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OF TRANSCENDENTAL IMPORTANCE:
An Analysis of the Doctrine's Application
vis-à-vis Liberty and Prosperity

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Abstract

The Doctrine of Transcendental Importance serves as an important exception to the requisites of judicial review. If the Court deems a case to be of paramount importance, the requisites of actual case or controversy and legal standing or locus standi may be dispensed with according to the former's discretion. While there may be guidelines provided for by law and jurisprudence on how to determine this level of importance, these are but mere instructive guidelines the weight of implementing which still lies on discretion. Accordingly, the said exception affects various rights in any given case which may be a subject for judicial review. Among those said rights are those involving liberty and prosperity. This paper will seek to analyze the application of the doctrine of transcendental importance as an exemption to the requisites of judicial review. In addition, this paper will seek to determine a trend or correlation if what are involved are rights pertaining to liberty and prosperity. Can a case be considered a case of transcendental importance when the facts involve a violation of fundamental liberties? If the case posits legal problems including the freedom of information or the freedom of assembly, can the doctrine be availed of? How about if the situation involves property or economic rights? Will the outcome be the same? Considering that a Hierarchy of Rights also exists in our legal precedents, this paper will seek to cross-reference if there is a way to consider rights involving liberty and prosperity at par with one another.

Outline

In determining on what constitutes a case of transcendental importance, it is only but fitting to cross-reference the same to rights which may be affected, particularly those which involve liberty and prosperity. This paper will seek to analyze the same and will dwell on the following:

Chapter I will lay down the different elements of the study which shall be highlighted in the Background of the Study, Statement of the Problem, the Significance of the Study, and its respective Objectives.

On the other hand, Chapter II will discuss the basic elements needed in the analysis of the study. Topics such as the constitutional power of judicial review and its respective requisites will be given light. In addition, a basic understanding of the history of the Doctrine of Transcendental Importance in the Philippines will also be discussed. Lastly, the subject rights which involve liberty and prosperity shall also be laid down as subject materiae of the study.

An analysis will then follow, using the basic elements needed in the study cross-referenced with the respective objectives and statement of the problem. By applying the Black Letter Law Analysis, this chapter will first dwell into what are the jurisprudential guidelines for the Doctrine of Transcendental Importance here in the Philippines.

The next analysis would be the application of the Doctrine of Transcendental Importance vis-à-vis rights pertaining to liberty. Here, the study will dwell on fundamental liberties such as the freedom of the press, freedom of information, freedom of expression, and the freedom of assembly. By analyzing selected cases, the study aims to show the correlation of the two distinct but interconnected legal concepts. It will then be followed by the application of the aforementioned doctrine vis-à-vis rights pertaining to prosperity. Here, property and economic rights will be pinpointed in selected cases as well.

Lastly, a summary of the study will be written before its conclusion.

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Chapter I

INTRODUCTION

Fluid as it is, guidelines concerning the exemptions to the requisites of judicial review are ever evolving. All of these are now subject to the matter at hand and the repercussions of today's time may bring. Specifically speaking, while there may be guidelines pertaining to such application, different interpretations of the same still arise nonetheless.

One of these exemptions to the aforesaid requisites of judicial review is when the case is of transcendental importance. However, jurisprudence and legal journals share the same sentiment that what may be considered as a case of transcendental importance is purely discretionary upon the courts of justice. While a party may consider his or her position to be of paramount significance, the same may not be true in the eyes of those who sit behind the bench.

As the cliché goes, one man's poison can be another man's antidote. Amidst all the guidelines set by the laws and the jurisprudence that interpret a multitude of cases, chances are that these will still be subject to the progressive understanding of whose sala a case is presented to. The danger, or the vagueness attached thereto when it comes to the lacking concreteness of guidelines on considering one to be of transcendental importance, must be addressed by the very same courts vested with the power to review them all.

A. Background of the Study

As provided for in Section 1, Article VIII of the 1987 Constitution, the power to interpret and apply the laws of the land, as well as the Constitution itself, is exclusively vested to the judicial department—specifically that of the Supreme Court and in such lower courts as may be established by law.

The power referred herein is coined as “judicial power” which serves as one of the pillars of the tripartite system of government of the Republic of the Philippines. Accordingly, the same serves as one of the main factors in upholding the concept of checks and balances between the interdependent and co-equal branches of the government.

While this may be considered as the traditional definition of judicial power, the aforesaid provision also comes with it the courts' expanded power of judicial review. It is stated that "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."

One of key features of the vested power is the concept of judicial review. The latter is essential for the maintenance and enforcement of the separation of powers and the balancing of powers among the three great departments of government through the definition and maintenance of the boundaries of authority and control between them.¹

However, the Supreme Court admits that it does not have the unbridled authority to rule on just any and even every claim of constitutional violation.² In a plethora of cases, the Court has established four elements for a litigant to comply with before it can be the subject of judicial review:

1. the existence of an actual case or controversy;
2. that he or she has locus standi;
3. the issue of the unconstitutionality of the law is the *lis mota* of the case; and
4. that the issue of unconstitutionality is raised at the earliest possible opportunity³

Absent any one of these essential requisites, the courts may elect on not to exercise its mandate of judicial review and dismiss the case. However, it has been provided for us by the same Court that at times, one or some of the said requisites may be dispensed with provided that there is a reasonable ratio on why the case should be decided upon by the Court. For example, it is held in a long line of decided cases that the requirement of locus standi, being a mere

¹ Florentino P. Feliciano, *The Application of Law: Some Recurring Aspects Of The Process Of Judicial Review And Decision Making*, 37 A MJJUR 17, 24 (1992).

² James M. Imbong v. Honorable Executive Secretary Paquito Ochoa, G.R. No. 204819, April 8, 2014.

³ *People v. Vera*, No. 45685, 16 November 1937, 65 Phil. 56, 86-89.

procedural technicality, can be waived by the Court in the exercise of its discretion.⁴

The liberal approach has been adopted in several notable cases, permitting ordinary citizens, legislators, and civic organizations to bring their suits involving the constitutionality or validity of laws, regulations, and rulings.⁵ It has seemingly become a prominent trend in recent history of decided cases. The Court has taken an increasingly wide-ranging approach to the rule of locus standi, correlating the same to the requirements of “personal injury.”

Accordingly, one of the factors considered by the court in applying such liberal approach is when the case to be decided before them is of ‘transcendental importance.’ In cases of paramount importance where serious constitutional questions are involved, the standing requirements may be relaxed and a suit may be allowed to prosper even where there is no direct injury to the party claiming the right of judicial review.⁶

However, the aforementioned doctrine has yet to provide us a concrete guideline on what can be considered as a case which is of paramount importance. According to Prof. Solomon Lumba, what is of transcendental importance is again a very subjective interpretation in the sense that the probability that reasonable judges will regularly reach different conclusions in substantially similar actions is unacceptably high.⁷ It was further opined that the doctrine does not mesh with Court decisions recognizing a public interest in breaches of the rule of law. The same is also adverse with some Court decisions that the Case and Controversy clause of the Constitution requires that those who institute actions must have an interest.

Having no concrete and objective ground on how to interpret a seemingly all-encompassing doctrine, what is of transcendental importance remains a very subjective point for interpretation for Justices to decide. Accordingly, different conclusions regarding specific sets of facts which may also be substantially the same with other actions before the Court will yield different interpretations

⁴ *Secretary of Justice v. Lantion*, 379 Phil. 165 (2004); *Bayan Muna v. Romulo*, 656 Phil. 246 (2011).

⁵ *Biraogo v. Philippine Truth Commission* of 2010, G.R. No. 192935, December 7, 2010

⁶ *Bayan (Bagong Alyansang Makabayan) v. Zamora*, G.R. No. 138570, October 10, 2000, 342 SCRA 449, *citing* *Kilosbayan v. Guingona, Jr.*, G.R. No. 113375, May 5, 1994, 232 SCRA 110.

⁷ Lumba, Solomon, “The Problem of Standing in Philippine Law,” ASLI Working Paper, July 2009, <https://law.nus.edu.sg/asli/pdf/WPS003.pdf>

lacking any concrete basis for consideration. This, eventually, may lead to dysfunctional interpretations that may affect the rights of individuals applying their respective cases for judicial review.

Some of the rights enunciated by our Constitution and all the prevailing jurisprudence interpreting the same may be subdivided into two categories: those which are referred to as civil and political rights (or rights pertaining to liberty) and social and economic rights (or rights pertaining to prosperity).

Liberty and prosperity embody the twin beacons of justice.⁸ First, in cases involving liberty, the scales of justice weigh heavily against government and in favor of the people, especially the poor, the oppressed, the marginalized, the dispossessed and the weak. Laws and actions of government and its instrumentalities come to the court highly suspect in their constitutional validity, should they restrict the fundamental rights of our people. Second, in cases involving prosperity and development issues, deference is accorded to the political branches of government; namely, the Presidency and Congress.⁹

These specific rights form part of an indispensable portion of basic rights. While those rights pertaining to liberty are considered as first generational rights and those pertaining to prosperity are referred to as second generational rights, both categories should nevertheless be protected by the courts. In fact, these form as important parts of the fundamental law since these aim at balancing the power of the government and the various freedoms of the individual.

While fundamental liberties are recognized as self-executing rights enforceable by judicial action without need of further legislation, prosperity is appreciated merely as an aspiration rather than as a right; it requires congressional acts before it could find sanctuary in the courts.¹⁰

⁸ Artemio V. Panganiban, *Visionary Leadership By Example*, 9th National Ayala Young Leaders Congress, the San Miguel Corporation Management Training Center, Alfonso, Cavite, February 7, 2007, available at <https://cjpanganiban.com/2007/02/07/visionary-leadership-by-example-2/>.

⁹ Artemio V. Panganiban, *Spreading the Gospel of Liberty and Prosperity*, National Forum on “Liberty and Prosperity”, held on August 24-25, 2006, at the Manila Hotel, available at <https://cjpanganiban.com/2006/08/25/spreading-the-gospel-of-liberty-and-prosperity/>

¹⁰ Artemio V. Panganiban, Equality of Rights to Liberty and Prosperity, *Philippine Daily Inquirer*, April 1, 2018, available at <https://opinion.inquirer.net/112126/equality-rights-liberty-prosperity#ixzz6B4pWhJLj>

If and when these rights cannot be completely accorded to into one category, there must be a method in order to consider these as equal with one another. Cross referencing these to what we call exemptions to particular requisites in judicial review, like that of these instances are of transcendental importance, there will be leeway to consider the same as co-equals among rights protected by the Constitution, the laws, and the decisions of the courts pertaining to such.

Be that as it may, this paper seeks to determine on how the Supreme Court qualifies a case to be of paramount importance. Accordingly, this paper also seeks to determine on how the Supreme Court treats cases involving civil, political, social, and economic rights and determine if all these cases could be considered of paramount or transcendental importance.

B. Statement of the Problem

Throughout the years, the Supreme Court has now decided a plethora of cases which included developments, different applications, and interpretations when it comes to judicial review. One of the most prominent, however, is when the case before the Court is of paramount importance that the preconditions set by the court to exercise its power of judicial review are dispensed with.

Among the four requisites, the actual case or controversy and the legal standing are considered to be as two of the most important. With which, this research paper aims to determine the basis of the Supreme Court when it applied the Doctrine of Transcendental Importance as an exemption in complying with the requisites of judicial review as provided for by jurisprudence, specifically with regard to the requisites of actual case or controversy and legal standing. In addition, this research paper aims to determine the instances on how the Supreme Court applies the said exemption with regard to cases involving civil, political, social, and economic rights.

Specifically, this research paper seeks to resolve the following questions:

1. How do the present rules and jurisprudence qualify a case to be of transcendental importance?

2. If the case involves civil and political rights—or those pertaining to liberty, can the Doctrine of Transcendental Importance be invoked?
3. If the case involves social, and economic rights—or those rights pertaining to prosperity, can the Doctrine of Transcendental Importance be invoked?

C. Significance of the Study

The Supreme Court's approach towards the liberalization of the rules provided for by the Rules of Court has seemingly become a trend in some of the recently decided cases by the same judicial body. Accordingly, several doctrines have been invoked by the Court to justify the same.

Through a review of the decisions laid down by the Supreme Court, this paper seeks to analyze the advancement of how the judicial body exercises the power of judicial review, as well as how it treats the latter's preconditions and requisites.

This paper aims to dwell on the intricacies of how legal standing and actual case or controversy are deliberated upon by the courts cross referenced with the Doctrine of Transcendental Importance as one of the most used exemptions in today's time. The aim of this paper is not only to give light to one of the said doctrine but as well as to determine on how the Court treats cases involving liberty and prosperity, or those cases involving civil, political, social, and economic rights.

The rights pertained to herein, commonly connoted as those pertaining to liberty and prosperity, have long been divided into the said categories as first and second generational rights. While the first generational rights are often regarded as self-executing and primary rights innate in every individual, the second generational rights meanwhile are considered as mere aspirations requiring enabling legislation to be effective and be availed of.

However, the author respectfully submits and believes that social and economic rights are as important as civil and political rights. The separation or categorization must in fact be eliminated in order for an individual to fully make use or be benefitted of the rights given to him by the laws of the land.

This venture can only be made possible with the help of prevailing laws and jurisprudence, connected and analyzed with one another in order to formulate a conclusion which will in fact yield fruits with regard to the rights of individuals pertaining to liberty and prosperity.

D. Objectives of the Study

Jurisprudence, being more progressive and seemingly shifted towards the relaxation of rules pertaining to procedure, now provides us a plethora of cases with different interpretations on several doctrines.

Through an analysis of some of the cases decided by the Court, this paper aims to examine instances on when the Court sees it fit to relax the rules in favor of the one seeking review. Accordingly, with the Doctrine of Transcendental Importance at the helm of it all, this paper seeks to point out instances on how the Supreme Court treats a case as of paramount significance.

The primary aim of this paper is to evaluate the factors considered by the Court in dispensing with the requisites for judicial review. This paper could be used as a benchmark to assess on what factors are considered by the Court for it to determine that a case before it falls under the Doctrine of Transcendental Importance.

This paper intends to help create a parameter to guide practicing lawyers in the field of constitutional litigation. In addition, this paper also seeks to provide a guideline to law students veering through the intricacies of decided cases involving the liberty and prosperity, or those cases involving civil, political, social, and economic rights.

Chapter II

REVIEW OF RELATED LITERATURE

Contemporary studies and literature relevant to this paper are presented in this chapter to further analyze the application of the Doctrine of Transcendental Importance vis-à-vis cases involving liberty and prosperity—or those cases involving civil, political, social, and economic rights.

A. Constitutional Power of Judicial Review

Judicial review refers to the power of the courts to test the validity of governmental acts in light of their conformity with prevalent laws promulgated in the country, as well as the Constitution. This power is vested “in one Supreme Court and such lower courts as may be established by law.”¹¹

However, the judiciary cannot consider this power as an all-encompassing access to determine all cases presented before their respective offices. Article VIII, Section 2 of the 1987 Constitution specifically provides that it is the duty of the judicial department to settle actual controversies involving rights which are legally demandable and enforceable. In addition, these courts may also 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.

The "limitation on the power of judicial review to actual cases and controversies carries the assurance that "the courts will not intrude into areas committed to the other branches of government."¹² Essentially, the foregoing limitation is a restatement of the political question doctrine which, under the classic formulation of *Baker v. Carr*,¹³ applies when there is found, among others, "a textually demonstrable constitutional commitment of the issue to a coordinate political department," "a lack of judicially discoverable and manageable standards for resolving it" or "the impossibility of deciding without an initial policy determination of a kind clearly for non-judicial discretion."

¹¹ Phil. Const. Art. VIII, Sec.1

¹² *Francisco, Jr. v. Toll Regulatory Board*, G.R. No. 166910, October 19, 2010

¹³ 369 US 186 82, S. Ct. 691, L. Ed. 2d. 663 [1962].

As indicated in *Angara v. Electoral Commission*,¹⁴ judicial review is indeed an integral component of the delicate system of checks and balances which, together with the corollary principle of separation of powers, forms the bedrock of our republican form of government and insures that its vast powers are utilized only for the benefit of the people for which it serves.

However, as decided by the same Court in an abundance of cases, the power of judicial review may not be arbitrarily exercised without any valid and sufficient grounds. It must be noted that certain conditional precedents should still be complied with before the Supreme Court may invoke the said aspect of judicial power.

The Courts' power of judicial review, like almost all powers conferred by the Constitution, is subject to several limitations. In a plethora of cases, the Court has established four elements for a litigant to comply with before it can be the subject of judicial review:

- the existence of an actual case or controversy;
- that he or she has locus standi;
- the issue of the unconstitutionality of the law is the *lis mota* of the case; and
- that the issue of unconstitutionality is raised at the earliest possible opportunity¹⁵

When warranted by the presence of indispensable minimums for judicial review, the Court shall not shun the duty to resolve the constitutional challenge that may confront it.¹⁶

i. Actual Case or Controversy

An actual case or controversy involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must

¹⁴ *id*

¹⁵ *People v. Vera*, No. 45685, 16 November 1937, 65 Phil. 56, 86-89.

¹⁶ *Atty. Oliver O. Lozano v. Speaker Prospero C. Nograles*. G.R. No. 187883, June 16, 2009

allege the existence of an immediate or threatened injury to itself as a result of the challenged action.¹⁷

Jurisprudence provides that an actual case or controversy is one which "involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute."¹⁸ In other words, "[t]here must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence."¹⁹ Related to the requirement of an actual case or controversy is the requirement of "ripeness," meaning that the questions raised for constitutional scrutiny are already ripe for adjudication. "A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action."²⁰ "Withal, courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions."²¹

ii. Locus Standi

Legal standing or locus standi has been defined as a personal and substantial interest in the case, such that the party has sustained or will sustain direct injury as a result of the challenged act. Interest means a material interest in issue that is affected by the questioned act or instrument, as distinguished from a mere incidental interest in the question involved.²²

In private suits, locus standi requires a litigant to be a "real party in interest," which is defined as "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."²³ In public suits, this Court recognizes the difficulty of applying the doctrine

¹⁷ *Saguisag v. Ochoa*, 777 Phil. 280, 349 (2016)

¹⁸ *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, G.R. Nos. 183591, 183752, 183893, 183951, and 183962, October 14, 2008, 568 SCRA 402, 450.

¹⁹ *Id.* at 450-451

²⁰ *Francisco, Jr. v. Toll Regulatory Board*, G.R. No. 166910, 169917, 173630, and 183599, October 19, 2010, 633 SCRA 470, 493, citing *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, G.R. Nos. 183591, 183752, 183893, 183951, and 183962, October 14, 2008, 568 SCRA 402, 405.

²¹ *Id.* at 492, citing *Muskrat v. U.S.*, 219 U.S. 346 (1913)

²² *Integrated Bar of the Philippines v. Zamora*, citing *Joya v. PCGG*, 225 SCRA 568, 576, August 24, 1993.

²³ Rules of Civil Procedure (1997), Rule 3, Sec. 2

especially when plaintiff asserts a public right on behalf of the general public because of conflicting public policy issues.²⁴

However, being a mere procedural technicality, it has also been held that locus standi may be waived in the public interest.²⁵ It must be noted that in a catena of cases involving a subject of transcendental import, the Court has waived or relaxed this particular requisite, thus allowing non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been personally injured by the operation of a law or any other government act. In *David*, the Court laid out the bare minimum norm before the so-called "non-traditional suitors" may be extended standing to sue, thusly:

- For taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
- For voters, there must be a showing of obvious interest in the validity of the election law in question;
- For concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
- For legislators, there must be a claim that the official action complained of infringes their prerogatives as legislators.²⁶

iii. Lis mota

Lis mota literally means "the cause of the suit or action." This requisite of judicial review is simply an offshoot of the presumption of validity accorded the executive and legislative acts of our co-equal branches of the government. Ultimately, it is rooted in the principle of separation of powers.

Given the presumed validity of an executive act, the petitioner who claims otherwise has the burden of showing first that the case cannot be resolved unless the constitutional question he raised is determined by the Court.²⁷

²⁴ *David v. Macapagal-Arroyo*, G.R. NOS. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, May 3, 2006, 489 SCRA 160.

²⁵ *David v. Macapagal-Arroyo*, G.R. NOS. 171396, 171409, 171485, 171483, 171400, 171489 & 171424, May 3, 2006, 489 SCRA 160.

²⁶ *Funa v. Villar*, G.R. No. 192791, April 24, 2012

²⁷ *Luis General v. Alejandro Urro*, G.R. No. 181560, March 29, 2011 citing *People v. Vera*, 65 Phil. 56 (1937).

iv. Earliest Possible Opportunity

As decided in the case of *Arceta v. Hon. Judge Mangrobang*, earliest opportunity means that the question of unconstitutionality of the act in question should have been immediately raised in the proceedings in the court below.

Constitutional question must be raised at the earliest possible opportunity, such that if it is not raised in the pleadings, it cannot be considered at the trial, and, if not considered in trial, cannot be considered on appeal. The only exceptions provided for by law are when in criminal cases, the constitutional question can be raised at any time in the discretion of the court. In addition, the constitutional question can be raised at any stage if it is necessary to the determination of the case itself if the case be civil in nature. Lastly, in every case, except where there is estoppel, the constitutional question may be raised at any stage if it involves jurisdiction of the court.²⁸

B. Transcendental Importance in the Philippines

The doctrine, not being concrete as to determine factors which will consider a case as one, has been referred to by many names. At some cases, these cases are called “of paramount importance,” “of overarching significance to society,” “issues raised are of far reaching implications,” or “of paramount public interest” among others. However it may be called and referred to by parties, all these terms refer to a case which seek to be exempted from all the requisites of judicial review in order for them to avail of the latter before the Courts of law.

In 1949, the Doctrine of Transcendental Importance was first introduced to our local jurisdiction in the case of *Araneta v. Dinglasan*. The main issues for resolution in the aforementioned case were: (1) whether Commonwealth Act No. 671 was still in force; and relatedly, (2) whether the executive orders issued pursuant thereto were valid. Specifically, the Committee had to resolve the issue of whether Commonwealth Act No. 671 (and the President's Emergency Powers) continued to be effective after the opening of the regular session of Congress.

²⁸ Cruz, *Philippine Political Law*, p. 247 (1995 ed)

In overruling the objection to the personality or sufficiency of the interest of petitioners in bringing the actions as taxpayers, the Court declared that "[a]bove all, the transcendental importance to the public of these cases demands that they be settled promptly and definitely, brushing aside, if we must, technicalities of procedure."²⁹

The case of Araneta has since then been followed by a myriad of cases where transcendental importance was cited as basis for setting aside objections on legal standing. However, although this doctrine was originally used to relax the rules on locus standi or legal standing, its application would later be loosely extended as an independent justification for direct recourse to the Court.

In Aquino v. Comelec,³⁰ this Court resolved to pass upon the issues raised due to the "far-reaching implications" of the petition notwithstanding its categorical statement that petitioner therein had no personality to file the suit.

According to Prof. Lumba, the Doctrine of Transcendental Importance can now be considered as a judicial construct with at least two variants. The first variant states that courts may decide a case even though the person who instituted it has no standing if the issues raised are of transcendental importance, which was further elaborated in the aforementioned case of Araneta.³¹

As held in the case, it was opined that "[W]e will pass up the objection to the personality or sufficiency of interest of the petitioners. No practical benefit can be gained from a discussion of these procedural matters, since the decision in the cases wherein the petitioners' cause of action or the propriety of the procedure followed is not in dispute, will be controlling authority on the others."³²

The second variant states that if the issues raised are of transcendental importance, courts may recognize a person's standing. It was in Chavez v. Public Estates Authority³³ when, for the first time, it appeared that the transcendental importance doctrine could, apart from its original purpose to

²⁹ Araneta v. Dinglasan, G.R. Nos. 212426 & 212444, January 12, 2016, 779 SCRA 241, 321-333.

³⁰ L-No. 40004, January 31, 1975, 62 SCRA 275.

³¹ Lumba, Solomon, "The Problem of Standing in Philippine Law," ASLI Working Paper, July 2009, <https://law.nus.edu.sg/asli/pdf/WPS003.pdf>

³² G.R. L-2044, August 26, 1949. See also Barredo v. COMELEC, G.R. L-3055-3056, August 26, 1949; Kapatiran v. Tan, G.R. L-81311, June 30, 1988; Association of Small Land Owners v. Secretary

³³ G.R. No. 133250, July 9, 2002, 384 SCRA 152.

overcome objections to standing, stand as a justification for disregarding the proscription against direct recourse to the Court.

On the issue of whether the non-observance of the hierarchy of courts merits the dismissal of the petition, it was ruled by the Court that “the principle of hierarchy of courts applies generally to cases involving factual questions. As it is not a trier of facts, the Court cannot entertain cases involving factual issues. The instant case, however, raises constitutional issues of transcendental importance to the public.”³⁴

Similarly, in *Agan v. PIATCO*, the Court held that in “view of the serious legal questions involved and their impact on public interest, we resolve to grant standing to the petitioners.”³⁵ This can be read to mean that transcendental importance is a condition precedent for the recognition of an interest, which recognition will give a person standing. This reading meshes with Court decisions that the Case and Controversy clause of the Constitution requires that those who institute actions must have an interest.³⁶

It can be observed that the Court has in fact adopted a liberal attitude on the locus standi of a petitioner where the petitioner is able to craft an issue of transcendental significance to the people, as when the issues raised are of paramount importance to the public. Such liberality does not, however, mean that the requirement that a party should have an interest in the matter is totally eliminated.

The Doctrine of Transcendental Importance, in short, may very well be related to the current trend of the Court in liberalizing standing and other legal requirements needed before one can avail of the privilege of judicial review in a case they want to be heard.

And in the seemingly changing trend of the courts in determining the variance between whether a case is of far-reaching effects or not, the Court has now a wide discretion in treating the same as valid for judicial review.

³⁴ Id.

³⁵ G.R. No. 155001, May 5, 2003.

³⁶ Lumba, Solomon, “The Problem of Standing in Philippine Law,” ASLI Working Paper, July 2009, <https://law.nus.edu.sg/asli/pdf/WPS003.pdf>

C. Liberty and Prosperity (Civil, Political, Social, and Economic Rights) as Subject Materiae in Cases for Judicial Review

It is none other than the Universal Declaration of Human Rights which provide for the importance being “entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”³⁷

Together with the UN International Convention on Civil and Political Rights³⁸ and the UN International Convention on the Economic, Social and Cultural Rights³⁹—these specific references constitute the International Bill of Human Rights. These are the international human rights documents that contain fundamental rights that all humans are presumed to have and are, thus, universally protected.

Accordingly, the Philippines, through its Constitution, has adopted and vied for the protection of these aforesaid rights. The 1987 Constitution explains in detail these rights in order to exemplify the importance of what a citizen may have or may protect whether it be his person, his property, or his liberty, among others.

These rights enumerated in the 1987 Constitution may very well be subdivided into different categories as well. These may be identified according to civil, political, economic, social, and cultural rights.

Civil and political rights pertain to the personal autonomy of the individual, or rights mandates that the State refrain from doing an act that unduly interferes with an individual’s exercise of civil and political rights. Thus, the State traditionally performs a negative duty to guarantee the protection of these rights, which are generally self-executory.⁴⁰ These rights are also referred to as the “first generation rights,” as they were given recognition first in the history of the world.

³⁷ Art. II, Universal Declaration of Human Rights, Dec. 10, 1948, available at <https://www.refworld.org/docid/3ae6b3712c.ht>

³⁸ International Covenant on Civil and Political Rights, Dec. 16, 1966, available at <https://www.refworld.org/docid/3ae6b3aa0.html>

³⁹ International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, available at <https://www.refworld.org/docid/3ae6b36e0.html>

⁴⁰ Noel Villaroman, COMPENDIUM OF TERMS AND PHRASES ON HUMAN RIGHTS 114 (2002).

Civil and political rights encompass rights to physical integrity, which include the right to life, the right to be free from inhumane or degrading treatment or punishment, freedom from slavery and servitude and freedom from discrimination on the one hand, and rights to individual liberties, inclusive of the right of privacy freedom of thought, conscience, and religion, freedom of opinion and expression and the right of marriage, on the other hand.⁴¹

These rights are enumerated under Article III of the 1987 Constitution, or collectively known as the Bill of Rights. The aforementioned part of the Constitution includes in itself 22 sections which declare a Filipino citizen's rights and privileges that the Constitution protects at all cost.

It must be noted that the restriction provided in the Bill of Rights is directed against the government, so that it does not govern private relations. As far as the Constitution is concerned, Article III can be invoked only against the government. Nonetheless, with the inclusion of almost all the constitutional rights in Article 32 of the Civil Code, the same may now be invoked in civil cases involving relations between private persons. Thus, the definition above indicates that the bill of rights is a safeguard not just against the abuses of the government but also of individuals or group of individuals.

Meanwhile, economic, social, and cultural rights seek to promote a better quality of living and insure the wellbeing and economic security of the individual. These are referred to as the "second generation rights," and the State has to intervene through legislation to create an institutional system that allows their realization.⁴²

The 1987 Constitution contains multiple and specific provisions on socio-economic rights. Some are found in Article II (Declaration of Principles and State Policies), others in Articles XIII (Social Justice and Human Rights), XIV (Education, Science and Technology, Arts, Culture, and Sports), and XV (The Family).⁴³

Though there is reference to first and second generation rights, all human rights are intrinsically connected and cannot be viewed in isolation from

⁴¹Aguiling-Pangalangan, PARENTS AND CHILDREN: WHEN LAW AND TECHNOLOGY UNBUNDLE TRADITIONAL IDENTITIES

⁴²Noel Villaroman, COMPENDIUM OF TERMS AND PHRASES ON HUMAN RIGHTS 114 (2002)

⁴³Diane A. Desierto, Justiciability of Socio-Economic Rights: Comparative Powers, Roles, and Practices in the Philippines and South Africa

each other. The indivisibility and interdependence of human rights improves the enjoyment of one right and facilitates the advancement of other rights.⁴⁴

According to Fr. Bernas, there exist three concepts of rights under the Philippine constitutional framework: civil liberties, political freedoms, and economic freedoms. These rights were delineated by a thin but dividing line by the Constitutional Commission of 1986. In his book, Fr. Bernas emphasized that “[t]o civil liberties belong freedom from arbitrary confinement, inviolability of the domicile, freedom from arbitrary searches and seizures, privacy of correspondence, freedom of movement, free exercise of religion and free choices involving family relations.

Political freedoms include the freedoms involving participation in the political process, freedom of assembly and association, the right to vote, the right of equal access to office, the freedom to participate in the formation of public opinion, and also non-establishment of religion or what is popularly called separation of church and state.

Economic freedom covers everything that comes under the heading of “economic self-determination,” free pursuit of economic activity; in general, free choice of profession, free competition and free disposal of property. It should be emphasized, however, that in the hierarchy of freedom under existing jurisprudence, economic freedom ranks the lowest and it is the freedom whose reasonable invasion by the state is easily allowed.”⁴⁵

In the Philippine setting, various cases involving human rights have already been decided upon by the Supreme Court itself. In most cases, the decisions referred therein have been based on not only local, domestic, or municipal laws pertaining to the rights of individuals. Some are still reliant to the internationally accepted principles in international law which have been adopted through the principle of incorporation. While there are numerous standards which can be held as basis in determining what cases involving human rights are apt and ripe for judicial review, it is still the Courts which will have the final say in determining if such cases are to be so.

⁴⁴ U.N. Human Rights Office of the High Commissioner, What are Human Rights?, at <https://www.ohchr.org/en/issues>

⁴⁵ JOAQUIN G. BERNAS, S.J., THE 1987 PHILIPPINE CONSTITUTION (Rex, 2011)

Chapter III ANALYSIS AND DISCUSSION

This chapter discusses the analysis and relevant discussion of selected cases, codal provisions, and other pertinent laws and legal basis pertaining to the application of the Doctrine of Transcendental Importance vis-à-vis liberty and prosperity. The subject matter used are selected in accordance with the general and specific objectives of the study, as well as its statements of the problem and the concurrent scope and limitation mentioned in the previous chapters.

A. Guidelines for the Doctrine of Transcendental Importance

Transcendental Importance is not defined in our jurisprudence. However, in the case of *Francisco v. House of Representatives*⁴⁶, it was opined that there being no doctrinal definition of transcendental importance, the following instructive determinants formulated by former Supreme Court Justice Florentino P. Feliciano are instructive:

- a. the character of the funds or other assets involved in the case;
- b. 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
- c. the lack of any other party with a more direct and specific interest in raising the questions being raised.⁴⁷

In addition to the determinants set in the aforementioned case, it must also be shown that there is a clear or imminent threat to fundamental rights. As provided for in an opinion in *Imbong v. Ochoa*,⁴⁸ it was elaborated that “the transcendental importance of the issues they want us to decide will be better served when we wait for the proper parties suffering real, actual, or more imminent injury.”⁴⁹

Accordingly, before a party may avail of any relief or remedy pertaining to his or her case, he or she must have a substantial interest in issue that is

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

⁴⁷ *Francisco v. Nagmamalaskit na mga Manggagawang Pilipino, Inc.*, citing *Kilosbayan, Incorporated v. Guingona, Jr.*, 232 SCRA 110 (1994)

⁴⁸ G.R. No. 204819, et al., April 8, 2014 [Per J. Mendoza, En Banc]

⁴⁹ J. Leonen, dissenting opinion in *Imbong v. Ochoa*, G.R. No. 204819, et al., April 8, 2014 [Per J. Mendoza, En Banc]

affected by the questioned act or instrument, as distinguished from a mere incidental interest in the question involved. As evaluated in the case of David v. Arroyo⁵⁰, the Court has adopted a rule that even where the petitioners have failed to show direct injury, they have been allowed to sue under the principle of "transcendental importance."

Pertinent to the instances of applying the Doctrine of Transcendental Importance are the following cases:

- a. Chavez v. Public Estates Authority,⁵¹ where the Court ruled that the enforcement of the constitutional right to information and the equitable diffusion of natural resources are matters of transcendental importance which clothe the petitioner with locus standi;
- b. Bagong Alyansang Makabayan v. Zamora,⁵² wherein the Court held that "given the transcendental importance of the issues involved, the Court may relax the standing requirements and allow the suit to prosper despite the lack of direct injury to the parties seeking judicial review" of the Visiting Forces Agreement;
- c. Lim v. Executive Secretary,⁵³ while the Court noted that the petitioners may not file suit in their capacity as taxpayers absent a showing that "Balikatan 02-01" involves the exercise of Congress' taxing or spending powers, it reiterated its ruling in Bagong Alyansang Makabayan v. Zamora,⁵⁴ that in cases of transcendental importance, the cases must be settled promptly and definitely and standing requirements may be relaxed.

By way of summary, the following rules may be culled from the cases decided by this Court. Taxpayers, voters, concerned citizens, and legislators may be accorded standing to sue, provided that the following requirements are met:

- a. the cases involve constitutional issues;

⁵⁰ G.R. No. 171396, May 3, 2006

⁵¹ G.R. No. 133250, July 9, 2002, 384 SCRA 152.

⁵² G.R. Nos. 138570, 138572, 138587, 138680, 138698, October 10, 2000, 342 SCRA 449.

⁵³ G.R. No. 151445, April 11, 2002, 380 SCRA 739.

⁵⁴ *Supra*.

- b. for taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
- c. for voters, there must be a showing of obvious interest in the validity of the election law in question;
- d. for concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
- e. for legislators, there must be a claim that the official action complained of infringes upon their prerogatives as legislators.⁵⁵

The rule on locus standi is, after all, a procedural technicality which the Court has, on more than one occasion, waived or relaxed, thus allowing non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been directly injured by the operation of a law or any other government act. The Court cannot, and should not, exercise judicial restraint at this time when rights enshrined in the Constitution are being imperiled to be violated.⁵⁶

Verily, a mere invocation of transcendental importance in the pleading is not enough for the court to set aside procedural rules. The events in a petition cannot be merely speculative and conjectural⁵⁷. 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 allegations⁵⁸.

It must again be noted that the guidelines set forth by Justice Feliciano are merely instructive. Accordingly, it must also be considered that while there are already guidelines pertaining to the same, we must also prioritize the most basic and fundamental rights of all—those which involve liberty and prosperity among individuals. Civil, political, social, and economic rights must come into place above all other rights that may be ripe for judicial review.

⁵⁵ David v. Arroyo, G.R. No. 171396, May 3, 2006

⁵⁶ Imbong v. Ochoa, G.R. No. 204819, April 8, 2014

⁵⁷ In the Matter Of: Save the Supreme Court Judicial Independence and Fiscal Autonomy Movement v. Abolition of Judiciary Development Fund (JDF) and Reduction of Fiscal Autonomy, UDK-15143, January 21, 2015 [Per J. Leonen]

⁵⁸ J. Leonen, concurring and dissenting opinion in Social Justice Society (SJS) Officers v. Lim, G.R. No 187836, November 25, 2014 34-35 [Per J. Perez, En Banc].

B. Doctrine of Transcendental Importance vis-à-vis Liberty

Fundamental liberties, wherever an individual may be, are inalienable rights which are protected at all times. In the Philippines, it is none other than the Constitution which provide for its modes and methods of protection against certain abuses. Article III of the 1987 Constitution provide for our country's Bill of Rights which outlines the basic rights that a citizen possess.

Accordingly, these rights are those in which the government cannot infringe upon and serves as an enumeration of the rights against the abuses which may be committed by the actors of the State. With which, all governmental acts are limited and confined to the bounds of what are provided for in the Bill of Rights when confronted with conflict relating to personal rights. It can then be referred that the role of the government in such a situation is to weigh in the fundamental rights enunciated in Article III of the Constitution together with how the State should act upon the same.

The purpose of the Bill of Rights is to “withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, and to establish them as legal principles to be applied by the courts.”⁵⁹

However, several philosophies and beliefs regarding the concepts of liberties and government action have been made which are mainly in favor of an individual's plight. According to Ret. Chief Justice Aretmio J. Panganiban, “in cases involving liberty, the scales of justice should weigh heavily against the government and in favor of the poor, the oppressed, the marginalized, the dispossessed and the weak. Laws and actions that restrict fundamental rights, like freedom of expression and of the press, come to the courts with a heavy presumption against their validity. This policy is commonly referred to as “heightened” or “strict” scrutiny.”⁶⁰

In his sponsorship speech to the Bill of Rights during the deliberation of the Constitutional Commission, Father Joaquin G. Bernas, S.J. classified,

⁵⁹ Philippine Blooming Mills Employees Organization v. Philippine Blooming Mills Co. Inc., 51 SCRA 182, 202 (1973).

⁶⁰ Visionary Leadership by Example, Keynote address delivered on the opening day of the 9th National Ayala Young Leaders Congress (AYLC 2007) on February 7-9, 2007, at the San Miguel Corporation Management Training Center, Alfonso, Cavite.

though the distinction may be thin, three traditional freedoms protected by the constitution: civil liberties, political freedoms, and economic freedoms.⁶¹

Under the first classification, civil liberties include freedom from arbitrary confinement, inviolability of the domicile, freedom from arbitrary searches and seizures, privacy of correspondence, freedom of movement, free exercise of religion, and free choices involving family relations. Under the second classification, political freedoms include the freedoms involving participation in the political process, freedom of assembly and association, the right to vote, the right of equal access to office, the freedom to participate in the formation of public opinion, and the non-establishment of religion. Lastly, economic freedoms include free choice of profession, free competition, free disposal of property, and free pursuit of economic activity.⁶²

With which, it can be averred that those which categorize as freedom of speech, press, and assembly for redress of grievances against the government can be classified as civil liberties.

i. A Modern Approach in Traditional Freedom

In the case of *ABS-CBN Broadcasting Corporation v. Commission on Elections*⁶³, the fundamental rights of freedom of expression and the freedom of the press was highlighted in the age of modernization. In this case, a restraining order to stop ABS-CBN or any other groups, its agents or representatives was issued. It ordered the subject company to refrain from conducting exit polls and surveys.

The electoral body believed that such project might conflict with the official count and results coming from the COMELEC. In addition, it was believed that it will also show conflict with the unofficial quick count of the National Movement for Free Elections (NAMFREL) as well. It also noted that it had not authorized or deputized Petitioner ABS-CBN to undertake the exit survey.

With regard its procedural issues, the Office of the Solicitor General (OSG) contended that the petition is moot and academic and that there is no longer an actual controversy before the court. The OSG further contended that

⁶¹ I Record of the Constitutional Commission 674 (1986)

⁶² Id.

⁶³ G.R. No. 133486, January 28, 2000 [Per J. Panganiban]

the Petition should be dismissed for petitioner's failure to exhaust available remedies before the issuing forum, specifically the filing of a motion for reconsideration.

It was held by the Court that the issue was not totally moot. According to which, the implications of the assailed resolution not only refers to the past elections. It transcends the latter because the holding of periodic elections is a necessary part of the country's government as per the Constitution.

In *Salonga v. Cruz Paño*,⁶⁴ the Court had occasion to reiterate that it "also has the duty to formulate guiding and controlling constitutional principles, precepts, doctrines, or rules. It has the symbolic function of educating bench and bar on the extent of protection given by constitutional guarantees." Because the fundamental freedoms of speech and of the press are among the main issues therein, it was then resolved by the Court to determine whether the given situation likewise protect the holding of exit polls and the dissemination of data derived therefrom.

However, amidst the contention, the Court opined that the procedural requirement may be glossed over to prevent a miscarriage of justice. According to the Court, these procedural requirements may be relaxed when the issue involves the principle of social justice or the protection of labor, when the decision or resolution sought to be set aside is a nullity, or when the need for relief is extremely urgent and certiorari is the only adequate and speedy remedy available. The petition in the case at bar, according to the Court, involved transcendental constitutional issues. The direct resort to the court through a special civil action for certiorari was therefore justified.

Regarding the validity of conducting exit polls, it was decided by the court "that the holding of exit polls and the nationwide reporting their results are valid exercises of the freedoms of speech and of the press." The freedom of expression is a fundamental principle of our democratic government. It "is a 'preferred' right and, therefore, stands on a higher level than substantive economic or other liberties. . . . [T]his must be so because the lessons of history, both political and legal, illustrate that freedom of thought and speech is the indispensable condition of nearly every other form of freedom."⁶⁵

⁶⁴ G.R. No. 59525, February 18, 1985, per J. Gutierrez Jr.

⁶⁵ Id.

The freedoms of speech and of the press should all the more be upheld when what is sought to be curtailed is the dissemination of information meant to add meaning to the equally vital right of suffrage.⁶⁶ When faced with borderline situations in which the freedom of a candidate or a party to speak or the freedom of the electorate to know is invoked against actions allegedly made to assure clean and free elections, the Court shall lean in favor of freedom.⁶⁷

It can be averred in which that the fundamental liberty of free speech and expression were given weight and due course as opposed to governmental primacy. Because of the preferred status of the constitutional rights involved in the said case, a resolution or even a law prohibiting or hindering in any form or manner then mode of expression more or less would be invalidated. Accordingly, because what is involved is an electoral body and the right of an individual relating to the preferred right, it is also considered as a case of transcendental importance.

ii. Executive Privilege and a Check in Vested Powers

In the case of *Senate v. Ermita*,⁶⁸ the President issued E.O. 464, "Ensuring Observance of the Principle of Separation of Powers, Adherence to the Rule on Executive Privilege and Respect for the Rights of Public Officials Appearing in Legislative Inquiries in Aid of Legislation Under the Constitution, and For Other Purposes," which, pursuant to Section 6 thereof, took effect immediately.

In essence, E.O. 464 barred any official hailing from the executive branch, as well as some military ranks and personnel, to appear before Senate Committee hearings without any authorization or confirmation coming from the President. With which, the senators spearheading the proceedings assailed E.O. 464 as unconstitutional. According to them, the executive order barred the legislature from performing their functions and duties properly. Specifically, they argued that E.O. 464 violated the following provisions of the 19787 Constitution: Article VI, Sections 1, 21, and 22; Article XI, Section 1; Article III, sections 4 and 7; Article XIII, Section 13; and Article II, Section 28.

Among others, some of those constitutional provisions which were raised to be violated involved those included in the Bill of Rights. According to

⁶⁶ *Mutuc v. COMELEC*, 36 SCRA 228, 233-34, November 26, 1970; per J. Fernando

⁶⁷ *Id.*

⁶⁸ G.R. No. 169777, April 6, 2006, Per J. Carpio-Morales

Section 4 of the said Article, “no law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.”⁶⁹ In addition, Sec. 7 of the same Article provides that “the right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.”⁷⁰

With regard the procedural issues, the requisites before the power of judicial review may be exercised were determined if present. Regarding the legal standing of the petitioners, the Court ruled that the individual members of the Senate, as well as the Senate as an entity, have a substantial and direct interest in the outcome of the controversy. Accordingly, it was held that they are the proper party to assail the constitutionality of EO 464. It is well-settled that when suing as a citizen, the interest of the petitioner in assailing the constitutionality of laws, presidential decrees, orders, and other regulations, must be direct and personal. In *Francisco v. House of Representatives*,⁷¹ the Court held that when the proceeding involves the assertion of a public right, the mere fact that he is a citizen satisfies the requirement of personal interest.

It was averred by the Court that members of the legislature had the standing “to maintain as inviolate the prerogatives, powers and privileges vested by the Constitution in their offices; and they were allowed to sue to question the validity of any official action that allegedly infringed upon their prerogatives as legislators.”⁷²

In the same vein, the Party-List Representatives submitting their respective petitions also had legal standing to question the constitutionality of E.O. 464. According to the Court, it was sufficient that the said executive order infringed on their constitutional rights and duties as members of Congress to conduct investigations in aid of legislation and to perform oversight functions in the implementation of laws.

⁶⁹ Article III, Section 4, 1987 Constitution.

⁷⁰ Article III, Section 7, 1987 Constitution.

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

⁷² *Id.*

As for petitioner PDP-Laban, it asseverates that it is clothed with legal standing in view of the transcendental issues raised in its petition which this Court needs to resolve in order to avert a constitutional crisis. For it to be accorded standing on the ground of transcendental importance, however, it must establish (1) the character of the funds (that it is public) 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 party with a more direct and specific interest in raising the questions being raised.

It was, however, decided by the Court that the first and last determinants not being present as no public funds or assets are involved and petitioners in G.R. Nos. 169777 and 169659 have direct and specific interests in the resolution of the controversy, petitioner PDP-Laban is bereft of standing to file its petition.

Regarding the substantive issues, what stands out the most regarding civil liberties is whether E.O. 464 violates the right of the people to information on matters of public concern. Executive Order 464 concerns only the demands of Congress for the appearance of executive officials in the hearings conducted by it, and not the demands of citizens for information pursuant to their right to information on matters of public concern. The demand of citizens for the production of documents pursuant to their right to information does not have the same obligatory force as a subpoena duces tecum issued by Congress. Neither does the right to information grant citizens the power to exact testimony from government officials. These powers belong only to Congress and not to an individual citizen.

Thus, while Congress is composed of representatives elected by the people, it does not follow, except in a highly qualified sense, that in every exercise of its power of inquiry, the people are exercising their right to information. Investigations in aid of legislation, though, are generally conducted in public. To the extent that any executive issuance tending unduly to limit disclosures of information in those investigations necessarily deprives the people of information that, being in aid of legislation, is presumed to be a matter of public concern.

The citizens are thereby denied access to information which they can use in formulating their own opinions on the matter before Congress — opinions which they can then communicate to their representatives and other

government officials through the various legal means allowed by their freedom of expression. The impairment of the right of the people to information as a consequence of E.O. 464 is, therefore, in the sense explained above, just as direct as its violation of the legislature's power of inquiry.

iii. Primacy in Assembly

In the case of *Bayan v. Ermita*,⁷³ the petitioners herein contested and questioned the constitutionality of Batas Pambansa 880 and the so-called policy of "Calibrated Preemptive Response" or CPR.

Summarized according to their substantive portions, Batas Pambansa 880 (also known as the Public Assembly Act of 1985), is a law which governs and lays down guidelines pertaining to the holding of public assemblies or rallies. The said guidelines include the process of application before a permit may be issued, actions to be taken for the latter, the permissible conduct of law enforcement authorities regarding the same, and the prohibited acts and their accompanying penalties.

The CPR, on the other hand, was a policy announced in a Malacañang press release dated September 21, 2005. In essence, the following reflect that of its substantive and important portion: "The rule of calibrated preemptive response is now in force, in lieu of maximum tolerance. The authorities will not stand aside while those with ill intent are herding a witting or unwitting mass of people and inciting them into actions that are inimical to public order, and the peace of mind of the national community."

Bayan, et al. alleged that they are citizens and taxpayers of the Philippines and that their rights as organizations and individuals were violated when the rally they participated in on October 6, 2005 was violently dispersed by policemen implementing Batas Pambansa (B.P.) No. 880.

KMU, et al., claimed that on October 4, 2005, a rally KMU co-sponsored was to be conducted at the Mendiola bridge but police blocked them along C.M. Recto and Lepanto Streets and forcibly dispersed them, causing injuries to several of their members.

⁷³ G.R. No. 169838, April 25, 2006

All petitioners assail that Batas Pambansa No. 880, some of them in toto and others only Sections 4, 5, 6, 12, 13(a), and 14(a), as well as the policy of CPR, are unconstitutional. They seek to stop violent dispersals of rallies under the "no permit, no rally" policy and the CPR policy recently announced.

It was averred by the petitioners that Batas Pambansa 880 in fact violated the Constitution because it required a permit before one could stage a public assembly. They even added that the said law was repugnant to the freedom-of-expression clause. This is because Batas Pambansa 880 curtailed the choice of venue and that it was not allegedly not content-neutral.

The issues concerning the case at bar both revolve around the constitutionality of Batas Pambansa 880 and the CPR Policy. Regarding the procedural aspect, it was held by the Court that the standing of the petitioners cannot be seriously challenged. The legal standing of the said petitioners is present because what are directly affected are their rights as citizens to engage in peaceful assembly and to petition for the redress of grievances, as guaranteed by the Constitution, particularly Sections 4 and 8 of Article III, Section 2(5) of Article IX, and Section 3 of Article XIII.

As held in the case, primacy is given to the right to assemble peaceably and petition for redress of grievances in the realm of constitutional protection; as well as to exercise freedoms of speech, of expression, and of the press. These rights constitute the very basis of a functional democratic polity, without which all the other rights would be meaningless and unprotected.

To be clear, the Court reiterated that the first point to mark is that the right to peaceably assemble and petition for redress of grievances is, together with freedom of speech, of expression, and of the press, a right that enjoys primacy in the realm of constitutional protection. For these rights constitute the very basis of a functional democratic polity, without which all the other rights would be meaningless and unprotected.

However, it was opined by the same Court that while there is primacy in the freedom of speech and in the freedom of assembly, such freedoms are never absolute. As held in the case of *Primicias v. Fugoso*,⁷⁴ "The right to freedom of speech, and to peacefully assemble and petition the government for redress of grievances, are fundamental personal rights of the people recognized

⁷⁴ G.R. No. L-1800, January 27, 1948, Per J. Feria

and guaranteed by the constitutions of democratic countries. But it is a settled principle growing out of the nature of well-ordered civil societies that the exercise of those rights is not absolute for it may be so regulated that it shall not be injurious to the equal enjoyment of others having equal rights, nor injurious to the rights of the community or society.

In addition, the Court held that Batas Pambansa 880 was enacted after the former rendered its decision in the case of *Reyes v. Bagatsing*.⁷⁵ In the aforementioned case, it was summarized that before the applicants may file for a permit to hold an assembly, they should inform the licensing authority of the date, the public place where and the time when it will take place.

It is an indispensable condition to such refusal or modification that the clear and present danger test be the standard for the decision reached. If he is of the view that there is such an imminent and grave danger of a substantive evil, the applicants must be heard on the matter. Thereafter, his decision, whether favorable or adverse, must be transmitted to them at the earliest opportunity. Thus if so minded, they can have recourse to the proper judicial authority.

This jurisprudential guideline was codified in Sections 4, 5, and 6 of Batas Pambansa 880. It was asserted that Batas Pambansa 880 is not an absolute ban on public assemblies. The same law merely regulates the time, place, and manner on how assemblies are conducted. This was adverted to in *Osmeña v. Comelec*,⁷⁶ where the Court referred to it as a "content-neutral" regulation of the time, place, and manner of holding public assemblies.

However, it was decided that the CPR policy was declared null and void insofar as the policy purported to differ from or to be applied in line with the maximum tolerance which shall be strictly observed by the respondents.

The Court ruled that CPR served no valid purpose if it meant the same as the maximum tolerance mandated by the said law; otherwise, the policy was illegal. Maximum tolerance meant the highest degree of restraint that the military, police and other peace-keeping authorities should observe during the holding or the dispersal of a public assembly. Accordingly, such tolerance should be followed, as mandated by the law itself. As provided for in the case,

⁷⁵ G.R. No. L-65366, November 9, 1983, 125 SCRA 553, 569

⁷⁶ G.R. No. 132231, March 31, 1998, per J. Mendoza

it was held that the one of the Court's basic policy is the upholding of the fundamental rights of the people, especially freedom of expression and freedom of assembly.

It was elaborated in the same case that "the so-called calibrated preemptive response policy has no place in our legal firmament and must be struck down as a darkness that shrouds freedom. It merely confuses our people and is used by some police agents to justify abuses.

On the other hand, B.P. No. 880 cannot be condemned as unconstitutional; it does not curtail or unduly restrict freedoms; it merely regulates the use of public places as to the time, place and manner of assemblies. Far from being insidious, "maximum tolerance" is for the benefit of rallyists, not the government. The delegation to the mayors of the power to issue rally "permits" is valid because it is subject to the constitutionally-sound "clear and present danger" standard.

iv. Summary

In summary, it can be averred that if and when what is involved are rights pertaining to civil liberties, the Doctrine of Transcendental Importance is often invoked by the Court. The guidelines set by Justice Florentino P. Feliciano are followed and that the liberalization when it comes to procedure is also observed. This is true especially when what is invoked is a provision provided for by the Bill of Rights, especially those mentioned and specified under Article III, Section 4. As may be observed in the discussion, if the case primarily involves a violation of the freedom of speech, expression, of the press, or of the right to peaceably assemble, these cases are mostly decided upon even if there may be lapse in procedural requisites.

One must be able to cross-reference the list provided for by Justice Feliciano regarding what may be considered as a case of transcendental importance to the traditional civil liberties provided for by the Constitution. With which, it may be observed that for as long as what is violated is a right under the Bill of Rights, or those specifically pertaining to the fundamental civil liberties of speech, expression, and assembly, these situations must be considered as those which transcend ordinary legal problems.

C. Doctrine of Transcendental Importance vis-à-vis Prosperity

Under another classification of rights, economic liberties include the free choice of profession, free competition, free disposal of property, and free pursuit of economic activity.⁷⁷ These may be regarded as property rights according to the Hierarchy of Rights.

According to the Constitution, “no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.”⁷⁸ While the protection of property is mentioned and observed in the Bill of Rights, there still lies a primacy between its different categories.

In addition, these rights are those in which the government cannot infringe upon and serves as an enumeration of the rights against the abuses which may be committed by the actors of the State. With which, all governmental acts are limited and confined to the bounds of what are provided for in the Bill of Rights when confronted with conflict relating to personal rights. It can then be referred that the role of the government in such a situation is to weigh in the fundamental rights enunciated in Article III of the Constitution together with how the State should act upon the same.

As explained by the Court in one of its cases, the primacy of human rights is recognized over property rights. According to the Court, these freedoms are delicate and vulnerable, as well as supremely precious in our society. Human rights are imprescriptible, while property and the rights attached to which can be lost through prescription. In the hierarchy of civil liberties, the rights of free expression and assembly occupy a preferred position, as they are essential to the preservation and vitality of civil and political institutions. The superiority of these freedoms over property rights is underscored by the fact that a mere reasonable or rational relation between the means employed by the law and its object or purpose—that the law is neither arbitrary nor discriminatory, nor oppressive—would suffice to validate a law which restricts or impairs property rights.⁷⁹

⁷⁷ Record of the Constitutional Commission 674 (1986)

⁷⁸ Section 1, Article III, 1987 Constitution

⁷⁹ *Philippine Blooming Mills Employees Organization v. Philippine Blooming Mills Co. Inc.*, 51 SCRA 182, 202 (1973).

However, the imposition of the Doctrine of Hierarchy of Rights does not mean that property rights should not be protected at all. In his commentary, Father Bernas stated that “Property is as important as life and liberty. The reason for the regulation of property is to make it beneficial to all. Under the Constitution, property is protected because it portrays a social function. Property is more closely regulated not in order to oppress the owner but in order to impress upon him the social character of what he holds.”⁸⁰

i. Economic Policies and Deference to Wisdom

In the case of *Tanada v. Angara*,⁸¹ then Sen. Wigberto Tanada along with other lawmakers, taxpayers, and various Non-Government Organizations (NGOs), filed a petition to nullify the Philippine ratification of the World Trade Organization (WTO) Agreement.

The petitioners in the case at bar believed that the act of ratification by the Senate was detrimental to the growth of the country’s economy. In addition, they averred that such ratification was against the “Filipino First” policy.

In addition, the petitioners contended that the agreement was in fact in contravention of what the Constitution provides. It was specifically averred that the agreement was in fact an assault on the sovereign powers of the Philippines because it meant that Congress could not pass legislation that would not be good for the national interest and general welfare if such legislation would not conform to the WTO Agreement.

In such a situation, the Court deemed it fit to answer the issues on whether or not the Philippine Constitution prohibits Philippine participation in worldwide trade liberalization and economic globalization. In addition, the Court also deemed it fit to answer on whether or not the Constitution proscribes Philippine integration into a global economy that is liberalized, deregulated and privatized.

During its deliberations on the case, the Court noted that the respondents did not question the locus standi of petitioners. Hence, they are also deemed to have waived the benefit of such issue. They probably realized that grave constitutional issues, expenditures of public funds and serious

⁸⁰ Bernas Commentary, Father Joaquin Bernas

⁸¹ G.R. No. 118295, May 2, 1997, Per J. Panganiban

international commitments of the nation are involved here, and that transcendental public interest requires that the substantive issues be met head on and decided on the merits, rather than skirted or deflected by procedural matters.

Regarding the issue of economic nationalism, the Court first discussed the “national treatment” and the “parity provisions” of the WTO Agreement. It was the petitioners’ position that the provisions allegedly render meaningless the phrase “effectively controlled by Filipinos.” According to them, the constitutional conflict becomes more manifest when viewed in the context of the clear duty imposed on the Philippines as a WTO member to ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed agreements.

On the other hand, respondents through the Solicitor General counter (1) that such Charter provisions are not self-executing and merely set out general policies; (2) that these nationalistic portions of the Constitution invoked by petitioners should not be read in isolation but should be related to other relevant provisions of Art. XII, particularly Secs. 1 and 13 thereof; (3) that read properly, the cited WTO clauses do not conflict with Constitution; and (4) that the WTO Agreement contains sufficient provisions to protect developing countries like the Philippines from the harshness of sudden trade liberalization.

The Court reiterated that by its very title, Article II of the Constitution is merely a “declaration of principles and state policies.” The principles in Article II are not intended to be self-executing principles ready for enforcement through the courts. They are used by the judiciary as aids or as guides in the exercise of its power of judicial review, and by the legislature in its enactment of laws.

As held in the leading case of *Kilosbayan, Incorporated vs. Morato*,⁸² the principles and state policies enumerated in Article II and some sections of Article XII are not “self-executing provisions, the disregard of which can give rise to a cause of action in the courts. They do not embody judicially enforceable constitutional rights but guidelines for legislation.”

In addition, it was opined that the reasons for denying a cause of action to an alleged infringement of board constitutional principles are sourced from

⁸² G.R. No. 118910, November 16, 1995, per J. Mendoza

basic considerations of due process and the lack of judicial authority to wade "into the uncharted ocean of social and economic policy making."⁸³

On the other hand, Sections 10 and 12 of Article XII, apart from merely laying down general principles relating to the national economy and patrimony, should be read and understood in relation to the other sections in said article. Economic nationalism should be read with other constitutional mandates to attain balanced development of economy.

All told, while the Constitution indeed mandates a bias in favor of Filipino goods, services, labor and enterprises, at the same time, it recognizes the need for business exchange with the rest of the world on the bases of equality and reciprocity and limits protection of Filipino enterprises only against foreign competition and trade practices that are unfair.

In other words, the Constitution did not intend to pursue an isolationist policy. It did not shut out foreign investments, goods and services in the development of the Philippine economy. While the Constitution does not encourage the unlimited entry of foreign goods, services and investments into the country, it does not prohibit them either. In fact, it allows an exchange on the basis of equality and reciprocity, frowning only on foreign competition that is unfair.

Furthermore, the constitutional policy of a "self-reliant and independent national economy" does not necessarily rule out the entry of foreign investments, goods and services. It contemplates neither "economic seclusion" nor "mendicancy in the international community." The WTO reliance on "most favored nation," "national treatment," and "trade without discrimination" cannot be struck down as unconstitutional as in fact they are rules of equality and reciprocity that apply to all WTO members.

While the Court may have deferred from questioning the wisdom behind the policy to which the Senate concurred to, the Court nonetheless considered the case of paramount importance that it relaxed its procedural requirements in order to decide upon the substantive aspects of the case. In addition, while what were involved were economic rights, the same was still considered as a case of transcendental importance. Even if there exists the Hierarchy of Rights

⁸³ Oposa v. Factoran, G.R. No. 101083, July 30, 1993, per J. Davide Jr.

were property rights are below traditional liberties, the Court still opined that the issues of the case require foremost attention.

ii. Summary

While a hierarchy among rights as well as preference of the same exists, it still cannot be denied that all of those rights mentioned in Article III of the Constitution may be subject to or even grounds before a case may be considered as a case of transcendental importance. Whether it be traditional liberties, political liberties, or those pertaining to economic rights such as properties, all these can still be cases considered by the Court as important. Accordingly, when these rights are involved, the liberalization and relaxing of procedural requirements may be observed as well. With which, it can be observed that while there may be rights which are given primacy over the other, rights pertaining to liberty and prosperity may be considered as equally important if they are branded as elements of transcendental importance.

Chapter IV: FINDINGS AND CONCLUSION

This chapter includes the summary of the qualitative study, conclusions per objective and sub-objective, and the recommendations of the researcher.

Recalling Statements of the Problem

This study analyzed the application of the Doctrine of Transcendental Importance vis-à-vis liberty and prosperity. Specifically, it pursued to answer the following questions:

1. How do the present rules and jurisprudence qualify a case to be of transcendental importance?
2. If the case involves civil and political rights—or those pertaining to liberty, can the Doctrine of Transcendental Importance be invoked?
3. If the case involves social, and economic rights—or those rights pertaining to prosperity, can the Doctrine of Transcendental Importance be invoked?

Findings

Based on the conducted study, the following findings were revealed:

1. Jurisprudence dictates that before a case may be considered as a case of transcendental importance, the following requisites must be present: (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.
2. Yes. It was observed that when the elements of the case involve traditional liberties or those rights pertaining to the freedom of speech, freedom of expression, freedom of the press, and freedom of assembly, it is most likely to be considered as a case of transcendental importance.

3. Yes. It was observed that when the case involves the elements of economic or property rights, or those pertaining to prosperity, it is still possible that it be considered as a case of transcendental importance.

Conclusion

While the guidelines set by Justice Feliciano in determining a case of transcendental importance are merely instructive, the same must be given due weight. Because of the requisites' relevance and adaptability to almost all kinds of cases, it is only fitting that members of the Bench use these guidelines in a relative and constant manner.

Being on top of the hierarchy of rights, those which involve fundamental liberties may be easily grouped as elements of transcendental importance. Because the freedom of speech, freedom of expression, freedom information, and freedom of assembly are all given primacy, they should likewise be considered as additional elements for a case to be considered of transcendental importance. If the same is not applicable, it should be determined that for as long as the case involves fundamental liberties, they should be considered as cases of transcendental importance.

While cases involving the economy or property are below fundamental liberties, these shall still be considered as equally important. It must be noted that the protection of property and the rights involved in the same are also protected by the Bill of Rights. If cases involving prosperity should be left alone to the wisdom of the executive or legislative branch, these rights should be treated as prime rights nonetheless. With which, the barrier between cases involving liberty and prosperity will be erased. While the hierarchy of rights may still be observed, these rights may be treated as equal if both will be considered as cases of transcendental importance.

By considering these rights involving liberty and prosperity as elements or considerable factors in determining on what is transcendently important or not, the line separating the level of importance between the two will be eliminated. Accordingly, this will help the judiciary enter into a more proactive role in protecting all kinds of rights of affected individuals, whether such rights may be under the category of liberty or prosperity.

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