

EN BANC

[G.R. No. 141284, August 15, 2000]

INTEGRATED BAR OF THE PHILIPPINES, PETITIONER, VS. HON. RONALDO B. ZAMORA, GEN. PANFILO M. LACSON, GEN. EDGAR B. AGLIPAY, AND GEN. ANGELO REYES, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

At bar is a special civil action for *certiorari* and prohibition with prayer for issuance of a temporary restraining order seeking to nullify on constitutional grounds the order of President Joseph Ejercito Estrada commanding the deployment of the Philippine Marines (the "Marines") to join the Philippine National Police (the "PNP") in visibility patrols around the metropolis.

In view of the alarming increase in violent crimes in Metro Manila, like robberies, kidnappings and carnappings, the President, in a verbal directive, ordered the PNP and the Marines to conduct joint visibility patrols for the purpose of crime prevention and suppression. The Secretary of National Defense, the Chief of Staff of the Armed Forces of the Philippines (the "AFP"), the Chief of the PNP and the Secretary of the Interior and Local Government were tasked to execute and implement the said order. In compliance with the presidential mandate, the PNP Chief, through Police Chief Superintendent Edgar B. Aglipay, formulated Letter of Instruction 02/2000^[1] (the "LOI") which detailed the manner by which the joint visibility patrols, called Task Force *Tulungan*, would be conducted.^[2] Task Force *Tulungan* was placed under the leadership of the Police Chief of Metro Manila.

Subsequently, the President confirmed his previous directive on the deployment of the Marines in a Memorandum, dated 24 January 2000, addressed to the Chief of Staff of the AFP and the PNP Chief.^[3] In the Memorandum, the President expressed his desire to improve the peace and order situation in Metro Manila through a more effective crime prevention program including increased police patrols.^[4] The President further stated that to heighten police visibility in the metropolis, augmentation from the AFP is necessary.^[5] Invoking his powers as Commander-in-Chief under Section 18, Article VII of the Constitution, the President directed the AFP Chief of Staff and PNP Chief to coordinate with each other for the proper deployment and utilization of the Marines to assist the PNP in preventing or suppressing criminal or lawless violence.^[6] Finally, the President declared that the services of the Marines in the anti-crime campaign are merely temporary in nature and for a reasonable period only, until such time when the situation shall have improved.^[7]

The LOI explains the concept of the PNP-Philippine Marines joint visibility patrols as follows:

2. PURPOSE:

The Joint Implementing Police Visibility Patrols between the PNP NCRPO and the Philippine Marines partnership in the conduct of visibility patrols in Metro Manila for the suppression of crime prevention and other serious threats to national security.

3. SITUATION:

Criminal incidents in Metro Manila have been perpetrated not only by ordinary criminals but also by organized syndicates whose members include active and former police/military personnel whose training, skill, discipline and firepower prove well-above the present capability of the local police alone to handle. The deployment of a joint PNP NCRPO-Philippine Marines in the conduct of police visibility patrol in urban areas will reduce the incidence of crimes specially those perpetrated by active or former police/military personnel.

4. MISSION:

The PNP NCRPO will organize a provisional Task Force to conduct joint NCRPO-PM visibility patrols to keep Metro Manila streets crime-free, through a sustained street patrolling to minimize or eradicate all forms of high-profile crimes especially those perpetrated by organized crime syndicates whose members include those that are well-trained, disciplined and well-armed active or former PNP/Military personnel.

5. CONCEPT IN JOINT VISIBILITY PATROL OPERATIONS:

a. The visibility patrols shall be conducted jointly by the NCRPO [National Capital Regional Police Office] and the Philippine Marines to curb criminality in Metro Manila and to preserve the internal security of the state against insurgents and other serious threat to national security, although the primary responsibility over Internal Security Operations still rests upon the AFP.

b. The principle of integration of efforts shall be applied to eradicate all forms of high-profile crimes perpetrated by organized crime syndicates operating in Metro Manila. This concept requires the military and police to work cohesively and unify efforts to ensure a focused, effective and holistic approach in addressing crime prevention. Along this line, the role of the military and police aside from neutralizing crime syndicates is to bring a wholesome atmosphere wherein delivery of basic services to the people and development is achieved. Hand-in-hand with this joint NCRPO-Philippine Marines visibility patrols, local Police Units are responsible for the maintenance of peace and order in their locality.

c. To ensure the effective implementation of this project, a provisional Task Force "TULUNGAN" shall be organized to provide the mechanism, structure, and procedures for the integrated planning, coordinating, monitoring and assessing the security situation.

The selected areas of deployment under the LOI are: Monumento Circle, North Edsa (SM City), Araneta Shopping Center, Greenhills, SM Megamall, Makati Commercial Center, LRT/MRT Stations and the NAIA and Domestic Airport.^[9]

On 17 January 2000, the Integrated Bar of the Philippines (the "IBP") filed the instant petition to annul LOI 02/2000 and to declare the deployment of the Philippine Marines, null and void and unconstitutional, arguing that:

I

THE DEPLOYMENT OF THE PHILIPPINE MARINES IN METRO MANILA IS VIOLATIVE OF THE CONSTITUTION, IN THAT:

A) NO EMERGENCY SITUATION OBTAINS IN METRO MANILA AS WOULD JUSTIFY, EVEN ONLY REMOTELY, THE DEPLOYMENT OF SOLDIERS FOR LAW ENFORCEMENT WORK; HENCE, SAID DEPLOYMENT IS IN DEROGATION OF ARTICLE II, SECTION 3 OF THE CONSTITUTION;

B) SAID DEPLOYMENT CONSTITUTES AN INSIDIOUS INCURSION BY THE MILITARY IN A CIVILIAN FUNCTION OF GOVERNMENT (LAW ENFORCEMENT) IN DEROGATION OF ARTICLE XVI, SECTION 5 (4), OF THE CONSTITUTION;

C) SAID DEPLOYMENT CREATES A DANGEROUS TENDENCY TO RELY ON THE MILITARY TO PERFORM THE CIVILIAN FUNCTIONS OF THE GOVERNMENT.

II

IN MILITARIZING LAW ENFORCEMENT IN METRO MANILA, THE ADMINISTRATION IS UNWITTINGLY MAKING THE MILITARY MORE POWERFUL THAN WHAT IT SHOULD REALLY BE UNDER THE CONSTITUTION.^[10]

Asserting itself as the official organization of Filipino lawyers tasked with the bounden duty to uphold the rule of law and the Constitution, the IBP questions the validity of the deployment and utilization of the Marines to assist the PNP in law enforcement.

Without granting due course to the petition, the Court in a Resolution,^[11] dated 25 January 2000, required the Solicitor General to file his Comment on the petition. On 8 February 2000, the Solicitor General submitted his Comment.

The Solicitor General vigorously defends the constitutionality of the act of the President in deploying the Marines, contending, among others, that petitioner has no legal standing; that the question of deployment of the Marines is not proper for judicial scrutiny since the same involves a political question; that the organization and conduct of police visibility patrols, which feature the team-up of one police officer and one Philippine Marine soldier, does not violate the civilian supremacy clause in the Constitution.

The issues raised in the present petition are: (1) Whether or not petitioner has legal standing; (2) Whether or not the President's factual determination of the necessity of calling the armed forces is subject to judicial review; and, (3) Whether or not the

calling of the armed forces to assist the PNP in joint visibility patrols violates the constitutional provisions on civilian supremacy over the military and the civilian character of the PNP.

The petition has no merit.

First, petitioner failed to sufficiently show that it is in possession of the requisites of standing to raise the issues in the petition. Second, the President did not commit grave abuse of discretion amounting to lack or excess of jurisdiction nor did he commit a violation of the civilian supremacy clause of the Constitution.

The power of judicial review is set forth in Section 1, Article VIII of the Constitution, to wit:

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

When questions of constitutional significance are raised, the Court can exercise its power of judicial review only if the following requisites are complied with, namely: (1) the existence of an actual and appropriate case; (2) a personal and substantial interest of the party raising the constitutional question; (3) the exercise of judicial review is pleaded at the earliest opportunity; and (4) the constitutional question is the *lis mota* of the case.^[12]

The IBP has not sufficiently complied with the requisites of standing in this case.

“Legal standing” or *locus standi* has been defined as a personal and substantial interest in the case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged.^[13] The term “interest” means a material interest, an interest in issue affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.^[14] The gist of the question of standing is whether a party alleges “such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.”^[15]

In the case at bar, the IBP primarily anchors its standing on its alleged responsibility to uphold the rule of law and the Constitution. Apart from this declaration, however, the IBP asserts no other basis in support of its *locus standi*. The mere invocation by the IBP of its duty to preserve the rule of law and nothing more, while undoubtedly true, is not sufficient to clothe it with standing in this case. This is too general an interest which is shared by other groups and the whole citizenry. Based on the standards above-stated, the IBP has failed to present a specific and substantial interest in the resolution of the case. Its fundamental purpose which, under Section 2, Rule 139-A of the Rules of Court, is to elevate the standards of the law profession and to improve the administration of justice is alien to, and cannot be affected by the deployment of the Marines. It should also be noted that the interest of the

National President of the IBP who signed the petition, is his alone, absent a formal board resolution authorizing him to file the present action. To be sure, members of the BAR, those in the judiciary included, have varying opinions on the issue. Moreover, the IBP, assuming that it has duly authorized the National President to file the petition, has not shown any specific injury which it has suffered or may suffer by virtue of the questioned governmental act. Indeed, none of its members, whom the IBP purportedly represents, has sustained any form of injury as a result of the operation of the joint visibility patrols. Neither is it alleged that any of its members has been arrested or that their civil liberties have been violated by the deployment of the Marines. What the IBP projects as injurious is the supposed "militarization" of law enforcement which might threaten Philippine democratic institutions and may cause more harm than good in the long run. Not only is the presumed "injury" not personal in character, it is likewise too vague, highly speculative and uncertain to satisfy the requirement of standing. Since petitioner has not successfully established a direct and personal injury as a consequence of the questioned act, it does not possess the personality to assail the validity of the deployment of the Marines. This Court, however, does not categorically rule that the IBP has absolutely no standing to raise constitutional issues now or in the future. The IBP must, by way of allegations and proof, satisfy this Court that it has sufficient stake to obtain judicial resolution of the controversy.

Having stated the foregoing, it must be emphasized that this Court has the discretion to take cognizance of a suit which does not satisfy the requirement of legal standing when paramount interest is involved.^[16] In not a few cases, the Court has adopted a liberal attitude on the *locus standi* of a petitioner where the petitioner is able to craft an issue of transcendental significance to the people.^[17] Thus, when the issues raised are of paramount importance to the public, the Court may brush aside technicalities of procedure.^[18] In this case, a reading of the petition shows that the IBP has advanced constitutional issues which deserve the attention of this Court in view of their seriousness, novelty and weight as precedents. Moreover, because peace and order are under constant threat and lawless violence occurs in increasing tempo, undoubtedly aggravated by the Mindanao insurgency problem, the legal controversy raised in the petition almost certainly will not go away. It will stare us in the face again. It, therefore, behooves the Court to relax the rules on standing and to resolve the issue now, rather than later.

The President did not commit grave abuse of discretion in calling out the Marines.

In the case at bar, the bone of contention concerns the factual determination of the President of the necessity of calling the armed forces, particularly the Marines, to aid the PNP in visibility patrols. In this regard, the IBP admits that the deployment of the military personnel falls under the Commander-in-Chief powers of the President as stated in Section 18, Article VII of the Constitution, specifically, the power to call out the armed forces to prevent or suppress lawless violence, invasion or rebellion. What the IBP questions, however, is the basis for the calling of the Marines under the aforestated provision. According to the IBP, no emergency exists that would justify the need for the calling of the military to assist the police force. It contends that no lawless violence, invasion or rebellion exist to warrant the calling of the Marines. Thus, the IBP prays that this Court "review the sufficiency of the factual basis for said troop [Marine] deployment."^[19]