

**THE PROVINCE OF BATANGAS, REPRESENTED BY ITS GOVERNOR,  
HERMILANDO I. MANDANAS, PETITIONER, VS. HON. ALBERTO G.  
ROMULO, EXECUTIVE SECRETARY AND CHAIRMAN OF THE  
OVERSIGHT COMMITTEE...**

*G.R. No. 152774. May 27, 2004*

Ponente: CALLEJO, SR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-152774/>

---

**CALLEJO, SR., J.:**

The Province of Batangas, represented by its Governor, Hermilando I. Mandanas, filed the present petition for certiorari, prohibition and mandamus under Rule 65 of the Rules of Court, as amended, to declare as unconstitutional and void certain provisos contained in the General Appropriations Acts (GAA) of 1999, 2000 and 2001, insofar as they uniformly earmarked for each corresponding year the amount of five billion pesos (P5,000,000,000.00) of the Internal Revenue Allotment (IRA) for the Local Government Service Equalization Fund (LGSEF) and imposed conditions for the release thereof.

Named as respondents are Executive Secretary Alberto G. Romulo, in his capacity as Chairman of the Oversight Committee on Devolution, Secretary Emilia Boncodin of the Department of Budget and Management (DBM) and Secretary Jose Lina of the Department of Interior and Local Government (DILG).

**Background**

On December 7, 1998, then President Joseph Ejercito Estrada issued Executive Order (E.O.) No. 48 entitled “ESTABLISHING A PROGRAM FOR DEVOLUTION ADJUSTMENT AND EQUALIZATION.” The program was established to “facilitate the process of enhancing the capacities of local government units (LGUs) in the discharge of the functions and services devolved to them by the National Government Agencies concerned pursuant to the Local Government Code.”[1] The Oversight Committee (referred to as the Devolution Committee in E.O. No. 48) constituted under Section 533(b) of Republic Act No. 7160 (The Local Government Code of 1991) has been tasked to formulate and issue the appropriate rules and regulations necessary for its effective implementation.[2] Further, to address the funding shortfalls of functions and services devolved to the LGUs and other funding requirements of the program, the “Devolution Adjustment and Equalization Fund” was created.[3] For 1998, the DBM was directed to set aside an amount to be determined by the Oversight Committee based on the devolution status appraisal surveys undertaken by the DILG.[4] The initial fund was to be sourced from the available savings of the national government for CY 1998. [5] For 1999 and the succeeding years, the corresponding amount required to sustain the program was to be incorporated in the annual GAA.[6] The Oversight Committee has been authorized to issue the implementing rules and regulations governing the equitable allocation and distribution of said fund to the LGUs.[7]

**The LGSEF in the GAA of 1999**

In Republic Act No. 8745, otherwise known as the GAA of 1999, the program was renamed as the LOCAL GOVERNMENT SERVICE EQUALIZATION FUND (LGSEF). Under said appropriations law, the amount of

P96,780,000,000 was allotted as the share of the LGUs in the internal revenue taxes. Item No. 1, Special Provisions, Title XXXVI – A. Internal Revenue Allotment of Rep. Act No. 8745 contained the following proviso:

... PROVIDED, That the amount of FIVE BILLION PESOS (P5,000,000,000) shall be earmarked for the Local Government Service Equalization Fund for the funding requirements of projects and activities arising from the full and efficient implementation of devolved functions and services of local government units pursuant to R.A. No. 7160, otherwise known as the Local Government Code of 1991: PROVIDED, FURTHER, That such amount shall be released to the local government units subject to the implementing rules and regulations, including such mechanisms and guidelines for the equitable allocations and distribution of said fund among local government units subject to the guidelines that may be prescribed by the Oversight Committee on Devolution as constituted pursuant to Book IV, Title III, Section 533(b) of R.A. No. 7160. The Internal Revenue Allotment shall be released directly by the Department of Budget and Management to the Local Government Units concerned.

On July 28, 1999, the Oversight Committee (with then Executive Secretary Ronaldo B. Zamora as Chairman) passed Resolution Nos. OCD-99-003, OCD-99-005 and OCD-99-006 entitled as follows:

OCD-99-005

RESOLUTION ADOPTING THE ALLOCATION SCHEME FOR THE PhP5 BILLION CY 1999 LOCAL GOVERNMENT SERVICE EQUALIZATION FUND (LGSEF) AND REQUESTING HIS EXCELLENCY PRESIDENT JOSEPH EJERCITO ESTRADA TO APPROVE SAID ALLOCATION SCHEME.

OCD-99-006

RESOLUTION ADOPTING THE ALLOCATION SCHEME FOR THE PhP4.0 BILLION OF THE 1999 LOCAL GOVERNMENT SERVICE EQUALIZATION FUND AND ITS CONCOMITANT GENERAL FRAMEWORK, IMPLEMENTING GUIDELINES AND MECHANICS FOR ITS IMPLEMENTATION AND RELEASE, AS PROMULGATED BY THE OVERSIGHT COMMITTEE ON DEVOLUTION.

OCD-99-003

RESOLUTION REQUESTING HIS EXCELLENCY PRESIDENT JOSEPH EJERCITO ESTRADA TO APPROVE THE REQUEST OF THE OVERSIGHT COMMITTEE ON DEVOLUTION TO SET ASIDE TWENTY PERCENT (20%) OF THE LOCAL GOVERNMENT SERVICE EQUALIZATION FUND (LGSEF) FOR LOCAL AFFIRMATIVE ACTION PROJECTS AND OTHER PRIORITY INITIATIVES FOR LGUs INSTITUTIONAL AND CAPABILITY BUILDING IN ACCORDANCE WITH THE IMPLEMENTING GUIDELINES AND MECHANICS AS PROMULGATED BY THE COMMITTEE.

These OCD resolutions were approved by then President Estrada on October 6, 1999.

Under the allocation scheme adopted pursuant to Resolution No. OCD-99-005, the five billion pesos LGSEF was to be allocated as follows:

- The PhP4 Billion of the LGSEF shall be allocated in accordance with the allocation scheme and implementing guidelines and mechanics promulgated and adopted by the OCD. To wit:
- The first PhP2 Billion of the LGSEF shall be allocated in accordance with the codal formula sharing scheme as prescribed under the 1991 Local Government Code;
- The second PhP2 Billion of the LGSEF shall be allocated in accordance with a modified 1992 cost of devolution fund (CODEF) sharing scheme, as recommended by the respective leagues of provinces, cities and municipalities to the OCD. The modified CODEF sharing formula is as follows:

Province : 40%

Cities : 20%

Municipalities : 40%

This is applied to the P2 Billion after the approved amounts granted to individual provinces, cities and municipalities as assistance to cover decrease in 1999 IRA share due to reduction in land area have been taken out.

- The remaining PhP1 Billion of the LGSEF shall be earmarked to support local affirmative action projects and other priority initiatives submitted by LGUs to the Oversight Committee on Devolution for approval in accordance with its prescribed guidelines as promulgated and adopted by the OCD.

In Resolution No. OCD-99-003, the Oversight Committee set aside the one billion pesos or 20% of the LGSEF to support Local Affirmative Action Projects (LAAPs) of LGUs. This remaining amount was intended to “respond to the urgent need for additional funds assistance, otherwise not available within the parameters of other existing fund sources.” For LGUs to be eligible for funding under the one-billion-peso portion of the LGSEF, the OCD promulgated the following:

### III. CRITERIA FOR ELIGIBILITY:

- LGUs (province, city, municipality, or barangay), individually or by group or multi-LGUs or leagues of LGUs, especially those belonging to the 5th and 6th class, may access the fund to support any projects or activities that satisfy any of the aforesaid purposes. A barangay may also access this fund directly or through their respective municipality or city.
- The proposed project/activity should be need-based, a local priority, with high development impact and are congruent with the socio-cultural, economic and development agenda of the Estrada Administration, such as food security, poverty alleviation, electrification, and peace and order, among others.
- Eligible for funding under this fund are projects arising from, but not limited to, the following areas of concern:
  - delivery of local health and sanitation services, hospital services and other tertiary services;
  - delivery of social welfare services;
  - provision of socio-cultural services and facilities for youth and community development;
  - provision of agricultural and on-site related research;
  - improvement of community-based forestry projects and other local projects on environment and natural resources protection and conservation;
  - improvement of tourism facilities and promotion of tourism;
  - peace and order and public safety;
  - construction, repair and maintenance of public works and infrastructure, including public buildings and facilities for public use, especially those destroyed or damaged by man-made or natural calamities and disaster as well as facilities for water supply, flood control and river dikes;
  - provision of local electrification facilities;
  - livelihood and food production services, facilities and equipment;
  - other projects that may be authorized by the OCD consistent with the aforementioned objectives and guidelines;

- Except on extremely meritorious cases, as may be determined by the Oversight Committee on Devolution, this portion of the LGSEF shall not be used in expenditures for personal costs or benefits under existing laws applicable to governments. Generally, this fund shall cover the following objects of expenditures for programs, projects and activities arising from the implementation of devolved and regular functions and services:

- acquisition/procurement of supplies and materials critical to the full and effective implementation of devolved programs, projects and activities;
- repair and/or improvement of facilities;
- repair and/or upgrading of equipment;
- acquisition of basic equipment;
- construction of additional or new facilities;
- counterpart contribution to joint arrangements or collective projects among groups of municipalities, cities and/or provinces related to devolution and delivery of basic services.

- To be eligible for funding, an LGU or group of LGU shall submit to the Oversight Committee on Devolution through the Department of Interior and Local Governments, within the prescribed schedule and timeframe, a Letter Request for Funding Support from the Affirmative Action Program under the LGSEF, duly signed by the concerned LGU(s) and endorsed by cooperators and/or beneficiaries, as well as the duly signed Resolution of Endorsement by the respective Sanggunian(s) of the LGUs concerned. The LGU-proponent shall also be required to submit the Project Request (PR), using OCD Project Request Form No. 99-02, that details the following:

(a)

general description or brief of the project;

(b)

objectives and justifications for undertaking the project, which should highlight the benefits to the locality and the expected impact to the local program/project arising from the full and efficient implementation of social services and facilities, at the local levels;

(c) target outputs or key result areas;

(d) schedule of activities and details of requirements;

(e) total cost requirement of the project;

(f) proponent's counterpart funding share, if any, and identified source(s) of counterpart funds for the full implementation of the project;

(g) requested amount of project cost to be covered by the LGSEF.

Further, under the guidelines formulated by the Oversight Committee as contained in Attachment - Resolution No. OCD-99-003, the LGUs were required to identify the projects eligible for funding under the one-billion- peso portion of the LGSEF and submit the project proposals thereof and other documentary requirements to the DILG for appraisal. The project proposals that passed the DILG's appraisal would then be submitted to the Oversight Committee for review, evaluation and approval. Upon its approval, the Oversight Committee would then serve notice to the DBM for the preparation of the Special Allotment Release Order (SARO) and Notice of Cash Allocation (NCA) to effect the release of funds to the said LGUs.

### The LGSEF in the GAA of 2000

Under Rep. Act No. 8760, otherwise known as the GAA of 2000, the amount of P111,778,000,000 was allotted as the share of the LGUs in the internal revenue taxes. As in the GAA of 1999, the GAA of 2000 contained a proviso earmarking five billion pesos of the IRA for the LGSEF. This proviso, found in Item No. 1, Special Provisions, Title XXXVII – A. Internal Revenue Allotment, was similarly worded as that contained in the GAA of 1999.

The Oversight Committee, in its Resolution No. OCD-2000-023 dated June 22, 2000, adopted the following allocation scheme governing the five billion pesos LGSEF for 2000:

- The PhP3.5 Billion of the CY 2000 LGSEF shall be allocated to and shared by the four levels of LGUs, i.e., provinces, cities, municipalities, and barangays, using the following percentage-sharing formula agreed upon and jointly endorsed by the various Leagues of LGUs:

For Provinces

26% or P 910,000,000

For Cities

23% or 805,000,000

For Municipalities

35% or 1,225,000,000

For Barangays

16% or 560,000,000

Provided that the respective Leagues representing the provinces, cities, municipalities and barangays shall draw up and adopt the horizontal distribution/sharing schemes among the member LGUs whereby the Leagues concerned may opt to adopt direct financial assistance or project-based arrangement, such that the LGSEF allocation for individual LGU shall be released directly to the LGU concerned;

Provided further that the individual LGSEF shares to LGUs are used in accordance with the general purposes and guidelines promulgated by the OCD for the implementation of the LGSEF at the local levels pursuant to Res. No. OCD-99-006 dated October 7, 1999 and pursuant to the Leagues' guidelines and mechanism as approved by the OCD;

Provided further that each of the Leagues shall submit to the OCD for its approval their respective allocation scheme, the list of LGUs with the corresponding LGSEF shares and the corresponding project categories if project-based;

Provided further that upon approval by the OCD, the lists of LGUs shall be endorsed to the DBM as the basis for the preparation of the corresponding NCAs, SAROs, and related budget/release documents.

- The remaining P1,500,000,000 of the CY 2000 LGSEF shall be earmarked to support the following initiatives and local affirmative action projects, to be endorsed to and approved by the Oversight Committee on Devolution in accordance with the OCD agreements, guidelines, procedures and documentary requirements:

On July 5, 2000, then President Estrada issued a Memorandum authorizing then Executive Secretary Zamora and the DBM to implement and release the 2.5 billion pesos LGSEF for 2000 in accordance with Resolution No. OCD-2000-023.

Thereafter, the Oversight Committee, now under the administration of President Gloria Macapagal-Arroyo, promulgated Resolution No. OCD-2001-29 entitled “ADOPTING RESOLUTION NO. OCD-2000-023 IN THE ALLOCATION, IMPLEMENTATION AND RELEASE OF THE REMAINING P2.5 BILLION LGSEF FOR CY 2000.” Under this resolution, the amount of one billion pesos of the LGSEF was to be released in accordance with paragraph 1 of Resolution No. OCD-2000-23, to complete the 3.5 billion pesos allocated to the LGUs, while the amount of 1.5 billion pesos was allocated for the LAAP. However, out of the latter amount, P400,000,000 was to be allocated and released as follows: P50,000,000 as financial assistance to the LAAPs of LGUs; P275,360,227 as financial assistance to cover the decrease in the IRA of LGUs concerned due to reduction in land area; and P74,639,773 for the LGSEF Capability-Building Fund.

#### The LGSEF in the GAA of 2001

In view of the failure of Congress to enact the general appropriations law for 2001, the GAA of 2000 was deemed re-enacted, together with the IRA of the LGUs therein and the proviso earmarking five billion pesos thereof for the LGSEF.

On January 9, 2002, the Oversight Committee adopted Resolution No. OCD-2002-001 allocating the five billion pesos LGSEF for 2001 as follows:

Modified Codal Formula

P 3.000 billion

Priority Projects

1.900 billion

Capability Building Fund

.100 billion

P 5.000 billion

RESOLVED FURTHER, that the P3.0 B of the CY 2001 LGSEF which is to be allocated according to the modified codal formula shall be released to the four levels of LGUs, i.e., provinces, cities, municipalities and barangays, as follows:

LGUs Percentage Amount

Provinces 25 P 0.750 billion

Cities 25 0.750

Municipalities 35 1.050

Barangays 15 0.450

100 P 3.000 billion

RESOLVED FURTHER, that the P1.9 B earmarked for priority projects shall be distributed according to the following criteria:

1.0

For projects of the 4th, 5th and 6th class LGUs; or

2.0

Projects in consonance with the President's State of the Nation Address (SONA)/summit commitments.

RESOLVED FURTHER, that the remaining P100 million LGSEF capability building fund shall be distributed in accordance with the recommendation of the Leagues of Provinces, Cities, Municipalities and Barangays, and approved by the OCD.

Upon receipt of a copy of the above resolution, Gov. Mandanas wrote to the individual members of the Oversight Committee seeking the reconsideration of Resolution No. OCD-2002-001. He also wrote to Pres. Macapagal-Arroyo urging her to disapprove said resolution as it violates the Constitution and the Local Government Code of 1991.

On January 25, 2002, Pres. Macapagal-Arroyo approved Resolution No. OCD-2002-001.

#### The Petitioner's Case

The petitioner now comes to this Court assailing as unconstitutional and void the provisos in the GAAs of 1999, 2000 and 2001, relating to the LGSEF. Similarly assailed are the Oversight Committee's Resolutions Nos. OCD-99-003, OCD-99-005, OCD-99-006, OCD-2000-023, OCD-2001-029 and OCD-2002-001 issued pursuant thereto. The petitioner submits that the assailed provisos in the GAAs and the OCD resolutions, insofar as they earmarked the amount of five billion pesos of the IRA of the LGUs for 1999, 2000 and 2001 for the LGSEF and imposed conditions for the release thereof, violate the Constitution and the Local Government Code of 1991.

Section 6, Article X of the Constitution is invoked as it mandates that the "just share" of the LGUs shall be automatically released to them. Sections 18 and 286 of the Local Government Code of 1991, which enjoin that the "just share" of the LGUs shall be "automatically and directly" released to them "without need of further action" are, likewise, cited.

The petitioner posits that to subject the distribution and release of the five- billion-peso portion of the IRA, classified as the LGSEF, to compliance by the LGUs with the implementing rules and regulations, including the mechanisms and guidelines prescribed by the Oversight Committee, contravenes the explicit directive of the Constitution that the LGUs' share in the national taxes "shall be automatically released to them." The petitioner maintains that the use of the word "shall" must be given a compulsory meaning.

To further buttress this argument, the petitioner contends that to vest the Oversight Committee with the authority to determine the distribution and release of the LGSEF, which is a part of the IRA of the LGUs, is an anathema to the principle of local autonomy as embodied in the Constitution and the Local Government Code of 1991. The petitioner cites as an example the experience in 2001 when the release of the LGSEF was long delayed because the Oversight Committee was not able to convene that year and no guidelines were issued therefor. Further, the possible disapproval by the Oversight Committee of the project proposals of the LGUs would result in the diminution of the latter's share in the IRA.

Another infringement alleged to be occasioned by the assailed OCD resolutions is the improper amendment to Section 285 of the Local Government Code of 1991 on the percentage sharing of the IRA among the LGUs. Said provision allocates the IRA as follows: Provinces – 23%; Cities – 23%; Municipalities – 34%; and Barangays – 20%.[8] This formula has been improperly amended or modified, with respect to the five-billion-peso portion of the IRA allotted for the LGSEF, by the assailed OCD resolutions as they invariably provided for a different sharing scheme.

The modifications allegedly constitute an illegal amendment by the executive branch of a substantive law. Moreover, the petitioner mentions that in the Letter dated December 5, 2001 of respondent Executive Secretary Romulo addressed to respondent Secretary Boncodin, the former endorsed to the latter the release of funds to

certain LGUs from the LGSEF in accordance with the handwritten instructions of President Arroyo. Thus, the LGUs are at a loss as to how a portion of the LGSEF is actually allocated. Further, there are still portions of the LGSEF that, to date, have not been received by the petitioner; hence, resulting in damage and injury to the petitioner.

The petitioner prays that the Court declare as unconstitutional and void the assailed provisos relating to the LGSEF in the GAAs of 1999, 2000 and 2001 and the assailed OCD resolutions (Resolutions Nos. OCD-99-003, OCD-99-005, OCD-99-006, OCD-2000-023, OCD-2001-029 and OCD-2002-001) issued by the Oversight Committee pursuant thereto. The petitioner, likewise, prays that the Court direct the respondents to rectify the unlawful and illegal distribution and releases of the LGSEF for the aforementioned years and release the same in accordance with the sharing formula under Section 285 of the Local Government Code of 1991. Finally, the petitioner urges the Court to declare that the entire IRA should be released automatically without further action by the LGUs as required by the Constitution and the Local Government Code of 1991.

#### The Respondents' Arguments

The respondents, through the Office of the Solicitor General, urge the Court to dismiss the petition on procedural and substantive grounds. On the latter, the respondents contend that the assailed provisos in the GAAs of 1999, 2000 and 2001 and the assailed resolutions issued by the Oversight Committee are not constitutionally infirm. The respondents advance the view that Section 6, Article X of the Constitution does not specify that the "just share" of the LGUs shall be determined solely by the Local Government Code of 1991. Moreover, the phrase "as determined by law" in the same constitutional provision means that there exists no limitation on the power of Congress to determine what is the "just share" of the LGUs in the national taxes. In other words, Congress is the arbiter of what should be the "just share" of the LGUs in the national taxes.

The respondents further theorize that Section 285 of the Local Government Code of 1991, which provides for the percentage sharing of the IRA among the LGUs, was not intended to be a fixed determination of their "just share" in the national taxes. Congress may enact other laws, including appropriations laws such as the GAAs of 1999, 2000 and 2001, providing for a different sharing formula. Section 285 of the Local Government Code of 1991 was merely intended to be the "default share" of the LGUs to do away with the need to determine annually by law their "just share." However, the LGUs have no vested right in a permanent or fixed percentage as Congress may increase or decrease the "just share" of the LGUs in accordance with what it believes is appropriate for their operation. There is nothing in the Constitution which prohibits Congress from making such determination through the appropriations laws. If the provisions of a particular statute, the GAA in this case, are within the constitutional power of the legislature to enact, they should be sustained whether the courts agree or not in the wisdom of their enactment.

On procedural grounds, the respondents urge the Court to dismiss the petition outright as the same is defective. The petition allegedly raises factual issues which should be properly threshed out in the lower courts, not this Court, not being a trier of facts. Specifically, the petitioner's allegation that there are portions of the LGSEF that it has not, to date, received, thereby causing it (the petitioner) injury and damage, is subject to proof and must be substantiated in the proper venue, i.e., the lower courts.

Further, according to the respondents, the petition has already been rendered moot and academic as it no longer presents a justiciable controversy. The IRAs for the years 1999, 2000 and 2001, have already been released and the government is now operating under the 2003 budget. In support of this, the respondents submitted certifications issued by officers of the DBM attesting to the release of the allocation or shares of the petitioner in the LGSEF for 1999, 2000 and 2001. There is, therefore, nothing more to prohibit.

Finally, the petitioner allegedly has no legal standing to bring the suit because it has not suffered any injury. In fact, the petitioner's "just share" has even increased. Pursuant to Section 285 of the Local Government Code of 1991, the share of the provinces is 23%. OCD Nos. 99-005, 99-006 and 99-003 gave the provinces 40% of P2 billion of the LGSEF. OCD Nos. 2000-023 and 2001-029 apportioned 26% of P3.5 billion to the provinces. On the other hand, OCD No. 2001-001 allocated 25% of P3 billion to the provinces. Thus, the petitioner has not suffered any injury in the implementation of the assailed provisos in the GAAs of 1999, 2000 and 2001 and the OCD resolutions.

#### The Ruling of the Court

##### Procedural Issues

Before resolving the petition on its merits, the Court shall first rule on the following procedural issues raised by the respondents: (1) whether the petitioner has legal standing or locus standi to file the present suit; (2) whether the petition involves factual questions that are properly cognizable by the lower courts; and (3) whether the issue had been rendered moot and academic.

The petitioner has locus standi  
to maintain the present suit

The gist of the question of standing is whether a party has "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." [9] Accordingly, it has been held that the interest of a party assailing the constitutionality of a statute must be direct and personal. Such party must be able to show, not only that the law or any government act is invalid, but also that he has sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way. It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of. [10]

The Court holds that the petitioner possesses the requisite standing to maintain the present suit. The petitioner, a local government unit, seeks relief in order to protect or vindicate an interest of its own, and of the other LGUs. This interest pertains to the LGUs' share in the national taxes or the IRA. The petitioner's constitutional claim is, in substance, that the assailed provisos in the GAAs of 1999, 2000 and 2001, and the OCD resolutions contravene Section 6, Article X of the Constitution, mandating the "automatic release" to the LGUs of their share in the national taxes. Further, the injury that the petitioner claims to suffer is the diminution of its share in the IRA, as provided under Section 285 of the Local Government Code of 1991, occasioned by the implementation of the assailed measures. These allegations are sufficient to grant the petitioner standing to question the validity of the assailed provisos in the GAAs of 1999, 2000 and 2001, and the OCD resolutions as the petitioner clearly has "a plain, direct and adequate interest" in the manner and distribution of the IRA among the LGUs.

The petition involves a significant  
legal issue

The crux of the instant controversy is whether the assailed provisos contained in the GAAs of 1999, 2000 and 2001, and the OCD resolutions infringe the Constitution and the Local Government Code of 1991. This is undoubtedly a legal question. On the other hand, the following facts are not disputed:

- The earmarking of five billion pesos of the IRA for the LGSEF in the assailed provisos in the GAAs of 1999, 2000 and re-enacted budget for 2001;

- The promulgation of the assailed OCD resolutions providing for the allocation schemes covering the said five billion pesos and the implementing rules and regulations therefor; and
- The release of the LGSEF to the LGUs only upon their compliance with the implementing rules and regulations, including the guidelines and mechanisms, prescribed by the Oversight Committee.

Considering that these facts, which are necessary to resolve the legal question now before this Court, are no longer in issue, the same need not be determined by a trial court.[11] In any case, the rule on hierarchy of courts will not prevent this Court from assuming jurisdiction over the petition. The said rule may be relaxed when the redress desired cannot be obtained in the appropriate courts or where exceptional and compelling circumstances justify availment of a remedy within and calling for the exercise of this Court's primary jurisdiction. [12]

The crucial legal issue submitted for resolution of this Court entails the proper legal interpretation of constitutional and statutory provisions. Moreover, the "transcendental importance" of the case, as it necessarily involves the application of the constitutional principle on local autonomy, cannot be gainsaid. The nature of the present controversy, therefore, warrants the relaxation by this Court of procedural rules in order to resolve the case forthwith.

The substantive issue needs to be resolved notwithstanding the supervening events

Granting arguendo that, as contended by the respondents, the resolution of the case had already been overtaken by supervening events as the IRA, including the LGSEF, for 1999, 2000 and 2001, had already been released and the government is now operating under a new appropriations law, still, there is compelling reason for this Court to resolve the substantive issue raised by the instant petition. Supervening events, whether intended or accidental, cannot prevent the Court from rendering a decision if there is a grave violation of the Constitution.[13] Even in cases where supervening events had made the cases moot, the Court did not hesitate to resolve the legal or constitutional issues raised to formulate controlling principles to guide the bench, bar and public.[14]

Another reason justifying the resolution by this Court of the substantive issue now before it is the rule that courts will decide a question otherwise moot and academic if it is "capable of repetition, yet evading review." [15] For the GAAs in the coming years may contain provisos similar to those now being sought to be invalidated, and yet, the question may not be decided before another GAA is enacted. It, thus, behooves this Court to make a categorical ruling on the substantive issue now.

#### Substantive Issue

As earlier intimated, the resolution of the substantive legal issue in this case calls for the application of a most important constitutional policy and principle, that of local autonomy.[16] In Article II of the Constitution, the State has expressly adopted as a policy that:

Section 25. The State shall ensure the autonomy of local governments.

An entire article (Article X) of the Constitution has been devoted to guaranteeing and promoting the autonomy of LGUs. Section 2 thereof reiterates the State policy in this wise:

Section 2. The territorial and political subdivisions shall enjoy local autonomy.

Consistent with the principle of local autonomy, the Constitution confines the President's power over the LGUs to one of general supervision.[17] This provision has been interpreted to exclude the power of control. The distinction between the two powers was enunciated in *Drilon v. Lim*: [18]

An officer in control lays down the rules in the doing of an act. If they are not followed, he may, in his

discretion, order the act undone or re-done by his subordinate or he may even decide to do it himself. Supervision does not cover such authority. The supervisor or superintendent merely sees to it that the rules are followed, but he himself does not lay down such rules, nor does he have the discretion to modify or replace them. If the rules are not observed, he may order the work done or re-done but only to conform to the prescribed rules. He may not prescribe his own manner for doing the act. He has no judgment on this matter except to see to it that the rules are followed.[19]

The Local Government Code of 1991[20] was enacted to flesh out the mandate of the Constitution.[21] The State policy on local autonomy is amplified in Section 2 thereof:

Sec. 2. Declaration of Policy. – (a) It is hereby declared the policy of the State that the territorial and political subdivisions of the State shall enjoy genuine and meaningful local autonomy to enable them to attain their fullest development as self-reliant communities and make them more effective partners in the attainment of national goals. Toward this end, the State shall provide for a more responsive and accountable local government structure instituted through a system of decentralization whereby local government units shall be given more powers, authority, responsibilities, and resources. The process of decentralization shall proceed from the National Government to the local government units.

Guided by these precepts, the Court shall now determine whether the assailed provisos in the GAAs of 1999, 2000 and 2001, earmarking for each corresponding year the amount of five billion pesos of the IRA for the LGSEF and the OCD resolutions promulgated pursuant thereto, transgress the Constitution and the Local Government Code of 1991.

The assailed provisos in the GAAs of 1999, 2000 and 2001 and the OCD resolutions violate the constitutional precept on local autonomy

Section 6, Article X of the Constitution reads:

Sec. 6. Local government units shall have a just share, as determined by law, in the national taxes which shall be automatically released to them.

When parsed, it would be readily seen that this provision mandates that (1) the LGUs shall have a “just share” in the national taxes; (2) the “just share” shall be determined by law; and (3) the “just share” shall be automatically released to the LGUs.

The Local Government Code of 1991, among its salient provisions, underscores the automatic release of the LGUs’ “just share” in this wise:

Sec. 18. Power to Generate and Apply Resources. Local government units shall have the power and authority to establish an organization that shall be responsible for the efficient and effective implementation of their development plans, program objectives and priorities; to create their own sources of revenue and to levy taxes, fees, and charges which shall accrue exclusively for their use and disposition and which shall be retained by them; to have a just share in national taxes which shall be automatically and directly released to them without need of further action;

...

Sec. 286. Automatic Release of Shares. (a) The share of each local government unit shall be released, without need of any further action, directly to the provincial, city, municipal or barangay treasurer, as the case may be, on a quarterly basis within five (5) days after the end of each quarter, and which shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose.

(b) Nothing in this Chapter shall be understood to diminish the share of local government units under existing

laws.

Webster's Third New International Dictionary defines "automatic" as "involuntary either wholly or to a major extent so that any activity of the will is largely negligible; of a reflex nature; without volition; mechanical; like or suggestive of an automaton." Further, the word "automatically" is defined as "in an automatic manner: without thought or conscious intention." Being "automatic," thus, connotes something mechanical, spontaneous and perfunctory. As such, the LGUs are not required to perform any act to receive the "just share" accruing to them from the national coffers. As emphasized by the Local Government Code of 1991, the "just share" of the LGUs shall be released to them "without need of further action." Construing Section 286 of the LGC, we held in *Pimentel, Jr. v. Aguirre*,<sup>[22]</sup> viz:

Section 4 of AO 372 cannot, however, be upheld. A basic feature of local fiscal autonomy is the automatic release of the shares of LGUs in the National internal revenue. This is mandated by no less than the Constitution. The Local Government Code specifies further that the release shall be made directly to the LGU concerned within five (5) days after every quarter of the year and "shall not be subject to any lien or holdback that may be imposed by the national government for whatever purpose." As a rule, the term "SHALL" is a word of command that must be given a compulsory meaning. The provision is, therefore, IMPERATIVE.

Section 4 of AO 372, however, orders the withholding, effective January 1, 1998, of 10 percent of the LGUs' IRA "pending the assessment and evaluation by the Development Budget Coordinating Committee of the emerging fiscal situation" in the country. Such withholding clearly contravenes the Constitution and the law. Although temporary, it is equivalent to a holdback, which means "something held back or withheld, often temporarily." Hence, the "temporary" nature of the retention by the national government does not matter. Any retention is prohibited.

In sum, while Section 1 of AO 372 may be upheld as an advisory effected in times of national crisis, Section 4 thereof has no color of validity at all. The latter provision effectively encroaches on the fiscal autonomy of local governments. Concededly, the President was well-intentioned in issuing his Order to withhold the LGUs' IRA, but the rule of law requires that even the best intentions must be carried out within the parameters of the Constitution and the law. Verily, laudable purposes must be carried out by legal methods. <sup>[23]</sup>

The "just share" of the LGUs is incorporated as the IRA in the appropriations law or GAA enacted by Congress annually. Under the assailed provisos in the GAAs of 1999, 2000 and 2001, a portion of the IRA in the amount of five billion pesos was earmarked for the LGSEF, and these provisos imposed the condition that "such amount shall be released to the local government units subject to the implementing rules and regulations, including such mechanisms and guidelines for the equitable allocations and distribution of said fund among local government units subject to the guidelines that may be prescribed by the Oversight Committee on Devolution." Pursuant thereto, the Oversight Committee, through the assailed OCD resolutions, apportioned the five billion pesos LGSEF such that:

For 1999  
P2 billion -allocated according to Sec. 285 LGC  
P2 billion - Modified Sharing Formula (Provinces – 40%;  
Cities – 20%; Municipalities – 40%)  
P1 billion – projects (LAAP) approved by OCD.<sup>[24]</sup>

For 2000

P3.5 billion – Modified Sharing Formula (Provinces – 26%;  
Cities – 23%; Municipalities – 35%; Barangays – 16%);  
P1.5 billion – projects (LAAP) approved by the OCD.<sup>[25]</sup>

For 2001

P3 billion – Modified Sharing Formula (Provinces – 25%;  
Cities – 25%; Municipalities – 35%; Barangays – 15%)  
P1.9 billion – priority projects  
P100 million – capability building fund.[26]

Significantly, the LGSEF could not be released to the LGUs without the Oversight Committee's prior approval. Further, with respect to the portion of the LGSEF allocated for various projects of the LGUs (P1 billion for 1999; P1.5 billion for 2000 and P2 billion for 2001), the Oversight Committee, through the assailed OCD resolutions, laid down guidelines and mechanisms that the LGUs had to comply with before they could avail of funds from this portion of the LGSEF. The guidelines required (a) the LGUs to identify the projects eligible for funding based on the criteria laid down by the Oversight Committee; (b) the LGUs to submit their project proposals to the DILG for appraisal; (c) the project proposals that passed the appraisal of the DILG to be submitted to the Oversight Committee for review, evaluation and approval. It was only upon approval thereof that the Oversight Committee would direct the DBM to release the funds for the projects.

To the Court's mind, the entire process involving the distribution and release of the LGSEF is constitutionally impermissible. The LGSEF is part of the IRA or "just share" of the LGUs in the national taxes. To subject its distribution and release to the vagaries of the implementing rules and regulations, including the guidelines and mechanisms unilaterally prescribed by the Oversight Committee from time to time, as sanctioned by the assailed provisos in the GAAs of 1999, 2000 and 2001 and the OCD resolutions, makes the release not automatic, a flagrant violation of the constitutional and statutory mandate that the "just share" of the LGUs "shall be automatically released to them." The LGUs are, thus, placed at the mercy of the Oversight Committee.

Where the law, the Constitution in this case, is clear and unambiguous, it must be taken to mean exactly what it says, and courts have no choice but to see to it that the mandate is obeyed.[27] Moreover, as correctly posited by the petitioner, the use of the word "shall" connotes a mandatory order. Its use in a statute denotes an imperative obligation and is inconsistent with the idea of discretion.[28]

Indeed, the Oversight Committee exercising discretion, even control, over the distribution and release of a portion of the IRA, the LGSEF, is an anathema to and subversive of the principle of local autonomy as embodied in the Constitution. Moreover, it finds no statutory basis at all as the Oversight Committee was created merely to formulate the rules and regulations for the efficient and effective implementation of the Local Government Code of 1991 to ensure "compliance with the principles of local autonomy as defined under the Constitution." [29] In fact, its creation was placed under the title of "Transitory Provisions," signifying its ad hoc character. According to Senator Aquilino Q. Pimentel, the principal author and sponsor of the bill that eventually became Rep. Act No. 7160, the Committee's work was supposed to be done a year from the approval of the Code, or on October 10, 1992.[30] The Oversight Committee's authority is undoubtedly limited to the implementation of the Local Government Code of 1991, not to supplant or subvert the same. Neither can it exercise control over the IRA, or even a portion thereof, of the LGUs.

That the automatic release of the IRA was precisely intended to guarantee and promote local autonomy can be gleaned from the discussion below between Messrs. Jose N. Nollado and Regalado M. Maambong, then members of the 1986 Constitutional Commission, to wit:

MR. MAAMBONG. Unfortunately, under Section 198 of the Local Government Code, the existence of subprovinces is still acknowledged by the law, but the statement of the Gentleman on this point will have to be taken up probably by the Committee on Legislation. A second point, Mr. Presiding Officer, is that under Article 2, Section 10 of the 1973 Constitution, we have a provision which states:

The State shall guarantee and promote the autonomy of local government units, especially the barrio, to insure their fullest development as self-reliant communities.

This provision no longer appears in the present configuration; does this mean that the concept of giving local autonomy to local governments is no longer adopted as far as this Article is concerned?

MR. NOLLEDO. No. In the report of the Committee on Preamble, National Territory, and Declaration of Principles, that concept is included and widened upon the initiative of Commissioner Bennagen.

MR. MAAMBONG. Thank you for that.

With regard to Section 6, sources of revenue, the creation of sources as provided by previous law was “subject to limitations as may be provided by law,” but now, we are using the term “subject to such guidelines as may be fixed by law.” In Section 7, mention is made about the “unique, distinct and exclusive charges and contributions,” and in Section 8, we talk about “exclusivity of local taxes and the share in the national wealth.” Incidentally, I was one of the authors of this provision, and I am very thankful. Does this indicate local autonomy, or was the wording of the law changed to give more autonomy to the local government units?[31]

MR. NOLLEDO. Yes. In effect, those words indicate also “decentralization” because local political units can collect taxes, fees and charges subject merely to guidelines, as recommended by the league of governors and city mayors, with whom I had a dialogue for almost two hours. They told me that limitations may be questionable in the sense that Congress may limit and in effect deny the right later on.

MR. MAAMBONG. Also, this provision on “automatic release of national tax share” points to more local autonomy. Is this the intention?

MR. NOLLEDO. Yes, the Commissioner is perfectly right.[32]

The concept of local autonomy was explained in *Ganzon v. Court of Appeals* [33] in this wise:

As the Constitution itself declares, local autonomy ‘means a more responsive and accountable local government structure instituted through a system of decentralization.’ The Constitution, as we observed, does nothing more than to break up the monopoly of the national government over the affairs of local governments and as put by political adherents, to “liberate the local governments from the imperialism of Manila.” Autonomy, however, is not meant to end the relation of partnership and interdependence between the central administration and local government units, or otherwise, to usher in a regime of federalism. The Charter has not taken such a radical step. Local governments, under the Constitution, are subject to regulation, however limited, and for no other purpose than precisely, albeit paradoxically, to enhance self-government.

As we observed in one case, decentralization means devolution of national administration – but not power – to the local levels. Thus:

Now, autonomy is either decentralization of administration or decentralization of power. There is decentralization of administration when the central government delegates administrative powers to political subdivisions in order to broaden the base of government power and in the process to make local governments ‘more responsive and accountable’ and ‘ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress.’ At the same time, it relieves the central government of the burden of managing local affairs and enables it to concentrate on national concerns. The President exercises ‘general supervision’ over them, but only to ‘ensure that local affairs are administered according to law.’ He has no control over their acts in the sense that he can substitute their judgments with his own.

Decentralization of power, on the other hand, involves an abdication of political power in the [sic] favor of

local governments [sic] units declared to be autonomous. In that case, the autonomous government is free to chart its own destiny and shape its future with minimum intervention from central authorities. According to a constitutional author, decentralization of power amounts to 'self-immolation,' since in that event, the autonomous government becomes accountable not to the central authorities but to its constituency. [34]

Local autonomy includes both administrative and fiscal autonomy. The fairly recent case of *Pimentel v. Aguirre*[35] is particularly instructive. The Court declared therein that local fiscal autonomy includes the power of the LGUs to, inter alia, allocate their resources in accordance with their own priorities:

Under existing law, local government units, in addition to having administrative autonomy in the exercise of their functions, enjoy fiscal autonomy as well. Fiscal autonomy means that local governments have the power to create their own sources of revenue in addition to their equitable share in the national taxes released by the national government, as well as the power to allocate their resources in accordance with their own priorities. It extends to the preparation of their budgets, and local officials in turn have to work within the constraints thereof. They are not formulated at the national level and imposed on local governments, whether they are relevant to local needs and resources or not ...[36]

Further, a basic feature of local fiscal autonomy is the constitutionally mandated automatic release of the shares of LGUs in the national internal revenue.[37]

Following this ratiocination, the Court in *Pimentel* struck down as unconstitutional Section 4 of Administrative Order (A.O.) No. 372 which ordered the withholding, effective January 1, 1998, of ten percent of the LGUs' IRA "pending the assessment and evaluation by the Development Budget Coordinating Committee of the emerging fiscal situation."

In like manner, the assailed provisos in the GAAs of 1999, 2000 and 2001, and the OCD resolutions constitute a "withholding" of a portion of the IRA. They put on hold the distribution and release of the five billion pesos LGSEF and subject the same to the implementing rules and regulations, including the guidelines and mechanisms prescribed by the Oversight Committee from time to time. Like Section 4 of A.O. 372, the assailed provisos in the GAAs of 1999, 2000 and 2001 and the OCD resolutions effectively encroach on the fiscal autonomy enjoyed by the LGUs and must be struck down. They cannot, therefore, be upheld.

The assailed provisos in the GAAs of 1999, 2000 and 2001 and the OCD resolutions cannot amend Section 285 of the Local Government Code of 1991

Section 284[38] of the Local Government Code provides that, beginning the third year of its effectivity, the LGUs' share in the national internal revenue taxes shall be 40%. This percentage is fixed and may not be reduced except "in the event the national government incurs an unmanageable public sector deficit" and only upon compliance with stringent requirements set forth in the same section:

Sec. 284. ...

Provided, That in the event that the national government incurs an unmanageable public sector deficit, the President of the Philippines is hereby authorized, upon recommendation of Secretary of Finance, Secretary of Interior and Local Government and Secretary of Budget and Management, and subject to consultation with the presiding officers of both Houses of Congress and the presidents of the liga, to make the necessary adjustments in the internal revenue allotment of local government units but in no case shall the allotment be less than thirty percent (30%) of the collection of the national internal revenue taxes of the third fiscal year preceding the current fiscal year; Provided, further That in the first year of the effectivity of this Code, the local government units shall, in addition to the thirty percent (30%) internal revenue allotment which shall include the cost of devolved functions for essential public services, be entitled to receive the amount equivalent to the cost of

devolved personnel services.

Thus, from the above provision, the only possible exception to the mandatory automatic release of the LGUs' IRA is if the national internal revenue collections for the current fiscal year is less than 40 percent of the collections of the preceding third fiscal year, in which case what should be automatically released shall be a proportionate amount of the collections for the current fiscal year. The adjustment may even be made on a quarterly basis depending on the actual collections of national internal revenue taxes for the quarter of the current fiscal year. In the instant case, however, there is no allegation that the national internal revenue tax collections for the fiscal years 1999, 2000 and 2001 have fallen compared to the preceding three fiscal years.

Section 285 then specifies how the IRA shall be allocated among the LGUs:

Sec. 285. Allocation to Local Government Units. – The share of local government units in the internal revenue allotment shall be allocated in the following manner:

- (a) Provinces – Twenty-three (23%)
- (b) Cities – Twenty-three percent (23%);
- (c) Municipalities – Thirty-four (34%); and
- (d) Barangays – Twenty percent (20%).

However, this percentage sharing is not followed with respect to the five billion pesos LGSEF as the assailed OCD resolutions, implementing the assailed provisos in the GAAs of 1999, 2000 and 2001, provided for a different sharing scheme. For example, for 1999, P2 billion of the LGSEF was allocated as follows: Provinces – 40%; Cities – 20%; Municipalities – 40%.[39] For 2000, P3.5 billion of the LGSEF was allocated in this manner: Provinces – 26%; Cities – 23%; Municipalities – 35%; Barangays – 26%.[40] For 2001, P3 billion of the LGSEF was allocated, thus: Provinces – 25%; Cities – 25%; Municipalities – 35%; Barangays – 15%.[41]

The respondents argue that this modification is allowed since the Constitution does not specify that the “just share” of the LGUs shall only be determined by the Local Government Code of 1991. That it is within the power of Congress to enact other laws, including the GAAs, to increase or decrease the “just share” of the LGUs. This contention is untenable. The Local Government Code of 1991 is a substantive law. And while it is conceded that Congress may amend any of the provisions therein, it may not do so through appropriations laws or GAAs. Any amendment to the Local Government Code of 1991 should be done in a separate law, not in the appropriations law, because Congress cannot include in a general appropriation bill matters that should be more properly enacted in a separate legislation.[42]

A general appropriations bill is a special type of legislation, whose content is limited to specified sums of money dedicated to a specific purpose or a separate fiscal unit.[43] Any provision therein which is intended to amend another law is considered an “inappropriate provision.” The category of “inappropriate provisions” includes unconstitutional provisions and provisions which are intended to amend other laws, because clearly these kinds of laws have no place in an appropriations bill.[44]

Increasing or decreasing the IRA of the LGUs or modifying their percentage sharing therein, which are fixed in the Local Government Code of 1991, are matters of general and substantive law. To permit Congress to undertake these amendments through the GAAs, as the respondents contend, would be to give Congress the unbridled authority to unduly infringe the fiscal autonomy of the LGUs, and thus put the same in jeopardy every year. This, the Court cannot sanction.

It is relevant to point out at this juncture that, unlike those of 1999, 2000 and 2001, the GAAs of 2002 and 2003 do not contain provisos similar to the herein assailed provisos. In other words, the GAAs of 2002 and 2003 have not earmarked any amount of the IRA for the LGSEF. Congress had perhaps seen fit to discontinue the practice as

it recognizes its infirmity. Nonetheless, as earlier mentioned, this Court has deemed it necessary to make a definitive ruling on the matter in order to prevent its recurrence in future appropriations laws and that the principles enunciated herein would serve to guide the bench, bar and public.

#### Conclusion

In closing, it is well to note that the principle of local autonomy, while concededly expounded in greater detail in the present Constitution, dates back to the turn of the century when President William McKinley, in his Instructions to the Second Philippine Commission dated April 7, 1900, ordered the new Government “to devote their attention in the first instance to the establishment of municipal governments in which the natives of the Islands, both in the cities and in the rural communities, shall be afforded the opportunity to manage their own affairs to the fullest extent of which they are capable, and subject to the least degree of supervision and control in which a careful study of their capacities and observation of the workings of native control show to be consistent with the maintenance of law, order and loyalty.”[45] While the 1935 Constitution had no specific article on local autonomy, nonetheless, it limited the executive power over local governments to “general supervision ... as may be provided by law.”[46] Subsequently, the 1973 Constitution explicitly stated that “[t]he State shall guarantee and promote the autonomy of local government units, especially the barangay to ensure their fullest development as self-reliant communities.”[47] An entire article on Local Government was incorporated therein. The present Constitution, as earlier opined, has broadened the principle of local autonomy. The 14 sections in Article X thereof markedly increased the powers of the local governments in order to accomplish the goal of a more meaningful local autonomy.

Indeed, the value of local governments as institutions of democracy is measured by the degree of autonomy that they enjoy.[48] As eloquently put by M. De Tocqueville, a distinguished French political writer, “[l]ocal assemblies of citizens constitute the strength of free nations. Township meetings are to liberty what primary schools are to science; they bring it within the people’s reach; they teach men how to use and enjoy it. A nation may establish a system of free governments but without the spirit of municipal institutions, it cannot have the spirit of liberty.”[49]

Our national officials should not only comply with the constitutional provisions on local autonomy but should also appreciate the spirit and liberty upon which these provisions are based.[50]

WHEREFORE, the petition is GRANTED. The assailed provisos in the General Appropriations Acts of 1999, 2000 and 2001, and the assailed OCD Resolutions, are declared UNCONSTITUTIONAL.

SO ORDERED.

Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, and Tinga, JJ., concur.

Davide, Jr., C.J., and Puno, J., on official leave.

---

[1] Section 1, E.O. No. 48.

[2] Section 2, Id.

[3] Section 4, Id.

[4] Ibid.

[5] Id.

[6] Id.

[7] Id.

[8] Infra.

[9] Baker v. Carr, 369 U.S. 186, 7 L.Ed. 2d 633 cited in, among others, Agan, Jr. v. PIATCO, G.R. Nos. 155001, 155547 and 155661, May 5, 2003 and Fariñas v. Executive Secretary, G.R. Nos. 147387 and 152161, December 10, 2003.

[10] Agan, Jr. v. PIATCO, supra.

[11] Ibid.

[12] Id.

[13] Chavez v. Public Estates Authority, 384 SCRA 152 (2002).

[14] Ibid, citing, among others, Salonga v. Paño, 134 SCRA 438 (1995).

[15] Southern Pac. Terminal Co. v. ICC, 219 U.S. 498, 55 L.Ed. 310 (1911) cited in, among others, Viola v. Alunan III, 277 SCRA 409 (1997); Acop v. Guingona, Jr., 383 SCRA 577 (2002).

[16] San Juan v. Civil Service Commission, 196 SCRA 69 (1991).

[17] Section 4, Article X.

**[18] 235 SCRA 135 (1994).**

[19] Id. at 142.

[20] Rep. Act No. 7160 was signed into law by then President Corazon C. Aquino on October 10, 1991. It took effect on January 1, 1992.

[21] Section 3, Article X reads:

Sec. 3. The Congress shall enact a local government code which shall provide for a more responsive and accountable local government structure instituted through a system of decentralization with effective mechanisms of recall, initiative, and referendum, allocate among the different local government units their powers, responsibilities, and resources, and provide for the qualifications, election, appointment and removal, terms, salaries, powers and functions and duties of local officials, and all other matters relating to the organization and operation of local government units.

**[22] 336 SCRA 201 (2000).**

[23] Id. at 220-221. (Emphasis supplied.)

[24] Per OCD-99-005, 99-006, 99-003.

[25] Per OCD-2000-023 and 2001-029.

[26] Per OCD-2002-001.

[27] Quisumbing v. Manila Electric Co., 380 SCRA 195 (2002).

[28] Codoy v. Calugay, 312 SCRA 333 (1999).

[29] Section 533 of Rep. Act 7160 reads in part:

Sec. 533. Formulation of Implementing Rules and Regulations. (a) Within one (1) month after the approval of this Code, the President shall convene the Oversight Committee as herein provided for. The said Committee shall formulate and issue the appropriate rules and regulations necessary for the efficient and effective implementation of any and all provisions of this Code, thereby ensuring compliance with the principles of local autonomy as defined under the Constitution.

...

(c) The Committee shall submit its report and recommendation to the President within two (2) months after its organization. If the President fails to act within thirty (30) days from receipt thereof, the recommendation of the Oversight Committee shall be deemed approved. Thereafter, the Committee shall supervise the transfer of such powers and functions mandated under this Code to the local government units, together with the corresponding personnel, properties, assets and liabilities of the offices or agencies concerned, with the least possible disruptions to existing programs and projects. The Committee shall, likewise, recommend the corresponding appropriations necessary to effect the said transfer.

[30] Pimentel, *The Local Government Code of 1991: The Key to National Development*, p. 576.

[31] The Committee Report No. 21 submitted by the Committee on Local Governments of the Constitutional Commission, headed by Commissioner Jose N. Nollado, proposed to incorporate the following provisions:

SEC. 6. Each government unit shall have the power to create its own sources of revenue and to levy taxes, fees and charges subject to such guidelines as may be fixed by law.

SEC. 7. Local governments shall have the power to levy and collect charges or contributions unique, distinct and exclusive to them.

SEC. 8. Local taxes shall belong exclusively to local governments and they shall, likewise, be entitled to share in the proceeds of the exploitation and development of the national wealth within their respective areas. The share of local governments in the national taxes shall be released to them automatically.

### **[32] 3 RECORD OF THE CONSTITUTIONAL COMMISSION 231.**

#### **[33] 200 SCRA 271 (1991).**

[34] *Id.* at 286-287. (Citations omitted.)

[35] *Supra* at note 22.

[36] *Id.* at 218.

[37] *Id.* at 220.

[38] The provision reads in part:

Sec. 284. Allotment of Internal Revenue Taxes. Local government units shall have a share in the national internal revenue taxes based on the collection of the third fiscal year preceding the current fiscal year as follows:

- (a) On the first year of the effectivity of this Code, thirty percent (30%);
- (b) On the second year, thirty-five percent (35%); and
- (c) On the third year and, thereafter, forty percent (40%).

[39] Per OCD Res.-99-005, 99-006, 99-003.

[40] Per OCD-2000-023 and 2001-029.

[41] Per OCD-2002-001.

[42] Philippine Constitutional Association v. Enriquez, 235 SCRA 506 (1994).

[43] Ibid, citing Beckman, The Item Veto Power of the Executive, 31 Temple Law Quarterly 27 (1957).

[44] Id.

[45] Mendoza, From McKinley's Instructions to the New Constitution: Documents on the Philippine Constitutional System, pp. 67-68.

[46] Paragraph (1), Section 11, Article VII of the 1935 Constitution reads:

Sec. 11(1). The President shall have control of all the executive departments, bureaus or offices, exercise general supervision over all local governments as may be provided by law, and take care that the laws be faithfully executed.

[47] Section 10, Article II thereof.

[48] Sinco, Philippine Political Law, 10th ed., pp. 681-682.

[49] Ibid.

[50] San Juan v. Civil Service Commission, *supra*.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.