



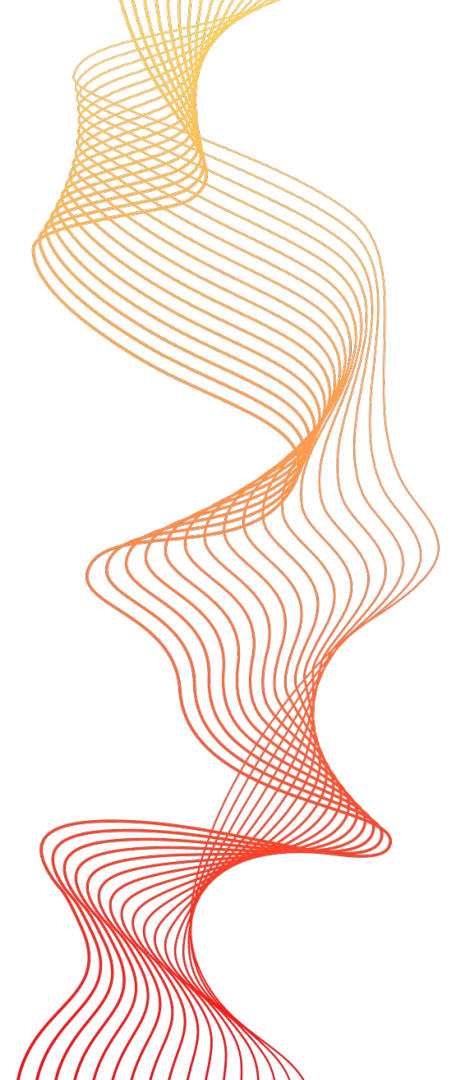
The Mandanas-Garcia Ruling: Implications of the fiscal decentralization reform to Philippine local governments

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Policy Design and Implementation in Developing Countries

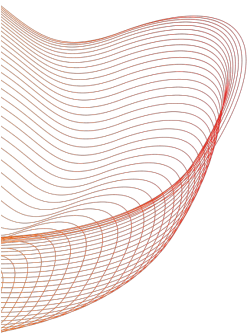
Profs. K. & I. Ohno





Outline

1. The Mandanas-Garcia Ruling
2. Executive Order No. 138
3. Challenges and criticisms
4. Policy recommendations



1) The Mandanas-Garcia ruling

In 2013, Batangas Governor Hermilando Mandanas and Bataan Representative Enrique T. Garcia, Jr. filed separate petitions to the Supreme Court challenging the national government's (NG) manner of computing the local government units' (LGUs) share of Internal Revenue Allotment (IRA)

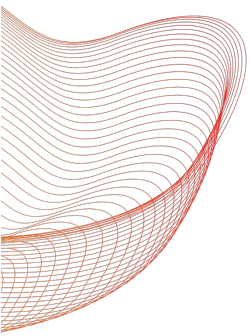
Per Section 284 of the Local Government Code (LGC) of 1991, LGUs have a share in the national internal revenue taxes

On 19 April 2019, the Supreme Court affirmed the ruling final and executory



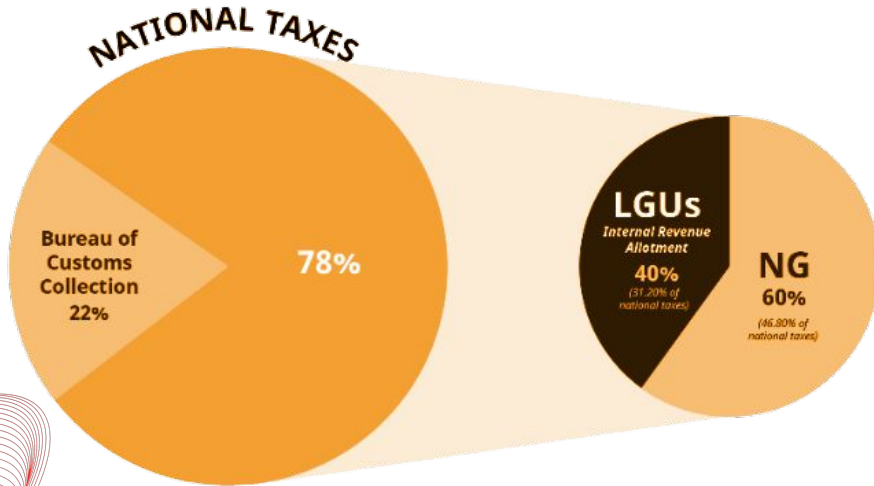
Mandanas and Garcia argue that the current computation of the IRA shares is not based on the "just shares" of the LGUs and, therefore, must be rectified

However, in 2018, the Supreme Court ruled on the petitions. LGUs' share must be derived from the national taxes, which now include collections from the Bureau of Customs

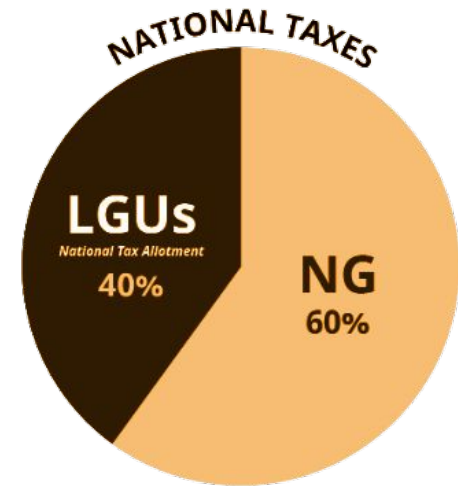


▶ From Internal Revenue Allotment (IRA) to National Tax Allotment (NTA)

BEFORE MANDANAS RULING



AFTER MANDANAS RULING



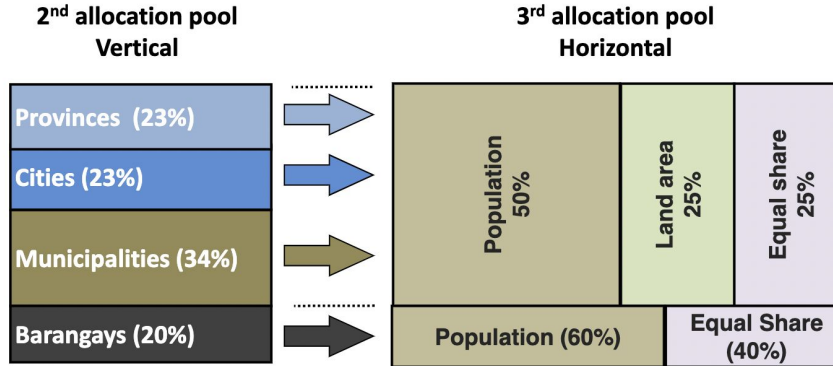
■ National Government

■ Local Government Units

▶ From Internal Revenue Allotment (IRA) to National Tax Allotment (NTA)

Internal Revenue Allotment (IRA)

1st Allocation Pool or Size of Distribution Pool: 40% of internal revenue collections of the BIR of the 3rd preceding year.
Automatic allocation to local governments.



Source: Based on LGC and adapted from JICA-DILG 2008 with modifications.



Increase of shares from IRA to NTA: Illustration



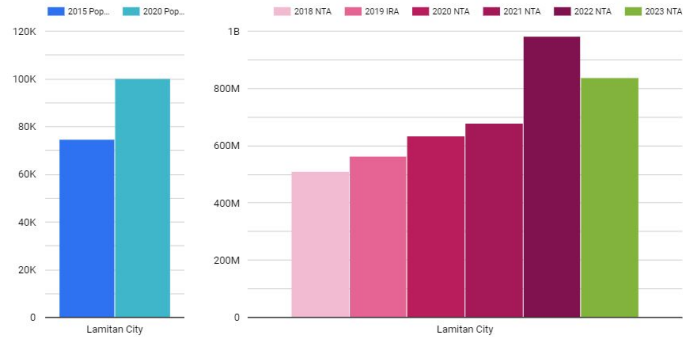
2019-2022 PH Cities NTA Comparison

Quezon City



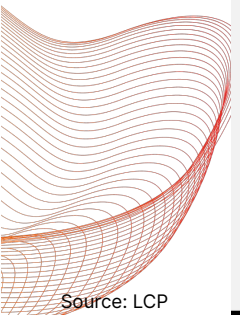
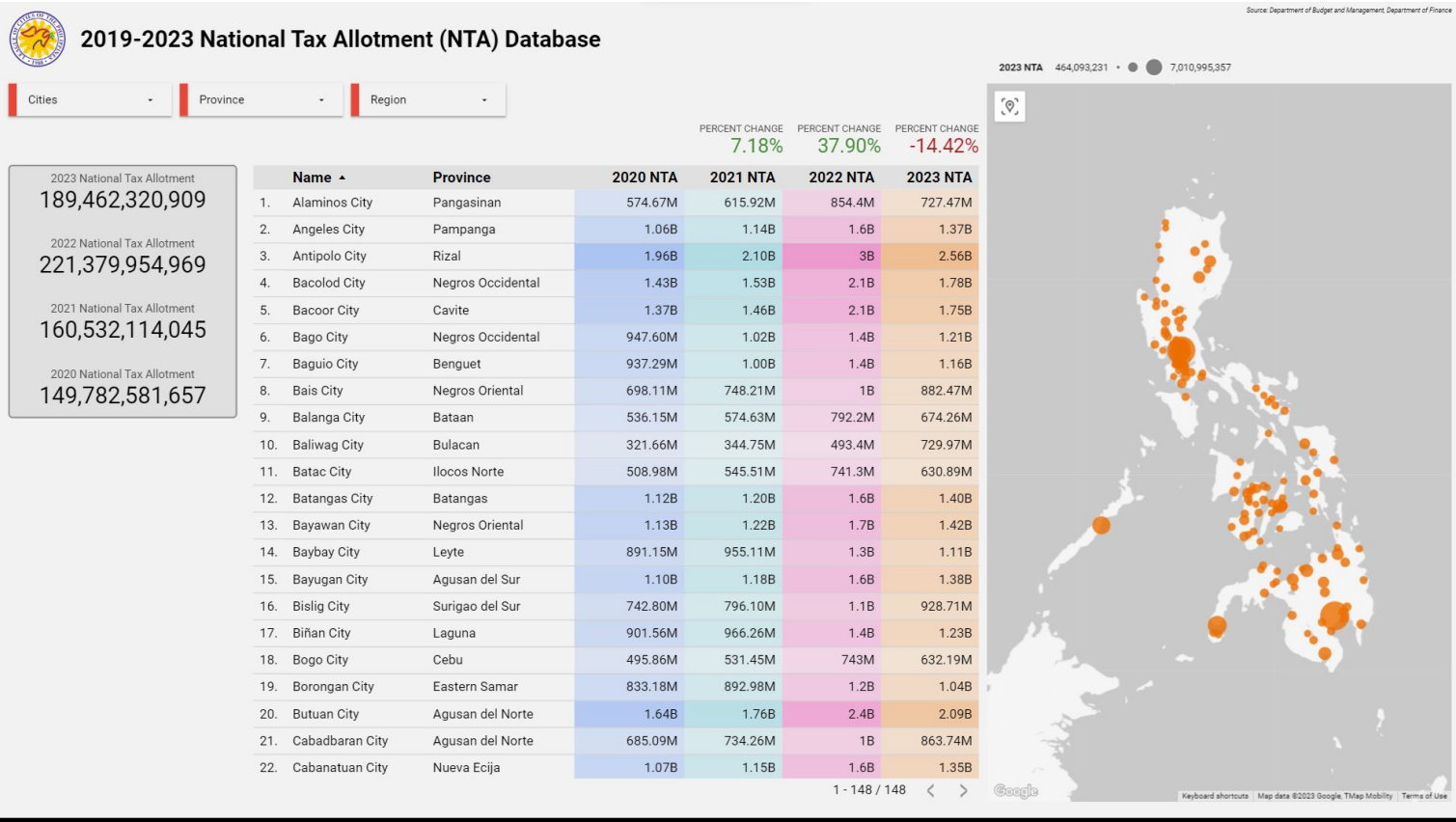
	NTA	% Δ
2015 Population		
2,936,116	2018 4,650,499,676	7.37%
	2019 5,121,804,938	10.13%
2020 Population	2020 5,749,443,177	12.25%
2,960,048	2021 6,162,066,761	7.18%
	2022 7,938,262,709	28.82%
	2023 6,777,334,631	-14.62%

Lamitan City



	NTA	% Δ
2015 Population		
74,782	2018 510,555,875	7.4%
	2019 564,336,315	10.53%
2020 Population	2020 633,361,313	12.23%
100,150	2021 678,816,116	7.18%
	2022 983,030,757	44.82%
	2023 837,512,295	-14.8%

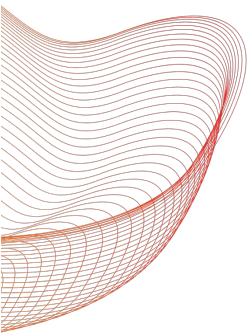
▶ Increase of shares from IRA to NTA: Illustration





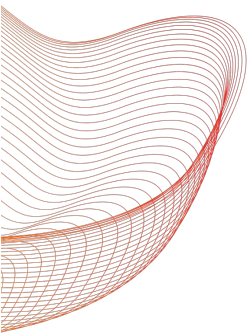
Impact of the ruling to the LGUs

- Significant increase in the tax base on which the share of the LGUs is computed, thus strengthening fiscal decentralization



Fiscal implications of the ruling to the NG and LGUs

- The increased allocation to LGUs compels them to assume the functions that will be fully devolved to them per the LGC of 1991 and other pertinent laws
- However, the NG will have decreased fiscal resources to implement key development programs beginning in 2022





▶ 2) Executive Order No. 138

- On 01 June 2021, President Rodrigo Duterte ordered and signed Executive Order No. 138 to implement the Mandanas-Garcia ruling, ordering the full devolution of basic services from national agencies to the LGUs. The drafting of the EO involved the members of the Oversight Committee on Devolution (OCD)
- With the significant increase in LGU share in national taxes beginning in 2022, the national government deemed that LGUs are now empowered to provide basic services and facilities, therefore, the order for full devolution



Salient features of the EO 138 and its Implementing Rules and Regulations (IRR)

1

Delineation of NG and LGU roles

2

Creation of the Committee on Devolution (ComDev)

3

Preparation of Devolution Transition Plans (DTPs)

4

Establishment of the Growth Equity Fund (GEF)

5

Capacity building for LGUs

6

Strengthening of planning, investment programming, budgeting linkage, and M&E systems

7

Options for affected NGA personnel

8

Participation of CSOs, NGOs, and POs



Salient features of the EO 138 and its Implementing Rules and Regulations (IRR)

1

Delineation of NG and LGU roles

- Devolution of functions, services, and facilities stated in Section 17 of the LGC of 1991 and other related laws
- Full devolution must be completed before FY 2024 ends

2

Creation of the Committee on Devolution (ComDev)

- The main task is to monitor the implementation of EO 138
- Committee members:
 - Chairperson: Secretary, Department of Budget and Management
 - Co-Chairperson: Secretary, Department of the Interior and Local Government
 - Members: - Secretary, National Economic and Development Authority - Secretary, Department of Finance - Executive Secretary - Presidents of the League of Provinces, League of Cities, League of Municipalities, *Liga ng mga Barangay sa Pilipinas*, and the Union of Local Authorities of the Philippines



Salient features of the EO 138 and its Implementing Rules and Regulations (IRR)

3

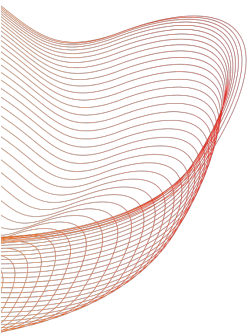
Preparation of Devolution Transition Plans (DTPs)

- NGAs and LGUs are required to prepare the DTPs as guidance towards full devolution
- DBM tasked to review NGA DTPs
- DILG tasked to review LGU DTPs

4

Establishment of the Growth Equity Fund (GEF)

- Starting FY 2022, the GEF will be included in the National Expenditure Program
- The aim is to address the issues of marginalization, unequal development, high poverty incidence, and disparities in the net income of LGUs
- Priority will be poor, disadvantaged, and lagging LGUs
- Criteria for granting the GEF: a) poverty incidence and b) per capita NTA





Salient features of the EO 138 and its Implementing Rules and Regulations (IRR)

5

Capacity building for LGUs

- Capacity development agenda for LGUs is guided by the DILG's Local Government Academy
- To ensure efficient utilization of resources
- Public financial management processes, local planning, investment programming, resource mobilization, and budgeting will be included to ensure that the NTA will be used in accordance with Sec. 17 of the LGC

6

Strengthening of planning, investment programming, budgeting linkage, and M&E systems

- Strengthened horizontal and vertical linkages
- Results-based monitoring and evaluation (M&E) systems in place



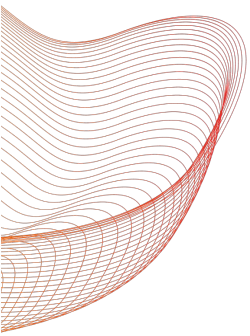
Salient features of the EO 138 and its Implementing Rules and Regulations (IRR)

7 Options for affected NGA personnel

- Transfer to other units in the agency or other executive agencies
- Retire or separate from the service, with an option to apply to the LGU
- No mandatory transfer from NGA to LGUs

8 Participation of CSOs, NGOs, and POs

- Per Section 35 of the LGC, civil society is an active partner in pursuit of local autonomy
- Encouraged to participate in the preparation of the DTPs through consultations and dialogues





▶ 3) Challenges and criticisms

- **The SC ruling did not include the “full devolution” of NG functions and services to LGUs.** The main issue of the ruling is to clarify the interpretation of Sec. 6, Article X of the 1987 Constitution, on the just share of LGUs in national taxes and not just internal revenue taxes.
- **EO 138 is inconsistent with Sec. 25, Article II, which ensures the autonomy of local governments.** The LGUs can allocate and use the NTA according to their local policies and priorities.
- **The full devolution will cause vertical fiscal imbalance across different levels of LGUs.** In 2022, the additional NTA is estimated to amount to Php 234 billion. The cost of devolving functions to LGUs is estimated at Php 400 billion worth of functions.
- **The transition period will take 5 to 10 years to effect full devolution.** The two-year timeframe is unrealistic and needs to be revised.



▶ 3) Challenges and criticisms

- Lack of baseline indicators to evaluate the state of devolution of LGUs
- Ambiguous identification of LGUs' priority devolved functions
- Varying capacity levels of LGUs to carry out the devolved functions, regardless of income classification levels
- Lack of human resources and technical expertise to implement devolved functions
- No one size fits all for LGU devolution strategy
- Lack of a standard and comprehensive database for M&E
- ***Note: As of May 2023, President Marcos, Jr. ordered the suspension and review of EO 138's implementation. A revised EO will be released by year-end of 2023 after a thorough review by the Department of Budget and Management in consultation with stakeholders***



4) Policy recommendations

- Involve the LGU leagues in the review of EO 138
- Establish capacity-building support for LGUs to improve their absorption and implementation capacity
- Implement the devolution of functions in phases with reasonable timelines to develop the DTPs
- Address fiscal imbalance and inequality among LGUs by supporting poor local governments. The coverage of the Growth Equity Fund must be expanded and not exclusive to poor, disadvantaged, and lagging local governments. Poverty incidence must not be the sole criterion to qualify for the GEF



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Maraming salamat!
Thank you!
Arigatou gozaimasu!