

SOME CHANGES AND DEVELOPMENTS IN THE LOCAL GOVERNMENTS IN THE TRANSITORY PERIOD

CORNELIO P. ALDON
ANESIO R. GUADES
ROLANDO P. QUIMBO
OSCAR G. RARO
ERNESTO R. SISON

I. INTRODUCTION

The 1973 Philippine Constitution declares that "the state shall guarantee and promote the autonomy of local government units, especially the barrio, to ensure their fullest development as self-reliant communities".¹ The desire of the state or the national or central government to strengthen local government units by granting them greater autonomy in the management of their local affairs has been made manifest as early as 1901 with President McKinley's Instructions to the Philippine Commission "to devote their attention in the first instance to the establishment of municipal governments in which the native of the islands, both in cities and in rural communities, shall be afforded the opportunity to manage their own local affairs to the fullest extent of which they are capable and subject to the least degree of supervision and control x x x."² Exactly sixty-eight years following these instructions, and long after local governments had been established, the Congress of the Philippines enacted the Decentralization Act of 1967. Again the Act aimed at granting greater autonomy to local governments.³ Until 1972, however, when the 1935 constitution was still in force, supervision over local governments was placed in the hands of the President of the Republic.⁴

Under the 1973 Constitution, local government units in the Philippines are the provinces, cities, municipalities and barrios (barangay).⁵ Sub-provinces and municipal districts are no longer recognized as local government units.⁶

¹ CONST. (1973), art. II, sec. 10.

² Pres. McKinley's Instructions to the Phil. Commission, cited in CORTES, *PROVINCIAL AND MUNICIPAL LAW OF THE PHILIPPINES* 6 (1952).

³ Rep. Act No. 5185 (1969), sec. 2.

⁴ CONST. (1935), art. VII, sec. 10(1).

⁵ CONST. (1973), art. XI, sec. 1.

⁶ PATRICIO, *NOTES ON PUBLIC CORPORATION* 8 (1977).

On the other hand, the barrios (barangays), by placing them in the same category with the provinces, cities and municipalities, and now constituted as municipal corporations.⁷ Supervision over local governments has been removed from the President of the Republic. It is now exercised by the provinces with respect to municipalities and municipalities with respect to barrios.⁸

During the transition period,⁹ autonomy of local governments has been completely put in a "state of suspended animation." Not only supervision, but control over local governments has been exercised by the President/Prime Minister.¹⁰ Local elective officials can be removed or suspended any time with or without just cause.¹¹ Local government units can be created¹² and the form of one be altered¹³ by the President/Prime Minister. Certain innovations for the effective administration of local governments have been introduced. Thus we have today a commission type of government.¹⁴ Sangguniang Bayans have superseded the old provincial boards and city and municipal councils.¹⁵ Barangays were created in barrios.¹⁶

This paper aims to discuss not only the major novelties in local government but also the important legal controversies involved therein.

Barangay

To start with, barrio being a term of foreign origin, has been renamed *barangay*.¹⁷ This change of appellation however is not as simple as it appears to be. For, as will be seen later, certain issues arise from this matter. In order to avoid confusion, the term barrio as originally understood shall be used to distinguish it from the *barangay*.

Barrios are quasi-municipal corporations in municipalities and municipal districts where they are situated, exercising certain governmental functions among which are the power to sue and be sued, to enter into contracts, and to acquire, hold and transfer real and

⁷ *Ibid.*

⁸ CONST., art. XI, sec. 4(1).

⁹ As used herein, shall mean from the period the 1973 Constitution was ratified until the convening of the regular National Assembly.

¹⁰ Proc. No. 1081, s. 1972; Gen. Order No. 1 (1972).

¹¹ PATRICIO, *op. cit.*, *supra*, note 6 at 41.

¹² Pres. Decree No. 407 (1974), Pres. Decree No. 341 (1973), Pres. Decree No. 356 (1973).

¹³ Pres. Decree No. 824 (1975).

¹⁴ *Ibid.*

¹⁵ Pres. Decree No. 826 (1975).

¹⁶ Pres. Decree No. 86 (1972).

¹⁷ Pres. Decree No. 557 (1974).

personal properties.¹⁸ They are political and territorial subdivisions of the state.¹⁹ Being the smallest political unit, the barrio affords the greatest opportunity for citizen participation in the management of public affairs. With its present structure,²⁰ the government of the barrio is practically run by its inhabitants.

Barrio v. Barangay

On December 31, 1972 citizens assemblies were created in each barrio in municipalities and in each district in chartered cities and in the case of Manila and other cities where there are no barrios, in each ward.²¹ Subsequently these citizens assemblies were referred to as *barangays*.²² It will thus be seen that these citizens assemblies or *barangays* are mere aggrupations of residents of a locality.²³ When Presidential Decree No. 557 was issued in 1974, all barrios in the Philippines were declared *barangays*. In the case of the city of Manila and other cities where there are no barrios, all the *barangays*, *i.e.* the citizens assemblies created under Presidential Decree No. 86, are to continue as such *barangays*, *i.e.*, as such assemblies.²⁴ The term *barangay* therefore refers to, one, an assembly of citizens, and two, a territorial and political subdivisions of the Philippines. Unfortunately this distinction is not clear to many.

Three Assemblies in one Barangay

Before the creation of citizens assemblies, there were barrio assemblies existing in every barrio. These barrio assemblies were composed of barrio residents who are eighteen (18) years of age and over.²⁵ Pursuant to Presidential Decree No. 86, citizens assemblies were created in every barrio. Whereas the barrio assembly is composed of citizens 18 years of age and above, citizens assemblies are composed of citizens 15 years and above. And whereas a barrio assembly is vested by law with certain powers such as the power to decide on the holding of a plebiscite and the power to act on budgetary and supplemental appropriations and special tax ordinances,²⁶ the citizens assemblies on the other hand do not have

¹⁸ Rep. Act No. 3590 (1963), sec. 2 as amended.

¹⁹ CONST., art. XI, sec. 1.

²⁰ Under the present set-up, the officers of the *barangay* are actually run by the assembly which is composed of its residents 15 years of age and above. (See powers of barrio assembly, Rep. Act No. 3590 [1963]).

²¹ Pres. Decree No. 86 (1972).

²² Pres. Decree No. 86-A (1972).

²³ *Ibid.*

²⁴ Pres. Decree No. 557 (1974), sec. 1.

²⁵ Rep. Act No. 3590 (1963), sec. 4.

²⁶ Rep. Act No. 3590 (1963), sec. 5.

defined powers except that it may consider matters of local and national concern.²⁷ The barrio assembly, now *barangay* assembly, and the *barangay* (citizen assembly created by Presidential Decree No. 86), are two different bodies or citizen groupings in every *barangay* (barrio).²⁸ With the issuance of Presidential Decree No. 684, a third group was created in every *barangay* (barrio). The *Kabataang Barangay* Assembly is composed of the residents of the *barangay* who are at least fifteen years of age but not more than twenty one.²⁹ Like the citizens assemblies, the *Kabataang Barangay* Assemblies do not have specified powers and functions. In fact the decree creating the *Kabataang Barangay*, or the KB as it is popularly called, is absolutely devoid of any provision touching on this matter. The intention of the law to give the youth a definite role³⁰ in the *barangay* is simply defeated by failing to define what that purpose is. If it is to afford the youth ample opportunity to express their views and opinions, it would seem superfluous and unnecessary because the KB Assembly members are also members of the citizens assemblies (*barangays*) and barrio assemblies (*barangay* assemblies). As of this writing, the youth assemblies have not been consulted on any issue independently of the *barangays* or citizen assemblies.

Barangay Powers

Do *Barangays* (citizens assemblies) exercise the powers vested by law upon the *barangays* (barrios)? Section 3 of Presidential Decree 557 provides "All powers and rights vested in or exercised by the barrio assembly, barrio council and barrio officials pursuant to Republic Act No. 3590, and such other powers and rights, appertaining to or conferred upon them by other laws, shall henceforth be exercised by *Barangay* Assembly, *Barangay* Council and *Barangay* Officials." Certainly these powers are not conferred on *barangays* created in the City of Manila and other cities where there are no barrios because, as earlier pointed out, these *barangays* are not quasi-municipal corporations contemplated by Republic Act No. 3590.

²⁷ Pres. Decree No. 86 (1972), sec. 3.

²⁸ In an interview with Atty. Nicanor Patricio, Ministry of Local Government and Community Development Legal Officer, he explained that the barrio assembly and the *barangay* assembly or citizen assembly created under Pres. Decree No. 86, are two different organizations. The latter, he continued has not superseded the former.

²⁹ Pres. Decree No. 684 (1975), as amended by Pres. Decree No. 1102 (1977).

³⁰ Whereas of Pres. Decree No. 86 (1972):

Under the 1973 Constitution, local government units are given the power to raise their own sources of revenue and to levy taxes.³¹ Even before this constitutional provision was made effective, barrios have clearly been exercising a limited power of taxation.³² This power, by the enactment of the Local Tax Code, has been amended.

Privileges of Barangay Officials

Officials of the *barangays* are the barangay captains or in the case of citizens assemblies, the *barangay* chairman, *barangay* councilmen, and in Metropolitan Manila, *barangay* leaders.³³ With the issuance of Presidential Decree No. 684 which makes the KB Chairman ex-officio member of the *barangay* council, the number of councilmen has been raised from six to seven.³⁴ In an opinion rendered by the Government Service Insurance System Corporate Counsel dated January 14, 1977, the KB Chairman as ex-officio member of the *barangay* council is entitled to automatic insurance coverage under Republic Act No. 4898. The opinion went further by saying, "If *barangay* youth chairmen are by virtue of their office *barangay* councilmen with the same powers and responsibilities as regular members, then all benefits or privileges attached to the position or office must be enjoyed by them. The benefits or privileges are attached or incident to the lawful title or right to the office."³⁵

Republic Act No. 3590, enumerates the privileges of *barangay* officials.³⁶ Do these privileges extend in favor of *barangay* officials of *barangays* created pursuant to Presidential Decree No. 86 or to the citizens assemblies? It would seem that they are not, if we adopt the distinction between a *barangay* created under President Decree No. 86 and a *barangay* created under Republic Act 3590. This is not however a safe deduction because *barangay* officials in Metropolitan Manila, irrespective of whether they are *barangay* officials of *barangays* in contemplation of Presidential Decree No. 86 or *barangay* in contemplation of Republic Act No. 3590 enjoy the privileges of Republic Act No. 4898, as amended by Republic Act No. 5756 or the *barangay* insurance law.³⁷ And again, without recognizing this distinction, *barangay* officers who are at the same time government employees are exempted from rendering rural service required under Letter of Instruction No. 559.³⁸

³¹ CONST. (1973), art. XI, sec. 5.

³² Rep. Act No. 3590 (1963), sec. 17.

³³ Pres. Decree No. 210 (1973).

³⁴ Pres. Decree No. 824 (1975), sec. 3.

³⁵ Government Service Insurance System Corporate Counsel Opinion 77-3.

³⁶ Rep. Act No. 3590 (1963), sec. 16.

³⁷ Per information gathered from MMBOC (Metropolitan Manila *Barangay* Operations Center).

³⁸ On the matter *Paglilingkod Bagong Lipunan*.

II. *Barangay Officers as Persons in Authority and Agents of Persons in Authority*

Realizing the need to safeguard the persons of *barangay* chairmen and *barangay* leaders, the President issued Presidential Decree No. 299 amending section 152, as amended reads as follows:

Art. 152. Persons in authority and agents of persons in authority who shall be deemed as such — In applying the provisions of the preceeding and other articles of this code, any person directly vested with jurisdiction, whether as an individual or as a member of some court or governmental corporation, based on commission, shall be deemed a person in authority. A *barangay* captain and a *barangay* chairman shall also be deemed persons in authority. Any person who, by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property, such as a barrio councilman, barrio policemen and *barangay* leader and any person who comes to the aid of persons in authority.

x x x x x x.

Thus *barangay* captains and *barangay* chairmen are now considered persons in authority. And barrio councilmen, barrio policemen and *barangay* leaders are agents of persons in authority. Here the law makes reference to *barangay* captains and *barangay* chairmen. Also the law uses the term barrio, for councilmen and policemen, and *barangay* for the leader. It must be noted that the citizens assemblies (*barangays*) also have councilmen. The law by using the word barrio to qualify councilmen unequivocally referred to the barrio (*barangay*) councilmen in contemplation of Republic Act No. 3590 and not to councilmen of citizens assemblies (*barangays*). However, in interpreting this decree, the Secretary of the Department of Local Government and Community Development defined who *barangay* leaders are by saying they are the "equivalent of the Barrio Councilmen in legal barrios."³⁹

While Presidential Decree No. 299 did not qualify its applicability, the same issuance of the Department of Local Governments and Community Development Secretary did qualify it thus: "In order to clarify the interpretation of this Decree, it should be mentioned that this Presidential Decree No. 299 *refers to barangays* organized in accordance with Presidential Decree No. 86, 86-A and 210 in the *Poblacion* or urban centers of municipalities and chartered cities where there are no legal barrios existing."⁴⁰ Of course the Secretary did not intend to restrict or limit the application of Presidential Decree No. 299 so as not to vest the *barangay* captains

³⁹ Ministry of Local Government and Community Development Memorandum Circular No. 73-46.

⁴⁰ *Ibid.*

and the barrio councilmen the status of persons in authority and agents of person in authority. For this is provided for in the law. In saying that Presidential Decree No. 299 refers only to *barangays* created pursuant to Presidential Decree No. 86, 86-A and 210, what the Secretary possibly meant was that the application of Presidential Decree No. 299 *with respect to barangay chairmen and barangay leaders* shall be limited to *barangays* duly created in accordance with the law (Presidential Decree No. 86, 86-A and 210). This would seem a reasonable interpretation because paragraph 1 of memorandum circular 73-46 refers only to *barangay* chairman and *barangay* leaders as persons in authority and agents of persons in authority respectively.

In Metropolitan Manila, there are organizations within *barangays* known as *Barangay* Community Brigades.⁴¹ The officers and members of these BCB's, as they are popularly called, have been made agents of persons in authority by virtue of Presidential Decree No. 1232 which amended Article 152 of the Revised Penal Code as amended by Republic Act No. 299. One question that may be raised with respect to this amendment is whether it is applicable to *barangay* community brigades that may be created outside of Metropolitan Manila. For while the Revised Penal Code has a general application and Article 152 thereof as amended does not qualify the term *barangay* community brigades, section one of the amendatory decree which is *not* part of the RPC refers only to *barangay* community brigades organized or "as may be organized by the Governor of Metropolitan Manila." The Minister of the Ministry of Local Government and Community Development has yet to settle this question. As of this writing no *barangay* community brigade has been organized in areas other than Metropolitan Manila.⁴² Incidentally, in Metropolitan Manila, there are as of today 1,700 *barangays*.⁴³ It is not known however how many of this number are the barrios and how many are citizens assemblies because both are termed *barangays*.

In addition to *barangay* captains and *barangay* councilmen, there is another group of *barangay* leaders, who are considered by law to be persons in authority.⁴⁴ This group, called *Lupong Taga-payapa* or *Lupon*, was created by Presidential Decree 1508. The *Lupon* is composed of the *Barangay* Captain or *Barangay* Chairmen

⁴¹ *Barangay* Tanod Brigade, *Barangay* Traffic Auxiliary Brigade, *Barangay* Ladies Auxiliary Brigade, *Barangay* Disaster Brigade, and *Barangay* Volunteer Brigade.

⁴² Per information from the *Barangay* National Executive Secretariat (BNCES), MLGCD.

⁴³ Per records of MMBOC.

⁴⁴ Pres. Decree No. 1508 (1978), sec. 1.

in case of *barangays* created under PD 86 as chairmen and not less than 10 or 20 members.⁴⁵ This *Lupon* is a body to be created in every *barangay* — referring to barrios and citizens assemblies. As of this writing not one *Lupon* has been created in Metropolitan Manila. Under Section 16 of Presidential Decree No. 1508, the Ministry of Local Government and Community Development is charged with the implementation of the Decree and for that purpose is empowered to issue rules and regulations. As of this writing, no such rules have been issued.⁴⁶

Sangguniang Bayan

Under the Revised Administrative Code the legislative bodies in provinces, cities, and municipalities, are provincial boards, city councils, and municipal councils respectively. In the transition-period these boards and councils have been renamed. By virtue of Presidential Decree No. 826 Provincial Board is now called *Panlalawigang Sangguniang Bayan*, the City Council *Sanggunian Bayan Panglunsod*, and the Municipal Council, *Pambayang Sanggunian Bayan*. The change brought about by Presidential Decree No. 826 was not only in name, but also in membership, manner of membership, privileges of members and number of sessions. The *Sangguniang Bayan* in the different local units, except Metropolitan Manila, retain their legislative powers subject only to laws and presidential decrees.⁴⁷

Membership

It is said that the present membership of the *Sangguniang Bayan* represents the cross-section of the community. The increase in the number of members in the SB's has been brought about due in part to the necessity of giving the people "greater voice in the administration of their local affairs" and in response to an "increasing demand for greater participation of the citizenry in the affairs of the government."

In Municipalities

The *Pambayang Sangguniang Bayan* is composed of the members of the municipal council including the vice mayor and as many *barangay* captains and representatives from other sectors of the community as there are members of the municipal council.⁴⁸ By virtue of Memorandum Circular 75-96 of the Minister of the Minis-

⁴⁵ *Ibid.*

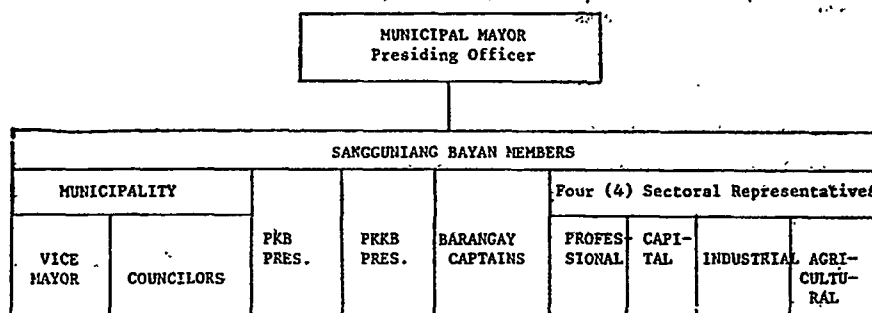
⁴⁶ Per BNCES.

⁴⁷ Pres. Decree No. 826 (1975), sec. 5.

⁴⁸ Pres. Decree No. 826 (1975), sec. 2.

try of Local Government and Community Development, the number is increased by two by making the President of the *Pambayang Katipunan ng mga Barangay* and the President of the *Pambayang Katipunan ng mga Kabataang Barangay* automatic members. The same memorandum also identified the sectoral representatives.⁴⁹

The diagram below shows the composition of the *Pambayang Sangguniang Bayan*.



To determine the number of *barangay* captain representatives, simply get the number of original members of the council. The difference between the number of original council members and the four sectoral group representatives together with the PKB and PKKB representatives, will be the number of *barangay* captain representatives. Thus in a municipality where there are only six (6) councilmen⁵⁰ there will only be two (2) *barangay* captain representatives.⁵¹

In Cities

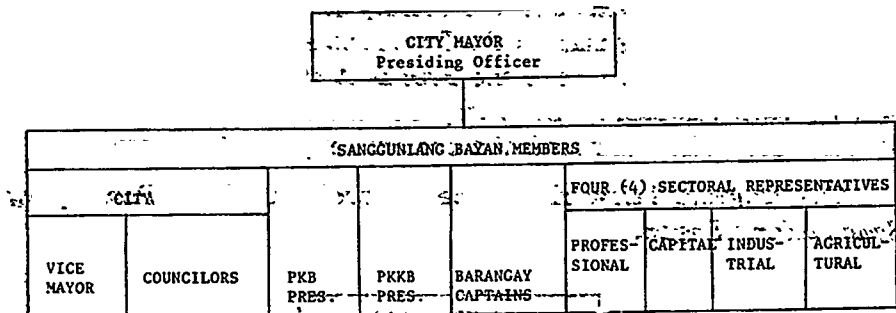
The *Sangguniang Bayan Panglunsod* has the same composition as the *Pambayang Sangguniang Bayan*. It is composed of the members of the city council, representatives from the different sectors of the community, *barangay* captains⁵² and the President of the *Panglunsod na Katipunan ng mga Barangay* as well as the President of the *Panglunsod na Katipunan ng mga Kabataan Barangay*. The composition of the *Sangguniang Bayan Panglunsod* is shown below:

⁴⁹ The sectoral groups are: a) professional sector; b) capital sector; c) industrial sector and d) agricultural sector.

⁵⁰ This refers to class c municipalities.

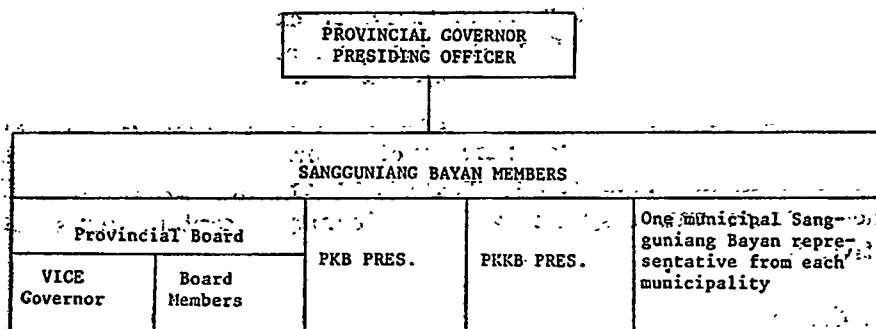
⁵¹ To arrive at this number: original member of the council is 8 (6 councilmen plus 1 mayor and 1 vice mayor). The number of representatives from the four sectors.

⁵² Pres. Decree No. 826 (1975), sec. 3.



In the Provinces

The *Panlalawigang Sangguniang Bayan* is composed of the incumbent members of the existing Provincial Boards, including the Vice-Governors and a representative from each of the municipalities within the territorial jurisdiction of the province and the President of the *Katipunan ng mga Kabataang Barangay* in the Province. The diagram below shows the composition of the *Provincial Sangguniang Bayan*.



Mode of Membership

The present members of the *Sangguniang Bayan* may be classified, according to the manner by which they became members, into the following: those holding office by virtue of the transitory provisions of the New Constitution, those holding office by virtue of appointment by the President of the Philippines, those holding office by virtue of Presidential appointment upon prior nomination, and those holding office in an ex-officio capacity or by virtue of another office or position.

The last local elections held in the Philippines was in 1969. Under the old law,⁵³ the term of office of the local elective officials

⁵³ Rep. Act No. 6388 (1971).

was four (4) years. Thus, those elected in 1969 were supposed to have ceased holding office four years thereafter or in 1973. Before their terms ended, the new Constitution was ratified.⁵⁴ Section 9 of the Transitory Provisions provides: "all officials and employees in the existing Government of the Republic of the Philippines shall continue in office until otherwise provided by law or decreed by the incumbent President of the Philippines x x x."

When in 1975, the President directed the Minister of Local Governments to undertake a performance appraisal of all local elective officials,⁵⁵ a number of local officials was weeded out. The President appointed some to fill up the vacancies.

The sectoral representatives to the *Sangguniang Bayan* are appointed by the President upon the recommendation of the Minister of Local Government. These recommendees are taken from the nominees elected by the respective sectoral groups.⁵⁶ The nominees of a particular sectoral group are elected by the members belonging to that group. To be nominated no definite minimum or maximum number of electors or signatories is fixed. What is required is that there should be "as many signatories as may be possible."⁵⁷

At this juncture it is noteworthy to point out that these sectoral groups are "loose" organizations or associations. It is difficult to comprehend how these organizations or associations came to be considering the time frame within which they were supposed to be created. The Memorandum Circular⁵⁸ which defined for the first time who belonged to the capital sector, to the professional sector, to the industrial labor sector, and to the agricultural sector was issued on 4 December 1975. And *on or before December 14*, these different sectoral groups shall have been organized and shall have elected their respective nominees to the *Sangguniang Bayan*.⁵⁹ In ten (10) days time the sectoral groups were organized.

The fourth and last classification of members in the *Sangguniang Bayan* according to the manner in which they became members are those who became so by virtue of the positions they hold. They are the *barangay* captains, the President of the *Kabataang Barangay* and the President of the *Katipunan ng mga Barangay*. The Associations of *Barangay* Captains in municipalities and cities⁶⁰ elect from among themselves who are to be members of the

⁵⁴ Proc. 1102, s. 1973, 69 O.G. 592 (Jan., 1973).

⁵⁵ Letter of Instruction No. 556 (1977).

⁵⁶ MLGCD Memorandum Circular 75-76.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ The ABC's are actually what was referred to as *Katipunan ng mga Barangay* in Pres. Decree No. 826 (1975).

municipality and city *Sangguniang Bayan* respectively. In every Association of *Barangay* Captains, there is a President who is by virtue of his position automatically a member of the *Sangguniang Bayan*. The presidents of the Associations of *Barangay* Captains in a province constitute the Federation of *Barangay* Captains in that province. The President of this Federation is by virtue of that position member of the Provincial *Sangguniang Bayan* or the *Sangguniang Bayan Panlalawigan*.⁶¹ The organization of *Kabataang Barangay* Federations was patterned after the organizational set-up of the Association of *Barangay* Captains and its federations.⁶² Under this set-up it is highly possible that a *barangay* chairman or a *Kabataang barangay* chairman will be both a member of the Municipal *Sangguniang Bayan* and the Provincial *Sangguniang Bayan*.

Privileges of Members and their term of Office.

Members of the *Sanggunang Bayan* receive no compensation or salaries. They are entitled only to per diems and basic allowances on reimbursement basis.⁶³ Where a member of the Municipal *Sangguniang Bayan* is concurrently a member of the Provincial *Sangguniang Bayan* he may collect per diems and transportation allowances from either or both bodies provided that he has actually attended the sessions for which he is paid.⁶⁴

The term of office of members of the *Sangguniang Bayan* in provinces, cities and municipalities is interim in character and temporary in duration. The term of office of members of the *Sangguniang Bayan* is to be fixed by the President of the Philippines.⁶⁵

Sessions of the Sangguniang Bayan

As provided by law, meetings of the *Sangguniang Bayan*, shall, unless impracticable, be open to the public.⁶⁶ In accordance with the power vested upon it, the Ministry of Local Government and Community Development issued Memorandum Circular No. 76-3 dated January 9, 1976—the guidelines for the holding of regular and special sessions. Pursuant to said memorandum the number of regular sessions is not to exceed more than once a month and the number of special sessions, which may be called by the presiding officer or a majority of the members of the *Sangguniang Bayan*, is dependent

⁶¹ MLGCD Memorandum Circular 75-96.

⁶² MLGCD Memorandum Circular 75-18, Creation of *Kabataang Barangay*

⁶³ Pres. Decree No. 826 (1975), sec. 3.

⁶⁴ MLGCD Memorandum Circular 76-3.

⁶⁵ Pres. Decree No. 877 (1979), sec. 7.

⁶⁶ Pres. Decree No. 826 (1975), sec. 4.

on the class of the province, city, or municipality.⁶⁷ The same memorandum also provides that the regular and special sessions of the provincial and municipal *Sangguniang Bayan* should be fixed so as not to conflict with each other. This is done to allow the representative from the municipal *Sangguniang Bayan* to attend the sessions of the provincial *Sangguniang Bayan*.

A new Form of Government

It has been ruled that the President under martial law exercises both legislative and executive powers.⁶⁸ In the exercise of such powers and acting on the referendum result of 27 February 1975 wherein the residents of greater Manila Area authorized him to restructure the four cities and 13 municipalities composing the area, the President created the Metropolitan Manila Commission⁶⁹—thereby introducing a new form of local government in the Philippines.

Section 1 of Article XI of the Constitution provides that the territorial and political subdivisions of the Philippines are the provinces, cities, municipalities and barrios. In the light of this constitutional provision, where does or under what classification does the Metropolitan Manila Commission, considering that it is a public corporation, belong? In effect under the transition period, a new form of local government not otherwise provided for by the constitution, has been established.

It could be drawn from the whereases of Presidential Decree No. 824 that the creation of the Metropolitan Manila Commission has been founded on the necessity of integrating the services rendered by the four cities and thirteen municipalities. On the matter of integration of services, the Constitution provides that "local government units may group themselves, or consolidate their efforts, serv-

⁶⁷ MLGCEd Memorandum Circular 76-3; number of special session:

For Provinces:	
1st class A to C	— 8 per annum
2nd and 3rd class	— 6 per annum
4th & 5th class	— 4 per annum

For Cities:	
1st class A to C	— 12 per annum
2nd & 3rd class	— 10 per annum
4th & 5th class	— 8 per annum

For Municipalities:	
1st class to A to C	— 12 per annum
2nd & 3rd class	— 10 per annum
4th class	— 8 per annum
5th & 6th class	— 6 per annum

⁶⁸ Aquino v. Comelec, G.R. No. L-40004, January 31, 1975, 62 SCRA 275 (1975).

⁶⁹ Pres. Decree No. 824 (1975).

ices, and resources for purposes commonly beneficial to them."⁷⁰ In the case of Metropolitan Manila, not only integration of the services of local governments, but the creation of a new body corporate — a public corporation, took place. Whether this is allowed by the Constitution is a question which has to be settled yet.

Prior to the integration of the 17 local governments now constituting Metropolitan Manila, the type of government of these units was that of a mayor — council. Under Presidential Decree No. 824 a commission type of government was created. The Commission is composed of Chairman or Governor and Vice-Chairman or Vice-Governor and three Commissioners or Board Members; one for planning, one for finance, and one for operation. These officers are appointed by the President and hold office at his pleasure. Today, nearly four years since the creation of the Metropolitan Manila Commission, the officers, except the Governor, have not been appointed. The Metropolitan Manila is actually run by the Governor with the assistance of the Executive Secretary and a number of Action Officers.⁷¹

III. CONCLUSION

The most significant changes in local government under the transition period have been the creation of the *Sangguniang Bayan* which replaced the old provincial boards and city and municipal councils and the introduction of a commission type of government. These two innovations are the exact opposite of each vis-a-vis representation of the citizen in the governance of their local affairs. While the *Sangguniang Bayans* have broadened citizen representation in the legislative council, the commission has, on the other hand, limited the number of members of the legislative body of a relatively big area by centralizing its government under a commission.

While the *barangays* have been raised to the status of a municipal corporation, no substantial change has been introduced to reinforce their new status. The government has concentrated on the status of *barangay* officials rather than on the status of the *barangays*; on the number of representatives to the *barangay* council and *barangay* assembly, rather than on the powers of these bodies.

⁷⁰ CONST. (1973), art. XI, sec. 4(2).

⁷¹ These actions officers most of whom are acting in concurrent capacities are the Action Officer for Planning (Jose Conrado Benitez) Action Officer for Operations (Serafin Luz Cui), and Action Officer for Finance (Silvestre Sarmiento).

Perhaps the erudite observation of Dean Cortes on local government could well conclude this paper. She says:

x x x While legally recognizing the dual character of local governments as bodies corporate, first representing the inhabitants within the territory much in the same way as a corporation acts for its members or shareholders to promote the common concern, the local governments operated hardly ever in this capacity to innovate or initiate measures. Through the years, it is the second category of functions that local governments have concentrated on, namely as agency of the state, a unit of the central government in carrying out laws and policies. It is of course true that legally these local governments are regarded as creations of law, with limited powers and that any acts done beyond these limits can be nullified. But in spite of the grant of more liberal powers, of legislation in local autonomy, it is a rare instance when a local government will strike out on its own along permissible areas. *The easier, more comfortable way, has been to wait for action from the national government (underscoring supplied).*⁷²

⁷² Cortes, *Citizens' Participation in Government From the Grass Roots: Some Reflections on the Legal Aspect of Contemporary Developments*, 51 PHIL. L.J. 455, 463 (1976).

