



Isyu-Sera

10 Reform Issues on Local Governance

The Local Government Code of 1991 has dramatically changed the way governance has been practiced in the country, especially how local governments and national governments interacted. Also known as the “Local Autonomy Act”, it has granted substantial power to local government units in implementing projects and programs according to the needs of each locality.

Decentralization of power became the agenda after martial law, and the Local Government Code has specified functions that can be passed on to local governments, as well as give them significant control over financial and political resources. Almost two decades into its implementation, however, it was realized that the Code contains certain policy flaws and the need to review and amend it now becomes an imperative in order to address critical issues faced by local governments and their constituencies – disaster risk reduction and management in light of the recent typhoons that left massive destruction in many municipalities, local financial resource management for the effective delivery of basic services such as health and education, local tax collection policies and local accountability mechanisms, to name a few.

ISYU-SERA gives a rundown of the 10 most pressing concerns identified by our local chief executives that make strengthening local governance an important campaign issue this 2010*:

1. Delegation of functions to LGUs

Even though the Local Government Code outlined certain functions

that the national government can devolve or delegate to LGUs such as the delivery of basic services and enforcement of regulatory policies, there are other functions

Functions that are delegated to LGUs as specified in the Local Government Code:

- **Delivery of basic services:** Health (field health and hospital services and other tertiary services); social services (social welfare services); environment (community based forestry projects), agriculture (agricultural extension and on-site research); public works (funded by local funds); education (school building program); tourism (facilities, promotion and development); telecommunications services and housing projects (for provinces and cities); and other services such as investment support.
- **Enforcement of certain regulatory powers:** Reclassification of agricultural lands; enforcement of environmental laws; inspection of food products and quarantine; enforcement of national building code; operation of tricycles; processing and approval of subdivision plans; and establishment of cockpits and holding of cockfights.
- **Involvement of civil society:** Allocation to non-governmental organizations (NGOs) and people's organizations (POs) of specific seats in special local bodies. These special bodies include the local development council, the local health board and the local school board.
- **Increased Financial Management:** The Code increases the financial resources available to LGUs by (1) broadening their taxing powers; (2) providing them with a specific share from the national wealth exploited/used in their area [mining, fishery, forestry charges]; and (3) increasing their share from national taxes [increased internal revenue allotments (IRA), from the previous allocation of 11% to as much as 40%.
- **Fiscal Autonomy:** Entering into build-operate-transfer arrangements with the private sector, float bonds, obtain loans from local private institutions, etc.

undertaken by the national government that, due to their nature, can be better handled by local governments such as the management of disaster risks, environment and natural resources, and financial resources. On the other hand, there are also tasks assigned to LGUs that are too comprehensive or resource-intensive for them to handle, which the national government can better manage. An example is the delivery of health services, where most LGUs perform poorly mainly due to the lack of financial and technical capacities of local health centers and hospitals. Thus, the delegation of health service delivery to LGUs is being contested by a number of local officials.

2. Accountability mechanisms of local chief executives

Accountability mechanisms for LGUs and local chief executives (LCE) are found lacking in the Philippines. Excelling LGUs do not normally receive incentives or recognition from the national government (external award giving bodies do so). There are also no penalties or sanctions at present for underperforming LCEs. There is a need to put in place performance indicators that can be used to evaluate and measure the accomplishments of LGUs in the country. A suggestion is to base the IRA shares of LGUs according to their performance.

3. Accountability of national government personnel/ appointees to LGUs

Another concern raised by several LCEs is the lack of ways to ensure that national government personnel working in or assigned to their localities (i.e. municipal

treasurers, officers of the Philippine National Police and agencies such as the Department of Education) are performing their duties and are held accountable for their actions while in office. There had been reports of some government personnel who, instead of performing their functions, only politicize certain programs and policies in the locality. There are no accountability mechanisms in place in the Local Government Code, thus, allowing underperformance or abuse of power. Some reform-minded LCEs are pushing for the turnover of appointment powers to local governments while others prefer to have the oversight over these government personnel/ appointees and the national agencies that operate in their localities.

4. IRA allocation and formulation

As pointed out earlier, many functions have been delegated to LGUs but many local governments do not have the resources needed to effectively perform these functions. At present, LGUs receive 40% percent of the country's total Internal Revenue Allotment (IRA). Many local chief executives are advocating for an increase in LGU's IRA share – from 40% to 50% - to support their increased functions.

The IRA share of each LGU is computed based on the following: population (50 percent), land area (25 percent) and an automatic 25 percent share in government taxes. This immediately results to the inequitable IRA sharing, with bigger and more populated LGUs getting bigger shares. The IRA share

normally received by LGUs does not correspond to what they actually need to do the functions mandated by the Local Government Code:

	Estimated cost needed to perform devolved functions	Mandated share of LGUs in the IRA
Provinces	37%	23%
Municipalities	38.5%	23%
Cities	5.7%	34%
Barangays	18.8	20%

*Taken from Fiscal and Financial Management in Local Governments, a lecture by Professor Emilia Boncodin, 30 November 2009

5. Local financial management and autonomy

At present, many LGUs still lack the capability to generate or raise their own income and still have limited financial autonomy. They had been given the power to collect local taxes but not all are able to do this effectively. Moreover, some tax collection policies are unfavorable to LGUs (e.g. the policy on collecting Sales Taxes, where big companies operating in and utilizing the resources of different localities only pay taxes to the municipality where their central offices are registered). The local taxes collected by LGUs are also relatively small.

Although LGUs are authorized to apply for and get direct loans from private banks and grants from foreign institutions, these transactions are still monitored and processed by the national government, oftentimes resulting to delays and, at times, are vulnerable to corruption. There is a growing debate about how LGUs can be given "sovereign guarantee" that will allow them to deal directly with these private and foreign institutions.

6. Calamity Fund

The Local Government Code

mandates local governments to earmark 5% of the IRA for their Calamity Fund, which will be used for disaster response, relief operations, rehabilitation, reconstruction and other services needed in times of emergency. The law further states that this fund can only be used when the locality is under a state of calamity as declared by the President or the local Sanggunian or board.

The Department of Budget Management (DBM) and the Department of Interior and Local Government (DILG) issued a joint circular dated March 20, 2003 stating that LGUs may also use their calamity fund for man-made disaster mitigation. However, there are still certain limitations that prevent LGUs from undertaking critical activities. LGUs, for example, cannot use the calamity fund for research on risk reduction, for natural disaster mitigation, training on disaster management and to purchase monitoring and rescue equipment.

7. Pork Barrel

Congressmen use their Priority Assistance Development Fund or PDAF (commonly known as 'pork

barrel') to implement projects in their localities. However, some of these projects do not coincide with the priorities of the LGUs in their area. Some local government executives are requesting to have a say on how their congressmen's PDAF will be allocated. In fact, lot of issues had been raised and debates sparked regarding the pork barrel: some sectors are demanding the abolition of the pork barrel to make legislators focus on lawmaking; a number of senators and congressmen are being accused of getting more of their PDAF than the LGUs in their district. Legislators, however, are not expected to prioritize administrative functions and program implementation, and exercise discretion on which projects to fund using their PDAF.

8. Environment and local resource management

Despite the fact that environmental resources are within the jurisdiction of local governments, the power of LGUs to manage these resources is limited. Consequently, local governments are unable to use these resources for revenue-generating ventures. LGUs, for example, only

approve and manage small-scale mining in their areas but have limited authority over big mining projects, particularly in collecting taxes from them; the mining companies still pay their taxes to the locality where their headquarters is located. The drafting of new environmental laws has been suggested to give LGUs greater authority over the approval of mining permits and put in place mechanisms that will ensure equitable sharing of revenues between the LGUs where they conduct their mining activities and where their headquarters is located.

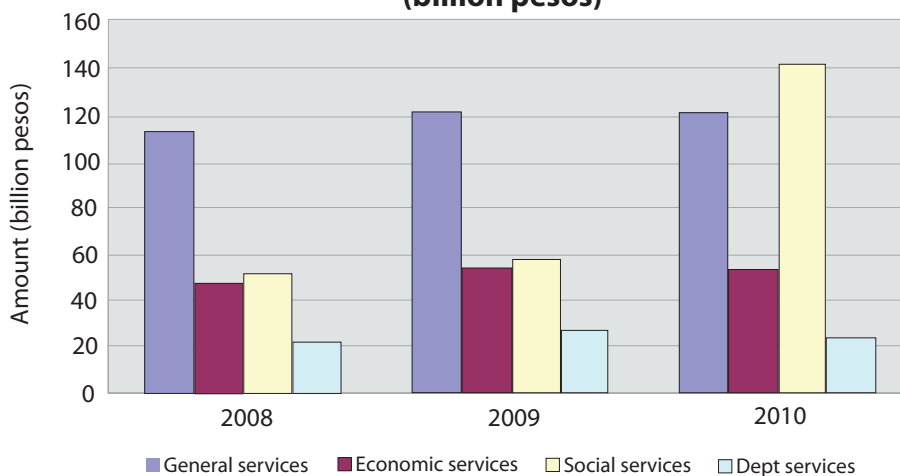
9. Peace in Mindanao and other conflict areas

Armed conflict remains a problem in Philippines and local communities are most affected. This is more pronounced in the Autonomous Region of Muslim Mindanao (ARMM) and in provinces where warlords and political dynasties are still present. The peace process in Mindanao is currently at a standstill and the existing conflict continues to displace and disrupt the daily activities of the locals.

10. Chart Change and Federalism

Charter Change has been a hot topic in the past couple of years and a major proposal that has been pitched is the shift to a federal government, which, some argue, is more suitable for the country given its geographical nature and cultural diversity (notion of having a "Muslim nation" in Mindanao). The shift to federalism is seen by some Cha Cha advocates as a viable way to improve governance by fully decentralizing power from the central government in Manila, and empowering local governments by giving them more autonomy and authority over local affairs. This can be a major point for

Distribution of Local Expenditures, by Major Sector (billion pesos)



*Taken from Fiscal and Financial Management in Local Governments, A lecture by Professor Emilia Boncodin, 30 November 2009

consideration for our legislators and current candidates as they engage in the Charter Change debate.

** From the forum "FACE TO FACE: 100 Local Government Champions vs. 4 Presidential Contenders" organized by the Institute for Popular Democracy, held 5-6 October 2009.*

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Spotlight

Last October 2009, top presidential candidates attended a conference entitled **"Face to Face: 100 Local Government Champions vs. 4 Presidential Contenders"**. The event was organized by the Institute for Popular Democracy (IPD), Synergeia Foundation, Galing Pook Foundation, the Ateneo School of Government (ASoG) and Local Government Support Program in ARMM (LGSPA), in cooperation with the Philippine Office of Friedrich Ebert Stiftung (FES) and the ABS-CBN News Channel (ANC). Four presidential aspirants - Gilbert Teodoro, Francis 'Chiz' Escudero, Manny Villar and Benigno 'Noynoy' Aquino – were placed on the hot seat and answered questions and issues raised by local chief executives (LCEs).

Spotlight features the responses of Teodoro, Villar and Aquino to the concerns raised by our local government leaders. Escudero's responses were not included because he eventually dropped out of the presidential race.

ON ACCOUNTABILITY MECHANISMS FOR LCEs

GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>Accountability mechanisms for LCEs can be instituted through a system that rewards performing LGUs, like the ones that show initiative for peace and order and against insurgency.</p> <p>An augmentation fund as a reward shall be provided to them as an incentive, but a performance/ governance score card needs to be instituted in order to systematize rating and scaling. However, the system must not rest solely</p>	<p>The problem for LCEs is that they are situated in an environment that is not competitive. The national government must set an example and come up with specific standards of performance to benchmark competition.</p> <p>The national government shall also be assessed using the same standards. This way, it will have the moral ascendancy to demand good performance from LGUs. Undeniably, the composition of the LCEs in the</p>	<p>LCEs should define their targets in accordance to their development goals and based on their goals, they must institute performance measurements with certain parameters to monitor their achievements. Good performance, based on measurable criteria that will be agreed upon, shall merit additional resources for them. However, more resources come with more power and more duties and responsibilities, as there will be a lot of services that</p>

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continued from previous page...ON ACCOUNTABILITY MECHANISMS FOR LCEs

GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>on rewarding performing LCEs; it should also include capacity-building to provide preferential attention and scale-up the capacities of those who cannot keep up in the performance race, simply because they are unable to do so. There is a need to capacitate cities and municipalities that have not yet developed their potential. First-class cities and municipalities may be able to perform in accordance to a performance scorecard but the poorest of the poor will have the tendency to die out, hence the need to build them up.</p>	<p>LGUs is varied, such that there are good and bad performers. Good performers must be given adequate rewards such as making them handle big projects that could further benefit their localities. On the other hand, LCEs who perform poorly must be guided, re-trained and capacitated. Sanctions shall come later, when those LCEs continue to exhibit unsatisfactory work.</p>	<p>will be provided to the people. All the more, LCEs will be held accountable. In addition, the criteria to be set shall be localized, particular only to a locality where it is supposed to be applied, such that the criteria of one locality will not be used to measure the performance of other localities.</p>

ON INTERNAL REVENUE ALLOTMENT (i.e. increasing the IRA allotment from 40% to 60%)

GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>Amenable to giving more resources for the LGUs but immediately changing the current sharing will have to be properly studied. The government still needs to attend to other concerns, like re-engineering its budget for education, and this task alone is costly and requires a lot of government resources.</p> <p>Increasing the share of LGUs at this time is improbable, as there are still a lot of local concerns. Local conditions in some areas have not yet been improved, and it requires a balancing of resources to address them. Eventually LGUs will turn to the national government when faced with unforeseen problems in their</p>	<p>In a situation where the government faces a problem in the allocation of its resources to basic services, the key to addressing the problem is responsible wealth spending. The 60% revenue share of the national government from the IRA is sparsely distributed, more so the 40% left to the LGUs.</p> <p>The solution is to amplify the pie so everyone gets a higher value for their share. The culprit for the measly revenues being shared is [the] mismanagement of the economy. The economy needs to be beefed up, and it must be managed in such a way that both local and national governments will get more</p>	<p>The 60%-40% ratio is not the issue. The more pressing issue that needs to be addressed is the "leakage" in revenue collection or the uncollected amounts. Therefore, an efficient manner of revenue collection must be instituted.</p>

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GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>locality, even if we grant a 100 percent increase to their IRAs. A certain balance should be worked out and an outright promise of a fixed percentage increase in sharing will not solve the problem.</p> <p>[I] strongly believe in devolution – there is no strong state in the world where basic services are delivered [directly] by the [national] government. However, there are still underdeveloped and conflict-ridden areas in the country that needs attention from the national government.</p>	<p>value for their shares and revenues relative to the pie.</p>	

ON LOCAL FINANCIAL MANAGEMENT AND AUTONOMY

GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>The national government’s strategy must be to rely on the LGUs to run themselves. In the context of giving the LGUs “greater autonomy” (not only physical autonomy), a “scaling formula” needs to be created where LGUs are to be made financially-, organizationally- and performance-wise. With greater autonomy in LGUs, national government participation is reduced, and, therefore, LGUs must be given the leeway to plug in the gaps resulting from this decreased national government involvement. LGUs must find ways to sustainably fund themselves by increasing their taxing powers, etc. Congress must be allowed to grant such autonomy that will enable LGUs to be more physically flexible and physically competent.</p>	<p>Proper management of the national government would bring a sustainable economy and, therefore, sustainable local growth. There is no problem granting greater autonomy to LGUs, provided they are performing satisfactorily. However, the national government must extend assistance to poor-performing LGUs in order to strengthen them and entitle them to greater autonomy. It would be problematic to grant LGUs that certain level of autonomy if they are purely dependent on the national government. It is, therefore, imperative for the national government to guide them and help them increase their revenues and improve their collection practices.</p>	<p>The national government and LGUs must sit down together to talk about the share allocation of the IRA. Increase in the IRA should be reasonable, where LGUs are given full responsibility for its proper utilization. LGUs shall be made accountable in appropriating its resources.</p>

ON ENVIRONMENT AND LOCAL RESOURCE MANAGEMENT

GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>Amenable to joint-approval [of both the national government and LGUs] and to an equitable sharing formula in the utilization of natural resources, depending on its impact to national interest.</p> <p>In the extraction of natural resources, a joint-approval is not only necessary but it is also needed in principle and for practical purposes. It is not possible to have a successful enterprise when it is largely opposed. It will be of no use for the national government earning and generating revenues from it when on the other hand, there is massive disapproval from local chief executives and their constituencies. An equitable sharing of revenues between mining companies and LGUs is necessary in order to benefit affected communities (or the people in the locality). There has to be a formula to ensure a just sharing of revenues, depending on the magnitude of the activity.</p>	<p>It is important that LGUs get their fair share in the utilization of their natural resources, as people from the localities are usually affected by extractive activities. It is not right for the national government to solely keep the revenues derived from these activities.</p> <p>Mining companies do provide employment for the people in the areas where they operate, but for practical purposes, there has to be approval from the LGUs and everything must be formalized. The national government cannot push through with mining projects without approval from the LGUs.</p>	<p>LCEs in particular should consider the “moral basis” of their decisions. If extraction of natural and mineral resources are approved, they have to be accountable for the degradation of the environment. They have to face the consequences of their actions.</p> <p>There is a law for revenue sharing but what should be looked at is the manner by which extractive activities are approved. An approval mechanism is necessary such that the costs and benefits are properly weighed. Every decision must consider the greater benefit of all.</p> <p>In cases of disputes, there should be an arbitration committee whose members are from the DENR and the LGUs to equalize the decision-making process. LGUs are subordinate entities of the national government but they are given frontline responsibility. Hence, there is a need for the national government to be responsive to the concerns of LGUs.</p>

ON CALAMITY FUND

GILBERT TEODORO	MANNY VILLAR	NOYNOY AQUINO
<p>There must be full authority and freedom given to LGUs in the utilization of calamity funds. Bigger calamity funds must be distributed, which can be used for disaster management.</p> <p>[I] support the National Disaster Risk Management Act that seeks to authorize LGUs to use not less than 5% of their revenues, not only in disaster response but also in disaster preparation and mitigation efforts. LGUs shall be given the freedom and leeway to use more funds to capacitate themselves so that they are able to create their own rational and technical framework in decision-making in times of disasters.</p> <p>As exemplified by our recent experience with Ondoy and Pepeng, the varying topographies of LGUs necessitated them to take the lead in disaster management in their areas, as the national government cannot foresee the different local conditions.</p>	<p>The national government must always anticipate disasters like typhoons and earthquakes so it can immediately respond whenever a disaster strikes. The national government must invest in state-of-the-art facilities that can forecast imminent disasters. For instance, PAGASA needs to be “modernized” in terms of facilities so that it can accurately predict weather disturbances and help us prepare for typhoons and heavy rains.</p>	<p>Calamity funds must be properly distributed. In this light, specific parameters must be drawn so that the declaration of a state of calamity and the use of calamity funds do not rest solely on the discretion of the President.</p> <p>There must be “automatic procedures” that can clearly delineate the necessity to declare a state of calamity and allow the use of calamity funds. There had been cases where certain localities were placed under state of calamity and were given appropriate calamity funds but in fact, they were not badly hit by the disaster.</p>

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