



Republic of the Philippines
Supreme Court
Manila

EN BANC

DATU SAJID S. SINSUAT, EBRAHIM P. DIOCOLANO, and FEBY A. ACOSTA, G.R. No. 271741

Petitioners,

-versus-

HON. AHOD BALAWAG EBRAHIM, in his capacity as Interim Chief Minister of the Bangsamoro Government, and BANGSAMORO TRANSITION AUTHORITY (BTA),

Respondents.

X-----X
MAYOR DATU TUCAO O. MASTURA, for himself and as representative of the Municipality of Sultan Kudarat, Maguindanao del Norte, and the LIGA NG MGA BARANGAY OF THE MUNICIPALITY OF SULTAN KUDARAT, MAGUINDANAO DEL NORTE, represented by BAI ALIYYAH NADRAH M. MACASINDIL,

Petitioners,

- versus -

G.R. No. 271972

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M. V.,

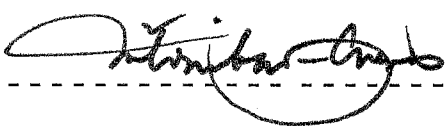
**BANGSAMORO TRANSITION
AUTHORITY (BTA), and HON.
AHOD BALAWAG EBRAHIM, in
his capacity as the Interim Chief
Minister of the Bangsamoro
Autonomous Region in Muslim
Mindanao (BARMM), and the
COMMISSION ON ELECTIONS,**

**GAERLAN,
ROSARIO,
LOPEZ, J. Y.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.**

Promulgated:

Respondents.

August 20, 2024

X -----  ----- X

DECISION

Zalameda, J.:

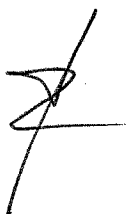
The recognition of the cause of the Bangsamoro people and the aspirations of Muslim Filipinos and all indigenous cultural communities in the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) sits at the core of the Bangsamoro Organic Law. It fulfills the promise of meaningful self-governance within the framework of the Constitution and national sovereignty. Since its enactment and implementation, the Court has protected the enshrined purpose of Republic Act No. 11054 or the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao (Bangsamoro Organic Law).

This case underscores the significance of ensuring that the Bangsamoro Government’s actions are in consonance with our country’s revered legal precepts. As new municipalities are created in the region, the Bangsamoro Government should ensure that the constituents who will be affected thereby are recognized and heard through an appropriate plebiscite. Failing to do so betrays the very spirit of the cause they have long fought for.

The Cases

G.R. No. 271741 is a Petition for *Certiorari*¹ with urgent prayer for the issuance of a temporary restraining order, writ of preliminary injunction, and/or *status quo ante* order. Filed by petitioners Datu Sajid S. Sinsuat,

¹ Rollo (G.R. No. 271741), pp. 3–44.



Ebrahim P. Diocolano, and Feby A. Acosta, it assails Bangsamoro Autonomy Act Nos. (BAA) 54 and 55 which created the Municipalities of Datu Sinsuat Balabaran and Sheik Abas Hamza from the Municipality of Datu Odin Sinsuat, Maguindanao del Norte. BAAs 54 and 55 were passed by respondent Bangsamoro Transition Authority (BTA) Parliament on December 20, 2023, and were signed and approved on December 26, 2023 by respondent Chief Minister Ahod Balawag Ebrahim (Chief Minister Ebrahim).

G.R. No. 271972 is a Petition for *Certiorari* and Prohibition² with prayer for the issuance of a temporary restraining order, writ of preliminary injunction, or *status quo ante* order and very urgent motion to conduct special raffle. It is filed by petitioners Mayor Datu Tucao O. Mastura (Mayor Mastura) for himself and as a representative of the Municipality of Sultan Kudarat, Maguindanao del Norte, and the Liga ng mga Barangay of the Municipality of Sultan Kudarat, Maguindanao del Norte represented by Bai Aliyyah Nadrah M. Macasindil against respondents BTA and Chief Minister Ebrahim, and assails BAA 53 which created the Municipality of Nuling from the Municipality of Sultan Kudarat. BAA 53 was passed and approved on the same dates as BAAs 54 and 55.

The Facts

On July 21, 2018, the Bangsamoro Organic Law was approved. Its purpose is to establish a political entity and provide for its basic structure of government in recognition of the justness and legitimacy of the cause of the Bangsamoro people and the aspirations of Muslim Filipinos and all indigenous cultural communities in the BARMM to secure their identity and posterity, allowing for meaningful self-governance within the framework of the Constitution and the national sovereignty as well as territorial integrity of the Republic of the Philippines.³

Subsequently, on May 27, 2021, Republic Act No. 11550, or the Charter of the Provinces of Maguindanao del Norte and Maguindanao del Sur, was enacted into law. The Municipality of Datu Odin Sinsuat was designated as the capital town and seat of government of Maguindanao del Norte.⁴

On September 28, 2023, after its approval in the plenary on the third and final reading, Chief Minister Ebrahim and Bangsamoro Parliament Speaker Atty. Pangalian Balindong signed into law BAA 49, or the Bangsamoro Local Governance Code of 2023 (Bangsamoro LGC). It provided for the manner of division and merger of existing local government units and mandated the conduct of a plebiscite for divided and merged local government units, among others.

² Rollo (G.R. No. 271972), pp. 10-88.

³ BANGSAMORO ORGANIC LAW, Art. I, Sec. 3.

⁴ Republic Act No. 11550, sec. 5.

On December 20, 2023, the BTA, assembled in Parliament, and passed the bills creating three new towns in Maguindanao del Norte. Chief Minister Ebrahim signed BAAs 53, 54, and 55 on December 26, 2023.

First. BAA 53 created the Municipality of Nuling. Section 2 of BAA 53 identified the barangays to be separated from the Municipality of Sultan Kudarat, Maguindanao del Norte, thus:

Sec. 2. Creation of the Municipality. – The Barangays of Matengen, Ladia, Pigcalagan, Alamada, Raguisi, Pinaring, Damaniog, Ibotegen, Banatin, Nara, Kakar, Katidtuan, Maidapa, Kapimpilan, Bulibod, Kabuntalan, Nalanan, Panatan, and Katamlangan are hereby separated from the Municipality of Sultan Kudarat, Maguindanao del Norte and constituted into a distinct and independent municipality to be known as Municipality of Nuling, which is hereby created in the province of Maguindanao del Norte.

Second. BAA 54 created the Municipality of Datu Sinsuat Balabaran. Section 2 of BAA 54 identified the barangays to be separated from the Municipality of Datu Odin Sinsuat, the capital town of Maguindanao del Norte, thus:

Sec. 2. Creation of the Municipality. – The Barangays of Tampilan, Linek, Dinaig Proper, Tamontaka, Tanuel, Kusiong, Mompong, Semba, Capiton, Tambak, Badak, Awang and Dulangan are hereby separated from the Municipality of Datu Odin Sinsuat, Maguindanao del Norte and constituted into a distinct and independent municipality to be known as Municipality of Datu Sinsuat Balabaran, which is hereby created in the Province of Maguindanao del Norte.

Third. BAA 55 created the Municipality of Sheik Abas Hamza. Section 2 of BAA 55 identified the barangays to be separated also from the Municipality of Datu Odin Sinsuat, thus:

Sec. 2. Creation of the Municipality. – The Barangays of Labungan, Taviran, Baka, Sapalan, Sifaran, Bugawas, Bitu, Kurintem, Margues, and Makir are hereby separated from the Municipality of Datu Odin Sinsuat, Maguindanao Del Norte and constituted into a distinct and independent municipality to be known as Municipality of Sheik Abas Hamza, which is hereby created in the Province of Maguindanao del Norte.

The petition in G.R. No. 271741 assailing BAAs 54 and 55 was filed on February 15, 2024, while the petition in G.R. No. 271972 challenging BAA 53 was filed on February 29, 2024.



The Court received the COMELEC’s Comment⁵ dated March 15, 2024 in G.R. No. 271741 on May 6, 2024. For G.R. No. 271972, the Court received the COMELEC’s Comment⁶ dated March 20, 2024 on March 25, 2024, and the BTA and Chief Minister Ebrahim’s Comment⁷ dated March 25, 2024 on April 3, 2024 and Supplemental Comment⁸ dated June 3, 2024 on June 13, 2024. In the meantime, this Court ordered the consolidation of G.R. Nos. 271741 and 271972 in a Resolution⁹ dated April 3, 2024.

On July 8, 2024, the COMELEC promulgated Resolution No. 11011¹⁰ and set the plebiscite for the ratification of the creation of the Municipality of Nuling pursuant to BAA 53 on September 7, 2024. The COMELEC promulgated on the same date Resolution No. 11012¹¹ and set a plebiscite for the ratification of the creation of the Municipality of Datu Sinsuat Balabaran and the Municipality of Sheik Abas Hamza pursuant to BAA 54 and 55, respectively, on September 21, 2024. The period, plebiscite activities, and prohibited acts were listed by the COMELEC as follows:

<u>DATE/PERIOD IN COMELEC RESOLUTION NO. 11011 FOR BAA 53 (MUNICIPALITY OF NULING) and COMELEC RESOLUTION NO. 11012 FOR BAAs 54 and 55 (MUNICIPALITIES OF DATU SINSUAT BALABARAN and SHEIK ABAS HAMZA)</u>	<u>PLEBISCITE ACTIVITIES</u>	<u>PROHIBITED ACTS</u>
11011: August 7, 2024 (Wednesday) to September 14, 2024 (Saturday) 11012:	PLEBISCITE PERIOD	Alteration of territory of a precinct or establishment of a new precinct (Sec. 5, Republic Act No. 8189). Bearing, carrying or transporting of firearms or

⁵ Rollo (G.R. No. 271741), pp. 81–95.
⁶ Rollo (G.R. No. 271972), pp. 347–360.
⁷ Id. at 361–395.
⁸ Id. at 447–471..
⁹ Id. at 401.

¹⁰ In the matter of setting the date and calendar of activities and periods of certain prohibited acts in connection with the conduct of the September 7, 2024 plebiscite to ratify the creation of the Municipality of Nuling in the Province of Maguindanao del Norte, pursuant to Bangsamoro Autonomy Act No. 53, approved on December 26, 2023.
¹¹ In the matter of setting the date and calendar of activities and periods of certain prohibited acts in connection with the conduct of the September 21, 2024 plebiscite to ratify the creation of Municipalities in the Province of Maguindanao del Norte, namely: (A) Datu Sinsuat Balabaran, pursuant to Bangsamoro Autonomy Act No. 54, and (B) Sheik Abas Hamza, pursuant to Bangsamoro Autonomy Act No. 55, both approved on December 26, 2023.



August 28, 2024 (Wednesday) to September 28, 2024 (Saturday)	<p>other deadly weapons in public places, including any building, street, park, private vehicle or public conveyance, even if licensed to possess or carry the same, unless authorized in writing by the Commission (Sec. 261(p), (q), and (s), Omnibus Election Code (OEC) BP 881 as amended by Sec. 32, RA 7166).</p> <p>Suspension of elective local officials (Sec. 261 (x), OEC).</p> <p>Transfer or detail of officers and employees in the Civil Service (Sec. 261(h), OEC).</p> <p>Organization or maintenance of reaction forces, strike forces or other similar forces (Sec. 261(u), OEC).</p> <p>Illegal release of prisoners (Sec. 261(n), OEC).</p>
11011: August 7, 2024 (Wednesday) to September 14, 2024 (Saturday) 11012: August 21, 2024 (Wednesday) to September 21, 2024 (Saturday)	<p>Appointment or hiring of new employees (Sec. 261(g), OEC).</p> <p>Creation or filling up of new positions (Sec. 261(g), OEC).</p> <p>Promotions or giving of salary increases, remuneration or privilege (Sec. 261(g), OEC).</p> <p>Appointment or use of special policemen, special/confidential agents or the like (Sec. 261(m), OEC).</p> <p>Use of armored land, water, or aircraft (Sec. 261(r), OEC).</p> <p>Wearing of uniforms and bearing of arms (Sec. 261(s), OEC).</p>

		<p>Raising of funds through dances, lotteries, cockfights, etc. (Sec. 97, OEC).</p> <p>Cockfighting, and other forms of gambling, holding fairs, boxing, and/or any other similar sports (Sec. 261(dd), OEC)</p>
<p>11011: August 17, 2024 (Saturday) to September 5, 2024 (Thursday)</p> <p>11012: August 31, 2024 (Saturday) to September 19, 2024 (Saturday)</p>	<p>CAMPAIGN PERIOD</p> <p>Holding of barangay assemblies, fora, or “<i>pulong-pulong</i>”</p>	<p>Removing, destroying, obliterating, defacing, tampering, or preventing the distribution of lawful plebiscite propaganda (Sec. 83, OEC).</p>
<p>11011: August 23, 2024 (Friday)</p> <p>11012: September 8, 2024 (Sunday)</p>	<p>Last day of submission to COMELEC of the complete list of all special policemen, special/confidential agents, or persons performing similar functions in the employ of the barangay chairman, municipal mayor, or any appointing authority.</p> <p>Last day to constitute the members of the Plebiscite Committees, DepEd Supervisor Officials and Support Staff.</p> <p>Last day to constitute the members of the Municipal Plebiscite Board of Canvassers (MPBOC).</p>	
<p>11011: September 2, 2024 (Monday) to September 6, 2024 (Friday)</p> <p>11012: September 13, 2024 (Friday) to September 20, 2024 (Friday)</p>	<p>Inspection of Polling Places</p>	
<p>11011: September 5, 2024 (Thursday) to September 7, 2024 (Saturday)</p> <p>11012: September 18, 2024</p>	<p>Posting of the Certified List of Voters</p>	

(Wednesday) to September 21, 2024 (Saturday)		
11011: September 5, 2024 (Thursday) to September 7, 2024 (Saturday)	Suspension of Registration	
11012: September 19, 2024 (Thursday) to September 21, 2024 (Saturday)		
11011: September 6, 2024 (Friday)	EVE OF PLEBISCITE DAY	Campaigning (Sec. 3, OEC). Selling, furnishing, offering, buying, serving or taking intoxicating liquor, etc. (Sec. 261(dd)(1), OEC). Giving and accepting free transportation, food, drinks, and things of value (Sec. 89, OEC).
11012: September 20, 2024 (Friday)		
11011: September 7, 2024	PLEBISCITE DAY	Campaigning (Sec. 3, OEC).
11012: September 21, 2024	Casting of Votes (from 7:00 a.m. to 3:00 p.m.) (Sec. 190, OEC) Counting of Votes (from 3:00 p.m., onwards until finished) Convening of the MPBOC not later than 5:00 p.m. Canvassing of votes and proclamation of plebiscite results (from 5:00 p.m. until proclaimed).	Giving and accepting free transportation, food, drinks, and things of value (Sec. 89, OEC). Selling, furnishing, offering, buying, serving or taking intoxicating liquor, etc. (Sec. 261(dd)(1), OEC). Carrying deadly weapons in the polling place (Sec. 261(p), OEC). Soliciting votes or undertaking any propaganda for or against a "YES" or a "NO" vote within the polling place or within a radius of thirty meters thereof (Sec. 261(cc)(6), OEC). Opening of booths or stalls for the sale of merchandise, refreshments, etc. within 30 meters radius from the polling place (Sec. 261(dd)(2), OEC).

		Holding of fairs, cockfights, boxing, horse races or similar sports (Sec. 261(dd)(3), OEC).
11011: September 14, 2024 (Saturday)	LAST DAY OF THE PLEBISCITE PERIOD	
11012: September 28, 2024 (Saturday)		

Issues

Save for issues that mention details specifically pertaining to a definite municipality, We consider arguments for G.R. No. 271741 as arguments for G.R. No. 271972 and vice versa. The consolidation of the cases, due to Our observation that the petitions raise common issues and are similarly situated, led Us to this treatment.

Petitioners submitted the following arguments to support their respective petitions:

G.R. No. 271741

- I. Public respondents only have interim and limited authority under the [BARMM] Organic Law, and thus they do not have the power to enact and approve BAAs 54 and 55;
- II. BAAs 54 and 55 are unconstitutional as they amount to the amendment of a Congressional enactment by a local government unit;
- III. The plebiscite clauses in BAAs 54 and 55 violate Article X, Section 10 of the Constitution;
- IV. BAAs 54 and 55 are void for being enacted in violation of the provisions of national laws, particularly [Republic Act No.] 7160; and
- V. BAAs 54 and 55 are void insofar as they authorize the Chief Minister to appoint officials to elective positions in the Municipalities of Datu Sinsuat Balabaran and Sheik Abas Hamza, and deprive the people in the affected barangays of their duly elected local officials.¹²

G.R. No. 271972

- I. The title of BAA 53 — “*An Act Creating the Municipality of Nuling in the Province of Maguindanao de Norte, Providing Funds Therefor and*

¹² See rollo (G.R. No. 271741), p. 14.

for Other Purposes” — violated Article VI, Section 26(1) of the Constitution in that the subject of the bill was not expressed in its title.

- II. Section 5 of BAA 53 stating that the plebiscite shall only be conducted in the nineteen (19) barangays comprising the new Municipality of Nuling, violated Article X, Section 10 of the Constitution mandating that such plebiscite should be conducted in all the political units directly affected.
 - A. BAA 53 stating that a plebiscite shall be held within sixty (60) days from approval of the act, violated Section 441 of [Republic Act No.] 7160 mandating that the same shall be conducted within one hundred twenty (120) days from the date of effectivity of the law.
- III. BAA 53 violated Article X, Section 10 of the Constitution for failing to define the territory of the Municipality of Nuling.
 - A. The land area of the new Municipality of Nuling was not properly identified by metes and bounds with technical descriptions in accord with the criteria laid down in [Republic Act No.] 7160 and its Implementing Rules and Regulations, the Bangsamoro Organic Law, and the Muslim Mindanao Autonomy Act No. 25 and its Implementing Rules and Regulations.
 - B. The territorial jurisdiction of the new Municipality of Nuling is insufficient to provide basic services and facilities to meet the requirements of its populace.
- IV. BAA 53 violated Article X, Section 10 of the Constitution for failing to follow the criteria on income laid down in [Republic Act No.] 7160 and its Implementing Rules and Regulations. BAA 53 also violated the provision on income under the Bangsamoro Organic Law, and the Muslim Mindanao Autonomy Act No. 25 and its Implementing Rules and Regulations.
 - A. The income of the new Municipality of Nuling was not properly determined since the certifications submitted were not the certifications required under [Republic Act No.] 7160 and its Implementing Rules and Regulations, and the Department of Finance’s Order No. 031-2018 and other issuances. Thus, there is no proper determination that the income is sufficient to provide for all essential government facilities and services and special functions commensurate with the size of its population.
 - B. The proponents of BAA 53 failed to determine the new income classification of the parent Municipality of Sultan Kudarat after the separation of the Municipality of Nuling, which is necessary to find out if the current income classification of the parent municipality has been maintained. Moreover, the income classification of the Municipality of Nuling was not determined because the proponents failed to ask the Secretary of the Department of Finance for the income classification of the new municipality as required by law.



- V. BAA 53 violated Article X, Section 10 of the Constitution for failing to consider the procedural requirements for the creation of a municipality under [Republic Act No.] 7160 and its Implementing Rules and Regulations. BAA 53 also violated the related provisions on procedural requirements for the creation of a municipality under the Bangsamoro Organic Law, and the Muslim Mindanao Autonomy Act No. 25 and its implementing Rules and Regulations.
- A. There is no prior consultation with the local government units directly affected by the creation of the new Municipality of Nuling.
- B. There is no petition from the said nineteen (19) barangays from the Municipality of Sultan Kudarat requesting for the creation or formation of the new Municipality of Nuling.
- VI. The BTA Parliament and its Chief Minister, in enacting BAA 53, contravened the principles of delegation of powers and equal protection, and the local autonomy of the Municipality of Sultan Kudarat.¹³

For its part, the COMELEC provided the following counter-arguments:

G.R. No. 271741

- I. The instant petition does not present a justiciable controversy to warrant the exercise of this Honorable Court's judicial power.
- II. The instant petition for *certiorari* and prohibition presents factual issues that demand the strict observance of the doctrine of hierarchy of courts.¹⁴

G.R. No. 271972

- I. The COMELEC's mandate is to enforce laws and regulations relative to the conduct of a plebiscite. A determination of the constitutionality and legality of BAA 53 falls outside of this mandate.
- II. The petition violates the doctrine of hierarchy of courts by raising questions of fact before this Honorable Court at the first instance.¹⁵

Chief Minister Ebrahim and the BTA raised the following counter-arguments in their Comment:

Procedural Arguments

- I. The petition failed to justify exemption from the doctrine of the hierarchy of courts:

¹³ See *rollo* (G.R. No. 271972), pp. 27–30.

¹⁴ *Id.* at 84–85.

¹⁵ *Id.* at 347–360.

- A. Mere invocation of transcendental importance or other special grounds is insufficient to justify direct recourse to the Supreme Court.
- B. The petition raises factual and evidentiary matters requiring the strict observance of the doctrine of hierarchy of courts.
- II. The petition failed to meet the requirements for the Court to exercise its power of judicial review.
 - A. There is no actual justiciable controversy that is ripe for adjudication absent the plebiscite.
- III. The petition raises political questions—going into the wisdom, timeliness, and necessity of the law—which is outside the ambit of judicial review.

Substantive Arguments

- IV. The title of BAA 53 does not violate Article VI, Section 26(1) of the Constitution.
- V. The provisions of [Republic Act No.] 7160 and its implementing rules do not apply to the BARMM, and compliance thereto is not necessary for the enactment of BAA 53.
- VI. Even if petitioners concede the non-applicability of [Republic Act No.] 7160, the petition still involves questions of fact, making the direct resort to this Court improper.
- VII. BAA 53 does not violate the constitutional requirements for the conduct of a plebiscite.¹⁶

The arguments raised by Chief Minister Ebrahim and the BTA in their Supplemental Comment, which referred to BAAs 54 and 55, understandably overlapped with those in their Comment, which referred to BAA 53. We retain the distinct arguments and continue the numbering in the enumeration below:

- VIII. The BTA has the authority to fully exercise the powers of the Bangsamoro Government, including the power of legislation.
- IX. BAAs 54 and 55, in changing the configuration of the Municipality of Datu Odin Sinsuat, did not commit a prohibited implied amendment of national statutes.
- X. The power granted to the Chief Minister to appoint officials during the transition period of a newly created municipality is valid.

¹⁶ *Id.* at 364.

- XI. BAAs 54 and 55 do not unduly deprive the electorate affected by the division of the Municipality of Datu Odin Sinsuat of their elected officials, nor the elected officials of their privileges as such.¹⁷

Petitioners in G.R. No. 271972 gave the following counter-arguments in their Consolidated Reply to Comment:¹⁸

- I. Petitioners' direct recourse to the Supreme Court is justified.
 - A. There is an actual justiciable controversy ripe for adjudication. The conduct of a plebiscite is not a condition *sine qua non* to challenge an unconstitutional law.
 - B. The petition did not raise political questions.
- II. The petitioners did not violate the doctrine of hierarchy of courts. No questions of fact were raised before the Court because the issue advanced in the petition is the lack of or failure of the respondents to comply with the requirements set by the Constitution and the national laws in the creation of the new Municipality of Nuling.
- III. The so-called substantive arguments advanced by the respondents failed to address, or at best merely offered token comment, on the following grounds raised in the petition: (A) The title of BAA 53 violates Article VI, Section 26(1) of the Constitution; (B) [Republic Act No.] 7160 and its implementing rules and regulations apply to the BARMM; (C) BAA 53 violates the constitutional requirement for the conduct of plebiscite.
- IV. The respective comment of the respondents BTA and Chief Ebrahim and respondent COMELEC did not address the other issues demonstrating that on its face, BAA is constitutionally infirm.
- V. Respondents failed to submit compliance with the requirements defining the territory of the Municipality of Nuling.
- VI. Respondents failed to submit compliance with the requirement that there should be prior consultation and a petition from the interested barangays of the Municipality of Sultan Kudarat requesting for the creation of a new municipality.
- VII. Respondents failed to disprove the petitioners' prayer for preliminary injunction/ temporary restraining order/ *status quo ante* order.¹⁹

On July 15, 2024, petitioners in G.R. No. 271972 filed a Manifestation and Motion [With Leave] with very urgent motion for the issuance of temporary restraining order/ preliminary injunction/ *status quo ante* order.²⁰

¹⁷ *Id.* at 451–452.

¹⁸ *Id.* at 483–507.

¹⁹ *Id.* at 485–505.

²⁰ *Rollo* (G.R. No. 271741), pp. 192–198; (G.R. No. 271972), pp. 516–522.

They asserted that Chief Minister Ebrahim's signature in BAA 53 is a fraud and a forgery. Mayor Mastura received a letter²¹ from concerned citizens of Sultan Kudarat which declared that Chief Minister Ebrahim was on official leave to travel to a foreign country on December 11, 2023 and arrived in the Philippines only on January 13, 2024. It was thus concluded that he could not have officially and legally signed the bills on December 26, 2023 because he was still outside the country at that time. The letter was accompanied by the turn-over of records from the National Bureau of Investigation (NBI) - BARMM,²² NBI Complaint Sheet,²³ Joint Affidavit of complainants,²⁴ and Chief Minister Ebrahim's List of Travel Records²⁵ issued by the Bureau of Immigration.

Ruling of the Court

At the outset, We find it necessary to declare that We proceed on the assumption of regularity in the performance of official duty. We decline to rule on the allegation of forgery of Chief Minister Ebrahim's signature as it is a factual issue that should be addressed in the proper forum. Moreover, the issues raised by petitioners are discussed below with deference to the order of the provisions in the assailed laws.

We partially grant the petitions. The phrase "qualified voters in a plebiscite to be conducted in the barangays comprising the municipality pursuant to Section 2 hereof" in the uniform text of Section 5 in BAAs 53, 54, and 55 violates the Constitution and the Bangsamoro Organic Law.

I. The petitions in G.R. Nos. 271741 and 271972 satisfy the essential requisites for judicial review

Section 1, Article VIII of the 1987 Constitution confers this Court's power to exercise judicial review: "Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

There are four requisites for judicial review of the determination of the constitutionality of a government act: (1) actual case or controversy calling

²¹ *Rollo* (G.R. No. 271741), p. 201; (G.R. No. 271972), p. 525.

²² *Rollo* (G.R. No. 271741), pp. 202; (G.R. No. 271972), pp. 526.

²³ *Rollo* (G.R. No. 271741), pp. 203-204; (G.R. No. 271972), pp. 527-528.

²⁴ *Rollo* (G.R. No. 271741), pp. 205-206; (G.R. No. 271972), pp. 529-530.

²⁵ *Rollo* (G.R. No. 271741), p. 209; (G.R. No. 271972), p. 533.

for the exercise of judicial power; (2) the person challenging the act must have “standing” to challenge; he or she must have a personal and substantial interest in the case such that he or she has sustained, or will sustain, direct injury as a result of its enforcement; (3) the question of constitutionality must be raised at the earliest possible opportunity; and (4) the issue of constitutionality is the very *lis mota* of the case.²⁶ *Angara v. The Electoral Commission*²⁷ explained the function and limits of this Court’s exercise of the power of judicial review in this manner:

The Constitution is a definition of the powers of government. Who is to determine the nature, scope and extent of such powers? The Constitution itself has provided for the instrumentality of the judiciary as the rational way. And when the judiciary mediates to allocate constitutional boundaries, it does not assert any superiority over the other departments; it does not in reality nullify or invalidate an act of the legislature, but only asserts the solemn and sacred obligation assigned to it by the Constitution to determine conflicting claims of authority under the Constitution and to establish for the parties in an actual controversy the rights which that instrument secures and guarantees to them. This is in truth all that is involved in what is termed “judicial supremacy” which properly is the power of judicial review under the Constitution. Even then, **this power of judicial review is limited to actual cases and controversies to be exercised after full opportunity of argument by the parties, and limited further to the constitutional question raised or the very *lis mota* presented.** Any attempt at abstraction could only lead to dialectics and barren legal questions and to sterile conclusions unrelated to actualities. Narrowed as its function is in this manner, the judiciary does not pass upon questions of wisdom, justice or expediency of legislation. More than that, courts accord the presumption of constitutionality to legislative enactments, not only because the legislature is presumed to abide by the Constitution but also because the judiciary in the determination of actual cases and controversies must reflect the wisdom and justice of the people as expressed through their representatives in the executive and legislative departments of the governments of the government. [Emphasis supplied]

The COMELEC relies on *Del Rosario v. Commission on Elections*²⁸ and asserts that if a statute creating new provinces has yet to be submitted to a plebiscite, it is still premature to rule on the constitutionality of said statute. It submits that only the conduct of a plebiscite will “trigger the exercise of this Honorable Court’s judicial power.”²⁹ It maintains that, without a plebiscite, “[a]ny form of restraint on respondent COMELEC at this stage would be purely speculative and anticipatory as it has not even issued any advisory or resolution regarding the conduct of a plebiscite that will supposedly be

²⁶ *Francisco, Jr. v. Nagmamalasakit na mga Manananggol ng mga Manggagawang Pilipino, Inc.*, G.R. Nos. 160261, et al., November 10, 2003 [Per. J. Carpio-Morales, *En Banc*].

²⁷ G.R. No. 45081, July 15, 1936 [Per J. Laurel, *En Banc*].

²⁸ G.R. No. 247610, March 10, 2020 [Per J. A. Reyes, Jr., *En Banc*].

²⁹ *Rollo* (G.R. 271741), p. 89.

conducted in accordance with the provisions of [BAAs] 54 and 55.”³⁰ Finally, as a specialized constitutional body, it proclaims that the COMELEC has “the unique position to determine whether a plebiscite or election is capable of successfully taking place.”³¹

Chief Minister Ebrahim and the BTA likewise point to petitioners’ failure to cite or elaborate on any COMELEC issuance or resolution scheduling the plebiscite for the assailed BAAs.

We point out that the promulgation of COMELEC Resolution Nos. 11011 and 11012 effectively shut down respondents’ argument of prematurity. Although it is granted that the COMELEC is the sole government agency authorized and capable of holding plebiscites, We hold that such authority and capability do not preclude this Court from ruling whether such plebiscite should be held at all when there is, as in the present case, a clear and convincing showing that a fundamental constitutional right has been actually violated in the application of a statute, which is of transcendental interest.³² The constitutional right violated is discussed in Part IV below.

Petitioners’ standing has been adequately established. Datu Sajid S. Sinsuat, Ebrahim P. Diocolano, and Feby A. Acosta, petitioners in G.R. No. 271741, are registered voters of the Municipality of Datu Odin Sinsuat, the municipality which is affected by BAAs 54 and 55. Moreover, petitioner Sinsuat is the Vice Mayor of Datu Odin Sinsuat. In similar manner, petitioners in G.R. No. 271972, Mayor Mastura, the Municipality of Sultan Kudarat, and the Liga ng mga Barangay of the Municipality of Sultan Kudarat have a clear interest in the Municipality of Sultan Kudarat, the municipality which is affected by BAA 53. All 39 barangays composing the Municipality of Sultan Kudarat, as well as the Sangguniang Bayan of Sultan Kudarat, passed and approved their respective resolutions opposing BTA Parliament Bill No. 223, or the precursor of BAA 53.³³

Apart from being the *lis mota* of the petitions, the question of constitutionality was raised soon after the BAAs took effect. BAA 53 took effect on January 12, 2024 and the petition in G.R. No. 271972 was filed on February 27, 2024. BAAs 54 and 55 also took effect on January 12, 2024 and the petition in G.R. No. 271741 was filed on February 15, 2024.

³⁰ *Rollo* (G.R. No. 271741), p. 90.

³⁰ *Id.*

³² *See Parcon-Song v. Parcon*, G.R. No. 199582, July 7, 2020 [Per J. Leonen, *En Banc*]; *Initiatives for Dialogue and Empowerment Through Alternative Legal Services, Inc. v. Senate of the Philippines*, G.R. Nos. 184635 & 185366, June 13, 2023 [Per SAJ Leonen, *En Banc*].

³³ *Rollo* (G.R. No. 271972), pp. 19–23.

II. *The titles of BAAs 53, 54, and 55 do not violate Article VI, Section 26(1) of the 1987 Constitution*

Petitioners assert that BAA 53's title, "*An Act Creating the Municipality of Nuling in the Province of Maguindanao del Norte, Providing Funds Therefor, and for Other Purposes*," violates Article VI, Section 26(1) of the 1987 Constitution for being deceptive and misleading. In relation to this assertion, We mention the titles of BAA 54, "*An Act Creating the Municipality of Datu Sinsuat Balabaran in the Province of Maguindanao del Norte, Providing Funds Therefor, and for Other Purposes*," and BAA 55, "*An Act Creating the Municipality of Sheik Abas Hamza in the Province of Maguindanao del Norte, Providing Funds Therefor, and for Other Purposes*."

Article VI, Section 26(1) of the 1987 Constitution provides:

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

This constitutional requirement is intended to prevent surprise upon the members of Congress, and to inform the people of pending legislations so that their concerns may be heard.³⁴ Where the subject of a bill is limited to a particular matter, Congress and the people should be informed of the subject of the proposed legislative measures. This constitutional provision thus precludes the insertion of riders in the law, a rider being a provision not germane to the subject matter of the bill.³⁵

Here, petitioners argue that the title of BAA 53 creates an impression that the Municipality of Sultan Kudarat would not be affected by the bill. They claim that there is failure to fully inform members of the BTA Parliament as to the impact of the law and the people of Sultan Kudarat that substantial portions of their territory would be taken away. In their interpretation of Article VI, Section 26(1) of the Constitution, petitioners rely on *Lidasan v. Commission on Elections*,³⁶ where We pronounced Republic Act No. 4790 null and void for failing to reflect what towns and provinces were affected by the law.

The reliance on *Lidasan* is misplaced. In that case, the assailed law intended to create the new Municipality of Dianaton in the Province of Lanao del Sur from multiple *barrios* both from the provinces of Lanao del Sur and Cotabato. In ruling for the nullity of Republic Act No. 4790, We explained that the title "*An Act Creating the Municipality of Dianaton, in the Province of Lanao del Sur*" projects the impression that solely the province of Lanao

³⁴ *Tolentino v. Secretary of Finance*, 305 Phil. 686 (1994) [Per J. V. V. Mendoza, *En Banc*].

³⁵ *Alalayan v. National Power Corporation*, G.R. No. L-24396, July 29, 1968 [Per J. Fernando, *En Banc*].

³⁶ G.R. No. L-28089, October 25, 1967 [Per J. Sanchez, *En Banc*].

del Sur is affected by the creation of Dianaton—without any indication that communities in the adjacent province of Cotabato were also incorporated in the new town.³⁷ Thus:

The phrase ‘in the Province of Lanao del Sur,’ read without subtlety or contortion, makes the title misleading, deceptive. For, the known fact is that the legislation has a two-pronged purpose combined in one statute: (1) it creates the municipality of Dianaton purportedly from twenty-one barrios in the towns of Butig and Balabagan, both in the province of Lanao del Sur; and (2) it also dismembers two municipalities in Cotabato, a province different from Lanao del Sur.

The baneful effect of the defective title here presented is not so difficult to perceive. **Such title did not inform the members of Congress as to the full impact of the law; it did not apprise the people in the towns of Buldon and Parang in Cotabato and in the province of Cotabato itself that part of their territory is being taken away from their towns and province and added to the adjacent Province of Lanao del Sur;** it kept the public in the dark as to what town and provinces were actually affected by the bill. These are the pressures which heavily weight against the constitutionality of Republic Act [No.] 4790.³⁸ [Emphasis supplied]

Our pronouncement in *Lidasan* was grounded on the fact the title of Republic Act No. 4790 mentioned only one out of the two provinces which were to be affected by the creation of the new municipality. Such is not the case here, as the barangays to be affected by the creation of the Municipalities of Nuling, Datu Sinsuat Balabaran, and Sheik Abas Hamza are all within the territory of the province of Maguindanao del Norte.

The requirement of Article VI, Section 26(1) of the 1987 Constitution must be given a meaning which is reasonable and not unduly technical. In *Alalayan v. National Power Corporation*,³⁹ the Court ruled that it is sufficient for a title to be comprehensive enough to reasonably include the general object of the statute:

[I]t must be deemed sufficient that the title be comprehensive enough reasonably to include the general object which the statute seeks to effect without expressing each and every end and means necessary for its accomplishment. Thus, mere details need not be set forth. The legislature is not required to make the title of the act a complete index of its contents. The provision merely calls for all parts of an act relating to its subject finding expression in its title.

....

Such a trend is made manifest in the cases beginning with *Sumulong v. Commission on Elections*, up to and including *Felwa v. Salas*, a 1966 decision, the opinion coming from Chief Justice Concepcion. **There is nothing in *Lidasan v. Commission on Election*, where a statute was**

³⁷ *Id.*

³⁸ *Id.*, citations omitted.

³⁹ *Alalayan v. National Power Corporation*, G.R. No. L-24396, July 29, 1968 [Per J. Fernando, *En Banc*].

annulled on this ground, to indicate the contrary. As aptly express by Justice Sanchez: "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 (sic) 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 operations. 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.**"⁴⁰ [Emphases supplied]

Applying the rule elucidated in *Alalayan*, it is clear that the title of BAA 53 sufficiently informs the public of the intention to create a new municipality within the province of Maguindanao del Norte. This should serve as adequate impetus for interested persons to inquire into the body of the law to determine which barangays in the province of Maguindanao del Norte would now constitute the Municipality of Nuling, and to take appropriate action thereon—as indeed, the petitioners in this case have. We apply the same reasoning to BAAs 54 and 55.

*III. The Bangsamoro Government,
through the BTA and the Chief Minister,
has the power to create municipalities*

The uniform text of Section 1 of BAAs 53, 54, and 55 conveys the policy in creating the new municipalities:

Sec. 1. *Declaration of Policy.* – In the exercise of genuine autonomy and self-governance, **the Bangsamoro Government is empowered to create, divide, merge, abolish, or substantially alter boundaries of municipalities or barangays in accordance with a law enacted by the Parliament.** The municipalities or barangays created, divided, merged, or whose boundaries are substantially altered shall be entitled to their appropriate share in the national taxes or Internal Revenue Allotment: *Provided, That it shall be approved by a majority of the votes cast in a plebiscite in the political units directly affected.* [Emphases supplied]

Petitioners argue that the BTA committed grave abuse of discretion when it passed BAAs 53, 54, and 55 because the creation of new municipalities is not among the functions and priorities mandated by Republic Act No. 11054. According to them, it is a task reserved for the elected and regular Parliament and not the BTA. Petitioners characterize the BTA's and the Chief Minister's powers as interim and limited.

We do not agree.

⁴⁰ *Id.* Citations omitted.

The powers of the Bangsamoro Government are vested in the Bangsamoro Parliament which shall exercise those powers and functions expressly granted to it under the Bangsamoro Organic Law, and those necessary for, or incidental to, the proper governance and development of the Bangsamoro Autonomous Region.⁴¹ The Bangsamoro Parliament also has the authority to enact laws on matters that are within the powers and competencies of the Bangsamoro Government.⁴²

On the other hand, the executive function and authority shall be exercised by the Cabinet which shall be headed by a Chief Minister. The Chief Minister shall be elected by a majority vote of all the members of the Parliament.⁴³

The Bangsamoro Organic Law provides that all the powers, functions, and responsibilities not granted by the Constitution or by national law to the Bangsamoro Government shall be vested in the National Government.⁴⁴ The power to create municipalities is expressly granted in Article V, Section 2 of the Bangsamoro Organic Law:

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

-
- (1) Creation, division, merger, abolition or alteration of boundaries of municipalities and barangays;
-

Further, Article VI, Section 10 of the Bangsamoro Organic Law specifies the requirements for the creation of municipalities or barangays within the BARMM, to wit:

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

The Parliament may create, divide, merge, abolish, or substantially alter boundaries of municipalities or barangays in accordance with a law enacted by the Parliament. The municipalities or barangays created, divided, merged, or whose boundaries are substantially altered, shall be entitled to their appropriate share in the national taxes or Internal Revenue Allotment: *Provided, That the criteria laid down in*

⁴¹ BANGSAMORO ORGANIC LAW, art. VII, sec. 2.

⁴² BANGSAMORO ORGANIC LAW, art. VII, sec. 3.

⁴³ BANGSAMORO ORGANIC LAW, art. VII, sec. 4.

⁴⁴ BANGSAMORO ORGANIC LAW, art. V, sec. 1.

Republic Act No. 7160, as amended, and other national laws shall be satisfied: *Provided, further,* That it shall be approved by a majority of the votes cast in a plebiscite in the political units directly affected.

When such acts require the creation of a legislative district, the Bangsamoro Government shall cooperate and coordinate with the National Government through the Philippine Congress-Bangsamoro Parliament Forum to prioritize the deliberations on the creation of a legislative district.

Nothing in this Organic Law shall be construed to allow the Bangsamoro Government to create legislative districts. [Emphases supplied]

During the transition period starting from the ratification of the Bangsamoro Organic Law by a majority of the votes cast in a plebiscite, the BTA was created as the interim government of the BARMM, thus:

Sec. 2. Bangsamoro Transition Authority. — There is hereby created the Bangsamoro Transition Authority which shall be the interim government in the Bangsamoro Autonomous Region during the transition period. The Moro Islamic Liberation Front shall lead the Bangsamoro Transition Authority, without prejudice to the participation of the Moro National Liberation Front in its membership.

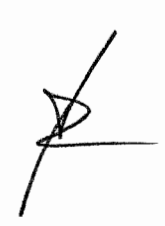
....
The Bangsamoro Transition Authority shall be composed of eighty (80) members, who the President shall appoint: *Provided, That,* in addition, the elected officials of the Autonomous Regional Government in Muslim Mindanao shall automatically become members of the Bangsamoro Transition Authority and shall serve until noon of the 30th of June 2019: *Provided, further,* That non-Moro indigenous communities, youth, women, settler communities, traditional leaders, and other sectors shall have representatives in the Bangsamoro Transition Authority.

Article XVI, Section 3 of the Bangsamoro Organic Law also states that legislative and executive powers in the BARMM during transition shall be vested in the BTA. It also categorically states that all powers and functions of the Bangsamoro Government shall be vested in the BTA during the transition period, thus:

SECTION 3. Powers and Authorities. — Legislative and executive powers in the Bangsamoro Autonomous Region during transition shall be vested in the Bangsamoro Transition Authority. During the transition period, executive authority shall be exercised by the interim Chief Minister who shall be appointed by the President as such, while legislative authority shall be exercised by the Bangsamoro Transition Authority.

All powers and functions of the Bangsamoro Government as provided in this Organic Law is vested in the Bangsamoro Transition Authority during the transition period.

For purposes of mechanisms for intergovernmental relations with the National Government and local government units in the Bangsamoro Autonomous Region, the Bangsamoro Transition Authority shall be deemed as the Bangsamoro Government for the duration of the transition period. [Emphasis supplied]



Furthermore, Article XVI, Section 4 of the same law provides the following functions and priorities which should be accomplished during the transition:

SECTION 4. *Functions and Priorities.* — The Bangsamoro Transition Authority shall ensure the accomplishment of the following priorities during the transition period:

- (a) Enactment of priority legislations such as the Bangsamoro Administrative Code, Bangsamoro Revenue Code, Bangsamoro Electoral Code, Bangsamoro Electoral Code, Bangsamoro Local Government Code, and Bangsamoro Education Code consistent with powers and prerogatives vested in the Bangsamoro Government by this Organic Law: *Provided*, That until the abovementioned laws are enacted, the Muslim Mindanao Autonomy Act No. 25, otherwise known as the “Autonomous Region in Muslim Mindanao Local Government Code,” and subsisting laws on elections and other electoral matters shall apply in the Bangsamoro Autonomous Region.

The Bangsamoro Transition Authority may also enact a Bangsamoro Civil Service Code, as provided in this Organic Law, subject to the Constitutional mandate of the Civil Service Commission.

The Bangsamoro Transition Authority shall enact a law to recognize, protect, promote, and preserve the rights of the indigenous peoples in the Bangsamoro Autonomous Region. Until the law is enacted, subsisting regional laws on indigenous peoples in the Bangsamoro shall be operational.

These rights shall be promoted, protected, and enforced by the Ministry of Indigenous People’s Affairs as provided under Section 8 of this Article.

- (b) Determination of parliamentary districts for the first regular election for the members of the Parliament subject to the standards set in Section 10, Article VII of this Organic Law;
- (c) Organization of the bureaucracy of the Bangsamoro Government during transition, including the approval and implementation of a transition plan, and the institution of a placement process for hiring of personnel during transition. This also includes the setting up of offices and other institutions necessary for the continued functioning of government and delivery of social services in the Bangsamoro Autonomous Region, as well as those necessary for the smooth operations of the first elected Bangsamoro Government in 2022;
- (d) Full transfer of powers and properties of the Autonomous Regional Government in Muslim Mindanao to the Bangsamoro Government, except those properties, land, and structures located outside of the Autonomous Region in Muslim Mindanao. The land and permanent buildings or structures located outside the Autonomous Region in Muslim Mindanao, owned, controlled, administered, or in the possession of the Autonomous Regional Government in Muslim Mindanao, shall be purchased by the National Government at a price to

be determined through the intergovernmental relations mechanism within one (1) year from the ratification of this Organic Law. Any dispute on the price may be appealed to the Office of the President which shall decide on the price with finality within three (3) months from the receipt of the appeal. The proceeds of the purchase shall be remitted to the Bangsamoro Government;

- (e) The disposition of the personnel of the Autonomous Regional Government in Muslim Mindanao as provided in Section 10 of this Article;
- (f) Transition from the Autonomous Regional Government in Muslim Mindanao to the Bangsamoro Government, as provided in this Organic Law; and
- (g) Other matters that may be necessary for the protection and promotion of the general welfare of the constituents of the Bangsamoro Autonomous Region.

Contrary to petitioners' claims, the foregoing functions and priorities are not limited, and the same enumeration did not prevent the BTA from exercising the powers vested in the Bangsamoro Government in Article V, Section 2 of the Bangsamoro Organic Law, particularly the creation of municipalities. Stated differently, the "interim" character of the BTA refers to the exercise of its powers and functions during the transition period, or until its dissolution, and does not limit the authority of the BTA to exercise those powers which are vested in the Bangsamoro Government.

IV. The phrase "qualified voters in a plebiscite to be conducted in the barangays comprising the municipality pursuant to Section 2 hereof" in the uniform text of Section 5 of BAAs 53, 54, and 55 violates the 1987 Constitution and the Bangsamoro Organic Law

The uniform text of Section 5 of BAAs 53, 54, and 55 provides:

Sec. 5. Plebiscite Requirement. - The Municipality of [Nuling/ Datu Sinsuat Balabaran/ Sheik Abas Hamza] shall acquire corporate existence upon ratification of its creation by a majority of the votes cast by **qualified voters in a plebiscite to be conducted in the barangays comprising the municipality pursuant to Section 2 hereof** within sixty (60) days after the approval of the Act.

The Commission on Elections (COMELEC) shall conduct and supervise the plebiscite. The expenditure in holding the plebiscite shall be taken out of the Contingent Fund of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) under the appropriations of fiscal year

2024. [Emphasis supplied]

The aforecited Section 2 of BAAs 53, 54, and 55 identifies the barangays that will constitute a distinct and separate municipality. The list is further qualified with the phrase “hereby separated from” to underscore their detachment from the original municipality.

Furthermore, the phrase “in the barangays comprising the municipality pursuant to Section 2 hereof” in the uniform Section 5 text contrasts sharply with the requirement of “subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected” in the creation of local government units as mandated by Article X, Section 10 of the 1987 Constitution:

Sec. 10. No province, city, municipality, or barangay may be created, divided, merged, abolished, or its boundary substantially altered, except in accordance with the criteria established in the Local Government Code and **subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected.** [Emphasis supplied]

Echoing the 1987 Constitution, Article VI, Section 10 of the Bangsamoro Organic Law provides that the plebiscite for the creation, division, merger, abolition, or substantial alterations of the boundaries of municipalities and barangays “shall be approved by the majority of the votes cast in the political units directly affected”:

SECTION 10. Bangsamoro Government and its Constituent Local Government Units. -

The Parliament may create, divide, merge, abolish, or substantially alter boundaries of municipalities or barangays in accordance with a law enacted by the Parliament. The municipalities or barangays created, divided, merged, or whose boundaries are substantially altered, shall be entitled to their appropriate share in the national taxes or Internal Revenue Allotment: *Provided*, That the criteria laid down in Republic act No. 7160, as amended, and other national laws shall be satisfied: *Provided further*, That **it shall be approved by a majority of the votes cast in a plebiscite in the political units directly affected.** [Emphasis supplied]

Taken in this context, and notwithstanding the phrase “it shall be approved by a majority of the votes cast in a plebiscite in the political units directly affected” in Section 1, the uniform text in Section 5 of BAAs 53, 54, and 55 plainly allows only the qualified voters of the barangays comprising the new municipalities as enumerated under Sections 2 of BAA Nos. 53, 54, and 55, to vote in the plebiscite.

For the creation of the Municipality of Nuling, only the qualified voters from the barangays of Matengen, Ladia, Pigcalagan, Alamada, Raguisi, Pinaring, Damaniog, Ibotegen, Banatin, Nara, Kakar, Katidtuan, Maidapa, Kapimpilan, Bulibod, Kabuntalan, Nalinan, Patanan, and Katamlangan are

allowed to vote in the plebiscite. The voters from the barangays of Banubo, Bulalo, Calsada, Crossing Simuay, Dalumangcob, Darapanan, Gang, Inawan, Katuli, Limbo, Makaguiling, Mulaug, Nekitan, Olas, Panatan, Pingping, Rebuken, Salimbao, Sambolawan, Senditan, and Ungap are disenfranchised and barred from determining whether the Municipality of Sultan Kudarat should be diminished.

A similar situation obtains in the creation of the Municipalities of Datu Sinsuat Balabaran and Sheik Abas Hamza. For the Municipality of Datu Sinsuat Balabaran, included voters are only those from the barangays of Tapan, Linek, Dinaig Proper, Tamontaka, Tanuel, Kusiong, Mompong, Semba, Capiton, Tambak, Badak, Awang and Dulangan. Excluded voters are those from the Municipality of Sheik Abas Hamza. Correspondingly, for the Municipality of Sheik Abas Hamza, included voters are only those from the Barangays of Labungan, Taviran, Baka, Sapalan, Sifaran, Bugawas, Bitu, Kurintem, Margues, and Makir. Excluded voters are those from the Municipality of Datu Sinsuat Balabaran. In both instances, the voters from the barangays of Ambolodto, Bagoenged, Benolen, Bongued, Dados, Dalican Poblacion, Kakar, Kenebeka, Nekitan, Sibuto, and Tenonggos are disenfranchised and barred from determining whether the Municipality of Datu Odin Sinsuat should be diminished.

BAAs 53, 54, and 55 clearly and unequivocally deny the voting rights of qualified voters in the Municipalities of Sultan Kudarat and Datu Odin Sinsuat, which are not part of the new municipalities of Nuling, Datu Sinsuat Balabaran, and Sheik Abas Hamza.

In *Padilla, Jr. v. Commission on Elections*,⁴⁵ the Court ruled that the term “political units directly affected” in the conduct of plebiscite includes both the qualified voters in the newly created municipality and those from the mother municipality:

It stands to reason that when the law states that the plebiscite shall be conducted “in the political units directly affected,” it means that residents of the political entity who would be economically dislocated by the separation of a portion thereof have a right to vote in said plebiscite. Evidently, what is contemplated by the phrase “political units directly affected,” is the plurality of political units which would participate in the plebiscite. Logically, those to be included in such political areas are the inhabitants of the 12 barangays of the proposed Municipality of Tulay-Na-Lupa as well as those living in the parent Municipality of Labo, Camarines Norte. Thus, we conclude that respondent COMELEC did not commit grave abuse of discretion in promulgating Resolution No. 2312.

Further, in *Umali v. Commission on Elections*,⁴⁶ the Court also defined the term “political units directly affected” to resolve whether the move to convert Cabanatuan City from a component city to a highly urbanized city

⁴⁵ 289 Phil. 356 (1992) [Per J. Romero, *En Banc*].

⁴⁶ 733 Phil. 775 (2014) [Per J. Velasco, Jr., *En Banc*].

would require that only the qualified voters of Cabanatuan City are allowed to vote in the plebiscite. In ruling that all the qualified voters of the province of Nueva Ecija should be allowed to vote in the plebiscite, the Court discussed:

a. "Political units directly affected" defined

In identifying the LGU or LGUs that should be allowed to take part in the plebiscite, what should primarily be determined is whether or not the unit or units that desire to participate will be "directly affected" by the change. To interpret the phrase, *Tan v. COMELEC* and *Padilla v. COMELEC* are worth revisiting.

We have ruled in *Tan*, involving the division of Negros Occidental for the creation of the new province of Negros del Norte, that the LGUs whose boundaries are to be altered and whose economy would be affected are entitled to participate in the plebiscite. As held:

It can be plainly seen that the aforecited constitutional provision makes it imperative that there be first obtained "the approval of a majority of votes in the plebiscite in the unit or units affected" whenever a province is created, divided or merged and there is substantial alteration of the boundaries. It is thus inescapable to conclude that the boundaries of the existing province of Negros Occidental would necessarily be substantially altered by the division of its existing boundaries in order that there can be created the proposed new province of Negros del Norte. **Plain and simple logic will demonstrate that two political units would be affected. The first would be the parent province of Negros Occidental because its boundaries would be substantially altered. The other affected entity would be composed of those in the area subtracted from the mother province to constitute the proposed province of Negros del Norte.**

....

To form the new province of Negros del Norte no less than three cities and eight municipalities will be subtracted from the parent province of Negros Occidental. This will result in the removal of approximately 2,768.4 square kilometers from the land area of an existing province whose boundaries will be consequently substantially altered. It becomes easy to realize that the consequent effects of the division of the parent province necessarily will affect all the people living in the separate areas of Negros Occidental and the proposed province of Negros del Norte. **The economy of the parent province as well as that of the new province will be inevitably affected, either for the better or for the worse. Whatever be the case, either or both of these political groups will be affected and they are, therefore, the unit or units referred to in Section 3 of Article XI of the Constitution which must be included in the plebiscite contemplated therein.** (emphasis added)



Sec. 3, Art. XI of the 1973 Constitution, as invoked in *Tan*, states:

SEC. 3. No province, city, municipality or barrio may be created, divided, merged[,] abolished, or its boundary substantially altered, except in accordance with the criteria established in the local government code, and subject to the approval by a majority of the votes in a plebiscite **in the unit or units affected**. (emphasis added)

Despite the change in phraseology compared to what is now Sec. 10, Art. X, we affirmed our ruling in *Tan* in the latter case of *Padilla*. As held, the removal of the phrase “unit or” only served to sustain the earlier finding that what is contemplated by the phrase “political units directly affected” is the plurality of political units which would participate in the plebiscite. As reflected in the journal of the Constitutional Commission:

Mr. Maambong: While we have already approved the deletion of “unit or,” I would like to inform the Committee that under the formulation in the present Local Government Code, the words used are actually “political unit or units.” However, I do not know the implication of the use of these words. Maybe there will be no substantial difference, but I just want to inform the Committee about this.

Mr. Nollado: Can we not adhere to the original “unit or units”? Will there be no objection on the part of the two Gentlemen from the floor?

Mr. Davide: **I would object. I precisely asked for the deletion of the words “unit or” because in the plebiscite to be conducted, it must involve all the units affected.** If it is the creation of a barangay plebiscite because it is affected. It would mean a loss of a territory. (emphasis added)

....

In cutting the umbilical cord between Cabanatuan City and the province of Nueva Ecija, the city will be separated from the territorial jurisdiction of the province, as earlier explained. The provincial government will no longer be responsible for delivering basic services for the city residents’ benefit. Ordinances and resolutions passed by the provincial council will no longer cover the city. Projects queued by the provincial government to be executed in the city will also be suspended if not scrapped to prevent the LGU from performing functions outside the bounds of its territorial jurisdiction, and from expending its limited resources for ventures that do not cater to its constituents.

In view of these changes in the economic and political rights of the province of Nueva Ecija and its residents, the entire province certainly stands to be directly affected by the conversion of Cabanatuan City into an HUC. Following the doctrines in *Tan* and *Padilla*, all the qualified registered voters of Nueva Ecija should then be allowed to participate in the plebiscite called for that purpose.⁴⁷ [Emphases in the original]

⁴⁷ *Id.*, citations omitted.

As in this case, the existing Municipalities of Sultan Kudarat and Datu Odin Sinsuat will be directly affected by the creation of the new municipalities since their economic and political rights are affected. As such, all qualified voters in the existing Municipalities of Sultan Kudarat and Datu Odin Sinsuat should be allowed to vote in the plebiscite.

V. The schedules of the plebiscites in BAAs 53, 54, and 55 do not violate Republic Act No. 7160 and the Bangsamoro LGC

We reiterate the uniform text in Section 5 of BAAs 53, 54, and 55 and focus on the schedule of the plebiscite:

Sec. 5. Plebiscite Requirement. – The Municipality of Nuling shall acquire corporate existence upon ratification of its creation by a majority of the votes cast by qualified voters in a plebiscite to be conducted in the barangays comprising the municipality pursuant to Section 2 hereof **within sixty (60) days after the approval of the Act.**” [Emphasis supplied]

Petitioners argue that this provision violates the mandate in Section 441 of Republic Act No. 7160 which provides that plebiscites for the creation of a municipality must be held within 120 days from the effectivity:

Sec. 441. Manner of Creation. – A municipality may be created, divided, merged, abolished, or its boundary substantially altered only by an Act of Congress and subject to the approval by a majority of the votes cast in a plebiscite to be conducted by the COMELEC in the local government unit or units directly affected. Except as may otherwise be provided in the said Act, **the plebiscite shall be held within one hundred twenty (120) days from the date of its effectivity.**” [Emphasis supplied]

At this juncture, We add to the discussion Section 10 of the Bangsamoro LGC which provides:

Sec. 10. Plebiscite Requirement. – No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected. Said plebiscite shall be conducted by the Bangsamoro Electoral Office (BEO) of the Commission on Elections (COMELEC) **within one hundred twenty (120) days from the date of effectivity of the law or ordinance affecting such action, unless said law or ordinance fixes another date.** [Emphasis supplied]

We cannot bring Ourselves to agree with petitioners’ contention.

Under Section 441 of Republic Act No. 7160, the plebiscite must be held **within** 120 days, which means that the COMELEC may hold the plebiscite at any day during the period. The period under Republic Act No. 7160 necessarily includes the 60-day period provided by Section 5(1) of BAA 53.

In any event, this Court has previously ruled that the COMELEC is not bound by the schedule of plebiscites prescribed by laws. We had the occasion to explain the validity of the 120-60 difference in holding a plebiscite between Republic Act No. 7160 and the charter of a new province in *Cagas v. Commission on Elections*,⁴⁸ where We ruled that the COMELEC has the power to administer elections beyond the period prescribed by law:

The Constitution does not specify a date as to when plebiscites should be held. This is in contrast with its provisions for the election of members of the legislature in Section 8, Article VI and of the President and Vice-President in Section 4, Article VII. The Constitution recognizes that the power to fix the date of elections is legislative in nature, which is shown by the exceptions in previously mentioned Constitutional provisions, as well as in the election of local government officials.

Section 10 of R.A. No. 7160 furnishes the general rule as to when a plebiscite may be held:

Sec. 10. *Plebiscite Requirement.* — No creation, division, merger, abolition, or substantial alteration of boundaries of local government units shall take effect unless approved by a majority of the votes cast in a plebiscite called for the purpose in the political unit or units directly affected. Said plebiscite shall be conducted by the Commission on Elections (COMELEC) within one hundred twenty (120) days from the date of effectivity of the law or ordinance effecting such action, unless said law or ordinance fixed another date.

Section 46 of R.A. No. 10360, however, specifically provides that **the plebiscite for the creation of the province of Davao Occidental be held within 60 days from the effectivity of R.A. No. 10360, or until 6 April 2013.** Cagas claims that R.A. No. 10360 “did not confer express or implied power to COMELEC to exercise discretion when the plebiscite for the creation of the Province of Davao Occidental will be held. On the contrary, said law provides a specific period when the COMELEC should conduct a plebiscite.” Cagas views the period “60 days from the effectivity” in R.A. No. 10360 as **absolute and mandatory**; thus, COMELEC has no legal basis to hold a plebiscite on 28 October 2013.

The Constitution, however, grants the COMELEC the power to “[e]nforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum and recall.” The COMELEC has “exclusive charge of the enforcement and administration of all laws relative to the conduct of elections for the purpose of ensuring free, orderly and honest elections.” The text and

⁴⁸ 720 Phil. 603 (2013) [Per J. Carpio, *En Banc*].

intent of Section 2 (1) of Article IX (C) is to give COMELEC ‘all the *necessary* and *incidental* powers for it to achieve the objective of holding free, orderly, honest, peaceful and credible elections.’

....

It is thus not novel for this Court to uphold the COMELEC’s broad power or authority to fix other dates for a plebiscite, as in special elections, to enable the people to exercise their right of suffrage. The COMELEC thus has residual power to conduct a plebiscite even beyond the deadline prescribed by law.⁴⁹ [Boldface supplied; Italics in the original]

The COMELEC’s power is likewise recognized by Section 29 of RA 6646, or the Electoral Reforms Law of 1987, which provides:

Sec. 29. *Designation of Other Dates for certain Pre-election Acts.* – If it should no longer be reasonably possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishment of the activities so voters shall not be deprived of their right to suffrage.

Petitioners’ arguments that the shortened period in BAA 53 is iniquitous, whimsical, capricious, and arbitrary for its failure to conform to the standards set by RA 7160 are untenable. Any risk for undue haste in the conduct of the plebiscite due to this “shortened period” is tempered by the power and discretion of the COMELEC to hold the plebiscite beyond the period provided by BAA No. 53—as in fact it already has.

This Court takes judicial notice that the COMELEC promulgated COMELEC Resolution No. 11011⁵⁰ on July 8, 2024, which set the plebiscite for BAA No. 53 on September 7, 2024. Thus, the concerns of petitioners that (1) the “shortened period” prejudices the constituents of the Municipality of Sultan Kudarat and (2) the reckoning period stated by Section 5(1) of BAA 53 being from “approval” of the act and not “effectivity”, are rendered moot, as the COMELEC has seen it fit to schedule the plebiscite beyond the sixty (60) day period provided by BAA 53.

Again, We apply the same reasoning to the conduct of the plebiscites as provided in BAAs 54 and 55. The COMELEC promulgated COMELEC Resolution No. 11012⁵¹ also on July 8, 2024, which set the plebiscite for BAAs 54 and 55 on September 21, 2024.

VI. *Republic Act No. 7160 applies to the creation and division of municipalities or barangays in the BARMM*

⁴⁹ *Id.*, citations omitted.

⁵⁰ *Supra* note 10.

⁵¹ *Supra* note 11.

Article V, Section 2 (1) of the Bangsamoro Organic Law empowers the Bangsamoro Government to create, divide, abolish, or alter the boundaries of municipalities and barangays in the BARMM. Nonetheless, Article VI, Section 10, paragraph 2 of the Bangsamoro Organic Law further qualifies this power and expressly provides that:

The Parliament may create, divide, merge, abolish, or substantially alter boundaries of municipalities or barangays in accordance with a law enacted by the Parliament. The municipalities or barangays created, divided, merged, or whose boundaries are substantially altered, shall be entitled to their appropriate share in the national taxes or Internal Revenue Allotment: ***Provided, That the criteria laid down in Republic Act No. 7160, as amended, and other national laws shall be satisfied: Provided, further,*** That it shall be approved by a majority of the votes cast in a plebiscite in the political units directly affected. [Emphasis supplied]

Notably, the foregoing provision explicitly refers to the criteria established in Republic Act No. 7160, which is in line with the constitutional policy under Article X, Section 10 of the 1987 Constitution—that is, the creation and division of local government units must be “in accordance with the criteria established in the Local Government Code” enacted by the legislative department.

In this regard, We disagree with respondents that Republic Act No. 7160 does not apply to the BARMM. The Bangsamoro Organic Law expressly requires compliance with the criteria under Republic Act no. 7160 for creating or dividing municipalities.

VII. Both Republic Act No. 7160 and the Bangsamoro LGC provide the criteria for creating and dividing municipalities in the BARMM

We find no significant difference between the texts of the provisions in Republic Act No. 7160 and the Bangsamoro LGC relating to the creation and division of municipalities.

Section 7 of Republic Act No. 7160 enumerates the verifiable indicators of viability and projected capacity to provide services that must be considered when creating or converting an LGU from one level to another level:

SECTION 7. Creation and Conversion. – As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:



- (a) Income. – It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;
- (b) Population. – It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and
- (c) Land Area. – It must be contiguous, unless it comprises two (2) or more islands or is separate by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Authority (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).

Section 7 of the Bangsamoro LGC duplicated the verifiable indicators under Section 7 of Republic Act No. 7160:

SEC. 7. Creation and Conversion. – As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:

- (a) Income. – It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;
- (b) Population. – It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and
- (c) Land Area. – It must be contiguous, unless it comprises two or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace. Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF) through the Bureau of Local Government Finance (BLGF), the Philippine Statistics Authority (PSA), and the relevant office of the Ministry of Environment, Natural Resources and Energy (MENRE).

Section 8 of Republic Act No. 7160 provides that the requirements for dividing and merging existing local government units must also comply with the requirements for their creation:

Sec. 8. Division and Merger. – Division and merger of existing local government units shall comply with the same requirements herein



prescribed for their creation; *Provided, however,* That such division shall not reduce the income, population, or land area of the local government unit or units concerned less than the minimum requirements prescribed in this Code; *Provided, further,* That the income classification of the original local government unit or units shall not fall below its current income classification prior to such division.

The income classification of local government units shall be updated within six (6) months from the effectivity of this Code to reflect the changes in their financial position resulting from the increased revenues as provided herein. [Emphasis supplied]

Section 8 of the Bangsamoro LGC mirrors Section 8 of RA 7160:

Sec. 8. *Division and Merger.* – Division and merger of existing local government units shall comply with the same requirements herein prescribed for their creation: *Provided, however,* That such division shall not reduce the income, population, or land area of the local government unit or units concerned to less than the minimum requirements prescribed in this Code; *Provided, further,* That the income classification of the original local government unit or units shall not fall below its current income classification prior to such division.

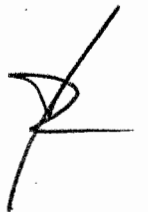
Section 442 of RA 7160 provides the requisites for creating a municipality:

SECTION 442. *Requisites for Creation.* – (a) A municipality may be created if it has an average annual income, as certified by the provincial treasurer, of at least Two million five hundred thousand pesos ([PHP] 2,500,000.00) for the last two (2) consecutive years based on the 1991 constant prices; a population of at least twenty-five thousand (25,000) inhabitants as certified by the National Statistics Office; and a contiguous territory of at least fifty (50) square kilometers as certified by the Lands Management Bureau: *Provided,* That the creation thereof shall not reduce the land area, population or income of the original municipality or municipalities at the time of said creation to less than the minimum requirements prescribed herein.

(b) The territorial jurisdiction of a newly-created municipality shall be properly identified by metes and bounds. The requirement on land area shall not apply where the municipality proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.

(c) The average annual income shall include the income accruing to the general fund of the municipality concerned, exclusive of special funds, transfers and non-recurring income.

(d) Municipalities existing as of the date of the effectivity of this Code shall continue to exist and operate as such. Existing municipal districts organized pursuant to presidential issuances or executive orders and which have their respective set of elective municipal officials holding office at the time of the effectivity of this Code shall henceforth be considered as regular municipalities.



Section 477 of the Bangsamoro LGC provides the same requisites for creating a municipality under Section 442 of Republic Act No. 7160:

SEC. 477. *Requisites for Creation.* –

- (a) A municipality may be created if it has an average annual income of at least Two Million and Five Hundred Thousand Pesos ([PHP] 2,500,000.00) for the last two consecutive years as certified by the BLGF; a population of at least twenty five thousand (25,000) inhabitants as certified by the PSA; and a contiguous territory of at least fifty (50) square kilometers as certified by the appropriate office of the MENRE: *Provided*, That the creation thereof shall not reduce the land area, population or income of the original municipality or municipalities at the time of said creation to less than the minimum requirements prescribed herein.
- (b) The average annual income shall include the income accruing to the general fund of the municipality concerned, exclusive of specific funds, transfers, and non-recurring income.
- (c) The territorial jurisdiction of a newly created municipality shall be properly identified by metes and bounds. The requirement of at least fifty (50) square kilometers land area shall not apply where the municipality to be created is composed of one (1) or more islands.

The contiguity requirement on land area shall not apply if the territory comprises two (2) or more islands. The said requirement shall also not apply where the territory of the municipality to be created is separated by another local government unit: *Provided*, That its aggregate land area shall be at least fifty (50) square kilometers.

- (d) The creation of a municipality shall require the donation to the municipality of a lot with an area of not less than fifteen thousand (15,000) square meters for the construction of a permanent government center like the municipal hall, health center, multi-purpose hall, and similar others: *Provided*, That when the donor is the Parliament, the donation shall form part of the law therefor: *Provided, further*, That when the donor is other than the Parliament, the donation shall be made to the Parliament, conditioned on its actual creation and the transfer of the lot to the same.

Petitioners argue that BAAs 53, 54, and 55 failed to comply with the foregoing requirements for creating municipalities.

In G.R. No. 271741, petitioners argue that the BTA failed to consider whether the resulting Municipality of Datu Odin Sinsuat would retain its current income classification.⁵² Petitioners suggest that the BTA did not obtain the required BLGF certification, much less consult the BLGF in determining the Municipality of Datu Odin Sinsuat's average annual income.⁵³

⁵² *Rollo* (G.R. No. 271741), pp. 26–31.

⁵³ *Id.* at 230.

Meanwhile, in G.R. No. 271972, petitioners contend that the creation of the Municipality of Nuling failed to clearly identify the metes and bounds of its territorial jurisdiction and land area.⁵⁴ They also indicate that the BTA failed to consider whether the creation of the Municipality of Nuling will reduce the land area of the Municipality of Sultan Kudarat to less than the minimum required under Republic Act No. 7160.⁵⁵

In both instances, petitioners have the burden of proving that the creation of the assailed municipalities failed to satisfy the requirements under Republic Act No. 7160, particularly that the resulting municipalities do not or will not meet its criteria, or that the original municipalities' income, population, and land area will be reduced to less than its minimum requirements.

In *Municipality of San Mateo, Isabela v. Smart Communication, Inc.*,⁵⁶ We held that the presumption of constitutionality and validity is also accorded to local legislative enactments:

The courts accord the presumption of constitutionality to legislative enactments, including municipal ordinances. This presumption may be set aside only when invalidity or unreasonableness appears on the face of the ordinance, or is established by proper evidence. Through this case, the Court reiterates that the burden to establish the law's invalidity rests upon the party challenging the same. Without dismantling the presumption of validity, the Court will not interfere with legislative acts and will respect the judgment of the local authorities as regards their ordinances.

To overcome this presumption, petitioners must present clear and convincing evidence showing the illegality of the assailed official acts.⁵⁷

In this regard, We cannot hastily rule on the issue of whether BAAs 53, 54, and 55 contravene Republic Act No. 7160 without running afoul of this Court's function. This Court is not a trier of facts. Even if petitioners submitted evidence to prove their claims, it is not the function of this Court to review, examine, and evaluate the probative value of such evidence. We cannot simply accept or grant a petition for *certiorari* if its resolution requires the consideration and evaluation of evidence.⁵⁸

Petitioners' arguments on the non-compliance with the criteria under Republic Act No. 7160 are factual in nature. To resolve this issue on the alleged non-compliance with Section 442 (a) of Republic Act No. 7160, the Court would have to make a factual determination of whether the resulting Municipality of Datu Odin Sinsuat's income would fall below the minimum

⁵⁴ *Rollo* (G.R. No. 271972), pp. 43–60.

⁵⁵ *Id.* at 51.

⁵⁶ G.R. No. 219506, June 23, 2021 [Per J. Zalameda, First Division].

⁵⁷ *Tinio v. Duterte*, G.R. No. 236118 & G.R. No. 236295, January 24, 2023 [Per J. Dimaampao, *En Banc*].

⁵⁸ *Nacionales v. Hon. Solde-Annogui*, G.R. No. 249080, September 15, 2021 [Per J. Inting, Second Division] citing *Bañez v. Judge Concepcion*, 693 Phil. 399, 414 (2012) [Per J. Bersamin, First Division].

would reduce the land area of the Municipality of Sultan Kudarat to less than the minimum land area requirement.

Thus, the issue on the alleged non-compliance of BAAs 53, 54, and 55 with the criteria for creating and dividing municipalities under RA 7160 should be threshed out in a trial where the parties can adduce evidence to prove or disprove the non-compliance with Republic Act No. 7160 and the Bangsamoro LGC.

VIII. The Chief Minister has the authority to appoint the officials who will act in an interim capacity until the officials of the new municipalities are elected

The uniform text in Section 6 of BAAs 53, 54, and 55 reads:

Sec. 6. *Appointment of Municipal Officials.* – The municipal government shall be composed of a municipal mayor, a municipal vice-mayor, and eight (8) members of its Sangguniang Bayan who shall be appointed by the Chief Minister of the BARMM immediately after the ratification of this Act in a plebiscite. They shall continue to hold office until their successors shall have been elected and qualified in the next regular election: *Provided*, That the incumbent elective members of the Sangguniang Bayan of the Municipality of [Sultan Kudarat/ Datu Odin Sinsuat], Maguindanao del Norte, who are actual residents of the new municipality shall serve the remaining terms of the elective offices in the mother municipality.

Petitioners argue that BAAs 54 and 55 are void insofar as they authorize the Chief Minister to appoint officials to elective positions in the new municipalities and deprive the people in the affected barangays of their duly elected local officials. They further claim that this contradicts the qualifications of local elective officials as the BAAs similarly provide that the incumbent elective members of the Sangguniang Bayan shall continue to serve said municipality until the completion of their term of office even if they are actual residents of the newly created municipalities.

This cannot be sustained.

The authority of the Chief Minister emanates from the delegated power by the legislative department to the Bangsamoro Government, particularly the power to create municipalities.

In cases relating to the creation of municipalities, cities, and provinces, the Constitution empowered the legislative department to authorize the President to designate the officials who will act until the next election of officers. This appointing power of the President is encapsulated under Article VII, Section 16 of the 1987 Constitution:



Section 16. The President shall nominate and, with the consent of the Commission on Appointments, appoint the heads of the executive departments, ambassadors, other public ministers and consuls, or officers of the armed forces from the rank of colonel or naval captain, and other officers whose appointments are vested in him in this Constitution. **He shall also appoint all other officers of the Government** whose appointments are not otherwise provided for by law, **and those whom he may be authorized by law to appoint. The Congress may, by law, vest the appointment of other officers lower in rank in the President alone, in the courts, or in the heads of departments, agencies, commissions, or boards.** [Emphases supplied]

The foregoing constitutional provision recognizes the appointing power of the President which may be authorized by law. It also recognizes the power of the legislative department to vest the appointing power not only in the President, but also in courts, or heads of departments, agencies, commissions, or boards.

In the present set of cases, it has been established that the legislative department delegated the power to create municipalities in the BARMM to the Bangsamoro Government under Article V, Section 2(1) of the Bangsamoro Organic Law.


Article V, Section 3 of the same law provides that the powers which have been expressly granted includes those powers which can be necessarily implied or necessary, appropriate, or incidental thereto:

SECTION 3. *General Welfare.* — The Bangsamoro Government shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance and those which are essential to the promotion of general welfare. . . .

Thus, the Bangsamoro Government through the BTA can provide for the manner for the appointment of the interim officers of the new municipalities that will be created as it is necessary, appropriate, and incidental to the creation of the municipalities.

IX. The COMELEC is permanently enjoined from implementing COMELEC Resolutions Nos. 11011 and 11012 pursuant to BAAs 53, 54, and 55.

The Court declares that the plebiscite provisions of the BAAs 53, 54, and 55 violate the 1987 Constitution and the Bangsamoro Organic Law. As a consequence thereof, the COMELEC is enjoined from implementing



COMELEC Resolutions Nos. 11011 and 11012 pursuant to BAAs 53, 54, and 55 effective immediately.

A final injunction is proper only after the court has a definite pronouncement respecting an applicant's right and of the act violative of such right.⁵⁹ In *Consular Area Residents Association, Inc. v. Casanova*,⁶⁰ We explained that a writ of injunction would issue only upon the satisfaction of three requisites, namely: (1) a right *in esse* or a clear and unmistakable right to be protected; (2) a violation of that right; and (3) that there is an urgent and permanent act and urgent necessity for the writ to prevent serious damage.

In this case, it is clear that the foregoing requisites are present.

First, the right to participate in the scheduled plebiscites of all qualified voters in the Municipalities of Sultan Kudarat and Datu Odin Sinsuat which are not part of the new municipalities of Nuling, Datu Sinsuat Balabaran, and Sheik Abas Hamza is enshrined in no less than Article X, Section 10 of the 1987 Constitution, Article VI, Section 10 of the Bangsamoro Organic Law, and settled jurisprudence.

Second, the uniform text in Section 5 of BAAs 53, 54, and 55 denied the affected voters their right to participate in the scheduled plebiscites. This unequivocal denial was issued in direct contravention of the Constitution and the Bangsamoro Organic Law.

Third, there is an urgent need to promptly enjoin the implementation of BAAs 53, 54, and 55 as the COMELEC has already promulgated the necessary resolutions implementing the plebiscites of the assailed BAAs.

There is no question that petitioners have established the existence of a clear and actual right that ought to be protected that warrants the protection of injunctive relief from this Court. Thus, We permanently enjoin the COMELEC from implementing COMELEC Resolution Nos. 11011 and 11012 pursuant to BAAs 53, 54, and 55.

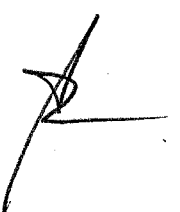
X. *Final Word*

“With great power comes great responsibility.”⁶¹ As a final note, in line with the principle of self-governance, the Bangsamoro Government is granted specific powers, which include the authority to create municipalities. The exercise of this power entails observance of the requirements under the 1987 Constitution, the Bangsamoro Organic Law, and other relevant laws. The

⁵⁹ *Republic v. Cortez, Sr.*, 768 Phil. 575 (2015) [Per J. Del Castillo, Second Division].

⁶⁰ *Consular Area Residents Association, Inc. v. Casanova*, 784 Phil. 400 (2016) [Per J. Perlas-Bernabe, First Division].

⁶¹ SPIDER-MAN (Columbia Pictures, 2002).



conduct of a plebiscite in the political units directly affected by the proposed action is imperative. This democratic prerequisite recognizes that the entire constituency affected should always have the final say on the matter. To disenfranchise qualified voters makes a mockery of the entire exercise.

FOR THESE REASONS, the petitions in G.R. Nos. 271741 and 271972 are **PARTIALLY GRANTED**. The phrase “qualified voters in a plebiscite to be conducted in the barangays comprising the municipality pursuant to Section 2 hereof” in the uniform text of Section 5 in Bangsamoro Autonomy Act Nos. 53, 54, and 55 is declared **UNCONSTITUTIONAL**.

The prayer for injunctive relief is likewise **GRANTED**. Accordingly, a **FINAL PROHIBITORY INJUNCTION** is hereby **ISSUED, EFFECTIVE IMMEDIATELY**. Respondent Commission on Elections is **ENJOINED** to **DESIST** from holding plebiscites on September 7 and 21, 2024 pursuant to Resolution Nos. 11011 and 11012, as well as from performing any and all acts related to the ratification of Bangsamoro Autonomy Act Nos. 53, 54, and 55.

SO ORDERED.




RODIL V. ZALAMEDA
Associate Justice

WE CONCUR:



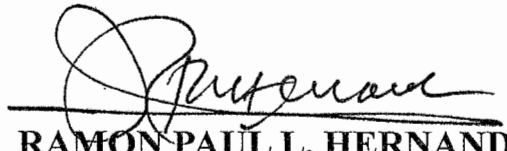
ALEXANDER G. GESMUNDO
Chief Justice



MARVIC M. V. F. LEONEN
Associate Justice




ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



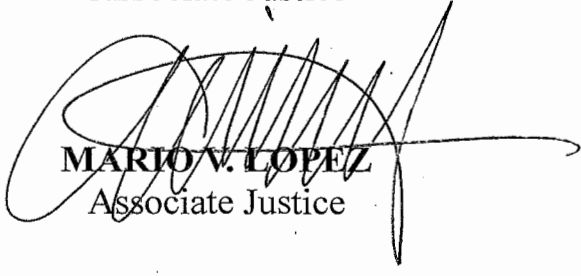
RAMON PAUL L. HERNANDO
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice




HENRI JEAN PAUL B. INTING
Associate Justice




MARIO V. LOPEZ
Associate Justice




SAMUEL H. GAERLAN
Associate Justice



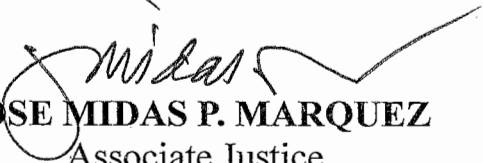
RICARDO R. ROSARIO
Associate Justice




JHOSEP Y. LOPEZ
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



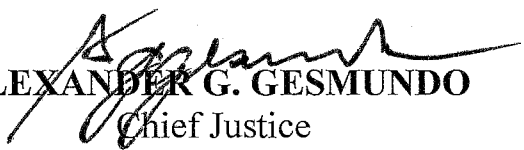
ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



ALEXANDER G. GESMUNDO
Chief Justice