

Philippines

Self-rule

Institutional depth and policy scope

The Philippines is an archipelago with a total area of 300,000 km² and an estimated population of 92 million (2009 US State Department). According to its constitution, it is a unitary republic with four levels of governance: the central state, provinces and independent cities,¹ municipalities and component cities, and villages (C 1935, C 1983). The first subnational layer consists of 80 provinces and 38 independent cities that are not under the jurisdiction of provinces. It also includes one supra-provincial region in the southern part of the country, i.e. the Autonomous Region of Muslim Mindanao (ARMM), composed of five provinces. The second subnational layer consists of 1,514 municipalities and 84 component cities. These units are treated differently because they have a smaller population and lower annual income; the central government decides when a component city upgrades to an independent city. The lowest tier of governance consists of villages. We code the provincial and independent cities as well as the special Autonomous Region of Muslim Mindanao (ARMM).

¹ The official distinctions are “highly urbanized” cities (minimum population of 200,000, annual income requirements) and “independent component” cities (minimum population of 150,000, annual income requirements). Inhabitants cannot vote in provincial elections.

The Autonomous Region of Muslim Mindanao (ARMM) was created under the Marcos regime in 1979. Following democratization, the 1989 Republic Act reorganized the region: ARMM is now subdivided into South and West Mindanao. The 1989 Organic Act and its 2001 revision formalized and expanded the region's powers.²

In 1989, the government attempted to create a second special region with similar powers to ARMM (Azfar et al. 2000: 12): the Cordillera Autonomous Region. This required a referendum in each affected province (Rood 1991; Azfar et al. 2000: 12). The government organized two referendums, one in 1990 and one in 1998, which both failed (Rood 1991: 541). We continue to code the provinces of Cordillera as standard provinces without special autonomy.

Regional autonomy has roots in the Spanish-American colonial era (Hutchcroft 2003). After Spain ceded the islands to the United States in 1898, the US government suppressed the autonomous states which had emerged in the chaotic transition period and continued to rule the country as a deconcentrated system.

The first constitution was enacted in 1935 but did not come into effect until formal independence from the United States in 1946. This constitution made just one reference to subnational governance: "the President shall exercise general supervision over local governments as may be provided by law" (C 1935, Art. 7, Sec. 10; Tapales 1993: 8). In the following decades, several laws put in place the building blocs for subnational governance. The

² These laws were passed in a referendum in Mindanao, a legal requirement for special status laws to take effect; recent attempts to expand the number of provinces have failed.

Local Autonomy Act of 1959 gave intermediate units some control over local zoning and planning. The Barrio Charter (1959, revised in 1963) recognized village governance. The Decentralization Act of 1967 provided provincial and local governments with the authority to supplement national programs in health and agricultural development (Tapales 1993). Taxation and finance remained exclusively national (Montes 2006). So provincial councils could pass legislation and augment central policies, but were clearly subject to national veto. From 1950 to 1973 the provinces score 2 on institutional depth.

In 1973 Ferdinand Marcos imposed martial law, and even after lifting martial law in 1981 Marcos continued to rule by decree, arrest opponents without warrant and control national elections until 1986. The 1935 constitution was replaced with one that strengthened the executive by enabling it to pass executive decrees without parliamentary consent (C 1973, Art. 17, Sec. 3.2). Marcos used this power to introduce a number of measures that tightened control over provincial and local government. For example, the Local Tax Code (1973) introduced nation-wide bases, rates, and procedures for tax collection. Between 1974 and 1987 the provinces score 1 on institutional depth.

Independent cities were carved out from the provinces in 1983. For 1983-87 the independent cities also score 1.³

³ The National Capital Region – which contains 16 of the country’s 38 independent cities – is additionally governed by the Metropolitan Manila Development Agency (MMDA). The Agency’s chief role is to coordinate and oversee planning across the urban area, with all other local governance issues held by the independent city councils and mayors. Since coordination is non-

The Marcos regime collapsed in 1987. The new constitution contains an entire chapter on local government (C 1987, Art. 10). Subnational councils are now recognized as self-governing.^β This was reinforced by the revision of the Local Government Code in 1991, which now envisions provinces as “dynamic mechanism[s] for developmental processes and effective governance” and municipalities as the primary delivery points for most basic public services (Azfar et al. 2000: 10-1). Independent cities combine provincial and municipal competences (Guevara 2004). We start coding from 1988, when the new constitution comes into force, and provinces and cities score 2 on institutional depth.

The Autonomous Region of Muslim Mindanao was created by a Republic Act in 1979, and reorganized through an Organic Act in 1989 (Republic Act 6734). Its autonomy was constitutionally recognized in 1990 (Bertrand 2010: 178). We begin coding ARMM as decentralized from 1990. In 1996, a new agreement between the central government and the MNLF, the main autonomist organization, was brokered with the assistance of the Organization for Islamic countries (OIC). It was intended to deepen policy autonomy (e.g. in culture, education, police, and sharia law), provide some regional representation in the national institutions, and pave the way for replacing the ARMM with an autonomous regional government) (Bertrand 2010: 177). The implementation of this agreement, supervised by the OIC, culminated in the revised Organic Act of 2001 (Republic 9054). The region has a unique structure of subnational representation and exercises greater control over resource use and

binding, we opt not to code the MMDA as a form of metropolitan or other regional governance.^β

revenue generation. By 1990 the ARMM had achieved more decentralization than the provinces and cities but not sufficiently distinct to warrant providing it with a higher score on institutional depth than the post-Marcos provinces.^β The ARMM scores 1 on institutional depth from 1979-89 and 2 from 1990-2016.

President Benigno Aquino III signed two historic peace agreements, the Framework Agreement (2012) and Comprehensive Agreement (2014) on the Bangsamoro, which were intended to pave the way for the maintenance of peace and greater authority for the region. Chief points in the agreements focused on greater regional authority over revenue sharing and generation (Framework Agreement Annex B), disarmament of the MILF (Annex D), and power sharing institutions to facilitate intergovernmental relations (Annex C). However, the process of drafting and passing the new Basic Law received a set-back in May 2017.⁴ In response to an outbreak of violence in Marawi City, President Rodrigo Duterte issued martial law in the region (Proclamation 216). While this was intended only to be a temporary order, martial law was later extended until the end of 2019.⁵ Due to the substantial imposition of martial law in the region, ARMM scores 1 on institutional depth from 2017 to 2018.

⁴ The subsequent Bangsamoro Organic Law was not passed until 2018, followed by a plebiscite in the region's provinces in 2019 that finally established the legal framework for regional autonomy.

⁵ <https://news.abs-cbn.com/news/12/12/18/congress-extends-mindanao-martial-law-until-end-of-2019>

With the exception of the ARMM, policy making was primarily national prior to 1991. Subnational units were first and foremost administrative tax and electoral jurisdictions, even though they had directly elected provincial councils with some control over policy implementation. In some policy areas, as in planning and zoning, agriculture, and health policy, subnational units could augment or complement national policies (Tapales 1993: 9). But by and large, the Marcos era took away subnational policy discretion.

In 1983, the new Local Government Code restored the pre-Marcos status quo. The status of subnational units was once again codified in a single law, rather than by disparate executive decrees, and the intermediate level regained some representational powers but not much in terms of policy.

In 1991, the Local Government Code was again revised to conform to the new 1987 constitution. This was a critical breakpoint in the country's political and administrative framework. The policy responsibilities of provinces and cities were expanded to include regulation of certain business activities, public markets, cemeteries, slaughter houses, and garbage collection. A higher-level government could step in to provide or increase policy provision if a lower-level government was deemed incapable (Local Government Code 1991, Sec. 17f). This applied also to the national government, and while that could have provided a means for recentralization, the fill-in mechanism has rarely been used.

The upshot is that provinces have gained competences in economic development, including agricultural expansion and research; forestry; environment; primary health and hospitals; social welfare; infrastructure; water supply and irrigation; and land use planning (Sec. 17). Cities also control certain municipal tasks, including primary health care provision and local

schooling (World Bank and Asian Development Bank 2005). Provinces, municipalities, and cities do not have competence over police, their own institutional set-up, or elections. Hence, provinces and municipalities score 1 on policy scope for 1950-73, 0 from 1974-82, 1 from 1983-91, and 2 from 1992-2010. Independent cities score 1 on policy scope for 1983-91 and 2 from 1992-2010.

At its creation, the special region of Muslim Mindanao (ARMM) did not obtain more policy responsibilities than provinces. The 1979 law provided the region symbolic recognition rather than substantive policy competences (Buendia 2005: 55-6). That changed with the 1989 Organic Act (Republic Act 6734, Art. 5, Sec. 2), which endowed the region with competences in culture, education and welfare, and slightly greater control over economic policy (World Bank and Asian Development Bank 2005, Sec. 1.14). The region does not possess authority over the police, but it has authority over sharia circuit courts, Shari'ah appellate courts, and tribal courts. ARMM can select judges and decide on the application of Shari'ah, although Shari'ah law is subordinate to the country's legal code if the two clash (Republic Act 6734, Art. 9).

ARMM has no control over foreign affairs and national defense; postal service; fiscal and monetary policy; justice (except for sharia law); quarantine; citizenship, naturalization and immigration; general auditing, civil service and elections; foreign trade; transportation and communications affecting regions outside of the ARMM; and patents, trademarks and copyright (Republic Act 6734, Art. 5, Sec. 2.9). The ARMM also does not possess residual powers and authority over institutional set-up.

The 2001 Republic Act 9074 extended these provisions, but implementation has been slow. According to the law, the regional ARMM assembly may formulate Shari'ah law for all

practicing Muslims (Republic Act 9074, Art III, Section 5). Shari'ah jurisdiction covers criminal as well as civil matters among Muslims (Republic Act 9074, Art III, Section 5). And a Shari'ah Appellate Court will be set up, whose decisions "shall be final and executory" and only subject to challenge in the Supreme Court under conditions stipulated in the Constitution (Republic Act 9074, Art VIII, Section 10). However, as of 2016 there was no Shari'ah appellate court, and only a minority of Shari'ah circuit courts was active. We opt not to increase policy scope.^β The ARMM region scores 0 on policy scope from 1979-82, 1 from 1983-89, and 2 for 1990-2016. With the imposition of martial law in 2017, ARMM scores 0 on policy scope.

Fiscal autonomy

Prior to 1959, subnational governments did not have powers of taxation or other independent powers to generate revenue.^α The 1959 Local Government Code (Sec. 2, amended in 1983 in Republic Act 2264) states that provinces and cities collect taxes and can set the rates, but not the base, of minor taxes. Major taxes remain national (Republic Act 2264). The Marcos regime reduced, but did not abolish, the provinces' discretion in setting rates for minor taxes so we maintain the score. The tax code has been revised several times, but without fundamentally changing the allocation of authority (Malixi 2008: 48-9; UN Habitat 2011: 18).

The key source of taxation for the provinces is the property tax: provinces can levy a real property tax not exceeding one percent of the assessed value of the real property. For cities, the real property tax rate should not exceed two percent of the assessed value of the real property. Cities can also levy local community and local business taxes (UN Habitat 2011: 11-3).

Provinces and independent cities score 1 on fiscal autonomy from 1960 and 1983 respectively (Guevara 2004).

The ARMM has greater control over its share of locally-generated tax revenues and “only income taxation is out of bounds” (Azfar et al. 2000: 13). Still, the ARMM has no greater control over the base or rate of taxes than the provinces. The region depends chiefly on fiscal transfers, partly to “compensate for years of past neglect” by Manila (Rood 1991: 540). The ARMM scores 1 on fiscal autonomy from 1979 to 2016. To reflect retrenchment of authority under martial law, the ARMM scores 0 on fiscal autonomy from 2017-2018.

Borrowing autonomy

Prior to 1991, borrowing by provinces and independent cities was heavily restricted: they needed permission from the ministry of finance and could only borrow from government financing institutions (GFIs). Borrowing was always marginal to their finances, and in the mid-1980s the government stopped borrowing entirely (Asian Development Bank 2005: 10).^α Hence while borrowing was not entirely impossible, we code zero to reflect the very heavy central hand.

The 1991 decentralization reform allows borrowing under conditions (Book 2, Title 4). Borrowing can be used to finance local infrastructure or stabilize local finance but it must meet certain conditions, including that local governments cannot issue general purpose bonds; debt service should not exceed twenty percent of regular income; subnational units must budget for due debt service; and the central bank must issue final clearance on bond flotation. The central

government does not provide a sovereign guarantee to subnational borrowing (UN Habitat 2011: 41). As a consequence, local governments have discretion, but it is bounded. Thus far, provinces and cities have mostly borrowed from government institutions (Oriol 2003), though recently they have also turned to commercial banks (UN Habitat 2011: 41). Provinces and independent cities score 2 from 1991. The same rules apply to the ARMM (Republic Act 6734, Art. 10, Sec. 9). Beginning with the imposition of martial law, ARMM scores 0 on borrowing autonomy in 2017.

Representation

Provinces have had directly elected boards and executives since 1946. The role and composition of those boards expanded through a series of laws and decrees in the 1950s and 1960s. The boards themselves functioned in a dual legislative-executive role, with the head of local government serving first as a regular voting member of the three-member boards and eventually as the tie-breaking vote when boards increased in size to accommodate growing populations. From 1950-78 the provinces and municipalities score 4 on representation.

In the 1970s Marcos sought to regain control over the boards, first diluting the power of the locally elected members by including lower-tier and youth representatives; then, in 1979, by reclaiming the power to appoint the lower-tier representatives on each board via an act of the interim *batasang pambansa* (national assembly) (*Batas Pambansa Bilang 51*). Despite presidential intrusion into the membership of the boards, executives continued to be directly

elected during this period.⁶ Thus from 1979-85 the provinces score 0 on assembly and 2 on executive.^β

In February 1983, *Batas Pambansa Bilang* 337, or the Act Enacting a Local Government Code, reintroduced the election of all board members (Sec. 43). The first such elections took place in January 1988. From 1988, provinces and independent cities score 4.

The 1991 code introduces a clearer division of powers between governors, mayors, and municipal/village captains and their respective boards. Governors no longer provide the tie-breaking vote in the boards (however, vice-governors do). Moreover, governors can veto the same bill only once, and a two-thirds vote of the board can overturn a governor's veto (Sec. 55).

The ARMM was created in 1979 with a region-wide assembly and governor. The president of the Philippines could appoint five of the 22 members of the regional assembly, while provinces and municipalities elected the remaining seventeen (*Batas Pambansa Bilang* 20, Sec. 4). Between 1979 and 1989 the ARMM scores 4. From 1990 on, all regional assembly and executive members in the ARMM are directly elected (1989 Republic Act 6734, Sec. 4). Even under martial law the region continues to have a directly-elected regional assembly.

⁶ Even vocal critics of the Marcos regime, such as Zamboanga City mayor César Cortez Climaco, were able to win mayoral elections between 1979 and 1985.

Shared rule

Law making

Subnational governments do not share authority over law making in the Philippines. The Senate is non-territorial: it is composed of 24 senators who elected by plurality voting with the country as one at-large “district.” There are no special arrangements for ARMM.

Executive control

There are no routine meetings between central and provincial governments to negotiate policy. There are a few venues for subnational lobbying, such as a regional development council composed of governors, some mayors, along with the private sector and other members, and national leagues with representation for each of the subnational levels (Montes 2006). Neither has central representation.

Since the 1989 Republic Act, meetings between the central and ARMM government have occasionally taken place in the context of unrest or civil conflict. These meetings are not routinized and have no binding authority.

Fiscal control

The central government is not required to consult subnational governments regarding the allocation of tax revenues. Subnational representatives do not possess veto power over tax

revenue distribution. Informal consultations may take place through national ministries, which have the final say.

The ARMM has no routinized input in central fiscal policy that affects the region (Republic Act 6734, Art. 13, Sec. 1).

Borrowing control

The central bank determines and regulates external debt levels.^α Subnational governments and the ARMM are not consulted.

Constitutional reform

Constitutional amendments must be proposed by minimally three quarters of the legislature, by a constitutional convention, or by a petition passed by at least twelve percent of the voting population (and three percent of registered voters in each province) (C 1987, Art. 17, Sec. 1-2). Amendments require approval by referendum (C 1987, Art. 17, Sec. 4). The petition process can only occur once every five years (C 1987, Art. 17, Sec. 2). Thus, the national electorate can unilaterally change the constitution. Provinces and independent cities score 0 on multilateral and bilateral constitutional reform.

Since 1989 the regional assembly of the ARMM has the right to initiate revision of the Republic act (Art. 18, Sec. 2), which must be approved by a regional referendum (Art. 18, Sec.

3). Hence on bilateral constitutional reform the ARMM scores 0 from 1979-89 and 3 from 1990, when the act goes into effect, until 2016. Under martial law, ARMM scores 0 (2017-2018).

@version, November 2020 – author: Sarah Shair-Rosenfield

References

Primary Sources

Philippines. (1935). 'The Constitution of the Republic of the Philippines.' May 14, 1935. Published online at: <http://www.chanrobles.com/1935constitutionofthephilippines.htm#.Up1UfsRDt2A>.

Philippines. (1973). 'The Constitution of the Republic of the Philippines.' January 17, 1973. Published online at: <http://www.chanrobles.com/1973constitutionofthephilippines.htm#.Up1UmcRDt2A>.

Philippines. (1986). 'Provisional (Freedom) Constitution of the Philippines.' March 25, 1986. Published online at: <http://www.chanrobles.com/aquinoproclamationo3.htm#.Up1Uz8RDt2A>.

Philippines. (1987). 'The Constitution of the Republic of the Philippines.' Text adopted February 2, 1987 based on drafted version October 15, 1986. Published online at: <http://www.chanrobles.com/philsupremelaw1.htm#.Up1U8MRDt2A>.

Philippines. (1959). 'Republic Act No. 2264 – An Act Amending the Laws Governing Local Governments by Increasing Their Autonomy and Reorganizing Provincial Governments.' June 19, 1959.

Philippines. (1959). 'Republic Act No. 2370 – An Act Granting Autonomy to Barrios of the Philippines.' June 20, 1959.

Philippines. (1963). 'Republic Act No. 3590 – An Act to Amend and Revise Republic Act Numbered Twenty-Three Hundred and Seventy, Otherwise Known as "The Barrio Charter."' June 22, 1963.

Philippines. (1967). 'Republic Act No. 5185 – An Act Granting Further Autonomous Powers to Local Governments.' September 12, 1967.

Philippines. (1973). 'Presidential Decree No. 231 – Enacting a Local Tax Code for Provinces, Cities, Municipalities and Barrios.' July 1, 1973.

Philippines. (1974). 'Presidential Decree No. 431 – Prescribing a System of Permanent and Continuing Registration of Members Barangays, Providing a Procedure for the Creation of Barangays, Providing a Procedure for the Creation of Barangay in Areas where there are None and for the Election of Officials Thereof.' April 8, 1974.

Philippines. (1975). 'Presidential Decree No. 826 – Changing the Names of Provincial Boards and City or Municipal Boards or Councils in Sangguniang Bayan, and Increasing the Membership Thereof.' November 14, 1975.

Philippines. (1979). '*Batas Pambansa Bilang 20* – An Act Providing for the Organization of the Sangguniang Pampook in Each of Regions Nine and Twelve, Providing Funds Therefor, and for Other Purposes.' March 23, 1979.

Philippines. (1979). '*Batas Pambansa Bilang 51* – An Act Providing for the Elective or Appointive Positions in Various Local Governments and for Other Purposes.' December 22, 1979.

Philippines. (1983). '*Batas Pambansa Bilang 337 – An Act Enacting a Local Government Code.*' February 10, 1983.

Philippines. (1989). 'Republic Act No. 6734 – An Act Providing for an Organic Act for the Autonomous Region in Muslim Mindanao.' August 1, 1989.

Philippines. (1991). 'Republic Act. 7160 – The Local Government Code of the Republic.' October 10, 1991.

Philippines. (2012). 'Framework Agreement on the Bangsamoro.' October 15, 2012.

https://peacemaker.un.org/sites/peacemaker.un.org/files/PH_121015_FrameworkAgreementBangsamoro.pdf

Philippines. (2014). 'Comprehensive Agreement on Bangsamoro.' March 27, 2014.

Philippines. (2018). 'Republic Act. 11054 – Organic Law for the Bangsamoro Autonomous Region in Muslim Mindanao.' July 26, 2018.

Secondary Sources

Azfar, Omar, Tugrul Gurgur, Satu Kähkönen, Anthony Lanyi, and Patrick Meagher. (2000). 'Decentralization and Governance: An Empirical Investigation of Public Service Delivery in the Philippines.' IRIS Center Working Paper: University of Maryland, College Park.

Buendia, Rizal G. 2005. 'The Secessionist Movement and the Peace Process in the Philippines and Indonesia: The Case of Mindanao and Aceh.' *Asia Pacific Social Science Review* 5/1: 51-67.

Eaton, Kent. (2001). 'Political Obstacles to Decentralization: Evidence from Argentina and the Philippines.' *Development and Change*, 32: 101-27.

Guevara, Milwida M. (2004). 'The Fiscal Decentralization Process in the Philippines: Lessons from Experience.' International Symposium on Fiscal Decentralization in Asia Revisited: Hitotsubashi University, Tokyo, Japan.

Hutchcroft, Paul. (2002/3). 'Paradoxes of Decentralization: The Political Dynamics Behind the 1991 Local Government Code of the Philippines,' in Michael Nelson (ed.), *KPI Yearbook 2003*. King Prajadhipok's Institute: Nonthaburi, Thailand.

Malixi, Charisma. (2008). 'Review and Assessment of Decentralization in the Philippines Focusing on Local Resource Mobilization (1991-2001).' Doctoral dissertation, Freiberg Universitet, Germany.

Móntes Jr., Raphael Nambio. (2006). 'The difficult journey from decentralization to federalism in the Philippines.' Summer University Paper Series: Center for Local and Regional Governance, National College of Public Administration and Governance, University of the Philippines.

Orial, Lydia N. (2003). 'Philippines,' in Yun-Hwan Kim (ed.), *Local Government Finance and Bond Markets*. Asian Development Bank: Manila, Philippines.

Ramos, Charmaine. (2007). 'Decentralization and Democratic Deepening in the Philippines,' in Denden Alicias (ed.), *Decentralization interrupted: studies from Cambodia, Indonesia, Philippines and Thailand*. Institute for Popular Democracy for Learning Initiative on Citizen Participation and Local Governance: Quezon City, Philippines.

Rood, Steven. (1991). 'Issues on creating an autonomous region for the Cordillera, Northern Philippines.' *Ethnic and Racial Studies*, 14/4: 516-44.

Tapales, Proserpina D. (1993). 'Devolution and Empowerment: The Local Government Code of 1991 and Local Autonomy in the Philippines.' State of the Nation Reports: University of the Philippines Press and Center for Integrative and Development Studies.

United Nations Habitat. (2011). *Fiscal Decentralization in the Philippines*. Nairobi.

World Bank and Asian Development Bank. (2005). 'Decentralization in the Philippines: Strengthening Local Government Financing and Resource Management in the Short Term.' Mandaluyong City: Asian Development Bank.

Self-rule in Philippines

			Institutional depth	Policy scope	Fiscal autonomy	Borrowing autonomy	Representation		Self-rule
							Assembly	Executive	
Provinces	II	1950-1959	2	1	0	0	2	2	7
	II	1960-1973	2	1	1	0	2	2	8
	II	1974-1978	1	0	1	0	2	2	6
	II	1979-1982	1	0	1	0	0	1	3
	II	1983-1985	1	1	1	0	0	1	4
	II	1986-1987	1	1	1	0	0	0	3
	II	1988-1990	2	1	1	0	2	2	8
	II	1991	2	1	1	2	2	2	10
	II	1992-2018	2	2	1	2	2	2	11
Independent Cities	II	1983-1985	1	1	1	0	0	1	4
	II	1986-1987	1	1	1	0	0	0	3
	II	1988-1990	2	1	1	0	2	2	8
	II	1991	2	1	1	2	2	2	10
	II	1992-2018	2	2	1	2	2	2	11
Autonomous Region of Muslim Mindanao (ARMM)	I	1979-1982	1	0	1	0	2	2	6
	I	1983-1987	1	1	1	0	2	2	7
	I	1988-1989	2	1	1	0	2	2	8
	I	1990	2	2	1	0	2	2	9
	I	1991-2016	2	2	1	2	2	2	11
	I	2017-2018	1	0	0	0	2	2	5

