

EN BANC

[G.R. No. 218406, November 29, 2016]

**PHILIPPINE CONSTITUTION ASSOCIATION (PHILCONSA),
REPRESENTED BY ITS PRESIDENT FERDINAND MARTIN G.
ROMUALDEZ, FRANCISCO S. TATAD, ARCHBISHOP RAMON C.
ARGUELLES, ARCHBISHOP ROMULO T. DE LA CRUZ, ARCHBISHOP
FERNANDO R. CAPALLA, AND NORBERTO B. GONZALES,
PETITIONERS, VS. PHILIPPINE GOVERNMENT (GPH),
REPRESENTED BY MARVIC M.V.F. LEONEN, AND MIRIAM
CORONEL FERRER, MORO ISLAMIC LIBERATION FRONT,
FLORENCIO B. ABAD, AND COMMISSION ON AUDIT,
RESPONDENTS.**

[G.R. No. 218761]

**TANGGULANG DEMOKRASYA (TAN DEM), INC., REPRESENTED BY
ITS PRESIDENT TERESITA DAZA BALTAZAR, PILAR L.
CALDERON, RIZALITO YAP DAVID, ROSITA K. IMPERIAL, MA.
SALOME A. MABLE, SERAFIN G. OCAMPO, AND ELENA SAN
AGUSTIN, PETITIONERS, VS. PHILIPPINE GOVERNMENT (GPH),
REPRESENTED BY MARVIC M.V.F. LEONEN AND MIRIAM
CORONEL FERRER, AND MORO ISLAMIC LIBERATION FRONT,
REPRESENTED BY MOHAGHER IQBAL, RESPONDENTS.**

[G.R. No. 204355]

**REV. VICENTE LIBRADORES AQUINO, REV MERCIDITA S.
REDOBLE, AND INTERNATIONAL MINISTRIES FOR PERFECTION
AND PARTY AGAINST COMMUNISM AND TERRORISM, INC.
REPRESENTED BY ITS PRESIDENT, PETITIONERS, VS. GPH
PEACE PANEL CHIEF NEGOTIATOR ATTY. MARVIC M.V.F.
LEONEN, HON. SECRETARY TERESITA QUINTOS-DELES,
PRESIDENTIAL ADVISER ON THE PEACE PROCESS, HON.
PAQUITO L. OCHOA, EXECUTIVE SECRETARY, AND MEMBERS OF
THE GPH PEACE PANEL, RESPONDENTS.**

[G.R. No. 218407]

**JACINTO V. PARAS, PETITIONER, VS. MIRIAM CORONEL FERRER,
SENEN C. BACANI, YASMIN BUSRAN-LAO, MEHOL K. SADAIN,
AND TERESITA DELES, RESPONDENTS.**

[G.R. No. 204354]

**REV. ELLY VELEZ PAMATONG, ESQ., PETITIONER, VS.
GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES PEACE**

**PANEL ON BANGSAMORO, REPRESENTED BY ITS NEGOTIATORS,
MARVIC M.V.F. LEONEN, AND PRESIDENT BENIGNO S. AQUINO
III, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

Before the Court are consolidated petitions^[1] challenging the constitutionality and validity of the Comprehensive Agreement on the Bangsamoro (CAB) and the Framework Agreement on the Bangsamoro (FAB) entered into between the Government of the Philippines and the Moro Islamic Liberation Front (MILF) on 27 March 2014 and 12 October 2012, respectively.

In G.R. No. 218406, petitioners Philippine Constitution Association (Philconsa), represented by its President Ferdinand Martin G. Romualdez, Francisco S. Tatad, Archbishop Ramon C. Arguelles, Archbishop Fernando R. Capalla, Archbishop Romulo T. de la Cruz, and Norberto B. Gonzales contend that the provisions of the CAB and the FAB violate the Constitution and existing laws. They argue that the conduct of the peace process was defective since the Government of the Republic of the Philippines (GRP) Peace Panel negotiated only with the MILF and not with the other rebel groups. Hence, respondents violated Section 3(e) and (g) of Republic Act No. 3019^[2] in giving unwarranted advantages to the MILF. Petitioners further argue that respondents committed grave abuse of discretion when they "committed to cause the amendment of the Constitution and existing laws to conform to the FAB and CAB x x x."^[3]

In G.R. No. 218761, petitioners Tanggulang Demokrasya (TAN DEM), Inc., represented by its President Teresita Daza Baltazar, Pilar L. Calderon, Rizalito Yap David, Rosita K. Imperial, Ma. Salome A. Mable, Serfin G. Ocampo, and Elena San Agustin claim that the CAB and the FAB are unconstitutional since the agreements seek to create a virtual sub-state known as the Bangsamoro Political Entity (BPE) to replace the Autonomous Region of Muslim Mindanao (ARMM), and guarantee to make amendments to the Constitution to shift from the present unitary state to a new federal state which is beyond the GRP Peace Panel's power and authority to commit.

In G.R. No. 204355, petitioners Rev. Vicente Libradores Aquino, Rev. Mercidita S. Redoble, and International Ministries for Perfection and Party Against Communism and Terrorism, Inc. (IMPPACT, Inc.) argue that the GRP Peace Panel usurped the power of Congress to enact, amend, or repeal laws since it bound Congress to agree to the provisions of the FAB and abolish the ARMM. Petitioners add that the FAB provisions are replete with ambiguities, violative of the provisions of the Constitution, and inconsistent with Republic Act No. 9054.^[4]

In G.R. No. 218407, petitioner Jacinto V. Paras argues that the CAB and the FAB violate the provisions of the Constitution, as well as the consultation requirement under Executive Order (EO) No. 3 and Memorandum of Instructions of the President. Petitioner further contends that respondents exceeded their authority when they

guaranteed the amendment of certain provisions of the Constitution to conform to the CAB and the FAB.

In G.R. No. 204354, petitioner Rev. Elly Velez Pamatong claims that the constitutionally infirm MOA-AD of 2008 and the FAB are substantially the same since they are both aimed at creating a "fully independent Islamic State" covering Mindanao, Palawan, and Sulu.^[5] Petitioner argues, among others, that there were no consultations regarding the FAB. Petitioner further contends that the doctrine of *res judicata* applies since the MOA-AD and the FAB are similar. Consequently, the decision in the MOA-AD case is applicable. In addition, petitioner argues that the FAB is void for being unconstitutional since (1) under Section 18, Article X of the Constitution, an autonomous region can only be created by Congress and the President does not have the power to establish the Bangsamoro with the rebel group MILF; (2) the FAB is not a peace agreement but allegedly a conspiracy to establish an independent Bangsamoro Republic under Malaysian tutelage; and (3) the FAB guarantees constitutional amendments, which act is contrary to the mechanisms set forth in the Constitution itself.

Essentially, the petitions commonly seek to declare the CAB and the FAB unconstitutional for being similar to the void MOA-AD, which was struck down by the Court for violating, among others, the constitutional provisions on constitutional amendments.

The Facts

On 15 September 1993, President Fidel V. Ramos issued EO No. 125^[6] creating the Office of the Presidential Adviser on the Peace Process and calling for a "comprehensive, integrated and holistic peace process with Muslim rebels" in Mindanao. On 28 February 2001, President Gloria Macapagal-Arroyo issued EO No. 3^[7] which amended EO No. 125 to reaffirm the government's commitment to achieve just and lasting peace in the Philippines through a comprehensive peace process.

Pursuant to EO No. 3, the Government Peace Negotiating Panel (GPNP) held negotiations with the MILF, an armed, revolutionary Muslim separatist group based in Mindanao seeking separation of the Muslim people from the central government. The negotiations eventually led to the preparation of the Memorandum of Agreement on Ancestral Domain (MOA-AD) on 27 July 2008. However, on 14 October 2008, in the case of *Province of North Cotabato v. Government of the Republic of the Philippines Peace Panel on Ancestral Domain*,^[8] the Court declared the MOA-AD unconstitutional.

During the administration of President Benigno S. Aquino III, the government resumed peace negotiations with the MILF. Marvic M.V.F. Leonen^[9] headed the GPNP and became the government's chief peace negotiator with the MILF in July 2010.

On 15 October 2012, a preliminary peace agreement called the FAB^[10] was signed between the government and the MILF. The FAB called for the creation of an autonomous political entity named Bangsamoro, replacing the ARMM.

After further negotiations, the following Annexes and Addendum to the FAB were

also signed in Kuala Lumpur, Malaysia:

- a) Annex on Transitional Arrangements and Modalities;^[11]
- b) Annex on Revenue Generation and Wealth Sharing;^[12]
- c) Annex on Power Sharing;^[13]
- d) Annex on Normalization;^[14] and
- e) On the Bangsamoro Waters and Zones of Joint Cooperation Addendum to the Annex on Revenue Generation and Wealth Sharing and the Annex on Power Sharing.^[15]

The Annexes and Addendum discussed the following:

- a) The Annex on Transitional Arrangements and Modalities, signed on 27 February 2013, established the transitional process for the establishment of the Bangsamoro and detailed the creation of the Bangsamoro Transition Commission, the Bangsamoro Basic Law and the Bangsamoro Transition Authority.
- b) The Annex on Revenue Generation and Wealth Sharing, signed on 13 July 2013, enumerated the creation of sources of revenues for the Bangsamoro government and its power to levy taxes, fees and charges.
- c) The Annex on Power Sharing, signed on 8 December 2013, discussed intergovernmental relations of the central government, the Bangsamoro government and the constituent units under the Bangsamoro.
- d) The Annex on Normalization, signed on 25 January 2014, outlined the laying down of weapons of MILF members and their transition to civilian life.
- e) The Addendum on the Bangsamoro Waters and Zones of Joint Cooperation, signed on 25 January 2014, detailed the scope of waters under the territorial jurisdiction of the Bangsamoro (12 nautical miles from the coast) and Zones of Joint Cooperation in the Sulu Sea and the Moro Gulf.

On 7 December 2012, Miriam Coronel-Ferrer succeeded Marvic M.V.F. Leonen as GPNP Chairperson.

On 17 December 2012, President Benigno S. Aquino III issued EO No. 120,^[16] constituting the Bangsamoro Transition Commission, tasked, among others, to (1) draft the proposed Bangsamoro Basic Law with provisions consistent with the FAB, and (2) recommend to Congress or the people proposed amendments to the 1987 Philippine Constitution.^[17] Under Section 5 of the same EO, the Bangsamoro Transition Commission shall cease to operate upon the enactment by Congress of the Bangsamoro Basic Law.

On 27 March 2014, the Philippine Government, represented by GPNP Chairperson

Miriam Coronel-Ferrer, signed the CAB,^[18] which was an integration of the FAB, the Annexes and the other agreements^[19] previously executed by the government and the MILF.

On 10 September 2014, a draft of the Bangsamoro Basic Law, referred to as House Bill (HB) No. 4994,^[20] was presented by President Aquino to the 16th Congress. On 27 May 2015, in Committee Report No. 747, the Ad Hoc Committee on the Basic Bangsamoro Law of the House of Representatives substituted said bill and passed another version known as House Bill No. 5811.^[21] In the Senate, a revised version of the Bangsamoro Basic Law, known as the Basic Law for the Bangsamoro Autonomous Region or Senate Bill No. 2894,^[22] was presented on 10 August 2015. However, on 6 June 2016, the 16th Congress adjourned^[23] without passing the proposed Bangsamoro Basic Law.

Meanwhile, several petitions were filed with this Court assailing the constitutionality of the CAB, including the FAB, and its Annexes. G.R. Nos. 204354 and 204355, which were both filed in 2012, were consolidated pursuant to a Resolution^[24] dated 11 December 2012. Likewise, in a Resolution^[25] dated 23 June 2015, G.R. Nos. 218406 and 218407 were consolidated. In a Resolution^[26] dated 12 January 2016, the Court granted the consolidation of G.R. No. 218761 with G.R. Nos. 218406 and 218407. In a Resolution dated 22 November 2016, all five petitions were consolidated.

On 7 November 2016, President Rodrigo Roa Duterte issued EO No. 08^[27] expanding the membership and functions of the Bangsamoro Transition Commission. EO No. 08 expands the number of members of the Bangsamoro Transition Commission from 15 to 21. Section 3 of EO No. 120, as amended by EO No. 08, provides for the functions of the Bangsamoro Transition Commission, which include drafting proposals for a Bangsamoro Basic Law, to be submitted to the Office of the President for submission to Congress, and recommending to Congress or the people proposed amendments to the 1987 Philippine Constitution.

The Issue

The threshold issue in this case is whether the CAB, including the FAB, is constitutional.

The Court's Ruling

We dismiss the petitions.

Not ripe for adjudication due to non-enactment of the Bangsamoro Basic Law

Section 1, Article VIII of the Constitution spells out what judicial power is, to wit:

Section 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual