Republic of the Philippines
SUPREME COURT
Manila

EN BANC

PROVINCE OF SULU, ***AS REPRESENTED BY PROVINCIAL GOVERNOR ABDUSAKUR M. TAN;***

PROVINCE OF MAGUINDANAO DEL SUR, ***AS REPRESENTED BY PROVINCIAL GOVERNOR HONORABLE MARIAM S. MANGUDADATU;***

PROVINCE OF LANAO DEL SUR, ***AS REPRESENTED BY PROVINCIAL GOVERNOR MAMINTAL ALONTO ADIONG JR.;***

PHILIPPINE COUNCILORS LEAGUE – LANAO DEL SUR PROVINCIAL CHAPTER, ***AS REPRESENTED BY FEDERATION PRESIDENT SHARIEFFUDIN T. LUCMAN;***

PHILIPPINE COUNCILORS LEAGUE – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, ***AS REPRESENTED BY FEDERATION PRESIDENT SHARMAINE REHAM A. AMPATUAN;***

LIGA NG MGA BARANGAY – LANAO DEL SUR PROVINCIAL CHAPTER, ***AS REPRESENTED BY FEDERATION PRESIDENT ABDUL RASHID M. BALINDONG JR.;***

LIGA NG MGA BARANGAY – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, ***AS***

271894

G.R. No. _____

For Petition for Certiorari and Prohibition under Rule 65 with prayer for the issuance of Status Quo Ante Order, Temporary Restraining Order and/or Writ of Preliminary Order

REPRESENTED BY FEDERATION PRESIDENT DATU SUOD S. MATALAM;

LEAGUE OF MUNICIPALITIES OF THE PHILIPPINES – LANAO DEL SUR PROVINCIAL CHAPTER, *AS REPRESENTED HEREIN BY CHAPTER PRESIDENT ATTY. DIMNATANG BL. PANSAR;*

LEAGUE OF MUNICIPALITIES OF THE PHILIPPINES – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, *AS REPRESENTED HEREIN BY CHAPTER PRESIDENT RAFSANJANI P. ALI.*

Petitioners,

-versus-

BANGSAMORO TRANSITION AUTHORITY; HON. AHOD BALAWAG EBRAHIM, IN HIS OFFICIAL CAPACITY AS THE BARMM CHIEF MINISTER; HON. PANGALIAN BALINDONG IN HIS OFFICIAL CAPACITY AS THE BANGSAMORO PARLIAMENT SPEAKER; AND MINISTRY OF THE INTERIOR AND LOCAL GOVERNMENT.

Respondents.

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PETITION FOR CERTIORARI AND PROHIBITION

(WITH PRAYER FOR THE ISSUANCE OF STATUS QUO ANTE ORDER, TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY INJUNCTION)

COMES NOW, PROVINCE OF SULU, PROVINCE OF MAGUINDANAO DEL SUR, PROVINCE OF LANAO DEL SUR, PHILIPPINE COUNCILORS LEAGUE – LANAO DEL SUR PROVINCIAL CHAPTER, PHILIPPINE COUNCILORS LEAGUE –

MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, LIGA NG MGA BARANGAY – LANAO DEL SUR PROVINCIAL CHAPTER, LIGA NG MGA BARANGAY – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, LEAGUE OF MUNICIPALITIES OF THE PHILIPPINES – LANAO DEL SUR PROVINCIAL CHAPTER, & LEAGUE OF MUNICIPALITIES OF THE PHILIPPINES – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER (hereinafter "Petitioners"), by counsel and by themselves, unto this Most Honorable Supreme Court, most respectfully state that:

I. NATURE OF THE PETITION

1. The instant Petition is in the nature of a Special Civil action for Certiorari and Prohibition under Rule 65 of the Rules of Court with a simultaneous prayer for the issuance of Temporary Restraining Order, through which, the Petitioners humbly beseech this Most Honorable Supreme Court to declare the Bangsamoro Autonomy Act No. 49 or Bangsamoro Local Governance Code (hereinafter "BLGC")[1] in its entirety or to the extent of the assailed provisions thereof, as void for being contrary to the 1987 Philippine Constitution, Republic Act No. 7160 or the Local Government Code of 1991 (hereinafter "LGC"), Republic Act No. 11054 or the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao (hereinafter "Bangsamoro Organic Law") and to such other duly enacted national laws of the Philippines.

POWER OF JUDICIAL REVIEW

2. Herein Petitioners' reliance on this remedy is anchored upon the "the power of judicial review is conferred on the judicial branch of government under Section 1, Article VIII of the 1987 Constitution. It sets to correct and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch of Government and may, therefore, be invoked to nullify actions of the legislative branch which have infringed the Constitution"[2].

3. In connection thereof, the Most Honorable Supreme Court further elucidated that:

> "Rule 65, Sections 1 and 2 of the Rules of Court provides remedies to address grave abuse of discretion by any government branch or instrumentality, particularly through petitions for certiorari and prohibition:

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[1] Copy of the BLGC is hereby attached and made integral portion of Petition hereof as **ANNEX "A"**

[2] Venus Commercial Co., Inc. vs. The Department of Health and the Food and Drug Administration, G.R. No. 240764. November 18, 2021

> SECTION 1. Petition for Certiorari. — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.
> xxx"[3]

4. Moreover, it is well-settled that "...the remedies of certiorari and prohibition are necessarily broader in scope and reach, and the writ of certiorari or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions, but also to set right, undo[,] and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. Thus, petitions for certiorari and prohibition are the proper remedies where an action of the legislative branch is seriously alleged to have infringed the Constitution"[4] (Underscoring supplied).

5. Furthermore, the Most Honorable Supreme Court enumerated the requisites for judicial review, to wit:

> "The prevailing rule in constitutional litigation is that no question involving the constitutionality or validity of a law or governmental act may be heard and decided by the Court unless there is compliance with the legal requisites for judicial inquiry, namely: (a) there must be an **actual case or controversy** calling for the exercise of judicial power; (b) the person challenging the act must have the **standing** to question the validity of the subject act or issuance; (c) the question of constitutionality must be raised at the earliest opportunity; and (d) the issue of constitutionality must be the very lis mota of the case..."[5](Underscoring supplied and citations omitted)

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[3] Kilusang Mayo Uno, et al vs Hon. Benigno Simeon C. Aquino III, et al, G.R. No. 210500. April 02, 2019

[4] DOTR vs. Philippine Sea Transport Association, G.R. No. 230107, July 24, 2018

[5] Greco Antonious Beda B. Belgica, et al vs Honorable Executive Secretary Paquito N. Ochoa, Jr., G.R. No. 208566. November 19, 2013; Social Justice Society (SJS) President Samson S. Alcantara vs Honorable Franklin M. Drilon, et al, G.R. No. 208493; Pedrito M. Nepomuceno vs President Benigno Simeon C. Aquino III, et al, G.R. No. 209251

EXISTENCE OF AN ACTUAL CASE OR CONTROVERSY

6. The first requisite is present in this case.

7. In the same case, the Most Honorable Supreme Court has held that:

> "By constitutional fiat, judicial power operates only when there is an actual case or controversy. This is embodied in Section 1, Article VIII of the 1987 Constitution which pertinently states that "[j]udicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable x x x." Jurisprudence provides that an actual case or controversy is one which "involves a conflict of legal rights, an assertion of opposite legal claims, susceptible of judicial resolution as distinguished from a hypothetical or abstract difference or dispute." In other words, "[t]here must be a contrariety of legal rights that can be interpreted and enforced on the basis of existing law and jurisprudence." Related to the requirement of an actual case or controversy is the requirement of "ripeness," meaning that the questions raised for constitutional scrutiny are already ripe for adjudication. "A question is ripe for adjudication when the act being challenged has had a direct adverse effect on the individual challenging it. It is a prerequisite that something had then been accomplished or performed by either branch before a court may come into the picture, and the petitioner must allege the existence of an immediate or threatened injury to itself as a result of the challenged action." "Withal, courts will decline to pass upon constitutional issues through advisory opinions, bereft as they are of authority to resolve hypothetical or moot questions."[6](Citations omitted)

8. An actual case or controversy exists, considering that, as will be exhaustively discussed in the succeeding paragraphs, the instant Petition raises issues involving provisions contrary to the Constitution, and transgression of well-established rights, powers and authorities under existing laws against the assailed BLGC and its implementation. Verily, the matters raised in this Petition are constitutional infirmities and issues on infringement of constitutionally guaranteed rights of the people and local

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[6] Ibid.

governments in the Bangsamoro Autonomous Region in Muslim Mindanao (hereinafter "BARMM").

9. Moreover, this case is already ripe for adjudication considering that the assailed BLGC already became effective on 26 December 2024.

LOCUS STANDI

10. The second requisite is present in this case.

11. Again, in the same case, the Most Honorable Supreme Court held that "The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions. Unless a person is injuriously affected in any of his constitutional rights by the operation of statute or ordinance, he has no standing."[7]

12. Even assuming without admitting that herein Petitioners may not sustain a "direct injury" or have a "material interest" against the assailed BLGC and its implementation, jurisprudence is replete with exceptions to this general rule.

13. Indeed, in one case, the Most Honorable Supreme Court has explained that "To have legal standing, therefore, a suitor must show that he has sustained or will sustain a "direct injury" as a result of a government action, or have a "material interest" in the issue affected by the challenged official act. **However, the Court has time and again acted liberally on the locus standi requirements and has accorded certain individuals, not otherwise directly injured, or with material interest affected, by a Government act, standing to sue provided a constitutional issue of critical significance is at stake**. The **rule on locus standi is after all a mere procedural technicality** in relation to which the Court, in a catena of cases **involving a subject of transcendental import, has waived, or relaxed, thus allowing non-traditional plaintiffs, such as concerned citizens, taxpayers, voters or legislators, to sue in the public interest, albeit they may not have been personally injured by the operation of a law or any other government act**. In David, the Court laid out the bare minimum norm before the so-called "non-traditional suitors" may be extended standing to sue, thusly:

> 1.) For taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;

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[7] Ibid.

2.) For voters, there must be a showing of obvious interest in the validity of the election law in question;

3.) For concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early; and

4.) For legislators, there must be a claim that the official action complained of infringes their prerogatives as legislators."[8] (Emphasis and underscoring supplied, and citations omitted)

14. As such, considering the constitutional and transcendental import of the assailed BLGC and its implementation, herein Petitioners may still file this suit as non-traditional plaintiffs: concerned citizens and legislators.

QUESTION OF CONSTITUTIONALITY RAISED AT THE EARLIEST OPPORTUNITY

15. The third requisite is present in this case.

16. In *VENUS COMMERCIAL CO., INC. vs. THE DEPARTMENT OF HEALTH AND THE FOOD AND DRUG ADMINISTRATION*[9] citing *MATIBAG vs BENIPAYO*[10] the Most Honorable Supreme Court elucidated that:

> "As a general rule, the question of constitutionality must be raised at the earliest opportunity so that if not raised in the pleadings, ordinarily, it may not be raised during trial, and if not raised during trial, it will not be considered on appeal. Matibag v. Benipayo enunciated:
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> x x x However, it is not the date of filing of the petition that determines whether the constitutional issue was raised at the earliest opportunity. The earliest opportunity to raise a constitutional issue is to raise it in the pleadings before a competent court that can resolve the same, 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."

17. Considering that this instant Petition is an initiatory pleading, herein Petitioners most respectfully submit to this Most Honorable Supreme

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[8] Ernesto L. Ching vs. Carmelita S. Bonachita-Ricablanca, G.R. No. 244828, October 12, 2020

[9] G.R. No. 240764. November 18, 2021

[10] G.R. No. 149036, April 2, 2002

Court that the question of constitutionality of the BLGC has been raised at the earliest opportunity.

ISSUE OF CONSTITUTIONALITY IS THE VERY LIS MOTA OF THE CASE

18. The fourth and final requisite of judicial review is present in this case.

19. In the same case, the Most Honorable Supreme Court held that "*Lis mota* is a Latin term meaning the cause or motivation of a legal action or lawsuit. The literal translation is 'litigation moved.' Under the rubric of *lis mota*, in the context of judicial review, the Court will not pass upon a question of unconstitutionality, although properly presented, if the case can be disposed of on some other ground, such as the application of the statute or the general law. The petitioner must be able to show that the case cannot be legally resolved unless the constitutional question raised is determined.[11]

20. Herein Petitioners argue that the BLGC itself and/or several provisions thereon run contrary to the Constitution and even transgress the Local Government Code of 1991 and the Bangsamoro Organic Law. Clearly, the *lis mota* of this case is the very constitutional issue raised by herein Petitioners.

DIRECT RECOURSE TO THE MOST HONORABLE SUPREME COURT

21. Lastly, herein Petitioners most respectfully directly beseech the jurisdiction of this Most Honorable Supreme Court in the instant Petition, considering that, again, as will be discussed in the succeeding paragraphs, the Constitutionality of the BLGC and/or the provisions thereon, as well as the transgression of well-established rights, powers and authorities under existing laws are the very issues of this instant Petition, which must be addressed at the most immediate time.

22. Relevantly, the Most Honorable Supreme Court in the case of *ONGSUCO vs. HON. MALONES*[12] elucidated that:

> "The rule on the exhaustion of administrative remedies is intended to preclude a court from arrogating unto itself the authority to resolve a controversy, the jurisdiction over which is initially lodged with an administrative

[11] G.R. No. 240764. November 18, 2021

[12] G.R. No. 182065, October 27, 2009.

body of special competence. **Thus, a case where the issue raised is a purely legal question, well within the competence; and the jurisdiction of the court and not the administrative agency, would clearly constitute an exception. Resolving questions of law, which involve the interpretation and application of laws, constitutes essentially an exercise of judicial power that is exclusively allocated to the Supreme Court and such lower courts the Legislature may establish."** (Emphasis supplied & citations omitted)

23. Indeed, in *REPUBLIC OF THE PHILIPPINES vs LACAP*[13], the Most Honorable Supreme Court held that:

> "Nonetheless, the doctrine of exhaustion of administrative remedies and the corollary doctrine of primary jurisdiction, which are based on sound public policy and practical considerations, are not inflexible rules. There are many accepted exceptions, such as: (a) where there is estoppel on the part of the party invoking the doctrine; (b) where the challenged administrative act is patently illegal, amounting to lack of jurisdiction; (c) where there is unreasonable delay or official inaction that will irretrievably prejudice the complainant; (d) where the amount involved is relatively small so as to make the rule impractical and oppressive; **(e) where the question involved is purely legal and will ultimately have to be decided by the courts of justice; (f) where judicial intervention is urgent; (g) when its application may cause great and irreparable damage;** (h) where the controverted acts violate due process; (i) when the issue of non-exhaustion of administrative remedies has been rendered moot; **(j) when there is no other plain, speedy and adequate remedy; (k) when strong public interest is involved;** and, (l) in quo warranto proceedings." (Emphasis supplied and citations omitted)

24. Additionally, in the same case cited in the immediately preceding paragraph, the Most Honorable Supreme Court also held that:

> "...It does not involve an examination of the probative value of the evidence presented by the parties. There is a question of law when the doubt or difference arises as to what the law is on a certain state of facts, and not as to the truth or the falsehood of alleged facts. Said question at best could be resolved only tentatively by the

[13] G.R. No. 158253, March 2, 2007.

> administrative authorities. The final decision on the matter rests not with them but with the courts of justice. Exhaustion of administrative remedies does not apply, because nothing of an administrative nature is to be or can be done. The issue does not require technical knowledge and experience but one that would involve the interpretation and application of law." (Citations omitted)

25. Here, all issues presented in the instant petition involve only pure questions of law which will ultimately have to be decided by the courts of justice. The now effective BLGC, requires urgent intervention from herein Most Honorable Supreme Court considering that the implementation of the aforementioned legislation would certainly cause adverse implications not only to the BARMM but also to the Republic of the Philippines. The foregoing would undoubtedly have transcendental importance with strong public interest in mind. Further, there is no appeal, or any other plain, speedy, and adequate remedy in the ordinary course of law that the Petitioners may avail themselves of under the circumstances. Hence, exhaustion of administrative remedies is not required in the instant petition.

26. Based on the foregoing, it is most respectfully submitted that the BARMM Regional Government, Petitioners, the constituents and other stakeholders are in limbo as to which law is applicable in the BARMM – whether the BLGC on the one hand, or the Constitution, LGC, BOL and other national laws on the other. Hence, the urgent and exigent intervention of the Most Honorable Supreme Court is needed to resolve the conflict in laws.

27. Indeed, in *JUAN M. GACAD vs HON. ROGELIO P. CORPUZ*[14], the Most Honorable Supreme Court elucidated that:

> "...This Court has entertained direct recourse to this Court as an exception to the rule in exceptional cases as when there are compelling reasons clearly set forth in the petition, or when what is raised is a pure question of law. The Court has likewise enumerated the other specific instances when direct resort to the Court may be allowed, to wit: (a) when there are genuine issues of constitutionality that must be addressed at the most immediate time; (b) when the issues involved are of transcendental importance; (c) cases of first impression; (d) when the constitutional issues raised are best decided by this Court; (e) when the time element presented in this case cannot be ignored; (f) when the petition reviews the act of a constitutional organ; (g) when there is no other

[14] G.R. No. 216107. August 03, 2022

> plain, speedy, and adequate remedy in the ordinary course of law; (h) when public welfare and the advancement of public policy so dictates, or when demanded by the broader interest of justice; (i) when the orders complained of are patent nullities; and (j) when appeal is considered as clearly an inappropriate remedy."

28. Hence, this instant Petition with the Most Honorable Supreme Court.

II. STATEMENT OF PARTIES

29. The Petitioners are Local Government Units ("LGUs") and various Leagues, represented by duly elected local government officials in the BARMM. Particularly, as follows:

a. PROVINCE OF SULU, as represented by Provincial Governor Abdusakur M. Tan and/or Provincial Legal Officer, with official address at Capitol Site, Patikul, Sulu;

b. PROVINCE OF MAGUINDANAO DEL SUR, as represented by Provincial Governor Honorable Mariam S. Mangudadatu and/or Provincial Legal Officer, with official address at Provincial Capitol, National Highway, Buluan, Maguindanao del Sur;

c. PROVINCE OF LANAO DEL SUR, as represented by Provincial Governor Mamintal Alonto Adiong Jr. and/or Provincial Legal Officer, with official address at New Capitol Complex, Marawi City, Lanao Del Sur;

d. PHILIPPINE COUNCILORS LEAGUE – LANAO DEL SUR PROVINCIAL CHAPTER, as represented by Federation President Sharieffudin T. Lucman, with official address at New Capitol Complex, Marawi City, Lanao Del Sur;

e. PHILIPPINE COUNCILORS LEAGUE – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, as represented herein by Federation President Honorable Sharmaine Reham A. Ampatuan, with official address at Provincial Capitol, National Highway, Buluan, Maguindanao del Sur;

f. LIGA NG MGA BARANGAY – LANAO DEL SUR PROVINCIAL CHAPTER, as represented herein by Federation President Abdul Rashid M. Balindong Jr., with official address at New Capitol Complex, Marawi City, Lanao Del Sur;

g. LIGA NG MGA BARANGAY – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, as represented herein by Federation

President Honorable Datu Suod S. Matalam, with official address at Provincial Capitol, National Highway, Buluan, Maguindanao del Sur;

h. LEAGUE OF MUNICIPALITIES OF THE PHILIPPINES – LANAO DEL SUR PROVINCIAL CHAPTER, as represented herein by Chapter President Atty. Dimnatang Bl. Pansar, with official address at New Capitol Complex, Marawi City, Lanao Del Sur;

i. LEAGUE OF MUNICIPALITIES OF THE PHILIPPINES – MAGUINDANAO DEL SUR PROVINCIAL CHAPTER, as represented herein by Chapter President Rafsanjani P. Ali, with official address at Provincial Capitol, National Highway, Buluan, Maguindanao del Sur.

30. Herein Petitioners have legal standing as citizens, particularly as they are residents, registered voters, public officials and representatives of their constituent, which they seek to protect, in the BARMM, whose rights and material interests in relation to local governance of the Bangsamoro Region are adversely affected by the assailed Bangsamoro Local Governance Code, and as mentioned in the preceding paragraphs, herein Petitioners may also be considered as non-traditional suitors in this instant Petition, suing as concerned citizens, taxpayers and legislators.

31. Public Respondent Bangsamoro Transition Authority (hereinafter "BTA") is impleaded as the interim regional government of the BARMM. The Honorable BTA may be served notices and other court processes of this Most Honorable Supreme Court at its official address at Bangsamoro Government Center, Governor Gutierrez Avenue, Rosary Heights VII, Cotabato City, Philippines.

32. Public Respondent Ahod Balawag Ebrahim is impleaded in his official capacity as the BARMM Chief Minister, who has signed the BLGC into law and who is also tasked to execute the provisions thereof. The Honorable Ahod Balawag Ebrahim may be served notices and other court processes of this Most Honorable Supreme Court at the latter's official address at Bangsamoro Government Center, Governor Gutierrez Avenue, Rosary Heights VII, Cotabato City, Philippines.

33. Public Respondent Atty. Pangalian Balindong is impleaded in his official capacity as Bangsamoro Parliament Speaker, who has signed the BLGC into law. The Honorable Atty. Pangalian Balindong may be served notices and other court processes of this Most Honorable Supreme Court at the latter's official address at Bangsamoro Government Center, Governor Gutierrez Avenue, Rosary Heights VII, Cotabato City, Philippines.

34. Public Respondent Ministry of the Interior and Local Government (hereinafter "MILG") is also impleaded considering that the said office is tasked to implement the assailed BLGC. The Honorable MILG Minister may

be served notices and other court processes of this Most Honorable Supreme Court at the latter's official address at BARMM Complex, Cotabato City, Maguindanao, Philippines.

III. STATEMENT OF ANTECEDENT FACTS AND TIMELINESS OF THE PETITION

35. Republic Act No. 11054, otherwise known as the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao (hereinafter "BOL") was enacted, wherein Section 10, Article VI thereof provided:

> **"Section 10.** Bangsamoro Government and its Constituent Local Government Units. - The authority of the Bangsamoro Government to **regulate** the affairs of its constituent local government units shall be guaranteed in accordance with this Organic Law and a **Bangsamoro local government code to be enacted by the Parliament**. The privileges already enjoyed by local government units under Republic Act No. 7160, otherwise known as the "Local Government Code of 1991," as amended, and other existing laws shall not be diminished.
> xxx
> xxx
> xxx" (Emphasis supplied)

36. Pursuant thereof, on 28 September 2023, "BARMM Chief Minister Ahod Balawag Ebrahim and Bangsamoro Parliament Speaker Atty. Pangalian Balindong have signed the Bangsamoro Autonomy Act No. 49, or the BLGC"[15].

37. Relevantly, Section 605 of the BLGC provides that the latter shall take effect immediately following its complete publication in at least one (1) newspaper of general circulation in the BARMM.

38. In this regard, the BLGC was published on 26 December 2023 in Mindanao Expose as certified in the affidavit of publication by the publisher[16]. Thus, the BLGC became effective on 26 December 2023.

39. Considering that the sixty (60) day period prescribed under Section 4, Rule 65 of the Rules of Court would fall on 24 February 2024, a Saturday,

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[15] Bangsamoro Parliament. (November 30, 2023). Bangsamoro Parliament OKs bill establishing PH's first institution for higher learning in Islamic studies. https://parliament.bangsamoro.gov.ph/2023/09/28/bangsamoro-parliament-oks-local-governance-code/ (Last accessed on 18 December 2023)

[16] Copy of the Affidavit of Publication is hereby attached and made integral portion of Petition hereof as **ANNEX "B"**

then the last day of filing would be on the next working day of 26 February 2024.

40. Accordingly, the foregoing Petition is thus timely filed.

IV. GROUNDS RELIED UPON FOR THE PETITION

41. This Petition assails the constitutionality of the BLGC itself, particularly the following provisions of the BLGC to wit: 2, 28, 29, 33, 43, 44, 45, 50, 52, 54, 71, 75, 78, 79, 469, 470, 599, as they have been enacted by the Public Respondents with grave abuse of discretion amounting to lack or excess of jurisdiction. Similarly, the very same provisions also amended and transgressed the LGC and the Bangsamoro Organic Law. Subject to exhaustive discussions below, to highlight:

Assailed BLGC Sections	Remark(s)
2	Restriction in the exercise of local autonomy by the constituent local government units (LGUs) in the BARMM.
28	Vague and over encompassing powers of the Chief Minister in regulating local government units which are in excess of the powers provided under applicable laws. Encroachment of the power of general supervision power exercised by the President over LGUs.
29	
33	Local Chief Executive's "operational supervision and control" over the police force and other allied offices is vague.
43	Additional qualifications and disqualifications for elective officials in the Bangsamoro Region inconsistent with the Constitution and governing laws.
44	
45	
50	Chief Minister's power to appoint encroaches upon similar powers exercised by the President.
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54	
71	Undermines the President's jurisdiction over administrative complaints of erring local elective officials
75	
78	
79	
469	Similar comments to 43, 44 and 45 as regards additional qualifications and disqualifications
470	
599	Curtailment of local autonomy and local fiscal autonomy

42. As such, the BLGC should be declared void in its entirety or to the extent of its assailed provisions, to wit:

A. BLGC SHOULD BE CONSISTENT WITH AND SUBORDINATE TO THE CONSTITUTION AND NATIONAL LAWS;

B. THE REGULATORY AND GENERAL SUPERVISION POWERS UNDER SECTIONS 28 AND 29 OF THE BLGC ARE VOID AND UNCONSTITUTIONAL AS THESE ARE TOO BROAD AND AMBIGUOUS AND THAT THE SAME ENCROACH UPON SPECIFIC POWERS, AUTHORITIES, AND JURISDICTIONS CONFERRED BY THE CONSTITUTION AND NATIONAL LAWS;

C. SECTIONS 71 AND 75, 78, AND 79 OF THE BLGC CONFERRING TO THE OFFICE OF THE CHIEF MINISTER THE JURISDICTION OVER ADMINISTRATIVE COMPLAINTS AGAINST CERTAIN ELECTIVE OFFICIALS AND THE AUTHORITY TO IMPOSE PREVENTIVE SUSPENSION UNDERMINES THE OFFICE OF THE PRESIDENT'S JURISDICTION OVER THE SAME MATTERS AS PROVIDED FOR UNDER THE 1991 LOCAL GOVERNMENT CODE;

D. SECTIONS 50 AND 52 OF THE BLGC PROVIDING FOR THE CHIEF MINISTER'S POWER TO APPOINT LOCAL ELECTIVE OFFICIALS UNDER CERTAIN CIRCUMSTANCES ENCROACHES UPON THE PRESIDENT'S POWER OF APPOINTMENT AS PROVIDED FOR UNDER THE LOCAL GOVERNMENT CODE AND THE CONSTITUTION;

E. SECTIONS 43, 44, 45, 469 AND 470 RELATING TO MANDATORY TRAINING AND CAPACITY DEVELOPMENT AS WELL AS ANTI-DYNASTY PROVISIONS ARE VOID AND UNCONSTITUTIONAL;

F. SECTION 2 OF THE BLGC REQUIRING MANDATORY CONSULTATION WITH THE BANGSAMORO GOVERNMENT AND THE BANGSAMORO INTERGOVERNMENTAL RELATIONS BODY WITH RESPECT TO THE IMPLEMENTATION OF PROJECTS AND PROGRAMS FUNDED BY THE NATIONAL GOVERNMENT CURTAILS THE LGUs' RIGHT TO EXERCISE LOCAL AUTONOMY;

G. SECTION 599 OF THE BLGC CONSTITUTES A CURTAILMENT OF THE RIGHT TO LOCAL AUTONOMY AND LOCAL FISCAL AUTONOMY IN RELATION TO THE AUTOMATIC RELEASE OF FUNDS FOR BANGSAMORO CONSTITUENT BARANGAYS IN THE SGAs;

H. SECTION 33 OF THE BLGC PROVIDING FOR THE LOCAL CHIEF EXECUTIVE'S OPERATIONAL SUPERVISION AND

CONTROL OVER THE BANGSAMORO POLICE FORCE AND OTHER OFFICES IS INHERENTLY VAGUE.

V. DISCUSSION OF ARGUMENTS

BLGC SHOULD BE CONSISTENT WITH AND SUBORDINATE TO THE CONSTITUTION AND NATIONAL LAWS

43. At the onset, Section 1, Article X of the 1987 Constitution provides that the "territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided."

44. Relevantly, for autonomous regions, Section 15, Article X of the Constitution provides that there shall be created autonomous region in "Muslim Mindanao ... consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures, and other relevant characteristics within the framework of this Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines."

45. Further, Section 20, Article X thereof provides:

> "SECTION 20. Within its territorial jurisdiction and **subject to the provisions of this Constitution and national laws**, the organic act of autonomous regions shall provide for legislative powers over:
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> (1) Administrative organization;
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> (2) Creation of sources of revenues;
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> (3) Ancestral domain and natural resources;
>
> (4) Personal, family, and property relations;
>
> (5) Regional urban and rural planning development;
>
> (6) Economic, social, and tourism development;
>
> (7) Educational policies;
>
> (8) Preservation and development of the cultural heritage; and

(9) Such other matters as may be authorized by law for the promotion of the general welfare of the people of the region." (Emphasis supplied)

46. As may be gleaned thereof, Sec. 20, Article X of the Constitution does not vest the autonomous regions powers over local administration, municipal corporations and other local authorities. It is important to note that the legislative powers of autonomous regions are subject to the provisions of the Constitution and national laws. The Constitution is unequivocal that legislations of the autonomous regions are not only limited by the Constitution but by all national laws including their organic acts. Hence, Petitioners submit that in case of doubt between a national law on one hand, and a regional law on the other, then the national law prevails over the regional law.

47. Accordingly, Sec. 2 Art. V of the BOL reiterates that all powers of the Bangsamoro Government are subject to Sec. 20, Art. X of the Constitution which provides that legislative powers of the autonomous regions shall be subject to the Constitution and NATIONAL LAWS.

48. In the list of powers of the Bangsamoro Government in Sec. 2, Art. V of the BOL, the power over local administration, municipal corporations and other local authorities is NOT included in order to be consistent with Sec. 20, Art. X of the Constitution. It is clear and apparent that the Congress, in legislating the BOL, intended to remove or exclude governmental powers over local administration and other local authorities from the list of powers granted to the Bangsamoro Government. In fact, Art. V of the BOL on the powers of Regional Government when appreciated against House Bill 6475 which was the House version of the BOL shows that item "*pp.*" on the power of the Bangsamoro Government over Local Administration, Municipal Corporations and Other Local Authorities House Bill 6475 was EXPUNGED from the Bangsamoro Organic Law or R.A. 11054.

House Bill No. 6475. "Basic Law for the Autonomous Region in the Bangsamoro" (Approved 3rd Reading on May 30, 2018):	**Bangsamoro Organic Law (R.A. 11054)**
"ART. V. Powers of Government	**"ART. V. POWERS OF GOVERNMENT**
Sec. 3. Exclusive Powers – Exclusive powers are matters over which authority and jurisdiction shall pertain to the Bangsamoro Government. The Bangsamoro Government shall exercise these powers over the following matters	**SEC. 2. Powers of the Bangsamoro Government. – Subject to Section 20, Article X of the Constitution and this Organic Law, the Bangsamoro Government shall exercise its authority over the following matters without prejudice to the general**

within the Autonomous Region in the Bangsamoro: **pp. Local Administration, Municipal Corporations and Other Local Authorities Including the Creation of Local Governments."**	**supervision of the President of the Republic of the Philippines:** **pp. Public utilities' operations"** ***The original item "pp." was DELETED.***

49. In connection thereof, the regulatory authority of the Bangsamoro Government over its constituent local government units is provided in the BOL to wit:

> "SEC. 10. ***Bangsamoro Government and its Constituent Local Government Units.*** – The authority of the Bangsamoro Government to regulate the affairs of its constituent local government units shall be guaranteed in accordance with this Organic Law and a Bangsamoro local government code to be enacted by the Parliament. The privileges already enjoyed by local government units under Republic Act No. 7160, otherwise known as the "*Local Government Code (LGC) of 1991*," as amended, and other existing laws shall not be diminished."

50. Petitioners submit that whatever regulatory authority the Bangsamoro government has over its constituent local government units is **RESTRICTED, BOUNDED, CURTAILED AND LIMITED** by national laws, principally the LGC of 1991. Moreover, Art. X of the Constitution provides that it is CONGRESS that has the PRIMARY DUTY TO ENACT A LOCAL GOVERNMENT CODE under Article X of the Constitution:

> "Section 3. **The Congress shall enact a local government code** which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, term, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of the local units." (Emphasis supplied)

51. Without PRIMARY JURISDICTION over local governments, the Bangsamoro Local Government Code would have to conform to the national LGC of 1991 and cannot diminish the local autonomy of LGUs entrenched by this national law. This is the import of the provision of the BOL which provides that the Bangsamoro Local Government Code must not diminish

the privileges already enjoyed by local government units under Republic Act No. 7160, otherwise known as the "*Local Government Code (LGC) of 1991*," as amended, and other existing laws.

52. In fact, the Most Honorable Supreme Court has defined the limits of the powers of autonomous regions and stated that its political autonomy cannot be invoked to defeat national policies and concerns particularly those mandated by the constitution. In Abas-Kida vs. Senate, G.R. No. 196271, Sept. 13, 2011, the Supreme Court stated thus:

> "As heretofore mentioned and discussed, while autonomous regions are granted political autonomy, the framers of the Constitution never equated autonomy with independence. The ARMM as a regional entity thus continues to operate within the
> larger framework of the State and is still subject to the national policies set by the national government, save only for those specific areas reserved by the Constitution."

53. Furthermore, the title *"Bangsamoro Local Governance Code"* violates Sec. 4, Art. XVI of the Bangsamoro Organic Law which provides for the passage of a *"Bangsamoro Local Government Code"*. The title *"Bangsamoro Local Government Code"* of the regional law on local government under the BOL is NOT insignificant as it is meant to be a subordinate law to the LGC to wit:

> "Functions and Priorities. – The Bangsamoro Transition Authority shall ensure the accomplishment of the following priorities during the transition period:
>
> (a) Enactment of priority legislations such as the Bangsamoro Administrative Code, Bangsamoro Revenue Code, Bangsamoro Electoral Code, **BANGSAMORO LOCAL GOVERNMENT CODE** and Bangsamoro Education Code consistent with powers and prerogatives vested in the Bangsamoro Government by this Organic law xxx" (Emphasis supplied)

54. Based on the foregoing, the Petitioners additionally argue to this Most Honorable Supreme Court that the BLGC is similar in nature to an ordinance enacted by a *Sanggunian*.

55. As such, the BLGC should also pass the test of valid ordinance, wherein "a long line of decisions has held that for an ordinance to be valid, it must not only be within the corporate powers of the local government unit to enact and must be passed according to the procedure prescribed by law, it

must also conform to the following substantive requirements: (1) must not contravene the Constitution or any statute; (2) must not be unfair or oppressive; (3) must not be partial or discriminatory; (4) must not prohibit but may regulate trade; (5) must be general and consistent with public policy; and (6) must not be unreasonable."[17]

56. Worth emphasizing is the first criterion whereby the BLGC "must pass muster under the test of constitutionality and the test of consistency with the prevailing laws."[18]

57. In connection with the immediately preceding paragraph, Petitioners submit that the test of constitutionality is founded on the principle of the supremacy of the Constitution; while on the other hand, the test of consistency with the prevailing laws is founded on "**the precept that local government units are able to legislate only by virtue of their derivative legislative power, a delegation of legislative power from the national legislature. The delegate cannot be superior to the principal or exercise powers higher than those of the latter.**"[19]

58. Above is consistent with prevailing jurisprudence considering that the "national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it."[20]

59. Regional laws must not be inconsistent with, nor amend, repeal, expand existing statutes otherwise the hierarchy of policies will be recalibrated. Indeed, the Most Honorable Supreme Court held that:

> "It is a fundamental principle flowing from the doctrine of separation of powers that Congress may not delegate its legislative power to the two other branches of the government subject to the exception that local governments may over local affairs participate in its exercise. What cannot be delegated is the authority under the Constitution to make laws and to alter and repeal them; the test is the completeness of the statute in all its term and provisions when it leaves the hands of the legislature. To determine whether or not there is an undue delegation of legislative power, the inquiry must be directed to the scope and definiteness of the measure enacted. The legislature does not abdicate its functions when it describes what job must be done, who is to do it, and what is the scope of his [sic] authority. For a complex economy, that may indeed be the only way in which the legislative process can go forward. A

[17] City of Manila, et al vs Hon. Laguio, Jr., et al (G.R. NO. 118127. April 12, 2005)
[18] Ibid
[19] Ibid
[20] Ibid

> distinction has rightfully been made between delegation of power to make the laws which necessarily involves a discretion as to what it shall be, which constitutionally may not be done, and delegation of authority or discretion as to its execution to be exercised under and in pursuance of the law, to which no valid objection can be made. The Constitution is thus not to be regarded as denying the legislature the necessary resources of flexibility and practicability.
>
> To avoid the taint of unlawful delegation, there must be a standard, which implies at the very least that the legislature itself determines matters of principle and lays down fundamental policy. Otherwise, the charge of complete abdication may be hard to repel. A standard thus defines legislative policy, marks its limits, maps out its boundaries[,] and specifies the public agency to apply it. It indicates the circumstances under which the legislative command is to be effected [sic]. It is the criterion by which legislative purpose may be carried out. Thereafter, the executive or administrative office designated may in pursuance of the above guidelines promulgate supplemental rules and regulations."[21]

60. Similarly, the principle of subordinate legislation is applicable to the case at bar. In connection thereof, the Most Honorable Supreme Court held that:

> "It is, of course, well established in our jurisdiction that, while the making of laws is a non-delegable power that pertains exclusively to Congress, nevertheless, the latter may constitutionally delegate the authority to promulgate rules and regulations to implement a given legislation and effectuate its policies, for the reason that the legislature finds it impracticable, if not impossible, to anticipate situations that may be met in carrying the law into effect. All that is required is that the **regulation should be germane to the objects and purposes of the law; that the regulation be not in contradiction to but in conformity with the standards prescribed by the law.** This is the principle of subordinate legislation which was discussed by this Court in People vs. Rosenthal and in Pangasinan Transportation vs. Public Service Commission. Thus in Calalang vs. Williams, this Court stated:

[21] Edu v. Ericta, 146 Phil. 469, 485-486 (1970).

> In the case of People vs. Rosenthal and Osmeña, G.R. Nos. 46076 and 46077, promulgated June 12, 1939, and in Pangasinan Transportation vs. The Public Service Commission, G.R. No. 47065, promulgated June 26, 1940, this Court had occasion to observe that the principle of separation of powers has been made to adapt itself to the complexities of modern governments, giving rise to the adoption, within certain limits, of the principle of "subordinate legislation" not only in the United States and England but in practically all modern governments. Accordingly, with the growing complexity of modern life, the multiplication of the subjects of governmental regulations, and the increased difficulty of administering the laws, the rigidity of the theory of separation of governmental powers has, to a large extent, been relaxed by permitting the delegation of greater powers by the legislative and vesting a larger amount of discretion in administrative and executive officials, not only in the execution of the laws, but also in the promulgation of certain rules and regulations calculated to promote public interest."[22] (Emphasis supplied and citations omitted)

61. Here, Respondents, as discussed in the instant Petition, enacted the BLGC in contradiction to law. The Petitioners submit to this Most Honorable Supreme Court that under the principle of subordinate legislation, an ordinance must not be inconsistent with the Constitution and national laws, including the respective charters of each LGU in the BARMM. This is an implied restriction on the power of local legislative bodies.

62. Moreover, "Local Government has been described as a political subdivision of a nation or state which is constituted by law and has substantial control of local affairs. **In a unitary system of government, such as the government under the Philippine Constitution, local governments can only be an intra sovereign subdivision of one sovereign nation, it cannot be an imperium in imperio. Local government in such a system can only mean a measure of decentralization of the function of government.**"[23]

63. Even assuming that the BARMM enjoys a higher degree of local autonomy, i.e., political autonomy compared to provinces cities, municipalities and barangays, this should not be interpreted as a means for the BARMM Government to enact legislation or commit such acts which are

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[22] The Conference of Maritime Manning Agencies, Inc., et al vs POEA (G.R. No. 114714, April 21, 1995) citing People vs. Exconde, 101 Phil. 1125, 1129-1130 [1957], citing Calalang vs. Williams, 70 Phil. 726 [1940]; Pangasinan Transportation vs. Public Service Commission, 70 Phil. 22 [1940]; People vs. Rosenthal, 68 Phil. 328 [1939]; People vs. Vera, 65 Phil. 56 [1937]; and Rubi vs. Provincial Board of Mindoro, 39 Phil. 660 [1919]

[23] Basco, et al vs PAGCOR (G.R. No. 91649, May 14, 1991)

beyond the express provisions of the law. Local autonomy does not amount to self-governance and does not vest BARMM with unbridled authority, since governance is limited and bounded by the Constitution and statutes. The BARMM is not a sovereign independent state, it remains part of the of the Republic of the Philippines. As held by the Honorable Supreme Court in *PROVINCE OF NORTH COTABATO* vs *REPUBLIC*[24]:

> "No province, city, or municipality, not even the ARMM, is recognized under our laws as having an "associative" relationship with the national government. Indeed, the concept implies powers that go beyond anything ever granted by the Constitution to any local or regional government...The Constitution, however, does not contemplate any state in this jurisdiction other than the Philippine State, much less does it provide for a transitory status that aims to prepare any part of Philippine territory for independence."

64. Consequently, herein Petitioners argue before this Most Honorable Supreme Court that the BLGC is a subordinate law to the 1987 Constitution, and national laws like the LGC and even the BOL.

65. Moreover, according to the void for vagueness doctrine, a statute or a governmental regulation may be declared void for being vague[25]. As discussed in the case of *LAGMAN vs. MEDIALDEA*[26], "A statute or act suffers from the defect of vagueness when it lacks comprehensible standards that men of common intelligence must necessarily guess at its meaning and differ as to its application. It is repugnant to the Constitution in two respects: (1) it violates due process for failure to accord persons, especially the parties targeted by it, fair notice of the conduct to avoid; and (2) it leaves law enforcers unbridled discretion in carrying out its provisions and becomes an arbitrary flexing of the Government muscle."

66. The foregoing discussions indicate the inherent vagueness of the Bangsamoro Local Governance Code considering that it contains provisions that transgress several rules and regulations established within existing national laws as will be extensively discussed below. Verily, the conflict between the provisions of the Bangsamoro Local Governance Code and other existing national laws creates a confusion as to its application and implementation, contradicting the principles of due process and providing an avenue for arbitrary exercise of power and authority by concerned officials of the Bangsamoro Government. Thus, the Bangsamoro Local Governance Code must be declared as void pursuant to the void for vagueness doctrine.

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[24] Province of North Cotabato vs Republic of the Philippines (G.R. No. 183591, October 14, 2008)
[25] G.R. No. 231658, July 4, 2017
[26] Id

67. However, as will be discussed in the succeeding paragraphs, it would appear that assailed BLGC went beyond the limits provided by the Constitution, as well as, national laws, particularly the BOL and the LGC. Consequently, not only does the BLGC transgress the Constitution and national laws, but it also severely restricts local autonomy and the devolution of powers.

68. Indeed, the enactment of the BLGC was an invalid exercise of delegated power as the same is patently unconstitutional and contrary to applicable laws.

REGULATORY AND GENERAL SUPERVISION POWERS UNDER SECTIONS 28 AND 29 OF THE BLGC ARE VOID AND UNCONSTITUTIONAL AS THESE ARE TOO BROAD AND AMBIGUOUS AND THAT THE SAME ENCROACH UPON SPECIFIC POWERS, AUTHORITIES, AND JURISDICTIONS CONFERRED BY THE CONSTITUTION AND NATIONAL LAWS

69. As earlier stated, the BOL provides that the Bangsamoro Government has the authority to *"regulate"* the affairs of its constituent local government units and provides that the same shall be embodied in the Bangsamoro Local Governance Code to be enacted by the Parliament, to wit:

> "Section 10. Bangsamoro Government and its Constituent Local Government Units. - **The authority of the Bangsamoro Government to regulate the affairs of its constituent local government units shall be guaranteed in accordance with this Organic Law and a Bangsamoro local Government code to be enacted by the Parliament. The privileges already enjoyed by local government units under Republic Act No. 7160, otherwise known as the " Local Government code of 1991," as amended, and other existing laws shall not be diminished.**"[27] (Emphasis supplied)

[27] Article VI, Section 10 of RA 11054

70. However, Respondents, enacting the BLGC, provided and defined the powers to "regulate" over Bangsamoro constituent local government units as follows:

> "Section 28. Regulation of the Affairs of the Local Government Units. –
>
> **Subject to the provisions of the Constitution and consistent with the BOL, the authority of the Bangsamoro Government to regulate the affairs of its constituent local government units shall be guaranteed, in accordance with this Code.**
>
> As used in this Code, "regulating the affairs of the constituent local government units" pertains to the exercise of the Bangsamoro Parliament of authorities over the local government units, by means of legislating and promulgating policies, rules, and regulations, which include, but are not limited to:
> (a) **defining herein the power and manner of the exercise of general supervision of the Chief Minister over the officials of the local government units, including the administrative jurisdiction over disciplinary actions, among others;**
> (b) xxx
> (c) xxx
>
> Section 29. Regional Supervision over Local Government Units. –
> Consistent with the basic policy on regional autonomy, **the Chief Minister shall exercise general supervision over constituent local government units to ensure that their acts are within the scope of their prescribed powers and functions. The Chief Minister shall exercise general supervision directly over provinces, highly urbanized cities, and independent component cities; through the province with respect to component cities and municipalities; and through the city and municipality with respect to Barangays"** (Emphasis supplied)

71. The Respondents committed grave abuse of discretion when it defined *"regulating the affairs of the constituent local government units"* as the exercise of the Bangsamoro Parliament of authorities over the local government units, by means of legislating and promulgating policies, rules, and regulations.

72. Petitioners assert that regulation is different from legislation. Legislation is synonymous with statutory law. Regulations, by comparison, are the ongoing processes of monitoring and enforcing the law. "Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law, and should be for the sole purpose of carrying into effect its general provisions. By such regulations, of course, the law itself cannot be extended."[28]

73. In addition to the foregoing, the non-exclusive enumeration of acts constituting the term regulation makes the entire provision ambiguous and as such, invites abuse. Moreover, the same, as will be discussed in the succeeding paragraphs, could amount to control by the regional government over the BARMM LGUs, which would severely hinder the LGUs' discretion and straightjacket their actions in the exercise of their local autonomy.

74. In its definition under Section 28, the BLGC enumerates certain acts constitutive of the power to regulate. However, such enumeration was qualified as a non-exclusive list with the use of the phrase "*which include, but are not limited to:*". It is respectfully submitted that this provision is prone to abuse by the concerned authorities or offices since it gives them a rather unqualified discretion to identify specific acts as falling under the province of the power to "regulate the affairs" of Bangsamoro constituent LGUs. While Section 28 nevertheless, provides that the exercise of such power is subject to the provisions of the BOL and the Constitution, such limitations are still too broad especially considering that both the BOL and the Constitution are silent about the extent of the regulatory powers of the Bangsamoro government over the constituent LGUs.

75. In addition to the foregoing, Section 28 of the BLGC also defines the Chief Minister's administrative jurisdiction over disciplinary actions against officials of the Bangsamoro constituent local government units. As will be extensively discussed in the succeeding paragraphs, this constitutes a direct encroachment on the President's jurisdiction over administrative complaints against local elective officials.

76. Apparently, the BLGC defined "regulating the affairs of the constituent local government units" akin to the power of supervision; wherein, defining and qualifying the phrase "regulating the affairs of the constituent local government units" as the "exercise general supervision".

77. As elucidated by the Honorable Supreme Court in the case of *MONDANO vs SILVOSA*[29], supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties.

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[28] U.S. vs. Tupasi Molina, 29 Phil. 119, 125.

[29] G.R. No. L-7708; May 30, 1955

78. Section 28 of the BLGC also provides a general and broad picture of how the Bangsamoro Government intends to exercise "regulation" or "general supervision" over the affairs of the BARMM LGUs, providing therein a non-exclusive enumeration of matters falling under the province of the word "regulation".

79. To illustrate, one of the enumerations therein provides that, by means of legislation of policies, rules, regulations, the Bangsamoro government **may define the power and manner of the exercise of general supervision of the Chief Minister over the officials of the local government units, including the administrative jurisdiction over disciplinary actions, among others.**

80. However, herein Petitioners argue that the power to "regulate" or the phrase "regulating the affairs of the constituent local government units" as used in the BOL should not be equated to the power of general supervision. Had the Honorable Congress intended to do so, then the same should have been stated and provided as such in the BOL itself.

81. Clearly, Respondents committed grave abuse of discretion amounting lack or excess of discretion in defining or equating the power to "regulate" or the phrase "regulating the affairs of the constituent local government units" to the power of general supervision. Moreover, the Respondents' acts are contradictory and not in conformity with the law. The same even encroaches upon the President's power of general supervision over local government units in the country.

82. To bolster the argument mentioned in the last sentence of the immediately preceding paragraph, Petitioners would like emphasize the President's power of general supervision. As provided under Section 4, Article VI of the 1987 Constitution:

> "Section 4. **The President of the Philippines shall exercise general supervision over local governments.** Provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays shall ensure that the acts of their component units are within the scope of their prescribed powers and functions." (Emphasis supplied)

83. Moreover, under Section 25 of the LGC:

> "Section 25. National Supervision over Local Government Units. -
> (a) Consistent with the basic policy on local autonomy, the President shall exercise general supervision over local government units to ensure that their acts are within the scope of their prescribed powers and functions.

> The President shall exercise supervisory authority directly over provinces, highly urbanized cities, and independent component cities; through the province with respect to component cities and municipalities; and through the city and municipality with respect to barangays.
> xxx"

84. As cited herein, the Constitution and LGC expressly provide that the power of general supervision over LGUs is ultimately vested upon the President of the Philippines.

85. Furthermore, as the Most Honorable Supreme Court explained in the case of *JOSON vs. EXECUTIVE SECRETARY*[30]:

> "The power of supervision means "overseeing or the authority of an officer to see that the subordinate officers perform their duties." If the subordinate officers fail or neglect to fulfill their duties, the official may take such action or step as prescribed by law to make them perform their duties. The President's power of general supervision means no more than the power of ensuring that laws are faithfully executed, or that subordinate officers act within the law. Supervision is not incompatible with discipline. And the power to discipline and ensure that the laws be faithfully executed must be construed to authorize the President to order an investigation of the act or conduct of local officials when in his opinion the good of the public service so requires. Thus:
>
> Independently of any statutory provision authorizing the President to conduct an investigation of the nature involved in this proceeding, and in view of the nature and character of the executive authority with which the President of the Philippines is invested, the constitutional grant to him of power to exercise general supervision over all local governments and to take care that the laws be faithfully executed must be construed to authorize him to order an investigation of the act or conduct of the petitioner herein. Supervision is not a meaningless thing. It is an active power. It is certainly not without t limitation, but it at least implies authority to inquire into facts and conditions in order to render the power real and effective. If supervision is to be conscientious and rational, and not automatic and brutal, it must be founded

[30] G.R. No. 131255 May 20, 1998

upon a knowledge of actual facts and conditions disclosed after careful study and investigation.

The power to discipline evidently includes the power to investigate. As the Disciplining Authority, the President has the power derived from the Constitution itself to investigate complaints against local government officials. A.O. No. 23, however, delegates the power to investigate to the DILG or a Special Investigating Committee, as may be constituted by the Disciplining Authority. This is not undue delegation, contrary to petitioner Joson's claim. The President remains the Disciplining Authority. What is delegated is the power to investigate, not the power to discipline." (Citations omitted)

86. In contrast, while the BOL (Section 10, Article VI) grants the Bangsamoro Government with the power to regulate the affairs of their constituent LGUs, the BOL did not deprive the President of his power to exercise general supervision over LGUs including those under the Bangsamoro Region. In fact, the President's power of general supervision was even affirmed in the BOL under the following provisions:

Section 2, Article V:

"Section 2. Powers of the Bangsamoro Government. – Subject to Section 20, Article X of the Constitution and this Organic Law, the Bangsamoro Government shall exercise its authority over the following matters without prejudice to the general supervision of the President of the Republic of the Philippines: xxx"

Section 1, Article VI:

"Section 1. General Supervision. - The President shall exercise general supervision over the Bangsamoro Government to ensure that laws are faithfully executed. The President may suspend the Chief Minister for a period not exceeding six (6) months for willful violation of the Constitution, national laws, or this Organic Law."

87. The power of general supervision of the President over local governments, in particular over provinces, and thru the provinces with respect to component cities and municipalities, and cities and municipalities with respect to component barangays is a Presidential power provided under the Constitution itself, so it must not be diluted. This is the reason why the

provisions in R.A. No. 9054 or the expanded ARMM Organic Act, where the President exercises his power of supervision over ARMM provincial governors THRU the ARMM Regional Governor is NOT RETAINED in the BOL.

BOL, "Art. VII. Bangsamoro Government. SEC. 32. *Powers, Duties, and Functions of the Chief Minister.* – The Chief Minister shall exercise the following powers, duties, and functions: Head the Bangsamoro Government; Appoint heads of ministries, agencies, bureaus, and offices of the Bangsamoro Government or other officers of Bangsamoro-owned or controlled corporations or entities with original charters; Appoint other officers in the Bangsamoro Government, as may be provided by the Parliament; Formulate a platform of government subject to the approval of the Parliament; Issue executive orders and other policies of the Bangsamoro Government; Represent the Bangsamoro Government in the affairs of the Bangsamoro Autonomous Region; Proclaim a state of calamity whenever typhoons, flash floods, earthquakes, tsunamis, or other natural or man-made calamities that cause widespread damage or destruction to life or property in the Bangsamoro Autonomous Region; and Exercise such other powers and functions inherent to the office."	**"Art. V. Intergovernmental Relations. Sec. 1. 2nd paragraph of expanded ARMM Organic Act (RA 9054)** – "The power of supervision of the President over the provincial governors and the mayors of the highly urbanized cities shall be exercised through the Regional Governor; over the mayors of the component cities and municipalities, through the provincial governor, and over the punong barangay, through the city or municipal mayor." (The expanded ARMM Organic Act or R.A. 9054 was repealed by the BOL or R.A. 11054)

88. Even assuming without admitting that we consider that the Bangsamoro Government could be allowed to exercise general supervision over its constituent local government units pursuant to its regional autonomy, such power should be exercised by the Cabinet and not exclusively by the Chief Minister. This is pursuant to Article VII, Sections 2 and 4 of the BOL which provides that:

> "Section 2. Powers of Government. The powers of government be vested in the Parliament which shall exercise those powers and functions expressly granted to

> it in this Organic Law, and those necessary for, or incidental to, the proper governance and development of the Bangsamoro Autonomous Region. It shall set policies, legislate on matters within its authority, and elect a Chief Minister who shall exercise executive authority on its behalf. xxx
>
> Section 4. Executive Authority. - The executive function and authority shall be exercised by the Cabinet which shall be headed by a Chief Minister. The Chief Minister shall be elected by majority vote of all the members of the Parliament".

89. Arguably, while Section 2 of Article VII provides that the Chief Minister exercises executive authority on behalf of the Parliament, Section 4 of the same article qualifies the same such that the executive authority is to be exercised by the Cabinet as a whole with the Chief Minister acting only as its head. Clearly, this means that contrary to Section 29 of the BLGC, the Chief Minister cannot solely exercise the power of general supervision over the Bangsamoro Constituent LGUs.

90. Nevertheless, regional autonomy - the basic internal government powers to the people of a particular area or region with least control and supervision from the central government[31], cannot be used as the basis for granting the BARMM Government with the power of general supervision.

91. As held in the case of *MAGTAJAS vs. PRYCE*[32], Local Governments as political and territorial subdivisions are units of the State, being so, any form of autonomy granted to Local Governments will necessarily be limited and confined within the extent allowed by the central authority. This is also in line with the Most Honorable Supreme Court's ruling that autonomous regions are a form of local government, to wit:

> "The inclusion of autonomous regions in the enumeration of political subdivision of the State under the heading "Local Government" indicate quite clearly the constitutional intent to consider autonomous regions as one of the forms of local governments."[33]

92. Again, at risk of being repetitive, any exercise of general supervision over LGUs by the Chief Minister or the Bangsamoro Government should not encroach or undermine the President's general supervision powers over LGUs as provided under the Constitution and related laws.

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[31] Disomangcop vs. Secretary of Department of Public Works and Highways, G.R. No. 149848, November 25, 2004

[32] G.R. No. 111097, July 20, 1994

[33] Kida vs. Senate G.R. 196271, Feb. 28, 2012

93. Thus, the Respondents act of arrogating unto the Chief Minister and the BARMM Parliament the said privilege[s] is nothing short of a diminution of the privileges, powers and functions already enjoyed by the LGUs. This is a clear contravention of Section 10, Article VI of the BOL which provides that: *"...The privileges already enjoyed by local government units under Republic Act No. 7160, otherwise known as the "Local Government code of 1991," as amended, and other existing laws shall not be diminished."* Hence, Respondents act cannot be countenanced.

94. Moreover, Petitioners also argue before the Most Honorable Supreme Court that, in defining the phrase "regulating the affairs of the constituent local government units", Respondents not only authorized the BARMM government to exercise the power of supervision or general supervision, contrary to existing laws, but also authorized the BARMM government to exercise the POWER OF CONTROL over the BARMM LGUs.

95. In differentiating the power of supervision as against the power of control, the Most Honorable Supreme Court in the case of *BITO-ONON* vs *HON. FERNANDEZ*[34] elucidated that:

> "...The power of supervision is defined as "the power of a superior officer to see to it that lower officers perform their functions in accordance with law."[15] This is distinguished from the power of control or "the power of an officer to alter or modify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for the latter."[16]
>
> On many occasions in the past, this court has had the opportunity to distinguish the power of supervision from the power of control. In *Taule vs. Santos*, we held that the Chief Executive wielded no more authority than that of checking whether a local government or the officers thereof perform their duties as provided by statutory enactments. He cannot interfere with local governments provided that the same or its officers act within the scope of their authority. Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; it does not include any restraining authority over such body. Officers in control lay down the rules in the doing of an act. If they are not followed, it is discretionary on his part to order the act undone or

[34] G.R. No. 139813, January 31, 2001 citing Taule vs Santos 200 SCRA 512, Drilon vs Lim 335 SCRA 135, 141 (1994)

re-done by his subordinate or he may even decide to do it himself. Supervision does not cover such authority. Supervising officers merely sees to it that the rules are followed, but he himself does not lay down such rules, nor does he have the discretion to modify or replace them. If the rules are not observed, he may order the work done or re-done to conform to the prescribed rules. He cannot prescribe his own manner for the doing of the act." (Citations omitted)

96. Here, under Section 28 of the BLGC, the BARMM Government has provided themselves with a wide non-exclusive latitude of powers in regulating the affairs of LGUs, to wit:

> "SEC. 28. Regulation of the Affairs of the Local Government Units. – xxx
>
> As used in this Code, "regulating the affairs of the constituent local government units" pertains to the **exercise of the Bangsamoro Parliament of authorities over the local government units, by means of legislating and promulgating policies, rules, and regulations, which include, but are not limited to:**
>
> **(a) Defining herein the power and manner of the exercise of general supervision of the Chief Minister over the officials of the local government units, including the administrative jurisdiction over disciplinary actions, among others;**
>
> **(b) Legislating, through this Code, the framework of the devolution of powers, functions, services, and facilities and establishing the delineation of coordinative relations between Page 13 of 304 Bangsamoro Autonomy Act No. 49 the ministries, offices, and agencies of the Bangsamoro Government and the constituent local government units; and**
>
> **(c) Setting up the revenue generation and wealth distribution and sharing regimes of the local government units, including the applicable fund sharing and transfers and the provision of other technical and financial assistance and augmentation from the Bangsamoro Government to the local government units and between and among the local government units themselves.**" (Emphasis supplied)

97. Worse still, the use of the phrase "*which include, but are not limited to:...*" and *"(a) Defining herein the power and manner of the exercise of general supervision of the Chief Minister over the officials of the local government units,...*", among others, may open the doors, with due respect to the concerned authorities or offices, for the BARMM Government to not only lay down the rules but also the discretion to modify and replace them, considering that assailed section authorizes the unqualified discretion to identify specific acts as falling under the province of "regulating the affairs of the constituent local government units" in the BARMM.

98. In this regard, Petitioners submits to this Most Honorable Supreme Court that based on the foregoing discussion, the regulation provided under the BLGC effectively amounts to control and not just supervision, contrary to law and prevailing jurisprudence.

99. It may also be noted that Section 28 of the BLGC provides for the Chief Minister's administrative jurisdiction over disciplinary actions against officials of the Bangsamoro constituent local government units, however, the same shall be extensively discussed in the immediately succeeding paragraphs.

100. Based on the foregoing, Respondents committed grave abuse of discretion amounting to lack or excess of jurisdiction by enacting the BLGC and the assailed provisions.

SECTIONS 71 AND 75, 78, AND 79 OF THE BLGC CONFERRING TO THE OFFICE OF THE CHIEF MINISTER THE JURISDICTION OVER ADMINISTRATIVE COMPLAINTS AGAINST CERTAIN ELECTIVE OFFICIALS AND THE AUTHORITY TO IMPOSE PREVENTIVE SUSPENSION UNDERMINES THE OFFICE OF THE PRESIDENT'S JURISDICTION OVER THE SAME MATTERS AS PROVIDED FOR UNDER THE 1991 LOCAL GOVERNMENT CODE

101. The Honorable Supreme Court held that "Jurisdiction over a subject matter is conferred by the Constitution or the law, and rules of

procedure yield to substantive law. Otherwise stated, jurisdiction must exist as a matter of law. Only a statute can confer jurisdiction on courts and administrative agencies."[35]

102. Considering the aforementioned pronouncement, the BTA cannot confer jurisdiction over administrative cases to the Chief Minister since the authority to confer jurisdiction/administrative jurisdiction rests on the hands of Congress alone. Again, only a statute can confer jurisdiction on courts and administrative agencies. It is worth noting that the enactment of the BLGC is anchored on the BOL, a statute duly enacted by Congress. However, even upon scrutiny of the BOL, there is no provision therein which categorically vests the Chief Minister with the administrative jurisdiction on disciplinary actions against local officials. Moreover, nothing in the Organic law empowers the Parliament to confer any sort of jurisdiction to any of its officers/offices.

103. Section 71 of the BLGC provides that the Office of the Chief Minister (OCM) shall exercise functions in relation to administrative complaints against certain local officials such that jurisdiction over the said matters is vested thereto. The said provision states:

> "Section 71. Jurisdiction Over Administrative Complaints. – An administrative complaint against a local elective official must be verified and filed with:
> (a) the OCM, when the complaint is against any elective official of a province, a highly urbanized city, or an independent component city;
> (b) The sangguniang panlalawigan, when the complaint is against any elective official of a component city or municipality;
> (c) The sangguniang panlungsod or bayan concerned, when the complaint is against any elective barangay official; and
> (d) The OCM, when the complaint is against any local elective officials in the BARMM and there is reasonable ground to believe that a fair and just resolution will not be obtained if it is filed before the sanggunian with jurisdiction, such as when there is conflict of interest or when the case will be rendered moot.
> For (a) and (d) the OCM shall issue the rules governing the procedure for administrative complaints filed under this section."

104. In relation to this, Section 79 of the BLGC also provides for the Office of the Chief Minister's jurisdiction over the administrative appeals:

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[35] GSIS vs. Daymiel, G.R. No. 218097, March 11, 2019

> "Section 79. Administrative Appeals. –
> Decisions in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:
> (a) xxx
> (b) The OCM, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities. Decisions of the OCM shall be final and executory."

105. Similarly, the LGC confers the same authority over the same administrative complaints to the Office of the President through the following provisions:

> "SECTION 61. Form and Filing of Administrative Complaints. –
> A verified complaint against any erring local elective official shall be prepared as follows:
> (a) A complaint against any elective official of a province, a highly urbanized city, an independent component city or component city shall be filed before the Office of the President;
> (b) A complaint against any elective official of a municipality shall be filed before the sangguniang panlalawigan whose decision may be appealed to the Office of the President; and
> (c) A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or sangguniang bayan concerned whose decision shall be final and executory.
>
> SECTION 67. Administrative Appeals. – Decisions in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:
> (a) The sangguniang panlalawigan, in the case of decisions of the sangguniang panlungsod of component cities and the sangguniang bayan; and
> (b) The Office of the President, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities.
> Decisions of the Office of the President shall be final and executory."

106. In comparing the BLGC and LGC provisions cited above, there appears to be a duplicity on the authority exercising jurisdiction over administrative complaints against erring local elective officials particularly those in a province, a highly urbanized city, an independent component city or component city. The BLGC provides that such jurisdiction must be

exercised by the Office of the Chief Minister in cases involving the concerned elective officials from Bangsamoro constituent LGUs. Contrary to this, the 1991 Local Government Code provides that the same jurisdiction is with the Office of the President. Clearly, there is a direct encroachment of the jurisdiction of the Office of the President over administrative complaints against local officials. It must be emphasized that the application of the 1991 Local Government Code extends to all local government units in the country, to wit:

> "Section 4. Scope of Application. - This Code shall apply to **all** provinces, cities, municipalities, barangays, and other political subdivisions as may be created by law, and, to the extent herein provided, to officials, offices, or agencies of the national government" (Emphasis supplied)

107. As such, it is only logical to say that the President exercises jurisdiction over administrative complaints against elective officials in provinces, highly urbanized cities, independent component cities or component cities in the entire country including those under the Bangsamoro Region.

108. It is also incorrect to assume that the BLGC through the BOL effectively amends the provisions of the Local Government Code which pertains to the President's exercise of jurisdiction over administrative complaints since it was not expressly provided for in the amendatory clause of the Organic Law.

109. Article XVIII, Section 4 of the BOL provides for the list of laws and regulations inconsistent thereto and which are consequently amended thereby. In particular, the following provisions of the Local Government Code were amended:

> "xxx
> (a) Section 25, 129, 289, 290, 297, and 442 of Republic Act No. 7160, otherwise known as the " Local Government Code of 1991," as amended;
> xxx"

110. Notably, Section 61 of the Local Government Code was not included in the list of provisions amended by the BOL. As such, Section 61 of the Local Government Code must be deemed as effective still with respect to Bangsamoro constituent LGUs despite the passage of the BOL. Consequently, Sections 71 and 79 of the BLGC conferring jurisdiction to the Office of the Chief Minister on matters relating to administrative complaints and administrative appeals are left bereft of any legal basis. As such, said provisions must be declared void.

111. In the same vein, the BLGC also authorized the Office of the Chief Minister to impose preventive suspension on certain local elective officials:

> "Section 75. Preventive Suspension. –
> (a) Preventive suspension may be imposed:
> 1. By the OCM, if the respondent is an elective official of a province, or a highly urbanized or an independent component city.
> 2. xxx
> 3. xxx
> 4. By the Office of the Chief Minister, in the exercise of its concurrent jurisdiction if the complaint is filed in accordance with paragraph (d) of Section 71.
>
> This provision is in direct contravention to Section 63 of the Local Government Code:
> SECTION 63. Preventive Suspension. –
> (a) Preventive suspension may be imposed:
> (1) By the President, if the respondent is an elective official of a province, a highly urbanized or an independent component city;
> xxx"

112. For the same reasons discussed in the preceding paragraphs, this also constitutes a direct encroachment on the President's power to impose preventive suspension to elective officials of provinces, highly urbanized cities, independent component cities or component cities. As such, this must also be declared void.

113. In addition to the foregoing, Sections 71, 75, 78, and 79 of the BLGC as assailed herein also constitutes a violation of the Constitutional safeguard that "no person shall be deprived of life, liberty or property without due process of law".[36] As the Supreme Court held in the case of *MACABINGKIL vs. YATCO*[37]:

> "Due process is satisfied if the following conditions are present: (1) **there must be a court or tribunal clothed with judicial power to hear and determine the matter before it;** (2) jurisdiction must be lawfully acquired over the person of the defendant or over the property which is the subject of the proceeding; (3) the defendant must be given an opportunity to be heard; and (4) judgment must be rendered upon lawful hearing." (Emphasis supplied)

114. Consistent with the foregoing, the President is duly armed with the power and authority to exercise jurisdiction over administrative cases

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[36] Article III, Section 1 of the 1987 Constitution
[37] G.R. No. L-23174. September 18, 1967

involving local officials by virtue of the power of general supervision over local government units as provided under the Constitution. This was further clarified in the case of *GANZON vs. COURT OF APPEALS*[38] where the Most Honorable Supreme Court held that the President may suspend or remove local officials by virtue of the power delegated to him by Congress through the Local Government Code.

115. In the case of the BLGC, the first requisite of due process is lacking since the Office of the Chief Minister is not clothed with any judicial power to determine matters involving administrative cases against local government officials. There is no basis thereto since such power to exercise administrative complaints was not directly nor indirectly granted to it by virtue of the BOL or any other national law.

SECTIONS 50 AND 52 OF THE BLGC PROVIDING FOR THE CHIEF MINISTER'S AND MILG'S POWER TO APPOINT LOCAL ELECTIVE OFFICIALS UNDER CERTAIN CIRCUMSTANCES ENCROACHES UPON THE PRESIDENT'S POWER OF APPOINTMENT AS PROVIDED FOR UNDER THE LOCAL GOVERNMENT CODE AND THE CONSTITUTION

116. Section 50 of the BLGC provides the manner of filling in vacancies in the *Sangguniang Panlalawigan, Panlungsod*, and *Bayan* in cases of permanent vacancies therein, to wit:

> "Section 50. Permanent Vacancies in the Sanggunian Panlalawigan, Panlungsod, and Bayan. –
>
> (a) Permanent vacancies in the sanggunian where automatic successions provided above do not apply shall be filled by appointment in the following manner:
> 1. **By the Chief Minister, in the case of the sangguniang panlalawigan and the sangguniang panlungsod of a highly urbanized city or independent component city;**
> xxx" (Emphasis supplied)

[38] G.R. No. 93252, August 5, 1991

117. As per the cited BLGC provision, the Chief Minister is the appointing authority in case of permanent vacancies in *sangguniang panlalawigan* and the *sangguniang panlungsod* of highly urbanized cities or independent component cities. Contrary to this, Section 45 of the LGC names the President as the appointing authority responsible in case of permanent vacancies in the *Sanggunians* concerned. Similar to the previous discussion on the BLGC's encroachment on the President's exercise of jurisdiction over administrative complaints, Section 50 of the BLGC presents another issue of encroachment on the President's powers over Local Government Units, this time in relation to the power to appoint local elective officials.

118. First and foremost, Section 50 of the BLGC has no legal basis since the Chief Minister's power to appoint local elective officials was not expressly provided for under the BOL nor any other laws enacted by Congress. To be clear, the BOL does provide for the Chief Minister's power to appoint certain officials of the Bangsamoro Government, under Section 32 thereof which states:

> "Section 32. Powers, Duties, and Functions of the Chief Minister. - The Chief Minister shall exercise the following powers, duties, and functions:
> (a) xxx
> (b) Appoint heads of ministries, agencies, bureaus, and offices of the Bangsamoro Government or other officers of Bangsamoro-owned or controlled corporations or entities with original charters;
> (c) Appoint other officers in the Bangsamoro Government, as may be provided by the Parliament;
> xxx"

119. However, Section 32 of the Organic Law, as cited above, limits the application of the Chief Minister's power of appointment only to (1) heads of ministries, agencies, bureaus, and offices of the Bangsamoro Government or other officers of Bangsamoro-owned or controlled corporations or entities with original charters and (2) other officers in the Bangsamoro Government, as may be provided by the Parliament. Notably, the power to appoint local elective officials of Bangsamoro constituent LGUs was not included therein. As such, it is reasonable to conclude that the Chief Minister has no power to appoint local elective officials in so far as the BOL is concerned. Consequently, Section 50 of the BLGC must be declared as void.

120. For the same reason provided in the immediately preceding paragraphs, Section 52 of the BLGC must also be declared void. Section 52 provides that:

"Section 52 Other Permanent Vacancies. - Where despite the modes of succession described above, certain local elective positions remain vacant for at least thirty (30) days and the operations of the local government unit are effectively hampered, appointment to such positions shall be made by:

(a) the Chief Minister for members of the sanggunian panlalawigan or sanggunian panlungsod of a highly urbanized city or independent component city: Provided, That, if the member of the sanggunian which caused the vacancy belongs to and ran under a political party, the appointment shall be made from among the qualified members of the same political party;

(a) The Chief Minister, upon the recommendation of the MILG, for members of the sangguniang panlungsod of a component city and sanguniang bayan: Provided, That, if the member of the sanggunian which caused the vacancy belongs to and ran under a political party, the appointment shall be made from among the qualified members of the same political party

xxx"

121. While there is no similar provision under the Local Government Code which provides for the President's authority to make such appointments under the circumstances mentioned in Section 52 of the BLGC, Article VII, Section 16 of the Constitution nevertheless, provides that the President "shall also appoint all other officers of the Government whose appointments are not otherwise provided for by law, and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards."

122. Based on Article VII, Section 16 of the Constitution, the President is the appointing authority for all officers of the government whose appointments are not otherwise provided for by law. The President's power of appointment as defined under this section is broad enough to include even the circumstances mentioned under Section 52 of the BLGC. Otherwise stated, where despite the modes of succession, certain local elective positions remain vacant for at least thirty (30) days and the operations of the local government unit are effectively hampered, appointment to such positions shall be made by the President and not by the Chief Minister. Hence, Section 52 of the BLGC must be declared void having no basis under the BOL and for being in direct contravention to Article VII, Section 6 of the Constitution.

123. Additionally, under Section 52 (c) of the BLGC, the MILG was vested the power to appoint for the barangay chair and the members of the

sangguniang barangay upon the circumstances mentioned. This is contrary to the LGC which vests the said power to the local chief executive[39].

124. Similarly, Section 54 of the BLGC is likewise deemed unconstitutional considering that the power to appoint was vested upon the Chief Minister and MILG, respectively, when the same is vested upon the President of the Philippines, to wit:

> "Section 54. Temporary Vacancy Due to Failure of Elections. –
>
> (a) In case of vacancy due to failure of elections in a province, city, or municipality that goes beyond noon of June 30 of the election year, **the Chief Minister shall designate an officer-in-charge** from among the local appointive officials of the same local government unit until a qualified, duly elected official shall have been proclaimed and assumes office;
>
> (b) In the case of barangay officials, **the Minister of the MILG shall designate an officer-in-charge** from among the local appointive officials of the same local government unit until a qualified, duly elected one shall have been proclaimed and assumes office;
>
> (c) The selection of the local appointive official who shall be designated as the officer-in-charge shall be based on the principle of merit and fitness, subject to the limitations" (Emphasis supplied)

SECTIONS 43, 44, 45, 469 AND 470 RELATING TO MANDATORY TRAINING AND CAPACITY DEVELOPMENT AS WELL AS ANTI-DYNASTY PROVISIONS ARE VOID AND UNCONSTITUTIONAL

125. It must be noted that under Sections 39 and 40 of Republic Act No. 7160 or the Local Government Code of 1991, the qualifications and disqualifications for local elective officials are respectively enumerated as follows:

> "SECTION 39. Qualifications. - (a) An elective local official must be a citizen of the Philippines; a registered

[39] Section 45 (a) (3) of the LGC

voter in the Barangay, municipality, city, or province or, in the case of a member of the Sangguniang Panlalawigan, Sangguniang Panlungsod, or Sanggunian bayan, the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.

(b) Candidates for the position of governor, vice-governor or member of the Sangguniang Panlalawigan, or Mayor, vice-mayor or member of the Sangguniang Panlungsod of highly urbanized cities must be at least twenty-three (23) years of age on election day.

(c) Candidates for the position of Mayor or vice-mayor of independent component cities, component cities, municipalities must be at least twenty-one (21) years of age on election day.

(d) Candidates for the position of member of the Sangguniang Panlungsod or Sangguniang bayan must be at least eighteen (18) years of age on election day.

(e) Candidates for the position of Punong Barangay or member of the Sangguniang Barangay must be at least eighteen (18) years of age on election day.

(f) Candidates for the Sangguniang kabataan must be at least fifteen (15) years of age but not more than twenty-one (21) years of age on election day.

SECTION 40. Disqualifications. - The following persons are disqualified from running for any elective local position:

(a) Those sentenced by final judgment for an offense involving moral turpitude or for an offense punishable by one (1) year or more of imprisonment, within two (2) years after serving sentence;

(b) Those removed from office as a result of an administrative case;

(c) Those convicted by final judgment for violating the oath of allegiance to the Republic;

(d) Those with dual citizenship;

(e) Fugitives from justice in criminal or nonpolitical cases here or abroad;

(f) Permanent residents in a foreign country or those who have acquired the right to reside abroad and continue to avail of the same right after the effectivity of this Code; and

(g) The insane or feeble-minded."

126. In connection thereof, the Mandatory Training and Capacity Development under Section 43 of the BLGC provides that:

"Section 43. Mandatory Training and Capacity Development. – All newly elected local officials shall, upon assumption to office, undergo an eight (8) hour mandatory onboarding training program undertaken by the Bangsamoro Local Government Academy (BLGA), or any service provider accredited by the MILG: Provided, That for officials of sangguniang kabataan, the mandatory training and capacity development shall be in accordance with Sections 469 and 470 of Book III hereof.

In addition, during his/her incumbency and within the first two years thereof, he/she shall attend continuing skills training programs to enhance his or her capability to perform the official duties and functions concomitant to his or her elective position.

Deliberate failure to attend the said training programs shall constitute sufficient ground for disciplinary action under Chapter IX hereof, and disqualification for the immediately succeeding election. Such disqualification shall continue until he/she has undergone such training programs." (Underscoring supplied)

127. As may be gleaned from the afore-cited provision, Section 43 may not initially appear to have imposed additional qualifications to elective officials prior to election – the same appearing to provide for an additional requirement upon assumption of office. However, the last paragraph thereof also provided that the failure to comply with the said Mandatory Continuing Training Programs as an additional disqualification for incumbent elective officials which prevents them from running in the next elections. Further, Section 45 of the BLGC also provides that:

> "Section 45. Disqualifications. - The following persons are disqualified from running for any elective local position:
> xxx
> (j) those incumbent elective officials who fail to comply with the requirements of Section 43 hereof;"

128. As such, this in effect means that compliance to the Mandatory Continuing Training Programs would constitute an additional qualification for elective officials, particularly incumbent elective officials.

129. It must be emphasized that under Section 3, Article X of the Constitution, Congress was mandated to create a Local Government Code which embodies, among others, the qualifications of local officials. Pursuant to this, Sections 39 and 40 of the 1991 Local Government Code provides for the qualifications and disqualifications of local elective officials. These provisions were not even amended by the BOL considering that the said sections were not included in the enumeration in the amendatory clause thereof.

130. Moreover, no less than the Constitution guarantees the people's right to equal access to opportunities for public service[40]. Indeed, as held by the Most Honorable Supreme Court in the case of *MARQUEZ* vs. *COMELEC*[41]:

> "The Constitution, in providing for the qualification of Congressmen, sets forth only age, citizenship, voting and residence qualifications. No property qualification of any kind is thereunder required. Since the effect of Republic Act 4421 is to require of candidates for Congress a substantial property qualification, and to disqualify those who do not meet the same, it goes against the provision of the Constitution which, in line with its democratic character, requires no property qualification for the right to hold said public office.
> Freedom of the voters to exercise the elective franchise at a general election implies the right to freely choose from all qualified candidates for public office. **The imposition of unwarranted restrictions and hindrances precluding qualified candidates from running is, therefore, violative of the constitutional guaranty of freedom in the exercise of elective franchise. It seriously interferes with the right of the electorate to choose freely from among those eligible to office**

[40] Article II, Section 26 of the 1987 Constitution
[41] G.R. No. 244274, September 03, 2019

whomever they may desire." (Emphasis and underscoring supplied)

131. Clearly, this contradicts the Constitutional guarantee of the people's right to equal access to opportunities for public service and is contradictory to the general tenor of the Most Honorable Supreme Court's ruling in the *Marquez*[42] case that essentially prohibits the imposition of additional restrictive qualifications for election candidates, apart than those already provided for under the Constitution and other relevant laws.

132. Similarly, Sections 469 and 470 which also details the aforementioned Mandatory Continuing Training Programs should also be declared void for the same justifications discussed in the preceding paragraphs.

133. While the ultimate objective for the imposition of this Mandatory Continuing Training Program may be laudable, this may prove to be too burdensome and as such may deter the participation of the general public in vying for elective positions in the region.

134. In sum, the imposition of the mandatory continuing training as an additional qualification or disqualification for elective officials under the BLGC has no basis and must be declared unconstitutional being contrary to the Constitution and LGC.

135. Equally important, the BLGC also provided additional disqualification criteria in the form of "anti-dynasty" provisions in relation to prospective candidates running for elective positions in the region.

136. To illustrate, Section 45(g) of the BLGC provides for such additional disqualifications, to wit:

> "xxx
> (g) Those who are related within the second civil degree of consanguinity or affinity, whether full or half-blood, legitimate or illegitimate, to any incumbent local official running for an elective position, including the spouses, are disqualified to be candidates in the same election for: (i) any provincial elective position in the same province; (ii) any city elective position in the same city; (iii) any municipal elective position in the same municipality; and (iv) any barangay elective position in the same barangay.
>
> Any candidate for the local election must declare in their certificate of candidacy (COC) the following statement:

[42] Id

> "The candidate is not related within the second civil degree of consanguinity or affinity to any incumbent local official running for an elective position in the same province/municipality/barangay where the candidate seeks to be elected."

In case where none of the candidates is related to an incumbent local elective official but are related to each other within the second degree of consanguinity or affinity, or, where they are all incumbents, but are related to one another within the said prohibited degree, the following rules shall apply:

> 1. For candidates running for different positions, the candidate or candidates seeking a lower office shall be disqualified from holding or running for any local elective office within the same province, city, municipality, or barangay as the case may be in the same election; and,
> 2. For candidates running for the same position, the BEO, through the appropriate office of the provincial election supervisor, shall determine, by drawing of lots, the candidate eligible to run for the said position. The election supervisor shall notify the candidates to appear before them for the drawing of lots within forty-eight hours after the period fixed by the COMELEC for filing of candidacy.
> xxx"

ONLY CONGRESS MAY DEFINE AND PROHIBIT POLITICAL DYNASTIES

137. The afore-cited additional disqualifications herein generally pertain to the anti-dynasty intent of the framers of the BOL. Relative to this, Article II, Section 26 of the Constitution provides that the State "prohibit political dynasties as may be defined by law".

138. As may be gleaned from the foregoing, the Constitution expressly provides that the term "political dynasty" must be defined under a law, considering that the same is not a self-executing provision[43]. Therefore, only the Congress of the Philippines can define and prohibit political dynasties.

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[43] Tañada, et al vs Angara, et al. G.R. No. 118295, May 2, 1997

139. The BARMM Government nor the LGUs cannot define "political dynasty" and incorporate these "anti-dynasty" provisions in the BLGC, such action would amount to an encroachment of the legislative power and discretion vested exclusively upon the Congress of the Philippines.

140. Moreover, assuming without admitting the same, the "anti-dynasty" provisions in the BLGC also single out candidates in the BARMM when no substantial distinction differentiates these candidates as compared to other candidates outside the BARMM and the country in general.

141. As elucidated by the Most Honorable Supreme Court in case of *ZOMER DEVELOPMENT COMPANY, INC vs SPECIAL TWENTIETH DIVISION OF THE COURT OF APPEALS, CEBU CITY, et al*[44]:

> "The equal protection clause is directed principally against undue favor and individual or class privilege. It is not intended to prohibit legislation which is limited to the object to which it is directed or by the territory in which it is to operate. It does not require absolute equality, but merely that all persons be treated alike under like conditions both as to privileges conferred and liabilities imposed. Equal protection permits of reasonable classification. We have ruled that one class may be treated differently from another where the groupings are based on reasonable and real distinctions. If classification is germane to the purpose of the law, concerns all members of the class, and applies equally to present and future conditions, the classification does not violate the equal protection guarantee."

142. In connection thereon, it is respectfully submitted by herein Petitioners that no valid reasonable classification germane to the purpose of the BOL warrants for candidates in the BARMM to be treated differently from other candidates outside of the BARMM.

143. As such, based on the foregoing discussions, the BLGC and/or the assailed provisions relating to Mandatory Training and Capacity Development as well as those related to the Anti-Dynasty provisions should be struck down for being patently void and unconstitutional. Respondents acted with grave abuse of discretion amounting to lack or excess of jurisdiction when the latter enacted herein assailed BLGC providing for additional qualifications and disqualifications. The same was an invalid exercise of delegated power; moreover, the said acts are a violation of the constitutional right to equal access to opportunities for public service, as well as, the equal protection clause.

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[44] G.R. No. 194461, January 07, 2020

SECTION 2 OF THE BLGC REQUIRING MANDATORY CONSULTATION WITH THE BANGSAMORO GOVERNMENT AND THE BANGSAMORO INTERGOVERNMENTAL RELATIONS BODY WITH RESPECT TO THE IMPLEMENTATION OF PROJECTS AND PROGRAMS FUNDED BY THE NATIONAL GOVERNMENT CURTAILS THE LGUs' RIGHT TO EXERCISE LOCAL AUTONOMY

144. Local autonomy is a Constitutional right of all local government units in the country which cannot be taken without the necessary constitutional revisions. Particularly, Article X, Section 2 of the Constitution provides that:

> SECTION 2. The territorial and political subdivisions shall enjoy local autonomy.

145. This constitutional provision is enshrined in the 1991 Local Government Code under its declaration of policy[45]:

> "It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the national government to the local government units."

146. This concept and purpose of local autonomy of LGUs was further explained by the Supreme Court in the case of *GANZON vs. COURT OF APPEALS*[46] when it held that:

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[45] Section 2(a) of the Local Government Code

> "... the Constitution itself declares, local autonomy means "a more responsive and accountable local government structure instituted through a system of decentralization." The Constitution as we observed, does nothing more than to break up the monopoly of the national government over the affairs of local governments and as put by political adherents, to "liberate the local governments from the imperialism of Manila." Autonomy, however, is not meant to end the relation of partnership and inter-dependence between the central administration and local government units, or otherwise, to user in a regime of federalism. The Charter has not taken such a radical step. Local governments, under the Constitution, are subject to regulation, however limited, and for no other purpose than precisely, albeit paradoxically, to enhance self- government. (Citations omitted)"

147. Similarly, the Supreme Court also discussed in the case of *PHILIPPINE GAMEFOWL COMMISSION vs. IAC*[47] that the policy of local autonomy is intended to provide the needed impetus and encouragement to the development of our local political subdivisions as "self-reliant communities". In the same case, the Supreme Court also held that this objective could be blunted by undue interference by the national government in purely local affairs which are best resolved by the officials and inhabitants of such political units.

148. Consistent with the Constitutional provisions and Supreme Court pronouncements provided above, and as a matter of exercising local autonomy, Section 27 of the Local Government Code puts forward the idea of a mandatory prior consultation with and approval of the LGUs concerned through their respective *Sanggunians* with respect to the implementation of programs and projects funded by the national government, within their respective territories.

149. In addition to the provision on declaration of policy under the 1991 Local Government Code, the BLGC further provides that there shall be a mandatory consultation and coordination with the Bangsamoro government with respect to programs and projects funded by the national government and the implementation of national policies and standards to the Bangsamoro constituent LGUs subject also to any prior agreement with the Intergovernmental Relations Body (IGRB).

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[46] Id

[47] G.R. No. 72969-70, December 17, 1986

150. In relation to this, it must be noted that under the Local Government Code, the required prior consultation for national projects or programs pertains to the *Sanggunian* concerned. The additional provision under Section 2(d) of the BLGC, thus, transfers such function to the Bangsamoro Government and the IGRB. Such transfer of function undermines the local autonomy of the LGUs concerned, since it deprives them of the opportunity to independently decide upon matters involving the implementation of national government funded programs and projects within their jurisdictions. After all, local autonomy is not just about minimizing national government interference over purely local affairs but also about giving LGUs more powers, authority, responsibilities and resources[48].

151. Essentially, this shift of function also constitutes a diminution of a privilege enjoyed by Bangsamoro constituent LGUs (through their respective *Sanggunians*) in favor of the Bangsamoro Government and the IGRB and is, therefore, contrary to Section 10, Article VI of the BOL which provides that – "The privileges already enjoyed by local government units under Republic Act No. 7160, otherwise known as the "Local Government Code of 1991," as amended, and other existing laws shall not be diminished."

152. A careful examination of the IGRB reveals that it is a mechanism created by Sec. 2, Art. VI of the BOL to "coordinate and resolve intergovernmental relations issues between the national government and BARMM through regular consultation and negotiation". The BOL further provides that "unresolved issues shall be elevated to the President thru the Chief Minister".

153. The IGRB is essentially a dispute resolution mechanism between the national and regional governments. But this mechanism recognizes the President's power of general supervision over the BARMM and LGUs by providing that unresolved issues are raised to the President for resolution.

154. The requirement in the BLGC that programs and projects funded by the national government and the implementation of national policies and standards to the Bangsamoro constituent LGUs are subject to any prior agreement with the IGRB which makes the same a policy making body. The IGRB is a mechanism to resolve specific disputes and it has no mandate to formulate policies that regulate relations between the LGUs in the BARMM and the national government. This provision also restricts the power of general supervision of the President over LGUs.

155. Verily, the BLGC and/or Section 2 of the BLGC should be declared void for being violative of the Constitutional right of Local Government Units to enjoy local autonomy.

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[48] Id

SECTION 599 OF THE BLGC CONSTITUTES A CURTAILMENT OF THE RIGHT TO LOCAL AUTONOMY AND LOCAL FISCAL AUTONOMY IN RELATION TO THE AUTOMATIC RELEASE OF FUNDS FOR BANGSAMORO CONSTITUENT BARANGAYS IN THE SGAs

156. With regard to the matter of local fiscal autonomy of LGUs, the Supreme Court was clear in its pronouncement in the landmark case of *MANDANAS vs. GARCIA*[49], to wit:

> "Local autonomy has two facets, the administrative and the fiscal. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the National Government, as well as the power to allocate their resources in accordance with their own priorities.
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> xxx
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> once the General Appropriations Act for the succeeding year is enacted, the national tax allotments of the Local Government Units shall AUTOMATICALLY and DIRECTLY be released, without need of any further action, to the provincial, city, municipal, or barangay treasurer, as the case may be, on a quarterly basis but not beyond five (5) days after the end of each quarter."

157. In the case of the BLGC, Section 599 thereof concerning the allocation of shares of LGUs belonging to Special Geographic Areas in the region may be considered as a direct contravention of the Supreme Court's ruling in the above cited Mandanas case.

158. Section 599 provides that:

> "Section 599. Transitory Provisions for The Municipalities in the Special Geographic Area (SGA). – Until such time that the sixty-three (63) barangays xxx all of the Province of Cotabato that voted for inclusion in the

[49] G.R. No. 208488, July 3, 2018

Bangsamoro Autonomous Region, are constituted into municipalities pursuant to BAA 41, 42, 43, 44, 45, 46, 47, and 48, the Special Geographic Area (SGA) constituted under Section 14, Title VIII, Chapter 6 of BAA 13 or the Bangsamoro Administrative Code shall continue to be governed thereby. Upon their conversion into municipalities, the SGA and the Special Geographic Area Development Authority (or "the authority") shall be reconstituted as
follows:

(a) The eight (8) new municipalities created pursuant to BAA Nos. 41, 42, 43, 44, 45, 46, 47, and 48, as a cluster, shall constitute the SGA, which shall be under the general supervision of the Chief Minister.

(b) Pending the creation of a new province for the municipalities in the SGA, the Special Geographic Area Development Authority created under Section 15 Title VIII, Chapter 6 of Bangsamoro Autonomy Act No. 13, is hereby re-organized and shall henceforth perform planning, implementation, monitoring and coordinating functions and serve as a dynamic inter-municipal mechanism for developmental processes and the effective governance of the cluster of the eight (8) SGA municipalities, for the promotion of the general welfare of the people therein. This shall be without prejudice to the autonomy of the constituent municipal and barangay local government units.

(c) The Authority shall be attached to the OCM for purposes of policy and program coordination, and shall be composed of the Board of Directors as the governing board and highest policy-making body, and the Administrator.

(d) The Authority shall perform the following powers and functions:
1. Promulgation of policies, rules, regulations and other issuances and the implementation of the powers and functions and delivery of services and facilities devolved to the provinces: Provided, That, the Board of Directors shall guide and supervise the exercise of such devolved provincial powers, functions, services, and facilities, which shall be delivered directly by the member ministries pursuant to their individual mandates;
2. xxx
3. xxx

4. Receipt and administration of inter-municipal donations and grants, subject to existing regional and national policies; and
5. xxx
6. Performance of other tasks as may be assigned by the Chief Minister.
xxx"

159. Essentially, Section 599 entails that the SGAs to be constituted into eight (8) new municipalities will be under the general supervision of the Chief Minister. Moreover, under this section, the SGA Development Authority (the Authority), which is attached to OCM, is tasked to serve as a dynamic inter-municipal mechanism for developmental processes and the effective governance of the cluster of the eight (8) SGA municipalities, for the promotion of the general welfare of the people therein.

160. While the provision also provides that such is without prejudice to the local autonomy of the constituent barangays, the functions of the *"Authority"* as mentioned therein, would indicate otherwise, considering that the power of the SGAs to allocate resources in accordance with their own priorities would be affected and that the automatic release of the shares of the SGAs from the regional revenues will be curtailed.

161. Moreover, the BLGC also deleted Section 286 of the LGC[50] as regards the automatic release of shares. Again, this diminishes the fiscal autonomy of LGUs in the BARMM Region and severely curtails the privileges enjoyed by the concerned BARMM LGUs prior to the enactment of the BLGC. Hence, the BLGC should be declared void and unconstitutional.

SECTION 33 OF THE BLGC PROVIDING THE LOCAL CHIEF EXECUTIVES' OPERATIONAL SUPERVISION AND CONTROL OVER THE POLICE FORCE AND OTHER OFFICES IS INHERENTLY VAGUE AND IS THEREFORE, VOID

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[50] Section 286. Automatic Release of Shares. -

(a) The share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

(b) Nothing in this Chapter shall be understood to diminish the share of local government units under existing laws.

162. The BLGC provides for BARMM local chief executive's "*operational supervision and control*" over the police force, fire protection unit, and jail management personnel:

> "Section 33. - Powers of Local Chief Executives over the Units of the Philippine National Police. - The extent of operational supervision and control of local chief executives over the police force, fire protection unit, and jail management personnel assigned in their respective jurisdictions shall be governed by applicable national law and the BOL."

163. Here, while the BLGC provides that the BOL shall govern with respect to the determination of the extent of *operational supervision and control* of local chief executives over the police force, among others; however, it must be noted that Sections 2 & 3 of Article XI of the BOL did not provide for a definition of the same, to wit:

> "Section 2. Public Order and Safety. - The Philippine National Police shall create a Police Regional Office in the Bangsamoro Autonomous Region which shall be organized, maintained, supervised, and utilized for the primary purpose of law enforcement and maintenance of peace and order in the Bangsamoro in accordance with Republic Act No. 6975, otherwise known as the "Department of Interior and Local Government Act of 1990" as amended by Republic Act No. 8551, otherwise known as the " Philippine National Police Reform and Reorganization Act of 1998." The Police Regional Office in the Bangsamoro Autonomous Region shall be under the direct operational control and supervision of the Philippine National Police.
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> The Police Regional Office in the Bangsamoro Autonomous Region shall be headed by a Regional Director who shall, upon consultation with the Chief Minister, be appointed in accordance with Republic Act No. 6975, as amended.
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> To facilitate entry into the Philippine National Police of Moro Islamic Liberation Front and Moro National Liberation Front members from the Bangsamoro Autonomous Region, the age, height and educational attainment requirements may be waived by the National Police Commission, subject to existing rules and regulations: Provided, That such shall be availed of within a period of five (5) years from ratification of this

> Organic Law: Provided, further, That the requirement of educational attainment shall be complied within fifteen (15) years from their entry: Provided, finally, That their ranks and grades shall be subject to existing laws, rules and regulations governing the Philippine National Police.
>
> Section 3. Regional Office of the National Police Commission. - The National Police Commission shall establish the National Police Commission Bangsamoro Regional Office under its direct control, supervision, and administration, in accordance with Republic Act No. 6975, as amended. The Secretary of the Interior and Local Government shall appoint Regional Director who shall head the National Police Commission Bangsamoro Regional Office.
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> The National Police Commission Bangsamoro Regional Office shall have the power to investigate complaints against members of the Police Regional Office in the Bangsamoro Autonomous Region. Appeals from the decisions of the National Police Commission Bangsamoro Regional Office shall be filed with the National Police Commission. Pending resolution of the appeal, the decision of the National Police Commission Bangsamoro Regional Office may be executed."

164. As may gleaned from the above-cited Sections, the BOL did not define the term *operational supervision and control* and any mention of the same is directly linked and referenced to Republic Act No. 6975, as amended by Republic Act No. 8551, which ultimately provides for the definition as follows:

> ""The term 'operational supervision and control' shall mean the power to direct, superintend, and oversee the day-to-day functions of police investigation of crime, crime prevention activities, and traffic control in accordance with the rules and regulations promulgated by the Commission.
>
> "It shall also include the power to direct the employment and deployment of units or elements of the PNP, through the station commander, to ensure public safety and effective maintenance of peace and order within the locality. For this purpose, the terms 'employment' and 'deployment' shall mean as follows:
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> "'Employment' refers to the utilization of units or elements of the PNP for purposes of protection of lives

and properties, enforcement of laws, maintenance of peace and order, prevention of crimes, arrest of criminal offenders and bringing the offenders to justice, and ensuring public safety, particularly in the suppression of disorders, riots, lawlessness, violence, rebellious and seditious conspiracy, insurgency, subversion or other related activities.

"'Deployment' shall mean the orderly and organized physical movement of elements or units of the PNP within the province, city or municipality for purposes of employment as herein defined.""[51]

165. Comparatively, a similar provision in the Local Government Code of 1991 provides that:

"SECTION 28. Powers of Local Chief Executives over the Units of the Philippine National Police. – The extent of operational supervision and control of local chief executives over the police force, fire protection unit, and jail management personnel assigned in their respective jurisdictions shall be governed by the provisions of Republic Act Numbered Sixty-nine hundred seventy-five (R.A. No. 6975), otherwise known as "The Department of the Interior and Local Government Act of 1990", and the rules and regulations issued pursuant thereto."

166. Moreover, unlike the provision of RA 6875 granting unto city and municipal mayors the operational supervision and control over Philippine National Police units in their respective jurisdictions[52], no such provision is provided for the Bureau of Fire Protection and Bureau of Jail Management and Penology under the same law.

167. As such, the National Government exercises direct supervision and control over the Bureau of Jail Management and Penology.[53] On the other hand, although the National Government exercise direct supervision and control over the Bureau of Fire Protection, Republic Act 6975 provides for LGU coordination at the city and municipal levels, to wit:

Section 55. Organization. – The Fire Bureau shall be headed by a chief who shall be assisted by a deputy chief. It shall be composed of provincial offices, district offices and city or municipal stations.

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[51] Section 62 of Republic Act No. 8551
[52] Section 51 (b) (1) of Republic Act No. 6875
[53] Sections 60 – 65 of Republic Act No. 6875

> At the provincial level, there shall be an office of the provincial fire marshall which shall implement the policies, plans and programs of the Department; and monitor, evaluate and coordinate the operations and activities of the fire service operating units at the city and municipal levels. In the case of large provinces, district offices may be established, to be headed by a district fire marshall.
>
> At the city or municipal level, there shall be a fire station, each headed by a city or municipal fire marshall: Provided, That, in the case of large cities and municipalities, a district office with subordinate fire stations headed by a district fire marshall may be organized as necessary.
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> The local government units at the city and municipal levels shall be responsible for the fire protection and various emergency services such as rescue and evacuation of injured people at fire-related incidents and, in general, all fire prevention and suppression measures to secure the safety of life and property of the citizenry."

168. Petitioners humbly argues to the Most Honorable Supreme Court that the BLGC should properly define the term *operational supervision and control* or make proper reference to the pertinent national laws. Furthermore, the BLGC should also expressly provide for the extent of powers of local government officials over the police force, fire protection unit, and jail management, particularly their regional counterparts.

169. At its current state, Section 33 of the BLGC, which anchors the interpretation of the extent of the aforementioned power by generally mentioning or referencing *"applicable national law and the BOL"* proves to be vague and problematic. Clearly, there exists doubt and confusion as to the meaning and interpretation of Section 33.

170. Consequently, Section 33 may open the possibility for abuse of *"operational supervision and control"* over the police force, fire protection unit, and jail management personnel in the BARMM, including their regional counterparts. As such, considering the dangerous implications and consequences of its inherent vagueness, Section 33 of the BLGC must be declared void. This is consistent with the void for vagueness doctrine.

VI. GROUNDS IN SUPPORT OF THE PRAYER FOR THE ISSUANCE OF STATUS QUO ANTE ORDER, TEMPORARY RESTRAINING ORDER AND/OR WRIT OF PRELIMINARY INJUNCTION

171. The Petitioners hereby replead the foregoing arguments in support to the prayer for the issuance of Status Quo Ante Order, Temporary Restraining Order and/or Writ of Preliminary Injunction, and further state that:

172. As of even date, the BLGC is already deemed effective. Unless the implementation thereof is restrained, the BLGC will effectively allow the Bangsamoro Government to exercise powers beyond what is granted to them under the BOL. More so, this will open an avenue for the creation of an *imperium et imperio* in the Bangsamoro Region. Hence, the extreme urgency for this Most Honorable Supreme Court to take cognizance of this case and grant herein injunctive and prohibitory reliefs to prevent the curtailment of the well-established rights, powers and authorities granted provided under the Local Government Code, the BOL and the Constitution among others.

173. To reiterate, the following are the pertinent issues, which, in the Petitioners' mind are legally and constitutionally unsound - submitted for resolution of this Most Honorable Supreme Court:

a) BLGC is not consistent with the Constitution, BOL and LGC;

b) The regulatory and general supervision powers of the Bangsamoro government and/or the Chief Minister as defined under sections 28 and 29 of the BLGC are too broad and ambiguous that they encroach upon specific powers, authorities, and jurisdiction conferred to the President and applicable laws;

c) Sections 71 and 75, 78, and 79 of the BLGC conferring to the office of the chief minister the jurisdiction over administrative complaints against certain elective officials and the authority to impose preventive suspension undermines the office of president's jurisdiction over the same matters as provided for under the 1991 Local Government Code;

d) Sections 50 and 52 of the BLGC providing for the chief minister's power to appoint local elective officials under certain circumstances encroaches upon the president's power of appointment as provided for under the local government code and the constitution;

e) The additional qualifications and disqualification for elective officials in the Bangsamoro region violate the people's constitutional right to equal access to opportunities for public

service, as well as, the equal protection clause. Moreover, the same transgresses existing laws like the BOL and LGC;

f) Section 2 of the BLGC requiring mandatory consultation with the Bangsamoro government and the Bangsamoro intergovernmental relations body with respect to the implementation of projects and programs funded by the national government curtails the LGUs' right to exercise local autonomy;

g) Section 599 of the BLGC constitutes a curtailment of the right to local autonomy and local fiscal autonomy in relation to the automatic release of funds for Bangsamoro constituent barangays in the SGAs.

174. Considering the circumstances of this case as shown above, there is an urgent need for the immediate issuance of Status Quo Ante Order, Temporary Restraining Order and/or Writ of Preliminary Injunction from this Most Honorable Supreme Court, enjoining the implementation of the Bangsamoro Local Governance Code.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed for unto this Most Honorable Supreme Court that:

1. Upon filing of this Petition, this Most Honorable Supreme Court conduct a special raffle so that this Petition may be immediately acted upon;

2. Upon filing of this Petition, a Status Quo Ante Order, Temporary Restraining Order, and/or Writ of Preliminary Injunction be **IMMEDIATELY ISSUED**, directing the Public Respondents as well as all persons acting in their behalf, to **CEASE AND DESIST** from complying and implementing the Bangsamoro Local Governance Code, until further orders from this Most Honorable Supreme Court; and,

3. After due proceedings, judgment be rendered in favor of herein Petitioners, **DECLARING** the Bangsamoro Local Governance Code, in its entirety or to the extent of the assailed provisions thereof, as **UNCONSTITUTIONAL** and **VOID**.

Other reliefs just and equitable under the circumstances are likewise prayed for.

Respectfully Submitted.

February 12, 2024, Quezon City for Sulu, Maguindanao del Sur, Lanao del Sur