Republic of the Philippines
Supreme Court
Manila

EN BANC

ANG NARS PARTY-LIST, represented by Congresswoman LEAH PRIMITIVA G. SAMACO-PAQUIZ, and PUBLIC SERVICES LABOR INDEPENDENT CONFEDERATION, represented by its General Secretary ANNIE E. GERON, Petitioners,	**G.R. No. 215746**
	Present:
	BERSAMIN, *C.J.*, CARPIO, PERALTA, PERLAS-BERNABE, LEONEN, CAGUIOA, REYES, A., JR., GESMUNDO, REYES, J., JR., HERNANDO, CARANDANG, LAZARO-JAVIER, INTING,* and ZALAMEDA, *JJ.*
- versus -	
THE EXECUTIVE SECRETARY, THE SECRETARY OF BUDGET AND MANAGEMENT, and THE SECRETARY OF HEALTH, Respondents.	Promulgated: October 8, 2019

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DECISION

CARPIO, *J.*:

The Case

Ang Nars Party-List (Ang Nars), represented by Congresswoman Leah Primitiva G. Samaco-Paquiz (Rep. Paquiz), and Public Services Labor Independent Confederation (PSLINK), represented by its General Secretary Annie E. Geron (Geron), filed a petition for certiorari and mandamus[1] before

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* On official leave.

[1] Under Rule 65 of the 1997 Rules of Civil Procedure.

this Court assailing the validity of Section 6 of Executive Order No. 811[2] (EO No. 811), with prayer for the Court to compel the Executive Secretary, the Secretary of Budget and Management, and the Secretary of Health (respondents) to implement Section 32 of Republic Act No. 9173[3] (R.A. No. 9173), otherwise known as the Philippine Nursing Act of 2002.

Ang Nars is "an accredited party-list organization that promotes the socio-economic, political, and professional rights of nurses with the responsibility and accountability to provide safe and quality nursing care to the Filipino people,"[4] while PSLINK is "an umbrella organization of 481 public sector unions representing over 85,000 public sectors in the government."[5] Ang Nars and PSLINK are collectively referred to here as petitioners.

The Antecedent Facts

On 21 October 2002, then President Gloria Macapagal-Arroyo (President Macapagal-Arroyo) approved R.A. No. 9173. Section 32 of R.A. No. 9173 provides:

> SEC. 32. *Salary.* - In order to enhance the general welfare, commitment to service and professionalism of nurses, the minimum base pay of nurses working in the public health institutions **shall not be lower than salary grade 15** prescribed under Republic Act No. 6758, otherwise known as the "Compensation and Classification Act of 1989": *Provided*, That for nurses working in local government units, adjustments to their salaries shall be in accordance with Section 10 of the said law. (Emphasis supplied)

On 28 July 2008, then Senate President Juan Ponce Enrile and then Speaker of the House of Representatives Prospero C. Nograles approved Joint Resolution No. 4, authorizing the President of the Philippines "to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and For Other Purposes." Joint Resolution No. 4 is a consolidation of House Joint Resolution No. 36 and Senate Joint Resolution No. 26 that were adopted by the House of Representatives and the Senate on 1 June 2009 and 2 June 2009, respectively.

On 17 June 2009, President Macapagal-Arroyo approved Joint Resolution No. 4, which provides:

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[2] Adopting the First Tranche of the Modified Salary Schedule of Civilian Personnel and Base Pay Schedule of Military and Uniformed Personnel in the Government, as well as the Modified Position Classification System Pursuant to Senate and House of Representatives Joint Resolution No. 4, s. 2009.

[3] An Act Providing for a More Responsive Nursing Profession, Repealing for the Purpose Act No. 7164, Otherwise Known as "The Philippine Nursing Act of 1991" And For Other Purposes.

[4] *Rollo*, p. 8.

[5] Id. at 9.

x x x x

(16) **Amendment of Existing Laws – The provisions of all laws**, decrees, executive orders, corporate charters, rules, regulations, circulars, approvals and other issuances or parts thereof that are **inconsistent with the provisions of this Joint Resolution such as, but not limited to** Republic Act No. 4670, Republic Act No. 7160, Republic Act No. 7305, Republic Act No. 8439, Republic Act No. 8551, Executive Order No. 107 dated June 10, 1999, Republic Act No. 9286, Republic Act No. 9166, **Republic Act No. 9173** and Republic Act No. 9433 **are hereby amended**.

All provisions of laws, executive orders, corporate charters, implementing rules and regulations prescribing salary grades for government officials and employees other than those in Section 8 of Republic Act No. 6758 are hereby repealed. (Emphasis supplied)

Also on 17 June 2009, President Macapagal-Arroyo signed EO No. 811 to implement Joint Resolution No. 4. Section 6 of EO No. 811 provides:

SECTION 6. Changes in Position Titles and Salary Grade Assignments of Certain Positions -

The position titles and salary grade assignments of the entry levels of the following positions are hereby modified:

Position Title	Salary Grade	
	From	To
Teacher I	10	11
Nurse I	**10**	**11**
Medical Officer I	14	16
Accountant I	11	12
[Legal Officer I] Attorney I	[14]	16

The DBM, in coordination with the Civil Service Commission (CSC), shall review the other levels of the above-listed positions and other classes of positions to determine their appropriate levels, and to allocate them to their proper salary grades.

Accordingly, the DBM, in coordination with the CSC, shall update the Index of Occupational Services, Occupational Groups, Classes, and Salary Grades, in accordance with organizational, technological, professional and other developments. (Emphasis supplied)

On 21 May 2014, Rep. Paquiz wrote a letter[6] to then Secretary Enrique T. Ona (Secretary Ona) of the Department of Health (DOH) inquiring about the non-implementation of Section 32 of R.A. No. 9173 mandating that the salary base pay for nurses shall be Salary Grade 15. On

[6] Id. at 42.

even date, Rep. Paquiz wrote a similar letter[7] to then Secretary Florencio B. Abad (Secretary Abad) of the Department of Budget and Management (DBM). Rep. Paquiz's identical letters to the DOH and the DBM stated:

> Greetings of peace and good health to you and your bureaucracy!
>
> ANG NARS advocates for "KALUSUGAN PARA SA BAYAN" through an empowered health workforce. We are passionate in our advocacy of improving the plight of our nurses especially those who struggle in precarious working conditions.
>
> The enactment of Republic Act No. 9173, otherwise known as "The Philippine Nursing Act of 2002", mandated that the minimum base pay of nurses shall be at least Salary Grade 15, to wit:
>
> > SEC. 32. Salary. In order to enhance the general welfare, commitment to service and professionalism of nurses[,] the minimum base pay of nurses working in the public health institutions shall not be lower than salary grade 15 prescribed under Republic Act No. 6758, otherwise known as the "Compensation and Classification Act of 1989": Provided, That for nurses working in local government units, adjustments to their salaries shall be in accordance with Section 10 of the said law.
>
> Thus, I would like to inquire about the **non-implementation of Salary Grade 15** as minimum base pay for nurses despite the fact that this provision has been in effect since 2002. x x x.
>
> I am hoping that we will all work together towards a healthier nation.[8] (Emphasis in the original)

On 27 May 2014, Secretary Ona replied, as follows:

> x x x x
>
> As per your communication letter received by our office last May 26, 2014, we would like to clarify that our staffing standards and salary grade classification at the Department is based on policies and guidelines issued by the Department of Budget and Management (DBM), pursuant to Republic Act No. 6758 "Compensation and Classification Act of 1989" and Senate Joint Resolution No. 26 "Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Classification System of Civilian Personnel...".
>
> The Manual on Position Classification and Compensation by the DBM prescribes a detailed classification process for every occupational group identified. This manual states as a general rule that: "only the duties and responsibilities of the position are considered in position classification..".

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[7] Id. at 44.
[8] Id. at 42, 44.

> Therefore, our agency has carefully studied and analyzed each of our position classification based on the tasks and weight of responsibility assigned for each position. Thus, a Nurse I position with a salary grade 11 might have less complicated tasks and fewer range of responsibility than a Nurse II with salary grade 15.[9]

Secretary Ona recommended that Rep. Paquiz direct her inquiries about the implementation of R.A. No. 9173 to the DBM.

On 26 May 2014, the DBM, through its then Officer-in-Charge and Assistant Director Edgardo M. Macaranas, replied to Rep. Paquiz stating that:

> x x x x
>
> Under Section 34 of National Budget Circular No. 521 implementing Senate and House of Representatives Joint Resolution No. 4, s. 2009, certain medical and allied medical positions requiring PRC license examination were re-allocated to give meaning to the long-honored truism of "equal pay for equal work" wherein positions which have substantially equal qualifications, skills, effort and responsibility under similar conditions shall be paid similar salaries. In particular, the entry level for Nurses in government hospitals was upgraded from SG-10 to SG 11.
>
> While the law expressly provides for SG-15 as the entry level for Nurses, its implementation would distort the hierarchical relationships of medical, and allied positions, as well as other positions in the bureaucracy.
>
> Likewise, the proposed upgrading of entry level 4,787 Nurse I positions would require additional PS costs of Php438,109,687 per annum that would further strain the government coffers. Necessarily, the corresponding higher level nurses and other allied medical positions will require additional PS cost.
>
> Meanwhile, the DBM has conducted a salary survey of the private sector for benchmark jobs predominant in the government like Nurses, Medical Officers and allied medical positions, among others. The survey results shall be the basis for recommendations for future salary adjustments.[10]

On 13 October 2014, Rep. Paquiz wrote then Secretary Leila De Lima (Secretary De Lima) of the Department of Justice (DOJ) requesting for a legal opinion on whether the DBM can disregard the implementation of Section 32 of R.A. No. 9173.[11] On 22 October 2014, Secretary De Lima declined to render a legal opinion and replied, as follows:

> x x x x

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[9] Id. at 43.
[10] Id. at 45-46.
[11] Id. at 47-51.

With regret, we have to decline to render the opinion requested.

It must be stressed, at the outset, that the ruling assailed was rendered by the bureau under the DBM specifically empowered to "classify positions and determine appropriate salaries for specific position classes and review the compensation benefits programs of agencies" and "design job evaluation programs." Since the DBM Secretary not only has "supervision and control" but also the power of "jurisdiction over all bureaus, offices, agencies and corporations" under his Department, which power necessarily include[s] the authority to "review, approve, reverse or modify acts and decisions of subordinate officials or units, the DBM Secretary, more than any other government official, is in the best position to assist your query. This is especially because it is the DBM that is mandated to be responsible both "for the formulation and implementation of the National Budget with the goal of attaining our national socio-economic plans and objectives" and "for the efficient and sound utilization of government funds and revenues to effectively achieve our country's development objectives."

Moreover, this Department cannot rule on the issue raised without passing upon National Budget Circular No. 521 which was issued by the DBM. Pursuant to settled practice and precedents, however, the Secretary of Justice does not render opinion or express any comment on questions involving the interpretation and application of duly issued administrative rules and regulations, unless requested by the promulgating agency, since such matters are best left to the determination of the said agency by reason of its knowledge of the specific intent and purposes of the issuance and the extent of the application thereof.

Finally, even if we want to rule on your query, we cannot. Under Section 38 of R.A. No. 9173, it is the Board of Nursing and the Professional Regulation Commission, in coordination with the DBM and Department of Health, among other concerned agencies, that is mandated to issue the law's Implementing Rule[]s and Regulations, and had, in fact, already issued one through Board of Nursing's Board Resolution No. 425, s. 2003.

Being essentially advisory in nature, the opinion of the Secretary of Justice need not bind the Board of Nursing (and the DBM), if that be their pleasure. As the government agencies primarily responsible for the implementation, administration and enforcement of the law (and Senate and House Resolution No. 4, s. 2009), they may, if they so decide, formally adopt the position they take on the issue raised and assume responsibility therefor.

It is suggested that you elevate the matter to the DBM Secretary.[12]

Finding the replies of the DOH, DBM, and DOJ unsatisfactory, petitioners filed this petition before the Court.

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[12] Id. at 58-59. Citations omitted.

The Issues

Petitioners raised the following issues in their petition:

(1) Whether respondents committed grave abuse of discretion and exceeded the authority granted by Joint Resolution No. 4 when they downgraded the salary grade for government nurses in Executive Order No. 811;

(2) Whether Joint Resolution No. 4 (Series of 2009) of the Senate and the House of Representatives amended Section 32 of the Philippine Nursing Act of 2002; and

(3) Whether respondents committed grave abuse of discretion in asserting that the entry level for government nurses should only be Salary Grade 11 and disregarding the provisions of [RA No. 9173].[13]

Petitioners allege that Joint Resolution No. 4 authorized the President to modify the compensation and position classification system of civilian personnel and the base pay schedule of military and uniformed personnel in the government. However, petitioners assert that Joint Resolution No. 4 did not authorize the President to revise the salary grade system under Republic Act No. 6758[14] or the Compensation and Position Classification Act of 1989, which in turn, was amended by R.A. No. 9173 which provided that the minimum base pay for government nurses, except for those employed under the Local Government Code, would be Salary Grade 15. Petitioners point out that Section 6 of Joint Resolution No. 4 expressly states that "[nothing] in [this] Joint Resolution shall be interpreted to reduce, diminish or, in any way, alter the benefits provided for in existing laws on Magna Carta benefits for specific officials and employees in government, regardless of whether said benefits have been already received or have yet to be implemented.[15] Petitioners point out that EO No. 811, being an administrative issuance, must be consistent with laws and should not amend or modify the law.

Petitioners further claim that Joint Resolution No. 4 did not amend Section 32 of R.A. No. 9173 and did not lower the entry level of nurses to Salary Grade 11. According to petitioners, respondents ignored and failed to implement Section 32 of R.A. No. 9173 despite the issuance of the Implementing Rules and Regulations of R.A. No. 9173 through the Board of Nursing's Board Resolution No. 425, series of 2003. In addition, petitioners argue that EO No. 811 violated the principle of non-diminution of salaries stipulated in Joint Resolution No. 4 since EO No. 811 also repealed Section

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[13] Id. at 19.

[14] An Act Prescribing A Revised Compensation and Position Classification System in the Government and For Other Purposes.

[15] *Rollo*, p. 13.

32 of R.A. No. 9173, a repeal that is beyond the authority given to the President under Joint Resolution No. 4.

In its Comment, the Office of the Solicitor General (OSG), representing respondents, questions petitioners' legal standing to file this petition. The OSG alleges that petitioners have not identified their personal stake in the outcome of the controversy. According to the OSG, petitioners are not nurses employed in the government who are entitled to the benefits under Section 32 of R.A. No. 9173 and are not directly affected by EO No. 811.

The OSG alleges that petitioners availed of the wrong remedy in filing this petition for certiorari and mandamus before this Court instead of a petition for declaratory relief. Further, the OSG asserts that, granting petitioners availed of the correct remedy, they violated the doctrine of hierarchy of courts in filing the petition directly with this Court.

The OSG argues that Section 32 of R.A. No. 9173 was amended, not by EO No. 811, but by Joint Resolution No. 4 adopted by both the Senate and the House of Representatives which has the force and effect of a law. The OSG adds that the issuance of EO No. 811 fixing the entry level of government nurses at Salary Grade 11 is a valid delegation of power under Joint Resolution No. 4. In addition, the OSG argues that there is no diminution in the salary of nurses because the minimum base pay under EO No. 811 is higher than the minimum base pay under Section 32 of R.A. No. 9173.

The OSG further alleges that petitioners cannot avail of the remedy of mandamus. The OSG asserts that Joint Resolution No. 4 repealed Section 32 of R.A. No. 9173. In addition, the DBM never implemented Section 32 of R.A. No. 9173 because its implementation would create inequality and distortion in the hierarchical relationships of the medical and allied positions and the other positions in the bureaucracy. Citing the occupational service of Medicine and Health Service, the OSG points out that the implementation of Section 32 of R.A. No. 9173 would result to a situation where a Nurse I would have a benchmark pay of Salary Grade 15 while a doctor designated as Medical Officer I would only have a benchmark pay of Salary Grade 14. Further comparing it to other positions, the OSG states that a lawyer designated as Legal Officer I has only a benchmark pay of Salary Grade 14. As such, the implementation of Section 32 of R.A. No. 9173 would cause inequality in compensation among government workers.

In their Reply, petitioners maintain that Rep. Paquiz has a legal standing to file the petition because as a party-list representative, she represents both government and private nurses and it is her right and duty to protect the welfare of her constituents. On the other hand, Geron represents the members of PSLINK who are government nurses. In addition, petitioners argue that they are taxpayers whose rights have been infringed by

respondents' grave abuse of discretion in disregarding Section 32 of R.A. No. 9173 as they are deprived of quality health care with the enforcement of Joint Resolution No. 4 and EO No. 811 which are invalid.

Petitioners likewise maintain that certiorari is the proper remedy in this case under the expanded jurisdiction of judicial power under Section 1, Article VIII of the 1987 Constitution. In addition, the delivery of health care services by the government is of paramount importance. Petitioners claim that the implementation of Section 32 of R.A. No. 9173 would have positive effects on nurses and could help prevent the flight of nurses abroad that results to a dearth of competent nurses in the public and private sectors in the country. Petitioners allege that Rep. Paquiz wrote both the DBM and the DOH but she did not receive any satisfactory response, thus justifying her filing of this petition before this Court. Petitioners further allege that respondents committed grave abuse of discretion in failing to implement Section 32 of R.A. No. 9173 and in issuing EO No. 811.

The Ruling of this Court

We uphold the continued validity of Section 32 of R.A. No. 9173 but dismiss petitioners' prayer to compel respondents to implement Section 32 of R.A. No. 9173.

Legal Standing to File the Petition

Respondents assail petitioners' legal standing before this Court.

Section 2, Rule 3 of the 1997 Rules of Civil Procedure provides that every action must be prosecuted or defended in the name of the real party in interest. In a private suit, the real party in interest is one who stands to be benefited or injured by the judgment in the suit or the party entitled to the reliefs sought in the suit.[16] In a public suit, the plaintiff acts as a representative of the general public.[17] This Court has explained:

> x x x. He may be a person who is affected no differently from any other person. He could be suing as a "stranger," or in the category of a "citizen," or "taxpayer." In either case, he has to adequately show that he is entitled to seek judicial protection. In other words, he has to make out a sufficient interest in the vindication of the public order and the securing of relief as a "citizen" or "taxpayer."[18]

We first discuss the legal standing of PSLINK.

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16 *David v. Macapagal-Arroyo*, 522 Phil. 705 (2006).
17 Id.
18 Id. at 756.

PSLINK is "a confederation of public sector unions of Philippine government employees, from different national government agencies, state universities and colleges, local government units, government-financial institutions, health, teachers, and special sectors."[19] PSLINK includes government nurses among its members. However, PSLINK is an unincorporated association. As such, it cannot be considered a juridical person or an entity authorized by law that can be a party to a civil action.[20] PSLINK lacks legal capacity to sue in its own name or in the name of the members of its association without proper authorization or valid authority from its members.[21] Hence, PSLINK has no legal standing to file this petition.

On the other hand, Rep. Paquiz filed the petition as the representative of Ang Nars Party-List that represents both government nurses who are directly affected by EO No. 811 as well as nurses from the private sector. The Court, explaining the legal standing of members of the Legislature, has ruled that this legal standing should pertain to questions on the validity of any official action that they claim to infringe on the prerogatives, powers, and privileges vested by the Constitution to their office.[22] Thus, the Court has declared:

> We emphasize that in a legislators' suit, those Members of Congress who are challenging the official act have standing only to the extent that the alleged violation impinges on their right to participate in the exercise of the powers of the institution of which they are members. Legislators have the standing "to maintain inviolate the prerogatives, powers, and privileges vested by the Constitution in *their office* and are allowed to sue to question the validity of any official action, which they claim infringes their prerogatives as legislators. As legislators, they must clearly show that there was a direct injury to their persons or the institution to which they belong.[23]

Nevertheless, there are instances when the Court, in its discretion, waives the requirements of *locus standi,* citing the transcendental importance of the cases before it as well as their far-reaching implications.[24] Indeed, the Court has held that the requirement of *locus standi,* being a mere procedural technicality, can be waived by the Court in the exercise of its discretion.[25] The Court has ruled that *locus standi* is a matter of procedure, and it has allowed some cases to be brought not by parties who have been personally injured by the operation of a law or any other government act but by concerned citizens, taxpayers or voters who actually sue in the public interest.[26]

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[19] <https://pslinkconfederation.wordpress.com/about/> (visited 12 October 2018).
[20] *Association of Flood Victims v. COMELEC,* 740 Phil. 472 (2014).
[21] Id.
[22] *Saguisag v. Ochoa, Jr.*, 777 Phil. 280 (2016).
[23] Id. at 357.
[24] *David v. Macapagal-Arroyo,* supra note16, citing *Araneta v. Dinglasan,* 84 Phil. 368 (1949) and *Aquino, Jr. v. Comelec,* 159 Phil. 328 (1975).
[25] *De Castro v. Judicial and Bar Council,* 629 Phil. 629 (2010).
[26] *Abaya v. Ebdane, Jr.,* 544 Phil. 645 (2007).

In *Bayan Muna v. Romulo,*[27] the Court ruled that petitioner, through its party-list representatives who filed the suit as concerned citizens, had the *locus standi* because they had complied with the qualifying conditions or specific requirements exacted under the *locus standi* rule.[28] As citizens, their interest in the subject matter of the petition was direct and personal.[29] In the case before us, Rep. Paquiz is duly-elected as party-list representative of Ang Nars Party-List which seeks to be the voice of the nurses in the country. Although she will not suffer direct injury because of the non-implementation of R.A. No. 9173, her interest is direct insofar as she is the duly-elected representative of nurses in the country. As such, the Court recognizes Rep. Paquiz's legal standing to file this petition on behalf of her constituents who are directly affected by the non-implementation of Section 32 of R.A. No. 9173.

Hierarchy of Courts and Petitioners' Remedy

To justify their action to file this petition directly with this Court, petitioners cite the transcendental importance of the issues involved.

The doctrine on the hierarchy of courts states that petitions for certiorari and prohibition, which fall under the concurrent jurisdiction of the regional trial courts, the higher courts, and this Court, must first be brought to the lowest court with jurisdiction.[30] In *Rayos v. The City of Manila,*[31] the Court held:

> Indeed, this Court, the Court of Appeals and the Regional Trial Courts exercise concurrent jurisdiction to issue writs of *certiorari*, prohibition, *mandamus, quo warranto, habeas corpus* and injunction. However, such concurrence in jurisdiction does not give petitioners unbridled freedom of choice of court forum. In *Heirs of Bertuldo Hinog v. Melicor* [495 Phil. 422, 432 (2005)], citing *People v. Cuaresma* [254 Phil. 418, 426-427 (1989)], the Court held:
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> > **This Court's original jurisdiction to issue writs of *certiorari* is not exclusive.** It is shared by this Court with [the] Regional Trial Courts and with the Court of Appeals. The concurrence of jurisdiction is not, however, to be taken as according to parties seeking any of the writs an absolute, unrestrained freedom of choice of the court to which application therefor will be directed. **There is after all a hierarchy of courts.** That hierarchy is determinative of the venue of appeals, and also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs. A becoming regard for that judicial hierarchy most certainly indicates that petitions for the issuance of

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27 656 Phil. 246 (2011).
28 Id.
29 Id.
30 *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc.*, 802 Phil. 116 (2016).
31 678 Phil. 952 (2011).

> extraordinary writs against first level ("inferior") courts should be filed with the Regional Trial Court, and those against the latter, with the Court of Appeals. **A direct invocation of the Supreme Court's original jurisdiction to issue these writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition.** This is [an] established policy. It is a policy necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.[32] (Emphasis in the original)

This rule, however, is subject to exceptions. In *The Diocese of Bacolod v. Commission on Elections,*[33] the Court stated:

> Thus, the doctrine of hierarchy of courts is not an iron-clad rule. This [C]ourt has "full discretionary power to take cognizance and assume jurisdiction [over] special civil actions for *certiorari* . . . filed directly with it for exceptionally compelling reasons or if warranted by the nature of the issues clearly and specifically raised in the petition." As correctly pointed out by petitioners, we have provided exceptions to this doctrine:
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> x x x x
>
> > A second exception is when the issues involved are of transcendental importance. In these cases, the imminence and clarity of the threat to fundamental constitutional rights outweigh the necessity for prudence. The doctrine relating to constitutional issues of transcendental importance prevents courts from the paralysis of procedural niceties when clearly faced with the need for substantial protection.
>
> x x x x
>
> Under the principle of hierarchy of courts, direct recourse to this Court is improper because the Supreme Court is a court of last resort and must remain to be so in order for it to satisfactorily perform its constitutional functions, thereby allowing it to devote its time and attention to matters within its exclusive jurisdiction and preventing the overcrowding of its docket. Nonetheless, the invocation of this Court's original jurisdiction to issue writs of *certiorari* has been allowed in certain instances on the ground of special and important reasons clearly stated in the petition, such as, (1) when dictated by the public welfare and the advancement of public policy; (2) when demanded by the broader interest of justice; (3) when the challenged orders were patent nullities; or (4) when analogous exceptional and compelling circumstances called for and justified the immediate and direct handling of the case.[34]

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[32] Id. at 957.
[33] 751 Phil. 301, 330-332 (2015).
[34] *Dy v. Judge Bibat-Palamos,* 717 Phil. 776, 782-783 (2013).

The case before us involves a law that has been approved in 2002 but has remained unimplemented up to the present. Seventeen years have passed and the nurses who stand to benefit from the implementation of Section 32 of R.A. No. 9173 continue to be in limbo as to the status of their salary grade classification. It is in the best interest of all concerned for the Court to put an end to this controversy by relaxing the rules on hierarchy of courts.

The OSG argues that petitioners' proper remedy could have been an action for declaratory relief before the appropriate Regional Trial Court under Rule 63 of the 1997 Rules of Civil Procedure. In *Spouses Imbong v. Ochoa*,[35] the Court declared:

> The respondents also assail the petitions because they are essentially petitions for declaratory relief over which the Court has no original jurisdiction. Suffice it to state that most of the petitions are praying for injunctive reliefs and so the Court would just consider them as petitions for prohibition under Rule 65, over which it has original jurisdiction. Where the case has far-reaching implications and prays for injunctive reliefs, the Court may consider them as petitions for prohibition under Rule 65.[36]

The same far-reaching implications are present in this case. Hence, we dispense with technicalities and give due course to this petition.

Effects of Joint Resolution No. 4

Under the Constitution, **only a bill can become a law**. Before a bill can become a law, it must pass three readings on separate days, unless the President certifies that its enactment is urgent. Section 26, Article VI of the 1987 Constitution provides:

> SEC. 26. (1) Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof.
>
> (2) **No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage**, except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency. Upon the last reading of a bill, no amendment thereto shall be allowed, and the vote thereon shall be taken immediately thereafter, and the *yeas* and *nays* entered in the Journal. (Emphasis supplied)

The purpose for which three readings on separate days are required is two-fold: (1) to inform the members of Congress of what they must vote on, and (2) to give the members of Congress notice that a measure is

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[35] 732 Phil. 1 (2014).
[36] Id. at 129-130.

progressing through the legislative process, allowing them and others interested in the measure to prepare their positions on the matter.[37]

The Senate Rules of Procedure enumerate the types of legislation as follows:

> **Types of Legislation**
>
> The types of measures that Congress may consider and act upon (in addition to treaties in the Senate) include bills and three kinds of resolutions. They are:
>
> **1. Bills**
>
> These are general measures, which if passed upon, may become laws. A bill is prefixed with S., followed by a number assigned the measure based on the order in which it is introduced. The vast majority of legislative proposals – recommendations dealing with the economy, increasing penalties for certain crimes, regulation on commerce and trade, etc., are drafted in the form of bills. They also include budgetary appropriation of the government and many others. When passed by both chambers in identical form and signed by the President or repassed by Congress over a presidential veto, they become laws.
>
> **2. Joint Resolutions**
>
> A joint resolution, like a bill, requires the approval of both houses and the signature of the President. It has the force and effect of a law if approved. There is no real difference between a bill and a joint resolution. The latter generally is used when dealing with a single item or issue, such as a continuing or emergency appropriations bill. Joint resolutions are also used for proposing amendments to the Constitution.
>
> **3. Concurrent Resolutions**
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> A concurrent resolution is usually designated in the Senate as S. Ct. Res. It is used for matters affecting the operations of both houses and must be passed in the same form by both of them. However, they are not referred to the President for his signature, and they do not have the force of law. Concurrent resolutions are used to fix the time of adjournment of a Congress and to express the "sense of Congress" on an issue.
>
> **4. Simple Resolutions**
>
> It is usually designated with P. S. Res. A simple resolution deals with matters entirely within the prerogative of one house of Congress, such as adopting or receiving its own rules. A simple resolution is not considered by the other chamber and is not sent to the President for his signature. Like a concurrent resolution, it has

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[37] *Tolentino v. Secretary of Finance*, 319 Phil. 755 (1995).

> no effect and force of a law. Simple resolutions are used occasionally to express the opinion of a single house on a current issue. Oftentimes, it is also used to call for a congressional action on an issue affecting national interest.[38]

The Senate's definition of a joint resolution states that it is no different from a bill. However, under Section 26(2), Article VI of the 1987 Constitution, only a bill can be enacted into law after following certain requirements expressly prescribed in the Constitution. A joint resolution is not a bill, and its passage does not enact the joint resolution into a law even if it follows the requirements expressly prescribed in the Constitution for enacting a bill into a law.

Section 64[39] of the Rules of the Senate states that "[p]rior to their final approval, bills and joint resolutions shall be read at least three times." However, Section 68[40] of the same Rules provides that "[n]o bill shall be passed by the Senate unless it has passed three (3) readings **on separate days** x x x."[41] There is no express provision in the Rules of the Senate that applies Section 68 to Joint Resolutions. The approval process under Section 68 only applies to bills and not to joint resolutions. **In short, there is no express language in the Rules of the Senate that a joint resolution must pass three readings *on separate days*. Thus, the Senate can pass a joint resolution on three readings *on the same day*.** In contrast, Section 58[42] of

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[38] <https://www.senate.gov.ph/about/legpro.asp> (visited 12 October 2018).

[39] Section 64. Prior to their final approval, bills and joint resolutions shall be read at least three times.

[40] Section 68. No bill shall be passed by the Senate unless it has passed three (3) readings on separate days, and printed copies thereof in its final form have been distributed to the members three (3) days before its passage, except when the President of the Philippines certifies to the necessity of its immediate enactment to meet a public calamity or emergency pursuant to Section 26, Subsection 2, Article VI of the Constitution.

A bill or joint resolution filed as a substitute or a consolidated version of a bill or joint resolution previously certified by the President pursuant to Section 26, Subsection 2, Article VI of the Constitution shall likewise be certified for it to be considered for immediate enactment by the Senate.

[41] Rules 64 and 68 of the 14th Rules of the Senate, during which Joint Resolution No. 4 was approved, state:

Rule 64. Prior to their final approval, bills and joint resolutions shall be read at least three times.

Rule 68. No bill shall be passed by the Senate unless it has passed three (3) readings on separate days, and printed copies thereof in its final form have been distributed to the members three (3) days before its passage, except when the President of the Philippines certifies to the necessity of its immediate enactment to meet a public calamity or emergency pursuant to Section 26, Subsection 2, Article VI of the Constitution.

A bill or joint resolution filed as a substitute or a consolidated version of a bill or joint resolution previously certified by the President pursuant to Section 26, Subsection 2, Article VI of the Constitution shall likewise be certified for it to be considered for immediate enactment by the Senate.

[42] Section 58. *Third Reading.* – A bill or joint resolution approved on Second Reading shall be included in the Calendar of Bills and Joint Resolutions for Third Reading. On the Third Reading of a bill or joint resolution, no amendment thereto shall be allowed. Nominal voting thereon shall be done immediately and the result shall be entered in the Journal. Explanation of votes shall be allowed only after the announcement by the Secretary General of the results of the nominal voting: *Provided,* That no other motions shall be considered until after the explanation of votes, if any.

No bill or joint resolution shall become law unless it passes three (3) readings on separate days and printed copies thereof in its final form are distributed to the Members three (3) days before its passage

the Rules of the House of Representatives states that "[n]o bill or joint resolution shall become law unless it passes three (3) readings **on separate days** and printed copies thereof in its final form are distributed to the Members three (3) days before its passage except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency."[43]

In any event, **neither the Rules of the Senate nor the Rules of the House of Representatives can amend the Constitution which recognizes that only a bill can become a law**. However, a joint resolution can be part of the implementation of a law as provided in the law itself. A joint resolution can also be treated as a recommendation to the Executive on how the law can be implemented.

The Position Paper for the Senate of the Philippines states that bills and joint resolutions, for all practical purposes, are treated alike procedurally. According to the Senate, it is not uncommon to find a proposed piece of legislation, in identical language, introduced in the Senate as a Senate bill and in the House as a joint resolution, and vice versa. The Senate added that while at one time or another, there might have been definite distinctions between the two types of proposed legislation, they have for all practical purposes been lost.

On the other hand, the House of Representatives asserts that a joint resolution possesses the force of law if it resembles a bill as to form and procedure for adoption. The House of Representatives states that the legislative intent to accord to a joint resolution the same effect as a law should be deemed controlling, notwithstanding the form and style of enactment. In addition, a joint resolution is treated in the same way as a bill under the Rules of the House of Representatives.

The Rules of the Senate and the Rules of the House of Representatives can change since a new Congress is not bound to adopt the rules of the previous Congress. In fact, the Senate and the House of Representatives of every Congress can amend their own Rules of Procedure at any time. In *Neri v. Senate Committee on Accountability of Public*

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except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency.

[43] A similar provision was provided under paragraph 2, Section 57 of the Rules of the House of Representatives of the 14th Congress during which Joint Resolution No. 4 was approved. It states:

> Section 57. *Third Reading.* - A bill or joint resolution approved on Second Reading shall be included in the Calendar of Bills and Joint Resolutions for Third Reading. On the Third Reading of a bill or joint resolution, no amendment thereto shall be allowed. Nominal voting thereon shall be done immediately and the result shall be entered in the Journal. All bills and joint resolutions can be recommitted to the appropriate committees before final approval on Third Reading.
>
> No bill or joint resolution shall become law unless it passes three (3) readings on separate days and printed copies thereof in its final form are distributed to the Members three (3) days before its passage except when the President certifies to the necessity of its immediate enactment to meet a public calamity or emergency.

Officers and Investigations,[44] the Court sustained the OSG that "every Senate is distinct from the one before it or after it. Since Senatorial elections are held every three (3) years for one-half of the Senate's membership, the composition of the Senate also changes by the end of each term. **Each Senate may thus enact a different set of rules as it may deem fit.**" Thus, in that case, the Court required the publication of the Rules of Procedure of the Senate Governing the Inquiries in Aid of Legislation for the 14th Congress.

The same rule applies to the House of Representatives. The House of every Congress must adopt its own rules at the start of its term. In particular, the House is admittedly not a continuing body since the terms of all Members of the House end at the same time upon the expiration of every Congress. Thus, upon the expiration of every Congress, the Rules of Procedure of the House also expire. That is why Section 1, Rule 1 of the Rules of the House of Representatives of the 17th Congress, adopted on 25 July 2016, provides: "**After the oath-taking of the newly-elected Speaker, the body shall proceed to the adoption of the rules of the immediately preceding Congress to govern its proceedings until the approval and adoption of the rules of the current Congress.**"

Again, the Constitution provides that only a bill can become a law. When a bill is proposed, either in the Senate or in the House of Representatives, the public is immediately informed that there is a proposal being considered which, if it becomes a law, can bind them. It is imperative for the public to know when a bill is being considered so that they can send their comments, proposals, or objections to the bill. This is in consonance with the requirement on transparency in public transactions under Section 28, Article II of the 1987 Constitution which provides that "[s]ubject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest." If a joint resolution is proposed instead of a bill, the public will not be alerted that there is a proposed legislation, and a law can pass stealthily without notice to the public.

Sections 24 and 25, Article VI of the 1987 Constitution, on legislative appropriations, likewise refer **only to bills**. These Sections state:

> SEC. 24. All appropriation, revenue or tariff **bills**, **bills** authorizing increase of the public debt, **bills** of local application, and private **bills** shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments.
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> SEC. 25. (1) The Congress may not increase the appropriations recommended by the President for the operation of the Government as specified in the budget. The form, content, and manner of preparation of the budget shall be prescribed by law.

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[44] 572 Phil. 554, 661 (2008). Emphasis supplied

(2) No provision or enactment shall be embraced in the general **appropriations bill** unless it relates specifically to some particular appropriation therein. Any such provision or enactment shall be limited in its operation to the appropriation to which it relates.

(3) The procedure in approving appropriations for the Congress shall strictly follow the procedure for approving appropriations for other departments and agencies.

(4) A special **appropriations bill** shall specify the purpose for which it is intended, and shall be supported by funds actually available as certified by the National Treasurer, or to be raised by a corresponding revenue proposal therein.

(5) No law shall be passed authorizing any transfer of appropriations; however, the President, the President of the Senate, the Speaker of the House of Representatives, the Chief Justice of the Supreme Court, and the heads of Constitutional Commissions may, by law, be authorized to augment any item in the General Appropriations Law for their respective offices from savings in other items of their respective appropriations.

(6) Discretionary funds appropriated for particular officials shall be disbursed only for public purposes to be supported by appropriate vouchers and subject to such guidelines as may be prescribed by law.

(7) If, by the end of any Fiscal Year, the Congress shall have failed to pass the **General Appropriations Bill** for the ensuing Fiscal Year, the General Appropriations Law for the preceding Fiscal Year shall be deemed re-enacted and shall remain in force and effect until the **General Appropriations Bill** is passed by the Congress. (Emphasis supplied)

In addition, Section 27(1), Article VI of the 1987 Constitution speaks of the veto power of the President over every bill which must be presented to him for approval. It provides:

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 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. (Emphasis supplied)

The veto power of the President **applies expressly only to bills**, not to joint resolutions. If a joint resolution is given the effect of, and treated as, a law, Congress will be taking away the veto power of the President since the Constitution only provides for the President's veto power over a bill. In short, Congress can enact a joint resolution into a law that is not subject to the President's veto power, a situation that clearly violates the Constitution.

The United States House of Representatives defines joint resolutions as follows:

> Joint Resolutions
>
> Joint resolutions may originate either in the House of Representatives or in the Senate. There is little practical difference between a bill and a joint resolution. Both are subject to the same procedure, except for a joint resolution proposing an amendment to the Constitution. On approval of such a resolution by two-thirds of both the House and Senate, it is sent directly to the Administrator of General Services for submission to the individual states for ratification. It is not presented to the President for approval. A joint resolution originating in the House of Representatives is designated "H.J. Res." followed by its individual number. Joint resolutions become law in the same manner as bills.[45]

On the other hand, the United States Senate describes joint resolutions as follows:

> Joint Resolutions
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> Joint Resolutions are designated H.J. Res or S.J. Res. and are followed by a number. Like a bill, a joint resolution requires the approval of both Chambers in identical form and the president's signature to become law. There is no real difference between a joint resolution and a bill. The joint resolution is generally used for continuing or emergency appropriations. Joint resolutions are also used for proposing amendments to the Constitution; such resolutions must be approved by two-thirds of both Chambers and three-fourths of the states, but do not require the president's signature to become part of the Constitution.[46]

Indeed, under both the U.S. Senate and U.S. House of Representatives, there is no difference between a bill and a joint resolution. This practice, however, cannot be applied in this jurisdiction.

Article 1, Section 7 of the United States Constitution provides:

> Section 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

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[45] < https://www.house.gov/the-house-explained/the-legislative-process/bills-resolutions> (visited 18 October 2018).

[46] <https://www.senate.gov/legislative/common/briefing/leg_laws_acts.htm#2> (visited 18 October 2018).

> Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that 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 that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.
>
> **Every Order, Resolution, or Vote to which Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.**[47] (Emphasis supplied)

There is no counterpart provision in our 1935, 1973 and 1987 Constitutions insofar as "Order, Resolution or Vote" is concerned. All our Constitutions, including our present 1987 Constitution, have only provided that a "bill" can be enacted into law but have never provided that an "Order, Resolution or Vote" can also be enacted into law.

Justice Alfredo Benjamin S. Caguioa asserts that the Philippine Congress' concept of joint resolution is equivalent to the United States Senate's characterization of joint resolution as a piece of legislation that requires the approval of both chambers and is submitted to the President for possible signature as a law. Justice Caguioa declares:

> Additionally, the Philippine Congress' concept of joint resolution is **equivalent to the United States Senate's characterization of joint resolutions**, *i.e.*, a piece of legislation that "requires the approval of both chambers and is submitted (just as a bill) to the president for possible signature into law.[48] (Emphasis supplied)

Such interpretation by the United States Senate is in accordance with the U.S. Constitution where an "Order, Resolution or Vote" may be enacted into law. We cannot adopt in our jurisdiction the U.S. Senate's

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[47] <https://www.gpo.gov/fdsys/pkg/CDOC-110hdoc50/pdf/CDOC-110hdoc50.pdf> (visited 18 October 2018).

[48] Draft of 26 November 2018, p. 6.

characterization of joint resolutions even if we follow the same procedure in enacting a bill into law.

First, **what we are applying here is the Philippine Constitution, not the U.S. Constitution**. There is no language, express or implied, in all our Constitutions, including our present 1987 Constitution, providing that a joint resolution can be enacted into law if the same procedure for enacting a bill into law is followed. The language of the 1987 Constitution is plain, simple and clear: a bill can be enacted into law, and the same Constitution does not mention any other act or measure that can be enacted into law. There is no need for interpretation here but only application of the *Verba Legis* rule.

Second, granting that the 1935, 1973 and 1987 Philippine Constitutions have borrowed from the U.S. Constitution the basic system of government with three co-equal branches, our Constitutions have never adopted wholesale or verbatim the U.S. Constitution. Our Constitutions have adopted major parts, but not all parts, of the U.S. Constitution. The U.S. Constitution expressly recognizes that a "Bill," "Order, Resolution or Vote" can be enacted into law. What our Constitutions have adopted is that a bill can be enacted into law. Our Constitutions have never included the phrase "Order, Resolution or Vote" that appears in the U.S. Constitution. Applying the principle of *expressio unius est exclusio alterius*, the correct interpretation, if interpretation is required, is that our Constitutions recognize that only a bill can be enacted into law. The Court has explained this principle:

> It is a settled rule of statutory construction that the express mention of one person, thing, or consequence implies the exclusion of all others. The rule is expressed in the familiar maxim, *expressio unius est exclusio alterius.*
>
> The rule of *expressio unius est exclusio alterius* is formulated in a number of ways. One variation of the rule is the principle that what is expressed puts an end to that which is implied. *Expressum facit cessare tacitum.* **Thus, where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to other matters**.
>
> x x x x
>
> The rule of *expressio unius est exclusio alterius* and its variations are canons of restrictive interpretation. They are based on the rules of logic and the natural workings of the human mind. They are predicated upon one's own voluntary act and not upon that of others. They proceed from the premise that the legislature would not have made specified enumeration in a statute had the intention been not to restrict its meaning and confine its terms to those expressly mentioned.[49] (Emphasis supplied)

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[49] *Malinias v. Commission on Elections*, 439 Phil. 326, 335-336 (2002).

This principle particularly applies because a contrary interpretation will result in an absurdity.

Third, inserting by interpretation to our 1987 Constitution the phrase "Order, Resolution or Vote" in the U.S. Constitution will result in an absurdity. If a joint resolution can be enacted into law under the 1987 Constitution by simply following the procedure for enacting a bill into law, then an "Order x x x or Vote" can also be enacted into law by following the same procedure. An "Order x x x or Vote" being enacted into law by our Congress is as strange as it is absurd.

Fourth, applying in this jurisdiction by interpretation express provisions in the U.S. Constitution that do not appear in our Constitutions, including our present 1987 Constitution, sets an extremely dangerous precedent. Where the U.S. Constitution expressly specifies four grounds, and our Constitutions, including our present 1987 Constitution, only specify one of the four grounds, it would not only be absurd but also dangerous to interpret that the three other grounds are also incorporated into our Constitutions.

Justice Caguioa asserts that the Constitution does not preclude the passage into law of joint resolutions. Citing the history of the constitutional provision on the passage of laws, Justice Caguioa contends that the original proposed draft recommended by the 1934-1935 Constitutional Convention Committee on Legislative Power states that joint resolutions shall become law after undergoing the legislative process. According to Justice Caguioa, the term "joint resolutions" was removed when the Constitutional Convention decided to adopt a unicameral legislative system and the sub-committee modified the proposed provisions by deleting joint resolutions because there are no joint resolutions under a unicameral legislature. For Justice Caguioa, the deletion of the term "joint resolutions" in the 1935 Constitution, which deletion was later carried over to the 1935 and 1987 Constitutions, was deemed a "**clerical error**." No one, however, has pointed out this "**clerical error**" until now, after 84 long years from the adoption of the 1935 Constitution. The fact that the term "joint resolutions" was in the draft but was not included in the final version approved by the Constitutional Convention only means that the deletion of the term "joint resolutions" was deliberate and not a mere "**clerical error**." Incidentally, the terms "joint resolution" and "resolution" do not appear at all in any provision of the 1935 Constitution.

Assuming for the sake of argument that the framers of the 1935 Constitution committed this "**clerical error**," this "**clerical error**" should have been corrected by the framers of the 1973 and 1987 Constitutions. They did not because, very obviously, there was no "**clerical error**" at all. To repeat, no one ever complained about, or pointed out, this alleged "**clerical error**" except Justice Caguioa, and only now after more than eight (8) decades since the alleged "**clerical error**" was committed. No

constitutional law textbook writer, no decision of this Court, and no law journal article ever raised this alleged "**clerical error**." If in an enumeration of words in a draft, a word is removed from the final approved version, the logical conclusion is that the removal of the word was intentional. If indeed there was a "**clerical error**," this error appeared not only in one provision of the 1935 Constitution, but in all provisions of the 1935 Constitution where the word "bill" appeared seventeen (17) times in relation to proposed legislations. This would constitute a compendium of "**clerical errors**" in the fundamental law of the land which should have been the major focus of many law journal articles; yet, not a single article about such alleged "**clerical errors**" has ever been written.

Section 19(a) of the Jones Law of 1916, on the Procedure for Law-Making, provides:

> (a) Legislative journal and the veto power. – That each house of the Legislature shall keep a journal of its proceedings and, from time to time, publish the same; and the yeas and nays of the members of either house, on any question, shall, upon demand of one-fifth of those present, be entered on the journal, and every bill and joint resolution which shall have passed both houses shall, before it becomes a law, be presented to the Governor-General. If he approve[s] the same, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, which shall enter the objections at large on its journal and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house shall agree to pass the same, 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 elected to that house it shall be sent to the Governor-General, who, in case he shall then not approve, shall transmit the same to the President of the United States. The votes of each house shall be by the yeas and nays, and the names of the members voting for and against shall be entered [on] the journal. If the President of the United States approve[s] the same, he shall sign it and it shall become a law. If he shall not approve the same, he shall return it to the Governor-General, so stating, and it shall not become a law: *Provided*, That if any bill or joint resolution shall not be returned by the Governor-General as herein provided within twenty days (Sundays excepted) after it shall have been presented to him the same shall become a law in like manner as if he had signed it, unless the Legislature by adjournment prevents its return, in which case it shall become a law unless vetoed by the Governor-General within thirty days after adjournment: *Provided, further*, That the President of the United States shall approve or disapprove an act submitted to him under the provisions of this section within six months from and after its enactment and submission for its approval; and if not approved within such time, it shall become a law as if it had been specifically approved.

While a part of the 1935 Constitution was patterned after the Jones Law, **the final version of the 1935 Constitution did not adopt the term "joint resolutions."** While the Jones Law of 1916 required that "every bill and joint resolution which shall have passed both houses shall, before it

becomes a law, be presented to the Governor-General[,]" **the term "joint resolutions" was not adopted in the 1935 Constitution and in the succeeding 1973 and 1987 Constitutions**. Section 19(a) of the Jones Law of 1916 also referred to the power of the Governor-General to return the bill or joint resolution, with his objections, to the house in which it should have originated, which is similar, though to a limited extent, to the veto power of the President. However, the veto power of the President under the 1935, 1973 and 1987 Constitutions expressly refers only to bills and not to joint resolutions. The Court cannot expand the Constitution by inserting a term that is not expressly found in the Constitution.

In its First Progress Report dated 10 December 1968, Committee IV of the Constitutional Revision Project,[50] submitted its Draft of a Bicameral Legislative Department of a Presidential Type of Government.[51] Section 18 of the Draft states:

> SEC. [20] 18. (1) EVERY BILL PASSED BY [THE] CONGRESS SHALL, BEFORE IT BECOMES A LAW, BE PRESENTED TO THE PRESIDENT. IF HE APPROVES THE [SAME] BILL, HE SHALL SIGN IT; BUT IF NOT, HE SHALL RETURN IT WITH HIS OBJECTIONS TO THE HOUSE WHERE IT ORIGINATED, WHICH SHALL ENTER THE OBJECTIONS AT LARGE ON ITS JOURNAL AND PROCEED TO RECONSIDER IT. IF, AFTER [SUCH], THE RECONSIDERATION, [TWO-THIRDS] A MAJORITY OF ALL THE MEMBERS OF [SUCH] THE 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] A MAJORITY OF ALL THE MEMBERS OF THAT HOUSE, IT SHALL BECOME A LAW. IN ALL [SUCH] THOSE CASES, THE VOTES OF EACH HOUSE SHALL BE DETERMINED BY YEAS AND NAYS, AND THE NAMES OF THE MEMBERS VOTING FOR AND AGAINST SHALL BE ENTERED [ON] IN ITS JOURNAL. IF ANY BILL SHALL NOT BE RETURNED BY THE PRESIDENT AS HEREIN PROVIDED WITHIN TWENTY DAYS (SUNDAYS AND HOLIDAYS EXCEPTED) AFTER IT SHALL HAVE BEEN PRESENTED TO HIM, THE [SAME] BILL SHALL BECOME A LAW IN LIKE MANNER AS IF HE HAD SIGNED IT, UNLESS [THE] CONGRESS BY ADJOURNMENT PREVENTS ITS RETURN, IN WHICH CASE IT SHALL BECOME A LAW UNLESS VETOED BY THE PRESIDENT WITHIN THIRTY DAYS AFTER [ADJOURNMENT] IT SHALL HAVE BEEN PRESENTED TO HIM.

Clearly, this 1968 draft of the proposed revision to the 1935 Constitution mentions that only a bill can be enacted into law. No one can claim that the absence of the term "joint resolutions" in this 1968 draft is a "**clerical error**."

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[50] Chaired by Juan F. Rivera.

[51] Constitutional Revision Project, First Progress Report, pp. 79-80.

The term "joint resolutions" was not also included in the 1987 Constitution. The Court cannot dismiss the absence of such term as a mere "**clerical error**" because of its serious implication. The Court cannot simply insert a term in the Constitution that does not appear in the approved and ratified Constitution, on the ground that the framers of the Constitution committed a "**clerical error**," when the insertion of the term radically changes the substantive application and meaning of the Constitution. **The Court has already ruled that deletions in preliminary drafts of the Constitutional Convention are, at best, negative guides, which cannot prevail over the positive provisions of the finally adopted Constitution.**[52]

Justice Caguioa opines that the difference between a bill and a joint resolution is just a matter of nomenclature. According to Justice Caguioa, joint resolutions also go through the same process as bills. Joint resolutions go through the same process as bills only because Congress provides for the process under the Rules of Procedure of both the Senate and the House of Representatives. However, a new Congress is not bound to adopt the rules of procedure of the previous Congress. Moreover, the Senate or the House can at any time amend their rules of procedure to provide for a different procedure to pass joint resolutions.

A bill is, of course, vastly different from a joint resolution. *First*, a bill to be approved by Congress must pass three (3) readings on separate days. **There can be no deviation from this requirement, unless the President certifies the bill as urgent**. In contrast, Congress can approve a joint resolution in one, two or three readings, on the same day or on separate days, depending on the rules of procedure that the Senate or the House may, at their sole discretion, adopt.

Second, the Constitution requires that before a bill is approved, printed copies of the bill in its final form must be distributed to Members of the Senate and House three days before its passage. **There can be no deviation from this requirement, unless the President certifies the bill as urgent**. In contrast, a joint resolution can be approved on the same day, or several days after, the final printed copies are distributed to Members of the Senate and the House, depending on the rules of procedure that the Senate or the House may, at their sole discretion, adopt.

Third, a bill approved by Congress must be presented to the President for his signature or veto. **There can be no deviation from this**. In contrast, a joint resolution approved by Congress does not require the President's signature or veto, unless the Senate or the House, in their respective rules of procedure, at their sole discretion, requires such presentation to the President.

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[52] See *Chiongbian v. De Leon*, 82 Phil. 771 (1949).

Fourth, upon the last reading of a bill, no amendment is allowed, and voting on the bill shall immediately be taken. **There can be no deviation from this requirement.** In contrast, there is no such requirement in approving a joint resolution, unless the Senate and the House, at their sole discretion, adopt such requirement.

Fifth, **the procedure in enacting a bill into law is permanently fixed as prescribed by the Constitution and cannot be amended by any act of Congress.** In contrast, the procedure for passing a joint resolution is adopted separately by the Senate and the House, and can be changed at any time by the Senate or the House, respectively.

Under the theory of Justice Caguioa, whether a joint resolution can become a law or not depends on the procedure prescribed by the Senate or the House, which procedure may vary from one Congress to another, or may even change during the same Congress. Under this theory, if both the House and the Senate adopt the same procedure as provided in the Constitution for enactment of a bill into law, then a joint resolution can become a law. However, if either the Senate or the House does not adopt the same procedure as provided in the Constitution, then a joint resolution cannot become a law. **In short, it is the sole discretion of either the Senate or the House whether a joint resolution can become a law or not. This is not how the Constitution prescribes the enactment of a law.**

The Constitution unequivocally and mandatorily prescribes how a law is enacted, by expressly providing: "No bill passed by either House shall become a law unless it has passed three readings on separate days, and printed copies thereof in its final form have been distributed to its Members three days before its passage x x x." Congress has no power to amend this constitutional provision to transform, at the discretion of Congress, a joint resolution into a law by merely following the procedure prescribed by the Constitution for the enactment of a bill into a law. **The procedure for the enactment of a law cannot be made to depend on the vagaries of every Congress.**

According to Justice Caguioa, the Rules of the Senate allow the proposal of an appropriation, revenue or tax measure through a joint resolution even when the Constitution provides that public funds shall be paid out of the Treasury pursuant only to an appropriation made by law thus, making it clear that joint resolutions are treated by Congress as laws. This is clearly erroneous. *First*, Section 24, Article VI of the 1987 Constitution refers only to "**appropriation, revenue or tariff *bills*, *bills* authorizing increase of the public debt, *bills* of local application, and private *bills*.**" **Section 24 cannot be expanded by the Senate or the House, by inserting through their rules of procedure, the term "joint resolutions" in Section 24.**

Second, any practice, even if regularly done by Congress, is void if it violates the Constitution. An act of Congress or the Executive, even if repeated over time, cannot operate to amend or repeal any provision of the Constitution. Any rule of Congress requiring three readings for a joint resolution does not add any constitutional legitimacy so that a joint resolution can become a law. A joint resolution does not become a law by undergoing three readings because there is no specific provision in the 1987 Constitution providing that a joint resolution can become a law.

Justice Caguioa also calls our attention that the Court presumably recognized that Joint Resolutions 1 and 4 were considered laws because they were referred by the Court as Salary Standardization Laws II and III, respectively. The issue in *National Electrification Administration v. Commission on Audit*[53] is the NEA's acceleration of schedule of payment of Executive Order No. 389 and NBC No. 458. On the other hand, *Development Bank of the Philippines v. Commission on Audit*[54] is a case questioning COA's notice of disallowance of the Governance Forum Productivity Award. There was no issue as to any amendment effected by Joint Resolutions 1 and 4. The Court did not make any categorical pronouncement in those cases that it considers the Joint Resolutions as laws.

Justice Caguioa cites Part XLVI of R.A. No. 9524 (The General Appropriations Act of 2009), particularly Section 1(b) of the Special Provision on the Miscellaneous Personnel Benefits Fund (MPBF) which authorizes payment of "[s]alary adjustment and associated benefits and such other benefits as may be authorized by law or by the President of the Philippines." Precisely, the effectivity of Joint Resolution No. 4 is only as an implementing rule of R.A. No. 6758, and for as long as Congress funds the adjustments as it did in subsequent General Appropriation Acts, **which are themselves laws,** the salary increases can be implemented by a joint resolution. **For purposes, however, of repealing an existing law, there must be a repealing provision, or an irreconcilably inconsistent provision, in a subsequent valid law, not merely a joint resolution.**

The Court's attention is called to the United States case of *Immigration and Naturalization Service v. Chadha*[55] where U.S. Chief Justice Warren Burger, the *ponente* of the case, discussed the third paragraph of the U.S. Constitution which enumerates "Order, Resolution, or Vote" and the process of presentment and approval or disapproval by the President of the United States.

Immigration and Naturalization Service v. Chadha is an alien deportation case. The issue in this case is not the passing of a bill but the constitutionality of the act of the House of Representatives which vetoed, without the concurrence of the Senate, the Attorney General's suspension of

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[53] 427 Phil. 464 (2002).
[54] G.R. No. 210838, 3 July 2018.
[55] 462 U.S. 919 (1983).

Chadha's deportation. The case discussed the requirement of presentment of all legislation to the President before becoming a law. This case explained that the terms "resolution" and "vote" were added to avoid "the simple expedient of calling a proposed law a 'resolution' or 'vote' rather than a 'bill.'" Again, we do not have the same provision in our Constitution. We cannot just adopt the terms used in the U.S. Constitution as part of our own Constitution without any express provision adopted and ratified by the people. We cannot likewise adopt the intent of the framers of the U.S. Constitution without any act of the framers of our Constitution, ratified by the people, to incorporate the provisions of the U.S. Constitution in our Constitution.

Justice Caguioa also points out that the issue of the constitutionality of Joint Resolution No. 4 was not raised by petitioners in the present case. To recall, petitioners did raise specifically the issue of "**whether x x x Joint Resolution No. 4 (Series of 2009) of the Senate and the House of Representative[s] amended Section 32 of the Philippine Nursing Act of 2002.**"[56] This alone puts in issue the legal status of Joint Resolution No. 4 – whether it has the status of law that can amend or repeal Section 32 of R.A. No. 9173, a prior law. Moreover, the Advisory for the Oral Arguments of the present case enumerated the issues to be considered by the Court, thus:

> A. Whether Joint Resolution No. 4 has repealed Section 32 of Republic Act No. 9173:
>
> 1. Whether a joint resolution that followed the procedure of a bill passing into law is a law;
>
> 2. Whether Joint Resolution No. 4 followed the procedure of a bill passing into a law[.]
>
> B. If Joint Resolution No. 4 has not repealed Section 32 of Republic Act No. 9173, whether the Supreme Court can compel the respondents to pay the nurses their compensation under Salary Grade 15 as prescribed in Section 32 of Republic Act No. 9173[.][57]

In addition, the Court directed the Office of the Solicitor General to confer with the Senate of the Philippines and the House of Representatives for the submission of their position papers on whether a joint resolution can amend or repeal an existing law, and on how the passage of a bill into law compares with the passage of a joint resolution. **Thus, the constitutionality of Joint Resolution No. 4, which purports to repeal Section 32 of R.A. No. 9173, was clearly put in issue in this case.**

The Court cannot resolve the other issues raised in this petition without resolving the primordial issue of the constitutionality of Joint Resolution No. 4. The issues of the constitutionality of Joint Resolution No.

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[56] *Rollo*, p. 19.
[57] Id. at 200.

4 and whether it can be considered a law are necessarily intertwined with the issue of whether it amended or repealed Section 32 of R.A. No. 9173. Hence, it is necessary for the Court to consider the validity and effect of Joint Resolution No. 4 for a complete determination of the issues raised by petitioners.

Republic Act No. 6758 (R.A. No. 6758)[58] provides for the periodic review of the compensation rates for government employees. Section 3 of R.A. No. 6758 states:

> Section 3. *General Provisions.* – The following principles shall govern the Compensation and Position Classification System of the Government:
>
> (a) All government personnel shall be paid just and equitable wages; and while pay distinctions must necessarily exist in keeping with work distinctions, the ratio of compensation for those occupying higher ranks to those at lower ranks should be maintained at equitable levels, giving due consideration to higher percentage of increases to lower level positions and lower percentage increases to higher level positions;
>
> (b) Basic compensation for all personnel in the government and government-owned or controlled corporations and financial institutions shall generally be comparable with those in the private sector doing comparable work, and must be in accordance with prevailing laws on minimum wages;
>
> (c) The total compensation provided for government personnel must be maintained at a reasonable level in proportion to the national budget;
>
> (d) **A review of government compensation rates, taking into account possible erosion in purchasing power due to inflation and other factors, shall be conducted periodically.** (Emphasis supplied)

After a review of compensation rates, any change in compensation rates should be done by enacting a new law. Any such change amends an existing law, and such amendment cannot be done by a mere joint resolution because a joint resolution cannot amend a law.

On 26 July 1993, Congress passed Joint Resolution No. 1. The Whereas clause of Joint Resolution No. 1 recognized that "the President has the authority to revise the existing compensation and position classification system under the standards and guidelines hereunder provided[.]" As such, it urged the President to revise R.A. No. 6758 to be more responsive to the economic needs of government personnel. Joint Resolution No. 1 further recognized that "it is necessary x x x to update the present compensation and position classification system to make it more responsive to the economic needs of government personnel, to provide adequate incentive to public servants and, ultimately, to improve the quality of public service[.]"

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[58] Compensation and Position Classification Act of 1989.

Joint Resolution No. 1 was proposed by the Executive-Legislative Committee composed of the Office of the President, the Senate, and the House of Representatives. The Executive-Legislative Committee was specifically formed to expedite legislative and executive action on salary adjustment. Joint Resolution No. 1 declared that funds amounting to ₱11.0 billion, representing compensation adjustments for 1994 had already been appropriated under Republic Act No. 7663, the 1994 General Appropriations Act (1994 GAA). **In short, when Joint Resolution No. 1 was passed by Congress, the compensation adjustments contemplated therein were already fully funded by *law* under the 1994 GAA. Thus, there was an existing law authorizing the payment of the compensation adjustments for fiscal year 1994, and such payment could be triggered by a joint resolution.**

On the other hand, Congress passed Joint Resolution No. 4[59] on 28 July 2008. In its Whereas clauses, Joint Resolution No. 4 stated that "the present Compensation and Position Classification System has to be revised further to update the same, to further encourage excellent performance and productivity, and to clearly distinguish differences in levels of responsibility and accountability among government officials and employees;" and that "the current structure of the Salary Schedule causes the overlapping of salaries between salary grades, thereby resulting to salary inequalities between positions[.]"

Joint Resolution No. 4, which seeks to change or revise the Compensation and Position Classification System established by existing law, cannot take effect without an amendatory law. The revisions prescribed in Joint Resolution No. 4 are not authorized by any existing law. Thus, an amendatory law is needed to implement the provisions of Joint Resolution No. 4 that seek to amend existing law.

In his Concurring and Dissenting Opinion in *Cawad v. Abad*,[60] Justice Marvic M.V.F. Leonen expressed the opinion that **"[t]he validity of Joint Resolution No. 4 was suspect because it revised several laws and was passed by Congress in a manner not provided by the Constitution.**"[61] Justice Leonen added:

> Joint resolutions are not sufficient to notify the public that a statute is being passed or amended. As in this case, the amendment to a significant empowering provision in Republic Act No. 7305 was done through a joint resolution. The general public will be misled when it attempts to understand the state of the law since it will also have to comb through joint resolutions in order to ensure that published Republic Acts have not been amended.[62]

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[59] Joint Resolution Authorizing the President of the Philippines to Modify the Compensation and Position Classification System of Civilian Personnel and the Base Pay Schedule of Military and Uniformed Personnel in the Government, and For Other Purposes.

[60] 764 Phil. 705 (2015).

[61] Id. at 757. Emphasis supplied.

[62] Id. at 759.

Under R.A. No. 6758, there are positions with specific salary grades. Section 8 of R.A. No. 6758 provides:

> Section 8. *Salaries of Constitutional Officials and Their Equivalent.* - Pursuant to Section 17, Article XVIII of the Constitution, the salary of the following officials shall be in accordance with the Salary Grades indicated hereunder:
>
> Salary Grades
>
> | | |
> |---|---|
> | President of the Philippines | 33 |
> | Vice-President of the Philippines | 32 |
> | President of the Senate | 32 |
> | Speaker of the House of Representatives | 32 |
> | Chief Justice of the Supreme Court | 32 |
> | Senator | 31 |
> | Member of the House of Representatives | 31 |
> | Associate Justices of the Supreme Court | 31 |
> | Chairman of a Constitutional Commission under Article IX, 1987 Constitution | 31 |
> | Member of a Constitutional Commission Under Article IX, 1987 Constitution | 30 |
>
> The Department of Budget and Management is hereby authorized to determine the officials who are of equivalent rank to the foregoing Officials, where applicable, and may be assigned the same Salary Grades based on the following guidelines:
>
> GRADE 33 – This Grade is assigned to the President of the Republic of the Philippines as the highest position in the government. No other position in the government service is considered to be of equivalent rank.
>
> GRADE 32 – This Grade is limited to the Vice-President of the Republic of the Philippines and those positions which head the Legislative and Judicial Branches of the government, namely: the Senate President, Speaker of the House of Representatives and Chief Justice of the Supreme Court. No other positions in the government service are considered to be of equivalent rank.
>
> GRADE 31 – This Grade is assigned to Senators and Members of the House of Representatives and those with equivalent rank as follows: the Executive Secretary, Department Secretary, Presidential Spokesman, Ombudsman, Press Secretary, Presidential Assistant with Cabinet Rank, Presidential Adviser, National Economic and Development Authority Director General, Court of Appeals Presiding Justice, Sandiganbayan Presiding Justice, Secretary of the Senate, Secretary of the House of Representatives, and President of the University of the Philippines.
>
> An entity with a broad functional scope of operations and wide area of coverage ranging from top level policy formulation to the provision of technical and administrative support to the units under it, with functions comparable to the aforesaid positions in the preceding paragraph, can be considered organizationally equivalent to a Department, and its head to that of a Department Secretary.

GRADE 30 – Positions included are those of Department Undersecretary, Cabinet Undersecretary, Presidential Assistant, Solicitor General, Government Corporate Counsel, Court Administrator of the Supreme Court, Chief of Staff of the Office of the Vice-President, National Economic and Development Authority Deputy Director General, Presidential Management Staff Executive Director, Deputy Ombudsman, Associate Justices of the Court of Appeals, Associate Justices of the Sandiganbayan, Special Prosecutor, University of the Philippines Executive Vice-President, Mindanao State University President, Polytechnic University of the Philippines President [] and President of other state universities and colleges of the same class.

Heads of councils, commissions, boards and similar entities whose operations cut across offices or departments or are serving a sizeable portion of the general public and whose coverage is nationwide or whose functions are comparable to the aforecited positions in the preceding paragraph, may be placed at this level.

The equivalent rank of positions not mentioned herein or those that may be created hereafter shall be determined based on these guidelines.

The Provisions of this Act as far as they upgrade the compensation of Constitutional Officials and their equivalent under this section shall, however, take effect only in accordance with the Constitution: Provided, That with respect to the President and Vice-President of the Republic of the Philippines, the President of the Senate, the Speaker of the House of Representatives, the Senators, and the Members of the House of Representatives, no increase in salary shall take effect even beyond 1992, until this Act is amended: Provided, further, That the implementation of this Act with respect to Assistant Secretaries and Undersecretaries shall be deferred for one (1) year from the effectivity of this Act and for Secretaries, until July 1, 1992: Provided, finally, That in the case of Assistant Secretaries, Undersecretaries and Secretaries, the salary rates authorized herein shall be used in the computation of the retirement benefits for those who retire under the existing retirement laws within the aforesaid period.

Section 9 of R.A. No. 6758, on the other hand, only provides for a benchmark position schedule for other positions. It states:

Section 9. *Salary Grade Assignments for Other Positions.* – For positions below the Officials mentioned under Section 8 hereof and their equivalent, whether in the National Government, local government units, government-owned or controlled corporations or financial institutions, the Department of Budget and Management is hereby directed to prepare the Index of Occupational Services to be guided by the Benchmark Position Schedule prescribed hereunder and the following factors: (1) the education and experience required to perform the duties and responsibilities of the positions; (2) the nature and complexity of the work to be performed; (3) the kind of supervision received; (4) mental and/or physical strain required in the completion of the work; (5) nature and extent of internal and external relationships; (6) kind of supervision exercised; (7) decision-making responsibility; (8) responsibility for accuracy of records and reports; (9) accountability for funds, properties and equipment; and (10) hardship, hazard and personal risk involved in the job.

Benchmark Position Schedule

Position Title	Salary Grade
Laborer I	1
Messenger	2
Clerk I	3
Driver I	3
Stenographer I	4
Mechanic I	4
Carpenter II	5
Electrician II	6
Secretary I	7
Bookkeeper	8
Administrative Assistant	8
Education Research Assistant I	9
Cashier I	10
Nurse I	10
Teacher I	10
Agrarian Reform Program Technologist	10
Budget Officer I	11
Chemist I	11
Agriculturist I	11
Social Welfare Officer I	11
Engineer I	12
Veterinarian I	13
Legal Officer I	14
Administrative Officer II	15
Dentist II	16
Postmaster IV	17
Forester III	18
Associate Professor I	19
Rural Health Physician	20

x x x x

In short, for other positions in the government, that is, for positions other than Constitutional officials and their equivalent, R.A. No. 6758 only created a benchmark to guide the DBM in its preparation of the Index of Occupational Services. The Benchmark Position Schedule may only be amended by law. A joint resolution cannot amend the Benchmark Position Schedule which is fixed by law. A joint resolution has only the effect of a recommendation to the government agency authorized to implement a law, in this case R.A. No. 6758. Section 9 of R.A. No. 6758 gives the DBM the authority to prepare the Index of Occupational Services for other positions in the government.

The Court is aware that Joint Resolution No. 1 changed the salary grades of Constitutional officials and their equivalent under Section 8 of R.A. No. 6758, which Joint Resolution 1 could not amend. However, this was already corrected when Joint Resolution No. 4 reverted to the salary grades prescribed under Section 8 of R.A. No. 6758. There is no inconsistency between Section 8 of R.A. No. 6758 and Joint Resolution

No. 4 insofar as the salary grades of Constitutional officials and their equivalent are concerned.

As regards the salary grade of nurses, the change in the salary grade was done through a law, R.A. No. 9173. The authority given to the DBM with respect to the salary grade of nurses was superseded by R.A. No. 9173, which provided for the new salary grade of nurses, starting at salary grade 15 as the minimum. R.A. No. 9173 cannot be amended by a mere joint resolution.

In their respective deliberations on Joint Resolution No. 4, both the Senate and the House of Representatives considered the implications of the proposed position classification for nurses under Section 32 of R.A. No. 9173. During the 12 May 2009 deliberations, Rep. Rufus B. Rodriguez raised the position classification of nurses under Section 32 of R.A. No. 9173, thus:

> REP. RODRIGUEZ. x x x.
>
> x x x x
>
> So, may I proceed now to the next set of officials that I would like to ask on, Mr. Speaker, and these will be the nurses and those in the public health system.
>
> I would like to ask, Mr. Speaker, the distinguished Sponsor: under the Magna Carta for Public Health Workers, the nurses, under the law, are supposed to already have a salary grade of 15. May I know what salary grade the nurses will have under this position classification plan?
>
> REP. CUA. Under the proposal, Mr. Speaker, the nurses will be receiving a salary grade of 11...
>
> REP. RODRIGUEZ. 11.
>
> REP. CUA. ...similar to that of teachers. And we feel that is the level that can be sustained at the moment, Mr. Speaker.
>
> REP. RODRIGUEZ. Mr. Speaker, my question is: would this Joint Resolution No. 9092, under Committee Report No. 9092, prevail over the expressed provision of law that mandates that nurses should have a salary level of 15.
>
> REP. CUA. Mr. Speaker, a joint resolution is a resolution that is supposed to be passed by both Houses and signed by the President. And from my understanding, this joint resolution, if it passes the scrutiny of both Houses and signed by the President, would have the force and effect of a law. And I think there is jurisprudence to that effect. And so, that being the case, if having the force and effect of a law, it would amend that Act.
>
> REP. RODRIGUEZ. Mr. Speaker, are we telling the public health sector, the nurses, that we are withdrawing what had been given them by the

previous Congress, Salary Grade 15, and we are demoting them to Salary Grade 11?

REP. CUA. Mr. Speaker, that is not exactly the sense of the resolution because at the end of the day, what counts really is the amount of salary that they will begin to bring home to their family.

While it is true that the salary grade that we are proposing is not a salary grade as provided for in the Nursing Act, you would note that the salary that they will receive or the take-home pay would be a substantial increase, more than 40 percent, Mr. Speaker.

Mr. Speaker, I understand fully the well-meaning intention at that time. However, it is unfortunate that, if that law would be implemented which will provide a Salary Grade 15, that will make salaries of nurses, for example a Nurse I, higher than the salary of a doctor. The doctor or Medical Officer I, under present legislation, receives Salary Grade 14.

We will have a scenario, Mr. Speaker, if that law is implemented, where a nurse, whose educational requirement is a four-year course, will be receiving a salary higher than a lawyer, whose educational qualification requires him to study for as long as eight years and pass the Bar.

We will have a scenario, Mr. Speaker, where a Nurse III for example, will receive a salary higher than the chief of the hospital. So, it is for this reason, Mr. Speaker, that implementing it, much as we want to because we understand the role that nurses play, may really endanger the entire compensation system which has been standardized and has been set at all levels with regard to qualification and responsibilities of the position holder, Mr. Speaker.

REP. RODRIGUEZ. Mr. Speaker, the reality is, we are losing our workers in the public health sector. They have been going out of the country and precisely because we have not been able to implement the Salary Grade 15 under the Nursing Act. The solution is not to demote the salary grade from 15 to 11 by the mere expedient of a joint resolution because a joint resolution, I believe, cannot amend the law.

Joint resolutions are, according to US jurisprudence, resolutions in Congress for small matters that are taken up by the Congress. In this case, there is already a law – the Nursing Act that provides for Salary Grade 15. The solution would have been to increase the salaries of doctors so that the doctors, who have labored so hard studying, would be able to get their due compensation.

Again, the health sector is very important for the well-being of the people. At the proper time, Mr. Speaker, I would propose that we have an amendment that we follow and implement the Nursing Act, instead of repealing the Nursing Act as far as the salary grade of nurses [is] concerned.

May I now go to another point, Mr. Speaker.

REP. CUA (J.). Mr. Speaker, at the proper time, we will have an opportunity to discuss that. But let me make a short comment to the proposal that the solution is to increase the salaries of the doctors, rather,

> to set the salary grade of doctors higher than that of nurses, which is being proposed as Salary Grade 15.
>
> Mr. Speaker, we have asked the DBM to make some calculations. If we adopt such a proposal, the budgetary implication of increasing the salaries of nurses to Salary Grade 15 and correspondingly increase the salaries of doctors to higher grades, would already mean a further requirement of more than ₱20 billion. And that is only with respect to the public health sector, not to consider the budgetary implication to say, lawyers and accountants who would naturally clamor for modification of their salary increase.
>
> Anyway, at the end of the day, Mr. Speaker, the salary grades, to my mind, is not the determining factor. The determining factor really is the amount of salaries that, at the end of the day or at the end of each pay day, a position holder brings home to his or her family. And we feel very strongly that, at the levels of salaries we are proposing, we have substantially increased the amount of salaries and thereby, improving his ability to cope with economic condition presently obtaining, Mr. Speaker.[63]

However, when Rep. Rodriguez proposed an amendment to upgrade the salary grade of nurses pursuant to R.A. No. 9173, the proposal was not carried.[64]

Similar considerations were made in the Senate. The 27 May 2009 deliberations[65] on Joint Resolution No. 4 showed that then Senator Alan Peter Cayetano expressed the view that contrary to the DBM's position, not elevating the nurses to Salary Grade 15 would perpetuate a wage distortion. Then Senator Edgardo Angara (Senator Angara), however, stated that the implementation of R.A. No. 9173 simultaneously with the salary standardization would widen the distortion of salaries within the allied health professions. He added that the implementation would affect almost 700,000 positions such as of lawyers and doctors, and the financial impact for the first year would amount to ₱137 billion. Senator Angara also pointed out that there was no move to grant Salary Grade 15 to nurses because it is not only beyond the capacity of the government to pay but also because of the gross distortion it would create within the nursing ranks and allied health professions. [66] Then Senator Pia Cayetano proposed amendments that included increasing the salary grade of nurses to Salary Grade 15. However, Senator Angara did not accept the proposal.[67]

The deliberations of 20 May 2009 also revealed the following exchange between Rep. Ocampo and Rep. Cua:

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[63] Congressional Record, Vol. 5, No. 72, 12 May 2009, pp. 132-133. <http://www.congress.gov.ph/legisdocs/congrec/14th/2nd/14C_2RS-72.pdf> (visited 12 October 2018).

[64] Id. at 308-309.

[65] Senate Journal, Session No. 81, pp. 2358-2359, 2369-2371. <http://www.senate.gov.ph/lisdata/1169012384!.pdf> (visited 12 October 2018).

[66] Id. at 2358-2359.

[67] Id. at 2370-2371.

REP. OCAMPO. Thank you for that explanation, Mr. Speaker, distinguished colleague.

This Representation raises this point to stress the fact that he stands on the importance of the legislature, its authority when it comes to the allocation of funds and particularly, if for salary adjustments of workers of the State. There would be no room for the assumption that it is the executive that would be practically telling Congress how to adjust or to regulate the pay and allowances that are pertinent to the workers of the government.

The other question pertains to previous legislations like the Magna Cartas — for health workers, for teachers, the Nursing Act and for other sectors — that have not been implemented thoroughly. And, it looks like under this joint resolution, there appears to be a conflict or difference in the adjustment to be made and created and all that, and thoroughly, as far as the health workers are concerned that they have been coordinating with this Representation, they are fearful that the gains that they have achieved in the Magna Carta for Health Workers, given the fact that it has not been fully implemented, may be further eroded.

And so, this Representation perceives [the] fact that there is a provision that says that benefits that would not be granted in the Magna Carta would not be disturbed or be lower than they are. But then the implementation of the joint resolution has ensured at the same time, the implementation of the Magna Carta?

REP. CUA. Yes, Mr. Speaker. As the Gentleman has mentioned, he is happy to know that there is a statement there ensuring that the Magna Carta benefits would not be disturbed. And this is a clear pronouncement of the policy that we would like to send. We are not touching, we are not going to reduce, we are not going to modify benefits that are already provided in the existing Magna Carta laws.

What we are just trying to say is that we are empowering the Department of Budget and Management to participate in the process so that the guidelines which are not uniformly set now be made uniform. That is all we are saying here. But we are very categorical in our statement, as you will read in one of the provisions, that the benefits of the Magna Carta laws will not be disturbed, Mr. Speaker.

REP. OCAMPO. Yes. Now, there is another aspect to that, with regard to authorizing the DBM to make the necessary guidelines, rules and regulations on the grant of Magna Carta benefits. Under the Magna Carta, they have consultative bodies, councils, departments and officials previously authorized, and these are being taken out in the joint resolution. Can it be possible to ensure that the representatives of the health workers, for instance, be properly given due cognizance and representation with the DBM? Is it possible for the resolution to be amended to retain, or that such bodies that would coordinate can be consultative to the DBM?

I am emphasizing this fact because the passage of the Magna Carta of Health Workers and of the Nurses Act [was] the by product of the assiduous work, lobbying and organizing, so that by their strength, they

were able to convince Congress to enact such laws that would provide them the just compensation and benefits.

Unfortunately, they have not been enjoying that because of the shortage of funds from the national government. So, can that, at least, enable to give them a voice whenever they think that the guidelines and actions of the DBM may be prejudicial to their interest that they would be appropriately hurt.

REP. CUA. Mr. Speaker.

REP. OCAMPO. That would entail possibly some amendments which can be introduced later.

REP. CUA. Yes, Mr. Speaker. Certainly, amendments can be proposed at the opportune time with regard to that and I will defer to the collective wisdom of the Chamber.

Let me explain this a little further, Mr. Speaker. If you will notice, we are not leaving the whole exercise to the DBM. There is a statement there that says, "DBM, in collaboration with the concerned agencies, will craft the guidelines." Certainly, concerned agencies will definitely protect the interest of their constituents, and what is going to happen here is that the DBM will just provide the balance, in a way, in the process. If you will note, in the earlier scheme of things, it was left completely to the discretion of the lead agency and because of that, the guidelines were not uniform. The guidelines were such that there is a bias towards the constituencies of the lead agency. Therefore, the benefits, in fact, in some cases were no longer appropriate. So in other words, we just want to put a balance here. We categorically say that the benefits already achieved by the employees after a long period of struggle will not be lost, Mr. Speaker. That is an assurance as it is enshrined in the statement that we put there, Mr. Speaker.

REP. OCAMPO. Thank you for that assurance and I hope that it would be properly provided. Also, with regard to hazard pay, possibly the provisions of the Magna Carta, the definition of those who will benefit by hazard pay is in the resolution, but the Magna Carta provides for hazard pay for those also categorized under the Magna Carta. Can there be an assurance that the same would apply, meaning to say, that none of those guaranteed hazard pay under the Magna Carta will not be denied?

REP. CUA. Yes, Mr. Speaker.

REP. OCAMPO. All right, thank you.

My last point is this: over the last several Congresses, when we were raising the issue of implementing the Magna Carta of Health Workers, or implementing the Nursing Act of 1992, even in the budget deliberations, the argument always presented was that there were no sufficient funds available to implement these legislations that have been mentioned earlier, that have been assiduously worked for, struggled for, and won by the health workers and the nurses.

The rationale or the justification for not implementing the legislations was that the government does not have funds. We have raised

> the issue of the huge amount of the national income being allotted for automatic servicing of foreign debts and other debts. And we have come closer to have a joint resolution calling for an audit of foreign debts so that we could determine what foreign loans could be renegotiated, could be condoned, could be forgotten altogether, so that we would be able to reduce the huge amount that had been annually excluded from the lump sum that is being the subject of appropriations. I reviewed in the earlier questions that the distinguished Sponsor had argued that we could not change that policy, the Automatic Appropriation Law, because it will have a negative impact on fiscal policies. I think, it has a negative impact in fiscal policies, precisely they are becoming lesser and lesser funds for social services on housing, health and education, and it is time that we revisit that.
>
> This Representation would like to make a strong point: Let us have the political will to look at the other side—review that weary argument that we will get in the losing end if we— we just say—adhere to the palabra de honor that we have to service all our debts, when even in the previous Congress, there had been items in the foreign loans that had been found to be undeserving of services and we had initial inaction to exclude from the servicing. This Representation strongly urges that we continue with that thrust of asserting the sovereign power of the legislature in behalf of our people, that we shall be throwing away the much needed funds that had been coming through the treasury only in servicing of debts that had not been beneficial to the people.
>
> With that manifestation, thank you, Mr. Speaker. I thank the distinguished Sponsor. [68]

An implementing resolution, like Joint Resolution No. 4, not being a separate law itself, cannot amend prior laws. Such implementing resolution can only implement the Salary Standardization Law, not repeal its enabling law or prior laws. Joint Resolution No. 4 can only recommend to the President in accordance with the authority given to the DBM under R.A. No. 6758. Thus, the amendatory language in paragraph 16 of Joint Resolution No. 4 cannot revise the salary grades in the Salary Standardization Law or in any other law like R.A. No. 9173. The amendatory language in said paragraph 16 can only amend prior congressional resolutions inconsistent with Joint Resolution No. 4.

Despite assurances that R.A. No. 9173 will not be affected, paragraph 16 of Joint Resolution No. 4 expressly amended provisions of R.A. No. 9173 that are inconsistent with said paragraph 16. Joint Resolution No. 4 also expressly repealed all provisions of law and implementing rules and regulations prescribing salary grades for government officials and employees other than those in Section 8 of R.A. No. 6758. To repeat, paragraph 16 of Joint Resolution No. 4 provides:

> x x x x

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[68] Congressional Record, Vol. 5, No. 76, 20 May 2009, pp. 299-300. <http://www.congress.gov.ph/legisdocs/congrec/14th/2nd/14C_2RS-76.pdf> (visited 12 October 2018).

> (16) **Amendment of Existing Laws – The provisions of all laws**, decrees, executive orders, corporate charters, rules, regulations, circulars, approvals and other issuances or parts thereof that are **inconsistent with the provisions of this Joint Resolution such as, but not limited to** Republic Act No. 4670, Republic Act No. 7160, Republic Act No. 7305, Republic Act No. 8439, Republic Act No. 8551, Executive Order No. 107 dated June 10, 1999, Republic Act No. 9286, Republic Act No. 9166, **Republic Act No. 9173** and Republic Act No. 9433 **are hereby amended**.
>
> **All provisions of laws, executive orders, corporate charters, implementing rules and regulations prescribing salary grades for government officials and employees other than those in Section 8 of Republic Act No. 6758 are hereby repealed.** (Emphasis supplied)

Again, this amendment or repeal cannot be effected through a mere joint resolution. Moreover, EO No. 811, not being a law, cannot also amend or repeal Section 32 of R.A. No. 9173. There can be no dispute whatsoever that EO No. 811, a mere presidential issuance, cannot amend or repeal a prior law. Nevertheless, despite the continued existence and validity of Section 32 of R.A. No. 9173, this Court cannot grant petitioners' prayer to compel respondents to implement Section 32 of R.A. No. 9173, **an implementation that requires the appropriation of public funds through a law**. The power of the purse belongs exclusively to Congress under Sections 24 and 25, Article VI of the 1987 Constitution.

Section 29(1), Article VI of the 1987 Constitution mandates: "No money shall be paid out of the Treasury except in pursuance of an appropriation made by law." **The power to appropriate public funds can only be made through a law, and the power to enact a law is a purely legislative power.** The Court cannot compel Congress to fund Section 32 of R.A. No. 9173 as the power to appropriate public funds is lodged solely in Congress. Unless Congress makes the necessary appropriation through a law, Section 32 of R.A. No. 9173 will remain an unfunded law, a situation that applies to many other laws.

Petitioners may lobby with Congress to fund through a law the implementation of Section 32 of R.A. No. 9173. Congress may also review R.A. No. 6758 and pass amendatory laws to reconcile the distortions in the salary grades of all government employees. This Court, however, cannot dictate upon Congress which, under the separation of powers, has the sole Constitutional power of the purse – the exclusive power to appropriate public funds.[69]

WHEREFORE, we **GRANT** the petition in part by declaring that Section 32 of Republic Act No. 9173 remains valid, and the provisions of paragraph 16 of Joint Resolution No. 4 dated 28 July 2008 and Section 6 of Executive Order No. 811 dated 17 June 2009, purporting to amend or repeal Section 32 of Republic Act No. 9173, are hereby declared **VOID** and

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[69] *Araullo III v. Aquino*, 737 Phil. 457 (2014).

UNCONSTITUTIONAL. However, we **DISMISS** the petition in part by refusing to compel the Executive Secretary, the Secretary of Budget and Management and the Secretary of Health to implement Section 32 of Republic Act No. 9173.

We **NOTE** the Motion-to-Intervene dated 28 May 2019 and **DISMISS** the Petition-in-Intervention dated 28 May 2019, both filed by the Philippine Nurses Association, Inc., on the ground that they were filed after the conclusion of the oral arguments.

SO ORDERED.

ANTONIO T. CARPIO
Associate Justice

WE CONCUR:

LUCAS P. BERSAMIN
Chief Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

I concur. See separate opinion.

MARVIC M.V.F. LEONEN
Associate Justice

See concurring & Dissenting opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

I join Justice Caguioa's separate opinion

ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

I join in the Separate and Concurring Opinion of Justice Caguioa

JOSE C. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

(on official leave)
HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

CERTIFICATION

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

LUCAS P. BERSAMIN
Chief Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court