

IS FEDERALISM THE KEY TO INCLUSIVE GROWTH?



HIGHLIGHTS

■ The shift to Federalism, centerpiece of the 2016 campaign of President Rodrigo Duterte, is rooted on the premise that the present unitary form of government, despite having local government units with devolved powers, still apportions a concentration of power in the capital.

■ Under a federal government, states are expected to be better equipped in preserving the cultural identity inherent to a region and its people, while driving inter-regional competition, fostering innovation, and developing self-reliance.

■ Critics have raised several concerns regarding the proposed shift to federalism: reviewing the Local Government Code, building the capacity of local governments, increasing citizens' awareness and engagement, and revisiting the Bangsamoro Basic Law.

■ For the business community, key considerations include efficiency in public governance, clarity in the delineation of authority and powers between the federal government and states, rule of law, competitiveness, transparency, and peace and order.

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The Philippines has a long history of centralized government systems, dating back to the Spanish colonial period when the whole country was ruled from a single, national capital: Manila. The first local autonomy act was not enacted until 1959, when barangays, the smallest political unit of the Philippine government, were vested with taxation powers.

The 1987 Philippine Constitution guaranteed local government units autonomy over their governed cities. This led to the enactment of the 1991 Local Government Code which saw the transfer of autonomy, to some extent, from the national government to local government units. This independence saw the devolution of functions to the LGUs, including the delivery of basic services in health and social welfare, and the allocation of a bigger share in national taxes. However, its implementation has been marred with issues and challenges, such as lack of LGU resources, underdeveloped capacity in the local governance level, lack of support from the national government, and corruption.

Supporters of federalism argue that the highly-centralized unitary government, which governs over various geographically segregated groups with diverse cultures, religion, dialects, as well as different levels of economic development, have produced inadequate and insufficient responses to the needs of the people. Thus, during the 2016 Philippine elections, the shift to Federalism became the centerpiece of the campaign of PDP-Laban candidate, and now President, Rodrigo Duterte. The advocacy echoes his campaign battle cry for “change” focused on addressing governance problems and economic inequality noted in many regions. It is rooted on the premise that the present unitary form of government, despite having local government units with devolved powers, still apportions a concentration of power – and therefore, of finance and development – in the capital and some regions surrounding it.

The 2015 Gross Regional Domestic Product (GRDP)¹ showed that 3 out of 18 regions – the National Capital Region, Region IV-A (Calabarzon), and Region III (Central Luzon) – make up 63% of the total GDP. Likewise, the 2016 national budget report showed that Metro Manila received a 14.27% share in the budget at P428.5 billion. This excludes the budget for the Office of the President, the Office of the Vice President and the Congress, all based in Metro Manila. Overall, Luzon received 20.94% (P628.3 billion) of the share, Visayas received 9.94% (P298.3 billion), and Mindanao’s share of the budget pie was 13.23% (P396.9 billion) of the total.

¹GDP 2015 (at constant 2000 prices, in million pesos). 1. NCR – 2,772,163; 2. Calabarzon – 1,303,724; 3. Central Luzon – 704,283,261. Source: Philippine Statistics Authority.

This is where the appeal of federalism lies. By empowering regions to be self-governing, local officials and institutions may directly and efficiently address the concerns of its constituents in the grassroots. State officials can pass local laws and regulations, raise and manage their own finances, and implement projects suitable to the needs and interests of their communities. Consequently, citizens will be able to demand greater accountability, transparency and, most importantly, results from their state and local government leaders.

While Federalism does not provide a quick solution to the country's most nagging problems, its proponents view it as a platform that could provide lasting solutions to address poverty, especially in Mindanao where economic hardship is one of the root causes of armed rebellion in the region. More importantly, federalism is seen as a promising first step in giving proper attention to the decades' worth of historical neglect and injustice in many conflict-ridden areas.

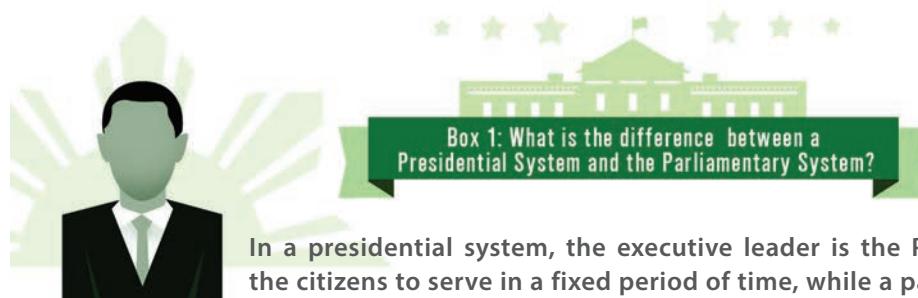
FEDERALISM – AN OVERVIEW

Sir Kenneth Clinton Wheare, generally regarded as the Father of contemporary federal theories, provided the classic definition of federalism as "the method of dividing powers so that the general and regional governments are each within a sphere co-ordinate and independent." In this model, the legislative powers are distributed between the central governing authority and another political unit (i.e. states), and individual citizens are subject to the laws created by both.

Meanwhile, American political scientist William Riker defines federalism as a form of political organization in which different levels of government have authority over decisions regarding several areas of government action. He cites three key pillars of a federal government: autonomy, subsidiarity, and solidarity. Autonomy allows federal states to act independently from the central government. Subsidiarity establishes that decision-making formed at the grassroots level, instead of a broader national level, can address the needs of the constituency more effectively. Solidarity determines that every constituent unit (i.e. regions, provinces, cities, towns) is an equal part of the federation, and serves as partners for the holistic development of a country.

Prime examples of countries adopting a federal form of government include the **United States** (50 states, 1 incorporated territory, and 1 federal district); **Australia** (6 states and 2 territories); **Malaysia** (13 states and 3 federal territories); **Germany** (16 states); and **Canada** (10 provinces and 3 territories). Some federal countries have a presidential system while others have a Prime Minister under a parliamentary system.

Federal systems take a number of different forms, which determine the distribution of powers and at varying degrees. There are countries like Germany, Ethiopia, and Venezuela that adopts a **cooperative federalism** where both the federal and the state governments have shared responsibilities over certain areas and services. Federal funds are distributed through "grants in aid" or "categorical grants" which gives the federal government great-



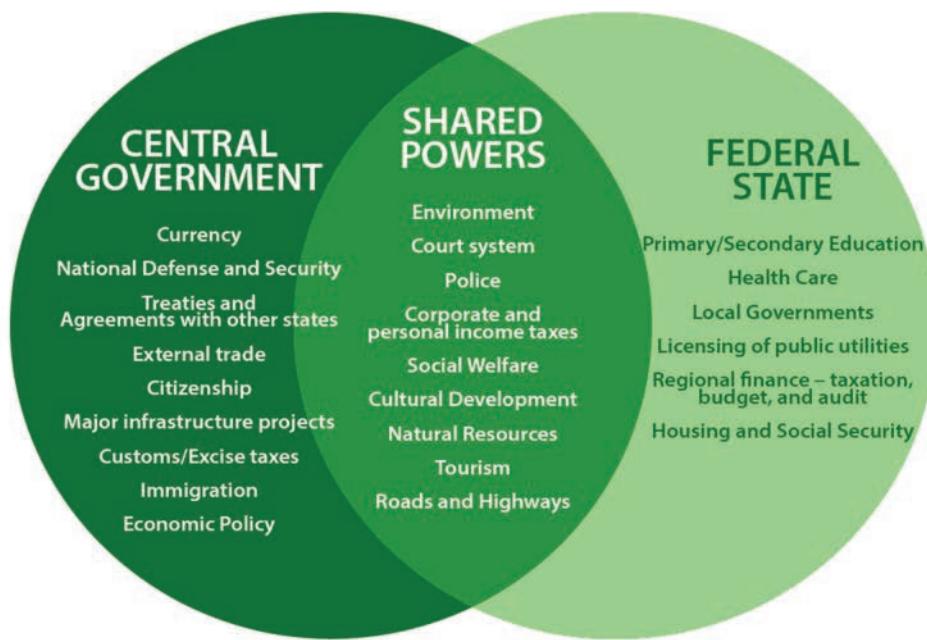
Box 1: What is the difference between a Presidential System and the Parliamentary System?

In a presidential system, the executive leader is the President who is elected by the citizens to serve in a fixed period of time, while a parliamentary system has the Prime Minister, elected from the legislative branch, who will serve until replaced by the Parliament. In a presidential system, the executive and legislative branches are completely separate, while in a parliamentary system the prime minister is also a member of the legislative branch.

There are countries, such as Russia and France, which combine the features of the two with the President tending to foreign policy, and the Prime Minister focusing on domestic affairs.



TABLE 1. Commonly-devolved and shared powers by federal governments



Source: Partido Demokratiko Pilipino-Lakas ng Bayan (PDP Laban) Federalism Primer, 2016

er control over funds turned over to the state. Another type is **competitive federalism**, such as in the United States and Micronesia, which promotes healthy competition between states for funds, investments, and skills/talents. In this arrangement, the states are given more responsibility and autonomy in policies and development programs. The federal government also provides "block grants" or fairly open-ended grants that states can spend without restrictions or requirements attached. There are other types of federal systems – each determining the level of dependency and interaction between federal government and the states - but these two are generally adopted by many federal countries.

Division of Powers

Similar to the Philippines' unitary system, federal governments have three key branches: the legislative, the executive, and the judiciary. However, in contrast to the unitary set-up where most of the governing power is lodged in a centralized government while local autonomy is only delegated or devolved to sub-national units, the governing power in federal governments are constitutionally divided between the national government and its self-governing states. (refer to table 1)

Public Finance Under a Federal Structure

Three main components need to be set in order to determine the financial interrelationship of the

national government and the states: federal-provincial taxation agreements, federal conditional or block grants, and equalization payments.

As both governments have the power to impose direct forms of taxation, it is important to reach tax transfer agreements, as well as to coordinate tax-related efforts to avoid over-taxing individuals and businesses. The federal government also provides conditional grants for development programs (e.g. healthcare, public education, welfare) with specific conditions attached, or extend block grants or grants turned over to provinces and are given high discretionary power over these funds.

Finally, an equalization payment system allows federal governments to provide less prosperous states with additional grants to assist them in delivering public services of similar standards as the rest of the nation.

ADVANTAGES OF A DECENTRALIZED GOVERNMENT

The current administration's drive to promote and pursue federalism roots from the assumed advantages of a decentralized national government.

Dr. Jose Abueva, a major proponent of federalism in the Philippines, did a study on the advantages of federalism in 2005, and explained the theory be-

hind Philippine federalization. He discussed that federal states will be able to address more localized issues such as poverty, unemployment, and crime, and respond more efficiently and directly to the demands of local constituents without being stifled by the bureaucratic costs of centralization in Metro Manila. In addition, federal states are expected to be better equipped in preserving the cultural identity inherent to a region and its people, while driving inter-regional competition, fostering innovation, and developing self-reliance instead of continued dependency on the capital and the national government.

Pursuing Localized Initiatives

A balanced division of power and resources between governing entities would empower state governments and local government units to design and implement community-specific programs. Instead of adopting national development programs designed by the central government, independent states can allocate their resources towards initiatives that are aligned with their priorities and societal needs.

Protecting and Preserving

Regional Interests

Alongside a more responsive law-making branch of government, independent states are installed with local autonomy to enact policies that may be more relevant and immediate to one state than others, and are free to ratify their own social, economic and foreign policies. These policies are often shaped by the region's cultural identities, social principles, and regional interests. In a way, local interests are not only promoted but are nurtured as well. This is particularly important for regions dominated by groups considered the minority within the larger nation. In some federal countries, like the United States, this independence in policy-making also covers social preferences and cultural beliefs such as issues on same-sex marriage, gun control, and legalization of medical marijuana.

A study conducted by British constitutional scholar James Bryce on the United States' political system highlighted one of the unique advantages of federalism: the possibility to experiment. At the height of industrialization, Wisconsin pioneered a workers' compensation system and the state income tax; Illinois introduced the Anti-Sweatshop

Act of 1893; Massachusetts passed a minimum wage law for women in 1912; and Oregon, in 1913, limited the regular working day to ten hours which was an unprecedented state intervention concerning employees' working conditions.

According to Bryce, state and local governments are in the better position to respond to the particular preferences and needs of their constituents – this includes designing innovative programs and policies, assessing the costs involved, adopting such programs and policies, and serving as the experimental subject for trying and testing. The competition among states provides the incentives for each to experiment with a combination of initiatives, policies, and public goods and services, which, otherwise, could not have been safely tried in a large centralized country.

KEY ELEMENTS OF THE PROPOSED FEDERAL FORM OF GOVERNMENT

The creation of PDP-Laban in 1982 marked the initial formal proposal of the shift to federalism in the Philippines². The proposal was initiated by former Senator Aquilino Pimentel Jr., and was meant to enable regional growth and development outside Metro Manila and dissipate the causes of rebellion against the State, especially in Mindanao.

In 2008, Joint Resolution No. 10, a 63-page resolution that called for the revision of 15 out of 18 Articles of the 1987 Constitution and the addition of two new Articles, was deliberated in Congress. This move to switch to a federal form of government underscored an economic effort to create 12 centers of power, finance, and development throughout the country.

This Resolution, sponsored by then-Senator Pimentel, serves as one of the current administration's main pillars in its initiative to transform the government from unitary to federal. In this proposal, there will be a National Government, 11 independent states, and Metro Manila as a Federal Administrative Region. (Refer to table 2)

²Pimentel, Aquilino Jr. *Federalizing the Philippines*, keynote address at a Seminar on Federalism at Carmona, Cavite. <https://www.scribd.com/presentation/4969949/Federalism-Presentation-of-Aquilino-Pimentel-Jr.> 23 April 2008.

THE PROPOSED STATES UNDER THE NEW FEDERAL GOVERNMENT



TABLE 2. The proposed state under the new federal government

STATE / REGION	CAPITAL
Metro Manila (Capital State)	Manila
Northern Luzon	Tuguegarao
Central Luzon	Tarlac City
Southern Tagalog	Tagaytay
Bicol	Legazpi
MinPaRom	Mamburao
Eastern Visayas	Catbalogan
Central Visayas	Cebu City
Western Visayas	Iloilo City
Northern Mindanao	Cagayan de Oro
Southern Mindanao	Davao City
Bangsamoro	Marawi

In the shift to federalism, the Philippines will retain the presidential form of government, with the President and Vice President elected as a tandem, the people will be represented by a bicameral Congress composed of elected officials. The following are the proposed elements:

Increase in the number of Senators

The current 24-Senator limit was based on a Philippine population of 20 million in 1987. Since then, the Philippine population has increased to over 104 million, to date. Under the new form of government, Senators will be elected per state for equal representation and will include at least one representative for overseas voters. With a federal set-up, local governments are expected to be better equipped in preserving the identity and principle inherent to a region and its people.

Transfer of key government offices to strategic regional locations

Under the new federal government, the three branches of government will hold offices in key areas throughout the country – the Executive will

remain in the federal administrative state of Metro Manila, while the Legislative (Congress) will be moved to the State of Central Visayas, and the judiciary (Supreme Court) to the State of Northern Mindanao. Senator Pimentel patterned this set-up from that of South Africa's, where the executive and legislative departments, and the Supreme Court are located in three different regions.

Implement updated revenue-sharing schemes

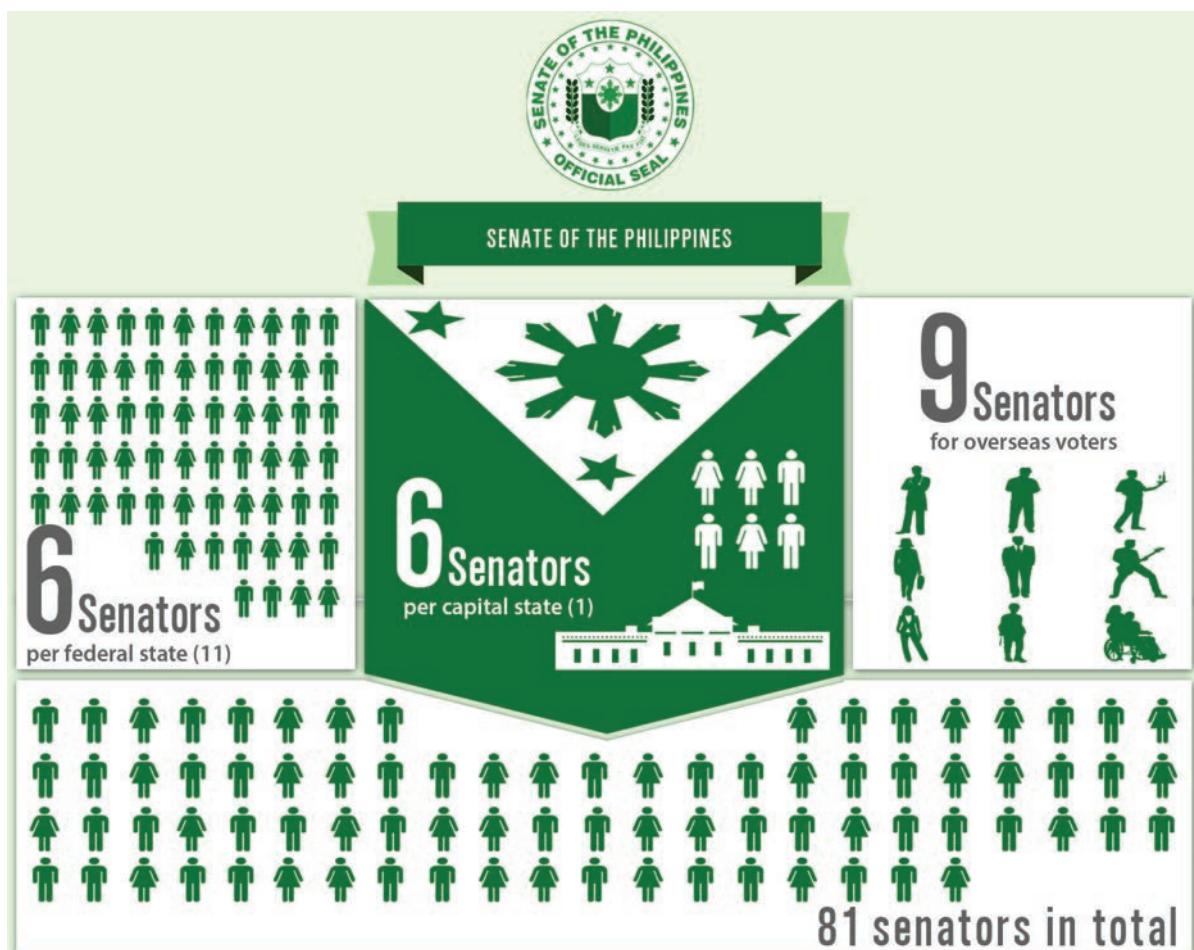
The proposed sharing scheme will provide LGUs with bigger shares in national taxes, as compared to what is currently provided for under the Local Government Code. (refer to Graph 1)

Provide an Equalization Fund

Administered by the Federal Government, the creation of an Equalization Fund will aim to address the reality that not all States are equal in terms of resources and opportunities. The Fund will be borne out of mandated contributions from Federal States whose resources are more abundant than others³.

EMERGING ISSUES

INCREASE IN THE NUMBER OF SENATORS



³As of writing, details have yet to be discussed, both by Senator Pimentel and the current administration, as to how the Fund will be set up and what metrics are to be used in determining Fund contributions and allocations

In the wake of the proposal to shift to a federal set-up, critics have raised several issues which, they note, require considerable attention before advancing the discussions on the shift to federalism.

Reviewing the Local Government Code

In identifying gaps and issues that federalism and the amendment of the Constitution aim to address, there is also a need to review existing legislation that already devolves power and provides local autonomy to local government units.

Legislators not in favor of federalism have recommended a review of the Local Government Code before amending the Constitution. Rep. Lito Atienza of Buhay Partylist establishes that a thorough assessment of the Code's implementation is necessary to determine if there is a need to amend the Constitution to mandate the creation of independent federal states, or if a stricter implementation of the Code is sufficient to address the call for local government autonomy.

Enacted in 1991, the Local Government Code mandated the devolution of some functions from the national government, and provided, to an extent, authority and local autonomy to smaller, local government units. (Refer to Table3)

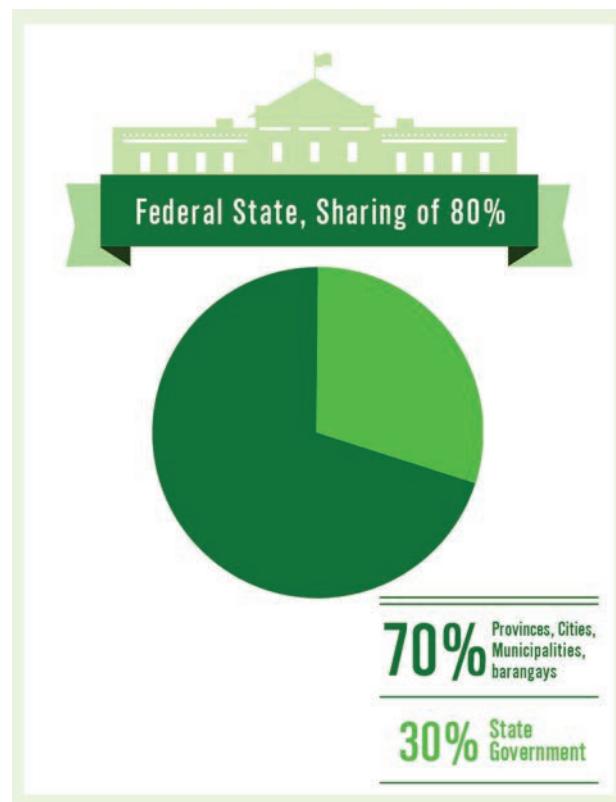
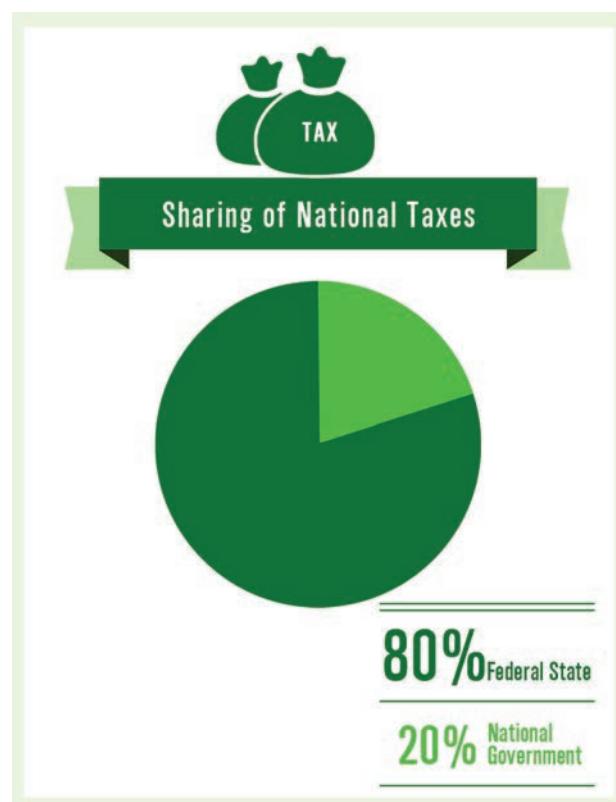
Building the Capacity of Local Governments

In the process of proposing the creation of federal states, developing self-reliant local governments before converting them to independent states should be a key element (Brillantes, 2002).

Structural and institutional reforms are needed to develop the capacity of provincial governments and LGUs to efficiently and meaningfully develop their communities, and be accountable for its results. There is a need for both local governments and its people to understand, foster, and develop much-needed structural and institutional change that will enable independent local governments, and veer away from years of traditional Philippine politics, where citizens have relied more on personalities and the stronghold of political dynasties.

A political dynasty refers to a traditional political family whose members hold elective posts simultaneously, or whose elective posts have been passed from one generation and/or family member to another, resulting to a concentration of power with-

GRAPH 1. PROPOSED INCOME-SHARING SCHEMES OF FEDERAL STATES AND THE NATIONAL GOVERNMENT



in a family. According to a study conducted by the Asian Institute of Management in 2012, 70% of Congressmen in the 15th Congress came from political dynasties, and on average, there are more dynasties in regions with higher poverty and lower human development.

Increasing Citizens' Awareness and Engagement

As discussions on this proposal are moving ahead in Congress, public education and national discourse on the topic are critical in safeguarding the democratic process. At present, there is a general lack of knowledge about federalism, as well as legitimate reservations regarding the proposed shift. A July 2016 Pulse Asia survey reveals that 59% of the respondents said they have not read, heard, or watched anything about the proposed change in the Constitution, while 41% claimed to have prior knowledge before taking the survey. The survey also reveals that 33% of Filipinos are against moving to a federal system of government, while 28% are ambivalent on the issue. Only 39% of Filipinos are in favor of changing the unitary system of government to a federal one.

Revisiting the proposed Bangsamoro Basic Law

Since the major proponents of the federal Republic of the Philippines included the creation of a Bangsamoro state, the pursuit for the stalled Bangsamoro Basic Law (BBL) is proposed to be discontinued. This is opposed by the champions of the BBL who argue that, while they support federalism, it should not deter the government from implementing the Comprehensive Agreement on the Bangsamoro (CAB) signed in March 2014. The Moro Islamic Liberation Front (MILF) suggests using the creation of a Bangsamoro State as a model and serve as a precedent for the creation of other federal states. As of the writing of this report, a draft BBL was refiled by Maguindanao representative Sandra Sema with no counterpart in the Senate.

MODE OF AMENDING THE CONSTITUTION

Any amendment⁵ to, or revision of, the Constitution may be proposed through three methods:

1. The Congress, upon a vote of three-fourths of all its Members (Constituent Assembly);

THE LOCAL GOVERNMENT CODE OF 1991

Legal basis. The enactment of the Local Government Code was based on Article X of the 1987 Constitution, which states that:

"The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum."

SALIENT FEATURES

Organizational structure and function. As stated in the Code, "the Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants." At the local level, a governor heads a province, while a Mayor governs a city/municipality; the barangay, the smallest unit in government, is headed by a barangay captain. The Code also called for the creation of the Sangguniang Kabataan (SK), which stands as a venue for youth involvement in governance.

Inclusion of people participation in local governance. The inclusion of LGU-accredited organizations and their representatives in local special bodies, such as the local development council, marked a significant structural change in local governments, which now enables citizen participation in governance.

The Local Government Code devolves⁴ three general areas of authority to local governments.

Devolution of services and functions. Functions and services under agriculture, health, and social services have been devolved to local governments; these include the implementation of programs and projects on maternal and child care, access to basic health services, solid waste management, local irrigation, maintenance of public works and highways, and regulation of local businesses.

DEVOLVED POWERS

Appointment of local officials. The Chief Executives of LGUs have the mandate to appoint local officials, including the local treasurer, budget officers and assessors, and those responsible for the management of local government operations. Before the implementation of the Code, these positions were national government appointees.

Increase in resources and expansion of fiscal powers. From 20% to 40% in local government shares, an increase in the Internal Revenue Allotment (IRA) and from shares in national taxes has been applied after the Code was implemented. LGUs are also permitted to contract loans and issue bonds to finance local projects and programs, adjust tax rates (up to 10% every 5 years), and collect community tax.

Lack of budgetary support from the national government. Despite having increased shares from the IRA, the continued lack of budgetary support from the national government continues to hamper full implementation of devolved functions, programs, and projects, especially in tertiary health services.

ISSUES IN IMPLEMENTATION

National government interference. Despite having devolved powers, issues still arise in the interference of national government, such as in businesses registration, where some requirements are handled by national agencies, or in health services, where the budget is co-shared with the Department of Health. These overlaps often result in poor delivery of public services.

2. A Constitutional Convention;

3. People's initiative, upon a petition of at least 12% of the total number of registered voters.

House Speaker Pantaleon Alvarez first filed a Joint Resolution on July 1, before becoming House Speaker, calling for a Constitutional Convention (Con-Con). However, during the National Security Council (NSC) on July 28,

⁴As used in the Code, the term "devolution" refers to the act by which the national government confers power and authority upon the various local government units to perform specific functions and responsibilities.

TABLE 4. Modes of Amending the Constitution

THE LOCAL GOVERNMENT CODE OF 1991		
MODE	PROS	CONS
CONSTITUENT ASSEMBLY	Less expensive; more practical in terms of cost.	The process is vulnerable to being hijacked by vested, narrow interests of legislators.
CONSTITUTIONAL CONVENTION	Delegates are elected by the people, thus, will be more representative of key sectors.	Expensive, in terms of cost; election of delegates would easily cost P6-7 billion, while maintenance of convention, its Secretariat/offices, and other expenses of delegates is estimated at P3 billion, annually.
PEOPLE'S INITIATIVE	Direct democracy; empowers people to make own decision and engage in legislation.	Constitutional provision cannot be self-executed, and needs aid of legislation; current legislation (RA 6735) does not sufficiently provide for metrics in amending the Constitution.

Source: Federal Philippines Rising, keynote address of Senator Aquilino Pimentel Jr. at a forum on Federalism by BusinessMirror and the European Chamber of Commerce of the Philippines (ECCP), on 23 August 2016.

President Duterte revealed his preference for a Constituent Assembly (Con-Ass) over Con-Con.

Supporting the Chief Executive's change in preference, Senate Majority Leader Rudy Fariñas states that Con-Ass is the more practical approach than ConCon, as "a Constitutional Assembly would spend no more than P2 billion, while (cost estimates) of a Constitutional Convention ranges from P6 to P7 billion, and that figure is only for the election of delegates."⁸ The savings made from opting to amend the Constitution through Con-Ass is projected to be used for other key priorities of the administration, such as the pay hike for the PNP and AFP.

MOVEMENT IN CONGRESS

In the beginning of the 17th Congress, the House appointed 12 Deputy Speakers⁶, who will be representing the 12 proposed states during the process of amending the Constitution in the 17th Congress. As of November 2016, however, 14 deputy speakers have now been elected.

On October 19, during a hearing of the House Committee on Constitutional Amendments,

TABLE 4. Deputy Speakers in the 17th Congress (as of November 2016)

DEPUTY SPEAKERS	DISTRICT, PARTY
ABU, Raneo E.	Batangas, District 2; NP
ABUEG, Frederick F.	Palawan, District 2; LP
ALVAREZ, Mercedes K.	Negros Occidental, District 6; NPC
ANDAYA, Rolando Jr. G.	Camarines Sur, District 1; PDP-Laban
CASTRO, Fredenil H.	Capiz, District 2; NUP
CAYETANO, Pia S.	Taguig, Lone District; Nacionalista
GARCIA-ALBANO, Mylene J.	Davao, District 2; PDP-Laban
GARCIA, Gwendolyn F.	Cebu, District 3; PDP-Laban
GARIN, Sharon S.	AAMBIS-OWA Partylist
HERNANDEZ, Ferdinand L.	South Cotabato, District 2; NPC
MACAPAGAL-ARROYO, Gloria	Pampanga, District 2; LAKAS
QUIMBO, Romero S.	Marikina, District 2; LP
SEMA, Bai Sandra A.	Maguindanao, District 2; LP
SINGSON, Eric D.	Ilocos Sur, District 2; PDP-Laban

Deputy Speaker Gwendolyn Garcia moved for the panel to approve a concurrent resolution calling both the House of Representatives and the Senate to convene as a Constituent Assembly. Out of 42 members of the panel, 32 voted for the approval of the resolution. As of November, the Committee has yet to present the Committee report on the resolution and have it approved in plenary.

On December 8, the Senate Committee on Constitutional Amendments convened to discuss the shift in form of government, including the plan to shift to a federal form and the mode to use for amending the Constitution. As of this hearing, both Chambers of the Congress remain divided on which mode will be used. For those in favor of Constitutional Convention, they stress the importance of a wider public participation and sectoral representation in the Convention. For those in favor of Constituent Assembly, they stress that the method is more practical, as it will be faster and cheaper.

Shortly after, President Rodrigo Duterte signed Executive Order No. 10, mandating the creation of a consultative body for the amendment of the Constitution. The consultative committee is mandated "to study, conduct consultations, and review the provisions of the 1987 Constitution." The President shall appoint not

⁵As stipulated in the Constitution, any Constitutional amendment shall be valid when ratified by a majority vote in a plebiscite, not earlier than 60 days and no later than 90 after the approval of such amendment.

⁶The Deputy Speakers of the Philippine House of Representatives are the second highest-ranking officials of the Philippine House of Representatives. During the absence of the House Speaker, one of the House Deputy Speakers will preside over the House of Representatives. By tradition, only 6 deputy speakers are usually elected.

more than 25 members, including a Chairperson, who shall represent different sectors. The Committee is scheduled to complete its work on or before the lapse of 6 months from the date it is first convened, after which the final report will be forwarded to the President, who will then forward it to Congress. As of the writing of this report, the President has yet to appoint the members of this consultative body.

MOVING FORWARD

The target of the Duterte administration is to ratify the new Constitution by the 2019 mid-term elections. The period between 2019 and 2022 is expected to serve as the transition period to a federal system. In the meantime, the administration is set to hold public consultations and discussions with key stakeholders on the pros and cons of federalism and details of the proposed federal system, as deliberation in Congress continues.

For the business community, key considerations in this national debate concerns matters of efficiency in public governance, clarity in the delineation of authority and powers between the federal government and states, rule of law, competitiveness, transparency, and peace and order, to name a few. Businesses, particularly those with established operations in different cities, are concerned with implications on existing laws and regulations such as on industrial relations, wage setting, taxation, patents and trademarks, regulation of sources of water and air pollution, financial regulations, and incentives, among others. It is, therefore, important for the business sector to engage in meaningful public-private discussions to better understand the elements of shifting to a federal form of government and how this could transform, for better or for worse, the business environment in the Philippines. ■



Box 2: CASE STUDY: A General Overview

CANADA: A Federal Constitutional Monarchy

Canada is a federation with 11 jurisdictions of governmental authority: the federal or central government, and the 10 provincial governments. The Monarchy of Canada, who is currently Queen Elizabeth II, serves as the foundation of the executive, legislative and judicial branches of the Canadian government.

The administrative divisions, composed of the 10 provinces and 3 territories of Canada, are responsible for the delivery of sub-national governance. The 10 provinces receive their power and authority from the Constitution, while the 3 territorial governments have powers delegated to them by the Parliament of Canada.

I. Division of Powers

Canada's Constitution Act, 1867 outlines the distribution of powers which refers to the legislative powers and responsibilities of the federal government and the provincial governments. It follows the guiding principle that matters of national interest are concerns of the Parliament, while those issues of particular provincial interest are to be handled by the provinces.

The table below presents the general division of powers. There are areas where federal and provincial governments share powers, but in case of dispute, the constitution allows for the federal legislation to prevail over agriculture and immigration cases, while it grants the provinces greater power on the issue of old age pensions.

FEDERAL POWERS	SHARED POWERS	PROVINCIAL POWERS
Residuary jurisdiction <i>(All powers not specifically given to the provinces would go to the federal government, as long as they are of a general, and not local, nature.)</i>	Old age pensions	Direct taxation
Federal taxes	Agriculture	Indirect taxation of their natural resources
Militia and National Defense	Immigration	Administer civil and criminal justice
Navigation	Supplementary benefits	Impose penalties for infraction of provincial statutes
Federal civil service		Solemnization of marriages
Unemployment insurance		Provincial civil service

Foreign affairs and control of drugs	Local works and corporations with provincial objectives
Citizenship	Fund and provide services (<i>health services, social assistance, public education, highways, etc.</i>)
Trade and commerce	Intraprovincial transportation and business
Offshore mineral rights	Public schooling
Census taking and statistics	Cooperatives and Savings banks
Banking and currency	Property and civil rights
Protect copyrights and patents	Create courts of criminal jurisdiction
Establish postal system	Create provincial police forces
Transportation of an interprovincial or international nature	Power over prisons
Broadcasting and telecommunications, aeronautics, and nuclear energy	Make law related to property and civil rights
Regulate fisheries	Amend internal constitutions
Peace and order, and good government	
Aborigines and Indians reserves	
Criminal law	
Exclusive power over penitentiaries	
Divorce and marriage	
"Work and undertakings" of national importance	
Make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.	

Source: <http://www.thecanadianencyclopedia.ca/en/article/distribution-of-powers/> ;
<http://faculty.marianopolis.edu/c.belanger/quebechistory/readings/Canadadivisionofpowers.html>

I. Branches of Government

Canada's political system is based on Westminster-style parliamentary democracy modelled after the United Kingdom system. Its system of governance has three branches: the legislative branch, the executive branch, and the judicial branch.

THE LEGISLATIVE BRANCH

Canada's parliament is responsible for making laws in the country.

This branch is composed of the Monarch, the Senate, and the House of Commons.

	SOVEREIGN	SENATE	HOUSE OF COMMONS
Composition	The Monarch, is represented by the Governor General as appointed by the Queen on the advice of the Prime Minister	Consists of senators appointed by the Governor General on the advice of the Prime Minister. Senators represent provinces or territories.	A representative chamber made up of Members of Parliaments (MPs) elected by the people traditionally every four years. Each MP represents a single electoral district.
Representative/s	1 Governor General	105 seats	388 seats*
Responsibilities	Carries out the Queen's constitutional and ceremonial duties	Consider and review laws (propose new laws) All proposed laws approved by both houses must receive a royal assent granted by the Governor General on behalf of the Sovereign	
Term	Unfixed period of time	Until a Senator reaches the age of 75	4 years

*"Special clauses" were applied to increase the number of seats for certain provinces

Local Laws: The provincial and territorial Legislative Assemblies are responsible for designing and passing their own provincial laws, along with the province's Lieutenant Governor who acts as the Monarchy's representative. They are also responsible for the provincial budget, such as approving funds intended for government programs and authorizing expenditures.

THE EXECUTIVE BRANCH

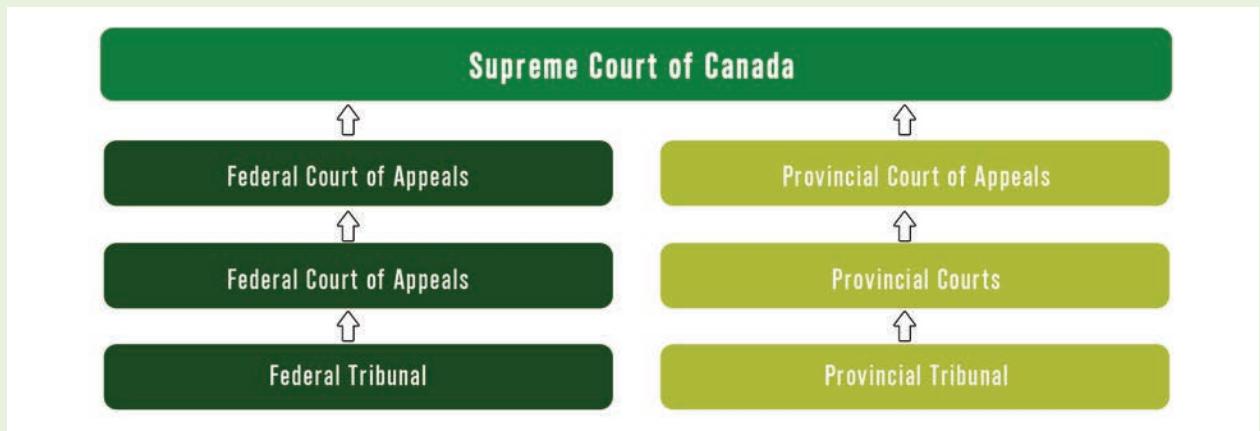
Canada's executive branch operates, implements, and enforces the laws created by the legislative branch. It is comprised of the Monarch, the Prime Minister, and the Cabinet.

	SOVEREIGN	PRIME MINISTER	CABINET
Composition	The Monarch is represented by the Governor General	The leader of the political party with most seats in the House of Commons.	Heads of government departments; chosen by the Prime Minister and appointed by the Governor General
Representative/s	1 Governor General	1 Prime Minister	40 ministers*
Responsibilities	Head of military	Head of the Cabinet, and chooses the Cabinet Members	Responsible for running the federal government departments
Term	Unfixed period of time	May stay as long as he/she retains the support and confidence of the House of Commons.	Co-terminus with the Prime Minister

*The slate of Cabinet positions is subject to periodic restructuring

THE JUDICIAL BRANCH

The judiciary is tasked to interpret and apply the laws, and it acts independently from the other branches of government. It is made up of Canada's system of courts and judges.



Note: There is a separate Military Courts and a Tax Court of Canada

Canada's final court of appeal is the Supreme Court of Canada which is composed of nine judges appointed by the federal government. Similarly, it is the Parliament that appoints and pays judges of the superior court of the provinces. In order to ensure consistency and fairness in the treatment of criminal cases in the country, the Parliament maintains the exclusive authority over the procedures in courts that try criminal cases, while the provinces focus on administering justice in their jurisdictions¹.

The Federal Court or Tribunal handles cases in areas of intellectual property, maritime law, federal-provincial disputes, and civil cases related to terrorism. Meanwhile, it is the Federal Court of Appeals responsibility to review the decisions of the Federal Court, as well as of the Tax Court. The provincial courts handle most of the criminal cases, money-related cases and family cases. It is the provincial government that appoints its judges in the provincial court.

II. SPECIAL FOCUS: Taxation and Fund Transfers

Canada's political system is based on Westminster-style parliamentary democracy modelled after the United Kingdom system. Its system of governance has three branches: the legislative branch, the executive branch, and the judicial branch.

Taxation

The federal and provincial governments both impose tax on incomes earned by individuals and corporations. A federal Goods and Services Tax (GST) is also imposed on almost all sales of goods and services, and the federal government also places an Excise Tax on various products such as on gasoline, alcohol and manufactured tobacco. The provinces are given the authority to also levy specific types of the direct taxes within their jurisdiction. This includes personal and corporate taxes, consumer taxes, and certain property taxes. The provinces also generate non-tax revenues from their jurisdiction over the management, sale and leasing of public lands and natural resources. Canada's amended constitution has expanded the provincial powers over non-renewable resources, forestry resources, and electrical energy.

¹Department of Justice Canada. <http://www.justice.gc.ca/eng/csj-sjc/just/07.html>

Through tax collection agreements, the federal government is able to administer and collect personal and income taxes on behalf the provinces and territories (except for Quebec and Alberta). The Canada Revenue Agency is responsible for collecting these income taxes and remitting the revenues to the respective governments.

Fund Transfers

Financial support (i.e. grants) is given by the Canadian government to provincial and territorial governments to assist them in the provision of programs and services. There are four main transfer programs:

- The Canada Health Transfer (CHT)
- The Canada Social Transfer (CST)
- The Equalization Program; and
- The Territorial Formula Financing (TFF).

The CHT and CST are federal transfers which support specific policy areas such as health care, post-secondary education, social assistance and social services, early childhood development and child care. The Equalization and TFF programs, on the other hand, provide unconditional transfers to address fiscal disparities among provinces and territories. The program enables less prosperous provinces to deliver public services comparable to the national standards. The fund comes from the federal government's general revenues sourced from taxes collected nationwide, such as federal personal and corporate income taxes, revenue from customs and duties, Goods and Services Tax (GST), among others².

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