MANILA BULLETIN
THE NATION'S LEADING NEWSPAPER
Wednesday, February 7, 2018
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Federalism is already in 1987 Constitution; no need to change it

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WHEN I was governor of Laguna, I would often assert that the national government was irrelevant in our province simply because the provincial government is constitutionally autonomous. This means the province has the power to chart its own destiny and plan on its own apart from national government.

Of course, no provincial government can organize its own national defense, have its own currency, enter into international treaties, have its own weights and measures, customs, quarantine, and other functions. These are powers of the national government alone. But for all other areas of local concern, local government units (LGUs) are in charge.

Thus, our provincial government crafted its own 21-point development program of public services specifically designed to more effectively and directly benefit the people of Laguna. This style of planning implements the constitutional principle of subsidiarity, which is simply acting at the lowest level of government rather than at the national level. To boost its economy and finance its 21-point development program, the provincial government put into full use the power of LGUs to create their own sources of revenues and to levy taxes, fees, and charges that accrue exclusively to LGUs. This no-nonsense exercise of local autonomy and subsidiarity made Laguna the country's first-ever "billionaire province" in terms of revenue.

The seemingly maverick stance of Laguna as an autonomous LGU is not meant to highlight an exception to the rule, but rather to exemplify how all LGUs should exercise local autonomy as guided by Article II, Section 25, of the 1987 Constitution, which states: "The state shall ensure the autonomy of local government."

The Local Government Code of 1991 operationalizes the principles of local autonomy, subsidiarity, and decentralization enshrined in the 1987 Constitution, specifically the general welfare clause in Section 16 which states: "Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare." The same provision also states: "Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants." Laguna's 21-point development program was based on the general welfare clause.

What is the relevance of Laguna as a working model of an autonomous LGU?

Because Laguna shows that local autonomy, subsidiarity, and decentralization – the hallmarks of federalism – are *already* embedded in the 1987 Constitution and can be implemented without need of constitutional change. Indeed, these hallmarks present in the 1987 Constitution qualify our present system of governance as "federalism, Philippine-style," consistent with the proposal of its top advocate, the PDP-Laban.

That local governments are empowered by the Constitution itself with the capacity for self-rule to effectively address and decide on all matters of local concern is what I pointed out in the last Senate hearing, presided by Sen. Francis Pangilinan, looking into various proposals on charter change and federalism.

In that Senate hearing, I explained that in our present Constitution, the President can organize administrative regions through executive orders (EO). In fact, all regions in the country were created by presidential EOs, the EO creating the Negros region being the latest. It is indeed within the power of the President, as head of the executive department and as overall supervisor of all local governments, to create new administrative regions or to reduce their number for more efficient administration.

* FEDERALISM
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Section 14, Article 10, of the 1987 Constitution mandates: "The President shall provide for regional development councils or other similar bodies composed of local government officials, regional heads of departments and other government offices, and representatives from non-governmental organizations within the regions for purposes of administrative decentralization to strengthen the autonomy of the units therein and to accelerate the economic and social growth and development of the units in the region."

Therefore, the three main purposes for these "regional development councils (RDCs) or other similar bodies" are: First, for "administrative decentralization"; second, "to strengthen the autonomy" of local governments within the region, for them to have a say in all matters that impact on the region; and third, for RDCs "to accelerate the economic and social growth and development" of the region. Unfortunately, RDCs have been virtually ignored for the longest time.

By strengthening and fully empowering LGUs and RDCs, the principles of decentralization, subsidiarity and local autonomy, which comprise the essence of a federal system, shall be fulfilled and realized without need of constitutional change.

How can full empowerment of LGUs and RDCs be brought about? This question can be answered in two ways: by executive action, and bylegislative action.

By *executive action*, the President can make full use of his power toensure that the budget proposal submitted by Malacañang to Congress contains adequate funding for RDC plans and programs, and that no regions are left behind. Also, the President must order the Department of Budget and Management (DBM) to refrain from using repealed presidential decrees in computing the share of LGUs in national taxes, thus drastically reducing the base of their Internal Revenue Allotment (IRA).

The President must also put a stop to the non-inclusion in the national taxes of internal revenue taxes collected by the Bureau of Customs on VAT and excise tax on imported goods, and the deduction of several special accounts, and the COA share from the total national internal revenue collections. These have led to massive shortfalls in the LGU share on national taxes.

The shortfalls pertaining to the BOC collections have already reached ₱931.7 billion (1995-2017), while the shortfall from the special accounts and COA share is ₱234 billion (1992-2017). In addition, LGUs have been deprived of about ₱70.9 billion (1992-2016) resulting from "discrepancies between IRA in the General Appropriations Act and amounts actually certified by the BIR." All in all, the shortfalls which LGUs have been deprived of now total a staggering ₱1.236 trillion.

The President could declare that the national government owes local governments in the amounts of these shortfalls accumulated over the years and, hence, order their payment. This would strengthen the fiscal autonomy of LGUs that have been reduced to begging for appropriate funds due them for a long time now. Imagine the immediate impact on local development should these massive funds be made available!

I also pointed out in the Senate hearing that the regional level of national agencies like the Development of Health, Social Welfare and Department, Agriculture, and Tourism, ought to have already been phased out by this time, as provided by the Local Government Code which states that the phase-out should have transpired one year after the effectivity of the law. These departments should have then served as monitoring offices and provided technical services to LGUs.

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As for legislative action, Congress should amend the Local Government Code so that LGUs' share in the national wealth and IRA is reversed in favor of local governments – instead of the current 60% to national government and a mere 40% to LGUs. Also, the provision that "local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year" should be amended to base the collection on the preceding year, instead of three years prior. The President should certify these amendments as urgent.

A thorough understanding of the 1987 Constitution will clearly show that the principles of federalism – local autonomy, subsidiarity, and decentralization – are indeed already in the 1987 Constitution. What needs to be done is to operationalize these principles of federalism: first, by educating national and local officials on how these principles should apply to their offices; second, by empowering LGUs to assert their constitutionally guaranteed autonomy; and third, by strengthening RDCs to become fully engaged in the development of their regions.

Beyond the detailed discussion of governmental actions to be taken is the need to reach out to the Filipino citizenry, to transform the minds and hearts of our people to break away from the old habits of our past under colonial and authoritative regimes, when government was paternalistic, centrist, and dependent on national funds, where choosing leaders was personality- rather than capability and values-based, where the value of the vote was not the future of the nation but the day's meal. Our people deserve to know how to become good citizens, to understand how government must be run to effectively serve and develop the nation for the people's benefit. Our people deserve to know how to make informed choices on which government officials will serve the nation and not themselves. Not just government but civil society and institutions must actively participate in bringing about this transformation. Provisions for social justice and people empowerment are uniquely imbedded in our constitution alongside those of decentralization and local autonomy. These must be protected and put into action.

Making changes in the fundamental law of the land must only be done as a matter of absolute necessity and urgency, and not in haste. If inefficiencies and inequalities in the government system can be fixed by executive and legislative action, as well as by educating officials, empowering LGUS, and strengthening RDCs, then let's do it! The ultimate goal of a federal Philippines would then be realized *without* tinkering with the Constitution.

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