558 Phil. 338

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[G.R. NO. 166052, August 29, 2007]

ANAK MINDANAO PARTY-LIST GROUP, AS REPRESENTED BY REP. MUJIV S. HATAMAN, AND MAMALO DESCENDANTS ORGANIZATION, INC., AS REPRESENTED BY ITS CHAIRMAN ROMY PARDI, PETITIONERS, VS. THE EXECUTIVE SECRETARY, THE HON. EDUARDO R. ERMITA, AND THE SECRETARY OF AGRARIAN/LAND REFORM, THE HON. RENE C. VILLA, RESPONDENTS.

D E C I S I O N

CARPIO MORALES, J.:

Petitioners *Anak* Mindanao Party-List Group (AMIN) and Mamalo Descendants Organization, Inc. (MDOI) assail the constitutionality of Executive Order (E.O.) Nos. 364 and 379, both issued in 2004, via the present Petition for Certiorari and Prohibition with prayer for injunctive relief.

E.O. No. 364, which President Gloria Macapagal-Arroyo issued on September 27, 2004, reads:

EXECUTIVE ORDER NO. 364

TRANSFORMING THE DEPARTMENT OF AGRARIAN REFORM INTO THE DEPARTMENT OF LAND REFORM

WHEREAS, one of the five reform packages of the Arroyo administration is Social Justice and Basic [N]eeds;

WHEREAS, one of the five anti-poverty measures for social justice is asset reform;

WHEREAS, asset reforms covers [*sic*] agrarian reform, urban land reform, and ancestral domain reform;

WHEREAS, urban land reform is a concern of the Presidential Commission [for] the Urban Poor (PCUP) and ancestral domain reform is a concern of the National Commission on Indigenous Peoples (NCIP);

WHEREAS, another of the five reform packages of the Arroyo administration is Anti-Corruption and Good Government;

WHEREAS, one of the Good Government reforms of the Arroyo administration is rationalizing the bureaucracy by consolidating related functions into one department;

WHEREAS, under law and jurisprudence, the President of the Philippines has broad powers to reorganize the offices under her supervision and control;

NOW[,] THEREFORE[,] I, Gloria Macapagal-Arroyo, by the powers vested in me as President of the Republic of the Philippines, do hereby order:

SECTION 1. **The Department of Agrarian Reform** is hereby **transformed** into the **Department of Land Reform**. It shall be responsible for all land reform in the country, including agrarian reform, urban land reform, and ancestral domain reform.

SECTION 2. The **PCUP** is hereby placed **under the supervision and control of the Department of Land Reform**. The Chairman of the PCUP shall be ex-officio Undersecretary of the Department of Land Reform for Urban Land Reform.

SECTION 3. The NCIP is hereby placed under the supervision and control of the Department of Land Reform. The Chairman of the NCIP shall be ex-officio Undersecretary of the Department of Land Reform for Ancestral Domain Reform.

SECTION 4. The PCUP and the NCIP shall have access to the services provided by the Department's Finance, Management and Administrative Office; Policy, Planning and Legal Affairs Office, Field Operations and Support Services Office, and all other offices of the Department of Land Reform.

SECTION 5. All previous issuances that conflict with this Executive Order are hereby repealed or modified accordingly.

SECTION 6. This Executive Order takes effect immediately. (Emphasis and underscoring supplied)

E.O. No. 379, which amended E.O. No. 364 a month later or on October 26, 2004, reads:

EXECUTIVE ORDER NO. 379

AMENDING EXECUTIVE ORDER NO. 364 ENTITLED TRANSFORMING THE DEPARTMENT OF AGRARIAN REFORM INTO THE DEPARTMENT OF LAND REFORM

WHEREAS, Republic Act No. 8371 created the National Commission on Indigenous Peoples;

WHEREAS, pursuant to the Administrative Code of 1987, the President has the continuing authority to reorganize the administrative structure of the National Government.

NOW, THEREFORE, I, GLORIA MACAPAGAL-ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me by the

Constitution and existing laws, do hereby order:

Section 1. *Amending Section 3 of Executive Order No. 364*. Section 3 of Executive Order No. 364, dated September 27, 2004 shall now read as follows:

> "Section 3. **The National Commission on Indigenous Peoples** (NCIP) shall be an **attached agency of the Department of Land Reform**."

Section 2. *Compensation*. The Chairperson shall suffer no diminution in rank and salary.

Section 3. *Repealing Clause*. All executive issuances, rules and regulations or parts thereof which are inconsistent with this Executive Order are hereby revoked, amended or modified accordingly.

Section 4. *Effectivity*. This Executive Order shall take effect immediately. (Emphasis and underscoring in the original)

Petitioners contend that the two presidential issuances are unconstitutional for violating:

> -THE CONSTITUTIONAL PRINCIPLES OF SEPARATION OF POWERS AND OF THE RULE OF LAW[;]
>
> -THE CONSTITUTIONAL SCHEME AND POLICIES FOR AGRARIAN REFORM, URBAN LAND REFORM, INDIGENOUS PEOPLES' RIGHTS AND ANCESTRAL DOMAIN[; AND]
>
> -THE CONSTITUTIONAL RIGHT OF THE PEOPLE AND THEIR ORGANIZATIONS TO EFFECTIVE AND REASONABLE PARTICIPATION IN DECISION-MAKING, INCLUDING THROUGH ADEQUATE CONSULTATION[.] [1]

By Resolution of December 6, 2005, this Court gave due course to the Petition and required the submission of memoranda, with which petitioners and respondents complied on March 24, 2006 and April 11, 2006, respectively.

The issue on the transformation of the Department of Agrarian Reform (DAR) into the Department of Land Reform (DLR) became moot and academic, however, the department having reverted to its former name by virtue of E.O. No. 456[2] which was issued on August 23, 2005.

The Court is thus left with the sole issue of the legality of placing the Presidential Commission[3] for the Urban Poor (PCUP) under the supervision and control of the DAR, and the National Commission on Indigenous Peoples (NCIP) under the DAR as an attached agency.

Before inquiring into the validity of the reorganization, petitioners' *locus standi* or legal standing, *inter alia*,[4] becomes a preliminary question.

The Office of the Solicitor General (OSG), on behalf of respondents, concedes that AMIN[5] has the requisite legal standing to file this suit as member[6] of Congress.

Petitioners find it impermissible for the Executive to intrude into the domain of the Legislature. They posit that an act of the Executive which injures the institution of Congress causes a derivative but nonetheless substantial injury, which can be questioned by a member of Congress.[7] They add that to the extent that the powers of Congress are impaired, so is the power of each member thereof, since his office confers a right to participate in the exercise of the powers of that institution.[8]

Indeed, a member of the House of Representatives has standing to maintain inviolate the prerogatives, powers and privileges vested by the Constitution in his office.[9]

The OSG questions, however, the standing of MDOI, a registered people's organization of *Teduray* and *Lambangian* tribesfolk of (North) Upi and South Upi in the province of Maguindanao.

As co-petitioner, MDOI alleges that it is concerned with the negative impact of NCIP's becoming an attached agency of the DAR on the processing of ancestral domain claims. It fears that transferring the NCIP to the DAR would affect the processing of ancestral domain claims filed by its members.

Locus standi or legal standing has been defined as a personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged. The gist of the question of standing is whether a party alleges such personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court depends for illumination of difficult constitutional questions.[10]

It has been held that a party who assails the constitutionality of a statute must have a direct and personal interest. It must show not only that the law or any governmental act is invalid, but also that it sustained or is in immediate danger of sustaining some direct injury as a result of its enforcement, and not merely that it suffers thereby in some indefinite way. It must show that it has been or is about to be denied some right or privilege to which it is lawfully entitled or that it is about to be subjected to some burdens or penalties by reason of the statute or act complained of.[11]

For a concerned party to be allowed to raise a constitutional question, it must show that (1) it has personally suffered some actual or threatened injury as a result of the allegedly illegal conduct of the government, (2) the injury is fairly traceable to the challenged action, and (3) the injury is likely to be redressed by a favorable action.[12]

An examination of MDOI's nebulous claims of "negative impact" and "probable setbacks"[13] shows that they are too abstract to be considered judicially cognizable. And the line of causation it proffers between the challenged action and alleged injury is too attenuated.

Vague propositions that the implementation of the assailed orders will work injustice and violate the rights of its members cannot clothe MDOI with the requisite standing. Neither would its status as a "people's organization" vest it with the legal standing to assail the validity of the executive orders.[14]

La Bugal-B'laan Tribal Association, Inc. v. Ramos,[15] which MDOI cites in support of its claim to legal standing, is inapplicable as it is not similarly situated with the therein petitioners who alleged personal and substantial injury resulting from the mining activities permitted by the assailed statute. And so is *Cruz v. Secretary of Environment and Natural Resources*,[16] for the indigenous peoples' leaders and organizations were not the petitioners therein, who necessarily had to satisfy the *locus standi* requirement, but were intervenors who sought and were allowed to be impleaded, not to assail but to defend the constitutionality of the statute.

Moreover, MDOI raises no issue of transcendental importance to justify a relaxation of the rule on legal standing. To be accorded standing on the ground of transcendental importance, *Senate of the Philippines v. Ermita*[17] requires that the following elements must be established: (1) the public character of the funds or other assets involved in the case, (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of government, and (3) the lack of any other party with a more direct and specific interest in raising the questions being raised. The presence of these elements MDOI failed to establish, much less allege.

Francisco, Jr. v. Fernando[18] more specifically declares that the transcendental importance of the issues raised must relate to the merits of the petition.

This Court, not being a venue for the ventilation of generalized grievances, must thus deny adjudication of the matters raised by MDOI.

Now, on AMIN's position. AMIN charges the Executive Department with transgression of the principle of separation of powers.

Under the principle of separation of powers, Congress, the President, and the Judiciary may not encroach on fields allocated to each of them. The legislature is generally limited to the enactment of laws, the executive to the enforcement of laws, and the judiciary to their interpretation and application to cases and controversies. The principle presupposes mutual respect by and between the executive, legislative and judicial departments of the government and calls for them to be left alone to discharge their duties as they see fit.[19]

AMIN contends that since the DAR, PCUP and NCIP were created by statutes,[20] they can only be transformed, merged or attached by statutes, not by mere executive orders.

While AMIN concedes that the executive power is vested in the President [21] who, as Chief Executive, holds the power of control of all the executive departments, bureaus, and offices, [22] it posits that this broad power of control including the power to reorganize is qualified and limited, for it cannot be exercised in a manner contrary to law, citing the constitutional duty [23] of the President to ensure that the

laws, including those creating the agencies, be faithfully executed.

AMIN cites the naming of the PCUP as a presidential commission to be clearly an extension of the President, and the creation of the NCIP as an "independent agency under the Office of the President."[24] It thus argues that since the legislature had seen fit to create these agencies at separate times and with distinct mandates, the President should respect that legislative disposition.

In fine, AMIN contends that any reorganization of these administrative agencies should be the subject of a statute.

AMIN's position fails to impress.

The Constitution confers, by express provision, the power of control over executive departments, bureaus and offices in the President alone. And it lays down a limitation on the legislative power.

> The line that delineates the Legislative and Executive power is not indistinct. Legislative power is "the authority, under the Constitution, to make laws, and to alter and repeal them." The Constitution, as the will of the people in their original, sovereign and unlimited capacity, has vested this power in the Congress of the Philippines. The grant of legislative power to Congress is broad, general and comprehensive. The legislative body possesses plenary power for all purposes of civil government. Any power, deemed to be legislative by usage and tradition, is necessarily possessed by Congress, unless the Constitution has lodged it elsewhere. In fine, except as limited by the Constitution, either expressly or impliedly, legislative power embraces all subjects and extends to matters of general concern or common interest.
>
> While Congress is vested with the power to enact laws, the President executes the laws. The executive power is vested in the President. It is generally defined as the power to enforce and administer the laws. It is the power of carrying the laws into practical operation and enforcing their due observance.
>
> As head of the Executive Department, the President is the Chief Executive. He represents the government as a whole and sees to it that all laws are enforced by the officials and employees of his department. He has control over the executive department, bureaus and offices. This means that he has the authority to assume directly the functions of the executive department, bureau and office, or interfere with the discretion of its officials. Corollary to the power of control, the President also has the duty of supervising and enforcement of laws for the maintenance of general peace and public order. Thus, he is granted administrative power over bureaus and offices under his control to enable him to discharge his duties effectively.[25] (Italics omitted, underscoring supplied)

The Constitution's express grant of the power of control in the President justifies an executive action to carry out reorganization measures under a broad authority of law.[26]

In enacting a statute, the legislature is presumed to have deliberated with full knowledge of all existing laws and jurisprudence on the subject.[27] It is thus reasonable to conclude that in passing a statute which places an agency under the Office of the President, it was in accordance with existing laws and jurisprudence on the President's power to reorganize.

In establishing an executive department, bureau or office, the legislature necessarily ordains an executive agency's position in the scheme of administrative structure. Such determination is primary,[28] but subject to the President's continuing authority to reorganize the administrative structure. As far as bureaus, agencies or offices in the executive department are concerned, the power of control may justify the President to deactivate the functions of a particular office. Or a law may expressly grant the President the broad authority to carry out reorganization measures.[29] The Administrative Code of 1987 is one such law:[30]

> SEC. 30. *Functions of Agencies under the Office of the President.*- Agencies under the Office of the President shall continue to operate and function in accordance with their respective charters or laws creating them, **except as otherwise provided in this Code or by law**.
>
> SEC. 31. *Continuing Authority of the President to Reorganize his Office.*- The President, **subject to the policy in the Executive Office** and in order **to achieve simplicity, economy and efficiency**, shall have continuing authority to reorganize the administrative structure of the Office of the President. For this purpose, he may take any of the following actions:
>
> (1) Restructure the internal organization of the Office of the President Proper, including the immediate Offices, the Presidential Special Assistants/Advisers System and the Common Staff Support System, by abolishing, consolidating, or merging units thereof or transferring functions from one unit to another;
>
> (2) Transfer any function under the Office of the President to any other Department or Agency as well as transfer functions to the Office of the President from other Departments and Agencies; and
>
> (3) Transfer any agency under the Office of the President to any other department or agency as well as transfer agencies to the Office of the President from other departments or agencies. [31] (Italics in the original; emphasis and underscoring supplied)

In carrying out the laws into practical operation, the President is best equipped to assess whether an executive agency ought to continue operating in accordance with its charter or the law creating it. This is not to say that the legislature is incapable of making a similar assessment and appropriate action within its plenary power. The Administrative Code of 1987 merely underscores the need to provide the President with suitable solutions to situations on hand to meet the exigencies of the service that may call for the exercise of the power of control.

> x x x The law grants the President this power in recognition of the recurring need of every President to reorganize his office "to achieve

> simplicity, economy and efficiency." The Office of the President is the nerve center of the Executive Branch. To remain effective and efficient, the Office of the President must be capable of being shaped and reshaped by the President in the manner he deems fit to carry out his directives and policies. After all, the Office of the President is the command post of the President. This is the rationale behind the President's continuing authority to reorganize the administrative structure of the Office of the President.[32]

The Office of the President consists of the Office of the President proper and the agencies under it.[33] It is not disputed that PCUP and NCIP were formed as agencies under the Office of the President.[34] The "Agencies under the Office of the President" refer to those offices placed under the chairmanship of the President, those under the supervision and control of the President, those under the administrative supervision of the Office of the President, those attached to the Office for policy and program coordination, and those that are not placed by law or order creating them under any special department.[35]

As thus provided by law, the President may transfer any agency under the Office of the President to any other department or agency, subject to the policy in the Executive Office and in order to achieve simplicity, economy and efficiency. Gauged against these guidelines,[36] the challenged executive orders may not be said to have been issued with grave abuse of discretion or in violation of the rule of law.

The references in E.O. 364 to asset reform as an anti-poverty measure for social justice and to rationalization of the bureaucracy in furtherance of good government[37] encapsulate a portion of the existing "policy in the Executive Office." As averred by the OSG, the President saw it fit to streamline the agencies so as not to hinder the delivery of crucial social reforms.[38]

The consolidation of functions in E.O. 364 aims to attain the objectives of "simplicity, economy and efficiency" as gathered from the provision granting PCUP and NCIP access to the range of services provided by the DAR's technical offices and support systems.[39]

The characterization of the NCIP as an <u>independent</u> agency under the Office of the President does not remove said body from the President's control and supervision with respect to its performance of administrative functions. So it has been opined:

> That Congress did not intend to place the NCIP under the control of the President <u>in all instances</u> is evident in the IPRA itself, which provides that the decisions of the NCIP in the exercise of its quasi-judicial functions shall be appealable to the Court of Appeals, like those of the National Labor Relations Commission (NLRC) and the Securities and Exchange Commission (SEC). Nevertheless, the NCIP, <u>although independent to a certain degree</u>, was placed by Congress "under the office of the President" and, as such, is <u>still subject to the President's power of control and supervision</u> granted under Section 17, Article VII of the Constitution <u>with respect to its performance of administrative functions</u>[.][40] (Underscoring supplied)

In transferring the NCIP to the DAR as an attached agency, the President effectively tempered the exercise of presidential authority and considerably recognized that degree of independence.

The Administrative Code of 1987 categorizes administrative relationships into (1) supervision and control, (2) administrative supervision, and (3) attachment.[41] With respect to the third category, it has been held that an attached agency has a larger measure of independence from the Department to which it is attached than one which is under departmental supervision and control or administrative supervision. This is borne out by the "lateral relationship" between the Department and the attached agency. The attachment is merely for "policy and program coordination."[42] Indeed, the essential autonomous character of a board is not negated by its attachment to a commission.[43]

AMIN argues, however, that there is an anachronism of sorts because there can be no policy and program coordination between conceptually different areas of reform. It claims that the new framework subsuming agrarian reform, urban land reform and ancestral domain reform is fundamentally incoherent in view of the widely different contexts.[44] And it posits that it is a substantive transformation or reorientation that runs contrary to the constitutional scheme and policies.

AMIN goes on to proffer the concept of "ordering the law"[45] which, so it alleges, can be said of the Constitution's distinct treatment of these three areas, as reflected in separate provisions in different parts of the Constitution.[46] It argues that the Constitution did not intend an over-arching concept of agrarian reform to encompass the two other areas, and that how the law is ordered in a certain way should not be undermined by mere executive orders in the guise of administrative efficiency.

The Court is not persuaded.

The interplay of various areas of reform in the promotion of social justice is not something implausible or unlikely.[47] Their interlocking nature cuts across labels and works against a rigid pigeonholing of executive tasks among the members of the President's official family. Notably, the Constitution inhibited from identifying and compartmentalizing the composition of the Cabinet. In vesting executive power in one person rather than in a plural executive, the evident intention was to invest the power holder with energy.[48]

AMIN takes premium on the severed treatment of these reform areas in marked provisions of the Constitution. It is a precept, however, that inferences drawn from title, chapter or section headings are entitled to very little weight.[49] And so must reliance on sub-headings,[50] or the lack thereof, to support a strained deduction be given the weight of helium.

Secondary aids may be consulted to remove, not to create doubt.[51] AMIN's thesis unsettles, more than settles the order of things in construing the Constitution. Its interpretation fails to clearly establish that the so-called "ordering" or arrangement of provisions in the Constitution was consciously adopted to imply a signification in terms of government hierarchy from where a constitutional mandate can *per se* be derived or asserted. It fails to demonstrate that the "ordering" or layout was not

simply a matter of style in constitutional drafting but one of intention in government structuring. With its inherent ambiguity, the proposed interpretation cannot be made a basis for declaring a law or governmental act unconstitutional.

A law has in its favor the presumption of constitutionality. For it to be nullified, it must be shown that there is a clear and unequivocal breach of the Constitution. The ground for nullity must be clear and beyond reasonable doubt.[52] Any reasonable doubt should, following the universal rule of legal hermeneutics, be resolved in favor of the constitutionality of a law.[53]

Ople v. Torres[54] on which AMIN relies is unavailing. In that case, an administrative order involved a system of identification that required a "delicate adjustment of various contending state policies" properly lodged in the legislative arena. It was declared unconstitutional for dealing with a subject that should be covered by law and for violating the right to privacy.

In the present case, AMIN glaringly failed to show how the reorganization by executive fiat would hamper the exercise of citizen's rights and privileges. It rested on the ambiguous conclusion that the reorganization jeopardizes economic, social and cultural rights. It intimated, without expounding, that the agendum behind the issuances is to weaken the indigenous peoples' rights in favor of the mining industry. And it raised concerns about the possible retrogression in DAR's performance as the added workload may impede the implementation of the comprehensive agrarian reform program.

AMIN has not shown, however, that by placing the NCIP as an attached agency of the DAR, the President altered the nature and dynamics of the jurisdiction and adjudicatory functions of the NCIP concerning all claims and disputes involving rights of indigenous cultural communities and

indigenous peoples. Nor has it been shown, nay alleged, that the reorganization was made in bad faith.[55]

As for the other arguments raised by AMIN which pertain to the wisdom or soundness of the executive decision, the Court finds it unnecessary to pass upon them. The raging debate on the most fitting framework in the delivery of social services is endless in the political arena. It is not the business of this Court to join in the fray. Courts have no judicial power to review cases involving political questions and, as a rule, will desist from taking cognizance of speculative or hypothetical cases, advisory opinions and cases that have become moot.[56]

Finally, a word on the last ground proffered for declaring the unconstitutionality of the assailed issuances â"€ that they violate Section 16, Article XIII of the Constitution[57] on the people's right to participate in decision-making through adequate consultation mechanisms.

The framers of the Constitution recognized that the consultation mechanisms were already operating without the State's action by law, such that the role of the State would be mere facilitation, not necessarily creation of these consultation mechanisms. The State provides the support, but eventually it is the people, properly organized in their associations, who can assert the right and pursue the

objective. Penalty for failure on the part of the government to consult could only be reflected in the ballot box and would not nullify government action.[58]

WHEREFORE, the petition is **DISMISSED**. Executive Order Nos. 364 and 379 issued on September 27, 2004 and October 26, 2004, respectively, are declared not unconstitutional.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., and *Reyes, JJ.,* concur.
Nachura, J., no part.

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[1] *Rollo*, p. 6.

[2] Entitled "RENAMING THE DEPARTMENT OF LAND REFORM BACK TO DEPARTMENT OF AGRARIAN REFORM" which declared that agrarian reform "goes beyond just land reform but includes the totality of all factors and support services designed to lift the economic status of the beneficiaries."

[3] Formerly "Committee" until modified by Memorandum Order No. 68 issued on January 22, 1987.

[4] As there is no disagreement between the parties over the rest of the requisites for a valid exercise of judicial review, discussion on the same shall be unnecessary, as deemed by the Court. *Vide Pimentel, Jr. v. Aguirre,* G.R. No. 132988, July 19, 2000, 336 SCRA 201, 213.

[5] *Anak* Mindanao is a registered party-list group with one seat in the House of Representatives occupied by Rep. Mujiv S. Hataman whose constituency includes indigenous peoples (*Lumads*), peasants and urban poor in Mindanao.

[6] *Vide* discussion in *Senate of the Philippines v. Ermita*, G.R. No. 169777, July 14, 2006, 495 SCRA 170, for a discussion on the entitlement of a party-list organization to participate in the legislative process *vis-á-vis* the intertwining rights of its representative/s.

[7] *Philconsa v. Enriquez,* G.R. No. 113105, August 19, 1994, 235 SCRA 506.

[8] *Pimentel, Jr. v. Office of the Executive Secretary,* G.R. No. 158088, July 6, 2005, 462 SCRA 622.

[9] *Del Mar v. Phil. Amusement and Gaming Corp.,* 400 Phil. 307 (2000).

[10] *Francisco, Jr. v. The House of Representatives,* 460 Phil. 830, 893 (2003).

[11] *Vide Agan, Jr. v. Phil.International Air Terminals Co., Inc.,* 450 Phil 744 (2003).

[12] *Vide Telecom and Broadcast Attys. of the Phils., Inc. v. COMELEC*, 352 Phil. 153, 168 (1998); *vide* also *Lozada v. Comelec*, 205 Phil. 283 (1983) on the need to establish concrete injury.

[13] *Rollo*, pp. 5-6.

[14] *Vide Sanlakas v. Executive Secretary*, 466 Phil. 482, 508 (2004) citing *Kilosbayan v. Morato*, G.R. No. 118910, November 16, 1995, 250 SCRA 130.

[15] 465 Phil. 860 (2004).

[16] 400 Phil. 904 (2000).

[17] G.R. No. 169777, April 20, 2006, 488 SCRA 1.

[18] G.R. No. 166501, November 16, 2006, 507 SCRA 173.

[19] *Vide Atitiw v. Zamora*, G.R. No. 143374, September 30, 2005, 471 SCRA 329, 345-346.

[20] The DAR was created by Republic Act No. 6389 (1971); the PCUP by Executive Order No. 82 (1986) as modified by Memorandum Order No. 68 (1987) in Pres. Aquino's exercise of legislative powers under Proclamation No. 3, and Republic Act No. 7279 (1992); the NCIP by Republic Act No. 8371 (1997).

[21] Constitution, Art. VII, Sec. 1.

[22] Id., Art. VII, Sec. 17.

[23] Ibid.

[24] Republic Act No. 8371 (1997), *vide* Sec. 40.

[25] *Ople v. Torres*, 354 Phil. 948, 966-968 (1998).

[26] *Bagaoisan v. National Tobacco Administration*, 455 Phil. 761 (2003).

[27] *Didipio Earth-Savers' Multi-Purpose Association, Inc. (DESAMA) v. Gozun*, G.R. No. 157882, March 30, 2006, 485 SCRA 586.

[28] *Vide Eugenio v. Civil Service Commission*, 312 Phil. 1145, 1152 (1995) which quotes Am Jur 2d on Public Officers and Employees, *viz*: "Except for such offices as are created by the Constitution, the creation of public offices is primarily a legislative function. In so far [sic] as the legislative power in this respect is not restricted by constitutional provisions, it is supreme, and the legislature may decide for itself what offices are suitable, necessary or convenient."

[29] *Vide Buklod ng Kawaning EIIB v. Hon. Sec. Zamora*, 413 Phil. 281, 291 (2001).

[30] Id. at 294.

[31] Executive Order No. 292 (1987), Book III, Chapter 10.

[32] *Domingo v. Hon. Zamora*, 445 Phil. 7, 13 (2003).

[33] Executive Order No. 292 (1987), Book III, Chapter 8, Sec. 21.

[34] *Vide* Executive Order No. 82 (1986), Sec. 1; Republic Act No. 8371 (1997), Sec. 40.

[35] Executive Order No. 292 (1987), Book III, Chapter 8, Sec. 23. The President shall, by executive order, assign offices and agencies not otherwise assigned by law to any department, or indicate to which department a government corporation or board may be attached. (Id., Book IV, Chapter 1. Sec. 5)

[36] *Bagaoisan v. National Tobacco Administration,* supra at 776, adds that the numbered paragraphs are not in the nature of provisos that unduly limit the aim and scope of the grant to the President of the power to reorganize but are to be viewed in consonance therewith.

[37] Executive Order No. 364 (2004), perambulatory clauses.

[38] *Rollo,* p. 130.

[39] Executive Order No. 364 (2004), Sec. 4 & perambulatory clauses.

[40] Separate Opinion of Justice Santiago M. Kapunan in *Cruz v. Secretary of Environment and Natural Resources*, supra at 1087-1088.

[41] Executive Order No. 292 (1987), Book IV, Chapter 7, Sec. 38.

[42] *Beja, Sr. v. Court of Appeals*, G.R. No. 97149, March 31, 1992, 207 SCRA 689.

[43] *Eugenio v. Civil Service Commission*, supra at 1155.

[44] *Rollo*, Memorandum for Petitioners, pp. 85, 99. Particularly between agrarian reform and ancestral domain, (rural-based) on the one hand, and urban land reform (urban-based), on the other hand; and between agricultural land (DAR's concern) and non-agricultural land (concern of PCUP and NCIP, the latter dealing mostly with timber & forest), citing *Luz Farms v. Secretary of the Department of Agrarian Reform*, G.R. No. 86889, December 4, 1990, 192 SCRA 51.

[45] Id. at 99-100 citing Waller, AO, *An Introduction to Law*, 7th Ed. (1995), p. 57. Petitioners attributed the elaboration of the concept to Louis Waller who stated that the modern system of ordering involves an understanding of certain "thought devices" with their appropriate names, which lawyers manufactured in the process of

creating the law. The function of all legal concepts is to enable discussion about the regulation of human behavior to be carried on in a sensible fashion. And new thinking may produce new classifications of legal rules to replace wholly or in part those which today seem so firmly established. (Underscoring supplied).

[46] On Agrarian Reform - Art. XIII, Secs. 4-8. On Urban Land Reform - Art. XIII, Secs. 9-10; On Indigenous People's Rights - Art. XIII, Sec. 6; Art. II, Sec. 22; Art. XII, Sec. 5; Art. XIV, Sec. 17; Art. XVI, Sec. 12. Also, Art. VI, Sec. 5 (2) on the erstwhile system of sectoral representation providing for separate representation of peasant, urban poor and indigenous cultural communities.

[47] *E.g.,* Constitution, Art. XIII, Sec. 6 which reads: "The State shall apply the principles of agrarian reform or stewardship, whenever applicable in accordance with law, in the disposition or utilization of other natural resources, including lands of the public domain under lease or concession suitable to agriculture, subject to prior rights, homestead rights of small settlers, and the rights of indigenous communities to their ancestral lands."

[48] Bernas, The 1987 Constitution of the Republic of the Philippines: A Commentary 793 (2003).

[49] Black, Handbook on the Construction and Interpretation of the Laws 258-259 (1911); Crawford, The Construction of Statutes 359-360 (1940); *vide* the Concurring and Dissenting Opinion of Justice (now Chief Justice) Reynato S. Puno in *Santiago v. Comelec*, 336 Phil. 848, 911 (1997).

[50] Found particularly in Article XIII of the Constitution.

[51] *People v. Yabut*, 58 Phil. 499 (1933).

[52] *Beltran v. Secretary of Health*, G.R. No. 133640, November 25, 2005, 476 SCRA 168, 199-200.

[53] *Garcia v. Commission on Elections*, G.R. No. 111511, October 5, 1993, 227 SCRA 100, 107-108.

[54] Supra note 25.

[55] *Cf. Canonizado v. Hon. Aguirre*, 380 Phil. 280, 296 (2000); *Larin v. Executive Secretary*, 345 Phil. 962, 980 (1997) wherein it was held that reorganization is regarded as valid provided it is pursued in good faith and, as a general rule, a reorganization is carried out in "good faith" if it is for the purpose of economy or to make bureaucracy more efficient.

[56] *Cutaran v. DENR*, 403 Phil. 654, 662-663 (2001).

[57] "The right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making shall not be abridged. The State shall, by law, facilitate the establishment of adequate consultation mechanisms."

[58] *Vide* Bernas, The Intent of the 1986 Constitution Writers 999, 1003-1005 (1995).
