

# **Philippine Federal Republic: Progression or Retrogression**

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## Philippine Federal Republic: Progression or Retrogression\*

### I. INTRODUCTION

In the course of history of civitas, government has always been a necessary feature because while political philosophers have not agreed as to what is the best modality of government, they all achieved the consensus that government is necessary for mankind to live peacefully in a civilized society. World history for example has shown that many types of government have evolved. A puritan monarchy or even a constitutional monarchy, authoritarian regimes and other feudal forms of government which have long become obsolete as democratization envelops the rest of the world.

In this rapid modernizing times where democratization is a common feature, two forms of government are relevant in a given real time and real world, i.e. these are presidentialism and parliamentarism. An example is the Federal-Presidential system in the United States, the Presidential-Parliamentary model in France, the Federal-Parliamentary Government of Germany or the British Parliamentary System.

In Southeast Asia, a mixed of government modalities exist. Indonesia has a presidential system, Malaysia has a federal parliamentary system while Thailand is a constitutional monarchy with a parliamentary government. The unitary presidential system is prevailing in the Philippines.

Many issues have been raised as to how relevant the presidential system is in governing the Philippines. Many political scientists, one among them Professor Fred Riggs, of the University of Hawaii, have claimed that the presidential system has not succeeded anywhere except in the United States.

Commonly cited by political scientists is the failure of the presidential system in Latin American countries.

Juan Linz writing on ***“The Failures of the Presidential Democracy”*** agreed with Lowestain who observed that South America which is the continent of presidentialism, rarely, if ever produced lasting political stability. (Linz: 1994).

In the Philippines today, there are sectors of civil society, which are clamoring for a change of the present system of government. Serious discussions continuous of considering a transition from unitary presidentialism to federal parliamentarism.

The search for alternative government modalities seemed to have arrived in the country.

It is in this light that this paper is written with the aim of enriching the limited local literatures on the subject of federalism.

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## II. **CONCEPT OF FEDERALISM**

Federalism refers to the formation of a sovereign state, formed by the political union of several states that have given certain powers to the central government (Federal Government) while retaining for themselves control over local affairs.

The division of political powers between the federal government and the state government is generally defined under the terms of a constitution.

Federal system involves power sharing between federal government and the state governments. This vertical subdivision of powers and political layering is justified due to the limited competencies and resources of both the federal government and the state authorities.

The federal government exercises the following functions and powers:

1. Foreign Relations
2. Currency and Monetary Policies
3. External Defense
4. Immigration
5. Allocation of Natural Wealth
6. Setting standards and policies on Environmental Management
7. Postal system
8. Specific taxing powers such as income tax, customs, and other taxes.

The state government shall perform functions and services which are more effectively and efficiently managed at the state level. Examples are public transport, infrastructure, crime prevention and police power, education and other social services.

On the other hand, a local government system within a state consists of local authorities at the community level. Its primary function is interest articulation of the needs and aspirations of communities and brings them into the stream of public policy making and into the life of the nation.

In some federal constitutions, the powers and functions of the federal government and the state government are defined in what is called the federal list and the state list including a concurrent list.

The federal list contains functions and powers, which belongs to the federal government while the state list defines the functions and powers of a state government.

There is also the concurrent list. This list contains powers and functions which are either jointly exercised by both the federal and state governments or those which are negotiable functions and powers in the context of intergovernmental relations. The concurrent list is the basis of the concept of cooperative federalism or federal partnership.

The powers and functions of the local governments are either defined in the state constitution or it can be subjects of negotiation between the state government and the local authorities.

### III. CLASSICAL MODELS OF FEDERALISM

Models of federal governments run across continents. For example in Europe, the federal parliamentary system in Germany shows how the Government of the Day interrelates in parliament with the state governments through the Bundestag and the Bundesrat. Its long history of federal parliamentarism has provided many political lessons in governance to other countries. Significant features of the German Constitution are its firm advocacy on subsidiarity and emphasis on residual power as rights of state governments. Peculiarly, German in character is the constitutional provision on the concept of socially oriented economy.

The presidential federal system in the United States is unique to the North American continent and has been used as a model of presidentialism in many countries in Latin America. However, the adaptability of the American model in South America has been very limited. Two large countries in South America that has a presidential federal system are Argentina and Brazil. Like most presidential system, not much headway has been achieved in their continuing efforts of sustaining their respective democracies.

Both Australia and Canada have very strong influence from Great Britain in the art of politics and governance. The countries federated themselves as a defense against external aggression and from being grabbed by colonial powers.

However, the Australian and Canadian concepts of federalism is distinguishable from the other models in the sense that Australians and Canadians accept and even calls for diversity to a far greater degree. Thus, it is argued to show more flexibility in these countries in their concept of federalism.

The British, after the Second World War granted independence to India and Malaysia. What is interesting about India as example of federalism, is its multi-ethnic and multi-linguistic population scattered all over the sub-continent.

The Indian Federal Constitution has many pro minority provisions, one among which is the empowerment of the Indian women. The recent amendment of the Indian Constitution also strengthened decentralization and local autonomy. Today, India is the largest democracy in the world.

The case of the Federation of Malaysia should be a concern to the Philippines. First, it is the nearest model of a federal parliamentary government. It would be useful to compare how the governments in Malaysia and the Philippines perform using political institutions as the framework for analysis. Second, it has a very efficient public bureaucracy, a vital cog of the government machinery in a federal parliamentary system.

The federal constitution of Malaysia defined the functions and powers of the federal and state governments in what is called the federal list, the state list and the concurrent list which enumerate functions and powers jointly exercised by both the federal and state governments.

More details of these countries that are cited as classical models of federal parliamentarism are in Annex "A" of this paper.

#### IV. PRESIDENTIALISM AND PARLIAMENTARISM: A COMPARATIVE PERSPECTIVE

Every existing democracy today is either presidential, i.e. the United States, or parliamentary as in most of Western Europe or semi-presidential hybrid of the two types like France or Portugal. (Skach: 1994)

Each type has two fundamental characteristics worth noting.

A pure parliamentary regime in a democracy is a system of mutual dependence:

1. The chief executive power must be supported by a majority in the legislature and can fall if it received a vote of no confidence.
2. The chief executive power (normally in conjunction with the head of state) has the capacity to dissolve the legislature and call for elections.

A pure presidential regime in a democracy is a system of mutual independence:

1. The legislative power has a fixed electoral mandate that is its own source of legitimacy.
2. The chief executive power has a fixed electoral mandate that is its own source of legitimacy. (Stepan: 1994)

Pablo Tangco in this paper on ***“Comparative Political Structures and Dynamics”*** made a broad overview between presidentialism and parliamentarism. He summarized the features and dynamics of both systems as follows: (Pls. see separate pages for the matrix.)

It is obvious from Tangco’s summary that he is an advocate for parliamentarism.

What is invaluable to mention at this point is the finding of political scientists that the more stable democracies are in countries that have parliamentary governments.

“With the outstanding exception of the United States, most stable democracies of Europe and the Commonwealth have been parliamentary regimes and few semi-presidential and semi-parliamentary, while most countries with presidential constitutions have been unstable democracies or authoritarian regimes...” (Linz: 1994).

As if to strengthen further Linz position on parliamentarism Arend Lijphart on his discourse of presidentialism and majoritarianism as a concept, opined that even if a president is duly elected by the whole people and thus acquired popular democratic legitimacy, but the president shows apparent presidential weaknesses and lack of decisive power, Lijphart is of the belief that because of a status as being a popularly elected president and feeling strongly his superior democratic legitimacy, he or she is not keen to consensus building or making compromises.

If this line of reasoning is correct, presidentialism is inferior to parliamentarism regardless of whether the President is strong or weak in achieving majoritarian democracy.

The parliamentary system tends to be too majoritarian while in the presidential system, majoritarianism is not replaced by consensus but by conflict, frustration, and stalemate.

## V. FEDERALISM

There is still a great need to pursue comparative study on governmental theories. Political scientists have but little disagreement in so far as this issue is concerned.

The perplexing questions, which form of government is the “best”, good and the “ideal” yet remains, unanswered.

In the advocacy for federalism, however, one fundamental political reason is that the federal system facilitates citizen’s legitimation of a democratic order. It provides more opportunities than a unitarian state for its citizens to exercise much more effectively their electoral or political franchise.

“One of the existential problems of any democratic order is the legitimation it requires from its citizens. The measure of consent of these citizens to fundamental elements of democracy, their preparedness to engage in politics to a certain extent, and their ability to identify with the democratic system in principle are problems that are vital to the survival of the system. The more chances a democracy affords both institutionally And procedurally to arrive at a consensus, to show commitment, and to identify personally with democracy, the greater are the chances of achieving functionality, stability, and permanency. Compared to the unitarian system, the federative system enhances these chances considerably...

In the mass democracies of today, where government is increasingly mediated by mass media so that the gap between the rulers and the ruled threatens to widen continually, a federal state will satisfy the need for democratic legitimation better than a unitarian state. A federative democracy will conform better than a democracy with a unitarian organization to the principle that power is received in trust, that government must be accountable and supervised, and that citizens must be involved in the process of government. While it is true that a federative order is not an indispensable condition of democracy , it comes closer to the democratic ideal than any unitary order.” (Laufer: 1992)

Heinz Laufer further argues in favor of federalism by pointing out the vertical separation of powers allows political decisions on technical matters and appointments to be more transparent, more considered and balanced and consequently more controllable.

Federalism strengthens political competition both at the federal and state levels. In a federative state the opposition is integrated more effectively in the democratic order, thus demonstrating their ability to govern and implementing at least part of their alternative programmes in some states and testing some of their theoretical concepts in practice at the same time.

Michael Bothe writing on the **“Historical Metamorphosis of Federalism”** as a concept, advanced six rational reasons in support of federalism.

Bothe's dissertation on the concept of federalism is dichotomous and dualistic showing the countervailing characteristics of federalism as a concept of government.

His arguments are as follows:

*Firstly*, federalism is regarded as a way of preserving historic diversity and individuality within the framework of a greater national entity. The weight accorded to this reason naturally depends on the value, which society attaches to diversity and individuality, and this is why this reason is occasionally disqualified for being folkloristic. Moreover, it operates in contradiction to another goal that of securing homogenous living conditions in the entire state through the redistribution and equalization of regional disparities to the extent required.

*Secondly*, it is said that federalism facilitates the protection of minorities. This thesis is correct only if the minorities in question live virtually alone in a region that is clearly demarcated geographically. By itself, a federal form of government is not capable *per se* to protect adequately all minorities in a demographic mix.

*Thirdly*, the principle of subsidiarity, which is an element of catholic social theory, is occasionally adduced to justify federalism. There was reason to suppose, it is said, that the smallest community capable of implementing a meaningful solution should solve each particular problem.

*Fourthly*, federalism is viewed as a means of protecting freedom. A federalist constitution always implies a vertical separation of powers which, just like the classical horizontal separation, is an instrument to contain power of the state by a system of checks and balances. It is said that this containment of state powers enhances individual freedom. While this argument surely is highly convincing theoretically, its historical validity remains in doubt.

*Fifthly*, it is said that federalism encourages democracy by providing an additional level of democratic participation. Again, this argument is correct in principle. The traditional view that federalism opposes democracy since it restricts the options for having majority decisions at the federal level surely is outdated by now. It is not to be denied that particularly, states with large territories, a democratic system of representation that is restricted to certain central institutions leads to considerable alienation between the electorate and the political elite, thus impairing the democratic process of formulating intent from the bottom upward.

*Sixthly*, efficiency is also quoted here and there among the reasons justifying federalism.

Federalism is a highly efficient system of government to the extent that functions can be discharged more efficiently by smaller units than by larger ones. Particularly, the point is made that smaller units are better suited to experiment with new problem solutions. Federalism, it is said, facilitates competition, which is one element on which the efficient allocation of resources as well as the openness of a system depends. Here again, the validity of the argument depends on circumstances.

For it is particularly from the point of view of efficiency that federalism has come under heavy criticism. In the judgment of efficiency, political-theory approaches come into contact with economic theory. In the course of history, the way in which federalist systems have been judged from the point of view of efficiency has been subject to considerable fluctuations.

It is pointed out that while scientific literature about federalism tends to focus on the positive aspects of this form of government, federalism is still subjected to criticism. Some political literatures regarded federalism as obsolete. Some of the arguments against federalism is that it is difficult to implement the necessary homogeneity of living conditions and the just redistribution of the resources of the country.

In conclusion, Bothe made the following observations:

1. The question whether or not federalism is a good form of government will have to be perceived with the problem of the proper level at which government functions should be exercised. [While this is an issue that is peculiar to Germany and other European countries because of the formation of the European Union, same issue is raised in the federal system in the United States.] (Sosmeña)
2. The theory on the proper levels governments which has to take action is one of the fundamental problems of all vertically structures government organizations because it is still in its infancy.
3. One might ask oneself whether this question (proper level of government that may have to take action) could be answered objectively at all.
4. The goals and utility of federalism are by no means shared by everyone and at all times.
5. At the end of the day, the rational reasons that are commonly quoted to justify federalism are only of limited usefulness when it comes to making unequivocal statements about whether or not federalism as such or a specific federalist system is a good form of government. On the one hand, the valuation of the goals on which such justifications are based is not uniform.

This being so, historical and political explanations of federalism as a phenomenon come to the fore again, although the reasons for its justification do retain a certain amount of importance by serving as criteria in the evaluation of individual system.

## **VI. PHILIPPINE FEDERAL REPUBLIC: PROSPECTS**

Any transition in the Philippines concerning government modality from presidentialism to parliamentarism will have to take into account and evaluate carefully the following:

### **1. Historical-Political Antecedents**

The more than 450 years of Philippine history has always been characterized by a strong unitary government. The island nation considered Manila as the central seat of power that all government decisions and policies emanate therefrom.



The Spanish colonial administration, which governs the country, used Manila as the evidence and symbol of Spanish supremacy over the archipelago.

The American regime, which ruled the Philippines in the first half of the 1900s, retained Manila as the core power center and prepared the country for a presidential system of government.

The Commonwealth government amidst the backdrop of the 1935 Constitution promoted centralism as an imperative towards achieving Philippine independence from the United States.

After the Philippines was granted independence in July 1946 by the United States, the country immediately underwent a presidential election in spite of its economy in shambles after the end of the Second World War. Thereafter, from 1935 to 2001, nine presidents were at the helm of the state maintaining the same government system that was highly centralized in a unitary presidential model.

In these years, the failures of the presidential system were glaringly evident in the poor performance of the state and its economy over the years. Corruption in government was a perennial public issue and public accountability among political leaders and the public bureaucracy, as then and now an elusive commodity.

In the recent years, serious discussions on government modalities have been started by academe, civil society and some concerned sectors of government. These public discussions on government and governance were triggered among others by the dissatisfaction over the incremental failure of government to deliver services and/or perform par public standards and general expectations. The secessionist movement in Mindanao has likewise hastened the search for alternative governments, i.e. federalism. Worth noting in this regard is that the Muslims in Mindanao look at federation as acceptable option and antidote to the secessionist movement in the south. Mastura's paper entitled ***"Federation as our Option"*** articulated this concern. The government in order to preserve the country in its entirety may have to search for better options for the Muslim secessionist movement.

## **2. Political Culture**

Any move to initiate transformation of the present unitary governmental system to an alternative model will have to reckon that the Philippines has been imbedded in the presidential and unitary system for a long time. The political behavior and culture of the citizenry and the country as a whole has been very much influenced by the presidency.

Supreme Court Justice Irene Cortes, once in the past, observed that the Philippine presidency "bears imprint of the country's historical past, the temperament of the Filipino people, the personality of every man who had held the office and the influence of contemporary events." Historically, the President of the Philippines has been traditionally powerful commanding not only respect but also obedience of the central and local bureaucracies of the Philippine government. The presidentialists in our midst feel that the Philippines should remain unitary and presidential. Those arguing for the retention of the presidential system provided alternatives to federalism. These options are the continuing decentralization of government and strengthening much more local autonomy like the enactment of the Local Government Code.

Another argument for presidentialism is that since most developing countries adopt the presidential system, these countries should not shift to federalism because it is a difficult governmental system.

The other argument of the presidentialists is that the unity of the country is at risk under federalism since the Philippines will be fragmented into different constituent states. This will be a political issue the presidentialists and the federalists will squarely face when the country decides to change the present political system into a federalist model.

Given this background of the political environment of the Philippines, it will take much more effort to let the constituency understand in a countrywide political education program, issues on governmental transition before the citizens will put to heart that government and its modalities is also their business and concern.

The advocacy on federal parliamentarism requires among others, a change of the Filipino political culture and their subsequent political behavior and value perception of government. Several Filipino political scientists believed that the formulation of a federal constitution would facilitate a change of the political culture of the country. (Tangco: 1994).

It posits the theory that law and public institutions determine and shape the prevailing political behavior and culture of a society. "Constitutions are essentially 'institutional frameworks' that in functioning democracies provide the basic decision, rules, and incentive systems concerning government formation, the conditions under which governments can continue to rule, and the conditions by which they can be terminated democratically. More than simply one of many dimensions of a democratic system, constitutions create much of the overall system of incentives and organizations within which the other institutions and dimensions found in the many types of democracy are structured and processed." (Stephen and Skach: 1994)

Based on these assumptions, therefore, it is safe to predict that the Philippine receptivity of a governmental transformation will likely be induced with the acceptance and the public endorsement of a federal constitution.

The Philippines positive response to a change in government modality will also depend on two (2) critical strategic factors. These are:

- The right time to push and implement the advocacy for federalism; and given the current political setting, the right time may have to be beyond the year 2006.
- The right political leadership that will lead the change. This is the more difficult variable of the two preconditions since enlightened political leaders are rarities in Philippine politics.

Given these two preconditions to attaining federalism, the assumption is that a politically re-educated citizenry will open their minds to political change and look forward to a better life.

### **3. Crucial Issues**

#### **a) Country Receptivity**

The receptivity of the country to a government transition is a big question. The strongest opposition will come from those who are in the corridors of power. A positive response may come from the youth sector, which is dissatisfied with the present political system. Other sectors of Philippine society need to be enlightened and here is where the guessing game will begin.

b) What is the fate of the province with the creation of the State?

It will appear that the provinces will become more superfluous than ever, with the creation of a state government. The province as it is now, is already an administrative superfluity and it can be abolished with good reason under a federal system.

c) How much will it cost to create a state government?

Estimates made by the Department of Interior and Local Government (DILG) on the cost to create a city or province is approximately P270,537,522.00. Since the state government is much more complex in operation, function, and size, there is no doubt that it may cost the people P2,705,375,200.00 which is actually a conservative estimate for state government office infrastructures of some 15 functional departments. The estimate, which excludes annual budgetary appropriations for the state government, can easily be about P100 Billion per year.

d) Local Government Code

The Local Government Code of 1991 will be irrelevant in a federal system. Because the federal or state constitution will define the creation and functions and powers of local authorities, all existing applicable laws in local government administration, i.e. Local Government Code will be operative.

e) Intergovernmental Fiscal Relations

The exercise of taxing powers and the vertical revenue sharing of resources will be divided between and among the federal, state, and local governments. Because there will be mandated functions which is common under the federal partnership concept, the system of federal block grants will become a critical component of intergovernmental fiscal relations.

f) Civil Service System

There will be an open civil service system both in the federal and state government service. An open civil service system will protect the career ladder of the civil service personnel by allowing both vertical and horizontal mobility personnel.

There will be other issues of course, which will evolve as an aftermath of the transition of government.

#### **4. Formation of Capital Territory and Constituent States**

The federal government will be located in a federal capital territory, which will be composed of the cities of Manila, Makati, and Quezon.

All cities and municipalities that are currently parts of the National Capital Region (NCR) will be federated into the proposed State of Central Luzon.

Seven prospective states are envisioned in the prospective Philippine Federal Republic. These states are:

- a) **State of Northern Luzon**  
This will comprise the Administrative Regions I and II and the Cordillera Administrative Region (CAR).
- b) **State of Central Luzon**  
This prospective state will comprise Administrative Region III including the provinces of Rizal, Quezon, Laguna, and Batangas; including all cities and municipalities which are parts of the National Capital Region (NCR) but excluding the cities of Manila, Quezon, and Makati, which will comprise the Federal Capital Territory.
- c) **State of Southern Luzon**  
This will comprise Administrative Region V, including the provinces of Mindoro Island and Marinduque.
- d) **State of the Visayas**  
Administrative Regions VI, VII, and VIII, including the island province of Palawan will comprise this State in the Visayas Region.
- e) **Bangsa Moro State**  
This will comprise most of Region IX, Administrative Region of Muslim Mindanao (ARMM) and parts of Region XII.
- f) **State of Northern Mindanao**  
This will comprise Administrative Region X and CARAGA.
- g) **State of Southern Mindanao**  
This will comprise Administrative Region XI and parts of Region XII.

The criteria used in this division of the country into seven states are the following:

- a) The financial and economic viability of each proposed state based on availability of natural wealth, comparative and overall tax sources, and investment potentials;
- b) Regional peculiarities and other geographical and cultural factors;
- c) Regional development potentials; and
- d) Availability and accessibility of infrastructures within each proposed state.
- e) Diversities of public goals and homogeneity of human and social communities.

There are other proposals as to how the Philippines may be divided into more than seven states. In Abueva's paper "***Transforming our Unitary System to a Federal System***", the number of states recommended is 12. There are several proposals that vary in the number of proposed states.

What is imperative of course in this regard, is to undertake an analytical and evaluative process that will lay the more logical and scientific basis in dividing the country into viable states. Also vital in determining the viability of a state government is to determine how much it will cost the public to maintain a state government including the functions assigned to a state government, i.e. the delivery of essential services.

What are the prospects of a Philippine Federal Republic? What are the possible scenarios in the future as it continue to unfold overtime and crisis after crisis?

These questions require predictive answers and therefore, it is quite difficult to foretell.

There is no question that the Philippine political system needs a thorough re-examination and reform. But when will the Philippines have the political will to undertake vital political reforms?

One must take into account that certain government modalities are the results of its own specific historic times. Others are designed for specific goals and purposes. Still, others are "political mutations" borne out of abnormal times and circumstances which political scientists classify as modalities of governance.

Nonetheless, the country has to chart its own political future beyond its contemporary political system.