Republic of the Philippines
Supreme Court
Manila

EN BANC

ACT TEACHERS REP. ANTONIO TINIO, BAYAN MUNA REP. PARTY-LIST REP. CARLOS ISAGANI ZARATE, AND ANAKPAWIS REP. PARTY-LIST ARIEL "KA AYIK" CASILAO, Petitioners, - versus - **PRESIDENT RODRIGO ROA DUTERTE, HOUSE OF REPRESENTATIVES SPEAKER PANTALEON ALVAREZ, DEPUTY SPEAKER RANEO ABU, MAJORITY LEADER RODOLFO FARIÑAS, AND DEPUTY MAJORITY LEADER REP. ARTHUR DEFENSOR, JR.,** Respondents.	**G.R. No. 236118**
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LABAN KONSYUMER, INC. and ATTY. VICTORIO MARIO A. DIMAGIBA, Petitioners, - versus - **EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, DEPARTMENT OF FINANCE SECRETARY CARLOS**	**G.R. No. 236295** Present: GESMUNDO, *C.J.*, LEONEN, CAGUIOA, HERNANDO, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN,

G. DOMINGUEZ III, BUREAU OF INTERNAL REVENUE COMMISSIONER CAESAR R. DULAY, HOUSE SPEAKER PANTALEON D. ALVAREZ IN REPRESENTATION OF THE HOUSE OF REPRESENTATIVES, AND SENATE PRESIDENT AQUILINO D. PIMENTEL III IN REPRE-SENTATION OF THE SENATE,
Respondents.

ROSARIO,*
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, *JJ.*

Promulgated:

January 24, 2023

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DECISION

DIMAAMPAO, *J.:*

Vectigalia nervos esse rei publicae - taxes are the sinews of the Republic.[1] The colorful imagery evoked by this phrase[2] offers a slight nuance to the oft-cited adage that taxes are the lifeblood of the nation. The lifeblood theory flows from the basic truism that taxes are necessary to activate and operate the government.[3] However, taxes may be levied not only to sustain the government's operations but also to undertake extraordinary ventures in pursuit of progress or to meet the needs of the times. In such instances, the added exaction serves as the very sinews of the body politic which enables the State to flex its metaphorical muscles in pursuit of growth.

Oppugned in the consolidated cases before Us is the constitutionality of Republic Act (RA) No. 10963,[4] or the "Tax Reform for Acceleration and Inclusion" (TRAIN) Act, which amended RA No. 8424, or the National Internal Revenue Code of 1997. The TRAIN Act was the first package of the Duterte administration's Comprehensive Tax Reform Program.[5] Prior to its

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* On official leave.

1 *Marcos II v. Court of Appeals*, 339 Phil. 253, 267 (1997).

2 This phrase was coined by the statesman Marcus Tullius Cicero in his political speech *Pro Lege Manilia* at the height of the Roman Empire's war against King Mithridates VI of Pontus circa 66 B.C.E. (*see On Pompey's Command* from The Orations of Marcus Tullius Cicero, literally translated by C. D. Yonge (1856), *available* at < https://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.02.0019%3Atext%3DMan.%3Achapter%3D7> [last accessed on June 21, 2022]).

3 *See Film Development Council of the Philippines v. Colon Heritage Realty Corporation*, 865 Phil. 384, 396 (2019).

4 Entitled, AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 31, 32, 33, 34, 51, 52, 56, 57, 58, 74, 79, 84, 86, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 127, 128, 129, 145, 148, 149, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 186, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, 254, 264, 269, AND 288; CREATING NEW SECTIONS 51-A, 148-A, 150-A, 150-B, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35, 62, AND 89; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER PURPOSES (2017).

5 Department of Finance, *The Tax Reform for Acceleration and Inclusion (TRAIN) Act*, December 27, 2017, *available at* <https://taxreform.dof.gov.ph/news_and_updates/the-tax-reform-for-acceleration-and-

enactment, the precursor tax reform bills of RA No. 10963, *i.e.,* House Bill (HB) No. 5636 and Senate Bill (SB) No. 1592, were certified as urgent by former President Rodrigo Roa Duterte (President Duterte). This tax measure was primarily intended to fund the government's accelerated spending under its "Build, Build, Build" program.[6]

Petitioners in **G.R. No. 236118**, hereafter referred to as **"Tinio, *et al.*,"** were, at the time, legislators and principal authors of several bills which were eventually substituted by HB No. 5636. They lodged the instant Petition for *Certiorari* and Prohibition under Rule 65 of the Rules of Court[7] to strike down the TRAIN Act for having been passed by Congress and signed by President Duterte in violation of the 1987 Constitution and the Internal Rules of the House of Representatives (House). Before this Court, Tinio, *et al.* claim that the unconstitutionality of the assailed statute is a matter of transcendental importance and that there is no plain, speedy, and adequate remedy in the ordinary course of law except to avail of the instant Petition.[8] Aside from being Members of the House, they ground their legal standing as citizens and taxpayers, and as representatives of the public in general.[9] In the main, they proffer that the passage of the law was unconstitutionally railroaded when the TRAIN Bicameral Conference Committee (BCC) Report was ratified despite the supposed glaring lack of quorum in the House on the night of 13 December 2017.[10] Concomitantly, considering that the bill was never properly passed by the Congress, President Duterte's act of signing the same into law was likewise tainted with grave abuse of discretion.[11] In the same vein, Tinio, *et al.* pray for the issuance of a restraining order to enjoin the implementation of the TRAIN Act as it would purportedly "cause grave injustice and irreparable violation of the Constitution and the rights of the people."[12]

On the other hand, petitioners in **G.R. No. 236295** (for brevity, **"Laban Konsyumer and Dimagiba"**) filed a separate Petition for *Certiorari*,[13] also under Rule 65, as consumers and in representation of other consumers who claim to be adversely affected by the pass-on excise taxes on diesel, coal, liquefied petroleum gas (LPG), and kerosene imposed by the TRAIN Act. In availing of the remedy of *certiorari,* they invoke the expanded judicial power of the Court to determine whether or not the act of the Legislature, *i.e.*,

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inclusion-train act/#:~:text=THE%20TAX%20REFORM%20FOR%20ACCELERATION%20AND%20INCLUSION%20(TRAIN)%20ACT.,-Date%20Posted%20%3A%20December&text=President%20Rodrigo%20Roa%20Duterte%20signed,19%2C%202017%2C%20in%20Malacanang.> (last accessed on June 21, 2022).

6 "PRRD certifies tax reform bill as urgent." Department of Finance. Posted on May 29, 2017. Accessed at <https://www.dof.gov.ph/prrd-certifies-tax-reform-bill-as-urgent/> Last accessed on June 21, 2022.

7 *Rollo* (G.R. No. 236118, vol. 1), pp. 3-39.

8 *Id.* at 6.

9 *Id.* at 8.

10 *Id.* at 5-6.

11 *Id.* at 6.

12 *Id.* at 6-7 and 30-31.

13 *Rollo* (G.R. No. 236925), pp. 3-47.

supposedly passing the challenged law without the required quorum and votes, was tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.[14] Moreover, some provisions in the Act, such as the excise tax on coal,[15] avowedly did not originate from the House, in violation of Section 24, Article VI of the 1987 Constitution.[16] Furthermore, Laban Konsyumer and Dimagiba asseverate that the excise taxes on diesel, coal, LPG, and kerosene are regressive and constitute taxes on subsistence, which particularly burden low-income and poor families considering that these directly impact the costs of basic necessities.[17] As such, the impositions are downright confiscatory, baseless, discriminatory, and violative of the right of the people to due process of law and equal protection of the laws.[18] They further posit before this Court that the constitutionality of the law is a matter of transcendental importance and is imbued with public interest.[19] On the basis of suffering "grave and irreparable injury," they similarly pray for the issuance of injunctive reliefs pending the resolution of the controversy to halt the implementation of the law and to maintain the last, actual, peaceable, and uncontested state of things prior to its enactment.[20]

For their part, respondents, through the Office of the Solicitor General (OSG), submitted, pursuant to the Court's Resolution dated 23 January 2018 consolidating the two Petitions, a Consolidated Comment,[21] beseeching their dismissal, the same being riddled with several procedural infirmities as petitioners: (*1*) improperly availed of the special civil action for *certiorari*; (*2*) violated the principle of hierarchy of courts; (*3*) failed to present an actual case or controversy; (*4*) raised political questions; (*5*) failed to implead Congress as an indispensable party; and (*6*) violated the doctrine of presidential immunity from suit in **G.R. No. 236118** since it impleads President Duterte as a respondent.[22]

On the constitutional challenges, respondents assert that the TRAIN Act was both validly passed by Congress and signed by the President.[23] They postulate that the BCC Report was ratified in accordance with the 1987 Constitution and the Internal Rules of the House of Representatives.[24] Resolute in their stance that the Court is precluded from inquiring into the existence of a quorum, respondents zero in on the conclusive nature of House Journal No. 48, detailing the events of the 13 December 2017 session, as well

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14 *Id.* at 5-7.
15 *Id.* at 20.
16 *Id.* at 5-6.
17 *Id.* at 4-6, and 19.
18 *Id.* at 6.
19 *Id.* at 10.
20 *Id.* at 41-42.
21 *Rollo* (G.R. No. 236118, vol. 1), pp. 160-237; and *rollo* (G.R. No. 236925), pp. 135-209.
22 *Id.* at 165-166; and *id.* at 140-141.
23 *Id.* at 166; and *id.* at 141.
24 *Id.*

as the enrolled bill doctrine.[25] They further aver that the excise tax on coal is not a rider pursuant to the Constitution and Section 83, Rule XXIX of the Rules of the Senate[26] and avow that the exaction on oil products is imbued with significant revenue, regulatory, and remedial policy considerations.[27] For the respondents, the TRAIN Act is progressive and does not violate the due process clause.[28]

In opposing the application for injunctive relief, respondents contend that petitioners fail to show sufficient cause to overcome the presumption of validity of the TRAIN Act and that granting the same would constitute a prejudgment of the main case.[29]

In their Reply,[30] Tinio, *et al.* maintain that: (*1*) *certiorari* is the proper remedy to assail the constitutionality of the TRAIN Act pursuant to prevailing jurisprudence;[31] (*2*) direct resort to this Court is allowable given that several exceptions to the doctrine of hierarchy of courts are attendant to the case at hand;[32] (*3*) the issues raised are not political questions because they involve ascertaining whether respondents' actions were done within the bounds of the Constitution and the Internal Rules of the House;[33] (*4*) there is no need to implead the entire Congress as parties to the case considering that what is precisely being assailed is not a true congressional act but the actions of a *select group of legislators actually present* in the plenary hall, who "railroaded" the ratification of the TRAIN BCC Report;[34] and (*5*) President Duterte should not be dropped as respondent given that the doctrine of presidential immunity from suit was not carried over to the Constitution and, assuming that it continues to exist, the doctrine should not operate to prevent the Court from examining the legality of the President's actions.[35] Ultimately, Tinio, *et al.* submit that, even assuming that their Petition is procedurally infirm, the transcendental public interest surrounding the case behooves the Court to resolve the constitutionality of the TRAIN Act.[36]

On the substantive aspect, Tinio, *et al.* take issue with respondents' reliance on the entries in the journals of both Houses of Congress and the enrolled bill, avowing that they should not prevail over actual evidence showing a clear lack of quorum and the conduct of a vote on the night of 13

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25 *Id.*
26 *Rollo* (G.R. No. 236118, vol. I), p. 167; and *rollo* (G.R. No. 236925), p. 142.
27 *Id.* at 166; and *id.* 141.
28 *Id.*; and *id.*
29 *Id.* at 167; and *id.* at 142.
30 *Rollo* (G.R. No. 236118, vol. I), pp. 406-480.
31 *Id.* at 407-411.
32 *Id.* at 412-416.
33 *Id.* at 416-419.
34 *Id.* at 419-420.
35 *Id.* at 420-423.
36 *Id.* at 423-425.

December 2017.[37] Moreover, respondents propounded no proof of their claim that the TRAIN Act is "pro-poor" and progressive.[38] Conversely, Tinio, *et al.* advance that inflation and costs have continuously been on the rise ever since the passage of the TRAIN Act and its deleterious effects are presently felt by the most vulnerable sectors.[39] Necessarily, this goes to show that the TRAIN Act violates Section 28(1), Article VI of the Constitution, which mandates Congress to "evolve a progressive system of taxation."[40] Tinio, *et al.* reiterated their prayer for the issuance of a restraining order to halt the implementation of the TRAIN Act.[41]

Laban Konsyumer and Dimagiba filed their own Reply,[42] avouching that: (*1*) *certiorari* is the proper remedy to assail the unconstitutionality of the TRAIN Act;[43] (*2*) genuine issues on the constitutionality of a law serves as an exception to the principle of hierarchy of courts;[44] (*3*) there is an actual case or controversy because the passage of the TRAIN Act violates the Constitution, and the its provisions, which are confiscatory and oppressive, violate the rights of the people;[45] (*4*) the review of the act of Congress in this case is not a political question since the issue delves exactly into the validity of the exercise of its discretionary power;[46] (*5*) both Houses of Congress are properly impleaded in this case through their respective heads;[47] and (*6*) their Petition did not implead President Duterte, but, in any event, misjoinder of parties is not a cause for the dismissal of an action.[48]

Similarly, Laban Konsyumer and Dimagiba dispute respondents' postulations on the merits of the case. They intransigently aver that the passage of the TRAIN Act was invalid due to the absence of a quorum in the House.[49] The Constitutional directive of requiring a majority of each House of Congress to constitute a quorum to do business necessarily extends to the ratification of bills.[50] So, too, they stand firm on their position that the issue of existence of a quorum is a justiciable question, which the courts may validly pass upon.[51] Controverting the Journal cited by respondents, Laban Konsyumer and Dimagiba asseverate that it did not contain a categorical statement proving that a quorum still existed at the time the ratification of the

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37 *Id.* at 425-451.
38 *Id.* at 451.
39 *Id.* at 451-466.
40 *Id.* at 467-473.
41 *Id.* at 473-475.
42 *Rollo* (G.R. No. 236925), pp. 331-366.
43 *Id.* at 332-335.
44 *Id.* at 335-337.
45 *Id.* at 337-338.
46 *Id.* at 339-340.
47 *Id.* at 340-341.
48 *Id.* at 341-342.
49 *Id.* at 342.
50 *Id.* at 342-344.
51 *Id.* at 343-344.

BCC Report was undertaken.[52] They remain unruffled in stating that the provision imposing excise tax on coal is a clear rider as it was not included in the House version of the TRAIN bills, not to mention that it was not intended by the House to form part of the amendments to the Tax Code,[53] and that the provisions imposing excise taxes on coal, LPG, kerosene, and diesel must be struck down for being null and void considering that they violate the equal protection clause.[54] These provisions specifically and expressly discriminate against the poor while favoring the rich given that the objects of the tax are essential commodities and are components to other basic necessities.[55] With the prices of commodities escalating and the purchasing power of underprivileged families remaining the same, the resulting increased burden amounts to a deprivation of property without due process of law.[56] Petitioners then echo their prayer for the issuance of injunctive reliefs.[57]

In the interregnum, Tinio, *et al.* filed on 16 November 2018 an Urgent Motion to Resolve,[58] while Laban Konsyumer and Dimagiba set forth a 2nd Urgent Motion for the Issuance of a Temporary Restraining Order, Status Quo Ante Order and/or Writ of Preliminary Injunction[59] dated 3 December 2018, which the Court noted in the Resolution[60] dated 4 June 2019.

After a painstaking analysis of the voluminous records of the case, the Court discerns eight conundrums posed for its resolution:

I

May the Court take cognizance of the consolidated Petitions?

II

Did petitioners violate the principle of hierarchy of courts?

III

Is Congress, as an institution, an indispensable party which should have been impleaded in the Petitions?

IV

Did Tinio, *et al.* violate the doctrine of presidential immunity from suit in their Petition?

V

Was the TRAIN Act validly enacted into law?

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52 *Id.* at 344.
53 *Id.* at 357-363.
54 *Id.* at 345.
55 *Id.* at 345-350.
56 *Id.* at 355-357.
57 *Id.* at 364.
58 *Rollo* (G.R. No. 236118, vol. 2), pp. 516-525; and *rollo* (G.R. No. 236925), pp. 482-489.
59 *Id.* at 526-533; and *id.* at 491-497.
60 *Id.* at 534-537; and *id.* at 498-499.

VI
Is the provision amending Section 151 of the Tax Code a rider?

VII
Is the TRAIN Act violative of the due process clause?

VIII
Is the TRAIN Act violative of the equal protection clause and Section 28 (1), Article VI of the Constitution?

The issues shall be discussed in *seriatim.*

I. The Court may take cognizance of this case under its expanded power of judicial review.

It is now well-ensconced that the Court's judicial power under Section 1, Article VIII of the 1987 Constitution has been expanded beyond its traditional scope of merely adjudicating controversies arising from competing demandable legal rights, to also determining whether there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

In attempting to wrest away the instant cases from the Court's reach, the OSG contends that the Petitions raise political questions which are not justiciable given that they involve the wisdom, justice, and expediency of the challenged legislation – matters which are wholly within the realm of the Congress' discretion.[61]

The OSG's contention fails to persuade.

The expanded concept of judicial power was brought about precisely because of the use and abuse of the political question doctrine during the Martial Law era under former President Ferdinand Marcos.[62] Presently, an act of *any* branch or instrumentality of the government may be assailed if the same was attended by grave abuse of discretion amounting to lack or excess of jurisdiction, especially if such acts purportedly violate the Constitution and the fundamental rights guaranteed therein.[63] By discharging its positive duty to adjudicate any question on the constitutionality of the acts of the

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61 *Rollo* (G.R. No. 236118, vol. 1), pp. 173-174; and *id.* at 148-149.

62 *See Kilusang Mayo Uno v. Hon. Aquino III*, 850 Phil. 1168, 1182 (2019) [Per J. Leonen, *En Banc*].

63 *See Calleja v. Hon. Executive Secretary*, G.R. Nos. 252578, 252579, 252580, 252585, 252613, 252623, 252624, 252646, 252702, 252726, 252733, 252736, 252741, 252747, 252755, 252759, 252765, 252767, 252768, 16663, 252802, 252809, 252903, 252904, 252905, 252916, 252921, 252984, 253018, 253100, 253118, 253124, 253242, 253252, 253254, 254191 & 253420, December 7, 2021 [Per J. Carandang, *En Banc*].

government, the Court assures that the supremacy of the Constitution is upheld at all times.[64]

Corollary thereto, it is well settled that the writs of *certiorari* and prohibition under Rule 65 of the Rules of Court are indeed the proper remedies to "set right, undo, and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions."[65]

Concededly, the Court does not have unbridled authority to rule on just any claim of constitutional violation. Before the power of judicial review may be invoked, four exacting requisites must be proved, *viz.*: "(a) there must be an actual case or controversy; (b) petitioners must possess *locus standi*; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the *lis mota* of the case."[66]

After a scrutinous assay of the pleadings submitted, the Court hereby rules and so holds that the above four requisites have been complied with.

First. There is an actual case or controversy.

An actual case or controversy "involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute."[67] Stated otherwise, "there must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence."[68] This requisite is complied with when "there is ample showing of *prima facie* grave abuse of discretion in the assailed governmental act in the context of actual, not merely theoretical, facts."[69]

Related thereto is the prerequisite of ripeness. In order for a case to be considered ripe for adjudication, "it is a prerequisite that an act had then been accomplished or performed by either branch of government before a court may interfere, and the petitioner must allege the existence of an immediate or

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64 *See Ifurung v. Ombudsman Carpio-Morales*, 831 Phil. 135, 152 (2018) [Per J. Martires, *En Banc*], citing *Tañada v. Angara*, 338 Phil. 546, 574 (1997) [Per J. Panganiban, First Division].

65 *Samahan ng mga Progresibong Kabataan v. Quezon City*, 815 Phil. 1067, 1087-1088 (2017) [Per J. Perlas-Bernabe, *En Banc*]. Emphasis and underscoring omitted, citing *Araullo v. President S.C. Aquino III*, 737 Phil. 457, 531 (2014) [Per J. Bersamin, *En Banc*].

66 *Supra* note 64, at 152.

67 *Supra* note 65, at 1090, citing *Belgica v. Hon. Exec. Sec. Ochoa, Jr.*, 721 Phil. 416, 519 (2013) [Per J. Perlas-Bernabe, *En Banc*]. Emphasis and underscoring omitted.

68 *Id.*

69 *See Calleja v. Executive Secretary*, G.R. Nos. 252578 et al., December 7, 2021 [Per J. Carandang, *En Banc*].

threatened injury to himself as a result of the challenged action."[70] The petitioner must demonstrate that "he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of."[71]

Tinio, *et al.* bewail that their rights as legislators and representatives of the people were violated when the leaders of the House railroaded the ratification of the TRAIN BCC Report and effectively bypassed the safeguards set by the Constitution in the enactment of laws. Thus, they claim direct injury at the hands of respondents.[72] Additionally, they aver that the imposition of regressive taxes has led to inflation on the prices of basic commodities and services, which is felt most pronouncedly by the marginalized sectors.[73]

For their part, Laban Konsyumer and Dimagiba avouch that the additional impositions on coal, diesel, kerosene, and LPG under the TRAIN Act have already injured them, as well as the whole nation. From the jeepney drivers who rely on diesel fuel, to households who rely on LPG and kerosene, and even to power generation plants who rely on coal for fuel, which pass on the added costs to the end-consumers, the effects of the law have already trickled into every citizen's daily life.[74]

Irrefragably, the TRAIN Act has been in effect during the last four years. Its impositions, *assuming that the same are indeed unconstitutional,* have already impacted everyone, including petitioners and the stakeholders they reportedly represent. At the very least, the claim of Tinio, *et al.* that they have already suffered a direct injury from respondents when they were allegedly silenced and ignored in the ratification process of the BCC Report constitute an actual case or controversy. It cannot be denied, therefore, that the consolidated Petitions submit an actual case or controversy that is already ripe for adjudication.

Second. Petitioners have *locus standi.*

Locus standi is defined as a personal and substantial interest in a case, such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.[75] In assessing *locus standi,* the Court has recognized both traditional suitors, *i.e.,* those who stand to suffer direct or immediate threat of injury by a challenged measure, and non-

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70 *Philippine Constitution Association (PHILCONSA) v. Philippine Government (GPH)*, 801 Phil. 472, 486 (2016) [Per J. Carpio, *En Banc*].

71 *Id.*

72 *Rollo* (G.R. No. 236118, vol. 1), pp. 5-9.

73 *Id.* at 4-6.

74 *Rollo* (G.R. No. 236925), pp. 337-338.

75 *Private Hospitals Assn. of the Phils., Inc. v. Exec. Sec. Medialdea*, 842 Phil. 747, 784 (2018) [Per J. Tijam, *En Banc*].

traditional suitors, *i.e.,* those who bring a suit in representation of parties not before the Court.[76]

Tinio, et al. have the requisite traditional standing as legislators considering that the purported invalidity in the passage of the law by a handful of Members of the House violated their prerogatives as legislators and contravened the Constitution itself. Undoubtedly, legislators have a legal standing to ensure that the prerogatives, powers, privileges, and the duties vested by the Constitution in the Legislature, as an institution, remain inviolate.[77]

Moreover, both petitioners contend that they, and the people they represent, *i.e.,* their respective representations and the consumer-public as a whole, have already been injured by the TRAIN Act. These personal and substantial interests in the subject matter, whether in the traditional or the non-traditional sense, indubitably give them legal standing to question the law.[78]

In any event, the imposition of new taxes and the increase of existing taxes, such as those from the numerous excise tax provisions in the TRAIN Act, have far-reaching implications both to the taxpaying public and the government who rely on the revenues generated thereby. This necessitates the relaxation of the requirement of *locus standi* in order for the matter to be definitively resolved for the public good.[79]

Third. The question of constitutionality has been raised at the earliest opportunity.

The very recent case of *Calleja v. Executive Secretary*[80] instructs that this requisite does not mean elevating the matter directly with this Court; rather, the question of unconstitutionality should have been immediately raised in the proceedings in the court below. Nevertheless, the same case found that such requisite was still met in the Petitions filed therein since the issue was technically raised at the first instance.[81]

Here, both Petitions assail the constitutionality of the TRAIN Act at the first instance. Hence, the requisite of "earliest opportunity" is complied with.

Fourth. The issue of constitutionality is the very *lis mota* of the cases.

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76 *See Calleja v. Executive Secretary,* G.R. Nos. 252578 et al., December 7, 2021 [Per J. Carandang, *En Banc*].

77 *See Biraogo v. The Phil. Truth Commission of 2010,* 651 Phil. 374, 439 (2010) [Per J. Mendoza, *En Banc*].

78 *See Secretary of Finance Purisima v. Rep. Lazatin,* 801 Phil. 395, 411-414 (2016) [Per J. Brion, *En Banc*].

79 *See Diaz v. The Secretary of Finance,* 669 Phil. 371, 383-384 (2011) [Per J. Abad, *En Banc*].

80 *Supra* note 63.

81 *Id.*

The final requisite dictates that "[t]he Court will not pass upon a constitutional question although properly presented by the record if the case can be disposed of on some other found such as the application of a statute or general law."[82] This requirement is rooted on two constitutional principles: the principle of deference and the principle of reasonable caution in striking down an act by a co-equal political branch of government.[83] Consequently, "to justify its nullification, there must be a clear and unequivocal breach of the Constitution and not one that is doubtful, speculative, or argumentative."[84]

The instant consolidated Petitions allege constitutional violations in both the enactment process of the law and in the actual provisions thereof. Forsooth, the issue of constitutionality of the TRAIN Act is the very *lis mota* of the cases.

Having established that the cases at bench meet the requisites for the Court's exercise of its expanded power of judicial review, it now behooves this Court to determine if the Petitions suffer from other procedural infirmities as would merit their immediate dismissal.

II. Direct recourse to the Court is justified by the presence of genuine issues of constitutionality and the transcendental nature of the cases.

The OSG postulates that the consolidated Petitions should be immediately dismissed for violating the doctrine of hierarchy of courts without any justification for such deviation.[85]

Petitioners, on the other hand, do not deny non-compliance with the doctrine of hierarchy of courts but assert that compelling exceptions are extant, justifying a direct resort to this Court.

Tinio, *et al.* advance the argument that the "urgent resolution of the constitutional issues on quorum and other requirements in legislative enactment procedures, as well as the substantive invalidity of the TRAIN Law on the ground of regressivity necessitate direct resort to the Court."[86] In addition, they posit that "[w]here the constitutional violations are committed by no less than the heads of the executive and legislative branches of

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82 *Parcon-Song v. Parcon*, 876 Phil. 364, 400 (2020) [Per J. Leonen, *En Banc*], citing *Ty v. Hon. Trampe*, 321 Phil. 81, 103 (1995) [Per J. Panganiban, *En Banc*]. Italics omitted.

83 *See Id.* at 401.

84 *See Lozada v. Commission on Audit*, G.R. No. 230383, July 13, 2021 [Per J. Inting, *En Banc*].

85 *Rollo* (G.R. No. 236118, vol. 1), pp. 170-172; and *rollo* (G.R. No. 236925), pp. 145-147.

86 *Rollo* (G.R. No. 236118, vol. 1), p. 413.

government, such violations must be stricken down by no less than the Supreme Court."[87] So, too, do they aver that the following exceptions apply: (*a*) there are genuine issues of constitutionality that must be addressed at the most immediate time; (*b*) the issues involved are of transcendental importance; (c) the constitutional issues raised are better decided by this Court; (*d*) there is exigency in certain situations; (*e*) the filed petition reviews the act of a constitutional organ; (*f*) there is no other plain, speedy, and adequate remedy in the ordinary course of law; and (*g*) 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."[88]

Laban Konsyumer and Dimagiba aver that direct resort is allowable given that "the Petition raised the very issue of constitutionality of the TRAIN Law. It also involves the grave abuse of Congress and the Executive Department in passing a tax measure that violates both the inherent limitations of the taxing power of the State, as well as the Constitutional provisions on the due process and equal protection."[89] Stripped of verbiage, they anchor their claim of exception on genuine issues of constitutionality that must be addressed at the most immediate time.[90]

It cannot be stressed enough issues on constitutionality of laws may likewise be brought before the courts of general jurisdiction given that judicial power resides not only in the Supreme Court but in all Regional Trial Courts. Apropos is the axiomatic dictum, *"We are the court of last resort, not the first."*[91] With respect to assailing the constitutionality of tax laws and regulations, however, exclusive jurisdiction is vested with the Court of Tax Appeals.[92]

Nevertheless, this Court has also ruled that the doctrine of hierarchy of courts is not an iron-clad rule, and there are several exceptions which would justify non-application thereof, namely:

1. there are genuine issues of constitutionality that must be addressed at the most immediate time;

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;

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87 *Id.*

88 *Id.* at 415.

89 *Rollo* (G.R. No. 236925), p. 336.

90 *Id.* at 336-337.

91 *Fuertes v. The Senate of the Philippines*, 868 Phil. 117, 142 (2020) [Per J. Leonen, *En Banc*].

92 *See Banco De Oro v. Rep. of the Phils.*, 793 Phil. 97, 118 (2016) [Per J. Leonen, *En Banc*].

3. in cases of first impression;

4. the constitutional issues raised are better decided by the Court;

5. the time element presented in the case cannot be ignored;

6. when the subject of review is an act of a constitutional organ;

7. when petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law; 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.[93]

As aptly pointed out by petitioners, several of the above-mentioned enumerations apply. Most significantly, the first and second exceptions obtain in the present Petitions. Along this grain, both petitioners have consistently recounted that the enactment of the TRAIN Act was riddled with abnormalities which have transgressed the boundaries set by our fundamental law. Even more pressing are the inveighed effects of the law, which allegedly operate to tax the poor out of existence. The gravity of these claims are matters that require the swift action of the highest court in the land. Perforce, direct resort may be excused in this instance.

III. The essential and jurisdictional requirement of impleading Congress as an indispensable party has been substantially complied with.

Warding off any chances that the Petitions may prosper, the OSG also seeks the dismissal of the cases on the ground that petitioners failed to implead Congress as an indispensable party.[94]

As earlier adumbrated, Tinio, *et al.* assert that the *entirety* of Congress is not an indispensable party herein. This is consistent with their theory that the passage of the TRAIN Act was not a valid plenary act of the Legislative owing to the lack of quorum and the lack of the required votes. Thus, they are adamant that respondent House leaders, as those responsible for the invalid ratification of the BCC Report, are the real indispensable parties.[95]

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93 *Rep. Lagman v. Sec. Ochoa,* 888 Phil. 434 483–484 2020 [Per J. Leonen, *En Banc*], citing *The Diocese of Bacolod v. COMELEC*, 751 Phil. 301, 331-335. (2015); quotation marks omitted.

94 *Rollo* (G.R. No. 236118, vol. 1), pp. 174-176; and *rollo* (G.R. No. 236925), pp. 149-151.

95 *Rollo* (G.R. No. 236118, vol. 1), pp. 419-420.

On the other hand, Laban Konsyumer and Dimagiba proffer that they clearly impleaded both Houses of Congress through their respective heads, then Speaker Pantaleon D. Alvarez (Speaker Alvarez) and Senate President Aquilino Pimentel III (SP Pimentel), as representatives of the entire membership of both Houses, and not in their personal capacities.[96]

In identifying indispensable parties, the Court has held that:

> Indispensable parties are those with such a material and direct interest in the controversy that a final decree would necessarily affect their rights, so that the court cannot proceed without their presence. The interests of such indispensable parties in the subject matter of the suit and the relief are so bound with those of the other parties that their legal presence as parties to the proceeding is an absolute necessity and a complete and efficient determination of the equities and rights of the parties is not possible if they are not joined.[97]

Contrary to the assertions of Tinio, *et al.*, the entirety of Congress has material interest in the challenge to the constitutionality of the TRAIN Act. While the purported violations were seemingly done by only a handful of legislators, the reliefs sought by petitioners would nonetheless result in the overturning of an otherwise presumably valid statute. Certainly, unless and until the Court declares otherwise, every statute passed by Congress is presumed to be constitutional and deserves to be accorded respect and obeisance.[98] As the Court ordained in *Rep. Lagman v. Senate President Pimentel*,[99] the entire body of Congress, and not merely the respective leaders of its two Houses, would be directly affected when a congressional act is struck down.[100] However, *Lagman* also teaches that inasmuch as Congress was impleaded as a respondent in the other consolidated Petition, there can be substantial compliance with the requirement of impleading an indispensable party.[101]

Here, the Petition filed by Laban Konsyumer and Dimagiba impleads Speaker Alvarez and SP Pimentel **in their official capacities "in representation" of the House and the Senate**, respectively.[102] To the Court's mind, this more than adequately satisfies the procedural requirement of impleading Congress to afford it due process in defending the validity of the TRAIN Act.

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96 *Id.* at 370-371; *rollo* (G.R. No. 236925), pp. 340-341.

97 *Roy v. Chairperson Herbosa*, 800 Phil. 459, 497-498 (2016) [Per J. Caguioa, *En Banc*].

98 *See Film Development Council of the Philippines v. Colon Heritage Realty Corporation*, 760 Phil. 519, 551 (2015) [Per J. Velasco, Jr., *En Banc*].

99 825 Phil. 112 (2018) [Per J. Tijam, *En Banc*].

100 See *id.* at 186.

101 *Id.*

102 *Rollo* (G.R. No. 236925), pp. 3 and 10.

IV. The inclusion of former President Duterte as a party respondent in G.R. No. 236118 contravenes the doctrine of presidential immunity from suit.

On the final procedural issue, the OSG submits that the Petition docketed as G.R. No. 236118 should be dismissed for violating the doctrine of presidential immunity as then President Duterte was impleaded therein.[103]

Tinio, et al. maintain that President Duterte should not be dropped as a respondent as the doctrine of presidential immunity from suit finds no basis in the 1987 Constitution.[104] In any event, even assuming that such doctrine was adopted in the present Constitution, it cannot be used to prevent the courts from examining the legality of presidential acts, leaving persons injured without any recourse. They underscore that this is especially true for purported violations of Section 27 (1), Article VI of the Constitution since the President is the "last guard of the gate" before a law is passed. Avowedly, a contrary ruling would weaken the Court's power of judicial review.[105]

The presidential immunity from suit is an elementary doctrine — "The President may not be sued during his tenure or actual incumbency, and there is no need to expressly grant such privilege in the Constitution or law. This privilege stems from the recognition of the President's vast and significant functions which can be disrupted by court litigations."[106]

The case of *De Lima v. President Duterte*[107] is particularly instructive, wherein the Court held that "unlike its American counterpart, the concept of presidential immunity under our governmental and constitutional system **does not distinguish whether or not the suit pertains to an official act of the President.** Neither does immunity hinge **on the nature of the suit.** The lack of distinctions prevents us from making any distinctions. We should still be guided by our precedents."[108]

Accordingly, it is of no moment that President Duterte was impleaded for his actions done pursuant to Section 27(1), Article VI of the Constitution; the doctrine of presidential immunity from suit in our jurisdiction makes no qualification. Thusly, Tinio, *et al.* erred in impleading President Duterte during his tenure.

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103 *Rollo* (G.R. No. 236118, vol. 1), pp. 176-177; and *rollo* (G.R. No. 236925), pp. 151-152.
104 *Id.* at 420-421; and *id.* at 388-389.
105 *Id.* at 421-423; and *id.* at 389-391.
106 *Supra* note 97 at 183-184.
107 865 Phil. 578 (2019) [Per CJ Bersamin, *En Banc*].
108 *Id.* at 605. Emphasis supplied.

All the same, this procedural *faux pas* would not operate to cause the immediate dismissal of the Petitions. Rather, the President should simply be dropped as a party respondent.[109]

Having passed upon the procedural hurdles posed by the respondents, the Court shall now delve into the substantive issues of the present Petitions.

V. The TRAIN Act was validly enacted into law.

Foremost among the substantive matters foisted by the consolidated Petitions is whether or not the TRAIN Act was validly passed. A negative resolution of this issue would forestall any examination on the succeeding questions as the entire law would be rendered null and void. To resolve this jugular issue, however, the Court must re-examine traditional constitutional principles in light of the evolving times but not without great care, which would ensure that the spirit animating the Organic Law is ever preserved.

It is primal that legislative power shall be exclusively exercised by Congress, pursuant to the mandate of the 1987 Constitution.[110] Section 1, Article VI states that such power shall be vested in the Congress of the Philippines, which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum.[111]

Appositely, Section 16(2), Article VI requires the presence of a quorum before either of the Houses can transact its business –

> SEC. 16. . . .
>
> (2) A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may compel the attendance of absent Members in such manner, and under such penalties, as such House may provide.

Taken altogether, these two provisions ordain the basic safeguard that legislative power may only be exercised by the collegiate body of Congress. Simply put, only the Congress, acting as a bicameral body, and the people, through the process of initiative and referendum, may constitutionally wield legislative power and no other.[112] In *Belgica v. Ochoa*,[113] the Court struck

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109 *Rep. Lagman v. Senate Pres. Pimentel, supra* note 97, at 183.
110 *Belgica v. Hon. Exec. Sec. Ochoa, Jr., supra* note 67, at 545–546.
111 *Id.*
112 *Id.*
113 *Id.*

down as unconstitutional the provisions in the 2013 Priority Development Assistance Fund (PDAF) Article, which conferred post-enactment identification authority to individual legislators, and which effectively allowed them to individually exercise the power of appropriation, a power lodged in the Congress as a whole.[114] Indeed, the importance of Congress' conduct of its business as a collegial body cannot be gainsaid. On this score, petitioners are correct in asserting that a quorum is "the basic procedural hurdle to ensure that the House acts with the collective will of the body, and not just that of one Member, or few Members, or a select group only."[115]

Nevertheless, equally axiomatic is the Constitutional precept that empowers the Congress to determine and adopt its own rules of proceedings.[116] In this regard, Section 75, Rule XI of the Internal Rules of the House of Representatives provides:

> **Section 75. *Quorum.*** – A majority of all the Members of the House shall constitute a quorum. The House shall not transact business without a quorum. A member who questions the existence of a quorum shall not leave the session hall until the question is resolved or acted upon, otherwise, the question shall be deemed abandoned.[117]

The foregoing provision is consistent with the quorum requirement provided in the immediately preceding constitutional provision.

The thrust of petitioners' theory is that the TRAIN Act breached Section 16(2), Article VI, insisting that there was an "utter lack of quorum" when the House ratified the TRAIN BCC Report on the night of 13 December 2017,[118] thereby making the TRAIN Act null and void.[119] They beseech the Court to take cognizance of this particular issue and avouch[120] that the determination of the presence of a quorum is a justiciable subject as "hinted" in *Arroyo v. De Venecia*,[121] *viz.*:

> First. It is clear from the foregoing facts that what is alleged to have been violated in the enactment of R.A. No. 8240 are merely internal rules of procedure of the House rather than constitutional requirements for the enactment of a law, *i.e.*, Art. VI, §§ 26-27. Petitioners do not claim that there was no quorum but only that, by some maneuver allegedly in violation of

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114 *Id.* at 554-555.

115 *Rollo* (G.R. No. 236118, vol. 1), p. 17.

116 CONST., ART. V, SEC. 16 (3) provides:
Section 16 (3). Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, suspend or expel a Member. A penalty of suspension, when imposed, shall not exceed sixty days.

117 *Rollo* (G.R. No. 236118, vol. 1), p. 62.

118 *Id.* at 16.

119 *Rollo* (G.R. No. 236925), p. 30.

120 *Rollo* (G.R. No. 236118, vol.1), p. 343.

121 343 Phil. 42 (1997) [Per J. Mendoza, *En Banc*].

> the rules of the House, Rep. Arroyo was effectively prevented from questioning the presence of a quorum.[122]

To substantiate their theory of the law's invalidity, Tinio, *et al.* adduce before this Court a video recording of the 13 December 2017 session, which was later on uploaded to the YouTube channel of the House. The lack of quorum during the ratification of the TRAIN BCC Report was seemingly self-evident in the said recording. The video was bolstered by a photograph of the session hall taken by Representative Tinio, showing that it was near-empty.[123]

On the strength of such pieces of evidence, petitioners implore this Court to declare an act of Congress as invalid for being an ostensible violation of a constitutional provision. Implicit in the relief sought is the entreaty to look into the events of the 13 December 2017 session proceedings and then definitively declare, based on the evidence submitted, that there was no quorum during the ratification of the TRAIN BCC Report.

The Court refuses to pander to petitioners' theory.

Prefatorily, it is imperative that this particular legal issue be reframed in such a way that it would reflect what petitioners are actually assailing in the instant controversy.

It is uncontroverted that the 13 December 2017 session of the House commenced with the declaration of a quorum, consistent with Sections 72 and 74 of its Internal Rules of Procedure.[124] When the roll was called at 4:00 p.m., 232 out of the 295 members responded.[125] Plain as day, no question was raised in this regard. Journal No. 48[126] released by the House Journal Service

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122 *Id.* at 60.

123 *Rollo* (G.R. No. 236118, vol.1), p. 106.

124 SECTION 72. Order of Business. — The daily Order of Business shall be as follows:
a. Roll call;
b. Approval of the Journal of the previous session;
c. First reading of bills and resolutions;
d. Referral of committee reports, messages, communications, petitions and memorials;
e. Unfinished Business;
f. Business for the Day;
g. Business for a Certain Date;
h. Business for Thursday and Friday;
i. Bills and Joint Resolutions for Third Reading; and
j. Unassigned Business.
The daily Order of Business shall be posted in the House website and, as far as practicable, sent through electronic mail to the Members one (1) hour before the commencement of session.
SECTION 74. Roll Call. — The names of Members shall be called by surnames alphabetically. When two (2) or more Members have the same surnames, the full name of each shall be called. If there are two (2) or more Members with the same names and surnames, their legislative districts or party-list affiliations shall also be called.

125 *See* Consolidated Comment; *Rollo* (G.R. No. 236118, vol. 1), p. 178; and *rollo* (G.R. No. 236295), p. 153; See also Journal No. 48, 17th Congress, Second Regular Session; *id.* at 239-241; and *id.* at 211-213.

126 *Id.* at 238-252; and *id.* at 210-224.

(Plenary Affairs Bureau) on that day provides a clear and explicit account of the presence of quorum during such session, the pertinent portions thereof divulge—

> ROLL CALL
>
> On motion of Rep. Arthur R. Defensor Jr., there being no objection, the Chair directed the Secretary General to call the Roll and the following Members were present:
>
> . . . .
>
> With 232 Members responding to the Call, the Chair declared the presence of a quorum.[127]

Journal No. 48 further stipulates that the session was suspended at 7:44 p.m., and then resumed at 10:02 p.m. Upon resumption, the matters on the Suspension of Consideration of House Concurrent Resolution No. 9 and the Authority to Conduct Committee Meetings and Hearings During the Recess were taken up, with the BCC Report having been ratified shortly thereafter, upon motion, and without objection.[128] Prior to ratification, not a single objection was raised with respect to the presence of a quorum, and it was only when the BCC Report was considered for ratification that objections were heard. The session was then adjourned at 10:05 p.m.[129]

In both Petitions, petitioners provide the Court a detailed account of what supposedly transpired "at around 10:45 in the evening" of 13 December 2017, and thereafter implore that the "events on the floor during the last three minutes of the session in question" be examined.[130]

Given the foregoing disquisitions, it is hard to miss that the formulation of the legal issue as one which simply involves the passage of a law that violates the quorum requirement under the Constitution is an oversimplified and misleading presentation of the controversy at bench. ***For one***, it forces the Court to assume that the absence of a quorum is an established fact in the resolution of this controversy. As to be discussed below, this remains a question of fact which must be resolved *vis-à-vis* fundamental doctrines relating to the evidentiary value of certain official documents. In any case, assuming that this controversy provides an opportunity to set exceptions to said doctrines, there must be clear and convincing evidence that would sway the Court to consider invalidating an official act. ***For another***, such articulation fails to take into account the nuances attendant in these cases, including the fact that the purported violation occurred in the middle of a

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[127] *Id.* at 239-241; and *id.* at 211-213.
[128] *Id.* at 249-250; and *id.* at 221-222.
[129] *Id.* at 250; and *id.* at 222.
[130] *Rollo* (G.R. No. 236118, vol. I), pp. 10-13.

session which was validly constituted. This is a critical consideration because it enables the Court to factor in the internal nature of the proceedings and the fact that established rules and regulations are already in place, which cannot be simply brushed aside. As such, this pressing issue culminates to a quandary involving the primary doctrine of separation of powers.

Properly restated, the consolidated Petitions beg the pivotal question — **Did or did not the House "lose" its quorum during the 13 December 2017?**

Incipiently, the Court acknowledges the power of the House to establish the manner by which quorum is determined and the majority is counted.

Indeed, Section 16(3), Article VI of the Constitution authorizes each House of Congress to determine the rules for the conduct of its own proceedings. As a necessary consequence of this provision, it is also within the powers of the House to employ its own particular method of determining the presence of a continuing quorum to be able to conduct its affairs, including the power to resolve any issues arising therefrom. By virtue of such authority, it may implement a system whereby once a quorum had been established at the beginning of the session, certain procedural barriers must be overcome before any declaration that the same had been "lost" during the proceedings may be made. Such state of quorum thenceforth persists **unless properly challenged**, and quorum is recounted *via* a roll call.

Any question relating to quorum, which was raised in the middle of a valid and regular session, therefore, should be properly characterized as an **internal issue that must be addressed exclusively by the House**. This is due to the fact that its resolution is entirely dependent upon the parameters of its own Internal Rules and historical practices. For instance, Section 76 of the Internal Rules provides for the available remedy in instances where there is no quorum after the roll call, thus:

> **Section 76.** ***Absence of Quorum.*** – In the absence of a quorum after the roll call, the Members present may compel the attendance of absent Members.
>
> In all calls of the House, the doors shall be closed. Except those who are excused from attendance in accordance with *Section 71* hereof, the absent Members, by order of a majority of those present, shall be sent for and arrested wherever they may be found and conducted to the session hall in custody in order to secure their attendance at the session. The order shall be executed by the Sergeant-at-Arms and by such officers as the Speaker may designate. After the presence of the Members arrested is secured at the session hall, the Speaker shall determine the conditions for their discharge. Members who voluntarily appear shall be admitted immediately to the session hall and shall report to the Secretary General to have their presence recorded.[131]

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[131] *Id.* at 62.

Section 71 of the same Rules, in turn, indicates that in exceptional cases, absent Members of the House are still deemed present and counted towards quorum when they are attending committee hearings, upon notification to the Secretary General, or are on official missions, as approved by the Speaker, *viz.*:

> **Section 71.** ***Attendance in Sessions.*** - Every Member shall be present in all sessions of the House unless prevented from doing so by sickness or other unavoidable circumstances duly reported to the House through the Secretary General.
>
> While the House is in session, the following shall be deemed present:
>
> a. Members who are attending committee meetings as authorized by the Committee on Rules, in accordance with *Section 35* hereof, upon written notification to the Secretary General by the concerned committee secretary;
>
> b. Members who are attending meetings of:
>
> b.1. The Commission on Appointments;
> b.2. The House of Representatives Electoral Tribunal; and
> b.3. Bicameral Conference Committees
>
> c. Members who are on official mission as approved by the Speaker.[132]

Clearly, the *physical* absences of these Members do not militate against their attendance in a particular session and do not automatically translate to the fact of quorum being "lost," especially so when they have had their presence recorded during the initial roll call.

In this regard, this Court discerns that the instant Petitions are mere attempts to enforce the Internal Rules of the House, disguised as a constitutional attack against an official act of Congress. Significantly, petitioners allege that their objection to the ratification of the BCC Report on the basis of a lack of quorum was not heard, and even ignored.[133] In sooth, these averments are directed towards a disregard of Sections 74 and 75 of the Internal Rules, the provisions of which assume importance once a member raises a question relating to quorum:

> **Section 74.** ***Roll Call.*** — The names of Members shall be called by surnames alphabetically. When two (2) or more Members have the same

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[132] *Id.* at 61.
[133] *Id.* at 13 and 21.

> surnames, the full name of each shall be called. If there are two (2) or more Members with the same names and surnames, their legislative districts or party-list affiliations shall also be called.
>
> **Section 75.** ***Quorum.*** — A majority of all the Members of the House shall constitute a quorum. The House shall not transact business without a quorum. A Member who questions the existence of a quorum shall not leave the session hall until the question is resolved or acted upon, otherwise, the question shall be deemed abandoned.[134]

Relevantly, Jefferson's Manual of Parliamentary Practice, which has been considered as a supplement to the Rules[135] and has been considered to hold persuasive effect in our jurisdiction,[136] provides that the question of quorum must still be properly raised as a point of order:

> The question of a quorum is not considered unless properly raised x x x, and it is not in order for the Speaker to recognize for a point of no quorum unless the Speaker has put the pending question or proposition to a vote.[137]

It appearing that the question of quorum in this instance was never officially taken as a point of order, it was thus neither formally questioned nor was a roll call performed according to the Internal Rules. Based on the Internal Rules, quorum, specifically the lack thereof, is determined by the calling of the roll, *i.e.*, "[i]n the absence of a quorum after a roll call."[138] Therefore, the instant cases, at their core, simply involve an objection of a member who was not recognized. Since the conduct of the objection proceedings anchored on the absence of a quorum is a purely internal matter, it is not subject to review by this Court but rather under the exclusive control of the House.

Plain as a pikestaff, any exercise of judicial power by the Supreme Court with respect to the determination of a quorum during an ongoing session of Congress becomes an interference into the exclusive domain of the Legislature. The case of *Belgica v. Ochoa*[139] provides an enlightening discourse on this matter, *viz.*:

> [T]here is a violation of the separation of powers principle when one branch of government unduly encroaches on the domain of another. US Supreme Court decisions instruct that the principle of separation of powers may be violated in two (2) ways: firstly, "[o]ne branch may interfere impermissibly with the other's performance of its constitutionally assigned function"; and "[a]lternatively, the doctrine may be violated when one branch assumes a function that more properly is entrusted to another." In other words, there is

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134 *Id.* at 62.

135 *See Tolentino v. Secretary of Finance*, 305 Phil. 686, 751 (1994) [Per J. Mendoza, *En Banc*].

136 *See Arnault v. Nazareno*, 87 Phil. 29, 58-59 (1950) [Per J. Ozaeta].

137 Commentary to Art. VI, §310, Jefferson's Manual, *available at* https://www.govinfo.gov/content/pkg/HMAN-112/pdf/HMAN-112-jeffersonman.pdf (last accessed 11 July 2022).

138 *Rollo* (G.R. No. 236118), p. 62.

139 721 Phil. 416 (2013) [Per J. Perlas-Bernabe, *En Banc*].

> a violation of the principle when there is impermissible (*a*) interference with and/or (*b*) assumption of another department's functions.[140]

It bears emphasis that while the Constitution demands the presence of a majority in order to establish a quorum that would allow Congress to conduct business including, *inter alia*, the ratification of conference committee reports, it does not, however, mandate the method by which the same is counted or sustained, or how the majority is ascertained, whether at the start or in the middle of official proceedings. Contrarily, what the Constitution sanctions under Section 16(3) of Article VI is that both Houses of Congress may establish their own rules in the conduct of their proceedings. Ineluctably, rather than imposing definite procedural rules, the Constitution grants a wide latitude of discretion upon both Houses of Congress to conduct their own affairs. In effect, it is within the competency of the House to prescribe any method to ascertain the presence of a majority as a condition to transact business.

This interpretation finds support in the case of *United States v. Ballin*,[141] where the Supreme Court of the United States (US) held that under the constitutional quorum requirement of Article I, § 5, "[a]ll that the Constitution requires is the presence of a majority, and when that majority are present the power of the house arises."[142] Substantial esteem is accorded to the House in deciding how the existence of a majority shall be computed. Because "[t]he Constitution has prescribed no method of making this determination,"[143] it is "within the competency of the house to prescribe any method which shall be reasonably certain to ascertain x x x the presence of a majority, and thus establishing the fact that the house is in a condition to transact business."[144] The US Constitution leaves it to each chamber to select a method for counting a quorum, so long as that method is "reasonably certain to ascertain" the "presence of a majority" such that the chamber is, constitutionally speaking, "in a position to do business."[145]

In the Philippine context, the Court had determined that it is not the proper forum for the enforcement of internal rules: "[p]arliamentary rules are merely procedural and with their observance the courts have no concern."[146] "Our concern is with the procedural requirements of the Constitution for the enactment of laws. As far as these requirements are concerned, we are satisfied that they have been faithfully observed in these cases."[147] Time and

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140 *Id.* at 535. Emphasis and underscoring omitted.
141 144 U.S. 1 (1892).
142 *Id.* at 6.
143 *Id.*
144 *Id.* at 1.
145 *Id.* at 5.
146 *Arroyo v. De Venecia, supra* note 119, at 61.
147 *Tolentino v. Secretary of Finance, supra* note 133, at 751-752.

again, the Court declared that there was no grave abuse of discretion when what has been alleged to have been violated in the enactment of the law are merely internal rules of procedure of the House rather than the constitutional requirement for the enactment of a law, that is, Sections 26 and 27, Article VI of the 1987 Constitution, pertaining to the existence of the quorum.[148]

Besides, the establishment of flexible practices of a continuing quorum or a virtual quorum is not prohibited by the Rules of the House of Representatives, so long as the House has the capacity to transact or is in a position to do business using such practices. It may, for instance, adopt rules establishing virtual sessions or attendance whereby physical presence in the session hall may be completely dispensed with. Nowhere in the Rules does it bar such practice, as all it entails is that a "majority of all the Members of the House shall constitute a quorum," and that the "House shall not transact business without a quorum,"[149]

Truly, it is not within the realm of the Court's duty to probe and eventually invalidate each and every action taken by the House during a questioned session, where lack of quorum was alleged. A contrary ruling would result in most actions of either House becoming immediately constitutionally suspect, thereby impeding efficient continuity of government affairs.

To recapitulate, once a quorum was established at the beginning of a House session, assailing the same is an internal matter best left to the judgment of the congressional body. Whichever method the House employs to count the majority of its members for purposes of determining the existence of a quorum is within its powers to constitute, with the qualification that such method "reasonably certain to ascertain the presence of a majority such that the chamber is, constitutionally speaking, in a position to do business."[150] In the cases at bench, it cannot be stressed enough that among the succession of matters taken up into a vote, quorum was challenged only when the ratification of the TRAIN BCC Report was motioned upon.

Upon this point, Section 161 of the Internal Rules state that **"[t]he parliamentary practices of the Philippine Assembly, the House of Representatives, the Senate of the Philippines and the Batasang Pambansa shall be suppletory to these rules."** [151] Long and established practice of the branches of government must be accorded great weight, in deference to the elementary doctrine of separation of powers. [152] What

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148 *Arroyo v. De Venecia, supra* note 119 at 60-61.

149 Section 75, Rules of the House of Representatives, 16th Congress, *rollo* (G.R. No. 236118, Vol. I), p. 62.

150 *See U.S. v. Ballin*, 144 U.S. 1 (1892).

151 Rollo, (G.R. No. 236118, Vol. I), p. 73. Emphasis supplied.

152 *See Pocket Veto Case*, 279 U.S. 655 (1929).

Congress may do by express rules, it may do also by its own custom and practice.[153] In effect, the Court must shirk from exercising its power to review the wisdom, nay the manner by which the House *conducts* its business. Should this conduct of business include a legislative practice of recognizing the persistence of a quorum unless definitively established otherwise based on the procedures laid down in its Internal Rules, the Court is not in the position to invalidate the same, as it cannot look into the internal operations of Congress and correct any irregularity in procedure, or established practice therein. As expounded below, the Court is restricted to what is available for it to assess, *i.e.*, the enrolled bill and the Journals.

Withal, since the issue on quorum involves an internal matter of the House, the application of *Arroyo v. De Venecia*[154] becomes inescapable. In the said case, Representative Arroyo attempted to question the existence of a quorum during the ratification of the bicameral conference committee report on RA No. 8240, but the same remained unheeded. Petitioners claim that the passage of RA No. 8240 in the House had been "railroaded" as Representative Arroyo was still making a query to the Chair when the Chairman declared Representative Albano's motion to adjourn the session therein was approved. The resemblance of Arroyo's *mise-en-scène* to those of the instant cases is crystal clear.

Contrary to petitioners' postulation, no rights of private individuals are involved in the instant controversy "but only those of a member who, instead of seeking redress in the House, chose to transfer the dispute to this Court."[155] Accordingly, the Court is duty-bound to make a straightforward application of the doctrine in *Arroyo* that courts cannot declare an act of the legislature void on account merely of non-compliance with rules of procedure which itself made.

While it may be argued that the controversy at bench is distinct from *Arroyo* in that the instant Petitions directly question the existence of a quorum during the 13 December 2017 session, the Court finds and so holds that the mere filing of a case raising the existence of quorum does not automatically mean that it should accept the invitation to look into the proceedings of a co-equal branch of government. In actual fact, the Court has invariably ruled against looking beyond the contents of certain official documents.

In any case, in imploring the Court to carve out an exception and invalidate an act of Congress due to purported irregularities, it was incumbent for petitioners to substantiate their averments with clear and convincing evidence. As the Court will now discuss, petitioners failed in this regard.

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153 *See Christoffel v. United States*, 338 U.S. 84 (1949).
154 *Supra* note 119.
155 *Id.* at 65.

The enrolled bill doctrine and the conclusiveness of the contents of Congressional Journals apply in this case. Therewithal, petitioners failed to adduce clear and convincing evidence to overturn the presumption of validity accorded to an enacted law, which is an official act of a co-equal branch of the government.

As earlier pronounced, the existence or non-existence of a quorum at any point during the session of Congress, is a question of fact, which must be proved by the party alleging the same. Addressing such issue requires the Court to review the truthfulness or falsity of the allegations of petitioners, including an assessment of the "probative value of the evidence presented."[156]

Appropriately, the resolution of the Court must take into consideration the applicable provisions of the Internal Rules of the House of Representatives, given that the defiance of the quorum requirements was presumably realized in the middle of the 13 December 2017 session. There are certain legal provisions under the said Rules which are inextricably linked to the determination of a quorum. As heretofore stated, Section 71, for example, provides legal basis to say that there may be other members who are not in the session hall but who may nonetheless be "deemed present." This provides an additional layer of complexity, which petitioners must overcome before the Court can grant the reliefs sought.

When what is involved is specifically the passage of a law by Congress, the task of ascribing any infirmity that could serve as a basis for invalidation becomes an even more daunting challenge. As a corollary to the principle of separation of powers, the judiciary has historically exercised utmost restraint in cases where it was requested to pry into the proceedings of Congress. This being so, the Court has given the highest deference to the evidentiary value of two legislative documents, namely, *the enrolled bill and the congressional journal.*

Jurisprudence teems with cases where the Court has regarded as conclusive of its due enactment the signing of the bill by the Speaker of the House and the Senate President, and the ensuing certification thereof by the Secretaries of both Houses of Congress that it was passed. This is known as the enrolled bill doctrine.[157] In *Council of Teachers and Staff of Colleges and Universities of the Philippines vs. Secretary of Education,*[158] the *raison d'être* behind the enrolled bill doctrine was succinctly clarified, *viz.*:

The rationale behind the enrolled bill doctrine rests on the consideration that

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[156] *See Pascual v. Burgos*, 776 Phil. 167, 183 (2016) [Per J. Leonen, Second Division].

[157] *See Council of Teachers and Staff of Colleges and Universities of the Philippines (CoTeSCUP)) v. Secretary of Education*, 841 Phil. 724, 791 (2018) [Per J. Caguioa, *En Banc*].

[158] *Id.*

> "[t]he respect due to coequal and independent departments requires the [Judiciary] to act upon that assurance, and to accept, as having passed Congress, all bills authenticated in the manner stated; leaving the court to determine, when the question properly arises, [as in the instant consolidated cases], whether the Act, so authenticated, is in conformity with the Constitution."[159]

After conducting a survey of jurisprudence on the enrolled bill doctrine, the Court, in that same case, arrived at the conclusion that such legal precept has been strictly adhered to in this jurisdiction—

> Claims that the required three-fourths vote for constitutional amendment has not been obtained, that irregularities attended the passage of the law, that the tenor of the bill approved in Congress was different from that signed by the President, that an amendment was made upon the last reading of the bill, and even claims that the enrolled copy of the bill sent to the President contained provisions which had been "surreptitiously" inserted by the conference committee, had all failed to convince the Court to look beyond the four corners of the enrolled copy of the bill.
>
> As correctly pointed out by private respondent Miriam College, petitioners' reliance on *Astorga* is quite misplaced. They overlooked that in *Astorga*, the Senate President himself, who authenticated the bill, admitted a mistake and withdrew his signature, so that in effect there was no longer an enrolled bill to consider. Without such attestation, and consequently there being no enrolled bill to speak of, the Court was constrained to consult the entries in the journal to determine whether the text of the bill signed by the Chief Executive was the same text passed by both Houses of Congress.[160]

By the same token, Congressional Journals have been considered to have a binding effect upon the Court.[161] Section 16 (4) and Section 26 (2), Article VI of the Constitution expressly require that Congress maintain such document, *viz.*:

> SECTION 16. . .
>
> (4) Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may, in its judgment, affect national security; and the yeas and nays on any question shall, at the request of one-fifth of the Members present, be entered in the Journal. x x x.
>
> SECTION 26. . .
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> (2) No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage, except when the President certifies to the necessity of its immediate enactment to

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159 *Id.*, citing *Arroyo vs. De Venecia*, *supra* note 119.

160 *Id.* at 791-792, citations omitted.

161 *See The Philippine Judges Assn. v. Hon. Prado*, 298 Phil. 502, 511 (1993) [Per J. Cruz, *En Banc*].

> meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the yeas and nays entered in the Journal. . .

In the early case of the *United States v. Pons*,[162] the Court recognized that, from their very nature and object, legislative records "are as important as those of the judiciary."[163] Addressing the argument that the Journal in the said case failed to reflect the exact time that the assailed law was approved, the Court had to stress that the rule giving verity and unimpeachability to legislative records is grounded on public policy, to wit:

> But counsel in his argument says that the public knows that the Assembly's clock was stopped on February 28, 1914, at midnight and left so until the determination of the discussion of all pending matters. x x x. If the clock was, in fact, stopped, as here suggested, "the resultant evil might be slight as compared with that of altering the probative force and character of legislative records, and making the proof of legislative action depend upon entertain oral evidence, liable to loss by death or absence, and so imperfect on account of the treachery of memory. Long, long centuries ago, these considerations of public policy led to the adoption of the rule giving verity and unimpeachability to legislative records. If that character is to be taken away for one purpose, it must be taken for all, and the evidence of the laws of the state must rest upon a foundation less certain and durable than that afforded by the law to many contracts between private individuals concerning comparatively trifling matters.[164]

Accordingly, the Court decreed that an inquiry into the veracity of the journals of the Philippine Legislature, when they are clear and explicit, "would be to violate both the letter and the spirit of the organic laws by which the Philippine Government was brought into existence, to invade a coordinate and independent department of the Government, and to interfere with the legitimate powers and functions of the Legislature."[165]

The binding effect of legislative journals, as edifyingly enunciated in *United States v. Pons*, was affirmed in subsequent cases, such as *The Philippine Judges Assn. v. Hon. Prado*[166] and *Arroyo v. De Venecia*.[167]

Quite palpably, in the present cases, both the enrolled bill and Journal No. 48 do not mention any infirmity in the passage of the law. As earlier noted, Journal No. 48 is clear and explicit in showing that there was a quorum during the 13 December 2017 session. On the other hand, as to the portion of the proceedings being questioned by petitioners, the pertinent part of Journal No.

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[162] 34 Phil. 729 (1916) [Per J. Trent].
[163] See *id.* at 733.
[164] *Id.* at 734.
[165] *Supra* note 159, at 511.
[166] *Id.*
[167] *Supra* note 119.

48 provides for the following account:

RESUMPTION OF SESSION

The session resumed at 10:02 p.m., with Deputy Speaker Abu presiding.

SUSPENSION OF CONSIDERATION OF HOUSE CONCURRENT RESOLUTION NO. 9

On motion of Representative Defensor, there being no objection, the Body suspended consideration of House Concurrent Resolution No. 9.

AUTHORITY TO CONDUCT COMMITTEE MEETINGS AND HEARINGS DURING THE RECESS

In accordance with the amended provisional House Rules, on motion of Representative Defensor, there being no objection, the Body approved to authorize all Committees to conduct meetings or public hearings, if deemed necessary, during the House recess from December 16, 2017 to January 14, 2018.

MOTION OF REPRESENTATIVE DEFENSOR

Thereupon, Representative Defensor moved that the Body ratify the Conference Committee Report on the disagreeing provisions of House Bill No. 5636 and Senate Bill No. 1592, or the proposed Tax Reform for Acceleration and Inclusion (TRAIN).

RATIFICATION OF THE CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 5636 AND SENATE BILL NO. 1592

On motion of Representative Defensor, there being no objection, the Body considered and subsequently ratified the Conference Committee Report on the disagreeing provisions of House Bill No. 5636, entitled:

"AN ACT AMENDING SECTIONS 5, 6, 22, 24, 25, 31, 32, 33, 34, 79, 84, 86, 99, 106, 107, 108, 109, 116, 148, 149, 155, 171, 232, 237, 254, 264, AND 288; CREATING NEW SECTIONS 148-A, 150-A, 237-A, 264-A, 264-B, AND 265-A; AND REPEALING SECTIONS 35 AND 62, ALL UNDER THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED";

and Senate Bill No. 1592, entitled:

"AN ACT AMENDING SECTIONS 5, 6, 24, 25, 27, 28, 31, 33, 34, 35, 51, 52, 56, 57, 58, 74, 79, 84, 86, 89, 90, 91, 97, 99, 100, 101, 106, 107, 108, 109, 110, 112, 114, 116, 128, 148, 149, 150, 151, 155, 171, 174, 175, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 232, 236, 237, 249, AND 288; CREATING NEW SECTIONS 148-A, 150-A, 237-A, 264-A, 264-B, AND 265-A; ALL UNDER REPUBLIC ACT NO. 8424, OTHERWISE KNOWN AS THE NATIONAL INTERNAL REVENUE CODE OF 1997, AS AMENDED, AND FOR OTHER

PURPOSES."

ADJOURNMENT OF SESSION

On motion of Representative Defensor, there being no objection, the Chair declared the session adjourned until four o'clock in the afternoon of Monday, January 15, 2018.

It was 10:05 p.m.[168]

The records ineluctably evince the presence of a quorum of the House when the session began, and neither Tinio, *et al.* nor anyone else among the Members raised the point of no quorum up to the time the BCC Report was moved to be considered. In the absence of strong proof to the contrary, the quorum established at the beginning of the session, as it so appears in the relevant Journal, is presumed to subsist. Thus, formally, the presence of a quorum had not been disproven; the presumption that it existed remains.[169]

Upon a straightforward application of the foregoing elementary doctrines on the journal and the enrolled bill, the Court cannot look into the proceedings of Congress in fealty to the principle of separation of powers.

Still and all, even assuming that the Court looks past the foregoing doctrines and invalidate an act of Congress due to serious irregularities, it was incumbent for petitioners to convince the Court by substantiating their averments with sufficient proof. In this respect, the Court accentuates that what they are assailing herein is an official act of a co-equal branch of government. It is thus incumbent upon them to overcome the daunting hurdle borne by the strong presumption of validity of such act. Under prevailing case law, an official act of government can only be overturned by a showing of clear and convincing evidence that the act is done with irregularity, *viz.*:

> Case law states that "[t]he presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty. The presumption, however, prevails until it is overcome by no less than clear and convincing evidence to the contrary. Thus, unless the presumption is rebutted, it becomes conclusive. Every reasonable intendment will be made in support of the presumption and in case of doubt as to an officer's act being lawful or unlawful, construction should be in favor of its lawfulness," as in this case.[170] (Emphasis and underscoring omitted)

In impugning the proceedings during the 13 December 2017 session, petitioners essentially contend that the Journal does not reflect the actual

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168 *Rollo* (G.R. No. 236118, vol. 1), pp. 249-250; and *rollo* (G.R. No. 236295), pp. 221-222.

169 *See* REVISED RULES ON EVIDENCE, Rule 131, Section 3, par. (q), which states that the presumption that the ordinary course of business has been followed is satisfactory if not contradicted and overcome by other evidence.

170 *Consular Area Residents Ass'n., Inc. v. Casanova*, 784 Phil. 400, 417 (2016) [Per J. Perlas-Bernabe, First Division], citing *Bustillo v. People*, 634 Phil. 547, 556 (2010) [Per J. Del Castillo, Second Division].

events on the floor that day. They cash in on the livestream video uploaded on the YouTube channel of the House, asserting that no more than ten Members were present when the BCC Report was ratified. As such, the constitutional quorum requirement was not met.[171] They also proffer a photograph of one of petitioners in-frame, showing a "near-empty session hall".[172]

To the Court's mind, such pieces of evidence, for a multitude of reasons, are insufficient to overcome the presumed validity of the acts of the House in passing the TRAIN Act.

At the outset, the Court perceives that, unlike the Journal, which the Constitution makes imperative to be kept by Congress and which is required to record specific matters taken up during the proceedings, the broadcasting of such proceedings appears to be for the primary purpose of information dissemination to the public. Apropos is the mandate of the Speaker under Rule IV, Section 15(d) of the Rules of the House of Representatives[173] to establish an efficient information management system—

> **RULE IV**
> ***The Speaker***
>
> **SECTION 15.** ***Duties and Powers.*** — The Speaker, as the political and administrative head of the House, is responsible for the overall management of the proceedings, activities, resources, facilities and employees of the House.
>
> . . . .
>
> d. establish, as far as practicable, an efficient information management system in the House, utilizing, among others, modern digital technology, that can: 1. facilitate access to and dissemination of data and information needed in legislation inclusive of facilitating real time translation of plenary proceedings in the major Philippine dialects and languages; 2. provide a simplified and comprehensive process of gathering, recording, storage and retrieval of data and information relating to activities and proceedings of the House; 3. sustain a public information program that will provide accessible, timely and accurate information relating to the House, its Members and officers, its committees and its legislative concerns inclusive of facilitating, as far as practicable, broadcast coverage of plenary and committee proceedings[.][174]

Appositely, Rule XXII of the Internal Rules embodies the provisions with respect to the Broadcasting of the House:

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171 *Rollo* (G.R. No. 236118, vol. 1), p. 20.
172 *Id.*
173 16th Congress, also adopted by the 17th Congress.
174 *Rollo* (G.R. No. 236118, vol. 1), p. 44.

RULE XXII
Broadcasting the House

SECTION 148. ***Closed-Circuit Viewing of Floor Proceedings.*** — The House shall establish a system for closed-circuit viewing of floor proceedings of the House in the offices of all Members and in such other places in the House as the Speaker considers appropriate. Such system may include other telecommunications functions subject to rules and regulations issued by the Speaker.

SECTION 149. ***Public Broadcasting and Recording of Floor Proceedings.***—

(a) The House shall administer a system for complete and unedited audio and visual broadcasting, recording, and live streaming through the internet of the proceedings of the House. The system shall include the distribution of such broadcasts and recordings to news media, for the storage of audio and video recordings of the proceedings, and for the closed-captioning of the proceedings for hearing-impaired persons. Any such public broadcasting and system of recording of floor proceedings shall be subject to rules and regulations issued by the Speaker;

(b) All television and radio broadcasting stations, networks, services, and systems including cable television systems that are accredited to the House radio and television correspondents' galleries, and all radio and television correspondents who are so accredited, shall be provided access to the live coverage of the House; and

(c) Coverage made available under this section, including any recording may not be:

(1) used for any political purpose;
(2) used in any commercial advertisement; and
(3) broadcast with commercial sponsorship except as part of a *bona fide* news program or public affairs documentary program.[175]

At this juncture, the Court is tasked to juxtapose the video recording sanctioned by the Internal Rules of the House *vis-à-vis* the Congressional Journals required by the Constitution itself.

Albeit sanctioned by the Internal Rules of Procedure of the House, the video recording described therein neither serves the same purpose as the Congressional Journals nor does it have a binding effect upon this Court, unlike the aforementioned Legislative Documents. At the risk of belaboring the point, the Journal is required to be kept as a record of Congress' proceedings by no less than Section 16(4), Article VI of the Constitution earlier quoted. This is precisely why such document is required to contain a detailed written account of the events that transpired on a particular session, *from the call to order initiated by the Speaker until the adjournment thereof.*

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[175] *Id.* at 70-71.

Notably, the correctness of the entries in the Journal, such as the presence of a quorum and the ratification by the majority of a resolution, is required to be certified by none other than the Secretary General.[176] The foregoing considerations thus explain why the Journal has been historically considered as binding on the Court with respect to the events chronicled therein.

All the same, even if the Court examines the probative value of petitioners' evidence independent of the Congressional Journal, the above conclusion would remain unchanged in view of the insufficiency and inherent limitations of the evidence presented by petitioners.

It does not escape the attention of the Court that the video recording merely shows a specific area of the session hall during the 13 December 2017 proceedings. Ostensibly absent from the frame captured by the video is the rest of the hall, and the activities being conducted therein. If at all, the video recording, unlike Journal No. 48, tends to prove only the specific acts and incidents which transpired during the proceedings that were captured thereby, such as the fact that a motion for ratification of the TRAIN BCC Report was indeed made or that someone from the floor made a remark regarding the existence of a quorum during such ratification. These limitations blow to smithereens petitioners' avowed accuracy of the video recording with respect to the actual events that transpired on the night of 13 December 2017. Under the Rules on Electronic Evidence, the Court may consider any factor which affects the accuracy or integrity of the electronic data message in determining its evidentiary weight.[177]

In the same vein, the video recording brings to light the undeniable truth that there was no significant difference as to the number of participants as shown during the start of the proceedings, when the quorum was unquestioned, on one hand, and the portion of the proceedings where the quorum was supposedly lost, upon the other. In sooth, the video reveals a substantial number of unoccupied and empty seats in the session hall *not only at the end of the video, but also during the beginning of the proceedings*. In actual fact, one of the speakers at the start of the session is none other than petitioner Antonio Tinio himself. It therefore defies logic that petitioner Tinio seemed to recognize the House's quorum to tackle his business but reject the same with regard to the ratification of the TRAIN BCC Report.

Moving on to the photograph[178] annexed in the Petition filed by Tinio,

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[176] See Sec. 18 (g), Rule VI of the Internal Rules which provides:
SECTION 18. *Duties and Powers.* — The duties and powers of the Secretary General are:

. . . .

(g) to keep and to certify the Journal of each session which shall be a clear and succinct account of the business conducted and actions taken by the House: *Provided*, That Journals of executive sessions shall be recorded in a separate book and kept confidential.

[177] *See* RULES ON ELECTRONIC EVIDENCE, Rule 7, Sec. 1.

[178] *Rollo* (G.R. No. 236118, vol. 1), p. 106.

et al., the Court, at the outset, holds that its probative value is suspect as it may be considered a form of self-serving evidence,[179] having been taken by petitioners themselves out of court, who were free to use whichever angle they may find supportive of their contention. Notably, the picture does not even have a timestamp as to when it was taken. Thus, other than petitioners' bare allegation that it was taken right after session was adjourned, such averment has no leg to stand on. There was nothing preventing the Members of the House from moving out of the frame at such moment the photograph was taken, especially since the session had been already adjourned.

There is another factor that pulls the rug from petitioners' feet — due to the unparalleled impact that may result from the ruling in their favor, it behooved petitioners to establish the supposed lack of quorum, not only with clear and convincing evidence as above discussed, but also with accuracy. For instance, in *Avelino v. Cuenco*,[180] the issue was decided by the Court with the definitive knowledge that only 12 out of the 24 senators were present. Likewise, in *Zamora v. Caballero*,[181] a case which petitioners themselves rely on, the subject resolutions were nullified since only six out of the 14 members of the *Sangguniang Panlalawigan* voted on the motions. In contrast, herein petitioners were content in providing the Court with a mere estimate of the number of legislators claimed to be present during the ratification of the TRAINBCC Report.[182] Juxtaposed against available precedent, petitioners' anemic assertions fade into thin air.

To forestall any other disputation, the subsequent approval of Journal No. 48 blows away the cobwebs of doubt relating to the purported irregularities in the proceedings.

As a final inflection on this matter, the subsequent approval of Journal No. 48, which provides an account of the proceedings that transpired during the 13 December 2017 Session, during the subsequent 15 January 2018 session removes any doubt as to the validity of the ratification of the TRAIN BCC Report.

While an objection was raised during the following session of the House with respect to such lack of quorum, **it remains an undisputed fact that majority of the Members approved Journal No. 48**, as demonstrated by the contents of Journal No. 49 dated 15 January 2018[183]—

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[179] See 6:03:54-6:06:43 of the video.
[180] 83 Phil. 17 (1949).
[181] 464 Phil. 471 (2004) [Per J. Carpio-Morales, Third Division]
[182] *Rollo* (G.R. No. 236118, vol. 1), p. 20.
[183] *Id.* at 307-356; and *rollo* (G.R. No. 236295), pp. 279-328.

MOTION OF REPRESENTATIVE BONDOC

Rep. Juan Pablo "Rimpy" P. Bondoc then moved for the approval of Journal No. 48 of December 13, 2017.

OBJECTION OF REPRESENTATIVE TINIO

Rep. Antonio L. Tinio objected to the aforesaid motion.

REMARKS OF REPRESENTATIVE TINIO

Given five minutes by the Chair to explain his objection upon Representative Bondoc's motion, Representative Tinio asked the Secretariat to amend the portion entitled "RATIFICATION OF THE CONFERENCE COMMITTEE REPORT ON HOUSE BILL NO. 5636 AND SENATE BILL NO. 1592" on page 12 of Journal No. 48 in order to reflect (1) his and Rep. Carlos Isagani T. Zarate's numerous objections to said ratification and (2) his objection to said ratification on the basis of lack of quorum.

MOTION OF REPRESENTATIVE BONDOC

Representative Bondoc moved that the House first vote on his motion to approve Journal No. 48.

REMARKS OF REPRESENTATIVE TINIO

Representative Tinio also contested the statement in the aforecited portion of Journal No. 48 that the Body ratified said Committee Report and argued that no voting had taken place thereon. He asked the Secretariat to correct the use of the word "ratified" as he cited the House Rules on (1) the ratification of a Conference Committee Report by a majority vote of the Members of the House, there being a quorum; and (2) the conduct of a voting on motions or questions where the Speaker shall first say, "as many as are in favor, say *aye*" and thereafter say, "as many as are opposed, say *nay*" after the affirmative vote is counted.

REMARKS OF REPRESENTATIVE BONDOC

Representative Bondoc remarked that based on the records of the Secretariat, the December 13, 2017 session had a quorum of 232 Members; and the requirement as mentioned by Representative Tinio was thus met in said session.

DIVISION OF THE HOUSE

With Representative Bondoc reiterating his previous motion, the Chair called for a division of the House.

APPROVAL OF JOURNAL NO. 48

With majority of the Members voting in favor of Representative Bondoc's motion, the Body approved Journal No. 48 dated December 13,

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2017.[184]

The Court notes that out of the total 295[185] Members and the 232 who were present during the 13 December 2017 session, only three legislators, *i.e.*, Tinio, *et al.*, are assailing the passage of the TRAIN Law. The following observation by the Court in *Arroyo v. De Venecia*[186] is thus worth echoing:

> At any rate it is noteworthy that of the 111 members of the House earlier found to be present on November 21, 1996, only the five, *i.e.*, petitioners in this case, are questioning the manner by which the conference committee report on H. No. 7198 was approved on that day. No one except Rep. Arroyo, appears to have objected to the manner by which the report was approved. Rep. John Henry Osmeña did not participate in the bicameral conference committee proceedings. Rep. Lagman and Rep. Zamora objected to the report but not to the manner it was approved; while it is said that, if voting had been conducted, Rep. Tañada would have voted in favor of the conference committee report.[187]

In précis, even assuming that the Court should look beyond what was written in the Journal and that the enrolled bill doctrine may be disregarded, petitioners' evidence utterly falls short of passing judicial muster. To ingeminate, the mere filing of a case raising the existence of a quorum as an issue does not automatically enjoin the Court to accept the invitation to pry into the proceedings of a co-equal branch of government. Petitioners bear the burden in convincing the Court to exercise its exceptional judicial power to review such assailed acts by substantiating its averments with clear and convincing evidence. Petitioners miserably failed in discharging this bounden duty.

The threshold issue surrounding the enactment of the TRAIN Act having been settled, the Court must now examine the inherent validity of the provisions therein.

VI. Section 48 of the TRAIN Act is not a prohibited rider.

Is Section 48 of the TRAIN Act, which amends Section 151 of the Tax Code, unconstitutional for being a prohibited rider to the TRAIN Act?

Laban Konsyumer and Dimagiba intransigently asseverate that Section 48 did not originate from the House as required under Section 24, Article VI

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184 *Id.* at 307-356; and *rollo* (G.R. no. 236295, Vol. 1), pp. 279-328.

185 Consolidated Comment; *Rollo* (G.R. No. 236118, vol. 1.), p. 178; and *rollo* (G.R. No. 236295), p. 153; *See* also Journal No. 48, 17th Congress, Second Regular Session; *id.* at 239-241; and *id.* at 211-213.

186 *Supra* note 119.

187 *Id.* at 70.

of the 1987 Constitution.[188] Moreover, it was never intended by the House to form part of the amendments to the Tax Code based on the clear title of HB No. 5636.[189]

On the other hand, the OSG posits that prevailing jurisprudence ordains that the Constitution only requires that the revenue bill must originate exclusively from the House of Representatives but does not limit the extent of amendments that may be introduced by the Senate.[190]

Concededly, the amendment introduced to Section 151 of the Tax Code, which increases the excise tax rates for domestic and imported coal and coke, *inter alia*, is only present in SB No. 1592.[191] It is not contained in the title of HB No. 5636.[192] *However, does this fact alone constitute a violation of Section 24, Article VI of the 1987 Constitution?*

The Court resoundingly answers in the negative.

Section 24, Article VI thereof, provides that "[a]ll appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments."

In the seminal case of *Tolentino v. Secretary of Finance*,[193] the Court had the occasion to clarify that Section 24, Article VI only requires that the initiative of filing of revenue bills must come from the Lower House, *viz.*:

> To begin with, it is not the law — but the revenue bill — which is required by the Constitution to "originate exclusively" in the House of Representatives. It is important to emphasize this, because a bill originating in the House may undergo such extensive changes in the Senate that the result may be a rewriting of the whole. The possibility of a third version by the conference committee will be discussed later. At this point, what is important to note is that, as a result of the Senate action, a distinct bill may be produced. To insist that a revenue statute — and not only the bill which initiated the legislative process culminating in the enactment of the law — must substantially be the same as the House bill would be to deny the Senate's power not only to "concur with amendments" but also to "propose amendments." It would be to violate the coequality of legislative power of the two houses of Congress and in fact make the House superior to the Senate.
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> . . . .

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188 *Rollo* (G.R. No. 236925), p. 6.
189 *Id.* at 357-363.
190 *Rollo* (G.R. No. 236118, vol. 1), pp. 222-224; and *rollo* (G.R. No. 236925), pp. 197-199.
191 *See* Senate Bill No. 1592 of the 17th Congress, sec. 32.
192 *See* Title of House Bill No. 5636 of the 17th Congress.
193 *Supra* note 133.

> Indeed, what the Constitution simply means is that the initiative for filing revenue, tariff, or tax bills, bills authorizing an increase of the public debt, private bills and bills of local application must come from the House of Representatives on the theory that, elected as they are from the districts, the members of the House can be expected to be more sensitive to the local needs and problems. On the other hand, the senators, who are elected at large, are expected to approach the same problems from the national perspective. Both views are thereby made to bear on the enactment of such laws.
>
> Nor does the Constitution prohibit the filing in the Senate of a substitute bill in anticipation of its receipt of the bill from the House, so long as action by the Senate as a body is withheld pending receipt of the House bill.[194]

This doctrine was again echoed in the landmark case of *Abakada Guro Party List v. Hon. Exec. Sec. Ermita*,[195] where the Court upheld the Senate's introduction of several amendments to the Tax Code which were absent from the version of the House. The Court therein ratiocinated that "Article VI, Section 24 of the Constitution does not contain any prohibition or limitation on the extent of the amendments that may be introduced by the Senate to the House revenue bill."[196] It was likewise noted that the amendments introduced by the Senate served the intent of the House in initiating the subject revenue bills, *i.e.*, "to bring in sizeable revenues for the government to supplement our country's serious financial problems, and improve tax administration and control of the leakages in revenues from income taxes and value-added taxes."[197] Consequently, the Court upheld the changes introduced by the Senate for being "germane to the subject matter and purposes of the house bills."[198]

As applied in these consolidated Petitions, there is undoubtedly no constitutional prohibition for the Senate to introduce new provisions not originally found in the House version of the eventual TRAIN Act.

In any case, the amendment to Section 151 of the Tax Code introduced by SB No. 1592 likewise serves the stated purpose of HB No. 5636. It is evident from the Committee Report[199] and the sponsorship speeches[200] for HB No. 5636 that the main thrust of the law includes rationalizing internal revenue taxes and ensuring that the government is able to provide better infrastructure, health, education, and social protection by raising sufficient revenues through

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194 *Id.* at 741-743; italics omitted.
195 506 Phil. 1 (2005) [Per J. Austria-Martinez, *En Banc*].
196 *Id.* at 101.
197 *Id.* at 102.
198 *Id.* at 103.
199 *See* Fact Sheet of Committee Report No. 229 on House Bill No. 5636 of the 17th Congress.
200 *See* House of Representative Congressional Record Vol. 4: Record No. 93, 23 May 2017, pp. 3-5.

the expansion of the value-added tax (VAT) base and the increase on several excise taxes. This purpose is shared by the increase in excise taxes for coal. Notably, both HB No. 5636 and SB No. 1592 contain provisions for the earmarking of the incremental revenues to be generated by the law which are targeted not only for infrastructure projects but also for social welfare programs,[201] further bolstering the idea that the two Houses of Congress were more or less in agreement as to their objectives for amending the Tax Code.

In a nutshell, petitioners' contention that Section 48 of the TRAIN Act is a prohibited rider falls through.

VII. The assailed provisions of the TRAIN Act do not violate the due process clause under the Constitution.

The penultimate issue revolves around the purported violation of due process. The principal argument of Laban Konsyumer and Dimagiba is that the imposition and/or increase in excise taxes on diesel, coal, LPG, and kerosene is arbitrary, unreasonable, and unfair, and its direct and indirect effects amount to confiscation of property without due process of the law.[202] Not only are diesel, coal, LPG, and kerosene directly used by consumers, but these are also key components for other basic commodities and services such as food, electricity, and transportation.[203] This overall increase in prices is felt most acutely by low-income and poor families, especially those in the rural areas. Contrary to the arguments proffered by the OSG, the increase in the minimum threshold for income tax exemption bears no effect to these underprivileged families. Prior to the law's amendment, low-income households were already tax-exempt. Thus, their overall purchasing power remained the same, but the prices for their basic needs continue to rise. Similarly, the unconditional cash transfer intended to cushion the effects of the TRAIN Act is not enough to offset the added burden to these marginalized families. If anything, the existence of this provision is an implied admission that there is a compelling need to soften and augment the negative impacts of the law.[204]

The OSG refutes this disputation, insisting that these provisions have policy considerations precisely anchored on the general welfare of the people.[205] For households in the first to seventh income deciles, they will receive the unconditional cash transfers from the increments in the government's revenues generated by the TRAIN Act for the first five years of its implementation. They would also benefit from the social welfare and

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201 *See* Section 36 of House Bill No. 5636 and Section 43 of Senate Bill No. 1592 of the 17th Congress which amend Section 288 of the Tax Code.

202 *Rollo* (G.R. No. 236925), pp. 23-26 and 354-357; and *rollo* (G.R. No. 236118, vol. 1), pp. 384-387.

203 *Rollo* (G.R. No. 236925), p. 25.

204 *Rollo* (G.R. No. 236925), p. 355; and *rollo* (G.R. No. 236118, vol. 1), p. 385.

205 *Rollo* (G.R. No. 236118, vol. 1), p. 184; and *rollo* (G.R. No. 236295), p. 159.

benefits programs that will be funded by the law.[206] Based on the impact analysis conducted by the Department of Finance (DOF) on the TRAIN Act, the poorest five deciles would even see positive increases in their income as a result of these counter-measures.[207] On the other hand, for wage earners who comprise 83% of taxpayers, the increase in their take-home pay from the re-adjustment for the income tax exemption threshold will more than compensate for the price increase in commodities.[208]

In the oft-cited case of *Chamber of Real Estate and Builders' Assn., Inc. (CREBA) v. Hon. Executive Sec. Romulo*,[209] this Court recognized that the Legislature's plenary power to tax, which includes the discretion to determine "the nature (kind), object (purpose), extent (rate), coverage (subjects) and situs (place) of taxation."[210] While generally unlimited in its range, the power to tax is still circumscribed by constitutional limitations, such as the due process clause under Article III, Section 1 of the Constitution, which provides that "[n]o person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."[211]

The interplay of this constitutional safeguard *vis-à-vis* the presumption of constitutionality afforded to tax legislation requires that in order to invalidate a revenue measure by virtue of the due process clause, the same must amount to a confiscation of property.[212] A mere allegation of arbitrariness will not suffice, there must be such persuasive proof of the factual foundations to such an unconstitutional taint.[213] Ostensibly, the foregoing test is easily applied when the statute pertains to income tax, as this generally only requires an evaluation of whether or not the measure results in the taxation of capital rather than on realized gain. It becomes far more complex when the law involves indirect taxes such as that assailed in the present cases at bench. As pointed out by petitioners, the added economic burden foisted on consumers by the increase in the price of diesel, coal, LPG, and kerosene is very real and permeates to other basic commodities and services. *However, does this amount to unconstitutionality?*

The Court is constrained to hold otherwise.

While petitioners presented statistics and surveys to advance their cause, none are truly determinative of the cumulative effects of the TRAIN Act on

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206 *Id.* at 184-187; and *id.* at 159-162.
207 *Id.* at 185-187 and 192-195; and *id.* at 160-162 and 167-170.
208 *Id.* at 187-192; and *id.* at 162-167.
209 628 Phil. 508 (2010) [Per J. Corona, *En Banc*].
210 *Id.*, at 529.
211 *See id.* at 530 and 544.
212 *See id.* at 530.
213 *Id.*

low-income households. The Court echoes its earlier stance that the burden of proof rested with petitioners to lay down persuasive factual foundations for the challenged law's unconstitutionality. This, they failed to do.

Indeed, the excise tax provisions on diesel, coal, LPG, and kerosene cannot be considered in isolation and must be read in conjunction with the other provisions of the law. It is a rule in statutory construction that every part of the statute must be interpreted with reference to the context, *i.e.,* that every part of the statute must be considered together with the other parts, and kept subservient to the general intent of the whole enactment."[214] Specifically, Section 82 of the law provides the earmarking of the incremental revenues to be generated by the TRAIN Act:

> SEC. 82. Section 288 of the NIRC, as amended, is hereby further amended to read as follows:
>
> "SEC. 288. *Disposition of Incremental Revenue.* —
>
> . . . .
>
> (F) *Incremental Revenues from the Tax Reform for Acceleration and Inclusion (TRAIN).* — For five (5) years from the effectivity of this Act, the yearly incremental revenues generated shall be automatically appropriated as follows:
>
> (1) Not more than seventy percent (70%) to fund infrastructure projects such as, but not limited to, the Build, Build, Build Program and provide infrastructure programs to address congestion through mass transport and new road networks, military infrastructure, sports facilities for public schools, and potable drinking water supply in all public places; and
>
> (2) Not more than thirty percent (30%) to fund:
>
> (a) Programs under Republic Act No. 10659, otherwise known as 'Sugarcane Industry Development Act of 2015' to advance the self-reliance of sugar farmers that will increase productivity, provide livelihood opportunities, develop alternative farming systems and ultimately enhance farmers' income;
>
> (b) Social mitigating measures and investments in: (i) education, (ii) health, targeted nutrition, and anti-hunger programs for mothers, infants, and young children, (iii) social protection, (iv) employment, and (v) housing that prioritize and directly benefit both the poor and near-poor households;
>
> (c) A social welfare and benefits program where qualified beneficiaries shall be provided with a social benefits card to avail of the following social benefits:

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[214] *Phil. International Trading Corp. v. COA*, 635 Phil. 447, 454 (2010) [Per J. Perez, *En Banc*].

(i) Unconditional cash transfer to households in the first to seventh income deciles of the National Household Targeting System for Poverty Reduction (NHTS-PR), Pantawid Pamilyang Pilipino Program, and the social pension program for a period of three (3) years from the effectivity of this Act: *Provided*, That the unconditional cash transfer shall be Two hundred pesos (P200.00) per month for the first year and Three hundred pesos (P300.00) per month for the second year and third year, to be implemented by the Department of Social Welfare and Development (DSWD);

(ii) Fuel vouchers to qualified franchise holders of Public Utility Jeepneys (PUJs);

(iii) For minimum wage earners, unemployed, and the poorest fifty percent (50%) of the population:

(1) Fare discount from all public utility vehicles (except trucks for hire and school transport service) in the amount equivalent to ten percent (10%) of the authorized fare;

(2) Discounted purchase of National Food Authority (NFA) rice from accredited retail stores in the amount equivalent to ten percent (10%) of the net retail prices, up to a maximum of twenty (20) kilos per month; and

(3) Free skills training under a program implemented by the Technical Skills and Development Authority (TESDA).

Provided, That benefits or grants contained in this Subsection shall not be availed in addition to any other discounts.

(iv) Other social benefits programs to be developed and implemented by the government.

Notwithstanding any provisions herein to the contrary, the incremental revenues from the tobacco taxes under this Act shall be subject to Section 3 of Republic Act No. 7171, otherwise known as 'An Act to Promote the Development of the Farmers in the Virginia Tobacco Producing Provinces,' and Section 8 of Republic Act No. 8240, otherwise known as 'An Act Amending Sections 138, 139, 140 and 142 of the National Internal Revenue Code, as Amended, and for Other Purposes.'

An interagency committee, chaired by the Department of Budget and Management (DBM) and co-chaired by DOF and DSWD, and comprised of the National Economic and Development Authority (NEDA), Department of Transportation (DOTr), Department of Education (DepEd), Department of Health (DOH), Department of Labor and Employment (DOLE), National Housing Authority (NHA), Sugar Regulatory Administration (SRA), Department of the Interior and Local Government (DILG), Department of Energy (DOE), NFA, and TESDA, is hereby created to oversee the identification of qualified beneficiaries and the

> implementation of these projects and programs: *Provided*, That qualified beneficiaries under Subsection (c) hereof shall be identified using the National ID System which may be enacted by Congress.
>
> Within sixty (60) days from the end of the three (3)-year period from the effectivity of this Act, the interagency committee and respective implementing agencies for the above programs shall submit corresponding program assessments to the COCCTRP. The National Expenditure Program from 2019 onwards shall provide line items that correspond to the allocations mandated in the provisions above.
>
> At the end of five (5) years from the effectivity of this Act, all earmarking provisions under Subsection (F), shall cease to exist and all incremental revenues derived under this Act shall accrue to the General Fund of the government.[215]

As can be easily inferred from the foregoing, there are numerous monetary and social welfare measures specifically designed to assist households in the marginalized sector in coping with the effects of the TRAIN Act. Inevitably, the direct and indirect benefits must also be considered against the increase in the price of commodities in order to determine whether or not the overall impact of the law is truly oppressive and confiscatory as to amount to a violation of the due process clause.

Quite tellingly, petitioners do not even consider the impact of the numerous social welfare provisions designed to aid the poor in the form of fuel vouchers for public utility jeepney drivers, fare discounts for public utility vehicles, discounted purchase price for rice, the free skills training offered by the Technical Skills and Development Authority, or the other social benefits programs that may subsequently be developed. Petitioners only bring to the fore the insufficiency of the unconditional cash transfer provision under the newly amended Section 288 (2) (c) (i) of the Tax Code. Aside from their bare assertion, however, they proffer no concrete evidence to buttress their claim. Moreover, contrary to petitioners' advanced position, it is not incumbent on respondents to prove that the law's effects are constitutional as all statutes carry the presumption of constitutionality.

Au contraire, the OSG maintains that the overall impact of the law was carefully studied by the DOF when it proposed the tax reform package to Congress. The Committees on Ways and Means in both Houses of Congress also apparently considered the interests of various sectors and the overall impact of the law in crafting the provisions of the TRAIN Act and decreed the same would uplift the conditions of the public as a whole.[216] These same

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[215] *Rollo* (G.R. No. 236118, vol. 1), pp. 299-301; and *rollo* (G.R. No. 236295), pp. 271-273.

[216] *See* House of Representative Congressional Record Vol. 4: Record No. 93, May 23, 2017, pp. 3-5; and Senate Journal No. 23, September 27, 2017, pp. 435-440.

considerations were presumably carried over by the entirety of the Legislative branch when the law was passed in its current form.

The impact of the challenged provisions of the TRAIN Act, the law's overall effects, and whether or not it is ultimately beneficial for the Filipino people ultimately go into the wisdom of the law, which is beyond the Court's power to inquire into.[217] To reiterate, the Court's solemn function in exercising its expanded power of judicial review over the Executive and Legislative branches, is limited to determining whether both have acted within the bounds of the Constitution. "It is not the province of the courts to supervise legislation and keep it within the bounds of propriety and common sense. That is primarily and exclusively a legislative concern."[218]

The Court is not prepared to substitute its own judgment with the wisdom and sufficiency of the TRAIN Act's provisions, especially when it appears from the available records that its impact has been thoroughly studied and considered not just by Congress, but also by the Executive branch through the DOF.

Certainly, without persuasive proof, the Court is unable to pierce past the presumption of constitutionality afforded to the TRAIN Act on supposed due process violations.

VIII. The TRAIN Act does not violate the equal protection clause and Section 28 (1), Article VI of the Constitution.

Finally, petitioners both avouch that the TRAIN Act violates the equal protection clause.[219] *Tinio, et al.* argue that inflation and prices have been continuously rising ever since the law was passed and this deleterious economic burden is felt pronouncedly by the most vulnerable sectors.[220] Meanwhile, Laban Konsyumer and Dimagiba claim that the excise taxes on diesel, coal, LPG, and kerosene expressly discriminate against the poor while having no impact on the rich.[221] They likewise assert that the foregoing excise taxes directly violate Section 28 (1), Article VI of the Constitution Act for being "regressive."[222]

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217 *See Morfe v. Mutuc*, 130 Phil. 415, 441-442 (1968) [Per J. Fernando].
218 *Id.* at 441.
219 *Rollo* (G.R. No. 236118, vol. 1), pp. 467-473; and *rollo* (G.R. No. 236295), pp. 435-441.
220 *Id.* at 451-466; and *id.* at 419-433.
221 *Rollo* (G.R. No. 236925), pp. 345-350.
222 *Rollo* (G.R. No. 236118, vol. 1), pp. 467-473; and *rollo* (G.R. No. 236925), pp. 345-346.

The OSG belies petitioners' claims,[223] citing that there are no provisions in the TRAIN Act specifically and expressly discriminating against the poor while unduly favoring the rich.[224] Besides, the rule on uniformity of taxation does not call for perfect uniformity or equality because this is hardly attainable. The Congress was motivated by multifarious factors when it increased excise taxes on diesel, coal, LPG, and kerosene and acted with due regard to the effects thereof to ordinary Filipinos.[225] As to the alleged violation of Section 28 (1), Article VI of the Constitution, the OSG posits that the foregoing provision is not a negative standard or judicially enforceable right which constitutes a basis to declare a legislation unconstitutional. The provisions of the TRAIN Act were intended by Congress to be progressive, and in actual fact, the data prepared by the DOF demonstrate that the TRAIN Act was designed so as to not trigger extreme price shocks especially in terms of prime commodities.[226]

The Court rules and so holds that petitioners have failed to adduce proof of a clear and unequivocal breach of the equal protection clause.

As mentioned in *Abakada Guro Party List*,[227] it has long been established that the State may make reasonable and natural classifications in exercising its power of taxation; such exercise enjoys the presumption of validity, "[w]hether it relates to the subject of taxation, the kind of property, the rates to be levied, or the amounts to be raised, the methods of assessment, valuation and collection."[228] Generally, the Court will not interfere with such power "absent a clear showing of unreasonableness, discrimination, or arbitrariness."[229]

It cannot be stressed enough that the provisions in the TRAIN Act, which allegedly drive up prices to the detriment of the marginalized and the poor, were not intended to discriminate against them in particular. Indeed, there are no classifications found therein. As the OSG unerringly puts forth, there are no specific or express provisions which disfavor against the low-income households. In truth, petitioners beseech this Court to look beyond the face of the law and factor in the "real-world effects" of the assailed provisions. Lamentably, petitioners adduce not a morsel of compelling proof of this supposed targeted discrimination. While the implementation of a tax statute may yield varying results depending on several factors, the Court cannot go beyond what the legislature has laid down absent clear showing of

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223 *Id.* at 166; and *id.* at 141.
224 *Id.*; and *id.*
225 *Id.* at 220-222; and *id.* at 195-197.
226 *Id.* at 195-206; and id. at 170-181.
227 *Supra* note, at 192.
228 *Id.* at 129.
229 *Id.*

unreasonableness, discrimination, or arbitrariness.[230] *Without sufficient proof, petitioners' polemics are purely hypothetical, argumentative, and one-sided.* "The Court will not engage in a legal joust where premises are what ifs, arguments, theoretical and facts, uncertain."[231]

All the same, and as above-stated, Congress appears to have already had the prescience about some issues with respect to the law's implementation and has, in fact, introduced safeguards therein to cushion the effects for the more destitute sectors of society by amending Section 288 of the Tax Code. Contrary to petitioners' assertion that this safeguard measure, in itself, is a recognition of the discriminatory nature of the law, the Court holds that this serves to illustrate the reasonableness and soundness in which Congress enacted the TRAIN Act.

Ergo, in the absence of a clear showing that a tax violates the equal protection clause, the Court, in obeisance to the doctrine of separation of powers, must defer to the discretion and judgment of Congress on this point.[232]

Next, the excise tax provisions of the TRAIN Act may not be struck down for being regressive.

While the OSG mistakenly asserts that the excise tax provisions for diesel, coal, LPG, and kerosene are progressive, it correctly argued that in any event, its regressive nature is not a ground to declare the law unconstitutional.

A tax is progressive when the rates go up depending on the resources of the person affected.[233] Conversely, a tax is considered regressive when it does not consider the taxpayer's ability to pay.[234] All indirect taxes, such as excise tax and VAT, are undoubtedly regressive by their very nature.[235] Such taxes eat away at the same portion of income, whether big or small.[236] In both *Abakada Guro Party List*[237] and *British American Tobacco v. Camacho,*[238] the Court recognized that these kinds of taxes do hit the lower income groups the hardest. However, this is not a reason to declare such a law unconstitutional.

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230 *See id.* at 130.
231 *See id.* at 129.
232 *See Tolentino v. Secretary of Finance, supra* note 133.
233 *Abakada Guro Party List v. Hon. Exec. Sec. Ermita, supra* note 192, at 133.
234 *Id.* at 233
235 *Id. See* also *British American Tobacco v. Camacho*, 603 Phil. 38 (2009) [Per Ynares-Santiago, *En Banc*].
236 *Id.* at 55.
237 *Supra.*
238 *Supra.*

Section 28 (1), Article VI of the Constitution provides that "[t]he rule of taxation shall be uniform and equitable. The Congress shall evolve a progressive system of taxation."

Tolentino v. Secretary of Finance[239] enunciates that the foregoing Constitutional provision does not prohibit the imposition of regressive taxes but merely directs Congress to evolve a progressive system of taxation:

> The Constitution does not really prohibit the imposition of indirect taxes which, like the VAT, are regressive. What it simply provides is that Congress shall "evolve a progressive system of taxation." The constitutional provision has been interpreted to mean simply that "direct taxes are . . . to be preferred [and] as much as possible, indirect taxes should be minimized." (E. FERNANDO, THE CONSTITUTION OF THE PHILIPPINES 221 Second ed. [1977]) Indeed, the mandate to Congress is not to prescribe, but to evolve, a progressive tax system. Otherwise, sales taxes, which perhaps are the oldest form of indirect taxes, would have been prohibited with the proclamation of Art. VIII, § 17 (1) of the 1973 Constitution from which the present Art. VI, § 28 (1) was taken. Sales taxes are also regressive.
>
> Resort to indirect taxes should be minimized but not avoided entirely because it is difficult, if not impossible, to avoid them by imposing such taxes according to the taxpayers' ability to pay. In the case of the VAT, the law minimizes the regressive effects of this imposition by providing for zero rating of certain transactions (R.A. No. 7716, § 3, amending § 102 (b) of the NIRC), while granting exemptions to other transactions. (R.A. No. 7716, § 4, amending § 103 of the NIRC).[240]

"Indeed, regressivity is not a negative standard for courts to enforce. What Congress is required by the Constitution to do is to 'evolve a progressive system of taxation.' . . . These provisions are put in the Constitution as moral incentives to legislation, not as judicially enforceable rights."[241]

Ineluctably, the TRAIN Act may not be invalidated based on Section 28 (1), Article VI of the Constitution.

A Final Cadence

The Court is not unaware of its fairly recent pronouncement in *Gios-Samar, Inc. v. Department of Transportation and Communications*,[242] where the policy of strict adherence to the doctrine of hierarchy of courts was reverberated. To be sure, the resolution of the instant Petitions is not thrusted on determination of facts, as the challenges to the constitutionality of the

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239 319 Phil. 755 (1995).

240 *Id.* at 796-797.

241 *Supra* note 133, at 766.

242 849 Phil. 120 (2019) [Per J. Jardeleza, *En Banc*].

TRAIN Act were resolved through the application of well-settled constitutional principles.

All the same, the Court sternly reminds the public, especially the members of the bench and the bar, to strictly adhere to doctrine of hierarchy of courts, especially when the issues and arguments asserted are rooted in several factual underpinnings that must be carefully sifted and weighed in a full-blown trial. As this Court decreed in *Gios-Samar,* "when a question before the Court involves determination of a factual issue **indispensable to the resolution of the legal issue**, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case."[243] Such questions must first be submitted to either the proper trial courts or the CA, both of which are specially equipped to try and resolve factual questions.[244]

Lest it be misunderstood, the Court is not turning a blind eye to the travails of the most vulnerable members of the society. It acknowledges that the effects of the TRAIN Act may be felt more acutely by some more than others. Nevertheless, it is not within its province to supplant a presumably constitutional statute absent compelling proof of its invalidity. On this score, it must be highlighted that the principal check against an abuse of the power to tax resides primarily in the responsibility of the legislature to its constituency.[245]

The Court's reminder in *Abakada Guro Party List* bears reiteration here:

> Let us likewise disabuse our minds from the notion that the judiciary is the repository of remedies for all political or social ills; We should not forget that the Constitution has judiciously allocated the powers of government to three distinct and separate compartments; and that judicial interpretation has tended to the preservation of the independence of the three, and a zealous regard of the prerogatives of each, knowing full well that one is not the guardian of the others and that, for official wrong-doing, **each may be brought to account, either by impeachment, trial or by the ballot box**.[246]

THE FOREGOING DISQUISITIONS CONSIDERED, the Court hereby declares as **CONSTITUTIONAL** Republic Act No. 10963, otherwise known as the Tax Reform for Acceleration and Inclusion (TRAIN) Act. Accordingly, the Court resolves to:

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[243] *Id.* Emphasis supplied.

[244] *See Id.*

[245] *See Chamber of Real Estate and Builders' Assn., Inc. v. Hon. Executive Sec. Romulo*, 628 Phil. 508, 530 (2010).

[246] *Abakada Guro Party List v. Hon. Exec. Sec. Ermita, supra* note 192, at 135. Emphasis and underscoring supplied.

(1) **DISMISS** the consolidated Petitions in G.R. Nos. 236118 and G.R. No. 236295;

(2) **DENY** petitioners' prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction contained in both Petitions; and

(3) **DENY** the Urgent Motion for the Issuance of a Temporary Restraining Order, Status Quo Ante Order and/or Writ of Preliminary Injunction dated 3 December 2018 filed by petitioners in G.R. No. 236295.

The Court also resolves to **DROP** former President Rodrigo Roa Duterte as a party respondent in G.R. No. 236118.

SO ORDERED.

JAPAR B. DIMAAMPAO
Associate Justice

WE CONCUR:

See separate concurring opinion

ALEXANDER G. GESMUNDO
Chief Justice

MARVIC M.V.F. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
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

SAMUEL H. GAERLAN
Associate Justice

On Official Leave
RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of this Court.

ALEXANDER G. GESMUNDO
Chief Justice

EN BANC

G.R. No. 236118 (***ACT Teachers Rep. Antonio Tinio, Bayan Muna Rep. Party-List Rep. Carlos Isagani Zarate, and Anakpawis Rep. Party-List Ariel "Ka Ayik" Casilao,*** *petitioners* ***vs. President Rodrigo Roa Duterte, House of Representatives Speaker Pantaleon Alvarez, Deputy Speaker Raneo Abu, Majority Leader Rodolfo Fariñas, and Deputy Majority Leader Rep. Arthur Defensor, Jr.,*** *respondents*).

G.R. No. 236295 (***Laban Konsyumer, Inc. and Atty. Victorio Mario A. Dimagiba,*** *petitioners* ***vs. Executive Secretary Salvador C. Medialdea, Department of Finance Secretary Carlos G. Dominguez III, Bureau of Internal Revenue Commissioner Caesar R. Dulay, House Speaker Pantaleon D. Alvarez in representation of the House of Representatives, and Senate President Aquilino D. Pimentel III in representation of the Senate,*** *respondents*).

Promulgated: January 24, 2023

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SEPARATE CONCURRING OPINION

GESMUNDO, *C.J.*:

I concur with the well-written *ponencia* of Justice Japar B. Dimaampao in these consolidated petitions. I respectfully write to share my point of view on the evidentiary classification of the livestream video recording sanctioned by the Internal Rules of Procedure (*Internal Rules*) of the House of Representatives (*House*) in Sections 148 and 149, Rule XXII thereof.

During the deliberations on this case, a position was advanced that the House's livestream video recording is a public document under Sec. 19,[1] Rule 132 of the 2019 Revised Rules on Evidence. In particular, it was

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[1] Section 19. *Classes of documents.* – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
(b) Documents acknowledged before a notary public except last wills and testaments;
(c) Documents that are considered public documents under treaties and conventions which are in force between the Philippines and the country of source; and
(d) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private.

expressed that such livestream video recording, while being a public document, does not fall within the category of an entry into a public record and, thus, only carries the presumption of due execution and of its date of issuance.[2]

Preliminarily, it must be stated that the instant petitions may not be the appropriate case for the determination of the evidentiary classification of such livestream video recording of the House. At best, **such issue may be referred to the appropriate committee on rules for review and recommendation**. Further, to my mind, the *ponencia*'s discussion, quoted below, already effectively and sufficiently explains why the video recording submitted by petitioners cannot be considered by the Court:

> Albeit sanctioned by the Internal Rules of Procedure of the House, the video recording described therein neither serves the same purpose as the Congressional Journals nor does it have a binding effect upon this Court, unlike the aforementioned Legislative Documents. At the risk of belaboring the point, the Journal is required to be kept as a record of Congress' proceedings by no less than Section 16(4), Article VI of the Constitution earlier quoted. This is precisely why such document is required to contain a detailed written account of the events that transpired on a particular session, *from the call to order initiated by the Speaker until the adjournment thereof.* Notably, the correctness of the entries in the Journal, such as the presence of a quorum and the ratification by the majority of a resolution, is required to be certified by none other than the Secretary General. The foregoing considerations thus explain why the Journal has been historically considered as binding on the Court with respect to the events chronicled therein.
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> All the same, even if the Court examines the probative value of petitioners' evidence independent of the Congressional Journal, the above conclusion would remain unchanged in view of the insufficiency and inherent limitations of the evidence presented by petitioners.
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> It does not escape the attention of the Court that the video recording merely shows a specific area of the session hall during the 13 December 2017 proceedings. Ostensibly absent from the frame captured by the video is the rest of the hall, and the activities being conducted therein. If at all, the video recording, unlike Journal No. 48, tends to prove only the specific acts and incidents which transpired during the proceedings that were captured thereby, such as the fact that a motion for ratification of the TRAIN BCC Report was indeed made or that someone from the floor made a remark regarding the existence of a quorum during such ratification. These limitations blow to smithereens petitioners' avowed accuracy of the video recording with respect to the actual events

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[2] Section 23. *Public documents as evidence.* – Documents consisting of entries in public records made in the performance of a duty by a public officer are *prima facie* evidence of the facts therein stated. All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.

> that transpired on the night of 13 December 2017. Under the Rules on Electronic Evidence, the Court may consider any factor which affects the accuracy or integrity of the electronic data message in determining its evidentiary weight.
>
> In the same vein, the video recording brings to light the undeniable truth that there was no significant difference as to the number of participants as shown during the start of the proceedings, when the quorum was unquestioned, on one hand, and the portion of the proceedings where the quorum was supposedly lost, upon the other. In sooth, the video reveals a substantial number of unoccupied and empty seats in the session hall *not only at the end of the video, but also during the beginning of the proceedings*. In actual fact, one of the speakers at the start of the session is none other than petitioner Antonio Tinio himself. It therefore defies logic that petitioner Tinio seemed to recognize the House's quorum to tackle his business but reject the same with regard to the ratification of the TRAIN BCC Report.[3]

Accordingly, there is no need for the Court to go into the evidentiary classification of the livestream video recording of the House.

Nonetheless, for the sake of addressing the position that the House's livestream video recording is a public document under the 2019 Revised Rules on Evidence, I write this concurring opinion.

It is my humble view that resort to the general rules on evidence is not proper.

The Rules on Electronic Evidence[4] provides for its scope in Sec. 1, Rule 1 thereof: "[u]nless otherwise provided herein, these Rules shall **apply whenever an electronic document or electronic data message, as defined in Rule 2 hereof, is offered or used in evidence.**"[5]

Sec. 1, Rule 2 of the Rules on Electronic Evidence defines both an "electronic message" and an "electronic document":

> x x x x
>
> (g) "Electronic data message" refers to information generated, sent, received or stored by electronic, optical or similar means.

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3 *Ponencia*, pp. 34-36.
4 A.M. No. 01-7-01-SC, August 1, 2001.
5 Emphasis supplied.

> (h) "Electronic document" refers to information or the representation of information, data, figures, symbols or other modes of written expression, described or however represented, by which a right is established or an obligation extinguished, or by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved or produced electronically. It includes digitally signed documents and any print-out or output, readable by sight or other means, which accurately reflects the electronic data message or electronic document. For purposes of these Rules, the term "electronic document" may be used interchangeably with "electronic data message".

Plainly, a livestream video recording, whether taken by a private individual or the government itself, properly falls within the definition of an electronic document. A livestream video recording is a representation of information, data, figures, symbols, or other modes of written expression by which a fact may be proved and affirmed, and it is received, recorded, transmitted, stored, processed, retrieved, or produced electronically.

Since a livestream video recording falls within the definition of an electronic document, it is within the ambit of the Rules on Electronic Evidence. Resort to the general rules on evidence is improper since the special rules on electronic evidence covers the subject video recording within its scope. After all, it is only in "matters not specifically covered by these Rules [on Electronic Evidence that] the Rules of Court and pertinent provisions of statutes containing rules on evidence shall apply."[6] Further, "it is a canon of statutory construction that a special law prevails over a general law—regardless of their dates of passage—and the special is to be considered as remaining an exception to the general."[7]

The fact that the livestream video recording subject of the instant consolidated petitions was documented by the House pursuant to its Internal Rules is of no matter since the Rules on Electronic Evidence makes no distinction between those taken by private individuals and those taken by the government itself. *Where the law does not distinguish, we must not distinguish.*

On this score, Sec. 1, Rule 11 of the Rules on Electronic Evidence provides as follows:

> Section 1. *Audio, video and similar evidence.* — Audio, photographic and video evidence of events, acts or transactions shall be admissible provided it shall be shown, presented or displayed to the court and shall be identified, explained or authenticated by the person who made

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6 Rules on Electronic Evidence, Rule 1, Sec. 3.

7 *Lopez, Jr. v. Civil Service Commission*, 273 Phil. 147, 152 (1991).

> the recording or by some other person competent to testify on the accuracy thereof.

In the instant case, the livestream video recording presented by petitioners has not been identified, explained, or authenticated by the person who made the recording or by any other person competent to testify on its accuracy. Thus, it is not admissible into evidence.

WHEREFORE, I vote to **DENY** the petitions.

ALEXANDER G. GESMUNDO
Chief Justice

EN BANC

G.R. No. 236118 – ACT TEACHERS REPRESENTATIVE ANTONIO TINIO, ET AL., Petitioner **v. PRESIDENT RODRIGO ROA DUTERTE, ET AL.,** Respondent.

G.R. No. 236295 – LABAN KONSYUMER INC., ET AL., Petitioner, **v. EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, ET AL.,** Respondent.

Promulgated:
January 24, 2023

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SEPARATE OPINION

LEONEN, *J.*:

I concur in the result. The Petitions must be dismissed for lack of an actual case and violation of the doctrine of hierarchy of courts.

I

Article VIII, Section 1 of the Constitution requires the presence of an actual case or controversy for the exercise of this Court's judicial power:

> ARTICLE VIII
> Judicial Department
>
> 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 aspect of judicial power is the competence to determine the constitutionality or validity of a treaty, international or executive agreement, law, presidential decree, ordinance or regulation.[1] However, the general rule is that this Court will decide on the constitutionality of a statute only if "it is directly and necessarily involved in a justiciable controversy and is essential

[1] CONST., art. VIII, sec. 5.

to the protection of the rights of the parties concerned."[2] The crucial requirement for justiciability is the presence of an actual case or controversy.

In *Pangilinan v. Cayetano*,[3] this Court discussed judicial power in its traditional and expanded scope and emphasized the essentiality of an actual case or justiciable controversy in both cases:

> Separation of powers is fundamental in our legal system. The Constitution delineated the powers among the legislative, executive, and judicial branches of the government, with each having autonomy and supremacy within its own sphere. This is moderated by a system of checks and balances "carefully calibrated by the Constitution to temper the official acts" of each branch.
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> Among the three branches, the judiciary was designated as the arbiter in allocating constitutional boundaries. Judicial power is defined in Article VIII, Section 1 of the Constitution as:
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> . . . .
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> A plain reading of the Constitution identifies two instances when judicial power is exercised: (1) in *settling actual controversies* involving rights which are legally demandable and enforceable; and (2) in determining *whether or not there has been a grave abuse of discretion* amounting to a lack or excess of jurisdiction on the part of any branch or instrumentality of the government.
>
> In justifying judicial review in its traditional sense, Justice Jose P. Laurel in *Angara v. Electoral Commission* underscored that when this Court allocates constitutional boundaries, it neither asserts supremacy nor annuls the legislature's acts. It simply carries out the obligations that the Constitution imposed upon it to determine conflicting claims and to establish the parties' rights in an actual controversy:
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> . . . .
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> The latter conception of judicial power that jurisprudence refers to as the "expanded *certiorari* jurisdiction" was an innovation of the 1987 Constitution:
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> > This situation changed after 1987 when the new Constitution "expanded" the scope of judicial power[.]
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> > . . . .
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> > In *Francisco v. The House of Representatives*, we recognized that this expanded jurisdiction was meant "to ensure the potency of the power of judicial review to curb grave abuse of discretion by 'any branch or instrumentalities of government.'" Thus, the second paragraph of Article

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2 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 244 (2018) [Per J. Leonen, *En Banc*].

3 *Pangilinan v. Cayetano*, G.R. Nos. 238875, 239483 & 240954, March 16, 2021 [Per J. Leonen, *En Banc*].

> VIII, Section 1 engraves, for the first time in its history, into black letter law the "expanded *certiorari* jurisdiction" of this Court, whose nature and purpose had been provided in the sponsorship speech of its proponent, former Chief Justice Constitutional Commissioner Roberto Concepcion.
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> . . . .
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> *Tañada v. Angara* characterized this not only as a power, but as a duty ordained by the Constitution:
>
> > It is an innovation in our political law. As explained by former Chief Justice Roberto Concepcion, "the judiciary is the final arbiter on the question of whether or not a branch of government or any of its officials has acted without jurisdiction or in excess of jurisdiction or so capriciously as to constitute an abuse of discretion amounting to excess of jurisdiction. *This is not only a judicial power but a duty to pass judgment on matters of this nature.*"
> >
> > As this Court has repeatedly and firmly emphasized in many cases, it will not shirk, digress from or abandon its sacred duty and authority to uphold the Constitution in matters that involve grave abuse of discretion brought before it in appropriate cases, committed by any officer, agency, instrumentality or department of the government.
>
> *Despite its expansion, judicial review has its limits. In deciding matters involving grave abuse of discretion, courts cannot brush aside the requisite of an actual case or controversy.* The clause articulating expanded *certiorari* jurisdiction requires a *prima facie* showing of grave abuse of discretion in the assailed governmental act which, in essence, is the actual case or controversy. Thus, "even now, under the regime of the textually broadened power of judicial review articulated in Article VIII, Section 1 of the 1987 Constitution, the requirement of an actual case or controversy is not dispensed with."[4] (Emphasis supplied, citations omitted)

The constitutional component of an actual case or controversy is rooted in the doctrine of separation of powers[5] and the consequent deferential respect accorded by the judiciary to coordinate branches of the government. The legislative and executive branches are presumed to have enacted the law within constitutional limitations. The rationale for the presumption of constitutionality of the law is elucidated in *People v. Vera*:[6]

> Under a doctrine peculiarly American, it is the office and duty of the judiciary to enforce the Constitution. This court, by clear implication from the provisions of section 2, subsection 1, and section 10, of Article VIII of the Constitution, may declare an act of the national legislature invalid because in conflict with the fundamental law. It will not shirk from its sworn duty to enforce the Constitution. And, in clear cases, it will not hesitate to

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4 *Id.*

5 *Kilusang Mayo Uno v. Aquino III,* 850 Phil. 1168, 1188 (2019) [Per J. Leonen, *En Banc*].

6 65 Phil. 56 (1937) [Per J. Laurel, First Division].

> give effect to the supreme law by setting aside a statute in conflict therewith. This is the essence of judicial duty.
>
> 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.[7] (Emphasis supplied, citations omitted)

The courts must avoid delving into the wisdom, justice, or expediency of legislative or executive acts. In *Angara v. Electoral Commission*:[8]

> [T]his 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 unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the government.[9]

Canonical is the rule that this Court cannot exercise its power of judicial review without an actual case. It is not enough that the law has been passed or is in effect. To rule on the constitutionality of provisions in the law without an actual case amounts to a ruling on the wisdom of the policy imposed by the legislature on the subject matter of the law.[10]

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7 *Id.* at 95.
8 63 Phil. 139 (1936) [Per J. Laurel, *En Banc*].
9 *Id.* at 158–159.
10 *Falcis v. Civil Registrar General*, 861 Phil. 388, 440 (2019) [Per J. Leonen, *En Banc*].

The actual case or controversy requirement is satisfied when the case presents conflicting or opposite legal rights that may be settled in a judicial proceeding. In *David v. Macapagal-Arroyo*:[11]

> An actual case or controversy involves a conflict of legal right, an opposite legal claim susceptible of judicial resolution. It is "definite and concrete, touching the legal relations of parties having adverse legal interest"; a real and substantial controversy admitting of specific relief.[12] (Citation omitted)

The issues presented must be "ripe for adjudication,"[13] and the challenged act must have had a "direct, concrete and adverse effect on the petitioner."[14] The conflicting legal rights must be real and concrete, not merely hypothetical or anticipatory, lest this Court's decision amount to an advisory opinion.[15]

When this Court's expanded *certiorari* jurisdiction is invoked to assail the constitutionality of a statute, the actual case or controversy requirement is satisfied by at least a *prima facie* showing of grave abuse of discretion in the assailed governmental act.[16]

> [G]rave abuse of discretion is meant such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. Mere abuse of discretion is not enough. It must be *grave* abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.[17]

Here, petitioners-legislators in G.R. No. 236118 anchor their constitutional challenge on the alleged lack of quorum when the Bicameral Conference Committee Report on House Bill No. 5636 and Senate Bill No. 1592 were ratified in the House. They aver that since the Bills were not properly passed in Congress, President Duterte's act of signing the same into law was tainted with grave abuse of discretion.

I submit that petitioners failed to show a *prima facie* case of grave abuse of discretion. There is no assertion of a legal right or a legal claim that is susceptible to judicial resolution.

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11 522 Phil. 705 (2006) [Per J. Sandoval-Gutierrez, *En Banc*].

12 *Id.* at 753.

13 *Kilusang Mayo Uno v. Aquino III*, 850 Phil. 1168, 1191 (2019) [Per J. Leonen, *En Banc*].

14 *Id.*

15 *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, 836 Phil. 205, 245 (2018) [Per J. Leonen, *En Banc*].

16 *Pangilinan v. Cayetano*, G.R. Nos. 238875, 239483 & 240954, March 16, 2021 [Per J. Leonen, *En Banc*].

17 *Tañada v. Angara*, 338 Phil. 546, 604 (1997) [Per J. Panganiban, *En Banc*].

The *ponencia* finds that House Journal No. 48 explicitly showed a quorum at the start of the December 13, 2017 session of the House (where the Bicameral Conference Committee Report was ratified),[18] and that prior to ratification no objection on the lack of a quorum was raised.[19] It further discerns that the issue raised by the petitioners ultimately pertains to matters affecting the internal rules of the House of Representatives, the formulation and implementation of which is within the exclusive realm of the House and beyond the reach of this Court.[20]

Parenthetically, the *ponencia* holds that "both the enrolled bill and Journal No. 48 do not mention any infirmity in the passage of the law."[21] Thus, applying the doctrines on the binding force of legislative journals[22] and the enrolled bill,[23] the presumption of due passage of the law remains.

Furthermore, petitioner's allegations that the irregular passage of the law in Congress taints the President's approval with grave abuse of discretion is a legal conclusion that utterly fails to meet an actual case.

On the other hand, the petitioners in G.R. No. 236295, as consumers, assail the constitutionality of the TRAIN Law additionally on the ground that the imposition of excise taxes on diesel, coal, LPG and kerosene are "confiscatory, baseless, discriminatory, and violative of the right of the people to due process of law and equal protection of the laws."[24]

Again, petitioners failed to present actual facts, and merely presented generalizations on the supposed effect of the imposition of excise taxes. They were unable to demonstrate concretely how the challenged provisions adversely affected them as to warrant a judicial review. Mere allegations of injury or economic hardship without factual foundation will not suffice.

In *Tolentino v. Secretary of Finance*,[25] the claims that Republic Act No. 7716 or the Expanded Value Added Tax Law is regressive, oppressive, confiscatory and that it violates due process and equal protection of the laws were held to be premature without a factual foundation.[26] On motion for reconsideration, this Court held that broad claims of constitutional violations without concrete, factual foundation cannot be resolved without an actual case. This Court held that its duty to determine the presence or absence of

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18 *Ponencia*, pp. 19–20.
19 *Id.* at 20.
20 *Id.* at 22–25.
21 *Id.* at 29.
22 *Philippine Judges Association v. Prado*, 298 Phil. 502, 511 (1993) [Per J. Cruz, *En Banc*].
23 In *Tolentino v. Secretary of Finance*, 305 Phil. 686, 752–753 (1994) [Per J. Mendoza, *En Banc*], the rule is that an enrolled copy of a bill is conclusive not only of its provisions but also of its due enactment.
24 *Ponencia*, p. 4.
25 305 Phil. 686, 752–753 (1994) [Per J. Mendoza, *En Banc*].
26 *Id.* at 770.

grave abuse of discretion on the part of a branch or instrumentality of government can only arise if an actual case or controversy is before it.

> The problem with CREBA's petition is that it presents broad claims of constitutional violations by tendering issues not at retail but at wholesale and in the abstract. There is no fully developed record which can impart to adjudication the impact of actuality. There is no factual foundation to show in the *concrete* the application of the law to *actual contracts* and exemplify its effect on property rights. For the fact is that petitioner's members have not even been assessed the VAT. Petitioner's case is not made concrete by a series of hypothetical questions asked which are no different from those dealt with in advisory opinions.
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> > The difficulty confronting petitioner is thus apparent. He alleges arbitrariness. A mere allegation, as here, does not suffice. There must be a factual foundation of such unconstitutional taint. Considering that petitioner here would condemn such a provision as void on its face, he has not made out a case. This is merely to adhere to the authoritative doctrine that where the due process and equal protection clauses are invoked, considering that they are not fixed rules but rather broad standards, there is a need for proof of such persuasive character as would lead to such a conclusion. Absent such a showing, the presumption of validity must prevail.
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> > . . . .
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> Adjudication of these broad claims must await the development of a concrete case. It may be that postponement of adjudication would result in a multiplicity of suits. This need not be the case, however. Enforcement of the law may give rise to such a case. A test case, provided it is an actual case and not an abstract or hypothetical one, may thus be presented.
>
> Nor is hardship to taxpayers alone an adequate justification for adjudicating abstract issues. Otherwise, adjudication would be no different from the giving of advisory opinion that does not really settle legal issues.[27] (Citations omitted)

Without an actual case or controversy, the petitions do not provide a justification for this Court to rule upon the constitutionality of the TRAIN Law. To do so would be an unnecessary encroachment on the policy-making powers of the legislative and executive bodies.

Consistently, this Court has refused to make constitutional adjudications that do not involve actual cases.

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[27] *Tolentino v. Secretary of Finance (Resolution)*, 319 Phil. 755, 798–799 (1995) [Per J. Mendoza, *En Banc*].

In *Falcis v. Civil Registrar General*,[28] this Court declined to resolve the petition challenging the constitutionality of certain provisions in the Family Code for failing to present an actual case, among other grounds:

> This Court's constitutional mandate does not include the duty to answer all of life's questions. No question, no matter how interesting or compelling, can be answered by this Court if it cannot be shown that there is an "actual and an antagonistic assertion of rights by one party against the other in a controversy wherein judicial intervention is unavoidable."
>
> This Court does not issue advisory opinions. We do not act to satisfy academic questions or dabble in thought experiments. We do not decide hypothetical, feigned, or abstract disputes, or those collusively arranged by parties without real adverse interests. If this Court were to do otherwise and jump headlong into ruling on every matter brought before us, we may close off avenues for opportune, future litigation. We may forestall proper adjudication for when there are actual, concrete, adversarial positions, rather than mere conjectural posturing:
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> . . . .
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> As this Court makes "final and binding construction[s] of law[,]" our opinions cannot be mere counsel for unreal conflicts conjured by enterprising minds. Judicial decisions, as part of the legal system, bind actual persons, places, and things. Rulings based on hypothetical situations weaken the immense power of judicial review.
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> . . . .
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> It is not enough that laws or regulations have been passed or are in effect when their constitutionality is questioned. The judiciary interprets and applies the law. "It does not formulate public policy, which is the province of the legislative and executive branches of government." Thus, it does not — by the mere existence of a law or regulation — embark on an exercise that may render laws or regulations inefficacious.
>
> Lest the exercise of its power amount to a ruling on the wisdom of the policy imposed by Congress on the subject matter of the law, the judiciary does not arrogate unto itself the rule-making prerogative by a swift determination that a rule ought not exist. There must be an actual case, "a contrast of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence."[29] (Citations omitted)

In *Private Hospitals Association of the Philippines, Inc. v. Medialdea*[30] this Court similarly declined to take cognizance of the petition for lack of an actual case and legal standing of the petitioner. It held:

> The allegations set forth in the petition failed to meet the requirement of a *prima facie* showing of grave abuse of discretion on the part of the Congress relative to the provisions of R.A. No. 10932. While

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28 *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*].

29 *Id.*

30 842 Phil. 747 (2018) [Per J. Tijam, *En Banc*].

> R.A. No. 10932 and its implementing rules are accomplished acts of a co-equal branch of the government, the petition is unfortunately bereft of any allegation that petitioner, nor any of its members, had thereby suffered an actual or direct injury as a result of a discretion gravely abused. In the absence of an actual and direct injury, any pronouncement by the Court would be purely advisory or sheer legal opinion, in view of the mere hypothetical scenarios, which the instant petition presents.
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> The challenged law also enjoys the presumption of constitutionality which the Court, at the first instance, cannot disturb in the absence of a *prima facie* showing of grave abuse of discretion and, upon delving into the merits, in the absence of a clearest showing that there was indeed an infraction of the Constitution. If the Court were to invalidate the questioned law on the basis of conjectures and suppositions, then it would be unduly treading questions of policy and wisdom not only of the legislature that passed it, but also of the executive which approved it.[31] (Citations omitted)

In *National Federation of Hog Farmers, Inc. v. Board of Investments*,[32] this Court refused to adjudicate on the constitutional line demarcating Filipino citizens' privileges from those of foreigners, absent an actual case. We reiterated:

> A conflict must be justiciable for this Court to take cognizance of it. Otherwise, our decision will be nothing more than an advisory opinion on a legislative or executive action, which "is inconsistent with our role as final arbiter and adjudicator and weakens the entire system of the Rule of Law."[33] (Citation omitted)

In *Southern Hemisphere Engagement Network, Inc. v. Anti-Terrorism Council*,[34] this Court declined to rule on the constitutionality of Republic Act No. 9372, or the Human Security Act of 2007, for lack of actual facts. It held that the possibility of abuse in its implementation is not enough.

> The Court is not unaware that a reasonable certainty of the occurrence of a *perceived threat* to any constitutional interest suffices to provide a basis for mounting a constitutional challenge. This, however, is qualified by the requirement that there must be **sufficient facts** to enable the Court to intelligently adjudicate the issues.
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> . . . .
>
> **Petitioners' obscure allegations of sporadic "surveillance" and supposedly being tagged as "communist fronts" in no way approximate a *credible threat of prosecution*.** From these allegations, the Court is being lured to render an *advisory opinion,* which is not its function.
>
> Without any justiciable controversy, the petitions have become pleas for declaratory relief, over which the Court has no original jurisdiction.

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31 *Id.* at 783–784.

32 G.R. No. 205835, June 23, 2020 [Per J. Leonen, *En Banc*].

33 *Id.*

34 646 Phil. 452 (2010) [Per J. Carpio Morales, *En Banc*].

> Then again, declaratory actions characterized by "double contingency," where both the activity the petitioners intend to undertake and the anticipated reaction to it of a public official are **merely theorized,** lie beyond judicial review for lack of ripeness.
>
> The possibility of abuse in the implementation of RA 9372 does not avail to take the present petitions out of the realm of the surreal and merely imagined. Such possibility is not peculiar to RA 9372 since the exercise of any power granted by law may be abused. Allegations of abuse must be anchored on real events before courts may step in to settle **actual controversies involving rights which are legally demandable and enforceable**.[35] (Emphasis in the original, citations omitted)

In *Republic v. Roque*,[36] this Court dismissed the declaratory relief petitions that again challenged the provisions of the Human Security Act for failure to "demonstrate how [respondents] are left to sustain or are in immediate danger to sustain some direct injury as a result of the enforcement of the assailed provisions of RA 9372."[37] Therein, there was no showing that the remarks addressed by certain government officials to the general public tended towards any prosecutorial or governmental action, under RA 9372, against the respondents.

In *Pangilinan*, this Court restrained from declaring a diplomatic act unconstitutional without a proper justiciable controversy, emphasizing that:

> We reiterate that courts may only rule on an actual case. This Court has no jurisdiction to rule on matters that are abstract, hypothetical, or merely potential. Petitioners' fear that the President may unilaterally withdraw from other treaties has not transpired and cannot be taken cognizance of by this Court in this case. We have the duty to determine when we should stay our hand, and refuse to rule on cases where the issues are speculative and theoretical, and consequently, not justiciable.
>
> Legislative and executive powers impel the concerned branches of government into assuming a more proactive role in our constitutional order. Judicial power, on the other hand, limits this Court into taking a passive stance. Such is the consequence of separation of powers. Until an actual case is brought before us by the proper parties at the opportune time, where the constitutional question is the very *lis mota*, we cannot act on an issue, no matter how much it agonizes us.[38] (Citation omitted)

There are narrow instances when this Court may review the constitutionality of a statute despite the lack of an actual case. In *Parcon-Song v. Parcon*,[39] this Court held that a constitutional issue may still be resolved when there is a violation of the right to free expression and its

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35 *Id.* at 481–483.
36 718 Phil. 294 (2013) [Per J. Perlas-Bernabe, *En Banc*].
37 *Id.* at 305.
38 *Pangilinan v. Cayetano*, G.R. Nos. 238875, 239483 & 240954, March 16, 2021 [Per J. Leonen, *En Banc*].
39 G.R. No. 199582, July 7, 2020 [Per J. Leonen, *En Banc*].

cognates, or when it involves violations of fundamental constitutional rights that are demonstrably egregious:

> There are exceptions, namely: (a) when a facial review of the statute is allowed, as in cases of actual or clearly imminent violation of the sovereign rights to free expression and its cognate rights; or (b) when there is a clear and convincing showing that a fundamental constitutional right has been actually violated in the application of a statute, which are of transcendental interest. The violation must be so demonstrably and urgently egregious that it outweighs a reasonable policy of deference in such specific instance. The facts constituting that violation must either be uncontested or established on trial. The basis for ruling on the constitutional issue must also be clearly alleged and traversed by the parties. Otherwise, this Court will not take cognizance of the constitutional issue, let alone rule on it.[40]

This case, however, is no exception.

II

Further, petitioners' direct recourse to this Court is improper.

There are factual issues underlying the petitioners' arguments on the unconstitutionality of the TRAIN Law that must be fully threshed out for the proper disposition of the case. These factual issues pertaining to the existence of a quorum, the alleged oppressive, confiscatory, and anti-poor effects of the excise tax provision on oil products require the presentation of evidence that must be evaluated and weighed by the proper court.

This Court is not a trier of facts. "[T]he initial reception and appreciation of evidence are functions that [the] Court cannot perform. These are functions best left to the [lower] courts."[41]

In *GIOS-SAMAR, Inc. v. Department of Transportation and Communication*,[42] this Court has emphasized, for the guidance of the bench and the bar, that:

> [W]hen a question before the Court involves determination of a factual issue indispensable to the resolution of the legal issue, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. Such question must first be brought before the proper trial courts or the CA, both of which are specially equipped to try and resolve factual questions.[43]

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40 *Id.*
41 *Aala v. Uy*, 803 Phil. 36, 59 (2017) [Per J. Leonen, *En Banc*].
42 849 Phil. 120 (2019) [Per J. Jardeleza, *En Banc*].
43 *Id.* at 187.

"Transcendental importance" of the constitutional issue raised, by itself, does not justify direct resort to this Court. The doctrine of respect for hierarchy of courts is not a matter of mere policy but a constitutional imperative given the structure of our judicial system and the requirements of due process. Since the Court generally does not receive evidence and resolve factual questions at the first instance, parties who directly file their petitions before it risk having their cases resolved on disputed or incomplete facts. As such, they are deprived the opportunity to have a complete, final and definitive resolution of their controversy. The Court explained in *GIOS-SAMAR*:

> Under the present Rules of Court, which governs our judicial proceedings, warring factual allegations of parties are settled through presentation of evidence. Evidence is the means of ascertaining, in a judicial proceeding, the truth respecting a matter of fact. As earlier demonstrated, the Court cannot accept evidence *in the first instance*. By directly filing a case before the Court, litigants necessarily deprive themselves of the opportunity to completely pursue or defend their causes of actions. Their right to due process is effectively undermined by their own doing.
>
> Objective justice also requires the ascertainment of all relevant facts before the Court can rule on the issue brought before it. Our pronouncement in *Republic v. Sandiganbayan* is enlightening:
>
> > **The resolution of controversies is, as everyone knows, the *raison d'etre* of courts. This essential function is accomplished by *first*, the ascertainment of all the material and relevant facts from the** pleadings and from the evidence adduced by the parties, and *second*, after that determination of the facts has been completed, by the application of the law thereto to the end that the controversy may be settled authoritatively, definitely and finally.
> >
> > **It is for this reason that a substantial part of the adjective law in this jurisdiction is occupied with assuring that all the facts are indeed presented to the Court; for obviously, to the extent that adjudication is made on the basis of incomplete facts, to that extent there is faultiness in the approximation of objective justice.** It is thus the obligation of lawyers no less than of judges to see that this objective is attained; that is to say, that there [be] no suppression, obscuration, misrepresentation or distortion of the facts; and that no party be unaware of any fact material and relevant to the action, or surprised by any factual detail suddenly brought to his attention during the trial.[44] (Emphasis in the original, citations omitted)

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[44] *Id.* at 181–182.

Thus, more than the "special and important reasons" invoked to justify direct resort to the Court, the questions raised by the parties must be purely legal in nature before the Court may exercise judicial review.

> We take this opportunity to clarify that the presence of one or more of the so-called "special and important reasons" is not the decisive factor considered by the Court in deciding whether to permit the invocation, at the first instance, of its original jurisdiction over the issuance of extraordinary writs. **Rather, it is the *nature* of the question raised by the parties in those "exceptions" that enabled us to allow the direct action before us.**
>
> . . . .
>
> An examination of the cases wherein this Court used "transcendental importance" of the constitutional issue raised to excuse violation of the principle of hierarchy of courts would show that resolution of factual issues was not necessary for the resolution of the constitutional issue/s. . . **In all these cases, there were no disputed facts and the issues involved were ones of law.**
>
> . . . .
>
> To be clear, the transcendental importance doctrine does not clothe us with the power to tackle factual questions and play the role of a trial court. The only circumstance when we may take cognizance of a case *in the first instance*, despite the presence of factual issues, is in the exercise of our constitutionally-expressed task to review the sufficiency of the factual basis of the President's proclamation of martial law under Section 18, Article VII of the 1987 Constitution. The case before us does not fall under this exception.[45] (Emphasis in the original, citations omitted)

Considering the factual questions involved in this case, we should stay our hand in strict adherence to the doctrine of respect for hierarchy of courts.

ACCORDINGLY, I vote to **DISMISS** the Petitions.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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[45] *Id.* at 175–178.

EN BANC

G.R. No. 236118 — ACT TEACHERS REP. ANTONIO TINIO, BAYAN MUNA REP. PARTY-LIST REP. CARLOS ISAGANI ZARATE, and ANAKPAWIS REP. PARTY-LIST ARIEL "KA AYIK" CASILAO, *petitioners, versus* **PRESIDENT RODRIGO ROA DUTERTE, HOUSE OF REPRESENTATIVES SPEAKER PANTALEON ALVAREZ, DEPUTY SPEAKER RANEO ABU, MAJORITY LEADER RODOLFO FARIÑAS, and DEPUTY MAJORITY LEADER REP. ARTHUR DEFENSOR, JR.,** *respondents*.

G.R. No. 236295 — LABAN KONSYUMER, INC. and ATTY. VICTORIO MARIO A. DIMAGIBA, *petitioners, versus* **EXECUTIVE SECRETARY SALVADOR C. MEDIALDEA, DEPARTMENT OF FINANCE SECRETARY CARLOS G. DOMINGUEZ III, BUREAU OF INTERNAL REVENUE COMMISSIONER CAESAR R. DULAY, HOUSE SPEAKER PANTALEON D. ALVAREZ IN REPRESENTATION OF THE HOUSE OF REPRESENTATIVES, and SENATE PRESIDENT AQUILINO D. PIMENTEL III IN REPRESENTATION OF THE SENATE,** *respondents*.

Promulgated:

January 24, 2023

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DISSENTING OPINION

CAGUIOA, *J.*:

I dissent.

It is wrong, as the *ponencia* rules that the presence of a quorum during the ratification of the Tax Reform for Acceleration and Inclusion[1] (TRAIN) Bicameral Conference Committee (BCC) Report is an internal matter that should exclusively be determined by the internal rules of Congress. The issue in this case is *not* whether the internal rules of a chamber of Congress were followed; ***rather***, the issue is whether a constitutional mandate was complied with.

I.

On the procedural aspect, petitioners argue that the present consolidated Petitions involve an actual case or controversy as the TRAIN BCC Report was passed despite the glaring lack of quorum. They also aver that the confiscatory and oppressive nature of the tax violates the rights of the people. That the

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[1] Republic Act No. 10963, December 19, 2017.

TRAIN Act is already in effect means that the whole nation, including petitioners, is already being injured by the additional impositions on coal, kerosene, and liquified petroleum gas.[2]

In contrast, respondents allege that the instant Petitions failed to show an actual case or controversy warranting the exercise of the Court's judicial power because petitioners failed to present concrete, definite, and actual instances demonstrating that they were adversely affected by the implementation of the TRAIN Act. Moreover, respondents state that what petitioners ultimately raise are political questions beyond the authority of the Court to resolve.[3]

I agree with the *ponencia* that there is indeed an actual case or controversy when the instant consolidated Petitions were filed assailing the constitutionality of the TRAIN Act.

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 x x x."[4] It bears noting that the Court has already settled in the case of *Province of North Cotabato, et al. v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP), et al.*[5] that "[w]hen an act of a branch of government is seriously alleged to have infringed the Constitution, it becomes not only the right[,] but in fact the duty of the judiciary to settle the dispute."[6] In other words, it is sufficient that the questioned law has been enacted or that the challenged action was approved for an actual case or controversy to exist. Petitioners need not await the "implementing evil to befall on them"[7] or for them to actually suffer the injury or harm before challenging these acts as illegal or unconstitutional.[8]

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2 *Rollo* (G.R. No. 236295), pp. 337-338.

3 Id. at 147-149.

4 CONSTITUTION, Art. VIII, Sec. 1.

5 589 Phil. 387 (2008).

6 Id. at 486; emphasis and citation omitted.

7 *Pimentel, Jr. v. Aguirre*, 391 Phil. 84, 107 (2000).

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

8 *Sps. Imbong, et al. v. Hon. Ochoa, Jr., et al.*, 732 Phil. 1 (2014). The Court stated: "An actual case or controversy means an existing case or controversy that is appropriate or ripe for determination, not conjectural or anticipatory, lest the decision of the court would amount to an advisory opinion. The rule is that courts do not sit to adjudicate mere academic questions to satisfy scholarly interest, however intellectually challenging. The controversy must be justiciable—definite and concrete, touching on the legal relations of parties having adverse legal interests. In other words, the pleadings must show an active antagonistic assertion of a legal right, on the one hand, and a denial thereof, on the other; that is, it must concern a real, tangible and not merely a theoretical question or issue. There ought to be an actual and substantial controversy admitting of specific relief through a decree conclusive in nature, as

That mere contrariety of legal rights is already sufficient to satisfy the requirement of justiciability was further confirmed in *Samahan ng mga Progresibong Kabataan, et al. v. Quezon City, et al.*,[9] where the Court proceeded to rule on the constitutionality of the curfew ordinances in several cities in Metro Manila, even if there was no allegation that petitioners therein already violated said ordinances or that they already suffered actual harm or injury. The Court notably found that case therein already justiciable due to the "evident clash of the parties' legal claims."[10]

As well, in *Inmates of the New Bilibid Prison, Muntinlupa City v. De Lima*,[11] it was ruled that a judicial controversy already exists if "there is a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence."[12] Indeed, as succinctly stated by the majority in the very recent *En Banc* case of *Republic v. Maria Basa Express Jeepney Operators and Drivers Association, Inc.*,[13] "the existence of an actual case or controversy does not call for concrete acts, as an actual case may exist even in the absence of 'tangible instances['.]"[14]

In light of the foregoing, I agree with the *ponencia* that the instant case is justiciable. As aptly espoused by petitioners herein, and following the prior pronouncements of the Court, the mere enactment of the TRAIN Act and the serious allegations against its constitutionality already give rise to contrariety of legal rights and, consequently, an actual case or controversy. **In particular, the question of whether the TRAIN Act is invalid because the TRAIN BCC Report was passed without the requisite quorum, and the opposing assertion of respondents, already present conflicting legal claims that are undoubtedly capable of judicial resolution.**

To be sure, the issue of when the required quorum should be met by either house of Congress is an issue that the Court may resolve even without waiting for "concrete facts" on the part of petitioners. On this score, at the risk of being repetitive, I point out anew that justiciability and absence of overt acts constituting breach of the law or causing actual harm to petitioners should not be treated as mutually exclusive.

To follow respondents' premise will unduly narrow the scope of judicial review and effectively stymie the courts into inaction. In addition, it would require the Court to revamp years of established precedent and render nugatory other remedies provided in the Rules of Court that contemplate a preventive, rather than a corrective or remedial relief, such as a petition for prohibition, an action for injunction, and an action for declaratory relief.

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distinguished from an opinion advising what the law would be upon a hypothetical state of facts." Id. at 123; citations omitted.

9 815 Phil. 1067 (2017).

10 Id. at 1091.

11 G.R. Nos. 212719 & 214637, June 25, 2019, 905 SCRA 599.

12 Id. at 619.

13 G.R. Nos. 206486, 212604, 212682 and 212800, August 16, 2022.

14 Id. at 22.

II.

Proceeding to the substantive issue in this case, petitioners argue that the TRAIN BCC Report was ratified despite a complete lack of quorum on the night of December 13, 2017, rendering the TRAIN Act null and void. Meanwhile, respondents argue that the TRAIN BCC Report was ratified in accordance with the 1987 Constitution and the Rules of the House of Representatives (HoR) (HoR Rules).[15] For respondents, the entries in HoR Journal Nos. 48 and 49 dated December 13, 2017 and January 15, 2018, respectively, as well as the enrolled bill doctrine, refute petitioners' allegations.[16]

The *ponencia*, pressed with the question of the existence of quorum, frames the issue as follows: "Did or did not the House [of Representatives] "lose" its quorum during the 13 December 2017 [session]?"[17] The *ponencia* resolves this issue in favor of respondents, concluding that the TRAIN Act was validly enacted into law, thus:

> It is uncontroverted that the 13 December 2017 session of the House commenced with the declaration of a quorum, consistent with Sections 72 and 74 of its Internal Rules of Procedure. When the roll was called at 4:00 p.m., 232 out of the 295 members responded. Plain as day, no question was raised in this regard. Journal No. 48 released by the House Journal Service (Plenary Affairs Bureau) on that day provides a clear and explicit account of the presence of quorum during such session, the pertinent portions thereof divulge—
>
> x x x x
>
> Journal No. 48 further stipulates that the session was suspended at 7:44 p.m., and then resumed at 10:02 p.m. Upon resumption, the matters on the Suspension of Consideration of House Concurrent Resolution No. 9 and the Authority to Conduct Committee Meetings and Hearings During the Recess were taken up, with the BCC Report having been ratified shortly thereafter, upon motion, and without objection. Prior to ratification, not a single objection was raised with respect to the presence of a quorum, and it was only when the BCC Report was considered for ratification that objections were heard. The session was then adjourned at 10:05 p.m.[18] (Citations omitted)

The *ponencia* also stresses the following:

> It bears emphasis that while the Constitution demands the presence of a majority in order to establish a quorum that would allow Congress to conduct business including, *inter alia*, the ratification of conference committee reports, it does not, however, mandate the method by which the same is counted or sustained, or how the majority is ascertained, whether at the start or in the middle of official proceedings. Contrarily, what the Constitution sanctions under Section 16(3) of Article VI is that both Houses

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15 *Rollo* (G.R. No. 236295), p. 153.
16 Id.
17 *Ponencia*, p. 21; emphasis omitted.
18 Id. at 19-20.

> of Congress may establish their own rules in the conduct of their proceedings. Ineluctably, rather than imposing definite procedural rules, the Constitution grants a wide latitude of discretion upon both Houses of Congress to conduct their own affairs. In effect, it is within the competency of the House to prescribe any method to ascertain the presence of a majority as a condition to transact business.
>
> x x x x
>
> **To recapitulate, once a quorum was established at the beginning of a House session, assailing the same is an internal matter best left to the judgment of the congressional body.** Whichever method the House employs to count the majority of its members for purposes of determining the existence of a quorum is within its powers to constitute, with the qualification that such method "reasonably certain to ascertain the presence of a majority such that the chamber is, constitutionally speaking, in a position to do business." In the cases at bench, it cannot be stressed enough that among the succession of matters taken up into a vote, quorum was challenged only when the ratification of the TRAIN BCC Report was motioned upon.[19] (Emphasis supplied, citation omitted)

I strongly disagree with the statement that assailing the existence of a quorum is an internal matter for each House, and that what is only relevant is that a quorum is established at the start of a House session.

The textual hook for resolving the issue on quorum is found in Section 16(2), Article VI of the 1987 Constitution, which states, *viz.*:

> Section 16. x x x
>
> x x x x
>
> (2) **A majority of each House shall constitute a quorum to do business,** but a smaller number may adjourn from day to day and may compel the attendance of absent Members in such manner, and under such penalties, as such House may provide. (Emphasis supplied)

The above provision clearly states that each House must have a quorum ***to act*** as a legislative body, which is a majority of its membership. As a result of this constitutional mandate, a majority is required to validly "do business."

As well, the HoR Rules for the approval **of a Conference Committee Report** requires the presence of a quorum. Section 63, Rule X of the HoR Rules provides:

> Section 63. *Conference Committee Reports.* – x x x
>
> x x x x
>
> A conference committee report shall be ratified by a majority vote of the Members of the House present, there being a quorum.

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[19] Id. at 24-25.

The HoR Rules echoes Section 16(2), Article VI of the 1987 Constitution on quorum as follows:

> Section 75. *Quorum.* – A majority of all the Members of the House shall constitute a quorum. The House shall not transact business without a quorum. A Member who questions the existence of a quorum shall not leave the Session Hall until the question is resolved or acted upon, otherwise, the question shall be deemed abandoned.
>
> Section 76. *Absence of Quorum.* – In the absence of a quorum after the roll call, the Members present may compel the attendance of absent Members.
>
> In all calls of the House, the doors shall be closed. Except those who are excused from attendance in accordance with Section 71 hereof, the absentees, by order of a majority of those present, shall be sent for and arrested wherever they may be found and conducted to the Session Hall in custody in order to secure their attendance at the session. The order shall be executed by the Sergeant-at-Arms and by such officers as the Speaker may designate. After the presence of the Members arrested is secured at the Session Hall, the Speaker shall determine the conditions for their discharge. Members who voluntarily appear shall be admitted immediately to the Session Hall and shall report to the Secretary General to have their presence recorded.

Corollary thereto, Section 16(3),[20] Article VI of the 1987 Constitution vests in the HoR the sole authority to, *inter alia*, "determine the rules of its proceedings." Thus, in *Arroyo v. De Venecia*,[21] the Court, citing *United States v. Ballin*[22] (*Ballin*) held that "[t]he Constitution empowers each house to determine its rules of proceedings. **It may not by its rules ignore constitutional restraints** or violate fundamental rights, and there should be a reasonable relation between the mode or method of proceeding established by the rule and the result which is sought to be attained."[23] As held in *Ballin*:

> The Constitution provides that "a majority of each [house] shall constitute a quorum to do business." In other words, when a majority are present[,] the house [is] in a position to do business. Its capacity to transact business is then established, created by the mere presence of a majority, and does not depend upon the disposition or assent or action of any single member or fraction of the majority present. All that the Constitution requires is the presence of a majority, and when that majority are present, the power of the house arises.

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[20] Section 16(3), Article VI of the 1987 Constitution reads:
Section 16. x x x
x x x x
(3) Each House may determine the rules of its proceedings, punish its Members for disorderly behavior, and, with the concurrence of two-thirds of all its Members, suspend or expel a Member. A penalty of suspension, when imposed, shall not exceed sixty days.

[21] 343 Phil. 42 (1997).

[22] 144 U.S. 1 (1892).

[23] *Arroyo v. De Venecia*, supra note 21, at 61-62; emphasis supplied.

> But how shall the presence of a majority be determined? The Constitution has prescribed no method of making this determination, and it is therefore within the competency of the house to prescribe any method which shall be reasonably certain to ascertain the fact. It may prescribe answer to roll-call as the only method of determination; or require the passage of members between tellers, and their count, as the sole test; or the count of the Speaker or the clerk, and an announcement from the desk of the names of those who are present. Any one of these methods, it must be conceded, is reasonably certain of ascertaining the fact, and as there is no constitutional method prescribed, and no constitutional inhibition of any of those, and no violation of fundamental rights in any, it follows that the House may adopt either or all, or it may provide for a combination of any two of the methods. That was done by the rule in question, and all that that rule attempts to do is to prescribe a method for ascertaining the presence of a majority, and thus establishing the fact that the House is in a condition to transact business.[24]

Similar to *Ballin*, there is no standard set by Section 16(2), Article VI of the 1987 Constitution as to the method of determining the presence of a majority. ***However***, while such is an internal matter for each House, quorum or the presence of a majority should exist all throughout the proceedings where the House acts as a legislative body. In other words, while the chambers of Congress have the discretion to determine *the manner* by which the presence of the quorum is determined, the existence of the quorum — the presence of the majority — must itself invariably exist throughout the proceedings. **Consequently, losing a quorum in the middle of a House session means the constitutional quorum requirement is not met.** To reiterate, this rule proceeds from no less than the 1987 Constitution, which expressly provides that "[a] majority of each House shall constitute a quorum ***to do business*** x x x."

In this case, the consolidated Petitions plainly reveal that what is alleged to have been violated in the enactment of the TRAIN Act is the constitutional quorum requirement, ***and not merely a violation of or non-compliance with the internal rules of proceedings of the HoR***.

As may be gleaned from HoR Journal No. 48, petitioners challenged the presence of the required quorum during the last three (3) minutes of December 13, 2017, 10:05 p.m.:

> CONSIDERATION OF CONF. CTTEE. RPT.
> ON H.B. NO. 5636 AND S.B. NO. 1592
>
> REP. DEFENSOR. Mr. Speaker we are in receipt of the Bicameral Conference Committee Report on the disagreeing provisions of House Bill No. 5636 and Senate Bill No. 1592, on the Tax Reform for Acceleration and Inclusion or "TRAIN."
>
> REP. DEFENSOR. In accordance with our Rules, I move that we ratify the said Bicameral Conference Committee Report.

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[24] *United States v. Ballin*, supra note 22, at 5-6.

REP. TINIO. **Objection, Mr. Speaker.**

THE DEPUTY SPEAKER (Rep. Abu). The Secretary General is hereby directed to read the transmitted report. With the permission of the Body, and since copies of the Conference Committee Report have been previously distributed, the Secretary General read only the titles of the measures without prejudice to inserting the text of the report in the Congressional Record.

REP. TINIO. **Mr. Spcaker.**

x x x x

REP. TINIO. **Mr. Speaker, I question the quorum.**

THE DEPUTY SPEAKER (Rep. Abu). The Majority Leader is recognized.

REP. TINIO. **There is no quorum, Mr. Speaker.**

REP. DEFENSOR. In accordance with our Rules, I move that we ratify the said Bicameral Conference Committee Report.

THE DEPUTY SPEAKER (Rep. Abu). Is there any objection?

REP. TINIO. **Objection.**

RATIFICATION OF CONF. CTTEE. RPT
ON H.B. NO. 5636 AND S.B. NO. 1592

THE DEPUTY SPEAKER (Rep. Abu). The chair hears none; the motion is approved.

REP. TINIO. **Objection, Mr. Speaker.**

THE DEPUTY SPEAKER (Rep. Abu). The Majority Leader is recognized.

REP. TINIO. **Mr. Speaker, objection.**

ADJOURNMENT OF SESSION

REP. DEFENSOR. Mr. Speaker, I move to adjourn…

REP. TINIO. **Objection, Mr. Speaker.**

REP. DEFENSOR. … until January 15, 2018, at four o'clock in the afternoon.

THE DEPUTY SPEAKER (Rep. Abu). The session is adjourned until January 15, 2018. The session is adjourned.

REP. TINIO. **There is no quorum.**

THE DEPUTY SPEAKER (Rep. Abu). The session is adjourned.

It was 10:05 p.m.[25] (Emphasis and italics in the original, citations omitted)

On this point, the *ponencia* resolves the issue in the following manner:

> The records ineluctably evince the presence of a quorum of the House when the session began, and neither Tinio, *et al.* nor anyone else among the Members raised the point of no quorum up to the time the BCC Report was moved to be considered. In the absence of strong proof to the contrary, the quorum established at the beginning of the session, as it so appears in the relevant Journal, is presumed to subsist. Thus, formally, the presence of a quorum had not been disproven; the presumption that it existed remains.[26] (Citation omitted)

With due respect, the foregoing ratiocination is simply nonsensical, as such presumption is refuted and belied by the foregoing minutes.

To be sure, what is involved here does not simply concern an internal matter of a coequal branch of government, but a possible violation of a constitutional mandate — a case which squarely falls within the Court's jurisdiction.

It would be a dangerous precedent for the Court to say that once a quorum has been established at the beginning of a session, any question as to its continued existence is purely an internal matter outside the Court's jurisdiction. To stress, while the procedures on how a quorum is determined is left at the sound discretion of the chamber concerned, the Constitution requires that the quorum should be a majority and such majority should continually exist throughout the proceedings for the chamber ***to do business***.

By and large, the situation now in the Court is this — in order to resolve whether the HoR had lost its quorum, a review of certain pieces of evidence adduced by petitioners may be necessary, such as the video recording of the December 13, 2017 session of the HoR, the photograph of the nearly empty Session Hall, and HoR Journal No. 48. Given the doubt or controversy as to the truth or falsity of the allegations in this case, which is a question of fact, petitioners' direct recourse to this Court cannot be countenanced **under the principle of hierarchy of courts**. In *Paradero v. Hon. Abragan*,[27] the Court said:

> Moreover, even assuming that petitioner's recourse to *certiorari* is correct, the same is still dismissible for disregarding the hierarchy of courts. While we have concurrent jurisdiction with the Regional Trial Courts and the Court of Appeals to issue writs of *certiorari*, this concurrence is not to be taken as an unrestrained freedom of choice as to which court the application for the writ will be directed. There is after all a hierarchy of courts. That hierarchy is determinative of the venue of appeals, and should also serve as a general determinant of the appropriate forum for petitions for the extraordinary writs. A direct invocation of the Supreme Court's

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25 *Rollo* (G.R. No. 236295), pp. 404-406.

26 *Ponencia*, p. 31.

27 468 Phil. 277 (2004).

> original jurisdiction to issue these extraordinary writs is allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. Petitioner failed to show that such special and important reasons obtain in this case.[28] (Citation omitted)

Thus, I submit that the Court apply the case *of Gios-Samar, Inc. v. Department of Transportation and Communications, et al.*[29] (*Gios-Samar*), which explained the importance of the doctrine of hierarchy of courts as a filtering mechanism, to wit:

> The doctrine of hierarchy of courts operates to: (1) prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction; (2) prevent further over-crowding of the Court's docket; and (3) prevent the inevitable and resultant delay, intended or otherwise, in the adjudication of cases which often have to be remanded or referred to the lower court as the proper forum under the rules of procedure, or as the court better equipped to resolve factual questions.
>
> Strict adherence to the doctrine of hierarchy of courts is an effective mechanism to filter the cases which reach the Court. As of December 31, 2016, 6,526 new cases were filed to the Court. Together with the reinstated/revived/reopened cases, the Court has a total of 14,491 cases in its docket. Of the new cases, 300 are raffled to the Court *En Banc* and 6,226 to the three Divisions of the Court. The Court *En Banc* disposed of 105 cases by decision or signed resolution, while the Divisions of the Court disposed of a total of 923 by decision or signed resolution.
>
> These, clearly, are staggering numbers. The Constitution provides that the Court has original jurisdiction over five extraordinary writs and by our rule-making power, [We] created four more writs which can be filed directly before [Us]. There is also the matter of appeals brought to [Us] from the decisions of lower courts. Considering the immense backlog facing the [C]ourt, this begs the question: *What is really the Court's work? What sort of cases deserves the Court's attention and time?*[30] (Italics in the original, citations omitted)

Verily, I reiterate the pronouncement in *Gios-Samar*, which I find on point to this case, that "when a question before the Court involves determination of a factual issue indispensable to the resolution of the legal issue, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. **Such question must first be brought before the proper trial courts or the [Court of Appeals], both of which are specially equipped to try and resolve factual questions.**"[31]

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28 Id. at 288.

29 849 Phil. 120 (2019).

30 Id. at 182-184.

31 Id. at 187; underscoring supplied.

Accordingly, I vote that the instant consolidated Petitions must be referred to the proper court for appropriate action, including the reception of evidence, to determine and resolve the factual issues raised herein.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice