at the national penitentiary and even went as far as stating, although merely in *obiter*, that society has no right to subject the prisoners to such a miserable existence. Moreover, the Supreme Court would most probably not just ignore pronouncements of foreign tribunals on the matter on the pretext that these courts' line of reasoning is not applicable to the Philippine situation.

On the other hand, the Court may hesitate to declare prison conditions as constitutive of cruel and unusual punishment on account of the virtual inability of prison administrators to remedy such objectionable conditions of confinement because of lack of funds. Unlike U.S. courts which can order the transfer of inmates or the improvement of prison facilities and the increase of prison capacity or the reduction of inmate population without having any second thoughts, our Supreme Court would readily acknowledge the fact that the issuance of similar orders could prove futile because our country does not possess the financial capabilities which the American states have and which is necessary for the enforcement of any such orders.

Perhaps, the Court can simply declare the conditions of confinement in our penitentiaries as resulting in cruel and unusual punishment and let the executive and/or legislative branches of the government do the rest. After all, the Supreme Court can only do so much.

Premises considered with due regard to the growing concern on the issue of human rights, will the Philippine Supreme Court confronted with the problem of subhuman prison conditions consider the same as cruel and unusual punishment?[18]

[18]Will the proper party please come up and file the proper action at least if not in the belief that the concept of cruel and unusual punishment could become one of the principal devices through which improvements in the quality of prison life may be sought, then for the sake of the enrichment of Philippine jurisprudence.



# IS P.D. 1396, CREATING THE MINISTRY OF HUMAN SETTLEMENTS, TAINTED WITH CONSTITUTIONAL INFIRMITY?

ALAN FLORES PAGUIA, LI.B. '83

The Constitution provides that "every bill shall embrace only one subject which shall be expressed in the title thereof."[1]

Presidential Decree No. 1396, dated June 2, 1978, carries the title: CREATING THE DEPARTMENT (now MINISTRY)[2] OF HUMAN SETTLEMENTS AND THE HUMAN SETTLEMENTS DEVELOPMENT CORPORATION, APPROPRIATING FUNDS THEREFOR, AND ACCORDINGLY AMENDING CERTAIN PRESIDENTIAL DECREES.

The same presidential decree provides:

> "Sec. 3. **Establishment of the National Capital Region.**– In view of the critical importance of the Metropolitan Manila Region in human settlements development, it is hereby declared and established as the National Capital Region of the Republic of the Philippines, and its administration as such is hereby vested in the Secretary (now Minister)[3] of Human Settlements. The pertinent provisions of Presidential Decree No. 824[4], creating the Metropolitan Manila Commission, are hereby accordingly amended."

From the foregoing provisions of law, the question of constitutionality readily presents itself. Does the P.D. 1396 embrace more than one subject? Is it possible that P.D. 1396 suffers from insufficiency of title under the aforequoted constitutional provision?

It seems that the question of constitutionality in the intstant case is susceptible of being viewed in, at least, two ways.

[1]Article VIII, sec. 19, par. (1).

[2]Pres. Decree No. 1397 (June 2, 1978)

[3]*Supra*

[4]Creating the Metropolitan Manila and the Metropolitan Manila Commission and for Other Purposes, November 7, 1975, as amended by P.D. 1274, dated December 27, 1977.

**FIRST VIEW**

P.D. 1396 is completely valid and constitutional. The language of the constitutional provision in point is very clear. It refers distinctly to a 'bill' passed by the National Assembly, not to a presidential decree. It is a requirement addressed to the National Assembly and not to the president. A 'bill' has a distinct technical meaning. It is the draft of a law submitted to the consideration of a legislative body for its adoption.[5] In the constitutional provision that no 'bill' shall embrace more than one subject, the quoted term refers to proposed laws pending in the legislature and means form or draft of law presented to the legislature before enactment, and therefore, the constitutional provision is not applicable to initiative measures passed by the people of the state.[6] A bill is the draft or form of an act presented to the legislature, but not enacted and is not synonymous with "act," which is the appropriate term for the draft or form after it has been acted on by and passed the legislature, when it becomes something more than a draft.[7] A bill is thus, different from a presidential decree inasmuch as the latter is neither a mere draft of a law because it is already a law, nor is it presented to the legislature for enactment because it is enacted and issued by the president himself in the exercise of the legislative powers granted to him by the constitution.

It is true that a bill and a presidential decree may both be considered as an exercise of legislative powers and that the overriding consideration is that the constitutional rule on title and subject of a bill is a limitation on the exercise of such powers; yet, it is equally true that the framers of the constitution limited the application of said rule specifically to a 'bill'. Had they intended to extend the application of the rule to all forms of exercise of legislative powers, they could and should have employed a generic term that would embrace both bills and presidential decrees, such as 'law' or 'statute'. But they did not. They used the term 'bill'. Hence, the rule is limited to bills alone. The letter of the constitutional rule is so clear as to leave no room for interpretation or construction; there is only room for application. On the question at hand, however, adherence to the rule would mean non-application of the rule to a presidential decree.

But even assuming, without conceding, that the said constitutional provision applies to presidential decrees, it would seem that the resultant conclusion would still favor the constitutionality of P.D. 1396. It is well settled that the title of the law need not be a complete index of its contents.[8] The constitutional requirement is complied with as long as the law, as in the instant case, has a single general

[5] Bouvier's Law Dictionary, 8th Ed., Vol. I

[6] Words & Phrases, Vol 5, citing Senior Citizens League v. Dept. of Social Sec. of Washington, 228 P. 2d 478, 495, 38 Wash. 2d 142.

[7] *Supra*, citing Southwark Bank v. Com., 26 Pa. (2 Casey), 446, 450.

[8] People v. Carlos, 78 Phil. 535 (1947); Government v. Municipality of Binalonan, 32 Phil. 634 (1915); Alalayan v. National Power Corp., G.R. No. 24396, July 29, 1968.



subject which is the creation of the Ministry of Human Settlements and the amendatory provisions no matter how diverse they may be, so long as they are not inconsistent with or foreign to the general subject, will be regarded as valid.[9] The provisions of section 3 of P.D. 1396 are certainly germane to, and are reasonably necessary for the accomplishment of the one general subject, creation of the MHS. Metropolitan Manila is the premier region of the country in commerce and industry. It generates a very substantial contribution to the national income. It is also the seat of the national government. From it emanates major socio-economic considerations that guide the government in the formulation of development programs which aim at improving the quality of life of our people. Thus, P.D. 1396 recognizes "the critical importance of the Metropolitan Manila Region in human settlements development."[10] To attain this objective, the MHS was created and tasked by law with developmental functions,[11] as follows, *inter alia:*

> (a) Promulgate national standards for human settlements which shall govern land use plans and zoning ordinances of loc National Government, and subdivisions or estate development projects of both the public and private sectors;
>
> (b) Promulgate national standards and guidelines for environmental management relative to air quality, water quality, land use and waste management which shall govern development programs and projects and other activities in settled communities, urban or rural, as well as in those areas immediately contiguous thereto and develop an environmental impact assessment system for the operationalization of said standards and guidelines;
>
> x x x x x x
>
> (d) Prepare and submit to the Board of the National Economic Development Authority a national multi-year Human Settlements Plan which shall translate the Philippine Development Plan into spatial and temporal terms, based on the locational distribution of national resource endowments (including energy), population, climate, and production capacity;
>
> (e) Formulate plans and programs and implement, either on its own initiative and operational responsibility or through the agencies or corporations placed under its supervision, projects for:
>
> i. Urban renewal and development, including but not limited to the construction and management of social and economic housing.
>
> ii. Estate or New Town development within sites designated by the Office of the President as Bagong Lipunan sites.
>
> iii. Land assembly and real property management.

[9] Cordero v. Cabatuando, 6 SCRA 418 (1962), citing Sinco, Philippine Political Law, 11th Ed., p. 225; Cooley, Constitutional Limitations, 6th Ed., p. 172.

[10] Sec. 3

[11] Sec. 4, *supra*

iv. Development and installation on a community scale of waste management systems and of appropriate technologies.

(f) Promulgate appropriate rules and regulations which shall have regulatory force for the enforcement of its standards and guidelines;

x x x x x

(g) Perform such other activities which are necessary for the effective performance of the abovementioned functions and objectives.

By taking into consideration the nature and scope of the functions vested by law in the MHS, it becomes fairly evident that there is indeed a reasonable necessity to confer or vest upon the MHS the administration of Metropolitan Manila as the National capital region of the country. To hold otherwise would be to unduly interfere with the purpose of the law in creating the MHS.

## SECOND VIEW

P.D. 1396 is violative of the constitutional provision that every bill shall embrace only one subject which shall be expressed in the title thereof.[12] This provision is aimed against the evils of the so-called omnibus bills and log-rolling legislation as well as surreptitious or unconsidered enactments.[13] It precludes the insertion of riders in legislation, a rider being a provision not germane to the subject matter of the bill.[14] In the instant case, it appears that the main subject of P.D. 1396 is the creation of the Ministry of Human Settlements. In order therefore, for it to be considered as not violative of the above-mentioned rule, its contents or provisions must be shown to be germane to its subject matter as expressed in its title, that is, the creation of the MHS. Otherwise, the title would be deemed insufficient and, on the same ground, unconstitutional. Section 3 of said P.D. 1396 provides for the establishment of the National Capital Region. Now, is the establishment of the National Capital Region germane or reasonably necessary to the creation of the Ministry of Human Settlements? As stated earlier, the answer seems to be in the negative. The establishment of a region is a far cry from the creation of a ministry. As to objective, the first delineates territory while the second delineates functions. As to scope, the first is local or regional while the second is national. In terms of quantitative and qualitative importance, either one is not necessarily inferior to the other, that is, each of them enjoys a substantivity of its own. Either one, but not both, may be the proper subject of singular legislation. This is adherence to the constitutional limitation that each law shall embrace only one subject matter. To hold otherwise would be to open the door to hodge-podge

[12] *supra*

[13] Government v. Hongkong and Shanghai Bank, 66 Phil. 483 (1938)

[14] Alalayan v. National Power Cor., *supra*



or log-rolling legislation resulting in legal disorder, not to say bad legal craftmanship in contravention of a clear and express constitutional mandate. 'Log-rolling' is a mischievous legislative practice of embracing in one bill several distinct matters.[15] Such situation should not be allowed to happen. A constitutional regime, such as we claim ours to be, must continue to promote the rule of law and order, not chaos borne out of disobedience to the constitution.

A constitutional provision should be construed so as to give it effective operation and suppress the mischief at which it is aimed; hence the spirit of the provision will prevail over the letter thereof.[16] It thus cannot be gainsaid that the constitutional provision subject of this discussion applies only to a 'bill' and not to a presidential decree. Indeed, the mischief sought to be prevented may also find expression in a presidential decree, or other forms of statute for that matter.

## CONCLUSION

The rule is that a law is presumed constitutional until declared otherwise by competent judicial authorities. And where there is any doubt as to the insufficiency of either the title, or the act, the legislation should be sustained.[17]

It may be noted in passing that Batas Pambansa Blg. 52 which was passed by the Interim Batasang Pambansa – our other legislature aside from the president – was attacked successfully in the Supreme Court on constitutional grounds.[18] But so far, no presidential decree has yet been questioned in the same manner.

[15] Black's Law Dictionaty, 4th Ed., p. 1091

[16] Alcantara, Statutes, p. 140 (1972), citing Jarrolt v. Moberly, 103 US 580

[17] Mun. of Panganiban v. Shell Co. of the Phil., Ltd., G.R. No. 18349, July 30, 1966

[18] Sec. 4, second par. (providing that filing of charges for commission of certain crimes after preliminary investigation shall be *prima facie* evidence of such fact), is null and void for being violative of the constitutional presumption of innocence of the accused. (Dumlao v. COMELEC, G.R. No. 52245, January 22, 1980)