EN BANC

SPOUSES CARLOS S. ROMUALDEZ and ERLINDA R. ROMUALDEZ, Petitioners,	**G. R. No. 167011**
	Present:
- versus -	PUNO, *C.J.*, QUISUMBING, YNARES-SANTIAGO, CARPIO, AUSTRIA-MARTINEZ, CORONA,* CARPIO MORALES, AZCUNA, TINGA, CHICO-NAZARIO, VELASCO, JR., NACHURA, REYES, LEONARDO-DE CASTRO, and BRION, *JJ*.
COMMISSION ON ELECTIONS and DENNIS GARAY, Respondents.	Promulgated: April 30, 2008

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D E C I S I O N

CHICO-NAZARIO, *J.*:

This treats of the Petition for Review on *Certiorari* with a prayer for the issuance of a Temporary Restraining Order and/or Writ of Preliminary

Injunction filed by petitioners Spouses Carlos S. Romualdez and Erlinda R. Romualdez seeking to annul and set aside the Resolutions, dated 11 June 2004[1] and 27 January 2005[2] of the Commission on Elections (COMELEC) in E.O. Case No. 2000-36. In the Resolution of 11 June 2004, the COMELEC *En Banc* directed the Law Department to file the appropriate Information with the proper court against petitioners Carlos S. Romualdez and Erlinda Romualdez for violation of Section 10(g) and (j)[3] in relation to Section 45(j)[4] of Republic Act No. 8189, otherwise known as The Voter's Registration Act of 1996.[5] Petitioners' Motion for Reconsideration thereon was denied.

The factual antecedents leading to the instant Petition are presented hereunder:

On 12 July 2000, private respondent Dennis Garay, along with Angelino Apostol[6] filed a Complaint-Affidavit[7] with the COMELEC thru the Office of the Election Officer in Burauen, Leyte, charging petitioners with violation of Section 261(y)(2)[8] and Section 261(y)(5)[9] of the Omnibus Election Code, similarly referred to as Batas Pambansa Blg. 881; and Section 12[10] of Republic Act No. 8189.

Private respondent deposed, *inter alia*, that: petitioners are of legal ages and residents of 113 Mariposa Loop, Mariposa Street, Bagong Lipunan ng Crame, Quezon City; on 9 May 2000 and 11 May 2000, petitioners Carlos S. Romualdez and Erlinda R. Romualdez, applied for registration as new voters with the Office of the Election Officer of Burauen, Leyte, as evidenced by Voter Registration Record Nos. 42454095 and 07902952, respectively; in their sworn applications, petitioners made false and untruthful representations in violation of Section 10[11] of Republic Act Nos. 8189, by indicating therein that they are residents of 935 San Jose Street, Burauen, Leyte, when in truth and in fact, they were and still are residents of 113 Mariposa Loop, Mariposa Street, Bagong Lipunan ng Crame, Quezon City, and registered voters of Barangay Bagong Lipunan ng Crame, District IV, Quezon City, Precinct No. 4419-A, as evidenced by Voter Registration Record Nos. 26195824 and 26195823; and that petitioners, knowing fully well said truth, intentionally and willfully, did not fill the blank spaces in

said applications corresponding to the length of time which they have resided in Burauen, Leyte. In fine, private respondent charged petitioners, to wit:

> Respondent-spouses, Carlos Sison Romualdez and Erlinda Reyes Romualdez committed and consummated election offenses in violation of our election laws, specifically, Sec. 261, paragraph (y), subparagraph (2), for knowingly making any false or untruthful statements relative to any data or information required in the application for registration, and of Sec. 261, paragraph (y), subparagraph (5), committed by any person who, being a registered voter, registers anew without filing an application for cancellation of his previous registration, both of the Omnibus Election Code (BP Blg. 881), and of Sec. 12, RA 8189 (Voter Registration Act) for failure to apply for transfer of registration records due to change of residence to another city or municipality."[12]

The Complaint-Affidavit contained a prayer that a preliminary investigation be conducted by the COMELEC, and if the evidence so warrants, the corresponding Information against petitioners be filed before the Regional Trial Court (RTC) for the prosecution of the same.

Petitioners filed a Joint Counter-Affidavit with Motion to Dismiss[13] dated 2 April 2001. They contended therein that they did not make any false or untruthful statements in their application for registration. They avowed that they intended to reside in Burauen, Leyte, since the year 1989. On 9 May 2000, they took actual residence in Burauen, Leyte, by leasing for five (5) years, the house of Juanito and Fe Renomeron at No. 935, San Jose Street in Burauen, Leyte. On even date, the Barangay District III Council of Burauen passed a Resolution of Welcome, expressing therein its gratitude and appreciation to petitioner Carlos S. Romualdez for choosing the Barangay as his official residence.[14]

On 28 November 2003, Atty. Maria Norina S. Tangaro-Casingal, COMELEC Investigating Officer, issued a Resolution, recommending to the COMELEC Law Department (Investigation and Prosecution Division), the filing of the appropriate Information against petitioners, disposing, thus:

> PREMISES CONSIDERED, the Law Department (Investigation and Prosecution Division), RECOMMENDS to file the necessary information against Carlos Sison Romualdez before the proper Regional Trial Court for violation of Section 10 (g) and (j) in relation to Section 45 (j) of Republic Act 8189 and to authorize the Director IV of the Law Department to designate a Comelec Prosecutor to handle the prosecution of the case with the duty to submit periodic report after every hearing of the case.[15]

On 11 June 2004, the COMELEC *En Banc* found no reason to depart from the recommendatory Resolution of 28 November 2003, and ordered, *viz*:

> WHEREFORE, premises considered, the Law Department is hereby directed to file the appropriate information with the proper court against respondents CARLOS S. ROMUALDEZ AND ERLINDA ROMUALDEZ for violation of Section 10 (g) and (j) in relation to Section 45 (j) of the Republic Act No. 8189.[16]

Petitioners filed a Motion for Reconsideration thereon.

Acting on the Motion, the COMELEC found no cogent reason to disturb the assailed *En Banc* Resolution of 11 June 2004,[17] rationalizing, thus:

> However, perusal of the records reveal (sic) that the arguments and issues raised in the Motion for Reconsideration are merely a rehash of the arguments advanced by the Respondents in [their] Memorandum received by the Law Department on 17 April 2001, the same [w]as already considered by the Investigating Officer and was discussed in her recommendation which eventually was made as the basis for the En Banc's resolution.
>
> As aptly observed by the Investigating Officer, the filing of request for the cancellation and transfer of Voting Registration Record does not automatically cancel the registration records. The fact remains that at the time of application for registration as new voter of the herein Respondents on May 9 and 11, 2001 in the Office of Election Officer of Burauen, Leyte their registration in Barangay 4419-A, Barangay Bagong Lipunan ng Crame Quezon City was still valid and subsisting.[18]

On 12 January 2006, Alioden D. Dalaig, Director IV, Law Department of the COMELEC filed with the RTC, Burauen, Leyte, separate Informations against petitioner Carlos S. Romualdez[19] for violation of Section 10(g), in relation to Section 45(j) of Republic Act No. 8189, and against petitioner Erlinda R. Romualdez[20] for violation of Section 10(g), in relation to Section 45(j) of Republic Act No. 8189, subsequently docketed as Crim. Case No. BN-06-03-4185 and Crim. Case No. BN-06-03-4183, respectively. Moreover, separate Informations for violation of Section 10(j), in relation to Section 45(j) of Republic Act No. 8189 were filed against petitioners.[21]

Hence, petitioners come to us *via* the instant Petition, submitting the following arguments:

I

RESPONDENT COMMISSION ON ELECTIONS GRAVELY ABUSED ITS DISCRETION AMOUNTING TO LACK OF OR IN EXCESS OF ITS JURISDICTION; *and*

II

COMELEC GRAVELY ABUSED ITS DISCRETION WHEN IT PREMISED ITS RESOLUTION ON A MISAPPREHENSION OF FACTS AND FAILED TO CONSIDER CERTAIN RELEVANT FACTS THAT WOULD JUSTIFY A DIFFERENT CONCLUSION.[22]

On 4 May 2006, petitioners filed a Motion Reiterating Prayer for Issuance of Writ of Preliminary Injunction and to Cite for Indirect Contempt,[23] alleging that two separate Informations, both dated 12 January 2006, were filed with the RTC by the COMELEC against petitioner Carlos S. Romualdez for violation of Section 10(j), in relation to Section 45(j) of Republic Act No. 8189, in Criminal Case No. BN-06-03-9184; and for violation of Section 10(g), in relation to Section 45(j) of Republic Act No. 8189, in Criminal Case No. BN-06-03-9185. Similarly, the Motion alleged that the COMELEC filed with the RTC, two separate Informations, both dated 12 January 2006, against petitioner Erlinda R. Romualdez, charging her with the same offenses as those charged against petitioner Carlos S.

Romualdez, and thereafter, docketed as Criminal Case No. BN-06-03-9182, and No. BN-06-03-9183.

On 20 June 2006, this Court issued a Resolution[24] denying for lack of merit petitioners' Motion Reiterating Prayer for Issuance of Writ of Preliminary Injunction and to Cite for Indirect Contempt.

We shall now resolve, *in seriatim*, the arguments raised by petitioners.

Petitioners contend that the election offenses for which they are charged by private respondent are entirely different from those which they stand to be accused of before the RTC by the COMELEC. According to petitioners, private respondent's complaint charged them for allegedly violating, to wit: 1) Section 261(y)(2) and Section 261(y)(5) of the Omnibus Election Code, and 2) Section 12 of the Voter's Registration Act; however, the COMELEC *En Banc* directed in the assailed Resolutions, that they be charged for violations of Section 10(g) and (j), in relation to Section 45(j) of the Voter's Registration Act. Essentially, petitioners are of the view that they were not accorded due process of law. Specifically, their right to refute or submit documentary evidence against the new charges which COMELEC ordered to be filed against them. Moreover, petitioners insist that Section 45(j) of the Voter's Registration Act is vague as it does not refer to a definite provision of the law, the violation of which would constitute an election offense; hence, it runs contrary to Section 14(1)[25] and Section 14(2),[26] Article III of the 1987 Constitution.

We are not persuaded.

First. The Complaint-Affidavit filed by private respondent with the COMELEC is couched in a language which embraces the allegations necessary to support the charge for violation of Section 10(g) and (j), in relation to Section 45(j) of Republic Act No. 8189.

A reading of the relevant laws is in order, thus:

Section 10(g) and Section 10(j) of Republic Act No. 8189, provide as follows:

> SEC. 10 – *Registration of Voters.* - A qualified voter shall be registered in the permanent list of voters in a precinct of the city or municipality wherein he resides to be able to vote in any election. To register as a voter, he shall personally accomplish an application form for registration as prescribed by the Commission in three (3) copies before the Election Officer on any date during office hours after having acquired the qualifications of a voter.
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> The application shall contain the following data:
>
> x x x x
>
> (g) Periods of residence in the Philippines and in the place of registration;
>
> x x x x
>
> (j) A statement that the application is not a registered voter of any precinct;
>
> The application for registration shall contain three (3) specimen signatures of the applicant, clear and legible rolled prints of his left and right thumbprints, with four identification size copies of his latest photograph, attached thereto, to be taken at the expense of the Commission.
>
> Before the applicant accomplishes his application for registration, the Election Officer shall inform him of the qualifications and disqualifications prescribed by law for a voter, and thereafter, see to it that the accomplished application contains all the data therein required and that the applicant's specimen signatures, fingerprints, and photographs are properly affixed in all copies of the voter's application.

Moreover, Section 45(j) of the same Act, recites, thus:

> SEC. 45. *Election Offense.* – The following shall be considered election offenses under this Act:
>
> x x x x
>
> (j) Violation of any of the provisions of this Act.

Significantly, the allegations in the Complaint-Affidavit which was filed with the Law Department of the COMELEC, support the charge directed by the COMELEC *En Banc* to be filed against petitioners with the RTC. Even a mere perusal of the Complaint-Affidavit would readily show that Section 10 of Republic Act No. 8189 was specifically mentioned therein. On the matter of the acts covered by Section 10(g) and (j), the Complaint-Affidavit, spells out the following allegations, to wit:

> 5. Respondent-spouses made false and untruthful representations in their applications (Annexes "B" and "C") in violation of the requirements of Section 10, RA 8189 (The Voter's Registration Act):
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> 5.1 Respondent-spouses, in their sworn applications (Annexes "B" and "C", claimed to be residents of 935 San Jose [S]treet, Burauen, Leyte, when in truth and in fact, they were and still are residents of 113 Mariposa Loop, Mariposa [S]treet, Bagong Lipunan ng Crame, Quezon City and registered voters of Barangay Bagong Lipunan ng Crame, District IV, Quezon City, Precinct No. 4419-A, a copy of the Certification issued by Hon. Emmanuel V. Gozon, Punong Barangay, Bagong Lipunan ng Crame, Quezon City is hereto attached and made an integral part hereof, as Annex "D";
>
> 5.2 Respondent-spouses knowing fully well said truth, intentionally and willfully, did not fill the blank spaces in their applications (Annexes "B" and "C") corresponding to the length of time they have resided in Burauen, Leyte;
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> 6. Respondent-spouses, in (sic) all intents and purposes, were and still are residents and registered voters of Quezon City, as evidenced by Voter Registration Record Nos. 26195824 and 26195823, respectively; photocopies of which are hereto attached as Annexes "E" and "F"[.] Likewise, attached is a "Certification" (Annex "G") of Ms. Evelyn B. Bautista, Officer-in-Charge of the Office of the Election Officer, Fourth District, Quezon City, dated May 31, 2000, together with a certified copy of the computer print-out of the list of voters of Precinct No. 4419-A (Annex "G-1") containing the names of voters Carlos Romualdez and Erlinda Reyes Romualdez. The Certification reads as follows:

"THIS IS TO CERTIFY that as per office record MR. CARLOS ROMUALDEZ and MS. ERLINDA REYES ROMUALDEZ are registered voters of Barangay Bagong Lipunan ng Crame, District IV, Quezon City, Precinct Number 4419A with voters affidavit serial nos. 26195824 and 26195823, respectively.

This certification is issued for whatever legal purpose it may serve."

7. Respondent-spouses, registered as new voters of the Municipality of Burauen, Leyte, [in spite of] the fact that they were and still are, registered voters of Quezon City as early as June 22, 1997;

7.1 That, Double Registration is an election offense.

A person qualified as a voter is only allowed to register once.

If a person registers anew as a voter in spite of a subsisting registration, the new application for registration will be disapproved. The registrant is also liable not only for an election offense of double registration, but also for another election offense of knowingly making any false or untruthful statement relative to any data or information required in the application for registration.

In fact, when a person applies for registration as a voter, he or she fills up a Voter Registration Record form in his or her own handwriting, which contains a Certification which reads:

"I do solemnly swear that the above statements regarding my person are true and correct; that I possess all the qualifications and none of the disqualifications of a voter; that the thumbprints, specimen signatures and photographs appearing herein are mine; and that *I am not registered as a voter in any other precinct.*"[27]

Petitioners cannot be said to have been denied due process on the claim that the election offenses charged against them by private respondent are entirely different from those for which they stand to be accused of before the RTC, as charged by the COMELEC. In the first place, there appears to be no incongruity between the charges as contained in the Complaint-

Affidavit and the Informations filed before the RTC, notwithstanding the denomination by private respondent of the alleged violations to be covered by Section 261(y)(2) and Section 261(y)(5) of the Omnibus Election Code and Section 12 of Republic Act No. 8189. Evidently, the Informations directed to be filed by the COMELEC against petitioners, and which were, in fact, filed with the RTC, were based on the same set of facts as originally alleged in the private respondent's Complaint-Affidavit.

Petitioners buttress their claim of lack of due process by relying on the case of *Lacson v. Executive Secretary.*[28] Citing *Lacson*, petitioners argue that the real nature of the criminal charge is determined by the actual recital of facts in the Complaint or Information; and that the object of such written accusations was to furnish the accused with such a description of the charge against him, as will enable him to make his defense. Let it be said that, in *Lacson*, this court resolved the issue of whether under the allegations in the subject Informations therein, it is the Sandiganbayan or the Regional Trial Court which has jurisdiction over the multiple murder case against therein petitioner and intervenors. In *Lacson*, we underscored the elementary rule that the jurisdiction of a court is determined by the allegations in the Complaint or Information, and not by the evidence presented by the parties at the trial.[29] Indeed, in *Lacson*, we articulated that the real nature of the criminal charge is determined not from the caption or preamble of the Information nor from the specification of the provision of law alleged to have been violated, they being conclusions of law, but by the actual recital of facts in the Complaint or Information.[30]

Petitioners' reliance on *Lacson*, however, does not support their claim of lack of due process because, as we have said, the charges contained in private respondent's Complaint-Affidavit and the charges as directed by the COMELEC to be filed are based on the same set of facts. In fact, the nature of the criminal charges in private respondent's Complaint-Affidavit and that of the charges contained in the Informations filed with the RTC, pursuant to the COMELEC Resolution*En Banc* are the same, such that, petitioners cannot claim that they were not able to refute or submit documentary evidence against the charges that the COMELEC filed with the RTC. Petitioners were afforded due process because they were granted the opportunity to refute the allegations in private respondent's Complaint-Affidavit. On 2 April 2001, in opposition to the Complaint-Affidavit, petitioners filed a Joint Counter-Affidavit with Motion to Dismiss with the Law Department of the COMELEC. They similarly filed a Memorandum

before the said body. Finding that due process was not dispensed with under the circumstances in the case at bar, we agree with the stance of the Office of the Solicitor General that petitioners were reasonably apprised of the nature and description of the charges against them. It likewise bears stressing that preliminary investigations were conducted whereby petitioners were informed of the complaint and of the evidence submitted against them. They were given the opportunity to adduce controverting evidence for their defense. In all these stages, petitioners actively participated.

The instant case calls to our minds *Orquinaza v. People*,[31] wherein the concerned police officer therein designated the offense charged as sexual harassment; but, the prosecutor found that there was no transgression of the anti-sexual harassment law, and instead, filed an Information charging therein petitioner with acts of lasciviousness. On a claim that there was deprivation of due process, therein petitioner argued that the Information for acts of lasciviousness was void as the preliminary investigation conducted was for sexual harassment. The court held that the designation by the police officer of the offense is not conclusive as it is within the competence of the prosecutor to assess the evidence submitted and determine therefrom the appropriate offense to be charged.

Accordingly, the court pronounced that the complaint contained all the allegations to support the charge of acts of lasciviousness under the Revised Penal Code; hence, the conduct of another preliminary investigation for the offense of acts of lasciviousness would be a futile exercise because the complainant would only be presenting the same facts and evidence which have already been studied by the prosecutor.[32] The court frowns upon such superfluity which only serves to delay the prosecution and disposition of the criminal complaint.[33]

Second. Petitioners would have this court declare Section 45(j) of Republic Act No. 8189 vague, on the ground that it contravenes the fair notice requirement of the 1987 Constitution, in particular, Section 14(1) and Section 14(2), Article III of thereof. Petitioners submit that Section 45(j) of Republic Act No. 8189 makes no reference to a definite provision of the law, the violation of which would constitute an election offense.

We are not convinced.

The void-for-vagueness doctrine holds that a law is facially invalid if men of common intelligence must necessarily guess at its meaning and differ as to its application.[34] However, this Court has imposed certain limitations by which a criminal statute, as in the challenged law at bar, may be scrutinized. This Court has declared that facial invalidation[35] or an "on-its-face" invalidation of criminal statutes is not appropriate.[36] We have so enunciated in no uncertain terms in*Romualdez v. Sandiganbayan*,[37] thus:

> In sum, the doctrines of strict scrutiny, overbreadth, and vagueness are analytical tools developed for testing "on their faces" statutes in free speech cases or, as they are called in American law, First Amendment cases. They cannot be made to do service when what is involved is a criminal statute. With respect to such statute, the established rule is that 'one to whom application of a statute is constitutional will not be heard to attack the statute on the ground that impliedly it might also be taken as applying to other persons or other situations in which its application might be unconstitutional.' As has been pointed out, 'vagueness challenges in the First Amendment context, like overbreadth challenges typically produce facial invalidation, while statutes found vague as a matter of due process typically are invalidated [only] 'as applied' to a particular defendant.'" (underscoring supplied)
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> "To this date, the Court has not declared any penal law unconstitutional on the ground of ambiguity." While mentioned in passing in some cases, the void-for-vagueness concept has yet to find direct application in our jurisdiction. In *Yu Cong Eng v. Trinidad,* the Bookkeeping Act was found unconstitutional because it violated the equal protection clause, not because it was vague.*Adiong v. Comelec* decreed as void a mere Comelec Resolution, not a statute. Finally, *Santiago v. Comelec* held that a portion of RA 6735 was unconstitutional because of undue delegation of legislative powers, not because of vagueness.
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> **Indeed, an "on-its-face" invalidation of criminal statutes would result in a mass acquittal of parties whose cases may not have even reached the courts. Such invalidation would constitute a departure from the usual requirement of "actual case and controversy" and permit decisions to be made in a sterile abstract context having no factual concreteness.** In *Younger v. Harris,* this evil was aptly pointed out by the U.S. Supreme Court in these words:
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> "[T]he task of analyzing a proposed statute, pinpointing its deficiencies, and requiring correction of these deficiencies before the statute is put into effect, is rarely if ever an appropriate task for the judiciary. The combination of the relative remoteness of the controversy, the impact on the legislative process of the relief sought, and above all the speculative and amorphous nature of the required line-by-line analysis of detailed statutes, x x x ordinarily results in a kind of case that is wholly

> unsatisfactory for deciding constitutional questions, whichever way they might be decided."
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> **For this reason, generally disfavored is an on-its-face invalidation of statutes, described as a "manifestly strong medicine" to be employed "sparingly and only as a last resort." In determining the constitutionality of a statute, therefore, its provisions that have allegedly been violated must be examined in the light of the conduct with which the defendant has been charged.** (Emphasis supplied.)

At the outset, we declare that under these terms, the opinions of the dissent which seek to bring to the fore the purported ambiguities of a long list of provisions in Republic Act No. 8189 can be deemed as a facial challenge. An appropriate "as applied" challenge in the instant Petition should be limited only to Section 45 (j) in relation to Sections 10 (g) and (j) of Republic Act No. 8189—the provisions upon which petitioners are charged. An expanded examination of the law covering provisions which are alien to petitioners' case would be antagonistic to the rudiment that for judicial review to be exercised, there must be an existing case or controversy that is appropriate or ripe for determination, and not conjectural or anticipatory.

We further quote the relevant ruling in *David v. Arroyo* on the proscription anent a facial challenge:[38]

> Moreover, the overbreadth doctrine is not intended for testing the validity of a law that "reflects legitimate state interest in maintaining comprehensive control over harmful, constitutionally unprotected conduct." Undoubtedly, lawless violence, insurrection and rebellion are considered "harmful" and "constitutionally unprotected conduct." In *Broadrick v. Oklahoma*, it was held:
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> It remains a matter of no little difficulty to determine when a law may properly be held void on its face and when such summary action is inappropriate. **But the plain import of our cases is, at the very least, that facial overbreadth adjudication is an exception to our traditional rules of practice and that its function, a limited one at the outset, attenuates as the otherwise unprotected behavior that it forbids the State to sanction moves from pure speech toward conduct** and **that conduct even if expressive falls within the scope of otherwise valid criminal laws that reflect legitimate state interests in maintaining**

comprehensive controls over harmful, constitutionally unprotected conduct.

Thus, claims of facial overbreadth are entertained in cases involving statutes which, **by their terms**, seek to regulate only "**spoken words**" and again, that "**overbreadth claims, if entertained at all, have been curtailed when invoked against ordinary criminal laws that are sought to be applied to protected conduct**." Here, the incontrovertible fact remains that PP 1017 pertains to a spectrum of **conduct**, not free speech, which is manifestly subject to state regulation.

Second, facial invalidation of laws is considered as "**manifestly strong medicine**," to be used "**sparingly and only as a last resort**," and is "**generally disfavored**;" The reason for this is obvious. Embedded in the traditional rules governing constitutional adjudication is the principle that a person to whom a law may be applied will not be heard to challenge a law on the ground that it may conceivably be applied unconstitutionally to others, i.e., **in other situations not before the Court.** A writer and scholar in Constitutional Law explains further:

The most distinctive feature of the overbreadth technique is that it marks an exception to some of the usual rules of constitutional litigation. Ordinarily, a particular litigant claims that a statute is unconstitutional as applied to him or her; if the litigant prevails, the courts carve away the unconstitutional aspects of the law by invalidating its improper applications on a case to case basis. Moreover, challengers to a law are not permitted to raise the rights of third parties and can only assert their own interests. In overbreadth analysis, those rules give way; challenges are permitted to raise the rights of third parties; and the court invalidates the entire statute "on its face," not merely "as applied for" so that the overbroad law becomes unenforceable until a properly authorized court construes it more narrowly. The factor that motivates courts to depart from the normal adjudicatory rules is the concern with the "chilling;" deterrent effect of the overbroad statute on third parties not courageous enough to bring suit. The Court assumes that an overbroad laws "very existence may cause others not before the court to refrain from constitutionally protected speech or expression." An overbreadth ruling is designed to remove that deterrent effect on the speech of those third parties.

In other words, a facial challenge using the overbreadth doctrine will require the Court to examine PP 1017 and pinpoint its flaws and defects, not on the basis of its actual operation to petitioners, but on the assumption or prediction that its very existence may cause **others not before the Court** to refrain from constitutionally protected speech or expression.

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> And *third*, a facial challenge on the ground of overbreadth is the most difficult challenge to mount successfully, since the challenger must establish that **there can be no instance when the assailed law may be valid**. Here, petitioners did not even attempt to show whether this situation exists.
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> Petitioners likewise seek a facial review of PP 1017 on the ground of vagueness. This, too, is unwarranted.
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> Related to the "overbreadth" doctrine is the "void for vagueness doctrine" which holds that "**a law is facially invalid if men of common intelligence must necessarily guess at its meaning and differ as to its application.**" It is subject to the same principles governing overbreadth doctrine. For one, it is also an analytical tool for testing "on their faces" **statutes in free speech cases**. And like overbreadth, it is said that a litigant may challenge a statute on its face only if it is **vague in all its possible applications.**

Be that as it may, the test in determining whether a criminal statute is void for uncertainty is whether the language conveys a sufficiently definite warning as to the proscribed conduct when measured by common understanding and practice.[39] This Court has similarly stressed that the vagueness doctrine merely requires a reasonable degree of certainty for the statute to be upheld - not absolute precision or mathematical exactitude.[40]

As structured, Section 45[41] of Republic Act No. 8189 makes a recital of election offenses under the same Act. Section 45(j) is, without doubt, crystal in its specification that a violation of any of the provisions of Republic Act No. 8189 is an election offense. The language of Section 45(j) is precise. The challenged provision renders itself to no other interpretation. A reading of the challenged provision involves no guesswork. We do not see herein an uncertainty that makes the same vague.

Notably, herein petitioners do not cite a word in the challenged provision, the import or meaning of which they do not understand. This is in stark contrast to the case of *Estrada v. Sandiganbayan*[42] where therein petitioner sought for statutory definition of particular words in the challenged statute. Even then, the Court in*Estrada* rejected the argument.

This Court reasoned:

> The rationalization seems to us to be pure sophistry. **A statute is not rendered uncertain and void merely because general terms are used therein, or because of the employment of terms without defining**

> **them; much less do we have to define every word we use. Besides, there is no positive constitutional or statutory command requiring the legislature to define each and every word in an enactment.** Congress is not restricted in the form of expression of its will, and its inability to so define the words employed in a statute will not necessarily result in the vagueness or ambiguity of the law so long as the legislative will is clear, or at least, can be gathered from the whole act, which is distinctly expressed in the Plunder Law."
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> **Moreover, it is a well-settled principle of legal hermeneutics that words of a statute will be interpreted in their natural, plain and ordinary acceptation and signification, unless it is evident that the legislature intended a technical or special legal meaning to those words.** The intention of the lawmakers who are, ordinarily, untrained philologists and lexicographers to use statutory phraseology in such a manner is always presumed.

Perforce, this Court has underlined that an act will not be held invalid merely because it might have been more explicit in its wordings or detailed in its provisions, especially where, because of the nature of the act, it would be impossible to provide all the details in advance as in all other statutes.[43]

The evident intent of the legislature in including in the catena of election offenses the violation of any of the provisions of Republic Act No. 8189, is to subsume as punishable, not only the commission of proscribed acts, but also the omission of acts enjoined to be observed. On this score, the declared policy of Republic Act No. 8189 is illuminating. The law articulates the policy of the State to systematize the present method of registration in order to establish a clean, complete, permanent and updated list of voters. A reading of Section 45 (j) conjointly with the provisions upon which petitioners are charged, *i.e.*, Sections 10 (g) and (j) would reveal that the matters that are required to be set forth under the aforesaid sections are crucial to the achievement of a clean, complete, permanent and updated list of voters. The factual information required by the law is sought not for mere embellishment.

There is a definitive governmental purpose when the law requires that such facts should be set forth in the application. The periods of residence in thePhilippines and in the place of registration delve into the matter of residency, a requisite which a voter must satisfy to be deemed a qualified voter and registered in the permanent list of voters in a precinct of the city or municipality wherein he resides. Of even rationality exists in the case of the

requirement in Section 10 (j), mandating that the applicant should state that he/she is not a registered voter of any precinct. Multiple voting by so-called flying voters are glaring anomalies which this country strives to defeat. The requirement that such facts as required by Section 10 (g) and Section 10 (j) be stated in the voter's application form for registration is directly relevant to the right of suffrage, which the State has the right to regulate.

It is the opportune time to allude to the case of *People v. Gatchalian*[44] where the therein assailed law contains a similar provision as herein assailed before us. Republic Act No. 602 also penalizes any person who willfully violates any of the provisions of the Act. The Court dismissed the challenged, and declared the provision constitutional. The Court in *Gatchalian* read the challenged provision, "any of the provisions of this [A]ct" conjointly with Section 3 thereof which was the pertinent portion of the law upon which therein accused was prosecuted. *Gatchalian* considered the terms as all-embracing; hence, the same must include what is enjoined in Section 3 thereof which embodies the very fundamental purpose for which the law has been adopted. This Court ruled that the law by legislative fiat intends to punish not only those expressly declared unlawful but even those not so declared but are clearly enjoined to be observed to carry out the fundamental purpose of the law.[45] *Gatchalian* remains good law, and stands unchallenged.

It also does not escape the mind of this Court that the phraseology in Section 45(j) is employed by Congress in a number of our laws.[46] These provisions have not been declared unconstitutional.

Moreover, every statute has in its favor the presumption of validity.[47] To justify its nullification, there must be a clear and unequivocal breach of the Constitution, and not one that is doubtful, speculative or argumentative.[48] We hold that petitioners failed to overcome the heavy presumption in favor of the law. Its constitutionality must be upheld in the absence of substantial grounds for overthrowing the same.

A salient point. Courts will refrain from touching upon the issue of constitutionality unless it is truly unavoidable and is the very *lis mota*. In the case at bar, the*lis mota* is the alleged grave abuse of discretion of the COMELEC in finding probable cause for the filing of criminal charges against petitioners.

Third. Petitioners maintain that the COMELEC *En Banc*, premised its finding on a misapprehension of facts, and committed grave abuse of discretion in directing the filing of Informations against them with the RTC.

We are once again unimpressed.

The constitutional grant of prosecutorial power in the COMELEC finds statutory expression under Section 265[49] of Batas Pambansa Blg. 881, otherwise known as the Omnibus Election Code.[50] The task of the COMELEC whenever any election offense charge is filed before it is to conduct the preliminary investigation of the case, and make a determination of probable cause. Under Section 8(b), Rule 34 of the COMELEC Rules of Procedure, the investigating officer makes a determination of whether there is a reasonable ground to believe that a crime has been committed.[51] In *Baytan v. COMELEC*,[52] this Court, sufficiently elucidated on the matter of probable cause in the prosecution of election offenses, *viz*:

> It is also well-settled that the finding of probable cause in the prosecution of election offenses rests in the COMELEC's sound discretion. The COMELEC exercises the constitutional authority to investigate and, where appropriate, prosecute cases for violation of election laws, including acts or omissions constituting election frauds, offense and malpractices. Generally, the Court will not interfere with such finding of the COMELEC absent a clear showing of grave abuse of discretion. This principle emanates from the COMELEC's exclusive power to conduct preliminary investigation of all election offenses punishable under the election laws and to prosecute the same, except as may otherwise be provided by law.[53]

It is succinct that courts will not substitute the finding of probable cause by the COMELEC in the absence of grave abuse of discretion. The abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law as where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.[54]

According to the COMELEC *En Banc*, the investigating officer, in the case at bar, held that there was sufficient cause for the filing of criminal charges against petitioners, and found no reason to depart therefrom. Without question, on May 9 and 11 of 2001, petitioners applied

for registration as new voters with the Office of the Election Officer of Burauen, Leyte, notwithstanding the existence of petitioners' registration records as registered voters of Precinct No. 4419-A of Barangay Bagong Lipunan ng Crame, District IV, Quezon City. The directive by the COMELEC which affirmed the Resolution[55] of 28 November 2000 of Investigating Officer Atty. Tangaro-Casingal does not appear to be wanting in factual basis, such that a reasonably prudent man would conclude that there exists probable cause to hold petitioners for trial. Thus, in the aforesaid Resolution, the Investigating Officer, found:

> A violation therefore of Section 10 of Republic Act No. 8189 is an election offense.
>
> In the instant case, when respondents Carlos Romualdez and Erlinda Romualdez filed their respective applications for registration as new voters with the Office of the Election Officer of Burauen, Leyte on May 9 and 11, 2001, respectively, they stated under oath that they are not registered voters in other precinct (VRR Nos. 42454095 and 07902941). However, contrary to their statements, records show they are still registered voters of Precinct No. 4419-A, barangay Bagong Lipunan ng Crame, District IV, Quezon City, as per VRR Nos. 26195825 and 26195823. In other words, respondents' registration records in Quezon City is (sic) still in existence.
>
> While it may be true that respondents had written the City Election Officer of District IV, Quezon City for cancellation of their voter's registration record as voter's (sic) therein, they cannot presume that the same will be favorably acted upon. Besides, RA 8189 provides for the procedure in cases of transfer of residence to another city/municipality which must be complied with, to wit:
>
> "Section 12. Change of Residence to Another City or Municipality. – Any registered voter who has transferred residence to another city or municipality may apply with the Election Officer of his new residence for the transfer of his registration records.
>
> The application for transfer of registration shall be subject to the requirements of notice and hearing and the approval of the Election Registration Board, in accordance with this Act. Upon approval, of the application for transfer, and after notice of such approval to the Election Officer of their former residence of the voter, said Election Officer shall transmit by registered mail the voter's registration record to the Election Officer of the voter's new residence."

> They cannot claim ignorance of the abovestated provision on the procedure for transfer of registration records by reason of transferred new residence to another municipality. Based on the affidavit executed by one Eufemia S. Cotoner, she alleged that the refusal of the Assistant Election Officer Ms. Estrella Perez to accept the letter of respondents was due to improper procedure because respondents should have filed the required request for transfer with the Election Officer of Burauen, Leyte. Despite this knowledge, however, they proceeded to register as new voters of Burauen, Leyte, notwithstanding the existence of their previous registrations in Quezon City.
>
> In their subsequent affidavit of Transfer of Voters Registration under Section 12 of Republic Act 8189, respondents admitted that they erroneously filed an application as a new voter (sic) with the office of the Election Officer of Burauen, Leyte, by reason of an honest mistake, which they now desire to correct. (underscoring ours).
>
> Respondents lose sight of the fact that a statutory offense, such as violation of election law, is *mala prohibita*. Proof of criminal intent is not necessary. Good faith, ignorance or lack of malice is beside the point. Commission of the act is sufficient. It is the act itself that is punished.
>
> x x x x
>
> In view of the foregoing, the Law Department respectfully submits that there is probable cause to hold respondents Carlos Romualdez and Erlinda Romualdez for trial in violation of Section 10(g) and (j) in relation to Section 45(j) of Republic Act No. 8189. There is no doubt that they applied for registration as new voters of Burauen, Leyte consciously, freely and voluntarily.[56]

We take occasion to reiterate that the Constitution grants to the COMELEC the power to prosecute cases or violations of election laws. Article IX (C), Section 2 (6) of the 1987 Constitution, provides:

> (6) File, upon a verified complaint, or on its own initiative, petitions in court for inclusion or exclusion of voters; investigate and where appropriate, prosecute cases or violations of election laws, including acts or omissions constituting election frauds, offenses, and malpractices.

This power to prosecute necessarily involves the power to determine who shall be prosecuted, and the corollary right to decide whom not to prosecute.[57] Evidently, must this power to prosecute also include the right

to determine under which laws prosecution will be pursued. The courts cannot dictate the prosecution nor usurp its discretionary powers. As a rule, courts cannot interfere with the prosecutor's discretion and control of the criminal prosecution.[58] Its rationale cannot be doubted. For the business of a court of justice is to be an impartial tribunal, and not to get involved with the success or failure of the prosecution to prosecute.[59] Every now and then, the prosecution may err in the selection of its strategies, but such errors are not for neutral courts to rectify, any more than courts should correct the blunders of the defense.[60]

Fourth. In *People v. Delgado*,[61] this Court said that when the COMELEC, through its duly authorized law officer, conducts the preliminary investigation of an election offense and upon a *prima facie* finding of a probable cause, files the Information in the proper court, said court thereby acquires jurisdiction over the case. Consequently, all the subsequent disposition of said case must be subject to the approval of the court. The records show that Informations charging petitioners with violation of Section 10(g) and (j), in relation to Section 45(j) of Republic Act No. 8189 had been filed with the RTC. The case must, thus, be allowed to take its due course.

It may be recalled that petitioners prayed for the issuance of a Temporary Restraining Order or Writ of Preliminary Injunction before this Court to restrain the COMELEC from executing its Resolutions of 11 June 2004 and 27 January 2005. In a Resolution dated 20 June 2006, this Court *En Banc* denied for lack of merit petitioners' Motion Reiterating Prayer for Issuance of Writ of Preliminary Injunction and to Cite for Indirect Contempt. Logically, the normal course of trial is expected to have continued in the proceedings *a quo*.

WHEREFORE, the Petition is **DENIED.** The assailed Resolutions, dated 11 June 2004 and 27 January 2005 of the COMELEC *En Banc* are **AFFIRMED.** Costs against petitioners.

SO ORDERED.

MINITA V. CHICO-NAZARIO
Associate Justice

WE CONCUR:

REYNATO S. PUNO
Chief Justice

LEONARDO A. QUISUMBING
Associate Justice

CONSUELO YNARES-SANTIAGO
Associate Justice

ANTONIO T. CARPIO
Associate Justice

MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

RENATO C. CORONA
Associate Justice

CONCHITA CARPIO MORALES
Associate Justice

ADOLFO S. AZCUNA
Associate Justice

DANTE O. TINGA
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

ANTONIO EDUARDO B. NACHURA
Associate Justice

RUBEN T. REYES
Associate Justice

TERESITA J. LEONARDO DE CASTRO
Associate Justice

ARTURO D. BRION
Associate Justice

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

REYNATO S. PUNO
Chief Justice

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* On leave.

[1] Penned by Commissioner Florentino A. Tuason, Jr. with the concurrence of Commissioners Rufino S. B. Javier, Mehol K. Sadain, Resurreccion Z. Borra, Virgilio O. Garcillano and Manuel A. Barcelona, Jr.; *Rollo*, pp. 23-27.

[2] Penned by Commissioner Virgilio O. Garcillano with the concurrence of Commissioners Mehol K. Sadain, Resurreccion Z. Borra, Florentino A. Tuason, Jr., and Manuel A. Barcelona, Jr. Chairman Benjamin S. Abalos and Commissioner Rufino S.B. Javier took no part. *Rollo*, pp. 28-30.

[3] SEC. 10. *Registration of Voters.* – A qualified voter shall be registered in the permanent list of voters in a precinct of the city or municipality wherein he resides to be able to vote in any election. To register as a voter, he shall personally accomplish an application form for registration as prescribed by the Commission in three (3) copies before the Election Officer on any date during office hours after having acquired the qualifications of a voter.

The application shall contain the following data:

a) Name, surname, middle name, and/or maternal surname;

b) Sex;

c) Date, and place of birth;

d) Citizenship;

e) Civil status, if married, name of spouse;

f) Profession, occupation or work;

g) Periods of residence in the Philippines and in the place of registration;

h) Exact address with the name of the street and house number for location in the precinct maps maintained by the local office of the Commission, or in case there is none, a brief description of his residence*sitio* and Barangay;

i) A statement that the applicant possesses all the qualifications of a voter;

j) A statement that the application is not a registered voter of any precinct; and

k) Such information or data as may be required by the Commission.

The application for registration shall contain three (3) specimen signatures of the applicant, clear and legible rolled prints of his left and right thumbprints, with four identification size copies of his latest photograph, attached thereto, to be taken at the expense of the Commission.

Before the applicant accomplishes his application for registration, the Election Officer shall inform him of the qualifications and disqualifications prescribed by law for a voter, and thereafter, see to it that the accomplished application contains all the data therein required and that the applicant's specimen signatures, fingerprints, and photographs are properly affixed in all copies of the voter's application.

[4] SEC. 45. *Election Offense.* – The following shall be considered election offenses under this Act.

a) to deliver, hand over, entrust or give, directly or indirectly, his voter's identification card to another in consideration of money or other benefit or promise; or take or accept such voter's identification card, directly or indirectly, by giving or causing the giving of money or other benefit or making or causing the making of a promise therefor;

b) to fail, without cause, to post or give any of the notices or to make any of the reports required under this Act;

c) to issue or cause the issuance of a voter's identification number to cancel or cause the cancellation thereof in violation of the provisions of this Act; or to refuse the issuance of registered voters their voter's identification card;

d) to accept an appointment, to assume office and to actually serve as a member of the Election Registration Board although ineligible thereto; to appoint such ineligible person knowing him to be ineligible;

e) to interfere with, impede, abscond for purposes of gain or to prevent the installation or use of computers and devices and the processing, storage, generation and transmission of registration data or information;

f) to gain, cause access to, use, alter, destroy, or disclose any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified;

g) failure to provide certified voters and deactivated voters list to candidates and heads or representatives of political parties upon written request as provided in Section 30 hereof;

h) failure to include the approved application form for registration of a qualified voter in the book of voters of a particular precinct or the omission of the name of a duly registered voter in the certified list of voters of the precinct where he is duly registered resulting in his failure to cast his vote during an election, plebiscite, referendum, initiative and/or recall. The presence of the former name in the book of voters or certified list of voters in precincts other than where he is duly registered shall not be an excuse hereof;

i) The posting of a list of voters outside or at the door of a precinct on the day of an election, plebiscite, referendum, initiative and/or recall and which

list is different in contents from the certified list of voters being used by the Board of Election Inspectors; and

j) Violation of any of the provisions of this Act. (Italics supplied.)

[5] Entitled, "AN ACT PROVIDING FOR A GENERAL REGISTRATION OF VOTERS, ADOPTING A SYSTEM OF CONTINUING REGISTRATION, PRESCRIBING THE PROCEDURES THEREOF AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR."

[6] Angelino Apostol indicated in the Complaint-Affidavit that he is the Municipal Chairman of the Lakas-NUCD, a duly registered political party in the Municipality of Burauen, Leyte. However, on 5 March 2001, he withdrew as complainant due to medical reasons. *See rollo*, pp. 81, 108-111.

[7] Id. at 81-88.

[8] Sec. 261. *Prohibited Acts.* – The following shall be guilty of an election offense:

(y) *On Registration of Voters*:

x x x x

(2) Any person who knowingly makes any false or untruthful statement relative to any of the data or information required in the application for registration.

[9] Sec. 261. *Prohibited Acts.* – The following shall be guilty of an election offense;

(y) *On Registration of Voters*:

x x x x

(5) Any person who, being a registered voter, registers anew without filing an application for cancellation of his previous registration.

[10] SEC. 12. *Change of Residence to Another City or Municipality.* – Any registered voter who has transferred residence to another city or municipality may apply with the Election Officer of his new residence for the transfer of his registration records.

The application for transfer of registration shall be subject to the requirements of notice and hearing and the approval of the Election Registration Board, in accordance with this Act. Upon approval of the application for transfer, and after notice of such approval to the Election Officer of the former residence of the voter, said Election Officer shall transmit by registered mail the voter's registration record to the Election Officer of the voter's new residence.

[11] Supra note 3.

[12] *Rollo*, p. 87.

[13] Id. at 31-39.

[14] The Resolution of Welcome states, in part, to wit:

WHEREAS, Mr. Carlos "Caloy" S. Romualdez has established his official residence at No. 935 San Jose Street, Barangay District III, Burauen, Leyte, effective today, May 9th 2000. (*Rollo*, p. 44.)

[15] Id. at 26-27; 149.

[16] Id. at 27.

[17] Id. at 28-30.

[18] Id. at 29.

[19] The pertinent portion of the Information, reads, thus:

The undersigned accuses CARLOS SISON ROMUALDEZ, for violation of Section 10(g), in relation to Section 45(j) of Republic Act No. 8189, committed as follows:

That on or about May 9, 2000 during the continuing Registration of Voters under Republic Act No. 8189, in the Municipality of Burauen, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully, fail to fill up the required period of residence in the place of registration in his Voter Registration Record (VRR) No. 42454095 before the Election Registration Board (ERB) of said municipality, which constitute (sic) material misrepresentation in his application for registration as a new registrant at Precinct No. 11-A, Barangay District No. 3, in said municipality. (Id. at 221.)

[20] The Information, states, to wit:

The undersigned accuses ERLINDA REYES ROMUALDEZ, for violation of Section 10 (g), in relation to Section 45 (j) of Republic Act No. 8189, committed as follows:

> That on or about May 11, 2000 during the continuing Registration of Voters under Republic Act No. 8189, in the Municipality of Burauen, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did, then and there, willfully and unlawfully, fail to fill up the required period of residence in the place of registration in her Voter Registration Record (VRR) No. 07902952 before the Election Registration Board (ERB) of said municipality, which constitute (sic) material misrepresentation in her application for registration as a new registrant at Precinct No. 11-A, Barangay District No. 3, in said municipality. (Id. at 227.)

[21] The Information against petitioner CARLOS SISON ROMUALDEZ, reads, in part:

The undersigned accuses CARLOS SISON ROMUALDEZ, for violation of Section 10(j), in relation to Section 45(j) of Republic Act No. 8189, committed as follows:

> That on or about May 9, 2000 during the continuing Registration of Voters, under Republic Act No. 8189, in the Municipality of Burauen, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a registered voter at Precinct No. 4419A of Barangay Bagong Lipunan ng Crame, Quezon City, with Voter Registration Record (VRR) No. 26195824, did, then and there, willfully and unlawfully, file an application for registration on May 9, 2000 at Precinct No. 11-A of Barangay District III, Burauen, Leyte, as evidenced by Voter Registration Record (VRR) No. 42454095, where he declared under oath constituting material misrepresentation that he is not a registered voter in any precinct in the municipality, when in truth and in fact, he is a registered voter at Precinct No. 4419A of Barangay Bagong Lipunan ng Crame, Quezon City under Voter Registration Record (VRR) No. 26195824 dated June 22, 1997.

The Information against petitioner ERLINDA REYES ROMUALDEZ, for violation of Section 10(j), in relation to Section 45(j) of Republic Act No. 8189, committed as follows:

> That on or about May 11, 2000 during the continuing Registration of Voters under Republic Act No. 8189, in the Municipality of Burauen, Province of Leyte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a registered voter at Precinct No. 4419A of Barangay Bagong Lipunan ng Crame, Quezon City, with Voter Registration Record (VRR) No. 26195832, did, then and there, willfully and unlawfully, file an application for registration on May 11, 2000 in Barangay District III, Burauen, Leyte, as evidenced by Voter Registration Record (VRR) No. 07902952, where she declared under oath constituting material misrepresentation that she is not a registered voter in any precinct in the municipality, when in truth and in fact, she is a registered voter in Barangay Bagong Lipunan ng Crame, Quezon City under Voter Registration Record (VRR) No. 26195823 dated June 22, 1997. (Id. at 224-225.)

[22] Id. at 182, 187.

[23] Id. at 215.

[24] Id. at 235.

[25] Section 14 (1), Article III of the 1987 Constitution, provides, thus:

> Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.

[26] Section 14 (2). Article III of the 1987 Constitution states:

> Section 14 (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable,

[27] *Rollo*, pp. 82-83.

[28] G.R. No. 128096, 20 January 1999, 301 SCRA 298.

[29] Id. at 325.

[30] Id. at 327.

[31] G.R. No. 165596, 17 November 2005, 475 SCRA 341.

[32] Id. at 349.

[33] Id.

[34] *David v. Macapagal-Arroyo*, G.R. Nos. 171396, 171409, 171485, 171483, 171400, 171489, and 171424, 3 May 2006, 489 SCRA 160, 239.

[35] A facial invalidation or a line-by-line scrutiny is an examination of the entire law, pinpointing its flaws and defects, not only on the basis of its actual operations to the parties involved, but on the assumption or prediction that its very existence may cause others not before the court to refrain from constitutionally protected speech, or on the ground that they may be applied to others not before the court whose activities are constitutionally protected. *See David, supra.*

[36] See *Romualdez v. Sandiganbayan*, G.R. No. 152259, 29 July 2004, 435 SCRA 371, 381-382. The Court in *Romualdez*, restated the void-for-vagueness doctrine, thus: "The void-for-vagueness doctrine states that "a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to the application, violates the first essential of due process," citing the Separate Opinion of Mr. Justice Mendoza in *Estrada v. Sandiganbayan*, 421 Phil. 290, 429-430 (2001), citing *Connally v. General Constr. Co.*, 269 U.S. 385, 391, 70 L. Ed. 328 (1926); in turn cited in *Ermita-Malate Hotel and Motel Operators Association v. City Mayor*, G.R. No. L-24693, 31 July 1967, 20 SCRA 849, 867.

[37] Id.

[38] *Supra* note 34.

[39] *Estrada v. Sandiganbayan*, id. at 352, citing *State v. Hill*, 189 Kan 403, 369 P2d 365, 91 ALR2d 750.

[40] *Romualdez v. Sandiganbayan, supra.*

[41] Section 45 of Republic Act No. 8189, reads, in full, *viz*:

SEC. 45. *Election Offenses.* - The following shall be considered election offenses under this Act

a. to deliver, hand over, entrust or give, directly or indirectly, his voter's identification card to another in consideration of money or other benefit of promise; or take or accept such voter's identification card, directly or indirectly, by giving or causing the giving of money or other benefit or making or causing the making of a promise therefor;

b. to fail, without cause, to post or give any of the notices or to make any of the reports required under this Act;

c. to issue or cause the issuance of a voter's identification number or to cancel or cause the cancellation thereof in violation of the provisions of this Act; or to refuse the issuance of registered voters their voter's identification card;

d. to accept an appointment, to assume office and to actually serve as a member of the Election Registration Board although ineligible thereto; to appoint such ineligible person knowing him to be ineligible;

e. to interfere with, impede, abscond for purpose of gain or to prevent the installation or use of computers and devices and the processing, storage, generation, and transmission of registration data or information;

f. to gain, cause access to, use, alter, destroy, or disclose any computer data, program, system software, network, or any computer-related devices, facilities, hardware or equipment, whether classified or declassified;

g. failure to provide certified voters and deactivated voters list to candidates and heads of representatives of political parties upon written request as provided in Section 30 hereof;

h. failure to include the approved application form for registration of a qualified voter in the book of voters of a particular precinct or the omission of the name of a duly registered voter in the certified list of voters of the precinct where he is duly registered resulting in his failure to cast his vote during an election, plebiscite, referendum, initiative and/or

recall. The presence of the form or name in the book of voters or certified list of voters in precincts other than where he is duly registered shall not be an excuse hereof;

i. the posting of a list of voters outside or at the door of a precinct on the day of an election, plebiscite, referendum, initiative and/or recall, and which list is different in contents from the certified list of voters being used by the Board of Election Inspectors; and

j. Violation of any of the provisions of this Act.

[42] G.R. No. 148560, 421 Phil. 290 (2001).

[43] Supra Note 35 at 353.

[44] G.R. No. L-12011-14, 104 Phil. 664 (1958).

[45] Id. at 672.

[46] Section 124 (4) of Republic Act No. 6938, otherwise known as the Cooperative Code, reads:

"Any violation of any provision of this Code for which no penalty is imposed shall be punished by imprisonment of not less than six (6) months nor more than one (1) year and a fine of not less than One Thousand Pesos (P1,000.00) or both at the discretion of the Court."

Section 72 of Republic Act No. 8371, otherwise known as The Indigenous Peoples Rights Act, provides:

"Any person who commits violation of any of the provisions of this Act, such as, but not limited to xxx"

Section 12 of Republic Act No. 8762, otherwise known as the Retail Trade Liberalization Act, states:

"Any person who would be found guilty of violation of any provisions of this Act shall be punished by imprisonment of not less than six (6) years and one (1) day but not more than eight (8) years, and a fine of at least One Million (P1,000,000.00) but not more than Twenty Million (P20,000,000.00).

[47] *See Philippine Judges Association v. Prado*, G.R. No. 105371, 11 November 1993, 227 SCRA 703,705.

[48] *Arceta v. Mangrobang*, G.R. No. 152895, 15 June 2004.

[49] Section 265 of Batas Pambansa Blg. 881, reads:

SEC. 265. *Prosecution.* – The Commission shall, through its duly authorized legal officers, have the exclusive power to conduct preliminary investigation of all election offenses punishable under this Code, and to prosecute the same. The Commission may avail of the assistance of other prosecuting arms of the government: *Provided, however,* That in the event that the Commission fails to act on any complaint within four months from his filing, the complainant may file the complaint with the office of the fiscal or with the Department of Justice for proper investigation and prosecution, if warranted.

[50] *Kilosbayan v. COMELEC*, 345 Phil. 1141, 1168 (1997).

[51] Section 8(b), Rule 34, COMELEC Rules of Procedure, states as follows:

SEC. 8. *Duty of Investigating Officer*.- The preliminary investigation must be terminated within twenty (20) days after receipt of the counter-affidavits and other evidence of the respondents, and resolution thereof shall be made within five (5) days thereafter.

x x x x

(b) If the investigating officer finds cause to hold the respondent for trial, he shall prepare the resolution, and the corresponding information wherein he shall certify under oath that he has examined the complainant and his witnesses, that there is reasonable ground to believe that a crime has been committed and that the accused was informed of the complaint and of the evidence submitted against him and that he was given an opportunity to submit controverting evidence.

[52] 444 Phil. 812, 820 (2003).

[53] Id.

[54] *Duero v. Court of Appeals*, 424 Phil. 12, 20 (2002).

[55] Records, pp. 199-215.

[56] *Rollo*, pp. 25-26.

[57] *Mapa v. Sandiganbayan*, G.R. No. 100295, 26 April 1994, 231 SCRA 783.

[58] *Alonzo v. Concepcion*, A.M. No. RTC-04-1879, 17 January 2005, citing *People v. Moll*, 68 Phil. 626 (1939).

[59] *Tanchanco v. Sandiganbayan*, G.R. No. 141675-96, 25 November 2005.

[60] Id.

[61] G.R. Nos. 93419-32, 18 September 1990, 189 SCRA 715, 722.