*Check against delivery*

**BALANCING THE DISTRIBUTION OF GOVERNMENT POWERS**

by Nene Pimentel

**PRELIMINARY STATEMENT**

**WHAT IS GOVERNMENT?**

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

**IN THIS REPUBLIC**

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

**1. *NATIONAL***

**2. *REGIONAL, and***

***3. LOCAL***

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

* The Executive,
* The Legislative, and
* The Judicial *Departments*

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

**Under the Constitution:**

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

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

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

**WHICH IS BETTER?**

**The Presidential or the Parliamentary form of government?**

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

Examples:

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

*[DUE TO TIME CONSTRAINTS, THE QUESTION WILL BE LEFT TO A*

*MORE SUITABLE OCCASION].*

Aside from the Executive, Legislative & Judicial Departments **THERE ARE CONSTITUTIONAL COMMISSIONS THAT EXERCISE INDEPENDENT GOVERNMENT POWERS VESTED IN THEM BY THE CONSTITUTION, NAMELY:**

* 1. THE COMMISSION ON AUDIT;
* 2. THE COMMISSION ON ELECTIONS, and
* 3. THE COMMISSION ON CIVIL SERVICE.

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

* THE COMMISSION ON HUMAN RIGHTS (Article XIII, Sec. 17 et seq.) and
* THE OFFICE OF THE OMBUDSMAN (Article XI, Sections 5 et seq.)

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

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

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

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

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

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

**TWO** Regional Governments are recognized by the Constitution:

1. The Autonomous Region of Muslim Mindanao (ARMM)

2. The Autonomous Region of the Cordilleras (CAR)

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

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

1. **TAXATION -** must be uniform, equitable & progressive (Art. VI, Sec. 28, Constitution).

2. **EMINENT DOMAIN** – Power to expropriate private property must be for public use and upon payment of just compensation (Art. III, Sections 1 and 9, Constitution)

**3. POLICE POWER** - Power to deliver public services in health, morals, and safety to promote the general welfare of the people.

**PRESENT SYSTEM OF PHILIPPINE GOVERNMENT**

* IS UNITARY AND HIGHLY CENTRALIZED
* **Although, certain GOVERNMENT POWERS ARE NOW SHARED WITH LGUs**

**THROUGH**

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

**THREE MAJOR NAT’L GOV’T DEPARTMENTS ARE LARGELY AFFECTED**

**BY THE LG CODE**

* Agriculture
* Health
* Social Welfare

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

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

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

1. Solid waste disposal system;

2. Services/facilities related to general hygiene and sanitation;

3. Implementation of community‐based forestry projects including social forestry programs, and similar projects, and

4. Management and control of communal forests.

**IT MUST ALSO BE MENTIONED THAT THE DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT (DILG)**

**Under the LG Code:**

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

**FOR EMPHASIS: THE GREATLY CENTRALIZED, UNITARY FEATURE OF THE GOVERNMENT PERSISTS**

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

**SOME PRACTICAL CONSEQUENCES**

**AMONG OTHER THINGS:**

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

* **Impliedly, it has fueled the armed rebellion of Muslim factions in parts of Mindanao against the government, and**
* **HAS HAMPERED THE SPEEDY DEVELOPMENT OF THE LOCAL COMMUNITIES, AND OF THE PEOPLE RESIDING THEREIN.**

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

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

**1982 PROPOSAL TO ADOPT THE FEDERAL SYSTEM**

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

**SEMINAL 1982 IDEA**

The plan formally advocated federalizing the Philippines in 1982.

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

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

***SHARE POWER***

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

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

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

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

Among other things, there will also be:

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

**HOW MANY FEDERAL STATES SHALL THE COUNTRY HAVE?**

**IT IS PROPOSED THAT THE COUNTRY SHALL HAVE:**

**11 FEDERAL STATES**

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

***(Note: The island of Negros had not yet been declared as a region when this paper was first prepared.)***

**NUMBER OF LGUs WHEN**

**THE PROPOSAL WAS MADE:**

* Provinces – 81
* Cities – 145
* Municipalities – 1,489
* Barangays – 42,036

**WHAT ABOUT METRO‐MANILA?**

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

* No. of Cities: 16
* No. of Municipalities: 1 (Pateros)
* No. of Barangays: 1,720

**Metro‐Manila will be converted into a Federal Administrative Region like Washington D.C., or New Delhi or Kuala Lumpur.**

***How many States will Luzon have?***

Luzon will have four States, namely:

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

|  |  |  |  |
| --- | --- | --- | --- |
| No. of Provinces | No. of Cities | No. of Municipalities | No. of Barangays |
| 15 | 15 | 280 | 6,752 |

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

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Ilocos Norte 2. Ilocos Sur 3. Pangasinan 4. La Union 5. Batanes 6. Cagayan 7. Isabela 8. Quirino | 1. Nueva Viscaya 2. Abra 3. Apayao 4. Kalinga 5. Mountain Province 6. Benguet 7. Ifugao |

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

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

**With Tarlac City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Aurora 2. Bataan 3. Bulacan 4. Nueva Ecija | 1. Pampanga 2. Tarlac 3. Zambales |

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

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

**With Tagaytay City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Cavite 2. Laguna 3. Batangas | 1. Quezon 2. Rizal |

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

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

**With Legazpi City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Albay 2. Camarines Norte 3. Camarines Sur | 1. Catanduanes 2. Sorsogon |

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

The Visayas will have four federal states.

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

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

**With Catbalogan City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Eastern Samar  2. Northern Samar  3. Samar | 4. Biliran  5. Leyte  6. Southern Leyte |

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

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

**With Toledo City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Bohol  2. Cebu  3. Siquijor | 4. Negros Oriental  5. Masbate |

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

|  |  |  |  |
| --- | --- | --- | --- |
| No. of Provinces | No. of Cities | No. of Municipalities | No. of Barangays |
| 6 | 16 | 117 | 4,051 |

**With Iloilo City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Aklan  2. Antique  3. Capiz | 4. Guimaras  5. Iloilo  6. Negros Occidental |

**WHAT ABOUT THE NEW NEGROS ISLAND REGION?**

* The new region composed of the Provinces of Negros Occidental and Negros Oriental may be created as a separate Federal State of Negros. Oriental
* Negros Occidental may remain a part of the Federal State of Western Visayas, and Negros Oriental, a part of the Federal State of Central Visayas

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

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

With **Mamburao, Mindoro Occidental** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Mindoro Oriental  2. Mindoro Occidental  3. Palawan and the Kalayaan Islands | 4. Romblon  5. Marinduque |

***How many States will Mindanao have?***

**Mindanao will have three Federal States.**

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

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

With **Cagayan de Oro City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Zamboanga del Norte  2. Misamis Occidental  3. Camiguin  4. Misamis Oriental  5. Bukidnon  6. Agusan del Norte | 7. Dinagat Island  8. Surigao del Norte  9. Lanao del Norte,  10. Zamboanga del Sur  11. Zamboanga Sibugay |

**THE PROPOSED NORTHERN MINDANAO FEDERAL STATE**

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

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

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

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

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

**With Davao City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** | |
| 1. Agusan del Sur  2. Surigao del Sur  3. Compostela Valley  4. Davao  5. Davao Oriental  6. Davao del Sur | 7. Davao Occidental  8. South Cotabato  9. Sarangani  10. Cotabato  11. Sultan Kudarat |

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

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

With **Marawi City** as the capital of the state.

|  |  |
| --- | --- |
| **PROVINCES** |  |
| 1. Lanao del Sur  2. Maguindanao (Shariff Kabunsuan)  3. Basilan | 4. Sulu  5. Tawi-Tawi |

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

* Two Federal States for the Bangsamoro peoples:
* One Federal State for the Mainland Muslims of Mindanao (Maranaws, Maguidanaos, and subtribes), and
* Another Federal State for the Off-Shore Islands Muslims (of Basilan, Sulu and Tawi-Tawi)

**WHY BANGSAMORO FEDERAL STATE IS VITAL TO THE NATION**

* The secessionist movements of the various Moro groups started since the Spanish colonial era.
* The secessions cannot be solved permanently by force.
* The suggested solution: Federalize the country and convert the present Autonomous Region of Muslim Mindanao into a Bangsamoro Federal State.

**AND THE BBL?**

The Bangsamoro Basic Law – as a peace effort – now pending in both Houses of Congress deserves the support of the people.

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

BUT ...

ANY SUCH MOVE MUST BE IN ACCORD WITH THE CONSTITUTION.

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

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

The 2nd sentence of Section 1 of Article X of the Constitution ordains that:

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

The phrase “as hereinafter provided” means that

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

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

**THE 2nd SENTENCE OF THE CITED SECTION AND ARTICLE PRVOVIDES THAT:**

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

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

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

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

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

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

**Examples:**

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

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

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

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

**THE BBL BILL OF RIGHTS needs refinement.**

An example:

Freedom of the Speech should include Freedom of the Press.

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

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

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

**HOW TO REMEDY THE CONSTITUTIONAL PROBLEMS FOUND IN THE BBL GET THE PARTIES TO AGREE:**

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

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

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

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

*EXAMPLES:*

**1. India**

**2. Switzerland**

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

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

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

**Add SABAH**

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

**Sabah belongs to the Philippines**

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

**RP’s OWNERSHIP OF SABAH**

Based on historical fact.

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

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

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

SABAH MAY BE CONVERTED INTO ANOTHER FEDERAL STATE OF THE NATION

**FEDERALIZED RP BOUNDARIES**

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

Federal State boundaries will expand present regional boundaries.

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

**\*Include Kalayaan**

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

**MORE ON KALAYAAN**

**SIDELIGHTS ON THE ELECTIONS IN KALAYAAN MUNICIPALITY:**

* **Retired Air Force Sgt. del Mundo received 142 votes;**
* **Bitoonon got 59 votes,**
* **and the third candidate for mayor, Retired Navy Commander Rodrigo Jaca, 28 votes.**

**Include Scarborough Shoal**

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

**PRESIDENTIAL FORM, MAY BE RETAINED UNDER FEDERALIZED RP**

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

**BICAMERAL FEDERAL CONGRESS**

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

(1) The Senate whose members will be elected by State, and *POWERS in general: Enact laws for the governance of the Federal Republic*

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

**STATE SENATORS QUALIFICATIONS**

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

**STATE SENATORS: TERM OF OFFICE**

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

**STATE SENATORS MANNER OF ELECTION**

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

**INCREASE IN NUMBER OF SENATORS**

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

**JUSTIFICATION FOR THE INCREASE**

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

OTHER COUNTRIES WITH LESS POPULATIONS HAVE LARGER SENATES

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

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

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

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

|  |  |
| --- | --- |
| Qualifications | * Natural born citizen * A registered voter of any province, city, municipality or barangays of the State * At least, a graduate of a public or private high school recognized by the government * At least, 30 years of age on the day of the election, and an actual resident of the State for, at least 5 years immediately prior to the election. |
| Term of Office | * Shall serve for no more than three consecutive terms of 4 years each which shall begin at 12 noon of the 30th day of June next following the day of their election and shall end at noon of the same day 4 years thereafter |
| Manner of Election | * Shall be elected by the qualified voters of the provinces, cities, municipalities and barangays located in the State. |

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

**STATE LEGISLATURES**

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

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

**STATE LEGISLATORS**

QUALIFICATIONS:

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

**STATE LEGISLATORS**

TERM OF OFFICE

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

**STATE LEGISLATORS**

MANNER OF ELECTION

a. Of Regular Members:

Elected by their peers in the Sangguniaang Panlalawigan and Sangguniang Panlungsod respectively.

b. Of Sectoral Representatives:

Elected by the sectors concerned as defined by State Law.

STATE LEGISLATORS WHEN ELECTED

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

**STATE LEGISLATORS PER STATE**

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

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

**CONSTITUTIONAL COURT CREATED TO RULE ON CONSTITUTIONAL ISSUES:**

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

NUMBER OF JUSTICES PER BRANCH OF CONSTITUTIONAL COURT:

* **FIVE (5) FOR EACH BRANCH.**

**SUPREME COURT**

STRUCTURE, RETAINED

* The Supreme Court is retained including its powers, other than over constitutional issues.
* The Supreme Court supervises all lower courts: Intermediate Appellate Court, Sandiganbayan, Regional Trial Courts, the Shariah Courts, City & Municipal Court.
* All the courts shall have constitutional deadlines to meet in rendering their decisions

**SHARIAH COURTS**

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

**DEADLINES FOR DECISIONS**

|  |  |
| --- | --- |
| Supreme Court | 2 years from filing |
| Court of Appeals | 1 year and 8 months from filing |
| Sandiganbayan and other appellate courts | 1 year and 8 months from filing |
| RTC | 1 year and 6 months from filing |
| City and Municipal Courts | 1 year from filing |

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

**DEADLINES FOR SHARIAH AND OTHER TRIBAL COURTS**

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

**PROPOSED LOCATIONS OF THE COURTS:**

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

***SEATS OF POWER, DISPERSED***

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

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

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

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

**LOCATION OF THE MAJOR GOVERNMENT OFFICES SHOULD ALSO BE DISPERSED, not concentrated in Metro‐Manila**

**Example:**

**In South Africa, the Legislative Department is located in Cape Town; the Executive Department is in Pretoria, and the Supreme Court is in Bloemfontein.**

**ASSIGNING SPECIFIC AGENCIES OR DIVISIONS OR OFFICIALS CONCERNED**

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

***LGU’s, Intact***

* The powers and structures of provinces, cities, municipalities, and barangays are untouched.
* It is up to the Federal States to change LGU structures and powers subject to the approval of the voters in the areas affected in plebiscites called for the purpose.
* SAME QUALIFICATIONS for regional and local officials except for educational requirements.
* It may be time to require more educational qualifications of our public officials than just the ability to read and write.

***LGU SHARES, INCREASED***

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

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

|  |  |
| --- | --- |
| **Percentage** | **Share of** |
| **20 %** | **Federal Government** |
| **80 %** | **States** |

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

|  |  |
| --- | --- |
| **Percentage** | **Share of** |
| **30 %** | **State Government** |
| **70 %** | **Provinces, Cities, Municipalities & Barangays** |

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

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

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

**EQUALIZATION FUND**

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

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

**LOAN COMMISSION**

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

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

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

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

**POLITICAL & ECONOMIC OBJECTIVES**

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

1. Cause the speedy development of the entire country by unleashing the forces of competitiveness among the States, and
2. Dissipate the causes of rebellion in the country and particularly in Mindanao.

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

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

***REDRESSING GRIEVANCES OF CENTURIES***

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

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

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

**IN CLOSING**

SLIDES 100 up to 130 will only present summing up reactions on the issues tackled in the said Slides.

**IN PASSING:**

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

* POWERFUL ENOUGH TO PUT THE BRAKES ON EXECUTIVE OR LEGISLATIVE EXCESSES
* BUT IT SHOULD UPHOLD “THE RULE OF LAW”, NOT “THE RULE OF THE COURT.”

**GOVERNMENT AUTHORITIES/POWER**

**vs.**

**PEOPLE’S DIRECT EXERCISE OF SOVEREIGNTY**

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

(a) Recall,

(b) Plebiscite,

(c) Referendum, or

(d) Initiative

**THE IDEAL CHECK & BALANCE RELATIONSHIP**

Check & Balance Rules should be:

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

**PRESIDENTIAL vs. PARLIAMENTARY FORM**

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

**MOREOVER**

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

**PRESIDENTIAL FORM OF GOVERNMENT**

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

**ONE FEDERAL SYSTEM ADVANTAGE**

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

NO NEED TO AWAIT APPROVAL BY CENTRAL GOVERNMENT AUTHORITY

**AUTONOMOUS REGIONS POWERS AND STRUCTURES** should be:

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

**POWER OF JUDICIAL REVIEW vs EXECUTIVE & LEGISLATIVE POWERS**

**(STRIKING A BALANCE)**

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

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

* RECALL
* REFERENDUM
* INITIATIVE

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

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

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

**SPECIFIC WAYS OF CHANGING THE CONSTITUTION**

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

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

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

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

**BUT ALWAYS SUBJECT TO A PLEBISCITE.**

**WAYS OF CHANGING THE CONSTITUTION**

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

AMENDMENTS/REVISION OF THE CONSTITUTION NEED APPROVAL BY THE PEOPLE THROUGH **A PLEBISCITE**

**WHEN PLEBISCITE IS HELD for amendments/revision**

**PROPOSED BY**

1. **Congress, itself, or**
2. **a Constitutional Convention:**

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

**PLEBISCITE**

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

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

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

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

**THANK YOU!**

**PIMENTEL INSTITUTE FOR LEADERSHIP AND GOVERNANCE**

Ground Floor, AHI Building, 2650 A. Bonifacio Street,

Barangay Bangkal, Makati City 1233

Telephone No. (02) 956 2441

Email: [info@pimentelinstitute.org](mailto:info@pimentelinstitute.org), [rcroffice@yahoo.com.ph](mailto:rcroffice@yahoo.com.ph)

Website: [www.pimentelinstitute.org](http://www.pimentelinstitute.org)

Facebook: facebook.com/PimentelInstitute