

LOCAL GOVERNMENTS IN THE PHILIPPINES

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LOCAL OVERNMENTS IN THE PHILIPPINES

I. Introduction

Theoretically, there is no limit to the number of levels of local government that can exist under a national government. As a general principle of government of administration, however, it would seem desirable to keep to a minimum the various levels of local government just as in any other organizational form.⁽¹⁾

In the Philippines, there are five (5) types of local government, namely: (1) the barangay, (2) the municipality; (3) the city; (4) the province, and (5) the region particularly regional government in the National Capital Region and in Region and in Regions IX and XII. The 1973 Constitution only mentioned the provinces, cities, municipalities and barangays as the territorial and political subdivisions of the Philippines. The Metro Manila Commission created by P.D. 824 dated November 7, 1975 and the Regional Autonomous Government of Regions IX and XII created by P.D. 1618 dated July 25, 1979 can also be considered as local government units since they possess the elements or requisites of a municipal corporation which are legal creation, corporate name, inhabitants, place or territory and a charter. The regional structure in other regions particularly the Regional Development Council can not be considered as local governments or municipal corporation because they don't have a separate corporate personality and they do not exercise legislative function.

The city has been identified hierarchically with both that of the municipality and the province, although from a geographic and aggregative points of view it is closer to the municipality in that the city is also composed of barangays. Certain types of cities known as component cities are oftentimes treated just like a municipality. The 1973 Constitution

provides for two types of cities, the component cities and the highly urbanized cities. Highly urbanized cities are independent of the province (Art. XI, Sec. 4). The Local Government Code provides for additional mandatory officials and offices in highly urbanized cities (Batas Pambansa 337, Sec. 169, Paragraph 2).

There are at present 13 regions, 73 provinces, 56 cities, 1, 541 municipalities and around 42,000 barangays.

The Rationale and Role of Local Governments

The major rationale of local governments is that of political participation. The smaller the population and geographical area covered by a local government, the closer it is to serving as a mechanism for articulation of the needs and aspirations of the people.⁽²⁾

A national government may be so organized that it has physical presence even at the lowest level of organization; but the field personnel of the national government is still likely to perceive his primary accountability to his national government superiors, rather than to his local clientele. Unlike the local elective official who views his primary accountability to the people and he is more knowledgeable and conversant of the problems, needs and aspirations of the people.⁽³⁾

It was pointed out that the smaller the unit of government, the less efficient it is likely to be. The concept of economies of scale permit services per capita to be delivered at less cost when the scale of operations is larger, thus the degree of citizens' articulation and participation varies inversely as the political unit becomes larger. It was suggested that the points where the degree of political articulation and the degree of scale economies diminishes could be used as a criteria in determining primary responsibility for the provision of governmental services among the various levels of local governments as well as the national government.⁽⁴⁾

II. The Evolution of Local Government in the Philippines

The barangay is the only indigenous local government unit in the Philippines. Its origin can be traced to a pre-Spanish institution. The other major local government units, namely, the province, city and municipality have their beginnings in the local government units established during the Spanish regime.⁽⁵⁾

The Spanish colonizers transformed the barangays into barrios headed by a "cabeza de barangay." They also established the pueblo or municipality headed by an "alcalde", and the "provincias" or provinces headed by "alcalde mayores." The "alcalde mayores" were appointed by the Spanish Governor General.⁽⁶⁾

A democratic system of local government was established during the revolutionary period. The Chief of the town ("Jefe de Pueblo") elected by the majority of the inhabitants and the Chief of the province ("Jefe

de provincia”) was elected by the Chief’s of the towns.⁽⁷⁾

The Americans also established a democratic system of local government and renamed the local government units into barrios, city, municipality and province. They also established a highly centralized system of government which lasted until the Commonwealth period under the dominant leadership of President Manuel L. Quezon.

The trend towards decentralization occurred during the third Republic from 1946 to 1972. The declaration of martial law on September 21, 1972 again reversed the trend in favor of centralization. The martial law regime also introduced a number of significant innovations in the government system. It revived and popularized the barangays and renamed the local legislative councils into “Sangguniang Bayan.” It also established the Katipunan ng mga Barangay, Kabataang Barangay Pampook, the Katipunan ng mga Sanggunian and the Kabataang Pambarangay. Katarungang Barangay or Barangay justice was likewise established during this period.

Local elections were suspended during martial law and the national government used the referendum as the means of ascertaining popular will. Direct elections of local officials with fixed term of office was restored on January 30, 1980 with the election of governor and mayors. The election of barangay officials was held after martial law on May 17, 1982 pursuant to Batas Pambansa Blg. 222 dated March 25, 1982.

Local Governments Under the 1973 Constitution

The important role of local governments in the country has been recognized by the 1973 Constitution. Local autonomy is guaranteed by the Constitution and Local governments are given the power to create their own sources of revenues and to levy taxes. The Constitution provides that “The State shall guarantee and promote the autonomy of local government units, especially the barangays, to ensure their fullest development as self-reliant communities” (Art. II, Sec. 10). It also provides that “each local government shall have the power to create its own sources of revenue and to levy taxes subject to such limitations or may be provided by law” (Art. XI, Sec. 5). This provision provides the basis for financial self-sufficiency of local governments which is necessary for meaningful local autonomy. Thus, the trend that made local governments dependent upon the national government for funding may be reversed.

The Constitution also encourages local units to pool their resources in development efforts by providing that “local government units may group themselves, or consolidate or coordinate their efforts, services, and resources for purposes commonly beneficial to them”. It also provides greater participation by the citizens in matters that directly affect them particularly in requiring the approval of the residents in the creation and alteration of local government units and in providing for a recall system in the proposed local government code. The Constitution provides that “no

local government units may be created, divided, merge, abolish or boundary substantially altered without the approval of the majority of the votes cast in the unit or units affected" (Art. XI, Sec. 3). It also provides for the enactment of a local government code that will provide for an effective system of recall (Art. XI, Sec. 2). The Constitution also grants supervisory powers to higher local government units over their component units. It provides that "provinces with respect to component cities and municipalities with respect to component barangays, shall ensure that the acts of their component units are within the scope of their assigned powers and functions" (Art. XI, Sec. 4).

The developments in national-local government relations during the martial law period have indicated a tendency towards greater political centralization. Notwithstanding the guarantee of local autonomy in the 1973 Constitution, there were specific manifestations of increasing central control over local affairs and decreasing powers, functions, and responsibilities of local governments. Among these are (1) the exercise of legislative power including the power to create, merge, or abolish local governments, (2) the extent and scope of presidential power over local officials; (3) the integration of police, jails and fire services; (4) the centralization of regulatory powers over buildings and tourist oriented establishments; (5) the central direction in the planning and implementation of development programs and projects; and (6) the proliferation of Ministries/agencies having supervision over different aspects of local affairs.

There were also instances of decentralization during martial law particularly the following: (1) the creation of regional government; (2) creation of regional offices of different Ministries; (3) creation of regional development councils; and (4) adoption of the integrated area development approach. However, these decentralization measures are directed more towards the delegation of authority towards the field offices of line agencies which are mere extension of the central government rather than towards the strengthening of local government units. This type of decentralization is technically referred to as deconcentration or the delegation of authority from central to field offices of line agencies. In certain cases, particularly in Metro Manila, the creation of the Metropolitan Manila Commission resulted in the diminution or reduction of the powers and authority of the local government within the metropolitan area.

The New Republic

Martial law was lifted on January 17, 1981 and the New Republic was inaugurated on June 30, 1981 pursuant to the constitutional amendments of 1981. Among the significant developments during this period were: (1) the barangay election held on May 17, 1982 pursuant to Batas Pambansa Blg. 222 dated March 22, 1982; (2) the conversion of the Ministry of Local Government and Community Development (MLGCD) into a

Ministry of Local Government (MLG); and (3) the approval of the Local Government Code.

The Ministry of Local Government (MLG)

One of the fundamental changes on the function of the MLG brought about by Executive Order No. 777 dated February 28, 1982 is the shift of focus of its developmental function from community to the strengthening of the administrative and fiscal capabilities of the local government units. The community development function of the MLG was transferred to the Ministry of Human Settlements.

The MLG is mandated to "develop the capability of local government officials and strengthen the administrative capability of local government units." It assists the President in exercising his power of general supervision over local governments. It also assists in the administration of the Katarungang Pambarangay (Barangay Justice).

As of now the MLG has 4 services (planning, financial management, administrative and legal), 2 Deputy Ministers, 2 bureaus (Local Government Development and Local Government Supervision) and 12 regional offices.

The Local Government Code

Batas Pambansa Blg. 337 dated February 10, 1983 otherwise known as the "Local Government Code" was enacted by the Batasang Pambansa pursuant to the 1973 Constitution which provides that:

"The Batasang Pambansa shall enact a Local Government Code which may not thereafter be amended except by a majority vote of all its members, defining a more responsive and accountable local government structure with an effective system of recall, allocating among the different local government units their powers, responsibilities, and resources, and providing for the qualifications, election and removal, term, salaries, powers, functions and duties of local officials, and all other matters relating to the organization and operation of the local units. . ." (Art. XI, Sec. 2).

The Local Government Code has 234 sections and divided into three books. Book I entitled "General Provision" contains the basic principles, the general powers and attributes of local government units, intergovernmental selections, fiscal matters, the requirements and prohibition applicable to local officials and employees, the elective officials, the local school board, personnel administration and the settlement of municipal and barangay boundary disputes. Book II entitled the "Local Government Units" provides for the role, organization and operations of the barangay municipality, city, and the province, the qualifications, compensation and the powers and duties of elective as well as appointive local government officials, the kabataang barangay, and the additional mandatory officials and offices in highly urbanized cities. Book III entitled "Miscellaneous

and Final Provisions includes the penal provisions; provisions for implementation regarding sectoral representation, free insurance coverage, and inventory of infrastructure and other community facilities; the transitory provisions and the final provisions.

The Local Government Code retained the basic structure of local governments consisting of a barangay headed by a punong barangay, the municipality and a city headed by a mayor, and the province headed by a governor. It also incorporated the following innovations that were introduced during the martial law period: (1) the use of indigenous nomenclatures such as barangay in lieu of the barrio, sanggunian in lieu of the council, bayan for municipality, panlungsod for city, panlalawigan for province, and pampook for region; (2) the Kabataang Barangay; (3) the Katipunan ng mga Barangay; and (4) sectoral representations of the agricultural and industrial labor sectors in the legislative bodies.

There are indications that the trend might be reversed again towards decentralization with the lifting of martial law on January 17, 1981 and the approval of the Local Government Code on February 10, 1983.

III. The Structure and Functions of Local Government Units

A. Nature and Attributes and Creation of Local Governments

The local governments exercise both governmental and corporate powers and functions. The governmental powers of local governments include the powers expressly granted, those necessarily implied therefrom, as well as powers necessary and proper for governance such as to promote health and safety, enhance property, improve morals, and maintain peace and order in the local government units, and preserve the comfort and convenience of the inhabitants (Batas Pambansa Blg. 337, Sec. 7). It may, through its head acting pursuant to the resolution of its sanggunian, exercise the rights of eminent domain and institute condemnation proceedings for public use or purpose as well as those of any barangay, municipal, city or provincial road, street, alley, park or square provided the person prejudiced is indemnified. The property withdrawn may be used or conveyed for any purpose for which other real property might be lawfully used or conveyed (Sec. 9 and 10). It has also the power to create its own sources of revenue and to levy taxes.

The corporate powers of the local governments are: (1) to have continuous succession in its corporate name; (2) to sue and be sued; (3) to have and use a corporate seal; (4) to acquire and convey real or personal property; (5) to enter into contracts; and (6) to exercise such other powers as are granted to corporations (Sec. 12). The corporate existence of a new local government unit commences upon the qualification of its chief executive and a majority of the members of its legislative body unless

some other time is fixed by law (Sec. 6). Local governments are not liable for injuries or damages to persons or property arising from its act or omission of local officers or employees while in the performance of their official functions (Sec. 13).

Under the local Government Code, a barangay may be created, named, and its boundaries defined, altered or modified, by an ordinance of the Sangguniang Panlalawigan or Sangguniang Panlungsod subject to the approval by a majority of the votes cast in a plebiscite called by the Commission on Election (Sec. 82). The Batasang Pambansa has the power to create the municipality, city and the province (Sections 134, 163, 196). The Minister of Local Governments has the duty to declare a city highly urbanized within 30 days after it met the minimum requirements prescribed by the Code (Sec. 168).

The criteria used in the creation of the local governments are: (1) population; (2) average estimated annual income for the last 3 years; (3) land area; and (4) approval of the majority of the votes cast in a plebiscite.

The required population for the barangay, municipality, city, highly urbanized city and the province are: 1,000; 10,000; 100,000; 150,000 and 500,000, respectively. The required income for the municipality, city, highly urbanized city and the province are: ₱ 200,000.00; ₱ 10 million; ₱ 30 million; and ₱ 10 million respectively. The barangay has no income requirement. Only the province has a required land area of 3,500 square kilometers (Sections 83, 135, 164, 166, 197). The main reason for these minimum requirements is to avoid gerrymandering and to guarantee that any new creation can adequately provide the essential services required by the people from its local government.

The Code provides that "as a general rule, the creation of a local government unit or its conversion from one level into another level of local government shall be based on factors relative to viability and projected capacity to provide services which can be clearly shown by verifiable indicators" (Sec. 5).

A plebiscite may be held when authorized by a majority vote of the members present in a barangay assembly meeting, there being a quorum, or when called by at least four (4) members of the Sangguniang Barangay. The plebiscite must be held after 30 days from its approval by either body (Sec. 100). One-tenth (1/10) of the members of the barangay assembly constitute a quorum. The barangay assembly is composed of all persons who have been actual residents of the barangay for at least 6 months, 15 years of age or over, citizen of the Philippines and duly registered in the list kept by the barangay secretary (Sec. 98).

Criteria in the Creation of the Local Government Units

	Local Government Units	Population	Average Annual Income	Area
1.	Barangay	1,000	None	None
2.	Municipality	10,000	₱200,000.00	None
3.	City	100,000	₱10 million	None
4.	Highly urbanized city	150,000	₱30 million	None
5.	Province	500,000	₱10 million	3,500 sq. km.

Source: Local Government Code (Batas Pambansa Blg. 337 dated Feb. 10, 1983), Sections 83, 135, 164, 166, 197.

Local Officials

The barangay has 8 elective and 2 appointive local officials. The municipality has 10 elective and 9 appointive officials. The city has a minimum of 8 and a maximum of 14 elective and 10 appointive officials. A highly urbanized city has 7 additional mandatory appointive officials. The province has a minimum of 6 and a maximum of 10 elective and 9 appointive officials.

The appointive local officials that are common among municipality, city, highly urbanized city and province are: (1) President of the Katipunan ng mga Barangay; (2) President of the Kabataang Barangay; (3) Secretary; (4) Treasurer; (5) Assessor; (6) Budget Officer; (7) Planning and Development Coordinator.

The agricultural and labor sectors are entitled to one representative each in the municipal and city legislative bodies. The sectoral representation in the province shall be provided by a special law (Sec. 223). The additional appointive official of the city and the province is the engineer. The additional mandatory officials in highly urbanized cities are: (1) Legal Officer; (2) City Registrar; (3) Administrator; (4) Veterinarian; (5) Social Services and Development Officer; (6) General Services Officer; and (7) Agriculturist.

B. The Structure and Functions of Local Government Units

The structure of local governments can still be characterized as a strong mayor-council form of local government. The local chief executive still performs a dominant role in the local government. The functions of local governments may be classified into legislative, executive, and administrative functions.

Legislative Function

The law making bodies of local governments are called Sanggunian collectively. Individually, however, the provincial legislative body is called Sangguniang Panlalawigan; the city, Sangguniang Panlungsod; the municipality, Sangguniang Bayan and the barangay, Sangguniang Barangay. The members are both elected at large and appointed by the President. The manner of election is provided for in the election code.

Membership varies among levels. In barangays, the sanggunian is composed of eight members including the punong barangay as presiding officer. Six are elected at large. Members are given compensation or reasonable per diems including travel expenses. However, the total personnel expenditures does not exceed sixty per cent (60%) of the total barangay income.

In municipalities, the sanggunian is composed of the municipal mayor as the presiding officer, the vice-mayor as the presiding officer pro-tempore and eight members who are elected at large.

The composition of the Sangguniang Panlungsod varies. In cities with a population of one hundred to two hundred thousand, there are eight members; for those with two hundred to three hundred thousand, ten members and for those with over three hundred thousand, twelve members. For cities with population of less than one hundred thousand, only six members are allowed. All are elected at large. The presiding officer is the city vice-mayor.

The Sangguniang Panlalawigan is composed of the governor as the presiding officer, the vice-governor as presiding officer pro-tempore and other elected members. For provinces with a population of one million or more, eight (8) are elected and for those with less than one hundred thousand residents, only four (4) are elected. Other provinces have the regular six (6) members.

In addition to these elected sanggunian members, the President appoints additional members. For all levels, the chairman or President of the Kabataang Barangay is a regular member. The president of the Katipunan ng mga Barangay is also a member in cities, municipalities and provinces.

The president may appoint one representative each from the agricultural and industrial labor sectors in municipalities and cities. Their respective sanggunian determines whether such sectors have sufficient number to warrant representation.

The sessions allowed also varies. In municipalities and provinces, only two regular sessions for a month are allowed while in cities, regular sessions are held every week. However, special sessions may be called by the local chief executive when necessary.

A hierarchy of review is maintained. The Sangguniang Bayan or Panlungsod reviews all ordinances and resolutions of the barangays within

its jurisdiction; the Sangguniang Panlalawigan reviews all ordinances, resolutions and executive orders promulgated by municipal mayors of component municipalities and cities. Highly urbanised cities are independent of the province.

Lawmaking is an inherent function of the sanggunian, but it is only one.

They also devote themselves to other than legislative matters: directoral (establish fiscal policy through the local budget, make plans for capital improvements, adjust departmental organization, establish local personnel policies, etc.); executive (sanggunian may confirm or reject the mayor or governor's appointment to the position of city/municipal/provincial secretary; administrative (review of ordinances, resolutions, executive orders, appropriations, grant franchises, conduct of committee activities, etc.); and public relations functions.

Executive Function

Just as the President represent the people in the country, so does the local chief executive (governor, city/municipal mayor) for the people in his locality. The executive function in local governments, thus, lies in the local chief executive. Formal powers as conferred by the Code and other existing laws like sending executive notes to the sanggunian, using the veto power, appointing and removing subordinates, preparing the budget, etc. make him influential in policymaking and fiscal affairs.

Though a veto of an ordinance may be overruled, the threat as well as the actual exercise of it can be decisive.

Control over administration and local affairs is manifested through the issuance of directives, licenses and permits, conduct of meetings and conferences, requiring reports, conduct of investigations, make disciplinary actions, etc. These executive instructions/acts become binding without the necessity of council confirmation.

All major changes in policy, in enforcement of regulations, in local services, and in financial support of services, call for executive considerations and determination. In case of proposed ordinances, the executive weighs the effect on the public and on the administrative organization.

In intergovernmental relations the chief executive exercises general supervision over lower level local units. Highly urbanized cities are exempt from such supervision.

In the exercise of executive functions, the local chief executive is assisted by an administrative organization which welds itself together as a going concern in support of the executive.

Administrative Function

Departmentalization is characteristic not only in the national government but also in local government. The Code, together with other basic laws like PD 2204, PD 5185, PD 477, etc. calls for the departmentaliza-

tion of the local administrative mechanism to simplify administrative processes.

The offices are organized by purpose (health, jail, engineering), by process (treasury and assessment, purchasing and general services, legal, personnel, budgeting), and by area clientele (day care centers and other social services).

Providing staff and auxiliary functions to the chief executive are the offices of the budget, planning and development, personnel and legal services. The administrative position is allowed in highly urbanized cities including the office of general services. The general services centralizes supply and property management which formerly belonged to the treasurer's office. In addition, the office maintains and supervises janitorial and security services. The janitorial functions were given to every office or department and the security services either were directly under the chief executive or contracted to a private security agency.

The line offices include the treasury and assessment, engineering, agriculturist, veterinary, library and social services.

A civil registration office is separately provided for in the Code. The function of civil registration was either performed by the health office of treasurer's office.

The administration of markets is being given to the administrator or in the Office of the Mayor. The treasurers, under P.D. 231, had the supervisory functions over administration. However, the collection of fees in the markets remains with the treasurer.

The Code, while it specifically provides for the offices that a local unit must maintain, also empowers the sanggunian to allow maintenance, creation of other offices, or the consolidation of functions of any one of such offices with another if the interest of the public so demands. The Ministry of Local Government prescribes the minimum standards and guidelines with respect to organizational structures and staffing patterns of local units.

IV. Central Supervision of Local Governments

A. The Supervision of Local Governments

Supervision means overseeing or the power or authority of an office to see that subordinate officers perform their duties. If the latter fails or neglect to fulfill them, the former may take such actions or steps as prescribed by law as to make them perform their duties. Control, on the other hand, means the "power of an officer to alter, modify or nullify or set aside what a subordinate had done in the performance of duties and to substitute the judgment of the former for that of the latter" (*Mondano vs. Silvosa*, 97 Phil. 147).

Under the 1935 Constitution, the President is granted power of general supervision over all local governments. It provides that "the President shall have control of all the executive departments, bureaus, or officers, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed" (Art. VII, Sec. 10).

The 1973 Constitution, on the other hand, does not provide for an expressed grant to the President of power of general supervision over local governments. The Constitution grants the power of supervision to the provinces with respect to component cities and municipalities and to the cities and municipalities with respect to component barangays. It is silent as to the power of supervision over provinces and highly urbanized cities. It states that:

"Provinces with respect to component cities and municipalities and cities and municipalities with respect to component barangays, shall ensure that the acts of their component units are within the scope of their assigned powers and functions. Highly urbanized cities, as determined by standards established in the Local Government Code, shall be independent of the province."

However, Article VII, Sec. 16 of the 1973 Constitution otherwise known as the "catch all" provision, provides that "all powers vested in the President of the Philippines under the 1935 Constitution and the laws of the land which are not herein provided for or conferred upon any official shall be deemed and are hereby vested in the President unless the Batasang Pambansa provides otherwise."

There are two possible interpretations regarding the implication of the above mentioned provisions regarding the existence and extent of power of supervision of the President over local governments. The first interpretation argues that the President retains its power of general supervision over local governments by virtue of Art. VII, Sec. 16. The second interpretation states that the power of general supervision of the President over local government is deemed modified by Art. XI, Sec. 4, since it expressly grants the power of supervision to provinces, cities, and municipalities over lower levels of local government units and that the power of general supervision of the President is now confined only to provinces and highly urbanized cities since supervision over them are not provided for or conferred upon any official.

The second interpretation seems to be consistent with the constitutional mandate which provides that "the state shall guarantee and promote the autonomy of local government units, especially the barangay, to ensure their fullest development as self reliant communities" (Art. II, Sec. 10). The second interpretation would also prevent confusion arising from several supervisory authorities over the same local government units. It is desirable that each unit of local government should be able to look at only

one agency of government, whether national or local, as its primary supervisor.

The Local Government Code seems to have adopted the first interpretation. It provides that "the President of the Philippines shall exercise general supervision over local governments to ensure that local affairs are administered according to law. Supervision includes the power to order an investigation of the conduct of local government officials whenever necessary. Such general supervision shall be exercised primarily through the Ministry of Local Governments." (Sec. 14 (1))

It also provides that as a matter of general policy and whenever appropriate, the Ministry of Local Governments shall exercise its supervisory authority over municipalities through the provinces, and barangays through municipalities and cities" (Sec. 14 (2)).

The role of the ministries and other national offices are confined to the setting of standards and guidelines to obviate the need for requiring prior approval or preclearance on regular and recurring transactions and other activities normal to local government.

Among the powers and functions granted to the Ministry of Local Governments by the Local Development Code are:

- (1) Serve as the agency through which the President shall primarily exercise its powers of supervision over local governments (Sec. 14);
- (2) Promulgate in detail the implementing circulars and the rules and regulations to carry out the various administrative actions required for the initial implementation of the Local Government Code in such a manner as will ensure the least disruption of on-going programs and projects (Sec. 222);
- (3) Prescribe, in consultation with provinces and cities, minimum standards and guidelines with respect to the organizational structure, staffing pattern and other relevant operational aspects of the governance of the provinces, cities, municipalities and barangays according to needs (Sections 86 (3), 137 (4), 169 (4), 199 (4); and
- (4) Establish and maintain appropriate coordinative and consultative arrangements with other ministries and other national offices concerned with respect to the monitoring and securing of proper compliance with standards and guidelines especially on matter which are highly technical in nature (Sec. 14 (2)).

Supervision Among Local Government Units

The governor has the primary responsibility for general supervision over city and municipality, and the city and municipal mayor has the primary responsibility for general supervision over the barangays within their territorial jurisdiction to ensure that they act within the scope of their assigned powers and functions (Sec. 15, 17, 21, 24).

Acts of the municipality which require the prior approval of the prov-

ince are : (1) permanent closure of a public road, street, alley, park or square, and (2) donation of municipal funds or property (Sec. 19).

The city and the municipality have the power to review all ordinances and resolutions approved by the barangay to ensure that they are within the powers granted by law and in conformity with city and municipal ordinances (Sec. 22, 25). The province also reviews ordinances approved by the component cities and municipalities within the authority granted by law (Sec. 208. 1).

Supervision of Local Governments by Line Agencies

While the code provides that the supervision of national agencies to local governments is confined to the setting of standards and guidelines, there are specific provisions which allow national agencies to act on local matter. The Minister of Justice is authorized to appoint upon the recommendation of the governor or city mayor special counsels whose salaries are chargeable against provincial or city funds, either a permanent or temporary basis (Sec. 28).

The Commission on Audit reviews and audits all accounts of local governments (Sec. 29). The Ministry of Education and Culture exercises the same powers over all educational institutions established or supported by any local government unit that it exercises over all other public schools (Sec. 30).

National agencies are directed to involve local governments and secure their participation in the various substantive aspects of programs and projects and other corollary operational activities that should be carried out through local governments (Sec. 31). They are also directed to render technical and provide financial assistance to local governments necessary to carry out national policies, plans, programs, projects and activities. The national agencies may exercise technical supervision over local governments on technical aspects over which they are responsible on the national level (Sec. 32).

B. Local Fiscal Administration

The provisions in Sec. 5, Art. XI, of the New Constitution provides the basis for financial self-sufficiency of local governments which is basic to local autonomy.

It is observed that no other reforms in local governments administration have more impact than those related to local finance and fiscal management. PD 144, 231 (Local Tax Code) and PD 436 enforce the Constitutional mandate by devolving more taxing powers and granting more revenue sources to local governments; provinces for the first time have been given taxing powers. Local governments receive 20% of the collections from national internal revenue taxes as allotments in the following proportions: 25% – provinces; 25% – cities; 40% – municipalities and 10% –

barangays. In addition, 5% accrue to a local government fund which the President releases as financial aid to local units. As provided in the Real Property Tax Code (PD 464), assessment levels of real properties have been increased thus local revenues from real property tax has greatly improved. Local governments are also authorized under PD 752 to avail themselves of credit facilities and resort to borrowings for their socio-economic development programs.

These reforms, among others, have instituted significant changes in local finance and fiscal management at the same time created important issues affecting the financial capability of local governments for development.

The national government primarily through the Ministry of Finance and the Ministry of the Budget exercise control and supervision over local finance functions. The scope of such control can be grouped into three broad categories: regulating in considerable detail how national allotments and aids are to be spent, setting criteria for the allocation of funds which local governments themselves generate, and compelling local governments to implement national programs. In addition, local governments have to set aside appropriations under their statutory obligations.

Such controls pose the danger of virtually controlling local fiscal policy which will destroy any local sense of responsibility for autonomy or self-government. While this may be the implication of the national government's administrative relations with local governments, it is noteworthy to emphasize that in the allocation functions of local governments, the direction of local programs and projects is towards economic development particularly infrastructure development.

The Local Government Code puts together scattered laws on local finance and amends obsolete legislation regarding the same.

Before regulations on local finance came from laws passed by Congress, as well as memorandum circulars from the financial offices like the Department (now Ministry) of Finance and the Budget Commission (now the Ministry of the Budget).

Rules governing local finance came from various sources — Republic Act 3422 granting general authority to levy taxes to municipal corporations, RA 2264 (the Local Autonomy Act) strengthening the revenue system for cities and municipalities, RA 5785 (the Decentralization Act) establishing an automatic retention scheme whereby local governments could retain their internal revenue allotments, and RA 2343 giving additional fiscal powers to local governments. Specifically, Commonwealth Act 470 (the Assessment Law) provided for a scheme of real property taxation; these were amended by RA 5447 which imposes an additional 1% on real property tax for special education, and RA 3590 (the Barrio Charter) which provides for a share for the barrios of one-fourth of one per cent of real property.

These laws notwithstanding, local governments have had few sources of revenue. The province, for instance, had no taxing powers except for the real property tax, and relied heavily on national aid and internal revenue allotments. The Local Autonomy Act granted all cities and municipalities the authority to impose municipal license taxes or fees upon persons engaged in any occupation or business, to collect fees for services rendered, and to levy for public purposes, just and uniform taxes and fees. These taxes notwithstanding they had not been financially independent of the national government. The real property tax which had been a main source of revenue for all types of local units, had been plagued with problems of undervaluation, under-assessment, and low collection efficiency.

Martial law measures provided improvements on real property taxation, and local fiscal administration in general. The Code specifies the provisions of these new arrangements and codifies them under this chapter.

Sec. 34. Principles to be observed. The following principles shall be observed by all concerned relative to the financial affairs, transactions, and operations of every local government.

- (1) As a general rule, local governments shall be allowed as much authority and flexibility over the financial aspects of their operations which are consistent with such standards and guidelines as may be prescribed by competent authorities.

“Authorities” here refers to the Ministry of Finance and the Office of Budget and Management, two government entities supervising the financial transactions of local governments. The Commission on Audit also exercises control, although with the withdrawal of its pre-audit function recently, that has been relaxed.

- (2) No money shall be paid out of the treasury except in pursuance of a lawful appropriation or other specific statutory authority. No funds shall be disbursed and no checks shall be issued without the approval or signature of the local chief executive.

This provision strengthens the fiscal control of the governors and mayors over local funds. However, this should not be interpreted in isolation to paragraph (1); these powers of the local chief executive have to be consistent with finance and budget requirements, and approved expenditures still have to pass COA’s post-audit.

- (3) Public funds and monies shall be spent solely for public purposes.
- (4) Revenue shall be obtainable from all sources, including the power to levy taxes, subject to such limitations as may be provided by law.

What are public purposes are determined by law, as well as sources of taxation.

A listing of allowable local taxes are provided by Presidential Decree 231, the Local Tax Code for Provinces, Cities, Municipalities and Barrios.

Local governments generally derive revenue from: (a) market and

slaughterhouse fees, (b) service charges for public utilities owned and operated by a local government, (c) tuition fees in schools owned and operated by them, (d) tolls from roads, bridges, canals or ferries, (e) benefit shows or activities, (f) business and occupation permit fees, and (g) service charges for certification or documentation and similar services.

PD 231 gives the provinces taxing power. It authorizes cities and provinces to impose the following: (a) tax on transfer of real property ownership, (b) tax on printing and publication business, (c) franchise tax, (d) sand and gravel fee, (e) occupation tax, (f) amusement tax, (g) fees for sealing and licensing of weights and measures, (h) annual fixed tax per delivery truck of distilled spirits, liquor, soft drinks, cigars and cigarettes, and (i) rental fee for the use of municipal water, rivers, etc.

Municipalities are authorized to tax businesses conducted within their respective jurisdictions, collect fees for certain services rendered, and charge fishery rentals or fees for the use of municipal waters.

PD 426, which amended PD 231, allows the municipality to share in the taxes collectible by the province.

Supplementary to the Local Tax Code is a Real Property Tax Code (PD 464). In addition to their taxing and revenue-raising powers under the Local Tax Code, local governments are empowered to levy, assess, and collect an annual ad valorem tax on real property, such as lands, buildings, and machinery and other improvements. The Real Property Tax Code upgraded real property assessment and systematized the administration of the tax.

An added boost to local revenue is given by PD 144 which revised the system of national internal revenue allotments to local government units. With the revision, 20% of the national internal revenue which does not go to the general fund shall accrue to the local governments. Of these municipalities get the biggest share (45%), followed by provinces (30%), and the cities (25%). The share of each local government is computed based on the following formula: 70% on the basis of population, 20% on the basis of land area, and 10% on equal sharing.

PD 144 also mandates that local units should appropriate no less than 20% of its annual allotment for development projects. In support of this, the national government earmarks 5% of its internal collections not otherwise accruing to the general fund.

PD 559 provides for barangay development fund.

- (5) All monies officially received by a public officer shall be accounted for by government funds, except as may otherwise be specifically provided by law.
- (6) Trust funds shall not be paid out of the treasury except in fulfillment of the purpose for which the trust was created or the funds received.
- (7) Fiscal responsibility shall be shared by all those exercising authori-

ty over the financial affairs, transactions, and operations of the local government unit concerned.

Who are those exercising financial authority in local governments? The governor, city/municipal mayor, the treasurer and his assistant, the assessor and his assistant, the auditor and his assistant, and the budget officer provided for each local unit by PD 1375 which transfers the supervision over local budgets from the Ministry of Finance.

Sec. 35. Preparation, approval and review of the Budget. Budgets of local government units shall be prepared, approved, and reviewed in conformity with the provisions of law, rules, and regulations, taking into account such limitations as are imposed on appropriations for salaries and rates of compensation, personnel movement and administration, and appropriations for discretionary purposes of local executives.

Budget ceilings are provided by circulars from the Ministry of the Budget. Salaries of local personnel are determined by income class as certified by the Ministry of Finance.

Sec. 36. Accounting and accountability. (1) Every local government officer whose duties require the possession or custody of local government funds shall be accountable therefor and responsible for their safekeeping in conformity with the provisions of law. Local treasurers and other accountable officers shall render their accounts within such time, in such form, style and contents and under such regulations as the Commission on Audit may prescribe pursuant to law.

PD 477, the Decree on Local Fiscal Administration, governs the conduct and management of the financial affairs, transactions and operations of local units and provides the organization for local fiscal administration. It specifies that "the general supervision over the financial affairs of the local governments comes under the purview of the Minister of Finance." As such, it issues fiscal policies and policy guidelines and exercises "executive supervision over all treasury officials and personnel in local governments.

(2) The heads of local government units shall be responsible for the proper operation and maintenance of the accounting offices in their respective units. They shall see to it that all accounting records and books conform to the applicable provisions of this Code, and the pertinent laws, rules, regulations and reporting requirements of the Office of Budget and Management. Non-compliance with such laws, rules, regulations and reporting requirements shall be sufficient ground for administrative action against the officials responsible therefor, including dismissal from the service.

Sec. 37. Auditorial inspection. The books of accounts, papers and cash of any local treasurer or other accountable local official shall at all times be open to the inspection of the Commission on Audit or its

duly authorized representative.

Sec. 38. Credit financing for local governments. The conduct and management of the credit transactions and borrowings of local governments shall be governed by existing laws.

The pertinent law which applies is PD 752, Credit Financing for Local Governments. The decree grants local units ample ways of raising funds for their development projects such as availing of the credit facilities of domestic and foreign lending institutions, contracting intergovernmental loans, entering deferred-payment financing schemes and financing contracts with private parties, issuing bonds, debentures, collaterals, and securities to finance self-liquidating and income-producing development projects, and securing provisional advances from any government bank or depository in times of emergency.

C. Personnel Administration

The local chief executives are responsible for local personnel administration and they may take all personnel actions subject to the constitutional and statutory provisions relative to civil service. All local officials paid wholly out of local funds are appointed by local chief executives (Sec. 72, 73).

The local chief executive is authorized to evolve his own screening process for promotion subject to the standards and guidelines established by the Civil Service Commission. The Code provides that the salaries of the personnel of local governments shall be provided by law or ordinances. The Joint Commission on Local Governments Personnel Administration is mandated to determine the salaries of the vice-governor, and members of the sanggunian in all levels and other positions which are not included under existing laws (Sec. 74, 75).

In case of abolition of position, the local personnel is reinstated in another vacant position without diminution of salary, and if there is no available position, the employee is entitled to a separation pay equivalent to one month salary for every year of service (Sec. 76).

Investigation, adjudication, suspension and removal of appointive local personnel are governed by civil service law and rules. The local chief executive has the authority to remove, separate, suspend and discipline local personnel under his jurisdiction. The decision of the local chief executive is final if the penalty is suspension without pay for not more than 30 days. If the penalty is heavier, the decision is appealable to the Civil Service Commission which has final authority on the discipline of local personnel. If the respondent is in the career executive service the appeal is made to the Career Service Board. (Sec. 77, 78). An appeal does not prevent a decision from becoming executory, and in the case the penalty is suspension or removal, the respondent is considered as having been under preventive suspension during the pendency of an appeal in the event he wins such appeal. On the other hand, the respondent is paid his salary in the event

he is completely exonerated (Sec. 77, 78).

The Local Government Code grants the following privileges to the members of the sangguniang barangay: (1) per diems; (2) insurance coverage, the premiums paid by the national government; (3) reimbursement of actual traveling expenses and allowances; (4) civil service eligibility based on the number of years of service; (5) free medical care in any government hospital or institution; (6) exemption from paying tuition and matriculation fees for a maximum of four of the legitimate dependent children attending public high schools and for a maximum of 2 of their legitimate dependent children attending state colleges and universities; (7) preference in appointments to any government position or in government corporation after their tenure; (8) surviving spouse or legal heirs entitled to burial benefits amounting to not less than ₱ 500.00 (Sec. 93).

V. Trends in Local Government Administration

One of the major issues that confront many countries particularly in the Third World is whether development is best promoted by centralization or decentralization, especially devolution or the transfer of power from central to local government units. Third World countries are confronted with problems that tend to destabilize the political system and the usual solution is centralization of powers and functions.

Philippine experience shows an alternating trend of centralization and decentralization. During the colonial period until the Philippine grant in independence in 1946, the trend was toward centralization. From 1946 until the declaration of martial law in 1972, there was a trend towards decentralization. Congress passed a number of laws giving more autonomy to local governments through the grant of additional powers or through the lessening of national controls on local affairs. The Supreme Court also contributed to the cause of local autonomy. It has moved away from liberal to a narrower interpretation of constitutional power of the President to supervise local government. However, it should also be pointed out that there were also certain developments towards centralization during this period but in general the trend is predominantly towards decentralization which culminated in the insertion of a separate article on local government in the 1973 Constitution.

During martial law the trend is predominantly towards centralization. There are indications that the trend in the next ten (10) years will again shift towards decentralization rather than centralization especially with the lifting of martial law and the approval of the Local Government Code.

Philippine experience shows that the trends towards centralization and decentralization are influenced by the situation or the political environment; that is, whether we are in a normal or crisis situation. In normal times, there is a tendency on the part of the government to decentralize. Conversely, in a crisis situation there is a tendency to centralize government operations. With the return to normal political situation, we can expect a trend towards decentralizations or more participation of local governments in national development. Another factor that influenced centralization and decentralization is the emergence of dominant political leaders and the relative strength of the legislature vis-a-vis the executive.

A strong legislature tends to favor greater decentralization.

Among the significant developments that tend to promote and indicate a trend towards greater participation and responsibilities of local government in national development are: (1) Local officials as coordinator and supervisor of national development programs and projects; (2) Local Government Code; (3) Creation of Regional Government; (4) Role of the barangays; and (5) Strengthening of the administrative capability of local government.

A. Local Officials as Coordinator and Supervisor of Development Program and Projects

One of the significant developments in central-local relations is the designation of the local officials as coordinator of national development programs and projects in their respective jurisdictions, particularly in the Kilusang Kabuhayan at Kaunlaran (KKK), Integrated Area Management System for Agricultural Services (IAMSAS) and in Infrastructure development.

1. Kilusang Kabuhayan at Kaunlaran (KKK)

Under the KKK, the local officials were given the authority to oversee KKK operations, including the granting of loans to qualified citizens under the KKK. Executive Order No. 715 (August 6, 1981) designates the local officials particularly the governors and mayors as coordinator of the programs.

2. Integrated Area Management System for Agricultural Services

Executive Order No. 803 (May 21, 1982) which establish the Integrated Area Management system for agricultural services also provides that the governor shall be "responsible for the general coordination and supervision at the provincial level" The governor with the concurrence of the Minister of Agriculture may also choose the city/municipal mayor as the agricultural action officer to be "responsible for the direct coordination of agricultural extension workers of all agencies assigned to the various barangays comprising the city/municipality" (Sec. 5).

3. Infrastructure Development

Local officials also given the authority to independently monitor key national projects in their respective areas and jurisdiction and required to report directly to the President all the physical accomplishments. They also participate in the planning and implementations of certain types of infrastructure projects, particularly the barangay roads.

B. Creation of Regional Governments

The organization of full-blown regional governments for each region as a separate intervening tier of local governments between the national and the provincial levels has been envisioned in the government's official plan document, the Five Year (1978-82) Development Plan. Regional governments for all the regions of the country may be organized when

the degree of social, political and economic interdependence among the component parts of the region has become much greater. Such would pave the way towards an integrated governmental structure at the regional level.

As a separate and independent political entity, the regional government will be empowered to raise its own revenues primarily through levying certain taxes in the region. It will be entitled to a share in the internal revenue allotments from the national government. The closest example of regional governments we now have at present are the recently organized Autonomous Regional Governments of Regions IX and XII and the Metro Manila Commission. It has been said that if they succeed, they would serve as prototypes for the rest of the regions of the country.

It must be noted that the organization of the regional governments may mean phasing out the provincial governments as separate political-governmental units and transforming them into administrative districts of the regional governments. This may be a consequence of possible overlap between these two levels.

C. The Role of the Barangays

The barangay was created through Presidential Decree (P.D.) Nos. 86 and 86-A, three months after the declaration of martial law to provide for a broader base for citizen participation in the democratic process. This was done by lowering the minimum age for membership from 18 to 15. The barangay was meant to give the people ample opportunity to express their views on important national and local issues. P.D. 86-A provided that the collective views of the people shall be considered in the formulation of national policies and programs.

Although the barangay was conceived originally as a new mechanism through which the citizens could react on public policy and program decisions, recent developments have indicated that it is being transformed into an administrative arm of government as part of the delivery system of services to the people. The barangay has become a vehicle for delivering goods and services to the people at the community level, e.g., assisting national and other local government units in the maintenance of peace and order; engaging in cleanliness and beautification campaigns; regulating urban traffic; facilitating the reporting system for census and intelligence purposes; and implementing some aspects of the barangay roads program.

Under the Local Government Code, the barangay performs both political and development functions. It serves as the primary planning and implementing unit of government programs, projects and activities and also as forum in which the collective views of the people in the community may be crystallized and considered (Sec. 81).

D. Strengthening of Administrative Capability of Local Government

One of the major changes brought about by the reorganization of the Ministry of Local Government (MLG) under Executive Order No. 777

(Feb. 28, 1982) is the shift of focus from community development function to the development of the administrative capability of the local officials and the local government units. Executive Order 777 provides that the MLG shall "develop the capability of local governments officials and strengthen the administrative capability of local government units." A new bureau, the Bureau of Local Government Development was created to implement this major function of the Ministry. The main strategies adopted are training of local officials and technical assistance to local government units.

E. The Enactment of the Local Government Code

The Local Government Code also contains many provisions which grant more powers and authority to the local governments. Among the new powers and functions of the local governments under the Code are:

1. Authority to Coordinate Services Rendered by National Agencies

The municipal mayor is authorized to "coordinate the implementation of technical services rendered by national offices, including public works and road-and-bridge programs in the community" (Sec. 141, d). The provincial governor is also authorized to "coordinate the administration of services rendered by national offices and agencies in the province" (Sec. 203, 1). However, the punong barangay and the city mayor were not given similar powers.

2. Authority to Reorganize Local Offices

The Sangguniang Panlungsod is authorized to "create, consolidate and reorganize city offices and positions wholly supported by local funds" (Sec. 177, cc). The Sangguniang Bayan is also authorized upon the recommendation of the mayor to "create, consolidate, and reorganize municipal offices when deemed necessary in the interest of efficiency and economy" (Sec. 149, q).

3. Appointment of Local Officials

The governor, city and municipal mayor are authorized to appoint all officials and employees paid wholly out of provincial, city or municipal funds (Sec. 73). However, with respect to treasurers and assessors the participation of local executives are limited to the selection of barangay and municipal treasurers and assessors and the assistant provincial and city treasurers and assessor.

The barangay treasurer is appointed by the punong bayan with the concurrence of the sangguniang barangay (Sec. 96). The municipal treasurer and assessor are appointed by the Minister of Finance upon the recommendation of the municipal mayor (Sec. 155, 159).

The assistant provincial and city treasurers and assessors are appointed

by the Minister of Finance upon the recommendations of the provincial governor and city mayor (Sec. 182, 184, 213, 215). The provincial and city treasurer and assessor are appointed by the President upon the recommendation of the Minister of Finance (Sec. 181, 183, 212, 214).

4. The Power of Eminent Domain

Under section 2245 of the Revised Administrative Code, before a municipality can initiate condemnation proceedings it has first to seek the approval and authority of the Ministry of Local Governments; the same requirement is also provided in the case of the province under Sec. 2609 in conjunction with Sec. 3 (c) of R.A. 2264.

Under the Local Government Code, a local government unit, through its head and acting pursuant to a resolution of its sanggunian, can exercise the right of eminent domain and institute condemnation proceedings for public use or purpose (Sec. 9), without prior approval from the central government. It can also choose any barangay, municipal, city or provincial road, street, alley, park or square (Sec. 10).

5. Power to Extend Loans

The sangguniang panlalawigan is now empowered to extend loans, grants or subsidies to the component cities and municipalities without any interference from any national agency. Conversely, the sangguniang panlungsod of the component city may extend loans, grants, or subsidies to the provinces where the city is geographically located. The terms and conditions of the loans or grants or subsidy solely depends upon the agreement entered into between them (Sec. 16, 20).

6. Chairman of the Local School Boards

The governor, city and municipal mayor under the Code serves as the chairman of the provincial, city and municipal school board (Sec. 68). Prior to the enactment of the Code, the division and city superintendent and the district supervisor serves as the chairman of the province, city and municipality (R.A. 5447). The field personnel of the Ministry of Education, Culture and Sports are now vice-chairman in the local school boards.

The local school boards determine, in accordance with the criteria set by the MECS, the annual supplementary budgetary needs for the operation and maintenance of local public schools. The approval of the MECS of the budget of the local school boards is only ministerial (Sec. 69). Before, the Minister of Education can disapprove any portion or item in the budget submitted by the local school boards. Now the determination by the local school board is binding on the MECS. The Code also provides that the chairman and vice-chairman must always be present when the school budget is being prepared and considered (Sec. 70).

The other members of the local school boards are: (1) treasurer of the

local government; (2) representative of the sanggunian; and (3) president or duly elected representative of the federation of parent-teachers association (Sec. 68).

The other innovations introduced by the Local Government Code are: (1) creation of the local government units which will require the approval of the people through plebiscite; (2) the system of recall to be exercised by the electorate (Sec. 54); (3) the supervision of local governments by the President to be exercised primarily through the Ministry of Local Governments and the supervision of other ministries will be confined to the setting of uniform standards and guidelines to obviate the need for requiring prior approval or pre-clearance on regular and recurring transactions and other activities normal to local governments (Sec. 14); and (4) the grant of leave credits to elective officials.

The approval of the Local Government Code is a positive indication that local governments will have an increasing and central role to play beyond the 1980's. The effectiveness of the local government in performing its role in national development will primarily depend on two factors: (1) the administrative and financial capability of local government; and (2) the moral integrity of local officials. The former involves structural and institutional changes, while the latter involves moral change. The former is a joint responsibility of the national and local governments while the latter is primarily the responsibility of local officials.

The capacity of the local government to effectively govern depends on its technical and administrative capability as well as the availability of resources and the potential for leadership obtained from local governments. Furthermore, the local officials must have the moral integrity that will guarantee that these new powers and functions will be utilized to promote public interest.

The great challenge facing local governments is how they could adequately respond to the new responsibilities being given them and also how they would prepare and mobilize themselves for more transfer of substantive powers and functions.

NOTES

- (1) Recommendations on Local Government submitted by the Special Presidential Reorganization Committee (SPRC) to the President on October 19, 1983, Presidential Commission on Reorganization.
- (2) Ibid.
- (3) Ibid.
- (4) Ibid.
Chapter II, The Evolution of Local Government in the Philippines.
- (5) John H. Romani and Thomas M. Ladd, A Summary of Local Government in the Philippines, Institute of Public Administration, U.P., Manila, 1954, p. 136.
- (6) Cesar A. Majul, The Political and Constitutional Ideas of the Philippine Revolution, Quezon City, U.P. Press, 1967, p. 67-69.
- (7) Ibid.