

Soft law instruments of particular relevance to law enforcement include United Nations' ("UN") Basic Principles [o]n the Use of Force and Firearms by Law Enforcement Officials ("BPUFF"), Code of Conduct for Law Enforcement Officials ("CCLEO"), Standard Minimum Rules for the Treatment of Prisoners ("SMR"), Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment ("Body of Principles"), and Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power ("Victims Declaration"). These instruments uphold the principles of legality, proportionality, necessity, and accountability in situations involving the use of force by law enforcers.

WHEREFORE, the Court FINDS sufficient factual bases for the issuance of Resolution of Both Houses No. 6 and **DECLARES** it as **CONSTITUTIONAL**. Accordingly, the consolidated petitions are hereby **DISMISSED. SO ORDERED.**

**DEPARTMENT OF EDUCATION, Petitioners vs.
RIZAL TEACHERS KILUSANG BAYAN FOR CREDIT INC., represented by
TOMAS L. ODULLO, Respondents**

DECISION

[G.R. No. 202097, July 3, 2019.]

LAZARO-JAVIER, J.:

Facts

For the benefit of public school teachers, The Department of Education ("DepEd") devised and implemented a payroll deduction scheme for the loans they secured from DepEd's duly accredited private lenders. Rizal Teachers Kilusang Bayan for Credit, Inc. ("RTKBCI") was among DepEd's accredited private lenders which availed of the latter's payroll deduction scheme. However on July 4, 2001, DepEd Undersecretary Pangan directed that the salary deduction scheme for RTKBCI be suspended pending resolution of the teachers' numerous complaints against RTKBCI's alleged unauthorized excessive deductions and connivance with some DepEd's personnel.

RTKBCI then filed a petition for mandamus before the RTC to compel DepEd to remit to RTKBCI the loan collections and continue with the salary deduction scheme pursuant to its standing arrangement to avail of the payroll deduction scheme under Codes 209 and 219. The trial court granted the writ of mandamus prayed for and ordered DepEd to release to RTKBCI the collections. The CA affirmed the alleged clear legal right of RTKBCI to receive the payments which DepEd had already collected through the payroll deduction scheme. The Supreme Court reversed this holding that there was no practice, continued or otherwise, that would establish and validate such clear legal duty and clear legal right.

RULING

The petition for the writ of mandamus to compel DepEd to collect and remit on RTKBCI's behalf loan payments from public school teachers is denied.

For the writ of mandamus to prosper, the applicant must prove by preponderance of evidence that “there is a clear legal duty imposed upon the office or the officer sought to be compelled to perform an act, and when the party seeking *mandamus* has a clear legal right to the performance of such act.”

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Continued practice in domestic legal matters does not rise to the level of a legal obligation. The first sentence of Article 7 of the Civil Code states, “[l]aws are repealed only by subsequent ones, and their violation or non-observance shall not be excused by disuse, or custom or practice to the contrary.” There can be no clear legal duty and clear legal right where to do so would compel DepEd to violate its power, duties, and functions under Section 7 of RA 9155, specifically toward the protection and promotion of the teachers' welfare. In the latter case, no practice, continued or otherwise, would establish and validate such clear legal duty and clear legal right.

In terms of international law where practice could give rise to a legally binding rule, the court affirmed the ruling in *Bayan Muna v. Romulo* which explained:

Customary international law or international custom is a source of international law as stated in the Statute of the ICJ. It is defined as the "general and consistent practice of states recognized and followed by them from a sense of legal obligation." In order to establish the customary status of a particular norm, two elements must concur: State practice, the objective element; and *opinio juris sive necessitates*, the subjective element.

State practice refers to the continuous repetition of the same or similar kind of acts or norms by States. It is demonstrated upon the existence of the following elements: (1) generality; (2) uniformity and consistency; and (3) duration. While, *opinio juris*, the psychological element, requires that the state practice or norm "be carried out in such a way, as to be evidence of a belief that this practice is rendered obligatory by the existence of a rule of law requiring it."

RTKBCI has failed to show that DepEd's alleged practice of acting as a collector and remitter of loan payments on its behalf was general and consistent, much less, that DepEd did so as a sense of legal obligation. DepEd, on the contrary, has been adamant that it acted as collector and remitter only by way of accommodation and privilege.

ACCORDINGLY, the petition for review on certiorari is **GRANTED**. And the Complaint for Mandamus and Damages **DISMISSED. SO ORDERED**.

**COMMISSIONER OF INTERNAL REVENUE, Petitioner vs. INTERPUBLIC
GROUP OF COMPANIES INC., Respondent**

DECISION

[G.R. No. 207039, Aug. 14, 2019]

J.C. REYES, JR., J.

Facts

Respondent Interpublic Group of Companies, Inc. ("IGC") is a non-resident foreign corporation duly organized and existing under and by virtue of the laws of