

DECENTRALIZATION IN THE PHILIPPINES

[A Briefer prepared by Professor Nene Pimentel, for discussion with the Japan-Philippines Local Administration Seminar at the Mandarin Hotel, Makati City on August 22, 2013



WELCOME



- ☐ TO OUR FRIENDS FROM JAPAN
- ☐ WE HAVE MANY THINGS TO LEARN FROM YOU.
- WE HOPE WE CAN SHARE WITH YOU SOME OF OUR USEFUL EXPERIENCES IN DECENTRALIZATION.

GOVERNMENTAL SET-UP IN THE PHILIPPINES today

➤ National Government – the entire machinery of the central government, as distinguished from the local governments.

☐ INCLUDES the Judiciary, the two-houses of Congress, the Independent Commissions (examples: Commission on Elections, and Commission on Human Rights), 17 administrative regions of the country: 8 in Luzon; 3 in the Visayas, and 6 in Mindanao which are AGENTS of the national government [NOT LOCAL GOVERNMENT UNITS].

> Local Governments -

- (1) Autonomous region [only one as of now],
- (2) Provinces 80
- (3) Cities 143
- (4) Municipalities, 1,491 and
- (5) Barangays 42,028

Definitions from LGC Book Revised 2011

NATIONAL OFFICIALS

ELECTED THROUGHOUT THE NATION

- President
- Vice President
- 24 Senators

6 year terms of office:

- President only one term (Six Years).
- Vice President one term and one re-election
- Senators one term and one re-election

REPRESENTATIVES

Elected by congressional district – 250 members



- ☐ Party-List members of Congress as of now 58 members-(ELECTED NATIONWIDE)
 - representing deprived sectors of society, like farmers, workers, etc.
 - 3-YEAR TERM maximum of three consecutive terms. Total of 9 years.

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BICAMERAL CONGRESS

□ SENATE - 24 members elected nationwide (one-half of the Senate - 12 senators elected after their 6 year term is over). They may only be elected to a maximum of two consecutive terms or a total of 12 years.





HOUSE OF REPRESENTATIVES – elected after their terms are over every three years. They may only be elected to a maximum of three consecutive terms or a total of 9 years.

LOCAL ELECTED OFFICIALS

Province - 1 Governor; 1 Vice Governor

Members of the Sangguniang Panlalawigan (The Provincial Legislature).

10 SP Members - 1^{st} and 2^{nd} class -

8 SP Members - 3rd and 4th class

6 SP Members - 5th and 6th Class

City - 1 Mayor; 1 Vice Mayor

Members of the Sangguniang Panlungsod (City Legislature).

10 -Sangguniang Panlungsod Members

1 ABC President (Ex-Officio Member)

1 SK Federation President

Could be more, like Manila, which has 36; Cebu which has 16, and Dayao which has 27. DEPENDING ON CITY CHARTER

{more next slide}

LOCAL ELECTED OFFICIALS, continued

Municipality - 1 Mayor; 1 Vice Mayor

8 Members of the Sangguniang Bayan (Municipal Legislature); 1 ABC President; 1 SK Federation President

BARANGAY - 1 Barangay Captain; 7 members of Sangguniang Barangay (Barangay Legislature)

Barangay Youth Council - 1 Chairman, and 7 members of Sangguniang Kabataan (Youth Legislature)

LOCAL OFFICIALS

- ☐ Term 3 years; maximum three **consecutive** terms or a total of 9 years.
- ☐ Elected by the qualified voters of the place where the local officials will serve.

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FLASHBACK IN HISTORY



Pre-Hispanic colonization era – barangays were the only form of government that existed in parts of what is now known as the Philippines.

The Barangays each had a **datu** or **rajah** or **lakan** or head person. And they were more or less sovereign in their respective territories.

On the average, the barangays each had from 30 to 100 families

NO OTHER FORM OF GOVERNMENT

IN 1521 MAGELLAN 'DISCOVERED' THE PHILIPPINES which he was not looking for.



- ☐ HE LANDED IN CEBU
- ☐ GOT KILLED BY LAPU LAPU IN MACTAN
- NEVERTHELESS SPAIN COLONIZED THE PHILIPPINES USING 'DISCOVERY AND OCCUPATION' TO JUSTIFY IT.

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How did SPAIN RULE THE PHILIPPINES?



By **Decree**: from **1565** up to **1821** through its **Viceroys in Mexico**

Then through Governor-Generals based in Manila from 1821 up to the time the Treaty of Paris was entered into by Spain and the US in 1898.

DURING SPANISH COLONIZATION, LOCAL GOVERNMENTS WERE INTRODUCED:



- 1. Provinces then called the Alcadias, led by the Alcaldes;
- 2. Cities then called Ayuntamiento by the Gobernadorcillo
- 3. Municipalities then called Pueblo- by the Presidente Municipal

SPAIN USED THE BARANGAYS - mainly as tax collection agents of the government. The barangay leader was called CABEZA DE BARANGAY

HOW DID THE US GET INTERESTED IN THE PHILIPPINES?



- ☐ IN THE **19TH CENTURY,** THE US STARTED TO FLEX ITS MUSCLES TO LET THE WORLD POWERS KNOW THAT IT WAS NOW ALSO A POWER TO RECKON WITH IN WORLD AFFAIRS
- ☐ The US had waged a successful revolutionary war against the British Empire (1775 to 1781)

THE US first made its presence in Asia felt in Japan

- Commodore Matthew Perry first visited Japan on July 8, 1853.
- ☐ The US wanted Japan to open its ports and provide 'coaling', supplies, and other services to American ships.
- ☐ **Japan rejected his demands** and Perry withdrew knowing that he would have risked his and his sailors' lives had they persisted.
- ☐ He came back to Japan one year later with a bigger and better armed fleet.

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☐ IN THE NAME OF "TRADE"

1854

- ☐ Perry came back with an armada of seven ships supposedly for peace and trade talks on March 8, 1854."
- ☐ After much intense negotiations, the **Treaty of Kanagawa** was signed, giving the US "coaling" and, later other trade rights, including the opening of a US consulate in Japan on March 31, 1854.
- ☐ The treaty is said to have contributed to causes that ultimately led to the **replacement of the Tokugawa Shogunate** by the **Meiji Era** whereby the emperor was returned to actual power. The Shogunate was overthrown in 1867.

In the 1860s, the MEIJI RESTORATION invested

- ☐ Local Governments with dual functions. The prefectures, cities, towns, and villages "functioned under self-governance" and as implementors of central government policies.
- ☐ THE LGUs in the Philippines today perform similar functions with some modifications to suit our needs.

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MEIJI RESTORATION

- 1869 Meiji Constitution
 - Emperor Center of power & loyalty of the people
- Education free public schools up to six years.
 - opened to women too.
- □ Industrialization

EARLIER IN THAT CENTURY, SPAIN AS A COLONIAL POWER HAD STARTED TO CRUMBI F

SPANISH COLONIES REBELLED IN EARNEST VS. SPAIN IN THE 19th Century

Examples: Venezuela in 1806, Mexico in 1810, and other countries fought for their independence from Spain.

☐ CUBA, another colony of Spain, rebelled in 1895

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IN THAT SAME YEAR, 1895, JAPAN FOUGHT CHINA OVER KOREA

- □ JAPAN
- WON OVER CHINA.
- GOT CONTROL OF KOREA, AND TAIWAN
- WAS NOW ASSERTING ITS STATUS AS A WORLD POWER

ALSO IN 1895, SPAIN TRIED LIMITED ELECTIONS IN THE PHILIPPPINES

- □ SPAIN implemented the **Maura Law** in the Philippines in **1895**.
- ☐ The law allowed limited local elections mainly in Luzon and the Visayas.

Mindanao was governed by appointed officials

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THREE YEARS LATER, IN 1898, CUBA REBELLION WAS GAINING GROUND



Guantanamo Bay in Cuba is only 90 $\it miles$ away from the southern tip of Key West, Florida.

US SIGNALED ITS INTEREST IN CUBA REBELLION.

- January 25,1898 USS Maine was sent to Cuba
- February 15, 1898 an explosion sunk the USS Maine
- April 24, 1898 Spain declared war against US
- April 25, 1898 US declared war against Spain

FIGHTING SPREAD FROM CUBA TO MANILA

- ☐ Cuba 8,171 nautical miles or 15,142.9 kms away from Philippines
- ☐ THE US BROUGHT THE WAR TO THE PHILIPPINES AS A SPANISH COLONY IN SOUTHEAST ASIA
- ☐ BATTLE OF MANILA BAY
 - May 1, 1898 US armada destroyed the Spanish Fleet

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CUBA BECAME A PROTECTORATE OF THE US, AND THE PHILIPPINES WAS SOLD TO US

- December 10, 1898 Treaty of Paris signed by Spain and US
- Philippines sold for \$20 million to US
- LIKE A PIECE OF REAL ESTATE

US COLONIZATION OF PHILIPPINES BEGUN

- ☐ SHIFT OF COLONIAL OBJECTIVES
- ☐ INSTRUCTIONS OF PRESIDENT MCKINLEY, MARCH 16, 1900
- ☐ PREPARE PHILIPPINES FOR SELF-RULE

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US DEMOCRATIZED RULE RULE IN PHILIPPINES

- ☐ At first 3 Governors-General from 1898-1901 (Merritt-McArthur)
- ☐ Then 15 **Civilian** Governors-General from 1901-1935 (Taft-Murphy)

THE US WIDENED DEMOCRATIC SPACE IN THE PHILIPPINES

- EDUCATION was made universal, that is open to all.
- ☐ The Philippine Commission established by the US government empowered local governments:
 - Act 82 The Municipal Code with **elected** municipal presidents, members of municipal board (council) 1901.
 - Act 83 The provincial Government Act **election**of provincial governors by members of municipal
 boards (amended **1905**).

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Philippine Bill of 1902

US Law - Created Philippine Assembly - lower legislative House

- 50 to 100 members one rep per province. May have more if large population
- Philippine Commission Upper House
- Civilian Governor General as Executive
- Assembly Elections held five years later on July 30, 1907
 - Convened on October 16, 1907
 - Speaker Sergio Osmena
 - Majority Leader Manuel L. Quezon

1905 - Japan established its presence in Bohai Gulf, China

- ☐ Defeated Russia in War by capturing Port Arthur in Liaodong Peninsula in China.
- Abrogated unequal treaties with other countries.
- ☐ Was now recognized as World Power

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US APPROVED JONES LAW 1916

- ☐ 1st Official US assurance to grant independence to Philippines
- ☐ Created two elected Houses of Congress
 - SENATE
 - elections October 3, 1916
 - HOUSE of Representatives
 - elections held earlier, June 6, 1916

VOTERS QUALIFICATIONS

- □ LEGAL VOTER (MALES ONLY)
- ☐ ABLE TO READ AND WRITE SPANISH, ENGLISH OR NATIVE LANGUAGE
- OWNER OF REAL PROPERTY VALUED AT P500, OR WHO PAY P30 OR MORE IN TAXES
- NOT A FOREIGNER
- NOT CONVICTED OF SERIOUS OFFENSE
- ☐ RESIDENT OF PHILIPPINES FOR ONE YEAR
- ☐ RESIDENT OF THE MUNICIPALITY FOR 6 MONTHS BEFORE THE ELECTIONS

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OTHER US LAWS RE PHILIPPINE INDEPENDENCE:

- ☐ HARE HAWES CUTTING LAW 1933 Rejected by Filipino Leaders
- ☐ TYDINGS MCDUFFIE LAW 1934 accepted by Filipino leaders
- > ESTABLISHED THE PHILIPPINE COMMONWEALH from 1935 1946 (Independence)

■1937 - Women's Suffrage

COMMONWEALTH PERIOD LGUS | Provinces | Cities | Municipalities | BARANGAY (not formal government structure)

DURING THE COMMONWEALTH PERIOD:

- □ PHILIPPINES elected our President and Vice President
- We also has TWO ELECTED HOUSES OF LEGISLATURE
 - THE HOUSE OF REPRESENTATIVES, and
 - THE SENATE

PHILIPPINE BECAME INDEPENDENT IN JULY 1946

- □ ELECTIONS WERE HELD FOR THE PRESIDENT AND VICE PRESIDENT IN APRIL 1946
- MANUEL ROXAS WON AS PRESIDENT
- ☐ ELPIDIO QUIRINO AS VICE PRESIDENT
- ☐ THEY BECOME PRESIDENT AND VICE PRESIDENT of the Republic of the Philippines WHEN THE US GRANTED PHILIPPINES INDEPENDENCE ON JULY 4.1946.

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INDEPENDENT REPUBLIC: 1946

EFFECT ON LGUs:

- 1. LGUs existing as of **1946** continued to be recognized under the new Republic
- New LGUs were created by congressional enactments until 1972 when martial law was declared by President Marcos.
- 3. **During the martial rule** period, **1972-1986**, LGUs were created by **decree** or through the provisions of the Marcos Constitution.
- After Marcos was ousted, LGUs were created and are created by mandate of the 1987 Constitution through the provisions of the Local Government Code (1991 to the present).

Local Governments - How created under Article X of the Constitution:

I. AUTONOMOUS REGIONS by (a) Congressional Act, and **(b)** approved by the voters in a **plebiscite** called for that purpose in the areas affected by the creation of the autonomous region.

Examples:

- · Autonomous Region in Muslim Mindanao, and
- Cordillera Autonomous Region (Luzon)
- **II. OTHER LGUs** by authority of the Local Government Code, a law that was made effective in **1991**.

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OF THE TWO AUTONOMOUS REGIONS which the Constitution authorized to be created by law:

ONLY THE LAW CREATING THE **Autonomous Region in Muslim Mindanao** was approved by the people in a plebiscite in **1989**. (Republic Act 6734)

THE LAW CREATING THE **CORDILLERA AUTONOMOUS REGION** WAS **REJECTED** BY THE PEOPLE IN PLEBISCITE in **1990.** (Republic Act 6766)

(The second law, Republic Act No. 8438 passed by Congress of the Philippines on December 22, 1997, also failed to pass the approval of the Cordillera peoples in a region-wide referendum on March 7, 1998.)

Section 461. Requisites for Creation of **Province**. Details

- (a) Average **annual income** certified by Department of Finance: not less than **P20 million** based on 1991 constant prices and either of the following requisites:
- (b) a **contiguous territory** of at least **two thousand (2,000) sq. kms** certified by LMB,

or,

(c) a **population** of not less than **250,000 inhabitants** as certified by the NSO.

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Number of Provinces

80 - Provinces

Section 450. Requisites for the Creation of a component city of a province where it is located

- (a) A municipality or a cluster of barangays may be converted into a component city if it has (1) a locally generated average annual income certified by DOF of at least P100 million for the last two consecutive years ... and if it has either of the following:
 - (i) a **contiguous territory** of at least **100 square kilometers** certified by LMB or,
 - (ii)a **population** of not less than **150,000 inhabitants**, as certified by the NSO:
- (b) The territorial jurisdiction of a newly-created city must be defined

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Number of Cities

143 - Cities

Section 442. Requisites for Municipality Creation. Details

- (a)an **average annual income** certified by the provincial treasurer, of at least **P2,500,000.00** for the last two consecutive years ...;
- (b)a **population** of at least **25,000 inhabitants** certified by the NSO; and
- (c)a contiguous **territory** of at least **50 sq. kms** certified by LMB.

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Number of Municipalities

1,491 -Municipalities

Section 386. Requisites for barangay Creation. Details

- ☐ A barangay may be created out of (i) a **contiguous territory**; (ii) **population** of at least **2,000 inhabitants** certified by the NSO.
- ☐ Population exception: 5000 thousand in cities and municipalities within Metro Manila and other metropolitan political subdivisions or in highly urbanized cities.
- ☐ Barangays of indigenous cultural communities may be created by an Act of Congress, notwithstanding the above requirement.

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Number of Barangays throughout the country

42, 028 -Barangays.

CONTIGUOUS TERRITORY REQUIREMENT FOR LGUS

□ NOT NECESSARY WHEN AREAS ARE SEPARATED BY RIVERS OR SEA

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POWERS GRANTED UNDER THE LOCAL GOVERNMENT CODE TO provinces, cities, municipalities and barangays:

TAXATION

EMINENT DOMAIN

GENERAL WELFARE PROMOTION

LOCAL GOVERNMENTS
MAY ALSO FLOAT BONDS

LGU HAVE TAXING POWERS

- PROVINCES, CITIES, MUNICIPALITIES

 AND BARANGAYS have calibrated power to tax.
- ☐ Including business taxes. Subject to many exceptions, like banks & financial institutions), and depending on the kind of goods sold and the amount of gross sales of the business being taxed.
- □ LOCAL GOVERNMENT CODE BOOK II, LOCAL TAXATION & FISCAL MATTERS

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LGUs have the power of eminent domain

- ☐ That means the power to expropriate through court action private property for public use upon payment of just compensation.
- ☐ For example: The City needs to build a road. It may expropriate private properties for that purpose.

LGUs have the POWER TO PROMOTE General Welfare



Section 16 of R.A. 7160

- ☐ IN ADDITION TO powers expressly granted BY LAW, the LGUs (including the Barangay) have powers:
- ☐ Essential to the **promotion of the general welfare.**

THOSE POWERS as enumerated in Section 16 include:

- a) the preservation & enrichment of culture;
- b) promote health and safety;
- c) enhance the right of the people to a balanced ecology;

- MORE -

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MORE POWERS TO PROMOTE GENERAL WELFARE:

- d) encourage the development of appropriate & selfreliant scientific & technological capabilities
- e) improve public morals;
- f) enhance economic prosperity & social justice;
- g) promote full employment among their residents;
- h) maintain (law) & order; &
- i) preserve the comfort & convenience of their inhabitants

The Local Government Code deals not only with deconcentration or decentralization of powers but of devolution

DECONCENTRATION OR **DECENTRALIZATON** IS DIFFERENT FROM **devolution**.

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DECENTRALIZATION/ deconcentration OF POWERS

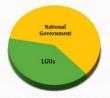
Means the central government shares powers (and funds) with local government units but does not relinquish control.

DEVOLUTION OF POWERS means relinquishing powers by the Central Government over certain aspects of governance in favor of LGUs. The central government retains powers of SUPERVISION, **NOT CONTROL**

Sharing of FUNDS between National Government and Local Government UNITS under THE LOCAL GOV'T GODE

ALL TAXES COLLECTED BY THE **BUREAU OF INTERNAL REVENUE** ARE DIVIDED BETWEEN THE NATIONAL GOVERNMENT AND THE LOCAL GOVERNMENT UNITS AS FOLLOWS:

- (1) 60% NATIONAL GOVERNMENT
- (2) 40% LOCAL GOVERNMENT UNITS

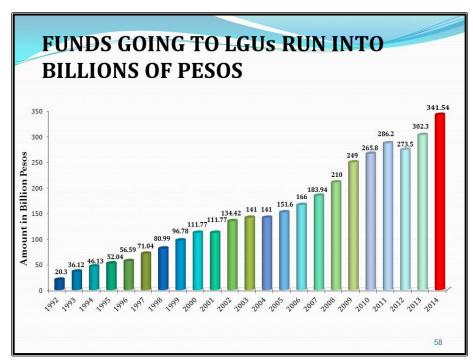


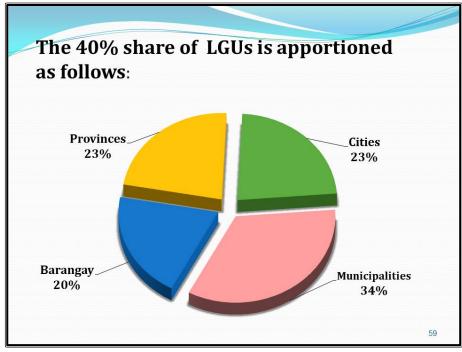
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Local Government Code mandates sharing of funds also

☐ From 1991 up to the present, billions of pesos now go to the coffers of Local Government Units in the Philippines

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LGU share of funds

- ☐ Released to LGUs directly
- Cannot be reduced by any official of government
- ☐ Cannot be dictated to by National Government how to use funds

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THERE IS A PROPOSAL TO INCREASE LGU SHARE OF TAXES by Sen. Koko Pimentel

- ☐ INCLUDE ALL TAXES (not only taxes collected by the Bureau of Internal Revenue)
- ☐ SHARING 50-50 WITH CENTRAL GOVERNMENT
- ☐ BILLIONS MORE WILL GO TO LGUS

DUTY imposed on LGU use of funds:

- ☐ ACCOUNTABILITY AND ☐ TRANSPARENCY
- ☐ Under the Local Government Code, and other LAWS as well.
 - RA 7160 Local Government Code
 - RA 3019 Anti-Graft and Corrupt Practices Act
 - RA 6713 Ethical Standards of Public Officials and Employees
 - RA 6776 Ombudsman Act

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TRINITY REFORM PLAN IN JAPAN (Koizumi Cabinet 2003)

Philippine LGU powers GRANTED BY THE LOCAL GOVERNMENT CODE HAVE SIMILARITIES TO THE 'TRINITY' POWERS GRANTED TO LOCAL GOVERNMENTS IN IAPAN IN 2003:

- 1. LOCAL TAXING POWER
- 2. LOCAL USE OF TAX GRANT
- 3. DISBURSEMENTS BY NATIONAL GOVERNMENT

PHILIPPINE LGUs have power

- ☐ To enact their own **ORDINANCES**[BUDGETS, LOCAL LEGISLATION WITH PENAL CLAUSES]
- ☐ To enact RESOLUTIONS [EXPRESSION OF SENTIMENTS OF SANGGUNIAN]
- □ Not subject to approval by national government.

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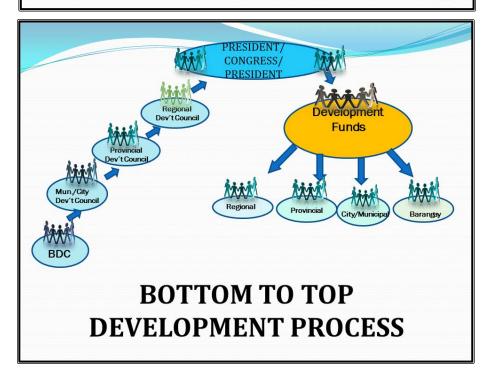
BUT LGUs bound by

- ☐ Consultation and transparency requirements Making information available to the general public; and making government rules, regulations, and decisions clear.
- ☐ reduces uncertainty and inhibit corruption
 - Some practical examples: Posting of Financial Reports at the Barangay, Municipal, City or Provincial Hall
 - Reporting State of Barangay, Municipality, City or Province

LGUs DEVELOPMENT also bound by PRINCIPLE OF SUBSIDIARITY

BOTTOM TO TOP DEVELOPMENT PROCESS

(shown on the next slide)



LOCAL DEVELOPMENT COUNCILS BARANGAY MUNICIPALITY CITY PROVINCE

BARANGAY DEVELOPMENT COUNCIL COMPOSITION

☐ The **barangay development council** is composed of:

- (a) the Punong barangay;
- (b) Members of the Sangguniang Barangay;
- (c)Representatives of **nongovernmental organizations (NGOs)** operating in the barangay, who shall constitute not less than one fourth (1/4) of the members of the fully organized council, and
- (d) A representative of the congressman.

Municipal OR City Development Council COMPOSITION

The Municipal or City Development Council is composed of

- (1) The Mayor;
- All punong barangays in the city or municipality;
- (3) The chairman of the committee on appropriations of the Sangguniang Bayan or Sangguniang Panlungsod concerned;
- (4) The congressman or his representative; and
- (5) Representatives of NGOs operating in the city or municipality, as the case may be, who shall constitute not less than one-fourth (1/4) of the members of the fully organized council.

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PROVINCIAL DEVELOPMENT COUNCIL COMPOSITION

The **Provincial Development Council** is headed by the governor and is composed of the following members:

- (1) All mayors of component cities and municipalities;
- (2) The chairman of the committee on appropriations of the Sangguniang Panlalawigan;
- (3) The congressman or his representative; and
- (4) Representatives of **NGOs** operating in the province, who shall constitute not less than one-fourth (1/4) of the members of the fully organized council.

GENERAL PRINCIPLE on good governance:

GOOD GOVERNANCE ALSO REQUIRES AN INVOLVED CIVIL SOCIETY

- 1. ELECTORAL COMPETITION;
- 2. INDEPENDENT OVERSIGHT;
- 3. **JUDICIAL INDEPENDENCE** --- [NY TIMES EDITORIAL 7/16/13]

to ensure liberalization of democratic process

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IN THE PHILIPPINES

- ☐ The acts of NATIONAL & LOCAL OFFICIALS ARE SUBJECT TO OVERSIGHT BY INDEPENDENT CONSTITUTIONAL BODIES
- □ ELECTION MATTERS BY THE COMMISSION ON ELECTIONS
- □ ADMINISTRATIVE/CIVIL/CRIMINAL MATTERS BY THE OMBUDSMAN
- □ LEGAL OR CONSTITUTIONAL ISSUES BY THE COURTS of Law (including the SANDIGAN BAYAN CRIMINAL COURT) with the SUPREME COURT as final arbiter

IMPEACHABLE HIGH OFFICIALS

- ☐ WHO ARE IMPEACHABLE IN THE PHILIPPINES?
 - 1. The President
 - 2. The Vice President
 - 3. The Members of the Supreme Court
 - 4. The Members of the Constitutional Commissions (i.e., Human Rights Commission, Civil Service Commission)
 - 5. The Ombudsman
- ☐ Grounds: Treason, bribery, graft and corruption, other high crimes, or betrayal of public interest.

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ARE THESE OVERSIGHT BODIES EFFECTIVE?

- ☐ THEY ARE TRYING HARD.
- □ SOME HIGH OFFICIALS HAD BEEN REMOVED FROM OFFICE OR HAD COMMITTED "HARI-KIRI" FOR VIOLATING THE CONSTITUTION AND THE LAWS OF THE LAND.
- □ A LOT MORE NEEDS TO BE DONE SO THAT JUSTICE IS DELIVERED SWIFTLY AND FAIRLY TO ALL CONCERNED

LGUs are governed also by the DEMOCRATIC AXIOM

- ☐ In a democratic society, the **rule of the majority** prevails
- ☐ But always subject to the observance of and respect for the **RIGHTS OF THE MINORITY**

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THANK YOU!