

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*

INTRODUCTION

Since the passage of the 1991 Local Government Code, local government units (LGUs) around the country have vigorously demonstrated not only their ardent willingness but also their proven capability to implement the principle of devolution. 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.¹

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.² 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?

There are three major reasons why there is a need to devolve ENR functions now to the local levels: a) The law says so; b) It is an administrative necessity to improve the delivery of environmental services nationwide; and, c) It is a politically and environmentally correct thing to do so.

A. The law says so.

Consistent with section 16 of Article II and sections 2 and 3 of Article X of the Constitution, the Local Government Code³ stipulates the following:

¹ Victor Ramos, "Foreword", *A Guide in Local Environment Code Formulation* (Metro Manila: Konrad Adenauer Foundation and Local Government Development Foundation, 1996).

² Alma Ocampo-Salvador, "Environmental Governance in the Philippines" in *Philippine Governance Report* (Metro Manila: United Nations Development Programme, Ateneo School of Government, and Ateneo Center for Social Policy and Public Affairs, 2002), p. 72.

³ Legal references are from A. Oposa, *A Legal Arsenal for the Philippine Environment*; The Philippine Islands: *Batas Kalikasan* (2002).

- *Section 16*: Every LGU shall exercise the powers expressly granted, those necessarily implied there from, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

- *Section 17 [a]*: LGUs shall endeavor to be self-reliant and shall continue exercising the powers and discharging the duties and functions currently vested upon them. They shall also discharge the functions and responsibilities of national agencies and offices devolved to them pursuant to this Code. LGUs shall likewise exercise such other powers and surcharge such other functions and responsibilities as are necessary, appropriate, or incidental to efficient and effective provisions of the basic services and facilities enumerated herein. (Section 17[a]).

- *Section 17 [b]*: Such basic services and facilities include, but are not limited to, the following:
 - (1) For a BARANGAY:
 - iii. Services and facilities related to general hygiene and sanitation, beautification, and solid waste collection.

 - v. Maintenance of barangay roads, bridges, and water supply systems.

 - (2) For a MUNICIPALITY:
 - i. Extension and on-site research services and facilities related to agriculture and fishery activities, which include...interbarangay irrigation system; water and soil resource utilization and conservation projects; and enforcement of fishery laws in municipal waters including the conservation of mangroves.

 - ii. Pursuant to national policies and subject to the supervision, control and review of the DENR⁴...

⁴ “Supervision” is “the power of a superior officer to see to it that lower officers perform their functions in accordance with law. It does not include the power to substitute one’s judgment for that of the lower officer’s (from Maxino 1997; see full citation below). “Control” is defined in Philippine jurisprudence as “the power of an officer to alter or modify or nullify or set aside what a subordinate officer had done in the performance of his duties and to substitute the judgment of the former for that of the latter” (Maxino 1997 c.f. Mondano v Silvosa, 87 Phil Reports 143, 148 [1995]).

- implementation of community-based forestry projects which include integrated social forestry programs and similar projects
 - management and control of communal forests with an area not exceeding fifty (50) square kilometers
 - establishment of tree parks and similar forest development projects...
- vi. Solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation.
- vii. infrastructure facilities intended primarily to service the needs of the residents of the municipality and which are funded out of municipal funds including but not limited to, municipal roads and bridges,.. communal irrigation, small water impounding projects and other similar projects; fish ports; artesian wells, spring development, rainwater collectors and water supply systems; seawalls, dikes, drainage and sewerage, and flood control..

(3) For a PROVINCE:

- iii. Pursuant to national policies and subject to the supervision, control and review of the DENR...
- enforcement of forestry laws limited to community-based forestry projects
 - pollution control law
 - small-scale mining law,
 - other laws on the protection of the environment
 - mini-hydroelectric projects for local purposes
- vii. Infrastructure facilities intended to service the needs of the residents of the province and which are funded out of provincial funds including, but not limited to, provincial roads and bridges; inter-municipal waterworks, drainage and sewerage, flood control, and irrigation systems; reclamation projects; and similar facilities.
- implementation of community-based forestry projects which include integrated social forestry programs and similar projects
 - management and control of communal forests with an area not exceeding fifty (50) square kilometers
 - establishment of tree parks, and similar forest development projects...
- viii. Solid waste disposal system or environmental management system and services or facilities related to general hygiene and sanitation.

B. It is an administrative necessity to improve the delivery of environmental services nationwide.

The mandates and organizational design of the DENR are stipulated by Executive Order 192 (1987).⁵ The Order was an act of the President of the Philippines under revolutionary conditions. It came just immediately after the dismantling of Martial Law which had, for 20 years prior, built up the national government as the focal, principal and most powerful institution to deliver (or cause the delivery) of services in the country. Local governments then were mostly un-empowered and undeveloped mechanisms to deliver the services, particularly on the governance of environment and natural resources.

The enactment of the Local Government Code in 1991 changed the situation. Since then and up until today, LGUs have emerged as strong deliverers of services. 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.

Box 1 is a partial list of *Galing Pook*. These awards are demonstrations of the new capacities among LGUs to creatively address myriad ENR issues in unity with local development needs. Box 2, on the other hand, is a partial list of *Gawad Pangulo sa Kapaligiran*, which demonstrates the exemplary performances of Philippine municipalities in the area of environmental management.

BOX 1.	
GAWAD GALING POOK , ENR SECTOR	
1994-2002	
• Bantay Puerto <i>Puerto Princesa City</i>	1994 - Outstanding
• Save the Marikina River <i>Marikina City</i>	1995 - Outstanding
• Kalibo Save the Mangroves <i>Kalibo, Aklan</i>	1995 - Outstanding
• Save the Marikina River <i>Marikina City</i>	1995 - Outstanding
• Marine Conservation of San Salvador Island <i>Masinloc, Zambales</i>	1996 - Outstanding
• A Clean Sea, A Healthy Community <i>Aparri, Cagayan</i>	1997 - Outstanding

⁵ The governance of ENR as a sector is not entirely the exclusive domain of DENR. DENR is the principal ENR agency of government but other functions governing the sector are reposed by law in other national agencies: e.g., agricultural biodiversity and marine protected areas on the DA; responding to climate and weather events on PAGASA (DOST) and the NDCC (DND); geologic and seismic hazards response on PHIVOLVCS (DOST) and also the NDCC (DND); soil and water management on BSWM (DA). This position paper focuses on the DENR but without prejudice to addressing ENR devolution in other agencies as well.

Box 1 (cont)

• Sagay Marine Reserve <i>Sagay City</i>	1997 - Outstanding
• Fishery Development <i>Masbate Province</i>	1997 - Trailblazing
• Ecological Amelioration for Sustainable Development <i>Palompon, Leyte</i>	1997 - Outstanding
• Inter-LGU Partnership for Management of Banate Bay <i>Iloilo Province</i>	1998 - Outstanding
• Bantay Dagat <i>Kawayan, Biliran</i>	1999 - Trailblazing
• Coastal Resource Management <i>Looc, Romblon</i>	2000 - Trailblazing
• Kontra Kalat sa Dagat Province of Bataan	2002 - Outstanding
• Illana Bay Regional Alliance IX Program <i>Zamboanga del Sur</i>	2002 - Outstanding
• Pansipit River Rehabilitation Program <i>Batangas Province</i>	2003 - Outstanding
• Bohol Coastal Law Enforcement Councils <i>Bohol Province</i>	2003 - Outstanding
• Pansipit River Rehabilitation Program <i>Batangas Province</i>	2003 - Outstanding
• Coastal Zoning Project Commercial and Marginal Fishermen <i>Calbayog City, Samar</i>	2004 - Outstanding
• Provincial Environment Protection and Management <i>Zamboanga del Norte Province</i>	1994- Trailblazing
• Hillyland Resource Management & Development Commission <i>Cebu City</i>	1994 - Trailblazing
• Saving the Maasin Watershed <i>Iloilo Province</i>	1995 - Trailblazing
• Eco-Walk <i>Baguio City</i>	1996 - Outstanding
• Environmental Resource Management <i>Bais City</i>	1997 - Outstanding
• Balik-Ilahas <i>Negros Occidental Province</i>	1998 - Outstanding
• Environmental Resource Management <i>Malalag, Davao del Sur</i>	1998 - Trailblazing
• Inter-Barangay Environmental Development <i>Irosin, Sorsogon</i>	1998 - Outstanding
• Pista ng Kalikasan <i>Palawan Province</i>	1999 - Outstanding
• PARAESUS Berde <i>Lidlidda, Ilocos Sur</i>	1999 - Outstanding
• Punongkahoy sa Bawat Pumanaw <i>San Carlos City, Negros Occidental</i>	2000 - Outstanding
• Sustainable Livelihood and Environment Resource Management of Ylang-ylang <i>Anao, Tarlac</i>	2000 - Outstanding

Box 1 (cont)

- **Massive Tree Planting and Greenbelt-Buy Back Program** **2000 - Trailblazing**
Quezon, Bukidnon
- **TREE for Legacy: Tree Resources for Education, Enterprise and for Legacy** **2002 - Outstanding**
Province of Nueva Vizcaya

Source: Galing Pook Foundation.

BOX 2
GAWAD PANGULO SA KAPALIGIRAN
Philippine Municipalities, 1995-2000 and 2004

1rst-3 rd Class Municipality	2004	Medellin, Cebu Pangantukan, Bukidnon Agoo, La Union
4 th to 6 th Class Municipality	2004	Kibawe, Bukidnon Casiguran, Sorsongon Banga, Aklan
1st –3rd Class Municipality	2000 1999 1996-1998 1995 1994	Calinog, Iloilo Carmen, Bohol Bogo, Cebu Surallah, South Cotabato M’Lang, Cotabato
4TH-6TH Class Municipality	2000 1999 1998 & 1997 1994 & 1995	Solsona, Ilokos Norte Sapian, Capiz and Solsona, Ilokos, Norte Sapian, Capiz Samplok, Quezon

Source: Department of Interior and Local Government

It is noteworthy that the Tree for Legacy program of Nueva Vizcaya has transformed previously denuded uplands and watersheds into communal tree farms and plantations. It has been identified by UNDP as among the reason for the dramatic drop of poverty levels in the province from 52% in 1996 to 10.2% today. It is also noteworthy

that Tubbataha Reef in Palawan and the Subterranean River Park in Puerto Princesa are now declared World Heritage Sites by UNESCO. These are the only protected areas in the country under direct LGU protection and control. None of similar areas administered by the DENR had achieved the same dramatic results and global recognition.

A study also shows that despite the lack of resources (human, financial and technical), LGUs have generally implemented the pertinent provisions of the 1991 Local Government Code in the area of environmental management.⁶ The devolution even provided LGUs several opportunities to forge partnership with non-governmental organizations and people's organization in local environmental management. In fact, local environmental management is one major area where LGUs demonstrated innovations and excellence in local governance.⁷

In other words, since the enactment of the 1991 Local Government Code, LGUs have been improving on their ability to manage the ENR sector. This occurs in the same period when the national government has tremendously diminished its ability to do so because of rising fiscal pressures on it and because of the declining budgetary positions of national government agencies. Today, about 95% of the DENR budget goes to only salaries and almost none for operations. In contrast, LGUs have their IRAs that can be devoted to environment and development, and these are assured by law.

The present situation today indicates that the capacities⁸ to deliver services (including the ability to govern, regulate and develop the environment and natural resources of the country) have been piling up in LGUs, but ironically weakening in national government agencies. It is likely to be the trend into the medium- to long-terms when LGUs accumulate even more experience to govern local environments and natural resources (Figure 1).

⁶ Perla E. Legaspi, "The Role of LGUs in the Management of Fisheries/Aquatic Resources: Some Policy Issues and Proposal" in Proserpina D. Tapales, Jocelyn Cuaresma and Whilhelmina L. Cabo, eds., *Local Government in the Philippines: A Book of Readings* (Quezon City: National College of Public Administration and Governance, 1998), p. 620.

⁷ Alex B. Brillantes, *Innovations and Excellence: Understanding Local Governments in the Philippines* (Quezon City: National College of Public Administration and Governance, 2003).

⁸ Capacities include having the people with the competence to know what to do with an issue at hand, the ability to finance what needs to be done, the mandate to act on the issues, and having the public support to do so. LGUs may still compare less than DENR in terms of concentrations of people with the technical competence to act on issues relating to environment and natural resources. But not so necessarily on the ability to fund and support an action within their jurisdictions, the mandate to act, and the public to support their actions. It is in these areas (and in may instances even on the first) that LGUs have improved on their capacities to act on matters relating to environment and natural resources.

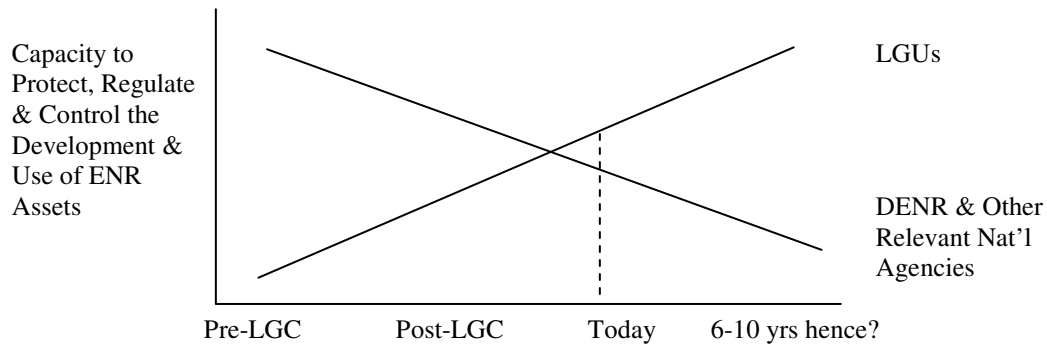


Figure 1. Comparative capacities to deliver environment and natural resource governance by LGUs and national government agencies, from 1991 to today.

With their already improved capacities to deliver ENR governance and services today, it is outright unconscionable that LGUs are not fully utilized in these tasks. This becomes even more ludicrous and assaults the logic of good and efficient public administration when LGUs, now prepared as they are after years of having been capacitated by the national government, are not now fully tapped by the national government and made the fulcrum of the delivery of ENR governance and services, at this time, as now, when national agencies, in comparison, are less able and are beset by difficulties to do it.

C. It is a politically and environmentally correct thing to do.

The Philippines is an archipelago of highly diverse cultures, traditions, belief systems, political histories, environmental conditions, and arrays of natural resources. They are so diverse so that no one agency of the national government can attend to all their different forms and presentations.

The design and implementation of national programs (e.g., on forest development or enforcement of fisheries laws) cannot hope to capture the different ways that the circumstances of forests and fisheries (or their threats) can be attended to sufficiently and effectively. Forest are many things to our many peoples; some are sources of livelihoods and some are sacred groves. Fisheries, too, require different management systems in different marine and freshwater environments. National agencies might widen the breadth to which they can capture the specificity of natural resources and environments, and the specificities of the cultures and communities that interact with them. But no way can they hope to make a difference – in depth – in as many places as are needed to be done because, quiet simply, they can't be anywhere with as much presence or deployment of resources as would be needed, as they wish.

The extremely high diversity of environmental, social and, too, political, situations in the Philippines demands that local environments and natural resources be governed in depth, in their specific circumstances, in each different location. No state agency has the ability, mandate and capacity to do this task more than LGUs.

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

The current state of devolution in the ENR sector in the Philippines is at best, partial. At worst, the devolution process is minuscule and insignificant because they mainly involve functions that are either: (a) peripheral to the DENR's principal cache of 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 even involve the bulk of the functions stipulated in the 1991 Local Government Code. So far, the devolved functions 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 watersheds⁹
- Integrated Social Forestry Projects
- Community-Based Forestry Projects
- 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;¹⁰ also includes the establishment of marine protected areas (per the Fisheries Code of 1998 [RA 8550]).
- 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])

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.

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.

⁹ See also Mercado, E. "Decentralization and Devolution of Forest Management in the Philippines: Uneasy Steps to Institutional Maturity." In <http://www.fao.org/docrep/003/x6898e/x6898e06.htm>

¹⁰ See Maxino, M. 1997. "Legal and Policy Gaps in Fisheries Law Enforcement." In *Coastal Currents* 1st Quarter v 2 n 1. "Municipal fishing waters" are as now defined by the Fisheries Code of 1998 (RA 8550).

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?

The existing capacity of LGUs to perform their ENR functions is good in general. However, local capacities in ENR management widely vary across LGUs of different types and classifications. With DENR rationalization – if done right – the situation can be further improved.

Many LGUs have accumulated a vast array of experience in addressing environmental and development issues in their jurisdictions. The *Galing Pook* 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.

The build-up of LGU ENR competence has been generally credited to the creativity, daring and innovativeness of many Local Government Executives. It is anticipated to intensify if DENR were to reconfigure itself to actually become even more dependent on LGUs as its mutually-reinforcing partners in discharging ENR governance functions.

We therefore propose the DENR rationalization to be geared towards creating a “demand side” impetus for LGUs to improve on their capacities to discharge the functions.

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

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

We propose that the principal goal of the devolution program to is eventually achieve in 10 years the following structure of delivery of ENR governance in the Philippines: National agencies, principally the DENR, shall function as policy-making and standard setting agencies with the powers to:

- a. Prescribe the conditions of environment and natural resources that shall obtain in the jurisdiction of all LGUs in the country. These conditions shall be based on obtaining conditions in the country and country obligations to international treaties. These conditions shall be deemed minimum conditions that LGUs must be able to comply with.
- b. Prescribe the methods and procedures for ensuring good governance of environment and natural resources, including technical processes that need to be observed; these include methods and procedures for ensuring high transparency, due diligence and accountability, predictability and participation by different sectors and stakeholders in the decisions and actions to govern environmental amenities and natural resources.
- c. Prescribe the processes for how LGUs might develop a program of action to achieve prescribed conditions of their environment and natural resources at the soonest possible time.
- d. Provide ready technical assistance to LGUs.
- e. Monitor LGU performance and compliance to national policies and standards and to how they conduct the prescribed methods and procedures for governing environmental amenities and natural resources.
- f. Conduct international negotiations relating to Philippine commitments to global environmental initiatives.

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. LGUs shall assume the primary functions of:

- a. Developing, protecting, and regulating the use of environmental amenities and natural resources within their jurisdictions
- b. Ensure the highest possible levels of environmental quality and quality of natural resources within their jurisdictions
- c. Enforce (and prosecute violations of) all environmental laws and regulations
- d. Ensure that national policies and standards and prescribed methods and procedures for governing the environment and natural resources within their jurisdictions are fully and properly observed.
- e. Ensure full social and cultural equity in the allocation and sharing of the benefits from the environment and natural resources within their jurisdictions.
- f. Supervise all civil services on environment and natural resources.
- g. Support the ENR activities and aspirations of indigenous peoples, local communities, civil society, industry, and academe within their jurisdictions.
- h. Enhance and sustain local capacities to develop and sustainably use the environment and natural resources within their jurisdictions
- i. Implement local or donor-supported ENR projects within their jurisdictions

Appropriate institutional arrangements (see below, 4.3) shall be established to ensure that national agencies (mainly DENR) and LGUs are able to jointly improve ENR governance nationwide.

A. What to devolve, when?

We propose a *phased devolution* of additional ENR functions to LGUs.

We propose that subject to conditions as would be required by law and as prescribed by her, the President issues an Executive Order setting a schedule of additional ENR devolution as follows:

- *Immediately (within the next 12 months)*
 1. **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.
 2. **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.¹¹
- *Within the next 2-3 years*
 1. **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.
 2. **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.
- *Within the next 4-6 years*
 1. **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.
 2. **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.

¹¹ The existing PAMB system may be maintained as is; this refers to only the supervision of the protected areas which are now done by DENR personnel.

- *Within the next 7-10 years*
 1. **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.)
 2. **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.

B.Recommendation on a strategy of devolution

We propose that ENR devolution be phased according to: (1) the schedule of devolution above, and (2) the preparedness of individual LGUs to assume the devolved functions.

The schedule above shall be observed notwithstanding the capacity of any LGU to assume the function at an earlier time, for two reasons: (1) 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 (2) stakeholders might need time to prepare for the function being devolved to LGUs.

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.

C.Recommendation on institutional arrangements to facilitate the devolution.

We recommend that in order for the devolution process to proceed immediately and without harming the interests of both the affected civil service personnel, the LGUs and their constituencies, the devolution will involve:

1. *In the short-term (next 1-3 years):* The immediate assignment of all DENR field personnel (CENROs and PENROs) to direct supervision by LGUs, but subject to five (5) necessary conditions:

- 1.1 Their present salary grades are maintained
 - 1.2 The pace of their promotions as indicated by the pace they have been promoted in the last 10 years shall be maintained if not upgraded
 - 1.3 Their full salaries and benefits are shouldered by the national government for up to 5 years from the date of their devolution, then scaled down by 25% each year thereafter with the balance to be shouldered by their host LGUs; their salaries and benefits shall be shouldered by their host LGUs fully in the tenth year
 - 1.4 The devolved personnel shall be given the option to negotiate with their agency (i.e., DENR) as to which LGUs they shall prefer to be assigned
 - 1.5 Subject to guidelines to be issued by competent authorities (e.g., OP and DBM) host LGUs shall be accorded the option to impose performance standards on devolved personnel as basis for supporting their salary and benefit requirements beginning the sixth year of their devolution
2. *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. They shall derive technical guidance and assistance from DENR bureaus to conduct LGU support operations in the region. These operations shall include (but not limited to) ENR research and extension services; designing programs and projects; interpretation of national policies, standards and regulations for local applications; and deploying experts from either the regional office or the DENR bureaus to assist in the undertakings of the LGUs. Their salaries and benefits shall be fully assumed by the national government as now.
 3. *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. The five conditions in (1) shall apply.

D. 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. The programs shall aim to (1) enhance human competence (expertise and quality) to address environmental and development issues, (2) develop and build-up LGU financial mechanisms to support and sustain ENR-related initiatives, (3) develop and institute good governance mechanisms to discharge ENR functions, and (4) develop mechanisms for involving stakeholders and the general public in the discharge of ENR functions.¹²

¹² A recent DENR-DA-UNDP/GEF assessment (the National Capacity Self-Assessment Project) shows that most LGUs have presently low capacities to address environmental matters relating to biodiversity conservation, climate change, and land degradation and drought. The assessment point to the lack of experts in LGU employ to design appropriate interventions on these matters, and to their lack of funding commitments to address them, as among the principal reasons for these capacity shortfalls. This is as it is

E.Tailoring DENR rationalization to support these recommendations.

We recommend very strongly that DENR rationalization be made consistent with the devolution intent of law. We recommend that it be made consistent with how we propose to intensify the devolution process, as described in this position paper.

We recommend that DENR rationalization goes beyond the manner it is presently intended and contemplated. As best as we could tell, the present thrust of DENR rationalization is to realign its personnel and offices to discharge existing functions. There is no contemplation of radically restructuring the distribution of the functions to governance institutions outside DENR (e.g., LGUs). It is merely reordering the internal functions and offices of DENR. There is no contemplation of significant devolution of the functions to LGUs. (See Attachment 1, DENR Rationalization Plans).

CONCLUSION

The devolution strategy we propose (phased over ten years) is fair to both the LGUs and their constituencies, and the DENR and its personnel. It is a win-win strategy to fully carry out the letter and intent of the Local Government Code.

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, as we here propose.

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also recognized that LGUs have the high potential to attend to local manifestations of these concerns. Capacity development is pointed out in the assessment to be critical to enhancing LGU effectiveness to addressing the concerns.