

Framing the Philippine Congress-Bangsamoro Parliamentary (PC-BP) Forum: Technical and Political Considerations

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Abstract

The bedrock of Bangsamoro autonomy hinges on its right to self-determination including the legislation of measures to address the needs of the region but at the same time preserving the national interest. This balancing of interests is facilitated by the creation of intergovernmental relations (IGR) body as prescribed by the Bangsamoro Organic Law (BOL). However, this new governance structure is yet to take form, lest have a blue print for implementation.

This policy brief provides a discussion on what an IGR legislative forum is and the key functional areas that define its effective intergovernmental relations.

Since the Philippine Congress-Bangsamoro Parliamentary (PC-BP) Forum is required by the BOL to operate under the principle of intergovernmental relations; this brief explores how it can be framed a) within a unitary system of government and b) along existing structural and political dynamics. Specific technical and political considerations are presented in the discussion to help assist the current initiatives for its proper implementation.

Introduction

The establishment of Bangsamoro Autonomous Region in Muslim Mindanao (BARMM) extends the traditional notion of levels of governance in the Philippines: a new political entity having its basic structure of government that allows meaningful self-governance within the framework of the Philippine Constitution.¹ In fact, owing to the Bangsamoro Organic Law, a new political entity has been created aside from the traditional categories of local government units that include city/municipality, provincial and regional entities. BARMM can be imagined as a sub-state within a state, which requires new ways of balancing relations from the central government and a new tier of government.

Thus, the Philippine experience with BOL can be considered as a decentralized unitary system with explicit self-governance arrangement for BARMM. Scholars refer to this arrangement as young multi-tiered systems² generally unprepared for and do not have a luxury of time to respond to challenges of governance. Most of these challenges include facilitating, coordinating and integrating activities of respective levels of government to ensure all levels maximize their available resources and optimize service delivery.

Intergovernmental Relations are not just a feature typical of multi-tiered systems, but rather are necessary working mechanisms to facilitating, coordinating, and integrating the balancing interests of two political entities. IGR is defined in general as formal and informal processes, institutional arrangements, agreements and structures for bilateral and multilateral cooperation between respective levels of government³. It is also widely acknowledged in academic literature that intergovernmental mechanisms can increase the effectiveness and efficiency of policymaking by avoiding redundancies, duplication, unreasonable fragmentation and ineffective amalgamation. Yusingco (2019) outlines three key elements of IGR: *First*, the requirement of mutual respect between different levels of government, *second*, an ethos of interdependence, and *third*, a platform for civic participation⁴. In fact, IGR mechanism has been referred to as an “integral component of good governance”⁵, a mechanism to “end deadlock”⁶ and in the case of the Philippines, an important “game-changer”⁷.

Specifically, the establishment of IGR Body is provided in Article VI of the BOL intended “to coordinate and resolve issues on intergovernmental relations through regular consultation and continuing negotiation in a non-adversarial manner. At least seven specific

¹ Article 1 Sec 3. Congress of the Philippines. Republic Act No. 11054. Bangsamoro Organic Law. Article VI of RA No. 11054 accessed at http://www.congress.gov.ph/legisdocs/ra_17/RA11054.pdf

² de Villiers, Bertus. (2012). Codification of “Intergovernmental Relations” by Way of Legislation: The Experiences of South Africa and Potential Lessons for Young Multitiered Systems. Accessed from https://www.zaerv.de/72_2012/72_2012_4_a_671_694.pdf

³ Ibid. 2012.

⁴ Yusingco, Michael Henry LI. (2019). IGR: The key to genuine and meaningful local autonomy. *Business World*. June 5. <https://www.bworldonline.com/igr-the-key-to-genuine-and-meaningful-local-autonomy/>

⁵ Yusingco, Michael Henry LI. (2019). IGR is a vital component of good governance. Ateneo School of Government Working Paper 19-012. August 2019.

⁶ Yusingco, Michael Henry LI. and Michael H. Yusingco. (2019). Intergovernmental relations and the Mandanas case. *Rappler*. September 13. Accessed from <https://rappler.com/voices/thought-leaders/analysis-intergovernmental-relations-mandanas-case>

⁷ Yusingco, Michael Henry LI. (2019). IGR is a vital component of good governance. Ateneo School of Government Working Paper 19-012. August 2019.

IGR bodies are also mandated by law to be created to include the (1) Philippine Congress-Bangsamoro Parliament Forum; (2) Intergovernmental Fiscal Policy Board; (3) Joint Body for the Zones of Joint Cooperation; (4) Intergovernmental Infrastructure Development; (5) Intergovernmental Energy Board; (6) Bangsamoro Sustainable Development Board; and (7) Council of Leaders.

The Philippine Congress – Bangsamoro Parliamentary (BC-BP) Forum is one of the seven Intergovernmental Relations Body (IGR) body mandated by the BOL⁸. Section 3 of Article VI specifies that the said forum shall be created for the purposes of cooperation and coordination of legislative initiatives.

The IGR Body, tasked to facilitate the creation of the seven specific IGR bodies, is co-chaired by Secretary Carlos Dominguez of the Department of Finance from the national government and BARMM Minister of Finance Mohager Iqbal for the Bangsamoro side⁹.

In the second and most recent meeting of the National Government – Bangsamoro Inter-Governmental Relations Body (IGRB) which was conducted online last 29 May 2020, Iqbal and Dominguez agreed to recommend to President Rodrigo Duterte the public launch of the IGRB online at the soonest possible time. Alongside, both representatives from the national government and BARMM are reminded to begin the process of activating five out of seven mechanisms, which include the Philippine Congress-Bangsamoro Parliament Forum¹⁰.

Defining the IGR Parliamentary Forum

The creation of IGRB is consistent to the Part 1 of the Annex on Power Sharing between the Central Government and the Bangsamoro Government. IGRB was designed as a mechanism to resolve issues that may arise between the central and Bangsamoro government¹¹. Specifically, it is a platform to address potential conflicts between laws, programs and standards of the central and the Bangsamoro government. It is an important coordinating bridge not only between two levels of government but as well as in cascading good governance principles and decisions to concerned agencies under the two governments. A conceptual framework is provided below.

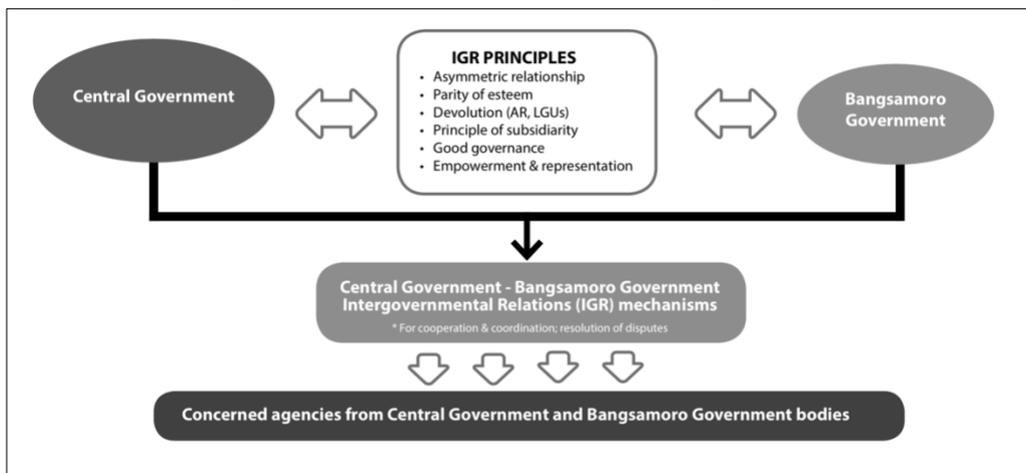
⁸ Congress of the Philippines, Republic Act No. 11054. Bangsamoro Organic Law. Article VI of RA No. 11054 accessed at http://www.congress.gov.ph/legisdocs/ra_17/RA11054.pdf

⁹ Philippine News Agency. (2020). Bangsamoro Organic Law remains on track: OPAPP. *Philippine News Agency*. March 11. Accessed from <https://www.pna.gov.ph/articles/1096251>

¹⁰ Philippine News Agency. (2020). 'Bold' autonomy initiative in Bangsamoro Region to push through. *Philippine News Agency*. June 7. Accessed from <https://pna.gov.ph/articles/1105183>.

¹¹ OPAPP. 2013. Office of the President of the Philippines, Office of the Presidential Adviser on the Peace Process. Primer on the Annex on Power Sharing to the Framework Agreement on the Bangsamoro.

Figure 1. The IGRB and its coordinating function



Source: Office of the Presidential Adviser on the Peace Process (2013)

One of the primary components of the IGRB is the institutionalization of the Philippine Congress – Bangsamoro Parliament Forum. It is designed specifically for purposes of cooperation and coordination of legislative initiatives. Similar to the IGRB, the Forum is designed to resolve any conflict and harmonize actions through regular consultations and continuing negotiations in a non-adversarial manner. IGR principles that guide the operation of IGRB include asymmetric relationship, parity of esteem, devolution, principle of subsidiarity, good governance, empowerment & representation.

There are two important concepts that needs explain to fully comprehend how IGR mechanism operates in the context of the PC-BP Forum. The first concept refers to the structure of the Bangsamoro Parliament, and second is the technical definition of a Forum.

The election of the first Bangsamoro Parliament is yet to take place in 2022, but the BOL already provides some basic principles. This includes the composition of the parliament which must be made up of 80 members, (a) 50% percent of which are political party representatives based on proportional votes obtained; (b) 40% are from single member parliamentary districts apportioned for the areas elected through direct plurality; and (c) 10% reserved seats and sectoral representatives which include reserved seats for women in the Parliament. Moreover, Article VIII prescribes the appointment of a *Wali* who serves as ceremonial head of the Bangsamoro Government. Duties include opening the session of the Parliament, dissolving the Parliament after a vote of no confidence, and calling for election of a new Parliament, among other duties.

Section 23 of Article VII further identifies the election by majority vote of parliament members of the Speaker, a Deputy Speaker and the other officers of the Parliament. In terms of policy making, Section 25.d. directs the Speaker of the parliament to submit to the President and to the Congress of the Philippines a certified true copy of laws and resolutions approved by the Parliament.

An interesting mechanism allows the dissolution of the Parliament upon a vote of no confidence from two-thirds of members voting against the government of the day. Given that the election for a new Parliament shall not be held later than 120 days from the date of dissolution, the incumbent Chief Minister and Cabinet are expected to continue the conduct of affairs of the Parliament.¹²

With the recent completion of the draft Bangsamoro Administrative Code (Cabinet Bill No. 60) passed last 22 July 2020, it is expected that permanent procedures and structures to be used in the Bangsamoro Government will include selection of parliament members to be part of the PC-BP Forum. Among other key legislation that may provide more structure and operational mechanisms for other IGR bodies include the Local Government Code (Cabinet Bill No. 58), and the Civil Service Code (Cabinet Bill No.59), which are collectively referred to as priority codes of the BTA.¹³

From these parliamentary set up and structure, salient features are identified that should be ideally mirrored in the PC-BP Forum. First is the necessary representation of the Speaker, Deputy Speaker as well as representation from the structure of the parliament. This includes representatives that come from political parties, parliamentary districts and reserved/sectoral seats. The participation of *Wali* in the forum must also be accounted especially for purposes of dissolution upon a vote of no confidence to ensure continuity and transition of the Parliament.

On the other hand, a technical definition of a forum merits evaluation. It is a political body or a body of officials that carry out one or more functions on a full time or regular basis¹⁴. In the context of IGR, forums established on a long-term basis provide accumulation of knowledge and experience that can ease the burden of workload¹⁵ such as legislative coordination among different tiers of government. The National Conference of State Legislatures in the United States provide an illustrative example as a mechanism where speaker and members of state and federal legislature promote and communicate policy innovations and cohesiveness¹⁶.

In short, the functionality of the forum as an IGR mechanism relies heavily on the “understanding of established mandates, clear rules of participation, established working arrangements, and ability to foster greater participation”¹⁷. Other factors that affect functions of IGR forums specific to legislation include: (1) degree of separation of powers of executive

¹² See Article VII, Section 36. Congress of the Philippines. Republic Act No. 11054. Bangsamoro Organic Law. Article VI of RA No. 11054 accessed at http://www.congress.gov.ph/legisdocs/ra_17/RA11054.pdf

¹³ Bureau of Public Information. (2020). Bangsamoro Autonomous Region in Muslim Mindanao. 20 June. Accessed from <https://bangsamoro.gov.ph/news/latest-news/barmm-cabinet-files-administrative-civil-service-local-government-codes/>

¹⁴ Neumann, R. and T. Russell Robinson (2001). The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt's Perspectives on Fiscal Federalism. The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

¹⁵ Ibid. 2001.

¹⁶ Miral, Romulo Jr. 2017. Federalism: Prospects for the Philippines. Discussion Paper Series No. 2017-29. Philippine Institute for Development Studies. Accessed from <https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps1729.pdf>

¹⁷ Neumann, R. and T. Russell Robinson (2001). The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt's Perspectives on Fiscal Federalism. . The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

and legislative departments, (2) degree of cooperation versus competition by policy makers, and (3) number of units in a federation or multi-tiered system¹⁸.

Put succinctly, creating an IGR mechanism for the PC-BP forum is both a political and technical endeavor. Such mechanism should be geared towards enhancing legislation-related dynamics such as negotiation, exchange of information and cooperation. With this, it is important to answer these questions: (1) what are the technical considerations in establishing this forum? (2) How can parallel cases studies be of value? And, (3) what are some specific policy recommendations to guide the establishment of the PC-BP forum?

Technical and Political Considerations in Establishing the PC-BP Forum

Without any specification stated in the BOL on how the PC-BP Forum should be structured and operated, it is important to look at current initiatives being done. Senate Concurrent Resolution No. 5 passed in January of this year urged BTA to designate its representatives to the PC-BP and to meet with delegates designated by the Senate and the House of Representatives for such purpose¹⁹.

It is more likely that the resulting structure of the PC-BP Forum have to follow whoever will be designated by both legislative bodies. Representatives of the to the PC-BP Forum will come from the 80 members of the Parliament, From the side of the Philippine Bi-cameral congress, it appears that those who have helped to facilitate the implementation of IGR bodies would have a direct impact in the selection process of representatives to the forum.

Table 1. Representatives from Philippine Congress and Bangsamoro Parliament

	Philippine Congress ^a	Bangsamoro Parliament ^b
Leadership Structure	Upper House: Senate President, Senate President pro tempore, Majority Floor Leader Minority Floor Leader Lower House: Speaker, Deputy Speakers, Majority and Minority Floor Leaders,	Speaker Deputy Speaker Other officers <i>Wali</i> (Ceremonial Head)
Nature of Composition	a. Senate b. Congressional Districts c. Party-list representatives	a. Political Party Representatives: 50% b. Single member parliamentary district representatives: 40% c. Reserved seats and sectoral representatives: 10%
Number of Members	a. 24 b. 243 c. 61	a. 40 b. 32 c. 8

Source: ^a Official Gazette of the Republic of the Philippines (N.D.) ²⁰

^b Bangsamoro Organic Law. (2018)

¹⁸ Watts, Ronald L. (1989). Executive Federalism: A Comparative Analysis Kingston: Queen’s University, Institute of Intergovernmental Relations.

¹⁹ Arguillas, Carolyn. (2020). Senate asks BTA to name reps to Congress-Bangsamoro Parliament Forum. *Mindanews*. January 30. Accessed from <https://www.mindanews.com/peace-process/2020/01/senate-asks-bta-to-name-reps-to-congress-bangsamoro-parliament-forum/>

²⁰ Official Gazette of the Republic of the Philippines. (N.D.) The Legislative Branch. Accessed from <https://www.officialgazette.gov.ph/about/gov/the-legislative-branch/>

The selection of representatives to the Forum is a political aspect that needs to be safeguarded by more objective and technical consideration to ensure that the PC-BP Forum enhances the bargaining power of the regional state but at the same time leveling the playing field for legislative matters.

It can be argued that the selection process is indicative of the structure that the Forum will have once it is fully implemented. Thus, the issue here must not just be a mere numbers game or an aspect of compliance, but rather a technical one where principles that constitute successful IGR mechanism for legislative matters are built into the planning and implementation of its structure.

The next section summarizes these principles and provides insights into how functional areas of an effective IGR can be used as reference in institutionalizing newly formed IGR bodies such as the PC-BP Forum.

Broad functional areas for the PC-BP Forum

There are at least eight broad functional areas that Neumann and Robinson (2001) identify for effective intergovernmental relations²¹. These functional areas cover IGR concerns from its institutionalization to day-to-day operations. Table 2 summarizes these areas.

Table 2. Eight broad functional areas for effective intergovernmental relations

<i>1. Issue identification and priorities for intergovernmental attentions</i>
<i>2. Development and analysis of relevant information</i>
<i>3. Development of policy, administrative and technical options</i>
<i>4. Developing consensus</i>
<i>5. Policy adoption and implementation</i>
<i>6. Administration and coordination</i>
<i>7. Transparency and accountability</i>
<i>8. Issue Resolution</i>

Source: Neumann and Robinson (2001)

To illustrate how these principles operate in actual practice, consider the United States’ single largest intergovernmental program, the US Medicaid. The principle in operation occurs in two aspects. One, the federal-state program involves the federal government setting minimum requirements for state-provided benefits, eligibility, reimbursement of health care providers, and for establishing administrative rules that states must follow²². On the other hand, states are required to file and negotiate a “state plan” relating to how they would operate their program. This plan involves thousands of administrative details, subject to interpretation and with different kinds of “waiver” or expected actions, that permit states to fund services that

²¹ Neumann, R. and T. Russell Robinson (2001). The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt’s Perspectives on Fiscal Federalism. . The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

²² Agranoff, Robert. (2018). “Intergovernmental Management”. Center for the Study of Federalism. Accessed at https://encyclopedia.federalism.org/index.php/Intergovernmental_Management

would not otherwise be allowed, as well as a few dozen “assurances” that certain cross program federal standards are to be met.

These different implementation nuances are policy implementation concerns that comprise an IGR task and rightfully concerns items five to eight in the list identified by Neumann and Robinson (2001). For instance, the Center for the Study of Federalism notes that “in each of the planning year, Medicaid officials at the state level engage in literally thousands of inquiries, sub-agreements, contracts and informational transactions with local governments. Thus, the health care policy, which is a federal legislation, is tailor-fitted at the state level through IGR principles. For instance, effective IGR mechanisms are seen in areas of rules, standards, jurisdictions, implementations and policy review or audit”²³.

What sets the PC-BP Forum different is that it is in charge not only of one nationwide policy like the US Medicaid but in the next years of BARMM’s realization, it would have to engage itself into policy making and implementation that goes outside the bounds of health care. The role and scope of PC-BP forum will inevitably include overarching goals of genuine socio-economic and political development for the region.

Having illustrated how legislations can be operationalized effectively through intergovernmental relations, it is apt to discuss in principle each of the functional areas that makes IGR effective specifically for the Forum vital for BARMM.

The first area of concern is on **issue identification and priorities for intergovernmental attentions**. Authors argue that it is imperative to identify the policy or legislative issues that an IGR body should prioritize and focus on. Without doing so, the PC-BP Forum may have to respond to many legislative matters simultaneously without sufficient attention to urgent issues or demands of their constituents. To do this, representatives from the BP must have the ability to manage well the areas or sector they represent given their legal and constitutional competencies²⁴. A question related to this aspect concerns the capacities needed from Bangsamoro Parliament representatives selected to the PC-BP forum so that they can bring district level matters to attention that require coordination or support from the national government. Equally important to consider are capacities of Philippine Congress representatives to “project common national interests and promote maintenance of national standards whenever appropriate”²⁵ in legislatives matters.

It might be of interest to examine how the current Legislative-Executive Development Advisory Council facilitates high-level policy discussions on vital issues and concerns affecting national government. While it is clear that it is not an IGR mechanism and that the council coordinates between the Philippine President and Philippine Congress, the Council works for a common legislative agenda which is a list of priority legislative measures agreed

²³ Ibid. 2018.

²⁴ Neumann, R. and T. Russell Robinson (2001). The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt’s Perspectives on Fiscal Federalism. . The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

²⁵ Ibid. 2001.

by both branches of government to pass into a law²⁶. The PC-BP Forum may take this similar function in identifying priority legislative matters that require coordination or may need arrangements for differentiated implementation. Additionally, the task also includes making adjustments to priorities already identified based on changing circumstances. Identifying which policy issues or legislative agenda must be addressed first will not always be easy but establishing a mechanism of prioritization can substantially help improve prospects for a more efficient IGR in the PC-BP Forum.

The second area of concern refers to **development and analysis of relevant information**. Once legislative matters have been identified and prioritized, it is necessary for the PC-BP Forum to have “capacity not only to receive data and analytical conclusions, but also to work toward a common and accepted interpretation of the data”²⁷. This stems from the need of an evidence-based or evidence-informed policymaking, which ultimately must be a minimum template for IGR bodies as national and regional governments may arrive at different policy positions later on. If the primary focus is on collaborative legislation later on, use of evidence and an expert perspective on a legislative manner is necessary.

Aside from hard core data or evidences needed, “soft data” regarding political preferences, administrative capabilities, results of the monitoring, evaluation and accountability exercises and the like are examples of the range of other data requirements necessary for the analytical work underlying good evidence-based decision-making. A technical support staff to develop policy insights based on evidence or research is needed to assist policymakers. Additionally, the PC-BP forum must have established working relationship with respected and independent agencies to ensure that the analysis used in discussions are backed up by research and evidence. This might include think tanks that are active in helping the Bangsamoro Government in its transition phase such as the Ateneo School of Government and the Institute for Autonomous Governance.

Having reliable data is most important in key policy areas recently unexplored and might need an IGR coordination perspective. This means that data and evidence must as well be prepared and interpreted not only for one stakeholder (i.e. generic policy makers) but must be able to communicate to both members of the Forum.

The third vital component is **development of policy, administrative and technical options**. Once the Forum’s structure, including research support has been put in place, it is imperative that its members use evidence and available information to develop policy agenda, administrative and technical options to resolve most current problems from districts, regions and sector that they represent.

²⁶ Legislative-Executive Development Advisory Council. (N.D.). The LEDAC in Brief. Accessed from <http://ledac.neda.gov.ph/about-ledac/>

²⁷ Neumann, R. and T. Russell Robinson (2001). The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt’s Perspectives on Fiscal Federalism. . The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

There is an important need for Bangsamoro Parliament members who are appointed as PC-BP Forum representatives to understand how they can utilize the new form of parliamentary processes to be able to forward their concerns. The same principle applies to members of the bicameral congress of the Philippines who will partake in the processes of the PC-BP Forum. They must be equipped with an understanding that they will collaborate and negotiate with parliament members whose internal procedures and mechanisms of legislation are different from the default template of Philippine public policy making.

Pollard's (1986) research on intergovernmental affair agencies in Canada suggests that representatives to IGR forums particularly legislative in nature must have a "good understanding of the nature and relevance of national interests, policies and priorities, even when these may appear to be in conflict with specific local or regional preferences"²⁸. For a newly formed IGR body such as the PC-BP Forum, policy development experts should be integrated into the process of policymaking as this increases capability for informed critical analysis and to improve legislative debates. Additionally, previous experience suggests that "the development over time of 'trust ties' among professional public servants across governments (which include congress and parliament members) results to good working relationships at the bureaucratic level"²⁹. In other words, the PC-BP Forum may serve as a mechanism where relevant government agencies can learn from and adjust to new legislative processes and implementation considerations.

The second half of functional areas critical to a functioning IGR forum provides references to internal mechanisms and procedures. This includes the fourth component that covers **developing consensus**. Even with clear organizational structure and research support capacity, "relative power and differences" occur in any policy discussion or debate. This can even be more pronounced in newly formed IGR set-up where political capital and dominance of an already existing body of government has already been established. The best way to manage this tendency is through building and clarifying consensus-building techniques.

Part of ensuring consensus is to make data available and understood by both parties on relevant decision-making matters. More particularly, successful negotiation and consensus building should be built on five specific measures that Neumann and Robinson (2001) identified. This includes (1) developing an appropriate agenda, (2) the role of the chair, (3) setting deadlines, (4) use of smaller and/or more focused working groups on sub-issues, and (5) introduction of outside facilitators, mediation or conciliation. All of these factors may be reflected in detail in the rules of engagement and manual of the PC-BP Forum.

²⁸Pollard, Bruce (1986). *Managing the Interface: Intergovernmental Affairs Agencies in Canada* Kingston: Queen's University, Institute of Intergovernmental Relations.

²⁹ Neumann, R. and T. Russell Robinson (2001). *The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt's Perspectives on Fiscal Federalism*. The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

Additionally, in specific policy areas where consensus is almost impossible to achieve through structured processes, the independent work of Ostrom³⁰ and Sproule-Jones³¹ suggests that “balancing of political interests, establishment of alliances, trade-offs involving other issues and other more ‘political’ approaches are the common vehicles for maintaining viable intergovernmental relations, or at least for reducing antagonisms”.

The fifth area concerns **policy adoption and implementation**. The assumption is that both parties in the PC-BP Forum have reached an agreement on a legislative matter. Given this, it is still important to make a distinction between policies or agreements that can be resolved by both parties and policies that require political approval and negotiation from the President of the Republic of the Philippines and the Chief Minister of the Bangsamoro Government.

The PC-BP Forum is best equipped to deliberate and approve adoption of policies that are technical in nature but nonetheless requires intergovernmental discussion and deliberation. However, for highly political policy discussions, the role of the PC-BP can be best imagined as a recommendatory body to both heads of government mentioned earlier. In this way, the Forum does not lose relevance but also becomes an advisory body to high-level policy decisions.

A related aspect under this concern is that the PC-BP Forum must have “structure and internal procedures to enable political approval process to function effectively”³². While the number of Forum members, frequency of meetings and mode of communication, especially given the limitations brought about by COVID-19 pandemic, would largely influence approval and implementation processes, there are at least two areas where PC-BP forum can focus its resources based on scholarly analysis of best practices in Canada and South Africa³³. An effective strategy is investing in the use of common briefing materials made available for both parties (as identified originally by Neumann and Robinson 2001). One can easily envision why the role of research as internal or external support mechanism is important to IGR as it is best to provide the following:

- The background information and data, in the most clear and concise form, which serve the purpose of providing the analytical framework in which the option(s) have been developed;
- Options, as clearly and succinctly as possible;
- Consequences (pros and cons) of options, with respect to both short and longer-term effects;
- A recommendation (from the supporting bodies to the higher-level officials or decision-makers); and

³⁰ Elinor Ostrom, *Governing the Commons: The Evolution of Institutions of Collective Action* Cambridge: Cambridge University Press, 1990.

³¹ Mark Sproule-Jones *Governments at Work: Canadian Parliamentary Federalism and Its Public Policy Effects* Toronto: University of Toronto Press, 1993.

³² Neumann, R. and T. Russell Robinson (2001). *The Structures and Conduct of Intergovernmental Relations* in Richard Bird and François Vaillancourt's *Perspectives on Fiscal Federalism*. . The World Bank Institute. Accessed from

<http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

³³ Ibid. 2001

- Strategies for implementation, if the policy recommendations are accepted.

Additionally, Neumann and Robinson (2001) also project that consensus building may take longer than usual and “risk delay and even jeopardize a plan of action”³⁴. Some of the strategies identified include the following:

- The assignment of tasks with specific terms of reference and deadlines from political to administrative levels;
- A hierarchical system from senior officials to committees of technicians within the bureaucracy, with each level mimicking or at least capable of representing various configurations of national and regional/local interests, allowing focus toward specific needs of political decision-makers;
- Frequent resort to common briefing books (including data, analytical materials, policy descriptions, etc.), rather than having each jurisdiction develop separate books. While separate briefings will inevitably still occur, the structure of separate briefings will more likely focus on the degree of consensus which appears to be emerging and the differences of the specific jurisdiction from the consensus; and
- Regular meetings, which familiarize the players with each other, their usual positions and perspectives and allow routine business to be concluded. In addition, there should be flexibility to meet when required to address urgent or exceptional business.

The sixth area of concern refers to **administration and coordination**. This refers to how legislation or decision enacted by the PC-BP Forum can be best coordinated and administered in partnership with the already existing government bureaucracy or newly formed bureaucracies in BARMM.

It is important to emphasize that BARMM has a new bureaucratic set up that needs to be integrated in policy decisions and/or implementing rules and regulations of an agreed policy by both members of the PC and BP. Thus, this aspect must be clear and accepted generally in the degree of coordination or differentiation arising from the PC-BP’s decision.

Another way of looking at this aspect is that the PC-BP Forum may extend its scope to provide guidance and monitor the implementation of the policy especially in setting common standards and in safeguarding sensitive regional considerations for BARMM. Representatives to the Forum, at the very least, “may assist in the development of appropriate rules and regulations under which policy is implemented”³⁵. To do this, sharing of best practices from similar implementation set-up could assist this function of the Forum. Lastly, under the premise of a multi-tiered system of policy implementation, “experimentation and differentiation may

³⁴ Neumann, R. and T. Russell Robinson (2001). The Structures and Conduct of Intergovernmental Relations in Richard Bird and François Vaillancourt’s Perspectives on Fiscal Federalism. . The World Bank Institute. Accessed from <http://documents1.worldbank.org/curated/en/841051468152397077/pdf/356280PAPER0Pe101OFFICIAL0USE0ONLY1.pdf>

³⁵ Ibid. 2001.

be important benefits”³⁶ or opportunities for learning in the transition phase or in the early development of the PC-BP Forum.

The second to the last component pertains to important elements of **transparency and accountability**. This aspect of IGR coordination will ensure good governance practice since “lines are often blurred as who is accountable and to whom should reporting [and policy feedback] be directed”³⁷ knowing that both the PC and BP make coordinated decisions. Mechanisms to strengthen transparency and accountability include regular monitoring and evaluation of programs and policies as well as investing in third party impact assessments of policies.

To illustrate, evidence suggests that in established federations, it is best if “national accountability is limited to the issue of adequacy and effective distribution of funding, and to leave the accountability for efficient and effective delivery directed toward the regional authorities, responsible to their own electorate”³⁸.

Even if accountability lines are specified, there is still a possibility that other intergovernmental issues “may take a higher profile once raised by critical media and public”³⁹. Thus, it is also important that clear communication channels be established. Some elements of strong accountability as observed in collaborative federal systems in Canada observed by Neumann and Robinson (2001) include clear, balanced and agreed expectations, responsibilities and capacities; transparent and credible reporting; a reasonable program review, evaluation and audit.

Additionally, it is emphasized that public scrutiny is essential in building trust and support to programs and policies. Thus, public hearings on major intergovernmental agreements prior to completion are necessary as well as enabling independent researchers, private, and government institutions to obtain governmental data to assess policies⁴⁰.

The last part is on **issue resolution**, which accounts for the possibility that disputes arise in any stage of policy coordination and implementation. The political nature of PC-BP Forum, as opposed to a judicial body, suggests that compromise, bargaining and agreement are key mechanisms of its operations. Thus, conflict becomes inevitable and is a reality embedded in its processes. The successful resolution of intergovernmental conflict becomes a mark of an effectively functioning coordination mechanism.

This can be achieved through providing mechanisms of mediation, conciliation or arbitration among parties, groups or individuals that are part of the Forum. It is important that arbitration with a third party can be explored but that “appeals to courts or constitutionality

³⁶ Ibid. 2001.

³⁷ Ibid. 2001.

³⁸ Ibid. 2001.

³⁹ Ibid. 2001.

⁴⁰ Ibid. 2001.

must be avoided if possible” or should be only done as “last resort as it can imply failure to agree” from both sides in an IGR body whose main purpose is coordination⁴¹.

Canada’s experience with occurrence of disputes in intergovernmental agreements suggests that it is best to ensure that “a co-decision by a qualified majority vote must be binding on all parties”⁴² and that “parties [or representatives in this matter should be allowed to opt-out or opt-in under certain specified circumstances” of deliberation⁴³. This opt out process, which may take the form of non-participation to discussion or abstention in majoritarian votes, must be safeguarded as well to not affect other actors or districts later on⁴⁴.

Conclusion and recommendations

IGR in the context of BARMM’s transition to meaningful autonomy has been referred to as an “integral component of good governance”, a mechanism to “end deadlock” and an important “game changer”.

These descriptions find another level of meaning when one starts to frame how collaborative legislation can be a reality through the establishment of Philippine Congress-Bangsamoro Parliamentary (PC-BP) Forum. With the BOL providing no detailed section on its composition, administration and internal processes, both the interim congress representatives and members of the Bangsamoro Transitional government are left with strong evidence from academic literature and experiences of countries, which have adopted similar agreements.

As highlighted in this paper, framing the PC-BP Forum is not only a mere organizational design task but also a matter of governance and bureaucratic administration. Thus, both political and technical concerns are threshed out in the analysis along the eight broad functional areas for effective intergovernmental relations. It must be emphasized that the nature of the PC-BP Forum is highly political, with asymmetric power relations and bargaining capacities. Thus, it is important to look at the technical components on how more likely the PC-BP Forum will take shape and operate.

Representatives to the PC-BP Forum will undeniably come from a new set of politicians after the 2022 synchronized National, Local and BARMM Elections. The key takeaway is that as one of the eight IGR bodies mandated by the BOL to be established, PC-BP forum as a legislative IGR coordinating body would test BARMM’s culture of negotiation, counteracting centralization of government power, and increasing bargaining power.

⁴¹ Ibid. 2001.

⁴² Ibid. 2001.

⁴³ Ibid. 2001.

⁴⁴ Steven A. Kennett, *Securing the Social Union: A Comment on the Decentralized Approach* Kingston: Queen’s University, Institute of Intergovernmental Relations, 1998.

With that, capacity building measures for both national and BARMM leaders are needed in building the organizational structure and crafting bureaucratic procedures. Capacity building recommendations include the following:

- 1) Integrating research and evidence uptake in the formulation of the PC-BP Forum's structure and processes to counteract learning by doing practices such as selection of representatives to the Forum without clear guidelines or principles
- 2) Capacity building measures specific towards legislators to:
 - a. Identify and limit the scope of legislative matters under the jurisdiction of PC-BP Forum;
 - b. Prepare BP representatives to identify local legislative matters that require IGR coordination (including bargaining and consensus building capacities); and
 - c. Ensure that PC representatives project national interests and promote national standards in a collaborative and cooperative manner.
- 3) Building a consortium of academic and independent policy think tanks to assist the PC-BP Forum operations:
 - a. For uptake of evidence-based policy discussions in collaborative legislation;
 - b. To prepare relevant government agencies to new legislative processes and implementation arising from possible PC-BP Forum agreements;
 - c. Consensus building which reflects crafting of internal rules and procedures of the forum, including resolution mechanisms;
 - d. Development of periodic briefing materials for consumption of PC and BP representatives in forum meetings and make Forum matters accessible to public; and
 - e. Arrive at monitoring, evaluation and specific accountability standards for PC-BP Forum decisions and policies.