The Local Government Code and the Proposed Federal System of Government: Opportunities to Deepen Decentralization

Alex B. Brillantes Jr., PhD

Notes for Presentation at the Galing Pook on “Adapt + Innovate” Conference held at Novotel Hotel Quezon City, 11 November 2016

I am grateful to Dr Eddie Dorotan, Galing Pook Executive Director, former Mayor of Irosin, one of the original Galing Pook awardees, for the invitation to be part of this very important conference.
Outline of Presentation

• Context: Local Autonomy and Decentralization in the Philippines
• Federalism: next logical Step?
• Implications for Local Governance
  • Opportunities of LG Reform
  • Local Leadership Matters
  • Continuous Capacity building and the role of HEIs as knowledge creation hubs
Key Messages

• Federalism is not really new in the Philippines if located within the context of the imperatives to deepen local autonomy and decentralization in the Philippines
• We should build on hard earned gains over the past 25 years since we enacted the Local Government Code that brought about a massive politico-administrative revolution in national-local relations and local governance
• There have been a number of good and best practices we should continue to encourage and support
• There are also challenges in shifting to a federal form at the structural, paradigmatic and leadership levels
• It will provide an opportunity for local government reform especially in the area of amalgamation
• Continuous capacity building and information dissemination to understand the nuances of federalism is critical
CONTEXT:
LOCAL AUTONOMY AND DECENTRALIZATION IN THE PHILIPPINES
National

- deconcentration
- devolution
- debureaucratization

NGA

LGU

NGO/PO
Historical Context

- LGUs as Frontliners
- Overview of the implementation of decentralization in the Philippines
  - Historical context of decentralization in the Philippines
- Basic features of the Local Government Code
- Good practices (or "best practices") at the local level
The Local Government Code of 1991

MAJOR FEATURES

Devolution to local government units the responsibility for the delivery of various aspects of basic services that earlier were the responsibility of the national government: health, social services, environment, public works, education, tourism, telecommunications services, housing projects, investment support.
MAJOR FEATURES

Devolution to local governments the responsibility for the enforcement of certain regulatory powers, such as the reclassification of agricultural lands; enforcement of environmental laws; inspection of food products and quarantine; enforcement of national building code; operation of tricycles; processing and approval of subdivision plans; and establishment of cockpits and holding of cockfights.
MAJOR FEATURES

- Institution of the legal and institutional infrastructure for expanded participation of civil society in local governance.

- Increased financial resources available to local governments by (1) broadening their taxing powers; (2) providing them with a specific share from the national wealth exploited in their area, and (3) increasing their share from the national taxes.
MAJOR FEATURES

- Provision for the foundation for the development and evolution of more entrepreneurial-oriented local governments (e.g. build-operate-transfer (BOT) arrangements with the private sector, bond floatation, obtain loans from local private institutions)
OVERSIGHT COMMITTEE
An interagency oversight committee which addresses specific problems encountered in the implementation of the Code referred to it.

GENERAL CONCERNS

• Local Finance / Local Fiscal Administration
• Local Legislation / Clarifying the Role/s of the Local Legislative Bodies
• Personnel Administration
• Regulatory Powers of Local Government Units
• Relationship between the LGUs and NGOs/POs
• Clarifying the Roles and Powers of the Oversight Committee
We have been monitoring Decentralization for the Past 25 Years: DILG and the RFA

• The rapid appraisal for decentralization has been conducted since 1992. So far, 11 RFAs have been conducted, the last one being in 2011. RFAs have largely been supported by the donors in partnership with DILG.

• The following were the major findings of the various RFAs:
  • 1st: July 1992 - Newly elected local government officials had “wait and see” attitude towards implementation of the new LGC.
  • 2nd: January 1993 - Local officials began LGC implementation, with national government agencies responding to administrative demands of transferring personnel and assets.
• 3rd: September 1993 - Administrative problems in personnel devolution were being solved, and the Internal Revenue Allotment (IRA) system began to function.
• 4th: June 1994 - Increased momentum on the part of local governments as they reaped fruits of experimentation.
• 5th: June 1995 - Greater local resource mobilization and improved service delivery, while national government agencies had not pro-actively pursued new roles after devolution.
• 6th: May 1996 - Diversity of experimentation as the decentralization process diffused across all classes and types of local governments and deepened into more mature management of service delivery. Local governments were more pro-active and developmental, and many sectors advocated even greater local autonomy.
• 7th: August 1997 - Over-all success in decentralization under the 1991 LGC introduced a new, participatory style of local leadership is emerging. A major constraint to further decentralized democratic development was reluctance at the center to change.

• 8th: September 1998 - Decentralization is here to stay, with continued success in local governance and local ownership of appropriate national programs. National government agencies had begun to re-design how they related to local governments.

• 9th: September 1999 – Progressive signs towards deepening of decentralization continue. Significant strides in improving the match between local needs and technical assistance have been achieved as national government begin to recognize the different needs and varying levels of capability of LGUs.

• 10th September 2000 – Decentralization has spawned a number of tangible improvements in local governance, such as in the delivery of basic services to the barangays.
• 11th RFA was conducted in October 2011 examines the results of decentralization in Philippine local governments, specifically on four key performance areas: local governance and administration, social services and health, local economic development, and environmental management.

• The key question that was pursued in the 11th RFA was, “What are the results of decentralization in the Philippines?” The focus was on the progress of decentralization on the ground, i.e., what the local governments have done in exercising the powers that were devolved to them as provided by the LGC, as well as the benefits to the people that followed
The Twelfth RFA: 2015

• The present RFA is essentially the 12\textsuperscript{th} RFA and has been conducted five years after the last RFA in 2011.

• Focus of this present RFA is beyond decentralization. It locates decentralization within the broader context of democratization and development.

• It focusses on methods and strategies to deepen decentralization, and sustain the gains, within the context of democratization and development. The role of local institutions – HEIs as knowledge creation hubs – is highlighted.
Good and Practices in Local Planning

- Interlocal cooperation and amalgamation: areas of cooperation
  - Traffic management
  - Solid waste management
  - Flood control
  - Pollution
  - Preservation of Marine and Watershed
- Health services
- Environmental management
- Public finance
- Peace initiatives
- Integrated approach to development
- Socio-cultural development
- Employment generation / livelihood
- Productivity improvement
Revisiting the Issues and Concerns in Local Governance

- Financial autonomy and IRA
- National-Local Relations
  - Unfunded mandates
  - Optional and mandatory positions
- Inter-local cooperation
- People Participation
- Performance Criteria
- Political matters
- Federalism
Main Messages

- **On balance:** The effects of decentralization since 1991 are positive, due to:
  - An Enabling Policy Framework
  - Strong Leadership at the Local Level
  - Improved Access to Financial Resources
  - Stronger Inter-local Government Partnerships
  - Wider Participation and Engagement with Civil Society Institutions
  - A Broader Role for the Leagues of Local Governments

- **But:** There are some emerging questions/issues:
  - Inadequate Local Finance
  - Weak Local – and National – Capacity
  - Unclear and Inadequate Corporate and Taxing Powers of Local Governments

- **So:** These involve some “Next Steps”
II

FEDERALISM: OPPORTUNITIES DEEPEN DECENTRALIZATION
As early as 1992, we have said that that “Federalism is the logical next step after devolution”

GMA EO on Federalism
Consultative Group of which we were part
Stylized Continuum of Decentralization:
Degrees of Transfer of Powers and Authority to Sub-national Levels
(Brillantes 2003)

Logical Next Step?

==========/==========/==========/==========/==========/==========/
deconcentration    devolution    regional autonomy    federalism    separation / independence
Federalism: as early as the 1890s
Rizal the Federalist, Bonifacio the Unitarian
Jose Rizal, Our National Hero

"Absence of any great preponderance of one race over the others will free their imagination from all mad ambitions of domination, and as the tendency of countries that have been tyrannized over, when they once shake off the yoke, is to adopt the freest government, like a boy leaving school, like the beat of the pendulum, by a law of reaction the Islands will probably declare themselves a federal republic."
Aquilino “Nene” Pimentel Jr.
Father of Local Autonomy and Decentralization in the Philippines
Prime Mover and Advocate of Federalism in the Philippines
With federalism, the wishes and aspirations of the various tribes and peoples in Mindanao would be addressed.

Under a federal system, sovereignty and power are divided between a central governing authority and constituent political units. Federalism is also a system based on democratic rules and institutions.

“I saw that this is the answer so I agreed when Reuben Canoy (founder of Radio Mindanao Network and one of the strong advocates of federalism) and Senator (Aquilino) Pimentel, the father, asked me to help in pushing for federalism,” he said.
Autonomy Federalism Nexus: Salvador Laurel, Former Vice President and Senator of the Philippines in 1989

“Federalism rests on the principle that the smallest unit of government knows what is best for its constituent needs. Decisions should therefore be made by the local, municipal, provincial, city or regional levels of governments, because they know best who need help and how to help them.”

On the Mindanao Issue: “I believe that plain and simple autonomy is not the solution to the secessionist problem. We must seriously consider a shift to the federal system under which greater autonomy can be given to the far flung regions that are now being neglected and left behind in economic development.”
As a Platform of Political Parties

- PDP Laban (Nene Pimentel)
- Nacionalista Party (Salvador Laurel)
- Democratic Centrist Party (Jose V. Abueva)

Political leaders, among others, who advocated for its incorporation in political party platforms

- Reuben Canoy
- Monico Lorenzana
- Rodrigo Duterte
Partial List

Academics and Scholars who have published on federalism in the Philippines

Aquilino Nene Pimentel
Jose V. Abueva
Gaudioso Dodong Sosmena
Terry Dumugho
Raul de Guzman
Gabriel Iglesias
Simeon Ilago
Sukarno Tanggol
Macapado Muslim
Rizal Buendia
Romulo Miral
Raphael Montes
Donna Moscare
Elizabeth Cureg
Ed Tayao
Alex Brillantes Jr

Philippine Society for Public Administration
And more ...
Federalizing the Philippines: A Primer

By Senator Nene Pimentel

Regional Autonomy and Federalism: Concepts and Issues for the Bangsamoro Government

SUKARNO D. TANGGOL
In this book, published in 1992, or seven years after the Local Government Code, we identified ten major concerns that must be addressed. This included

- Financial decentralization: “decentralization without financial decentralization is meaningless”
- Role of NGOs and POs
- Role of Donors in shaping the discourse on good governance and decentralization
- “Federalism as a logical next step to devolution.”
Federalism located in a continuum

• Build on hard earned gains
• Demand for autonomy and decentralized structures and institutions
• Barrio charter act, IRP and PD1, and BP 337, 1986 constitutions and LGC of 1991: state recognizes local autonomy
• Policy is there
• Experience over the past 25 years
• RFA: decentralization here to stay
• How to sustain
• Role of hubs
Imperative to clearly delineate powers, functions and responsibilities including revenue and spending assignments

**Exclusive**

- **Federal**
  - Defense, foreign affairs, currency, justice
- **State and Local**
  - Social services, local law and order
  - SUBSIDIARITY

**Shared**

(Federal Framework, State and Local Operationalization)

- Education
- Health
- Agriculture
- Issues
  - Gun control, traffic,
Opportunities: leadership of the President
• Platform of PDP Laban
• Historical experience to build upon
• Accountabilities
• Capacities
• Existing administrative regions per IRP and PD 1
• Address conflict

Threats
• What are the risks?
• Elite capture at the local level
• Capacities
What troubles / encourages you most

Troubles
• Lack of information
• Misunderstanding
• Simplifying the issue
• Fear of Dynastyism: Focus on demand side not supply side and local accountabilities

Encourages
• Build on hard earned gains
• 25 years of experience of decentralization
• Opportunity for LG Reform
Reforms in Local Governance

• Amalgamation taking off from Inter-local cooperation
• Reexamine tiers of LGUs
  • Province / City / Municipalities
  • Barangays
  • Amalgamation / inter-local cooperation (Allah Valley, PALMA Alliance, SLAM, IGACOS, and Sorsogon-Bacon)
  • Local Governance Finance
  • Tax reform and Tax Bases
  • Transfers
  • Not all are created equal
  • Not one size fits all
  • Role of state governments: grants
What are the federalism models that seem to address and best fit our political and economic context as a country?

- Can study other models as we have done through the years: Germany, Spain, Australia, Canada, Malaysia

- INDIA: DECENTRALIZATION TO FEDERALISM TO ADDRESS CONFLICT, PRESERVATION OF IDENTITIES

- Identify issues: national-local relations, exclusive and shared powers; role of local governments

- BUT develop our own model
Build on the Philippine has 15 Geographic and Administrative Regions
“Regional Mindset”

Implications to structure of government

Distribution of Power

Beginnings of Federal States: geographic and ethnic considerations

Recognition of UNIQUENESS
Capacity building: Role of HUBS: Town and Gown

• RFA 2015 has identified a number of academic institutions PER REGION that could play a critical role as hubs of governance within the context of academe-community / academe-industry / and academe-LGU linkage.

• These locally based institutions – are mostly public higher education institutions whose leadership / administration have articulated a commitment to host the local governance hubs.

• Governance hubs will play the various roles from researcher, networker to capacity builder, advocate and knowledge creator (Figure One of GOP and UNDP)

• RFA 2015 has assessed and identified initial locally based institutions that have demonstrated initial capacities to play the roles as identified on Figure One are the following
Framework for Governance and Reform
(Brillantes, Fernandez & Perante-Calina, 2013)

Areas for Reform

Institutions
Processes
Procedures
Leadership
Political Will
(duty bearers)

Values
Mindsets
Paradigms
Citizens’ Engagement
(claim holders)

Enabling Mechanisms
Communication
Figure One
Governance HUBS with Multiple Roles & Products
A UNDP DILG Framework

- Development Adviser
- Capacity Builder
- Public Dialogues Convener/Host
- Policy Advocate
- Governance Monitor & Analyst
- Data & Info Provider
- Knowledge Generator

Products & Services

Products & Services
Revisiting Our Key Messages

• Federalism is not really new in the Philippines if located within the context of the imperatives to deepen local autonomy and decentralization in the Philippines

• We should build on hard earned gains over the past 25 years since we enacted the Local Government Code that brought about a massive politico-administrative revolution in national-local relations and local governance

• There have been a number of good and best practices we should continue to encourage and support

• There are also challenges in shifting to a federal form at the structural, paradigmatic and leadership levels

• It will provide an opportunity for local government reform especially in the area of amalgamation

• Continuous capacity building and information dissemination to understand the nuances of federalism is critical
Ideologically,
Maraming Salamat Po!