EN BANC

G.R. No. 210503: GRECO ANTONIOUS BEDA B. BELGICA, *petitioner* v. THE EXECUTIVE SECRETARY, THE SECRETARY OF BUDGET AND MANAGEMENT, AND THE PHILIPPINE CONGRESS, REPRESENTED BY THE SENATE PRESIDENT AND SPEAKER OF THE HOUSE OF REPRESENTATIVES, *respondents*.

Promulgated: October 8, 2019

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SEPARATE OPINION

CARPIO, *J.*:

I vote to dismiss the petition on the ground that the assailed appropriations in the 2014 General Appropriations Act (GAA) are not the lump-sum appropriations for multiple purposes prohibited in the landmark *Belgica v. Executive Secretary Ochoa, Jr.*[1] *(Belgica I),* an *En Banc* decision of this Court.

In *Belgica I,* decided on 19 November 2013, this Court struck down the entire Priority Development Assistance Fund (PDAF) article in the 2013 GAA and in effect abolished the "pork barrel system" for being unconstitutional. *Belgica I* held that lump-sum appropriations with multiple purposes are unconstitutional because they deprive the President of his veto power.

In *Belgica I,* the Court, speaking through Justice Estela Perlas-Bernabe, defined the "pork barrel system" as follows:

> x x x the Court defines the Pork Barrel System as the collective body of rules and practices that govern the manner by which **lump-sum**, discretionary funds, primarily intended for local projects, are utilized through the respective participations of the Legislative and Executive branches of government, including its members. The Pork Barrel System involves two (2) kinds of **lump-sum** discretionary funds:
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> First, there is the Congressional Pork Barrel which is herein defined as a kind of **lump-sum**, discretionary fund wherein legislators, either individually or collectively organized into committees, are able to effectively control certain aspects of the fund's utilization through various post-enactment measures and/or practices. In particular, petitioners consider the PDAF, as it appears under the 2013 GAA, as Congressional Pork Barrel since it is, inter alia, a post-enactment measure that allows individual legislators to wield a collective power; and
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> Second, there is the Presidential Pork Barrel which is herein defined as a kind of **lump-sum**, discretionary fund which allows the President to

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1 721 Phil. 416 (2013).

> determine the manner of its utilization. For reasons earlier stated, the Court shall delimit the use of such term to refer only to the Malampaya Funds and the Presidential Social Fund.[2] (Emphasis supplied)

Given this definition, the Court ruled that the Pork Barrel System is unconstitutional because it "allowed legislators to wield, in varying gradations, non-oversight, post-enactment authority in vital areas of budget execution," violating the principle of separation of powers. The principle of non-delegability of legislative power was also violated since the system "conferred unto legislators the power of appropriation by giving them personal, discretionary funds from which they are able to fund specific projects which they themselves determine."[3] Considering that the items in the budget are not textualized into the appropriations bill, the system denied the President the power to veto items.

Insofar as the President's line item-veto power is concerned, the Court explained in *Belgica I* that there should be a proper "item" which may be the object of the veto. In defining "item," the Court cited *Bengzon v. Secretary of Justice of the Philippine Islands,*[4] where the US Supreme Court characterized an item of appropriation as follows:

> An item of an appropriation bill obviously means an item which, in itself, is a specific appropriation of money, not some general provision of law which happens to be put into an appropriation bill.

The Court pointed out that "**an item of appropriation must be an item characterized by singular correspondence – meaning an allocation of a specified singular amount for a specified singular purpose, otherwise known as a 'line-item.'** This treatment not only allows the item to be consistent with its definition as a 'specific appropriation of money' but also ensures that the President may discernibly veto the same. Based on the foregoing formulation, the existing Calamity Fund, Contingent Fund, and the Intelligence Fund, being appropriations which state a specified amount for a specific purpose, would then be considered as 'line-item' appropriations which are rightfully subject to line-item veto. Likewise, it must be observed that an appropriation may be validly apportioned into component percentages or values; however, it is crucial that each percentage or value must be allocated for its own corresponding purpose for such component to be considered as a proper line-item."[5]

In my separate opinion, concurred in by the majority in *Belgica I*, I stated that a valid appropriation may even have several related purposes that are by accounting and budgeting practice considered as one purpose, e.g., MOOE (maintenance and other operating expenses), in which case the related purposes shall be deemed sufficiently specific for the exercise of the

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2 Id. at 533.
3 Id. at 580-581.
4 299 U.S. 410 (1937).
5 *Belgica v. Ochoa, Jr.*, supra note 1, at 551-552.

President's item veto power. Also, special purpose funds and discretionary funds would be constitutional for as long as they follow the rule on singular correspondence.

The Court further ruled in *Belgica I* that what is constitutionally infirm are appropriations which merely provide for a singular lump-sum amount to be used as a source of funding multiple purposes. These appropriations require the further determination of both the actual amount to be expended and the actual purpose of the appropriation which must still be chosen from the multiple purposes stated in the law. Therefore, with such kind of appropriations in the law, it cannot be said that there is a "specific appropriation of money," and hence, without a proper line-item which the President may veto. As a result, the President would then be faced with the predicament of either vetoing the entire appropriation if he finds some of its purposes wasteful or undesirable, or approving the entire appropriation so as not to hinder some of its legitimate purposes. This arrangement also raises non-delegability issues considering that the implementing authority would have to determine both the actual amount to be expended and the actual purpose of the appropriation. Since the foregoing determinations constitute the integral aspects of the power to appropriate, the implementing authority would, in effect, be exercising legislative prerogatives in violation of the principle of non-delegability if the implementing authority is allowed to determine either the actual amount or the specific purposes or both.

In the case of the PDAF, it is constitutionally infirm since it operated as a prohibited form of lump-sum appropriation. The lump-sum amount of ₱24.79 billion would be treated as a mere **funding source allotted for multiple purposes** of spending, i.e., scholarships, medical missions, assistance to indigents, preservation of historical materials, construction of roads, flood control, etc. This arrangement left the actual amounts and purposes of the appropriation for further determination and, therefore, did not readily indicate a discernible item which may be subject to the President's item-veto power.

To repeat, in *Belgica I*, the Court did not declare that all lump-sum appropriations are unconstitutional. The Court expressly declared unconstitutional lump-sum appropriations which are single but divisible sums of money to fund multiple purposes requiring further determination by the individual legislator or concerned implementing agency of both the actual amount to be expended and the actual purpose of the appropriation. Such lump sum appropriations violate the principle of separation of powers and non-delegability. Likewise, such lump-sum appropriations are unconstitutional for depriving the President of his constitutional line item-veto power because there is no specific appropriation of money for a specific project in the appropriations law that he could veto. In short, *Belgica I* already settled the issue of the constitutionality of lump-sum appropriations to be used for multiple purposes.

After *Belgica I*, Republic Act No. 10633 or the General Appropriations Act for 2014 was enacted on 27 December 2013.

In the present case (*Belgica II*), petitioner challenges the constitutionality of certain provisions of the 2014 GAA, for being of "the same character as the pork barrel funds" in *Belgica I*, and thus should be struck down as well. Therefore, to resolve the principal issue raised in *Belgica II*, which is the constitutionality of the alleged lump-sum appropriations in the 2014 GAA, specifically, the Unprogrammed Fund, the Contingent Fund, the E-Government Fund, and the Local Government Support Fund, it is imperative for the Court to apply its ruling in *Belgica I*.

The issues in this case are whether the alleged lump-sum appropriations in the 2014 GAA violate the doctrine on non-delegation of legislative power and the principle of separation of powers, and fail to comply with the requirements of a valid appropriation, the line-item veto power of the President, and the Administrative Code.[6]

The majority in *Belgica I* expressly declared that "an item of appropriation must be an item characterized by singular correspondence – meaning an allocation of a specified singular amount for a specified singular purpose, otherwise known as a 'line-item.'"[7]

I reiterate my position in *Belgica I* that lump-sum appropriations for multiple purposes negate the President's exercise of the line-item veto power, and are thus unconstitutional. On the other hand, lump-sum appropriations with specified and single purpose that allow the President to exercise his line item veto power is constitutional.

In *Belgica I*, I further explained the definition and character of the constitutionally prohibited lump-sum appropriations, that are single but divisible sums of money which are the sources to fund several purposes in the same appropriation. I reiterate, thus:

> Section 27, Article VI of the Constitution provides for the presentment clause and the President's veto power:
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> > Section 27. (1) Every bill passed by the Congress shall, before it becomes a law, be presented to the President. If he approves the same, he shall sign it; otherwise, he shall veto it and return the same with his objections to the House where it originated, which shall enter the objections at large in its Journal and proceed to reconsider it. If, after such reconsideration, two-thirds of all the Members of such House shall agree to pass the bill, it shall be sent, together with the objections, to the other House by which it shall likewise be reconsidered, and if approved by two-thirds of all the Members of that House, it shall become a law. In all such cases, the votes of each House shall be determined by yeas or nays, and the names of

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6 *Per Curiam*, p. 3.

7 Supra note 1, at 551.

> the Members voting for or against shall be entered in its Journal. The President shall communicate his veto of any bill to the House where it originated within thirty days after the date of receipt thereof; otherwise, it shall become a law as if he had signed it.
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> (2) The President shall have the power to veto any particular item or items in an appropriation, revenue, or tariff bill, but the veto shall not affect the item or items to which he does not object.

In *Gonzales v. Macaraig, Jr.*, the Court explained the President's veto power, thus:

> Paragraph (1) refers to the general veto power of the President and if exercised would result in the veto of the entire bill, as a general rule. Paragraph (2) is what is referred to as the item-veto power or the line-veto power. It allows the exercise of the veto over a particular item or items in an appropriation, revenue or tariff bill. As specified, the President may not veto less than all of an item of an Appropriations Bill. In other words, the power given the executive to disapprove any item or items in an Appropriations Bill does not grant the authority to veto a part of an item and to approve the remaining portion of the same item.

In *Gonzales*, the Court defined the term "item" as used in appropriation laws as "an indivisible sum of money dedicated to a stated purpose." The amount in an item is "indivisible" because the amount cannot be divided for any purpose other than the specific purpose stated in the item. The item must be for a specific purpose so that the President can determine whether the specific purpose is wasteful or not. This is the "item" that can be the subject of the President's line-item veto power. Any other kind of item will circumvent or frustrate the President's line-item veto power in violation of the Constitution.

In contrast, a lump-sum appropriation is a single but divisible sum of money which is the source to fund several purposes in the same appropriation. For example, the 2013 PDAF provision appropriates a single amount – ₱24.79 billion – to be divided to fund several purposes of appropriation, like scholarships, roads, bridges, school buildings, medicines, livelihood training and equipment, police surveillance and communication equipment, flood control, school fences and stages, and a variety of other purposes.

x x x x

For the President to exercise his constitutional power to veto a particular item of appropriation, the GAA must provide line-item, instead of lump-sum appropriations. This means Congress has the constitutional duty to present to the President a GAA containing items, instead of lump-sums, stating in detail the specific purpose for each amount of appropriation, precisely to enable the President to exercise his line-item veto power. Otherwise, the President's line-item veto power is negated by Congress in violation of the Constitution.

The President's line-item veto in appropriation laws is intended to eliminate "wasteful parochial spending," primarily the pork-barrel. Historically, the pork-barrel meant "appropriation yielding rich patronage

benefits." In the Philippines, the pork-barrel has degenerated further as shown in the COA Audit Report on the 2007-2009 PDAF. The pork-barrel is mischievously included in lump-sum appropriations that fund much needed projects. The President is faced with the difficult decision of either vetoing the lump-sum appropriation that includes beneficial programs or approving the same appropriation that includes the wasteful pork-barrel. To banish the evil of the pork-barrel, the Constitution vests the President with the line-item veto power, which for its necessary and proper exercise requires the President to propose, and Congress to enact, only line-item appropriations.

The President should not frustrate his own constitutional line-item veto power by proposing to Congress lump-sum expenditures in the NEP. Congress should not also negate the President's constitutional line-item veto power by enacting lump-sum appropriations in the GAA. When the President submits lump-sum appropriations in the NEP, and Congress enacts lump-sum appropriations in the GAA, both in effect connive to violate the Constitution. This wreaks havoc on the check-and-balance system between the Executive and Legislature with respect to appropriations. While Congress has the power to appropriate, that power should always be subject to the President's line-item veto power. If the President exercises his line-item veto power unreasonably, Congress can override such veto by two-thirds vote of the House of Representatives and the Senate voting separately. **This constitutional check-and-balance should at all times be maintained to avoid wastage of taxpayers' money.**

The President has taken a constitutionally prescribed oath to "preserve and defend" the Constitution. Thus, the President has a constitutional duty to preserve and defend his constitutional line-item veto power by submitting to Congress only a line-item NEP without lump-sum expenditures, and then by demanding that Congress approve only a line-item GAA without lump-sum appropriations. Congress violates the Constitution if it circumvents the President's line-item veto power by enacting lump-sum appropriations in the GAA. To repeat, **the President has a constitutional duty to submit to Congress only a line-item NEP without lump-sum expenditures, while Congress has a constitutional duty to enact only a line-item GAA without lump-sum appropriations.**[8] (Emphasis supplied)

The power of the purse belongs exclusively to Congress. The power of Congress to appropriate means that Congress alone determines the specific amount and the specific purpose of the appropriation. The President cannot usurp the legislative power of the purse, and Congress cannot share this exclusive power to appropriate with the President. Corollarily, Congress cannot abdicate this power by allowing the President to cherry pick the purpose or purposes of the appropriation among a myriad of purposes, and to determine the amount to be spent for that purpose. To allow the President, in a lump-sum-appropriation with multiple purposes, to determine what amount to allocate for a particular purpose, and to determine what purposes shall not be allocated any funding, would be an abdication by Congress of its power to

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8 Supra note 1, at 637-640.

appropriate.

To allow Congress to provide a lump-sum appropriation with multiple purposes will mean that the President cannot exercise his line-item veto power, making such lump-sum appropriation unconstitutional. Such lump-sum appropriation cannot be saved from unconstitutionality by allowing the President to determine which purposes are to be funded, and to determine the specific amount to be allocated for the purposes that the President has determined must be funded. This will mean an abdication of the power of Congress to determine the amount and purpose of every appropriation. To sanction this usurpation of legislative power by the President will wreak havoc to the finely crafted check and balance instituted in the Constitution and will violate the fundamental principle of separation of powers.

I strongly disagree with Justice Caguioa's position that "**[a]t their core, all appropriations in the general appropriations acts are discretionary appropriations x x x. In this sense, the exercise of discretion in determining whether to spend and the level of spending for discretionary appropriations is in line with the exercise of constitutional powers of the political departments in their respective roles in setting fiscal policy and executing the national budget.**"[9]

First, this view suggests that appropriations in the general appropriations acts (GAA), which are laws, can still be diminished, amended, revised or withheld by the President because the exercise of discretion is in line with the President's power to implement the budget. This dangerous theory in effect sanctions Presidential pork barrel, which is precisely the evil struck down in *Belgica I.* In fact, this dangerous theory makes the entire GAA one big pork barrel of the President.

Presidential pork barrel is defined as that kind of lump-sum, discretionary fund which allows the President to determine the manner of its utilization. Allowing the President to tinker with the approved budget as contained in the GAA, because he has supposedly the executive discretion to do so, clearly violates the fundamental principle of separation of powers.

The Legislature appropriates, fixes the purpose and amount of appropriation; the Executive executes the budget. Otherwise stated, it is Congress that appropriates, and it is the President that spends what Congress has appropriated. The power to appropriate is the power to determine the amount and purpose of the appropriation. After Congress exercises its power to appropriate, the President's power to spend begins. This Court is constitutionally mandated to maintain this separation of powers.

There is no provision in the Constitution, or in any existing law, declaring as theorized by Justice Caguioa, that "**appropriations in the**

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[9] Justice Caguioa's Separate Concurring Opinion, pp. 28-29.

general appropriations law are discretionary appropriations." Neither is there any decision of this Court supporting such theory. No textbook writer on constitutional law has ever espoused such theory. To repeat, the general appropriations law is a law that the President is sworn to uphold and faithfully execute. The President has no discretion to reduce or withhold appropriations in the general appropriations law.

Second, Justice Caguioa confuses the National Expenditure Program (NEP) with the GAA. The NEP is submitted to assist Congress in the review and deliberation of the proposed national budget for the legislation of the annual appropriations measures for the next fiscal year. It contains the details of the government's proposed programs.[10]

On the other hand, GAAs are laws which must be implemented faithfully by the Executive. The President has sworn to faithfully execute the laws of the land. All appropriations, once approved by Congress, and enacted into law, can no longer be amended, diminished or withheld by the President. **In short, all appropriations in the general appropriations acts are not subject to the discretion of the President to reduce or withhold except as allowed by the Constitution under the power of the President to realign savings.**[11]

Third, for fiscally autonomous entities, appropriation is released **automatically and regularly** pursuant to the express provisions of the Constitution. The Executive exercises no discretion insofar as the appropriations of the Judiciary and other constitutional bodies are concerned. For instance, the appropriation for the Supreme Court cannot be amended, diminished, or withheld by the President, without running afoul with the Judiciary's fiscal autonomy and independence enshrined in the Constitution. The appropriations for the Judiciary cannot be subject to the discretion of the President. The budget of the Judiciary has always been released **automatically and regularly.**

To amend, diminish, or withhold the release of the appropriations for the Judiciary and the Constitutional Commissions will certainly result to a grave violation of the fiscal autonomy and independence of the Judiciary and the Constitutional Commissions as enshrined in the Constitution.

Section 3, Article VIII and Section 5, Article IX of the Constitution provide:

> SECTION 3. The Judiciary shall enjoy **fiscal autonomy**. Appropriations for the Judiciary may not be reduced by the legislature below the amount appropriated for the previous year and, after approval, shall be **automatically** and regularly released.

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[10] https://www.dbm.gov.ph/index.php/dbm-publications/national-expenditure-program (visited 1 October 2019).

[11] Section 25(5), Article VI, 1987 Constitution.

> SECTION 5. The Commission shall enjoy **fiscal autonomy**. Their approved annual appropriations shall be **automatically** and regularly released.

These Constitutional provisions on fiscal autonomy ensure and safeguard the independence of the Judiciary and other constitutional bodies. The framers of the Constitution emphasized the importance of fiscal autonomy of the Judiciary, thus:

> MR. SUAREZ: Thank you, Madam President.
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> When Chief Justice Claudio Teehankee and former Chief Justice Felix Makasiar discussed this matter with the Committee on the Judiciary, both of them strongly recommended that **in order to maintain the independence of the Judiciary, the annual budget allocated for it should be determined and fixed and should be *automatically* released *regularly* without the necessity of the chief magistracy of the land lobbying in the executive and in the legislative departments**, which is not only demeaning to the Chief Justice of the Supreme Court but violative of the principle of independence of the three departments. (Boldfacing and italicization supplied)

In *Bengzon v. Drilon*,[12] the Court defined the scope and extent of fiscal autonomy in this wise:

> As envisioned in the Constitution, the fiscal autonomy enjoyed by the Judiciary, the Civil Service Commission, the Commission on Audit, the Commission on Elections, and the Office of the Ombudsman contemplates a guarantee of full flexibility to allocate and utilize their resources with the wisdom and dispatch that their needs require. It recognizes the power and authority to levy, assess and collect fees, fix rates of compensation not exceeding the highest rates authorized by law for compensation and pay plans of the government and allocate and disburse such sums as may be provided by law or prescribed by them in the course of the discharge of their functions.
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> Fiscal autonomy means freedom from outside control. If the Supreme Court says it needs 100 typewriters but DBM rules we need only 10 typewriters and sends its recommendations to Congress without even informing us, the autonomy given by the Constitution becomes an empty and illusory platitude.
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> The Judiciary, the Constitutional Commissions, and the Ombudsman must have the independence and flexibility needed in the discharge of their constitutional duties. **The imposition of restrictions and constraints on the manner the independent constitutional offices allocate and utilize the funds appropriated for their operations is anathema to fiscal autonomy and violative not only of the express mandate of the Constitution but especially as regards the Supreme Court, of the independence and separation of powers upon which the entire fabric of our constitutional system is based.** In the interest of comity and cooperation, the Supreme Court, Constitutional Commissions, and the Ombudsman have so far limited their objections to constant

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[12] 284 Phil. 245, 268-269 (1992).

> reminders. We now agree with the petitioners that this grant of autonomy should cease to be a meaningless provision. (Emphasis supplied)

Clearly, the Judiciary enjoys fiscal autonomy as an important aspect of its independence. Fiscal autonomy means, among others, that the budget of the Judiciary must be released "**automatically**" after the General Appropriations Act becomes law. The President cannot reduce, withhold, delay, or in any manner tinker with, ***in the guise of budget execution***, the appropriations for the Judiciary and the Constitutional Commissions. The President cannot amend, change, supplant, deduct, diminish or add to the budget of the Judiciary and Constitutional Commissions as approved in the General Appropriations Act. The President cannot decide, as part of "**budget execution**," what purposes to fund, and by how much, **after the General Appropriations Act becomes a law**. To rule otherwise will compel the Chief Justice to lobby with the President to allocate specific amounts for specific purposes – the very evil that the fiscal autonomy provisions of the Judiciary, and of the Constitutional Commissions, were designed to prevent to preserve the very independence of the Judiciary and of the Constitutional Commissions. This very evil that the fiscal autonomy provisions were designed to outlaw was clearly explained in the deliberations of the framers of the Constitution.

To repeat, there are no discretionary appropriations, or appropriations subject to the discretion of the President in the appropriations for the Judiciary and the Constitutional Commissions. To rule otherwise is a clear and present danger to the fiscal autonomy and independence of the Judiciary and of the Constitutional Commissions. It directly contravenes the fiscal autonomy of the Judiciary and of the Constitutional Commissions as expressly mandated in Section 3, Article VIII and Section 5, Article IX of the Constitution. The simultaneous effect of this violation is an impairment of independence of the Judiciary and of the Constitutional Commissions. This impairment of judicial independence will destroy the check and balance between the Judiciary and the Executive. This Court must nip in the bud any attempt to subvert its fiscal autonomy and judicial independence, as well as the fiscal autonomy and independence of the Constitutional Commissions.

Moreover, the automatic release of appropriations to constitutional bodies is one of the reasons why the Government now and then float bonds, that is borrow from the market, to fund current government expenditures while taxes are still being collected. The Government policy is not to suspend vital government operations until taxes or other revenues have been collected but to fund such vital operations through short-term borrowings. No Government can afford a break in its vital operations.

Fourth, the Internal Revenue Allotment of local government units must also be released automatically. Section 6, Article X of the Constitution expressly provides that "Local government units shall have a just share, as determined by law, in the national taxes which shall be **automatically** released

to them." This is also one of the reasons why the Government now and then float bonds. Again, if the President has the discretion to amend, change, supplant, deduct, diminish or withhold the tax share due the local government units, as part of budget execution, then such exercise of discretion violates this specific constitutional provision.

Unprogrammed Fund, Contingent Fund, E-Government Fund, and Local Government Support Fund

Petitioner argues that the appropriation for the Unprogrammed Fund is unconstitutional because it merely provides for a lump-sum figure without any enumerated purposes for which this fund should be used. Petitioner contends that the Unprogrammed Fund lacks the requirements of a valid item of appropriation and has no stated discernible purpose. In contrast to the 2013 GAA Unprogrammed Fund, the 2014 GAA Unprogrammed Fund allegedly has no purpose.

It is apparent that petitioner's claim that the Unprogrammed Fund has no discernible purpose is **starkly contrary to the actual provisions of the Unprogrammed Fund as found in Annex "A" of the 2014 GAA.**

Annex "A"[13] of the 2014 GAA on the Unprogrammed Fund **clearly debunks** petitioner's claims, thus:

LVI. UNPROGRAMMED APPROPRIATIONS

For fund requirements in accordance with the purposes indicated hereunder P139,903,759,000

New Appropriations, by Purpose

	Current Operating Expenditures		
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays
PURPOSE(S)			
1. Budgetary Support to Government-Owned and/or-Controlled Corporations	P	P3,000,000,000	P36,268,000000
2. Support to Foreign-Assisted Projects	800,000	3,091,244,000	3,032,447,000
3. General Fund Adjustments	175,000,000	511,500,000	313,500,000
4. Support for Infrastructure Projects and Social Programs			20,000,000,000
5. AFP Modernization Program			5,000,000,000
6. Debt Management Program			1,000,000,000

[13] Annex "A", Volume I, pp. 755-757.

Section 95 of the General Provisions of the 2014 GAA provides:

Sec. 95. Effectivity. The provisions detailed in this Act, including the Details of the FY 2014 Budget appended as Annex A (Volumes 1 and 2) hereof shall take effect on January one, two thousand and fourteen, unless otherwise provided herein.

7. Risk Management Program			20,000,000,000
8. Disaster Relief and Mitigation Fund		3,000,000,000	
9. Reconstruction and Rehabilitation Program		6,500,000,000	73,500,000,000
10. Total Administrative Disability Pension	243,000,000		
11. People's Survival Fund		500,000,000	
TOTAL NEW APPROPRIATIONS	P418,800,000,000	P16,602,744,000	P122,882,215,000

New Appropriations, by Object of Expenditures
(In Thousand Pesos)

Current Operating Expenditures		
Personnel Services		
Civilian Personnel		
Other Compensation for Specific Groups		
Lump-sum for Compensation Adjustments		75,000
Lump-sum for Personnel Services		100,800
Total Other Compensation for Specific Groups		175,800
Other Personnel Benefits		243,000
Pension, Veterans		
Total Other Personnel Benefits		243,000
TOTAL PERSONNEL BENEFITS		418,800
Maintenance and Other Operating Expenses		
Financial Assistance/Subsidy		16,091,244
Other Maintenance and Operating Expenses		511,500
Other Maintenance and Operating Expenses		
TOTAL MAINTENANCE AND OTHER OPERATING EXPENSES		16,602,744
TOTAL CURRENT OPERATING EXPENDITURES		17,021,544
		17,021,544
Capital Outlays		
Investment Outlay		20,000,000
Loans Receivable Accounts Outlay		36,268
Loans Receivable Accounts Outlay		21,000,000
Property. Plant and Equipment Outlay		
Infrastructure Outlay		35,500,000
Buildings and Other Structures		38,313,500
Machinery and Equipment Outlay		8,032,447
TOTAL CAPITAL OUTLAYS		122,882,215
GRAND TOTAL		139,903,759

GENERAL SUMMARY
UNPROGRAMMED FUND

	Current Operating Expenditures		
	Personnel Services	Maintenance and Other Operating Expenses	Capital Outlays
A. UNPROGRAMMED FUND	P418,800,000	P16,602,744,000	P122,882,25,000
TOTAL NEW APPROPRIATIONS, UNPROGRAMMED FUND	P418,800,000	P16,602,744,000	P122,882,25,000

Clearly, the Unprogrammed Fund in Annex "A" of the 2014 GAA is not a singular lump-sum amount to fund multiple purposes, but consists of specific projects or purposes corresponding to specific amounts, contrary to petitioner's claims. Each item of appropriation in the Unprogrammed Fund is characterized by singular correspondence of a specific amount, which means that there is an allocation of a specified singular amount for a specified singular public purpose.

In other words, the Unprogrammed Fund in Annex "A" of the 2014 GAA complies with the requirements of a valid appropriation, as defined in the *Belgica I*, and thus, constitutional. It is not a lump-sum appropriation for multiple unspecified purposes without corresponding specific amounts, as erroneously characterized by petitioner. It is also not a lump-sum appropriation with specific purposes but without specific corresponding amounts.

The total amount of ₱139,903,759,000 Unprogrammed Fund was divided into (1) Personnel Services; (2) Maintenance and Other Operating Expenses; and (3) Capital Outlays as components of Current Operating Expenditures, which refers to the "amount budgeted for the purchase of goods and services for the conduct of normal government operations within a budget year.[14] As I have stated in my Concurring Opinion in *Belgica I*,[15] appropriations for personal services need not be itemized further, as long as the specific purpose, which is personal services, has a specific corresponding amount. Section 35, Chapter 5, Book VI of the Administrative Code of 1987 explains how appropriations for personal services shall be itemized further, thus:

> SECTION 35. Special Budgets for Lump-Sum Appropriations.— Expenditures from lump-sum appropriations authorized for any purpose or for any department, office or agency in any annual General Appropriations Act or other Act and from any fund of the National Government, shall be

14 https://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2015/GLOSSARY.pdf (visited 1 October 2019).

15 Supra note 1, at 642.

> made in accordance with a special budget to be approved by the President, which shall include but shall not be limited to the number of each kind of position, the designations, and the annual salary proposed for which an appropriation is intended. This provision shall be applicable to all revolving funds, receipts which are automatically made available for expenditure for certain specific purposes, aids and donations for carrying out certain activities , or deposits made to cover to cost of special services to be rendered to private parties. Unless otherwise expressly provided by law, when any Board, head of department, chief of bureau or office, or any other official, is authorized to appropriate, allot, distribute or spend any lump-sum appropriation or special, bond, trust, and other funds, such authority shall be subject to the provisions of this section.
>
> In case of any lump-sum appropriation for salaries and wages of temporary and emergency laborers and employees, including contractual personnel, provided in any General Appropriation Act or other Acts, the expenditure of such appropriation shall be limited to the employment of persons paid by the month, by the day, or by the hour.

Thus, appropriations for personal services need not be further itemized or broken down in the GAA as the purpose for such appropriation is sufficiently specific satisfying the constitutional requirement for a valid appropriation. **The constitutional test for validity is not how itemized the appropriation is down to the project level but whether the purpose of the appropriation is specific enough to allow the President to exercise his line-item veto power.** Section 23, Chapter 4, Book VI of the Administrative Code provides a stricter requirement by mandating that there must be a corresponding appropriation for each program and for each project. A project is a component of a program which may have several projects. A program is equivalent to the specific purpose of an appropriation. An item of appropriation for school-building is a program, while the specific schools to be built, being the identifiable outputs of the program, are the projects. The Constitution only requires a corresponding appropriation for a specific purpose or program, not for the sub-set of projects or activities.

Insofar as Maintenance and Other Operating Expenses is concerned, the majority stated in *Belgica I*, citing my opinion, that "a valid appropriation may even have several related purposes that are **by accounting and budgeting practice considered as one purpose**, e.g., MOOE (maintenance and other operating expenses), in which case the related purposes shall be deemed sufficiently specific for the exercise of the President's item veto power."[16] Therefore, the appropriations for MOOE need not be itemized further as the purpose for such appropriation is sufficiently specific satisfying the constitutional requirement for a valid appropriation.

Appropriations for Personal Services and Maintenance and Other Operating Expenses are appropriations that have a specific and single purpose but with multiple sub-items. These appropriations are constitutional provided that the specific Programs, Activities, and Projects under these expenses have

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16 Supra note 1, at 552.

been submitted to Congress by the Department of Budget and Management. The sub-items may be added after the passage of the GAA with prior approval of the DBM.

Capital Outlays, on the other hand, which refer to "appropriations spent for the purchase of goods and services, the benefits of which extend beyond the fiscal year and which add to the assets of government, and may be broadly classified as follows: infrastructure outlays, equity contributions to government corporations, capital transfers to local government units, **and other capital outlays**."[17] First, for budgeting and accounting purposes, these various capital assets cannot be considered as having one purpose. Second, the term Capital Outlays is very broad as it covers "other capital outlays," which may include a road, bridge, dam, airport, seaport, railroad, data center, school building, museum, patrol ship, **and any asset with a useful life exceeding one year**. These projects necessarily require a substantial amount of appropriation in the national budget, and **therefore the specific projects or purposes and their corresponding amounts of appropriation must be identified in the GAA.**

To repeat, as shown in Annex "A" of the 2014 GAA, the Unprogrammed Fund identified the programs and projects therefor and the corresponding specific amount allotted for each project. **The purpose of the appropriation is specific enough to allow the President to exercise the line-item veto power**. Accordingly, the Unprogrammed Fund in the 2014 GAA is not a lump-sum appropriation for multiple purposes, as defined in *Belgica I*, and therefore is constitutional as it complies with the requirements of a valid appropriation.

As to the Contingent Fund, E-Government Fund and Local Government Support Fund in the 2014 GAA, I do not find any constitutional infirmity in them. The Contingent Fund can cover any kind of calamity, natural or man-made. The Local Government Support Fund can cover any expenditure under MOOE. The Local Government Support Fund, like the Contingent Fund, covers any contingency and can help local government units that ran out of funds for their projects. The E-Government Fund can fund any expenditure that will bring government service to the electronic and digital age. The E-Government Fund has actually a single purpose, that is, all activities related to information and communications technology and the digitizing of government agencies. In all these, specific amounts of appropriation will be spent for specific purposes. These appropriations, which are by nature cannot be itemized but still have a single purpose, are constitutional.

To reiterate the rules on lump-sum appropriations, as established in the landmark case of *Belgica I*:

1. A lump-sum appropriation that allows the President to exercise his line item veto power is constitutional.

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17 https://www.dbm.gov.ph/wp-content/uploads/2012/03/PGB-B4.pdf (visited 1 October 2019).

2. A lump-sum appropriation that prevents the President from exercising his line item veto power is unconstitutional.

3. A lump-sum appropriation that, by its nature cannot be itemized but still has a single purpose, e.g. Calamity Fund and Contingent Fund, is constitutional.

4. A lump-sum appropriation that has a single purpose but multiple sub-items is constitutional, e.g. Personal Services and Maintenance and Other Operating Expenses. This is constitutional provided that the specific Programs, Activities, and Projects have been submitted to Congress by the Department of Budget and Management. The sub-items may be added after the passage of the GAA with prior approval of the DBM.

ACCORDINGLY, I vote to dismiss the petition. I vote to declare the Unprogrammed Fund, Contingent Fund, E-Government Fund, and the Local Government Support Fund in the 2014 General Appropriations Act constitutional since they all comply with the requirements of a valid appropriation, and **they are not the singular lump-sum appropriations for multiple purposes constitutionally prohibited in *Belgica I*.**

ANTONIO T. CARPIO
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court