EN BANC

G.R. No. 230642 – Oscar B. Pimentel, Errol B. Comafay, Jr., Rene B. Gorospe, *et al.*, *Petitioners*, *v.* Legal Education Board (LEB), represented by its Chair, Hon. Emerson B. Aquende, and LEB Member, Hon. Zenaida N. Elepaño, *Respondents*; Atty. Anthony D. Bengzon, Ferdinand M. Negre, Michael Z. Untalan, *et al.*, *Respondents-in-Intervention*; April D. Caballero, Jefrey C. Castardo, MC Wellroe P. Bringas, *et al.*, *Petitioners-Intervenors.*

G.R. No. 242954 – Francis Jose Lean L. Abayata, Gretchen M. Vasquez, Sheenah S. Ilustrismo, *et al.*, *Petitioners*, *v.* Hon. Salvador Medialdea, Executive Secretary, and Legal Education Board, herein represented by its Chairperson, Emerson B. Aquende, *Respondents.*

A.M. No. 20-03-04-SC – Re: Request for Clarification Regarding the Status and Treatment of the Philippine Law School Admission Test (PHILSAT) in the Light of the Supreme Court Decision in G.R. No. 230642 (Oscar B. Pimentel, *et. al.*, *v.* Legal Education Board) and G.R. No. 242954 (Francis Jose Lean L. Abayata, *et al.*, *v.* Hon. Salvador Medialdea, Executive Secretary, and Legal Education Board, herein represented by its Chairperson, Emerson B. Aquende); The Board of Trustees of the Philippine Association of Law Schools (PALS), represented by its Chairperson, Dean Joan S. Largo, and its President, Dean Marisol DL. Anenias, *Intervenors.*

Promulgated:

November 9, 2021

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CONCURRING OPINION

PERLAS-BERNABE, *J.*:

I concur. However, I write this opinion to particularly highlight the reasons for my concurrence with respect to the striking down of LEB Memorandum Order No. 7, Series of 2016[1] (LEBMO 7) in its entirety.

At the onset, it should be emphasized that the State has an interest in uplifting the standards of legal education in the country. Thus, it can issue reasonable regulations to attain that objective, including those that would

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[1] "*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*," <https://leb.gov.ph/wp-content/uploads/2018/01/LEBMO-No.-7-PhiLSAT.pdf> (last visited October 26, 2021).

"require [the] proper selection of law students."[2] However, in exercising its role as regulator, the State must take caution not to infringe the academic freedom of institutions as guaranteed under the Constitution.[3] As explained in my Opinion in this case on the main, when it comes to regulating institutional academic freedom, the State is not allowed to exercise control, but only reasonable supervision:

> Section 5 (2), Article XIV of the 1987 Constitution guarantees that "**[a]cademic freedom** shall be enjoyed in **all institutions of higher learning**." According to case law, "[t]his institutional academic freedom includes the right of the school or college to decide for itself, its aims and objectives, and how best to attain them **free from outside coercion or interference save possibly when the overriding public welfare calls for some restraint**. The essential freedoms subsumed in the term 'academic freedom' encompasses the freedom to determine for itself on academic grounds: (1) [w]ho may teach, (2) [w]hat may be taught, (3) [h]ow it shall be taught, and (4) **[w]ho may be admitted to study**." This fourth freedom of law schools to determine "who may be admitted to study" is at the core of the present controversy involving the PhiLSAT.
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> The PhiLSAT is essentially a standardized aptitude test measuring the examinees' communications and language proficiency, critical thinking skills, and verbal and quantitative reasoning. It is designed to measure the academic potential of the examinee to pursue the study of law. One of the essential provisions of LEBMO No. 7-2016 is paragraph 9, which states that passing the PhiLSAT is required 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 (2) years before the start of the study. The PhiLSAT has a passing score of 55%. To concretize the mandatory nature of the PhiLSAT, paragraph 15 of LEBMO No. 7-2016 provides that law schools that violate the issuance shall be administratively sanctioned and/or fined in the amount of up to P10,000.00 for each infraction. The administrative sanctions direly encompass: (*a*) termination of the law program (closing the law school); (*b*) phasing 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. As the PhiLSAT is a requirement mandatorily imposed by LEBMO No. 7-2016, non-compliance therewith would result into these potential consequences.
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> Compliance with the PhiLSAT effectively means a surrender of the law schools' academic freedom to determine who to admit to their

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[2] See Republic Act No. 7662, entitled "AN ACT PROVIDING FOR REFORMS IN LEGAL EDUCATION, CREATING FOR THE PURPOSE A LEGAL EDUCATION BOARD, AND FOR OTHER PURPOSES" approved on December 23, 1993, Section 2 of which provides:

> Section 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.
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> 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. (Emphases supplied)

[3] Section 5 (2), Article XIV of the Constitution states: "Academic freedom shall be enjoyed in all institutions of higher learning."

> institutions for study. This is because the PhiLSAT operates as a sifting mechanism that narrows down the pool of potential candidates from which law schools may then select their future students. With the grave administrative sanctions imposed for non-compliance, the surrender of this facet of academic freedom is clearly compulsory, because failing to subscribe to the PhiLSAT requirement is tantamount to the law school risking its complete closure or the phasing out of its law program. **This effectively results in the complete control — not mere supervision — of the State over a significant aspect of the institutions' academic freedom.**
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> Notably, the core legal basis for the PhiLSAT is derived from Section 7 (e) of Republic Act No. 7662 which empowers the LEB "to prescribe the minimum standards for law admission x x x." On a broader scale, Section 7 (b) of the same law empowers the LEB "to supervise the law schools in the country x x x." This is a specific iteration of Section 4 (1), Article XIV of the 1987 Constitution which provides that "**[t]he State x x x shall exercise reasonable supervision and regulation of all educational institutions.**" **"Reasonable supervision," as the Framers intended, meant only "external" and not "internal" governance; as such, it is meant to exclude the right to manage, dictate, overrule, prohibit, and dominate.** x x x[4] (Emphases in the original)

As will be expounded on below, LEBMO 7's overall intent is to administer an exclusionary test with severe administrative sanctions on the law schools in case of non-compliance. As such, the regulation is not merely tantamount to State supervision but rather, a form of control that unduly encroaches upon institutional academic freedom; perforce, it is unconstitutional.

At its core, LEBMO 7 provides for the administration of a "nationwide **uniform** law school admission test" called the Philippine Law Admission Test (PhiLSAT). As stated in its paragraphs 1 and 9, LEBMO 7's core policy is to **require** all those seeking admission to law schools **to take** and **pass** the PhiLSAT.[5]

In this Court's 2019 Decision on the main,[6] it was stated that "paragraphs 7, 9, 11, and 15" of LEBMO 7 "exclude and disqualify those examinees who fail to reach the prescribed passing score from being admitted to any law school in the Philippines." By doing so, "the PhiLSAT usurps the right and duty of the law school to determine for itself the criteria for the admission of students," and hence, violates their institutional academic freedom.[7] The Court added that as an aptitude test, the PhiLSAT is

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4 See Concurring Opinion of Senior Associate Justice Estela M. Perlas-Bernabe (SAJ Perlas-Bernabe) in *Pimentel v. Legal Education Board*, G.R. Nos. 230642 & 242954, September 10, 2019 (Main Decision).

5 Item 1 of LEBMO 7 provides:

> 1. Policy and Rationale - to improve the quality of legal education, **all those seeking admission** to the basic law courses leading to either to either a Bachelor of Laws or Juris Doctor degree shall be **required to take the Philippine Law School Admission Test (PhiLSAT)**, a nationwide **uniform** admission test to be administered under the control and supervision of the LEB."

6 *Pimentel v. Legal Education Board*, G.R. Nos. 230642 & 242954, September 10, 2019 (Main Decision).

7 Main Decision, id., *viz.*:

> 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**

"reasonably related to the State's unimpeachable interest in improving the quality of legal education," but it "**should not be exclusionary, restrictive, or qualifying as to encroach upon institutional academic freedom.**"[8]

This notwithstanding, this Court, in the 2019 Decision, did not expressly strike down the entire LEBMO 7.[9] Notably, while the *fallo* thereof states that 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*" was *ultra vires*, **only paragraph 9 of LEBMO 7 was explicitly declared to be invalid.**[10] This

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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 "preselected" 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." (Emphases supplied)

[8] The Court held thus:

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. (See Main Decision)

[9] The Court held thus:

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 therein contained**. (See Main Decision; emphases and underscoring supplied)

[10] The Court held thus:

The Court further declares:

x x x x

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 7] 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;

   x x x x (Emphases supplied)

resulted in an ambiguity to the stakeholders as to whether the Court's ruling rendered the PhiLSAT optional or mandatory.[11]

LEBMO 7 should, however, be viewed as an integral whole, and its constitutionality should be scrutinized accordingly. The applicable hornbook principle is that "every part of the statute must be interpreted with reference to the context, *i.e.*, that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment." As explained in the case of *Philippine International Trading Corporation v. Commission on Audit*:[12]

> Because the law must not be read in truncated parts, its provisions must be read in relation to the whole law. The statute's clauses and phrases must not, consequently, be taken as detached and isolated expressions, but the whole and every part thereof must be considered in fixing the meaning of any of its parts in order to produce a harmonious whole. Consistent with the fundamentals of statutory construction, all the words in the statute must be taken into consideration in order to ascertain its meaning.[13]

Palpably, when read as a whole, **the overall intent behind LEBMO 7 is to administer an exclusionary test (*i.e.*, the PhilSAT)** which students **must take and pass** before they can be admitted to law school. All of its provisions, whether key or ancillary, form an integral composite that lays down a holistic framework that is operatively interdependent and hence, cannot be extricated from one another.

To demonstrate, LEBMO 7's **paragraph 1** *requires* prospective law students to take an admission test as contemplated in the latter provisions; **paragraph 7** sets the passing score at 55% "*or such percentile score as may be prescribed by the LEB*"; **paragraph 8** refers to the issuance of a certificate of eligibility only to those who passed the test; **paragraph 10** exempts certain graduates from "taking and passing" it; **paragraph 11** states that law schools can prescribe additional requirements such as a PhiLSAT score "*higher than the cut-off or passing score set by the LEB*"; **paragraph 12** requires the schools to submit reports indicating the PhiLSAT scores of the admitted students; and **paragraph 15** imposes severe administrative sanctions on law schools that violate LEBMO 7.[14] As the Court held in its 2019 Decision,

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[11] See *ponencia*, pp. 33-34, which summarized the concern as follows:

> The ambiguity is sowing confusion because PALS presumes that by striking Section 9 of LEBMO [7], the Court has rendered the PhilSAT **optional**. In contrast, respondents construe the ruling of the Court as still giving authority to the LEB to conduct the PhiLSAT, thereby prompting it to issue LEBMC No. 52-2020.
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> This need for clarification on the Court's ruling led to the question of **whether or not the Court's ruling rendered the PhiLSAT optional**.

[12] 635 Phil. 447 (2010).

[13] Id. at 454.

[14] As stated in my Opinion on the Main Decision: "To concretize the mandatory nature of the PhiLSAT, paragraph 15 of LEBMO No. 7-2016 provides that law schools that violate the issuance shall be administratively sanctioned and/or fined in the amount of up to [₱]10,000.00 for each infraction. The administrative sanctions direly encompass: (*a*) termination of the law program (closing the law school); (*b*) phasing 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. As the PhiLSAT is a

"[m]andating 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."[15]

The fact that only Section 9 was explicitly declared void in the *fallo* of the Court's 2019 Decision does not save these other provisions from invalidity. Since **paragraphs 1, 7, 8, 10, 11, 12, and 15 of LEBMO 7** retain the exclusionary nature of the exam which the Court held as violative of institutional academic freedom, then they, too, must be declared unconstitutional.

However, as the ponencia now holds,[16] ***it is not enough to strike out only the above-mentioned key provisions***. As earlier intimated, the remaining provisions are merely **ancillary to the key provisions** of LEBMO 7; hence, they should not survive on their own.

In particular, **paragraph 2**[17] merely states that the test will be conducted in one day and will measure the "academic potential of the examinee" to pursue legal studies based on three skill sets. **Paragraph 3**[18] lists the persons qualified to take the test. **Paragraph 4**[19] discusses the qualifications of the test administrator who will design the exam, formulate the questions, and correct the answers. **Paragraph 5**[20] specifies the schedule

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requirement mandatorily imposed by LEBMO No. 7-2016, non-compliance therewith would result into these potential consequences."

15 See Main Decision; emphasis supplied.

16 See *ponencia* p. 39.

17 Paragraph 2 of LEBMO 7 provides:

> 2. Test Design – The PhiLSAT shall be designed as a one-day aptitude test that can measure the academic potential of the examinee to pursue the study of law. It shall test communications and language proficiency, critical thinking skills, and verbal and quantitative reasoning.

18 Paragraph 3 of LEBMO 7 provides:

> 3. Qualified examinees – The following are qualified to take the PhiLSAT:
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> a. Graduates of 4-years bachelor's degrees, or its equivalent, from duly recognized higher education institutions in the Philippines;
> b. Those expecting to graduate with 4-years bachelor's degrees or its equivalent, from duly recognized higher educations institutions in the Philippines at the end of the school year when the PhiLSAT was administered;
> c. Graduates from foreign higher education institutions with degrees equivalent to a 4-year bachelor's degree as certified by the Commission on Higher Education.
>
> A qualified examinee may take the PhiLSAT for as many times as he/she wants, without any limit.

19 Paragraph 4 of LEBMO 7 provides:

> 4. Testing Administrator – For purposes of designing the examinations, formulating the questions, administering the tests, correcting the answers, the LEB may designate, as testing administrator, an independent third-party testing provider that meets all the following qualifications:
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> a. Five (5) years experience in designing a government academic examination in the Philippines;
> b. Three (3) years experience in administering an examination simultaneously in five (5) or more testing sites located in Luzon, Visayas, and Mindanao areas;
> c. Three (3) years experience in designing, formulating and administering an admission test for law schools in the Philippines.

20 Paragraph 5 of LEBMO 7 provides:

> 5. Test Administration Schedule and Locations – The PhiLSAT shall be administered at least once a year on or before April 16 in testing centers located in Metro Manila, Baguio

and test locations. **Paragraph 6**[21] indicates the testing fee. **Paragraph 13**[22] removes the required general average indicated in another LEB issuance. Finally, **paragraphs 14, 16, 17, and 18**[23] contain the transitory, separability, repealing, and effectivity clauses.

Although these ancillary provisions are not *per se* invalid, they were intended to be read together as one composite unit with the key provisions that should be declared unconstitutional. **This version of the PHilSAT, as created in LEBMO 7, should be characterized as a mandatory type of exam, which was intended to carry the features and operative workings of all its provisions. As such, with the key provisions being struck down, the ancillary provisions lose their purposive anchor.**

Notably, the fact that LEBMO 7 contains a **separability clause** does not justify upholding its validity despite the declared unconstitutionality of its **core provisions.**[24] Case law holds that:[25]

City, Legazpi City, Cebu City, Iloilo City, Davao City, and Cagayan de Oro City. Additional testing schedules and centers may be fixed by the LEB as necessary.

[21] Paragraph 6 of LEBMO 7 provides:

> 6. Testing Fee – The testing administrator shall be authorized to collect from every examinee such amount as to cover the cost and expenses for the development, design, and administration of the PhiLSAT, which in no case shall exceed the amount of One Thousand Five Hundred Five Hundred Pesos (₱1,500.00) per examination, unless otherwise expressly permitted by the LEB.

[22] Paragraph 13 of LEBMO 7 provides:

> 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 LEB Memorandum Order No. 1, Series of 2011 shall be withdrawn and removed.

[23] Paragraphs 14, 16, 17, and 18 of LEBMO 7 provide:

> 14. Transitory Provision – During the initial year only of the implementation order in Academic/ School Year 2017-2018, the cut-off or passing score shall not be enforced, and law schools shall have the discretion to admit in the basic law courses, as first year students, applicants who scored less than 55% correct answers, provided, that the law dean shall submit to the LEB, together with the required report in Section 12(a) above, a written justification for each applicant below 55% explaining the reasons for admitting him/her and the general weighted average obtained of the applicant for his/her bachelor's degree."
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> x x x x
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> 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.
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> 17. Repealing Clause – All previous resolutions, memoranda, orders, circulars, and other issuances, or parts thereof, that are contrary or inconsistent with this memorandum order, or provisions hereof, are hereby repealed or modified accordingly.
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> 18. Effectivity – This LEBMO shall effect fifteen (15) days from publication in a newspaper of general circulation and filing with the National Administrative Register in the UP Law Center.

[24] In the Main Decision, the Court justified the partial nullification of LEBMO 7 based on the separability clause, *viz.*:

> 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**.

[25] *Tatad v. Secretary of the Department of Energy*, 347 Phil. 1, 23 (1997).

> **[T]o determine whether or not a particular provision is separable, the courts should consider the intent of the legislature**. It is true that most of the time, such intent is expressed in a separability clause stating that the invalidity or unconstitutionality of any provision or section of the law will not affect the validity or constitutionality of the remainder. Nonetheless, **the separability clause only creates a presumption that the act is severable**. It is **merely an aid in statutory construction**. It is not an inexorable command. **A separability clause does not clothe the valid parts with immunity from the invalidating effect the law gives to the inseparable blending of the bad with the good**. The separability clause cannot also be applied if it will produce an absurd result. In sum, **if the separation of the statute will defeat the intent of the legislature, separation will not take place** despite the inclusion of a separability clause in the law.

In issuing LEBMO 7, the LEB intended to administer an exclusionary admission test and the ancillary provisions were added to carry out such test. Accordingly, it is reasonable to presume that the LEB would not have enacted the ancillary provisions independently as these would present an incomplete picture of the test to be administered, its purpose, and effects. Verily, allowing LEBMO 7 to subsist containing only these ancillary provisions will defeat the LEB's intent to implement its intended PhilSAT version. Hence, despite the presence of a separability clause, the ancillary provisions cannot be considered separable from the key provisions.[26]

For all these reasons, I therefore concur with the *ponencia* to declare the entirety of LEBMO 7 as unconstitutional. At the risk of belaboring the point, LEBMO 7, which implements the present version of the PhilSAT, is unconstitutional because – as explained in the 2019 Decision – it leaves law schools with "**absolutely no discretion to choose [their] 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.**"[27] It involves the "[transfer of] **complete control over admission policies** from

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[26] The Concurring and Dissenting Opinion of Associate Justice Santiago M. Kapunan (ret.) in *Tatad v. Secretary of the Department of Energy* (id. at 29-30, citing Ruben E. Agpalo, Statutory Construction 1990, pp. 27-28) stated the following as regards separability clause:

> The **general rule** is that where part of a statute is void as repugnant to the Constitution, while another part is valid, the valid portion, **if separable from the invalid, may stand and be enforced**. The presence of a separability clause in a statute creates the presumption that the legislature intended separability, rather than complete nullity of the statute. To justify this result, **the valid portion must be so far independent of the invalid portion that it is fair to presume that the legislature would have enacted it by itself if it had supposed that it could not constitutionally enact the other. Enough must remain to make a complete, intelligible and valid statute, which carries out the legislative intent.**
>
> The **exception to the general rule** is that when the parts of a statute are so mutually dependent and connected, as conditions, considerations, inducements, or compensations for each other, as to **warrant a belief that the legislature intended them as a whole**, the nullity of one part will vitiate the rest. In making the parts of the statute dependent, conditional, or connected with one another, the legislature **intended the statute to be carried out as a whole** and **would not have enacted it if one part is void**, in which case if some parts are unconstitutional, all the other provisions thus dependent, conditional, or connected must fall with them. (Emphases supplied)

[27] See Main Decision.

the law schools to the LEB."[28] Therefore, all its provisions, including those ancillary provisions discussed above, should be struck down.

The foregoing notwithstanding, it should still be borne in mind that State participation in admission requirements is not completely foreclosed by academic freedom. In fact, during the constitutional deliberations, the Framers acknowledged that the government may impose admission requirements on institutions of higher learning.[29] However, the admission requirement contained in LEBMO 7 unfortunately exceeded the boundaries of constitutionally permissible regulation; hence, the Court's present disposition.

As a final point, it is apt to highlight that the issue of whether the LEB can require students to take an aptitude exam in general is not an issue before the Court. In this case, LEBMO 7 is the only aptitude exam regulation subject of constitutional scrutiny. Thus, in my view, the ruling of unconstitutionality in this case is limited to the version of the PhilSAT embodied in LEBMO 7. In consequence, it is therefore possible for the LEB to issue another regulation that contains a different version of the PhiLSAT, or any other aptitude exam, in its capacity as regulator of legal education, and within the proper auspices of the State's power to supervise institutional academic freedom under the Constitution. Of course, it goes without saying that only when such new regulation is assailed should the Court step in to assess the constitutionality of its parameters in the proper case therefor.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice

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[28] See id.

[29] Section 5 (3), Article XIV of the 1987 Constitution states 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**." (Emphasis supplied)

The Framers of the Constitution explained that such requirements refer not only to those imposed by the educational institutions **but also by the government**. During the deliberations, Commissioner Guingona stated that "this qualification **refers to both governmental requirements as well as institutional requirements** and would refer not only to the matter of **admission**, but to promotion and even graduation." (See R.C.C. No. 71, Vol. IV, September 1, 1986)

The Framers also expressed that "competence and certain requirements are needed for tertiary education" which is provided by institutions of higher learning. However, they left it to Congress to determine what these requirements will be, including the decision on whether to retain or abolish the then national college entrance examination, as a prerequisite to admission to institutions of higher learning.