

EN BANC

[G.R. No. 196271, October 18, 2011]

DATU MICHAEL ABAS KIDA, IN HIS PERSONAL CAPACITY, AND IN REPRESENTATION OF MAGUINDANAO FEDERATION OF AUTONOMOUS IRRIGATORS ASSOCIATION, INC., HADJI MUHMINA J. USMAN, JOHN ANTHONY L. LIM, JAMILON T. ODIN, ASRIN TIMBOL JAIYARI, MUJIB M. KALANG, ALIH AL-SAIDI J. SAPI-E, KESSAR DAMSIE ABDIL, AND BASSAM ALUH SAUPI, PETITIONERS, VS. SENATE OF THE PHILIPPINES, REPRESENTED BY ITS PRESIDENT JUAN PONCE ENRILE, HOUSE OF REPRESENTATIVES, THRU SPEAKER FELICIANO BELMONTE, COMMISSION ON ELECTIONS, THRU ITS CHAIRMAN, SIXTO BRILLANTES, JR., PAQUITO OCHOA, JR., OFFICE OF THE PRESIDENT EXECUTIVE SECRETARY, FLORENCIO ABAD, JR., SECRETARY OF BUDGET, AND ROBERTO TAN, TREASURER OF THE PHILIPPINES, RESPONDENTS.

[G.R. NO. 196305]

BASARI D. MAPUPUNO, PETITIONER, VS. SIXTO BRILLANTES, IN HIS CAPACITY AS CHAIRMAN OF THE COMMISSION ON ELECTIONS, FLORENCIO ABAD, JR. IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, PACQUITO OCHOA, JR., IN HIS CAPACITY AS EXECUTIVE SECRETARY, JUAN PONCE ENRILE, IN HIS CAPACITY AS SENATE PRESIDENT, AND FELICIANO BELMONTE, IN HIS CAPACITY AS SPEAKER OF THE HOUSE OF REPRESENTATIVES, RESPONDENTS.

[G.R. NO. 197221]

REP. EDCCEL C. LAGMAN, PETITIONER, VS. PAQUITO N. OCHOA, JR., IN HIS CAPACITY AS THE EXECUTIVE SECRETARY, AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

[G.R. NO. 197280]

ALMARIM CENTI TILLAH, DATU CASAN CONDING CANA, AND PARTIDO DEMOKRATIKO PILIPINO LAKAS NG BAYAN (PDP-LABAN), PETITIONERS, VS. THE COMMISSION ON ELECTIONS, THROUGH ITS CHAIRMAN, SIXTO BRILLANTES, JR., HON. PAQUITO N. OCHOA, JR., IN HIS CAPACITY AS EXECUTIVE SECRETARY, HON. FLORENCIO B. ABAD, JR., IN HIS CAPACITY AS SECRETARY OF THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND HON. ROBERTO B. TAN, IN HIS CAPACITY AS TREASURER OF THE PHILIPPINES, RESPONDENTS.

[G.R. NO. 197282]

**ATTY. ROMULO B. MACALINTAL, PETITIONER, VS. COMMISSION ON ELECTIONS AND THE OFFICE OF THE PRESIDENT, THROUGH EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., RESPONDENTS.
LUIS "BAROK" BIRAOGO, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., RESPONDENTS.**

[G.R. NO. 197392]

JACINTO V. PARAS, PETITIONER, VS. EXECUTIVE SECRETARY PAQUITO N. OCHOA, JR., AND THE COMMISSION ON ELECTIONS, RESPONDENTS.

[G.R. NO. 197454]

MINORITY RIGHTS FORUM, PHILIPPINES, INC., RESPONDENTS-INTERVENOR.

D E C I S I O N

BRION, J.:

On June 30, 2011, Republic Act (RA) No. 10153, entitled "*An Act Providing for the Synchronization of the Elections in the Autonomous Region in Muslim Mindanao (ARMM) with the National and Local Elections and for Other Purposes*" was enacted. The law reset the ARMM elections from the 8th of August 2011, to the second Monday of May 2013 and every three (3) years thereafter, to coincide with the country's regular national and local elections. The law as well granted the President the power to "appoint officers-in-charge (OICs) for the Office of the Regional Governor, the Regional Vice-Governor, and the Members of the Regional Legislative Assembly, who shall perform the functions pertaining to the said offices until the officials duly elected in the May 2013 elections shall have qualified and assumed office."

Even before its formal passage, the bills that became RA No. 10153 already spawned petitions against their validity; House Bill No. 4146 and Senate Bill No. 2756 were challenged in petitions filed with this Court. These petitions multiplied after RA No. 10153 was passed.

Factual Antecedents

The State, through Sections 15 to 22, Article X of the 1987 Constitution, mandated the creation of autonomous regions in Muslim Mindanao and the Cordilleras. Section 15 states:

Section 15. There shall be created autonomous regions in Muslim Mindanao and in the Cordilleras 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.

Section 18 of the Article, on the other hand, directed Congress to enact an organic act for these autonomous regions to concretely carry into effect the granted autonomy.

Section 18. The Congress shall enact an organic act for each autonomous region with the assistance and participation of the regional consultative commission composed of representatives appointed by the President from a list of nominees from multisectoral bodies. The organic act shall define the basic structure of government for the region consisting of the executive department and legislative assembly, both of which shall be elective and representative of the constituent political units. The organic acts shall likewise provide for special courts with personal, family and property law jurisdiction consistent with the provisions of this Constitution and national laws.

The creation of the autonomous region shall be effective when approved by a majority of the votes cast by the constituent units in a plebiscite called for the purpose, provided that only provinces, cities, and geographic areas voting favorably in such plebiscite shall be included in the autonomous region.

On August 1, 1989 or two years after the effectivity of the 1987 Constitution, Congress acted through Republic Act (RA) No. 6734 entitled "*An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao.*" A plebiscite was held on November 6, 1990 as required by Section 18(2), Article X of RA No. 6734, thus fully establishing the Autonomous Region of Muslim Mindanao (ARMM). The initially assenting provinces were Lanao del Sur, Maguindanao, Sulu and Tawi-tawi. RA No. 6734 scheduled the first regular elections for the regional officials of the ARMM on a date not earlier than 60 days nor later than 90 days after its ratification.

RA No. 9054 (entitled "*An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, Amending for the Purpose Republic Act No. 6734, entitled An Act Providing for the Autonomous Region in Muslim Mindanao, as Amended*") was the next legislative act passed. This law provided further refinement in the basic ARMM structure first defined in the original organic act, and reset the regular elections for the ARMM regional officials to the second Monday of September 2001.

Congress passed the next law affecting ARMM - RA No. 9140^[1] - on June 22, 2001. This law reset the first regular elections originally scheduled under RA No. 9054, to November 26, 2001. It likewise set the plebiscite to ratify RA No. 9054 to not later than August 15, 2001.

RA No. 9054 was ratified in a plebiscite held on August 14, 2001. The province of

Basilan and Marawi City voted to join ARMM on the same date.

RA No. 9333^[2] was subsequently passed by Congress to reset the ARMM regional elections to the 2nd Monday of August 2005, and on the same date every 3 years thereafter. Unlike RA No. 6734 and RA No. 9054, RA No. 9333 was not ratified in a plebiscite.

Pursuant to RA No. 9333, the next ARMM regional elections should have been held on August 8, 2011. COMELEC had begun preparations for these elections and had accepted certificates of candidacies for the various regional offices to be elected. But on June 30, 2011, RA No. 10153 was enacted, resetting the ARMM elections to May 2013, to coincide with the regular national and local elections of the country.

RA No. 10153 originated in the House of Representatives as House Bill (*HB*) No. 4146, seeking the postponement of the ARMM elections scheduled on August 8, 2011. On March 22, 2011, the House of Representatives passed HB No. 4146, with one hundred ninety one (191) Members voting in its favor.

After the Senate received HB No. 4146, it adopted its own version, Senate Bill No. 2756 (SB No. 2756), on June 6, 2011. Thirteen (13) Senators voted favorably for its passage. On June 7, 2011, the House of Representative concurred with the Senate amendments, and on June 30, 2011, the President signed RA No. 10153 into law.

As mentioned, the early challenge to RA No. 10153 came through a petition filed with this Court - **G.R. No. 196271**^[3] - assailing the constitutionality of both HB No. 4146 and SB No. 2756, and challenging the validity of RA No. 9333 as well for non-compliance with the constitutional plebiscite requirement. Thereafter, petitioner Basari Mapupuno in **G.R. No. 196305** filed another petition^[4] also assailing the validity of RA No. 9333.

With the enactment into law of RA No. 10153, the COMELEC stopped its preparations for the ARMM elections. The law gave rise as well to the filing of the following petitions against its constitutionality:

- a) Petition for *Certiorari* and Prohibition^[5] filed by Rep. Edcel Lagman as a member of the House of Representatives against Paquito Ochoa, Jr. (in his capacity as the Executive Secretary) and the COMELEC, docketed as **G.R. No. 197221**;
- b) Petition for Mandamus and Prohibition^[6] filed by Atty. Romulo Macalintal as a taxpayer against the COMELEC, docketed as **G.R. No. 197282**;
- c) Petition for *Certiorari* and Mandamus, Injunction and Preliminary Injunction^[7] filed by Louis "Barok" Biraogo against the COMELEC and Executive Secretary Paquito N. Ochoa, Jr., docketed as **G.R. No. 197392**; and
- d) Petition for *Certiorari* and Mandamus^[8] filed by Jacinto Paras as a member of the House of Representatives against Executive Secretary Paquito Ochoa, Jr. and the COMELEC, docketed as **G.R. No. 197454**.

Petitioners Alamarim Centi Tillah and Datu Casan Condong Cana as registered voters

from the ARMM, with the Partido Demokratiko Pilipino Lakas ng Bayan (a political party with candidates in the ARMM regional elections scheduled for August 8, 2011), also filed a Petition for Prohibition and Mandamus^[9] against the COMELEC, docketed as **G.R. No. 197280**, to assail the constitutionality of RA No. 9140, RA No. 9333 and RA No. 10153.

Subsequently, Anak Mindanao Party-List, Minority Rights Forum Philippines, Inc. and Bangsamoro Solidarity Movement filed their own Motion for Leave to Admit their Motion for Intervention and Comment-in-Intervention dated July 18, 2011. On July 26, 2011, the Court granted the motion. In the same Resolution, the Court ordered the consolidation of all the petitions relating to the constitutionality of HB No. 4146, SB No. 2756, RA No. 9333, and RA No. 10153.

Oral arguments were held on August 9, 2011 and August 16, 2011. Thereafter, the parties were instructed to submit their respective memoranda within twenty (20) days.

On September 13, 2011, the Court issued a temporary restraining order enjoining the implementation of RA No. 10153 and ordering the incumbent elective officials of ARMM to continue to perform their functions should these cases not be decided by the end of their term on September 30, 2011.

The Arguments

The petitioners assailing RA No. 9140, RA No. 9333 and RA No. 10153 assert that these laws amend RA No. 9054 and thus, have to comply with the supermajority vote and plebiscite requirements prescribed under Sections 1 and 3, Article XVII of RA No. 9094 in order to become effective.

The petitions assailing RA No. 10153 further maintain that it is unconstitutional for its failure to comply with the three-reading requirement of Section 26(2), Article VI of the Constitution. Also cited as grounds are the alleged violations of the right of suffrage of the people of ARMM, as well as the failure to adhere to the "elective and representative" character of the executive and legislative departments of the ARMM. Lastly, the petitioners challenged the grant to the President of the power to appoint OICs to undertake the functions of the elective ARMM officials until the officials elected under the May 2013 regular elections shall have assumed office. Corrolarily, they also argue that the power of appointment also gave the President the power of control over the ARMM, in complete violation of Section 16, Article X of the Constitution.

The Issues

From the parties' submissions, the following issues were recognized and argued by the parties in the oral arguments of August 9 and 16, 2011:

- I. Whether the 1987 Constitution mandates the synchronization of elections
- II. Whether the passage of RA No. 10153 violates Section 26(2), Article VI of the 1987 Constitution