

Issues and Problems in Decentralization and Local Autonomy in the Philippines: An Assessment of Impact and the Challenge of Federalism



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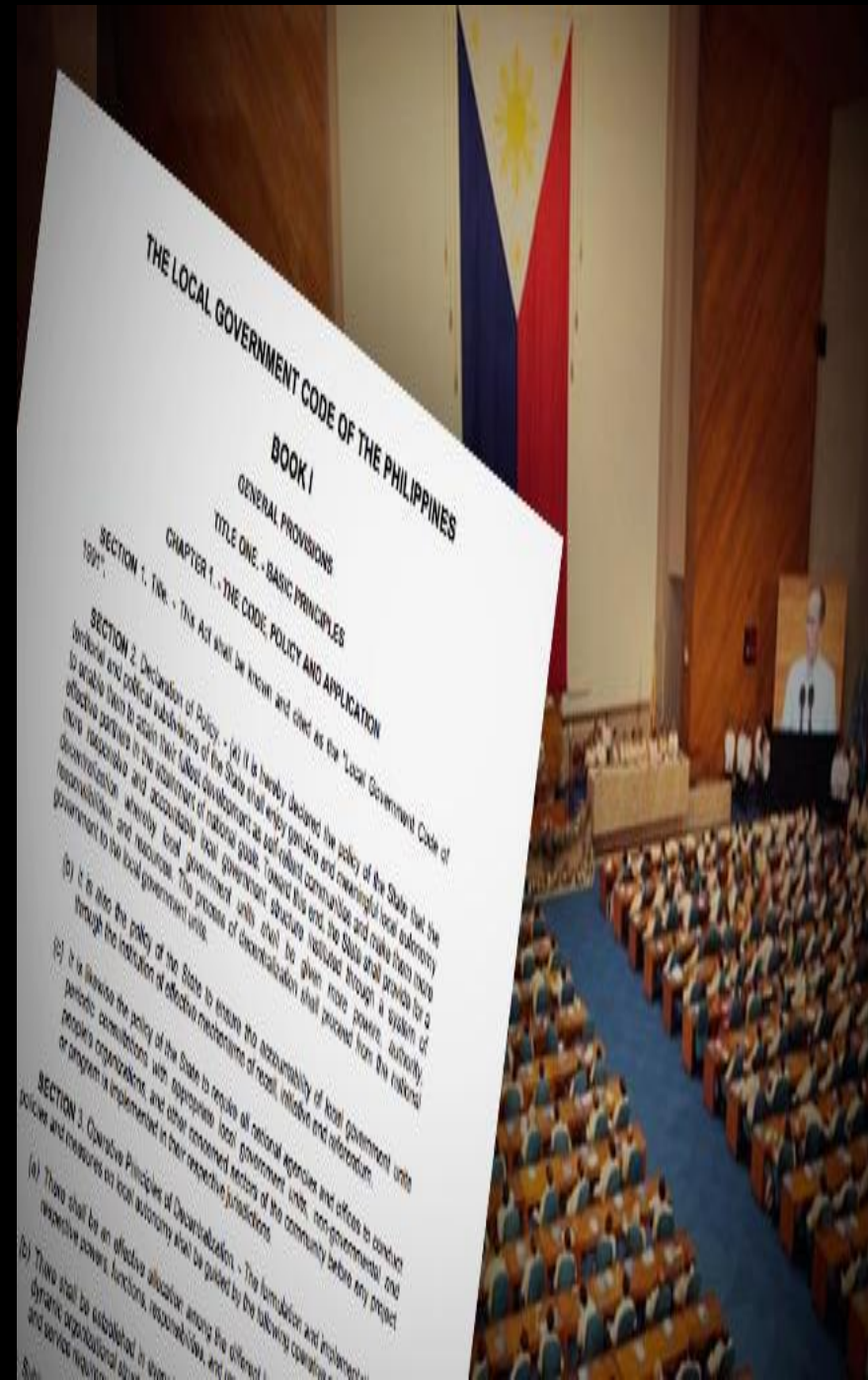
- The decentralization of highly centralized and rigid systems of government in the aftermath of the colonial periods has been the response towards improving the delivery of public services and the management of public affairs among newly-independent nations.





- “There is today the acknowledged consensus that decentralization has become “an almost universal feature of modern states,” and that “almost all countries are on the wave of decentralization” (Lee, 1996: 102).

- Along these lines, the Philippines embarked on launching an extensive and comprehensive decentralization policy in 1991 framed within the context of devolution and local autonomy to local government units (LGUs).



- After decades of failed embryonic decentralization and local autonomy policies, an all-embracing law was enacted under Republic Act No. 7160, otherwise known as the “Local Government Code of 1991” as approved on October 10, 1991.
- This Study seeks to provide cursory analysis and assessment of issues in the performance of Local Government Units in the Philippines in light of this statute.
- It later looks at the nature of the Federal system and its challenge in the Philippines.



- The intent of the Local Government Code of 1991 is to strengthen the capabilities of local government as front-line governments and to address critical gaps in the delivery of services in habitually neglected areas, particularly in aspects of poverty alleviation and in stimulating development activities.

- As the Code observed its 25th year in 2016, its impact on poverty alleviation and other aspects of local governance, as well as the performance of local government units, has become compelling.
- The Local Government Code is a fulfilment of the provision of the 1987 Philippine Constitution, which provides among others, that Congress shall enact a local government code that will institutionalize a system of decentralization (Sec. 3) whereby local government units shall be extended more power, authority, responsibilities and resources.

- The Code covers a vast and bulky enumeration of policies and mandates provided in four books divided into 536 sections to transform local government units into self-reliant communities.



- It is a complex codified body of legislation that capture the many facets and aspects of local governance.

- Several basic services and facilities have been devolved to LGU: agricultural extension and on-site research, community-based forest projects, field health and hospital services, public works and infrastructure projects derived from local funds, school building programs, social welfare services, tourism facilities, housing projects for provinces and cities and such other services pertaining to industrial support.

- The regulatory powers, on the other hand, devolved to the LGUs include: the reclassification of agricultural lands, enforcement of environmental laws, inspection of food products, quarantine, enforcement of the national building code, operation of community public utility conveyances (tricycles), processing and approval of subdivision plans and the establishment of cockpits and the holding of cockfights.

- Based on a rough and preliminary assessment, the following could be identified as some of the recognized salutary gains of the LGC during the last 25 years:

1. Grassroots empowerment and greater citizens' participation in the communities.



2. Greater Involvement of Civil Society and People's Organizations and the Private Sector in Policy-making and in the Management of Public Affairs.



3. The Rise and Strengthening of Inter-local Cooperation Through the Establishment of Leagues of Local Government Units and Elective Officials.



- ***4. Consciousness on the Rights of Local Government Units and Greater Transparency.***

A hand in a light blue suit sleeve points towards a transparent rectangular box. Inside the box, the word "transparency" is written in a dark, sans-serif font. The background is a solid light blue color.

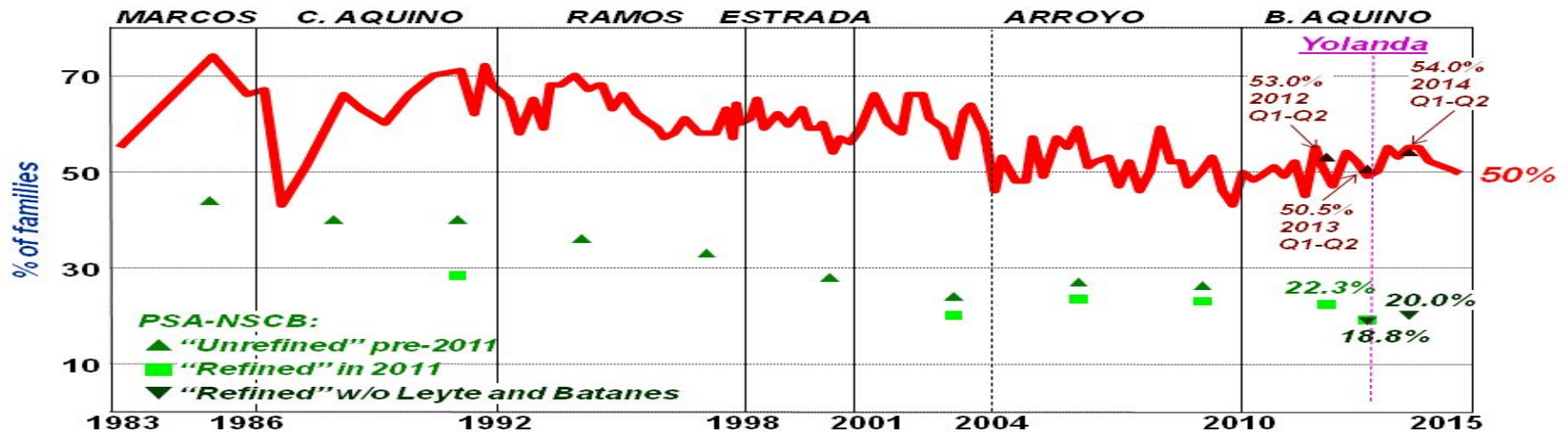
transparency



5. Recognition of Best Practices under the Galing Pook Awards (Excellent or Best Localities) Program.

6. Anti-Poverty and Development Initiatives are systematically being launched at the Local Levels.

SELF-RATED POVERTY: FAMILIES WHO ARE "MAHIRAP", PHILIPPINES, APR 1983 TO SEP 2015



Self-Rated Poverty Question: Where would you place your family in this card? (Not poor, On the line, Poor)
**Note:* The NSCB figures, which compare income of the year to the official poverty line, are plotted in June of the year.

- **THE CHALLENGES TO LGUs:**
- **THE PROBLEMATIC OF IMPLEMENTATION**

1. The Problematic of the Absorptive Capacities of LGUs has not Matched the Demands of Responsibilities Entrusted by the Code.



- ***2. Many Local Governments Continue to be Dependent on their Shares of the Internal Revenue Allotment.***



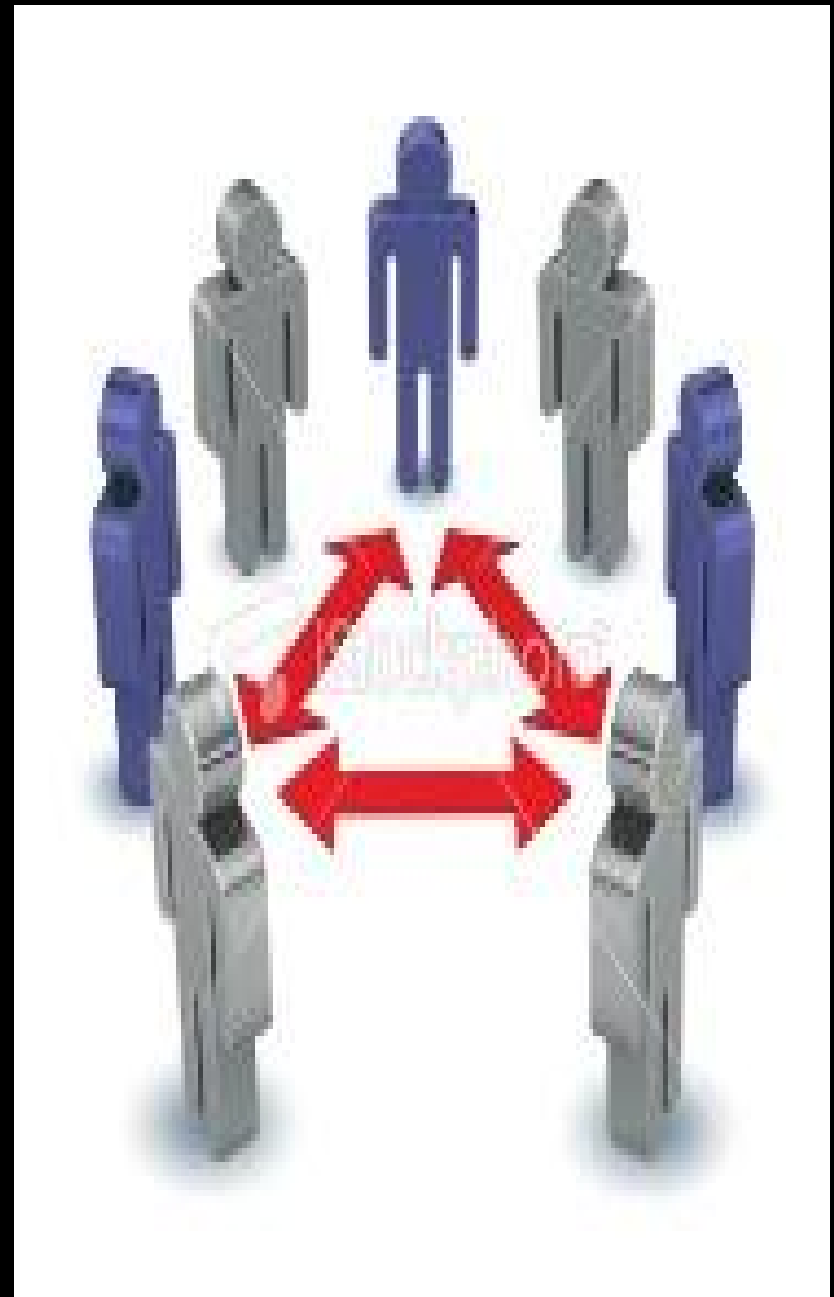
3. The Financial Capacities of LGUs Leave Much to be Desired.



4. The National Government Continues to hold and control the Bulk of Productive Sources of Revenue even in the Post-Code period.



- 5. There is a Wide Disparity in the Distribution of Government Personnel Between the National Government and the LGUs.



- 6. The Poverty Incidence has not been contained.



- It is however conceded here that there are still many issues that need to be addressed and which this brief and passing overview have not sufficiently covered.
- There is therefore now a compelling agenda to scrutinize and examine more attentively the big issues and big questions on why local autonomy is not working within the ideals and aspirations that it was supposed to fulfill.

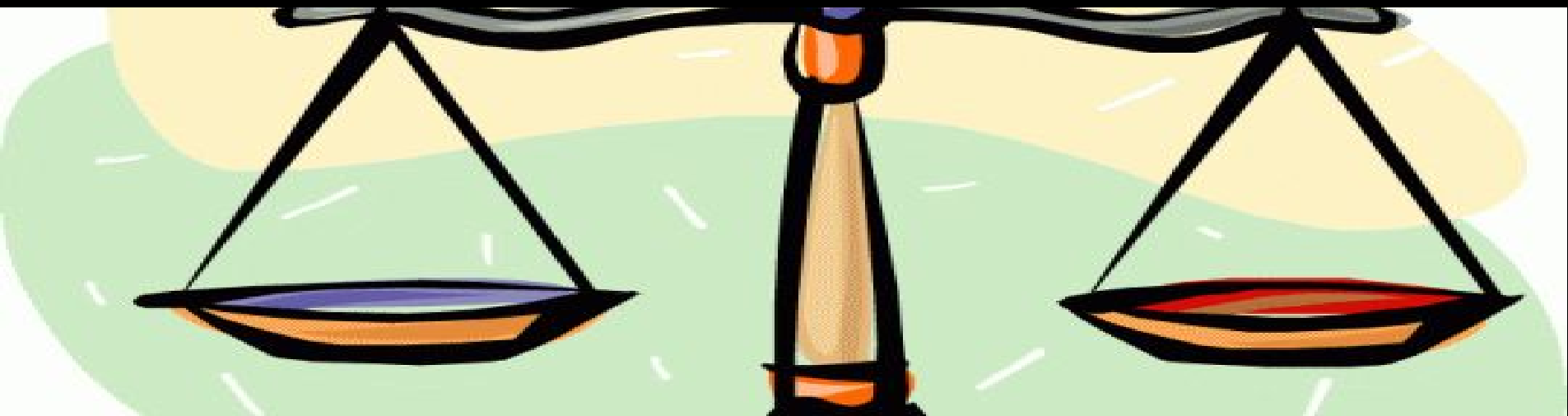
- A major agenda today in the continuing efforts towards greater decentralization is the installation of a Federal system of government in the Philippines.
- “Federalism is a system of government in which entities such as states or provinces share power with a national government”
(<https://www.vocabulary.com/dictionary/federalism>).
- “A system of government in which power is divided between a national (federal) government and various regional governments”
(<http://www.dictionary.com/browse/federalism>).

- Federalism is also described as “a principle of government that defines the relationship between the central government at the national level and its constituent units at the regional, state, or local levels.”
- “Under this principle of government, power and authority are allocated between the national and local government units, such that each unit is delegated a sphere of power and authority only it can exercise, while other powers must be shared.” (<http://legal-dictionary.thefreedictionary.com/federalism>).

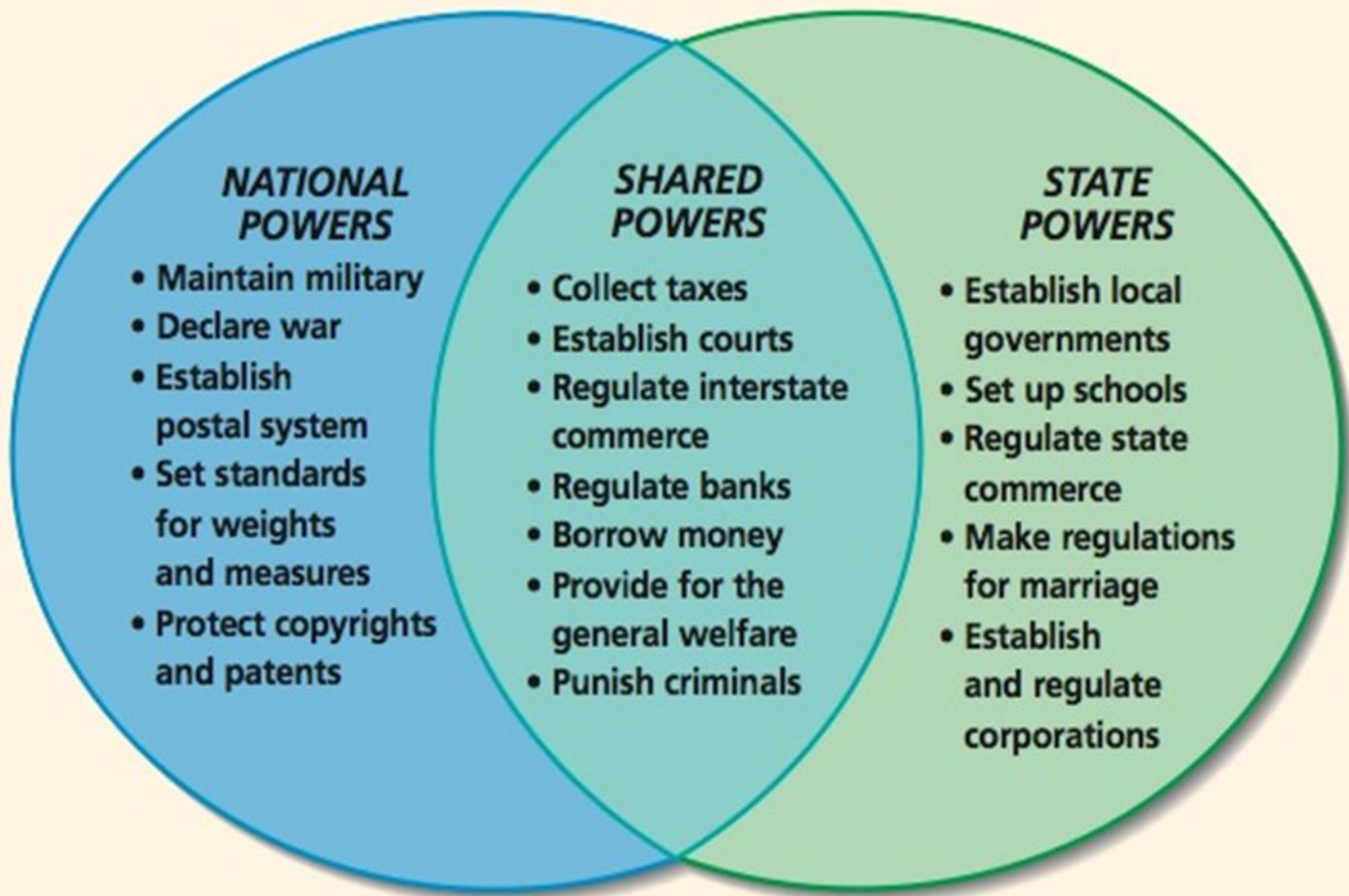
- US Supreme Court *Justice Hugo Black* wrote that Federalism meant:
- “a proper respect for state functions, a recognition of the fact that the entire country is made up of a Union of separate State governments, and a continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways” (<http://legal-dictionary.thefreedictionary.com/federalism>)

- The strongest arguments and justifications for a federal system were written during the ratification of the American Constitution.
- A set of 85 political essays in defense of federalism, *The Federalist Papers*, were written by the founding fathers of the United States, *Alexander Hamilton, James Madison, and John Jay* and published in New York in 1787.
- These essays were intended to justify the setting of a federal state, and extol the principles of popular sovereignty (<http://legal-dictionary.thefreedictionary.com/federalism>)

- The allocation of powers and authority between the Federal and state governments has always been contentious in the United States.
- But the federal system is considered as an antidote designed to frustrate the concentration of power in the national government or in any institution.



Americans live under both national and state governments.



- The countries that have adopted the federal system are: Austria (9 states); Australia (6 states); Argentina (23 provinces); Belgium (11 regions); Bosnia and Herzegovina (2 entities); Brazil (26 states); Canada (10 provinces); Ethiopia (9 regions); Germany (16 states); India (29 states); Iraq (19 Governorates); **Malaysia** (13 states); Mexico (31 states); Nepal (4 provinces); Nigeria (36 states); Pakistan (4 provinces); Russia (46 Oblasts, 22 republics, 3 federated cities), Somalia (8 federal member states); South Sudan (28 states); Sudan (18 states); Switzerland (26 cantons); United Arab Emirates (18 Emirates); United States (50 states) and Venezuela (32 states) (https://en.wikipedia.org/wiki/Federated_state).

- There are several variations and permutations of how a federated system operates:
- Dual Federalism is the system of having separate but equally powerful branches and levels of government, in which the state and national levels would both have a lot of power to balance each other out;
- This type of federalism is known as "*layer cake federalism*."

(<https://apgovernmentchs.wikispaces.com/Types+of+Federalism>)

- Creative Federalism was the type of federalism that shifted more power towards the national government by bypassing state governments and allowing the federal government to have direct control over statewide programs.
- This form of federalism is also known as "*picket-fence federalism*", and was most prevalent during the term of Lyndon Johnson. (<https://apgovernmentchs.wikispaces.com/Types+of+Federalism>)

- Cooperative Federalism is the approach where all the levels of government work together cooperatively to achieve and solve common problems.
- This type of federalism was most popular in the 1930's in the U.S. following the Great Depression;
- Under this approach, the distinction between federal and state powers became less defined, resulting in what is known as "*marble cake federalism*". (<https://apgovernmentchs.wikispaces.com/Types+of+Federalism>).

- [“New Federalism”](#) evolved with the election of Ronald Reagan in the 1980s. In this progression of federalism, more power was returned to the state in an effort to even out the balance of strength between the national and state governments.
- One way this shift in balance was achieved was through block grants.
- Block grants were essentially grants to the state governments with little description or restrictions on how to handle the money. In this way, the national government was in essence giving states funds for basically whatever they wanted.”

- “Fiscal Federalism is the usage of funds from the federal government to the states in order to support a national program.
- A prime example of fiscal federalism are categorical grants, in which the national government gives states money with requirements attached.”

- “Judicial Federalism is the ability of the Supreme Court and judicial review to influence the type of federalism during a certain era, mainly because of their ability to rule on whether something is constitutional or not. This ability invested in the Supreme Court allows the court to decide where the power of government goes; either to the state or to the central government.
- The members of the Supreme Court can allocate where the power goes, based on their views of the Constitution and how they chose to rule on a matter.” (<https://apgovernmentchs.wikispaces.com/Types+of+Federalism>)

- “Progressive Federalism is a recent form of federalism employed by the Obama administration which allows the states to have a greater control over issues normally reserved for the national government.”
- “Contemporary Federalism-the type of federalism occurring in modern times, accommodating the shifting relationships between nation and state, growth of the fiscal nature of federalism, and debating ideas on the limit of the national government's power”

(<https://apgovernmentchs.wikispaces.com/Types+of+Federalism>)

- The Philippine Federalism Agenda: Issues and Challenges
- What is the nature and character of the Federal system suited for the Philippines, given existing conditions?
- What will be the nature of the relationship between the federal government and member states?



- How will power and authority between the proposed Federal Government and the envisioned States be allocated and shared?
- What are these powers?
- How will these compare with those provided under R.A. 7160 or the Local Government Code of 1991?



Will a Federal system reduce the poverty incidence of lagging communities?

**THE END OF
POVERTY?**



- Will the presidential system be retained?
- Will we have a Unicameral or Bicameral Legislative Body?
- Will a Federal system contain political dynasties?
- Will this system be effective in curbing criminality, especially transnational (or “trans-state”) criminal activities such as the illegal drug menace, kidnap for ransom syndicates, and terrorism, among many others?
- Can we have better governance and can corruption be contained?

- Many more issues and concerns must be addressed!
- They need rigorous and expansive studies and researches to avoid the dangers of reductionism!



- Random pondering on the responses to the Federalism Agenda:
- Strengthen the LGC with pertinent amendments in the meantime so that the mandates for full local autonomy can serve as a prelude to a Federal system;
- The shifting to a Federal system will naturally take time and there is need to address the problems of our communities with a deep sense of urgency;
- Conduct researches and studies, particularly on the ground;

- Establish an appointive Constitutional Commission of experts in constitutional law and federalism that will set the agenda for a Constitutional Assembly (Con Ass).
- This Con-Com will determine and provide guidance on how the Constitution will be amended or overhauled in establishing a Federal Republic.



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Maraming Salamat
po!
Mabuhay!

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WCF 2009

