



# **BALANCING THE DISTRIBUTION OF GOVERNMENT POWERS (FEDERALISM)**

By Nene Pimentel

# **PRELIMINARY STATEMENT**

# WHAT IS GOVERNMENT?

**Simply put, it is an institution of the State where persons vested with government powers and requisite authority maintain law and order in the territory under its control for the development of the peoples residing therein.**



# IN THIS REPUBLIC



**DIFFERENT LEVELS OF GOVERNMENT POWERS ARE EXERCISED WITHIN ITS TERRITORIAL AND POLITICAL SUBDIVISIONS, NAMELY:**

- 1. NATIONAL**
- 2. REGIONAL, and**
- 3. LOCAL**



# THE POWERS OF THE NAT'L GOVERNMENT are exercised *mainly* by:



**Executive**



**Legislative**



**Judicial**

## *Departments*

**PURSUANT TO THEIR INDIVIDUAL JURISDICTIONS AS DEFINED BY  
THE CONSTITUTION AND RELEVANT LAWS**



## Under the Constitution:

**The President and the Vice President**, the top two executive officials of the government, and **the members of our two-chamber legislature** are elected directly by the qualified voters of the country.

The Republic has a **presidential form of government** .

Other countries are run by **parliamentary governments**. There, the members of the parliament (the law-making body) are elected directly by the qualified voters. The **Members of Parliament**, in turn, **elect the executive officials** of the land.

# WHICH IS BETTER?

## The Presidential or the Parliamentary form of government?

There are so many considerations that must be taken into account to respond to the question adequately, not the least of which is the historical background of either form of government adopted by particular countries.

Examples:

- ✓ The **Presidential Form** seems to be working well in the **US**.
- ✓ The **Parliamentary Form** appears to be addressing the basic concerns of the majority and the minority sectors in **India**.

**[DUE TO TIME CONSTRAINTS, THE QUESTION WILL BE LEFT TO A MORE SUITABLE OCCASION.]**

# Aside from the Executive, Legislative & Judicial Departments

**THERE ARE CONSTITUTIONAL COMMISSIONS THAT EXERCISE INDEPENDENT GOVERNMENT POWERS VESTED IN THEM BY THE CONSTITUTION, NAMELY:**



**TWO OTHER CONSTITUTIONAL BODIES WERE CREATED BY THE CONSTITUTION AND ALSO VESTED WITH TREMENDOUS GOVERNMENT POWERS THAT ARE MEANT TO BE EXERCISED WITHOUT PARTISAN CONSIDERATIONS:**

**THE COMMISSION ON HUMAN RIGHTS (Article XIII, Sec. 17 et seq.)**



And

**THE OFFICE OF THE OMBUDSMAN (Article XI, Sections 5 et seq.)**

# **THE FOUR COMMISSIONS AND THE OFFICE OF THE OMBUDSMAN**

- ✓ CANNOT BE ABOLISHED BY CONGRESS OR BY ACT OF THE EXECUTIVE**
- ✓ THEY ENJOY FISCAL AUTONOMY**
- ✓ THEIR MAIN POWERS ARE DEFINED BY THE CONSTITUTION, AND MAY NOT BE DIMINISHED, BUT, MAY BE ADDED TO BY LAW**



UNDER OUR SYSTEM OF UNITARY AND CENTRALIZED GOV'T THE POWERS THAT ARE EXERCISED BY THE DIFFERENT DIVISIONS OF GOVERNMENT ARE SET FORTH BY THE CONSTITUTION AND PERTINENT LAWS.

***THE NATIONAL (OR CENTRAL) GOVERNMENT*** HAS THE MOST POWERS.

***THE REGIONAL GOVERNMENT*** HAS LESS POWERS THAN THE NATIONAL GOVERNMENT, BUT HAS MORE POWERS THAN THE LOCAL GOVERNMENTS.

***THE LOCAL GOVERNMENTS*** HAVE THE LEAST POWERS AMONG THE THREE GOVERNMENTAL CATEGORIES.

# TWO Regional Governments are recognized by the Constitution:



1. The Autonomous Region of Muslim Mindanao (ARMM)



2. The Autonomous Region of the Cordilleras (CAR)

Note: **For purposes of our discussion, ARMM issues are given more focus.**

# **BASIC POWERS OF GOVERNMENT ARE SAID TO INCLUDE:**

- 1. TAXATION** - must be uniform, equitable & progressive (Art. VI, Sec. 28, Constitution).
- 2. EMINENT DOMAIN** – Power to expropriate private property must be for public use and upon payment of just compensation (Art. III, Sections 1 and 9, Constitution)
- 3. POLICE POWER** - Power to deliver public services in health, morals, and safety to promote the general welfare of the people.

# **PRESENT SYSTEM OF PHILIPPINE GOVERNMENT**

➤ **is UNITARY AND HIGHLY CENTRALIZED**

➤ **Although, certain GOVERNMENT POWERS  
ARE NOW SHARED WITH LGUs**

**THROUGH**

- **THE LOCAL GOVERNMENT CODE,**
- **and other legislations**

# **THREE MAJOR NAT'L GOV'T DEPARTMENTS ARE LARGELY AFFECTED BY THE LG CODE**



**Agriculture**

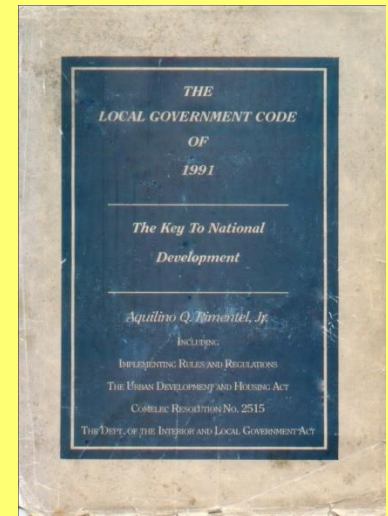


**Health**



**Social Welfare**

# Sec. 17 of the 1991 LG Code directs LGUs:



- to deliver basic services and provide facilities currently vested on them;
- to discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code, and
- to exercise such other powers and ... other functions and responsibilities as are necessary, appropriate, or incidental to (the) efficient and effective provision of the basic services and facilities enumerated herein.



# ENVIRONMENTAL ISSUES



**NOW ALSO A MAJOR CONCERN OF LGUs like:**

1. Solid waste disposal system;
2. Services/facilities related to general hygiene and sanitation;
3. Implementation of community-based forestry projects including social forestry programs, and similar projects, and
4. Management and control of communal forests.

**IT MUST ALSO BE MENTIONED  
THAT:**

**THE DEPARTMENT OF THE  
INTERIOR AND LOCAL  
GOVERNMENT  
(DILG)**



**Under the LG Code:**

- ✓ Only has supervisory powers, not control, over LGUs on behalf of the president
- ✓ As the Department of the Interior, its main functions deal with the police.

**FOR EMPHASIS:**

**THE GREATLY CENTRALIZED, UNITARY FEATURE OF  
THE GOVERNMENT PERSISTS**

***Despite the passage of the Local Government Code, the system of government of the country is still highly centralized and unitary as opposed to the federal system.***

# **SOME PRACTICAL CONSEQUENCES**

## **AMONG OTHER THINGS:**

**“THE HIGHLY CENTRALIZED, UNITARY SYSTEM ... RESULTED IN AN IMBALANCE IN THE DISTRIBUTION OF RESOURCES AMONG LGUs.”**

**✓Impliedly, it has fueled the armed rebellion of Muslim factions in parts of Mindanao against the government, and**

**✓HAS HAMPERED THE SPEEDY DEVELOPMENT OF THE LOCAL COMMUNITIES, AND OF THE PEOPLE RESIDING THEREIN.**

HENCE, the proposal to adopt a  
concrete, doable, practical plan  
to speed up the development of the country  
and our people, and dissipate the national  
causes of unrest by installing:

THE FEDERAL SYSTEM  
(with a presidential form)  
OF GOVERNMENT IN THE REPUBLIC

# **DISCUSSION PROPER**

## **1982 PROPOSAL TO ADOPT THE FEDERAL SYSTEM**

**[NOTE: PRESENT CONSTITUTION NEEDS REVISION  
TO ACCOMMODATE THE PROPOSAL]**



Seminal **1982** idea

The plan formally advocated **Federalizing the Philippines** in 1982.

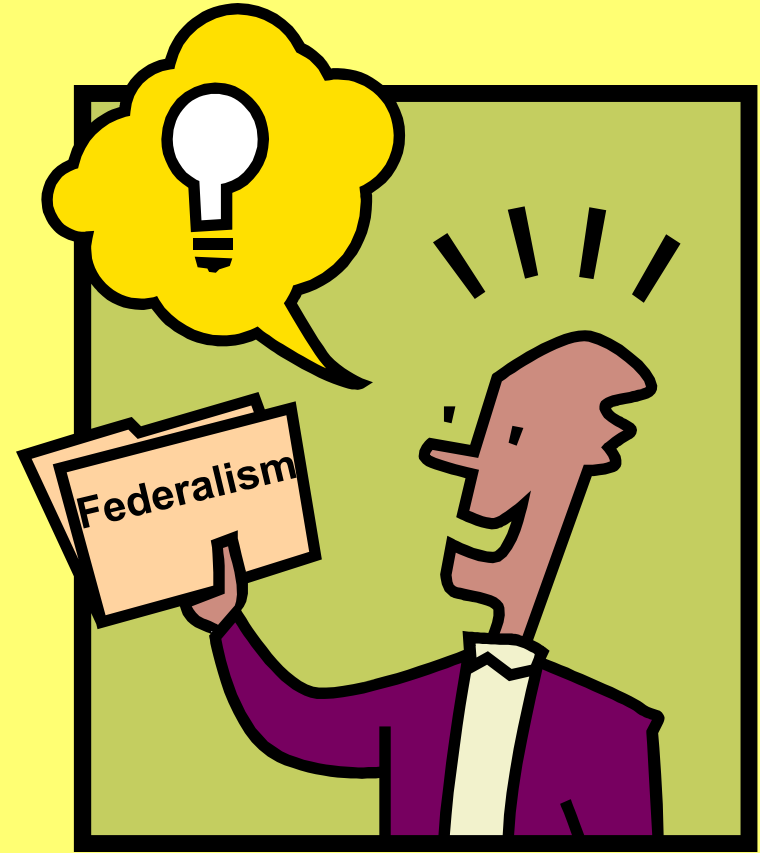
The federal idea, then, was seminal in many respects.

It was **proposed to serve as the basis of a** viable alternative to the dictatorship, and bring about a distribution of government powers previously concentrated in the national government for so long.

## *Share power*

The proposed solution was for the national government to share power – political and economic – with the regional and local governments throughout the nation.

**PEACEFULLY.**



by converting the country into a  
**Federal Republic.**



Some provisions of the present Constitution are proposed for retention despite the move to federalize the country.

# ***THERE WILL ONLY BE ONE CONSTITUTION***



Among other things,  
there will also be:

- ✓ **One Armed Forces** of the Federal Republic
- ✓ **One Flag.**
- ✓ **One Central Bank.**
- ✓ **One Monetary System.**
- ✓ **One Foreign Policy.**
- ✓ **One Public Education System.**

# HOW MANY FEDERAL STATES SHALL THE COUNTRY HAVE?

IT IS PROPOSED THAT THE COUNTRY SHALL  
HAVE:

## 11 FEDERAL STATES

TO BE CREATED BASICALLY OUT OF THE  
ADMINISTRATIVE REGIONS already existing. By doing so,  
the identities of every proposed federal state are already  
known by and large by the people.

*(Note: The island of Negros had not yet been declared as a region when this paper  
was first prepared; See Slide No. 38)*

# NUMBER OF LGUs WHEN THE PROPOSAL WAS MADE:

✓ Provinces – 81

✓ Cities – 145

✓ Municipalities – 1,489

✓ Barangays – 42,036



# WHAT ABOUT METRO-MANILA?



Metro-Manila will be converted into a ***Federal Administrative Region*** covering:

No. of Cities: 16

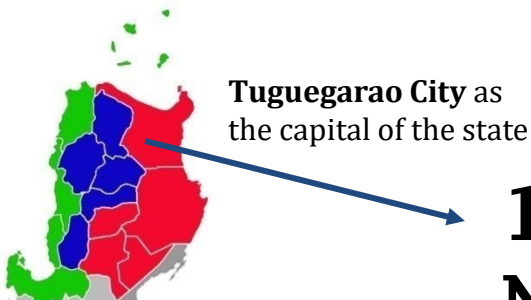
No. of Municipalities: 1 (Pateros)

No. of Barangays: 1,706

**Metro-Manila as a Federal Administrative Region will be treated** like Washington D.C., or New Delhi or Kuala Lumpur.

# *How many States will Luzon have?*

**Luzon will have four States, namely:**



**1. The Federal State of  
Northern Luzon covering:**

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
<b>15</b>	<b>15</b>	<b>280</b>	<b>6,752</b>

**COMBINED TOTAL POPULATION = 9,248,726**  
**COMBINED TOTAL LAND AREA = 6,066,346ha**

# 1. The Federal State of Northern Luzon covering:

## CITIES

- Region I
  - Batac
  - Laoag
  - Candon
  - Vigan
  - San Fernando
  - Aluminos
  - Dagupan
  - San Carlos
  - Urdaneta
- Region II
  - Tuguegarao
  - Isabela
  - Kawayan
  - Ilagan
- CAR
  - Tabuk
  - Baguio

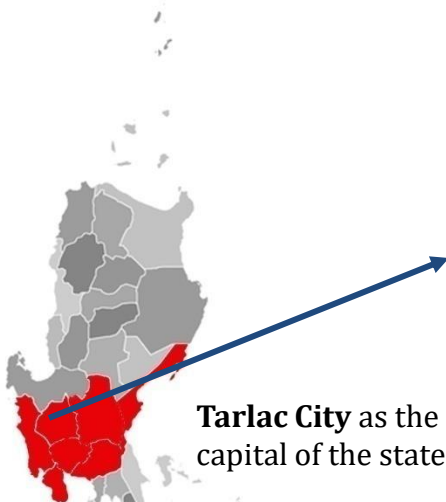
**Tuguegarao City** as the capital of the state

## POVINCES

- **Region I**
  - Ilocos Norte
  - Ilocos Sur
  - Pangasinan
  - La Union
- **Region II**
  - Batanes
  - Cagayan
  - Isabela
  - Quirino
  - Nueva Viscaya
- **CAR**
  - Abra
  - Apayao
  - Kalinga
  - Mountain Province
  - Benguet
  - Ifugao

## ... Luzon States

### 2. The Federal State of Central Luzon covering:

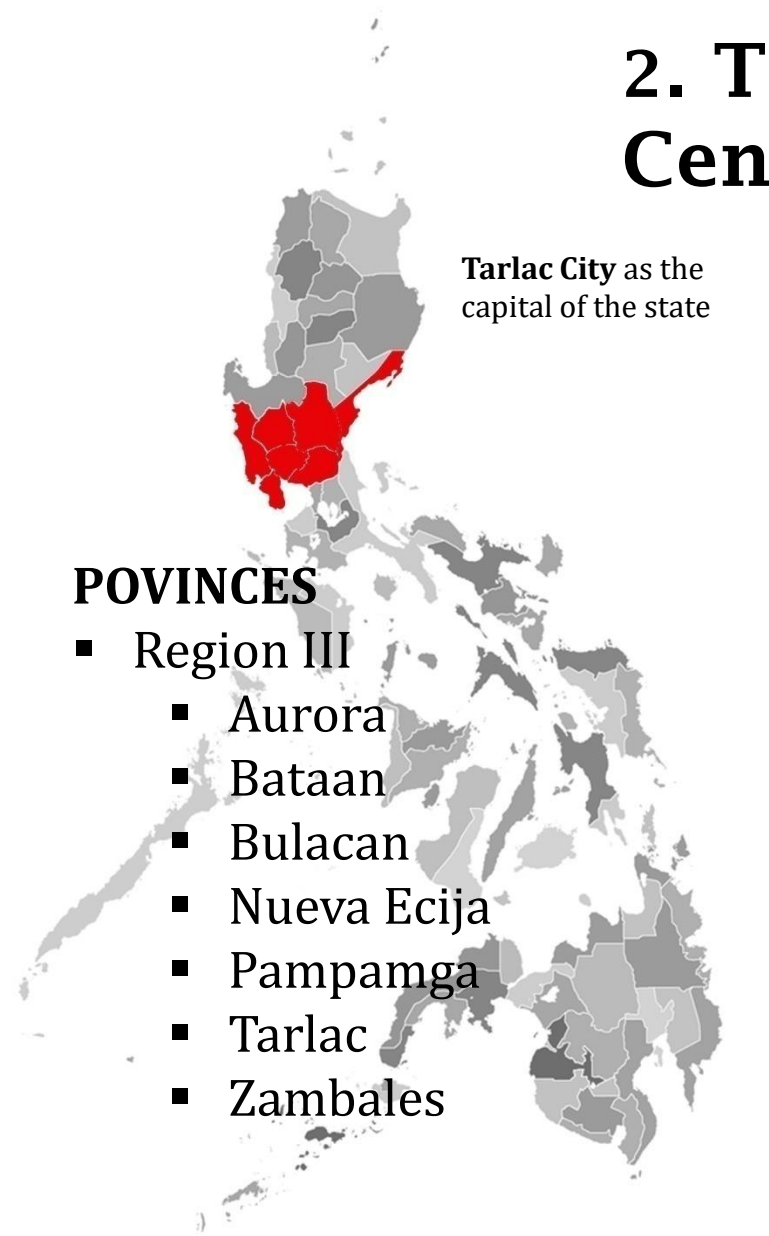


No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
7	14	116	3,102

COMBINED TOTAL POPULATION = 9,590,223

COMBINED TOTAL LAND AREA = 2,201,490ha

## 2. The Federal State of Central Luzon covering:



### CITIES

- Region III
  - Balanga
  - Malolos
  - Mecaauayan
  - San Jose del Monte
  - Cabanatuan
  - Gapan
  - Muñoz Science City
  - Palayan
  - San Jose
  - Angeles
  - Mabalacat
  - San Fernando
  - Tarlac
  - Olongapo

## ... Luzon States

### 3. The Federal State of Southern Tagalog covering:



Tagaytay City as the  
capital of the state

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
5	19	123	4,018

COMBINED TOTAL POPULATION = 12,363,411  
COMBINED TOTAL LAND AREA = 1,687,151ha

### 3. The Federal State of Southern Tagalog covering:

#### CTIES

- Region IV-A
  - Bacoor
  - Cavite
  - Dasmarinas
  - General Trias
  - Imus
  - Tagaytay
  - Trece Martirez

#### POVINCES

- Region IV-A
  - Cavite
  - Laguna
  - Batangas
  - Quezon
  - Rizal

- Biñan
- Cabuyao
- Calamba
- Sab Pablo
- San Pedro
- Santa Rosa
- Batangas
- Lipa
- Tanauan
- Lucena
- Tayabas

- Antipolo

## ... Luzon States

### 4. The Federal State of Bicol covering:

Legazpi City as the  
capital of the state

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
5	6	87	2,921

COMBINED TOTAL POPULATION = 4,585,761

COMBINED TOTAL LAND AREA = 1,400,404ha



## 4. The Federal State of Bicol covering:



Legazpi City as the  
capital of the state

### POVINCES

- Region V
  - Albay
  - Camarines Norte
  - Camarines Sur
  - Catanduanes
  - Sorsogon

### CITIES

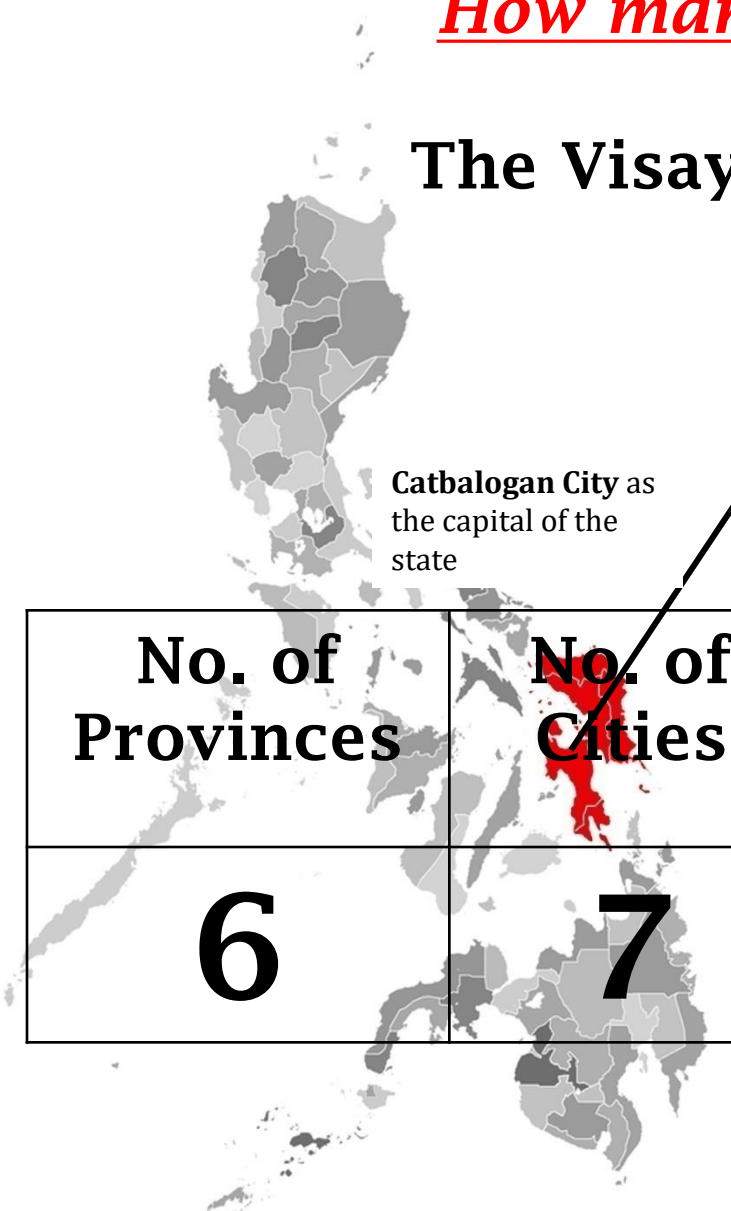
- Region V
  - Legaspi
  - Ligao
  - Tabaco
  - Naga
  - Sorsogon
  - Iriga

## *How many States will the Visayas have?*

**The Visayas will have four federal states.**

**1. The Federal State of Eastern Visayas covering:**

Catbalogan City as  
the capital of the  
state



No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
6	7	136	4,390

**COMBINED TOTAL POPULATION = 3,880,148**

**COMBINED TOTAL LAND AREA = 2,325,110ha**

# 1. The Federal State of Eastern Visayas covering:



Catbalogan City as the capital of the state

## POVINCES

- Region VIII
  - Eastern Samar
  - Norther Samar
  - Samar
  - Biliran
  - Leyte
  - Southern Leyte

## CITIES

- Region VIII
  - Borongan
  - Calbayog
  - Catbalogan
  - Baybay
  - Ormoc
  - Tacloban
  - Maasim

## ...Visayas States

### 2. The Federal State of Central Visayas covering:

Toledo City as the  
capital of the state

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
5	17	136	3,553

COMBINED TOTAL POPULATION = 6,086,872  
COMBINED TOTAL LAND AREA = 2,003,7750ha

## 2. The Federal State of Central Visayas covering:



### POVINCES

- Region VII
  - Bohol
  - Cebu
  - Siquijor
  - Negros Oriental
  - Masbate

### CITIES

- Region VII
  - Tagbilaran
  - Bais
  - Bayawan
  - Canlaon
  - Dumaguete
  - Guihulngan
  - Tanjay
  - Masbate
  - Bogo
  - Cebu
  - Carcar
  - Danao
  - Lapu-lapu
  - Mandaue
  - Naga
  - Talisay
  - Toledo

## *...Visayas States*

### 3. The Federal State of Western Visayas covering:

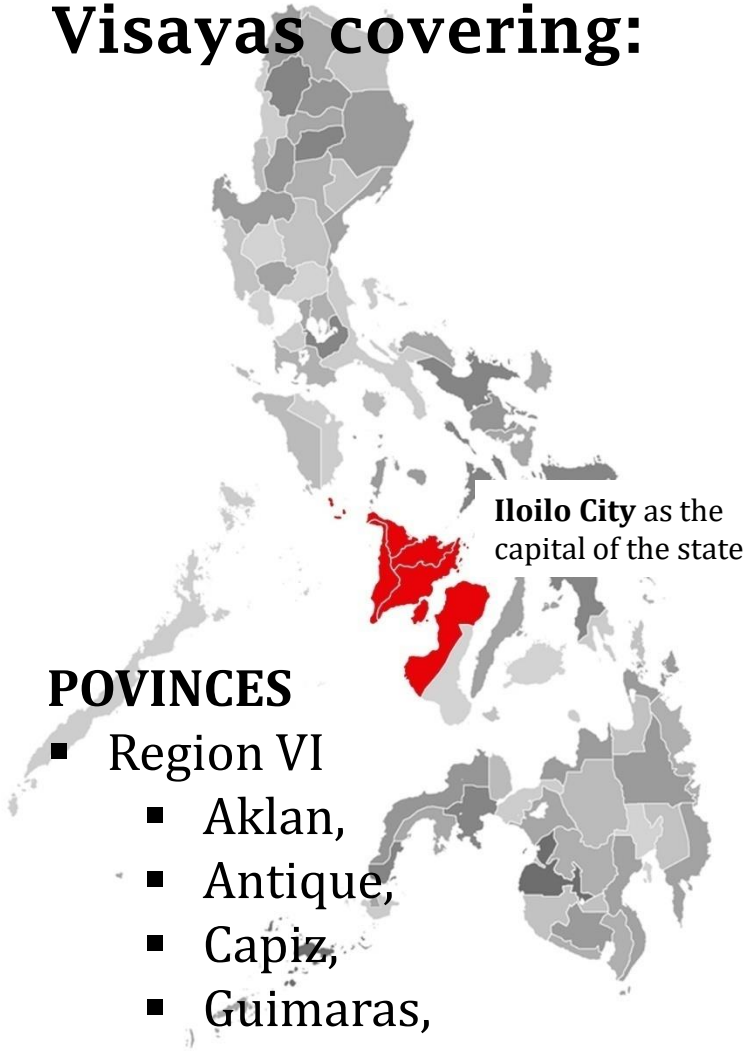
Iloilo City as the  
capital of the state

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
6	16	117	3,990

COMBINED TOTAL POPULATION = 6,165,999

COMBINED TOTAL LAND AREA = 2,079,418ha

### 3. The Federal State of Western Visayas covering:



#### POVINCES

- Region VI
  - Aklan,
  - Antique,
  - Capiz,
  - Guimaras,
  - Iloilo
  - Negros Occidental

#### CITIES

- Region VII
  - Roxas
- Iloilo
- Passi
- Bacolod
- Bago
- Cadiz
- Escalante
- Himamaylan
- Kabankalan
- La Carlota
- San Carlos
- Silay
- Sipalay
- Sagay
- Talisay
- Victorias

# WHAT ABOUT THE NEW NEGROS ISLAND REGION?

✓ The **new region** composed of the **Provinces of Negros Occidental and Negros Oriental** may be created as a separate **Federal State of Negros**.

Or

✓ Negros Occidental may remain a part of the **Federal State of Western Visayas**, and Negros Oriental, a part of the **Federal State of Central Visayas**



## *...Visayas States*

Mamburao, Mindoro  
Occidental as the capital of  
the state

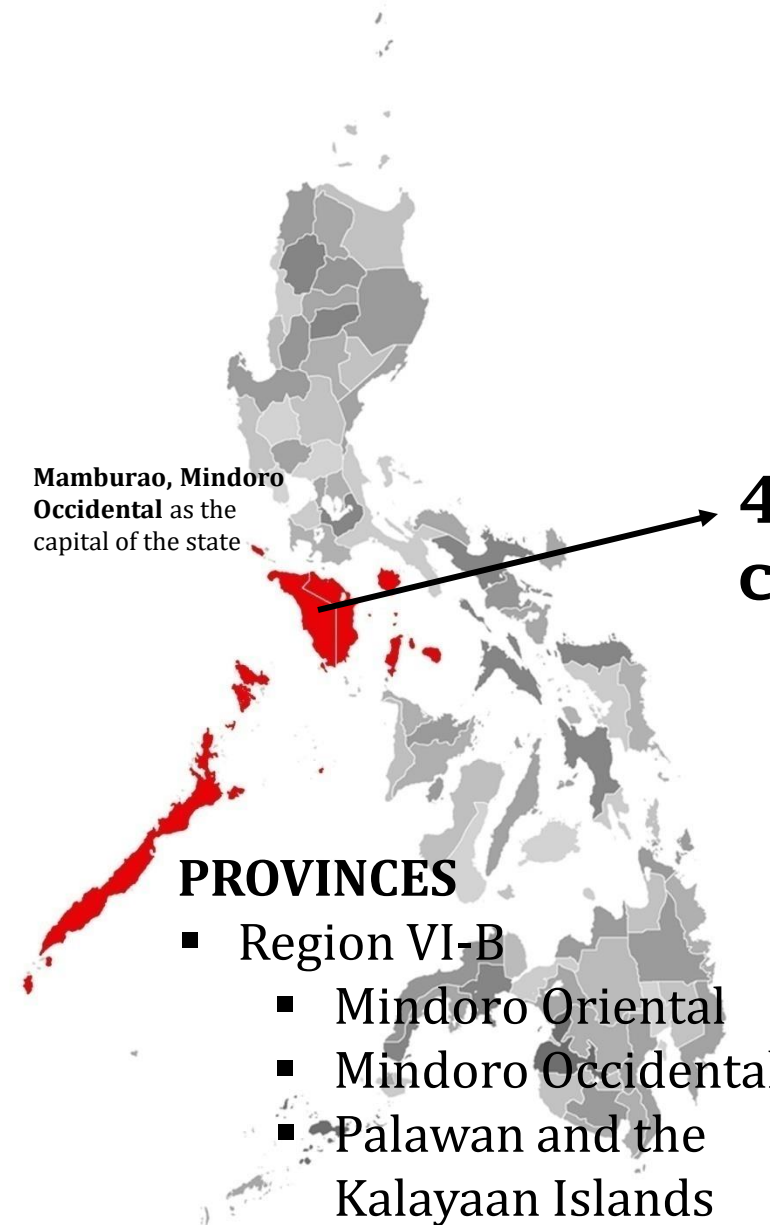
### 4. The Federal State of Minparom covering:

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
5	2	71	1,459

COMBINED TOTAL POPULATION = 2,521,998

COMBINED TOTAL LAND AREA = 2,961,632ha<sup>45</sup>

## *...Visayas States*



Mamburao, Mindoro Occidental as the capital of the state

### 4. The Federal State of Minparom covering:

#### PROVINCES

- Region VI-B
  - Mindoro Oriental
  - Mindoro Occidental
  - Palawan and the Kalayaan Islands
- Romblon
- Marinduque

#### CITIES

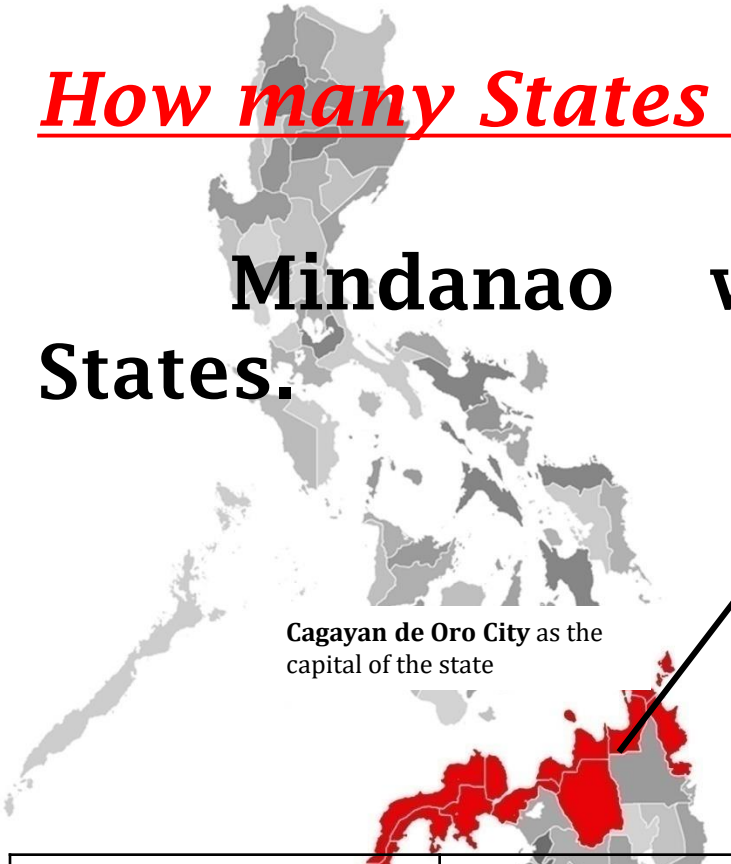
- Calapan
- Puerto Princesa

# *How many States will Mindanao have?*

**Mindanao will have three Federal States.**

**1. The Federal State of Northern Mindanao covering:**

Cagayan de Oro City as the capital of the state



A map of the Philippines with Mindanao highlighted in red. An arrow points from the text '1. The Federal State of Northern Mindanao covering:' to the red-shaded area of Northern Mindanao on the map.

No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
11	16	188	4,528

**COMBINED TOTAL POPULATION = 6,776,659**

**COMBINED TOTAL LAND AREA = 4,387,506ha**

# 1. The Federal State of Northern Mindanao

covering:



Cagayan de Oro City as  
the capital of the state

## PROVINCES

### Region IX

- Zamboanga Sibugay
- Zamboanga del Norte
- Zamboanga del Sur

### Region X

- Bukidnon
- Camiguin
- Lanao del Norte
- Misamis Occidental
- Misamis Oriental

### Region XIII

- Agusan del Norte
- Dinagat Island
- Surigao del Norte

## CITIES

- Dapitan
- Dipolog
- Pagadian
- Zamboanga
- Malaybalay
- Valencia
- Iligan
- Oroqueta
- Ozamis
- Tangub
- Cagayan de Oro
- Gingoog
- El Salvador
- Butuan
- Cabadbaran
- Surigao

# THE PROPOSED NORTHERN MINDANAO FEDERAL STATE

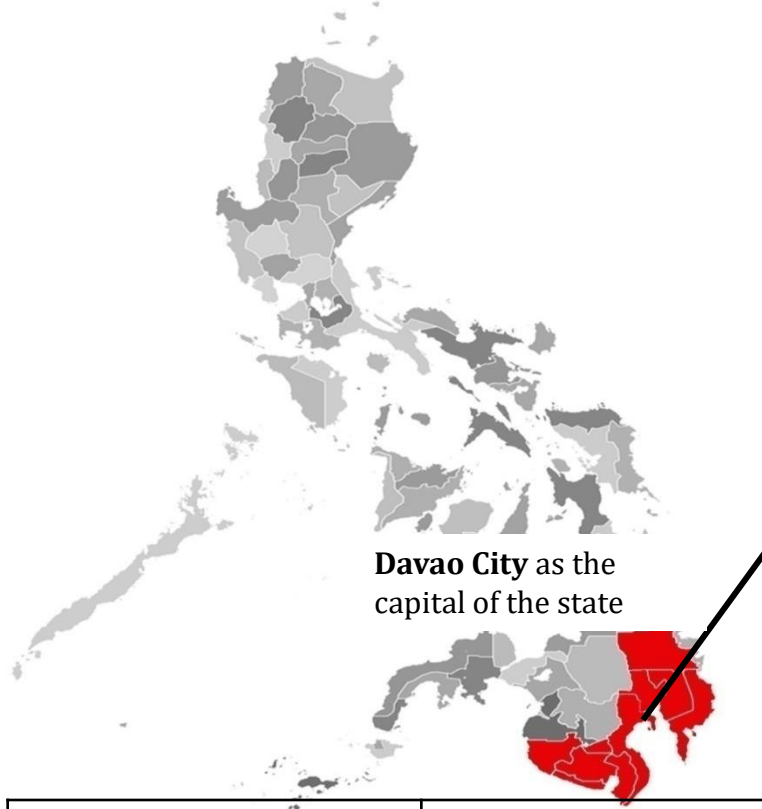
MAY BE TOO LARGE. IT MAY BE DIVIDED  
INTO TWO:

(a) The Federal State of **North-Western Mindanao** covering the Zamboanga Provinces, Lanao del Norte, Misamis Occidental, and Misamis Oriental; and

(b) The Federal State of **North-Eastern Mindanao** comprising the Agusan Provinces, Bukidnon, and Surigao Provinces, and Dinagat.

## ...Mindanao States

### 2. The Federal State of Southern Mindanao covering:

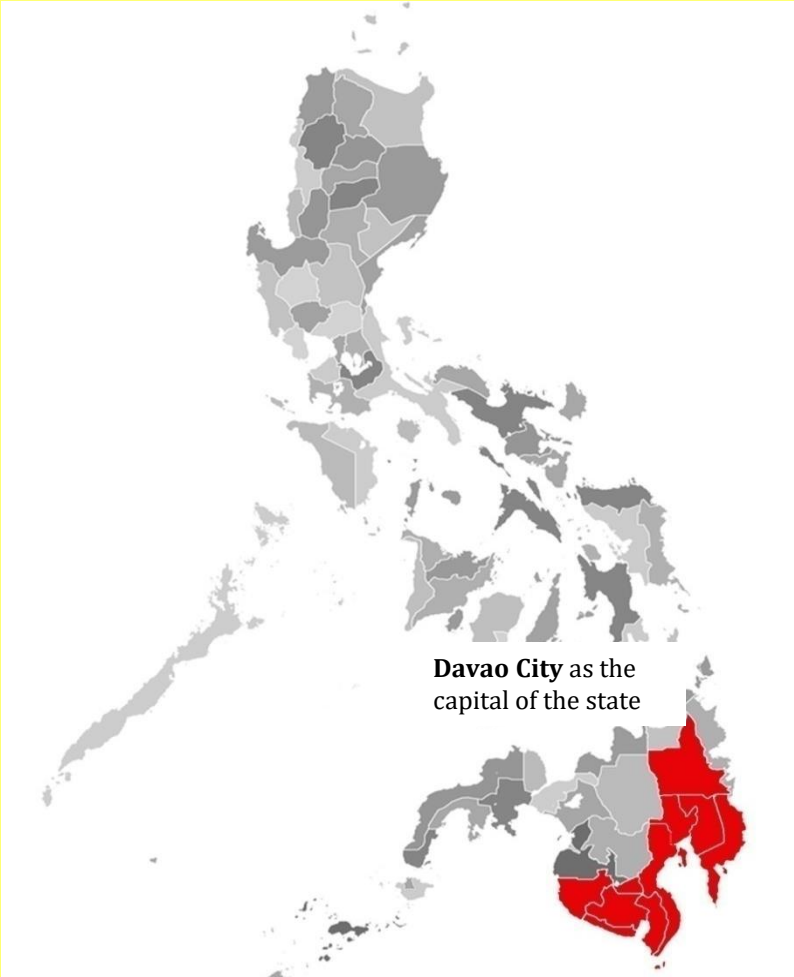


No. of Provinces	No. of Cities	No. of Municipalities	No. of Barangays
11	13	118	2,943

COMBINED TOTAL POPULATION = 7,331,479

COMBINED TOTAL LAND AREA = 5,617,914ha

## 2. The Federal State of Southern Mindanao



### PROVINCES

#### Region XI

- Davao Oriental
- Compostela Valley
- Davao del Sur
- Davao Occidental
- Davao del Norte

#### Region XII

- South Cotabato
- Sarangani
- North Cotabato
- Sultan Kudarat

#### Region XIII (Caraga)

- Agusan del Sur
- Surigao del Sur

### CITIES

- Mati
- Davao
- Digos
- Panabo
- Samal
- Tagum
- General Santos
- Koronadal
- Cotabato
- Tacurong
- Bayugan
- Bislig
- Tandag

## *...Mindanao States*

### 3. The Federal State of Bangsamoro covering:



Marawi City as the  
capital of the state

No. of Provinces*	No. of Cities	No. of Municipalities	No. of Barangays
5	4	116	2,572

COMBINED TOTAL POPULATION = 3,256,140

COMBINED TOTAL LAND AREA = 3,351,142ha



### 3. The Federal State of Bangsamoro



#### PROVINCES

- Lanao del Sur
- Maguindanao (Shariff Kabunsuan)
- Basilan
- Sulu
- Tawi-Tawi

#### CITIES

- Isabela
- Lamitan
- Marawi
- Cotabato

# **A PROPOSED CHANGE ON THE BANGSAMORO FEDERAL STATE**

Two Federal States for the Bangsamoro  
peoples:

**One Federal State for the Mainland Muslims of Mindanao**  
(Maranaws, Maguidanaos, and sub-tribes), and

Another Federal State for the **Off-Shore Islands Muslims** (of  
Basilan, Sulu and Tawi-Tawi)

# Why Bangsamoro Federal State is vital to the nation

❑ The secessionist movements of the various Moro groups started since the Spanish colonial era.



❑ The secessions cannot be solved permanently by force.

❑ The suggested solution: Federalize the country and convert the present Autonomous Region of Muslim Mindanao into a Bangsamoro Federal State.

## **AND THE BBL?**



**The Bangsamoro Basic Law – as a peace effort - now pending in both Houses of Congress has good intentions.**

**Any move to bring peace to the country should be backed up by the people.**

**BUT ...**



**ANY SUCH MOVE MUST BE  
IN ACCORD WITH THE CONSTITUTION.**

**Which means that the elections that the BBL  
intends to hold in the Bangsamoro entity must  
conform with Article X, Sections 1 & 18 of the Constitution.**

**Sections 1 and 18 of Article X  
cited above bar the kind of elections the BBL  
intends to hold in the Bangsamoro entity.**



The 2<sup>nd</sup> sentence of Section 1 of Article X of the Constitution ordains that:

***“There shall be autonomous regions in Muslim Mindanao and the Cordilleras as hereinafter provided.*”**



The phrase “as hereinafter provided” means that

**The creation of the autonomous region of Muslim Mindanao must follow the requirements of Article X of the Constitution.**



**THE BBL CONTRADICTS THE MANDATE OF ART. X, SEC. 18 OF THE CONSTITUTION.**

**THE 2<sup>nd</sup> SENTENCE OF THE CITED SECTION AND ARTICLE PROVIDES THAT:**

**“The organic act (for the Autonomous Region) shall define the basic structure of the government for the region consisting of the executive department and the legislative assembly, BOTH OF WHICH SHALL BE ELECTIVE and representative of the constituent political units.”**



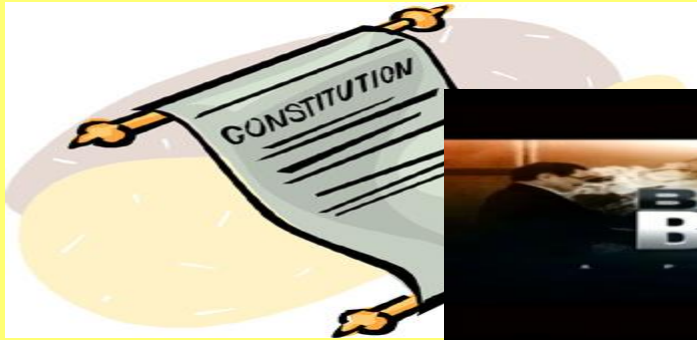
# **WHAT KIND OF ELECTION IS DEALT WITH BY SECTION 18 OF ARTICLE X?**



**The framers of the Constitution could not have any other kind of election in mind other than that with which they were familiar.**

**That means that the executive officials of the Bangsamoro entity, and the members of its legislative assembly must be voted directly by the qualified voters therein, and SEPARATELY, too.**

**If they had an indirect kind of election for the executive officials of the Bangsamoro entity in mind, they would have worded the section accordingly.**



## **SOME BBL PROVISIONS NEED REFINEMENT TO MAKE THEM CONFORM WITH THE CONSTITUTION**

**Examples:**

- > The BBL's Commissions on Elections, Human Rights, Audit, and Civil Service, etc.**

**Note: The Sultan of Sulu disagrees with the BBL intent to rename the Sulu Sea as Bangsamoro Sea.**

THE ADOPTION OF THE SHARIAH AS A LEGAL BASIS **FOR** THE SETTLEMENT OF DISPUTES SHOULD CLEARLY **PROVIDE** THAT IT APPLIES IN THE BANGSAMORO ENTITY ONLY WHEN THE LITIGANTS INVOLVE MUSLIMS.



But, when cases involve Muslims vs Lumads or non-Muslim individuals, **national law** will apply.



## THE BBL BILL OF RIGHTS

**needs  
refinement.**

An example:

Freedom of the Speech should include  
Freedom of the Press.



**The mandate of Article X of the Constitution in creating the Bangsamoro government cannot be superseded by any legislation even if artfully described as “Asymmetric” .**

**The BBL authorizes the people in the Bangsamoro entity to elect only the members of the Bangsamoro parliament.**

**But, not the regional governor or the other executive officials of the Bangsamoro.**



## **HOW TO REMEDY THE CONSTITUTIONAL PROBLEMS FOUND IN THE BBL**

**GET THE PARTIES TO AGREE:**

- ✓ **To renegotiate BBL Agreement. Or**
- ✓ **To amend the problematic BBL provisions. Or**
- ✓ **To amend the constitution by adopting the Federal System.**

# **IF THE FEDERAL SYSTEM IS ADOPTED FOR THE COUNTRY, THERE WILL HARDLY BE A NEED FOR THE BBL**

**As proposed, the federalization of the republic would sufficiently address the fundamental demands of the country's Muslim sector, the Lumads, other minorities without sacrificing the rights of NON-MUSLIMS who reside in the Bangsamoro and in other parts of the Republic.**

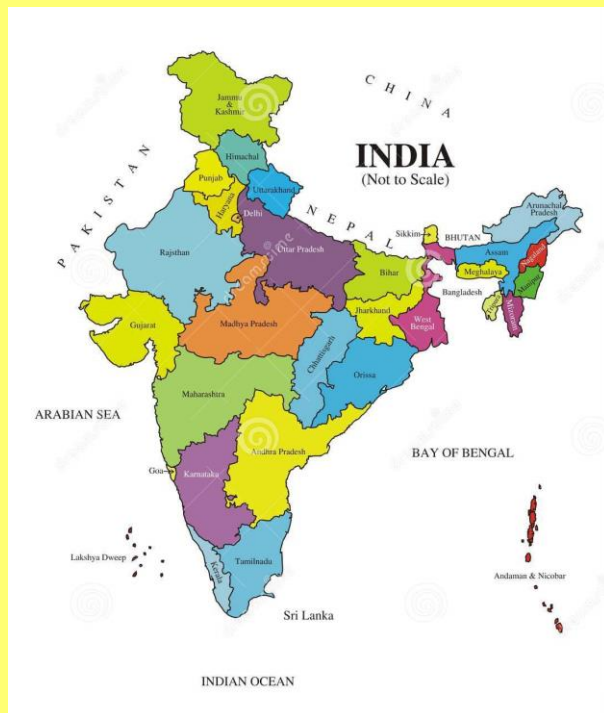




THE ADOPTION OF THE FEDERAL SYSTEM OF GOVERNMENT IS A PROVEN INTERNATIONAL MEANS OF FORECLOSING VIOLENT REBELLIONS.

*EXAMPLES:*

## 1. India



## 2. Switzerland





## In a Federal System, how should the system of checks and balances be imbedded?

- By clearly delineating the powers of the Executive, Legislative and Judicial Departments.
- By creating a **Constitutional Court** that deals only with constitutional issues such as *checks and balances*.
- By broadening the powers of the people to subject certain acts of the Executive, Legislative or the Judiciary to *plebiscites, referenda or initiatives*.
- Probably, by deleting the provision of the Constitution that requires the consent of the State before it may be sued by the people (Sec.3, Art. XVI).

To preclude frivolous suits, the Constitutional Court may be empowered to promulgate such rules as may be needed to ensure its smooth and rational functioning.

# Add SABAH



- ❑ As a part of the Republic's territory.
- ❑ But let's assert our claim to Sabah peacefully and in accord with the internationally-accepted principles of settling disputes by the UN, ASEAN, and other international organizations

# Sabah belongs to the Philippines



- ❑ Sabah is only 217.9 miles or 350.67 kilometers from Bongao, Tawi-Tawi.
- ❑ Sabah is ours. Not Malaysia's.
- ❑ Filipino population: 1.5 million (est. 2013)

# RP's OWNERSHIP OF SABAH

Based on historical fact.

Sabah was given to the Sultan of Sulu as his reward for assisting the Sultan of Brunei to repel his enemies in the 17<sup>th</sup> century.



The Sultanate of Sulu had authorized the Philippine Government to pursue the claim. Sometime during the martial law years, Marcos relinquished the claim back to the heirs.

The present Sultan of Sulu wants the claim reinstituted by the government with the heirs having certain rights over the property once recovered.



# SABAH MAY BE CONVERTED INTO ANOTHER FEDERAL STATE OF THE NATION



# FEDERALIZED RP BOUNDARIES

**National  
Territory,  
defined**



The territory of the Federal Republic should also unequivocally include two previously ambiguously claimed islands, reefs or shoals: **the Scarborough reefs, and Kalayaan Islands.**

Federal State boundaries will expand present regional boundaries.

The Federal States should be constituted out of bigger political territories to provide the environment for competitiveness and sustainability rather than create them out of provinces that in many instances might simply be too small to survive as Federal States.



# \*Include **Kalayaan**

- ❑ Group of islets, shoals, cays, and reefs mostly inhabitable is now a **municipality of Kalayaan..**
- ❑ It has one barangay: Pagasa.
- ❑ It is 519 kilometers from Palawan.
- ❑ It is ours by right of discovery and occupancy
- ❑ Inhabitants – more than 300 civilians, including children.
- ❑ It's newly elected mayor in the 2016 elections is Roberto del Mundo, who beat two-term Mayor Eugenio Bito-Onon, Jr.



# MORE ON KALAYAAN

- SIDELIGHTS ON THE ELECTIONS IN KALAYAAN MUNICIPALITY:
- Retired Air Force Sgt. del Mundo received 142 votes;
- Bitoonon got 59 votes, and the third candidate for mayor,
- Retired Navy Commander Rodrigo Jaca, 28 votes.



# Include Scarborough Shoal



- ❑ The shoal is barely 124 nautical miles away from Masinloc, Zambales, and is within our 200 mile exclusive economic zone.
- ❑ It is 550 nautical miles away from Hainan Island, the closest Chinese territory.

# PRESIDENTIAL FORM, MAY BE RETAINED UNDER FEDERALIZED RP



- ☐ A president and a vice president will be elected nation-wide.
- ☐ Qualifications, the same as in current Constitution except for their educational qualifications. (At least, Baccalaureate Degree Holders from Colleges recognized by the Government)
- ☐ The president and the VP will be elected as **a team.**
- ☐ Terms: 6 years without reelection.
- ☐ Term Limits under current Constitution are intended to apply to those who had been president

# BICAMERAL FEDERAL CONGRESS

**The Federal Congress will have two Houses:**

**(1) The Senate** whose members will be elected by State, and



**(2) The House of Representatives** whose members will be elected by district.

***POWERS in general: Enact laws for the governance of the Federal Republic***

# **STATE SENATORS**

## **QUALIFICATIONS**



- ✓ **Natural born citizen**
- ✓ **Registered voter of the State/Metro Manila/at large**
- ✓ **At least a graduate of a public or private college recognized by the government**
- ✓ **At least 35 years of age on the day of the election**
- ✓ **An actual resident of the State for at least five years immediately prior to the election, or of Metro Manila or of the Continent being represented**

# STATE SENATORS

## TERM OF OFFICE



- ✓ 6 years term for not more than 2 terms.
- ✓ Start of Term: 12noon of the 30<sup>th</sup> day of June next following the day of their election.
- ✓ End at noon of same day 6 years later.

# STATE SENATORS

## MANNER OF ELECTION



- ✓ **Elected by the qualified voters**
  - of the Federal States, or
  - of Metro Manila, or
  - Overseas qualified voters

# Increasing Number of Senators

Every State shall be represented by **six senators** elected by the qualified voters in state-wide elections.  **$11 \times 6 = 66$  plus 6 for Metro-Manila = 72 + 9 overseas senators = 81.**

## *Justification for the increase*

The 24 senatorial limit was based on a Philippine population of 20 million or so. Now we are roughly **104 million**. The increase in the number of senators (and of the members of the House) may be justified by the rise in our population.













## OTHER COUNTRIES WITH LESS POPULATIONS HAVE LARGER SENATES

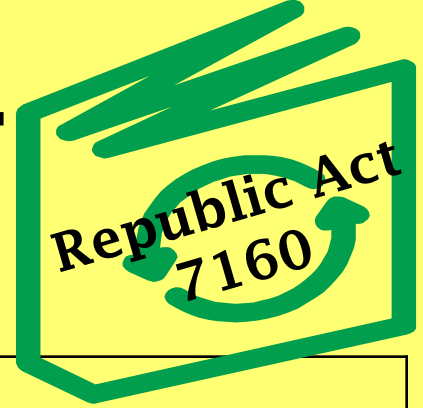
**Moreover, as the next slide shows, compared with the Philippines, many countries with far less populations have more representatives in their upper chambers.**



# 10 NATIONS WHOSE UPPER LEGISLATIVE CHAMBERS HAVE MORE LEGISLATORS THAN OUR SENATE

Country	Population	Members/ Upper Chamber
(1) UK 	60.9 million	618
(2) France 	64 million	331
(3) Italy 	52 million	315
(4) Spain 	40 million	264
(5) Egypt 	81.7 million	264
(6) Thailand 	65.4 million	150
(7) Ethiopia 	78 million	108
(8) Australia 	20.6 million	76
(9) Malaysia 	25 million	70
(10) Ireland 	4.1 million	60

# EVERY FEDERAL STATE WILL HAVE OWN GOVERNOR & VICE-GOVERNOR



Qualifications	<ul style="list-style-type: none"><li>✓ Natural born citizen</li><li>✓ A registered voter of any province, city, municipality or barangays of the State</li><li>✓ At least, a graduate of a public or private high school recognized by the government</li><li>✓ At least, 30 years of age on the day of the election, and an actual resident of the State for, at least 5 years immediately prior to the election.</li></ul>
Term of Office	<ul style="list-style-type: none"><li>✓ Shall serve for no more than three consecutive terms of 4 years each which shall begin at 12 noon of the 30<sup>th</sup> day of June next following the day of their election and shall end at noon of the same day 4 years thereafter</li></ul>
Manner of Election	<ul style="list-style-type: none"><li>✓ Shall be elected by the qualified voters of the provinces, cities, municipalities and barangays located in the State.</li></ul>

**There will still be Provincial Governors, City or Municipal Mayors and other local government officials.**

- Every State will have a **Unicameral** State Legislature.
- **Three State Legislators** will represent every province and city in the State Legislature.
- **Elected by their peers** in the Sangguniang Panlalawigan and Sangguniang Panlungsod respectively.
- **Three Sectoral Representatives** will represent farmers, fisher folk & senior citizens for every province and city in the State Legislature.

***POWERS in general: Enact laws for the governance of the State***

# STATE LEGISLATORS

## QUALIFICATIONS:

- ✓ A natural born citizen
- ✓ A registered voter of any province, city, municipality or barangays of the State
- ✓ At least, a graduate of a public or private high school recognized by the government
- ✓ At least, 30 years of age on the day of the election, and an actual resident of the State for, at least 5 years immediately prior to the election.



# STATE LEGISLATORS

## TERM OF OFFICE

✓ Shall serve for no more than three consecutive terms of **4 years each** which shall begin at 12 noon of the 30<sup>th</sup> day of June next following the day of their election and shall end at noon of the same day four years thereafter

# STATE LEGISLATORS

## MANNER OF ELECTION

- a. **Of Regular Members:**
  - > Elected by their peers in the Sangguniaang Panlalawigan and Sangguniang Panlungsod respectively.
- b. **Of Sectoral Representatives:**
  - > Elected by the sectors concerned as defined by State Law.

# STATE LEGISLATORS WHEN ELECTED

- Within **one month** from the assumption of office of the **members of the Sangguniang Panlalawigan and Sangguniang Panlungsod** and the **Sectoral** Representatives concerned.

# STATE LEGISLATORS PER STATE

<b>Federal States</b>	<b>Number of State Legislators</b>
<b>State of Northern Luzon</b>	<b>90 State Legislators</b>
<b>State of Northern Mindanao</b>	<b>81 State Legislators</b>
<b>State of Southern Mindanao</b>	<b>72 State Legislators</b>
<b>State of Western Visayas</b>	<b>69 State Legislators</b>
<b>State of Central Visayas</b>	<b>69 State Legislators</b>
<b>State of Central Luzon</b>	<b>63 State Legislators</b>
<b>State of Southern Tagalog</b>	<b>54 State Legislators</b>
<b>State of Eastern Visayas</b>	<b>42 State Legislators</b>
<b>State of Bicol</b>	<b>36 State Legislators</b>
<b>State of BangsaMoro</b>	<b>33 State Legislators</b>
<b>State of Minparom</b>	<b>24 State Legislators</b>

**The Federal Administrative Region of Metro-Manila will have 51 State Legislators.**



## CONSTITUTIONAL COURT CREATED TO RULE ON CONSTITUTIONAL ISSUES:

- ✓ Same qualifications as Supreme Court justices.
- ✓ Branches located on site: **ONE EACH** in Luzon, Visayas and Mindanao.

## NUMBER OF JUSTICES PER BRANCH OF CONSTITUTIONAL COURT:

- ✓ **FIVE (5) FOR EACH BRANCH.**

# **SUPREME COURT STRUCTURE, RETAINED**



**The Supreme Court is retained including its powers, other than over constitutional issues.**

**The Supreme Court supervises all lower courts: Intermediate Appellate Court, Sandiganbayan, Regional Trial Courts, the Shariah Courts, City & Municipal Court.**

**All the courts shall have constitutional deadlines to meet in rendering their decisions**

# SHARIAH COURTS

- ☐ SHALL BE RETAINED.
- ☐ OTHER MEANS OF SETTLING DISPUTES IN ACCORD WITH THE CULTURE AND TRADITION OF TRIBAL MINORITIES SHOULD BE RECOGNIZED



# DEADLINES FOR DECISIONS

Supreme Court	2 years from filing
Court of Appeals	1.8 months from filing
Sandiganbayan and other appellate courts	1.8 months from filing
RTC	1.6 months from filing
City and Municipal Courts	1 year from filing

**Should be strictly enforced to ensure delivery of speedy justice.**

# DEADLINES FOR SHARIAH AND OTHER TRIBAL COURTS

- ✓ SHOULD ALSO BE FIXED TAKING INTO ACCOUNT TRIBAL CUSTOMS AND TRADITIONS AND THE NEED FOR JUST AND SPEEDY JUSTICE
- ✓ **DELAY IN DELIVERY OF JUSTICE TO LITIGANTS IS ONE OF THE MAJOR ILLS OF OUR JUSTICE SYSTEM**

## **PROPOSED LOCATIONS OF THE COURTS:**

- **Supreme Court and Constitutional Court** divisions should be located aside from Metro-Manila also in suitable places in Luzon, Visayas and Mindanao.
- **Intermediate Court of Appeals** divisions should be permanently assigned to every State;
- **Sandiganbayan divisions** should hold offices in specific areas in Luzon, Visayas and Mindanao aside from its office in Metro-Manila;

# **SEATS OF POWER, DISPERSED**

The seats of power of the major branches of government will be dispersed.

The Federal Executive Department will hold offices in the **Federal Administrative Region of Metro-Manila.**



The Federal Legislature will hold office in the **Federal State of Central Visayas.**

The Federal Supreme Court, and the Constitutional Court will hold their main offices in the **Federal State of Northern Mindanao.**



An example of a government that has mandated the location of the three major divisions of government is South Africa.

**Executive  
Department is in  
Pretoria**

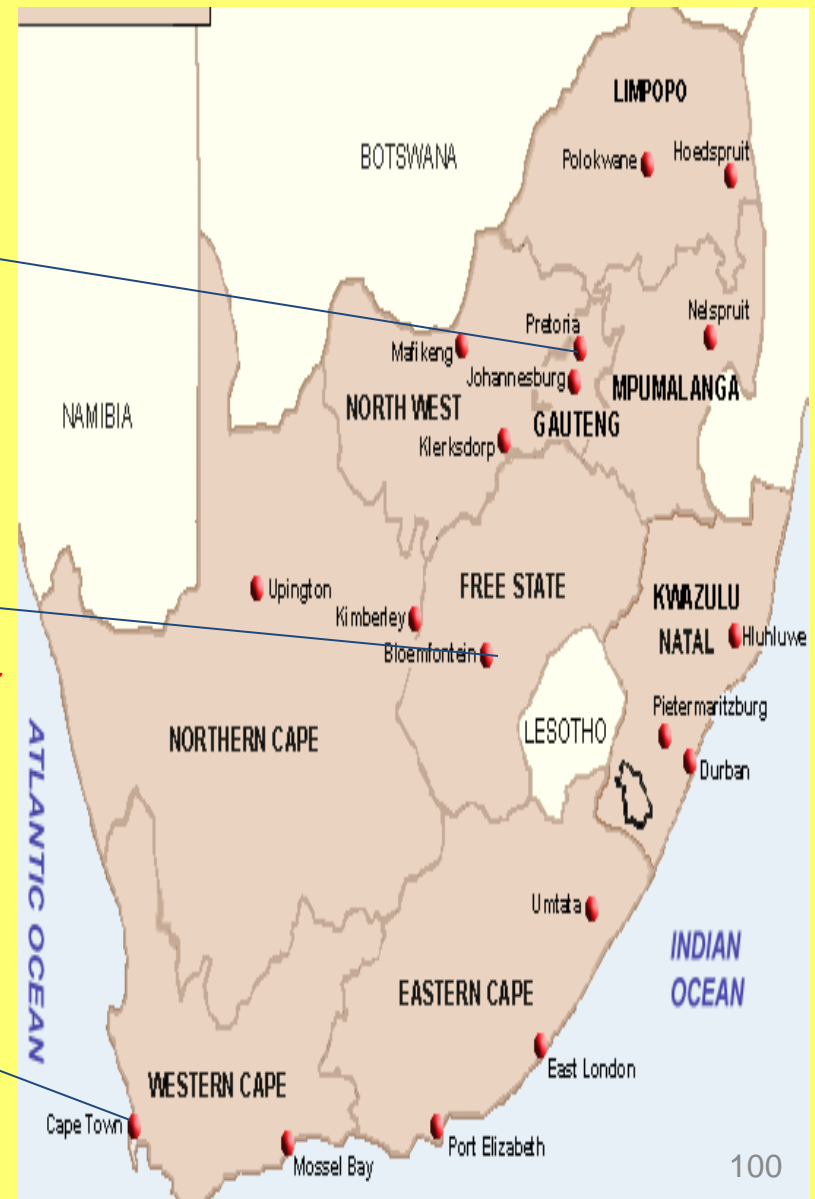
Distance between Pretoria and Bloemfontein  
is *424.87 km. or 264 miles.*

**Supreme Court is in  
Bloemfontein**

Distance between Bloemfontein and Cape  
Town Bloemfontein is *911.81 km. or 566.57  
miles*

**Legislative  
Department is in  
Cape Town**

Distance between Cape Town and Pretoria  
is *1,457km. Or 912 miles.*





ASSIGNING SPECIFIC AGENCIES OR  
DIVISIONS OR OFFICIALS CONCERNED

**TO THE FEDERAL STATES SHOULD ALSO BE  
APPLIED TO ALL COMMISSIONS OF THE  
GOVERNMENT, THE OMBUDSMAN OR ANY  
OTHER NATIONAL GOVERNMENT AGENCY,  
where the dispersal is not yet done.**

# ***LGU's, Intact***

**The powers and structures of provinces, cities, municipalities, and barangays are untouched.**

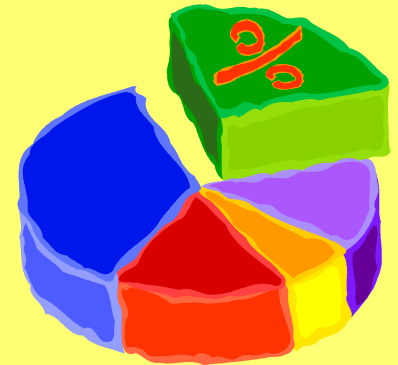
**It is up to the Federal States to change LGU structures and powers subject to the approval of the voters in the areas affected in plebiscites called for the purpose.**

**SAME QUALIFICATIONS for regional and local officials except for educational requirements.**

**It may be time to require more educational qualifications of our public officials than just the ability to read and write.**

# ***LGU SHARES, INCREASED***

**Despite the increase of senators (and members of the House), the revenue shares of the Federal States and the LGUs will increase.**



**In allocating the resources of the Republic, all revenues shall be the basis, *not only taxes collected by the Bureau of Internal Revenue*. The sharing percentages shall be as follows:**

<b>Percentage</b>	<b>Share of</b>
<b>20 %</b>	<b>Federal Government</b>
<b>80 %</b>	<b>States</b>

## **SHARING OF 80% BETWEEN STATES AND LGUs**

<b>Percentage</b>	<b>Share of</b>
<b>30 %</b>	<b>State Government</b>
<b>70 %</b>	<b>Provinces, Cities, Municipalities &amp; Barangays</b>

**Under this formula, the shares of the provinces, cities, municipalities and barangays will be bigger than what is currently provided for under the local government code.**

**ALLOCATION OF FUNDS SHOULD ENSURE THAT VITAL NEEDS NOT ONLY OF THE MAJORITY SECTORS OF SOCIETY, BUT ALSO OF TRIBAL MINORITIES ARE PROVIDED FOR.**

**STRICT ACCOUNTING PROCEDURES SHOULD ACCOMPANY THE ALLOCATION OF MORE FUNDS TO THE LGUs.**

## **Equalization Fund**



**Federal  
States**

**To address the reality that not all the Federal States are born equal in terms of resources and opportunities, an equalization fund administered by the Federal Government to assist States in dire need of development funds should be created.**

**The Federal States should be represented in the authority administering the Equalization Fund.**

# LOAN COMMISSION

- To ensure that foreign loans of the country are faithfully paid, a Loan Commission is created.



The Federal Government and every State should be represented in the Commission.

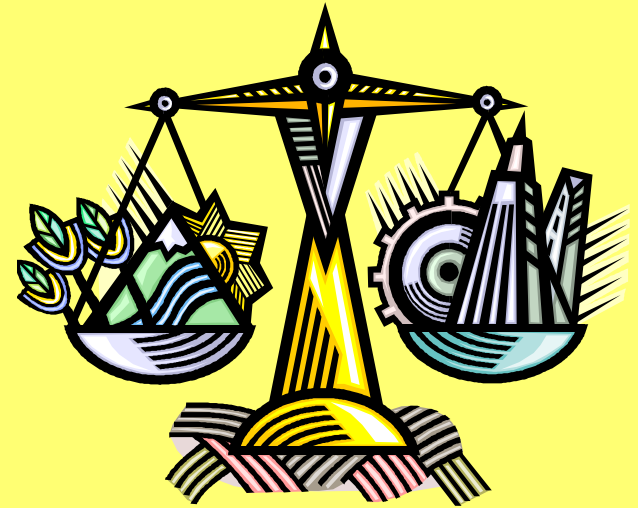
At least, one-fourth of the members of the Commission should come from Qualified NGOs.

Equitable shares of the loan repayments will be borne by the States that benefited from the loans

# **Political & economic objectives**

To enable our participants to air their concerns, let me conclude this statement with this thought: the federal system is meant to accomplish, at least, two major things:

1. Cause the speedy development of the entire country by unleashing the forces of competitiveness among the States, and



2. Dissipate the causes of rebellion in the country and particularly in Mindanao.



The move to federalize the country is not simply a **'political' undertaking it is also an economic effort.** By creating 11 (or more) Federal States and by converting Metro-Manila as a federal administrative region, we immediately establish **12 centers** of power, finance and development throughout the country.



Under the unitary system that has characterized the government for centuries we only had one center of power, finance and development: Metro-Manila.

## **REDRESSING GRIEVANCES OF CENTURIES**



**The federal proposal will hopefully provide a just and lasting redress for the centuries-old grievances of the powerless and the neglected sectors of society, like the Moro peoples of Mindanao and the Lumads.**

**By federalizing the Republic, the States will concretely address the needs of their component sectors more easily.**



**And in the case of the Moro peoples, their own federal state would conceivably enable them to run their state government according to their customs and traditions subject, of course, to the norms of modern democratic governments.**

# In closing

SLIDES 111 up to 130  
will only present summing up  
reactions on the issues tackled in the said Slides.

**IN PASSING:**

**HOW POWERFUL SHOULD  
THE SUPREME COURT BE?**

**✓ POWERFUL ENOUGH TO PUT THE BRAKES  
ON EXECUTIVE OR LEGISLATIVE EXCESSES**

**✓ BUT IT SHOULD UPHOLD “THE RULE OF  
LAW”, NOT “THE RULE OF THE COURT.”**

# **GOVERNMENT AUTHORITIES/POWER VS. PEOPLE'S DIRECT EXERCISE OF SOVEREIGNTY**

**Government Power whether – executive, legislative or judiciary – must be subject to the People's Power of Review mainly through:**

- (a) Recall,
- (b) Plebiscite,
- (c) Referendum, or
- (d) Initiative

# **THE IDEAL CHECK & BALANCE RELATIONSHIP**

Check & Balance Rules should be:

- Clearly defined by the Constitution;
- Untarnished by partisan considerations when spelled out by law.

# PRESIDENTIAL vs. PARLIAMENTARY FORM

Parliamentary form provides for a more flexible manner of checking executive abuses. For example, a vote of *no confidence* could end the tenure of a Prime Minister (Head of Government)

# MOREOVER

- ✓ IT IS EASIER TO MAKE LAWS UNDER A PARLIAMENTARY FORM OF GOVERNMENT WHERE THE HEAD OF GOVERNMENT (THE PRIME MINISTER) IS A MEMBER OF PARLIAMENT, THE LAWMAKING BODY, AND IS ELECTED BY HIS PEERS IN PARLIAMENT.
- ✓ IN A PARLIAMENTARY GOVERNMENT, THE HEAD OF STATE IS MAINLY CEREMONIAL.



# PRESIDENTIAL FORM OF GOVERNMENT

- NOT NECESSARILY BAD.
- AT LEAST, THE PRESIDENT AND THE VICE PRESIDENT ARE ELECTED DIRECTLY BY THE PEOPLE.

# **ONE FEDERAL SYSTEM ADVANTAGE**

Development programs and projects in the Federal States may be implemented more speedily.

**NO NEED TO AWAIT APPROVAL BY CENTRAL  
GOVERNMENT AUTHORITY**

# **AUTONOMOUS REGIONS POWERS AND STRUCTURES**

should be:

- Specifically defined in the Constitution,  
and
- Clearly fleshed out by law

# **POWER OF JUDICIAL REVIEW**

## **VS**

# **EXECUTIVE & LEGISLATIVE POWERS**

## **(STRIKING A BALANCE)**

- ✓THE COURTS SHOULD ONLY STRIKE OUT EXECUTIVE OR LEGISLATIVE ENACTMENTS THAT ARE PLAINLY ABUSIVE OR OBVIOUSLY OUTSIDE THE JURISDICTION OR COMPETENCE OF THE OFFENDING BRANCH OF GOVERNMENT
- ✓DOUBTS RESOLVED IN FAVOR OF JURISDICTION OF EXECUTIVE OR LEGISLATIVE ACTS UNDER QUESTION

# **HOW CAN EXERCISE OF SOVEREIGNTY GO BEYOND ELECTING REPRESENTATIVES ON A REGULAR BASIS**

- **RECALL**
- **REFERENDUM**
- **INITIATIVE**

# **HOW CAN THE CONSTITUTION GIVE FLESH TO THE PHRASE: SOVEREIGNTY RESIDES IN THE PEOPLE?**

**By spelling it out in some detail.**

- ✓ what does it cover?**
- ✓ what rights may people exercise in the name of their sovereignty?**
- ✓ when may the people exercise those rights?**
- ✓ how?**

# SPECIFIC WAYS OF CHANGING THE CONSTITUTION

- **ARTICLE XVII, CONSTITUTION**
- **Section 1 - Any amendment to, or revision of, this Constitution may be proposed by:**
  - (1) CONGRESS, upon a vote of **3/4** of **ALL** its members, OR
  - (2) INITIATIVE directly proposed by the people upon a petition of at least **12 per centum** of the total number of registered voters of the country, OF WHICH EVERY LEGISLATIVE DISTRICT MUST BE REPRESENTED **BY AT LEAST 3 PERCENT** OF THE REGISTERED VOTERS THEREIN.
  - (3) Via Constitutional Convention: 2/3 vote of all members of Congress, OR submitting to the electorate the question of convening a Constitutional Convention by a Majority Vote of all its members
- **EITHER WAY IN NO. 3, THE SENATE AND THE HOUSE MAY CONVENE A JOINT ASSEMBLY, BUT WILL HAVE TO VOTE SEPARATELY.**

**THE CONSTITUTION as a covenant  
among the people  
to achieve nationhood**

**WHILE Subject to the will of the people should have a certain degree of  
stability.**

**Perhaps, it should be amended or revised only through a  
CONSTITUTIONAL CONVENTION,  
or through an INITIATIVE of the people.**

**BUT ALWAYS SUBJECT TO A PLEBISCITE.**



# WAYS OF CHANGING THE CONSTITUTION

- **Amendments** - only parts are changed
- **Revision** - practically the entire Constitution is changed.

- AMENDMENTS/REVISION OF THE CONSTITUTION NEED APPROVAL BY THE PEOPLE THROUGH

**A PLEBISCITE**

# WHEN PLEBISCITE IS HELD for amendments/revision

PROPOSED BY

(1) Congress, itself, or

(2) a Constitutional Convention:

NOT EARLIER THAN 60 DAYS OR LATER THAN  
90 DAYS after the approval of the  
amendment or the revisions of the  
Constitution.

# PLEBISCITE

FOR AMENDMENTS OR REVISION OF THE  
CONSTITUTION INITIATED BY THE PEOPLE:

- IS HELD NOT EARLIER THAN 60 DAYS OR LATER THAN 90 DAYS
- AFTER THE COMELEC CERTIFIES THAT PEOPLE'S INITIATED PETITION TO AMEND/REVISE THE CONSTITUTION WAS DONE PROPERLY

**THE CONSTITUTION  
IS THE SACRED REPOSITORY  
OF THE POWERS OF GOVERNMENT,  
AND THE RIGHTS AND DUTIES OF  
THE CITIZENS OF THE REPUBLIC.**

STILL - WHEN THE NEED ARISES TO EXPAND THE RIGHTS AND THE LIBERTIES OF THE PEOPLE AND ENABLE THEM TO DEVELOP THEIR OWN POTENTIAL MORE SPEEDILY FOR THEIR OWN GOOD AND THAT OF THE COUNTRY, IT SHOULD BE AMENDED OR REVISED ACCORDINGLY.

**THANK YOU!**

# Comments on Federalism and Decentralization

**RONALD U. MENDOZA, PHD**  
**ATENEO SCHOOL OF GOVERNMENT**



**ATENEO**

# Gains from Decentralization

- Grassroots empowerment and citizens' participation at the community level;
- Engagement of the private sector, civil society and people's organizations in public affairs;
- Cross LGU cooperation through innovations like the Leagues of Government Units
- Improvement of transparency at the local level;
- Proliferation and recognition of good local government practices (e.g. Galing Pook Awards and Most Competitive City under NCC);
- Localized development plans in some LGUs;
- Emergence of women leaders among local officials.



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# Challenges in Implementing Decentralization

- Mismatch between absorptive capacity of LGUs and their expanded responsibilities;
- Underdeveloped financial capacity of LGUs and their continue dependence on IRA;
- Continued dominance of the central government in supporting the bulk of LGU expenditures;
- Disparity and concentration of government personnel in favor of the central government;
- Anti-poverty measures have not made a major dent;
- Political dynasties remain entrenched specially in the poorest regions.

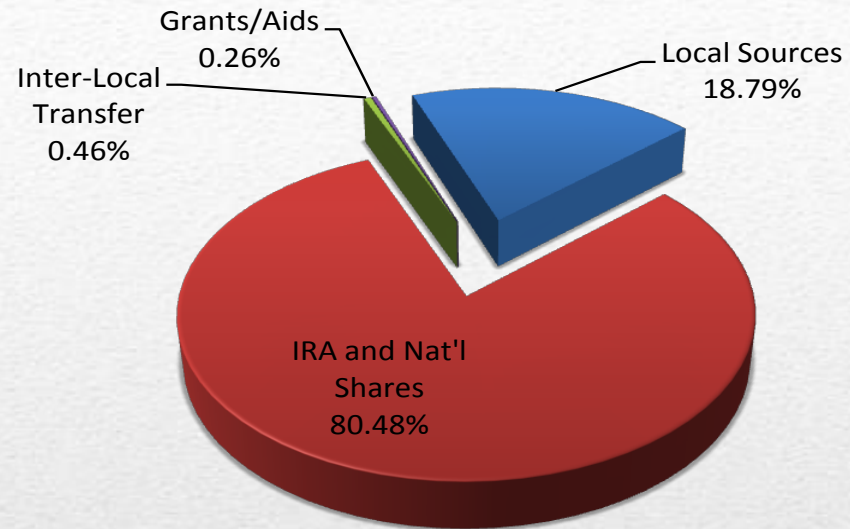


Source: Adapted from Dela Rosa Reyes (2016).

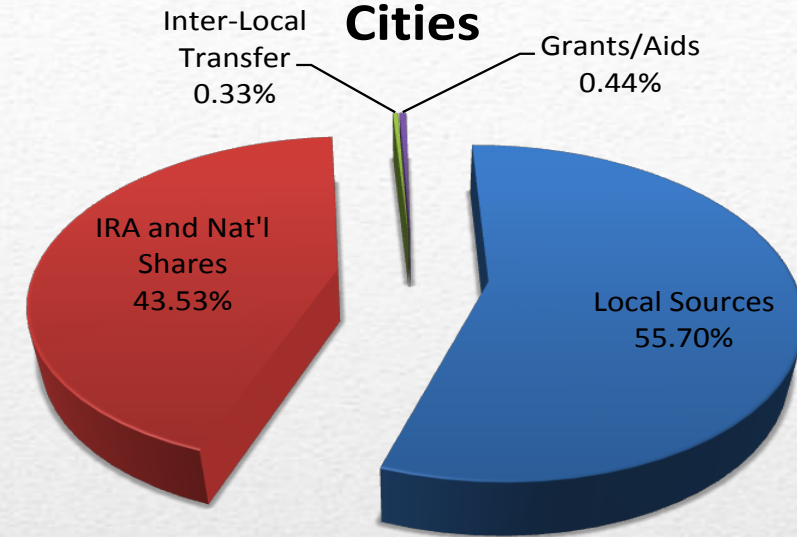
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# OPERATING INCOME BY LGU TYPE

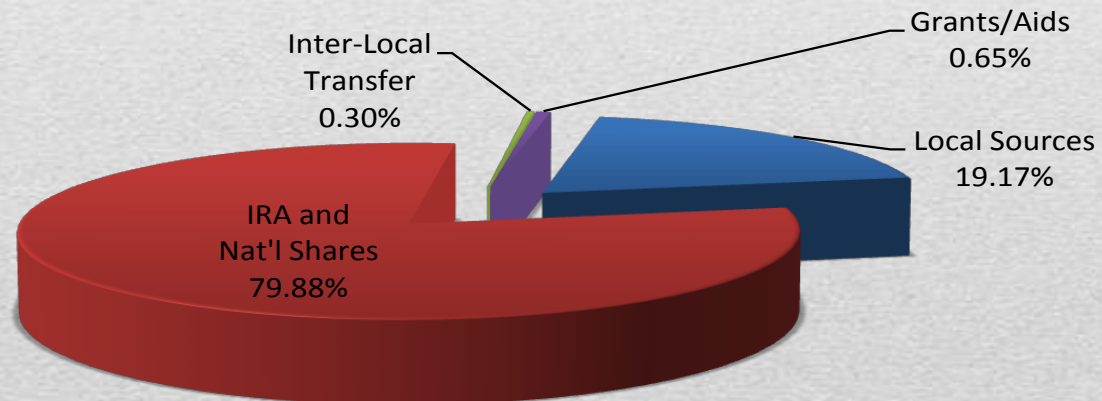
## Provinces



## Cities



## Municipalities



Source: BLGF (circa 2015).

# DISTORTIONS IN LOCAL PUBLIC FINANCE

Ravanilla (2012): study of legislators and their use of “pork barrel” funds from 2001-2010;

- Legislators bias distribution of their constituency development fund (CDF) **in favor of local patrons** and allies ;
- More political competition (tighter Congressional races) tend to exacerbate this clientelistic distribution bias.



## INTERGOVERNMENTAL TRANSFERS NEED FIXING

- The share of local own source revenues and non-tax revenues to total LGU income was at **62 percent in 1989, decreasing over time to 32 percent by 2009.**
- From **38 percent in 1989 Tax Revenues shares** dropped to around 25 percent in 2001, and to **22 percent by 2009.**
- **Head office and affiliate dilemma:** Local governments hosting the head offices of private companies have the advantage of generating much larger local tax collections because of a more productive tax base, that is, the sales reported by the private companies.



Source: Llanto (2012).

# DISTORTIONS IN LOCAL PUBLIC FINANCE

Capuno (2013): study of fiscal transfers and gerrymandering (splitting up or combining of existing electoral districts);

- Having a mayor that belongs to a political clan is linked to greater likelihood of city conversion;
- Mayors who belong to a political clan are also more likely to have **relatives elected after city conversion**.
- Clan membership enables incumbent mayors pushing for city-hood to internalize the advantages of cityhood.





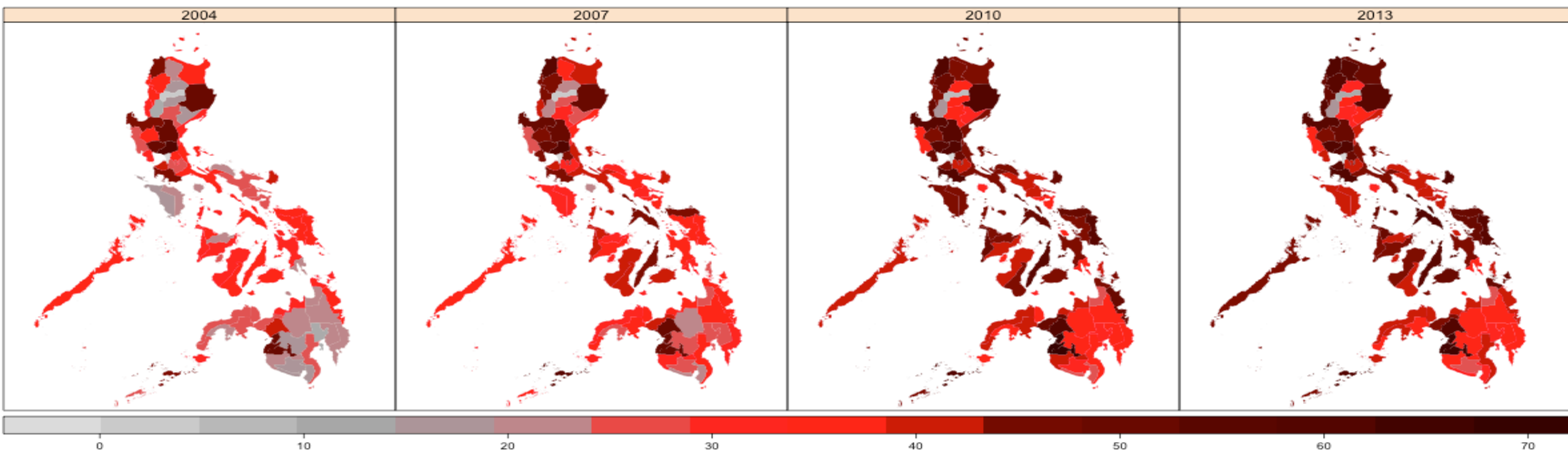
**Mendoza, Beja, Venida and Yap. 2013. “Political dynasties and poverty: Measurement and evidence of linkages in the Philippines.” Oxford Development Studies 44(2):189-201.**

<http://www.tandfonline.com/doi/abs/10.1080/13600818.2016.1169264>

- ✓ Comprehensive estimate of the actual number of dynasties encumbering the top positions in all Philippine LGUs.
- ✓ Analysed the impact of political dynasties on poverty in the Philippines using the a comprehensive dataset of LGU officials spanning 2007, 2004 and 2001.
- ✓ Finds empirical evidence that **more dynasties cause greater poverty, notably outside of Metro Manila.**

# Dynasties are growing across the country...

## Political Clans Heatmap, 2004-2013



Source: David and Legara (2015).



# Snapshot of Inequality – Ecleo Castle and fishing village in Dinagat Islands





# Will Federalism Bring Real Change?



INQUIRER.net

## Nene Pimentel begins federalism education



SHARES: **885**  
VIEW COMMENTS

By: **Christine O. Avendaño**  
 @inquirerdotnet

**Philippine Daily Inquirer**  
01:20 AM May 23rd, 2016



Former Senator Aquilino Pimentel Jr. AFP FILE PHOTO



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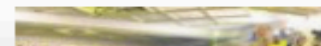
**Jaclyn Jose wins best actress at Cannes for 'Ma' Rosa'**

May 23rd, 2016



**Duterte appoints 3 more Cabinet officials**

May 23rd, 2016



**80 LP members hop**

BACKING presumptive President-elect Rodrigo Duterte's proposal for a federal form of



# Building Inclusive Democracies in ASEAN

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# ATENEO

# Federalism in Comparative Context: Political Reform, Centralization & Decentralization

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# Outline

1. Federalism in the context of other types of political reform
2. Three basic principles of political reform
3. Defining centralization & decentralization in the administrative and political spheres
4. The Philippines and its neighbors
5. Concluding analysis: Enduring dynamism; a central paradox; critical preconditions; and reconciling local and national values

# PART I

Federalism in the context of  
other types of political reform

# Three basic decisions of democratic political reform (diversely mixed & matched around the world)

- I. Central-local relations: unitary or federal?
- II. Representational Structures: presidential, parliamentary, or a hybrid of the two?
- III. Electoral System: Plurality, Proportional Representation, Party List, or some combination of the above?

Three **distinct** (yet interrelated) decisions

# Mixings and Matchings Across the 3 Decisions (electoral system as noted)

## *I.A. Federal Presidential*

- The United States (FPTP, Electoral College)
- Brazil (Proportional Representation, Two-Round System for presidency)
- Mexico (mixed FPTP & PR)

## *I.B. Federal Semi-Presidential*

- Germany (mixed FPTP & PR)
- Russia (mixed FPTP & PR, TRS for presidency)

# Mixings and Matchings Across the 3 Decisions (electoral system as noted)

## *I.C. Federal Parliamentary*

- Australia (preferential, variant of PR)
- Canada (FPTP)
- India (FPTP)

## *II.A. Unitary Presidential*

- The Philippines (FPTP, Party List, multi-member plurality, no TRS for presidency)
- Indonesia (PR, TRS for presidency)
- Chile (PR, TRS for presidency)



# Mixing and Matching Across the 3 Decisions (electoral system as noted)

## II.B. *Unitary Semi-Presidential*

- France (TRS for parliament and presidency)
- South Korea (mixed FPTP and PR)
- Taiwan (mixed single non-transferrable vote in multi-member districts and PR)

## II.C. *Unitary Parliamentary*

- Japan (mixed FPTP and PR)
- United Kingdom (fully a unitary system prior to Scottish devolution, now hybrid) (FPTP)

# PART II

Three basic principles of  
political reform

# 3 Basic Principles of Political Reform (with 3 corresponding basic questions)

*Principle 1:* Before embarking on any major political reform, one must first study and understand the pre-existing conditions. There is no one-size-fits-all reform. Each country has its own distinctive historical configurations of power and authority, and these need to be examined very carefully before proceeding.

*Question 1:* What are the basic problems needing to be solved? (Rather than: here is the clearly obvious preferred solution—what are the problems that might justify its promulgation?)

# 3 Basic Principles of Political Reform (with 3 corresponding basic questions)

*Principle 2:* Understand the nature of the underlying political institutions, especially the two critical institutions of the bureaucracy and political parties. If both are weak, whatever is constructed may end up being unstable. (A bit like constructing a house on shifting sands?)

*Question 2:* What is the underlying capacity of the administrative system (the bureaucracy) and political system (through political parties able to aggregate societal demands and present coherent policies in the public sphere)?

# 3 Basic Principles of Political Reform (with 3 corresponding basic questions)

*Principle 3:* Recognize and anticipate unintended consequences. The bigger the reform, the bigger are likely to be the risks of unintended consequences.

*Question 3:* Are there smaller—and hopefully more predictable—reform solutions that could perhaps resolve the problems that have been identified?

# PART III

Defining centralization &  
decentralization in the  
administrative and political  
spheres

# Reshaping the Territorial Basis of the State: Decentralization and Federalism

The *key initial question* that needs to be asked, prior to undertaking this type of political reform, is how centralized or decentralized the political leaders and the citizens want the polity to become.

For conceptual purposes, useful to consider two extremes at either end of a continuum...

Two polar extremes of central-local relations (not found in the real world)

“Total decentralization would require the withering away of the state, whereas total centralization would imperil the state’s capacity to perform its functions.”

*--James Fesler, 1968*

Thus, again, the key initial question:

*Where along this broad continuum do political reform entrepreneurs want their country to be?*



# But how do we define centralization and decentralization?

*Short answer:* Rough judgments, without precise formulas

*Long answer:* See Paul D. Hutchcroft, "Centralization and Decentralization in Administration and Politics: Assessing Territorial Dimensions of Authority and Power," *Governance* 14, no. 1 (January 2001): 23-53

# Centralization & Decentralization in the Administrative & Political Spheres

## Medium-sized answer:

*Step 1:* Conceive of two continua, one for the administrative sphere and the other for the political sphere

*Step 2:* Specify key factors defining centralization and decentralization within each continuum

*Step 3:* Combine the two continua in a single 2x2 matrix

*Step 4:* Place countries within the matrix and analyze the complex interplay between the two spheres. Note changes over time in where countries are placed.

# **Administrative Centralization vs. Decentralization**

To summarize a more complex discussion, two key factors here are whether:

- There is a strong central agency (usually Interior Ministry) able to control and/or supervise the activities of regional & local units & officials, particularly in matters related to fiscal and coercive affairs (money and guns)
- There has been the devolution (not mere deconcentration) of authority to local levels

# [Conceptual Interlude]

*Deconcentration:* The intra-organizational transfer of particular functions and workloads from the central government to its regional or local offices.

*Devolution:* the much more extensive transfer of decision-making authority and responsibility to local government bodies.

*Let it further be noted:* The corporate status of these local bodies is commonly constitutionally guaranteed in a federal system, and legislatively granted in a unitary polity.

# Political Centralization vs. Decentralization

To summarize a more complex discussion, can highlight just three of the 10 key factors:

- Are local executives appointed by the center or elected by popular vote?
- Are there strong bosses at local levels, combining economic and coercive power?
- Are there cohesive and well-disciplined national political parties that curb localist tendencies?

# PART IV

## The Philippines and Its neighbors

# The Philippines and Its Neighbors

## *Unitary Thailand*

- Very strong Interior Ministry, largely controlling administration of the provinces
- Devolution (even in the free-wheeling 1990s) was limited to the *tambon* subdistrict level (below province and district)
- Appointment (not election) of governors, district officers. *Tambon* and village leaders elected but “in the Min. of Interior’s line of command” (Nelson 2002)
- Local bosses but restricted coercive capacity cf. Phils.
- Weak (often regionally based) parties until the era of Thaksin

# The Philippines and Its Neighbors

## *Unitary Indonesia*

- Ministry of Home Affairs remains very influential
- Extensive devolution in the “big bang” decentralization of 2001, but bypassed provinces in favor of subprovincial level
- Since 2005, direct popular election of governors and mayors (almost reversed 2014-2015)
- Local patrons but comparatively few local bosses
- Political parties required to be national in scope (Aceh excepted)



# The Philippines and Its Neighbors

## *Federal Malaysia*

- Ministry of Home Affairs very strong
- A highly centralized form of federalism
- No local government elections since 1964 (voters elect only members of national parliament and state assemblies)
- Local “kingpins” rather than local bosses
- One dominant national political party since 1957 (state parties in Sabah and Sarawak but generally clear alliances with national)

# The Philippines and Its Neighbors

## *Unitary Philippines*

- Enforcement of performance criteria a recent innovation for DILG (SGH, SGLG, FDP)
- Major devolution in 1991 Local Government Code
- Very extensive opportunities to vote for local execs (as well as local legislatures). Election of mayors since 1901 and governors since 1902
- Longstanding tradition of bossism in many (but certainly not all) localities
- Parties tend to be national in scope, but the most well-developed political organizations tend to be found at city and provincial levels

# Federalism in ASEAN

- *Malaysia*: the only federal system in ASEAN, but among the most centralized. States often complain about being short-changed by the federal government in Kuala Lumpur
- *Burma/Myanmar*: while formally the Union of Myanmar, a unitary state
- *Indonesia*: historical aversion to federalism, which is associated with Dutch colonizers and traditionally viewed as an affront to national territorial integrity. **Although a unitary system, more decentralized than federal Malaysia.**

# 3 (of many) federalism scenarios for the Philippines

- A means of promoting greater *centralization*: Via the Malaysia model, where extensive authority lies with the central government. This model would also involve ending election of local chief executives and local councils.
- A means of promoting “*mid-levelization*”: concentrate authority in 10-12 states, abolish all 81 provinces
- A means of promoting greater *decentralization* to what is now the provincial level: devolve authority to 81 states, which might then absorb non-component cities?
- Etc. etc. etc.

# PART V

*Concluding analysis:*

Enduring dynamism,

a central paradox,

critical preconditions,

reconciling local and national values

# Federalism as an ever-evolving dynamic system

Critical to the establishment of a federal system is developing rules on such matters as:

- Delineation of boundaries (to establish viable units of local self-government)
- Determination of which government responsibilities remain at federal level and which are devolved to the states
- Democratic selection of national and local officials
- Territorial division of police and other security functions
- Division of responsibilities, from fiscal to judicial
- Auditing of fiscal practices, upholding anti-corruption standards
- National grants to impoverished areas; upholding minimal standards of health, education, & welfare (amid uneven success of states in adapting to a federal system)

*Even after the federal system has been established, these rules can be continually renegotiated.* Example: evolution of U.S. federalism

# The paradox of decentralization (and federalism)

*“One of the most curious aspects of decentralization is the responsibility that a national government must assume to assure the realization that decentralization, as doctrinally advocated, is supposed to serve.”*

--James Fesler, 1965

*Paradoxically, decentralization requires a strong and capable central state able to enforce the rules by which authority is being devolved to the subnational level.*

# The importance of effective state bureaucracies

- Federalism also requires strong and effective bureaucracies at the state level. If there are to be 10-12 DBMs, 10-12 NEDAs, 10-12 DPWHs, 10-12 DOTs, 10-12 DAs, 10-12 COAs, 10-12 COMELEC, etc., each state must have the means to recruit and retain high-quality public servants
- Can this process of bureaucratic strengthening begin now, working with bureaucracies already devolved to the regional level?
- Could also consider concomitant strengthening of the existing RDCs, in preparation for federalism



# Balancing of values that anchor both local and national communities

Kjellberg (1995) argues the need to view central-local relations as an interconnected system of governance, with two sets of values (local and national) that both rival and complement each other.

**Local values:** autonomy to set local community priorities, citizen participation in local affairs, and the efficiency gains that come from giving local communities capacity to deal with local issues

# Balancing of values that anchor both local and national communities

**National values:** the need for “central steering” to support national goals. These goals include upholding the rule of law, ensuring that public funds are efficiently utilized, promoting equity across regions, and maintaining macroeconomic stability (i.e., guarding against profligate local governments).

**Key point:** Federal or unitary, there are no easy answers and a stable equilibrium is likely to be elusive—especially in the absence of effective “central steering.”

Naa ba'y pangutana?

Daghang salamat!

# Federalism: Concepts, Issues and Problems

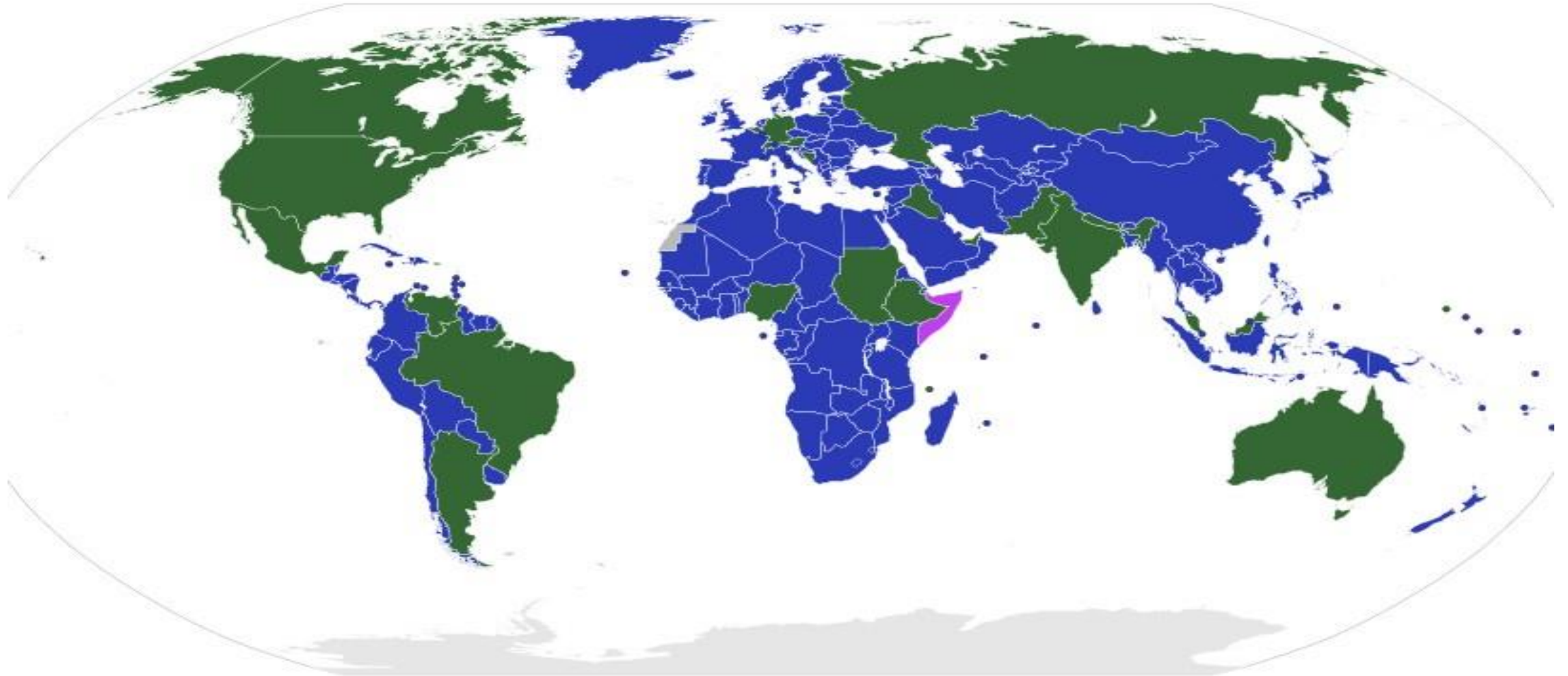
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# Federal Governmental Systems in the World Today

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# Federalism: A Working Definition

- A state in which there is a constitutionally guaranteed division of powers and competencies between the central government and the constituent federal units (regions, states, etc.)

The principle of combined “**self-rule and shared rule**”.

In practice, there is no single model of federalism and a wide variety of its political institutions.

# Federalism: Historical Drivers

- **Federal systems have typically emerged in response to at least two important historical realities:**
- 1) the need for greater unity and security by constituent states in the face of serious military threats, especially external ones. However, in such negotiated arrangements the constituent states retain some of their prior rights and powers vis-à-vis the new federal government.
- 2) the need to sustain both the integration and diversification of polities divided by deep ethnic, religious, linguistic differences, especially when such divisions assume separatist forms.
- In this regard, it is instructive that the “six longstanding democracies in the world with the highest index of linguistic or ethnic diversity are all federal states: India, Canada, Belgium, Switzerland , Spain, and the United States.

# Federalism: Key Political Institutions

- A written constitution that is difficult to amend. The constitution defines the division of powers or competencies between the national and state (regional) governments.
- A bicameral legislature with a strong federal chamber to represent constituent regions. Interstate (Canadian model) vs. intrastate federalism (German model).
- A supreme or constitutional court to protect the constitution through judicial review.
- Nationally integrated political parties.
- Professionally well-trained bureaucracy.



# Federalism and other Institutional Changes: Presidentialism and Parliamentarism

- We should be extremely careful in attributing any causal effect to any single institution such as federalism independently of its interaction with other institutions (formal and informal) and structures of society.
- **Federalism cum presidentialism:** a strong president to coordinate more complex levels of collective action between national and regional governments?
- **Federalism cum parliamentarism:** the fusing of executive and legislative power and building up strong parties to anchor federal structures and practices?
- **Federalism and electoral systems:** Majoritarian (first-past-the-post single member constituencies) vs. consensual systems (proportional representation).

# Federalism and other Institutional Changes: Electoral Systems and Political Parties

- **Federalism and electoral systems:** Majoritarian (first-past-the-post single member constituencies) vs. consensual systems (proportional representation). Problems of our current mixed electoral system.
- **Federalism and Political Parties:** In federalism, the absence of an effective polity-wide political party system may promote instability and territorial disintegration.
- **The French Model:** A unitary system with a modified presidentialism: a strong president elected directly and a prime minister appointed by the president from the ruling party/coalition in the legislature and in charge of day to day governmental affairs.

# Federalism: Opportunities and Risks

- Federalism as “engine of prosperity”? Does Federalism make government more efficient, responsive, and democratic.
- This claim derives from two arguments: people have an exit option (migrating to better governed regions); and more opportunities for “novel social and economic experiments without risk to the rest of the country”.
- Federalism creates multiple veto actors that can check national government initiatives but these can be either progressive or conservative.

# Federalism: Opportunities and Risks

- Federalism may further entrench the power and authority of long established political clans, creating local fiefdoms insulated from electoral challenges.
- Federalism may further weaken national unity and identity in states with strong regionalist and separatist tendencies leading to state disintegration. However, it may also be a viable response to the long history of armed separatism in Mindanao.
- Federalism may worsen regional and local economic disparities with different resource endowments and human capabilities.
- Problems of resource generation and sharing between the central government and states.