

CHAPTER 9

**EXPLAINING LEGISLATIVE OVERSIGHT IN
PHILIPPINE SUB-NATIONAL GOVERNMENTS:
INSTITUTIONAL IMPEDIMENTS IN GOOD
GOVERNANCE**

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INTRODUCTION

With the advent of governance frameworks and the influx of decentralized polity, a convergent view among global actors is that strong legislative institutions may contribute to building responsive and accountable institutions of governance (Stapenhurst and Pelizzo, 2002: 6; Johnson and Nakamura, 1999: 2). It is argued that we have come to the age of parliaments, where legislative institutions are being resurrected from taking the sidelines in the governance process. Empirical findings show that while legislatures have traditionally played less in terms of policy-initiation, informal interactions with the executive branch, and the execution of various legislative roles inflicted some influence on policy directions. Likewise, contentions emerge that the main activity of legislatures manifests greatly in the oversight of government actions (Verney, 1969: 167). The necessity for strong oversight is seen in its efficacy in ensuring accountability of government, limiting the exercise of power of government institutions, particularly restricting the executive branch from making policy unilaterally (Mezey, 1979: 153). Thus, global efforts place major emphasis on the oversight function of legislatures due to its relevance in ensuring the accountability of governments and in providing a practical expression of the principle of ‘check and balance.’ Along with this paradigmatic swing is a greater understanding of the imperative to strengthen legislative institutions if their bigger role in ensuring government accountability must be seriously sought.

Whilst the institutionalization of good governance values is utterly emphasized, it is argued that an autonomous parliament capable of checking and scrutinizing the executive branch of government is one of the institutional components of good governance (Diamond, 2002: 19-20; UNDP, 2010: 12). However, the extent in which legislatures play their role in promoting good governance is currently being debated. This article conducts an inquiry on the issue of oversight capacity of Philippine sub-national legislatures vis-a-vis pre-existing institutional arrangements and local power structures inherent in Philippine decentralization.

In the Philippines, decentralization was set in motion through the passage of the Local Government Code of 1991 (LGC, 1991). The code was considered as one of the most significant and sweeping law on decentralization in Asia (Oxhorn, 2004: 24; White, R. and Smoke P., 2005: 6). One of the basic features of the code is the devolution of legislative powers allocating sub-national legislatures relevant law-making and oversight role. The historical transformation makes Philippine sub-national legislatures with one of the longest experience of the devolution of legislative powers in the Asian region. Consequently, considering the lengthy legislative experience of Philippine sub-national legislatures, it is pertinent to ask, how have they been able to exploit the opportunities afforded by the decentralization policy? More importantly, do the existing institutional frameworks support sub-national legislatures to effectively perform oversight? Institutional factors are worthy of note because they determine the legal status of sub-national legislatures, their degree of autonomy, capacity to perform their functions, and resources.

Moreover, the realization that local trajectories are what matters most for development efforts to either succeed or fail draws the attention to understanding local politics as a driving force of governance. As there seems to be an agreement that 'governance matters,' local political actors and processes became an indispensable part of the machinery for development and poverty reduction. One may contend that the push for decentralization became central in achieving democratic governance because it provides an institutional framework through which local people can participate in political and economic decisions affecting them. But many skeptics have also pointed out the various limitations of decentralization. Studies show that in many developing countries decentralization has increased the potential for 'elite capture' of local governments, and increased levels of local corruption and nepotism (Diamond, 1999: 133-134; Selee and Tulchin, 2004: 308-311). Likewise, several accounts depict the failings of Philippine decentralization

in democratizing activities where powerful local elites continue to uphold strong patrimonial ties and the tradition of local bossism bastardizing democratic norms (Hutchcroft, 2008: 1-15; Sidel, 1999: 6,17-19; Cheema, 2007: 172; Selee and Tulchin, 2004: 310). Cheema (2007: 171-172) asserted that democratic governance can only be achieved through a decentralization policy that promotes accountability and transparency of government officials; institutionalization of democratic culture; provides checks and balances at all levels; and promotes an environment where civil society organizations can thrive.

While this study finds important advances in the resurgence of sub-national legislatures, it also revealed that excessive executive discretion granted by the LGC 1991 in policy-making and budgeting have created a subservient and marginalized legislative branch which posits a serious subversion of democracy. Likewise, clientelistic politics and the tradition of bossism generated remarkable structural and political disincentives for strong oversight.

1. DEFINING LEGISLATIVE OVERSIGHT

Actually, there is no specific provision in the LGC 1991 expressly granting the oversight powers to legislatures. However, the power to review the executive budget and the power of appropriation implies this core function. According to the Local Legislator's Toolkit (Espine-Villaluz, 2004: 12), legislative oversight is an evaluation process where the *Sanggunian* (legislative body) determines if the ordinances it enacted are implemented and, if so, how they are implemented by the executive branch. The purpose of this function is to ensure that policies are carried out in accordance with legislative intent and that public funds are not wasted.

Legislative oversight is also viewed as "legislative supervision and monitoring of the executive, whether overt or covert" (Ogul and Rockman, 1990: 5). It is a constraint or limitation placed upon the executive branch of the government that prevents executive action from making policy unilaterally. Legislatures' relevance in the policy-making process is elucidated if their presence and prerogatives act as a counterpoise to the executive power. Mezey (1979: 153) argues that the veto is the most powerful tool in a legislature's arsenal because this definitive ability to block the legislative process compels other actors to bargain and compromise with the legislature. Unlike at the national level where the Congress has relative veto power, Philippine

sub-national legislatures cannot reject executive proposals. Yet, they can exact policy modifications through private discussions between the executive and the legislature which could lead the former to modify its proposals before submission. A weaker constraint which may be imposed upon the executive branch is the power to override the executive veto, given that the policy emanates from the legislature.

The extent of constraint that the legislature may impose upon the executive branch is described by Mezey in three categories: *strong-policy making power* which requires that a legislature be able to modify and reject executive proposals; *modest-policy making power* which requires that a legislature has the ability to modify but not definitively reject executive proposals; and, *little or no-policy making power* which refers to legislatures that can neither reject nor modify executive proposals. In this sense, Philippine sub-national legislatures have modest policy-making power. But to what extent do legislatures utilize or maximize such power, is critically related to prevailing executive-legislative relations as enshrined in the LGC 1991 and in institutional, personal, and party sense, as well as the priorities of individual legislators.

2. FACTORS IN THE LEGISLATIVE OVERSIGHT DEBATE

The notion of good governance requires states to be capable, accountable and responsive, placing legislatures at the core of the governance debate. Under this framework, improving domestic accountability is said to be strongly connected with building government capability to be responsive to the burgeoning needs of its citizens (DFID, 2007: 14). Legislative representation is premised on the idea that citizens are involved in the decision-making process through their representatives and the legislative process provides the very avenue for people participation. This perception upholds the view that the legislature is the most representative institution that operates with greater transparency than the other branches of government. Promoting the interest of constituencies is presumably on top of a legislator's agenda; thus, the locus of legislative interest would be the executive department's policy implementation since this directly affects the people as the intended beneficiaries of government services.

Three factors are argued to be relevant in explaining the nature of oversight in political systems (Desposato, 2004: 33). The first one refers to the *formal institutional framework* that grants the legal mandate for legis-

lative oversight and provides the authority to challenge the executive's programs/policies. The second factor involves the *informal institutional incentives* for using that authority. The latter is quite complex because it is typically motivated by the preferences of the electorate and the electoral system such as the extent to which the political environment is programmatic or clientelistic. My approach seems to be general, but it must be noted that although Philippine sub-national governments generally operate within a broader political landscape, there have been variances in local political culture that affects legislative behavior. This explains why some sub-national legislatures may engage more actively in oversight measures than others.

Essentially, politicians are mainly accountable to the people who vote them in office; thus, their actions should preferably align with peoples' expectations. However, a point *de facto* is that individual character, extent of authority, and constituency issues confronting legislators also shape their attitudes (Chandler, 2001: 129). This means that legislators may have different orientation towards their role. An independent candidate who won an election may behave differently than the one who won through an alliance with a strong political party.

Lastly, legislative engagement in oversight activities depends on the *capacity* of the legislature. Legislative capacity has at least three dimensions: the amount of time legislators spend on the job; the amount they are compensated; and the size of the legislature staff. The structure of the legislature and the broader political spectrum in which it operates evidently impinges on the manner of accomplishing their roles. The existence of a vibrant committee is also identified in aiding robust oversight therefore the composition, technical competence; behavior and discipline of its members would be a vital determinant for pursuing effective oversight.

Moreover, many factors shape or impede legislative oversight: formal rules, the adequacy of the capacity provided by its procedures/structures/support; the amount of political space/discretion afforded by other power holders (executives, parties); and also the goals of the members and leaders of the legislative bodies themselves. To curb these flaws require not only the amplification of the legislature's capacity but also ensuring that the other aforementioned conditions are in place.

3. EVALUATING LEGISLATIVE OVERSIGHT IN PHILIPPINE SUB-NATIONAL GOVERNMENTS

3.1 Constitutional Underpinnings of Legislative Oversight Authority

Philippine sub-national legislatures are vested with certain responsibilities such as representation, law-making and oversight. Other than that, the legislature may also devote itself to other tasks such as: 1) *directorial* – establishing fiscal policy through the local budget, planning for capital improvements, adjusting departmental organization, establishing local personnel policies, etc.; 2) *executive* – confirming or rejecting the mayor/governor’s appointment to the position of department heads; 3) *administrative* – reviewing ordinances/resolutions/executive orders, appropriations, grant franchises, conduct of committee activities, and so forth; and 4) *public relations functions* (De Guzman and Reforma, 1998: 40). In the Philippines, politicians are usually elected based on popularity or personality of candidates which explains the primacy of public relations functions in the legislator’s agenda.

Formally, Philippine sub-national legislatures would be characterized as weak in terms of law-making. A careful examination of the 1991 Code provides for the exclusive capacity of the executive to introduce legislation affecting budget, taxation, expansion of employment in public service and other administrative matters. Formal powers conferred by the Code and other related laws to executives have made him influential in policy-making and fiscal matters. Powers of executives would include “sending notes to the local council, using veto power, appointing and removing subordinates, and preparing the budget” (Padilla [ed.], 1998: 40). Under this institutional arrangement, legislatures have been preoccupied with addressing executive proposals and policies that emanate from the legislature itself are therefore scarce.

3.1.1 Oversight of the Executive and Departments

Although sub-national legislatures have limited capacity for initiation of policy, they do have formal oversight authority. Executives are required to present the program of government and propose policies and projects for consideration by the legislature at the opening of its regular session every calendar year and as often as may be deemed necessary. The legislature may also request necessary information/data from the executive branch and may

call department heads/governments officials to testify before legislative committee hearings. Furthermore, they can also form a special investigative committee with some judicial authority to refer its findings to the provincial prosecutor. It may conduct investigations on specific matters calling for accountability of the executive and recommend appropriate action. Sub-national legislatures may challenge an incompetent or corrupt executive by acting on audit reports submitted by the Commission on Audit (COA) or requesting the Ombudsman to investigate irregularities done by the executive, as well as file cases at the Supreme Court (SC).

The legislature can file cases against the governor, vice-governor, and its members with the office of the President for administrative misdemeanor. However, some legislatures are hesitant to act on corrupt practices of executives or bureaucrats due to lack of accountability by the members of the legislature. For instance, in one province, the Commission on Audit (COA) submits a regular report to the legislature but such reports were often neglected and ignored since even members of the legislature have incurred un-liquidated funds.¹ While there have been many cases of un-liquidated funds by some department heads as well as elected officials, there were no investigations on irregularities because the legislature hesitated in performing its oversight role. Moreover, credibility and impartiality of COA officials remained an issue. It has been alleged that COA was lenient in auditing elected officials and various department heads.² On occasions, the LGU provide funds to COA such as gasoline and travelling allowances which explains the restraint behavior of COA officials.

3.1.2 Veto Overriding Power

Apparently, the dominant law-making power given to local executives forbids sub-national legislatures to reject any executive proposals. But a potential constraint that the legislature can place on policy-making by the executive is the power to override executive vetoes. If the executive vetoes an ordinance enacted by the legislature, the legislature can override the executive veto by two-third votes of its members making the ordinance effective without the approval of the executive. This applies to “any particular item or items of an appropriation ordinance, an ordinance or resolution adopting a local development plan and public investment program, or an

¹ Interview with media on June 3, 2009 at 3:30 pm.

² Interview with an SP secretary on June 3, 2009, at 11:00 am.

ordinance directing the payment of money or creating liability” (LGC 1991, Section 55 [b]). However, only a truly independent legislature has the ability to challenge executive vetoes. In cases where the executive gains a party majority in the legislature, the executive may negotiate with only a few members of the legislature to ensure that the legislature cannot attain the two-third votes against his vetoed ordinances.³ Moreover, although “a veto of an ordinance may be overruled, the threat, as well as the actual exercise of it, can be decisive” (De Guzman and Reforma, 1998: 41). Formal oversight powers are constitutionally embedded but the important question is: *do legislatures have real powers than paper powers?* Constitutional powers would be ineffectual if legislatures do not use these powers (Norton, 1990: 154). The function of oversight is an important element in monitoring government actions, yet “this oversight appears to be sporadic and often very superficial” (Horn, 1995: 20).

Arbitrary impositions by the executive branch over legislative priorities cannot succeed when the legislature place substantial constraints over the executive branch to resist its preponderance. In one province, for example, from 2001 to 2004, the legislature has overridden a number of executive vetoes.⁴ This was despite of the fact that the legislature is an absolute administrative party. In some cases where the legislature threatens to override and executive veto, conflicts on policy positions are ironed out through private discussions between the two branches; whereby the executive gives way for policy adjustments before submitting to the legislature. This enables the legislative branch to influence policy directions and assert its authority in the policy-making process. However, this requires a conscious effort on the part of the legislature.⁵

3.1.3 Budget Scrutiny

As representatives of the people, legislators must ensure that funds are appropriated to programs and policies much needed by the constituents and conduct monitoring of government expenditures. The power to monitor government spending is in fact one of the most crucial power that legislatures have over the executive branch, which is termed as the “power of the purse” (Posner and Park, 2007: 3; Stapenhurst and Pelizzo, 2002: 11;

³ Interview with a legislator on June 14, 2009 at 3:25 pm.

⁴ Interview with an SP Secretary on September 10, 2010 at 11:25 am.

⁵ Interview with a legislator on April 27, 2010 at 1:30 pm.

Wehner, 2007: 7). Under the LGC 1991, the legislature is charged with the responsibility of evaluating the legality of the use of LGU funds, overseeing the budget process and the administration. One component of this responsibility is *receiving, evaluating, and approving* the annual audit by the Commission on Audit (COA) (LGC, 1991, section 468). Yet, the budget process has become a much debated area in government administration since the executive has vast control on the budget process. Apparently, the governor or mayor has the sole mandate to prepare and execute the government budget on annual basis, while the role of the legislative branch is to enact through an ordinance the budget duly prepared by the executive branch. Although legislatures have nominal power to amend the executive budget, this is only confined to making minimal reductions but significantly no increases.

It is disquieting to note that in some sub-national governments, there has been a huge lack of participation and oversight on the budget process. In many cases, executive budgets are approved without thorough legislative review. Upon submission of the executive budget to the legislature, a budget hearing should be arranged by the committee chair on finance to allow various departments to explain/defend their budgets. This should provide the legislature an opportunity to verify the importance of each budget item and propose feasible recommendations in improving government spending. The department heads or their representatives are also given the chance to justify budget increases they deem necessary for the effective operation of the respective department. However, in some sub-national governments, budget hearings are shortened due to inability of legislatures to commit ample time for analyzing budgets. Moreover, some committee chairs no longer conduct meetings even at the legislative committee level.⁶ In one province, only the committee chair on finance meets with the local finance committee⁷ to discuss the executive's proposed budget. This is a clear violation of legislative procedures regarding the passage of the annual budget. For instance, a letter of request coming from the executive was received by the legislature in the middle of November 2009 requesting for the approval of the annual budget for 2010. However, the actual budget document was not yet submitted to the

⁶ Interview with an SP secretary on May 11, 2009 at 11:15 am.

⁷ The local finance committee consists of the local planning and development officer, the local budget officer, and the local treasurer. The LFC is tasked to recommend to the executive proper allocation of expenditures and appropriate tax and other revenue measures. It serves as the financial auxiliary to the executive.

legislature; hence, except for the committee chair on finance, other members of the legislature have not even seen the proposed annual budget. The LGC 1991 stipulates that annual budgets of the province and those of component cities/municipalities should undergo a ‘three-reading rule.’⁸ Letter requests to approve the budget are submitted to the legislature even without the actual budget document.

Timely submission of the budget is also crucial for careful analysis and deliberation by the legislature. Many sub-national legislatures complain that executives frequently tabled the budget to the legislature beyond the mandated deadline which should be three months before end of the fiscal year. The budget should be approved by the legislature on or before the end of the fiscal year and failure to do so would mean that legislatures have to continue sessions without remuneration for its members (LGC, 1991, section 323). Further, the legislature cannot discuss any other business unless the budget is passed and approved. This puts the legislature in a compromising position although the delay in the submission of the budget may occur from the part of the executive branch. Legislatures may find themselves at the losing end for failing to oblige the executive to meet the deadline and are compelled to approve the budget foregoing extensive fiscal scrutiny.

3.1.4 Power to Review/Confirm Executive Appointments

Philippine sub-national legislatures are also vested with the authority to confirm appointments of people into high political or public office. This applies to positions of department heads, permanent and coterminous in nature. This function is basically ministerial in nature since screenings are carried out through the personnel selection board (PSB).⁹ Executives have

⁸ Legislation and ordinances follow certain procedures that should allow enough time for legislative review before its passage such as; first reading – presentation of resolution/ordinance to the council (at this stage items are referred to respective committees for committee hearing or public hearing); second reading – items are submitted for legislative discussion/debate; and third reading – final approval. Approval of the items can be done during the second and third reading depending on its importance, except for budgets (including that of component cities/municipalities) which follows the “three-reading rule.”

⁹ The personnel selection board (PSB) is established in every agency and is in-charge of the selection of employees for appointment in the government service. They shall maintain fairness and impartiality in the assessment of candidates for appointment and ensure that there be equal employment opportunity for men and women at all levels of position in the agency, provided they meet the minimum requirements of the position to be filled (Civil Service Resolution No. 010114).

wide discretionary appointing authority, given that candidates' qualification complies with minimum standards as provided by civil service rules and regulations. However, the legislature may influence appointments through informal interactions with the executive, or decline to confirm appointments for reason that it is *ultra vires*.

Various powers to ensure accountability of government are vested to sub-national legislatures providing a practical expression of the principles of checks and balances. But this is often obscured by the legislators' lack of knowledge on their role and the prevailing political and structural disincentives for oversight.

3.2 Structure of Philippine Sub-national Parliaments

The Philippine local government system is a net of multi-tiered political units consisting of 80 provinces, 122 cities, 1,512 municipalities and 42, 025 *barangays* (villages) (as of June 2010).¹⁰ Sixteen administrative regions and one autonomous region also divide the entire country for purposes of administration and management planning. The province is the largest political unit composed of a group of municipalities and component cities. It assumes a coordinative and supervisory function over cities and municipalities under its jurisdiction and is an intermediate link between the national government and municipal/sub-municipal governments. Cities are categorized as highly urbanized cities (HUCs - 33) which are independent from the province, component cities (84) which are under the general supervision of the province, and independent component cities (5) in which residents cannot vote for the provincial officials.¹¹ Classification of cities is based on varying levels of provincial autonomy and economic prosperity. Highly Urbanized Cities and Independent Component Cities have the same status with province as the first level local government. The municipality consisting of a group of *barangays* acts as a general-purpose government with the capability to coordinate the delivery of basic governmental services. Both component cities and municipalities occupy the intermediate tier in the local government system coordinating activities of respective *barangays*. The *barangay* is the basic political unit that serves as the primary planning and implementing unit of government programs/projects/activities and provides a forum for interest aggregation. All local governments are endowed with

¹⁰ Department of Interior and Local Government 2010. www.dilg.gov.ph.

¹¹ As of June 30, 2010. Department of Interior and Local Government. www.dilg.gov.ph

corporate powers and created by congressional legislation, except for the barangays which can be created by acts of legislative councils of cities and provinces.¹²

The structure of local governments in the Philippines can be characterized as a strong chief executive council since the governor of a province or the mayor of a city or municipality performs a dominant role in local government administration (Sosmeña, 1991: 4; Padilla, 1998: 39). The executive has the exclusive capacity to introduce legislation in major areas of budget, taxation, employment and other administrative matters. The primacy of executive power in formulating policies put the legislature in a secondary role, which already indicates the imbalance of power between the two branches of government. Legislative authority at the local level is vested in the *sanggunian* or the local legislative body. The *sanggunian* is a collegial body, composed of a group of individuals elected to represent the people's interests. It has the power to enact ordinances, approve resolutions, and appropriate funds for the welfare of the LGU and its inhabitants. The 1991 Local Government Code vests legislative power to the *sanggunian* at different levels of local government: *Sangguniang Panlawigan* for provinces; *Sangguniang Bayan* for municipalities; *Sangguniang Panlungsod* for cities; *Sangguniang Barangay* for barangays. In the autonomous regions of the country, legislation is made by the regional legislative assemblies, e.g. Regional Legislative Assembly of the Autonomous Region in Muslim Mindanao.¹³ All elected officials have three-year terms, and can only serve a maximum of three consecutive terms before being ineligible for re-election. At the Provincial level, the council is composed of the provincial vice-governor as the presiding officer, eight to ten *sanggunian* (council) members and three *ex-officio* members: president of the provincial federation of *sanggunian* members of municipalities and component cities, Federation President of the *Sangguniang Kabataan* (Youth), and president of the provincial chapter of the *Liga ng mga Barangay* (Association of Barangay Captains) and three sectoral representatives.¹⁴ The municipal/city council is

¹² Except for the barangays, all local governments in the Philippines undergo classification every five years based on their individual incomes. Classification ranges from first class, having the highest income to sixth class, having the lowest income. However, cities like Manila and Quezon City are classified as special cities under this classification system.

¹³ <http://www.nscb.gov.ph/activestats/psgc/listreg.asp>

¹⁴ Three *sectoral representatives* include: one (1) from the women who shall be determined by the *sanggunian* concerned within ninety (90) days prior to the holding of the local elections, one (1) from the agricultural or industrial workers; and one (1) from the other

composed of the vice-mayor (as presiding officer), minimum of eight regular members, president of the municipal/city chapter of the Liga ng mga Barangay, president of the city/municipal federation of Sangguniang Kabataan, and three other sectoral representatives.

The number of sessions of local councils also varies for each LGU. In the provinces municipalities and cities, a minimum of one session per week must be conducted; and in barangays, two regular sessions a month. In addition, special sessions may be called by the local chief executive or by a majority of the members of the council. The provincial governments act as intervening layer between the national and the local levels of government. Thus, a hierarchy of review is maintained; the provincial council reviews all ordinances, resolutions, and executive orders promulgated by municipal mayors of component cities and municipalities; the city/municipal council reviews all ordinances/resolutions of the barangays within its jurisdiction. However, highly urbanized cities are independent of the province. Local governments have their own internal rules and regulations insofar as the workings of local legislative bodies are concerned. Development standards are usually determined by central government in cooperation with the LGUs concerned where local authorities traditionally follow the national framework of development. However, this policy does not prevent LGUs from establishing their own development priorities.

Since there is a hierarchy of review, one factor that could deter the nature of oversight by higher levels of LGU is the rigor of legislative work. Once elected, legislators spend a considerable proportion of their time on local authority work. For instance, in 2008, one provincial legislature received a total of 1,571 documents of which only 475 were included in the calendar of business. The legislature approved 286 requests through resolutions or letter of endorsements while it passed 54 ordinances and 101 resolutions. 64.85% of total legislations were requests from component municipalities while only 35.14% were provincial legislations. This means that the legislature spent a huge amount of time addressing other lower level governments' requests than provincial level legislation. At an average, the legislature meets only 50 times (days) a year for regular sessions, plus additional special sessions which may be arranged as the need arise.

Sectors, including the urban poor, indigenous cultural communities, or disabled persons. Most LGUs do not have sectoral representatives.

3.3 Executive-Legislative Relations and the System of Separation of Powers

The separation powers between the executive and legislative branches of government have been recognized as a prevailing principle of Philippine system of government encompassing local authorities. It is a built-in system of checks and balances to secure coordination of the workings of both departments of local governments. The governor, on one hand, and the vice governor and provincial council members, on the other, perform distinct and separate functions under the LGC 1991. The governor or mayor is charged with the enforcement and execution of laws and ordinances as the chief executive of the local government unit (LGU) concerned. On the other hand, the vice governor/vice mayor and the sanggunian members are constituted under section 48 of the same Code as the legislative body of the LGU and thus perform legislative functions which pertain to the enactment of ordinances. Hence, there can be no encroachment with the other's duties and functions, such that the governor cannot legislate an ordinance, neither can the local council enforce and execute ordinances.

Purportedly, under the system of separation of powers, legislatures may exercise its oversight powers in three categories, namely: 1) *supervision*, which connotes a continuing and informed awareness on the part of the legislative committee regarding executive operations in a given administrative area; 2) *scrutiny*, primarily intended to determine efficiency of the operation of government activities, exercised through budget hearings, question hour, and power of confirmation; and 3) *investigation*, which is known as the inquiry in aid of legislation.¹⁵ These oversight measures also prevent executive usurpation of legislative authority, as such are integral to the checks and balances inherent in a democratic system of government.

However, performing oversight is difficult when executives dominate many areas of legislation. The technical and human resources necessary in drafting legislation are also at the disposal of the executive. Heads of departments and bureaucrats are under the directives and supervision of the chief executive and are assumed to support the administrative agenda. Being the highest appointing authority with legal mandate to discipline or reprimand officials for lack of cooperation with the administration, the executive can practically control and direct not only the bureaucracy but the legislative agenda as well.

¹⁵ <http://jlp-law.com/blog/primer-separation-of-powers-inquiry-in-aid-legislation/>

Independent stature of most sub-national legislatures has been unattainable. This is caused by the enduring patronage relationships that determine executive-legislative relations whereby executives kept the legislature at bay with generous perks and pork such that the system's check-and-balance mechanism failed to kick in (Valdehuesa, 2005: 22). Apparently, some legislatures are being used by executives, trading off its independence in exchange for a bargaining muscle that generates frequent side payments. If the executive wants to implement projects or policies even without proper consultations, he wins legislative approval by bribing the legislature with pork funds and perks. Given the Philippine political culture, the bargaining nature in executive-legislative relations typically centers on politicization and cooperation for amassing government resources in which little headway has been made on long-term institutional development such as an independent and highly capable legislative bodies. The discourse on executive domination on the budget process has become more relevant as developing countries seek to promote good governance, and the continuing emphasis of donor countries on accountability of governments.

3.4 Legislative Committee: Functions, Structure and Composition

The absence of a vibrant committee makes it difficult for the legislature to accomplish much of anything that will prove meaningful in carrying out its oversight function. Through its committees, the legislative body can hold the executive accountable for their decisions and actions by ensuring that public funds are being spent effectively and in accord with the intent of the legislature, and assure that laws are being properly administered. The functions of committees are determined by the areas of legislation or concerns of the sanggunian and are required to perform legislative work relevant to a particular field/issue. Each committee has its own jurisdiction (e.g. finance, health, women and family) as defined in the Internal Rules and Procedures (IRP) to ensure an efficient legislative process.

The composition of committees is determined according to policy areas defined in LGC 1991 or by local law (e.g. the Naga Empowerment Ordinance mandates the representation of the Naga People's Council in the standing committees of the sanggunian). A standing committee has no more than five members and is composed of a chair, vice chair and members. The sanggunian may appoint the chair of the committees through its presiding officer or through an election among its members. Generally, only elected sanggunian members can compose the standing committee. Each member

can only chair two standing committees, to ensure efficiency in committee work, but membership to other committees is allowed up to three standing committees. Moreover, membership in committees should foster delegation of tasks relevant to specific interests or expertise of legislators on various issues. Ideally, the legislative body is composed of representatives coming from various sectors; having diverse expertise to handle a variety of local issues. The committee chair is best selected based on the legislator's knowledge or skills required in a specific committee. However, chairmanship in committees is often determined by the party leaders or the ruling party to ensure that major committees are proportioned in conformity with their representation in the full council. The majority ruling party accordingly secures a majority on all committees, particularly ensuring that its members are elected as committee chairpersons. The chair of a major committee is a key political figure that is expected to initiate and monitor the policy and operations of the committee. While all standing committees are important in its jurisdiction, certain committees have been the most contentious due to its importance for executive control. For instance, the ruling party would ensure chairmanship on the major committees of finance, infrastructure, education, social services, health, agriculture, and women. Other committees perceived less important are apportioned to minority party members. The rules pertaining to committees must be defined in the Internal Rules of Procedure (IRR) to ensure an efficient and responsive legislative process. Committee work is a tedious task. But lack of funds for mobilization, computers and access to government data has been pointed as critical reasons for the inability of legislators to commit themselves to committee work.¹⁶

4. PREVAILING CONSTRAINTS AND CHALLENGES TO LEGISLATIVE OVERSIGHT

4.1 Executive Domination in Local Policy-making and Budget Process

The executive dominance in policy-making is inherent in the Philippine local government's structure. Careful examination of the LGC 1991 provides the local executives the exclusive capacity to introduce legislation in major areas of budget, taxation, employment and other administrative matters. The primacy of executive power in formulating policies put the

¹⁶ Interview with a legislator on April 25, 2009 at 11:00 am.

legislature in a secondary role, which already indicates the imbalance of power between the two branches of government. Furthermore, the executive veto power puts major constraint to the legislature in establishing its policy agenda.

One of the risks of this institutional arrangement is that they tend to generate excessive executive discretion in policy-making and budgeting, and, consequently, disallow the mechanisms of public accountability to consolidate. This is accentuated by the nature of the Philippine political system which concentrates power in the executive and debilitates the system of separation of powers. Key to this issue is the abuse of constitutional provisions that allow executives to dictate the legislative agenda. A major example is when executives interpret self-servingly the constitutional requisite for matters certified as “urgent” by the executive. Many ordinances have been approved by the *sanggunian* in such short notice, upon the request of executives in the pretext of urgent matters.¹⁷ This shows an outright executive intervention of legislative procedures and protocols. Some ordinances are passed without thorough review by the legislature regardless of critical issues that surround certain legislation. Thus, the executive branch overwhelmingly dominates policy-making and legislatures tend to act merely as rubber-stamps. The overwhelming control of executives has been most evident in the budget process. Consequently, local executives became a main proponent for “pork” funds. Executives have main control over funds that enhance patronage relationships at the local level, namely: Local Development Fund (LDF) which constitutes 20% of the total Internal Revenue Allotment (IRA) of local governments; 5% allotment for calamities; and no less than 2% of IRA is maintained as governor’s discretionary fund (LGC, 1991, section 287). While such funds are intended to be used for specific public purposes and subject to prescribed rules and regulations, abuse of such funds is prevalent due to the absence of vertical and horizontal accountability.

The LGC 1991 stipulates that the Provincial Development Council (PDC)¹⁸ is the responsible body to formulate plans regarding the allocation

¹⁷ Interview with a provincial legislator on May 11, 2009 at 2:00 pm.

¹⁸ The PDC is headed by the governor and composed of the following members: (1) all mayors of component cities and municipalities; the chairman of the committee on appropriations of the *Sangguniang Panlalawigan*; (3) the congressman or his representative; and (4) representatives of nongovernmental organizations operating in the province, who shall constitute not less than one-fourth (1/4) of the members of the fully organized council. (LGC 1991, section 107).

of the 20% local development fund (LDF) after careful evaluation of much needed programs/projects and services in the local area. However, the PDC is headed by the local executive. This strategic position enables him to impose his prerogatives on the development agenda. In principle, the PDC, after proper and extensive deliberation with its members, shall submit to the Provincial Governor its recommendations with regards to the allocation of LDF for various projects. The legislature is represented by one member in the PDC which should provide the opportunity to oversee the allocation process. However, in actual practice, the executive controls the PDC agenda and, as a result, other lower level local governments, NGOs and interest groups spend much time lobbying to the executive that their requests be included in his priority list. Categorically speaking, the PDC only operates as a secretariat that prepares the list of priority programs/projects in accordance with the executive's wishes.

Some ordinances also require funding for its implementation. Legislators must first ensure that there is a source of fund before approving certain policies, which makes the legislature highly dependent on executive discretion. Some ordinances approved by the legislature remained unimplemented due to lack of budget. Unfortunately, there are no financial reserves which can be used to fund programs/policies put forward by the legislature. The bulk of appropriations under the office of the sanggunian are intended for personnel services and other maintenance and operating expenses. The legislature may request for a supplemental budget to finance its policies but this is sourced out from available savings, and delays are inevitable due to cumbersome bureaucratic procedures. Thus, the legislature is often faced with difficulty in allocating funds for its policies where it has to constantly request from the executive branch that has other priorities.

4.2 Issues on Professionalization, Competence and Incentives Facing Legislators

4.2.1 Issue on Qualification

The legislative branch is considered the formal law-making body of the local government unit; hence, this job requires necessary skills for passing regulations, appropriating funds and deliberating public policy. The quality of leaders would therefore have a substantial effect on the degree of governance. In order to contribute to good governance, legislators must not only have sufficient knowledge of local conditions; they should be capable

of formulating and analyzing laws, making quality decisions that would lead to the greater good, and dedicated to their jobs. However, the prevailing phenomenon of Philippine politics does not encourage the most qualified members of the society to vie for electoral posts. In the Philippines, the qualification for running as legislator is also of minimum standard with no minimum educational level required. The Constitution provides that “An elective local official must be a citizen of the Philippines; a registered voter in the barangay, municipality, city, or province or, in the case of a member of the Sangguniang Panlalawigan (provincial council), Sangguniang Panlungsod (city council), or Sanggunian Bayan (municipal council), the district where he intends to be elected; a resident therein for at least one (1) year immediately preceding the day of the election; and able to read and write Filipino or any other local language or dialect.” In addition, the candidate must at least be 21 years of age for municipal and city levels, and 23 years of age for highly urbanized city and provincial levels.

While the work of the legislature is an intricate job, many are attracted to the position due to the inherent power and perks attached to it. Valdehuesa, Jr. (2005: 21) contends that politicians in the Philippines are elected not on the basis of their professional background or intelligence, but on certain qualifications irrelevant to the position in which they are elected. He underscores that politicians are elected based mainly on their “family name or dynasty, deep-pocketed or wealthy, well-known or celebrity, influential or connectivity... but not education, capability, record or character.” Unfortunately, the country’s electoral culture has made such attributes merely incidentals and not imperatives for public office. Professional politicians are prevalent; they are those that have made politics as their main profession notwithstanding their lack of education or skills to participate in the complex works of governance. Many elected legislators even lack knowledge on parliamentary procedures which is the governing principle in passing legislation. This is one of the critical reasons why executive intervention in legislative procedures is rampant, constituting to rubber-stamp approvals and to the extent of relegating legislative procedures.

4.2.2 Issue on Compensation

Considering the enormity of local authority work, local legislators receive modest compensations prescribed under the Philippine salary standardization law (RA 6758) As of June 2009, the monthly salary of a legislator at the highest LGU level (provincial) constituted an amount of 28, 340

Philippine pesos (Php)¹⁹ (approximately US\$640.32) plus representation allowance (RA) of Php 5,400. The vice-governor receives a salary of Php 29,474 plus RA of Php 6,700. In addition, the salary of a legislator is deductible with Government Service Insurance System (GSIS) in the amount of Php 2,550.60 (Php 2,652.66 for vice-governor) and government tax of Php 4,730.65 (Php 4,444.79 for vice-governor). Other funding sources available to legislators may include additional compensation, office supplies, repair of service vehicle, spare parts and travelling allowances²⁰ (for official business only) but the amounts vary per LGU. The vice-governor basically receives twice the budget, since, unlike other members who represent only one district, the scope of his function covers all component municipalities and cities.

Legislators have constantly complained about the low salary and the financial dilemma that goes with their position. As they are constantly faced with mounting solicitations they receive from their constituents, either monetary or in kind, this forced them to secure external resources.²¹ The meager salary is compensated by cashing up available funding sources although there are no actual expenses incurred. For instance, budget for vehicle repairs and spare parts are not easily consumed especially when the service vehicles of legislators are still in good condition.²² But such funds are always depleted which can also be attributed to institutionalized corruption and the ineffective systems of accountability that extenuate administrative misdemeanor by public officials.

4.2.3 Diminutive Legislative Resources: Support Staff, Facilities and Budget

Certain resources must be available to the legislature such as staffing resources, budget and technical facilities. One important factor is for legislature to have control over its own budget and hire its own professional staff. However, budget of legislative departments undergo the same procedure with other departments which have to be submitted for executive

¹⁹ 1 Philippine peso computed against U.S.\$1 is equivalent to 0.2333259 (PhP). (based on foreign exchange rate as of July 8, 2011).

²⁰ Travelling allowances are used for official trips only such as conferences or seminars subject to the approval of the vice-governor.

²¹ Interview with a legislator in April 30, 2009 at 4:10 pm.

²² Interview with a legislative staff in April 20, 2009 at 10:45 am.

consideration. In cases where the legislative department wants to increase its funds, it needs to lobby to the executive or request endorsement from other powerful players such as the local finance committee or a legislator with good relations with the executive. Sometimes, the legislature has to “beg” its own funds from the executive.²³ Budget bargaining grants the executive the opportunity to stress his priorities in exchange for small increases in the legislative budget.

Furthermore, the legislature must possess its own staff capable to independently evaluate budgetary information, propose alternatives and perform oversight of ongoing programs (Folsher, 2006; Pelizzo and Stapenhurst eds., 2004; Wehner *et.al.*, 2007). Apparently, one of the challenges that confront many sub-national legislatures is the small size of the legislature staff. Only a few richer LGUs can be capable of hiring many staffs assigned to individual legislators and dedicated to assisting legislative activities. Since legislative work involves in making regulations and performing oversight, legislative staff or research assistants, who have adequate knowledge and skills in accessing pertinent information in aid of legislation, would be crucial. There are also technical issues that require specialized skills in order to assist the legislator in performing his task. Basically, each legislator has only two staffs: one driver and one legislative assistant. Both staffs are regular casuals (coterminous) who receive a meager salary. Also, the task of a legislative assistant focuses mainly on secretarial work such as receiving communications, attending to visitors of legislators, and processing documents for reimbursement of various expenses of legislators. The low salary of a legislator’s staff does not invite highly-qualified applicants for the position. Legislators’ staffs are personally chosen by legislators (i.e. relatives or those that gave political support); hence, hiring of qualified staff is mainly subjective.

Local councils are also under-equipped for lacking computer systems, information, office spaces, and lack of budget to support its operations. Lack of technical and staffing resources continue to frustrate legislature’s efforts in exercising its oversight function. In gist, most legislators have neither time nor expertise to oversee executive policies.

A support mechanism inherent to the legislature is the Office of Secretary to the Sanggunian which acts as its secretariat. The office is headed by the SP secretary who is a career official with the rank and salary equal to the department head. The office of the SP secretary is composed of 11 regular

²³ Interview with a legislator in April 30, 2009 at 2:15 pm.

employees. Some LGUs may have additional coterminous personnel which number varies per LGU. The SP secretary attends meetings/sessions of the legislature and keeps a journal of its proceedings. Other functions of the SP secretary and his staff include: receiving communications addressed to the legislature, preparing the calendar of business, forwarding approved resolutions/ordinances to the executive and to the city/municipality concerned, keeping a record of all resolutions/ordinances enacted by the legislature, publishing local ordinances, and taking custody of local archives and the local library.

The task of drafting of resolutions/ordinances should be done by the sponsor of said legislation; however, the lack of knowledge on technical issues confronts many legislators. Thus, the task of drafting is frequently passed on to the SP secretary. In addition, some legislators are not provided with computers. As a result, the office of the SP secretary is overwhelmed with cumbersome work in preparing resolutions/ordinances, and oftentimes overcrowded in accommodating individual legislator's staff doing their secretarial jobs. In other LGUs only legislators holding major committees such as finance and legal matters are provided with computers. Some legislators bring their own personal computers. The inability of legislators to perform active roles in overseeing the executive branch stem from the lack of qualified staff and technical support in accessing crucial and relevant information for policy-making and oversight.

4.2.4 Capacity-Building

Individually and collectively, legislators must possess a wide knowledge base of their functions if they must contribute to the intricate workings of governance. Many legislators have a considerable lack of understanding of the essential task placed upon their shoulder that they tend to demonstrate a lackadaisical approach to lawmaking and oversight. Procedural and technical competence, among others, is a major pre-requisite for effective review of ongoing programs, analyze budgetary information and propose policies.

However, there is no system of formal, nationally established training for legislators in the Philippines. The Department of Interior and Local Government (DILG) is tasked to assist LGUs in capability building of government officials; however, there is no mechanism for the conduct of specialized trainings for legislators. Some LGUs invite resource persons to train new elected officials on parliamentary rules and procedures subject to

availability of local funds. Legislators also receive few opportunities to gain more specialized understanding on the operation of services in which they are required to govern. On occasion, a legislator may secure funds from his committee to attend conferences or short courses on legislation but not all committees have funds that can be used for this purpose. For instance, the committee on women has more access to trainings organized by a professional body or organizations advocating gender issues, and because local governments commonly allocate special funds for women. But such trainings are usually issue-driven and does not necessarily address specific training needs of legislators. In general, elected officials are expected to enhance their capability through their own and unaided initiative.

Thus, some will be educated as a result of personal, and, sometimes, painful experience through talking to fellow legislators or consulting the SP secretary with regards to technical issues. It is believed that experienced politicians or re-elected legislators have more capability to perform their roles than neophytes. Nonetheless, some legislators who have been in the position for quite some time are still unable to perform their tasks well.²⁴

5. POLITICAL INSTITUTIONS AND ITS IMPACT ON LEGISLATIVE OVERSIGHT

Essentially, legislative oversight and executive-legislative relations are intermediated by the electoral and political party system and political culture. Scholarly reports showcased Philippine electoral system as one of a clientelistic nature (Colonel, 2007; Teehankee, 2002; Valdehuesa, 2005). This means that a clientelistic politician will be praised more for being an ultimate “benefactor” addressing private requests from constituents; thus, politicians have become highly dependent on patronage for survival. Elected local and congressional officials in the post-Marcos era act as “patrons” and “benefactors” and the relationship between the represented and the representatives involved mostly particularistic demands (i.e. jobs, medical help, and intervention in disputes, business favor and solicitations) which politicians attend to because they are translated into votes and political support (Sidel, 1999: 7). Local executives and legislators have been busy in entertaining constituents who are soliciting personal favors rather than clamor for policies that would translate into common good or of long-term value. Today,

²⁴ Interview with media in April 11, 2009 at 11:30 am.

such patron-client relations that dominate Philippine electoral politics remain unchallenged.

Since patronage politics define the relational dynamics between the elected and the electorate, legislators veer away from their legislative roles for a number of reasons. *Firstly*, there is no electoral incentive for engaging in legislative debate or policy-making, and in scrutinizing government actions. Thus, legislators devote their time in visiting constituents as this is tendered more important than legislative output. In the Philippines, politicians are busy attending public occasions such as barangay/town/city fiestas, weddings, funerals, baptism, graduation ceremonies, and must also deal with mounting financial solicitations (e.g. medical needs, tuitions fees) as well as job applications. This tends to shift their attention from oversight that they become more focused on fighting for spoils to ensure their political survival.

Secondly, given that politicians are dependent on patronage for survival, legislators are hesitant to challenge an incumbent executive who has main control over patronage funds. Sub-national legislatures cannot create their own funds, and are therefore dependent on executive approval for any increase on their budget. Common requests range from office supplies and equipment, additional travel and gasoline allowances, procurement of service vehicles, or a share in the Local Development Fund (LDF). Bargaining for legislative budget increases usually occur as informal negotiations between the executive and the legislature during the budget process. Some legislatures are given a modest share in the 20% development fund upon the discretion of the executive, which can be allocated by individual legislators for “small projects” for their constituency. In addition to minimal allocations for projects/programs, some legislatures were able to legitimize fund sources for solicitations under the item “grants and aids.” The allocation of such fund is a clear indication that patron-client relations are highly embedded in the Philippine political system. Legislatures who are supportive of the executive are highly favored and are therefore more proximate to patronage resources. Thus, some legislators tend to compromise their role in exchange for pork/perks.

Thirdly, politicians are generally ambitious and are more interested in seeking reelection or running in higher positions in the future. They need to ensure their winnable standing in the coming elections which can be derived from an alliance with the strong party or political machines. Thus, in the

political environment of legislatures, the influence of certain “principals”²⁵ to legislative behavior could not be undermined. Presumably, incumbent executives having already established their position as strong patrons and accessed public resources to their advantage are almost assured of re-election unless a strong contender emerges. Members of the legislature may not wish to be in adversarial relationship with the executive in performing its oversight responsibilities.

Weak party cohesion also aggravates this situation wherein former opposition party members may seek alliance with the ruling party in order to secure an advantaged position to further their careers in the political arena. Opposition parties are viewed to be in a better position to engage in strong oversight since their actions may be construed as performing the role of a ‘watchdog’ to a dominant ruling party. In reality, former opposition members may compromise their roles in exchange for perks. This lack of institutionalization of political party system has been highlighted in various literatures as one of the endemic problems facing Philippine democracy (Valdehuesa, 2005: 37). Political parties proved to be more futile at the local level. Former members of opposition parties are quick to jump to the party of whoever is in power. Huntington (1965: 411) posited that “without strong political institutions, society lacks the means of defining and realizing its common interests.” Also, when political institutions are weak, this can have a particularly large impact on political outcomes (Hutchcroft, 2008: 144). Thus, where political parties formed are not founded on the agenda of heralding policies, legislators may not treat oversight as powerful tool to demand executive accountability, but as a constraint to his membership with party alliance or the political machine.

Moreover, political clans have been an enduring feature of Philippine politics which is inimical in achieving democratic institutions for governance. Teehankee²⁶ (2007) underscores that “Continuing clan dominance is a product of the seemingly immutable and unequal socio-economic structure,

²⁵ Principals are political actors who command some measure of loyalty from legislators, and whose interests a legislator might represent and pursue in an official capacity... these include political parties, and specifically their leadership within legislative assemblies... presidents, governors, who may wield substantial resources, including control over sub-national political party machines; interest groups, which direct electoral resources (funding, activist volunteers, mobilized volunteers); moneyed campaign contributors; and even those in a position to bribe or extort politicians (Carey 2008:129).

²⁶ Julio C. Teehankee is an associate professor and chair of the Political Science Department at De La Salle University, Manila (<http://pcij.org/stories/and-the-clans-play-on/>)

as well as the failure to develop a truly democratic electoral and party system.” Elections have been dominated by powerful clans who field local posts with electoral candidates anointed to pursue oligarchic interests, curbing democratic rights of other viable representatives. Indeed, the representatives are not that representative anymore; they are representatives not of the majority of electors but of small self-interested elites that undermine the institutions of local democracy.

In many local areas political clans gained massive political power that has been tested to ensure electoral victory so that candidates for local posts lobby to be appointed as party candidate. They even finance electoral expenses and supply the political machine for candidates under their party curbing the autonomy of legislators one elected in office. In some provinces, for instance, clans acquired the prerogative to choose its candidates for local posts from mayors, vice-mayors and legislators that will run in the different municipalities. This is a vivid example of bastardizing democratic norms at the local level. In order to minimize challengers from other parties, they arrange local candidates and absorb other displaced officials in the provincial posts or in the bureaucracy (such as those who already finished their terms). Some candidates who can no longer run in the local posts were appointed to run as members of the provincial legislature despite their perceived inability to perform legislative tasks. An observation made by the media would point the lack of capacity of some legislators to propose policies, let alone participate in the legislative debate or exercise oversight. Moreover, since the executive gains ultimate control for being the strong patron funding elections and appointing candidates for local posts, the legislature loses its independent stature due to its indebtedness to the executive, who is often the political party leader at the local level. Thus, the legislature becomes an easy subject for executive manipulation which obscured the principle of ‘check and balance’ in local government administration. Against this milieu of undemocratic circumstances in many sub-national governments in the Philippines, legislative vigor is particularly important to combat suppressive institutions personified by localized dictatorship that quenched the representative democratic culture and eroded institutional accountability.

A fundamental principle of liberal democracy is that there should be free and fair elections and citizens have the right to run in any electoral position in which coercion is comparatively uncommon. It has been noted that the country’s “institutional, legal, electoral, and party systems have prevented the expansion of the base of aspirants and candidates for representation” (Teehankee, 2007). Two things can be identified as an upshot of this

phenomenon: it discouraged qualified candidates to join the political arena, and those with political ambitions find it necessary to link with powerful clans who have well established political machines. In addition, the high cost of electoral campaigns and the quality of Philippine elections further deter would-be politicians who are more qualified to get involved in the complexities of governance procedures. The prevalence of political clans has therefore alienated local people from governance free from coercive structures.

Likewise, the typical fixation of media on portraying violence highlights the plenitude of provincial warlords and political dynasties in the Philippines and its notoriety of elections present the most exigent case of the persistent influence of local strongmen in Asian region. Local strongmen have continuously strengthened their hold on particular power bases, especially in rural areas, whose power have been legitimized by the resources and responsibilities conferred by decentralization (Cheema, 2007: 172; Sidel, 1999: 17; Hutchcroft, 2001; Selee and Tulchin, 2004: 310). Manaca (1999: 183) notes that “In communities dominated by powerful politicians and far from reach of the central government, elections can be subject to the influence of “gold, guns and goons”. The realities of local bossism²⁷ have in fact been sustained by the weakness in the country’s political institutions that grappled and antagonized efforts to level the playing field for legislatures. Sidel (1999: 2) highlights that powerful local political and economic elites succeeded in “having themselves or their family members placed in critical posts to ensure allocation of resources according to their own rules, rather than the rules propounded in the official rhetoric, policy statements, and legislation generated in the capital city or those put forth by a strong implementer.” The local office becomes an arena for warring families’ struggle for political control to further enrich themselves using public resources and blatant electoral violence has been documented in many media accounts. With various incidents of political killings that include whistleblowers of corrupt practices as well as journalists, accountability mechanisms are unlikely to consolidate.

²⁷ Local bossism refers to “the interlocking, multi-tiered directorate of bosses who use their control over the state apparatus to exploit the archipelago’s human and natural resources ... a distinctly American-colonial era institutional structures inherited by the postwar Philippine state and stresses the often underestimated and poorly understood role of violence and coercive pressure in shaping economic accumulation, political competition and social relations in the archipelago. In the Philippines, bosses have included small-town mayors, provincial governors, congressmen and even presidents” (Sidel 1999:6,19).

Recently, the Philippines has captured international attention as one political clan in Maguindanao province was allegedly behind the massive killing of a group of civilians, journalists and lawyers who are on their way to file the certificate of candidacy of another contender vying for gubernatorial position. CNN on one of its broadcasts in December 2009 regarding the “Maguindanao Massacre”²⁸ referred to the incident as one of the most dreadful electoral killing and dubbed the Philippines as “the most dangerous place for journalists.” Also, the Commission on Human Rights pointed out that the last decade constitutes the most number of extra-judicial killings in Philippine history. From January 2001 to August 2009, 1,118 civilian members of legal organizations were killed and 204 were reported missing.²⁹

Corollary to this, legislators have been hesitant or afraid in criticizing the executive. In areas where local bosses are a dominant force, local executives are highly feared due to the power derived from an endowment of wealth and private armies that have no recognition for the rule of law. To some extent, criticizing an increasingly powerful executive could constitute various forms of personal or professional threat such as threat to life, removal from office or political position, or may put to risk a politician’s membership in the political party and avoiding such negative repercussions understandably becomes a priority.

6. ENGAGEMENT BY THE CIVIL SOCIETY AND THE MEDIA

The LGC 1991 has institutionalized civil society participation in local policy-making and oversight. Some CSOs/NGOs become members of Local Development Councils. They can use their strategic position in the council to get information on government priorities and allocation of local development funds. They are also invited to attend public hearings prior to the enactment of ordinances in which local people’s voice are represented in the policy-making process. But actual inclusion of civil society’s voice in policy-making has yet to be realized since some LGUs only choose CSOs/NGOs that are allies of executives (e.g. Chamber of Commerce, Rotary Club,

²⁸ Dubbed as the “Maguindanao Massacre,” 58 people (including 34 journalists) were ambushed by a warring clan’s private armies and brutally killed on broad daylight in November 23, 2009. The dead bodies were buried together with their vehicles in a vacant area utilizing government equipment.

²⁹ TV Patrol World live broadcast; (ABS-CBN, Channel 2) on December 7, 2009. ABS-CBN is a national television network in the Philippines.

women organization) to secure unopposed implementation of the executive agenda.³⁰ While citizens having access to budget information or government plans/programs can participate in policy-making and oversight roles, access to this information is often elusive due to the ‘tradition of secrecy of the budget’.

Activities of various interest groups in policy assertions or oversight are most visible in urban areas since they are better informed about government spending through the media. The civil society can work in tandem with local media in demanding their representatives to employ oversight of local budgets and policies. For instance, in one province, the pervasiveness of media and various interest groups encouraged provincial officials to be more accountable to the local people and perform their active roles in local governance. Government spending has also been closely monitored by the civil society through the media and any irregularity can easily cascade into public limelight. For instance, in one province on June 2009, the Provincial Engineering Office (PEO) was probed due to an infrastructure scam involving several projects that had been implemented by the office. News on the alleged irregularities became a hot issue on local radio stations and newspapers; and civil society groups exhibited strong demands for the government to punish perpetrators. This resulted to filing of administrative cases to erring employees.

The presence of several media groups and activities by the civil society has encouraged provincial officials to be more careful in their dealings and the legislature as the main oversight branch became more vigilant in overseeing annual budgets and disbursement of funds. Audit findings released by the COA have also been acted upon by the executive and legislative branch. Based on the audit findings, some departments were reorganized and some employees were subjected to investigations after uncovering illegal transactions that reportedly cost the local government millions of pesos worth in losses. Legislators who were active in exposing government irregularities have become popular; hence, they gained electoral incentives for performing oversight. One provincial legislator revealed that he has depended on media for his policy advocacies which helped him survived many elections. Also, at the time when he was once the only minority in the legislature wherein the “majority rule” has alienated him from contesting bleak government policies, close contact with civil society groups and the

³⁰ Interview with NGO representative in May 5, 2009 at 1:45 pm.

media provided him a venue to critique the government and keep local people informed.

CONCLUSION

This article lends support to the argument that legislatures are pillars of democratic good governance. Yet, the extents in which sub-national legislatures contribute to good governance have been greatly jeopardized by the pre-existing legal and political architecture in the Philippine decentralization. It is clear that legislative subservience to the executive branch has been the product of a constitutional design that limits the capacity and autonomy of legislatures and results to the uneven texture of executive-legislative relations, which, in turn, undermine their [legislatures] relevance in the governance process. The vast legislative powers granted by the LGC 1991 to the executive have marginalized the legislative branch from taking its rightful place in the political system and dissipates the notion of co-equality. Likewise, the legislature's procedural arrangements and institutional infrastructure were impeding the potential to oversee an increasingly powerful executive. It has also been apparent that electoral incentives faced by individual legislators have been the keystone for which legislatures conduct oversight. The country's political environment not only generated disincentives for strong oversight; it also de-motivated legislatures to pursue a meaningful search for legislative autonomy. As this study underlines, actual implementation of legislative oversight is rather difficult under the decentralization policy that lacks institutional support to promote effective and autonomous legislative bodies capable of resisting executive preponderance.

Moreover, the profound implication of the politics of bossism as an off-putting by-product of the Philippine decentralization policy promoted an ineffective, if not eviscerated legislative branch and incessantly secures the subversion of good governance values. A rarely questioned thesis maintained in this article is that a dominant executive is 'bad' and undemocratic; so that a serious rethinking of the imperative for legislative resilience should be earnestly sought. A far-reaching goal would be the nurturing of a more programmatic politics. But this may only be achieved in the long run, along with some advances in the economic and social aspects; where growth of civil society and media could thrive. Qualified legislators would provide an important boost to legislative capacity, however, at the current situation, elections place more emphasis on persona rather than qualifications.

It is therefore crucial to strengthen capacities of sub-national legislatures at the individual, organizational and system levels (Kimura, 2001: 10-15). At the onset, the need to institutionalize regular, nationally designed training programs for individual legislators cannot be overemphasized. Capacity-building programs should place emphasis on increasing legislator's knowledge on representation, policy-making and oversight functions as well as legislative procedural rules. Such trainings should be done immediately following elections to prepare legislators of the task ahead. Capacity-building efforts should also target external actors who provide support in overseeing the executive branch such as the civil society organizations and the media. Their active involvement has proven to be effective in demanding government accountability and promoting oversight by the legislative branch. Establishing strong partnership with external oversight agencies (i.e. COA, Ombudsman) would enhance capacity of legislatures for oversight since both the legislature and the external oversight agencies could mutually benefit in increasing institutional capacity to oversee government policies and budget implementation. Moreover, the imperative for internal restructuring of sub-national legislatures necessitates augmentation of professional staff with technical expertise in specific policy areas, particularly on budgets, provision of computers, office space and budget for committee work as well as extending session time and committee hearings. Lastly, the pursuit to institutionalize the political party system, enhancing electoral rules (which should include elevating standards for qualification of candidates) and the stringent implementation of vertical and horizontal accountability mechanisms should remain constant as these are essential attributes for propagating oversight culture by the legislative branch.

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