



DECOLONIAL STUDIES PROGRAM

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Bangsamoro Local Government Code

Re-reading of Decentralization and its Problems

Vincent L. Casil¹ and Nassef Manabilang Adiong, PhD²

Introduction

Of the seven priority bills that the Bangsamoro Transition Authority (BTA) is required to pass, the Bangsamoro Local Government Code (BLGC) is directed to provide the form to the local government units (LGUs) of the region. The BLGC articulates the organizational structure of local units, with their powers, functions, and responsibilities. The primary aim of the measure is to institute a “responsive” and “accountable” local government. This goal is perceived to be achieved in a similar spirit with the national government’s Local Government Code (LGC) of 1991, which calls for a decentralized government structure, wherein local units are vested with more “powers, authority, responsibilities, and resources.”³

Although the LGC of 1991 highly influenced large components of the BLGC,

one should set boundaries between these two initiatives of decentralization. One cannot simply ascribe similar connotations of decentralization to the BLGC, especially since it is addressing different conditions and contexts from that of the LGC of 1991, which was enacted against the backdrop of the centralized Marcos regime. The two local government codes, though sharing the same goal of providing form to more effective LGUs, should be read in different senses because the two are responding to two different historical contexts.

In a different frame, the BLGC and its aspiration for a decentralized government can be read in light of inefficiency, incompetence, corruption, and ambiguities of rules at the local level. The BLGC’s aspirations hinge on claims that decentralization is not working or that it has failed to improve local service delivery and economic development.⁴ By underscoring such arguments,

1 Vincent L. Casil (vincent.casil@bta.gov.ph) is Supervising Legislative Staff Officer II of the Legislative Research Division, Policy Research and Legal Services, Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), Philippines.

2 Nassef Manabilang Adiong, PhD (nassef.adiong@bta.gov.ph) is the Director of Policy Research and Legal Services, Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), Philippines.

3 Bangsamoro Parliament Bill 30, “An Act Providing for the Bangsamoro Local Governance Code,” sec. 2. 27 September 2022. https://parliament.bangsamoro.gov.ph/wp-content/uploads/2022/09/Bill-No.-30-Government-of-the-day-LOCAL-GOVERNANCE-CODE_compressed.pdf

4 Yasuhiko Matsuda, “Ripe for Bigbang? Assessing the Political Feasibility of Legislative Reforms in the Philippines’ Local Government Code,” *The Policy Research Working Paper* 5792 (World Bank, 2011), 4.

decentralization can now be understood as a complex issue of intertwining problems rather than simplistically related to empowerment, inclusivity, and an inclination towards localism. In this manner, possible problems and issues in the BLGC can be anticipated, and recommendations in the key areas can be prepared.

From the Local Government Code of 1991 to the Bangsamoro Local Government Code

The LGC of 1991, which puts forward the decentralization and devolution of the national government's power to its local units, was welcomed by many sectors.⁵ In principle, decentralization aims for more empowered local units. Granting power to local governments would lead to more inclusive governance since local units could directly provide to serve their constituencies. Similar arguments drive the desire for a more federal form of government.⁶

However, positive connotations of the proposed decentralization of LGC of 1991 should be read in its historical sense. The constitution of LGC of 1991 was established against the backdrop of the overthrow of the Marcos dictatorship in 1986. Against the highly centralized Marcos government, the LGC of 1991 was created to decentralize the politico-administrative system, expand the people's access to the political system, and provide local institutions greater autonomy. Such a positive sense is somehow rooted in the early uses of decentralization, which serves as a reaction against Marcos' authoritarian rule.

The same notion of decentralization was carried out by the BLGC. Although

decentralization still connotes more empowered and inclusive governance in the positive sense, the BLGC's notion of decentralization should be reexamined in view of the experiences in implementing the LGC of 1991 and the unique condition of the Bangsamoro region.

This shift is crucial to underscore what decentralization means in the contemporary Bangsamoro setting. As the governance conditions during the authoritarian regime of Marcos are no longer present, what should be underscored are the critical problems experienced during the implementation of decentralization. This restructuring of local government has affected (1) the overlapping of, and confusion over, the roles of the national government and the LGUs; (2) LGUs using devolved power to serve their interests, resulting in inefficient functioning; and (3) the lack of LGU accountability in monitoring their functions.

In the BARMM context, the problem of decentralization could be further exacerbated by its transitional period. *The US Institute of Peace Special Report* has identified four problems, namely: (1) the revolutionary government; (2) unclear delineation and negotiation of the relationship between the national government and the LGUs; (3) intra-Moro conflicts; and (4) security challenges. But more importantly, decentralization in the region is made difficult by the fact that the parliamentary condition in BARMM is unprecedented in the Philippines. There are no other parliamentary government systems in the country where BARMM can draw some lessons. Because of this reality, the Bangsamoro region clearly lacks the experience to have a definitive notion on

5 Alex Brillantes Jr., "Decentralized Democratic Governance Under the Local Government Code: A Governmental Perspective" *Philippine Journal of Public Administration* 42, nos. 1 and 2 (January–April 1998), 44.

6 Azer Parrocha, "SC Mandanas-Garcia Ruling 'a Taste' of Federalism in PH: Nograls," *Philippine News Agency*, 21 August 2001, accessed 7 February 2022, <https://www.pna.gov.ph/articles/1150147>

how the BLGC could be a distinctive code that will capture the aspirations of the Bangsamoro region.

Noting the problems of the LGC of 1991 and the unstable and transitional character of the BARMM government, one could anticipate that decentralization of the BLGC will be a difficult task. Certainly, the BLGC aims to solve the need to have a homegrown LGC, a local government structure that would address the distinctiveness of the region. Yet, one can plausibly anticipate that similar problems of the LGC of 1991 will be experienced by the BLGC, such as LGUs' inefficiency, the overlapping of roles, and the lack of monitoring and accountability.

Decentralization, Electoral System, Local Council, NGOs, and Transparency

Recognizing the possible problems of decentralization allows for a more realistic expectation of what BLGC can provide. Although the BLGC and its decentralization philosophy aim to have a more responsive and accountable local government, the BLGC has limited capacity to fully address the critical issues of LGUs.

One way to approach the possible problems of BLGC is to look at it in a holistic sense; that is, as part and aspect of other key Bangsamoro government structures. Studies have noted that the BLGC is only as effective as the kind of elections practiced in the region. LGUs' test of accountability begins in the elections.⁷ Hence, the issue of accountability, responsiveness, and efficiency of LGUs should not be understood as an isolated problem of legislation nor approached as a limitation of the capabilities of the executives at the local level. On the

contrary, these issues should be understood as matters that can only be addressed in relation to other aspects of the Bangsamoro parliament. Thus, the BLGC should be seen in view of the critical electoral reforms, the strength of the local councils, civil society participation, and the transparency of information.

Here are some key areas of the Bangsamoro government that require attention in order to address the possible problems of BLGC:

- *Electoral System.* A better electoral system is key to more effective LGUs because this ensures that the power is given to the most deserving political candidate. However, the *padrino* (patronage) culture challenges the Philippine electoral system. Patron-client networks become the arrangement in Philippine politics—from the local government (barangay captains, city and municipal mayors, and provincial governor) to the national government (representatives and presidents).⁸ In this context, officials utilize the power and resources given to LGUs to further maintain their power and serve their interests.

This patron-client relationship during elections is also seen in the Philippine political party system. Blair describes the party system in the Philippines as patronage-based and noncompetitive. At the local level, dominant political families control political parties and positions. Because of personal benefit and calculations on geographical advantage, party-

7 Serdar Yilmaz and Varsha Venugopal, "Local Government Discretion and Accountability in the Philippines," *Journal of International Development* 25, no. 2 (March 2013): 232–33, <https://doi.org/10.1002/jid.1687>

8 Paul D. Hutchcroft and Joel Rocamora, "Strong Demands and Weak Institutions: The Origins and Evolution of the Democratic Deficit in the Philippines," *Journal of East Asian Studies* 3, no. 2 (2003): 259–92; World Bank; Social Development Department; Finance, Economics, and Urban Development; and Social Protection Team; *Local Government Discretion and Authority: A Local Governance Framework* (Washington, DC: World Bank, 2007), 125, <https://openknowledge.worldbank.org/server/api/core/bitstreams/801359c9-9f53-577f-a1f3-0c06db602def/content>

switching is frequent.⁹ There is “a lack of rootedness of party politics in the Philippines.”¹⁰

As a result, voters are likely to elect traditional politicians. This characteristic of the party system also excludes other capable electoral candidates from running and winning, since the election is dominated by popular parties and familiar family names. This situation limits the potential of LGUs to deliver its best services.

A reformed electoral system can achieve better service delivery and downward responsibility, particularly for the poor and marginalized who do not have ties to the elite.

- *Strengthening Local Government Councils.* Competent and well-represented local government councils are foundational for better LGUs. Clearly, the BLGC aims for a key role—to ensure accountability of the local units. This can be achieved through various monitoring policies and check-and-balances. These tasks are meant to be performed by popularly elected local legislative councils functioning at the barangay (Sangguniang Barangay), municipal/city (Sangguniang Bayan/Panlungsod), and provincial (Sangguniang Panlalawigan) levels.

However, due to inadequate capacities in local governance systems, not to mention clientelist politics, the councils’ ability to supervise executives is limited.

Reports have noted that they lack the necessary skills to effectively conduct their oversight functions, such as scrutinizing the budgets and expenditures of their government and component LGUs.¹¹ Competency in fulfilling the role of the local council is also another issue to consider.

Aside from the area of competencies, local councils can be further strengthened by improving their representation. Bangsamoro and the thirteen ethnolinguistic groups have been constantly underrepresented in many legislations, and it is a form of injustice. Modifying the local councils to include a wider representation of the Bangsamoro community could help address the issues of injustice and inclusivity.

- *NGOs’ Role.* The role of non-government organizations (NGOs) in lobbying for accountability should not be downplayed. There are many areas wherein NGOs can support LGUs. NGOs can advance a more advanced electoral culture. They can spearhead voter education and issue-oriented electoral politics rather than the politics of color and popularity. They also have an active role in ensuring that politicians are accountable to their constituents.

A notable NGO advocating for LGUs’ accountability is Concerned Citizens of Abra for Good Government (CCAGG). This organization “monitors public expenditures in the country by mobilising volunteers

9 Harry Blair, “USAID and Democratic Decentralization: Taking the Measure of an Assistance Programme,” in *Democracy Assistance: International Co-operation for Democratization (Democratization Studies 5)*, edited by Peter J. Burnell (London: F. Cass, 2000), 226–40.

10 World Bank; Social Development Department; Finance, Economics, and Urban Development; and Social Protection Team; *Local Government Discretion and Authority*, 125.

11 Yilmaz and Venugopal, “Local Government Discretion and Accountability in the Philippines,” 7.

nationwide.”¹² Another similar NGO is Procurement Watch, Inc. This organization is a nonprofit watchdog that uses “activism, research, and training to combat graft and corruption in government procurement.”¹³

Nevertheless, although NGOs have the critical potential to help improve local accountability, some caveats should be raised. NGOs can be untrustworthy if they are influenced by political connections. They could be also threatened by political violence and pressures.¹⁴

- *Transparency of Information.* Accountability requires that information related to finance and budgeting be available to the public. This could be an area where LGUs can improve, especially as LGUs can now utilize new platforms to publicize their expenditures. Information that does not concern national defense and security should be released to the public. Also, LGUs are encouraged to use administrative orders to “instruct public agencies on ways to disclose public information.”¹⁵ The media and NGOs have a critical role to play in ensuring the availability of better information, which is needed by the locality.

One of the best examples of information availability is the practice of Naga City. In this locality, the internet and newspapers are

utilized to publicize all unit prices and awarded bids. This practice resulted in higher credibility and accountability in the procurement process.¹⁶

Many areas require improvement. Some can also examine the role of Ministry of the Interior and Local Government (MILG) in ensuring that LGUs function better; the Bids and Awards Committee (BAC) is another area of concern, especially in matters related to accountability.

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Editorial Office: Lower Ground Floor, Ang Bahay ng Alumni,
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Diliman, Quezon City 1101

Telephone: 8981-8500 loc. 4266 to 4268 / 8426-0955

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