

# PERSPECTIVE

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## **Philippine Federalism’s Fortunate Falter**

*Malcolm Cook\**

### **EXECUTIVE SUMMARY**

- President Rodrigo Duterte came to office in June 2016 committed to transforming the Philippines into a federal state during his term.
- Despite the submission in early July of the draft federal constitution by the president’s hand-picked Consultative Committee to Review the 1987 Constitution, the push for federalism is faltering.
- It is unlikely that a federal political system will be introduced before the end of Duterte’s single-term presidency.
- This likely failure is good for the Philippines.

*\* Malcolm Cook is Senior Fellow at ISEAS – Yusof Ishak Institute.*

## INTRODUCTION

On 2 March 2016 in Dagupan City, Pangasinan, Rodrigo Duterte claimed that federalism was the centrepiece of his presidential election campaign.<sup>1</sup> His surprise victory two months later as the standard-bearer for PDP-Laban, a party established in the early 1980s to promote a federal Philippines, meant that for the first time a presidential administration commenced with the central goal of transforming the Philippines from a unitary to a federal state. The administration wants to have a new federal constitution approved by plebiscite and the new federal structure of government established in time for the next scheduled presidential election in May 2022.

This push for federalism progressed well in the first few months of the Duterte administration. PDP-Laban quickly transformed itself from a small minority party from Mindanao into the largest party, and the head of a massive majority in the House of Representatives and a majority in the Senate. Pantaleon Alvarez, PDP-Laban's secretary-general, became the Speaker of the House of Representatives. 'Koko' Pimentel, the president of PDP-Laban and son of its founder 'Nene' Pimentel, became the Senate Majority Leader. PDP-Laban leaders, politicians from Mindanao where the clarion call for federalism has long been the loudest,<sup>2</sup> and avowed proponents for a federal Philippines, now controlled the country's three most powerful political positions. In August 2016, the Department of the Interior and Local Government started its federalism promotion campaign. On 7 December 2016, President Duterte signed Executive Order No. 10 to establish a 25-person consultative committee to review the 1987 constitution.<sup>3</sup>

The consultative committee submitted its draft federal constitution to the president on 9 July.<sup>4</sup> President Duterte, at the end of his third State of the Nation Address on 23 July 2018, thanked the consultative committee and expressed confidence that Filipinos would "stand behind us as we introduce this new fundamental law".<sup>5</sup> However, more than a third of the way through President Duterte's single six-year term, the push for federalism is faltering. The mid-term elections in mid-May 2019 is the target date for the required plebiscite to approve (or not) a new federal constitution. Yet, it appears unlikely that Congress will have agreed upon a draft federal constitution to be voted on by then, or, even if Congress does, that it will be approved.

This *Perspective* outlines six separate but not mutually exclusive bases for this pessimistic outlook for President Duterte's campaign centrepiece. It concludes that the likely failure of this push for federalism is good for the Philippines.

### 1) The President

While federalism may have been the centrepiece of Duterte's 2016 presidential campaign, it has not been the centrepiece of his presidency. It took five months to release the Executive Order to establish the consultative committee to revise the 1987 Constitution, and a further thirteen and a half months passed before President Duterte appointed the committee. The consultative committee had less than six months to submit a draft federal constitution before the third State of the Nation Address.

As of 24 August, President Duterte had yet to officially submit the draft federal constitution to Congress for their consideration.<sup>6</sup> It is not clear when the Office of the President's public consultations on the draft constitution will end, whether the president will alter the draft constitution, and when this draft constitution that is only advisory in nature will be officially submitted to Congress. With the May 2019 mid-term elections on the horizon, any further delays in submitting the draft advisory constitution to Congress will further reduce the likelihood that there will be a plebiscite to approve a new federal constitution during the mid-term elections.

Federalism advocates had hoped that constitutional revision and federalism would be a main feature of President Duterte's third State of the Nation Address. Instead, as in 2016 and 2017, it received one short mention. On 23 August, Martin Andanar, the head of the Presidential Communications Operations Office, when asked if the federalism push was dead, stated that it was "on a power nap".<sup>7</sup>

## **2) Cabinet**

It has been reported that after reviewing the draft federal constitution, President Duterte's cabinet handed him a joint letter warning against the premature implementation of federalism.<sup>8</sup> Finance Secretary 'Sonny' Dominguez, a long-time friend of the president from Mindanao, and Socioeconomic Planning Secretary Ernesto Pernia have been the most vocal critics of the draft federal constitution. In early August, Dominguez, while under oath at the Senate finance committee, stated that he was very confused by the fiscal clauses in the draft constitution and that the Philippines investment grade credit rating and interest rates "could go to hell" if federalism was adopted.<sup>9</sup> Pernia has been equally as questioning in public contending that adopting the draft federal constitution would "wreak havoc in terms of our fiscal situation and we will certainly experience a downgrading in our ratings."<sup>10</sup> On 17 August, the governor of the central bank Nestor Espenilla Jr. called for a more comprehensive study of the proposed federal constitution and its revenue implications.<sup>11</sup> On 29 August, the National Economic Development Authority headed by Pernia tabled a report to the Cabinet economic cluster that estimated that the cost of adopting federalism, for the first year alone, could range from 167 billion pesos to 254 billion pesos or 2.8 per cent to 3.4% of GDP.<sup>12</sup>

## **3) The Senate**

A number of problems have combined in the Senate which together suggest that the current Senate will not support the push for federalism. On 21 May, a majority of senators voted to replace 'Koko' Pimentel from PDP-Laban with 'Tito' Sotto from the Nationalist People's Coalition as Senate Majority Leader and from Metro Manila. On 23 July, Representative Gloria Macapagal-Arroyo replaced Pantaleon Alvarez as House Speaker. Today, there is only one Mindanaoan and one member of the PDP-Laban executive (the president himself) among the three most powerful political positions in the Philippines.

The fact that the Senate committee on constitutional amendments is headed by opposition leader 'Kiko' Pangilinan from the Liberal Party adds further to federalist worries about the

Senate. On 18 July, during Senate hearings on the new draft federal constitution, Pangilinan warned that early adoption “is like careening off the cliff to political and economic limbo. If we wish to avoid political and economic disaster, we should not rush Charter change”.<sup>13</sup> On 25 July, Sotto admitted that no senator had included charter change in their list of priority issues for the new legislative session that will be distracted soon by mid-term election campaigning. On 2 August, Senator Panfilo Lacson went further and predicted that charter change and the push for federalism would be “cremated” in the Senate.<sup>14</sup> The Senate has yet to pass a resolution in support of one of the three forms of constitutional amendment. The House of Representatives passed one in favour of amendment through a Constitutional Assembly (amendment by the two houses of Congress) in January. On 15 August, House Speaker Macapagal-Arroyo predicted there would not be enough time for revising the constitution before the mid-term elections in May 2019.<sup>15</sup> Federalism’s ‘power nap’ risks becoming a coma.

#### **4) Business**

A large number of local and foreign business peak associations have also expressed their concerns with the draft federal constitution and a quick transition to a federal Philippines. On 18 June, six of the most influential business peak associations in the Philippines submitted a joint position paper to the consultative committee calling for a longer timeline for any proposed shift to federalism and a number of prerequisites. These include that “significant improvements in local government efficiency and service capabilities be instituted and strengthened as a vital precondition prior to a shift to a federal system.”<sup>16</sup> No such preparatory programme for local governments is currently being implemented.

On 12 August, five of these same bodies along with the Philippine Exporters Confederation and the Employers Confederation of the Philippines released a joint statement warning against any rapid shift to federalism and backing the concerns of the economic cluster of Cabinet.<sup>17</sup> Two days later, nineteen smaller local business associations released their own joint statement that states that “For this reason, many other organizations join the 7 large business organizations in calling for legislators to weigh carefully the costs and risks associated with the proposed monumental shift to a federal system of government.”<sup>18</sup> On 20 July, Moodys’ credit rating agency cited the uncertain fiscal implications of the proposed shift as a downside risk to the Philippines’ current investment grade rating.<sup>19</sup>

#### **5) The Electorate**

The current push for federalism is the opposite of a popular aspiration requiring a government response. In a March 2017 *Pulse Asia* poll, respondents chose ‘changing the Constitution’ as the least urgent of fifteen concerns listed with only 1 percent of respondents putting it first. A June 2018 *Social Weather Stations* poll may help explain this almost complete lack of popular urgency for constitutional reform. In this latter poll, only 25 percent of respondents nationally were aware of the federal system of government. 37 percent of respondents from Mindanao expressed awareness.

A June 2018 *Pulse Asia* poll showed some improvement with 31 percent of respondents claiming sufficient knowledge of the ‘proposed federal system of government’ including 40 per cent among respondents from Mindanao. However, when asked if they support ‘federalism now’, only 28 percent of respondents concurred while 34 percent agreed that ‘the system of government should not be changed now nor any other time’. This same poll shows that from March to June 2018, support for federalism only increased from 27 to 28 per cent despite the government’s federalism advocacy programme and much more news coverage of federalism. During these three months, according to this poll, support for federalism increased by 18 percent in Mindanao from 33 to 51 percent, while declining 19 percent from 42 to 23 percent in Metro Manila. This lack of public support for ‘federalism now’ contradicts the president’s insistence that it is time for federalism and suggests that a referendum on a federal constitution may not succeed despite the president’s popularity.

## **6) Bangsamoro**

On 26 July, President Duterte signed the Bangsamoro Organic Law that enacts the Comprehensive Agreement on the Bangsamoro that was reached between the Aquino administration and the largest Moro insurgent group, the Moro Islamic Liberation Front, in March 2014. This could be the most enduring and positive nation-building achievement of the Duterte administration. It does, however, also remove one of the key arguments made by the president for federalism. President Duterte has repeatedly conflated the passage of the Bangsamoro Organic Law (previously referred to as the Bangsamoro Basic Law) and federalism. He has predicted that war with the Bangsamoro insurgent groups would eventuate if both are not enacted.<sup>20</sup> Yet, the draft federal constitution includes without revision the enhanced Bangsamoro autonomous government to be established under the Bangsamoro Organic Law as one of the eighteen federated regions. The Bangsamoro Organic Law provides for a much greater level of regional autonomy for Muslim Mindanao which a change to a federal system for the country as a whole or the failure of this proposed change will not affect. The implementation of the Bangsamoro Organic Law will be key to addressing the Moro community’s political interests, and not the proposed shift to federalism.

## **THE SUITABLE STATUS QUO**

Despite presidential pronouncements, it does not appear that it is time for federalism in the Philippines. If the current faltering campaign for federalism fails, this will be a blessing without disguise for the Philippines. A recent study published by the University of the Philippines School of Economics directly contradicts one of the main arguments of the advocates of the current push for federalism. These advocates claim often with no data provided that federalism will reduce inequality between regions in the Philippines and boost prosperity across the archipelago. Instead, the study concludes that,

*“On the debate whether we should shift to federalism, if inclusion is the criterion, our research results finds no support in favor of such despite the claims of proponents.*

*Indeed, the results show that poverty incidence and income inequality could become worse. The contemplated shift appears to be a jump from the frying pan to the fire.”<sup>21</sup>*

It is also hard to see how the shift to federalism will bring about the more efficient government that advocates claim for it. The draft federal constitution calls for a significantly larger Senate and House of Representatives at the national level and a much larger increase in the number of politicians at the regional level. Having more politicians rarely leads to more efficiency. Federalism requires more coordination between more layers of government, with two levels having sovereign powers over differing but inevitably overlapping areas of responsibility.

The draft federal constitution does have a whole new section on means to reduce the overwhelming influence of political dynasties with advocates claiming that this will help address the main political problem in the Philippines. Yet, Congress omitted the similar clauses in the draft Bangsamoro Organic Law during their deliberations and President Duterte, himself the head of a political dynasty, signed their bill into law.<sup>22</sup> There is little reason to see why the dynasty-dominated House of Representatives would not omit the political dynasty-challenging clauses in the draft federal constitution.

If this Congress is able to come up with a new federal constitution that is approved by plebiscite, it will most likely lead to a more inefficient and complicated political system that will increase the costs of government and aggravate the sharp differences in wealth and economic opportunity across the islands of the archipelago. It will almost certainly create more political positions with more say over public revenues for the dominant political dynasties to populate and manipulate. The current push for federalism if successful could well bolster the dominance of political dynasties. This would be a bad outcome for a change of political system that is neither desired nor seen as urgent by the vast number of Filipinos.

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<sup>1</sup> Cited in <https://www.rappler.com/nation/politics/elections/2016/124423-duterte-federalism-central-system-holding-regions-back>

<sup>2</sup> In a *Pulse Asia* poll released in July 2018, Mindanao was the only region where a majority (51%) of respondents favoured a shift now to federalism. Only 28% of total respondents favoured federalism now. <http://www.pulseasia.ph/june-2018-nationwide-survey-on-charter-change/>. A *Social Weather Stations* poll released in June 2018 also showed that Mindanao was the only region in the Philippines where a majority supported a federal system of government.

<https://www.sws.org.ph/swsmain/artcldisppage/?artcsyscode=ART-20180628003935>

<sup>3</sup> <http://www.officialgazette.gov.ph/downloads/2016/12dec/20161207-EO-10-RRD.pdf>

<sup>4</sup> <https://www.rappler.com/newsbreak/84-documents/207513-consultative-committee-draft-constitution-final-version-document>

<sup>5</sup> <https://www.philstar.com/headlines/2018/07/23/1836195/full-text-dutertes-2018-sona-speech>

<sup>6</sup> <https://www.rappler.com/nation/210230-malacanang-asks-filipinos-comment-draft-constitution>

- <sup>7</sup> <https://pcoo.gov.ph/media-interview/interview-with-presidential-communications-operations-office-secretary-martin-andanar-by-angelo-palmones-dzrh-pangunahing-balita/>
- <sup>8</sup> <http://www.bworldonline.com/caution-on-federalism/>
- <sup>9</sup> <https://news.mb.com.ph/2018/08/09/interest-rates-will-go-to-hell-under-federalism-dominguez/>
- <sup>10</sup> <https://www.philstar.com/headlines/2018/07/17/1834217/neda-chief-calls-caution-federalism>
- <sup>11</sup> <http://www.pna.gov.ph/articles/1045227>
- <sup>12</sup> <http://business.inquirer.net/256427/shift-federalism-cost-govt-p253-5b-says-neda>
- <sup>13</sup> <http://newsinfo.inquirer.net/1011597/kiko-pangilinan-federalism-means-more-taxes-more-debts>
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- <sup>17</sup> <http://www.bworldonline.com/business-chambers-caution-on-federalism/>
- <sup>18</sup> <http://www.bworldonline.com/business-concern-on-federalism-mounts/>
- <sup>19</sup> <http://business.inquirer.net/254280/moodys-shift-federalism-downside-risk-ph-economy>
- <sup>20</sup> <https://news.mb.com.ph/2018/06/16/duterte-the-time-has-come-for-federalism/>;  
[http://newsinfo.inquirer.net/849221/only-federalism-will-bring-lasting-peace-says-duterte](http://newsinfo.inquirer.net/849221/only-federalism-will-bring-lasting-peace-says-duterte;);  
<https://www.untvweb.com/news/federalism-first-bbl-duterte/>
- <sup>21</sup> <http://www.bworldonline.com/federalism-linked-to-greater-inequality-up-study-finds/>
- <sup>22</sup> <https://www.rappler.com/nation/206850-anti-dynasty-provision-dropped-proposed-bangsamoro-basic-law>

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