**G.R. No. 179267** **JESUS C. GARCIA v. THE HON. RAY ALLAN T. DRILON, PRESIDING JUDGE, REGIONAL TRIAL COURT, BRANCH 41, BACOLOD CITY, and ROSALIE JAYPE-GARCIA, for herself and in behalf of minor children, namely: JO-ANN, JOSEPH EDUARD, JESSE ANTHONE, all surnamed "GARCIA"**

Promulgated:

JUNE 25, 2013

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## CONCURRING OPINION

**LEONARDO-DE CASTRO, *J.*:**

I concur with the conclusion reached in the *ponencia* ably written by the Honorable Estela Perlas-Bernabe. With due respect, however, I submit that the test to determine an equal protection challenge against the law, denying statutory remedies to men who are similarly situated as the women who are given differential treatment in the law, on the basis of sex or gender, should be at the **level of intermediate scrutiny or middle-tier judicial scrutiny** rather than the rational basis test used in the *ponencia* of Justice Bernabe.

This Petition for Review on *Certiorari* assails: (1) the Decision dated January 24, 2007 of the Court of Appeals in CA-G.R. CEB-SP No. 01698 dismissing the Petition for Prohibition with Injunction and Temporary Restraining Order (Petition for Prohibition) which questioned the constitutionality of Republic Act No. 9262, otherwise known as the "Anti-Violence Against Women and Their Children Act of 2004," and sought a temporary restraining order and/or injunction to prevent the implementation of the Temporary Protection Order (TPO) and criminal prosecution of herein petitioner Jesus A. Garcia under the law; and (2) the Resolution dated August 14, 2007, denying petitioner's Motion for Reconsideration of the said Decision.

At the outset, it should be stressed that the Court of Appeals, in its assailed Decision and Resolution, did not pass upon the issue of constitutionality of Republic Act No. 9262 and instead dismissed the Petition for Prohibition on technical grounds, as follows:

1. The constitutional issue was raised for the first time on appeal before the Court of Appeals by petitioner and not at the earliest opportunity, which should be before the Regional Trial Court (RTC), Branch 41, Bacolod City, acting as a Family Court, where private respondent Rosalie Garcia, wife of petitioner, instituted a Petition for Temporary and Permanent Protection Order[s][1] under Republic Act No. 9262, against her husband, petitioner Jesus C. Garcia; and

2. The constitutionality of Republic Act No. 9262 can only be questioned in a direct action and it cannot be the subject of a collateral attack in a petition for prohibition, as the inferior court having jurisdiction on the action may itself determine the constitutionality of the statute, and the latter's decision on the matter may be reviewed on appeal and not by a writ of prohibition, as it was held in *People v. Vera*.[2]

Hence, the Court of Appeals Decision and Resolution denied due course to the Petition for Prohibition "for being fraught with fatal technical infirmities" and for not being ripe for judicial review. Nevertheless, four out of the five issues raised by the petitioner here dealt with the alleged unconstitutionality of Republic Act No. 9262. More accurately put, however, the Court of Appeals refrained from touching at all those four substantive issues of constitutionality. The Court of Appeals cannot therefore be faulted for any erroneous ruling on the aforesaid substantive constitutional issues.

In this instant Petition for Review, the only issue directly in point that can be raised against the Court of Appeals Decision and Resolution is the first one cited as a ground for the appeal, which I quote:

> THE COURT OF APPEALS ERRED IN DISMISSING THE PETITION ON THE THEORY THAT THE ISSUE OF CONSTITUTIONALITY WAS NOT RAISED AT THE FIRST OPPORTUNITY AND THAT, THE PETITION WAS A COLLATERAL ATTACK ON THE VALIDITY OF THE LAW.[3]

Under the circumstances, whether this Court should consider this Petition for Review as a proper occasion to pass upon the constitutionality of Republic Act No. 9262 shall be a separate subject matter that is tackled below after the above-quoted first issue is disposed of.

***On the Propriety of Raising the Issue of Constitutionality in a Summary Proceeding Before the RTC Designated as a Family Court***

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1 *Rollo*, pp. 63-83.
2 65 Phil. 56 (1937).
3 *Rollo*, p. 22.

Petitioner assails the Court of Appeals ruling that he should have raised the issue of constitutionality in his Opposition[4] to private respondent's petition for protective orders pending before the RTC for the following reasons:

1. The Rules on Violence Against Women and Children (A.M. No. 04-10-11-SC), particularly Section 20 thereof, expressly prohibit him from alleging any counterclaim, cross-claim or third party claim, all of which are personal to him and therefore with more reason, he cannot impugn the constitutionality of the law by way of affirmative defense.[5]

2. Since the proceedings before the Family Court are summary in nature, its limited jurisdiction is inadequate to tackle the complex issue of constitutionality.[6]

I agree with Justice Bernabe that the RTC, designated as a Family Court, is vested with jurisdiction to decide issues of constitutionality of a law, and that the constitutionality of Republic Act No. 9262 can be resolved in a summary proceeding, in accordance with the rule that the question of constitutionality must be raised at the earliest opportunity, otherwise it may not be considered on appeal.

Section 20 of A.M. No. 04-10-11-SC, the Rule on Republic Act No. 9262 provides:

> Sec. 20. *Opposition to Petition*. – (a) The respondent may file an opposition to the petition which he himself shall verify. It must be accompanied by the affidavits of witnesses and shall show cause why a temporary or permanent protection order should not be issued.
>
> (b) Respondent shall not include in the opposition any counterclaim, cross-claim or third-party complaint, **but any cause of action which could be the subject thereof may be litigated in a separate civil action**. (Emphasis supplied.)

Petitioner cites the above provision, particularly paragraph (b) thereof, as one of his grounds for not challenging the constitutionality of Republic Act No. 9262 in his Opposition. The error of such reasoning is that it treats "any cause of action" mentioned in Section 20(b) <u>as distinct</u> from the "counterclaim, cross-claim or third-party complaint" referred to in the said Section 20(b). On the contrary, the language of said section clearly refers to a cause of action that is the "**subject" of the counterclaim, cross-claim, or third-party complaint**, which is barred and which may be litigated in a separate civil action. The issue of constitutionality is not a "cause of action" that is a subject of the aforementioned prohibited pleadings. In fact, petitioner admitted that such prohibited pleadings would allege "claims

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4 Id. at 98-103.
5 Id. at 23.
6 Id. at 24.

which are **personal** to him."[7] Hence, Section 20(b) cannot even be invoked as a basis for filing the separate special civil action of Petition for Prohibition before the Court of Appeals to question the constitutionality of Republic Act No. 9262.

What obviously escapes petitioner's understanding is that the contents of the Opposition are not limited to mere refutations of the allegations in the petition for temporary and permanent protection order. While it is true that A.M. No. 04-10-11-SC requires the respondent to file an *Opposition* and not an *Answer*,[8] it does not prevent petitioner from challenging the constitutionality of Republic Act No. 9262 in such Opposition. In fact, Section 20(a) directs petitioner to state in his Opposition why a temporary or permanent protection order should not be issued against him. This means that petitioner should have raised in his Opposition all defenses available to him, which may be either negative or affirmative. Section 5(b), Rule 6 of the Rules of Court define negative and affirmative defenses as follows:

> (a) A negative defense is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his cause or causes of action.
>
> (b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance.

In *Bayog v. Hon. Natino*,[9] the respondent, in a complaint for ejectment before the Municipal Circuit Trial Court (MCTC), raised as one of his defenses, the MCTC's lack of jurisdiction over the case in light of the agricultural tenancy relationship between him and the petitioner. The MCTC applied the Rule on Summary Procedure and issued an Order stating that it could not take cognizance of the Answer, for being filed belatedly. This Court ruled that while the MCTC was correct in applying the Rule on Summary Procedure as the complaint was one for ejectment, it should have met and ruled squarely on the issue of jurisdiction, as there was nothing in the rules that barred it from admitting the Answer. Hence, the MCTC should have heard and received evidence for the precise purpose of determining whether or not it possessed jurisdiction over the case.[10]

Similarly, the alleged unconstitutionality of Republic Act No. 9262 is a matter that would have prevented the trial court from granting the petition for protection order against the petitioner. Thus, petitioner should have

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7 Id. at 309, Petitioner's Memorandum.

8 Rationale of the Proposed Rule on Violence against Women and their Children, 15th Salient Feature.

9 327 Phil. 1019 (1996).

10 Id. at 1036-1037.

raised it in his Opposition as a defense against the issuance of a protection order against him.

For all intents and purposes, the Petition for Prohibition filed before the Court of Appeals was precipitated by and was ultimately directed against the issuance of the TPO, an interlocutory order, which under Section 22(j) of A.M. No. 04-10-11-SC is a prohibited pleading. An action questioning the constitutionality of the law also cannot be filed separately even with another branch of the RTC. This is not technically feasible because there will be no justiciable controversy or an independent cause of action that can be the subject of such separate action if it were not for the issuance of the TPO against the petitioner. Thus, the controversy, subject of a separate action, whether before the Court of Appeals or the RTC, would still have to be the issuance of the TPO, which is the subject of another case in the RTC.

Moreover, the challenge to the constitutionality of the law must be raised at the earliest opportunity. In *Dasmariñas Water District v. Monterey Foods Corporation*,[11] we said:

> A law is deemed valid unless declared null and void by a competent court; more so when the issue has not been duly pleaded in the trial court. The question of constitutionality must be raised at the earliest opportunity. x x x. The settled rule is that courts will not anticipate a question of constitutional law in advance of the necessity of deciding it. (Citation omitted.)

This Court held that such opportunity is in the pleadings before a competent court that can resolve it, such that "if it is not raised in the pleadings, it cannot be considered at the trial, and, if not considered at the trial, it cannot be considered on appeal."[12] The decision upon the constitutional question is necessary to determine whether the TPO should be issued against petitioner. Such question should have been raised at the earliest opportunity as an affirmative defense in the Opposition filed with the RTC handling the protection order proceedings, which was the competent court to pass upon the constitutional issue. This Court, in *Drilon v. Lim*,[13] held:

> **We stress at the outset that the lower court had jurisdiction to consider the constitutionality of Section 187, this authority being embraced in the general definition of the judicial power to determine what are the valid and binding laws by the criterion of their conformity to the fundamental law.** Specifically, BP 129 vests in the regional trial courts jurisdiction over all civil cases in which the subject of the litigation is incapable of pecuniary estimation, **even as the accused in a criminal action has the right to question in his defense the constitutionality of a law he is charged with violating and of the proceedings taken against him, particularly as they contravene the**

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11 G.R. No. 175550, September 17, 2008, 565 SCRA 624, 637.
12 *Matibag v. Benipayo*, 429 Phil. 554, 578 (2002).
13 G.R. No. 112497, August 4, 1994, 235 SCRA 135, 139-140.

> **Bill of Rights.** Moreover, Article X, Section 5(2), of the Constitution vests in the Supreme Court appellate jurisdiction over final judgments and orders of lower courts in all cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question. (Citation omitted, emphases ours.)

Furthermore, the filing of a separate action before the Court of Appeals or the RTC for the declaration of unconstitutionality of Republic Act No. 9262 would result to multiplicity of suits. It is clear that the issues of constitutionality and propriety of issuing a protection order raised by petitioner are inextricably intertwined. Another court, whether it is an appellate court or a trial court, cannot resolve the constitutionality question in the separate action without affecting the petition for the issuance of a TPO. Bringing a separate action for the resolution of the issue of constitutionality will result in an unresolved prejudicial question to the validity of issuing a protection order. If the proceedings for the protection order is not suspended, it does create the danger of having inconsistent and conflicting judgments between the two separate courts, whether of the same or different levels in the judicial hierarchy. These two judgments would eventually be the subject of separate motions for reconsideration, separate appeals, and separate petitions for review before this Court – the exact scenario the policy against multiplicity of suits is avoiding. As we previously held, "the law and the courts frown upon split jurisdiction and the resultant multiplicity of actions."[14]

It must be remembered that aside from the "earliest opportunity" requirement, the court's power of judicial review is subject to other limitations. Two of which are the existence of an actual case or controversy and standing. An aspect of the actual case or controversy requirement is the requisite of "ripeness." This is generally treated in terms of actual injury to the plaintiff. Thus, a question is ripe for adjudication when the act being challenged had a direct adverse effect on the individual challenging it. This direct adverse effect on the individual will also be the basis of his standing as it is necessary that the person challenging the law must have a personal and substantial interest in the case such that he has sustained, or will sustain direct injury as a result of its enforcement.[15]

In this case, the petitioner's challenge on the constitutionality of Republic Act No. 9262 was on the basis of the protection order issued against him. Verily, the controversy became ripe only when he was in danger of or was directly adversely affected by the statute mandating the issuance of a protection order against him. He derives his standing to challenge the statute from the direct injury he would sustain if and when the law is enforced against him. Therefore, it is clear that the proper forum to challenge the constitutionality of the law was before the RTC handling the

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14 *Presidential Commission on Good Government v. Peña*, 243 Phil. 93, 106 (1988).

15 *Lawyers Against Monopoly and Poverty (LAMP) v. The Secretary of Budget and Management*, G.R. No. 164987, April 24, 2012, 670 SCRA 373, 383-384.

protection order proceedings. The filing of a separate action to question the constitutionality of the law amounts to splitting a cause of action that runs counter to the policy against multiplicity of suits.

Moreover, the filing of the Petition for Prohibition with the Court of Appeals countenanced the evil that the law and the rules sought to avoid. It caused the delay in the proceedings and inconvenience, hardship and expense on the part of the parties due to the multiplicity of suits between them at different court levels. The RTC where the petition for protection orders is filed should be trusted, instead of being doubted, to be able to exercise its jurisdiction to pass upon the issue of constitutionality within the mandatory period set by the rules.

In gist, there is no statutory, reglementary, or practical basis to disallow the constitutional challenge to a law, which is sought to be enforced, in a summary proceeding. This is particularly true considering that the issue of a statute's constitutionality is a question of law which may be resolved without the reception of evidence or a full-blown trial. Hence, said issue should have been raised at the earliest opportunity in the proceedings before the RTC, Bacolod City and for failure of the petitioner to do so, it cannot be raised in the separate Petition for Prohibition before the Court of Appeals, as correctly ruled by the latter, nor in a separate action before the RTC.

***On the Court Resolving the Issue of Constitutionality of Republic Act No. 9262***

Notwithstanding my position that the Court of Appeals properly dismissed the Petition for Prohibition because of petitioner's failure to raise the issue of constitutionality of Republic Act No. 9262 at the earliest opportunity, I concur that the Court, in the exercise of its sound discretion,[16] should still pass upon the said issue in the present Petition. Notable is the fact that not only the petitioner, but the private respondent as well,[17] pray that the Court resolve the constitutional issue considering its novelty and paramount importance. Indeed, when public interest requires the resolution of the constitutional issue raised, and in keeping with this Court's duty of determining whether other agencies or even co-equal branches of government have remained within the limits of the Constitution and have not abused the discretion given them, the Court may brush aside technicalities of procedure and resolve the constitutional issue.[18]

Aside from the technical ground raised by petitioner in his first assignment of error, petitioner questions the constitutionality of Republic Act No. 9262 on the following grounds:

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16 *People v. Vera*, supra note 2.
17 *Rollo*, p. 237, Private Respondents' Comment.
18 *Matibag v. Benipayo*, supra note 12 at 579.

**THE COURT OF APPEALS COMMITTED SERIOUS ERROR IN FAILING TO CONCLUDE THAT R.A. NO. 9262 IS DISCRIMINATORY, UNJUST, AND VIOLATIVE OF THE EQUAL PROTECTION CLAUSE.**

**THE COURT OF APPEALS COMMITTED GRAVE MISTAKE IN NOT FINDING THAT R.A. NO. 9262 RUNS COUNTER TO THE DUE PROCESS CLAUSE OF THE CONSTITUTION.**

**THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE LAW DOES VIOLENCE TO THE POLICY OF THE STATE TO PROTECT THE FAMILY AS A BASIC SOCIAL INSTITUTION.**

**THE COURT OF APPEALS SERIOUSLY ERRED IN NOT DECLARING R.A. NO. 9262 AS INVALID AND UNCONSTITUTIONAL BECAUSE IT ALLOWS AN UNDUE DELEGATION OF JUDICIAL POWER TO THE BARANGAY OFFICIALS.**[19]

***On the Constitutional Right to Equal Protection of the Laws***

Petitioner challenges the constitutionality of Republic Act No. 9262 for making a gender-based classification, thus, providing remedies only to wives/women and not to husbands/men. He claims that even the title of the law, "An Act Defining Violence Against Women and Their Children" is already pejorative and sex-discriminatory because it means violence by men against women.[20] The law also does not include violence committed by women against children and other women. He adds that gender alone is not enough basis to deprive the husband/father of the remedies under it because its avowed purpose is to curb and punish spousal violence. The said remedies are discriminatory against the husband/male gender. There being no reasonable difference between an abused husband and an abused wife, the equal protection guarantee is violated.

Pertinently, Section 1, Article III of the 1987 Constitution states:

> No person shall be deprived of life, liberty, or property without due process of law, **nor shall any person be denied the equal protection of the laws**. (Emphasis supplied.)

The above provision was lifted verbatim from the 1935 and 1973 Constitutions, which in turn was a slightly modified version of the equal protection clause in Section 1, Amendment 14[21] of the United States Constitution.

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19 *Rollo*, p. 22.

20 Id. at 26.

21 All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall

In 1937, the Court established in *People v. Vera*[22] the four-fold test to measure the reasonableness of a classification under the equal protection clause, to wit:

> This basic individual right sheltered by the Constitution is a restraint on all the three grand departments of our government and on the subordinate instrumentalities and subdivisions thereof, and on many constitutional powers, like the police power, taxation and eminent domain. The equal protection of the laws, sententiously observes the Supreme Court of the United States, "is a pledge of the protection of equal laws." Of course, what may be regarded as a denial of the equal protection of the laws is a question not always easily determined. No rule that will cover every case can be formulated. Class legislation discriminating against some and favoring others is prohibited. **But classification on a reasonable basis, and not made arbitrarily or capriciously, is permitted. The classification, however, to be reasonable must be based on substantial distinctions which make real differences; it must be germane to the purposes of the law; it must not be limited to existing conditions only, and must apply equally to each member of the class.** (Citations omitted, emphasis supplied.)

In our jurisdiction, the standard and analysis of equal protection challenges in the main have followed the foregoing "*rational basis*" test, coupled with a deferential attitude to legislative classifications and a reluctance to invalidate a law unless there is a showing of a clear and unequivocal breach of the Constitution.[23]

However, over time, three levels of tests were developed, which are to be applied in equal protection cases, depending on the subject matter[24] involved:

1. **Rational Basis Scrutiny** – the traditional test, which requires "only that government must not impose differences in treatment except upon some reasonable differentiation fairly related to the object of regulation." Simply put, it merely demands that the classification in the statute **reasonably relates** to the legislative purpose.[25]

2. **Intermediate Scrutiny** – requires that the classification (means) must serve an **important governmental objective** (ends) and is **substantially related** to the achievement of such objective. A classification based on sex is the best-established example of an intermediate level of review.[26]

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any State deprive any person of life, liberty, or property, without due process of law; **nor deny to any person within its jurisdiction the equal protection of the laws**.

22 Supra note 2 at 125-126.

23 *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, 487 Phil. 531, 583-584 (2004).

24 *Ang Ladlad LGBT Party v. Commission on Elections*, G.R. No. 190582, April 8, 2010, 618 SCRA 32, citing BERNAS, THE 1987 CONSTITUTION OF THE PHILIPPINES: A COMMENTARY, pp. 139-140 (2009).

25 *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, supra note 23.

26 Id.

> 3. **Strict Scrutiny** – requires that the classification serve a **compelling state interest** and is **necessary** to achieve such interest. This level is used when suspect classifications or fundamental rights are involved.[27]

Recent Philippine jurisprudence has recognized the need to apply different standards of scrutiny in testing the constitutionality of classifications. In *British American Tobacco v. Camacho,*[28] this Court held that since the case therein neither involved a suspect classification nor impinged on a fundamental right, then "the rational basis test was properly applied to gauge the constitutionality of the assailed law in the face of an equal protection challenge."[29] We added:

> It has been held that "in the areas of social and economic policy, a statutory classification that neither proceeds along suspect lines nor infringes constitutional rights must be upheld against equal protection challenge if there is any reasonably conceivable state of facts that could provide a rational basis for the classification." Under the rational basis test, it is sufficient that the legislative classification is rationally related to achieving some legitimate State interest. x x x.[30] (Citations omitted.)

Echoing the same principle, this Court, speaking through then Chief Justice Puno in *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas,*[31] stated:

> Congress retains its wide discretion in providing for a valid classification, and its policies should be accorded recognition and respect by the courts of justice except when they run afoul of the Constitution. **The deference stops where the classification violates a fundamental right, or prejudices persons accorded special protection by the Constitution.** When these violations arise, this Court must discharge its primary role as the vanguard of constitutional guaranties, **and require a stricter and more exacting adherence to constitutional limitations.** Rational basis should not suffice.
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> x x x x
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> Under most circumstances, the Court will exercise judicial restraint in deciding questions of constitutionality, recognizing the broad discretion given to Congress in exercising its legislative power. Judicial scrutiny would be based on the "rational basis" test, and the legislative discretion would be given deferential treatment.
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> **But if the challenge to the statute is premised on the denial of a fundamental right, or the perpetuation of prejudice against persons favored by the Constitution with special protection, judicial scrutiny ought to be more strict.** A weak and watered down view would call for the abdication of this Court's solemn duty to strike down any law repugnant to the Constitution and the rights it enshrines. This is true whether the actor committing the unconstitutional act is a private person

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27 Id.
28 G.R. No. 163583, April 15, 2009, 585 SCRA 36.
29 Id. at 40.
30 Id. at 40-41.
31 Supra note 23 at 597-600.

> or the government itself or one of its instrumentalities. Oppressive acts will be struck down regardless of the character or nature of the actor. (Citations omitted.)

This was reiterated in *League of Cities of the Philippines v. Commission on Elections*,[32] and *Ang Ladlad LGBT Party v. Commission on Elections*,[33] wherein the Court, although applying the rational basis test, noted that there are tests, which are more appropriate in other cases, especially those involving suspect classes and fundamental rights. In fact, Chief Justice Puno expounded on this in his Separate Concurring Opinion in the *Ang Ladlad* case. He said that although the assailed resolutions therein were correctly struck down, **since the classification was based on gender or sexual orientation, a quasi-suspect classification, a heightened level of review should have been applied and not just the rational basis test, which is the most liberal basis of judicial scrutiny.** Citing American authority, Chief Justice Puno continued to elucidate on the three levels of scrutiny and the classes falling within each level, to wit:

> If a legislative classification disadvantages a "suspect class" or impinges upon the exercise of a "fundamental right," then the courts will employ **strict scrutiny** and the statute must fall unless the government can demonstrate that the classification has been precisely tailored to serve a compelling governmental interest. Over the years, the United States Supreme Court has determined that suspect classes for equal protection purposes include classifications based on race, religion, alienage, national origin, and ancestry. The underlying rationale of this theory is that where legislation affects discrete and insular minorities, the presumption of constitutionality fades because traditional political processes may have broken down. In such a case, the State bears a heavy burden of justification, and the government action will be closely scrutinized in light of its asserted purpose.
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> On the other hand, **if the classification, while not facially invidious, nonetheless gives rise to recurring constitutional difficulties, or if a classification disadvantages a "quasi-suspect class," it will be treated under intermediate or heightened review.** To survive intermediate scrutiny, the law must not only further an important governmental interest and be substantially related to that interest, but the justification for the classification must be genuine and must not depend on broad generalizations. Noteworthy, and of special interest to us in this case, **quasi-suspect classes include classifications based on gender** or illegitimacy.
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> If neither strict nor intermediate scrutiny is appropriate, then the statute will be tested for mere **rationality**. This is a **relatively relaxed standard** reflecting the Court's awareness that the drawing of lines which creates distinctions is peculiarly a legislative task and an unavoidable one. The presumption is in favor of the classification, of the reasonableness and fairness of state action, and of legitimate grounds of distinction, if any

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32 G.R. Nos. 176951, 177499, and 178056, November 18, 2008, 571 SCRA 263.

33 Supra note 24.

> such grounds exist, on which the State acted.[34] (Citations omitted, emphases supplied.)

This case presents us with the most opportune time to adopt the appropriate scrutiny in deciding cases where the issue of discrimination based on sex or gender is raised. The assailed Section 3, among other provisions, of Republic Act No. 9262 provides:

> SEC. 3. *Definition of Terms.* – As used in this Act:
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> (a) "Violence against women **and** their children" refers to any act or a series of acts committed by any person against a woman who is **his wife, former wife**, or **against a woman** with whom the person has or had a sexual or dating relationship, or with whom **he** has a common child, or **against her child** whether legitimate or illegitimate, within or without the family abode, which result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. x x x. (Emphases supplied.)

The aforesaid law also institutionalized remedies such as the issuance of protection orders in favor of women and children who are victims of violence and prescribed public penalties for violation of the said law.

Petitioner questions the constitutionality of Republic Act No. 9262 which denies the same protection orders to husbands who are victims of wife-abuse. It should be stressed that under aforecited section of said law violence may not only be physical or sexual but also psychological and economic in nature.

The Honorable Justice Marvic Mario Victor F. Leonen in his concurring opinion notes that "Husband abuse maybe an under reported form of family violence." While concurring with the majority opinion, he opines as follows:

> Nevertheless, in a future case more deserving of our attention, we should be open to realities which may challenge the dominant conception that violence in intimate relationships only happens to women and children. This may be predominantly true, but even those in marginal cases deserve fundamental constitutional and statutory protection. We should be careful that in correcting historical and cultural injustices, we may typecast all women as victims, stereotype all men as tormentors or make invisible the possibility that in some intimate relationships, men may also want to seek succor against acts defined in Section 5 of Republic Act No. 9262 in an expeditious manner.

Since statutory remedies accorded to women are not made available to men, when the reality is that there are men, regardless of their number, who are also suffering from domestic violence, the rational basis test may be too wide and liberal to justify the statutory classification which in effect allows

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[34] Id. at 93-95.

different treatment of men who are similarly situated. In the context of the constitutional policy to "ensure the fundamental equality before the law of women and men"[35] the level of scrutiny applicable, to test whether or not the classification in Republic Act No. 9262 violates the equal protection clause, is the **middle-tier scrutiny or the intermediate standard of judicial review.**

To survive intermediate review, the classification in the challenged law must (1) serve **important** governmental objectives, and (2) be **substantially related** to the achievement of those objectives.[36]

***Important and Essential Governmental Objectives: Safeguard Human Rights, Ensure Gender Equality and Empower Women***

Republic Act No. 9262 is a legislation that furthers important, in fact essential, governmental objectives as enunciated in the law's Declaration of Policy, as quoted below:

> SEC. 2. *Declaration of Policy*.- It is hereby declared that the State values the dignity of women and children and guarantees full respect for human rights. The State also recognizes the need to protect the family and its members particularly women and children, from violence and threats to their personal safety and security.
>
> Towards this end, the State shall exert efforts to address violence committed against women and children in keeping with the fundamental freedoms guaranteed under the Constitution and the Provisions of the Universal Declaration of Human Rights, the Convention on the Elimination of all forms of discrimination Against Women, Convention on the Rights of the Child and other international human rights instruments of which the Philippines is a party.

This policy is in consonance with the constitutional provisions,[37] which state:

> SEC. 11. The State values the dignity of every human person and guarantees full respect for human rights.
>
> SEC. 12. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. x x x.

By constitutional mandate, the Philippines is committed to ensure that human rights and fundamental freedoms are fully enjoyed by everyone. It

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35 1987 Constitution, Article II, Section 14.

36 *Central Bank (now Bangko Sentral ng Pilipinas) Employees Association, Inc. v. Bangko Sentral ng Pilipinas*, supra note 23 at 586, citing Justice Marshall's dissent in *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973).

37 1987 Constitution, Article II.

was one of the countries that voted in favor of the Universal Declaration of Human Rights (UDHR), which was a mere two years after it gained independence from the United States of America. In addition, the Philippines is a signatory to many United Nations human rights treaties such as the Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention Against Torture, and the Convention on the Rights of the Child, among others.

As a signatory to the UDHR, the Philippines pledged itself to achieve the promotion of universal respect for and observance of human rights and fundamental freedoms, [38] keeping in mind the standards under the Declaration. Among the standards under the UDHR are the following:

> Article 1. All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.
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> x x x x
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> Article 7. **All are equal before the law and are entitled without any discrimination to equal protection of the law.** All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.
>
> Article 8. Everyone has the right to an **effective remedy** by the competent national tribunals **for acts violating the fundamental rights** granted him by the constitution or by law. (Emphasis ours.)

The Declaration of Policy in Republic Act No. 9262 enunciates the purpose of the said law, which is to fulfill the government's obligation to safeguard the dignity and human rights of women and children by providing effective remedies against domestic violence or physical, psychological, and other forms of abuse perpetuated by the husband, partner, or father of the victim. The said law is also viewed within the context of the constitutional mandate to ensure gender equality, which is quoted as follows:

> Section 14. The State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men.[39]

It has been acknowledged that "gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men."[40] Republic Act No. 9262 can be viewed therefore as the Philippines' compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is committed to condemn discrimination against women and directs its members to undertake, without delay, all appropriate means to eliminate

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38 Universal Declaration of Human Rights.

39 1987 Constitution, Article II.

40 General Recommendation No. 19, CEDAW/par. 1 (1992).

discrimination against women in all forms both in law and in practice.[41] Known as the International Bill of Rights of Women,[42] the CEDAW is the central and most comprehensive document for the advancement of the welfare of women.[43] It brings the women into the focus of human rights concerns, and its spirit is rooted in the goals of the UN: to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women.[44] The CEDAW, in its preamble, explicitly acknowledges **the existence of extensive discrimination against women, and emphasized that such is a violation of the principles of equality of rights and respect for human dignity.**

In addition, as a state party to the CEDAW, the Philippines is under legal obligation to to ensure their development and advancement for the improvement of their position from one of ***de jure*** as well as ***de facto*** equality with men.[45] The CEDAW, going beyond the concept of discrimination used in many legal standards and norms, focuses on discrimination against women, with the emphasis that women have suffered and are continuing to suffer from various forms of discrimination on account of their biological sex.[46]

The Philippines' accession to various international instruments requires it to promote and ensure the observance of human rights and "continually affirm its commitment to ensure that it pursues gender equality in all aspects of the development process to eventually make real, a gender-responsive society."[47] Thus, the governmental objectives of **protecting human rights and fundamental freedoms, which includes promoting gender equality** and **empowering women**, as mandated not only by our Constitution, but also by commitments we have made in the international sphere, are undeniably **important and essential**.

***The Gender-Based Classification in Republic Act No. 9262 is Substantially Related to the Achievement of Governmental Objectives***

As one of the country's pervasive social problems, violence against women is deemed to be closely linked with the unequal power relationship between women and men and is otherwise known as "gender-based violence."[48] Violent acts towards women has been the subject of an

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41 CEDAW, Article 2.
42 http://pcw.gov.ph/international-commitments/cedaw last visited on April 9, 2013.
43 CEDAW, Introduction.
44 Id.
45 General Recommendation No. 25, CEDAW/par. 4 (2004).
46 Id., par. 5 (2004).
47 http://pcw.gov.ph/international-commitments last visited on April 9, 2013.
48 http://pcw.gov.ph/focus-areas/violence-against-women last visited on April 10, 2013.

examination on a historic world-wide perspective.[49] The exhaustive study of a foreign history professor noted that "[f]rom the earliest civilizations on, the subjugation of women, in the form of violence, were facts of life,"[50] as three great bodies of thought, namely: Judeo-Christian religious ideas; Greek philosophy; and the Common Law Legal Code, which have influenced western society's views and treatment of women, all "assumed patriarchy as natural; that is, male domination stemming from the view of male superiority."[51] It cited 18th century legal expert William Blackstone, who explained that the common law doctrine of *coverture* reflected the theological assumption that husband and wife were 'one body' before God; thus "they were 'one person' under the law, and that one person was the husband,"[52] a concept that evidently found its way in some of our Civil Code provisions prior to the enactment of the Family Code.

Society and tradition dictate that the culture of patriarchy continue. Men are expected to take on the dominant roles both in the community and in the family. This perception naturally leads to men gaining more power over women – power, which must necessarily be controlled and maintained. Violence against women is one of the ways men control women to retain such power.[53]

The enactment of Republic Act No. 9262 was in response to the undeniable numerous cases involving violence committed against women in the Philippines. In 2012, the Philippine National Police (PNP) reported[54] that 65% or 11,531 out of 15,969 cases involving violence against women were filed under Republic Act No. 9262. From 2004 to 2012, violations of Republic Act No. 9262 ranked first among the different categories of violence committed against women. The number of reported cases showed an increasing trend from 2004 to 2012, although the numbers might not exactly represent the real incidence of violence against women in the country, as the data is based only on what was reported to the PNP. Moreover, the increasing trend may have been caused by the continuous information campaign on the law and its strict implementation.[55] Nonetheless, statistics show that cases involving violence against women are prevalent, while there is a dearth of reported cases involving violence committed by women against men, that will require legislature intervention or solicitous treatment of men.

Preventing violence against women and children through their availment of special legal remedies, serves the governmental objectives of

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49 Historical Perspectives on Violence Against Women. November 2002.

50 Vivian C. Fox, Ph.D. Journal of International Women's Studies Vol. 4 #1, Historical Perspectives on Violence Against Women. November 2002. p. 20.

51 Id. at 15.

52 Id. at 19.

53 http://pcw.gov.ph/focus-areas/violence-against-women last visited on April 10, 2013.

54 As Submitted by the Philippine Commission on Women.

55 http://pcw.gov.ph/statistics/201210/statistics-violence-against-filipino-women, last visited on March 18, 2013.

protecting the dignity and human rights of every person, preserving the sanctity of family life, and promoting gender equality and empowering women. Although there exists other laws on violence against women[56] in the Philippines, Republic Act No. 9262 deals with the problem of violence within the family and intimate relationships, which deserves special attention because it occurs in situations or places where women and children should feel most safe and secure but are actually not. The law provides the widest range of reliefs for women and children who are victims of violence, which are often reported to have been committed not by strangers, but by a father or a husband or a person with whom the victim has or had a sexual or dating relationship. Aside from filing a criminal case in court, the law provides potent legal remedies to the victims that theretofore were not available. The law recognizes, with valid factual support based on statistics that women and children are the most vulnerable victims of violence, and therefore need legal intervention. On the other hand, there is a dearth of empirical basis to anchor a conclusion that men need legal protection from violence perpetuated by women.

The law takes into account the pervasive vulnerability of women and children, and the seriousness and urgency of the situation, which, in the language of the law result in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty.[57] Hence, the law permits the issuance of protection orders and the granting of certain reliefs to women victims, even without a hearing. The law has granted authority for *barangay* officials to issue a protection order against the offender, based on the victim's application. The RTC may likewise grant an application for a temporary protection order (TPO) and provide other reliefs, also on the mere basis of the application. Despite the *ex parte* issuance of these protection orders, the temporary nature of these remedies allow them to be availed of by the victim without violating the offender's right to due process as it is only when a full-blown hearing has been done that a permanent protection order may be issued. Thus, these remedies are suitable, reasonable, and justified. More importantly, they serve the objectives of the law by providing the victims necessary immediate protection from the violence they perceive as threats to their personal safety and security. This translates to the fulfillment of other governmental objectives as well. By assuring the victims instant relief from their situation, they are consequently empowered and restored to a place of dignity and equality. Such is embodied in the purpose to be served by a protection order, to wit:

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[56] Republic Act No. 3815, The Revised Penal Code; Republic Act No. 7877, The Anti-Sexual Harassment Act of 1995; Republic Act No. 8353, The Anti-Rape Law of 1997; Republic Act No. 8505, The Rape Victims Assistance Act of 1998; Republic Act No. 6955; Republic Act No. 9208, The Anti-Trafficking in Persons Act of 2003; Republic Act No. 8369: The Family Courts Act of 1997; and Republic Act No. 9710, The Magna Carta of Women of 2009.

[57] Republic Act No. 9262, Section 3.

> SEC. 8. *Protection Orders*.- A protection order is an order issued under this act for the purpose of preventing further acts of violence against a woman or her child specified in Section 5 of this Act and granting other necessary relief. **The relief granted under a protection order serve the purpose of safeguarding the victim from further harm, minimizing any disruption in the victim's daily life, and facilitating the opportunity and ability of the victim to independently regain control over her life.** x x x. (Emphasis supplied.)

In furtherance of the governmental objectives, especially that of protecting human rights, violence against women and children under this Act has been classified as a public offense,[58] making its prosecution independent of the victim's initial participation.

**Verily, the classification made in Republic Act No. 9262 is substantially related to the important governmental objectives of valuing every person's dignity, respecting human rights, safeguarding family life, protecting children, promoting gender equality, and empowering women.**

The persistent and existing biological, social, and cultural differences between women and men prescribe that they be treated differently under particular conditions in order to achieve **substantive equality** for women. Thus, the disadvantaged position of a woman as compared to a man requires the special protection of the law, as gleaned from the following recommendations of the CEDAW Committee:

> 8. [T]he Convention requires that women be given an equal start and that they be empowered by an enabling environment to achieve equality of results. It is not enough to guarantee women treatment that is identical to that of men. **Rather, biological as well as socially and culturally constructed differences between women and men must be taken into account. Under certain circumstances, non-identical treatment of women and men will be required in order to address such differences.** Pursuit of the goal of substantive equality also calls for an effective strategy aimed at overcoming underrepresentation of women and a redistribution of resources and power between men and women.
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> 9. **Equality of results is the logical corollary of *de facto* or substantive equality.** These results may be quantitative and/or qualitative in nature; that is, women enjoying their rights in various fields in fairly equal numbers with men, enjoying the same income levels, equality in decision-making and political influence, and **women enjoying freedom from violence.**[59] (Emphases supplied.)

The government's commitment to ensure that the status of a woman in all spheres of her life are parallel to that of a man, requires the adoption and implementation of ameliorative measures, such as Republic Act No. 9262. Unless the woman is guaranteed that the violence that she endures in her

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58 Id., Section 25.

59 General Recommendation No. 25, CEDAW/pars. 8-9 (2004).

private affairs will not be ignored by the government, which is committed to uplift her to her rightful place as a human being, then she can neither achieve substantive equality nor be empowered.

The equal protection clause in our Constitution does not guarantee an absolute prohibition against classification. The non-identical treatment of women and men under Republic Act No. 9262 is justified to put them on equal footing and to give substance to the policy and aim of the state to ensure the equality of women and men in light of the biological, historical, social, and culturally endowed differences between men and women.

Republic Act No. 9262, by affording special and exclusive protection to women and children, who are vulnerable victims of domestic violence, undoubtedly serves the important governmental objectives of protecting human rights, insuring gender equality, and empowering women. The gender-based classification and the special remedies prescribed by said law in favor of women and children are substantially related, in fact essentially necessary, to achieve such objectives. Hence, said Act survives the **intermediate review** or **middle-tier judicial scrutiny**. The gender-based classification therein is therefore not violative of the equal protection clause embodied in the 1987 Constitution.

***The Issuance of the TPO did not Violate Petitioner's Right to Due Process***

A protection order is issued under Republic Act No. 9262 for the purpose of preventing further acts of violence against a woman or her child.[60] The circumstances surrounding the availment thereof are often attended by urgency; thus, women and child victims must have immediate and uncomplicated access to the same. Hence, Republic Act No. 9262 provides for the issuance of a TPO:

> SEC. 15. *Temporary Protection Orders.* – Temporary Protection Orders (TPOs) refers to the protection order issued by the court on the date of filing of the application after *ex parte* determination that such order should be issued. A court may grant in a TPO any, some or all of the reliefs mentioned in this Act and shall be effective for thirty (30) days. The court shall schedule a hearing on the issuance of a PPO prior to or on the date of the expiration of the TPO. The court shall order the immediate personal service of the TPO on the respondent by the court sheriff who may obtain the assistance of law enforcement agents for the service. The TPO shall include notice of the date of the hearing on the merits of the issuance of a PPO.

The *ex parte* issuance of the TPO does not make it unconstitutional. Procedural due process refers to the method or manner by which the law is enforced. It consists of the two basic rights of notice and hearing, as well as

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[60] Section 8.

the guarantee of being heard by an impartial and competent tribunal.[61] However, it is a constitutional commonplace that the ordinary requirements of procedural due process yield to the necessities of protecting vital public interests like those involved herein. Republic Act No. 9262 and its implementing regulations were enacted and promulgated in the exercise of that pervasive, sovereign power of the State to protect the safety, health, and general welfare and comfort of the public (in this case, a particular sector thereof), as well as the protection of human life, commonly designated as the police power.[62]

In *Secretary of Justice v. Lantion*,[63] the Court enumerated three instances when notice and/or hearing may be dispensed with in administrative proceedings:

> These twin rights may, however, be considered dispensable in certain instances, such as:
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> 1. In proceedings where there is an urgent need for immediate action, like the summary abatement of a nuisance *per se* (Article 704, Civil Code), the preventive suspension of a public servant facing administrative charges (Section 63, Local Government Code, B. P. Blg. 337), the padlocking of filthy restaurants or theaters showing obscene movies or like establishments which are immediate threats to public health and decency, and the cancellation of a passport of a person sought for criminal prosecution;
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> 2. Where there is tentativeness of administrative action, that is, where the respondent is not precluded from enjoying the right to notice and hearing at a later time without prejudice to the person affected, such as the summary distraint and levy of the property of a delinquent taxpayer, and the replacement of a temporary appointee; and
>
> 3. Where the twin rights have previously been offered but the right to exercise them had not been claimed.

The principles behind the aforementioned exceptions may also apply in the case of the *ex parte* issuance of the TPO, although it is a judicial proceeding. As mentioned previously, the urgent need for a TPO is inherent in its nature and purpose, which is to immediately provide protection to the woman and/or child victim/s against further violent acts. Any delay in the issuance of a protective order may possibly result in loss of life and limb of the victim. The issuing judge does not arbitrarily issue the TPO as he can only do so if there is reasonable ground to believe that an imminent danger of violence against women and their children exists or is about to recur based on the verified allegations in the petition of the victim/s.[64] Since the

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61 *China Banking Corporation v. Lozada*, G.R. No. 164919, July 4, 2008, 557 SCRA 177, 193.

62 *Pollution Adjudication Board v. Court of Appeals*, G.R. No. 93891, March 11, 1991, 195 SCRA 112, 123.

63 379 Phil. 165, 203-204 (2000).

64 A.M. No. 04-10-11-SC, Section 15(a).

TPO is effective for only thirty (30) days,[65] any inconvenience, deprivation, or prejudice the person enjoined – such as the petitioner herein – may suffer, is generally limited and temporary. Petitioner is also not completely precluded from enjoying the right to notice and hearing at a later time. Following the issuance of the TPO, the law and rules require that petitioner be personally served with notice of the preliminary conference and hearing on private respondent's petition for a Permanent Protection Order (PPO)[66] and that petitioner submit his opposition to private respondent's petition for protections orders.[67] In fact, it was petitioner's choice not to file an opposition, averring that it would only be an "exercise in futility." Thus, the twin rights of notice and hearing were subsequently afforded to petitioner but he chose not to take advantage of them. Petitioner cannot now claim that the *ex parte* issuance of the TPO was in violation of his right to due process.

***There is No Undue Delegation of Judicial Power to Barangay Officials***

A *Barangay* Protection Order (BPO) refers to the protection order issued by the *Punong Barangay*, or in his absence the *Barangay Kagawad*, ordering the perpetrator to desist from committing acts of violence against the family or household members particularly women and their children.[68] The authority of *barangay* officials to issue a BPO is conferred under Section 14 of Republic Act No. 9262:

> SEC. 14. *Barangay Protection Orders (BPOs); Who May Issue and How*. - Barangay Protection Orders (BPOs) refer to the protection order issued by the *Punong Barangay* ordering the perpetrator to desist from committing acts under Section 5 (a) and (b) of this Act. A *Punong Barangay* who receives applications for a BPO shall issue the protection order to the applicant on the date of filing after *ex parte* determination of the basis of the application. If the *Punong Barangay* is unavailable to act on the application for a BPO, the application shall be acted upon by any available *Barangay Kagawad.* If the BPO is issued by a *Barangay Kagawad* the order must be accompanied by an attestation by the *Barangay Kagawad* that the *Punong Barangay* was unavailable at the time for the issuance of the BPO. BPOs shall be effective for fifteen (15) days. Immediately after the issuance of an *ex parte* BPO, the *Punong Barangay or Barangay Kagawad* shall personally serve a copy of the same on the respondent, or direct any barangay official to effect is personal service.
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> The parties may be accompanied by a non-lawyer advocate in any proceeding before the Punong Barangay.

Once more, the urgency of the purpose for which protection orders under Republic Act No. 9262 are issued justifies the grant of authority to *barangay* officials to issue BPOs. *Barangay* officials live and interact closely with their constituents and are presumably easier to approach and

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65 Id.
66 Id., Section 15(b).
67 Id., Section 15(c).
68 Id., Section 4(p).

more readily available than any other government official. Their issuance of the BPO is but part of their official executive function of enforcing all laws and ordinances within their *barangay*[69] and maintaining public order in the *barangay*.[70] It is true that the *barangay* officials' issuance of a BPO under Republic Act No. 9262 necessarily involves the determination of some questions of fact, but this function, whether judicial or quasi-judicial, are merely incidental to the exercise of the power granted by law.[71] The Court has clarified that:

> "The mere fact that an officer is required by law to inquire the existence of certain facts and to apply the law thereto in order to determine what his official conduct shall be and the fact that these acts may affect private rights do not constitute an exercise of judicial powers. Accordingly, a statute may give to non-judicial officers the power to declare the existence of facts which call into operation its provisions, and similarly may grant to commissioners and other subordinate officers power to ascertain and determine appropriate facts as a basis for procedure in the enforcement of particular laws." (11 Am. Jur., Const. Law, p. 950, sec. 235)[72]

Furthermore, while judicial power rests exclusively in the judiciary, it may be conceded that the legislature may confer on administrative boards or bodies, or even particular government officials, quasi-judicial power involving the exercise of judgment and discretion, as incident to the performance of administrative functions. But in so doing, the legislature must state its intention in express terms that would leave no doubt, as even such quasi-judicial prerogatives must be limited, if they are to be valid, only to those incidental to or in connection with the performance of administrative duties, which do not amount to conferment of jurisdiction over a matter exclusively vested in the courts.[73] In the case of a BPO, it is a mere provisional remedy under Republic Act No. 9262, meant to address the pressing need of the victims for instant protection. However, it does not take the place of appropriate judicial proceedings and remedies that provide a more effective and comprehensive protection to the victim. In fact, under the Implementing Rules of Republic Act No. 9262, the issuance of a BPO or the pendency of an application for a BPO shall not preclude the victim from applying for, or the court from granting, a TPO or PPO. Where a TPO has already been granted by any court, the *barangay* official may no longer issue a BPO.[74] The same Implementing Rules also require that within twenty-four (24) hours after the issuance of a BPO, the *barangay* official shall assist the victim in filing an application for a TPO or PPO with the nearest court in the victim's place of residence. If there is no Family Court or RTC, the

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69 Section 389(b)(1), Chapter III, Title I, Book III of Republic Act No. 7160, otherwise known as The Local Government Code of 1991.

70 Section 389(b)(3), Chapter III, Title I, Book III of The Local Government Code of 1991.

71 *Lovina v. Moreno*, 118 Phil. 1401, 1405 (1963).

72 Id. at 1406.

73 *Miller v. Mardo*, 112 Phil. 792, 802 (1961).

74 Section 14(g).

application may be filed in the Municipal Trial Court, the Municipal Circuit Trial Court or the Metropolitan Trial Court.[75]

All things considered, there is no ground to declare Republic Act No. 9262 constitutionally infirm.

Teresita Leonardo de Castro
**TERESITA J. LEONARDO-DE CASTRO**
Associate Justice

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[75] Section 14(d).