

DEVOLVE ENR FUNCTIONS, NOW!

*A Position Paper of Local Governments
on the Imperatives of Devolving Environment and Natural Resources (ENR)
Governance Functions and on Rationalizing the Structure of the DENR*



League of Municipalities of the Philippines

INTRODUCTION

Since the passage of the 1991 Local Government Code, local government units (LGUs) around the country have demonstrated not only their ardent willingness but also their proven capability to implement the principle of devolution.



INTRODUCTION

- One of the major services devolved to LGUs is the Environment and Natural Resources (ENR) sector.
- It has been argued that the devolution of environmental management to LGUs is a milestone in the history of environmental management in the Philippines.



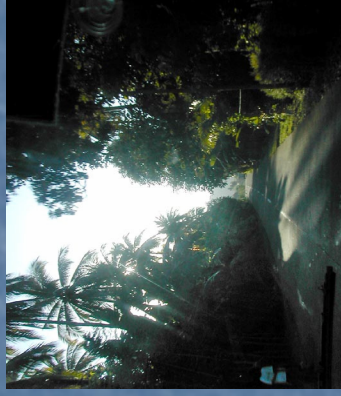
INTRODUCTION

- Though it has been documented by several award-winning bodies that LGUs have displayed exemplary practices in environmental management, the business of regulating and making environmental laws still reside with the national government.



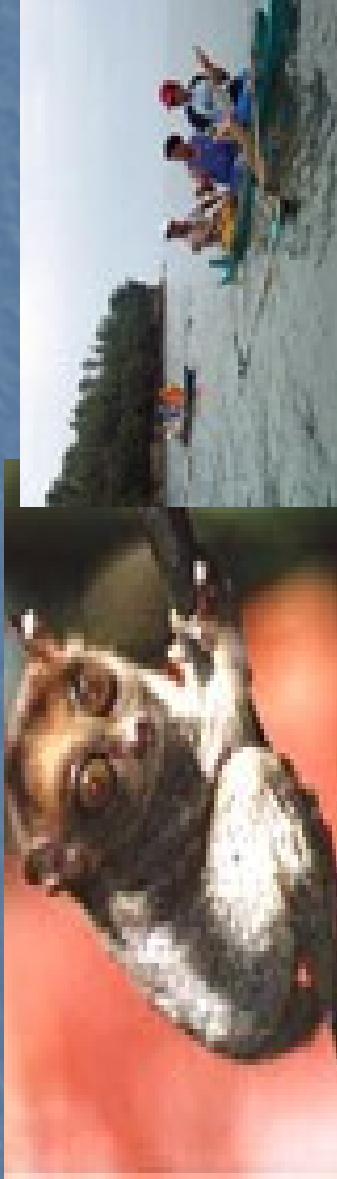
INTRODUCTION

- To further empower LGUs in environmental management and truly fulfill the mandate of the 1991 Local Government Code, it is imperative to further devolve ENR functions to local governments.



WHY DEVOLVE ENR FUNCTIONS, NOW?

- *The law says so*
 - Consistent with 1987 Constitution and the 1991 Local Government Code



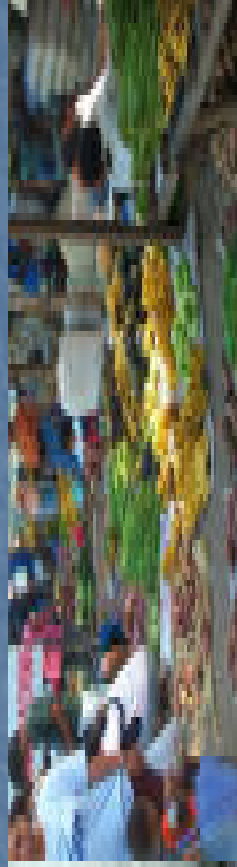
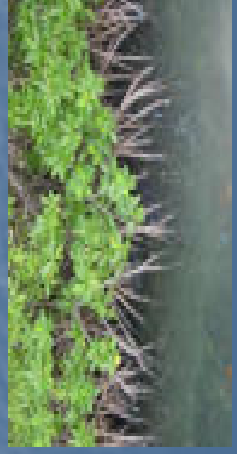
WHY DEVOLVE ENR FUNCTIONS, NOW?

- *It is an administrative necessity to improve the delivery of environmental services nationwide*
- Successful efforts to protect and sustainably use environmental assets (like scenic water bodies, parks, seascapes and landscapes) and natural resources (like forests, fisheries, minerals, soils, water, and renewable energy) have been initiated by LGUs or have heavily involved them.



WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

- At best, partial. At worst, minuscule and insignificant.
- They involve mainly functions that are either: (a) peripheral to the DENR's principal authorities and powers; (b) are not drawing significant funding and investment interests from donors and the private sector; or (c) too politically costly for the agency to undertake.
- They do not involve the bulk of the functions stipulated in the Local Government Code.



WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

Those devolved so far are:

- Regulating the environmental impacts of small and medium enterprises qualifying under Kalakalan 2000
- Establishment of greenbelts and tree parks
- Management of communal forests and watersheds
- Integrated Social Forestry Projects
- Community-Based Forestry Projects



WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

Those devolved so far are (cont):

- Regulation of fishing in municipal waters (DA devolution as per Sections 17 of Title I and Sections 149 and 447 of the Local Government Code; includes the issuance of permits for construction of fish cages, to gather aquarium fishes, to gather kapis shells, and to gather and culture shelled mollusks; issuance of licenses to establish seaweed farms and areas to culture pearls; and the establishment of “closed reasons” within municipal waters; also includes the establishment of marine protected areas (per the Fisheries Code of 1998 [RA 8550]).



WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

Those devolved so far are (cont):

- Regulation of minor mineral extraction like small-scale mining and certain scales of quarrying and sand and gravel collecting
- Regulation of nuisance and pollution
- Solid waste management (consistent with the Ecological Solid Waste Management Act [RA 9003])
- Anti-Smoke Belching (consistent with the Clean Air Act [RA 8749])

WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

- Peripheral Functions.
 - None of the above smack at the heart of the power to govern the environment and natural resources of the Philippines.
 - They do not include the functions of regulating the commercial and industrial use and development of forests, large-scale mining, and environmental impact assessment and certification.

WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

- Low Private Sector Investment Interests.
 - Regulating watersheds, developing greenbelts and tree parks, farmer-level integrated social forestry, or small-scale mining, are not enterprises that attract significant private investments and funding interests.
 - These are what have been devolved so far, not the regulation and governance of commercial and large-scale mining, industrial forests, and pollution from large manufacturing firms.

WHAT IS THE STATE OF DEVOLUTION IN THE ENVIRONMENT AND NATURAL RESOURCES SECTOR?

- Politically-costly Functions.
 - Controlling smoke-belching, managing solid wastes, permitting minor mineral extractions, and regulating coastal zones, often involve large numbers of local communities and stakeholders with direct interests on them.
 - More often than not, they engender high levels of tension in affected communities. Exercising these functions frequently entail high political costs to the regulators.
 - These were devolved, and LGUs have accepted the challenge. With good results, over-all. LGUs can do more.

WHAT IS THE EXISTING CAPACITY OF LOCAL GOVERNMENTS TO ASSUME DEVOLVED ENVIRONMENT AND NATURAL RESOURCES FUNCTIONS?

- It is good over-all but widely varying across LGUs of different types and classifications.
- With DENR rationalization – if done right – it can be even better.

WHAT IS THE EXISTING CAPACITY OF LOCAL GOVERNMENTS TO ASSUME DEVOLVED ENVIRONMENT AND NATURAL RESOURCES FUNCTIONS?

- Many LGUs have accumulated a vast array of experience in addressing environmental and development issues in their jurisdictions.
- The *Galing Pook Awards*, *Gawad Pangulo sa Kapaligiran* and other awards (some international like UNESCO) signify of the degree to which LGU capacities to assume ENR governance functions have significantly grown in the past ten to fifteen years.



Gawad Pangulo sa Kapaligiran

1 st –3 rd Class Municipality	2000 1999 1996-1998 1995 1994	CALINOG,ILOILO CARMEN, BOHOL BOGO, CEBU SURALLAH, SOUTH COTABATO M'LANG, COTABATO
4 TH -6 TH Class Municipality	2000 1999 1998 1997 1996 1994-1995	SOLSONA, ILOCOS NORTE SAPIAN, CAPIZ and SOLSONA, ILOCOS NORTE SAPIAN, CAPIZ CARMEN, BOHOL SAMPALOC, QUEZON BOGO, CEBU

WHAT DO LOCAL GOVERNMENTS RECOMMEND
CONCERNING DEVOLUTION AND THE
RATIONALIZATION OF DENR?

- A *phased devolution program* in which functions are devolved to LGUs in a schedule of devolution spanning ten (10) years.

WHAT DO LOCAL GOVERNMENTS RECOMMEND CONCERNING DEVOLUTION AND THE RATIONALIZATION OF DENR?

- National agencies, principally the DENR, shall function as policy-making and standard setting agencies
- LGUs shall function as implementing field units to regulate and develop, singly or jointly, the use and development of environmental amenities and natural resources within their jurisdictions.
- Appropriate institutional arrangements shall be established to ensure that national agencies (mainly DENR) and LGUs are able to jointly improve ENR governance nationwide.

WHAT TO DEVOLVE, WHEN?

- **Immediately (within the next 12 months)**
 - **Forest Management.** The regulation and development of natural forests and forestlands within the jurisdictions of the LGUs; includes old-growth, residual and plantation forests and pasture lands in the public domain, in accordance to existing regulations and standards of management prescribed by law.
 - **Protected Area Supervision.** The administration of declared and enacted protected areas having portions of their boundaries found within the jurisdiction of LGUs; for protected areas that extend to more than one LGU jurisdiction, they shall be administered jointly by all hosting LGUs

WHAT TO DEVOLVE, WHEN?

- **Within the next 2-3 years**
 - **Land Registration.** Subject to existing methods prescribed by laws, all processes and procedures to register lands shall be regulated by the LGU within whose area and jurisdiction the land is located. The principal repository of patents and titles shall be the LGU, but with official copies of the same deposited in the National Statistics Office.
 - **Water Resource Management.** Water resources shall be subject to the principal authority and regulatory supervision of LGUs. Subject to procedures, standards and specifications to be issued by the national government, LGUs shall create multisector Water Regulatory Boards to ensure the water security of their citizens.

WHAT TO DEVOLVE, WHEN?

- **Within the next 4-6 years**
 - **Mineral Resource Development.** The final approval for all mineral extraction activities – at any scale – shall be reposed on LGUs, subject to check-and-balance standards and procedures to be set up by competent national authorities or by law.
 - **Environmental Impact Assessment.** Subject to standards and procedures set by competent national authorities and/or by law, all EIA processes and certifications shall be reposed upon LGUs (singly or jointly) where a subject development project is to be located.

WHAT TO DEVOLVE, WHEN?

- **Within the next 7-10 years**
 - **All remaining ENR functions stipulated by the Local Government Code, explicitly or implied.** All other regulatory and development functions of DENR and other relevant agencies (including on fisheries under DA) shall be reposed primarily (and mainly) on LGUs. (This does not preclude the agencies, however, from being still involved in some parts of the functions, except that, by this time, the primary administrative unit to discharge the function shall be the LGUs.)
 - **Additional functions as might be prescribed by law at that time.** The same as (1) above, but in this case covering new functions that might be prescribed by law by this time.

RECOMMENDATION ON A STRATEGY OF DEVOLUTION

- We propose that ENR devolution be phased according to:
 - the schedule of devolution above, and
 - the preparedness of individual LGUs to assume the devolved functions.

RECOMMENDATION ON A STRATEGY OF DEVOLUTION

- The proposed schedule shall be observed notwithstanding the capacity of any LGU to assume the function at an earlier time, for two reasons:
 - the necessary institutional rearrangements needed to be done in order to make the devolution of the function efficient and least disruptive to stakeholders may take time to be fully consummated; and
 - stakeholders might need time to prepare for the function being devolved to LGUs.

RECOMMENDATION ON A STRATEGY OF DEVOLUTION

- LGU preparedness shall be determined by way of a *certification system* to be designed, developed and operated by DENR, other national agencies like DBM, and the Leagues of Local Governments, together.
- Individual LGUs shall be certified for which functions they are ready or not to assume, when the same function has been scheduled to be devolved.
- No function will be devolved earlier than scheduled. And when scheduled, no function shall be devolved to LGUs that have not been previously certified to be fully capable of assuming the function.

RECOMMENDATION ON INSTITUTIONAL ARRANGEMENTS TO FACILITATE THE DEVOLUTION.

- *In the short-term (next 1-3 years):* The immediate assignment of all DENR field personnel (CENROs and PENROs) to direct supervision by LGUs.

RECOMMENDATION ON INSTITUTIONAL ARRANGEMENTS TO FACILITATE THE DEVOLUTION.

- *In the medium-term (4-6 years from now):*
Existing Regional Offices of the DENR shall be converted into Regional Technical Centers to support and monitor LGU ENR functions within the region.

RECOMMENDATION ON INSTITUTIONAL ARRANGEMENTS TO FACILITATE THE DEVOLUTION.

- *In the long-term (7-10 years from now):* At least 75% of the personnel complement of DENR Regional Offices (by this time functioning as Regional Technical Centers) shall be devolved to LGUs in the region and their technical support functions shall be limited to liassing between LGUs and the DENR bureaus.

RECOMMENDATION ON INSTITUTIONAL ARRANGEMENTS TO FACILITATE THE DEVOLUTION.

- **Investing on capacity development for LGUs.**
 - We propose that LGU capacity development programs be immediately initiated to boost their human, financial, organizational and political capabilities and resources to assume devolved ENR functions.
- **Tailoring DENR rationalization to support these recommendations.**
 - We recommend very strongly that DENR rationalization be made consistent with the devolution intent of law.

We see no better way to further the ultimate democratization of ENR governance in the Philippines but by way of an honest and earnest implementation of the devolution provisions of the Local Government Code.

**END OF
PRESENTATION**

THANK YOU VERY MUCH!