



Debate on Federal Philippines

A Citizen's Handbook

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CHAPTER I

Background

Decentralization and the Local Government Code

1. What is Republic Act 7160 (Local Government Code of 1991) and what is the motivation behind decentralization?

The Local Government Code of 1991 is the enabling law that transferred power, authority, and responsibility over certain governmental functions from the national (central) to local government units. It gave flesh to the 1987 Constitutional mandate (Article 2, Section 25) that “the State shall ensure the autonomy of local governments.”

It intended to transfer the delivery of basic services and certain regulatory functions to local governments, which were previously discharged by national (central) government agencies such as the Department of Agriculture, Department of Health, Department of Social Welfare and Development, and others. It broadened the taxing and borrowing powers of local governments and provided them with a higher share of the national taxes through a fixed sharing formula. In addition, through a grant system, the Local Government Code also provided local government units with a share in revenues from

**This section was written by Gilberto M. Llanto, PhD.*

national wealth within their respective territorial jurisdiction (e.g., natural gas, mineral reserves).

The Local Government Code of 1991 introduced a sweeping change in intergovernmental structures, powers, and fiscal rules by: (i) raising significantly the transfers to local governments; (ii) making the system rules-based; (iii) mandating as automatic its fund release; and (iv) expanding local taxing and borrowing powers (Diokno 2012; Manasan 2005; Llanto 2012).

The chief motivation behind decentralization is to make the government more responsive to local and regional development. It brings government closer to the people, making it more accountable and responsive to local governance and development needs. The invoked principle is that vesting local governments with sufficient autonomy would enable them to steer local development better than the central government. It arises from the conviction that local governments have a comparative advantage in identifying and delivering the best bundle of public goods and services to local areas (Llanto 1998, 6). The local governments are in a better position to: (i) decide on the supply of appropriate quantity and quality of specific local services to local constituents and (ii) target sectors that should benefit from certain development programs (Manasan 1992, 3). Oates's (1972) decentralization theorem states that "each public service should be provided by the jurisdiction having control over the minimum geographic area that would internalize the benefits and costs of such provision."

While the justification for decentralization is largely on allocative or efficiency grounds, there are also political arguments in its favor (Tanzi 1995, 297). McLure (1995, 208) highlights the "principle of subsidiarity" that he interprets as increasing

the local people's influence over government decisions affecting them. Previous attempts toward local autonomy had not been as comprehensive and definite as RA 7160, which could be considered as a landmark legislation in the country. A centralized political-administrative structure has been in place since the Spanish and American colonial periods and has persisted in the post-independence period, despite the passage of several laws that intended to provide local governments with greater autonomy.

A bit of history from Brillantes and Moscare (2002, 2–3) will clarify this point. In 1893, the Spanish colonizers enacted the Maura Law, which President Jose P. Laurel called “Spain’s belated and half-hearted tribute to Filipinos’ ability in self-government.” While the Maura Law included the establishment of tribunales, municipales, and juntas provinciales, a centralized regime still prevailed. The American occupation of the Philippines in 1902–1935 saw the promulgation of a number of policies promoting local autonomy. However, a highly centralized political-administrative structure persisted. During the Commonwealth period (1935–1946), local governments were placed under the general supervision of the Philippine president.

In 1959, the first local autonomy act (Republic Act 2264) was enacted, providing city and municipal governments with greater fiscal, planning, and regulatory powers; it also somewhat broadened their taxing powers. The Barrio Charter Act (Republic Act 2370) transformed the “barrio” (presently called “barangays”) into quasi-municipal corporations governed by an elective barrio council. Furthermore, the Decentralization Act of 1967 (Republic Act 5185) increased the financial resources available to local governments to enable them to discharge their functions more effectively. The movement

toward greater local autonomy suffered an extreme setback with the declaration of martial law in 1972. Nevertheless, even under authoritarian rule, the Local Government Code of 1983 (Batas Pambansa Bilang 337), which reiterated the state's policy to guarantee and promote local autonomy, was promulgated. After authoritarian rule ended in 1986, the Local Government Code of 1991 was enacted under the auspices of the 1987 Constitution (Article 10, Section 3): "The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure through a system of decentralization."

2. Has fiscal decentralization succeeded or failed? What have we learned from over 25 years of decentralization?

The past twenty-five years have provided us with a rich experience in fiscal decentralization. Here is a summary of the findings of economists who have studied this topic (Diokno 2012; Llanto 2012; Manasan 2005):

- ◆ Decentralization is supposed to yield substantial social welfare gains in terms of better delivery of local public goods and services and improved local governance and accountability. The evidence shows mixed results.
- ◆ There is a cautionary note that generally there have been no sharp improvements in local public service delivery. One study noted a deterioration in local public service delivery. On the other hand, there is anecdotal evidence of significant improvements in local public service delivery in major urban centers. In fact, certain awards such as the Galing Pook award and others were given in recognition of exemplary local service delivery.
- ◆ Under the Local Government Code, the local governments have been given significant resources such as internal revenue allotment (IRA), conditional grants, and

taxing powers. However, local tax assignment scores low in fiscal autonomy. More revenue-productive taxes are retained by the central government, even as the LGC of 1991 seriously constrains the power of local governments to set local tax rates. Thus, the link between local expenditure and local taxing powers is weak.

- ◆ There is a mismatch between the assignment of revenues (local revenues plus IRA) and the assignment of expenditure responsibilities to the different levels of local government. This is a factor behind the inefficiency in delivery of local goods and services.
- ◆ However, many local governments have not fully exploited their local taxing powers and have become more dependent on IRA. They substituted the IRA for raising local taxes, which is an unpopular policy decision, especially for local officials with an intention to maintain themselves in office.
- ◆ Local budget planning could be done more effectively, because the amount of resources (IRA) could be known in advance. The local governments can use a mix of local taxes, IRA, and conditional grants to fund their budgetary plans.
- ◆ There is a creeping re-centralization of health and social welfare functions because of the significant involvement of the national government in delivery of local public goods.

Local autonomy has definitely improved, but the national government has retained significant influence over local government performance.

3. How is federalism linked to decentralization?

Rapid urbanization, population growth in a diverse archipelagic geographical set up, greater access to information, and rising expectations have created pressures for better public

service delivery, so greater local autonomy seems to be a logical pathway. The basic issue in fiscal decentralization is “one of aligning responsibilities and fiscal instruments with the proper level of government” (Oates 1999, 1). Decentralization has been a grand experiment in providing local constituents with better public goods and services delivery and a greater voice in matters of governance and policy. However, as mentioned earlier, it has produced mixed results. An emerging consciousness among the people is that government should be more responsive and accountable.

Two schools of thought have emerged with respect to improving local governance and accountability: (i) fix the current decentralization under a unitary system by introducing significant amendments to the Local Government Code of 1991 (LGC 1991); and (ii) shift to greater local autonomy via federalism with local self-government as a cardinal principle.

Both decentralization under a unitary system and federalism have vertical power-sharing systems. However, a distinct difference is that while in the former, vertical power sharing would be at the behest of a central government through a law enacted by the legislature, such as the Local Government Code of 1991, it would be constitutionally mandated in the latter.

The core of the debate centers on the issue of how much political and economic power should remain at the center and how much should devolve to the local level, and the guarantees that the local level would have in order to retain the politically determined assignment of governmental powers, functions, and responsibilities. In the case of decentralization under a unitary system, the guarantee is a law enacted by Congress, while for the latter, the ironclad guarantee is provided by a country's constitution. The maintained hypothesis

of a federalist structure is that it will enable local governments (states, provinces, cities, municipalities) freed from extensive central government control to respond better to local development and governance needs. It can also create a scope for different forms of self-government that will match unique local circumstances and aspirations.

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