

**Reactions to the Presentation of Senator Aquilino Pimentel, Jr.:**  
**“Federalizing the Philippines”**  
(Draft only)

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I wish to thank the Senate Economic Planning Office (SEPO) for inviting me to be one of the discussants in the third installment of the Senate Centennial Lecture Series. I am especially grateful that I can be part of this particular event, first, because it is an honor to be a discussant to Senator Aquilino “Nene” Pimentel, Jr., who has long been the champion of local autonomy, democracy and human rights in the Philippines and considered as the “father” of the Local Government Code of the Philippines. Second, the theme of local autonomy, devolution and federalism is one of my areas of interest. Third, it is especially important at this point to have numerous public discussions on this topic because of the priority given by the present administration, especially the President, to shifting to a federal system. While the proposal to shift to a federal system is not new and previous administrations have already attempted to change the 1987 Constitution and shift to a federal system, there is a need to discuss the details of these proposals to involve and inform the public. It appears that majority of Filipinos are not aware of the proposal to change the constitution and more importantly, a large number are not even knowledgeable about the 1987 Constitution. The recent Pulse Asia *July 2016 Ulat ng Bayan* national survey (done before the State of the Nation Address of President Rodrigo Duterte) reports that less than half of respondents (41%) are aware of the proposal to amend the constitution. Awareness is more pronounced in Class ABC (57%). Another alarming aspect of the survey results is that most respondents (73%) have little or no knowledge at all about the current constitution. Higher levels of “sufficient/great knowledge are registered in Metro Manila than in Mindanao (34% versus 22%) as well as in Class ABC than in D and E (43% versus 20% to 27%).”

Based on the presentation of Senator Nene Pimentel, allow me to give my reactions through a number of points. Please also be advised that my comments are based on my research interests (local politics, devolution, health politics, human security and disaster management), subjects taught (local politics and comparative politics, especially in Western European countries), and being a political scientist by training.

1. *Federalism has both advantages and disadvantages.* In the Philippines, federalism is being proposed to address problems of armed rebellion in Mindanao and lack of development of local communities and people which are the results of a unitary system. I agree with the arguments presented by Senator Nene Pimentel that federalism, which is the principle of sharing of sovereignty between central and state governments (Hague and Harrop 2007, 283), could address the problems of ethnic- or minority-based armed rebellion in Mindanao and the lack of development in local areas due to the

concentration of resources at the center. Some countries have opted for a federal structure to bridge ethnic (plus linguistic and cultural) diversity within a divided society, e.g. Canada, India, Switzerland, and Belgium. Even in Western European countries, the textbook distinction between federal states and unitary states have become more blurred as some formal unitary states are under pressure from minority nationalism and local democracy and they are adopting either federal (Belgium) or quasi-federal forms or regionalization as a response to these pressures (e.g. Spain, the United Kingdom and Italy) (Bale 2013, 48; Opello and Opello 2009, 141). However, there is no assurance that armed conflicts and secessionist aspirations even through peaceful means will stop due to a shift to a federal system. For instance, in the Basque Country in Spain, the *Euskadi Ta Azkatasuna* (ETA) retains its armed capability and struggle for independence despite the granting of powers to the area through Spain's "asymmetrical" federal mechanism (Bale 2013, 51-53). Catalan in Spain and Scotland in the United Kingdom, both without organized armed secessionist groups and which have been granted additional powers, still retain independence aspirations. In terms of fostering a national identity, Canada's federalism, for example, has largely failed to construct a political union within which both French-speaking and English-speaking populations "can live together in harmony" (Heywood 2013, 385). The same can be argued for Belgium which has failed to create a "Belgian" national identity beyond the divisions between the Dutch-speaking and French-speaking populations despite the shift to a federal set-up.

2. *The current devolution set-up and the shift to federalism: Have we exhausted all the provisions and maximized the supposed benefits of the full implementation of the 1991 Local Government Code (LGC)?* The 1991 LGC has been hailed as one of the most important legislations produced during the time of President Corazon Aquino. Twenty-five years after, have we achieved greater local development, grassroots democratization and more efficient delivery of public services, which are supposed to be the goals of devolution? Have local governments and politicians adjusted to the responsibilities given to them by the LGC and thus, are now ready to leap to the next phase, i.e., a full federal system? Senate President Coco Pimentel in his keynote speech already answered this by saying that we have gone far. This advancement is supported by numerous research. There are a number of trailblazing and innovative local governments in the area of service delivery, people's participation, economic development, and other areas. Many of them have become winners and even hall of farmers in the annual *Galing Pook* Awards and other award schemes for best practices in local governance. We also have a number of cases of successful local / grassroots partnerships in areas where there are active civil society groups, progressive local officials, and supportive academic, civil society and private institutions. However, the situation is not the same across all LGUs. Some LGUs remain poor. Others have no active civil society groups and power remains in the hands of a few elites. Local corruption and patron-client relations continue. Many of the provisions of the LGC have not really been maximized. The recall and initiative mechanisms have not been used regularly and properly. Sectoral representatives in the *local sanggunians* as mandated by the LGC have not been selected. Local development councils and local special bodies are not

working as envisioned. Can we still implement these provisions properly and still amend the LGC to make it work better before shifting to or together with the shift to a full federal set up?

3. *Is asymmetrical federalism already out of the question or is it still an option? Is it still possible to address the autonomy issues in Muslim Mindanao without federalizing the entire Philippines at this point? A senior colleague (Rivera 2016) earlier in June argued for asymmetrical federalism instead of a wholesale shift to federalism in the context of Muslim Mindanao and building on the lessons gained from the Autonomous Region of Muslim Mindanao (ARMM) experience and the proposed Bangsa Moro Basic Law (BBL). For instance, Spain is labeled as an example of a “differentiated” or “asymmetrical” federalism where most of the country still seem to operate as a unitary state with some devolution but there are parts of the country that operate as if they are part of a federal state (Bale 2013, 50-54). Under the 1978 Constitution of Spain, the autonomous communities can enter into negotiations with the central government to produce a law (statute of autonomy) defining the powers to be enjoyed provided that they do not conflict with the constitution. Not all communities have chosen or been able to assert their autonomy compared with the Basque Country and Catalunya which are “historical regions” that operate as if they are regions or states under a federal set up. In addition, the United Kingdom (UK) and its relationship with Scotland have convinced some constitutionalists to label the UK as an example of a “quasi-federal” system similar to Spain (Bale 2013, 57).*

However, if we pursue the full symmetrical federal type, we need to delve into the details. After all, there are many examples of countries that have adopted federalism but they have done so in different ways. They are also encountering challenges despite successes. Below are some issues that are very important in the context of the Philippines:

4. *Greater resources and revenue shares for federal states and local government units (LGUs) and the dependency paradox.* Autonomy and greater responsibilities at the local level will not work without fiscal decentralization or in this case fiscal federalism in the form of greater fiscal grants and/or shares of federal states and LGUs. Senator Nene Pimentel has argued this well as he proposed allocating 80% of resources to the federal states. Under this scheme too, LGUs will get a bigger share than what is currently provided for by the 1991 LGC. As Senator Pimentel argues, “Allocation of funds should ensure that vital needs not only of the majority sectors of society, but also of tribal minorities, are provided for. Strict accounting procedures should accompany the allocation of more funds to LGUs.” He is also realistic in acknowledging that not all of the proposed federal states “are born equal in terms of resources and opportunities.” Thus, he is proposing the creation of an Equalization Fund to be administered by the federal government “to assist States in dire need of development funds”. (Pimentel n.d.) This is currently the practice in some federations like Canada and Germany. But where will the money for this fund come from? What mechanisms can we put in place to avoid possible cases of continued

dependence of poorer states on development funds from the central or federal government? What incentives can be offered to states that are able to develop and sanctions for those that fail to develop despite assistance from the center? How do we avoid experiences in other countries where wealthier or more developed states or regions and their constituents resent subsidizing poorer states and regions (Hague and Harrop 2007, 290) that continue to remain poor despite development support from the federal government? In Germany after reunification, the people from states or *Länder* in the former West Germany resented subsidizing (through higher taxes) the *Länder* in the less economically developed former East Germany. In Italy where powers are devolved to regional governments, the Northern and more developed regions resent the development assistance given to the poorer Southern regions that are said to be continuously underdeveloped despite decades of development assistance (Bale 2013, 48). There is even a political party, *Lega Nord* (Northern League), that is arguing for increased autonomy for some of the richest Italian regions, even presenting a nation called *Padania*, because they threaten independence from Italy when negotiating and bargaining with bigger political parties, though once in government, the call is for federalism instead of independence.

5. *Ensuring that basic services are efficiently and equitably delivered at the state and local levels in a federal set up.* One supposed advantage of decentralization as well as federalism is to have greater efficiency in the delivery of basic services (IDEA 2015). However, in reality, federalism might actually lead to a widening disparity of outcomes in terms of the provision and quality of public services (IDEA 2015, 5). In this situation, it is the public that suffers. Citizens in some states may be efficiently receiving services that are of high quality but citizens in other states have to deal with poor services. How do we ensure that mechanisms are in place to achieve national and state targets regarding delivery of services? We can concretely see the problem with the current situation regarding health services. We must remember that health services were the biggest and most controversial set of services devolved when the LGC was enacted (Atienza 2004) There were efforts afterwards to recentralize health services because health workers feared that health services will not be prioritized by the local officials due to low appreciation and lack of knowledge of health services. In addition, health workers feared that with devolution, they will be at the mercy of the local politicians who will threaten their tenure and benefits. (Atienza 2007) President Ramos vetoed the bill recentralizing health services in 1995 and a Magna Carta for Health Workers was enacted. But until today, health professionals and academics complain about the poor state of health services in various localities, despite some outstanding LGUs with good health programs. What will happen with health and other services to be given to federal states in a federal set up? What will happen to health and other government workers who will now be assigned at the state level? How can we strengthen the civil service and bureaucracies at different levels to fulfill their mandates without political interference from local or state elites?
6. *Avoiding government paralysis or gridlock through greater coordination mechanisms.* One documented advantage of federalism is that it creates a

system of checks and balances; however, it can also result to frustration and paralysis as implementation of bold reforms from the central authority (Heywood 2013, 385) or emergency intervention of the central authority to deal with an urgent situation like disasters or failure of governance in one or several of the states can be very difficult due to non-cooperation of the federal states. In this current situation where many key government services are becoming more and more interconnected, governments at all levels have to be more interdependent. How do we create a federal system where there is greater coordination and sharing instead of just competition? In terms of emergency intervention of the federal government, we can perhaps look at the Indian and Brazilian systems wherein federal interventions are possible when human rights, good governance, democracy, etc. are threatened in some constituent states (IDEA 2015, 20). In the area of disasters, we can learn from our own experience with Yolanda as well as the experiences of federal systems like the United States and Mexico in their successes and failures dealing with disasters like hurricanes and earthquakes.

7. *To tie up with my first point, federalism, like devolution, is a double-edged sword. Thus, deliberations must be thorough and participatory.* We have acknowledged in this panel discussion that federalism alone will not be able to solve problems related to armed conflicts, ethnic and cultural diversity, equitable development, efficient delivery of services and local democracy. If done haphazardly, it can lead to further problems. Remember that the process of changing the constitution will entail costs and there will be additional costs with the creation of a new layer of government. Framers will have to look at various models of federalism (dual v. cooperative, symmetrical v. asymmetrical, etc.) and what other institutional arrangements can be combined (presidential, semi-presidential, parliamentary, etc.) before deciding which model or institutional combination would be more appropriate for the Philippines given its own history, political culture and socioeconomic conditions. The public should also be involved in information dissemination and public discussions. A well-informed public, after all, will approve the resulting charter change proposal. At the same time, it might also be good to focus on a number of other legislations that could complement a federal set-up or may even be prioritized first before the decision to move to a federal system can be made. These can include electoral and party system reforms to make elections more competitive and political parties stronger, a Freedom of Information Act, amendments to the LGC such as reformulating the IRA sharing scheme, setting up a progressive tax system, legislation strengthening participatory democracy, more inclusive anti-poverty programs, political dynasty laws, etc.

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