

Federalization: An Idea Whose Time Has Come*

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Introduction

The International Conference on Decentralization is a most welcome opportunity for us, the local participants, as it will provide the venue for the articulation of the most recent developments in the field of decentralization and federalism, two current issues that occupy the minds of the people of this country. It should also be of particular interest to the other participants who come from other shores, not only as a part of their academic goals but also as a discussion laboratory to explore how the horizons of decentralization and federalism may be adapted to the demands of an ever changing world.

Twin Issues

A thorough discussion on the issues of decentralization and federalism in the conference is of vital interest to us because 1st, we wish to see how our own experience in decentralization compares with the experiences of other countries; and 2nd, how the adoption of the federal system of government may be the next logical step for us to take after 11 years of the devolution of certain central government powers to the local governments.

Briefly, our experience with decentralization or devolution of powers as we prefer to call it in this country has been positive. Since the Spanish colonial era (1521-1898) up to the American occupation of the country (1898-1946) and all the way to the years of our independence as a Republic (1946) up until 1990, our system of governance had always been highly centralized. The highly centralized system of government in our country has stunted economic development and heightened tensions among the people in the impoverished areas of the country, particularly, in the Moro dominated areas of Mindanao.

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Local Government Code of 1991

Then, in 1990, the Local Government Code was passed by Congress and made effective in 1991. Since then certain powers of government, like those that pertain to health, agriculture, and social welfare, and snippets of power over education, environment, tourism and to some extent, police, had been devolved to and exercised by local governments, namely, the provinces, the cities, the municipalities and the *barangay*, the smallest unit of government in this country.

Before the adoption of the Local Government Code, the taxes of the nation and the revenues accruing to the government from natural resources like geothermal plants, gold, copper and iron mines, and timber had been monopolized by the central government. With the adoption of the Local Government Code, these were now mandated to be shared between the central government and the local government units.

Because of the devolution of certain central government powers to the local governments and the compulsory sharing of central government taxes and revenues derived from natural resources between the former and the latter, there is now substantial modernization of the localities.

Provinces, cities, municipalities and barangays are now able to provide many of the basic services that they used to rely on the central government to deliver. More and more roads are constructed or repaired by the local governments through their local engineering offices. More and more schools' and teachers' needs are provided by the local governments through the local school boards. More and more health services are delivered by local governments through the local health boards. More and more agriculture and social welfare services are delivered through locally organized agriculture and social services offices.

In a word, more and more socio-economic activities are now undertaken by local governments than ever before.

Abuses in Local Governments

It does not mean, however, that local government officials have now become paragons of public service and virtue. Some local officials abuse or misuse their powers. Some local officials continue to grovel before the central government in search of more funds. Some local officials refuse to maximize their powers, especially in matters of taxation for fear of voter backlash.

But by and large, there has been a quantum leap in the matter of the delivery of basic services to our people since the devolution of certain powers, finances and resources from the central government to the local governments.

Having eaten of the fruit of devolution, there is no turning back. In fact, the local governments now want more. They want at least 50% of the taxes and revenues collected by the central government. They want more powers over the police, tourism, trade, and development issues in general.

In fine, local governments want to raise the ante in the matter of power-tax-and-revenue sharing with the central government.

Demand for Federalism

To my mind, that demand cannot be assuaged short of establishing the federal system of government in the country.

Which I think is on the right track because I believe that effectively governing a country of more than 7000 islands and a population of some 80 million who speak various languages and are of varied cultural origins through a highly centralized government is next to impossible unless certain basic human rights and some civil liberties of the people are sacrificed on the altar of government efficiency. However, sacrificing human rights and civil liberties are too high a price to pay for an effective government, we think.

The solution, we submit, is the adoption of the federal system.

Moro Armed Struggles

One problem that to this very day continues to defy a just and lasting solution and which we believe stems, mainly, from the over centralized system of governance of the country, for example, is the incessant Moro armed resistance in Mindanao.

One Moro tribe after another has continuously fought the government from the Spanish colonial era up to the present thereby uselessly draining the resources of the Republic that could be put to better use.

The government has tried several approaches, including assimilation and integration of the Moro people into the mainstream of the country's society. It has tried regional autonomous governments; local government devolution of power, and even military pacification campaigns. In short, the carrot and stick approach. All to no avail.

Superficial Solutions

The reason why the government approaches so far have not succeeded in providing a just and lasting peace in the Moro lands of Mindanao is that the efforts have been superficial.

The Moros see through the superficiality of the solutions the government has thus far tried to address their grievances.

The government attempt to apply the divide and rule tactic to subjugate the Moro people has not succeeded; iron first approach exemplified by the military pacification campaigns against the Moro rebels has not succeeded; the tactic to integrate the Moro people into the mainstream society of the country has not succeeded.

The Moros of Mindanao would rather die than be integrated into the social mainstream of the country for the reason that they do not wish their identity as Muslims to be erased by their integration into the mainly Christian culture of the people.

Nuanced Grievance

That is the principal nuance of this centuries old conflict between the Moros of Mindanao and the governments of our country from the Spanish era to the present. It is a nuance that seems to have been consistently overlooked or even ignored by governments in dealing with the Moro rebels.

Ten Federal States

May I now suggest that if we are to address the Moro rebellion more effectively, we must be more sensitive to the nuance demands of their culture and traditions that have been theirs in this country at least a century before Magellan brought Christianity to our shores in 1521.

Thus, aside from expanding the powers and increasing the resources and finances already devoted to local governments by the Local Government Code, the next logical, and perhaps, the only peaceful, legal and constitutional avenue left open to those who wish to lay down the foundations for a just and lasting peace in the Moro lands of Mindanao and which will also speed up the economic development of the entire country is for us to adopt a federal system of government for the Republic.

Without going into actual territorial boundaries, my proposal is for the Republic to have four (4) federal states in Luzon: Northern Luzon, Central Luzon, Southern Tagalog and the Bicol Area; three (3) federal states in the Visayas: Eastern Visayas, Central Visayas, and Western Visayas; and three (3) federal states in Mindanao: Northern Mindanao; South Eastern Mindanao and the Bangsamoro.

Bangsamoro Federal State

The Bangsamoro Federal State should comprise as much as is feasible all the local government areas where the Moros predominate. In order to allow them to enhance their own culture, they should be allowed to adopt the Shari'ah for purposes of settling disputes among Moro litigants. The Shari'ah, however, should be subject to the national constitution's limitation that bars the imposition of cruel and unusual punishment such as lashing or caning of criminals or cutting of the fingers or arms or legs of criminals. Also, the Shari'ah should apply only to the litigants who profess Islam as their religion. If litigants are of different religions, the national law, not the Shari'ah, should apply.

The exact powers of the Federal Government, meaning the central government, and the Federal States, meaning the various states comprising the Federal Republic, shall be defined in the national constitution. Suffice it to say that for discussion purposes, the Federal Government may have powers over, among other things, foreign affairs, national defense, currency, federal taxes, customs and immigration, basic education, and basic justice.

Power Sharing

The Federal States may have powers over matters that are not reserved to the Federal Government, including health, agriculture, social welfare, trade, basic education, local public works, local taxation, development matters and police.

The enumeration is not all-inclusive or exclusive. In other words, the constitution will be final repository of what powers should be exercised by the Federal Republic, itself, and those powers that should be exercised by the Federal States.

The constitution may also provide that certain powers be placed under the concurrent jurisdiction of the Federal Government and the Federal States. Whoever exercises a certain power first precludes the other from exercising it as is being done in Malaysia.

Rationale for Federalization

To recapitulate, the proposal to convert the Republic into a Federal Republic of the Philippines rests upon two main reasons: First, to speed up the economic development of the entire nation; and second, to lay down the basis for a just and lasting peace in Mindanao.

The experience of countries that have adopted the federal system of government seems to validate the point that there is more lee way for countries to modernize and develop under a federal set-up than if they are governed centrally.

And as far as the Moro unrest in Mindanao goes, the Moro traditional, political, rebel leaders and academics with whom I had the privileged of consulting, appear to unanimously support the idea of federalizing the Republic and creating a Bangsamoro Federal State as a means of dissipating the causes of Moro rebellions and of laying the foundations of a just and a lasting peace in Mindanao.

But what model do we pattern our proposal for the adoption of the federal system? I suggest that we adopt the best features of the classical federal systems in Europe, in North America, in Australia and, of course, Malaysia and adapt them to our needs. We should not, however, close our eyes to the newly emerging federal systems in South America and in Africa. I am sure that their experiences with decentralized and federalized systems of governance may even be more relevant to our requirements than those of the established federal states.