

# F O R E W O R D

The Church cannot be said to be ignorant of the problems and issues besetting the nation. There are times, in fact, when politicians, civil society, and other interest groups would seek the counsel of clergymen and solicit their involvement in addressing society's myriad of problems.

The Church, of course, does not pretend to be an expert who can provide "cure-all" remedies to everything that ails our country. The least that she can do is to provide the public with moral fortitude and to make assurances that her involvement is always motivated by a desire to achieve the common good.

When the Church speaks and does something, she always has the people's interests in mind. Her involvement is neither for advancing any institutional agenda nor motivated by any ulterior motive.

It's too narrow a sense, if issues, even if basically political in nature, should be viewed and understood only from the point of view of politics. The fundamental concern as Pope Benedict XVI puts it should be, "How can Christianity become a positive force for the political world without [itself] being turned into a political instrument and without, on the other hand, grabbing the political world for itself?"

By making this primer on Federalism, the Archdiocese of Manila does not see herself as a "political-actor" that is concerned mostly with political conundrums and partisan dilemmas but as the voice of conscience offering "**morally suasive**" thoughts aimed at objectively educating the people on the merits (and demerits) of Federalism.

The role of the Church in this undertaking is aptly described by Pope Benedict XVI when he said, "Conscience is essentially powerless, yet for that very reason limits power and protects the powerless".

## **FREQUENTLY ASKED QUESTIONS ON FEDERALISM**

### **WHAT IS FEDERALISM?**

Federalism is a form of government wherein a Central Authority shares significant power, function, and responsibilities with Local Government Units. In this set-up, the Central Authority is called the Federal or National Government while the local government units are called States or Regions. In this form of government, the States or Regions, enjoy sufficient autonomy or self-rule. They may have their own Legislative Bodies as well as Supreme Courts. To the Federal Government, however, are reserved some general powers such as national security and foreign diplomacy.

One can think of a neighborhood association wherein families or homes are independent of one another and yet form one association that takes care of common concerns such as security and garbage disposal.

In sum, Federalism is all about the sharing of power between a Central Authority and autonomous or independent Regions or States: "self-rule and shared rule."

### **HOW DOES THIS DIFFER FROM WHAT WE HAVE NOW?**

For centuries now, the Philippines has been structured around a Unitary form of government. In this set-up, the whole country is regarded as one, united, and undivided political unit. Running the country is the National Government where great power, functions, and responsibilities are concentrated. However, some political as well as economic powers and functions have already been devolved or delegated to lower levels of governments or Local Government Units—Provinces, Cities, Municipalities, and Barangays. These units, nevertheless, remain dependent on and answerable to the national government like a local branch or franchise of a company to its national office.

### **ARE THERE MANY KINDS OR FORMS OF FEDERALISM?**

Federations or Federal Countries can vary on the basis of the purpose for which states come together. The purpose can be cultural, wherein, states or provinces are formed based on ethnicity, religion, or language, such as in the cases of Canada

and Belgium. The purpose can simply be territorial, the states being contiguous or adjacent to one another, such as in the case of the United States of America.

Federalism can also vary in terms of the form of government that the federation adopts. It can be Federal-Presidential where the President, who is the head of government, is popularly elected, or, Federal-Parliamentary where a Prime Minister is the head of government and is selected by the Legislative Assembly, that is the Congress or the Parliament.

Still, Federalism can vary in terms of the kinds of power that the Federal Government shares with States or Regions. In some models, States have legislative power, which means, they can enact their own laws, while in other Federations, States merely have administrative power, that is, they only implement or execute laws.

## **WHICH COUNTRIES HAVE ADOPTED FEDERALISM?**

There are at present twenty-seven (27) functioning Federations around the globe, which encompass over 40 percent of the world's population.<sup>1</sup> Among the well-known ones are the **United States of America** (Since 1789), **Switzerland** (1848), **Argentina** (1853), **Canada** (1867), **Australia** (1901), **Germany** (1948), **India** (1950), **Malaysia** (1963), the **Federated States of Micronesia** (1979) and **Russian Federation** (1993).

## **WHAT KIND OF FEDERALISM IS THE CURRENT GOVERNMENT PROPOSING?**

The Consultative Committee, which was formed by the President to study the Constitution and propose the changes needed for a Federal form of government, has suggested the Federal/Presidential Model. Patterned after the US Federal System, under this model, the country will continue to elect the President and the Vice-President as well as the two chambers of Congress. A bone of contention however is how the States or Regions can be formed based on existing political territories.<sup>2</sup>

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<sup>1</sup> Other Federal countries in **Asia**: Iraq, Nepal, Pakistan, United Arab Emirates.

In **Europe**: Austria, Bosnia at Herzegovina, Belgium.

In **Africa**: Comoros, Ethiopia, Nigeria, Somalia, Sudan, South Sudan.

In **Americas**: Mexico, St. Kitts at Nevis, Brazil, Venezuela.

<sup>2</sup> Under Art. X, Section 7 of The Resolution of Both Houses no. 8 (**RBH 8**) filed in the House of Representatives last August 2, 2016, eighteen (18) Federal regions will be created while the PDP Laban's Model of Federalism lists down

## **WHY IS THE CURRENT GOVERNMENT PROPOSING THE CHANGE TO FEDERALISM?**

In speeches then and now, President Rodrigo Duterte has cited various reasons for the urgency of the country's shift to the Federal System of government.

**First**, the share that Local Government Units (LGUs) are getting from the National government in Manila is a pittance, compared to the amount that the former turns over to the latter. He cites, for example that Davao gives P5 Billion a month, but only gets P2 Billion in return. As a matter of fact, LGUs are allocated only P40 percent of the total taxes collected by the Bureau of Internal Revenues. If Federalism is adopted, he says, all this will be reversed, with each LGU retaining 70 percent of its income and remitting only 30 percent to the Federal government.

**Second**, President Duterte also bemoans that the current Unitary System, with powers centralized around the National government in Manila, has been prone to corruption. He says, "Only the President in Malacañang and his allies in Congress decide on how the budget is distributed and much of that goes to their pet projects and their pockets".

**Third**, Federalism, Duterte says, will allow LGUs to chart their own economic destinies. "They can invite foreign investors directly. It will eliminate bureaucratic greed. Manila gets everything so regions are forced to beg. The benefit of federalism, they can get directly. They won't have to go through departments like DOTC and NEDA."

**Finally**, for the President, the considerable autonomy that Federalism gives to LGUs is the answer to the secessionist tendencies in Mindanao by Muslim groups. He was oft quoted in the campaign trail saying, "Nothing short of federalism will bring peace to Mindanao."

## **WHY ARE SOME SECTORS OPPOSED TO THE FEDERAL FORM OF GOVERNMENT?**

While the Duterte Administration is convinced of the benefits of Federalism for the Philippines, other sectors in the academe and civil society have expressed opposition toward the shift. The reasons put forward by those against the shift to Federalism are as follows:

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eleven (11). The Sub-Committee 1 of the House Committee on Constitutional Amendments proposes five (5). In another report posted last Feb. 16, the League of Provinces of the Philippines (LPP) supports the creation of eighty-one (81) "independent states" based on the eighty-one (81) existing provinces. **The Consultative Committee (ConCom) tasked by Pres. Duterte suggested eighteen (18) Federated Regions based on the existing number of regions in the country.**

**First**, decentralization, which is supposedly the primary benefit of Federalism, is not, in fact, guaranteed by Federalism.<sup>3</sup> There are federalized governments that are less decentralized than unitary ones, and prime examples lie right next to us. Malaysia is described to have a centralized federal system where the constituent states play relatively limited roles in relation to the center.

On the other hand, Indonesia has achieved highly decentralized governance under its unitary presidential system.

Federal systems range from highly centralized (as in Venezuela) to highly decentralized (United States), just as unitary systems range from highly centralized (Singapore) to highly decentralized (Norway).

As it is said, "If there is a need for greater decentralization in government, Federalism is not the only way to it".

**Second**, there is great concern that Federalism will lead to greater division and chaos in the Philippines. It can lead to overlapping and contradictory policies in different parts of the country.<sup>4</sup> It may breed governmental division and strengthen centrifugal pressures and ultimately lead to disintegration or failure of political union.<sup>5</sup> In view of this, the threat of entrenched political dynasties is also a possibility. We must, therefore, ensure that the proposed changes in the Constitution will have self-executing provisions that will ban political dynasty. It can also lead to over-government.<sup>6</sup>

**Third**, the division of the country into various states could become troublesome as it can lead to inequality between the federated units. It may increase regional discrepancies in wealth, resources, services and even democracy. Richer provinces will not wish to be joined with poorer provinces. With States or regions left to fend

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<sup>3</sup> Though, Federalism *per se* is for decentralization, still, the level and extent of decentralization is subject to the interpretation of the uses and functions of local institutions by a more powerful governing authority in society. As such, the perceived needs of the central government determine the powers and functions assigned to local governments (**Friedman, 1983, pp. 40-41**). This means, therefore, that the proposed charter change is crucial in determining and defining the level and extent of decentralization in a Federal system of government.

<sup>4</sup> This may confuse and inconvenience citizens who face different laws as they do business in different states/regions or move from state to state.

<sup>5</sup> This may cause unhealthy competition and rivalry between federated regions which can lead to division. It can also increase the pressure of finally moving away from the central government which may eventually lead to the collapse of political union in our country.

<sup>6</sup> It is often argued that nations, especially small ones, cannot afford to have multiple legislative bodies and multiple local governments. It requires an excessive number of governmental units, leading to increased costs and inefficiency. It can lead to disputes over power, i.e. national supremacy versus state's rights.

for their own, they can develop unevenly, with some growing richer and others poorer. To put it best, Federalism will hinder coherent development.

**Fourth**, the size of government bureaucracy will be multiplied.<sup>7</sup> New legislators alone, with their staff, will number in the thousands. Each State or Region will also have its own Executive department, Supreme Court and Congress. Of course, with a burgeoning bureaucracy come staggering costs. The Philippine Institute for Development Studies estimates the cost to be between P44 and P72 billion, without the new judiciary personnel. One economic expert observes, "Won't we simply be creating a government by politicians, of politicians, and for politicians?"

**Fifth**, even as the government touts Federalism as the ultimate solution to the separatist desires of Muslims in Mindanao, this may not be that simple. The failed experiment in the Autonomous Region for Muslim Mindanao (ARMM) proves this point. Having trustworthy, honest and strong leaders may even be a more important consideration for the development of the region than merely shifting to Federalism.

**Finally**, the continuing armed struggle of both Moro rebels and Communists, the rampant corruption, the complete disregard for rules, the enormous poverty, and the widespread abuse of power are gigantic burdens that cannot be addressed by just simply changing the system of government.<sup>8</sup>

## **HOW DO WE TRANSITION TO THIS FORM OF GOVERNMENT?**

What is needed for a shift towards Federalism is no less than a Constitutional Change/Charter Change or Cha-Cha, because the shift would require extensive, radical, and widespread changes in the country's political system. There are three ways Constitutional amendments are undertaken.

Firstly, Congress can call for a Convention, or secondly, the two chambers can simply constitute themselves into a Constituent Assembly. Finally, the people themselves can propose thru what is called a "people's initiative."

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<sup>7</sup>Under the Consultative Committee's (Con-com's) Draft Federal Constitution, Art. VII, each of the 18 proposed constituent political units — called federated regions — will be represented by two senators, making for an initial 36 members of the Senate to the current system's 24. The House of Representatives, meanwhile, is proposed by the Con-com to have up to 400 members "unless otherwise provided by law," to the 1987 Charter's 250, "unless otherwise fixed by law".

<sup>8</sup> This led many experts to say that, "Federalism is not a panacea to all the problems afflicting the nation".

Whichever is taken, the amendments must be submitted to a Plebiscite. Currently, the Administration has appointed a Consultative Committee (Con Com) to propose the Constitutional amendments needed for a Federal shift.

Although, the House of Representatives and the Senate are at odds whether to call for a Constitutional Convention or to constitute themselves as a Constituent Assembly, it is widely believed that the work of the Consultative Committee (Con Com) will be subjected to a plebiscite this year or the following year.<sup>9</sup>

## **WHAT IS THE POSITION OF THE CHURCH ON FEDERALISM?**

**First**, as a general rule, based on its long tradition of Catholic Social Teachings, the Church does not favor a particular political system over another. It has of course shown preference for "authentic Democracy"<sup>10</sup> as this allows for the establishment and protection of freedom and human dignity, which are values that the Church espouses.

Quoting St. John Paul II, "Authentic democracy" is possible only in a State ruled by law, and on the basis of a correct conception of the human person. It requires that the necessary conditions be present for the advancement both of the individual through education and formation in true ideals, and of the "subjectivity" of society through the creation of structures of participation and shared responsibility". (**Compendium, No. 406) (quoting *Centesimus Annus*, 46).**

**Second**, on the issue of Charter Change, the Catholic Bishops Conference of the Philippines issued a statement last January, reiterating its support for the full implementation of the 1987 Constitution, and saying that if Charter Change is to happen, the whole process must be above-board, must involve the participation of citizens and should include the principle of human dignity and human rights; the principle of integrity and truth; the principle of participation and solidarity; and the principle of the common good.<sup>11</sup>

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<sup>9</sup> People need to be alerted on the proposed Federal Charter as this may contain provisions not to the best interest of the nation. The proposed Federal Charter calls for a thorough scrutiny and analysis. This may be done thru "fora", "symposia", and group discussions with the able guidance of experts.

<sup>10</sup> The Church distinguishes between authentic democracy and one that is not authentic. The most significant distinction between an "authentic democracy" and an inauthentic one relates to *substance*: does it promote the common good, the rule of law, the dignity of the human person properly understood? Does it recognize objectively-informed human rights based upon the natural moral law? Does it advance the good life based upon a proper understanding of man? Or does it put right over the good?

<sup>11</sup> The Federal Constitution created by Con Com seems to water-down the provision on respect for human rights as compared to the provision in the 1987 Constitution.

Section 11, Article II of the 1987 Constitution states: "The State values the dignity of every human person and **guarantees full respect for human rights.**"

**Third**, in the same statement, the Bishops find the move towards Federalism unnecessary at this point. “We ask the question: is it necessary to change the Charter in order to devolve power? Many constitutional and legal experts do not seem to think so. What is truly needed for a genuine devolution of power according to them, is a full implementation of the Constitution, the creation of enabling laws, and some revisions on the Local Government Code, and a more decisive effecting of the Indigenous Peoples’ Rights Act”. These, they believe, can ensure that self-determination and decentralization of powers, both political and financial, are in fact realized.”

**Finally**, they say, it is not about structures but rather, the people running those structures. “We have also heard the views of those who believe that the solution we seek is ultimately the transformation of our political culture, the eradication of a political mindset of personalities, payoffs, and patronage – a culture that is entrenched in our present political structures and practices. Without conversion of mindsets, the new political wine of Charter change will remain in old political wine-skins, and merely end up bursting the hope for a new political culture.”

## **WHAT CAN WE DO AS CITIZENS IN THIS DEBATE?**

Every Filipino must participate in this debate because the stakes are very high. A member of the 1986 Constitutional Commission, warns, “If the Constitution is amended to pave the way for Federalism, the far-ranging or radical changes will be very hard to undo”. Whatever one’s position is on this issue, therefore, he/she must see to it that he/she is well informed of the intricacies or complexities of the matter.

Also, as an appeal to the populace, the Bishops, in their Pastoral Statement, suggest that the people “Form or reactivate circles of discernment and use your freedom as God’s children to discern, participate, discuss, and debate. Have an “informed conscience” and decide in the light of Gospel values. Do what is necessary. Persuade our legislators to do only what is genuinely for the good of all.”

FREQUENTLY ASKED QUESTIONS ON FEDERALISM Reference: Araral, Eduardo, Jr., et al. Debate on Federal Philippines: A Citizen’s Handbook. Quezon City: Ateneo de Manila University Press, 2017.

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On the other hand, Section 13, Article II of the Con-com's proposal reads: "The Federal Republic values the dignity of every person and **guarantees full respect for the person** and the right of all citizens to participate in all government processes."