



THE LEAGUE OF CITIES OF THE PHILIPPINES PROPOSITION ON FEDERALISM: *The Local Government Perspective*

PREFATORY BRIEF

The proposal to adopt the federal system of government is not a recent phenomenon in the country. For several decades, political parties have included federalist agenda in its party platforms. The *Partido Demokratikong Pilipino- Lakas ng Bayan (PDP Laban)* has been taking the lead in advocating for federalism consistent with its thrust for freedom, justice and peace and a prospective solution to the lingering multi-cultural dilemmas in the country. Several seminars and conferences have been organized to discuss the concepts and principles behind federalism.

Consistent with its commitment of leading a proactive local government, the League of Cities of the Philippines (League) is keen to explore on how and what federalism can do to the local government units. The League has been very receptive to the ideas and propositions presented during national discourse, while not doing away with its duty to examine whether the same bring the greater good to the local government units and the country as a whole.

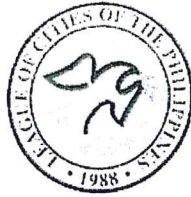
To accommodate the proposal to shift our system from unitary to federal, there must be a fundamental change in the 1987 Constitution. This paper articulates the view of the League on the universal concept of federalism taking into consideration a number of proposals in the Philippine context, and how a federal form of government works on local governments. The paper focuses on the General Provisions on Local Government provided for in Article X of the Constitution. Moreover, the discussion shall fine-tune with new developments of the federalism campaign.

DISCUSSION

The Federal System of Government

Federalism is a system of government under which governmental powers are assigned or shared between the federal (national) government and the state (regional and local) governments.¹

¹ Local Development Foundation (2002). Primer on Federalism.



I. Local Government Units under a Federal System

The basic feature of a federal government is the division of powers between a strong national government and smaller local governments, as opposed to a unitary government which vests the supreme power to the central government with a few delegated powers given to the subnational government.

Despite the passage of the 1991 Local Government Code which provides for the shared and devolved powers between the national and the local governments, the system of government in the Philippines is highly centralized and unitary.

The shift to federal form of government will either *make or break* the local government units. It has direct impact to the local government units in almost all aspects from governance to cultural.

The proposals to group together local government units either into eleven (11) federal states out of the existing Administrative Regions² or into the three (3) federal states out of the island groups- Luzon, Visayas and Mindanao³, will determine our fate as one nation. Taking into consideration not only the geographical composition of the Philippines but more importantly its ethnic and cultural diversity, as well as each local government's economic and resource viability, federalism may facilitate development and progress across the country.

Federalism grants genuine local autonomy to the local government units

While local autonomy is guaranteed under the present Constitution, it is still Congress that decides how it is enforced. Local autonomy is granted to the local government units through the enactment by Congress of the local government code. The institution of a more responsive and accountable local government structure is through decentralization.

² Proposal of Sen. Aquilino "Nene" Pimentel Jr. *Federalizing the Philippines*.

³ Proposal of Dr. Gaudioso Sosmena. *Primer on Federalism*.



Essentially, the powers remain with the national government, only allocating certain powers and responsibilities to the local governments subject to the guidelines and limitations as Congress may provide.

Under the federal system, powers granted to the local governments will be derived directly from the Constitution. The powers cannot be changed, modified, altered or repealed through mere legislation.

Federalism addresses divisiveness brought about by cultural differences; promotes regional specialization

Filipinos in various provinces, cities and municipalities have different aspirations, ethnicity and follow different cultures. These differences are most of the time overlooked resulting to the crafting of policies which only cater to the majority. With federalism, the regional government can formulate policies giving due consideration to local needs, tastes and opinions. Hence, the rights of the minorities are duly protected.

Federalism empowers the regions. Notwithstanding the presence of too many cultural melting pots, contest of domination lessens because federalism makes it easier for regional interaction. Regions become more focused on what it can do based on competence and capability. This results in local governments to explore different approaches to bring reforms in any area of public domain, be it education or social services.

Federalism leads to optimum utilization of and more control over local resources

In the present unitary form of government, functions and responsibilities are only devolved to the local government units as embodied in the Local Government Code. Notwithstanding the local government units' power to create sources of revenue granted by the local government code, the same shall be in accordance with national policies and guidelines as Congress may provide. As a result, local resources may not be of full effective use.



In federalism, there is a division of roles between the central and the regional governments. As proposed, the central government will concentrate more on international affairs and national defense, while the regional governments will focus on catering to the local needs such as basic services. Hence, the local government units will make it to the best of its ability to harness and utilize its resources to greater use.

Based on the proposal⁴, national government shall get twenty percent (20%) of the taxes and revenues collected, while eighty percent (80%) shall be given to the regional government. Of the 80% to the regions, thirty percent (30%) shall remain with the regional government while the seventy percent (70%) shall be divided to the local government units. Given that, the local governments have the power to spend its money on programs and policies it deems fit for its development without waiting for the approval of the national government.

Federalism provides solution to the long-standing conflict in Mindanao

The proposal to create a Bangsamoro state within the federal government may address the concerns of separatists demanding autonomy over the administration of Muslim Mindanao. Inherent to a federal system is the ownership of identity of each state, while the central government respects each of the socio-cultural diversity. This will mean that the people in the Muslim region shall be more empowered to decide matters peculiar to the region itself. Federalism ensures liberty for the *moros* to handle their own affairs, while not doing away with the powers of the federal government granted by one Constitution.

It is proposed that each region shall have its own set of senators. It follows that when a Bangsamoro region is created within the federal government, our Muslim brothers and sisters shall be well-represented and shall have equal stake in the federal government.

II. Constitutional Revision

The League is in the position that there must be a fundamental change to the Constitution, rather than piecemeal amendments, in order to accommodate the proposals for the shift to federal form of government. In the present unitary set-up,

⁴ Proposed Federal Constitution. House Resolution No. 08.



the national legislature is still the principal of the local government units, which cannot defy its will or modify or violate it. The policy of local autonomy granted by the Constitution to the local government units are necessarily confined within and limited to the extent allowed by the central government.

That being so, principles behind the unitary form of government such as the centralization of powers and the uniformity of laws shall cease to operate once the country shifts to federalism. To this effect, the constitutional provisions on local government provided in Article 10 will be substantially revised.

The League believes that there is no exact model of federalism that is suited in the Philippines considering our geographical setup, cultural diversity, political dynamics and bureaucratic practices. The local government units will be largely affected by the change in the system since its powers and functions will not spring from national Congress unlike in the present setup where Congress, through the enactment of a law, prescribes local affairs. Now in federal system, Constitution reflects how the local government units under the regional state will operate.

Federal Government exercises powers, authority and responsibility of the national government in the Republic of the Philippines

Under the proposed federal system, the Republic of the Philippines will operate under one Constitution. The federal government will exercise authority and responsibility over national powers and functions in the executive, judiciary and legislative. It shall have jurisdiction to implement and execute laws of national application. Laws legislated by the federal assembly or the parliament are considered as federal laws applicable to the entire federal republic unless otherwise limited by regional legislation enacted in the exercise of the exclusive legislative powers granted to the regional state under the Constitution.

Regional government exercises the powers and functions necessary for the governance and development of the region and the local government units

As proposed, there will be powers and responsibilities of the central government that will be transferred to the regional government while others will be



shared. This is consistent with devolution and local autonomy, the very essence of the federalism.

The powers of the regional government emanate from the Constitution. It shall have exclusive legislative powers applicable within its territorial jurisdiction over social welfare and development, waste management, irrigation, water and sewerage, among others. In terms of the fiscal policy, the regional government shall have the power to formulate on the creation of its sources of revenues and levy taxes, fees and charges subject to the limits provided by the Constitution.

The 1991 Local Government Code shall be repealed

The 1987 Constitution provides for Congress to enact a local government code instituted through a system of decentralization. The Code provides for the powers, responsibilities and resources of the local government units.

In the federal system of government, the principles which operate behind the Local Government Code become irrelevant since the powers and responsibilities of the regional states and the local government units shall emanate from the Constitution. Regional states shall have its own laws that will govern the local government units within its jurisdiction.

The territorial and political subdivisions of the Republic of the Philippines are the regions, provinces, cities, municipalities and barangays

The primary political and territorial unit of the Republic of the Philippines is the federal government. The federal government shall be sovereign over the entirety of the Republic and shall exercise the same without interference from foreign or outside source. The regional states shall be the sovereign within its own territorial jurisdiction and shall exercise independence when dealing with its own affairs.

The regional states shall be autonomous, equal and sovereign. The sovereignty emanates from the Constitution and the federal laws. The regional states shall enact and implement their own laws under the general supervision of



the federal government. Such supervision is only up to the extent of seeing to it that the laws are faithfully executed.

Regions shall have the bigger share of the revenues collected from resources within its jurisdiction; just share from the national taxes

It is proposed that taxes collected within the territorial jurisdiction of each region shall be retained and accrued to the regional government. The regional government shall give a certain percentage to the federal government. The League subscribes to the proposal that eighty percent (80%) shall be retained by the regional government while twenty percent (20%) will be given to the federal government.

As opposed to the present set-up where the central government released to the local governments its fair share in the revenues collected, the regional governments will now have control over the taxes and revenues collected from the resources utilized within its jurisdiction. Subject to the laws of each regional state, the regions shall allot a portion of the collection to the local governments within the jurisdiction. Subsequently, the eighty percent (80%) retained to the regional government will be further divided for distribution to the local government units. Eighty percent (80%) will be distributed among the local government units while retaining the 20% thereof.

It is proposed that each regional state will formulate its own laws as to the utilization of the taxes and revenues collected, in accordance with the principles laid down by the Constitution.

Each regional state will share and equalize among themselves as determined by the laws enacted by the Parliament or the Federal Assembly

It is proposed that the federal government shall establish an equalization fund, the terms of which shall be determined by the parliament or federal assembly. The purpose of establishing the equalization fund is to level the playing field between and among the regional states. A portion of the fund will come from the share of the federal government in the taxes and revenues allotted by the regional



states while another portion will come from the contribution of the more capable and richer states or local government units. Likewise, to be entitled of the fund will depend on the needs of the local government unit as such will be provided for by federal or regional laws.

Each regional state shall have a unicameral legislature to be known as Regional Council composed of representatives from each province

Each political and administrative unit will elect a representative to the regional state legislature. Such official is the same as the present governor of a province. The same will still be elected by the people at large. However, the nature of the position will shift from being a local chief executive into a *representative of the people* to the council. These representatives will sit in the Regional Council. The regional council acts as the administrative, advisory and legislative body of the regional state.

The regional council will have the authority to legislate on areas that are not exclusively reserved to the federal congress such as health, agriculture, land use and development, public works and infrastructures, among others.

III. Challenges on the Shift to Federal System

The Philippines' shift to federalism is envisioned to bring about growth and economic development. The division of the Philippines into different federal states can be challenging considering that there is a fiscal divide and income disparity between and among our local government units.

While the principles of equalization and revenue sharing may be adhered to in order to address the problems on regional wealth differences and imbalance, the challenge still remains on its ability to handle fiscal transfers with limited intervention from the central government or the region granting revenue transfer.



Local government units shift from dependence on allotments to genuine fiscal autonomy

At present, the local government units have limited power to generate its own resources. Thus, there is dependence on the allotments released by the national government to fund its operations. With the shift to federal system, local governments are expected to act entrepreneurial and exercise audacity in developing their communities.

The challenge is on the localities with limited resources and capabilities, as well as the inabilities of its institutions to cope up with the demands of fiscal autonomy. In this kind of set-up, local governments are expected to rely on its own with very little intervention from the central government, or none at all.

Accountability and Discipline rest in the regional and local governments

The envisioned effect of federalism is the swift development across the country. However, this can be achieved when we have functional and effective regional and local governments. The local government units must be capable to improve and deliver services to the people in order for federalism to succeed.

Federalized government is highly decentralized. National government is only left with powers and functions that are national in scope, while local affairs such as budgeting and resource allocation are reserved to the local leaders. Thus, it is imperative to explore reconsiderations on tax assignments, fiscal distribution and other shared powers in order to raise higher the standards for discipline and accountability.