Republic of the Philippines
Supreme Court
Manila

EN BANC

INMATES OF THE NEW BILIBID PRISON, MUNTINLUPA CITY, NAMELY: VENANCIO A. ROXAS, SATURNINO V. PARAS, EDGARDO G. MANUEL, HERMINILDO V. CRUZ, ALLAN F. TEJADA, ROBERTO C. MARQUEZ, JULITO P. MONDEJAR, ARMANDO M. CABUANG, JONATHAN O. CRISANTO, EDGAR ECHENIQUE, JANMARK SARACHO, JOSENEL ALVARAN, and CRISENCIO NERI, JR., Petitioners, - *versus* - **SECRETARY LEILA M. DE LIMA, Department of Justice; and SECRETARY MANUEL A. ROXAS II, Department of the Interior and Local Government,** Respondents. x----------x **ATTY. RENE A.V. SAGUISAG, SR.,** Petitioner-Intervenor,	**G.R. No. 212719**

x----------x

WILLIAM M. MONTINOLA, FORTUNATO P. VISTO, AND ARESENIO C. CABANILLA,
Petitioners-Intervenors,

x----------x

REYNALDO D. EDAGO, PETER R. TORIDA, JIMMY E. ACLAO, WILFREDO V. OMERES, PASCUA B. GALLADAN, VICTOR M. MACOY, JR., EDWIN C. TRABUNCON, WILFREDO A. PATERNO, FEDERICO ELLIOT, and ROMEO R. MACOLBAS,
Petitioners,

- *versus* -

SECRETARY LEILA M. DE LIMA, Department of Justice; SECRETARY MANUEL A. ROXAS II, Department of the Interior and Local Government; ACTING DIRECTOR FRANKLIN JESUS B. BUCAYU, Bureau of Corrections; and JAIL CHIEF SUPERINTENDENT DIONY DACANAY MAMARIL, Bureau of Jail Management and Penology,
Respondents.

G.R. No. 214637

Present:

BERSAMIN, *C.J.*,
CARPIO,
PERALTA,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,*
CAGUIOA,
REYES, A., JR.,
GESMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER, and
INTING, *JJ.*

Promulgated:

June 25, 2019

x----------x

* On wellness leave.

DECISION

PERALTA, *J.*:

The sole issue for resolution in these consolidated cases[1] is the legality of Section 4, Rule 1 of the Implementing Rules and Regulations *(IRR)* of Republic Act *(R.A.)* No. 10592,[2] which states:

> SECTION 4. *Prospective Application.* – Considering that these Rules provide for new procedures and standards of behavior for the grant of good conduct time allowance as provided in Section 4 of Rule V hereof and require the creation of a Management, Screening and Evaluation Committee (MSEC) as provided in Section 3 of the same Rule, the grant of good conduct time allowance under Republic Act No. 10592 shall be prospective in application.
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> The grant of time allowance of study, teaching and mentoring and of special time allowance for loyalty shall also be prospective in application as these privileges are likewise subject to the management, screening and evaluation of the MSEC.[3]

The Case

On May 29, 2013, then President Benigno S. Aquino III signed into law R.A. No. 10592, amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, or the *Revised Penal Code (RPC)*.[4] For reference, the modifications are underscored as follows:

> ART. 29. *Period of preventive imprisonment deducted from term of imprisonment.* – Offenders **or accused** who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing **after being informed of the effects thereof and with the assistance of counsel** to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:
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> 1. When they are recidivists, or have been convicted previously twice or more times of any crime; and

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1 G.R. No. 212719 and G.R. No. 214637 were consolidated per Resolution dated June 16, 2015 (*Rollo* [G.R. No. 214637], pp. 281-284).

2 *AN ACT AMENDING ARTICLES 29, 94, 97, 98 AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE.*

3 *Rollo* (G.R. No. 212719), p. 46; *rollo* (G.R. No. 214637), p. 220.

4 R.A. No. 10592 took effect on June 6, 2013 (See *Rollo* [G.R. No. 212719], pp. 25, 29, 188, 623 and *rollo* [G.R. No. 214637], p. 415).

2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

If the detention prisoner does not agree to abide by the same disciplinary rules imposed upon convicted prisoners, he shall **do so in writing with the assistance of a counsel and shall** be credited in the service of his sentence with four-fifths of the time during which he has undergone preventive imprisonment.

Credit for preventive imprisonment for the penalty of *reclusion perpetua* shall be deducted from thirty (30) years.

Whenever an accused has undergone preventive imprisonment for a period equal to the possible maximum imprisonment of the offense charged to which he may be sentenced and his case is not yet terminated, he shall be released immediately without prejudice to the continuation of the trial thereof or the proceeding on appeal, if the same is under review. **Computation of preventive imprisonment for purposes of immediate release under this paragraph shall be the actual period of detention with good conduct time allowance: *Provided, however,* That if the accused is absent without justifiable cause at any stage of the trial, the court may *motu proprio* order the rearrest of the accused: *Provided, finally,* That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act.** In case the maximum penalty to which the accused may be sentenced is *destierro,* he shall be released after thirty (30) days of preventive imprisonment.

ART. 94. *Partial extinction of criminal liability.* – Criminal liability is extinguished partially:

1. By conditional pardon;

2. By commutation of the sentence; and

3. For good conduct allowances which the culprit may earn while he is **undergoing preventive imprisonment or** serving his sentence.

ART. 97. *Allowance for good conduct.* – The good conduct of any **offender qualified for credit for preventive imprisonment pursuant to Article 29 of this Code, or of any convicted** prisoner in any penal institution, **rehabilitation or detention center or any other local jail** shall entitle him to the following deductions from the period of his sentence:

1. During the first two years of (his) imprisonment, he shall be allowed a deduction of **twenty** days for each month of good behavior **during detention**;

2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed a deduction of **twenty-three** days for each month of good behavior **during detention**;

3. During the following years until the tenth year, inclusive, of his imprisonment, he shall be allowed a deduction of **twenty-five** days for each month of good behavior **during detention**;

4. During the eleventh and successive years of his imprisonment, he shall be allowed a deduction of **thirty** days for each month of good behavior **during detention**; and

5. At any time during the period of imprisonment, he shall be allowed another deduction of fifteen days, in addition to numbers one to four hereof, for each month of study, teaching or mentoring service time rendered.

An appeal by the accused shall not deprive him of entitlement to the above allowances for good conduct.

ART. 98. *Special time allowance for loyalty.* – A deduction of one fifth of the period of his sentence shall be granted to any prisoner who, having evaded **his preventive imprisonment or** the service of his sentence under the circumstances mentioned in Article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article. **A deduction of two-fifths of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code.**

This Article shall apply to any prisoner whether undergoing preventive imprisonment or serving sentence.

ART. 99. *Who grants time allowances.* – Whenever lawfully justified, the **Director of the Bureau of Corrections, the Chief of the Bureau of Jail Management and Penology and/or the Warden of a provincial, district, municipal or city jail** shall grant allowances for good conduct. Such allowances once granted shall not be revoked. (Emphases ours)

Pursuant to the amendatory law, an IRR was jointly issued by respondents Department of Justice *(DOJ)* Secretary Leila M. De Lima and Department of the Interior and Local Government *(DILG)* Secretary Manuel A. Roxas II on March 26, 2014 and became effective on April 18, 2014.[5] Petitioners and intervenors assail the validity of its Section 4, Rule 1 that directs the prospective application of the grant of good conduct time allowance *(GCTA),* time allowance for study, teaching and mentoring *(TASTM)*, and special time allowance for loyalty *(STAL)* mainly on the ground that it violates Article 22 of the RPC.[6]

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5 *Rollo* (G.R. No. 212719), pp. 21, 25, 188, 623; *rollo* (G.R. No. 214637), pp. 12, 18, 241, 415.

6 **Article 22.** *Retroactive effect of penal laws.* – Penal Laws shall have a retroactive effect insofar as they favor the persons guilty of a felony, who is not a habitual criminal, as this term is defined in Rule 5 of Article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same.

G.R. No. 212719

On June 18, 2014, a Petition for *Certiorari* and Prohibition (with Prayer for the Issuance of a Preliminary Injunction)[7] was filed against respondents DOJ Secretary De Lima and DILG Secretary Roxas by Atty. Michael J. Evangelista acting as the attorney-in-fact[8] of convicted prisoners in the New Bilibid Prison *(NBP)*, namely: Venancio A. Roxas, Saturnino V. Paras, Edgardo G. Manuel, Herminildo V. Cruz, Allan F. Tejada, Roberto C. Marquez, Julito P. Mondejar, Armando M. Cabuang, Jonathan O. Crisanto, Edgar Echenique, Janmark Saracho, Josenel Alvaran, and Crisencio Neri, Jr. (*Roxas et al.*). Petitioners filed the case as real parties-in-interest and as representatives of their member organizations and the organizations' individual members, as a class suit for themselves and in behalf of all who are similarly situated. They contend that the provisions of R.A. No. 10592 are penal in nature and beneficial to the inmates; hence, should be given retroactive effect in accordance with Article 22 of the RPC. For them, the IRR contradicts the law it implements. They are puzzled why it would be complex for the Bureau of Corrections *(BUCOR)* and the Bureau of Jail Management and Penology *(BJMP)* to retroactively apply the law when the prisoners' records are complete and the distinctions between the pertinent provisions of the RPC and R.A. No. 10592 are easily identifiable. Petitioners submit that the simple standards added by the new law, which are matters of record, and the creation of the Management, Screening and Evaluation Committee *(MSEC)* should not override the constitutional guarantee of the rights to liberty and due process of law aside from the principle that penal laws beneficial to the accused are given retroactive effect.

Almost a month after, or on July 11, 2014, Atty. Rene A.V. Saguisag, Sr. filed a Petition (In Intervention).[9] He incorporates by reference the Roxas *et al.* petition, impleads the same respondents, and adds that nowhere from the legislative history of R.A. No. 10592 that it intends to be prospective in character. On July 22, 2014, the Court resolved to grant the leave to intervene and require the adverse parties to comment thereon.[10]

Another Petition-in-Intervention[11] was filed on October 21, 2014. This time, the Free Legal Assistance Group *(FLAG)* served as counsel for William M. Montinola, Fortunato P. Visto, and Arsenio C. Cabanilla (*Montinola et al.*), who are also inmates of the NBP. The petition argues that Section 4, Rule I of the IRR is facially void for being contrary to the equal protection clause of the 1987 Constitution; it discriminates, without any reasonable basis, against those who would have been benefited from the retroactive application of the law; and is also *ultra vires*, as it was issued

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7 *Rollo* (G.R. No. 212719), pp. 3-45.
8 *Id.* at 57-58.
9 *Id.* at 144-148.
10 *Id.* at 152-153-C.
11 *Id.* at 186-193.

beyond the authority of respondents to promulgate. In a Resolution dated November 25, 2014, We required the adverse parties to comment on the petition-in-intervention.[12]

On January 30, 2015, the Office of the Solicitor General *(OSG)* filed a Consolidated Comment[13] to the Petition of Roxas *et al.* and Petition-in-Intervention of Atty. Saguisag, Sr. More than two years later, or on July 7, 2017, it filed a Comment[14] to the Petition-in-Intervention of Montinola *et al.*

G.R. No. 214637

On October 24, 2014, a Petition for *Certiorari* and Prohibition[15] was filed by Reynaldo D. Edago, Peter R. Torida, Jimmy E. Aclao, Wilfredo V. Omeres, Pascua B. Galladan, Victor M. Macoy, Jr., Edwin C. Trabuncon, Wilfredo A. Paterno, Federico Elliot, and Romeo R. Macolbas (*Edago et al.*), who are all inmates at the Maximum Security Compound of the NBP, against DOJ Secretary De Lima, DILG Secretary Roxas, BUCOR Acting Director Franklin Jesus B. Bucayu, and BJMP Chief Superintendent (Officer-in-Charge) Diony Dacanay Mamaril. The grounds of the petition are as follows:

> A.
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> SECTION 4, RULE I OF THE IRR PROVIDING FOR A PROSPECTIVE APPLICATION OF THE PROVISIONS OF R.A. 10592 WAS ISSUED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND THEREBY VOID AND ILLEGAL FOR BEING CONTRARY AND ANATHEMA TO R.A. 10592.
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> a. R.A. 10592 does not state that its provisions shall have prospective application.
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> b. Section 4 of the IRR of R.A. 10592 is contrary to Article 22 of the Revised Penal Code providing that penal laws that are beneficial to the accused shall have retroactive application.
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> c. Section 4, Rule I of the IRR contravenes public policy and the intent of Congress when it enacted R.A. 10592.
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> B.
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> SECTION 4, RULE I OF THE IRR WAS ISSUED BY RESPONDENTS WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION BECAUSE IT IS PATENTLY UNCONSTITUTIONAL.

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12 *Id.* at 202-203-C.
13 *Id.* at 264-279.
14 *Id.* at 622-643; *rollo* (G.R. No. 214637), pp. 414-433.
15 *Rollo* (G.R. No. 214637), pp. 3-80.

a. Section 4, Rule I of the IRR violates the Equal Protection Clause of the Constitution.

b. Section 4, Rule I of the IRR violates substantive due process.[16]

Per Resolution[17] dated November 11, 2014, respondents were ordered to file their comment to the petition. In compliance, BJMP Chief Mamaril filed a Comment[18] on December 10, 2014, while the OSG did the same on February 9, 2015[19] in behalf of all the respondents.

Subsequently, Edago *et al.* filed a Motion with Leave of Court to File and Admit Reply,[20] attaching therein said Reply. On July 28, 2015, We granted the motion and noted the Reply.[21]

The Court's Ruling

The petition is granted.

Procedural Matters

Actual case or controversy

Respondents contend that the petition of Edago *et al.* did not comply with all the elements of justiciability as the requirement of an actual case or controversy *vis-à-vis* the requirement of ripeness has not been complied with. For them, the claimed injury of petitioners has not ripened to an actual case requiring this Court's intervention: *First*, the MSEC has not been constituted yet so there is effectively no authority or specialized body to screen, evaluate and recommend any applications for time credits based on R.A. No. 10592. *Second,* none of petitioners has applied for the revised credits, making their claim of injury premature, if not anticipatory. And *third*, the prison records annexed to the petition are neither signed nor certified by the BUCOR Director which belie the claim of actual injury resulting from alleged extended incarceration. What petitioners did was they immediately filed this case after obtaining their prison records and computing the purported application of the revised credits for GCTA under R.A. No. 10592.

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16 *Id.* at 24-25.
17 *Id.* at 142-144.
18 *Id.* at 163-215.
19 *Id.* at 238-268.
20 *Id.* at 285-334.
21 *Id* at 335-336.

We disagree.

It is well settled that no question involving the constitutionality or validity of a law or governmental act may be heard and decided unless the following requisites for judicial inquiry are present: *(a)* there must be an actual case or controversy calling for the exercise of judicial power; *(b)* the person challenging the act must have the standing to question the validity of the subject act or issuance; *(c)* the question of constitutionality must be raised at the earliest opportunity; and *(d)* the issue of constitutionality must be the very *lis mota* of the case.[22] As to the requirement of actual case or controversy, the Court stated in *Province of North Cotabato, et al. v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP), et al.*:[23]

> The power of judicial review is limited to actual cases or controversies. Courts decline to issue advisory opinions or to resolve hypothetical or feigned problems, or mere academic questions. The limitation of the power of judicial review to actual cases and controversies defines the role assigned to the judiciary in a tripartite allocation of power, to assure that the courts will not intrude into areas committed to the other branches of government.
>
> An actual case or controversy involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute. There must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. x x x.
>
> Related to the requirement of an actual case or controversy is the requirement of ripeness. A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. For a case to be considered ripe for adjudication, it is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action. He must show that he has sustained or is immediately in danger of sustaining some direct injury as a result of the act complained of.[24]

There is an actual case or controversy in the case at bar because there is a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence. Respondents stand for the prospective application of the grant of GCTA, TASTM, and STAL while petitioners and intervenors view that such provision violates the Constitution and Article 22 of the RPC. The legal issue posed is ripe for adjudication as the challenged regulation has a direct adverse effect on petitioners and those

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22 *Ocampo, et al. v. Rear Admiral Enriquez, et al.*, 798 Phil. 227, 287-288 (2016).
23 589 Phil. 387 (2008).
24 *Id.* at 480-481.

detained and convicted prisoners who are similarly situated. There exists an immediate and/or threatened injury and they have sustained or are immediately in danger of sustaining direct injury as a result of the act complained of. In fact, while the case is pending, petitioners are languishing in jail. If their assertion proved to be true, their illegal confinement or detention in the meantime is oppressive. With the prisoners' continued incarceration, any delay in resolving the case would cause them great prejudice. Justice demands that they be released soonest, if not on time.

There is no need to wait and see the actual organization and operation of the MSEC. Petitioners Edago *et al.* correctly invoked Our ruling in *Pimentel, Jr. v. Hon. Aguirre*.[25] There, We dismissed the novel theory that people should wait for the implementing evil to befall on them before they could question acts that are illegal or unconstitutional, and held that "[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." Similar to *Pimentel, Jr.*, the real issue in this case is whether the Constitution and the RPC are contravened by Section 4, Rule 1 of the IRR, not whether they are violated by the acts implementing it. Concrete acts are not necessary to render the present controversy ripe.[26] An actual case may exist even in the absence of tangible instances when the assailed IRR has actually and adversely affected petitioners. The mere issuance of the subject IRR has led to the ripening of a judicial controversy even without any other overt act. If this Court cannot await the adverse consequences of the law in order to consider the controversy actual and ripe for judicial intervention,[27] the same can be said for an IRR. Here, petitioners need not wait for the creation of the MSEC and be individually rejected in their applications. They do not need to actually apply for the revised credits, considering that such application would be an exercise in futility in view of respondents' insistence that the law should be prospectively applied. If the assailed provision is indeed unconstitutional and illegal, there is no better time than the present action to settle such question once and for all.[28]

Legal standing

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25 391 Phil. 84 (2000). The case was cited in *John Hay Peoples Alternative Coalition v. Lim*, 460 Phil. 530, 546 (2003); *La Bugal-B'laan Tribal Asso., Inc. v. Ramos*, 486 Phil. 754, 789-790 (2004); *Didipio Earth-Savers' Multi-Purpose Ass'n., Inc. v. Sec. Gozun*, 520 Phil. 457, 472 (2006); *Province of North Cotabato, et al. v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP), et al., supra* note 23, at 483-484; and *Chamber of Real Estate and Builders' Ass'n., Inc. v. Hon. Executive Sec. Romulo, et al.*, 628 Phil. 508, 524 (2010).

26 See *Province of North Cotabato, et al. v. Gov't of the Rep. of the Phils. Peace Panel on Ancestral Domain (GRP), et al., supra* note 23, at 483-484.

27 See *Didipio Earth-Savers' Multi-Purpose Ass'n., Inc. v. Sec. Gozun, supra* note 25.

28 See *Chamber of Real Estate and Builders' Ass'n., Inc. v. Hon. Executive Sec. Romulo, et al., supra* note 25.

We do not subscribe to respondents' supposition that it is the Congress which may claim any injury from the alleged executive encroachment of the legislative function to amend, modify or repeal laws and that the challenged acts of respondents have no direct adverse effect on petitioners, considering that based on records, there was no GCTA granted to them.

> It is a general rule that every action must be prosecuted or defended in the name of the real party-in-interest, who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit.
>
> Jurisprudence defines interest as "material interest, an interest in issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest. By real interest is meant a present substantial interest, as distinguished from a mere expectancy or a future, contingent, subordinate, or consequential interest." "To qualify a person to be a real party-in-interest in whose name an action must be prosecuted, he must appear to be the present real owner of the right sought to be enforced."
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> "Legal standing" or *locus standi* calls for more than just a generalized grievance. The concept has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.
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> A party challenging the constitutionality of a law, act, or statute must show "not only that the law is invalid, but also that he has sustained or is in immediate, or imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way." It must [be] shown that he has been, or is about to be, denied some right or privilege to which he is lawfully entitled, or that he is about to be subjected to some burdens or penalties by reason of the statute complained of.[29]

In this case, petitioners are directly affected by Section 4, Rule 1 of the IRR because they are prisoners currently serving their respective sentences at the NBP. They have a personal stake in the outcome of this case as their stay in prison will potentially be shortened (if the assailed provision of the IRR is declared unlawful and void) or their dates of release will be delayed (if R.A. No. 10592 is applied prospectively). It is erroneous to assert that the questioned provision has no direct adverse effect on petitioners since there were no GCTAs granted to them. There is none precisely because of the prospective application of R.A. No. 10592. It is a proof of the act

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[29] *Rosales, et al. v. Energy Regulatory Board (ERC), et al.*, 783 Phil. 774, 788 (2016), citing *Ferrer, Jr. v. Mayor Bautista, et al.*, 762 Phil. 233, 248-249 (2015).

complained of rather than an evidence that petitioners lack legal standing. Further, the submission of certified prison records is immaterial in determining whether or not petitioners' rights were breached by the IRR because, to repeat, the possible violation was already *fait accompli* by the issuance of the IRR. The prison records were merely furnished to show that respondents have prospectively applied R.A. No. 10592 and that petitioners will be affected thereby.

Propriety of legal remedy:

Respondents argue that the petitions for *certiorari* and prohibition, as well as the petitions-in-intervention, should be dismissed because such petitions are proper only against a tribunal, board or officer exercising judicial or quasi-judicial functions. Section 4, Rule 1 of the IRR is an administrative issuance of respondents made in the exercise of their rule-making or quasi-legislative functions.

True, a petition for *certiorari* and prohibition is not an appropriate remedy to assail the validity of the subject IRR as it was issued in the exercise of respondents' rule-making or quasi-legislative function. Nevertheless, the Court has consistently held that "petitions for *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review, prohibit or nullify the acts of legislative and executive officials."[30] In *Araullo v. Aquino III*,[31] former Associate Justice, now Chief Justice, Lucas P. Bersamin, explained the remedies of *certiorari* and prohibition, thus:

> What are the remedies by which the grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government may be determined under the Constitution?
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> The present *Rules of Court* uses two special civil actions for determining and correcting grave abuse of discretion amounting to lack or excess of jurisdiction. These are the special civil actions for *certiorari* and prohibition, and both are governed by Rule 65. A similar remedy of *certiorari* exists under Rule 64, but the remedy is expressly applicable only to the judgments and final orders or resolutions of the Commission on Elections and the Commission on Audit.
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> The ordinary nature and function of the writ of *certiorari* in our present system are aptly explained in *Delos Santos v. Metropolitan Bank and Trust Company*:

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30 *Tañada v. Angara*, 338 Phil. 546, 575 (1997); *Ermita v. Aldecoa-Delorino*, 666 Phil. 122, 132 (2011).

31 *Araullo v. Aquino III*, 737 Phil. 457 (2014).

> In the common law, from which the remedy of *certiorari* evolved, the writ of *certiorari* was issued out of Chancery, or the King's Bench, commanding agents or officers of the inferior courts to return the record of a cause pending before them, so as to give the party more sure and speedy justice, for the writ would enable the superior court to determine from an inspection of the record whether the inferior court's judgment was rendered without authority. The errors were of such a nature that, if allowed to stand, they would result in a substantial injury to the petitioner to whom no other remedy was available. If the inferior court acted without authority, the record was then revised and corrected in matters of law. The writ of *certiorari* was limited to cases in which the inferior court was said to be exceeding its jurisdiction or was not proceeding according to essential requirements of law and would lie only to review judicial or quasi-judicial acts.
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> The concept of the remedy of *certiorari* in our judicial system remains much the same as it has been in the common law. In this jurisdiction, however, the exercise of the power to issue the writ of *certiorari* is largely regulated by laying down the instances or situations in the *Rules of Court* in which a superior court may issue the writ of *certiorari* to an inferior court or officer. Section 1, Rule 65 of the *Rules of Court* compellingly provides the requirements for that purpose, *viz.*:
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> x x x x
>
> The sole office of the writ of *certiorari* is the correction of errors of jurisdiction, which includes the commission of grave abuse of discretion amounting to lack of jurisdiction. In this regard, mere abuse of discretion is not enough to warrant the issuance of the writ. The abuse of discretion must be grave, which means either that the judicial or quasi-judicial power was exercised in an arbitrary or despotic manner by reason of passion or personal hostility, or that the respondent judge, tribunal or board evaded a positive duty, or virtually refused to perform the duty enjoined or to act in contemplation of law, such as when such judge, tribunal or board exercising judicial or quasi-judicial powers acted in a capricious or whimsical manner as to be equivalent to lack of jurisdiction.

Although similar to prohibition in that it will lie for want or excess of jurisdiction, *certiorari* is to be distinguished from prohibition by the fact that it is a corrective remedy used for the re-examination of some action of an inferior tribunal, and is directed to the cause or proceeding in the lower court and not to the court itself, while prohibition is a preventative remedy issuing to restrain future action, and is directed to the court itself. The Court expounded on the nature and function of the writ of prohibition in *Holy Spirit Homeowners Association, Inc. v. Defensor*:

> A petition for prohibition is also not the proper remedy to assail an IRR issued in the exercise of a quasi-legislative function. Prohibition is an extraordinary writ directed against any tribunal, corporation, board, officer or person, whether

> exercising judicial, quasi-judicial or ministerial functions, ordering said entity or person to desist from further proceedings when said proceedings are without or in excess of said entity's or person's jurisdiction, or are accompanied with grave abuse of discretion, and there is no appeal or any other plain, speedy and adequate remedy in the ordinary course of law. Prohibition lies against judicial or ministerial functions, but not against legislative or quasi-legislative functions. Generally, the purpose of a writ of prohibition is to keep a lower court within the limits of its jurisdiction in order to maintain the administration of justice in orderly channels. Prohibition is the proper remedy to afford relief against usurpation of jurisdiction or power by an inferior court, or when, in the exercise of jurisdiction in handling matters clearly within its cognizance the inferior court transgresses the bounds prescribed to it by the law, or where there is no adequate remedy available in the ordinary course of law by which such relief can be obtained. Where the principal relief sought is to invalidate an IRR, petitioners' remedy is an ordinary action for its nullification, an action which properly falls under the jurisdiction of the Regional Trial Court. In any case, petitioners' allegation that "respondents are performing or threatening to perform functions without or in excess of their jurisdiction" may appropriately be enjoined by the trial court through a writ of injunction or a temporary restraining order.

With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also 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*. This application is expressly authorized by the text of the second paragraph of Section 1, *supra.*

Thus, petitions for *certiorari* and prohibition are appropriate remedies to raise constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials.

Necessarily, in discharging its duty under Section 1, *supra*, to set right and undo any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, the Court is not at all precluded from making the inquiry provided the challenge was properly brought by interested or affected parties. The Court has been thereby entrusted expressly or by necessary implication with both the duty and the obligation of determining, in appropriate cases, the validity of any assailed legislative or executive action. This entrustment is consistent with the republican system of checks and balances.[32]

In view of the foregoing, We shall proceed to discuss the substantive issues raised herein so as to finally resolve the question on the validity of

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32 *Id.* at 528-531. (Citations omitted; italics in the original)

Section 4, Rule 1 of the IRR, which is purely legal in nature. This is also because of the public importance of the issues raised,[33] and the interest of substantial justice,[34] not to mention the absence of any dispute as to any underlying fact.[35]

Hierarchy of courts

Respondents contend that the petition for *certiorari* and prohibition, as well as the petitions-in-intervention, should still be dismissed for failure to observe the rule on hierarchy of courts. According to them, this Court's jurisdiction over actions assailing the validity of administrative issuances is primarily appellate in nature by virtue of Section 5(2)(a), Article VIII of the Constitution.[36] An action assailing the validity of an administrative issuance is one that is incapable of pecuniary estimation, which, under *Batas Pambansa Bilang (B.P. Blg.)* 129, the Regional Trial Court *(RTC)* has exclusive original jurisdiction. Further, a petition for declaratory relief filed before the RTC, pursuant to Section 1, Rule 63 of the *Rules*, is the proper remedy to question the validity of the IRR.[37]

Indeed, under Section 19(1) of *B.P. Blg.* 129, the question presented here is a matter incapable of pecuniary estimation, which exclusively and originally pertained to the proper RTC.[38] Fundamentally, there is no doubt that this consolidated case captioned as petition for *certiorari* and prohibition seeks to declare the unconstitutionality and illegality of Section 4 Rule 1 of the IRR; thus, partaking the nature of a petition for declaratory relief over which We only have appellate jurisdiction pursuant to Section 5(2)(a), Article VIII of the Constitution. In accordance with Section 1, Rule

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33 See *GMA Network, Inc. v. COMELEC*, 742 Phil. 174, 210 (2014), citing *Dela Llana v. The Chairperson, Commission on Audit, et al.*, 681 Phil. 186, 193-195 (2012).

34 See *The Chairman and Executive Director, Palawan Council for Sustainable Development, et al. v. Lim*, 793 Phil. 690, 698-701 (2016); *Quinto, et al. v. COMELEC*, 621 Phil. 236, 259-260 (2009); and *Metropolitan Bank and Trust Co., Inc. v. National Wages and Productivity Commission*, 543 Phil. 318, 328-332 (2007).

35 *Gios-Samar, Inc., represented by its Chairperson Gerardo M. Malinao v. Department of Transportation and Communications, and Civil Aviation Authority of the Philippines*, G.R. No. 217158, March 12, 2019.

36 SECTION 5. The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.

x x x

37 **Section 1.** *Who may file petition.* – Any person interested under a deed, will, contract or other written instrument, or whose rights are affected by a statute, executive order or regulation, ordinance, or any other governmental regulation may, before breach or violation thereof bring an action in the appropriate Regional Trial Court to determine any question of construction or validity arising, and for a declaration of his rights or duties, thereunder.

x x x

38 See *The Chairman and Executive Director, Palawan Council for Sustainable Development, et al. v. Lim, supra* note 34.

63 of the *Rules*, the special civil action of declaratory relief falls under the exclusive jurisdiction of the RTC.

Nevertheless, the judicial policy has been to entertain a direct resort to this Court in exceptional and compelling circumstances, such as cases of national interest and of serious implications, and those of transcendental importance and of first impression.[39] As the petitions clearly and specifically set out special and important reasons therefor, We may overlook the *Rules*. Here, petitioners Edago *et al.* are correct in asserting that R.A. No. 10592 and its IRR affect the entire correctional system of the Philippines. Not only the social, economic, and moral well-being of the convicts and detainees are involved but also their victims and their own families, the jails, and the society at large. The nationwide implications of the petitions, the extensive scope of the subject matter, the upholding of public policy, and the repercussions on the society are factors warranting direct recourse to Us.

Yet more than anything, there is an urgent necessity to dispense substantive justice on the numerous affected inmates. It is a must to treat this consolidated case with a circumspect leniency, granting petitioners the fullest opportunity to establish the merits of their case rather than lose their liberty on the basis of technicalities.[40] It need not be said that while this case has been pending, their right to liberty is on the line. An extended period of detention or one that is beyond the period allowed by law violates the accused person's right to liberty.[41] Hence, We shunt the rigidity of the rules of procedure so as not to deprive such birthright.[42] The Court zealously guards against the curtailment of a person's basic constitutional and natural right to liberty.[43] The right to liberty, which stands second only to life in the hierarchy of constitutional rights, cannot be lightly taken away.[44] At its core, substantive due process guarantees a right to liberty that cannot be taken away or unduly constricted, except through valid causes provided by law.[45]

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39 See *Provincial Bus Operators Association of the Philippines v. Department of Labor and Employment*, G.R. No. 202275, July 17, 2018; *Clark Investors and Locators Ass'n., Inc. v. Sec. of Finance, et al.*, 763 Phil. 79, 94 (2015); and *Holy Spirit Homeowners Association, Inc. v. Sec. Defensor*, 529 Phil. 573, 586 (2006).

40 See *Five Star Mktg Co., Inc. v. Booc*, 561 Phil. 167, 184 (2007).

41 See *Gov't of Hongkong Special Administrative Region v. Hon. Olalia, Jr.*, 550 Phil. 63 (2007) and *Integrated Bar of the Philippines Pangasinan Legal Aid v. Department of Justice*, G.R. No. 232413, July 25, 2017, 832 SCRA 396.

42 See *Bongalon v. People*, 707 Phil. 11, 19 (2013).

43 See *People v. De los Santos*, 277 Phil. 493, 502 (1991). It is not amiss to point further that aside from being constitutionally protected, the right to liberty is recognized by the Universal Declaration of Human Rights *(UDHR)* and the International Covenant on Civil and Political Rights *(ICCPR)*, both of which the Philippines is a signatory (See *Secretary of National Defense v. Manalo, et al.*, 589 Phil 1, 51 [2008] and *Barbieto v. The Hon. Court of Appeals, et al.*, 619 Phil. 819, 840 [2009]).

44 *Quidet v. People*, 632 Phil. 1, 12 (2010); *People v. Jesalva*, 811 Phil. 299, 307 (2017); *Rimando v. People*, G.R. No. 229701, November 29, 2017; *People v. Gimpaya*, G.R. No. 227395, January 10, 2018; and *Villarosa v. People*, G.R. Nos. 233155-63, July 17, 2018 (*En Banc* Resolution).

45 *Brown Madonna Press, Inc., et al. v. Casas*, 759 Phil. 479, 501 (2015).

Substantive Issues

Every new law has a prospective effect. Under Article 22 of the RPC, however, a penal law that is favorable or advantageous to the accused shall be given retroactive effect if he is not a habitual criminal. These are the rules, the exception, and the exception to the exception on the effectivity of laws.[46]

In criminal law, the principle *favorabilia sunt amplianda adiosa restrigenda* (penal laws which are favorable to the accused are given retroactive effect) is well entrenched.[47] It has been sanctioned since the old Penal Code.[48]

> x x x as far back as the year 1884, when the Penal Code took effect in these Islands until the 31st of December, 1931, the principle underlying our laws granting to the accused in certain cases an exception to the general rule that laws shall not be retroactive when the law in question favors the accused, has evidently been carried over into the Revised Penal Code at present in force in the Philippines through article 22 xxx. This is an exception to the general rule that all laws are prospective, not retrospective, variously contained in the following maxims: *Lex prospicit, non respicit* (the law looks forward, not backward); *lex de futuro, judex de præterito* (the law provides for the future, the judge for the past); and adopted in a modified form with a prudent limitation in our Civil Code (article 3). Conscience and good law justify this exception, which is contained in the well-known aphorism: *Favorabilia sunt amplianda, odiosa restringenda.* As one distinguished author has put it, the exception was inspired by sentiments of humanity, and accepted by science.[49]

According to Mr. Chief Justice Manuel Araullo, the principle is "not as a right" of the offender, "but founded on the very principles on which the right of the State to punish and the commination of the penalty are based, and regards it not as an exception based on political considerations, but as a rule founded on principles of strict justice."[50]

Further, case law has shown that the rule on retroactivity under Article 22 of the RPC applies to said Code[51] and its amendments,[52] as well as to

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46 See *Sr. Insp. Valeroso v. People,* 570 Phil. 58, 61-62 (2008) and *People v. Alcaraz,* 56 Phil. 520, 522 (1932). See also *United States v. Macasaet,* 11 Phil. 447, 449-450 (1908); *People v. Carballo,* 62 Phil. 651, 653 (1935); *Benedicto v. Court of Appeals,* 416 Phil. 722, 749 (2001); and *Nasi-Villar v. People,* 591 Phil. 804, 811 (2008).

47 *People v. Quiachon,* 532 Phil. 414, 427 (2006), as cited in *Ortega v. People,* 584 Phil. 429, 453 (2008); *People v. Tinsay,* 587 Phil. 615, 630 (2008); and *People v. Adviento, et al.,* 684 Phil. 507, 524 (2012). See also *People v. Bagares,* 305 Phil. 31, 39 (1994); *People v. Zervoulakos,* 311 Phil. 724, 734 (1995); and *People v. Canuto,* 555 Phil. 337, 348 (2007).

48 *Escalante v. Santos,* 56 Phil. 483, 488 (1932), citing *Laceste v. Santos,* 56 Phil. 472 (1932).

49 *Laceste v. Santos, supra*, at 475.

50 *Sr. Insp Valeroso v. People, supra* note 46, at 77, citing *People v. Moran,* 44 Phil. 387, 408 (1923).

51 In *Escalante v. Santos* (*supra* note 48, at 487-488), the Court held:

special laws,[53] such as Act No. 2126,[54] Presidential Decree No. 603,[55] R.A. No. 7636,[56] R.A. No. 8293,[57] R.A. No. 8294,[58] R.A. No. 9344,[59] and R.A. No. 10586,[60] to cite a few.

But what exactly is a penal law?

A penal provision or statute has been consistently defined by jurisprudence as follows:

> A penal provision defines a crime or provides a punishment for one.[61]
>
> Penal laws and laws which, while not penal in nature, have provisions defining offenses and prescribing penalties for their violation.[62]
>
> Properly speaking, a statute is penal when it imposes punishment for an offense committed against the state which, under the Constitution, the Executive has the power to pardon. In common use, however, this sense has been enlarged to include within the term "penal statutes" all statutes which command or prohibit certain acts, and establish penalties for their violation, and even those which, without expressly prohibiting certain acts, impose a penalty upon their commission.[63]

And lest it be doubted that article 22 of the Revised Penal Code applies to said Code, Representative Quintin Paredes adds the following:

> "The use of the words 'penal laws' in general, instead of 'this Revised Penal Code and any other penal laws' in article 22, may give room for a doubt as to whether said article meant to include in the phrase 'penal laws' the same Revised Penal Code that was establishing the provision. But this doubt, I think, should not be entertained inasmuch as the Revised Penal Code is itself a penal law and the phrase 'penal laws' is broad enough to include all laws that are penal in character."

See *Laceste v. Santos* (*supra* note 46), wherein the last paragraph of Article 344 of the RPC was applied instead of Section 2 of Act No. 1773 and Article 448 of the old Penal Code; and *Escalante v. Santos* (56 Phil. 483 [1932]) and *Rodriguez v. Director of Prisons* (57 Phil. 133 [1932]), wherein Article 315 Paragraph 3 of the RPC was applied instead of Article 534 Paragraph No. 3 of the old Penal Code.

[52] See *People v. Avila* (283 Phil. 995 [1992]) on Article 135 of the RPC, as amended by R.A. No. 6968; *Lamen v. Dir. of Bureau of Corrections* (311 Phil. 656 [1995]), *People v. Zervoulakos* (311 Phil. 724 [1995]), *Danao v. CA* (313 Phil. 354 [1995]), *People v. Flores* (313 Phil. 227 [1995]), *Villa v. Court of Appeals*, 377 Phil. 830 (1999), and *People v. Alao* (379 Phil. 402 [2000]) on R.A. No. 7659 or the Death Penalty Law; and *People v. Quiachon* (532 Phil. 414 [2006]), *People v. Canuto* (555 Phil. 337 [2007]), *People v Tinsay* (587 Phil. 615 [2008]), *People v. Isang* (593 Phil. 549 [2008]), *People v. Advtento, et al.* (684 Phil. 507 [2012]), and *People v. Buado, Jr.* (701 Phil. 72 [2013]) on R.A. No. 9346 or the Anti-Death Penalty Law.

[53] *Go v. Dimagiba*, 499 Phil. 445, 460 (2005).

[54] *United States v. Almencion*, 25 Phil. 648 (1913).

[55] *People v. Garcia, et al.*, 192 Phil. 311 (1981).

[56] *People v. Hon. Pimentel*, 351 Phil. 781 (1998).

[57] *Savage v. Judge Taypin*, 387 Phil. 718 (2000).

[58] *People v. Narvasa*, 359 Phil. 168 (1998); *Cadua v. Court of Appeals*, 371 Phil. 627 (1999); *People v. Valdez*, 401 Phil. 19 (2000); *People v. Montinola*, 413 Phil. 176 (2001); and *Sr. Insp. Valeroso v. People*, 570 Phil. 58 (2008).

[59] *Estioca v. People*, 578 Phil. 853 (2008); *Ortega v. People* 584 Phil. 429 (2008); and *Madali, et al. v. People*, 612 Phil. 582 (2009).

[60] *Sydeco v. People*, 746 Phil. 916 (2014).

[61] See *United States v. Parrone*, 24 Phil. 29, 35 (1913), as cited in *People v. Moran, supra* note 50, at 398.

[62] See *Benedicto v. Court of Appeals, supra* note 46, as cited in *Nasi-Villar v. People, supra* note 46.

[63] *Lorenzo v. Posadas*, 64 Phil. 353, 367 (1937). See also *Hernandez v. Albano, et al.*, 125 Phil. 513, 520-521.

> Penal laws are those acts of the Legislature which prohibit certain acts and establish penalties for their violations; or those that define crimes, treat of their nature, and provide for their punishment.[64]

The "penal laws" mentioned in Article 22 of the RPC refer to *substantive* laws, not procedural rules.[65] Moreover, the mere fact that a law contains penal provisions does not make it penal in nature.[66]

In the case at bar, petitioners assert that Article 22 of the RPC applies because R.A. No. 10592 is a penal law. They claim that said law has become an integral part of the RPC as Articles 29, 94, 97, 98 and 99 thereof. Edago *et al.* further argue that if an amendment to the RPC that makes the penalties more onerous or prejudicial to the accused cannot be applied retroactively for being an *ex post facto* law, a law that makes the penalties lighter should be considered penal laws in accordance with Article 22 of the RPC.

We concur.

While R.A. No. 10592 does not define a crime/offense or provide/prescribe/establish a penalty[67] as it addresses the rehabilitation component[68] of our correctional system, its provisions have the purpose and

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[64] *Lacson v. The Executive Secretary,* 361 Phil. 251, 275 (1999), citing *Lorenzo v. Posadas*, *supra* note 63 and *Hernandez v. Albano, et al., supra* note 63. *Lacson* was cited in *Yu Oh v. Court of Appeals,* 451 Phil. 380, 387 (2003) and *Salvador v. Mapa, Jr.,* 564 Phil. 31, 45 (2007), which was cited in *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Hon. Desierto, et al.,* 572 Phil. 71, (2008).

[65] See *Magtoto v. Hon. Manguera,* 159 Phil. 611, 629 (1975) and subsequent cases wherein the Court held that Section 20 Article IV of the 1973 Constitution, which declared inadmissible a confession obtained from a person under investigation for an offense who has not been informed of his right to remain silent and to counsel, applies only to those obtained after the Constitution took effect on January 17, 1973.

[66] See *Juarez v. Court of Appeals,* 289 Phil. 81, 91 (1992).

[67] Good conduct allowances that may be earned while serving sentence are under Chapter 2 Title 4 (on partial extinction of criminal liability), not Title 3 (on penalties), of Book 1 of the RPC (See Article 94, RPC). On the other hand, the arrest and temporary detention of accused persons is not considered as a penalty but one of the measures of prevention or safety (See Article 24[1], RPC).

[68] Section 1, Rule II of the IRR of R.A. No. 10592 states:

The credit for preventive imprisonment, as well as the increase in the time allowance granted for good conduct and exemplary services rendered or for loyalty, seek to:

a. redeem and uplift valuable human material towards economic and social usefulness;

b. level the field of opportunity by giving an increased time allowance to motivate prisoners to pursue a productive and law-abiding life; and

c. implement the state policy of restorative and compassionate justice by promoting the reformation and rehabilitation of prisoners, strengthening their moral fiber and facilitating their successful reintegration into the mainstream of society.

In *Frank v. Wolfe* (11 Phil. 466, 471 [1908]), this Court held that Act No. 1533, which is the predecessor of Article 97 of the RPC, has a double purpose: it is intended to encourage the convict in an effort to reform, and to induce him to acquire habits of industry and good conduct which will not be forgotten after he has served his sentence; and it is intended as an aid to discipline within the various jails and penitentiaries.

During the period of interpellations, Senator Joker P. Arroyo inquired on the purpose of Senate Bill No. 3064, which eventually became R.A. No. 10592. Senator Francis G. Escudero replied that (1) it is to decongest the jails; (2) to put a premium reward to inmates for good behavior; and (3) to emphasize a rehabilitative rather than a purely penal system as far as the service of sentence of certain accused are concerned (See Senate Journal, Session No. 17, September 11, 2012, p. 332).

effect of diminishing the punishment attached to the crime. The further reduction on the length of the penalty of imprisonment is, in the ultimate analysis, beneficial to the detention and convicted prisoners alike; hence, calls for the application of Article 22 of the RPC.

The prospective application of the beneficial provisions of R.A. No. 10592 actually works to the disadvantage of petitioners and those who are similarly situated. It precludes the decrease in the penalty attached to their respective crimes and lengthens their prison stay; thus, making more onerous the punishment for the crimes they committed. Depriving them of time off to which they are justly entitled as a practical matter results in extending their sentence and increasing their punishment.[69] Evidently, this transgresses the clear mandate of Article 22 of the RPC.

In support of the prospective application of the grant of GCTA, TASTM, and STAL, respondents aver that a careful scrutiny of R.A. No. 10592 would indicate the need for "new procedures and standards of behavior" to fully implement the law by the BUCOR (as to persons serving their sentences after conviction) and the BJMP (as to accused who are under preventive detention). It is alleged that the amendments introduced are substantial and of utmost importance that they may not be implemented without a thorough revision of the BUCOR and the BJMP operating manuals on jail management. In particular, the establishment of the MSEC is said to be an administrative mechanism to address the policy and necessity that the BUCOR superintendents and the BJMP jail wardens must follow uniform guidelines in managing, screening and evaluating the behavior or conduct of prisoners prior to their recommendation to the heads of the two bureaus on who may be granted time allowances.

Respondents fail to persuade Us.

Except for the benefits of TASTM and the STAL granted to a prisoner who chose to stay in the place of his confinement despite the existence of a calamity or catastrophe enumerated in Article 158 of the RPC, the provisions of R.A. No. 10592 are mere modifications of the RPC that have been implemented by the BUCOR prior to the issuance of the challenged IRR. In view of this, the claim of "new procedures and standards of behavior" for the grant of time allowances is untenable.

It appears that even prior to February 1, 1916 when Act No. 2557 was enacted,[70] prisoners have already been entitled to deduct the period of

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69 See *Greenfield v. Scafati*, 277 F. Supp. 644 (1967).

70 *AN ACT PROVIDING FOR THE ALLOWANCE TO PERSONS SENTENCED IN ANY CRIMINAL CAUSE, WITH THE EXCEPTION OF CERTAIN CLASSES OF CRIMES, OF ONE-HALF OF THE PREVENTIVE IMPRISONMENT UNDERGONE BY THEM, REPEALING SECTION NINETY-THREE OF*

preventive imprisonment from the service of their sentences. In addition, good conduct time allowance has been in existence since August 30, 1906 upon the passage of Act No. 1533.[71] Said law provided for the diminution of sentences imposed upon convicted prisoners in consideration of good conduct and diligence.[72] Under Act No. 1533 and subsequently under Article 97 of the RPC, the time allowance may also apply to detention prisoners if they voluntarily offer in writing to perform such labor as may be assigned to them.[73] Such prerequisite was removed by R.A. No. 10592.

Subject to the review, and in accordance with the rules and regulations, as may be prescribed by the Secretary of Public Instruction, the wardens or officers in charge of Insular or provincial jails or prisons were mandated to make and keep such records and take such further actions as may be necessary to carry out the provisions of Act No. 1533.[74] When the RPC took effect on January 1, 1932,[75] the Director of Prisons was empowered to grant allowances for good conduct whenever lawfully justified.[76] With the effectivity of R.A. No. 10592 on June 6, 2013, such authority is now vested on the Director of the BUCOR, the Chief of the BJMP and/or the Warden of a provincial, district, municipal or city jail.[77]

Under the IRR of R.A. No. 10592, the MSECs are established to act as the recommending body for the grant of GCTA and TASTM.[78] They are tasked to manage, screen and evaluate the behavior and conduct of a detention or convicted prisoner and to monitor and certify whether said prisoner has actually studied, taught or performed mentoring activities.[79] The creation of the MSEC, however, does not justify the prospective application of R.A. No. 10592. Nowhere in the amendatory law was its formation set as a precondition before its beneficial provisions are applied. What R.A. No. 10592 only provides is that the Secretaries of the DOJ and the DILG are

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THE "PROVISIONAL LAW FOR THE APPLICATION OF THE PROVISIONS OF THE PENAL CODE TO THE PHILIPPINE ISLANDS," AND FOR OTHER PURPOSES.

[71] *AN ACT PROVIDING FOR THE DIMINUTION OF SENTENCES IMPOSED UPON PRISONERS CONVICTED OF ANY OFFENSE AND SENTENCED FOR A DEFINITE TERM OF MORE THAN THIRTY DAYS AND LESS THAN LIFE IN CONSIDERATION OF GOOD CONDUCT AND DILIGENCE.*

[72] All prisoners who were actually undergoing sentence when the Act took effect were entitled to diminution of their sentences for the time served since January 1, 1900 (See Section 6, Act No. 1533).

[73] See Section 5 of Act No. 1533; Section 4, Chapter 4, Part III, Book 1, BUCOR Operating Manual dated March 30, 2000 (*Rollo* [G.R. No. 212719], p. 81); and *City Warden of the Manila City Jail v. Estrella,* 416 Phil. 634, 657 (2001), citing *Baking, et al., v. The Director of Prisons,* 139 Phil. 110 (1969). In such case, the credit shall be deducted from the sentence as may be imposed in the event of conviction (See Section 5 of Act No. 1533 and Section 4, Chapter 4, Part III, Book 1, BUCOR Operating Manual dated March 30, 2000, *Rollo* [G.R. No. 212719], p. 81).

[74] Act No. 1533, Sec. 7.

[75] *Capulong v. People,* 806 Phil. 465, 477 (2017) and *Basilonia, et al. v. Judge Villaruz, et al.,* 766 Phil. 1, 8 (2015).

[76] RPC, Art. 99.

[77] R.A. No. 10592, Sec. 5.

[78] The composition of the MSEC shall be determined by the Director of the BUCOR, Chief of the BJMP or Wardens of Provincial and Sub-Provincial, District, City and Municipal Jails, respectively. Membership shall not be less than five (5) and shall include a Probation and Parole Officer, and if available, a psychologist and a social worker (See Sections 3[b], 4[c] and 7[c], Rule V, IRR of R.A. No. 10592).

[79] See Sections 4(b) and 7(b), Rule V, IRR of R.A. No. 10592.

authorized to promulgate rules and regulations on the classification system for good conduct and time allowances, as may be necessary to implement its provisions.[80] Clearly, respondents went outside the bounds of their legal mandate when they provided for rules beyond what was contemplated by the law to be enforced.

> Indeed, administrative IRRs adopted by a particular department of the Government under legislative authority must be in harmony with the provisions of the law, and should be for the sole purpose of carrying the law's general provisions into effect. The law itself cannot be expanded by such IRRSs, because an administrative agency cannot amend an act of Congress.[81]

The contention of Edago *et al.* stands undisputed that, prior to the issuance of the assailed IRR and even before the enactment of R.A. No. 10592, a Classification Board had been handling the functions of the MSEC and implementing the provisions of the RPC on time allowances. While there is a noble intent to systematize and/or institutionalize existing set-up, the administrative and procedural restructuring should not in any way prejudice the substantive rights of current detention and convicted prisoners.

Furthermore, despite various amendments to the law, the standard of behavior in granting GCTA remains to be "good conduct." In essence, the definition of what constitutes "good conduct" has been invariable through the years, thus:

> Act No. 1533: "not been guilty of a violation of discipline or any of the rules of the prison, and has labored with diligence and fidelity upon all such tasks as have been assigned to him."[82]
>
> BUCOR Operating Manual dated March 30, 2000: "displays good behavior and who has no record of breach of discipline or violation of prison rules and regulations."[83]
>
> IRR of R.A. No. 10592: "the conspicuous and satisfactory behavior of a detention or convicted prisoner consisting of active involvement in rehabilitation programs, productive participation in authorized work activities or accomplishment of exemplary deeds coupled with faithful obedience to all prison/jail rules and regulations"[84]

Among other data, an inmate's prison record contains information on his behavior or conduct while in prison.[85] Likewise, the certificate/diploma

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80 R.A. No. 10592, Sec. 7.

81 *GMA Network, Inc. v. COMELEC, supra* note 33, at 227.

82 Sec. 1(a).

83 Sec. 1, Chapter 4, Part III, Book 1 (*Rollo* [G.R. No. 212719], p. 81).

84 Rule III, Sec. 1(p).

85 Section 3(n), Part I, Book 1, BUCOR Operating Manual dated March 30, 2000 (*Rollo* [G.R. No. 212719], p. 70).

issued upon successful completion of an educational program or course (*i.e.*, elementary, secondary and college education as well as vocational training) forms part of the record.[86] These considered, the Court cannot but share the same sentiment of Roxas *et al.* It is indeed perplexing why it is complex for respondents to retroactively apply R.A. No. 10592 when all that the MSEC has to do is to utilize the same standard of behavior for the grant of time allowances and refer to existing prison records.

WHEREFORE, the consolidated petitions are **GRANTED**. Section 4, Rule 1 of the Implementing Rules and Regulations of Republic Act No. 10592 is **DECLARED** invalid insofar as it provides for the prospective application of the grant of good conduct time allowance, time allowance for study, teaching and mentoring, and special time allowance for loyalty. The Director General of the Bureau of Corrections and the Chief of the Bureau of Jail Management and Penology are **REQUIRED** to **RE-COMPUTE** with reasonable dispatch the time allowances due to petitioners and all those who are similarly situated and, thereafter, to **CAUSE** their immediate release from imprisonment in case of full service of sentence, unless they are being confined thereat for any other lawful cause.

This Decision is **IMMEDIATELY EXECUTORY**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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[86] Section 19, Chapter 2, Part V, BUCOR Operating Manual dated March 30, 2000 (*Rollo* [G.R. No. 212719], p. 94).

WE CONCUR:

LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice
See separate concurring opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

On wellness leave
FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

CERTIFICATION

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

LUCAS P. BERSAMIN
Chief Justice