



# **12 Features of LGUs and 12 Principles of Local Autonomy**

**Atty. Alberto C. Agra**

Local Government Law Professor and  
Political Law Bar Reviewer

Local Government Law-for-All Advocate and Author

Former Acting Secretary of Justice, Acting Solicitor  
General, Government Corporate Counsel and  
Chairman of the Philippine Reclamation Authority

*March 7, 2024*



# **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  
Ilocos Autonomous Region?  
Declare the *sitio* as the basic  
political unit?**

## (2) 5 Levels/ Types of LGUs



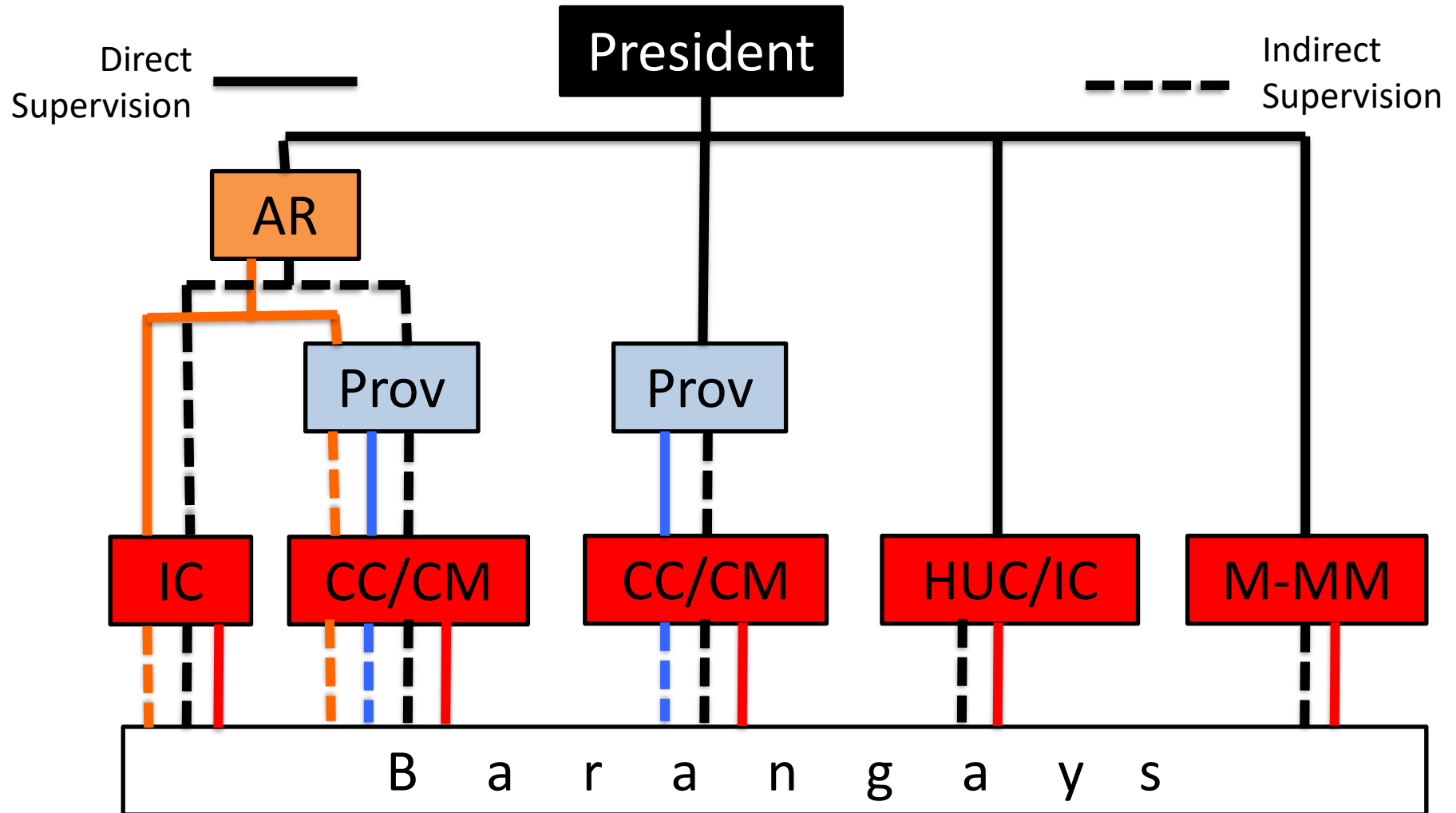
- Identified in the 1987 Constitution  
(cannot + or – through ordinary legislation)
- Levels:
  1. Autonomous Region (ARs) (Only 1 Incorporated)
  2. Provinces (in and out of ARs)
  3. Cities (Component; Independent and Highly-Urbanized)
  4. Municipalities (Component and 1 Independent)
  5. Barangays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



**Can the President suspend  
a Mayor?**

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

# Hierarchy/ Relationship







**Is Makati 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 Cebu City levy business  
tax over a store  
in Mandaue City?**

**Can the 2 cities 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** require private **subdivisions** to allow non-residents to use their **roads**?

# (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 (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)



No. 12  
08.17.22

# Formula for a Valid *No Contact Apprehension City* Joint Venture

<b>Authority over Traffic</b>	Under the 1991 Local Government Code (LGC), cities regulate traffic, protect and promote the general welfare, and deliver devolved services such as infrastructure for traffic signals/ control.
<b>Legal Basis for JV</b>	Joint Venture (JV) City Ordinance or a Public-Private Partnership City Ordinance providing for JVs. The 1991 LGC authorizes LGUs to enter into JVs.
<b>JV Defined</b>	A JV is a contractual joint undertaking/ sharing or pooling of resources by way of contributions (cash and/or non-cash) and responsibilities between the City and Private Sector Proponent (PSP)/ JV Partner for a fixed term where parties share in the functions, profits, risks and losses.
<b>Possible Contributions</b>	<i>City:</i> Grants franchise/ concession, assigns personnel, extends assistance, allows use of office space and property, waives taxes/ fees, and undertakes to secure regulatory approval and permits <i>PSP:</i> Provides funding; supplies, installs, operates, repairs, upgrades and maintains equipment
<b>Revenue Share</b>	Based on contributions. City (<50%) should be entitled to a share higher than its contribution.
<b>PSP Selection</b>	Competitive Selection (solicitation/ bidding) or Competitive Challenge (unsolicited proposal)
<b>Fixing of Fines</b>	This power is with the City. Being governmental/ public in nature, it cannot be delegated to/ shared with the PSP/ JV Partner. Fine $\leq$ Php 5,000 as fixed in a City Ordinance.
<b>Citations</b>	The decision on and issuance of citations, and imposition and collection of fines are governmental/ public functions and cannot be delegated or shared with the PSP/ JV Partner.



**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 the NAIA runway?**





## (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 an **NGA** 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



[www.albertocagra.com](http://www.albertocagra.com)



09175353823



alberto agra



[alberto.c.agra@gmail.com](mailto:alberto.c.agra@gmail.com)

Thank you.

