EN BANC

[G.R. No. 170867, December 04, 2018]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY RAPHAEL P.M. LOTILLA, SECRETARY, DEPARTMENT OF ENERGY (DOE), MARGARITO B. TEVES, SECRETARY, DEPARTMENT OF FINANCE (DOF), AND ROMULO L. NERI, SECRETARY, DEPARTMENT OF BUDGET AND MANAGEMENT (DBM), PETITIONERS, VS. PROVINCIAL GOVERNMENT OF PALAWAN,REPRESENTED BY GOVERNOR ABRAHAM KAHLIL B. MITRA, RESPONDENT.

[G.R. No. 185941]

BISHOP PEDRO DULAY ARIGO, CESAR N. SARINO, DR. JOSE ANTONIO N. SOCRATES, PROF. H. HARRY L. ROQUE, JR., PETITIONERS, VS. HON. EXECUTIVE SECRETARY EDUARDO R. ERMITA, HON. ENERGY SECRETARY ANGELO T. REYES, HON. FINANCE SECRETARY MARGARITO B. TEVES, HON. BUDGET AND MANAGEMENT SECRETARY ROLANDO D. ANDAYA, JR., HON. PALAWAN GOVERNOR JOEL T. REYES, HON. REPRESENTATIVE ANTONIO C. ALVAREZ (1ST DISTRICT), HON. REPRESENTATIVE ABRAHAM MITRA (2ND DISTRICT), RAFAEL E. DEL PILAR, PRESIDENT AND CEO, PNOC EXPLORATION CORPORATION, RESPONDENTS.

DECISION

TIJAM, J.:

G.R. No. 170867 is a petition for review on *certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated December 16, 2005 of the Regional Trial Court (RTC) of Palawan, Branch 95 in Civil Case No. 3779 which declared the Province of Palawan entitled to forty percent (40%) of the government's earnings derived from the Camago-Malampaya natural gas project since October 16, 2001. The petition also seeks *ad cautelam* to nullify the RTC Amended Order[3] dated January 16, 2006 which directed the "freezing" of said 40% share under pain of contempt.

G.R. No. 185941 is a petition for review on *certiorari*[4] under Rule 45 of the Rules of Court assailing the Resolution[5] dated May 29, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 102247 which dismissed the *certiorari* petition questioning the constitutionality of Executive Order (E.O.) No. 683,[6] and the CA Resolution[7] dated December 16, 2008 which denied the motion for

reconsideration.

The Antecedents

The Camago-Malampaya Natural Gas Project

On December 11, 1990, the Republic of the Philippines (Republic or National Government), through the Department of Energy (DoE), entered into Service Contract No. 38 with Shell Philippines Exploration B.V. and Occidental Philippines, Incorporated (collectively SPEX/OXY), as Contractor, for the exclusive conduct of petroleum operations in the area known as "Camago-Malampaya" located offshore northwest of Palawan. Exploration of the area led to the drilling of the Camago-Malampaya natural gas reservoir about 80 kilometers from the main island of Palawan and 30 kms from the platform.[8]

The nearest point of the Camago-Malampaya production area is at a distance of 93.264 kms or 50.3585 nautical miles to the Kalayaan Island Group (Kalayaan); 55.476 kms or 29.9546 nm to mainland Palawan (Nacpan Point, south of Patuyo Cove, Municipality of El Nido); and 48.843 kms or 26.9546 nm to the Province of Palawan (northwest of Tapiutan Island, Municipality of El Nido).[9]

The quantity of natural gas contained in the Camago-Malampaya was estimated to be sufficient to justify the pursuit of gas-to-power projects having an aggregate power-generating capacity of approximately 3,000 megawatts operating at baseload for 20 to 25 years.[10]

Service Contract No. 38, as clarified by the Memorandum of Clarification between the same parties dated December 11, 1990, provides for a production sharing scheme whereby the National Government was entitled to receive an amount equal to sixty percent (60%) of the net proceeds[11] from the sale of petroleum (including natural gas) produced from petroleum operations while SPEX/OXY, as service contractor, was entitled to receive an amount equal to forty percent (40%) of the net proceeds.[12]

The Contractor was subsequently composed of the consortium of SPEX, Shell Philippines LLC, Chevron Malampaya LLC and Philippine National Oil Company-Exploration Corporation (PNOC-EC).[13]

Administrative Order No. 381

On February 17, 1998, President Fidel V. Ramos issued Administrative Order (A.O.) No. 381[14] which, in part, stated that the Province of Palawan was expected to receive about US$2.1 Billion from the estimated US$8.1 Billion total government share from the Camago-Malampaya natural gas project for the 20-year contract period.[15]

On June 10, 1998, DoE Secretary Francisco L. Viray wrote Palawan Governor Salvador P. Socrates, requesting for the deferment of payment of 50% of Palawan's share in the project for the first seven years of operations, estimated at US$222.89 Million, which it would use to pay for the

National Power Corporation's Take-or-Pay Quantity (TOPQ) obligations under the latter's Gas Sale and Purchase Agreements with SPEX/OXY.[16]

On October 16, 2001, the Camago-Malampaya natural gas project was inaugurated.[17]

Palawan's Claim

The Provincial Government of Palawan asserted its claim over forty percent (40%) of the National Government's share in the proceeds of the project. It argued that since the reservoir is located within its territorial jurisdiction, it is entitled to said share under Section 290[18] of the Local Government Code. The National Government disputed the claim, arguing that since the gas fields were approximately 80 k.ms from Palawan's coastline, they are outside the territorial jurisdiction of the province and is within the national territory of the Philippines.[19]

Negotiations took place between the National Government and the Provincial Government of Palawan on the sharing of the proceeds from the project, with the former proposing to give Palawan 20% of said proceeds after tax. The negotiations, however, were unsuccessful. On March 14, 2003, in a letter to the Secretaries of the Department of Energy (DoE), the Department of Budget and Management (DBM) and the Department of Finance (DoF), Palawan Governor Mario Joel T. Reyes (Governor Reyes) reiterated his province's demand for the release of its 40% share. Attached to said letter was Resolution No. 5340-03[20] of the *Sangguniang Panlalawigan* of Palawan calling off further negotiations with the National Government and authorizing Governor Reyes to engage legal services to prosecute the province's claim.[21]

Civil Case No. 3779

On May 7, 2003, the Provincial Government of Palawan filed a petition[22] for declaratory relief before the RTC of Palawan and Puerto Princesa against DoE Secretary Vicente S. Perez, Jr., DoF Secretary Jose Isidro N. Camacho and DBM Secretary Emilia T. Boncodin (Department Secretaries), docketed as Civil Case No. 3779. It sought judicial determination of its rights under A.O. No. 381 (1998), Republic Act (R.A.) No. 7611[23] or the Strategic Environmental Plan (SEP) for Palawan Act, Section 290 of R.A. No. 7160[24] or the Local Government Code of 1991 (Local Government Code), and Provincial Ordinance No. 474[25] (series of 2000). It asked the RTC to declare that the Camago-Malampaya natural gas reservoir is part of the territorial jurisdiction of the Province of Palawan and that the Provincial Government of Palawan was entitled to receive 40% of the National Government's share in the proceeds of the Camago-Malampaya natural gas project.[26]

Commenting on the petition, the Republic maintained that Palawan was not entitled to the 40% share because the Camago-Malampaya reservoir is outside its territorial jurisdiction. It postulated that Palawan's territorial jurisdiction is limited to its land area and to the municipal waters within 15 km from its coastline. It denied being estopped by the acts of government officials who earlier acknowledged Palawan's share in the proceeds of the project.[27]

The Interim Agreement

On February 9, 2005, DoE Secretary Vincent S. Perez, Jr., DBM Secretary Mario L. Relampagos and DoF Secretary Juanita D. Amatong, with authority from President Gloria Macapagal-Arroyo, executed an Interim Agreement[28] with the Province of Palawan, represented by its Governor Reyes. The agreement provided for the equal sharing between the National Government and the Province of Palawan of 40% of (a) the funds already remitted to the National Government under Service Contract No. 38 and (b) the funds to be remitted to the National Government up the earlier of (i) the effective date of the final and executory judgment on the petition by a court of competent jurisdiction on Civil Case No. 3779, or (ii) June 30, 2010. The parties also agreed that the amount of P600 Million, which was previously released to the Province of Palawan under E.O. Nos. 254 and 254-A, would be deducted from the initial release of the province's 50% share. Furthermore, the release of funds under the agreement would be without prejudice to the respective positions of the parties . in any legal dispute regarding the territorial jurisdiction over the Camago-Malampaya area. Should Civil Case No. 3779 be decided with finality in favor of either party, the Interim Agreement treated the share which the prevailing party has received as financial assistance to the other.[29]

The Province of Palawan claims that the National Government failed to fulfill their commitments under the Interim Agreement and that it has not received its stipulated share since it was signed.[30]

The RTC Rulings in Civil Case No. 3779

On December 16, 2005, the RTC decided Civil Case No. 3779 in favor of the Province of Palawan, disposing as follows:

> WHEREFORE, premises considered, the Court declares that the province of Palawan is entitled to the 40% share of the national wealth pursuant to the provisions of Sec. 7, Article X of the 1987 Constitution and this right is in accord with the provisions of the Enabling Act, R.A. 7160 (The Local Government Code of 1991), computed based on revenues generated from the Camago-Malampaya Natural Gas Project since October 16, 2001.
>
> **IT IS SO ORDERED.**[31]

The RTC held that it was "unthinkable" to limit Palawan's territorial jurisdiction to its landmass and municipal waters considering that the Local Government Code empowered them to protect the environment, and R.A. No. 7611 adopted a comprehensive framework for the sustainable development of Palawan compatible with protecting and enhancing the natural resources and endangered environment of the province.[32]

Applying the principles of decentralization and devolution of powers to local government units (LGUs) as recognized in the 1987 Constitution, the RTC explained that the State's resources must be shared with the LGUs if they were expected to deliver basic services to their constituents and to discharge their functions as agents of the State in enforcing laws, preserving the integrity of the national territory and protecting the environment.[33]

The RTC rejected the Department Secretaries' reliance on the cases of *Tan v. COMELEC*[34] and *Laguna Lake Development Authority v. CA*[35] (*LLDA*) in arguing that territorial jurisdiction refers only to landmass. The RTC held that the cases were inapplicable as *Tan* was an election controversy involving the creation of a new province while *LLDA* merely highlighted the primacy of the said agency's Charter over the Local Government Code. The 1950 case of *Municipality of Paoay v. Manaois*,[36] where a municipality was declared as holding only a usufruct, not exclusive. ownership, over the municipal waters, was also held to be inapplicable since it was rendered before the principle of local autonomy was instituted in the 1987 Constitution and the Local Government Code.[37]

The RTC further declared that the Regalian Doctrine could not be used by the Department Secretaries as a shield to defeat the Constitutional provision giving LGUs an equitable share in the proceeds of the utilization and development of national wealth within their respective areas. The doctrine, said the RTC, is subject to this Constitutional limitation and the 40% LGU share set by the Local Government Code.[38]

Finally, the RTC noted that from 1992 to 1998, Palawan received a total of P116,343,197.76 from collections derived from the West Linapacan Oil Fields, and that former President Fidel V. Ramos issued A.O. No. 381 acknowledging Palawan's claim and share in the proceeds of the Camago--Malampaya project. The RTC, thus, held that by its previous actions and issuances, the National Government legally acknowledged Palawan's claim to the proceeds of the Camago-Malampaya project and it was "too late in the day for [it] to take a 180 degree turn."[39]

On December 29, 2005, the Provincial Government of Palawan filed a motion to require the Secretaries of the DoE, DoF and DBM to render a full accounting of actual payments made by SPEX to the Bureau of Treasury from October 1, 2001 to December 2005, and to freeze and/or place Palawan's 40% share in an escrow account.[40]

On January 4, 2006, the aforesaid Secretaries filed an urgent manifestation asserting that the motion was premature and should not be heard by the RTC because the Republic still had fifteen (15) days to appeal.[41]

The Provincial Government of Palawan countered that pending finality of the December 16, 2005 Decision, there was a need to secure its 40% share over which it had a "vested and inchoate right." [42]

The RTC subsequently issued an Order which was erroneously dated December 16, 2006 and later amended to indicate the date as January 16, 2006.[43] The dispositive portion of the Amended Order[44] reads:

> WHEREFORE, premises considered, the public respondents individually or collectively DIRECTED within ten (10) days from receipt of this Order pursuant to a "Freeze Order" hereby granted by this Court:

a. HON. Respondent SECRETARY OF THE DEPARTMENT OF ENERGY RAPHAEL P.M. LOTILLA

To render a FULL ACCOUNTING of the total gross collections derived by the National Government from the development and utilization of Camago-Malampaya national gas project for the period January 2002 to December 2005, including its conversion to peso denomination and showing the 40% LGU share and henceforth, submit MONTHLY an accounting of all succeeding collections until the finality of the decision;

b. HON. Respondent SECRETARY OF FINANCE MARGARITO TEVEZ-

To submit a full report of the actual payments made by Shell Spex from January 2002 to December 2005 deposited under Special Account 151 of the Bureau of Treasury, Department of Finance, including the dates when the payments were made, the Official Receipts covering the same and the present status, particularly the disputed 40% LOU share for Palawan and to make MONTHLY reports of actual payments received during the pendency of this case;

c. HON. Respondent SECRETARY DEPARTMENT OF BUDGET [sic] ROMULO NERI

Effective immediately, NOT TO ISSUE nor CHARGE allotment release orders, disbursements and cash allocation against the deposit/account Special Fund 151 corresponding to the 40% LOU share for the period January 2002 to December 2005 pending the finality of the decision in this case.

d. ALL RESPONDENTS, collectively or individually, effective immediately, CEASE and DESIST from USING/DISBURSING the 40% share of the LOU-Palawan, for any other purpose, except in compliance with the decision of this Court dated December 16, 2005, under pain of CONTEMPT, until the finality of the decision;

e. Furthermore, the HON. Respondent Secretary of Finance Margarito Tevez [sic] and/or his subordinate officer Hon. Omar T. Cruz Treasurer of the Philippines, to deposit in escrow in the LAND BANK OF THE PHILIPPINES the fund/deposit to the 40% disputed LOU share, identified as Special Account 151, and to "freeze" said account, under pain of CONTEMPT, until finality of the decision or except as directed by this Court pursuant to the Decision dated December 16, 2005.

IT IS SO ORDERED.[45]

The RTC held that the motion for full accounting and freezing of Palawan's claimed 40% share was actually part of the petition for review which sought to declare the duties of the National Government and the rights of the Provincial Government of Palawan, and that a resolution thereof would guide this Court as to the actual amount due the local government since it is not a trier of facts.[46] The RTC also noted that the National Government's track record in complying with the Constitutional

provisions on local autonomy was not exactly immaculate as supposedly evidenced by the case of *Gov. Mandanas v. Hon. Romulo*[47] where, after sharing with the Province of Palawan collections from the West Linapacan oil fields from 1992 to 1998, the National Government "turned its back on its legal commitment to the former." The trial court stressed that the local government of Palawan was merely preempting any possible dissipation of funds that would render any judgment favorable to it an empty victory.[48]

On February 6, 2006, the Department Secretaries filed a motion for reconsideration[49] of the Amended Order dated January 16, 2006.[50]

G.R. No. 170867

On February 16, 2006, the Republic, represented by DoE Secretary Raphael P.M. Lotilla, DoF Secretary Margarita B. Teves and DBM Secretary Romulo L. Neri, challenged the RTC's December 16, 2005 Decision before this Court through a petition for review[51] docketed as G.R. No. 170867. In the same petition, the Republic, in anticipation of the RTC's denial of its motion for reconsideration, also assailed the January 16, 2006 Amended Order *ad cautelam*, ascribing grave abuse of discretion to the RTC for granting affirmative relief in a special civil action for declaratory relief.[52]

On June 6, 2006, the RTC in its Order[53] lifted its January 16, 2006 Order, holding that:

> [A] becoming sense of modesty on the part of this Court, compels it to defer to the Supreme Court's First Division as the Movants have deviously appealed to the High Court the very issues raised in the Motion for Reconsideration now pending before this Court.[54]

The dispositive portion of the RTC's June 6, 2006 Order, thus, reads:

> WHEREFORE, premises considered, the Amended Order dated January 16, 2006 is hereby LIFTED and SET ASIDE to await final determination thereof in view of the Petition for Review on *Certiorari* filed by Movants in this case directly with the Supreme Court.
>
> IT IS SO ORDERED.[55]

Consequently, the Republic manifested to the Court that its *ad cautelam* arguments relative to the Amended Order dated January 16, 2006 need no longer be resolved unless the Provincial Government of Palawan raised the same in its comment.[56]

The Provisional Implementation Agreement

On July 25, 2007, the duly authorized representatives of the National Government and the Province of Palawan, with the conformity of the Representatives of the Congressional Districts of Palawan,

agreed on a Provisional Implementation Agreement (PIA) that allowed 50% of the disputed 40% of the Net Government Share in the proceeds of Service Contract No. 38 to be utilized for the immediate and effective implementation of development projects for the people of Palawan.[57]

E.O. No. 683

On December 1, 2007, President Gloria Macapagal-Arroyo issued E.O. No. 683 which authorized the release of funds to the implementing agencies pursuant to the PIA, without prejudice to any ongoing discussion or the final judicial resolution of Palawan's claim of territorial jurisdiction over the Camago-Malampaya area. E.O. No. 683 provided:

> SECTION 1. Subject to existing laws, and the usual government accounting and auditing rules and regulations, the Department of Budget and Management (DBM) is hereby authorized to release funds to the implementing agencies (IA) pursuant to the PIA, upon the endorsement and submission by the DOE and/or the PNOC Exploration Corporation of the following documents:
>
> 1.1. Directive by the Office of the President or written request of the Province of Palawan, the Palawan Congressional Districts or the Highly Urbanized City of Puerto Princes[a], for the funding of designated projects;
>
> 1.2. A certification that the designated projects fall under the investment program of the Province of Palawan, City of Puerto Princesa, and/or the development projects identified in the development program of the National Government or its agencies; and
>
> 1.3. Bureau of Treasury certification on the availability of funds from the 50% of the 40% share being claimed by the Province of Palawan from the Net Government Share under SC 38;
>
> Provided, that the DBM shall be subject to the actual collections deposited with the National Treasury, and shall be in accordance with the Annual Fiscal Program of the National Government.
>
> SECTION 2. The IA to whom the DBM released the funds pursuant to Section 1 hereof shall be accountable for the implementation of the projects and the expenditures thereon, subject to applicable laws and existing budgeting, accounting and auditing rules and regulations. For recording purposes, the DBM may authorize the IAs to open and maintain a special account for the amounts released pursuant to this Executive Order (EO).
>
> SECTION 3. The National government, with due regard to the pending judicial dispute, shall allow the Province of Palawan, the Congressional Districts of Palawan and the City of Puerto Princesa to securitize their respective shares in the 50% of the disputed 40% of the Net Government Share in the proceeds of SC 38 pursuant to the PIA. For the purpose, the DOE shall, in consultation with the Department of Finance, be

responsible for preparing the Net Government Revenues for the period of to June 30, 2010.

SECTION 4. The amounts released pursuant to this EO shall be without prejudice to any on-going discussions or final judicial resolution of the legal dispute regarding the National Government's territorial jurisdiction over the areas covered by SC 38 in relation to the claim of the Province of Palawan under Sec. 290 of RA 7160.

CA-G.R. SP No. 102247

On February 7, 2008, a petition for *certiorari*[58] questioning the constitutionality of E.O. No. 683 was filed before the CA by Bishop Pedro Dulay. Arigo, Cesar N. Sarino, Dr. Jose Antonio N. Socrates and Prof. H. Harry L. Roque, Jr. (Arigo, et al.), as citizens and taxpayers, against Executive Secretary Eduardo R. Ermita (Executive Secretary Ermita), DoE Secretary Angelo T. Reyes (DoE Secretary Reyes), DoF Secretary Margarito B. Teves, DBM Secretary Rolando D. Andaya, Jr., Palawan Governor Reyes, Representative Antonio C. Alvarez (Alvarez) of the First District of Palawan, Representative Abraham Mitra (Mitra) and Rafael E. Del Pilar, President and Chief Executive Officer, PNOC-EC. Docketed as CA-G.R. SP No. 102247, the petition also asked the CA to: (1) prohibit respondents therein from disbursing funds allocated under E.O. No. 683; (2) direct the National Government to release the 40% allocation of the Province of Palawan from the proceeds of the Camago-Malampaya project pursuant to the sharing formula under the Constitution and the Local Government Code; and (3) prohibit the parties to the PIA from implementing the same for being violative of the Constitution and the Local Government Code.[59]

In a Resolution dated March 18, 2008, the CA required Arigo, et al. to submit, within five (5) days from notice, copies of relevant pleadings and other material documents, namely: (1) the petition for review on *certiorari*, docketed as G.R. No. 170867, filed before this Court; (2) the RTC's Decision in Civil Case No. 3779; (3) the motion for reconsideration of said RTC Decision; (4) the Service Contract No. 38; and (5) the PIA, as required under Section 1, Rule 65, in relation to Section 3, Rule 46 of the Rules of Court.[60]

Arigo, et al. asked for additional ten (10) days to comply with the Resolution, which the CA granted. They later submitted the required documents except for the copies of the petition in G.R. No. 170867 and the PIA. They informed the CA that despite having made a formal request for said petition, they were unable to secure a copy because they were not parties to the case. The Third Division's Clerk of Court also informed them that the records of G.R. No. 170867 were unavailable as the case had already been submitted to the *ponente* for resolution. Though unable to obtain a copy of the PIA, they submitted a copy of Service Contract No. 38 which they supposedly secured from "unofficial sources." Considering the difficulty they allegedly encountered in obtaining the documents, they asked the CA to direct DoE Secretary Reyes and Executive Secretary Ermita to submit a copy of the petition in G.R. No. 170867 and Service Contract No. 38, respectively. They also asked the CA to require any of the respondents officials of the Province of Palawan to submit a copy of the PIA to which they were supposed to have been signatories.[61]

Ruling of the CA

In the CA's Resolution[62] dated May 29, 2008, Arigo et al.'s petition for *certiorari* was denied due course and dismissed. The CA held that the task of submitting relevant documents fell squarely on Arigo, et al. as petitioners invoking its jurisdiction. It added that Arigo, et al. should have submitted a certification from this Court's Third Division concerning the unavailability of the records of G.R. No. 170867 and that they could have simply secured a copy of the PIA from the Malacañang Records Office as the official repository of all documents related to the Executive's functions.

The CA also held that apart from its procedural defect, the petition was also prematurely filed considering that it was anchored on the same essential facts and circumstances and raised the same issues in G.R. No. 170867. The CA likewise noted that the interim undertaking between the parties to the PIA was contingent on the final adjudication of G.R. No. 170867. Taking judicial notice of on-going efforts of both legislative and executive departments to arrive at a common position in redefining the country's baseline in the light of the United Nations Convention on the Law of the Sea (UNCLOS), the appeals court further explained that ruling on the case may be tantamount to a collateral adjudication of the archipelagic baseline which involved a policy issue.[63]

Arigo, et al. asked the CA to reconsider its May 29, 2008 Resolution and later submitted an original duplicate of the Resolution[64] dated June 23, 2008 of this Court's Third Division which denied their counsel's request for certified true copies of certain documents since it was not a counsel for any party.[65]

On December 16, 2008, the CA issued a Resolution[66] denying the motion for reconsideration.

G.R. No. 185941 (Arigo, et al. petition)

On February 23, 2009, Arigo, et al. filed a petition for review on *certiorari*[67] over the CA's May 29, 2008 and December 16, 2008 Resolutions, arguing that the case was ripe for decision and that the documents required by the CA were not necessary.[68] They assert anew their constitutional challenge to E.O. No. 638, claiming that it was in violation of the mandated equitable sharing of resources between the National Government and LGUs.[69]

Consolidation of Cases

On June 23, 2009, the Court in its Resolution[70] consolidated G.R. No. 185941 with G.R. No. 170867.

Oral Argument

On September 1, 2009[71] and November 24, 2009,[72] the cases were heard on oral argument. After the parties presented their respective arguments, the Court heard the opinions of Atty. Henry Bensurto, Jr. (Atty. Bensurto) of the Department of Foreign Affairs and Dean Raul Pangalangan of the University of the Philippines as *amici curiae*.

Remittances under Service Contract No. 38

As of August 31, 2009, the amounts remitted to the DoE under Service Contract No. 38 are as follows:[73]

Year	Total Collection
2002	646,333,100.11
2003	1,475,334,680.12
2004	1,631,245,574.33
2005	2,393,400,010.73
2006	5,369,720,905.73
2007	8,228,450 883.72
2008	25,498 646,553.39
January 1 to August 31, 2009	15,947,078,304.12
Total	**61,190,210,012.25**

Based on the aforesaid remittances, the Republic computed the share claimed by the Province of Palawan (as of August 31, 2009) as follows:[74]

Year	DoE Share[75]	Source of Assistance to the LGUs	
		Palawan's 40% Claim	Total Collection
2002	10,113,578.87	636,219,521.24	646,333,100.11
2003		1,475,334,680.12	1,475,334,680.12
2004		1,631,245,574.33	1,631,245,574.33
2005		2,393 400,010.73	2,393,400,010.73
2006		5,369,720,905.73	5,369,720,905.73
2007		8,228 450,883.72	8,228,450,883.72
2008	15,057,426,163.39	10,441,220,390.00	25,498,646,553.39
January 1 to August 31, 2009	10,600,881,085.36	5,346,197,218.76	15,947,078,304.12
Total	25,668,420,827.62	**35,521,789,184.63**	61,190,210,012.25

The Parties' Submissions

Precised, the parties' respective arguments are as follows:

The Republic

1. An LGU's territorial jurisdiction refers only to its land area.[76]

> 1.1. Since Section 7 of the Local Government Code uses "population" and "land area" as indicators in the creation and conversion of LGUs, it follows that the territorial jurisdiction is the land where the people live and excludes seas or marine areas.[77]

1.2. In describing the territorial requirement for a province, Section 461(a)(i) of the Local Government Code speaks of "a contiguous territory, as certified by the Lands Management Bureau" while Section 461(b) of the same law provides that "the territory need not be contiguous if it comprises two (2) or more islands," indicating that "territory" is limited to the landmass.[78]

1.3. "Territory" as used in Section 461 of the Local Government Code and "land area" as used in Section 7 of the same law, must be attested to by the Lands Management Bureau which has jurisdiction only over land areas.[79]

1.4. In Tan,[80] the Court interpreted "territory" to refer only to the mass of land above sea water and excludes the waters over which the political unit exercises control.[81] The RTC erred in holding that Tan is not applicable when it also involved the issue of whether the province should include the waters around it. Tan applies whether the purpose is the creation of a province or the determination of its territorial jurisdiction.[82]

2. The area referred to under Section 7, Article X of the 1987 Constitution, which grants LGUs a share in the proceeds of the utilization and development of national wealth within their respective areas, refers .to the territorial boundaries of the LGU as defined in its charter and not to its exercise of jurisdiction.[83]

2.1. As examples of such national wealth, members of the 1986 Constitutional Commission referred to natural resources found inland or onshore, even when offshore explorations were being conducted years before the Commission was formed.[84]

2.2. The Local Government Code provides that the territorial jurisdiction of municipalities, cities and barangays should be identified by metes and bounds, thus confirming that "territorial jurisdiction" refers to the LOU's territorial boundaries.[85]

3. The Camago-Malampaya reservoir is outside the territorial boundaries of the Province of Palawan as defined in its Charter. Under said Charter, Palawan's territory is composed only of islands.[86]

4. On municipal waters:

4.1. As argued in the petition: Assuming an LGU's territory includes the waters around its land area, the same should refer only to the municipal waters as defined under Section 131(r) of the Local Government Code and Section 4.58[87] of R.A. No. 8550, [88] otherwise known as the Philippine Fisheries Code of 1998.[89]

4.1.1. In defining "municipal waters," Section 131(r) of the Local Government Code only includes marine waters within fifteen (15) kms from the coastline. Section 4.58 of R.A. No. 8550 gives a similar definition of "municipal waters."[90]

4.1.2. Under Sections 6 and 7 of R.A. No. 8550, it is the Department of Agriculture, through the Bureau of Fisheries and Aquatic Resources, that has jurisdiction over Philippine waters beyond the 15-km limit of municipal waters, with respect to the issuance of license, charging of fees and access to fishery resources.[91]

4.1.3. Section 16 of R.A. No. 8550 provides that the jurisdiction of a municipal or city government extends only to the municipal waters, while Section 65 of the same law provides that the enforcement of laws and the formulation of rules, except in municipal waters, are vested in the National Government.[92]

4.1.4. Thus, the LGUs' authority may be enforced only within the 15-km limit of the municipal waters. Beyond it, jurisdiction rests with the National Government through the Philippine Navy, Philippine Coast Guard, Philippine National Police-Maritime Command, and the Department of Agriculture in their respective areas of concern.[93]

4.1.5. It was held in Municipality of Paoay[94] that a municipality's right over municipal waters consists merely of usufruct. Contrary to the RIC's pronouncement, the decision in said case remains good law since nothing in the 1987 Constitution overthrew the principle that the State owns all natural resources whether found on land or under the sea.[95]

4.1.6. Even assuming that the LGU's territory extends 'to the municipal waters, the Camago-Malampaya natural gas reservoir is located approximately 80 kms from mainland Palawan, thus, way beyond the 15-km radius.[96]

4.2. As argued in the Memorandum: Under the Local Government Code, the 15-km municipal waters and beyond, including the continental margin, do not' form part of the territory of an LGU.[97]

4.2.1. In *Tan*, the Court excluded from the territory of the political unit the "waters over which [it] exercises control" or the municipal waters.[98]

4.2.3. The Local Government Code and the Philippine Fisheries Code did not redefine and extend the territorial jurisdiction of LGUs to include the 15-km municipal waters. Instead, they merely granted "extraterritorial" jurisdiction over the municipal waters, which is limited only to the waters, excluding the seabed, subsoil and continental shelf; to fishery and aquatic resources, excluding other resources; and to revenue generation and regulation of said resources.[99]

4.2.4. Other than the 15-km municipal waters, the Local Government Code did not vest jurisdiction beyond the LGU's territorial boundaries.[100]

5. Under the Archipelagic and Regalian Doctrines enshrined in the 1987 Constitution, the maritime area between Kalayaan and mainland Palawan belongs to the national territory and does not pertain to any local government unit.[101]

5.1. The fact that a territorial sea belongs to the internal waters of a coastal State does not necessarily imply that it belongs to the province or local government closest to it. R.A. No. 3046, entitled An Act to Define the Baselines of the Territorial Sea of the Philippines, as amended by R.A. No. 5446, which defines the State's "internal waters," does not expressly state that the internal waters should also belong to the LGU.[102]

5.2. The Archipelagic Doctrine, as enunciated in the UNCLOS and affirmed in Article I of the 1987 Constitution, pertains to the sovereign state and does not place within the territory of LGUs the waters between and surrounding its islands. Nowhere in international or domestic law does it state that said doctrine applies in pari materia to LGUs.[103]

5.3. The application of the Archipelagic Doctrine to a political ·subdivision will encroach on territories that belong to the State. Section 3 of the Water Code provides that "all waters belong to the State" and Section 5 of the same law specifies that "seawater belongs to the State." So also, while the definition of Philippine waters under the Philippine Fisheries Code acknowledges that waters may exist in political subdivisions, nothing therein implies that such waters form part of the territory of the LGU. Furthermore, said definition treats the waters connecting the islands as a separate group from the waters existing in the political subdivisions, implying that waters between islands are not deemed found in LGUs.[104]

5.4. The Regalian Doctrine, as embodied in Section 2, Article XII of the 1987 Constitution, is all encompassing; thus, it behooves the claimant to present proof of title before his right is recognized. Without a specific and unmistakable grant by the State, the property remains to be that of the State and the LGU cannot claim an area to be part of its territorial jurisdiction. Inclusion of any land or water as part of Palawan's territory must be expressly provided by law and not merely inferred by vague and ambiguous construction. Statutes in derogation of authority should be construed in favor of the State and should not be permitted to divest it of any of its rights or prerogatives unless the legislature expressly intended otherwise.[105]

5.5. In a number of cases involving conflicting claims of the United States Federal Government and the coastal states over natural wealth found within the latter's adjoining maritime area, the Supreme Court of the United States of America (U.S.), applying the Federal Paramountcy Doctrine, consistently ruled on the fundamental right of the national government over the national wealth in maritime areas, to the exclusion of the coastal state. The reason behind the doctrine equally applies to the conflicting claims between the Philippine National Government and the Province of Palawan. In fact, there are more reasons to apply the doctrine in the Philippines since unlike the individual states of the America which preexisted the U.S., the LGUs are creations and agents of the Philippine National Government.[106]

6. The inclusion of the Kalayaan Group of Islands (Kalayaan) to the Province of Palawan under Presidential Decree (P.D.) No. 1596[107] did not *ipso facto* make the waters between Kalayaan and the main island of Palawan part of the territorial jurisdiction of Palawan.[108]

> 6.1. There is nothing in P.D. No. 1596, or the charter of Palawan, Act No. 1396, that states that the waters around Kalayaan are part of Palawan's territory. P.D. No. 1596 refers to Kalayaan as a cluster of islands and islets while Act No. 1396 identifies the islands included in the Province of Palawan. Thus, the areas referred to are limited to the landmass. Since the Camago-Malampaya reservoir is not an island, it cannot possibly be covered by either statute. More importantly, the reservoir is outside the geographical lines mentioned in said laws.[109]
>
> 6.2. Absent an express grant by Congress, the Province of Palawan cannot validly claim that the area between mainland Palawan and Kalayaan are automatically part of its territorial jurisdiction.[110]

7. Section 1, Article X of the 1987 Constitution provides that the territorial and political subdivisions of the Republic are the provinces, cities, municipalities and barangays. It, however, does not require that every portion of the Philippine territory be made part of the territory of an LOU. It was intended merely to institutionalize the LGUs. And even on the supposition that the Constitution intended to apportion the Philippine territory to the LGUs, legislation is still needed to implement said provision. However, no law has been enacted to divide the Philippine territory, including its continental margin and exclusive . economic zones, to all LGUs.[111]

8. Palawan's territorial boundaries do not embrace the continental shelf where the Camago-Malampaya reservoir is located. Contrary to Dean Raul Pangalagan's view, the UNCLOS cannot be considered to have vested the LGUs with their own continental shelf based on the doctrine of transformation. The concept of continental shelf under the UNCLOS does not automatically apply to a province.[112]

> 8.1. A treaty is an agreement between states and governs the legal relations between nations. And even if the UNCLOS were to be deemed transformed as part of municipal law after its ratification by the Batasang Pambansa in 1984 under Resolution No. 121, it did not automatically amend the Local Government Code and the charters of the LGUs. No such intent is manifest either in the UNCLOS nor Resolution No. 121. Instead, the UNCLOS, as transformed into our municipal law, is to be applied *verba legis*.[113]
>
> 8.2. Under the express terms of the UNCLOS, the rights and duties over maritime zones and the continental shelf pertain to the State, and no provision therein suggests any reference to an LGU.[114]
>
> 8.3. In other sovereign states such as Canada and the U.S., the maritime zones were ruled to be outside the LGUs' territorial jurisdiction. The Federal Paramountcy Doctrine was upheld in four leading U.S. cases where the claims of various U.S. coastal states

over the marginal and coastal waters and the continental shelf were rejected.[115]

9. The State is not estopped by the alleged mistakes of its officials or agents.[116]

9.1. On June 10, 1988, the DoE requested the Province of Palawan for a seven-year deferment of payment to enable the National Government to pay a portion of NPC's TOPQ obligations. On February 17, 1998, President Ramos issued A.O. No. 381 which projected US$2.1 Billion as Palawan's share from the Camago-Malampaya project. Although they seem to acknowledge Palawan's share in the proceeds of the Camago-Malampaya project, they cannot contravene the laws that delineate Palawan's territorial jurisdiction. Furthermore, the President has no authority to expand the territorial jurisdiction of a province as this can only be done by Congress.[117]

9.2. In issuing A.O. No. 381, President Ramos made no misrepresentation as to give rise to estoppel. The statements in said A.O. were not calculated to mislead the Province of Palawan; they were not even directed to Palawan. No estoppel can be invoked if the complaining party has not been misled to his prejudice. There is no proof that the Province of Palawan sustained injury as a result of a misrepresentation.[118]

9.3. The doctrine of estoppel should be applied only in extraordinary circumstances and should not be given effect beyond what is necessary to accomplish justice between the parties.[119]

9.4. The doctrine of estoppel does not preclude the correction of an erroneous construction by the officer himself, by his successor in office, or by the court in an appropriate case. An erroneous construction creates no vested right and cannot be taken as precedent.[120]

9.5. Accordingly, the Province of Palawan cannot rely on the fact that in 1992, they shared in the proceeds derived from the West Linapacan oil fields located approximately 76 kms off the western coastline of Palawan.[121]

9.6. The public funds available for various projects in other provinces would be significantly reduced if Palawan is allowed to receive its claimed 40% share in the Camago-Malampaya project.[122]

10. Ordinance No. 474, series of 2000, enacted by the *Sangguniang Panlalawigan* of Palawan and delineating the territorial jurisdiction of the province to include the Camago-Malampaya area, is *ultra vires*.[123]

10.1. Ordinance No. 474 conflicts with the Charter of the Province of Palawan as it expanded the boundaries of the province and included the area between its constituent islands. It is also in conflict with the limits of LGUs' rights over marine areas under the Local Government Code, the Fisheries Code and other pertinent laws.[124]

10.2. An LGU cannot fix its territorial jurisdiction, or limit or expand the same through

an ordinance. Pursuant to Section 10, Article X of the 1987 Constitution and Sections 6 and 10 of the Local Government Code, only Congress can create, divide or merge LGUs and alter their boundaries, subject to the plebiscite requirement. An ordinance cannot contravene the Constitution or any statute.[125]

10.3. As plotted by the National Mapping and Resource Information Authority (NAMRIA), the territorial boundaries of Palawan under Ordinance No. 474 appear to be inconsistent with the delineation of the Philippine territory under the Treaty of Paris. [126]

11. Section 3(1) of R.A. No. 7611 or SEP for Palawan Act contains a definition of "Palawan." The Camago-Malampaya reservoir is undoubtedly within the area described and plotted on the map. However, R.A. No. 7611 did not redefine Palawan's territory or amend its charter.[127]

11.1. With the words "(A)s used in this Act," Section 3 of R.A. No. 7611 limited the application of the definitions therein to said law which was enacted to promote sustainable development goals for the province through proper conservation, utilization and development of natural resources.[128]

11.2. Just like Palawan's Charter, Section 3(1) of R.A. No. 7611 limited the territory to the islands and islets within the area.[129]

11.3. The metes and bounds under Section 3(1) of R.A. No. 7611, when plotted on the map, excluded portions of mainland Palawan and several islands, municipalities or portions thereof.[130]

11.4. The basis of the description of Palawan is unclear and there is no record that the alteration in Palawan's boundaries complied with Section 10, Article X of the 1987 Constitution which requires that the alteration be in accordance with the criteria established in the local government code and approved by a majority of the votes cast in a plebiscite in the political unit(s) directly affected.[131]

11.5. Based on the Declaration of Policy in R.A. No. 7611, the object of the law is not to expand the territory of Palawan but to make the province an agent of the National Government in the protection of the environment. There is nothing in the title of the law or any of its provisions indicating that there was a legislative intent to expand or alter the boundaries of the province or to remove certain municipalities from its territory.[132]

11.6. If the description of Palawan under R.A. No. 7611 would be read as a new definition of its territory, it would be unconstitutional because the title .of the law does not indicate that boundaries would be expanded, in contravention of the Constitutional requirement that every bill must embrace only one subject to be expressed in its title. [133]

11.7. Even if the term "territorial jurisdiction" were to be understood as including the grant of limited extraterritorial jurisdiction, the Camago-Malampaya reservoir remains to

be beyond Palawan's jurisdiction under R.A. No. 7611. The said law did not expand the province's police or administrative jurisdiction; it did not impose any additional function or jurisdiction on the Province of Palawan. If anything, the SEP limited the province's governmental authority since all LGUs in the area must align their projects and budgets with the SEP. Furthermore, tasked to implement the SEP was not the province but the Palawan Council for Sustainable Development (PCSD), a national agency created under the law, composed of both national and local officials. The participation of local officials did not turn PCSD into an arm of the Province of Palawan; their inclusion is to allow a holistic view of the environmental issues and opportunities for coordination.[134]

12. A.O. No. 381 was not issued to redefine Palawan's territory; its title precisely states that it was issued to provide for the fulfillment by the National Power Corporation of its obligations under the December 30, 1997 Agreement for Sale and Purchase of Natural Gas with SPEX/OXY and for the compliance of the National Government's performance undertaking. Palawan was mentioned but not in the context of redefining its territory. Only a statute can expand the territory or boundaries of an LGU.[135]

13. Sections 465 and 468 of the Local Government Code which respectively authorize the Provincial Governor to adopt measures to safeguard marine resources of the province and the *Sangguniang Panlalawigan* to impose penalties for destructive fishing, did not give the provinces government authority over marine resources beyond the municipal waters.[136]

14. Palawan's Claim that it exercises jurisdiction over the Camago-Malampaya area is bereft of credible proof. Absent a law which vests LGUs jurisdiction over areas outside their territorial boundaries, its acts over the Camago-Malampaya area are *ultra vires* or at most an exercise of extraterritorial jurisdiction.[137]

15. The proposition of the *amici curiae* that the principle of equity justifies granting Palawan 40% of the government's share in the Camago-Malampaya project, may set a dangerous precedent. Furthermore, the principle of equity cannot be applied when there is a law applicable to the case. Applicable to the instant case are Section 7, Article X of the 1987 Constitution and Section 290 of the Local Government Code based on which the Province of Palawan is not entitled to share in the proceeds of the Camago-Malampaya project.[138]

15.1. The concerns of the *amici curiae* appear to rest on the possible damage to the environment surrounding Palawan. However, this eventuality is covered by the Contractor's obligations under the Environmental Compliance Certificate (ECC) which required SPEX to ensure minimal impact on the environment and to provide for an Environmental Guarantee Fund to cover expenses for environmental monitoring and to compensate for whatever damage that may be caused by the project.[139]

16. The PIA and E.O. No. 683 do not constitute evidence of the Republic's admission that Palawan is entitled to the proceeds of the Camago-Malampaya project. In civil cases, an offer of compromise is not admissible in evidence against the offeror. Furthermore, the whereas clauses of E.O. No. 683 clearly show that the President issued the E.O. based on a "broad perspective of the requirements

to develop Palawan as a major tourism destination" and Section 25 of the Local Government Code which authorizes the President, on the LGU's request, to provide financial assistance to the LGU. The E.O. also expressly states that the amounts released shall be without prejudice to the final resolution of the legal dispute between the National Government and the Province of Palmvan regarding the latter's claimed share under the Service Contract No. 38.[140]

17. The National Government has no intention to deprive the Province of Palawan a share in the proceeds of the Camago-Malampaya project ifwere so entitled.[141]

18. The RTC committed grave abuse of discretion when it issued Amended Order dated January 16, 2006 because it granted affirmative relief in a special civil action for declaratory relief.[142]

> 18.1. While courts have the inherent power to issue interlocutory orders as may be necessary to carry its jurisdiction into effect, such authority should be exercised as necessary in light of the jurisdiction conferred in the main action. In this case, the main action is one for declaratory relief, which is a preventive and anticipatory remedy designed to declare the parties' rights or to express the court's opinion on a question of law, without ordering anything to be done.[143]

19. Arigo, et al. have no legal standing to question E.O. No. 683 either as citizens or as taxpayers since they have not shown any actual or threatened injury or that the case involves disbursement of public funds in contravention of law.[144]

20. G.R. No. 185941 is not ripe for judicial adjudication considering that there is still no final determination as to whether the Province of Palawan is entitled to share in the proceeds of the Camago-Malampaya project. Also, the interim undertaking of the parties under the PIA is contingent on the final adjudication of G.R. No. 170867. Furthermore, the validity and manner by which the funds were realigned under E.O. No. 683 could not be questioned since they are considered as financial assistance subject to the discretion of the President pursuant to the authority granted by Section 25(c) of the Local Government Code.[145]

Arigo, et al.

1. Their petition was not prematurely filed. While the interim undertaking between the National Government and the Province of Palawan under the PIA was contingent on the final adjudication of G.R. No. 170867, disbursements of public funds would ensue or were already taking place in violation of the provisions of the Constitution and the Local Government Code on the equitable sharing of national wealth between the National Government and the LGUs.[146]

2. Neither Governor Reyes nor Representatives Alvarez and Mitra had the authority to sign the PIA on behalf of the cities, municipalities and barangays of Palawan. In fact, the cities, municipalities and barangays have a bigger share that the Provincial Government in the allocation of the revenues from the Camago-Malampaya project. Under Section 292 of the Local Government Code, the city or municipality gets 45% and the barangay gets 35%, or a combined share of 80% as against the Province's share of only 20%. Governor Reyes and Representatives Alvarez and Mitra could not

sign the PIA as if they were the sole recipients of the proceeds of the Camago-Malampaya project.[147]

3. The PIA reduces the share of Palawan's LGUs in two ways: *first*, by making "net proceeds" the basis for sharing instead of "gross collection" as provided by Section 290 of the Local Government Code; and *second*, by cutting down the LGUs' equitable share in such proceeds by half, with the Province solely claiming such allocation.[148]

4. The equitable share of LGUs in the utilization and development of national wealth is not subject to compromise.[149]

5. The PIA requires that any fund allocation is subject to the prior approval of the DoE and/or the PNOC-EC and to actual collections deposited with the National Treasury, in contravention of the Local Government Code, which requires that the proceeds of the utilization of natural resources should be directly released to each LGU without need of further action, and the Court's ruling in *Pimentel, Jr. v. Hon. Aguirre*[150] on the automatic· release of the LGUs' shares in the National Internal Revenue.[151]

6. In providing that only those projects identified by the Office of the President, or the Province of Palawan, or the Palawan Congressional Districts, or the Highly Urbanized City of Puerto Princesa, may be funded, the PIA violates the intent of the Local Government Code to grant autonomy to LGUs.[152]

7. The PIA allows the securitization of the shares of the LGUs and the National Government in the utilization of the Camago-Malampaya Oil and Gas resources, but the National Government cannot securitize what it does not own legally and neither can the Province of Palawan securitize what it does not fully own.[153]

8. E.O. No. 683 is nothing more than a realignment of funds carried out in violation of the Constitutional provision giving LGUs an equitable share in the proceeds of the utilization of national wealth, for in usual budgeting procedures of Congress, such share should be included in the appropriation for "Allocation to LGUs" which is classified as a mandatory obligation of the National Government and automatically released to the LGUs.[154]

9. E.O. No. 683 is a usurpation of the power of the purse lodged in Congress under Section 29(1) and (3),[155] Article VI of the 1987 Constitution. Since the proceeds from the Camago-Malampaya project is the production share of the government in a service contract, it cannot be disbursed without an appropriation law.[156]

10. E.O. No. 683 fails to consider its implications on the country's claim to an Extended Continental Shelf (ECS) under the UNCLOS III regime. The best way to claim an ECS is to consider the Camago-Malampaya area and the Kalayaan tb be part of Palawan's continental shelf. One basis for the Philippine claim to Kalayaan is that it constitutes a natural prolongation of Palawan's land

territory.[157]

11. The Republic's invocation of U.S. case law to dispute the LGUs' entitlement under Section 7, Article X of the 1987 Constitution is inappropriate and odd for a unitary state like the Philippines. Said provision in the unitary Philippine state only means that the entitlement exists only because of a constitutional grant and not because the LGUs have sovereignty and jurisdiction in their respective areas distinct from the Republic's.[158]

12. The definition of "municipal waters" under applicable laws is irrelevant. The Camago-Malampaya reservoir is located in the continental shelf which, under Article 76 of the UNCLOS, pertains to the seabed and subsoil as the natural prolongation of the landmass.[159]

13. The constitutionality of E.O. No. 683 may be resolved without reference to the conflicting territorial claims in G.R. No. 170867. In making reference to said case, they merely meant to provide a historical backdrop to the issuance of E.O. No. 683. It is for this reason that they attached only a copy of E.O. No. 683 to their petition.[160]

14. R.A. No. 7611 and A.O. No. 381 both recognize that the Camago-Malampaya area falls with the continental shelf of Palawan. As regards the Republic's contention that R.A. No. 7611 is illegal for having redrawn the boundaries of the Province of Palawan without a plebiscite, the same ignores the fact that R.A. No. 7611 only incorporates the continental shelf regime found in Article II of the 1987 Constitution. A plebiscite was unnecessary because the 1987 Constitution was overwhelmingly ratified.[161]

15. The CA erred in dismissing CA-G.R. SP No. 102247 in deference to executive and legislative deliberations on the country's baselines as it is in violation of its constitutional duty to interpret the constitutional provisions defining the national territory. Furthermore, until revoked or amended, the country's existing law on baselines (R.A. No. 3046 as amended by R.A. No. 5446) remains good law.[162]

16. The CA erred in dismissing their action for *certiorari* for failure to submit a copy of the PIA considering that the terms of E.O. No. 683 embody all the provisions of the assailed PIA. It was also unnecessary to submit a copy of the petition in G.R. No. 170867 as it was only tangential to the resolution of the case. Furthermore, the alleged failure to submit said documents has been mooted by the June 23, 2008 Resolution of the Court's Third Division indicating that non-parties could not have access to the records of G.R. No. 170867. At any rate, the records of said case are now a matter of judicial notice to this Court.[163]

The Province of Palawan

1. Section 7 of the Local Government Code, on the creation and conversion of LGUs, does not expressly provide that an LGU's territorial jurisdiction refers only to its land area.[164]

1.1. Land area is included as one of the requisites for the creation or conversion of an

LGU because evidently, no LGU can be created out of the maritime area alone.[165]

1.2. Another requisite - population - is determined as the total number of inhabitants within the territorial jurisdiction of the LGU. The law thus aptly uses the phrase "territorial jurisdiction" instead of territory or land area since there are communities that live in coastal areas or low-water areas that form part of the sea. If a local government's territorial jurisdiction is limited to its land area, then these communities will not belong to any LGU.[166]

2. Section 461 of the Local Government Code does not define the territorial jurisdiction of a province. It merely specifies the requisites for the creation of a province. In fact, said provision shows that territory and population are alternative requirements for the creation of a new province, with income being the indispensable requirement. It does not necessarily exclude the maritime area over which a province exercises control and authority, but merely provides that to detennine whether an area is sufficient to constitute a province, only the landmass or land territory shall be included. [167]

3. In *Tan*, which involves the creation of a province under the old Local Government Code, the Court held that the word "territory" as used in said law "has reference only to the mass of land area and excludes the waters over which the political unit exercises control." This ruling affirms that an LGU exercises control over waters, making them part of the political unit's territorial jurisdiction. Furthermore, *Tan* only defines the word "territory" as used in Section 197 of the old Local Government Code. In convoluting the words "territory" and "territorial jurisdiction," the Republic misapplied the doctrine laid out in *Tan*.[168]

4. Section 7, Article X of the 1987 Constitution provides that the LGU is "entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law x x x." The provision does not state "within their respective land areas." The word "area" should accordingly be construed in its ordinary meaning to mean a distinct part of the surface of something. It, therefore, encompasses land, maritime area and the space above them.[169]

5. The delineation of the territorial jurisdiction by metes and bounds is required only for landlocked LGUs.[170]

6. Limiting the LGU's territorial jurisdiction to its land area is inconsistent with the State's policy of local autonomy as enshrined in Section 25, Article II of the 1987 Constitution and amplified in Section 2 of the Local Government Code. Extending such jurisdiction to all areas where the Province of Palawan has control or authority will give it more resources to discharge its responsibilities, particularly in the enforcement of environmental laws in its vast marine area.[171]

7. Numerous provisions of the Local Government Code indicate that an LGU's territorial jurisdiction includes the maritime area. Section 138 speaks of public waters within the territorial jurisdiction of the province. Section 465(3)(v) authorizes the Provincial Governor to adopt adequate measures to safeguard and conserve the province's marine resources. Section 468(1)(vi) empowers the

Sangguniang Panlalawigan to protect the environment and impose appropriate penalties for acts that endanger it, such as dynamite fishing. More importantly, Section 3, which provides for the operative principles of decentralization and local autonomy, states that the vesting of duties in the LGU shall be accompanied with provision for reasonably adequate resources to effectively carry them out. When the same provision speaks of ecological balance which the LGUs shall manage with the National Government, it encompasses the maritime area.[172]

> 7.1. The environmental impact that the Camago-Malampaya project may have on the people of Palawan requires that the Province of Palawan must equitably share in its proceeds so it can have adequate resources to ensure that the extraction of natural gas will not have a deleterious effect on its environment.[173]

8. The Provincial Government of Palawan exercises administrative, environmental and police jurisdiction over public waters within its territorial jurisdiction, including the Camago-Malampaya reservoir. Local police, under the supervision of local executives, maintain peace and order over the said area. Crimes committed therein are filed and tried in Palawan courts. The provincial government also enforces local and national environmental laws over this area. In fact, SPEX consistently recognized Palawan as the location of the project, having obtained the necessary endorsement from the *Sangguniang Panlalawigan* of Palawan before starting its operations, in accordance with Sections 26 and 27 of the Local Government Code. Furthermore, the plant, equipment and platform of SPEX, situated offshore, were declared for tax purposes with the Province of Palawan.[174]

9. Based on the Senate deliberations on the Local Government Code, it is a foregone conclusion that the Province of Palawan has equitable share in the proceeds of the Camago-Malampaya project.[175]

10. Under Section S(a) of the Local Government Code, any question on a particular provision of law on the power of an LGU shall be liberally construed, and any doubt shall be resolved, in favor of the LGU.[176]

11. Neither the Local Government Code nor the Philippine Fisheries Code provides that beyond the land area, the LGU's territorial jurisdiction can extend only up to the 15-km stretch of municipal waters.[177]

> 11.1. The definition of "municipal waters" in Section 131(r) of the Local Government Code shall be used only for purposes of local government taxation inasmuch as it is found under Title I of Book II on Local Taxation and Fiscal Matters. Section 131(r) also indicates that the definition applies when the term "municipal waters" is used in Title I which refers to Local Government Taxation. If anything, the definition bolsters the argument that the LGU's territorial jurisdiction extends to the maritime area.[178]
>
> 11.2. The Philippine Fisheries Code did not limit or define the territorial jurisdiction of an LGU. The definition of "municipal waters" under both this law and the Local Government Code was intended merely to qualify the degree of governmental powers

to be exercised by the coastal municipality or city over said waters.[179]

11.3. Palawan is composed of 1,786 islands and islets. Twelve (12) out of its twenty-three (23) municipalities are island municipalities. Between them are expansive maritime areas that exceed the 15-km municipal water-limit. It will, thus, be inevitable for the province to exercise governmental powers over these areas. If Palawan will be authorized to enforce laws only up to the municipal water-limit, it will be tantamount to a duplication of functions already being performed by the component municipalities. It will also render the province inutile in enforcing laws in maritime areas between these municipalities. It was not the intention of the lawmakers, in enacting the Local Government Code, to create a vacuum in the enforcement of laws in these areas or to disintegrate LGUs.[180]

12. Laws other than the Local Government Code recognize that the Province of Palawan has territorial jurisdiction over the maritime area beyond the municipal waters.[181]

12.1. R.A. No. 7611 defines Palawan as comprising islands and islets and the surrounding sea, which includes the entire coastline up to the open sea.[182]

12.1.1. Based on the coordinates of Palawan provided in Section 3(1) of R.A.· No. 7611, the Camago-Malampaya reservoir is within the territorial jurisdiction of the province.[183]

12.1.2. R.A. No. 7611 did not alter the territorial jurisdiction of Palawan, as provided in Section 37 of its charter, Act No. 2711. R.A. No. 7611 merely recognized the fact that the islands comprising Palawan are bounded by waters that form part of its territorial jurisdiction. Palawan's area as described in said law could be called the province's "environmental jurisdiction."[184]

12.1.3. Pursuant to R.A. No. 7611, the Palawan Council for Sustainable Development (PCSD) shall establish a graded system of protection and development control over the whole of Palawan, including mangroves, coral reefs, seagrass beds and the surrounding sea.[185]

12.1.4. R.A. No. 7611 encompasses the entire ecological system of Palawan, including the coastal and marine areas which it considers a main component of the Environmentally Critical Areas Network.[186]

12.1.5. Local government officials of Palawan have representations in PCSD, the agency tasked to enforce the integrated plan under R.A. No. 7611. Since the enforcement of environmental laws is a joint obligation of the national and local governments, with local communities being the real stakeholders, LGUs should benefit from the proceeds of the natural wealth found in their territorial jurisdictions.[187]

12.1.6. The Republic's attempt to remove the Camago-Malampaya area from the Province of Palawan is contrary to the declared state policy of adopting an integrated ecological system for Palawan under R.A. No. 7611.[188]

12.2. A.O. No. 381 explicitly declared that the Camago-Malampaya reservoir is located offshore northwest of Pal awan and that the Province of Palawan was expected to receive about US$2.1 Billion from the total govetnment share of US$8.1 Billion out of the proceeds from the Camago-Malampaya project.[189]

12.3. P.D. No. 1596 declared Kalayaan as a distinct and separate municipality of the Province of Palawan. In delineating Kalayaan's boundaries, P.D. No. 1596 included the seabed, subsoil, continental margin and airspace.[190]

12.3.1. P.D. No. 1596 states that the Republic's claim to Kalayaan is foremost based on the fact that said group of islands is part of the Philippine archipelago's continental margin which includes the continental shelf. The continental shelf is the submerged natural prolongation of the land territory and is an integral part of the landmass it is contiguous with. Oil and gas are found not in the waters off Palawan but in the continental shelf which is contiguous to and a prolongation of the landmass of Palawan.[191]

13. The Province of Palawan cannot be said to be holding a mere usufruct over the municipal waters based on the 1950 case of *Municipality of Paoay*. Said case is not applicable as it was decided when there was a concentration of powers and resources in the national government, unlike the decentralized system espoused in the Local Government Code.[192]

14. The federal paramountcy doctrine is a constitutional law doctrine followed in federal states, particularly in the U.S. and Canada. The application of this doctrine to the Philippine setting is legally inconceivable because the Philippines has not adopted a federal form of government. Furthermore, most of the states in the U.S. were previously independent states who were obliged to surrender their sovereign functions over their maritime area or marginal belt to the federal government when they joined the federal union. Contrarily, the Philippines had a unitary system of government until it adopted the ideas of decentralization and local autonomy as fundamental state principles. Instead of different states surrendering their *imperium* and *dominium* over the maritime area to a federal government, the Philippine setting works in the opposite as the National Government, which is presumed to own all resources within the Philippine territory, is mandated to share the proceeds of the national wealth with the LGUs.[193]

15. The Republic is divided into political and territorial subdivisions. Thus, for a territory to be part of the Republic, it must belong to a political and territorial subdivision. These subdivisions are the provinces, cities, municipalities and barangays, and they are indispensable partners of the National Government in the proper and efficient exercise of governmental powers and functions. The Camago-Malampaya reservoir, which is part of the Philippines, must necessarily belong to a political

and territorial subdivision. That subdivision is the Province of Palawan which has long been exercising governmental powers and functions over the area.[194]

15.1. Since the Camago-Malampaya reservoir is nearest to the Province of Palawan than any other LGU, it is imperative that the province becomes the National Government's co-protector and co administrator in said maritime area.[195]

15.2. Under Section 25(b) of the Local Government Code, national agencies are to coordinate with LGUs in planning and implementing national projects, while under Section 3(i) of the same law, LGUs shall share with the National Government the responsibility of maintaining ecological balance within their territorial jurisdiction. Thus, governmental powers are not solely exercised by the National Government but are shared with LGUs. However, they cannot be effective partners of the National Government without sufficient resources. For this reason, the 1987 Constitution grants them an equitable share in the proceeds of the utilization of national wealth.[196]

15.3. Numerous cases of illegal fishing, poaching and illegal entry have been committed within the waters surrounding Palawan, particularly westward of mainland Palawan and bound by the South China Sea, along the same area where the Camago-Malampaya project is located. These cases were prosecuted and tried before the courts of Palawan. In *Hon. Roldan, Jr. v. Judge Arca*,[197] an illegal fishing case, the jurisdiction of the Court of First Instance of Palawan was upheld given that the vessels seized were engaged in prohibited fishing within the territorial waters of Palawan, in obedience to the rule that the place where a criminal offense was committed not only determines the venue of the case but is also an essential element of jurisdiction.[198]

15.4. Sections 26 and 27 of the Local Government Code require mandatory consultation with the LGUs concerned and the approval of their respective Sanggunian before the National Government may commence any project that will have an environmental impact. The National Government and SPEX recognized Palawan's jurisdiction over the Camago-Malampaya area when it requested the indorsement of the *Sangguniang Panlalawigan* of Palawan before commencing the Camago-Malampaya project, and when SPEX obtained an ECC in compliance with the requirement of PCSD, an agency created by R.A. No. 7611.[199]

15.5. In the implementation of tariff and customs laws, the Province of Palawan is being referred to by the Bureau of Customs as the place of origin of the barrels of condensate (crude oil) being exported to Singapore from the Camago-Malampaya area. Export Declarations for said condensate, as issued by the Department of Trade and Industry, also showed Palawan as the place of origin.[200]

15.6. In *Tano v. Socrates*,[201] the Court upheld the ordinances, passed by the *Sangguniang Panlalawigan* of Palawan and the *Sangguniang Panlungsod* of the City of Puerto Princesa, which banned the transport of live fish to protect their seawater and corals from the effects of destructive fishing, in recognition of the LGUs' power and

duty to protect the right of the people to a balanced ecology. The destructive way of catching live fish had been conducted not just within the 15-k.m municipal waters of Palawan but also beyond said waters.[202]

16. Palawan's claim is not inconsistent with, but upholds, the archipelagic and regalian doctrines enshrined in the 1987 Constitution.[203]

16.1. The Province of Palawan agrees that all waters within the Philippine archipelago are owned by the Republic. The issue in this case, however, is not the ownership of the Camago-Malampaya reservoir. The Province of Palawan is not claiming dominion over said area. It merely contends that since the reservoir is located in an area over which it exercises control and shares in the National Government's management responsibility, it is only just and equitable that the Province of Palawan should share in the proceeds generated from its utilization. Furthermore, the law does not require that the LGUs should own the area where the national wealth is located before they can share in the proceeds of its use and development; it merely requires that the national wealth be "found within their respective areas." It is, thus, error for the Republic to assert that the Camago-Malampaya area is not part of Palawan's territorial jurisdiction because it belongs to the State. Otherwise, no LGU will share in the proceeds derived from the utilization and development of national wealth because the State owns it under the regalian doctrine.[204]

17. International law has no application in this case. While the UNCLOS establishes various maritime regimes of archipelagos like the Philippines, nothing therein purports to govern internal matters such as the sharing of national wealth between its national government and political subdivisions.[205]

18. The State has long recognized the fact that the Camago-Malampaya area is part of Palawan. [206]

18.1. Palawan was allotted P38,110,586.00 as its share in the national wealth based on actual 1992 collections from petroleum operations in the West Linapacan oil fields, situated offshore, about the same. distance from mainland Palawan as the Camago-Malampaya reservoir. Furthermore, from 1993 to 1998, DBM consistently released to Palawan its 40% share from the West Linapacan oil production. Because these are lawful executive acts, the Republic may not invoke the rule that it cannot be placed in estoppel by the mistakes of its agents.[207]

18.2. Jurisprudence holds that estoppels against the public, which are little favored, must be applied with circumspection and only in special cases where the interests of justice clearly require it. To deprive Palawan of its constitutional right to a just share in the national wealth will indisputably work injustice to its people and generations to come. As it is, developmental projects have been adversely stunted as a result of the National Government's withdrawal of its commitment to give Palawan its 40% share. [208]

18.3. It has been held that the contemporaneous construction of a statute· by the executive officers of the government is entitled to great respect and unless shown to be clearly erroneous, should ordinarily control the construction of the statute by the courts.[209]

19. Ordinance No. 474 (series of 2000), which the *Sangguniang Panlalawigan* of Palawan enacted to delineate the territorial jurisdiction of the Province of Palawan, including therein the Camago-Malampaya area, is valid. Laws, including ordinances, enjoy the presumption of constitutionality. Moreover, there is no flaw in the Ordinance since it does not contravene Section 10, Article X of the Constitution or Sections 6 and 10 of the Local Government Code. It is likewise settled that a statute or ordinance cannot be impugned collaterally.[210]

20. Since the RTC has deferred its ruling on the propriety of the Amended Order dated January 16, 2006 to this Court, the Province of Palawan asks that said Order be sustained because:

20.1. Under Section 6, Rule 135 of the Rules of Court, when by law jurisdiction is conferred on a court, all auxiliary writs and processes necessary to carry it into effect may be employed by such court. The Amended Order merely sought to protect the subject of the litigation and to ensure that the RTC's decision may be carried into effect when it attains finality.[211]

20.2. The Amended Order encompasses issues that were raised and passed upon by the RTC, particularly, the issue of whether the Province of Palawan is entitled to receive 40% of the government's share in the proceeds of the Camago-Malampaya project.[212]

20.3. In a catena of decisions, the Court has allowed affirmative and even injunctive reliefs in cases for declaratory relief.[213]

21. The Provincial Governor's signing of the PIA was valid.[214]

21.1. Under Article 85(b)(1)(vi), Rule XV of the Implementing Rules and Regulations of the Local Government Code, the Provincial Governor is authorized to represent the province in all its business transactions and to sign all contracts on its behalf upon the authority of the *Sangguniang Panlalawigan* or pursuant to law or ordinance. The Provincial Governor of Palawan signed the PIA with the authority of the *Sangguniang Panlalawigan*, representing all of its component municipalities and its capital city of Puerto Princesa. Palawan's two congressmen also signed the PIA to warrant that they were the duly elected representatives of the province and to comply with the requirement under the General Appropriations Act that implementation of the projects must be in coordination with them.[215]

21.2. The Province of Palawan is the only LGU which has territorial jurisdiction over the Camago-Malampaya area under R.A. No. 7611.[216]

21.3. It may have been the Provincial Governor that signed the PIA, but the proposed

projects thereunder would be implemented province-wide, to include all component municipalities and barangays as well as Puerto Princesa. This is more advantageous to the 23 municipalities of Palawan compared to Arigo, et al.'s stand that "the sharing should be one municipality (45%) and one barangay (35%) or a total of 80%, with the balance of 20% for the rest of Palawan's 22 municipalities including Puerto Princesa City."[217]

22. E.O. No. 683, which uses "net proceeds" of Camago-Malampaya project as the basis of sharing, does not violate Section 290 of the Local Government Code where the share of the LGU is based on gross collection.[218]

22.1. The allocation of funds under E.O. No. 683 is not, strictly speaking, the sharing of proceeds of national wealth development under Section 290 of the Local Government Code considering that Palawan's claimed 40% share is still under litigation.[219]

22.2. In any case, "gross collection" under Section 290 of the Local Government Code cannot refer to gross proceeds because under Service Contract No. 38 and A.O. No. 381, the production sharing scheme involves deduction of exploration, development and production costs from the gross proceeds of the gas sales. Since the net proceeds referred to in E.O. No. 683 is the same amount as the government's gross collection from the Camago-Malampaya project, the Local Government Code was not violated. [220]

23. The *Pimentel* ruling cannot be applied to the release of funds under E.O. No. 683. It does not refer to the LGU's claimed 40% share; it is in the form of financial assistance pursuant to Section 25(c) of the Local Government Code which authorizes the President to direct the appropriate national agency to provide financial and other forms of assistance to the LGU. The funds were appropriated in the General Appropriations Act of 2007 and 2008 for the DoE and not under the items for allocations from national wealth to LGUs.[221]

24. CA-G.R. SP No. 102247 was correctly dismissed by the CA. Failure to submit essential and necessary documents is a sufficient ground to dismiss a petition under Rule 46 of the Rules of Court. Arigo, et al. prematurely filed its petition before the CA as it was anchored on the same basic issues to be resolved in G.R. No. 170867. Furthermore, Arigo, et al. had no legal standing either as real parties-in interest, as they failed to establish that they would be benefitted or injured by the judgment in the suit, or as taxpayers, as they failed to show that the E.O. No. 638 and PIA involved an illegal disbursement of public funds.[222]

Ruling of the Court

LGUs' share in national wealth

Under Section 25, Article II of the 1987 Constitution, "(t)he State shall ensure the autonomy of local governments." In furtherance of this State policy, the 1987 Constitution conferred on LGUs the power to create its own sources of revenue and the right to share not only in the national taxes, but

also in the proceeds of the utilization of national wealth in their respective areas. Thus, Sections 5, 6, and 7 of Article X of the 1987 Constitution provides:

> **Section 5.** Each local government unit shall have the power to create its own sources of revenues and to levy 'taxes, fees, and charges subject to such guidelines and limitations as the Congress may provide, consistent with the basic policy of local autonomy. Such taxes, fees, and charges shall accrue exclusively to the local governments.
>
> **Section 6.** Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.
>
> **Section 7.** Local governments shall be entitled to an **equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law**, including sharing the same with the inhabitants by way of direct benefits. (Emphasis ours)

At the center of this controversy is Section 7, an innovation in the 1987 Constitution aimed at giving fiscal autonomy to local governments. Deliberations of the 1986 Constitutional Commission reveal the rationale for this provision, thus:

> MR. OPLE. x x x
>
> Just to cite specific examples, in the case of timberland within the area of jurisdiction of the Province of Quirino or the Province of Aurora, we feel that the local governments ought to share in whatever revenues are generated from this particular natural resource which is also considered a national resource in a proportion to be determined by Congress. This may mean sharing not with the local government but with the local population. The geothermal plant in the Machan, Makiling-Banahaw area in Laguna, the Tiwi Geothermal Plant in Albay, there is a sense in which the people in these areas, hosting the physical facility based on the resources found under the ground in their area which are considered national wealth, should participate in terms of reasonable rebates on the cost of power that they pay. This is true of the Maria Cristina area in Central Mindanao, for example. May I point out that in the previous government, this has always been a very nettlesome subject of the Cabinet debates. **Are the people in the locality, where God chose to locate His bounty, not entitled to some reasonable modest sharing of this with the national government? Why should the national government claim all the revenues arising from them?** And the usual reply of the technocrats at that time is that there must be uniform treatment of all citizens regardless of where God's gifts are located, whether below the ground or above the ground. This, of course, has led to popular disenchantment. In Albay, for example, the government then promised a 20-percent rebate in power because of the contributions of the Tiwi Plant to the Luzon grid. Although this was ordered, I remember that the Ministry of Finance, together with the National Power Corporation, refused to implement it. **There is a bigger economic principle behind this, the principle of equity. If God chose to locate the great rivers and sources of hydroelectric power**

in Iligan, in Central Mindanao, for example, or in the Cordillera, why should the national government impose fuel adjustment taxes in order to cancel out the comparative advantage given to the people in these localities through these resources? So, it is in that sense that under Section 8, the local populations, if not the local governments, should have a share of whatever national proceeds may be realized from this natural wealth of the nation located within their jurisdictions.

x x x x

MR. NATIVIDAD. The history of local governments shows that the usual weaknesses of local governments are: 1) **fiscal inability to support itself**; 2) lack of sufficient authority to carry out its duties; and 3) lack of authority to appoint key officials.

Under this Article, are these traditional weaknesses of local governments addressed to [sic]?

MR. NOLLEDO. Yes. The first question is on fiscal inability to support itself. It will be noticed that we widened the taxing powers if local governments. I explained that exhaustively yesterday unless the Gentleman wants me to explain again.

MR. NATIVIDAD. No, that is all right with me.

MR. NOLLEDO. There is a right of retention of local taxes by local governments and according to the Natividad, Ople, Maambong, de los Reyes amendment, **local government units shall share in the proceeds of the exploitation of the national wealth within the area or region**, etc. x x x

x x x x

MR. OPLE. x x x

In the hinterland regions of the Philippines, most municipalities receive an annual income of only about P200,000 so that after paying the salaries of local officials and employees, nothing is left to fund any local development project. This is a prescription for a self-perpetuating stagnation and backwardness, and numbing community frustrations, as well as a chronic disillusionment with the central government. The thrust towards local autonomy in this entire Article on Local Governments may suffer the fate of earlier heroic efforts of decentralization which, without innovative features for local income generation, remained a pious hope and a source of discontent. To prevent this, this amendment which Commissioner Davide and I jointly propose will open up **a whole new source of local financial self-reliance by establishing a constitutional principle of local governments**, and their populations, sharing in the proceeds of national wealth in their areas of jurisdiction. The sharing with the national government can be in the form of shares from revenues, fees and charges levied on the exploitation or development and utilization of natural resources such as

mines, hydro electric and geothermal facilities, timber, including rattan, fisheries, and processing industries based on indigenous raw materials.

But the sharing, Madam President, can also take the form of direct benefits to the population in terms of price advantages to the people where, say, cheaper electric power is sourced from a local hydroelectric or geothermal facility. For example, in the provinces reached by the power from the Maria Cristina hydro-electric facility in Mindanao, the direct benefits to the population cited in this section can take the form of lower prices of electricity. The same benefit can be extended to the people of Albay, for example, where volcanic steam in Tiwi provides 55 megawatts of cheap power to the Luzon grid.

The existing policy of slapping uniform fuel adjustment taxes to equalize rates throughout the country in the name of price standardization will have to yield to **a more rational pricing policy that recognizes the entitlement of local communities to the enjoyment of their own comparative advantage based on resources that God has given them**. And so, Madam President, I ask that the Committee consider this proposed amendment.[223] (Emphasis ours)

The Local Government Code gave flesh to Section 7, providing that:

Section 18. *Power to Generate and Apply Resources*. - Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenues and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them without need of any further action; **to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits**; to acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes, in the exercise or furtherance of their governmental or proprietary powers and functions and thereby ensure their development into self-reliant communities and active participants in the attainment of national goals.

Section 289. *Share in the Proceeds from the Development and. Utilization of the National Wealth*. - Local government units shall have an **equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, including sharing the same with the inhabitants by way of direct benefits**.

Section 290. *Amount of Share of Local Government Units*. - Local government units shall, in addition to the internal revenue allotment, have a share of **forty percent (40%)**

of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and **from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction**.

Section 291. *Share of the Local Governments from any Government Agency or Owned or Controlled Corporation*. - Local government units shall have a **share** based on the preceding fiscal year **from the proceeds derived by any government agency or government owned or controlled corporation engaged in the utilization and development of the national wealth** based on the following formula whichever will produce a higher share for the local government unit:

(a) One percent (1%) of the gross sales or receipts of the preceding calendar year; or

(b) Forty percent (40%) of the mining taxes, royalties, forestry and fishery charges and such other taxes, fees or charges, including related surcharges, interests, or fines the government agency or government owned or controlled corporation would have paid if it were not otherwise exempt. (Emphasis ours)

Underlying these and other fiscal prerogatives granted to the LGUs under the Local Government Code is an enhanced policy of local autonomy that entails not only a sharing of powers, but also of resources, between the National Government and the LGUs. Thus, during the Senate deliberations on the proposed local government code, it was emphasized:

Senator Gonzales. The old concept of local autonomy, Mr. President, is, we grant more powers, more functions, more duties, more prerogatives, more responsibilities to local government units. But actually that is not autonomy. Because autonomy, without giving them the resources or the means in order that they can effectively carry out their enlarged duties and responsibilities, will be a sham autonomy. I understand that the Gentleman's concept of autonomy is really centered in not merely granting them more powers and more responsibilities, but also more means; meaning, funding, more powers to raise funds in order that they can put into effect whatever policies, decisions and programs that the local government may approve. Is my understanding correct, Mr. President?

Senator Pimentel. The distinguished Gentleman is correct, Mr. President, Book II of the draft bill under consideration deals with fiscal matters.[224]

This push for both administrative and fiscal autonomy was reaffirmed during the deliberations of the Bicameral Conference Committee on the proposed Local Government Code and the eventual signing of the Bicameral Conference Committee Report. On these occasions, Senator Aquilino Q. Pimentel, Jr., as Committee Chairman for the Senate panel, declared:

CHAIRMAN PIMENTEL: Mr. Chairman, in response to your opening statement, let me

say in behalf of the Senate panel that we believe the local government code is long overdue. It is time that we really empower our people in the countryside. And to do this, the local government code version of the Senate is based upon two premises. No. 1, we have to share power between the national government and local government. And No. 2, we have to share resources between the national government and local government. It is the only way by which we believe countryside development will become a reality in our nation. We can all speak out and spew rhetoric about countryside development, but unl ss and until local governments are empowered and given financial wherewithal to transform the countryside by the delivery of basic services, then we can never attain such a dream of ensuring that we share the development of this nation to the countryside where most of our people reside. x x x[225]

x x x x

CHAIRMAN PIMENTEL. x x x

Yes, we'd like to announce that finally, after three years of deliberation and hundreds of meeting not only by the Technical Committee, but by the Bicameral Conference Committee itself, we have finally come up with the final version of the Local· Government Code for 1991.

x x x And if there's any one thing that the Local Government Code will do for our country, it is to provide the mechanism for the development of the countryside without additional cost to the government because here, what we are actually doing is merely to reallocate the funds of the national government giving a substantial portion of those funds to the Local Government Units so that they, in turn, can begin the process of development in their own respective territories.

And to my mind, this would be a signal achievement of the Senate and the House of Representatives. And that finally, we are placing in the hands of the local government officials their wherewithals [sic] and the tools necessary for the development of the people in the countryside and of our Local Government Units in particular.

x x x x[226]

None of the parties in the instant cases dispute the LGU's entitlement to an equitable share in the proceeds of the utilization and development of national wealth within their respective areas. The question principally raised here is whether the national wealth, in this case the Camago-Malampaya reservoir, is within the Province of Palawan's "area" for it to be entitled to 40% of the government's share under Service Contract No. 38. The issue, therefore, hinges on what comprises the province's "area" which the Local Government Code has equated as its "territorial jurisdiction." While the Republic asserts that the term pertains to the LGU's territorial boundaries, the Province of Palawan construes it as wherever the LGU exercises jurisdiction.

Territorial jurisdiction refers to territorial boundaries as defined in the LGU's charter

The Local Government Code does not define the term "territorial jurisdiction." Provisions therein, however, indicate that territorial jurisdiction refers to the LGU's territorial boundaries.

Under the Local Government Code, a "province" is composed of a cluster of municipalities, or municipalities and component cities.[227] A "municipality," in turn, is described as a group of barangays,[228] while a "city" is referred to as consisting of more urbanized and developed barangays.[229]

In the creation of municipalities, cities and barangays, the Local Government Code uniformly requires that the territorial jurisdiction of these government units be "properly identified by metes and bounds," thus:

> **Section 386.** *Requisites for Creation*. -
>
> x x x x
>
> (b) **The territorial jurisdiction of the new barangay shall be properly identified by metes and bounds** or by more or less permanent natural boundaries. The territory need not be contiguous if it comprises two (2) or more islands.
>
> x x x x
>
> **Section 442.** *Requisites for Creation*. -
>
> x x x x
>
> (b) **The territorial jurisdiction of a newly-created municipality shall be properly identified by metes and bounds.** The requirement on land area shall not apply where the municipality proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.
>
> x x x x
>
> **Section 450.** *Requisites for Creation*.
>
> x x x x
>
> (b) **The territorial jurisdiction of a newly-created city shall be properly identified by metes and bounds.** The requirement on land area shall not apply where the city proposed to be created is composed of one (1) or more islands. The territory need not be contiguous if it comprises two (2) or more islands.
>
> x x x x (Emphasis ours)

The intention, therefore, is to consider an LGU's territorial jurisdiction as pertaining to a physical location or area as identified by its boundaries. This is also clear from other provisions of the Local Government Code, particularly Sections 292 and 294, on the allocation of LGUs' shares from the utilization of national wealth, which speak of the *location* of the natural resources:

> **Section 292.** *Allocation of Shares*. - The share in the preceding
>
> Section shall be distributed in the following manner:
>
> (a) Where the natural resources are **located** in the province:
>
> (1) Province - Twenty percent (20%);
> (2) Component City/Municipality - Forty-five percent (45%); and
> (3) Barangay - Thirty-five percent (35%)
>
> Provided, however, That where the natural resources are **located** in two (2) or more provinces, or in two (2) or more component cities or municipalities or in two (2) or more barangays, their respective shares shall be computed on the basis of:
>
> (1) Population - Seventy percent (70%); and
> (2) Land area - Thirty percent (30%)
>
> (b) Where the natural resources are **located** in a highly urbanized or independent component city:
>
> (1) City - Sixty-five percent (65%); and
> (2) Barangay - Thirty-five percent (35%)
>
> Provided, however, That where the natural resources are **located** in such two (2) or more cities, the allocation of shares shall be based on the formula on population and land area as specified in paragraph (a) of this Section.
>
> **Section 294.** *Development and Livelihood Projects*. - The proceeds from the share of local government units pursuant to this chapter shall be appropriated by their respective *sanggunian* to finance local government and livelihood projects: Provided, however, That at least eighty percent (80%) of the proceeds derived from the development and utilization of hydrothermal, geothermal, and other sources of energy shall be applied solely to lower the cost of electricity in the local government unit **where such a source of energy is located**. (Emphasis ours)

That "territorial jurisdiction" refers to the LGU's territorial boundaries is a construction reflective of the discussion of the framers of the 1987 Constitution who referred to the local government as the "locality" that is "hosting" the national resources and a "place where God chose to locate His bounty."[230] It is also consistent with the language ultimately used by the Constitutional Commission when they referred to the national wealth as those found within (the LGU's) respective areas. By definition, "area" refers to a particular extent of space or surface or a *geographic* region.

[231]

Such construction is in conformity with the pronouncement in *Sen. Alvarez v. Hon. Guingona, Jr.* [232] where the Court, in explaining the need for adequate resources for LGUs to undertake the responsibilities ensuing from decentralization, made the following disquisition in which "territorial jurisdiction" was equated with territorial boundaries:

> The practical side to development through a decentralized local government system certainly concerns the matter of financial resources. With its broadened powers and increased responsibilities, a local government unit must now operate on a much wider scale. More extensive operations, in turn, entail more expenses. Understandably, the vesting of duty, responsibility and accountability in every local government unit is accompanied with a provision for reasonably adequate resources to discharge its powers and effectively carry out its functions. Availment of such resources is effectuated through the vesting in every local government unit of (1) the right to create and broaden its own source of revenue; (2) the right to be allocated a just share in national taxes, such share being in the form of internal revenue allotments (IRAs); and (3) the right to be given its **equitable share in the proceeds of the utilization and development of the national wealth**, if any, within its **territorial boundaries**.[233] (Emphasis ours)

An LGU has been defined as a political subdivision of the State which is constituted by law and possessed of substantial control over its own affairs.[234] LGUs, therefore, are creations of law. In this regard, Sections 6 and 7 of the Local Government Code provide:

> **Section 6.** *Authority to Create Local Government Units*. - A local government unit may be **created**, divided, merged, abolished, or its boundaries substantially altered either **by law enacted by Congress** in the case of a province, city, municipality, or any other political subdivision, or **by ordinance** passed by the *sangguniang panlalawigan* or *sangguniang panlungsod* concerned in the case of a barangay located within its territorial jurisdiction, subject to such limitations and requirements prescribed in this Code.
>
> **Section 7.** *Creation and Conversion*. - As a general rule, the creation of a local government unit or its conversion from one level to another level shall be based on verifiable indicators of viability and projected capacity to provide services, to wit:
>
> (a) Income. - It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;
>
> (b) Population. - It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and
>
> (c) Land Area. - It must be contiguous, unless it comprises two or more islands or is separated by a local government unit independent of the others; **properly identified**

> **by metes and bounds with technical descriptions**; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.
>
> Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR). (Emphasis ours)

In enacting charters of LGUs, Congress .is called upon to properly identify their territorial jurisdiction by metes and bounds. *Mariano, Jr. v. COMELEC*[235] stressed the need to demarcate the territorial boundaries of LGUs with certitude because they define the limits of the local governments' territorial jurisdiction. Reiterating this *dictum*, the Court, in *Municipality of Pateros v. Court of Appeals, et al.*, [236] held:

> [W]e reiterate what we already said about the **importance and sanctity of the territorial jurisdiction of an LGU**:
>
> **The importance of drawing with precise strokes the territorial boundaries of a local unit of government cannot be overemphasized. The boundaries must be clear for they define the limits of the territorial jurisdiction of a local government unit. It can legitimately exercise powers of government only within the limits of its territorial jurisdiction. Beyond these limits, its acts are *ultra vires*.** Needless to state, any uncertainty in the boundaries of local government units will sow costly conflicts in the exercise of governmental powers which ultimately will prejudice the people's welfare. This is the evil sought to be avoided by the Local Government Unit in requiring that **the land area of a local government unit must be spelled out in metes and bounds, with technical descriptions**.[237] (Emphasis ours)

Clearly, therefore, a local government's territorial jurisdiction cannot extend beyond the boundaries set by its organic law.

Area as delimited by law and not exercise of jurisdiction as basis of the LGU's equitable share

The Court cannot subscribe to the argument posited by the Province of Palawan that the national wealth, the proceeds from which the State is mandated to share with the LGUs, shall be wherever the local government exercises any degree of jurisdiction.

An LGU's territorial jurisdiction is not necessarily co-extensive with its exercise or assertion of powers. To hold otherwise may result in condoning acts that are clearly *ultra vires*. It may lead to, in the words of the Republic, LGUs "rush[ing] to exercise its powers and functions in areas rich in natural resources (even if outside its boundaries) with the intention of seeking a share in the proceeds of its exploration"[238] - a situation that "would sow conflict not only among the local government units and the national government but worse, between and among local government units."[239]

There is likewise merit in the Republic's assertion that Palawan's interpretation of what constitutes an LGU's territorial jurisdiction may produce absurd consequences. Indeed, there are natural resources, such as forests and mountains, which can be found within the LGU's territorial boundaries, but are, strictly speaking, under national jurisdiction, specifically that of the Department of Environment and Natural Resources.[240] To equate territorial jurisdiction to areas where the LGU exercises jurisdiction means that these natural resources will have to be excluded from the sharing scheme although they are geographically within the LGU's territoriallimits.[241] The consequential incongruity of this scenario finds no support either in the language or in the context of the equitable sharing provisions of the 1987 Constitution and the Local Government Code.

The Court finds it appropriate to also cite Section 150 of the Local Government Code which speaks of the *situs* of local business taxes under Section 143 of the same law. Section 150 provides:

> **Section 150.** *Situs of the Tax*. -
>
> x x x x
>
> (b) The following **sales allocation** shall apply to manufacturers, assemblers, contractors, producers, and exporters with factories, project offices, plants, and plantations in the pursuit of their business:
>
> > (1) Thirty percent (30%) of all sales recorded in the principal office shall be taxable by the city or municipality where the principal office is located; and
> >
> > (2) **Seventy percent (70%) of all sales recorded in the principal office shall be taxable by the city or municipality where the factory, project office, plant, or plantation is located.**
>
> (c) **In case of a plantation located at a place other than the place where the factory is located, said seventy percent (70%) mentioned in subparagraph (b) of subsection (2) above shall be divided as follows:**
>
> > (1) **Sixty percent (60%) to the city or municipality where the factory is located**; and
> >
> > (2) **Forty percent (40%) to the city or municipality where the plantation is located.**
>
> (d) In cases where a manufacturer, assembler, producer, exporter or contractor has two (2) or more factories, project offices, plants, or plantations located in different localities, the seventy percent (70%) sales allocation mentioned in subparagraph (b) of subsection (2) above shall be **prorated among the localities where the factories, project offices, plants, and plantations are located in proportion to their respective volumes of production** during the period for which the tax is due.

(e) **The foregoing sales allocation shall be applied irrespective of whether or not sales are made in the locality where the factory, project office, plant, or plantation is located.** (Emphasis ours)

The foregoing provision illustrates the untenability of the Province of Palawan's interpretation of "territorial jurisdiction" based on exercise of jurisdiction. To sustain the province's construction would mean that the *territorial* jurisdiction of the municipality or city where the factory, plant, project office or plantation is situated, extends to the LGU where the principal office is located because said municipality or city can exercise the authority to tax the sale transactions made or recorded in the principal office. This could not have been the intent of the framers of the Local Government Code.

The Provincial Government of Palawan argues that its territorial jurisdiction extends to the Camago-Malampaya reservoir considering that its local police maintains peace and order in the area; crimes committed within the waters surrounding the province have been prosecuted and tried in the courts of Palawan; and the provincial government enforces environmental laws over the same area.[242] The province also cites Section 468 of the Local Government Code, which authorizes the *Sanggunian Panlalawigan* to enact ordinances that protect the environment, as well as Sections 26 and 27 of the law, which require consultation with the LGUs concerned and the approval of their respective *sanggunian* before the National Government may commence any project that will have an environmental impact.[243] The province avers that the Contractor, in fact, obtained the necessary endorsement from the *Sangguniang Panlalawigan* of Palawan before starting its operations.[244]

The Court notes, however, that the province's claims of maintaining peace and order in the Camago-Malampaya area and of enforcing environmental laws therein have not been substantiated by credible proof. The province likewise failed to adduce evidence of the crimes supposedly committed in the same area or their prosecution in Palawan's courts.

The province cites illegal fishing, poaching and illegal entry as the cases tried before the courts of Palawan. As conceded by the parties, however, the subject gas reservoir is situated, not in the marine waters, but in the continental shelf. The Province of Palawan has not established that it has, in fact, exercised jurisdiction over this submerged land area.

The LGU's authority to adopt and implement measures to protect the environment does not determine the extent of its territorial jurisdiction. The deliberations of the Bicameral Conference Committee on the proposed Local Government Code provides the proper context for the exercise of such authority:

> HON. DE PEDRO. The Senate version does not have any specific provision on this. The House's reads:
>
> > "The delegation to each local government unit of the responsibility in the management and maintenance of environmental balance within its territorial jurisdiction."
>
> CHAIRMAN PIMENTEL. Well, this is a matter of delegating to the local government

> units power to determine environmental concerns, which is good. However, we have some reservations precisely because **environment does not know of territorial boundaries**. That is our reservation there. **And we have to speak of the totality of the environment of the nation rather than the provincial or municipal in that respect.** x x x[245] (Emphasis ours)

Thus, the LGU's statutory obligation to maintain ecological balance is but part of the nation's collective effort to preserve its environment as a whole. The extent to which local legislation or enforcement protects the environment will not define the LGU's territory.

Sections 26 and 27 of the Local Government Code provide:

> **Section 26.** *Duty of National Government Agencies in the Maintenance of Ecological Balance*. - It shall be the duty of every national agency or government-owned or controlled corporation authorizing or involved in the planning and implementation of any project or program that may cause pollution, climatic change, depletion of non-renewable resources, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, to consult with the local government units, nongovernmental organizations, and other sectors concerned and explain the goals and objectives of the project or program, **its impact upon the people and the community in terms of environmental or ecological balance**, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.
>
> **Section 27.** *Prior Consultations Required*. - No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c) and 26 hereof are complied with, and prior approval of the *sanggunian* concerned is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, m accordance with the provisions of the Constitution. (Emphasis ours)

It is clear from Sections 26 and 27 that the consideration for the required consultation and *sanggunian* approval is the environmental impact of the National Government's project on the local community. A project, however, may have an ecological impact on a locality without necessarily being situated therein. Thus, prior consultation made pursuant to the foregoing provisions does not perforce establish that the national wealth sought to be utilized is within the territory of the LGU consulted.

In fine, an LGU cannot claim territorial jurisdiction over an area simply because its government has exercised a certain degree of authority over it. Territorial jurisdiction is defined, not by the local government, but by the law that creates it; it is delimited, not by the extent of the LGU's exercise of authority, but by physical boundaries as fixed in its charter.

Unless clearly expanded by Congress, the LGU's territorial jurisdiction refers only to its land area.

Utilization of natural resources found within the land area as delimited by law is subject to

the 40% LGU share.

Since it refers to a demarcated area, the term "territorial jurisdiction" is evidently synonymous with the term "*territory*." In fact, "territorial jurisdiction" is defined as the limits or territory within which authority may be exercised.[246]

Under the Local Government Code, particularly the provisions on the creation of municipalities, cities and provinces, and LGUs in general, territorial jurisdiction is contextually synonymous with territory and the term "territory" is used to refer to the land area comprising the LGU, thus:

> **Section 442.** *Requisites for Creation*. -
>
> (a) A municipality may be created if it has an average annual income, as certified by the provincial treasurer, of at least Two million five hundred thousand pesos (P2,500,000.00) for the last two (2) consecutive years based on the 1991 constant prices; a population of at least twenty five thousand (25,000) inhabitants as certified by the National Statistics Office; and **a contiguous territory of at least fifty (50) square kilometers as certified by the Lands Management Bureau:** Provided, That the creation thereof shall not reduce the land area, population or income of the original municipality or municipalities at the time of said creation to less than the minimum requirements prescribed herein.
>
> (b) The **territorial jurisdiction** of a newly-created municipality shall be **properly identified by metes and bounds**. The requirement on **land area** shall not apply where the municipality proposed to be created is composed of one (1) or more islands. The **territory need not be contiguous** if it comprises two (2) or more islands.
>
> (c) The average annual income shall include the income accruing to the general fund of the municipality concerned, exclusive of special funds, transfers and non-recurring income.
>
> (d) Municipalities existing as of the date of the effectivity of this Code shall continue to exist and operate as such. Existing municipal districts organized pursuant to presidential issuances or executive orders and which have their respective set of elective municipal officials holding office at the time of the effectivity of this Code shall henceforth be considered as regular municipalities.
>
> **Section 450.** *Requisites for Creation*.
>
> (a) A municipality or a cluster of barangays may be converted into a component city if it has an average annual income, as certified by the Department of Finance, of at least Twenty million (P20,000,000.00) for the last two (2) consecutive years based on 1991 constant prices, and if it has either of the following requisites:
>
> > (i) **a contiguous territory of at least one hundred (100) square kilometers, as certified by the Lands Management Bureau**; or

(ii) a population of not less than one hundred fifty thousand (150,000) inhabitants, as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

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

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

Section 461. *Requisites for Creation*.

(a) A province may be created if it has an average annual income, as certified by the Department of Finance, of not less than Twenty million pesos (P20,000,000.00) based on 1991 constant prices and either of the following requisites:

(i) **a contiguous territory of at least two thousand (2,000) square kilometers, as certified by the Lands Management Bureau**; or

(ii) a population of not less than two hundred fifty thousand (250,000) inhabitants as certified by the National Statistics Office:

Provided, That, the creation thereof shall not reduce the land area, population, and income of the original unit or units at the time of said creation to less than the minimum requirements prescribed herein.

(b) The **territory need not be contiguous** if it comprise two (2) or more islands or is separated by a chartered city or cities which do not contribute to the income of the province.

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

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

(a) Income. - It must be sufficient, based on acceptable standards, to provide for all essential government facilities and services and special functions commensurate with the size of its population, as expected of the local government unit concerned;

(b) Population. - It shall be determined as the total number of inhabitants within the territorial jurisdiction of the local government unit concerned; and

(c) **Land Area**. - It must be **contiguous**, unless it comprises two or more islands or is separated by a local government unit independent of the others; **properly identified by metes and bounds with technical descriptions**; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

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

That the LGUs' respective territories under the Local Government Code pertain to the land area is clear from the fact that: (a) the law generally requires the territory to be "contiguous"; (b) the minimum area of the contiguous territory is measured in square kilometers; (c) such minimum area must be certified by the Lands Management Bureau; and (d) the territory should be identified by metes and bounds, with technical descriptions.

The word "contiguous" signifies two solid masses being in actual contact. Square kilometers are units typically used to measure large areas of land. The Land Management Bureau, a government agency that absorbed the functions of the Bureau ofLands, recommends policies and programs for the efficient and effective administration, management and disposition of alienable and disposable lands of the public domain and other lands outside the responsibilities of other government agencies.[247] Finally, "metes and bounds" are the boundaries or limits of a tract of land especially as described by reference and distances between points on the land,[248] while "technical descriptions" are used to describe these boundaries and are commonly found in certificates of land title.

The following pronouncement in *Tan v. Comelec*[249] is particularly instructive:

It is of course claimed by the respondents in their Comment to the exhibits submitted by the petitioners (Exhs. C and D, Rollo, pp. 19 and 91), that the new province has a territory of 4,019.95 square kilometers, more or less. This assertion is made to negate the proofs submitted, disclosing that the land area of the new province cannot be more than 3,500 square kilometers because its land area would, at most, be only about 2,856 square kilometers, taking into account government statistics relative to the total area of the cities and municipalities constituting Negros del Norte. **Respondents insist that when Section 197 of the Local Government Code speaks of the territory of the province to be created and requires that such territory be at least 3,500 square kilometers, what is contemplated is not only the land area but also the land and water over which the said province has jurisdiction and control. It is even the submission of the respondents that in this regard the marginal sea within the three mile limit should be considered in determining the extent of the territory of the new province. Such an interpretation is strained, incorrect, and**

fallacious.

The last sentence of the first paragraph of Section 197 is most revealing. As so stated therein the "*territory need not be* ***contiguous*** *if it comprises two or more islands*." The use of the word territory in this particular provision of the Local Government Code and in the very last sentence thereof, clearly reflects that **"*territory*" as therein used, has reference only to the mass of land area and excludes the waters over which the political unit exercises control**.

Said sentence states that the "territory need not be contiguous." **Contiguous means (a) in physical contact; (b) touching along all or most of one side; (c) near, text, or adjacent. "Contiguous", when employed as an adjective, as in the above sentence, is only used when it describes physical contact, or a touching of sides of two solid masses of matter.** The meaning of particular terms in a statute may be ascertained by reference to words associated with or related to them in the statute. **Therefore, in the context of the sentence above, what need not be "contiguous" is the "territory" the physical mass of land area. There would arise no need for the legislators to use the word coptiguous if they had intended that the term "territory" embrace not only land area but also territorial waters. It can be safely concluded that the word territory in the first paragraph of Section 197 is meant to be synonymous with "land area" only.** The words and phrases used in a statute should be given the meaning intended by the legislature. The sense in which the words are used furnished the rule of construction.

The distinction between "territory" and "land area" which respondents make is an artificial or strained construction of the disputed provision whereby the words of the statute are arrested from their plain and obvious meaning and made to bear an entirely different meaning to justify an absurd or unjust result. The plain meaning in the language in a statute is the safest guide to follow in construing the statute. A construction based on a forced or artificial meaning of its words and out of harmony of the statutory scheme is not to be favored.[250] (Emphasis ours and citations omitted)

Though made in reference to the previous Local Government Code or Batas Pambansa Blg. (BP) 337, the above-cited ruling remains relevant in determining an LGU's territorial jurisdiction under the 1991 Local Government Code. Section 197 of BP 337[251] cited the requisites for creating a province, among which was a "territory," with a specified minimum area, which did not need to be "contiguous" if it comprised two or more islands. *Tan*, therefore, is clearly relevant since it explained the significance of the word "contiguous," which is similarly used in the Local Government Code, in the determination of the LGU's territory. More importantly, it appears that the framers of the Local Government Code drew inspiration from the *Tan* ruling such that in lieu of the word "territory," they specified that such requisite in the creation of the LGU shall refer to the land area. Thus, in his book on the Local Government Code, Senator Pimentel who, in former Chief Justice Reynato S. Puno's words, "shepherded the Code through the labyrinthine process of lawmaking," wrote:

When a law was passed in the Batasan Pambansa creating the new province of

> Negros del Norte, the Supreme Court was asked to rule in *Tan v. Commission on Elections*, whether or not the new province complied properly with the "territory" requirement that it must have no less then [sic] 3,500 square kilometers.
>
> The respondents claimed that "the new province has a territory of 4,019.95 square kilometers" by including in that computation not only the land area, but also the "water over which said province had jurisdiction and control," and "the marginal sea within the three mile limit."
>
> The Supreme Court ruled that such an interpretation is strained, incorrect and fallacious. The Court added that the use of the word "territory" in the Local Government Code clearly reflected that "territory" as therein used had reference only to the mass of land area and excluded the waters over which the political unit exercises control.
>
> **Inspired by this Supreme Court ruling, the Code now uses the words "land area" in lieu of "territory" to emphasize that the area required of an LGU does not include the sea for purposes of compliance with the requirements of the Code for its creation.**[252] (Emphasis ours)

Tan, in fact, establishes that an LGU may have control over the waters but may not necessarily claim them as part of their territory. This supports the Court's finding that the exercise of authority does not determine the LGU's territorial jurisdiction.

It is true that under Sections 442 and 450 of the Local Government Code, "(t)he requirement on land area shall not apply" if the municipality or city proposed to be created is composed of one or more islands. This does not mean, however, that the territory automatically extends to the waters surrounding the islands or to the open sea. Nowhere in said provisions is it even remotely suggested that marine waters, or for that matter the continental shelf, are consequently to be included as part of the territory. The provisions still speak of "islands" as constituting the LGU, and under Article 121 of the UNCLOS, an island is defined as "a naturally formed **area of land**, surrounded by water, which is above water at high tide." The inapplicability of the requirement on land area only means that where the proposed municipality or city is an island, or comprises two or more islands, it need not be identified by metes and bounds or satisfy the required minimum area. In that case, the island mass constitutes the area of the municipality or city and its limits are the island's natural boundaries.

Significantly, during the Senate deliberations on the proposed Local Government Code, then Senate President Jovito Salonga suggested an amendment that would extend the territorial jurisdiction of municipalities abutting bodies of water to at least two kms from the shoreline. The ensuing exchange is worth highlighting:

> **The President.** Here is a proposed amendment: Line 17, to add the following: FOR MUNICIPALITIES ABUTTING BODIES OF WATER THEIR TERRITORIAL JURISDICTION SHALL EXTEND TO AT LEAST TWO KILOMETERS FROM THE SHORELINE; PROVIDED, THAT IN CASE THERE ARE TWO OR MORE MUNICIPALITIES ON EITHER SIDE OF SUCH A BODY OF WATER MAKING THE

TWO-KILOMETER JURISDICTION INADVISABLE THE JURISDICTION OF THE AFFECTED MUNICIPALITIES SHALL BE DETERMINED BY DRAWING A LINE AT THE MIDDLE OF SUCH BODY OF WATER. This is only for municipalities abutting bodies of water.

Senator Pimentel. Mr. President, may we invite the attention of our Colleagues that in Book IV, page 273, we define what constitutes municipal waters. And, the measurement is not two kilometers but three nautical miles starting from the sea-line boundary marks at low tide. Therefore, there may be some complications here. We are not against the amendment per se. What we are trying to make of record is the fact that we have to consider also the provision of Section 464 which defines "MUNICIPAL WATERS". So, probably, we can increase the extension of the territorial jurisdiction to three nautical miles instead of two kilometers as mentioned in this proposed amendment.

In fact, Mr. President, it is also stated at the last sentence of Section 464:

> Where two municipalities are so situated on the opposite shores that there is less than six nautical miles of marine water between them, the third line shall be aligned equally distant from the opposite shores of the respective municipalities.

So, there is an attempt here to delineate, really, the jurisdiction of the municipalities which may have a common body of water, let us say, in between them.

The President. So, that is acceptable, provided that it is three nautical miles?

Senator Pimentel. Yes. Probably, Mr. President, what we can do is hold in abeyance this proposed amendment and take it up when we reach Section 464. I think, it will be more appropriate in that section, Mr. President.

The President. But, if it is a question of territorial jurisdiction, may not this be the proper place for it?

Senator Pimentel. All right, Mr. President, what we can do is, we will accept the proposed amendment, subject to the observations that we have placed on record.

The President. All right. Subject to the three-nautical-mile limit.

Senator Saguisag. Mr. President.

The President. Senator Saguisag is recognized.

Senator Saguisag. I just would like to find out, Mr. President, if we are codifying something that may represent the present state of the law, or are we creating a new concept here? Ang ibig po bang sabihin nita ay mayroong magmamay-ari ng Pasig

River? Kasi, I do not believe that we have ever talked about Manila owning a river or Manila owning Manila Bay. Is that what we are introducing here? And what are its implications? Taga-Maynila lamang ba ang maaaring gumamit niyan at sila lamang ang magpapasiya kung ano ang dapat gawin 0 puwedeng pumasok ang coast guard? What do we intend to achieve by now saying that...

The President. Inland waters lamang naman yata ang pinaguusapang ito.

Senator Saguisag. Opo. Pero, I am not sure whether there is an owner of the Pasig River. I am not sure. Maybe, there is. Pero, my own recollection is that we have never talked of that idea before. I do not know what it means. Does it mean now that the municipality owning it can exclude the rest of the population from using it without going through licensing processes? Ano po ang gusto nating gawin dito?

Ang alam ko ho riyan, they cannot be owned in the sense that they are really owned by every Filipino. Iyon lamang po. Kasi, capitals po ang naririto sa page 273, baka bago ito. Pero, ano po ba and ibig sabihin nito?

In my study of property before, hindi ko narinig...So, maybe, we should really reserve this as suggested by the distinguished Chairman.

The President. All right. Why do we not defer this until we can determine which is the better place?

Senator Pimentel. Yes, Mr. President.

The President. All right. So let us defer consideration of this plus the major question that Senator Saguisag is posing, is this something new that we are laying down?

Senator Pimentel. No. Actually the definition of "municipal waters" came about, really, because of several complaints that our Committee has received from fisherpeople. They have complained that the municipality is not able to help them, because the definition of "municipal waters" has not been clearly spelled out. That is the reason why we attempted to introduce some definitions of "municipal waters" here, basically, in answer to the demands of the fisherfolk who believe that their rights are being intruded upon by other people coming from other places. Probably, the definition of municipal waters will also delineate the criminal jurisdiction of, let us say, the municipal police in certain acts, like dynamite fishing in a particular locality. It can help, Mr. President.

The President. Sa palagay ba ninyo, iyong Marikina River that goes through several municipalities we have the Municipality of Pasig, then the Municipality of Marikina, then the Municipality of San Mateo, and then the Municipality of Montalban how will that be apportioned?

Senator Pimentel. If a river passes through several municipalities, the boundary will

be an imaginary line drawn at the middle of this river, basically, Mr. President.

The President. Anyway, we will defer this until we reach Book IV.[253]

Based on the records of the Senate and the Bicameral Conference Committee on Local Government, however, the Salonga amendment was not considered anew in subsequent deliberations. Neither did the proposed amendment appear in the text of the Local Government Code as approved. By Senator Pimentel's account, the Code deferred to the Court's ruling in *Tan* which excluded the marginal sea from the LGU's territory. It can, thus, be concluded that under the Local Government Code, an LGU's territory does not extend to the municipal waters beyond the LGU's shoreline.

The parties all agree that the Camago-Malampaya reservoir is located in the continental shelf.[254] If the marginal sea is not included in the LGU's territory, with more reason should the continental shelf, located miles further, be deemed excluded therefrom.

To recapitulate, an LGU's territorial jurisdiction refers to its territorial boundaries or to its territory. The territory of LGUs, in turn, refers to their land area, unless expanded by law to include the maritime area. Accordingly, only the utilization of natural resources found within the land area as delimited by law is subject to the LGU's equitable share under Sections 290 and 291 of the Local Government Code. This conclusion finds support in the deliberations of the 1986 Constitutional Commission which cited, as examples of national wealth the proceeds from which the LGU may share, the Tiwi Geothermal Plant in Albay, the geothermal plant in Macban, Makiling-Banahaw area in Laguna, the Maria Cristina area in Central Mindanao, the great rivers and sources of hydroelectric power in Iligan, in Central Mindanao, the geothermal resources in the area of Palimpiñon, Municipality of Valencia and mountainous areas, which are all situated inland.[255] In his 2011 treatise on the Local Government Code, former Senator Pimentel cited as examples of such national wealth, the geothermal fields of Tongonan, Leyte and Palinpinon, Negros Oriental which are both found inland.[256]

Section 6 of the Local Government Code empowers Congress to create, divide, merge and abolish LGUs, and to substantially alter their boundaries, subject to the plebiscite requirement under Section 10 of the law which reads:

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

Accordingly, unless Congress, with the approval of the political units directly affected, clearly extends an LGU's territorial boundaries beyond its land area, to include marine waters, the seabed and the subsoil, it cannot rightfully share in the proceeds of the utilization of national wealth found

therein.

No law clearly granting the Province of Palawan territorial jurisdiction over the Camago-Malampaya reservoir

The Republic has enumerated the laws defining the territory of Palawan.[257] The following table has been culled from said enumeration:

Governing Law	Territorial Limits
Act No. 422[258]	The Province of Paragua shall consist of all that portion of the **Island** of Paragua north of the tenth parallel of north latitude and the small **islands** adjacent thereto, including Dumaran, and of the **islands** forming the Calamianes Group and the Cuyos group. (Section 2)
Act No. 567[259]	The Province of Paragua shall consist of all that portion of the **Island** of Paragua north of a line beginning in the middle of the channel at the mouth of the Ulugan River in the Ulugan Bay, thence following the main channel of the Ulugan River to the village of Bahile, thence along the main trail leading from Bahile to the Tapul River, thence following the course of the Tapul River to its mouth in the Honda Bay; except at the towns of Bahile and Tapul the west boundary line shall be the arc of a circle with one mile radius, the center of the circle being the center of the said towns of Bahile and Tapul. There shall be included in the Province of Paragua the small **islands** adjacent thereto, including Dumaran and the **island** forming the Calamianes group and the Cuyos group. (Section 1)
Act No. 747[260]	The Province of Paragua shall consist of the entire **Island** of Paragua, the **Islands** of Dumaran and Balabac, the Calamianes **Islands**, the Cuyos **Islands**, the Cagayanes **Islands**, and all other **islands** adjacent thereto and not included within the limits of any province. (Section 1)
Act No. 1363[261]	Upon the recommendation of the Philippine Committee on Geographical Names the name of the Province and **Island** of Paragua is hereby changed to that of Palawan. (Section 1)
Act No. 1396[262]	The Province of Palawan shall include the entire **Island** of Palawan, the **Islands** of Dumaran and Balabac, the Calamianes **Islands**, the Cuyos **Islands**, the Cagayanes **Islands**, and all other **islands** adjacent to these **islands** and not included within the limits of any other province. (Section 26)
Act No. 2657[263]	Article II (Situs and Major Subdivisions of Provinces Other than such as are Contained in Department of Mindanao and Sulu) Section 43. Situs of Provinces and Major Subdivisions. -

	The general location of the provinces other than such as are contained in the Department of Mindanao and Sulu, together with the subprovinces, municipalities, and townshlps respectively contained in them is as follows: x x x x The Province of Palawan consists of the **Island** of Palawan, the **islands** of Dumaran and Balabac, the Calamian **Islands**, the Cuyo **Islands**, the Cagayanes **Islands**, and all other **islands** adjacent to any of them, not included in some other province. It contains the townships of Cagayancillo, Coron, Cuyo, Puerto Princesa (the capital of the province), and Taytay.
Act No. 2711[264]	Chapter 2 (Political Grand Divisions and Subdivisions) Article I Grand Divisions Section 37. Grand divisions of (Philippines Islands) Philippines. - The (Philippine Islands) Philippines compnses the forty-two provinces named in the next succeeding paragraph hereof, the seven provinces of the Department of Mindanao and Sulu, and the territory of the City of Manila. x x x x The Province of Palawan consists of the **Island** of Palawan, the **islands** of Dumaran and Balabac, the Calamian **Islands**, the Cuyo **Islands**, the Cagayanes **Islands**, and all other **islands** adjacent to any of them, not included in some other province, and comprises the following municipalities: Agutaya, Bacuit, Cagayancillo, Coron, Cuyo, Dumaran, Puerto Princesa (the capital of the province), and Taytay. The province also contains the following municipal districts: Aborlan, Balabac and Brooke's Point.

As defined in its organic law, the Province of Palawan is comprised merely of islands. The continental shelf, where the Camago-Malampaya reservoir is located, was clearly not included in its territory.

An island, as herein before-mentioned, is defined under Article 121 of the UNCLOS as "a naturally formed **area of land**, surrounded by water, which is **above water** at high tide." The continental shelf, on the other hand, is defined in Article 76 of the same Convention as comprising "**the seabed and subsoil** of the submarine areas that extend beyond (the coastal State's) territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nm from the baselines from which the breadth of the territorial sea is

measured where the outer edge of the continental margin does not extend up to that distance." Where the continental shelf of the coastal state extends beyond 200 nm, Article 76 allows the State to claim an extended continental shelf up to 350 nm from the baselines.[265]

Under Palawan's charter, therefore, the Camago-Malampaya reservoir is not located within its territorial boundaries.

P.D. No. 1596, which constituted Kalayaan as a separate municipality of the Province of Palawan, cannot be the basis for holding that the Camago-Malampaya reservoir forms part of Palawan's territory. Section 1 of P.D. No. 1596 provides:

> SECTION 1. The area within the following boundaries:
>
> KALAYAAN ISLAND GROUP
>
> From a point [on the Philippine Treaty Limits] at latitude 7°40' North and longitude 116°00' East of Greenwich, thence due West along the parallel of 7°40' N to its intersection with the meridian of longitude 112°10' E, thence due north along the meridian of 112°10' E to its intersection with the parallel of 9°00' N, thence northeastward to the inter section of the parallel of 12°00' N with the meridian oflongitude 114°30' E, thence, due East along the parallel of 12°00' N to its intersection with the meridian of 118°00' E, thence, due South along the meridian of longitude 118°00' E to its intersection with the parallel of 10°00' N, thence Southwestwards to the point of beginning at 7°40' N, latitude and 116°00' E longitude; **including the sea-bed, sub-soil, continental margin** and air space shall belong and be subject to the sovereignty of the Philippines. **Such area is hereby constituted as a distinct and separate municipality of the Province of Palawan and shall be known as "Kalayaan."** (Emphasis ours)

None of the parties assert that the Camago-Malampaya reservoir is within the territory of Kalayaan as delimited in Section 1 of P.D. No. 1596 or as referred to in R.A. No. 9522,[266] commonly known as the "2009 baselines law." The Province of Palawan, however, invokes P.D. No. 1596 to argue that similar to Kalayaan, its territory extends to the seabed, the subsoil and the continental margin. The Court is not persuaded.

The delineation of territory in P.D. No. 1596 refers to Kalayaan alone. The inclusion of the seabed, subsoil and continental margin in Kalayaan's territory cannot, by simple analogy, be applied to the Province of Palawan. To hold otherwise is to expand the province's territory, as presently defined by law, without the requisite legislation and plebiscite.

The Court likewise finds no merit in the Province of Palawan's assertion that R.A. No. 7611 establishes that the Camago-Malampaya area is within the territorial jurisdiction of Palawan. It is true that R.A. No. 7611 contains a definition of "Palawan" that states:

> Section 3. ***Definition of Terms.*** - As used in this Act, the following terms are defined as follows:

(1) **"Palawan"** refers to the Philippine province composed of islands and islets located 7°47' and 12°'22' north latitude and 117°'00' and 119°'51' east longitude, generally bounded by the South China Sea to the northwest and by the Sulu Sea to the east.

x x x x

Both the Republic and the Province of Palawan agree that the above geographic coordinates, when plotted, would show that the Camago-Malampaya reservoir is within the area described. However, no less than the map[267] submitted by the Province of Palawan showed that substantial portions of Palawan's territory were excluded from the area so defined.

The Republic cites, without controversion from the province, that portions of mainland Palawan and several islands, municipalities or portions thereof, namely, the Municipalities of Balabac, Cagayancillo, Busuanga, Coron, Agutaya, Magsaysay, Cuyo, Araceli, Linapacan and Dumaran were excluded.[268] Their exclusion constitutes a substantial alteration of Palawan's territory which, under Section 10 of the Local Government Code, cannot take effect without the approval of the majority of the votes cast for the purpose in a plebiscite in the political units directly affected.

There is also no showing that the criteria for the alteration, as established in Sections 7 and 461 of the Local Government Code, had been met. The definition, therefore, does not have the effect of redefining Palawan's territory. In fact, R.A. No. 7611 was enacted not for such purpose but to adopt a comprehensive framework for the sustainable development of Palawan compatible with protecting and enhancing the natural resources and endangered environment of the province.[269]

The definitions under Section 1 of R.A. No. 7611 are also qualified by the phrase "[A]s used in this Act." Thus, the definition of "Palawan" should be taken, not as a statement of territorial limits for purposes of Section 7, Article X of the 1987 Constitution, but in the context of R.A. No. 7611 which is aimed at environmental monitoring, research and education.[270]

It is true, as the Province of Palawan has pointed out, that R.A. No. 7611 includes the coastal or marine area as one of the three components of the Environmentally Critical Areas Network designated in said law, the other two being the terrestrial component and the tribal ancestral lands. R.A. No. 7611 refers to the coastal or marine area as the whole coastline up to the open sea, characterized by active fisheries and tourism activities. By all the parties' accounts, however, the Camago-Malampaya reservoir, is located not in such coastal or marine area but in the continental shelf. Thus, even on the supposition that R.A. No. 7611 redefined Palawan's territory, it clearly did not include the seabed and subsoil comprising the continental shelf. In fact, what it expressly declares as composing the Province of Palawan are the "islands and islets."

It is also clear that R.A. No. 7611 does not vest any additional jurisdiction on the Province of Palawan. The PCSD, formed under said law, is composed of both provincial officials and representatives from national government agencies. It was also established under the Office of the President. The tasks outlined by R.A. No. 7611, which largely involve policy formulation and coordination, are carried out not by the province, but by the council.

Thus, even if the Court were to apply the province's definition of "territorial jurisdiction" as co-extensive with its exercise of authority, R.A. No. 7611 cannot be considered as conferring territorial jurisdiction over the Camago-Malampaya reservoir to Palawan since the law did not grant additional power to the province.

It must be pointed out, too, that the Province of Palawan never alleged in which of its municipalities or component cities and barangays the Camago-Malampaya reservoir is located. Under Section 292 of the Local Government Code, the local government's share in the utilization of national wealth located in a province shall be allocated in the following ratio:

(1) Province - Twenty percent (20%);
(2) Component City/Municipality - Forty-five percent (45%); and
(3) Barangay - Thirty-five percent (35%)

The allocation of the LGU share to the component city/municipality and the barangay cannot but indicate that the natural resource is necessarily found . therein. This is only logical since a province is composed of component cities and municipalities, and municipalities are in turn composed of barangays. Senate deliberations on the proposed Local Government Code also reflect that at bottom, the natural resource is located in the municipality or component city:

> **Senator Rasul.** Mr. President, may I continue. Also on the same page, same section, "*Share of Local Government in the Proceeds From the Exploration*", I propose that there should be a specific sharing in this section, because this section does not speak of the sharing; how much goes to the barangay, municipality, city, or province?
>
> **Senator Pimentel.** Yes, in fact, we have Mr. President and I was about to read it into the record, so that, there will be a new paragraph after the word Resources on page 54, and it will read as follows:
>
> THE SHARES OF THE LOCAL GOVERNMENT UNITS IN THE PROCEEDS FROM THE EXPLANATION [sic], DEVELOPMENT AND UTILIZATION OF NATURAL RESOURCES LOCATED WITHIN THEIR TERRITORIAL WRISDICTIONS SHALL BE AS FOLLOWS:
>
> 1. IN THE CASE OF MUNICIPALITIES AND COMPONENT CITIES: (A) THE BARANGAY UNIT WHERE THE NATURAL RESOURCES ARE SITUATED AN EXTRACTED, FORTY PERCENT.
>
> **The President.** Is there any objection? [*Silence*] Hearing none, the amendment is approved.
>
> **Senator Pimentel.** Then "(B)." "**THE MUNICIPALITY OR COMPONENT CITY WHERE THE BARANGAY WITH THE NATURAL RESOURCES ARE SITUATED**, THIRTY PERCENT.

The President. Is there any objection? [*Silence*] Hearing none, the amendment is approved.

Senator Pimentel. Then we have a paragraph 2 on the same aspect of sharing; "IN THE CASE OF HIGHLY URBANIZED CITIES, THE FOLLOWING RULES SHALL APPLY;

A) BARANGAY WHERE THE NATURAL RESOURCES ARE SITUARED AND EXTRACTED, SIXTY (60%) PERCENT;

B) FOR THE HIGHLY URBANIZED CITY WHERE THE BARANGAY WITH THE NATURAL RESOURCES ARE LOCATED, FORTY (40%) PERCENT".

So it is a 60:40 sharing.

The President. Before we use the word SITUATED, probably, we should make it uniform - SITUATED AND EXTRACTED.

Senator Pimentel. AND EXTRACTED. Yes, Mr. President.

The President. Is there any objection? [*Silence*] Hearing one [sic], the amendment is approved. Any more?[271] (Emphasis ours.)

During the oral argument, Dean Pangalangan, as *amicus curiae*, stressed that the Camago-Malampaya reservoir is. not part of any barangay:

JUSTICE CARPIO: Following your argument counsel Malampaya would form part of one barangay in Palawan but yet it is outside of the Philippine territorial waters, how do you reconcile that?

DEAN PANGALANGAN: Oh, no, Your Honor, Malampaya will lie within our continental shelf and that is in fact the way by which we claim title over a resource lying out there in the seas on the seabed. It will not be considered in itself a barangay for instance.

JUSTICE CARPIO: So, it is not part of any barangay?

DEAN PANGALANGAN: Yes, Your Honor, it is not.[272]

The Province of Palawan's failure to specify the component city or municipality, or the barangay for that matter, in which the Camago-Malampaya reservoir is situated militates against its claim that the area forms part of its area or territory.

The Republic endeavored to enumerate the different LGUs composing the Province of Palawan and their respective territorial limits under applicable organic laws.[273] The following matrix has been culled from its enumeration:

LGU	Governing Law	Territorial Description/Component Barangays
Cagayancillo Coron Cuyo Puerto Princesa[274] Taytay	Act No. 2657	Section 43. Situs of Provinces and Major Subdivisions. - The general location of the provinces other than such as are contained in the Department of Mindanao and Sulu, together with the subprovinces, municipalities, and townships respectively contained in them is as follows: x x x x The Province of Palawan consists of the Island of Palawan, the islands of Dumaran and Balabac, the Calamian Islands, the Cuyo Islands, the Cagayanes Islands, and all other islands adjacent to any of them, not included in some other province. It contains the townships of **Cagayancillo, Coron**, Cuyo, **Puerto Princesa** (the capital of the province), and **Taytay**.
	Act No. 2711	Section 37. Grand divisions of (Philippines Islands) Philippines. - The (Philippine Islands) Philippines comprises the forty-two provinces named in the next succeeding paragraph hereof, the seven provmces of the Department of Mindanao and Sulu, and the territory of the City of Manila. x x x x The Province of Palawan consists of the Island of Palawan, the islands of Dumaran and Balabac, the Calamian Islands, the Cuyo Islands, the Cagayanes Islands, and all other islands adjacent to any of them, not included in some other provmce, and comprises the following municipalities: Agutaya, Bacuit, **Cagayancillo, Coron, Cuyo**, Dumaran, Puerto Princesa (the capital of the province), and Taytay. x x x x
Roxas	R.A. No. 615[275]	Section 1. The barrios of Tinitian, Caramay, Rizal, Del Pilar, Malcampo Tumarbong, Taradufigan, Ilian, and Capayas in the municipality of Puerto Princesa, Province of Palawan, are hereby separated from said municipality and constituted into a new municipality to be known as the **Municipality**

		of Roxas. The seat of the government of the new municipality shall be at the sitio of Barbacan in the barrio of Del Pilar, Puerto Princesa.
Agutaya Bacuit (now El Nido)[276] Dumaran Aborlan Balabac Brooke's Point	Act No. 2711	Section 37. Grand divisions (Philippines Islands) Philippines. - x x x x The Province of Palawan consists of the Island of Palawan, the islands of Dumaran and Balabac, the Calamian Islands, the Cuyo Islands, the Cagayanes Islands, and all other islands adjacent to any of them, not included in some other provmce, and comprises the following municipalities: **Agutaya, Bacuit**, Cagayancillo, Coron, Cuyo, **Dumaran**, Puerto Princesa (the capital of the province), and Taytay. The province also contains the following municipal districts: **Aborlan, Balabac and Brooke's Point**.
	R.A No. 1111[277] R.A. No. 3418[278]	RA 1111 changed the name of the **Municipality of Dumaran** to Araceli. However, under RA 3418, a distinct and independent municipality, to be known as the **Municipality of Dumaran**, was constituted from certain barrios of the municipalities of Araceli, Roxas and Taytay. Section 1 of RA 3418 provides "The barrios of Dumaran, San Juan, Bacao, Calasag and Bohol in the Municipality of Araceli; the barrios of Ilian, Capayas, and Leguit in the Municipality of Roxas; and the barrios of Danleg and Pangolasian in the Municipality of Taytay, all in the province of Palawan, are separated from the said municipalities, and are constituted into a distinct and independent municipality, to be known as the **Municipality of Dumaran**, with the seat of government at the site of the barrio of Dumaran."
Busuanga	R.A. No. 560[279]	Section 1. The barrios of Concepcion, Salvacion, Busuanga, New Busuanga, Buluang, Quezon, Calawit, and Cheey in the Municipality of Coron are separated from the said municipality and constituted into a new and regular municipality to be known as the **Municipality of Busuanga**, with the present site of the barrio of New Busuanga as the seat of the government.
	R.A No.	RA 5943 amended Section 1 of RA 560 to

	5943[280]	read as follows: "The barrios of Sagrada, Maglalambay, Bogtong, San Isidro, Pallitan, San Rafael, Concepcion, Salvacion, Busuanga, Buluang, Quezon, Calawit, and Cheey, in the Municipality of Coron, Province of Palawan, are separated from said municipality and constituted into a new **Municipality of Busuanga** with the present site of the barrio of Salvacion as the seat of the government."
Quezon	R.A. No. 617[281]	Section 1. The barrios of Berong and Alfonso XII in the Municipality of Aborlan and the barrios of Iraan, Candawaga and Canipaan m the Municipality of Brook's Point are separated from the said municipalities and constituted into a new and regular municipality to be known as the **Municipality of Quezon**, with the present site of the barrio of Alfonso XIII as the seat of the government.
Linapacan	R.A. No. 1020[282]	Section 1. The islands of Linapacari, Cabunlaoan, Niangalao, Decabayotot, Calibanbangan, Pical, and Barangonan are hereby separated from the Municipality of Coron, Province of Palawan. and constituted into a municipality to be known as the **Municipality of Linapacan** with the seat of government in the barrio of San Miguel in the island of Linapacan.
Araceli	Act No. 2711 R.A. No. 1111 R.A. No. 3418	Comprises the original territorial jurisdiction of the Municipality of Dumaran under Act No. 2711, excluding the barrios of Dumaran, San Juan, Bacao, Calasag and Bohol which were included in the newly created Municipality of Dumaran under RA3418.
Batarasa	R.A. No. 3425[283]	Section 1. The barrios of Inogbong, Marangas, Bonobono, Malihod, Bulalakaw, Tarusan, Iwahig, Iganigang, Sarong, Akayan, Rio Tuba, Sumbiling, Sapa, Malitub, Puring, Bulilуyan and Tahod in the Municipality of Brooke's Point, Province of Palawan, are separated from said municipality and constituted into a distinct and independent municipality, to be known as the **Municipality of Batarasa**, same province. The seat of government of the new municipality shall be in the present site of the barrio of Marangas.
Magsaysay	R.A. No. 3426[284]	Section 1. The barrios of Los Angeles, Rizal, Lucbuan, Igabas, Imilod, Balaguen, Danawan, Cocoro, Patonga, Tagawayan Island, Siparay Island and Canipo in the

		Municipality of Cuyo, Province of Palawan, are separated from said municipality and constituted into a distinct and independent municipality, to be known as the **Municipality of Magsaysay**. The seat of government of the new municipality shall be the present site of the barrio of Danawan.
San Vicente	R.A. No. 5821[285]	Section 1. The barrios of Binga, New Canipo, Alimanguan and New Agutaya, now in the Municipality of Taytay and all barrios from Vicente to Caruray in the Municipality of Puerto Princesa, Province of Palawan, are separated from said municipalities, and constituted into a distinct and independent municipality, to be known as the **Municipality of San Vicente**, same province. The seat of government of the municipality shall be in the present site of the barrio of San Vicente.
Narra	R.A. No. 5642[286]	Section 1. The barrios of Malatgao, Tinagong-dagat, Taritien, Antipoloan, Teresa, Panacan, Narra, Caguisan, Batang-batang, Bato-bato, Barirao, Malinao, Sandoval, Dumaguefia, El Vita, Calategas, Arumay.uan, Tacras, Borirao and that part of barrio Abo-abo now belonging to the Municipality of Aborlan, Province of Palawan, are separated from said municipality and constituted into a distinct and independent municipality, to be known as the **Municipality of Narra**. The seat of the new municipality shall be in the present site of Barrio Narra.
Kalayaan	P.D. No. 1596	Section 1. The area within the following boundaries: KALAYAAN ISLAND GROUP From a point [on the Philippine Treaty Limits] at latitude 7°40' North and longitude 116°00' East of Greenwich, thence due West along the parallel of 7° 40' N to its intersection with the meridian of longitude 112°10' E, thence due north along the meridian of 112°10' E to its intersection with the parallel of 9°00' N, thence northeastward to the inter-section of the parallel of 12°00' N with the meridian of longitude 114° 30' thence, due East along the parallel of 12°00' N to its intersection with the meridian of 118°00' E, thence, due South along the meridian of longitude 118° 00' E to its intersection with the parallel of 10°00' N,

		thence Southwestwards to the point of beginning at 7°40' N, latitude and 116° 00' E longitude; **including the sea-bed, sub-soil, continental margin** and air space shall belong to and be subject to the sovereignty of the Philippines. **Such area is hereby constituted as a distinct and separate municipality of the Province of Palawan and shall be known as "Kalayaan."**
Marcos (now Riza1)[287]	BP Blg. 386[288]	Section 1. The barangays of Bunog, Iraan, Punta Baja, Capung Ulay, Ramsang, Candawag, Culasian, Panalingaan, Tahuin, Latud, and Canipaan are hereby separated from the Municipality of Quezon, Province of Palawan, and constituted into a distinct and independent municipality to be known as the Municipality of Marcos. The seat of government of the new municipality will be in Barangay Punta Baja. Section 2. The **Municipality of Marcos** shall be bounded as follows: "A **parcel of land** known as the proposed Municipality of Marcos, in the Province of Palawan, Luzon Island, bounded in the north along lines 11 and 1 in the Plan by the municipal boundary of Quezon, on the south along lines 2 and 3 by Sulu Sea, on the east along lines 1 and 2 by the municipal boundary of Brooke's Point, on the west along lines 3 to 11 by the shoreline of the South China Sea. Beginning at the point marked 1 in the plan at latitude go 59' 10" T north, longitude 117° 50' 32"; thence S 62-00W 80,750 meters to point 2; thence N 85-00W 5,800 meters to point 3; thence N 31-29E 20,670.35 meters to point 4; thence N 46-13E 8,298.46 meters to point 5; thence N 52-21E 6,137.67 meters to point 6; thence N 39-14E 9,594.37 meters to point 7; thence N 37-45E 11,017.16 meters to point 8; thence N 53-08E 10,364.93 meters to point 9; thence N 41-12E 14,556.17 meters to point 10; thence N 76-02E 6,509.60 meters to point 11; thence S 48-10E 14,442.69 meters to point 12, containing an area of nine hundred seventy-seven million, two hundred sixty-one thousand two hundred square meters (977,261,200 square meters) or ninety-seven

		thousand seven hundred twenty-six and twelve hundredth hectares (97,726.12 hectares)."
Culion	R.A. No. 7193[289] as amended by R.A. No. 9032[290]	Section 1. The Islands of Culion Leper Colony, Marily, Sand, Tampel, Lamud, Galoc, Lanka, Tambon, Dunaun, Alava, Chindonan and a small island without a name situated directly south of Chindonan Island in latitude 11°55'N, longitude 12°02'E, comprising the national reservation for lepers in the Province of Palawan as described under Executive Order No. 35, Series of 1912, are hereby constituted into a distinct and independent municipality to be known as the **Municipality of Culion**. The seat of government of the new municipality shall be in Barangay Balala. Section 1-A. The barangays of Balala, Baldat, Binudac, Culango, Galoc, Jardin, Malaking Patag, Osmeña and Tiza Libis, Luac, which have been existing and functioning as regular barangays before the creation of the municipality in 1992 are hereby declared as legally existent upon the creation of the Municipality of Culion. These barangays shall compnse the Municipality of Culion, subject to the provisions of the succeeding paragraphs. The territorial boundaries of these barangays are specified in Annex "A" of this Act. Subject to the provisions of Section 10, Republic Act No. 7160, Burabod and Halsey in the Municipality of Busuanga, Province of Palawan, are hereby separated from said municipality and are transferred as part of the political jurisdiction of the Municipality of Culion. A barangay for the indigenous cultural communities to be known as Barangay Carabao is hereby created to be composed of the following sitios, namely: Bacutao, Baracuan, Binabaan, Cabungalen, Corong, De Carabao (Lumber Camp), Igay, Layang-layang, Marily Pula and Pinanganduyan. Section 2. The **Municipality of Culion** shall be bounded and described as follows: The municipality shall be bounded on the

<table>
<tr><td></td><td></td><td>north by the Municipality of Busuanga-Coron Island with Concepcion and Salvacion in the Calamian Island Group; on the south by the Municipality of Bacuit-Taytay and Linapacan area; on the east by the South China Sea; on the west by the Cuyo West Pass.

The land contained in all the above named islands in Section One is shown on C.G. Map No. 4717 published in Washington D.C., September, 1908, and lies within the following limits, i.e. between the parallels of 11°36'N and 12°03'N, and the meridians of 119°47'E and 120°15'E.</td></tr>
<tr><td>Sofronio Española</td><td>R.A. No. 7679[291]</td><td>Section 1. Barangays Pulot Center, Pulot Shore (Pulot I), Pulot Interior (Pulot II,) Iraray, Punang, Labog, Panitian, Isumbo, and Abo-Abo in the Municipality of Brooke's Point, Province of Palawan, are hereby separated from the Municipality and constituted into a distinct and independent municipality of the province, to be known as the Municipality of Sofronio Española. The seat of government of the new municipality shall be in Barangay Pulot Center.

Section 2. The boundary of the Municipality of Sofronio Española is described as follows:

<table>
<tr><th>Corner</th><th>Latitude</th><th>Longitude</th><th>Location</th></tr>
<tr><td>1</td><td>8°53'50.23"</td><td>118°00'20.28"</td><td>on the southern side of Caramay Bay</td></tr>
<tr><td>2</td><td>8°59'58.01"</td><td>117°51'24.42"</td><td>on the slopes of Mantalingahan Range</td></tr>
<tr><td>3</td><td>9°01'01.84"</td><td>117°54'03.69"</td><td>on the slopes of Mantalingahan Range</td></tr>
<tr><td>4</td><td>9°02'52.18"</td><td>117°54'29.33"</td><td>on the slopes of Mantalingahan Range</td></tr>
</table>
</td></tr>
</table>

5	9°04'18.78"	117°55'15.71"	on the slopes of Mount Corumi
6	9°05'34.18"	117°55'18.00"	on the slopes of Pulot Range
7	9°07'49.27"	117°56'48.09"	on the slopes of Pulot Range
8	9°09'50.88"	117°59'50.82"	on the slopes of Malanut Range
9	9°11'26.26"	118°03'49.28"	on the slopes of Malanut Range
10	9°11'26.26"	118°03'49.28"	on the slopes of Malanut Range
11	9°08'58.93"	118°07'35.58"	southern side, mouth of Abo-Abo River

Line	Bearing	Distance
1-2	N. 55° 23'W	19,886.37 m.
2-3	N. 68° 03'E	5,244.48 m.
3-4	N. 13° 00'E	3,478.91 m.
4-5	N. 28° 02'E	3,013.93 m.
5-6	N. 01° 44'E	2,317.35 m.
6-7	N. 33° 33'E	4.979.17 m.
7-8	N. 71° 16'E	5,892.79 m.
8-9	N. 16° 10'E	4,168.24 m.
9-10	N. 82° 50'E	6,170.26 m.
10-11	S. 56° 50'E	8,261.31 m.
11-1	SW, meandering mainland coastline.	

The new municipality shall include the **islands** of Bintaugan, Inamukan, Arrecife, Bessie, Gardiner, and Tagalinog.

Based on the foregoing territorial descriptions, the municipalities of Palawan do not include the continental shelf where the Camago-Malampaya reservoir is concededly located. In fact, with the exception of Kalayaan, which includes the seabed, the subsoil and the continental margin as part of

its demarcated area, the municipalities are either located within an island or are comprised of islands. That only Kalayaan (under P.D. No. 1596), among the municipalities of Palawan, had land submerged in water as part of its area or territory, was confirmed by the *amicus curiae*, Atty. Bensurto, during the oral argument as gleaned from the following exchange:

> JUSTICE DE CASTRO: It is not a question of belonging to Palawan, it is a question of Palawan having a share because it is within the area of Palawan, that is the question before the Court now, it is not, the right to govern is not in question, that is not the issue because we are very clear. The Philippines is not a Federal Government x x x So, we are just defining the area of the Province of Palawan, if it is not included in the polygon, **what about in other islands of Palawan, is there any continental shelf in the other areas**, if there is none here in the polygon, within the polygon and which will extend up to the Camago-Malampaya, **is there any other continental shelf in the other islands comprising Palawan where there is such a continental shelf that will extend up to the Camago-Malampaya**.
>
> ATTY. HENRY BENSURTO: x x x x
>
> [W]ith all due respect, Your Honor, I do not think Federalism or Unitary is relevant in the issue of maritime concepts or maritime jurisdiction the end would still be the same, Your Honor. Thank you.
>
> JUSTICE DE CASTRO: You see that is my point, **we are just here trying to analyze domestic law and if, only P.D. 1596 refers to areas submerged in water**, that is (interrupted)
>
> ATTY. HENRY BENSURTO: Everything, Your Honor.
>
> JUSTICE DE CASTRO: **You find that only in 1596.**
>
> ATTY. HENRY BENSURTO: **Yes, Your Honor.**[292] (Emphasis ours)

The parties, however, agreed that the Camago-Malampaya reservoir lies outside the geographic coordinates mentioned in P.D. No. 1596 which constituted Kalayaan as a distinct municipality of Palawan. Atty. Bensurto also confirmed during the oral argument that "the area of Malampaya is not within the polygon area described under P.D. [No.] 1596."[293] The succeeding exchange between Atty. Bensurto and Associate Justice Teresita Leonardo De Castro (Justice De Castro) illumines:

> JUSTICE DE CASTRO: Now, the question is - if in the other islands even assuming that there is a continental shelf which extends up to Camago there is now that legal question of whether that belongs to Palawan, whether Palawan, that is within the area of Palawan even if it is protruding from an island in Palawan because **there is no such law like P.D. 1596 pertaining to the other islands?**
>
> ATTY. HENRY BENSURTO: **Yes, Your Honor.**

JUSTICE DE CASTRO: **So, if there is none and Camago is in the continental shelf protruding from any other island in Palawan and then we cannot apply 1596?**

ATTY. HENRY BENSURTO: **No, Your Honor.**

JUSTICE DE CASTRO: All right, so, there maybe some doubt as to whether or not Palawan should have a bigger share in that Camago-Malampaya?

ATTY. HENRY BENSURTO: Yes, Your Honor.

JUSTICE DE CASTRO: Okay, that is clear now. Thank you.[294] (Emphasis ours)

Estoppel does not lie against the Republic

Fundamental is the rule that the State cannot be estopped by the omission, mistake or error of its officials or agents.[295] Thus, neither the DoE's June 10, 1998 letter to the Province of Palawan nor President Ramos' A.O. No. 381, which acknowledged Palawan's share in the Camago-Malampaya project, will place the Republic in estoppel as they had been based on a mistaken assumption of the LGU's entitlement to said allocation.

Erroneous application and enforcement of the law by public officers do not preclude subsequent corrective application of the statute.[296] As the Court explained in *Adasa v. Abalos*:[297]

> True indeed is the principle that a contemporaneous interpretation or construction by the officers charged with the enforcement of the rules and regulations it promulgated is entitled to great weight by the court in the latter's construction of such rules and regulations. That does not, however, make such a construction necessarily controlling or binding. For equally settled is the rule that **courts may disregard contemporaneous construction** in instances where the law or rule construed possesses no ambiguity, **where the construction is clearly erroneous**, where strong reason to the contrary exists, and where the court has previously given the statute a different interpretation.
>
> **If through misapprehension of law or a rule an executive or administrative officer called upon to implement it has erroneously applied or executed it, the error may be corrected when the true construction is ascertained.** If a contemporaneous construction is found to be erroneous, the same must be declared null and void. Such principle should be as it is applied in the case at bar.[298] (Emphasis ours)

Section 1, Article X of the 1987 Constitution did not apportion the entire Philippine territory among the LGUs

Dean Pangalangan shares the Province of Palawan's claim that based on Section 1, Article X of the 1987 Constitution, the entire Philippine territory is necessarily divided into political and territorial subdivisions, such that at any one time, a body of water or a piece of land should belong to some

province or city.[299] The Court finds this position untenable.

Section 1, Article X of the 1987 Constitution states:

> Section 1. **The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays.** There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided. (Emphasis ours)

By indicating that the LGUs comprise the territorial subdivisions of the State, the Constitution did not *ipso facto* make every portion of the national territory a part of an LGU's territory.

The above-quoted section is found under the General Provisions of Article X on Local Government. Explaining this provision, the eminent author and member of the 1986 Constitutional Commission, Fr. Joaquin G. Bernas, S.J. wrote:

> The existence of "provinces" and "municipalities" was already acknowledged in the 1935 Constitution. Section 1, however, when first enacted in 1973, went a step further than mere acknowledgment of their existence and recognized them, together with cities and barrios, as "(t)he territorial and political subdivisions of the Philippines." **Thus, the municipalities, and barrios (now barangays) have been fixed as the standard territorial and political subdivisions of the Philippines.** To these the 1987 Constitution has added the "autonomous regions." But the Constitution allows only two regions: one for the Cordilleras and one for Muslim Mindanao. The creation of other autonomous regions whether by dividing the Cordilleras or Muslim Mindanao into two or by creating others outside these two regions, can be accomplished only by constitutional amendment.
>
> x x x x
>
> Neither Section 1, however, nor any part of the Constitution prescribed the actual form and structure which individual local government units must take. These are left by Sections 3, 18 and 20 to legislation. **As constitutional precepts, therefore, they are very general.** x x x
>
> x x x x
>
> The designation by the 1973 Constitution of provinces, cities, municipalities and barangays as the political and territorial subdivisions of the Philippines effected **a measure of institutional instability**. To this extent, it was a move in the direction of real local autonomy. The 1987 Constitution moved farther forward by authorizing the creation of autonomous regions. **These are the passive aspects of local autonomy.** The dynamic and more important aspect of local autonomy must be measured in terms of the scope of the powers given to the local units.[300] (Emphasis ours)

There is, thus, merit in the Republic's assertion that Section 1, Article X of the 1987 Constitution

was intended merely to institutionalize the LGUs.

The Court is further inclined to agree with the Republic's argument that assuming Section 1 of Article X was meant to divide the entire Philippine territory among the LGUs, it cannot be deemed as self-executing and legislation will still be necessary to implement it. LGUs are constituted by law and it is through legislation that their respective territorial boundaries are delineated. Furthermore, in the creation, division, merger and abolition of LGUs and in the substantial alteration of their boundaries, Section 10 of Article X requires satisfying the criteria set by the Local Government Code. It further requires the approval by the majority of the votes cast in a plebiscite in the political units directly affected. Needless to say, apportionment of the national territory by the LGUs, based solely on the general terms ·of Section 1 of Article X, may only sow conflict and dissension among these political subdivisions.

As the Republic asserted, no law has been enacted dividing the Philippine territory, including its continental margin and exclusive economic zones, among the LGUs.

The UNCLOS did not confer on LGUs their own continental shelf

Dean Pangalangan posited that since the Constitution has incorporated into Philippine law the concepts of the UNCLOS, including the concept of the continental shelf, Palawan's "area" could be construed as including its own continental shelf.[301] The Province of Palawan and Arigo, et al. accordingly assert that Camago-Malampaya reservoir forms part of Palawan's continental shelf.[302]

The Court is unconvinced. The Republic was correct in arguing that the concept of continental shelf under the UNCLOS does not, by the doctrine of transformation, automatically apply to the LGUs. We quote with approval its disquisition on this issue:

> The Batasang Pambansa ratified the UNCLOS through Resolution No. 121 adopted on February 27, 1984. Through this process, the UNCLOS attained the force and effect of municipal law. But even if the UNCLOS were to be considered to have been transformed to be part of the municipal law, after its ratification by the Batasang Pambansa, the UNCLOS did not automatically amend the Local Government Code and the charters of the local government units. No such intent is manifest either in the UNCLOS or in Resolution No. 121. Instead, the UNCLOS, transformed into our municipal laws, should be applied as it is worded. *Verba legis.*
>
> x x x x
>
> It must be stressed that the provisions under the UNCLOS are specific in declaring the rights and duties of a state, not a local government unit. The UNCLOS confirms the sovereign rights of the States over the continental shelf and the maritime zones. The UNCLOS did not confer any rights to the States' local government units. x x x x
>
> At the risk of being repetitive, it is respectfully emphasized that the foregoing indubitably established that under the express terms of the UNCLOS, the rights and

duties over the maritime zones and continental shelf pertain to the State. No provision was set forth to even suggest any reference to a local government unit. Simply put, the UNCLOS did not obligate the States to grant to, much less automatically vest upon, their respective local government units territorial jurisdiction over the different maritime zones and the continental shelf. Hence, contrary to the submission of Dean Pangalangan, no such application can be made.[303]

Atty. Bensurto took a similar stand, declaring during the oral argument that:

> ATTY. HENRY BENSURTO: x x x x [T]here was an assertion earlier, Your Honor, that there was a reference in fact to the continental shelf, that there is an automatic application of the continental shelf with respect to the municipal territories. I submit, Your Honor that this should n9t be the case, why? Because **the United Nation Convention on the Law of the Sea which is the conventional law directly applicable in this case is an International Law. International Law by definition is a body of rules governing relations between sovereign States or other entities which are capable of having rights and obligations under International Law.** Therefore, it is the State that is the subject ofIntemational Law, the only exception to this is with respect to individuals with respect to the issue of Humanitarian and Human Rights Law. From there, it flows the principal [sic] therefore that International Law affects only sovereign States. With respect to the relationship between the State and its Local Government Units this is reserved to the sovereign right of the sovereign State. It is a dangerous proposition for us to make that there is an automatic application because to do that would mean a violation of the sovereign right of a State and the State always reserves the right to promulgate laws governing its domestic jurisdiction. **Therefore, the United Nations Convention of the Law of the Sea affects only the right of the Philippines *vis a vis* another sovereign State.** And so, when we talk of the different maritime jurisdictions enumerated, illustrated and explained under the United Nations Convention on the Law of the Sea **we are actually referring to inter state relations not intra state relations**. x x x[304] (Emphasis ours)

In fact, Arigo, et al. acknowledged during the oral argument that the UNCLOS applies to the coastal state and not to their provinces, and that Palawan, both under constitutional and international, has no distinct and separate continental shelf, thus:

> ASSOCIATE JUSTICE VELASCO: **You admit that under UNCLOS it is onlv the coastal states that are recognized not the provinces of the coastal state.**
>
> ATTY. BAGARES: **That is true, Your Honor, and we do not dispute that, Your Honor.**
>
> ASSOCIATE JUSTICE VELASCO: That's correct. And you cited that in your petition ....
>
> ATTY. BAGARES: Yes, Your Honor. That is true, Your Honor.
>
> ASSOCIATE JUSTIUCE VELASCO: .... **that under Article 76, it is the continental**

shelf of the coastal state.

ATTY. BAGARES: **Yes, Your Honor.**

ASSOCIATE JUSTICE VELASCO: **And in our case, the Republic of the Philippines, right?**

ATTY. BAGARES: **Yes, Your Honor.**

ASSOCIATE JUSTICE VELASCO: Okay. You also made the submission that under Republic Act 7611 and Administrative Order 381, there is a provision there that serves as basis for, what you call again the continental shelf of Palawan. What provisions in 7611 and AO 381 are there that serves as basis, for you to say that there is such a continental shelf of Palawan?

ATTY. BAGARES: Your Honor, I apologize that perhaps I've been like Atty. Roque very academic in the language in which we make our presentations but our position, Your Honor, exactly just to make·it clear, Your Honor, we're not saying that there's a separate continental shelf·of the Province of Palawan outside the territorial bounds of the sovereign State of the Republic of the Philippines. We are only saying, Your Honor, that that continental shelf is reckoned, Your Honor, from the Province of Palawan. **We are not saying, Your Honor, that there is a distinct and separate continental shelf that Palawan may lay acclaim [sic] to, under the Constitutional Law and under International Law, Your Honor.**

ASSOCIATE JUSTICE VELASCO: Alright. **And that is only the continental shelf of the coastal State, which is the Philippines.**

ATTY. BAGARES. **Yes, Your Honor. I hope that is clear, Your Honor.**[305] (Emphasis ours)

The Federal Paramountcy doctrine as well as the Regalian and Archipelagic doctrines are inapplicable

Contrary to the Republic's submission, the LGU's share under Section 7, Article X of the 1987 Constitution cannot be denied on the basis of the archipelagic and regalian doctrines.

The archipelagic doctrine is embodied m Article I of the 1987 Constitution which provides:

> The national territory comprises the Philippine archipelago, with all the islands and waters embraced therein, and all other territories over which the Philippines has sovereignty or jurisdiction, consisting of its terrestrial, fluvial, and aerial domains, including its territorial sea, the seabed, the subsoil, the insular shelves, and other submarine areas. The waters around, between, and connecting the islands of the archipelago, regardless of their breadth and dimensions, form part of the internal waters of the Philippines.

The regalian doctrine, in turn, is found in Section 2, Article XII of the 1987 Constitution which states:

> Section 2. All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. x x x

It is at once evident that the foregoing doctrines find no application in this case which involves neither a question of what comprises the Philippine territory or the ownership of all natural resources found therein.

There is no debate that the natural resources in the Camago-Malampaya reservoir belong to the State. Palawan's claim is anchored not on ownership of the reservoir but on a revenue-sharing scheme, under Section 7, Article X of the 1987 Constitution and Section 290 of the Local Government Code, that allows LGUs to share in the proceeds of the utilization of national wealth provided they are found within their respective areas. To deny the LGU's share on the basis of the State's ownership of all natural resources is to render Section 7 of Article X nugatory for in such case, it will not be possible for any LGU to benefit from the utilization of national wealth.

Accordingly, the Court cannot subscribe to Atty. Bensurto's opinion[306] that the Province of Palawan cannot claim the 40% LGU share from the proceeds of the Camago-Malampaya project because the National Government "remains to have full *dominium*" (or ownership rights) over the gas reservoir.

Atty. Bensurto's theory is ostensibly drawn from several U.S. cases, namely *U.S. v. California*,[307] *U.S. v. Louisiana*,[308] *U.S. v. Texas*[309] and *U.S. v. Maine*,[310] which the Republic also cites in applying the federal paramountcy doctrine to the Province of Palawan's claim. To explain this doctrine, the Republic turns to the case of *Native Village of Eyak v. Trawler Diane Marie, Inc.*,[311] where the U.S. Court of Appeals for the Ninth Circuit, in part, stated:

> The "federal paramountcy doctrine" is derived, in essence, from four Supreme Court cases in which the federal government and various coastal states disputed **ownership** and **control** of the territorial sea and the adjacent portions of the OCS.
>
> The first of these cases was **United States v. California**, 332 U.S. 19, 67 S.Ct. 1658,91 L.Ed. 1889 (1947), in which the United States sued to enjoin the State of California from executing leases authorizing the taking of petroleum, gas, and other mineral deposits from the Pacific Ocean. x x x
>
> x x x x
>
> [T]hus, the Court declared, "California is not the **owner** of the three-mile marginal belt along its coast." Instead, "the Federal Government rather than the state has **paramount rights** in and power over that belt, an incident to which is **full dominion** over the resources of the soil under that water area, including oil."

Bolstered by the favorable outcome in California, the United States brought similar actions to confirm its title to the seabed adjacent to other coastal states. In **United States v. Louisiana**, 339 U.S. 699, 70 S.Ct. 914, 94 L.Ed. 1216 (1950), the United States brought suit against the State of Louisiana, which argued that it held title to the seabed under the waters extending twenty-seven miles into the Gulf of Mexico. x x x

x x x x

The Court found that the only difference between the argument raised by Louisiana and the one raised by California was that Louisiana's claimed boundary extended twenty-four miles beyond California's threemile claim. This difference did not weigh in Louisiana's favor, however:

> **If the three-mile belt is in the domain of the Nation rather than that of the separate States, it follows a fortiori that the ocean beyond that limit also is** the ocean seaward of the marginal belt is perhaps even more directly related to the national defense, the conduct of foreign affairs, and world commerce than is the marginal sea. Certainly it is not less so far as the issues presented here are concerned, Louisiana's enlargement of her boundary emphasizes the strength of the claim of the United States to this part of the ocean and the resources of the soil under that area, including oil.

In the companion case to Louisiana, **United States v. Texas**, 339 U.S. 707, 70 S.Ct. 918, 94 L.Ed. 1221 (1950), the Supreme Court again reaffirmed its holding in California. The State of Texas had, by statute, extended its boundary first to a line twenty-four miles beyond the three mile limit, and thereafter to the outer edge of the continental shelf. Texas raised a somewhat different argument than had either California or Louisiana, one more analogous to that asserted by the Villages here. Texas argued that, because it was a separate republic prior to its entry into the United States, it had both dominium (ownership or proprietary rights) and imperium (governmental powers of regulation and control) with respect to the lands, minerals, and other products underlying the marginal sea. Upon entering the Union, Texas transferred to the federal government its powers of sovereignty-its imperium-over the marginal sea, but retained its dominium.

The Supreme Court was not persuaded. While the Republic of Texas may have had complete sovereignty and **ownership** over the marginal sea and all things of value derived therefrom, the State of Texas did not. x x x "When Texas came into the Union, she ceased to be an independent nation. The United States then took her place as respects foreign commerce, the waging of war, the making of treaties, defense of the shores, and the like." As an incident to the transfer of that sovereignty, **any "claim that Texas may have had to the marginal sea was relinquished to the United States." The Court recognized that "dominion and imperium are normally separable and separate"; however, in this instance, "property interests are so subordinated to the rights of sovereignty as to follow sovereignty."** x x x

x x x x

> In the last of the paramountcy cases, **United States v. Maine**, 420 U.S. 515, 95 S.Ct. 1155, 43 L.Ed.2d 363 (1975), the United States brought an action against the thirteen Atlantic Coastal States asserting that the federal government was entitled to exercise sovereign rights over the seabed and subsoil underlying the Atlantic Ocean to the exclusion of the coastal states for the purpose of exploring the area and exploiting its natural resources. x x x
>
> At the urging of the coastal states, the Supreme Court reexamined the decisions in California, Louisiana, and Texas. To the states' dismay, the Court concluded that these cases remained grounded on sound constitutional principles. Whatever interest the states may have held in the sea prior to statehood, the Court held, as a matter of "purely legal principle the Constitution allotted to the federal government jurisdiction over foreign commerce, foreign affairs, and national defense and it necessarily follows, as a matter of constitutional law, that **as attributes of these external sovereign powers the federal government has paramount rights in the marginal sea.**" x x x. (Emphasis ours and citations omitted)

There are several reasons why the foregoing doctrine cannot be applied to this case. *First*, the U.S. does not appear to have an equitable sharing provision similar to Section 7, Article X of the 1987 Constitution. *Second*, the Philippines is not composed of states that were previously independent nations. *Third*, the resolution of these cases does not necessitate distinguishing between *dominium* and *imperium* since neither determines the LGU's entitlement to the equitable share under Section 7 of Article X. *Fourth*, the Court is not called upon to determine who between the Province of Palawan and the National Government has the paramount or dominant right to explore or exploit the natural resources in the marginal sea or beyond. *Fifth*, adjudication of these cases does not entail upholding the dominion of the National Government over a political subdivision since ownership of the natural resources is concededly vested in the State. *Sixth*, it is settled that dominion over national wealth belongs to the State under the regalian doctrine. Ownership of the subject reservoir, therefore, is a nonissue and what simply needs to be determined is whether said resource is located within the area or territorial jurisdiction of the Province of Palawan.

Justice De Castro's observation during the oral argument is thus *apropos*:

> JUSTICE DE CASTRO: **It is not a question of belonging to Palawan, it is a question of Palawan having a share because it is within the area of Palawan**, that is the question before the Court now, it is not, the right to govern is not in question, that is not the issue because we are very clear. The Philippines is not a Federal Government so as distinguished from a Federal Government where the sovereign authority came from the member State and granted to the Federal Government, here we have the reverse it is the central government giving to the local government certain powers and defining the limits of these powers. So, in this case there is no question about the right to govern, the local government have [sic] have only such powers granted to it by the Local Government Code. **Now, the question is whether the**

> **Province of Palawan should have a share in the proceeds in the development of the Camago-Malampaya because it is within its area. So, we are just defining the area of the Province of Palawan** x x x.[312] (Emphasis ours)

LGU's share cannot be granted based on equity

Atty. Bensurto opined that under the existing law, the Province of Palawan is not entitled to the statutory 40% LGU share. He posited that it is only on equitable grounds that the Province of Palawan could participate in the proceeds of the utilization of the Camago-Malampaya reservoir. He concluded that from the perspective of the principle of equity, it may be appropriate for the Province of Palawan to be given some share in the operation of the Camago-Malampaya gas reservoir considering: (a) its proximity to the province which makes the latter environmentally vulnerable to any major accidents in the gas reservoir; and (b) the gas pipes that pass through the northern part of the province.[313]

The Court finds the submission untenable. Our courts are basically courts of law, not courts of equity.[314] Furthermore, for all its conceded merits, equity is available only in the absence of law and not as its replacement.[315] As explained in the old case of *Tupas v. Court of Appeals*:[316]

> Equity is described as justice outside legality, which simply means that it crumot supplant although it may, as often happens, supplement the law. We said in an earlier case, and we repeat it now, that all abstract arguments based only on equity should yield to positive rules, which pre empt and prevail over such persuasions. Emotional appeals for justice, while they may wring the heart of the Court, cannot justify disregard of the mandate of the law as long as it remains in force. The applicable maxim, which goes back to the ancient days of the Roman jurists - and is now still reverently observed - is "*aequetas nunquam contravenit legis*."[317]

In this case, there are applicable laws found in Section 7, Article X of the 1987 Constitution and in Sections 289 and 290 of the Local Government Code. They limit the LGUs' share to the utilization of national wealth located within their respective areas or territorial jurisdiction. As herein before-discussed, however, existing laws do not include the Camago-Malampaya reservoir within the area or territorial jurisdiction of the Province of Palawan.

The pertinent positive rules being present here, they should preempt and prevail over all abstract arguments based only on equity.[318]

The supposed presence of gas pipes through the northern part of Palawan cannot justify granting the province the 40% LGU share because both the Constitution and the Local Government Code refer to the LGU where the natural resource is situated. The 1986 Constitutional Commission referred to this area as "the locality, where God chose to locate his bounty," while the Senate deliberations on the proposed Local Government Code cited it as the area where the natural resource is "extracted." To hold otherwise, on the basis of equity, will run afoul of the letter and spirit of both constitutional and statutory law. It is settled that equity cannot supplant, overrule or transgress existing law.

Furthermore, as the Republic noted, any possible environmental damage to the province is addressed by the contractor's undertakings, under the ECC, to ensure minimal impact on the environment and to set up an Environmental Guarantee Fund that would cover expenses for environmental monitoring, as well as a replenishable fund that would compensate for any damage the project may cause.[319] The ECC, in pertinent part, provides:

> This Certificate is being issued subject to the following conditions:
>
> 1. This Certificate shall cover the construction of the shallow water platform (SWP) in the Service Contract 38 (SC38) offshore northwest Palawan, a pipeline from the Malampaya wells (well drilling site) to the SWP passing the offshore route from Mindoro to a land terminal at Shell Tabangao's refinery plant in Batangas;
>
> 2. The proponent shall consider the offshore route of the pipeline to minimize its environment socio-economic impacts particularly to the province of Mindoro;
>
> 3. Selection of the SWP site and the final offshore pipeline route should avoid environmentally sensitive areas such as coral reefs, sea grass, mangroves, fisheries, pearl farms, habitats of endangered wildlife, tourism areas and areas declared as protected by the national, provincial and local government agencies. It shall also be routed away from geologically high risk areas;
>
> 4. Proponent shall use the optimum amount of anti-corrosion anodes necessary in order to maintain pipeline integrity and minimize impacts on water quality;
>
> 5. The design of the pipeline shall conform to the international standards that can handle extreme conditions. The proponent shall ensure extensive monitoring (internal and external inspections) to maintain the pipeline integrity;
>
> x x x x
>
> 26. The proponent shall set up an Environmental Guarantee Fund (EGF) to cover expenses for environmental monitoring and the establishment of a readily available and replenishable fund to compensate for whatever damage may be caused by the project, for the rehabilitation and/or restoration of affected-areas, the future abandonment/decommissioning of project facilities and other activities related to the prevention of possible negative impacts.
>
> The amount and mechanics of the EGF shall be determined by the DENR and the proponent taking into consideration the concerns of the affected areas stakeholders and formalized through a MOA which shall be submitted within ninety (90) days prior to project implementation. The absence of the EGF shall cause the cancellation of this Certificate;

x x x x

> 29. In cases where pipe laying activities will adversely affect existing fishing grounds, the proponent in coordination with the Bureau of Fisheries and Aquatic Resources (BFAR) shall identify alternative fishing grounds and negotiate with affected fisherfolks the reasonable compensation to be paid[.][320]

There is logic in the Republic's contention that the National Government cannot be compelled to compensate the province for damages it has not yet sustained.

The foregoing considered, the Court finds that the Province of Palawan's remedy is not judicial adjudication based on equity but legislation that clearly entitles it to share in the proceeds of the utilization of the Camago-Malampaya reservoir. *Mariano* instructs that the territorial boundaries must be clearly defined "with precise strokes." Defining those boundaries is a legislative, not a judicial function.[321] The Court cannot, on the basis of equity, engage in judicial legislation and alter the boundaries of the Province of Palawan to include the continental shelf where the subject natural resource lies. As conceded by Dean Pangalangan, "territorial jurisdiction is fixed by a law, by a charter and that defines the territory of Palawan very strictly," and it is "something that can be altered only in accordance with [the] proper procedure ending with a plebiscite."[322]

It is true that the Local Government Code envisioned a genuine and meaningful autonomy to enable local government units to attain their fullest development as self-reliant communities and make them effective partners in the attainment of national goals.[323] This objective, however, must be enforced within the extent permitted by law. As the Court held in *Hon. Lina, Jr. v. Hon. Paño*:[324]

> Nothing in the present constitutional provision enhancing local autonomy dictates a different conclusion.
>
> > **The basic relationship between the national legislature and the local government units has not been enfeebled by the new provisions in the Constitution strengthening the policy of local autonomy.** Without meaning to detract from that policy, we here confirm that Congress retains control of the local government units although in significantly reduced degree now than under our previous Constitutions. The power to create still includes the power to destroy. The power to grant still includes the power to withhold or recall. True, there are certain notable innovations in the Constitution, like the direct conferment on the local government units of the power to tax (citing Art. X, Sec. Constitution), which cannot now be withdrawn by mere statute. By and large, however, the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it.
>
> Ours is still a unitary form of government, not a federal state. Being so, **any form of autonomy granted to local governments will necessarily be limited and confined within the extent allowed by the central authority**. Besides, the principle of local

autonomy under the 1987 Constitution simply means "decentralization." It does not make local governments sovereign within the state or an "*imperium in imperio*."[325] (Emphasis ours)

Constitutional challenge to E.O. No. 683

The challenge to the constitutionality of E.O. No. 683, brought by Arigo, et al., is premised on the alleged violation of Section 7, Article X of the 1987 Constitution and Sections 289 and 290 of the Local Government Code, which is the basic issue submitted for resolution by the Republic and the Province of Palawan in G.R. No. 170867. Considering its ruling in G.R. No. 170867, the Court resolves to deny the Arigo petition, without need of passing upon the procedural issues therein raised. The same ruling also renders it unnecessary to rule upon the propriety of the Amended Order dated January 16, 2006, which the Republic raised *ad cautelam* in G.R. No. 170867.

WHEREFORE, the Petition in G.R. No. 170867 is **GRANTED**. The Decision dated December 16, 2005 of the Regional Trial Court of the Province of Palawan, Branch 95 in Civil Case No. 3779 is **REVERSED** and **SET ASIDE**. The Court declares that under existing law, the Province of Palawan is not entitled to share in the proceeds of the Camago-Malampaya natural gas project. The Petition in G.R. No. 185941 is **DENIED**.

SO ORDERED.

Bersamin, C. J., Carpio, Peralta, Del Castillo, Perlas-Bernabe, Caguioa, A. Reyes, Jr., Gesmundo, J. Reyes, Jr., and *Hernando, JJ.*, concur.
Leonen, J., see separate opinion.
Jardeleza, J., no part.
Carandang, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on December 4, 2018 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled cases, the original of which was received by this Office on January 22, 2019 at 9:10 a.m.

Very truly yours,

(SGD)
EDGAR O.
ARICHETA
Clerk of Court

[1] *Rollo* (G.R. No. 170867), pp. 9-81.

[2] Penned by Judge Bienvenido C. Blancaflor; id. at 83-112.

[3] Id. at 113-116.

[4] *Rollo* (G.R. No. 185941), pp. 13-58.

[5] Penned by Associate Justice Rebecca De Guia-Salvador, concurred in by Associate Justices Vicente S.E. Ve1oso and Apolinario D. Bruselas, Jr.; id. at 218-224.

[6] AUTHORIZING THE USE OF FEES, REVENUES AND RECEIPTS FROM SERVICE CONTRACT NO. 38 FOR THE IMPLEMENTATION OF DEVELOPMENT PROJECTS FOR THE PEOPLE OF PALAWAN. Issued on December 1, 2007. *Rollo*, (G.R. No. 170867), pp. 392-J-392-L.

[7] *Rollo* (G.R. No. 185941), pp. 250-252.

[8] *Rollo* (G.R. No. 170867), pp. 14, 556, 891, 1464-1465; *rollo* (G.R. No. 185941), p. 17. TSN, November 24, 2009, p. 15.

[9] *Rollo* (G.R. No. 170867), p. 1465.

[10] Id. at 1466.

[11] "Net proceeds" is defined under Section VII, paragraph 7.3 (c) of Service Contract No. 38 as the difference between the gross income and the sum of the Operating Expenses as defined in Section II, paragraph 2.19 of the contract. *Rollo* (G.R. No. 185941), pp. 165 and 182.

[12] Third Whereas Clause, Administrative Order No. 381; *rollo* (G.R. No. 170867), pp. 549 and 556.

[13] First Whereas Clause, Executive Order No. 683 issued on December 1, 2007; id. at 392-J.

[14] PROVIDING FOR THE FULFILLMENT BY THE NATiONAL POWER CORPORATION OF ITS OBLIGATIONS UNDER THE AGREEMENT FOR THE SALE AND PURCHASE OF NATURAL GAS DATED DECEMBER 30, 1997 WITH SHELL PHILIPPINE EXPLORATION B.V./OCCIDENTAL PHILIPPINES, INC. AND THE COMPLIANCE OF THE NATIONAL GOVERNMENT, THROUGH THE DEPARTMENT OF FINANCE AND THE DEPARTMENT OF ENERGY WITH ITS PERFORMANCE UNDERTAKING THEREFOR AND OTHER PURPOSES. Issued on February 17, 1998. Id. at 549-550-A.

[15] Fifteenth Whereas Clause, Administrative Order No. 381, paragraph 2; id. at 549-A and 892.

[16] Id. at 551-552, 892-893.

[17] Id. at 892.

[18] Sec. 290. *Amount of Share of Local Government Units*. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

[19] *Rollo* (G.R. No. 170867), pp. 14, 894-895.

[20] Id. at 128-129.

[21] Id. at 15-16, 127-129, 895-896.

[22] Id. at 130-158.

[23] AN ACT ADOPTING THE STRATEGIC ENVIRONMENT PLAN FOR PALAWAN, CREATING THE ADMINISTRATIVE MACHINERY TO ITS IMPLEMENTATION, CONVERTING THE PALAWAN INTEGRATED AREA DEVELOPMENT PROJECT OFFICE TO ITS SUPPORT STAFF, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES. Approved on June 19, 1992.

[24] AN ACT PROVIDING FOR A LOCAL GOVERNMENT CODE OF 1991.

[25] An Ordinance Delineating the Territorial Jurisdiction of the Province of Palawan. *Rollo* (G.R. No. 170867), pp. 149 and 972.

[26] Id. at 16-17, 130-158.

[27] Id. at 89, 92.

[28] Id. at 555-561.

[29] Id. at 557-559, 896-897.

[30] Id. at 897.

[31] Id. at 112.

[32] Id. at 109.

[33] Id. at 109-110.

[34] 226 Phil. 624 (1986).

[35] 321 Phil. 395 (1995).

[36] 86 Phil. 629 (1950).

[37] *Rollo* (G.R. 170867), p. 111.

[38] Id.

[39] Id. at 112.

[40] Id. at 17, 113-114.

[41] Id. at 17-18.

[42] Id. at 113.

[43] Id. at 435.

[44] Id. at 113-116.

[45] Id. at 115-116.

[46] Id. at 114.

[47] 473 Phil. 806 (2004).

[48] *Rollo* (G.R. No. 170867), p. 115.

[49] Id. at 417-432.

[50] Id. at 18 and 437.

[51] Id. at 9-81.

[52] Id. at 18, 21, 437.

[53] Id. at 622-625.

[54] Id. at 625.

[55] Id.

[56] Id. at 438.

[57] Sixth Whereas Clause, Executive Order No. 683 issued on December 1, 2007; id. at 392-J; <https://www.dbm.gov.ph/wp-content/uploads/Issuances/2008/Joint%20Circular/JC_No3/jc_no3.pdf>

[58] *Rollo* (G.R. No. 185941), pp. 62-96.

[59] Id. at 20 and 219.

[60] Id. at 20-21, 219.

[61] Id. at 21, 219-220.

[62] Id. at 218-224.

[63] Id. at 220-223.

[64] Id. at 249.

[65] Id. at 22.

[66] Id. at 250-252.

[67] Id. at 13-58.

[68] Id. at 25.

[69] Id. at 14.

[70] Id. at 327.

[71] *Rollo* (G.R. No. 170867), pp. 1210-1214.

[72] Id. at 1260-1261.

[73] Id. at 1466-1467.

[74] Id. at 1467.

[75] From 2002 to 2007, there were no or minimal remittance because of the Take-or-Pay Quantity (TOPQ) obligation of the National Power Corporation as implemented through Administrative Order No. 381 issued on February 17, 1998. Id.

[76] Id. at 22.

[77] Id.

[78] Id. at 23.

[79] Id.

[80] Supra note 34.

[81] Id. at 24.

[82] Id. at 23-25.

[83] Id. at 1473-1474.

[84] Id. at 1475-1476.

[85] Id. at 1481 and 1483.

[86] Id. at 1487-1488.

[87] **Section 4. *Definition of Terms*.** - x x x

x x x x

58. Municipal waters - include not only streams, lakes, inland bodies of water and tidal waters within the municipality which are not included within the protected areas as defmed under Republic Act No. 7586 (The NIPAS Law), public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two (2. lines drawn perpendicular to the general coastline from points where the boundary lines of the municipality touch the sea at low tide and a third line parallel with the general coastline including offshore islands and fifteen (15. kilometers from such coastline. Where two (2. municipalities are so situated on opposite shores that there is less than thirty (30.

kilometers of marine waters between them, the third line shall be equally distant from opposite shore of the respective municipalities.

[88] AN ACT PROVIDING FOR THE DEVELOPMENT, MANAGEMENT AND CONSERVATION OF THE FISHERIES AND AQUATIC RESOURCES, INTEGRATING ALL LAWS PERTINENT THERETO, AND FOR OTHER PURPOSES. Approved on February 25, 1998.

[89] *Rollo* (G.R. No. 170867), p. 26.

[90] Id. at 26-28.

[91] Id. at 28-29, 1559, 1562-1563.

[92] Id. at 29-30, 1564.

[93] Id. at 30, 1564-1565.

[94] Supra note 36.

[95] *Rollo* (G.R. No. 170867), pp. 30-31, 1566.

[96] Id. at 32-33.

[97] Id. at 1501-1502.

[98] Id. at 1503.

[99] Id. at 1556-1557.

[100] Id. at 1557.

[101] Id. at 34-35.

[102] Id. at 36.

[103] Id. at 1499-1501.

[104] Id. at 37-38.

[105] Id. at 38-40, 1530, 1532-1533.

[106] Id. at 40-46.

[107] DECLARING CERTAIN AREA PART OF THE PHILIPPINE TERRITORY AND PROVIDING FOR THEIR GOVERNMENT AND ADMINISTRATION. Issued on June 11, 1978.

[108] *Rollo* (G.R. 170867), pp. 46 and 1498.

[109] Id. at 47-49 and 1492.

[110] Id. at 1499.

[111] Id. at 1504-1508.

[112] Id. at 1487-1488 and 1511.

[113] Id. at 1511-1513.

[114] Id. at 1518.

[115] Id. at 1519-1520.

[116] Id. at 49.

[117] Id. at 49-50.

[118] Id. at 1576-1577 and 1579.

[119] Id. at 1580.

[120] Id. at 51 and 1580-1581.

[121] Id. at 52.

[122] Id. at 52 and 1579-1580.

[123] Id. at 52.

[124] Id. at 1552.

[125] Id. at 54-56, 1548-1551.

[126] Id. at 56-57.

[127] Id. at 60 and 1533-1534.

[128] Id. at 1535.

[129] Id. at 62 and 1535.

[130] Id. at 1535.

[131] Id. at 60-61 and 1535.

[132] Id. at 62 and 1535-1536.

[133] Id.

[134] Id. at 1567-1570.

[135] Id. at 1536-1538.

[136] Id. at 1572-1574.

[137] Id. at 1473.

[138] Id. at 1582-1583.

[139] Id. at 1584.

[140] Id. at 1588-1590.

[141] Id. at 1590.

[142] Id. at 63-65.

[143] Id. at 66 and 72, citing *Westminster High School v. Bernardo*, 51 O.G. 6245.

[144] *Rollo* (G.R. No. 185941), pp. 299-300.

[145] Id. at 303-305.

[146] Id. at 26 and 589.

[147] Id. at 29 and 591.

[148] Id. at 29-30 and 592.

[149] Id. at 30 and 592.

[150] 391 Phil. 84 (2000).

[151] *Rollo* (G.R. No. 185941), pp. 30-31, 592-593.

[152] Id. at 30 and 593.

[153] Id. at 31 and 593.

[154] Id. at 33 and 595.

[155] SECTION 29.

(1) No money shall be paid out of the Treasury except in pursuance of an appropriation made by law.

x x x x

(3) All money collected on any tax levied for a special purpose shall be treated as a special fund and paid out for such purpose only. If the purpose for which a special fund was created has been fulfilled or abandoned, the balance, if any, shall be transferred to the general funds of the Government

[156] *Rollo* (G.R. No. 185941), p. 601.

[157] Id. at 37-38, 42-43, 581, 586-587.

[158] Id. at 599-600.

[159] Id. at 602.

[160] Id. at 34 and 596.

[161] Id. at 603-604.

[162] Id. at 36-37, 597-598.

[163] Id. at 49-50 and 605.

[164] *Rollo* (G.R. No. 170867), p. 907.

[165] Id. at 908.

[166] Id. at 908-908-A.

[167] Id. at 909-910.

[168] Id. at 910-911.

[169] Id. at 912-914, 1380-1381.

[170] Id. at 1381-1382.

[171] Id. at 915-916 and 1382.

[172] Id. at 916-918, 1383-1385.

[173] Id. at 919.

[174] Id. at 919-920 and 1386.

[175] Id. at 921.

[176] Id. at 922 and 1389.

[177] Id. at 922-926 and 1389.

[178] Id. at 924-925, 1389-1390, 1392.

[179] Id. at 922-923.

[180] Id. at 926, 1393-1394.

[181] Id. at 927.

[182] Id. at 927 and 1394.

[183] Id. at 972, 1397-1398.

[184] Id. at 973-974, 1397, 1400.

[185] Id. at 1397.

[186] Id. at 1399.

[187] Id. at 974.

[188] Id. at 958 and 1400.

[189] Id. at 928.

[190] Id. at 928 and 1394.

[191] Id. at 950-951.

[192] Id. at 929-930.

[193] Id. at 937-938.

[194] Id. at 940-944 and 1373.

[195] Id. at 1377.

[196] Id. at 1377-1379.

[197] 160 Phil. 343 (1975).

[198] *Rollo* (G.R. No. 170867), p. 941.

[199] Id. at 942-943.

[200] Id. at 943-944.

[201] 343 Phil. 670 (1997).

[202] *Rollo* (G.R. No. 170867), pp. 955-958.

[203] Id. at 939.

[204] Id. at 945-948.

[205] Id. at 1403-1404.

[206] Id. at 959.

[207] Id. at 962, 967-968.

[208] Id. at 968-969.

[209] Id. at 1402-1403.

[210] Id. at 969-971.

[211] Id. at 977-978.

[212] Id. at 978-979.

[213] Id. at 981-985.

[214] Id. at 1410.

[215] Id. at 1410-1411.

[216] Id. at 1411.

[217] Id.

[218] Id. at 1412.

[219] Id.

[220] Id. at 1412-1413.

[221] Id. at 1413-1414.

[222] Id. at 1409-1410.

[223] Record of the 1986 Constitution Commission, Volume III, pp. 178, 216 and 482.

[224] Record of the Senate, May 8, 1990, p. 16.

[225] Record of the Bicameral Conference Committee on Local Government, February 12, 1991, pp. 8-9.

[226] Record of the Bicameral Conference Committee on Local Government, September 4, 1991, pp. 12-13.

[227] Section 459.

[228] Section 440.

[229] Section 448.

[230] Record of the 1986 Constitution Commission, Volume III, pp. 178 and 194.

[231] <http://www.merriam-webster.com/dictionary/area> (last updated November 28, 2018).

[232] 322 Phil. 774 (1996).

[233] Id. at 783.

[234] Id.

[235] 321 Phil. 259, 265-266 (1995).

[236] 607 Phil. 104 (2009).

[237] Id. at 121.

[238] *Rollo* (G.R. No. 170867), p. 1574.

[239] Id. at 1575.

[240] Under Section 17 of the Local Government Code, municipalities and provinces are authorized to exercise such powers as are "necessary, appropriate or incidental to efficient provisions of the basic services and facilities enumerated (therein)," including:

x x x x

(2) For a Municipality:

x x x x

(ii) **Pursuant to national policies and subject to supervision, control and review of the DENR**, implementation of community-based forestry projects which include integrated social forestry programs and similar projects; management and control of communal forests with an area not exceeding fifty (50) square kilometers; establishment of tree parks, greenbelts, and similar forest development projects;

x x x x

(3) For a Province:

x x x x

(iii) Pursuant to national policies and subject to supervision, control and review of the DENR, enforcement of forestry laws limited to community-based forestry projects, pollution control law, small-scale mining law, and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes;

x x x x (Emphasis ours)

[241] *Rollo* (G.R. No. 170867), p. 1485.

[242] Id. at 478.

[243] Id. at 474.

[244] Id. at 478.

[245] Records of the Bicameral Conference Committee on Local Government, February 12, 1991, p.39.

[246]<https://www.merriam-webster.com/dictionary/jurisdiction#legalDictionary> (last updated November 27, 2018).

[247] Section 14, Executive Order No. 192 (1987).

[248] <https://www.merriam-webster.com/legal/metes%20and%20bounds>.

[249] Supra note 34.

[250] Id. at 645- 647.

[251] AN ACT ENACTING A LOCAL GOVERNMENT CODE. Approved on February 10, 1983.

[252] Aquilino Q. Pimentel, Jr., The Local Government Code, 2011 Edition, p. 44.

[253] Record of the Senate, September 10, 1990, pp. 959-960.

[254] TSN, November 24, 2009, p. 7.

[255] Record of the 1986 Constitutional Commission, Volume III, pp. 178, 194 and 221.

[256] Aquilino Q. Pimentel, Jr., The Local Government Code, 2011 Edition, p. 434.

[257] *Rollo* (G.R. No. 170867), pp. 1595-1602.

[258] AN ACT PROVIDING FOR THE ORGANIZATION OF A PROVINCIAL GOVERNMENT IN THE PROVINCE OF PARAGUA, AND DEFINING THE LIMITS OF THAT PROVINCE. Approved on June 23, 1902.

[259] AN ACT AMENDING ACT NUMBERED FOUR AND TWENTY-TWO, PROVIDING FOR THE ORGANIZATION OF A PROVINCIAL GOVERNMENT IN THE PROVINCE OF PARAGUAAND DEFINING THE LIMITS OF THAT PROVINCE, BY FIXING NEW BOUNDARIES FOR THE PROVINCE OF PARAGUA. Approved on December 22, 1902.

[260] AN ACT TO AMEND ACT NUMBERED FOUR HUNDRED AND TWENTY-TWO, AS AMENDED, BY DEFINING NEW LIMITS FOR THE PROVINCE OF PARAGUA AND FOR OTHER PURPOSES. Approved on May 14, 1903.

[261] AN ACT CHANGING THE NAME OF THE PROVINCE AND ISLAND OF PARAGUA TO THAT OF PALAWAN. Approved on June 28, 1905.

[262] AN ACT PROVIDING FOR THE ORGANIZATION OF PROVINCIAL GOVERNMENTS OF THE PHILIPPINE ISLANDS, OTHER THAN THE MORO PROVINCE, WHICH ARE NOT ORGANIZED UNDER THE PROVISIONS OF THE PROVINCIAL GOVERNMENT ACT NUMBERED EIGHTY-THREE, AND REPEALING ACTS NUMBERED FORTY-NINE, THREE HUNDRED AND THIRTY-SEVEN, FOUR HUNDRED AND TEN, FOUR HUNDRED AND TWENTY-TWO, FOUR HUNDRED AND FORTY-ONE, FIVE HUNDRED, FIVE HUNDRED AND SIXTY-SIX, AND FIVE HUNDRED AND SIXTY-SEVEN, AND SECTIONS ONE AND TWO OF ACT NUMBERED SEVEN HUNDRED AND FORTY-SEVEN. Approved on September 14, 1905.

[263] AN ACT CONSISTING AN ADMINISTRATIVE CODE. Approved on December 31, 1916.

[264] AN ACT AMENDING THE ADMINISTRATIVE CODE. Approved on March 10, 1917.

[265] *Rollo* (G.R. No. 170867), p. 1339.

[266] AN ACT TO AMEND CERTAIN PROVISIONS OF REPUBLIC ACT NO. 3046, AS AMENDED BY REPUBLIC ACT NO. 5446, TO DEFINE THE ARCHIPELAGIC BASELINE OF THE PHILIPPINES AND FOR OTHER PURPOSES. Approved on March 10, 2009.

[267] *Rollo* (G.R. No. 170867), p. 1395.

[268] Id. at 1535.

[269] Section 4.

[270] Sections 13, 14 and 15.

[271] Record of the Senate, November 17, 1990, pp. 1580-1581.

[272] TSN, November 24, 2009, pp. 235-236.

[273] *Rollo* (G.R. No. 170867), pp. 1596-1602.

[274] Subsequent Act No. 2711, or the Administrative Code of 1917, also designated Puerto Princesa as the capital of the Province of Palawan. RA 5906 created the City of Puerto Princesa; Section 2 thereof states that the City shall comprise the present territorial jurisdiction of the Municipality of Puerto Princesa. On March 26, 2007, President Gloria Manacapaga-Arroyo issued Proclamation No. 1264 entitled "Conversion of the City of Puerto Princesa into a Highly Urbanized City," reclassifying Puerto Princesa City as a "highly urbanized city."

[275] AN ACT CREATING THE MUNICIPALITY OF ROXAS, PROVINCE OF PALAWAN. Approved on May 15, 1951.

[276] R.A. No. 1140, entitled AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF BACUIT IN THE PROVINCE OF PALAWAN TO EL NIDO, approved on June 17, 1954, changed the name of Bacuit to El Nido.

[277] AN ACT CHANGING THE NAME OF THE MUNICPALITY OF DUMARAN, PROVINCE OF PALAWAN, TO ARACELL. Approved on June 15, 1954.

[278] AN ACT CREATING THE MUNICIPALITY OF DUMARAN IN THE PROVINCE OF PALAWAN. Enacted on June 18, 1961.

[279] AN ACT TO CREATE THE MUNICIPALITY OF BUSUANGA IN THE PROVINCE OF PALAWAN. Approved on June 17, 1950.

[280] AN ACT AMENDING SECTION ONE OF REPUBLIC ACT NUMBERED FIVE HUNDRED SIXTY, ENTITLED "AN ACT CREATING THE MUNICIPALITY OF BUSUANGA IN THE PROVINCE OF PALAWAN." Approved on June 21, 1969.

[281] AN ACT TO CREATE THE MUNICIPALITY OF QUEZON IN THE PROVINCE OF PALAWAN. Approved on May 15, 1951.

[282] AN ACT TO CREATE THE MUNICIPALITY OF LINAPACAN IN THE PROVINCE OF PALAWAN. Approved on June 12, 1954.

[283] AN ACT CREATING THE MUNICIPALITY OF BATARASA IN THE PROVINCE OF PALAWAN. Enacted without Executive approval on June 18, 1961.

[284] AN ACT CREATING THE MUNICIPALITY OF MAGSAYSAY IN THE PROVINCE OF PALAWAN. Approved on June 18, 1961.

[285] AN ACT CREATING THE MUNICIPALITY OF SAN VICENTE IN THE PROVINCE OF PALAWAN. Approved on June 21, 1969.

[286] AN ACT CREATING THE MUNICIPALITY OF NARRA, PROVINCE OF PALAWAN. Approved June 21, 1969.

[287] AN ACT CHANGING THE NAME OF THE MUNICIPALITY OF MARCOS, PROVINCE OF PALAWAN, TO MUNICIPALITY OF DR. JOSE P. RIZAL. Enacted without executive approval on April 17, 1988.

[288] AN ACT CREATING THE MUNICIPALITY OF MARCOS IN THE PROVINCE OF PALAWAN. Approved on April 14, 1983.

[289] AN ACT CREATING THE MUNICIPALITY OF CULTON TN THE PROVINCE OF PALAWAN. Approved on February 19, 1992.

[290] AN ACT EXPANDING THE AREA OF JURISDICTION OF THE MUNICIPALITY OF CULTON, PROVINCE OF PALAWAN, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7193. Approved on March 12, 2001.

[291] AN ACT CREATING THE MUNICIPALITY OF SOFRONIO ESPAÑOLA IN THE PROVINCE OF PALAWAN. Lapsed into law on February 24, 1994 without the President's signature.

[292] TSN, November 24, 2009, pp. 196-200.

[293] TSN, November 24, 2009, p. 166.

[294] TSN, November 24, 2009, pp. 201-202.

[295] *Rep. of the Phils v. Roxas, et al.*, 723 Phil. 279, 311 (2013) citing *Republic of the Phils. v. Hon. Mangotara, et al.*, 638 Phil. 353 (2010).

[296] *National Amnesty Commission v. COA*, 481 Phil. 279 (2004).

[297] 545 Phil. 168 (2007).

[298] Id. at 186.

[299] TSN, November 24, 2009, p. 232.

[300] The 1987 Constitution of the Republic of the Philippines, A Commentary, 1996 Edition, pp. 960-961.

[301] TSN, November 24, 2009, pp. 217-218 and 224.

[302] *Rollo* (G.R. No. 170867), pp. 37-38.

[303] Id. at 1514 and 1518.

[304] TSN, November 24, 2009, pp. 156-158.

[305] TSN, November 24, 2009, pp. 78-81.

[306] *Rollo* (G.R. No. 170867), pp. 1355-1356.

[307] 332 U.S. 19 (1947).

[308] 339 U.S. 699 (1950).

[309] 339 U.S. 707 (1950).

[310] 420 U.S. 515 (1975).

[311] U.S. 9th Circuit, No. 97-35944, September 9, 1998.

[312] TSN, November 24, 2009, pp. 196-197.

[313] *Rollo* (G.R. No. 170867), pp. 1344, 1355-1356.

[314] *GF Equity, Inc. v. Valenzona*, 501 Phil. 153, 166 (2005).

[315] *Tupas v. Court of Appeals*, 271 Phil. 628 (1991).

[316] Id.

[317] Id. at 632-633.

[318] *Development Bank of the Philippines v. Carpio*, G.R. No. 195450, February 1, 2017, 816 SCRA 473, 487.

[319] *Rollo* (G.R. No. 170867), p. 1584.

[320] Id. at 1584-1586.

[321] Supra note 235.

[322] TSN, November 24, 2009, pp. 233 and 235.

[323] *Phil. Rural Electric Coop. Assoc, Inc. v. DILG Secretary*, 451 Phil. 683, 698 (2003) citing *MCIAA v. Marcos*, 330 Phil. 392, 417 (1996).

[324] 416 Phil. 438 (200).

[325] Id. at 448.

SEPARATE CONCURRING OPINION

LEONEN, J.:

I concur, but only in the result.

The Province of Palawan should be entitled to an equitable share in the utilization and development of resources within its territorial jurisdiction. Due to Palawan's unique position and archipelagic shape, its territorial jurisdiction should not only encompass land mass. It should also include its coastline, subsoil, and seabed.

However, the maps submitted to this Court failed to substantially prove that the Camago-Malampaya Natural Gas Project was within the area of responsibility of the Province of Palawan.

The factual antecedents of this case are undisputed. On December 11, 1990, the Republic, through the Department of Energy, entered into a service contract (Service Contract No. 38) with Shell Philippines Exploration B.V. (Shell) and Occidental Philippines, Inc. (Occidental) for the drilling of a natural gas reservoir in the Camago-Malampaya area, located about 80 kilometers from the main island of Palawan.[1]

Specifically, Camago-Malampaya is located:

From Kalayaan Island Group	93.264 kilometers or 50.3585 nautical miles
Mainland Palawan (Nacpan Point, south of Patuyo Cove, Municipality of El Nido)	55.476 kilometers or 29.9546 nautical miles
Tapiutan Island, Municipality of El Nido	48.843 kilometers or 26.[3731] nautical miles[2]

Service Contract No. 38 provides for a production sharing scheme, where the National Government would receive 60% of the net proceeds from the sale of petroleum while Shell and Occidental, as service contractors, would receive 40% of the net proceeds. Subsequently, Shell and Occidental were replaced by a consortium of Shell, Occidental, Shell Philippines LLC, Chevron Malampaya LLC, and Philippine National Oil Company Explorations Corporation (Shell Consortium).[3]

On February 17, 1998, then President Fidel V. Ramos (President Ramos) issued Administrative Order No. 381,[4] which provided that the National Government's share from the net proceeds of the Camago-Malampaya Natural Gas Project would "be reduced ... by the share of the concerned local government units pursuant to the Local Government Code[.]"[5] It further provided that "the Province of Palawan [was] expected to receive about US$2.1 billion from the total Government share of US$8.1 billion"[6] throughout the 20-year contract period. For reference, Section 290 of the Local Government Code provides:

> Section 290. Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

On June 10, 1998, then Secretary of Energy Francisco L. Viray (Viray) wrote to then Palawan Governor Salvador P. Socrates (Socrates), requesting that the payment of 50% of Palawan's share in the Camago-Malampaya Natural Gas Project be "spread over in the initial seven years of operations .. to pay [for] the [National Power Corporation]'s obligations" in its Gas Sales and Purchase Agreements with Shell Consortium.[7]

On July 30, 2001, then Secretary of Finance Jose Isidro N. Camacho wrote to then Secretary of Justice Hernando B. Perez, seeking legal opinion on whether the Province of Palawan had a share

in the national wealth from the proceeds of the Camago-Malampaya Natural Gas Project. It was the position of the Department of Finance that a local government unit's territorial jurisdiction was only within its land area and excludes marine waters more than 15 kilometers from its coastline.[8]

On October 16, 2001, the Camago-Malampaya Natural Gas Project was formally inaugurated.[9]

Negotiations were held between the Province of Palawan, the Department of Energy, the Department of Finance, and the Department of Budget and Management to determine the Province of Palawan's share in the net proceeds of the Camago-Malampaya Natural Gas Project.[10] However, on February 11, 2003, the Sangguniang Panlalawigan of Palawan resolved to call off further negotiations since the National Government would not grant its expected share in the net proceeds amounting to approximately over US$2 billion.[11]

On March 14, 2003, then Palawan Governor Mario Joel T. Reyes wrote to the Department of Energy, and the Department of Budget and Management reiterating the Province's claim of its 40% share citing "long historical precedent and the statutory definition of Palawan under Republic Act No. 7611."[12]

On May 7, 2003, the Province of Palawan filed a Petition for Declaratory Relief,[13] docketed as Civil Case No. 3779, before the Regional Trial Court to seek a judicial determination of its rights under Administrative Order No. 381, series of 1998; Republic Act No. 7611; Section 290 of the Local Government Code; and Palawan Provincial Ordinance No. 474, series of 2000. In particular, it sought a judicial declaration that the Camago-Malampaya reservoir was part of its territorial jurisdiction, and hence, it was entitled to an equitable share in its utilization and development.[14]

During the pendency of the case before the Regional Trial Court, or on February 9, 2005, then Secretary of Energy Vincent S. Perez, Jr. (Perez), then Secretary of Budget and Management Mario L. Relampagos (Relampagos), and then Secretary of Finance Juanita D. Amatong (Amatong) executed an Interim Agreement[15] with the Province of Palawan. This Interim Agreement provided for equal sharing of the 40% being claimed by the Province of Palawan, to be called the "Palawan Share," for its development and infrastructure projects, environment protection and conservation, electrification of 431 barangays, and establishment of facilities for the security enhancements of the exclusive economic zone.[16]

The Interim Agreement likewise stated that the release of funds would be without prejudice to the outcome of the legal dispute between the parties. Once Civil Case No. 3779 was decided with finality in favor of either party, the shares already received would be treated as financial assistance. To this end, the parties further agreed that the amount of P600,000,000.00 already released to the Province of Palawan would be deducted from the initial release of its 50% share in the 40% of the remitted funds.[17]

On December 16, 2005, the Regional Trial Court rendered a Decision[18] holding that the Province of Palawan was entitled to a 40% share of the revenues generated from the Camago-Malampaya

Natural Gas Project from October 16, 2001, in view of Article X, Section 7 of the Constitution and the provisions of the Local Government Code.

Subsequently, the Province of Palawan filed a Motion to require the Secretary of Energy, the Secretary of Budget and Management, and the Secretary of Finance to render a full accounting of the actual payments made by the Shell Consortium to the Bureau of Treasury from October 1, 2001 to December 2005,[19] and to freeze and/or place Palawan's 40% share in an escrow account.[20]

In its January 16, 2006 Amended Order,[21] the Regional Trial Court issued a Freeze Order directing a full accounting of actual payments made by Shell Consortium and ordering the Secretary of Finance to deposit 40% of the Province of Palawan's share in escrow until the finality of its December 16, 2005 Decision.

On February 16, 2006,[22] the Republic filed a Petition for Review before this Court, docketed as G.R. No. 170867, assailing the Regional Trial Court's December 16, 2005 Decision and its January 16, 2006 Amended Order.[23]

On June 6, 2006, the Regional Trial Court lifted its January 16, 2006 Amended Order in view of the pending Petition before this Court. The Republic subsequently manifested that its arguments relating to the January 6, 2006 Amended Order no longer needed to be resolved unless the Province of Palawan raises them as issues before this Court.[24]

While the Petition was pending before this Court, or on July 25, 2007, the National Government and the Province of Palawan, in conformity with the representatives of the legislative districts of Palawan, executed a Provisional Implementation Agreement[25] which allowed for the release of 50% of the disputed 40% share of Palawan to be utilized for its development projects.

On December 1, 2007, then President Gloria Macapagal Arroyo (President Arroyo) issued Executive Order No. 683, authorizing the release of funds pursuant to the Provisional Implementation Agreement, or 50% of the disputed 40% share, without prejudice to this Court's final resolution of Palawan's claim in G.R. No. 170867.[26]

On February 7, 2008, Bishop Pedro Dulay Arigo (Bishop Arigo), Cesar N. Sarino (Sarino), Dr. Jose Antonio N. Socrates (Dr. Socrates), and H. Harry L. Roque, Jr. (Roque), as citizens and taxpayers, filed a Petition for Certiorari against the Executive Secretary, the Secretary of Energy, the Secretary of Finance, the Secretary of Budget and Management, the Palawan Governor, the Representative of the First District of Palawan, the Philippine National Oil Company Explorations Corporation President and Chief Executive Officer before the Court of Appeals. The Petition assailed Executive Order No. 683, series of 2007, and the Provisional Implementation Agreement for being contrary to the Constitution and the Local Government Code. It also sought the release of the Province of Palawan's full40% share in the Camago-Malampaya Natural Gas Project.[27]

In its May 29, 2008 Resolution,[28] the Court of Appeals dismissed the Petition on procedural grounds, finding that Bishop Arigo, Sarino, Dr. Socrates, and Roque failed to submit the required

documents substantiating their allegations. It likewise noted that the Petition was prematurely filed since the implementation of the Provisional Implementation Agreement was contingent on the final adjudication of G.R. No. 170867. The Court of Appeals also took judicial notice of the "on-going efforts"[29] by the Executive and Legislative branches to arrive at a common position on the country's baselines under the United Nations Convention on the Law of the Sea. Thus, any judicial ruling may be tantamount to a "collateral adjudication"[30] of a policy issue.

Bishop Arigo, Sarino, Dr. Socrates, and Roque filed a Motion for Reconsideration, which was denied by the Court of Appeals in its December 16, 2008 Resolution. Hence, they filed a Petition for Review on Certiorari before this Court, docketed as G.R. No. 185941, insisting that Executive Order No. 683, series of 2007, and the Provisional Implementation Agreement were invalid for being unconstitutional and for violating the provisions of the Local Government Code.[31]

G.R. Nos. 170867 and 185941 were consolidated by this Court on June 23, 2009. Oral arguments were heard on September 1, 2009 and November 24, 2009.[32]

As of August 31, 2009, P61,190,210,012.25 has been remitted to the Department of Energy. The amount claimed by the Province of Palawan as its 40% share was P35,521,789,184.63 as of August 31, 2009.[33]

It is the position of the ponencia that the interpretation of the phrase "within their respective areas" in Article X, Section 7 of the Constitution[34] refers to only to areas where a local government unit exercises territorial jurisdiction. The ponencia further opines that the territorial jurisdiction of a local government unit is limited only to its land area and will not extend to its marine waters, seabed, and subsoil. Thus, the equitable share of a local government unit in the proceeds of the utilization and development of national wealth within its respective area refers only to national wealth that can be found within its land mass.

I disagree.

I

The Constitution declares it a policy of the State to ensure the autonomy of local governments.[35]

The entirety of Article X of the Constitution is devoted to local governments. Under this article, local autonomy means "a more responsive and accountable local government structure instituted through a system of decentralization."[36] To this end, the Local Government Code reiterates the declared policy of the State to ensure local autonomy, providing:

> Section 2. Declaration of Policy. - (a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable

> local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the national government to the local government units.

Under this concept of autonomy, administration over local affairs is delegated by the national government to the local government units to be more responsive and effective at the local level.[37] Thus, Section 17 of the Local Government Code tasks local government units to provide basic services and facilities to their local constituents:

> Section 17. Basic Services and Facilities. - (a) Local government units shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. Local government units shall likewise exercise such other powers and discharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provision of the basic services and facilities enumerated herein.

In addition to administrative autonomy, local governments are likewise granted fiscal autonomy, or "the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities."[38] Section 18 of the Local Government Code provides:

> Section 18. Power to Generate and Apply Resources. - Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenues and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them withoutneed of any further action; to have an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions including sharing the same with the inhabitants by way of direct benefits; to acquire, develop, lease, encumber, alienate, or otherwise dispose of real or personal property held by them in their proprietary capacity and to apply their resources and assets for productive, developmental, or welfare purposes, in the exercise or furtherance of their governmental or proprietary powers and functions and thereby ensure their development into self-reliant communities and active participants in the attainment of national goals.

The Local Government Code mandates that local government units shall have "an equitable share in the proceeds from the utilization and development of the national wealth and resources within their respective territorial jurisdictions." This provision implements Article X, Section 7 of the Constitution, which reads:

> ARTICLE X
> Local Government

General Provisions

> Section 7. Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

Thus, Section 290 of the Local Government Code provides:

> Section 290. Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

The controversy in this case revolves around the proper interpretation of "within their respective areas" and "within their territorial jurisdiction."

II

The Constitution itself provides for the natural boundaries of the State's political units. Article X, Section 1 of the Constitution allocates them as either "territorial and political subdivisions" or "autonomous regions," thus:

ARTICLE X
Local Government
General Provisions

> Section 1. The territorial and political subdivisions of the Republic of the Philippines are the provinces, cities, municipalities, and barangays. There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.

Territorial and political subdivisions are the provinces, cities, municipalities, and barangays. Article X, Section 2 of the Constitution further provides:

> Section 2. The territorial and political subdivisions shall enjoy local autonomy.

Autonomous regions are covered by a different set of provisions in the Constitution.[39] Thus, the territorial jurisdiction of an autonomous region is not defined in the same manner as that of a territorial and political subdivision.

A local government unit can only be created by an act of Congress.[40] Its creation is based on "verifiable indicators of viability and projected capacity to provide services,"[41] one of which is land area, thus:

(c) Land Area. - It must be contiguous, unless it comprises two (2) or more islands or is separated by a local government unit independent of the others; properly identified by metes and bounds with technical descriptions; and sufficient to provide for such basic services and facilities to meet the requirements of its populace.

Compliance with the foregoing indicators shall be attested to by the Department of Finance (DOF), the National Statistics Office (NSO), and the Lands Management Bureau (LMB) of the Department of Environment and Natural Resources (DENR).[42]

The Local Government Code requires that the land area be contiguous unless it comprises of two (2) or more islands. The same provision is repeated throughout the Code, thus:

Section 386. Requisites for Creation. - ...

(b) The territorial jurisdiction of the new Barangay shall be properly identified by metes and bounds or by more or less permanent natural boundaries. The territory need not be contiguous if it comprises two (2) or more islands.

....

Section 442. Requisites for Creation. - ...

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

....

Section 450. Requisites for Creation. - ...

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

....

The requirement of contiguity does not apply if the territory is comprised of islands. All that is required is that it is properly identified by its metes and bounds.

The Province of Palawan, previously known as Paragua, was organized under Act No. 422.[43] Section 2 of the Act, as amended, provided:

Section 2. The Province of Paragua shall consist of all that portion of the Island of

> Paragua north of a line beginning in the middle of the channel at the mouth of the Ulugan River in the Ulugan Bay, thence following the main channel of the Ulugan River to the village of Bahile, thence along the main trail leading from Bahile to the Tapul River, thence following the course of the Tapul River to its mouth in the Honda Bay; except that the towns of Bahile and Tapul the west boundary line shall be the arc of a circle with one mile radius, the center of the circle being the center of the said towns of Bahile and Tapul. There shall be included in the Province of Paragua the small islands adjacent thereto, including Dumaran and the islands forming the Calamianes group and the Cuyos Group.[44]

The law that created the Province of Palawan had no technical description. Instead, it anchored the province's borders on the bodies of water surrounding it. Since, the province's metes and bounds are not technically described, reference must be made to other laws interpreting the province's borders.

Palawan comprises 1,780 islands. To determine its metes and bounds would be to go beyond the contiguity of its land mass.

The ponencia places too much reliance on *Tan v. Commission on Election*,[45] a case that was decided long before the passage of the present Local Government Code. In *Tan*, a petition was filed before this Court to halt the conduct of a plebiscite to pass a law creating the province ofNegros. A question was raised on whether the marginal sea within the three (3)-mile limit should be considered in determining a province's extent. This Court, in finding the argument unmeritorious, held:

> As so stated therein the "territory need not be contiguous if it comprises two or more islands." The use of the word territory in this particular provision of the Local Government Code and in the very last sentence thereof, clearly, reflects that "territory" as therein used, has reference only to the mass of land area and excludes the waters over which the political unit exercises control.[46] (Emphasis omitted)

This Court's wording is peculiar. It speaks of territory as a mass of land area, not waters, over which the political unit exercises control. In the same breath, *Tan* also establishes that political units may have control over the waters in their territory.

It can be presumed that when *Tan* discussed the metes and bounds of a local government unit's territory, it only meant to refer to its physical land area. It did not include a discussion on what may encompass a local government unit's *territorial jurisdiction*.

In any case, the creation of a local government unit is not solely dependent on land mass. Article 9(2) of the Implementing Rules and Regulations of the Local Government Code provides:

> Article 9. Provinces. - (a) Requisites for creation-A province shall not be created unless the following requisites on income and either population or land area are present:
>
> ....

> (2) Population or land area - Population which shall not be less than two hundred fifty thousand (250,000) inhabitants, as certified by NSO; or land area which must be contiguous with an area of at least two thousand (2,000) square kilometers, as certified by LMB. The territory need not be contiguous if it comprises two (2) or more islands or is separated by a chartered city or cities which do not contribute to the income of the province. *The land area requirement shall not apply where the proposed province is composed of one (1) or more islands.* The territorial jurisdiction of a province sought to be created shall be properly identified by metes and bounds. (Emphasis supplied)

In *Navarro v. Ermita*,[47] a controversy arose on the creation of the Province of Dinagat Islands considering that its total land mass was only 802.12 square kilometers, or below the 2,000 square kilometers required by law. Petitioners in that case, who were the former Vice Governor and members of the Provincial Board of the Province of Surigao del Norte, questioned the constitutionality of Article 9(2), arguing that the exemption to land area requirement was not explicitly provided for in the Local Government Code.

The majority initially declared Article 9(2) unconstitutional for being an extraneous provision not intended by the Local Government Code.

On reconsideration, however, the majority reversed its prior decision and upheld the constitutionality of the assailed provision.[48] In particular, *Navarro* found:

> ... [W]hen the local government unit to be created consists of one (1) or more islands, it is exempt from the land area requirement as expressly provided in Section 442 and Section 450 of the LGC if the local government unit to be created is a municipality or a component city, respectively. This exemption is absent in the enumeration of the requisites for the creation of a province under Section 461 of the LGC, although it is expressly stated under Article 9 (2) of the LGC-IRR.
>
> There appears neither rhyme nor reason why this exemption should apply to cities and municipalities, but not to provinces. In fact, considering the physical configuration of the Philippine archipelago, there is a greater likelihood that islands or group of islands would form part of the land area of a newly-created province than in most cities or municipalities. It is, therefore, logical to infer that the genuine legislative policy decision was expressed in Section 442 (for municipalities) and Section 450 (for component cities) of the LGC, but was inadvertently omitted in Section 461 (for provinces). Thus, when the exemption was expressly provided in Article 9 (2) of the LGC-IRR, the inclusion was intended to correct the congressional oversight in Section 461 of the LGC - and to reflect the true legislative intent. It would, then, be in order for the Court to uphold the validity of Article 9 (2) of the LGC-IRR.
>
> This interpretation finds merit when we consider the basic policy considerations underpinning the principle of local autonomy.
>
> ....

> Consistent with the declared policy to provide local government units genuine and meaningful local autonomy, contiguity and minimum land area requirements for prospective local government units should be liberally construed in order to achieve the desired results. The strict interpretation adopted by the February 10, 2010 Decision could prove to be counter-productive, if not outright absurd, awkward, and impractical. Picture an intended province that consists of several municipalities and component cities which, in themselves, also consist of islands. The component cities and municipalities which consist of islands are exempt from the minimum land area requirement, pursuant to Sections 450 and 442, respectively, of the LGC. Yet, the province would be made to comply with the minimum land area criterion of 2,000 square kilometers, even if it consists of several islands. This would mean that Congress has opted to assign a distinctive preference to create a province with contiguous land area over one composed of islands - and negate the greater imperative of development of self-reliant communities, rural progress, and the delivery of basic services to the constituency. This preferential option would prove more difficult and burdensome if the 2,000-square-kilometer territory of a province is scattered because the islands are separated by bodies of water, as compared to one with a contiguous land mass.
>
> Moreover, such a very restrictive construction could trench on the equal protection clause, as it actually defeats the purpose of local autonomy and decentralization as enshrined in the Constitution. Hence, the land area requirement should be read together with territorial contiguity.[49]

Neither can it be said that a local government unit's territorial jurisdiction can only be exercised over its municipal waters.

The Local Government Code provides:

> (r) "Municipal Waters" includes not only streams, lakes, and tidal waters within the municipality, not being the subject of private ownership and not comprised within the national parks, public forest, timber lands, forest reserves or fishery reserves, but also marine waters included between two lines drawn perpendicularly to the general coastline from points where the boundary lines of the municipality or city touch the sea at low tide and a third line parallel with the general coastline and fifteen (15) kilometers from it. Where two (2) municipalities are so situated on the opposite shores that there is less than fifteen (15) kilometers of marine waters between them, the third line shall be equally distant from opposite shores of their respective municipalities.[50]

Under this provision, Palawan can only exercise jurisdiction over waters that are within 15 kilometers from its general coastline.

This narrow interpretation, however, disregards other laws that have defined and specified portions of Palawan's territory and the extent of its territorial jurisdiction.

Presidential Decree No. 1596[51] established the Kalayaan Island Group, delineated as follows:

> Section 1. The area within the following boundaries:
>
> KALAYAAN ISLAND GROUP
>
> > From a point [on the Philippine Treaty Limits] at latitude 7°40' North and longitude 116°00' East of Greenwich, thence due West along the parallel of 7°40' N to its intersection with the meridian of longitude 112°10' E, thence due north along the meridian of 112°10' E to its intersection with the parallel of 9°00' N, thence northeastward to the intersection of parallel of 12°00' N with the meridian of longitude 114°30' E, thence, due East along the parallel of 12°00' N to its intersection with the meridian of 118°00' E, thence, due South along the meridian of longitude 118°00' E to its intersection with the parallel of 10°00' N, thence Southwestwards to the point of beginning at 7°40' N, latitude and 116°00' E longitude;
>
> including the sea-bed, sub-soil, continental margin and air space shall belong and be subject to the sovereignty of the Philippines. Such area is hereby constituted as a distinct and separate municipality of the Province of Palawan and shall be known as "Kalayaan."[52]

The law categorically states that the area includes the seabed, subsoil, and the continental margin, and that the island shall be a municipality in the Province of Palawan.

Republic Act No. 7611, or the Strategic Environmental Plan for Palawan, includes in its Environmentally Critical Areas Network:

> Section 8. Main Components. - ...
>
> (1) Terrestrial - The terrestrial component shall consist of the mountainous as well as ecologically important low hills and lowland areas of the whole province. It may be further subdivided into smaller management components.
>
> (2) *Coastal/marine area - This area includes the whole coastline up to the open sea.* This is characterized by active fisheries and tourism activities; and
>
> (3) Tribal Ancestral lands - These are the areas traditionally occupied by the cultural communities. (Emphasis supplied)

Under this law, local chief executives, together with representatives of national government, are tasked with the protection and preservation of environmentally critical areas in Palawan. This includes the exercise of jurisdiction beyond the province's land mass.

Under Article 76(1) of the United Nations Convention on the Law of the Sea:

> 1. The continental shelf of a coastal State comprises the seabed and subsoil of the

submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance.

In the recent arbitral case between the Republic and China, the Permanent Court of Arbitration, in ruling favorably for the Republic, made the following factual findings:

285. Cuarteron Reef is known as "Huayang Jiao" (华阳焦) in China and "Calderon Reef" in the Philippines. It is a coral reef located at 08° 51' 4' ' N, 112° 50' 08' ' E and is the easternmost of four maritime features known collectively as the London Reefs that are located on the western edge of the Spratly Islands. Cuarteron Reef is 245.3 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 585.3 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to the island of Hainan. The general location of Cuarteron Reef, along with the other maritime features in the Spratly Islands, is depicted in Map 3 on page 125 below.

286. Fiery Cross Reef is known as "Yongshu Jiao" (永暑礁) in China and "Kagitingan Reef" in the Philippines. It is a coral reef located at 09° 33' 00' ' N, 112° 53' 25' ' E, to the north of Cuarteron Reef and along the westem edge of the Spratly Islands, adjacent to the main shipping routes through the South China Sea. Fiery Cross Reef is 254.2 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 547.7 nautical miles from the China's baseline point 39 (Dongzhou (2)) adjacent to the island of Hainan.

287. Johnson Reef, McKennan Reef, and Hughes Reef are all coral reefs that form part of the larger reef formation in the centre of the Spratly Islands known as Union Bank. Union Bank also includes the high tide feature of Sin Cowe Island. Johnson Reef (also known as Johnson South Reef) is known as "Chigua Jiao" (赤瓜礁) in China and "Mabini Reef" in the Philippines. It is located at 9° 43' 00' ' N, 114° 16' 55' ' E and is 184.7 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 570.8 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan. Although the Philippines has referred to "McKennan Reef (including Hughes Reef)" in its Submissions, the Tribunal notes that McKennan Reef and Hughes Reef are distinct features, albeit adjacent to one another, and considers it preferable, for the sake of clarity, to address them separately. McKennan Reef is known as "Ximen Jiao" (西门礁) in China and, with Hughe Reef, is known collectively as "Chigua Reef" in the Philippines. It is located at 09° 54' 13' ' N, 114° 27' 53' ' E and is 181.3 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 566.8 nautical miles from China' s baseline point 39 (Dongzhou (2)) adjacent to Hainan. Hughes Reef is known as "Dongmen Jiao" (东门礁) in China and, with McKennan Reef, is known collectively as "Chigua

Reef" in the Philippines. It is located at 09° 54' 48' ' N 114° 29' 48' ' E and is 180.3 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 567.2 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan.

288. The Gaven Reefs are known as "Nanxun Jiao" (南熏礁) in China and "Burgos" in the Philippines. They constitute a pair of coral reefs that forms part of the larger reef formation known as Tizard Bank, located directly to the north of Union Bank. Tizard Bank also includes the high-tide features of Itu Aba Island, Namyit Island, and Sand Cay. Gaven Reef (North) is located at 10° 12' 27' ' N, 114° 13' 21' ' E and is 203.0 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 544.1 nautical miles from China' s baseline point 39 (Dongzhou (2)) adjacent to Hainan. Gaven Reef (South) is located at 10° 09' 42' ' N 114° 15' 09' ' E and is 200.5 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 547.4 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan.

289. Subi Reef is known as "Zhubi Jiao" (渚碧礁) in China and "Zamora Reef" in the Philippines. It is a coral reef located to the north of Tizard Bank and a short distance to the south-west of the high-tide feature of Thitu Island and its surrounding Thitu Reefs. Subi Reef is located at 10° 55' 22' ' N, 114 o 05' 04' ' E and lies on the north-western edge of the Spratly Islands. Subi Reef is 231.9 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 502.2 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan.

290. Mischief Reef and Second Thomas Shoal are both coral reefs located in the centre of the Spratly Islands, to the east of Union Bank and to the south-east of Tizard Bank. Mischief Reef is known as "Meiji Jiao" (美济礁) in China and "Panganiban" in the Philippines. It is located at 09° 54' 17' ' N, 115° 31' 59' ' E and is 125.4 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 598.1 nautical miles from China' s baseline point 39 (Dongzhou (2)) adjacent to Hainan. Second Thomas Shoal is known as "Ren' ai Jiao" (仁爱礁) in China and "Ayungin Shoal" in the Philippines. It is located at 09° 54' 17' ' N, 115° 51' 49' ' E and is 104.0 nautical miles from the archipelagic baseline of the Philippine island of Palawan and 616.2 nautical miles from China's baseline point 39 (Dongzhou (2)) adjacent to Hainan.[53]

The Permanent Court of Arbitration used the Province of Palawan as its baseline point to determine the reefs' proximity to the Philippines. The Republic likewise made argument with regard to Reed Bank in asserting its sovereignty over the Kalayaan Island Group:

> FIRST, the Republic of the Philippines has sovereignty and jurisdiction over the Kalayaan Island Group (KIG);
>
> SECOND, even while the Republic of the Philippines has sovereignty and jurisdiction

> over the KIG, the Reed Bank where GSEC 101 is situated does not form part of the "adjacent waters," specifically the 12 M territorial waters of any relevant geological feature in the KIG either under customary international law or the United Nations Convention on the Law of the Sea (UNCLOS);
>
> THIRD, Reed Bank is not an island, a rock, or a low tide elevation. Rather, Reed Bank is a completely submerged bank that is part of the continental margin of Palawan. Accordingly, Reed Bank, which is about 85 M from the nearest coast of Palawan and about 595 M from the coast of Hainan, forms part of the 200 M continental shelf of the Philippine archipelago under UNCLOS[.][54]

The Republic has manifested before an international audience that it exercises sovereignty over territories without a definitive land mass on the ground that they form part and parcel of the Province of Palawan. Thus, it recognized that jurisdiction can be established even over areas which are not susceptible of land mass or defined by contiguity.

In any case, the grant of an equitable share in the utilization and development of resources within a local government unit's territorial jurisdiction has practical basis.

When resources are being utilized and developed in a certain area, there will be a need for the surrounding areas to be secured. The environmental impacts to the nearby community will have to be addressed. While *amicus curiae* Secretary General Bensurto eventually concluded that the Camago-Malampaya reservoir was not within Palawan's territorial jurisdiction, he nonetheless made the following observations:

> 1. The proximity of the Camago-Malampaya gas reservoir to the Province of Palawan makes the latter environmentally vulnerable to any major accidents in the gas reservoir;
>
> 2. The gas pipes of the Camago-Malampaya pass through the Northern part of the Palawan Province.[55]

The local government unit's equitable share is meant to address the possible effects that the project may have on the local population. It can also assist in strengthening the economic development of the local government unit and uplift the lives of its constituents.

III

The ponencia submits that there was no estoppel on the part of the Executive Branch when it promulgated issuances recognizing the Province of Palawan's share in the Camago-Malampaya Project, as they were merely "based on a mistaken assumption."[56]

The doctrine of contemporaneous construction is settled. In *Tamayo v. Manila Hotel Company*:[57]

> It is a rule of statutory construction that "courts will and should respect the contemporaneous construction placed upon a statute by the executive officers, whose

duty it is to enforce it and unless such interpretation is clearly erroneous will ordinarily be controlled thereby."[58]

Another variation of the doctrine states:

> ... [An] order, constituting executive or contemporaneous construction of a statute by an administrative agency charged with the task of interpreting and applying the same, is entitled to full respect and should be accorded great weight by the courts, unless such construction is clearly shown to be in sharp conflict with the Constitution, the governing statute, or other laws.[59] (Citation omitted)

The National Government has repeatedly recognized that the Province of Palawan was entitled to an equitable share in the proceeds of its utilization and development.

Administrative Order No. 381, issued by then President Ramos, expressly recognized that the National Government would share in the net proceeds of the Camago-Malampaya Natural Gas Project.[60] In particular, it provided:

> WHEREAS, under SC 38, as clarified, a production sharing scheme has been provided whereby the Government is entitled to receive an amount equal to sixty percent (60%) of the net proceeds from the sale of Petroleum (including Natural Gas) produced from Petroleum Operations (all as defined in SC 38) while Shell/Oxy, as Service Contractor is entitled to receive an amount equal to forty percent (40%) of the net proceeds;
>
> ....
>
> WHEREAS, the Government has determined that it can derive the following economic and social benefits from the Natural Gas Project:
>
> ....
>
> 2. based on the estimated production level and Natural Gas pricing formula between the Sellers and the Buyers of such Natural Gas, the estimated Government revenues for the 20-year contract period will be around US$8.1 billion; this includes estimated revenues to be generated from the available oil and condensate reserves of the Camago-Malampaya Reservoir; the province of Palawan is expected to receive about US$2.1 billion from the total Government share of US$8.1 billion;
>
> ....
>
> WHEREAS, the Government's share in Petroleum (including Natural Gas) produced under SC 38, as clarified, will be reduced (i) by the share of concerned local government units pursuant to the Local Government Code and (ii) by amounts of income taxes due from and paid on behalf of the Service Contractor (the resulting amounts hereinafter called the "Net Government Share")[.][61]

On June 10, 1998, then Secretary of Energy Viray wrote a letter to then Palawan Governor Socrates, requesting for a deferred payment of 50% of Palawan's share in the Camago-Malampaya Natural Gas Project,[62] which likewise shows an effort by the Executive Branch to fulfill its commitments to the Province of Palawan.

After the formal launch of the Camago-Malampaya Natural Gas Project, negotiations occurred between agents of the National Government and the Province of Palawan, to determine the Province of Palawan's share in the net proceeds, until it was called off by the Province of Palawan.[63]

This is yet another instance of the Executive Branch's acceptance of the Province of Palawan's territorial jurisdiction over the area. Otherwise, there would have been no need to negotiate.

Even when the case before the Regional Trial Court was pending, then Secretary of Energy Perez, then Secretary of Budget and Management Relampagos, and then Secretary of Finance Amatong executed an Interim Agreement[64] with the Province of Palawan, providing for equal sharing of the 40% being claimed by the Province of Palawan, to be called the "Palawan Share," for its development and infrastructure projects, environment protection and conservation, electrification of 431 barangays, and establishment of facilities for the security enhancements of the exclusive economic zone.[65]

Representatives of the National Government, with authority from then President Arroyo, and the Province of Palawan, in conformity with the representatives of the legislative districts of Palawan, likewise executed a Provisional Implementation Agreement which allowed for the release of 50% of the disputed 40% share to be utilized for development projects in Palawan.

Then President Arroyo issued Executive Order No. 683 dated December 1, 2007, pertinent portions of which state:

> WHEREAS, on 11 December, 1990, the Republic of the Philippines, represented by the Department of Energy (DOE), entered into Service Contract No. 38 (SC 38) and engaged the services of a consortium composed today of Shell B.V., Shell Philippines LLC, Chevron Malampaya LLC and PNOC-Exploration Corporation (EC), as Contractor for the exploration, development and production of petroleum resources in an identified offshore area, known as the Camago-Malampaya Reservoir, to the West Philippines Sea;
>
> ....
>
> WHEREAS, President as Chief Executive has a broad perspective of the requirements to develop Palawan as a major tourism destination from the point of view of the National Government, which has identified the Central Philippines Superregion, of which Palawan is a part, for tourism infrastructure investments;
>
> WHEREAS, there is a pending court dispute between the National Government and

the Province of Palawan on the issue of whether Camago-Malampaya Reservoir is within the territorial boundaries of the Province of Palawan thus entitling the said province to 40% of the Net Government Share in the proceeds of SC 38 pursuant to Sec. 290 of Republic Act No. (RA) 7160, otherwise known as the "Local Government Code";

WHEREAS, Sec. 25 of RA 7160 provides that the President may, upon request of the local government unit (LGU) concerned, direct the appropriate national government agency to provide financial, technical or other forms of assistance to the LGU;

WHEREAS, the duly-authorized representatives of the National Government and the Province of Palawan, with the conformity of the Representatives of the Congressional District of Palawan, have agreed on a Provisional Implementation Agreement (PIA) that would allow 50% of the disputed 40% of the Net Government Share in the proceeds of SC 38 to be utilized for the immediate and effective implementation of development projects for the people of Palawan;

NOW, THEREFORE, I, GLORIA M. ARROYO, President of the Philippines, by virtue of the power vested in me by law, do hereby order:

SECTION 1. Subject to existing laws, and the usual government accounting and auditing rules and regulations, the Department of Budget and Management (DBM) is hereby authorized to release funds to the implementing agencies (IA) pursuant to the PIA, upon the endorsement and submission by the DOE and/or the PNOC Exploration Corporation of the following documents:

1.1. Directive by the Office of the President or written request of the Province of Palawan, the Palawan Congressional Districts or the Highly Urbanized City of Puerto Princesa, for the funding of designated projects;

1.2. A certification that the designated projects fall under the investment program of the Province of Palawan, City of Puerto Princesa, and/or the development projects identified in the development program of the National Government or its agencies; and

1.3. Bureau of Treasury certification on the availability of funds from the 50% of the 40% share being claimed by the Province of Palawan from the Net Government Share under SC 38;

Provided, that the DBM shall be subject to the actual collections deposited with the National Treasury, and shall be in accordance with the Annual Fiscal Program of the National Government.

....

SECTION 3. The National government, with due regard to the pending judicial dispute,

> shall allow the Province of Palawan, the Congressional Districts of Palawan and the City of Puerto Princesa to securitize their respective shares in the 50% of the disputed 40% of the Net Government Share in the proceeds of SC 38 pursuant to the PIA. For the purpose, the DOE shall, in consultation with the Department of Finance, be responsible for preparing the Net Government Revenues for the period of to June 30, 1010.
>
> SECTION 4. The amounts released pursuant to this EO shall be without prejudice to any on-going discussions or final judicial resolution of the legal dispute regarding the National Government's territorial jurisdiction over the areas covered by SC 38 in relation to the claim of the Province of Palawan under Sec. 290 of RA 7160.

These enactments show the Executive Branch's contemporaneous construction of Section 290 of the Local Government Code in relation to Service Contract No. 38.

Contemporaneous construction is resorted to when there is an ambiguity in the law and its provisions cannot be discerned through plain meaning. The interpretation of those called upon to implement the law is given great respect.[66]

Given the ambiguity of the phrase "within their respective areas" under Article X, Section 7 of the Constitution, it was necessary to resort to the examination of prior and subsequent acts of those required to implement the law.

Considering that the Executive Branch has consistently recognized the Province of Palawan's entitlement to its equitable share in the net proceeds of the Camago-Malampaya Natural Gas Project, its interpretation must be given its due weight.

The ponencia, in confining territorial jurisdiction to only that of land mass, does a disservice to the entirety of Article X, Section 7, which reads:

ARTICLE X
Local Government
General Provisions

> Section 7. Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

Under this provision, local governments are entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, *in the manner provided by law*. This means that law may define what could be included within a local government's respective area.

Thus, the extent of a local government unit's territorial jurisdiction cannot be limited only to its land mass, as defined by the Local Government Code. Reference must also be made to other statutes.

In this instance, Presidential Decree No. 1596 and Republic Act No. 7611 grants the Province of Palawan territorial jurisdiction over areas that are beyond its coastline. Presidential Decree No. 1596 even explicitly declares that the Province of Palawan may have territorial jurisdiction over the continental shelf of the Kalayaan Island Group. Thus, I cannot agree with the ponencia's recommendation that territorial jurisdiction is exercised solely over a local government's land mass.

Unfortunately, the Province of Palawan failed to provide sufficient evidence to show that the Camago-Malampaya Natural Gas Project was within its area of responsibility. The maps submitted to this Court were inadequate to prove that the Province of Palawan's claims. Thus, I am constrained to vote with the majority.

Accordingly, I vote to **GRANT** the Petition in G.R. No. 170867 and **DENY** the Petition in G.R. No. 189514.

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[1] *Rollo* (G.R. No. 170867), p. 89.

[2] Id. at 1465. The rolla indicated that Camago-Malampaya is located 26.9546 nautical miles northwest of Tapiutan Island.

[3] Id. at 1305. Exec. Order No. 683 (2007), whereas clause.

[4] Id. at 549-550-A.

[5] Id. at 550.

[6] Id. at 549-A.

[7] Id. at 551-552.

[8] Id. at 554. It is unclear from the records whether a legal opinion was issued by the Department of Justice.

[9] *Ponencia*, p. 4.

[10] *Rollo* (G.R. No. 170867), pp. 127-128.

[11] Id. at 129.

[12] Id. at 127. Rep. Act No. 7611 (1992), Strategic Environmental Plan (SEP) for Palawan Act.

[13] Id. at 130-159.

[14] Id. at 85-86.

[15] Id. at 555-561.

[16] Id. at 557.

[17] Id. at 557-558.

[18] Id. at 83-112. The Decision was penned by Judge Bienvenido C. Blancaflor of Branch 95, Regional Trial Court, Puerto Princesa City.

[19] Id. at 115.

[20] Id. at 114.

[21] Id. at 113-116. The original Order was erroneously dated December 16, 2006 instead of January 16, 2006. The Order was amended to conform to the correct date.

[22] Id. at 9.

[23] *Ponencia*, p. 2.

[24] Id. at 8-9.

[25] *Rollo* (GR. No. 185941), pp. 498-503.

[26] Id. at 489-491.

[27] *Ponencia*, p. 11.

[28] *Rollo* (G.R. No. 185941), pp. 218-224. The Resolution, docketed as CA-G.R. SP No. 102247, was penned by Associate Justice Rebecca De Guia-Salvador (Chair) and concurred in by Associate Justices Vicente S.E. Veloso and Apolinario D. Bruselas, Jr. of the Eleventh Division, Court of Appeals, Manila.

[29] Id. at 223.

[30] Id.

[31] *Ponencia*, pp. 12-13.

[32] Id. at 13. Dean Raul Pangalangan and Secretary General Henry Bensurto, Jr. were made *amici curiae* for the oral arguments. Only Secretary General Bensurto submitted an *amicus* brief.

[33] Id. at 13-14.

[34] CONST., art. X, sec. 7. Local governments shall be entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their respective areas, in the manner provided by law, including sharing the same with the inhabitants by way of direct benefits.

[35] CONST., art. II,sec. 25.

[36] CONST., art. X, sec. 3. *See also Ganzon v. Court of Appeals*, 277 Phil. 311 (1991) [Per J. Sarmiento, En Banc].

[37] *Pimentel v. Aguirre*, 391 Phil. 84 (2000) [Per J. Panganiban, En Banc].

[38] Id. at 103.

[39] CONST., art. X, secs. 15 to 21.

[40] LOCAL GOVT. CODE, sec. 6.

[41] LOCAL GOVT. CODE, sec. 7.

[42] LOCAL GOVT. CODE, sec. 7(c).

[43] Act No. 422 (1902), An Act Providing for the Organization of a Provincial Government in the Province of Paragua, and Defining the Limits of that Province.

[44] Act No. 567 (1902).

[45] 226 Phil. 624 (1986) [Per J. Alampay, En Banc].

[46] Id. at 646.

[47] 626 Phil. 23 (2010) [Per J. Peralta, En Banc].

[48] *Navarro v. Ermita*, 663 Phil. 546 (2011) [Per J. Nachura, En Banc].

[49] Id. at 584, 586.

[50] LOCAL GOVT. CODE, sec. 131(r).

[51] Pres. Decree No. 1596 (1978), Declaring Certain Area Part of the Philippine Territory and Providing for their Government and Administration.

[52] Pres. Decree No. 1596 (1978), sec. 1

[53] *In the Matter of the South Sea China Arbitration*, PCA Case No. 2013-19, July 12, 2016, <https://pcacpa.org/wp-content/uploads/sites/175/2016/07/PH-CN-20160712-Award.pdf> 121-122.

[54] Id. at 266.

[55] *Rollo* (GR. No. 170867), p. 1356.

[56] Id. at 75.

[57] 101 Phil. 810 (1957) [Per J. Reyes, A., En Banc).

[58] Id. at 815, citing *Molina v. Rafferty*, 37 Phil. 545 (1918) [Per J. Malcom, First Division.]; *In re Allen*, 2 Phil. 630 (1903) [Per J. McDonough, En Banc]; and *Everett v. Bautista*, 69 Phil. 137 (1939) [Per J. Diaz, En Banc).

[59] *Alvarez v. Guingona, Jr.*, 322 Phil. 774, 786 (1996) [Per J. Hermosisima, Jr., En Banc].

[60] *Rollo* (G.R. No. 170867), pp. 549-550-A.

[61] Adm. Order No. 381 (1998), whereas clauses.

[62] *Rollo* (G.R. No. 170867), pp. 551-552.

[63] Id. at 127-128.

[64] Id. at 555-561.

[65] Id. at 557.

[66] *See Lim Hoa Ting v. Central Bank of the Philippines*, 104 Phil. 573 (1958) [Per J. Montemayor, En Banc].