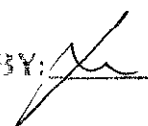




FIFTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'11 MAY 31 P4 56

RECEIVED BY: 

SENATE

COMMITTEE REPORT NO. 42

Submitted jointly by the Committees on Local Government; and Constitutional Amendments, Revision of Codes and Laws on MAY 31 2011.

Re: House Bill No. 4146 taking into consideration Senate Bill No. 2756 and the Privilege Speech of Sen. Juan Miguel F. Zubiri delivered on March 21, 2011.

Recommending that they be transmitted to the archives.

Sponsor: Senator Marcos

MR. PRESIDENT:

The Committees on Local Government; and Constitutional Amendments, Revision of Codes and Laws, to which were referred House Bill No. 4146, introduced by Reps. Sema, Bag-Ao, Bello, Abaya, Tañada, Climaco, Abad, Hataman-Salliman, Sahidulla, Dimapor (F.), Quibranza-Domaporo, Brawner Baguilat, Unabia, Benaldo, Flores, Belmonte (V.), Banal, Cerafica, Javier, Apacible, Sacdalan, Fortuno, Ramos, Gonzalez, Collantes, Olivares, Sarmiento (M.), Tinga, Fernandez, Zamora-Apsay, Loyola, Velasco, CAbilao Yambao, Garbin, Pichay, Sarmiento (C.), Maliksi, Herrera-Dy, Alcala, Quimbo, Catamco, Singson (E.), Dalog, Castelo, Cua, Mendoza (J.), Calixto-Rubiano, Acop, Villarica, De Venecia, Cojuangco (K.), Robes, Arago, Umali (R.), Miraflores, Alvarez (M.), Bautista, Antonino, Salvacion, Batocabe, Limkaichong, Matugas, Celeste, Lopez (C.J.), Bernos, Joson, Cosalan, Biron, Biazon, Treñas, Ocampos, Haresco, Fariñas, Abayon, Gomez, Gonzales (N.), Bataoil, Leonen-Pizzaro and Co, entitled:

"AN ACT

PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERM OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) WITH THOSE OF THE NATIONAL AND OTHER LOCAL

OFFICIALS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333, ENTITLED “AN ACT FIXING THE DATE FOR REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO” AND FOR OTHER PURPOSES”

taking into consideration Senate Bill No. 2756, introduced by Senator Drilon, entitled:

**“AN ACT
PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERM OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) WITH THOSE OF THE NATIONAL AND OTHER LOCAL OFFICIALS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333, ENTITLED “AN ACT FIXING THE DATE FOR REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO”, AND FOR OTHER PURPOSES”**

and the Privilege Speech of Sen. Juan Miguel F. Zubiri delivered on March 21, 2011, have considered the same and have the honor to report them back to the Senate. The committees have conducted committee hearings thereon with the following findings:

I. Prefatory Statement

Today, a revolution is sweeping across the Arab world and the entire swath of the Middle East – the democratic revolution.

From Tunisia to Yemen, from Egypt to Syria, from Libya to Morocco, the battle cry is a peaceful democratic election. There is now an awakening in the entire Muslim world. The strong wind of election is now unleashed that change has become the new order.

Ironically, in Muslim Mindanao, particularly the Autonomous Region in Muslim Mindanao (ARMM), an anachronistic force against election is now rearing its ugly head, in the guise of instituting reforms and synchronization of elections as defined in H.B. 4146 and Senate Bill 2756.

We cannot accept H.B. 4146 and Senate Bill 2756 both on constitutional grounds and on its implications to the effort to realize the well-deserved political aspirations of our countrymen in the ARMM. To postpone the ARMM elections, or any elections for that matter, goes against the forces of change and political modernization.

There is emerging a new Middle East, where Muslims young and old are clamoring, nay, dying in support of free elections. This is their Arab spring. The people of the Autonomous Region in Muslim Mindanao deserve no less.

For whatever reason there may be, elections should never be postponed – nor curtailed. It is, after all, the essence of democracy.

II. Establishment of the ARMM and the Organic Acts

The Autonomous Region in Muslim Mindanao was established by virtue of Republic Act No. 6734, or the original Organic Act for the Autonomous Region in Muslim Mindanao (ARMM), which took effect after the plebiscite held on 17 November 1989, as provided under the said law.

Republic Act No. 6734 was eventually amended by Republic Act No. 9054, or the "Act to Strengthen and Expand the Organic Act for the ARMM", which took effect after the plebiscite held on 14 April 2001, as mandated by the said amendatory law.

III. Brief legislative history of schedule of the ARMM elections

The history of the election schedule in the ARMM may be traced from the 1989 and 2001 Organic Acts, as well as from other related amendatory laws. Both the 1989 and the 2001 Organic Acts uniformly provided for three (3)-year term limits for the positions of members of the ARMM Regional Assembly and the Governor and Vice-Governor.

1989 Organic Act (R.A. No. 6734)

Article XIX, Section 7 of the 1989 Organic Act (R.A. No. 6734) provided for the date of the first ARMM regular elections in this way:

Section 7. The first regular elections of the Regional Governor, Vice-Governor and Members of the Regional Assembly under this Organic Act shall be held not earlier than sixty (60) days or later than ninety (90) days after the ratification of this Act. The Commission on Elections shall promulgate such rules and regulations as may be necessary for the conduct of said election.

1990 Elections

Accordingly, the first elections in the ARMM was scheduled and held on 17 February 1990, or ninety (90) days after ratification by the 1989 Organic Act in a plebiscite on 17 November 1989, pursuant to said law. The elected officers begun and finished their respective terms, "at noon on the 31st day of March next following their elections" (R.A. No. 6734, Article VII, Section 5), and "at noon on the 31st day of March next following the day of the election and shall end at noon of the same date three years thereafter" (R.A. No. 6734, Article VIII, Section 6).

1993 Elections

In 1993, Republic Act No. 7647 was passed for the purpose of fixing the date of the 1993 ARMM elections and the succeeding ARMM regular elections. Section 1 of the Act provides:

Section 1. The regular elections for regional governor, regional vice-governor, and members of the Regional Legislative Assembly for the Autonomous Region in Muslim Mindanao, shall be held on the second Monday after the Muslim month of Ramadhan immediately preceding the

end of the term of office of such officials except the second regular election in 1993 which shall be held on the 25th of March, 1993: x x x.

As fixed by R.A. 7647, the second ARMM elections was duly held on 25 March 1993.

1996 Elections

Prior to the statutorily mandated schedule of the 1996 ARMM elections, Republic Act No. 8176 was approved on 29 December 1995, effectively "changing the date of the elections" in the ARMM for the year 1996 and the succeeding elections, and amending R.A. 7647. Section 1 of the Act provides:

Section 1. Section 1 of Republic Act No. 7647 is hereby amended to read as follows:

"Section 1. The regular elections for regional governor, regional vice-governor and members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao, **shall be held on the second Monday of March, 1993 and every three (3) years thereafter.** Their terms of office shall commence at noon of the thirty-first of March next following their election and shall expire at noon of the thirty-first of March three years thereafter pursuant to Republic Act numbered six thousand seven hundred thirty-four, otherwise known as the Organic Act for the Autonomous Region in Muslim Mindanao. **However, for the year nineteen hundred and ninety-six, the elections for regional governor, regional vice-governor and members of the Regional Legislative Assembly shall be held on September 9, 1996.** The regional governor, regional vice-governor and the members of the Regional Legislative Assembly elected in nineteen hundred and ninety-six shall assume office at twelve o'clock noon on the thirtieth day of September next following their election: provided, that the incumbent regional governor, regional vice-governor and the members of the Regional Legislative Assembly shall continue in office in a hold-over capacity until their successors shall have been duly elected and qualified unless they file their certificates of candidacy for any elective position therein, in which case, they shall ipso facto be considered resigned from their office: provided, further, that while acting in a hold-over or appointive capacity, the regional governor and vice-governor shall not make appointments, including promotions, transfers and/or assignments of personnel and shall be subject to all the restrictions and/or prohibitions mandated by Section 261 of the Omnibus Election Code more particularly, but not limited to, paragraph (g); (h); (k); (m); (o); (r); (u); (v); (w); and (x) of said section." **(Emphases supplied)**

Thus, as newly provided by R.A. No. 8176, elections was held on 9 September 1996.

Despite the fixing of the 1996 elections in the month of September, R.A. No. 8176 had intended that the next elections in 1999 would be held in the month of May, as evidenced by the Act's opening sentence: "The regular elections for regional governor,

regional vice-governor and members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao, shall be held on the second Monday of March, 1993 and every three (3) years thereafter.”

Interestingly, even though the 1993 ARMM elections had pushed through and was *fait accompli* on 25 March 1993, R.A. No. 8176 nonetheless anachronistically “amended” R.A. 7647 and supplanted the phrase “second Monday of March, 1993”, as the date of the elections, for the obvious purpose of fixing the dates of the succeeding elections.

1999 scheduled elections did not push through

Before the statutorily mandated schedule of the 1999 elections, Republic Act No. 8746 was approved, this time, rescheduling the date of the 1999 ARMM elections and effectively changing the dates of the succeeding ones. Section 1 of the Act provides:

Section 1. Amendment to Section 1 of Republic Act No. 7647. – Section 1 of Republic Act No. 7647, as amended, is hereby further amended by fixing the term of office for officials elected on September 9, 1996, to read as follows:

“Section 1. The regular elections for regional governor, regional vice-governor and members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao, shall be held on the second Monday of March, 1993 and every three (3) years thereafter. Their terms of office shall commence at noon of the thirty-first of March next following their election and shall expire at noon of the thirty-first of March three (3) years thereafter pursuant to Republic Act Numbered Six thousand seven hundred thirty-four, otherwise known as the Organic Act of the Autonomous Region in Muslim Mindanao. However, for the year nineteen hundred and ninety-six, the elections for regional governor, regional vice-governor and members of the Regional Legislative Assembly shall be held on September 9, 1996. The regional governor, regional vice-governor and the members of the Regional Legislative Assembly elected in nineteen hundred and ninety-six shall assume office at twelve o’ clock noon on the thirtieth day of September next following their election and shall end at twelve o’ clock noon on the thirtieth day of September 1999: *Provided*, That effective 1999, the regular elections for regional governor, regional vice-governor and members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao (ARMM), shall be held on the second Monday of September and every three (3) years thereafter pursuant to Republic Act No. 6734, otherwise known as the Organic Act for the Autonomous Region in Muslim Mindanao: *Provided*, however, That the incumbent regional governor, regional vice-governor and members of the Regional Legislative Assembly elected in September 1996 shall continue in office until September 30, 1999.”

The 1999 elections newly scheduled on 13 September 1999 never pushed through, by virtue of Republic Acts No. 8753 and 8953: R.A. No. 8753 (approved on 8 September 1999) reset the date to the “second Monday of September 2000”; while, R.A. No. 8953 (approved on 1 September 2000) once again changed the September 2000

schedule and reset the same "to coincide with the general elections to be held on the second Monday of May 2001".

However, the intended synchronization of the ARMM elections with the 2001 national elections did not push through. Republic Act No. 9012, approved on 28 February 2001, again changed the schedule, providing as follows:

Section 1. Section 2 of Republic Act No. 8953 is hereby amended to read as follows.

"SEC. 2. The regular elections for the regional governor, vice-governor and members of the regional legislative assembly of the Autonomous Region in Muslim Mindanao (ARMM) set forth under Republic Act. No. 8953 is hereby reset to the second Monday of September 2001."

New Organic Act (R.A. No. 9054); 2001 Elections

In the meantime, the ARMM Organic Act was amended by Republic Act No. 9054, enacted on 31 March 2001. It confirmed the date of the "first regular elections" under the new law on the "second Monday of September 2001", as well as the fact that the elections, "set forth in Republic Act No. 8953 is hereby reset accordingly."

As the new law, R.A. 9054, entailed revisions to the 1989 Organic Act, it had to be presented to the Muslim Mindanao constituency through a plebiscite. Thus, Republic Act No. 9140, approved on 22 June 2001, scheduled the plebiscite on 15 August 2001, and rescheduled the date of the "first regular elections" under the new Organic Act to 26 November 2001. R.A. 9054 was duly ratified, and elections was duly held as scheduled on 26 November 2001.

The terms of the ARMM officials elected on the first regular elections under the 2001 Organic Act were to, "begin at noon on the 30th day of September next following the day of the election and shall end at noon of the same date three years thereafter." (**R.A. No. 9054; Article VI, Section 4 and Article VII, Section 7**)

2005 and 2008 Elections

Again, before the statutorily mandated schedule of elections in 2004, Republic Act No. 9333 was approved on 21 September 2004, which changed the date of the elections to the, "second Monday of August 2005", and succeeding elections to be held, "on the same date every three years thereafter" (**R.A. No. 9333, Section 1**).

As scheduled and intended by R.A. No. 9333, elections were held on 8 August 2005, and 11 August 2008, respectively.

Plebiscite was never held except on R.A. 9054

From among the aforementioned laws subsequent to the 1989 Organic Act, only Republic Act No. 9054 had been submitted to people of Muslim Mindanao for ratification and approval via a plebiscite.

IV. **Legislative Background** of House Bill 4146 and Senate Bill 2756:

House Bill 4146, entitled "An Act Providing for the Synchronization of the Elections and the Term of Office of the Elective Officials of the Autonomous Region in Muslim Mindanao (ARMM) with those of the National and Local Officials, Amending for this Purpose Republic Act No. 9333, Entitled 'An Act Fixing the Date for Regular Elections for Elective Officials of the Autonomous Region in Muslim Mindanao' and for Other Purposes, was principally authored by Representative Bai Sandra Sinsuat A. Sema. This bill was officially transmitted to the Senate on 23 March, 2011. It proposes the following:

1. Postponement of the ARMM elections for the Regional Governor, Regional Vice Governor and Members of the Regional Legislative Assembly scheduled on the Second Monday of August 2011 and resetting it on the second Monday of May 2013, to synchronize with the National and Local elections;
2. Setting the Term of Office of ARMM Elective Regional Officials for a period of three (3) years which shall begin on the thirtieth (30th) day of September following the day of the elections and shall end at noon of the same date three (3) years thereafter;
3. Ending the term of office of the ARMM incumbent elective officials elected under Republic Act 9333 until 30 September 2011;
4. Appointment by the President of Officers-In-Charge (OICs) who will take over the functions of the incumbent elective officials of the ARMM during the transitory period from 30 September 2011 to 30 September 2013;
5. Providing the qualifications of persons to be appointed as officers-in-charge in accordance with the qualifications for the Regional Governor, Regional Vice Governor and Members of the Regional Legislative Assembly as provided under Republic Act 9054 (*An Act to Strengthen and Expand the Organic Act for the Autonomous Region in Muslim Mindanao, Amending for this Purpose Republic Act 6734, Entitled "An Act Providing for the Autonomous Region in Muslim Mindanao, as Amended"*);
6. Ineligibility of appointed officers-in-charge to run as candidates for ARMM elective positions in the May 2013 synchronized national, local and ARMM elections;
7. Study and review of Republic Act 9054 by the appointed Members of the Regional Legislative Assembly of the ARMM who will recommend their recommendations to Congress within six (6) months from their assumption into office.

On 23 March 2011, Senator Franklin Drilon filed Senate Bill 2756, which is exactly the same version of House Bill 4146;

After the Senate Bill underwent first reading, the Senate Committees on Local Government and Constitutional Amendments, Revision of Laws and Codes conducted hearings and consultations on 7 April 2011 at the Senate, 19 May 2011 at Marawi City, and 31 May 2011 at the Senate.

V. Findings:

After thorough study of the bills at hand and consideration of the inputs of resource persons and stakeholders, the Committees on Local Government and Constitutional Amendments, Revision of Laws and Code respectfully submit their findings, to wit:

- A. THE APPOINTMENT OF OFFICERS-IN-CHARGE BY THE PRESIDENT IS CONTRARY TO THE PRINCIPLE OF AUTONOMY OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO WHICH IS GUARANTEED BY THE CONSTITUTION.
- B. HOUSE BILL 4146 AND SENATE BILL 2756 IN EFFECT AMENDS REPUBLIC ACT 9054. THUS, THE BILL IF IT WILL BE PASSED INTO LAW SHOULD COMPLY WITH THE REQUIREMENT OF PLEBISCITE. THERE IS THUS PROCEDURAL IMPOSSIBILITY TO COMPLY WITH THE REQUIREMENT BEFORE THE SCHEDULED AUGUST 8, 2011 ARMM ELECTIONS;
- C. REFORMS IN ARMM CAN BE EFFECTIVELY INSTITUTED BY OFFICIALS TO BE ELECTED BY THE PEOPLE ON AUGUST 8, 2011;
- D. THE MANDATE THROUGH AN ELECTORAL PROCESS IS A FUNDAMENTAL ELEMENT OF DEMOCRACY AND AUTONOMY;
- E. THE MAIN REASONS FOR THE POSTPONEMENT OF ELECTION HAVE BEEN EITHER CORRECTED BY COMELEC OR ARE WITHIN THE POWER OF THE NATIONAL GOVERNMENT TO GUARANTEE; AND
- F. ARMM ELECTIONS WERE NEVER SYNCHRONIZED WITH THE NATIONAL AND LOCAL ELECTIONS PURPOSELY BECAUSE OF THE RECOGNIZED SPECIAL AND VOLATILE CONDITIONS OF ELECTIONS IN THE AREA. THUS, SYNCHRONIZATION OF ELECTIONS SHOULD BE CONSIDERED ONLY AFTER CONCRETE EVIDENCE OF ELECTORAL AND POLITICAL STABILITY IN THE REGION ARE ATTAINED AND THAT THESE SPECIAL CONDITIONS ARE ADDRESSED.

VI. Discussion:

A.) APPOINTMENT BY THE PRESIDENT OF OFFICERS-IN-CHARGE VIOLATES THE CONSTITUTION.

The crucial issue that needs to be dissected in this legislative proposal is whether or not the President is authorized by the Constitution to appoint Officers-In-Charge in the Autonomous Region in Muslim Mindanao.

As provided for under section 4 of House Bill 4146 and Senate 2756, the appointment of Officers-In-Charge by the President is "for the transitory period which is necessitated by the synchronization of the ARMM elections with the regular election in 2013, to avoid vacancy that will be created when the term of office of the incumbent officers of the ARMM expire at noon of the 30th day of September 2011."

The most important test is whether or not the President can appoint Officers-in-Charge in ARMM without violating the Constitution, vis-a-vis the nature of the Autonomous Region in Muslim Mindanao.

It is indisputable that the autonomy of the ARMM is guaranteed by the Constitution:

Section 1, Article X of the Constitution is clear:

"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." (underscoring supplied).

Section 18, Article X of the Constitution provides:

"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 the 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 provision of this Constitution and national laws.

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

The Constitution guarantees the autonomy of the Muslim Mindanao Region as mandated by the above-quoted Constitutional provisions. This tall order grants the ARMM the right to self-sufficiency, self-determination and freedom from interference from the National Government that would undermine their well-defined right to autonomy. Autonomy, therefore, dictates that the ARMM be given the leeway to craft its own roadmap towards a more responsive and accountable governance that could sustain peace and development in the area.

Section 16, Article X of the Constitution is explicit:

"The President shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed." (underscoring supplied).

Fr. Joaquin G. Bernas, S.J. meticulously explained the power of the President over autonomous regions. Thus:

"The power of the President over autonomous regions is the same as his power over local governments – only one of "general supervision," that is, the power to ensure that subordinate officers execute and act within existing laws. The Commission deliberately dropped the phrase "as may be provided by law" in order to deny to Congress the authority to expand the nature of the power of the President over autonomous regions beyond supervision. In effect, therefore, and in the spirit of greater autonomy, the provision also curtails the power of Congress over autonomous regions." ("The 1987 Constitution of the Republic of the Philippines: A Commentary, Joaquin G. Bernas, S.J. 2009 Edition, page 1387).

In a long line of cases, the Supreme Court explained:

"The fundamental law permits the Chief Executive wielded no more authority than that of checking whether local governments or their officials were performing their duties as provided by the fundamental law and by statutes. He cannot interfere with local governments, so long as they act within the scope of their authority." Taule vs Santos (G.R. No. 90336 August 12, 1991), Pelaez vs. Auditor General, 15 SCRA 569 (1965); Hebron vs. Reyes, 104 Phil. 175 (1958); Mondano vs. Silvosa, et al., 97 Phil. 143 (1955). (underscoring supplied).

With this background, the crucial question is whether or not the power to appoint given to the President is within the ambit of "general supervision" as envisioned in the Constitution.

The concept of "general supervision" is clearly explained as follows:

"Thus, commenting on the executive power over municipalities, Dean Sinco, in his work on Philippine Political Law (10th ed., pp. 695-697), expressed himself as follows:

Supervisory power, when contrasted with control, is the power of mere oversight over an inferior body; *it does not include any restraining authority over the supervised party.* Hence, the power of general supervision over local governments should exclude, in the strict sense, the authority to appoint and remove local officials.

The Congress of the Philippines may pass laws which shall guide the President in the exercise of his power of supervision over provinces and municipalities; but it may not pass laws enlarging the extent of his supervisory authority to the power of control. To do so would be assuming the right to amend the Constitution which expressly limits the power of the President over local governments to general supervision. (Hebron vs. Reyes (G.R. No. L-9124 , July 28, 1958). (underscoring supplied).

It is, therefore, crystal clear that the power of appointment is not within the ambit of "general supervision" and any attempt to re-define the power of general supervision to include the power to appoint of OIC's is an impermissible encroachment on the constitutionally guaranteed right to autonomy.

In the case of *Cordillera Broad Coalition vs. Commission on Audit* (G. R. Nos. 79956 and 82217, January 29, 1990 181 SCRA 495, 506), the Supreme Court elucidates the nature of the Autonomous Region in Muslim Mindanao:

"On the other hand, the creation of autonomous regions in Muslim Mindanao and the Cordilleras, which is peculiar to the 1987 Constitution contemplates the grant of political autonomy and not just administrative autonomy these regions. Thus, the provision in the Constitution for an autonomous regional government with a basic structure consisting of an executive department and a legislative assembly and special courts with personal, family and property law jurisdiction in each of the autonomous regions [Art. X, sec. 18]." (underscoring supplied).

Because of these unambiguous Constitutional directives, the proposed authority for the President to appoint Officers-In-Charge who will take over the powers and functions of the incumbent elected officials of ARMM cannot be permitted without seriously transgressing the Constitution.

The following testimonies during the committee hearings precisely focus on this argument:

Justice Manuel Lazaro:

"And again, I have some reservations on the provisions which says that during the interregnum or interim, that is now and 2013, the President shall appoint officers in charge. Then you are going now to dilute, x x x subvert the purpose of the autonomy of the region. Precisely, we passed these laws on autonomy so that at least all the affairs of the ARMM should be the sole concern of the people in that area and it should not be with the interference of anybody in that case." (TSN, RPAIger III-1 7 April 2011 10:32 A.M., 3, page 029). (underscoring supplied).

X X X X X X

"If there is a law that authorizes the President to appoint, then that law must be respected."

"If there is a law. But then as I said, the propriety of giving the President the authority to appoint holdover officials is, to me, against the principle of autonomy. Because when you say autonomous, it means that you leave them and let them do it themselves. So, we'll have now a situation that for at least two years whereby the governor, the vice governor and the members of the legislative assembly are people who were not elected by the people but designated by just one person." (TSN, RPAIger III-1 7 April 2011 10:32 A.M., 5-6 page 031-032).

Former Governor Almarin Centi Tillah:

“Autonomy means, for the education and enlightenment of those who do not know the meaning of autonomy, ang puno’t dulo ng autonomy is for the people to decide for themselves to elect their officials, to choose their officials who will govern them for the next, at least, three years. Yan ang autonomy.” (TSN, Sarmiento III-1 19 May 2011 12:15 P.M. 8, page 055).

Datu Roonie Q. Sinsuat:

“The executive power of supervision over the ARMM cannot be interpreted to mean as to include the power to appoint officers-in-charge to elective positions. The ARMM government is a democratic institution that came into being by virtue of a constitutional mandate through a democratic process. Any question, issue or move that will directly affect this political entity and its people must, therefore, yield to the democratic principles which include, but are not limited to, the free exercise of our right to chart our own destiny free from any political interventions of non-residents of the ARMM.” (TSN, Melnovero II-4 May 19, 2011, 2:05 P.M. 4, page 128).

The Committees take note of the position paper submitted by Fr. Eliseo Mercado, OMI, of the Institute for Autonomy and Governance Alumni Center of Norte Dame University, where he explained that “the autonomous character of territories and political subdivisions extends to the inhabitants of those territories. Inherently, the inhabitants’ rights like electing their officials come with the State grant under the Constitution. For what is an autonomous territory if there are no inhabitants that make up the same? And subsequently, what is to be autonomous if the people do not have the right to choose their own officials on a specific date set forth by the Constitution itself?” (underscoring supplied. Page 2, “Position Paper on Two Contentious Issues involving the Autonomous Region in Muslim Mindanao”, Institute for Autonomy and Governance).

The Department of Justice, in its position paper dated 18 February 2011, justified the appointment authority of the President under his so called “residual power”. The Department of Justice explained that the provision on the appointment power of the President of ARMM officers-in-charge “is unnecessary because the power of the President to appoint officials to otherwise elective posts takes effect immediately where there is no law providing for the vacancy” (DOJ Position paper, page 8 thereof), citing the case of *Menzon vs Petilla* (G.R. No. 90762, 20 May 1991). It explained further that “applied to ARMM elective posts left vacant by virtue of the end of term of incumbent officials and the postponement of the ARMM elections, *the only alternative to filling up of vacancies is appointment by the President*, in accordance with the doctrine laid down in *Menzon*. Thus, where there is no law providing for succession to an elective office left vacant, the manner of filling up vacancy is via Presidential appointment.” (emphasis supplied).

The Committees do not agree with this observation.

It is noteworthy to state that the above scenario depicts a situation where an **actual vacancy** in elective posts exists, such as unjustified refusal to assume office, failure to

qualify, death, removal from office, voluntary resignation or permanent incapacity to discharge the functions of one's office.

But this does not apply in the case of the ARMM elective posts.

As explained by the Supreme Court in the case of *Menzon vs. Petilla* (G.R. No. 90762 20 May 1991):

"The law on Public Officers is clear on the matter. There is no vacancy whenever the office is occupied by a legally qualified incumbent. *A sensu contrario*, there is a vacancy when there is no person lawfully authorized to assume and exercise at present the duties of the office." (underscoring supplied).

It bears stressing that applied to ARMM, it is actually Congress, through House Bill 4146 and Senate Bill 2756, which deliberately attempts to create the vacancy of elective posts previously occupied by incumbent elective officials by proposing that the ARMM elections in August 2011 be postponed and instead be re-set to May 2013. Congress, in effect, **justifies** the exercise of appointment by the President by creating a vacuum, through the postponement of the elections, which could actually be avoided if the mandate of Republic Act 9054 would be followed, and the elections would be held as scheduled.

B.) HOUSE BILL 4146 AND SENATE BILL 2756 AMEND REPUBLIC ACT 9054, THUS NECESSITATING PRIOR COMPLIANCE WITH ARTICLE XVII THEREOF

Another issue raised by the two bills at hand is whether the proposals therein constitute amendments to RA 9054, or the ARMM Expanded Organic Act. For if so, Article XVII of the 2001 Organic Act must be complied with *a priori* in order that the intended amendments may become effective, specifically, the twin procedural requirements of legislative approval and the people's approval via plebiscite. Article XVII of Republic Act 9054 or the 2001 ARMM Organic Act provides:

ARTICLE XVII
AMENDMENTS OR REVISIONS

Section 1. Consistent with the provision of the Constitution, this Organic Act may be reamended or revised by the Congress of the Philippines upon a vote of two thirds (2/3) of the Members of the House of Representatives and of the Senate voting separately.

Section 2. The Regional Assembly shall have the power to initiate proposals for amendment to or revisions of this Organic Act by a vote of three-fourths (3/4) of all its Members or it may call for a Regional Consultative Commission to propose the amendment or revision. In any case, the amendment or revision shall require the approval of the Congress of the Philippines by a vote of two-thirds (2/3) of the Members of the House of Representatives and of the Senate voting separately.

Section 3. Any amendment to or revision of this Organic Act shall become effective only when approved by majority of the votes cast in the plebiscite

called for the purpose, which shall be held not earlier than sixty (60) days or later than ninety (90) days after the approval of such amendment or revision.

The Committees are of the opinion that the two bills constitute amendments to the ARMM Organic Act, and thus should comply with the special procedural requirements under Article XVII thereof, for the amendments to become effective. The salient features of the bills, namely, the synchronization of the ARMM regular elections with the May 2013 national elections, the grant of authority upon the President to appoint interim officers-in-charge, the ineligibility of appointed officers-in-charge to run as candidates for elective positions in the next ARMM regular elections, and the mandatory study and review of the Organic Act, clearly constitute amendments to the 2001 ARMM Organic Act.

Firstly, the two bills seek to change the date of the statutorily fixed regular elections in the ARMM, from 8 August 2011 (second Monday of August, three years after 2008) to 13 May 2013 (second Monday of May 2013).

It is wise to be reminded of the statutory rule that "in enacting a statute, the legislature is presumed to have been aware of, and have taken into account, prior laws on the subject of legislation." (*Lacson vs. Roque*, 92 Phil. 456, 1953, Manila Lodge No. 761 vs. Court of Appeals, G.R. 41001, September 30, 1976, 731, 72; *Roman Catholic Administration of Davao, Inc. vs. Land Registration Commission*, 102 Phil. 596 (1957)).

It may be recalled that Republic Act 9333 had effectively rescheduled the date of the ARMM elections, which was supposed to have been held in November 2004, three years after the 26 November 2001 ARMM elections that had been statutorily fixed by Republic Act 9140. Republic Act 9333 precisely set the first ARMM elections under the new Organic Act to the "second Monday of August 2005", and pegged the succeeding elections, "on the same date every three years thereafter" (**R.A. No. 9333, Section 1**). Thus, in accordance with the said law, two consecutive regular elections in the ARMM have held on 8 August 2005, and 11 August 2008.

Section 7, Article XVII of RA 9054 precisely provides for the first regular elections in the ARMM. This serves as a guidepost in the date of the elections in the Region. The mandate of RA 9333 was made pursuant to RA 9054. Any amendment, therefore, to RA 9333 traces its roots to the ARMM Organic Act, RA 9054.

Evidently however, RA 9333 amended RA 9054 without following the procedural requirements under Article XVII of the latter law.

Secondly, the grant of authority to the President to appoint interim officers-in-charge during the period from expiration of the terms of the incumbent ARMM officials until the assumption of new officials on 30 September 2013 constitute an implied amendment to Article V, Section 1 of Republic Act 9054 and Article VI, Section 1 of Republic Act 6734, specifically on the President's power of general supervision.

The mandate of RA 9054, specifically under Section 4, Article VII thereof states:

“Election of Regional Governor and Regional Vice Governor. The Regional Governor and Regional Vice Governor shall be elected as a team by the qualified voters of the autonomous region. X X X (underscoring supplied).

On the other hand, Section 2, Article VI of RA 9054 provides:

“Election of Regional Assembly. – The Regional Assembly shall be composed of Members elected by popular vote, with three (3) members elected from each of the legislative districts.

Plain and simple reading of the above-quoted provisions reveals that the Regional Governor and the Regional Vice-Governor and the members of the legislative assembly are to be elected by the people. It is, therefore, clear that there is no mode in selecting the representatives of the people of the ARMM other than through the democratic exercise of the right to suffrage. To propose, therefore, that the ARMM officials be chosen by the President through his power to appoint, instead of the direct mandate of the people through election, would create a tremendous impact on the very concept of autonomy of the ARMM. This, in effect, runs counter to the very core principle of RA 9054, which lays down the autonomous structure of the said Region.

A noted authority in statutory construction highlights pronouncements from the Supreme Court in regard the nature of legislative amendments:

Amendment means the change or modification, by addition, deletion, or alteration, of a statute which survives in its amended form. The amendment of statute is effected by the enactment of an amendatory act modifying or altering some provisions of the statute either expressly or impliedly. Express amendment is done by providing in the amendatory act that specific sections or provisions of a statute are amended as recited therein or, as commonly indicated, “to read as follows:” The section or sections are then reproduced as amended.

There is an implied amendment where a part of a prior statute embracing the same subject as the later act may not be enforced without nullifying the pertinent provision of the latter, in which event, the prior act is deemed amended or modified to the extent of the repugnancy. X x x. (**Agpalo, Ruben E. Statutory Construction. Manila: Rex Book Store, Inc., 2009, 6th edition, pp. 529-530.)**)

Therefore, as the provisions of the two bills under discussion constitute amendments to the ARMM Organic Acts, then the procedural requirements of legislature approval and approval through a plebiscite must both be complied with *a priori* in order for them to become effective, as expressly provided in Article XVII of Republic Act 9054.

Atty. Ibarra M. Gutierrez III of the UP College of Law however posits that the provisions of the two bills do not constitute amendments to the ARMM Organic Acts, but rather to Republic Act 9333 only, which is but an ordinary legislation that does not require special procedures for effectivity of amendments or revisions thereto. In fact, the bills’ titles similarly state:

"AN ACT PROVIDING FOR THE SYNCHRONIZATION OF THE ELECTIONS AND THE TERM OF OFFICE OF THE ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO (ARMM) WITH THOSE OF THE NATIONAL AND OTHER LOCAL OFFICIALS, **AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 9333**, ENTITLED "AN ACT FIXING THE DATE FOR REGULAR ELECTIONS FOR ELECTIVE OFFICIALS OF THE AUTONOMOUS REGION IN MUSLIM MINDANAO", AND FOR OTHER PURPOSES" (emphasis and underscoring supplied)

Advancing this theory, Atty. Gutierrez said:

x x x. The title of Section 7 is First Regular Elections. It talks about the first regular election. It does not provide a rule, a general rule that sets the regular election date thereafter. In fact, it says, "The first regular elections shall be held on the second Monday of September 2001." Contrast that, for example, to the Constitution which says that, "Unless otherwise provided by law, the regular election for President and Vice-President shall be held on the second Monday of May.

Very clearly, x x x, in the case of Section 7, Article XVII of 9054, it talks only about the first regular elections to be held after the enactment of this law as a transitory mechanism. It is not a general provision that sets in perpetuity the date for regular elections in ARMM.

x x x

There is no amendment here, x x x, because we're not trying to change the date of the first regular election. That has already occurred. What we are trying to do is change the regular election date as set under (Republic Act) 9333, not under (Republic Act) 9054 which is silent as to the conduct of regular elections. X x x. (TSN, sglrobes II-3, 7 April 2011, pp. 106-108)

The Committees submit that the afore-cited argument of the DOJ is not in point. While the two bills merely appear to amend Republic Act 9333, as expressly declared in their titles, the intended amendments ultimately strike at the heart of the ARMM Organic Acts. This is so because Republic Act 9333, as well as all the other amendatory acts in the past, for that matter, upon enactment, necessarily became an integral part and parcel of the law which it had intended to amend: Republic Act 9054. Thus, simply stated, Republic Acts 9140 and 9333 became integral part of Republic Act 9054 or the ARMM Organic Act. Thus, an attempt at amending Republic Act 9333 would actually be a disguised attempt at amending the Republic Act 9054. Again, according to the authority in statutory construction:

A statute and its amendment should be read together as a whole. An amended act is ordinarily to be construed as if the original statute has been repealed and a new and independent act in the amended act is regarded as if the statute has been originally enacted in its amended form. The amendment becomes a part of the original statute as if it had always been contained therein. The amendment to a section of an act should be read in connection with other sections as if all had been enacted in the same statute, and, as far as possible, effect should be given to all of them in furtherance of the general design of the act. **(Agpalo, Ruben E.**

Statutory Construction. Manila: Rex Book Store, Inc., 2009, 6th edition, pp. 531-532.)

The Committees quote with approval the statements of former Minority Leader Aquilino Q. Pimentel, Jr. as follows:

Laws must not be interpreted in isolation of their effect on other laws. Meaning to say, you can say, ok, what you are amending is not the ARMM, correct. But the implication of the amendment has tremendous impact on the security of tenure (or) term of the officials of the ARMM because you are transferring, precisely, the date of the elections that had been set previously by law. So in effect, that might not hold water. (TSN, SgIrobles II-3, April 7, 2011, 12:22 P.M., 4, page 104).

Following Atty. Gutierrez's line of argument, it may well be argued that since Republic Act 9333 has been passed and approved in 2004 like any ordinary legislation, without the special requirements expressly provided in Article XVII of R.A. 9054, despite its express intention to amend the ARMM Organic Act, thus, by the same token, the two bills need not comply with the said special requirements for amendment. The Committees categorically declare that this fact or happenstance should not in any way be interpreted as to bind in estoppel the present Senate, let alone the Committees, to a similar conclusion. The precedent set by Republic Act 9333 should not be followed, in view of the said law's apparent failure to comply with the special procedural requirements set forth by the ARMM Organic Acts on the matter of amendments thereto.

Finally, the Committees likewise note the observation of Justice Manuel Lazaro about the past ARMM election postponement laws, which apparently had been passed and approved in violation of the ARMM Organic Acts:

x x x there are several Republic Acts that have already been passed, approved in the past and all providing for conflicting resetting of the elections. And yet I noticed that none of these Republic Acts that were approved by Congress had been the subject of a plebiscite. (TSN, SgIrobles II-1 7 April 2011 10:22 A.M. 6, page 026).

x x x

x x x the position of the Philconsa is that we should not postpone any election for the simple reason that if there will be a postponement of an election, then there will be no ARMM as the case may be as provided for in the two laws. (TSN, RPAIger III-1, 7 April 2011 10:32 A.M. 1, page 027).

x x x

The problem is, we have been practicing in the past of a date different from that provided for under Section 3 of Article XVII of Republic Act 9054. But since we have been doing that in the past, then perhaps what we should do now is follow the provisions of Republic Act 9054 that the election should be conducted on the second Monday of August. Because that's only way we'll be able to follow the law. Anything that is against the

provisions of Republic Act 9054 is, to me, unconstitutional and illegal. (TSN, RPAIger III-1, 7 April 2011 10:32 A.M. 1, page 028).

Moreover, a thorough study of RA 9333 would reveal that this law merely fixes the date of the regular elections of the elective officials of the ARMM. In contrast, the proposed amendments in House Bill 4146 and Senate Bill 2756, actually alter the very structure of the ARMM government which is the essence of RA 9054. The implication and great impact of these proposed amendments cannot be ignored. It is therefore not correct to simply treat these proposals as mere amendments to an ordinary statute, RA 9333.

Since the proposals in House Bill 4146 and Senate Bill 2756 partake of the nature of amendments to RA 9054, the procedural requirements laid down in Article XVII thereof, as quoted above, should be complied with. Otherwise, the proposals under these legislative measures cannot be attained, and are patently illegal.

This argument is consistent with the ruling of the Supreme Court in the following cases, which emphasize the unique characteristic of The Organic Act for the Autonomous Region in Muslim Mindanao.

In the case of *Disomangcop vs. Secretary of Public Works and Highways* (G.R. No. 149848. November 25, 2004), the Highest Tribunal ruled:

"The ARMM Organic Acts are deemed a part of the regional autonomy scheme. While they are classified as statutes, the Organic Acts are more than ordinary statutes because they enjoy affirmation by a plebiscite.(J. Bernas, The 1987 Constitution of the Republic of the Philippines, A Commentary 1103 (2003). Hence, the provisions thereof cannot be amended by an ordinary statute, such as R.A. 8999 in this case. The amendatory law has to be submitted to a plebiscite." (underscoring supplied).

This is a reiteration of an earlier ruling of the Supreme Court in the case of *Pandi vs. Court of Appeals* (G.R. No. 116850, April 11, 2002):

"An ordinary statute, whether general or special, cannot amend an organic act that provides for an autonomous region which under the Constitution may only be created, and therefore changed, through a plebiscite called for the purpose."

The Committees take note of the statements of the following resource persons during the April 7, 2011 hearing:

Senator Aquilino Q. Pimentel, Jr.:

"x x x when we enacted the autonomous regional law covering the provinces of Muslim Mindanao, the idea really was to give them enough leeway to charter the course of their own destiny but within the framework of the Philippine Constitution.

"And, therefore, any act that would try to change, for example, the term of office of the elected officials, would, to my mind, be in violation of the character of the charter and, therefore, x x x, and there is really need to amend the election

date, then that would require an even more problematic demands of having at least two-thirds vote of the Senate and of the House voting separately in addition to the requirement of a plebiscite." (TSN, SgIrobles II-1, April 7, 2011, 10:22 A.M., 1, page 021). (underscoring supplied).

X X X X X X X X X X

"Laws must not be interpreted in isolation of their effect on other laws. Meaning to say, you can say, ok, what you are amending is not the ARMM, correct. But the implication of the amendment has tremendous impact on the security of tenure (or) term of the officials of the ARMM because you are transferring, precisely, the date of the elections that had been set previously by law. So in effect, that might not hold water." (TSN, SgIrobles II-3, April 7, 2011, 12:22 P.M., 4, page 104). (underscoring supplied).

Justice Manuel M. Lazaro:

"Now, on the effectivity of these two bills, I noticed that the House Bill No. 4146 and the Senate bill says that "This Act shall be immediately effective upon publication in a newspaper of general publication." This, to me, is also illegal in the sense that this should also be the subject of a plebiscite because you'll have to go back again to Republic Act 9054 which says that any amendment or revision of the Organic Law must be the subject of a plebiscite to be approved by the residents of the area." (TSN, RPAIger III-1, April 7, 2011 10:32 A.M. 2, page 028). (underscoring supplied).

X X X X X X X

"On the second issue that Republic Act 9054 does not mention the date of the conduct of the election, Section 7, Article XVII precisely provides that, xxx "The first regular elections of the regional governor, regional vice-governor, members of the regional legislative assembly under the Organic Act shall be held on the second Monday of September 2001." So there is already a guidepost that should be followed by everybody. (TSN, SgIrobles II-3 April 7, 2011 12:22 P.M. 5, page 105).

Mayor Aminodin Sumagayan:

"Unang, una po sa lahat, we would like to make it clear na we are not against of any noble intention of our beloved President in the postponement of the ARMM election. And sa amin lang o, medyo nagkakaroon lang po kami ng konting duda or oposisyon sa pamamaraan – ang gagawing postponement nitong ARMM election.

Unang-una, alam po natin, we are in a democratic country and we are governed by laws and not of men. Meron po tayong batas. Kung ipo-postpone po natin ang election, idaan po natin sa tanang proseso.

Ang nakasaad po sa ating organic act, any amendment to the provisions of our organic act shall take effect only upon a majority vote called or in a plebiscite

called for that purpose. Mag-plesibito po tayo, tanungin po natin ang mga taga-ARMM. Madali lang po yon." (underscoring supplied) (TSN, L. Sapida I-4 19 May 2011 1:55 P.M. 1, page 119).

Finally, Section 3, Article XVII of RA 9054 mandates that "any amendment to or revision of this Organic Act shall become effective only when approved by majority of the votes cast in the plebiscite called for the purpose, which shall be held not earlier than sixty (60) days or later than ninety (90) days after the approval of such amendment or revision."

The Committees are of the opinion that this present legislative undertaking has been overtaken by events, and has become moot and academic in view of the limited time left between the legally mandated period to conduct the plebiscite and the ARMM elections scheduled on 8 August 2011.

Notwithstanding the above irremediable Constitutional and legal issues, the Committees have observed flaws on the following provisions of the bills:

The Committees have, likewise, observed flaws on the following provisions of the bills:

A. Title not reflective of the contents of the Bills:

The title of House Bill 4146 and Senate Bill 2756 focuses on the synchronization of elections and the term of office of the elective officials of the Autonomous Region in Muslim Mindanao with those of the national and other local officials, amending for that purpose Republic Act 9333.

However, thorough reading of the contents of the bills reveals that these legislative measures actually proposes the postponement of ARMM elections scheduled in the Second Monday of August 2011, and resetting the said elections to the second Monday of May 2013, and consequently, authorizes the President of the Philippines to appoint Officers-In-Charge of ARMM offices that will be left vacant as a result of the expiration of the term of incumbent ARMM elective officials.

The mandate of Section 26 (1), Article VI of the Constitution is clear:

"Every bill passed by the Congress shall embrace only one subject which shall be expressed in the title thereof."

As explained by the Supreme Court in the case of *Lidasan vs. Commission on Elections*, (G.R. No. L-28089, 25 October 1967):

"It may be well to state, right at the outset, that the constitutional provision contains dual limitations upon legislative power. *First*. Congress is to refrain from conglomeration, under one statute, of heterogeneous subjects. *Second*. The title of the bill is to be couched in a language sufficient to notify the legislators and the public and those concerned of the import of the single subject thereof.

Of course, the Constitution does not require Congress to employ in the title of an enactment, language of such precision as to mirror, fully index or catalogue

all the contents and the minute details therein. It suffices if the title should serve the purpose of the constitutional demand that it inform the legislators, the persons interested in the subject of the bill, and the public, of the nature, scope and consequences of the proposed law and its operation. And this, to lead them to inquire into the body of the bill, study and discuss the same, take appropriate action thereon, and, thus, prevent surprise or fraud upon the legislators. (Vidal de Rocas vs. Posadas, 58 Phil. 108, 111-112; Ichong vs. Hernandez, 101 Phil. 1155, 1188-1190.)”

Guarded against the Constitutional parameters on the “one subject, one title” rule, the title of House Bill 4146 and Senate Bill 2756 does not clearly express the general subject of the legislation, which is the postponement of the ARMM elections in August 2011, and not the synchronization of this election with the national and local elections in May 2013.

B. Term of Office of ARMM elective officials not synchronized with national and local officials:

Section 1 of House Bill 4146 and Senate Bill 2756 provides:

“For purposes of synchronization of elections, which is envisioned by the 1987 Constitution, the regular elections for the Regional Governor, Vice Governor and Members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao (ARMM) shall be held on the second (2nd) Monday of May 2013. Succeeding regular elections shall be held on the same date every three (3) years thereafter.”

On the other hand, Section 2 of House Bill 4146 and Senate Bill 2756 provides:

“The term of office of the Regional Governor, Vice Governor and Members of the Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao (ARMM) shall be for a period of three (3) years, which shall begin at noon on the thirtieth (30th) day of September next following the day of the election and shall end at noon of the same date three (3) years thereafter.”

To “synchronize” as defined by Webster, and as quoted in the case of Osmena vs. Commission on Elections (G.R. 100318, 30 July 1991) means “to happen or take place at the same time; to represent or arrange event so as to indicate coincidence or co-existence; to cause to agree in time.”

Sections 2 and 5 of Article XVIII of the Constitution provide:

Section 2. The Senators, Members of the House of Representatives, and the local officials first elected under this Constitution shall serve until noon of June 30, 1992.

Of the Senators elected in the elections in 1992, the first twelve obtaining the highest number of votes shall serve for six years and the remaining twelve for three years.

Section 5. The six-year term of the incumbent President and Vice-President elected in the February 7, 1986 election is, for purposes of synchronization of elections, hereby extended to noon of June 30, 1992.

The first regular elections for the President and Vice-President under this Constitution shall be held on the second Monday of May, 1992.

Known Constitutionalist Fr. Joaquin Bernas, S.J., explained that on "the basis of the debates, that the 1986 Constitutional Commission succeeded in synchronizing the terms of office but did not actually synchronize elections leaving such matter to Congress." ("The 1987 Constitution of the Republic of the Philippines: A Commentary, Joaquin G. Bernas, S.J. 2009 Edition, page 1387).

House Bill 4146 cannot attain one of its main purposes which is synchronization of term of office as embodied in the title of the bill because it proposes that the term of office of elected officials of the ARMM as provided in section 2 of the bill "shall begin at noon on the thirtieth (30th) day of September next following the day of the election. Thus, how can synchronization of the term of office of national and local elective officials be effected when the term of office of national and local officials begin at noon on the thirtieth (30th) day of June while the term of office of the elected ARMM officials, as proposed in the bill, begin at noon on the thirtieth (30th) day of September? This completely negates the very concept synchronization that this proposed law aims to achieve.

C. Sections 4, 5, 6 and 7 of the House Bill 4146 and Senate Bill 2756 are amendments to RA 9054

- a. In addition to the constitutional issue raised above, the proposed grant of authority to the President to appoint interim officers-in-charge during the period from expiration of the terms of the incumbent ARMM officials until the assumption of new officials on 30 September 2013 under Section 4 of House Bill 4146 and Senate Bill 2756 constitute an amendment to Article V, Section 1 of Republic Act 9054 and Article VI, Section 1 of Republic Act 6734, specifically on the President's power of general supervision.

The mandate of RA 9054, specifically under Section 4, Article VII thereof states:

"Election of Regional Governor and Regional Vice Governor. The Regional Governor and Regional Vice Governor shall be elected as a team by the qualified voters of the autonomous region. X X X (underscoring supplied).

On the other hand, Section 2, Article VI of RA 9054 provides:

“Election of Regional Assembly. – The Regional Assembly shall be composed of Members elected by popular vote, with three (3) members elected from each of the legislative districts.

Plain and simple reading of the above-quoted provisions reveals that the Regional Governor and the Regional Vice-Governor and the members of the legislative assembly are to be elected by the people. It is, therefore, clear that there is no mode in selecting the representatives of the people of the ARMM other than through the democratic exercise of the right to suffrage. To propose, therefore, that the ARMM officials be chosen by the President through his power to appoint, instead of the direct mandate of the people through election, would create a tremendous impact on the very concept of autonomy of the ARMM. This, in effect, runs counter to the very core principle of RA 9054, which lays down the autonomous structure of the said Region.

- b. The proposal to prohibit appointed officers-in-charge to run as candidates for elective positions in the next regular elections of the ARMM is likewise an amendment to RA 9054.

This proposal under Section 6 of House Bill 4146 and Senate Bill 2756 is stated in the following manner:

“Section 6. Ineligibility of Appointed Officers-In-Charge. Appointed officers-in-charge referred to in Section 5 hereof shall be ineligible to run as candidates for elective positions in the next regular elections of the ARMM which shall be held on the second (2nd) Monday of May 2013.”

On the other hand, the qualifications of the Regional Governor, Regional Vice Governor, and the Members of the Regional Assembly are set forth in the following sections of RA 9054:

“Section 6, Article VI. Qualifications of Members of Regional Assembly. - No person shall be a member of the Regional Assembly unless he or she is:

1. A natural- born citizen of the Philippines;
2. At least twenty-one (21) years of age on the day of the election;
3. Able to read and write;
4. A registered voter of the district in which he or she shall be elected on the day he or she files his or her certificate of candidacy; and
5. A resident thereof for a period of not less than five (5) years immediately preceding the day of the election.”

X X X X X X

“Section 3, Article VII. Qualification of Regional Governor and Regional Vice -Governor. No person may be elected Regional Governor, Regional Vice Governor of the autonomous region unless he or she is a natural – born citizen of the Philippines, a registered voter of the autonomous region able to read and write,

at least, thirty-five (35) years of age on the day of the election, and a resident of the autonomous region for, at least, one (1) year immediately preceding the election.

The foregoing enumeration of qualifications set forth in RA 9054 does not include any prohibition to any person previously appointed in public office in the ARMM from running as candidates for elective positions in the Region. To include, therefore, the proposal under Section 6 of House Bill 4146 and Senate 2756 indicates an additional requirement to the existing qualifications set forth in the above-quoted provisions of RA 9054. Obviously, Section 6 of the bills partake the nature of a substantial amendment to RA 9054, and not RA 9333 which is silent on the qualifications of candidates for ARMM local elective positions.

C. THE MANDATE THROUGH AN ELECTORAL PROCESS IS A FUNDAMENTAL ELEMENT OF DEMOCRACY AND AUTONOMY

Article II, Section 1 of our Constitution provides that "the Philippines is a democratic and republic State. Sovereignty resides in the people and all government authority emanates from them".

The ARMM deserves the full meaning and essence of democracy as defined by our Constitution. This should be inviolable if we are true to our effort to exact obedience from the people for their own good. A leader without a mandate from the people has no room to govern in a democratic society like ours. A leader without mandate from the people is a leader with no one to govern.

Any planned reform should be pursued in accordance with the principle of democracy and autonomy. This is the essence of the long-standing doctrine that, "ours is a government of laws and not of men". To disregard this basic tenet is to invite self-destruction of the foundation of democracy.

Needless to state, the concept of appointment of OIC's runs counter to the meaning of autonomy. Any interference from the national government in the affairs of ARMM, particularly from the president, should only be confined to its reserved right of general supervision. As expounded above, the term does not include the power to appoint. Necessarily, any act of the national government that exceeds the limit of general supervision is an encroachment of the territory of autonomy, which is declared inviolable by our constitution.

D. REFORMS IN ARMM CAN BE EFFECTIVELY INSTITUTED BY OFFICIALS TO BE ELECTED BY THE PEOPLE ON AUGUST 8, 2011:

There is no question that the Autonomous Region in Muslim Mindanao (ARMM) has failed to deliver its mandate to its constituents. In fact, its governance has been marred by issues of corruption, warlordism and other political excesses. The people in ARMM, as well as the national leadership, are in unison in their call for reforms in the ARMM. However, how to implement the much-needed reforms is an issue that has so far created deep division not only of the people of ARMM but also of the national leadership.

House Bill 4146 and Senate Bill No. 2756 seek to postpone the scheduled ARMM election on August 8, 2011 and appoint ARMM officials in an attempt to institute reforms. The rationales of the bill, as reported out in HB 4146, are as follows, to wit;

- 1) To synchronize and fully automate regional, local and national elections in 2013, as mandated by the 1987 Constitution, which provides that all election for local elective officials, except for barangays, shall be synchronized.
- 2) To undertake a comprehensive review of RA 9054 and push for needed legislative measures within the powers of the Regional Legislative Assembly for the purpose of submitting to the national Congress proposed amendments to expand the ARMM as a Special Autonomous Region.
- 3) To pursue electoral reforms through a re-registration of voters using biometrics system and conducting elections through automated fingerprint identification system.
- 4) To give chance to the new emerging generation of politicians to attain genuine reforms of governance in the ARMM.
- 5) To postpone the ARMM election is the voice of the people. The various NGOs, people's organizations and civil societies have been calling for this valid request. Several consultations and fora were already conducted and the people's choice and decision is their clamor for real change in the governance and their cry for a new leadership that will serve from the heart. Broad coalitions of Moro sectors support the need to postpone the ARMM election this coming August 2011.
- 6) To reform the electoral system before holding any changes in leadership to ensure that qualified leaders and the people's choice are the ones to be put in position.
- 7) To recognize that the ARMM is a failure and hear its people in its call for genuine Autonomy freedom from politics of impunity and equitable sharing of wealth and power for the Bangsamoro people.
- 8) To give a wider and longer opportunity for the COMELEC to prepare for a better, credible and acceptable synchronized May 2013 national and local election.
- 9) To give the COMELEC time to cleanse the voters list of the ARMM.
- 10) To have a well-prepared election that will surely lessen fraud, cheating and election-related violence where the ultimate victims are the Bangsamoro people.

- 11) To boost the confidence and hope of the Bangsamoro people that solutions to the Mindanao conflict could be given due importance and concentration by the government.
- 12) To provide for the study and review of the Organic Act, RA 6734 as amended by RA 9054 (Sec. 7), reflecting the sincerity of the legislative body to look into improving the existing law governing the ARMM. It will also allow the President of the Philippines to appoint an Officer in Charge who shall be ineligible to run as candidate in 2013 (Sec.6), thus, making sure that such officials will repair and prepare the ARMM for a new system of election including among others the re-registration of voters and new leadership in 2013 by a new crop of responsible and qualified leaders.
- 13) To appoint or designate Officers-in-Charge in the ARMM. Under the 1987 Constitution, Section 16, Article 10, the President shall exercise general supervision over autonomous regions to ensure that laws are faithfully executed. Executive power is vested in the President of the Philippines (Sec. 1, Article 7).
- 14) To provide synergies for the peace process by making the ARMM an effective mechanism for basic service delivery, promoting justice, and securing the lives and property of its inhabitants.
- 15) To arrest the declining peace and order situation brought by the proliferation of arms, and an increase in incidence of political violence, kidnappings and narco-criminal syndicates.
- 16) To give way to the peace process that is ongoing between the government and the Moro rebel groups, to provide focus and imperatives to achieving sustainable peace.
- 17) To let the national government examine the statement of accounts of all government funding in every agency of the ARMM coming from foreign aid, grant or loan.
- 18) To abet corruption rampant in all government agencies in the ARMM by which the past and present regional leaders failed to lessen or stop the same.
- 19) To direct the police and military to de-militarize the ARMM by recalling all firearms issued to paramilitary groups, and strengthen the local police to effectively carry out its duties.
- 20) To keep an eye on injustices of the regional and provincial heads of all local or national agencies of the ARMM towards their subordinated and

the rank and files ignoring the constitutional guarantee of merit and fitness on promotions.

- 21) To conduct an election this year may hamper the on-going final negotiation and peace settlements between the Moro National Liberation Front (MNLF) and Moro Islamic Liberation Front (MILF) and the Government of the Philippines (GHP) and further delay the implementation of the 1996 Final Peace Agreements with MNLF.
- 22) To use the P2 Billion budget of the government for the separate ARMM election to ease the economic sufferings of many Bangsamoro people. The projected budget of P2 Billion for the conduct of this year's election is unnecessary for the Region experiencing high state of poverty and underdevelopment. Not including the multi-million budget that will be spent by political contenders and the damages it will create in the entire region.
- 23) To rationalize government expenditures related to elections and focus fiscal priorities on electoral reforms that would lead to peaceful, credible, and honest elections.
- 24) To undertake a comprehensive audit of government transactions and institute effective financial management and control systems.
- 25) To minimize election expenses, as having the ARMM elections separately will entail additional cost.
- 26) To utilize the expenses and time for a separate ARMM election for other beneficial purposes like the electoral reforms pertaining to biometrics in the registration of voters.
- 27) To allow the healing process of the social wounds created by the recent Barangay Elections which until now, has not yet been completed in some barangays in the ARMM. As it is now, in most elections in this region, honest votes are overwhelmed by ghost votes which are under the control of some unscrupulous politicians.
- 28) To institute electoral reforms in the ARMM that has been constantly plagued by electoral violence, massive frauds, vote-buying, kidnapping, etc.

While the purposes of the bill are highly commendable, the acceptance by the people of ARMM is highly divisive. The bill has become an issue of reform versus the constitutional right to suffrage. Ironically, the issue of reform and the issue of the right to suffrage are consistent with each other as they both speak of good governance. Do we need to guess and decide which of the two issues will serve the best interest of ARMM, not to mention the constitutional issues? Or will it be most beneficial to

reconcile the said issues and pursue the reforms without taking from the constituents their sacred right to suffrage?

The people of ARMM always proclaim with pride that the creation of ARMM is not a gift from the national government but is a product of decades-long struggle for autonomy. Behind that struggle are footprints of blood and miseries but with no signs of regrets or let up. In a region where peace and political stability are elusive due to differences on how the aspiration of the region, among others, is to be pursued, the present issue is, again, causing much division among them.

Clearly, these bills are trying to convince them to sacrifice their right to suffrage for a period of two (2) years only with consolation that the long awaited reforms can easily be implemented. Verily, the right to suffrage is a fundamental issue in the struggle of our Bangsamoro brothers. Truly, many of them are working for the postponement of the election. Equally true, however, is that many of them are against the postponement. Many have been moved by genuine concern for autonomy and good governance, some are motivated by political interest. But whatever the motives are behind their respective stand, one thing is clear, the issue is causing much division among the stakeholders. The message of Former Governor Ali Tillah during the public hearing in Marawi City on 19 May 2011(TSN, Sarmiento III-1 19 May 2011, 12:15 P.M. 3, pages 097 to 098), is worth contemplating, to wit;

“What right, even the president of this country, a one person, to decide for the Muslims, more than one million electorate? What right has Malacanang to decide for the 10 million Muslims all over the country? That’s the height of arrogance. And, therefore, Mr. Chairman, we would want to make clear that this right – karapatan naming to eh – right of suffrage --- nabigay na ito sa amin.”

The sentiments with equal tenor of Assemblyman Zia Alonto Adiong, which he aired during the same public hearing in Marawi City is emphatic on the protection of their right to suffrage in this wise, to wit:

“X X X. And it pains me, with due respect to the members of this Honorable Committee, it pains me to be here this afternoon arguing and depending the very right that was given to me by the Constitution of this land. It pains me to think that we are here, all of us, Muslim concerned citizens of this region to defend the very right that is being presented, enshrined, protected to us by the 1987 Constitution. ARMM is a product of a long struggle by our ancestors. The struggle, if we go back to history, this day will be enough to discuss the atrocities, the sacrifices, the death and the sufferings of our people.” (TSN, Sarmiento III-4 May 19, 2011 2:15 P.M. 1, page 132).

The committee is aware of its solemn duty to decide an issue brought before it in a manner that the majority of the members feel to serve the best interest of the people. Thus, the committee stands to protect the right of the people of ARMM to vote on August 8, 2011 and pursue the reforms in the ARMM.

E. THE MAIN REASONS FOR THE POSTPONEMENT OF ELECTION HAVE BEEN EITHER CORRECTED BY COMELEC OR WITHIN THE POWER OF THE NATIONAL GOVERNMENT TO GUARANTEE:

The cleansing of the voter's list, which is one of the main reasons for the postponement of the ARMM elections, has been declared by the Comelec to be almost 100 percent completed, and will be fully completed before the scheduled August 8, 2011. The testimony of Atty. Ferdinand Rafanan, Director, Law Division of Comelec, during the hearing of the committee on April 7, 2011 is unequivocal, (TSN, Jmbaisa IV-3, / SNTupaz V-3, 7 April 2011, 12: 42 P.M.; 12:52 P.M. pages 118; 119; 120; 126) to wit;

“Mr. Rafanan. Yes, Mr. Chairman, we are ready. XX X.

X X X

The Chairman (Sen. Marcos). The collection of biometric data, is it completed in the ARMM?

Mr. Rafanan. It's not yet completed. But we are almost 100 percent, Mr. Chairman.

The Chairman (Sen. Marcos). What percent are you if it's almost 100 percent?

Mr. Rafanan. I do not really...(Voices heard)

Voice. No.

The Chairman (Sen. Marcos). The representatives who come from the area do not seem to agree with you.

Mr. Rafanan. Yeah. It's almost.

The Chairman (Sen. Marcos). I am hearing protestations from both sides.

Mr. Rafanan. It's almost 100 percent.

Voice. No.

Mr. Rafanan. Not yet 100. Now, x x x, since we have been continuously doing that up to the present. So, it's almost eight years already. And those who have not yet registered using the biometric system are those who were previously registered. They were registered before 2003 and they have not been compelled to come back and validate their registration through the biometric system. And these are not the majority anymore. That is why I said, we are almost 100 percent through with biometric registration.

The Chairman (Sen. Marcos). But notwithstanding the completion or otherwise of the collection of biometric data, is it necessary that you have a hundred percent acquisition of biometric data to conduct the elections or not?

Mr. Rafanan. It is not necessary, Mr. Chairman.”

x x x x

Sen. Zubiri. X x x if we want to purge the list of voters for ARMM, how long a time would you need? Could it be done within two months, three months?

Mr. Rafanan. Yes, Mr. Senator. It could be done very quickly actually because the identification of the voters who registered more than once is done not manually but done electronically through what we call the Automated Fingerprint Identification System. We have already identified 126,000 individuals who registered more than once. And removal of their second registrations can also be done electronically. And then, we will investigate the matter and we will file charges against those who did this thing deliberately.

Sen. Zubiri. Attorney, what you are trying to say in a nutshell is, if we do conduct the elections on August 8, those who will be voting will be those from the purged list already, cleanup list?

Mr. Rafanan. Yes. Yes Mr. Senator. “

The said declarations were echoed by Atty. Ray Sumalipao, Regional Director of Comelec in ARMM, during the public hearing of the committee in Marawi City, Lanao Del Sur on 19 May 2011, in this wise, to wit;

Atty. Ray Sumalipao:

Your Honors please, sa pagkaalaman sa lahat sa atin, we have a project for the entire Commission on Elections. Ito yong tinatawag natin na AFIS (automated fingerprint identification system). Ito yung pag-identify ng mga double or multiple registrants sa pamamagitan ng pag-match ng mga fingerprints at pictures. At dahil sa AFIS po, binigyan ang lahat ng regions, lahat ng provincial election supervisors, lahat ng offices ng election officers ng listahan ng mga doble at multiple registrants. And for ARMM nabigyan po ang ating mga election officers ng at least 73,000—rounded to the nearest thousand-- 73,000 double or multiple registrant under the AFIS system and 16,000 under the algometric system. Yung algometric po kino-compare yung mga pangalan- 16,000. Yung sa AFIS po pag-compare ng mga fingerprints, we have 73,000 or a total of 90,000 at lahat poi to ay dinelete (delete) n gating mga election officers. Sasabihin po natin, “baka hindi dinelete”. Your Honors, mga kababayan, actually may mga off-site teams, may mga kasamahan tayong Comelec personnel from Manila o pumunta pos a ating mga probinsya at sa mga munisipyo at tiningnan isa-isa yung list of voters kung talagang natanggal itong 73 and 16,000-lahat 90,000-at sinabi po nila nag-report sila, natangal. In fact there were some of those na hindi nagtagal tinanggal pa rin ng mga taga-Manila. So as of now, we are assured that the list is cleansed insofar as these 90,000 double or multiple registrants. But we do admit that for the entire nation out of the 50 plus million registered voters, we only have a

biometrics of 30 million. We are still in the process of collecting the biometric data of 20 plus billion (sic) for the entire Philippines. (TSN, Sarmiento III-3 19 May 2011 1:35 P.M. 3-4, pages 107-108). (underscoring supplied).

X X X X X X X

Insofar as ARMM, we had a general registration sometime in 2003, and it was already a biometric system. Nakunan po ng biometric except those-may kakaunting percent, nasa mga 10 percent-10 to 15 percent na walang biometric sa kadahilanang nagbog-down ang makina, nasira ang makina, kaya lahat binigyan ng opportunity to register kaya merong at least 10 to 15 percent na walang biometric po for the entire ARMM." (TSN, Sarmiento III-3 19 May 2011 1:35 P.M. 5, page 109).

These declarations deserve the presumption of regularity and good faith as they emanate from an independent and constitutional body.

The other issues of cheating, vote-buying, violence etc., although need to be eradicated, are issues that beset other electoral process in the country. Thus, these are not legitimate reasons to postpone the ARMM elections on 8 August 2011.

At any rate, the sincerity of the national government, particularly the Malacanang, to make the ARMM elections reflective of the true voice of the people will somewhat ensure the success of the elections. Indeed, it is a reality that whoever is supported by the administration as candidate in the ARMM elections is proclaimed elected for the position. This scenario is not reprehensible per se. It is the means employed by the administration to get its candidates elected that is being doubted. Certainly, a simple self-restraint from the administration will go a long way for the success of the ARMM elections.

The Committees also wish to inform this august Chamber of the findings and sentiments of these same Committees' during the 13th Congress when R.A 9333 is being passed in the Senate. The TSN of the deliberations of the said act bears the following, to wit; (TSP, pages 57, 58, 68, 69, 77)

Sponsorship speech of Sen. Gordon

"x x x.

"Mr. President, our committees strongly desire to put an end to the perpetual congressional intervention in resetting the dates of election in the ARMM. We join Senators Enrile, Arroyo, and Osmeña. I am sure all the senators in this honorable Body will join us in making sure that we can come up with the regular elections. The issue of regularity must be something that we all ought to stand for and I know we do.

"The committees hope that this will be the last time we have to step into the domain of an autonomous region, a self-respecting creation of the Constitution no less. It is about time that we heeded strictly to the letter and spirit of Section 8, Article X, of the 1987 Constitution, which expressly

mandates that the term of office of local officials shall be three years. X x x." (Emphases supplied)

Interpellations

Sen. Gordon:

"And this is what the Committee has gathered. That is why, Mr. President, we say, with all firmness, that this should be and must be the last time that we should be seen as being so irregular, that there is no (regularity) in the way we call elections here.

"That is why, if I am the last man on the totem pole here, Mr. President, this sponsor and the committee sponsoring this would like to emphasize on the Floor that we are, indeed, solid and forthright in terms of trying to get this bill across. With the condition, of course, that no more suspension should be tolerated and we could have enough foresight not just in scheduling elections but, certainly, in preparing the machinery for any election such as the machines that are required for an automated election."

"Mr. President, while I realize that the distinguished gentleman from Cagayan has his reasons for suggesting that, I think we have the capability to call this election with the caveat that this should not happen ever again. I do not remember seeing in the law resetting the elections any caveat to that effect.

"I think we should really make a statement. I think the more telling statement would be a caveat to the Comelec and to the President and to all of us that we should learn to prepare for elections because that is part of the mandate that we all have. And this is our duty to call for an election. This is part of our duty."

"Mr. President, again, I would like to remind my colleagues in the Hall that it is not the Senate that is postponing the elections by whim. And that is precisely why I raised the issue that perhaps this is the Thirteenth Congress that is, in fact, the one that should really be going beyond the mediocre by stating here clearly that we intend to say: "No, we will not accept the way you conduct business as usual in the past of being cavalier in postponing elections. No, we will not take the Muslim brothers and sisters for granted. No, we will not violate the statutes and the Constitution of this country. X x x." (Emphases supplied)

Sen. Arroyo:

"My own experience on these postponements is that every time there is a postponement, the move is made so close to the election that we are stampeded into agreeing to postpone it. The move is always so close to the election date. X x x."

Sen. Pimentel:

"In other words, I am also worried by the implication that every time there is a difficulty in holding an election, we can allow the executive department to have a say as to whether or not we will hold the elections, and in effect, prevent the people from having the right to express their judgment on the performance of the incumbents. x x x"

While we are not strictly bound by the commitment of the previous Congresses, a sound sentiment to a fundamental issue of autonomy and democracy cannot be ignored. The Committees opt to adopt and comply with the said commitment.

F. ARMM ELECTIONS WERE NEVER SYNCHRONIZED WITH THE NATIONAL AND LOCAL ELECTIONS PURPOSELY BECAUSE OF THE RECOGNIZED SPECIAL AND VOLATILE CONDITIONS OF ELECTIONS IN THE AREA. THUS, SYNCHRONIZATION OF ELECTIONS SHOULD BE CONSIDERED ONLY AFTER CONCRETE EVIDENCE OF ELECTORAL AND POLITICAL STABILITY IN THE REGION ARE ATTAINED AND THAT THESE SPECIAL CONDITIONS ARE ADDRESSED.

In this period of time when election results in ARMM are always doubted to be reflective of the true will of the constituents, synchronization of election, though noble in objectives and practical in application, is not timely. The normal issues in electoral processes in ARMM elections dictate that ARMM electoral exercise still needs the special attention of government machinery to ensure that it will be peaceful and orderly.

The Department of Interior and Local Government, in its position paper dated 30 May 2011, outlined the roadmap for good governance in the ARMM as follows:

- A. Cleaning up of the electoral process
 - Institutionalize electoral reforms
 - Dismantle private armed groups(PAGs)
 - Establish a satellite PNP Regional Command Office in Sulu

- B. Strengthening Bureaucratic Reforms:
 - conduct of Personnel Audit;
 - Implement the COA Special Audit recommendations
 - File cases against those involved in fraud and funds misuse;
 - Conduct of fund utilization audit in ARMM provinces and municipalities;
 - Put a stop to chronic absenteeism and sanctioning chronic absences;
 - Strengthen the Institutional capacities of COA and CSC in ARMM;
 - Effect a just and equitable fund-sharing between the ORG and the local governments;

- C. Accelerating service delivery and implementation of development projects
 - Implement the IDPs Core Shelter Program under the Payapa at Masaganang Pamayanan (PAMANA);

- Fast-track the implementation of key development projects to address service development needs.
- D. Ensuring good governance benchmarks in ARMM
- Enforce to the fullest the full disclosure policy;
 - Determine and track indicators to measure LGU performance and exact good governance;
 - Match service delivery standards with those of National Government offices outside ARMM;
- E. Fully engaging CSOs / Pos in governance
- Maximize CSO/PO participation in governance systems and processes;
- F. Maximizing the potential of ARMM

While the road map for reform in the ARMM by the national government is worthy of support, its implementation and the tangible result of the intended reforms is yet to be seen and evaluated. Certainly, issues as to the needed time to implement the reforms, the time to realize the desired reforms or whether the reforms can be achieved before the national and local elections on May 2013, remain debatable.

The numerous postponements of ARMM elections since the creation of ARMM on 1 August 1989 are proof of the repeated failure of the previous efforts to institute electoral and political reforms in the Region. Pessimism has no space in the mind of a leader but what had not been achieved in 21 years from 1 August 1989 to the present, can it be achieved within a period of two years to be in place before the May 2013 elections?

Much had been said of the importance of election in a democratic institution. Any move to postpone an election is frowned upon as it either creates deep division among the stakeholders or it meets strong opposition from the people. Both are greatly disadvantageous to the realization of the vision and mission of ARMM which, to date, may not have gone even a mile long in its promise to its people, if there is any gain at all. Obviously, the move for synchronization of elections in May 2013 is anchored on the optimism that the desired electoral and political reforms will be in place before the said election. However, if the reform will not come in time, are we prepared to debate again for another postponement? Or are we prepared to gamble to proceed with the synchronization of elections which may result to electoral mockery in ARMM? Neither of the two is acceptable to the committees.

The Comelec, through Atty. Ferdinand Rafanan, Director of the law Division, stated during the committee hearing on 7 April 2011 (TSN, Jmbaisa, IV-3, 7 April 2011, 12:42 P.M. 3, pages 116-117), to wit;

“x x x x we agree with the observation of senator Pimentel that one reason for holding the ARMM elections separately from the national and local elections is that we have to focus our attention to the ARMM elections. The Comelec, the Armed Forces of the Philippines and the PNP would have to concentrate their efforts on the ARMM elections. Peace and order problems are our main concern. And also the results of the elections

there have not always been generally acceptable, so we have to hold the elections separately.

“Now, concerning synchronization, there are talks in Comelec that when we say synchronization, we really would have to hold the elections only on the same year, probably on the same month. But we would still favor holding the elections for the ARMM maybe one or two weeks before the holding of the elections for the rest of the country.”

Similarly, the PPCRV, through Mr. Raul M. Castillo, Office Administrator, Parish Pastoral Council for Responsible Voting (PPCRV), expressed its position that “should the ARMM elections be synchronized with the 2013 national and local elections, PPRV would like to appeal that elections in ARMM be held two weeks or a month prior to May 2013 elections. The reason for this is that the ARMM has a very particular reality which needs all the attention of the Comelec and its deputized agencies.” (TSN, CFDriz, VI-3, 7 April 2011, 1:02 P.M., 1, page 128).

Indeed, the Comelec and the PPCRV have reservations on the propriety of synchronization of the subject elections and on how the synchronization of elections is to be defined. Thus, it is an issue that has to be seriously considered and to be fully debated as it affects the very foundation of the autonomous nature of the ARMM.

The PNP, through Police Chief Superintendent Danilo Constantino stated during the committee hearing on 7 April 2011 (TSN, RPAIger, III-3, 7 April 2011, 12:32 P.M. 5, page 113 of the TSN) that:

“it is true that we could give more focus if x x x x the election in ARMM will be conducted separately with the national and local elections. But it doesn't mean that when it will be held simultaneously, the PNP in collaboration with the Armed Forces, we would be unable to provide the proper security measures”.

Yet, our experiences of the peace and order during elections in the ARMM need much to be improved in an effort to guarantee peaceful, orderly and clean elections. The following reports are telling of the real situations in elections in the areas of ARMM, to wit:

Poll body to hold special elections in ARMM
Sun Star, Zamboanga
Wednesday, 12 January 2011

“ x x x x x

The poll body declared failure of elections on October 25, 2010 in some 200 villages in the autonomous region due to harassment by armed groups who are believed to be supporters of politicians. In some areas in the region, the Board of Election Inspectors did not report for election duty for fear of their safety. Failure of election was also declared last October 25 in 14 barangays in the province of Sulu”

ARMM polls 'peaceful but disorderly' – watchdog

Posted on 27 Oct 2010 at 11:36am

Date Line Philippines

"x x x x x

Fistfights, ballot box snatching, warning shots, exchanges of gunfire" were among the incidents she cited that led to failures of elections in some areas of the ARMM's five provinces.

2010 Elections: Election Fraud Still Seen as a Problem in ARMM Elections, Despite Automation

Published on 17 May 2010 Camille Anne De Asis

Date Line Philippines

"Comelec declared failure of elections in seven towns in Lanao del Sur because the BEIs failed to show up on election day. They said they were being threatened by some local candidate."

If these incidences happened during the 2010 national and local elections in the areas of ARMM, there is more reason to believe that similar untoward incidences may still happen in the next ARMM elections. These special circumstances are precisely the purpose of not synchronizing the national and local elections from the ARMM elections.

Besides, it is apparent that there is no element of urgency in pushing for synchronization of elections. The explanation of DILG Secretary Jessie Robredo during the committee hearing on 7 April 2011 (TSN, CFDRIZ VI, 7 April 2011, 11:02 A.M., 3, pages 047) is in point, to wit;

"Since ARMM was created, the ARMM officials in reality were elected not by the people of ARMM but by Malacanang. X x x. The candidates of the administration, whoever they were, always won in the ARMM elections and the reason why we are moving towards synchronization is because the President would really like to have an honest-to-goodness elections wherein elected officials will really represent the sentiment of the people in ARMM. But how can we do that? We can only do that if we level the playing field and the only way to level the playing field is to synchronize it. The only way to level the playing field is to make sure that we are able to dismantle the private armed groups in ARMM. x x x"

Clearly, the main argument for the move for synchronization is to put an end to the reality that the result of ARMM elections is always dictated by Malacanang. It is their contention that if the elections are synchronized, the administration will not have the opportunity to concentrate in moving for the successful election of its candidates in ARMM as it is equally busy in working for the election of its national and local candidates. Be that as it may, the simplest and inexpensive solution to the issue is self-restraint by the administration from meddling, to a degree necessary, in the elections in ARMM. Anyway, the administration has until June of 2016 to institute and effect reforms. If the desired reforms are already in place at some future time, there is still enough time for the present administration to push for synchronization of elections. It may be argued that the

synchronization of elections is a reform in itself. However, the committees believe that basic issues of reforms in electoral and political situations are pre-requisite to a successful synchronization of elections.

The committees takes the position that the issue of synchronization of national and local elections with that of ARMM elections should be considered and decided only after verifiable indicators of electoral and political reforms in the ARMM are available. Our decision to such an important issue of synchronization of election should not be based on assumptions and conjectures, as had been apparently done in previous postponement of elections in ARMM.

Recommendations:

The committees equally share the long overdue call for reforms in the ARMM. The strong sentiments behind the expressions of the people in ARMM of their beliefs of the pros and cons of the bill reflect on how they are well-guarded for the destiny of their region. They differ in opinions but undoubtedly united in their vision towards a truly autonomous region in Muslim Mindanao.

The constitutional issues against the passage of the bill are not for the committees to judge with finality as the same are within the province of the judicial department. However, we need to pass upon the issues in an effort to weigh their impact on the lives of our countrymen and to the destiny of the ARMM. The constitutional issues strike at the very core of the autonomy of the ARMM which we are all committed to uphold and defend. Thus, these issues need our sound political decision.

The planned reforms provide a new hope for a better ARMM. Not a single word of opposition was heard by these committees on the idea of instituting reforms. In fact, it was greatly welcomed not only by these committees but also by the people of ARMM. However, making the promise for reform conditional and the condition is the surrender of a fundamental right to elect their own leaders is a resounding *no* from these committees. As discussed above, the promise for reform and the right to suffrage are not inconsistent with each other. The committees stand to join hands with the effort of national government to institute reforms in ARMM but equally committed to defend their right to vote on 8 August 2011.

In view of the foregoing, the Committees respectfully recommend the following:

1. Hold the elections in the Autonomous Region in Muslim Mindanao as scheduled on the Second Monday of August, 2011;
2. Reconsider the issue of synchronization of the national and local elections with the ARMM elections only after concrete evidence and verifiable indicators of electoral and political reforms in ARMM are attained and that the very purposes why the ARMM elections were not synchronized with the national and local elections are addressed;
3. Express the senate's recognition that there is an immediate need to institute reforms in ARMM and that a review of the Organic Act of the ARMM is necessary to become an effective vehicle towards the attainment of a genuine autonomy in the ARMM.

In view of the above findings, the committees recommend that the bills and all matters related thereto be transmitted to the archives.

Respectfully submitted:

Chairpersons:

*With the reservation that
my vote is intended only
to bring the committee report to
the floor for debate,*

MIRIAM DEFENSOR SANTIAGO

Chair, Committee on Constitutional
Amendments, Revision of Codes
and Laws

Miriam Defensor Santiago

FERDINAND R. MARCOS, JR.

Chair, Committee on Local
Government

Vice-Chairmen:

EDGARDO J. ANGARA

Committee on Constitutional Amendments,
Revision of Codes and Laws

JUAN MIGUEL F. ZUBIRI

Committee on Local Government

Members:

GREGORIO B. HONASAN II

MANUEL "LITO" M. LAPID

RAMON "BONG" REVILLA JR.

LOREN LEGARDA

MANNY VILLAR

ANTONIO "SONNY" F. TRILLANES IV

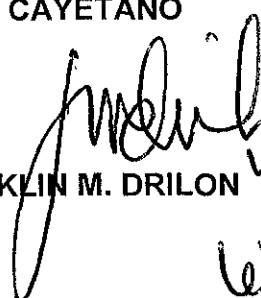
RALPH G. RECTO


FRANCIS "CHIZ" G. ESCUDERO

PIA S. CAYETANO

JOKER P. ARROYO

FRANKLIN M. DRILON


with reservations.
let's debate
in P. every

PANFILO M. LACSON

FRANCIS N. PANGILINAN

Ex-Officio Members:


JINGGOY EJERCITO ESTRADA
President Pro-Tempore

with reservations


VICENTE C. SOTTO III
Majority Leader

ALAN PETER "COMPAÑERO" S. CAYETANO
Minority Leader

Hon. JUAN PONCE ENRILE
President
Senate of the Philippines
Pasay City