Republic of the Philippines

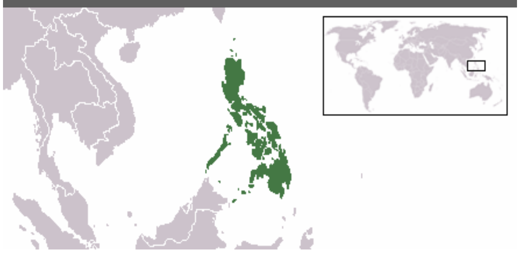
(Republika ng Pilipinas)

Capital: Manila

Inhabitants: 89.468.677 (2000)

Area: 300.000 km²

1. Introduction



The Philippines is an archipelago of 7,107 islands situated in southeastern Asia. It has a land area of 298,170 sq km, and a population of 89,468,677.
It has a unitary-presidential type of government under the 1987 Constitution. The president is elected by popular vote for a six-year term. Legislature is bicameral, comprising the Senate and the House of Representatives. Half of the Senate is elected every three years by popular vote for a six-year term, while members of the House are similarly elected for a three-year term. The judiciary is headed by the Supreme Court, where 15 justices are appointed by the president.

The *barangay*—a pre-colonial, self-governing, socio-political unit interspersed throughout the archipelago—is the precursor of local government in the country. Under the Spanish regime, *barangays* were consolidated into municipalities; provinces and cities were later created. These local governments were under the central command built in Manila. In 1893, the Maura Law was enacted to give local governments some measure of autonomy, such as election by plurality of local officials, local fees and taxation, and local budgeting.

The 1898 revolution ousted the Spanish regime and ushered in the first Philippine Republic under the Malolos Constitution in 1899. The 1899 Constitution provided an article on local government, where local autonomy was made explicit and stipulated that ‘the organisation and attributes of provincial and popular assemblies shall be governed by their respective laws.’

The American regime that began in 1902 did very little in the advancement of local autonomy. The centralism character remained. In 1935, supervision of local governments by central government was transferred to the Department of Interior. A new constitution, which had very limited provision on local government, was ratified during this time. The political independence granted by the Americans after World War II engendered the Local Autonomy Act of 1959. This increased the fiscal, planning and regulatory powers of the local governments.

Nearly a decade later, the Decentralization Act of 1967 was passed to intensify the decision-making power of local governments over administrative concerns, and to increase their resources. Local autonomy was finally encouraged in the redrafted Constitution in 1973. The 1973 Constitution required the enactment of the first Local Government Code for 'a more responsive and accountable local government structure.' However, true local autonomy could not be implemented under the authoritarian regime of then President Marcos.

The 1986 People Power revolution that toppled Marcos' dictatorship gave mandate to Aquino, who proclaimed the provisional Freedom Constitution. The 1987 Constitution provided for extensive decentralization and greater local autonomy, and for a new Local Government Code. The Code of 1991 provides for decentralization in all its form: devolution, deconcentration and delegation and for decentralization of financial resources to support the devolved basic services.

Notions of local government, decentralization and local democracy

Local governments are territorial and political subdivisions, legal authorities providing basic services, and partners of the national government. Decentralization is viewed as a mechanism to bring the government closer to the people. The Local Government Code of 1991 provides for a 'system … whereby local government units shall be given more powers, authority, responsibilities, and resources' (Republic of the Philippines 1991).

Decentralization is also a mechanism to expedite the process of democratization in the Philippines. Democracy in the Philippines is best epitomized through 'people power,' a massive and peaceful protest on the streets. Two presidents were ousted through this democratic process. Democracy also entails a system of check and balance, the capability to organize fair and free elections, and a participatory form of governance. At all levels of government, democracy in the Philippines is people's right and responsibility.

2. Territorial Organization

The Philippines has two levels of government: central and local. Though unitary, government is highly decentralized.

The country is divided into 17 regions. Regions are not local governments, with the exception the Autonomous Region for Muslim Mindanao (ARMM), which was created in response to the tension between the central government and the Muslim rebels in the area. ARMM has quasi-federal status and is governed and administered in accordance with the 1987 Constitution and its Organic Act. Its powers are devolved to the regional legislative assembly, the regional governor (assisted by nine cabinet members) and special courts, but not to the component local governments.

Administrative regions comprise provinces, the second tier of local government. Provinces are further divided into municipalities/cities, the first tier; while *barangays*, the smallest political units, make up municipalities and cities. Cities are either independent or part of a province. Provinces are pronounced as coordinative bodies for local governments under its territorial jurisdiction, while municipalities and cities are declared as general purpose governments that deliver basic services. *Barangays* are basic units that plan and implement government policies and programs.

As of 2006, there are 79 provinces, 117 cities, 1,501 municipalities, and 41,982 *barangays*. In 2000, the Southern Tagalog

Region accounts for 15.42 percent of the total population followed by the National Capital Region with 12.98 percent. The Cordillera Administrative Region has the smallest share with only 1.78 percent of the total population. In the same year, 21 of the 79 provinces registered more than one million inhabitants, while only four out of 117 cities surpass one million.

In 2000, the local public expenditure per inhabitant is PHP 1,701, while the total national government expenditure per inhabitant is PHP 8,484. The ratio of local public expenditure to total public expenditure is 1:5. In 2002, the local public expenditure is only 3.88 percent of the gross domestic product.

2.1 The capital city

Manila is the capital of the Philippines. Metro Manila, also known as the National Capital Region (NCR), is a special administrative region, comprising 14 cities and 3 municipalities. The Metropolitan Manila Development Authority (MMDA) is the metropolitan government for NCR. Created in 1995, it has planning, coordinating and monitoring functions, as well as regulatory and supervisory authority over metro-wide delivery of services. As legally created metropolitan area, it receives allocation from the national wealth. While the MMDA has responsibilities, it does not have legislative power or the authority to levy and collect taxes. It can, however, levy fines and impose fees and charges for its services. MMDA is headed by a chairman appointed by the president. The Metro Manila Council is its policymaking body.

2.2 Metropolitan areas

The 1987 Constitution provides for local government grouping to 'consolidate or coordinate their efforts, services and resources for purposes commonly beneficial to them in accordance with law.' This is further strengthened by the Local Government Code of 1991 stating that 'in support of such undertakings, the local government units involved may … contribute funds, real estate, equipment, and other kinds of property and appoint or assign personnel … as may be agreed upon by the participating local units through Memoranda of Agreement.' The Constitution also provides for the creation of special metropolitan political subdivisions, where the metropolitan authority does not impinge on local autonomy and is limited to delivering services that requires coordination.

Metropolitan Manila Development Authority, Metro Naga Development Council and Subic Bay Metropolitan Authority are the only legally-created metropolitan areas in the country. Other metropolitan arrangements in the country are either created by a Regional Development Council (e.g., Metro Cebu Development Council) or through Memorandum of Agreement among the member-local governments (e.g., Metro Iloilo Development Council).

2.3 Territorial reforms

The current 17 administrative regions have undergone various reforms. In 1990 and 1995, the Autonomous Region for Muslim Mindanao and Caraga were created, respectively. The number of provinces is also growing. Municipalities are also converted into cities at a fast rate. There were only 61 cities in 1996, 84 in June 2000, 96 in December 2000 and 117 in 2004. There are also two cases of amalgamation of several local governments to form a city. In 1998, the Island Garden City of Samal was created by merging three municipalities. In 2000, two municipalities merged to form Sorsogon City.

3. Local Democracy

The establishment of a democratic system of local government dates back in the revolutionary period where the Maura Law provides for the direct election of town chiefs, who then elected the provincial chief. The devolution process that started in 1992 has contributed to Philippine democracy.

3.1 Local Political System

Political parties are allowed at all levels of local government, except for the *barangay*; independent candidates are also permitted to join. The Constitutional provision for a free and open party system engendered a multi-party democracy. Political parties, both local and national, are quite similar in structure. Both are dominated by elite individuals or non-elite followers of elite individuals. Both are also characterized by their membership and leadership volatility.

Politics at the local level have been typified by bossism and warlordism, where family name and networks are more influential than parties or platforms. Decentralization made local offices more profitable, thereby strengthening the existence of powerful local clans and warlords. Local parties have largely been influenced by two factors: multi-party system and synchronized elections. The former intensified local politics, as local politicians have become clever to affiliate with the dominant party to get access to state resources that will fund their electoral campaigns. Synchronized presidential-congressional-local elections (occurring every six years) made it easier for local politicians to reduce the high cost of electoral campaigns; it engendered alliances, new parties and coalitions in the party politics.

3.2 Electoral system

The Philippines use the plurality ballot or first-past-the-post (FPTP) system. Local candidates receiving the largest number of votes automatically represent the entire population. Election for the local council uses a bloc voting plurality-at-large system, where multiple winners are selected by voters; candidates receiving the most votes fill up the required number in the council. All local officials are elected every three years. National and local elections are synchronized, as well as the *barangay* and *sanguniang kabataan (SK*-youth councils at all local government levels*)* elections*.*

3.3 Mandate and sovereignty

According to the 1987 Constitution, 'sovereignty resides in the people and all government authority emanates from them.' Hence, local authority is vested with the executive by registered and qualified Filipino voters through election by plurality, and this mandate is subject to a recall.

3.4 Local indicators on citizens' view

Currently, there are no available mechanisms to gauge citizens' attitudes on local politics and local politicians. There are, however, several indicators to measure local governments' performance. As early as 1982, the Department of the Interior and Local Government (DILG) has developed a supervision tool for local governments. It was discontinued in 1986, and revived in 1998 as Local Productivity and Performance Measurement System, with the Citizen's Satisfaction Index, which measures citizens' attitudes on goods and services. In 2001, Local Governance Performance Management System was created for local governments to help determine effectiveness and efficiency of their service delivery.

3.5 Citizen Participation

From 1947 to 2002 with 18 local elections (including *barangay* elections), the average voters' turn-out is 76 percent. For ARMM, with four regional elections from 1990 to 2001, the average is 65.22 percent.

Aside from democratic representation through regular elections, the citizens can exercise direct democracy through special elections (initiative, recall, referendum and plebiscite), and through participatory planning and budgeting. There were 29 recorded local recall elections between 1993 and 1997.

The 1987 Constitution declares 'the right of the people and their organizations to effective and reasonable participation at all levels of … decision-making….' The 1991 Local Government Code provides for citizens' participation through representation in setting the overall direction of their social and economic development. This is made possible through a local development council (LDC) required for all local governments. The LDC, composed of at least one-fourth representatives of nongovernmental and people's organizations, crafts a comprehensive multi-sectoral development plan upon the approval of its local legislative body.

The *barangay*, with its pre-colonial origin, can be considered as the most traditional structure of governance in the country. Its 'legitimacy … as a traditional community structure … serves to complement the more "modern" legitimacy of electoral representation' (UNDP 2006).

Moreover, the 1987 Constitution also 'recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development.' The Indigenous Peoples Rights Act (IPRA) 1997 recognizes, promotes and protects the rights of the indigenous peoples. These rights include ancestral domain and lands, self-governance and empowerment, social justice and human rights, and cultural integrity. These policies are carried out by a National Commission on Indigenous Cultural Communities/Indigenous Peoples. There are currently 36 profiled indigenous governance systems across the country.

4. Central-Local Relationship

4.1 General issues

Local governments are directly under the national government. There is no intervening structure or layer between the two.

The Congress is the sole authority to legislate on local government. This body has the power to create, merge and abolish local government units using certain criteria, and subject to a plebiscite called for the purpose.

4.2 Supervision of local government

General supervision over local governments is lodged in the Office of the President of the country. From time to time, it issues executive or administrative orders in this regard. General supervision is also exercised by a national agency called the Department of the Interior and Local Government. It assists and advises the President concerning local government matters. Aside from its regional offices, the DILG maintains units or staff in all provinces, cities and municipalities. The President or the DILG can suspend any elective local government officials who have been charged with or have committed irregularities in office.

The Bureau of Local Government Finance of the Department of Finance exercises financial oversight by issuing circulars pertaining to revenue generation and rendering opinion on matters relative to local finance. The Department of Budget and Management exercises supervision over the local budget process as well as its limitations. It issues circulars and guidelines regarding the budgets of local governments. External audit of the LGUs' finances is performed by the Commission on Audit, a constitutional body. While these national agencies have oversight functions, they have no power to impose sanctions in cases of violations by the local governments.

The Congress can dissolve a local government unit (LGU) if its income, population, or land area has been irreversibly reduced to less than the minimum standards prescribed by the Local Government Code. In practice, there has been no local government yet dissolved by the Congress.

4.3 Protection of local self-government rights and interest

Local governments can sue natural or juridical persons in case of breach of their rights. During the early years of devolution, there was a move by the Estrada administration (1998-2001) to withhold a portion of the IRA share of local governments as part of its austerity measure. The national government was sued because of this, and the Supreme Court decided in favor of the local government units. The national government was then forced to release the portion of the IRA that was withheld.

No national institutions represent the interest of local governments. Nonetheless, the Local Government Code provides for the formation of leagues or associations for the various tiers of local government. There exist the League of Provinces, League of Cities, League of Municipalities and League of Barangays. The confederation of the various leagues of local government units in the country is called the Union of Local Authorities in the Philippines (ULAP), founded in 1997. Member-local government units are represented by their chief executives (Governor, mayor, barangay chairperson). Local legislators (vice-governors, vice-mayors, provincial board members and municipal/city councilors) have their own associations as well. Thus, League of Vice-Governors, Board Members League, Vice-Mayors League, Philippine Councilors League and Lady Local Legislators League exist. Further, there are also associations of career local officials like the treasurers and assessors, budget officers, planning/development officers, human resource management officers, among others.

5. Local responsibilities

Prior to the implementation of the Local Government Code in 1992, governance was highly centralized. With the devolution, significant functions were transferred to local governments. These include health, social welfare services, agriculture and some aspects of environmental, infrastructure, planning and regulatory services. The first three are the most decentralized. A recent survey however shows that as far as agriculture is concerned, not all the devolved functions are fully performed by the LGUs; some functions and services are partially performed with the assistance of the Department of Agriculture.. In the field of health, many provinces were not able to operate and maintain the provincial hospitals that were devolved to them due to inadequate resources. As of 2003, at least 72 provincial hospitals were even recentralized, i.e. they were returned to the custody of the national government. Compounding this problem was the issuance of unfunded mandates by the Philippine Legislature, e.g. Magna Carta for Health Workers directing LGUs to grant additional allowances and benefits to their heath workers.

Environment is still relatively centralized. Local governments, particularly the municipalities, continue to claim for the decentralization of substantive environmental functions. Only those functions that are politically costly for the

Department of Environment and Natural Resource , those that are not drawing significant funding and investment interests from donors and the private sectors have been given to them.

Planning is assigned by the Local Government Code to local governments. They have to prepare their respective socio-economic-physical development plans ranging from long-term, medium-term and short-term, deciding on their priorities and the allocation of their funds to support them. Local planning is supervised by the DILG.

Basic education is highly centralized. Primary and secondary education (except for the construction of school buildings) was not devolved to prevent politicization of public school teachers. It must be noted that the Commission on Elections utilizes public school teachers during elections. Classrooms of public schools staffed by public school teachers serve as precincts during elections.

Water supply outside Metro Manila is delivered by water districts which are considered local government-owned and controlled corporations. Each is governed by a five-man Board of Directors who are appointed by the mayor or governor. In Metro Manila water supply is delivered by two private concessionaires.

The distribution of electricity belongs to the private sector while its generation is the responsibility of the national government. In recent years however, power generation has been deregulated by allowing small independent power producers to participate. Outside Metro Manila, electric cooperatives distribute electricity. Their operation is regulated by local governments which issue their franchises.

Public transport is taken care of by the private sector but the national government regulates. The power to issue franchises to tricycles is devolved to cities and municipalities.

A Working Group on Decentralization and Local Government comprised of the representatives of the various stakeholders has been formed under the Philippine Development Forum to review and study the status of decentralization in the country. Its agenda includes issues such as: mismatch between the actual cost of devolved functions and the financial capacity of LGUs; local capacity building needs, central-local relations in the delivery of devolved services, performance measurement of LGUs, and review of proposed amendments to the Local Government Code.

7. Local finance and management

Prior to the devolution in 1992, local governments had limited taxing powers. With the advent of devolution, their taxing powers have been expanded and their tax rates allowed to increase. Moreover, the central grant and allotment system improved significantly—the Internal Revenue Allotment (IRA) share of the LGUs increased up to 40% from a mere 9-10% prior to the devolution. Today, 50%-99% of the total income of LGUs comes from the IRA. The high dependency on the IRA of most LGUs shows that fiscal autonomy is a far reality. Only the cities of Metro Manila appear to be financially autonomous since they are least dependent on the IRA. On the average, the Metro Manila cities' dependency on the IRA was 20.7%. Makati, the country's financial district, posted the lowest dependency on the IRA at 9%.

The tax bases of the provinces are: real property tax; tax on transfer of real property ownership; tax on business of printing and publication; franchise tax; sand and gravel tax; amusement tax;

professional tax; and annual fixed tax on delivery trucks and vans of manufacturers/dealers. Municipalities have the business tax, the community tax, but they also collect fees and charges. Cities collect taxs of both the province and the municipality while the *barangays* are limited to taxes and fees on small retailers but they can impose service charges for *barangay* services and facilities.

Of the total income of all LGUs in 2004, 24% came from their own tax revenues. Disaggregated data shows that the cities had the most productive own tax sources (52.5% of their total income). The municipalities' own tax revenue share was 20% of the total while that of the provinces was lowest at 15%.

The share of charges and fees in the total income of all LGUs is 3%, and revenues from public enterprises like markets and slaughterhouses 3.53%. Combined with the own tax revenues, own revenues represent about 30.5% (or a little less than 1/3) of their total income.

LGUs are allowed by the Local Government Code to impose and collect fees and charges at reasonable rates stipulated by their legislative councils. Each local government unit has the discretion to determine what it deems to be reasonable.

Foreign grants had no share in the total income of almost all LGUs. Since the international donor agencies can give grants directly to them, the Bureau of Local Government Finance has no mechanism for monitoring their donations or grants.

LGUs are allowed to make a supplemental budget (special budget) on top of the annual or general budget under three conditions: (1) funds are actually available as certified by the local treasurer, (2) new revenue sources exist, and (3) in times of calamity where budgetary realignment is allowed.

The annual budget is used for the following expenditures: (a) General Public Services, (b) Education, Culture, Sports and Manpower Development, (c) Health, Nutrition and Population Control, (d) Labor and Employment, (e) Housing and Community Development, (f) Social Security, Social Services and Welfare, (g) Economic Services, (h) Debt Servicing, (i) Other Purposes. In 2004, of the consolidated expenditures of all LGUs, 40% went to General Public Services, 15.7% went to Economic Services, and 21% went to Social Services. The supplemental budget is used for any aspect of the aforementioned services only when any of the three conditions cited above exists.

Local government personnel and management

The Philippine government employs around 1,531,430 public servants (2004). Of this figure 344,576 (22.5%) are employed by the local government units (2002). By type of appointment, 249,895 of the local government employees (72.5%) are tenured, i.e. permanent while 94,681 are temporary.

Local government personnel are also governed by personnel policies of the Civil Service Commission, the central personnel agency of the Philippine Government. The Local Government Code also has provisions applicable to local government personnel. The merit principle guides the selection, recruitment and promotion of officials and employees of the local bureaucracy. Except for the position of the local treasurer, the appointing authority of all local government employees is the governor or mayor. The educational qualifications of executive positions (department heads, e.g. planning officer, budget officer, assessor, health officer, engineer, accountant, treasurer etc) are regulated by the Local Government Code.

All of them must have passed the career professional exams given by the Civil Service Commission.

Corruption is a major problem that bedevils both national and local governments. At the local level, anecdotes abound concerning corruption; there are also investigative reports pointing to cases of corruption. A study made by the U.S.-based Center for Institutional Reform and the Informal Sector (IRIS) disclosed that the increased discretion enjoyed by local governments as a result of the government's decentralization policy has led to increased local level corruption. This is true in the provision of health care. With its devolution, the determination of the health budget lies in the hands of the local governments. Investigative reports point out that up to 70% of the local health fund is lost to corruption.

While corruption stories are never-ending, the cases filed against corrupt officials are not as many. In 2003, only two (2) provincial governors and one (1) city mayor together with one (1) non-elective city official have been charged with corruption by the Office of the Ombudsman. This figure was higher in 2004 when the Ombudsman recommended the filing of criminal cases against 58 elective and non-elective officials of one province. In 2005, less than ten local officials have been charged. Their cases are still pending at the *Sandiganbayan*, an anti-graft and corruption court.

In the field of management reform, innovative practices can be seen among local governments. There are cases of privatization of local public enterprises making losses. Non-traditional methods of revenue mobilization have been tried by some local governments e.g. bond flotation for a housing project; build-operate-transfer for infrastructure projects; joint ventures or public-private partnership in the operation of economic enterprises, and establishment of local government-owned and controlled corporations. One-stop-shops for the issuance of business permits and licenses have been established mostly in cities to facilitate this regulatory service. The use of information technology as a tool to bring government closer to the people is quite prevalent nowadays. LGUs have their own websites and, to a certain extent, electronic procurement is likewise practiced by a few cities.

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