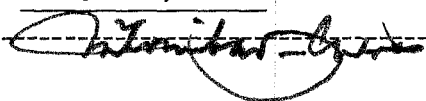


EN BANC

G.R. No. 233930 — ANNA MAY V. BAQUIRIN, MARY JANE N. REAL, MARIA LULU G. REYES, JOAN DYMPHNA G. SANIEL, and EVALYN G. URSUA, Petitioners, v. RONALD M. DELA ROSA, in his capacity as DIRECTOR GENERAL OF THE PHILIPPINE NATIONAL POLICE, JOSE LUIS MARTIN C. GASCON, in his capacity as CHAIRPERSON OF THE COMMISSION ON HUMAN RIGHTS, and VITALIANO AGUIRRE II, in his capacity as the SECRETARY OF THE DEPARTMENT OF JUSTICE, Respondents.

Promulgated:
July 11, 2023

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SEPARATE OPINION

LEONEN, J.:

Petitioners seek the issuance of a writ of continuing *mandamus* to compel respondents to: (i) investigate the extrajudicial killings committed under the government's anti-illegal drugs operations in 2016, and (ii) prevent further violations to the right to life.

I concur with the *ponencia's* resolution of the issues in this case. Nonetheless, I raise a few points on legal standing and continuing *mandamus*.

I

The *ponencia* held that petitioners have no legal standing to file the petition for *mandamus*, noting that they failed to allege they sustained any actual or impending injury caused by the respondents' nonperformance of their duties.¹ It discussed that petitioners cannot rely on the transcendental importance of the issues raised absent a showing of an actual case involving parties suffering an actual or imminent injury.²

I agree.

¹ *Ponencia*, p. 5.

² *Id.* at 6.



One of the requisites before courts may exercise its power of judicial review is legal standing of the party filing the case.³ A party with legal standing means they have a personal and substantial interest in a case—either they have been directly injured or will be directly injured because of the governmental act in question. It is necessary that they allege an actual or impending injury to themselves and not just a “generalized grievance.”⁴

Nonetheless, the rule allows for exceptions. In *Anti-Trapo Movement of the Philippines v. Land Transportation Office*:⁵

However, there are exceptions to the rule on legal standing. As summarized in *Funa v. Villar*, this Court takes cognizance of petitions from the following “non-traditional suitors” despite the lack of direct injury from the questioned governmental action for raising constitutional issues with crucial significance:

1. For *taxpayers*, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
2. For *voters*, there must be a showing of obvious interest in the validity of the election law in question;
3. For *concerned citizens*, there must be *a showing that the issues raised are of transcendental importance which must be settled early*; and
4. For legislators, there must be a claim that the official action complained of infringes their prerogatives as legislators. (Emphasis supplied)

Petitioners in this case invoke one of the exceptions: they are filing this petition as concerned citizens, raising issues of transcendental importance.

What constitutes transcendental importance depends on each case. However, this Court has recognized the following determinants:

- (1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised.⁶

³ *Anti-Trapo Movement of the Philippines v. Land Transportation Office*, G.R. No. 231540, June 27, 2022 [Per J. Leonen, Second Division].

⁴ *Kilusang Mayo Uno v. Aquino III*, G.R. No. 210500, April 2, 2019 [Per J. Leonen, *En Banc*].

⁵ *Anti-Trapo Movement of the Philippines v. Land Transportation Office*, G.R. No. 231540, June 27, 2022 [Per J. Leonen, Second Division].

⁶ *Id. citing In Re Supreme Court Judicial Independence*, 751 Phil. 30, 43 (2015) [Per J. Leonen, *En Banc*].

In any case, an assertion of transcendental importance must be supported by proper allegations. Furthermore, the case should only involve purely legal issues. It cannot lie when there are questions of fact. In *Gios-Samar, Inc. v. Department of Transportation and Communications*:⁷

[W]hen a question before the Court involves determination of a factual issue indispensable to the resolution of the legal issue, the Court will refuse to resolve the question regardless of the allegation or invocation of compelling reasons, such as the transcendental or paramount importance of the case. Such question must first be brought before the proper trial courts or the CA, both of which are specially equipped to try and resolve factual questions.⁸

In *Falcis III v. Civil Registrar General*,⁹ this Court further discussed that there should be proper and sufficient justifications for this Court to hear the case:

Diocese of Bacolod recognized transcendental importance as an exception to the doctrine of hierarchy of courts. In cases of transcendental importance, imminent and clear threats to constitutional rights warrant a direct resort to this Court. This was clarified in *Gios-Samar*. There, this Court emphasized that transcendental importance — originally cited to relax rules on legal standing and not as an exception to the doctrine of hierarchy of courts — applies only to cases with purely legal issues. We explained that the decisive factor in whether this Court should permit the invocation of transcendental importance is not merely the presence of “special and important reasons[,]” but the nature of the question presented by the parties. This Court declared that there must be no disputed facts, and the issues raised should only be questions of law:

....

Still, it does not follow that this Court should proceed to exercise its power of judicial review just because a case is attended with purely legal issues.

....

Appraising justiciability is typified by constitutional avoidance. This remains a matter of enabling this Court to act in keeping with its capabilities. Matters of policy are properly left to government organs that are better equipped at framing them. Justiciability demands that issues and judicial pronouncements be properly framed in relation to established facts:

Angara v. Electoral Commission imbues these rules with its libertarian character. Principally, *Angara* emphasized the liberal deference to another constitutional department or organ given the majoritarian and representative character of the political deliberations in their forums. It is not merely a judicial stance dictated by

⁷ *Gios-Samar, Inc. v. Department of Transportation and Communications*, 849 Phil. 120 (2019) [Per J. Jardeleza, *En Banc*].

⁸ *Id.* at 187.

⁹ *Falcis III v. Civil Registrar General*, G.R. No. 217910, September 3, 2019 [Per J. Leonen, *En Banc*].

courtesy, but is rooted on the very nature of this Court. Unless congealed in constitutional or statutory text and imperatively called for by the actual and non-controversial facts of the case, this Court does not express policy. This Court should channel democratic deliberation where it should take place.

xxx xxx xxx

Judicial restraint is also founded on a policy of conscious and deliberate caution. This Court should refrain from speculating on the facts of a case and should allow parties to shape their case instead. Likewise, this Court should avoid projecting hypothetical situations where none of the parties can fully argue simply because they have not established the facts or are not interested in the issues raised by the hypothetical situations. In a way, courts are mandated to adopt an attitude of judicial skepticism. What we think may be happening may not at all be the case. Therefore, this Court should always await the proper case to be properly pleaded and proved.

Thus, concerning the extent to which transcendental importance carves exceptions to the requirements of justiciability, “[t]he elements supported by the facts of an actual case, and the imperatives of our role as the Supreme Court within a specific cultural or historic context, must be made clear”:

They should be properly pleaded by the petitioner so that whether there is any transcendental importance to a case is made an issue. That a case has transcendental importance, as applied, may have been too ambiguous and subjective that it undermines the structural relationship that this Court has with the sovereign people and other departments under the Constitution. Our rules on jurisdiction and our interpretation of what is justiciable, refined with relevant cases, may be enough.

Otherwise, this Court would cede unfettered prerogative on parties. It would enable the parties to impose their own determination of what issues are of paramount, national significance, warranting immediate attention by the highest court of the land. (Citations omitted)

Thus, this Court shall refuse to exercise its power of judicial review on the mere allegation of transcendental importance by a party.

In this case, petitioners seek to compel the performance of particular acts relating to the anti-illegal drug operations of the government. However, it must first be determined whether or not respondents performed their duties as regards preventing and investigating violations of the right to life. These are factual issues that have not yet been resolved. Furthermore, “a proceeding



for the issuance of a writ of continuing *mandamus* necessarily requires the submission of evidence and evaluation of facts.”¹⁰

Thus, this case cannot fall within the exception to the rule on legal standing.

II

The *ponencia* dismissed the petition for *mandamus* finding that petitioners did not sufficiently establish that respondents neglected their duties as heads of the Philippine National Police, the Department of Justice, and the Commission on Human Rights in preventing and investigating violations of the right to life, in relation to the government’s anti-illegal drugs campaigns.¹¹

It noted that petitioners offered no concrete proof of their allegations, and did not even show that they requested the information they are seeking from respondents. It further noted that the Commission on Human Rights was able to submit records of their investigations on the extrajudicial killings and the police and military trainings they conducted.¹²

Further, the *ponencia* notes that a writ of continuing *mandamus* is available only in environmental cases, and requiring the submission of periodic reports to the Court violates the doctrine of separation of powers.¹³

I agree with the *ponencia*’s disposition.

A petition for *mandamus* may be filed against any person who unlawfully neglects to do a duty required by law and resulting from an office, trust, or station:

SECTION 3. *Petition for Mandamus.* — When any tribunal, corporation, board, officer or person *unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station*, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

¹⁰ *Abines v. Duque III*, G.R. No. 235891, September 20, 2022 [Per J. Leonen, *En Banc*].

¹¹ *Ponencia*, p. 6.

¹² *Id.* at 7.

¹³ *Id.* at 8.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.¹⁴

It is an extraordinary writ granted only to compel the performance of a ministerial duty, not a discretionary one. In *Akbayan Youth v. Commission on Elections*:¹⁵

As an extraordinary writ, the remedy of *mandamus* lies only to compel an officer to perform a ministerial duty, not a discretionary one; *mandamus* will not issue to control the exercise of discretion of a public officer where the law imposes upon him the duty to exercise his judgment in reference to any manner in which he is required to act, because it is his judgment that is to be exercised and not that of the court.¹⁶ (Citation omitted)

The rationale for this distinction is the doctrine of separation of powers. In *Abines v. Duque III*,¹⁷

[C]ourts will not interfere with discretionary acts of the Executive unless there is grave abuse of discretion amounting to lack or excess of jurisdiction. *Mandamus will not lie against the Legislative and Executive if it involves purely discretionary functions, as respect to a co-equal branch of government. In Knights of Rizal v. DMCI Homes, Inc.:*

It is the policy of the courts not to interfere with the discretionary executive acts of the executive branch unless there is a clear showing of grave abuse of discretion amounting to lack or excess of jurisdiction. *Mandamus does not lie against the legislative and executive branches or their members acting in the exercise of their official discretionary functions. This emanates from the respect accorded by the judiciary to said branches as co-equal entities under the principle of separation of powers.*

In *De Castro v. Salas*, we held that no rule of law is better established than the one that provides that *mandamus will not issue to control the discretion of an officer or a court when honestly exercised and when such power and authority is not abused.*

Only in highly exceptional cases does this Court grant *mandamus* to compel actions involving judgment and discretion. Even then, the Court can only order a party "to act, but not to act one way or the other." (Emphasis supplied, citations omitted)

This same principle applies to the issuance of writs of continuing *mandamus*.

¹⁴ A.M. No. 19-10-20-SC (2019), Rule 65, sec. 3. 2019 Amendments to the 1997 Rules of Civil Procedure.

¹⁵ 407 Phil. 618 (2001) [Per J. Buena, *En Banc*].

¹⁶ *Id.* at 646.

¹⁷ G.R. No. 235891, September 20, 2022 [Per J. Leonen, *En Banc*].

The current rule allowing for writs of continuing *mandamus* is A.M. No. 09-6-8-SC, or the Rules of Procedure for Environmental Cases. Writs of continuing *mandamus* are “issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.”¹⁸

When it is granted, a writ of continuing *mandamus* requires the performance of an act or several acts for the full satisfaction of a judgment.

SECTION 7. *Judgment.* — If warranted, the court shall grant the privilege of the writ of continuing *mandamus* requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.

SECTION 8. *Return of the Writ.* — The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

It thus calls for the Court to retain jurisdiction to ensure continuous and effective compliance of the final judgment. In *Dolot v. Paje*.¹⁹

Under the Rules, after the court has rendered a judgment in conformity with Rule 8, Section 7 and such judgment has become final, the issuing court still retains jurisdiction over the case to ensure that the government agency concerned is performing its tasks as mandated by law

¹⁸ A.M. No. 09-6-8-SC (2010), Rule 1, sec. 4(c). Rules of Procedure for Environmental Cases. *See also* Rule 8, sec. 1, which provides:

Section 1. *Petition for Continuing Mandamus.* — When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

¹⁹ 716 Phil. 458 (2013) [Per J. Reyes, *En Banc*].

and to monitor the effective performance of said tasks. It is only upon full satisfaction of the final judgment, order or decision that a final return of the writ shall be made to the court and if the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket. A writ of continuing *mandamus* is, in essence, a command of continuing compliance with a final judgment as it “permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court’s decision.”²⁰

In *Abogado v. Department of Environment and Natural Resources*:²¹

The writ is essentially a *continuing order of the court, as it:*

... “permits the court to retain jurisdiction after judgment in order to ensure the successful implementation of the reliefs mandated under the court’s decision” and, in order to do this, “the court may compel the submission of compliance reports from the respondent government agencies as well as avail of other means to monitor compliance with its decision.”

Nonetheless, courts must remain watchful of the respect due to co-equal branches of government. The writ does not warrant the exercise of *supervisory powers over administrative agencies, or any branch of the executive and legislative departments*. They are limited to monitoring the execution of the final judgment.

However, requiring the periodic submission of compliance reports does not mean that the court acquires supervisory powers over administrative agencies. This interpretation would violate the principle of the separation of powers since courts do not have the power to enforce laws, create laws, or revise legislative actions. The writ should not be used to supplant executive or legislative privileges. Neither should it be used where the remedies required are clearly political or administrative in nature.

For this reason, every petition for the issuance of a writ of continuing *mandamus* must be clear on the guidelines sought for its implementation and its termination point. Petitioners cannot merely request the writ’s issuance without specifically outlining the reliefs sought to be implemented and the period when the submission of compliance reports may cease.²²

I wish to emphasize that courts ought to hesitate, if not altogether avoid, the issuance of writs of continuing *mandamus*. Its nature is a precarious one, tantamount to a borderline violation of the constitutional canon of separation of powers.²³

²⁰ *Id.* at 473.

²¹ *Abogado v. Department of Environment and Natural Resources*, G.R. No. 246209, September 3, 2019 [Per J. Leonen, *En Banc*].

²² *Id.*

²³ *Angara v. Electoral Commission*, 63 Phil. 139, 156 (1936) [Per J. Laurel, *En Banc*].

Other branches of government should be able to discharge their duties as they see fit. The writ of continuing *mandamus*, however, calls for this Court's continuous supervision over the exercise of the duties of the Executive and Legislative branches through compliance reports. All this, despite the principle that the courts defer to the technical knowledge, specialization, and expertise of administrative agencies on matters within their jurisdiction.²⁴

This Court cannot exercise supervisory powers over executive departments and agencies. These administrative agencies possess the competence, experience, and specialization in their respective fields. On the other hand, this Court does not have the expertise to resolve these technical issues. In *Knights of Rizal*, we held:

The Court cannot "substitute its judgment for that of said officials who are in a better position to consider and weigh the same in the light of the authority specifically vested in them by law." Since the Court has "no supervisory power over the proceedings and actions of the administrative departments of the government," it "should not generally interfere with purely administrative and discretionary functions." The power of the Court in *mandamus petitions does not extend "to direct the exercise of judgment or discretion in a particular way or the retraction or reversal of an action already taken in the exercise of either."*²⁵ (Emphasis supplied, citations omitted)

I thus find that the Executive and Legislative departments ought to be given the widest leeway to determine how best to address their duties.

Finally, in *Abines v. Duque III*,²⁶ this Court already denied the issuance of a writ of continuing *mandamus* in a case that is not anchored on a violation of an environmental law or right:

Foremost, petitioners cannot pray for the issuance of a writ of continuing *mandamus* because the controversy does not involve the enforcement or violation of an environmental law or right. While admitting that their cause of action does not arise in relation to an environmental law, petitioners bank on the importance and urgency of the relief sought. However, the Rules of Procedure on Environmental Cases clearly requires that the petition is anchored on a violation or enforcement of environmental law. This Petition mainly invokes alleged violations on the right to health. Thus, petitioners cannot resort to this kind of writ.

In any case, even if we treat this as a petition for *mandamus* under Rule 65 of the Rules of Court, it must still fail. The acts sought by the petitioners to be performed are not enjoined by law as a duty. They are not ministerial acts. (Emphasis supplied, citation omitted)

²⁴ See J. Leonen, Dissenting Opinion in *West Tower Condominium Corp. v. First Phil. Industrial Corp.*, 760 Phil. 304 (2015) [Per J. Velasco, Jr., *En Banc*].

²⁵ G.R. No. 235891, September 20, 2022 [Per J. Leonen, *En Banc*].

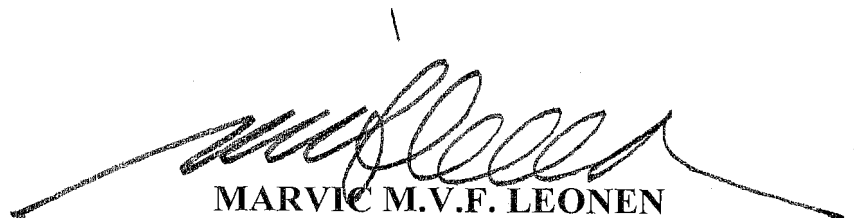
²⁶ *Id.*

In this case, clearly, petitioners are not raising any violation or calling for the implementation of an environmental law or right.

In my view, there may be other cases that will merit a special remedy consistent with our powers under Article VIII, Section 5 of the Constitution especially in relation to individual, group, or community rights mentioned in Articles II and Article III. This will, however, require clear and convincing allegations supported by sufficient proof that the other constitutional department or organ has repeatedly failed to provide for the necessary protections.

I do not discount the possibility of the existence of extrajudicial killings. However, unfortunately, in the petition, the factual basis was especially sparse.

ACCORDINGLY, I CONCUR in the result. I vote to **DISMISS** the Petition.



MARVIC M.V.F. LEONEN
Senior Associate Justice