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[G.R. No. 176951, December 21, 2009]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF BAYBAY, PROVINCE OF LEYTE; MUNICIPALITY OF BOGO, PROVINCE OF CEBU; MUNICIPALITY OF CATBALOGAN, PROVINCE OF WESTERN SAMAR; MUNICIPALITY OF TANDAG, PROVINCE OF SURIGAO DEL SUR; MUNICIPALITY OF BORONGAN, PROVINCE OF EASTERN SAMAR; AND MUNICIPALITY OF TAYABAS, PROVINCE OF QUEZON, RESPONDENTS. CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.

[G.R. No. 177499]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF LAMITAN, PROVINCE OF BASILAN; MUNICIPALITY OF TABUK, PROVINCE OF KALINGA; MUNICIPALITY OF BAYUGAN, PROVINCE OF AGUSAN DEL SUR; MUNICIPALITY OF BATAC, PROVINCE OF ILOCOS NORTE; MUNICIPALITY OF MATI, PROVINCE OF DAVAO ORIENTAL; AND MUNICIPALITY OF GUIHULNGAN, PROVINCE OF NEGROS ORIENTAL, RESPONDENTS. CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.

[G.R. No. 178056]

LEAGUE OF CITIES OF THE PHILIPPINES (LCP) REPRESENTED BY LCP NATIONAL PRESIDENT JERRY P. TREÑAS, CITY OF ILOILO REPRESENTED BY MAYOR JERRY P. TREÑAS, CITY OF CALBAYOG REPRESENTED BY MAYOR MEL SENEN S. SARMIENTO, AND JERRY P. TREÑAS IN HIS PERSONAL CAPACITY AS TAXPAYER, PETITIONERS, VS. COMMISSION ON ELECTIONS; MUNICIPALITY OF CABADBARAN, PROVINCE OF AGUSAN DEL NORTE; MUNICIPALITY OF CARCAR, PROVINCE OF CEBU; AND MUNICIPALITY OF EL SALVADOR, MISAMIS ORIENTAL, RESPONDENTS. CITY OF TARLAC, CITY OF SANTIAGO, CITY OF IRIGA, CITY OF LIGAO, CITY OF LEGAZPI, CITY OF TAGAYTAY, CITY OF SURIGAO, CITY OF BAYAWAN, CITY OF SILAY, CITY OF GENERAL SANTOS, CITY OF ZAMBOANGA, CITY OF GINGOOG, CITY OF CAUAYAN, CITY OF PAGADIAN, CITY OF SAN CARLOS, CITY OF SAN FERNANDO, CITY OF TACURONG, CITY OF TANGUB, CITY OF OROQUIETA, CITY OF URDANETA, CITY OF VICTORIAS, CITY OF CALAPAN, CITY OF HIMAMAYLAN, CITY OF BATANGAS, CITY OF BAIS, CITY OF CADIZ, AND CITY OF TAGUM, PETITIONERS-IN-INTERVENTION.

D E C I S I O N

VELASCO JR., J.:

Ratio legis est anima. The spirit rather than the letter of the law. A statute must be read according to its spirit or intent,[1] for what is within the spirit is within the statute although it is not within its letter, and that which is within the letter but not within the spirit is not within the statute.[2] Put a bit differently, that which is within the intent of the lawmaker is as much within the statute as if within the letter; and that which is within the letter of the statute is not within the statute unless within the intent of the lawmakers.[3] Withal, courts ought not to interpret and should not accept an interpretation that would defeat the intent of the law and its legislators.[4]

So as it is exhorted to pass on a challenge against the validity of an act of Congress, a co-equal branch of government, it behooves the Court to have at once one principle in mind: the presumption of constitutionality of statutes.[5] This presumption finds its roots in the tri-partite system of government and the corollary separation of powers, which enjoins the three great departments of the government to accord a becoming courtesy for each other's acts, and not to interfere inordinately with the exercise by one of its official functions. Towards this end, courts ought to reject assaults against the validity of statutes, barring of course their clear unconstitutionality. To doubt is to sustain, the theory in context being that the law is the product of earnest studies by Congress to ensure that no constitutional prescription or concept is infringed.[6] Consequently, before a law duly challenged is nullified, an unequivocal breach of, or a clear conflict with, the Constitution, not merely a doubtful or argumentative one, must be demonstrated in such a manner as to leave no doubt in the mind of the Court.[7]

BACKGROUND

The consolidated petitions for prohibition commenced by the League of Cities of the Philippines (LCP), City of Iloilo, City of Calbayog, and Jerry P. Treñas[8] assail the constitutionality of the sixteen (16) laws,[9] each converting the municipality covered thereby into a city (cityhood laws, hereinafter) and seek to enjoin the Commission on Elections (COMELEC) from conducting plebiscites pursuant to subject laws.

By Decision[10] dated November 18, 2008, the Court *en banc*, by a 6-5 vote, granted the petitions and nullified the sixteen (16) cityhood laws for being violative of the Constitution, specifically its Section 10, Article X and the equal protection clause.

Subsequently, respondent local government units (LGUs) moved for reconsideration, raising, as one of the issues, the validity of the factual premises not contained in the pleadings of the parties, let alone established, which became the bases of the Decision subject of reconsideration.[11] By Resolution of March 31, 2009, a divided Court denied the motion for reconsideration.

A second motion for reconsideration followed in which respondent LGUs prayed as follows:

> WHEREFORE, respondents respectfully pray that the Honorable Court reconsider its "Resolution" dated March 31, 2009, in so far as it denies for "lack of merit" respondents' "Motion for Reconsideration" dated December 9, 2008 and in lieu thereof, considering that new and meritorious arguments are raised by respondents' "Motion for Reconsideration" dated December 9, 2008 to grant afore-mentioned "Motion for Reconsideration" dated December 9, 2008 and dismiss the "Petitions For Prohibition" in the instant case.

Per **Resolution** dated **April 28, 2009**, the Court, voting 6-6, disposed of the motion as follows:

> By a vote of 6-6, the Motion for Reconsideration of the Resolution of 31 March 2009 is DENIED for lack of merit. The motion is denied since there is no majority that voted to overturn the Resolution of 31 March 2009.
>
> The Second Motion for Reconsideration of the Decision of 18 November 2008 is DENIED for being a prohibited pleading, and the Motion for Leave to Admit Attached Petition in Intervention x x x filed by counsel for Ludivina T. Mas, et al. are also DENIED. No further pleadings shall be entertained. Let entry of judgment be made in due course. x x x

On **May 14, 2009**, respondent LGUs filed a *Motion to Amend the Resolution of April 28, 2009 by Declaring Instead that Respondents' "Motion for Reconsideration of the Resolution of March 31, 2009" and "Motion for Leave to File and to Admit Attached `Second Motion for Reconsideration of the Decision Dated November 18, 2008' Remain Unresolved and to Conduct Further Proceedings Thereon*."

Per its **Resolution of June 2, 2009**, the Court declared the May 14, 2009 motion adverted to as expunged in light of the entry of judgment made on May 21, 2009. Justice Leonardo-De Castro, however, taking common cause with Justice Bersamin to grant the motion for reconsideration of the April 28, 2009 Resolution and to recall the entry of judgment, stated the observation, and with reason, that the entry was effected "before the Court could act on the aforesaid motion which was filed within the 15-day period counted from receipt of the April 28, 2009 Resolution."[12]

Forthwith, respondent LGUs filed a *Motion for Reconsideration of the Resolution of June 2, 2009* to which some of the petitioners and petitioners-in-intervention filed their respective comments. The Court will now rule on this incident. But first, we set and underscore some basic premises:

(1) The initial motion to reconsider the November 18, 2008 Decision, as Justice Leonardo-De Castro noted, indeed raised new and substantial issues, inclusive of the matter of the correctness of the factual premises upon which the said decision was predicated. The 6-6 vote on the motion for reconsideration per the Resolution of March 31, 2009, which denied the motion on the sole ground that "the basic issues have already been passed upon" reflected a divided Court on the issue of whether or not the underlying Decision of November 18, 2008 had indeed passed upon the basic issues raised in the motion for reconsideration of the said decision;

(2) The aforesaid May 14, 2009 *Motion to Amend Resolution of April 28, 2009* was precipitated by the tie vote which served as basis for the issuance of said resolution. This May 14, 2009 motion--which mainly argued that a tie vote is inadequate to declare a law unconstitutional-- remains unresolved; and

(3) Pursuant to Sec. 4(2), Art. VIII of the Constitution, all cases involving the constitutionality of a law shall be heard by the Court *en banc* and decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the case and voted thereon.

The basic issue tendered in this motion for reconsideration of the June 2, 2009 Resolution boils down to whether or not the required vote set forth in the aforesaid Sec. 4(2), Art. VIII is limited only to the initial vote on the petition or also to the subsequent voting on the motion for reconsideration where the Court is called upon and actually votes on the constitutionality of a law or like issuances. Or, as applied to this case, would a minute resolution dismissing, on a tie vote, a motion for reconsideration on the sole stated ground--that the "basic issues have already been passed"-- suffice to hurdle the voting requirement required for a declaration of the unconstitutionality of the cityhood laws in question?

The 6-6 vote on the motion to reconsider the Resolution of March 31, 2009, which denied the initial motion on the sole ground that "the basic issues had already been passed upon" betrayed an evenly divided Court on the issue of whether or not the underlying Decision of November 18, 2008 had indeed passed upon the issues raised in the motion for reconsideration of the said decision. But at the end of the day, the single issue that matters and the vote that really counts really turn on the constitutionality of the cityhood laws. And be it remembered that the inconclusive 6-6 tie vote reflected in the April 28, 2009 Resolution was the last vote on the issue of whether or not the cityhood laws infringe the Constitution. Accordingly, the motions of the respondent LGUs, in light of the 6-6 vote, should be deliberated anew until the required concurrence on the issue of the validity or invalidity of the laws in question is, on the merits, secured.

It ought to be clear that a deadlocked vote does not reflect the "majority of the Members" contemplated in Sec. 4 (2) of Art. VIII of the Constitution, which requires that:

> All cases involving the constitutionality of a treaty, international or executive agreement, or law shall be heard by the Supreme Court *en banc*, x x x shall be decided with the **concurrence of a majority** of the Members who actually took part in the deliberations on the issues in the case and voted thereon. (Emphasis added.)

Webster defines "majority" as "a number greater than half of a total."[13] In plain language, this means 50% plus one. In *Lambino v. Commission on Elections*, Justice, now Chief Justice, Puno, in a separate opinion, expressed the view that "**a deadlocked vote of six (6) is not a majority and a non-majority cannot write a rule with precedential value**."[14]

As may be noted, the aforequoted Sec. 4 of Art. VIII, as couched, exacts a majority vote in the determination of a case involving the constitutionality of a statute, without distinguishing whether such determination is made on the main petition or thereafter on a motion for reconsideration. This is as it should be, for, to borrow from the late Justice Ricardo J. Francisco: "x x x [E]ven assuming x x x that the constitutional requirement on the concurrence of the `majority' was initially reached in the x x x *ponencia*, the same is inconclusive as it was still open for review by way of a motion for reconsideration."[15]

To be sure, the Court has taken stock of the rule on a tie-vote situation, i.e., Sec. 7, Rule 56 and the complementary A.M. No. 99-1-09- SC, respectively, providing that:

> SEC. 7. *Procedure if opinion is equally divided*. - Where the court en banc is equally divided in opinion, or the necessary majority cannot be had, the case shall again be deliberated on, and if after such deliberation no decision is reached, the original action commenced in the court shall be dismissed; in appealed cases, the judgment or order appealed from shall stand affirmed; and on all incidental matters, the petition or motion shall be denied.
>
> **A.M. No. 99-1-09-SC** - x x x A motion for reconsideration of a decision or resolution of the Court *En Banc* or of a Division may be granted upon a vote of a majority of the *En Banc* or of a Division, as the case may be, who actually took part in the deliberation of the motion.
>
> If the voting results in a tie, the motion for reconsideration is deemed denied.

But since the instant cases fall under Sec. 4 (2), Art. VIII of the Constitution, the aforequoted provisions ought to be applied in conjunction with the prescription of the Constitution that the cases "shall be decided with the concurrence of a majority of the Members who actually took part in the deliberations on the issues in the instant cases and voted thereon." To repeat, the last vote on the issue of the constitutionality of the cityhood bills is that reflected in the April 28, 2009 Resolution--a 6-6 deadlock.

On the postulate then that *first*, the finality of the November 18, 2008 Decision has yet to set in, the issuance of the precipitate[16] entry of judgment notwithstanding, and *second*, the deadlocked vote on the second motion for reconsideration did not definitely settle the constitutionality of the cityhood laws, the Court is inclined to take another hard look at the underlying decision. Without belaboring in their smallest details the arguments for and against the procedural dimension of this disposition, it bears to stress that the Court has the power to suspend its own rules when the ends of justice would be served thereby.[17] In the performance of their duties, courts should not be shackled by stringent rules which would result in manifest injustice. Rules of procedure are only tools crafted to facilitate the attainment of justice. Their strict and rigid application must be eschewed, if they result in technicalities that tend to frustrate rather than promote substantial justice. Substantial rights must not be prejudiced by a rigid and technical application of the rules in the altar of expediency. When a case is impressed with public interest, a relaxation of the application of the rules is in order.[18] Time and again, this Court has suspended its own rules or excepted a particular case from their operation whenever the higher interests of justice so require.[19]

While perhaps not on all fours with the case, because it involved a purely business transaction, what the Court said in *Chuidian v. Sandiganbayan*[20] is most apropos:

> To reiterate what the Court has said in *Ginete vs. Court of Appeals* and other cases, the rules of procedure should be viewed as mere instruments designed to facilitate the attainment of justice. They are not to be applied with severity and rigidity when such application would clearly defeat the very rationale for their conception and existence. Even the Rules of Court reflects this principle. The power to suspend or even disregard rules, inclusive of the one-motion rule, can be so pervasive and compelling as to alter even that which this Court has already declared to be final. The peculiarities of this case impel us to do so now.

The Court, by a vote of 6-4, grants the respondent LGUs' motion for reconsideration of the Resolution of June 2, 2009, as well as their May 14, 2009 motion to consider the second motion for reconsideration of the November 18, 2008 Decision unresolved, and also grants said second motion for reconsideration.

This brings us to the substantive aspect of the case.

The Undisputed Factual Antecedents in Brief

During the 11th Congress,[21] fifty-seven (57) cityhood bills were filed before the House of Representatives.[22] Of the fifty-seven (57), thirty-three (33) eventually became laws. The twenty-four (24) other bills were not acted upon.

Later developments saw the introduction in the Senate of Senate Bill (S. Bill) No. 2157[23] to amend Sec. 450 of Republic Act No. (RA) 7160, otherwise known as the Local Government Code (LGC) of 1991. The proposed amendment sought to increase the income requirement to qualify for conversion into a city from PhP 20 million average annual income to PhP 100 million locally generated

income.

In March 2001, S. Bill No. 2157 was signed into law as RA 9009 to take effect on June 30, 2001. As thus amended by RA 9009, Sec. 450 of the LGC of 1991 now provides that "[a] municipality x x x may be converted into a component city if it has a [certified] locally generated average annual income x x x of at least [PhP 100 million] for the last two (2) consecutive years based on 2000 constant prices."

After the effectivity of RA 9009, the Lower House of the 12th Congress adopted in July 2001 House (H.) Joint Resolution No. 29[24] which, as its title indicated, sought to exempt from the income requirement prescribed in RA 9009 the 24 municipalities whose conversions into cities were not acted upon during the previous Congress. The 12th Congress ended without the Senate approving H. Joint Resolution No. 29.

Then came the 13th Congress (July 2004 to June 2007), which saw the House of Representatives re-adopting H. Joint Resolution No. 29 as H. Joint Resolution No. 1 and forwarding it to the Senate for approval.

The Senate, however, again failed to approve the joint resolution. During the Senate session held on November 6, 2006, Senator Aquilino Pimentel, Jr. asserted that passing H. Resolution No. 1 would, in net effect, allow a wholesale exemption from the income requirement imposed under RA 9009 on the municipalities. For this reason, he suggested the filing by the House of Representatives of individual bills to pave the way for the municipalities to become cities and then forwarding them to the Senate for proper action.[25]

Heeding the advice, sixteen (16) municipalities filed, through their respective sponsors, individual cityhood bills. Common to all 16 measures was a provision exempting the municipality covered from the PhP 100 million income requirement.

As of June 7, 2007, both Houses of Congress had approved the individual cityhood bills, all of which eventually lapsed into law on various dates. Each cityhood law directs the COMELEC, within thirty (30) days from its approval, to hold a plebiscite to determine whether the voters approve of the conversion.

As earlier stated, the instant petitions seek to declare the cityhood laws unconstitutional for violation of Sec. 10, Art. X of the Constitution, as well as for violation of the equal-protection clause. The wholesale conversion of municipalities into cities, the petitioners bemoan, will reduce the share of existing cities in the Internal Revenue Allotment (IRA), since more cities will partake of the internal revenue set aside for all cities under Sec. 285 of the LGC of 1991.[26]

Petitioners-in-intervention, LPC members themselves, would later seek leave and be allowed to intervene.

Aside from their basic plea to strike down as unconstitutional the cityhood laws in question, petitioners and petitioners-in-intervention collectively pray that an order issue enjoining the COMELEC from conducting plebiscites in the affected areas. An alternative prayer would urge the Court to restrain the poll body from proclaiming the plebiscite results.

On July 24, 2007, the Court *en banc* resolved to consolidate the petitions and the petitions-in-intervention. On March 11, 2008, it heard the parties in oral arguments.

The Issues

In the main, the issues to which all others must yield pivot on whether or not the cityhood laws violate (1) Sec. 10. Art. X of the Constitution and (2) the equal protection clause.

In the November 18, 2008 Decision granting the petitions, Justice Antonio T. Carpio, for the Court, resolved the twin posers in the affirmative and accordingly declared the cityhood laws unconstitutional, deviating as they do from the uniform and non-discriminatory income criterion prescribed by the LGC of 1991. In so doing, the *ponencia* veritably agreed with the petitioners that the Constitution, in clear and unambiguous language, requires that all the criteria for the creation of a city shall be embodied and written in the LGC, and not in any other law.

After a circumspect reflection, the Court is disposed to reconsider.

Petitioners' threshold posture, characterized by a strained interpretation of the Constitution, if accorded cogency, would veritably curtail and cripple Congress' valid exercise of its authority to create political subdivisions.

By constitutional design[27] and as a matter of long-established principle, the power to create political subdivisions or LGUs is essentially legislative in character.[28] But even without any constitutional grant, Congress can, by law, create, divide, merge, or altogether abolish or alter the boundaries of a province, city, or municipality. We said as much in the fairly recent case, *Sema v. CIMELEC*.[29] The 1987 Constitution, under its Art. X, Sec. 10, nonetheless provides for the creation of LGUs, thus:

> Section 10. No province, city, municipality, or *barangay* shall 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.)

As may be noted, the afore-quoted provision specifically provides for the creation of political subdivisions "**in accordance with the criteria established in the local government code**," subject to the approval of the voters in the unit concerned. The criteria referred to are the verifiable indicators of viability, i.e., area, population, and income, now set forth in Sec. 450 of the LGC of 1991, as amended by RA 9009. The petitioners would parlay the thesis that these indicators or criteria must be written only in the LGC and not in any other statute. Doubtless, the code they are referring to is the LGC of 1991. Pushing their point, they conclude that the cityhood laws that exempted the respondent LGUs from the income standard spelled out in the amendatory RA 9009 offend the Constitution.

Petitioners' posture does not persuade.

The supposedly infringed Art. X, Sec. 10 is not a new constitutional provision. Save for the use of the term "**barrio**" in lieu of "**barangay**," "**may be**" instead of "**shall**," the change of the phrase "**unit or units**" to "**political unit**" and the addition of the modifier "**directly**" to the word "**affected**," the aforesaid provision is a substantial reproduction of Art. XI, Sec. 3 of the 1973 Constitution, which reads:

> Section 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 approval by a majority of the votes cast in a plebiscite in the **unit or units** affected. (Emphasis supplied.)

It bears notice, however, that the "**code**" similarly referred to in the 1973 and 1987 Constitutions is clearly but a law Congress enacted. This is consistent with the aforementioned plenary power of Congress to create political units. Necessarily, since Congress wields the vast poser of creating political subdivisions, surely it can exercise the lesser authority of requiring a set of criteria, standards, or ascertainable indicators of viability for their creation. Thus, the only conceivable reason why the Constitution employs the clause "**in accordance with the criteria established in the local government code**" is to lay stress that it is Congress alone, and no other, which can impose the criteria. The eminent constitutionalist, Fr. Joaquin G. Bernas, S.J., in his treatise on Constitutional Law, specifically on the subject provision, explains:

> Prior to 1965, there was a certain lack of clarity with regard to the power to create, divide, merge, dissolve, or change the boundaries of municipal corporations. The extent to which the executive may share in this power was obscured by *Cardona v. Municipality of Binangonan*.[30] *Pelaez v. Auditor General* subsequently clarified the *Cardona* case when the Supreme Court said that "the authority to *create* municipal corporations is essentially legislative in nature."[31] *Pelaez*, however, conceded that "the power to fix such common boundary, in order to avoid or settle conflicts of jurisdiction between adjoining municipalities, may partake of an *administrative* nature-involving as it does, the adoption of means and ways to *carry into effect* the law creating said municipalities."[32] *Pelaez* was silent about division, merger, and dissolution of municipal corporations. But since division in effect *creates* a new municipality, and both dissolution and merger in effect abolish a legal creation, it may fairly be inferred that these acts are also *legislative* in nature.
>
> Section 10 [Art. X of the 1987 Constitution], which is a legacy from the 1973 Constitution, goes further than the doctrine in the *Pelaez* case. It not only makes creation, division, merger, abolition or substantial alteration of boundaries of provinces, cities, municipalities x x x subject to "criteria established in the local government code," **thereby declaring these actions properly legislative**, but it also makes creation, division, merger, abolition or substantial alteration of boundaries "subject to approval by a majority of the votes cast in a plebiscite in the political units directly affected."[33] x x x (Emphasis added.)

It remains to be observed at this juncture that when the 1987 Constitution speaks of the LGC, the reference cannot be to any specific statute or codification of laws, let alone the LGC of 1991.[34] Be it noted that at the time of the adoption of the 1987 Constitution, Batas Pambansa Blg. (BP) 337, the then LGC, was still in effect. Accordingly, had the framers of the 1987 Constitution intended to isolate the embodiment of the criteria only in the LGC, then they would have actually referred to BP 337. Also, they would then not have provided for the enactment by Congress of a new LGC, as they did in Art. X, Sec. 3[35] of the Constitution.

Consistent with its plenary legislative power on the matter, Congress can, via either a consolidated set of laws or a much simpler, single-subject enactment, impose the said verifiable criteria of viability. These criteria need not be embodied in the local government code, albeit this code is the ideal repository to ensure, as much as possible, the element of uniformity. Congress can even, after making a codification, enact an amendatory law, adding to the existing layers of indicators earlier codified, just as efficaciously as it may reduce the same. In this case, the amendatory RA 9009 upped the already codified income requirement from PhP 20 million to PhP 100 million. At the end of the day, the passage of amendatory laws is no different from the enactment of laws, i.e., the cityhood laws specifically exempting a particular political subdivision from the criteria earlier mentioned. Congress, in enacting the exempting law/s, effectively decreased the already codified indicators.

Petitioners' theory that Congress must provide the criteria solely in the LGC and not in any other law strikes the Court as illogical. For if we pursue their contention to its logical conclusion, then RA 9009 embodying the new and increased income criterion would, in a way, also suffer the vice of unconstitutionality. It is startling, however, that petitioners do not question the constitutionality of RA 9009, as they in fact use said law as an argument for the alleged unconstitutionality of the cityhood laws.

As it were, Congress, through the medium of the cityhood laws, validly decreased the income criterion vis-à-vis the respondent LGUs, but without necessarily being unreasonably discriminatory, as shall be discussed shortly, by reverting to the PhP 20 million threshold what it earlier raised to PhP 100 million. The legislative intent not to subject respondent LGUs to the more stringent requirements of RA 9009 finds expression in the following uniform provision of the cityhood laws:

> Exemption from Republic Act No. 9009. - The City of x x x shall be exempted from the income requirement prescribed under Republic Act No. 9009.

In any event, petitioners' constitutional objection would still be untenable even if we were to assume purely *ex hypothesi* the correctness of their underlying thesis, viz: that the conversion of a municipality to a city shall be in accordance with, among other things, the income criterion set forth in the LGC of 1991, and in no other; otherwise, the conversion is invalid. We shall explain.

Looking at the circumstances behind the enactment of the laws subject of contention, the Court finds that the LGC-amending RA 9009, no less, intended the LGUs covered by the cityhood laws to be exempt from the PhP 100 million income criterion. In other words, the cityhood laws, which merely carried out the intent of RA 9009, adhered, in the final analysis, to the "**criteria established in the Local Government Code**," pursuant to Sec. 10, Art. X of the 1987 Constitution. We shall now proceed to discuss this