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

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# **12 Features of Local Governments**



**Can Congress provide for 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 are intra-sovereign subdivisions of one sovereign nation (not “*Imperium in Imperio*,” not Independent Sub-National Units)



**Can Congress provide for the  
Autonomous Region of Bicol?  
Declare the *sitio* as the basic  
political unit?**

## (2) 5 Levels/ Types of LGUs



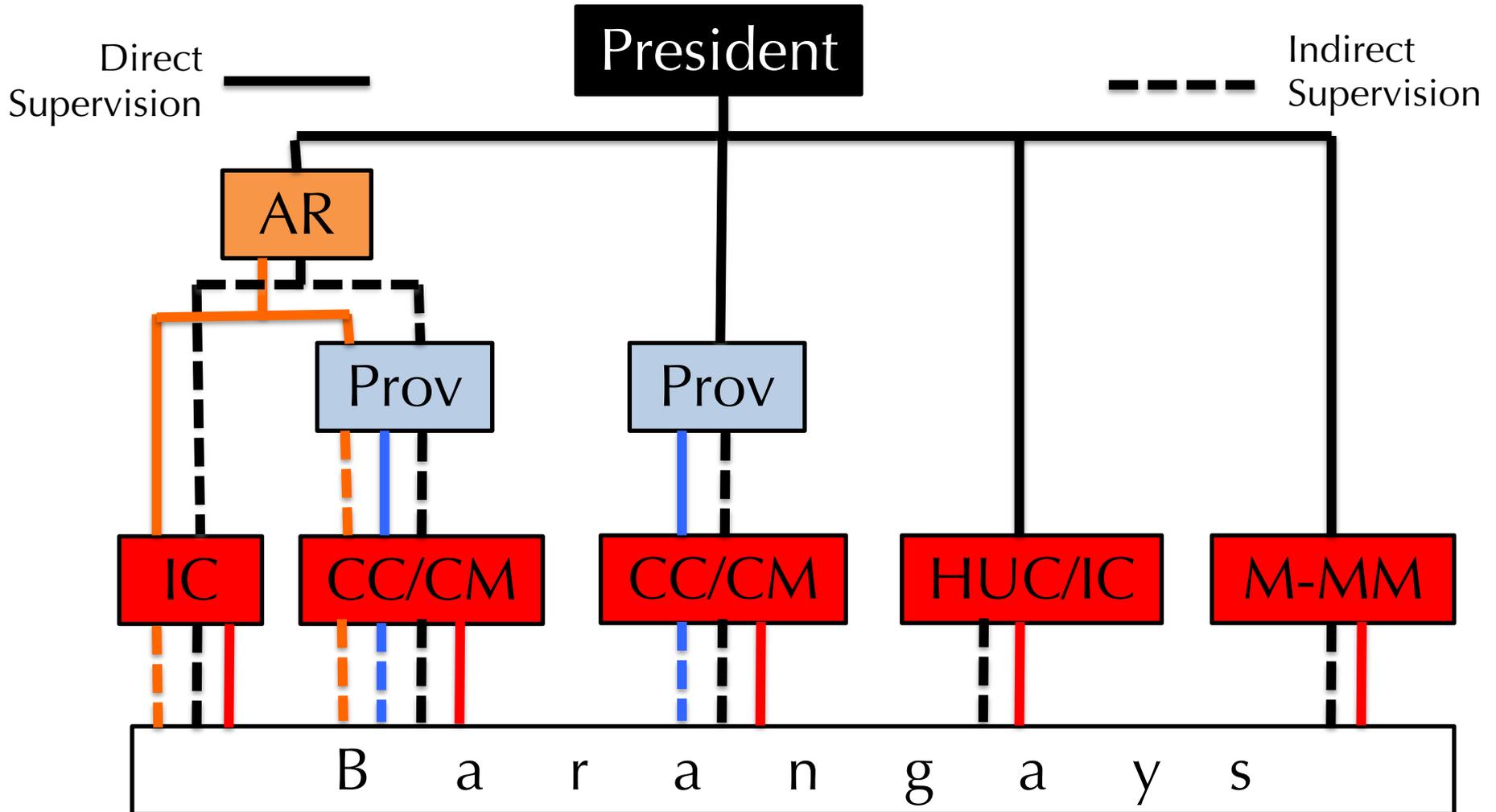
- Identified in the 1987 Constitution  
(cannot + or – through ordinary legislation)
- Levels:
  1. Autonomous Region (ARs) [Bangsamoro Autonomous Region in Muslim Mindanao]
  2. Provinces (in and out of ARs)
  3. Cities (Component; Independent and Highly-Urbanized)
  4. Municipalities (Component and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



**Can the President suspend  
a Mayor?**

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

# Hierarchy/ Relationship





**Is Manila City a  
corporation like the  
Manila International  
Airport Authority?**

# (3) LGUs are Public Corporations

- Municipal Corporation Proper
- Administrative Agency
- Public Office
- 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 Manila levy business tax  
over a store in Pasay?  
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 vs. Local Issues/ NGA 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

## ***LGU Triumphed***

- DENR (ordinance)
- DBM (allowance, 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)
- BOI (6-year exemption)
- **MMDA (subdivision, driver's licenses, 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**

## ***National Victorious***

- DENR (forestry laws)
- LTO/ LTFRB (licensing)
- HLURB (national projects)
- COA (additional allowance)
- **NTC (cable TV franchise)**
- DAR (conversion)
- GAB (jai alai frontons)
- **LLDA (fishpens, dumpsite)**
- BCDA (creation of Zone)
- PAGCOR (casinos)
- **PCSO (lotto outlets)**
- PRC (profession)
- **MMDA (number coding-scheme for buses is within rule-making authority)**
- LWUA (water districts)
- DPWH (city engineer)
- CSC (dismissal)
- OP (discipline)
- Congress (jai alai franchise)



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 before the 1991 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 ≤ 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 Powers
- Nature of Powers
  1. Local Autonomy
  2. Delegated
  3. Broad (for as long as not prohibited by law)
  4. Limited/ Qualified Self-Governance
  5. Residual
- Sources of Powers
  1. Constitutional
  2. 1991 Local Government Code
  3. Charters
  4. Statutes



*True or False:*  
**All LGUs have  
ordinances on Public-  
Private Partnerships.**

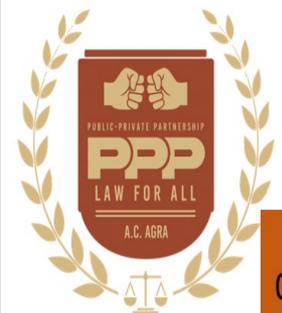
# (11) Diversity of Powers



- 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



No. 10  
08.16.22

# Menu of Possible LGU PPP Projects *Listed in Agra PPP Template Ordinance*

“Section 8. *Public-Private Partnership for the People (P4) Projects.* – (a) The [Local Government Unit], through the appropriate and viable P4 mode, may undertake Developmental Projects, including but not limited to, singly or with other related components, Energy and Power, Renewable Energy, Waste-to-Energy, Roads, Bridges, Causeways, Waterways, Highways, Ports, Wharfs, Terminals, Airports, Community Airports, Canals, Dams, Desilting, Dredging, Mining and Exploration, Hydropower, Water Supply and Distribution, Sewerage, Irrigation, Drainage, Water Conservation such as Impoundment Areas and Rainwater Harvesting, Telecommunications, Railroad and Railways, Short-Haul Transit Services such as Monorail, Guided Bus, Bus Services and Trams, Intermodal and Multi-modal Transit Systems, Transport Systems, Cable Car, Traffic Control and Management, Parking Facilities, Reclamation Projects, Platform Settlements, Industrial Estates or Townships, Central Business and Industrial Park Development, Hotels and Resorts, Socialized Housing, Non-Conventional Low-Cost Housing, Settlement/ Resettlement and Relocation Facilities, Residential Subdivisions, Parks and Open Space Development/ Redevelopment, Pocket Parks, Public Art, Libraries, Heritage Conservation, Government Buildings, Sustainable/ Green Public Buildings, Sports Facilities, Wellness Establishments, Tourism such Eco-Tourism, Wellness Tourism and Agri/Agro-Tourism, Public Markets, Commercial Buildings, Slaughterhouses, Storage Buildings, Warehouses, Cold Storage, Solid Waste Management, Sanitary Landfills, Meeting and Convention Centers, Information Technology Networks and Database Infrastructure, Fiber Optic, Education-related, Classrooms, Health Facilities, Hospitals, Social Services-related, Prisons, Agriculture-related, Post-Harvest Facilities, Environmental Management and Protection, Climate Change Adaption, Disaster Risk Reduction.”



No. 9  
08.15.22

# Awarded Local Government Public-Private Partnership Projects

- **Bridge** connecting Cebu City and Cordova Municipality (*Joint Venture*)
- **Subway** by Makati City (*Joint Venture*)
- **Ferry** by Bataan Province (*Joint Venture*)
- **Transport Terminal** by Batangas City (*Lease*)
- **Seaport** by Aklan Province (*Lease*)
- **Water Supply and Distribution** by Camarines Sur Province (*Joint Venture*)
- **Mini-Hydro** by San Luis Municipality (*Joint Venture*)
- **Public Market** Redevelopment by Iloilo City (*Lease*)
- **Public Market** Redevelopment by Tanuan City (*Build-Transfer-Operate*)
- **Public Market** by Mandaluyong City (*Build-Transfer and Build-Operate-Transfer*)
- **Town Center** by Valenzuela City (*Joint Venture*)
- **Slaughterhouse** by Tarlac City (*Rehabilitate-Operate-Transfer*)
- **Reclamation** by Pasay, Paranaque and Manila Cities (*Joint Venture*)
- **Property Ventures Development** by Cebu Province (*Corporatization*)



*True or False:*

The 1991 LGC be amended  
whereby the **Mayor** presides  
over the **sessions of the**  
**Sanggunian.**

# (12) Separation of Powers

- Separation of powers under the 1987 Constitution not applicable to LGUs
- Congress has control over LGU structure
- Congress allocates 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**



Can the **DBM** impose a cap on the **allowances cities** can extend to judges?



# (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?



No. 10  
06.20.22

# 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
- 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
- Follow Hierarchy (Subordinate Legislation)



*True or False*

**The 5 Types of LGUs  
enjoy the same level of  
local autonomy.**



## (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 state)
2. 2 Components
  - a) Lawful Subject, and
  - b) Lawful Means
3. No payment for taking





# (6) 4 Governmental Powers

## ○ Power of Eminent Domain

1. 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 GOCC Pre-LGC Tax Exemptions; Exempt if:
  - GI
  - Post-1991 LGC exemption
  - Property outside commerce of men



## (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 cannot declare a municipal ordinance contrary to the general welfare.
2. Congress can provide for a party-list system in choosing local officials.
3. DILG cannot review and declare ordinances illegal.
4. DBM cannot impose a cap on allowances cities may give to judges.
5. As a rule, courts cannot review tax ordinances at the first instance.



## (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 aud 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 a **Bridge** and **procurement** for a **Building**?



## (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
  - LGUs have superior competence over local concerns (rather than national government, other administrative agencies)



# 2 Views in Resolving Conflicts: Wearing Face Masks

## **View 1:**

**In favor of IATF/ DOH  
Mandatory Wearing of  
Face Masks in Public**

1. Pandemic is National, not Local.
2. National Government prevails in this case.
3. IATF and DOH have centralized powers.
4. Local autonomy of LGUs has limits.
5. LGUs must follow national policies.

## **View 2:**

**In favor of LGUs (Cebu Province)  
Optional Wearing of  
Face Masks in Public**

1. LGUs are frontliners.
2. LGUs are in a better position to assess local situations.
3. LGUs enjoy local autonomy.
4. LGUs promote the General Welfare.
5. No law requiring wearing of face masks.
6. The National Government, absent a law, cannot limit the powers of LGUs.



*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



# Mandanas v. Ochoa

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

## Automatic Release

- o Just share of the LGUs in the national taxes shall be released to them **without need of yearly appropriation**
- o Inclusion of the just share of the LGUs in the **annual GAAs** is unnecessary, if not superfluous

# Devolved Functions and Services: NG to LGU

The following functions are to be fully devolved:



Health



Infrastructure



Agriculture



Social Welfare



Natural  
Resource  
Management



Tourism

# Establishment of Growth Equity Fund (GEF)

Section 40, Rule XIII of IRR of EO No 138

- GEF proposed by ComDev to Congress
- To address issues on:
  1. Marginalization
  2. unequal development
  3. high poverty incidence and
  4. disparities in the net fiscal capacities of LGUs



**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 municipality  
and a barangay?**



## (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.

