



PRLS
POLICY RESEARCH
AND LEGAL SERVICES

POLICY NOTES

Devolution: BARMM's Road to Moral Governance?

Author:

Nashrolah S. Langco



Background


The Mandanas-Garcia Ruling, unsurprisingly, revived talks of devolution and further political decentralization in the country. As seen in the Executive Order No. 138[1], the Executive decided to pursue a mandate of further devolution of functions to the local government units (LGUs) to offset the national government's eventual deductions on funds, as well as to compensate for the LGUs increased fiscal capacity. This is a response to the Supreme Court, which ruled in favor of increasing LGUs share of Internal Revenue Allotment (IRA).

The case of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) being an autonomous region, while different, is analogous. As the landmark ruling shook politicians and scholars alike, it is no surprise that such sentiment made an impact on BARMM, which is currently in its institutional building phase.

The Bangsamoro Organic Law (BOL)[2] stipulates autonomy of various levels to the Bangsamoro Government. Hence, in a way, BARMM has preceded the national government in dealing with the ramifications of the landmark ruling. As of now, the Bangsamoro Transition Authority

Executive Summary

The Executive Order No. 138 mandates that local government units (LGUs) of the Philippines be awarded larger responsibilities in pursuit of the full devolution in response to the Mandanas-Garcia ruling, which demands that LGUs be given a larger share of the national fiscal pie through a larger IRA. As such, there is now a burden to capacitate said LGUs to take over some functions formerly handled by the national government in relation to the larger funds allocated to them. In line with the trend, there are expectations for discourse centered around the administrative and logistical implications of the said ruling. There must, however, have a focus on investigating and exploring the concept of devolution itself, particularly in the case of BARMM, whose goal is to inculcate moral governance as a framework. Devolution, and as a corollary political decentralization, might be a key factor in paving the way for moral governance.



(BTA), acting as the parliament, is mandated to write seven foundational legislations or codes that would guide the conduct of political affairs in BARMM. Among this list of codes is a “local governance code”[3] meant to lay-out foundational legislation on the conduct affairs of the LGUs under the Bangsamoro Region.

As it is being written, this code, together with its framers, should also be wary of its larger responsibility to the constituents of the BARMM in stipulating provisions that would inform people’s participation in the governance of the region, as well as the government’s responsibilities towards its constituents. Since LGUs will receive a larger share of IRA, and in effect greater responsibilities, the burden is now put on the BTA to properly manage and guide LGUs in how they can adequately allocate this fiscal resource they have through writing the guidelines of its use.

Given this greater responsibility, the BTA is now in the perfect spot to make use of the surprising developments in the devolution of functions and political decentralization that is happening nationwide. In a way, the paper argues that pursuing the devolution and political decentralization mandate of EO No. 138, the Bangsamoro’s version of the local government code shall ensure that devolution of function must mean more than providing new opportunities for LGUs in practicing governance and delivering service. Through such practice, it must ensure that LGUs and their constituents shall be able to cultivate their capabilities and further flourish as respected members of society[4]. This also

entails that devolution and decentralization are not to be taken as a simple arbitrary mandate, hinged on speculations regarding efficient public administration, but rather a moral responsibility for the state as well.

Issue


There seem to be varying sentiments regarding the plausibility of devolution in BARMM. Perhaps it is best to rethink and reframe old formulations. While we do not need to dismiss criticisms for and against such political mechanism, BARMM—currently in its institutional building phase— may investigate the concept itself and see it as a tool to practice moral governance.

Key points

Devolution: A moral imperative?

The question of devolution and decentralization is more than just a matter of administrative efficiency. Beyond that, it is also an issue of democratization and empowerment of constituents by giving them opportunities to properly address the problems in a manner that suits their circumstances. Hence, it can not just be a question of whether such political arrangement is efficient, but also whether such arrangement is just and moral.

One major claim in the field of political thought is the idea of the state being responsi-



ble for the welfare of its constituents. Small city-states[5] had the luxury of having a very manageable population. In effect, services rendered by the ruling power can easily accommodate problems down to the most personal ones. In the case of earlier practice of democracy[6], men as citizens literally join the decision-making process for the whole city-state. In this way, their participation in political affairs was direct. In monarchies, the same is true in political affairs; while still under the direct control of a certain person/family, addressing problems can still seep into the personal issues of constituents.

Modern states/republics/nations are comprised of a constituency that is more than a central authority can manage. Hence, administrative regions may be established to create an efficient bureaucracy to deliver services towards constituents effectively. The problem, however, is not whether it was necessary to implement divisions of administrative regions but rather the myriad of problems pertaining to the delivery of services, particularly the discrepancy between the solutions given to the constituents in the far-flung areas coming from the central authority. The solutions are usually imposed from a relative understanding of the problem rather than properly addressing the root causes of the people's problem. Since the power to allocate resources is still at the hands of the few powerful actors, it is not unreasonable to assume that there is a lack of opportunities for the constituents to bargain for solutions in their favor.


Suppose a state's mission was to effectively cultivate its constituent's talents by giving

opportunities to cultivate his/her potential as a person; then a centralized delivery of services, where the power to decide revolves around a single nexus of power, then such a system simply fails in this massive undertaking, not by measures of efficiency or administration, but simply because it denies its constituents the very participation needed from them in order for them to practice their capabilities as rational agents and respected members of a nation.

In this light, devolution makes sense and is rendered necessary to create a society that caters to the needs of the people. In this kind of arrangement, LGUs can truly provide services that directly cater to people's needs. Constituents also have the chance for empowerment, which will certainly lead to the cultivation of their skills and potential. Moreover, in a decentralized political system, power is given back to the people as they can directly participate in the affairs of the politics.

Devolution: An administrative nightmare?

It would be unreasonable to assume that political decentralization and further devolution of powers will render the issues of politics such as corruption and fraud obsolete. Such a system can further exacerbate practices of corruption and fund embezzlement[7]. While administrative and logistical problems[8] will eventually be dealt with by LGUs in their quest for decentralization, there is no direct relationship between the moral imperative to cultivate people's capabilities and the problems inherent in the realm of politics. It may seem



that there is a correlation between the factors, but one does not necessarily cause the other to exist.

There are, of course, well-documented scenarios[9] of failures in delivering services in a decentralized manner. On a more abstract note, another side of the spectrum of political thought suggests that a decentralized form of governance fails precisely because of the power being shared to the masses, which can be easily swayed by passions. The power to decide requires certain competencies, specifically in rational abilities, as the idea goes[10]. This suggests that a central nexus of power is needed to properly decide methods of resource allocation for a state to run efficiently and effectively- a total opposite of the decentralization this paper argues for. A corollary of such claim also suggests that administrative functions must be at the helm of a few select and qualified administrators, kings, and political leaders[11].

This claim, however, assumes a certain idea of human nature. First, it assumes a somehow stringent assessment of personalities, i.e., masses ultimately are slaves to passion, and rulers are part of the lucky few to transcend this so-called curse of nature. This claim presupposes, however, the idea that some people are just fated by the gods to lead. Second, it leaves out the plausibility of the claim that rulers are as they are precisely because of the opportunities they had to cultivate their talents and capabilities with the help of resources they had in life. In theory, should the masses be given the same resources and opportunities these rulers had, they can technically be rulers themselves.

In a decentralized form of governance, however, people are given a chance to have similar opportunities as the so-called rulers, as described above, to cultivate their capabilities. As such, the questions of administrative and political inefficiency of a decentralized government and devolved function to smaller units of governance do not necessarily negate the moral imperative that states have. As of the moment, in order for a modern state to engage and involve constituents, the best method that can approximate this role is decentralization and devolution.

Devolution: BARMM's way to moral governance?

There is currently a question of moral governance in the context of BARMM. Competing claims of what form of governance properly employs moral precepts exist within it. While different in its specific implementation of moral governance, a good way to find a common ground is to employ principles that are reasonable and can be agreed upon by everyone[12].

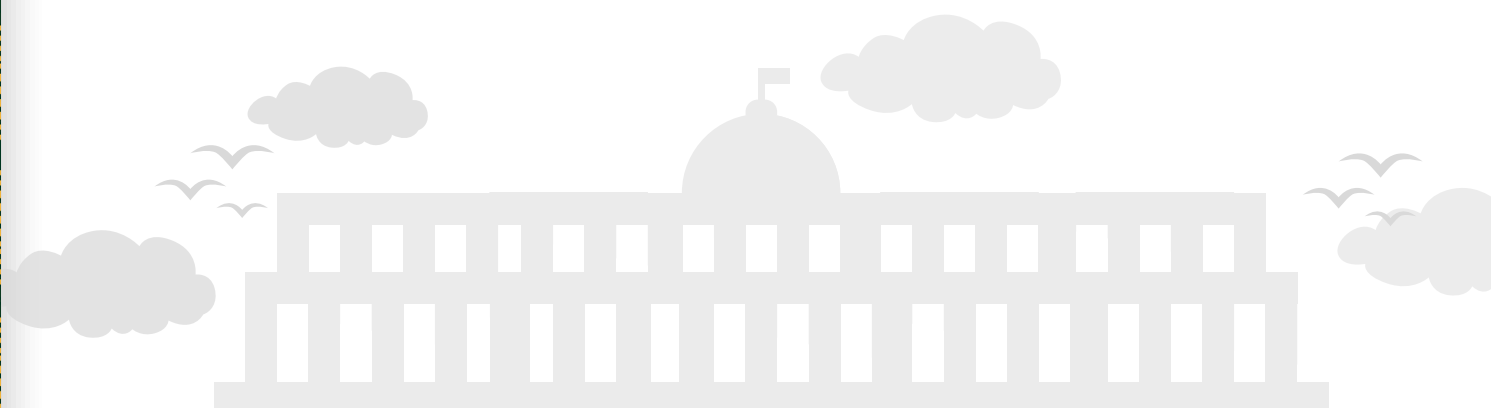
Undoubtedly, the constituents' welfare can be a common ground to start off conceptualizing moral governance for BARMM. Thus, pursuing measures and providing opportunities for people to cultivate their potential as individuals and as respected members of a community is imperative. One, of course, can argue for the minimal duty of the state, which is to simply respect one's rights, including voicing opinions against the state or simply respecting a child's right to education. But can one really tell that it is of respect if it merely recognizes such rights but never providing an opportunity to pursue it?

In creating a society that is just, a state must, at the bare minimum, employ measures that can secure the cultivation of capabilities and potentials. The Bangsamoro Government is now in the perfect spot to employ this kind of duty. It is a reasonable common ground that everyone can agree on as well. On a more philosophical note, only then can a state be truly practicing moral governance if it secures its constituents' opportunities to cultivate their talents and capabilities.

Recommendation

The proposed Bangsamoro Local Governance Code (BLGC) can tap into this potential of employing moral governance by stipulating into its provisions that constituents are able to practice, exercise, and fully develop their capabilities as individuals and as respected members of society. As said at the beginning of this essay, devolution and political decentralization are tools to properly engage citizens in their quest to cultivate their capabilities as it is the moral imperative not just for a state but also for every moral agent.

Hence as a very general recommendation, the proposed draft of BLGC could be made better so long as additional provisions are stipulated to guarantee people's participation in decision making of the LGUs as well as funds be appropriated to specifically target people's improvement and cultivation of capabilities.



References

- [1] Executive Order No. 138, Full Devolution of Certain Functions of the Executive branch to the Local Governments, Creation of a Committee on Devolution, and for Other Purposes, Accessed: 06 February 2022, <https://www.officialgazette.gov.ph/2021/06/01/executive-order-no-138-s-2021/>
- [2] Also known as Republic Act No. 11064, An Act Providing for the Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao, Accessed: 06 February 2022, <https://rasmitmug.com/ebooks/BOL-RA11054-3.pdf>
- [3] Referring to the proposed bill titled “An Act Providing for the Bangsamoro Local Governance Code”, unpublished
- [4] The paper makes use of the “capabilities approach framework” first introduced by Amartya Sen in his work *Development as Freedom* (1999) and further developed by Martha Nussbaum in her works such as *The Cosmopolitan Tradition* (2019). See (Nussbaum, 2019) for further exploration of this approach.
- [5] Referring to the city-states of ancient Greece as prototypes. However, it can also refer to the small units of governance such as barangays, or the small sultanates of Muslim Mindanao pre-colonial times.
- [6] Democracy is said to be born in ancient city-state of Athens in Greece. Their conduct of practice of democracy was limited to men only. However, it was as direct as one can imagine, where men debate and argue at the town hall in a regular basis.
- [7] There is a great discussion about this kind of practices in any form of governance by Bruce de bueno de Mesquita and Alastair Smith in *The Dictator’s Handbook: Why Bad Behavior is Almost Always Good Politics* (2011)
- [8] See Maria Ela L. Atienza, “*Local Governments and Devolution in the Philippines*”, Philippine Politics and Governance: An Introduction, UP Press, 2006, pp. 431-437, for a discussion on the impacts of devolution and decentralization in the conduct of local political affairs.
- [9] See J.J. Capuno and O. Solon, “*The Impact of Devolution on Local Health Expenditures: Anecdotes and Some Estimates from the Philippines*”, Philippine Review of Economics, Vol. 33, No. 2, 1996 for a discussion of the issues surrounding devolution of health services to local government units.
- [10] Plato argues in his work *The Republic* that people are simply fated to be part of either the class of workers, soldiers, or leaders. See Antonis Coumoundouros, “*Plato: The Republic*”, The Internet Encyclopedia of Philosophy, ISSN 2161-0002, <https://iep.utm.edu/republic/>, for a brief overview of the topic.
- [11] Referring to the idea of Philosopher-Kings as rightful leaders of a state. See Ibid., for further discussion.
- [12] John Rawls employs the similar strategy in his work *Theory of Justice* (1971). He argues that it is almost always impossible to find a common conception of the good and thus, everyone should just settle for a reasonable plurality of the conception of the good. See Leif Wenar, “*John Rawls*”, The Stanford Encyclopedia of Philosophy, for a discussion on the topic. Access at: <https://plato.stanford.edu/entries/rawls/>.

Nashrolah Langco

Nashrolah Sumali Langco is a Meranao who earned his bachelor's degree in Philosophy, magna cum laude, in 2018 from the University of the Philippines Diliman. Currently, he is pursuing a graduate degree in Philosophy from the same university. Prior to working with the PRLS, he worked in the retail industry, as well as with the academe, working as a graduate assistant in the College of Social Sciences and Philosophy in the University of the Philippines Diliman, and as an assistant lecturer in Mindanao State University – General Santos City, teaching undergraduate students general education courses such as Ethics and Understanding the Self. He was also engaged in several student activities and organizations during his undergraduate years, being both a member as well as an officer in several student organizations. His main research interests lie in the field of political theory.

Policy Research and Legal Services

87 De Mazenod Ave., Rosary Heights V, Cotabato
City, 9600 Maguindanao, BARMM, Philippines
+63-64-557-4755
prls@bta.gov.ph