



Rethinking Re-Devolution: LGU Challenges in the Implementation of the Mandanas-Garcia Ruling

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Executive Summary

Local government units (LGUs) have been demanding for their rightful share of the internal revenue allotment (IRA) under the Local Government Code of 1991 (LGC). After decades of struggle, the Supreme Court granted their demand through the Mandanas - Garcia Ruling which expanded the income base for the computation of the national tax allocation. But while this was a victory for the LGUs, the national government felt otherwise. With the decrease in resources under the Mandanas-Garcia Ruling, the Duterte Administration issued Executive Order 138 which fully devolved to LGUs the functions and services being provided by the national government agencies (NGAs).

The issuance of Executive Order (EO) 138 was met with mixed reactions. Devolving the functions to LGUs means downsizing, merging or even abolishing programs, activities and projects (PAPs) of the NGAs triggering fears among their employees. For LGUs, while the 37.9% increase in their IRA/NTA (National Tax Allotment) is a welcome development, local officials and personnel are adamant because the amount may not be enough to cover the costs for functions and services to be devolved.

Even then, LGUs complied as majority were able to submit their Devolution Transition Plans (DTPs). LGUs see the rationale behind the DTP preparation and prepared the same as early as possible. They also implemented strategies and mechanisms to address the constraints in the DTP preparation. These constraints include the lack or limited information on the Mandanas-Garcia Ruling, the lack of data for evidence-based planning, and the lack of capability particularly of sub provincial LGUs to prepare and implement quality DTPs.

The 2022 election; the decrease of IRA/NTA starting Fiscal Year 2023 due to COVID-19 pandemic; and the devolution of functions which overwhelms the resource allocation pose as risks in the implementation of the Mandanas-Garcia Ruling. To mitigate these risks, LGUs implement different strategies depending on their context. Unfortunately, not all LGUs have the same capacity -- some need to learn from others, while a few may require system-based support. The latter includes mechanisms like the GEF, particularly for the disadvantaged LGUs. While the Growth Equity Fund (GEF) is provided for in EO 138, how this will be implemented remains unclear. If not immediately addressed, the GEF may just be used for other PAPs that will not directly address and support the full devolution

The Mandanas - Garcia Ruling has taken effect this January 2022 and is expected to be transitioned completely by Year 2024. While some of the LGUs have not started yet, others are already feeling the urgency because of the impact of their DTPs on their expenditures for the Year 2022. Given these, the following are the recommendations:

- A. For DTP Preparation.** Almost all LGUs already have their DTPs but for those that are still in the process of preparing their plans, the NGAs could help through the following:

- Concerned NGAs like the Department of Budget and Management (DBM), the Department of Interior and Local Government (DILG) and the Department of Finance (DOF) along with sectoral agencies (such as the Department of Agriculture (DA), Department of Social Welfare and Development (DSWD), Department of Education (DepEd), Department of Environment and Natural Resources (DENR), Department of Public Works and Highways (DPWH) and even Department of Trade and Industry (DTI)) increase information-sharing and coordination activities with LGUs in the first and second quarters of 2022 clarifying specifically: (a) which functions and services are to be downloaded, (b) what the LGUs can expect from NGAs, and (c) what will be the LGU-NGA set-up/relation in 2022 and beyond. These will address the common issue raised by LGUs is the lack of NGA-LGU information-sharing and coordination activities, and the limited and usually unofficial information being shared by the NGA field personnel.
 - As per EO 138, the DTPs of the NGAs and LGUs need to be aligned. Hence, the DBM and DILG should work with the concerned NGAs to facilitate and expedite the approval of the latter's DTPs and share the same with the LGUs. Upon approval, possibly in the first quarter of 2022, the NGAs should cause the immediate dissemination of the same for the guidance of the LGUs.
 - DILG, through the Local Government Academy and the Bureau of Local Government Development, and the DBM expedite the roll out of trainings, coaching and mentoring on DTP preparation. Alongside with this, the academe and civil society organizations (CSOs) should also be tapped to assist as trainers, coaches and mentors.
 - The DILG and DBM should utilize all available platforms including the leagues of budget officers and government planners to cascade and share information on DTP preparation.
 - The DILG should maintain a centralized online repository of materials on Mandanas Ruling that includes policies and guidelines, DTPs of NGAs and LGUs, and other materials that can be referred to by all concerned stakeholders including the Academic and CSO communities. The academe and the CSOs could help refine the DTPs and assist the LGUs not only in the review and enhancement of the plans but also in their implementation.
- B. *DTP Review.*** By January 2022, the LGUs are expected to have started implementing their respective DTPs. A mandatory review should therefore be conducted and spearheaded by DILG and the DBM.
- Starting in the third quarter of 2022, the DILG and the DBM should provide capacity building and guidance to LGUs for the review and updating of their respective DTPs. The academic and CSO communities should be involved in the process.
 - The DILG and the DBM should encourage inter-LGU cooperation in preparing for full devolution to link and harmonize efforts within the province or region. The Regional Committee on Devolution (ComDev) can facilitate this while cascading the guidelines and assisting LGUs on DTP preparation, implementation and review. The inter-LGU cooperation could also address possible resource limitations and result to cost advantages due to economies of scale.

C. *For the Implementation of Full Devolution.* In the short term, the national government through the NGAs should:

- Mandate, if not encourage, LGUs to conduct organizational development studies and planning. This should be a priority starting in the second semester of 2022 when the local officials have already assumed their positions.
- The DBM and the DILG should provide capacity building to LGUs to eradicate, if not minimize, dependency on the IRA or NTA. This should be a continuing activity.
- The DBM should relax the policy on personnel services (PS) limitation from 2022 – 2024 (when the NTA is forecasted to be low due to COVID-19) but at the same time encourage LGUs to innovate and provide mitigation measures to address possible complications post-2022.
- The DILG should review and enhance its policies on CSO participation being an important stakeholder in local governance.