, whether an actual case is present or not is determinative of whether the Court's hand should be stayed when there is no adversarial setting and when the prerogatives of the co-equal branches of the Government should instead be respected.

As ruled in *Republic v. Roque*:[78]

> 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.** As held in *Southern Hemisphere*:
>
> > 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. (Internal citations omitted; emphasis supplied)

Concededly, the Court had exercised the power of judicial review by the mere enactment of a law or approval of a challenged action when such is seriously alleged to have infringed the Constitution. In *Pimentel, Jr. v. Aguirre*:[79]

> *First*, on prematurity. According to the Dissent, when "the conduct has not yet occurred and the challenged construction has not yet been

---

78 718 Phil. 294, 305-306 (2013).
79 391 Phil. 84, 106-108 (2000).

adopted by the agency charged with administering the administrative order, the determination of the scope and constitutionality of the executive action in advance of its immediate adverse effect involves too remote and abstract an inquiry for the proper exercise of judicial function."

This is a rather novel theory — that people should await the implementing evil to befall on them before they can question acts that are illegal or unconstitutional. Be it remembered that the real issue here is whether the Constitution and the law are contravened by Section 4 of AO 372, not whether they are violated by the acts implementing it. In the unanimous *en banc case Tañada v. Angara*, this Court held that when an act of the legislative department is seriously alleged to have infringed the Constitution, settling the controversy becomes the duty of this Court. **By the mere enactment of the questioned law or the approval of the challenged action, the dispute is said to have ripened into a judicial controversy even without any other overt act. Indeed, even a singular violation of the Constitution and/or the law is enough to awaken judicial duty. Said the Court:**

> In seeking to nullify an act of the Philippine Senate on the ground that it contravenes the Constitution, the petition no doubt raises a justiciable controversy. **Where an action of the legislative branch is seriously alleged to have infringed the Constitution, it becomes not only the right but in fact the duty of the judiciary to settle the dispute. The question thus posed is judicial rather than political.** The duty (to adjudicate) remains to assure that the supremacy of the Constitution is upheld. Once a controversy as to the application or interpretation of a constitutional provision is raised before this Court x x x, it becomes a legal issue which the Court is bound by constitutional mandate to decide.
>
> x x x x
>
> As this Court has repeatedly and firmly emphasized in many cases, it will not shirk, digress from or abandon its sacred duty and authority to uphold the Constitution in matters that involve grave abuse of discretion brought before it in appropriate cases, committed by any officer, agency, instrumentality or department of the government.

In the same vein, the Court also held in *Tatad v. Secretary of the Department of Energy*:

> x x x Judicial power includes not only the duty of the courts to settle actual controversies involving rights which are legally demandable and enforceable, but also the duty to determine whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of government. The courts, as guardians of the Constitution, have the inherent authority to determine whether a statute enacted by the legislature transcends the limit imposed by the fundamental law. Where the statute violates

> the Constitution, it is not only the right but the duty of the judiciary to declare such act unconstitutional and void.
>
> By the same token, when an act of the President, who in our constitutional scheme is a coequal of Congress, is seriously alleged to have infringed the Constitution and the laws, as in the present case, settling the dispute becomes the duty and the responsibility of the courts. (Internal citations omitted; emphases supplied)

In *Spouses Imbong v. Ochoa,*[80] the Court took cognizance of the petitions despite posing a facial challenge against the entire law as the petitions seriously alleged that fundamental rights have been violated by the assailed legislation:

> In this case, the Court is of the view **that an actual case or controversy exists and that the same is ripe for judicial determination. Considering that the RH Law and its implementing rules have already taken effect and that budgetary measures to carry out the law have already been passed, it is evident that the subject petitions present a justiciable controversy. As stated earlier, when an action of the legislative branch is seriously alleged to have infringed the Constitution, it not only becomes a right, but also a duty of the Judiciary to settle the dispute.**
>
> x x x x
>
> **Facial Challenge**
>
> The OSG also assails the propriety of the facial challenge lodged by the subject petitions, contending that the RH Law cannot be challenged "on its face" as it is not a speech regulating measure.
>
> The Court is not persuaded.
>
> In United States *(US)* constitutional law, a facial challenge, also known as a First Amendment Challenge, is one that is launched to assail the validity of statutes concerning not only protected speech, but also all other rights in the First Amendment. These include religious freedom, freedom of the press, and the right of the people to peaceably assemble, and to petition the Government for a redress of grievances. After all, the fundamental right to religious freedom, freedom of the press and peaceful assembly are but component rights of the right to one's freedom of expression, as they are modes which one's thoughts are externalized.
>
> In this jurisdiction, the application of doctrines originating from the U.S. has been generally maintained, albeit with some modifications. **While this Court has withheld the application of facial challenges to strictly penal statutes, it has expanded its scope to cover statutes not only regulating free speech, but also those involving religious freedom, and other fundamental rights.** The underlying reason for this modification is simple. **For unlike its counterpart in the U.S., this Court, under its expanded jurisdiction, is mandated by the**

---

80 Supra note 61.

> **Fundamental Law not only to settle actual controversies involving rights which are legally demandable and enforceable, but also 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. Verily, the framers of Our Constitution envisioned a proactive Judiciary, ever vigilant with its duty to maintain the supremacy of the Constitution.**
>
> **Consequently, considering that the foregoing petitions have seriously alleged that the constitutional human rights to life, speech and religion and other fundamental rights mentioned above have been violated by the assailed legislation, the Court has authority to take cognizance of these kindred petitions and to determine if the RH Law can indeed pass constitutional scrutiny.** To dismiss these petitions on the simple expedient that there exist no actual case or controversy, would diminish this Court as a reactive branch of government, acting only when the Fundamental Law has been transgressed, to the detriment of the Filipino people. (Internal citations omitted; emphases supplied)[81]

Likewise in *Belgica v. Ochoa,*[82] the Court held that the requirement of an actual case or controversy is satisfied by the antagonistic positions taken by the parties:

> The requirement of contrariety of legal rights is clearly satisfied by the antagonistic positions of the parties on the constitutionality of the "Pork Barrel System." Also, the questions in these consolidated cases are ripe for adjudication since the challenged funds and the provisions allowing for their utilization — such as the 2013 GAA for the PDAF, PD 910 for the Malampaya Funds and PD 1869, as amended by PD 1993, for the Presidential Social Fund — are currently existing and operational; hence, there exists an immediate or threatened injury to petitioners as a result of the unconstitutional use of these public funds.

1(a). Scope of Judicial Review

To determine whether petitioners presented an actual case or controversy, or have seriously alleged that R.A. No. 7662 suffers from constitutional infirmities to trigger the Court's power of judicial review, resort must necessarily be had to the pleadings filed.

Petitioners in G.R. No. 230642 allege that R.A. No. 7662 and the LEB issuances relative to the admission and practice of law encroach upon the powers of the Court.[83] It is their position that the powers given to the LEB are directly related to the Court's powers.[84] In particular, they argue that the LEB's power to adopt a system of continuing legal education under Section 7(h) of R.A. No. 7662 falls within the authority of the Court.[85] In their

---

81 Id. at 124-126.
82 721 Phil. 416, 520 (2013).
83 *Rollo* (G.R. No. 230642), Vol. 1, p. 11.
84 Id. at 15.
85 Id. at 17.

Memorandum, they additionally argue that the LEB's powers to prescribe the qualifications and compensation of faculty members under Section 7(c) and 7(e) of R.A. No. 7662, Sections 50-51 of LEBMO No. 1, and Resolution No. 2014-02 intrude into the Court's rule-making power relative to the practice of law.[86] They also argue that the PhiLSAT violates the academic freedom of law schools and the right to education.[87] It is their contention that the LEB is without power to impose sanctions.[88] They also question the authority of the LEB Chairperson and Members to act in a hold-over capacity.[89]

For their part, petitioners-in-intervention allege that the PhiLSAT requirement resulted to a reduced number of law student enrollees for St. Thomas More School of Law and Business, Inc. and constrained said law school to admit only students who passed the PhiLSAT which is against their policy of admitting students based on values.[90] Their co-petitioners are students who either applied for law school, failed to pass the PhiLSAT, or were conditionally enrolled. Thus, they argue that Section 7(e) of R.A. No. 7662 and the PhiLSAT violate the law school's academic freedom.

Petitioners in G.R. No. 242954 allege that they are current law students who failed to pass and/or take the PhiLSAT, and who are therefore threatened with the revocation of their conditional enrollment and stands to be barred from enrolling. Twelve of the 23 petitioners in G.R. No. 242954 were not allowed to enroll for failure to pass and/or take the PhiLSAT.

It is their argument that the LEB's power under Section 7(e) of R.A. No. 7662 to prescribe minimum standards for law admission, Section 7(g) to establish a law practice internship, Section 7(h) to adopt a system of continuing legal education, and Section 3(a)(2) on the stated objective of legal education to increase awareness among members of the legal profession of the needs of the poor, deprived and oppressed sectors of society usurp the Court's rule-making powers concerning admission to the practice of law.[91] In addition, they argue that the PhiLSAT issuances violate academic freedom, and that the LEB is not authorized to revoke conditional enrollment nor is it authorized to forfeit school fees and impose a ban enrollment which are penal sanctions violative of the due process clause. They also argue that the classification of students to those who have passed or failed the PhiLSAT for purposes of admission to law school is repugnant to the equal protection clause.

---

86 *Rollo* (G.R. No. 230642), Vol. 3, pp. 1370-1371.
87 Id. at 1375-1380.
88 Id. at 1381.
89 Id. at 1382.
90 *Rollo* (G.R. No. 230642), Vol. 1, p. 304.
91 *Rollo* (G.R. No. 242954), Vol. 1, p. 22.

The petitions therefore raise an actual controversy insofar as they allege that R.A. No. 7662, specifically Section 2, paragraph 2, Section 3(a)(2), Section 7(c), (e), (g), and (h) of R.A. No. 7662 infringe upon the Court's power to promulgate rules concerning the practice of law and upon institutional academic freedom and the right to quality education. Necessarily, a review of the LEB issuances when pertinent to these assailed provisions of R.A. No. 7662 shall also be undertaken.

2. Legal Standing

Inextricably linked with the actual case or controversy requirement is that the party presenting the justiciable issue must have the standing to mount a challenge to the governmental act.

By jurisprudence, standing requires a personal and substantial interest in the case such that the petitioner has sustained, or will sustain, direct injury as a result of the violation of its rights,[92] thus:

> 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."**[93] (Emphasis supplied)

The rule on standing admits of recognized exceptions: the over breadth doctrine, taxpayer suits, third-party standing and the doctrine of transcendental importance.[94]

Petitioners-in-intervention Caballero, Castardo, Bringas, Federe and Matutino, being graduates of a four-year college course and applicants as first year law students, as well as petitioners Abayata, Vasquez, Ilustrismo, Salaño, Guzman and Odias, as law students who failed to pass the PhiLSAT and were denied admission to law school for the academic year 2018 to 2019, and petitioners Dela Cruz, Suico, Pescadero, Dela Paz, Queniahan, Mejos, Daño, Adolfo, Atig, Lumayag, Lagera, Francisco, Dandan, Dela Peña, Villamor, Llorico and Santamaria, being law students who were conditionally enrolled, possess the requisite standing to challenge the constitutionality of Section 7(e) of R.A. No. 7662 and the implementing

---

92 *BAYAN v. Zamora*, 396 Phil. 623, 646 (2000) and *Kilosbayan, Inc. v. Morato*, 316 Phil. 652, 695-696 (1995).

93 *The Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018.

94 *Private Hospitals, Association of the Philippines, Inc. v. Medialdea*, G.R. No. 234448, November 6, 2018.

LEB issuances, as they were, in fact, required to take the PhiLSAT, or to comply with the terms of the conditional enrollment and failing which, were denied admission as regular students to law school.

Petitioner-in-intervention St. Thomas More School of Law and Business, Inc., likewise sufficiently alleges injury that it has sustained in the form of reduced number of enrollees due to the PhiLSAT requirement and the curtailment of its discretion on who to admit in its law school. Under the specific and concrete facts available in this case, these petitioners have demonstrated that they were, or tend to be directly and substantially, injured.

Meanwhile, petitioners Pimentel, Comafay, Gorospe, Sandoval, Loanzon, Perez, Cacho, Espaldon, Albano, Siazon, Artugue, Lacsina, Liu, Buenviaje, Nicolas, Tolentino, and Gruyal; and petitioners-in intervention Rapista, Rapista-Tan, Tan, Enterina and Villarico commonly anchor their standing to challenge R.A. No. 7662 and the PhiLSAT as citizens.

Standing as a citizen has been upheld by this Court in cases where a petitioner is able to craft an issue of transcendental importance or when paramount public interest is involved.[95]

Legal standing may be extended to petitioners for having raised a "constitutional issue of critical significance."[96] Without a doubt, the delineation of the Court's rule-making power *vis-à-vis* the supervision and regulation of legal education and the determination of the reach of the State's supervisory and regulatory power in the context of the guarantees of academic freedom and the right to education are novel issues with far-reaching implications that deserve the Court's immediate attention. In taking cognizance of the instant petitions, the Court is merely exercising its power to promulgate rules towards the end that constitutional rights are protected and enforced.[97]

Now, to the core substantive issues.

II.
Substantive Issues

A.
Jurisdiction Over Legal Education

Petitioners in G.R. No. 230642 argue that the Court's power to promulgate rules concerning the admission to the practice of law necessarily includes the power to do things related to the practice of law, including the power to prescribe the requirements for admission to the study of law. In

---

95 *See Integrated Bar of the Philippines v. Zamora*, 392 Phil. 618, 634 (2000).
96 *Funa v. Villar*, 686 Phil. 571, 585 (2012).
97 1987 CONSTITUTION, Art. VIII, Sec. 5(5), supra note 38.

support, they point to Sections 6[98] and 16,[99] Rule 138 of the Rules of Court. They contend that the Congress cannot create an administrative body, like the LEB, that exercises this rule-making power of the Court. They emphasize that the LEB belongs to the Executive department, and, as such, is not linked or accountable to the Court nor placed under the Court's regulation and supervision.

For their part, petitioners in G.R. No. 242954 maintain that the Court exercises authority over the legal profession which includes the admission to the practice of law, to the continuing requirements for and discipline of lawyers.[100] According to them, the rule-making power of the Court is plenary in all cases regarding the admission to and supervision of the practice of law. They argue that the Court's power to admit members to the practice of law extends to admission to legal education because the latter is a preparatory process to the application for admission to the legal profession, which "residual power" of the Court can be inferred from Sections 5[101] and 6, Rule 138 of the Rules of Court. They also emphasize that under Sections 1[102] and 2[103] of Rule 138-A, non-lawyers are allowed to have limited practice of law and are held to answer by the Court under the same rules on privileged

---

98 Sec. 6. *Pre-Law.* – No applicant for admission to the bar examination shall be admitted unless he presents a certificate that he has satisfied the Secretary of Education that, before he began the study of law, he had pursued and satisfactorily completed in an authorized and recognized university or college, requiring for admission thereto the completion of a four-year high school course, the course of study prescribed therein for a bachelor's degree in arts or sciences with any of the following subjects as major or field of concentration: political science, logic, [E]nglish, [S]panish, history and economics.

99 Sec. 16. *Failing candidates to take review course.* – Candidates who have failed the bar examinations for three times shall be disqualified from taking another examination unless they show to the satisfaction of the court that they have enrolled in and passed regular fourth year review classes as well as attended a pre-bar review course in a recognized law school.

The professors of the individual review subjects attended by the candidates under this rule shall certify under oath that the candidates have regularly attended classes and passed the subjects under the same conditions as ordinary students and the ratings obtained by them in the particular subject.

100 *Rollo* (G.R. No. 242954), Vol. 1, p. 18.

101 Sec. 5. *Additional requirements for other applicants.* – All applicants for admission other than those referred to in the two preceding sections shall, before being admitted to the examination, satisfactorily show that they have regularly studied law for four years, and successfully completed all prescribed courses [Bachelor of Laws] in a law school or university, officially approved and recognized by the Secretary of Education. The affidavit of the candidate, accompanied by a certificate from the university or school of law, shall be filed as evidence of such facts, and further evidence may be required by the court.

No applicant who obtained the Bachelor of Laws degree in this jurisdiction shall be admitted to the bar examination unless he or she has satisfactorily completed the following courses in a law school or university duly recognized by the government: civil law, commercial law, remedial law, criminal law, public and private international law, political law, labor and social legislation, medical jurisprudence, taxation and legal ethics.

102 Sec. 1. *Conditions for student practice.* – A law student who has successfully completed his 3rd year of the regular four-year prescribed law curriculum and is enrolled in a recognized law school's clinical legal education program approved by the Supreme Court, may appear without compensation in any civil, criminal or administrative case before any trial court, tribunal, board or officer, to represent indigent clients accepted by the legal clinic of the law school.

103 Sec. 2. *Appearance.* – The appearance of the law student authorized by this rule, shall be under the direct supervision and control of a member of the Integrated Bar of the Philippines duly accredited by the law school. Any and all pleadings, motions, briefs, memoranda or other papers to be filed, must be signed by the supervising attorney for and in behalf of the legal clinic.

communication and standard of conduct pursuant to Sections 3[104] and 4[105] of Rule 138-A.[106]

Contrary to petitioner's claims, the Court has no primary and direct jurisdiction over legal education. Neither the history of the Philippine legal education nor the Rules of Court invoked by petitioners support their argument. The supervision and regulation of legal education is an Executive function.

1. Regulation and supervision of legal education had been historically and consistently exercised by the political departments

Legal education in the Philippines was institutionalized in 1734, with the establishment of the Faculty of Civil Law in the University of Santo Tomas with Spanish as the medium of instruction. Its curriculum was identical to that adopted during the time in the universities in Europe[107] and included subjects on Civil Law, Canon Law, ecclesiastical discipline and elements of Natural Law.[108]

In 1901, Act No. 74 was passed centralizing the public school system, and establishing the Department of Public Instruction headed by the General Superintendent.[109] The archipelago was then divided into school divisions and districts for effective management of the school system. It was through Act No. 74 that a Trade School[110] and a Normal School[111] in Manila and a School of Agriculture in Negros were established.[112]

In 1908, the legislature approved Act No. 1870 which created the University of the Philippines (UP). However, English law courses were not offered until 1910 when the Educational Department Committee of the Young Men's Christian Association (YMCA), through the efforts of Justice George Malcolm, offered law courses in the English language. In 1911, UP

---

104 Sec. 3. *Privileged communications.* – The Rules safeguarding privileged communications between attorney and client shall apply to similar communications made to or received by the law student, acting for the legal clinic.

105 Sec. 4. *Standards of conduct and supervision.* – The law student shall comply with the standards of professional conduct governing members of the Bar. Failure of an attorney to provide adequate supervision of student practice may be a ground for disciplinary action.

106 Supra note 91.

107 Faculty of Civil Law (1734) <http://www.ust.edu.ph/civil-law/> (visited April 1, 2019).

108 Cortes, Irene R. (1994), ESSAYS ON LEGAL EDUCATION, Quezon City: University of the Philippines, Law Center.

109 The implementation of this Act created a heavy shortage of teachers so the Philippine Commission authorized the Secretary of Public Instruction to bring to the Philippines 600 teachers from the United States known as the "Thomasites."

110 Philippine College of Arts and Trade, now known as the Technological University of the Philippines.

111 Philippine Normal School, now known as the Philippine Normal University.

112 Act No. 74, Sec. 18.

adopted these classes by formally establishing its College of Law,[113] with its first graduates being students who studied at YMCA.[114] The curriculum adopted by the UP College of Law became the model of the legal education curriculum of the other law schools in the country.[115]

Private schools were formally regulated in 1917 with the passage of Act No. 2706[116] which made obligatory the recognition and inspection of private schools and colleges by the Secretary of Public Instruction, so as to maintain a standard of efficiency in all private schools and colleges[117] in the country. As such, the Secretary of Public Instruction was authorized to inspect schools and colleges to determine efficiency of instruction and to make necessary regulations. Likewise, under Act No. 2706, the Secretary of Public Instruction was specifically authorized to prepare and publish, from time to time, in pamphlet form, the minimum standards required of law schools and other schools giving instruction of a technical or professional character.[118]

In 1924, a survey of the Philippine education and of all educational institutions, facilities and agencies was conducted through Act No. 3162, which created the Board of Educational Survey. Among the factual findings of the survey was that schools at that time were allowed to operate with almost no supervision at all. This led to the conclusion that a great majority of schools from primary grade to the university are money-making devices of persons who organize and administer them. Thus, it was recommended that some board of control be organized under legislative control to supervise their administration.[119] It was further recommended that legislation be enacted to prohibit the opening of any school without the permission of the Secretary of Public Instruction. The grant of the permission was, in turn, predicated upon a showing that the school is compliant with the proper standards as to the physical structure, library and

---

[113] University of the Philippines College of Law <law.upd.edu.ph/about-the-college/> (visited April 1, 2019).

[114] ESSAYS ON LEGAL EDUCATION, supra note 108.

[115] Id.

[116] 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.

[117] Act No. 2706, Sec. 2. For the purposes of this Act, a private school or college shall be any private institution for teaching managed by private individuals or corporations, which is not subject to the authority and regulations of the Bureau of Education, and which offers courses of primary, intermediate, or secondary instruction, or superior courses in technical, professional, or special schools, for which diplomas are to be granted or degrees conferred.

[118] Id. at Sec. 6. The Secretary of Public Instruction shall from time to time prepare and publish in pamphlet form the minimum standards required of primary, intermediate, and high schools and colleges granting the degrees of bachelor of arts, bachelor of science, or any other academic degrees. He shall also from time to time prepare and publish in pamphlet form the minimum standards required of law, medical, dental, pharmaceutical, engineering, and agricultural schools or colleges and other special schools giving instruction of a technical or professional character.

[119] Cited in *Philippine Association of Colleges and Universities v. Secretary of Education*, supra note 77, at 812.

laboratory facilities, ratio of student to teacher and the qualifications of the teachers.[120]

Consistent with these statutory precursors, the 1935 Constitution expressed in no uncertain terms that "[a]ll educational institutions shall be under the supervision and subject to regulation by the State."[121]

This was followed by several other statutes such as the Commonwealth Act No. 578[122] which vests upon teachers, professors, and persons charged with the supervision of public or duly-recognized private schools, colleges and universities the status of "persons in authority" and Republic Act No. 139[123] which created the Board of Textbooks, mandating all public schools to use only the books approved by the Board and allowing all private schools to use textbooks of their choice, provided it is not against the law or public policy or offensive to dignity.[124]

In 1947, the Department of Instruction was changed to the Department of Education.[125] During this period, the regulation and supervision of public and private schools belonged to the Bureau of Public and Private Schools. The regulation of law schools in particular was undertaken by the Bureau of Private Schools through a special consultant who acted as a supervisor of the law schools and as a national coordinator of the law deans.[126]

The Department of Education, through its Bureau of Private Schools, issued a Manual of Instructions for Private Schools which contained the

---

120 Id.

121 CONSTITUTION (1935), Art. XIII, Sec. 5, provides:
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.

122 Enacted on June 8, 1940.

123 Approved on June 14, 1947. Repealed by Republic Act No. 8047 or the BOOK PUBLISHING INDUSTRY DEVELOPMENT ACT.

124 Republic Act No. 139, Sec. 1. Sec. one of Act Numbered Twenty-nine hundred and fifty-seven, as amended by Acts Numbered Thirty-one hundred and eighty-five, Thirty-four hundred and two, and Thirty-seven hundred and seventy-two, is further amended to read as follows:
Sec. 1. A board is hereby created which shall be known as the Board on Textbooks and shall have charge of the selection and approval of textbooks to be used in the public schools. The textbooks selected and approved shall be used for a period of at least six years from the date of their adoption.
The textbooks to be used in the private schools recognized or authorized by the Government shall be submitted to the Board which shall have the power to prohibit the use of any of said textbooks which it may find to be against the law or to offend the dignity and honor of the Government and people of the Philippines, or which it may find to be against the general policies of the Government, or which it may deem pedagogically unsuitable.
Decisions of the Board on Textbooks shall be subject to the approval of the Secretary of Instruction upon the recommendation of the National Council of Education.

125 Executive Order No. 94 (1947).

126 Magsalin, M. Jr. (2003), The State of Philippine Legal Education Revisited, *Arellano Law and Policy Review*, 4(1), 38-56 <https://arellanolaw.edu/alpr/v4n1c.pdf> (visited May 31, 2019).

rules and regulations pertaining to the qualifications of the faculty and deans, faculty load and library holdings of private learning institutions.[127] Meantime, a Board of National Education was created[128] with the task of formulating, implementing and enforcing general educational policies and coordinating the offerings and functions of all educational institutions. The Board of National Education was later renamed as the National Board of Education.[129] In 1972, the Department of Education became the Department of Education and Culture,[130] and was later on renamed as the Ministry of Education and Culture in 1978.[131]

Meanwhile, the 1973 Constitution remained consistent in mandating that all educational institutions shall be under the supervision of and subject to regulation by the State.[132]

With the passage of Batas Pambansa Bilang 232[133] (B.P. Blg. 232) or the *Education Act of 1982*, the regulatory rules on both formal and non-formal systems in public and private schools in all levels of the entire educational system were codified. The National Board of Education was abolished, and instead, a Ministry of Education, Culture and Sports (MECS) was organized to supervise and regulate educational institutions. Part and parcel of the MECS' authority to supervise and regulate educational institutions is its authority to recognize or accredit educational institutions of all levels.[134]

Accordingly, the MECS was given the authority over public and private institutions of higher education, as well as degree-granting programs, in all post-secondary public and private educational institutions.[135] In

---

127 Id. at 39.

128 Republic Act No. 1124, AN ACT CREATING A BOARD OF NATIONAL EDUCATION CHARGED WITH THE DUTY OF FORMULATING GENERAL EDUCATION POLICIES AND DIRECTING THE EDUCATIONAL INTERESTS OF THE NATION, June 16, 1954. Later on amended by Republic Act No. 4372 on June 19, 1965.

129 Presidential Decree No. 1 (1972).

130 Under Proclamation No. 1081 (1972).

131 Under Presidential Decree No. 1397 (1978).

132 CONSTITUTION (1973) Art. XV, Sec. 8(1), provides:

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 goals of national development.

133 Approved on September 11, 1982.

134 Batas Pambansa Blg. 232, Part III, Chapter 3, Sec. 27, provides:

Sec. 27. *Recognition of Schools.* – The educational operations of schools shall be subject to their prior authorization of the government, and shall be affected by recognition. In the case of government operated schools, whether local, regional, or national, recognition of educational programs and/or operations shall be deemed granted simultaneously with establishment.

In all other cases the rules and regulations governing recognition shall be prescribed and enforced by the Ministry of Education, Culture and Sports defining therein who are qualified to apply, providing for a permit system, stating the conditions for the grant of recognition and for its cancellation and withdrawal, and providing for related matters.

135 Id. at Part IV, Chapter 1, Sec. 54. *Declaration of Policy.* – The administration of the education system and, pursuant to the provisions of the Constitution, the supervision and regulation of educational institutions are hereby vested in the Ministry of Education, Culture and Sports, without prejudice to the provisions of the charter of any state college and university.

particular, a Board of Higher Education[136] was established as an advisory body to the Minister of Education, Culture and Sports with the functions of making policy recommendations on the planning and management of the integrated system of higher education and recommending steps to improve the governance of the higher education system. Apart from the Board of Higher Education, a Bureau of Higher Education was also established to formulate and evaluate programs and educational standards for higher education[137] and to assist the Board of Higher Education. Law schools were placed under the jurisdiction of the Bureau of Higher Education.[138]

The MECS later became the DECS in 1987 under Executive Order No. 117[139] (E.O. No. 117). Nevertheless, the power of the MECS to supervise all educational institutions remained unchanged.[140]

The Administrative Code[141] also states that it shall be the State that 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; and that the DECS shall be primarily responsible for the formulation, planning, implementation, and coordination of the policies, plans, programs and projects in the areas of formal and non-formal education. The Administrative Code also empowered the Board of Higher Education to create technical panels of experts in the various disciplines including law, to undertake curricula development.[142] As will be discussed hereunder, the

---

136 Id. at Chapter 2, Sec. 59. *Declaration of Policy.* – Higher education will be granted towards the provision of better quality education, the development of middle and high-level manpower, and the intensification of research and extension services. The main thrust of higher education is to achieve equity, efficiency, and high quality in the institutions of higher learning both public and private, so that together they will provide a complete set of program offerings that meet both national and regional development needs.

137 Id. at Sec. 65. *Bureau of Higher Education.* – The Bureau of Higher Education shall perform the following functions:

1. Develop, formulate and evaluate programs, projects and educational standards for a higher education;
2. Provide staff assistance to the Board of Higher Education in its policy formulation and advisory functions;
3. Provide technical assistance to encourage institutional development programs and projects;
4. Compile, analyze and evaluate data on higher education; and
5. Perform other functions provided for by law.

138 The State of Philippine Legal Education Revisited, supra note 126.

139 Reorganization of the Ministry of Education, Culture and Sports, Prescribing its Powers and Functions and for other purposes, Executive Order No. 117 (1987), Sec. 27, provides:
Sec. 27. *Change of Nomenclatures.* – In the event of the adoption of a new Constitution which provides for a presidential form of government, the Ministry shall be called Department of Education, Culture and Sports and the titles Minister, Deputy Minister, and Assistant Minister shall be changed to Secretary, Undersecretary and Assistant Secretary, respectively.

140 Id. at Sec. 4. *Mandate.* – The Ministry shall be primarily responsible for the formulation, planning, implementation and coordination of the policies, plans, programs and projects in the areas of formal and non-formal education at all levels, supervise all education institutions, both public and private, and provide for the establishment and maintenance of a complete, adequate and integrated system of education relevant to the goals of national development.

141 Book IV, Title VI, Chapter 1, Sec. 1.

142 Id. at Chapter 4, Sec. 10.

1987 Constitution crystallized the power of the State to supervise and regulate all educational institutions.[143]

2. *DECS Order No. 27-1989 was the precursor of R.A. No. 7662*

Pursuant to its mandate under B.P. Blg. 232, the DECS promulgated *DECS Order No. 27, Series of 1989* (DECS Order No. 27-1989),[144] in close coordination with the Philippine Association of Law Schools, the Philippine Association of Law Professors and the Bureau of Higher Education. DECS Order No. 27-1989 specifically outlined the policies and standards for legal education, and superseded all existing policies and standards related to legal education. These policies were made applicable beginning school year 1989 to 1990.

"Legal education" was defined in DECS Order No. 27-1989 as an educational program including a clinical program appropriate and essential in the understanding and application of law and the administration of justice. It is professional education after completion of a required pre-legal education at the college level. For state colleges and universities, the operation of their law schools was to depend on their respective charters, and for private colleges and universities, by the rules and regulations issued by the DECS. Nevertheless, it was made clear under DECS Order No. 27-1989 that the administration of a law school shall be governed primarily by the law school's own policies and the provisions thereof apply only suppletorily.[145]

Likewise, in generally permissive terms, DECS Order No. 27-1989 prescribed the preferred qualifications and functions of a law dean, as well as the preferred qualifications, conditions of employment and teaching load of law faculty members. It also prescribed the general inclusions to the law curriculum, but gave the law schools the prerogative to design its own curriculum. The DECS also drew a model law curriculum, thus, revising the 122-unit curriculum prescribed in 1946 by the Office of Private Education, as well as the 134-unit curriculum prescribed in 1963. The law schools were also given the option to maintain a legal aid clinic as part of its law curriculum. It also prescribed the need for law schools to have relevant library resources. Applicants for a law course are required to comply with the specific requirements for admission by the Bureau of Higher Education and the Court.

---

[143] 1987 CONSTITUTION, Art. XIV, 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.

[144] Approved on March 30, 1989.

[145] Art. III. *Organization and Administration.*

x x x x

Sec. 2. The administration of a law school shall be governed primarily by its own policies. The provisions under this Article shall only be suppletory in character.

Such was the state of the regulation of legal education until the enactment of R.A. No. 7662 in 1993. In 1994, R.A. No. 7722[146] was passed creating the Commission on Higher Education (CHED) tasked to supervise tertiary degree programs. Except for the regulation and supervision of law schools which was to be undertaken by the LEB under R.A. No. 7662, the structure of DECS as embodied in E.O. No. 117 remained practically unchanged.

Due to the fact that R.A. No. 7662 was yet to be implemented with the organization of the LEB, the CHED, meanwhile, assumed the function of supervising and regulating law schools. For this purpose, the CHED constituted a Technical Panel for Legal Education which came up with a Revised Policies and Standards for Legal Education, which, however, was unpublished.

3. Legal education is a mere composite of the educational system

As recounted, the historical development of statutes on education unerringly reflects the consistent exercise by the political departments of the power to supervise and regulate all levels and areas of education, including legal education.

Legal education is but a composite of the entire Philippine education system. It is perhaps unique because it is a specialized area of study. This peculiarity, however, is not reason in itself to demarcate legal education and withdraw it from the regulatory and supervisory powers of the political branches.

Notwithstanding, petitioners maintain that legal education, owing to its specialized "legal" nature and being preparatory to the practice of law, should fall within the regulation and supervision of the Court itself. Petitioners in G.R. No. 242954 went as far as professing that they are not against the creation of an administrative body that will supervise and regulate law schools, only that such body should be placed under the Court's supervision and control.

Two principal reasons militate against such proposition:

First, it assumes that the Court, in fact, possesses the power to supervise and regulate legal education as a necessary consequence of its power to regulate the admission to the practice of law. This assumption, apart from being manifestly contrary to the above-recounted history of legal education in the Philippines, is likewise devoid of legal anchorage.

---

[146] AN ACT CREATING THE COMMISSION ON HIGHER EDUCATION OR THE HIGHER EDUCATION ACT OF 1994.

Second, the Court exercises only judicial functions and it cannot, and must not, arrogate upon itself a power that is not constitutionally vested to it, lest the Court itself violates the doctrine of separation of powers. For the Court to void R.A. No. 7662 and thereafter, to form a body that regulates legal education and place it under its supervision and control, as what petitioners suggest, is to demonstrate a highly improper form of judicial activism.

4. Court's exclusive rule-making power covers the practice of law and not the study of law

The Constitution lays down the powers which the Court can exercise. Among these is the power to promulgate rules concerning admission to the practice of law.

The rule-making power of the Supreme Court had been uniformly granted under the 1935, the 1973 and the 1987 Constitutions. The complexion of the rule-making power, however, changes with the promulgation of these organic laws.

Under the 1935 Constitution, existing laws on pleading, practice and procedure were repealed and were instead converted as the Rules of Court which the Court can alter and modify. The Congress, on the other hand, was given the power to repeal, alter or supplement the rules on pleading, practice and procedure, and the admission to the practice of law promulgated by the Court.[147]

This power to promulgate rules concerning pleading, practice and procedure, and admission to the practice of law is in fact zealously guarded by the Court.

Thus, in *Philippine Lawyers Association v. Agrava*,[148] the Court asserted its "exclusive" and constitutional power with respect to the admission to the practice of law and when the act falls within the term "practice of law," the Rules of Court govern.[149]

---

147 Art. VIII, Sec. 13, provides:
Sec. 13. The Supreme Court shall have the power to promulgate rules concerning pleading, practice, and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice, and procedure are hereby repealed as statutes, and are declared Rules of Court, subject to the power of the Supreme Court to alter and modify the same. The Congress shall have the power to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law in the Philippines.

148 105 Phil. 173 (1959).

149 Id. at 176.

In *In Re: Petition of A.E. Garcia*,[150] the Court withheld from the executive the power to modify the laws and regulations governing admission to the practice of law as the prerogative to promulgate rules for admission to the practice of law belongs to the Court and the power to repeal, alter, or supplement such rules is reserved only to the Congress.

Even then, the character of the power of the Congress to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law under the 1935 Constitution was held not to be absolute and that any law passed by the Congress on the matter is merely permissive, being that the power concerning admission to the practice of law is primarily a judicial function.

The 1973 Constitution is no less certain in reiterating the Court's power to promulgate rules concerning pleading, practice, and procedure in all courts and the admission to the practice of law. As observed in *Echegaray v. Secretary of Justice*,[151] the 1973 Constitution further strengthened the independence of the judiciary by giving it the additional power to promulgate rules governing the integration of the Bar.[152]

The ultimate power to promulgate rules on pleading, practice, and procedure, the admission to the practice of law, and the integration of the Bar remains to be with the Court under the 1973 Constitution even when the power of the Batasang Pambansa to pass laws of permissive and corrective character repealing, altering, or supplementing such rules was retained.

The 1987 Constitution departed from the 1935 and the 1973 organic laws in the sense that it took away from the Congress the power to repeal, alter, or supplement the rules concerning pleading, practice, and procedure, and the admission to the practice of law, and the integration of the Bar and therefore vests exclusively and beyond doubt, the power to promulgate such rules to the Court, thereby supporting a "stronger and more independent judiciary."[153]

While the 1935 and 1973 Constitutions "textualized a power-sharing scheme" between the legislature and the Court in the enactment of judicial

---

150 112 Phil. 884 (1961).

151 361 Phil. 73, 88 (1999), as cited in *Estipona, Jr. v. Lobrigo*, G.R. No. 226679, August 15, 2017, 837 SCRA 160.

152 Art. X, Sec. 5(5), provides:
Sec. 5. The Supreme Court shall have the following powers:
x x x x
(5) Promulgate rules concerning pleading, practice, and procedure in all courts, the admission to the practice of law, and the integration of the Bar, which, however, may be repealed, altered, or supplemented by the Batasang Pambansa. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights.

153 *Echegaray v. Secretary of Justice,* supra.

rules,[154] the 1987 Constitution "textually altered the power-sharing scheme" by deleting the Congress' subsidiary and corrective power.[155]

Accordingly, the Court's exclusive power of admission to the Bar has been interpreted as vesting upon the Court the authority to define the practice of law,[156] to determine who will be admitted to the practice of law,[157] to hold in contempt any person found to be engaged in unauthorized practice of law,[158] and to exercise corollary disciplinary authority over members of the Bar.[159]

The act of admitting, suspending, disbarring and reinstating lawyers in the practice of law is a judicial function because it requires "(1) previously established rules and principles; (2) concrete facts, whether past or present, affecting determinate individuals; and (3) decision as to whether these facts are governed by the rules and principles."[160]

Petitioners readily acknowledge that legal education or the study of law is not the practice of law, the former being merely preparatory to the latter. In fact, the practice of law has a settled jurisprudential meaning:

> The practice of law is not limited to the conduct of cases or litigation in court; it embraces the preparation of pleadings and other papers incident to actions and social proceedings, the management of such actions and proceedings on behalf of clients before judges and courts, and in addition, conveying. In general, all advice to clients, and all action taken for them in matters connected with the law corporation services, assessment and condemnation services contemplating an appearance before a judicial body, the foreclosure of a mortgage, enforcement of a creditor's claim in bankruptcy and insolvency proceedings, and conducting proceedings in attachment, and in matters of estate and guardianship have been held to constitute law practice as do the preparation and drafting of legal instruments, where the work done involves the determination by the trained legal mind of the legal effect of facts and conditions.
>
> Practice of law under modern conditions consists in no small part of work performed outside of any court and having no immediate relation to proceedings in court. It embraces conveyancing, the giving of legal advice on a large variety of subjects, and the preparation and execution of legal instruments covering an extensive field of business and trust relations and other affairs. Although these transactions may have no direct connection with court proceedings, they are always subject to become involved in litigation. They require in many aspects a high degree of legal

---

154 *Baguio Market Vendors Multi-Purpose Cooperative (BAMARVEMPCO) v. Judge Cabato-Cortes*, 627 Phil. 543, 548 (2010).

155 Id. at 549.

156 *Philippine Lawyers Association v. Agrava*, supra note 148, at 176.

157 *In Re: Cunanan,* 94 Phil. 534, 546 (1954).

158 *People v. De Luna*, 102 Phil. 968 (1958).

159 *Query of Atty. Karen M. Silverio-Buffe, Former Clerk of Court, Branch 81, Romblon, Romblon*, 613 Phil. 1, 23 (2009), citing *Zaldivar v. Gonzales*, 248 Phil. 542, 555 (1988).

160 *In Re: Cunanan*, supra, at 545.

> skill, a wide experience with men and affairs, and great capacity for adaptation to difficult and complex situations. These customary functions of an attorney or counselor at law bear an intimate relation to the administration of justice by the courts. No valid distinction, so far as concerns the question set forth in the order, can be drawn between that part of the work of the lawyer which involved appearance in court and that part which involves advice and drafting of instruments in his office. It is of importance to the welfare of the public that these manifold customary functions be performed by persons possessed of adequate learning and skill, of sound moral character, and acting at all times under the heavy trust obligations to clients which rests upon all attorneys.[161] (Internal citations omitted)

The definition of the practice of law, no matter how broad, cannot be further enlarged as to cover the study of law.

5. The Court exercises judicial power only

Section 12, Article VIII of the 1987 Constitution clearly provides that "[t]he Members of the Supreme Court and of other courts established by law shall not be designated to any agency performing quasi-judicial or administrative functions." The Court exercises judicial power only and should not assume any duty alien to its judicial functions, the basic postulate being the separation of powers. As early as *Manila Electric Co. v. Pasay Transportation Co.,*[162] the Court already stressed:

> The Supreme Court of the Philippine Islands represents one of the three divisions of power in our government. **It is judicial power and judicial power only which is exercised by the Supreme Court.** Just as the Supreme Court, as the guardian of constitutional rights, should not sanction usurpations by any other department of the government, so should it as strictly confine its own sphere of influence to the powers expressly or by implication conferred on it by the Organic Act. **The Supreme Court and its members should not and cannot be required to exercise any power or to perform any trust or to assume any duty not pertaining to or connected with the administering of judicial functions.** (Emphases supplied)

Neither may the regulation and supervision of legal education be justified as an exercise of the Court's "residual" power. A power is residual if it does not belong to either of the two co-equal branches and which the remaining branch can, thus, exercise consistent with its functions. Regulation and supervision of legal education is primarily exercised by the Legislative and implemented by the Executive, thus, it cannot be claimed by the judiciary.

---

[161] *Cayetano v. Monsod*, 278 Phil. 235, 242-243 (1991).
[162] 57 Phil. 600, 605 (1932).

It is with studied restraint that the Court abstains from exercising a power that is not strictly judicial, or that which is not expressly granted to it by the Constitution.[163] This judicial abstention is neither avoidance nor dereliction – there is simply no basis for the Court to supervise and regulate legal education.

Court supervision over legal education is nevertheless urged[164] to the same extent as the Court administers, supervises and controls the Philippine Judicial Academy (PHILJA).[165] The parallelism is mislaid because the PHILJA is intended for judicial education.[166] It particularly serves as the "training school for justices, judges, court personnel, lawyers and aspirants to judicial posts."[167] Court supervision over judicial education is but consistent with the Court's power of supervision over all courts and the personnel thereof.[168]

Still, petitioners insist that the Court actually regulated legal education through Sections 5, 6, and 16 of Rule 138 and Sections 1, 2, 3, and 4 of Rule 138-A of the 1997 Rules of Court. On the contrary, the Rules of Court do not intend nor provide for direct and actual Court regulation over legal education. At most, the Rules of Court are reflective of the inevitable relationship between legal education and the admissions to the bar.

6. The Rules of Court do not support the argument that the Court directly and actually regulates legal education

While the power of the Court to promulgate rules concerning admission to the practice of law exists under the 1935 Constitution and reiterated under the 1973 and 1987 Constitutions, the Court has not promulgated any rule that directly and actually regulates legal education.

Instead, the 1964 Rules of Court concerned only the practice of law, admission to the bar, admission to the bar examination, bar examinations, and the duties, rights and conduct of attorneys. The 1997 Rules of Court is no different as it contained only the rules on attorneys and admission to the bar under Rule 138, the law student practice rule under Rule 138-A, the

---

163 Id.

164 *See Amicus* Brief of Dean Sedfrey Candelaria, *rollo* (G.R. No. 230642), Vol. 4, pp. 1657-1677.

165 Republic Act No. 8557 or AN ACT ESTABLISHING THE PHILIPPINE JUDICIAL ACADEMY, DEFINING ITS POWERS AND FUNCTIONS, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

166 Id. at Sec. 3. The PHILJA shall serve as a training school for justices, judges, court personnel, lawyers and aspirants to judicial posts. For this purpose, it shall provide and implement a curriculum for judicial education and shall conduct seminars, workshops and other training programs designed to upgrade their legal knowledge, moral fitness, probity, efficiency, and capability. It shall perform such other functions and duties as may be necessary in carrying out its mandate.

167 Id.

168 1987 CONSTITUTION, Art. VIII, Sec. 6.

integrated bar in Rule 139-A and disbarment and discipline of attorneys in Rule 139-B.[169]

In the exercise of its power to promulgate rules concerning the admission to the practice of law, the Court has prescribed the subjects covered by, as well as the qualifications of candidates to the bar examinations. Only those bar examination candidates who are found to have obtained a passing grade are admitted to the bar and licensed to practice law.[170] The regulation of the admission to the practice of law goes hand in hand with the commitment of the Court and the members of the Philippine Bar to maintain a high standard for the legal profession. To ensure that the legal profession is maintained at a high standard, only those who are known to be honest, possess good moral character, and show proficiency in and knowledge of the law by the standard set by the Court by passing the bar examinations honestly and in the regular and usual manner are admitted to the practice of law.[171]

Thus, under the 1997 Rules of Court, admission to the bar requires: (1) furnishing satisfactory proof of educational, moral, and other qualifications; (2) passing the bar examinations;[172] and (3) taking the lawyer's oath,[173] signing the roll of attorneys and receiving from the clerk of court a certificate of the license to practice.[174] An applicant for admission to

---

169 As amended by Supreme Court Resolutions dated May 20, 1968 and February 13, 1992.

170 *In Re: Parazo,* 82 Phil. 230, 242 (1948).

171 Id.

172 RULES OF COURT, Rule 138, Sec. 9. *Examination; subjects.* – Applicants, not otherwise provided for in sections 3 and 4 of this rule, shall be subjected to examinations in the following subjects: Civil Law; Labor and Social Legislation; Mercantile Law; Criminal Law; Political Law (Constitutional Law, Public Corporations, and Public Officers); International Law (Private and Public); Taxation; Remedial Law (Civil Procedure, Criminal Procedure, and Evidence); Legal Ethics and Practical Exercises (in Pleading and Conveyancing).

x x x x

Sec. 11. *Annual examination.* – Examinations for admission to the bar of the Philippines shall take place annually in the City of Manila. They shall be held in four days to be designated by the chairman of the committee on bar examiners. The subjects shall be distributed as follows: First day: Political and International Law (morning) and Labor and Social Legislation (afternoon); Second day: Civil Law (morning) and Taxation (afternoon); Third day: Mercantile Law (morning) and Criminal Law (afternoon); Fourth day: Remedial Law (morning) and Legal Ethics and Practical Exercises (afternoon).

x x x x

Sec. 14. *Passing average.* – In order that a candidate may be deemed to have passed his examinations successfully, he must have obtained a general average of 75 percent in all subjects, without falling below 50 percent in any subject. In determining the average, the subjects in the examination shall be given the following relative weights: Civil Law, 15 percent; Labor and Social Legislation, 10 percent; Mercantile Law, 15 percent; Criminal Law, 10 percent; Political and International Law, 15 percent; Taxation, 10 percent; Remedial Law, 20 percent; Legal Ethics and Practical Exercises, 5 percent.

173 Sec. 17. *Admission and oath of successful applicants.* – An applicant who has passed the required examination, or has been otherwise found to be entitled to admission to the bar, shall take and subscribe before the Supreme Court the corresponding oath of office.

Sec. 18. *Certificate.* – The Supreme Court shall thereupon admit the applicant as a member of the bar for all the courts of the Philippines, and shall direct an order to be entered to that effect upon its records, and that a certificate of such record be given to him by the clerk of court, which certificate shall be his authority to practice.

174 Sec. 19. *Attorney's roll.* – The clerk of the Supreme Court shall keep a roll of all attorneys admitted to practice, which roll shall be signed by the person admitted when he receives his certificate.

the bar must have these qualifications: (1) must be a citizen of the Philippines; (2) must at least be 21 years of age; (3) must be of good moral character; (4) must be a resident of the Philippines; (5) must produce satisfactory evidence of good moral character; and (6) no charges against the applicant, involving moral turpitude, have been filed or are pending in any court in the Philippines.[175] It is beyond argument that these are the requisites and qualifications for admission to the practice of law and not for admission to the study of law.

In turn, to be admitted to the bar examinations, an applicant must first meet the core academic qualifications prescribed under the Rules of Court.

6(a). Sections 5, 6, and 16, Rule 138

Section 5 provides that the applicant should have studied law for four years and have successfully completed all the prescribed courses. This section was amended by Bar Matter No. 1153,[176] to require applicants to "successfully [complete] all the prescribed courses for the degree of Bachelor of Laws or its equivalent, in a law school or university officially recognized by the Philippine Government, or by the proper authority in foreign jurisdiction where the degree has been granted." Bar Matter No. 1153 further provides that a Filipino citizen who is a graduate of a foreign law school shall be allowed to take the bar examinations only upon the submission to the Court of the required certifications.

In addition to the core courses of civil law, commercial law, remedial law, criminal law, public and private international law, political law, labor and social legislation, medical jurisprudence, taxation, and legal ethics, Section 5 was further amended by *A.M. No. 19-03-24-SC or the Revised Law Student Practice Rule dated June 25, 2019* to include Clinical Legal Education as a core course that must be completed by an applicant to the bar examinations.

Notably, Section 5, Rule 138 of the Rules of Court, as amended, is not directed to law schools, but to those who would like to take the bar examinations and enumerates the academic competencies required of them. The Court does not impose upon law schools what courses to teach, or the degree to grant, but prescribes only the core academic courses which it finds essential for an applicant to be admitted to the bar. Law schools enjoy the autonomy to teach or not to teach these courses. In fact, the Court even extends recognition to a degree of Bachelor of Laws or its equivalent

---

[175] Sec. 2. *Requirements for all applicants for admission to the bar.* – Every applicant for admission as a member of the bar must be a citizen of the Philippines, at least twenty-one years of age, of good moral character, and a resident of the Philippines; and must produce before the Supreme Court satisfactory evidence of good moral character, and that no charges against him, involving moral turpitude, have been filed or are pending in any court in the Philippines.

[176] *Re: Letter of Atty. Estelito P. Mendoza Proposing Reforms in the Bar Examinations through Amendments to Rule 138 of the Rules of Court*, March 9, 2010.

obtained abroad or that granted by a foreign law school for purposes of qualifying to take the Philippine Bar Examinations, subject only to the submission of the required certifications. Section 5 could not therefore be interpreted as an exercise of the Court's regulatory or supervisory power over legal education since, for obvious reasons, its reach could not have possibly be extended to legal education in foreign jurisdictions.

In similar fashion, Section 6, Rule 138 of the Rules of Court requires that an applicant to the bar examinations must have completed a four-year high school course and a bachelor's degree in arts or sciences. Again, this requirement is imposed upon the applicant to the bar examinations and not to law schools. These requirements are merely consistent with the nature of a law degree granted in the Philippines which is a professional, as well as a post-baccalaureate degree.

It is a reality that the Rules of Court, in prescribing the qualifications in order to take the bar examinations, had placed a considerable constraint on the courses offered by law schools. Adjustments in the curriculum, for instance, is a compromise which law schools apparently are willing to take in order to elevate its chances of graduating future bar examinees. It is in this regard that the relationship between legal education and admissions to the bar becomes unmistakable. This, however, does not mean that the Court has or exercises jurisdiction over legal education. Compliance by law schools with the prescribed core courses is but a recognition of the Court's exclusive jurisdiction over admissions to the practice of law – that no person shall be allowed to take the bar examinations and thereafter, be admitted to the Philippine Bar without having taken and completed the required core courses.

Section 16, Rule 138 of the Rules of Court, on the other hand, provides that those who fail the bar examinations for three or more times must take a refresher course. Similarly, this is a requirement imposed upon the applicant. The Court does not impose that a law school should absolutely include in its curriculum a refresher course.

6(b). Revised Law Student Practice Rule

Neither does Rule 138-A of the Rules of Court as amended by A.M. No. 19-03-24-SC on law student practice manifest the Court's exercise of supervision or regulation over legal education. The three-fold rationale of the law student practice rule is as follows:

> 1. [T]o ensure that there will be no miscarriage of justice as a result of incompetence or inexperience of law students, who, not having as yet passed the test of professional competence, are presumably not fully equipped to act [as] counsels on their own;

> 2. [T]o provide a mechanism by which the accredited law school clinic may be able to protect itself from any potential vicarious liability arising from some culpable action by their law students; and
>
> 3. [T]o ensure consistency with the fundamental principle that no person is allowed to practice a particular profession without possessing the qualifications, particularly a license, as required by law.[177]

Consistently, the Revised Law Student Practice Rule is primordially intended to ensure access to justice of the marginalized sectors and to regulate the law student practitioner's limited practice of law pursuant to the Court's power to promulgate rules on pleading, practice, and procedure in all courts, the Integrated Bar, and legal assistance to the underprivileged.

In allowing the law student and in governing the conduct of the law student practitioner, what the Court regulates and supervises is not legal education, but the appearance and conduct of a law student before any trial court, tribunal, board, or officer, to represent indigent clients of the legal clinic – an activity rightfully falling under the definition of practice of law. Inasmuch as the law student is permitted to act for the legal clinic and thereby to practice law, it is but proper that the Court exercise regulation and supervision over the law student practitioner. Necessarily, the Court has the power to allow their appearance and plead their case, and thereafter, to regulate their actions.

In all, the Rules of Court do not support petitioners' argument that the Court regulates and supervises legal education. To reiterate, the Rules of Court are directed not towards legal education or law schools, but towards applicants for admission to the bar and applicants for admission to the bar examinations – consistent with the Court's power to promulgate rules concerning admission to the practice of law, the same being fundamentally a judicial function.

Having, thus, established that the regulation and supervision of legal education do not fall within the competence of the Court and is, instead, a power exercised by the political departments, the Court now proceeds to determine the extent of such police power in relation to legal education.

B.
Reasonable Supervision and Regulation of Legal Education as an Exercise of Police Power

The term police power was first used[178] in jurisprudence in 1824 in

---

[177] *In Re: Need that Law Student Practicing Under Rule 138-A be Actually Supervised During Trial,* Bar Matter No. 730, June 13, 1997 <https://www.lawphil.net/courts/bm/bm_730_1997.html> (visited September 3, 2019).

[178] *Morfe v. Mutuc*, 130 Phil. 415, 427 (1968).

Gibbons v. Ogden[179] where the U.S. Supreme Court, through Chief Justice Marshall, held that the regulation of navigation by steamboat operators for purposes of interstate commerce was a power reserved to and exercised by the Congress, thus, negating state laws interfering with the exercise of that power. Likewise often cited is *Commonwealth v. Alger*[180] which defined police power as "the power vested in legislature by the [C]onstitution, to make, ordain, and establish all manner of wholesome and reasonable laws, statutes, and ordinances, either with penalties or without, not repugnant to the [C]onstitution, as they shall judge to be for the good and welfare of the Commonwealth, and of the subjects of the same."

Closer to home, early Philippine jurisprudence pertain to police power as the power to promote the general welfare and public interest;[181] to enact such laws in relation to persons and property as may promote public health, public morals, public safety and the general welfare of each inhabitant;[182] to preserve public order and to prevent offenses against the state and to establish for the intercourse of [citizens] those rules of good manners and good neighborhood calculated to prevent conflict of rights.[183]

In *Ermita-Malate Hotel and Motel [Operators] Association, Inc. v. City Mayor of Manila*,[184] the nature and scope of police power was reaffirmed as embracing the power to prescribe regulations to promote the health, morals, education, good order, safety, or the general welfare of the people. It is negatively defined as the authority to enact legislation that may interfere with personal liberty or property in order to promote the general welfare[185] and the State's inherent power to prohibit all that is hurtful to the comfort, safety, and welfare of society,[186] and flows from the recognition that *salus populi est suprema lex*.[187] It is described as the most essential, insistent and illimitable[188] of the powers of the State. It is co-existent with the concept of the State and is the very foundation and one of its cornerstones,[189] and therefore even precedes the written Constitution.

---

179 22 U.S. 1 (1824) <https://supreme.justia.com/cases/federal/us/22/1/> (visited May 31, 2019).
180 7 Cush. 53, 85 (1851) <masscases.com/cases/sjc/61/61mass53.html> (visited May 31, 2019).
181 *Morfe v. Mutuc,* supra note 178, citing *United States v. Toribio*, 15 Phil. 85, 94 (1910).
182 Id., citing *United States v. Gomez Jesus*, 31 Phil. 218, 225 (1915).
183 Id., citing *United States v. Pompeya*, 31 Phil. 245, 254 (1915).
184 127 Phil. 306 (1967).
185 *Philippine Association of Service Exporters, Inc. v. Drilon*, 246 Phil. 393, 398 (1988).
186 *Rubi v. Provincial Board of Mindoro,* 39 Phil. 660, 708 (1919); *Acebedo Optical Company, Inc. v. Court of Appeals,* 385 Phil. 956, 986 (2000).
187 *JMM Promotion and Management, Inc. v. Court of Appeals,* 329 Phil. 87, 93 (1996).
188 *Ichong v. Hernandez*, 101 Phil. 1155, 1163 (1957).
189 *United States v. Gomez Jesus*, supra.

1. Enactment of education laws is an exercise of police power

The State has a "high responsibility for [the] education of its citizens"[190] and has an interest in prescribing regulations to promote the education, and consequently, the general welfare of the people.[191] The regulation or administration of educational institutions, especially on the tertiary level, is invested with public interest.[192] Thus, the enactment of education laws, implementing rules and regulations and issuances of government agencies is an exercise of the State's police power.[193]

As a professional educational program, legal education properly falls within the supervisory and regulatory competency of the State. The legislative history of the Philippine legal educational system earlier recounted evinces that the State, through statutes enacted by the Congress and administrative regulations issued by the Executive, consistently exercises police power over legal education.

The exercise of such police power, however, is not absolute.

2. Supervisory and regulatory exercise, not control

The 1935[194] and 1973[195] Constitutions plainly provide that all educational institutions shall be under the supervision of and subject to regulation by the State. These reflect in express terms the police power already inherently possessed by the State. Making express an already inherent power is not a superfluous exercise, but is rather consequential in case of conflict between express powers. As elucidated in *Philippine Association of Colleges and Universities*:[196]

> In this connection we do not share the belief that [now Article XIV, Section 4(1)] has added new power to what the State inherently possesses by virtue of the police power. An express power is necessarily more extensive than a mere implied power. For instance, if there is conflict between an express individual right and the express power to control private education it cannot off-hand be said that the latter must yield to the

---

[190] *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, G.R. No. 216930, October 9, 2018, citing *Wisconsin v. Yoder*, 406 U.S. 205 (1972) <https://supreme.justia.com/cases/federal/us/406/205/> (visited May 31, 2019).

[191] Id.

[192] *Indiana Aerospace University v. Commission on Higher Education,* 408 Phil. 483, 495 (2001).

[193] *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education,* supra.

[194] Art. XIII, Sec. 5. All educational institutions shall be under the supervision of and subject to regulation by the State.

[195] Art. 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.

[196] *Philippine Association of Colleges and Universities (PACU) v. Secretary of Education,* supra note 77, at 819.

> former – conflict of two express powers. But if the power to control education is merely implied from the police power, it is feasible to uphold the express individual right[.] x x x

The 1987 Constitution under Section 4(1), Article XIV, even when expressly recognizing the complementary roles played by the public and private schools in education, reiterated that these educational institutions are subject to State supervision and regulation, thus:

> 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**. (Emphasis supplied)

As much as possible, the words of the Constitution are understood in the sense they have in common use. What it says according to the text of the provision to be construed compels acceptance and negates the power of the courts to alter it, based on the postulate that the framers and the people mean what they say.[197]

As worded, the Constitution recognizes that the role of public and private schools in education is complementary in relation to each other, and primordial in relation to the State as the latter is only empowered to supervise and regulate. The exercise of police power in relation to education must be compliant with the normative content of Section 4(1), Article XIV of the 1987 Constitution.[198] The exercise of police power over education must merely be supervisory and regulatory.

The State's supervisory and regulatory power is an auxiliary power in relation to educational institutions, be it a basic, secondary or higher education. This must necessarily be so since the right and duty to educate, being part and parcel of youth-rearing, do not inure to the State at the first instance. Rather, it belongs essentially and naturally to the parents,[199] which right and duty they surrender by delegation to the educational institutions. As held in *Samahan ng mga Progresibong Kabataan (SPARK) v. Quezon City*,[200] the right and duty of parents to rear their children being a natural and primary right connotes the parents' superior right over the State in the upbringing of their children. The responsibility to educate lies with the

---

197 Supra note 195.

198 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.

199 Sec. 12, Art. II of the 1987 Constitution articulates the State's policy relative to the rights of parents in the rearing of their children:
Sec. 12. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. **The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.** (Emphasis supplied)

200 Supra note 67.

parents and guardians as an inherent right,[201] over which the State assumes a supportive role.[202] Withholding from the State the unqualified power to control education also serves a practical purpose – it allows for a degree of flexibility and diversity essential to the very reason of education to rear socially responsible and morally upright youth and to enable them, also, to come in contact with challenging ideas.

In this sense, when the Constitution gives the State supervisory power, it is understood that what it enjoys is a supportive power, that is, the power of oversight[203] over all educational institutions. It includes the authority to check, but not to interfere.

In addition to supervision, educational institutions are likewise made subject to State regulation. Dispensing a regulatory function means imposing requirements, setting conditions, prescribing restrictions, and ensuring compliance. In this regard, the political departments are vested with ample authority to set *minimum standards* to be met by all educational institutions.[204]

Starkly withheld from the State is the power to control educational institutions. Consequently, in no way should supervision and regulation be equated to State control. It is interesting to note that even when a suggestion had been made during the drafting of the 1935 Constitution that educational institutions should be made "subject to the laws of the State," the proponent of the amendment had no totalitarian intentions,[205] and the proposal was not

---

201 *See Pierce v. Society of Sisters* (268 U.S. 510, 535 [1925]), where the U.S. Supreme Court recognized that "[t]he fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children by forcing them to accept instruction from public teachers only." <https://supreme.justia.com/cases/federal/us/268/510/> (visited May 30, 2019).

Nevertheless, a shift of responsibility from the parent to the State is observed in the light of the compulsory education laws. (Brooke Wilkins [2005], Should Public Education be a Federal Fundamental Right?, *Brigham Young University Education and Law Journal,* 2005[2], 261-290) <https://digitalcommons.law.byu.edu/elj/vol2005/iss2/8/> (visited May 30, 2019).

202 *See* Art. 13, Sec. 3 of the International Covenant on Economic, Social and Cultural Rights which provides that:

Sec. 3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities x x x. <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx> (visited May 30, 2019).

203 As a legal concept, supervision is usually understood in relation with the concept of control. Thus, in *Bito-onon v. Yap Fernandez* (403 Phil. 693, 702-703 [2011]), the Court held that "[s]upervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body. [Officer] in control [lays] down the rules in the doing of an act. If they are not followed, it is discretionary on his part to order the act undone or re-done by his subordinate or he may even decide to do it himself. Supervision does not cover such authority. Supervising officers merely see to it that the rules are followed, but he himself does not lay down such rules, nor does he have the discretion to modify or replace them. If the rules are not observed, he may order the work done or re-done to conform to the prescribed rules. He cannot prescribe his own manner for the doing of the act."

204 *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, supra note 190.

205 Bernas, Joaquin G. (1958), State "Supervision" and "Regulation" of Private Schools, *Philippine Studies*, 6(3) 295-314 <https://www.jstor.org/stable/42719389> (visited May 30, 2019).

meant to curtail the liberty of teaching,[206] thus:

> I think it only insures the efficient functioning of educational work and does not limit liberty of administrators of schools. The gentleman will notice that my amendment does not tend to curtail which he used in asking the question [sic]. **I want the power of the State to be supervisory as supervision in educational parlance should be of the constructive type in the matter of help rather than obstruction.**[207] (Emphasis supplied)

3. Reasonable exercise

To be valid, the supervision and regulation of legal education as an exercise of police power must be reasonable and not repugnant to the Constitution.[208]

As held in *Social Justice Society v. Atienza, Jr.*,[209] the exercise of police power, in order to be valid, must be compliant with substantive due process:

> [T]he State, x x x may be considered as having properly exercised [its] police power only if the following requisites are met: (1) the **interests of the public generally**, as distinguished from those of a particular class, require its exercise[;] and (2) the means employed are **reasonably necessary** for the accomplishment of the purpose and not unduly oppressive upon individuals. In short, there must be a **concurrence of a lawful subject and a lawful method**. (Emphases supplied)

In *Philippine Association of Service Exporters, Inc. v. Drilon*,[210] the Court held that:

> Notwithstanding its extensive sweep, police power is not without its own limitations. For all its awesome consequences, **it may not be exercised arbitrarily or unreasonably**. Otherwise, and in that event, it defeats the purpose for which it is exercised, that is, to advance the public good. (Emphasis supplied)

Obviating any inference that the power to regulate means the power to control, the 1987 Constitution added the word "reasonable" before the phrase supervision and regulation.

The import of the word "reasonable" was elaborated in *Council of Teachers*,[211] as follows:

---

206 Id. at 303.
207 Id.
208 *The Metropolitan Manila Development Authority v. Viron Transportation Co., Inc.*, 557 Phil. 121, 140 (2007).
209 568 Phil. 658, 702 (2008).
210 246 Phil. 393, 399 (1988).
211 Supra note 190.

x x x 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[1] 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. (Emphases in the original; underscoring supplied)

The addition of the word "reasonable" did not change the texture of police power that the State exercises over education. It merely emphasized that State supervision and regulation of legal education cannot amount to control.

4. Academic freedom

Fundamental in constitutional construction is that the Constitution is to be interpreted as a whole, and that all provisions bearing upon a particular subject are to be brought into view and to be so interpreted as to effectuate the purposes of the Constitution.[212]

Accordingly, the reasonable supervision and regulation clause is not a stand-alone provision, but must be read in conjunction with the other Constitutional provisions relating to education which include, in particular, the clause on academic freedom.

Section 5(2), Article XIV of the 1987 Constitution, provides:

> (2) Academic freedom shall be enjoyed in all institutions of higher learning.

This guarantee is not peculiar to the 1987 Constitution. A similar provision was found in the 1973 Constitution providing that: "All institutions of higher learning shall enjoy academic freedom."[213] Both the 1973 and 1987 Constitutions provide for a broader scope of academic freedom compared to the 1935 Constitution which limits the guarantee of academic freedom only to universities of higher learning established by the State.[214]

In fact, academic freedom is not a novel concept. This can be traced to the freedom of intellectual inquiry championed by Socrates, lost and replaced by thought control during the time of Inquisition, until the

---

[212] *Civil Liberties Union v. The Executive Secretary*, 272 Phil. 147, 162 (1991).

[213] Article XV, Sec. 8(2).

[214] CONSTITUTION (1935), Art. 13, Sec. 5, provides:
Sec. 5. x x x "Universities established by the State shall enjoy academic freedom." x x x

movement back to intellectual liberty beginning the 16th century, most particularly flourishing in German universities.[215]

Academic freedom has traditionally been associated as a narrow aspect of the broader area of freedom of thought, speech, expression and the press. It has been identified with the individual autonomy of educators to "investigate, pursue, [and] discuss free from internal and external interference or pressure."[216] Thus, academic freedom of faculty members, professors, researchers, or administrators is defended based on the freedom of speech and press.[217]

Academic freedom is enjoyed not only by members of the faculty, but also by the students themselves, as affirmed in *Ateneo de Manila University v. Judge Capulong*:[218]

> x x x. After protracted debate and ringing speeches, the final version which was none too different from the way it was couched in the previous two (2) Constitutions, as found in Article XIV, Section 5(2) states: "Academic freedom shall be enjoyed in all institutions of higher learning." In anticipation of the question as to whether and what aspects of academic freedom are included herein, ConCom Commissioner Adolfo S. Azcuna explained: "Since academic freedom is a dynamic concept, we want to expand the frontiers of freedom, especially in education, therefore, we shall leave it to the courts to develop further the parameters of academic freedom."
>
> More to the point, Commissioner Jose Luis Martin C. Gascon asked: "When we speak of the sentence 'academic freedom shall be enjoyed in all institutions of higher learning,' do we mean that academic freedom shall be enjoyed by the institution itself?" Azcuna replied: "Not only that, it also includes x x x" Gascon finished off the broken thought, — "the faculty and the students." Azcuna replied: "Yes."

Jurisprudence has so far understood academic freedom of the students as the latter's right to enjoy in school the guarantees of the Bill of Rights. For instance, in *Villar v. Technological Institute of the Philippines*[219] and in *Non v. Dames II*,[220] it was held that academic standards cannot be used to discriminate against students who exercise their rights to peaceable assembly and free speech, in *Malabanan v. Ramento*,[221] it was ruled that the punishment must be commensurate with the offense, and in *Guzman v. National University*,[222] which affirmed the student's right to due process.

---

215 *Ateneo de Manila University v. Judge Capulong*, 294 Phil. 654, 672 (1993).
216 Id. at 672-673.
217 As notoriously stated in *Keyishian v. Board of Regents* (385 U.S. 589, 603 [1967]), "academic freedom x x x is x x x a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom." <https://supreme.justia.com/cases/federal/us/385/589/> (visited May 31, 2019).
218 *Ateneo de Manila University v. Judge Capulong* supra note 215, at 674.
219 220 Phil. 379 (1985).
220 264 Phil. 98 (1990).
221 214 Phil. 319 (1984).
222 226 Phil. 596 (1986).

Apart from the academic freedom of teachers and students, the academic freedom of the institution itself is recognized and constitutionally guaranteed.

The landmark case of *Garcia v. The Faculty Admission Committee, Loyola School of Theology*[223] elucidates how academic freedom is enjoyed by institutions of higher learning:

> [I]t is to be noted that the reference is to the "institutions of higher learning" as the recipients of this boon. It would follow then that the school or college itself is possessed of such a right. **It decides for itself its aims and objectives and how best to attain them. It is free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint. It has a wide sphere of autonomy certainly extending to the choice of students.** This constitutional provision is not to be construed in a niggardly manner or in a grudging fashion. That would be to frustrate its purpose, nullify its intent. Former President Vicente G. Sinco of the University of the Philippines, in his Philippine Political Law, is similarly of the view that it "definitely grants the right of academic freedom to the university as an institution as distinguished from the academic freedom of a university professor." He cited the following from Dr. Marcel Bouchard, Rector of the University of Dijon, France, President of the conference of rectors and vice-chancellors of European universities: "It is a well-established fact, and yet one which sometimes tends to be obscured in discussions of the problems of freedom, that the collective liberty of an organization is by no means the same thing as the freedom of the individual members within it; in fact, the two kinds of freedom are not even necessarily connected. In considering the problems of academic freedom one must distinguish, therefore, between the autonomy of the university, as a corporate body, and the freedom of the individual university teacher." Also: "To clarify further the distinction between the freedom of the university and that of the individual scholar, he says: "The personal aspect of freedom consists in the right of each university teacher — recognized and effectively guaranteed by society — to seek and express the truth as he personally sees it, both in his academic work and in his capacity as a private citizen. Thus the status of the individual university teacher is at least as important, in considering academic freedom, as the status of the institutions to which they belong and through which they disseminate their learning. (Internal citations omitted; emphasis supplied)

Garcia also enumerated the internal conditions for institutional academic freedom, that is, the academic staff should have *de facto* control over: (a) the admission and examination of students; (b) the curricula for courses of study; (c) the appointment and tenure of office of academic staff; and (d) the allocation of income among the different categories of expenditure.[224]

---

[223] 160-A Phil. 929, 943-944 (1975).
[224] Id. at 944.

Reference was also made to the influential language of Justice Frankfurter's concurring opinion in *Sweezy v. New Hampshire*,[225] describing it as the "business of the university" to provide a conducive atmosphere for speculation, experimentation, and creation where the four essential freedoms of the university prevail: the right of the university to determine for itself on academic grounds (a) who may teach; (b) what may be taught; (c) how it shall be taught; and (d) who may be admitted to study.

4(a). State's supervisory and regulatory power over legal education in relation to academic freedom

The rule is that institutions of higher learning enjoy ample discretion to decide for itself who may teach, what may be taught, how it shall be taught and who to admit, being part of their academic freedom. The State, in the exercise of its reasonable supervision and regulation over education, can only impose minimum regulations.

At its most elementary, the power to supervise and regulate shall not be construed as stifling academic freedom in institutions of higher learning. This must necessarily be so since institutions of higher learning are not mere walls within which to teach; rather, it is a place where research, experiment, critical thinking, and exchanges are secured. Any form of State control, even at its most benign and disguised as regulatory, cannot therefore derogate the academic freedom guaranteed to higher educational institutions. In fact, this non-intrusive relation between the State and higher educational institutions is maintained even when the Constitution itself prescribes certain educational "thrusts" or directions.[226]

This attitude of non-interference is not lost in jurisprudence. To cite an example, due regard for institutional academic freedom versus State interference was recognized in *Lupangco v. Court of Appeals*,[227] the commendable purpose of the Philippine Regulation Commission of ensuring the integrity of the examination notwithstanding:

> **Another evident objection to Resolution No. 105 is that it violates the academic freedom of the schools concerned. Respondent PRC cannot interfere with the conduct of review that review schools and centers believe would best enable their enrolees to meet the**

---

[225] 354 U.S. 234, 263 (1957) <https://supreme.justia.com/cases/federal/us/354/234/> (visited May 31, 2019).

[226] To illustrate, Art. XIV, Sec. 3(2) of the 1987 Constitution prescribes that all educational institutions "shall inculcate patriotism and nationalism, foster love of humanity, respect for human rights, appreciation of the role of national heroes in the historical development of the country, teach the rights and duties of citizenship, strengthen ethical and spiritual values, develop moral character and personal discipline, encourage critical and creative thinking, broaden scientific and technological knowledge, and promote vocational efficiency." These are understood as mere guidelines for the State.

[227] 243 Phil. 993, 1006 (1988).

> **standards required before becoming a full-[f]ledged public accountant. Unless the means or methods of instruction are clearly found to be inefficient, impractical, or riddled with corruption,** review schools and centers may not be stopped from helping out their students. x x x (Emphasis supplied)

Similarly, in *University of the Philippines v. Civil Service Commission,*[228] the Court upheld the university's academic freedom to choose who should teach and held that the Civil Service Commission had no authority to dictate to the university the outright dismissal of its personnel. Nothing short of marked arbitrariness,[229] or grave abuse of discretion[230] on the part of the schools, or overriding public welfare[231] can therefore justify State interference with the academic judgment of higher educational institutions. As held in *Ateneo de Manila University v. Judge Capulong,*[232] "[a]s corporate entities, educational institutions of higher learning are inherently endowed with the right to establish their **policies, academic and otherwise**, unhampered by external controls or pressure."

5. Right to education

Apart from the perspective of academic freedom, the reasonable supervision and regulation clause is also to be viewed together with the right to education. The 1987 Constitution speaks quite elaborately on the right to education. Section 1, Article XIV provides:

> 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.

The normative elements of the general right to education under Section 1, Article XIV, are (1) to protect and promote quality education; and (2) to take appropriate steps towards making such quality education accessible.

"Quality" education is statutorily defined as the appropriateness, relevance and excellence of the education given to meet the needs and aspirations of the individual and society.[233]

In order to protect and promote quality education, the political departments are vested with the ample authority to set minimum standards to be met by all educational institutions. This authority should be exercised

---

228 408 Phil. 132 (2001).

229 *See* concurring opinion of Justice Teehankee in *Garcia v. The Faculty and Admission Committee, Loyola School of Theology*, supra note 223, at 949.

230 *Calawag v. University of the Philippines Visayas,* supra note 49, at 216.

231 *Garcia v. The Faculty and Admission Committee, Loyola School of Theology*, supra note 223, at 943.

232 Supra note 215, at 661.

233 Republic Act No. 9155 (2001) or the GOVERNANCE OF BASIC EDUCATION ACT OF 2001.

within the parameters of reasonable supervision and regulation. As elucidated in *Council of Teachers*:[234]

> 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. (Emphases and underscoring supplied)

On the other hand, "accessible" education means equal opportunities to education regardless of social and economic differences. The phrase "shall take appropriate steps" signifies that the State may adopt varied approaches in the delivery of education that are relevant and responsive to the needs of the people and the society. This is why, towards this end, 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**;
>
> (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;

---

[234] *Council of Teachers and Staff of Colleges and Universities of the Philippines v. Secretary of Education*, supra note 190.

(3) Establish and maintain a **system of scholarship grants, student loan programs, subsidies, and other incentives** which shall be available to deserving students in both public and private schools, especially to the underprivileged;

(4) Encourage **non-formal, informal, and indigenous learning systems, as well as self-learning, independent, and out-of-school study programs** particularly those that respond to community needs; and

(5) Provide **adult citizens, the disabled, and out-of-school youth** with training in civics, vocational efficiency, and other skills.[235] (Emphases supplied)

The deliberations of the framers in this regard are instructive:

MR. GASCON: When we speak of education as a right, what we would like to emphasize is that **education should be equally accessible to all regardless of social and economic differences. So we go into the issue of providing opportunities to such an education**, recognizing that there are limitations imposed on those who come from the poorer social classes because of their inability to continue education.[236] x x x (Emphasis supplied)

And further, as follows:

This is why **when we speak of education as a right, it means very clearly that education should be accessible to all, regardless of social and economic differences, meaning, educational opportunities should be provided through a system of free education, at least, up to the secondary level. And recognizing the limits of our financial resources, tertiary education should still be afforded and provided availability to those who are poor and deserving**. That is why when we say that education is a right, it imposes a correlative duty on the part of the State to provide it to the citizens. Making it a right shows that education is recognized as an important function of the State. Education is not merely a social service to be provided by the State. The proposed provision recognizes that a right to education is a right to acquire a decent standard of living, and that, therefore, the State cannot deprive anyone of this right in the same manner that the right to life, the right to liberty and property cannot be taken away without due process of law.[237] (Emphasis supplied)

The element of accessibility under the Constitution, thus, pertains to both the elimination of discrimination especially against disadvantaged groups and to the financial duty of the State for, after all, the right to education is part and parcel of social justice. The objective is to make quality education accessible by appropriate means.

---

[235] 1987 CONSTITUTION, Art. XIV, Sec. 2(1), (2), (3), (4) and (5).
[236] IV RECORD, CONSTITUTIONAL COMMISSION 58 (August 29, 1986).
[237] Id. at 53.

Apart from the Constitution, the right to education is also recognized in international human rights law under various instruments to which the Philippines is a state signatory and to which it is concomitantly bound.

For instance, Article 13(2)[238] of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right to receive an education with the following interrelated and essential features: (a) availability; (b) accessibility; (c) acceptability; and (d) adaptability.[239]

In particular, accessibility is understood as giving everyone, without discrimination, access to educational institutions and programs. Accessibility has three overlapping dimensions:

> (1) Non-discrimination – education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds x x x;
>
> (2) Physical accessibility – education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location ([*e.g.*] a neighborhood school) or [*via*] modern technology ([*e.g.*] access to a "distance learning" programme); [and]
>
> (3) Economic accessibility – education has to be affordable to all. This dimension of accessibility is subject to the differential wording of [A]rticle 13(2) in relation to primary, secondary and higher education: whereas primary education shall be available "free to all", States parties are required to progressively introduce free secondary and higher education[.][240]

Pertinent to higher education, the elements of quality and accessibility should also be present as the Constitution provides that these elements should be protected and promoted in all educational institutions.

Nevertheless, the right to receive higher education is not absolute.

---

238 Art. 13(2). The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
(a) Primary education shall be compulsory and available free to all;
(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education; [and]
(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved. Supra note 202.

239 Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (Art. 13). (Twenty-first Session, December 8, 1999) <https://www.refworld.org/docid/4538838c22.html> (visited May 31, 2019).

240 Id.

5(a). Right to education is subject to fair, reasonable, and equitable admission and academic requirements

Article 26(1)[241] of the Universal Declaration of Human Rights provides that "[t]echnical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit[,]" while the ICESCR provides that "[h]igher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education[.]"[242] Thus, higher education is not to be generally available, but accessible only on the basis of capacity.[243] The capacity of individuals should be assessed by reference to all their relevant expertise and experience.[244]

The right to receive higher education must further be read in conjunction with the right of every citizen to select a profession or course of study guaranteed under the Constitution. In this regard, the provisions of the 1987 Constitution under Section 5(3), Article XIV are more exacting:

> SEC. 5. x x x
>
> x x x x
>
> (3) Every citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements.

There is uniformity in jurisprudence holding that the authority to set the admission and academic requirements used to assess the merit and capacity of the individual to be admitted and retained in higher educational institutions lie with the institutions themselves in the exercise of their academic freedom.

In *Ateneo de Manila University v. Judge Capulong,*[245] the Court ruled:

> Since *Garcia v. Loyola School of Theology*, we have consistently upheld the salutary proposition that **admission to an institution of higher learning is discretionary upon a school, the same being a privilege on the part of the student rather than a right. While under the Education**

---

241 Art. 26(1). 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.<https://www.un.org/en/universal-declaration-human-rights/> (visited May 31, 2019).

242 International Covenant on Economic, Social and Cultural Rights, supra note 202, at Art. 13(2)(c).

243 Committee on Economic, Social and Cultural Rights, General Comment No. 13: The Right to Education (Art. 13), supra note 239.

244 Id.

245 Supra note 215, at 675-676.

Act of 1982, students have a right "to freely choose their field of study, subject to existing curricula and to continue their course therein up to graduation," such right is subject, as all rights are, to the established academic and disciplinary standards laid down by the academic institution.

"For private schools have the right to establish reasonable rules and regulations for the admission, discipline and promotion of students. This right x x x extends as well to parents x x x as parents are under a social and moral (if not legal) obligation, individually and collectively, to assist and cooperate with the schools."

Such rules are "incident to the very object of incorporation and indispensable to the successful management of the college. The rules may include those governing student discipline." Going a step further, the establishment of rules governing university-student relations, particularly those pertaining to student discipline, may be regarded as vital, not merely to the smooth and efficient operation of the institution, but to its very survival.

Within memory of the current generation is the eruption of militancy in the academic groves as collectively, the students demanded and plucked for themselves from the panoply of academic freedom their own rights encapsulized under the rubric of "right to education" forgetting that, in Hohfeldian terms, they have a concomitant duty, and that is, their **duty to learn under the rules laid down by the school.** (Citation in the original omitted; emphases supplied)

In *Villar v. Technological Institute of the Philippines*,[246] the Court similarly held:

x x x x

2. What cannot be stressed too sufficiently is that among the most important social, economic, and cultural rights is the right to education not only in the elementary and high school grades but also on the college level. The constitutional provision as to the State maintaining "a system of free public elementary education and, in areas where finances permit, establish and maintain a system of free public education" up to the high school level does not *per se* exclude the exercise of that right in colleges and universities. It is only at the most a reflection of the lack of sufficient funds for such a duty to be obligatory in the case of students in the colleges and universities. **As far as the right itself is concerned, not the effectiveness of the exercise of such right because of the lack of funds, Article 26 of the Universal Declaration of Human Rights provides: "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."**

---

246 Supra note 219, at 383-384.

> 3. It is quite clear that **while the right to college education is included in the social economic, and cultural rights, it is equally manifest that the obligation imposed on the State is not categorical, the phrase used being "generally available" and higher education, while being "equally accessible to all should be on the basis of merit." To that extent, therefore, there is justification for excluding three of the aforementioned petitioners because of their marked academic deficiency.**
>
> 4. **The academic freedom enjoyed by "institutions of higher learning" includes the right to set academic standards to determine under what circumstances failing grades suffice for the expulsion of students.** Once it has done so, however, that standard should be followed meticulously. It cannot be utilized to discriminate against those students who exercise their constitutional rights to peaceable assembly and free speech. If it does so, then there is a legitimate grievance by the students thus prejudiced, their right to the equal protection clause being disregarded. (Emphases supplied)

Likewise, in *Calawag*:[247]

> Lastly, the right to education invoked by Calawag cannot be made the basis for issuing a writ of preliminary mandatory injunction. In *Department of Education, Culture and Sports v. San Diego*, we held that the right to education is not absolute. Section 5(e), Article XIV of the Constitution provides that "[e]very citizen has a right to select a profession or course of study, subject to fair, reasonable, and equitable admission and academic requirements." **The thesis requirement and the compliance with the procedures leading to it, are part of the reasonable academic requirements a person desiring to complete a course of study would have to comply with**. (Citation in the original omitted; emphasis supplied)

The deliberations of the framers on the qualifications to the right to education are also illuminating:

> MR. NOLLEDO: Thank you, Madam President. Before I ask questions directed to the chairman and members of the committee, I would like to warmly congratulate them for a job well-done. The committee report to my mind, Madam President, is excellent and I hope it will not, in the course of amendments, suffer from adulteration. With respect to page 1, lines 12-13: "Education is the right of every citizen of the Philippines," I agree with this statement, but when we talk of the right, I understand from the chairman that it is compellable and from Commissioner Guingona, that it is enforceable in court. **Suppose a student of a private school is not allowed to enroll by reason of misconduct or that his stay in the school is considered by the administration of that school to be undesirable, does he have a right to enforce his right to education under this situation?**
>
> MR. GUINGONA: Madam President, **the right to education, like any other right, is not absolute.** As a matter of fact, Article XXVI of the

---

247 *Calawag v. University of the Philippines Visayas*, supra note 49, at 217.

> Universal Declaration of Human Rights, when it acknowledges the right to education, also qualifies it when at the end of the provision, it says "on the basis of merit." Therefore, **the student may be subject to certain reasonable requirements regarding admission and retention** and this is so provided in the draft Constitution. We admit even of discrimination. We have accepted this in the Philippines, and I suppose in the United States **there are schools that can refuse admission to boys because they are supposed to be exclusively for girls. And there are schools that may refuse admission to girls because they are exclusively for boys. There may even be discrimination to accept a student who has a contagious disease on the ground that it would affect the welfare of the other students.** What I mean is that there could be reasonable qualifications, limitations or restrictions to this right, Madam President.
>
> MR. GASCON: May I add, Madam President.
>
> MR. NOLLEDO: Yes, the Commissioner may.
>
> MR. GASCON: When we speak of education as a right, what we would like to emphasize is that education should be equally accessible to all regardless of social and economic differences. So we go into the issue of providing opportunities to such an education, recognizing that there are limitations imposed on those who come from the poorer social classes because of their inability to continue education.
>
> However, in the same light, **this right to education is subject to the right of educational institutions to admit students upon certain conditions such as ability to pay the required entrance examination fee and maintaining a respectable school record. When we speak of this right of schools as far as maintaining a certain degree or quality of students, these conditions must be reasonable and should not be used just to impose certain unfair situations on the students.**
>
> MR. GUINGONA: Madam President, may I add.
>
> There is already established jurisprudence about this. In the United States, in the case of [*Lesser] v. Board of Education of New York City*, 239, NYS 2d 776, the court held that the refusal of a school to admit a student who had an average of less than 85 percent which is the requirement for that school was lawful.
>
> In the Philippines, we have the case of *Padriguilan* [sic] *v. Manila Central University* where refusal to retain the student was because of the alleged deficiency in a major subject and this was upheld by our Supreme Court. There is also the case of *Garcia v. Loyola School of Theology*, wherein Garcia, a woman, tried to continue studying in this school of theology.[248] (Citation in the original omitted; emphases supplied)

Extant from the foregoing is that while there is a right to quality higher education, such right is principally subject to the broad academic freedom of higher educational institutions to impose fair, reasonable, and equitable admission and academic requirements. Plainly stated, the right to

---

[248] IV RECORD, CONSTITUTIONAL COMMISSION, supra note 236.

receive education is not and should not be taken to mean as a right to be admitted to educational institutions.

With the basic postulates that jurisdiction over legal education belongs primarily and directly to the political departments, and that the exercise of such police power must be in the context of reasonable supervision and regulation, and must be consistent with academic freedom and the right to education, the Court now proceeds to address whether the assailed provisions of R.A. No. 7662 and the corresponding LEB issuances fall within the constitutionally-permissible supervision and regulation of legal education.

C.
LEB's Powers Under R.A. No. 7662 *vis-à-vis* the Court's Jurisdiction Under Article VIII, Section 5(5) of the Constitution

1. Section 3(a)(2) on increasing awareness among members of the legal profession

One of the general objectives of legal education under Section 3(a)(2) of R.A. No. 7662 is to "increase awareness among **members of the legal profession** of the needs of the poor, deprived and oppressed sectors of society[.]" This objective is reiterated by the LEB in LEBMO No. 1-2011, Section 7, Article II, as follows:

> SEC. 7. (Section 3 of the law) General and Specific Objectives of Legal Education.
>
> a) Legal education in the Philippines is geared to attain the following objectives:
>
> x x x x
>
> (2) to increase awareness among **members of the legal profession of the needs of the poor, deprived and oppressed sectors of society[.]** (Emphasis supplied)

The plain language of Section 3(a)(2) of R.A. No. 7662 and Section 7(2) of LEBMO No. 1-2011 are clear and need no further interpretation. This provision goes beyond the scope of R.A. No. 7662, *i.e.,* improvement of the quality of legal education, and, instead delves into the training of those who are already members of the bar. Likewise, this objective is a direct encroachment on the power of the Court to promulgate rules concerning the practice of law and legal assistance to the underprivileged and should, thus, be voided on this ground. As aptly observed by the CLEBM and which the Court had approved:

> In the same vein Section 3 provides as one of the objectives of legal education increasing "awareness among members of the legal profession of the needs of the poor, deprived and oppressed sectors of the society." Such objective should not find a place in the law that primarily aims to upgrade the standard of schools of law as they perform the task of educating aspiring lawyers. Section 5, paragraph 5 of Article VIII of the Constitution also provides that the Supreme Court shall have the power to promulgate rules on "legal assistance to the underprivileged" and hence, implementation of [R.A. No. 7662] might give rise to infringement of a constitutionally mandated power.[249]

2. Section 2, par. 2 and Section 7(g) on legal apprenticeship and law practice internship as a requirement for taking the bar

Towards the end of uplifting the standards of legal education, Section 2, par. 2 of R.A. No. 7662 mandates the State to (1) undertake appropriate reforms in the legal education system; (2) require proper selection of law students; (3) maintain quality among law schools; and (4) **require legal apprenticeship** and continuing legal education.

Pursuant to this policy, Section 7(g) of R.A. No. 7662 grants LEB the power to establish a law practice internship as a requirement for taking the bar examinations:

> SEC. 7. *Powers and Functions.* – x x x x
>
> x x x x
>
> (g) **to establish a law practice internship as a requirement for taking the Bar**, which a law student shall undergo with any duly accredited private or public law office or firm or legal assistance group anytime during the law course for a specific period that the Board may decide, but not to exceed a total of twelve (12) months. For this purpose, the Board shall prescribe the necessary guidelines for such accreditation and the specifications of such internship which shall include the actual work of a new member of the Bar.

This power is mirrored in Section 11(g) of LEBMO No. 1-2011:

> SEC. 11. (Section 7 of the law) Powers and Functions.– For the purpose of achieving the objectives of this Act, the Board shall have the following powers and functions:
>
> x x x x

---

[249] B.M. No. 979-B, supra note 2.

> g) **to establish a law practice internship as a requirement for taking the Bar** which a law student shall undergo with any duly accredited private or public law office or firm or legal assistance group anytime during the law course for a specific period that the Board may decide, but not to exceed a total of twelve (12) months. For this purpose, the Board shall prescribe the necessary guidelines for such accreditation and the specifications of such internship which shall include the actual work of a new member of the Bar[.]

It is clear from the plain text of Section 7(g) that another requirement, *i.e.,* completion of a law internship program, is imposed by law for taking the bar examinations. This requirement unduly interferes with the exclusive jurisdiction of the Court to promulgate rules concerning the practice of law and admissions thereto.

The jurisdiction to determine whether an applicant may be allowed to take the bar examinations belongs to the Court. In fact, under the *whereas* clauses of the Revised Law Student Practice Rule, the Court now requires the completion of clinical legal education courses, which may be undertaken *either* in a law clinic or through an externship, as a prerequisite to take the bar examinations, thus:

> *Whereas*, to produce practice-ready lawyers, the completion of clinical legal education courses must be a prerequisite to take the bar examinations as provided in Section 5 of Rule 138.

Under Section 7(g), the power of the LEB is no longer confined within the parameters of legal education, but now dabbles on the requisites for admissions to the bar examinations, and consequently, admissions to the bar. This is a direct encroachment upon the Court's exclusive authority to promulgate rules concerning admissions to the bar and should, therefore, be struck down as unconstitutional.

Further, and as will be discussed hereunder, the LEB exercised this power in a manner that forces upon law schools the establishment of a legal apprenticeship program or a legal aid clinic, in violation of the schools' right to determine for themselves their respective curricula.

3. Section 2, par. 2 and Section 7(h) on continuing legal education of practicing lawyers

Petitioners in G.R. No. 230642 argue that the power given to the LEB to adopt a system of continuing legal education implies that the LEB exercises jurisdiction not only over the legal education of those seeking to become lawyers, but also over those who are already lawyers which is a

function exclusively belonging to the Court.[250] Respondent, on the other hand, maintains that the LEB's power to adopt a system of continuing legal education is different from the mandatory continuing legal education required of all members of the bar.[251] Respondent explains that the continuing legal education under R.A. No. 7662 is limited to the training of lawyer-professors and not to the practice of the legal profession.[252]

The questioned power of the LEB to adopt a system of continuing legal education appears in Section 2, par. 2 and Section 7(h) of R.A. No. 7662:

> SEC. 2. *Declaration of Policies.* – x x x
>
> x x x x
>
> Towards this end, the State shall undertake appropriate reforms in the legal education system, require proper selection of law students, maintain quality among law schools, and require legal apprenticeship and **continuing legal education**.
>
> x x x x
>
> SEC. 7. *Powers and Functions.* – x x x
>
> x x x x
>
> (h) **to adopt a system of continuing legal education. For this purpose, the [LEB] may provide for the mandatory attendance of practicing lawyers in such courses and for such duration as the [LEB] may deem necessary**; x x x (Emphases supplied)

This power is likewise reflected in Section 11(h) of LEBMO No. 1-2011, as follows:

> SEC. 11. (Section 7 of the law) Powers and Functions. – For the purpose of achieving the objectives of this Act, the Board shall have the following powers and functions:
>
> x x x x
>
> h) to **adopt a system of continuing legal education. For this purpose, the Board may provide for the mandatory attendance of practicing lawyers in such courses and for such duration as the Board may deem necessary[.]** x x x (Emphasis supplied)

By its plain language, the clause "continuing legal education" under Section 2, par. 2, and Section 7(h) of R.A. No. 7662 unduly give the LEB the power to supervise the legal education of those who are already members of

---

250 *Rollo* (G.R. No. 230642), Vol. 1, p. 17.
251 Id. at 100.
252 Id. at 101.

the bar. Inasmuch as the LEB is authorized to compel *mandatory attendance of practicing lawyers* in such courses and for such duration *as the LEB deems necessary*, the same encroaches upon the Court's power to promulgate rules concerning the Integrated Bar which includes the education of "lawyer-professors" as teaching of law is practice of law. The mandatory continuing legal education of the members of the bar is, in fact, covered by B.M. No. 850 or the Rules on Mandatory Continuing Legal Education (MCLE) dated August 22, 2000 which requires members of the bar, not otherwise exempt, from completing, every three years, at least 36 hours of continuing legal education activities approved by the MCLE Committee directly supervised by the Court.

As noted by the CLEBM:

> Thus, under the declaration of policies in Section 2 of [R.A. No. 7662], the State "shall undertake appropriate reforms in the legal education system, require the proper selection of law students, maintain quality among law schools and require apprenticeship and continuing legal education["]. The concept of continuing legal education encompasses education not only of law students but also of members of the legal profession. Its inclusion in the declaration of policies implies that the [LEB] shall have jurisdiction over the education of persons who have finished the law course and are already licensed to practice law. Viewed in the light of Section 5, paragraph 5 of Article VIII of the Constitution that vests the Supreme Court with powers over the Integrated Bar of the Philippines, said portion of Section 2 of [R.A. No. 7662] risks a declaration of constitutional infirmity. [253] (Underscoring supplied)

4. Section 7(e) on minimum standards for law admission and the PhiLSAT issuances

Of the several powers of the LEB under R.A. No. 7662, its power to prescribe minimum standards for law admission under Section 7(e) received the strongest objection from the petitioners. Section 7(e), provides:

> SEC. 7. *Powers and Functions.* – x x x
>
> x x x x
>
> (e) to **prescribe minimum standards for law admission** and minimum qualifications and compensation of faculty members; (Emphasis supplied)

Petitioners argue that the power to prescribe the minimum standards for law admission belongs to the Court pursuant to its rule-making power concerning the admission to the practice of law. Thus, Section 7(e) of R.A. No. 7662 which gives the LEB the power to prescribe the minimum

---

[253] B.M. No. 979-B, supra note 2.

standards for law admission is allegedly unconstitutional as it violates the doctrine of separation of powers. Necessarily, according to the petitioners, the PhiLSAT which was imposed by the LEB pursuant to Section 7(e) of R.A. No. 7662 is likewise void.

The Court finds no constitutional conflict between its rule-making power and the power of the LEB to prescribe the minimum standards for law admission under Section 7(e) of R.A. No. 7662. Consequently, the PhiLSAT, which intends to regulate admission to law schools, cannot be voided on this ground.

4(a). LEB's power to prescribe minimum standards for "law admission" pertain to admission to legal education and not to the practice of law

Much of the protestation against the LEB's exercise of the power to prescribe the minimum standards for law admission stems from the interpretation extended to the phrase "law admission." For petitioners, "law admission" pertains to the practice of law, the power over which belongs exclusively to the Court.

The statutory context and the intent of the legislators do not permit such interpretation.

Basic is the rule in statutory construction that every part of the statute must be interpreted with reference to the context, that is, every part must be read together with the other parts, to the end that the general intent of the law is given primacy.[254] As such, a law's clauses and phrases cannot be interpreted as isolated expressions nor read in truncated parts, but must be considered to form a harmonious whole.[255]

Accordingly, the LEB's power under Section 7(e) of R.A. No. 7662 to prescribe the minimum standards for law admission should be read with the State policy behind the enactment of R.A. No. 7662 which is fundamentally to uplift the standards of legal education and the law's thrust to undertake reforms in the legal education system. Construing the LEB's power to prescribe the standards for law admission together with the LEB's other powers to administer, supervise, and accredit law schools, leads to the logical interpretation that the law circumscribes the LEB's power to prescribe admission requirements only to those seeking enrollment to a school or college of law and not to the practice of law.

---

254 *Land Bank of the Philippines v. AMS Farming Corporation*, 590 Phil. 170, 203 (2008).
255 *Mactan-Cebu International Airport Authority v. Urgello*, 549 Phil. 302, 322 (2007).

Reference may also be made to DECS Order No. 27-1989, as the immediate precursor of R.A. No. 7662, as to what is sought to be regulated when the law speaks of "law admission" requirements.

Section 1, Article VIII of DECS Order No. 27-1989 is clear that the admission requirement pertains to enrollment in a law course, or law school, or legal education, thus:

> Article VIII
> **Admission**, Residence and Other **Requirements**
>
> SEC. 1. **No applicant shall be enrolled in the law course unless he complies with specific requirements for admission by the Bureau of Higher Education and the Supreme Court of the Philippines**, for which purpose he must present to the registrar the necessary credentials before the end of the enrollment period. (Emphases supplied)

This contemporary interpretation suffice in itself to hold that the phrase "law admission" pertains to admission to the study of law or to legal education, and not to the practice of law. Further support is nevertheless offered by the exchanges during the Senate interpellations, wherein it was assumed that the phrase "minimum standards for law admission" refers to the requirements that the student must fulfill before being admitted to law school. This assumption was not corrected by the bill's sponsor.[256]

4(b). Section 7(e) of R.A. No. 7662 is reasonable supervision and regulation

Section 7(e) of R.A. No. 7662, insofar as it gives the LEB the power to prescribe the minimum standards for law admission is faithful to the reasonable supervision and regulation clause. It merely authorizes the LEB to prescribe minimum requirements not amounting to control.

Emphatically, the law allows the LEB to prescribe only the minimum standards and it did not, in any way, impose that the minimum standard for law admission should be by way of an exclusionary and qualifying exam nor did it prevent law schools from imposing their respective admission requirements.

---

[256] I RECORD, SENATE 9th CONGRESS 2ND SESSION 458 (August 24, 1993).
Senator Tolentino: Thank you, Mr. President.
Now, here is one question on which I would like to be enlightened. The Council here may provide for the minimum standards for law admission and minimum qualifications to faculty members. I assume that this law admission means admission to the college of law of the student.
x x x x
I assume that minimum standards for law admission here refers [sic] to the requirements that the student must fulfill before being admitted to the law school. x x x

Thus, under LEBMO No. 1-2011, the minimum standards for admission to law schools as implemented by the LEB are: (1) completion of a four-year high school course; and (2) completion of a course for a bachelor's degree in arts or sciences.[257] Again, these requirements are but consistent with the nature of the law course in the Philippines as being both a professional and post-baccalaureate education.

As the facts disclose, however, the LEB later on introduced the PhiLSAT as an additional prerequisite for admission to law school.

4(c). Pursuant to Section 7(e), LEB is authorized to administer an aptitude test as a minimum standard for law admission

Evident from the Senate deliberations that, in prescribing the minimum standards for law admission, *an aptitude test may be administered by the LEB* although such is not made mandatory under the law. Thus:

> Senator Tolentino: x x x
>
> I will proceed to another point, Mr. President. I have taught law for more than 25 years in private schools and in the University of the Philippines as well. There is one thing I have noticed in all these years of teaching and that is, many students in the law school are not prepared or apt by inclination or by ability to become lawyers. I see that the objectives of the legal education that are provided for in this bill do not provide for some mechanism of choosing people who should take up the law course.
>
> As it is now, because of our democratic principles, anybody who wants to become a lawyer, who can afford the tuition fee, or who has the required preparatory course, can be admitted into the law school. And yet, while studying law, many of these students – I would say there are about 30 or 40 percent of students in private schools – should not be taking up law but some other course because, simply, they do not have the inclination, they do not have the aptitude or the ability to become lawyers.
>
> Can that be provided for in this bill, Madam Sponsor? Would it contravene really our principles of democracy where everybody should be free to take the course that he wants to take? Or should the State be able to determine who should be able or who should be allowed to take a particular course, in this case of law?
>
> Senator Shahani: **Mr. President, there are those aptitude tests which**

---

[257] *Section 15. Prerequisites to Admission to Law School.* – Section 6, Rule 138 of the Rules of Court prescribes: "No applicant for admission to the Bar Examination shall be admitted unless he presents a certificate that he has satisfied the Secretary of Education that, before he began the study of law, he had pursued and satisfactorily completed in an authorized and recognized university or college, requiring for admission thereto the completion of a four-year high school course, the course of study prescribed therein for a bachelor's degree in arts or sciences with any of the following subjects as major or field of concentration: political science, logic, English, Spanish, history and economics." (Underscoring supplied)

> **are being taken when the student is in high school to somehow guide the guidance councilors [sic] into the aptitude of the students. But the talent or the penchant for the legal profession is not one of those subjects specifically measured. I think what is measured really is who is, more or less, talented for an academic education as against a vocational education. But maybe, a new test will have to be designed to really test the aptitude of those who would like to enter the law school.** x x x
>
> Senator Tolentino: x x x
>
> Many parents want to see their children become lawyers. But they do not consider the aptitude of these children, and they waste money and time in making these children take up law when they really are not suited to the law course. **My real concern is whether by legislation, we can provide for selection of those who should be allowed to take up law, and not everybody would be allowed to take up law.** x x x
>
> x x x x
>
> Senator Shahani: **Mr. President, of course, the right to education is a constitutional right, and I think one cannot just categorically deny a student – especially if he is bright – entrance to a law school. I think I would stand by what I had previously said that an aptitude examination will have to be specially designed.** It is not in existence yet. x x x[258] (Emphases supplied)

This matter was amplified in second reading:

> Senator Angara: x x x
>
> Senator Tolentino asked why there is an omission on the requirements for admission to law school. I think [Senator Shahani] has already answered that, **that the [LEB] may prescribe an aptitude test for that purpose. Just as in other jurisdictions, they prescribe a law admission test for prospective students of law. I think the board may very well decide to prescribe such a test, although it is not mandatory under this bill.**[259] (Emphasis and underscoring supplied)

The lawmakers, therefore, recognized and intended that the LEB be vested with authority to administer an aptitude test as a minimum standard for law admission. The presumption is that the legislature intended to enact a valid, sensible, and just law and one which operates no further than may be necessary to effectuate the specific purpose of the law.[260] This presumption has not been successfully challenged by petitioners.

It also bears to note that the introduction of a law aptitude examination was actually supported by the Court when it approved the

---

258 I RECORD, SENATE 9th CONGRESS 2ND SESSION, supra note 256, at 456-457.

259 Id. at 711 (September 22, 1993).

260 *Lawyers Against Monopoly and Poverty (LAMP) v. The Secretary of Budget and Management*, 686 Phil. 357, 372-373 (2012).

CLEBM's proposed amendment to Section 7(e), as follows:

> SEC. 6. Section 7 of the same law is hereby amended to read as follows:
>
> "SEC. 7. *Power and Functions.* – x x x
>
> x x x x
>
> d). to prescribe minimum standards for ADMISSION TO LAW SCHOOLS INCLUDING A SYSTEM OF LAW APTITUDE EXAMINATION x x x[.]" (Underscoring supplied)

And further in Bar Matter No. 1161[261] when the Court referred to the LEB the conduct of a proposed law entrance examination.

4(d). PhiLSAT, as an aptitude exam, is reasonably related to the improvement of legal education

Having settled that the LEB has the power to administer an aptitude test, the next issue to be resolved is whether the exercise of such power, through the PhiLSAT, was reasonable.

Indeed, an administrative regulation is susceptible to attack for unreasonableness. In *Lupangco v. Court of Appeals*,[262] the Court held:

> **It is an [axiom] in administrative law that administrative authorities should not act arbitrarily and capriciously in the issuance of rules and regulations. To be valid, such rules and regulations must be reasonable and fairly adapted to secure the end in view. If shown to bear no reasonable relation to the purposes for which they are authorized to be issued, then they must be held to be invalid.** (Emphasis supplied)

To determine whether the PhiLSAT constitutes a valid exercise of police power, the same test of reasonableness, *i.e.,* the concurrence of a lawful subject and lawful means, is employed. Petitioners argue that the PhiLSAT is unreasonable because: it is not a conclusive proof of the student's aptitude;[263] it entails unreasonable examination and travel expenses and burdensome documentary requirements;[264] applying for PhiLSAT exemption is inconvenient;[265] it is redundant to existing law school entrance exams;[266] and it is not supported by scientific study.[267]

---

261 Re: Proposed Reforms in the Bar Examinations.
262 Supra note 227, at 1005.
263 *Rollo* (G.R. No. 230642), Vol. 1, p. 305.
264 Id. at 305 and 1567-1568.
265 Id. at 1564.
266 Id. at 1569.
267 Id. at 1582.

Unfortunately, these grounds are not only conclusions of fact which beg the presentation of competent evidence, but also necessarily go into the wisdom of the PhiLSAT which the Court cannot inquire into. The Court's pronouncement as to the reasonableness of the PhiLSAT based on the grounds propounded by petitioners would be an excursion into the policy behind the examinations – a function which is administrative rather than judicial.

Petitioners also argue that there is no reasonable relation between improving the quality of legal education and regulating access thereto. The Court does not agree.

The subject of the PhiLSAT is to improve the quality of legal education. It is indubitable that the State has an interest in prescribing regulations promoting education and thereby protecting the common good. Improvement of the quality of legal education, thus, falls squarely within the scope of police power. The PhiLSAT, as an aptitude test, was the means to protect this interest.

4(e). Tablarin sustained the conduct of an admission test as a legitimate exercise of the State's regulatory power

Moreover, by case law, the Court already upheld the validity of administering an aptitude test as a reasonable police power measure in the context of admission standards into institutions of higher learning.

In *Tablarin*, the Court upheld not only the constitutionality of Section 5(a) of R.A. No. 2382, or the Medical Act of 1959, which gave the Board of Medical Education (BME) the power to prescribe requirements for admission to medical schools, but also *MECS Order No. 52, Series of 1985* (MECS Order No. 52-1985) issued by the BME which prescribed NMAT.

Using the rational basis test, the Court upheld the constitutionality of the NMAT as follows:

> Perhaps the only issue that needs some consideration is **whether there is some reasonable relation between the prescribing of passing the NMAT as a condition for admission to medical school on the one hand, and the securing of the health and safety of the general community, on the other hand.** This question is perhaps most usefully approached by recalling that the **regulation of the practice of medicine in all its branches has long been recognized as a reasonable method of protecting the health and safety of the public.** That the power to regulate and control the practice of medicine includes the power to regulate admission to the ranks of those authorized to practice medicine, is

> also well recognized. Thus, legislation and administrative regulations requiring those who wish to practice medicine first to take and pass medical board examinations have long ago been recognized as valid exercises of governmental power. Similarly, the establishment of minimum medical educational requirements – i.e., the completion of prescribed courses in a recognized medical school – for admission to the medical profession, has also been sustained as a legitimate exercise of the regulatory authority of the state. **What we have before us in the instant case is closely related; the regulation of access to medical schools.** MECS Order No. 52, s. 1985, as noted earlier, articulates the rationale of regulation of this type: the improvement of the professional and technical quality of the graduates of medical schools, by upgrading the quality of those admitted to the student body of the medical schools. **That upgrading is sought by selectivity in the process of admission, selectivity consisting, among other things, of limiting admission to those who exhibit in the required degree the aptitude for medical studies and eventually for medical practice.** The need to maintain, and the difficulties of maintaining, high standards in our professional schools in general, and medical schools in particular, in the current stage of our social and economic development, are widely known.
>
> **We believe that the government is entitled to prescribe an admission test like the NMAT as a means for achieving its stated objective of "upgrading the selection of applicants into [our] medical schools" and of "improv[ing] the quality of medical education in the country."** Given the widespread use today of such admission tests in, for instance, medical schools in the United States of America (the Medical College Admission Test [MCAT] and quite probably in other countries with far more developed educational resources than our own, and taking into account the failure or inability of the petitioners to even attempt to prove otherwise, **we are entitled to hold that the NMAT is reasonably related to the securing of the ultimate end of legislation and regulation in this area. That end, it is useful to recall, is the protection of the public from the potentially deadly effects of incompetence and ignorance in those who would undertake to treat our bodies and minds for disease or trauma.**[268] (Emphases supplied)

The Court reached its conclusion that NMAT is a valid exercise of police power because the method employed, *i.e.,* regulation of admissions to medical education is reasonably related to the subject, *i.e.,* the protection of the public by ensuring that only those qualified are eventually allowed to practice medicine.

The necessity of State intervention to ensure that the medical profession is not infiltrated by those unqualified to take care of the life and health of patients was likewise the reason why the Court in *Department of Education, Culture and Sports v. San Diego*[269] upheld the "three-flunk" rule in NMAT:

---

[268] *Tablarin v. Gutierrez*, supra note 48, at 782-784.
[269] 259 Phil. 1016, 1021-1022 (1989).

> We see no reason why the rationale in the [*Tablarin*] case cannot apply to the case at bar. The issue raised in both cases is the academic preparation of the applicant. This may be gauged at least initially by the admission test and, indeed with more reliability, by the three-flunk rule. **The latter cannot be regarded any less valid than the former in the regulation of the medical profession.**
>
> There is no need to redefine here the police power of the State. Suffice it to repeat that the power is validly exercised if (a) the interests of the public generally, as distinguished from those of a particular class, require the interference of the State, and (b) the means employed are reasonably necessary to the attainment of the object sought to be accomplished and not unduly oppressive upon individuals.
>
> In other words, the proper exercise of the police power requires the concurrence of a lawful subject and a lawful method.
>
> **The subject of the challenged regulation is certainly within the ambit of the police power. It is the right and indeed the responsibility of the State to insure that the medical profession is not infiltrated by incompetents to whom patients may unwarily entrust their lives and health.**
>
> **The method employed by the challenged regulation is not irrelevant to the purpose of the law nor is it arbitrary or oppressive. The three-flunk rule is intended to insulate the medical schools and ultimately the medical profession from the intrusion of those not qualified to be doctors.** (Emphases supplied)

Tablarin recognized that State intervention was necessary, and therefore was allowed, because of the need to meet the goal of promoting public health and safety.

In similar vein, the avowed purpose of the PhiLSAT is to improve the quality of legal education by evaluating and screening applicants to law school. As elucidated, the State has an interest in improving the quality of legal education for the protection of the community at-large, and requiring an entrance test is reasonably related to that interest. In other words, the State has the power and the prerogative to impose a standardized test prior to entering law school, in the same manner and extent that the State can do so in medical school when it prescribed the NMAT.

In all, the Court finds no constitutional conflict between the Court's rule-making power concerning admissions to the practice of law and on the LEB's power to prescribe minimum standards for law admission under Section 7(e) of R.A. No. 7662.

Further, pursuant to its power under Section 7(e), the Court affirms the LEB's authority to initiate and administer an aptitude test, such as the PhiLSAT, as a minimum standard for law admission. Thus, the PhiLSAT, insofar as it functions as an aptitude exam that measures the academic

potential of the examinee to pursue the study of law to the end that the quality of legal education is improved is not *per se* unconstitutional.

However, there are certain provisions of the PhiLSAT that render its operation exclusionary, restrictive, and qualifying which is contrary to its design as an aptitude exam meant to be used as a tool that should only help and guide law schools in gauging the aptness of its applicants for the study of law. These provisions effectively and absolutely exclude applicants who failed to pass the PhiLSAT from taking up a course in legal education, thereby restricting and qualifying admissions to law schools. As will be demonstrated, these provisions of the PhiLSAT are unconstitutional for being manifestly violative of the law schools' exercise of academic freedom, specifically the autonomy to determine for itself who it shall allow to be admitted to its law program.

D.
LEB's Powers *vis-à-vis* Institutional Academic Freedom and the Right to Education

1. PhiLSAT

Paragraphs 7, 9, 11, and 15 of LEBMO No. 7-2016, provide:

x x x x

7. Passing Score – The **cut-off or passing score for the PhiLSAT shall be FIFTY-FIVE PERCENT (55%) correct answers, or such percentile score as may be prescribed by the LEB.**

x x x x

9. Admission Requirement – **All college graduates or graduating students applying for admission to the basic law course shall be required to pass the PhiLSAT as a requirement for admission to any law school in the Philippines.** Upon the effectivity of this memorandum order, **no applicant shall be admitted for enrollment as a first year student in the basic law courses leading to a degree of either Bachelor of Laws or Juris Doctor unless he/she has passed the PhiLSAT taken within 2 years before the start of studies for the basic law course and presents a valid [Certificate of Eligibility] as proof thereof.**

x x x x

11. Institutional Admission Requirements – The PhiLSAT **shall be without prejudice to the right of a law school in the exercise of its academic freedom to prescribe or impose additional requirements for admission,** such as but not limited to:

a. A score in the PhiLSAT higher than the cut-off or passing score set by the LEB;

b. Additional or supplemental admission tests to measure the competencies and/or personality of the applicant; and

c. Personal interview of the applicant.

x x x x

15. Sanctions – Law schools violating this Memorandum Order shall [be] imposed the **administrative sanctions** prescribed in Section 32 of LEBMO No. 2, Series of 2013 **and/or fine** of up to Ten Thousand Pesos (₱10,000) for each infraction. (Emphases supplied)

Without doubt, the above provisions exclude and disqualify those examinees who fail to reach the prescribed passing score from being admitted to any law school in the Philippines. In mandating that only applicants who scored at least 55% correct answers shall be admitted to any law school, the PhiLSAT actually usurps the right and duty of the law school to determine for itself the criteria for the admission of students and thereafter, to apply such criteria on a case-by-case basis. It also mandates law schools to absolutely reject applicants with a grade lower than the prescribed cut-off score and those with expired PhiLSAT eligibility. The token regard for institutional academic freedom comes into play, if at all, only after the applicants had been "pre-selected" without the school's participation. The right of the institutions then are constricted only in providing "additional" admission requirements, admitting of the interpretation that the preference of the school itself is merely secondary or supplemental to that of the State which is antithetical to the very principle of reasonable supervision and regulation.

The law schools are left with absolutely no discretion to choose its students at the first instance and in accordance with its own policies, but are dictated to surrender such discretion in favor of a State-determined pool of applicants, under pain of administrative sanctions and/or payment of fines. Mandating law schools to reject applicants who failed to reach the prescribed PhiLSAT passing score or those with expired PhiLSAT eligibility transfers complete control over admission policies from the law schools to the LEB. As *Garcia* tritely emphasized: "[c]olleges and universities should [not] be looked upon as public utilities devoid of any discretion as to whom to admit or reject. Education, especially higher education, belongs to a different, and certainly higher category."[270]

1(a). Comparison of PhiLSAT with NMAT and LSAT

Respondent urges the Court to treat the PhiLSAT in the same manner that the Court treated the NMAT in *Tablarin*. Petitioners oppose on the ground that the PhiLSAT and the NMAT are different because there is a

---

[270] *Garcia v. The Faculty Admission Committee, Loyola School of Theology,* supra note 223, at 945.

Constitutional body, *i.e.,* the Court, tasked to regulate the practice of law while there is none with respect to the practice of medicine.

The Court treats the PhiLSAT differently from the NMAT for the fundamental reason that these aptitude exams operate differently.

For one, how these exams allow the schools to treat the scores therein obtained is different.

While both exams seem to prescribe a "cut-off" score, the NMAT score is evaluated by the medical schools in relation to their own cut-off scores. Unlike the PhiLSAT score, the NMAT score is not the sole determining factor on whether or not an examinee may be admitted to medical school. The NMAT score is only meant to be one of the bases for evaluating applicants for admission to a college of medicine.

Medical schools further enjoy the discretion to determine how much weight should be assigned to an NMAT score relative to the schools' own admissions policy. Different medical schools may therefore set varying acceptable NMAT scores. Different medical schools may likewise assign different values to the NMAT score. This allows medical schools to consider the NMAT score *along with* the other credentials of the applicant. The NMAT score does not constrain medical schools to accept pre-selected applicants; it merely provides for a tool to evaluate all applicants.

Obtaining a low NMAT percentile score will not immediately and absolutely disqualify an applicant from being admitted to medical school. Obtaining a high NMAT percentile score only increases an applicant's options for medical schools. Taking the NMAT, thus, expands the applicant's options for medical schools; it does not limit them.

For another, medical schools are not subjected to sanctions in case they decide to admit an applicant pursuant to their own admissions policy. In fact, at some point,[271] there was even no prescribed cut-off percentile score for the NMAT, and instead it was stressed that a student may enroll in any school, college or university upon meeting the latter's specific requirements and reasonable regulations.[272] Also, the issuance of a certificate of eligibility for admission to a college of medicine had been transferred to the medical schools, thus, rightfully giving the responsibility for and accountability of determining eligibility of students for admission to the medical program to the schools concerned.[273]

---

[271] *See* Commission on Higher Education Memorandum Order No. 6 (1996) <https://ched.gov.ph/cmo-6-s-1996/> (visited May 31, 2019).

[272] Id.

[273] *See* CHED Memorandum Order No. 03 (2003) <https://ched.gov.ph/cmo-3-s-2003-2/> (visited September 3, 2019).

Similar to the NMAT, the Law School Admission Test (LSAT) is only one of the several criteria for evaluation for law school admission. It is just one of the methods that law schools may use to differentiate applicants for law school. The American Bar Association actually allows a law school to use an admission test other than the LSAT and it does not dictate the particular weight that a law school should give to the results of the LSAT in deciding whether to admit an applicant.[274]

In contrast, the PhiLSAT score itself determines whether an applicant may be admitted to law school or not, the PhiLSAT being strictly a pass or fail exam. It excludes those who failed to reach the prescribed cut-off score from being admitted to any law school. It qualifies admission to law school not otherwise imposed by the schools themselves. The PhiLSAT, as presently crafted, employs a totalitarian scheme in terms of student admissions. This leaves the consequent actions of the applicant-student and the school solely dependent upon the results of the PhiLSAT.

1(b). Balancing State interest with institutional academic freedom

Thus far, it is settled that the PhiLSAT, when administered as an aptitude test, is reasonably related to the State's unimpeachable interest in improving the quality of legal education. This aptitude test, however, should not be exclusionary, restrictive, or qualifying as to encroach upon

---

[274] The American Bar Association Standards and Rules of Procedure for Approval of Law Schools 2018 to 2019 provide:

Standard 503. ADMISSION TEST

A law school shall require each applicant for admission as a first-year J.D. degree student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's program of legal education. In making admissions decisions, a law school shall use the test results in a manner that is consistent with the current guidelines regarding proper use of the test results provided by the agency that developed the test.

Interpretation 503-1

A law school that uses an admission test other than the Law School Admission Test sponsored by the Law School Admission Council shall demonstrate that such other test is a valid and reliable test to assist the school in assessing an applicant's capability to satisfactorily complete the school's program of legal education.

Interpretation 503-2

This Standard does not prescribe the particular weight that a law school should give to an applicant's admission test score in deciding whether to admit or deny admission to the applicant.

Interpretation 503-3

(a) It is not a violation of this Standard for a law school to admit no more than 10% of an entering class without requiring the LSAT from:

(1) Students in an undergraduate program of the same institution as the J.D. program; and/or

(2) Students seeking the J.D. degree in combination with a degree in a different discipline.

(b) Applicants admitted under subsection (a) must meet the following conditions:

(1) Scored at or above the 85th percentile on the ACT or SAT for purposes of subsection (a)(1), or for purposes of subsection (a)(2), scored at or above the 85th percentile on the GRE or GMAT; and

(2) Ranked in the top 10% of their undergraduate class through six semesters of academic work, or achieved a cumulative GPA of 3.5 or above through six semesters of academic work.

<https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABAStandardsforApprovalofLawSchools/2018-2019-aba-standards-chapter5.pdf> (visited May 31, 2019).

institutional academic freedom. Moreover, in the exercise of their academic freedom to choose who to admit, the law schools should be left with the discretion to determine for themselves how much weight should the results of the PhiLSAT carry in relation to their individual admission policies. At all times, it is understood that the school's exercise of such academic discretion should not be gravely abused, arbitrary, whimsical, or discriminatory.

With the conclusion that the PhiLSAT, when administered as an aptitude test, passes the test of reasonableness, there is no reason to strike down the PhiLSAT in its entirety. Instead, the Court takes a calibrated approach and partially nullifies LEBMO No. 7-2016 insofar as it absolutely prescribes the passing of the PhiLSAT and the taking thereof within two years as a prerequisite for admission to any law school which, on its face, run directly counter to institutional academic freedom. The rest of LEBMO No. 7-2016, being free from any taint of unconstitutionality, should remain in force and effect, especially in view of the separability clause[275] therein contained.

1(c). PhiLSAT and the right to education

Anent the argument that the PhiLSAT transgresses petitioners' right to education and their right to select a profession or course of study, suffice to state that the PhiLSAT is a minimum admission standard that is rationally related to the interest of the State to improve the quality of legal education and, accordingly, to protect the general community. The constitutionality of the PhiLSAT, therefore, cannot be voided on the ground that it violates the right to education as stated under Section 1, Article XIV of the Constitution. The Court's pronouncement in *Tablarin*[276] again resonates with significance:

> Turning to Article XIV, Section 1, of the 1987 Constitution, we note that once more, petitioners have failed to demonstrate that the statute and regulation they assail in fact clash with that provision. On the contrary, we may note – x x x – that the statute and the regulation which petitioners attack are in fact designed to promote "quality education" at the level of professional schools. When one reads Section 1 in relation to Section 5(3) of Article XIV, as one must, one cannot but note that the latter phrase of Section 1 is not to be read with absolute literalness. The State is not really enjoined to take appropriate steps to make quality education "accessible to all" who might for any number of reasons wish to enroll in a professional school, but rather merely to make such education accessible to all who qualify under "fair, reasonable and equitable admission and academic requirements."

---

[275] 16. Separability Clause – If any part or provision of this memorandum order is declared invalid or unconstitutional, all other provisions shall remain valid and effective.

[276] *Tablarin v. Gutierrez*, supra note 48, at 779.

2. Other LEB issuances on law admission

Apart from the PhiLSAT, the LEB also imposed additional requirements for admission to law schools under LEBMO No. 1-2011, specifically:

> Article III
> Prerequisites and Program Specification
>
> SEC. 15. *Prerequisites to admission to Law School.* – x x x
>
> x x x x
>
> Where the applicant for admission into a law school is a graduate of a foreign institution or school following a different course and progression of studies, **the matter shall be referred to the Board that shall determine the eligibility of the candidate for admission to law school.**
>
> SEC. 16. *Board Prerequisites for Admission to the Ll.B. or J.D. Program.* – The Board shall apply Section 6 of Rule 138 in the following wise: An applicant for admission to the Ll.B. or J.D. program of studies must be a graduate of a bachelor's degree and must have earned **at least eighteen (18) units in English, six (6) units in Mathematics, and eighteen (18) units of social science subjects.**
>
> SEC. 17. *Board Prerequisites for Admission to Graduate Programs in Law.* – Without prejudice to other requirements that graduate schools may lay down, **no applicant shall be admitted for the Master of Laws (Ll.M.) or equivalent master's degree in law or juridical science, without an Ll.B. or a J.D. degree.** Admission of non-Members of the Philippine Bar to the master's degree shall be a matter of academic freedom vested in the graduate school of law. The candidate for the doctorate degree in juridical science, or doctorate in civil law or equivalent doctorate degree must have completed a Master of Laws (Ll.M.) or equivalent degree.
>
> Graduate degree programs in law shall have no bearing on membership or non-membership in the Philippine Bar.[277] (Emphases supplied)

Further, LEBMO No. 1-2011, Article V, provides:

> x x x x
>
> SEC. 23. No student who has obtained a general average below 2.5 or 80 in the college course required for admission to legal studies may be admitted to law school. Exceptions may be made by the Dean in exceptionally meritorious cases, after having informed the Board.[278]

---

277 *Rollo* (G.R. No. 230642), Vol. 1, pp. 119-120.
278 Id. at 123.

These provisions similarly encroach upon the law school's freedom to determine for itself its admission policies. With regard to foreign students, a law school is completely bereft of the right to determine for itself whether to accept such foreign student or not, as the determination thereof now belongs to the LEB.

Similarly, the requirement that an applicant obtain a specific number of units in English, Mathematics, and Social Science subjects affects a law school's admission policies leaving the latter totally without discretion to admit applicants who are deficient in these subjects or to allow such applicant to complete these requirements at a later time. This requirement also effectively extends the jurisdiction of the LEB to the courses and units to be taken by the applicant in his or her pre-law course. Moreover, such requirement is not to be found under Section 6, Rule 138 of the Rules of Court as this section simply requires only the following from an applicant to the bar exams:

> SEC. 6. *Pre-Law*. – No applicant for admission to the bar examination shall be admitted unless he presents a certificate that he has satisfied the Secretary of Education that, before he began the study of law, he had pursued and satisfactorily completed in an authorized and recognized university or college, requiring for admission thereto the completion of a four-year high school course, **the course of study prescribed therein for a bachelor's degree in arts or sciences with any of the following subjects as major or field of concentration: political science, logic, english, spanish, history and economics**.

Likewise, in imposing that only those with a basic degree in law may be admitted to graduate programs in law encroaches upon the law school's right to determine who may be admitted. For instance, this requirement effectively nullifies the option of admitting non-law graduates on the basis of relevant professional experience that a law school, pursuant to its own admissions policy, may otherwise have considered.

The required general weighted average in the college course suffers the same infirmity and would have been struck down had it not been expressly repealed by the LEB because of the PhiLSAT.[279]

3. Section 7(c) and 7(e) on the minimum qualifications of faculty members

The LEB is also empowered under Section 7(c) to set the standards of accreditation taking into account, among others, the "qualifications of the

---

[279] LEBMO No. 7-2016, provides:

x x x x

13. General Average – Beginning in Academic/School Year 2018-2019, the requirement of a general average of not less than eighty percent (80%) or 2.5 for admission in the basic law course under Section 23 of [LEBMO No. 1-2011] shall be withdrawn and removed.

members of the faculty" and under Section 7(e) of R.A. No. 7662 to prescribe "minimum qualifications and compensation of faculty members[.]"

Relative to the power to prescribe the minimum qualifications of faculty members, LEB prescribes under LEBMO No. 1-2011 the following:

[PART I]
Article V
Instructional Standards

SEC. 20. The law school shall be headed by a **properly qualified dean, maintain a corps of professors drawn from the ranks of leading and acknowledged practitioners as well as academics and legal scholars or experts in juridical science[.]** x x x

x x x x

PART III
QUALIFICATIONS AND CURRICULUM

Article I
Faculty Qualifications

SEC. 50. The **members of the faculty of a law school should, at the very least, possess a Ll.B. or a J.D. degree and should be members of the Philippine Bar.** In the exercise of academic freedom, the law school may also ask specialists in various fields of law with other qualifications, provided that they possess relevant doctoral degrees, to teach specific subjects.

Within a period of five (5) years of the promulgation of the present order, members of the faculty of schools of law shall commence their studies in graduate schools of law.

Where a law school offers the J.D. curriculum, a qualified Ll.B. graduate who is a member of the Philippine Bar may be admitted to teach in the J.D. course and may wish to consider the privilege granted under Section 56 hereof.

SEC. 51. **The dean should have, aside from complying with the requirements above, at least a Master of Laws (Ll.M.) degree or a master's degree in a related field, and should have been a Member of the Bar for at least 5 years prior to his appointment as dean.**

SEC. 52. **The dean of a graduate school of law should possess at least a doctorate degree in law and should be an acknowledged authority in law, as evidenced by publications and membership in learned societies and organizations; members of the faculty of a graduate school of law should possess at least a Master of Laws (Ll.M.) degree or the relevant master's or doctor's degrees in related fields.**

Aside from the foregoing, retired justices of the Supreme Court, the Court of Appeals, the Sandiganbayan and the Court of Tax Appeals may serve as deans of schools of law, provided that: they have had

> teaching experience as professors of law and provided further that, **with the approval of the Legal Education Board**, a graduate school of law may accredit their experience in the collegiate appellate courts and the judgments they have penned towards the degree [*ad eundem*] of Master of Laws.[280] (Emphases supplied)

Thus, under LEBMO No. 1-2011, a law faculty member must have an Ll.B or J.D. degree and must, within a period of five years from the promulgation of LEBMO No.1-2011, or from June 14, 2011 to June 14, 2016, commence studies in graduate school of law.

The mandatory character of the requirement of a master's degree is underscored by the LEB in its *Resolution No. 2014-02*, a "sequel rule" to Section 50 of LEBMO No. 1-2011, which provides that:

> x x x x
>
> 1. **Members of the law faculty are required to be holders of the degree of Master of Laws**. It is the responsibility of the law deans to observe and implement this rule.
>
> 2. The law faculty of all law schools shall have the following percentage of holders of the master of laws degree:
>
> 2.1. School Year – 2017-2018 – 20%
> 2.2. School Year – 2018-2019 – 40%
> 2.3. School Year – 2019-2020 – 60%
> 2.4. School Year – 2020-2021 – 80%
>
> In computing the percentage, those who are exempted from the rule shall be included.
>
> 3. Exempted from this requirement of a master's degree in law are the following:
>
> The Incumbent or Retired Members of the:
>
> 3.1. Supreme Court;
> 3.2. Court of Appeals, Sandiganbayan and Court of Tax Appeals;
> 3.3. Secretary of Justice and Under-Secretaries of Justice, Ombudsman, Deputy Ombudsmen, Solicitor General and Assistant Solicitors General
> 3.4. Commissioners of the National Labor Relations Commission who teach Labor Laws;
> 3.5. Regional Trial Court Judges;
> 3.6. DOJ State and Regional State Prosecutors and Senior Ombudsman Prosecutors who teach Criminal Law and/or Criminal Procedure;
> 3.7. Members of Congress who are lawyers who teach Political Law, Administrative Law, Election Law, Law on Public Officers and other related subjects;
> 3.8. Members of Constitutional Commissions who are Lawyers;

---

280 Supra note 277, at 123 and 136-137.

3.9. Heads of bureaus who are lawyers who teach the law subjects which their respective bureaus are implementing;
3.10. Ambassadors, Ministers and other [D]iplomatic Officers who are lawyers who teach International Law or related subjects;
3.11. Those who have been teaching their subjects for 10 years or more upon recommendation of their deans; and
3.12. Other lawyers who are considered by the Board to be experts in any field of law provided they teach the subjects of their expertise.

4. **The following are the sanctions for non-compliance with the foregoing rules**:

4.1. If a law school is non-compliant with these rules for the first time beginning School Year 2017-2018, the Board shall **downgrade its Recognition status to Permit status**;
4.2. If a law school under a Permit status should remain non-compliant with these rules in succeeding school years, the Board shall **downgrade the Permit status to Phase-Out status**;
4.3. If a law school which is under Phase-Out status remains non-compliant with these rules in succeeding school years, the Board shall order its **closure** to take effect at the end of the school year.

5. If a law school under sanction shall become compliant, its Recognition status shall be restored. (Emphases supplied)

x x x x

And under LEBMO No. 2:

SEC. 31. Unfitness to Continue Operating a Law Program. A law school which is operated **below quality standards of a law school** is unfit to continue operating a law program.

x x x x

2) A law school is **substandard** if the result of the inspection and evaluation of the law school and its facilities by members of the Board or its staff shows that the law school has serious deficiencies including a **weak faculty** as indicated, among others, by the fact that **most of the members are neophytes in the teaching of law[.]** x x x

x x x x

SEC. 32. The imposable administrative sanctions are the following:

a) Termination of the law program (closing the law school);
b) Phase-out of the law program;
c) Provisional cancellation of the Government Recognition and putting the law program of the substandard law school under Permit Status.

This master of laws degree requirement is reiterated in *LEBMO No. 17, Series of 2018* (Supplemental Regulations on the Minimum Academic Requirement of Master of Laws Degree for Deans and Law Professors/Lecturers/Instructors in Law Schools), as follows:

x x x x

B) For Members of the Law Faculty

SEC. 6. For purposes of determining compliance with the **minimum academic requirement** of a Ll.M. degree for the members of the law faculty in law schools required under Section 50 of LEBMO No. 1, Series of 2011 and Resolution No. 2014-02, the required percentage of holders of Ll.M. shall be computed based on the aggregate units of all courses/subjects offered during the semester by the law school.

SEC. 7. Within thirty (30) days upon completion the effectivity this of this memorandum [sic], the President of the HEI and the Dean of each law school shall jointly **submit to the LEB separate certification of the total teaching assignments/load for the 1st Semester and 2nd Semester of the Academic Year 2017-2018 in the prescribed matrix form containing the names of every faculty member, his/her highest academic law degree, qualification for exemption from the Ll.M. requirement, if applicable, courses/subjects assigned to teach, and academic weight of each course/subject, and a disclosure whether or not the law school is compliant with the prescribed percentage of Ll.M. holders for faculty members**. Thereafter, the same certification shall be submitted for every regular semester not later than 45 days from the start of the semester.

x x x x

SEC. 12. **Law schools failing to meet the prescribed percentage of its faculty members required to have Ll.M. degrees shall be imposed the appropriate administrative sanction specified under Resolution No. 2014-02**. (Emphases supplied)

To be sure, under its supervisory and regulatory power, the LEB can prescribe the minimum qualifications of faculty members. This much was affirmed by the Court when it approved the CLEBM's proposal to revise the powers of LEB under R.A. No. 7662, but nevertheless retaining the LEB's power to "provide for minimum qualifications for faculty members of law schools." As worded, the assailed clauses of Section 7(c) and 7(e) insofar as they give LEB the power to prescribe the minimum qualifications of faculty members are in tune with the reasonable supervision and regulation clause and do not infringe upon the academic freedom of law schools.

Moreover, this minimum qualification can be a master of laws degree. In *University of the East v. Pepanio*,[281] the Court held that the requirement of

[281] 702 Phil. 191, 201 (2013).

a masteral degree, albeit for tertiary education teachers, is not unreasonable. Thus:

> **The requirement of a masteral degree for tertiary education teachers is not unreasonable. The operation of educational institutions involves public interest. The government has a right to ensure that only qualified persons, in possession of sufficient academic knowledge and teaching skills, are allowed to teach in such institutions. Government regulation in this field of human activity is desirable for protecting, not only the students, but the public as well from ill-prepared teachers, who are lacking in the required scientific or technical knowledge. They may be required to take an examination or to possess postgraduate degrees as prerequisite to employment.** (Emphasis supplied)

This was reiterated in *Son v. University of Santo Tomas,*[282] as follows:

> As early as in 1992, the requirement of a Master's degree in the undergraduate program professor's field of instruction has been in place, through DECS Order 92 (series of 1992, August 10, 1992) or the Revised Manual of Regulations for Private Schools. Article IX, Section 44, paragraph [1(a)] thereof provides that college faculty members must have a master's degree in their field of instruction as a minimum qualification for teaching in a private educational institution and acquiring regular status therein.
>
> DECS Order 92, Series of 1992 was promulgated by the DECS in the exercise of its [rule]-making power as provided for under Section 70 of Batas Pambansa Blg. 232, otherwise known as the Education Act of 1982. As such, it has the force and effect of law. In *University of the East v. Pepanio*, the requirement of a masteral degree for tertiary education teachers was held to be not unreasonable but rather in accord with the public interest.
>
> x x x x
>
> From a strict legal viewpoint, the parties are both in violation of the law: respondents, for maintaining professors without the mandated masteral degrees, and for petitioners, agreeing to be employed despite knowledge of their lack of the necessary qualifications. Petitioners cannot therefore insist to be employed by UST since they still do not possess the required master's degrees; the fact that UST continues to hire and maintain professors without the necessary master's degrees is not a ground for claiming illegal dismissal, or even reinstatement. As far as the law is concerned, respondents are in violation of the CHED regulations for continuing the practice of hiring unqualified teaching personnel; but the law cannot come to the aid of petitioners on this sole ground. As between the parties herein, they are in *pari delicto*.
>
> x x x x

---

[282] G.R. No. 211273, April 18, 2018.

> The minimum requirement of a master's degree in the undergraduate teacher's field of instruction has been cemented in DECS Order 92, Series of 1992. Both petitioners and respondents have been violating it. The fact that government has not cracked down on violators, or that it chose not to strictly implement the provision, does not erase the violations committed by erring educational institutions, including the parties herein; it simply means that government will not punish these violations for the meantime. The parties cannot escape its concomitant effects, nonetheless. And if respondents knew the overwhelming importance of the said provision and the public interest involved - as they now fiercely advocate to their favor - they should have complied with the same as soon as it was promulgated.
>
> x x x x
>
> In addition, the Court already held in *Herrera-Manaois v. St. Scholastica's College* that –
>
> > Notwithstanding the existence of the SSC Faculty Manual, Manaois still cannot legally acquire a permanent status of employment. Private educational institutions must still supplementarily refer to the prevailing standards, qualifications, and conditions set by the appropriate government agencies (presently the Department of Education, the Commission on Higher Education, and the Technical Education and Skills Development Authority). This limitation on the right of private schools, colleges, and universities to select and determine the employment status of their academic personnel has been imposed by the state in view of the public interest nature of educational institutions, so as to ensure the quality and competency of our schools and educators. (Internal citations omitted)

Thus, the masteral degree required of law faculty members and dean, and the doctoral degree required of a dean of a graduate school of law are, in fact, minimum reasonable requirements. However, it is the manner by which the LEB had exercised this power through its various issuances that prove to be unreasonable.

On this point, the *amicus curiae*, Dean Sedfrey M. Candelaria, while admitting that the masteral degree requirement is a "laudable aim" of the LEB, nevertheless adds that the LEB-imposed period of compliance is unreasonable given the logistical and financial obstacles:

> The masteral degree requirement is a laudable aim of LEB, but the possibility of meeting the LEB period of compliance is unreasonable and unrealistic in the light of logistical and financial considerations confronting the deans and professors, including the few law schools offering graduate degrees in law.
>
> To illustrate, to the best of my knowledge there are no more than six (6) graduate schools of law around the country to service potential applicants. Those who have opted for graduate studies in law find it very

> costly to fly to the venue. While one or two programs may have been delivered outside the provider's home school venue to reach out to graduate students outside the urban centers, pedagogical standards are often compromised in the conduct of the modules. This is even aggravated by the fact that very few applicants can afford to go into full-time graduate studies considering that most deans and professors of law are in law practice. Perhaps, LEB should work in consultation with PALS in designing a cost-effective but efficient delivery system of any graduate program in law, [especially] for deans and law professors.[283]

Further, the mandatory character of the master of laws degree requirement, under pain of downgrading, phase-out and closure of the law school, is in sharp contrast with the previous requirement under DECS Order No. 27-1989 which merely *prefer* faculty members who are holders of a graduate law degree, or its equivalent. The LEB's authority to review the strength or weakness of the faculty on the basis of experience or length of time devoted to teaching violates an institution's right to set its own faculty standards. The LEB also imposed strict reportorial requirements that infringe on the institution's right to select its teachers which, for instance, may be based on expertise even with little teaching experience. Moreover, in case a faculty member seeks to be exempted, he or she must prove to the LEB, and not to the concerned institution, that he or she is an expert in the field, thus, usurping the freedom of the institution to evaluate the qualifications of its own teachers on an individual basis.

Also, while the LEB requires of faculty members and deans to obtain a master of laws degree before they are allowed to teach and administer a law school, respectively, it is ironic that the LEB, under *Resolution No. 2019-406*, in fact considers the basic law degrees of Ll.B. or J.D. as already equivalent to a doctorate degree in other non-law academic disciplines for purposes of "appointment/promotion, ranking, and compensation."

In this connection, the LEB also prescribes who may or may not be considered as full-time faculty, the classification of the members of their faculty, as well as the faculty load, including the regulation of work hours, all in violation of the academic freedom of law schools. LEBMO No. 2 provides:

> SEC. 33. Full-time and Part-time Faculty. There are two general kinds of faculty members, the full-time and part-time faculty members.
>
> a) A full-time faculty member is one:
>
> 1) Who possesses the **minimum qualification of a member of the faculty as prescribed in Sections 50 and 51 of LEBMO No. 1**;
> 2) Who devotes **not less than eight (8) hours of work** for the law school;

[283] *Amicus* Brief of Dean Sedfrey Candelaria, supra note 164, at 1674.

3) Who has **no other occupation elsewhere** requiring regular hours of work, except when permitted by the higher education institution of which the law school is a part; and
4) Who is **not teaching full-time in any other higher education institution**.

b) A part-time faculty member is one who does not meet the qualifications of a full-time professor as enumerated in the preceding number.

SEC. 34. Faculty Classification and Ranking. Members of the faculty may be classified, in the discretion of the higher education institution of which the law school is a part, according to academic proceeding, training and scholarship into Professor, Associate Professor, Assistant Professor, and Instructor.

Part-time members of the faculty may be classified as Lecturers, Assistant Professorial Lecturers, Associate Professorial Lecturers and Professorial Lecturers. **The law schools shall devise their scheme of classification and promotion not inconsistent with these rules.**

SEC. 35. Faculty Load. Generally, **no member of the faculty should teach more than 3 consecutive hours in any subject nor should he or she be loaded with subjects requiring more than three preparations or three different subjects (no matter the number of units per subject) in a day.**

However, under exceptionally meritorious circumstances, the law deans may allow members of the faculty to teach 4 hours a day provided that there is a break of 30 minutes between the first 2 and the last 2 hours. (Emphases supplied)

The LEB is also allowed to revoke permits or recognitions given to law schools when the LEB deems that there is gross incompetence on the part of the dean and the corps of professors or instructors under Section 41.2(d) of LEBMO No. 1-2011, thus:

SEC. 41.2. Permits or recognitions may be revoked, or recognitions reverted to permit status for just causes including but not limited to:

a) fraud or deceit committed by the institution in connection with its application to the Board;

b) the unauthorized operation of a school of law or a branch or an extension of a law school;

c) mismanagement or gross inefficiency in the operation of a law school;

d) gross incompetence on the part of the dean and the corps of professors or instructors;

> e) violation of approved standards governing institutional operations, announcements and advertisements;
>
> f) transfer of the school of law to a site or location detrimental to the interests of the students and inimical to the fruitful and promising study of law;
>
> g) repeated failure of discipline on the part of the student body; and
>
> h) other grounds for the closure of schools and academic institutions as provided for in the rules and regulations of the Commission on Higher Education.[284] (Emphasis supplied)

In this regard, the LEB is actually assessing the teaching performance of faculty members and when such is determined by the LEB as constituting gross incompetence, the LEB may mete out penalties, thus, usurping the law school's right to determine for itself the competence of its faculty members.

4. Section 2, par. 2 and Section 7(g) on legal apprenticeship and legal internship

While the clause "legal apprenticeship" under Section 2, par. 2 and Section 7(g) on legal internship, as plainly worded, cannot immediately be interpreted as encroaching upon institutional academic freedom, the manner by which LEB exercised this power through several of its issuances undoubtedly show that the LEB controls and dictates upon law schools how such apprenticeship and internship programs should be undertaken.

Pursuant to its power under Section 7(g), the LEB passed *Resolution No. 2015-08* (Prescribing the Policy and Rules in the Establishment of a Legal Aid Clinic in Law Schools) wherein it classified legal aid clinics into three types: (1) a legal aid clinic which is an outreach project of a law school; (2) a legal aid clinic which entitles the participating student to curricular credits; and (3) a legal aid clinic that entitles the participating student to avail of the privileges under Rule 138-A of the Rules of Court.

Pertinent to the third type, the LEB requires the law schools to comply with the following rules:

> x x x x
>
> b) Implementing Rules
>
> (1) A LAC should be established by the law school.
> (2) **The law school should formulate its Clinical Legal Education Program and submit it to the Legal Education board for its assessment and evaluation.**

---

[284] Supra note 277, at 133.

(3) **If Legal Education Board finds the Clinical Legal Education Program to be proper and in order it shall endorse it to the Supreme Court for its approval.**

(4) Once approved by the Supreme Court, fourth (4th) year law students in that law school enrolled in it shall be allowed to practice law on a limited manner pursuant to the provisions of Rule 138-A of the Rules of Court. (Emphasis supplied)

Further, Section 24(c), Article IV of LEBMO No. 2 prescribes the activities that should be included in the law school's apprenticeship program, as follows:

Article IV
Law School: Administrative Matters and Opening of Branches or Extension Classes

SEC. 24. Administrative Matters.

x x x x

c) Apprenticeship Program. The apprenticeship program should be closely supervised by the Dean or a member of the faculty assigned by the Dean to do the task. **The apprenticeship program should at least include any of the following activities:**

1) Preparation of legal documents
2) Interviewing clients
3) Courtroom observation and participation
4) Observation and assistance in police investigations, inquests and preliminary investigations
5) Legal counseling
6) Legal assistance to detention prisoners
7) For working students, participation in the legal work of the legal section or office of the employer-entity x x x (Emphasis supplied)

Relatedly, Section 59(d) of LEBMO No. 1-2011, provides:

Article IV
Grading System

SEC. 59. Grading System. –The law school, in the exercise of academic freedom, shall devise its own grading system provided that on the first day of classes, the students are apprised of the grading system and **provided further that the following are observed:**

x x x x

(d) When apprenticeship is required and the student does not complete the mandated number of apprenticeship hours, or the person supervising the apprenticeship program deems the performance of the student unsatisfactory, the dean shall require of the student such number of hours more in apprenticeship as will fulfill the purposes of the apprenticeship program.[285] (Emphasis supplied)

---

[285] Supra note 277, at 191-192.

These provisions unduly interfere with the discretion of a law school regarding its curriculum, particularly its apprenticeship program. Plainly, these issuances are beyond mere supervision and regulation.

III.
Conclusion

In general, R.A. No. 7662, as a law meant to uplift the quality of legal education, does not encroach upon the Court's jurisdiction to promulgate rules under Section 5(5), Article VIII of the Constitution. It is well-within the jurisdiction of the State, as an exercise of its inherent police power, to lay down laws relative to legal education, the same being imbued with public interest.

While the Court is undoubtedly an interested stakeholder in legal education, it cannot assume jurisdiction where it has none. Instead, in judicial humility, the Court affirms that the supervision and regulation of legal education is a political exercise, where judges are nevertheless still allowed to participate not as an independent branch of government, but as part of the sovereign people.

Nevertheless, inasmuch as the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged is settled as belonging exclusively to the Court, certain provisions and clauses of R.A. No. 7662 which, by its plain language and meaning, go beyond legal education and intrude upon the Court's exclusive jurisdiction suffer from patent unconstitutionality and should therefore be struck down.

Moreover, the exercise of the power to supervise and regulate legal education is circumscribed by the normative contents of the Constitution itself, that is, it must be reasonably exercised. Reasonable exercise means that it should not amount to control and that it respects the Constitutionally-guaranteed institutional academic freedom and the citizen's right to quality and accessible education. Transgression of these limitations renders the power and the exercise thereof unconstitutional.

Accordingly, the Court recognizes the power of the LEB under its charter to prescribe minimum standards for law admission. The PhiLSAT, when administered as an aptitude test to guide law schools in measuring the applicants' aptness for legal education along with such other admissions policy that the law school may consider, is such minimum standard.

However, the PhiLSAT presently operates not only as a measure of an applicant's aptitude for law school. The PhiLSAT, as a pass or fail exam, dictates upon law schools who among the examinees are to be admitted to

any law program. When the PhiLSAT is used to exclude, qualify, and restrict admissions to law schools, as its present design mandates, the PhiLSAT goes beyond mere supervision and regulation, violates institutional academic freedom, becomes unreasonable and therefore, unconstitutional. In striking down these objectionable clauses in the PhiLSAT, the State's inherent power to protect public interest by improving legal education is neither emasculated nor compromised. Rather, the institutional academic freedom of law schools to determine for itself who to admit pursuant to their respective admissions policies is merely protected. In turn, the recognition of academic discretion comes with the inherent limitation that its exercise should not be whimsical, arbitrary, or gravely abused.

In similar vein, certain LEB issuances which exceed the powers granted under its charter should be nullified for being *ultra vires*.

As in all levels and areas of education, the improvement of legal education indeed deserves serious attention. The parties are at a consensus that legal education should be made relevant and progressive. Reforms for a more responsive legal education are constantly introduced and are evolving. The PhiLSAT, for instance, is not a perfect initiative. Through time and a better cooperation between the LEB and the law schools in the Philippines, a standardized and acceptable law admission examination may be configured. The flaws which the Court assessed to be unconstitutional are meanwhile removed, thereby still allowing the PhiLSAT to develop into maturity. It is, thus, strongly urged that recommendations on how to improve legal education, including tools for screening entrants to law school, reached possibly through consultative summits, be taken in careful consideration in further issuances or legislations.

WHEREFORE, the petitions are **PARTLY GRANTED**.

The jurisdiction of the Legal Education Board over legal education is **UPHELD**.

The Court further declares:

As **CONSTITUTIONAL**:

1. Section 7(c) of R.A. No. 7662 insofar as it gives the Legal Education Board the power to set the standards of accreditation for law schools taking into account, among others, the qualifications of the members of the faculty without encroaching upon the academic freedom of institutions of higher learning; and

2. Section 7(e) of R.A. No. 7662 insofar as it gives the Legal Education Board the power to prescribe the minimum requirements for admission to legal education and minimum qualifications of

faculty members without encroaching upon the academic freedom of institutions of higher learning.

As **UNCONSTITUTIONAL** for encroaching upon the power of the Court:

1. Section 2, par. 2 of R.A. No. 7662 insofar as it unduly includes "continuing legal education" as an aspect of legal education which is made subject to Executive supervision and control;

2. Section 3(a)(2) of R.A. No. 7662 and Section 7(2) of LEBMO No. 1-2011 on the objective of legal education to increase awareness among members of the legal profession of the needs of the poor, deprived and oppressed sectors of society;

3. Section 7(g) of R.A. No. 7662 and Section 11(g) of LEBMO No. 1-2011 insofar as it gives the Legal Education Board the power to establish a law practice internship as a requirement for taking the Bar; and

4. Section 7(h) of R.A. No. 7662 and Section 11(h) of LEBMO No. 1-2011 insofar as it gives the Legal Education Board the power to adopt a system of mandatory continuing legal education and to provide for the mandatory attendance of practicing lawyers in such courses and for such duration as it may deem necessary.

As **UNCONSTITUTIONAL** for being *ultra vires*:

1. The act and practice of the Legal Education Board of excluding, restricting, and qualifying admissions to law schools in violation of the institutional academic freedom on who to admit, particularly:

    a. Paragraph 9 of LEBMO No. 7-2016 which provides that all college graduates or graduating students applying for admission to the basic law course shall be required to pass the PhiLSAT as a requirement for admission to any law school in the Philippines and that no applicant shall be admitted for enrollment as a first year student in the basic law courses leading to a degree of either Bachelor of Laws or Juris Doctor unless he/she has passed the PhiLSAT taken within two years before the start of studies for the basic law course;

    b. LEBMC No. 18-2018 which prescribes the passing of the PhiLSAT as a prerequisite for admission to law schools;

Accordingly, the temporary restraining order issued on March 12, 2019 enjoining the Legal Education Board from implementing LEBMC No. 18-2018 is made **PERMANENT**. The regular admission of students who were conditionally admitted and enrolled is left to the discretion of the law schools in the exercise of their academic freedom; and

c. Sections 15, 16, and 17 of LEBMO No. 1-2011;

2. The act and practice of the Legal Education Board of dictating the qualifications and classification of faculty members, dean, and dean of graduate schools of law in violation of institutional academic freedom on who may teach, particularly:

   a. Sections 41.2(d), 50, 51, and 52 of LEBMO No. 1-2011;
   b. Resolution No. 2014-02;
   c. Sections 31(2), 33, 34, and 35 of LEBMO No. 2;
   d. LEBMO No. 17-2018; and

3. The act and practice of the Legal Education Board of dictating the policies on the establishment of legal apprenticeship and legal internship programs in violation of institutional academic freedom on what to teach, particularly:

   a. Resolution No. 2015-08;
   b. Section 24(c) of LEBMO No. 2; and
   c. Section 59(d) of LEBMO No. 1-2011.

SO ORDERED.

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

I join the separate dissenting and concurring opinion of J. Leonen

LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Associate Justice

(No Part)
DIOSDADO M. PERALTA
Associate Justice
see separate dissenting and concurring opinion

Please see Separate Concurring Opinion
ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V. F. LEONEN
Associate Justice

Plese see separate concurring & dissenting opinion
FRANCIS H. JARDELEZA
Associate Justice

Plese see separate concurring
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

PLEASE SEE MY CONCURRING OPINION
ANDRES B. REYES, JR.
Associate Justice

Please separate concurring and dissenting opinion
ALEXANDER G. GESMUNDO
Associate Justice

(On Official Business)
RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

Pls. see concurring and dissenting opinion
AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court