

AKBAYAN – YOUTH, SCAP, UCSC, MASP, KOMPIL II – YOUTH, ALYANSA, KALIPI, PATRICIA O. PICAR, MYLA GAIL Z. TAMONDONG, EMMANUEL E. OMBAO, JOHNNY ACOSTA, ARCHIE JOHN TALAUE, RYAN DAPI...

G.R. No. 147066. March 26, 2001

Ponente: BUENA, J.

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BUENA, J.:

At the helm of controversy in the instant consolidated petitions[1] before us is the exercise of a right so indubitably cherished and accorded primacy, if not utmost reverence, no less than by the fundamental law - the right of suffrage.

Invoking this right, herein petitioners - representing the youth sector - seek to direct the Commission on Elections (COMELEC) to conduct a special registration before the May 14, 2001 General Elections, of new voters ages 18 to 21. According to petitioners, around four million youth failed to register on or before the December 27, 2000 deadline set by the respondent COMELEC under Republic Act No. 8189.[2]

Acting on the clamor of the students and civic leaders, Senator Raul Roco, Chairman of the Committee on Electoral Reforms, Suffrage, and People's Participation, through a Letter dated January 25, 2001, invited the COMELEC to a public hearing for the purpose of discussing the extension of the registration of voters to accommodate those who were not able to register before the COMELEC deadline.[3]

Commissioners Luzviminda G. Tancangco and Ralph C. Lantion, together with Consultant Resurreccion Z. Borra (now Commissioner) attended the public hearing called by the Senate Committee headed by Senator Roco, held at the Senate, New GSIS Headquarters Bldg., Pasay City.

On January 29, 2001, Commissioners Tancangco and Lantion submitted Memorandum No. 2001-027 on the Report on the Request for a Two-day Additional Registration of New Voters Only, excerpts of which are hereto quoted:

"Please be advised that the undersigned attended the public hearing called by the Senate Committee on electoral Reforms, Suffrage and People's Participation presided over by the Hon. Sen. Raul Roco, its Committee Chairman to date at the Senate, New GSIS Headquarters Building, Pasay City. The main agenda item is the request by youth organizations to hold additional two days of registration. Thus, participating students and civic leaders along with Comelec Representatives were in agreement that is legally feasible to have a two-day additional registration of voters to be conducted preferably on February 17 and 18, 2001 nationwide. The deadline for the continuing voters registration under R.A. 8189 is December 27, 2000.

"To address the concern that this may open the flood parts for `hakot system,' certain restrictive parameters were discussed. The following guidelines to serve as safeguards against fraudulent applicants:

"1.

The applicants for the registration shall be 25 years of age or less and will be registering for the first time on May 14, 2001;

"2. The applicants shall register in their places of residences; and

"3. The applicants shall present valid identification documents, like school records.

"Preparatory to the registration days, the following activities are likewise agreed:

"1.

Submission of the list of students and their addresses immediately prior to the actual registration of the applicants;

"2.

The Comelec field officers will be given the opportunity to verify the voters enumerator's list or conduct ocular inspection;

"3. Availability of funds for the purpose; and

"4.

Meetings with student groups to ensure orderly and honest conduct of the registration and drum up interest to register among the new voters.

"The rationale for the additional two-day registration is the renewed political awareness and interest to participate in the political process generated by the recent political events in the country among our youth. Considering that they failed to register on December 27, 2000 deadline, they approved for special registration days.

"In view of the foregoing, the Commission en banc has to discuss all aspects regarding this request with directives to the Finance Services Department (FSD) to submit certified available funds for the purpose, and for the Deputy Executive Director for Operations (DEDO) for the estimated costs of additional two days of registration.

"The presence of REDs on January 30 can be used partly for consultation on the practical side and logistical requirements of such additional registration days. The meeting will be set at 1:30 p.m. at the Office of ED."[4]

Immediately, Commissioner Borra called a consultation meeting among regional heads and representatives and a number of senior staff headed by Executive Director Mamasapunod Aguam. It was the consensus of the group, with the exception of Director Jose Tolentino, Jr. of the ASD, to disapprove the request for additional registration of voters on the ground that Section 8 of R.A. 8189 explicitly provides that no registration shall be conducted during the period starting one hundred twenty (120) days before a regular election and that the Commission has no more time left to accomplish all pre-election activities.[5]

On February 8, 2001, the COMELEC issued Resolution No. 3584, the decretal portion of which reads:

"Deliberating on the foregoing memoranda, the Commission RESOLVED, as it hereby RESOLVES, to deny the request to conduct a two-day additional registration of new voters on February 17 and 18, 2001."

Commissioners Rufino S. B. Javier and Mehol K. Sadain voted to deny the request while Commissioners Luzviminda Tancangco and Ralph Lantion voted to accommodate the students' request. With this impasse, the Commission construed its Resolution as having taken effect.

Aggrieved by the denial, petitioners AKBAYAN-Youth, SCAP, UCSC, MASP, KOMPIL II (YOUTH) et al. filed

before this Court the instant Petition for Certiorari and Mandamus, docketed as G.R. No. 147066, which seeks to set aside and nullify respondent COMELEC's Resolution and/or to declare Section 8 of R. A. 8189 unconstitutional insofar as said provision effectively causes the disenfranchisement of petitioners and others similarly situated. Likewise, petitioners pray for the issuance of a writ of mandamus directing respondent COMELEC to conduct a special registration of new voters and to admit for registration petitioners and other similarly situated young Filipinos to qualify them to vote in the May 14, 2001 General Elections.

On March 09, 2001, herein petitioner Michelle Betito, a student of the University of the Philippines, likewise filed a Petition for Mandamus, docketed as G.R. No. 147179, praying that this Court direct the COMELEC to provide for another special registration day under the continuing registration provision under the Election Code.

On March 13, 2001, this Court resolved to consolidate the two petitions and further required respondents to file their Comment thereon within a non-extendible period expiring at 10:00 A.M. of March 16, 2001. Moreover, this Court resolved to set the consolidated cases for oral arguments on March 16, 2001.[6]

On March 16, 2001, the Solicitor General, in its Manifestation and Motion in lieu of Comment, recommended that an additional continuing registration of voters be conducted at the soonest possible time "in order to accommodate that disenfranchised voters for purposes of the May 14, 2001 elections."

In effect, the Court in passing upon the merits of the present petitions, is tasked to resolve a two-pronged issue focusing on respondent COMELEC's issuance of the assailed Resolution dated February 8, 2001, which Resolution, petitioners, by and large, argue to have undermined their constitutional right to vote on the May 14, 2001 general elections and caused the disenfranchisement of around four (4) million Filipinos of voting age who failed to register before the registration deadline set by the COMELEC.

Thus, this Court shall determine:

a)

Whether or not respondent COMELEC committed grave abuse of discretion in issuing COMELEC Resolution dated February 8, 2001;

b)

Whether or not this Court can compel respondent COMELEC, through the extraordinary writ of mandamus, to conduct a special registration of new voters during the period between the COMELEC's imposed December 27, 2000 deadline and the May 14, 2001 general elections.

The petitions are bereft of merit.

In a representative democracy such as ours, the right of suffrage, although accorded a prime niche in the hierarchy of rights embodied in the fundamental law, ought to be exercised within the proper bounds and framework of the Constitution and must properly yield to pertinent laws skillfully enacted by the Legislature, which statutes for all intents and purposes, are crafted to effectively insulate such so cherished right from ravishment and preserve the democratic institutions our people have, for so long, guarded against the spoils of opportunism, debauchery and abuse.

To be sure, the right of suffrage ardently invoked by herein petitioners, is not at all absolute. Needless to say, the exercise of the right of suffrage, as in the enjoyment of all other rights, is subject to existing substantive and procedural requirements embodied in our Constitution, statute books and other repositories of law. Thus, as to the substantive aspect, Section 1, Article V of the Constitution provides:

"SECTION 1. SUFFRAGE MAY BE EXERCISED BY ALL CITIZENS OF THE PHILIPPINES NOT OTHERWISE DISQUALIFIED BY LAW, WHO ARE AT LEAST EIGHTEEN YEARS OF AGE, AND WHO SHALL HAVE RESIDED IN THE PHILIPPINES FOR AT LEAST ONE YEAR AND IN THE PLACE WHEREIN THEY PROPOSE TO VOTE FOR AT LEAST SIX MONTHS IMMEDIATELY PRECEDING THE ELECTIONS. NO LITERACY, PROPERTY, OR OTHER SUBSTANTIVE REQUIREMENT SHALL BE IMPOSED ON THE EXERCISE OF SUFFRAGE."

As to the procedural limitation, the right of a citizen to vote is necessarily conditioned upon certain procedural requirements he must undergo: among others, the process of registration. Specifically, a citizen in order to be qualified to exercise his right to vote, in addition to the minimum requirements set by the fundamental charter, is obliged by law to register, at present, under the provisions of Republic Act No. 8189, otherwise known as the "Voter's Registration Act of 1996."

Stated differently, the act of registration is an indispensable precondition to the right of suffrage. For registration is part and parcel of the right to vote and an indispensable element in the election process. Thus, contrary to petitioners' argument, registration cannot and should not be denigrated to the lowly stature of a mere statutory requirement. Proceeding from the significance of registration as a necessary requisite to the right to vote, the State undoubtedly, in the exercise of its inherent police power, may then enact laws to safeguard and regulate the act of voter's registration for the ultimate purpose of conducting honest, orderly and peaceful election, to the incidental yet generally important end, that even pre-election activities could be performed by the duly constituted authorities in a realistic and orderly manner - one which is not indifferent and so far removed from the pressing order of the day and the prevalent circumstances of the times.

Viewed broadly, existing legal proscription and pragmatic operational considerations bear great weight in the adjudication of the issues raised in the instant petitions.

On the legal score, Section 8, of the R.A. 8189, which provides a system of continuing registration, is explicit, to wit:

"SEC. 8. System of Continuing Registration of Voters. - The Personal filing of application of registration of voters shall be conducted daily in the office of the Election Officer during regular office hours. No registration shall, however, be conducted during the period starting one hundred twenty (120) days before a regular election and ninety (90) days before a special election." (Emphasis Ours)

Likewise, Section 35 of R.A. 8189, which among others, speaks of a prohibitive period within which to file a sworn petition for the exclusion of voters from the permanent voter's list, provides:

"SEC. 35. Petition for Exclusion of Voters from the List - Any registered voter, representative of a political party x x x may file x x x except one hundred (100) days prior to a regular election xxx."

As aptly observed and succinctly worded by respondent COMELEC in its Comment:

"x x x The petition for exclusion is a necessary component to registration since it is a safety mechanism that gives a measure of protection against flying voters, non-qualified registrants, and the like. The prohibitive period, on the other hand serves the purpose of securing the voter's substantive right to be included in the list of voters.

"In real-world terms, this means that if a special voter's registration is conducted, then the prohibitive period for filing petitions for exclusion must likewise be adjusted to a later date. If we do not, then no one can challenge the Voter's list since we would already be well into the 100-day prohibitive period. Aside from being a flagrant breach of the principles of due process, this would open the registration process to abuse and seriously compromise the integrity of the voter's list, and consequently, that of the entire election.

"x x x It must be remembered that the period serve a vital role in protecting the integrity of the registration process. Without the prohibitive periods, the COMELEC would be deprived of any time to evaluate the evidence on the application. We would be obliged to simply take them at face value. If we compromise on these safety nets, we may very well end up with a voter's list full of flying voters, overflowing with unqualified registrants, populated with shadows and ghosts x x x.

"x x x The short cuts that will have to be adopted in order to fit the entire process of registration within the last 60 days will give rise to haphazard list of voters, some of whom might not even be qualified to vote. x x x the very possibility that we shall be conducting elections on the basis of an inaccurate list is enough to cast a cloud of doubt over the results of the polls. If that happens, the unforgiving public will disown the results of the elections, regardless of who wins, and regardless of how many courts validate our own results. x x x"

Perhaps undaunted by such scenario, petitioners invoke the so called "standby" powers or "residual" powers of the COMELEC, as provided under the relevant provisions of Section 29, Republic Act No. 6646[7] and adopted verbatim in Section 28 of Republic Act No. 8436,[8] thus:

"SEC. 28. Designation of other Dates for Certain Pre-election Acts - If it should no longer be possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishments of the activities so voters shall not be deprived of their right to suffrage."

On this matter, the act of registration is concededly, by its very nature, a pre-election act. Under Section 3(a) of R.A. 8189, registration, as a process, has its own specific definition, precise meaning and coverage, thus:

"a) Registration refers to the act of accomplishing and filing of a sworn application for registration by a qualified voter before the election officer of the city or municipality wherein he resides and including the same in the book of registered voters upon approval by the Election Registration Board;"

At this point, it bears emphasis that the provisions of Section 29 of R.A. 8436 invoked by herein petitioners and Section 8 of R.A. 8189 volunteered by respondent COMELEC, far from contradicting each other, actually share some common ground. True enough, both provisions, although at first glance may seem to be at war in relation to the other, are in a more circumspect perusal, necessarily capable of being harmonized and reconciled.

Rudimentary is the principle in legal hermeneutics that changes made by the legislature in the form of amendments to a statute should be given effect, together with other parts of the amended act. It is not to be presumed that the legislature, in making such changes, was indulging in mere semantic exercise. There must be some purpose in making them, which should be ascertained and given effect.[9]

Similarly, every new statute should be construed in connection with those already existing in relation to the same subject matter and all should be made to harmonize and stand together, if they can be done by any fair and reasonable interpretation.[10] Interpretare et concordare legibus est optimus interpretandi, which means that the best method of interpretation is that which makes laws consistent with other laws. Accordingly, courts of justice, when confronted with apparently conflicting statutes, should endeavor to reconcile them instead of declaring outright the invalidity of one against the other. Courts should harmonize them, if this is possible, because they are equally the handiwork of the same legislature.[11]

In light of the foregoing doctrine, we hold that Section 8 of R.A. 8189 applies in the present case, for the purpose of upholding the assailed COMELEC Resolution and denying the instant petitions, considering that the aforesaid law explicitly provides that no registration shall be conducted during the period starting one hundred twenty (120) days before a regular election.

Corollarily, it is specious for herein petitioners to argue that respondent COMELEC may validly and legally

conduct a two-day special registration, through the expedient of the letter of Section 28 of R.A. 8436. To this end, the provisions of Section 28, R.A. 8436 would come into play in cases where the pre-election acts are susceptible of performance within the available period prior to election day. In more categorical language, Section 28 of R.A. 8436 is, to our mind, anchored on the sound premise that these certain "pre-election acts" are still capable of being reasonably performed vis-a-vis the remaining period before the date of election and the conduct of other related pre-election activities required under the law.

In its Comment, respondent COMELEC--which is the constitutional body tasked by no less than the fundamental charter (Sec. 2, par. 3, Article IX-C of the Constitution) to decide, except those involving the right to vote, all questions affecting elections, including registration of voters--painstakingly and thoroughly emphasized the "operational impossibility"[12] of conducting a special registration, which in its own language, "can no longer be accomplished within the time left to (us) the Commission." [13]

Hence:

"xxx xxx xxx.

"19)

In any case, even without the legal obstacles, the last 60 days will not be a walk in the park for the Comelec. Allow us to outline what the Commission has yet to do, and the time to do it in:

"20)

First we have to complete the Project of Precincts by the 19th of March. The Projects of Precincts Indicate the total number of established precincts and the number of registered voters per precincts in a city or municipality. Without the final Project of Precincts, we cannot even determine the proper allocation of official ballots, election returns and other election forms and paraphernalia. More succinctly said, without the Project of Precincts, we won't know how many forms to print and so we're liable to come up short.

"21)

More Importantly, without a completed Project of Precincts, it will be impossible to complete the rest of the tasks that must be accomplished prior to the elections.

"22)

Second, the Board of Elections Inspectors must be constituted on or before the 4th of March. In addition, the list of the members of the BEI -- including the precinct where they are assigned and the barangay where that precinct is located - must be furnished by the Election Officer to all the candidates and political candidates not later than the 26th of March.

"23)

Third, the Book of Voters, which contains the approved Voter Registration Records of registered voters in particular precinct, must be inspected, verified, and sealed beginning March 30, until April 15.

"24) Fourth, the Computerized Voters' List must be finalized and printed out of use on election day; and finally

"25)

Fifth, the preparation, bidding, printing, and distribution of the Voters Information Sheet must be completed on or before April 15.

"26)

With this rigorous schedule of pre-election activities, the Comelec will have roughly a month that will act as a buffer against any number of unforeseen occurrences that might delay the elections. This is the logic and the wisdom behind setting the 120-day prohibitive period. After all, preparing for an election is no easy task.

"27)

To hold special registrations now would, aside from being illegal, whittle that approximately 30-day margin away to nothing.

"28)

When we say registration of voters, we do not - contrary to popular opinion - refer only to the act of going to the Election Officer and writing our names down. Registration is, in fact, a long process that takes about three weeks to complete not even counting how long it would take to prepare for the registration in the first place.

"29)

In order to concretize, the senior Staff of the Comelec, the other Commissioners, prepared a time-table in order to see exactly how the superimposition of special registration would affect the on-going preparation for the May 14 elections.

"30)

We assumed for the sake of argument that we were to hold the special registration on April 16 and 17. These are not arbitrary numbers, by the way it takes in account the fact that we only have about 800,000 Voters Registration Forms available, as against an estimated 4.5 million potential registrants, and it would take about 14 days -- If we were to declare special registrations today -- to print up the difference and to verify these accountable forms. After printing and verification, the forms would have to be packed and shipped - roughly taking up a further two and a half weeks. Only then can we get on with registration.

"31)

The first step in registration is, of course, filling the application for registration with the Election Officer. The application, according to Section 17 of R.A. 8189, is then set for hearing, with notice of that hearing being posted in the city or municipal bulletin board for at least one week prior. Thus, if we held registrations on the 16th and the 17th the posting requirement would be completed by the 24th. Considering that time must be allowed for the filling of oppositions, the earliest that the Election Registration Board can be convened for hearing would be the May 1st and 2nd.

"32)

Assuming -- and this is a big assumption -- that there are no challenges to the applicant's right to register, the Election registration Board can immediately rule on the Applicant's registration, and post notices of its action by the 2nd until the 7th of May. By the 10th, copies of the notice of the action taken by the Board will have already been furnished to the applicants and the heads of registered political parties.

"33)

Only at this point can our Election Officers once again focus on the business of getting ready for the elections. Once the results of the special registration are finalized, they can be encoded and a new Computerized Voters' List generated - at the earliest, by May 11, after which the new CVL would be posted. Incidentally, if we were to follow the letter of the law strictly, a May 11 posting date for the new CVL would be improper since the R.A. 8189 provides that the CVL be posted at least 90 days before the election.

"34)

Assuming optimistically that we can then finish the inspection, verification, and sealing of the Book of Voters by May 15, we will already have overshot the May 14, election date, and still not have finished our election preparations.

"35)

After this point, we could have to prepare the allocation of Official Ballots, Election Returns, and other Non-Accountable Forms and Supplies to be used for the new registrants. Once the allocation is ready, the contracts would be awarded, the various forms printed, delivered, verified, and finally shipped out to the different municipalities. All told, this process would take approximately 26 days, from the 15th of May until June 10.

"36) Only then can we truly say that we are ready to hold the elections.

"xxx xxx xxx." [14]

It is an accepted doctrine in administrative law that the determination of administrative agency as to the operation, implementation and application of a law would be accorded great weight considering that these specialized government bodies are, by their nature and functions, in the best position to know what they can possibly do or not do, under prevailing circumstances.

Beyond this, it is likewise well-settled that the law does not require that the impossible be done.[15] The law obliges no one to perform an impossibility, expressed in the maxim, *nemo tenetur ad impossibile*. [16] In other words, there is no obligation to do an impossible thing. *Impossibilium nulla obligatio est*. Hence, a statute may not be so construed as to require compliance with what it prescribes cannot, at the time, be legally, coincidentally [17], it must be presumed that the legislature did not at all intend an interpretation or application of a law which is far removed from the realm of the possible. Truly, in the interpretation of statutes, the interpretation to be given must be such that it is in accordance with logic, common sense, reasonableness and practicality. Thus, we are of the considered view that the "stand-by power" of the respondent COMELEC under Section 28 of R.A. 8436, presupposes the possibility of its being exercised or availed of, and not otherwise.

Further, petitioners' bare allegation that they were disenfranchised when respondent COMELEC pegged the registration deadline on December 27, 2000 instead of January 13, 2001 - the day before the period before the May 14, 2001 regular elections commences - is, to our mind, not sufficient. On this matter, there is no allegation in the two consolidated petitions and the records are bereft of any showing that anyone of herein petitioners has filed an application to be registered as a voter which was denied by the COMELEC nor filed a complaint before the respondent COMELEC alleging that he or she proceeded to the Office of the Election Officer to register between the period starting from December 28, 2000 to January 13, 2001, and that he or she was disallowed or barred by respondent COMELEC from filing his application for registration. While it may be true that respondent COMELEC set the registration deadline on December 27, 2000, this Court is of the firm view that petitioners were not totally denied the opportunity to avail of the continuing registration under R.A. 8189. Stated in a different manner, the petitioners in the instant case are not without fault or blame. They admit in their petition [18] that they failed to register, for whatever reason, within the period of registration and came to this Court and invoked its protective mantle not realizing, so to speak, the speck in their eyes. *Impuris minibus nemo accedat curiam*. Let no one come to court with unclean hands.

In a similar vein, well-entrenched is the rule in our jurisdiction that the law aids the vigilant and not those who slumber on their rights. *Vigilantis sed non dormientibus jura in re subveniunt*.

Applying the foregoing, this court is of the firm view that respondent COMELEC did not commit an abuse of discretion, much less be adjudged to have committed the same in some patent, whimsical and arbitrary manner, in

issuing Resolution No. 3584 which, in respondent's own terms, resolved "to deny the request to conduct a two-day additional registration of new voters on February 17 and 18, 2001."

On this particular matter, grave abuse of discretion implies a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, or, when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an evasion of positive duty enjoined or to act at all in contemplation of laws.[19]

Under these circumstances, we rule that the COMELEC, in denying the request of petitioners to hold a special registration, acted within the bounds and confines of the applicable law on the matter --Section 8 of RA 8189. In issuing the assailed Resolution, respondent COMELEC simply performed its constitutional task to enforce and administer all laws and regulations relative to the conduct of an election,[20] inter alia, questions relating to the registration of voters; evidently, respondent COMELEC merely exercised a prerogative that chiefly pertains to it and one which squarely falls within the proper sphere of its constitutionally-mandated powers. Hence, whatever action respondent takes in the exercise of its wide latitude of discretion, specifically on matters involving voters' registration, pertains to the wisdom rather than the legality of the act. Accordingly, in the absence of clear showing of grave abuse of power of discretion on the part of respondent COMELEC, this Court may not validly conduct an incursion and meddle with affairs exclusively within the province of respondent COMELEC- a body accorded by no less than the fundamental law with independence.

As to petitioners' prayer for the issuance of the writ of mandamus, we hold that this Court cannot, in view of the very nature of such extraordinary writ, issue the same without transgressing the time-honored principles in this jurisdiction.

As an extraordinary writ, the remedy of mandamus lies only to compel an officer to perform a ministerial duty, not a discretionary one; mandamus will not issue to control the exercise of discretion of a public officer where the law imposes upon him the duty to exercise his judgment in reference to any manner in which he is required to act, because it is his judgment that is to be exercised and not that of the court.[21]

Considering the circumstances where the writ of mandamus lies and the peculiarities of the present case, we are of the firm belief that petitioners failed to establish, to the satisfaction of this Court, that they are entitled to the issuance of this extraordinary writ so as to effectively compel respondent COMELEC to conduct a special registration of voters. For the determination of whether or not the conduct of a special registration of voters is feasible, possible or practical within the remaining period before the actual date of election, involves the exercise of discretion and thus, cannot be controlled by mandamus.

In *Bayan vs. Executive Secretary Zamora* and related cases,[22] we enunciated that the Court's function, as sanctioned by Article VIII, Section 1, is "merely (to) check whether or not the governmental branch or agency has gone beyond the constitutional limits of its jurisdiction, not that it erred or has a different view. In the absence of a showing...(of) grave abuse of discretion amounting to lack of jurisdiction, there is no occasion for the Court to exercise its corrective power... It has no power to look into what it thinks is apparent error." [23]

Finally, the Court likewise takes judicial notice of the fact that the President has issued Proclamation No. 15 calling Congress to a Special Session on March 19, 2001, to allow the conduct of Special Registration of new voters. House Bill No. 12930 has been filed before the Lower House, which bill seeks to amend R.A. 8189 as to the 120-day prohibitive period provided for under said law. Similarly, Senate Bill No. 2276[24] was filed before the Senate, with the same intention to amend the aforesaid law and, in effect, allow the conduct of special registration before the May 14, 2001 General Elections. This Court views the foregoing factual circumstances as a clear intimation on the part of both the executive and legislative departments that a legal obstacle indeed stands in

the way of the conduct by the Commission on Elections of a special registration before the May 14, 2001 General Elections.

WHEREFORE, premises considered, the instant petitions for certiorari and mandamus are hereby DENIED.

SO ORDERED.

Ynares-Santiago, De Leon, and Sandoval-Gutierrez, JJ., concur.

Davide, Jr., C.J., Vitug, Panganiban, Quisumbing, and Gonzaga-Reyes, JJ., joined Mr. Justice Pardo in his dissenting opinion.

Bellosillo, Melo, and Mendoza, JJ., concur in the majority opinion as well as in the Separate Opinion of J. Kapunan.

Puno, J., on official business abroad.

Kapunan, J., see concurring opinion.

Pardo, J., see dissenting opinion.

[1] G.R. No. 147066 and G.R. No. 147179.

[2] AN ACT PROVIDING FOR A GENERAL REGISTRATION OF VOTERS, ADOPTING A SYSTEM OF CONTINUING REGISTRATION, PRESCRIBING PROCEDURE THEREOF AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR.

[3] Letter of Senator Raul Roco.

[4] G.R. No. 147066 Rollo, p. 24.

[5] See Resolution No. 3584.

[6] Resolution dated March 13, 2001.

[7] AN ACT INTRODUCING ADDITIONAL REFORMS IN THE ELECTORAL SYSTEM AND FOR OTHER PURPOSES.

[8] AN ACT AUTHORIZING THE COMELEC TO USE AN AUTOMATED ELECTION SYSTEM IN THE MAY 11, 1998 NATIONAL OR LOCAL ELECTIONS AND IN SUBSEQUENT NATIONAL AND LOCAL ELECTORAL EXERCISES, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES.

[9] Agpalo, Statutory Construction, pp. 265-266, Fourth Edition, 1998; Tan Kim Kee vs. Court of Appeals, 7 SCRA 670 (1963); Collector of Internal Revenue, 7 SCRA 872 (1963).

[10] Agpalo, Ibid., p. 271; City of Naga vs. Agna, 71 SCRA 176 (1976).

[11] Ibid., p. 271; Gordon vs. Veridaino II, 167 SCRA 51 (1988).

[12] Comment of respondent COMELEC, p. 14.

[13] Ibid., p. 9.

[14] G.R. No. 147179 Rollo, pp. 98-102.

[15] Reyes vs. Republic, 104 Phil. 889 (1958).

[16] Province of Cebu vs. Intermediate Appellate Court, 147 SCRA 447 (1987).

[17] Agpalo, Statutory Construction, pp. 157-158, Fourth Edition, 1998.

[18] Paragraphs 4 and 5 in G.R. No. 147066 and Paragraph 9 in G.R. No. 147179.

[19] Cuison vs. Court of Appeals, 289 SCRA 159 (1998); Jardine vs. NLRC, G.R. No. 119268, February 23, 2000 citing Arroyo vs. de Venecia, 277 SCRA 268 (1997).

[20] Article IX-C, Section 2.

[21] Sy Ha vs. Gulang 7 SCRA 797 [1963]; Aprueba vs. Ganzon, 18 SCRA 8 [1966].

[22] G.R. No. 138570, promulgated on October 10, 2000.

[23] Co vs. Electoral Tribunal of the House of Representative, 199 SCRA 692 (1991); Llamas vs. Orbos, 202 SCRA 849, 857 (1991); Lansang vs. Garcia, 42 SCRA 480-481 (1971).

[24] An Act Providing for the Conduct of Special Registration of Voters before the May 14, 2001, National and Local Elections.

CONCURRING OPINION

KAPUNAN, J.:

I respectfully submit that respondent Commission on Elections (COMELEC) did not commit grave abuse of discretion in issuing Resolution No. 3584, dated February 8, 2001, denying the request to conduct a special registration of voters less than one hundred twenty (120) days before the regular elections on May 14, 2001.

The right of suffrage is enshrined in the Constitution as it is the means by which the people exercise their sovereign authority to choose their representatives in the governance of the State. The importance of this right is such that the electoral process must be at all times free, orderly, honest, peaceful and credible. To this end, the Constitution has lodged with the COMELEC the duty to ensure and safeguard the expression of the people's will through the ballots.

R.A. No. 8189 (R.A. No. 8189)[1] entitled "An Act Providing for a General Registration of Voters, Adopting a System of Continuing Registration, Prescribing the Procedures Thereof and Authorizing the Appropriation of Funds Therefor" was enacted by Congress on June 11, 1996.[2] It was adopted precisely "to systematize the present method of registration in order to establish a clean, complete, permanent and updated list of voters." [3] The certified list of voters then existing under Batas Pambansa Blg. 881 (The Omnibus Election Code) was declared therein to be ineffective and inoperative.[4] To replace the cancelled list, R.A. No. 8189 provided for a general registration as well as a system of continuing registration thus:

SEC. 7. General Registration of Voters. - Immediately after the barangay elections in 1997, the existing certified list of voters shall cease to be effective and operative. For purposes of the May 1998 elections and all elections, plebiscites, referenda, initiatives and recalls subsequent thereto, the Commission shall undertake a general registration of voters before the Board of Election Inspectors on June 14, 15, 21 and 22 and subject to the discretion of the Commission on June 28 and 29, 1997 in accordance with this Act.

SEC. 8. System of Continuing registration of Voters. - The personal filing of application of registration of voters shall be conducted daily in the office of the Election officer during regular office hours. No registration shall, however, be conducted during the period starting one hundred twenty (120) days before a regular election and ninety (90) days before a special election.

I

In support of their petitions, petitioners argue that the COMELEC possess a "standby power" under Section 29 of Republic Act No. 6646[5] (R.A. No. 6646) and Section 28 of Republic Act No. 8436[6] (R.A. No. 8436) to fix additional periods and dates for registration of voters other than those already provided for under existing laws. The aforementioned provisions identically state that "(i)f it shall no longer be reasonably possible to observe the periods and dates prescribed by law for certain pre-election acts, the COMELEC shall fix additional periods and dates to ensure the accomplishment of the activities so that voters shall not be deprived of their right of suffrage." However, these provisions are inapplicable to the pre-election activity of registration in view of the existence of Republic Act No. 8189, the present law governing the system of registration of voters.

The "standby power" of the COMELEC to fix additional dates and periods for registration under Section 29 of R.A. 6646 and Section 28 of R.A. 8436 must be understood in the context of the inadequacy of the registration period under the law then prevailing, i.e. the period provided in Section 126 of B.P. 881. Under this provision,[7] registration of voters was held only on the seventh and sixth Saturdays before a regular election. It was in recognition of the insufficiency of the two-day registration period under Section 126 that Section 29 of R.A. 6646 granted the COMELEC a "standby power" to fix additional dates and times for pre-election activities, including registration. Section 126 of B.P. 881 has, however, been impliedly repealed by R.A. No. 8189, which prescribes an entirely new system of registration, and which in fact allows a prolonged period of registration for potential voters. The implied repeal of Section 126 of B.P. 881 by sections 7 and 8 of R.A. No. 8189 cannot be gainsaid inasmuch as these provisions speak of two systems of registration of voters which are obviously inconsistent with each other. B.P. 881 merely provided for a two-day registration period whereas R.A. 8189 now calls for a prolonged and continuous period of registration (daily during regular office hours) except during the prohibited period. To uphold the view that both systems of registration are presently co-existing would give rise to the absurd situation where potential voters who failed to register daily during regular office hours before the 120-day period would nonetheless be allowed to register on the seventh and sixth Saturdays within the 120-day prohibited period. Obviously, when Congress prescribed the new system of registration under R.A. No. 8189, it intended to discard that the system set forth in B.P. 881.

There is clearly no reason for the use of the "standby power" under Section 29 of R.A. No. 6646 and Section 28 of R.A. No. 8436 to conduct a registration considering that Section 8 of R.A. No. 8189 specifically lays down a system of continuing registration, i.e., voter registration conducted daily in the office of the Election Officer, except one hundred twenty (120) days before a regular election. It would seem that any exercise by the COMELEC of the so-called "standby power" in the conduct of registration would render the system of continuing registration meaningless and pointless.

Moreover, Section 29 of R.A. 6646 and Section 28 of R.A. 8436 cannot prevail over R.A. 8189 with respect to the pre-election activity of registration since the latter deals specifically with registration of voters. The rule is that a law which treats a subject in general terms and which does not contradict the provisions of a special statute is not to be considered as intending to affect the provisions of the latter, unless it is absolutely necessary to construe it in order to give its provisions any meaning at all.[8] Where a conflict between a general law and a special statute exists, the latter should prevail because it evinces the legislative intent more clearly than the general law. The special law is to be construed as an exception to the general law in the absence of circumstances warranting a contrary conclusion.[9] Applying the foregoing rule to the cases at bar, since Section 29 of R.A. 6646 and Section 28 R.A. 8436 do not deal with registration of voters alone, as in fact the aforementioned provisions speak of pre-election activities in general[10] and R.A. 8189 deals particularly with the pre-election activity of registration, the provisions of the latter regarding registration are controlling.

To my mind, the provision that no registration shall be conducted within 120 days prior to regular elections is clear and unequivocal. The reasons therefor are readily apparent. The 120-day prohibition was designed to allow the COMELEC to make the necessary preparations with respect to the coming elections, including, among others: (1) completion of project precincts, which is necessary for the proper allocation of official ballots, election returns and other election forms and paraphernalia; (2) constitution of the Board of Election Inspectors, including the determination of the precincts to which they shall be assigned; (3) inspection, verification and sealing of the Book of Voters containing the approved Voter Registration Records; (4) finalizing the Computerized Voters List; and (5) preparation, bidding, printing and distribution of additional list of Voters Information sheet.[11] The said prohibition should be likewise viewed in conjunction with Section 35 of the same law on the prohibition against the filing of petitions for exclusion within one hundred (100) days prior to regular elections. As pointed out by the COMELEC, petitions for exclusion are necessary mechanisms to ensure that the voters lists are free from "flying voters," "ghost voters," unqualified registrants and the like. If a "special" registration is conducted within the prohibited period, without providing for an extension of time for the filing of exclusion petitions, then the integrity of the Voters List and the entire election process might be seriously compromised. Indeed, to allow the conduct of registration at this very late hour, less than 50 days from the election, is patently against the letter and spirit of R.A. No. 8189.

Considering the express prohibition under Section 8 of R.A. 8189 against registration of voters within 120 days prior to a regular election and in the absence of power on the part of the COMELEC to conduct a special registration within this prohibited period, there is no legal basis for the Court to compel respondent Commission to conduct such activity. Only a law amending the periods for registration set forth in R.A. No. 8189 and allowing such special registration can empower the COMELEC to conduct said process. This has been tacitly admitted by Congress itself when it called for a special session for the passage of a law allowing a special registration of voters before the May 14, 2001 elections. But since Congress has deemed it unwise to enact a law providing for a special registration, COMELEC simply cannot hold said activity.

To order the COMELEC to conduct a special registration would, moreover, compel it to disregard certain provisions prohibiting specific pre-election acts. Section 34 of R.A. No. 8189 proscribes the filing of a petition for inclusion of voters in the permanent list of voters one hundred five (105) days prior to a regular election or seventy-five (75) days prior to a special election:

SEC. 34. Petition for Inclusion of Voters in the List. - Any person whose application for registration has been disapproved by the Board or whose name has been stricken out from the list may file with the court a petition to include his name in the permanent list of voters in his precinct at any time except one hundred five (105) days prior to a regular election or seventy five (75) days prior to a special election. xxx.

Section 35 of the same Act prohibits the filing of a petition for exclusion of voters from the permanent list, thus:

SEC. 35. Petition for Exclusion of Voters from the List. - Any registered voter, representative of any political party of the Election Officer, may file with the court a sworn petition for the exclusion of a voter from the permanent list of voters giving the name, address and the precinct of the challenged voter at anytime except one hundred (100) days prior to a regular election or sixty-five (65) days before a special election. xxx

The Commission is also prevented from executing any order, ruling or decision annulling a book of voters within ninety (90) days before an election under Section 39, R.A. No. 8189:

SEC. 39. Annulment of Book of Voters. - The Commission shall, upon verified petition of any voter of election officer of duly registered political party, and after notice and hearing, annul any book of voters that is not prepared in accordance with the provisions of this Act or was prepared through fraud; bribery, forgery, impersonation, intimidation, force or any similar irregularity, or which contains data that are statistically

improbable. No order, ruling or decision annulling a book of voters shall be executed within (90) days before an election.

Violation of any these provisions is deemed an election offense punishable by imprisonment of one (1) to six (6) years without probation, disqualification to hold public office and deprivation of the right of suffrage.

SEC. 45. Election Offense. - The following shall be considered election offenses under this Act.

a) x x x

x x x

j) Violation of any of the provisions of this Act.

SEC. 46. Penalties. - Any person found guilty of any Election offense under this Act shall be punished an imprisonment of not less than one (1) year but not more than six (6) years and shall not be subject to probation. In addition, the guilty party shall be sentenced to suffer disqualification to hold public office and deprivation of the right of suffrage. If he is a foreigner, he shall be deported after the present term has been served. Any political party found guilty shall be sentenced to pay a fine of not less than One hundred thousand pesos (P100,000) but not more than Five hundred thousand pesos (P500,000).

These penal provisions underscore the prohibitive feature of the foregoing provisions as well as that prescribing the 120-day period against registration.

Indubitably, mandamus would not lie since petitioners have not shown a duty, much less a clear duty, on the part of respondent COMELEC to conduct a special registration. On the contrary, the issuance of the writ would force COMELEC to perform an act prohibited and punished by law.

The Solicitor General makes much ado over the issuance by the COMELEC of Resolution No. 3258, dated September 28, 2000, prescribing December 27, 2000 as the last day of filing applications for registration. He points out that the 120-day prohibited period, counted from May 14, 2001, began on January 14, 2001. Hence, prospective applicants had until January 13, 2001 and not December 27, 2000 to apply for registration. "Effectively," the solicitor General argues, "unregistered but otherwise qualified voters were deprived by respondent COMELEC of eleven (11) working days within which to register." Petitioners and the Solicitor General also fault the COMELEC for failing to engage in sufficiently disseminating information to the public regarding the December 27, 2000 deadline.

It is an overstatement to say, as petitioners and the Solicitor General do, that the reason for the "disenfranchisement of four million new Filipino voters" - a figure not duly established - was the alleged absence of a massive and active information campaign by the COMELEC for new voters to register. R.A. No. 8189 providing for continuing registration has been in existence since June 11, 1996 or for more than four (4) years. Everybody is presumed to know the law. The right of suffrage is so important that every citizen knows or ought to know that it is his right, duty and privilege to register and vote, if qualified. The failure to register lies, perhaps, on neglect, apathy or nonchalance, rather than the COMELEC's alleged lack of information campaign.

On the argument that the COMELEC advanced the deadline for registration, it should be noted that the COMELEC resolution setting the time limit was adopted on December 28, 2000; hence, those who turned 18 between December 27, 2000 and January 13, 2001 should have been forewarned to register on or before the deadline or asked for extension of up to January 13, 2001. There is no showing that anybody had done so. The advancing of the deadline for a few days is not as serious an infraction as petitioners would portray.

II

Granting arguendo that COMELEC has the "standby power" to order a special registration during the prohibited period, the Court cannot compel to compel the COMELEC to conduct the same given its admission that it is already operationally impossible to undertake said activity at this point in time. In its Comment, the COMELEC outlined its calendar of activities for the election on May 14, 2001, and showed, in the process, why the conduct of a special registration is no longer practicable. The Court should seriously take these objective facts into consideration. After all, it is the COMELEC which is solely tasked by the Constitution to "enforce and administer all laws and regulations relative to the conduct of an election, plebiscite, initiative, referendum, an recall"[12] and to ensure "free, orderly, honest, peaceful, and credible elections." [13]

The functions of the COMELEC under the Constitution are essentially executive ("enforcement") and administrative ("administration") in nature.[14] It is elementary in administrative law that "courts will not interfere in matters which are addressed to the sound discretion of government agencies entrusted with the regulation of activities coming under the special technical knowledge and training of such agencies." [15] The reason behind this salutary policy has been explained in this manner:

The rationale for this rule relates not only to the emergence of the multifarious needs of a modern or modernizing society and the establishment of diverse administrative agencies for addressing and satisfying those needs; it also relates to accumulation of experience and growth of specialized capabilities by the administrative agency charged with implementing a particular statute. In *Asturias Sugar Central, Inc. v. Commissioner of Customs* the Court stressed executive officials are presumed to have familiarized themselves with all the considerations pertinent to the meaning and purpose of the law, and to have formed an independent, conscientious and competent expert opinion thereon. The courts give much weight to contemporaneous construction because of the respect due the government agency or officials charged with the implementation of the law, their competence, expertness, experience and informed judgment, and the fact that they are frequently the drafters of the law they interpret.[16] (Citations omitted)

The determination of the feasibility of conducting a special registration less than fifty (50) days prior to the regular election "must be dealt with realistically and not from the standpoint of pure theory." [17] The COMELEC, not this Court, is concededly in a better position to resolve this matter considering its actual experience as well as its knowledge of its own operational and logistical capabilities. It should be allowed considerable latitude in devising means and methods that will ensure the accomplishment of the greater objective for which it was created - free, orderly and honest elections.[18] Since it is the COMELEC's honest-to-goodness assessment that it cannot undertake the conduct of special registration without compromising the integrity of the entire election process, then the Court would do well to respect this administrative "finding of fact."

The marked trend in our laws and jurisprudence has been to grant the COMELEC ample latitude in order that it can more effectively perform its duty in safeguarding the sanctity of our elections. In *Cauton vs. COMELEC*, [19] the Court enunciated that the primordial objective of the COMELEC is to "promote free, orderly, and honest elections:"

The purpose of the Revised Election Code is to protect the integrity of the elections and to suppress all evils that may violate its purity and defeat the will of the voters. The purity of the elections is one of the most fundamental requisites of popular government. x x x In the performance of its duties, the Commission must be given a considerable latitude in adopting means and methods that will insure the accomplishment of the great objective for which it was granted - to promote free, orderly, and honest elections. x x x [20]

This pronouncement was reiterated in *Loong vs. COMELEC*. [21] Due regard for the independent character of the COMELEC, as ordained by the Constitution, requires that the Court must not "by any excessive zeal" [22] compel that body to perform an act that would imperil the holding of a "free, orderly, honest, peaceful, and credible" election on May 14, 2001. This Court's function is merely to check and not to supplant the COMELEC, or to

ascertain merely whether it has gone beyond the limits prescribed by law, not to exercise the power vested in it or to determine the wisdom of its act.[23] Clearly, certiorari would not lie.

A final word. Petitioners must remember that while the right of suffrage is constitutionally guaranteed, this is no reason for them to be complacent in the performance of their corresponding duties as potential voters and excuse them from complying with the requirements laid down by law.

IN VIEW OF THE FOREGOING, I vote to DISMISS the instant petitions.

[1] An Act providing for a General Registration of Voters, adopting A System of Continuing Registration, prescribing the Procedures Thereof and Authorizing the Appropriation of funds Therefor.

[2] The Law took effect fifteen (15) days after its publication in two newspapers of general circulation.

[3] Section 2, R.A. No. 8189.

[4] Section 7, id.

[5] An Act Introducing Additional Reforms in the Electoral System and for Other Purposes.

[6] An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National or Local Electoral Exercises, providing funds Therefor and for other Purposes.

[7] The provision reads:

Sec. 126. Registration of voters.- On the seventh and sixth Saturdays before a regular election or on the second Saturday following the day of the proclamation calling for a new special election, plebiscite or referendum, any person desiring to be registered as a voter shall accomplish in triplicate before the board of election inspectors a voter's affidavit in which shall be stated the following data:

- (a) Name, surname, middle name, maternal surname;
- (b) Date and place of birth;
- (c) Citizenship;
- (d) Periods of residence in the Philippines and in the place of registration;
- (e) Exact address with the name of the street and house number or in case there is none, a brief description of the locality and the place;
- (f) a statement that the applicant has not been previously registered, otherwise, he shall be required to attach a sworn application for cancellation of his previous registration; and
- (g) Such other information or data which may be required by the Commission.

The voter's affidavit shall also contain three specimens of the applicant's signature and clear and legible prints of his left and right hand thumbmarks and shall be sworn to and filed together with four copies of the latest identification photograph to be supplied by the applicant.

The oath of the appellant shall include a statement that he has does not have any of the disqualifications of a voter and that he has not been previously registered in the precinct or in any other precinct.

Before the applicant accomplishes his voter's affidavit, the board of election inspectors shall appraise the applicant of the qualifications and disqualifications prescribed by law for a voter. It shall also see to it that the

accomplished voter's affidavit contain all the data therein required and that the applicant's specimen signatures, the prints of his left and right hand thumbmarks and his photograph are properly affixed in each of the voter's affidavit. (Emphasis supplied.)

[8] See *Laguna Lake Development Authority vs. Court of Appeals*, 251 SCRA 42, 56-57 (1995); *Leveriza vs. Intermediate Appellate Court*, 157 SCRA 282, 294 (1988); *Garcia vs. Pascual*, 113 Phil. 632, 635 (1932).

[9] *Laguna Lake Development Authority vs. Court of Appeals*, 251 SCRA 42, 57 (1995).

[10] These would include: (1) preparation and posting of the Certified List of Voters [Sec. 30, R.A. 8189], and (2) sealing of precinct Book of voters [Sec. 31, R.A. 8189].

[11] Comment of Respondent Commission on Elections, pp. 10-11.

[12] Section 2(1), Article IX.

[13] Section 2(3), Article IX.

[14] *Ututalam vs. COMELEC*, 15 SCRA 465, 469 (1965).

[15] *Melendres vs. COMELEC*, 319 SCRA 262, 275 (1999) citing *First Lepanto Ceramics, Inc. vs. CA*, 253 SCRA 552 (1996).

[16] *Nestle Phil., Inc. vs. CA*, 203 SCRA 504, 510-511 (1991).

[17] In *Sumulong vs. COMELEC*, 73 Phil. 288, 294-295 (1994), the court made the following pronouncement:

The Commission on Elections is a constitutional body. It is intended to play a distinct and important part in our scheme of government. In the discharge of its functions, its should not be hampered with restrictions that would be fully warranted in the case of a less responsible organization. The Commission may err, so this court may also. It should be allowed considerable latitude in devising means and methods that will insure the accomplishment of the greater objective for which it was created - free, orderly and honest elections. We may not fully agree with its choice of means but unless these are clearly illegal or constitute gross abuse of discretion, this court should not interfere. Politics is a practical matter, and political questions must be dealt with realistically - not from the standpoint of pure theory. The Commission on Elections, because of its fact-finding facilities, its contacts with political strategists, and its knowledge derive from actual experience in dealing with political controversies, is in a peculiarly advantageous position to decide complex political questions. (Underscoring ours)

[18] *Id.*

[19] 19 SCRA 911 (1967).

[20] *Id.*, at 921-922.

[21] 305 SCRA 832 (1999).

[22] See Note 17.

[23] See *Lansang vs. Garcia*, 42 SCRA 448 (1971).

DISSENTING OPINION

PARDO, J.:

These are petitions for: (1) certiorari and mandamus with preliminary mandatory injunction filed by petitioners AKBAYAN - Youth, et al; and (2) mandamus filed by Michelle D. Betito, which seek a writ of certiorari annulling and setting aside Commission on Elections (Comelec) Resolution No. 3584 adopted on February 8, 2001, and/or declaring unconstitutional Section 8, R.A. No. 8189, insofar as it disenfranchises petitioners, and a writ of mandamus directing Comelec to conduct a registration of new voters before the May 14, 2001, national and local elections.

The dispositive portion of Resolution No. 3584, adopted on February 8, 2001, reads as follows:

"Deliberating on the foregoing memoranda, the Commission RESOLVED, as it hereby RESOLVES, to deny the request to conduct a two-day additional registration of new voters on February 17 and 18, 2001."

R.A. No. 8189, Section 8, provides that:

"System of Continuing Registration of Voters. - The personal filing of application of voters shall be conducted daily in the office of the Election Officer during the regular office hours. No registration shall, however, be conducted during the period starting one hundred twenty (120) days before a regular election and ninety (90) days before a special election."

The backdrop of these petitioners is the enactment on June 11, 1996, of Republic Act No. 8189[1] which provides for a general registration of voters in June 14, 15, 21 and 22, 1997, and subject to the discretion of the Commission on Elections, on June 28, and 29, 1997[2] and a system of continuing registration of voters in which a qualified voter shall personally accomplish an application form for registration before the Election Officer on any date during regular office hours.[3] No registration, however, shall be conducted during the period starting one hundred twenty (120) days before a regular election and ninety (90) days before a special election.[4]

"Pursuant to the powers vested in it by the Constitution, the Omnibus Election Code (B.P. 881) and other election laws" on September 28, 2000, the Comelec adopted a resolution prescribing a "calendar of activities" and periods of prohibited acts for the May 14, 2001 national and local elections. Under that resolution, the last day to file applications for registration, transfer of registration records, etc. was on December 27, 2000.

On January 29, 2001, the Senate Committee on Electoral Reforms, Suffrage and People's Participation, presided over by Senator Raul S. Roco, held a meeting with representatives of the Comelec relative to the request of representatives of the youth for extension of the registration of voters to accommodate those who were not able to do so before the deadline on December 27, 2000. As a result of the recommendation of Comelec's representatives during the meeting, on February 8, 2001, the Comelec adopted Resolution No. 3584, which denied the request to conduct a two-day additional registration of new voters on February 17 and 18, 2001.

Subsequently, there has been a nationwide public clamor for additional days for registration of new voters representing the youth sector.

Hence, these petitions.[5]

Akbayan-Youth's petition[6] is founded on one of the most fundamental political rights of a Filipino under the Constitution - the right of suffrage. It states that the absence of a massive and active information campaign by the Comelec caused more or less four (4) million new Filipino voters to be uninformed of the last day of the continuing registration fixed on December 27, 2000. Thus, petitioners were not able to register on or before said date.

Akbayan-Youth anchors its petition on the following grounds:

"1.

Petitioners have all the qualifications to register as voters and exercise their right of suffrage in the May 14, 2001 general elections.

"2.

Respondent COMELEC's failure to conduct a thorough, comprehensive, widespread and active nationwide campaign to inform new voters of the registration period legislated in Section 8 of R.A. 8189 effectively denied petitioners their right of suffrage.

"3.

In any event, Section 8 of R.A. 8189 imposes an unconstitutional limitation and an effectively substantive requirement on the petitioner's right of suffrage.

"4.

The 1987 Constitution makes people empowerment a State policy, recognizes the vital role of the youth in nation-building and directs the State to encourage the youth's involvement in public and civil affairs. The denial of the youth's right of suffrage violates these constitutional policies."^[7]

The issues raised are whether the Comelec committed grave abuse of discretion ousting itself of jurisdiction, first, in ruling that the deadline for registration of voters was on December 27, 2000, and failing to give adequate publicity for the dissemination of this deadline and, second, in denying the petition of the "youth" or of those who were unable to register before the deadline to be given a special time to register even after such deadline in time to vote in the elections scheduled on May 14, 2001.

We find the petitions impressed with merit.

The right of suffrage is a constitutional right of the Filipino people to enable them to vote for the leaders who will lead the country. The right to vote is a political right enabling the people to participate in the governance of the State to ensure that it derives its power from the consent of the governed. The people's sovereign authority is exercised through the ballots of qualified voters who would choose their representatives in the governance of the State. For this reason, the Constitution reserved an Article solely for this right, to wit:*

ARTICLE V

SUFFRAGE

"Section 1. Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. No literacy, property or other substantive requirement shall be imposed on the exercise of suffrage.

"Sec. 2. The Congress shall provide a system of securing the secrecy and sanctity of the ballot as well as a system for absentee voting by qualified Filipinos abroad.

"The Congress shall also design a procedure for the disabled and the illiterates to vote without the assistance of other persons. Until then, they shall be allowed to vote under existing laws and such rules as the Commission on Elections may promulgate to protect the secrecy of the ballot.

Section 1 provides for the requirements to qualify an individual to exercise the right to vote for a candidate in an election which is achieved through registration. Registration of voters is a pre-election activity necessary and essential to determine who are the qualified voters. A person may possess all the qualifications and none of the

disqualifications, but can not vote for the reason that he is not registered. Non-registration will render nugatory the constitutional right of suffrage granted to every qualified Filipino citizen. This in the main is the essence of these petitions.

Since the Constitutional provision on suffrage is not self-executing, Congress enacted several laws implementing the same. The basic election law is Batas Pambansa Blg. 881, or the "Omnibus Election Code of 1985." To cope with the need for change in view of the growing need for electoral reforms, congress later enacted several electoral reform measures into law, among them is Republic Act No. 6646,[8] or "The Electoral Reforms Law of 1987."

Relative to the issues raised, Section 29 of R.A. No. 6646, which states:

"Sec. 29. Designation of Other Dates for Certain Pre-election Acts. - If it should no longer be reasonably possible to observe the periods and dates prescribed by law for certain pre-election acts, the Commission shall fix other periods and dates in order to ensure accomplishment of the activities so voters shall not be deprived of their right of suffrage."

and B.P. Blg. 881, Sec. 52 [m] must be considered in relation to Section 8, R.A. No. 8189 which prohibits registration of voters one hundred twenty (120) days before a regular election and ninety (90) days before a special election.

It is a basic rule in statutory construction that laws are to be harmonized rather than consider one repealed in favor of the other. Besides, there is nothing incongruous in R.A. No. 8189 with R.A. No. 6646, Section 29, nor B.P. Blg. 881, Sec. 52 [m], as to repeal the latter. Neither is there an express repeal of the same. "It is a well-settled rule of statutory construction that repeals of statutes by implication are not favored." [9] "The presumption is against inconsistency or repugnancy and, accordingly, against implied repeal." [10]

In the same fashion, R.A. No. 8189 did not expressly or impliedly repeal B.P. Blg. 881, particularly Secs. 115 et seq. In *Relampagos v. Cumba*, [11] we ruled that "[B]y the tenor of its aforementioned Repealing Clause, it does not evidently appear that the Batasang Pambansa had intended to codify all prior election statutes and to replace them with the new Code. It made, in fact, by the second sentence, a reservation that all prior elections statutes or parts thereof not inconsistent with any provisions of the Code shall remain in force. x x x This being the case, the Court painstakingly examined the aforesaid last paragraph of Section 50 of the Omnibus Election Code to determine if the former is inconsistent with any of the provisions of the latter. It found none. "Thus, we find no inconsistency between the continuing registration prescribed under R.A. No. 8189, and the periodic registration of voters prescribed under B.P. Blg. 881.

R.A. No. 6646, Section 29 is reproduced verbatim in R.A. No. 8436, Section 28.[12] This should be construed as a Congressional intention to retain the "standby power" of the Commission to fix periods for pre-election activities given even under B.P. 881, Sec. 52 [m]. This is also indicative of the Congressional desire to grant the Commission adequate discretionary power and operational flexibility in extraordinary cases so as not to render the Commission inutile and hapless in the performance of its functions. Historically, Congress gave Comelec broad powers to enforce election laws. In the first election law, Commonwealth Act No. 357, enacted on August 22, 1938, Congress provided for registration of voters by the board of inspectors of each election precinct on the seventh Saturday and sixth Saturday before the day of the election.[13] The law empowered the Secretary of the Interior (predecessor of Comelec in the execution of election laws) if, on account of insurmountable difficulties, the registration of voters could not be effected on the dates fixed therein, the Secretary of the Interior may, with the approval of the President, fix another date so that the omission may be remedied and the voters may not be deprived of the right of suffrage.[14]

In the Revised Election Code, Republic Act No. 180, Congress provided for a similar prescription.[15] In P.D. No. 1296, otherwise known as the 1978 Election Code, Comelec was vested with power to "fix other periods for certain pre-election requirements in order that voters shall not be deprived of their right of suffrage." [16] Congress reiterated this power of the Comelec in B.P. Blg. 881, Sec. 52[m].

Both R.A. No. 6646, Section 29 and R.A. No. 8436, Section 28 grant the Commission the power to fix other periods and dates for pre-election activities when the same cannot be reasonably held within the period provided by law. The Constitution and the law granted Comelec with such broad power or authority to fix other periods for pre-election activities for the purpose of enabling the people the opportunity to exercise the right of suffrage.

Under the circumstances prevailing, the prohibition to conduct registration one hundred twenty (120) days before a regular election as set forth in R.A. No. 8189, Section 8, is not an absolute prohibition. It is directory, not mandatory, and Comelec is vested with residual power to conduct pre-election activities, including registration of voters beyond the deadline prescribed by law. This is not to defeat the right of suffrage of the people as guaranteed by the constitution. Millions of qualified voters in the country were not able to register before the 120-day period provided by law because of the failure of Comelec to conduct a nationwide public information campaign relative to the period provided by law.[17] The Comelec erroneously perceived that the number of voters who registered during the system of continuing registration is the barometer for the success or effectiveness of their information campaign which was actually non-existent. Comelec must bear the responsibility for this. Time and again, it has been said that every Filipino's right to vote shall be respected and upheld. Preliminary as it is in the exercise of their right to vote, the deprivation of their right to register is tantamount to the denial of their right to vote.

In this jurisdiction, an election means "the choice or selection of candidates to public office by popular vote"[18] through the use of the ballot, and the elected officials of which are determined through the will of the electorate.[19] "An election is the embodiment of the popular will, the expression of the sovereign power of the people." [20] "specifically, the term 'election', in the context of the Constitution, may refer to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of votes." [21]

In fact, the Comelec has actually misled the public by its erroneous resolution declaring that the last day for registration under the system of continuing registration was on December 27, 2000. Counting the 120 days from May 14, 2001, the date of the regular election, the last day fell on January 14, 2001. Truly, the last day for the registration of voters was on January 14, 2001, not December 27, 2000. This fact had undoubtedly disenfranchised voters and deprived qualified voters of their right of suffrage in the forthcoming elections. This "error" of respondent Comelec not only affected petitioners, representatives of the Filipino youth, but also thousands or perhaps millions of other qualified Filipino voters who failed to register within that erroneous deadline. Equally important, Comelec's resolution pre-terminating the deadline of registration under the system of continuing registration deprived the Filipino voters not only of their right to register but also to transfer their registration to their present residence.

The legal and operational problems which respondent Comelec claim they would encounter with the holding of a special registration as well as the effect on its preparation for the May 14, 2001, elections, are matters that can be solved with proper planning, coordination and cooperation among its Members, staff and other deputized agencies of the government. Extraordinary efforts may be needed, but the work can still be done.

It bears stressing that Comelec has vast powers. "Section 2 (1) of Article IX (C) of the Constitution gives the COMELEC the broad power "to enforce and administer all laws and regulations relative to the conduct of an

election, plebiscite, initiative, referendum and recall." Undoubtedly, the text and intent of this provision is to give COMELEC all the necessary and incidental powers for it to achieve the objective of holding free, orderly, honest, peaceful, and credible elections. Congruent to this intent, this Court has not been niggardly in defining the parameters of powers of COMELEC in the conduct of our elections."^[22]

The powers and functions of the Comelec conferred upon it by the 1987 Constitution and the Omnibus Election Code, may be classified into administrative, quasi-legislative, quasi-judicial, and, in limited instances, judicial.

The quasi-judicial power of the Commission embraces the power to resolve controversies arising in the enforcement of election laws and to be the sole judge of all pre-proclamation controversies and of all contest relating to the elections, returns, and qualifications. Its quasi-legislative power refers to the issuance of rules and regulations to implement the election laws and to exercise such legislative functions as may expressly be delegated to it by Congress.^[23] Its administrative function refers to the enforcement and administration of election laws. In the exercise of such power, the Constitution (Section 6, Article IX-A) and the Omnibus Election Code (Section 52 [c]) authorize the Comelec to issue rules and regulations to implement the provisions of the 1987 Constitution and the Omnibus Election Code.

It is reasonably expected that Comelec under its new leadership will take appropriate action in order not to deprive those who are qualified to vote by the neglect, inaction or delay in its preparations for the coming elections.

On the matter of the exclusion/inclusion of voters as prescribed in B.P. 881, the period fixed therein within which to file petitions with the municipal or metropolitan trial courts may be shortened^[24] and the courts may resolve the applications in time to be received by the election officers or the board of election inspectors concerned not later than thirty (30) days before the May 14, 2001, elections, to enable respondent Comelec to prepare the necessary list of voters. Comelec retains residual powers to adopt adequate safeguards to ensure that "flying" voters and other ineligible or disqualified voters are not able to register or transfer their registration.

WHEREFORE, I vote to annul and set aside Comelec Resolution No. 3584, dated February 8, 2001 as well a Resolution No. 3258, dated September 28, 2000, insofar as it fixed the deadline for registration on December 27, 2000. R.A. No. 8189 has not repealed expressly or impliedly B.P. No. 881, Secs. 115 et seq. In relation to Sec. 52 [m], and R.A. No. 6646. Consequently, in the absence of legal impediments, Comelec has adequate power and authority to designate a date not later than the seventh and sixth Saturdays (March 31, 2001 and April 7, 2001) or other convenient dates before the regular elections on May 14, 2001, and constitute a board of election inspectors of precincts in each municipality or barangay to conduct special registration of all qualified voters who failed to register heretofore to enable them to exercise the right of suffrage in the May 14, 2001, national and local elections, without having to postpone such elections.

* These provisions were also present in the previous Constitutions.

[1] An Act Providing for a General Registration of Voters, Adopting a System of Continuing Registration, Prescribing the Procedures thereof and Authorizing the Appropriation of Funds therefor.

[2] Section 7, R.A. No. 8189-

--Immediately after the barangay elections in 1997, the existing certified list of voters shall cease to be effective and operative. For purposes of the May 1998 elections and all elections, plebiscites, referenda, initiatives, and recall subsequent thereto, the Commission shall undertake a general registration of voters before the Board of Election Inspectors on June 14, 15, 21 and 22, and, subject to the discretion of the Commission, on June 28 and

29, 1997 in accordance with this Act.

[3] R.A. No. 8189, Secs. 8, 9, 10.

[4] R.A. No. 8189, Sec. 8.

[5] G.R. No. 147066, filed on March 5, 2001. G.R. No. 147179, filed on March 9, 2001. On March 13, 2001, we resolved to consolidate these cases, and required respondents to file comment not later than 10:00 a.m., March 16, 2001, and to set the cases for hearing at 3:00 p.m. Respondents filed their comment on March 16, 2001, at 11:20 a.m.

[6] G.R. No. 147066.

[7] Petition, G.R. No. 147066, pp. 6-7.

[8] An Act Introducing Additional Reforms in the Electoral System and for Other Purposes.

[9] Agpalo, Statutory Construction (Third Edition) 1995, p. 322, citing Valdez v. Tuason, 40 Phil. 943 [1920], and other cases.

[10] Ibid., citing Iloilo Palay & Co. Planters Assn. Inc. v. Feliciano, 13 SCRA 377 (1965).

[11] 243 SCRA 690, 703 [1995].

[12] An Act Authorizing the Commission on Elections to Use an Automated Election System in the May 11, 1998 National or Local Elections and in Subsequent National and Local Electoral Exercises, Providing Funds Therefor and For Other Purposes.

[13] Com. Act No. 357, Sec. 96.

[14] Com. Act No. 357, Sec. 6.

[15] R.A. No. 180, Sec. 9 in relation to Sec. 101.

[16] P.D. No. 1296, the 1978 Election Code, Article XVII-Powers of the Commission, Sec. 185[e].

[17] In fairness to Chairman Alfredo L. Benipayo, this occurred before his appointment to the position of Chairman on February 16, 2001.

[18] Gonzales v. Commission on Elections, 129 Phil. 7, 33 [1967]; Taule v. Santos, 200 SCRA 512, 519 [1991].

[19] Taule v. Santos, supra, Note 18.

[20] Taule v. Santos, supra, Note 18, p. 519, citing Hontiveros v. Altavos, 24 Phil. 636 [1913].

[21] Taule v. Santos, supra, Note 14, p. 519, citing Javier v. Commission on Elections, 228 Phil. 193, 205 [1986].

[22] Loong v. Commission on Elections, 305 SCRA 832, 866-867 [1999].

[23] Digman v. Comelec, 120 SCRA 650 [1983].

[24] Under B. P. 881, the period is twenty (20) days after the last registration; this may be shortened to five (5) days, and the courts shall resolve or decide the applications within five (5) days from filing. Cases appealed to the regional trial court shall be decided within five (5) days receipt of the appeal. Its decision shall be immediately final and must be received by the election officer or the board of election inspectors not later than thirty (30) days before the elections.

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