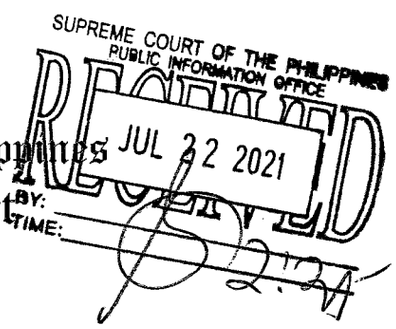

Republic of the Philippines
Supreme Court
Manila

EN BANC

REP. EDCEL C. LAGMAN,
Petitioner,

-versus-

EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR. and DEPARTMENT OF BUDGET AND MANAGEMENT SECRETARY FLORENCIO B. ABAD,
Respondents.

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G.R. No. 197422

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PROSPERO A. PICHAY, JR.,
Petitioner,

-versus-

GOVERNANCE COMMISSION FOR GOVERNMENT-OWNED OR CONTROLLED CORPORATIONS, EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., and DEPARTMENT OF BUDGET AND MANAGEMENT SECRETARY FLORENCIO B. ABAD,
Respondents.

G.R. No. 197950

Present:

PERALTA, *Chief Justice,*
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
ROSARIO, *JJ.*

Promulgated:
November 3, 2020

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DECISION

LEONEN, *J.*:

Congress may legislate changes to aspects of public offices which exist by virtue of the same exercise of legislative power. These changes are valid when done in good faith and pursuant to clear policy objectives.

This Court resolves the consolidated Petitions in G.R. No. 197422[1] and G.R. No. 197950,[2] which both assail Republic Act No. 10149 as unconstitutional. G.R. No. 197422 is a Petition for Certiorari and Prohibition under Rule 65 filed by Representative Edcel C. Lagman on July 15, 2011. G.R. No. 197950 is a Petition for Certiorari and Prohibition with prayer for temporary restraining order and preliminary injunction, filed by Prospero A. Pichay, Jr. on August 22, 2011.

Petitioners allege, among others, that the statute violates the affected officials' right to security of tenure, unduly delegates legislative powers, arrogates a constitutional commission's jurisdiction, and breaches the equal protection clause.

Congressional inquiries into the activities of some government-owned or controlled corporations (GOCCs) revealed several excesses and inefficiencies that drained government finances. Some of the uncovered excesses and inefficiencies involved the "obscene bonuses" received by the board of directors of some GOCCs, despite the GOCCs poor financial condition.[3] Certain GOCCs were also found to be implementing "excessively generous retirement schemes,"[4] most notably in the Manila Economic and Cultural Office, where directors could retire after only two years of service, at the rate ₱600,000.00 per year of service.[5]

Inquiries in 2009 alone highlighted the GOCCs' mounting debt despite accounting for 28% of national expenditures. Moreover, GOCCs' assets were valued at ₱5.557 trillion, exceeding the national government's assets of ₱2.879 trillion.[6] Of the ₱475.296-billion inter-agency receivables, 91% or ₱433.383 billion were due from GOCCs.[7] Despite these inefficiencies, GOCCs still declared approximately ₱14.6 billion in dividends, and received subsidies worth around ₱7.6 billion, or greater than

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1 *Rollo* (G.R. No. 197422), pp. 3–58.
2 *Rollo* (G.R. No. 197950), pp. 3–29.
3 Id. at 162, OSG Consolidated Memorandum.
4 Id.
5 Id.
6 Id. at 162.
7 Id. at 163.

their tax liability of around ₱6.7 billion.[8]

To address these abuses, Republic Act No. 10149,[9] or the GOCC Governance Act, was signed into law on June 6, 2011.[10]

The law is primarily geared towards optimizing the State's "ownership rights in GOCCs and to promote growth by ensuring that operations are consistent with national development policies and programs."[11]

As such, the law created the Governance Commission for GOCCs (Governance Commission), an agency attached to the Office of the President. It is empowered, among others, to evaluate the performance and determine the relevance of GOCCs, and to ascertain whether these GOCCs should be reorganized, merged, streamlined, abolished, or privatized, in consultation with the department or agency to which they are attached.[12]

On July 15 and August 22, 2011, Representative Edcel C. Lagman (Lagman) and Prospero A. Pichay, Jr. (Pichay) filed their respective Petitions for Certiorari and Prohibition assailing the constitutionality of Republic Act No. 10149. The Lagman Petition[13] was docketed as G.R. No. 197422, while the Pichay Petition[14] was docketed as G.R. No. 197950.

Impleaded as respondents for both petitions were the following: the Governance Commission; former Executive Secretary Paquito N. Ochoa, Jr., who was directed to execute Republic Act No. 10149; and former Finance Secretary Cesar V. Purisima and former Budget and Management Secretary Florencio B. Abad, as *ex-officio* members tasked with the release of funding and support for the initial operations of the Governance Commission.

Respondents filed their separate Comments.[15] Petitioner Lagman filed his Reply.[16]

On February 7, 2012, the cases were consolidated. Each petitioner filed his Memorandum;[17] and respondents, in turn, filed their Consolidated

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8 Id. at 163.

9 An Act to Promote Financial Viability and Fiscal Discipline in Government Owned or Controlled Corporations and to Strengthen the Role of the State in its Governance and Management to Make Them More Responsive to the Needs of Public Interest and for Other Purposes

10 *Rollo* (G.R. No. 197950), p. 260, Pichay Memorandum.

11 Republic Act No. 10149 (2011), sec. 2.

12 Republic Act No. 10149 (2011), sec. 5.

13 *Rollo* (G.R. No. 197422), pp. 3–58.

14 *Rollo* (G.R. No. 197950), pp. 3–29.

15 *Rollo* (G.R. No. 197422), pp. 79–130; and *rollo* (G.R. No. 197950), pp. 75–127.

16 *Rollo* (G.R. No. 197422), p. 131.

17 *Rollo* (G.R. No. 197422), pp. 482–534, Lagman's Memorandum; and *rollo* (G.R. No. 197950), pp. 259–284, Pichay's Memorandum.

Memorandum.[18]

In G.R. No. 197422, petitioner Lagman submits that he has presented an actual case and has legal standing to invoke judicial review.[19]

As to an actual case, he notes that the patent violations of the Constitution—violation of the security of tenure of public officials, undue delegation of legislative powers, and derogation of the Civil Service Commission's powers[20]—are actual controversies,[21] and not anticipatory, since the assailed law is already being implemented.[22]

As for legal standing, petitioner Lagman submits that he has substantial interest as a legislator.[23] Just the same, he contends that the Petition should be exempt from the rule on hierarchy of courts, "in the interest of justice" and the case raising issues of paramount public interest and transcendental importance.[24]

He adds that there is "no plain, speedy and adequate remedy available" to assail Republic Act No. 10149.[25] He claims that he filed the Petition out of urgency, due to the impending removal of the GOCC officers.[26]

On substantive matters, petitioner Lagman assails Republic Act No. 10149 as unconstitutional for violating the security of tenure[27] of officials, trustees, and directors of GOCCs with original charters. The law shortens the directors' terms to one year, and provides in Section 17,[28] paragraph 3

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18 *Rollo* (G.R. No. 197422), pp. 178–266; and *rollo* (G.R. No. 197950), pp. 161–248.

19 *Rollo* (G.R. No. 197422), p. 490.

20 Id. at 492–493.

21 Id. at 491.

22 Id. at 493.

23 Id.

24 Id. at 487.

25 Id. at 490–491.

26 Id. at 494.

27 CONST., art. IX-B, sec. 2(1) and (3) provides:
SECTION 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, *including government-owned or controlled corporations with original charters.*
. . . .
(3) No officer or employee of the civil service shall be removed or suspended except for cause provided by law. (Emphasis supplied)

28 SECTION 17. *Term of Office. — Any provision in the charters of each GOCC to the contrary notwithstanding, the term of office of each Appointive Director shall be for one (1) year*, unless sooner removed for cause: *Provided, however,* That the Appointive Director shall continue to hold office until the successor is appointed. An Appointive Director may be nominated by the GCG for reappointment by the President only if one obtains a performance score of above average or its equivalent or higher in the immediately preceding year of tenure as Appointive Director based on the performance criteria for Appointive Directors for the GOCC.
Appointment to any vacancy shall be only for the unexpired term of the predecessor. The appointment of a director to fill such vacancy shall be in accordance with the manner provided in Section 15 of this Act. *Any provision of law to the contrary notwithstanding, all incumbent CEOs and appointive members of the Board of GOCCs shall, upon approval of this Act, have a term of office until June 30, 2011, unless sooner replaced by the President: Provided, however, That the incumbent CEOs and*

that the terms of incumbent chief executive officers (CEOs) and appointive board members shall only be up to June 30, 2011.[29] This pre-termination or shortening of term allegedly infringes on the security of tenure of those with fixed terms under the GOCCs' special charters,[30] and is "an outright removal" of the affected incumbents "without cause and without due process."[31]

Petitioner Lagman also assails Section 5[32] of Republic Act No. 10149[33] as an undue delegation of legislative powers.[34] The law delegates to the Governance Commission the power to "create, reorganize, streamline, merge, abolish and privatize"[35] GOCCs with original charters,[36] and allows it "to recommend, for the President's sole approval, the abolition and privatization of GOCCs chartered under special law."[37] These powers, he argues, transgress on exclusively legislative powers.[38]

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appointive members of the Board shall continue in office until the successors have been appointed by the President. (Emphasis supplied)

29 *Rollo* (G.R. No. 197422), pp. 497–498.

30 Id. at 496.

31 Id. at 498–500.

32 SECTION 5. *Creation of the Governance Commission for Government-Owned or -Controlled Corporations.* — There is hereby created a central advisory, monitoring, and oversight body with authority to formulate, implement and coordinate policies to be known as the ***Governance*** *Commission for Government-Owned or -Controlled Corporations, hereinafter referred to as the GCG, which shall be attached to the Office of the President.* The GCG shall have the following powers and functions:
(a) *Evaluate the performance and determine the relevance of the GOCC, to ascertain whether such GOCC should be reorganized, merged, streamlined, abolished or privatized,* in consultation with the department or agency to which a GOCC is attached. For this purpose, the GCG shall be guided by any of the following standards:
(1) The functions or purposes for which the GOCC was created are no longer relevant to the State or no longer consistent with the national development policy of the State;
(2) The GOCC's functions or purposes duplicate or unnecessarily overlap with functions, programs, activities or projects already provided by a Government Agency;
(3) The GOCC is not producing the desired outcomes, or no longer achieving the objectives and purposes for which it was originally designed and implemented, and/or not cost efficient and does not generate the level of social, physical and economic returns *vis-à-vis* the resource inputs;
(4) The GOCC is in fact dormant or nonoperational;
(5) The GOCC is involved in an activity best carried out by the private sector; and
(6) The functions, purpose or nature of operations of any group of GOCCs require consolidation under a holding company.
Upon determination by the GCG that it is to the best interest of the State that a GOCC should be reorganized, merged, streamlined, abolished or privatized, it shall:
(i) Implement the reorganization, merger or streamlining of the GOCC, unless otherwise directed by the President; or
(ii) *Recommend to the President the abolition or privatization of the GOCC, and upon the approval of the President, implement such abolition or privatization,* unless the President designates another agency to implement such abolition or privatization.
. . . .
(l) Review the functions of each of the GOCC and, upon determination that there is a conflict between the regulatory and commercial functions of a GOCC, *recommend to the President in consultation with the Government Agency to which such GOCC is attached, the privatization of the GOCCs commercial operations, or the transfer of the regulatory functions to the appropriate government agency, or such other plan of action to ensure that the commercial functions of the GOCC do not conflict with such regulatory functions.* (Emphasis supplied)

33 *Rollo* (G.R. No. 197422), p. 509.

34 Id. at 505–506.

35 Id. at 506.

36 Id. at 507 and 513.

37 Id. at 508–509.

38 Id. at 509 and 513.

Even if such power could be validly delegated, petitioner Lagman argues that Section 5 fails to provide sufficient guidelines or definitive standards. Thus, it is still an undue delegation of legislative power.[39]

Petitioner Lagman further argues that other provisions of the law also form undue delegation of legislative powers. Sections 5(h),[40] 8,[41] 9,[42] and 23[43] of Republic Act No. 10149 give to the Governance Commission and the President Congress's power[44] to fix the salaries, emoluments, and allowances of officials of the GOCCs with original charters,[45] through the Compensation and Position Classification System that the Governance Commission is authorized to develop.[46]

Petitioner Lagman insists that the Governance Commission diminishes,[47] if not supplants, the constitutional[48] jurisdiction of the Civil Service Commission[49] over GOCCs with original charters.[50] He points out

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39 Id. at 519 and 521.

40 SECTION 5. *Creation of the Governance Commission for Government-Owned or -Controlled Corporations.*

. . . .

(h) *Conduct compensation studies, develop and recommend to the President a competitive compensation and remuneration system* which shall attract and retain talent, at the same time allowing the GOCC to be financially sound and sustainable[.] (Emphasis supplied)

41 SECTION 8. *Coverage of the Compensation and Position Classification System.* — The GCG, after conducting a compensation study, shall develop a *Compensation and Position Classification System which shall apply to all officers and employees of the GOCCs whether under the Salary Standardization Law or exempt therefrom* and shall consist of classes of positions grouped into such categories as the GCG may determine, subject to the approval of the President. (Emphasis supplied)

42 SECTION 9. *Position Titles and Salary Grades.* — All positions in the Position Classification System, as determined by the GCG and as approved by the President, shall be allocated to their proper position titles and salary grades in accordance with an Index of Occupational Services, Position Titles and Salary Grades of the Compensation and Position Classification System, which shall be prepared by the GCG and approved by the President. . . .

Any law to the contrary notwithstanding, no GOCC shall be exempt from the coverage of the Compensation and Position Classification System developed by the GCG under this Act.

43 SECTION 23. *Limits to Compensation, Per Diems, Allowances and Incentives.* — The charters of each of the GOCCs to the contrary notwithstanding, the compensation, *per diems*, allowances and incentives of the members of the Board of Directors/Trustees of the GOCCs shall be determined by the GCG using as a reference, among others, Executive Order No. 24 dated February 10, 2011: *Provided, however,* That Directors/Trustees shall not be entitled to retirement benefits as such directors/trustees.

In case of GOCCs organized solely for the promotion of social welfare and the common good without regard to profit, the total yearly *per diems* and incentives in the aggregate which the members of the Board of such GOCCs may receive shall be determined by the President upon the recommendation of the GCG based on the achievement by such GOCC of its performance targets.

44 CONST., art. IX-B, sec. 5.

45 Id. at 523.

46 Id. at 524.

47 Id. at 531.

48 CONST., art. IX-B, secs. 2 and 3 provide:

SECTION 2. (1) The civil service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

. . . .

SECTION 3. The Civil Service Commission, as the central personnel agency of the Government, shall establish a career service and adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It shall strengthen the merit and rewards system, integrate all human resources development programs for all levels and ranks, and institutionalize a management climate conducive to public accountability. It shall submit to the President and the Congress an annual report on its personnel programs.

49 *Rollo* (G.R. No. 197422), p. 528.

50 Id. at 531.

that the law makes final the qualifications and appointments in GOCCs, set by the Governance Commission, without the approval of the Civil Service Commission.[51]

In G.R. No. 197950, petitioner Pichay seeks to declare Republic Act No. 10149 unconstitutional for being an undue delegation of legislative power, violating the separation of powers, and going against the equal protection clause.[52] Pichay is the former chairperson of the Local Water Utilities Administration, a GOCC created under Presidential Decree No. 198, as amended.[53]

Petitioner Pichay contends that Section 5 of Republic Act No. 10149 invalidly delegates legislative power by empowering the Governance Commission to abolish GOCCs.[54] He contends that the phrase "the best interest of the State" is not a *sufficient* standard for the Governance Commission to abolish, reorganize, merge, streamline or privatize GOCCs.[55] This delegation, moreover, allegedly violates the principle of separation of powers.[56]

Petitioner Pichay further alleges that there is no reasonable basis for excluding some GOCCs from Republic Act No. 10149.[57] He states that the law exempted a total of 13,968 GOCCs from its coverage.[58] Among these, he notes the arbitrary exclusion of local water districts and economic zones, saying that[59] this does not rest on substantial distinctions[60] and is not germane to the purpose of the law.[61] Hence, he claims that the law violates the equal protection clause.[62]

Petitioner Pichay further contends that Republic Act No. 10149, as a general law, cannot amend GOCC charters, which are special laws.[63]

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51 Id. at 532.
52 *Rollo* (G.R. No. 197950), p. 260.
53 Id. at 7–8. Petitioner Pichay was dismissed on July 4, 2011 pursuant to *Rustico Tutol v. Prospero A. Pichay, Jr.*, docketed as OMB-C-A-10-0426-I with the Office of the Ombudsman. This has not yet attained finality allegedly due to a motion for reconsideration.
54 Id. at 261–265.
55 Id. at 267–268.
56 Id. at 270, Pichay Memorandum
57 Id. at 272.
Republic Act No. 10149 (2010), sec. 4 provides:
SECTION 4. *Coverage.* — This Act shall be applicable to all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries, but ***excluding*** the Bangko Sentral ng Pilipinas, state universities and colleges, cooperatives, local water districts, economic zone authorities and research institutions: *Provided,* That in economic zone authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the GCG. (Emphasis supplied)
58 *Rollo* (G.R. No. 197950), p. 272.
59 Id. at 277.
60 Id. at 276.
61 Id. at 277.
62 Id. at 279.
63 Id.

Finally, petitioner Pichay submits that the issue is of transcendental importance, meriting the *locus standi* requirement to be relaxed.[64] Moreover, he claims that he may sue as taxpayer, as the assailed law provides for appropriation of public funds, found in Section 29.[65]

Respondents, through the Office of the Solicitor General, claim that the Petitions do not show any actual case that calls for judicial review. They point out that the Petitions were brought after Republic Act No. 10149's enactment and before any governmental action prejudicial to the affected parties. They submit that this Court should refrain from passing upon the constitutionality of Republic Act No. 10149 until an actual case arises.[66]

Respondents further contend that the requisite of legal standing is lacking, as petitioners were neither CEOs nor members of any GOCC board who have the legal standing of an aggrieved party.[67]

They note that petitioner Lagman did not specify which powers of Congress were or would be infringed upon;[68] and contend that it is Lagman, rather, who undermines the collective will and wisdom of Congress in enacting Republic Act No. 10149.[69] Likewise, petitioner Pichay supposedly failed to show direct injury, as he was no longer holding any position in the Local Water Utilities Administration when he filed his Petition. In any case, even without Republic Act No. 10149, the Local Water Utilities Administration is an attached agency of the Office of the President, always subject to the President's power to reorganize under the Administrative Code.[70]

Respondents also fault petitioners for failing to show that the cases raise issues of transcendental importance.[71] At any rate, they maintain that the assailed law is presumed constitutional until a clear breach of the Constitution is shown.[72]

Respondents further argue that petitioners failed to show that there was no appeal or any "plain, speedy, and adequate remedy" if Republic Act No. 10149 were to be implemented.[73] They also assert that the Petitions do not impute grave abuse of discretion, even while seeking to declare the law unconstitutional, thus, making them actions for declaratory

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64 Id. at 282–283.
65 Id. at 283.
66 Id. at 185, Consolidated Memorandum.
67 Id. at 189.
68 Id. at 176.
69 Id. at 179.
70 Id. at 180.
71 Id. at 182.
72 Id. at 185.
73 Id. at 186.

relief, over which this Court has no original jurisdiction.[74] Further, the petitions filed directly before the Court violate the rule on judicial hierarchy.[75]

Respondents submit that considering the "laudable purpose"[76] of the law and the government's good faith to restructure the GOCCs, Republic Act No. 10149 must prevail over the unwarranted fear that the affected officials' security of tenure were violated.[77]

Respondents aver that Article IX-B, Section 2(3) of the Constitution and Book V, Title I-A, Chapter 6, Section 46 of the Administrative Code give protection from removal, dismissal, or suspension without lawful cause only to an "employee" or "officer"[78]—which appointive members of the Board of GOCCs are not.[79] Hence, they are not covered by the law.[80]

Furthermore, respondents contend that the right to security of tenure is unavailing for incumbent CEOs and appointive members of the Board of GOCCs whose terms of office are fixed by law.[81] They contend that Congress's power to create a public office includes the power to abolish it and limit the terms of its officials.[82] According to respondents, by reducing the terms of office of all incumbent CEOs and appointive members of the Board of GOCCs to June 30, 2011,[83] Congress merely expressed its will to supersede the GOCC charters which provide different terms.[84] Incidentally, respondents argue that "term" is different from "tenure," and the affected officials would not be "removed" as they would hold their office until their new terms expire on June 30, 2011.[85]

Even assuming that they were "removed," as argued by petitioner Lagman,[86] respondents submit that Republic Act No. 10149 constitutes "good cause," which justifies the alleged removal of affected GOCC officers.[87] Respondents dismiss as unfounded[88] the concern that the law "lumped together both the errant and blameless officials[.]"[89] They point out that under the law, incumbent officials who have satisfactory performance may be reappointed, or allowed to hold over until their successors have been

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74 Id. at 193.
75 Id. at 189.
76 Id. at 204.
77 Id. at 195–196.
78 Id. at 197–198.
79 Id. at 198.
80 Id. at 197.
81 Id. at 199.
82 Id. at 199–200.
83 Id. at 201–202.
84 Id. at 202.
85 Id. at 202.
86 Id. at 203.
87 Id. at 206.
88 Id. at 204.
89 Id. at 202.

appointed.[90] At any rate, respondents argue that the affected officials have no vested right to their offices.[91]

Respondents contend that Section 5 of Republic Act No. 10149 merely delegated to the Governance Commission the power to ascertain facts to determine if the reorganization, abolition, merger, streamlining, or privatization of GOCCs would be proper. In other words, they explain, the abolition or reorganization was already determined by Congress, and the Governance Commission merely implements this decision based on certain standards set in Section 5 and the legislative policy in Section 2.[92]

Similarly, respondents submit that the delegation to the Governance Commission of the establishment of a Compensation and Position Classification System is valid. They argue that sufficient guidelines and standards are provided in Section 9, and in other existing compensation and position classification laws including Joint Resolution No. 4,[93] series of 2009. Furthermore, the Governance Commission is not tasked to classify GOCC personnel as regards their ranks and privileges, but merely to determine the positions or emoluments to which they are entitled considering the nature of their work vis-à-vis that of the employees in the private sector and other government personnel covered by the Salary Standardization Law.[94]

As such, respondents submit that any act of the Governance Commission or the president under Republic Act No. 10149 that leads to the reorganization or abolition of GOCCs would not violate the separation of powers between the executive and legislative branches.[95]

At any rate, respondents submit that the delegation to the president of the power to reorganize GOCCs is consistent with the president's continuing authority to reorganize or abolish all units of the national government, including all GOCCs, pursuant to Presidential Decree No. 1416, as amended by Presidential Decree No. 1772.[96]

Respondents argue that the Governance Commission has a separate mandate and authority from the Civil Service Commission.[97] For one, it was primarily tasked to evaluate the performance and relevance of the GOCC as

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90 Id. at 204.
91 Id. at 205.
92 Id. at 219–220 citing *Abakada Guro Party-List v. Ermita*, 506 Phil. 1 (2005) [Per J. Austria-Martinez, En Banc].
93 Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and for Other Purposes.
94 *Rollo*, p. 224.
95 Id.
96 Id. at 227–228.
97 *Rollo* (G.R. No. 197950), p. 228.

an institution, while the Civil Service Commission, as the government's central personnel agency, determines questions of qualifications of merit and fitness of those appointed to the civil service.[98] The Governance Commission's policy is to rationalize GOCCs' operations and monitor them to ensure the efficient use of government assets and resources.[99] On the other hand, the Civil Service Commission establishes rules and regulations to promote efficiency and professionalism in the civil service. Hence, the Governance Commission neither duplicates nor supplants the Civil Service Commission.[100]

Disputing petitioner Pichay's argument, respondents aver that "equal protection is not dictated by the number of subjects that would be governed by the law but by the existence of a substantial distinction" between the covered subjects and those not covered.[101] Respondents then discuss the special circumstances of the exempted GOCCs, which differentiate them from those covered by Republic Act No. 10149:

1. The Bangko Sentral ng Pilipinas was excluded to ensure its independence as required by the 1987 Constitution. Its functions cover national economic priorities such as money, banking, credit, and supervision over operations of banks, which should not be hampered by the operation of Republic Act No. 10149;[102]

2. State universities and colleges are best regulated by the Commission on Higher Education, given the constitutional right of all citizens to quality education, and the sheer number of schools to be regulated;[103]

3. Cooperatives are meant to be "autonomous, self-help organizations controlled by their members,"[104] and were excluded in light of Republic Act No. 6938, which specifically governs their registration and organization. Likewise, these institutions are already regulated by the Cooperative Development Authority under Republic Act No. 6939;[105]

4. Presidential Decree No. 198 lays down the administrative and organizational requirements of local water districts, which are regulated by the Local Water Utilities Administration, an agency attached to the Office of the President, pursuant to the State policy that "local water utilities be locally-controlled and managed";[106]

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98 Id. at 237–238.
99 Id. at 238.
100 Id.
101 Id. at 239.
102 Id. at 240.
103 Id. at 240–241.
104 Id. at 241.
105 Id.
106 Id.

5. Special economic zones are administered and developed by the Philippine Economic Zone Authority to create "decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment centers with minimum government intervention."[107] The technical aspects of their regulation, as well as the social and economic impact of their creation, are governed by Republic Act No. 7916;[108] and

6. Finally, research institutions were created to assist the government in the pursuit of national and economic development. These goals are of paramount importance, and cannot be subjected to the "central monitoring and oversight" of the Governance Commission.[109]

Respondents also fault petitioner Pichay's argument that Republic Act No. 10149, being a general law, cannot supplant the special purposes in GOCC charters. They invoke a settled rule in statutory construction that a subsequent general law does not repeal a prior special law on the same subject matter unless there is a clear legislative intent to do so. In this regard, they point out that Section 32 of Republic Act No. 10149 categorically declares GOCC charters inconsistent with the law shall be revoked, repealed, or modified;[110] Section 30 expressly provides for suppletory application only of the GOCCs charters; and Sections 5(e), 12, 17 and 23 are explicitly made to govern GOCCs notwithstanding the provisions in their charters.[111]

Finally, respondents contend that Republic Act No. 10149 can be considered more specific inasmuch as it directly relates to the organizational aspect of the GOCCs.[112]

The issues for this Court's resolution are:

First, whether or not the Petitions raise justiciable issues that call for the Court's power of judicial review;

Second, whether or not the filing of the Petitions directly with the Court violates the rule on hierarchy of courts;

Third, whether or not Republic Act No. 10149 amounts to an undue delegation of legislative power in view of the principal functions vested in

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107 Id. at 241–242.
108 Id. at 242.
109 Id.
110 Id. at 245 citing Republic Act No. 10149 (2010), sec. 32.
111 Id. at 243–245.
112 Id. at 246.

the Governance Commission;

Fourth, whether or not Republic Act No. 10149 violates the security of tenure of officials, trustees, and directors of GOCCs;

Fifth, whether or not the Governance Commission duplicates and supplants the constitutional authority and jurisdiction of the Civil Service Commission;

Sixth, whether or not the Republic Act No. 10149 violates the equal protection clause; and

Finally, whether or not the repeal by Republic Act No. 10149, which is alleged to be a general law, of the individual charters of the affected GOCCs is valid.

The Petitions are dismissed. The assailed provisions of Republic Act No. 10149 are constitutional.

I

Petitioners invoke this Court's original jurisdiction over petitions for certiorari under Article VIII, Section 5 of the Constitution. Petitioner Lagman alleged that his Petition is exempted from the rule on hierarchy of courts for raising matters of transcendental importance. Likewise, petitioner Pichay prayed that this Court take primary jurisdiction over the case given the transcendental importance of the issues raised.

There is an apparent confusion between this Court's jurisdiction over the procedural vehicle employed by petitioners and the justiciability of their claims. As discussed in *GIOS-SAMAR, Inc. v. Department of Transportation and Communications*,[113] issues of jurisdiction are entirely different from issues of justiciability:

> Related to *jurisdiction* is our application of the *doctrine of granting the primary administrative jurisdiction*, when statutorily warranted, to the executive department. *This is different from the rule on exhaustion of administrative remedies or the doctrine of respect for the hierarchy of courts*, which are *matters of justiciability*, not jurisdiction.[114] (Emphasis supplied, citations omitted)

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[113] G.R. No. 217158, March 12, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> [Per J. Jardeleza, En Banc].

[114] Id.

Jurisdiction is a court's competence "to hear, try and decide a case."[115] It is granted by law and requires courts to examine the remedies sought[116] and issues raised by the parties,[117] the subject matter of the controversy,[118] and the processes employed by the parties in relation to laws granting competence.[119] Once this Court determines that the procedural vehicle employed by the parties raises issues on matters within its legal competence, it may then decide whether to adjudicate the constitutional issues brought before it.

Jurisdiction alone will not require this Court to pass upon the constitutionality of a statute. As held in *Angara v. Electoral Commission*,[120] the power of judicial review remains subject to this Court's discretion in resolving actual controversies:

> [W]hen the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an *actual controversy* the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed "judicial supremacy" which properly is the power of judicial review under the Constitution. *Even then, this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very lis mota presented.* Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions of wisdom, justice or expediency of legislation.[121] (Emphasis supplied)

Thus, as a rule, this Court only passes upon the constitutionality of a statute if it is "directly and necessarily involved in [a] justiciable controversy and is essential to the protection of the rights of the parties concerned."[122]

Courts decide the constitutionality of a law or executive act only when the following essential requisites are present: first, there must be an actual case or controversy; second, petitioners must possess *locus standi*; third, the question of constitutionality must be raised at the earliest opportunity;[123] and

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115 *Land Bank of the Philippines v. Dalauta*, 815 Phil. 740, 768 (2017) [Per J. Mendoza, En Banc].

116 *The City of Lapu-Lapu v. Philippine Economic Zone Authority*, 748 Phil. 473, 517 (2014) [Per J. Leonen, Second Division].

117 *Dy v. Yu*, 763 Phil. 491, 518 (2015) [Per J. Perlas-Bernabe, First Division].

118 *The City of Lapu-Lapu v. Philippine Economic Zone Authority*, 748 Phil. 473, 515 (2014) [Per J. Leonen, Second Division].

119 Id. at 516.

120 63 Phil. 139 (1936) [Per J. Laurel, En Banc].

121 Id. at 158.

122 *National Economic Protectionism Association v. Ongpin,* 253 Phil. 643, 650 (1989) [Per J. Paras, En Banc]; *Philippine Association of Colleges and Universities v. Secretary of Education,* 97 Phil. 806, 809 (1955) [Per J. Bengzon, First Division].

123 *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*, 646 Phil. 452 (2010 [Per J. Carpio Morales, En Banc].

fourth, the resolution of the question is unavoidably necessary to the decision of the case itself.[124] These requisites all relate to the justiciability of the issues raised by the parties. If no justiciable controversy is found, this Court may deny the petition as a matter of discretion.

This justiciability requirement is "intertwined with the principle of separation of powers."[125] It cautions the judiciary against unnecessary intrusion on matters committed to the other branches of the government.[126]

Furthermore, the presumption that the legislature and the executive have passed laws and executive acts within the bounds of the Constitution imposes a restraint on the judiciary in rashly resolving questions of constitutionality. In *People v. Vera*:[127]

> This court is not unmindful of the fundamental criteria in cases of this nature that all reasonable doubts should be resolved in favor of the constitutionality of a statute. *An act of the legislature approved by the executive, is presumed to be within constitutional limitations.* The responsibility of upholding the Constitution rests not on the courts alone but on the legislature as well. "The question of the validity of every statute is first determined by the legislative department of the government itself." And a statute finally comes before the courts sustained by the sanction of the executive. *The members of the Legislature and the Chief Executive have taken an oath to support the Constitution and it must be presumed that they have been true to this oath and that in enacting and sanctioning a particular law they did not intend to violate the Constitution. The courts cannot but cautiously exercise its power to overturn the solemn declarations of two of the three grand departments of the government.* Then, *there is that peculiar political philosophy which bids the judiciary to reflect the wisdom of the people as expressed through an elective Legislature and an elective Chief Executive. It follows, therefore, that the courts will not set aside a law as violative of the Constitution except in a clear case.* This is a proposition too plain to require a citation of authorities.[128] (Emphasis supplied, citations omitted)

Again, jurisdiction in itself will not automatically merit a ruling on the constitutionality of the assailed provisions. Invocations of "transcendental importance" will not affect this Court's competence to decide the issues before it, and raising this Court's competence to decide issues of constitutionality will not necessarily require it to do so. Rather, this Court's exercise of its power of judicial review will depend on whether the requirements for invoking such power have been adequately met.

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124 *Luz Farms v. Secretary of the Department of Agrarian Reform,* 270 Phil. 151 (1990) [Per J. Paras, En Banc]; *Macasiano v. National Housing Authority*, 296 Phil. 56 (1993) [Per J. Davide, Jr., En Banc].

125 J. Corona, Concurring Opinion in *Galicto v. Aquino III,* 683 Phil. 141, 182 (2012) [Per J. Brion, En Banc].

126 *Francisco, Jr. v. Toll Regulatory Board,* 648 Phil. 54 (2010) [Per J. Velasco, Jr., En Banc].

127 65 Phil. 56 (1937) [Per J. Laurel, First Division].

128 Id. at 95.

I (A)

The requirement of justiciability, or the existence of an actual case or controversy, for constitutional adjudication is explicit in the second paragraph of Article VIII, Section 1 of the Constitution:

> 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.

An actual case or controversy exists when there is "a conflict of legal rights, an assertion of opposite legal claims susceptible of judicial resolution."[129] It requires the existence of actual facts where there is real conflict of rights and duties.[130]

Hypothetical or anticipated threats are insufficient to uphold a constitutional challenge. It is not this Court's function to render advisory opinions.[131] Even its expanded jurisdiction in Article VIII, Section 1—to determine whether any government branch or instrumentality committed grave abuse of discretion—requires that an actual case exists.[132] Otherwise, any resolution would merely constitute an "attempt at abstraction [that] could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities."[133]

Closely related to the "actual case or controversy" requirement is the requirement of "ripeness" for adjudication. A constitutional question is ripe for adjudication when the governmental act being challenged has had a direct adverse effect on the individual challenging it. These concepts were discussed in *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*:[134]

> 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. There must be a contrariety of legal rights that can be interpreted and enforced

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129 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment,* G.R. No. 202275, July 17, 2018, 872 SCRA 50, 98 [Per J. Leonen, En Banc].

130 J. Leonen, Dissenting Opinion in *Spouses Imbong v. Ochoa, Jr.,* 732 Phil. 1 (2014) [Per J. Mendoza, En Banc].

131 *Guingona, Jr. v. Court of Appeals,* 354 Phil. 415 (1998) [Per J. Panganiban, En Banc].

132 *See Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment,* G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

133 *Angara v. Electoral Commission,* 63 Phil. 139, 158 (1936) [Per J. Laurel, En Banc].

134 589 Phil. 387 (2008) [Per J. Carpio Morales, En Banc].

> on the basis of existing law and jurisprudence. The Court can decide the constitutionality of an act or treaty only when a proper case between opposing parties is submitted for judicial determination.
>
> Related to the requirement of an actual case or controversy is the requirement of ripeness. *A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. For a case to be considered ripe for adjudication, 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. He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of.*[135] (Emphasis supplied, citations omitted)

In *Atty. Lozano v. Speaker Nograles*,[136] this Court explained:

> *An aspect of the "case-or-controversy" requirement is the requisite of "ripeness."* In the United States, courts are centrally concerned with whether a case involves uncertain contingent future events that may not occur as anticipated, or indeed may not occur at all. Another approach is the evaluation of the *twofold* aspect of ripeness: first, the fitness of the issues for judicial decision; and second, the hardship to the parties entailed by withholding court consideration. *In our jurisdiction, the issue of ripeness is generally treated in terms of actual injury to the plaintiff. Hence, a question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. An alternative road to review similarly taken would be to determine whether an action has already been accomplished or performed by a branch of government before the courts may step in.*[137] (Emphasis supplied, citations omitted)

"In cases where the constitutionality of a law is being questioned, it is not enough that the law has been passed or is in effect,"[138] the party challenging the law must assert a specific and concrete legal claim or show the law's direct adverse effect on them.[139]

The requirement of *locus standi* then pertains to a party's personal and substantial interest in the case arising from the direct injury they sustained, or will sustain, as a result of the challenged governmental action. In *Anak Mindanao Party-List Group v. The Executive Secretary*:[140]

> *Locus standi* or legal standing has been defined as a personal and substantial interest in a case such that the party has sustained or will

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135 Id. at 481.

136 607 Phil. 334 (2009) [Per C.J. Puno, En Banc].

137 Id. at 341.

138 J. Leonen, Concurring Opinion in *Private Hospitals Association of the Philippines, Inc. v. Medialdea*, G.R. No. 234448, November 6, 2018, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64748> [Per J. Tijam, En Banc].

139 *See Abakada Guro Party List v. Purisima*, 584 Phil. 246 (2008) [Per J. Corona, En Banc].

140 558 Phil. 338 (2007) [Per J. Carpio Morales, En Banc].

> sustain direct injury as a result of the governmental act that is being challenged. *The gist of the question on standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.*
>
> It has been held that a party who assails the constitutionality of a statute must have *a direct and personal interest*. It must show not only that the law or any governmental act is invalid, but also that *it sustained or is in immediate danger of sustaining some direct injury as a result of its enforcement,* and not merely that it suffers thereby in some indefinite way. It must show that it has been or is about to be denied some right or privilege to which it is lawfully entitled or that it is about to be subjected to some burdens or penalties by reason of the statute or act complained of.
>
> For a concerned party to be allowed to raise a constitutional question, it must show that (1) it has *personally suffered some actual or threatened injury* as a result of the allegedly illegal conduct of the government, (2) the injury is fairly traceable to the challenged action, and (3) the injury is likely to be redressed by a favorable action.[141] (Emphasis supplied, citations omitted)

Generalized grievance is not enough. The party must have a "material interest" affected by the official action taken, as distinguished from mere incidental interest.[142] Unless one's constitutional rights are affected by the operation of a statute or governmental act, they have no standing.[143]

Here, petitioners claim that Republic Act No. 10149 limits the tenure of affected officials to June 30, 2011, notwithstanding their fixed terms in GOCC charters. However, this seeming conflict does not present any direct adverse effect to either petitioner.

Petitioner Lagman anchored his Petition on the theory that Republic Act No. 10149 abdicates the legislative power of Congress, of which he is a member. Indeed, this Court has taken cognizance of cases where governmental action is assailed for infringing on a legislator's prerogatives, powers, and privileges.

In *PHILCONSA v. Enriquez*,[144] this Court upheld a senator's legal standing to question the validity of a presidential veto or a condition imposed on an item in an appropriation bill. It ruled:

> Where the veto is claimed to have been made without or in excess of the authority vested on the President by the Constitution, the issue of an

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141 Id. at 350–351.

142 *Pimentel, Jr. v. Office of the Executive Secretary*, 501 Phil. 303 (2005) [Per J. Puno, En Banc].

143 *Chamber of Real Estate and Builders' Association, Inc. v. Energy Regulatory Commission*, 638 Phil. 542 (2010) [Per J. Brion, En Banc].

144 305 Phil. 546 (1994) [Per J. Quiason, En Banc].

> impermissible intrusion of the Executive into the domain of the Legislature arises[.]
>
> To the extent the power of Congress are impaired, so is the power of each member thereof, since his office confers a right to participate in the exercise of the powers of that institution[.]
>
> An act of the Executive which injures the institution of Congress causes a derivative but nonetheless substantial injury, which can be questioned by a member of Congress. . . . In such a case, any member of Congress can have a resort to the courts.[145] (Citations omitted)

Similarly, in *Pimentel, Jr. v. Office of the Executive Secretary*,[146] this Court held that "legislators have the standing to maintain inviolate the prerogatives, powers and privileges vested by the Constitution in their office and are allowed to sue to question the validity of any official action which they claim infringes their prerogatives as legislators."[147] Senator Aquilino Pimentel, Jr. was held to possess the requisite legal standing in a petition that invoked the Senate's power to grant or withhold its concurrence to a treaty entered into by the executive branch. The petition sought to order the executive branch to transmit the copy of the treaty to the Senate to allow it to exercise such authority.

In *Biraogo v. The Philippine Truth Commission of 2010*,[148] which involved the president's creation of the Philippine Truth Commission, this Court upheld the petitioners' legal standing in a suit directed at the executive department:

> Evidently, their petition primarily invokes usurpation of the power of the Congress as a body to which they belong as members. This certainly justifies their resolve to take the cudgels for Congress as an institution and present the complaints on the usurpation of their power and rights as members of the legislature before the Court. As held in *Philippine Constitution Association v. Enriquez,*
>
> > To the extent the powers of Congress are impaired, so is the power of each member thereof, since his office confers a right to participate in the exercise of the powers of that institution.
> >
> > An act of the Executive which injures the institution of Congress causes a derivative but nonetheless substantial injury, which can be questioned by a member of Congress. In such a case, any member of Congress can have a resort to the courts.
>
> Indeed, legislators have a legal standing to see to it that the prerogative, powers and privileges vested by the Constitution in their office remain inviolate. Thus, they are allowed to question the validity of any official action which, to their mind, infringes on their prerogatives as

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145 Id. at 563.
146 501 Phil. 303 (2005) [Per J. Puno, En Banc].
147 Id. at 312–313.
148 651 Phil. 374 (2010) [Per J. Mendoza, En Banc].

legislators.[149] (Citation omitted)

In all those cases, however, the legislators questioned executive acts that allegedly usurped congressional authority or legislative prerogatives. Here, petitioner Lagman did not specify which prerogatives, powers, or privileges were or would be infringed upon by the law.

Indeed, there is no encroachment of legislative power here because what is assailed is itself an enactment of Congress. This contradicts any *prima facie* notion of usurpation of legislative powers, since it was the legislature itself that made the questioned delegation of powers to the executive.

Justice Conchita Carpio Morales' observations in her dissent in *Biraogo* are instructive:

> No doubt, *legislators are allowed to sue to question the validity of any official action upon a claim of usurpation of legislative power.* That is why, not every time that a Senator or a Representative invokes the power of judicial review, the Court automatically clothes them with *locus standi. The Court examines first, as the ponencia did, if the petitioner raises an issue pertaining to an injury to Congress as an institution or a derivative injury to members thereof, before proceeding to resolve that particular issue.*
>
> The peculiarity of the *locus standi* of legislators necessarily confines the adjudication of their petition *only on matters that tend to impair the exercise of their official functions.*[150] (Emphasis supplied, citations omitted)

Therefore, a member of Congress who merely invokes his or her status as a legislator cannot be granted standing in a petition that does not involve any impairment of the powers or prerogatives of Congress. *Provincial Bus Operators Association of the Philippines v. The Department of Labor and Employment*[151] warns against this Court overstepping its role among its co-equal branches of government:

> This Court is not a forum to appeal political and policy choices made by the Executive, Legislative, and other constitutional agencies and organs. This Court dilutes its role in a democracy if it is asked to substitute its political wisdom for the wisdom of accountable and representative bodies where there is no unmistakable democratic deficit. It cannot lose this place in the constitutional order. Petitioners' invocation of our jurisdiction and the justiciability of their claims must be presented with rigor. Transcendental interest is not a talisman to blur the lines of

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[149] Id. at 438–439.

[150] J. Carpio Morales, Dissenting Opinion in *Biraogo v. Philippine Truth Commission of 2010,* 651 Phil. 374, 695 (2010) [Per J. Mendoza, En Banc].

[151] G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

authority drawn by our most fundamental law.[152]

Since petitioner Lagman failed to raise any clear right or legislative prerogative supposedly violated by Republic Act No. 10149, he has no standing to question the constitutionality of its provisions.

Neither does petitioner Pichay have standing to question Republic Act No. 10149's constitutionality.

Section 17, paragraph 3 of the law limits the tenure of affected officials to June 30, 2011, notwithstanding their fixed terms in their GOCC charters. This would have had a direct bearing on incumbent public officials, including petitioner Pichay, had he remained the chairperson of the Local Water Utilities Administration. Yet, as he has revealed in his Petition, he was separated from the Local Water Utilities Administration during the pendency of this case. This renders his contentions moot.

However, recognized exceptions to the mootness doctrine include:

(1) Grave constitutional violations;
(2) Exceptional character of the case;
(3) Paramount public interest;
(4) The case presents an opportunity to guide the bench, the bar, and the public; or
(5) The case is capable of repetition yet evading review.[153] (Citations omitted)

While petitioner Pichay is not the proper party to bring these issues before this Court, Republic Act No. 10149's effects on the entities and public officers within the scope of its provisions remain a possible subject of subsequent suits. Likewise, whether the law would affect a public official's constitutionally guaranteed right to security of tenure is not a hypothetical question, but places the constitutionality of its provisions squarely in issue. Once implemented, its provisions would affect the terms of office of the public officers despite them not being parties to these cases. Thus, for the sake of resolving this issue, this Court will proceed to a discussion on the merits. For expediency and considering the similarities in the arguments raised by both petitioners, petitioner Lagman's arguments may also be considered despite his lack of standing.

I (B)

As regards the rule on hierarchy of courts, Article VIII, Section 5(1) of the Constitution provides for this Court's "original jurisdiction over . . .

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[152] Id. at 112.

[153] *Republic v. Moldex Realty, Inc.*, 780 Phil. 553, 561 (2016) [Per J. Leonen, Second Division].

petitions for certiorari, prohibition, mandamus, *quo warranto*, and *habeas corpus*." This original jurisdiction is concurrent with the regional trial courts and the Court of Appeals in certain cases.[154]

Under the rule on hierarchy of courts, this Court will not entertain a direct resort to it when relief may be obtained in the lower courts.[155] *The Diocese of Bacolod v. Commission on Elections*[156] explained that the purpose of the rule is "to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner":

> The doctrine that requires respect for the hierarchy of courts was created by this court to ensure that every level of the judiciary performs its designated roles in an effective and efficient manner. Trial courts do not only determine the facts from the evaluation of the evidence presented before them. They are likewise competent to determine issues of law which may include the validity of an ordinance, statute, or even an executive issuance in relation to the Constitution. To effectively perform these functions, they are territorially organized into regions and then into branches. Their writs generally reach within those territorial boundaries. Necessarily, they mostly perform the all-important task of inferring the facts from the evidence as these are physically presented before them. In many instances, the facts occur within their territorial jurisdiction, which properly present the 'actual case' that makes ripe a determination of the constitutionality of such action. The consequences, of course, would be national in scope. There are, however, some cases where resort to courts at their level would not be practical considering their decisions could still be appealed before the higher courts, such as the Court of Appeals.
>
> The Court of Appeals is primarily designed as an appellate court that reviews the determination of facts and law made by the trial courts. It is collegiate in nature. This nature ensures more standpoints in the review of the actions of the trial court. But the Court of Appeals also has original jurisdiction over most special civil actions. Unlike the trial courts, its writs can have a nationwide scope. It is competent to determine facts and, ideally, should act on constitutional issues that may not necessarily be novel unless there are factual questions to determine.
>
> This court, on the other hand, leads the judiciary by breaking new ground or further reiterating — in the light of new circumstances or in the light of some confusions of bench or bar — existing precedents. Rather than a court of first instance or as a repetition of the actions of the Court of Appeals, this court promulgates these doctrinal devices in order that it truly performs that role.[157] (Citations omitted)

The rule on hierarchy of courts "ensures that this Court remains *a court of last resort* so that it is able to satisfactorily perform the functions

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[154] *De Castro v. Carlos,* 709 Phil. 389 (2013) [Per C.J. Sereno, En Banc]; *Review Center Association of the Philippines v. Ermita,* 602 Phil. 342 (2009) [Per J. Carpio, En Banc]; *Gerochi v. Department of Energy,* 554 Phil. 563 (2007) [Per J. Nachura, En Banc]; and *People v. Cuaresma*, 254 Phil. 418 (1989) [Per J. Narvasa, First Division].

[155] *Santiago v. Vasquez,* 282 Phil. 171 (1993) [Per J. Regalado, En Banc].

[156] 751 Phil. 301 (2015) [Per J. Leonen, En Banc].

[157] Id. at 329–330.

assigned to it by the fundamental charter and immemorial tradition."[158]

While *GIOS-SAMAR* attempted to streamline this rule by discussing that all Rule 65 petitions raising questions of fact will automatically be dismissed, this Court's discretion in exercising judicial review requires a more deliberate approach. The rule on hierarchy of courts relates to questions of justiciability, which in turn requires a nuanced exercise of this Court's discretion. Even a claim of "transcendental importance," without due substantiation, will not immediately merit a decision on the constitutionality of an assailed law:

> The elements supported by the facts of an actual case, and the imperatives of our role as the Supreme Court within a specific cultural or historic context, must be made clear. They should be properly pleaded by the petitioner so that whether there is any transcendental importance to a case is made an issue. *That a case has transcendental importance, as applied, may have been too ambiguous and subjective that it undermines the structural relationship that this Court has with the sovereign people and other departments under the Constitution. Our rules on jurisdiction and our interpretation of what is justiciable, refined with relevant cases, may be enough.*[159] (Emphasis supplied, citation omitted)

However, even the rule on hierarchy of courts is not absolute. Direct recourse to this Court may be allowed when there are special and important reasons clearly set forth in the petition.[160] *The Diocese of Bacolod* enumerates the following exceptions:

> (1) "there are genuine issues of constitutionality that must be addressed at the most immediate time";[161]
>
> (2) "the issues involved are of transcendental importance, [such that] the imminence and clarity of the threat to fundamental constitutional rights outweigh the necessity for prudence";[162]
>
> (3) in "cases of first impression";[163]
>
> (4) "the constitutional issues raised are better decided by the Court";[164]
>
> (5) "the time element presented in the case cannot be ignored";[165]

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158 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018, 872 SCRA 50, 91–92 [Per J. Leonen, En Banc].

159 J. Leonen, Separate Opinion in *GIOS-SAMAR, Inc. v. Department of Transportation and Communication*, G.R. No. 217158, March 12, 2019, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64970> [Per J. Jardeleza, En Banc].

160 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018, 872 SCRA 50 [Per J. Leonen, En Banc].

161 *The Diocese of Bacolod v. Commission on Elections*, 751 Phil. 301, 331 (2015) [Per J. Leonen, En Banc].

162 Id. at 332.

163 Id.

164 Id. at 333.

165 Id.

(6) when the subject of review is an "act of a constitutional organ";[166]

(7) when petitioners rightly claim that they "had no other plain, speedy, and adequate remedy in the ordinary course of law";[167] and

(8) when the petition includes questions that are "dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained of were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy."[168]

These cases fall under the first and eighth exceptions.

In *Buklod ng Kawaning EIIB v. Zamora*,[169] this Court disregarded the procedural flaws in the petition and proceeded to resolve the issue on the constitutionality of an executive order that reorganized the Economic Intelligence and Investigation Bureau, holding that "[i]t is in the interest of the State that questions relating to the status and existence of a public office be settled without delay."[170]

Dario v. Mison,[171] the case cited in *Buklod ng Kawaning EIIB*, involved several petitions filed by the officials and employees of the Bureau of Customs who had been separated from service as a result of the reorganization under Proclamation No. 3. On the procedural issues raised by the parties, this Court held:

> The Court disregards the questions raised as to procedure, failure to exhaust administrative remedies, the standing of certain parties to sue, for two reasons, *"[b]ecause of the demands of public interest, including the need for stability in the public service,"* and because of the serious implications of these cases on the administration of the Philippine civil service and the rights of public servants.[172] (Citations omitted)

These cases involve questions of similar import. Thus, this Court may exercise its full discretionary powers and allow a direct resort to it.

II

Petitioner Lagman contends that Section 17 of Republic Act No. 10149, which shortens the fixed terms of incumbent CEOs and appointive directors of GOCCs with original charters, violates their constitutionally guaranteed right to security of tenure. Section 17 provides:

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166 Id. at 334.
167 Id.
168 Id. at 334–335.
169 413 Phil. 281 (2001) [Per J. Sandoval-Gutierrez, En Banc].
170 Id. at 289–290.
171 257 Phil. 84 (1989) [Per J. Sarmiento, En Banc].
172 Id. at 111.

> SECTION 17. *Term of Office. — Any provision in the charters of each GOCC to the contrary notwithstanding, the term of office of each Appointive Director shall be for one (1) year, unless sooner removed for cause: Provided, however,* That the Appointive Director shall continue to hold office until the successor is appointed. An Appointive Director may be nominated by the GCG for reappointment by the President only if one obtains a performance score of above average or its equivalent or higher in the immediately preceding year of tenure as Appointive Director based on the performance criteria for Appointive Directors for the GOCC.
>
> Appointment to any vacancy shall be only for the unexpired term of the predecessor. The appointment of a director to fill such vacancy shall be in accordance with the manner provided in Section 15 of this Act.
>
> *Any provision of law to the contrary notwithstanding, all incumbent CEOs and appointive members of the Board of GOCCs shall, upon approval of this Act, have a term of office until June 30, 2011, unless sooner replaced by the President*: *Provided, however,* That the incumbent CEOs and appointive members of the Board shall continue in office until the successors have been appointed by the President. (Emphasis supplied)

We disagree. The legislature may, in good faith, "change the qualifications for and shorten the term of existing statutory offices"[173] even if these changes would remove, or shorten the term of, an incumbent.

Article IX-B, Section 2(3) of the Constitution provides the guarantee of security of tenure for all officers or employees in the civil service:

> (3) No officer or employee of the civil service shall be removed or suspended except for cause provided by law.

This Court expounded on this security of tenure provision in *Jocom v. Judge Regalado*:[174]

> *Regardless of the classification of the position held by a government employee covered by civil service rules, be it a career or non-career position, such employee may not be removed without just cause.* An employee who belongs to the non-career service is protected from removal or suspension without just cause and non-observance of due process.
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> . . . .
>
> The constitutional and statutory guarantee of security of tenure is extended to both those in the career and non-career service positions, and the cause under which an employee may be removed or suspended must naturally have some relation to the character or fitness of the officer or

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[173] *Provincial Government of Camarines Norte v. Gonzalez*, 714 Phil. 468, 486 (2013) [Per J. Brion, En Banc].

[174] 278 Phil. 83 (1991) [Per J. Padilla, Second Division].

> employee, for the discharge of the functions of his office, or expiration of the project for which employment was extended.[175] (Emphasis supplied, citation omitted)

GOCCs with original charters are embraced under the civil service.[176] Their officers and employees are covered by Article IX-B, Section 2(3) of the Constitution and Book V, Title I-A, Chapter 6, Section 46 of the Administrative Code on security of tenure. The Administrative Code[177] further classifies the positions in the civil service into career service and non-career service, with corresponding aspects of security of tenure inherent in each classification:

> SECTION 7. *Career Service.* — The Career Service shall be characterized by *(1) entrance based on merit and fitness to be determined as far as practicable by competitive examination, or based on highly technical qualifications; (2) opportunity for advancement to higher career positions; and (3) security of tenure.*
>
> The Career Service shall include:
>
> (1) Open Career positions for appointment to which prior qualification in an appropriate examination is required;
> (2) Closed Career positions which are scientific, or highly technical in nature; these include the faculty and academic staff of state colleges and universities, and scientific and technical positions in scientific or research institutions which shall establish and maintain their own merit systems;
> (3) Positions in the Career Executive Service; namely, Undersecretary, Assistant Secretary, Bureau Director, Assistant Bureau Director, Regional Director, Assistant Regional Director, Chief of Department Service and other officers of equivalent rank as may be identified by the Career Executive Service Board, all of whom are appointed by the President;
> (4) Career officers, other than those in the Career Executive Service, who are appointed by the President, such as the Foreign Service Officers in the Department of Foreign Affairs;
> (5) Commissioned officers and enlisted men of the Armed Forces which shall maintain a separate merit system;
> (6) *Personnel of government-owned or controlled corporations, whether performing governmental or proprietary functions, who do not fall under the non-career service;* and
> (7) Permanent laborers, whether skilled, semi-skilled, or unskilled.
>
> SECTION 8. *Classes of Positions in the Career Service.* — (1) Classes of positions in the career service appointment to which requires examinations shall be grouped into three major levels as follows:

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[175] Id. at 94.

[176] CONST., art. IX-B, sec. 2(1).

[177] ADM. CODE, Book V, Title I, Subtitle A, Ch. 2, sec. 6(1) provides:
SECTION 6. *Scope of the Civil Service.* — (1) The Civil Service embraces all branches, subdivisions, instrumentalities, and agencies of the Government, including government-owned or controlled corporations with original charters.

(a) The first level shall include clerical, trades, crafts, and custodial service positions which involve non-professional or subprofessional work in a non-supervisory or supervisory capacity requiring less than four years of collegiate studies;
(b) The second level shall include professional, technical, and scientific positions which involve professional, technical, or scientific work in a non-supervisory or supervisory capacity requiring at least four years of college work up to Division Chief level; and
(c) The third level shall cover positions in the Career Executive Service.

(2) Except as herein otherwise provided, entrance to the first two levels shall be through competitive examinations, which shall be open to those inside and outside the service who meet the minimum qualification requirements. Entrance to a higher level does not require previous qualification in the lower level. Entrance to the third level shall be prescribed by the Career Executive Service Board.

(3) Within the same level, no civil service examination shall be required for promotion to a higher position in one or more related occupational groups. A candidate for promotion should, however, have previously passed the examination for that level.

SECTION 9. The Non-Career Service shall be characterized by (1) *entrance on bases other than those of the usual tests of merit and fitness utilized for the career service; and (2) tenure which is limited to a period specified by law,* or which is coterminous with that of the appointing authority or subject to his pleasure, or which is limited to the duration of a particular project for which purpose employment was made.

The Non-Career Service shall include:

1. Elective officials and their personal or confidential staff;
2. Secretaries and other officials of Cabinet rank who hold their positions at the pleasure of the President and their personal confidential staff(s);
3. *Chairman and members of Commissions and boards with fixed terms of office and their personal or confidential staff;*
4. Contractual personnel or those whose employment in the government is in accordance with a special contract to undertake a specific work or job requiring special or technical skills not available in the employing agency, to be accomplished within a specific period, which in no case shall exceed one year and performs or accomplishes the specific work or job, under his own responsibility with a minimum of direction and supervision from the hiring agency;
5. Emergency and seasonal personnel. (Emphasis supplied)

Thus, while GOCC personnel are generally classified under the career service, provided that they do not fall under the non-career service, both classifications enjoy security of tenure in that they cannot be removed without legal cause and due process. This requirement of legal cause was

explained in *Canonizado v. Aguirre*:[178]

> The phrase "except for cause provided by law" refers to ". . . *reasons which the law and sound public policy recognize as sufficient warrant for removal*, that is, legal cause, and not merely causes which the appointing power in the exercise of discretion may deem sufficient."[179] (Citation omitted)

In *The Provincial Government of Camarines Norte v. Gonzales*,[180] this Court further clarified:

> ***[B]oth career and non-career service employees have a right to security of tenure.*** All permanent officers and employees in the civil service, regardless of whether they belong to the career or non-career service category, are entitled to this guaranty; *they cannot be removed from office except for cause provided by law and after procedural due process*. The concept of security of tenure, however, labors under a variation for primarily confidential employees due to the basic concept of a "primarily confidential" position. Serving at the confidence of the appointing authority, the primarily confidential employee's term of office expires when the appointing authority loses trust in the employee. When this happens, the confidential employee is not "removed" or "dismissed" from office; his term merely "expires" and the loss of trust and confidence is the "just cause" provided by law that results in the termination of employment. In the present case where the trust and confidence has been irretrievably eroded, we cannot fault Governor Pimentel's exercise of discretion when he decided that he could no longer entrust his confidence in Gonzales.
>
> ***Security of tenure*** *in public office simply means that a public officer or employee shall not be suspended or dismissed except for cause, as provided by law and after due process. It cannot be expanded to grant a right to public office despite a change in the nature of the office held.* In other words, the CSC might have been legally correct when it ruled that the petitioner violated Gonzales' right to security of tenure when she was removed without sufficient just cause from her position, but the situation had since then been changed. In fact, Gonzales was reinstated as ordered, but her services were subsequently terminated under the law prevailing at the time of the termination of her service; *i.e.*, she was then already occupying a position that was primarily confidential and had to be dismissed because she no longer enjoyed the trust and confidence of the appointing authority. Thus, Gonzales' termination for lack of confidence was lawful. She could no longer be reinstated as provincial administrator of Camarines Norte or to any other comparable position. This conclusion, however, is without prejudice to Gonzales' entitlement to retirement benefits, leave credits, and future employment in government service.[181] (Emphasis in the original, citations omitted)

Board members of GOCCs occupy non-career service positions and

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178 380 Phil. 280 (2000) [Per J. Gonzaga-Reyes, En Banc].
179 Id. at 285.
180 714 Phil. 468 (2013) [Per J. Brion, En Banc].
181 Id. at 494–495.

are appointed for a definite term fixed in the GOCC charter. They may be removed before their terms expire only for causes as may be provided in the GOCC's charter, the Administrative Code, and other relevant laws. It is in this sense that directors and trustees enjoy security of tenure.

Shortening the term of office is not the same as removing the officer from service, even though both result in the termination of official relations. When an officer's term is shortened, one is separated from service when the term expires.[182] Unless an officer is authorized by law to hold over in their position, their rights, duties, and authority as a public officer must *ipso facto* cease upon expiration of their term. Removal, on the other hand, entails the separation of the incumbent before their term expires. The Constitution allows this only for causes provided by law.[183]

Here, Section 17 of Republic Act No. 10149 provides two changes: (1) each appointive director's term of office shall be for one year, unless sooner removed for cause; and (2) all incumbent CEOs and appointive board members of GOCCs shall have a term of office until June 30, 2011, unless sooner replaced by the president.

These changes are constitutional.

Jurisprudence affirms Congress's power to create public offices, including the power to abolish them and to modify their nature, qualifications, and terms. As discussed in *Provincial Government of Camarines Norte*, these acts do not violate the security of tenure when done in good faith:

> The arguments presented by the parties and ruled upon by the CA reflect a conceptual entanglement between the *nature of the position* and an employee's *right to hold a position.* These two concepts are different. The nature of a position may change by law according to the dictates of Congress. The right to hold a position, on the other hand, is a right that enjoys constitutional and statutory guarantee, but may itself change according to the nature of the position.
>
> Congress has the power and prerogative to introduce substantial changes in the provincial administrator position and to reclassify it as a primarily confidential, non-career service position. *Flowing from the legislative power to create public offices is the power to abolish and modify them to meet the demands of society; Congress can change the qualifications for and shorten the term of existing statutory offices. When done in good faith, these acts would not violate a public officer's security of tenure, even if they result in his removal from office or the shortening of his term. Modifications in public office, such as changes in qualifications*

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[182] *Achacoso v. Macaraig*, 272-A Phil. 200 (1991) [Per J. Cruz, En Banc].

[183] Id; *See also Ocampo v. Secretary of Justice*, G.R. No. L-7910, January 18, 1955 [Per C.J. Paras, En Banc].

or shortening of its tenure, are made in good faith so long as they are aimed at the office and not at the incumbent.

In *Salcedo and Ignacio v. Carpio and Carreon,* for instance, Congress enacted a law modifying the offices in the Board of Dental Examiners. The new law, RA 546, raised the qualifications for the board members, and provided for a different appointment process. Dr. Alfonso C. Salcedo and Dr. Pascual Ignacio, who were incumbent board members at the time RA 546 took effect, filed a special civil action for *quo warranto* against their replacements, arguing that their term of office under the old law had not yet expired, and neither had they abandoned or been removed from office for cause. We dismissed their petition, and held that *Congress may, by law, terminate the term of a public office at any time and even while it is occupied by the incumbent.* Thus, whether Dr. Salcedo and Dr. Ignacio were removed for cause or had abandoned their office is immaterial.

. . . .

In the current case, Congress, through RA 7160, did not abolish the provincial administrator position but significantly modified many of its aspects. It is now a primarily confidential position under the non-career service tranche of the civil service.[184] (Emphasis supplied, citations omitted)

Since the creation of a chartered GOCC is purely legislative, Congress has the power to modify or abolish it, as well as to enact whatever restrictions it may deem fit for the public good:

Since the creation of public offices involves an inherently legislative power, it necessarily follows that the particular characteristics of the public office, including eligibility requirements and the nature and length of the term in office, are also for legislative determination. Hence, laws creating public offices generally prescribe the necessary qualifications for appointment to the public office and the length of their terms. The wisdom of such matters is left up to the legislative branch. At the same time, the power of appointment is executive in character, and the choice of whom to appoint is within the discretion of the executive branch of government. This setup aligns with traditional notions of checks and balances — the choice whom to appoint resting with the executive branch, but proscribed by the standards enacted by the legislative. Persons to be appointed to a public office should possess the prescribed qualifications as may be mandated by Congress.

The same setup governs the removal of officers from public office. The power to remove a public officer is again executive in nature, but also subject to limitations as may be provided by law. Ordinarily, where an office is created by statute, it is wholly within the power of Congress, its legislative power extends to the subject of regulating removals from the office.[185] (Emphasis supplied, citation omitted)

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[184] *Provincial Government of Camarines Norte v. Gonzales*, 714 Phil. 468, 485–487 (2013) [Per J. Brion, En Banc].

[185] J. Tinga, Dissenting Opinion in *Rufino v. Endriga*, 528 Phil. 473, 540 (2006) [Per J. Carpio, En Banc].

As to good faith in the abolition of offices, *Kapisanan ng mga Kawani ng Energy Regulatory Board v. Barin*[186] teaches that:

> **[a]***n abolition is made in good faith when* ***it is not made for political or personal reasons,*** *or when it does not circumvent the constitutional security of tenure of civil service employees.* Abolition of an office may be brought about by reasons of economy, or to remove redundancy of functions, or a clear and explicit constitutional mandate for such termination of employment. Where one office is abolished and replaced with another office vested with similar functions, the abolition is a legal nullity. When there is a void abolition, the incumbent is deemed to have never ceased holding office.[187] (Emphasis supplied, citations omitted)

Likewise, "*making the bureaucracy more efficient is also indicative of the exercise of good faith in, and a valid purpose for, the abolition of an office.*"[188] In *Dario v. Mison*,[189] this Court clarified:

> Reorganizations in this jurisdiction have been regarded as valid provided they are pursued in good faith. *As a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient.* In that event, no dismissal (in case of a dismissal) or separation actually occurs because the position itself ceases to exist. And in that case, security of tenure would not be a Chinese wall. Be that as it may, if the "abolition," which is nothing else but a separation or removal, is done for political reasons or purposely to defeat security of tenure, or otherwise not in good faith, no valid "abolition" takes place and whatever "abolition" is done, is void ab initio. There is an invalid "abolition" as where there is merely a change of nomenclature of positions, or where claims of economy are belied by the existence of ample funds.[190] (Emphasis supplied, citations omitted)

"Good faith is presumed while bad faith must be proved."[191] Here, petitioners failed to substantiate their allegations that the shortening of terms was done to circumvent the affected officials' security of tenure.

On the contrary, Section 17 of Republic Act No. 10149 is consistent with the objective of the legislative and executive departments to "restructure the GOCCs to enable them to respond to the exigencies of the service through fiscal discipline[.]"[192]

News leading up to Republic Act No. 10149's passage revealed the state of public corporate governance in the country. In his first State of the

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186 553 Phil. 1 (2007) [Per J. Carpio, Second Division].
187 Id. at 8.
188 *CAAP-Employees' Union v. Civil Aviation Authority of the Phil.*, 746 Phil. 503, 526 (2014) [Per J. Villarama, Jr., En Banc].
189 257 Phil. 84 (1989) [Per J. Sarmiento, En Banc].
190 Id. at 130.
191 C.J. Fernan, Concurring and Dissenting Opinion in *Mendoza v. Quisumbing*, 264 Phil. 471, 526 (1990) [Per J. Gutierrez, Jr., En Banc].
192 *Rollo* (G.R. No. 197950), p. 196.

Nation Address,[193] President Benigno Aquino III zeroed in on the lavish remuneration and benefit packages of officers and employees in the Metropolitan Water and Sewerage Authority, while people would line up for water and retirees' pensions would remain unpaid.[194]

Senate inquiries also revealed that officials and board members of GOCCs and government financial institutions (GFIs) were "granting themselves unwarranted allowances, bonuses, incentives, stock options, and other benefits [as well as other] irregular and abusive practices."[195]

In a September 9, 2010 press release regarding the possible purging of inefficient GOCCs, Senator Ralph Recto indicated that while missionary GOCCs which were established to deliver basic services are worth saving despite their underperforming financials, "'fat cats' in these missionary GOCCs must shed their indecent bonuses and perks 'to reduce the national guilt of exempting them from the purge.'" He cited the National Food Authority, the National Electrification Administration, the Local Water Utilities Administration, and the Philippine Postal Corporation as some of these missionary GOCCs.[196]

Republic Act No. 10149 was enacted to address these reported abuses in the remuneration scheme and inefficiencies in the operations of the GOCCs. It operates under the principle that GOCCs have potential "as significant tools for economic development." It was declared a State policy to promote the growth of GOCCs "by ensuring that their operations are consistent with national development policies and programs."[197] Toward this end, the State set out to ensure that:

> (a) *The corporate form* of organization through which government carries out activities *is utilized judiciously*;
>
> (b) *The operations of GOCCs are rationalized and monitored centrally in order that government assets and resources are used efficiently* and *the government exposure to all forms of liabilities* including subsidies *is warranted and incurred through prudent means;*
>
> (c) GOCCs governance is carried out in a transparent, responsible and accountable manner and with the utmost degree of professionalism and effectiveness;
>
> (d) A reporting system, which will require the periodic disclosure and examination of the operations and management of the GOCCs, their assets and finances, revenues and expenditures, is enforced;

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193 Delivered on July 26, 2010.

194 President Benigno S. Aquino III, *State of the Nation Address*, July 26, 2010, <https://www.officialgazette.gov.ph/2010/07/26/state-of-the-nation-address-2010-en/> (last accessed on March 13, 2019).

195 *Galicto v. Aquino III,* 683 Phil. 141, 161 (2012) [Per J. Brion, En Banc].

196 Id.

197 Republic Act No. 10149 (2010), sec. 2.

(e) The *governing board of every GOCC and its subsidiaries* are competent to carry out its functions, fully accountable to the State as its fiduciary, and *acts in the best interest of the State;*

(f) Reasonable, justifiable and appropriate remuneration schemes are adopted for the officers and employees of GOCCs to *prevent or deter the granting of unconscionable and excessive remuneration packages*; and

(g) A clear separation between the regulatory and proprietary activities of GOCCs, in order to achieve a level playing field with corporations in the private sector performing similar commercial activities for the public.[198] (Emphasis supplied)

Public interest warrants the term reduction. Shortening the term of directors to one year allows for a yearly evaluation of their performance and promotes accountability for public funds. In this regard, the separate concurring and dissenting opinion of Chief Justice Marcelo Fernan in *Mendoza v. Hon. Quisumbing*[199] deserves a closer examination. He wrote:

> The security-of-tenure argument accorded merit by the majority would hold water under ordinary circumstances, but not under the exceptional factual milieu obtaining in the cases at bar. The removal from office of petitioners, respondents in some cases, was the result of the reorganization of the various executive departments undertaken immediately after the installation of the Aquino government, at which time, the people's clamor to promote efficiency and effectiveness in the delivery of public service, rebuild confidence in the entire governmental system and eradicate graft and corruption therein was at its highest. The need was so grave and serious, so basic and urgent, that nothing less than extra-ordinary measures were called for. *In the balancing of interests, as between the very essence of a government as a machinery for the common good and the security of tenure guaranteed by the Constitution to those in government service, one must prevail. Since in our form of government, public offices are public trusts, and the officers are servants of the people and not their rulers, the choice is evident.*[200] (Emphasis supplied)

Enacting Republic Act No. 10149, including the shortening of terms of appointive directors to one year, fulfills what Congress had considered a great public need. It does not adversely affect the tenure of any particular board member or public officer.

Public office is a public trust.[201] The security of tenure guaranteed to public officers must be viewed against the need to assure efficiency and independence in the performance of their functions, "undeterred by any fear of reprisal or untoward consequence" or "free from the corrupting influence

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198 Republic Act No. 10149 (2010), sec. 2.
199 264 Phil. 471 (1990) [Per Gutierrez, Jr., En Banc].
200 Id. at 526–527.
201 CONST., art. XI, sec. 1.

of base or unworthy motives."[202] Strictly speaking, a public officer has no vested or absolute right to hold public office.[203] A public officer's right to security of tenure cannot be invoked against a valid legislative act resulting in separation from office:[204]

> The greater good of the greatest number and the right of the citizenry to a good government, . . . provide the justification for the said injury to the individual. In terms of values, the interest of an employee to security of tenure must yield to the interest of the entire populace and to an efficient and honest government.[205]

In Justice Juvenal K. Guerrero's concurring opinion in *De La Llana v. Alba*:[206]

> [Public office] is created for the purpose of effecting the ends for which government has been instituted, which are for the common good, and not the profit, honor or private interest of any one man, family or class of men. In our form of government, it is fundamental that public offices are public trust, and that the person to be appointed should be selected solely with a view to the public welfare. In the last analysis, a public office is a privilege in the gift of the State.
>
> *There is no such thing as a vested interest or an estate in an office, or even an absolute right to hold office.* Excepting constitutional offices, which provide for special immunity as regards salary and tenure, no one can be said to have any vested right in an office or its salary. *When an office is created by the Constitution, it cannot be abolished by the legislature, but when created by the State under the authority of the Constitution, it may be abolished by statute and the incumbent deprived of his office. . . .*
>
> The removal from office of the incumbent then is merely incidental to the valid act of abolition of the office as demanded by the superior and paramount interest of the people[.][207] (Citations omitted; Emphasis supplied)

The same reasoning applies to Section 17, paragraph 3 of Republic Act No. 10149, which limits the tenure of incumbent CEOs and appointive directors until June 30, 2011.

In any event, the provision shortens the terms of incumbent GOCC officers, consistent with the exercise of legislative prerogatives in good faith as discussed in *Provincial Government of Camarines Norte*:

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202 *De La Llana v. Alba,* 198 Phil. 1, 64 (1982) [Per C.J. Fernando, En Banc].
203 *Aparri v. Court of Appeals,* 212 Phil. 215 (1984) [Per J. Makasiar, Second Division].
204 *CAAP-Employees' Union v. Civil Aviation Authority of the Phil.*, 746 Phil. 503, 526 (2014) [Per J. Villarama, Jr., En Banc].
205 J. Melencio-Herrera, Dissenting Opinion in *Dario v. Mison*, 257 Phil. 84, 161 (1989) [Per J. Sarmiento, En Banc].
206 198 Phil. 1 (1982) [Per C.J. Fernando, En Banc].
207 Id. at 85–86.

> Congress has the power and prerogative to introduce substantial changes in the provincial administrator position and to reclassify it as a primarily confidential, non-career service position. *Flowing from the legislative power to create public offices is the power to abolish and modify them to meet the demands of society; Congress can change the qualifications for and shorten the term of existing statutory offices. When done in good faith,* these acts *would not violate a public officer's security of tenure, even if they result in his removal from office or the shortening of his term.* Modifications in public office, such as changes in qualifications or shortening of its tenure, are made in good faith so long as they are aimed at the office and not at the incumbent.
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> In *Salcedo and Ignacio v. Carpio and Carreon*, for instance, Congress enacted a law modifying the offices in the Board of Dental Examiners. The new law, RA 546, raised the qualifications for the board members, and provided for a different appointment process. Dr. Alfonso C. Salcedo and Dr. Pascual Ignacio, who were incumbent board members at the time RA 546 took effect, filed a special civil action for *quo warranto* against their replacements, arguing that their term of office under the old law had not yet expired, and neither had they abandoned or been removed from office for cause. *We dismissed their petition, and held that Congress may, by law, terminate the term of a public office at any time and even while it is occupied by the incumbent.* Thus, whether Dr. Salcedo and Dr. Ignacio were removed for cause or had abandoned their office is immaterial.[208] (Emphasis supplied, citation omitted)

Clearly, Congress can, for legitimate purposes, reduce the terms of officers of GOCCs with independent charters. Even the vested right to security of tenure is qualified by the law that creates the office and provides for its appurtenances. While neither Congress nor the president may simply declare a position vacant, Congress acted well within its powers when it legislated a new term. Section 17 of Republic Act No. 10149 merely shortened the terms of incumbent GOCC officers and did not, as petitioners alleged, remove them from service without cause.

Thus, Section 17 does not violate the constitutional prohibition on unjustified declarations of vacancy or terminations of public service without just cause. Again, it merely modified the terms of incumbent GOCC officers and by providing for a new, albeit shortened, term for these existing offices moving forward. This is consistent with Congress's legislative prerogative to modify, through laws, the terms of public office.

III

Section 5 of Republic Act No. 10149 creates the Governance Commission and grants it certain powers and functions. It states in part:

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[208] *Provincial Government of Camarines Norte v. Gonzalez*, 714 Phil. 468, 485–486 (2013) [Per J. Brion, En Banc].

SECTION 5. *Creation of the Governance Commission for Government-Owned or -Controlled Corporations.* — There is hereby created a central advisory, monitoring, and oversight body *with authority to formulate, implement and coordinate policies* to be known as the Governance Commission for Government-Owned or -Controlled Corporations, hereinafter referred to as the GCG, which shall be attached to the Office of the President. The GCG shall have the following powers and functions:

(a) Evaluate the performance and determine the relevance of the GOCC, to ascertain whether such GOCC should be reorganized, merged, streamlined, abolished or privatized, in consultation with the department or agency to which a GOCC is attached. For this purpose, the GCG shall be guided by any of the following standards:

(1) The functions or purposes for which the GOCC was created are no longer relevant to the State or no longer consistent with the national development policy of the State;
(2) The GOCC's functions or purposes duplicate or unnecessarily overlap with functions, programs, activities or projects already provided by a Government Agency;
(3) The GOCC is not producing the desired outcomes, or no longer achieving the objectives and purposes for which it was originally designed and implemented, and/or not cost efficient and does not generate the level of social, physical and economic returns vis-à-vis the resource inputs;
(4) The GOCC is in fact dormant or nonoperational;
(5) The GOCC is involved in an activity best carried out by the private sector; and
(6) The functions, purpose or nature of operations of any group of GOCCs require consolidation under a holding company.

Upon determination by the GCG that it is to the best interest of the State that a GOCC should be reorganized, merged, streamlined, abolished or privatized, it shall:

(i) Implement the reorganization, merger or streamlining of the GOCC, unless otherwise directed by the President; or
(ii) Recommend to the President the abolition or privatization of the GOCC, and upon the approval of the President, implement such abolition or privatization, unless the President designates another agency to implement such abolition or privatization.

. . . .

(h) Conduct compensation studies, develop and recommend to the President a competitive compensation and remuneration system

> which shall attract and retain talent, at the same time allowing the GOCC to be financially sound and sustainable;
>
> . . . .
>
> (l) Review the functions of each of the GOCC and, upon determination that there is a conflict between the regulatory and commercial functions of a GOCC, recommend to the President in consultation with the Government Agency to which such GOCC is attached, the privatization of the GOCCs commercial operations, or the transfer of the regulatory functions to the appropriate government agency, or such other plan of action to ensure that the commercial functions of the GOCC do not conflict with such regulatory functions.

Petitioners contend that Republic Act No. 10149 invalidly delegates to the Governance Commission the exclusive power of Congress to reorganize and abolish public offices. They similarly claim that such power cannot be delegated, and even if it were so, the law places no sufficient standard to guide the Governance Commission in exercising this power. Petitioner Lagman further contends that the law unduly delegates legislative power to fix GOCC officials' salaries, emoluments, and allowances. Petitioner Pichay adds that the undue delegation violates the separation of powers.[209]

The rule on non-delegation of legislative power flows from the ethical principle that such power, which the sovereign people have delegated through the Constitution, "constitutes not only a right but a duty to be performed by [Congress] through the instrumentality of [its] own judgment and not through the intervening mind of another."[210] Any undue delegation of legislative power is contrary to the principle of separation of powers.

However, this Court has recognized two types of permissible delegation of legislative power: contingent legislation and subordinate legislation.

Congress undertakes contingent legislation when it delegates to another body the power to ascertain facts necessary to bring the law into actual operation.[211] In *Vera*:

> "The true distinction" . . . "is between the delegation of power to make the law, which necessarily involves a discretion as to what it shall be, and conferring an authority or discretion as to its execution, to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made."

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[209] *See rollo* (G.R. No. 197422), pp. 505–506, 524, and *rollo* (G.R. No. 197950), pp. 261–268.

[210] *Gerochi v. Department of Energy,* 554 Phil. 563, 584 (2007) [Per J. Nachura, En Banc]. *See also People v. Vera,* 65 Phil. 56 (1937) [Per J. Laurel, First Division].

[211] *See Calalang v. Williams,* 70 Phil. 726 (1940) [Per J. Laurel, First Division].

. . . .

> It is contended, however, that a legislative act may be made to the effect as law after it leaves the hands of the legislature. It is true that laws may be made effective on certain contingencies, as by proclamation of the executive or the adoption by the people of a particular community. In Wayman *vs.* Southard, the Supreme Court of the United States ruled that the legislature may delegate a power not legislative which it may itself rightfully exercise. *The power to ascertain facts is such a power which may be delegated. There is nothing essentially legislative in ascertaining the existence of facts or conditions as the basis of the taking into effect of a law. That is a mental process common to all branches of the government. . . . "The principle which permits the legislature to provide that the administrative agent may determine when the circumstances are such as require the application of a law is defended upon the ground that at the time this authority is granted, the rule of public policy, which is the essence of the legislative act, is determined by the legislature. In other words, the legislature, as it is its duty to do, determines that, under given circumstances, certain executive or administrative action is to be taken, and that, under other circumstances, different or no action at all is to be taken. What is thus left to the administrative official is not the legislative determination of what public policy demands, but simply the ascertainment of what the facts of the case require to be done according to the terms of the law by which he is governed.*". . . "The efficiency of an Act as a declaration of legislative will must, of course, come from Congress, but the ascertainment of the contingency upon which the Act shall take effect may be left to such agencies as it may designate." . . . *The legislature, then, may provide that a law shall take effect upon the happening of future specified contingencies leaving to some other person or body the power to determine when the specified contingency has arisen.*[212] (Emphasis supplied, citations omitted)

Meanwhile, subordinate legislation entails delegating to administrative bodies the power to "fill in" the details of a statute. Enacting subordinate legislation has become necessary amid the "proliferation of specialized activities and their attendant peculiar problems," which the legislature may not be able to competently address. In *Eastern Shipping Lines, Inc. v. Philippine Overseas Employment Administration*:[213]

> The principle of non-delegation of powers is applicable to all the three major powers of the Government but is especially important in the case of the legislative power because of the many instances when its delegation is permitted. The occasions are rare when executive or judicial powers have to be delegated by the authorities to which they legally pertain. In the case of the legislative power, however, such occasions have become more and more frequent, if not necessary. This had led to the observation that the delegation of legislative power has become the rule and its non-delegation the exception.
>
> The reason is the increasing complexity of the task of government and the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has

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[212] *People v. Vera*, 65 Phil. 56, 117–120 (1937) [Per J. Laurel, First Division].

[213] 248 Phil. 762 (1988) [Per J. Cruz, First Division].

> ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected reasonably to comprehend. Specialization even in legislation has become necessary. To many of the problems attendant upon present-day undertakings, the legislature may not have the competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them.
>
> The reasons given above for the delegation of legislative powers in general are particularly applicable to administrative bodies. With the proliferation of specialized activities and their attendant peculiar problems, the national legislature has found it more and more necessary to entrust to administrative agencies the authority to issue rules to carry out the general provisions of the statute. This is called the "power of subordinate legislation."
>
> With this power, administrative bodies may implement the broad policies laid down in a statute by "filling in" the details which the Congress may not have the opportunity or competence to provide. This is effected by their promulgation of what are known as supplementary regulations, such as the implementing rules issued by the Department of Labor on the new Labor Code. These regulations have the force and effect of law.[214]

To avoid the taint of unlawful delegation, the statute delegating legislative power must:

> (a) be complete in itself — it must set forth therein the policy to be executed, carried out or implemented by the delegate — and (b) fix a standard — the limits of which are sufficiently determinate or determinable — to which the delegate must conform in the performance of his functions. Indeed, without a statutory declaration of policy, the delegate would, in effect, make or formulate such policy, which is the essence of every law; and, without the aforementioned standard, there would be no means to determine, with reasonable certainty, whether the delegate has acted within or beyond the scope of his authority. Hence, he could thereby arrogate upon himself the power, not only to make the law, but, also — and this is worse — to unmake it, by adopting measures inconsistent with the end sought to be attained by the Act of Congress[.][215] (Citations omitted)

In *Abakada Guro Party List v. Purisima*:[216]

> Two tests determine the validity of delegation of legislative power: (1) the completeness test and (2) the sufficient standard test. A law is complete when it sets forth therein the policy to be executed, carried out or implemented by the delegate. It lays down a sufficient standard when it provides adequate guidelines or limitations in the law to map out the boundaries of the delegate's authority and prevent the delegation from

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214 Id. at 772–773.

215 *Pelaez v. Auditor General*, 122 Phil. 965, 974–975 (1965) [Per J. Concepcion, En Banc].

216 584 Phil. 246 (2008) [Per J. Corona, En Banc].

> running riot. To be sufficient, the standard must specify the limits of the delegate's authority, announce the legislative policy and identify the conditions under which it is to be implemented.[217] (Citations omitted)

Republic Act No. 10149 complied with the completeness and sufficient standard tests. The abolition or reorganization was already determined in the assailed law. The Governance Commission will only determine whether it will take effect in accordance with the policy and standards provided in the law. Section 5(a) mandates the abolition or reorganization of GOCCs only when the following standards are met:

> (1) The functions or purposes for which the GOCC was created are no longer relevant to the State or no longer consistent with the national development policy of the State;
>
> (2) The GOCC's functions or purposes duplicate or unnecessarily overlap with functions, programs, activities or projects already provided by a Government Agency;
>
> (3) The GOCC is not producing the desired outcomes, or no longer achieving the objectives and purposes for which it was originally designed and implemented, and/or not cost efficient and does not generate the level of social, physical and economic returns *vis-à-vis* the resource inputs;
>
> (4) The GOCC is in fact dormant or nonoperational;
>
> (5) The GOCC is involved in an activity best carried out by the private sector; and
>
> (6) The functions, purpose or nature of operations of any group of GOCCs require consolidation under a holding company.[218]

In authorizing the Governance Commission to make reforms in the GOCCs, Section 2 lays down the following policies:

> SECTION 2. *Declaration of Policy.* — The State recognizes the potential of government-owned or –controlled corporations (GOCCs) as significant tools for economic development. It is thus the policy of the State to actively exercise its ownership rights in GOCCs and to promote growth by ensuring that operations are consistent with national development policies and programs.
>
> Towards this end, the State shall ensure that:
>
> (a) The corporate form of organization through which government carries out activities is utilized judiciously;
>
> (b) The operations of GOCCs are rationalized and monitored centrally in order that government assets and resources are

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[217] Id. at 272.

[218] Republic Act No. 10149 (2010), sec. 5(a).

> used efficiently and the government exposure to all forms of liabilities including subsidies is warranted and incurred through prudent means[.]

Moreover, delegating the power to ascertain facts—in order to determine the propriety of the reorganization, abolition, merger, streamlining or privatization of GOCCs—is not an undue delegation of legislative powers. The standards were set; the policy, fixed. The Governance Commission only needs to carry out the mandate. In ascertaining the determinants for abolishing or reorganizing GOCCs, the Governance Commission only acts as an investigative body on behalf of Congress.

In *Cervantes v. Auditor General*,[219] the Control Committee disapproved the board resolution of the National Abaca and Other Fibers Corporation granting quarters allowance to the general manager. On appeal to this Court, it was argued that Executive Order No. 93, which created the Control Committee, was invalid because it was based on a law that is unconstitutional as an illegal delegation of legislative power to the executive. The law referred to is Republic Act No. 51, which authorized the president, among others, to make reforms in GOCCs in "promoting simplicity, economy and efficiency in their operation."[220]

Upholding the constitutionality of Republic Act No. 51, this Court said:

> [T]he rule is that so long as the Legislature "lays down a policy and a standard is established by the statute" there is no undue delegation. Republic Act No. 51 in authorizing the President of the Philippines, among others, to make reforms and changes in government-controlled corporations, lays down a standard and policy that the purpose shall be to meet the exigencies attendant upon the establishment of the free and independent Government of the Philippines and to promote simplicity, economy and efficiency in their operations. The standard was set and the policy fixed. The President had to carry the mandate. This he did by promulgating the executive order in question which, tested by the rule above cited, does not constitute an undue delegation of legislative power.[221] (Citation omitted)

Similarly, the delegation of the power to establish a Compensation and Position Classification System, subject to the president's approval, is constitutional. Republic Act No. 10149 amends the provisions in the GOCC charters empowering their board of directors or trustees to determine their own compensation system, in favor of the grant of authority to the president to perform this act.

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219 91 Phil. 359 (1952) [Per J. Reyes, En Banc].
220 Id. at 362.
221 *Cervantes v. Auditor General*, 91 Phil. 359, 364 (1952) [Per J. Reyes, En Banc].

Article IX-B, Section 5 of the 1987 Constitution mandates that "Congress shall provide for the standardization of compensation of government officials and employees, including those in government-owned or controlled corporations with original charters, taking into account the nature of the responsibilities pertaining to, and the qualifications required for their positions."

In line with this, Republic Act No. 6758,[222] or the Compensation and Position Classification Act of 1989, prescribes a revised compensation and position classification system in government. Its coverage is comprehensive and applies to the entire government without qualification.[223]

Republic Act No. 6758 provided, among others, a salary schedule for all government positions, appointive or elective, including positions in GOCCs and other government financial institutions (GFIs). It also recognized the continuing applicability of Presidential Decree No. 985, as amended by Presidential Decree No. 1597.[224] Section 6 of Presidential Decree No. 1597 states:

> SECTION 6. *Exemptions from OCPC Rules and Regulations.* — Agencies positions, or groups of officials and employees of the national government, including government owned or controlled corporations, who are hereafter exempted by law from [Office of Compensation and Position Classification] OCPC coverage, shall *observe such guidelines and policies as may be issued by the President governing position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits. Exemptions notwithstanding, agencies shall report to the President, through the Budget Commission* [now Department of Budget and Management (DBM)], *on their position classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President.* (Emphasis supplied)

The thrust of Presidential Decree No. 1597 was to limit exceptions from the National Compensation and Position Classification System established under Presidential Decree No. 985. It was observed that "the proliferation of special salary laws [was] inimical to sound public administration and complicates the process of salary adjustment due to disparities and inflexibility in salary rates, pay ranges and/or other forms of compensation[.]"[225]

Still, laws have subsequently been passed carving out exceptions to Republic Act No. 6758, as amended, particularly on chartered GOCCs and

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[222] An Act Prescribing a Revised Compensation and Position Classification System in the Government and for Other Purposes, August 21, 1989.

[223] *Mendoza v. Commission on Audit,* 717 Phil. 491 (2013) [Per J. Leonen, En Banc].

[224] Rationalizing the System of Compensation and Position Classification in the National Government, dated June 11, 1978.

[225] Presidential Decree No. 1597 (1978), third whereas clause.

GFIs. These laws provided not only the power to create the agency's or corporation's own compensation and position classification systems, usually through its board of directors, but also exempted the agency or corporation from the Salary Standardization Law.[226]

This notwithstanding, the president's authority to prescribe policies, parameters, and guidelines to govern how exempt GOCCs and GFIs will determine their respective compensation and position classification systems subsist.[227]

In 2009, the Senate and the House of Representatives issued Joint Resolution No. 4, authorizing the president to modify the existing Compensation and Position Classification System of civilian personnel in the government. It states:

> (9) Exempt Entities — Government agencies which by specific provision/s of laws are authorized to have their own compensation and position classification system shall not be entitled to the salary adjustments provided herein. Exempt entities shall be governed by their respective Compensation and Position Classification Systems: *Provided, That such entities shall observe the policies, parameters and guidelines governing position classification, salary rates, categories and rates of allowances, benefits and incentives, prescribed by the President: Provided, further, That any increase in the existing salary rates as well as the grant of new allowances, benefits and incentives, or an increase in the rates thereof shall be subject to the approval by the President, upon recommendation of the DBM: Provided, finally*, That exempt entities which still follow the salary rates for positions covered by Republic Act No. 6758, as amended, are entitled to the salary adjustments due to the implementation of this Joint Resolution, until such time that they have implemented their own compensation and position classification system. (Emphasis supplied)

In *Intia, Jr. v. Commission on Audit*,[228] while this Court affirmed the Philippine Postal Corporation's exemption from the Salary Standardization Law, it also held that the corporation should report the details of its salary and compensation system to the Department of Budget and Management.

In *Philippine Retirement Authority v. Bunag*,[229] this Court held that while the Philippine Retirement Authority could, under its charter, fix the compensation of its employees, it "is still required to 1) *observe the policies and guidelines issued by the President* with respect to position classification, salary rates, levels of allowances, project and other honoraria, overtime rates, and other forms of compensation and fringe benefits and 2) *report to the President, through the Budget Commission*, on their position

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226 *Mendoza v. Commission on Audit,* 717 Phil. 491 (2013) [Per J. Leonen, En Banc].
227 J. Corona, Concurring Opinion in *Galicto v. Aquino III,* 683 Phil. 141 (2012) [Per J. Brion, En Banc].
228 366 Phil. 273 (1999) [Per J. Romero, En Banc].
229 444 Phil. 859 (2003) [Per J. Puno, Third Division].

classification and compensation plans, policies, rates and other related details following such specifications as may be prescribed by the President."[230] It was held:

> *Even prior to R.A. No. 6758, the declared policy of the national government is to provide "equal pay for substantially equal work and to base differences in pay upon substantive differences in duties and responsibilities, and qualification requirements of the positions."* To implement this policy, P.D. No. 985 provided for the standardized compensation of government employees and officials, including those in government-owned and controlled corporations. Subsequently, P.D. No. 1597 was enacted prescribing the duties to be followed by agencies and offices exempt from coverage of the rules and regulations of the Office of Compensation and Position Classification. The intention, therefore, was to provide a compensation standardization scheme such that notwithstanding any exemptions from the coverage of the Office of Compensation and Position Classification, *the exempt government entity or office is still required to observe the policies and guidelines issued by the President and to submit a report to the Budget Commission on matters concerning position classification and compensation plans, policies, rates and other related details.*[231] (Emphasis supplied, citation omitted)

Such restriction on exempt government entities was held to indicate Congress's recognition of the president's power of control over all executive departments, bureaus, and offices.[232] This precept is embodied in Article VII, Section 17 of the Constitution, which provides:

> SECTION 17. The President shall have control of all the executive departments, bureaus and offices. He shall ensure that the laws be faithfully executed.

Republic Act No. 10149 is but a clear expression of the legislative intent to regulate and rationalize the compensation frameworks of GOCCs by authorizing the president, upon the recommendation of the Governance Commission, to establish a unified Compensation and Position Classification System for GOCCs. The law is consistent with the compensation standardization clause in the Constitution and the intended salary standardization for GOCCs expressed in previous laws.

The Governance Commission was created to act as the central advisory, monitoring, and oversight body attached to the Office of the President. Among its powers and functions is to conduct compensation studies, develop, and recommend a competitive compensation and remuneration system, which shall attract and retain talent but allow the GOCC to be financially sound and sustainable.[233] After conducting a

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230 Id. at 869.
231 Id. at 870.
232 *Philippine Economic Zone Authority v. Commission on Audit,* 797 Phil. 117 (2016) [Per J. Peralta, En Banc].
233 Republic Act No. 10149 (2010), sec. 5(h).

compensation study, it is tasked to develop a Compensation and Position Classification System, which will apply to all GOCC officers.[234] For this, the Governance Commission must comply with certain governing principles and limitations:

> SECTION 9. *Position Titles and Salary Grades.* — All positions in the Position Classification System, as determined by the GCG and as approved by the President, shall be allocated to their proper position titles and salary grades in accordance with an Index of Occupational Services, Position Titles and Salary Grades of the Compensation and Position Classification System, which shall be prepared by the GCG and approved by the President.
>
> The following principles shall govern the Compensation and Position Classification System:
>
> (a) All GOCC personnel shall be paid just and equitable wages in accordance with the principle of equal pay for work of equal value. Differences in pay shall be based on verifiable Compensation and Position Classification factors in due regard to the financial capability of the GOCC;
>
> (b) Basic compensation for all personnel in the GOCC shall generally be comparable with those in the private sector doing comparable work, and must be in accordance with prevailing laws on minimum wages. The total compensation provided for GOCC personnel shall be maintained at a reasonable level with due regard to the provisions of existing compensation and position classification laws including Joint Resolution No. 4, Series of 2009, and the GOCCs operating budget; and
>
> (c) A review of the GOCC compensation rates, taking into account the performance of the GOCC, its overall contribution to the national economy and the possible erosion in purchasing power due to inflation and other factors, shall be conducted periodically.
>
> Any law to the contrary notwithstanding, no GOCC shall be exempt from the coverage of the Compensation and Position Classification System developed by the GCG under this Act.
>
> . . . .
>
> SECTION 11. *Non-Diminution of Salaries.* — The Compensation and Position Classification System to be developed and recommended by the GCG and as approved by the President shall apply to all positions, on full or part-time basis, now existing or hereafter created in the GOCC:

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[234] Republic Act No. 10149 (2010), sec. 8 provides:
SECTION 8. *Coverage of the Compensation and Position Classification System.* — The GCG, after conducting a compensation study, shall develop a Compensation and Position Classification System which shall apply to all officers and employees of the GOCCs whether under the Salary Standardization Law or exempt therefrom and shall consist of classes of positions grouped into such categories as the GCG may determine, subject to the approval of the President.

> *Provided,* That in no case shall there be any diminution in the authorized salaries as of December 31, 2010 of incumbent employees of GOCCs, including those exempt under Republic Act No. 6758, as amended, upon the implementation of the Compensation and Position Classification System for GOCCs.
>
> . . . .
>
> SECTION 23. *Limits to Compensation, Per Diems, Allowances and Incentives.* — The charters of each of the GOCCs to the contrary notwithstanding, the compensation, *per diems*, allowances and incentives of the members of the Board of Directors/Trustees of the GOCCs shall be determined by the GCG using as a reference, among others, Executive Order No. 245 dated February 10, 2011: *Provided, however,* That Directors/Trustees shall not be entitled to retirement benefits as such directors/trustees.
>
> In case of GOCCs organized solely for the promotion of social welfare and the common good without regard to profit, the total yearly *per diems* and incentives in the aggregate which the members of the Board of such GOCCs may receive shall be determined by the President upon the recommendation of the GCG based on the achievement by such GOCC of its performance targets.[235]

The Compensation and Position Classification System must also be aligned with the State policy to ensure that "[r]easonable, justifiable and appropriate remuneration schemes are adopted for the directors/trustees, officers and employees of GOCCs and their subsidiaries to prevent or deter the granting of unconscionable and excessive remuneration packages[.]"[236]

In *De La Llana*, this Court accepted the clause "along the guidelines set forth in letter of Implementation No. 93 pursuant to Presidential Decree No. 985, as amended by Presidential Decree No. 1597"[237] as sufficient standard in granting the president the power to fix the compensation and allowances of the justices and judges appointed under Batas Pambansa Blg. 129. This Court stated:

> . . . There are other objections raised but they pose no difficulty. Petitioners would characterize as an undue delegation of legislative power to the President the grant of authority to fix the compensation and the allowances of the Justices and judges thereafter appointed. A more careful reading of the challenged Batas Pambansa Blg. 129 ought to have cautioned them against raising such an issue. The language of the statute is quite clear. The questioned provision reads as follows: "Intermediate Appellate Justices, Regional Trial Judges, and Municipal Circuit Trial Judges shall receive such compensation and allowances as may be authorized by the President along the guidelines set forth in letter of Implementation No. 93 pursuant to Presidential Decree No. 985, as amended by Presidential Decree No. 1597." The existence of a standard is

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235 Republic Act No. 10149 (2012), sec. 9, 11, and 23.
236 Republic Act No. 10149 (2012), sec. 2(f).
237 *De La Llana v. Alba*, 198 Phil. 1, 59 (1982) [Per C.J. Fernando, En Banc].

> thus clear. The basic postulate that underlies the doctrine of non-delegation is that it is the legislative body which is entrusted with the competence to make laws and to alter and repeal them, the test being the completeness of the statute in all its terms and provisions when enacted. As pointed out in *Edu v. Ericta*: "To avoid the taint of unlawful delegation, there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy. Otherwise, the charge of complete abdication may be hard to repel. A standard thus defines legislative policy, marks its limits, maps out its boundaries and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected. It is the criterion by which legislative purpose may be carried out. Thereafter, the executive or administrative office designated may in pursuance of the above guidelines promulgate supplemental rules and regulations. The standard may be either express or implied. If the former, the non-delegation objection is easily met. The standard though does not have to be spelled out specifically. It could be implied from the policy and purpose of the act considered as a whole."[238] (Citations omitted)

Similarly, the standards provided in Republic Act No. 10149, and the policy framework embodied in other existing compensation and position classification laws, including Joint Resolution No. 4, series of 2009, are sufficient to map out the boundaries of the Governance Commission's authority in establishing the compensation system for GOCCs.

All told, we uphold the assailed powers and functions of the Governance Commission considering that the completeness and sufficient standard tests were satisfied in the law. We find no undue delegation of legislative power.

IV

Petitioner Lagman contends that the Governance Commission has supplanted the constitutional mandate of the Civil Service Commission by removing the chartered GOCCs from jurisdiction of the Civil Service Commission and placing them under the Governance Commission.[239] Furthermore, he claims that the Civil Service Commission's constitutional powers over GOCCs were allegedly arrogated by the Governance Commission, specifically:

> [T]he prescription of qualifications by the Governance Commission is final without submitting the same for the review and approval of the Civil Service Commission. . . Moreover, appointments in GOCCs under the assailed law are not anymore submitted to the Civil Service Commission for approval.[240]

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238 Id. at 59–60.
239 *Rollo* (G.R. No. 197422), p. 531.
240 Id. at 532.

This Court disagrees.

Contrary to petitioner Lagman's claims, the powers and functions of the Governance Commission have neither duplicated nor supplanted the Civil Service Commission's mandate.

The Governance Commission is the "central policy-making and regulatory body mandated to safeguard the State's ownership rights and ensure that the operations of GOCCs are transparent and responsive to the needs of the public."[241] Its main thrust is to assess GOCCs' performance as public institutions. Toward this end, it is empowered to:

> (a) Properly classify GOCCs into:
>
> - Development/Social Corporations;
> - Proprietary Commercial Corporations;
> - Government Financial, Investment and Trusts Institutions;
> - Corporations with Regulatory Functions; and
> - Other as may be determined by GCG;
>
> (b) Adopt within 180 days from its constitution (20 October 2011) an Ownership and Operations Manual and the Government Corporate Standards governing GOCCs, with shall be consistent with the Medium-Term Philippine Development Plan of the NEDA;
>
> (c) Establish the performance evaluation systems including performance scorecards which shall apply to all GOCCs in general and to the various GOCC classifications;
>
> (d) Evaluate the performance and determination of the relevan[ce] of GOCCs, to ascertain whether any of them should be reorganized, merged, streamlined, abolished or privatized;
>
> (e) Conduct periodic study, examination, evaluation and assessment of the performance of the GOCCs, receive, and in appropriate cases, require reports on the operations and management of GOCCs including, but not limited to, the management of the assets and finances of the GOCCs;
>
> (f) Coordinate and monitor the operations of GOCCs, ensuring alignment and consistency with the national development policies and programs, and meeting quarterly to review strategy maps and performance scorecards of all GOCCs; review and assess existing performance-related policies, prepare performance reports of the GOCCs for submission to the President;
>
> (h) Review the functions of each of the GOCC and, upon determination that there is a conflict between the regulatory and commercial functions of a GOCC, recommend to the President in consultation with the government agency to which the GOCC is attached, the privatization of the GOCCs commercial operations, or the transfer of the regulatory functions to the

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[241] Governance Commission, About us, <https://gcg.gov.ph/about-us> (last accessed on November 2, 2020).

> appropriate government agency, or such other plan of action to ensure that the commercial functions of the GOCC do not conflict with such regulatory functions;
>
> (i) Provide technical advice and assistance to the government agencies to which the GOCCs are attached in setting performance objectives and targets for the GOCCs and in monitoring GOCCs performance vis-a-vis established objectives and targets; and
>
> (j) Coordinate and monitor the operations of GOCCs, ensuring alignment and consistency with the national development policies and program, and shall meet at least quarterly to:
>
> - Review strategy maps and performance scorecards of all GOCCs;
> - Review and assess existing performance-related policies inclu[di]ng the compensation/remuneration of Board of Directors/Trustees and Officers and recommend appropriate revisions and actions;
> - Prepare performance reports of the GOCCs for submission to the President;
>
> (k) Prepare a semi-annual progress report to be submitted to the President and the Congress, providing therein its performance assessment of the GOCCs and recommend clear and specific actions; and [within] one-hundred-twenty (120) days from the close of the year, shall prepare an annual report on the performance of the GOCCs and submit it to the President and the Congress.[242]

On the other hand, the Civil Service Commission, as the government's central personnel agency, is tasked under Article IX-B, Section 3 of the Constitution to do the following:

> a. Establish a career service;
> b. Adopt measures to promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service;
> c. Strengthen the merit and rewards system,
> d. Integrate all human resources development programs for all levels and ranks; and
> e. Institutionalize a management climate conducive to public accountability.[243]

Book V, Title I-A, Chapter 3, Section 12 of the Administrative Code provides the Civil Service Commission's powers and functions:

> SECTION 12. *Powers and Functions.* — The Commission shall have the following powers and functions:

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[242] Id.

[243] *See City Government of Makati City v. Civil Service Commission,* 426 Phil. 631, 644 (2002) [Per J. Bellosillo, En Banc].

1. Administer and enforce the constitutional and statutory provisions on the merit system for all levels and ranks in the Civil Service;
2. Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of the Civil Service Law and other pertinent laws;
3. Promulgate policies, standards and guidelines for the Civil Service and adopt plans and programs to promote economical, efficient and effective personnel administration in the government;
4. Formulate policies and regulations for the administration, maintenance and implementation of position classification and compensation and set standards for the establishment, allocation and reallocation of pay scales, classes and positions;
5. Render opinion and rulings on all personnel and other Civil Service matters which shall be binding on all heads of departments, offices and agencies and which may be brought to the Supreme Court on certiorari;
6. Appoint and discipline its officials and employees in accordance with law and exercise control and supervision over the activities of the Commission;
7. Control, supervise and coordinate Civil Service examinations. Any entity or official in government may be called upon by the Commission to assist in the preparation and conduct of said examinations including security, use of buildings and facilities as well as personnel and transportation of examination materials which shall be exempt from inspection regulations;
8. Prescribe all forms for Civil Service examinations, appointments, reports and such other forms as may be required by law, rules and regulations;
9. Declare positions in the Civil Service as may properly be primarily confidential, highly technical or policy determining;
10. Formulate, administer and evaluate programs relative to the development and retention of qualified and competent work force in the public service;
11. Hear and decide administrative cases instituted by or brought before it directly or on appeal, including contested appointments, and review decisions and actions of its offices and of the agencies attached to it. Officials and employees who fail to comply with such decisions, orders, or rulings shall be liable for contempt of the Commission. Its decisions, orders, or rulings shall be final and executory. Such decisions, orders, or rulings may be brought to the Supreme Court on *certiorari* by the aggrieved party within thirty (30) days from receipt of a copy thereof;
12. Issue *subpoena* and *subpoena duces tecum* for the production of documents and records pertinent to investigations and inquiries conducted by it in accordance with its authority conferred by the Constitution and pertinent laws;
13. Advise the President on all matters involving personnel management in the government service and submit to the President an annual report on the personnel programs;

14. Take appropriate action on all appointments and other personnel matters in the Civil Service including extension of Service beyond retirement age;
15. Inspect and audit the personnel actions and programs of the departments, agencies, bureaus, offices, local government units and other instrumentalities of the government including government-owned or controlled corporations; conduct periodic review of the decisions and actions of offices or officials to whom authority has been delegated by the Commission as well as the conduct of the officials and the employees in these offices and apply appropriate sanctions whenever necessary;
16. Delegate authority for the performance of any function to departments, agencies and offices where such function may be effectively performed;
17. Administer the retirement program for government officials and employees, and accredit government services and evaluate qualifications for retirement;
18. Keep and maintain personnel records of all officials and employees in the Civil Service; and
19. Perform all functions properly belonging to a central personnel agency and such other functions as may be provided by law.

A closer look at the functions of the Governance Commission and the Civil Service Commission reveals significant differences:

First, the Governance Commission is focused on GOCCs as public institutions. The Civil Service Commission, on the other hand, is focused on the management of government personnel.

Second, the Governance Commission's powers are limited to GOCCs and their boards of directors and trustees. The Civil Service Commission is given the comprehensive mandate to administer the civil service and to render opinions and rulings on all personnel and other civil service matters.[244]

Third, the Governance Commission was created to act as a central advisory, monitoring, and oversight body that formulates, implements, and coordinates policies to evaluate the performance and determine the relevance of GOCCs. On the other hand, the Civil Service Commission is the government's central personnel agency that determines qualifications of merit and fitness of those appointed to the civil service.[245]

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244 *Career Executive Service Board v. Civil Service Commission,* 806 Phil. 967 (2017) [Per C.J. Sereno, En Banc].

245 *Civil Service Commission v. Gentallan,* 497 Phil. 594 (2005) [Per J. Quisumbing, En Banc].

Fourth, the Governance Commission classifies GOCCs into categories and institutionalizes transparency, accountability, financial viability, and responsiveness in corporate performance by monitoring and evaluating GOCCs' performance. The Civil Service Commission promulgates policies, standards, and guidelines for the civil service; and supervises and disciplines, if needed, all government employees, including those employed in GOCCs with original charters.[246]

Fifth, the Governance Commission's mandate is to ensure that government assets and resources are used efficiently and the government exposure to all forms of liabilities is warranted and incurred through prudent means. The Civil Service Commission's mandate is to promote efficiency and professionalism in the civil service.

Apart from these differences, the Civil Service Commission remains empowered to take appropriate action on all appointments and other personnel actions,[247] regardless of Republic Act No. 10149's enactment. While appointments to the civil service must generally be approved by the Civil Service Commission, directors or trustees of GOCCs are not subject to this requirement. Rather, their appointments are generally governed by the GOCC charters or by-laws, as the case may be. Sections 15, 16, 17, and 18 merely authorize the Governance Commission to establish a fit and proper rule and screen candidates for directors or trustees to ensure that those appointed by the President are competent to take on the position.[248]

In any event, the Civil Service Commission's authority to approve appointments is limited to determining whether the appointee is eligible and legally qualified.[249] Specifically, its task is to verify "whether or not the appointee possesses the appropriate civil service eligibility or the required qualifications"[250] and "whether or not the appointing authority complied

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246 *Civil Service Commission v. Alfonso*, 607 Phil. 60 (2009) [Per J. Nachura, En Banc].

247 ADM. CODE, Book V, Title I-A, Ch. 3, sec. 12.

248 *Re: Eden Candelaria*, 627 Phil. 473 (2010) [Per J. Abad, En Banc]. Presidential Decree No. 807 (1975), sec. 9, Civil Service Law of 1975 provides:
SECTION 9. *Powers and Functions of the Commission.* – The Commission shall administer the Civil Service and shall have the following powers and functions:
. . . .
Approve all appointments, whether original or promotional to positions in the civil service, except those of presidential appointees, members of the Armed Forces of the Philippines, police forces, firemen, and jailguards, and disapprove those where the appointees do not possess the appropriate eligibility or required qualifications. An appointment shall take effect immediately upon issue by the appointing authority if the appointee assumes his duties immediately and shall remain effective until it is disapproved by the Commission, if this should take place, without prejudice to the liability of the appointing authority for appointments issued in violation of existing laws or rules: *Provided, finally*, That the Commission shall keep a record of appointments of all officers and employees in the civil service. All appointments requiring the approval of the Commission as herein provided, shall be submitted to it by the appointing authority within thirty days from issuance, otherwise, the appointment becomes ineffective thirty days thereafter. (Emphasis supplied)

249 *Lopez v. Civil Service Commission*, 272 Phil. 97 (1991) [Per J. Gutierrez, Jr., En Banc]; *Central Bank of the Philippines v. Civil Service Commission*, 253 Phil. 717, 725 (1989) [Per J. Gancayco, En Banc].

250 *Luego v. Civil Service Commission*, 227 Phil. 303, 308 (1986) [Per J. Cruz, En Banc].

with the requirements of the law."[251] In *Civil Service Commission v. Tinaya*:[252]

> *To make it fully effective, an appointment to a civil service position must comply with all legal requirements. Thus, the law requires the appointment to be submitted to the CSC, which will ascertain, in the main, whether the proposed appointee is qualified to hold the position and whether the rules pertinent to the process of appointment were observed.*
>
> The appointing officer and the CSC acting together, though not concurrently but consecutively, make an appointment complete. *In acting on the appointment, the CSC determines whether the appointee possesses the appropriate civil service eligibility or the required qualifications.* If the appointee is qualified, the appointment must be approved; if not, it should be disapproved.[253] (Emphasis supplied, citations omitted)

If the Civil Service Commission finds that the appointee is eligible, its attestation becomes a ministerial duty.[254] It has no authority to direct the appointment of its own choice.[255] Neither is it authorized to curtail the discretion of the appointing official on the nature or kind of appointment to be extended.

Nothing in Republic Act No. 10149 would indicate the removal of the Civil Service Commission's authority to act on appointments. Rather, it would be consistent with the State policy of ensuring that "[t]he governing boards of every GOCC and its subsidiaries are competent to carry out its functions, fully accountable to the State as its fiduciary, and acts in the best interest of the State[.]"[256] Republic Act No. 10149 merely added an initial screening and selection process for GOCCs' directors and trustees. The Governance Commission is tasked to "oversee the selection and nomination of *directors or trustees* and maintain the quality of Board Governance."[257] It is specifically mandated to perform the following functions:

> SECTION 5. *Creation of the Governance Commission for Government-Owned or -Controlled Corporations.* — . . . The GCG shall have the following powers and functions:
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> . . . .
>
> (d) Without prejudice to the filing of administrative and criminal charges, recommend to the Board of Directors or Trustees the suspension of any member of the Board of Directors or Trustees who participated by commission or omission in the

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[251] *Central Bank of the Philippines v. Civil Service Commission,* 253 Phil. 717, 726 (1989) [Per J. Gancayco, En Banc].

[252] 491 Phil. 729 (2005) [Per J. Sandoval-Gutierrez, En Banc].

[253] Id. at 736–737.

[254] *Buena, Jr. v. Benito*, 745 Phil. 399 (2014) [Per J. Leonen, En Banc].

[255] *Lapinid v. Civil Service Commission,* 274 Phil. 381 (1991) [Per J. Cruz, En Banc].

[256] Republic Act No. 10149 (2010), sec. 2(e).

[257] Governance Commission, About us, <https://gcg.gov.ph/about-us/> (Last accessed on March 29, 2019).

approval of the act giving rise to the violation or noncompliance with the ownership manual for a period depending on the nature and extent of damage caused, during which period the director or trustee shall not be entitled to any emolument;

(e) In addition to the qualifications required under the individual charter of the GOCCs and in the bylaws of GOCCs without original charters, the GCG shall identify necessary skills and qualifications required for Appointive Directors and recommend to the President a shortlist of suitable and qualified candidates for Appointive Directors[.]

Pertinent provisions on the appointment of GOCCs' directors or trustees state:

SECTION 15. *Appointment of the Board of Directors/Trustees of GOCCs.* — An Appointive Director shall be appointed by the President of the Philippines from a shortlist prepared by the GCG.

The GCG shall formulate its rules and criteria in the selection and nomination of prospective appointees and shall cause the creation of search committees to achieve the same. *All nominees included in the list submitted by the GCG to the President shall meet the Fit and Proper Rule as defined under this Act and such other qualifications which the GCG may determine taking into consideration the unique requirements of each GOCC.* The GCG shall ensure that the shortlist shall exceed by at least fifty percent (50%) of the number of directors/trustees to be appointed. In the event that the President does not see fit to appoint any of the nominees included in the shortlist, the President shall ask the GCG to submit additional nominees.

SECTION 16. *Fit and Proper. — All members of the Board, the CEO and other officers of the GOCCs including appointive directors in subsidiaries and affiliate corporations shall be qualified by the Fit and Proper Rule to be determined by the GCG in consultation and coordination with the relevant government agencies to which the GOCC is attached and approved by the President..*

To maintain the quality of management of the GOCCs, the GCG, in coordination with the relevant government agencies shall, subject to the approval of the President, *prescribe, pass upon and review the qualifications and disqualifications of individuals appointed as officers, directors or elected CEO of the GOCC and shall disqualify those found unfit.*

In determining whether an individual is fit and proper to hold the position of an officer, director or CEO of the GOCC, *due regard shall be given to one's integrity, experience, education, training and competence.*

SECTION 17. *Term of Office.* — Any provision in the charters of each GOCC to the contrary notwithstanding, the term of office of each Appointive Director shall be for one (1) year, unless sooner removed for cause: *Provided, however,* That the Appointive Director shall continue to hold office until the successor is appointed. *An Appointive Director may*

> *be nominated by the GCG for reappointment by the President only if one obtains a performance score of above average or its equivalent or higher in the immediately preceding year of tenure as Appointive Director based on the performance criteria for Appointive Directors for the GOCC.*
>
> Appointment to any vacancy shall be only for the unexpired term of the predecessor. The appointment of a director to fill such vacancy shall be in accordance with the manner provided in Section 15 of this Act.
>
> . . . .
>
> SECTION 18. *The Chief Executive Officer of the GOCC.* — The CEO or the highest-ranking officer provided in the charters of the GOCCs, shall *be elected annually by the members of the Board from among its ranks.* The CEO shall be subject to the disciplinary powers of the Board and may be removed by the Board for cause.[258] (Emphasis supplied)

At any rate, "the [Civil Service Commission's] constitutional authority over the civil service [did not] divest the Legislature of the power to enact laws providing exemptions to civil service rules."[259] In *Trade and Investment Development Corporation v. Civil Service Commission*:[260]

> *The CSC's rule-making power, albeit constitutionally granted, is still limited to the implementation and interpretation of the laws it is tasked to enforce.*
>
> The 1987 Constitution created the CSC as the central personnel agency of the government mandated to establish a career service and promote morale, efficiency, integrity, responsiveness, progressiveness, and courtesy in the civil service. It is a constitutionally created administrative agency that possesses executive, quasi-judicial and quasi-legislative or rule-making powers.
>
> While not explicitly stated, the CSC's rule-making power is subsumed under its designation as the government's "central personnel agency" in Section 3, Article IX-B of the 1987 Constitution. . . .
>
> . . . .
>
> The 1987 Administrative Code then spelled out the CSC's rule-making power in concrete terms in Section 12, Book V, Title I-A, which empowered the CSC *to implement the civil service law and other pertinent laws,* and to promulgate policies, standards and guidelines for the civil service.
>
> The CSC's rule-making power as a constitutional grant is an aspect of its independence as a constitutional commission. It places the grant of this power outside the reach of Congress, which cannot withdraw the power at any time. . . .

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258 Republic Act No. 10149 (2010), secs. 15–18.

259 *Trade and Investment Development Corp. v. Civil Service Commission*, 705 Phil. 357 (2013) [Per J. Brion, En Banc].

260 705 Phil. 357, 369 (2013) [Per J. Brion, En Banc].

. . . .

But while the grant of the CSC's rule-making power is untouchable by Congress, the laws that the CSC interprets and enforces fall within the prerogative of Congress. As an administrative agency, the CSC's quasi-legislative power is subject to the same limitations applicable to other administrative bodies. The rules that the CSC formulates must not override, but must be in harmony with, the law it seeks to apply and implement.[261] (Emphasis supplied, citations omitted)

All reasonable doubts should be resolved in favor of the constitutionality of a statute. A legislative act, approved by the executive, is presumed to be within constitutional limitations.[262] To justify the nullification of a law, there must be a clear breach of the Constitution:[263]

A law that advances a legitimate governmental interest will be sustained, even if it "*works to the disadvantage of a particular group, or . . . the rationale for it seems tenuous.*" . . .

. . . .

*We cannot second-guess the mind of the legislature as the repository of the sovereign will. For all we know, amidst the fiscal crisis and financial morass we are experiencing, Congress may altogether remove the blanket exemption, put a salary cap on the highest echelons, lower the salary grade scales subject to SSL exemption, adopt performance-based compensation structures, or even amend or repeal the SSL itself, but within the constitutional mandate that "**at the earliest possible time, the Government shall increase the salary scales of . . . officials and employees of the National Government.**" Legislative reforms of whatever nature or scope may be taken one step at a time, addressing phases of problems that seem to the legislative mind most acute. Rightly so, our legislators must have **"flexibility and freedom from judicial oversight in shaping and limiting their remedial efforts."** Where there are plausible reasons for their action, the Court's **"inquiry is at an end."***

Under the doctrine of separation of powers and the concomitant respect for coequal and coordinate branches of government, the exercise of prudent restraint by this Court would still be best *under the present circumstances.*[264] (Emphasis in the original, citations omitted)

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261 Id. at 369–372.

262 *Garcia v. Executive Secretary,* 281 Phil. 572, 579–580 (1991) [Per J. Cruz, En Banc]. ". . . We find that the constitutional challenge must be rejected for failure to show that there is an indubitable ground for it, not to say even a necessity to resolve it. The policy of the courts is to avoid ruling on constitutional questions and to presume that the acts of the political departments are valid in the absence of a clear and unmistakable showing to the contrary. To doubt is to sustain. This presumption is based on the doctrine of separation of powers which enjoins upon each department a becoming respect for the acts of the other departments. The theory is that as the joint act of Congress and the President of the Philippines, a law has been carefully studied and determined to be in accordance with the fundamental law before it was finally enacted."

263 *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas,* 487 Phil. 531 (2004) [Per J. Puno, En Banc].

264 J. Panganiban, Dissenting Opinion in *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas,* 487 Phil. 531, 624–626 (2004) [Per J. Puno, En Banc].

V

Republic Act No. 10149 applies to all GOCCs, GFIs, as well as government instrumentalities with corporate powers and government corporate entities. The law defines these as follows:

> *Government-Owned or -Controlled Corporation (GOCC)* refers to any agency organized as a stock or nonstock corporation, vested with functions relating to public needs whether governmental or proprietary in nature, and owned by the Government of the Republic of the Philippines directly or through its instrumentalities either wholly or, where applicable as in the case of stock corporations, to the extent of at least a majority of its outstanding capital stock: *Provided, however,* That for purposes of this Act, the term "GOCC" shall include GICP/GCE and GFI as defined herein.[265]
>
> *Government Financial Institutions (GFIs)* refer to financial institutions or corporations in which the government directly or indirectly owns majority of the capital stock and which are either: (1) registered with or directly supervised by the Bangko Sentral ng Pilipinas; or (2) collecting or transacting funds or contributions from the public and places them in financial instruments or assets such as deposits, loans, bonds and equity including, but not limited to, the Government Service Insurance System and the Social Security System.[266]
>
> *Government Instrumentalities with Corporate Powers (GICP)/Government Corporate Entities (GCE)* refer to instrumentalities or agencies of the government, which are neither corporations nor agencies integrated within the departmental framework, but vested by law with special functions or jurisdiction, endowed with some if not all corporate powers, administering special funds, and enjoying operational autonomy usually through a charter including, but not limited to, the following: the Manila International Airport Authority (MIAA), the Philippine Ports Authority (PPA), the Philippine Deposit Insurance Corporation (PDIC), the Metropolitan Waterworks and Sewerage System (MWSS), the Laguna Lake Development Authority (LLDA), the Philippine Fisheries Development Authority (PFDA), the Bases Conversion and Development Authority (BCDA), the Cebu Port Authority (CPA), the Cagayan de Oro Port Authority, the San Fernando Port Authority, the Local Water Utilities Administration (LWUA) and the Asian Productivity Organization (APO).[267]

Specifically excluded from the coverage of the law are the following: (a) the Bangko Sentral ng Pilipinas; (b) state universities and colleges; (c) cooperatives; (d) local water districts; and (e) economic zone authorities and research institutions, provided that a third of their board members shall be appointed from the list submitted by Governance Commission.[268]

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265 Republic Act No. 10149 (2010), sec. 3(o).
266 Republic Act No. 10149 (2010), sec. 3(m).
267 Republic Act No. 10149 (2010), sec. 3(n).
268 Republic Act No. 10149 (2010), sec. 4.

Petitioner Pichay contends that the law violates the equal protection clause as it had no reasonable basis for excluding some GOCCs from Republic Act No. 10149.[269]

The equal protection clause in the Constitution is not a guarantee of absolute equality in the operation of laws.[270] It applies only to persons or things that are identically situated. It does not bar a reasonable classification of the subject of legislation:

> The equal protection of the law clause in the Constitution is not absolute, but is subject to reasonable classification. If the groupings are characterized by substantial distinctions that make real differences, one class may be treated and regulated differently from the other. The Court has explained the nature of the equal protection guarantee in this manner:
>
> > The equal protection of the law clause is against undue favor and individual or class privilege, as well as hostile discrimination or the oppression of inequality. It is not intended to prohibit legislation which is limited either in the object to which it is directed or by territory within which it is to operate. It does not demand absolute equality among residents; it merely requires that all persons shall be treated alike, *under like circumstances and conditions* both as to privileges conferred and liabilities enforced. The equal protection clause is not infringed by legislation which applies only to those persons falling within a specified class, if it applies alike to all persons within such class, and reasonable grounds exist for making a distinction between those who fall within such class and those who do not.[271] (Emphasis in the original, citations omitted)

A classification is reasonable where: (1) it is based on substantial distinctions which make for real differences; (2) it is germane to the purpose of the law; (3) it is not limited to existing conditions only; and (4) it applies equally to each member of the same class.[272] This Court has held:

> The equal protection of the laws clause of the Constitution allows classification. Classification in law, as in the other departments of knowledge or practice, is the grouping of things in speculation or practice

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269 *Rollo* (G.R. No. 197950), p. 272 and 279.
Republic Act No. 10149 (2010), sec. 4 provides:
SECTION 4. *Coverage.* — This Act shall be applicable to all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries, but ***excluding*** the Bangko Sentral ng Pilipinas, state universities and colleges, cooperatives, local water districts, economic zone authorities and research institutions: *Provided,* That in economic zone authorities and research institutions, the President shall appoint one-third (1/3) of the board members from the list submitted by the GCG. (Emphasis supplied)

270 *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 487 Phil. 531 (2004) [Per J. Puno, En Banc] citing *Victoriano v. Elizalde Rope Workers' Union*, 158 Phil. 60 (1974) [Per J. Zaldivar, En Banc].

271 *Fariñas v. Executive Secretary,* 463 Phil. 179, 206 (2003) [Per J. Callejo, Sr., En Banc].

272 This rational basis test was first summarized in *People v. Cayat*, 68 Phil. 12 (1939) [Per J. Moran, First Division]. *See also Philippine Rural Electric Cooperatives Association v. Secretary of Interior and Local Government,* 451 Phil. 683 (2003) [Per J. Puno, En Banc].

> because they agree with one another in certain particulars. A law is not invalid because of simple inequality. The very idea of classification is that of inequality, so that it goes without saying that the mere fact of inequality in no manner determines the matter of constitutionality. *All that is required of a valid classification is that it be reasonable, which means that the classification should be based on substantial distinctions which make for real differences; that it must be germane to the purpose of the law; that it must not be limited to existing conditions only; and that it must apply equally to each member of the class. This Court has held that the standard is satisfied if the classification or distinction is based on a reasonable foundation or rational basis and is not palpably arbitrary.*
>
> In the exercise of its power to make classifications for the purpose of enacting laws over matters within its jurisdiction, the state is recognized as enjoying a wide range of discretion. It is not necessary that the classification be based on scientific or marked differences of things or in their relation. *Neither is it necessary that the classification be made with mathematical nicety. Hence legislative classification may in many cases properly rest on narrow distinctions, for the equal protection guaranty does not preclude the legislature from recognizing degrees of evil or harm, and legislation is addressed to evils as they may appear.*[273] (Emphasis supplied, citations omitted)

There are three types of standards to determine the reasonableness of legislative classification:

> The *strict scrutiny test* applies when a classification either (i) interferes with the exercise of fundamental rights, including the basic liberties guaranteed under the Constitution, or (ii) burdens suspect classes. The *intermediate scrutiny test* applies when a classification does not involve suspect classes or fundamental rights, but requires heightened scrutiny, such as in classifications based on gender and legitimacy. Lastly, the *rational basis test* applies to all other subjects not covered by the first two tests.[274] (Emphasis supplied)

Since petitioners do not claim that Republic Act No. 10149's exclusion of certain entities interfered with fundamental rights and liberties, nor is there any indication of a need for heightened scrutiny, the rational basis test applies. This test requires only a reasonable connection between a legitimate government interest and the classification made.[275]

Employing the rational basis test, this Court finds that Republic Act No. 10149 made reasonable exclusions of certain entities from its coverage.

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[273] *Victoriano v. Elizalde Rope Workers' Union,* 158 Phil. 60, 87–88 (1974) [Per J. Zaldivar, En Banc].

[274] *Zomer Development Co., Inc. v. Special Twentieth Division of the Court of Appeals*, G.R. No. 194461, January 7, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66131> [Per J. Leonen, En Banc], citing *Samahan ng mga Progresibong Kabataan v. Quezon City*, 815 Phil. 1067, 1113–1114 (2017) [Per J. Perlas-Bernabe, En Banc].

[275] Id.

First, Bangko Sentral ng Pilipinas[276] was created as an independent central monetary authority pursuant to Article XII, Section 20 of the Constitution.[277] It is both a GFI and a regulatory agency exercising sovereign functions. For its unique functions concerning money, banking, and credit, it enjoys fiscal and administrative autonomy.[278]

Second, state universities and colleges are supervised and regulated by the Commission on Higher Education, a specialized body created under Republic Act No. 7722.[279] The Commission on Higher Education has, among others, the following powers and functions:

> SECTION 8. *Powers and Functions of the Commission.* — The Commission shall have the following powers and functions:
>
> a) formulate and recommend development plans, policies, priorities, and programs on higher education and research;
>
> . . . .
>
> d) set minimum standards for programs and institutions of higher learning recommended by panels of experts in the field and subject to public hearing, and enforce the same;
>
> e) monitor and evaluate the performance of programs and institutions of higher learning for appropriate incentives as well as the imposition of sanctions such as, but not limited to, diminution or withdrawal of subsidy, recommendation on the downgrading or withdrawal of accreditation, program termination or school closure;
>
> . . . .
>
> g) recommend to the Department of Budget and Management the budgets of public institutions of higher learning as well as general guidelines for the use of their income;

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276 Republic Act No. 7653 (1993), secs. 1 and 2, par. 1 provide:
SECTION 1. *Declaration of Policy.* — The State shall maintain a central monetary authority that shall function and operate as an independent and accountable body corporate in the discharge of its mandated responsibilities concerning money, banking and credit. In line with this policy, and considering its unique functions and responsibilities, the central monetary authority established under this Act, while being a government-owned corporation, *shall enjoy fiscal and administrative autonomy.*
SECTION 2. *Creation of the Bangko Sentral.* — There is hereby established an independent central monetary authority, which shall be a body corporate known as the *Bangko Sentral ng Pilipinas,* hereafter referred to as the *Bangko Sentral.*

277 CONST., art. XII, sec. 20 provides:
SECTION 20. The Congress shall establish an independent central monetary authority, the members of whose governing board must be natural-born Filipino citizens, of known probity, integrity, and patriotism, the majority of whom shall come from the private sector. They shall also be subject to such other qualifications and disabilities as may be prescribed by law. The authority shall provide policy direction in the areas of money, banking, and credit. It shall have supervision over the operations of banks and exercise such regulatory powers as may be provided by law over the operations of finance companies and other institutions performing similar functions.
Until the Congress otherwise provides, the Central Bank of the Philippines, operating under existing laws, shall function as the central monetary authority.

278 Republic Act No. 7653 (1993), sec. 1.

279 Republic Act No. 7722 (1994), Higher Education Act of 1994.

> h) rationalize programs and institutions of higher learning and set standards, policies and guidelines for the creation of new ones as well as the conversion or elevation of schools to institutions of higher learning, subject to budgetary limitations and the number of institutions of higher learning in the province or region where creation, conversion or elevation is sought to be made;
>
> i) develop criteria for allocating additional resources such as research and program development grants, scholarships, and other similar programs: *Provided*, That these shall not detract from the fiscal autonomy already enjoyed by colleges and universities;
>
> . . . .
>
> k) devise and implement resource development schemes;
>
> . . . .
>
> m) review the charters of institutions of higher learning and state universities and colleges including the chairmanship and membership of their governing bodies and recommend appropriate measures as basis for necessary action[.][280]

The Commission on Higher Education also takes the helm of governing boards of chartered state universities and colleges.[281] The governing boards, in turn, can appoint vice presidents, deans, directors, department heads, professors, instructors, and personnel; approve the curricula, school programs, and rules of discipline; set admission and graduation policies; establish research and extension centers; fix tuition fees and other school charges; fix salaries of faculty and administrative personnel; and acquire equipment and real estate, among others.[282] Governing boards must promulgate and implement policies in accordance with the law's State policy, constitutional provisions on education, science and technology, arts, culture, and sports, and Republic Act No. 7722.[283]

Educational institutions are not businesses for profit; they provide formal instruction.[284] Under the principle of academic freedom, "institutions of higher learning have the freedom to decide for themselves the best methods to achieve their aims and objectives, free from outside coercion, except when the welfare of the general public requires."[285]

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280 Republic Act No. 7722 (1994), sec. 8.
281 Republic Act No. 8292 (1997), sec. 3.
282 Republic Act No. 8292 (1997), sec. 4.
283 Republic Act No. 8292 (1997), sec. 5.
284 *See University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*, 776 Phil. 401 (2016) [Per J. Leonen, Second Division].
285 *Camacho v. Coresis, Jr.*, 436 Phil. 449 (2002) [Per J. Quisumbing, Second Division].

Given the specific mandate of educational institutions, as well as the high priority given by the Constitution to education, governmental regulation over state universities and colleges are best undertaken by the Commission on Higher Education.

Third, cooperatives are "self-sufficient and independent"[286] democratic organizations, whose affairs are administered by persons elected or appointed by their members.[287] Their regulation and governing principles, including the registration and organization, are governed by Republic Act No. 6938[288] and Republic Act No. 6939.[289]

The internal affairs of cooperatives—such as their members' rights and privileges; the rules and procedures for meetings of the general assembly, board of directors and committees and for the election and qualifications of officers, directors, and committee members; capitalization and investment of capital; allocation and distribution of surpluses; dissolution and liquidation; and all other internal matters—are governed by the Cooperative Code and the by-laws of the cooperative.

Special provisions in the Cooperative Code pertain to agrarian reform cooperatives,[290] public service cooperatives,[291] cooperative banks,[292] credit cooperatives,[293] and cooperative insurance societies.[294] The operations of public cooperatives, cooperative banks, and cooperative insurance societies are subject to the supervision of appropriate government agencies, the Bangko Sentral ng Pilipinas, and the Insurance Commission, respectively.

Republic Act No. 6939, the law creating the Cooperative Development Authority—the primary government agency promoting and regulating the institutional development of cooperatives[295]—provides the

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286 *Philippine Rural Electric Cooperatives Association v. Secretary of Interior and Local Government,* 451 Phil. 683, 696 (2003) [Per J. Puno, En Banc].

287 *Barrameda v. Atienza,* 421 Phil. 197 (2001) [Per J. Pardo, First Division].

288 Cooperative Code of the Philippines (1990).

289 An Act Creating the Cooperative Development Authority to Promote the Viability and Growth of Cooperatives as Instruments of Equity, Social Justice and Economic Development, Defining its Powers, Functions and Responsibilities, Rationalizing Government Policies and Agencies with Cooperative Functions, Supporting Cooperative Development, Transferring the Registration and Regulation Functions of Existing Government Agencies on Cooperatives as such and Consolidating the Same with the Authority, Appropriating Funds Therefor, and for Other Purposes (1990).

290 Republic Act No. 6938 (1990), Ch. XI.

291 Republic Act No. 6938 (1990), Ch. XII.

292 Republic Act No. 6938 (1990), Ch. XIII.

293 Republic Act No. 6938 (1990), Ch. XIV.

294 Republic Act No. 6938 (1990), Ch. XV.

295 Republic Act No. 6939 (1990), sec. 3 provides the powers and functions of the Cooperative Development Authority.

SECTION 3. *Powers, Functions and Responsibilities.* — The Authority shall have the following powers, functions and responsibilities:

(a) *Formulate, adopt and implement integrated and comprehensive plans and programs on cooperative development* consistent with the national policy on cooperatives and the overall socioeconomic development plans of the Government;

(b) Develop and conduct management and training programs upon request of cooperatives that will provide members of cooperatives with the entrepreneurial capabilities, managerial expertise, and

State's policy that:

> *Government assistance to cooperatives shall be free from any restriction and conditionality* that may in any manner infringe upon the objectives and character of cooperatives as provided in this Act. *The State shall, except as provided in this Act, maintain the policy of non-interference in the management and operation of cooperatives.*[296] (Emphasis supplied)

Thus, that cooperatives are "envisioned to be self-sufficient and independent organizations with minimal government intervention or regulation[,]" provides reasonable basis for their exclusion.[297]

Fourth, local water districts are regulated under Presidential Decree No. 198,[298] which declares that "local water utilities should be locally-controlled and managed, as well as have support on the national level in the area of technical advisory services and financing[.]"[299] Local water districts

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technical skills required for the efficient operation of their cooperatives and inculcate in them the true spirit of cooperativism and provide, when necessary, technical and professional assistance to ensure the viability and growth of cooperatives with special concern for agrarian reform, fishery and economically depressed sectors;
(c) Support the voluntary organization and consensual development of activities that promote cooperative movements and provide assistance towards upgrading managerial and technical expertise upon request of the cooperatives concerned;
(d) Coordinate the efforts of the local government units and the private sector in promotion, organization, and development of cooperatives;
(e) *Register all cooperatives and their federations and unions, including their division, merger, consolidation, dissolution or liquidation. It shall also register the transfer of all or substantially all of their assets and liabilities and such other matters as may be required by the Authority;*
(f) *Require all cooperatives, their federations and unions to submit their annual financial statements, duly audited by certified public accountants, and general information sheets;*
(g) Order the cancellation after due notice and hearing of the cooperative's certificate of registration for non-compliance with administrative requirements and in cases of voluntary dissolution;
(h) Assist cooperatives in arranging for financial and other forms of assistance under such terms and conditions as are calculated to strengthen their viability and autonomy;
(i) Establish extension offices as may be necessary and financially viable to implement this Act. Initially, there shall be extension offices in the Cities of Dagupan, Manila, Naga, Iloilo, Cebu, Cagayan de Oro and Davao;
(j) Impose and collect reasonable fees and charges in connection with the registration of cooperatives;
(k) Administer all grants and donations coursed through the Government for cooperative development, without prejudice to the right of cooperatives to directly receive and administer such grants and donations upon agreement with the grantors and donors thereof;
(l) *Formulate and adopt continuing policy initiatives consultation with the cooperative sector through public hearing;*
(m) Adopt rules and regulations for the conduct of its internal operations;
(n) *Submit an annual report to the President and Congress on the state of the cooperative movement*; and
(o) Exercise such other functions as may be necessary to implement the provisions of cooperative laws and, in the performance thereof, the Authority may summarily punish for direct contempt any person guilty of misconduct in the presence of the Authority which seriously interrupts any hearing or inquiry with a fine of not more than Five hundred pesos (P500.00) or imprisonment of not more than ten (10) days, or both. Acts constituting indirect contempt as defined under Rule 71 of the Rules of Court shall be punished in accordance with the said Rule. (Emphasis supplied)

296 Republic Act No. 6939 (2010), sec. 1 (4).

297 *Philippine Rural Electric Cooperatives Association v. Secretary of Interior and Local Government*, 451 Phil. 683, 696 (2003) [Per J. Puno, En Banc].

298 Provincial Water Utilities Act of 1973.

299 Presidential Decree No. 198 (1973), 5th whereas clause.

are formed by the legislative body of any province, city, or municipality.[300] They are meant to provide and operate water supply and distribution systems, as well as operate water collection, treatment, and disposal facilities; other purposes.[301] A board of directors, to be appointed by the mayor of the city or municipality with a majority of water service connections in the area,[302] creates the policies to be implemented by the local water district.

Presidential Decree No. 198 created the Local Water Utilities Administration for these purposes:

> . . . (1) to establish minimum standards and regulations in order to assure acceptable standards of construction materials and supplies, maintenance, operation, personnel, training, accounting and fiscal practices for local water utilities; (2) to furnish technical assistance and personnel training programs for local water utilities; (3) to monitor and evaluate local water standards; (4) to effect system integration, joint investment and operations district annexation and deannexation whenever economically warranted; and (5) to provide a specialized lending institution with peculiar expertise in the financing of local water utilities.[303]

The Local Water Utility Administration establishes standards for local water utilities in terms of water quality, design, and construction of water facilities, equipment, materials and supplies, operations and maintenance, and personnel, among others. It also provides technical assistance and financing to local water utilities.

This, as well as the constitutional policy for local autonomy,[304] provides reasonable basis for excluding local water districts from the coverage of Republic Act No. 10149.

Fifth, an "economic zone authority"[305] has the power to develop and operate special economic zones as "decentralized, self-reliant and self-

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300 Presidential Decree No. 198 (1973), Title II.

301 Presidential Decree No. 198 (1973), sec. 5.

302 Presidential Decree No. 198 (1973), sec. 9 in relation to sec. 3(b) was declared unconstitutional in *Rama v. Moises,* 802 Phil. 29 (2016) [Per J. Bersamin, En Banc].

303 Presidential Decree No. 198 (1973), sec. 49.

304 CONST., art. II, sec. 25 provides:
Section 25. The State shall ensure the autonomy of local governments.

305 GCG Memorandum Circular No. 2012-04 (October 26, 2015), par. 2.1.4 clarifies that:
. . . *The term "Economic Zone Authorities" . . . shall cover only those having a charter which provides the primary purpose of which is to act as an economic zone authority,* such as the Philippine Economic Zone Authority (PEZA), Aurora Pacific Economic Zone and Freeport Authority (APECO), Authority of the Freeport Area of Bataan (AFAB), Cagayan Economic Zone Authority (CEZA), Subic Bay Metropolitan Authority (SBMA) and Zamboanga City Special Economic Zone Authority (ZAMBOECOZONE).
All other chartered GOCCs where regulation of zone authorities is just an additional function, such as the Bases Conversion and Development Authority (BCDA), or nonchartered GOCCs organized and registered with the Securities and Exchange Commission (SEC), which under their articles of incorporation, are to engage in the regulation of economic zones, such as the Clark Development Corporation (CDC), John Hay Management Corporation (JHMC), and Poro Point Management

sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center[s.]"[306] Special economic zones "may contain any or all of the following: industrial estates[,] export processing zones[,] free trade zones, and tourist/recreational centers."[307]

The Philippine Economic Zone Authority (PEZA) is one of the excluded entities under Section 4 of Republic Act No. 10149. As the governing body for special economic zones, PEZA is given the following powers and functions under Republic Act No. 7916:[308]

> SECTION 13. *General Powers and Functions of the Authority.* — The PEZA shall have the following powers and functions:
>
> (a) To operate, administer, manage and develop the ECOZONE according to the principles and provisions set forth in this Act;
>
> (a) To register, regulate and supervise the enterprises in the ECOZONE in an efficient and decentralized manner;
>
> (b) To coordinate with local government units and exercise general supervision over the development, plans, activities and operations of the ECOZONES, industrial estates, export processing zones, free trade zones, and the like;
>
> (c) In coordination with local government units concerned and appropriate agencies, to construct, acquire, own, lease, operate and maintain on its own or through contract, franchise, license, bulk purchase from the private sector and build-operate-transfer scheme or joint venture, adequate facilities and infrastructure, such as light and power systems, water supply and distribution systems, telecommunications and transportation, buildings, structures, warehouses, roads, bridges, ports and other facilities for the operation and development of the ECOZONE;
>
> (d) To create, operate and/or contract to operate such agencies and functional units or offices of the authority as it may deem necessary;
>
> (e) To adopt, alter and use a corporate seal; make contracts, lease, own or otherwise dispose of personal or real property; sue and be sued; and otherwise carry out its duties and functions as provided for in this Act;
>
> (f) To coordinate the formulation and preparation of the development plans of the different entities mentioned above;

Corporation (PPMC), *are within the full coverage of R.A. No. 10149*, not falling within the technical term of authorities. (Emphasis supplied)

306 *See* Republic Act No. 7916 (1995), sec. 7, Special Economic Zone Act of 1995; Republic Act No. 9728 (2009), sec. 4, Freeport Area of Bataan (FAB) Act of 2009; Republic Act No. 10083 (2010), sec. 3, Aurora Pacific Economic Zone and Freeport Act of 2010.

307 Republic Act No. 7916 (1995), sec. 4.

308 An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating for this Purpose, the Philippine Economic Zone Authority (PEZA), and for Other Purposes.

> (g) To coordinate with the National Economic and Development Authority (NEDA), the Department of Trade and Industry (DTI), the Department of Science and Technology (DOST), and the local government units and appropriate government agencies for policy and program formulation and implementation; and
>
> (h) To monitor and evaluate the development and requirements of entities in subsection (a) and recommend to the local government units or other appropriate authorities the location, incentives, basic services, utilities and infrastructure required or to be made available for said entities.

Under Republic Act No. 7916, the PEZA Board is authorized to "[s]et the general policies on the establishment and operations of the [special economic zones], industrial estates, export processing zones, free trade zones, and the like[.]"[309] It reviews proposals to establish special economic zones; facilitates and assists in organizing these entities; and regulates the establishment, operation, and maintenance of utilities, other services, and infrastructures in the economic zone.

These functions are vested in economic zone authorities to decentralize governmental functions and authority, promoting an efficient and effective working relationship among the special economic zone, the national government, and the local government units.[310] Further, Section 7 of Republic Act No. 7916 provides for the intended self-reliance and independence of the special economic zones. It states in part:

> SECTION 7. *ECOZONE to be a Decentralized Agro-Industrial, Industrial, Commercial/Trading, Tourist, Investment and Financial Community.* — Within the framework of the Constitution, the interest of national sovereignty and territorial integrity of the Republic, *the ECOZONE shall be developed, as much as possible, into a decentralized, self-reliant and self-sustaining industrial, commercial/trading, agro-industrial, tourist, banking, financial and investment center with minimum government intervention.* Each ECOZONE shall be provided with transportation, telecommunications, and other facilities needed to generate linkage with industries and employment opportunities for its own inhabitants and those of nearby towns and cities.
>
> *The ECOZONE shall administer itself* on economic, financial, industrial, tourism development and such other matters within the exclusive competence of the national government. (Emphasis supplied)

Petitioner Pichay cites the Authority of the Freeport Area of Bataan, the Aurora Pacific Economic Zone and Freeport Authority, the Clark Development Corporation, the Cagayan Economic Zone Authority, the

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309 Republic Act No. 7916, (1995), sec. 12.
310 Republic Act No. 7916, (1995), sec. 53.

Philippine Economic Zone Authority, the Philippine Retirement Authority, the Phividec Industrial Authority, the Subic Bay Metropolitan Authority, and the Zamboanga City Special Economic Zone Authority as economic zone authorities unreasonably excluded from Republic Act No. 10149's coverage. However, the enabling statutes of these cited entities[311] all similarly indicate their establishment as "decentralized," "self-reliant," or "self-sustaining" areas.[312]

In any event, petitioner Pichay's contention regarding the Clark Development Corporation has been rendered moot by GCG Memorandum Circular No. 2014-01, which explicitly included the corporation in the law's scope.[313] Further, the enabling statutes of the Philippine Retirement Authority and the PHIVIDEC Industrial Authority, which petitioner Pichay also deems unreasonably excluded from the law's coverage, do not indicate their primary purpose as economic zone authorities. His contentions regarding these agencies are, thus, immaterial.

Sixth, research institutions,[314] such as state universities and colleges, are not organized for business or regulation, but primarily for scientific and educational purposes to assist the government in the pursuit of economic and national development.

For instance, the Philippine Institute for Development Studies was created to "perform policy-oriented research on all aspects of the Philippine economy and assist the government in formulating plans and policies for national development[.]"[315] The Philippine Rice Research Institute was created to "develop . . . a national rice research program . . . and ultimately promote the general welfare of the people through self-sufficiency in rice production."[316]

Republic Act No. 10149 aims to make GOCCs more accountable for their operations and to enhance the State's objectives of public service. However, these objectives must be harmonized with the independence required by certain entities to efficiently and adequately perform their

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311 *Rollo* (G.R. No. 197950), pp. 274–275.

312 Republic Act No. 9728 (2009), sec. 4; Republic Act No. 10083 (2010), sec. 3(a); Republic Act No. 7227 (1992), sec. 12(a); Republic Act No. 7922 (1995), sec. 4(a); and Republic Act No. 7903 (1995), sec. 4(a).

313 GCG Memorandum Circular No. 2014-01 (2014), par. 2.2.

314 GCG Memorandum Circular No. 2012-04 (2015), par. 2.1.5 clarifies that:
The term "*Research Institutions" referred to in Section 4 of R.A. No. 10149 as being excluded from the coverage of the Act, shall cover only those having a charter which provides the primary purpose of which is to act as a research institution, such as Philippine Rice Research Institute (PRRI) and the Philippine Institute for Development Studies (PIDS).*
All other chartered GOCCs where engaging in research constitutes merely an additional function of the GOCC, such as the Development Academy of the Philippines (DAP), or nonchartered GOCCs organized under their articles of incorporation to engage into institutional research, are within the full coverage of R.A. No. 10149. (Emphasis supplied)

315 Presidential Decree No. 1201 (1977), 4th whereas clause.

316 Executive Order No. 1061 (1985), sec. 2, Establishing the Philippine Rice Research Institute (PRRI).

mandated functions, and should be read together with the inherent functions of the other excluded entities. The enabling statutes of the excluded entities, together with the State policy in the Constitution, make it clear that there is reasonable basis for their exclusion.

Since Republic Act No. 10149's distinctions are based on good law, and cover "all GOCCs, GICPs/GCEs, and government financial institutions, including their subsidiaries,"[317] except those subject to reasonable distinctions, the exclusions are not limited to existing conditions and may be deemed to apply equally to all members of the same class.

In any event, "Congress is allowed a wide leeway in providing for a valid classification."[318] This power is a matter of legislative discretion, which this Court upholds barring any clear showing of arbitrariness.[319] In *Tolentino v. Board of Accountancy*,[320] this Court discussed more on permissible legislative classification:

> The general rule is well settled that legislation which, in carrying out a public purpose, is limited in its application, if within the sphere of its operation it affects all persons similarly situated, is not within the prohibition of the 14th Amendment. The mere fact that legislation is based on a classification and is made to apply only to a certain limited group of persons, and not to others, does not affect its validity, if it is so made that all persons subject to its terms are treated alike under similar circumstances and conditions.
>
> The legislature may classify professions, occupations, and business, according to natural and reasonable lines of distinction, and if a statute affects alike all persons of the same class it is not invalid as class legislation; . . .
>
> Classification of businesses, occupations, and callings may be made according to natural, reasonable, and well-recognized lines of distinction, and the mere fact that a statute or ordinance applies only to a particular position or profession, or to a particular trade occupation, or business, or discriminates between persons in different classes of occupations or lines or business, does not render it unconstitutional as class legislation, and such statutes are valid whenever the partial application or discrimination is based on real and reasonable distinctions existing in the subject matter, and affects alike all persons of the same class or pursuing the same business under the same conditions[.][321] (Citations omitted)

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317 Republic Act No. 10149 (2010), sec. 4.

318 *Central Bank Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 487 Phil. 531, 560 (2004) [Per J. Puno, En Banc].

319 *Ichong v. Hernandez*, 101 Phil. 1155 (1957) [Per J. Labrador, En Banc].

320 90 Phil. 83 (1951) [Per J. Bautista Angelo, En Banc].

321 Id. at 89–90.

Further, *Victoriano v. Elizalde Rope Worker's Union*[322] provides guidance on the extent of Congress's discretion in making valid legal classifications:

> *In the exercise of its power to make classifications for the purpose of enacting laws over matters within its jurisdiction, the state is recognized as enjoying a wide range of discretion.* It is not necessary that the classification be based on scientific or marked differences of things or in their relation. Neither is it necessary that the classification be made with mathematical nicety. *Hence legislative classification may in many cases properly rest on narrow distinctions, for the equal protection guaranty does not preclude the legislature from recognizing degrees of evil or harm, and legislation is addressed to evils as they may appear.*[323] (Emphasis supplied, citations omitted)

In sum, excluding certain entities—the Bangko Sentral ng Pilipinas, state universities and colleges, local water utility districts, cooperatives, economic zone authorities, and research institutions—from the law's coverage does not violate the equal protection clause, because there is reasonable basis to do so. Without a showing that the exclusions under Section 4 of Republic Act No. 10149 created unreasonable distinctions between classes of entities, this Court finds that the exclusions were valid.

VI

Finally, petitioners claim that Republic Act No. 10149 is a general law, and thus, cannot supersede particular GOCC charters, which are specific laws.

As a rule, a general law does not repeal a prior special law on the same subject, *unless the legislative intent to modify or repeal the earlier special law through the general law is manifest.*[324]

Hospicio de San Jose de Barili Cebu City v. Department of Agrarian Reform[325] provides the standard for when a general law may be deemed to have manifested legislative intent to repeal a specific law:

> The crafters of P.D. No. 27 and the CARL were presumably aware of the radical scale of the intended legislation, and the massive effects on property relations nationwide. Considering the magnitude of the changes ordained in these laws, it would be foolhardy to require or expect the legislature to denominate each and every law that would be consequently

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322 158 Phil. 60 (1974) [Per J. Zaldivar, En Banc].

323 Id. at 87–88.

324 *See Hospicio de San Jose de Barili Cebu City v. Department of Agrarian Reform,* 507 Phil. 586 (2005) [Per J. Tinga, Second Division]; *Fabella v. Court of Appeals,* 346 Phil. 940 (1997) [Per J. Panganiban, Third Division]; and *Villegas v. Subido,* 148-B Phil. 668 (1971) [Per J. Fernando, En Banc].

325 507 Phil. 586 (2005) [Per J. Tinga, Second Division].

> or logically amended or repealed by the new laws. Hence, the viability of general repealing clauses, which are existent in both P.D. No. 27 and the CARL, as a means of repealing all previous enactments inconsistent with revolutionary new laws. *The presence of such general repealing clause in a later statute clearly indicates the legislative intent to repeal all prior inconsistent laws on the subject matter, whether the prior law is a general law or a special law, or as in this case, a special private law.* Without such clause, a later general law will ordinarily not repeal a prior special law on the same subject. But *with such clause contained in the subsequent general law, the prior special law will be deemed repealed, as the clause is a clear legislative intent to bring about that result.*[326] (Emphasis supplied, citations omitted)

In Republic Act No. 10149, Congress's intent to modify relevant portions of the GOCC charters is clear. Section 32 expresses the law's intent to supersede all corresponding charters of affected GOCCs:

> SECTION 32. *Repealing Clause.* — The charters of the GOCCs under existing laws and all other laws, executive orders including Executive Order No. 323, Series of 2000, administrative orders, rules, regulations, decrees and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby revoked, repealed or modified accordingly.

Furthermore, specific provisions in Republic Act No. 10149 are explicitly mandated to govern despite the GOCC charters. These are: (a) qualifications required for appointive directors;[327] (b) duties, obligations, responsibilities and standards of care required of the members of the Board of Directors/Trustees and Officers of GOCCs;[328] (c) term of office;[329] and (d) limits to compensation, per diems, allowances, and incentives.[330]

Section 30 also states that GOCC charters shall suppletorily apply insofar as they are not inconsistent with Republic Act No. 10149:

> SECTION 30. *Suppletory Application of The Corporation Code and Charters of the GOCCs.* — The provisions of "The Corporation Code of the Philippines" and the provisions of the charters of the relevant GOCC, insofar as they are not inconsistent with the provisions of this Act, shall apply suppletorily to GOCCs.

Thus, there is no merit to petitioners' contentions regarding Republic Act No. 10149's status as a general law.

Petitioners' lack of standing aside, this Court holds that Republic Act

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326 Id. at 602.
327 Republic Act No. 10149 (2010), sec. 5(e).
328 Republic Act No. 10149 (2010), sec. 12.
329 Republic Act No. 10149 (2010), sec. 17.
330 Republic Act No. 10149 (2010), sec. 17.

No. 10149 introduces valid changes to the terms and conditions for service in GOCCs. Congress acted within its discretion when it modified, in good faith and in accordance with the objectives and policies contained in valid laws, the aspects of public offices which exist by virtue of the same exercise of legislative power.

Congress enacted Republic Act No. 10149 to address the reported abuses, poor performance, and inefficiencies in the operations of GOCCs. The law, among others, reduced the terms of incumbent GOCC officers and created a central policy-making and regulatory body for GOCCs, tasked with reforming and developing a standardized compensation and position classification system for GOCCs.

These actions were geared toward achieving what Congress perceived to be a great public need. It is not for this Court to address questions of legislative policy or wisdom lest it act as a third Congress and in excess of its duty as a co-equal branch of government. Absent any clear showing of unconstitutionality, these provisions, duly deliberated upon and approved by the legislature, are upheld.

WHEREFORE, the Petitions are **DENIED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

CERTIFICATION

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

DIOSDADO M. PERALTA
Chief Justice

Certified True Copy
ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court