

A POLICY REVIEW: BANGSAMORO ADMINISTRATIVE CODE

By Estrada & Aquino Law



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Access Bangsamoro is an online and social media portal that promotes the free flow of information, analysis, and discussions for the effective implementation of the Bangsamoro Organic Law (BOL) and the successful transition to the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM).

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Introduction

This policy review is for the purpose of ensuring that the provisions of House Bill No. 60, or the proposed “*Bangsamoro Administrative Code*” is consistent with the provisions of R.A. 11054 or the “*Bangsamoro Organic Law*”; in harmony with existing laws and jurisprudence of the Republic of the Philippines; and in conformity to the principles laid down in the 1987 Philippine Constitution.

This brief presents salient provisions of the draft Bill, raises potential legal issues relative to the administration of the Bangsamoro Government, and provides some recommendations that the Bangsamoro Parliament may consider in its final deliberation of the Bill.

Bangsamoro Immunity from Suit¹

The government is immune from suit on matters in relation to its performance of public and eleemosynary functions. Such immunity does not apply when government assumes or functions in a proprietary capacity.²

The general rule is that the State cannot be put in estoppel by the mistakes or errors of its officials or agents. However, like all general rules, this is also subject to exception, *to wit*:

“Estoppels against the public are little favored. They should not be invoked except in a rare and unusual circumstances, and may not be invoked where they would operate to defeat the effective operation of a policy adopted to protect the public. They must be applied with circumspection and should be applied only in those special cases where the interests of justice clearly require it. **Nevertheless, the government must not be allowed to deal dishonorably or capriciously with its citizens, and must not play an ignoble part or do a shabby thing; and subject to limitations . . . , the doctrine of equitable estoppel may be invoked against public authorities as well as against private individuals.**”³

This doctrine of estoppel developed by case laws should be embodied in the proposed bill. The following provision is suggested:

“Sec. 22. *Non-suability of the BARMM.* – No suit shall lie against the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) except with its consent as provided by law or when it fails or neglects,

¹ **Sec. 22. *Non-suability of the BARMM.*** – No suit shall lie against the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) except with its consent as provided by law.

² See *United State v. City and Country of San Francisco*, 112 F Supp. 451, 454 (N.D. Cal., 1953)

³ *Republic of the Philippines v. Court of Appeals, Sps. Catalino*, G.R. No. 116111, 21 January 1999.

for an unreasonable and unexplained length of time, to do what which by exercising due diligence could or should have been done earlier.”

This also aims to improve efficiency in the delivery of government service to the public; to promote integrity, accountability, proper management of public affairs and public property; and to establish effective practices aimed at the prevention of graft and corruption in Bangsamoro Government.

Powers of the Bangsamoro Government

Sec. 9, Book II⁴ of HB 60 states that the exercise of powers granted to the Bangsamoro Government by the Bangsamoro Organic Law on matters which do not fall under the sole jurisdiction of the National Government. Sec. 1, Title I, Book III⁵ further provides the powers of the government to be exercised by the Parliament shall exercise those powers and functions expressly granted to it in the Bangsamoro Organic Law, and those incidental or necessary for the proper governance of the BARMM.

Consequently, while the Bangsamoro Government is given authority to manage its affairs, it should exercise such powers over matters expressly provided by national law and the BOL. On the other hand, under HB 60 and the BOL, the Parliament is granted the authority to pass an annual appropriations law.⁶

Under the Constitution, the power to enact and pass appropriation bills is primarily lodged with the Congress⁷. While this may be so, Congress may validly delegate the same through legislation, which in this case may be through the annual General Appropriations Act. Case law recognizes that the delegation of legislative power has become an inevitability in light of the increasing complexity of the task of government. And to constitute a valid delegation of legislative power, it must be (1) complete in all its essential terms and conditions such that when it reaches the delegate the only thing he will have to do is to enforce it (completeness test), and (2) it contains sufficient standards, guidelines or limitations in the law to map out the boundaries of the delegate's authority (sufficient standard test). In other words, as long as the appropriations law passed by Parliament is based on the GAA enacted by Congress, and that it affects only the BARMM, then it is valid.

⁴ **Sec. 9. Exercise of Powers of the Bangsamoro Government.** – The exercise of powers granted to the Bangsamoro Government by the Bangsamoro Organic Law on matters which do not fall under the sole jurisdiction of the National Government shall include the power of administration and that of issuing internal regulations for the organization of the Bangsamoro Government.

⁵ **Sec 1. Powers of Government.** – The powers of government shall be vested in the Parliament which shall exercise those powers and functions expressly granted to it in the Bangsamoro Organic Law, and those necessary for, or incidental to, the proper governance and development of the Bangsamoro Autonomous Region. It shall set policies, legislate on matters within its authority, and elect a Chief Minister who shall exercise executive authority on its behalf.

⁶ Sec. 27, Art. VII BOL: **Section 27. Appropriations.** - No public money, including the block grant and other national government subsidies and support funds given in lump sum, shall be spent without an appropriations law clearly defining the purpose for which it is intended. The Parliament shall pass an annual appropriations law.

⁷ Section 24. All appropriation, revenue or tariff bills, bills authorizing increase of the public debt, bills of local application, and private bills, shall originate exclusively in the House of Representatives, but the Senate may propose or concur with amendments.

From the foregoing, the following provision is suggested:

“Section 27. Appropriations. - No public money, including the block grant and other national government subsidies and support funds given in lump sum, shall be spent without an appropriations law clearly defining the purpose for which it is intended. The Parliament shall pass an annual appropriations law pursuant to the terms, conditions and standards as may be prescribed by the Congress of the Philippines.”

Party-switching as a ground for forfeiture of seat in Parliament

Section 19 of the BOL⁸ provides for the grounds for a member of parliament to lose or forfeit his or her seat. While Section 13, Title III of House Bill No. 60 adopts the grounds as provided in Section 19, it also includes an additional ground which essentially refers to “party-switching”.⁹

There is currently no provision in the Constitution or any similar provision in existing laws that regulates the political affiliations of politicians. While this may be so, and although the said ground is not provided under the BOL, so long as the same is consistent with or is not violative or prohibited under BOL, the addition thereof is permitted.

Moreover, the said additional ground serves as a deterrent for politicians from conveniently changing their affiliations, thus giving political parties stronger chances of establishing themselves as real platforms for reform.

Constitutional prohibition against incompatible office; honoraria and allowances not authorized under BOL

Section 17¹⁰ allows an appointed Minister to remain as a member of Parliament. Based on the provisions of Chapter 2 of Title IV, it may be gleaned that membership in the Parliament is akin to a seat in Congress, whereas the position of Minister is similar to an executive position.

⁸ Section 19. *Forfeiture of Seat.* - The seat of a member of the Parliament shall be forfeited under any of the following circumstances:

- (a) Voluntary resignation in the form of either a written or oral declaration in the Parliament;
- (b) Conviction of grave offense as defined by the rules of the Parliament for treason, high crimes, heinous crimes, crimes against morality, or other crimes punishable by more than six (6) years of imprisonment;
- (c) permanent physical or mental incapacity that makes the member unable to discharge the duties of a member, or death;
- (d) Substitution by the party to which the member belongs with another member of the same party, the member having been elected under the proportional representation system;
- (e) Expulsion by the Parliament for disorderly behavior, with the concurrence of two-thirds of all its members; and
- (f) Such other grounds as may be provided in the Bangsamoro Electoral Code.

⁹ Sec. 13. *Forfeiture of Seat.* – A Member of Parliament shall forfeit his/her seat under any of the following circumstances:
... []

e. Transfer to another party during one’s incumbency as member of the Bangsamoro Parliament, the member having been elected under the proportional representation system;

¹⁰ Sec. 17. *Ministers to remain Members of Parliament.* - Members of Parliament who are appointed Ministers shall retain their membership in the Parliament.

Section 13, Article VI¹¹ of the 1987 Constitution expressly prohibits any member of the legislative branch to simultaneously hold any other office or employment in other branches of the government; this being deemed as an incompatible office. In other words, an incompatible office is any other office in the government that if held by a member of the legislature would result to the forfeiture of his seat. However, any member of the legislature is allowed to hold another office in government, provided that he forfeits his seat. The purpose of this prohibition is to prevent a legislator from owing loyalty to another branch of the government, to the detriment of the independence of the legislature and the doctrine of separation of powers.

While this may be clear in the presidential system adopted by the National Government, wherein the executive and legislative are clearly separate from each other, this concept of incompatible office, however, may be a gray area in the parliamentary system adopted in the Bangsamoro Government. As in other jurisdictions, the members of parliament may be appointed as head of a ministry exercising executive powers. Thus, we have a case: on one hand, a national law prohibiting incompatible office, and on another hand, a regional government granted the power to set up parliamentary system where some members of parliament may concurrently serve as head of ministry.

Hence, this gray area may give rise to potential legal question if the verbatim letter of Section 17 were to be included. Thus, it is prudent to revisit Section 17 if only to conform with the Constitution, while respecting the right to self-determination of the Bangsamoro Government to set up the governance system in the region.

Consequently, Section 18¹² allows a member of Parliament who is at the same time appointed as Minister to receive allowable honoraria and other allowances in his capacity as Minister. However, Section 13, Article VII¹³ of the BOL expressly prohibits members of the Parliament to receive, during their tenure, other salary and emoluments from the Bangsamoro Government or from the National Government. These two provisions must also be studied further to thresh out any inconsistencies.

The functions of the Office of Ancestral Domains/Native Title must include the issuance of FPIC

Free and Prior Informed Consent (FPIC) is an important concept for indigenous Peoples that is anchored on their right to self-determination. It effectively allows them to determine the

¹¹ SECTION 13. No Senator or Member of the House of Representatives may hold any other office or employment in the Government, or any subdivision, agency, or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries, during his term without forfeiting his seat. Neither shall he be appointed to any office which may have been created or the emoluments thereof increased during the term for which he was elected.

¹² Sec. 18. *Prohibition from Double Compensation.* – Consistent with the last paragraph of Section 13, Article VII of the Bangsamoro Organic Law, Ministers who are at the same time Members of the Parliament shall receive only such salaries and emoluments as Members of the Parliament. Nothing herein shall, however, proscribe ministers from receiving allowable honoraria and other allowances for services rendered as such, subject to the usual accounting and auditing rules and regulations of the government

¹³ Section 13. *Salaries of Members of the Parliament.* -

. . . Members of the Parliament shall not receive during their tenure other salary and emoluments from the Bangsamoro Government or from the National Government.

outcome of any decision-making process, because their consent is vital to any procurement of their property.

As the Office of Ancestral Domains is the primary office responsible for the protection of Indigenous Peoples' rights, it is only right that their functions include the issuance of FPIC to the indigenous peoples concerned, and of a certification prior to the grant of any license or permit for the exploration of natural resources affecting their interests in ancestral domains.

Appointment of court officials by persons other than the Supreme Court

Judicial power is vested in the Supreme Court, as well as in lower courts as may be established by law. It includes the power to appoint all officials and employees of the Judiciary and all other lower courts.¹⁴ Consequently, the phrase "all lower courts" includes the *Shari'ah* High Court by virtue of the fact that it is a court under the supervision and control of the Supreme Court. This authority of the Supreme Court is recognized and embodied in Section 2,¹⁵ Title V of HB 60 which states that *Shari'ah* courts are subject to the supervision of the Supreme Court.

Section 8¹⁶, Title V of HB 60, however, allows the Presiding Judge of the *Shari'ah* High Court to appoint court personnel. It must be emphasized that the power of appointment is a highly discretionary prerogative specifically granted by the Constitution unto the Supreme Court. And this appointing power is also provided under the BOL which states that the Supreme Court shall appoint the *Shari'ah* court personnel.¹⁷

Consequently, Section 8, in so far as it grants appointing powers to the Presiding Justice of *Shari'ah* High Court, runs counter to the power of the Supreme Court to appoint all officials and employees of the Judiciary, including those of *Shari'ah* courts. The Supreme Court may, however, delegate such appointing authority to the Presiding Justice of *Shari'ah* High Court. Without such express delegation, however, the provision of Section 8 of HB 60 may not be consistent with the Constitution, and thus must be revisited to ensure it withstand possible legal question in so far as the appointing powers given by HB 60 to the Presiding Justice of *Shari'ah* High Court.

Functions of the Shari'ah Public Assistance Office

The functions of the Shari'ah Public Assistance Office include the provision of free legal assistance to indigent party litigants; to prepare and file petitions, complaints and/or pleadings;

¹⁴ Article VIII, Section 5 of the 1987 Constitution.

¹⁵ **Sec. 2. *Shari'ah Courts.*** - *Shari'ah* courts within the Bangsamoro territorial jurisdiction shall form part of the Philippine judicial system subject to the supervision of the Supreme Court. The regular courts within the Bangsamoro Autonomous Region shall continue to function under the supervision of the Supreme Court.

¹⁶ **Sec. 8. *Shari'ah High Court Administrator and Clerk of Court.*** - The Supreme Court shall, upon recommendation of the Presiding Justice of the *Shari'ah* High Court, appoint the court administrator and clerk of court of the High Court. Such other personnel as may be necessary for the *Shari'ah* High Court shall be appointed by the Presiding Justice of said court.

¹⁷ **Section 14. *Appointment and Discipline of Shari'ah Court Personnel.*** - The Supreme Court shall appoint the *Shari'ah* court personnel and shall have the power to discipline them.

to prepare and file responsive pleadings; to represent defendants/ respondents in special proceedings; to prepare affidavits and to represent indigents in any stage of the criminal proceedings. While the provision already boasts of several functions of the Shari'ah Public Assistance Office, it might be wise to include that the said Office shall independently discharge its mandate. It should also include that the Office shall render free of charge legal representation, assistance, and counselling for indigent persons in criminal, civil, labor, administrative and other cases before the Shari'ah Courts.

This is to ensure that its mandate is clear and delineated, as well as in line with R.A. No. 9406, otherwise known as the "*Public Assistance Office Law*", and Chapter 5, Title II of E.O. No. 92, otherwise known as the "*Administrative Code of 1987*".

Exceptions to Administrative Supervision must include personnel actions and appointments

Administrative supervision is defined as the relationship between a ministry or its equivalent and regulatory agencies or other agencies, as may be provided by law, to generally oversee the day-to-day operations of the agencies and to ensure that they are managed effectively.

There are, however, certain limitations to the exercise of administrative supervision, which are expressly stated in Bill No. 60 as well. Among others, it states that such supervision shall *not* extend to contracts entered into by the agency in the pursuit of its objectives, and to the power to review, reverse, revise or modify the decisions of regulatory agencies in the exercise of their quasi-judicial functions.

Vis-a-vis Section 38, Chapter VII of EO No. 92, otherwise known as the "*Administrative Code of 1987*", such limitation also extends to appointments and other personnel actions in accordance with the decentralization of personnel functions, except when an appeal is made from an action of the appointing authority, in which case the appeal shall be initially sent to the department or its equivalent.

In administrative law, supervision means overseeing or the power or authority of an officer to see that subordinate officers perform their duties. If the latter fail or neglect to fulfill them the former may take such action or step as prescribed by law to make them perform their duties. Control, on the other hand, means the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter.¹⁸

¹⁸ Mondano v. Salvosa, G.R. No. L-7708, 30 May 1955

Chapter 5 on Appointments must include a provision prohibiting the holding of multiple offices

Section 7, Article IX-B of the Constitution provides that no appointive or elective official shall hold any other office in the Government or any agency, instrumentality or subdivision. Moreover, Section 13, Article VII imposes a stricter prohibition on the President, Vice-President, members of the Cabinet, their deputies and assistants from holding any other office or employment during their tenure.

The only exception to the prohibition on members of Cabinet and their deputies or assistants refer to positions allowed by the Constitution, those in an ex officio capacity, and those required by the primary functions of the official's office. The prohibition against holding dual or multiple offices likewise does not apply to posts occupied by the executive officials specified therein without additional compensation in an additional capacity.

Notably, the purpose for the prohibition against holding multiple offices is to ensure that a government official or employee devotes his time, knowledge and expertise to one office so as not to sacrifice the quality of his work.¹⁹ It is also to prevent blatant betrayal of public trust and abuse by public officials for their own self-enrichment.

It may be best to include a categorical provision that prohibits the holding of dual offices, subject to the said exceptions, in order to make sure that the purpose for which the law was made is properly served.

Policies on Primarily Confidential Positions

Under House Bill No. 60, the disqualification of the spouse and relatives of the Chief Minister, Deputy Chief Ministers, the Speaker of the Parliament, the Cabinet Members, or their deputies, contains an exception that their respective spouse/s and relatives may be appointed to positions that are primarily confidential in nature.

It is important to note that the prohibition on the appointment or designation of spouse/s and relatives by consanguinity or affinity within the fourth civil degree of the President springs from the prevention of nepotism. It is to avoid abuse of authority or corruption in the Government. While there is no express provision under the Constitution that prohibits the Vice-Presidents, Cabinet Members or their deputies from appointing their spouse/s and relatives, Section 5 of R.A. 3019, or the "*Anti-Graft and Corrupt Practices Act*" provides for such limitation.

At most, the qualification that the prohibition does not extend to primarily confidential positions must be attuned with the existing national policies, such as the Guidelines in the Declaration of Positions in Government Agencies as Primarily Confidential (CSC MC No. 24,

¹⁹ Civil Liberties Union v. Executive Secretary, G.R. No. 83896, 22 February 1991.

series of 2007, for National Government, and CSC MC No. 22, series of 2007, for Local Governments).

Eminent domain is subject to payment of just compensation and taking for public use

Eminent domain is an inherent power of the State to take private property for public use. As it is an inherent power, Article IX, Section III of the 1987 Constitution limits the exercise thereof, stating that “no private property may be taken for public use without just compensation”.²⁰ This means that the power of eminent domain is limited by two requirements, namely: (1) the purpose for taking must be for a public use; and (2) just compensation must be given to the owner of the private property.

Article IX, Section III, Section 10 of HB 60 allows the Chief Minister to determine when it is necessary or advantageous to exercise the power of eminent domain,²¹ but is silent as to whether such exercise shall require concurrence of a body such as legislative. This essentially gives the Chief Minister the sole exercise and discretion to determine when the Bangsamoro Government will exercise eminent domain. In other words, this, in effect, centralizes the power of eminent domain to the Chief Minister, and in order to prevent any abuse in its exercise, safeguards should be in place.

Ceilings on public project contracts; creation of Prequalification Bids and Awards Committee

Competitive procurement of public contracts grants all those seeking to conduct business with the Bangsamoro Government an equal chance to win a contract, while maximizing the chance that the Bangsamoro Government itself will receive quality services or civil works at the lowest or best price. However, with competitive procurement also comes the possibility of bid-rigging, which happens when bidders themselves do not prepare their bids independently but sit in collusion with each other. The Bangsamoro Government will have difficulty reaping the benefits as there is a probability that the bidders will offer higher prices.

In this sense, ceilings are important. Setting a maximum price that the Bangsamoro Government will pay for the procurement of goods, services works or infrastructure projects may protect the Government from overpaying.

Thus, similar to EO 292,²² which sets the ceiling value of the contract to an amount not exceeding fifty (50) million, ceilings on the public project contracts that the Bangsamoro Government wants to award through public bidding should be included.

²⁰ Article IX, Section III of the 1987 Constitution

²¹ Sec. 10. *Power of Eminent Domain.* - The Chief Minister shall determine when it is necessary or advantageous to exercise the power of eminent domain in behalf of the Bangsamoro Government, and direct the Bangsamoro Attorney General, whenever such action is deemed appropriate, to institute expropriation proceedings in the proper court.

²² Section 57, Chapter 13, Book IV of EO 292, or the Administrative Code of 1987.

Moreover, the creation of a Prequalification Bids and Awards Committee in each agency or office is recommended. It shall be responsible for the conduct of prequalification biddings, evaluation of bids and recommendation of awards of contracts. It would also be beneficial for the Bangsamoro Government to designate the composition of the Committee, which should include at least one (1) representative who is either a contractor, civil engineer or a certified public accountant.²³

Deeds, instruments or contracts conveying title to property must include a threshold amount

Section 23, Chapter 8 states that any deed, instrument or contract conveying title to real estate or to any other property shall be awarded through public bidding. It does not include a threshold amount, and implies that any and all deeds or instruments conveying title to any property is awarded through public bidding.

It would be better if a threshold amount would be included, such that there is a clear understanding that only the value of property that exceeds the said amount may be awarded through public bidding. This is for the purpose of promoting equality and fairness.

Threshold amount on consultancy contracts

Regardless of the amount, all purely consultancy contracts relating to infrastructure projects, shall be approved by the Cabinet Minister concerned. This is not unjust or unconstitutional, but is actually a good solution to prevent even the slightest hint of abuse by public officials. While this may be so, it may not be practical because this would entail that the Cabinet Minister concerned would have to monitor each and every consultancy contract.

Perhaps a better solution is to insert a threshold amount, such that only consultancy contracts entered into by the departments, agencies or government corporations concerned which exceed the said amount shall be monitored by the Cabinet Minister concerned.

Award of contracts for infrastructure projects must include provisions and/or limitations for direct negotiation

As a general rule, contracts for infrastructure projects shall be awarded after an open public bidding to bidders who submit the lowest responsive/evaluated bids. However, the award of the said contracts through negotiation must include limitations and/or exceptions within prescribed ceilings. This is because the method for the awarding of these contracts is through a different process – negotiation, rather than a public bidding.

²³ Chapter 13, Book IV of EO 292, or the Administrative Code of 1987.

It is important to note that not all contracts for infrastructure projects may be awarded through open public bidding. Among others, these cases include times of emergencies from natural calamities where immediate action is necessary to prevent imminent life or property, failure to award the contract after competitive public bidding for valid causes, and where the construction project covered by the contract is adjacent or contiguous to an on-going project.²⁴ All of the aforementioned cases call for simplified bidding or direct negotiation because the general process of open public bidding is deemed impractical under these situations.

Thus, for practical reasons, there must be a provision that anticipates the award of contracts for infrastructure projects in cases where public bidding is impractical. Perhaps a similar provision as provided in EO 292 may be adopted.

Settlement of controversies among government offices and GOCCs should not affect the rules of Parliament, Supreme Court, Constitutional Commissions and local governments

Under Chapter 9, all disputes, claims and controversies, between or among the ministries, bureaus, offices, agencies and instrumentalities of the Bangsamoro Government, including government-owned or controlled corporations shall be administratively settled in accordance with the Code.

To make a clear delineation, there must also be a qualification stating that the dispute mechanisms under House Bill No. 60 will not apply to disputes involving the Parliament, the Supreme Court, the Constitutional Commissions, and local governments. This is because these institutions or bodies have the authority to establish its own mechanisms for settling disputes.

Extent of assistance National Government shall provide to Bangsamoro Government

The power to contract domestic or foreign loan by the Chief Minister may open the flood gates for its improper use and may affect the credit worthiness of the Bangsamoro Government if used improperly.

Section 9 of the HB 60 states that: “[T]he Parliament, by a vote of the majority of all its members, may authorize the Chief Minister to contract domestic or foreign loans, credits, and other forms of indebtedness...[.]” Although we do not undermine the financial knowledge of the Parliament, but contracting foreign loans affect several factors in the national economic sphere, thereby affecting and a matter of concern to the National Government.

To give light on the mentioned economic effect, let us refer to the simple economic flow example hereafter given. When any government obtains a loan, generally the states’ economy

²⁴ Section 62, Chapter 13 of EO 292.

is abundant of cash. When the economy is abundant of cash, the intrinsic value of the cash diminishes, which in turn results to inflation and consumer good prices increases.

In comparison with the current policy of the National Government, under Section 20, Article VII of the Constitution, prior concurrence of the Monetary Board is required before the President of the Philippines may contract or guarantee foreign loans. In such case, the Monetary Board, composed of the BSP Governor and five (5) full-time members who are economic experts, can carefully analyze the consequences and implications of obtaining a government guaranteed loan and can make necessary monetary policies as to temper or mitigate the adverse economic effect of the loan obtained.

On this note, the creation of the Bangsamoro Government's own Monetary Board or a similar body will be beneficial as it will give a similar safeguard to the Bangsamoro Government and it aligns Section 9 with the Constitution.

On the other hand, while there is nothing in the BOL that expressly authorizes the creation of its own Monetary Board, the functions of the National Monetary Board may be included as an additional function of the Intergovernmental Fiscal Policy Board pursuant to its additional fiscal policy powers.²⁵ It may be observed that, similar to the National Government's Monetary Board, the composition of the Intergovernmental Fiscal Policy Board under the BOL includes among others: the Secretary of Finance, Secretary of Trade and Industry and the Director-General of the National Economic and Development Authority. These experts may sufficiently provide the financial safeguards to the Bangsamoro Government.

Moreover, when the Government contracts foreign loans, the sovereignty of the country is at issue. Thus, the Government adheres to strict standards in dealing with foreign lenders for its projects. BARMM is not a separate sovereign and it cannot, on its own, contract foreign loans on behalf of the Republic of the Philippines involving any portion of its territory. Therefore, any foreign loan that the Bangsamoro Government should be in coordination with the National Government.

Powers and functions of Commissions

A reading of the provisions on The Bangsamoro Woman Commissions under Chapter I, Bangsamoro Youth Commission under Chapter 2, and Bangsamoro Sports Commission under Chapter 3 of Title XVI of House Bill No. 60 show that the powers and functions of these mentioned commissions are not very clear.

If the intention is to provide these sectors protection and ample support, there must be a clear distinction of each commission's powers and functions. This will help each commission pursue

²⁵ Section 38, Article XII of Republic Act No. 11054: **Section 41. Additional Fiscal Policy Powers.** - The Intergovernmental Fiscal Policy Board may recommend to the Congress of the Philippines or the appropriate agency of the National Government the grant of additional fiscal powers to the Bangsamoro Government

its respective mandate with more exactness. It will be able to maximize cost efficiency of its budget allocation since its projects and program will be more aligned with its mandate.

~ Nothing follows ~