

EN BANC

[G.R. No. 132601. October 12, 1998]

LEO ECHEGARAY y PILO, *petitioner*, vs. THE SECRETARY OF JUSTICE and THE DIRECTOR OF THE BUREAU OF CORRECTIONS, THE EXECUTIVE JUDGE OF THE REGIONAL TRIAL COURT OF QUEZON CITY AND THE PRESIDING JUDGE OF REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 104, *respondents*.

## DECISION

### *PER CURIAM:*

On June 25, 1996, this Court affirmed the conviction of petitioner Leo Echegaray y Pilo for the crime of rape of the 10 year-old daughter of his common-law spouse and the imposition upon him of the death penalty for the said crime.

Petitioner duly filed a Motion for Reconsideration raising mainly factual issues, and on its heels, a Supplemental Motion for Reconsideration raising for the first time the issue of the constitutionality of Republic Act No. 7659 (the death penalty law) and the imposition of the death penalty for the crime of rape.

On February 7, 1998, this Court denied petitioner's Motion for Reconsideration and Supplemental Motion for Reconsideration with a finding that Congress duly complied with the requirements for the reimposition of the death penalty and therefore the death penalty law is not unconstitutional.

In the meantime, Congress had seen it fit to change the mode of execution of the death penalty from electrocution to lethal injection, and passed Republic Act No. 8177, AN ACT DESIGNATING DEATH BY LETHAL INJECTION AS THE METHOD OF CARRYING OUT CAPITAL PUNISHMENT, AMENDING FOR THE PURPOSE ARTICLE 81 OF THE REVISED PENAL CODE, AS AMENDED BY SECTION 24 OF REPUBLIC ACT NO. 7659. Pursuant to the provisions of said law, the Secretary of Justice promulgated the Rules and Regulations to Implement Republic Act No. 8177 ("implementing rules") and directed the Director of the Bureau of Corrections to prepare the Lethal Injection Manual.

On March 2, 1998, petitioner filed a Petition for Prohibition, Injunction and/or Temporary Restraining Order to enjoin respondents Secretary of Justice and Director of the Bureau of Prisons from carrying out the execution by lethal injection of petitioner under R.A. No. 8177 and its implementing rules as these are unconstitutional and void for being: (a) cruel, degrading and inhuman punishment *per se* as well as by reason of its being (b) arbitrary, unreasonable and a violation of due process, (c) a violation of the Philippines' obligations under international covenants, (d) an undue delegation of legislative power by Congress, (e) an unlawful exercise by respondent Secretary of the power to legislate, and (f) an unlawful delegation of delegated powers by the Secretary of Justice to respondent Director.

On March 3, 1998, petitioner, through counsel, filed a Motion for Leave of Court to Amend and Supplement Petition with the Amended and Supplemental Petition attached thereto, invoking the additional ground of violation of equal protection, and impleading the Executive Judge of the Regional Trial Court of Quezon City and the Presiding Judge of the Regional Trial Court, Branch 104, in order to enjoin said public respondents from acting under the questioned rules by setting a date for petitioner's execution.

On March 3, 1998, the Court resolved, without giving due course to the petition, to require the respondents to COMMENT thereon within a non-extendible period of ten (10) days from notice, and directed the parties "to MAINTAIN the *status quo* prevailing at the time of the filing of this petition."

On March 10, 1998, the Court granted the Motion for Leave of Court to Amend and Supplement Petition, and required respondents to COMMENT thereon within ten (10) days from notice.

On March 16, 1998, petitioner filed a Very Urgent Motion (1) To clarify *Status Quo* Order, and (2) For the Issuance of a Temporary Restraining Order expressly enjoining public respondents from taking any action to carry out petitioner's execution until the petition is resolved.

On March 16, 1998, the Office of the Solicitor General filed a Comment (On the Petition and the Amended Supplemental Petition) stating that (1) this Court has already upheld the constitutionality of the Death Penalty Law, and has repeatedly declared that the death penalty is not cruel, unjust, excessive or unusual punishment; (2) execution by lethal injection, as authorized under R.A. No. 8177 and the questioned rules, is constitutional, lethal injection being the most modern, more humane, more economical, safer and easier to apply (than electrocution or the gas chamber); (3) the *International Covenant on Civil and Political Rights* does not expressly or impliedly prohibit the imposition of the death penalty; (4) R.A. No. 8177 properly delegated legislative power to respondent Director; and that (5) R.A. No. 8177 confers the power to promulgate the implementing rules to the Secretary of Justice, Secretary of Health and the Bureau of Corrections.

On March 17, 1998, the Court required the petitioner to file a REPLY thereto within a non-extendible period of ten days from notice.

On March 25, 1998, the Commission on Human Rights filed a Motion for Leave of Court to Intervene and/or Appear as *Amicus Curiae* with the attached Petition to Intervene and/or Appear as *Amicus Curiae* alleging that the death penalty imposed under R.A. No. 7659 which is to be implemented by R.A. No. 8177 is cruel, degrading and outside the limits of civil society standards, and further invoking (a) Article II, Section 11 of the Constitution which provides: "*The State values the dignity of every human person and guarantees full respect for human rights.*"; (b) Article III of the *Universal Declaration of Human Rights* which states that "*Everyone has the right to life, liberty and security of person,*" and Article V thereof, which states that "*No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.*"; (c) The *International Covenant on Civil and Political Rights*, in particular, Article 6 thereof, and the *Second Optional Protocol to the International Covenant on Civil and Political Rights Aiming At The Abolition of the Death Penalty*; (d) Amnesty International statistics

showing that as of October 1996, 58 countries have abolished the death penalty for all crimes, 15 countries have abolished the death penalty for ordinary crimes, and 26 countries are abolitionists *de facto*, which means that they have retained the death penalty for ordinary crimes but are considered abolitionists in practice that they have not executed anyone during the past ten (10) years or more, or in that they have made an international commitment not to carry out executions, for a total of 99 countries which are total abolitionists in law or practice, and 95 countries as retentionists; and (e) Pope John Paul II's encyclical, "*Evangelium Vitae*." In a Resolution dated April 3, 1998, the Court duly noted the motion.

On March 27, 1998, petitioner filed a Reply stating that (1) this Court is not barred from exercising judicial review over the death penalty *per se*, the death penalty for rape and lethal injection as a mode of carrying out the death penalty; (2) capital punishment is a cruel, degrading and inhuman punishment; (3) lethal injection is cruel, degrading and inhuman punishment, and that being the "most modern" does not make it less cruel or more humane, and that the Solicitor General's "aesthetic" criteria is short-sighted, and that the lethal injection is not risk free nor is it easier to implement; and (4) the death penalty violates the *International Covenant on Civil and Political Rights* considering that the Philippines participated in the deliberations of and voted for the *Second Optional Protocol*.

After deliberating on the pleadings, the Court gave due course to the petition, which it now resolves on the merits.

In the Amended and Supplemental Petition, petitioner assails the constitutionality of the mode of carrying out his death sentence by lethal injection on the following grounds:

I.

**DEATH BY LETHAL INJECTION IS UNCONSTITUTIONAL FOR BEING A CRUEL, DEGRADING AND INHUMAN PUNISHMENT.**

II.

**THE DEATH PENALTY VIOLATES THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS, WHICH IS PART OF THE LAW OF THE LAND.**

III.

**LETHAL INJECTION, AS AUTHORIZED UNDER REPUBLIC ACT NO. 8177 AND THE QUESTIONED RULES, IS UNCONSTITUTIONAL BECAUSE IT IS AN UNNECESSARY AND WANTON INFLECTION OF PAIN ON A PERSON AND IS, THUS, A CRUEL, DEGRADING, AND INHUMAN PUNISHMENT.**

IV.

**REPUBLIC ACT NO. 8177 UNDULY DELEGATES LEGISLATIVE POWER TO RESPONDENT DIRECTOR.**

V.

**RESPONDENT SECRETARY UNLAWFULLY DELEGATED THE LEGISLATIVE POWERS DELEGATED TO HIM UNDER REPUBLIC ACT NO. 8177 TO RESPONDENT DIRECTOR.**

VI.

**RESPONDENT SECRETARY EXCEEDED THE AUTHORITY DELEGATED TO HIM UNDER REPUBLIC ACT NO. 8177 AND UNLAWFULLY USURPED THE POWER TO LEGISLATE IN PROMULGATING THE QUESTIONED RULES.**

VII.

**SECTION 17 OF THE QUESTIONED RULES IS UNCONSTITUTIONAL FOR BEING DISCRIMINATORY AS WELL AS FOR BEING AN INVALID EXERCISE BY RESPONDENT SECRETARY OF THE POWER TO LEGISLATE.**

VIII.

**INJUNCTION MUST ISSUE TO PREVENT IRREPARABLE DAMAGE AND INJURY TO PETITIONER'S RIGHTS BY REASON OF THE EXISTENCE, OPERATION AND IMPLEMENTATION OF AN UNCONSTITUTIONAL STATUTE AND EQUALLY INVALID AND IMPLEMENTING RULES.**

Concisely put, petitioner argues that R.A. No. 8177 and its implementing rules do not pass constitutional muster for: (a) violation of the constitutional proscription against cruel, degrading or inhuman punishment, (b) violation of our international treaty obligations, (c) being an undue delegation of legislative power, and (d) being discriminatory.

The Court shall now proceed to discuss these issues *in seriatim*.

***I. LETHAL INJECTION, NOT CRUEL, DEGRADING OR INHUMAN PUNISHMENT UNDER SECTION 19, ARTICLE III OF THE 1987 CONSTITUTION.***

The main challenge to R.A. 8177 and its implementing rules is anchored on Article III, Section 19 (1) of the 1987 Constitution which proscribes the imposition of "cruel, degrading or inhuman" punishment. "The prohibition in the Philippine Bill against cruel and unusual punishments is an Anglo-Saxon safeguard against governmental oppression of the subject, which made its first appearance in the reign of William and Mary of England in 'An Act declaring the rights and liberties of the subject, and settling the succession of the crown,' passed in the year 1689. It has been incorporated into the Constitution of the United States (of America) and into most constitutions of the various States in substantially the same language as that used in the original

statute. The exact language of the Constitution of the United States is used in the Philippine Bill." "The counterpart of Section 19 (1) in the 1935 Constitution reads: 'Excessive fines shall not be imposed, nor cruel and inhuman punishment inflicted.' xxx In the 1973 Constitution the phrase became 'cruel or unusual punishment.' The Bill of Rights Committee of the 1986 Constitutional Commission read the 1973 modification as prohibiting 'unusual' punishment even if not 'cruel.' It was thus seen as an obstacle to experimentation in penology. Consequently, the Committee reported out the present text which prohibits 'cruel, degrading or inhuman punishment' as more consonant with the meaning desired and with jurisprudence on the subject."

Petitioner contends that death by lethal injection constitutes cruel, degrading and inhuman punishment considering that (1) R.A. No. 8177 fails to provide for the drugs to be used in carrying out lethal injection, the dosage for each drug to be administered, and the procedure in administering said drug/s into the accused; (2) R.A. No. 8177 and its implementing rules are uncertain as to the date of the execution, time of notification, the court which will fix the date of execution, which uncertainties cause the greatest pain and suffering for the convict; and (3) the possibility of "botched executions" or mistakes in administering the drugs renders lethal injection inherently cruel.

Before the Court proceeds any further, a brief explanation of the process of administering lethal injection is in order.

In lethal injection, the condemned inmate is strapped on a hospital gurney and wheeled into the execution room. A trained technician inserts a needle into a vein in the inmate's arm and begins an intravenous flow of saline solution. At the warden's signal, a lethal combination of drugs is injected into the intravenous line. The deadly concoction typically includes three drugs: (1) a nonlethal dose of sodium thiopental, a sleep inducing barbiturate; (2) lethal doses of pancuronium bromide, a drug that paralyzes the muscles; and (3) potassium chloride, which stops the heart within seconds. The first two drugs are commonly used during surgery to put the patient to sleep and relax muscles; the third is used in heart bypass surgery.

Now it is well-settled in jurisprudence that the death penalty *per se* is not a cruel, degrading or inhuman punishment. In the oft-cited case of *Harden v. Director of Prisons*, this Court held that "[p]unishments are cruel when they involve torture or a lingering death; but the punishment of death is not cruel, within the meaning of that word as used in the constitution. It implies there something inhuman and barbarous, something more than the mere extinguishment of life."

Would the lack in particularity then as to the details involved in the execution by lethal injection render said law "cruel, degrading or inhuman"? The Court believes not. For reasons hereafter discussed, the implementing details of R.A. No. 8177 are matters which are properly left to the competence and expertise of administrative officials.

Petitioner contends that Sec. 16 of R.A. No. 8177 is uncertain as to which "court" will fix the time and date of execution, and the date of execution and time of notification of the death convict. As petitioner already knows, the "court" which designates the date of execution is the trial court which convicted the accused, that is, after this Court has reviewed the entire records of the case and has affirmed the judgment of the lower court. Thereupon, the procedure is that the "judgment is entered fifteen (15) days after its promulgation, and 10 days thereafter, the records

are remanded to the court below including a certified copy of the judgment for execution. Neither is there any uncertainty as to the date of execution nor the time of notification. As to the date of execution, Section 15 of the implementing rules must be read in conjunction with the last sentence of Section 1 of R.A. No. 8177 which provides that the death sentence shall be carried out "not earlier than one (1) year nor later than eighteen (18) months from the time the judgment imposing the death penalty became final and executory, without prejudice to the exercise by the President of his executive clemency powers at all times." Hence, the death convict is in effect assured of eighteen (18) months from the time the judgment imposing the death penalty became final and executory wherein he can seek executive clemency and attend to all his temporal and spiritual affairs.

Petitioner further contends that the infliction of "wanton pain" in case of possible complications in the intravenous injection, considering and as petitioner claims, that respondent Director is an untrained and untested person insofar as the choice and administration of lethal injection is concerned, renders lethal injection a cruel, degrading and inhuman punishment. Such supposition is highly speculative and unsubstantiated.

First. Petitioner has neither alleged nor presented evidence that lethal injection required the expertise only of phlebotomists and not trained personnel and that the drugs to be administered are unsafe or ineffective. Petitioner simply cites situations in the United States wherein execution by lethal injection allegedly resulted in prolonged and agonizing death for the convict, without any other evidence whatsoever.

Second. Petitioner overlooked Section 1, third paragraph of R.A. No. 8177 which requires that all personnel involved in the execution proceedings should be trained prior to the performance of such task. We must presume that the public officials entrusted with the implementation of the death penalty (by lethal injection) will carefully avoid inflicting cruel punishment.

Third. Any infliction of pain in lethal injection is merely incidental in carrying out the execution of death penalty and does not fall within the constitutional proscription against cruel, degrading and inhuman punishment. "In a limited sense, anything is cruel which is calculated to give pain or distress, and since punishment imports pain or suffering to the convict, it may be said that all punishments are cruel. But of course the Constitution does not mean that crime, for this reason, is to go unpunished." The cruelty against which the Constitution protects a convicted man is cruelty inherent in the method of punishment, not the necessary suffering involved in any method employed to extinguish life humanely. Numerous federal and state courts of the United States have been asked to review whether lethal injections constitute cruel and unusual punishment. No court has found lethal injections to implicate prisoner's Eighth Amendment rights. In fact, most courts that have addressed the issue state in one or two sentences that lethal injection clearly is a constitutional form of execution. A few jurisdictions, however, have addressed the merits of the Eighth Amendment claims. Without exception, these courts have found that lethal injection does not constitute cruel and unusual punishment. After reviewing the medical evidence that indicates that improper doses or improper administration of the drugs causes severe pain and that prison officials tend to have little training in the administration of the drugs, the courts have found that the few minutes of pain does not rise to a constitutional violation.

What is cruel and unusual "is not fastened to the obsolete but may acquire meaning as public opinion becomes enlightened by a humane justice" and "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." Indeed, "[o]ther (U.S.) courts have focused on 'standards of decency' finding that the widespread use of lethal injections indicates that it comports with contemporary norms." the primary indicator of society's standard of decency with regard to capital punishment is the response of the country's legislatures to the sanction. Hence, for as long as the death penalty remains in our statute books and meets the most stringent requirements provided by the Constitution, we must confine our inquiry to the legality of R.A. No. 8177, whose constitutionality we duly sustain in the face of petitioner's challenge. We find that the legislature's substitution of the mode of carrying out the death penalty from electrocution to lethal injection infringes no constitutional rights of petitioner herein.

## *II. REIMPOSITION OF THE DEATH PENALTY LAW DOES NOT VIOLATE INTERNATIONAL TREATY OBLIGATIONS*

Petitioner assiduously argues that the reimposition of the death penalty law violates our international obligations, in particular, the *International Covenant on Civil And Political Rights*, which was adopted by the General Assembly of the United Nations on December 16, 1996, signed and ratified by the Philippines on December 19, 1966 and October 23, 1986, respectively.

Article 6 of the *International Covenant on Civil and Political Rights* provides:

*"1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.*

*2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the **most serious crimes** in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court."* (emphasis supplied)

*3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.*

*4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all-cases.*

*5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.*

*6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State. Party to the present Covenant."*

Indisputably, Article 6 of the Covenant enshrines the individual's right to life. Nevertheless, Article 6 (2) of the *Covenant* explicitly recognizes that capital punishment is an allowable limitation on the right to life, subject to the limitation that it be imposed for the "*most serious crimes*". Pursuant to Article 28 of the *Covenant*, a Human Rights Committee was established and under Article 40 of the *Covenant*, State parties to the *Covenant* are required to submit an initial report to the Committee on the measures they have adopted which give effect to the rights recognized within the *Covenant* and on the progress made on the enjoyment of those rights one year of its entry into force for the State Party concerned and thereafter, after five years. On July 27, 1982, the Human Rights Committee issued *General Comment No. 6* interpreting Article 6 of the *Covenant* stating that "(while) it follows from Article 6 (2) to (6) that State parties are not obliged to abolish the death penalty totally, they are obliged to limit its use and, in particular, to abolish it for other than the 'most serious crimes.'" Accordingly, they ought to consider reviewing their criminal laws in this light and, in any event, are obliged to restrict the application of the death penalty to the most serious crimes." The article strongly suggests (pars. 2 (2) and (6) that abolition is desirable. xxx The Committee is of the opinion that the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure." Further, the *Safeguards Guaranteeing Protection of Those Facing the Death Penalty* adopted by the Economic and Social Council of the United Nations declare that the ambit of the term 'most serious crimes' should not go beyond intentional crimes, with lethal or other extremely grave consequences.

The *Optional Protocol to the International Covenant on Civil and Political Rights* was adopted by the General Assembly of the United Nations on December 16, 1966, and signed and ratified by the Philippines on December 19, 1966 and August 22, 1989, respectively. The *Optional Protocol* provides that the Human Rights Committee shall receive and consider communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant.

On the other hand, the *Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty* was adopted by the General Assembly on December 15, 1989. **The Philippines neither signed nor ratified said document.** Evidently, petitioner's assertion of our obligation under the *Second Optional Protocol* is misplaced.

### ***III. THERE IS NO UNDUE DELEGATION OF LEGISLATIVE POWER IN R.A. NO. 8177 TO THE SECRETARY OF JUSTICE AND THE DIRECTOR OF BUREAU OF CORRECTIONS, BUT SECTION 19 OF THE RULES AND REGULATIONS TO IMPLEMENT R.A. NO. 8177 IS INVALID.***

The separation of powers is a fundamental principle in our system of government. It obtains not through express provision but by actual division in the framing of our Constitution. Each department of the government has exclusive cognizance of matters placed within its jurisdiction, and is supreme within its own sphere. Corollary to the doctrine of separation of powers is the principle of non-delegation of powers. "The rule is that what has been delegated, cannot be delegated or as expressed in a Latin maxim: *potestas delegata non delegari potest*." The recognized exceptions to the rule are as follows:



- (1) Delegation of tariff powers to the President under Section 28 (2) of Article VI of the Constitution;
- (2) Delegation of emergency powers to the President under Section 23 (2) of Article VI of the Constitution;
- (3) Delegation to the people at large;
- (4) Delegation to local governments; and
- (5) Delegation to administrative bodies.

Empowering the Secretary of Justice in conjunction with the Secretary of Health and the Director of the Bureau of Corrections, to promulgate rules and regulations on the subject of lethal injection is a form of delegation of legislative authority to administrative bodies.

The reason for delegation of authority to administrative agencies is the increasing complexity of the task of government requiring expertise as well as the growing inability of the legislature to cope directly with the myriad problems demanding its attention. The growth of society has ramified its activities and created peculiar and sophisticated problems that the legislature cannot be expected to attend to by itself. Specialization even in legislation has become necessary. On many problems involving day-to-day undertakings, the legislature may not have the needed competence to provide the required direct and efficacious, not to say, specific solutions. These solutions may, however, be expected from its delegates, who are supposed to be experts in the particular fields assigned to them.

Although Congress may delegate to another branch of the Government the power to fill in the details in the execution, enforcement or administration of a law, it is essential, to forestall a violation of the principle of separation of powers, that said law: (a) be complete in itself - it must set forth therein the policy to be executed, carried out or implemented by the delegate - and (b) fix a standard - the limits of which are sufficiently determinate or determinable - to which the delegate must conform in the performance of his functions.

Considering the scope and the definiteness of R.A. No. 8177, which changed the mode of carrying out the death penalty, the Court finds that the law sufficiently describes what job must be done, who is to do it, and what is the scope of his authority.

R.A. No. 8177 likewise provides the standards which define the legislative policy, mark its limits, map out its boundaries, and specify the public agencies which will apply it. It indicates the circumstances under which the legislative purpose may be carried out. R.A. No. 8177 specifically requires that "[t]he death sentence shall be executed under the authority of the Director of the Bureau of Corrections, **endeavoring so far as possible to mitigate the sufferings of the person under the sentence during the lethal injection as well as during the proceedings prior to the execution.**" Further, "[t]he Director of the Bureau of Corrections shall take steps to **ensure that the lethal injection to be administered is sufficient to cause the instantaneous death of the convict.**" The legislature also mandated that **"all personnel**

**involved in the administration of lethal injection shall be trained prior to the performance of such task."** The Court cannot see that any useful purpose would be served by requiring greater detail. The question raised is not the definition of what constitutes a criminal offense, but the mode of carrying out the penalty already imposed by the Courts. In this sense, R.A. No. 8177 is sufficiently definite and the exercise of discretion by the administrative officials concerned is, to use the words of Justice Benjamin Cardozo, canalized within banks that keep it from overflowing.

Thus, the Court finds that the existence of an area for exercise of discretion by the Secretary of Justice and the Director of the Bureau of Corrections under delegated legislative power is proper where standards are formulated for the guidance and the exercise of limited discretion, which though general, are capable of reasonable application.

It is also noteworthy that Article 81 of the Revised Penal Code which originally provided for the death penalty by electrocution was not subjected to attack on the ground that it failed to provide for details such as the kind of chair to be used, the amount of voltage, volume of amperage or place of attachment of electrodes on the death convict. Hence, petitioner's analogous argument with respect to lethal injection must fail.

A careful reading of R.A. No. 8177 would show that there is no undue delegation of legislative power from the Secretary of Justice to the Director of the Bureau of Corrections for the simple reason that under the Administrative Code of 1987, the Bureau of Corrections is a mere constituent unit of the Department of Justice. Further, the Department of Justice is tasked, among others, to take charge of the "administration of the correctional system." Hence, the import of the phraseology of the law is that the Secretary of Justice should supervise the Director of the Bureau of Corrections in promulgating the Lethal Injection Manual, in consultation with the Department of Health.

However, the Rules and Regulations to Implement Republic Act No. 8177 suffer serious flaws that could not be overlooked. To begin with, something basic appears missing in Section 19 of the implementing rules which provides:

"SEC. 19. *EXECUTION PROCEDURE*. - Details of the procedure prior to, during and after administering the lethal injection shall be set forth in a manual to be prepared by the Director. The manual shall contain details of, among others, the sequence of events before and after execution; procedures in setting up the intravenous line; the administration of the lethal drugs; the pronouncement of death; and the removal of the intravenous system.

Said manual shall be confidential and its distribution shall be limited to authorized prison personnel."

Thus, the Courts finds in the first paragraph of Section 19 of the implementing rules a veritable vacuum. The Secretary of Justice has practically abdicated the power to promulgate the manual on the execution procedure to the Director of the Bureau of Corrections, by not providing for a mode of review and approval thereof. Being a mere constituent unit of the Department of Justice, the Bureau of Corrections could not promulgate a manual that would not bear the

imprimatur of the administrative superior, the Secretary of Justice as the rule-making authority under R.A. No. 8177. Such apparent abdication of departmental responsibility renders the said paragraph invalid.

As to the second paragraph of section 19, the Court finds the requirement of confidentiality of the contents of the manual even with respect to the convict unduly suppressive. It sees no legal impediment for the convict, should he so desire, to obtain a copy of the manual. The contents of the manual are matters of public concern "which the public may want to know, either because these directly affect their lives, or simply because such matters naturally arouse the interest of an ordinary citizen." Section 7 of Article III of the 1987 Constitution provides:

"SEC. 7. The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transaction, or decisions, as well as to government research data used as a basis for policy development, shall be afforded the citizen, subject to such limitation as may be provided by law."

The incorporation in the Constitution of a guarantee of access to information of public concern is a recognition of the essentiality of the free flow of ideas and information in a democracy. In the same way that free discussion enables members of society to cope with the exigencies of their time, access to information of general interest aids the people in democratic decision-making by giving them a better perspective of the vital issues confronting the nation.

*D. SECTION 17 OF THE RULES AND REGULATIONS TO IMPLEMENT R.A. NO. 8177 IS INVALID FOR BEING DISCRIMINATORY AND CONTRARY TO LAW.*

Even more seriously flawed than Section 19 is Section of the implementing rules which provides:

"SEC. 17. SUSPENSION OF THE EXECUTION OF THE DEATH SENTENCE. Execution by lethal injection shall not be inflicted upon a woman within the three years next following the date of the sentence or while she is pregnant, nor upon any person over seventy (70) years of age. In this latter case, the death penalty shall be commuted to the penalty of *reclusion perpetua* with the accessory penalties provided in Article 40 of the Revised Penal Code."

Petitioner contends that Section 17 is unconstitutional for being discriminatory as well as for being an invalid exercise of the power to legislate by respondent Secretary. Petitioner insists that Section 17 amends the instances when lethal injection may be suspended, without an express amendment of Article 83 of the Revised Penal Code, as amended by section 25 of R.A. No. 7659.

Article 83 of the Revised Penal Code, as amended by section 25 of R.A. No. 7659 now reads as follows:

"ART. 83, *Suspension of the execution of the death sentence*.- The death sentence shall not be inflicted upon a woman while she is pregnant or within one (1) year after delivery, nor upon any person over seventy years of age. In this last case, the death sentence shall be commuted to the penalty of reclusion perpetua with the accessory penalty provided in Article 40. x x x".

On this point, the Courts finds petitioner's contention impressed with merit. While Article 83 of the Revised Penal Code, as amended by Section 25 of Republic Act No. 7659, suspends the implementation of the death penalty **while a woman is pregnant or within one (1) year after delivery**, Section 17 of the implementing rules omits the one (1) year period following delivery as an instance when the death sentence is suspended, and adds a ground for suspension of sentence no longer found under Article 83 of the Revised Penal Code as amended, which is the **three-year reprieve** after a woman is sentenced. This addition is, in petitioner's view, tantamount to a gender-based discrimination sans statutory basis, while the omission is an impermissible contravention of the applicable law.

Being merely an implementing rule, Section 17 aforecited must not override, but instead remain consistent and in harmony with the law it seeks to apply and implement. Administrative rules and regulations are intended to carry out, neither to supplant nor to modify, the law." An administrative agency cannot amend an act of Congress. In case of discrepancy between a provision of statute and a rule or regulation issued to implement said statute, the statutory provision prevails. Since the cited clause in Section 17 which suspends the execution of a woman within the three (3) years next following the date of sentence finds no supports in Article 83 of the Revised Penal Code as amended, perforce Section 17 must be declared invalid.

One member of the Court voted to declare Republic Act. No. 8177 as unconstitutional insofar as it delegates the power to make rules over the same subject matter to two persons (the Secretary of Justice and the Director of the Bureau of Corrections) and constitutes a violation of the international norm towards the abolition of the death penalty. One member of the Court, consistent with his view in *People v. Echegaray*, 267 SCRA 682, 734-758 (1997) that the death penalty law (Republic Act. No. 7659) is itself unconstitutional, believes that Republic Act No. 8177 which provides for the means of carrying out the death sentence, is likewise unconstitutional. Two other members of the court concurred in the aforesaid Separate Opinions in that the death penalty law (Republic Act No. 7659) together with the assailed statute (Republic Act No. 8177) are unconstitutional. In sum, four members of the Court voted to declare Republic Act. No. 8177 as unconstitutional. These Separate Opinions are hereto annexed, *infra*.

**WHEREFORE**, the petition is **DENIED** insofar as petitioner seeks to declare the assailed statute (Republic Act No. 8177) as unconstitutional; but **GRANTED** insofar as Sections 17 and 19 of the Rules and Regulations to Implement Republic Act No. 8177 are concerned, which are hereby declared **INVALID** because (a) Section 17 contravenes Article 83 of the Revised Penal Code, as amended by Section 25 of the Republic Act No. 7659; and (b) Section 19 fails to provide for review and approval of the Lethal Injection Manual by the Secretary of Justice, and unjustifiably makes the manual confidential, hence unavailable to interested parties including the accused/convict and counsel. Respondents are hereby enjoined from enforcing and implementing Republic Act No. 8177 until the aforesaid Sections 17 and 19 of the Rules and

Regulations to Implement Republic Act No. 8177 are appropriately amended, revised and/or corrected in accordance with this Decision.

NO COSTS.

SO ORDERED.

Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Martinez, Quisumbing and Purisima, JJ., concur.

Narvasa, C.J., On official leave

Pardo, J., No part.

See Per Curiam's Dissenting Opinion [A](#) and [B](#)

*People v. Echegaray*, G.R. No. 117472, 257 SCRA 561 [1996]. The lower Court decision was penned by Judge Maximiano C. Asuncion.

AN ACT TO IMPOSE THE DEATH PENALTY ON CERTAIN HEINOUS CRIMES, AMENDING FOR THAT PURPOSE THE REVISED PENAL CODE, AS AMENDED, OTHER SPECIAL LAWS, AND FOR OTHER PURPOSES, which took effect on December 31, 1993; *People v. Simon*, 234 SCRA 555, 569 [1994].

*People v. Echegaray*, G.R. No. 117472, 267 SCRA 682 [1997].

Records of the Senate, October 5, 1995, p. 48. Senator Ernesto F. Herrera explained that: "The present prescribed method in carrying out capital punishment is death by electrocution. This will later be changed to gas poisoning, as provided by Sec. 24 of R.A. No. 7659, as soon as the Bureau of Corrections can have the proper facilities for the purpose.

There would not have been any problem had the old electric chair been saved from fire in the New Bilibid Prison that totally destroyed it. Without an electric chair or gas chamber, our penal system today has no means of implementing the death sentence. The very high cost needed for the replacement of the electric chair and the building of a gas chamber bogs down the whole process. This is, indeed, the appropriate time to introduce lethal injection as a new means of carrying out the death penalty. This method is less expensive, more humane, easier to administer and conveniently more portable."

Published in the Manila Times on March 23, 1996.

Published in the Philippine Star on May 23, 1998.

RULES AND REGULATIONS TO IMPLEMENT R.A. NO. 8177, Section 19.

*Rollo*, p. 3.

*Rollo*, p. 49.

*Rollo*, p. 51.

Through then Solicitor-General Romeo C. de la Cruz, Assistant Solicitors-General Pio C. Guerrero and Antonio G. Castro, and Solicitor-General Evelyn C. Balgos-Guballa.

*Rollo*, p. 102.

Through Commissioner Jorge R. Coquia and Director Emmanuel C. Neri.

*Rollo*, p. 129.

*Rollo*, p. 136.

Annex "A" to the Petition to Intervene and/or Appear as *Amicus Curiae*, *Rollo*, p. 151.

*Rollo*, p. 157.

Amended and Supplemental Petition, *Rollo*, pp. 55-81.

U.S. v. Borromeo, 23 Phil, 285-286 [1912].

Bernas, J., The 1987 Constitution of the Republic of the Philippines, A Commentary, 1996 ed., p., 501; I RECORD 707-8.

Comment of the Solicitor-General, *Rollo*, p. 115; Rules and Regulations to Implement Republic Act No. 8177, Sections 2(b), 15, 20-22; Bureau of Corrections Lethal Injection Manual, pp. 13-22.

*People v. Echegaray*, 267 SCRA 682, 694 [1997]; *People v. Marcos*, 147 SCRA 204, 216 [1987]; *People v. Puda*, 133 SCRA 1, 13 [1984]; *People v. Camano*, 115 SCRA 688, 702 [1982]; *Harden v. Director of Prisons*, 81 Phil. 741, 747 [1948].

81 Phil. At 747, citing *In Ex Parte Kemmler*, 136 U.S. 436.

Records of the Senate, January 29, 1996, pp. 15, 13:

**Senator Macapagal.** I notice that the bill does not specify exactly what drug, chemical, or combination of drug and chemical is to be administered. Is my impression correct, Mr. President?

**Senator Maceda.** Yes, Mr. President. Precisely, **those are the kinds of details that are better left to the Executive department to implement by administrative regulation.** (emphasis supplied)

**Senator Macapagal.** Therefore, it would be up to the Director of the Bureau of Corrections to choose the drugs or chemicals to be used. Is that correct, Mr. President?

**Senator Maceda.** I would think this is a matter that would be initiated by the Director of the Bureau of Corrections. But following established procedure, it will have to be with the approval of the Secretary of Justice.

xxx

**Senator Macapagal.** And as far as the procedure is concerned, the bill does not also state exactly how the execution is to be carried out, or the procedure to be used. Is there no intention or would it not be more pragmatic for the law to provide the procedure to be undertaken in carrying out the execution in order to lessen the possibility of negligence during the actual execution?

**Senator Maceda.** We felt, Mr. President, that **when it comes to the details of the procedure, it would be better to leave it to administrative regulation.** After all, the main import of the law really is to change the method of execution from the "electric chair" to "lethal injection." (emphasis supplied)

**Sec. 16. NOTIFICATION AND EXECUTION OF THE SENTENCE AND ASSISTANCE TO THE CONVICT.** - The court shall designate a working day for the execution of the death penalty but not the hour thereof. Such designation shall only be communicated to the convict after sunrise of the day of the execution, and the execution shall not take place until after the expiration of at least eight (8) hours following the notification, but before sunset. - During the interval between the notification and execution, the convict shall, as far as possible, be furnished such assistance as he may request in order to be attended in his last moments by a priest or minister of the religion he professes and to consult his lawyers, as well as in order to make a will and confer with members of his family or of persons in charge of the management of his business, of the administration of his property, or of the care of his descendants.

As mandated by Article VIII Section 5 (2) (d) of the 1987 Constitution, and Section 3 (e) of Rule 122, Rules on Criminal Procedure.

Sections 10 and 11 of Rule 51 of the 1997 Rules of Civil Procedure in relation to Section 17 of Rule 124 of the Rules on Criminal Procedure.

In G.R. No. 117472, we issued an *en banc* resolution dated September 2, 1997, wherein we held that: "xxx In criminal cases, Section 7 of Rule 120 of the Rules on Criminal Procedure states the circumstances when a judgment becomes final. However, we cannot specifically apply these tenets to judgments imposing the death penalty which is imposed or affirmed by this Court itself since, obviously, no appeal lies therefrom. Thus, it is only but proper that a *judgment of this Court imposing the death sentence becomes final and executory after the expiration of fifteen (15) days from service of a copy thereof on counsel of the accused-appellant, or on the latter if so ordered by this Court, and no motion for reconsideration or, where allowed by this Court, a motion for new trial [see Helmuth, Jr. v. People, 112 SCRA 573 [1982]; People v. Amparado, 156 SCRA 712 [1987]] has been filed by accused-appellant, or no ground has supervened which would justifiably interrupt or warrant the suspension of the running of the reglementary period*

*for finality. Where a motion for reconsideration has been filed and denied, the finality of such resolution shall be substantially subject to the same rule."* Records, pp. 308-309.

Records of the Senate, January 29, 1996, pp. 8-9.:

**Senator Drilon.** xxx [O]n page 2 of Senate Bill No. 436, it is provided here that the death sentence shall be carried out not later than one year after the judgment has become final. I would just like to get a confirmation from the distinguished Sponsor if this provision will not in any way interfere with or diminish the constitutional power of the President to reduce or commute or grant pardon to convicts who are sentenced to death through lethal injection as provided under this bill.

**Senator Maceda.** No, Mr. President, it would not diminish the power of the President. I would express the view at this time that while we hope that the President will make such judgment within the one-year period, I would take the view that if within the one-year period or near the end of the expiration of the one-year period he were to issue a suspension or commutation, then certainly the constitutional power lodged in him cannot be diminished by legislation.

**Senator Drilon.** Can the President commute a death penalty to life imprisonment after one year, from the time the judgment has become final?

**Senator Maceda.** I would say that as long as the convict is not yet dead or executed, then the President still retains that power.

RULES AND REGULATIONS TO IMPLEMENT R.A. NO. 8177, Sections 4, 6-9 provide

Sec. 4. **PRISON SERVICES.** - Subject to the availability of resources, a death convict shall enjoy the following services and privileges to encourage and enhance his self-respect and dignity:

- a. Medical and Dental;
- b. Religious, Guidance and Counselling;
- c. Exercise;
- d. Visitation; and
- e. Mail.

xxx

Sec. 6. **RELIGIOUS SERVICES.** - Subject to security conditions, a death convict may be visited by the priest or minister of his faith and given such available religious materials which he may require.



Sec. 7. **EXERCISE**. - A death convict shall be allowed to enjoy regular exercise periods under the supervision of a guard.

Sec. 8. **MEAL SERVICES**. - Meals shall, whenever practicable, be served individually to a death convict outside his cell. Mess utensils shall be made of plastic. After each meal, said utensils shall be collected and accounted.

Sec. 9. **VISITATION**. - A death convict shall be allowed to be visited by his immediate family and reputable friends at regular intervals and during designated hours subject to security procedures.

In addition, Article 82 of the Revised Penal Code provides: "xxx During the interval between the notification and the execution, the culprit shall, in so far as possible, be furnished such assistance as he may request in order to be attended in his last moments by priests or ministers of the religion he professes and to consult lawyers, as well as in order to make a will and confer with members of his family or persons in charge of the management of his business, of the administration of his property, or of the care of his descendants."

*See Woolls v. McCotter*, 798 F.2d 695, 698 (5TH Cir. 1986), wherein the U.S. Court of Appeals held that "First, the appellant has not even alleged, much less produced any evidence, that the Texas Department of Corrections allows anyone other than trained medical personnel to administer lethal injections. Second, the appellant has neither alleged nor produced evidence that would indicate that improper dosages of sodium thiopental have been or will be administered so as to result in physical or mental pain. Finally, even if the physical and mental manifestations noted by Dr. Hodes were experienced by an individual, this showing "of discomfort or unnecessary pain" falls far short of the showing found insufficient in *Gray v. Lucas*, [710 f2d. 1048, 1057-61 (5TH Cir.), cert. Denied, 463 U.S. 1237, 104 S. Ct. 211, 77 L.Ed. 2d 1453 (1983)]." *O'Bryan*, 729 F.2d at 994. Woolls has failed to make a substantial showing of the denial of his right to be free from cruel and unusual punishment under the eighth amendment."

Amended and Supplemental Petition, *Rollo*, pp. 65-67.

See *State of Nevada v. Gee Jon*, 46 Nev. 418, 211 P. 676, 682, 30 A.L.R. 1443, 1450-1451 [1923].

American Law Reports, Annotated, 30 A.L.R. 1452 at 1453.

*Ex Parte Granviel*, 561 S.W. 2d 503, 509 [1978], citing *Lousiana ex. rel. Francis v. Resweber*, 329 U.S. 459, 464, 67 S. Ct. 374, 376, 91 L.Ed. 422 (1947).

19 Thomas Jefferson Law Review (Spring 1997), 1-38, at 31-32., citing *Kelly v. Lynaugh*, 862 F. 2d 1126, 1135 (5TH Cir., 1988) ("Finally, Kelly argues against lethal injection as a method of execution, arguing that it is cruel and unusual punishment, especially when administered by an unqualified person. Again, "[w]e have rejected this argument"); *O' Bryan v. McKaskle*, 729 F.2d 991, 994 (5TH Cir. 1984) ("[w]e agree with the state that the showing made by O'Bryan of

discomfort or unnecessary pain falls short of the showing found insufficient in *Gray v. Lucas*"); *Silagy v. Peters*, 713 F.Supp. 1246, 1258 (C.D. III, 1989 ("The petitioner claims that lethal injection is cruel and unusual punishment. There is nothing in the record that supports that contention."); *State v. Moen*, 786 P.2d. 111, 143 (Ore. 1990); *Hopkinson v. State*, 798 P.2d 1186, 1187 (Wyo. 1990).

*Supra.* at 32, citing *Woolls v. McCotter*, 798 F.2d 695 (5TH Cir. 1986) (holding that the use of sodium thiopental for executions, although it may cause conscious death by suffocation, is not cruel and unusual); *LaGrand v. Lewis*, 883 F. Supp. 469, 469-71 (D. Ariz. 1995) (reviewing affidavits of physicians and prison execution protocols); *Hill v. Lockhart*, 791 F. Supp. 1388, 1394 (E.D. Ark. 1992) (holding that, when the executioner has difficulty locating a vein, multiple insertions of the needle do not constitute a cruel and unusual punishment).

*Ex Parte Granviel*, *supra.* at 509, citing *Trop v. Dulles*, 356 U.S. 86, 78 S. Ct. 590, 2 L.Ed. 2d 630 (1958). See also *Estelle v. Gamble*, 429 U.S. 97, 97 S. Ct. 285, 290, 50 L. Ed. 2d 251, 258-259 (1976).

19 Thomas Jefferson Law Review (Spring 1997) at 32-33, citing *LaGrand v. Lewis*, 883 F.Supp. 469, 471 (D. Ariz. 1995) (holding that lethal injection comports with societal norms based on the fact that 26 states and the federal government have adopted this method of execution); *State v. Deputy*, 644 A.2d 411, 421 (Del. 1994) (surveying that 28 of 37 States permitting capital punishment permit the use of lethal injection); *Delaware v. Gattis*, 1995 WL 790961, at \*21 (Del. Super. 1995) (holding that the AMA's ethical ban on physician's assisting at executions does not provide evidence of society's evolving standards of decency).

66 The George Washington Law Review (November 1997, No. 1) 84 at 100, citing *Stanford v. Kentucky*, 492 U.S. 361, 370-371 (1989) (plurality opinion) ("(F)irst among the "objective indicia that reflect the public attitude toward a given sanction" are statutes passed by society's elected representatives." (quoting *McClesky*, 481 U.S. at 300 (quoting *Gregg*, 428 U.S. at 173))); *Thompson*, 487 U.S. at 849 (O'Connor, J., concurring) ("[The] decisions of the [American legislatures] should provide the most reliable signs of a society-wide consensus on this issue."); *Gregg*, 428 U.S. at 175-176 ("[T]he constitutional test [in judging a punishment under the Cruel and Unusual Punishments Clause] is intertwined with an assessment of contemporary standards and the legislative judgment weighs heavily in ascertaining such standards."); *Furman*, 408 U.S. at 436-37 (Powell, J., dissenting) ("In a democracy the first indicator of the public's attitude must always be found in the legislative judgments of the people's chosen representatives.").

Multilateral Treaties Deposited with the Secretary-General Status as at 31 December 1994, United Nations, New York, p. 117; United Nations, *Treaty Series*, vol. 999, p. 171 and vol. 1057, p. 407; Human Rights, International Instruments, Chart of Ratifications as at 31 December 1997, United Nations, p. 8.

The *Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty* was adopted by Economic and Social Council resolution 1984-50 of May 25, 1984. The Safeguards provide:

"1. In countries which have not abolished the death penalty, capital punishment may be imposed only for the most serious crimes, it being understood that their scope should not go beyond intentional crimes with lethal or other extremely grave consequences.

2. Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the time of its commission, it being understood that if, subsequent to the commission of the crime, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby.

3. Persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane.

4. Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.

5. Capital punishment may only be carried out pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in Article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.

6. Anyone sentenced to death shall have the right to appeal to a court of higher jurisdiction, and steps should be taken to ensure that such appeals shall become mandatory.

7. Anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases of capital punishment.

8. Capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.

9. Where capital punishment occurs, it shall be carried out so as to inflict the minimum possible suffering."

Multilateral Treaties Deposited with the Secretary-General, Status as at 31 December 1994, United Nations, New York, 1995, p. 153; United Nations *Treaty Series*, vol. 999, p. 171; Human Rights, International Instruments, Chart of Ratifications as at 31 December 1997, United Nations, p. 8.

Multilateral Treaties Deposited with the Secretary-General, Status as at 31 December 1994, United Nations, New York; United Nations, Doc. A/RES/44/128; Human Rights, International Instruments, Chart of Ratifications as at 31 December 1997, United Nations, p. 8.

See *Angara v. Electoral Commission*, 63 Phil. 139, 156 [1936].

*Defensor-Santiago v. Commission on Elections*, 270 SCRA 106, 153 [1997], citing *People v. Rosenthal*, 68 Phil. 328 [1939]; ISAGANI A. CRUZ, Philippine Political Law 86 [1996].

*Id.*, citing *People v. Vera*, 65 Phil. 56 [1937]; CRUZ, *supra*. 87.

See *Eastern Shipping Lines, Inc. v. POEA*, 166 SCRA 533, 544 [1988].

*Pelaez v. Auditor-General*, 15 SCRA 569, 576-577 [1965], citing *Calalang v. Williams*, 70 Phil. 726; *Pangasinan Transp. Co. v. Public Service Commission*, 70 Phil. 221; *Cruz v. Youngberg*, 56 Phil. 234; *Alegre v. Collector of Customs*, 53 Phil. 394; *Mulford v. Smith*, 307 U.S. 38.

*Id.*, citing *People v. Lim Ho*, L-12091-2, January 28, 1960; *People v. Jolliffe*, L-9553, May 13, 1959; *People v. Vera*, 65 Phil. 56; *U.S. v. Ang Tang Ho*, 43 Phil. 1; *Compañia General de Tabacos v. Board of Public Utility*, 34 Phil. 136; *Mutual Film Co. v. Industrial Commission*, 236 U.S. 247, 59 L. Ed., 561; *Mutual Film Co. v. Industrial Commission*, 236 U.S. 230, 59 L. Ed. 552; *Pamana Refining Co. v. Ryan*, 293 U.S. 388, 79 L. Ed. 446; *A.L.A. Schechter Poultry Corp. v. U.S.*, 295 U.S. 495, 79 L. Ed. 1446; *Bowles v. Willingham*, 321 U.S. 503, 88 L. Ed. 892; *Araneta v. Gatmaitan*, L-8895, April 30, 1957; *Cervantes v. Auditor-General*, L-4043, May 26 1952; *Phil. Association of Colleges v. Sec. Of Education*, 51 Off. Gaz. 6230; *People v. Arnault*, 48 Off. Gaz. 4805; *Antamok Gold Fields v. CIR*, 68 Phil. 340; *U.S. v. Barrias*, 11 Phil. 327; *Yakus v. White*, 321 U.S. 414; *Ammann v. Mailonce*, 332 U.S. 245.

See *Edu v. Ericta*, 35 SCRA 481, 496 [1970].

*Id.* at 497.

R.A. No. 8177, Sec. 1, first paragraph.

*Id.*, second paragraph.

*Id.*, third paragraph.

*State v. Gee Jon*, 46 Nev. 418, 211 P. 676, 682, 30 A.L.R. 1443, 1451 (1923).

*Ex Parte Granviel*, *supra*. at 513 citing *Langford v. State*, 532 S.W.2d 91, 94 (Tex. Cr.App. 1976).

*Id.*, at 514 citing *Nichols v. Dallas*, 347 S.W.2d 326 (Tex.Civ.App. - Dallas, 1961).

Section 4 of Chapter I, Title III of the Administrative Code of 1987 provides:

"SEC. 4. *Organizational structure*. - The Department (of Justice) shall consist of the following constituent units:

- (1) Department proper;
- (2) Office of the Government Corporate Counsel;

- (3) National Bureau of Investigation;
- (4) Public Attorney's Office;
- (5) Board of Pardons and Parole;
- (6) Parole and Probation Administration;
- (7) Bureau of Corrections;
- (8) Land Registration Authority;
- (9) Commission on the Settlement of Land Problems."

Section 1 of Chapter I, Title III of the Administrative Code of 1987 provides:

"SEC. 1. *Declaration of Policy.* - It is the declared policy of the State to provide the government with a principal law agency which shall be both its legal counsel and prosecution arm; administer the criminal justice system in accordance with the accepted processes thereof consisting in the investigation of the crimes, prosecution of offenders and administration of the correctional system; implement the laws on the admission and stay of aliens, citizenship, land titling system, and settlement of land problems involving small landowners and members of indigenous cultural minorities; and provide free legal services to indigent members of the society."

Section 3 of R.A. No. 8177 provides:

"SEC. 3. *Implementing Rules.* - The Secretary of Justice in coordination with the Secretary of Health and the Bureau of Corrections shall, within thirty (30) days from the effectivity of this Act, promulgate the rules to implement its provisions."

*Legaspi v. Civil Service Commission*, 150 SCRA 530, 541 [1987]

*Id.* at 540, citing *Baldoza v. Dimaano*, Adm. Matter No. 1120-MJ, May 5, 1976, 17 SCRA 14.

*Id.*, citing *Thornill v. Alabama*, 310 U.S. 88, 102 [1939].

*Id.*, citing 87 Harvard Law Review 1505 [1974].

*Id.*

*Grego v. Commission on Elections*, 274 SCRA 481, 498 [1997], citing *Commissioner of Internal Revenue v. Court of Appeals*, 240 SCRA 368 [1995].

*Id.* At 498-499, citing *Miners Association of the Philippines, Inc. v. Factoran, Jr.*, 240 SCRA 100 [1995], further citing *Santos v. Estenzo*, 109 Phil. 419, 422 (1960); *Teoxon v. Members of*

*the Board of Administrators*, 33 SCRA 585 [1970]; *Manuel v. General Auditing Office*, 42 SCRA 660 [1971], *Deluao v. Casteel*, 29 SCRA 350 [1969].