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and its Impact on
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Security Challenges
in BARMM**

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Introduction


The Supreme Court (SC) ruling on Mandanas-Garcia Petition emancipates from the consolidated petitions of former Representative Hermilando Mandanas and former Representative Enrique Garcia, Jr. In 2012, Mandanas petitioned and argued that the collections from the Bureau of Customs (BOC) should be included in the determination of National Internal Revenue Taxes (NIRT). Subsequently, in 2013, Garcia questioned the constitutionality of certain Local Government Code (LGC) provisions, particularly concerning the limitations of Local Government Units (LGUs) share in the NIRT.[i] He also argued that the LGC provision is contrary to the provision in the Constitution[ii], which gives LGUs a just share in national taxes and not just internal revenue taxes. The same petition also argued for the inclusion of custom duties, similar to Mandanas' petition.[iii]

From the consolidated Mandanas-Garcia petition, the Supreme Court ruled to directly increase the resources for LGUs from the computation of the IRA.[iv] Such computation is equivalent to 40% of tax collections that are not previously part of the base computation. Such Ruling allows

ABSTRACT

The Mandanas Ruling provides a double-edged sword in local autonomy. On the one hand, it allows local governments to express their local autonomy by fully devolving certain national functions. Many local governments, on the other hand, are still unprepared for such a transition, although EO 138 mandates them to do so due to (1) varying capacities, (2) weak institutions, and (3) clientelist politics. This study looks at potential options that LGUs can use to address their concerns about devolution. Special attention will be given to the non-traditional security issues such as social services, health, and investment in the Bangsamoro Autonomous Region.

Keywords: BARMM, Mandanas Ruling, Devolution, Local Autonomy, Non-traditional Security



greater local autonomy. While this is seen as a positive result, the Ruling provides a double-edged sword in local autonomy. On the one hand, it allows local governments to express their local autonomy by fully devolving certain national functions. Section 17 of the LGC mandates the devolution of several functions to the LGUS. The devolved functions include agricultural extension and on-site research, community-based forestry projects, field health and hospital services, public works and infrastructure, and social welfare services, among others. On the other hand, many LGUs are still unprepared for such a transition, although Executive Order (EO) 138 mandates them to do so, due to varying capacities, weak institutions, and clientelist politics.


In this paper, I discussed the implications of the Ruling vis-à-vis non-traditional security issues. Non-traditional security (NTS) issues are referred to as barriers to the existence and well-being of people. NTS arises primarily out of non-military means such as climate change, infectious diseases, and irregular migration.[v] While NTS is transnational, Bangsamoro Autonomous Region in Muslim Mindanao's (BARMM) foremost local issue is NTS. These include migration (internal displacements), transnational crime (terrorism), and health. Thus, by examining how the regional government responds to these issues, in congruence with the existence of the Mandanas-Garcia ruling, the regional government may establish mechanisms that will address the issues through local initiatives. This paper asks, "how does the Mandanas-Garcia Ruling shape BARMM's response to its non-traditional

security issues?" To answer this, I argue that the re-devolution of functions relating to social welfare, health, and investment allows a diverse yet targeted response to non-traditional security issues in BARMM through a multilevel approach. Yet, much depends on (1) clarity of intergovernmental functions and (2) concrete moral governance mechanisms. To expound my argument, first, I presented the issues on the implementation of the ruling, including simplifying the academic literature concerning Philippine politics into a policymaking lens. Next, I provided the non-traditional security issues in BARMM, with social welfare, health, and investment as case studies. The final section is dedicated to policy analysis and recommendations.

Varying Capacity, Weak Institutions, and Clientelist Politics

The EO 138 provides guidelines as to the devolution of certain functions of the National Government (NG) to the local governments. Some of the salient points of this EO are:

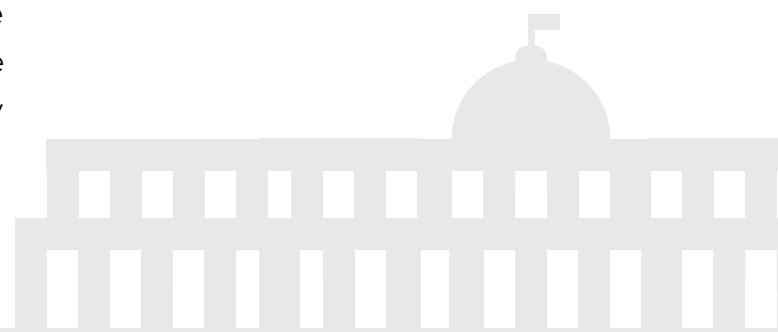
- Preparation of Devolution Plan
- Creation of Committee on Devolution
- Establishment of Growth Equalization Fund
- Capacity Development
- Strengthening Planning, Investment Programming, and Budgeting Linkage, and Monitoring and Evaluation Systems



These salient points shall help in the transition of the devolution process. However, despite such legislation, many local government units are still wary of this devolution for many reasons. The first one is the capacity of LGUs to carry out such functions. Many local governments have differing capacities and circumstances in terms of efficiency and fiscal capacity. Some LGUs expressed that devolution of functions requires planning and execution, which gives rise to challenges in service delivery.[vi] The preparation of plans is a tedious process that requires technical expertise. Given the size of local bureaucracy and the availability of personnel, such a process will lead to inefficiency. Moreover, there are some concerns about a spillover of some LGU programs, citing that other LGUs may be a burden to them if they fail to provide their devolved functions.[vii] This eventually will result in efficiency loss. On the other hand, fiscal capacity is also a concern. The devolution does not fully consider "finance follows function," a core principle of decentralization. "Finance follows function" refers to adequate financial resources to perform functional assignments.[viii] The current formulation of IRA follows two distribution processes. The first one is the LGU categorization, and the second is based on codal formulation (population, land area, equal sharing).[ix] Such computation is susceptible to a significant reduction of IRA shall there be a creation of a new LGU.

However, more than the above concerns, the foremost issues in the devolution are the problems the Philippine politics and society suffer – weak institutions and clientelist

politics. Many studies show that the Philippines' slow development is attributed to clientelism and weak institutions. Clientelism or clientelist politics refers to dependence and control based on power differences and inequality.[x] In clientelist politics, the patron provides services to its client, usually in the form of social and economic means. In return, the client gives their support to the patron in the forms of votes, political allegiance, and loyalty. Such dyadic relationship is continually renewed. Clientelism is also linked to governance and democracy. Many studies show that the stronger the clientelist relationship, the weaker the governance and democracy. Hence, the prevalence of red tape, pervasive corruption, absence of transparency, and public accountability.[xi] The persistent patterns and perennial problems brought upon by clientelist politics weakens institutions. With weak institutions, it increases inequality. You Jon-sung studied the Philippines' land reform, inequality, and corruption, and it showed that higher inequality leads to higher redistributive pressures, which in turn gives the wealthy incentives to capture the state to defend their interest.[xii] In simpler terms, inequality aggregates political and bureaucratic corruption. In a captured democracy, elites control local institutions. Such tendency allows political elites to deliberately disregard the root cause of the problems because they benefit from it.





Issues in BARMM – Social Welfare, Health, and Investment

Varying capacity, weak institutions, and clientelist politics are some of the barriers seen as obstructing the implementation at the national level. At the regional level, specifically in BARMM, the region also suffers many issues involving social welfare, health, and investment on top of the abovementioned problems. Take for instance, in terms of social welfare, the region suffers from water and energy insecurity. There is a frequent loss of energy supply and a lack of quality water resources in the area, despite the richness of sources.[xiii] Such frequent problems exacerbate health problems in the region, specifically communicable diseases. With the advent of the pandemic, such disease prevention is difficult to achieve. On top of this basic social welfare, problems are the issue of internal displacements due to conflict. The lack of concrete mechanisms vis-à-vis pre-and post-conflict and disaster response manifested in the situation of Marawi where crowded shelters and the lack of basic social services are cited as the most pressing problems. [xiv] The sanitation problem may contribute to an outbreak as well. On top of the communicable diseases, other non-communicable diseases such as diabetes, hypertension, and mental health are prevalent as well. The lack of facilities complicates health issues in the region. Hence, becoming the leading cause of mortality in the region. The clan feud (rido) also hampers the delivery of basic social services concerning health. Non-government

organizations (NGOs) such as Doctors Without Borders helps in providing health services in the region have found such conflict a challenge since rido is “difficult to read and requires a granular understanding.”[xv] Without careful understanding, one may be involved and maybe accused of taking sides.

In addition, problems in investment in terms of human resources and capital outlay are prevalent in the region. As of April 2020, 70.2% are employed in BARMM, with 7.8% being underemployed.[xvi] Almost 30% are unemployed in the region. In terms of capital outlay, World Bank’s 2021 report shows that LGUs in the Philippines have lower budget execution rates for capital outlay.[xvii] Using these, we can safely assume that this will significantly affect the service delivery in the region. On the other hand, investment, social welfare, and health are intertwined service areas. Human resources and capital outlays are needed to deliver social services. In the case of social welfare, many launched programs require expertise. Take, for example, early childhood development is a program that supports the operation of local daycare centers to tend children. Yet such a profession requires expertise, particularly someone with a background in early childhood development. Competencies in this area are not readily available, given the number of employment rates in the region. The same problem is also experienced in health services. In addition, the lack of facilities contributes to the problem. Those LGUs with better-equipped facilities will more likely attract and cater to the residents of poor LGUs, which adds to the efficiency loss. [xviii]

Analysis and Recommendations

The data above shows that the devolution process offers a complex problem in the implementation. At the national level, varying capacities, weak institutions, and clientelist politics are seen as the biggest problems in devolution. At the regional level, localized problems intensify the devolution problem, both in the programs and administration. However, despite the existence of these challenges, many opportunities are also provided: Yet, despite the existence of these challenges, many opportunities are also provided:

1

It offers flexibility in the local response towards issues about social welfare, health, and investment. The degree of flexibility allows an immediate "solution" to the problem by cutting off bureaucratic processes.

2

It strengthens the "whole-of-nation approach" by encouraging participatory governance.

3

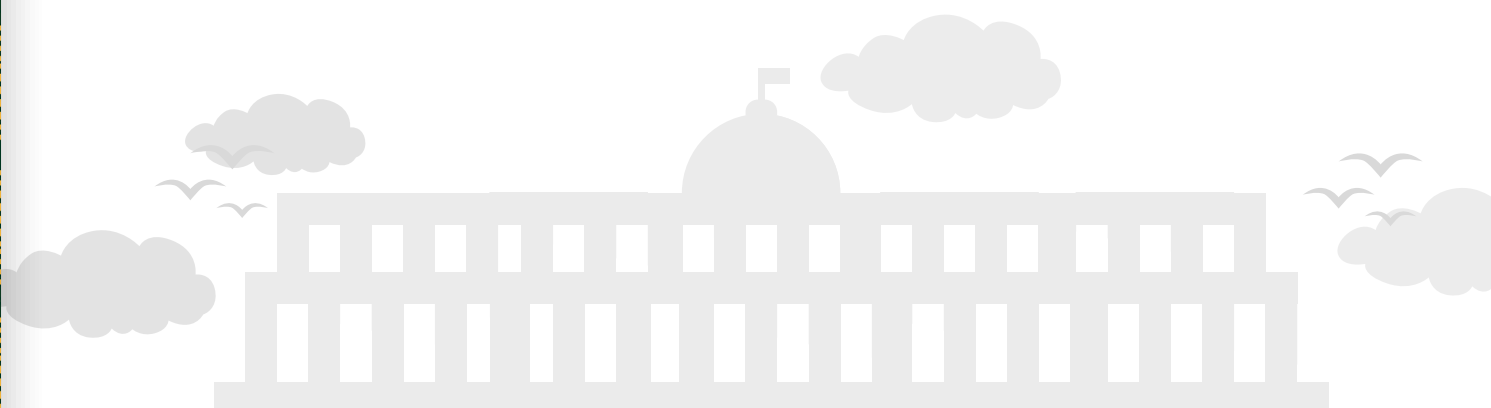
It provides an opportunity to tailor fit the approach in addressing the root causes of the problems by focusing on the needs per locality.

4

The regional government can focus on the pressing problems in the region by minimizing its micromanagement towards local governments. The regional government may now function at a supervisory level and acts as a channel between the national and local governments.

5

The devolution of functions allows greater local autonomy without prejudice to the organic law.



However, these promises will be dependent on the execution of plans. First, it needs clarity of functions among the national, regional, and local governments functions. Second, the tenets of moral governance can address the problems posed by the devolution process, but it needs a concrete mechanism. Some of the ways forward that the regional and local government may take are as follows:

Conduct feasibility study.

To address the problems regarding varying capacity, each local government must conduct a feasibility study to understand the real situation on the ground. What are the topmost priorities of their locality? In what capacity can the local government provide? In what capacity do regional and national governments provide? What programs should the local government continue and stop? What are the assets and liabilities of the local government? By asking these questions, the local government may identify their strengths and weaknesses, what to change and what to continue.

Finance follows function as an investment framework.

The feasibility study allows local governments on what to prioritize. Knowing what to prioritize allows what, when, and where to invest and fund. It prevents the waste of taxpayers' money. In addition, local authorities must understand the long-term effect of investing capital outlays. While personnel is the foremost priority in investment, capital outlays allow speedy and efficient government administration.

People-centered approach.

Much of the identified problems point out the lack of human capital and the capacity thereof to promulgate the functions. Investing with people – hiring people, capacitating, investing in their education, and ensuring its well-being and their needs permits people to work for their community. It also will satisfy the lack of experts and skills, which were identified as the foremost reasons for slow development. It lessens the need to outsource people who do not have an in-depth understanding of the ground.

Institutionalization of programs.

To address the problems vis-à-vis weak institutions and clientelism there should be an institutionalization of the program to ensure that, despite the change of local administration, there would be a continuity of programs, especially those that are sustainable. Part of this is also investing in human resources. Technical know-how is needed in the implementation of programs. A labor force that is less of political influence allows the checks and balances as well as continuity of programs.

Institutionalize monitoring and evaluation system.

The regional government, acting as the supervising body of local governments, should strengthen the monitoring and evaluation system by providing unified guidelines and institutionalizing them. Through this, it allows accountability to local governments and prevents waste of resources.

Strengthen Intergovernmental Relations as institutions.

IGR bodies should be highlighted and given importance. The IGR acts as the medium between the national and local governments as well the regional government. In keeping with this, clarity of functions should be executed as well. Let us be reminded that the devolution of functions does not take away the responsibilities of the national and regional. A smooth intergovernmental relationship allows a strong multilevel governance dynamic.

Bolster the Bangsamoro Local Governance Code's provisions on social welfare, health, and investment.

There should be clear provisions on the abovementioned service areas in the Code, with respect to the existing national and regional laws. An example would be the extent of local development councils' duties and responsibilities. Provisions must reflect the lived experiences of the Bangsamoro.

Concrete moral governance mechanisms.

It is time to put action to the rolling narrative. Above all, the moral governance tenets (faith, freedom, moral authority, common good, and social ethics) can address the concerns regarding the devolution process. It is time to establish a concrete mechanism that operationalizes the tenets of this governance framework. Take, for example, the principle of freedom. Freedom should be manifested by the absence of coercion in the implementation of programs and empower people in the decision-making through participatory governance. Moral authority should also manifest in the leaders by setting good examples to its constituents and by adhering to the justice rooted in oneness with God. Therefore, provisions on accountability of leaders must reflect in the institutional guidelines set and legislation. In addition, to avoid wasting resources and taxpayers' money, every program, activity, and project implemented concerning social welfare, health, and investment should be for the attainment of the common good. A feasible and operational governance framework addresses the mistrust and doubts towards the devolution process and regional government's leadership capacity.

Of course, these policy recommendations are suited to the present needs and are still susceptible to errors. Hence, every policymaker should understand and highlight the importance of research in the policymaking process. Research allows us to update our knowledge on certain issues and phenomena. Thereby allowing us to update, enhance, or alter our policies. Our policies should be rooted in the lived experiences of the Bangsamoro. The Bangsamoro society is dynamic and changing. A better understanding of what Bangsamoro is means a better policy for the Bangsamoro.[xix]



End Notes

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[xviii] Ibid. pp. 8-9

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