Republic of the Philippines
Supreme Court
Manila

EN BANC

IN THE MATTER OF: SAVE THE SUPREME COURT JUDICIAL INDEPENDENCE AND FISCAL AUTONOMY MOVEMENT VS. ABOLITION OF JUDICIARY DEVELOPMENT FUND (JDF) AND REDUCTION OF FISCAL AUTONOMY.	**UDK-15143** Present: SERENO, *C.J.*, CARPIO, VELASCO, JR., LEONARDO-DE CASTRO, BRION,* PERALTA, BERSAMIN, DEL CASTILLO, VILLARAMA, JR., PEREZ, MENDOZA, REYES, PERLAS-BERNABE, LEONEN, and JARDELEZA, *JJ.* **Promulgated:** January 21, 2015

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RESOLUTION

LEONEN, *J.*:

This case involves the proposed bills abolishing the Judiciary Development Fund[1] and replacing it with the "Judiciary Support Fund."

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* On official leave.

1 Pres. Decree No. 1949 (1984), otherwise known as Establishing a Judiciary Development Fund and for

Funds collected from the proposed Judiciary Support Fund shall be remitted to the national treasury and Congress shall determine how the funds will be used.[2]

Petitioner Rolly Mijares (Mijares) prays for the issuance of a writ of mandamus in order to compel this court to exercise its judicial independence and fiscal autonomy against the perceived hostility of Congress.[3]

This matter was raised to this court through the letter[4] dated August 27, 2014, signed by Mijares and addressed to the Chief Justice and the Associate Justices of the Supreme Court. The letter is captioned:

> Petition for Mandamus with Manifestation to invoke the Judicial Independence and Fiscal Autonomy as mandated under the Constitution[5]

The letter was referred to the Clerk of Court En Banc for appropriate action.[6] It was then docketed as UDK-15143.[7]

In the letter-petition, Mijares alleges that he is "a Filipino citizen, and a concerned taxpayer[.]"[8] He filed this petition as part of his "continuing crusade to defend and uphold the Constitution"[9] because he believes in the rule of law.[10] He is concerned about the threats against the judiciary after this court promulgated Priority Development Assistance Fund[11] case on November 19, 2013 and Disbursement Acceleration Program[12] case on July 1, 2014.

The complaint implied that certain acts of members of Congress and the President after the promulgation of these cases show a threat to judicial independence.

Other Purposes.

2 Carmela Fonbuena, *House vs SC? Aquino allies target judicial fund*, July 15, 2014 <http://www.rappler.com/nation/63378-congress-judiciary-development-fund> (visited January 20, 2015); Jess Diaz, *Another House bill filed vs JDF*, July 17, 2014 <http://www.philstar.com/headlines/2014/07/17/1347045/another-house-bill-filed-vs-jdf> (visited January 20, 2015).

3 *Rollo*, p. 8.

4 Id. at 3–10.

5 Id. at 3.

6 Id. at 2.

7 Id. at 3.

8 Id.

9 Id.

10 Id.

11 *Belgica v. Ochoa*, G.R. Nos. 208566, et al., November 19, 2013, 710 SCRA 1 [Per J. Perlas-Bernabe, En Banc].

12 *Araullo v. Aquino*, G.R. No. 209287, July 1, 2014 <http://sc.judiciary.gov.ph/jurisprudence/2014/july2014/209287.pdf> [Per J. Bersamin, En Banc].

In the first week of July 2014, Ilocos Norte Representative Rodolfo Fariñas filed House Bill No. 4690, which would require this court to remit its Judiciary Development Fund collections to the national treasury.[13]

A week later, or on July 14, 2014, Iloilo Representative Niel Tupas, Jr., filed House Bill No. 4738 entitled "The Act Creating the Judicial Support Fund (JSF) under the National Treasury, repealing for the purpose Presidential Decree No. 1949."[14]

On the same day, President Benigno Simeon C. Aquino III addressed the nation:

> My message to the Supreme Court: We do not want two equal branches of government to go head to head, needing a third branch to step in to intervene. We find it difficult to understand your decision. You had done something similar in the past, and you tried to do it again; there are even those of the opinion that what you attempted to commit was graver, if we were to base it on your decision. Abiding by the principle of "presumption of regularity," we assumed that you did the right thing; after all, you are the ones who should ostensibly have a better understanding of the law. And now, when we use the same mechanism—which, you yourselves have admitted, benefit our countrymen—why is it then that we are wrong?
>
> We believe that the majority of you, like us, want only the best for the Filipino people. To the honorable justices of the Supreme Court: Help us help our countrymen. We ask that you review your decision, this time taking into consideration the points I have raised tonight. The nation hopes for your careful deliberation and response. And I hope that once you've examined the arguments I will submit, regarding the law and about our economy, solidarity will ensue—thus strengthening the entire government's capability to push for the interests of the nation.[15]

The issue for resolution is whether petitioner Rolly Mijares has sufficiently shown grounds for this court to grant the petition and issue a writ of mandamus.

Petitioner argues that Congress "gravely abused its discretion with a blatant usurpation of judicial independence and fiscal autonomy of the Supreme Court."[16]

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13 Carmela Fonbuena, *House vs SC? Aquino allies target judicial fund*, July 15, 2014 <http://www.rappler.com/nation/63378-congress-judiciary-development-fund> (visited January 20, 2015).

14 Id.

15 [English] National Address of President Aquino on the Supreme Court's decision on DAP, July 14, 2014 <http://www.gov.ph/2014/07/14/english-national-address-of-president-aquino-on-the-supreme-courts-decision-on-dap/> (visited October 13, 2014). The message was originally delivered in Filipino.

16 *Rollo*, p. 6.

Petitioner points out that Congress is exercising its power "in an arbitrary and despotic manner by reason of passion or personal hostility by abolishing the 'Judiciary Development Fund' (JDF) of the Supreme Court."[17]

With regard to his prayer for the issuance of the writ of mandamus, petitioner avers that Congress should not act as "wreckers of the law"[18] by threatening "to clip the powers of the High Tribunal[.]"[19] Congress committed a "blunder of monumental proportions"[20] when it reduced the judiciary's 2015 budget.[21]

Petitioner prays that this court exercise its powers to "REVOKE/ABROGATE and EXPUNGE whatever irreconcilable contravention of existing laws affecting the judicial independence and fiscal autonomy as mandated under the Constitution to better serve public interest and general welfare of the people."[22]

This court resolves to deny the petition.

The power of judicial review, like all powers granted by the Constitution, is subject to certain limitations. Petitioner must comply with all the requisites for judicial review before this court may take cognizance of the case. The requisites are:

> (1) there must be an actual case or controversy calling for the exercise of judicial power;
>
> (2) the person challenging the act must have the standing to question the validity of the subject act or issuance; otherwise stated, he must have a personal and substantial interest in the case such that he has sustained, or will sustain, direct injury as a result of its enforcement;
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> (3) the question of constitutionality must be raised at the earliest opportunity; and
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> (4) the issue of constitutionality must be the very *lis mota* of the case.[23]

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17 Id. at 7.
18 Id.
19 Id.
20 Id. at 8
21 Id.
22 Id. at 9.
23 *Biraogo v. The Philippine Truth Commission of 2010*, 651 Phil. 374, 438 (2010) [Per J. Mendoza, En Banc], *citing Senate of the Philippines v. Ermita*, 522 Phil. 1, 27 (2006) [Per J. Carpio Morales, En Banc] and *Francisco v. House of Representatives*, 460 Phil. 830, 892 (2003) [Per J. Carpio Morales, En Banc].

Petitioner's failure to comply with the first two requisites warrants the outright dismissal of this petition.

I
The petition does not comply with the requisites of judicial review

No actual case or controversy

Article VIII, Section 1 of the Constitution provides that:

> **ARTICLE VIII**
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> **Judicial Department**
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> Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.
>
> Judicial power includes the duty of the courts of justice *to settle actual controversies involving rights which are legally demandable and enforceable*, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. (Emphasis supplied)

One of the requirements for this court to exercise its power of judicial review is the existence of an actual controversy. This means that there must be "an existing case or controversy that is appropriate or ripe for determination, not conjectural or anticipatory, lest the decision of the court would amount to an advisory opinion."[24] As emphasized by this court in *Information Technology Foundation of the Phils. v. Commission on Elections*:[25]

> It is well-established in this jurisdiction that ". . . for a court to exercise its power of adjudication, there must be an actual case or controversy — one which involves a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution; the case must not be moot or academic or based on extra-legal or other similar considerations not cognizable by a court of justice. . . . [C]ourts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging." The controversy must be justiciable — definite and concrete, touching on the legal relations of parties having adverse legal interests. In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof on the other; that is, it must concern a real and not a merely theoretical question

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[24] *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council,* 646 Phil. 452, 479 (2010) [Per J. Carpio Morales, En Banc], *citing Republic Telecommunications Holding, Inc. v. Santiago*, 556 Phil. 83, 91–92 (2007) [Per J. Tinga, Second Division].

[25] 499 Phil. 281 (2005) [Per J. Panganiban, En Banc].

> or issue. There ought to be an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as distinguished from an opinion advising what the law would be upon a hypothetical state of facts.[26]

For this court to rule on constitutional issues, there must first be a justiciable controversy. Pleadings before this court must show a violation of an existing legal right or a controversy that is ripe for judicial determination. In the concurring opinion in *Belgica v. Ochoa*:

> Basic in litigation raising constitutional issues is the requirement that there must be an actual case or controversy. This Court cannot render an advisory opinion. We assume that the Constitution binds all other constitutional departments, instrumentalities, and organs. We are aware that in the exercise of their various powers, they do interpret the text of the Constitution in the light of contemporary needs that they should address. A policy that reduces this Court to an adviser for official acts by the other departments that have not yet been done would unnecessarily tax our resources. It is inconsistent with our role as final arbiter and adjudicator and weakens the entire system of the Rule of Law. Our power of judicial review is a duty to make a final and binding construction of law. This power should generally be reserved when the departments have exhausted any and all acts that would remedy any perceived violation of right. The rationale that defines the extent of our doctrines laying down exceptions to our rules on justiciability are clear: *Not only should the pleadings show a convincing violation of a right, but the impact should be shown to be so grave, imminent, and irreparable that any delayed exercise of judicial review or deference would undermine fundamental principles that should be enjoyed by the party complaining or the constituents that they legitimately represent*.[27] (Emphasis supplied)

The reason for this requirement was explained in *Angara v. Electoral Commission*:[28]

> Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.[29]

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[26] Id. at 304–305, *citing Republic v. Tan,* G.R. No. 145255, March 30, 2004, 426 SCRA 485, 492–493 [Per J. Carpio Morales, Third Division], *Aetna Life Insurance Co. v. Hayworth,* 300 U.S. 227 (1937), and *Vide: De Lumen v. Republic,* 50 O.G. No. 2, 578 (February 1952).

[27] J. Leonen, concurring opinion in *Belgica v. Ochoa*, G.R. No. 208566, November 19, 2013, 710 SCRA 1, 278–279 [Per J. Perlas-Bernabe, En Banc].

[28] 63 Phil. 139 (1936) [Per J. Laurel, En Banc].

[29] Id. at 158–159.

Petitioner's allegations show that he wants this court to strike down the proposed bills abolishing the Judiciary Development Fund. This court, however, must act only within its powers granted under the Constitution. This court is not empowered to review proposed bills because a bill is not a law.

Montesclaros v. COMELEC[30] involved the postponement of the 2002 Sangguniang Kabataan Elections and the lowering of the age requirement in the Sangguniang Kabataan "to at least 15 but not more than 18 years of age."[31] Montesclaros and other parties filed a petition for certiorari, prohibition, and mandamus with prayer for the issuance of a temporary restraining order.[32] One of the reliefs prayed for was:

> a) To prevent, annul or declare unconstitutional any law, decree, Comelec resolution/directive and other respondents' issuances, orders and actions and the like in postponing the May 6, 2002 SK elections.[33]

This court held that:

> . . . petitioners instituted this petition to: (1) compel public respondents to hold the SK elections on May 6, 2002 and should it be postponed, the SK elections should be held not later than July 15, 2002; (2) *prevent public respondents from passing laws and issuing resolutions and orders that would lower the membership age in the SK*. . . .
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> . . . .
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> Petitioners' prayer *to prevent Congress from enacting into law* a proposed bill lowering the membership age in the SK *does not present an actual justiciable controversy. A proposed bill is not subject to judicial review because it is not a law. A proposed bill creates no right and imposes no duty legally enforceable by the Court. A proposed bill, having no legal effect, violates no constitutional right or duty. The Court has no power to declare a proposed bill constitutional or unconstitutional because that would be in the nature of rendering an advisory opinion on a proposed act of Congress.* The power of judicial review cannot be exercised *in vacuo*. . . .
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> . . . .
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> Thus, there can be no justiciable controversy involving the constitutionality of a proposed bill. The Court can exercise its power of judicial review only after a law is enacted, not before.
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> Under the separation of powers, the Court cannot restrain Congress from passing any law, or from setting into motion the legislative mill according to its internal rules. Thus, the following acts of Congress in the

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30 433 Phil. 620 (2002) [Per J. Carpio, En Banc].
31 Id. at 630.
32 Id. at 626.
33 Id. at 627.

> exercise of its legislative powers are not subject to judicial restraint: the filing of bills by members of Congress, the approval of bills by each chamber of Congress, the reconciliation by the Bicameral Committee of approved bills, and the eventual approval into law of the reconciled bills by each chamber of Congress. Absent a clear violation of specific constitutional limitations or of constitutional rights of private parties, the Court cannot exercise its power of judicial review over the internal processes or procedures of Congress.
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> . . . .
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> . . . To do so would destroy the delicate system of checks and balances finely crafted by the Constitution for the three co-equal, coordinate and independent branches of government.[34] (Emphasis supplied, citations omitted)

Similar to *Montesclaros*, petitioner is asking this court to stop Congress from passing laws that will abolish the Judiciary Development Fund. This court has explained that the filing of bills is within the legislative power of Congress and is "not subject to judicial restraint[.]"[35] A proposed bill produces no legal effects until it is passed into law. Under the Constitution, the judiciary is mandated to interpret laws. It cannot speculate on the constitutionality or unconstitutionality of a bill that Congress may or may not pass. It cannot rule on mere speculations or issues that are not ripe for judicial determination.[36] The petition, therefore, does not present any actual case or controversy that is ripe for this court's determination.

Petitioner has no legal standing

Even assuming that there is an actual case or controversy that this court must resolve, petitioner has no legal standing to question the validity of the proposed bill. The rule on legal standing has been discussed in *David v. Macapagal-Arroyo*:[37]

> *Locus standi* is defined as "a right of appearance in a court of justice on a given question." In private suits, standing is governed by the "real-parties-in interest" rule as contained in Section 2, Rule 3 of the 1997 Rules of Civil Procedure, as amended. It provides that "every action must be prosecuted or defended in the name of the real party in interest." Accordingly, the "real-party-in interest" is "the party who stands to be benefited or injured by the judgment in the suit or the party entitled to the avails of the suit." Succinctly put, the plaintiff's standing is based on his own right to the relief sought.
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> The difficulty of determining *locus standi* arises in public suits.

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34 Id. at 633–635.

35 Id. at 634.

36 J. Leonen, dissenting and concurring opinion in *Disini, Jr. v. Secretary of Justice*, G.R. No. 203335, February 18, 2014, 716 SCRA 237, 534 [Per J. Abad, En Banc].

37 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, En Banc].

> Here, the plaintiff who asserts a "public right" in assailing an allegedly illegal official action, does so as a representative of the general public. He may be a person who is affected no differently from any other person. He could be suing as a "stranger," or in the category of a "citizen," or 'taxpayer." In either case, he has to adequately show that he is entitled to seek judicial protection. In other words, he has to make out a sufficient interest in the vindication of the public order and the securing of relief as a "citizen" or "taxpayer."
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> . . . .
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> This Court adopted the "direct injury" test in our jurisdiction. In *People v. Vera*, it held that the person who impugns the validity of a statute must have "a personal and substantial interest in the case such that he has sustained, or will sustain direct injury as a result." The *Vera* doctrine was upheld in a litany of cases, such as, *Custodio v. President of the Senate*, *Manila Race Horse Trainers' Association v. De la Fuente*, *Pascual v. Secretary of Public Works* and *Anti-Chinese League of the Philippines v. Felix*.[38]

Petitioner has not shown that he has sustained or will sustain a direct injury if the proposed bill is passed into law. While his concern for judicial independence is laudable, it does not, by itself, clothe him with the requisite standing to question the constitutionality of a proposed bill that may only affect the judiciary.

This court, however, has occasionally relaxed the rules on standing when the issues involved are of "transcendental importance" to the public. Specifically, this court has stated that:

> the rule on standing is a matter of procedure, hence, can be relaxed for nontraditional plaintiffs like ordinary citizens, taxpayers, and legislators when the public interest so requires, such as when the matter is of transcendental importance, of overreaching significance to society, or of paramount public interest.[39]

Transcendental importance is not defined in our jurisprudence, thus, in *Francisco v. House of Representatives*:[40]

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[38] Id. at 755–757, *citing* Black's *Law Dictionary*, 6th Ed. 1991, p. 941, *Salonga v. Warner Barnes & Co.*, 88 Phil. 125, 131 (1951) [Per J. Bautista Angelo, En Banc], *People v. Vera,* 65 Phil. 56, 89 (1937) [Per J. Laurel, En Banc], *Custodio v. President of the Senate*, G.R. No. 117, November 7, 1945 (unreported), *Manila Race Horse Trainers' Association v. De la Fuente*, G.R. No. 2947, January 11, 1959 (unreported), *Pascual v. Secretary of Public Works*, 110 Phil. 331, 337 (1960) [Per J. Concepcion, En Banc], and *Anti-Chinese League of the Philippines v. Felix,* 77 Phil. 1012, 1013 (1947) [Per J. Feria, En Banc].

[39] *Biraogo v. The Philippine Truth Commission of 2010*, 651 Phil. 374, 441 (2010) [Per J. Mendoza, En Banc], *citing* Social *Justice Society (SJS) v. Dangerous Drugs Board and Philippine Drug Enforcement Agency (PDEA)*, 591 Phil. 393, 404 (2008) [Per J. Velasco, Jr., En Banc], *Tatad v. Secretary of the Department of Energy*, 346 Phil. 321, 359 (1997) [Per J. Puno, En Banc], and *De Guia v. Commission on Elections*, G.R. No. 104712, May 6, 1992, 208 SCRA 420, 422 [Per J. Bellosillo, En Banc].

[40] 460 Phil. 830 (2003) [Per J. Carpio Morales, En Banc].

> There being no doctrinal definition of transcendental importance, the following instructive determinants formulated by former Supreme Court Justice Florentino P. Feliciano are instructive: (1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised.[41]

A mere invocation of transcendental importance in the pleading is not enough for this court to set aside procedural rules:

> Whether an issue is of transcendental importance is a matter determined by this court on a case-to-case basis. An allegation of transcendental importance must be supported by the proper allegations.[42]

None of the determinants in *Francisco* are present in this case. The events feared by petitioner are merely speculative and conjectural.

In addition to the determinants in *Francisco*, it must also be shown that there is a clear or imminent threat to fundamental rights. In an opinion in *Imbong v. Ochoa*:[43]

> The Responsible Parenthood and Reproductive Health Act of 2012 should not be declared unconstitutional in whole or in any of its parts given the petitions filed in this case.
>
> None of the petitions properly present an "actual case or controversy," which deserves the exercise of our awesome power of judicial review. It is our duty not to rule on the abstract and speculative issues barren of actual facts. These consolidated petitions, which contain bare allegations, do not provide the proper venue to decide on fundamental issues. The law in question is needed social legislation.
>
> That we rule on these special civil actions for certiorari and prohibition — which amounts to a pre-enforcement free-wheeling facial review of the statute and the implementing rules and regulations — is very bad precedent. The issues are far from justiciable. Petitioners claim in their class suits that they entirely represent a whole religion, the Filipino nation and, worse, all the unborn. The intervenors also claim the same representation: Filipinos and Catholics. Many of the petitions also sue the President of the Republic.

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41 Id. at 899, *citing* J. Feliciano, concurring opinion in ***Kilosbayan, Incorporated v. Guingona, Jr.***, G.R. No. 113375, May 5, 1994, 232 SCRA 110, 155–157 [Per J. Davide, Jr., En Banc].

42 J. Leonen, concurring and dissenting opinion in *Social Justice Society (SJS) Officers v. Lim*, G.R. No. 187836, November 25, 2014 <http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/november2014/187836_leonen.pdf> 34–35 [Per J. Perez, En Banc].

43 G.R. Nos. 204819, et al., April 8, 2014 <http://sc.judiciary.gov.ph/microsite/rhlaw/> [Per J. Mendoza, En Banc].

> *We should apply our rules rigorously and dismiss these cases. The transcendental importance of the issues they want us to decide will be better served when we wait for the proper cases with the proper parties suffering real, actual or more imminent injury. There is no showing of an injury so great and so imminent that we cannot wait for these cases.*[44] (Emphasis supplied)

The events feared by petitioner are contingent on the passing of the proposed bill in Congress. The threat of imminent injury is not yet manifest since there is no guarantee that the bill will even be passed into law. There is no transcendental interest in this case to justify the relaxation of technical rules.

II
Requisites for the issuance of a writ of mandamus not shown

Rule 65, Section 3 of the 1997 Rules of Civil Procedure provides that:

> **Rule 65**
>
> **CERTIORARI, PROHIBITION AND MANDAMUS**
>
> **SEC. 3.** ***Petition for mandamus.***— When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the 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, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.
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> The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of section 3, Rule 46.

The writ of mandamus will issue when the act sought to be performed

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[44] J. Leonen, dissenting opinion in *Imbong v. Ochoa,* G.R. No. 204819, April 8, 2014 <http://sc.judiciary.gov.ph/microsite/rhlaw/> 1–2 [Per J. Mendoza, En Banc], *citing Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council,* 646 Phil. 452, 479 (2010) [Per J. Carpio Morales, En Banc], *Angara v. Electoral Commission*, 63 Phil. 139, 158 (1936) [Per J. Laurel, En Banc]; *Guingona, Jr. v. Court of Appeals*, 354 Phil. 415, 429 (1998) [Per J. Panganiban, First Division]; J. Mendoza, separate opinion in *Cruz v. Sec. of Environment and Natural Resources*, 400 Phil. 904, 1092 (2002) [Per Curiam, En Banc], J. Mendoza, concurring opinion in *Estrada v. Sandiganbayan*, 421 Phil. 290, 430–432 (2001) [Per J. Bellosillo, En Banc], *citing Gooding v. Wilson*, 405 U.S. 518, 521, 31 L.Ed.2d 408, 413 (1972).

is ministerial.[45] An act is ministerial when it does not require the exercise of judgment and the act is performed in compliance with a legal mandate.[46] In a petition for mandamus, the burden of proof is on petitioner to show that one is entitled to the performance of a legal right and that respondent has a corresponding duty to perform the act.[47] Mandamus will not lie "to compel an official to do anything which is not his duty to do or which it is his duty not to do, or to give to the applicant anything to which he is not entitled by law."[48]

In this case, petitioner has not shown how he is entitled to the relief prayed for. Hence, this court cannot be compelled to exercise its power of judicial review since there is no actual case or controversy.

Final note

The judiciary is the weakest branch of government. It is true that courts have power to declare what law is given a set of facts, but it does not have an army to enforce its writs. Courts do not have the power of the purse. "Except for a constitutional provision that requires that the budget of the judiciary should not go below the appropriation for the previous year, it is beholden to the Congress depending on how low the budget is."[49]

Despite being the third co-equal branch of the government, the judiciary enjoys less than 1%[50] of the total budget for the national government. Specifically, it was a mere 0.82% in 2014,[51] 0.85% in 2013,[52] 0.83% in 2012,[53] and 0.83% in 2011.[54]

Maintenance and Other Operating Expenses or MOOE "pays for

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45 *Quizon v. Commission on Elections*, 569 Phil. 323, 329 (2008) [Per J. Ynares-Santiago, En Banc].

46 *Special People, Inc. Foundation v. Canda*, G.R. No. 160932, January 14, 2013, 688 SCRA 403, 424 [Per J. Bersamin, First Division].

47 Id.

48 *Uy Kiao Eng v. Nixon Lee*, G.R. No. 176831, January 15, 2010, 610 SCRA 211, 217 [Per J. Nachura, Third Division]. *See also University of San Agustin, Inc. v. Court of Appeals*, G.R. No. 100588, March 7, 1994, 230 SCRA 761 [Per J. Nocon, Second Division].

49 Keynote speech by J. Leonen, General Membership of the Tax Management Association of the Philippines, Inc., Mandarin Oriental Hotel, July 31, 2014.

50 The percentage is computed by dividing the total appropriations for the department over the estimated total of the national budget.

51 *See* Rep. Act No. 10633, GAA Fiscal Year 2014, annex A, title XXIX, general summary; *President Aquino OKs P2.265T 2014 National Budget*, December 20, 2013, <http://www.gov.ph/2013/12/20/president-aquino-oks-p2-265t-2014-national-budget> (visited January 20, 2015).

52 *See* Rep. Act No. 10352, GAA Fiscal Year 2013, title XXIX, general summary; *2013 Budget Message of President Aquino*, July 24, 2012 <http://www.dbm.gov.ph/?page_id=3692> (visited January 20, 2015).

53 *See* Rep. Act No. 10155, GAA Fiscal Year 2012, title XXIX, general summary; *2013 Budget Message of President Aquino*, July 24, 2012 <http://www.dbm.gov.ph/?page_id=3692> (visited January 20, 2015).

54 *See* Rep. Act No. 10147, GAA Fiscal Year 2011, title XXIX, general summary; *The President's Budget Message*, July 26, 2011 <http://www.dbm.gov.ph/?page_id=779> (visited January 20, 2015).

sundry matters such as utility payments, paper, gasoline and others."[55] The MOOE granted to the lower courts in 2014 was □1,220,905,000.00.[56] While this might seem like a large amount, the amount significantly dwindles when divided among all lower courts in the country. Per the 2014 General Appropriations Act (GAA), the approximate monthly MOOE for all courts are estimated as follows:

Type of Court	Number of Courts[57]	Estimated Monthly MOOE Per Court
Regional Trial Courts	969	□46,408.67
Metropolitan Trial Courts	106	□46,071.89
Municipal Trial Courts in Cities	229	□46,206.01
Municipal Circuit Trial Courts	468	□46,305.69
Municipal Trial Courts	366	□46,423.30
Shari'a District Courts	5	□40,696.83
Shari'a Circuit Courts	51	□45,883.68

These amounts were arrived at using the following computation:

$$\frac{\frac{\text{Number of Courts}}{\text{Total Number of Courts}} \times \text{MOOE}}{\text{Number of Courts}} \Big/ 12$$

In comparison, the 2014 MOOE allocation for the House of Representatives was □3,386,439,000.00[58] or about □282.2 million per month for the maintenance and operation of the House of Representatives compound in Batasan Hills. Even if this amount was divided equally among the 234 legislative districts, a representative's office space would still have a monthly MOOE allocation of approximately □1.2 million, which is significantly higher than the average □46,000.00 allocated monthly to each trial court.

It was only in 2013 that the budget allocated to the judiciary included an item for the construction, rehabilitation, and repair of the halls of justice in the capital outlay. The amount allocated was □1 million.[59]

In 2014, there was no item for the construction, rehabilitation, and repair of the halls of justice.[60] This allocation would have been used to help

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55 Keynote speech by J. Leonen, General Membership of the Tax Management Association of the Philippines, Inc., Mandarin Oriental Hotel, July 31, 2014.

56 Rep. Act No. 10633, GAA Fiscal Year 2014, title XXIX, sec. A, special provision 6.

57 These statistics came from the presentation of the judicial department during the 2015 budget congressional hearing on September 9, 2014.

58 Rep. Act No. 10633, GAA Fiscal Year 2014, title I, sec. D.

59 Rep. Act No. 10352, GAA Fiscal Year 2013, title XXIX, sec. A.

60 Rep. Act No. 10633, GAA Fiscal Year 2014, title XXIX, sec. A. The judiciary, however, was allocated

fund the repair of existing halls of justice and the construction of new halls of justice in the entire country, including those courts destroyed by Typhoon Yolanda and the 2013 earthquake.

The entire budget for the judiciary, however, does not only come from the national government. The Constitution grants fiscal autonomy to the judiciary to maintain its independence.[61] In *Bengzon v. Drilon*:[62]

> The Judiciary, the Constitutional Commissions, and the Ombudsman must have the independence and flexibility needed in the discharge of their constitutional duties. The imposition of restrictions and constraints on the manner the independent constitutional offices allocate and utilize the funds appropriated for their operations is anathema to fiscal autonomy and violative not only of the express mandate of the Constitution but especially as regards the Supreme Court, of the independence and separation of powers upon which the entire fabric of our constitutional system is based.[63]

Courts, therefore, must also be accountable with their own budget. The Judiciary Development Fund, used to augment the expenses of the judiciary, is regularly accounted for by this court on a quarterly basis. The financial reports are readily available at the Supreme Court website.[64]

These funds, however, are still not enough to meet the expenses of lower courts and guarantee credible compensation for their personnel. The reality is that halls of justice exist because we rely on the generosity of local government units that provide additional subsidy to our judges.[65] If not, the budget for the construction, repair, and rehabilitation of halls of justice is with the Department of Justice.[66]

As a result, our fiscal autonomy and judicial independence are often undermined by low levels of budgetary outlay, the lack of provision for maintenance and operating expenses, and the reliance on local government units and the Department of Justice.

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a total of ₱174 million capital outlay for locally funded projects.

61 CONST., art. VIII, sec. 3 provides:
Section 3. The Judiciary shall enjoy fiscal autonomy. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be automatically and regularly released.

62 G.R. No. 103524, April 15, 1992, 208 SCRA 133, 150 [Per J. Gutierrez, Jr., En Banc].

63 Id. at 150.

64 *See Financial and Budget Accountability Reports of the Supreme Court of the Philippines and the Lower Courts* <http://sc.judiciary.gov.ph/pio/accountabilityreports/> (visited January 20, 2015).

65 *See* LOCAL GOVT. CODE, title II, chap. 3, art. III, sec. 447(a)(1)(xi), LOCAL GOVT. CODE, title III, chap. 3, art. III, sec. 458(a)(1)(xi), and LOCAL GOVT. CODE, title IV, chap. 3, art. III, sec. 468(a)(1)(xi).

66 *See* Admin. Order No. 99 (1988) and *Re: Guidelines on the Occupancy, Use, Operation and Maintenance of the Hall of Justice Buildings*, A.M. No. 01-9-09-SC, October 23, 2001 [Unsigned resolution, En Banc].

"Courts are not constitutionally built to do political lobbying. By constitutional design, it is a co-equal department to the Congress and the Executive. By temperament, our arguments are legal, not political. We are best when we lay down all our premises in the finding of facts, interpretation of the law and understanding of precedents. We are not trained to produce a political statement or a media release."[67]

"Because of the nature of courts, that is – that it has to decide in favor of one party, we may not have a political base. Certainly, we should not even consider building a political base. All we have is an abiding faith that we should do what we could to ensure that the Rule of Law prevails. It seems that we have no champions when it comes to ensuring the material basis for fiscal autonomy or judicial independence."[68]

For this reason, we appreciate petitioner's concern for the judiciary. It is often only through the vigilance of private citizens that issues relating to the judiciary can be discussed in the political sphere. Unfortunately, the remedy he seeks cannot be granted by this court. But his crusade is not a lost cause. Considering that what he seeks to be struck down is a proposed bill, it would be better for him to air his concerns by lobbying in Congress. There, he may discover the representatives and senators who may have a similar enthusiastic response to truly making the needed investments in the Rule of Law.

WHEREFORE, the petition is **DISMISSED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

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[67] Keynote speech by J. Leonen, General Membership of the Tax Management Association of the Philippines, Inc., Mandarin Oriental Hotel, July 31, 2014.

[68] Id.

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

I concur in the ponencia, with my observation that the reference to the dissenting opinion in Imbong v. Ochoa is obiter dictum.
Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

On official leave
ARTURO D. BRION
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the court.

MARIA LOURDES P. A. SERENO
Chief Justice