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12 Features of LGUs and 12 Principles of Local Autonomy

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12 Features of Local Governments



**Can Congress provide for a
shift to a federal form of
government?**

(1) LGUs are Subdivisions



- Unitary, not federal, form of government
- LGUs are political and territorial subdivisions of one Unit (i.e., State)
- LGUs have no constitutionally-protected sovereignty
- LGUs are intra-sovereign subdivisions of one sovereign nation (not “*Imperium in Imperio*”)
- LGUs not Independent Sub-National Units



**Can Congress provide for the
Eastern Visayas
Autonomous Region?
Declare the *sitio* as the basic
political unit?**

(2) 5 Levels/ Types of LGUs



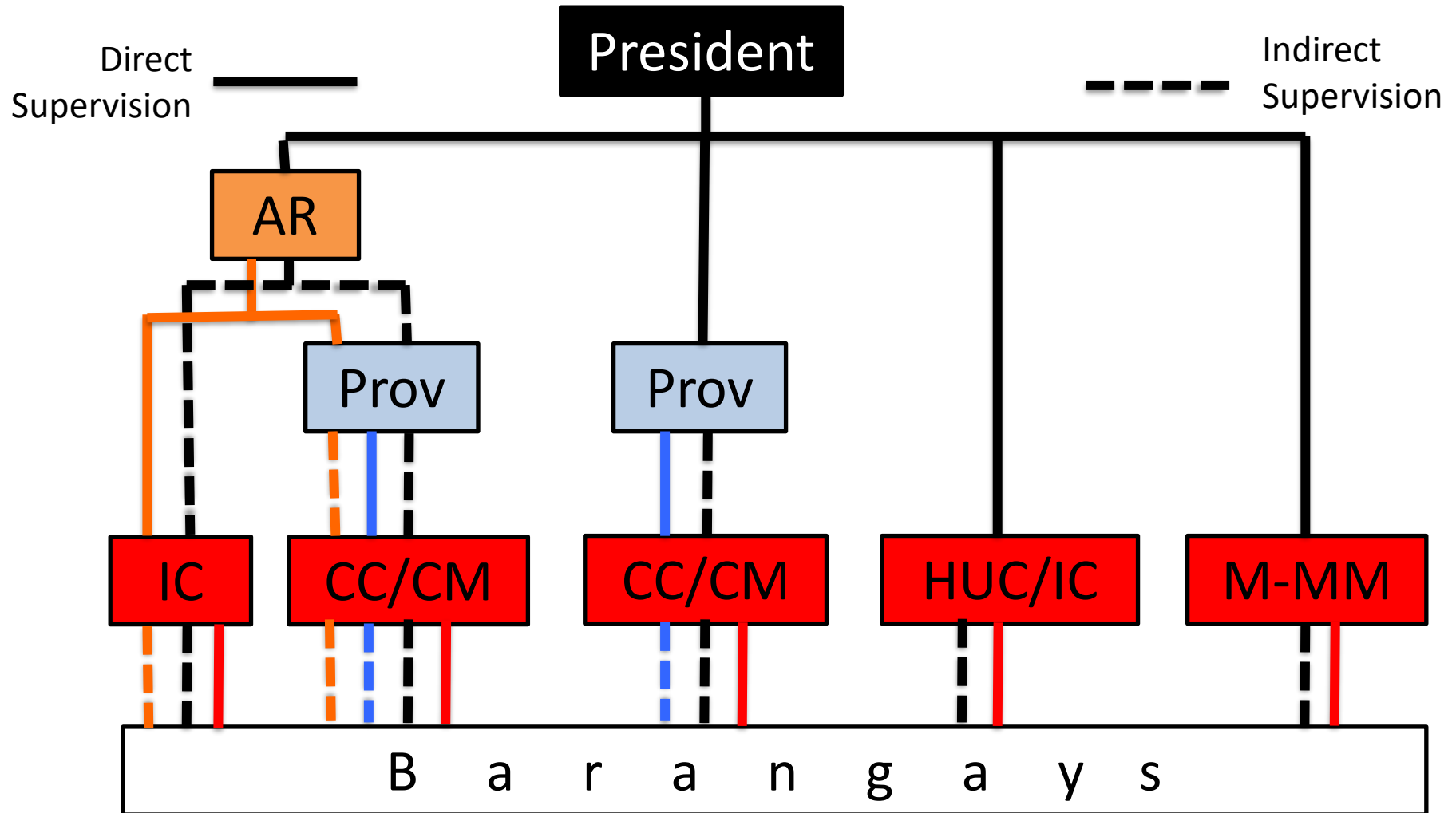
- Identified in the 1987 Constitution
(cannot + or – through ordinary legislation)
- Levels:
 1. Autonomous Region (ARs) (Only 1 Incorporated)
 2. Provinces (in and out of ARs)
 3. Cities (Component; Independent and Highly-Urbanized)
 4. Municipalities (Component and 1 Independent)
 5. Barangays (Basic, Component)



**Can the President suspend
a Mayor?**

**Can a Provincial Council
declare illegal a City
Ordinance?**

Hierarchy/ Relationship





**Is Calbayog City a
corporation like the
Philippine International
Convention Center?**

(3) LGUs are Public Corporations

- Municipal Corporation Proper
- Administrative Agency
- Public Office
- Not a GOCC (not stock or non-stock)
- Elements:
 1. Name
 2. Corporate Succession
 3. Inhabitants
 4. Area
 5. Corporate Powers
 6. Juridical Personality





Can the **President**
create a **City**?

Can a **municipality**
create a **barangay**?

(4) LGU Creation a Legislative Act

- Congress can create Provinces, Cities, Municipalities and Barangays
- Provinces and Cities can create Barangays
- Congress sets the requirements
- Process:
 1. Creation (law or ordinance)
 2. Incorporation (approval in a plebiscite)
 3. Corporate Existence (qualification of elective officials)





**Can Calbayog City levy
business tax over a store
operating at the Municipality
of Sta. Margarita?
Can the 2 LGUs collaborate?**

(5) Intramural Powers



- Territorial subdivisions
- Exercise powers within the territory
- May collaborate with other LGUs and Administrative Agencies



Can the **LLDA** demolish **fish pens** with municipal **business permits**?

Can **MMDA** issue policies on **traffic management**?

Can **DHSUD** issue rules on **socialized housing**?

(6) Integration is Indispensable

- National Development – Local Development connect (indispensability)
- Centralization – Decentralization mix
- National (NGA/ GOCC) vs. LGU Conflict-Resolution:
 1. Follow the law
 2. Absent a law:
 - a) National Dimension Rule
 - b) Local Dimension Rule/ Subsidiarity
- Integration
 1. Zoning Plans
 2. Development Plans
 3. Environmental Protection
 4. Boundary Disputes





Conflict Resolution:

National Prevails

- DENR (forestry laws)
- FPA (regulation of pesticides)
- LTO (issuance of driver's license)
- LTFRB (franchising of jeepneys/buses)
- HLURB (national projects)
- COA (additional allowance)
- NTC (cable TV franchise)
- DAR (conversion)
- GAB (jai alai frontons)
- **LLDA (fishpens, dumpsite)**
- BCDA (creation of Zone)
- PRC (profession)
- PAGCOR (casinos)
- PCSO (lotto outlets)
- **MMDA (traffic management; number coding-scheme for buses is within rule-making authority)**
- **MMDA (traffic management)**
- LWUA (water districts)
- DPWH (city engineer)
- CSC (dismissal)
- OP (discipline)
- NWRB (control and regulation of the use of ground water)



Conflict Resolution: LGU Prevails

- DENR (ordinance)
- DBM (allowance for judges, budget officer)
- COA (RATA)
- DENR (oil depots)
- DOJ (tax ordinance)
- **Regulate telecoms tower (NTC)**
- Higher LGU (review)
- **DAR (reclassify, expropriation)**
- DILG (barangay liga)
- OP (IRA)
- DOF (RPC/ LGC)
- **MMDA (subdivisions, dumpsite; terminals; review ordinances)**
- NAPOCOR (voltage cables)
- DSWD (devolved personnel)
- Congress (IRA, amend Organic Act)
- Province relative to HUC (rotating appointment for water districts)
- Zoning/ “Photobomber” building
- BOI (6-year exemption)



Can a **City** contract a **Private Company** for its **tax collection**?
For the construction and
operation of a **bridge**?

(7) Dual Capacity of LGUs



- 2 Capacities

1. Governmental or Public
2. Proprietary or Private

- Relevance

1. Delegability
2. Liability for Death, Injury or Damage (distinction relevant under the 1983 Local Government Code)



**Who is the “Boss”/
Principal of LGUs?**

(8) Dual Agency of LGUs

- Agent of State in performance of Governmental/ Public functions
- Agent of the People/ Community in exercise of Proprietary/ Private functions
- Delegates
- Subordinate Legislation





When sued, can a **Province**
claim that is it **immune from suit**
like the State?

Who is liable for **illegal dismissal**
of an **LGU employee**?

(9) Dual Accountability



- Corporate Accountability and Liability
 1. Not immune from suit
 2. Depending on circumstances, liable for acts and omissions
 - a) Official Acts
 - b) Sanggunian participation/ acquiescence
- Personal Accountability and Liability
 1. Public Office is a Public Trust
 2. Public Servants
 3. Liable for Crimes, Malfeasance, Misfeasance and Nonfeasance
 4. Removing Authority – Courts and People



True or False:
LGUs have inherent powers.

(10) Delegated Powers



- No Inherent but have Broad Powers
- Nature of Powers
 1. Local Autonomy (not self-rule nor self-governance)
 2. Delegated
 3. Broad (for as long as not prohibited by law)
 4. Limited/ Qualified Self-Governance
 5. Residual
- Sources of Powers
 1. 1987 Constitution
 2. Charters
 3. 1991 Local Government Code
 4. Statutes



True or False:
**All LGUs have
ordinances on Sports
Law-for-All.**

(11) Diversity of Powers



- Classes of Powers
 1. Uniformity of Powers (Constitution and general law)
 2. Specific Powers (charters)
- Exercise of Powers is LGU-specific based on vision, needs, priorities, strategies, policies, activities and resources



True or False:

The 1991 LGC/ LGU Charters
can be amended whereby
the **Mayor** shall preside over
Sanggunian sessions.

(12) Separation of Powers



- Separation of powers under the 1987 Constitution not applicable to LGUs
- Congress has control over LGU structure
- Congress allocates/ delineates powers within a LGU
 1. Executive and Legislative branches in LGUs
 2. Currently, legislative separation of powers (except for Barangays)



12 Principles of Local Autonomy



**Does a municipality enjoy
the same autonomy as a
province?**



(1) Entitlement and Grant

- All LGUs enjoy local autonomy.
- Totality of powers dependent on laws and powers actually exercised by the LGU.



Define:
Local Autonomy



(2) Local Autonomy

- “Local Autonomy means a **more responsive** and **accountable** local government structure instituted through a system of **decentralization**.”
- Components:
 1. Address needs of people (agents of people)
 2. Performance
 3. Governance
 4. Rule of Law
 5. Transfer of Powers to LGUs
 6. Accountability/ Liability of Actions and Inactions (agent of the State)



Can a city **incorporate** a
stock corporation?

Can a province not require
wearing of **face masks**
contrary to position of NG?

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



Rank from Superior to Less Superior:

- ☐ Ordinances/ Local Laws
- ☐ Constitution
- ☐ 1991 LGC
- ☐ LGU Charter



(3) Limited Self-Governance

- LGU powers:
 1. Local Autonomy
 2. Broad but not absolute
 3. Delegated, not inherent
 4. Mandatory
 5. Discretionary
 6. Specific and Residual (Not Prohibited)
- Follow Hierarchy of Policies (Subordinate Legislation)



True or False

The **BARMM** enjoys a higher degree of **local autonomy** than other LGUs.



(4) 2 Levels

- Decentralization of Administration

1. Provinces, Cities, Municipalities and Barangays
2. Delegation of Regulatory Powers and Responsibility over Delivery of Basic Services

- Decentralization of Power

1. Autonomous Region(s)
2. Self-immolation
3. Abdication of power and freedom to chart destiny



**Can Congress repeal the
4 governmental powers
delegated to LGUs?**

**Can a city issue
franchises for jeepneys?**



(5) 5 *Des*

○ Decentralization consists of:

1. Delegation

- Taxation and Legislation (constitutional)
- Police Power and Eminent Domain (statutory)

2. Devolution

- Basic Service and Regulatory Powers + Assets and Personnel
(*Note: Power not devolved is withheld*)

3. Deconcentration

- Central to Regional Offices

4. Democratization

- Cooperative Arrangements, Assistance, Local Special Bodies, Mandatory Consultation, Recall, Disciplinary Action

○ Co-exists with Centralization



Can a **city** order the **closure**
of all **beerhouses** and
videoke bars along a road?
Impose a **curfew** on **minors**?

(6) 4 Governmental/ Delegated Powers

○ Police Power

1. General Welfare - “the delegation in statutory form of the police power of the State to LGUs”
 - a) General Legislative Branch (what law states)
 - b) Police Power Proper (what law does not expressly delegate)
2. 2 Components
 - a) Lawful Subject, and
 - b) Lawful Means
3. No payment for taking





(6) 4 Governmental Powers

○ Power of Eminent Domain

1. Compensable Taking
2. Of property
3. For a public purpose
4. Upon payment of just compensation
5. Strict compliance with laws
6. Ordinance
7. Regional Trial Court
8. Valid Offer



**Can a city levy socialize
housing tax?**

**Levy real property tax
over a GOCC property?**



(6) 4 Governmental Powers

○ Power to Tax

1. Raise revenues
2. Activities and Persons
 - a) Specified in law
 - b) Not prohibited and not delegated to others
3. Blanket Withdrawal of Pre-LGC GOCC Tax Exemptions; Exempt if:
 - GI
 - Post-1991 LGC exemption
 - Property outside commerce of men (and women)



(6) 4 Governmental Powers

- Power to Legislative (not just issue rules)
 1. Substance and Procedure
 2. Subordinate Legislation
 3. Presumed legal and constitutional
 4. Ordinances and Resolutions
 5. Veto and Review



Which of these statements are **correct**?

1. A provincial council can declare a municipal ordinance contrary to the general welfare.
2. Congress cannot provide for a party-list system in choosing local officials.
3. DILG can review and declare ordinances illegal.
4. Courts can review tax ordinances.



(7) Relationships

○ Executive Branch

Supervision

○ Legislative Branch

Control

○ Courts

Judicial Review

○ Other LGUs

Supervision

○ People

Agency



(7) Relationships

Executive Supervision

1. Review of Orders and Ordinances
2. Disciplinary Action
3. Integration of Plans/ Zoning
4. Boundary Disputes
5. Leaves/ Resignation/ Vacancies
6. Augmentation of Basic Services

Legislative Control

1. Structure
2. Elective and Appointive Officials
3. Powers
4. Qualifications
5. Manner of Selection
6. Taxes
7. National Tax Allotment
8. National Wealth
9. Creation

SK Reform Act of 2015 (2022)

SK:

- SK Officials not related to national and local elective officials
- Develop programs such as student stipends, food, and book and transportation to prevent incidence of out of youth; sports and wellness projects; skills training, summer employment, on-the-job employment, and livelihood assistance; promotion of agriculture, fishery, and forestry enterprises; environment protection; capacity building for grassroots organizations; and program to address “context-specific and intersectional vulnerabilities
- Formulate Comprehensive Barangay Youth Development Plan
- Comply with the government’s accounting and audit and regulations set by the DBM and COA
- Adopt internal rules and procedures
- Set the schedule of their regular meetings





Can an LGU pursue a **Joint
Venture** for or **procure** a
Bridge?



(8) 2-Fold Nature

- Passive Nature

1. Grant of Powers
2. Uniform (general statute) or Specific (charter)

- Active Nature

1. Diversity
2. Exercise of Powers
3. LGU-specific based on vision, needs, priorities, strategies, activities and resources



When there is a **conflict**
between **DHSUD** and an
LGU, who **prevails**?



(9) Subsidiarity

- Follow letter of law
- When ambiguous:
 - Local concerns are better addressed by concerned LGU (Local Dimension Rule/ Subsidiarity)
 - LGUs have superior competence over local concerns (rather than national government, other administrative agencies)



True or False:

**The fiscal autonomy of LGUs
is the same as that granted to
Constitutional Commissions.**



(10) Fiscal Autonomy

- Indispensable to Local Autonomy
 1. Perform mandates
 2. Operation of LGU
 3. Attain vision and objectives
- Components:
 1. Sourcing of Funds
 2. Use of Funds (Budgeting and Prioritizing)
- Sources
 1. Constitutional (Tax, Fees, NTA, National Wealth)
 2. Statutory (PPPs, Bonds, Loans, Grants)



Mandanas v. Ochoa

G.R. No. 199802, July 3, 2018

Base of the Just Share

- Congress has exceeded its constitutional boundary by **limiting to the National Internal Revenue Taxes (NIRTs)** the base from which to compute the just share of the LGUs.
- Section 284 has **effectively deprived** the LGUs from deriving their just share from **other national taxes**, like the customs duties.
- The phrase **“as determined by law”** follows and qualifies the phrase **“just share,”** and cannot be construed as qualifying the succeeding phrase **“national taxes.”**

IRA → NTA



**Can a newly-elected mayor
unilaterally cancel the
contracts entered into by the
previous mayor?**



(11) Other Mandates

- Local Autonomy is one of many constitutional/fundamental mandates and policies
- Reconcile with, among others:
 1. Corporate Succession
 2. Due Process
 3. Environmental Protection
 4. Social Justice
 5. Public Trust
 6. Non-impairment of Contracts



**When in doubt, who prevails
between a GOCC
and an LGU?**



(12) Interpretation of Powers

- When law clear, apply law
- When law ambiguous:
 1. National Government vs. LGU: LGU
 2. Supervising/ Higher LGU vs. Supervised/ Lower LGU: Supervised/ Lower
 3. Grant or Withdrawal of Power: Grant
 4. Devolved Power or Not: Devolution
 5. General Welfare or Not: General Welfare
 6. Local Autonomy or Not: Local Autonomy
 7. Fiscal Autonomy or Not: Fiscal Autonomy



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Thank you.

