



Definitional Gaps

Preliminary Comments on Bill No. 30
Bangsamoro Local Governance Code

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Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)

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What sets it apart from other LGUs?

Biggest LGU

Only 1 of 2 ARs **identified**
in the Constitution

1 and only **incorporated**
AR

Governed by a **Parliament**

Enjoys **Political Autonomy**

People have Right of
Self-Determination

Charter amendment
requires a **Plebiscite**

Regulatory Power over
Constituent LGUs



General Comments

1. The proposed Bangsamoro Local Government Code (BLGC) under Bill No. 30 substantially **mirrors** the provisions of the **1991 Local Government Code** (LGC).
2. Like the LGC, Bill No. 3 does **not define/ operationalize important/ key terms**. Defining these terms will clarify policies and relationships.



4 Key Sections in Bill No. 30

1. Declaration of Policy (2)
2. Operative Principles of Decentralization (3)
3. Rules of Interpretation (5)
4. Regional Supervision over LGUs (25)



6 Undefined Critical Terms

**Regional
Autonomy**
(of BARMM)

**Local & Fiscal
Autonomy**
(of Constituent
LGUs)

Supervision
(by BARMM)

**Regulatory
Power**
(of BARMM)

Non-Diminution
of **Privileges**

**Conflict of
Laws and
Preemptive
Power**



Regional Autonomy of BARMM

Local Autonomy of Constituent LGUs

Context/ Jurisprudence

1. Form of Government is **unitary**, not federal.
2. BARMM and LGUs are **not sovereign units/ not mini-states**.
3. Local autonomy means a **more responsive** and **accountable** local government **structure** instituted through a system of **decentralization**.
4. BARMM enjoys **political autonomy** (Decentralization of Power) while Constituent LGUs – Provinces, Cities, Municipalities and Barangays – enjoy **administrative autonomy** (Decentralization of Administration).



Levels of Local Autonomy

Decentralization of Power

BARMM

Abdication of political power in favor of local government units declared to be autonomous. The autonomous government is free to chart its own destiny and shape its future with minimum intervention from central authorities.

Regional autonomy is the degree of self-determination exercised by the LGU vis-à-vis the central government. Regional autonomy refers to the granting of basic internal government powers to the people of a particular area or region with least control and supervision from the central government.

Decentralization of Administration

Constituent LGUs

Central government delegates administrative powers to political subdivisions in order to broaden the base of government power and in the process to make local governments more responsive and accountable, and ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress.



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2 Views on Local Autonomy: **Centralist** and **Liberalist**

Centralist View of Local Autonomy

LGUs can only exercise those powers:

1. Expressly given/ delegated to them,
2. Necessarily implied from expressed powers,
3. Incidental to expressed powers,
4. Consistent with the Constitution, Laws and LGU Charters, and
5. Consistent with Rules, Policies & Directives issued by National Agencies.

- “Cut-and-paste” and nothing else
- What is not given is withheld
- Restricted and limited

Liberalist View of Local Autonomy

LGUs can exercise those powers:

1. Expressly given/ delegated to them,
2. Necessarily implied from expressed powers,
3. Incidental to expressed powers, and
4. Not inconsistent with the Constitution, Laws and LGU Charters.

- For as long as not prohibited by law & it will serve the general welfare, allowed.
- Broad and enhanced



Fiscal Autonomy

Sources of Funds/ Revenues (inclusive)

Utilization of Funds/ Revenues

Budgeting and Prioritizing



Executive Supervision by BARMM

Supervision



- Overseeing
- Ensuring that supervised unit follows the law
- Over actor (power to discipline) and act (power to declare illegal)
- There must be a law, otherwise, control/ undue delegation/ violate local autonomy.
- Only involves questions of law, not questions of fact (cannot declare acts against general welfare, excessive, confiscatory)

Control



- Prescribe manner/ lay down rules by which act is done
- Impose limitations when there is none imposed by law
- Preempts action/ discretion
- Decide for subordinate
- Change decision
- Alter wisdom, law-conforming judgment or exercise of discretion
- Discretion to order act undone or re-done



Regulatory Power of Bangsamoro Government Non-Diminution of Privileges

Bangasmoro Government and its Constituent Local Government Units. - The authority of the **Bangsamoro Government** to **regulate** the **affairs of its constituent local government units** shall be guaranteed in accordance with this **Organic Law** and a **Bangsamoro Local Government Code** to be enacted by the Parliament. The **privileges** already enjoyed by local government units under **Republic Act No. 7160**, otherwise known as the "**Local Government code of 1991**," as amended, and **other existing laws** shall **not be diminished**. (Section 10, Organic Act of BARMM)



Regulation

Limitations/ Boundaries

1. Consistent with Executive Supervision (not amount to Control)
2. Pursuant to BARMM Organic Act
3. Not diminish privileges under 1991 LGC and statutes

Privileges

“A particular benefit, advantage, or immunity enjoyed by a person or class of people that is not shared with others.”



Local
Autonomy

Fiscal
Autonomy

2 Capacities

Delegated/
Devolved
Powers

Subsisting
Ordinances

Prohibitory
Powers

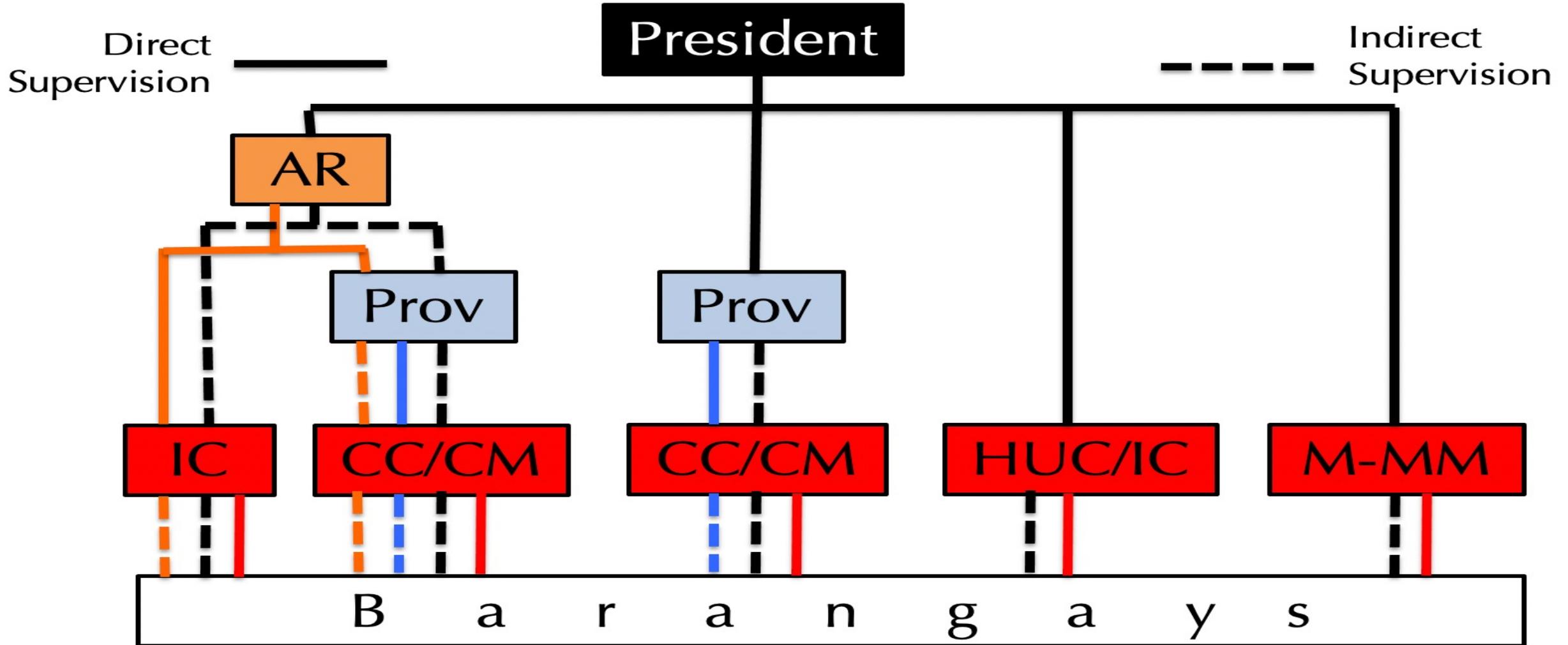


Chief Minister's “Through” Powers

The Chief Minister shall exercise supervisory authority directly over provinces, highly urbanized cities, and independent component cities; through the province with respect to component cities and municipalities; and through the city and municipality with respect to barangays.

1. CM has no control over Constituent LGUs
2. Like the President, CM has direct supervision:
 - a. Provinces
 - b. Highly-Urbanized Cities
 - c. Independent Cities
3. Like the President, CM has indirect supervision:
 - a. Component Cities
 - b. Component Municipalities
 - c. Barangays

Hierarchy/ Relationship





Regulation

Scope/ boundaries/ meaning to be defined under the BARMM Local Government Code

- ✓ 1. Other Regional Laws
- ✓ 2. Rules and Regulation by Chief Minister and Ministries
- ✗ 3. Command and Control ✓ ✗ For purposes of discussion
- ✗ 4. Performance (Prescribing targets, adopting means to reach ends, calling for innovation)
- ✓ 5. Management (Self-Regulation by setting standards and evaluating)



Legislative Control by Congress

Preemptive Power of Congress

Conflict of Laws/

Rules of Interpretation

Limitations

1. BARMM Organic Act
2. Amendment effectivity only after approval in a plebiscite
3. Cannot violate the 1987 Constitution (Enumerated Powers)

1. BARMM Organic Act vs. BLGC
2. 1991 LGC vs. BLGC
3. 1987 Administrative Code vs. BLGC
4. National Laws vs. Regional Laws

For purposes of discussion:
Congress over BARMM Parliament



Legislative Control by BARMM

Preemptive Power of BARMM

Conflict of Laws/ Rules of Interpretation

1. BARMM Laws vs. Ordinances of Constituent LGUs
2. Rules of MILG/ Ministries Issuances vs. Ordinances of Constituent LGUs
3. Rules of MILG/ Ministries Issuances vs. Executive Orders of Local Chief Executives
4. Provincial Ordinances vs. Ordinances of Component Cities and Municipalities
5. City and Municipal Ordinances vs. Barangay Ordinances

For purposes of discussion: If Higher can preempt



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Thank you.

